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Before the House Committee on Energy, Utilities, and Telecommunications

February 10, 2026

Opponent Testimony on House Bill 2483

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On Behalf of The Staff of the Kansas Corporation Commission

Chair Delperdang, Vice Chair Wilborn, Ranking Minority Member Ohaebosim, and members of the Committee, thank you for the opportunity to provide testimony to your Committee today on behalf of the Staff of the Kansas Corporation Commission (KCC or Commission).

Executive Summary

The Staff of the KCC is **opposed** to HB 2483 in its current form. This bill contains fourteen separate and distinct Sections, most of which could have been a standalone bill. We oppose this bill in this form because several of its Sections are contrary to one of Kansas' energy policy goals of improving regional rate competitiveness by growing the electricity user base and spreading existing fixed costs over more billing determinants to the benefit of all electricity customers. Additionally, several Sections of this bill would result in prolonged and expensive litigation in the courts and would likely be overturned as impermissible under the Supremacy Clause of the United States Constitution.[1] As my detailed written testimony makes clear, we are **neutral** on many other Sections of this bill, although we consider most of them to be unnecessary or overly burdensome. In order to comply with these compulsory and extensive reporting provisions of the bill, we estimate a fiscal impact of $100,000 per year for salary and benefits to hire a new RTO Policy Analyst.

Section-by-Section Analysis

Section 1—**Neutral on Subsection (a), Oppose Subsection (b)**—Subsection (a) would require the KCC to submit an annual report to the legislature detailing the transmission projects included in the most recent SPP Integrated Transmission Plan (ITP). This information is already publicly available and could easily be submitted to the legislature. It is unnecessary to change the law to require the KCC to submit information that we regularly share with the legislature today. As the Committee knows, senior leadership of the KCC is readily available to make presentations, provide information, and answer questions before the Committee at any time. We are appreciative for the working and collaborative relationship that we have with the leadership of the legislative committees that oversee the work of the KCC, and it is misleading to suggest that the law needs to be changed in order to ensure this collaboration continue.

[1] I am not an attorney, but I have been advised by regulatory counsel in the Litigation Section of the KCC.

While the reporting requirements in Subsection (a) are unnecessary, Subsection (b) contains the much more troubling requirement that the Commission advocate to "moderate" regional transmission construction to the arbitrary level of 150% of a ten-year average level of transmission spend, as adjusted for inflation. If the regional transmission plan cannot be "moderated" in this fashion, then the KCC is required to develop a plan for Kansas utilities to "reduce financial obligations to and participation in future transmission projects directed by the [RTO]."

There are several troubling aspects of this proposal. First, it is not possible for Kansas electric utilities to "reduce" financial obligations to and participation in future transmission projects directed by SPP, without initiating a process to completely terminate membership in SPP. In other words, you are either part of the regional transmission grid or you are not, there is no partial membership option when it comes to transmission planning and participation at the SPP. Terminating membership in the SPP would come with billions of dollars of financial payments by Kansas utilities. If Kansas was ever to consider exiting the SPP, a decision like that should be comprehensively studied, accounting for all costs and benefits of that decision. It should not be the result of a transmission portfolio exceeding an arbitrary spending amount that has no connection to the realities of potentially needed upgrades to the transmission system for reliability or economic reasons.

Second, this arbitrary spending cap is devoid of any analysis of the reliability or economic consequences of establishing such a cap. The KCC's advocacy efforts pertaining to regional transmission planning are centered around ensuring that the right kind of transmission is planned, to ensure reliable and economic power is available to Kansans. Properly planned transmission can reduce overall retail ratepayer costs and ensure that the lowest possible wholesale power prices are available for service to Kansans. For instance, low wholesale power costs in Kansas have helped keep Kansas' retail electric rates competitive and stable (relative to other states and regions) over the last ten years.

Regional transmission planning is a highly technical and complex process involving computer modeling simulations, run across multiple divergent scenarios, to test the reliability and economic ramifications of the decision to expand (or not) the regional transmission grid. Reliability impacts (thermal or voltage violations) are predictable because of the immutable physics of the flow of electricity. The impact of wholesale power market changes with and without transmission is similarly predictable, with a given set of assumptions. Because the future is uncertain, the studied scenarios involve several iterations of different levels of load growth, generation additions and retirements, weather patterns, fuel prices, federal energy tax policy changes, and many other variables.

The Federal Energy Regulatory Commission (FERC) has exercised exclusive jurisdiction over regional transmission planning and regulates the SPP's activities in this regard. **If the KCC were to unreasonably interfere with the regional transmission planning process, for instance by enforcing arbitrary spending limits for regional transmission construction, then the predictable result would be protracted and expensive litigation against the KCC for violating the Supremacy Clause of the United States Constitution.**[2]

Section 2—**Neutral**—This Section would require the KCC to post notice of any meeting pertaining to regulatory or legislative matters that "may impact electric rates" if the meeting involved a member of the

[2] *See Transource Pennsylvania, LLC v. DeFrank*, 2025 WL 2554133 at *17 (3rd Cir. Sep. 5, 2025).

KCC or KCC Staff, and a representative of a public utility or other entity that has a substantial interest in any such matter. It is well known that the KCC and its Staff are available to meet with all stakeholders of the utilities industry at any time. We are equally available to all stakeholders regardless of what side of any issue or policy debate these stakeholders are on. While we question the necessity or reasonableness of this requirement, we do not oppose it if the legislature wishes to advance this Section.

Section 3—**Oppose**—This Section imposes two new legal requirements on the KCC. Subsection 1 would bar the KCC from permitting any transmission project over 300 kV unless the project was subject to competitive bidding requirements. This section would directly conflict with SPP's current FERC-approved competitive bidding process, which allows certain exceptions to the requirement that transmission projects be competitively bid. Specifically, SPP's FERC-approved tariff allows SPP to exempt short term reliability projects (projects with a need-by date within three years) from the FERC-mandated competitive bidding process. It also exempts from competition projects that will utilize an existing utility's right of way, or a rebuild of existing transmission facilities. **Because this Section of the bill will directly conflict with SPP's FERC-approved tariff on this issue, we believe this Section would result in expensive and protracted litigation in the courts.**

Subsection 2 would bar the KCC or any electric public utility in Kansas from supporting an ITP that imposed a net negative benefit on the State of Kansas, or that provided another state in the region a benefit that was equal to two times or more the benefit that the State of Kansas would receive. First, we need to clarify that the KCC doesn't have a vote on transmission planning matters before the KCC. While we have advocated for Kansas' interests in the transmission planning process at SPP, that advocacy was only advisory in nature. Second, in items pertaining to regional transmission planning, we believe it is important to take a long-term perspective and consider the totality of evidence pertaining to whether Kansas is benefiting from SPP regional transmission planning at this time.

While Kansas may not benefit from any individual portfolio, or perhaps may benefit less than the average state in any individual portfolio, all available evidence indicates that Kansas is benefitting today from regionally planned transmission that has been constructed over the last twenty years. Every six years, stakeholders in the SPP region conduct a comprehensive analysis of the costs and benefits of regionally planned transmission to each zone in the region. This process is overseen by the Regional Allocation Review Task Force (RARTF) at SPP. This task force publishes a Regional Cost Allocation Review (RCAR) report. Since its inception, Kansas has held a voting membership seat on this task force, and KCC Chairperson Andrew French currently serves in this role. There have been three separate RCAR reports produced, and each report has provided overwhelming evidence that Kansas is currently benefitting from the regional transmission projects selected by the SPP. The most recent RCAR report shows the Kansas utilities are faring very well in the distribution of Benefits and Costs associated with regional transmission portfolios constructed prior to 2025. We ask that the Committee consider the long-term benefits and costs associated with regional transmission portfolios when considering this Section of the bill.

RCAR 3.1 B/C RATIOS

the basis on future RCAR studies

	RCAR 3.1 Present Value Benefits for 2018-2057 ($ millions) (2022 $)							2018-2057 ATRRs ($ millions) (2022 $)			
Pricing Zone	2018-2057 Operational Results *	Avoided or Delayed Reliability Projects	Capacity Cost Savings due to Reduced On-Peak Transmission	Assumed Benefit of Mandated Reliability Projects	Benefits of Meeting Public Policy Goals	Increased Wheeling Through and Out Revenues	Total Benefits	Before MISO and PTP Offset	PtP and MISO Offset	After PtP and MISO Offset	Benefit/Cost Ratio
American Electric Power	$2,556	$21	$6	$757	$0	not monetized	$3,340	$1,640	$115	$1,525	**2.19**
Empire District	$398	$2	$1	$86	$0	not monetized	$488	$137	$10	$128	**3.82**
KCPL - Greater Missouri Operations	$1,369	$4	$1	$243	$0	not monetized	$1,617	$202	$14	$188	**8.62**
Grand River Dam	$546	$2	$0	$66	$0	not monetized	$614	$125	$9	$117	**5.26**
Kansas City Board of Public Utilities	$567	$0	$0	$26	$0	not monetized	$593	$47	$3	$43	**13.67**
Kansas City Power and Light	$2,651	$8	$10	$343	$0	not monetized	$3,012	$387	$27	$360	**8.36**
Lincoln Electric System	$336	$1	$0	$66	$0	not monetized	$403	$84	$6	$78	**5.18**
Midwest Energy	$825	$1	$0	$75	$0	not monetized	$900	$81	$6	$75	**11.93**
Nebraska Public Power District	$2,248	$6	$3	$325	$0	not monetized	$2,582	$445	$31	$414	**6.24**
Oklahoma Gas & Electric	$2,583	$44	$0	$558	$0	not monetized	$3,184	$842	$59	$783	**4.07**
Omaha Public Power District	$1,049	$5	$1	$182	$0	not monetized	$1,237	$347	$25	$322	**3.84**
City Utilities of Springfield	$174	$1	$0	$70	$0	not monetized	$246	$69	$5	$64	**3.83**
Sunflower Electric	$986	$13	$30	$276	$0	not monetized	$1,305	$324	$25	$299	**4.37**
Xcel - Southwestern Public Service	$11,087	$2	$19	$601	$0	not monetized	$11,710	$1,502	$101	$1,400	**8.36**
Basin- WAPA - Heartland Integrated System	$1,810	$9	$0	$430	$0	not monetized	$2,249	$359	$61	$298	**7.55**
Westar Electric	$5,670	$10	$8	$555	$0	not monetized	$6,244	$926	$25	$901	**6.93**
Western Farmers Electric	$2,135	$3	$0	$286	$0	not monetized	$2,425	$307	$41	$266	**9.11**
Total	$36,990	$132	$81	$4,945	$0	not monetized	$42,148	$7,822	$562	$7,260	**5.81**

*Operational Results include Adjusted Production Cost, Reduction of Emission Rates and Values, Savings due to Lower Ancillary Service Needs and Production Costs, Mitigation of Transmission Outage Costs, and Marginal Energy Losses benefits that are approved for RCAR.

SPP 5

Section 4—**Oppose**—This section would allow customers to sign third-party purchased power agreements (PPAs) or Energy Storage Agreements (ESAs) with a distributed energy supplier, which is currently prohibited by the Retail Electric Suppliers Act, K.S.A. 66-1,170 *et seq*. While ultimately this is a policy decision for the Kansas legislature, this Section would be contrary the State's energy policy for at least the last five years, which has been to improve regional rate competitiveness through beneficial growth of the electricity user base, to the benefit of all electricity customers, by spreading existing fixed costs over greater billing determinants. This will benefit the few customers with the means to contract with third-party PPA providers, at the cost of everyone else left on the system. **The predictable result of this Section will be to increase utility rates for most Kansans.**

This Section will increase utility rates because the most desirable electricity customers (customers with the lowest electric cost profile and/or the most desirable electric service characteristics) would bypass the electric grid by contracting with third-party distributed energy providers. This will lower the billing determinants used to distribute the fixed costs of providing utility service to the remaining utility customers on the system, increasing utility rates for most Kansans.

Section 5—**Neutral**—This Section would prohibit a municipality from restricting the development of a nuclear energy facility within their legal boundaries. The KCC does not take a position on this Section of the proposed bill, as we view this as purely a policy decision for the Kansas Legislature.

Section 6—**Oppose**—This Section would prohibit a commissioner, director, officer, or employee of the KCC from accepting employment or compensation from any public utility as defined in K.S.A. 66-104, for one year after employment with the KCC ends, even for involuntary termination. **The predictable result of this Section would be that the KCC would be staffed by less qualified employees if this bill becomes law.** We consider this Section to be unnecessary and punitive to the dedicated public servants employed by the KCC that have dedicated their professional careers to the effective regulation of public utilities for the benefit of the people of the State of Kansas. There are already laws that prevent self-dealing and a conflict of interest, and the KCC has post-employment restrictions for anything that would constitute a conflict of interest. Specifically, former KCC employees may not participate as a witness on behalf of a utility if the employee worked on that same issue while still employed by the KCC. The KCC applies the same standard in the very rare occasion that a utility company employee leaves the industry to come work for the KCC.

This Section would make it more difficult to attract top human resources talent to the KCC. Utility regulation is a niche field, which requires years of dedication and practical study to achieve the desired level of technical proficiency. The skill sets attained by a utility regulatory professional do not always transfer well outside the area of public utility regulation. Entry level employees would be far less likely to work for the KCC if they knew a primary (and typical) area for career advancement is removed; as an example, we often hire attorneys straight out of law school, and because they have developed a specialty in our regulatory areas, they eventually are hired by regulated entities or by law firms that represent utilities. The prohibition would mean future employment opportunities are drastically limited for one year if they wish to move on from the KCC.

If this Section of the bill becomes law, there will likely be an immediate exodus of the most talented and marketable KCC employees, before the bill becomes effective. It might take a decade or more to regain the level of regulatory proficiency we have today if we lose this key talent. That's if we can even recruit the talent we need because of these restrictions. Today the talented and dedicated public servants *choose* to dedicate their efforts to the betterment of the people of the State of Kansas. But if these employees knew that they were about to lose the option to ever leave (without being unemployable in their chosen field for one year) many of them will likely leave before that deadline.

Section 7—**Oppose**—see comments pertaining to Section 4 above.

Section 8—**Oppose**—see comments pertaining to Section 4 above.

Section 9—**Neutral**—This Section adds the definition of "High Impact Electric Transmission Line" to K.S.A. 66-1,177. A High Impact Electric Transmission Line would be any transmission line longer than one mile and greater than 345 kV. This section relates to Section 10.

Section 10—**Neutral**—This Section would require any High Impact Electric Transmission Line to first receive a siting permit from the KCC pursuant to K.S.A. 66-1,178, and then be approved by the Kansas Legislature prior to construction. This Section is properly a policy decision for the Kansas Legislature, however, there are several concerning aspects to this Section. First, there are no stated legal standards which the Legislature would use to make such a decision. Second, there are no requirements describing how interested parties would receive due process or be allowed to participate in such a decision-making process. The Commission's administrative proceedings are governed by the Kansas Administrative Procedures Act, K.S.A 77-501 through 77-566, but it is unclear what the procedure would be for this legislative approval process. **Third, because of the open-ended timeline for such an approval, and the uncertainties associated with the process, this Section will inevitably increase the costs of building a High Impact Electric Transmission Line in the Kansas. These costs will be borne by electric customers throughout the region (including Kansans).**

Section 11—**Neutral**—This Section would require Citizens' Utility Ratepayer Board (CURB) members to be confirmed by the Kansas Senate and would enact a provision that no more than three members of the

Board would be allowed to be members of the same political party. The KCC Staff takes no position on the composition or structure of the CURB Board.

Section 12—**Neutral**—This Section would allow CURB to participate as an intervenor in Federal Energy Regulatory Commission (FERC) proceedings and to participate in Regional Transmission Organization (RTO) matters. The KCC Staff takes no position on the focus of the activities of the CURB Staff or Board.

Section 13—**Neutral**—This Section would eliminate the annual rate filing associated with the Transmission Delivery Charge (TDC) currently authorized by K.S.A 66-1237. Instead, this Section would require that an electric public utility file a general rate case to update its TDC pursuant to K.S.A. 66-117. KCC Staff is neutral on this Section because this is properly a policy decision for the Kansas Legislature. On the one hand, if the result is that utilities will spend less on Transmission rebuilds and replacements between rate cases this may result in more rate stability for Kansas customers between rate cases. On the other hand there may be unintended consequences that could result from enacting this Section. First, it is likely that this Section will result in more frequent general rate cases. Frequent general rate cases allow a utility to update its rates for the entirety of changes it has experienced in its cost of providing utility service since the last rate case. If a rate case occurs too frequently, this can reduce a utility's incentive to manage its costs between rate cases, because shareholders pay for cost increases between rate cases. Additionally, rate cases are expensive and time consuming for all parties involved. For this reason, it is generally considered suboptimal utility regulatory policy for a regulated utility to be driven to file a full general rate case to recover costs that are outside of its control.

Today around 1/3 of the costs in the TDC are completely outside the control of the regulated electric utility, as they are costs associated with SPP-directed transmission projects (which can be owned by the utility or other utilities in the 14 state region) and SPP and FERC administrative costs. To the extent that these costs alone could drive the filing of a rate case, that result would not be in the public interest, in Staff's opinion. Additionally, depending on the magnitude of transmission investment being planned by an electric utility, requiring the utility to wait to recover those costs until a rate case may result in overly strained utility financial results, which could increase the cost of debt financing for all other utility projects that are part of the utility's capital plans. These capital cost increases would ultimately be borne by utility customers.

Section 14—**Neutral**—This section would require the Commission's designated representative on RTO matters, currently Chairperson Andrew French, to provide notice to the House Energy, Utilities, and Telecommunications Committee (House Energy) and the Senate Utilities Committee, before taking any vote on RTO matters that may lead to an increase in electric rates in Kansas. The KCC and its Staff have a productive and collaborative working relationship with the leadership of the House Energy and Senate Utilities Committee. We frequently report to the leadership of these committees on utility and RTO matters of importance to the State of Kansas. It is unnecessary at best, and misleading at worst, to change the law to require us to do something that we currently do and are planning to continue to do.

Thank you for the opportunity to offer Staff's perspective on the proposed bill and the opportunity to appear before your Committee.