

Approved 3/1/89

Date

MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES

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

9:02 a.m./~~pm~~ on February 28, 1989 in room 254-E of the Capitol.

Members present:

Senators Morris, Doyen, Francisco, Hayden, Kanan, F. Kerr, Martin, Rock Sallee and Vidricksen.

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:

Richard D. Kready, KPL Gas Service
Jerry Coonrod, Kansas Gas and Electric Company
Conni McMcGuinness, Kansas Electric Cooperatives
Phillip A. Lesh, Norton-Decatur Electric Cooperatives
Woody Woodman, Kansas City Power and Light Company

Hearing on S.B. 155 - Overhead power line safety act.

Rick Kready, KPL Gas Service, said passage of this bill would help prevent deaths, injuries and damages resulting from contact with high voltage power lines.

No person, tool or equipment is to be moved within 10 feet of those lines unless contact with high voltage overhead lines has been guarded against. A copy of his statement is attached. (Attachment 1).

Jerry Coonrod, Kansas Gas and Electric Company, said they support the concept of this bill. A copy of his statement is attached. (Attachment 2).

Conni McMcGuinness, Kansas Electric Cooperatives, said she represents 34 rural electric cooperatives and they support this legislation. Many times the cooperatives are not informed about people working by and under high-voltage lines until after a tragic accident. A copy of her statement is attached. (Attachment 3). She also had a proposed amendment to clarify section 5. A copy of the proposed amendment is attached. (Attachment 4).

Phillip A. Lesh, Norton-Decatur Electric Cooperative, said he supports this bill and spoke of accidents which could have been avoided if this bill had been in place. A copy of his statement is attached. (Attachment 5).

Woody Woodman, Kansas City Power and Light Co., said he supports this measure because it would save lives and would save money for the ratepayer.

Janet Stubbs, Home Builders Association of Kansas, said they have no formal position on this measure, as an association.

On a motion from Sen. Doyen the Minutes of February 22 and 23 were approved. Motion was seconded by Sen. Vidricksen. Motion carried.

Meeting was adjourned at 9:40 a.m.

GUEST LIST

COMMITTEE: Transportation & Utilities

DATE: 2-28-89

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
ED DE SOIGNIE	TOPEKA	KS. CONTRACTORS Assoc.
PHILLIP LESH	NORTON	: K E Coop
Louie Stroup Jr.	M ^c Pherson	KAN Municipal Utilities
JERRY CONRAD	TOPEKA	KG & E
Tom Day	TOPEKA	KCC
Tom Whitaker	TOPEKA	KS Motor Carriers Assoc
Jeff Sautland	TOPEKA	KP & EL
Arthur Maus	TOPEKA	KP & EL
ED SCHAUB	TOPEKA	SITA
Woody Woodman	KC Mo	KCP&L
DICK COMPTON	Midwest ^{HAYS}	MIDWEST ENERGY
DAN MCGEE	GREAT BEND	CENTEL ELECTRIC
Curt Carpenter	Great Bend	Centel Electric
Rich Dame	Hoisington	B.L.E.
VAT BARNES	TOPEKA	KS Motor Car Dealers Assn
BEU BRADLEY	TOPEKA	KS Assoc of Counties
JIM LUDWIG	TOPEKA	KPL
Rob Hodges	TOPEKA	KTA
Janet Stubbbs	"	HBAK
Kevin Allen	TOPEKA	KMCSA

Testimony Before

SENATE TRANSPORTATION AND UTILITIES COMMITTEE

Senate Bill #155
Overhead Power Line Safety Act

By RICHARD D. KREADY
KPL GAS SERVICE
Director of Governmental Affairs

February 28, 1989

KPL Gas Service supports passage of SB 155 to prevent deaths, injuries and damages resulting from contact with high voltage power lines.

The main thrust of this bill is explained in Section 3 (page 2, beginning at line 46) -- Unless danger against contact with high voltage overhead lines has been guarded against, no person, tool or equipment is to be moved within 10 feet of those lines. The 10-foot limitation has been selected to coincide with the OSHA requirement (sub-part N, # 1926.550) for operating cranes, hoists and similar equipment.

To guard against danger when any person desires to temporarily operate within 10 feet of a high voltage overhead power line, Section 4 requires arrangements be made with the public utility. In most instances, there will be no cost for this protection. The person or persons requesting safety arrangements will be responsible only for costs incurred by the utility when it is necessary to re-route the electricity or temporarily relocate the power line. The persons will not be (the utility will be) responsible for temporary mechanical barriers (i.e. insulating blankets) or temporary deenergization and grounding of the conductors.

Unless otherwise agreed to, the utility must commence work on such clearances or other safety precautions within three

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working days after payment has been made. Certainly there are times such work can and will be done almost immediately, but the three working days will allow an extra day or two to arrange for additional materials and equipment (i.e. more insulating blankets) when the utility doesn't have an adequate supply available at that location. Dispute arbitration is provided in subsections (c) and (d) in this Section.

Section 5 requires warning signs to be posted on cranes and similar equipment to remind the operators of the 10 feet clearance requirement. Due to the large number of contractors leasing such equipment, many states have inserted this requirement in their laws to provide a good safety reminder to the "occasional" equipment operators. KPL Gas Service has no specific position on this Section. If Kansas too includes this in the law, it is our intention (as some utilities have done in other states) to have a quantity of signs printed which we will give away for the contractors to use.

Civil penalties are provided in Section 6. Of the 14 states with similar laws we have studied, nine include criminal penalties. We are not certain Kansas needs criminal penalties to address this problem, so we support this bill which begins with only civil penalties. Similar to the Consumer Protection Act and numerous other existing statutes, this bill provides for penalties set by the court of not more than \$2,000 for each violation. We feel this gives the judge complete freedom to make the penalty fit the severity of the violation. Our company does not stand to profit from the penalty, but we do feel the judge needs the ability to put some teeth in the penalty -- particularly for repeat offenses.

Subsection (b) of Section 6 clarifies what happens if a physical or electrical contact happens after a person fails to obtain the temporary clearances or other safety precautions mentioned in this bill. Then, that person is responsible for the resulting damages, not just the civil penalties prescribed in subsection (a). This is not unlike the worthless check laws which clearly state the person is responsible for restitution in addition to any civil and criminal penalties.

Exemptions for authorized persons, highway vehicles, agricultural equipment, railroads and others are in Section 7.

Before responding to your questions, I want to discuss a few minor points and suggest a couple clean-up amendments.

- This bill would not propose penalties on a thirteen year old boy who flies a kite into a power line.

Section 3 (beginning at the end of line 47) states that, "no person...shall store, operate, maintain, move or transport any tool, machinery, equipment, supplies or materials, within 10 feet of any high voltage overhead line..." I don't believe a kite would be defined as a tool, machinery, equipment, supply or material.

- This bill would not require people to move their buildings if they are located closer than 10 feet from a high voltage power line.

A building would not be defined as a tool, etc. However, the bill would prevent persons or tools, etc. from working within that area unless danger of contact has been guarded against.

- This bill does not prohibit anyone from working within 10 feet of high voltage lines.

Reasonable safety precautions are to be taken to prevent electrocutions. Upon notification, the utilities are required to respond to protect the workers from injury or death.

- This bill does not give the utilities an additional 10 foot easement.

No property right is being transferred. Things can be built adjacent to the lines, but protection is required while the work is being done.

- This bill will not prevent people from mowing the grass within 10 feet of a utility pole in their yard or in a city park.

Distribution lines running up and down the alley behind peoples' homes are typically 20 to 30 feet in the air, thus requiring notification only if the person or equipment could reasonably be expected to get 10 to 20 feet above ground (within 10 feet of that line).

- This bill will not prevent your typical homeowner from washing their windows or from cleaning out their gutters and down spouts.

To avoid a burden on typical homeowners, this bill excludes lines with lesser voltages. The service lines coming into a typical residence are 240 volts (480 volts into larger commercial facilities), which is less than the 600 volts required to be included in this Act. However, we'll be glad to respond if they call us when they expect to work near any of our lines.

- This bill will require danger of contact to be guarded against when a crane, backhoe or aluminum ladder is going to be used within 10 feet of a high voltage power line.

Hopefully this will make it safer to work around power lines, and keep people from severely injuring or killing themselves.

As I mentioned, a couple technical amendments are needed. First we recommend you change the wording in line 32 to read "electricity" rather than "electric current." We also need to amend line 47 to read Section "4" rather than Section "3".

As you further study this proposal, you will likely hear a few people say that they don't want to be required to make these safety arrangements. They might try to convince you that they are professionals, and should be allowed to determine for themselves if they need a utility to provide protection. Of course, I wouldn't be here today if I hadn't developed a different opinion over the years. Many times when work is being done near a power line with no anticipation of contact, some material falls the wrong way or the wind pushes some equipment just a little off course, or perhaps someone loses their balance momentarily and allows their ladder or a tool to angle close enough that the electricity arcs from our line. The result is at minimum, a loss of electric service to others (many times including traffic signals, police and fire alarms or even hospitals in addition to computers that keep our businesses operating and the appliances we rely upon at home). Unfortunately, the results go much further than the minimum in too many instances. The person having contact with the high

voltage power line is usually severely injured if not electrocuted, and others dependent on affected traffic signals, electrically operated life-support systems or hospitals also can find their lives in danger.

We encourage you to enact this law to prevent overhead power line accidents.

To further assist your review, we also have attached a summary comparison of similar laws in eight other states.

Overhead Powerline Safety
Comparative Statutes

Date of Statute/State	1955 Tennessee	1960 Georgia	1963 Arkansas	1963 Oklahoma	1967 Alabama	1969 Nebraska	1971 Texas	1972 Alaska
High Voltage Threshold	750 volts	750 volts	440 volts	750 volts	750 volts	750 volts	600 volts	750 volts
Distance Threshold	6 feet	8 feet	10 feet	6 feet	6 feet	10 feet 10' equip.	6' person	10 feet
Civil Penalty/Criminal Penalty	Criminal	Criminal	Criminal	Criminal	Criminal	Criminal & Civil	Criminal	Criminal
Civil Liability for Damages	No	No	No	Yes	No	No	Yes	Yes
Temporary Clearance/ Costs	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Mandatory Warning Signs	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Exemptions For:								
Highway Vehicles	No	No	No	No	No	No	No	No
Agric. Equipment	No	No	No	No	No	Yes	No	No
Railroad Activities	Yes	Yes	Yes	Yes	Yes	No	No	Yes
Government Emergency Responders	No	No	No	-----	No	No	No	Yes
Storage or Maintenance of Equipment Near Line Prohibited	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes

Overhead Powerline Safety
Comparative Statutes--Supplement II

Date of Statute/State	1973 S. Dakota	1977 N. Dakota	1980 Arizona	1983 Colorado	1988 Mississippi	1988 Utah	Proposed Kansas Legislation	14 State Basis
High Voltage Threshold	750 volts	600 volts	600 volts	600 volts	600 volts	600 volts	600 volts	440 volts 600 volts - 6 750 - 7
Distance Threshold	6 feet	10 feet	6'-<50 kv 10'->50 kv	10 feet	10 feet	10 feet	10 feet	6 feet - 6 10 feet - 9 8 feet - 1
Civil Penalty/Criminal Penalty	Criminal	Civil	Civil	Civil	Civil	Civil	Civil	Civil - 5 Criminal - 8 Both - 1
Civil Liability for Damages	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes - 8 No - 6
Temporary Clearance/ Costs	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes - 14
Mandatory Warning Signs	Yes	No	No	No	Yes	No	Yes	Yes - 10 No - 4
Exemptions For:								
Highway Vehicles	No	Yes	No	Yes	No	No	Yes	Y-2 N-12
Agric. Equipment	No	Yes	No	Yes	Yes	No	Yes	Y-4 N-10
Railroad Activities	Yes	Yes	No	No	No	No	Yes	Y-8 N-6
Government Emergency Responders	-----	Yes	No	Yes	No	No	Yes	Y-3 N-11
Storage or Maintenance of Equipment Near Line Prohibited	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes-14

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STATEMENT BEFORE

SENATE TRANSPORTATION AND UTILITY COMMITTEE

SENATE BILL #155

JERRY COONROD

KANSAS GAS AND ELECTRIC COMPANY

FEBRUARY 28, 1989

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, KANSAS GAS AND ELECTRIC COMPANY CONCURS WITH THE TESTIMONY OF KPL-GAS SERVICE COMPANY AND SUPPORTS THE CONCEPT OF THE PROPOSED LEGISLATION. HOWEVER, WE WOULD ASK YOUR CONSIDERATION OF A SMALL AMENDMENT. ON LINE 69, BY INSERTING A PERIOD AFTER THE WORD UTILITY AND STRIKING THE REST OF THAT LINE, ALL OF LINE 70 AND ALL BEFORE THE PERIOD ON LINE 71.

IN A NUMBER OF INSTANCES TO PROVIDE TEMPORARY CLEARANCES OR OTHER SAFETY PRECAUTIONS THAT THE CUSTOMER REQUESTS MAY ONLY CONSIST OF TEMPORARILY INSTALLING A RUBBER SLEEVE OVER THE CONDUCTOR. AS THE BILL READS NOW THE ELECTRIC UTILITY WOULD NOT BE COMPENSATED FOR THIS SERVICE - ONLY FOR THE TEMPORARY RELOCATION OF RE-ROUTE OF THE CONDUCTOR.

THANK YOU AND I WOULD ATTEMPT TO ANSWER ANY QUESTIONS.

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TESTIMONY

Before the Senate Transportation & Utilities Committee

S.B. 155, The Overhead Power Line Safety Line Act

Tuesday, February 28, 1989

By Conni L. McGinness
Director, Legislative Relations
Kansas Electric Cooperatives, Inc.

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TESTIMONY

May it please the Committee, my name is Conni McGinness, and I am Director of Legislative Relations for Kansas Electric Cooperatives (KEC). KEC is the statewide service organization representing 34 rural electric cooperatives in the state, who in turn have a membership of over 160,000 consumers. I am speaking here today on behalf of KEC and its member systems in support of S.B. 155. Last year, we ourselves were going to ask for high-voltage line safety legislation.

The electric cooperatives are concerned about safety; pure and simple. We want to prevent loss of life and limb. This legislation, we believe, will help educate and prevent such terrible accidents.

We strongly support an amendment to section 5. Our intent is not to allow a person to work within close proximity merely because a sign has been posted. A technical correction is needed to clarify this section.

Unfortunately, most of the time our cooperatives are not even informed about people working by and under high-voltage lines until after a tragic accident; after the fact; after it is too late to take preventative action. Then, as you can well imagine, a lawsuit is filed and all the consumer-members pay for the costly litigation, regardless of the outcome, that a little prevention would have cured. Prevention that could have saved a life or a limb. S.B. 155 can play a large role in that act of prevention. We strongly encourage your support establishing the Overhead Power Line Safety Act.

Thank you for allowing me to testify today, and I would be willing to answer any questions you may have.

Sec. 5. No Each person, individually or through an agent or employee, or as an agent or employee, shall who operates any crane, derrick, power shovel, drilling rig, hoisting equipment, or similar apparatus, any part of which is capable of operating in closer proximity to any high voltage overhead line than is permitted by this act, unless ~~there is~~ shall posted and maintained in plain view of the operator thereof, a durable warning sign legible at 12 feet stating:

"Unlawful to operate this equipment within 10 feet of high voltage overhead lines."

Each day's failure to post or maintain such signs shall constitute a separate violation.

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Senate Bill 155

Committee on Transportation and Utilities

TESTIMONY OF PHILLIP A. LESH

I am appearing in support of Senate Bill No. 155. As an employee of an electric cooperative for the past 34 years, I am aware of a number of serious accidents, some of which, I believe, would have been avoided if this bill had been law during that time. I have no statistical data for the entire state for any specific period of time, but I would like to relate three recent incidents of which I have general knowledge, which, I believe, will demonstrate the need for remedial legislation.

During a recent 19 month period, there have been three serious accidents resulting in two fatalities and one permanently disabling injury, all within an area which would fall within a circle with a 60 mile radius. Although they occurred within a small area, three different utility companies' lines were involved, Damages are being litigated, and I am not at liberty to discuss them in detail or to identify the parties involved. But they represent typical situations which the proposed legislation addresses, so I would like to describe them in general terms.

The first incident occurred when an oil drilling rig was erected very close to a high voltage line. The utility discovered it after the fact, and asked that it be notified when the rig was to be lowered. Later activities on the site, without the utility company's knowledge, resulted in contact with the high voltage, and a fatality was the result.

The second incident occurred when farm equipment with an

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extendable auger contacted a high voltage line, resulting in a fatality. The equipment was being moved in an extended and upright position, which is not its normal use. In this case, the utility was notified immediately following the accident.

The third incident occurred when an oil tank battery was being installed near a high voltage line. The line was contacted, and the result was a permanently disabling injury. The accident did not cause a permanent fault to the electrical system, so the utility did not know when it occurred, and learned of the incident two days later.

In all three cases, the utility lines were installed with clearances in compliance with the National Electrical Safety Code. The utilities were not made aware of the activity in advance, so had no opportunity to take precautionary measures. Under present conditions, a utility can be in total compliance with safety code, unaware of any activity to be initiated, and therefore, helpless to take preventative measures, but be subjected to costly litigation, which, in the case of the cooperatives, results in a cost to every member, who is also the ratepayer.

Electric utilities throughout the state of Kansas do, through advertising and other methods, try to emphasize the need for the public to be more aware of overhead lines and the importance of calling the utility before operating machinery or other equipment in a manner that may result in contact with high voltage. I sincerely believe that the passage of this legislation will enable the industry to deliver this message more effectively, which can

only help to prevent loss of life and disabling injury.

Thank you very much for the opportunity to address this very important issue.

Phillip A. Lesh
Norton-Decatur Cooperative Electric Co., Inc.
P.O. Box 360
Norton, Kansas 67654