

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. a.m./p.m. on Friday, February 17, 1984 in room 254-E of the Capitol.

All members were present except:

Senators Hein, Kerr and Hayden

Committee staff present:

Fred Carman, Hank Avila, Rosalie Black

Conferees appearing before the committee:

SB 542 - Senator Jack Steineger; Ed Peterson, Corporation Commission;
Ed Schaub, Southwestern Bell; Wilbur Leonard, KS Telephone Association;
Tom Gleason, Attorney, representing independent telephone companies, Ottawa;
Sylvia Hougland, Dept. of Aging; Pat Donahue, KS Legal Services

The meeting was called to order by Senator Talkington, Chairman, to discuss Senate Bill No. 542 which, if passed, would provide financial assistance for intervenors representing residential ratepayers at KCC hearings.

SENATE BILL NO. 542 - HEARING

Senator Jack Steineger explained that while large industrial ratepayers and large commercial ratepayers are well represented at KCC hearings, no one specifically represents interests of residential ratepayers. Senate Bill 542 would give the KCC clear authority to provide financial assistance for persons representing residential ratepayers, however, it would require specific findings by the commission before any assistance could be granted. He added that the financial assistance concept has been used in other states. (See Attachment 1.)

Secretary of Aging, Sylvia Hougland, supported the measure on the basis that residential ratepayers, who pay the KCC's expenses along with the expenses of utility representation appearing before the KCC for rate base increases, have no representation of their own in KCC hearings.

Pat Donahue indicated that as a representative appearing before the KCC on behalf of low income residential consumers, it is difficult for an individual going it alone who must face voluminous documentation and charts prepared by utility representatives. Also, he pointed out that currently residential consumers must have unique reason to appear before the KCC and must bear their own expenses.

Ed Peterson stated that the commission believes that participation by small

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES,
room 254-E, Statehouse, at 9:00 a.m. on February 17, 1984.

SENATE BILL NO. 542 - HEARING (con't)

commercial and residential consumers should be assisted and encouraged. He presented a letter from Pete Loux indicating his personal support of SB 542 in allowing the KCC power to award the costs of consumer participation for intervenors who present unrepresented issues. (See Attachment 2.)

Ed Schaub, Wilbur Leonard and Tom Gleason, representing various telephone companies, objected to SB 542 because the KCC already has long encouraged participation by the public in rate hearings and general investigations involving telephone public utilities; telephone companies are required to mail notices to their customers advising them of requested changes and informing them of procedures which they can follow to make their views known to the commission; and the KCC has established a division with a staff whose primary duties are to consider consumer complaints. (See Attachment 3.)

The meeting adjourned at 10:02 a.m.



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

NAME	ADDRESS	ORGANIZATION	BILL NO.
BILL PERDUE	TOPEKA	KPL/GAS SERVICE	542
Harold Shoaf	"	KCC	542
Rick Keady	"	KPL/Gas Service Co.	"
E. Peterson	"	KCC	542
Kent Foerster	"	KCC	542
David W. Nickel	"	KCC	542
M. Haworth	"	Top. Comm.	
Tom VATAKKA	"	Ks Moral Careers Assn	
Ray D. Shenke	Shawnee	K.C.P.L.	542
Ken Stanton	Topeka	NORTHERN NATURAL GAS	542
JERRY CONROD	"	KG & E	542
JAMES H. PRICE	GARDNER	CONTEL	542
Wilbur Leonard	Topoka	Ks. Tel. Assn	542
Jeff Riss	TOPEKA	UNITED TEL. OF KS	542
RAT DOMINUE	TOPEKA	KANSAS LEGAL SERVICES INC.	542
Lylea Hargis	TOPEKA	Ks. Dept. on Aging	542
Tim Orleson	OTTAWA	Indep. Tel. COG	542
Wayne Browne	Topeka	AT&T Communications	542
R. Lawrence	Topeka	Senate	542
D. WAYNE ZIMMERMAN	TOPEKA	THE ELECTRIC CO ASSOC. OF KS.	542
Ellen	Topeka	SWB	542
Ed SCHMIDT	TOPEKA	SWB	SB 542
Blaine Juber		AP	

JACK STEINEGER
 MINORITY LEADER
 SENATOR, SIXTH DISTRICT
 STATE CAPITOL BLDG
 TOPEKA, KANSAS 66612
 (313) 297-3242



TOPEKA

SENATE CHAMBER

COMMITTEE ASSIGNMENTS

WAYS AND MEANS
 JUDICIARY
 LEGISLATIVE AND CONGRESSIONAL
 APPOINTMENT
 COORDINATING COUNCIL
 INTERSTATE COOPERATION
 LEGISLATIVE BUDGET

SENATE BILL 542

SENATE TRANSPORTATION & UTILITIES COMMITTEE

FRIDAY, FEBRUARY 17, 1984

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE, AGAIN THIS MORNING, I WOULD LIKE TO SAY GOOD MORNING--FOR THE THIRD MORNING IN A ROW. TODAY I AM HERE TO PRESENT SENATE BILL 542, ANOTHER PART OF THE DEMOCRATIC CONSUMER FAIRNESS PACKAGE. BEFORE BEGINNING, I WOULD POINT OUT THAT THIS BILL, LIKE THE GUARANTEED EMERGENCY TELEPHONE SERVICE BILL HEARD WEDNESDAY, HAS ALL 16 DEMOCRAT SENATORS AS SPONSORS.

SENATE BILL 542 IS A STRAIGHTFORWARD BILL DESIGNED TO IMPROVE RESIDENTIAL CONSUMER PARTICIPATION IN PROCEEDINGS OF THE KANSAS CORPORATION COMMISSION. BEFORE ADDRESSING SPECIFIC PROVISIONS OF THE BILL, PERHAPS A WORD OF EXPLANATION ABOUT KCC PROCEEDINGS WOULD BE HELPFUL.

IN RATE CASES FILED BY KANSAS UTILITIES, THE COMMISSION MUST ANSWER TWO FUNDAMENTAL QUESTIONS. FIRST, HOW MUCH--IF ANY--RATE INCREASE SHOULD BE GRANTED? AND, SECOND, HOW SHOULD ANY RATE INCREASE BE BORNE BY THE VARIOUS CLASSES OF UTILITY CUSTOMERS---THAT IS, RESIDENTIAL, COMMERCIAL AND INDUSTRIAL CUSTOMERS.

Atch. 1

IN ANSWERING THE FIRST QUESTION, THE COMMISSION RECEIVES A GREAT DEAL OF INFORMATION, BOTH FROM ITS STAFF AND INTERVENORS SUCH AS LARGE COMMERCIAL OR INDUSTRIAL CONSUMERS. IN THIS PART OF THE PROCEEDINGS, THE PRIMARY GOAL OF BOTH THE COMMISSION STAFF AND INTERVENORS IS TO MAKE SURE RATEPAYERS---OF ANY CLASS--- ARE NOT CHARGED FOR EXPENSES WHICH SHOULD NOT BE IN THE RATE BASE. SO FAR SO GOOD.

AFTER THE AMOUNT OF ANY RATE INCREASE HAS BEEN DETERMINED, HOWEVER, THE COMMISSION FACES THE SECOND QUESTION: HOW SHOULD THE INCREASE BE SPREAD AMONG THE VARIOUS CLASSES OF RATEPAYERS?

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE, IT IS AT THIS STAGE OF THE PROCEEDING THAT SENATE BILL 542 WOULD BE PARTICULARLY HELPFUL TO KANSAS RESIDENTIAL RATEPAYERS. AS THINGS WORK, THE FACT OF THE MATTER IS.....THAT WHEN A RATE INCREASE IS BEING SPREAD AROUND....THERE'S USUALLY NO ONE SPECIFICALLY REPRESENTING THE INTERESTS OF RESIDENTIAL RATEPAYERS. LARGE INDUSTRIAL RATEPAYERS ARE USUALLY REPRESENTED. LARGE COMMERCIAL RATEPAYERS ARE USUALLY REPRESENTED. IT'S USUALLY ONLY THE RESIDENTIAL CLASS OF CONSUMERS WHICH IS LEFT WITHOUT AN ADVOCATE SPECIFICALLY REPRESENTING THEIR INTERESTS.

SENATE BILL 542 WOULD HELP BALANCE THIS SITUATION BY GIVING THE CORPORATION COMMISSION CLEAR AUTHORITY TO PROVIDE FINANCIAL ASSISTANCE FOR PERSONS REPRESENTING RESIDENTIAL RATEPAYERS. I WANT TO POINT OUT, HOWEVER, THAT THE MECHANISM SET UP BY THE BILL IS NOT OPEN-ENDED. IT WOULD REQUIRE SPECIFIC FINDINGS BY THE COMMISSION BEFORE ANY ASSISTANCE COULD BE GRANTED.

THE COMMISSION WOULD HAVE TO FIND, AND I'M QUOTING FROM THE BILL, THAT: "(1) SUCH PERSON REPRESENTS AN INTEREST WHICH WOULD NOT OTHERWISE BE REPRESENTED ADEQUATELY IN THE PROCEEDING OR HEARING AND WHICH IS NECESSARY FOR THE FAIR DISPOSITION OF THE PROCEEDING OR HEARING. . . AND (2) SUCH PERSON HAS INSUFFICIENT RESOURCES TO PARTICIPATE EFFECTIVELY IN THE PROCEEDING OR HEARING IN THE ABSENCE OF FINANCIAL ASSISTANCE."

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE, I URGE YOUR FAVORABLE CONSIDERATION AND POSITIVE ACTION ON SENATE BILL 542. THIS BILL WOULD GREATLY IMPROVE CITIZEN PARTICIPATION IN UTILITY RATE CASES. IT WOULD REMOVE THE OBSTACLE WHICH NOW BARS--IN MANY CASES--EFFECTIVE REPRESENTATION TO THIS CLASS OF PEOPLE. IT WOULD GUARANTEE RESIDENTIAL RATEPAYERS A VOICE IN RATE-SETTING PROCEEDINGS.

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IN CLOSING, I MIGHT ADD THAT THE CONCEPT EMBODIED IN SENATE BILL 542 HAS BEEN USED IN OTHER STATES, AND I BELIEVE A REPRESENTATIVE OF THE COMMISSION WILL PROVIDE YOU WITH SOME SPECIFIC INFORMATION CONCERNING COSTS AND SO FORTH.

THANK YOU VERY MUCH.

State of Kansas



JOHN CARLIN
MICHAEL LENNEN
R. C. "PETE" LOUX
PHILLIP R. DICK
JUDITH A. Mc CONNELL
BRIAN J. MOLINE

Governor
Chairman
Commissioner
Commissioner
Executive Secretary
General Counsel

State Corporation Commission

Fourth Floor, State Office Bldg.
Ph. 913/296-3355
TOPEKA, KANSAS 66612-1571

February 16, 1984

Senator Robert V. Talkington
Room 357-E
State Capitol
Topeka, Kansas 66612

RE: Senate Bill 542

Dear Senator Talkington:

I am writing to express my personal support for Senate Bill 542. I am supporting expansion of the compensation program for consumer intervenor. I believe there are compelling reasons for supporting Senate Bill 542. I hasten to add that these views are my own and not the official position of the Commission.

The Commission critically needs more input from small commercial and residential consumers. Nowhere is this need more critical than in the area of telephone rates. We are at a crossroads in the telephone industry and the possible courses of action are constrained only by the limits of the imagination. It is not possible for the Commission staff to advocate many of the potentially beneficial alternatives that may be available. Without active consumer participation, the Commission does not have an opportunity to consider neglected alternatives. A similar situation appears to be on the horizon for the natural gas industry.

An unfortunate reality is the fact that small consumers usually cannot afford to participate in utility regulatory proceedings. Senate Bill 542 would soften this harsh reality. Under Senate Bill 542 the Commission would have the power to award the costs of consumer participation for those intervenors who will present unrepresented issues. An important feature of this bill is that it would allow the Commission to prevent duplicative intervention positions from receiving compensation. Similar rules have been adopted in California and Wisconsin without harm to the utilities or the regulatory process.

Atch. 2

Senator Talkington
February 16, 1984
Page 2

At this juncture it is critical that the Commission receive as many viewpoints as possible in order to adequately respond to the many changes taking place in the utility industry. Without some form of assistance the small consumer perspective cannot be fully presented. Senate Bill 542 is a very reasonable approach for providing such representation. I urge its enactment.

Sincerely,



R. C. "Pete" Loux
Commissioner
Kansas Corporation Commission

RCL:hb

COMMENTS FOR LEGISLATURE
REGARDING CONSUMER PARTICIPATION LEGISLATION

An often quoted axiom suggests that decisions made in a democratic process are only as strong as the information available to the decision-makers. Utility rate making clearly conforms to this rule; much information is required to render adequate decisions on these complex and technical issues. Many times this Commission receives critical information from consumer groups that intervene in ratemaking proceedings. Despite the potential contributions intervenors could make to Commission proceedings, there are serious obstacles that impede the participation of these groups. It is very difficult for the small consumer to obtain the expertise and financial resources necessary to participate meaningfully in regulatory proceedings.

The Corporation Commission supports some form of increased intervenor participation in proceedings before the Commission. This Commission has taken several steps within its current authority to remove obstacles to consumer participation:

1. The Commission has conducted public hearings across the state during utility rate cases to allow affected consumers to voice their opinions. This Commission is the first Commission to make a forum readily available to the public.

2. The Commission has adopted a rule for consumer intervenor compensation to allow an award of expense money to consumers who effectively advocate certain rate design positions in electric utility cases. This rule is very limited, but the Commission does not possess the authority to expand it at this time.

3. The Commission created the Consumer Information Board with the purpose of educating Kansas citizens about utility issues and regulatory procedures in order to encourage informed consumer participation.

4. The Commission has liberally granted intervention to those parties who have sought to participate officially in KCC proceedings.

These measures have not been enough to remove all the obstacles to meaningful consumer participation in Commission proceedings. In spite of the Commission's efforts to expand intervenor participation, it is usually only the large industrial customers who intervene in Commission ratemaking proceedings. The Commission believes that participation by small commercial and residential consumers should be assisted and encouraged. Participation by these groups would benefit the Commission by presenting a diversity of viewpoints for review by the Commission.

Before discussing the alternatives that are before the Legislature, the role of the Commission staff should first be

explained. The Commission staff has the responsibility for representing the public generally. The staff prepares and sponsors adjustments to a company's revenue requirement, and usually these are the only adjustments made to the authorized revenue collections. The staff's role is less clearly defined for the issue of rate design where the Commission must decide how much the respective customer classes must pay. As a general rule, the Commission staff has advocated rate design principles that benefit small consumers. Rate design has become much more complicated in recent years, and it is not possible for the staff to represent all positions that may benefit a particular rate class. The Commission can make better decisions and more informed decisions when a full range of options is presented. Thus, intervenor participation can enhance the regulatory process.

This year the Legislature has before it several proposals which would eliminate some or all of the obstacles to better intervenor participation at the Corporation Commission. Included in these measures are: HB 2912, which develops a consumer utilities board; SB 542, which expands the consumer intervenor compensation program to apply to all KCC rate hearings; and HB 2362, which would establish an Office of Public Advocate. Each of these programs has its merits and disadvantages.

HB 2912 establishes a consumer utility board. A consumer utility board, oversimplified, is an independent entity which exists to represent ratepayers in utility rate proceedings. The

consumer utility board (CUB) is funded through a contribution paid by utility consumers. The CUB may perform an educational function by disseminating pertinent information through the utility bill mailings. Because the CUB is funded solely through contributions by consumers, it would require no direct fiscal outlay by the state or by the utilities. If adequate consumer funding is lacking, the CUB will never be started. One disadvantage of a CUB is that it creates the potential for duplication of efforts already made by the Commission. A second possible problem may be controlling administrative costs, especially during the start-up period; however, this problem could be controlled with a spending cap on administrative costs such as 15% of total funds available.

The consumer intervenor compensation proposal would require a higher degree of state participation, but this proposal would still impose minimal cost upon the state. Under this proposal the Commission would have authority to grant compensation to consumer intervenor groups which demonstrated that they were presenting a position that would not otherwise be presented and that they were without adequate financial means to provide meaningful participation. This award would be assessed against the utilities and therefore spread to all ratepayers. One advantage to this proposal is that the Commission retains discretion and control over the extent of financial assistance by these groups. The Commission's existing rule allowing for compensation concerning certain electric rate design standards

has been utilized sparingly. Only one award has been tentatively granted by the Commission in the amount of \$5,000. The state of Wisconsin has experience with a broad rule such as that proposed in SB 542. During the first six months of operation under this rule, the Wisconsin Public Service Commission granted requests totalling \$66,800.00.

The final proposal would appear to be the least desirable of the three proposals for providing consumer participation. The concept of establishing an Office of Public Advocate has been attempted in other states with limited success. Only the larger states have been able to devote adequate resources to provide the Public Advocate's Office with sufficient staff to accommodate meaningful participation. The experience in smaller states has been a division of resources between the public service commission and the public advocate's office which, in effect, diminished the representation of small consumers. Establishing such an office would require a substantial financial outlay by the state.

The Commission is unable to recommend one of these approaches over any of the others. However, the Commission believes that additional representation by interested parties could be helpful in reaching an informed decision. The Commission welcomes and encourages additional participation by small commercial and residential consumers in matters before the Corporation Commission.

SENATE COMMITTEE ON
TRANSPORTATION AND UTILITIES

SB 542

FEBRUARY 17, 1984

I AM WILBUR LEONARD, EXECUTIVE VICE PRESIDENT OF THE KANSAS TELEPHONE ASSOCIATION, WHOSE MEMBER COMPANIES PROVIDE APPROXIMATELY 97% OF THE LOCAL TELEPHONE SERVICE IN KANSAS. I APPRECIATE THE OPPORTUNITY TO APPEAR BEFORE THIS COMMITTEE AND TO PRESENT THE VIEWS OF THE COMPANIES WHICH I REPRESENT.

THE KANSAS CORPORATION COMMISSION HAS LONG ENCOURAGED PARTICIPATION BY THE PUBLIC, NOT ONLY IN RATE HEARINGS, BUT IN GENERAL INVESTIGATIONS INVOLVING TELEPHONE PUBLIC UTILITIES. THE COMMISSIONERS AND STAFF HAVE SOUGHT THE VIEWS OF RATEPAYERS AND HAVE PROVIDED A PROCEDURE TO NOTIFY THOSE PARTIES AFFECTED BY THE ONGOING PROCEEDINGS.

COMPANIES ARE REQUIRED TO PUBLISH LEGAL NOTICES IN THE AREAS SERVED, AND THEY ALSO ARE REQUIRED TO MAIL NOTICES TO THEIR CUSTOMERS, ADVISING THEM OF THE REQUESTED CHANGES AND INFORMING THEM OF THE PROCEDURES WHICH THEY CAN FOLLOW TO MAKE THEIR VIEWS KNOWN TO THE COMMISSION. CONSPICUOUS NOTICES ARE ALSO POSTED IN THE COMMERCIAL OFFICES.

GENERALLY, AFTER EVIDENCE HAS BEEN RECEIVED IN SUPPORT OF RATE APPLICATIONS, THE COMMISSION SCHEDULES FIELD HEARINGS IN THE AREAS SERVED BY THE UTILITY AND EASILY ACCESSIBLE TO THE COMPANY'S CUSTOMERS.

WE BELIEVE THAT THE COMMISSION HAS TAKEN ALL REASONABLE STEPS TO OBTAIN PUBLIC INPUT IN ALL CASES BEFORE IT. IN ADDITION, IT HAS ESTABLISHED A DIVISION WITH A STAFF WHOSE PRIMARY DUTIES ARE TO CONSIDER CONSUMER COMPLAINTS. WE HONESTLY BELIEVE THAT THE COMMISSION HAS, IN TELEPHONE MATTERS, ADDRESSED THE NEEDS OF THE PUBLIC GENERALLY AND THAT NO FURTHER LEGISLATION IN THIS AREA IS NECESSARY.

VALID CONCERNS SHOULD BE VOICED, AND WE BELIEVE THAT THE MECHANISM IS IN PLACE TO PROVIDE THE FORUM THEREFOR. WE AGREE WITH THE MINORITY LEADER WHO, YESTERDAY, TOLD THIS COMMITTEE THAT "THERE IS ONLY ONE PLACE TO GET MONEY, AND THAT IS FROM THE RATEPAYERS." TO ENCOURAGE THE PARTICIPATION OF PROFESSIONAL DISSIDENTS AT RATEPAYER EXPENSE DOES A DISSERVICE TO THE COMMISSION AND THE PUBLIC GENERALLY.

WE, THEREFORE, REQUEST THAT THE BILL NOT BE RECOMMENDED FOR PASSAGE.

RESPECTFULLY SUBMITTED,
WILBUR G. LEONARD
EXECUTIVE VICE PRESIDENT
KANSAS TELEPHONE ASSOCIATION