

JAN 24 1991
Approved Gary Blumenthal
Date

MINUTES OF THE House COMMITTEE ON Governmental Organization

The meeting was called to order by Representative Gary Blumenthal at
Chairperson

9:00 a.m./p.m. on January 22, 1991 in room 522-S of the Capitol.

All members were present except:

Committee staff present:

Carolyn Rampey, Research
Julian Efird, Research
Avis Swartzman, Revisors
Nita Shively, Committee Secretary

Conferees appearing before the committee:

Judith McConnell, Executive Director
Scott Stockwell, Director-Utilities Division
Emily Wellman, Energy Programs Supervisor
Shari Albrecht, Acting General Counsel, Administrator-
Conservation Division
Al Maxwell, Administrator-Transportation Division

Chairman Blumenthal called the meeting to order and introduced the first conferee.

Judith McConnell testified and presented written testimony concerning the workings of the Kansas Corporation Commission. The briefing included a run down of the responsibilities, make-up of the Commission, budget, financing and legal services. (Attachment 1)

Scott Stockwell testified regarding the Utilities Division. The four major work programs, which include accounting, economic policy, engineering and natural gas pipeline safety regulations, were covered along with a run down of the average yearly caseload.

Emily Wellman explained energy programs in Kansas and the effect declining oil overcharge funds is having on that section.

Shari Albrecht went over pertinent information relating to the Conservation Division and the operation of the various departments.

Al Maxwell reported on the operation of the Transportation Division and the regulatory jurisdiction involved.

Questions from the committee were taken and answered during the presentation.

The minutes of the January 21, 1991 meeting were approved and the meeting was adjourned at 10:04 a.m. The next meeting will be Wednesday, January 23, 1991 at 9:00 a.m. in Room 522-S.

Finney
Governor



Kansas Corporation Commission

Keith R. Henley
Chairman

Rich Kowalewski
Commissioner

Jack Shriver
Commissioner

Judith McConnell
Executive Director

MEMORANDUM

TO: Members, House Committee on Governmental Organization

FROM: Staff, Kansas Corporation Commission

RE: Briefing associated with the Committee's sunset review of the Kansas Corporation Commission

DATE: January 22, 1991

This briefing paper is not intended to serve as an in-depth analysis or comprehensive treatment of an immensely complicated subject; rather, it is intended to provide the Committee with a very broad overview--an introduction to the responsibilities and functions of the Kansas Corporation Commission and the current structure and organization designed to carry out its mission. The Commission's responsibilities are very broad, diverse, and complex. Additionally, regulatory authority over utilities has evolved into an overlapping and often confusing maze of authority and jurisdiction.

Responsibilities

The KCC is, like most regulatory agencies, something of a hybrid in state government. The Commission fulfills a combination of legislative, executive, and judicial functions. In the broadest sense, the KCC is vested with authority to regulate the economic discretion of individuals and businesses where it has been determined that the enterprise affects the public interest. The Commission has the power to prescribe or prohibit activity in a given situation, to determine whether the law has been violated in discrete cases, to institute proceedings against violators and even impose sanctions in certain circumstances. The services regulated by the KCC include electric, gas, telephone, water and transportation companies and the issuance of certain securities by public utilities. Additionally, the KCC regulates oil and gas prorationing and has co-responsibility for the protection of ground water.

The State's objective with respect to regulation of public utilities and common carriers is the same as all the other state and federal regulatory bodies--to see that the public interest is served by the rendering of sufficient, non-discriminatory service at such prices as will be fair, equitable and reasonable to the customer, yet allow the enterprise such a return on investment as will be adequate. This same standard applies to the regulation of common carriers and

motor carriers. In regard to the regulation of the production of oil and gas and the protection of fresh and usable water, the state objective is to conserve these precious natural resources and to protect correlative rights.

Structure and Organization

The Kansas Corporation Commission is composed of three members. The Commissioners are appointed by the Governor with the advice and consent of the state senate. Kansas law provides for staggered terms of four years. No more than two of the three commissioners may belong to the same political party. The activities of the commissioners during their term of office are subject to statutory restriction. Kansas law provides that the commissioners shall choose one of their colleagues as Chairperson; however, by custom, the Governor indicates his/her choice, which is usually ratified by the majority.

Like most state regulatory bodies, the KCC is financed through fees and assessments--no state general fund revenues are involved. The Commission is financed through two types of assessment: a general assessment and a special assessment. Under the special assessment scheme, the costs of regulation are assessed against those companies whose rates, practices or policies the commission investigates at a particular time. Those expenses that are not covered by special assessment are apportioned quarterly under the general assessment principle. The Commission's approved Fiscal Year 1991 budget totals approximately \$13.5 million.

The Commissioners are assisted in their responsibilities by a staff of 235 employees. The Commission's functions are carried out under four separate divisions: Administrative Services/Legal, Utilities, Transportation, and Conservation. The first three divisions are located in Topeka, while the Conservation Division is located in Wichita and is supported by four district offices. Organizational charts are attached.

Administrative Services/Legal Division

The Chairman and Commissioners determine regulatory policy. The Executive Director is responsible for accurately reflecting this policy in carrying out the duties and responsibilities of the Administrative Services Division. The Executive Director supervises the preparation of the agency budget and directs the administrative services units, including accounting, personnel, docketing, computer services, public affairs, and support services. The Legal staff acts as legal advisor to the Commission and to each of the regulatory divisions of the Commission on legal matters pertaining to regulatory duties and mandates prescribed by statute. In addition, the legal staff is mandated by statute to represent the public generally on all complaints and applications before the Commission and various federal and sister state commissions and administrative agencies. The legal staff represents the Commission in federal and state courts, and the various federal regulatory bodies, such as the Federal Energy Regulatory Commission, the Interstate Commerce Commission, and the Federal Communications Commission. Finally, the legal section prepares and assists the Commission in drafting orders and memorandum opinions in regard to matters decided by and pending before the Commission.

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Attachment 1-2

Utilities Division

The Utilities Division has staff responsibility for administration of the public utility law, rules, regulations, and policies of the KCC governing utility companies rendering electric, gas, telephone, and water service. In general, utility companies are subject to Commission jurisdiction with respect to:

- (1) the territory in which they are certificated to operate,
- (2) the rates they charge for service,
- (3) the type and quality of service rendered,
- (4) the issuance of indebtedness and other securities for the obtaining of capital,
- (5) accounting procedures and reports which must be filed with the Commission, and
- (6) safety regulations and standards of construction.

Because public utilities are generally given the exclusive right to operate in their service territory and are not usually subject to the pricing constraints of competition, the law provides that their rates shall be regulated. Kansas statutes requires that the Commission not be arbitrary in fixing utility rates. The Commission is required to grant to the utility company rates which will enable it to recover its legitimate expenses and an opportunity to earn a reasonable return on the investment it has made to provide service to the public. The purpose of Commission rate hearings is to place before the Commission evidence relating to reasonable operating revenues and expenses of the company, the appropriate rate of return on the investment of the company, and rate schedules that will permit the utility an opportunity to recover its revenue requirements in a nondiscriminatory manner.

The utility companies are given the opportunity to earn an appropriate level of return through the schedule of rates charged to the consumer. That appropriate level of return has been construed by the courts to be what is earned by other businesses having comparable risks, and which is sufficient to permit the utility to be financially viable.

The Utilities Division is organized by major work programs: accounting, economic policy, engineering, and natural gas pipeline safety regulation. These sections provide the Commission with timely, accurate and appropriate information and recommendations, either in response to rate requests or other filings or as a result of investigations or reviews of utility operations. Utilities Division staff analyze these applications to determine whether the utility's reported rate base, expenses, and revenue projections are accurate and reasonable or whether, in their judgment, adjustments should be made. If the staff takes issue with the information provided in the application, the request must be suspended pending a formal hearing. Failure to suspend an application within thirty days is deemed approval of the entire amount requested. If the application is suspended, the Commission must render a final decision within 240 days of the filing date. Failure to do so is likewise deemed approval and the entire amount of the request becomes effective. Should the matter go to hearing, the applicant must be prepared to establish, by appropriate schedules and competent testimony, all relevant facts and data pertaining to its business and operations which will assist the Commission in arriving at a determination of rates that are fair, just, and reasonable both to the utility and the public. KCC staff members prepare written testimony in which the staff position and recommendations to the Commission are presented and explained in detail. Procedures exist for the appeal of Commission decisions.

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The pipeline safety section enforces the Kansas Natural Gas Pipeline Safety Regulations as enacted by the Commission. The Commission, in enforcement of the Federal Pipeline Safety Regulations is acting as an agent of the U.S. Department of Transportation's Office of Pipeline Safety, under Section 5(a) of the Natural Gas Pipeline Safety Act of 1968. The State has been divided into three areas for inspection purposes: inspectors work out of offices in Topeka, Wichita, and Johnson County. Pipeline safety operations include: (1) annual inspections which consist of a records check and field verification, (2) the inspection of major construction projects, (3) response to incidents which require investigation, (4) training of operators, (5) review of changes in federal rules and regulations, development of new state regulations, and/or modification to existing state rules and regulations, (6) liaison responsibilities with Federal Department of Transportation, Office of Pipeline Safety, and (8) public awareness programs.

Energy Programs Section

While technically a section of the Administrative Services Division, this section is set out separately because of its unique responsibilities and its relationship with the Utilities Division. The Energy Programs Section administers federally and state funded energy conservation programs that promote the efficient use of energy throughout Kansas. This section is funded through federal grant monies, oil-overcharge restitution monies, and public service regulation assessments.

Some of its earliest responsibilities were carried out by staff of the Utilities Division. In 1983, additional responsibilities were added when the former Kansas Energy Office was abolished and all duties of that office transferred to the KCC. With federal funds declining and oil overcharge restitution monies nearly exhausted, the responsibilities of this section are changing and are aligning again more closely with the Utilities Division.

The section is authorized eight positions, five of which are currently filled. The Commission has "downsized" this unit through attrition in recognition of the changes in its scope of operations. This staff of five professionals administers a variety of energy conservation programs and monitor the performance of others which are financed with funds that come to this unit for distribution. For example, as part of the State Energy Conservation Program, rideshare programs and transportation coordination services are financed (in part) in Wichita, the Kansas City metropolitan area, and the Liberal-Garden City-Dodge City area. Additionally, the Kansas Rural Water Association is conducting energy use audits and leak detection audits for municipal water supply systems and rural water districts. The Soil Conservation Office in Chanute is demonstrating the use and advantages of no-till and ridge-till seed bed preparation and planting practices in the nine counties in southeast Kansas; these demonstrations are held on participating farmers' fields. The Kansas Geological Society and the Tertiary Oil Recovery Project is doing field analysis of the Zenith oil field near Hutchinson.

This unit also supervises a program that requires electric and natural gas utilities to inform their residential customers of the benefits of certain energy conservation and renewable resource measures and to offer their customers energy audits of their homes. The Institutional Conservation Program is administered by this unit and is designed to assist public or non-profit schools and hospitals in obtaining technical energy audits, in identifying and implementing energy conserving maintenance and operating procedures, and in evaluating, acquiring and

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installing energy conservation measures to reduce energy usage and anticipated energy costs.

Kansas is one of five states in which the federal and other energy conservation functions are provided by the public service commission. From a number of sources, it is apparent that other states will be moving to increase coordination of energy conservation policies with the regulation of public utility companies and to reduce expenditures by eliminating possible duplication of overlapping of functions. To this end, the Commission seeks to coordinate the efforts of the Energy Programs Section with those of the Utilities Division. A prime example is the incorporation of conservation and load management options into utility supply planning. In addition, utilities are increasing their investment in end-use energy efficiency, incorporating many of the programs that have been developed in federal energy conservation programs.

Conservation Division

The Conservation Division, headquartered in Wichita, is charged with the responsibility of regulating the oil and gas industry. The oil and gas activities of the Conservation Division were first enacted by the Kansas Legislature in 1931. These responsibilities included prevention of waste and protection of all fresh and usable water. Current responsibilities are broader; specifically, K.S.A. 74-623 provides that the Commission's jurisdiction includes "all practices involved in the exploration for and gathering of oil and gas and the drilling, production, lease storage, treatment, abandonment and post-abandonment of oil and gas wells..." In addition, the Commission exercises cooperative jurisdiction with the Kansas Department of Health and Environment (KDHE) with respect to the prevention and cleanup of pollution from oil and gas activities.

The Conservation Division has responsibility for enforcing rules and regulations pertaining to the conservation of crude oil and natural gas, protection of fresh and usable water, protection of correlative rights, and prevention of unreasonable discrimination in favor of one common source of supply or one operator as against another. It is also responsible for well classification under the Federal Natural Gas Policy Act of 1978 (NGPA). The Conservation Division has an active role in the 10-member oil and gas advisory committee established pursuant to K.S.A. 55-153. In addition to making recommendations on rules and regulations, this committee studies issues relative to the protection of fresh and usable water. The advisory committee has subcommittees updating surface pipe setting requirements, reviewing injection depth requirements, evaluating current cementing and plugging requirements, and assessing specific environmental problems related to construction of surface ponds and past pollution from oil field activities.

The Conservation Division consists of three operating departments and administrative support. The operating departments are: legal services, technical services, and field services. The Technical Services Department is further divided into an environment section and a production section. The environment section was organized in order to better address the increased emphasis on environmental coordination and surface pond standards and regulations. The production section consists of three units: oil and gas proration, well evaluation, and library services. The production section is responsible for issues relating to the producing life of a well from its drilling through abandonment and plugging. Finally, it is the responsibility of the Field Services Department staff to provide first line enforcement of the Commission's regulations. This enforcement and supervision is conducted by Petroleum Industry Regulatory Technicians

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attachments 1-5*

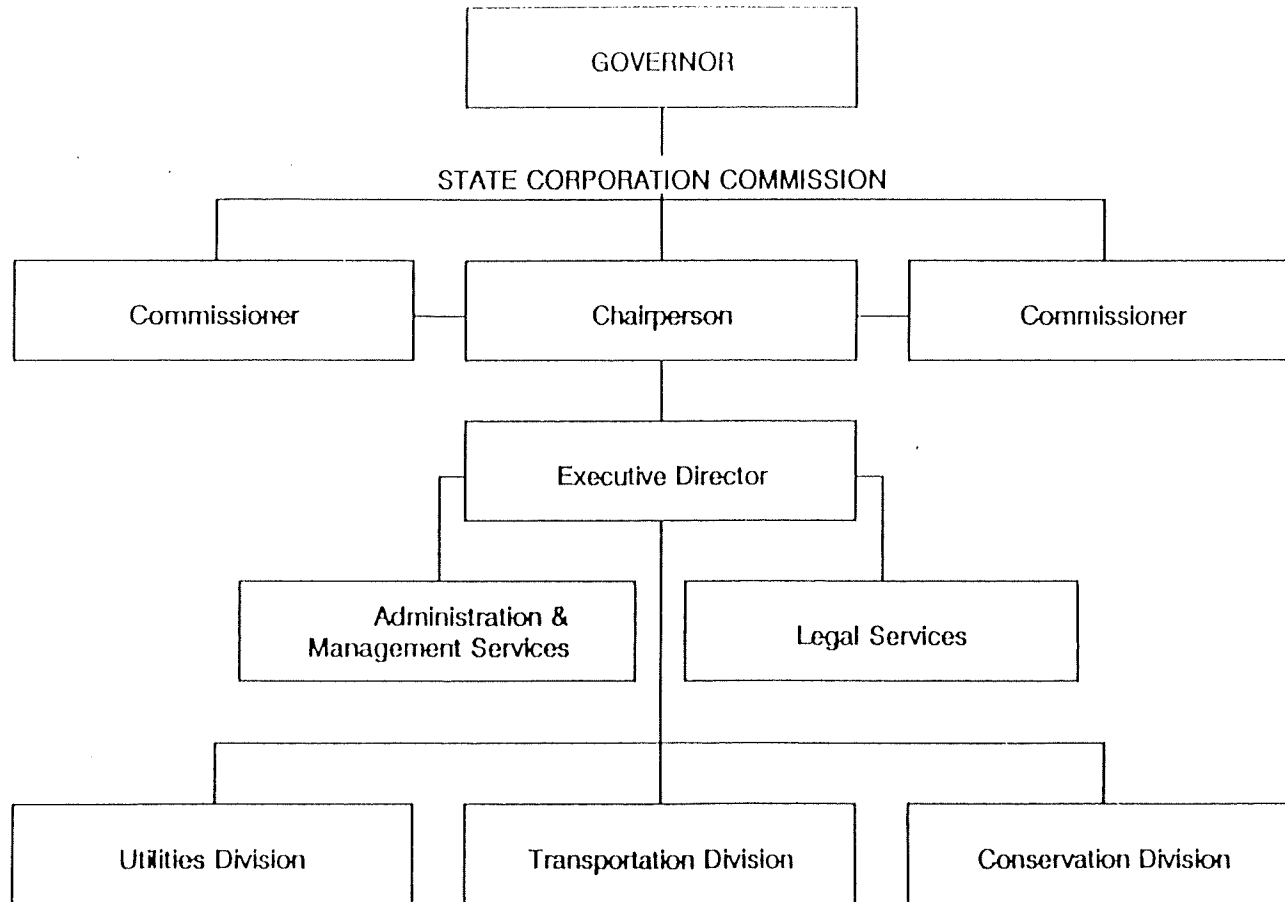
(PIRTS) located in four district offices: Chanute, Hays, Wichita, and Dodge City. The field staff also serves to educate the oil and gas industry with respect to the Commission's rules and regulations and to provide technical assistance to the industry.

Transportation Division

The KCC has regulatory jurisdiction over transportation systems operating in Kansas. These systems include motor carriers of property and persons (common, contract, and private) railroads, and liquid pipelines. The Transportation Division is responsible for implementing and administering related regulations and policies adopted by the Commission for the above modes of regulated transportation in the state. The Transportation Division assists the Commission in carrying out its responsibilities by: (1) processing motor carrier applications for new operating authority, transfer, extensions, consolidation and discontinuances of service, (2) registering motor carrier equipment, (3) processing formal and informal rate requests, (4) reviewing required annual accounting reports filed by railroads and motor carriers, and (5) conducting investigations and administering the safety programs related to the railroads and motor carriers engaged in the transportation of persons and property in the State.

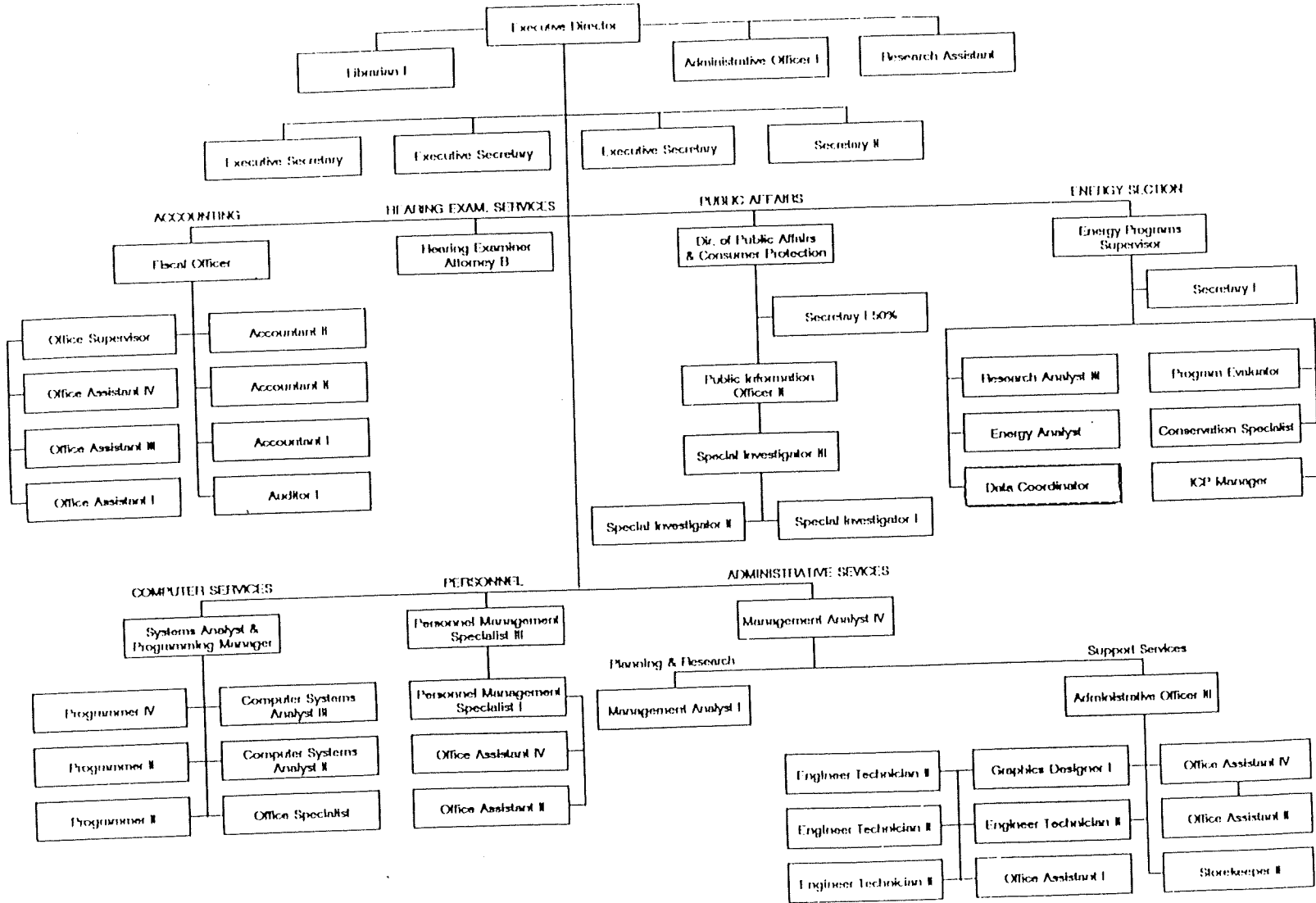
The Division consists of two operating programs and a support staff. The operating programs are: the motor carrier section and the rate, safety and service section. The motor carrier section is responsible for processing motor carrier applications for authority, registering cargo/liability insurance and issuing tags and decals for carrier equipment. The rate, safety and service section is responsible for investigation of rate requests, annual reports, tariffs and rate and service complaints of motor carriers, railroads, and pipelines. The safety and service section inspects railroad track and equipment and investigates rail abandonments, accidents, and dangerous grade crossings. Additionally, the safety section conducts inspections of equipment, investigates service complaints and bus abandonment petitions and performs carrier audits.

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Administrative Services Division



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 Attachment 1-

UTILITIES DIVISION

Director of Utilities

ENGINEERING SECTION

Chief Utilities Engineer

ACCOUNTING SECTION

Chief of Acct. & Financial Analysis

SUPPORT SERVICES

Administrative Officer II

OFFICE OF ECONOMIC POLICY

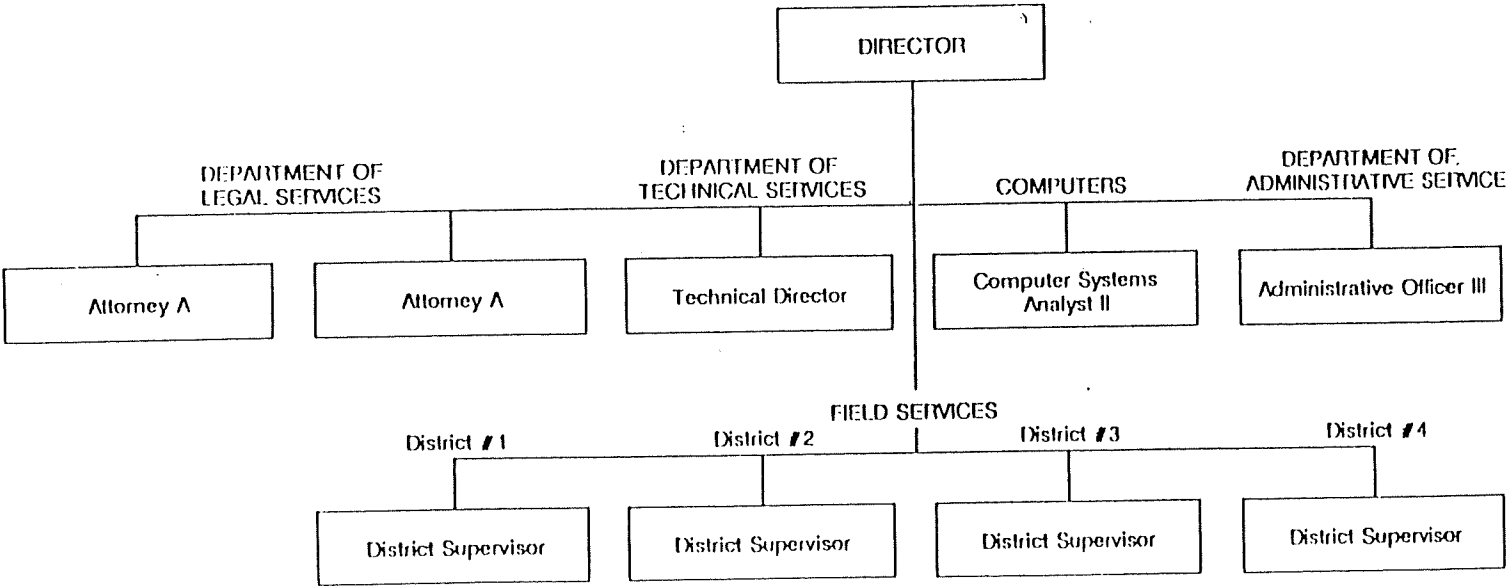
Chief, Office of Economic Policy

OFFICE OF PIPELINE SAFETY

Chief, Pipeline Safety

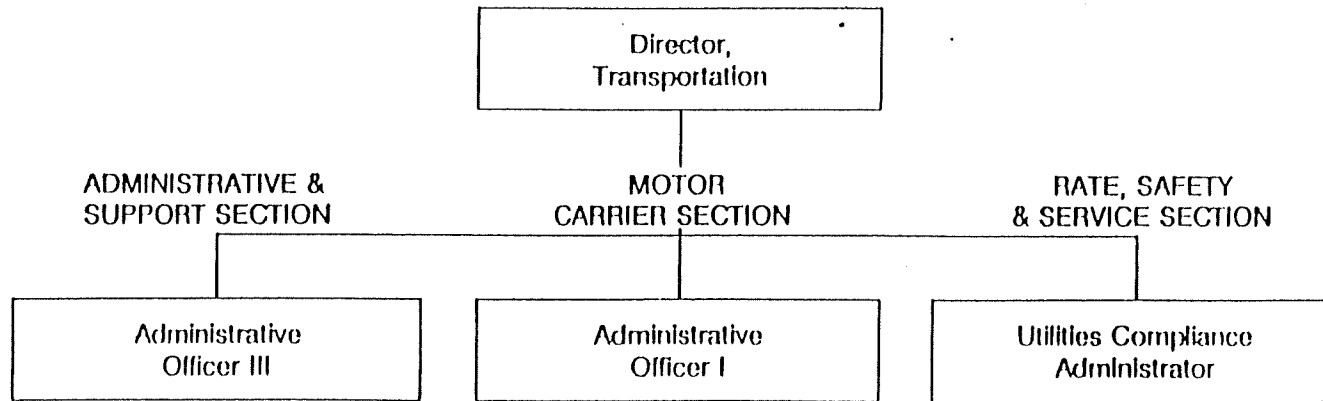
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CONSERVATION DIVISION



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TRANSPORTATION DIVISION



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