

MINUTES OF THE SENATE UTILITIES COMMITTEE.

The meeting was called to order by Chairman Senator Stan Clark at 9:30 a.m. on March 13, 2001 in Room 231-N of the Capitol.

All members were present except:

Committee staff present:       Raney Gilliland, Legislative Research  
  Emalene Correll, Legislative Research  
  Bruce Kinzie, Revisor of Statutes  
  Lisa Montgomery, Revisor of Statutes  
  Ann McMorris, Secretary

Conferees appearing before the committee:

Rep. Ward Loyd  
John Arnold, Chief Administrative Officer, City of Topeka  
Sandy Jacquot, League of Kansas Municipalities  
Jim Kaup, City of Garden City  
Anne Tymeson, Acting General Counsel, KCC  
Walker Hendrix, CURB

Others attending:        See attached list.

The following information requested by the committee was distributed:

From Utilicorp United, Inc - Cogeneration purchase schedule; special isolated generating plant electric service; Parallel generation contract service (Attachment 1)

From Kansas Electric Cooperatives - Cogeneration and Small Power Production 100 KW or less standard schedule; and Parallel Generation Service Agreement. (Attachment 2)

Opened hearing on:

**HB 2397 - Intervention of cities in rate hearings before the corporation commission**

Proponents

Rep. Ward Loyd explained that the current law allows cities to appear at rate cases on their own behalf as consumers and the proposed change in this bill would permit municipalities to appear before KCC on rate cases for their citizens. Cities have the resources to prepare for rate hearings which an individual wouldn't have. Much discussion on how this would change the current procedures and whether this would create a conflict of interest.

John E. Arnold, chief administrative office, City of Topeka, KCC's rationale for prohibiting cities from representing the interests of their own citizens is problematic for several reasons. (1) cities are charged with the responsibility for representing and protecting the interests of their respective citizenry; (2) in some dockets, the interests of cities are identical to the interests of their citizen ratepayers; (3) CURB may be unable to provide adequate representation in certain utility proceedings. (Attachment 3)

Sandy Jacquot, League of Kansas Municipalities, believed that a city should be authorized to intervene in behalf of all its citizens and offer comments pertaining to those citizens. (Attachment 4)

Jim Kaup, on behalf of the City of Garden City, spoke in support of **HB 2397** which would provide an express statutory right for cities to intervene on behalf of their residents in rate proceeding matters before the KCC. (Attachment 5)

Neutral

Anne Tymeson, Assistant General Counsel for the Kansas Corporation Commission, shared several concerns the Commission has with the bill. She noted that the Citizens' Utility Ratepayer Board is authorized by statute to function as the official intervener in rate cases filed with KCC. KCC has regulations in place which govern intervention in proceedings before it, which require a petitioner to demonstrate its legal rights, duties, or privileges may be substantially affected by the proceeding. However, she also noted that the KCC rarely, if ever, denies intervention to any party. She also mentioned the possibility of conflict of interest that may arise when a city intervenes on behalf of its citizens. (Attachment 6)

On questioning, it was determined that the definition of municipalities includes counties.

Walker Hendrix, CURB, explained the regulations on intervention and the procedures adopted where they automatically permit intervention. The question is on what level should they be able to participate. More flexibility in the administrative process would be helpful.

Closed hearing on **HB 2397**.

#### Storage of Natural Gas

Senator Dave Kerr offered direction on the next step to take in closure of the Hutchinson issue. He noted the current law refers only to protection of water and should be expanded to include people and property. The law also regulates three industries in one category and possibly should include individual regulations for storage of LPG and other hydrocarbons, solution mining and natural gas. Kansas Department of Health and Environment needs some help from consultants in developing these regulations. The Utilities Committee should request funds for this purpose from the Senate Ways and Means Committee. Also the regulations need to be provided promptly.

The proposed regulations should include guidance on mechanical integrity tests to determine pressure availability, assess the potential need for dual casing; periodic analysis of equipment, and public notification in the event of possible emergency.

Senator Kerr suggested the committee may want to include a two-year moratorium on storage of natural gas in salt caverns until the new regulations governing that aspect are written and approved. It might be prudent to say no additional gas can be added to the current facility and no new caverns can be opened until the regulations are in place. The moratorium to cover natural gas storage only.

Joe Palacios, city manager, City of Hutchinson and Dr. Joe Ratigan, consultant, reported on the outcome of the executive committee meeting of the Solution Mining Research Institute, and noted their reluctance to spearhead the investigation into the Hutchinson issue as there is a conflict of interest with some of their members being investigated in this matter.

Staff was directed to prepare a conceptual bill amending current law to: (1) include people and property in addition to water; (2) recommend three categories of industries for regulations; (3) separate section on KCC regarding depleted natural gas and oil caverns; (4) authority for KDHE to hire a consultant and to recommend a fiscal amount needed to draft new regulations; (5) reference to pressure tests, mechanical integrity, emergency notification, 2 year moratorium, and analyzing of equipment; (6) completed aquifers to be included.

Discussion on findings to be included in minutes to show intent of committee. A letter from the committee signed by the Chair and copy of the minutes with findings and comments will be sent to the Secretary of the Department of Health and Environment..

#### Approval of Minutes

Moved by Senator Emler, seconded by Senator Lee, the minutes of the Senate Utilities Committee meeting held on March 12, 2001 be approved. Motion carried.

Respectfully submitted,

Ann McMorris, Secretary

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