

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE

The meeting was called to order by Sen. Neil H. Arasmith at
Chairperson

9 00 a.m./~~p.m.~~ on March 19, 1985 in room 529-S of the Capitol.

All members were present except:

Committee staff present:

Bill Wolff, Legislative Research
Bruce Kinzie, Revisor of Statutes

Conferees appearing before the committee:

Rep. Frank Buehler
Dick Compton, Midwest Energy, Inc., Hays
Kim Dewey, Sedgwick County

The minutes of March 7 were approved.

The hearing began on HB 2042 dealing with unclaimed property with regard to public utilities. Rep. Frank Buehler appeared as one of the authors of the bill who is from the district served by Midwest Energy. He explained briefly that the bill would allow the rate payers to benefit from unclaimed funds rather than the State Treasurer. The State Treasurer's office has no objection to the bill.

Dick Compton, Midwest Energy of Hays, gave testimony in support of HB 2942.
(See Attachment I.)

The chairman asked what the approximate size of these unclaimed accounts is, and Mr. Compton answered that they would be from \$50 to \$150 for residential customers. He also explained to Sen. Gordon that there is no intent to take the customer's money. Midwest Energy would list unclaimed accounts in newspapers, mail to the last known address, or use any other means available to find the customer with no time frame involved. Sen. Gannon inquired further about the list of unclaimed accounts as to how many would end up on the list. Mr. Compton said he could only guess, but he estimates that in the future there would be 10% unlocatable out of their 30,000 customers.

Sen. Werts asked Mr. Compton why, philosophically, the funds should be given to the utility company which is a corporation and not to the state. Mr. Compton said that in the process of collecting on the rate set by the Corporation Commission, margins are collected which are assigned back to individual accounts so the customer is like an investor in a cooperative with no fee to join, and a capital credit certificate is issued annually to the customer which is unlike an investor owned corporation.

There being no further conferees wishing to appear, the hearing was concluded on HB 2042.

The hearing began on HB 2224, a similar bill to HB 2042, dealing with unclaimed warrants. Rep. Dennis Spaniol, one of the authors scheduled to testify, was not present. Staff gave the background of the bill which is an amendment to the Unclaimed Property Act. The bill is an attempt to reconcile some statutes that appear to be in conflict with the Unclaimed Property Act. It would be a benefit to local units of government.

Kim Dewey of Sedgwick County testified in support of HB 2224. (See Attachment II.) In response to Sen. Karr's question as to how much money would be involved in Sedgwick County, Mr. Dewey said that at the end of 1984 there was \$14,000 in outstanding warrants over a period of three years. With this, the hearing on HB 2224 was concluded.

Committee discussion of the bills heard followed. The chairman said that if they were passed, they should be merged together. Sen. Kerr began a discussion as to how long a fund remains on the State Treasurer's list and if interest is paid on the funds. Staff explained that the funds are listed forever and that only those accounts that are interest bearing accounts when turned over to the state earn

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE,
room 529-S, Statehouse, at 9:00 a.m./p.m. on March 19, 1985.

interest. Mr. Compton said he has talked to the State Treasurer and was told that interest is not paid on funds being held. The chairman asked staff to check with the Treasurer's office to determine what the actual practice is in paying interest even though staff had determined that the statute does explain how interest bearing accounts are to be handled.

A short discussion followed regarding the House amendment dealing with credit unions which would make credit unions conform with other statutes as exempt.

The chairman noted that he has no concerns about either of the bills which are dealing with similar situations. He disagrees with Sen. Werts in that he feels that there is no similarity between this type of account and an investor owned account as these individuals are customers of necessity and not investors trying to make money.

After a statement by staff that it would be much simpler to amend HB 2224 into HB 2042, Sen. Karr made a motion to amend HB 2224 into HB 2042, Sen. Werts seconded the motion, and it carried.

Sen. Gordon made a motion to report HB 2042 favorably as amended, Sen. Karr seconded, and the motion carried.

Sen. Karr made a motion to report HB 2224 unfavorably, Sen. Strick seconded, and the motion carried.

The meeting was adjourned.

SENATE COMMITTEE

ON

FINANCIAL INSTITUTIONS AND INSURANCE

OBSERVERS
(Please print)

DATE NAME ADDRESS REPRESENTING

3-19	PHIL ANDERSON	TOPEKA	BUDGET DIV
	Martin C. Umbholtz	"	KCMU
	Kim C. Deery	WICHITA	Seogwick County
	DICK COMPTON	HAYS	MIDWEST ENERGY
	ROD FRANK BRELLER	WAFLIN, KS	
	DENNIS DEHN	TOPEKA	SEN. WERTS' INTERN

STATEMENT OF DICK COMPTON
BEFORE THE
SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE
MARCH 19, 1985
IN SUPPORT OF HOUSE BILL 2042

1. Mr. Chairman and members of the Committee, thank you
2. for considering House Bill 2042 and for allowing me to
3. appear in support of it. My name is Dick Compton. I am
4. Director of Governmental Affairs for Midwest Energy, Inc.
5. at Hays.

6. ABOUT MIDWEST ENERGY, INC.

7. Midwest Energy serves approximately 30,000 electric
8. consumers in a 22 county area of central and northwest
9. Kansas. Included in the service territory are forty-four
10. (44) cities, towns and/or villages that are provided with
11. retail electric service. Midwest also provides bulk power
12. and energy at wholesale to eight (8) municipal electric
13. utilities within its service area. They are Colby, Oakley,
14. Hill City, Ellis, LaCrosse, Jetmore, Seward and Radium.

15. Midwest is also a retail supplier of natural gas
16. service in that it serves approximately 11,000 natural gas
17. customers in the communities of Hays, Ellis, WaKeeney and
18. Ogallah. Natural gas is also served by Midwest to some
19. rural customers in areas around these communities.

20. The community of Hays is the largest community served by
21. Midwest and it is provided with both electric and natural
22. gas service. Hays is also the location of the general
23. offices of Midwest.

1. FORMATION OF MIDWEST

2. Midwest Energy, Inc. is the result of a merger of two
3. separate utilities that was announced in the late seventy's
4. and consumated in the early eighty's. The utilities were
5. Central Kansas Electric Cooperative which was headquartered
6. in Great Bend and Central Kansas Power Company, Inc. which
7. was headquartered in Hays. Central Kansas Electric
8. Cooperative was a not for profit membership cooperative
9. organized under and subject to the provisions of the
10. Kansas "Electric Cooperative, Nonprofit, Membership
11. Corporations" Act KSA 17-4601. Central Kansas Power Company,
12. Inc. was a for profit corporation organized under the Kansas
13. "General Corporate Code" KSA 17-6001 and it was a wholly
14. owned subsidiary Company of United Telecommunications, Inc.,
15. which is headquartered in Shawnee Mission, Kansas.

16. Late in the 1970's, the board of directors of Central
17. Kansas Electric Cooperative authorized a purchase of all of
18. the outstanding shares of common stock of Central Kansas
19. Power Company from United Telecommunications. The stock was
20. purchased and the two (2) utilities were merged into one (1)
21. early in the 1980's. The new utility was named and has been
22. operating as Midwest Energy, Inc. since that time.

23. CONSIDERATIONS OF CORPORATE CHARTER

24. To my knowledge, there are four (4) statutes available
25. under Kansas law which corporations can, depending on their
26. particular circumstances, file their incorporation documents
27. under with the Secretary of State. They are:

1. a. KSA 17-1501 Cooperative Societies
2. b. KSA 17-1601 Cooperative Marketing
3. c. KSA 17-4601 Electric Cooperative, Nonprofit,
4. Membership Corporations
5. d. KSA 17-6001 The General Corporate Code
6. The Cooperative Societies Act, KSA 17-1501, appears to
7. have been placed in the statute books to accomodate mutuals,
8. certain telephone cooperatives, nonprofit health care groups
9. and the list is probably extensive. Midwest, as an electric
10. and gas utility company, obviously does not fit within the
11. preview of this statute.
12. The Cooperative Marketing Act, KSA 17-1601, was
13. obviously directed to petroleum and grain cooperatives and,
14. as an electric and gas utility company, Midwest does not
15. qualify for incorporation under this statute.
16. The Electric Cooperatives, Nonprofit, Membership
17. Corporations Act, KSA 17-4601, is specifically for electric
18. cooperatives and as a combination utility (electric and gas)
19. Midwest was unable to qualify for incorporation under this
20. statute.
21. On the advise of legal council, Midwest is incorporated
22. under the General Corporate Code of Kansas, KSA 17-6001; as
23. a not for profit membership corporation. Legally, Midwest
24. is not an electric cooperative but practically speaking,
25. it is. Midwest conducts its business in virtually every
26. respect just as any electric cooperative in the State
27. does. The only difference is that we are incorporated under

1. a different statute.

2. CAPITAL CREDITS

3. As you are probably aware, a not for profit membership
4. corporation and/or a cooperatives stockholders are its
5. customers. As stockholder/customers our customers receive
6. capital credits, or patronage dividends as they are
7. sometimes referred to, in lieu of cash dividends that
8. would be expected from a normal, for profit, stock
9. organization. Capital credits are based on each individual
10. customers patronage with the organization. Capital credits
11. are assigned annually to each individual customer based on
12. his/her or their, if it is a corporation, patronage, or
13. purchases, during the previous year. Generally, once a
14. cooperative has achieved desired equity levels with
15. respect to capital structure, it begins to retire
16. (sometimes referred to as roll) its longest held capital
17. credits.

18. CAPITAL CREDITS PAYMENT

19. In the event a cash capital credits distribution is
20. directed by the Company's board of directors, a check is
21. mailed directly to all current customers who have earned
22. capital credits and all previous customers who have earned
23. capital credits provided they can be located. The Company
24. publishes lists in newspapers, makes mailings to last known
25. addresses and uses every known means to find all customers
26. who are due a capital credit. In some instances, however, it
27. is virtually impossible to locate a customer who had service

1. and earned capital credits during a period several years
2. previous to the actual distribution.

3. KANSAS-DISPOSITION OF UNCLAIMED PROPERTY ACT KSA 58-3901

4. With certain exceptions, the Kansas Unclaimed Property
5. Act provides that any money or property held or owing to a
6. person or corporation that can't be located must be remitted
7. to the State Treasurer after it is held for a maximum of
8. seven (7) years. In 1979 the Kansas legislature passed an
9. amendment to KSA 58-3929 to exempt capital credits and
10. patronage dividends from the provisions of the unclaimed
11. property act. The language adopted by the legislature in
12. 1979 is in paragraph (c) of KSA 58-3929 and it exempts only
13. those not for profit entities organized under the
14. Cooperative Societies, Cooperative Marketing and Electric
15. Cooperative Acts. Not for profit membership corporations
16. organized under the general corporate code were overlooked.

17. HOUSE BILL 2042

18. We are proposing in this bill that language be added to
19. the Disposition of Unclaimed Property Act that would also
20. exempt the capital credits of organizations that are in the
21. business of providing utility service and chartered under
22. KSA 17-6001 as not for profit utilities. The proposed
23. language addition is in paragraph (d) and it will provide
24. these cooperative groups the same exemption presently
25. extended to others.

1. OTHER AFFECTED UTILITIES

2. Other utilities that would be affected by this
3. legislation are:

- 4. Craw-Kan. Tel. Cooperative - Girard
- 5. Golden Belt Tel. Assn. - Rush Center
- 6. Pioneer Tel. Assn. - Ulysses
- 7. Rural Tel. Ser. Company - Lenora
- 8. S & T Tel. Cooperative - Brewster
- 9. South Central Tel. Assn. - Medicine Lodge
- 10. Tri-County Tel. Assn. - Council Grove

11. These telephone Cooperatives, Associations, and
12. Companies are all organized under the provisions of KSA
13. 17-6001 as not for profit entities just as Midwest Energy
14. is. Attached to this testimony is a letter from James M.
15. Caplinger, Executive Manager of the State Independent
16. Telephone Association. The essence of his correspondence
17. is that the State Independent Telephone Association has
18. been interpreting the 1979 amendment to also exempt their
19. capital credits from the Unclaimed Property Act, however,
20. they do support my proposed language change for
21. clarification purposes. Midwest's legal council does not
22. interpret the current language to exempt entities
23. incorporated under KSA 17-6001.

24. TREATMENT OF UNDISTRIBUTED FUNDS

25. Capital credits held by a Company are treated as
26. donated capital and serve to improve the Company's equity
27. position. An improved equity position can forstall the need
28. for future rate increases. Additionally, if a claim is ever

1. made by a customer who is due a payment, the payment is
2. promptly made. This is true irrespective of the time lapse
3. between when the distribution was declared and when the
4. customer makes the claim. The only requirement is that the
5. customer be able to substantiate in some way the validity of
6. the claim.

7. TOTAL AMOUNT OF MONEY INVOLVED

8. The amount of money involved is difficult to estimate
9. because what is required is that we estimate the number
10. of customers who have migrated from the system that we will
11. be unable to find. Our best guess, however, is that when we
12. reach a point of declaring a cash distribution we could be
13. talking about between \$15,000 and \$25,000 annually.

14. STATE TREASURER

15. As you are probably aware, the State Treasurer is
16. charged with administering the Unclaimed Property Act. I
17. have contacted the State Treasurer's office and after a good
18. deal of lengthy discussion, she has determined that she
19. has no opposition to this proposed clarification.

20. KCC

21. I have personally discussed this proposal with the
22. KCC's general council, Brian Moline and he did not indicate
23. that the KCC would want to object to House Bill 2042.

24. CONCLUSION

25. We believe you will find House Bill 2042 to be a
26. clarification measure, we hope you will consider it to
27. have merit and we would ask for its favorable

1. recommendation.
2. Thank you once again for this opportunity to appear. I
3. would be happy to answer any questions any of the committee
4. members may have.



SEDGWICK COUNTY, KANSAS

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Senate Financial Institutions
and Insurance Committee
March 19, 1985
House Bill 2224

Testimony of Kim C. Dewey
Sedgwick County, Kansas

House Bill 2224 adds two more exceptions to the Provisions of the Disposition of Unclaimed Property Act. K.S.A. 10-815 and 19-320 govern the disposition of unclaimed County warrants (checks). Under these two statutes, the Board of County Commissioners has the discretion to cancel unclaimed warrants after two years and must cancel them after three years. The amount of the cancelled warrant is to be returned to the fund it was drawn upon.

K.S.A. 45-402 et. seq., as amended in 1984, provides that the State Records Board develop retention schedules for county records. Currently, the State Records Board requires that the warrant vouchers be kept on file for a minimum of five years. In practice, most counties will and do maintain these records for longer than the minimum. In any case, a record of the warrant is retained for a considerable period of time, should an individual appear with a claim.

Since K.S.A. 10-815 and 19-320 are not specifically exempted from the Unclaimed Property Act, there would appear to be an inconsistency between the requirements of the three statutes. The Board of Sedgwick County Commissioners asks your favorable consideration of House Bill 2224 to remove any question in this area.

3/19/85
Attachment #