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Testimony of  
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Before the Special Committee on Energy & Utilities

October 16, 2023

**Electric Transmission and Wholesale Energy Markets in Kansas**

Chairman Delperdang and Committee Members,

“Keeping the lights on” is the top priority of utilities everywhere. While that phrase is commonly used, reliability of the electric grid is about much more than lights. Today, electricity is a matter of life and death—with our food supply, shelter, communication, and health care all inextricably linked to the electric grid. It is also a matter of national security, with the Department of Defense recently mandating military installations to “incorporate long-range plans for energy resilience capabilities to ensure available, reliable, and quality power for ... critical missions.”<sup>1</sup>

In addition to keeping the lights on, utilities are required to do so at reasonable costs. K.S.A 66-101b mandates that utilities furnish “reasonably efficient and sufficient service and facilities” and establish “just and reasonable rates.”

To meet these challenges, public utilities move electricity through a complex and vast network of powerlines that requires constant monitoring, maintenance, and modification. The sheer size of the network is its strength. As the Energy Information Administration explains:

The network structure of the interconnections helps maintain the reliability of the power system by providing multiple routes for power to flow and by allowing generators to supply electricity to many load centers. This redundancy helps prevent transmission line or power plant failures from causing interruptions in service.<sup>2</sup>

This testimony is intended to provide policymakers with helpful context regarding the critical and ubiquitous—yet often misunderstood—network of electric transmission lines that we all rely upon. This testimony will also discuss how the generation mix is determined and the

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<sup>1</sup> Department of Defense Memorandum Re: Installation Energy Plans, *available at* <https://www.acq.osd.mil/eie/Downloads/IE/Signed%20Installation%20Energy%20Plan.pdf>

<sup>2</sup> Energy Information Administration, “U.S. electric system is made up of interconnections and balancing authorities,” (July 20, 2016), *available at* <https://www.eia.gov/todayinenergy/detail.php?id=27152>

wholesale energy markets that utilize the transmission network to move cost-effective energy to where it is needed. This testimony is supplemented by Attachment A, which provides further details on transmission line siting issues, and Attachment B, which provides further details on the resolution of KCC Staff's recommendations in the Wolf Creek to Blackberry ("WCB") line siting proceeding.

### **Background**

In Kansas, there are three types of utilities that serve individual homes and businesses at the retail level: investor-owned utilities (like Evergy), municipalities, and distribution cooperatives. These are referred to as "load-serving entities" or "LSEs" because they have the obligation and right to serve 100% of the electric load within their certified territory. To serve that load, they are individually responsible for sourcing adequate supplies of generation and ensuring that it can be delivered to where it is consumed. While they are individually responsible for their load, LSEs often cooperate in joint action agencies for more efficient operation and ownership of generation and transmission. Kansas Municipal Energy Agency ("KMEA") and Kansas Power Pool ("KPP") are examples of joint action agencies for municipalities. Sunflower Electric Power Corporation ("Sunflower") and Kansas Electric Power Cooperative, Inc. ("KEPCo") are examples of generation and transmission ("G&T") cooperatives that are jointly owned by distribution cooperatives.

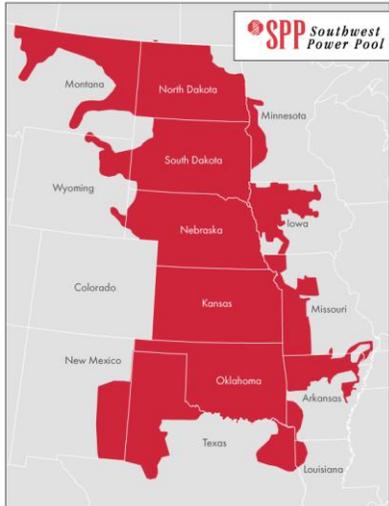
While each individual LSE is responsible to serve its own load, a reliable, resilient, and cost-efficient electric grid can only be achieved through high-voltage interconnections over long distances, which increase the "pool" of available electricity and enable the lights to stay on even when local generation is not available. A larger "pool" also provides greater access to less expensive energy, allowing utilities to keep costs down for their customers. These high-voltage interconnections are often referred to as "the bulk transmission system" or "bulk power grid."

The bulk transmission system in Kansas and the surrounding region is operated by the Southwest Power Pool ("SPP") (see Figure 1), which is one of several Regional Transmission Organizations ("RTOs") in the Eastern Interconnection (see Figure 2). SPP is obligated to ensure reliable and resilient supplies of power, adequate transmission infrastructure, and competitive wholesale prices on behalf of its members. SPP serves 14 member states, including Kansas. SPP's members include municipal energy agencies, electric cooperatives, investor-owned utilities, independent transmission companies, independent power producers, and large retail customers in Kansas. In 2006, the Kansas Corporation Commission ("KCC") certified SPP as a "public utility" in Kansas, as that term is defined by K.S.A. 66-104.<sup>3</sup>

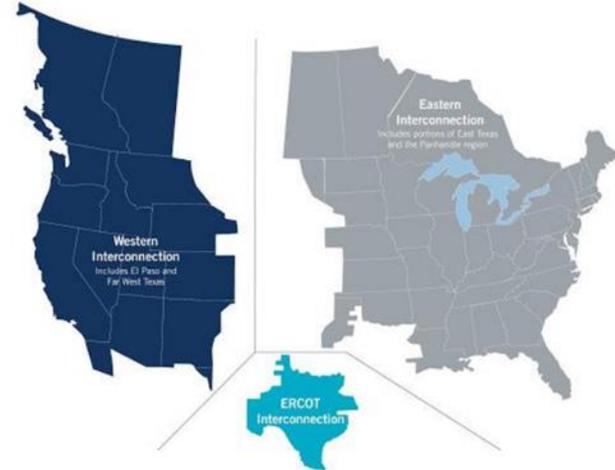
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<sup>3</sup> KCC Docket 06-SPPE-202-COC, Order Adopting Stipulation and Agreement and Granting Applications (Sept. 16, 2006).

**Figure 1: Southwest Power Pool**



**Figure 2: North American Interconnections**



Through the certificate process, the KCC carefully studied the costs and benefits of Kansas electric utilities participating in SPP. As a public utility in Kansas, SPP is subject to ongoing oversight by the KCC, including the requirement to submit reports and information as directed by the KCC. Additionally, the KCC participates in SPP decision making through membership on the Regional State Committee (“RSC”), which has direct input on matters of regional importance related to the development and operation of the bulk transmission system.<sup>4</sup> Membership in SPP is voluntary and the members have direct input on decision making through participation in SPP’s Organizational Groups.<sup>5</sup>

Without regional cooperation and transmission planning, local grids will collapse under stress, as exemplified by the disaster in Texas during Winter Storm Uri in February 2021. Unlike Kansas, Texas is not part of the Eastern Interconnection or an RTO. During Winter Storm Uri, SPP was able to balance power across its 14-state footprint and import many thousands of megawatts from its neighboring regions, thereby escaping the storm with only brief and controlled interruptions.<sup>6</sup> Conversely, Texas is not interconnected to other states and lacks the ability to import important large quantities of power, resulting in days-long blackouts that caused hundreds of

<sup>4</sup> <https://www.spp.org/stakeholder-groups-list/organizational-groups/regional-state-committee/>

<sup>5</sup> SPP Bylaws, Sections 2.1 & 3.1, available at <https://www.spp.org/documents/13272/current%20bylaws%20and%20membership%20agreement%20tariff.pdf>

<sup>6</sup> FERC, NERC, Regional Entity Staff Report: The February 2021 Cold Weather Outages in Texas and the South Central United States, p. 14, available at <https://www.ferc.gov/media/february-2021-cold-weather-outages-texas-and-south-central-united-states-ferc-nerc-and>

deaths and economic losses between \$80 and \$130 billion.<sup>7</sup> For a fraction of that cost, the Texas disaster could have been mitigated with smart investments in transmission.

### **Transmission Planning**

To fulfill its obligation of ensuring adequate transmission, SPP conducts Integrated Transmission Planning (“ITP”)—a process through which SPP and its members look forward ten years to ensure that they can provide reliable electric transmission service and competitive wholesale power prices. Wholesale power prices are often measured by their “locational marginal price” or “LMP.” An LMP is the cost of the next unit of energy at a particular location on the system at any particular time. When LMPs differ across the SPP region, it indicates congestion on the transmission system, meaning the cheapest available electricity cannot flow to where it is needed. The ITP process identifies a portfolio of transmission projects that provides “reliable and economic energy delivery and achieves public policy objectives, while maximizing benefits to end-use customers.”<sup>8</sup> The portfolio of transmission projects form the annual “ITP plan.”

Projects identified by the ITP process all provide reliability and/or economic benefits to SPP as a whole. The KCC then determines whether projects located in Kansas benefit the state in particular. Reliability projects address vulnerabilities in the system that could lead to significant interruptions in service. Economic projects address market inefficiencies that prevent the least expensive power from flowing to where it is needed. Economic benefits are achieved by relieving congestion on the transmission grid, which has the impact of levelizing LMPs. When LMPs are levelized, it is not a zero-sum game, in which costs go up for one zone to the same degree that costs go down for another—rather, when an otherwise congested generator has a path to flow to zones with high LMPs, it reduces the need for that generator to be curtailed (*i.e.* not used at all), so the zone that hosts the generator is minimally affected. In fact, oftentimes the zone that hosts the generator is *benefited* because the local utility who owns generation in that zone can now receive revenue from the wholesale market which serves to offset the cost of energy for its own customers.<sup>9</sup>

Each transmission project approved by SPP for economic reasons must result in savings that exceed its costs (*i.e.* it must have a benefit/cost ratio greater than 1.0). The transmission projects are generation-neutral, meaning the calculated benefits are based on dollars and cents, and not on any particular type of generation or environmental attributes.

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<sup>7</sup> *Id.* at pp. 9-10.

<sup>8</sup> 2019 ITP Assessment, p. 7, *available at* [https://www.spp.org/documents/60937/2019%20itp%20report\\_v1.0.pdf](https://www.spp.org/documents/60937/2019%20itp%20report_v1.0.pdf)

<sup>9</sup> KCC Docket No. 22-NETE-419-COC, Staff’s Post-Hearing Brief, pp. 26-27 *available at* <https://estar.kcc.ks.gov/estar/ViewFile.aspx/S202206301633035714.pdf?Id=a890e2b6-04d7-4330-82fd-ce2e240f5839>; *see also*, Reply Brief of Evergy, pp. 3-4 (agreeing with testimony of Staff witness, Justin Grady), *available at* <https://estar.kcc.ks.gov/estar/ViewFile.aspx/S20220712111197425.pdf?Id=d485c9d5-9176-4fbf-a94d-c2c0e445ba36>.

The ITP process is open and transparent. ITP plans are reviewed by the Market and Operations Policy Committee (“MOPC”) of SPP, whose members are representatives of the various utilities and transmission owners in the region, including Evergy, KMEA, KPP, Sunflower, Midwest Energy, Inc. and more.<sup>10</sup> Each ITP plan is then approved by SPP’s Board of Directors.<sup>11</sup> The transmission projects identified by each ITP plan are either directly assigned to incumbent utilities or put out for competitive bidding by pre-qualified RFP participants. Projects subject to competitive bidding are limited to transmission facilities over 100 kV that do not require rebuild of existing facilities or use of existing right of way.<sup>12</sup>

The WCB Project is an example of a competitive bid project that went through the ITP process. NextEra Energy Transmission Southwest (“NEET Southwest”) was selected to build the WCB Project by an independent expert panel, which judged the bids based on engineering, project management, operations, costs, and financing. NEET Southwest’s bid was \$57.4 million less than SPP’s estimated costs for the WCB Project, 30% lower than the average bid for the Project, and contained a number of significant and binding cost containment measures. The KCC Staff found that “*it is obvious that competition for the right to own and operate this transmission line will benefit the consumer.*”<sup>13</sup>

The ITP process is not the only means by which the transmission grid is updated. Transmission owners may identify their own vulnerabilities and inefficiencies and address them directly, without the need to go through the ITP process. Additionally, whenever a new generator interconnects to the transmission grid, that generator must pay for all costs required to accommodate that interconnection. Such costs are directly assigned to the generator and are not allocated to other SPP members.

Recently, there have been misguided calls for less regional cooperation and the complete rejection of transmission projects like the WCB Project. Notably, these voices are not the public utilities themselves, who participate and approve ITP plans through membership in MOPC and who supported the KCC’s issuance of a certificate of convenience and necessity (“CCN”) for NEET Southwest to build the WCB Project.<sup>14</sup> The public utilities in Kansas understand the importance of regional cooperation and they know what it takes to keep the lights on. Regrettably, the voices calling for less regional cooperation fundamentally misunderstand the operation of interstate power systems and seek only shortsighted satisfaction of their grievances and illusory

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<sup>10</sup> <https://www.spp.org/stakeholder-groups-list/organizational-groups/board-of-directorsmembers-committee/markets-and-operations-policy-committee/>

<sup>11</sup> <https://www.spp.org/engineering/transmission-planning/integrated-transmission-planning/>

<sup>12</sup> SPP Open Access Transmission Tariff, Attachment Y, Section I.1.

<sup>13</sup> KCC Docket No. 22-NETE-419-COC, Staff Report & Recommendation, p. 13 (May 17, 2022), available at <https://estar.kcc.ks.gov/estar/ViewFile.aspx/S202205171656406925.pdf?Id=9b22e62b-479a-4bce-9ffa-9d6d4af30052>

<sup>14</sup> Evergy, Sunflower and KEPCo are all members of MOPC and joined the Settlement Agreement in KCC Docket No. 22-NETE-419-COC, which called for the KCC to issue a CCN to NEET Southwest for the construction of the WCB Project.

savings. This “take your ball and go home” approach will only lead to higher rates and disasters that (literally) plunge Kansas into darkness.

### **Transmission Cost Allocation**

While Kansas cannot take its proverbial ball and go home, it can and should fight for improved policies for allocating the cost of transmission before SPP and the Federal Energy Regulatory Commission (“FERC”), the agency that regulates SPP’s cost allocation policies.

SPP’s current cost allocation methodology, as set forth in its Open Access Transmission Tariff (“OATT”), is known as the “Highway/Byway” methodology. Under this methodology, transmission costs are allocated as follows:

- 100kV and lower: 100% of costs allocated to the local utility “zone”
- 100kV to 300kV: 67% of costs allocated to the local zone and 33% of costs allocated “regionally” (meaning across all of SPP)
- 300kV and above: 100% of cost allocated regionally

The Highway/Byway methodology applies only to SPP-planned transmission and not to network upgrades required because of generators interconnecting to the grid. As discussed above, the generators have exclusive responsibility for interconnection costs and upgrades.

In 2021 and 2022, SPP repeatedly sought to gain FERC approval of a change to its OATT that would have allowed SPP to better align costs of some transmission lines with those who receive the benefits of those lines. Essentially, SPP would review transmission lines that function primarily to ship power from one region to another region. In cases where the review criteria justified it, SPP would allow 100% of costs to be recovered from the SPP region as a whole, instead of recovery apportioned 33% to the region and 67% to the pricing zone where facilities are located. This would reduce the burden to ratepayers in regions where transmission lines are built to ship power away from the region (western Kansas, for example). Both of those proposals were rejected by FERC on technical grounds, but FERC appears open to accepting a similar policy without those technical problems.

Recently, Kansas’ Senators took issue with FERC’s decision denying SPP’s 2022 OATT revisions, stating that FERC “should appreciate the inequity of requiring Kansans to pay unreasonably high transmission rates for facilities that benefitted the entire multi-state SPP.”<sup>15</sup> Senators Moran and Marshall are right to petition FERC to work with SPP to better align costs with benefactors within the SPP footprint—and there’s reason to believe that FERC would approve a policy that does exactly that.

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<sup>15</sup> Carpenter, Tim, “Moran, Marshall seek reversal of electricity transmission ruling viewed as harmful to Kansas,” Kansas Reflector (Sep. 7, 2023) available at <https://kansasreflector.com/2023/09/07/moran-marshall-seek-reversal-of-electricity-transmission-ruling-viewed-as-harmful-to-kansas/>.

FERC's Order denying the 2022 OATT Revisions did not reflect a wholesale rejection of the policy of passing costs of some transmission lines from supplying regions (Kansas) to allocation on a regional basis.<sup>16</sup> Instead, FERC found flaws in how the policy was administered. SPP built discretion into the proposed tariff that would allow SPP to treat two, similarly situated projects differently. The proposed tariff also contained some ambiguity in cases where a transmission line would qualify for the regional-allocation treatment. Last, the tariff did not contain language addressing situations where the transmission line ceases functioning as a net-exporter of electricity (when it could be argued that the regional cost allocation was no longer justified). FERC denied the revisions because they gave SPP too much discretion in allocating costs, and that the tariff, as written, could result in potentially inconsistent treatment and arbitrary or discriminatory outcomes.

While Kansas lawmakers should continue to bring political attention to this issue and FERC's role in adopting or approving policy like this, Kansas utilities should exercise their SPP membership rights to encourage SPP to revise its tariff proposal in a way that addresses FERC's concerns. A revised policy would be every bit as good as SPP's 2022 policy and could be even better given that it would provide SPP, state regulators, and developers added certainty as to who will pay for certain transmission projects. A revised policy is also the most practical, likely, and effective way to achieve the goals of lowering transmission costs for Kansans.

It is important to note that all projects have costs associated with them, even when the benefits outweigh those costs. Accordingly, under SPP's proposal to more equitably allocate the cost of transmission, there is no scenario in which SPP-planned transmission in Kansas will have zero cost impact on the rates for customers in Kansas. Regional allocation results in an approximately 16.5% allocation to Kansas based on current load-ratio shares in the SPP region. This is in recognition of the fact that all SPP-planned transmission in Kansas benefits Kansans to some degree. As discussed above, Kansans benefit greatly from high-voltage interconnections over long distances, which increase the "pool" of available electricity and enable the lights to stay on even when local generation is not available. This pool also lowers energy prices. As noted above, all projects approved by SPP for economic reasons must have benefits (in the form of lower energy prices) that outweigh the costs. These lower energy prices are accessible to Kansas utilities.

### **Transmission Line Siting**

Another often criticized, yet little understood topic concerning electric transmission in Kansas is the process for siting transmission projects. First, there appears to be a misunderstanding of the magnitude of the issue, as there has only been one greenfield transmission siting case before the KCC in the last ten years.<sup>17</sup> Second, there appears to be a misunderstanding of the thorough

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<sup>16</sup> "Order Setting Aside Prior Order and Dismissing Compliance Filing," FERC Docket ER22-1846 (July 13, 2023) available at [https://elibrary.ferc.gov/eLibrary/docinfo?accession\\_number=20230713-3088](https://elibrary.ferc.gov/eLibrary/docinfo?accession_number=20230713-3088).

<sup>17</sup> Prior to the WCB Project, the last greenfield transmission line siting application was submitted in 2013 by ITC Great Plains, LLC and Mid-Kansas Electric Company, LLC, which sought siting authority for approximately 58 miles of 345 kV transmission in Ottawa and Cloud Counties, Kansas.

and robust process for transmission line siting that already takes place prior to the KCC granting line siting authority.

For every greenfield, high-voltage transmission project, it is standard practice to conduct a detailed routing study, including collecting landowner feedback and local agency input, prior to selecting a proposed route and seeking approval from the KCC. The routing studies consider the impact of the transmission line on agriculture, residences, schools, churches and other gathering places, cultural resources, roads and other utilities, the environment, wildlife and more. As an example, the routing study for the WCB Project was over 300 pages long and is publicly available.<sup>18</sup>

The landowner feedback for a routing study is solicited through multiple channels, including in-person meetings, telephone, email, websites, and standard mail. Landowners are made aware of the various channels for feedback through direct mail, newspaper notice, and websites. This feedback is collected by the applicant before the route is proposed to the KCC. Another round of public feedback occurs after the line siting application is filed, through a public comment period and public hearings conducted by the KCC. This public feedback directly impacts the route of the line.

While it is true that individual landowners are occasionally unhappy with the route that is selected, it is not possible to build a transmission line (or anything) without impacts. Any movement of a transmission line from one person's property to another has domino impacts up and down the line. Accordingly, the goal is to appropriately weigh and balance a number of interdependent, and in some instances, competing criteria. One such criteria is cost. If cost was not a criterion in a routing study, there would be unacceptable consequences: first, the cost of electric transmission (and retail utility bills) would skyrocket; and second, transmission lines would be constructed in zigzag patterns that collectively have *more* impacts on landowners and the environment.

The KCC recently opened an investigation into the principles and priorities to be used in future line siting proceedings. The general investigation was prompted by questions regarding how pre-qualified RFP participants at SPP account for KCC siting priorities when submitting bids for competitive transmission projects. The general investigation will collect feedback from transmission-owning public utilities in Kansas, SPP, the Citizens Utility Ratepayer Board

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<sup>18</sup> Part 1 available here:

<https://estar.kcc.ks.gov/estar/ViewFile.aspx/S202301241613545989.pdf?Id=6557c0a0-4731-4630-b735-c7085aea18d5>

Part 2 available here:

<https://estar.kcc.ks.gov/estar/ViewFile.aspx/S202301241613563856.pdf?Id=8814a806-d47d-4dcc-9237-2d6346868e29>

Part 3 available here:

<https://estar.kcc.ks.gov/estar/ViewFile.aspx/S202301241614002239.pdf?Id=9e2630b4-3746-4542-8562-e3fa4c307e79>

(“CURB”), KCC Staff, and other stakeholders regarding what, if any, principles and priorities should be established such that transmission developers, including those participating in competitive bidding at the SPP, will have a clear understanding of such principles and priorities before beginning their routing studies.

Further details regarding transmission line siting issues are provided in Attachment A to this testimony.

### **Wholesale Energy Markets**

In addition to transmission planning, SPP operates a wholesale energy market, where LSEs or independent power producers (IPPs) can trade energy at wholesale, which is then used by the LSEs to serve their load. IPPs own generation but have no retail customers, and therefore, no load serving obligations. Rather, IPPs are engaged exclusively in wholesale energy transactions. They are sometimes referred to as “merchant generators.”

Importantly, LSEs are not required to purchase energy through the wholesale energy market operated by SPP—instead LSEs can choose to self-generate, and they regularly do so. There is an often expressed and misguided fear that the proliferation of wind and solar will push out needed dispatchable generation such as natural gas. This fear is misguided because (1) SPP requires each LSE to have access to enough accredited generation to cover its load serving obligations, plus a reserve margin and (2) LSEs have the authority to build, maintain, and run generation as they deem appropriate to provide sufficient and efficient service. Nobody is forcing LSEs to stop running a natural gas plant and instead purchase wind and solar on the wholesale market—rather, LSEs are choosing to do so whenever it makes economic sense for their customers.

SPP acts as the central dispatcher for the generation across the SPP footprint and will select the least-cost generation first. However, SPP also allows for LSEs to “self-schedule.” When an LSE self-schedules, it means that the LSE is choosing to run its own generation at a designated level, regardless of whether that generator would have been selected by SPP based on price. Self-scheduling most often occurs at coal and nuclear plants, which cannot be toggled on and off in short intervals without incurring significant costs. In some cases, this may cause the LSE to take an economic loss in the short term (*i.e.* running a coal plant when wind is cheaper on the wholesale market) for the sake of having the coal plant available two or three days hence, when less wind or sun is forecasted.

If the LSE is well-operated and its forecasts are accurate, self-scheduling should save its customers money in the long term. However, overreliance on self-scheduling will cost customers money due to the lost opportunities to acquire less expensive power from the market. Concerns



about overreliance on self-scheduling was addressed in the Retail Rate Study mandated by the Kansas Legislature in 2020.<sup>19</sup>

### **Conclusion**

For both economic and reliability reasons, it is essential that Kansas continue to participate in regional transmission planning and permit additional construction of transmission infrastructure in the state. While there is certainly room for improvement in SPP's cost allocation methodologies, there are pathways to achieve that improvement through participation at SPP and FERC. Additionally, through the KCC's pending general investigation docket, there is a pathway to improve the principles and priorities for transmission line siting in Kansas. Leaning into these existing pathways is the most effective way to lower transmission costs in Kansas and address the impact of transmission on landowners and the environment.

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<sup>19</sup> KCC Docket No. 20-GIME-068-GIE, London Economics International LLC, Study of Retail Rates of Kansas Electric Public Utilities, p. 137.



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**Attachment A**  
to Testimony of  
Alan Claus Anderson and Andrew O. Schulte  
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Before the Special Committee on Energy & Utilities

October 16, 2023

**Overview of Issues Regarding Transmission Line Siting**

This Attachment A responds to the most common issues and misunderstandings regarding transmission line siting in Kansas.

**Issue 1: The transmission line siting process conducted by the KCC is sufficient.**

The KCC is obligated by statute to determine the reasonableness of the location of every transmission line of at least 230 kV and 5-miles in length. Through well-established precedent, the KCC effectively requires every transmission line siting application to include a detailed routing study that incorporates landowner feedback, local agency input, and an explanation of how the routing study addresses the specific obstacles and opportunities presented by the study area. Routing studies must consider the impact of the transmission line on agriculture, residences, schools, churches and other gathering places, cultural resources, roads and other utilities, the environment, wildlife and more. As an example, the routing study for the Wolf Creek to Blackberry (“WCB”) Project was over 300 pages long and is publicly available.<sup>1</sup>

The KCC Staff conducts a thorough review of the routing study to determine if it appropriately considers the above-listed factors and results in a reasonable route. Landowners and other interested parties may intervene, conduct their own review of the routing study, and submit evidence. As discussed below, landowners may also submit comments to the KCC without the need to formally intervene. The KCC conducts an evidentiary hearing, where expert witnesses are subject to cross-examination and Commissioner questions. The KCC weighs all of the evidence

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<sup>1</sup> Part 1 available here:

<https://estar.kcc.ks.gov/estar/ViewFile.aspx/S202301241613545989.pdf?Id=6557c0a0-4731-4630-b735-c7085aea18d5>

Part 2 available here:

<https://estar.kcc.ks.gov/estar/ViewFile.aspx/S202301241613563856.pdf?Id=8814a806-d47d-4dcc-9237-2d6346868e29>

Part 3 available here:

<https://estar.kcc.ks.gov/estar/ViewFile.aspx/S202301241614002239.pdf?Id=9e2630b4-3746-4542-8562-e3fa4c307e79>

and issues an order approving or denying the line siting application, with adjustments and conditions as the KCC deems necessary and appropriate.

**Issue 2: The current line siting process in Kansas includes significant landowner input.**

The landowner feedback for a routing study is solicited through multiple channels, including in-person meetings, telephone, email, websites, and standard mail. Landowners are made aware of the various channels for feedback through direct mail, newspaper notice, and websites. This feedback is collected by the applicant before the route is proposed to the KCC. For an example of pre-filing public outreach, see Appendices C-H of the routing study for the WCB Project, linked in footnote 1 above. The Appendices provide copies of the following:

- Project website screenshots and project website materials (Appendix C);
- Virtual open house postcard invitations and newspaper notices (Appendix D)
- Virtual open house presentation slides, presentation transcript, and Q&As (Appendix E);
- In-person open house postcard invitations and newspaper advertisements (Appendix F);
- In-person open house posterboards (Appendix G); and
- Agency correspondence (Appendix H).

Another round of public feedback occurs after the line siting application is filed, through a public comment period and public hearings conducted by the KCC. This public feedback directly impacts the route of the line. For example, NextEra Energy Transmission Southwest, LLC (“NEET Southwest”), the developer of the WCB Project, made 97 routing adjustments between the initial identification of the proposed route and the conclusion of the KCC line siting proceeding, many of which increased the distance of the proposed route from a landowner’s residence, avoided pivot irrigation, or otherwise mitigated the impacts on existing agricultural and residential uses.<sup>2</sup>

While it is true that there will be individual landowners unhappy with any route that is selected, it is not possible to build a transmission line (or anything) without impacts. Any movement of a transmission line from one person’s property to another has domino impacts up and down the line. Accordingly, the goal is to appropriately weigh and balance numerous interdependent, and in some instances, competing criteria.

**Issue 3: Cost must be a factor when determining the best route for a transmission line.**

Cost is a necessary criterion when routing a transmission line. If cost was not a criterion in a routing study, there would be unacceptable consequences: first, the cost of electric transmission (and retail utility bills) would skyrocket; and second, transmission lines would be constructed in zigzag patterns that collectively have *more* impacts on landowners and the environment and result in less efficiency and reliability. Even if cost was not a factor, there are no

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<sup>2</sup> KCC Docket No. 23-NETE-585-STG, Rebuttal Testimony of Dusty Werth, p. 8-9, available at <https://estar.kcc.ks.gov/estar/ViewFile.aspx/S202303211620392690.pdf?Id=7fa0ebb5-c18f-4d60-abd4-5078440b1270>

routes that eliminate all impacts, so it is very likely that some individuals would still be unhappy with the results.

**Issue 4: The SPP already considers landowner impacts during the competitive bidding process.**

The SPP uses an Independent Expert Panel (“IEP”) to review the bids submitted for competitive transmission projects. The IEP scores projects on a variety of metrics, including the overall impact on the environment and current land use, including considerations such as “reducing the number of structures and foundations in cultivated lands, reducing crop lost to the structure foundations, and reducing challenges associated with tilling/spraying/harvesting operations around multiple sets of parallel structures.” The IEP also considered “[r]educing overall visual impacts” and the amount of land encumbered by easements.<sup>3</sup>

However, the IEP (and the KCC) must balance the foregoing goals with operational and reliability considerations. For the WCB Project, the IEP and the KCC found fatal operational and reliability drawbacks associated with a double circuit option.<sup>4</sup>

**Issue 5: Eminent domain is a necessary last resort for transmission line development.**

The vast majority of transmission line easements are obtained through voluntary agreements and eminent domain is used only as a last resort. NEET Southwest offers landowners at least 100% of the fair market value of the entire easement area as if it is a fee simple purchase, even though landowners are free to use the easement area for their own purposes other than the area occupied by the transmission poles. In most cases, landowners find the compensation offers to be fair, and condemnation petitions are only filed when it is clear that further negotiations will not be productive.

Eminent domain is also used for roads, pipelines, telecom facilities, irrigation systems, and more. All of these facilities provide significant public benefits and would be prohibitively expensive without eminent domain authority. If eminent domain authority was limited for electric transmission lines, the price of electricity in Kansas would skyrocket. At a time when policymakers in Kansas are concerned about the competitiveness of electric prices in Kansas, there would be no policy more destructive to the goal of lower electric prices than limiting the use of eminent domain by transmission developers.

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<sup>3</sup> Independent Expert Panel Transmission Provider Public Report, Appendix Page 53 (attached as Exhibit BW-4 to the Direct Testimony of Becky Walding in KCC Docket No. 23-NETE-585-STG), *available at*

<https://estar.kcc.ks.gov/estar/ViewFile.aspx/S202301241520092274.pdf?Id=24e72108-2753-401b-8c41-e9dfa80d77cf>

<sup>4</sup> KCC Docket No. 23-NETE-585-STG, Order on Siting Application at p. 12.

**Issue 6: The KCC is already considering options for providing additional clarity and guidance on line siting principles and priorities.**

The KCC recently opened an investigation into the principles and priorities to be used in future line siting proceedings. The general investigation was prompted by questions regarding how pre-qualified RFP participants at SPP account for KCC siting priorities when submitting bids for competitive transmission projects. The general investigation will collect feedback from transmission-owning public utilities in Kansas, SPP, the Citizens Utility Ratepayer Board (“CURB”), KCC Staff, and other stakeholders regarding what, if any, principles and priorities should be established such that transmission developers, including those participating in competitive bidding at the SPP, will have a clear understanding of such principles and priorities before beginning their routing studies.

**Issue 7: The KCC thoroughly addressed the eleven recommendations submitted by KCC Staff during the WCB line siting proceeding.**

The eleven recommendations submitted by KCC Staff were fully addressed by the KCC during the WCB line siting proceeding. See Attachment B for further details on the resolution of KCC Staff’s recommendations.



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**Attachment B**  
to Testimony of  
Alan Claus Anderson and Andrew O. Schulte  
Polsinelli Energy Practice Group

Before the Special Committee on Energy & Utilities

October 16, 2023

**Resolution of Staff's Eleven Recommendations in Docket No. 23-NETE-585-STG**

The following eleven (11) recommendations were presented in the Direct Testimony of Staff Witness Leo Haynos in Kansas Corporation Commission (“Commission” or “KCC”) Docket No. 23-NETE-585-STG, filed on February 21, 2023. Subsequently, NextEra Energy Transmission Southwest LLC (“NEET-SW” or “NEET Southwest”) filed Rebuttal Testimony responding to Staff’s proposed recommendations and the Commission conducted an evidentiary hearing to address the proposed recommendations, among other issues. The resolution of each of the recommendations is addressed immediately below the recommendation itself. In every case, the recommendations were fully addressed and resolved by agreement of Staff and NEET Southwest and/or fully addressed by the Commission’s Order on Siting Application issued on May 24, 2023.

1. I recommend the Commission consider the double circuit option jointly operated by two utilities to be an unreasonable alternative.
  - *NEET Southwest, Evergy, Commission Staff, and the Commission all agreed that the double circuit option was not reasonable.*
  - *The double circuit option would have cost between \$12.7 and \$67.7 million more than the single circuit option. Evergy does not expect to rebuild its existing 115 kV line until 2030, so any landowner benefits would have been, at best, significantly delayed. Further, there were fatal operational and reliability drawbacks associated with the double circuit option, as evaluated and recognized by the KCC and SPP.*
  
2. If the Commission decides to site the proposed line adjacent to the Evergy existing 161kV line, I recommend the Commission require the NEET-SW ROW to abut the Evergy ROW whenever possible unless the affected landowner agrees to allow separation between the two ROWs.
  - *Where the Wolf Creek to Blackberry Transmission Line parallels Evergy’s existing 161 kV line, NEET Southwest’s ROW will generally abut Evergy’s ROW except where geological and engineering conditions do not allow for it. This is*

*consistent with the position taken by NEET Southwest and Staff, and contrary to the position taken by Evergy, who sought a buffer between the two ROWs.*

3. I recommend the Commission consider approaching SPP to allow states the opportunity to participate in developing routing parameters to include in a Request for Proposal for any future competitively bid transmission lines.
  - *The Commission has already approached SPP. See Order Opening General Investigation, Docket No. 24-GIME-102-GIE.*
  - *The Commission is in the process of considering the implementation of routing parameters in Docket No. 24-GIME-102-GIE.*
4. For future transmission line siting dockets, I recommend the Commission consider requiring a route model study similar to the one presented in this Docket. As a precondition to line siting docket, I further recommend the Commission establish routing principles and weighting factors to be used in the routing study.
  - *Through well-established precedent, the Commission already effectively requires routing studies similar to the one presented by NEET Southwest.*
  - *The Commission is in the process of considering the implementation of routing principles and weighting factors to be used in future routing studies.*
5. Unless the affected landowner agrees to accept guyed structures on his/her property, I recommend the Commission require NEET-SW to install standalone structures such as base plated steel poles that do not require guylines.
  - *The Commission found that guyed structures are commonly used and there is no evidence that they are unsafe.*
  - *The Commission found that there is no evidence for imposing a higher construction standard – and a much more costly construction standard – which would lead to unjustified costs for customers.*
6. I recommend the Commission require NEET-SW to design the transmission line such that the minimum clearance of the transmission line over cultivated fields accounts for combines operating with grain bin extenders. The minimum clearance also must include the additional two-foot margin imposed by SPP in the bid.
  - *Staff subsequently confirmed that NEET Southwest’s design standards already meet proposed ground clearances over cultivated fields, which will accommodate agricultural combines operating with grain bin extenders.*
7. I recommend the Commission require NEET-SW to install dead-end structures to support the span of transmission line that crosses the five U.S. highways along the route.
  - *The Commission found that KDOT does not require dead-end structures over highways and there is no evidence that current construction standards are unsafe.*

- *The Commission found that there is no evidence for imposing a higher construction standard – and a much more costly construction standard – which would lead to unjustified costs for customers.*
8. With respect to land restoration and in order to promote transparency, I recommend the Commission require NEET-SW to include a statement in customer restoration agreements with easement grantors that notes the grantor's right to appeal to the Commission to resolve restoration issues. The notice should also include contact information for the Commission's public affairs office.
    - *NEET Southwest agreed to provide this notice.*
  9. I recommend the Commission require NEET-SW to file its permit and reclamation plan with the Commission as part of a compliance filing.
    - *NEET Southwest agreed to provide its permit and reclamation plan to the Commission.*
  10. I recommend the Commission require NEET-SW to reimburse affected county and township governments for the cost to retain professional engineering services for the purpose of performing pre-construction and post-construction inspections of any roads and/or bridges that may be affected by the construction project.
    - *NEET Southwest already offers to reimburse counties for pre- and post-construction inspections. NEET Southwest will share copies of execute road agreements with Commission Staff.*
  11. I recommend the Commission require NEET-SW to perform a study of electric and magnetic fields at the edge of the ROW at any home within 200 feet of the ROW. The study should be completed after the line is operational, it should be filed in the NEET-SW compliance docket.
    - *The Commission found that there is no evidentiary basis establishing a causal relationship between electric and magnetic fields (“EMF”) and health effects. Further, to ease the concerns of landowners, NEET Southwest agreed to do an EMF Study for any landowner who requests it after the transmission line becomes operational.*