

M I N U T E S
PUBLIC UTILITIES COMMITTEE
Tuesday, January 23, 1968

Hearing for opponents of House Bill 1724 was at 4 p.m. in the Historical Society Building. (list attached) Chairman Strowig presided.

Chairman stated that Representatives Fatzer, Adams and Stutz had been excused to attend a Ways & Means Committee meeting; Mr. Dierdorff for a Roads & Highways meeting. Messrs. Buck and Turner were absent.

Chairman explained history of the bill - that it is a recommendation of the Labor & Industries Committee of the Legislative Council, who studied the matter during the summer - and told its intent.

First protestant was Mr. Joe Levy, City Attorney, Coffeyville, and President of Kansas Association Municipal Utilities. Statement attached.

Mr. James Kensett, Mayor of Chanute, was next. His statement is attached.

Mr. Ed Roger, Mayor of Holyrood, protested as set forth in his attached statement.

Mr. Fred Diehl, General Manager, McPherson Water & Electric Department, gave the attached statement.

Several persons referred to the varying estimates of additional help the Corporation Commission has stated will be needed if this proposal enacted. Chairman Strowig told the group that he today received a letter from Raymond Harvey, Secretary of the Commission, in which he states that two utility engineers will be required.

Mr. Charles Lowder, Board of Public Utilities, Kansas City, said he has never seen a bill that will cause more difficulty than this proposal. He said many cities have no engineers or attorneys and will have to buy these services whenever they have new customers, which will be a real burden. Mr. Lowder said the legislature will have to appropriate a lot of money or the cities will have to come up with it. He thinks there should not be "government control".

Mr. E. A. Mosher, League of Kansas Municipalities, spoke in opposition to the bill, saying it is in violation of the adopted policy at four city conventions wherein is stated "We believe the operation and control of municipally owned utilities should be subject to the control of locally elected bodies. We therefore oppose any state, legislative or administrative action subjecting such utilities to state regulation.". He made particular reference to Section 6 and said it puts municipals on the same footing as private companies and the R.E.A. It is his opinion this should be further defined.

Mr. Ken Dyar, Exec. Director, Kansas Association Municipal Utilities,

read a telegram of protest from the City of Meade.

Mr. Dyar made the statement attached hereto. When members of the Committee questioned him about his charge that the C. C. permitted three private companies under its regulations to overcharge by \$10,000,000 and that they are presently continuing this mismanagement, Mr. Dyar replied, "yes, I believe they are not protecting the consumer".

Mr. Charles Sparks, County Attorney, Goodland, and also speaking for St. Francis, said that they are opposed to HB 1724. He stated "there appears no substantial alleged abuse under the present law and this seems like too much legislation before a problem is demonstrated".

Mr. Ernest Swisher, speaking for Greensburg, said, "we are here to indicate that there is no distinction in this bill insofar as 1st, 2nd and 3rd class cities are concerned. We wonder if the bill should be clarified to exclude some of the cities with no problems and no comprehensive plan."

Mr. Franklin Zook from Pawnee said their biggest question is in regard to the municipal gas system and asked questions related to extensions outside city limits.

Mr. Gilbert Brock, City Clerk, St. Johns, said they enacted a law a few years ago, charging the mayor with health and welfare within a five mile radius of the city. He suggested that area in the bill instead of three miles.

Dr. Ralph Barrett of Burlington said one thing not brought up is what this legislation will cost, in order to file in the manner prescribed by the C. C. He says it will be a weight around the neck of a little community. "Leave us out."

Mr. Walter Stueckemann, City Attorney for Jetmore, said "this is going to be a terrible expense to small cities". He asked that there be at least a five mile radius, if this is going to be enacted.

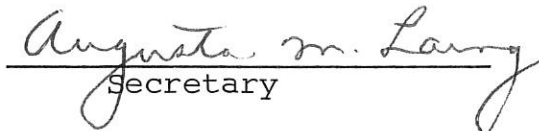
Mr. C. N. Harper, City Manager, Stockton, said they think exemptions should be uniform.

Mr. Don Chapin, Wellington, spoke in opposition, saying this bill will be of no benefit to them.

Mr. Vernon Nikkel, Mayor of Heston, asked why the bill was drafted and how many areas are having problems.

Mr. Dyar presented a Resolution of Protest from the City of Ellis.

Meeting adjourned.


Secretary

House Bill 1724

Opponents:

| | | |
|-------------------|-------------------------|--------------------|
| Wm. T. Levy | city atty & Pres KAMA | Coffeyville |
| Am. Dyar | KAMA, | McPherson |
| Fred Hall | City | McPherson |
| Charles W. Lawden | Bd. of Public Utilities | - Kan. City Kan |
| John L. Denton | Supt of Utilities | Trueman, Kan. |
| J. T. McBurney | Utilities Comm. | Kingman, Ks. |
| M. W. Nelson | Finance Comm. | Kingman, Ks. |
| Eldon Stempans | City Clerk | Trueman, Ks. |
| Ernest Seiches | Commissioner | Greensburg, Kansas |
| W. A. Rosentger | Commissioner | Greensburg, Kansas |
| Gene Coyle | Utility Supt. | |
| Martin A. Palmer | City Atty. | Greensburg, Kansas |
| Wm. Payton | Supt. | La Crosse Kansas |
| Thomas Yeradi | City manager | - La Crosse Kans |
| Harlan W. Meyer | Utilities Comm. | - Salina, Kansas |
| William Snowden | Superior Supt | Sabetha Kansas |
| A. Glets | City | Russell, Ks. |
| Uelickers | " | Russell, Ks. |
| R. J. Hayes | City Mgr | Chanute |
| J. W. Kensitt | Mayor | Chanute |
| John Lofthouse | power plant Supt | Chanute |
| C. N. Harper | City Mgr | Stackton |
| Clayton Perry | City Supt | St Marys. |
| M. J. Coleman | City Supt | St Marys |
| Henry W. Beeman | City Commissioner | A. Marys |
| Harold P. Kida | Mayor | Truy, Kan. |
| Homer Ellsworth | Mayor | Erie Kansas |
| Leroy Fries | Supt | |
| Robert Watson | City Clerk | Osage City |
| Jordan Nicholas | City Mgr. | Osawatomie, Kansas |
| Karl E. Cole | Commissioner | ✓ |
| Melvin L. Herman | Commissioner | ✓ |

Howard Barnes Mayor Aswatonia
 Charles Sparks City Attorney Goodland
 C. S. Ward Mayor Bonoma, Mo.
 Vernon W. Payne Councilman Bonoma, Mo.
 Demetrius H. Rasick City Clerk Bonoma, Mo.

Harold R. Volkman Asst. Utilities Clay Center, Kansas
 M. D. Trayer Power Utilities Girard, Mo.
 Ely Buller City Administrator Hesston, K.S.
 Vernon Nihil Hesston, Kansas Mayor
 William R. Roth Burlington, Mo. Mayor
 Melvin Cummins Burlington, Mo. Councilman
 Marion Logan Burlington, Mo. City Clerk
 Ralph L. Barrett, Don " " Councilman
 Herbert Brock St. John, Kan. City Admin.
 Wayne N. Baxter Larned City Manager
 Mrs. E. L. Helmes Rep. City Prescott
 Mrs. Leonard Fryck Rep. City Prescott
 Rosia Gentle City Clerk Prescott, Mo.

[Faint handwritten entries, likely bleed-through from the reverse side of the page]

Beryl O. Blue

" "

John Mercer

Augusta, Kansas

City Manager

Robert C. Carr

Wetmore, Kans

City Manager

Mayor

Allen Paul

Ellsworth, Kans

Mgr - Elec Coop

Joe M. Bohner Sr.

Warrens, Kans.

Boardman Coop

Walter F. Stuckman

Jettmore, Ks City Attorney

Delvin Price

Wesport

Reading, Kansas

John Martin

Atter

Ellis

E.P. Schornatter

Walter, high

Forney, Okla

Frank B. Baker

Stark, Okla

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W. E. Adams, Chairman, St. Louis, Kansas
St. Louis, Missouri

STATEMENT RELATIVE TO
HOUSE BILL NO. 1724

My name is Joe L. Levy. I am attorney for the City of Coffeyville and President of the Kansas Association of Municipal Utilities which represents some 130 municipally owned utilities.

I appreciate the opportunity to appear before this committee to discuss our opposition to the bill.

Historically, many cities of the state have owned and operated their utility systems and in the main they have been profitable for the citizens and have contributed much in the way of money and service to the communities. In Coffeyville our electric light plant operation supplies in revenue the equivalent of some 16 mills. The systems were established out of necessity because at that time the investor-owned utilities were not interested in serving the smaller cities and the Rural Electric Cooperatives did not come into existence until 1937.

Very few states require regulation on municipal utilities outside the corporate limits and today there are only seven states making this requirement.

We can see no real need for this bill; admittedly there are a few isolated cases of pirating of customers, but the areas involved could be counted on your fingers. So many times the rural customer comes to the municipal because of the poor service he is receiving from the co-op or investor-owned utility. Actually, our rates are more competitive than the others and yet we are able to maintain our facilities and provide excellent service.

In today's expanding economy and population the environs of a city are theoretically expanded to include the residential, commercial, and industrial areas whose population also work and trade in our cities. If they are dissatisfied, they, along with our own citizens, can at any time come before the governing bodies and be heard.

You are probably well aware that the municipal and co-ops have ~~been~~ operated under oral and written agreements throughout the state since 1962 and by sitting down at the conference table they have resolved many of the grievances. As stated before, there are a few isolated cases that have not been settled, but there are not enough to require legislation.

Although this bill does protect the cities within a three mile radius, (KSA 12-704, 705), we think that this bill will encourage annexation of new territories by many cities which will be expensive for the municipals, co-ops, and investor-owned utilities. Normally, annexation of a new territory to a city does not become profitable for five to ten years because the added tax base does not produce income to the city sufficient enough to offset the expanded services required.

We feel that section 6, which amends KSA 66-131, is somewhat discriminatory against the cities. It fails to exempt from regulation all city-owned property outside the limits being served. To give you an example: Located five miles North-East of Coffeyville is the city's municipal airport and industrial tract. This consists of 2,700 acres and we provide electrical, sewer, and water services. If this bill were passed, before we could serve the next industrial

customer, approval must come from the Corporation Commission. This is not fair because this property belongs to the city and to the people and should not be subjected to regulation by another governmental unit.

We understand that the proponents of this bill have indicated that the Corporation Commission will not have to add to its staff in order to regulate the municipal utilities. I am sure you gentlemen are familiar with the Commission's present work load and that Mr. Lloyd Shank previously testified that his staff would need be increased by atleast two more engineers and one accountant. We think that this is a conservative estimate by Mr. Shank.

Again, we respectfully request that this bill be defeated by your Committee.

THE CITY OF CHANUTE

CHANUTE, KANSAS

MUNICIPALLY OWNED GAS, WATER, AND ELECTRIC UTILITIES

January 23, 1968

Chairman Stowig

Members of the House of Representatives' Committee on Public Utilities:

My name is James W. Kensett, and I am the Mayor of Chanute, Kansas. I am appearing today in opposition to House Bill 1724 which, if passed, will place certain activities of our city-owned electric and gas utilities systems under the jurisdiction of the Kansas Corporation Commission.

Before I get into my arguments opposing House Bill 1724, I would like to give you a brief history of the Chanute electric and gas utilities. The city got into the gas utility business in the late 1800's, after gas was discovered on city-owned land. At the demand of the citizens of Chanute, the Governing Body established a gas utility which it operates today. In due course of time, Cities Service transcontinental pipeline was installed in the vicinity and some rural customers in the area of their pipeline got service from it. Six years ago, Cities Service approached the City of Chanute, offering their rural system to the City of Chanute at a nominal figure. We purchased it. There are a few other rural customers in the vicinity of Chanute that are served by Gas Service Company from a pipeline that Gas Service Company purchased from the old Consolidated Gas Company. One year ago, Gas Service Company offered to sell these lines to the city. No price has been agreed upon at this time but negotiations are still underway. There is no other gas utility in the Chanute area.

In 1903, the city constructed a power plant. In 1912 rural residents asked the city to extend its lines to give them service. Since that time, we have built 125 miles of line, most of which pre-date the REA era. We have 707 customers on this 125 miles of line and, in addition to that, we serve one REA wholesale electricity. We are surrounded completely on all sides by 2 REAs. One located in Iola and one headquartered in Fredonia. We have no quarrel nor conflicts with them. When there is a need for a new service on our borderlines, we get together and decide who will serve said new customer.

In opposing House Bill 1724, I would like to point out that, in the last few years, we have been quite successful in getting new industry for Chanute. All of these have been located just outside our city limits. We feel that it would be an inconvenience and an unnecessary waste of time to go to the Kansas Corporation Commission for permission to serve prospects that might be interested in establishing a new industry in or near Chanute. We feel that the delay caused by applying to the KCC for permission to serve and for rates that would apply to an industrial prospect might run them off. All available sites for locating new industries in the Chanute community are outside our city limits. We find that it is advantageous to us when we tell a prospective industrial customer that their plant site would be located outside the city, thereby escaping city taxes. We find that it is advantageous for us to sit down and

January 23, 1968

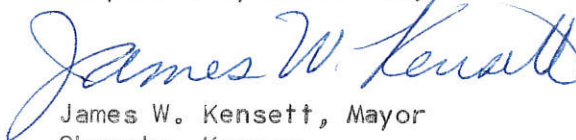
negotiate with them for electric and gas rates, meeting their needs and operating within our economic limits. We have no ambitions to expand beyond our immediate community. Consequently, there is no particular reason for us to be under the jurisdiction of the KCC.

If the municipal utilities in the State of Kansas are placed under the jurisdiction of KCC, it would treble, or probably quadruple, their workload and would serve the purpose of building an empire of considerable size within the State government.

~~Historically, KCC has been controlled and supported by the privately owned utilities. Mr. Lloyd Shank, a member of the staff of KCC, publicly made a statement sometime back that, if he ever got the municipal utilities under his jurisdiction, he would break them.~~

Gentlemen, in closing, we in Chanute feel that it is unnecessary to put municipal utilities in the State of Kansas under the jurisdiction of KCC and we respectfully urge that you kill this bill.

Respectfully submitted,



James W. Kensett, Mayor
Chanute, Kansas

Topeka, Kansas
January 23, 1968

THE POSITION OF HOLYROOD REGARDING HB 1724

In a small city such as Holyrood we donate a great deal of our time and money to serving our fellow man both inside and outside of the city limits. We have a volunteer Fire Department and the governing body donates their time.

We have never had any quarrel with any utility company about whether we would serve electricity to those individuals or places of business adjoining the city limits. In fact, Western Power and Gas Company now serves some places adjoining the city and the City of Holyrood serves some. Some of the places which were formerly served by Western Power and Gas Company are now served by Holyrood because the power company did not desire to continue the service. This change was accomplished in a very agreeable manner merely by a telephone conversation to Ellsworth.

We serve customers adjacent to our city merely for the convenience of the customer. If we have to go to KCC for permission this means additional work and trouble for us as well as delay for the customer. Placing us under the KCC will mean additional reports and paper work which we really are not equipped to do. We may end up with a lower rate to those outside the city than to those inside the city.

I feel certain there are some executives with investor-owned utilities whose salary amounts to more than Holyrood's entire budget. And, probably some of the cooperative utility executives are not far behind on salaries.

Ed Rodgers, Mayor

Holyrood, Kansas

MCPHERSON WATER & ELECTRIC DEPARTMENT

Box 650 Phone 316-241-0661

McPHERSON, KANSAS - 67460

FRED D. DIEHL, GENERAL MANAGER

CARLOS V. CRABB, MAYOR

LESTER PREMER, COMMISSIONER OF FINANCE

CY N. ROTH, COMMISSIONER OF UTILITIES

LINN PETERSON, CITY CLERK

January
23
1968

Mr. Chairman, and members of the House Committee on Public Utilities, I wish to thank you for the opportunity to appear before you today.

My name is Fred Diehl. I am General Manager of the McPherson Water & Electric Department, a municipal utility, and am here representing the City of McPherson in opposition to House Bill 1724.

I wish to speak briefly on three subjects concerning this proposed legislation:

1. The credibility gap in the Corporation Commission staff statement.
2. Why aren't water utilities included in this legislation.
3. Local versus State rate regulation.

The Legislative Council sub-committee on Labor and Industries, which studied proposal No. 6, and wrote House Bill 1724, took considerable time to listen to both the pros and cons of this proposed legislation. On Page 32 of the 1967 report of the Kansas Legislative Council, second paragraph from the bottom, it states "Staff members of the Corporation Commission have informed the Council that no additional staff will be needed to implement the above recommendations". We question the credibility of this statement expounded by the staff of the Corporation Commission. It is a matter of record that today it is necessary to engage the services of outside professional accountants and engineers to carry on the investigative work of the Corporation Commission. It is a matter of record that the enforcement of the wire stringing rules, as for instance, must be left up to the utility performing the work, because there is not enough staff to follow through with inspections. Today the staff of the Corporation Commission is required to handle the work load of regulating in Kansas six private power companies and about 38 electric cooperatives. Now if 135 additional municipal utilities are added to this regulatory work load, can we believe that the Legislature is naive enough to accept the

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statement that no additional Corporation Commission staff will be required? Apparently, as a result of this statement, no provision for financing additional staff is written into House Bill 1724. It is important that this credibility gap be closed before final consideration of this legislation.

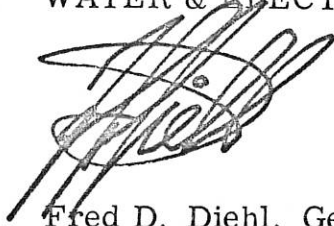
We can't comprehend the reason for excluding water utilities from the provisions of House Bill 1724. If State regulation of municipal utilities is so important, why should the water utility customer be discriminated against by being denied all the benefits and perrogatives of State regulation. We recommend that House Bill 1724 be amended to include water utilities.

Local verus State rate regulation:

As an example of what many municipal electric utilities are accomplishing in the matter of local rate regulation, McPherson recently substantially reduced electric rates to both the city and 900 farm customers for the third time in nine years. We submit these facts to illustrate the responsive-ness of local rate regulation to area needs and conditions. If McPherson's locally regulated city and rural electric rates were applied to all of the areas in Kansas under State Corporation Commission regulation, the thousands of constituents of this Legislature would save several million dollars each year in electric service costs. Our experience with local regulation of municipal utilities is excellent. It is our intention to maintain local control of our utility system to insure the greatest benefits to our owners, the people, by vigorously opposing limiting these rights as set forth in House Bill 1724.

Thank you for your time.

WATER & ELECTRIC DEPARTMENT



Fred D. Diehl, General Manager

FDD:cw

**SEE
NEWSPAPER
ARTICLE ON
ELECTRIC
RATES IN
BOOK**

Executive Director

Ken Dyar
Box 47
McPherson, Kans. 67460
(316) CHapel 1-1423

Kansas Association of Municipal Utilities

Midwest Municipal Utilities Magazine

Statement to the House
Public Utilities Committee
January 23, 1968 by
Ken Dyar, Executive Director
of the Kansas Association
of Municipal Utilities.

Mr. Chairman and members of the Committee:

The Kansas Association of Municipal Utilities is strongly opposed to any action, legislatively or administratively which would usurp the present authority of local government.

In brief, this H.B. 1724 does not guarantee:

(1) That cities will be permitted to serve property owned by the city which is outside the corporate limits.

(2) That cities will be permitted to serve expanding industrial or residential area development outside the city's corporate limits.

(3) That cities will be allowed to lower rural rates below those of neighboring private or cooperative power systems.

(4) That cities will be allowed to serve new schools which will be built by city taxpayers.

This Kansas Corporation Commission bureaucracy we have in Kansas either cannot or will not enforce its present laws for the protection of Kansas citizens and with the addition of 135 municipal power systems and 41 municipal gas systems, the people will have even less protection.

In fact, testimony before this committee, the KCC's chief engineer stated regulation of municipal systems could be done without an increase in personnel. But at the same time he had informed the KCC Budget Director that if the legislature passed H.B. 1112 he would immediately need another engineer and draftsman.

We further submit this Commission has not and does not effectively regulate the utilities presently under their jurisdiction.

This is evidenced most recently by the gas rate increase which allowed a private company nearly 7% net return, in light of the standard 6% allowed by the Federal Power Commission.

In a recently published book: Sen. Lee Metcalf of Montana compiled some interesting figures concerning rates charged by private companies that are regulated by the KCC.

Rate of returns and return on equity revealed that in 1964:

(1) KCP&L had an actual rate of return of 7.36% and a return on equity of 13.18%.

(2) KG&E - 7.56% rate of return and 12.84% return on equity.

(3) KP&L - 9.14% rate of return and 14.73% return of equity

Based on the accepted standard of 6% rate return these three private companies regulated by the KCC overcharged consumers in Kansas nearly \$10,000,000.00 in 1964.

(The figures are derived directly from the companies reports filed with the Federal Power Commission.)

This Association submits to you - that if municipal electric and gas systems are tossed into this bureacracy - you will have destroyed the only effective yardstick of competition that exists in the State of Kansas.

We further submit that, based on the testimony given to this committee last Thursday, that there have not been any problems during the past year and those purported last year have been resolved.

As all of you know, municipal systems are consumer oriented not profit oriented - if the rural customer of municipal gas and electric systems are unhappy - we ask you - where are their complaints.