



Testimony Provided To

Senate Utilities

Kimberly Svaty, Public Policy Director

January 27, 2022

In Opposition to Senate Bill 325

The Kansas Renewable Energy Abandonment Prevention Act

Madame Chair, Vice-Chair and Ranking Member,

On behalf of the Advanced Power Alliance, the association of energy developers, manufacturers, commercial and industrial customers, engineering firms and financial institutions and investors, I rise in opposition to SB 325.

Kansas' history as an energy state goes back to our earliest days. The more recent addition to Kansas' generating fleet – using the conditions we all experience in Kansas – the wind and the sun - is just another chapter of our storied energy history which has been a driver of the growth and economic development of our state.

Our state's energy history has served as the backbone of caselaw related to landowner's rights, the freedom to contract, land use and the role of local and county governments to name a few. Based on this long-standing legal framework, the renewable energy industry has developed and operated in Kansas. To date, there are more than forty wind farms operating in more than thirty Kansas counties – zoned and unzoned alike. Our membership is developing solar projects in Kansas as well as battery storage projects while looking at the suite of the next generation of energy investment.

The key to renewable energy investment in Kansas is three fold: willing landowners and a supportive community; a strong resource and access to transmission. Subtract one of those three elements and a project will not be developed in that area with the most critical element being willing and supportive landowners. There is an excellent wind resource across the United States. Kansas' wind resource is truly the most robust because our wind speeds are consistently so strong, but new technology advancements have made renewable energy projects from areas with a less robust wind speeds actual competitors for the lowest cost generation in the nation – Kansas wind power. Without landowners interested in leasing their ground for a renewable energy project, a project will not move beyond the early leasing phases. Landowners willing to lease their ground are the lynchpin to an entire development. Without

landowners, communities and local official support, the industry would not have been able to invest more than \$14 billion in private investment in Kansas in the last twenty years, create more than 12,000 direct and indirect jobs, generate clean, homegrown electricity to power more than 2.3 million homes and currently provide \$35 million in annual land lease payments.

Landowner & Community Engagement

This is not an industry that works in secret. We are dependent upon our landowners and our communities for success. This is an industry that works hand in hand with its landowners, the community and the local government to build projects that will be a positive community partner. Developers build relationships with landowners – sometimes those relationships span many years and it is always a joyful day to hear a developer tell a waiting landowner that the project has been purchased and will move into the construction phase. The investment this industry has brought to both urban and rural areas alike is truly uplifting. From new manufacturing in Hutchinson with business across the state serving the manufacturing supply chain, to the growth of the engineering, environmental and fin-tech firms in more urban areas to the growth of community colleges and education and job-training ecosphere – including the nation-leading Cloud County Community College wind and solar tech program – to the 401-K jobs provided to rural Kansans to operate and maintain the projects. Child care centers, school gyms, elementary school asbestos remediation, Starbuck fire relief, firetrucks and emergency management equipment, upgraded roads, new bridges, STEAM programming in rural communities are just a few ways projects contribute to the local communities.

Groups like the Kansas Farm Bureau have regular educational sessions including legal seminars around the state for landowners. The Kansas Association of Counties continues to work closely with county commissioners and staff across the State providing discussion and idea exchange forms on best practices and expectations. There are scores of farming and ranching magazines for landowners. The January 2022 edition of Farm & Ranch Scene featured an article written by David Besson, Senior Assistant Relationship Manager titled, “What Makes a Good Prospect for Renewable Energy?” Articles such as these which are regularly found in journals and news outlets targeted to the farming/ranching/ag community, underscore the openness of the industry.

Besson writes, “Many landowners ask what makes a property a good prospect for a renewable energy investment? The current rush in the renewable energy economy for the United States is based on solar and wind, which provides a once-in-a-generation opportunity for landowners. However, not all land is equivalent and the best land for many of these projects is not necessarily where the wind is blowing or where the sun is shining. The best land for a new renewable energy project is a function of the capacity available from capacity transmission lines located near your property. Finding capacity for a potential project is the initial step the renewable energy developer will take. This is the first indication a certain area of land has potential. Most developers demonstrate their interest with a mailed solicitation or a phone call offering an option to lease or contract for a renewable energy easement. The opportunities are most commonly in the range of two to five times the current cash rental market with an annual escalator for the duration of the lease. Even with such lucrative terms, renewable energy projects are not guaranteed to break ground. Many renewable energy options are released or expire [not] because

the land is desirable but the infrastructure not support the addition new generation. Other projects fail to develop because many state and local governments provide too many obstacles. Still others have seen opposition in the form of 'not in my backyard' (NIMBY). There are many things to consider when reviewing renewable energy project in your community and on your property. A vital consideration that is usually missed with talking to landowners and local officials is that many of the proposed projects can be moved just a few miles away and still be viable. It is possible to move a project to the other side of a county or across a state line, potentially depriving landowner, their communities and the state the tax revenue that the project may have generated. Unlike oil, gas and minerals, your property can be substituted along the transmission corridor because once the capacity is filled, it is gone. This is not a recommendation to accept any offer received, but an attempt to provide you more information when considering an offer.

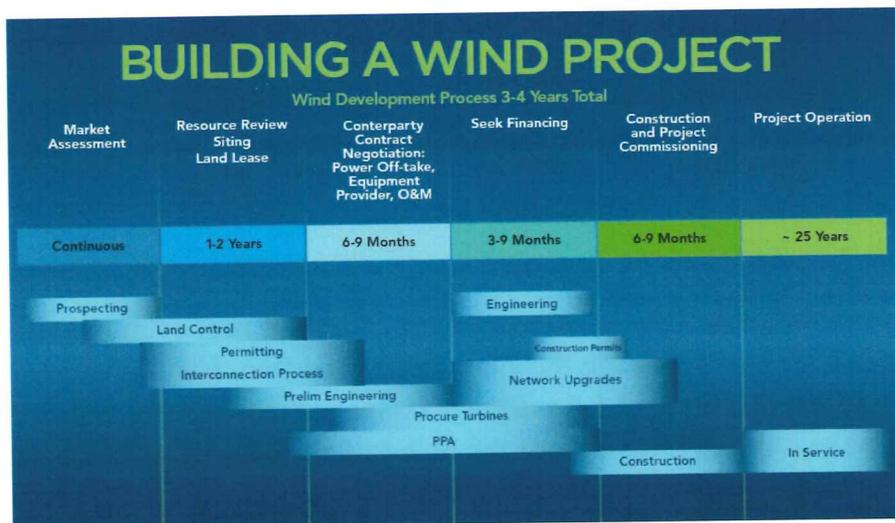
Investment & Property Values

Last week's Kansas City Business Journal featured real estate section included five pieces of ground for sale including the Flint Hills Cattle Ranch & Agriculture/Wind Farm which was already under contract for \$6.4 million. "Great passive income from seven wind energy turbines and lease hunting" was one of the bullet points describing the property that also included the acreage and driving distance from Kansas City. That the property was already under contract and for a robust price dovetails with the findings of a Wichita State Study conducted in 2019 working with the county appraisers in every Kansas county hosting a wind farm – that property values are not diminished nor damaged by hosting wind farms. The WSU survey studied parcels of land that sold with turbines or surrounding parcels without turbines and concluded there was no impact to property values. But hosting a renewable energy project is a great way to diversify a farming/ranching operation or create passive income. Kansas led the nation in Chapter 12 bankruptcies in the three years preceding last year – we dropped to number 2 last year. We have yet to find a farm or ranch in Kansas hosting a renewable energy project that has declared Chapter 12. This is due to the opportunity to diversify the farmer's /rancher's operations. The economic opportunity is helping keep farms in the family and allow the next generation to return to work the land too. The Wichita Eagle did a great feature on April 19, 2021 titled "Working in Wind Can Mean Working Close to Home" and describes the story of the third generation able to work on the family farm in Marion County after concluding his work as a Wind Turbine Technician at the Diamond Vista Wind Farm.

Permitting

Renewable energy projects go through a tremendous permitting process by local officials and state and federal agencies. County approvals for road maintenance agreements, decommissioning and PILOT agreements, conditional use permits in zoned counties, permit review and approval process with KDH&E, KDWP, the Historical Society, environmental reviews for everything related to stream crossing, to archeological, watershed, or cultural/historical impacts, the US Department of Fish & Wildlife and a litany of other federal agencies including the Federal Aviation Administration and the Department of Defense. Just recently, we responded to an inquiry about a KDH&E permit needed to build a pad-site. Not to mention the

complex and expensive process of securing a queue position and attempting to interconnect into the Southwest Power Pool (SPP) transmission system. Simply a transmission interconnection study by SPP is an immediate five-years on the development clock and significant vetting by SPP and the member utilities on potential transmission system impacts. It is simply an impossibility to think a project could be done in secret or use secretive tactics. Projects are leased and developed with thousands of eyes on data-filled permits and applications.



There are a multitude of difficulties with SB 325 which will be further described by other conferees. The fiscal note describes some of the potential financial burdens this bill could place on local government including the expenses associated with administering an election – publication of election notices, adding the question to paper ballots, programming voting machines and programming audio ballots. But for county governments the impact will be immediate. Reno County spent more than a year deliberating on establishing zoning standards to meet specific community needs. Barton County already has zoning for wind and solar facilities as does Sedgwick County who banned wind farm development in the county and created solar siting guidelines. Pratt County has its own siting guidelines and we could go down the list of counties that have over the years established their own siting guidelines, restrictions or zoning. Wabaunsee County was the first county in Kansas to ban wind farm development which was affirmed in the 2010 Kansas Supreme Court ruling which upheld the county’s right to ban a specific industry. Is the State going to overzone zoned counties and create state-imposed zoning on unzoned counties?

Renewable energy development in Kansas has been a positive for the State, the landowners, the counties and our economy. As an industry we have demonstrated a commitment to work with all stakeholders to create a positive development environment and we remain committed to that endeavor. But SB 325 is unworkable in application, undermines county’s ability to make decisions for their communities and usurps private property rights. As such, the Kansas Advanced Power Alliance, stands in opposition to SB 325 and respectfully urges the committee to not approve the measure.

Thank you for the opportunity to provide testimony and I am happy to stand for questions.