M I N U T E S

SPECIAL COMMITTEE ON ENERGY

November 3-4, 1977
Room 532 - State House

Members Present

Representative Donald E. Mainey, Chairman
Senator Arnold Berman
Senator Bill Morris
Representative August Bogina
Representative Tim Holt
Representative J. Littlejohn
Representative Robert H. Miller
Representative Charles J. Schwartz

Staff Present

Ramon Powers, Kansas Legislative Research Department
Mary Torrence, Revisor of Statutes Office
Ron Smith, Kansas Legislative Research Department

Conferees Present

Richard Snyder, Kansas Corporation Commission
Fred Adam, Kansas Corporation Commission
Wayne Zimmerman, Electric Companies Association of Kansas
Ed Schaub, Southwestern Bell Telephone Company
Jim Cobler, Department of Administration, State of Kansas
R.D. Fogo, General Manager, Kansas Turnpike Authority
Ken Gudenkauf, Department of Transportation, State of Kansas

November 3, 1977
Morning Session

Chairman Mainey called the meeting to order at 9:30 a.m. Committee members were furnished copies of the tentative agenda for the meeting.

The Chairman announced that because the funeral of Phil Jones, Director of the Legislative Research Department, is being held in the afternoon, that part of the agenda planned for the afternoon session would be carried over to the afternoon of the following day, November 4.

Chairman Mainey then asked Ramon Powers to review for Committee members the Committee reports prepared by the Research Department. Mr. Powers furnished members copies of Committee reports regarding Proposal No. 22 - Construction Work in Progress (CWIP) (Attachment No. 1), Proposal No. 23 - Municipal Utility Rates and State Jurisdiction (Attachment No. 2), and Proposal No. 24 - Wheeling of Electrical Power (Attachment No. 3). Mary Torrence furnished Committee members copies of proposed Bill No. 1666, prepared by the Revisor of Statutes office (Attachment No. 4).

Mr. Powers reviewed the Committee report relative to Proposal No. 22 which directed the Special Committee on Energy to study the issue of whether funds spent for the construction of a utility plant should be included in the rate base of the utility before it is placed in service. The report included background information on the issue, arguments favoring and agruments opposed to inclusion of CWIP in rate base. A description and of Committee activity during the interim Session was also included in the report. Reviewing the conclusion and recommendation relating to Proposal No. 22, Mr. Powers read the Committee's recommendation of proposed Bill. No. 1666 (assignment of a final bill number will occur later) providing that CWIP could not be considered by the KCC as "used or required to be used" in the utility's service to the public in computing rate base of a utility in the rate-making process. It was noted that this proposed amendment to K.S.A. 66-128 would explicitly state in the statute the KCC's past interpretation of that statute. Mr. Powers suggested that if members of the Committee wished any changes or additions made in the report, he would be glad to makes those changes.

Mary Torrence pointed out that the proposed Bill No. 1666 was only slightly different from Representative Luzzati's bill (1977 H.B. 2070) before the Legislature during the 1977 Session, but that the language had been changed for clarification.

Representative Miller suggested that the term "free gift" in the section of the Committee report on Committee activity be clarified.

Committee discussion turned to the question of the meaning of the term "commerical service" in Section 1 (b) of proposed Bill No. 1666 and whether this term should be further defined. Senator Berman questioned whether newly completed plants, not brought "on line" because of test periods, would be included. The Committee decided to see if the staff could further define the term "commerical service."

The subject of a minority report being included in the report was raised. Chairman Mainey stated that he would have no objection to the inclusion of a minority report.

Representative Miller made a motion that the Committee approve the report with the changes suggested. After a short discussion, Representative Miller withdrew his motion and made a motion that the report be approved with clarification of the term "free gift" and the addition of a minority report to be written by Senator Morris and Representatives Bogina and Littlejohn. Staff noted that approval of inclusion of a minority report was not necessary. Senator Berman seconded the motion. Motion carried.

Ramon Powers next reviewed the Committee report on Proposal No. 23 - Municipal Utility Rates and State Jurisdiction. This report included background material and a summary of deliberations and recommendations. Mr. Powers directed the attention of Committee members to the last paragraph of the report which stated the recommendation of the Committee.

It was suggested that the last paragraph of the report be changed to state that the Legislature study any orders of the Kansas Corporation Commission on an issue by issue basis to determine if such orders should be mandated statewide.

Representative Miller made a motion that the paragraph preceding the last paragraph of the report be deleted since that information was included in the background section of the report. Senator Berman seconded the motion and the motion was voted upon favorably.

Senator Berman made a motion that a paragraph be added to the report to state that the Committee wishes to reiterate the concern expressed by the 1973 interim Committee on Utilities that "many cities are using their utilities as a tax-gathering agency." Representative Miller seconded Senator Berman's motion. Representative Miller also suggested adding a statement that the opponents to extending state jurisdiction over municipal utilities do not oppose regulation of municipal utilities by the Legislature on an issue by issue basis.

Senator Morris made a motion that the report on Proposal No. 23 be approved as amended. The motion was seconded and passed.

Mr. Powers then briefly reviewed the Committee report draft regarding Proposal No. 24 - Wheeling of Electrical Power. The report included background material, conclusions and recommendations on the Proposal.

Representative Miller moved the deletion of the last paragraph on page 1, first two paragraphs on page 2, the last two paragraphs on page 2, and all of page 3. Senator Berman seconded the motion.

Representative Miller explained that, in his opinion, interim Committee reports in general had become too voluminous and should reflect more accurately the work done by the Committee.

Mr. Powers suggested adding a few sentences regarding FPC jurisdiction. Representative Miller stated that he felt that the second paragraph on page 2 contained this material. Mr. Powers stated that the conclusion referred to KP&L, KGE and Twin Valley and asked if Committee members thought that this material should be included in the report.

After brief discussion, Representative Miller withdrew his motion and made a motion that the report include the paragraphs referred to in his original motion and the paragraph on Conclusions and Recommendations. The motion was seconded. Senator Morris suggested that the staff clarify "FPC jurisdiction" referred to in paragraph 2 of the report. Representative Miller's motion was voted upon and passed.

Chairman Mainey asked Mary Torrence to furnish members of the Committee copies of a bill he had her draft. Miss Torrence furnished members copies of proposed Bill No. 1731, (Attachment No. 5), relating to state parking property rents, charges and fees. Miss Torrence reviewed the bill for Committee members, directing their attention to new Section 2 which sets forth fee amounts to be imposed for state parking. Chairman Mainey pointed out that the fees to be charged were set on a graduated scale to encourage car-pooling instead of being set on regular commercial rates.

Discussion which followed dealt with the parking which would be affected by the proposed bill. Senator Berman asked if a bill he had requested, which would prohibit state parking except for those who participated in car or van pooling arrangements, had been prepared. Chairman Mainey stated that he had not understood that Senator Berman had requested that such a bill be drafted.

Ramon Powers reviewed a memorandum provided for Committee members regarding Data on State Parking Stalls (Attachment No. 6). Committee discussion turned to the advisability of using approximately 20 acres of prime downtown Topeka land for parking, and the question of the need of 700 additional parking stalls currently planned. It was suggested that the proposed bill would impose such low parking fees that it would do nothing to encourage people to carpool.

The subject of using mini-parking lots from which state employees could ride buses to the State House area was also raised. It was noted that such a plan was tried at one time and was not successful.

Chairman Mainey suggested that Senator Berman's proposed bill be drafted in time for study at the next meeting. The Chairman also noted that the building of additional parking lots is a main concern of the Committee and that the proposed bills do not really deal with that problem.

After further discussion, it was agreed to continue study of the matter the following day when Jim Cobler of the Department of Administration would be present as a conferee.

Committee members were furnished copies of the draft of proposed Bill No. 1635 (Attachment No. 7), establishing energy conservation standards for new buildings and requiring certification and prescribing penalties. Mary Torrence reviewed the bill, pointing out the changes made in the bill draft requested by the Committee. These changes included the deletion of the exclusion of federal buildings, the definition change of mobile homes, and the addition of Section (4) allowing municipalities the option of imposing more stringent standards.

It was noted that hearings on the extension of time on the recent KCC insulation order had taken place. A brief discussion on the availability of insulation followed.

Miss Torrence was asked if the proposed bill would preempt the KCC show-cause order and she stated that the bill would replace that order. Discussion followed which dealt with Section (e) of the proposed bill and the responsibility of builders or owners to certify compliance with standards.

Chairman Mainey introduced Richard Snyder, Kansas Corporation Commission attorney. Mr. Snyder discussed the KCC order which requires certification from building owners and supporting statements from architects or builders. In the case of special contractors, these contractors would be considered owners, Mr. Snyder said. Private contractor-owners would have to certify and supply supporting statements.

Mr. Snyder explained that a certification is admissable in court while statements are not. Reporting on the KCC hearing with Kansas City Homebuilders, Mr. Snyder explained that the Homebuilders contend that the shortage of materials makes compliance with the KCC order impossible. However, he said, the only evidence presented was that subcontractors had two to three weeks delay in securing needed materials. Mr. Snyder also reported that the Commission had heard testimony from Owens-Corning Company representatives who told of that company's increased production which will result in a 35 percent increase in the production of insulation by next summer.

Mr. Snyder said that, personally, he could not say whether Kansas Homebuilders actually opposed the order, or whether they simply want government to stay out of their business. Mr. Snyder also said that the KCC order does not prescribe any type of insulation which must be used. He said that there are various ways, other than insulation, of complying with the standards.

In regard to proposed Bill No. 1635, Section 2, Subsection (e), requiring a builder's certification, Mr. Snyder said he expected "Flak" from builders who will say this amounts to too much liability. During discussion with Committee members, Mr. Snyder said that the KCC order includes commercial buildings, but not mobile homes or industrial buildings, and that there are different problems with industrial buildings. The problem of buildings not sold until, perhaps, six months after completion, was posed. Mr. Snyder said, in such cases, the builder would become owner.

During discussion dealing with owners' and builders' certification, Mr. Snyder said that he felt builders should be able to certify better than anyone else since owners have to rely on others, particularly builders and architects.

It was noted that the Committee did not want to change the KCC order, but to make the requirements of a statewide nature, by including municipalities not under the jurisdiction of the KCC. Mr. Snyder said that many small cities are already adopting these standards, but that legislation would be required to cover everyone in the state.

Mr. Snyder stated that he felt Subsection 2 (e) of proposed Bill No. 1635 should be clarified. Senator Berman made the motion that proposed Bill No. 1635 be amended by the addition of the word "permanent" following the word "attach", to Subsection 2 (e). Representative Miller seconded the motion. The motion was voted upon and passed. Senator Berman then made the motion that the Bill No. 1635, as amended, be introduced by the Committee. Representative Miller seconded the motion.

After brief discussion on the inclusion of industrial buildings and on whether this changed the KCC order, Mr. Snyder stated that the bill was more restrictive than the order. The motion was voted upon and passed.

Mr. Snyder also reported to Committee members that the Commission was continuing its study of rate design and their report, which would include pros and cons as well as Commission recommedations, would be prepared by the time the 1978 Legislature convenes.

Discussion which followed turned to whether economics made it feasible for gas companies to pay for insulating consumers' homes, and if insulation would save enough gas to make it worth-while for gas companies to become involved in insulation programs. The comparisons of costs of insulation or costs of exploration from new gas sources was discussed. It was pointed out that gas distributors are not engaged in exploration, and that the KCC has no regulation over interstate gas or distributors.

Senator Berman asked how the proposed federal deregulation of gas prices would effect gas bills. Mr. Snyder said he would guess that interstate gas prices would rise to about $2.50 per MCF, and that there might be a 3 to 4 percent increase in gas bills, although such estimating was difficult because of the effects of expensive and cheap gas on the total system. The question of the state being able to retain gas conserved through conservation measures was raised.

The question of the constitutionality of statutes affecting certain allocations of gas was briefly discussed. Mr. Snyder said he thought this kind of legislation would put producers in the position of breaching contracts already in effect, and therefore might be unconstitutional unless statutes applied to allocation of new gas when present contracts expire. Chairman Mainey thanked Mr. Snyder for his appearance before the Committee.

Mary Torrence furnished Committee members copies of Bill No. 1729 (Attachment No. 8), related to the establishing of energy efficiency standards for appliances. Committee members discussed the possibility of the bill dealing with standards which may be covered by new federal legislation. It was agreed that the Committee should not introduce the proposed bill.

Committee members were furnished copies of Bill No. 1730 (Attachment No. 9), prohibiting decorative gas lamps. The question of penalizing Kansans by prohibiting use of gas which would then be used in other states was discussed. Mary Torrence briefly reviewed the bill, pointing out the differences in this bill and the bill in the House Energy Committee which deals with the same subject. Discussion of the definition of the term "decorative" followed. The Committee then agreed not to take any action on proposed Bill No. 1730.

Committee members then discussed proposed draft Bill No. 1633 (Attachment No.10), transferring state motor vehicles to the state motor pool and placing limitations, i.e., fuel consumption standards, on the acquistion of passenger vehicles. Mary Torrence briefly reviewed the bill. Committee members discussed the meaning of Section 1 (a)(2). Miss Torrence explained that the subsection granted discretion to the Secretary of Administration in the matter of transfer to the motor pool of Highway Patrol or other specially equipped state agency automobiles.

Representative Miller moved that the Committee introduce Bill No. 1633. Senator Morris seconded the motion. The motion was voted upon favorably.

Mary Torrence furnished Committee members with copies of the draft of Concurrent Resolution No. 1678 (Attachment No. 11), directing the Secretary of Revenue to formulate a schedule of passenger vehicle registration fees, based on vehicle horsepower and weight. Representative Miller moved that the Committee introduce Resolution No. 1678. Senator Berman seconded the motion. The motion failed to pass. Senator Berman stated that he would introduce such a bill during the 1978 Session.

Representative Miller stated that he felt that the final report of the Committee should show that the KCC had been less than cooperative in regard to the conservation gas study. He said that one of the duties of the Committee had been to monitor the study of conservation gas, and that the Commission obviously had not even started that study, although there was data available for such a study.

Chairman Mainey said that conferees to be heard during the afternoon session would be requested to appear the following morning, and that the Committee would discuss any action to be taken on Proposal No. 19 after conferees' presentations were heard.

The meeting recessed until the following day.

November 4, 1977

Morning Session

Chairman Mainey called the meeting to order at 9:15 a.m. The Chairman directed Committee members' attention to the minutes of the Committee's meeting of September 21-22. Senator Berman suggested that the first sentence in the sixth paragraph of page 3 of the minutes be corrected to read "Mr. Doyle told Committee members that utilities now find themselves in danger of lower credit standings." Senator Morris moved that the minutes be approved as corrected. The motion was seconded and approved.

Chairman Mainey introduced Fred Adam of the Kansas Corporation Commission (KCC). Mr. Adam stated that he had not prepared a formal statement, but would be pleased to discuss any questions of Committee members related to Proposal No. 20 - Rate Making Principles and Rate Structures.

In answer to a question regarding the present status of the KCC report on rate structures and principles, Mr. Adam said that this report, in preliminary form, was at present being studied by the Commissioners. The report, he added, was being revised and would be completed in time for the 1978 Legislative Session.

Mr. Adam was then questioned as to fuel adjustment reports, and how often they are being received by the KCC from utility companies. He reported that the Commission now receives monthly reports based on the old KCC order and that utilities have a period of one year under the new order in which to implement the new clauses, although some of the bigger utility companies have already done so.

Mr. Adam said that reports made under the new order will be more detailed than under the old reporting system. Because of the need for additional staff, Mr. Adam said the Commission is slightly behind schedule in the study of these fuel adjustment reports. Discussion turned to the billing of fuel adjustments and the possibility of a uniform method of billing fuel adjustment charges. Mr. Adam agreed that there has not been uniformity in fuel adjustment billings.

Mr. Adam was asked if only fuel costs paid by utility companies were included in fuel adjustment reports. He said these costs were included, and that from audits of some companies it had been determined that the utilities have charged correctly in accordance with their costs of fuels.

Regarding the stockpiling of coal at Jeffrey Energy Center, Adam said that these costs are presently borne by KP&L, and that consumers have not been charged for this stockpiling. He said, however, that a rate case in connection with the matter is anticipated in the near future. At the time of the rate case, Adam stated, the KCC will look into the questions of inventory of fuel and what constitutes a "reasonable" inventory.

Committee questioning turned to the subject of the hardship worked on consumers by non-uniform and fluctuating fuel bills, and the establishing of fuel adjustment charges which would be uniform for a certain period of time - perhaps by means of yearly projections. Mr. Adam said that predicting fuel adjustment charges for a year would be an "administrative nightmare" because of the wide differences in wholesale fuel prices. He also suggested that such a procedure might allow utilities to over-recover during certain periods of the year which would not benefit customers. It was also suggested that fuel adjustments included in rate base might prevent the frequency of rate cases.

Mr. Adam was asked how the Commission determines whether utility advertising is allowable or a non-allowable business expense. He said that determination is made by a study of advertising and involves a subjective analysis of the advertising. A judgment is made on whether the particular advertisement is promotional or deals with conservation education, and whether the cost should be borne by the shareholders or the consumers.

The subject of allowable contributions for utilities was discussed, and Mr. Adam mentioned several specific instances in which contributions to certain endowment funds and universities had not been allowed when utility companies were not able to show that these contributions would benefit customers.

Mr. Adam was asked how executive salaries and salary increases were analyzed as allowable expenses. He was also asked how some of the excessively high salaries of executives could be justified. He said comparisons are made with other companies' salary scales, and guidelines to determine allowable business expense as set forth in Kansas law are followed. The proposition of setting an upper limit for allowable corporate salaries was suggested.

The subject of civic and country club membership expenses as an allowable business expense was discussed. Mr. Adam cited examples of initial membership fees being "below line" expenses while some dues and monthly fees in country clubs filter down to rate payers.

When asked the amount of total expenditure involved in rate hearings and related investigation costs, Mr. Adam estimated that for the calendar year of 1976, the total amount for one utility was in excess of $2 million.

Mr. Adam was asked if it would be desirable for the Legislature to take stern action in this area of allowable business expenses in the present climate of the public's wavering confidence in utility companies. Mr. Adam stated that the Legislature, under law, is able to mandate in this area, but he said that he did not feel free to agree with or recommend this kind of action. He explained that the Commission often had to answer to the Supreme Court in such matters. It was suggested that the Committee be furnished copies of any Supreme Court decisions which allowed corporate business expenses.

Ron Smith, Kansas Legislative Research Department, asked a question in regard to fuel adjustment audits presently being made. Adam said that the KCC feels that "on-site" audits are more effective than just accounting audits, but that staff shortage prevents the Commission from doing much "on-site" auditing.

Chairman Mainey introduced Wayne Zimmerman, Electric Companies Association of Kansas. Mr. Zimmerman furnished Committee members with copies of his statement (Attachment No. 12). Mr. Zimmerman's remarks dealt with the bill draft under Committee consideration prohibiting certain expenses in determining utility rates.

Mr. Zimmerman said that his Association believes that the KCC should continue to have discretion in the allowance or disallowance of operating expenses enumerated in the proposed bill. He stated that expenses used to educate lawmakers who make decisions which benefit ratepayers is a valid argument for the inclusion of some lobbying expenses, although at this time electric utility companies are not charging lobbying expenses to ratepayers.

Mr. Zimmerman declared that reasonable and prudent advertising expenses, such as those used to educate the public in the application of conservation measures, are properly included as utilities' allowable operating expenses. He also said that custom has developed that some reasonable business entertainment expenses are justified operating expenses in well-managed businesses.

Mr. Zimmerman questioned whether the Legislature, with its many obligations, can evaluate exactly which items are best charged to investors and which items are of benefit to customers; however, the regulatory agency can make judgments as to whether expenses are in the interest of ratepayers or not. Mr. Zimmerman also said that his Association opposed any plan which inhibits electric utilities in competing for the best management available.

Referring to costs of investigations of rate cases, Mr. Zimmerman proposed that since the KCC serves as protector to the consumer, the consumer should bear expenses created by that Commission. In conclusion, Mr. Zimmerman stated that electric utility management should be allowed to solve problems of increased power demands, fuel shortages, and conservation, rather than trying to deal with inflexible statutorily imposed restrictions on expenses allowed for rate-making purposes.

Following Mr. Zimmerman's presentation, Committee discussion dealt with "allowable expenses" of utilities. Senator Berman requested that Mr. Zimmerman make available to the Committee information as to lobbying or "education" expenses which have been determined to be "allowable expenses" by the KCC.

Referring to Mr. Zimmerman's closing statement, Senator Berman stressed the flexible conditions utilities have worked under with rates increasing 80 percent during the past five years. Representative Miller stated that he felt the utility companies had been inflexible in relation to the application of the recently enacted electric utilities territories bill.

Following Mr. Zimmerman's presentation, the Chairman introduced Ed Schaub of Southwestern Bell Telephone Company. A copy of Mr. Schaub's testimony is attached (Attachment No. 13).

Mr. Schaub stated that most of his company's advertising relates to the promotion of products and services, instructions for customers in long distance dialing, and other necessary customer information. Encouraging the use of products and services Mr. Schaub said, generates revenues which keep rates down.

Mr. Schaub pointed out that Southwestern Bell is now in competitive markets in the areas of telephone equipment and in the promotion of optional services. He emphasized that advertising has been found to be Southwestern Bell's best contact with consumers, and results in customers' most effective use of service. Lower rates for basic service are supported by revenues from all telephone service, he added.

Mr. Schaub stated that the past number of years of high inflation have caused the recent increase in rate cases, since utilities have experienced increased costs and cannot raise their prices as other businesses do.

Mr. Schaub asked legislators to consider different approaches to decrease rate request activity and the attendant costs: (1) Allow utilities to file on three-month actual operating data plus a nine-month projected operating data in order to avoid "regulatory lag"; (2) Allow utilities to place new rates in effect under bond subject to refund of amounts in excess of rates allowed; (3) Legislate specific time limit for KCC's decisions on rate increases; and, (4) Allow CWIP in rate base for projects that will be completed within one year. Mr. Schaub reported that approximately 40 states have one or more of the suggested statutory provisions governing requested rate increases thereby reducing rate requests and case expenses.

During Committee discussion following his presentation, Mr. Schaub said he believes utility regulation should be left to the KCC and should remain flexible in the face of future new projects which will be more massive and more costly In answer to questioning, Mr. Schaub explained that rate setting by the KCC includes setting of prices for the telephones which are sold in competition by other businesses which are not regulated.

Following a short recess, Chairman Mainey introduced Jim Cobler of the Department of Administration. Mr. Cobler reported that his Department has had waiting lists for available parking for a long period of time. He stated that he did not believe proposals being considered by the Committee to encourage car-pooling such as restrictions on parking would increase car-pooling. In answer to questioning, Mr. Cobler stated that, at present, there are 55 to 60 persons on the parking waiting list, and that, in times past, there have been over 200 on the list.

Mr. Cobler also said the state plans to build 200 more parking stalls because many employees of the Legislature have no place to park and are parking on the grass lots instead of on paved parking lots. Mr. Cobler stated that he felt cutting back available parking to force car-pooling would not have good results. For example, he said, he, personally, would be forced to go across the street and pay $10 monthly for parking, because his work hours were irregular and he could not car-pool with neighbors. Mr. Cobler also stated that he felt such action would cause problems in employee morale. He cited, as an example, that Goodyear furnishes free parking and pays higher salaries than the state. He said parking is an important fringe benefit to employees.

The subject of 20 acres of downtown Topeka prime land being used for paved parking was raised. Mr. Cobler remarked that he did not see a shortage of land at this time in downtown Topeka since many buildings are empty.

Mr. Cobler expressed his opinion that people are not going to carpool as long as gas prices are not higher and that carpooling cannot be mandated. When asked what the amount of annual revenue from parking lots amounted to, Mr. Cobler said this might be as much as $50,000 to $60,000. He said he did not know what maintenance costs were on the parking lots.

Discussion followed which dealt with the increased parking problems incurred while the Legislature is in Session and the question of responsibility for providing visitor parking.

The Chairman then introduced R.D. Fogo, General Manager, Kansas Turnpike Authority (KTA). Mr. Fogo reported that the KTA had allowed limited parking along access roads at turnpike exits for many years. He said this parking has been used as a convenience regularly at Wichita, El Dorado, Topeka and other turnstiles and certainly amounts to considerable energy savings.

During Committee discussion, Mr. Fogo said there is no educational program related to the practice nor are there any signs used to indicate this parking privilege. He said that the facilities will only allow the parking of 30 to 40 vehicles.

The possibility of providing more space by asphalting additional parking areas and the question of liability were discussed. It was believed that there would be no liability problem for the state in providing free parking areas. Mr. Fogo said that if car-pooling became more widely practiced, more space would be needed at certain turnstiles.

Mr. Fogo indicated his willingness to work toward providing signs and more space in order to encourage car-pool parking at turnstiles.

Representative Miller asked that Mr. Fogo report to the standing House and Senate Energy Committees after he had discussed the possibility of additional car-pool parking with the Turnpike Authority.

Chairman Mainey then introduced Ken Gudenkauf, representing the Department of Transportation. Mr. Gudenkauf reported on parking areas provided for commuters at Olathe and Lyndon. He said that his Department has not made any efforts to get people to use these parking areas, but that the practice has developed on an individual basis.

Mr. Gudenkauf said that he did not think the Department of Transportation has ever looked into the possibility of providing parking, but he felt if they had available right of way, it could be used for parking. When asked if costs of grading and graveling for additional parking lots would be prohibitive, Mr. Gudenkauf said he did not feel he could answer for the Secretary of Transportation in these matters.

Senator Berman made a motion that the Committee have drafted and introduce a Resolution directing the Department of Transportation and the Kansas Turnpike Authority to study the matter of providing parking for commuters which would include marking parking areas and the displaying signs to encourage car-pooling. Senator Berman's motion was seconded and voted upon favorably.

Senator Berman then made the motion that proposed Bill No. 1640 (Attachment No. 14), prohibiting consideration of certain expenses in determining rates of public utilities, be introduced as a Committee bill. Chairman Mainey seconded the motion.

Chairman Mainey explained that he seconded this motion since he knew Senator Berman would introduce the bill, and it should be studied by the Energy Committee. Though the bill may need amending and changing, it was proper that the Committee introduce it, he added.

Senator Morris stated that he could see no need for the bill with S.B. 182 already introduced in the Senate and available for study.

Senator Berman expressed his hope that the bill would be offered as a Committee bill so that it would, perhaps, receive better treatment in the Senate Transportation Committee, but that in the event the Committee did not introduce it, he would do so, individually.

Representative Miller stated that he questioned introducing a bill similar to a bill already alive and also questioned whether a bill introduced by this Committee would make any difference. Senator Berman said that he believed there is additional impact if a bill is introduced by the Committee. The motion was voted upon and passed. A recording of the vote was requested. Senator Berman, Chairman Mainey, Representatives Miller, Schwartz and Holt voted in favor of the motion while Senator Morris and Representative Bogina opposed the motion.

Senator Berman gave the Committee a brief report of the conference on gasohol which he recently attended in Lincoln, Nebraska. The conference had dealt with research, distribution and production of gasohol. Senator Berman cited several bills presently being considered in Congress which provide federal government encouragement for the use of gasohol as a fuel. The Senator said he personally believes that agricultural states, with the help of Congress, are going to move vigorously into the area of gasohol programs.

Representative Bogina, who had also attended the gasohol conference, agreed with Senator Berman's report, but emphasized the problems in the area of gasohol production which have yet to be solved. Representative Bogina suggested that acute problems would result if, perhaps, Russia had a drouth and wanted to purchase large quantities of grain after large investments have been made in gasohol projects based on the use of cheap grains. He proposed that while gasohol may become a necessity in the future, the problem of disposal of tons of by-products, distillers dried grains, generated in gasohol production is a real problem yet to be solved.

Chairman Mainey suggested that the Committee members should notify him if there were any conferees they wished to have included on the agenda for the next and last meeting of the Committee, November 9-10.

The meeting was adjourned.

Prepared by Ramon Powers

Approved by Committee on:

12-22-77

(date)

RP/dmb

Attachment No. For 3-4

COMMITTEE REPORT

TO: Legislative Coordinating Council

FROM: Special Committee on Energy

RE: PROPOSAL NO. 22 - CONSTRUCTION WORK IN PROGRESS

Proposal No. 22 directed the Special Committee on Energy to study the issue of whether funds spent for the construction of a utility plant should be included in the rate base of the utility before it is placed in service.

Background

On December 29, 1976, District Judge Charles M. Warren of the District Court of Linn County, Kansas issued an order in the case Kansas City Power and Light Company v. The State Corporation Commission of the State of Kansas, et al, which concludes that K.S.A. 66-128 "not only expressly authorizes the (Kansas Corporation) Commission to include CWIP (Construction Work in Progress) in the utility's rate base, but requires such inclusion as part of the Commission's statutory duty." The order, if upheld, will significantly change the procedure whereby the cost of building new utility plants is computed and assessed to the ratepayers.

Investor-owned utilities under the jurisdiction of the Kansas Corporation Commission (KCC) are regulated as to the rates they can charge to customers. Traditionally the KCC has held that the proper accounting procedure in allowing rates is to match revenues and expenses. It is the KCC's contention that K.S.A. 66-128 prohibits them from including CWIP in a rate base because it would allow the recovery of capital costs of a new plant as it is incurred rather than using the traditional method of capitalizing these costs through an income account "allowance for funds used during construction." The KCC interprets 66-128 to prohibit including CWIP in the rate base because it is not being "used or required to be used" in its services to the public.

The 1977 Legislature considered H.B. 2070 which proposed to prohibit the State Corporation Commission from including CWIP in any utility's rate base. The bill

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would have amended K.S.A. 66-128 by adding the following provisions: ". . . property of any public utility which has not been completed and dedicated to commercial service shall not be deemed to be used or required to be used in said public utility's service to the public." H.B. 2070 remains in the House Energy and Natural Resources Committee, and the Committee recommended the issue of CWIP for interim study.

The fundamental issue is the question of how, for rate making purposes, capital expenditures which have not yet been placed in the service of customers (i.e., ratepayers) should be treated. On the one hand, public utility regulatory agencies have generally followed the principle that only items which are "used or useful" should be included in the rate base of a utility. Some regulatory agencies interpret "used or useful" to include construction work in progress which is then inlcuded in the rate base of utilities. On the other hand, some regulatory agencies which interpret "used or useful" as excluding CWIP from the rate base recognize that the expense of financing construction that will be of service to customers (i.e., ratepayers) is a legitimate expense to be borne ultimately by the ratepayers. The expense of financing construction is allowed through an accounting provision whereby the allowance for funds used during construction (AFUDC) is included to show the interest on funds used during construction which is added to the rate base when the new facility is brought on line. Ratepayers do not avoid paying for the financing costs of the new facility; they merely delay paying until after a new plant is in service.

If CWIP were included in the rate making process, it would involve adding the total of the CWIP account into the value of the plant in service which would give the total value of the utility plant. It would involve, however, subtracting the Allowance for Funds Used During Construction from the CWIP account which would no longer be allowed if CWIP is included in the rate base. Since utilities have been permitted to capitalize their AFUDC, it would be necessary to provide for a phasing in of CWIP and a phasing out of AFUDC.

As noted previously, AFUDC is essentially a non-cash item that the utility adds on to the cost of a facility as a means of giving the utility some return on the funds tied up in construction. AFUDC is a computed percentage rate (7.5 to 8.9 percent is currently used by Kansas utilities) to the CWIP account balance. That amount is added to the CWIP account each year until the plant is put in service at which time

the entire balance of the CWIP account, including AFUDC, become part of the rate base. This amount, along with other rate base items, is then amortized over the life of the plant as elements in tariff computations.

For accounting purposes, the AFUDC has to be recorded as an income item in the year it accrued. In other words, AFUDC is included as current income even though the actual funds will not be available to the utility until the construction project is finished and added to the rate base.

The pressure to change from the AFUDC to CWIP in rate making is the result of increased costs of new plant construction, longer lead time in construction, and the reduced amount of cash flow available to finance expansion with a corresponding increase in borrowing and interest charges.

In determining the rate base of a utility, the KCC has to establish the value of the plant in service (and, if CWIP were allowed, it would be added to that figure). Accumulated provision for depreciation is then subtracted from that figure, and the value of certain inventories and prepayments is added. That figure represents the total investment in the utility plant.

The utility is granted a certain rate of return on its investment (usually less than 9 percent). The amount of the investment times the rate of return would be the amount required to operate the utility. Then, the operating income for the test year (certain adjustments are made to achieve a normal test year to annualize and normalize revenues with an end-of-year rate base) is subtracted from the amount determined necessary to operate the utility given a specified rate of return. The difference would be the increase of operating income required by the utility for the future to assure the allowed rate of return. An income tax of 51.51 percent would then require a doubling of the amount of increase required. The total would then equal the added revenue required by the utility.

To determine an average increase cost per KWH to the ratepayer, the added revenue required by the utility would be divided by the total KWH sales by the utility for the test year. Clearly, if CWIP were added to the rate base of a utility, the amount

of operating income required by the utility would be greater than without CWIP. However, if AFUDC is allowed instead of CWIP, the amount of operating income required by the utility when the new plant is placed in operation will be even greater than if CWIP had been permitted.

Arguments in favor of including CWIP in the rate base include: the growth in demand for electricity which requires new construction of large facilities; the problem of raising external capital necessary to support essential construction programs; the reduction in rate base and a minimizing dramatic rate increase to consumers if CWIP is used rather than if AFUDC is included; and CWIP fits the category of used or required to be used in service to customers.

Arguments opposed to including CWIP in the rate base include: the violation of one of the principles of rate making which is that property is "used or required to be used" before inclusion in the rate base; it encourages growth in energy demand rather than creating an incentive to conserve energy resources; it does not encourage the efficient use of resources by promoting interconnections and coordination in construction of generation facilities; it would be highly inflationary and would significantly increase the rates of present customers who may not receive benefit from the new facility when it is eventually placed in service; it would force customers to bail out inefficient utility managers; it would shift some of the risk from the investor in utility plants to the ratepayer who will receive no dividends in return for assuming part of the risks; and it would cost more in the long run to include CWIP if the value of money over time is computed; and it is argued that utility companies in Kansas are not in financial danger and are able to secure adequate funds for construction programs in the money markets.

Committee Activity

The Committee heard testimony from representatives of the Kansas Corporation Commission, the Legal Aid Society of Topeka, Mid-America Coalition for Energy Alternatives, the Consumer Utility Rights Board, Wichita, the Kansas Farmers' Union, the Electric Companies association of Kansas (an association of the six investor-owned utilities in the state), Southwestern Bell Telephone Company, the Kansas Rural Electric Cooperatives, and Vulcan Materials Company. Written statements were provided by State Representative Ruth Luzzati and Kansas Municipal Utilities, Inc.

The representatives of the Electric Companies Association of Kansas and Southwestern Bell Telephone advocated allowing the KCC discretion to include or exclude certain CWIP items in the rate base of a utility. They also insisted that the inclusion of CWIP is essential to assure the financial integrity of the utilities. The representative of the Kansas Rural Electric Cooperatives argued that action by the Legislature on CWIP would be premature until the Supreme Court has ruled on the pending case.

The remaining conferees were opponents to the inclusion of CWIP in the rate base of utilities. Some of the opponents pointed to the statewide referendum on CWIP in Missouri where the public voted two to one against CWIP. Others argued that inclusion of CWIP was a "free gift" to growth which they opposed, and they suggested that inclusion of CWIP would stifle the utility company's motivation to conserve or to become more efficient.

Conclusions and Recommendations

The Committee recommends _____ Bill _____ which provides that CWIP could not be considered by the KCC as "used or required to be used" in the utility's service to the public in computing the rate base of a utility in the rate-making process. This proposed amendment to K.S.A. 66-128 would explicitly state in the statute the KCC's interpretation of that statute in the past.

Respectfully submitted,

Rep. Donald E. Mainey,
Chairperson
Special Committee on Energy

Sen. Donn Everett,
Vice-Chairperson
Sen. Arnold Berman
Sen. Bill Morris
Rep. Gus Bogina

Rep. Tim Holt
Rep. J. B. Littlejohn
Rep. Robert H. Miller
Rep. Jamie Schwartz

Attachment 2

COMMITTEE REPORT

TO: Legislative Coordinating Council

FROM: Special Committee on Energy

RE: PROPOSAL NO. 23 - MUNICIPAL UTILITY RATES AND STATE JURISDICTION

Proposal No. 23 directed the Special Committee on Energy to study the utility rates charged by municipally-owned utilities and the feasibility of placing municipally-owned utilities under the jurisdiction of the State Corporation Commission.

Background

At the present time, the State Corporation Commission regulates the rates of investor-owned utilities and utility cooperatives (primarily rural electric associations). Municipally-owned utilities, however, set their own rates under the authority of or subject to appeal to the governing body of the municipality. Authority for cities to regulate their own utilities is given in K.S.A. 12-801 et seq. Those statutes provide that when a municipally-owned utility services an area outside of its city limits, it may fix the rates in a zone extending three miles from the municipal boundaries. Utility services provided by a municipally-owned utility beyond the three-mile boundary are regulated as to rates that can be charged by the State Corporation Commission.

Utilities have developed historically as natural monopolies. Since the normal laws of the market place do not function to protect the consumer of the utility's services, it has been necessary for the state to intervene and assure that the monopoly business would not take advantage of its position to earn more than a reasonable rate of return on its investment. Consequently, utilities are businesses "affected with the public interest." A legal framework for state regulation of electric utilities has developed with regulatory authority usually granted to state corporation commissions. In 1886, in Wabash, etc. RR v. Illinois, the Supreme Court of the United States confined the state's rate-setting jurisdiction to intrastate transactions, confirming that commerce clause of the Constitution delegated jurisdiction over interstate commerce to the

Att. 2

federal governments. In Kansas as noted above, the State Corporation Commission has rate regulating authority over investor-owned and cooperative-owned facilities.

When a city provides utility services to its citizens, the rates for those utility services are under the ultimate control of the elected representatives of the rate-payers. Historically, Kansans have accepted this argument as a reason for excluding municipal utilities from jurisdiction of the State Corporation Commission.

This issue has been the subject of a previous study, Proposal No. 109 — Municipal Utilities, by a 1973 interim Special Committee on Utilities. (See Report on Kansas Legislative Interim Studies to the 1974 Legislature, p. 109-1.) That Committee recommended that the State Corporation Commission not be given the authority to regulate municipal utility rates "at this time." In the 1977 Session of the Legislature, H.B. 2301 was introduced which proposed to delete the exemption of municipally-owned utilities from the jurisdiction of the State Corporation Commission. The bill remains in the House Energy and Natural Resources Committee. The House Committee did recommend the issue for interim study.

According to the fiscal note on H.B. 2301, approximately an additional 120 municipal electric systems, 75 municipal and private one-town natural gas systems, and 179 municipal water systems would be brought under the Commission's jurisdiction. The Commission would also exercise full regulatory authority over an additional 19 municipal electric systems and 18 municipal gas systems over which the Commission now exercises authority beyond the three mile limit. A total of 408 utilities would be added to the 145 utilities presently regulated. The fiscal note also reveals that the Commission would have to spend approximately $2,000,000 for investigating and reviewing the books and records of the municipal systems in preparation of extending jurisdiction over them. This cost, however, would be incurred over a number of years and would be assessed back to the municipal utilities. An additional expense of $256,290 for personnel costs and related expenses would be incurred by the Commission.

Municipal Utility Rates. The 1973 interim Committee report on municipal utilities analyzed municipal utility rates. The report states that:

The Committee staff took a sampling of the utility rates of private and municipal suppliers in each classification of cities in Kansas. Electric utility rates were found to be generally higher when service was supplied by municipal utilities in all classes of cities in Kansas. The natural gas provided by municipal utilities for their customers was significantly higher only in the case of some third class cities. The Committee found, however, that municipal utilities make transfers from their utility funds to the various funds of the city in many cases, or supply utilities to the city and its departments without charge. It is very difficult to assess this additional contribution to the city's financial well-being compared with the slightly higher rates. In effect, many cities are using their utilities as a tax gathering agency.

A survey of municipal utility rates which the Kansas League of Municipalities publishes each year in the May issue of the Kansas Government Journal was provided to the Committee.

Committee Deliberations and Recommendations

The Committee heard testimony from the Kansas Corporation Commission, Kansas Municipal Utilities, Inc., The League of Kansas Utilities, numerous city officials from throughout the state, a representative of a New York investment firm, two state representatives, and the public.

Commissioner Tom VanBebber of the Kansas Corporation Commission (KCC) stated that the KCC was not seeking additional jurisdictional responsibility.

Representative Dick Brewster, sponsor of 1977 H.B. 2301 which would extend KCC jurisdiction over municipal utilities, explained that his bill was not drafted to accomplish what he intended. His concern is for energy conservation in the area of gas and electricity, not KCC control over municipal water and sewage systems which 1977 H.B. 2301 would allow. Representative Brewster's goal is to allow the state to establish more uniform rates and a statewide uniform conservation effort. A member

of the public supported some type of change in municipal utility operation because utility funds are siphoned off into city general funds while repairs for the utility plants must be provided for by issuance of bonds.

Representatives of the municipalities argued that state control over municipal utilities is unnecessary because the people who receive the services of the utility also own the systems and elect directly, the people who manage the systems. The virtue of local control was the major theme of those who expressed opposition to placing the municipal utilities under the jurisdiction of the KCC. In addition, it was pointed out that there would be problems in extending KCC jurisdiction over municipal utilities because the municipal systems keep their books in a different manner than the investor owned utilities. The municipal utilities operate on a cash basis of recording income and expenses not according to the uniform system of accounts required of the investor owned utilities. Also, the revenue bonds issued to build or upgrade municipal plants contain covenants requiring rates that will produce revenues at a certain percentage above the bonded indebtedness. This would be at variance with the rate-making practices of the KCC.

The opponents summarized their opposition by indicating that the cost of placing municipal utilities under KCC jurisdiction would be substantial and it would be an expense that would be passed on to the municipal rate-payers.

The Committee questioned whether the municipals might be brought under the KCC for specific purposes such as compliance with the insulation order. There is also concern about the privately owned utilities serving a single city and whether to place those systems under the authority of the KCC. Committee members also expressed concern about establishing an energy policy for the state without state jurisdiction over municipal utilities.

In conclusion, however, the Committee recommends that the municipally-owned utilities not be placed under the authority of the KCC, and that specific areas of statewide concern be approached on an issue by issue basis when extension of KCC jurisdiction over municipal systems is considered by the Legislature.

Respectfully submitted,

_____, 1977

Rep. Donald E. Mainey,
Chairperson
Special Committee on Energy

Sen. Donn Everett,
Vice-Chairperson
Sen. Arnold Berman
Sen. Bill Morris
Rep. Gus Bogina

Rep. Tim Holt
Rep. J. B. Littlejohn
Rep. Robert H. Miller
Rep. Jamie Schwartz

Attach. No. 3

COMMITTEE REPORT

TO: Legislative Coordinating Council

FROM: Special Committee on Energy

RE: PROPOSAL NO. 24 - WHEELING OF ELECTRICAL POWER

Proposal No. 24 directed the Special Committee on Energy to study methods whereby rural electric associations (RECs) can secure the lowest priced electricity for their customers through wheeling arrangements and review the respective jurisdictions of federal and state governments over the generation, sale, and use of electricity.

Background

The original request for this study came from a member of the House Energy and Natural Resources Committee. That request was for an interim study that would focus on a situation that exists in southeast Kansas where electric power generated by an investor-owned utility is sold to another investor-owned utility through an interchange agreement. The second investor-owned utility in turn sells the electricity to an REC at wholesale. The REC has to pay the fuel adjustment charge assessed by the second investor-owned utility not the fuel adjustment charge of the utility which generates the electricity. In this instance, the fuel adjustment costs of the second utility is considerably higher than the fuel adjustment charge of the utility which produces the electricity.

In its expanded development, Kansas Power and Light Company (KPL) gained control of the Parsons, Kansas, service area where the company sells retail, and it sells wholesale to the Twin Valley Electric Cooperative located in the same vicinity. To the east of Parsons, Kansas Gas and Electric Company (KGE) has a generating plant at Neosho, Kansas, and it has transmission lines which carry electricity across the KPL service area toward Wichita. Parsons had a power plant when KPL acquired the service area. Subsequently, as a result of the economies of scale the power plant was shut down and KPL began to purchase wholesale power from KGE for the area. KPL has no transmission lines into the area. Such arrangements of investor-owned utilities purchasing power from another investor-owned utility for resale to users is not

Att. 3

uncommon. (KGE does sell wholesale to RECs and retail to various customers in the area around the Twin Valley Electric Cooperative in an adjacent service area.) KPL owns the substations which transform the electricity to a lower voltage for use by the Twin Valley Electric Cooperative.

Since the KGE generating stations were able to use a greater proportionate amount of natural gas to produce its electricity for much of the past winter, its fuel adjustment was lower than the KPL fuel adjustment because KPL was forced to use oil and coal during the cold weather. Projections have been made, however, which show that when KGE is forced to convert from natural gas to other fuels, the electricity it produces may be more expensive than that produced by KPL.

The regulation of this particular sale of electricity is under the Federal Power Commission (FPC). According to the Federal Power Act, federal regulation extends over electric energy in interstate commerce and to the sale of electric energy at wholesale in interstate commerce, i.e., across state lines or interconnected in a grid involving sales outside the state. As a consequence, all wholesale sales of a utility interconnected in a grid are under FPC jurisdiction. In Kansas, the FPC requires that KPL sell electric energy wholesale at the same rate to all its 17 rural electric cooperative customers.

The wheeling of electric power consists of the movement of bulk electric power between two utilities over the transmission lines owned by a third utility at an agreed to cost. To wheel power in such a manner, it must be technically feasible to transmit it over particular lines, i.e., there must be available capacity in existing transmission lines.

The major investor-owned utilities in Kansas are members of the MOKAN Power Pool which consists of various utilities in the states of Kansas and Missouri that make up an electric power grid. Members of the Pool buy and sell electricity for the benefit of each member of the Pool. Such arrangements allow for emergency back-up supplies of electricity in addition to providing for operational and planning needs of each system within the grid. Because the power grid involves companies in two states, these companies are under the FPC jurisdiction insofar as their wholesale sales are

concerned. The FPC does not require utilities to wheel power for other utilities; however, in the recent Supreme Court decision involving the Otter Tail Power Company, the Court did rule that a monopoly generation or transmission system cannot refuse to sell or to wheel power for other systems. In the Otter Tail case, the Court did not require companies to wheel power.

The members of the MOKAN Power Pool have developed the policy that transfers of electric power from one system to another must provide for the full transfer of the control (and ownership) of that power as it passes through that system. Consequently, in the MOKAN Pool, each company buys the power it transmits through its lines and resells it at its boundaries to the next company who does the same thing until the power reaches the user. Each company charges for the transmission of the power on their system with additional costs added in. Members of the MOKAN Pool can and do have some wheeling arrangements with non-members of the Pool.

The Carter administration, in its proposed "National Energy Plan," has proposed certain changes in wheeling the transmission of power:

> Utility interconnections and power pools make possible economies of scale, reduction of aggregate capacity requirements, and sharing of power during emergencies. Expansion of interconnections and achievement of maximum efficiency from pools are primarily the responsibility of the utility sector, which has been active in this area.
>
> The Federal Government will follow closely the further progress of the utility sector. A proposed amendment to the Federal Power Act would remove a major gap in the authority of the Federal Power Commission by authorizing it to require interconnections between utilities even if they are not presently under FPC jurisdiction. The FPC would also be authorized to require wheeling the transmission of power between two noncontiguous utilities across another utility's system.
>
> (Executive Office of the President, Energy Office and Planning, The National Energy Plan, Washington, D.C., 1977, p. 47.)

Conclusions and Recommendations

The Committee did not have time to thoroughly investigate this issue, however, it was obvious to the Committee that it could not materially affect the situation in southeast Kansas because FPC jurisdiction is involved. Also, throughout the summer and fall, the parties involved, KPL, KGE, and the Twin Valley Cooperative, sought to negotiate some settlement that would be mutually beneficial. the problem appears to be that any change in the situation which might bring immediate relief to the people served by the Twin Valley Cooperative (i.e., the direct purchase of power from KGE) could turn against them in the future when KGE is forced to convert from natural gas to other fuels.

Respectfully submitted,

Rep. Donald E. Mainey,
Chairperson
Special Committee on Energy

Sen. Donn Everett,
Vice-Chairperson
Sen. Arnold Berman
Sen. Bill Morris
Rep. Gus Bogina

Rep. Tim Holt
Rep. J. B. Littlejohn
Rep. Robert H. Miller
Rep. Jamie Schwartz

Attachment No. 4 passed

7 RS 1666

_____ BILL NO. _____

By Special Committee on Energy

Re Proposal No. 22

AN ACT relating to the state corporation commission; concerning valuation of certain property of public utilities and common carriers; amending K.S.A. 66-128 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 66-128 is hereby amended to read as follows: 66-128. ~~Said~~ (a) The state corporation commission shall have the power and ~~it--shall--be--its~~ duty to ascertain the reasonable value of all property of any common carrier or public utility governed by the provisions of this act used or required to be used in its services to the public within the state of Kansas, whenever ~~it~~ the commission deems the ascertainment of such value necessary in order to ~~enable--the--commission--to~~ fix fair and reasonable rates, joint rates, tolls and charges~~,--and~~. In making such valuations ~~they~~, the commission may ~~avail themselves--of~~ consider any reports, records or other things available to ~~them~~ the commission in the office of any national, state or municipal officer or board.

(b) For the purposes of this section, property of any public utility which is not completed and in use in commercial service shall not be deemed to be used or required to be used in such public utility's service to the public.

Sec. 2. K.S.A. 66-128 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the official state paper.

Atch. 4

Attachment No. 5

7 RS 173

_____ BILL NO. _____

By Special Committee on Energy

Re Proposal No. 19

AN ACT relating to parking on certain state property; relating to rents, charges and fees therefor; amending K.S.A. 75-4506 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 75-4506 is hereby amended to read as follows: 75-4506. No motor vehicle, whether privately or publicly owned, may be parked upon parking lots, facilities or drives of any state owned or operated property or building in Shawnee county, Kansas, except on properties listed as exceptions in K.S.A. 75-4503, or except as authorized under rules and regulations adopted by the secretary of administration as provided in K.S.A. 75-3706 or, in the case of the statehouse grounds, in accordance with signs posted by the capitol area security patrol. Such rules and regulations ~~may~~ shall fix and provide for collection of rents, charges or fees to be imposed in connection with and for the use of ~~the~~ such parking facilities ~~so owned and operated~~ other than those located on the statehouse grounds and those provided for use by the general public, and the secretary of administration may enter into any contract or contracts therefor with any state officer or employee or with any board, commission, agency or instrumentality of the state of Kansas. The secretary of administration may design and issue parking permits to facilitate the best use of any such parking lots, facilities or drives. Parking permits to park on the statehouse grounds shall be designed and issued in accordance with rules or instructions of the legislative coordinating council. Notwithstanding the foregoing provisions of this section, the secretary of administration shall provide, without

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rent, charges or fees, not less than one hundred forty (140) parking spaces to meet the needs of the legislative branch and whenever the legislative coordinating council shall determine that additional parking spaces are necessary the secretary of administration shall provide such number of additional parking spaces as may be specified by the legislative coordinating council.

New Sec. 2. All rents, charges and fees imposed in connection with and for the use of parking lots, facilities or drives of state owned or operated property or buildings, and contracts therefor, imposed pursuant to K.S.A. 75-4506 and amendments thereto, shall be in amounts as follows:

(a) For one person using a single parking space, the current rate charged for the use of similar commercial parking facilities in the same area;

(b) for two (2) persons using a single parking space in common, three-fourths (3/4) the current rate charged for the use of similar commercial parking facilities in the same area;

(c) for three (3) persons using a single parking space in common, one-half (1/2) the current rate charged for the use of similar commercial parking facilities in the same area; and

(d) for four (4) or more persons using a single parking space in common, one-fourth (1/4) the current rate charged for the use of similar commercial parking facilities in the same area.

Sec. 3. K.S.A. 75-4506 is hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

Attachment No. 6

MEMORANDUM

October 13, 1977

TO: Special Committee on Energy

FROM: Ramon Powers, Kansas Legislative Research Department

RE: Data on State Parking Stalls

According to staff of the Division of Accounts and Reports, Department of Administration, and the Captiol Security Patrol, the fee parking lots operated by the State of Kansas in the central part of Topeka are as shown on the attached table.

It is the policy to run the lots approximately 20 percent over capacity because of vacations, sickleave, and travel of many employees. There are waiting lists on most of the lots; there are a total of 117 persons on waiting lists for Lot Nos. 2, 3, and 4 as of October 1, 1977.

During the fall, the State began construction of Parking Lot No. 5, which will run from 11th Street to 12th Street adjoining Lot No. 1 on the south. Landscaping the Supreme Court Building reduced Lot No.1 from 140,800 square feet in size to 86,240 square feet. The new lot will be 232,550 square feet which is larger than any existing lot. It is estimated that new Parking Lot No. 5 will provide a total of 635 parking stalls. That number has not been added to the total figures given on the following page for Permits Sold, Decals, Monuments, and Permanent Legislative Stalls, because no permits have been issued for that lot.

Also, a contract is to be bid for constructing a parking lot on the site of the old building at 801 Harrison which is being razed. That lot will be approximately 20,000 square feet in size and provide an estimated 65 parking stalls.

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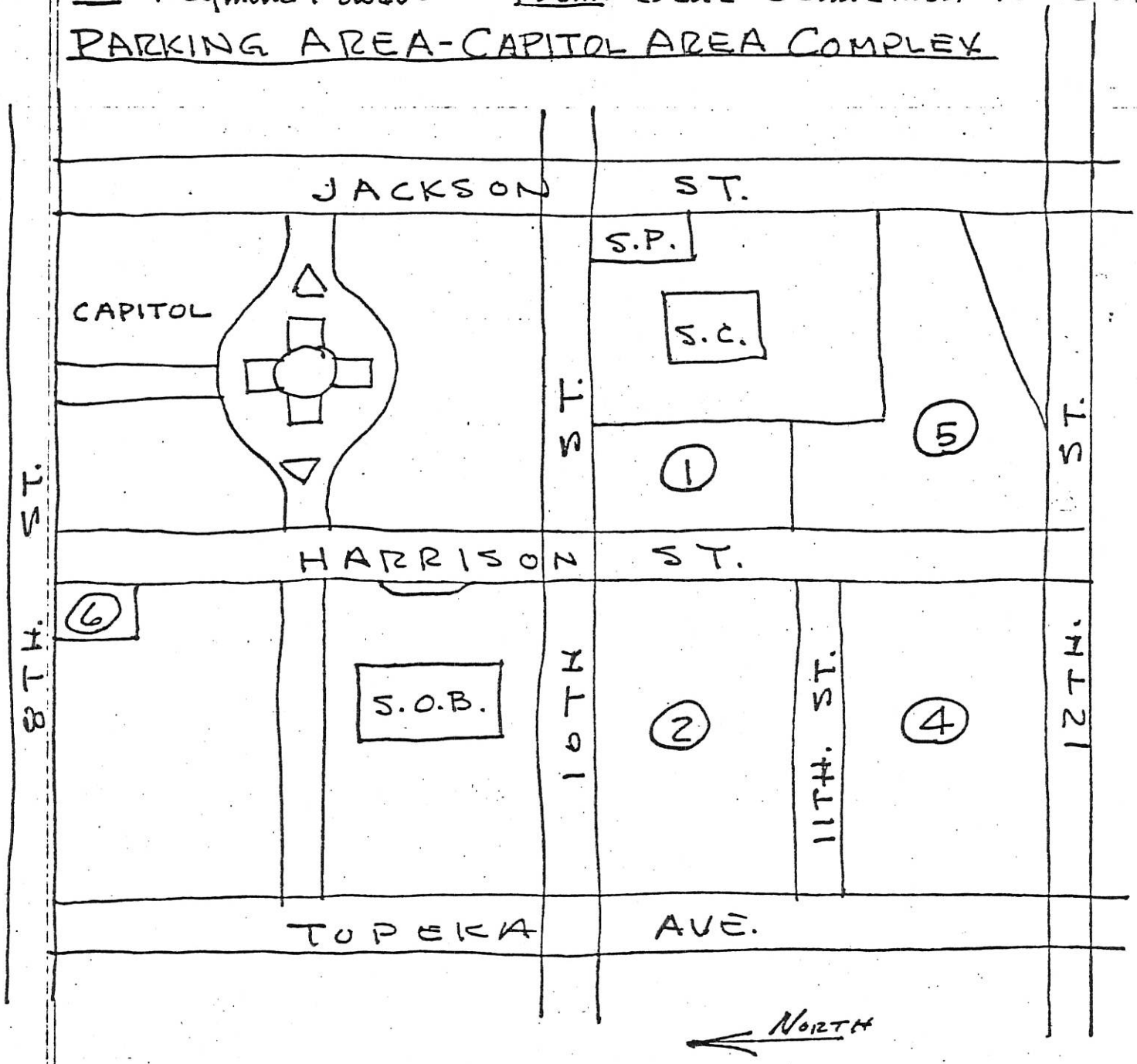
Data On State Parking Stalls

	Capacity	Permits Sold*	State Vehicles	Square Feet
Parking Lot No. 1 (South of the Capitol)	214	270	24	86,240
Parking Lot No. 2 (South of State Office Building)	441	363	112	144,000
Parking Lot No. 3 (500 Block of Jackson)	230	231	6	70,849
Parking Lot No. 4 (South of Lot No. 2)	407	466	15	138,550
Parking Lot No. 5 (Proposed from old 11th Street to 12th, adjoining Lot No. 2)	635			232,550 (approx.)
Board of Education	46			
Parking Lot No. 6 (Proposed from old 801 Harrison location)	65			20,000
Historical Museum	16			
Statehouse (During the Session 144 spaces on the Capitol grounds are made available for legislators, and those persons displaced by legislators are provided parking on the street through an arrangement with the City of Topeka.)	241	199 decals 42 monuments 12 year-round for legislature		129,270
TOTALS	2,295	1,608	157	821,459

* Includes Decals, Monuments, and Permanent Legislative Stalls.

To: Raymond Powers From: Gene Sanneman 10-26-77

PARKING AREA-CAPITOL AREA COMPLEX



CAPITOL	129,270 S.F.
①	86,240
②	144,000
③	70,849 (ON KANSAS AVE.)
④	138,440
⑤	232,550
⑥	20,000 (UNDER CONTRACT)
TOTAL	821,349 S.F.

Passed

Attachment No. 7

7 RS 1635

_____ BILL NO. _____

By Special Committee on Energy

Re Proposal No. 19

AN ACT establishing certain energy conservation standards for certain buildings; requiring certification of compliance to certain utilities; prescribing penalties for violation.

Be it enacted by the Legislature of the State of Kansas:

Section 1. As used in this act, unless the context otherwise requires:

(a) "ASHRAE handbook of fundamentals" means the handbook of fundamentals published in 1972 by the American society of heating, refrigeration and air conditioning engineers.

(b) "Building" means any structure which is heated or cooled except:

(1) Structures which have a peak design rate of energy usage, for all purposes, of less than one watt (3.4 B.T.U.'s per hour) per square foot of floor area; and

(2) mobile homes which are subject to the national mobile home construction and safety standards act of 1974 (42 U.S.C. 5401 et seq.).

(c) "Energy efficiency ratio" means the ratio of net cooling capacity in B.T.U.'s per hour to electric input in watts.

(d) "Heated space" means space within a building which is provided with a positive heat supply having a connected output capacity in excess of ten (10) B.T.U.'s per hour per square foot.

(e) "Mobile home" means a structure, transportable in one or more sections, which has a body width of eight (8) feet or more or a body length of forty (40) feet or more and which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities.

Atch. 7

(f) "New building" means, with respect to each standard established by this act:

(1) Any building, other than a mobile home, of which the foundation has not been completed prior to the date such standard takes effect; or

(2) any mobile home subject to this act of which assembly has not commenced prior to the date such standard takes effect.

(g) "New residential building" means any new building of which any part is used as a dwelling or as a hotel, motel or other temporary lodging or boarding facility.

(h) "Utility" means any gas or electrical utility.

Sec. 2. (a) From and after July 1, 1978, each new building, except new residential buildings, in this state shall be constructed in such a manner that the total heat loss of such building, based on the ASHRAE handbook of fundamentals, does not exceed thirty-five (35) B.T.U.'s per hour per square foot of floor area of heated space at a design temperature differential of eighty degrees Fahrenheit (80 F).

(b) From and after July 1, 1978, each new residential building in this state shall be constructed in such a manner that the total heat loss of such building, based on the ASHRAE handbook of fundamentals, does not exceed thirty-five (35) B.T.U.'s per hour per square foot of floor area of heated space at a design temperature differential of eighty degrees Fahrenheit (80 F) with a maximum of one and a half (1.5) air changes per hour and shall have storm doors and windows or equivalent door and window thermal treatment.

(c) From and after July 1, 1978, and prior to Novemeber 1, 1979, no new building in this state shall be equipped with any air conditioner which has an energy efficiency ratio of less than seven (7) or any heat pump which has an energy efficiency ratio of less than six and seven-tenths (6.7).

(d) From and after November 1, 1979, no new building in this state shall be equipped with any air conditioner which has an energy efficiency ratio of less than eight (8) or any heat

pump which has an energy efficiency ratio of less than seven and a half (7.5).

(e) No utility shall connect or attach service to any new building in this state until the builder certifies to the utility that such building complies with the applicable standards established by this section.

Sec. 3. Violation of any provision of this act is a class C misdemeanor.

Sec. 4. Nothing in this act shall be construed to prohibit a municipality from adopting energy conservation standards which are more stringent than those established by this act, for buildings within the jurisdiction of such municipality.

Sec. 5. If any provisions of this act or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provisions or application, and to this end the provisions of this act are severable.

Sec. 6. This act shall take effect and be in force from and after its publication in the statute book.

Attachment No. 8 to
7 RS 1729

_____ BILL NO. _____

By Special Committee on Energy

Re Proposal No. 19

AN ACT providing for the establishment of energy efficiency standards for certain appliances; requiring seals certifying compliance therewith; providing penalties for certain violations.

Be it enacted by the Legislature of the State of Kansas:

Section 1. As used in this act, unless the context otherwise requires:

(a) "Appliance" means any furnace, air conditioner, heater, refrigerator, stove, water heater, dishwasher, clothes washer or dryer, decorative fireplace log or other similar machine or device, which uses electricity or natural gas for operation and is designed primarily for household use.

(b) "Commission" means the state corporation commission.

(c) "Manufacturer" means any person who manufactures or assembles any appliance for sale, distribution or installation in this state.

(d) "Person" means person as defined by K.S.A. 1977 Supp. 21-3110 and amendment thereto.

Sec. 2. (a) On or before January 1, 1979, the commission shall adopt rules and regulations establishing energy efficiency standards for new appliances.

(b) Each manufacturer shall certify to the commission such data as required by the commission relating to the energy efficiency of appliances manufactured by such manufacturer. Upon receipt of such data and determination by the commission that appliances manufactured or assembled by such manufacturer comply with the standards established pursuant to subsection (a), the commission shall issue to such manufacturer a seal certifying

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compliance with such standards. Such seal shall be affixed by the manufacturer to each new appliance distributed, offered for sale, sold or installed in this state on or after January 1, 1980.

Sec. 3. (a) On and after January 1, 1980, no person shall distribute, offer for sale, sell or install any new appliance in this state which does not have affixed to it a seal issued by the commission pursuant to this act.

(b) No person shall affix a seal issued pursuant to this act to any appliance which does not comply with the standards established hereunder which were in effect one year prior to the date such appliance was manufactured.

Sec. 4. [Violation of any provision of this act is a class ___ misdemeanor.]

[Violation of any provision of this act shall render the violator liable for the payment of a civil penalty, recoverable in an action brought by the commission, attorney general or the county or district attorney, in a sum set by the court of not more than _____ ($____) for each violation. In administering and pursuing such actions, the commission, attorney general and county or district attorney are authorized to sue for and collect reasonable expenses and investigation fees as determined by the court. Civil penalties sued for and recovered by the commission or the attorney general shall be paid into the general fund of the state. Civil penalties sued for and recovered by the county or district attorney shall be paid into the general fund of the county where the proceedings were instigated.]

Sec. 5. The commission shall adopt such rules and regulations as necessary for the administration of this act.

Sec. 6. This act shall take effect and be in force from and after its publication in the statute book.

Attachment No. 9

7 RS 1730

_____ BILL NO. _____

By Special Committee on Energy

Re Proposal No. 19

AN ACT prohibiting certain decorative gas lamps and service connections thereto; providing penalties for violations.

Be it enacted by the Legislature of the State of Kansas:

Section 1. As used in this act, unless the context otherwise requires:

(a) "Decorative gas lamp" means any device installed for the purpose of providing illumination by burning natural gas and using a mantle or open flame.

(b) "Natural gas utility" means any person engaged in the sale or resale of natural gas for public use.

(c) "Person" means person as defined by K.S.A. 1977 Supp. 21-3110 and amendments thereto.

Sec. 2. (a) On and after July 1, 1979, no natural gas utility shall make or allow or cause to be made any connection to gas mains or pipes of such utility for the purpose of providing fuel for any decorative gas lamp. Except as provided in section 3, each such utility shall disconnect or cause to be disconnected any connection to any of its gas mains or pipes for such purpose before July 1, 1980.

(b) Except as provided in section 3, no person shall manufacture, distribute, offer for sale, sell, install or use any decorative gas lamp in this state on or after July 1, 1979.

(c) [Violation of any provision of this section is a class ____ misdemeanor.]

[Violation of any provision of this section shall render the violator liable for the payment of a civil penalty, recoverable in an action brought by the attorney general or county or district attorney, in a sum set by the court of not more than

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_____ dollars ($_____) for each violation. Any such penalty sued for and recovered by the attorney general shall be paid into the general fund of the state, and any such penalty sued for and recovered by the county or district attorney shall be paid into the general fund of the county where the proceedings were instigated.]

Sec. 3. Upon written application therefor, the state corporation commission may allow a person to /continue use of an existing decorative gas lamp on and after July 1, 1979, if the commission determines that such lamp is necessary for reasons of safety and cannot be converted at a reasonable cost. No natural gas utility shall be required to disconnect the connection to its gas mains or pipes which provides fuel to such lamp.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

Attachment No. 10 recomm

7 RS 1633

_____ BILL NO. _____

By Special Committee on Energy

Re Proposal No. 19

AN ACT concerning state motor vehicles; requiring transfer of certain passenger vehicles to the state motor pool; placing certain limitations on the acquisition of passenger vehicles; amending K.S.A. 75-4603 and 75-4609 and repealing the existing sections; also repealing K.S.A. 75-4613.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 75-4603 is hereby amended to read as follows: 75-4603. (a) (1) The secretary of administration may direct any state agency to transfer to the department of administration, for the central motor pool or any branch thereof, any ~~motor vehicle~~ truck currently assigned to or owned by such state agency ~~for the central motor pool or any branch thereof~~. Any such direction shall specify a date when possession of and title to any such ~~motor vehicle~~ truck shall be delivered to the department of administration.

(2) The provisions of this subsection shall not apply to trucks of the highway patrol or to trucks of any other state agency which, in the opinion of the secretary of administration, are specially equipped for the needs of such state agency.

(b) (1) On the effective date of this act, each state agency shall transfer to the department of administration, for the central motor pool or a branch thereof, all passenger motor vehicles assigned to or owned by such state agency.

(2) The provisions of this subsection shall not apply to specially equipped passenger motor vehicles purchased in accordance with K.S.A. 75-4609 and amendments thereto.

(c) To the extent that funds are available therefor, the secretary of administration may purchase or otherwise acquire in the manner provided by K.S.A. 75-3739 and amendments thereto

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additional motor vehicles as may be necessary for the central motor pool or any branch thereof. From and after January 1, 1979, not less than eighty percent (80%) of all passenger motor vehicles purchased or otherwise acquired by the secretary of administration for the central motor pool and branches thereof shall have a fuel consumption rating by the federal environmental protection agency, or its successor, of not less than thirty-three (33) miles per gallon for highway driving and twenty-four (24) miles per gallon for city driving.

(d) In the manner provided by ~~said~~ K.S.A. 75-3739 and amendments thereto, the secretary of administration may sell or otherwise dispose of any vehicle in the central motor pool or any branch thereof, and any cash proceeds arising therefrom shall be deposited in the state treasury and credited to the motor pool service fund.

(e) The title to all motor vehicles assigned to or purchased or acquired for the central motor pool or any branch thereof shall be in the name of the department of administration, except motor vehicles acquired by lease.

Sec. 2. K.S.A. 75-4609 is hereby amended to read as follows: 75-4609. ~~From and after the effective date of this act,~~ No state agency~~, except the governor,~~ shall lease, purchase or otherwise acquire any passenger motor vehicle, except under the following conditions: (a) Moneys for the purchase of such passenger motor vehicle are included within funds appropriated for the state agency and the purchase, lease or other acquisition has been approved by the secretary of administration, and

(b) the passenger motor vehicle ~~has, in the opinion of the secretary of administration, only~~ is equipped with special systems ~~and~~ or equipment which are not customarily incorporated into a standard passenger motor vehicle completely equipped for ordinary operation~~, or is equipped with additional systems or equipment~~ and which are found by such secretary to be appropriate in the particular purchase, and

(c) the purchase, lease or other acquisition price of the

passenger motor vehicle, exclusive of ~~any~~ such ~~additional~~ special systems or equipment, is not in excess of such amount as may be available from funds appropriated for such agency.

Sec. 3. K.S.A. 75-4603, 75-4609 and 75-4613 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

Attachment No. 11 ho
7 RS 1678

_____ CONCURRENT RESOLUTION NO. _____

By Special Committee on Energy

Re Proposal No. 19

A CONCURRENT RESOLUTION directing the secretary of revenue to formulate and submit to the legislature a plan for a system of passenger vehicle registration fees, based on vehicle horsepower and weight.

Be it resolved by the _____ of the State of Kansas, the _____ concurring therein: That the secretary of revenue is hereby directed to formulate a plan for a system of passenger vehicle registration fees based on vehicle horsepower and weight, which will encourage ownership of passenger vehicles having low fuel consumption rates and will provide for maintenance of the current level of revenues from passenger vehicle registration fees; and

Be it further resolved: That the secretary of revenue shall submit such plan to the 1979 Legislature; and

Be it further resolved: That the secretary of state is hereby directed to transmit an enrolled copy of this resolution to the secretary of revenue.

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Attachment 12

TESTIMONY BEFORE
SPECIAL COMMITTEE ON ENERGY
PROPOSAL NO. 20
NOVEMBER 4, 1977
BY D. WAYNE ZIMMERMAN, DIRECTOR
THE ELECTRIC COMPANIES ASSOCIATION OF KANSAS

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

THE FOLLOWING STATEMENT IS DIRECTED AT THE BILL DRAFT RELATING TO PUBLIC UTILITIES: PROHIBITING THE CONSIDERATION OF CERTAIN EXPENSES IN DETERMINING RATES AND OTHER CHARGES THEREOF.

SINCE THIS APPEARS TO BE AN AMENDED VERSION OF SB 182, INTRODUCED IN THE LAST SESSION AND WHICH STILL RESIDES IN THE SENATE TRANSPORTATION AND UTILITIES COMMITTEE, THIS STATEMENT WILL DEAL PRIMARILY WITH THE NEW LANGUAGE NOT INCLUDED IN SB 182.

THE RECORDS OF THE TRANSPORTATION AND UTILITIES COMMITTEE SHOW THAT TESTIMONY WAS GIVEN ON MARCH 7, 1977, TO THAT COMMITTEE, POINTING OUT OBJECTIONS TO THE PROPOSAL BY SEVERAL INTERESTED PARTIES. THAT TESTIMONY IS STILL RELEVANT AND A COPY OF ONE OF THE STATEMENTS PRESENTED AT THAT TIME IS ATTACHED.

WE BELIEVE THAT ALL THE EXPENSES SET OUT IN SECTION 1, SUBSECTION (A), ARE VALID OPERATING EXPENSES AND SHOULD BE CONSIDERED AS SUCH WHEN DETERMINING A REASONABLE RATE OF RETURN FOR UTILITIES.

WE BELIEVE THAT THE KANSAS CORPORATION COMMISSION SHOULD CONTINUE TO HAVE DISCRETION IN ALLOWING OR DISALLOWING PART OR ALL OF THESE OPERATING EXPENSES. UTILITY COMPANY MANAGEMENT, IN THE EXERCISE OF

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ITS DUTIES AND REGULATORY AGENCIES, IN THEIR ROLE AS REPRESENTATIVES OF THE PUBLIC, HAVE HISTORICALLY CONSIDERED THAT SOME EXPENDITURES SHOULD BE CHARGED TO THE STOCKHOLDERS AND SOME ARE VALID OPERATING EXPENSES TO BE CHARGED TO RATEPAYERS. FOR EXAMPLE, TO MY KNOWLEDGE, NO ELECTRIC UTILITY COMPANY IS CHARGING LOBBYING EXPENSE TO RATEPAYERS ALTHOUGH, IF THAT EXPENSE IS USED TO EDUCATE THE RULE-MAKERS TO HELP THEM MAKE DECISIONS THAT RESULT IN BENEFITS TO RATEPAYERS IN THE WAY OF BETTER SERVICE OR LESS COST, A VALID ARGUMENT CAN BE MADE FOR INCLUDING THESE EXPENSES.

IN REFERENCE TO SECTION 1 (A), (1), IT IS WELL ESTABLISHED THAT THE COSTS OF ADVERTISING AND PUBLICITY, AS LONG AS THEY ARE PRUDENT AND REASONABLE, ARE PROPERLY INCLUDED AS OPERATING EXPENSE. ADVERTISING IS AN ATTEMPT TO EDUCATE AND EDUCATION IS NECESSARY IF THE PUBLIC IS TO BE ABLE TO MAKE USE OF THE TECHNICAL KNOWLEDGE AVAILABLE IN THE UTILITIES COMPANIES FOR PROPER USE OF THE SERVICE, FOR APPLYING CONSERVATION AND UTILIZATION PRACTICES THAT NOT ONLY WILL BE TO THEIR FINANCIAL BENEFIT IN BOTH THE SHORT AND LONG RUN, BUT WILL HELP TO ASSURE THE CONTINUED AVAILABILITY OF THE SERVICE, AND FOR HELPING THE PUBLIC UNDERSTAND THE REASONS FOR CHANGES THAT MUST BE MADE IN RATES, METHODS OF PRODUCING THE PRODUCT, ETC. ELECTRIC UTILITY ADVERTISING, IN RECENT TIMES, HAS BEEN DIRECTED TO THE ABOVE.

IN REFERENCE TO SECTION 1 (A), (2) AND (3), WE WILL, IN ADDITION TO THE REFERENCE TO LOBBYING ALREADY MADE, SAY THAT BUSINESS CUSTOMS AND PRACTICES HAVE DEVELOPED OVER A LONG PERIOD OF TIME AND SOME

REASONABLE EXPENSE OF BUSINESS ENTERTAINMENT IS JUSTIFIED AND EXPECTED IN CARRYING ON A WELL MANAGED BUSINESS. TO THE EXTENT THESE EXPENSES ARE PRUDENT AND DO CONTRIBUTE TO THE OVERALL WELL-BEING AND EFFICIENT MANAGEMENT OF A UTILITY, THEY ARE IN THE INTEREST OF THE RATEPAYER AND SHOULD BE CONSIDERED AS EXPENSE. AGAIN, AS IN ANY BUSINESS, PUBLIC UTILITY OR NOT, THE END RESULT OF MANAGEMENT PRACTICES MUST BE LOOKED TO WHEN JUSTIFYING THE MEANS. WE QUESTION WHETHER, FROM THE POSITION OF THE LEGISLATURE, WITH ITS MANY DUTIES AND OBLIGATIONS, THE INTRICACIES OF SUCCESSFUL MANAGEMENT CAN BE STUDIED IN THE DEPTH NECESSARY TO DECIDE EXACTLY WHAT ITEMS ARE BEST CHARGED TO THE INVESTOR AND WHICH ARE REALLY OF BENEFIT TO THE CUSTOMER; HOWEVER, BY APPLYING SOME TESTS, THE REGULATORY AGENCY CAN IN EACH CASE MAKE A JUDGMENT AS TO WHETHER EXPENSES ARE IN THE INTEREST OF RATEPAYER OR NOT. EXPENSES GENERALLY ARE REGARDED AS BEING IN THE CONTROL OF MANAGEMENT. THE PRODUCT OF THAT MANAGEMENT IS MORE IMPORTANT THAN THE INGREDIENTS OF THE MANAGEMENT PLAN. TO GET THE MANAGEMENT NECESSARY TO DO AN ACCEPTABLE JOB AND TO PROVIDE AN END PRODUCT THAT IS TO THE BENEFIT OF INVESTORS AND RATEPAYERS ALIKE COSTS MONEY. <u>GOOD</u> MANAGEMENT IS NOT CHEAP BUT IT IS WORTH EVERY PENNY IT COSTS. WE OPPOSE ANY PLAN THAT WOULD TEND TO INHIBIT ELECTRIC UTILITIES IN COMPETING FOR THE BEST MANAGEMENT TALENT AVAILABLE.

IN REGARD TO SECTION 1 (A), (4) AND (5), WE RECOGNIZE THAT THESE COSTS MUST BE PAID BY SOMEONE. THEY MAY BE IMPOSED ON THE TAXPAYERS, THE INVESTOR, THE CONSUMER OR A COMBINATION OF THESE. SINCE THE

COMMISSION SERVES IN A ROLE AS PROTECTOR OF THE CONSUMER, IT SEEMS THAT THE CONSUMER SHOULD BEAR THE EXPENSE CREATED BY THE COMMISSION AND CHARGED AS FEES OR ASSESSMENTS. EVEN THE INTERNAL REVENUE SERVICE ALLOWS DEDUCTION OF THE COST OF PREPARING A TAX RETURN. THE REASONABLENESS OF COSTS INCURRED FOR UNUSUALLY PROLONGED RATE CASES OR APPEALS MUST BE DECIDED BY THE COMMISSION AND BE BASED ON AN ANALYSIS OF THE PECULIAR CIRCUMSTANCES INVOLVED IN EACH CASE. EVEN THE REGULATORY COMMISSION IS NOT INFALLIBLE AND IT SHOULD BE EXPECTED, IN THE NORMAL COURSE OF EVENTS, THAT REASONABLE MEN WILL DIFFER AND APPEALS WILL BE MADE. THIS IS NORMAL BUSINESS EXPENSE. HOWEVER, IF AN APPEAL IS FRIVOLOUS AND WITHOUT MERIT, THE COMMISSION SHOULD HAVE THE POWER TO DECIDE WHETHER OR NOT THE COSTS SHOULD BE CONSIDERED NORMAL BUSINESS EXPENSE. IN THE HISTORICAL EVOLUTION OF LAWS GOVERNING BUSINESS AFFECTED WITH A COMPELLING PUBLIC INTEREST, THERE HAVE BEEN PERIODS WHEN LEGISLATIVE BODIES HAVE TRIED TO IMPOSE DETAILED MANAGEMENT AND OPERATING RESTRAINTS. THESE ATTEMPTS HAVE GIVEN WAY TO THE MORE MODERN, MORE FLEXIBLE REGULATORY AGENCY SUCH AS THE KANSAS CORPORATION COMMISSION.

RATE-MAKING IS A VERY COMPLEX BUSINESS. THE COSTS OF DOING BUSINESS, INCLUDING THE COST OF MONEY, VARY FROM TIME TO TIME. THAT WHICH IS NOT REASONABLE AND ORDINARY OPERATING EXPENSE TODAY MAY BE CONSIDERED TO BE AT A LATER TIME BECAUSE OF CHANGING CONDITIONS. FOR EXAMPLE, IT IS NOT LIKELY THAT CONSUMERS WOULD OBJECT TO PAYING THE COST OF PREPARING A RATE CHANGE APPLICATION FOR A LOWER RATE. IN

THE PAST, THIS HAS OCCURRED SEVERAL TIMES.

THE BEST INNOVATIVE MINDS AVAILABLE TO THE ELECTRIC UTILITIES SHOULD BE AVAILABLE TO SOLVE THE PROBLEMS OF INCREASED POWER DEMANDS, DIMINISHING FUEL SUPPLIES, CHANGING MONEY MARKETS, ENVIRONMENTAL AND CONSERVATION NEEDS, ETC., AND NOT SPENDING THEIR TIME AND ENERGY TRYING TO DEVISE WAYS TO SURVIVE WITH ADDITIONAL INFLEXIBLE STATUTORIALLY IMPOSED DISINCENTIVES.

WE OPPOSE THIS LEGISLATIVE PROPOSAL.

TESTIMONY BEFORE

SENATE TRANSPORTATION AND UTILITIES COMMITTEE

Senate Bill 182

March 7, 1977

BY HAL HUDSON, DIRECTOR OF PUBLIC AFFAIRS

THE KANSAS POWER AND LIGHT COMPANY

Mr. Chairman and Members of the Committee:

Senate Bill 182 has a built-in conflict in the language on Lines 21 and 22 and all that follows. If it is the charge of the Corporation Commission to arrive at a determination of rates or other charges that are fair, just and reasonable both to the utilities and the public, all of the language beginning with Line 23 and following is inappropriate.

Exclusion of expenses for newspaper, magazine, outdoor sign, radio, television or other advertising is not in the public interest. Several years ago the Oklahoma Public Service Commission issued such an order to utilities operating in that State and in a suit brought by the news media the Oklahoma State supreme court overturned the Commission order.

In these times of energy shortage and rising prices we would agree that it would be inappropriate for an energy utility to advertise and promote the sale of its services in an unrestricted manner. However, when such advertising messages are directed toward energy conservation and wise energy use as a means to assist customers in holding the line on rising energy costs, it can hardly be deemed not to be in the public interest. Since the fall of 1973 the primary thrust of all The Kansas Power and Light Company advertising has been of this nature. Under guidelines set forth by the Federal Power Commission and the Kansas Corporation Commission these advertising expenses have been treated as necessary customer

information programs and allowed as legitimate operating expenses. We believe that this practice should not be prohibited by law and we offer examples of some of our newspaper ads in support of our position.

Lines 26 through 30 include another broad sweeping prohibition in which we believe is not justified in the normal conduct of business. Expenses for lobbying are treated as below the line expenses charged to the shareholders of the Company and not to the ratepayers even though the greater part of our efforts in working with the Legislature is directed toward consumer interest. Testimony before this and other committees this year and in the past have been presented in an effort to inform and advise members of this body when proposed legislation would have an adverse effect on the cost of energy sold to consumers in Kansas. Since the Corporation has no funds which to pay rising costs except that first collected from our customers, any increase in operating expenses must be passed on to the consumer. This is true whether the expenses come as a result of increased taxes or as a result of increased regulation imposed by law.

To suggest that a public utility may not pay the cost of meals or beverages for any person not employed by the utility is contrary to common business practices. For example, if this were the law, it could be construed that a utility company could not pay for meals in connection with recruiting prospective new employees. Furthermore, since we frequently work with Chambers of Commerce and local industrial development groups throughout our service area, this language could be construed to mean that we could not buy lunch for a prospect visiting a local community in our service area.

Lines 31 through 34 would restrict that portion of any officer's or employee's salary from such utility which exceeds the statutory salary of the Governor of this State. We would ask: Is the Legislature contemplating tax relief for the taxpayers of the State by imposing the same restrictions on salaries paid to heads of

governmental agencies and departments? In the process of recruiting and employing competent people for management positions in State government, including the position of chief executive officer at our major universities, the Legislature has found it necessary to provide greater compensation than utilities would be allowed under this bill.

Since 1949 The Kansas Power and Light Company has grown to the point that today we are serving twice as many customers with seven times as much energy as then. We are providing this service with a high degree of reliability and with 300 fewer persons than were employed in 1949. We would challenge any agency or department of Kansas State government to match that record.

This remarkable accomplishment has been achieved through improved efficiency in our operations. It has been possible because the Company has been able to recruit, employ and retain qualified people in management and supervisory levels and this is possible only when salaries paid are sufficient to hire and retain such qualified people.

Of the more than 1,600 employees of The Kansas Power and Light Company only seven persons are paid salaries in excess of $35,000 annually. The difference between their actual salaries, as shown in the Form 1 Report to the Federal Power Commission and the Kansas Corporation Commission, and the amount allowed under Senate Bill 182 is $98,000 annually. When this amount is prorated among the customers of The Kansas Power and Light Company, it is the equivalent of one cent per month per average residential customer. Is this too much for customers to pay for good management? Would the public be better served with less competent management that could be hired at some lower cost?

There are far more important matters before the Legislature that are of greater importance to State government, to the taxpayers of the State and to utility ratepayers than nit-picking at expense items that amount to only a penny a month.

Mr. Chairman and Members of the Committee, we respectfully request that Senate Bill 182 be reported unfavorably.

SENATE BILL NO. _____

By Senator Berman

AN ACT relating to public utilities; prohibiting the consideration of certain expenses in determining rates and other charges thereof.

Be it enacted by the Legislature of the State of Kansas:

Section 1. (a) Whenever any public utility, as defined by K.S.A. 1977 Supp. 66-104, makes application to the state corporation commission for a change in its rates or other charges, the commission, in arriving at a determination of rates or other charges that are fair, just and reasonable both to the utility and the public, shall not consider expenses incurred or to be incurred by said utility for: (1) The costs of any newspaper, magazine, outdoor sign, radio, television or other advertising; (2) the cost of any entertainment or lobbying provided by such public utility including, but not limited to, dues to any private club, costs of meals or beverages for any individual other than an employee of such public utility or costs of any gifts given to persons not employed by such public utility; (3) that portion of any officer's or employee's salary from such utility which exceeds the statutory salary of the governor of this state; (4) the costs of preparing an application for a change in its rates or other charges including the costs of any hearing or rehearing thereon and any appeals taken from any decision or order of the commission; (5) the payment of assessments against such public utility for the amount of expenses incurred by the commission in connection with investigations, appraisals or hearings required of the commission by law.

(b) None of the expenses designated in subsection (a) shall be considered as valid operating expenses in computing a reasonable rate of return for said utility.

Sec. 2. This act shall take effect and be in force from and after its publication in the official state paper.

Attachment No. 13

Mr. Chairman and members of the Committee, I'm Ed Schaub representing Southwestern Bell Telephone Company. I am appearing in opposition to SB 182.

Advertising

Southwestern Bell's advertising expenses for newspaper space, radio and television time in Kansas totaled just over $669,000 during 1976, which amounts to less than five cents per month per telephone—a modest figure by any measure. (These figures include production costs and our pro-rata share of AT&T media expense.)

Most of our campaigns relate to the promotion of products and services, the instruction of customers in Long Distance calling time periods, or necessary customer information such as Directory Assistance charging procedures or changes in the type of service in given communities.

Naturally, the stimulation of optional products and services which generate additional revenues helps make it possible to keep basic rates down. This, coupled with our obligation to assist our customers in the most efficient use of their service, is the primary thrust of our media advertising.

Some people erroneously assume the telephone company is a total monopoly enterprise—a non-competitive business without a basic need to advertise for the sake of survival.

Of course, Southwestern Bell doesn't advertise to promote the expansion of basic local telephone service, where normal competition does not exist.

But, like most businesses, we advertise where competition exists. And we do have competition.

- We face direct competition in marketing our business communications services as well as our residential offerings, now that the FCC's registration order has gone into effect. We will be competing against other retailers in the provision of all types of residence telephone equipment.

- We compete with every other business for a share of the consumer's discretionary dollar when we advertise to promote optional services—Long Distance calling, extensions and Touch-Tone telephones. Again, revenues from such optional services help keep down the cost of basic service.

- We also compete with other businesses for investor dollars and capable employees, both essential to continued good telephone service.

These are some of the competitive reasons why even a regulated natural monopoly needs to advertise. But we also advertise—paradoxical as it may seem—simply because we are a monopoly in some areas of our business and because we have a stewardship responsibility to meet.

Our customers need advertising. As we found in a recent public attitude trends survey, advertising is our customers' primary source of information about their service and company policies and plans. We are obligated to provide such information and decisions by regulatory bodies such as the New York Public Service Commission and the FCC have upheld our right to do so. Mass media advertising is by far the least expensive way to inform our

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customers about our business.

In short, our advertising benefits the customer because of two facts of economic life in the telephone business:

1. The efficiency, quality and cost of communications service depend heavily on the customer's effective use of his service.

2. Traditional pricing policy in the telephone business permits total revenues from all services to support basic service at rates lower than otherwise would be possible

These characteristics of the business permit telephone customers to gain unique benefits from advertising, in terms of better service and lower costs. In fact, advertising doesn't cost telephone customers money—it saves them money.

Lobbying

Southwestern Bell has the same right as any other business, institution, or organization to be represented to the legislature by its lobbyist. Lobbyists are an important part of the legislative process and we believe that any well-informed legislator appreciates the information these specialists are able to furnish about their respective institution or businesses. If lobbyists were not allowed, the legislature would have to hire many more research people to provide them with information that lobbyists provide at no cost to the state.

Our lobbying activities are to the benefit of telephone customers. For example, in recent years several bills have been introduced which would burden utilities with a state wide gross receipts tax. These bills would have cost rate payers as much as $9 million. None of this money would have benefited the company since Southwestern Bell would have become merely a collecting agency for the state. Other bills have been introduced which would force utilities to bury all of their existing cables and lines. Such a bill would cost Southwestern Bell $300-400 million. Obviously, the cost of this would have to be paid by our customers.

These are just two examples where Southwestern Bell lobbying efforts have paid off for its customers.

It is, however, a matter of record that the Kansas Corporation Commission presently does not include lobbying expenses when setting telephone rates.

Salaries

It goes without saying that to attract and keep good employees, a company must pay wages which are competitive with those in other industries. Wages and salaries paid to Southwestern Bell employees are comparable to those paid employees in similar jobs in other industries. The telephone company conducts ongoing studies to insure that it's salary levels remain within those guidelines.

Expense in Connection with Rate Activity

Southwestern Bell, as a regulated utility, is required by state statute to obtain the Kansas Corporation Commission's approval for any changes it proposes in the rates it charges its customers for service. There are no alternatives to this procedure. High inflationary periods that we have experienced the past number of years obviously tends to accelerate rate activity because inflation affects utilities as it does other businesses. Utilities experience increases in the cost for its goods, services, wages, taxes, etc., as other businesses do. Unlike other businesses, however, utilities cannot increase the price of their services without a thorough investigation by the regulatory agency. It's inconceivable then, that since these procedures are set up by state statute, that any expense connected with rate activity would be considered as something other than a valid operating expense.

It would appear more reasonable to examine the current procedures used by the regulatory agency that, along with inflation, contributes to increased rate activity and obviously increases the cost of this activity. We offer the following suggestions:

Allow the utility to use future rather than historical test data in its rate application. Currently a rate case must be filed on a basis of 12 months actual operating data. A more realistic approach would be to allow the utility to file on three months actual operating data and nine months projected operating data. Projections of expenses, revenues, taxes, etc., can be made with a great deal of accuracy. Using future data helps solve the problem of "regulatory lag" that utilities experience.

Allow utilities to place new rates into effect under bond at specified intervals following proposed effective date with a requirement to refund amounts in excess of the Commission's final determination.

Legislate a specific time limit for the Commission to render a decision for requested rate increases. (Suggest six-eight months from date of filing.)

Allow construction work in progress into the rate base, particularly those projects that start and complete within a year.

Note: The Federal Communications Commission allows CWIP under these conditions.

These suggestions aren't new or original with Southwestern Bell in Kansas. In fact approximately 40 states today have statutory provisions governing the timely response of regulatory authority to requested rate increases. We believe these procedures are reasonable approaches to rate activity in inflationary periods and tend to minimize rate requests and consequently reduce rate case expense.

Attachment No. 14
7 RS 1640

SENATE BILL NO. _____

By Senator Berman

AN ACT relating to public utilities; prohibiting the consideration of certain expenses in determining rates and other charges thereof.

Be it enacted by the Legislature of the State of Kansas:

Section 1. (a) Whenever any public utility, as defined by K.S.A. 1977 Supp. 66-104, makes application to the state corporation commission for a change in its rates or other charges, the commission, in arriving at a determination of rates or other charges that are fair, just and reasonable both to the utility and the public, shall not consider expenses incurred or to be incurred by said utility for: (1) The costs of any newspaper, magazine, outdoor sign, radio, television or other advertising; (2) the cost of any entertainment or lobbying provided by such public utility including, but not limited to, dues to any private club, costs of meals or beverages for any individual other than an employee of such public utility or costs of any gifts given to persons not employed by such public utility; (3) that portion of any officer's or employee's salary from such utility which exceeds the statutory salary of the governor of this state; (4) the costs of preparing an application for a change in its rates or other charges including the costs of any hearing or rehearing thereon and any appeals taken from any decision or order of the commission; (5) the payment of assessments against such public utility for the amount of expenses incurred by the commission in connection with investigations, appraisals or hearings required of the commission by law.

(b) None of the expenses designated in subsection (a) shall be considered as valid operating expenses in computing a

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reasonable rate of return for said utility.

Sec. 2. This act shall take effect and be in force from and after its publication in the official state paper.