

BEFORE THE SENATE UTILITIES COMMITTEE
PRESENTATION OF THE
KANSAS CORPORATION COMMISSION
February 2, 2005
SB 93

Thank you, Chairman and members of the Committee. I am Don Low, Director of the Utilities Division for the Kansas Corporation Commission. I appreciate the opportunity to be here today to testify for the Commission on SB 93.

The Commission opposes this legislation because it restricts utility options with regard to wind generation and it may unintentionally prevent utilities from constructing any needed electric transmission lines.

This bill proposes to amend K.S.A. 17-618 to prevent the use of eminent domain for “the siting or construction of wind powered electric generators or turbines” or for “the siting and construction of electric transmission lines to or from any wind powered generator or turbine.”

The granting of eminent domain to public utilities is, of course, a policy decision for the legislature. However, the Commission is concerned that eliminating the use of eminent domain for siting wind-powered generation restricts an electric utility’s generation options. The Committee should note that there are no similar restrictions on the use of eminent domain if a utility decides to build a gas-fired generating unit, a hydroelectric dam, a coal power plant or even a nuclear power facility. There are no obvious reasons to treat wind generation differently, especially in light of the numerous incentives for renewable energy previously adopted by the legislature. Past legislation, for example, has allowed the Commission to grant utilities an increased return on renewable investments and to retain a portion of the revenue generated from renewable purchases. At the very least this proposal appears to confuse the direction of public policy regarding wind powered renewable energy.

More significantly the Commission is concerned that the restrictions regarding electric transmission could inadvertently prevent needed transmission lines from being constructed. It appears the language is intended to apply to transmission lines used to

directly interconnect wind generators to the transmission system. However, the bill's language could arguably apply to any transmission line that is indirectly connected to the wind generator. Because the electric transmission system is highly interconnected, this restriction could also apply to most other transmission facilities. Suppose, for example, an electric utility in Illinois purchases wind generation from a Kansas wind generator, or even an Oklahoma wind generator. That wind generation flows over the entire transmission system following the path of least resistance. For this reason almost any transmission line in Kansas could be considered "a transmission line to or from any wind powered electric generator or turbine." The transmission lines in Kansas are a critical and vital part of the regional and national transmission system or "grid". Nonetheless, utilities often face intense opposition from landowners when constructing any new transmission facility. While electric utilities exercise eminent domain as a last resort, it is critical that they retain this ability for the continued reliability of the electric system.

Thank you for considering these comments. I will be glad to answer any questions.