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SB 68 – Right of First Refusal to Construct Transmission Lines

Oral In-Person

Proponent

FROM:

Patrick Parke, Midwest Energy, Inc.

pparke@mwenergy.com 785-625-1405

TO:

Senate Utilities Committee

I'm Patrick Parke, CEO of Midwest Energy based in Hays. We appreciate the opportunity to testify today and explain why SB 68 is important to Midwest Energy customers and Kansas.

Summary

Midwest Energy is a member owned energy cooperative operating in central and western Kansas for over 80 years, serving 50,000 electric and 43,000 natural gas customers. We take seriously the current and future **right** and **obligation** to provide reliable electric service at just and reasonable rates to all retail customers in our service territory per the **regulatory compact** between Midwest Energy and Kansas. Midwest Energy's members have invested hundreds of millions of dollars¹ to build reliable systems to meet their electric power needs of today and into the future.

¹ YE2022 gross electric plant in service of \$740 million; net electric plant of \$479 million.

If passed, SB 68 will return to incumbent electric transmission owners, like Midwest Energy, the ability to maintain and expand infrastructure, **subject to state oversight** as existed prior to federal regulation imposing competitive bidding of certain transmission lines. The results of Winter Storm Uri in 2021, especially in Texas², and supply chain difficulties facing the utility industry illustrate that competition chasing the lowest price does not result in a reliable and resilient electric grid. **Least cost and best cost are not synonymous.** As a member-owned cooperative, we are focused on best service and technology at best price.

Host transmission owners have incentive and a responsibility to restore service after disruption because they also carry the obligation to serve. Kansas legislators and the Kansas Corporation Commission (KCC) can field complaints from Kansas ratepayers and possess the authority to address cost and reliability issues for utilities with in-state customers. SB 68 helps maximize the amount of **oversight retained within the state.**

Midwest Energy and Those We Serve

Our member-owned and governed cooperative was born of necessity, incorporated in 1939 by farmers to bring electricity to areas initially near Great Bend unserved by investor owned and municipal utilities due to low customer density.

Although our members have chosen to be self-regulated per Kansas law³, we remain subject to the principals of the regulatory compact between the state and public utilities, including the duty to provide electric and natural gas service, at reasonable and affordable rates, to all customers in our state-designated service territory. On the electric side, we have done this by building and maintaining 945 miles of transmission lines operating at 69kV and higher (672 miles at 115kV and 230kV) in our 27-county service area. **When a line fails, our local crews are**

² “What might have been a rare opportunity for residents to experience significant snow accumulation turned catastrophic as power blackouts spanned most of the state from Feb. 15-18. A survey conducted by the University of Houston (UH) Hobby School of Public Affairs in mid-March found that more than two out of three, or 69 percent, of Texans lost power at some point during Feb. 14-20, and almost half, or about 49 percent, had disruptions in water service. The storm contributed to at least 210 deaths, and sources cited by the Federal Reserve Bank of Dallas estimated the state’s storm-related [financial losses](https://comptroller.texas.gov/economy/fiscal-notes/2021/oct/winter-storm-impact.php) would range from \$80 billion to \$130 billion.” Source: <https://comptroller.texas.gov/economy/fiscal-notes/2021/oct/winter-storm-impact.php>

³ KSA 66-104d and KSA 66-104g

there to respond. We look for and incorporate technology and efficiency innovations beneficial to our customers such as the first community solar project in Kansas and the nation's most successful pay-as-you save energy efficiency financing program (How\$martSM). We also anticipate the future by integrating grid replacements and upgrades into our annual budgets. Planning, building and maintaining transmission lines is a vital part of maintaining a reliable system.

FERC Order 1000 Intent and Implementation

In 2011, as part of the national plan to quickly transition to renewable generation, more transmission was deemed necessary. The Federal Energy Regulatory Commission (FERC) issued Order 1000, which directs Regional Transmission Operators like the SPP to open certain transmission projects to a competitive bidding process with the intent of building transmission lines cheaper and faster. To be clear, this isn't about simply bidding on the construction from an established bill of materials. Rather, it is about bidding the design, route selection, development, construction, ownership, maintenance, and operation of these critical assets.

Today, in simplest terms, the selection of a builder of transmission lines follows these steps:

1. The SPP reviews the transmission projects arising from one or more planning studies and determines those that meet the criteria for competitive bidding of the project development and construction.
2. General design criteria are published, but applicants may design their own versions of how those criteria are met. In simplest terms, the bidding is not "apples to apples".
3. The bidding process is open to pre-qualified applicants, regardless of whether the applicant has any infrastructure connection to the project; presence in the state; or local connection to landowners whose land the line will cross.
4. The SPP utilizes an Industry Expert Panel to review the proposals and score the proposals on a variety of factors, while placing a higher value on lower costs. These recommendations are provided to the SPP Board of Directors for review. Upon acceptance by the Board, a Notification to Construct is issued to the winning bidder.

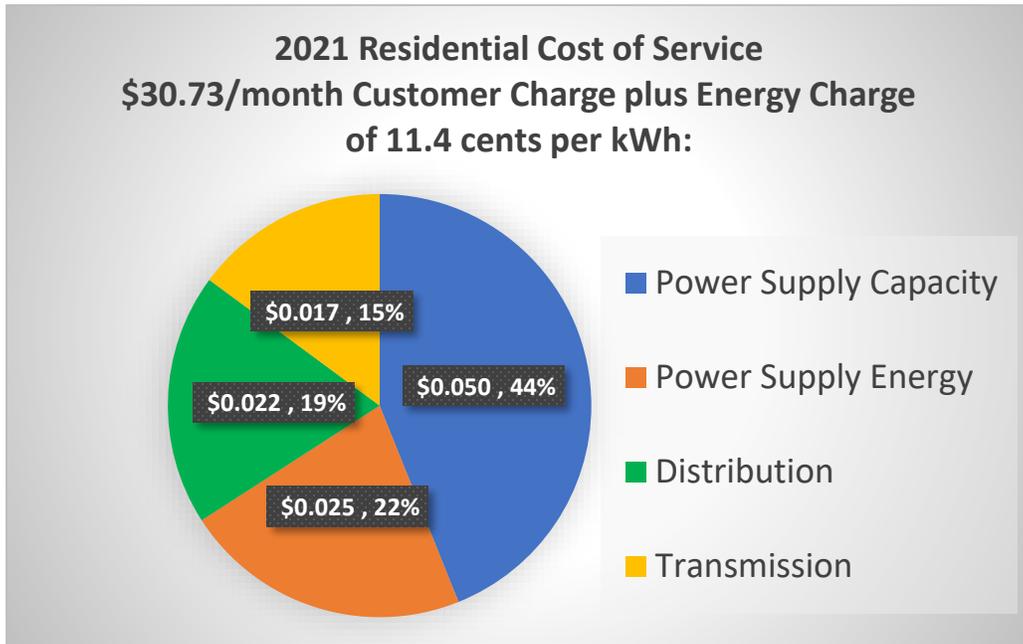
SB 68 would give an incumbent electric transmission owner, like Midwest Energy, the right of first refusal (ROFR) to build an SPP-designated line that would be connecting to the current infrastructure, without going through the competitive bid process. Midwest Energy management, responsible to its member-owners, would oversee design, siting, construction, and operation, including cost management. The Kansas Corporation Commission will retain its statutory siting authority over the project. If Midwest Energy declines to build a line, the SPP process would engage to select an alternate builder.

Limits of Competition

In spite of FERC Order 1000 intent, an August 2022 study by Concentric Energy Advisors reviewed competitively built transmission projects and found that...“Order No. 1000 competitive solicitations have not been successful in driving cost savings and have added delays to the development of transmission infrastructure.”⁴ We have a relief valve. FERC Order 1000 recognizes the role states play in the siting and oversight of costs of transmission by deferring to state right of first refusal laws, and the SPP tariff explicitly recognizes the role of such state laws.

It is important to note that **transmission is a relatively small** part of Midwest Energy’s total cost of electric service as shown on the following chart. Transmission is the smallest piece of the pie. For residential customers, our transmission costs are about 1.7 cents per kilowatt-hour. For industrial and oil field customers who have smoother load shapes, transmission costs are in the range of 1.1 to 1.2 cents per kilowatt-hour. Introducing competition into a small subset of new transmission projects will have an almost negligible impact on total bills.

⁴ *Competitive Transmission: Experience-To-Date Shows Order No. 1000 Solicitations Fail to Show Benefits*, Concentric Energy Advisors, August 2022. Accessed Jan. 25, 2023 at <https://ceadvisors.com/wp-content/uploads/2022/08/Competitive-Transmission-Experience-To-Date-Shows-Order-No.-1000-Solicitations-Fail-to-Show-Benefits.pdf>



Why SB86 Matters – Local Control

So why do we care? We care because we anticipate more, potentially much more, renewable generation will be developed in Kansas over the next 10 to 20 years, and many more transmission lines will be built to export that power to other markets. Passage of SB 68 will restore to incumbent electric transmission owners an opportunity to build the lines upstream of the customers for whom they have the obligation to serve.

In addition, incumbent transmission owners with vested interests in local communities will be negotiating with landowners who will be most affected by transmission line siting. We are keenly aware that any project we undertake impacts our neighbors and the economic viability of our entire region. Put another way, **a Kansas ROFR restores local control** so that Kansas transmission projects are **accountable to Kansas regulators, and for self-regulated cooperatives, oversight by member-elected Boards.**

Conclusion

Much of America’s electric infrastructure entered service five or more decades ago. It has served us well and economically, but it is approaching end of life. We also anticipate expanded transmission capacity as renewable energy projects

increase in Kansas. A Kansas ROFR would allow incumbent utilities, generally subject to Kansas' regulatory framework, to plan replacements and expand to meet new demand, reducing concerns about delays realized elsewhere in competitive projects more effectively. When there are projects that will interconnect with Midwest Energy's system, we prefer to build and maintain those assets, **rather than be dependent on entities not a party to the regulatory compact obligations** that benefit Kansas customers and their communities.

During drafting of this bill, Kansas Electric Power Cooperative, Inc. (KEPCo) expressed concern with some of the language. We have agreed to language that addresses KEPCo's concerns. As the bill is considered by the committee, we ask that the following amendment be adopted:

“Incumbent electric transmission owner” as defined in the published bill (1-19) be modified by deleting the language beginning on page 2 line 35 with “and” continuing through “organization.” on page 2 line 38.