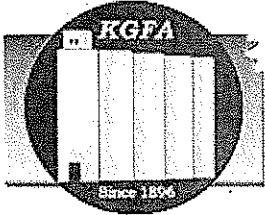


Kansas Grain & Feed Association
Kansas Agribusiness Retailers Association
Association Of Ethanol Processors



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Statement in Support of House Bill 2711
House Energy and Utilities Committee
Representative Carl Holmes, Chairman
February 5, 2008

Thank you Mr. Chairman and members of the Committee; I am Duane Simpson, Chief Operating Officer and Vice President of the Kansas Grain and Feed Association (KGFA), Kansas Agribusiness Retailers Association (KARA) and Kansas Association of Ethanol Processors (KAEP). KGFA is a member of the Alliance for Sound Energy Policy and all three organizations support their goal of ensuring the economic prosperity of Kansas by promoting a climate of regulatory stability and a balanced energy policy. I am appearing here today on behalf of these organizations in support of House Bill 2711.

The members of our associations are all regulated by the Kansas Department of Health and Environment as well as other state agencies. In addition, several of our members are in the Sunflower service area and would benefit from the increased base load capacity and potentially lower rates the Holcomb Station expansion would provide. As such, our members have been concerned about KDHE's decision to deny the air permit not only because of the precedent setting nature of the decision, but also because of the lost potential for lower electric rates and increased base load capacity.

Each of our associations believes that Kansas' regulatory agencies should all base their regulations on sound science. We believe that a stable regulatory environment is fundamental to a business' ability to grow and compete in a global economy. Any basis for denial of any permit or license should be set out in rules and regulations. We believe that the rules set by government should not change without following the proper statutory and regulatory procedures so that businesses will know that their investments are not unnecessarily at risk. Furthermore, we believe that fair and uniform regulations should apply throughout the state.

House Bill 2711 is an opportunity for the Legislature to resolve the Holcomb case the way it should have been resolved by KDHE according to existing regulations. In addition, the Legislature will set an important precedent for all state agencies and businesses. The Legislature has the opportunity to reassure businesses and to put state regulators on notice that if regulators overstep their statutory authority, the Legislature will not sit idly by. Sections 30, 31, 32, and 33 of the bill clarify the original intent of existing law and will resolve the crisis that was started when KDHE overstepped its regulatory authority.

However, I would caution this committee to be careful about what other precedents this legislation will set. Our associations have a few specific concerns about House Bill 2711.

- New Section 11 beginning on page 7 of the bill sets up a new system of regulating carbon dioxide emissions. The bill only applies this new carbon dioxide regulation to *new* fossil fuel based electric generation facilities. In addition to requiring them to meet a standard that existing facilities do not need to meet, it requires these new facilities to meet an even stricter standard 10 years after they go into operation. Meanwhile, every other entity in the state that emits carbon dioxide is completely exempt from any regulation. Furthermore, the standard only increases for facilities after they are built meaning that a facility built 12 years from now will not have to meet the stricter standards that the Holcomb plant will be meeting at that time. This section violates the very concept of uniform regulations across the state. In addition, there does not appear to be any scientific standard for the amount of emissions that are permissible. The cost of meeting these new regulations will be borne by the ratepayers in the area. In the case of Sunflower, many of our members will bear this new and unnecessary cost.
- New Section 12 on page 8 of the bill sets up a system of carbon credits to help these newly regulated facilities meet the regulations. Several methods of sequestering, storing or displacing carbon dioxide are granted credits of various multiples of the actual total carbon dioxide that is offset. By multiplying the value of different carbon offsets based upon the

political popularity of each method the bill divorces itself from any objective scientific basis.

- More importantly, New Section 12 subsection (a)(6) on page 9 of the bill gives “an offset credit equal to three times the actual carbon dioxide tonnage sequestered as a result” of “conversion of cultivated land to pasture land.” Why would the state of Kansas want to encourage Kansas farmers to stop producing grain? We are currently facing historic lows in worldwide stores of wheat, corn and soybeans. The resulting high prices in those commodities have depressed the state’s livestock, meat packing, milling, and biofuel production industries. Federal and state government policy should be focused on reducing the number of incentives that exist for idling productive farm land. At a minimum, legislation designed to overturn an air permit ruling on the expansion of an electric plant should not be attempting to simultaneously set agricultural land use policy. If this provision is in the final product of this committee, our associations will be forced to stand in opposition to the entire bill.
- Also in New Section 12 subsection (h)(1) on page 11 of the bill, the nation’s first carbon tax is created. While this tax only applies to a small percentage of carbon emitting businesses, and only as a penalty for not meeting the new carbon emission standards, it is still the first such tax in the nation. In addition, the tax will likely be passed on to the ratepayers, many of whom are our members.
- Several of the other provisions have the potential to increase the costs to the utility. Since our members eventually pay those increased costs through higher electric rates, we are concerned about the necessity of including those provisions in this legislation. However, the utilities are more capable of identifying which of these provisions could result in unnecessary costs being passed on to our members.

I can certainly appreciate the enormous political task that confronts this committee and I applaud the Chairmen and Ranking Members for crafting a comprehensive bill to solve the current crisis. While I have noted several concerns we have with the bill, I want to reiterate that we support the underlying bill and stand ready to work with the committee and all interested parties to make sure that at a bare minimum, Sections 30, 31, 32, and 33 become law. Our state’s energy security and businesses’ ability to have a reliable regulatory environment that is uniform and based on sound science depend on the success of your work. Thank you for the opportunity to testify in support of HB 2711 and I will stand for questions at the appropriate time.