



Before the Senate Committee on Local Government

March 21, 2021

Neutral Written Only Testimony  
On Senate Bill 312

Submitted by Jeff McClanahan, Director, Utilities Division  
On Behalf of  
The Staff of the Kansas Corporation Commission

Chair McGinn, Vice Chair Bowers, Ranking Minority Member Francisco, and members of the Committee, thank you for the opportunity to provide testimony to your Committee on behalf of the Staff of the Kansas Corporation Commission (Commission).

The Staff of the Commission (Staff) is neutral on Senate Bill 312 (SB 312). However, Staff would like to point out the potential impacts related to the policy change of eliminating the right of eminent domain for utilities.

SB 312 will allow a county commission to either approve or reject a utility's right to eminent domain if the real property subject to eminent domain is located within the county. Clearly, if a county commission approves the right of eminent domain, then a utility will proceed as usual with acquiring easement rights. However, should a county commission reject a utility's right to eminent domain, there will be consequences that the legislature should be aware of. The potential impacts of a county commission rejecting a utility's eminent domain rights are as follows:

- Without eminent domain rights, a utility will be forced to find land-owners who are willing to agree to easements. However, the costs for the easements will likely be more expensive absent eminent domain rights.
- Transmission lines can be built without eminent domain rights. For example, wind farms exempt themselves from public utility status per K.S.A. 66-104(e), which eliminates their eminent domain rights. Despite the lack of eminent domain rights, wind farms successfully acquire easement rights for generator tie lines that can be fifty to sixty miles long. However, the transmission lines tend to take a circuitous route thereby significantly increasing the cost of the lines. More specifically, the costs of transmission lines that change directions frequently are more expensive because each change in direction requires more expensive "turning structures", which are more robust poles or towers that can support the additional stress caused by the change in direction.
- Delays will be caused by a denial of eminent domain rights by a county commission, which will increase costs and/or impact reliability. For example, the Nextera Wolf Creek

to Blackberry line currently before the Commission is estimated to provide a \$14 million dollar annual economic benefit to the SPP region. SPP's planning process for new transmission lines generally takes several years to complete and any line that has to be restudied by SPP due to a denial of eminent domain rights will create a multi-year delay.

- Any new transmission line that is authorized by a notice to construct by the Southwest Power Pool (SPP) is based on either a reliability concern or the project has been determined to provide an economic benefit. The increased costs caused by delays and circuitous routes also has the potential to terminate transmission line projects, which will in turn impair system reliability and/or eliminate economic benefits. The end result will be that a county commission, with no direct knowledge of electrical system reliability or economic benefit analysis, will have the ability to override the SPP's and the KCC's extensive analysis and vetting process.
- SB 312 applies to any eminent domain right that a utility might exercise. That is, it applies to both transmission and non-transmission eminent domain rights. This will create additional delays and increased costs for utilities attempting build non-transmission infrastructure to support system reliability.

Thank you for the opportunity to offer our perspective on the proposed bill.