

Testimony in **opposition** to **S.B. 93**
Concerning certain electric transmission facilities and providing for recovery of
certain costs of construction and upgrading.

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On behalf of the Kansas Chapter of Sierra Club

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Before the Kansas Senate Committee on Utilities

Mr. Chairman, members of the Committee, thank you for the opportunity to testify
in opposition to S.B. 93.

The Sierra Club is the largest grass roots environmental organization in the world
with almost 800,000 members including over 4,000 in Kansas. For more
information about the work of the Kansas Chapter of Sierra Club see the web site
at <http://kansas.sierraclub.org/>.

The Kansas Chapter of Sierra Club has just launched a campaign to promote
both energy efficiency and wind power in Kansas. I have attached to this
testimony the February/March 2005 Planet Kansas that elaborates on that
campaign. It can also be found at the web site above.

In the 2004 legislative session I worked closely, on behalf of Kansas Sierra Club,
with the Kansas Livestock Association, and especially Allie Devine, to support
Senator Goodwin's bill that limited the eminent domain powers of a port authority
and the Cowley County Commission to create a recreational lake in Cowley
County. Sierra Club members in south central Kansas were concerned about
losing Grouse Creek, one of the few remaining pristine streams left in the state,
to a lake project whose sole purpose was the enrichment of private developers.
That effort was such a success that the national Sierra Club's Planet, a
newsletter for environmental activists, ran a feature story on our collaboration
with KLA and Senator Goodwin to save Grouse Creek.

The Kansas Sierra Club was also concerned about the 2003 decision by the
Kansas Supreme Court, in *General Building Contractors v. Board of Shawnee
County Commissioners*, to legitimize the use of eminent domain for economic
and industrial development. Sierra Club felt that decision was an inducement to

sprawl. Allie and the KLA were concerned that farmland would be the most likely victim of condemnation by local governments for economic and industrial development. I worked closely with Allie and with Senators Pugh and Tyson in the 2004 session to craft a bill that would eliminate the eminent domain powers of local government to condemn private property for economic and industrial development. As you know, Senator Pugh withdrew that bill on the promise by Senate President Kerr that an interim committee would examine that issue.

At the beginning of the 2005 session I was approached by Allie who informed me that KLA would be sponsoring a bill to eliminate eminent domain powers to create wind farm developments and for easements for transmission lines to carry wind farm created electricity. Unfortunately, Sierra Club cannot join with KLA in support of this bill. We feel that S.B. 93 unfairly discriminates against wind-produced energy and could potentially cripple wind energy development in Kansas. The fact is that utilities have long held eminent domain powers to site generation facilities and transmission lines. It just so happens that those generation facilities have historically been powered by coal, natural gas and nuclear fission. Just because electrical generation is coming from wind should not place it in a special category with regard to eminent domain authority. If the legislature sees fit to eliminate eminent domain for wind generated energy and transmission lines then the legislature should be consistent and also eliminate eminent domain for energy generated by coal, natural gas, hydroelectric and nuclear power.

The fact is that wind farm developments will be in rural areas. If we are ever to develop that vast wind potential in rural Kansas we cannot have a situation where recalcitrant landowners stop wind developments by refusing to allow transmission easements on their land or accessory structures to enable wind energy to connect to transmission lines. Some of these recalcitrant landowners could be motivated simply by the fact that a wind farm company refused to put wind turbines on their land.

The state of Kansas has already sent many negative messages to the wind industry because of the controversy over wind farms in the Flint Hills. S.B. 93 would send a further negative message to the industry. If the legislature passes this bill then the state's new slogan would not be "A Big As You Think" but rather "As Unfriendly As Can Be" to the wind industry and to its promise of economic development in Kansas. We urge you to defeat this bill.

Thank you for your time and attention.