

MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES

The meeting was called to order by SENATOR ROBERT V. TALKINGTON at
Chairperson

9:00 a.m./p.m. on Thursday, February 3, 1983 in room 254-E of the Capitol.

All members were present except:

Senator Rehorn



Committee staff present:

Fred Carman
Hank Avila
Rosalie Black

Conferees appearing before the committee:

SB 88 - Opponents - CWIP

Brian Moline, Attorney, KCC
Ivan W. Wyatt, President, Kansas Farmers Union
Mari Peterson, Executive Director, KS Natural Resource Council
Jeffrey Stephens, Student, Tonganoxie
Stevie Stephens, Private Citizen Tonganoxie

SENATE BILL No. 88 - CWIP

The meeting was called to order by Senator Talkington, Chairman, who introduced Brian Moline to discuss the Kansas Corporation Commission's views in opposition to the act.

Brian Moline indicated that KCC is required by current law to exclude from the rate base any property which has not been completed for commercial use and the construction of which will not be completed within one year. On the other hand, if construction will be completed in one year or less, it is left to the discretion of KCC whether to include it in the rate base. He added that KCC opposes Senate Bill 88 because CWIP violates fundamental accounting principles; violates fundamental regulatory objectives and responsibilities; dilutes efficiency incentives; legitimizes customers as financiers; and transfers risks from investors to customers and reverses sound, established State policy. (See Attachment 1.)

Speaking in opposition on behalf of Kansas Farmers Union, Ivan Wyatt said the union has always opposed the idea of privately owned corporations using power of State to force consumers to pay for services before receiving them. He asked if preferred stock should be issued to ratepayers investing in construction of utilities instead of stockholders. (See Attachment 2.)

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES,
room 254-E, Statehouse, at 9:00 a.m./p.m. on February 3, 1983

SENATE BILL 88 (continued)

Mari Peterson stated that it must be made clear that allowing CWIP into the rate base is unnecessary for future construction projects. She referred to KP&L's management of Jeffrey Energy Center in that it is financially prudent to build smaller plant units and incrementally add them to the overall capacity of the utility. As electricity demand decreased, KP&L was able to indefinitely postpone Unit 4 at the Jeffrey Energy Center. Units 1, 2, & 3 were sufficient to meet its customers' energy needs, and as each unit was completed, it was ready to go on line and into the rate base. She felt that in the future, other utilities would be wise to follow KP&L's example. (See Attachment 3.)

Jeffrey Stephens pointed out that the only ratepayer who could benefit from the proposed CWIP charges would be the ratepayer who remains in the rate area for the life of the plant. Those who pay now and then move away or die lose their investment. (See Attachment 4.)

Referring to the cost of decommissioning and decontamination of nuclear plants, Stevie Stephens mentioned the possibility of charging ratepayers for these expenses under the CWIP provision. The government is now planning the decommissioning of its 60 Mw Shippingport reactor which will cost an estimated \$40 million. The removal of waste could be an additional expense, but since there is no permanent waste disposal site anywhere in the U. S., the cost of storage cannot be estimated. (See Attachment 5.)

The meeting adjourned at 10:05 a.m.

Please PRINT Name, Address, the organization you represent, and the Number of the Bill in which you are interested. Thank you.

2-3-83

NAME	ADDRESS	ORGANIZATION	BILL NO.
Dave Jennings	KC Mo	KCPK	SB 88
Bill Whitmer	Wichita	KGE	"
Howard J Hansen	Wichita	KGE	"
Jim Mace		KANU & IN	"
Jim Edwards		KACT	"
Roy D. Shankel		KCPK	"
Ivan W. Wyatt		Ks Farmers Union	"
JEFF COONROD		KGE	
Lon Stanton		KPL	
Bill D.		VICOC	
Jan Johnson	Topeka	Budget Division	
DORE NABEL	"	"	
Edward R. De Soignie	Topeka	KDOT	-
Roland Wiebe	Topeka	KNRC	
Ed Schaut	Topeka	SWBT	SB 88
Merle Hee	Topeka	Ks. Good Roads Assn	"
Charles Jones		KCC	SB 88
Chris Frank	Wichita Ks.	KAKE-TV	
Steve Korman	Topeka	AP	

TESTIMONY OF BRIAN J. MOLINE ON SENATE BILL 88

OVERVIEW

THE KANSAS CORPORATION COMMISSION OPPOSES SENATE BILL 88
AND CONSIDERS IT TO BE UNWISE AND UNWARRANTED LEGISLATION FOR THE
FOLLOWING REASONS: SENATE BILL 88

- (1) VIOLATES FUNDAMENTAL ACCOUNTING PRINCIPLES.
- (2) VIOLATES FUNDAMENTAL REGULATORY OBJECTIVES AND RESPONSIBILITIES.
- (3) DILUTES EFFICIENCY INCENTIVES.
- (4) LEGITIMIZES CUSTOMERS AS FINANCIERS.
- (5) TRANSFERS RISKS FROM INVESTORS TO CUSTOMERS.
- (6) REVERSES SOUND, ESTABLISHED STATE POLICY.

I. ANALYSIS OF REASONS FOR OPPOSING SENATE BILL 88

THE KANSAS CORPORATION COMMISSION OPPOSES SENATE BILL 88 AND CONSIDERS IT TO BE UNWISE AND UNWARRANTED LEGISLATION FOR THE FOLLOWING REASONS: SENATE BILL 88

(1) VIOLATES FUNDAMENTAL ACCOUNTING PRINCIPLES:

IN ACCORDANCE WITH SOUND ACCOUNTING PRINCIPLES, UTILITY FINANCING COSTS HAVE TRADITIONALLY BEEN CAPITALIZED ALONG WITH OTHER COSTS OF CONSTRUCTION SUCH AS LABOR AND MATERIALS. THESE COSTS ARE PERMITTED TO ENTER THE RATE BASE AT THE TIME THE PLANT ACTUALLY BECOMES OPERATIONAL OR, IN REGULATORY TERMS, "USED AND USEFUL." A FUNDAMENTAL ACCOUNTING PRINCIPLE IS THAT THE INCOME EARNED BY THE UTILITY FROM THE SERVICE IT PROVIDES IS "MATCHED" WITH THE EXPENDITURES NEEDED TO PRODUCE THE PRODUCT. WHEN CWIP IS INCLUDED IN THE RATE BASE, HOWEVER, THE INCOME IS EARNED LONG BEFORE THE PRODUCT (THE KWH) IS PRODUCED. THE MATCHING PRINCIPLE IS THEREFORE VIOLATED.

MOREOVER, DISTORTIONS OF A UTILITY'S EARNING POWER, AND POSSIBLY OF ITS REVENUE REQUIREMENTS, COULD OCCUR IF CWIP WERE INCLUDED IN THE RATE BASE. TO DETERMINE A PROPER RATE BASE, KCC STAFF ACCOUNTANTS IDENTIFY THE REVENUES AND EXPENSES ASSOCIATED WITH THE UNITS OF PRODUCTION DURING A GIVEN ACCOUNTING PERIOD, SUCH AS A TEST YEAR. IT IS IMPOSSIBLE TO DETERMINE WITH COMPLETE ASSURANCE THE FULL IMPACT OF PROPERTY UNDER CONSTRUCTION (TO BE

COMPLETED BEYOND THE CONFINES OF A TEST YEAR) UPON THE EARNING POWER OF A UTILITY COMPANY. HOWEVER, IF A NEW ASSET, SUCH AS PROPERTY UNDER CONSTRUCTION, WERE CONSIDERED FOR RATEMAKING PURPOSES AND THIS ASSET WOULD EXTEND BEYOND THE TEST YEAR, EXPENSES AND REVENUES WOULD BE AFFECTED IN A MANNER THAT COULD NOT BE QUANTIFIED ACCURATELY WITHIN THAT TEST YEAR. WHEN AN ASSET COMPLETED BEYOND THE TEST YEAR IS INCLUDED IN THE RATE BASE WITHOUT THE CORRESPONDING IMPACT ON REVENUES AND EXPENSES, THE TRUE COST OF THE SERVICES PROVIDED BY THE UTILITY TO ITS CUSTOMERS IS NOT ACCURATELY REPRESENTED.

THEREFORE, THE INCLUSION OF CWIP IN THE RATE BASE VIOLATES THE ACCOUNTING PRINCIPLES OF A) MATCHING SERVICES WITH EXPENDITURES AND B) DISTORTING THE UTILITY'S EARNING POWER, AND POSSIBLY ITS REVENUE REQUIREMENTS, DURING THE ACCOUNTING PERIOD OF A TEST YEAR.

(2) VIOLATES FUNDAMENTAL REGULATORY OBJECTIVES AND RESPONSIBILITIES.

ONE MAJOR RESPONSIBILITY OF THE KCC IS TO ENSURE, TO THE GREATEST EXTENT FEASIBLE, THAT COSTS ARE FAIRLY AND REASONABLY ALLOCATED AMONG RATEPAYERS. IN SETTING UTILITY RATES, THE KCC TRIES TO AVOID HAVING ONE GENERATION OF RATEPAYERS OR ONE "CLASS" (RATEPAYERS HAVING SIMILAR COST RESPONSIBILITY CHARACTERISTICS) SUBSIDIZE ANOTHER. WHERE CWIP IS INCLUDED IN THE RATE BASE,

HOWEVER, PRESENT RATEPAYERS WOULD BE DISCRIMINATED AGAINST; THEY WOULD BE PAYING FOR FUTURE SERVICES FROM WHICH THEY WOULD NOT NECESSARILY BENEFIT, ONCE THE PROJECT IS COMPLETED AND OPERATIONAL. WITH PROJECT LEAD TIMES STRETCHING OVER DECADES, THE IDENTITY BETWEEN PRESENT AND FUTURE CUSTOMERS IS VERY LIKELY TO DIFFER. SOME RATEPAYERS WOULD MOVE OUT OF THE SERVICE AREA. (CENSUS DATA INDICATES THAT THE AVERAGE AMERICAN MOVES 13 TIMES IN A LIFETIME.) MOREOVER, ELDERLY RATEPAYERS WHO CAN LEAST AFFORD IT WOULD NOT BENEFIT IN PROPORTION TO THEIR CONTRIBUTIONS TO THE CONSTRUCTION OF THE UTILITY'S PROPERTY. MANY OF THEM WOULD DIE BEFORE THEY RECEIVE ANY BENEFITS AT ALL FROM A PROJECT FOR WHICH THEY HAVE PAID.

THE INCLUSION OF CWIP IN THE RATE BASE VIOLATES THE FUNDAMENTAL REGULATORY OBJECTIVES AND RESPONSIBILITIES OF DETERMINING AND ALLOCATING COSTS FAIRLY AMONG UTILITY RATEPAYERS.

(3) DILUTES EFFICIENCY INCENTIVES.

SENATE BILL 88 HAS THE EFFECT OF DISCOURAGING UTILITY COMPANIES FROM COMPLETING CONSTRUCTION OF THEIR PROPERTY AS ECONOMICALLY AND EXPEDITIOUSLY AS POSSIBLE. IF UTILITY COMPANIES HAVE ACCESS TO RATEPAYERS' INTEREST-FREE CAPITAL TO FINANCE THE CONSTRUCTION OF THEIR PROPERTY, THEY MIGHT NOT BE AS PRESSED TO COMPLETE THAT CONSTRUCTION IN A TIMELY MANNER.

THIS PROPOSED LEGISLATION ALSO IGNORES THE TIME VALUE OF MONEY. THE TIME VALUE OF MONEY IS THE VALUE TODAY OF A FUTURE PAYMENT OR PAYMENTS DISCOUNTED AT APPROPRIATE DISCOUNT RATES. WERE CWIP INCLUDED IN THE RATE BASE, RATEPAYERS WOULD PAY AN ADDITIONAL INCREMENT ON THEIR MONTHLY BILL WHICH LEAVES THEM LESS DISCRETIONARY MONEY FOR PERSONAL INVESTMENTS OR, MORE LIKELY IN THESE TIMES, FOR OTHER ELEMENTARY NEEDS.

LOW INCOME CONSUMERS HAVE HIGHER TIME VALUES OF MONEY THAN INSTITUTIONAL INVESTORS SUCH AS BANKS; THEIR UNWILLING INVESTMENT IN CONSTRUCTION COSTS, WERE CWIP MANDATED, WOULD BE OTHERWISE APPLIED TO THE PURCHASE OF THE ESSENTIAL NECESSITIES OF FOOD, MEDICINE, AND CLOTHING.

THE INCLUSION OF CWIP IN THE RATE BASE DILUTES EFFICIENCY INCENTIVES AND IGNORES THE TIME VALUE OF MONEY. THIS HAS THE EFFECT OF NOT SERVING THE BEST INTERESTS OF RATEPAYERS.

(4) LEGITIMIZES CUSTOMERS AS FINANCIERS.

SENATE BILL 88, IN ESSENCE, LEGITIMIZES CUSTOMER PARTICIPATION AS A FINANCING METHOD. UNLIKE TRADITIONAL INVESTORS, HOWEVER, CUSTOMERS WOULD BE FORCED TO INVEST IN A UTILITY'S PROPERTY AND WOULD REALIZE NO MONETARY RETURN FOR THEIR INVESTMENT. ONCE THE UTILITY'S PROPERTY IS COMPLETED, THE TRADITIONAL INVESTOR COULD LOOK FORWARD TO APPROXIMATELY THIRTY YEARS OF RETURN ON INVESTMENT. THE UNWILLING INVESTOR--THE

55 to 60%

CUSTOMER--BY CONTRAST, WOULD REVERT TO HIS OR HER TRADITIONAL ROLE AND PAY FOR THE SHAREHOLDER'S RETURN THROUGH THE MONTHLY UTILITY BILL.

BY SERVING AS UNWILLING FINANCIERS OF CONSTRUCTION, CUSTOMERS ARE PENALIZED TWICE. FIRST, THEY WOULD HAVE TO CONTRIBUTE TO THE CONSTRUCTION COSTS OF PROPERTY WITHOUT RECEIVING SERVICE FROM IT OVER A SUBSTANTIAL PERIOD OF TIME. SECOND, THEY WOULD ALSO NOT RECEIVE THE BENEFITS (FORGONE COSTS) WHICH WOULD HAVE BEEN ACCRUED FROM LESS COSTLY RENEWABLE PROJECTS OR SYSTEMS.

(5) TRANSFER RISKS FROM INVESTORS TO CUSTOMERS.

WHEN CUSTOMERS BECOME UNWILLING INVESTORS IN THE CONSTRUCTION OF UTILITY PROPERTY, THEY ALSO INVOLUNTARILY SHARE THE RISKS OF THAT INVESTMENT. UNLIKE TRADITIONAL INVESTORS, CUSTOMERS HAVE NO POWER TO SELL THEIR INTERESTS, RECEIVE A PORTION OF THE PROFITS, AND AFFECT MANAGEMENT PRACTICES. IN SHORT, THEY BEAR THE FINANCIAL RISKS OF AN INVESTMENT WITHOUT REALIZING THE POTENTIAL BENEFITS.

(6) REVERSES A SOUND, ESTABLISHED POLICY.

IN THE LATE 1970'S, THE LEGISLATORS OF KANSAS DEMONSTRATED THEIR OVERRIDING CONCERN ABOUT THE RAPIDLY ESCALATING COST OF PLANT CONSTRUCTION AND THE PROSPECT OF EXCESS GENERATING CAPACITY BY ENACTING TWO LAWS.

IN 1978, THE LEGISLATURE AMENDED K.S.A. 66-128 TO PROVIDE THAT PROPERTY NOT COMPLETED AND DEDICATED TO PUBLIC SERVICE SHALL NOT BE DEEMED USED AND USEFUL (AND THEREFORE ELIGIBLE TO BE PUT INTO THE RATE BASE) UNLESS THE CONSTRUCTION SHALL BE COMPLETED WITHIN ONE YEAR. THUS, THE LEGISLATURE MANDATED THE POLICY WHICH SENATE BILL 88 SEEKS TO REVERSE.

IN 1979, THE LEGISLATURE ENACTED K.S.A. 66-1,158, ET SEQ., COMMONLY CALLED THE ELECTRIC GENERATION FACILITIES SITING ACT. THIS LEGISLATION PROVIDED THAT NO PUBLIC UTILITY COULD, IN THE FUTURE, UNILATERALLY DECIDE TO BUILD A NEW PLANT. A PERMIT FROM THE COMMISSION, AFTER NOTICE AND PUBLIC HEARING, WOULD BE REQUIRED.

TAKEN TOGETHER, THESE LEGISLATIVE ENACTMENTS HAVE FORMED AND COMMUNICATED A STRONG STATEMENT OF POLICY. BLUNTLY PUT, THE MESSAGE TO UTILITY COMPANIES IS THAT THEY SHOULD BE ABLE TO FULLY JUSTIFY AND FULLY FINANCE ANY EXPANSION BEFORE TAKING ANY AFFIRMATIVE STEPS.

SENATE BILL 88 WOULD BREACH AND REVERSE THIS POLICY. IT WOULD ENCOURAGE RATHER THAN DISCOURAGE NEW CONSTRUCTION. IT WOULD LEGITIMIZE A METHOD OF FINANCING CONSTRUCTION THAT A MAJORITY OF STATES PROHIBIT. IT WOULD TURN ALREADY OVERBURDENED RATEPAYERS INTO RISK TAKERS AND INVESTORS.

SENATE BILL 88 SHOULD BE DEFEATED.

II. ANALYSIS OF SENATE BILL 88

THE KANSAS CORPORATION COMMISSION IS REQUIRED BY CURRENT LAW--K.S.A. 66-128--TO EXCLUDE FROM THE RATE BASE ANY PROPERTY WHICH HAS NOT BEEN COMPLETED AND DEDICATED TO COMMERCIAL USE AND THE CONSTRUCTION OF WHICH WILL NOT BE COMPLETED WITHIN ONE YEAR. IF, HOWEVER, THE CONSTRUCTION OF THAT PROPERTY WILL BE COMPLETED IN ONE YEAR OR LESS, IT IS LEFT TO THE DISCRETION OF THE KCC WHETHER TO INCLUDE IT IN THE RATE BASE.

SENATE BILL 88 CREATES TWO SITUATIONS FOR PLACING CWIP INTO THE RATE BASE. WHERE THE CONSTRUCTION WILL BE COMPLETED WITHIN ONE YEAR, THE COMMISSION IS REQUIRED TO ALLOW THE ENTIRE COST OF CWIP INTO THE RATE BASE. THIS PROVISION REVERSES CURRENT STANDARDS AND ELIMINATES THE COMMISSION'S DISCRETION GRANTED TO IT UNDER PRESENT LAW. SECOND, SB 88 REQUIRES THE ADDITION OF A PORTION OF CWIP IN CASES WHERE COMPLETION EXCEEDS ONE YEAR. IN THOSE CASES, THE AMOUNT OF CWIP ALLOWED IS THE AMOUNT BY WHICH THE VALUE OF THE CONSTRUCTION WORK EXCEEDS 10% OF THE UTILITY'S NET PLANT IN SERVICE. IN OTHER WORDS, THE UTILITY COULD ADD AN AMOUNT EQUAL TO THE DIFFERENCE BETWEEN THE TOTAL VALUE OF THE CONSTRUCTION WORK AND THE VALUE OF 10% OF THE NET PLANT IN SERVICE. THUS, A UTILITY WITH \$100 MILLION NET PLANT IN SERVICE SEEKING TO ADD A \$50 MILLION CONSTRUCTION PROJECT COULD ADD \$40 MILLION TO THE RATE BASE (\$50 MILLION--10% OF \$100 MILLION [\$10 MILLION] = \$40 MILLION.)

THE AMENDATORY LANGUAGE CONTAINED IN SB 88 CONTAINS THE WORD "VALUE" OF PROPERTY, RATHER THAN "COST." THE VALUATION OF CONSTRUCTION PROJECTS WITH AN EXPECTED DURATION OF SEVERAL YEARS MAY PROVE DIFFICULT. THE WORDING OF THIS BILL SUGGESTS A RETURN TO THE "VALUE OF SERVICE" CONCEPT OF RATE MAKING WHICH IS CONTRARY TO PRESENT PRACTICES.

CWIP AND THE TELEPHONE UTILITIES

THE AT&T DIVESTITURE AND OTHER CHANGES IN TELEPHONE REGULATION MAY COMPEL SIGNIFICANT NEW CONSTRUCTION BY THE TELEPHONE COMPANIES--ESPECIALLY CONSTRUCTION OF FACILITIES NECESSARY TO PROVIDE EQUAL ACCESS TO INTEREXCHANGE CARRIERS AND TO FACILITATE USE OF THE TELEPHONE NETWORK FOR "ADVANCED" OR "ENHANCED" SERVICES, E.G., COMPUTER DATA TRANSMISSION.

ALLOWANCES OF CWIP FOR THESE PROJECTS WOULD BE QUESTIONABLE FOR SEVERAL REASONS. FIRST, TO THE EXTENT THAT SWB IS COMPELLED TO ENGAGE IN CONSTRUCTION TO COMPLY WITH AN ANTITRUST CONSENT JUDGMENT, IT WOULD NOT SEEM PROPER FOR RATEPAYERS TO PREMATURELY PAY THOSE COSTS. SECOND, IT IS UNCLEAR AT THIS POINT HOW COSTS WILL BE ALLOCATED AND RECOVERED ONCE SUCH FACILITIES ARE ACTUALLY IN SERVICE. ALLOCATION OF SUCH COSTS WHEN IT IS STILL CWIP WOULD, TO A CERTAIN EXTENT, BE GUESSWORK. THIRD, THE EXACT NATURE AND SCOPE OF FACILITIES NEEDED TO PROVIDE VARIOUS KINDS OF TELECOMMUNICATION SERVICES IS UNCERTAIN. INCLUSION OF CWIP REMOVES SOME MANAGEMENT INCENTIVES TO ACCURATELY FORECAST FUTURE NEEDS AND PUTS SOME OF THE RISK ON MONOPOLY RATEPAYERS OF COPING WITH EMERGING COMPETITION IN TELECOMMUNICATIONS.

STATEMENT
OF
IVAN W. WYATT, PRESIDENT
KANSAS FARMERS UNION
McPHERSON, KANSAS
ON SENATE BILL No. 88 (CWIP)
BEFORE
THE SENATE COMMITTEE
ON
TRANSPORTATION AND UTILITIES

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE:

I AM IVAN WYATT, PRESIDENT OF THE KANSAS FARMERS UNION.

THE KANSAS FARMERS UNION HAS ALWAYS OPPOSED ALLOWING PRIVATELY OWNED CORPORATIONS OR INDIVIDUALS USING THE POWER OF THE STATE TO FORCE CONSUMERS OF GOODS AND SERVICES TO PAY FOR THOSE GOODS OR SERVICES BEFORE RECEIVING THEM, OR STATE MANDATED INVESTMENTS.

THIS POSITION IS BASED ON BASICS OF THIS NATION'S FREE ENTERPRISE, CAPITALISTIC PRINCIPALS. I WILL DEAL WITH THAT PART OF THE ISSUE A LITTLE LATER.

TO ALLOW "CONSTRUCTION WORK IN PROGRESS" COSTS TO BE ADDED TO TODAY'S CONSUMER UTILITY BILL BEFORE COMPLETION WOULD HAVE SEVERAL NEGATIVE EFFECTS.

1. SINCE SUCH CONSTRUCTION WORK IS OFTEN ON A COST PLUS BASIS, THERE WOULD BE A LESSENING OF INCENTIVE FOR SPEEDY, COST EFFECTIVE COMPLETION OF THE PLANT BY BOTH CONTRACTOR AND MANAGEMENT.

2. IF "CWIP" CHARGES WERE ALLOWED, MANAGEMENT WOULD ENJOY A LESSENING OF STOCKHOLDER CONCERN FOR TIMELY, EFFICIENT COMPLETION OF CONSTRUCTION.

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3. IF "CWIP" CHARGES WERE ALLOWED TO BE ADDED INTO THE CONSUMERS PRESENT UTILITY BILL, MANY CUSTOMERS, ESPECIALLY THE AGED, AND THOSE THAT MAY MOVE LATER FROM THE NEW PLANT'S SERVICE AREA, WOULD NEVER ENJOY ANY RETURN OR THE "PROMISED" REDUCTION OF RATES FOR THEIR "CAPITAL" INVESTMENT, AND THAT IS WHAT CWIP IS, A STATE MANDATED CITIZEN INVESTMENT IN PRIVATE INVESTOR VENTURE.

THE MONTHLY BILLING OF THE CONSUMER FOR THE USE OF A UTILITY IS FOR THREE THINGS.

IN THE CASE OF ELECTRICITY, THAT CHARGE IS FOR 1.) COST OF GENERATION, 2.) COST OF TRANSMISSION, 3.) A REASONABLE RETURN ON THE STOCKHOLDERS INVESTMENT IN THE TANGIBLE ASSETS OF THE UTILITY.

SENATE BILL 88 WOULD BE A STATE MANDATE THAT WOULD ORDER THE PEOPLE LIVING IN A PARTICULAR UTILITY SERVICE AREA TO INVEST IN "XYZ" INVESTOR OWNED UTILITY, REGARDLESS OF THEIR PERSONAL NEEDS OR FINANCIAL STATUS.

THOSE PERSONS WOULD NOT BE ALLOWED THE CHOICE TO INVEST THOSE MONIES IN SUCH THINGS AS AN ALTERNATIVE SOURCE OF ENERGY, THEY WOULD BE DENIED THE OPPORTUNITY TO INVEST THOSE MONIES IN INCOME GENERATING INVESTMENTS, THEY WOULD BE DENIED THE USE OF THOSE MONIES TO PAY OTHER BILLS SUCH AS FOOD, CLOTHES, OR WHATEVER.

THEY WOULD BE COMPELLED TO MAKE, NOT AN INVESTMENT, BUT A DONATION IN THE "XYZ" UTILITY REGARDLESS OF AGE, REGARDLESS IF THEY HAD TO BORROW THE MONEY, REGARDLESS IF THEY WERE UNEMPLOYED, REGARDLESS IF THEY WERE A FARMER TRYING TO SAVE HIS FARM.

SB. 88 IS NOTHING MORE THAN A BOLD EFFORT TO PICK THE POCKETS OF A CAPTIVE CONSUMER.

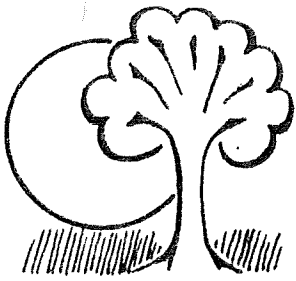
SB. 88 IS A MOVE TO FORCE THE PUBLIC TO MAKE A CAPITAL INVESTMENT IN TANGIBLE PROPERTY OF A PRIVATE INVESTOR VENTURE WITHOUT GIVING EITHER TITLE OR A CERTIFICATE OF INDEBTEDNESS FOR THEIR CAPITAL.

AT THE VERY LEAST, THOSE BEING FORCED TO MAKE THESE INVESTMENTS SHOULD BE ISSUED PREFERRED STOCK FOR THEIR INVESTMENT.

PREFERRED STOCK IS STOCK IN A CORPORATION WHICH CONFERS UPON THE HOLDER A PRIOR RIGHT TO DIVIDENDS, OR TO PAYMENT OUT OF THE ASSETS OF THE CORPORATION IN THE EVENT THE CORPORATION IS DISSOLVED. THE DIVIDENDS OF THE PREFERRED STOCK OF THOSE CAPTIVE INVESTORS SHOULD BE CUMULATIVE.

I CAN'T HELP BUT ASK, WHAT WOULD BE THE REACTION OF THE GENERAL PUBLIC IF CONGRESS OR THE KANSAS LEGISLATURE WAS TO ENACT LEGISLATION STATING THAT BONDS WOULD BE ISSUED AND EVERYONE UNDER THREAT OF LAW WOULD BE COMPELLED TO PURCHASE THESE BONDS WITH NO GUARANTEE OF RETURN?

AND, FINALLY, I HAVE TO ASK, SINCE SB. 88 WAS INTRODUCED AT THE REQUEST OF THE ELECTRIC COMPANIES ASSOCIATION, IF THERE MAY BE CONSIDERATION OF SHUTTING DOWN CONSTRUCTION OF THE BURLINGTON POWER PLANT, WHICH WOULD, IF SB. 88 BECAME LAW, MAKE IT POSSIBLE FOR THOSE INVOLVED TO CHARGE OFF THOSE COSTS TO THE CAPTIVE CONSUMER, FOR WHAT MAY HAVE BEEN A BAD MANAGEMENT DECISION MADE BY THE ORIGINAL INVESTORS AND MANAGEMENT OF THOSE COMPANIES?



Kansas
Natural
Resource
Council

5130 Mission Road
Shawnee Mission, Ks 66205
913 362-5933

Attachment 3

TESTIMONY

before the

Senate Transportation & Utilities Committee

by

Mari Peterson

Re: Opposition to S.B. 88

February 3, 1983

As Executive Director of the Kansas Natural Resource Council, I am speaking today on behalf of the participants of the Third Annual Environmental Lobbying Conference, including the Kansas Audubon Council, Kansas Sierra Club, The Land Institute, the Public Assistance Coalition, and 18 other energy, environmental, farm and low-income groups.

At the onset, it must be made clear that allowing Construction Work in Progress (CWIP) into the rate base is unnecessary for future construction projects. Kansas Power & Light has taught this state a valuable lesson through its Jeffrey Energy Center project. KP&L has taught us that it is most financially prudent to build smaller plant units and incrementally add them to the overall capacity of the utility. As electricity demand decreased, KP&L was able to indefinitely postpone Unit 4 at the Jeffrey Energy Center. Units 1, 2, & 3 were sufficient to meet its customers' energy needs, and as each unit was completed, it was ready to go on-line and into the rate base. In the future, other utilities in this state would be wise to follow KP&L's excellent example.

To allow CWIP for future construction would be a mistake. It would reduce the utilities' incentive to responsibly manage their future investments. Utilities should find it advantageous to build smaller units which can incrementally meet the uncertain future demand for electricity. If they do so, utilities will have more manageable construction projects and

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will find themselves in a better position to raise capital. The size of the project will more appropriately match their financing capabilities. There should be less propensity to overbuild.

Clearly, we would be best off without CWIP for future construction projects. Do we really need it now for present construction? KP&L certainly doesn't need CWIP with its high bond rating. It can raise sufficient capital. Obviously, CWIP would not apply to the Holcomb plant being constructed by Sunflower Electric Co-op since the ratepayers and "stockholders" are one and the same in a co-op. That leaves Kansas City Power & Light and Kansas Gas & Electric's construction project. KG&E appears to be in the worse financial predicament of the two companies, yet Mr. Haines assured the committee yesterday that CWIP is not necessary for the economic health of KG&E. He denied that this is a bailout issue.

Allegedly the proponents of this bill are concerned about providing ratepayers with the lowest cost in the long-run for the present construction work underway. If this is the case, thank you for your concern. However, there are issues more important to us.

Brian Moline of the Kansas Corporation Commission has publicly stated that the inclusion of Construction Work in Progress in the rate base will increase KG&E and KCP&L ratepayers' bills 58% within the year. Given the fact that the average household currently pays \$40.58 per month for electricity, this means that household will be paying \$284 more per year with CWIP.

Regardless of how much we would pay later without CWIP, it is a fundamental economic principle that current dollars are more valuable than future dollars. You must presume that we, the individual people of Kansas, know best how to spend or invest our current dollars. An amount the size of \$284 per year can be critical to some people.

Most of us would rationally choose not to spend our money in a manner

in which we receive nothing in return. And yet we're being asked to invest in a construction project for which we receive no stock, no dividends, and no voice in management.

Stockholders have a choice whether or not they want to invest in a project. This bill tells us, the ratepayers, that we have no choice. The stockholder can trade his or her utility stock. We would have no options; we would be forced to pay \$284 per household this next year. That is \$284 that we would be unable to invest elsewhere.

There is talk that KG&E may not be able to borrow at any cost without CWIP. Some ratepayers are unable to borrow at any cost right now. They lack collateral to borrow for their personal investment needs, be it a home or a car, yet this bill would have these people invest their money in KG&E or KCP&L so these utilities might continue their construction project.

People need electricity (and generally they're paying for what they're receiving), but they have other needs as well, several of which may require investments. Why should the state dictate their investment in Wolf Creek, especially when they will currently receive nothing for that investment?

There are thousands of Kansans who can barely pay their utility bills right now. Are we going to ask them to invest \$284 a year in Wolf Creek?

When a customer supplies money for the growth of a private business, this is investment capital. However, in this case there is no financial return for use of the customers capital.

Essentially, allowing Construction Work in Progress in the rate base eliminates the risk of investors in utility stocks and bonds. Do we or do we not believe in free market principles? Attorney General Robert Stephan made the statement in relation to the liquor pricing debate that "no consumer should ever have to be the guarantor of a business."

This is not how our economic system is to operate. For this reason, the ratepayers in Kansas should not have to guarantee the utilities' investments. Their projects are currently financed by risk capital, and such it should remain.

Certainly the utilities do not really want us to shy away from the free market and the use of risk capital. Have they thought of the implications? If ratepayers pay for future plants, what need is there for investors? Are the utility representatives really advocating public ownership of the utilities?

Kansans should only have to pay for that electricity which they receive and only that plant capacity which their demand requires. We should not have to pay for a future plant from which we currently do not receive electricity. Where else in the private sector does a consumer have to pay for a capital investment which will produce future products he or she may not receive? CWIP would have current customers pay higher rates for benefits to future customers. If CWIP is allowed, there will be people that will have to pay \$284 this year who will not be around when the Wolf Creek plant comes on-line. This is an injustice.

Please realize that if we chose to invest in Wolf Creek, then we will go ahead and do so through the "free market" through the stocks the utilities issue. If we can find a higher rate of return, we will invest our money elsewhere. If we do not have money to invest in stock, money markets, or certificates of deposit, then we certainly do not have the money to invest in power plants, especially when we do not get any dividends.

If I were a legislator, I would be wary of raising electricity rates 58% at a time when they are already high and pressing on people's increasingly limited resources due to a stagnant economy.

We don't need CWIP for future construction. KG&E and KCP&L said

yesterday that CWIP is not necessary for their financial health. Then it becomes only a concern of the ratepayers, and we would rather retain our current money for other investments and expenditures. \$284 a year is a lot to ask of us for uncertain returns. Because of the possible injustices and violations of free market principles, I ask you to vote in opposition to Senate Bill 88.

Jeffrey Stephens

The central issue I wish to address in regard to KG&E's request for C.W.I.P. funding is the clear incentive to mismanagement that such funding encourages.

It is obvious that substantial mistakes, errors, and dangerous defects in construction have driven the price tag of Wolf Creek up in astronomical leaps. If, every time a utility bungles a job, it can bail itself out by passing on unnecessarily generated costs and expenses to the public, there will be no motivation for management to act in a competent, careful manner.

In the case of Wolf Creek, allowing KG&E to recapture losses stemming from its own inept operations creates a dangerous precedent for all such public service oriented corporations. The cost of Wolf Creek has gone from an estimated \$484 Million to an open-ended \$2.5 Billion. 27,000 misplaced pipe-hangers manufactured from inferior steel have helped delay Wolf Creek's going on line, adding \$1 Million a day to the plant's already insufferable cost. More frightful than the finances of this incredible blunder is the fact that the negligently placed and manufactured pipe-hangers are an integral part of the reactor cooling system. This "mistake" by KG&E threatens the lives of Kansans, not merely their pocketbooks.

And now KG&E is saying, "We need more money." Money for what? For more mistakes and blunders? More encouragement to construct a nuclear power plant in a manner thoughtless and slipshod?

Examples of the cost of errors in management, construction, and operation can be epitomized by the incident at Three Mile Island : \$1.2 Billion to clean up the mess. Who will foot that bill? Are decontamination, detoxification, waste removal, waste storage, waste

Atch. 4

transportation, waste ad infinitum expenses that Kansas ratepayers will have to bear because KG&E blew it due to the incompetence of its management? Mismanagement, past, present, and future, caused by the irresponsibility of KG&E, will only be furthered by allowing C.W.I.P. funding in these circumstances.

We are not talking about an ordinary private corporation. When mismanagement of the sort seen at Wolf Creek occurs within a totally private corporation, the shareholders act. They get rid of the managers. Shareholders suffering losses on their investments do something to correct the situation. And customers act too when faced with prices inflated as much as KG&E proposes; they take their business elsewhere.

Passing the costs of KG&E's mismanagement on to the ratepayer removes all incentive for the shareholders to replace the incompetent managers; the shareholders suffer no loss and feel no need to act.

The ratepayers on the other hand can't take their business elsewhere and they can't do anything about the managers because the ratepayers aren't shareholders.

The ratepayers are thus forced to share in corporate losses without any share in corporate profits. The ratepayers are shareholders without stock. In effect, C.W.I.P. funding acts to preserve shareholder dividends in the face of a negative balance sheet. All risk of loss is assigned to the ratepayer. When C.W.I.P. funding is necessitated by the negligence and ineptitude of management, ratepayers become subsidizers and guarantors of shareholder investments. Ratepayers are protecting shareholders from the mistakes of managers over whom the ratepayers have no control and whom the shareholders have no incentive to remove.

This situation is all the more intolerable when it is realized that Kansas ratepayers are contributing to the growth of a private business the profits of which go to such out-of-state shareholders as Merrill Lynch, E.F.Hutton, Dean Witter Reynolds.

Other issues central to the issue of C.W.I.P. funding are:

The only ratepayer who could benefit at all from the proposed C.W.I.P. charges would be the ratepayer who remains in the rate area for the life of the plant. Those who pay now and then move away or die effectively lose their "investment".

C.W.I.P. funding encourages planning and construction beyond the needs of the locale. More physical plant means more profit, with the sale of excess power going to out-of-state interests, all at the expense of Kansas ratepayers.

In regard to the "savings" to ratepayers of C.W.I.P. funding :

C.W.I.P. payments remove dollars from ratepayers that could have been retained and invested for some return.

C.W.I.P. payments are made now; future payments could be made with inflated, hence less valuable dollars.

C.W.I.P. payments are revenue to KG&E and are taxable as income. Any need for funds under the C.W.I.P. provisions would necessarily require an additional amount above the construction need to pay the taxes on this added income or revenue. That is, construction requirements plus taxes equals C.W.I.P. payments to be assessed ratepayers.

Of course, KG&E may have to resort to C.W.I.P. because it can't get funds any other way - a clear demonstration of the lack of market confidence in KG&E because of its continued mistakes, negligence, and mismanagement. Under the circumstances, the burden of supporting the mismanagement of KG&E should not be placed on the shoulders of Kansas ratepayers by C.W.I.P. or any other provision of law.

Stevie Stephens

ATTACHMENT 5

I would like this Senate Committee to consider that by instituting KG&E's request for additional C.W.I.P., Kansas would be granting the utility a blank check for substantial unaddressed expenses that may be passed on immediately to the ratepayers.

Decommissioning is an absolute result and expense of nuclear generation. As such it is part of the financial burden and consideration of those ratepayers who receive the services.

I quote ~~f~~ from a 1982 GAO report to Congress, "A proposed decommissioning policy is expected to be finalized and effective in late 1983 and will no longer allow unsecured decommissioning funding assurances." It further allows two funding options. The first is a third party guarantee of payment in the event of default and the second is prepayment. The NRC is leaning toward the later option.¹

If these funds are required by the federal government to be amassed by KG&E prior to Wolf Creek going on line, then these additional expenses could be passed on to the ratepayers under the C.W.I.P. provision.

As no large commercial reactor has yet been decommissioned it leaves much room for speculation. The largest reactor to be decommissioned was only 22 Mw. The government is now planning the decommissioning of its 60 Mw Shippingport reactor. This procedure will take at least five years at an estimated cost of \$40 million.² This will probably prove to be, as with other nuclear power plant cost estimates a severe undervaluation.

One utility has already asked for a rate increase of over \$133 million to pay for the decommissioning of their 63 Mw plant.³ An extrapolation of this request in the Wolf Creek application would result in \$2.4 billion in rate increases.

The cost estimates of decommissioning does not include the other major expenses of: Multi-million dollar preliminary survey, materials, evaluation of monitoring, final survey, license and inspection fees, maintainance costs, and liability insurance.⁴

The NRC has cited many ways during the planning and construction phases to reduce costs of decommissioning.⁵ I would be interested to know if any of these have been implemented at Wolf Creek.

It is understood that a reactor site being studied for termination has already been decontaminated. These expenses are not reflected in the decommissioning estimates. These include removing

*Statement of Stevie Stephens, Jopanspie
Atch. 5*

not only the spent fuel assemblies, but the reactor vessel, related piping and highly contaminated equipment. The procedure to remove the reactor vessel alone has been estimated at \$8 million.⁶ At the end of the operation the cranes and other equipment will have to be cut up and treated as waste.

There will be approximately 18,000 cubic meters of concrete and steel generated in the dismantling of a 1200 Mw reactor. This is about one fourth the volume of low-level wastes now generated in the United States yearly.

It is approximated to cost \$100.00 per cubic meter to dispose of waste, which is an additional expense approaching \$2 million.⁷ But since there is no permanent waste disposal site anywhere in the United States, the cost of storage cannot be estimated.

There are further containment fees and transportation costs.

Waste brings up the question of what would happen in the event the utility defaults on its decommissioning commitments. Take as an example the default at West Valley, New York which left over \$1 billion clean-up for the state or federal governments.⁸

I would like to briefly mention two other undisclosed major expenses. First the utility's responsibility for up to \$10 million per year into the Price-Anderson Act fund for reactor accidents anywhere in the country.⁹ And secondly costs relating to defects which have been plaguing the entire nuclear industry. More specifically Embrittlement of the reactor vessel which has shown up in as many as forty-six reactors.¹⁰ Not only is this dangerous, but it has the potential of reducing the life expectancy of the plant by half (therefore effectively doubling the cost of the plant to the rate-payers). It also requires that the reactor operate at reduced capacity. And finally generic defects in Steam Generators in at least twenty-two plants. These have been primarily manufactured by Westinghouse, like the ones at Wolf Creek. Estimates for replacement at one plant is \$250 million.¹¹

This has been an attempt to address expenses which may be required to be funded prior to Wolf Creek becoming operational, that is expense that may come under the C.W.I.P. provision.

1. "Report to the Congress of the United States" by the Comptroller General, United States General Accounting Office p. 22

KG&E & KCP&L have opted for "Internal Depreciation Reserve" which is "a reserve accumulated over the estimated life of the plant on company accounting records although no specific funds are set aside for decommissioning. Since these funds will be undifferentiated from other sources they will be expended in the normal course of business. Both KEPCO & KGE/KCPL acknowledged that under this approach, at the time that the money for decommissioning is needed each of the owners will have to borrow the funds necessary for decommissioning."

Quote from "Problems of Nuclear Power, Weapons, & Storage in Kansas" p. 33

2. "Long Term Problem for the Nuclear Industry" Science vol.215 p. 376 January 22,1982
3. "Citizen Intervention in the Regulatory Process" by John Liethauser p. 11 Copyright 1980
4. "Technology and Cost of Termination Surveys Associated with Decommissioning of Nuclear Facilities" for the NRC by Oak Ridge National Laboratory 2/82 p.30
5. "Technology, Safety, and Costs of Decommissioning Nuclear Facility at Multiple-Reactor Stations" for the NRC by Pacific Northwest Laboratory 1/82 p.11-3
6. Idem. "Technology, Safety, & Costs..." p.11-14
7. Idem. "Technology..." p. A-2
8. Idem. GAO report p.22
9. Price-Anderson fund requires \$5 million for each incident from each reactor, not more than \$10 million per year.
Idem. "Problems of Nuclear Power..." p.18
10. "Accident Analysis" Nuclear Safety Vol. 21 #6 Nv-Dc-1980 p.724
11. "22 Reactors Troubled by Generic Flaw" Groundswell Nv-79 p.10

LWVK LEAGUE OF WOMEN VOTERS OF KANSAS

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Topeka, Kansas 66612

February 3, 1983

Statement to Senate Committee on Transportation & Utilities in
opposition to SB 88.

The Kansas League of Women Voters opposes the passage of SB 88
for the following reasons:

1. The League advocates lower utility rates (lifeline) to low income users and lowest rates to those who consume the least (conservation rates). The across-the-board rate increase which would result from SB 88 would be contrary to both aims.
2. A fundamental tenet of the League is that citizens should participate in the decisions which effect them. The decision process which results in the construction of additional utility construction does not permit or does not encourage adequate consumer participation and therefore the cost of construction should not automatically be passed on to them.
3. The League supports policies which bring about a reduction in energy growth rate and which give priority to conservation and to renewable resources. SB 88, by transferring the burden of construction costs to consumers, would remove from the utility owners and managers the greatest disincentive to overbuild. It would remove a significant incentive to help reduce energy growth rates and remove the incentive to cooperate with efforts to conserve.



Ed Reinert, Lobbyist
League of Women Voters of Kansas

Feb 3, 1983

The Kansas Chapter of the Sierra Club,

Statement to the Senate Committee on Transportation and Utilities
on Senate Bill 88 Construction work on Progress.

The Kansas Chapter of the Sierra Club opposes legislation which would finance the cost of unfinished utility construction through increased rates to consumers.

In this state, indeed in many states, the means for consumer participation in decisions about where, and with what, capacity and whether future generators should be built is faulty at best. In the absence of such a mechanism it is unfair the consumer should be asked to bear any part of the cost until the necessity for such construction has been proved.

When utilities know that they must bear the costs of construction until proven need, they will be more circumspect in their planning and more willing to promote conservation as an alternative to generating capacity.



Ed Reinert

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