

Approved January 27, 1987  
Date

MINUTES OF THE SENATE COMMITTEE ON LOCAL GOVERNMENT

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

9:06 a.m./~~p.m.~~ on January 22, 1987 in room 531-N of the Capitol.

All members were present except: Senators: Bogina and Winter who were excused.

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

Conferees appearing before the committee:

Marynell Hollenbeck, Board of Public Utilities, Kansas City, Ks.  
Louis Stroup, Jr., Executive Director, League of Kansas Municipalities  
E. A. Mosher, Executive Director, League of Kansas Municipalities  
Dick Senecal, Economic Development Commission, Atchinson

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

Marynell Hollenbeck, representing the Board of Public Utilities, Kansas City, Ks, presented written testimony from the Acting General Manager, Terry Drake. They opposed the bill because it gives the Kansas Corporation Commission all jurisdiction over retail electric supplier territories. They also, opposed the cash compensation formula proposed in the bill. The Board hopes the Legislature will allow utilities to reach mutually agreeable private agreements on service territories. They urge that the moratorium on municipal annexation of electric territories be terminated and return to premoratorium law, which they believe has worked well. (Attachment I) She responded to questions.

Louis Stroup, Jr., stated three major points: (1) The current laws have and are working well since their enactment in 1976. 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. (3) S.B. 10 should be rejected as being completely one-sided. The fact that two minority reports were issued by members of the summer committee indicates a great deal of displeasure with the bill. (Attachment II) He responded to questions and stated in regard to one question they were happy with the law now, but they would support a compensation amendment if it was fair and equitable.

E. A. Mosher stated the League strongly opposes S.B. 10. He urged the Committee to keep in mind that the cities were there, the right of franchising was there, and the expectations of urban growth and possible future annexation was there and if an REC or investor-owned utility presumably developed its service program for the fringe area of a city with this knowledge of these realities and of the existing Kansas law that is a decision and chance their management took. They think the existing territorial act secures this balance, with the addition of some reasonable compensation guarantee for the former utility's investment in the event of a change. (Attachment III)

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON LOCAL GOVERNMENT,  
room 531-N, Statehouse, at 9:06 a.m. ~~PM~~ on January 22, 1987

The Chairman stated he would like to comment on Mr. Mosher's remarks. Certainly no one is more aware of the fiscal health of the rural communities and small cities than I am and some of the other members on this committee. If we create a hardship on the utilities serving the rural areas by taking away an area surrounding an urban area to the point it would cause additional burden by higher utility rates on rural customers, are we doing a disservice to those customers and increasing the hardship on the rural economy.

Mr. Mosher stated he was not sure that when management and corporations make these decisions knowing that these areas maybe annexed in the future how much this level of subsidization should be. He did agree there should be some compensation paid. He suggested for long term economic development the electric utility rates will have to be reasonable as well as other types of services.

The Chairman stated the summer committee did not haphazardly draft S.B. 10. The 35 years has some meaning, as we heard that was the average life of generation, transmission and other facilities, the 35 years was not just picked out of the sky to be capricious.

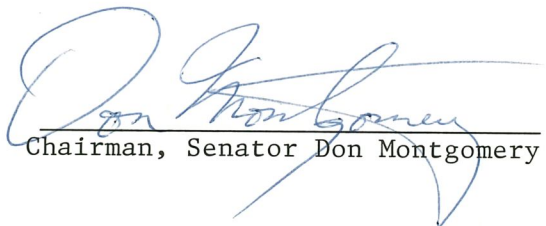
In answer to a question concerning eminent domain, Mr. Mosher stated you would still have to set some statutory guidelines. There was some discussion of the 180 days a member of the Committee suggested cities surely plan more than 180 days in advance.

Dick Senecal, Economic Development Commission, Atchinson, stated the current law with its flexibility enabled their city to get an industry that would not have selected their city if they had not been able to assure them of adequate utility service. He did not think the RECs lost any load or any potential load because if the franchise had not been changed the industry would not have located in Atchinson. He did think the RECs should probably have had some compensation for their loss of territory.

Written testimony was presented for the record from Ottawa/Franklin County Economic Development, Inc, Board of Directors, their letter states existing law combined with a fair and equitable compensation provision would be the proper approach. They requested that S.B. 10 be killed and the compensation issue be considered as an amendment to current law.  
(Attachment IV)

Senator Ehrlich moved to adopt the minutes of the January 20, 1987, meeting. The motion was seconded by Senator Gaines. The minutes were adopted.

The hearing for the opponents will be continued. The meeting adjourned at 10:00 a.m., next meeting will be on January 23, 1987.

  
Chairman, Senator Don Montgomery









STATEMENT OF THE  
BOARD OF PUBLIC UTILITIES  
KANSAS CITY, KANSAS  
IN OPPOSITION TO SENATE BILL 10

DATED: JANUARY 21, 1987

The Board of Public Utilities adds its written opposition to the statements presented before this legislative body today. The Board of Public Utilities opposes Senate Bill 10 in the following ways:

- \* The bill gives the Kansas Corporation Commission all jurisdiction over retail electric supplier territories. This is a serious breach of the autonomy of the City of Kansas City, Kansas by the State. The Board of Public Utilities is a dependent agency of the City of Kansas City, Kansas and, as such, takes issue with any violation of local control of the citizens it serves. By City Charter the Board of Public Utilities must provide on demand electric energy and potable water to all of the residents of the City of Kansas City, Kansas. The State has not breached City Charter arrangements heretofore.
  
- \* The Board of Public Utilities opposes the cash compensation formula proposed in the bill. The Board of Public Utilities is willing to pay a fair market value for facilities purchased from the date services were installed less depreciation to an estimated useful life of 30 years. The Board of Public Utilities is willing to pay the costs of detaching the sold facilities. In fact, in 1974 KCP&L and the BPU worked out such a compensation agreement after an appraisal by an independent consulting engineer. This compensation agreement came about as a result of a municipal annexation in Wyandotte County that year. At that time, the service areas of KCP&L and the BPU overlapped. Both parties were satisfied with the agreement and neither party had a need to try to predict future revenue as proposed by Senate Bill 10.

The Board of Public Utilities hopes the Senate will allow utilities to reach mutually agreeable private agreements on service territories. The BPU urges the Senate to terminate the moratorium on municipal annexation of electric service territory and return to premoratorium law which worked well.

Respectfully submitted,

Terry W. Drake, C.P.A.  
Acting General Manager

TWD:MH



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.

(ATTACHMENT II)  
LOCAL GOV 1/22/87

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									
Alma	469	479	+ 10	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			0								
Baldwin City	1060	1097	+ 37	0			0			0			0			0			0								
Belleville	1530	1537	+ 7	1	P	1	1	0		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			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			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			0								
Coats				0																							
Coffeyville	8353	8475	+122	0			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		80			81			82			83			84			85							
			T	A	NC	T	A	NC	T	A	NC	T	A	NC	T	A	NC	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									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					
Elsmore	57	60	+ 3	0			0					0									0					
Elwood																										
Enterprise	370	360	- 10	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					
Fredonia	1855	1816	- 39																							
Galva	344	352	+ 8	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					
Glasco	419	450	+ 31																							
Glen Elder	312	335	+ 23	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					
Haven	530	565	+ 35	0			0					0									0					
Herington	1557	1528	- 29	0			1	I	43	0	0				0						0					
Herndon	170	170	0	0			0					0									0					
Hill City***	1190	1225	+ 35																							
Hillsboro	1333	1380	+ 47	0			0				1	P	1	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		80			81			82			83			84			85		
			T	A	NC	T	A	NC	T	A	NC	T	A	NC	T	A	NC	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			1	P		1	3	P	6	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			1	I			0
St. Marys	765	700	- 65	1	P		3	1	0				0			0			1	P	.5		1
Stafford	891	888	- 3	0			1	P	5	31	0			0			0						
Sterling	1126	1124	- 2	1	P		10	0	0				1	P	15	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			1	P	22		0
Winfield	7010	7365	+355	28			1667	0	4	95	0	0	0			0			0				0

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



Exhibit B

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
Poneer	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.

## Exhibit D

### 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 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  $2\frac{1}{2}$  miles of service territory and in some cases, a full 3-mile radius. Under the 1976 Act, a municipal was limited to a  $\frac{1}{2}$ -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.

MUNICIPAL	AVERAGE COST	IOU/COOP
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	
MUNICIPAL AVERAGE	56.74	
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

# KMU

Kansas Municipal Utilities, Inc.  
P. O. Box 1225  
McPherson, Kansas 67460  
316-241-1423

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.

Before I get into our testimony on SB 10, I would like to address a few remarks to the subject of placing community-owned electric systems under the jurisdiction of the Kansas Corporation Commission -- an issue that was not part of the summer study on Proposal No. 6, but which was mentioned Tuesday by Rep. Ron Fox.

- Cities are under the KCC for some aspects of regulations:
- Rates outside the 3-mile limit
- Under the Generation Facility Siting Act for reporting purposes
- Under the Electric Territories Act
- Under the Transmission Siting Act outside the 3-mile limit
- And under the Energy Conservation Act

What the cities are not under KCC jurisdiction for includes rates within the 3-mile limit, addition of generating facilities, for territorial purposes within a city's boundaries and transmission siting within 3-miles. I've given you a "Comparison of Regulatory Oversight" document which was published by the Legislative Research Department for your information.

KCC jurisdiction over cities electric rates, etc. is not, in our opinion, germane to the territorial question before you in SB 10 and at this time I will not go into the many, many reasons why we would strongly object to KCC jurisdiction over our cities as suggested by Rep. Fox.

COMPARISON OF REGULATORY OVERSIGHT

<u>Electric Utilities</u>	<u>Rate Regulation</u>	<u>Kansas Electric Generation Facility Siting Act</u>	<u>Electric* Territories Act</u>	<u>Transmission Line Siting</u>	<u>Franchise Fees</u>	<u>Energy Conserv</u>
Investor-Owned Utilities	SCC	Yes	Yes	SCC	Limited by Commission order	SCC
Rural Electric Cooperatives	SCC	Yes	Yes	SCC	Limited by Commission order	SCC
Municipal Energy Agencies	SCC	Yes	Yes	SCC	Limited by Commission order	SCC
Municipal Electric Utilities	City governing body, SCC beyond 3-mile radius	No, but must report capacity	Yes	Only beyond 3-mile radius	City governing body	SCC
Board of Public Utilities of Kansas City, Kansas	Elected six-member board; SCC beyond 3-mile radius	No, but must report capacity	Yes	Only beyond 3-mile radius	Kansas City, KS City Council	SCC

\* Cities have authority to annex territory of a certified utility and replace the utility serving the area with another utility.

Kansas Legislative Research Department  
February 21, 1986





# League of Kansas Municipalities

**PUBLISHERS OF KANSAS GOVERNMENT JOURNAL/112 WEST SEVENTH ST., TOPEKA, KANSAS 66603/AREA 913-354-9565**

TO: Senate Committee on Local Government  
FROM: E.A. Mosher, Executive Director  
DATE: January 22, 1987  
SUBJECT: SB 10--Electric Utility Services and Annexation

My name is E.A. Mosher, Executive Director of the League of Kansas Municipalities, appearing in opposition to Senate Bill No. 10. This position is consistent with our convention-adopted Statement of Municipal Policy, which provides: "Cities should have full authority to control who provides utility services to areas annexed to the city. The existing electric territorial act should not be changed except to provide for reasonable compensation for existing facilities when the city or another supplier assumes jurisdiction as a result of an annexation."

The Governing Body of the League has reviewed the provisions of SB 10 in the context of this policy provision, as well as another statement which opposes "any state legislation or administrative actions subjecting ...municipal utilities to state regulation." As a result of this discussion, the League Governing Body strongly opposes SB 10.

Under the scheduled appearances for this hearing, other conferees will review some of the provisions of SB 10 considered unfair. I call to your particular attention the testimony of the Kansas Municipal Utilities, Inc., and will not attempt to repeat the arguments of the opponents to this bill. However, I will make the personal observation that SB 10, as written, approaches rationality only if the real objective is to prohibit the cities of Kansas--those that own municipal electric systems and those that have a different supplier in the fringe area than within the city--from providing for a service infrastructure that will serve to promote future economic growth.

(ATTACHMENT III  
LOCAL GOV. 1/22/87

President: John L. Carder, Mayor, Iola • Vice Presidents: Carl Dean Holmes, Mayor, Plains • Past Presidents: Ed Ellert, Mayor, Overland Park • Directors: Robert C. Brown, Commissioner, Wichita • Robert Creighton, Mayor, Atwood • Irene B. French, Mayor, Merriam • Frances J. Garcia, Commissioner, Hutchinson • Donald L. Hamilton, City Clerk/Administrator, Mankato • Paula McCreight, Mayor, Ness City • Jay P. Newton, Jr., City Manager, Newton • John E. Reardon, Mayor, Kansas City • David E. Retter, City Attorney, Concordia • Arthur E. Treece, Commissioner, Coffeyville • Deane P. Wiley, City Manager, Garden City • Douglas S. Wright, Mayor, Topeka • Executive Director: E.A. Mosher

Beyond the 35-year "blue sky" pay-off, with its apparent intent to forever prohibit changes in electric territory notwithstanding local conditions, or the judgment of locally-elected officials, there are two specific provisions we would like to call to your attention.

First, we oppose the basic concept of subsection (a), beginning on page 5. The state should not mandate that a city must either grant a franchise to the existing supplier or make application to the KCC for reassignment of certified territory, when that territory is within the city. Obviously, this is the "guts" of the bill--the city either extends the franchise, or it goes to the KCC for a territorial reassignment, and even if they obtain KCC approval, there is the prohibitive "blue sky" buy-out.

Secondly, we think the 180-day advance notice requirement, in subsection (b), is unreasonable. It even requires a six months' notice for petitioned-for annexations. As written, it would compel delay of such annexations even if the city has the same supplier as the annexed area.

The primary purpose of this statement is not to deal with the specifics of the bill but to deal with some of the basic concepts. For example, I call to your attention that, to the best of my knowledge, there has not been a single new municipal electric system created in Kansas for the past half century. Further, at least 586 of our cities have existed for the last half century. Cities have been annexing fringe areas since the beginning. And the right of electric utility franchising has apparently existed, forever, as an inherent if not a statutory power of cities. The point I urge you to keep in mind is that the cities were there, the right of franchising was there, and the expectations of urban growth and possible future annexation was there. When an REC or investor-owned utility developed its service program for the fringe area of cities, it presumably did so with the knowledge of these realities, and of the existing Kansas law. The distribution system and the generating and transmission

facilities were developed within the framework of the existing conditions and law, including the 1976 territorial act. If money was borrowed, it was borrowed under those conditions and laws. We are perplexed as to what public interest is served by creating statutory "right" to an unchanged service territory. Such a "right" never existed in the past, at the time these facilities or services were financed and provided. Why should it be granted now?

Finally, while the focus of SB 10 seems outwardly to deal primarily with the fiscal health and profits of certain utilities and RECs, it seems to me that something perhaps more fundamental is at stake. I would suggest to you that the future health and vitality of Kansas is very much dependent on the fiscal health and vitality of its cities. Whether we like it or not, most of the future new jobs in this state are not going to be the result of increased employment on Kansas farms. We are aware that there are those who don't think cities should annex, and support restraints to annexation which effectively stops the process. And clearly, non-farm jobs do not have to be located within the city limits; they can be in the fringe area--the territory we're fighting about. But for whatever it's worth to you, my own observation is that we cannot long have a healthy fringe area and a dying central city, and I'm talking about small cities, too. For long term objectives, we need a fair balance. We think the existing territorial act secures this balance, with the addition of some reasonable compensation guarantee for the former utility's investment in the event of a change in the service supplier because of annexation. The level of this compensation, in our judgment, should not be so high as to subsidize the previous supplier for actions it took with knowledge of existing conditions and laws.



January 21, 1987

Senator Don Montgomery  
Chairperson, Senate Local Government Committee  
State Capitol  
Topeka, Kansas

Re: Senate Local Government Committee Hearing  
Senate Bill 10

Dear Senator Montgomery:

At the monthly meeting of the Ottawa/Franklin County Economic Development, Inc. (O/FCED) held January 14, 1987, Senate Bill 10 and its effect on future economic development in Ottawa and Franklin County were reviewed. O/FCED recognizes that the majority of the territorial growth for industrial/commercial development purposes occurs in the City of Ottawa and that the capacities and rates of its utilities (especially electricity) are used as enticements when dealing with prospective business and industry coming to Kansas.

O/FCED views SB10 to be extremely one-sided when dealing with compensation to the utility losing territory; and further, that the 35-year compensation formula appears to be rather complex as well as exorbitant. The cost of such buy-out could far outweigh the feasibility of serving new territory and the added industrial/commercial growth.

With O/FCED's understanding of the Electric Retail Suppliers Act, it appears that the Act is a workable procedure except that compensation to the electric supplier losing territory is not well defined. It would seem that existing law combined with a fair and equitable compensation provision would be the proper approach.

In summary, the O/FCED Board of Directors unanimously supports the current law with the exception that a fair and equitable compensation provision should be provided; therefore, O/FCED respectfully requests that SB10 be killed and that the compensation issue as an amendment to current law be considered.

Attached is a listing of the Ottawa/Franklin County Economic Development, Inc. Board of Directors who were in attendance during our legislative discussion and who supported our position. Thank you for your consideration.

Sincerely,

Harold Gahagan  
President  
Committee

cc: Senate Local Government

(ATTACHMENT IV)  
LOCAL GOV. 1/22/87





Ottawa/Franklin County  
Economic Development, Inc.  
Board of Directors

Present January 14, 1987:

James Chandler, President - First National Bank

Lyle H. Drescher, City Manager

Brent Fogle, President - Fogle Quarry

Harold Gahagan, Manager - KPL/Gas Service

Duane Hall, President - Franklin Savings Association

Charles Hughes, President - Richmond People's State Bank

Gary Jordan, Attorney

"Bo" Killough, Partner - Killough, Inc.

George Marstall, Vice President - Anchor Savings Association

Harold Taylor - Taylor Oil, Inc., Wellsville

Jerry Thompson, Mayor and Partner - Loyd Builders

Robert Wellington, Editor - Ottawa Herald

Robert C. Whitworth, Executive Director and Economic Development  
Coordinator - Greater Ottawa Chamber of Commerce