



Opponent Testimony Provided to the
Senate Utilities Committee
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ENGIE North America
Vice President, Project Development

In Opposition to Senate Bill 279

Good afternoon Mister Chairman, Vice-Chair and Ranking Member,

On behalf of ENGIE North America, I would like to submit in the strongest possible terms my opposition to SB 279, on the grounds that it would lead to a variety of arbitrary and overbearing measures that are collectively designed to make it functionally impossible for the wind industry to continue development of wind projects in Kansas. This bill is an affront on the rights of rural landowners to freely and reasonably utilize their property to diversify their income by participating in a wind energy project; the rights of partner counties to raise tax revenues that provide services to their communities, and the entire wind industry within the State of Kansas. Let me be clear – if passed in a form resembling what is currently being proposed, SB 279 will end our company's ability to develop and construct wind energy projects in Kansas, and we will be forced to pull back from all ongoing development and future investment in the state.

With that said, let me briefly outline the sections of the bill that we find most problematic, and provide further comments detailing our greatest concerns:

The bill restricts the ability of counties to approve a wind project without meeting arbitrary and unnecessarily onerous setback requirements (up to 20 times the height of a turbine) and in some cases requires setback from *property lines* rather than *receptors*. These requirements are wholly inappropriate given that wind farms are primarily sited in rural areas with large average parcel sizes and where residences are scattered at low density throughout the landscape. The overall effect will be to essentially prevent landowners and counties that are supportive of a project and interested in revenue diversification from exercising their free will and command over their own property / jurisdiction. Further concerns with the bill include, but are not limited to, the following:

- an arbitrary mandate that turbine density not exceed 1 per square mile, which would lead to prohibitively excessive balance-of-plant costs to electrically connect a project together,
- the prohibition of consideration of a project's scrap value in the bonding for end-of-life decommissioning, while scrap value is real and reasonable to consider,
- the requirement that operating noise does not exceed 40 decibels, which is equivalent to quiet library sounds or an operating refrigerator, and the unusual inclusion of measurement methodology in the statute text that should be left up to qualified experts, which are both unreasonable and unworkable, and
- retroactive and future requirements for easement/leasing activity related to wind project development, beginning July 1, 2011, mandating myriad burdensome requirements, including prohibition of non-disclosure requirements which are key to negotiating commercially sensitive terms in a competitive environment.

In summary, this bill will harm private landowners, counties, and the wind industry by imposing unnecessary, arbitrary, and overly burdensome requirements on numerous aspects of our business. ENGIE North America strongly opposes this bill. If this bill is signed into law, we expect no further investment from our company will occur in the state. As such, for the sake of the public and private industry, we urge your opposition to SB 279. Thank you in advance for supporting clean, domestic energy production and rural economic development as we strive to build a better future for the American people.

Sincerely,

Jonathan Koehn
ENGIE North America
Vice President, Project Development