

MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES

The meeting was called to order by Sen. Bill Morris at  
Chairperson

9:00 a.m./~~p.m.~~ on March 30, 1988 in room 254-E of the Capitol.

All members were present ~~except~~.

Committee staff present:

Hank Avila, Legislative Research Department  
Ben Barrett, Legislative Research Department  
Bruce Kinzie, Revisor of Statutes  
Louise Cunningham, Committee Secretary

Conferees appearing before the committee:

Hugh J. Taylor, Board of Public Utilities of Kansas City  
Kathryn Peters, Counsel, Board of Public Utilities  
Louis Stroup, Jr., Kansas Municipal Utilities, Inc.  
Rep. Mary Jane Johnson  
Jim Hansen, Plant Manager, Owens Corning Fiberglass, K.C.  
Jacque Oakes, Chamber of Commerce, K.C.  
John Dolan, CertainTeed, K.C.  
Norm Sherbert, General Motors, K.C.  
Bob Johnson, St. Louis  
Art Griggs, Department of Administration

Hearing on H.B. 2863 - Board of public utilities; rate increases.

Hugh J. Taylor, Manager of Rates and Regulations, Board of Public Utilities of Kansas City, said this bill was initiated by the Board, who believes it serves the highest public interest and would help in maintaining the lowest possible rates. The problem in present law is that if the rate increase is stayed any substantial amount of time there is no mechanism to recover revenues that have been lost. A copy of his statement is attached. (Attachment 1).

There were questions about whether the public would have adequate counsel in rate hearing cases.

Kathryn Peters, counsel for BPU, said it was their experience that large corporations always had counsel. Those who intervene always have counsel and are well represented.

Louis Stroup, Jr. - Kansas Municipal Utilities, Inc., distributed a Residential Class Cost Comparison based on 750 KWH's. A copy of this chart is attached. (Attachment 2). He said it would be a mistake to put this Board under KCC jurisdiction.

Rep. Mary Jane Johnson said this bill had passed the House by a vote of 121-3. The hearing process is adequate and people can go to public hearings. The Board is elected by the people and they are very responsible.

Opponents to H.B. 2863.

Jim Hansen, Plant Manager, Owens Corning Fiberglass, Kansas City, said this bill proposes to eliminate the automatic stay and review which is now granted to a petitioning party in a rate case. The petitioning party would be required to obtain a favorable court ruling for a stay of any rate increase. They would have to demonstrate great and irreparable harm due to the rate increase. They have been informed by their counsel that this represents an almost impassable barrier. He said BPU had announced that they would begin reserving a cash fund for future construction and generating capacity. They want a rate increase that would be unlawful if they were under KCC rules. Mr. Hansen was asked why he did not testify

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.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES,  
room 254-E, Statehouse, at 9:00 a.m./~~pm~~ on March 30, 1988

in the House and he said he had no reason to believe a bill such as this would pass the House. A copy of his statement is attached. (Attachment 3).

Jacque Oakes, Chamber of Commerce, K.C., said she was here today representing small businesses and the public. This bill would propose a change in the procedure which is not in the best interest of these rate payers. The current rate process is working well and there is no demonstrated need for change. They oppose this bill. A copy of her statement is attached. (Attachment 4).

John Dolan, CertainTeed, K.C., said his company employs 500 people and they oppose this bill. It is anti-consumer legislation.

Norm Sherbert, General Motors, K.C., said this bill would deprive the ratepayers of the only tool they presently have against unlawful and unreasonable rate increases. Their arguments have no merit. There have been no stays required in the six years it has been on the books. He said they were fearful of this legislation and there was no reason to change the law.

Bob Johnson, St. Louis, said he has been representing industrial companies in Missouri for twelve years. He said he was contacted in 1979 by GM when there was going to be a rate increase and there was to be no hearing before BPU. Due process is deeply ingrained and GM triggered a lawsuit and there was a hearing. Since 1980 a hearing has been required. This bill established a new concept of a stay. He said if residential consumers had gotten a notice of this bill many would be here before this committee. It is a very important bill for consumers. It is the only thing that lets them deal effectively with the commission. If the rules are changed now you get different results. The law is good now. It is a self-regulating utility. If they want a change they should be under KCC where they could be audited.

The chairman said he had received a call from Rev. Stacey Oller, K.C. who said he is pastor to a congregation of 450 members and they are all consumers and are opposed to H.B. 2863 and changes contained therein. The current law is workable so why fix it and why change it. He said they would suffer as ratepayers is this is changed.

Discussion on H.B. 2953 - Administrative DUI License Suspension.

Art Griggs, Department of Administration distributed a short explanation of requirements for meeting criteria to receive federal funds in regard to this law.

There was some discussion about the automatic suspension and whether the feds regulation said it should be done this way. It would be a suspension without a conviction. The committee was told this was the way to reduce fatalities. This way there would be no plea bargaining and no waiting time for conviction.

Sen. Bond made a conceptual motion to introduce a Senate Resolution to establish a Select Committee on Highway Safety. This committee would be selected by the Legislative Coordinating Council. This committee would point out the needs

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throughout the state and make sure the critical needs would be explained clearly to the people. Motion was seconded by Sen. Norvell. Motion carried.

A motion was made by Sen. Bond and was properly seconded to approve the Minutes of March 28, 1988. Motion carried.

A motion was made by Sen. Doyen to adjourn. Meeting was adjourned at 10:00 a.m.

DATE: 3-30-88

ROOM: 254-E

GUEST REGISTER  
SENATE  
TRANSPORTATION AND UTILITIES COMMITTEE

NAME	ORGANIZATION	ADDRESS
Hugh Taylor	Board of Public Utilities	City of Milwaukee K.C. Kels
CHARLES DE GRACK		3205 SHAWNEE DR P.O. BOX 585 485 W. MILWAUKEE, A-250
DARRELL C. ANDERSON	GENERAL MOTORS CORP.	DETROIT, MI 48202
Louie Stroup	KMU	McPherson
John L. Man	CERTAINTEED CORP	KANSAS CITY KS
John W. Smith	D.O.R.	Topeka
John E. Walker	Revenue	Topeka
Jim Hansen	Owens Corning Fiberglas	KLK
RON CALBERT	U.I.U.	NEWTON
Tom Whitaker	Ks Motor Carriers Assn	Topeka
Kathryn Pinesma Peters	BPU	KCK
Mary E. Turkington	Ks. Motor Carriers Assn	Topeka
Ed Davis	Governor's Office	Topeka
Jacque Oakes	Topeka	KCK Chamber Commerce
Norman Sherbert	Denver	General Motors
Jon Brax	Topeka Lifeatits Best	Topeka
BRAD SMOOT	Administration	"
Jon Josseland	KU	Lawrence
Robert C. Johnson	Paper & Martin	St. Louis, Mo

TESTIMONY OF HUGH J. TAYLOR  
BEFORE THE SENATE TRANSPORTATION AND UTILITY COMMITTEE  
MARCH 30, 1988

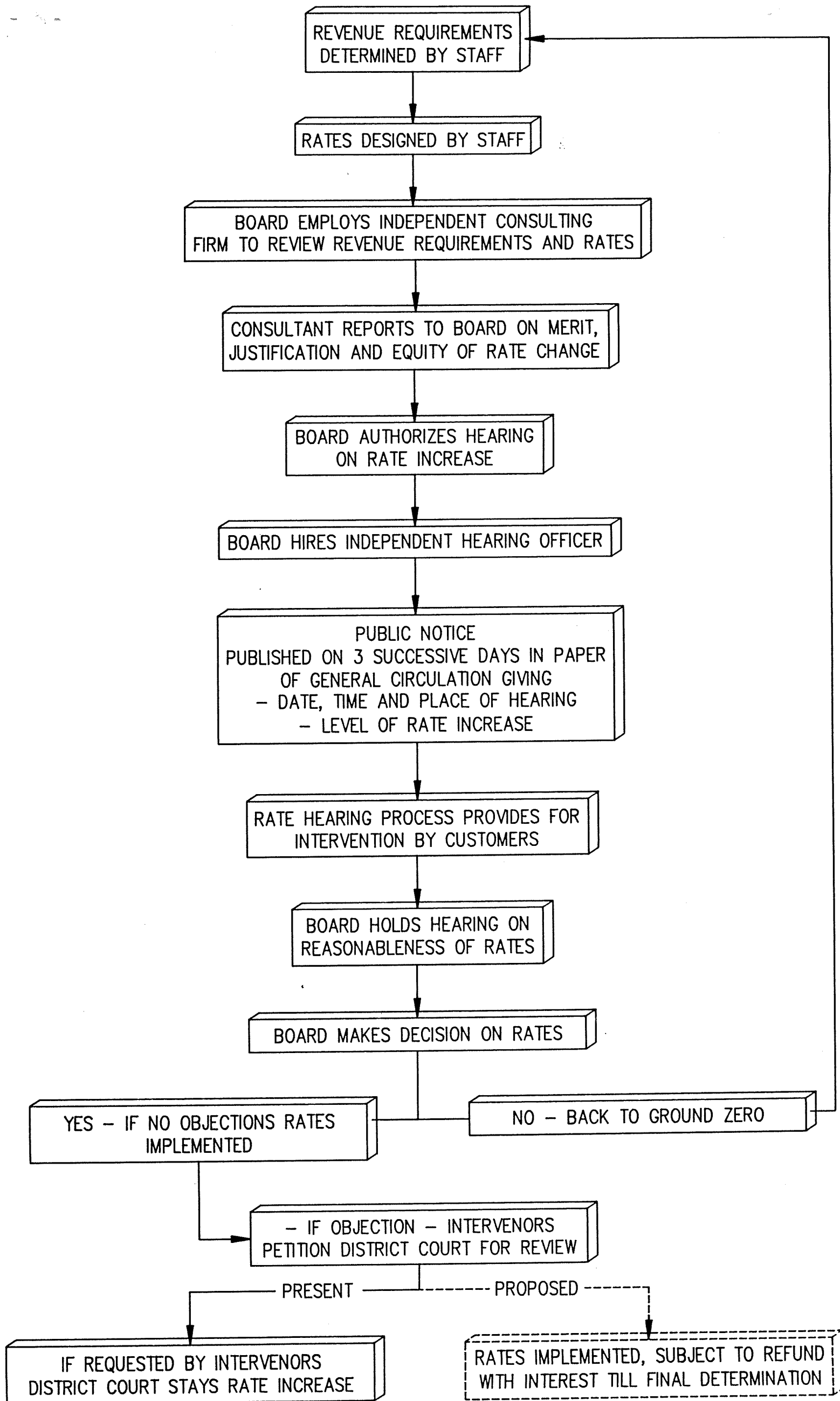
Mr. Chairman, Ladies and Gentlemen, I am Hugh J. Taylor, Manager of Rates and Regulations for the Board of Public Utilities of Kansas City, Kansas. I am here today to speak in support of House Bill 2863. This bill has been initiated by the Board, who believes it serves the highest public interest.

As you know, House Bill 2863 modifies KSA. 13-1228f which has to do with the implementation of a rate increase for cities of 100,000 or more. Under present law, a rate increase may be implemented upon approval by the Board unless a petitioning party requests a stay in which case the rate increase is automatically stayed until there is a specific finding by the district court. The problem with the present law is that, if the rate increase is stayed any substantial amount of time (1 month or more), there is no mechanism to recover revenues that have been lost. Conceivably, a stay could put the Board in violation of its bond covenants in the worst case, or alternately cause the Board to be short of its needed revenues and consequently need to immediately file for another rate increase. No other utility in the state has to operate under such a threat.

House Bill 2863 has been written to emulate the rate implementation procedures used by the Kansas Corporation Commission (KSA. 66-118g), which provides that the petitioning shall not in itself automatically stay the increase, but the court may suspend or stay the increase during the pendency of review. Furthermore, the proposed statute provides that, if the increase were found by the court to be unreasonable, the Board would be required to refund any overcharges together with interest.

In conclusion, the Board urges your support and favorable action on this House Bill. We believe the proposed legislation to be parallel with the Board's objective of maintaining the lowest possible rates consistent with sound business practice and consistent with industry practice in this regard.

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MUNICIPAL SYSTEMS (Summer)  
 Residential Class Cost Comparison Based on 750 KWHs  
 Fuel adjustment for July 1987  
 Compiled by the Kansas Municipal Energy Agency

<u>MUNICIPAL</u>	<u>AVERAGE COST</u>	<u>IOU/COOP</u>	
McPherson BPU	\$36.88		
	\$40.23	-----	Empire District
Iola	\$43.15		
Kansas City BPU	\$45.07		
Wamego	\$47.53		
Augusta	\$47.65		
Sterling	\$48.03		
Erie	\$49.05		
Osage City	\$49.13		
	\$50.71	-----	Midwest North Div.
	\$52.37	-----	KPL Gas Service
	\$52.50	-----	Doniphan REC
Ashland	\$53.50		
Colby	\$53.60		
Larned	\$53.93		
Chanute	\$54.00		
Holton	\$54.50		
Burlington	\$54.54		
	\$55.11	-----	Midwest South Div.
Hoisington	\$56.24		
Belleville	\$56.46		
Baldwin City	\$56.80		
Stockton	\$57.21		
Clay Center	\$57.52		
Herington	\$58.50		
St. Francis	\$58.60		
Mulvane	\$59.72		
Osawatomie	\$60.03		
	\$60.37	-----	Centel
Hugoton	\$60.35		
Osborne	\$60.40		
Garnett	\$60.48		
Norton	\$60.80		
Lindsborg	\$61.25		
Pratt	\$63.54		
Neodesha	\$64.45		
Winfield	\$65.30		
Ellinwood	\$66.03		
Meade	\$66.63		
Washington	\$67.16		
Greensburg	\$67.56		
	\$67.48	-----	KGE
	\$67.77	-----	KCPL
Ottawa	\$68.00		
Wellington	\$68.71		
Fredonia	\$69.60		
	\$70.28	-----	Jewel-Mitchell REC
Oberlin	\$73.13		
LaCrosse	\$74.00		
	\$75.08	-----	Twin Valley REC
	\$76.97	-----	Pioneer REC
	\$78.33	-----	Sumner-Cowley REC
Girard	\$87.58		
Sharon Springs	\$88.66		
	\$98.66	-----	Great Plains REC

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# SENATE TRADE & UTILITY COMMITTEE

3/30/88

Mr Chairman, ladies and gentlemen; I am Jim Hansen, plant manager for Owens Corning Fiberglas Kansas City, Kansas. Owens Corning has produced insulation in Kansas City for 42 years. In 1987 we were the single largest consumer of electric power in the BPU system.

The Board of Public Utilities has introduced legislation to modify KSA 13-1228F which governs utility rate increases for large cities. The BPU bill proposes to eliminate the automatic stay and review which is now granted to a petitioning party in a rate case.

House bill 2863 proposes instead that a petitioning party be required to obtain a favorable court ruling for a stay of any rate increase. The court ruling would be issued if a petitioning party such as Owens Corning could demonstrate great and irreparable harm due to the rate increase. Our council indicates this represents an almost impassable barrier and virtually eliminates the possibility of obtaining a stay.

We find the following problems with the bill:

1. The demonstration of great or irreparable damage will be nearly impossible to satisfy and represents a giant step backward for consumers. Under current law, a stay is automatic and will be sustained if the consumer can demonstrate that they will "probably prevail on the merits that the rate decision is unlawful or unreasonable."
2. If a stay is not granted, the BPU is not required to repay any of the rate increase to consumers even if a contested rate increase is later ruled to be unlawful.
3. In the unlikely case that a stay is granted, the stay may be lifted if the BPU agrees to a partial refund. Then we are right back into the previous problem where the BPU can retain proceeds from an unlawful partial rate increase.
4. The most important deficiencies however relate to the testimony given by the BPU before the House Energy Committee. The BPU stated that the bill was drafted to emulate the rate implementation procedures used by the Kansas Corporation Commission. A number of other provisions of KCC rate authority are missing in the pending bill. Two critical provisions are:

KCC rate implementation procedures include the review by an independent, objective and technically competent authority-namely the KCC.

Second, current statutes prohibit the inclusion of construction in progress in utility rate structure. This brings us to the real reason for this legislation which is to insure circumvention of existing laws which apply to

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KCC governed utilities.

In 1987 the BPU of Kansas City announced that beginning in 1989 they would begin reserving a cash fund for future construction of new power generating capacity. They would reserve three million dollars annually with no cap on either the time or the dollar amount. To date, the BPU has not established justification for a new power station. Under Kansas Corporation Commission procedures however the rational of an expansion decision would be uncoupled from a proposed rate increase. The laws of this state would not allow them to build a war chest for a power plant that may never be needed if they were under the authority of the KCC.

The purpose of this bill is to facilitate a rate increase in 1989 that would be unlawful under KCC rules. As poor as this bill appears, I would support it if amended so that the Board of Public Utilities of Kansas City, Kansas be placed under the authority of the Kansas Corporation Commission and that they be subject to all applicable Kansas statutes in that regard.

Jim Hansen

KANSAS CITY KANSAS AREA  
CHAMBER OF COMMERCE  
727 Minnesota Avenue  
Kansas City, Kansas

March 30, 1988

Senate Committee Transportation and Utilities  
Re: HB 2863 - Change in the procedure for establishing user  
rates by a municipal utility

Thank you for the opportunity to appear before you today. I am Jacque Oakes. I am representing the Kansas City Kansas Area Chamber of Commerce, an organization that represents in excess of 1,000 business and professional organizations, 90% of which are small businesses.

I am here today expressing concern on behalf of these businesses and Mrs. and Mrs. John Q. Public. Bill 2863 proposes a change in the procedure for establishing user rates by a municipal utility. We believe this proposal is not in their best interest as it all but eliminates any reasonable recourse for small business people and the public at large in a rate increase process.

We in Kansas City, Kansas, have a well managed utility in the Board of Public Utilities. The current law regulating rate increases has not proven to be damaging to its management, and the utility has a very good fiscal status

The current rate increase process works well for both the utility and its customers. However, it is hard to predict what might happen in the next several years to change the makeup of the Board or its management team. The changes proposed in this bill have too much potential for abuse by a less dedicated Board or a less skilled management team.

There has been no demonstrated need for change. Therefore, we believe this legislation is ill advised, and should be rejected.

Thank you for your time.

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