

SESSION OF 2004

**CONFERENCE COMMITTEE REPORT BRIEF  
ON SUBSTITUTE HOUSE BILL NO. 2516**

As Agreed to April 1, 2004

**Brief \***

The bill would enact new law and amend existing law to provide incentives to increase electric transmission and generating capacity.

New provisions would:

- ! Authorize the Kansas Development Finance Authority (K DFA) to assist electric transmission line owners or operators with marketing of bonds to finance construction and upgrade of transmission lines if a majority of the cost of construction and upgrade is in Kansas and, if the out-of-state portions are certified by the Kansas Corporation Commission (KCC) to improve reliability and security of the state's transmission system or contribute to the long-term economic well being of the state;
- ! Provide for the KCC to approve recovery, over a period of 15 years, of capital expenditures for construction or upgrade of transmission lines used for bulk transfer of 34.5 kV or more of electricity under certain circumstances; and
- ! Authorize any entity that constructs a minimum 100 KW electric generation facility to grant to lease interconnection facilities to transmission operators.
- ! Authorize the KCC to approve:
  - " the sale of transmission lines to a FERC-approved independent transmission company or system operator; and
  - " any contract for operation of transmission lines by a FERC-approved independent system operator or regional transmis-

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sion organization. The KCC would have to afford any proceeds from such a sale or contract the appropriate rate-making treatment, including reasonable sharing of proceeds between ratepayers and the utility;

- ! Require the KCC to allow utilities to retain 10 percent of net revenue from sales of electricity generated by new or expanded capacity built in a county that had 5 percent or less population growth between the two most recent federal censuses. This provision would not apply to net revenue that accrues from the sale of electricity generated from renewable resources and which is addressed under existing law;
- ! Require the KCC to allow electric utilities to include in rates the utility's prudent expenditures for research and development by the utility or for investment in research and development by a nationally recognized research center provided that the research and development expenditures or investments are intended to enhance reliability or efficiency of electric utility service; and
- ! Define "electric transmission line" to mean any line or extension of a line with an operating voltage of 34.5 kilovolts or more which is at least five miles in length and which is to be used for the bulk transfer of electricity.

Existing law would be amended to:

- ! Define "electric transmission line", for purposes of determining the value of a utility's property during KCC rate-making action, to be any transmission line that is at least five miles long and used for bulk transfer of at least 34.5 kV of electricity. Those transmission lines would be considered to be completed and dedicated to commercial service even though construction is not complete;
- ! Lower from 69 kV to 34.5 kV the minimum capacity of transmission lines for which a utility could seek determination of rate-making principles from the KCC prior to construction; and
- ! Authorize KDFA to issue bonds for construction or upgrade of or acquisition of right-of-way for electric transmission lines that are owned and operated by a municipal electric utility or that will be used for the transfer of electricity with an operating voltage of a

minimum of 34.5 kV (down from the 69 kV minimum in current law).

### **Conference Committee Action**

The House Conferees agreed to the Senate amendments to the bill and to language clarifying circumstances under which the KCC may authorize a 15 year recovery of costs involved in construction of certain transmission lines. The Conference Committee also agreed to reinsert language stricken by the Senate Committee authorizing entities that build transmission lines to grant or lease interconnection facilities to transmission operators.

### **Background**

The bill was requested for introduction by Representative Sloan. At the House Committee's hearing on the introduced version of the bill, representatives of Aquila Networks, Sunflower Electric Power Corporation, Kansas Electric Power Cooperatives, Inc., Kansas Electric Cooperatives, Inc., and Westar Energy presented testimony in support of the bill. A representative of the Citizens' Utility Ratepayer Board presented testimony in opposition to the bill. A representative of the Kansas Corporation Commission presented neutral comments on the bill. All conferees suggested possible amendments to the bill.

The bill was referred to a subcommittee of the Utilities Committee. The Subcommittee recommended introduction of the substitute bill. That bill differs from the introduced version by eliminating provisions that would have:

- ! required the KCC to open a generic docket and determine by December 1, 2004 changes in rules and regulations or statutes necessary for the Commission to consider economic benefits to the state and to local communities during the process of reviewing applications for new or upgraded electric transmission services;
- ! provided a tax exemption, beginning in the 2004 tax year, for revenue from the sale of or operating contract for transmission lines to a FERC-approved independent transmission company or operator; and

- ! authorized state agencies to enter into contracts for construction and operation of electric generating facilities that use renewable resources and to retain any revenue or expenditure savings realized.

The substitute bill also differs from the introduced version of the bill by:

- ! Making 34.5 kV the minimum capacity of transmission lines that would be covered by the bill, including those sections that amend existing law;
- ! Including the substance of HB 2665, as introduced;
- ! Authorizing, rather than requiring the KCC to approve sale or lease of transmission lines to FERC-approved entities; and
- ! Reducing from 85 percent to "a majority of the costs" the portion of an electric transmission construction or upgrade project that must be located in the state in order for the KDFR to assist with marketing bonds for the project.

The Senate Committee on Utilities amended the bill to:

- ! Clarify the definitions of "transmission lines" so that it would be those lines with an operating voltage of 34.5 kilovolts or more;
- ! Provide that the provision relating to recovery of capital expenditures for electric transmission line be permissive rather than mandatory and clarify that this provision would not be applicable if the recovery of capital is already provided for by tariffs and rates approved by the Federal Energy Regulatory Commission or its successors;
- ! Delete the provision relating to authorizing any entity that constructs a minimum 100 KW electric generation facility to grant or lease interconnection facilities to transmission operators; and
- ! Clarify that the provision relating to research and development money being allowed to be recovered in rates is intended to enhance reliability or efficiency of electric utility services.

The Division of the Budget's fiscal note on the introduced version of the bill states that the fiscal effect could not be estimated.