

MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES

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

8:30 a.m. a.m./p.m. on Tuesday, March 13, 1984 in room Supreme Court Room - 313-S of the Capitol.

All members were present except:

all present

Committee staff present:

Fred Carman, Hank Avila, Rosalie Black

Conferees appearing before the committee:

HB - 2927 - See attached list.

The meeting was called to order by Senator Talkington, Chairman, who introduced Representative Ron Fox to discuss House Bill 2927.

HOUSE BILL 2927 - HEARING - PROPONENTS

Representative Fox, testifying as one of the authors of the bill, mentioned the new sections pertaining to phase-in value and excess capacity. He urged passage of regulations to give clarification to the KCC in determining the reasonable value of property of a utility and granting additional authority to determine efficiency in the construction and operation of excess capacity.

John Myers appearing on behalf of Governor Carlin said the Governor feels strongly that prior to KCC action on the Wolf Creek generating station, the commission must be given explicit authority to protect consumers against the cost of generating capacity they do not need and cannot afford. (See Attachment 1.)

Brian Moline indicated that seemingly clear legislative authority and intent to grant the KCC broad powers in the area of utility regulatory discretion has been clouded by court decisions. He explained excess capacity in comparison charts of various utilities and asked the reference to excess capacity of common carriers be put back into the bill in order to avoid questions about prudence and excess capacity in future years. (See Attachment 2.)

Speaking in favor of HB 2927 were Duane West, Lee Rowe, Bea Bacon, Frances Jarchow, Rev. Stacy Ollar, Clara Ewert, Marsha Marshall, Roger Grund, Kathie Champlin, Richard Basore, Richard Caliendo, Virgil Ewy, Jerry Goodwin, Bob Mullen, Louis Krueger and Ron Riner who said the KCC should have authority to evaluate the

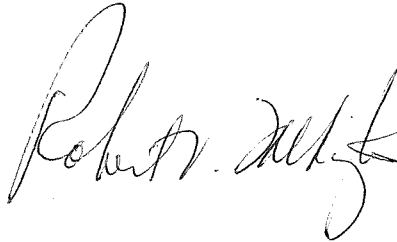
CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES,
Supreme Court Room
room _____, Statehouse, at 8:30 a.m. a.m./p.m. on March 13, 1984.

HOUSE BILL 2927 - HEARING - PROPONENTS

efficiency or prudence of a utility disposing of facilities which generate lower cost energy than that generated at the Wolf Creek plant; the KCC should have authority to exclude from the reasonable value of public utility property the costs of principal or interest when borrowing funds in order to pay dividends that were not possible to pay out of profits; the attorney general's opinion that HB 2927 is constitutional strengthens the concept of the measure; high rate shock will deter economic growth; and higher property taxes to support schools, units of government and street lighting will be a result of rate base shock from Wolf Creek. (See Attachment 3.)

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.

2927 Tuesday, March 13, 1984

NAME	ADDRESS	ORGANIZATION	BILL NO.
Edward T. Rolluck	Murriam, KS	INTERESTED CONSUMER	HB 2927
Kalke Champlin	4656 Black Swan Stream	USPS	HB 2927
Gina Pulliam	5311 Johnson Dr	Mission Hill of PC	HB 2927
Jean Schmiedemann	8632 Juniper Ln	Prairie Village, KS 66207, SRS Advisory Council	HB 2927
FRANCES JARCHOW	9300 ROE AVE,	PRAIRIE VILLAGE 66207, SRS ADVISORY COUNCIL	HB 2927
Stephen J. Gravel	12305 W 100th Lenexa	Ks 66215 - Interested Consumer	HB 2927
Ed Reinert	Topeka	Ks League of Voters	
Mr. Howard Brown	194-14th St	Osawatimie	MARYRE
Howard Brown	194-14th	Osawatimie, Ks.	MARYRE, 142
RON CALBERT	Newton	U.T.U.	
Ralph Swann	Lawrence	K.C.O.A.	2927
Al Bramble	Lawrence	AARP/SHL	HB 2927
Claire Ewert	Prairie Village	AARP/SHL	HB 2927
JERRY COWOOD	Topeka	KG&E	"
James Haines	WICHITA, KA.	KG&E	#2927
Helen Stephens	P.V. Ks.	LWU-go city	2927
Lester Murphy	Topeka, ks	KEC	2927
Harold Shoaf	" "	KEC	2927
Bill	Topeka	KEC	"
Roy D. Shorke	Shawnee	KCPCL	2927
Bob Wunsch	Topeka	Leg	
Joe Kramer	K.C.	KCPCL	2927
Karen McClain	Topeka	Sen Telecomm's office	2927
Susan George	"	"	"

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.
Carl Anderson	Topeka	AG	2927
Erwin D. Lawman	Topeka	NAMP	2927
Leonard E. Dodson	Topeka	NAMP Park Co. A.	2927
Martha Marshall	Osoto	KARC	2927
Bill Curtis	Topeka	KASB	2927
Rose Marie Ramirez	Topeka	Washburn University ^{W.S.S.W.A.}	2927
W.D. Balter	Over Park	Oven Brinn	2927
J.R. Mullen	Wichita	Pawnee Plastics, Inc.	2927
ED SCHAUB	TOPEKA	SWBT	2927
JEFF RUSSELL	TOPEKA	UNITED TEL.	2927
KICK FINEWOLD	"	AT&T	2927
Glendora S. Johnson	Wichita, Ka	A.L.E.R.T.	2927
Rick Kready	Topeka	KPL/Gas Service	"
BILL PERDIE	"	" "	"
JERRY GOODWIN	WICHITA	ALERT	2927
Richard Basore	Bentley	ALERT-FARMER	2927
Ray D. Lytle	9506 W. 57 th PLANE MERRIAM, K 66203	INTERESTED CONSUMER	2927
MARIE LYTR	9506 W 57 PL.	"	2927
Neil Whitman	8515 W 56 th Terr	"	2927
Mary A. Borchardt	10805 W. 48 th Terr	"	2927
Ralph Borchardt	10805 W 48 th Terr Shawnee Ks.	"	2927
Mr. Miller	Lawrence	Sen. Steiger	2927
Sister Red	Lawrence	Interested	2927
Mildred Foard	3810 W 65 th Terr.	SMKas. Consumer	2927
Mr & Mrs John McAnaw	5709 Goodman	S.M. Interested Kas. Consumer	2927

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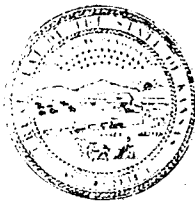
NAME	ADDRESS	ORGANIZATION	BILL NO.
Brian Miller		KCC	2927
Don Low		KCC	"
Calvin Thomas	Topoka Budget		2927
Leonow Lowe	Emporia	KDOA Advisory Council	2927
LaVerne A. Falk		KRTA	2927
Evelyn Falk		KRTA	2927
Lloyd M. Copenhagen	Topoka Area Retired Teachers		Assin. 2927
Edith K. Copenhagen	Topoka Area Retired Teachers		Assin. 2927
D. E. Henson		NAMP	2927
Dick Compton	HAYS	MIDWEST ENERGY	2927
Hallett Faulkner	Topoka Retired		2927
Elizabeth Faulkner		NAMP	2927
Duane E. Whit	Box 712 - City of Garden City, Ks		2927
D. WAYNE ZIMMERMAN	TOPEKA	THE ELECTRIC COS ASSOC.	HB 2927
Jim Sullinger		KC STAF	2927
Jan Johnson		Budget Division	2927
Mary Walker		" "	"
Robert M. Funnor		KCC	2927
DR. STACY O'HAR JR		SHAWNEE	2927
Ben Bacon	Overland Park	Ks COALITION ON AGING	2927
Raymond W. Ryan	Merriam Ks		2927
Ruth Wilkin	Topoka	AROP D. S.	
George A. Dugger		KDOA	2927
Frances Kistner		Heard Park Assoc	2927
BUD GRANT		KCCI	—

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NAME ADDRESS ORGANIZATION BILL NO.

Barry Massey	Topeka	Press	
Jim McLean	Topeka	Media	
Todd Epp	Topeka	KIUD	

STATE OF KANSAS



OFFICE OF THE GOVERNOR

State Capitol
Topeka 66612-1590

John Carlin Governor

Testimony to Senate Transportation and Utilities on HB 2927
by John Myers
March 13, 1984

Mr. Chairman, Members of the Committee:

I appear today on behalf of Governor Carlin to urge your favorable consideration of House Bill No. 2927, a measure that clarifies the Kansas Corporation Commission's authority as it applies to rate base treatment of costs associated with excess capacity of public utilities. Governor Carlin feels strongly that prior to KCC action on the Wolf Creek Generating Station, the Commission must be given explicit authority to protect consumers against the cost of generating capacity they do not need and cannot afford. House Bill No. 2927 achieves this end by authorizing the Commission to make determinations of excess capacity, to exclude all or some portion of that capacity from the rate base of the responsible utilities -- whether or not it represents a fraction of a generating plant -- and to make accompanying adjustments to the revenue requirements of the utilities.

The authority defined in House Bill No. 2927 is not a marked departure from existing law and is, in fact, quite consistent with fundamental regulatory principles. Utility regulation exists first and foremost to protect customers of a monopoly from exploitation, not to preserve and protect the interests of the monopoly. Utility customers have never been expected to pay for expenses imprudently incurred or investments imprudently made. Similarly, utility customers have never been expected to pay for facilities which are superfluous to those required to serve their demands.

Although House Bill No. 2927 breaks no new conceptual ground from the standpoint of regulatory theory, its enactment is necessary to ensure that what is intended in theory can be accomplished in fact.

Atch. 1

The Kansas Supreme Court, in its decision on the Kansas Gas and Electric Co. v. State Corporation Commission case, interpreted existing law as to preclude the Commission from considering fractions of the value of a power plant in deciding rate base amounts. Although the Commission included in the rate base only a portion of the Holcomb Plant in the recent Sunflower rate case, this fractional treatment was requested and acquiesced in by the utility. Consequently there has been no legal challenge. If there were, the outcome would at best be uncertain.

Prior to the filing of the Wolf Creek rate hike, it is imperative that the Commission's authority be clarified. The authorities prescribed in House Bill No. 2927 are not particularly unique or extraordinary but the circumstances of the case for which they are sought certainly are. Under current law Wolf Creek will bring electric rate increases of 80 to 100 percent with uncertain yet unprecedented effects on much of the Kansas economy. The project will result in generating capacity reserve margins of up to 58 percent, creating the central question of who should pay for what is not now needed.

The stakes are high; the pressures, intense. More than any other case before it, Wolf Creek represents a divergence of interest between ratepayers and utility investors. If those interests cannot be reconciled, at the very least they must be weighed and balanced in a reasoned and deliberate manner. The most appropriate body to do so is the Kansas Corporation Commission and it is essential that the Commission be empowered and given flexibility to properly resolve the difficult issues laid before it.

What is so critical about House Bill No. 2927 is that it makes absolutely clear the state's recognition that its first regulatory obligation is to those being served. If ever there was a time to reaffirm and assert that obligation, the time is now.

TESTIMONY OF BRIAN J. MOLINE
GENERAL COUNSEL - KCC
ON HB 2927

THE COMMISSION TESTIFIED IN HOUSE COMMITTEE HEARINGS ON THREE BILLS--HB 2810, HB 2927 AND HB 2964. ALL THREE BILLS WERE INTENDED TO BROADEN AND CLARIFY COMMISSION DISCRETION IN RATE BASE DELIBERATIONS, PARTICULARLY REGARDING CAPACITY IN EXCESS OF SYSTEM REQUIREMENTS.

HB 2927 WAS DRAFTED TO CLARIFY LEGISLATIVE INTENT IN TWO IMPORTANT AREAS OF REGULATORY DISCRETION. IT IS FUNDAMENTAL LAW THAT STATE REGULATORY COMMISSIONS EXERCISE LEGISLATIVE AUTHORITY WHEN ESTABLISHING RATES. IT IS ALSO FUNDAMENTAL THAT ADMINISTRATIVE BODIES IN GENERAL AND REGULATORY AGENCIES IN PARTICULAR HAVE ONLY SUCH JURISDICTION AS IS CONFERRED BY STATUTE.

THE KANSAS REGULATORY SCHEME FOR PUBLIC UTILITIES AND COMMON CARRIERS IS CONTAINED IN CHAPTER 66. K.S.A. 66-101 AND K.S.A. 66-141 GRANTS THE COMMISSION BROAD AUTHORITY:

"66-101:

THE STATE CORPORATION COMMISSION IS GIVEN FULL POWER, AUTHORITY AND JURISDICTION TO SUPERVISE AND CONTROL THE PUBLIC UTILITIES....AND IS EMPOWERED TO DO ALL THINGS NECESSARY AND CONVENIENT FOR THE EXERCISE OF SUCH POWER...."

66-141:

THE PROVISIONS OF THIS ACT AND ALL GRANTS OF POWER, AUTHORITY AND JURISDICTION HEREIN MADE TO THE COMMISSIONERS, SHALL BE LIBERALLY CONSTRUED, AND ALL INCIDENTAL POWERS NECESSARY TO CARRY INTO EFFECT THE PROVISIONS....ARE HEREBY EXPRESSLY GRANTED....

THIS SEEMINGLY CLEAR GRANT OF BROAD LEGISLATIVE AUTHORITY AND INTENT HAS BEEN CLOUDED SOMEWHAT BY COURT DECISIONS. HB 2927 ATTEMPTS TO CLARIFY LEGISLATIVE INTENT IN THE CRUCIAL AREA OF REGULATORY DISCRETION.

IN ORDER TO UNDERSTAND THE EFFECTS OF THE LEGISLATION, ONE MUST FIRST VIEW THE DECISION IN THE CASE OF KG&E v. KANSAS CORPORATION COMMISSION (218 Kan. 670, 1976). IN THAT CASE, THE KANSAS GAS AND ELECTRIC COMPANY APPEALED A DECISION BY THE CORPORATION COMMISSION WHERE THE COMMISSION HAD EXCLUDED A PORTION OF THE LACYGNE PLANT BECAUSE MECHANICAL FAILURE PREVENTED THE PLANT FROM OPERATING AT FULL CAPACITY. THE KANSAS SUPREME COURT HELD THAT PORTIONS OF PLANT IN SERVICE COULD NOT BE EXCLUDED FROM RATE BASE SIMPLY BECAUSE OF MECHANICAL FAILURE. THE COURT STATED THAT PORTIONS OF PLANT MAY BE EXCLUDED IN LIMITED CIRCUMSTANCES SUCH AS WHERE THE PLANT IS OBSOLETE. THE OPINION ALSO SUGGESTED THAT THE COMMISSION MIGHT BE ABLE TO EXCLUDE PORTIONS OF PLANT WHERE THE UTILITY OWNED CAPACITY FAR IN EXCESS OF NEED; HOWEVER, ADDITIONAL LANGUAGE IN THE OPINION TENDS TO NEGATE THIS AUTHORITY AND INDICATE JUST THE CONTRARY, THAT

THE COMMISSION MAY NOT HAVE AUTHORITY TO EXCLUDE A PORTION OF A PLANT UNIT WHICH REPRESENTS EXCESS CAPACITY FROM THE RATE BASE. CONFUSION HAS RESULTED FROM THE KG&E DECISION; WE ONLY KNOW THAT THE COMMISSION CURRENTLY LACKS THE AUTHORITY TO EXCLUDE A PORTION OF A PLANT WHERE THAT PLANT HAS FAILED SIMPLY BECAUSE OF MECHANICAL FAILURE AS IN THE INSTANCE OF THE LACYGNE PLANT.

AS A RESULT OF THE KG&E v. KCC CASE, A GAP EXISTS IN THE REGULATORY SCHEME. ALTHOUGH THE COMMISSION WOULD HAVE JURISDICTION THROUGH THE PLANT SITING ACT TO DENY PERMISSION FOR NEW, IMPRACTICAL OR UNNECESSARY CONSTRUCTION OF NEW GENERATION, THE COMMISSION'S AUTHORITY TO ADDRESS PROBLEMS ARISING FROM PLANT CURRENTLY IN RATE BASE OR UNDER CONSTRUCTION WITHOUT GOING THROUGH THE SITING PROCESS IS CLOUDY. HB 2927 AMENDS K.S.A. 66-128 TO INSERT LANGUAGE WHICH WOULD GIVE THE COMMISSION AUTHORITY TO EXCLUDE A PORTION OF A GENERATING UNIT FROM RATE BASE. WITHOUT THIS AUTHORITY OVER CURRENT PLANT, THE COMMISSION LACKS AN IMPORTANT ENFORCEMENT MECHANISM BY WHICH IT CAN INSURE THAT RESOURCES ARE EFFICIENTLY AND FULLY UTILIZED.

HB 2927 ALSO ATTEMPTS TO CLARIFY LEGISLATIVE INTENT WHERE THE UTILITY HAS CONSTRUCTED OR ACQUIRED NEW PLANT AND IS ATTEMPTING TO HAVE THE PLANT PUT IN RATE BASE AND EARN RETURN FOR THE FIRST TIME. RATE BASE INVESTMENTS INCLUDE POWER PLANTS, TRANSMISSION LINES, OFFICE SPACE, EQUIPMENT, ETC. WITH A USEFUL LIFE OF ONE OR MORE YEARS. ORDINARILY, A UTILITY IS ENTITLED TO A RATE OF RETURN ONLY ON PLANT INCLUDED IN ITS RATE BASE. INCLUSION IN RATE BASE OF INVESTMENT IN GENERATING CAPACITY IN

EXCESS OF CURRENT SYSTEM NEEDS RESULTS IN HIGHER RATES FOR CONSUMERS; EXCLUSION, ON THE OTHER HAND, PUTS THE FINANCIAL BURDEN FOR SUCH EXCESS ON UTILITY COMPANIES AND, IN SOME CASES, INVESTORS. SUCH A DECISION OBVIOUSLY INVOLVES SENSITIVE BALANCING OF THE COMPETING INTERESTS ON CONSUMERS, UTILITY COMPANIES AND INVESTORS. A NUMBER OF TIME TESTED AND COURT APPROVED FACTORS SHOULD INTERPLAY IN THE DECISION MAKING PROCESS: HOW THE RISK OR CARRYING COSTS ON INVESTMENTS SHOULD BE APPORTIONED BETWEEN RATEPAYER AND INVESTOR?; THE EXTENT TO WHICH THE PRUDENCE OF THE ORIGINAL CONSTRUCTION DECISION WEIGHS IN DETERMINING RATEMAKING TREATMENT AND THE BENEFIT THAT MUST ACCRUE TO CURRENT RATEPAYERS BEFORE AN OBLIGATION ARISES TO PAY FOR CAPACITY.

THE CRUX OF THE MATTER CENTERS AROUND THE DIFFICULT PROCESS OF FORECASTING LEVELS OF DEMAND. AN ELECTRIC UTILITY MUST FORECAST DEMAND FAR ENOUGH IN ADVANCE TO ALLOW NEW GENERATING CAPACITY TO BE IN OPERATION WHEN THE ANTICIPATED DEMAND OCCURS. LEVELS OF DEMAND ARE FORECAST TEN OR MORE YEARS IN ADVANCE. DEMAND DEPENDS ON MANY VARIABLES INCLUDING PRICE, CONSERVATION, CONSUMER INCOME, GENERAL ECONOMIC ACTIVITY, NUMBER OF CUSTOMERS AND THE ABILITY OF UTILITIES TO ADJUST FORECASTS TO CHANGES IN THESE AND OTHER VARIABLES. BASED UPON THESE AND OTHER FORECASTS, THE UTILITY MUST MAKE SUCH HARD DECISIONS AS WHETHER TO CONSTRUCT NEW PLANT, WHETHER TO SELL POWER FROM EXISTING UNITS OF GENERATION AND WHETHER TO ENTER INTO LONG TERM PURCHASE POWER AGREEMENTS.

ONE OF THE DIFFICULT QUESTIONS THAT UTILITY REGULATORS MUST ANSWER IS: WHO SHOULD PAY FOR ERRORS IN FORECASTING? RATEPAYERS, INVESTORS OR A COMBINATION OF BOTH? SUCH AN IMPORTANT QUESTION SHOULD BE ANSWERED IN THE QUASI-JUDICIAL ATMOSPHERE OF A HEARING AND BASED UPON FACTUAL EVIDENCE SUBMITTED AT THE HEARING UNDER OATH, TESTED THROUGH CROSS EXAMINATION.

THE COMMISSION STAFF HAS ALWAYS BELIEVED THAT AUTHORITY TO ADDRESS EXCESS CAPACITY EXISTS IN THE BROAD GRANT OF POWER IN K.S.A. 66-101 AND 141. ANOTHER RECENT CASE, HOWEVER, HAS FURTHER CAUSED US TO SEEK TO CLARIFY LEGISLATIVE INTENT BY ASKING THAT THE POWER BE EXPRESSLY GRANTED.

IN KANSAS CITY POWER AND LIGHT CO. V. STATE CORPORATION COMMISSION, 9 KAN APR 2, 49, THE KANSAS COURT OF APPEALS REVERSED AN ORDER OF THE COMMISSION IN A TRANSMISSION LINE SITING INQUIRY (K.S.A. 66-1,177 ET SEQ) THAT DENIED A PERMIT ON THE GROUNDS NECESSITY HAD NOT BEEN PROVEN. THE COURT STATED:

"THE PROVISIONS OF THE KANSAS SITING ACT ONLY DIRECTS A DETERMINATION OF THE REASONABLENESS OF THE LOCATION OF THE PROPOSED ELECTRIC TRANSMISSION LINE. NO AUTHORITY IS GRANTED TO DETERMINE THE NECESSITY OR PUBLIC CONVENIENCE OF THE LINE. (EMPHASIS SUPPLIED)

THIS RULING WOULD APPEAR TO PLACE THE COMMISSION IN THE PARADOXIAL POSITION OF BEING ABLE TO GRANT A SITING PERMIT FOR A TRANSMISSION LINE AND THEN, IN A LATER PROCEEDING, ADDRESSING THE QUESTION OF WHETHER TO ALLOW THE LINE INTO RATE BASE. THE NARROW READING OF COMMISSION AUTHORITY IN THIS CASE INDICATES THE NEED

FOR THE LEGISLATURE TO CLARIFY THEIR INTENT REGARDING COMMISSION POWER TO EXCLUDE FAILED, UNNECESSARY OR UNNEEDED PLANT FROM RATE BASE.

IN THE HEARINGS BEFORE THE HOUSE ENERGY COMMITTEE, THE COMMISSION SUPPORTED THE BASIC THRUST OF HB 2927 BUT EXPRESSED RESERVATIONS IN THREE IMPORTANT AREAS:

(1) HB 2927 REQUIRED A DEFERRAL PERIOD OF NOT LESS THAN 10 NOR MORE THAN 15 YEARS.

(2) HB 2927 FORBADE, WHATEVER THE CIRCUMSTANCES, THE CARRYING OR FINANCE COSTS OF CONSTRUCTION OF EXCESS CAPACITY TO BE EVER DEEMED PART OF RATE BASE.

(3) HB 2927, AS ORIGINALLY DRAFTED, WAS WOLF CREEK SPECIFIC RATHER THAN BROAD BASED.

THE HOUSE ENERGY COMMITTEE AND COMMITTEE OF THE WHOLE MADE SEVERAL AMENDMENTS TO HB 2927.

(1) THE COMMITTEE CLARIFIED THE CONSTRUCTION WORK IN PROGRESS PROHIBITION TO MEAN SHORT-TERM CONSTRUCTION ONLY BY ADDING THE WORDS "COMMENCED AND" AT LINE 0054.

(2) THE COMMITTEE EXTENDED THE BILL TO COVER ALL PUBLIC UTILITIES AND COMMON CARRIERS BUT THE COMMITTEE OF THE WHOLE REMOVED COMMON CARRIERS FROM THE PROVISIONS OF THE BILL.

(3) THE COMMITTEE GAVE BROAD DISCRETIONARY POWERS TO THE COMMISSION TO ADDRESS EXCESS CAPACITY AND CARRYING COSTS ASSOCIATED THEREWITH.

(4) THE COMMITTEE CLARIFIED COMMISSION AUTHORITY TO EVALUATE THE EFFICIENCY OR PRUDENCE OF ACQUISITION, CONSTRUCTION OR OPERATING PRACTICES.

(5) THE COMMITTEE DEFINED "EXCESS CAPACITY" TO MEAN ANY CAPACITY IN EXCESS OF THE AMOUNT USED AND REQUIRED TO BE USED TO PROVIDE ADEQUATE AND RELIABLE SERVICE. THE COMMITTEE ADDED THE WORDS "...TO THE PUBLIC WITHIN THE STATE OF KANSAS".

(6) THE COMMITTEE STRUCK THE MANDATORY 10 TO 15 YEAR DEFERRAL PROVISION.

(7) THE COMMITTEE AMENDED THE MANDATORY LANGUAGE ON EXCLUSION OF CARRYING CHARGES TO MANDATE A TWO-PRONG TEST. WHERE THE COMMISSION FINDS THAT A PORTION OF COSTS WERE INCURRED DUE TO LACK OF PRUDENCE IN PLANT ACQUISITION, CONSTRUCTION OR OPERATION AND WERE INCURRED TO BUILD A FACILITY WHICH REPRESENTS IN WHOLE OR IN PART EXCESS CAPACITY, THEN THE COMMISSION SHALL EXCLUDE THAT PORTION OF THE CARRYING OR FINANCE CHARGES INCURRED AFTER THE DATE OF ITS FINDING AND PROHIBITS SUCH COSTS FROM EVER BECOMING PART OF THE RATE BASE.

(8) THE COMMITTEE OF THE WHOLE ADDED NEW SEC. 5 WHICH REQUIRES ANY COMMON CARRIER OR PUBLIC UTILITY TO MAKE AND SEND MONTHLY FINANCIAL REPORTS AND MANDATES CERTAIN CONSTRUCTION COST DATA.

(9) NEW SEC. 6 WOULD PROHIBIT ANY PORTION OF A NUCLEAR FISSION POWER PLANT WHICH IS DETERMINED TO BE EXCESS CAPACITY FROM EVER BECOMING PART OF RATE BASE UNTIL THE COMMISSION SHALL DETERMINE THAT THE UNITED STATES GOVERNMENT HAS APPROVED "A PROVEN TECHNOLOGY OR MEANS FOR THE DISPOSAL OF HIGH-LEVEL NUCLEAR WASTE." FOR PURPOSES OF THE ACT, "TECHNOLOGY OR MEANS OF DISPOSAL" INCLUDES TEMPORARY ON-SITE STORAGE.

WHILE CONTINUING TO SUPPORT THE CONCEPT AND AIMS OF HB 2927, THE COMMISSION HAS SEVERAL SUBSTANTIVE SUGGESTIONS. THE REMOVAL OF COMMON CARRIERS FROM THE BILL HAS SERIOUS POTENTIAL CONSEQUENCES. HB 2927 MAKES LEGISLATIVE POLICY CHANGES IN THE BASIC RATEMAKING AUTHORITY OF THE COMMISSION. THE REMOVAL OF COMMON CARRIERS COULD BE CONSTRUED TO MEAN THAT THE LEGISLATURE INTENDED TO WITHHOLD AUTHORITY TO EXAMINE AND MAKE APPROPRIATE ADJUSTMENTS TO COMMON CARRIER COSTS RESULTING FROM EXCESS CAPACITY, INEFFICIENCY OR LACK OF PRUDENCE. THE COMMISSION URGES THE INCLUSION OF COMMON CARRIERS IN THE SCOPE OF HB 2927.

[As Amended by House Committee of the Whole]

As Amended by House Committee

HOUSE BILL No. 2927

0028 AN ACT CONCERNING PUBLIC UTILITIES; RELATING
TO THE VALUATION OF
0029 PROPERTY FOR RATEMAKING PURPOSES; AMENDING
K.S.A. 66-128
0030 AND REPEALING THE EXISTING SECTION.
0031 BE IT ENACTED BY THE LEGISLATURE OF THE STATE
OF KANSAS:
0032 SECTION 1. K.S.A. 66-128 IS HEREBY AMENDED
TO READ AS FOLLOWS:
0033 66-128. SAID THE STATE CORPORATION
COMMISSION SHALL HAVE
0034 THE POWER AND IT SHALL BE ITS DUTY TO
ASCERTAIN DETERMINE THE
0035 REASONABLE VALUE OF ALL OR WHATEVER FRACTION
OR PERCENTAGE OF THE
0036 PROPERTY OF ANY COMMON CARRIER OR PUBLIC
UTILITY, OR WHATEVER
0037 FRACTION OR PERCENTAGE OF AN ELECTRIC
GENERATION FACILITY PROPERTY
0038 OF ANY PUBLIC UTILITY WHICH HAS CONSTRUCTED
THE FACILITY WITHOUT
0039 OBTAINING AN ADVANCE PERMIT UNDER K.S.A.
66-1,159 ET SEQ. AND
0040 AMENDMENTS THERETO, GOVERNED BY THE
PROVISIONS OF THIS ACT
0041 WHICH PROPERTY IS USED OR AND REQUIRED TO BE
USED IN ITS THE
0042 CARRIER'S OR UTILITY'S ITS SERVICES TO THE
PUBLIC WITHIN THE STATE OF
0043 KANSAS, WHENEVER IT THE COMMISSION DEEMS THE
ASCERTAINMENT OF

KCC ANALYSIS/AMENDMENTS

ANALYSIS: THE TRADITIONAL "USED OR REQUIRED TO BE USED" TEST OF K.S.A. 66-128 HAS BEEN CHANGED TO A "USED AND REQUIRED TO BE USED" TEST. UNDER THE NEW LANGUAGE, THE MERE "USE" OF PLANT WILL NOT QUALIFY THE PLANT INVESTMENT FOR FULL RATE BASE TREATMENT. ONLY PLANT CAPACITY, OR A FRACTION OR PERCENTAGE OF SUCH PLANT CAPACITY, REQUIRED TO BE USED WILL QUALIFY FOR RATE BASE TREATMENT.

0044 SUCH VALUE NECESSARY IN ORDER TO ENABLE THE
COMMISSION TO FIX FAIR
0045 AND REASONABLE RATES, JOINT RATES, TOLLS AND
CHARGES, AND. IN MAKING
0046 SUCH VALUATIONS THEY THE COMMISSION MAY AVAIL
THEMSELVES
0047 ITSELF OF ANY REPORTS, RECORDS OR OTHER
THINGS AVAILABLE TO THEM THE
0048 COMMISSION IN THE OFFICE OF ANY NATIONAL,
STATE OR MUNICIPAL
0049 OFFICER OR BOARD. FOR THE PURPOSES OF THIS
ACT, PROPERTY OF ANY
0050 PUBLIC UTILITY WHICH HAS NOT BEEN COMPLETED
AND DEDICATED TO
0051 COMMERCIAL SERVICE SHALL NOT BE DEEMED TO BE
USED OR AND
0052 REQUIRED TO BE USED IN SAID THE PUBLIC
UTILITY'S SERVICE TO THE
0053 PUBLIC, EXCEPT THAT, ANY PROPERTY OF A PUBLIC
UTILITY, THE CONSTRUCTION
0054 OF WHICH WILL BE COMMENCED AND COMPLETED IN
ONE (1)
0055 YEAR OR LESS, MAY BE DEEMED TO BE COMPLETED
AND DEDICATED TO
0056 COMMERCIAL SERVICE. THE COMMISSION MAY
REQUIRE A COMMON
0057 CARRIER OR PUBLIC UTILITY TO DEFER INCLUSION
OF ALL OR ANY PORTION OF
0058 THE REASONABLE VALUE AS SO DETERMINED AND
PERMIT THE PHASE-IN OF
0059 SUCH VALUE OVER ANY PERIOD OF TIME AND IN
SUCH INCREMENTS AS IT
0060 DETERMINES TO BE APPROPRIATE. IF THE
COMMISSION REQUIRES A
0061 COMMON CARRIER OR PUBLIC UTILITY TO DEFER
THE INCLUSION OF ANY
0062 PORTION OF SUCH REASONABLE VALUE AND ORDERS
PHASE-IN OF SUCH

ANALYSIS: K.S.A. 66-128 PRESENTLY CONTAINS A
1978 AMENDMENT WHICH PERMITS, IN THE DISCRETION
OF THE COMMISSION, UTILITY CWIP FOR A
CONSTRUCTION PROJECT TO BE COMPLETED WITHIN ONE
YEAR OR LESS (PRESUMABLY FROM THE END OF THE TEST
YEAR) TO BE DEEMED USED OR REQUIRED TO BE USED.
UNDER NEW LANGUAGE, UTILITY CONSTRUCTION MUST BE
COMMENCED AND COMPLETED WITHIN ONE YEAR OR LESS
BEFORE IT MAY BE DEEMED USED AND REQUIRED TO BE
USED. DUE TO NEW LANGUAGE, A LONG-TERM
CONSTRUCTION PROJECT WOULD NOT QUALIFY FOR THE
CWIP EXCEPTION.

AMENDMENT: ADD "MAY REQUIRE" AND DELETE
"PERMIT".

AMENDMENT: ADD "OF PROPERTY DETERMINED NOT
CURRENTLY USED AND REQUIRED TO BE USED" AND
DELETE "AS SO DETERMINED".

0063 VALUE, IT MAY EXCLUDE [ANY OR ALL OF] THE
0064 CARRYING OR FINANCE COSTS
0065 INCURRED AFTER THE DATE OF ITS DETERMINATION
0066 AND THROUGHOUT THE
0067 PERIOD OF ANY DEFERRAL OR PHASE-IN AS SO
0068 ORDERED.

0066 New Sec. 2. THE STATE CORPORATION
0067 COMMISSION, IN DETERMINING
0068 THE REASONABLE VALUE OF PROPERTY UNDER
0069 K.S.A. 66-128, AND
0070 AMENDMENTS THERETO OF A PUBLIC UTILITY WHICH
0071 HAS CONSTRUCTED AN
0072 ELECTRIC GENERATING FACILITY WITHOUT
0073 OBTAINING AN ADVANCE PERMIT
0074 UNDER K.S.A. 66-1,159 ET SEQ. AND AMENDMENTS
0075 THERETO, SHALL
0076 HAVE THE POWER TO EVALUATE THE EFFICIENCY OR
0077 PRUDENCE OF ACQUISITION,
0078 CONSTRUCTION AND OPERATION OR OPERATING
0079 PRACTICES OF THAT
0080 UTILITY. IN THE EVENT THE STATE CORPORATION
0081 COMMISSION DETERMINES
0082 THAT A PORTION OF THE COSTS OF ACQUISITION,
0083 CONSTRUCTION OR OPERATION
0084 ~~OPERATING~~ WERE INCURRED DUE IN WHOLE OR IN
0085 PART TO A LACK OF
0086 EFFICIENCY OR PRUDENCE, OR WERE INCURRED IN
0087 THE ACQUISITION OR
0088 CONSTRUCTION OF EXCESS ELECTRIC GENERATING
0089 CAPACITY, IT SHALL HAVE
0090 THE POWER AND AUTHORITY TO EXCLUDE ALL OR A
0091 PORTION OF THOSE COSTS
0092 FROM SUCH REASONABLE VALUE AS SO DETERMINED

0080 New Sec. 3. THE STATE CORPORATION
0081 COMMISSION IN DETERMINING
0082 THE REASONABLE VALUE OF PROPERTY UNDER
0083 K.S.A. 66-128 AND
0084 AMENDMENTS THERETO OF A PUBLIC UTILITY WHICH
0085 HAS CONSTRUCTED AN

ANALYSIS: THE EXCLUSION FROM RATE BASE OF ANY OR
ALL OF THE AFUDC WHICH ACCRUES ON DEFERRED
REVENUE DURING A PHASE-IN PERIOD IS DISCRETIONARY
(SUBJECT TO NEW SECTION 4 INFRA).

AMENDMENT: ADD "OPERATION" AND DELETE
"OPERATING" FOR PARALLEL GRAMMAR.

AMENDMENT: ADD "THE REVENUE REQUIREMENT
REQUESTED BY THE UTILITY" AND DELETE "SUCH
REASONABLE VALUE AS SO DETERMINED." WITHOUT THE
AMENDMENT, IT IS UNCLER WHETHER THE COMMISSION
COULD MAKE AN ADJUSTMENT TO OPERATIONS FOR LACK
OF PRUDENCE OR LACK OF EFFICIENCY.

0083 ELECTRIC GENERATING FACILITY WITHOUT
OBTAINING AN ADVANCE PERMIT
0084 UNDER K.S.A. 66-1,159 ET SEQ. AND AMENDMENTS
THERETO, SHALL ALSO
0085 DETERMINE WHETHER THE PUBLIC UTILITY HAS
"EXCESS ELECTRIC GENERATING
0086 CAPACITY." "EXCESS ELECTRIC GENERATING
CAPACITY" FOR PURPOSES
0087 OF THIS ACT MEANS ANY AMOUNT

0088 FOR THE PURPOSE OF THIS ACT, "EXCESS
CAPACITY" MEANS ANY
0089 CAPACITY IN EXCESS OF THE AMOUNT REASONABLY
NECESSARY USED AND
0090 REQUIRED TO BE USED TO PROVIDE ADEQUATE AND
RELIABLE SERVICE [TO
0091 THE PUBLIC WITHIN THE STATE OF KANSAS] AS
DETERMINED BY THE
0092 COMMISSION. THE COMMISSION MAY IN ITS
DISCRETION PROHIBIT OR
0093 REDUCE THE RETURN ON COSTS WHICH WERE
INCURRED IN CONSTRUCTING,
0094 MAINTAINING OR OPERATING EXCESS ELECTRIC
GENERATING CAPACITY.
0095 NEW SEC. 4 SEC. 3. THE STATE CORPORATION
COMMISSION MAY AT
0096 ANY TIME AND IN ITS SOLE DISCRETION, WHETHER
OR NOT THE A FACILITY
0097 IS STILL UNDER CONSTRUCTION, INITIATE ON ITS
OWN MOTION A PROCEEDING
0098 WITH RESPECT TO ANY PROPOSED ELECTRIC
GENERATING FACILITY WHICH
0099 WAS NOT REQUIRED TO OBTAIN AN ADVANCE PERMIT
UNDER K.S.A.
0100 66-1,159 ET SEQ. AND AMENDMENTS THERETO, TO
DETERMINE IN ADVANCE
0101 WHETHER THE COSTS OF SUCH FACILITY WERE
REASONABLY, OR
0102 PRUDENTLY OR NECESSARILY INCURRED UNDER
SECTION 2, OR WHETHER ALL

ANALYSIS: WHILE IT IS POSSIBLE THAT THE HOUSE
INTENDED TO INCLUDE WITHIN THE DEFINITION OF
EXCESS CAPACITY THE RESERVE REQUIREMENTS OF POWER
POOLS WHICH, AT LEAST IN PART, BENEFIT CONSUMERS
IN SURROUNDING STATES, IT IS PROBABLY MORE LIKELY
THAT THE HOUSE MERELY INTENDED TO INCORPORATE
LANGUAGE WHICH WAS CONSISTENT WITH (IN FACT,
IDENTICAL TO) LANGUAGE IN K.S.A. 66-128.

AMENDMENT: ADD "THE REVENUE REQUIREMENT
REQUESTED BY A PUBLIC UTILITY WHICH RESULTS FROM"
AND DELETE "THE RETURN ON COSTS WHICH WERE
INCURRED IN". WITHOUT THE AMENDMENT, IT IS
UNCLEAR WHETHER THE COMMISSION COULD MAKE AN
ADJUSTMENT TO OPERATIONS.

0103 OR A PORTION OF THE COSTS OF SUCH FACILITY
0104 ARE OR SHALL BE INCURRED IN
0105 PRODUCING EXCESS ELECTRIC GENERATING CAPACITY
0106 UNDER SECTION 3.
0107 THE PROCEEDING SHALL BE COMMENCED BY THE
0108 COMMISSION GIVING
0109 30 DAYS' WRITTEN NOTICE OF THE SETTING OF THE
0110 HEARING OF SUCH
0111 PROCEEDING TO THE PUBLIC UTILITY OR UTILITIES
0112 INVOLVED, AND NO OTHER
0113 MOTION SHALL BE REQUIRED, BUT THE PROCEDURE,
0114 HEARING AND APPEAL
0115 RIGHTS SHALL OTHERWISE BE AS SPECIFIED IN
0116 ~~K.S.A. 66-1,158 THROUGH~~
0117 ~~66-1,169c,~~ AND AMENDMENTS THERETO.
0118
0119 NEW SEC. 5. THE STATE CORPORATION
0120 COMMISSION IN CONJUNCTION
0121 WITH OR SEPARATE FROM OTHER PROCEEDINGS MAY
0122 AT ANY TIME IN
0123 ITS SOLE DISCRETION, WHETHER OR NOT THE
0124 FACILITY IS STILL UNDER
0125 CONSTRUCTION, INITIATE ON ITS OWN MOTION A
0126 PROCEEDING WITH RESPECT
0127 TO ANY PROPOSED ELECTRIC GENERATING FACILITY
0128 WHICH WAS NOT
0129 REQUIRED TO OBTAIN AN ADVANCE PERMIT UNDER
0130 K.S.A. 66-1,159 ET
0131 SEQ. AND AMENDMENTS THERETO, TO DETERMINE IN
0132 ADVANCE IF, IN THE
0133 EVENT THE PUBLIC UTILITY COMPLETES
0134 CONSTRUCTION OF THE FACILITY: (1)
0135 ANY PORTION OF THE COSTS OF CONSTRUCTION OF
0136 SUCH FACILITY (INCLUDING
0137 CARRYING COSTS OF FUNDS BORROWED TO CONSTRUCT
0138 THE FACILITY) ARE TO
0139 BE EXCLUDED FROM THE REASONABLE VALUE OF THE
0140 PROPERTY OF THE
0141 PUBLIC UTILITY USED IN SERVING THE PUBLIC IN
0142 KANSAS, UNDER SECTION

AMENDMENT: Add "K.S.A. 66-101 ET SEQ." AND
DELETE "K.S.A. 66-1,158 THROUGH 66-1,169c". THE
NOTICE, HEARING AND APPEAL PROCEDURE OF K.S.A.
66-101 ET SEQ. APPEAR TO BE BETTER SUITED TO THE
HEARING CONTEMPLATED BY THIS SECTION THAN THE
NOTICE, HEARING AND APPEAL PROCEDURE OF THE
SITING ACT.

0123 2, (2) ANY PORTION OF SUCH COSTS IS TO BE
DEFERRED AND PHASED INTO
0124 THE REASONABLE VALUE OF SUCH PUBLIC UTILITY
PROPERTY UNDER SECTION
0125 6; OR (3) ANY FUTURE CARRYING COSTS OR
FINANCE CHARGES ARE TO BE
0126 EXCLUDED OR DISALLOWED AS PROVIDED UNDER
SECTION 7. THE PROCEEDING
0127 SHALL BE COMMENCED BY THE COMMISSION GIVING
30 DAYS'
0128 WRITTEN NOTICE OF THE SETTING OF THE HEARING
TO THE PUBLIC UTILITY OR
0129 UTILITIES INVOLVED, ON ITS OWN MOTION, AND NO
OTHER NOTICE SHALL BE
0130 REQUIRED, BUT THE PROCEDURE AND HEARING AND
APPEAL RIGHTS SHALL
0131 OTHERWISE BE AS SPECIFIED IN K.S.A. 66-1,158
THROUGH 66-1,169c,
0132 AND AMENDMENTS THERETO.

0133 NEW SEC. 6. IN DETERMINING THE REASONABLE
VALUE OF PROPERTY
0134 OF A PUBLIC UTILITY WHICH HAS CONSTRUCTED AN
ELECTRIC GENERATING
0135 FACILITY WITHOUT OBTAINING AN ADVANCE PERMIT
UNDER K.S.A. 66-1,159
0136 ET SEQ. AND AMENDMENTS THERETO, THE STATE
CORPORATION
0137 COMMISSION, IF IT DETERMINES THAT A PORTION
OF COSTS INCURRED IN
0138 CONSTRUCTING OR OPERATING AN ELECTRIC
GENERATING FACILITY WERE
0139 INCURRED DUE TO LACK OF PRUDENCE IN PLANT
ACQUISITION, CONSTRUCTION
0140 OR OPERATION OR INEFFICIENT OPERATION, OR IF
IT DETERMINES THAT
0141 THE OPERATION OF SUCH FACILITY WILL RESULT IN
EXCESS ELECTRIC GENERATING
0142 CAPACITY, SHALL HAVE THE POWER AND AUTHORITY
TO REQUIRE A

0143 PUBLIC UTILITY TO DEFER AND PHASE SUCH COSTS
INTO SUCH REASONABLE
0144 VALUE OVER NOT LESS THAN 10 NOR MORE THAN 15
YEARS IN SUBSTANTIALLY
0145 EQUAL INCREMENTS.

0146 NEW SEC. 7 SEC. 4. IN THE EVENT THE
COMMISSION FINDS THAT A
0147 PORTION OF COSTS WERE INCURRED DUE TO LACK OF
PRUDENCE IN PLANT
0148 ACQUISITION, CONSTRUCTION OR OPERATION OR
AND WERE INCURRED TO
0149 BUILD A FACILITY WHICH IN WHOLE OR IN PART
REPRESENTS EXCESS
0150 ELECTRIC GENERATING CAPACITY AS DEFINED IN
SECTION 3, THE COMMISSION
0151 SHALL EXCLUDE THAT PORTION OF THE CARRYING OR
FINANCE CHARGES
0152 INCURRED AFTER THE DATE OF ITS FINDING, OR
THROUGHOUT THE PERIOD OF
0253 ANY DEFERRAL OR PHASE IN OF COSTS REQUIRED
UNDER SECTION 6, AND
0154 THEREAFTER, TO FINANCE OR REFINANCE THE
PORTION OF THE COSTS OF SUCH
0155 FACILITY SO INCURRED, AND NO PART OF SUCH
THE CARRYING OR FINANCE
0156 COSTS EXCLUDED SHALL EVER BE OR BECOME PART
OF THE REASONABLE
0157 VALUE OF PUBLIC UTILITY PROPERTY SO USED OR
REQUIRED TO BE USED.
0158 THE COMMISSION SHALL ALSO ALSO SHALL NOT
AUTHORIZE THE RECOVERY
0159 AS OPERATING EXPENSE OR IN ANY OTHER MANNER
OF THE CARRYING OR
0160 FINANCE COSTS ASSOCIATED WITH THE COSTS OF
SUCH FACILITY SO EXCLUDED
0161 AND THE REVENUE REQUIREMENTS OF THE PUBLIC
UTILITY SHALL
0162 NOT BE ADJUSTED DUE TO SUCH CARRYING OR
FINANCE COSTS SO EXCLUDED.

AMENDMENT: ADD "CAPACITY PLANNING" AND DELETE
"PLANT ACQUISITION, CONSTRUCTION OR OPERATION".
(REASONING BELOW)

AMENDMENT: ADD "ACQUIRE OR CONSTRUCT" AND DELETE
"BUILD" FOR PARALLEL GRAMMAR.

AMENDMENT: ADD "ATTRIBUTABLE TO INVESTMENT IN
EXCESS CAPACITY WHICH WAS". IT WAS LIKELY THE
INTENT OF THE HOUSE TO REQUIRE THE EXCLUSION FROM
RATE BASE OF CARRYING OR FINANCE CHARGES WHICH
ACCUE ON EXCESS CAPACITY INVESTMENT ONLY WHEN IT
IS FOUND THAT (1) THERE EXISTED A LACK OF
PRUDENCE IN PLANNING FOR CAPACITY AND (2) EXCESS
CAPACITY RESULTED. LOGICALLY, LACK OF PRUDENCE
IN PLANT OPERATION OR PLANT CONSTRUCTION NEED NOT
NECESSARILY HAVE ANY RELATION TO OR BEARING UPON
EXCESS CAPACITY. MOREOVER, THE LANGUAGE, AS
WRITTEN, IS INCONGRUOUS BECAUSE A COST OF
"OPERATION", FOR EXAMPLE, CANNOT ALSO BE A COST
"INCURRED TO BUILD A FACILITY."

0163 NOTHING IN THIS ACT SHALL LIMIT THE
0164 COMMISSION'S AUTHORITY TO
0165 ADJUST REVENUE REQUIREMENTS OF ANY COMMON
0166 CARRIER OR PUBLIC
0167 UTILITY IF THE COMMISSION DETERMINES THE
0168 REVENUE REQUIREMENT
0169 REQUESTED IS EITHER A RETURN OF OR A RETURN
0170 ON COST WHICH RESULTS
0171 FROM INEFFICIENCY OR LACK OF PRUDENCE.

0168 [NEW SEC. 5. ANY COMMON CARRIER OR PUBLIC
0169 UTILITY SUBJECT TO
0170 THE PROVISIONS OF THIS ACT WHICH CONSTRUCTS
0171 A FACILITY SHALL MAKE
0172 AND SEND MONTHLY FINANCIAL REPORTS TO THE
0173 STATE CORPORATION COMMISSION
0174 SUCH REPORTS SHALL INCLUDE THE FOLLOWING
0175 INFORMATION AS
0176 OF THE DATE OF THE REPORT, THE: (A) ACTUAL
0177 COSTS INCURRED; (B) TOTAL
0178 ESTIMATED COST OF THE FACILITY; (C)
0179 PERCENTAGE OF THE FACILITY WHICH
0180 IS ACTUALLY COMPLETED; (D) ESTIMATED DATE OF
0181 FIRST COMMERCIAL
0182 OPERATION; AND (E) ANY OTHER INFORMATION
0183 REQUIRED BY THE COMMISSION.
0184 SUCH REPORTS SHALL BE PREPARED AND CERTIFIED
0185 IN THE
0186 MANNER AND FORM REQUIRED BY THE COMMISSION.

0178 [NEW SEC. 5 6. (A) IF ANY PORTION OF AN
0179 ELECTRIC GENERATING
0180 FACILITY IS DETERMINED TO BE EXCESS CAPACITY
0181 AND IF THE FACILITY IS A
0182 NUCLEAR FISSION POWER PLANT, THE STATE
0183 CORPORATION COMMISSION
0184 SHALL DETERMINE WHETHER (1) THERE HAS BEEN
0185 DEVELOPED AND APPROVED
0186 BY THE UNITED STATES GOVERNMENT THROUGH ITS
0187 AUTHORIZED

AMENDMENT: Add "COMMON CARRIER". WITHOUT THE
AMENDMENT, IT MAY BE INFERRED BY THE COURTS THAT
THE COMMISSION IS WITHOUT AUTHORITY TO DISALLOW
COMMON CARRIER COSTS RESULTING FROM INEFFICIENCY
OR LACK OF PRUDENCE.

AMENDMENT: Add "IN WHOLE OR IN PART" (REASONING
BELOW).

AMENDMENT: DELETE "IS EITHER A RETURN OF OR AN
RETURN ON COST WHICH". WITHOUT THE AMENDMENT, IT
IS UNCLEAR WHETHER THE COMMISSION COULD MADE AN
ADJUSTMENT TO OPERATIONS.

AMENDMENT: Add "AN ELECTRIC GENERATING FACILITY
AND WAS NOT REQUIRED TO OBTAIN AN ADVANCE PERMIT
UNDER K.S.A. 66-1,159 ET SEQ." AND DELETE "A
FACILITY." IT WAS PROBABLY NOT THE INTENT OF THE
HOUSE THAT EVERY CARRIER AND UTILITY REGULATED BY
THE KCC SUPPLY THE ENUMERATED REPORTS ON EACH
CONSTRUCTION PROJECT.

AMENDMENT: Add "(E) COPIES OF INFORMATIONAL
FILINGS PROVIDED FEDERAL AGENCIES HAVING
REGULATORY AUTHORITY OVER SUCH CONSTRUCTION; AND
(F)" AND DELETE "AND (E)".

NOTHING IN THIS SECTION SHALL LIMIT THE
COMMISSION'S AUTHORITY TO REQUIRE FILING OF DATA
IN ANY FORMAT BY ANY REGULATED UTILITY OR COMMON
CARRIER THE COMMISSION DEEMS NECESSARY TO
ACCOMPLISH THEIR REGULATORY DUTIES.

0183 AGENCY, A PROVEN TECHNOLOGY OR MEANS FOR THE
DISPOSAL OF HIGH-
0184 LEVEL NUCLEAR WASTE AND (2) SUCH TECHNOLOGY
OR MEANS FOR DISPOSAL
0185 OF SUCH WASTE [WHICH] IS AVAILABLE FOR USE
AT OR BY THE PLANT.
0186 [IF THE COMMISSION FINDS THAT NO SUCH
TECHNOLOGY FOR DISPOSAL
0187 EXISTS, IT SHALL BE PRESUMED THAT THE COSTS
OF ACQUISITION,
0188 CONSTRUCTION OR OPERATION OF THE FACILITY
WERE INCURRED DUE TO A LACK
0189 OF PRUDENCE AND THE COMMISSION SHALL NOT
INCLUDE SUCH COSTS IN
0190 THE REASONABLE VALUE OF THE PUBLIC UTILITY
PROPERTY.
0191 [(B) WHEN USED IN THIS SECTION,
"TECHNOLOGY OR MEANS FOR THE
0192 DISPOSAL OF HIGH-LEVEL NUCLEAR WASTE" MEANS A
METHOD FOR THE
0193 PERMANENT AND TERMINAL DISPOSITION [INCLUDES
BUT IS NOT LIMITED
0194 TO TEMPORARY ON-SITE STORAGE] OF HIGH-LEVEL
NUCLEAR WASTE. SUCH
0195 DISPOSITION SHALL NOT PRECLUDE THE
POSSIBILITY OF [OR] AN APPROVED
0196 PROCESS FOR THE RETRIEVAL OF SUCH WASTE.

0197 New Sec. 8 5 [7]. THE PROVISIONS OF THIS
ACT ARE DECLARED TO BE
0198 SEVERABLE, AND IF ANY SECTION, SENTENCE,
CLAUSE OR PHRASE OF THIS
0199 ACT SHALL FOR ANY REASON BE HELD TO BE
INVALID OR UNCONSTITUTIONAL,
0200 THE VALIDITY OR APPLICATION OF THE OTHER
PROVISIONS OF THE ACT SHALL
0201 NOT BE AFFECTED, IT BEING THE INTENT OF THE
LEGISLATURE THAT THE ACT
0202 SHALL STAND NOTWITHSTANDING THE INVALIDITY OF
ANY PART.

AMENDMENT: ADD "MEANS" AND DELETE "INCLUDES BUT IS NOT LIMITED TO". THE EXISTING LANGUAGE IN THIS SECTION COULD BE INTERPRETED TO REQUIRE THAT THE KCC DETERMINE WHETHER THE UNITED STATES GOVERNMENT HAS APPROVED A TECHNOLOGY OR MEANS FOR HIGH-LEVEL NUCLEAR WASTE ON-SITE STORAGE AND ALSO (BECAUSE THE INQUIRY IS NOT "LIMITED TO" ON-SITE STORAGE) HIGH LEVEL NUCLEAR WASTE DISPOSAL. IF THE COMMISSION DETERMINED THAT THE UNITED STATES GOVERNMENT HAS NOT APPROVED SUCH TECHNOLOGY OR MEANS, THIS SECTION CREATES A PRESUMPTION THAT CONSTRUCTION AND OPERATING COSTS WERE IMPRUDENTLY INCURRED AND MANDATES EXCLUSION OF SUCH COSTS IN RATE BASE. AN ALTERNATIVE TO THIS AMENDMENT IS STRIKING ALL OF NEW SEC. 6.

0203 SEC 9 6 [8]. K.S.A. 66-128 IS HEREBY
REPEALED.

0204 SEC 10 7 [9]. THIS ACT SHALL TAKE EFFECT
AND BE IN FORCE FROM

0205 AND AFTER ITS PUBLICATION IN THE KANSAS
REGISTER.

TESTIMONY BEFORE THE SENATE TRANSPORTATION AND UTILITIES COMMITTEE

March 13, 1984

Mr. Chairman, Madam Vice-Chairman and Gentlemen of the Committee:

I am Duane West, City Commissioner from Garden City, Kansas, and I appear before you today in support of House Bill 2927.

I am here representing the city governing body and in turn the 23,000, plus, citizens of Garden City, Kansas.

We in Western Kansas have watched the progress of this legislation with interest and more than a passing concern. We have read of the great outpouring of sentiment from those in Eastern Kansas who are concerned about what "Wolf Creek" will do to their electric rates when it goes on line.

I am here to tell you that we in the Sunflower Electric Co-op area, some 40,000 customers in some 30 counties, have already received a jolt from the new electric rates arising from the coal-fired plant at Holcomb.

So--we sympathize with those who wonder how high the bills will be and where the money will come from to pay those bills.

We support this bill as a vehicle to give the KCC more authority in dealing with public utilities, specifically as it relates to prudent management decisions and as it relates to excess capacity costs being placed in the rate base.

Last fall, the KCC allowed Sunflower to place approximately 47 percent of its new 330 m-watt plant into the rate base. Sunflower now wants the other 50 percent phased in over a 5-year period in 10 percent increments.

Garden City buys power from Sunflower through Wheatland Electric, one of the eight electric co-ops that formed Sunflower in the late 1960's.

At the rate hearings last August, Sunflower's president stated the Holcomb plant's capacity was not needed as Sunflower's gas fired plants could produce all the power the company needed, including its necessary reserve. Unfortunately, the KCC, on a 2 to one vote, still allowed 47 percent into the rate base. As a result, the cost increase to Garden City users has been over 30 percent.

Mr. Don Marker, a rate analyst for the KCC estimated (in Schedule H-5 of the 1983 rate case) that if 100 percent of Sunflower's cost goes into the rate base, Garden City's wholesale cost will be 12.37¢ per KWH -- another 65 percent increase over our present cost. We must then add 1-3/4 to two cents for distribution costs. That's over 14 cents for power!

Atch. 3

TESTIMONY
March 13, 1984
Page 2

So--we urge you to recommend and retain its application to all electric utilities and their transmission lines.

This must not be just a Wolf Creek bill. Rather it must also bring aid and succor to those of us in the far western part of this great state who have already felt the lash of horrendous rate increases.

Thank you, Mr. Chairman, and Members of the Committee.

REQUESTED AMENDMENTS TO HOUSE BILL NO. 2927

H.B. 2927 PROVIDES THAT IN THE EVENT THE STATE CORPORATION COMMISSION DETERMINES THAT A PORTION OF THE COSTS OF ACQUISITION, CONSTRUCTION OR OPERATING UTILITY PROPERTY WERE INCURRED IN THE ACQUISITION OR CONSTRUCTION OF EXCESS CAPACITY, IT SHALL HAVE THE POWER AND AUTHORITY TO EXCLUDE ALL OR A PORTION OF THOSE COSTS FROM THE REASONABLE VALUE OF THE PROPERTY.

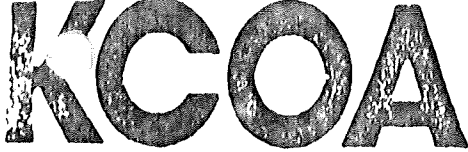
THERE HAVE BEEN INDICATIONS THAT THE PARTICULAR UTILITY, K.G.& E., HAVE BEEN SEEKING OR MAY SEEK, TO DISPOSE OF, SELL OR RETIRE FROM SERVICE CERTAIN OF ITS FACILITIES. THESE ARE FACILITIES THAT GENERATE ELECTRICITY AT A SMALL FRACTION OF THE COST OF GENERATING ELECTRICITY AT THE WOLF CREEK PLANT.

IN ORDER TO PRECLUDE A UTILITY FROM DISPOSING OF FACILITIES, WHICH GENERATE ELECTRICITY AT A LESS COST RESULTING IN A LOWER RATE, IN ORDER TO REDUCE ITS CAPACITY AND, THEREBY, ELIMINATE OR REDUCE EXCESS CAPACITY, THE STATE CORPORATION COMMISSION SHOULD HAVE THE POWER AND AUTHORITY TO EVALUATE THE EFFICIENCY OR PRUDENCE OF SUCH DISPOSITION, SALE OR RETIREMENT FROM SERVICE. IN THE EVENT THAT THE COMMISSION FINDS THE SAME TO BE A LACK OF PRUDENCE, OR THAT THE SAME RESULTS IN AN UNREASONABLE REDUCTION OF CAPACITY THAT RESULTS IN HIGHER RATES, THE COMMISSION MAY PRECLUDE THE OTHERWISE RESULTING RATE INCREASE. THIS IS PROPOSED AND REQUESTED TO PRECLUDE THE UTILITY FROM MAKING AN "END RUN" AROUND THE LAW AND STATUTE.

K.G.&E. HAS BORROWED FUNDS IN ORDER TO MAKE AND PAY DIVIDENDS THAT WERE NOT POSSIBLE OUT OF ITS PROFITS. THE STATE CORPORATION COMMISSION SHOULD HAVE THE POWER AND AUTHORITY TO EXCLUDE FROM THE REASONABLE VALUE OF PUBLIC UTILITY PROPERTY OR ALLOWABLE OPERATING COSTS THE AMOUNT OR COSTS OF SUCH FINANCING OR BORROWING, INCLUDING BOTH PRINCIPAL AND INTEREST.

SECTION 4 OF H.B. 2927 PROVIDES THAT IF THE COMMISSION FINDS THAT A PORTION OF THE COSTS WERE INCURRED DUE TO A LACK OF PRUDENCE IN PLANT ACQUISITION, CONSTRUCTION OR OPERATION AND WERE INCURRED TO BUILD A FACILITY WHICH IN WHOLE OR PART REPRESENTS EXCESS CAPACITY, THE COMMISSION WOULD BE REQUIRED TO EXCLUDE THAT PORTION OF THE CARRYING OR FINANCE CHARGES AFTER THE DATE OF ITS FINDING.

SECTION 4 OF H.B. 2927 SHOULD BE AMENDED TO CHANGE THE CONJUNCTIVE FROM "AND" TO "OR", SO THAT THE CHARGES WOULD BE EXCLUDED IF THE COSTS WERE DUE TO LACK OF PRUDENCE OR WERE INCURRED TO BUILD A FACILITY WHICH IN WHOLE OR PART REPRESENTS EXCESS CAPACITY.



KANSAS COALITION ON AGING

13300 Quivira Road Shawnee Mission, Kansas 66213 (913)897-3802

Member Organizations

"Advocacy for Older Kansans"

AARP-NRTA Joint Legislative Committee

Greater Kansas City Section-National Council of Jewish Women

International Association of Machinists & Aerospace Workers-Dist. Lodge No. 70

Kansans for Improvement of Nursing Homes, Inc.

Kansas Association of Area Agencies on Aging Board Chairpersons, Inc.

Kansas Association of Area Agencies on Aging Directors, Inc.

Kansas Association of Home Health Agencies

Kansas Association of Nutrition & Service Providers

Kansas Citizens Council on Aging

Kansas Green Thumb

Kansas Legal Services, Inc.

Kansas Regional Chapter-National Council on the Black Aged, Inc.

Kansas Retired Senior Volunteer Program Directors Association

Kansas Retired Teachers Association

Kansas State Nurses Association

National Association of Retired & Veteran Railway Employees-Kansas Chapter

Office for Services to the Aging-Catholic Archdiocese of Kansas City in Kansas

Older Kansans' Information & Referral Services Association

The Retired Officers Association

Concerned Girls & Women of Kansas City, Kansas

National Ass'n of Mature People-Topeka Chapter

Health Systems Agency of Northeast Kansas

TESTIMONY ON HB-2927

Before the

Senate Transportation and Utilities Committee

By the Kansas Coalition on Aging

March 13, 1984

My name is Bea Bacon. I'm chairman of the Kansas Coalition on Aging. KCOA represents 22 diverse organizations whose membership ranges in size from 6 to 195,000 persons. These organizations include church groups, retirement groups, labor groups, veterans groups, and others.

On a personal note, I own stock in both KG&E and KCPL. As a stockholder, I firmly believe that ratepayers should not suffer because of bad management. As a stockholder, I benefit when good management decisions are made. I should stand to lose when bad management decisions are made. The state should not let business "free enterprise its profits and socialize its losses."

KCOA has chosen HB-2927 as its highest priority for the balance of the legislative session. HB-2927 is a fair and equitable way to deal with high electricity rates. Consumers have already been burdened by greatly increased natural gas prices. Telephone rates are now on the rise. A doubling of electric rates will be the straw that breaks the camel's back.

The federal government has pre-empted state control over much of natural gas and telephone issues. The issue before this committee is different. This is one area that is in your control. HB-2927 provides you a chance to help your constituents. Don't miss this opportunity. Pass out HB-2927.

Thank you for the opportunity to testify.

UTILITY ECONOMICS 101

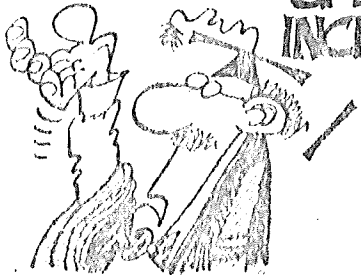
① IF THE PRICE OF ENERGY GOES UP... WE NEED A RATE INCREASE!



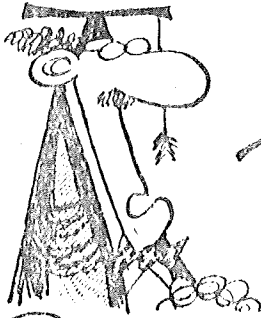
② IF THE PRICE OF ENERGY GOES DOWN, OUR INCOME DROPS... WE NEED A RATE INCREASE!



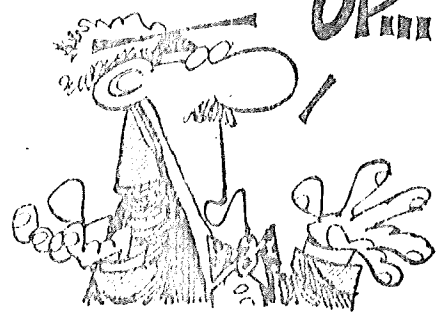
③ IF ENERGY DEMAND GOES UP... WE NEED A RATE INCREASE!



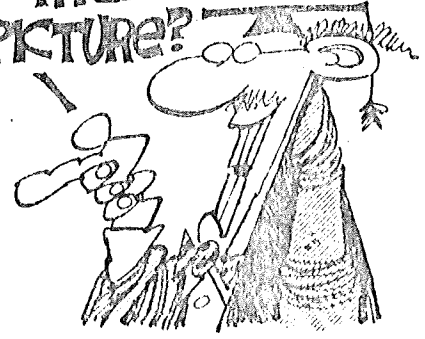
④ IF ENERGY DEMAND GOES DOWN... OUR INCOME DROPS... WE NEED A RATE INCREASE!



⑤ IF THE SUN COMES UP...



⑥ BEGINNING TO GET THE PICTURE?



Jurassic Park

ADVISORY COUNCIL

social and rehabilitation services

TO: Senate Transportation and Utilities Committee
FROM: Frances Jarchow, Legislative Chairman
DATE: March 13, 1984
RE: HB 2927

The Social and Rehabilitation Services Advisory Council of Johnson County urges you to support HB 2927. This bill will enable the Kansas Corporation Commission to control the amount of the cost of the Wolf Creek plant that can be passed on to the consumer. High utility bills have created an impossible problem for low-income families. The federal Low Income Energy Assistance Program helps some, but not enough. If electric rates increase 50% or 100%, the whole utility problem will become increasingly more desperate for those families.

There is a growing need for utility assistance in Johnson County. In the winter of 1981-82, \$353,142 was spent on utility aid in our community and \$367,351 was spent last winter. The needs must be even greater in other parts of the state.

At the Advisory Council meeting, March 7, we voted to support the immediate shut-down of the Wolf Creek plant. The cost of the plant has increased tremendously since it was first planned. It is no longer practical to finish it. Therefore, construction should be stopped.

We support HB 2927 because it would allow KCC to shut down the plant if it determined it was not needed or at least control some of the cost to the consumer.

Dorothy Ballard
Ken Betterton
Sherry Briggs
Carole Cassidy
David Coe
Gloria Cohn
Wilma Dickey
Claire Ewert
Aase George
Frances Jarchow
Walda Johnson
Barbara Kuehn
Joyce Letts
Marie Long
Ann Nees
Nancy Petersen
Gina Pulliam
Warren Robinson
Joan Schmedemann
Susan Smokowicz
Barbara Stewart
Evelyn VanKemseke

TESTIMONY

To: Senator Robert V. Talkington, Chair Person of Senate Committee on Transportation and Utilities, and members of the Committee:

I am Dr. Stacy Ollar Jr., and I live at 5421 Queal Drive, Shawnee, 66203. I am a United Methodist Minister and the pastor of the Bristol Hill United Methodist Church. I am a ratepayer of Kansas City Power and Light Co. I have been authorized by the 278 Johnson County parishioners of the Bristol Hill Church to speak on their behalf and in addition, I have a letter of consent to speak for the Kansas City District of the United Methodist Church.

I do deeply appreciate your allowing me to testify before your Committee concerning HB 2927 relative to the Wolf Creek Plant and particularly Kansas City Power and Light Co. I am here primarily to support the content of HB 2927 and to raise some serious questions concerning the completion of the Wolf Creek Plant project.

In my testimony, I will demonstrate that the proposed increases by KCPL as a result of the Wolf Creek Plant going on line in 1985 will only add undue hardship and extreme burden on the already much downtrodden ratepayer, particularly in Johnson County. Contrary to popular belief, Johnson County is currently experiencing 5,281 un-employed persons, 3,962 families receiving Emergency Utility Assistance, and a Senior Citizen's population of 28,915. Let us keep these figures in mind, because in reality they represent human beings who are hurting and suffering and will hurt and suffer more as utility companies request higher and higher rates for their projects.

As a pastor, I relate to families at the grass-roots level of life and I am already spending a great deal of time, energy, and the securing of funds in order to assist persons who are caught in the economic squeeze, and as a result of utility companies who have not yet learned that ratepayers cannot continue to support their utility adventures!

The following irreparable harms will be incurred by citizens of Johnson County and inflicted by the Wolf Creek Plant and KCPL.

Harm number one (1) to the citizens of Johnson County will result in higher property taxes to support public schools, community colleges, units of government, street lighting, and any additional units that are tax supported, such as Mental Health Centers and Mental Retardation Centers.

Testimony of Dr. Ollar

I support this argument with the following rationale.

The Shawnee Mission School District is one of the largest users of electrical power in the KCPL system in Johnson County. Mr. Walt Ferguson, Assistant Superintendent, stated that for the school year, 1982-83, the electrical budget was over \$2.1 million dollars and it is projected that the current school year expenses will rise to \$2.3 million dollars. As you and I know our public school system is supported by taxes, which include state taxes and property taxes, both of which is paid by local citizens. As the cost of operation for schools goes up, so do our taxes in proportion.

The Johnson County Community College electrical expenses for 1982-83 school year were \$649,467.00 and is projected to exceed \$700,000 for the current school term. Again, as the cost of operation goes up, so do our taxes, and again the enormous rate increase needed by KCPL to support the Wolf Creek Plant will directly cause our taxes to go up in Johnson County to support our schools and college that we need as a county and community.

The City of Merriam had an expenditure of approximately \$176,985 to KCPL in 1983 which included cost of energy for Traffic Signals, City Offices, and Street Lighting. The City of Shawnee had an expenditure for the electrical expenses for just 3 of their buildings in the amount of \$32,915.46. Figures for the Street lighting and Traffic Signals for the City of Shawnee is in addition to their expenses for their buildings.

There will be a strong "ripple effect" across every aspect of our tax supported units of government, which in turn, will mean higher taxes for the citizens of Johnson County, to support Wolf Creek Plant and KCPL. Is this what the State Senators really want for us as taxpayers?

Harm number two (2) inflicted upon the citizens of Johnson County by Wolf Creek Plant and KCPL will be higher cost of goods and services. The cost of goods and services will go up in proportion because every business must pass along the cost of doing business to the consumer in the price of the goods and service rendered. What this means is the businesses of Johnson County will no longer be competitive with other businesses in surrounding counties because of higher electrical rates when, for example, the Board of Public Utilities in Kansas City, Kansas, in October, 1983, "REDUCED" their electrical rates for ALL of their classes of consumers. I can document that statement, since I am the Chairman of the Citizens Advisory Committee to the Board of Public Utilities in Kansas City, Kansas. Just in recent days, 10 Johnson County Companies

Testimony of Dr. Ollar

have made inquiries to the Kansas City, Kansas Area Chamber of Commerce and City Hall concerning electrical rates offered by the Board of Public Utilities, which certainly indicates a growing concern about Wolf Creek Plant and its impact on the business community in Johnson County. L. Franklin Taylor, president of the Olathe Area Chamber of Commerce stated in the Shawnee Sun newspaper, Wednesday, March 7th, 1984, and I quote, "I suspect it will mean growth to the south and west", said Taylor. "I think growth will slow to the east (served by KCPL) and continue to the west." It is therefore obvious that the Wolf Creek Plant and KCPL will certainly deter economic growth with higher electrical rate increases to its present customers.

Harm number three (3). As prices for "goods and services" go up, the consumer cuts back in usage. In a letter dated, March 9th, 1984, the Business manager, Mr. John W. Stephens, of Mid-America Nazarene College of Olathe, states and I quote, "Three years ago, we studied the possibility of generating all electricity for our campus by using truck engines operated on natural gas. At that time the plan was not economically feasible. However, if the full rate increases of Wolf Creek Plant were imposed, we believe such a system of self-generation would be economically beneficial. I'm sure that many large volume users would consider other means of generating electricity which would only add to the financial stress of those remaining on the system."

It is obvious that as the price of electricity goes up the ratepayers will cut back in usage and the utility company will not accrue the necessary revenue for that year and will be back before the Kansas Corporation Commission requesting higher rate increases year after year. This type of action continues to spiral upward and results in a more devastating impact on the ratepayer.

The fact that conservation hurts the utility company is documented by KCPL in their own rate application (Docket No. 133,002-U) which was filed before the Kansas Corporation Commission on April 12th, 1982.

Harm number four (4). I also contend that the public will be harmed due to the lack of professional ability to operate Wolf Creek Plant with a high efficiency once it goes on the line.

Testimony of Dr. Ollar

I draw this conclusion from a Kansas Corporation Commission Report of 1982, which states, and I quote: "KCPL's Lacygne Generating Facility has had an average energy output which is only about half of the industry average. Because of the inefficiency of the Lacygne operations, the Staff has proposed that the company's overall Rate-of-Return should be reduced." The Kansas Corporation Commissioners concurred with their staff report.

Now, if KCPL cannot operate a coal fired plant with any efficiency, what assurances do we have that they can operate a nuclear power plant with any efficiency? Will KCPL return again, and again and again, asking for higher rate increases to subsidize their inefficiency?

Much consideration should be given to the fact that the ratepayers have reached the limits of their ability to afford higher cost for utilities. Wolf Creek and higher electrical rate increases could very well create a new class of poor. I therefore ask you as elected representatives of the people of Kansas, to hear our case, support HB 2927. Thank you.

Basore

Part of amendments to House Bill No. 2927

REQUESTED AMENDMENTS TO HOUSE BILL NO. 2927

H.B. 2927 PROVIDES THAT IN THE EVENT THE STATE CORPORATION COMMISSION DETERMINES THAT A PORTION OF THE COSTS OF ACQUISITION, CONSTRUCTION OR OPERATING UTILITY PROPERTY WERE INCURRED IN THE ACQUISITION OR CONSTRUCTION OF EXCESS CAPACITY, IT SHALL HAVE THE POWER AND AUTHORITY TO EXCLUDE ALL OR A PORTION OF THOSE COSTS FROM THE REASONABLE VALUE OF THE PROPERTY.

THERE HAVE BEEN INDICATIONS THAT THE PARTICULAR UTILITY, K.G.& E., HAVE BEEN SEEKING OR MAY SEEK, TO DISPOSE OF, SELL OR RETIRE FROM SERVICE CERTAIN OF ITS FACILITIES. THESE ARE FACILITIES THAT GENERATE ELECTRICITY AT A SMALL FRACTION OF THE COST OF GENERATING ELECTRICITY AT THE WOLF CREEK PLANT.

IN ORDER TO PRECLUDE A UTILITY FROM DISPOSING OF FACILITIES, WHICH GENERATE ELECTRICITY AT A LESS COST RESULTING IN A LOWER RATE, IN ORDER TO REDUCE ITS CAPACITY AND, THEREBY, ELIMINATE OR REDUCE EXCESS CAPACITY, THE STATE CORPORATION COMMISSION SHOULD HAVE THE POWER AND AUTHORITY TO EVALUATE THE EFFICIENCY OR PRUDENCE OF SUCH DISPOSITION, SALE OR RETIREMENT FROM SERVICE. IN THE EVENT THAT THE COMMISSION FINDS THE SAME TO BE A LACK OF PRUDENCE, OR THAT THE SAME RESULTS IN AN UNREASONABLE REDUCTION OF CAPACITY THAT RESULTS IN HIGHER RATES, THE COMMISSION MAY PRECLUDE THE OTHERWISE RESULTING RATE INCREASE. THIS IS PROPOSED AND REQUESTED TO PRECLUDE THE UTILITY FROM MAKING AN "END RUN" AROUND THE LAW AND STATUTE.

K.G.&E. HAS BORROWED FUNDS IN ORDER TO MAKE AND PAY DIVIDENDS THAT WERE NOT POSSIBLE OUT OF ITS PROFITS. THE STATE CORPORATION COMMISSION SHOULD HAVE THE POWER AND AUTHORITY TO EXCLUDE FROM THE REASONABLE VALUE OF PUBLIC UTILITY PROPERTY OR ALLOWABLE OPERATING COSTS THE AMOUNT OR COSTS OF SUCH FINANCING OR BORROWING, INCLUDING BOTH PRINCIPAL AND INTEREST.

SECTION 4 OF H.B. 2927 PROVIDES THAT IF THE COMMISSION FINDS THAT A PORTION OF THE COSTS WERE INCURRED DUE TO A LACK OF PRUDENCE IN PLANT ACQUISITION, CONSTRUCTION OR OPERATION AND WERE INCURRED TO BUILD A FACILITY WHICH IN WHOLE OR PART REPRESENTS EXCESS CAPACITY, THE COMMISSION WOULD BE REQUIRED TO EXCLUDE THAT PORTION OF THE CARRYING OR FINANCE CHARGES AFTER THE DATE OF ITS FINDING.

SECTION 4 OF H.B. 2927 SHOULD BE AMENDED TO CHANGE THE CONJUNCTIVE FROM "AND" TO "OR", SO THAT THE CHARGES WOULD BE EXCLUDED IF THE COSTS WERE DUE TO LACK OF PRUDENCE OR WERE INCURRED TO BUILD A FACILITY WHICH IN WHOLE OR PART REPRESENTS EXCESS CAPACITY.

Thank You Mr. Chairman;

Mr. Chairman & Committee members;

I am a farmer in N.W. Sedgwick county. I am a K&E customer, and I am fortunate. Fortunate because my three irrigation systems are powered by Allis-Chalmers diesel engines and I generate my own electricity to power the pivot systems with them. I have many neighbors and fellow farmers who utilize electric motors for irrigation. One neighbor was paying \$1200 for a 30 day electric bill to irrigate one circle of corn last summer. Another has told me he expects this to be the last year he can afford to irrigate corn, for even though he is served by a neighboring REA, it purchases 30% of its juice from K&E, so he is looking to other crops. As you well know farmers are price takers, not price makers, we cannot just pass along increased cost.

As damaging as the direct cost of a 100% rate increase may be, the indirect cost are just as insidious. My Farmers CO-OP pays \$5000 a month on one elevator and \$8000 a month on another in electric bills. If that is doubled it will virtually eliminate it's patronage dividends ~~(or profits)~~ to it's farmer owners. Our local unified school district is paying nearly \$60,000 a year for electricity. If that amount is doubled it ^{must come from some other area of spending or salaries and the conflict may} ~~will~~ make a mockery of yours, and the Governor's, efforts as politicians to raise teachers salaries. It will also undermine the local district's attempts to hold the line on property taxes. As our local family practice M.D. told my wife, a rate increase will force him to raise his fees accordingly. And I'm sure every business I deal with for goods or services will also be forced to raise their prices.

A doubled electric rate will shrink by millions of dollars the disposable income of several hundred thousand Kansans. It will force numerous businesses to choose between closing their doors and relocating elsewhere. We have seen the Long Island Lighting Co. in New York, saddled with its \$4 billion Shoreham nuclear plant, announce salary cuts to its officers of 20%, its managers 10%, with 20% of its hourly people taking a pay cut and 17% of them expecting to lose their jobs altogether. They have suspended paying dividends. Yet KG&E has done none of these things and continues to borrow money to pay dividends that it has not earned. I am not sympathetic. If Kansas ratepayers are to be hurt financially then let's expect the pain to be shared by the investors who willingly assumed the risk when they speculated on KG&E stocks and bonds; and also by the people who are responsible for the decisions we are all being forced to live with. H.B. 2927 gives the power and authority to the KCC to research, determine, and regulate, in a fair manner, who will have to pay for Wolf Creek, and how much, and when, I urge its passage.

Thank you.

Richard C. Basore

Bentley, Kansas

A.L.E.R.T.

Alliance for Livable Electric Rates
P.O. Box 3312
Wichita, KS 67201

Dear Senator:

The Alliance for Liveable Electric Rates (ALERT) is a group of 500 Wichita businesses which are supporting the passage of House Bill 2927.

Please take a moment of your time to look over our proposed amendments to House Bill 2927. We believe these amendments will strengthen the bill and provide a more equitable manner of setting electric rates.

We appreciate your consideration of this request.

A.L.E.R.T.

Alliance for Livable Electric Rates
P.O. Box 3312
Wichita, KS 67201
(316) 265-5024

POSITION PAPER

Kansas Gas & Electric Co. (KG&E) and its partners are building Wolf Creek Generating Station, a nuclear power plant. The estimated cost is \$2.67 billion, provided there are no further delays, cost overruns or erroneous estimates that would result in higher costs. This amount does not include decommissioning at \$400 million.

KG&E, the fourth smallest nuclear utility, is building the third most expensive nuclear plant.

If Wolf Creek is fully included in the rate base, electric rates will escalate 95% to 137%, resulting in the single biggest one-time rate increase ever caused by a single power plant in the United States. If the rate increase is phased in over several years, then the increase will be over 100% and rates will be doubled for residential, commercial and industrial electricity users. In addition, these rate increases will result in increased prices for products and services and in increased taxes that will be passed on to consumers and taxpayers.

Without Wolf Creek, KG&E has a 32.7% reserve capacity over peak summer demand. With Wolf Creek, KG&E will have a 57.7% reserve capacity over peak summer demand. Both are far in excess of the standard 20% reserve margin.

The rate hike will not be for needed electricity, but to preclude loss and to preserve profits for KG&E shareholders or owners.

KG&E which is a monopoly operating on a cost plus basis, seeks to have the full cost and burden of Wolf Creek borne by the electrical customers and ratepayers.

Such increased electrical rates will severely effect individual users, particularly those with low income and fixed income, including the elderly.

The increased rates will adversely impact agricultural and industrial users, resulting in competitive disadvantages for many and causing others to be marginal operations. The increased rates can be a deterrent for new businesses to be established or located in the area.

Legislation is needed and regulatory action by the Kansas Corporation Commission is required in order to lessen and restrict unnecessary and inequitable increases in electrical rates resulting from Wolf Creek. The cost of Wolf Creek should properly and fairly be assumed and borne by the utility owners and shareholders, whose company brought on this unfortunate economic situation.