

February 15, 2023 (Date of testimony)

SB 166. AN ACT requiring disclosure of an application for a transmission line siting permit under the jurisdiction of the state corporation commission. (Bill # /Topic)

Oral-In Person (Oral in-person, Written-only, Pre-Approved Virtual)

Proponent (Proponent, Opponent or Neutral)

Self (Name of Interest Represented)

**From: Rochelle McGhee Smart (620.496.4663;
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To: Senate Utilities Committee, Sen. Robert Olson, Chair

Thank you, Chairman Olson, and members of the Committee, for the opportunity to provide support for SB 166. I am a 4th generation farmer and rancher. I run our operation with my father, Darren McGhee. Most importantly, I am the mother of three young daughters and have a wonderful husband that helps raise them on a beautiful home site that was originally my grandparents. A home site that now falls within the dreary shadow of NextEra's proposed high-voltage electric transmission line.

I support this bill because it is intended to improve the transparency of the electric transmission line permitting process. That transparency is sorely needed. I have some concerns, however, because within the last year, I have seen the KCC ignore the plain language of the few statutes that govern utilities and electric transmission lines – statutes intended to protect landowners and families like mine.

The KCC acts as if the current statutes are simply recommendations that the KCC can choose to ignore. The KCC apparently believes that it knows better than this legislature what the law should be. I fear the very high likelihood that the KCC will ignore the newly proposed statutory language as well. I want to take this time to share my experience and explain why my fear is well grounded.

All permitting processes for an electrical transmission line should be open and transparent. The current law requires it. For example, the plain language of 66-1,178, currently requires all line siting permit applications to specify the names and addresses of landowners:

Nonetheless, NextEra filed a permit application that failed to publicly specify those names and addresses. We objected to NextEra's application because it failed to comply with the plain language of the statute. The KCC responded, stating, the statute, "only requires that the information be filed; it does not require the information to be filed in a manner accessible by the public."

The absurdity of the KCC's position is glaring. The application must be public because the legislature demands the KCC hold a public hearing on the application with the underlying goal of allowing the landowners to coordinate a response. The KCC prevents that goal when it allows an application to move forward without the mandated information. Further, the names and addresses of landowners are historically public records at any county recorder of deeds office. Consequently, it is not a novel idea for the names and addresses of landowners impacted by the proposed line to be identified in an application.

This isn't the first time the KCC has allowed NextEra to ignore the plain language of laws governing utilities. The KCC allowed NextEra to conduct business in this State without first obtaining a certificate of convenience and necessity in violation of K.S.A. 66-131. It has also allowed NextEra to take a property interest in land before receiving a certificate of convenience and necessity in violation of K.S.A. 66-134. And it has allowed NextEra to begin site preparation without obtaining a siting permit in violation of K.S.A. 66-1,178.

As part of last summer's hearing, NextEra admitted to entering into option agreements with landowners for easements on land where NextEra wants to build a transmission line. In addition, NextEra admitted to entering onto landowner property to conduct "studies," including collecting soil samples to assist in line development. Those admissions demonstrate that NextEra was conducting business in this State and taking property interests without first obtaining a certificate. Further, NextEra "studies" show that it began site preparation without the necessary siting permit. We objected to NextEra's illegal actions, the KCC essentially ignored our objections and the protections those statutes provide my family.

The KCC's willingness to ignore the plain language of statutes, and the absurdity it entails are only amplified by NextEra's bullying tactics.

In March 2022, five months before the KCC issued its August 29 certificate of convenience and necessity, NextEra held two virtual public meetings. At those meetings, NextEra signified to the public that the electric transmission line location was set and that there were not going to be significant changes to that location. NextEra also threatened landowners by saying if the landowners did not sign the option agreements, NextEra would eventually acquire the land by eminent domain.

NextEra's March statements were clear misrepresentations meant to bully landowners, cut off consideration of alternative routes, and eliminate landowner opposition. The transmission line location could not be set because NextEra had not received a certificate of convenience, much less an approved line siting permit. Further, without that line-siting permit, NextEra has no eminent domain authority. NextEra's bullying and the KCC's disregard for it are simply sickening.

NextEra's vile acts continued through the spring and summer. One afternoon we received a phone call where the caller led us to believe he was with the USDA seeking to survey our crop ground. We work with the USDA often, and it is common for them to conduct site visits, so we agreed. In reality, the call was from a NextEra representative. When we found NextEra was on our land, we immediately ran them off and reiterated that NextEra did not have permission to be on any of our properties.

We are not the only landowner that NextEra has trespassed on. As part of our intervention in the KCC's docket, we attempted to file affidavits from other landowners whose ground NextEra accessed without permission and was damaged - cutting ruts through a productive pasture. The KCC of course, denied our attempts to introduce those affidavits.

I have had numerous neighbors relay stories of NextEra's badgering and poor treatment. For example, I had a charming 80-year-old grandmother who lives near us call me and say, "Hi Rochelle, I had this guy who says he is from NextEra, and they keep trying to get me to sign this thing called an option agreement. I tell them I don't want anything to do with it. He says if we don't, they have eminent domain. What is going on? What do I do? Can they take my land?"

I, of course, cannot provide her answers, but I can empathize with her sense of dread and worry.

Another Anderson County landowner that lives out of State contacted me distressed because NextEra kept badgering her with phone calls throughout her workday. When she told NextEra she wanted everything they were telling her in writing, NextEra refused. Further, when she asked NextEra about potential reroutes, NextEra would evade the question. NextEra finally told her they were transferring her case to another agent and then went radio silent.

As another example of NextEra's unprofessionalism, in December NextEra held a brief, informal, come-and-go poster presentation in Burlington, Kansas. We attended. I was in a circle

of neighbors discussing the project and poster presentation when one of the NextEra land agents came up to the group. NextEra's agent instantly started making derogatory comments about my family and me, stating: "Yeah, those McGhee's they are the reason we can't give you any answers or information. They are the ones causing all the problems." On and on, he went about how we were horrible people making problems for everyone. Of course, this man had never met me, and the only thing my family had done was to try and protect our livelihood. Finally, one of our neighbors spoke up and said, "Sir, that person right there is Rochelle, the individual you are speaking about." The NextEra representative just turned around and walked away. He made no apologies and expressed no regrets.

Finally, I could easily brush off the KCC and NextEra's illegal acts and their apparent disdain for landowners if it was not for how they will negatively impact my children's health. Research published in the Journal of Engineering and Technology (IRJET) has reported that high-voltage transmission lines may significantly impact human health, plants, and animals. In particular, the magnetic field associated with high-voltage transmission lines can reportedly, interfere with cell function, break DNA strands, and erode the immune system causing severe disorders in children, pregnant women, and the elderly.

At its March 2022 public meetings, Nextera attempted to dispute any potential adverse health effects from high-voltage transmission lines, stating that health impacts are "inconclusive." NextEra's position is very similar to cigarette companies' position decades ago when they tried to cast doubts on the health dangers of smoking. The cigarette companies were wrong then, and our society has paid a tremendous price. Similarly, there is a substantial likelihood that NextEra is wrong now. My family and neighbors should not face the additional health risk simply because NextEra wants to build a transmission line less than 1/8 of a mile from our homes.

In sum, given the KCC laissez-faire approach to enforcing existing law and complete disregard for NextEra's poor treatment of landowners, I question whether textual changes proposed by Senate Bill 166 will correct any of the ongoing injustices I just described. Nonetheless, it's worth a shot, and a little progress is better than none. As John F. Kennedy stated, "There are risks and costs to action. But they are far less than the long-range risks of comfortable inaction."

Please take action, pass Senate Bill 166, and consider taking additional steps to reign in the KCC's and NextEra's malfeasance.