

Approved March 4, 1987
Date

MINUTES OF THE SENATE COMMITTEE ON LOCAL GOVERNMENT

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

9:07 a.m./p.m. on March 3, 1987 in room 531-N of the Capitol.

All members were present except: Senators: Mulich and Winter

Committee staff present: Theresa Kiernan, Emalene Correll and Lila McClaflin

Conferees appearing before the committee:

Bob Rives, Group Vice President, Kansas Gas and Electric Co.
Denny Burgess, Kansas Electric Cooperatives
Jim Kaup, League of Kansas Municipalities

The Chairman stated regarding S.B. 211 and S.B. 254 concerning the transient guest tax, there appeared to be disagreement among the groups sponsoring these bills and unless the members of the Committee objected, he intended to leave the bills in committee.

S.B. 333 - Concerning public utilities; relating to retail and electric suppliers.

The hearing was opened on the bill.

Bob Rives presented written testimony in support of the bill. (ATTACHMENT I) He stated S.B. 333 should reduce the risk of higher electric rates for customers of a disinfranchised utility who are not included in the area involved in the takeover.

Denny Burgess stated they support S.B. 333. He concurred with Bob Rives testimony.

The bill was reviewed by Staff. There was a lengthy discussion on the bill. It was stated this bill had been apart of the annexation of electric territories bill and had been introduced as apart of the compromise the utility companies had worked out concerning S.B. 10.

In answer to a question, Bob Rives stated there had been some takeover of territories in Kansas and there has been others talked about from time to time. This legislation clarifys the issue of takeovers.

It was suggested the Kansas Corporation Commission be asked to attend a meeting in order to answer questions concerning S.B.333.

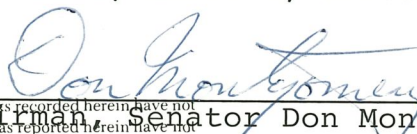
Jim Kaup stated they did not see anything necessary or desirable with this legislation. The compensation section was objectionable. He was not sure it would holdup in court.

The Chairman stated Friday, March 6, 1987, the KCC would be invited to come and answer questions.

Senator Langworthy moved to adopt the minutes of the February 27, 1987 meeting. The motion was seconded by Senator Salisbury. The motion carried.

The next meeting will be at 9:00 a.m., March 4, 1987. The meeting adjourned at 10:00 a.m.

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


Chairman, Senator Don Montgomery

Testimony in Support of SB 333
Bob Rives
Group Vice President
Kansas Gas and Electric Company
3/3/87

My name is Bob Rives 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.

(ATTACHMENT I) LOCAL GO 3/3/87

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.