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**Written and Oral Neutral Testimony of:**

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Before the Senate Committee on Utilities  
Regarding Senate Bill No. 166

February 15, 2023

Chairman Olson, Vice Chair Petersen, Ranking Minority Member Francisco and Committee Members,

My name is Alan Claus Anderson and I am an attorney and the Vice-Chair of the Energy Practice Group at Polsinelli, a nationally recognized law firm based in Kansas City, which provides a wide breadth of legal services to both Kansas businesses and the individual residents of Kansas. I am also an adjunct Professor of Law at the University of Kansas School of Law where I teach Renewable Energy Law Practice and Policy. Thank you for allowing me to appear before you today to discuss Senate Bill No. 166 (the “Bill”).

**A. INTRODUCTION**

Polsinelli is a law firm with over 1,000 lawyers with offices across the United States. We are fortunate to work for clients in all areas of energy, from transmission, energy storage, oil, gas, and coal, to renewable energies such as wind and solar. I also study and teach renewable energy law and the impacts of both good, and bad, policy. I am a proud Kansan and have had the good fortune of working with various Kansas state agencies to attract business to Kansas, and our firm has a long track record of unwavering support for this great State.

**B. OVERVIEW**

The Kansas Line Siting statutes have been in place since the 1970s and it is utilized as the process for review and public input on public utility transmission lines in the state. Changes to this process should be viewed cautiously.

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### **C. SENATE BILL NO. 166 - NO IMPACT**

Senate Bill 166 does not add any benefits to the process and, in fact, does nothing. The process now allows for public participation and viewing of any application, subject to statutes related to confidential information. Nothing in this bill changes that process. If Senate Bill 166 is intended to prohibit the utilization of any confidential information in line siting cases, that would both be bad policy and require alterations to the statutes that handle confidentiality.

### **D. COMMENT WITH REGARDS TO DEMANDS PUBLICLY PROVIDING PRIVATE INFORMATION**

There is an existing and often-used process for reviewing confidentiality designations at the Kansas Corporation Commission (“KCC”). As part of a recent line siting application, NextEra Energy Transmission Southwest (“NEET Southwest”) filed landowner names and addresses as “confidential” out of an abundance of caution and based on its understanding of recent KCC precedent and persuasive precedent from other jurisdictions. However, if the KCC determines that landowner names and addresses should be public, it will be made public. That is the existing process, and it is working as it should. Had NEET Southwest filed the landowner names and addresses as public, there would be no reversing that action. Accordingly, NEET Southwest made a prudent decision that respects the privacy of landowners and allows the KCC to apply its standards as it sees fit.

The caution exercised by NEET Southwest stems from the fact that other state and federal regulatory agencies consider landowner information to be confidential. For example, the Missouri Public Service Commission maintains the confidentiality of landowner names and address in similar proceedings for transmission lines, including the proceeding in which NEET Southwest just participated.

In an even more instructive example, in the case of *Niskanen Ctr. v. FERC*, 20 F.4th 787 (D.C. Cir. 2021) the United States Court of Appeals for the District of Columbia Circuit addressed very similar issues, finding that landowner information in a Federal Energy Regulatory Commission (“FERC”) pipeline siting case was appropriately protected from public disclosure under the Freedom of Information Act (“FOIA”). In *Niskanen*, the court determined that disclosure “would constitute a clearly unwarranted invasion of personal privacy.” FERC stated that releasing this information would “expose the landowners to an unwanted invasion of privacy” and that the balance of public and privacy interests “favors protecting the significant privacy interest of the landowners.” *Id.* at 789-90.

In the decision of whether, or not, to make such private information open to the public, NEET Southwest is neutral. While there are strong reasons for not exposing landowners to unwanted solicitations, that is a decision for the KCC. As explained above, had NEET Southwest provided private information related to landowners without using appropriate caution there would be no reversing that action. The cautious approach allows for thoughtful treatment of landowner information.



It should also be noted that any landowner may elect to make their information public, any landowner may coordinate with trade groups or bureaus at any time, and nothing in the current process prevents such. If a trade group or bureau is not hearing from all of the landowners that are part of a line siting matter, it may be because they do not want such help or intrusion.

#### **E. CONCLUSION**

NEET Southwest is neutral as to this Bill as it does not actually change the current process and because NEET Southwest is not taking a position on the handling of private landowner information. However, it is important for this Committee to understand the existing process at the KCC and not fall victim to uninformed claims that the process is somehow inadequate or flawed.