

Approved January 22, 1987
Date

MINUTES OF THE SENATE COMMITTEE ON LOCAL GOVERNMENT

The meeting was called to order by Chairman Senator Don Montgomery at
Chairperson

9:00 a.m./~~p.m.~~ on January 20, 1987 in room 531-N of the Capitol.

All members were present except: Senators: Bogina, Mulich and Steineger who were excused.

Committee staff present: Theresa Kiernan, Mike Heim and Lila McClaflin

Conferees appearing before the committee:

Rep. Ron Fox, Johnson County
Sen. Merrill Werts, Geary County
Mark Sholander, Kansas City Power and Light, Kansas City, KS.
Denny Burgess, Kansas Electric Cooperatives, Topeka
David Hedburg, Director of Regulatory Relations and Rate Design, Cooperative
Finance Corporation, Washington, D.C.
Robert Rives, Kansas Gas and Electric, Wichita

The Committee was called to order by the Chairman, Senator Don Montgomery. Announcements were made and Senator Werts and Representative Fox were introduced. They were the Chairman and the Vice-Chairman of the summer Interim Committee on Energy and Natural Resources. S.B. 10 was introduced as a result of that committee.

Rep. Fox addressed the Committee. He stated, he believed the Legislature has a responsibility to protect the utility companies investments and the planning that takes place. In Kansas, he stated we have a law that basically regulates one group and leaves the other group out. We have the IOUs and the investor-owned RECs, etc. in one group and the municipals in another. Whatever is done we need to create a fair and equitable playing field or a level playing field as some people would say, for all players. Either the state regulates or they don't regulate, either they control or they decontrol. Decontrol or deregulation is not a practical matter, so therefore, the only option is to create a fair and equitable playing field for all segments of the utilities under some type of regulation.

In closing he stated there probably are some minor problems with the bill but he thought they could be worked out in this committee or as it moves through the legislative process. It is very important that a utility that plans for their territory be able to depend on that plan in their long range forecasting.

Senator Werts responded to Rep. Fox's remarks. He stated Rep. Fox has addressed what he perceives as iniquities in the law. Municipals on one hand and all other utilities on the other side of this. This was not a charge of the Interim Committee proposal that we were given, repeatedly it came up in the Interim Committee but he'd tried to keep it down. It was not addressed and debated during the Interim Committee meetings. He suggested there were many problems with S.B. 10 and he thought they would become apparent to the members of the Committee as they listened to the conferees.

The Interim Committee report was reviewed by staff. Ramon Powers that staffed the Interim Committee was also present.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON LOCAL GOVERNMENT,
room 531-N, Statehouse, at 9:00 a.m./~~p.m.~~ on January 20, 1987

There was some committee discussion on the Interim Committee report and it was mentioned that two minority reports were filed.

Mark Sholander, General Counsel, KCP&L, Kansas City, KS. expressed support for the proposed S.B. 10. (Attachment I) He responded to questions from members of the Committee.

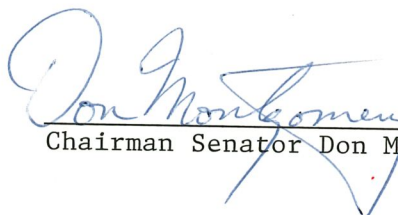
Denny Burgess, Kansas Electric Cooperatives, Topeka, introduced David Hedburg, Director of Regulatory Relations and Rate Design, Cooperative Finance Corporation, Washington, D.C.

Mr. Hedberg expressed support of S.B. 10 and stated there is a need for strong territorial protection. It is essential to the utility industry, particularly the cooperative segment, without it financing costs would be higher, also, distribution and G & T costs would be higher and that simply means our members will have to pay higher electric rates. (Attachment II)

He responded to questions from members of the Committee. The Chairman asked Mr. Hedberg if he had a summary of other state laws in this area. He stated Colorado and Alabama had legislation in this area. Colorado's was relative new but he thought Alabama's was adequate to do the job.

Robert L. Rives, KG&E, stated S.B. 10 provides the protection that now is missing. The concept of S.B. 10 is to protect the best interests of all Kansans, not to favor a few, while assuring the state of reliable electric services. (Attachment III)

The Committee time was up. The Chairman invited the conferees who were not heard today to return tomorrow. The meeting adjourned at 10:00 a.m., next meeting will be at 9:00 a.m., Wednesday, January 21, 1987.


Chairman Senator Don Montgomery

Date: January 20, 1987

GUEST REGISTER
 SENATE
 LOCAL GOVERNMENT

NAME	ORGANIZATION	ADDRESS
TREVA POTTER	PEOPLES NAT. GAS	TOPEKA
Jennie Lyles	Ks. Electric Cooperatives	Topeka
John Woodman	KC P & L	KC Mo.
William G. Leonard	Comm. of Ks. Farm Organizations	Topeka
Denny Bergem	KEC	Topeka
David Hedberg	CFC	WASH. D.C.
MARK SHOLANDER	KCPL	KC Mo
Bob Rives	KGIE	Wichita
JERRY COOPER	"	TOPEKA
DAN B. MCGEE	CENTEL ELECTRIC - KANSAS	GREAT BEND
Randy Burleson	Empire District Electric	Columbus, Ks.
Richard D. Kready	KPL Gas Service	Topeka
BILL OHLEMEIER	KANSAS ELECTRIC COOP.	TOPEKA
BILL PERDUE	KPL Gas SERVICE	TOPEKA
TOM TAYLOR	KPL Gas Service	Topeka
Louis Stroup Jr.	KMW	McPherson
Hester Murphy	KEC	Topeka
Chris Kauf	League of Municipalities	Topeka
Robertson	"	"
marla Howard	City of Wichita	Wichita
Dave Mack	KCPL	KC, Mo

COMMENTS OF KANSAS CITY POWER & LIGHT COMPANY
ON PROPOSED SENATE BILL NO. 10

Mr. Chairman and members of the Senate Local Government Committee, my name is Mark Sholander and I am General Counsel for Kansas City Power & Light Company. I am speaking here today on behalf of KCPL to express its support for the proposed Senate Bill No. 10. KCPL supports that Bill because it would close a serious loophole in the current system of allocating service territories among the suppliers of electric utility services in the State of Kansas, by requiring approval by the Kansas State Corporation Commission before any municipality can reassign the right to provide utility services within any area annexed by that municipality. In addition, the proposed Bill would provide for fairer compensation to the utility being displaced from the annexed area, including compensation to it for the loss of its right to serve in that area.

The Retail Electric Suppliers Act (in K.S.A. 66-1,171) established as the public policy of the State of Kansas the "division of the state into territories within which retail electric suppliers are to provide the retail electric service" so as to avoid wasteful duplication of electric facilities and minimize disputes between retail electric suppliers. Pursuant to that policy, K.S.A. 66-1,172 currently provides for the division of Kansas into electric service territories, including areas served by municipal retail electric suppliers, within which only one supplier shall provide retail service.

(ATTACHMENT I)

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This system of service territory allocation was intended to enable retail electric suppliers, which must incur huge fixed costs in building both generation and transmission capacity, to plan and build their electric systems at least with the knowledge of exactly which service territory they will be required to serve. The Retail Electric Suppliers Act was thus intended to prevent the waste which happens if two retail electric suppliers build duplicate facilities intending to provide service to the same territory.

Although municipally owned electric suppliers are specifically included in the territorial allocation, the current K.S.A. 66-1,174 makes it clear that the Kansas State Corporation Commission does not have any jurisdiction over the retail electric service provided by a municipality within its corporate limits, including areas annexed by the municipality in the future. Thus, although municipal electric suppliers are specifically included within the current system of service territory allocation, municipalities can evade its clear intent and purpose merely by the device of annexing the area within which the municipality desires to provide service.

For several reasons, KCPL believes that this loophole should be closed by the adoption of the proposed Senate Bill No. 10. First, investor-owned retail electric suppliers such as KCPL must plan and build their electric systems so that they can meet future demand for electricity within their service territories. This cannot be done efficiently or effectively, however, if significant

portions of that service territory can be taken away from them by an expanding municipal electric system, without regard to the resulting duplication and waste of electric facilities and without any assessment (by the State Corporation Commission) of whether the change in suppliers would be in the public interest. Second, it must be stressed that such loss of service territory to a municipality is very harmful to the remaining customers of the utility which loses the annexed service territory, because it is they who will ultimately be required to pay for the consequences resulting from that loss of territory and revenues.

In addition to closing this loophole in the current system of service territory allocation, the proposed Senate Bill No. 10 will provide for much fairer compensation to the utility being displaced from the annexed area, assuming of course the State Corporation Commission has decided that it is in the public interest that the annexed area be served by a different supplier. The compensation allowed by the current K.S.A. 12-811 is extremely unfair in that it prohibits compensation for the value of the utility's franchise or right to do business in the annexed area. The proposed bill would remedy this by providing the displaced utility with a reasonable portion of the revenues received from the annexed area for a long enough period of time to compensate the utility for the value of what it has lost - the right to do business in the annexed area.

I thank the Senate Local Government Committee for the opportunity to present these comments.

STATEMENT
ON BEHALF OF
KANSAS ELECTRIC COOPERATIVES, INC.
TO THE
SENATE LOCAL GOVERNMENT COMMITTEE
JANUARY 20, 1987

This attached statement is submitted for your information
and for inclusion in the Committee record.

National Rural Utilities Cooperative Finance Corporation is a national cooperative that has 963 members in 46 states, charged with the responsibility of raising private capital for it's members for the funds that cannot be obtained from the Rural Electrification Administration (REA).

(ATTACHMENT II)
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TESTIMONY BEFORE
SENATE LOCAL GOVERNMENT COMMITTEE

JANUARY 20, 1987

BY

DAVID HEDBERG

NATIONAL RURAL UTILITIES COOPERATIVE FINANCE CORPORATION

Mr. Chairman and Committee Members:

My name is David Hedberg and I am employed as the Director of Regulatory Relations and Rate Design by the National Rural Utilities Cooperative Finance Corporation known as CFC. CFC is a national cooperative that has 963 members in 46 states, CFC is charged with the responsibility of raising private capital for it's members for the funds that cannot be obtained from the Rural Electrification Administration (REA).

CFC raises private capital for it's members by obtaining a mortgage on all the assets and revenue of a cooperative and then using this as collateral for bond issues. By using the assets of the cooperatives as collateral the lowest cost private capital can be obtained because investors view this as a relatively low risk investment. This process works much like getting a loan using a mortgage on your house or farm. If the value of the house or farm is adequate the bank will give you a lower interest rate than if there is inadequate security or collateral.

Because the cooperative's assets and revenues are the collateral on loans, the degree of territorial protection is a major concern to both CFC, who is the lender, as well as to the investment community that buys CFC's bonds. In all bond prospectuses, territorial protection is discussed and to the extent problems exist they are revealed.

The need for strong territorial protection is especially critical now that the future of REA is uncertain. The Administration 's recent budget proposed to Congress called for the complete elimination of future REA loans within two years. If this effort is even partially successful, more private capital will be required and areas of concern like adequate territorial protection, will become even more critical in the future.

Specifically, annexation causes problems and increases the cost of doing business in three major areas. First, as we have discussed, if the problem is severe enough, it increases the risk of lending money to cooperatives and thus increases interest costs. Second, annexation obviously occurs where distribution cooperatives border municipalities and frequently involves the fastest growing and the highest density areas of the cooperative's service territory. By taking this area away from the cooperative it means the remaining members must then pay the fixed costs previously paid by the annexed members. Because of the small size of rural electric cooperatives and their low density (about 10% of that of the average municipal), this burden will frequently require rate increases and further the problems already being experienced in rural areas.

The third problem area caused by annexation is how it impacts generation and transmission (G&T) cooperatives. As you are no doubt aware, most distribution cooperatives purchase power from G&T cooperatives and then resell it to their members. Because of the very high cost of generation and transmission plants (about \$4600/consumer in Kansas) and the long time frame

for completion of major generation projects (8-10 years), the impact of lost consumers because of annexation can be even more severe at the G&T level than at the distribution level.

This is especially true today because of slow growth and excess generating capacity in most of the country. The loss of these consumers usually means they cannot be replaced by new growth so all the G&T's members have to help pay the fixed costs previously paid for by the annexed consumers. This means annexation can occur in one country and have an effect on consumers in counties many miles away.

The annexation problem is now occurring in about 15-20 states around the country. I believe the problem has escalated in recent years because of excess capacity and slower growth throughout the utility industry, which has increased the competition for new consumers.

In summary, the need for strong territorial protection is essential to the utility industry, particularly the cooperative segment. Without it financing costs are higher, distribution and G&T costs are higher and that simply means our members will have to pay higher electric rates.

Thank you for your time.

TESTIMONY BEFORE
SENATE LOCAL GOVERNMENT COMMITTEE
Robert L. Rives
Group Vice President
Kansas Gas and Electric Company
January 20, 1987

Our purpose is to talk about the need for legislation like SB 10 to help ensure reliable electric service in the state and to prevent undue rate increases for some Kansans.

There are two parts to the compact between the state and utilities. First, the law does give utilities the right to serve specific geographic areas. But with the right goes the obligation to serve that area, no matter how much or how little service is demanded.

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 the moratorium provisions of SB 740, permits municipally owned utilities to move more or less at will to take over customers now 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. Unfortunately, as those customers are lost, the fixed costs they now help pay are left for our other customers to pay.

(ATTACHMENT III)

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Last year annexations took six of our customers. Those annexations were highly selective in that only more profitable customers were annexed. Neighboring customers with relatively little profit potential were skipped. In another case, the City of Chanute is taking over a major industrial customer, taking several millions of dollars in revenues from us. These losses will require us to seek rate relief or to reduce savings passed along to other customers in the future. Further, this problem may grow. The federally owned Western Area Power Administration in Colorado--faced with a generating surplus--is moving into Kansas and taking over wholesale service to a number of municipally owned utilities. This means that Kansas' near-term power surplus will be increased by that federal agency. Thus the pressure on municipally owned utilities to expand their markets could continue. Any benefit for a few cities though, will come at the expense of many Kansans.

Actually, in the long run, all Kansans will suffer. 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. The consequences of energy shortfalls already have been demonstrated. You may recall the natural gas shortages in the 1970s. Industry could not expand or even locate here if gas availability was critical to its operations. In some towns gas service was even denied to new houses. Obviously a prolonged electric power shortage would have equally disastrous results. For service to be assured, electric utilities must plan and invest

in expensive plants, lines and other equipment which may take 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. 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. The City of Chanute now is taking over one of our key customers. 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? Unfortunately, much of the cost to us ultimately will be passed along to customers, in this case probably as reduced savings. On the other hand, if we buy facilities from a municipal utility, the sale would proceed as between willing buyer and seller. We have no power of takeover. A bill like SB 10 provides the protection that now is missing.

The problem we're addressing is to protect the best interests of all Kansans, not to favor a few, while assuring the state of reliable electric service. The concept of SB 10 offers that protection.