

Approved January 23, 1987
Date

MINUTES OF THE SENATE COMMITTEE ON LOCAL GOVERNMENT

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

9:05 a.m./~~p.m.~~ on January 21, 1987 in room 531-N of the Capitol.

All members were present except:

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

Conferees appearing before the committee:

Denny Burgess, Kansas Electric Cooperatives, Topeka
Wilbur Leonard, Kansas Farm Organizations, Topeka
Randy Burlson, Empire District Co., Southeast Kansas
Dan R. McGee, Centel Electric-Kansas, Great Bend

The hearing for the proponents on S.B. 10 continued.

Denny Burgess, Kansas Electric Cooperatives, Inc., spoke in support of S.B. 10. He stated the concept contained in this bill is an alternative to the moratorium contained in S.B. 740 which was approved by the Legislature last session. The cooperatives believe that when service territories are lost the original supplier should be adequately compensated and S.B. 10 does provide compensation for the loss. (Attachment I) A lengthy question and answer period followed Mr. Burgess testimony.

Wilbur Leonard, Kansas Farm Organizations appeared in support of S.B. 10. He stated the organizations he represent believe that short of continuing the moratorium, S.B. 10 presents a fair and reasonable solution and he urged the Committee to report the bill favorably for passage. (Attachment II) He responded to questions from members of the Committee.

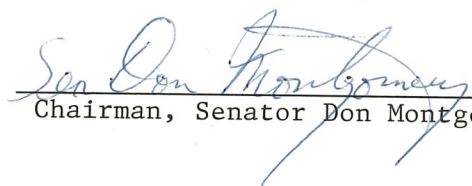
The hearing for the opponents of S.B. 10 was opened.

Randy Burlson, Empire District Electric, Southeast Kansas, stated passage of S.B.10 would drastically change intergral parts of the retail electric suppliers act of 1976. A one time payment concept considering existing facilities and existing customers would be their preferred solution. (Attachment III)

Dan McGee, Centel Electric-Kansas, Great Bend, spoke in opposition to S.B. 10. He stated the moratorium caused with S.B. 740, and the extremely unreasonable compensation provisions of S.B. 10 would effectively prevent orderly franchises and certification of service rights in annexed areas. (Attachment IV)

In answer to a question on compensation, Mr. McGee stated if a reasonable one time compensation could be agreed upon, he thought that would be the best way, rather than a number of years specified.

The hearing for opponents will continue on January 22, 1987. The meeting adjourned at 10:00 a.m., next meeting will be at 9:00 a.m., January 22, 1987.


Chairman, Senator Don Montgomery

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

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

Kansas Electric Cooperatives, Inc. is a statewide trade association with membership consisting of 36 rural electric cooperatives (two generation and transmission cooperatives and 34 distribution cooperatives) serving Kansas.

(ATTACHMENT I)
1/21/87
Local Gov.

TESTIMONY BEFORE
SENATE LOCAL GOVERNMENT COMMITTEE
JANUARY 20, 1987
BY
DENNY D. BURGESS
KANSAS ELECTRIC COOPERATIVES, INC.

Mr. Chairman and Committee Members:

I am Denny Burgess representing Kansas Electric Cooperatives, Inc. I am here today to speak in favor of SB10. The bill that you have before you is the result of many hours of study by the Special Committee on Energy and Natural Resources.

The concept contained in this bill is an alternative to the moratorium contained in SB740 which this Legislature approved last session.

The moratorium bill provided protection to the RECs from other utilities taking our territory through annexation. The RECs have not been aggressive in trying to take territory from other utilities so the moratorium had only a beneficial effect on us.

The Special Committee on the Energy and Natural Resources Committee was urged by some utilities to lift the moratorium and allow for territorial changes through annexation to continue unrestricted.

The concept contained in SB10 would allow for territory to be transferred providing the KCC determines that it is in the public interest to reassign the territory.

The originally certified supplier would have to be compensated for the loss of territory and for any existing facilities being taken, unlike current law, where no compensation is required.

We can support this concept as we did the moratorium and as I stated before, the Rural Electric Coops in Kansas are not trying to take certified territory from any other utilities. We are merely trying to retain the territory that is presently assigned to us. We have taken the responsibility for serving this territory seriously and have planned and made investments in generation, transmission and distribution systems to provide service to these areas as future growth dictates.

We do not want to lose any of these service territories that we have planned and invested to serve, but if there are to be transfers of territory the original supplier should be adequately compensated so the remaining consumers do not have an additional burden to bear.

We believe that SB10 does provide compensation for loss of territory as well as for loss of facilities in the territory. This is very important because the territory is part of the security for our loans.

We have with us today David Hedburg from National Rural Electric Finance Corporation or CFC to speak to you from the perspective of our lender. I would like to introduce Mr. David Hedburg, Director of Regulatory Relations and Rate Design for CFC.

Committee of . . .

Kansas Farm Organizations

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(913) 234-9016

TESTIMONY SUPPORTING SB 10
Senate Local Government Committee

January 20, 1987

Mr. Chairman and Members of the Committee:

I appreciate the opportunity to appear before you this morning in support of Senate Bill 10 recommended by the Special Committee on Energy and Natural Resources. My name is Wilbur Leonard and I am the legislative agent for the Committee of Kansas Farm Organizations. The names of those member organizations are listed on the second page of this statement. It requires the unanimous vote of our membership to take an official position on a legislative issue.

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.

This morning we reiterate the concerns which we have voiced in previous legislative hearings with regard to the burden imposed upon those persons residing in the general area, but who are not included in the annexed portion.

A public utility is required to serve all who seek its services within its certificated area. Whenever a portion of that 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. 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 development.

(ATTACHMENT II)
1/21/87
Local Gov.

The hardships on the remaining rural customer and on the electric utility could be severe. We believe that, short of continuing the moratorium, Senate Bill 10 presents a fair and reasonable solution. We urge the Committee to report it favorably for passage.

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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 LIVESTOCK MARKETING 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 BEFORE
SENATE LOCAL GOVERNMENT COMMITTEE

BY

RANDY BURLESON

JANUARY 21, 1987

EMPIRE DISTRICT ELECTRIC

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE MY NAME IS RANDY BURLESON. I REPRESENT THE EMPIRE DISTRICT ELECTRIC COMPANY AND INVESTOR OWNED ELECTRIC UTILITY, THAT SERVES CHEROKEE COUNTY IN EXTREME SOUTHEAST KANSAS, AND I AM HERE IN OPPOSITION TO THE CURRENT FORM OF SB 10.

PASSAGE OF SB 10 WOULD DRASTICALLY CHANGE INTEGRAL PARTS OF THE RETAIL ELECTRIC SUPPLIERS ACT OF 1976. THE RETAIL ELECTRIC SUPPLIERS ACT ESTABLISHED THE CERTIFIED TERRITORIES THAT ALL ELECTRIC SUPPLIERS WOULD OPERATE IN, AND ALLOWED ONLY ONE METHOD OF TERRITORY REASSIGNMENT. KANSAS STATUTE 66-1,176 SPELLED OUT THE ORDERLY PROCEDURE OF CHANGING SUPPLIERS AFTER ANNEXATION. THIS EXCEPTION CAME TO BE AFTER CONSIDERABLE DEBATE AND NEGOTIATION BY THE LEGISLATURE AND THE ELECTRIC COMPANIES. IF 66-1,176 HAD NOT BEEN INCLUDED IN THE COMPROMISE THERE MAY NOT HAVE BEEN A BILL PASSED AT THAT TIME. THE ERROR BACK IN 1976 WAS THE OMISSION OF REASONABLE COMPENSATION NOT THE METHOD FOR TERRITORY REALLOCATION.

EMPIRE HAS ALWAYS WORKED VERY CLOSE WITH CITIES AND AREA CHAMBERS' OF COMMERCE TO ATTRACT NEW DEVELOPMENT IN OUR SERVICE

AREA. WE WOULD LIKE THE OPPORTUNITY TO SHARE IN THE GROWTH THAT OCCURS IN AND AROUND THE CITIES WE SERVE. WE FEEL THAT OUR ECONOMIC DEVELOPMENT EFFORTS IN SOUTHEAST KANSAS SHOULD NOT BE PENALIZED BY PREVENTING US FROM SERVING IN NEWLY ANNEXED AREAS. THE DECISION OF WHICH SUPPLIERS WILL SERVE THE NEEDS OF A COMMUNITY CAN BE ADDRESSED LOCALLY WITHOUT ESTABLISHING A NEW BODY OF LAW, AND COMPENSATION CAN THEN BE ADDRESSED SEPARATELY TO INSURE ALL PARTIES REMAIN WHOLE.

LAST SESSION SB 677 PASSED OUTLINING COMPENSATION TO THE RURAL WATER DISTRICTS WHEN THEY WERE INVOLVED IN ANNEXATIONS. SINCE PROCEDURES FOR TERRITORY REASSIGNMENT WERE NOT ADDRESSED IN THAT BILL MAYBE ITS COMPENSATION CONCEPT WOULD BE A BETTER PLACE TO START, AND 66-1,176 COULD BE LEFT UNTOUCHED. MOST OF THE PARTIES INVOLVED INDICATED SUPPORT FOR COMPENSATION AS A MEANS TO SETTLE THIS DISPUTE AND HOPEFULLY THE SOLUTION CAN BE REACHED WITHOUT THE INCLUSION OF ROADBLOCKS IN THE TERRITORY REASSIGNMENT PROCESS.

IN YOUR ANALYSIS OF THIS ISSUE PLEASE CONSIDER THAT MOST OF THE PARTIES INVOLVED HAVE DIFFERENT PROBLEMS AND WHAT MIGHT BE CONSIDERED REASONABLE COMPENSATION IN ONE PART OF THE STATE MAY LEAD TO ESSENTIALLY A MORATORIUM IN ANOTHER, FOR EXAMPLE, EMPIRE COULD CONCEIVABLY PAY REVENUE TO A DISPLACED SUPPLIER AND NEVER RECEIVE A DOLLAR OF SALES IF NO CUSTOMERS EXIST IN THE NEWLY ACQUIRED AREA. THE FORMULA IN SB 10 ASSUMES EXISTING REVENUES AND IMMEDIATE GROWTH AND IN SOUTHEAST KANSAS THAT MAY NOT BE THE CASE, IT COULD BE A VERY LONG TIME BEFORE WE ACTUALLY REALIZED ANY REVENUE FROM NEW CUSTOMERS. THIS IS WHY A ONE TIME PAYMENT CONCEPT CONSIDERING EXISTING FACILITIES AND EXISTING CUSTOMERS WOULD BE OUR PREFERRED SOLUTION.

COMPROMISE HAS ALREADY BEEN MENTIONED AS THE SOLUTION TO THIS PROBLEM AND THAT WILL UNDOUBTEDLY BE ACCOMPLISHED IN SOME FORM, BUT THE COMPLEXITY AND UNIQUENESS OF EACH UTILITIES PARTICULAR PROBLEM WILL MAKE IT VERY DIFFICULT IF NOT IMPOSSIBLE TO AGREE ON COMPENSATION THAT ADDRESSES EVERYONE'S CONCERNS. THANK YOU AND I WOULD TRY TO ANSWER ANY QUESTIONS.

TESTIMONY BEFORE THE
SENATE LOCAL GOVERNMENT COMMITTEE
S.B. 10
January 21, 1987

Mr. Chairman and Members of the Committee:

My name is Dan McGee, and I work for Centel Electric-Kansas, which has administrative offices in Great Bend, Kansas. Thank you for the opportunity to speak in opposition to S.B. 10. I cannot endorse legislation that will penalize my company for future growth in annexed areas.

Centel has been granted franchises to serve retail electricity to 119 communities in Central and Southwest Kansas. And, when annexation occurs in these communities, the citizens of annexed areas should have the same quality of electric service as other citizens of the city. The Retail Electric Suppliers Act of 1976 did set forth the specific rights of respective suppliers in an annexed area, it insured a timely resolution as to which electric supplier would serve the annexed area, and it prevented unnecessary delay to the customers.

The moratorium caused with S.B. 740, and the extremely unreasonable compensation provisions of this S.B. 10 would effectively prevent orderly franchises and certification of service rights in annexed areas. A city council has the responsibility to decide who will be granted franchises to provide electric service in annexed areas. This responsibility does not, and should not, include compensating the displaced utility for anticipated revenues. The 119 city councils that I referred to are not in the electric utility business. Interim committee minority reports concerning Proposal No. 6 do an excellent job of pointing out the errors and problems involved with the compensation provisions of S.B. 10.

(ATTACHMENT IV)
1/21/87 LOCAL GOV.

The proponents of S.B. 10 who are located in certified service areas adjacent to Centel have not proven any loss of load because of annexation. They have, however, claimed that territory was taken from them without recourse. This is not true! The utility who has the Certificate of Convenience has the exclusive right to request the franchise during the first 180 days after the area is annexed.

Centel would like to point out that the Retail Electric Suppliers Act of 1976 came about as a result of the legislature directing the electric utility industry to work together to resolve the issue of electric service territories. K.S.A. 66-1,176, along with the other statutes that make up the Retail Electric Suppliers Act, was passed only after the legislature had thoroughly reviewed the overall problem. And, the resulting law has served Kansas well.