

Approved

Ken Grotewiel
Date 2/11/92

MINUTES OF THE HOUSE COMMITTEE ON ENERGY & NATURAL RESOURCES

The meeting was called to order by Representative Ken Grotewiel at
Chairperson

3:35 a.m./~~pm~~ on January 28, 1992 in room 526-S of the Capitol.

All members were present except:

Representative Rezac, excused
Representative Shore, excused

Committee staff present:

Raney Gilliland, Principal Analyst, Legislative Research Department
Pat Mah, Legislative Research Department
Mary Torrence, Revisor of Statutes Office
Lenore Olson, Committee Secretary

Conferees appearing before the committee:

Representative Dorothy Flottman
Charles Jones, Director, Division of Environment, Department of
Health and Environment
Al Borcher, Kansas District Manager, Peoples Natural Gas Company
Don Low, Utilities Division Director, Kansas Corporation Commission
Alan Decker, Consumer Counsel, Citizens' Utility Ratepayers Board

Chairperson Grotewiel called attention to HB 2025, which was in Committee in 1991, was referred to Appropriations in March 1991, and sent back to Energy and Natural Resources Committee on January 27, 1992.

A motion was made by Representative Holmes, seconded by Representative Mollenkamp, to report HB 2025 adversely. The motion carried.

Representative Dorothy Flottman appeared before the Committee to request introduction of a bill that would address water quality control as it concerns feedlots and other facilities that discharge sewage. A copy of the bill draft is filed in the Revisor's Office under 1 RS 1140.

A motion was made by Representative Glasscock, seconded by Representative Charlton, to introduce the bill requested by Representative Flottman. The motion carried.

Charles Jones, Department of Health and Environment, appeared before the Committee to request introduction of two bills. Mr. Jones first requested a bill for proposed legislation on Solid Waste Management as shown on (Attachment 1). He then requested a bill which would amend general permitting regulations under the National Pollutant Discharge Elimination System, as shown on (Attachment 2)

A motion was made by Representative Webb, seconded by Representative McClure, to introduce the bills requested by Charles Jones. The motion carried.

The Chair opened the hearing on HB 2371.

HB 2371 - An act concerning public utilities; providing for certain changes in rates based on changes in measureable utility costs and expenses.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENERGY & NATURAL RESOURCES,
room 526-S, Statehouse, at 3:35 ~~am~~/p.m. on January 28, 1992

Al Borchert, Peoples Natural Gas Company, testified in support of HB 2371. He stated that the benefits of this legislation are heavily in favor of the consumers of utility services in Kansas. Mr. Borchert also said that the ability to by-pass rate design and cost of capital issues along with other time consuming and complicated areas, now unavoidable in the rate making process, would save time and costs both for the utility and the commission staff. (Attachment 3)

Don Low, Kansas Corporation Commission, testified in opposition to HB 2371. He stated that this bill would apparently require expedited pass-through of changes in utility costs and expenses for several reasons. He said that the Commission is concerned that the bill would require use of the same rate of return on common equity as approved in the utility's most recent rate case. (Attachment 4)

Alan Decker, Citizens' Utility Ratepayers Board, testified in opposition to HB 2371. He stated that the purpose and provisions of the bill are unclear, and CURB believes this uncertainty makes the bill potentially harmful to utility consumers in Kansas. (Attachment 5)

Chairperson Grotewiel closed the public hearing on HB 2371.

The Chair announced that on February 13 there will be a Joint meeting of the Senate and House Energy and Natural Resources Committees. Carl Weinberg from Pacific Gas and Electric will speak at the Joint meeting.

The Committee reviewed the minutes of January 21, 1992. A motion was made by Representative McKechnie, seconded by Representative Correll, to approve the January 21, 1992, minutes. The motion carried.

The meeting adjourned at 4:17 p.m.

Date: 1/28/92

GUEST REGISTER
HOUSE
COMMITTEE ON ENERGY AND NATURAL RESOURCES

NAME	ORGANIZATION	ADDRESS	PHONE
Brian Malm	KLL		271-7199
Don Low	"		"
Larissa Jones	Law Public Service	Lawrence	843-7844
Dan Haas	KCPH	Overland Park	599-2375
Curt Carpenter	West Plains Energy	Great Bend	793-1285
AL BORCHER	PEOPLES NATURAL GAS CO.	GARDEN CITY, KS.	³¹⁶ 275-9261
TREYA POTTER	PEOPLES NAT. GAS.	TOPEKA	235-5996
TERRY HUNTINGTON	PEOPLES NATURAL GAS	OMAHA, NE	221-2062
MIKE REECHT	ATT	TOPEKA	232-2128
John Petersen	Beach Aircraft	Topeka	233-1903
Rich McKee	KHA	"	273-5145
Rebecca Rie	Peoples Natural Gas	Topeka	234-9702
Robert Ralston	KN - Intern - Carol Holme	Lawrence	
BRUCE GRAHAM	KEPCO	Topeka	273-7010
DAVID PARRISH	MID AMERICA PATRYMEN	SPRINGFIELD MO.	417- 885-5108
Nasroll Bailey	Mad Anna Dampson	Manhattan	539-4831
Melby Roberts	Intern	Lawrence	837-0514
John Botteky	Kansas City, KS	Topeka, KS	235-2324
George Goebel	AARP-SHC-CCTF	Topeka	272-3418
Jack G. Graves	KN Energy	Wichita	262-5181
Don J. Clough	SATANTA Coop	SATANTA, KS.	649-2230
Junior Wright	Datenta Corp	Datenta, IL	" "

INTRODUCTION OF KDHE PROPOSED LEGISLATION
BEFORE THE HOUSE ENERGY AND NATURAL RESOURCES COMMITTEE

January 28, 1992

CHAIRPERSON GROTEWIEL AND MEMBERS OF THE COMMITTEE:

Good afternoon, my name is Charles Jones. I am the Director of Environment for the Department of Health and Environment. I am here this afternoon to introduce the Solid Waste Management proposed legislation.

The original Solid Waste Act for Kansas was passed in 1970. This law was a very progressive statute which brought Kansas out of the era of open dumps. We have come a long way since the enactment of this law. Under the requirements of the original act, counties and some cities developed solid waste management plans for the waste generated in their communities. This planning process and the implementations of the plans adopted has been very successful in some communities. In other communities, there have been some problems.

In October of 1991, the Environmental Protection Agency promulgated comprehensive regulations for solid waste management. These regulations impose new requirements for the siting, construction and management of solid waste disposal areas across the country. These federal regulations do allow a considerable amount of flexibility for states which have approved state programs. No flexibility is allowed for states which are not approved. The current Kansas statutes and regulatory programs will not meet the criteria for EPA approval.

Solid waste management is a major issue in states across the nation. Our neighboring states of Missouri and Nebraska have performed major revisions of their solid waste statutes in recent years. Both states have already begun major planning efforts.

It is time for Kansas to begin a new planning effort and to make improvements in our management of solid waste.

We have prepared draft legislation for your consideration. This draft legislation includes several key provisions:

1. Modification of the planning process.
2. Establishment of waste reduction goals.
3. Development of financial grants to counties or groups of counties for planning.
4. Strengthened permitting and enforcement authorities.

1/28/92
E+NR
Attachment 1

5. Authority for the Secretary of Health and Environment and Secretary of Commerce to encourage market development for recycled materials.

6. Imposition of a statewide solid waste tipping fee and establishment of a dedicated fee fund.

We respectfully request that you consider this draft legislation for introduction to the Legislature. Thank you for your consideration.

INTRODUCTION OF KDHE PROPOSED LEGISLATION
BEFORE THE HOUSE ENERGY AND NATURAL RESOURCES COMMITTEE

January 28, 1992

CHAIRPERSON GROTEWIEL AND MEMBERS OF THE COMMITTEE:

Good afternoon, my name is Charles Jones. I am the Director of Environment for the Department of Health and Environment. I am here this afternoon to introduce the National Pollutant Discharge Elimination System (NPDES) General Permits proposed legislation

This legislation is proposed to give the Secretary the authority to issue general National Pollution Discharge Elimination System (NPDES) permits. Presently, each discharge of wastewater in the State is issued a discreet permit describing the terms and conditions under which the discharge is authorized. The general permit concept would allow the issuance of a general permit which covers a wastewater discharge(s) from a specific activity or source. Any facility conducting the specific activity or having a wastewater discharge originating from the specific source could be covered by the general permit. The general permit process could significantly reduce the burden to the regulated public by simplifying both the procedure and information requirements for filing an NPDES application.

We respectfully request that you consider this draft legislation for introduction to the Legislature. Thank you for your consideration.

1/28/92
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Attachment 2

BEFORE THE HOUSE ENERGY AND NATURAL RESOURCES COMMITTEE
OF THE KANSAS LEGISLATURE

JANUARY 28, 1992

TESTIMONY OF AL BORCHER

KANSAS DISTRICT MANAGER

PEOPLES NATURAL GAS

Chairman Grotewiel, members of the House Energy and Natural Resources Committee, my name is Al Borchner. I am the Kansas District Manager for Peoples Natural Gas Company. Peoples serves approximately 40,000 customers in Western Kansas, including the cities of Liberal, Dodge City, Garden City, and Goodland.

I am testifying today in support of House Bill 2371 which would allow utilities to request "make whole" filings with the Kansas Corporation Commission. The term "make whole" refers to the recovery of known and measureable changes in the utility's costs of doing business, such as income taxes, property taxes, net additions to the system, and other items, which would not affect rate design or allowed rate of return.

The benefits of this legislation are heavily in favor of the consumers of utility services in Kansas. The ability to by-pass rate design and cost of capital issues along with other time consuming and complicated areas, now unavoidable in the rate making process, would save time and costs both for the utility

1/28/92
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Attachment 3

and the commission staff. These costs normally are passed along to the consumer.

At Peoples, we feel strongly this procedure works very well and is in the best interest of the ratepayer. This option is available in Colorado, where Peoples also does business, and has demonstrated efficiencies and minimized costs for customers in that state.

In conclusion, I would like to urge you to do your constituents and the utility ratepayers of the State of Kansas a favor by voting in favor of House Bill 2371. Thank you.

House Energy and Natural Resources Committee
January 29, 1992

KCC Comments on HB 2371
Presented by Don Low, Director - Utilities Division

The Commission opposes this bill which would apparently require expedited pass-through of changes in utility costs and expenses for the following reasons:

1. The bill is unclear. Is the intent to require pass-through of only increases in costs or of any changes in costs (both increases and decreases)? The first sentence of the bill refers only to "changes" in costs and expenses but later references are only to "increases."

2. If the intent is to provide only for increases, this would be an unfair one way street for utilities. Such a requirement would be a violation of the general regulatory prohibition against "single issue ratemaking." Rates are supposed to reflect the overall costs of providing services and not just one particular cost element. If only cost increases in some areas of operations are reflected, ratepayers would not get the benefits of cost decreases in other areas. For example, taxes may go up but the cost of capital might go down.

3. If the intent is provide for both increases and decreases, the effect of this bill is shorten the time for rate cases from 240 days to 90 days. It appears that under the proposed procedures the utility could identify only cost increases and leave it for the Commission to find decreases. This is simply inadequate time to do an audit to determine the overall costs of service of a utility, prepare testimony and conduct a hearing.

4. If the concern underlying the bill is the need for an expeditious procedure for recovery of a sudden overall increase in costs, existing procedures are adequate. The Commission has procedures for granting interim emergency rate relief and also has allowed recovery of certain extraordinary expenses, such as costs associated with storm damages.

5. In addition to the above major concerns with the overall effect of the bill, the Commission is concerned about some of its specific provisions. For instance, the bill would require use of the same rate of return on common equity (ROE) as approved in the utility's most recent rate case. If that rate case were in the late 1970's or early 1980's, the ROE during those times of high cost of capital would represent a windfall now.

1/28/92
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attachment 4

**TESTIMONY OF ALAN DECKER
BEFORE THE
HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES**

January 28, 1992

Good afternoon. I am Alan Decker, the Consumer Counsel for the State of Kansas. I represent the Citizens' Utility Ratepayer Board (CURB) in public utility matters. Dr. Stacy Ollar, the CURB Chairperson, has a previous commitment and is unable to be here today, and he has asked me to appear here on the Board's behalf. My remarks will be brief.

CURB opposes House Bill No. 2371. CURB is supportive of attempts to improve public utility regulation in Kansas, but CURB believes that House Bill No. 2371 will not result in improved regulation. The purpose and provisions of the bill are unclear, and CURB believes this uncertainty makes the bill potentially harmful to regulation in Kansas. There are several reasons why CURB believes this bill will not improve public utility regulation. I will address only four of the more important reasons why CURB opposes this bill.

First, and most importantly, this bill eliminates the opportunity for parties other than the Commission and the utilities to participate in setting rates. CURB's philosophy is that there should be greater--not less--public participation in utility ratemaking. By allowing rate increases after only an expedited "audit" by the Commission, the bill precludes other interested parties--including the general public--from participating in rate setting. In the long run, reduced

*1/28/92
E+NR
Attachment 5*

participation by all interested parties is likely to result in less efficient and less effective regulation. Indeed, exclusion of parties is likely to result in increased litigation rather than more efficient regulation. Utilities are necessary monopolies--still they are monopolies. Because they are monopolies, they must be closely regulated. For regulation to be efficient and effective, all parties must participate in setting rates. Kansas ratepayers need and deserve to be involved in this process.

Second, as currently drafted, House Bill No. 2371 provides no incentive to utilities to reduce costs and rates. Rather, the bill allows cost increases to be passed to consumers on an expedited basis. While a utility should be allowed to recover prudently incurred costs, cost pass through on an expedited basis provides little or no incentive for utilities to watch or reduce their costs. In these difficult times, many Kansas families and businesses are struggling with their budgets for essential services, and utility legislation should remind utilities to watch their costs as well.

Third, the bill appears to treat cost increases and cost decreases inconsistently. While the bill allows utilities to pass through cost increases to ratepayers, there is no accompanying requirement to pass on cost decreases. Thus, the bill has a built-in bias which will tend to increase costs to ratepayers.

Finally, House Bill No. 2371 is an example of "single issue

ratemaking." Rates are normally based on the overall cost of service. Thus, rates normally reflect those costs that have increased and those costs that have decreased. House Bill No. 2371 would allow a single focus on only those costs which are increasing and would not require that rates reflect cost decreases. The bill's narrow focus on cost increases will tend to increase rates.

CURB believes that it is important to continue to improve the regulatory process. However, CURB believes that, rather than improving the regulatory process, this bill creates additional regulatory difficulties. The Corporation Commission currently has the power and procedures to address extraordinary cost increases. For example, the Commission can grant interim emergency rate relief or establish surcharges to address extraordinary cost increases. Because the bill is unnecessary, narrowly focused, and precludes full participation, CURB opposes House Bill No. 2371.

CURB and I want to thank you for the opportunity to speak on this bill and, CURB respectfully requests that the House Committee on Energy and Natural Resources vote "Not Favorable" on House Bill No. 2371.