

Approved _____ Date _____

MINUTES OF THE House Sub COMMITTEE ON Energy

The meeting was called to order by Chairman Holmes at _____
Chairperson

3:30 ~~xxx~~ p.m. on March 25, 1987 in room 526-S of the Capitol.

All members were present except:

Committee staff present:

Ramon Powers, Legislative Research Department
Arden Ensley, Revisors' Office
Betty Meyer, Committee Secretary

Conferees appearing before the committee:

Discussion was opened on SB 10.

Wilbur Leonard, Legislative agent for the Committee of Kansas Farm Organizations, testified in support of SB 10, saying his organization supports the bill, but it does not completely address the problem. (Attachment 1)

Louis Stroup, Jr. Executive Director of Kansas Municipal Utilities, testified in support of SB 10, but only if there are no amendments to the Senate version. (Attachment 2)

Joe Lieber, Executive Vice President of the Kansas Cooperative Council, testified in support of SB 10. (Attachment 3)

Rick Kready, Kansas Power and Light Gas Service, Director of Governmental Affairs, asked for the passage of SB 10 without amendments. (Attachment 4)

Jerry Coonrod, Kansas Gas and Electric Company, supported SB 10, stating it protects consumers and owners of all power suppliers against loss and inequitable takeover. (Attachment 5)

Randy Burluson, Empire District Electric Company, appeared in support of SB 10, stating the bill does not restrain the choice of a power supplier. (Attachment 6)

Denny Burgess, Kansas Electric Coop, supports the bill, but says his group does not believe it goes far enough.

Jim Kaup, League of Municipalities, stated that his group can live with the bill after many hours of talks on it.

Hearings closed on SB 10.

SB 333 was then discussed.

Denny Burgess, testified in support of the bill, if changes are made.

Jim Kaup, testified in favor of the bill as it came from the Senate. He said any proposal on expired franchises would be strongly opposed on grounds of constitutional law.

Jerry Coonrod testified in support of SB 333. (Attachment 7)

Hearings closed on SB 333. STANDING COMM. 3/31/87

A motion was made by Representative Rosenau and seconded by Representative Sutter to pass Sub for SB 10 out unamended. The motion passed. STANDING COMM. 3/26/87

Chairman Holmes called a meeting on Friday, March 27, at 1:00 p.m. to further discuss SB 333. The meeting was adjourned at 4:50 p.m.

Kansas Farm Organizations

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TESTIMONY WITH RESPECT TO SUBSTITUTE FOR SB NO. 10
HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES
(Energy Sub-Committee)

March 24, 1987

Mr. Chairman and Members of the Committee:

I am Wilbur Leonard, legislative agent for the Committee of Kansas Farm Organizations. On behalf of our 22 member associations I wish to express our appreciation for the opportunity to make known our position with respect to Substitute for Senate Bill No. 10.

To provide electric service to rural America a system of electric cooperatives has been established, financed principally through the rural electrification administration of the United States department of agriculture. These are non-profit entities which have as their sole objective the providing of electric service at affordable rates to the rural areas.

As public utilities they are required to serve all who seek electric service within the areas assigned to the individual companies. Whenever a portion of a company's service area is appropriated, the remaining customers must pick up the slack. There are fewer persons to shoulder the burden and the costs to those who remain naturally increase. We recognize that annexation by cities is a necessary element of urban growth and, as the population continues to shift to metropolitan areas, those boundaries must be expanded. Annexations usually target the rural electric utility's prime service areas, including not only those which have been populated, but those which have the greatest potential for future development.

While Substitute for Senate Bill No. 10 is designed to compensate a rural electric company for that part of its transmission and distribution systems actually lost in a city annexation, it does not take into account the damage done to the remaining segments. In most condemnation cases and involuntary acquisitions there is an element called severance damage. Simply stated, it is an attempt through the legal processes to compensate for the loss to the remainder for the taking of a portion of a unit, in addition to paying for the property actually taken.

While we support this bill in principal, we believe it does not completely address the problem.

Members of the Committee of Kansas Farm Organizations:

ASSOCIATED MILK PRODUCERS
KANSAS AGRI-WOMEN
KANSAS ASSOCIATION OF SOIL CONSERVATION DISTRICTS
KANSAS ASSOCIATION OF WHEAT GROWERS
KANSAS COOPERATIVE COUNCIL
KANSAS CORN GROWERS ASSOCIATION
KANSAS ELECTRIC COOPERATIVES
KANSAS ETHANOL ASSOCIATION
KANSAS FARM BUREAU
KANSAS FERTILIZER & CHEMICAL INSTITUTE, INC.
KANSAS GRAIN & FEED DEALERS ASSOCIATION
KANSAS LIVESTOCK ASSOCIATION
KANSAS MEAT PROCESSORS ASSOCIATION
KANSAS PORK PRODUCERS COUNCIL
KANSAS RURAL WATER DISTRICT ASSOCIATION
KANSAS SEED DEALERS ASSOCIATION
KANSAS SHEEP ASSOCIATION
KANSAS SOYBEAN ASSOCIATION
KANSAS STATE GRANGE
MID-AMERICA DAIRYMEN
KANSAS VETERINARY MEDICAL ASSOCIATION
KANSAS WATER WELL ASSOCIATION

Testimony of Kansas Municipal Utilities, Inc.
On Senate Substitute for SB 10
House Energy & Natural Resources Subcommittee
March 24, 1987

Mr. Vice Chairman and Members of the subcommittee, I am Louis Stroup, Jr., executive director of KMU, a statewide association of community-owned water, gas and electric systems.

Although we feel that Senate Substitute for SB 10 will provide a great deal of excess compensation to utilities when their facilities are annexed; we do support the passage of the substitute measure, but only if there are no amendments to the Senate version.

Substitute for SB 10 is the result of many hours of hard negotiations among the members of the electric industry and has been very delicately put together.

Any amendments to the Senate version would destroy the agreement reached between KMU, KPL Gas Service, Centel, Empire, Kansas Gas & Electric, Kansas City Power & Light and Midwest Energy, a cooperative.

Thus, I strongly urge this committee to recommend passage of this measure without any amendments so the service territorial issue may be put to rest.

For your information and background purposes, I have attached a copy of our testimony before the Senate Local Government Committee which strongly opposed the original SB 10 -- testimony which indicated why the initial bill was totally unacceptable to us.

Testimony of Kansas Municipal Utilities, Inc.
On Senate Bill 10
Senate Local Government Committee
January 21, 1987

Mr. Chairman, members of the committee, I am Louis Stroup, Jr., executive director of Kansas Municipal Utilities, Inc., a statewide association of community-owned electric, gas and water systems.

Today I would like to make three major points:

(1) The current law has and is working well since its enactment in 1976 and there have been virtually no problems with electric service territories in the last 10 years. Certainly no evidence has been presented to suggest the current law needs changing -- except for the addition of an amendment on compensation.

(2) Since current law is silent on compensation, an amendment on compensation should be added to existing statutes. And KMU, as it did last year, will support a compensation amendment if it is fair and equitable.

(3) SB 10 should be rejected outright as being completely one-sided, exorbitant and unnecessarily complex. I think the fact that two minority reports were issued by four members of the summer committee indicates a great deal of displeasure with SB 10 among the members of the committee, including the group's chairman.

I also would like to remind the committee that the current law was initiated by the rural electric cooperatives and agreed to by them as part of a compromise agreement in 1976.

The facts indicate there have been almost no territorial problems since the enactment of the Retail Electric Suppliers Act of 1976, nor has the annexation portion of the Act (K.S.A. 661,176) caused problems -- a provision agreed to by the RECs and others in the 1976 compromise.

The workability of the current law is indicated by the following facts:

PERCENTAGE INCREASE OF NUMBERS OF ELECTRIC CUSTOMERS (1980-85):

Rural electric cooperatives.....	8.5%	
Kansas City Power & Light.....	7.6%	*
Kansas Gas & Electric.....	7.4%	
KPL Gas Service.....	5.5%	
Centel.....	4.6%	
Municipal electrics.....	4.3%	**
Empire.....	3.3%	

In actual numbers, the gains in electric customers for each utility group within that 6-year period was:

<u>UTILITY</u>	<u>NO. CUSTOMERS GAINED</u>
Rural electric cooperatives	13,263
KCPL	9,600 *
KGE	17,025
KPL Gas Service	15,186
Centel	2,880
Municipal electrics	9,642
Empire	302

*Estimated: Same ratio of Kansas customers as reported for Missouri customers.

**Includes figures for 118 of 124 municipal electric cities

A breakdown of individual customer gains (or losses) by electric utility is shown in Exhibits A and B.

Current law is not harming KCPL either, according to a statement made in the October 30, 1986 Kansas City Times in which Arthur Doyle, chairman, president and chief executive officer of KCPL, is quoted as saying "The growth in commercial and industrial construction is accompanied by a rise in the number of new residential customers needing electricity. KCPL this year [1986] expects to sign up 11,000 customers, about the same number as last year [1985], when the company added more new customers than at any time in the preceding 30 years". See Exhibit C.

Exhibit A also shows the results of a KMU survey of municipal electric cities which indicates that in the 6-year period from 1980 through 1985, few municipal electric cities annexed and those annexations had very minimal impact on other electric utilities.

88 cities responded and of that number, 86 cities during the 6-year period gained only a total of 274 new electric customers through annexation -- an average of 5/10ths of a customer per year. The other two cities -- Augusta and Garden City -- accounted for the vast majority of new customers -- 149 and 909, respectively. Garden City's gain did not harm the local REC since all of the city's load is supplied by Sunflower through Wheatland REC.

YEAR	NO. CITIES NOT ANNEXING	NO. CITIES ANNEXING	AVE. NO. NEW CUSTOMERS PER YEAR FROM ANNEXATION
1980	68	21	17.3 per year
1981	71	17	42.2 per year
1982	66	22	7.6 per year
1983	73	15	1.1 per year
1984	68	20	2.6 per year
1985	72	16	0.6 per year

Now for the problems with SB 10.

(1) The bill is so one-sided, it isn't even an attempt to be fair or equitable.

(2) The bill is not consistent with legislative precedent nor consistent with the compensation method originated by this committee last session and ingrained in SB 677 -- dealing with rural water districts.

(3) Existing law gives locally elected officials the option of determining who serves in newly annexed areas -- SB 10 deletes this 1976 compromise provision.

(4) The opportunity to provide retail electric service via specific territories was granted by the legislature -- not purchased by utilities. Thus, the suppliers do not have ownership of those service rights and should not be able to "sell" those rights as allowed by SB 10.

(5) The fair market value of facilities could represent a reasonable reimbursement requirement for electric facilities involved, but the additional compensation required by SB 10 is redundant, extremely complex and exorbitant. For example, the bill would require a 35-year payment period which we feel is utterly ridiculous. Although the average life of utility property may be 35 years, the bill would falsely assume all of the acquired property is brand new and overlooks the fact that fair market value already considers the average remaining life of the property.

(6) The fiscal impact of the complicated formula upon cities to annually determine the fixed asset evaluation is staggering.

(7) The bill gives the Kansas Corporation Commission jurisdiction inside a city's boundaries for the purpose of determining territory -- such authority is specifically prohibited by current law.

(8) Bill eliminates the annexation section of current law (K.S.A. 66-1,176) -- the very heart of the compromise legislation passed in 1976. Without this section, there would not have been a bill enacted in 1976.

In conclusion, we feel that SB 10 should be rejected in total and that the committee seriously consider a simple compensation amendment to existing law that (1) is fair and equitable (2) would follow the precedent set last year by this committee and the entire legislature with passage of SB 677.

As we said last year in testimony, we feel compensation is the

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real problem area that should be addressed and we stand ready to support an amendment to existing law that is fair and equitable -- SB 10 does not even attempt to pretend to be fair and equitable.

Exhibit A

CITY	No. Customers		Change	No. Annexations by year																			
	1980	1985		80			81			82			83			84			85				
			T	A	NC	T	A	NC	T	A	NC	T	A	NC	T	A	NC	T	A	NC			
Alma	469	479	+ 10	0			0			0			0			0			0				
Altamont *	489	515	+ 26																				
Anthony	1967	1973	+ 6	0			0			0					1 P	3	3		0				
Arcadia	200	200	0	0			1 P	.06	1	0					0				0				
Arma	768	705	- 63																				
Ashland	686	722	+ 36	0			0			0					0				0				
Attica	450	446	- 4																				
Augusta	3182	3285	+ 3	2 P	21	97	2 P	35	2	1 P	6	18	1 P	29	11	1 P	6	15	5 P	13	6		
Axtell	235	235	0	0			0			0					0				0				
Baldwin City	1060	1097	+ 37	0			0			0					0				0				
Belleville	1530	1537	+ 7	1 P	1	1	0			0					1 P	3	3		0				
Beloit	2155	2176	+ 21	1 I	210	0	1 I	190	0	0					1 P	10	0	2 P	70	0	2 P	66	0
Blue Mound	198	170	- 28																				
Bronson																							
Burlingame	645	654	+ 9																				
Burlington	1479	1454	- 25	2 C/I	31	0	0			2 P	2	0	0		1 P	21	0	1 P	6	0			
Cawker City	400	435	+ 35	0			0			0					0				0				
Centralia	294	257	- 37																				
Chanute	6567	6106	-461	2 P	5	0	3 P	129	0	2 P	20	0	0		1 P	10	10	2 P	.8	0			
Chapman	566	600	+ 34																				
Chetopa	759	775	+ 16	0			0			0					0				0				
Cimarron	785	826	+ 41	1 P	13	7	1 P	15	0	1 P	20	15	2 P	7	1	1 P	15	0	0				
Clay Center	2926	2799	-127	0			0			0					0				0				
Coats				0																			
Coffeyville	8353	8475	+122	0			0			0					0				0				

* Customer data for 1980-82

P = Petitioned by landowner
 C = Consented to by landowner
 I = Initiated by city

CITY	No. Customers		Change	No. Annexations by year																				
	1980	1985		T = Type of annexation A = Acreage annexed NC = New electric customers gained by these annexations																				
				80 T	A	NC	81 T	A	NC	82 T	A	NC	83 T	A	NC	84 T	A	NC	85 T	A	NC			
Colby	2600	2649	+ 49	2	P	14	1	0		2	P	110	1	2	P	36	0	0		1	P	4	0	
DeSoto **	754	725	- 29																					
Dighton	799	803	+ 4	0			0			0			0			0				1	P	2	1	
Ellinwood	1303	1324	+ 21	0			1	P	3	26	1	I	13	0	0					0				
Ellis	1024	1011	- 13	0			0			0			0			0				0				
Elsmore	57	60	+ 3	0			0			0			0			0				0				
Elwood																								
Enterprise	370	360	- 10	0			0			0			0			0				0				
Erie	723	720	- 3	4	P/C	9	1	0		0			1	P	1	0	0			0				
Eudora	1033	1115	+ 82	0			0			0			0			0				0				
Fredonia	1855	1816	- 39																					
Galva	344	352	+ 8	0			0			0			0			0				0				
Garden City	7656	9006	+1350	5		232	192	10	473	626	3	7	86	0		2		132	5	0				
Gardner*	1100	1015	- 85																					
Garnett	1693	1856	+ 163	2	P	22	1	0		0			2	P	4	0	2	P	6	2	1	P	.2	0
Girard	1565	1602	+ 37	0			0			0			0			0				0				
Glasco	419	450	+ 31																					
Glen Elder	312	335	+ 23	0			0			0			0			0				0				
Goodland	2887	2884	- 3	0			0			2	P	36	0	0		1	C	9	0	0				
Greensburg	985	1012	+ 27	0			0			0			0			0				0				
Haven	530	565	+ 35	0			0			0			0			0				0				
Herington	1557	1528	- 29	0			1	I	43	0	0		0			0				0				
Herndon	170	170	0	0			0			0			0			0				0				
Hill City***	1190	1225	+ 35																					
Hillsboro	1333	1380	+ 47	0			0			1	P	1	0	0		0				0				

* Customer data for 1980-82

** Customer data for 1980-83

*** Customer data for 1983-85

CITY	No. Customers		Change	No. Annexations by year																	
	1980	1985		80			81			82			83			84			85		
			T	A	NC	T	A	NC	T	A	NC	T	A	NC	T	A	NC	T	A	NC	
Hoisington	1846	1836	- 10	0			0		0			0			0			0			
Holton	1801	1835	+ 34	0			1 C	15 0	1 C	129 0	10 C	140 0	6 C	76 0	0			0			
Holyrood	350	350	0	1	20	0	0		0			0			0			0			
Horton*	1031	1021	- 10																		
Hugoton	1631	1715	+ 84	2 P	7 2	0			0			0			0			0			
Iola	3713	4071	+358	0			13	50 33	1 I	1 1	1 I	6 4	7 P/I	74 8	0			0			
Isabel	80	85	+ 5	0			0		0			0			0			0			
Iuka	118	118	0	0			0		0			0			0			0			
Jetmore	588	585	- 3	0			0		0			0			0			0			
Johnson City	612	651	+ 39	0			0		0			0			0			0			
Kansas City	70502	75740	+5238	0			0		0			0			0			0			
Kingman	1882	1839	- 43	0			0		0			0			2 C	54 0	0	0			
Kiowa	790	781	- 9	0			0		0			0			0			0			
LaCrosse	930	940	+ 10																		
LaHarpe ****	290	397	+107																		
Lakin	871	949	+ 78	0			0		1 P	6 1	0				0			0			
Larned	2589	2653	+ 64	0			0		1 I	25 0	1 P	5 0	0		0			0			
Lincoln Center	934	890	- 44	0			0		0			0			0			0			
Lindsborg	1295	1398	+103	0			0		0			0			0			0			
Lucas	350	313	- 37																		
Luray	177	178	+ 1																		
Mahaska																					
Mankato	754	716	- 38	0			0		0			0			0			0			
Marion	1010	1110	+100																		
McPherson	6624	6981	+357	1	8	0	1	98 0	1	98 0	1	10 0	1	68 0	1	17	0	0			

* Customer data for 1980-82

****Customer data for 1980-84

CITY	No. Customers		Change	No. Annexations by year																		
	1980	1985		T = Type of annexation A = Acreage annexed NC = New electric customers gained by these annexations																		
				80 T	A	NC	81 T	A	NC	82 T	A	NC	83 T	A	NC	84 T	A	NC	85 T	A	NC	
Meade***	1013	960	- 53	0			0			0			0			1 P	.8	6	0			
Minneapolis	991	1075	+ 84	0			0			0			0			0			0			
Montezuma	356	406	+ 50	0			0			1 P	1	1	0			0			0			
Moran	274	288	+ 14	0			0			0			0			0			0			
Morrill	175	166	- 9																			
Moundridge	683	742	+ 59																			
Mount Hope	323	335	+ 12																			
Mulberry																						
Mulvane	1601	1866	+265	2 P			9 I			1 I		0	0			0			2 P/I	21		0
Neodesha	1800	1800	0	0			0			0			0			0			0			
Norton	1829	1844	+ 15	0			0			0			0			0			0			
Oakley****	1281	1288	+ 7																			
Oberlin	1370	1356	- 14	0			0			0			0			0			0			
Osage City	1523	1458	- 65	0			0			0			0			0			0			
Osawatomie	2105	1966	-139	0			0			0			0			1 I	1	0	0			
Osborne	1130	1105	- 25	0			0			0			0			0			0			
Ottawa	5130	5217	+ 87	0			4 P/I	108	0	2 I	56	0	1 P	5	0	1 P	15	0	2 P/I	31		1
Oxford****	562	572	+ 10																			
Pomona	475	510	+ 35	0			0			0			0			0			0			
Pratt	3811	4066	+255	0			0			0			0			0			1 C	7		2
Prescott																						
Radium***	30	26	- 4																			
Robinson	155	160	+ 5	0			0			0			0			0			0			
Russell	3267	3421	+154	0			1	165	0	1 I	16	0	3 P	20	1	2 P	31	0	2 P	9		0
Sabetha	1449	1580	+131	2 C	25	0	2	10	0	1	3	0	1	5	0	2	25	0	1	110		0

*** Customer data for 1983-85

**** Customer data for 1980-84

CITY	No. Customers		Change	No. Annexations by year																			
	1980	1985		T = Type of annexation A = Acreage annexed NC = New electric customers gained by these annexations																			
				80 T	A	NC	81 T	A	NC	82 T	A	NC	83 T	A	NC	84 T	A	NC	85 T	A	NC		
Savonburg****	67	71	+ 4																				
Scranton	268	304	+ 36	0			0			0			0			0			0				
Seneca	1164	1182	+ 18	1	I		0	0		1	P		1	3	P	6	0	0		0			
Severance****	57	57	0																				
Seward	42	49	+ 7	0			0			0			0			0			0				
Sharon Springs	444	634	+190	0			0			0			0			0			0				
St. Francis	985	985	0	0			0			0			0			0			0				
St. John	1015	1115	+100	0			0			0			0			0			0	1	I	0	
St. Marys	765	700	- 65	1	P		3	1	0	0			0			0			0	1	P	.5	1
Stafford	891	888	- 3	0			1	P	5	31	0			0			0			0			
Sterling	1126	1124	- 2	1	P		10	0	0	0			1	P	15	0	0		0				
Stockton	1068	1138	+ 70	0			0			0			0			0			0				
Summerfield	158	158	0	0			0			0			0			0			0				
Toronto	285	270	- 15	0			0			0			0			0			0				
Troy																							
Udall*****	355	365	+ 10	0			0			1	P	2	21	0			0			0			
Vermillion	106	112	+ 6	0			0			0			0			0			0				
Wamego	1678	1701	+ 23	3	P		28	62	0	2	I	4	23	0		1	I	.1	0	0			
Washington	856	849	- 7	0			0			0			0			0			0				
Waterville****	383	440	+ 57																				
Wathena**	606	620	+ 14																				
Webber																							
Wellington	4122	4246	+124	1	P		12	0	0	0			0			0			0	1	P	22	0
Winfield	7010	7365	+355	28			1667	0	4	95	0	0	0			0			0				

** Customer data for 1980-83
**** Customer data for 1980-84
***** Customer data for 1984-85

Utility	No. Customers		Change
	1980	1985	
Midwest Energy	26380	29296	+ 2916
Kaw Valley	4647	5080	+ 433
Doniphan	1428	1385	- 43
Twin Valley	2042	2113	+ 71
Nemaha-Marshall	3177	3118	- 59
NCK	3045	3011	- 34
Northwest	1979	2030	+ 59
Coffey County	3395	3740	+ 345
Caney Valley	4684	5844	+ 1160
Sedgwick County	3087	3405	+ 318
C & W	2969	2871	- 98
Great Plains	3897	3890	- 7
Flint Hills	5210	4658	- 552
Lane-Scott	2194	2380	+ 186
Victory	3140	3387	+ 247
Butler	4216	4700	+ 484
Smoky Hill	2204	2825	+ 621
Lyon County	2534	2552	+ 18
Radiant	2910	3438	+ 528
Sekan	3997	4164	+ 167
Brown-Atchison	2685	2761	+ 76
Ark Valley	4042	4310	+ 268
United	4655	5448	+ 793
Smoky Valley	731	826	+ 95
Jewell-Mitchell	5048	4863	- 185
Leavenworth-Jefferson	4592	5087	+ 495
CMS	3013	3928	+ 915
Norton-Decatur	5512	5939	+ 427
Ninnescah	2650	3000	+ 350
Wheatland	12113	13143	+ 1030
DS&O	4962	5180	+ 218
Pioneer	8725	9534	+ 809
Western	3854	4485	+ 631
PR&W	2628	2764	+ 136
Sumner-Cowley	3477	3930	+ 453
TOTAL Coop	155,822	169,085	+13,263 = 8.5%
KCPL	125,400*	135,000	+ 9,600 = 7.6%
KGE	228,992	246,017	+17,025 = 7.4%
KPL Gas Service	273,488	288,674	+15,186 = 5.5%
Centel	62,846	65,526	+ 2,880 = 4.6%
Municipals	223,974	233,616	+ 9,642 = 4.3%
Empire	8,990	9,292	+ 302 = 3.3%

*Approximate = same ratio of Kansas customers as reported for Missouri customers

Building boom adds to business of utility

By Martin Rosenberg
Of the Business Staff

The number of building projects planned or under construction in the Kansas City area remains at a record high, and the number of new electricity customers also is likely to continue to climb, say officials of the Kansas City Power & Light Co.

Developers were planning or building more than 37 million square feet of commercial and industrial space in the area in September, said R.H. Graham, the company's director of district commercial operations.

And the level of construction shows no sign of cooling from the torrid pace of the last three years, he said.

In a recent interview, Arthur J. Doyle, chairman, president and chief executive officer of KCP&L, said large commercial construction

KCP&L's new residential customers

1981	4,505
1982	4,011
1983	6,159
1984	8,569
1985	11,045

1986 hookups are projected to exceed 1985's

Source: Kansas City Power & Light Co.

KC Times 10/30/86

Times chart

under way or planned in the area for the next five to seven years could total \$32 million.

To accommodate expected growth in electricity demand, the company will consider the rehabilitation of old generating plants, the addition of a new plant and the institution of strategies to cut peak demand, Mr. Doyle said.

The growth in commercial and industrial construction is accompanied by a rise in the number of new residential customers needing electricity. KCP&L this year expects to sign up 11,000 customers, about the same number as last year, when the company added more new customers than at any time in the preceding

See BUILDING, C-2, Col. 1

Building boom means more business for KCP&L

Continued from Page C-1

30 years, Mr. Doyle said. The company was serving 368,816 customers at the end of 1985.

In the first nine months of 1986, KCP&L connected 7,633 new residential customers. More than 25 percent of them will use electric heating, Mr. Graham said.

Other area utilities also are seeing a surge in customers. KPL Gas Service of Topeka, which provides natural gas to about 400,000 customers in the metropolitan area, from May through September signed up 3,732 new residential customers to receive natural gas for heating, up 17.5 percent from a year earlier, said company spokesman Tom Hall.

Other area economic indicators also point to continued vigorous growth, said Robert MacGregor,

president of the Chamber of Commerce of Greater Kansas City.

"All kinds of companies are coming into the area," he said. And some key companies already here are expanding, he added.

While construction of office buildings continues, developers seem to be confident that millions of square feet of new space will be snapped up, Mr. MacGregor said.

To keep track of electricity demand so it can plan accordingly, KCP&L monitors area construction projects that involve 50,000 square feet or more.

Last year the company connected 9 million square feet of commercial and industrial space, double the volume of 1984. The jump was partly the result of extending electricity service to several large buildings, such as the AT&T Town Pavilion Downtown, he said.

And this year the utility projects adding 7.5 million square feet of space in its service area, Mr. Graham said.

The company's figures show that in September 58 projects with a combined space of 11.1 million square feet were under construction in the area.

Johnson County development accounted for 34 projects with a total of 4.5 million square feet. Kansas City, south of the Missouri River, had 5.7 million square feet under construction, while north of the river 882,000 feet of space was being built, KCP&L figures show.

As of September, 13.5 million square feet of space was planned for Johnson County, 12.4 million was planned for Kansas City south of the river, and 1.2 million square feet was planned for north of the river, Mr. Graham said.

Additional information on issue:

MUNICIPALS GAVE UP A LOT OF TERRITORY IN 1976

Municipal electric cities, in agreeing to support the REC's single certification legislation in 1976, gave up a great deal of territory around their borders (from 2½ to 3 miles radius) where the cities could serve any load they desired and were not under any jurisdiction. In exchange for the municipal electric cities giving up this large amount of service territory, the RECs agreed to the annexation provision of the current law (K.S.A. 66-1,176). Now the RECs want to renege on that agreement and hem in the cities.

During testimony before the Senate Local Government Committee in 1986 on SB 428, KMU presented the history of the REC's attempt to obtain single certification of territory, part of which was contained in a November 14, 1975, letter from then general manager of Kansas Electric Cooperatives, Charles Ross, to then chairman of the Interim Committee on Transportation & Utilities, Senator Bob Storey. A quote from page 2 of the Ross letter:

"...Under present franchising statutes cities have the power to grant or deny a franchise to an electric utility which may have a part of its inservice facilities annexed into a city. If a franchise is denied, the annexed utility must give up its facilities and rights to service in the annexed area to the electric utility which is already franchised to serve in that city.

NOTE: Although it would have been to our great benefit, Kansas RECs have never attempted to include language in House Bill 2047 which would mandate that an REC absolutely retain the right to continue service in an annexed area...We understand why local units of government -- the cities themselves -- want to have the right to decide which electric utility or utilities are to provide electric service within their incorporated boundaries. This is the principle of present franchise statutes and we subscribe to this principle

although it is an issue that we could logically have included in House Bill 2047 to the detriment of the IOUs."

Thus, Mr. Ross points out that the RECs understood the rights of cities to determine who served within their boundaries, agreed to existing franchise laws and principles and agreed to the annexation provision that allows a city to determine who provides electric service in newly annexed areas.

CURRENT LAW HAS NO IMPACT ON REC OR IOU FINANCING ABILITY

During the 1986 legislative session, RECs stated they must have this stay-put legislation (SB 428) or their ability to finance would be harmed. We can find no evidence than any loans following the 1976 Act have been turned down because of the current law. On the contrary, RECs agreed to the annexation provision with loans already on the books and have obtained REA and other sources of financing since 1976.

The RECs' financial position was actually enhanced with the passage of the 1976 Act since it provided them with more territory than prior to the Act -- the elimination of the dual, overlapping territory which was so evident before passage of the territorial bill.

Current law also has not impacted the financial ability of the owners to secure financing for the \$3.05 billion Wolf Creek nuclear plant or Sunflower's \$446 million Holcomb coal-fired plant.

RECs WERE ESTABLISHED TO SERVE RURAL AREAS NOT CITIES

Rural electric cooperatives were founded in the mid-1930s to bring electrification to farms and rural areas that were without electricity -- not to serve inside the state's 624 cities.

Despite this historic rural role, RECs now sell retail power to 72 cities in Kansas, full requirement power wholesale to 3 additional cities

and partial requirement wholesale power to another 12 cities. See Exhibit D. And since the mid-1960s, RECs have been aggressive in trying to take over community-owned cities. And just recently, the cities of Ellis and Wilson were taken over by RECs.

RECs ALREADY SERVE THE LARGEST AREA OF THE STATE

Ever since the RECs requested and obtained single certification of territory in 1976, they have geographically served the largest area of the state and have, under current law, the largest area within which to expand in the future.

In a number of counties, RECs are the only electric suppliers. In the western two-thirds of the state, RECs serve a vast majority of the land. In the western half of the state, there are a number of municipal cities completely surrounded by RECs.

In contrast, community-owned electric systems have by far the smallest service areas -- and now some utilities want to restrict nearly all growth by cities and have an airtight guarantee of most of the future growth for themselves.

MORATORIUM/STAY PUT POLICY STIFLES CITY DEVELOPMENT

A moratorium or stay-put policy favored by KEC, KGE and KCPL would be harmful to the residents of cities -- it will stifle orderly municipal development and permanently and artificially limit a city's electric utility growth to a core area only. Furthermore, such a policy not only has negative short-term consequences for citizens/customers, but it has very undesirable long-term consequences for cities and the state with respect to the ability to plan for and encourage economic development.

Cities have historically been the level of government which has planned, promoted and searched out new industries to provide the jobs needed to

maintain a healthy community -- not only for the city proper, but the surrounding rural areas.

CONFUSION CREATED

The current moratorium as well as a stay put policy will create a great deal of confusion in cities whenever they expand in the future. There are numerous situations where a single city could be served by 2,3, or even 4 different electric suppliers unless existing law is retained.

Currently, the city of Olathe is served by two electric suppliers, KCPL and KPL Gas Service. City officials assert there is a great deal of confusion by electric customers on a daily basis and that this worsens during times of emergencies and storm outages. Rate differential within a city is also a real problem from a development standpoint, causing zoning and other problems.

MORATORIUM/STAY PUT POLICY USURPS HOME RULE AUTHORITY

City officials have the responsibility as well as the right to determine who uses the streets and alleys within their communities and to determine who provides services within city borders.. A moratorium or a stay put policy usurps the constitutional home rule authority of electric city officials.

The granting of a franchise to a non-municipal entity is a privilege, not a right for private concerns -- a right to be granted by locally elected city officials who have that responsibility within a city's boundaries.

WHY THE ISSUE?

If problems exist among some RECs and some IOUs, they have not been caused by the state's current policies in regard to who serves newly annexed areas with electricity. Nor have they been caused by municipal annexation.

The utilities wanting to change current law which has worked so well for the last 10 years are those which own or purchase from Sunflower's Holcomb plant or Wolf Creek -- the state's two most expensive power plants.

The suggested changes in the law is an attempt to "bail out" these utilities -- an attempt which will penalize other utilities and the consumers of those utilities. It also is an attempt to stifle competition since some of the utilities no longer can compete price-wise (See Exhibit F). This non-competitiveness was not caused by current annexation policies of this state or the annexation provision of the Retail Electric Suppliers Act.

RECs have been aggressive

Although originally established to bring electrification to farms and rural areas, RECs in Kansas have been fairly aggressive in trying to take over municipal loads since the mid-60s. Just recently the cities of Ellis and Wilson were taken over by RECs.

RECs sell full requirements of power to these municipal electric cities:

Lakin
Kiowa
Garden City

RECs sell partial requirements of power to these municipal electric cities:

Colby	Dighton	Anthony
Johnson City	Goodland	
LaCrosse	Hill City	
Meade	Jetmore	
Oakley	Norton	

RECs sell full requirements retail to these 72 cities:

Albert	Hoxie	Victoria
Alton	Jennings	WaKeeney
Atwood	Kanopolis	Waldron
Auburn	Kanorado	Wallace
Bird City	Lenora	Walnut
Bogue	Leoti	White Cloud
Brewster	Manter	Willis
Buffalo	Matfield Green	Wilson
Cedar Vale	McDonald	Winona
Chautauqua	Menlo	Herndon
Clayton	Morland	Mahaska
Collyer	Moscow	Radium
Coolidge	New Strawn	
Deerfield	Niotaze	
Dresden	Norcatour	
Earlton	Peru	
Edmond	Protection	
Elgin	Quinter	
Gem	Rexford	
Gorham	Richfield	
Gove City	Rolla	
Grainfield	Rush Center	
Grandview Plaza	Russell Springs	
Green	Scott City	
Hanston	Sedan	
Havana	Selden	
Hays	Solomon	
Holcomb	Syracuse	
Hollenberg	Tribune	
Horace	Ulysses	

History of RECs attempt to obtain single certification of territory legislation

During fall district meetings of rural electric cooperatives in 1971, members of Kansas Electric Cooperatives, Inc., asked the statewide association to begin development of a plan to protect REC territory.

Subsequently, at a KMU Board of Directors meeting in McPherson on October 17, 1972, Charles Ross, then head of KEC, appeared and urged municipal support for KEC's proposed attempt to secure "single certification of territory" legislation.

Later, at a specially called KMU Board meeting for the purpose of discussing KEC's proposed territorial legislation, 7 members of KEC attended and urged KMU and municipal support for the legislation. This special meeting was held in McPherson on December 19, 1972, and KEC representatives at that KMU Board meeting were:

Charles Ross, KEC general manager, Topeka
 Fred Stone, manager, Kaw Valley Electric, Topeka
 Lowell Abeldt, KEC President, D.S. & O., Hope
 Jack Hutchinson, manager, Sedgwick County Electric, Cheney
 Ken Conaway, Pioneer Electric, Ulysses
 Jack Goodman, manager, Central Kansas Electric, Great Bend
 Ken Erickson, manager, PR&W Electric, Wamego

KMU's Board did agree to support the KEC proposal, but only with the insistence that it contain an annexation provision that would allow a city to determine who would serve in newly annexed areas. This would make up for the territory voluntarily given up by the cities in a 3-mile radius around the communities. Kansas Power & Light also insisted upon the annexation provision. The REC's agreed to the provision and it became state law (K.S.A. 66-1,176).

The annexation provision was the trade off the RECs agreed to to obtain municipal support for their proposed service territory legislation.

Prior to 1976, municipal electric cities could serve any loads within a 3-mile radius of their city limits. Private power companies and RECs operated in both single and dual, overlapping service territories and were guided in disputes by wire stringing rules issued by the Kansas Corporation Commission. Under the 1976 Act, a municipal electric city gave up a minimum of 2½ miles of service territory and in some cases, a full 3-mile radius. Under the 1976 Act, a municipal was limited to a ½-mile of territory or one half the area between existing lines, whichever was less.

Following several unsuccessful attempts to get the measure passed, the proposal was placed before the Interim Committee on Transportation & Utilities in 1975 and subsequently all 3 segments of the electric industry were instructed by legislators to try and reach a compromise. A series of industry-wide meetings were held on the following dates (in which KMU participated as did representatives of the RECs and companies):

August 13, 1975
September 3, 1975
September 30, 1975
November 3, 1975

Attached is a copy of a November 14, 1975, letter from then general manager of KEC, Charles Ross, to then chairman of the Interim Committee, Senator Bob Storey, which shows that the RECs agreed to the annexation provision and understood its future ramifications.

Also attached is a copy of Charles Ross' testimony on February 10, 1976, which asserted REC support for the amended version of the bill, including the annexation provision, before the Senate Transportation & Utilities Committee.

Exhibit F

Rate Comparison

The following rate comparison data for 40 municipal electric utilities in Kansas (out of 124) was compiled by the Kansas Municipal Energy Agency. The data for the 4 private power companies and 7 rural electric cooperatives shown was prepared by the Kansas Corporation Commission.

Rates based on: Residential Class (winter) for 750 KWH, no tax included, and the average cost for the utility is shown. Data is for December 1985 and includes fuel adjustment costs, surcharges and R&D costs when appropriate.

<u>MUNICIPAL</u>	<u>AVERAGE COST</u>	<u>IOU/COOP</u>
Chanute	\$ 40.36	
Mulvane	41.12	
Pratt	42.55	
Iola	43.15	
Augusta	46.66	
Osawatomie	46.90	
Kansas City BPU	46.92	
Ottawa	47.78	
Osage City	49.13	
Sterling	49.70	
	49.77	-----Midwest Energy-N
Wellington	50.61	
Wamego	50.77	
Erie	50.87	
Burlington	51.76	
Larned	51.93	
Clay Center	53.15	
Colby	53.60	
Baldwin City	53.80	
Hoisington	54.28	
	55.00	-----KPL Gas Service
Herington	55.95	
<u>MUNICIPAL AVERAGE</u>	<u>56.74</u>	
Ashland	57.48	
	57.76	-----Jewell-Mitchell REC
Holton	58.20	
Hugoton	60.35	
Winfield	60.40	
	60.41	-----Centel
	60.45	-----Doniphan REC
Belleville	60.96	
Lindsborg	61.25	
	61.59	-----KCPL
Garnett	62.28	
Girard	63.23	
	63.34	-----Sumner-Cowley REC
LaCrosse	64.00	
Washington	64.07	
Fredonia	64.50	
Neodesha	65.25	
	65.36	-----Twin Valley REC
Greensburg	65.42	
St. Francis	65.55	
	65.77	-----KGE
Norton	66.05	
Meade	66.63	
Stockton	66.80	
Ellinwood	66.85	
Oberlin	73.13	
	77.40	-----Pioneer REC
Ellis	76.50	
	83.67	-----Great Plains REC

Testimony on SB 10
House Energy and Natural Resources Committee
Energy Subcommittee
March 25, 1987
Prepared by Joe Lieber
Kansas Cooperative Council

Mr. Chairman and Members of the Committee: my name is Joe Lieber, Executive Vice President of the Kansas Cooperative Council.

The Council has a membership of over 200 cooperatives, 13 of which are electric cooperatives. We would like to give some early background on why and how electric cooperatives got started.

In the 1930's all of the cities and towns of Kansas had electricity. This electricity was furnished by investment-owned utilities or municipal utilities. Most farms in Kansas did not have electricity. It was not profitable for electric companies to string lines to rural areas because customers were too far apart.

If you were a farmer and wanted electricity the only way you could get it was to get together with other farmers and start your own electric company. This is what they did and that is how the electric cooperatives got started.

Note that these pioneers were not entrepreneurs who were out to make a profit. On the contrary, they were operating their cooperatives at cost. But because they were so spread out, the cost per kilowatt hours was usually higher than their city counterparts.

You can imagine what happened when a housing project or an industry would move into their territory. To have a high concentration of members in a small area was a welcome addition to their incomes.

Even with these additions most REC members pay more for electricity than their urban counterparts.

A few years ago in Louisiana an REC asked a municipal utility to take them over and the municipal declined because they could not make a profit.

REC's were established to help rural America. They are still helping rural America. When their territory is annexed it is usually going to be the most cost effective part of their territory. That is why we believe that they should get a fair and reasonable price.

Thank you.

(E)

Testimony Before
HOUSE ENERGY SUBCOMMITTEE
Substitute Senate Bill 10

By Richard D. Kready
KPL GAS SERVICE
Director of Governmental Affairs

March 24, 1987

Mr. Chairman and members of the Committee:

As you may well know, when ten different groups who have a vested interest in the same bill are able to get together, discuss, and possibly even agree on the wording of a bill, that marks a truly remarkable event. Substitute Senate Bill 10 is an example of such an occasion. When this bill was being considered by the Senate Local Government Committee, the committee deemed it appropriate that the affected parties meet and work out their differences on their own. Substitute Senate Bill 10 is the carefully crafted result.

It is in this spirit of compromise that KPL Gas Service asks this committee to pass Substitute Senate Bill 10 without amendment. This bill represents a great deal of compromise, in fact, it is the opinion of KPL that this bill already goes too far. However, since such a delicate balance has finally been achieved, KPL will not fight the bill in its current form, but if the bill is changed, the delicate balance could be destroyed and the hotly contested controversy would likely return.

For additional information on this issue as well as a list of the parties involved in drafting this compromise, please

look over the attached explanatory note. This note provides background information concerning the history of the territories issue as well as a history and explanation of the bill itself.

As stated previously, it is a rare moment when ten different parties are able to work out their differences to resolve such a major controversy. We ask the committee to take advantage of this occasion and pass Substitute Senate Bill 10 without amendments.

ANNEXATION OF ELECTRIC TERRITORIES:

Substitute SB 10 by the Senate Committee on Local Government is a carefully negotiated compromise to provide fair and reasonable compensation for the sale and purchase of electric facilities in newly annexed areas and lift the current moratorium on territorial exchanges so orderly growth and economic development may continue.

BACKGROUND: As cities grow into areas served by another utility, the city may either grant a franchise to allow the existing utility to continue serving the annexed area, or not grant a franchise and thereby cause that territory to begin receiving electricity from the retail supplier serving the rest of the city. If the latter takes place, the original utility must be fairly compensated so it will not be left with nearly the same operating costs to be spread over the smaller number of remaining customers. At the same time, the compensation must not be too high, because that could cause the customers of the acquiring utility to pay unfair higher rates.

At the end of the 1986 legislative session, a one-year moratorium on electric territory changes was imposed to allow an interim committee to work out a compromise compensation plan to solve this hotly debated issue. Following a week of hearings, there was general dissatisfaction with the original SB 10, which had been narrowly adopted by the interim committee prior to the 1987 session. As a result, Senator Don Montgomery directed the affected parties to meet and try to reach a compromise. The substitute for SB 10, adopted by the Senate Local Government Committee, is the successful result.

As noted in the February 17, 1987, committee minutes: "This bill represents a compromise worked out by the following utility companies: Kansas City Power and Light Company, Kansas Gas and Electric, Kansas Power and Light Gas Service, Kansas Municipal Utilities, Inc., Centel Electric of Kansas, Empire District Electric, Kansas Electric Cooperatives, Inc., Midwest Energy, Inc, Kansas Municipal Energy Agency and the League of Kansas Municipalities. The League and Kansas Electric Coops took no position."

The Senate Bill 10 Substitute represents the successful solution of the electric territories issue. Any substantial changes will likely destroy the delicate balance reached, and reopen this issue to a full-scale controversy. Substitute Senate Bill 10 should be adopted as recommended by the Senate Local Government Committee.

EXPLANATION OF SUBSTITUTE SB 10: The bill removes the language which established a moratorium on exchange of territories until July 1. It also eliminates a lot of extraneous language on how the state was to be divided into electric territories in 1976. This language is no longer needed since the territories are now in place and upon enactment, a fair compensation formula will be established which eliminates the need for a moratorium.

(CONTINUED ON NEXT PAGE)

Following an annexation, new section 3(b) provides the existing retail electric supplier may continue to serve and charge its normal rates until an agreement is reached with the acquiring utility to take over the territory. There is a time period of 180 days in which this agreement should be worked out and the transfer of territory made. Section 3(c) allows payment for such territory to be set by mutual agreement, or by the compensation formula described. If the parties cannot agree on the amount resulting from application of the formula, section 3(d) permits either party to take the case to District Court.

According to the formula in section 3(c), compensation shall be based on the following: (1.) The depreciated replacement cost of the electric utility facilities in the area being acquired; (2.) the reasonable and prudent costs of detaching the facilities and reintegrating the system for the acquired utility's remaining customers; (3.) an amount equal to one year's gross revenues from the customers being taken over; and, (4.) payment for state and federal income taxes that occur because of this transaction.

This compensation formula is the most delicately crafted part of the Substitute for SB 10. Several meetings and much give and take was required of the various utility representatives to achieve this compromise. All proposed amendments should be resisted since any major changes will likely result in a break-down of support for this carefully crafted solution. For example, the gross revenues requirement means payment for revenues lost from actual customers, not compensation for vacant ground. Vacant ground was deliberately excluded. The goal of this legislation is to protect the remaining customers of the acquired utility. If there are revenues being received from existing customers in a particular area, the loss of that revenue could have an adverse effect on other ratepayers; however, in the case of vacant ground where there are no customers, there is no loss of revenue, and thus, no adverse effect on other ratepayers.

Questions have also been raised about the requirement for reimbursement of incurred taxes. This is necessary to achieve the goal of keeping the utility and its ratepayers "whole". For example, if the same piece of property is sold to a rural electric cooperative and an investor-owned utility, the cooperative (which does not have to pay taxes) gets to keep the entire amount. However, the investor-owned utility (which is taxed), would have to pay a portion of the amount in taxes, and therefore would have a lesser amount left to keep the remaining ratepayers whole. While this means it would cost more to buy the same property from an investor-owned utility than from a cooperative, there is no windfall for the investor-owned utility, since both utilities will end up with the same amount accruing for the protection of their customers.

CONCLUSION: *Since any changes could destroy the delicate balance negotiated by the affected parties, all proposed amendments should be resisted and the Substitute for Senate Bill 10 should be adopted as recommended by the Senate Committee on Local Government.*

TESTIMONY BEFORE
ENERGY AND NATURAL RESOURCES SUBCOMMITTEE

MARCH 24, 1987

BY

JERRY COONROD

KANSAS GAS & ELECTRIC COMPANY

MR. CHAIRMAN AND COMMITTEE MEMBERS: I AM JERRY COONROD REPRESENTING THE KANSAS GAS & ELECTRIC COMPANY. WE ARE APPEARING TODAY IN SUPPORT OF SUBSTITUTE SB 10.

YOU WILL RECALL LAST SESSION THE PASSAGE OF SB 740. SB 740 IMPOSED A ONE YEAR MORATORIUM ON THE EXPANSION OF ANY ELECTRIC SERVICE TERRITORY IN THE STATE. THE PURPOSE OF THE MORATORIUM WAS TO GIVE TIME NECESSARY FOR ALL PARTIES CONCERNED TO WORK OUT A SOLUTION TO THE PROBLEM OF SERVICE TERRITORY LOSS BY ONE ELECTRIC POWER SUPPLIER TO ANOTHER AS THE RESULT OF ANNEXATION. WE BELIEVE SUB. SB 10 IS THE SOLUTION.

KANSAS NOW HAS A COMFORTABLE ELECTRIC GENERATING MARGIN. IN FACT, THAT MARGIN IS IN PART A PROBLEM. AS UTILITIES SEEK MARKETS FOR ELECTRICITY, THE TEMPTATION IS STRONG TO MOVE INTO AREAS NOW SERVED BY THEIR NEIGHBORS. FOR COOPERATIVES AND COMPANIES, EXPANSION GENERALLY IS NOT POSSIBLE UNDER CURRENT STATE LAW. BUT A LOOPHOLE IN THAT LAW, STOPPED TEMPORARILY BY SB 740, PERMITS MUNICIPALLY OWNED UTILITIES TO MOVE MORE OR LESS AT WILL TO TAKE OVER CUSTOMERS NOW

PAGE 2

SUB. SB 10

SERVED BY OTHERS. OUR COMPANY NOW SERVES CUSTOMERS WITH ANNUAL REVENUES OF MORE THAN \$20 MILLION WHICH ARE SUSCEPTIBLE TO THIS TYPE OF TAKEOVER AND SOME ARE BEING LOST NOW.

LAST YEAR ANNEXATIONS TOOK SIX OF THESE CUSTOMERS. THOSE ANNEXATIONS WERE HIGHLY SELECTIVE IN THAT ONLY MORE PROFITABLE CUSTOMERS WERE ANNEXED. NEIGHBORING CUSTOMERS WITH RELATIVELY LITTLE PROFIT POTENTIAL WERE SKIPPED. THE CITY OF CHANUTE IS TAKING OVER A MAJOR INDUSTRIAL CUSTOMER, TAKING SEVERAL MILLIONS OF DOLLARS IN REVENUES FROM US. UNDER EXISTING LAW, IT MUST PAY US ONLY FOR A RELATIVE HANDFUL OF FACILITIES ADJACENT TO THE PLANT. COMPARED WITH VALUE THE PRICE IS EXTREMELY LOW. THE PAYBACK TO THE CITY FOR TAKING OVER OUR CUSTOMER IS PROBABLY LESS THAN FOUR MONTHS. HOW MANY NORMAL TRANSACTIONS OFFER SUCH POTENTIAL?

KANSAS' NOW COMFORTABLE GENERATING MARGIN WILL END QUICKLY AS OUR INDUSTRIAL DEVELOPMENT EFFORTS SUCCEED AND AS THE STATE STAGES AN ECONOMIC COMEBACK. WITH GENERATING MARGINS NORMAL OR LESS, THE NEED FOR NEW FACILITIES OR THE POSSIBILITY OF A SHORTAGE WILL INCREASE.

FOR SERVICE TO BE ASSURED, ELECTRIC UTILITIES MUST PLAN AND INVEST IN EXPENSIVE PLANTS, LINES AND OTHER EQUIPMENT WHICH MAY TAKE

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SUB. SB 10

YEARS TO PUT IN PLACE. IF THERE IS UNCERTAINTY ABOUT FUTURE RESPONSIBILITY FOR SERVING AN AREA, THERE OBVIOUSLY IS LITTLE INCENTIVE FOR PLANS TO BE MADE AND CARRIED OUT.

KANSAS LAW MAKES SOME PLANNING DIFFICULT. CITIES ARE RELATIVELY FREE TO ANNEX TERRITORY AND WITH IT ANY ELECTRIC CUSTOMERS THEY CHOOSE. FURTHER, PRESENT LAW DOES NOT CLEARLY REQUIRE REIMBURSEMENT TO A UTILITY WHICH LOSES ITS INVESTMENT IN PROVIDING SERVICE TO A MUNICIPALIZED AREA. THAT LOSS ULTIMATELY IS CHARGED BACK TO ITS REMAINING CUSTOMERS AS HIGHER RATES.

CERTAINLY WE BELIEVE CITIES SHOULD BE ABLE TO CHOOSE THEIR POWER SUPPLIER. SUB. SB 10 DOES NOT RESTRAIN THAT CHOICE NOR DOES IT CAUSE TERRITORY TO BE TRANSFERRED FROM ONE UTILITY TO ANOTHER. RATHER IT PROTECTS CONSUMERS AND OWNERS OF ALL POWER SUPPLIERS AGAINST LOSS AND INEQUITABLE TAKEOVER.

STATEMENT OF THE
EMPIRE DISTRICT ELECTRIC COMPANY
TO THE HOUSE ENERGY AND NATRUAL RESOURCES SUBCOMMITTEE
CARL HOLMES, CHAIRMAN
REGARDING SUB. SB 10
MARCH 24, 1987

Mr. Vice-Chairman and members of the subcommittee, my name is Randy Burleson, and I represent The Empire District Electric Company. Empire is an Investor Owned Electric Utility which serves the majority of Cherokee County in extreme Southeast Kansas. We request that the territory controversy be resolved with the passage of Substitute for SB 10 without amendments.

This compromise bill like the original compromise legislation which passed in 1976 is the result of many extreme views meeting on middle ground. Neither side to this territory issue escaped untouched, and probably as time passes some individual companies, on both sides, will be effected more severely than others. This situation, we feel, is characteristic of compromised positions.

Empire's major request to this committee is to consider the issue of fairness as it relates to enjoying the rewards of hard work and time invested. I am referring to the years that my company and many others have dedicated to seeing that the communities we serve grow and prosper. From our perspective it would not be fair to be forced into sharing what we have worked to hard to obtain.

page 2 -- Empire Electric Co., March 24, 1987

On the other hand, we feel the compensation formula outlined in this bill is more than fair to a displaced utility and additional compensation would only result in a windfall to some customers at the expense of others.

Thank you for the opportunity to address this committee and I would attempt to answer any questions.

Testimony in Support of SB 333
Jerry Coonrod
Kansas Gas and Electric Company
3/25/87

My name is Jerry Coonrod of Kansas Gas and Electric Company. My appearance today is in support of Senate Bill 333 which not only will greatly clarify the issue of takeover of electric systems but will make it easier and less expensive for any involved party to decide on proper courses of action. Further and most importantly, it should reduce the risk of higher electric rates for customers of a disenfranchised utility who are not included in the area involved in the takeover.

Kansas law is generally regarded unclear as to whether a municipality can disenfranchise a utility while a valid franchise is in effect except for nonperformance. SB 333 clarifies cities' rights in that regard. At the same time, it sets in place a mechanism that protects other customers of the utility from higher rates because of the loss of service area.

If a utility loses a market, particularly a community that is significant in relation to its total number of customers, it retains considerable generating and transmission equipment that would no longer be needed to provide retail service. This leaves behind the fixed costs of that equipment for remaining customers to pay, thus creating the prospect of an ultimate burden on them and the state.

SB 333 also sets out clear guidelines as to the cost of takeover. Presently, that would be set by a court, usually after any takeover is affected. The resulting amount may be at great variance with what the governing body and voters believed it would have been. In addition to be uncertain, the price-setting procedures are long, involved and costly.

An example occurred recently in Page, Ariz., where the community took over the facilities of Arizona Public Service Company. The consulting firm it retained to assist it placed a value of \$2 million on the system. The consultants' studies were estimated originally to cost \$400,000. Thus the city made its initial decisions to buy based on a total cost of \$2.4 million for the system and associated studies.

In the final analysis, the cost paid by Page after condemnation was more than \$9 million and the bill to its consultants was \$1.2 million, both obviously far higher than early estimates. As a result, the anticipated lower electric rates not only did not materialize, but the city had to increase taxes to cover the unexpectedly higher costs as well.

While the majority of legal opinion now seems to indicate it would be difficult if not legally impossible for a city to take over a utility during the term of a franchise, there have been those who have advocated government takeover and some

preliminary studies have been made requiring effort and expense both on the part of cities and utilities. Even modest studies are expensive. A law like SB 333 would remove enough uncertainty that an interested community could determine with relatively little consulting help the cost of a takeover so it could determine whether proceeding would be worthwhile.

The likely result of SB 333 is that present law about takeover would be clarified, costs of decision-making would be reduced, consultants and city government could more accurately estimate the cost of a takeover and there would be assurance to any involved utility and city of a fair, reasonable selling price. Most importantly, SB 333 would reduce the burden on a utility's customers not included in the takeover by assuring that they would not be left responsible for the cost of generation and transmission facilities installed to serve the disenfranchising community.