



A Touchstone Energy® Cooperative 

P.O. Box 4267, Topeka, KS 66604-0267 • 7332 SW 21st Street, Topeka, KS 66615 • 785-478-4554 • Fax: 785-478-4852 • www.kec.coop

SB 312 – Granting County Commission Approval Authority Over Electric Utility’s Exercise of Eminent Domain

**Senate Committee on Local Government
March 22, 2023**

**Written Only Opponent Comments Submitted By
Reagan McCloud
Kansas Electric Cooperatives, Inc. and on behalf of
Kansas Electric Power Cooperative, Inc. and Midwest Energy, Inc.**

Chairman McGinn, Vice Chair Bowers, Ranking Member Francisco, and members of the Senate Committee on Local Government, thank you for the opportunity to submit comments in opposition to SB 312 in its original form. I am Reagan McCloud, Manager of Government Relations for Kansas Electric Cooperatives, Inc. (KEC), the statewide service association for 29 member, not-for-profit cooperatives providing electric service in 103 of 105 Kansas counties. Our membership includes 26 distribution cooperatives and three generation and/or transmission cooperatives operating in Kansas.

KEC submits these comments on behalf of all our member cooperatives, and Kansas Electric Power Cooperative, Inc. (KEPCo) and Midwest Energy, Inc. specifically join in these comments, as well.

As cooperative public utilities, consumer-members are the owners of the cooperative. As such, co-ops are uniquely connected to the communities they serve. Members are the local farmers and ranchers, small business owners, friends and neighbors. We understand that property ownership is not simply holding a patch of ground, it is a property right, economic investment, economic engine, family and community history, and often home. As such, cooperatives work diligently to negotiate with landowners and find workable solutions that do not require the exercise of eminent domain power to acquire land for constructing electric service facilities. Because of that, a high majority of easements and rights-of-way are obtained through negotiation not condemnation, and as a system, we are proud of that.

Although our members have exercised the power of eminent domain judiciously, it is an important tool for ensuring cooperatives can fulfill their obligation to provide efficient and sufficient service and maintain reliability across the co-op system and across the grid. The current eminent domain process is well-defined with a legal process for challenging a condemning authority’s taking. The process is organized and there is a well-developed body of law providing additional guidance and parameters on the process.

SB 312 would add a new dimension to that process, requiring county commission (commission) approval before an electric or transmission public utility could exercise eminent domain or even start the process. The proposed legislation does not set forth any timelines for the commission to act on such a resolution, which raises questions:

- Could the commission indefinitely delay a project by simply refusing to take up the issue?
- Is there an avenue of recourse for the utility should the commission refuse to entertain the request?
- If the commission acts on the request, formally denying it, is there a mechanism for reconsideration or appeal?

This delay could halt important infrastructure build out temporarily or permanently. Such a delay can increase costs which, in the cooperative system, are borne by the consumer-members of the cooperative.

Thank you again for the opportunity to share some of our concerns with SB 312. For these reasons and more, we respectfully request the committee not advance this measure.

If you should have questions, please feel free to contact me.

Reagan McCloud

Reagan McCloud
Manger of Government Relations
Kansas Electric Cooperatives
rmccloud@kec.org
316-217-5633