

Approved

Jan Grotewiel
Date 3/17/92

MINUTES OF THE HOUSE COMMITTEE ON ENERGY & NATURAL RESOURCES

The meeting was called to order by Representative John McClure at
Vice Chairperson

3:32 ~~xxx~~/p.m. on March 2, 1992 in room 526-S of the Capitol.

All members were present except:

Representative Glasscock, excused
Representative Grotewiel, excused
Representative Holmes, 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:

Denny Burgess - Kansas Plumbing, Heating and Cooling Contractors
Leanne Thomas Snyder - Kansas Alliance for Fair Competition
Mike Weber - Weber Refrigeration and Heating, Inc.
Ron Stryker - Stryker Co., and Kansas Alliance for Fair Competition
Jim Brewer - President, Jim's Propane, Inc.
Tom Bach - President, Suregas, Inc.
Dr. Stacy Ollar, Jr., Chairperson, CURB
Duane Wood - Santa Fe Air Conditioning and Refrigeration
Wayne Gile - owner, Dan's Heating and Cooling; member of the Wichita
Area Builders Association
Rodger Eaton - Eaton Plumbing Company and Joe's Sewer Service; and
Executive Secretary, National Plumbing, Heating and
Cooling Contractors Association
Charles "Mike" Dirck - A-Plus Plumbing & Well Service
Tim Means - Superior Supply Company
Bruce Huffman - cfm Distributors, Inc.
Lynn Piller - President, O'Connor Company, Inc.
Jim Smith - College Hill Plumbing & Heating, Inc.
Derek Seacat - Kansas Local Manager, Peoples Natural Gas
Rob Hodges - President, Kansas Telecommunications Association
Allen Spaur - Vice President and Manager, Kaw Valley and Eastern Kansas
Divisions of Greeley Gas Company
Michael Hertling - Vice President - Administration, Kansas Public Service
Jim Ludwig - Kansas Power and Light
Jack Graves - KN Energy, Inc.
Loren Washburn - Crew Chief, KN Energy, Inc.
Dan Haas - Kansas City Power & Light Company
Curt Carpenter - WestPlains Energy

Vice Chairperson McClure opened the hearing on HB 3005.

HB 3005 - An act concerning certain activities of public utilities;
establishing the public utility private enterprise board
and authorizing the board to order cessation of such
activities.

Representative Darrel Webb spoke to the Committee in support of HB 3005.
He stated that he introduced this bill at the request of the Kansas
Alliance for Fair Competition. He also said that the bill needs some
clarification, and that he is working on language similar to the
corresponding Senate bill.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENERGY & NATURAL RESOURCES,
room 526-S, Statehouse, at 3:32 ~~am~~/p.m. on March 2, 1992

Denny Burgess, Kansas Plumbing, Heating and Cooling Contractors, testified in support of HB 3005, stating that this bill is a good faith attempt to level the playing field and stop "unfair" competition between public utilities and private enterprise. (Attachment 1)

Leanne Thomas Snyder, Kansas Alliance for Fair Competition, testified in support of HB 3005, stating that it simply establishes a KCC review board and allows the governmental agency with the expertise in the area of utility regulation to determine whether any complaint is a valid one and to make a decision based on their findings. (Attachment 2)

Mike Weber, Weber Refrigeration and Heating, testified in support of HB 3005, stating that he fears being totally put out of business by public utilities. (Attachment 3)

Ron Stryker, Stryker Co., testified in support of HB 3005, stating that a utility who chooses to venture out into unregulated activities can have many subtle but powerful advantages over the independent. (Attachment 4)

Jim Brewer, Jim's Propane, testified in support of HB 3005, stating that he has to compete with utility rate payer subsidized rebates on heat pumps, water heaters, total electric homes and free electric water heaters. (Attachment 5)

Tom Bach, Suregas, Inc., testified in support of HB 3005 and urged the Committee to help establish a means by which unfair practices may be stopped before independent business are driven to closing their doors. (Attachment 6)

Dr. Stacy Ollar, Jr., Chairperson, CURB, testified in support of HB 3005. He said that this bill should be structured to prevent utility companies from engaging in service repair for a fee below cost, and utility companies should limit their activities to providing utility service at the most reasonable and economical cost possible to their respective customers. (Attachment 7)

Duane Wood, Santa Fe Air Conditioning and Refrigeration, testified in support of HB 3005, stating that his industry's ability to compete with a utility that is guaranteed a profit on operations by the KCC is doubtful at best. (Attachment 8)

Wayne Gile, Dan's Heating & Cooling, testified in support of HB 3005, stating that they do not object to competition, but want the support of the Committee so they have somewhere to turn when that competition is unfair. (Attachment 9)

Rodger Eaton, Eaton Plumbing and Joe's Sewer Service, testified in support of HB 3005, and requested the Committee to help support private enterprise by allowing the independent business to compete in a fair market environment. (Attachment 10).

Mike Dirck, A-Plus Plumbing & Well Service, testified in support of HB 3005, stating that when utility companies venture outside their role and enter into business in direct competition with independent companies, it seems inevitable that they will utilize their vast financial assets and other resources to support these non-utility ventures. (Attachment 11)

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENERGY & NATURAL RESOURCES,
room 526-S, Statehouse, at 3:32 ~~xxx~~/p.m. on March 2, 1992

Tim Means, Superior Supply Co., testified in support of HB 3005, stating that when a utility company uses the same resources, name recognition, and customer base to promote non-utility activities, they engage in unfair and anti-competitive practices. (Attachment 12)

Bruce Huffman, cfm Distributors, Inc., testified in support of HB 3005. His testimony included copies of letters from business people concerned about the effect of unfair competition on their livelihood. (Attachment 13)

Lynn Piller, O'Connor Company, Inc., testified in support of HB 3005, stating that this bill would create a forum to which embattled business owners might bring their grievances against public utilities. (Attachment 14)

Jim Smith, College Hill Plumbing & Heating, Inc., testified in support of HB 3005, stating that the independent service people cannot compete with the rate paid companies. (Attachment 15)

Derek Seacat, Peoples Natural Gas, testified in opposition to HB 3005, stating that this bill does not offer any protection to ratepayers or local contractors not already afforded by the KCC. (Attachment 16)

Rob Hodges, Kansas Telecommunications Association, testified in opposition to HB 3005 and asked that the Committee not put an additional and unnecessary layer of decision-making on his industry. (Attachment 17)

Allen Spaur, Greeley Gas Company, testified in opposition to HB 3005, stating that this bill would have a detrimental effect on his company and its customers. (Attachment 18)

Michael Hertling, Kansas Public Service, testified in opposition to HB 3005, stating that it is discriminatory in that it treats one class of non-regulated business to benefit another and complicates existing utility regulation. (Attachment 19)

Jim Ludwig, KPL Gas Service, testified in opposition to HB 3005, stating that the KCC already has clear authority to hear and investigate complaints in an unbiased forum. (Attachment 20)

Jack Glaves, KN Energy, Inc., testified in opposition to HB 3005. He stated that the provisions of this bill are unnecessary and would result in creation of added bureaucracy and expense to utility ratepayers. (Attachment 21)

Loren Washburn, KN Energy Inc., testified in opposition to HB 3005. He said that legislation such as this will severely curtail the services his company performs. (Attachment 22)

Dan Haas, Kansas City Power and Light, testified in opposition to HB 3005. He said that they believe this bill is unnecessary by seemingly providing protection for private enterprise which already exists at the KCC. (Attachment 23)

Curt Carpenter, WestPlains Energy, testified in opposition to HB 3005, stating that they are concerned that this bill restricts the boundaries of free enterprise. (Attachment 24)

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENERGY & NATURAL RESOURCES,
room 526-S, Statehouse, at 3:32 ~~am~~/p.m. on March 2, 1992

Written testimony in support of HB 3005 was submitted by:

Ramon Blachly - Olathe Heating & Cooling (Attachment 25)
James Kelley - Kelley & Dawson Service (Attachment 26)
Raymond Omo - Ray Omo, Inc. (Attachment 27)
Ernie Schuler - Schuler Heating & Cooling, Inc. (Attachment 28)
Walt Shook - Waldinger Corporation (Attachment 29)
Leslie Ward - A-One Propane Gas (Attachment 30)
Robert Bramhall - Thermal Comfort Air, Inc. (Attachment 31)
Gary and Linda Doornbos - El Dorado (Attachment 32)
Monte Milstead - Heetco, Inc. (Attachment 33)
Lee Eisenhauer, Kansas LP-Gas Association (Attachment 34)
Jim Yonally, Kansas Chapter, National Federation of Independent
Business (Attachment 35)
Jim Webb - Oakley Gas (Attachment 36)
Home Builders Association of Kansas, Inc. (Attachment 37)
Bruce Robinson - Topeka (Attachment 38)

Written testimony in opposition to HB 3005 was submitted by:

Marshall Clark - Kansas Electric Cooperatives, Inc. (Attachment 39)
Mike Reecht - AT&T (Attachment 40)

The meeting adjourned at 5:35 p.m.

GUEST LIST

COMMITTEE: ENERGY & NATURAL RESOURCES

DATE: 3/2/92

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
MICHAEL J. MAIER	LENEXA Kan	V.H.C. VAN HOBCKE CONT.
Ronald A. Stryker	Topeka	Stryker Co. Ks. Alliance for Fair Comp.
Denny Burgess	Topeka	KPHCC
Leanne Thomas Snyder	Wichita	Ks. Alliance for Fair Comp.
Jim Srief	Topeka	College Hill Ply & Htg's
Gene Hensley	Wichita	Gene Hensley Htg. & P.
LYNN PILLER	WICHITA	O'CONNOR COMPANY, INC.
WAYNE GIBB	WICHITA	DAVIS Htg & CLG Co. Inc.
Mark Ladesic	MISSOURI KS	LADD Service Co.
Ramon Blachly	Olathe Ks	Olathe Htg & Clg Inc.
BILL HIDLEBAUGH	Blue Springs Mo	Blue Springs Htg/A/C Inc.
Gary Roach	" " "	" " " "
Ernie Schuler	Shawnee Shawnee to H.P.K.	Schuler Htg & Clg.
Carl Hannon	Wichita, Ks	Hanna Htg & Air Cond. Inc.
Tim Means	WICHITA KS	Superior Supply Co.
Shirley Dwyer	Wichita, Ks.	KPHCCA
Mike [unclear]	✓	AT Plumbing
Rodger D. Eaton	WICHITA, KS	EATON PLYG Co Inc
JAMES M. BROWN	TOPEKA KS	PIPING CONTRACTORS OF KANSAS, INC.
VICKI Wiggins	Lenexa KS.	HVAC SALES
JACK Mcintosh	Independence, Mo.	McIntosh & Co. - HVAC owner/company
Bruce Robinson	TOPEKA, KS	Auction - Robinson Heating & Cooling
Gerald Farr	Abilene Ks	O'Sullivan's Ply & Htg. Inc.
Warren L. Bavin	KEK	O'Connor Co. Inc.
Reg [unclear]	KS, KS	O'Connor Co. (DISTRIBUTOR)

GUEST LIST

COMMITTEE: ENERGY & NATURAL RESOURCES

DATE: 3/2/92

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Edward McCarty	4826 Hadley Overland Park KS	Lang Htg & Aircond Merriam KS
Jacob C. Fleenor	5220 NW Topoka Blvd Topoka, KS 66617	Fleenor Htg & Htg
Paul W. Stark	5500 Parallel KCK 66104	Koch Htg & Cooling
DAVE Closs	488 K.C. Rd Olathe KS 66061	Polar Air ^{Htg} & C/A
Ernie Bisel	3420 SW Clarkway Pl Topeka KS 66614	Bisel Htg & Cooling
Jeff Tully	42505 Cottonwood Olathe KS 66062	Polar Aire
John Hensley	420 S Church Olathe KS 66062	Polar Aire
Bryan Terry	400 S Church Olathe KS 66062	Action Heating & Cooling
Bill Anderson	5008 NE Sherwood Ct. Kansas City	LBA Air Conditioning Htg
TIM NESBITT SR	6924 S.W. MONTANA PKY TOPEKA	LATA-WHITLOW INC.
Allan L. Holthaus	7440 Morrill Rd Topeka KS 66546	A-1 Appliance Heating & Air cond
Vickie A. Holthaus	Box 157 Wakarusa KS 66546	Appliance Doctor Heating & Air
MICHAEL W. KEFFER	3261 SW RANDOLPH TOPEKA, KS 66611	AIR DUCT CLEANING SERVICES
J.D. McGhee	6226 Merriam Dr. Merriam KS 66203	LBA A.C. Htg + Plbg, Inc.
JOHN L. SPERLING	1401 LANE TOPEKA, KANSAS 66604	LATA-WHITLOW PLUMBING & HEATING, INC.
RONNIE HOMER	4387 GEORGIA BONONA KS	CLOUD Htg. & A/C
Robert Bondsley	508 BOX 88 SCRANTON, KS 66537	Refin. Equip Co.
Jul Jack	202 SW 33RD TOPEKA, KS 66611	NECA-TOPEKA
R. R. Stump	7138 EDITH KCK 66104	Gauge Services Co.
SAM GRAVATT	406 NE STATION DR. KANSAS CITY	LENNOX INDUSTRIES
Ron Flowers	1605 W Beeson Dodge City KS	Jack of Heart's
TED DUAL	2820 E. ROE LANE KCK KS 66103	Citywide Htg & C/A Services Co.
Roger Stocker	5219 BLUE PKWY K.C., MO. 64130	R & R Services
Kimberly Beckwith	716 W. 11th St Topeka, KS 66611	R & R Services
ERIC GEIGER	5219 BLUE PKY K.C., MO 641050	R & R SERVICES

GUEST LIST

COMMITTEE: ENERGY & NATURAL RESOURCES

DATE: 3-2-92

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Pat + Moody	118 S. Vine	Moody Htg & A/C
ARNOLD D. MORGAN	6531 E. Parkview	O'Connor Co, Inc
George Fannestock	1325 S. Anna Wichita	Fannestock, Inc.
Bill Leap	5847 Merriam Dr. Merriam, KS	Total Comfort Htg & Cooling
Kathi Leap	5847 Merriam Dr. Merriam	Total Comfort Htg & chg.
Marie Lou Burrows	10906 W 70th Shawnee, KS	Air Application Service
Olin W. Burrows	10906 W 71st Shawnee	Air Application Service
TOM BACH	130 N WATER - OLATHE KS	SUREGAS, INC
Jim Brewer, Sr	PO Box 276 Leon KS	Jim's Propane Inc.
Pam Beebe	9104 Cody, OP, KS	BEEBE Htg + Air
Sherry L. Davenport	5642 Nall Mission, KS	Davenport Service Co
Mark Davenport	5642 Nall Mission, KS	Davenport Service Co
BRUCE MILLER	23754 W. 82 nd Tem Lenexa, KS	Top Notch Heating & Cool
MIKE WATSON	4528 S. Handley ⁶⁷²¹⁷ Wichita	WATSON Htg & C/A Co.
Ray Orno	309 E Trail Dodge City	RayOrno Inc.
James M. Giudicessi	801 E PARK OLATHE KS.	CUSTOMERS HVAC
LARRY CUSTER	801 E PARK Olathe KS	Custer's Htg & Air Cond.
TELLANCE R. SELLERS	129165 th Glanville MO	GLANVILLE FURNACE CO
Sandra Sellers	129165 th Glanville MO	Glansville Furnace Co
ROBERT WILSON	1815 ^{Smalley Ave.} CAPITOL AVE.	Peoples Natural Gas
Vickey Woodbury	701 Jackson	KS LP Gas Assn
John Dehler	910 E 8 th Lawrence, Kansas	Cloud Htg & A/C, Inc.
Mark Lee	5406 SW 11 th Terr. Topeka, KS	Topeka P.H.C.C.
JEFF KIEKEL	8175 MONROVIA LENEWA KS 66215	CATES SERVICE
H. DAVIS	1302 S 29 th Topeka	H.P. Energy

BURGESS & ASSOCIATES

Suite 1100 - 800 SW Jackson - Topeka, Ks 66612
(913) 234-2728 Fax (913) 233-7991

Testimony

before the
House Energy & Natural Resources Committee

Presented by Denny Burgess, Representing
Kansas Plumbing, Heating and Cooling Contractors
Monday March 2, 1992

House Bill No. 3005

Mr. Chairman and members of the committee:

I am Denny Burgess representing Kansas Plumbing, Heating and Cooling Contractors in favor of HB 3005. This bill is a good faith attempt to level the playing field and stop "unfair" competition between public utilities and private enterprise. We do not object to fair competition but we do object to some of the practices that are occurring at the present time.

We have several conferees here today to share their opinions with you and we will try to answer any questions that members of the committee may have.

Thank you for the opportunity to speak in favor of House Bill 3005.

3/2/92
House E+NR
Attachment 1

March 2, 1992

Testimony before the Kansas House Committee on Energy and Natural Resources

Leanne Thomas Snyder
320 Laura
Wichita, Kansas

Honorable Chairman and Members of the Committee:

I am Leanne Thomas Snyder and I appear before you today, as Chairman of the Kansas Alliance for Fair Competition and on behalf of hundreds of concerned business people from throughout Kansas, all in support of House Bill # 3005. The individuals gathered here this afternoon share a common problem, one that cannot be addressed in any other forum.

Some would have you believe that these people simply want you to make their life easier by doing away with their competition. - This is not true - they compete with each other every day. Competition is their very way of life, they can and do... bid against each other, work to build their client base and contain overhead in order to make their living.

They cannot continue to do this while bidding directly against regulated utilities.

We do not see the Utility company as the enemy - like the rate payers we all are, we perceive that the function and value of a utility company is in the generation and transmission of power. We are all grateful for the comfort this energy provides.

For years the contractor and the utility worked together. Contractors across the state are now finding that this perception is not complete. The same company that furnishes natural gas and electricity to their business may be bidding against them...inside the home or building contracting to repair and install appliances, stoves, water heaters, or on private property installing security lighting and so on.

This competition comes from corporations who began the competition with an incredible unfair advantage. They begin with a huge built in market share, name recognition, financial resources, and operational structure. Access to each of their rate payers is guaranteed through monthly billings, service and equipment purchases may simply be financed and added to the monthly gas or electric bill. And when it comes to a specific type of energy they are the only game in town.

This group today is not a localized special interest group... they come from businesses in every corner of the state. They represent the 200 Dealer Contractors of the Kansas L P Gas Association, the 150 member firms of the Kansas Plumbing, Heating, Cooling Contractors Association, the Homebuilders Association with 575 members in the Wichita area alone, the Wichita and Topeka Chapters of the National Electrical Contractors Association with a combined total of firms employing over 500 electricians, the 75 Kansas City area members of the Air Conditioning Council of America, along with wholesalers and suppliers of the products of their trades ... and each of these firms represent employees from as few as 1/2 person repair business to large industrial/commercial contractors.

House E+NR 3/2/92
Attachment 2

House Bill # 3005 would not automatically correct the problems you will hear today or those you will read in the supporting materials. It simply establishes a KCC review board and allows the governmental agency with the expertise in the area of utility regulation, to determine whether any complaint is a valid one and to make a decision based upon their findings. Companies or persons on either side, who have a legitimate problem, can utilize this expertise to fairly arbitrate their differences.

In appreciation of your time, we would have attempted to keep our testimonies as brief as possible and toward that goal have assembled supporting documentation for your consideration.

Mr. Chairman, with your permission, I would ask that two more presentations be allowed and then prior to additional presentations, we will attempt to answer any questions you may have up to this point. Thank you very much.

Weber

REFRIGERATION AND HEATING, INC.

711 N. Main
Garden City, Kansas 67846
(316) 275-2187

PERRYTON
(806) 435-2470

LIBERAL
(316) 626-8020

SYRACUSE
(316) 384-7860

COLBY
(913) 462-3008

February 28, 1992

House Energy and Natural Resources Committee
House Post Office
State Capitol
Topeka Kansas 66612

RE: House Bill No. 3005

Dear Representatives:

I am the president and general manager of a Western Kansas corporation which engages in heating, air conditioning, refrigeration, appliance, and electrical, repair, service, replacement and installation. I employ 45 people in Kansas towns, all of whom have families and would like to keep their jobs. I am in favor of house bill #3005, for the following reasons.

1. As a person who makes his living in this trade I fear being totally put out of business by "Public Utilities".

a. Utilities are obviously currently subsidizing their endeavors into all of the above mentioned services, and misappropriating their expenses.

b. I find it impossible to compete with these utilities because I do not own or operate a utility to which I can misappropriate funds enabling me to keep my prices 200% lower than the nearest competition. Fortunately I am very diversified, and have been able to stay in business so far.

c. Each year I see them expanding into new markets and continuing their philosophy of charging prices which private enterprise can not possibly compete with. Many of the markets they are entering have absolutely nothing to do with natural gas, such as refrigerator, washing machine, electric air-conditioning, and dishwashers.

2. As owner of over 25,000 square feet of buildings which are heated with natural gas, I am paying natural gas prices which are inflated over and above what they should be, if my particular gas company were not involved in this cross-subsidized market.

Prompt Quality Service

From The Guys In The Orange Trucks

3/2/92

House E+NR

Attachment 3

3. As a friend to many of my non-utility competitors, I have been very hurt to see several of them go out of business, since the Utilities have entered our markets, and many others struggling to get by. Most cite the main reason as; UNFAIR UTILITY COMPETITION.

Examples

Fred Timken	Dodge City	Bankrupt	1990
Keller Refrigeration	Liberal	Closed	1990
Big John's Refrig.	Dodge City	Bankrupt	1987
Norvin Puckett	Syracuse	Closed	1991
Larry Johnston	Garden City	Closed	1987
Mike Lorett	Dodge City	Bankrupt	1988
Irvin Rindell	Hugoton	Closed	1991
Geirs Inc.	Garden City	Closed	1990
Plus Many More	State Wide	Closed or Struggling	

4. As an employer of 45 Kansas citizens who all have families, and all of whom I care about, I do not want to see the utilities put my people out of work.

In summary, these utilities are forcing me out of many areas of my business, are threatening to put me totally out of business, putting my friends out of business, and then sending me the bill. Please do not misunderstand, I would not be asking for your help, were it not for the fact that I believe these utilities have an advantage which is unfair and cannot be rivaled by private enterprise.

IN REBUTTAL TO THEIR POSITION

1. The utilities say that their services are in the best interest of the general public because they are able to provide services to all of the remote small towns, faster than private enterprise can.

a. This is not true, our company alone promises and delivers less than a 2 hour response time to any emergency call in the entire Western 1/3 of the state.

b. Before these utilities began this low priced service, and ran many of them out of business, almost every Western Kansas town with a population of over 1000 had a local company to provide these services.

c. I know of no town, or country location State-wide which is more than 45 minutes away from a competent, privately owned repair company.

d. In our area we have had many customers come back to us even though our price is higher simply because they did not, in fact receive satisfactory service from Peoples Natural Gas.

e. Putting good, honest, well established Kansas private enterprises out of business is not in the best interest of the public.

Summary: They are in fact doing a disservice to the general public, by causing private enterprise to cease thus creating for themselves a monopoly.

2. The utilities say they are not subsidizing their repair business through their rate-base.

A. An employee of Peoples Natural Gas of Hugoton has been directly quoted as saying, "We are only supposed to charge one hour to each service call no matter how long it takes, and then charge the rest of our time to the office." From our own experiences with Peoples of Garden City, we have known instances where their technicians have spent over 16 man-hours on one problem. If this quote is investigated, I would like State protection of this man's job, as he will probably be fired, without your intervention.

B. They have to be, or they would not be able to charge such ridiculously low prices.

1. Sears, who is Nationally known and trusted for appliance and H.V.A.C. repair, charges \$622.00 per year to maintain the same 8 systems that Peoples Natural Gas will maintain for \$143.40.

2. Based on our records, our company would have to charge 166.94 just to service 2 of these 8 systems (the heating, and air-conditioning).

3. They utilize all of the same employees, buildings, computers, mailings, and other resources for both aspects of their business. Even if their intentions were good it would be impossible to accurately allocate all of their costs.

Summary: They are in fact subsidizing their repair business through their rate base.

MY ACTION REQUEST OF YOU

1. Please send House Bill No. 3005 to the House of Representatives.

2. Please talk to your fellow representatives and tell them what the Utilities are doing to the private enterprise system in our State.

3. Please have compassion for little people.

4. Please keep "Free Enterprise", Free.

5. Please carry this first step through to completion, thus totally stopping "Public Utilities" from unfairly competing with "Private Enterprise".

Thank you for your sincere consideration of the facts.
Thank you for your dedicated service to this State.

SINCERELY,

MIKE A. WEBER

Testimony before the:

HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES
HOUSE BILL NO. 3005

March 2, 1992

By: Ronald A. Stryker -- Stryker Co.
 -- The Kansas Alliance for Fair Competition, Inc.

Mr. Chairman and Members of the Committee:

My name is Ron Stryker. I am in favor of House Bill No. 3005. As the owner of a small Heating, Cooling, and Plumbing company in Topeka, I have appeared before this committee in the past presenting the small businessman's position on unfair and anti-competitive utility competition. You will hear today many examples of how utilities can use cross-subsidization and their monopoly status to crush independent small business competition.

By now most of you have a good understanding of the issue. You know that a utility who chooses to venture out into unregulated activities can have many subtle but powerful advantages over the independent. Advantages like; advertising stuffers placed with the utility bill, credit and market data on customer bases, consumer financing at below market rates, and the use of personnel, vehicles, and tools that they would "share" with the regulated part of the enterprise. You know that those and many other possibilities exist for cross-subsidization.

You have heard in the past from plumbers, electricians, sheetmetal workers, hardware store dealers, LP gas dealers, contractors, home builders and even Small Business Administration advocates about their concerns with utilities entering unregulated activities. Today you will hear more testimony from individuals like these and more about how difficult it is to compete with an entity that discounts or gives away their products and services just so that they can sell electricity or gas.

*3/2/92
House E+NR
Attachment 4*

As we appeared before your committee in the past on related bills we have listened. We have responded to suggestions that we work more closely with the Kansas Corporation Commission. An informal hearing at the KCC in November revealed an unusually cooperative group of Kansas utilities. But when the dust settles we are still left with the same rules, regulations, and procedures that are unworkable for a small businessman. Yes, we can intervene in a rate case. In fact in 1986 the Kansas Plumbing, Heating and Cooling Contractors Association did intervene in a Peoples Natural Gas rate case. It cost them several thousand dollars. And yes, they did get some results. The Commission's order of April 17, 1986 indicated that the issue of whether the utility's ratepayers are subsidizing its non-utility operations would be considered in the utility's next rate application. That was almost 6 years ago and Peoples has not filed an application for a rate increase since that order. Many small businesses have been hurt badly or driven out of business waiting for that next rate case.

We have tried to deal with utility concerns with our legislation. Utilities wanted to do charitable work - we changed our proposal to reflect that. Utilities were concerned that emergency service must be provided - we responded with a definition of emergency service. Utilities said we would prevent energy conservation and heat pump promotions - we tried to be sure this was covered in last years proposal. We even had one utility who said we would shut down Wolfe Creek - we never understood where that came from, but nonetheless we tried to deal with his concern.

Everytime we get together the utilities throw up "details" for us to chase. What do the utilities really have in mind? Since our first proposal Kansas Public Service got into the service agreement business. Since our second proposal a major Kansas utility has set up a training center which at least one of their employees said was to train service technicians and get into the service agreement business. We have reached the conclusion that utilities fighting our efforts are either engaged in unfair competition or intend to do so!

Beyond the issue of cross-subsidization is the further issue of whether it is appropriate for the utilities to engage in non-utility enterprises and use their regulated monopoly status to compete against small independent business? At the very heart of the issue is the answer to that question.

A man very knowledgeable on utility business told me recently "I try to stay neutral on this issue. But if I was forced to choose, I sure don't think the utilities should be doing that"(entering non-utility areas). In this bill we are asking you to choose. Section 2 of House Bill No. 3005 states, "It is the policy of this state that no public utility shall engage in any activity which is in competition with private enterprise, unless the public utility demonstrates an overriding or compelling public interest served by engaging in such activity." The KCC can't choose, they need legislative direction. Only you have the power, and with that, the responsibility to choose.

You have one precedent to follow. Last month the United States Senate passed amendments to an energy bill on a 94-4 vote that will severely reduce utilities ability to compete with contractors under the guise of energy efficiency or demand side management programs. This bill doesn't address many of the problems faced by Kansas small business, but it does point out the sentiment of the United State Senate. They chose to help the independent small business. We are hoping you will do the same.

STATEMENT

BY

JIM BREWER, JR.

CONCERNING HOUSE BILL 3005

PRESENTED MONDAY, MARCH 2, 1992 TO THE
HOUSE ENERGY & NATURAL RESOURCES COMMITTEE
REP. KEN GROTEWIEL, CHAIRMAN

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

I AM JIM BREWER, JR., PRESIDENT OF JIM'S PROPANE INC., LEON, KS. I AM HERE TODAY ON BEHALF OF THE RETAIL PROPANE MARKETERS AND THE PLUMBING, HEATING AND COOLING CONTRACTORS WHO SUPPORT HOUSE BILL # 3005.

AS A RETAIL PROPANE MARKETER AND HEATING AND COOLING CONTRACTOR I HAVE TO COMPETE WITH UTILITY RATE PAYER SUBSIDIZED REBATES ON ELECTRIC WATER HEATERS, HEAT PUMPS, TOTAL ELECTRIC HOMES OR FREE ELECTRIC WATER HEATERS. AS WE ALL KNOW, PRIVATE ENTERPRISE DOES NOT HAVE THE OPTIONS AVAILABLE TO THEM TO OFFER THESE REBATES AND FREE APPLIANCES, AND STAY IN BUSINESS.

THE REC'S OPERATE ON VERY LOW INTEREST RATE REA LOANS. THEY THEN HAVE THE ABILITY TO OFFER THEIR CUSTOMERS LOW INTEREST FINANCING TO CONVERT TO TOTAL ELECTRIC. THESE SAME REC'S ARE NOW ENTERING INTO OTHER AREAS ALSO; ELECTRICAL CONTRACTING SERVICE, SATELLITE TV SYSTEMS, AND RETAIL PROPANE MARKETING. THESE ALL OPERATE WITH MONIES WHICH YOU AND I PAID IN THE FORM OF TAXES.

SMALL BUSINESS IS THE BACKBONE OF THIS COUNTRY. IF THESE PRACTICES ARE ALLOWED TO CONTINUE, WE WILL NOT BE ABLE TO SURVIVE. WE WANT COMPETITION, BUT FAIR COMPETITION.

I URGE YOU TO VOTE "YES" ON HOUSE BILL 3005 AND THANK YOU FOR ALLOWING ME THIS TIME.

*3/2/92
House E+NR
Attachment 5*

STATEMENT

BY

TOM BACH

CONCERNING HOUSE BILL 3005

Presented Monday, March 2, 1992 to the
House Energy & Natural Resources Committee
Rep. Ken Grotewiel, Chairman

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

I am Tom Bach, president of Suregas, Inc., a retail propane dealership in Olathe, here today in support of House Bill 3005.

In urging your support of this bill, I would like to provide information regarding the competitive practices of a public utility in my area - practices which are not in the public's interest.

I have had several potential customers who are building new homes who have said that they were led to believe, by Kansas City Power & Light Co. representatives, that they would have "much" lower costs of heating and cooling their homes with electricity (heat pumps primarily) by going all electric rather than propane.

My own personal experience with a power company representative, when I called to ask about new electric service to my proposed new home in the rural area of Miami county, was that I was asked in a very heavy-handed manner, "you are going with electric heat pump aren't you?"....and when I answered that I was going to install gas, the representative's immediate and arguable answer was..."oh, well, electricity is a whole lot cheaper than propane....". The representative didn't realize that I was the owner of a propane gas distributorship. I just listened to what he had to say, with more than a passing interest. I got the distinct impression that if I didn't put in electric heat, my installation would take some time, but it could be expedited if I did go "all electric".

- more -

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Attachment 6

All the facts comparing electricity and propane are not given to prospective customers of Kansas City Power & Light Co. Potential customers are led to believe that electricity is considerably cheaper, which just is not the fact, as you will note from the U.S. Department of Energy representative energy costs below.

Representative energy costs, 1992

Energy source	Cost in common units of measure	Cost per million BTUs
Electricity	8.25 cents/kWh ¹	\$24.18
Natural gas.....	58 cents/therm ²	\$ 5.80
	(or \$ 5.98/Mcf ³)	
No. 2 htng. oil....	\$ 1.03/gal.....	\$ 7.43
Propane.....	74 cents/gal.	\$ 8.10
Kerosene	89 cents/gal.	\$ 6.59

¹ kWh = kilowatt hour
² Therm = 100,000 BTUs
³ Mcf = 1,000 cubic feet

Source: U. S. Dept. of Energy, Federal Register, Jan. 14, 1992

At the very least, calculations based on net fuel efficiencies and BTU contents show that cost of 100,000 BTU's of energy is on the average, cheaper with propane.

In addition to net dollar savings of propane over electricity, nothing is mentioned to the prospect by the power company about the added construction requirements for electric heat service, the increased "in-efficiency" of electric heat pumps over a period of years, nor the fact that the electric customer, once committed to the utility, has no choice of suppliers to help reduce the customer's energy cost at any future time.

Additionally, it is unfair competition to allow a utility to offer added incentives to customers such as appliance rebates, extended warranties and other inducements, at rate-payers risk and expense.

I urge you to help establish a means by which these and other unfair practices may be stopped, before all independent businesses are driven to closing their doors, by voting "YES" on House Bill 3005. Thank you for your time.

**TESTIMONY OF DR. STACY OLLAR, JR.
BEFORE THE
HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES**

MARCH 2, 1992

Mr. Chairman and members of the House Committee on Energy and Natural Resources.

Thank you for this opportunity to appear before you today. I am Dr. Stacy Ollar, Jr. I am the Chairperson of the Citizens' Utility Ratepayer Board of the State of Kansas. We are a State agency housed at the Kansas Corporation Commission, 1500 S.W. Arrowhead Road, here in Topeka.

Our purpose as a State agency, according to the statutes, is to represent residential and small commercial ratepayers in the area of utility concerns before the Kansas Corporation Commission, and the Courts.

Since our inception in 1988, members of our Board have received numerous inquiries, letters, and telephone calls from local repair companies concerning the intrusion of utility companies into the arena of offering repair service at below cost.

CURB has four responses in this area:

1. Costs associated with providing this kind of service by any utility company should not be subsidized by other ratepayers allowed in any rate base of that particular utility company. Moreover, quite often it becomes very difficult to sort out the cost associated with providing repair service.
2. The offering of a below cost service which can be charged for on the utility bill is unfair competition, and it undercuts the local repair service company's the ability to compete for a fair portion of the repair business.
3. Given the status enjoyed by utility company as being an investor owned monopoly, it seems to me that the utility companies are moving beyond their status of being protected from competition as the only utility company in town. If utility companies are interested in providing repair services to customers then they should establish a separate company and enter the free enterprise and competitive market.
4. CURB strongly feels that the burden of proof should be on the utility company to demonstrate that the services provided are necessary to essential utility service. If those services are not essential to the

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Attachment 7*

provision of essential utility service, no costs associated with those services should be included in the companies rates or rate base, including any associated overhead costs. The burden of proof should be on the utility to prove that all of the costs associated with such competitive services have been excluded from rates.

Therefore House Bill 3005 should be structured to prevent utility companies from engaging in service repair for a fee below cost, and utility companies should limit their activities to providing utility service at the most reasonable and economical cost possible to their respective customers.

Thank you again for allowing me this opportunity to address you on this item.

Santa Fe

air conditioning & refrigeration

212 E. Main
Gardner, Kansas 66030
829-0946 884-5801

February 28, 1992

Representative Kerry Patrick
House Committee of Energy and
Natural Resources

Dear Representative Patrick,

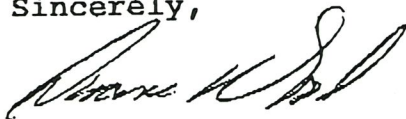
I am writing to you in support of House Bill #3005.

As you know, regulated Utility Companies are becoming a threat to independent contractors, such as myself. Our ability to compete with an Utility that is guaranteed a profit on operations by the Kansas Corporation Commission is doubtful at best. When the Utility Companies were granted a protected monopoly years ago, the reasoning was to assure a steady supply of energy. This unique business structure should not be allowed to compete with independent, free market contractors such as ourselves. You can not make a profit by selling a product at or below cost, unless of course, you are an Utility that can build these costs into it's rate base.

If this allowed to continue, every energy user in Kansas will be paying the cost of these activities. This would be socialism at it's worst, and we all know how well socialism serves the people.

Thank you for your support of House Bill #3005.

Sincerely,



Duane Wood

P.S. Attached is a letter and photographs which depict unworkmanlike and unsafe work done by a utility. Workmen who are poorly trained and not specialist in contracting work can not be expected to perform the wide range of contracting skills required for safe installation.

3/2/92

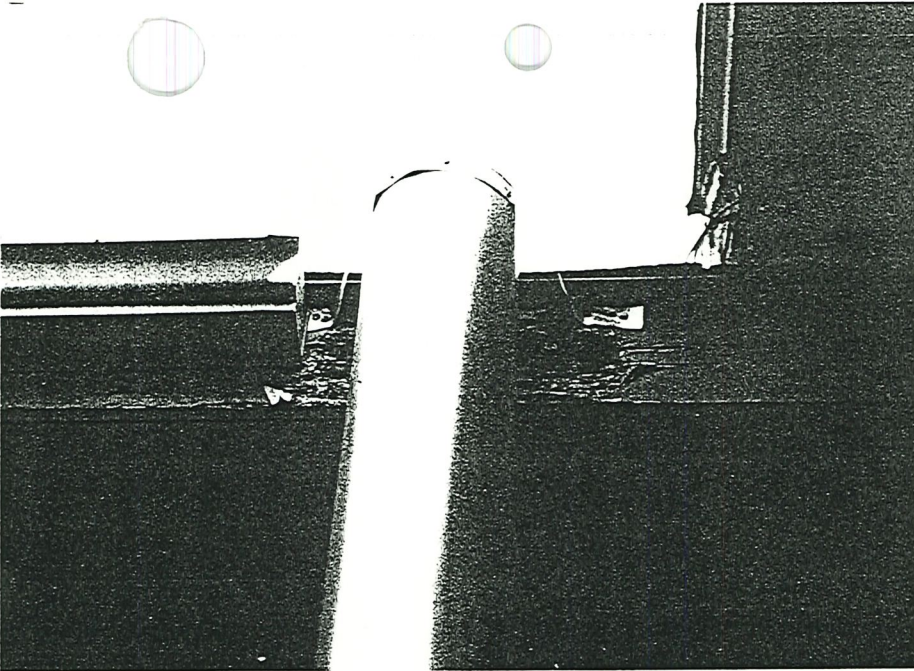
House E+NR

Heating

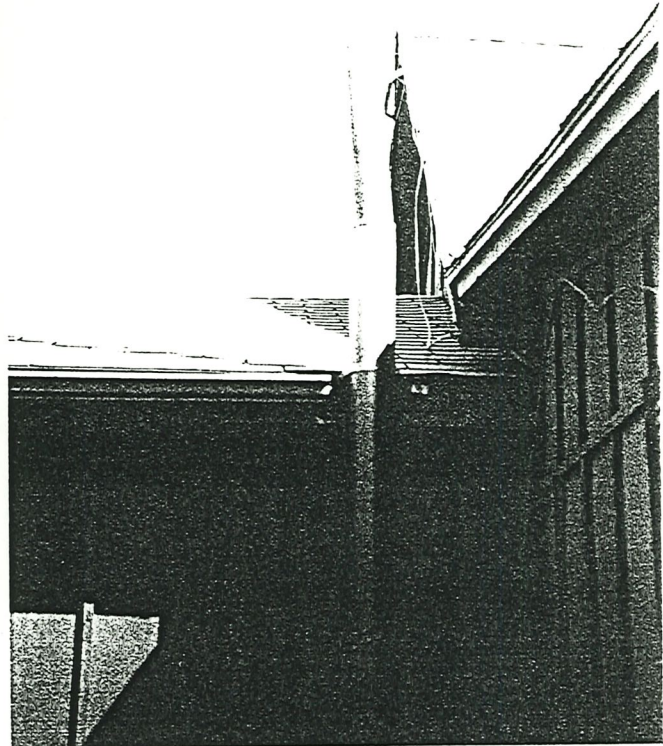
Commercial Refrigeration

Cooling

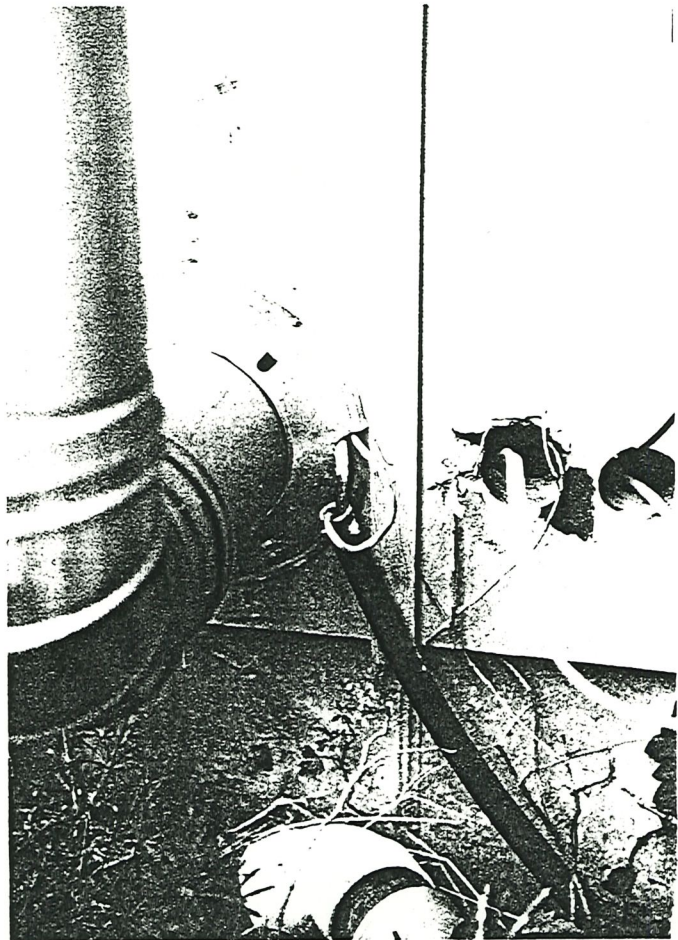
Attachment 8



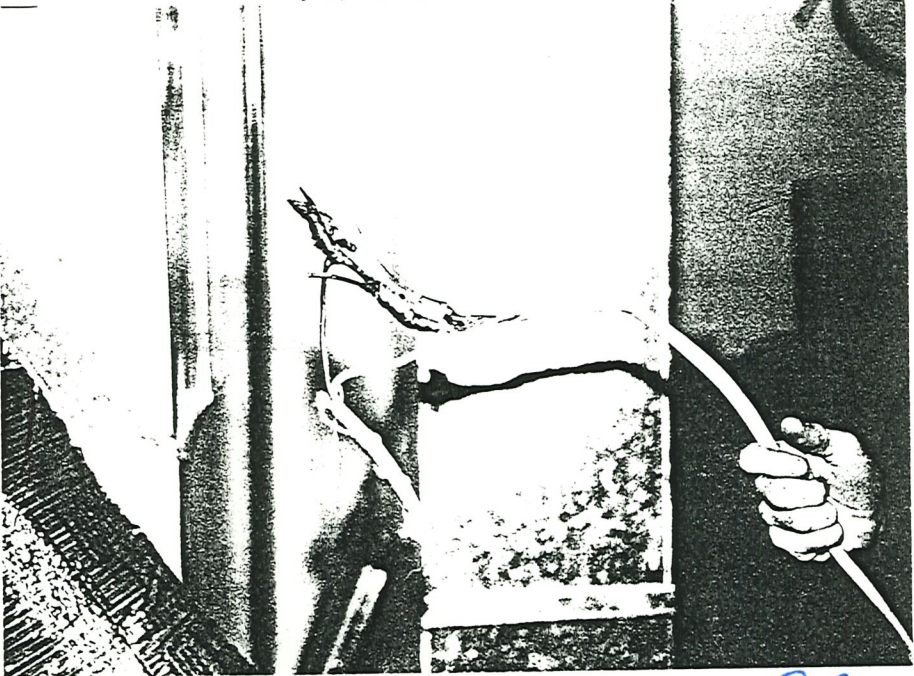
POOR WORKMANSHIP AND POOR PRACTICE OF FASTENING VERY HOT FLUE TO SIDE OF WOODEN HOUSE. THIS WAS ONLY VERTICAL FLUE SUPPORT.



SINGLE WALL FLUE PIPE INSTEAD OF REQUIRED DOUBLE WALL FLUE PIPE. BASIC INFORMATION A CONTRACTOR LEARNS EARLY. DANGEROUS.



ELECTRIC WIRES CUT THROUGH METAL FLUE SLEEVE, NO PROTECTION TO KEEP SHARP METAL FROM CUTTING WIRES.



WIRING OF FURNACE. *P-2* HAPHAZARD AND DANGEROUS. Residence: Mr & Mrs David Brake 30815 W., 82nd St.

Whom It May Concern;

In August of 1989 my husband and I purchased a home in De Soto, Kansas. Just prior to the closing of our real estate purchase Greeley Gas Co. in Bonner Springs, Kansas was called up on to do an inspection of the central air unit, as it was a gas unit, and they had originally installed it. Their service man, Ray Randall, said it was working properly and would last another two years at least. I was here at the time of inspection and I noticed some sort of green fluid had been leaking from the compressor, when I asked Mr. Randall about it he said it ^{was} nothing to worry about, it was normal. The air conditioner unit worked one day. Again we called Greeley Gas Co, they sent Mr. Randall again. He took ~~the~~ the cover off the unit and soon told me that we needed a new fan blade and motor for it. Consequently we purchased a new blade and fan motor from Greeley Gas Co. It was installed while we were at work. When we came home and seen the work had been done, we then turned the unit on and it would not cool. We called Greeley Gas Co. again the next day. Mr. Randall came and took the cover off the unit, looked it over and said that the

Green fluid it was leaking meant the unit needed to be replaced. I immediately asked Mr. Randall why he didn't tell us that at the very beginning of all this when we asked about the leaking green fluid. His reply was he didn't remember seeing the leak before or our asking about it. He then tried to sell us a new \$7,000⁰⁰ unit. We declined. Little did I know that my nightmare with Greeley Gas Co. was not over. Two months later, in October of 1989 we bought a new furnace, and since we did not know of a reputable furnace company my husband called Greeley Gas Co. We figured a gas company would know all & everything about furnaces. We purchased a "Trane" furnace from them. Shortly after Mr. Randall installed it all by himself, the furnace started making a loud noise when the furnace would light. Kind of like delayed ignition. I made repeated calls to Greeley Gas Co, and they came every time I called, and one time Mr. Randall even brought his supervisor with him. They would stand in the basement turning the furnace off & on. The furnace acted properly while they were here. They would be gone a while, and

it we'd do it a g n. Frankly by now I was getting worried & scared. I knew that something was not right with my new furnace. I picked up the phone and called Greeley Gas Co and asked for the supervisor. I told him I was tired of all this and that I wanted someone out to go over this furnace with a fine tooth comb, that I wanted it fixed and now. He ~~also~~ absolutely refused to send anyone out, he would not come either. He told me he didn't have to send anyone to look at it because of the way I talked to him. So for two seasons I lived in fear of what was wrong with my furnace.

Then in March of 1991 we went to KPL Gas in Olathe to inquire about a heat pump. The man there was very informative & helpful, he also gave us a list of heating & cooling companies. From this list we chose Santa Fe Heating & Cooling. We contacted the proprietor of this business and made an appointment to learn more about this heat pump. When Mr. Wood was looking around outside at my gas unit (air conditioner) & our flue it was then I learned that Greeley Gas Co. had installed a single wall flue pipe and not a double wall as it should have been.

Mr. Wood also found the problem with my furnace and fixed it for me at no charge. I can not begin to tell you the peace of mind I have had since my furnace ^{has} operated the way I know that it should.

I can assure you my husband and I could be walking testimonials for Santa Fe Heating & Cooling. We have been more than happy with our new heat pump and the craftsmanship with which was installed.

I also have "temporary" pieces ^(Greeley Gas) where they have repaired leaks in my gas line. When they put these temporary pieces in my gas line Greeley Gas said they would have to come back & do it right. But let me tell you I haven't seen them since they put the last temporary piece in and that was almost one year ago. Not to mention they have charged me thirty-five dollars two different times. And I still have my temporary pieces in my gas lines. You made KPL re-do their their gas lines; I guarantee you if you ever took a look at my gas lines you'd be making Greeley Gas re-do theirs.

Mrs David Brate

FIRST NAME: DAVID

LAST NAME: BRUCE

STREET: 30815 W. 82ND ST.

CITY: DESOTO

STATE: KS.

ZIP: 66018

PHONE#: 585-1714

INSTALLATION DATE: 4/13/91

FURNACE MAKE:

FURNACE Y/N: N

FURNACE MODEL#:

SER.#:

NATURAL GAS Y/N: Y

PROPANE Y/N: N

ELEC Y/N: N

A/C OR HEAT PUMP MAKE: LENNOX

AIR COND Y/N: N

A/C MODEL#:

SER#:

HEAT PUMP Y/N: Y

HP MODEL#: HP19311-3P

SER#: 5191B22981

COIL MODEL#: C1641

COIL SER#:

ALL ELEC Y/N: N

PROGRAMABLE STAT Y/N: N

MODEL#:

HUMIDIFIER Y/N: N

MODEL#:

AIR CLEANER Y/N: N

MODEL#:

EXTENDED WARRANTY Y/N: N

WARRANTY CO.:

REMARKS: REPLACED START RELAY 6/91

8-7

**Dan's
Heating
& Cooling**
Co., Inc.

349 LAURA
WICHITA, KANSAS 67211



March 2, 1992

Honorable Chairman and Members of the Committee:

I am Wayne Gile, Owner of Dan's Heating and Cooling in Wichita and Haysville, Kansas. I am also a member of the Wichita Area Builders Association and I have been asked to speak to you today on behalf of our 575 members, their employees and families.

I also serve as the Chairman of our Air Conditioning Council. We all depend upon sales and service of our products and expertise to our customers. We work hard as all small businesses do - to practice our trade, train our employees and struggle to make a living based upon competitive pricing. This is difficult, but not impossible.

What is difficult for me to understand, is why a Utility Company would so strongly object to this Bill. As I understand it, the purpose of the Bill is simply to establish a KCC Board to review complaints of unfair competition. The Board would then make a determination as to the validity of the complaint. The KCC would decide - not a contractor and not a utility lobbyist.

Utilities who are not cross-subsidizing or using their size to an unfair advantage would have no reason to fear the decision of this Board.

It seems that they would only object, if they want to avoid the KCC scrutiny of their non-regulated practices - or if they intend to begin such practices in the future.

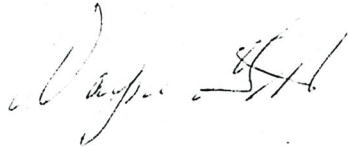
If I represented a public utility whose marketing practices were strictly above board; I would have to give my support to this Bill, wanting to see a vehicle in place that would insure that my competitors would not be able to gain unfair advantage over our marketing strategies by unethical practices.

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House E + NR
Attachment 9*

We do not object to competition - we only ask your support of the Bill so that we have somewhere to turn when that competition is unfair.

I would be happy to answer any questions you may have.

Thank you for your time.

A handwritten signature in blue ink, appearing to read "N. J. ...".

HONORABLE CHAIRMAN AND MEMBERS OF THE COMMITTEE:

My name is Rodger Eaton, I own Eaton Plumbing Company and Joe's Sewer Service in Wichita, Kansas. I am also the Executive Secretary of the National Plumbing, Heating Cooling Contractors Association.

In my capacity as a National Officer, I travel across the country meeting with fellow contractors. Unfair Competition by Utility companies is not limited to the Kansas Borders. Over 32 states and many national organizations are currently struggling to solve this issue - either through legislation or litigation. States like Louisiana have successfully adopted legislation that is far more stringent and limiting than the one we seek today. We merely ask your support in providing an avenue for recognizing this problem.

Some would have you believe that our problem is no different than the local drug store complaining that they cannot compete with Walmart. This may be a sad truth for them. However, the nature of their businesses is the same.

Our situation is not so easily explained and the analogy does not work. Today, we are talking about the companies who are guaranteed access to the marketplace through authorization to generate the power that lights, heats and cools our buildings. We are talking about taking advantage of this ready-made opportunity to also generate unregulated revenue by the end-use sale and service of devices that consume this energy.

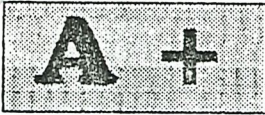
Some would also have you believe that this law would severely interfere with energy conservation. Let me assure you that this is not so. The plumbing profession itself began to protect the environment. Our Association works with the government at all levels on environmental issues such as low-flow toilets, gray water, and CFC reclamation - we see it as our responsibility. We continually work to provide the education and certification needed to enforce these regulations and to accept this responsibility. Our goal is not to cease the public access to energy conserving devices - we make our living, selling and servicing these very devices.

I can tell you that if the practices discussed here today are allowed to continue and escalate, contractors across the state will be forced to either change professions or will be forced to perform their profession by becoming an employee of the utility company that put them out of business.

We ask that you help support private enterprise by allowing the independent business to compete in a fair market environment.

I would be happy to address any questions you may have. Thank you for your time.

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House E+NR
Attachment 10



A+ PLUMBING & WELL SERVICE

1940-A Emmett

Wichita, Kansas 67233

Phone: 316/522-4746

March 2, 1992

House Bill #3005

House Committee on Energy & Natural Resources

Thank you Mr. Chairman and Committee Members:

My Name is Charles "Mike" Dirck and I am the owner of A-Plus Plumbing & Well Service in Wichita, Kansas. I have owned and operated this business for the past 30 years. For the most part, during those years, I have enjoyed a close working relationship with the Public Utility Companies. But the rules are beginning to change for me, as they have for my fellow Kansas contractors who are suffering unfairly by the practices of the Regulated Utilities.

When the utility companies venture outside their role and enter into business in direct competition with independent companies, it seems inevitable that they will utilize their vast financial assets and other resources to support these non-utility ventures. The Result: The utility engages in unfair and anti-competitive practices that threaten the livelihood of independent companies - and as individual utility rate payers-we even help them do it!

As a contractor, I am fortunate to be regulated by licensing laws - imposed by you - the lawmakers. These laws were designed to protect the consumer so that when they need a contractor - they will be able to hire trained, qualified, insured or bonded individuals to carry out their work. They also protect the contractor by keeping any person or company - from being able to hang up a sign and call himself a plumber or an electrician or a mechanical contractor or a builder etc. and enter into business without following the rules. If I could do away with permits, licensing, insurance and bonding processes, OSHA rules, code compliance on the local level etc...I could certainly turn a much greater profit - but it would be at the expense of the consumer and of my professional credibility.

I mention all of this because in a letter dated February 21, 1991 addressed to the members of this very committee from Peoples Natural Gas Representative Alan Borchert said " Many of the restricting compliance issues addressed in several persons testimony are self imposed through licensing procedures, which have been developed in smoke-filled back rooms and designed to eliminate too many competitors in their trade. "

**Your Plumbing Professional
Licensed, Bonded, Insured**



**Protecting the Health of the
Nation**

*3/2/92
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Attachment 11*

Ladies and Gentlemen, I say to you and to Mr. Borchert NOT SO. We currently have a State Licensing law enacted by the Kansas legislature. If a person, who is truly a qualified plumber, takes and passes the State Block Exam, Garden City or any other Kansas city or town must recognize his license. If they don't...The aggrieved plumber has recourse under Kansas Law to deal with the situation.

That is all we are asking for here today with this bill. The utility companies say they are not cross subsidizing or competing unfairly. So I don't understand why they would fight a bill that simply says that contractors will have recourse should unfair competition take place.

The contractor can survive in a fair competitive environment. No business can survive against unchecked, unfair competition. I ask for your support on HB #3005.

I welcome questions from this committee. Thank you.

My name is Tim Means. I'm with Superior Supply Co. in Wichita. We are a Heating, Cooling, and Refrigeration wholesaler. My territory covers southwest Kansas. Since the Gas Utility started selling and installing heating, cooling, and appliance parts and equipment, I've seen a decline in my business. That's nothing in comparison to the local contractor. I've got 122 contractors it directly effects right now. That number will grow if something is'nt done.

When a utility company uses the same resources, name recognition, and customer base to promote non-utility activities, they engage in unfair and anti-competitive practices. If they are to play the game, they must play by the same rules as all the players, or the referees should call the game. As of today there have been no referees.

You can't install equipment and appliances at cost, knowing you will get your dividends in volume of fuel used. If a contractor did this, he wouldn't be there when you needed him.

Two weeks ago in Washington, the Senate passed by a 94 to 4 margin amendments to a major energy bill which promises to severely reduce utilities ability to compete unfairly with contractors. Although the Senate measure includes only electric utilities in it's fair competition provisions the final version is expected to include Gas utilities as well. Though out my presentation you have heard the word "UTILITIES" used. Lets keep the utilities selling a product, gas and electricity. Not equipment and appliances! Make them play by the same rules as all the other players.

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Attachment 12

SENATE ACTION HELPS CONTRACTORS FIGHT COMPETITION FROM UTILITIES

WASHINGTON — Relief may be on the way for contractors facing stiff utility competition in the sales and service of residential hvac equipment and service.

Last week, the Senate passed by a 94-4 margin amendments to a major energy bill which promise to severely reduce utilities' ability to compete unfairly with contractors under the guise of energy efficiency or demand side management (dsm).

Under the proposed law, the result of many years of stop-and-start maneuvering, state public utility commissions would have to consider the impact on contractors of any dsm program.

More importantly, any new energy conservation programs would have to meet standards and be monitored by the Federal Trade Commission (FTC) and the Department of Energy.

These are elements of a major bill which also requires minimum efficiency standards for electric motors and lights, and requires car/truck fleets in cities to begin operating by 1995 on non-gasoline fuels such as natural gas or ethanol.

Contractor groups praised the law as much-needed ammunition in the arena of utility competition.

The measure will yield "vast new market opportunities" for contractors, said Ernest R. Menold, president of the Sheet Metal and Air Conditioning Contractors' National Association (SMACNA).

The legislation was supported by the Alliance for Fair Competition (AFC), composed of private businesses affected by allegedly unfair utility competition.

Comparable legislation is expected to be passed by the House within a few weeks, said AFC president Stan Kolbe.

While the Senate measure includes only electric utilities in its fair competition provisions, the final version is expected to include gas utilities as well, Kolbe said.

Presidential approval of the full energy bill, which has been stripped of

(Next Page, Please)

Law would stimulate the retrofit market

The new Senate energy legislation passed last week promises to provide many marketing opportunities for contractors and other hvac specialists. Among these are measures to stimulate the retrofit of mechanical systems in nonresidential buildings. The bill:

- Directs federal agencies to implement all energy efficiency improvements that pay for themselves within 10 years. A \$50 million authorization was set aside for this.
- Ensures that the federal building energy code and the industry voluntary code consider the need to mitigate radon and other indoor air pollutants — thus stimulating business in this sector.
- Authorizes states to use federal assistance to develop new building retrofit standards.
- Beefs up the energy efficiency mortgage loan program, especially for homes with solar systems, and opens pilot programs in five states.
- Facilitates private-sector financing of federal energy efficiency projects, such as performance contracting.
- Provides state grants to promote industrial efficiency programs.
- Improves federal government energy audit and efficiency programs and procurement.
- Authorizes states to use federal assistance to develop new building retrofit standards.
- Provides detailed verification of demand side management energy savings.
- Requires electric utilities to evaluate cogeneration and district heating-cooling applications as part of the selection process for new energy resources.
- Facilitates the use of renewable technologies to reduce building energy consumption.

(Continued from Page 1)

controversial measures like the Corporate Average Fuel Economy (CAFE), is virtually certain, he said.

The bill gives contractors immediate "standing" in all 50 states to challenge utility dsm programs, he said. This is significant in light of recent contractor lawsuits against utilities.

The new law might also strengthen contractors' attempts to overturn competitive utility programs now in place in about 30 states, Kolbe said.

"A lot of public utility commissions are not now required to consider the impact of these programs on private businesses," he said.

"The legislation will stop the hemorrhage of business to the utilities and will put a nationwide chilling effect on anti-competitive utility practices."

On the marketing side, the Senate bill encourages the states to incorporate energy efficiency and mechanical retrofit programs whose effect will be to stimulate "billions" of dollars in new business to the hvac industry. Kolbe

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March 2, 1992

The Honorable Ken Grotewiel, Chairperson,
and Members of the House Committee on
Energy and Natural Resources
Statehouse
Topeka, Kansas 66612

Dear Chairperson Grotewiel and Members of the Committee:

I am Bruce Huffman of cfm Distributors, Inc., a Kansas Corporation distributing heating and air conditioning products in Kansas and Missouri. We employ 14 Kansas residents and do business with over 100 businesses in Kansas.

1. My testimony comprises of letters from these businessmen and women concerned about their livelihood.

Mr. Ernie Schuler, Schuler Heating and Cooling in Kansas City, KS. and President of the ACCA Chapter. He represents about 75 contractors in the Greater Kansas City area.

"This bill before this committee is very important to me personally... as well as to the hundreds of contractors all over the state of Kansas."

"I am here to testify that no matter what any utility says...a very real problem exists with some regulated utility companies entering into direct competition with independent contractors."

Mr. Lynn Piller, O'Connor Co., wholesale distributor headquartered in Wichita.

"...we have based our business on the relationships we have built with ...contractors in our sales territories. ...To generate a profit in these difficult times is a notable accomplishment. These businesses now face a competitor that is guaranteed a profit...as individuals, they have neither the resources nor the time to take on entities as large as the utilities-they should not have to".

Nancy Branum, Employee and Mother, Gardner, KS.

"Allowing utility companies to compete with them may jeopardize my employment status, creating a hardship on not only me and my family, but on our... economy as well."

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William Lambert, Midwest Precision, Overland Park, KS and Kansas City. A \$3.5 million contractor with 14 Kansas employees doing 75% of his work in Kansas.

"...I am obviously against being in direct competition with regulated utility companies. I believe this problem can be addressed with this bill..."

David Clegg, President of Polar Aire, Olathe, KS.

"Allowing Utility Companies to compete with independent businesses may have a devastating effect on our economy. Because 65% of our business is dependent upon service calls, this would have a direct bearing on our existence."

Ed Jones, Territory Manager, Lennox Industries, Inc.

"My company conducts business with hundreds of small businessmen through out the State of Kansas." There is a real problem with regulated utility companies entering into direct competition with independent small businessmen."

Norman Clark, Jr., Heart of America Home Services, Olathe, KS

"...small businesses...cannot compete with Utility Companies who support their service programs by subsidizing them from utility income sales."

Kansas has plenty of well trained and qualified contractors serving every county and they are saying unfair utility competition is a real problem.

2. Utilities sell at cost or below for both service and equipment.

Mark Davenport, Davenport Service , Shawnee Mission, KS

"Recently, we proposed an installation of a gas air conditioning system for a long time customer. They also received a proposal for the same system from KPL Gas. My trusting customer let me compare... the two. Our proposal \$3195. KPL \$2150. (He details the work required and shows KPL to lose \$40.) Where do they get this money they lose?"

Mark Ladd, Ladd Service Co., Mission, KS.

During the recession of 1982 I graduated high school in Tonganoxie, KS. With no money to my name and both my parents barely scrimping to get by, I had no chance of going to college. With a grant from the government and a night job I was able to attend

AVTS to learn the trade of Heating and Air Conditioning. My typical day was fourteen to sixteen hours and very demanding but my resolve to overcome poverty was very powerful. I worked diligently and finally it paid off. I graduated trade school with honors and immediately began working for an air conditioning company in Lenexa. Three years later I started Ladd Service Company.

The local utility companies are gearing up and training service people to enter into the service contracting business under the guise of safety. ...utilities across the state have already started offering service contracts at a price of less than half of what my meager business could remain viable at. They certainly are not making a profit directly from these contracts but by cross-subsidizing..."

I am not afraid of competition. The competition in my area is the fiercest in the city and that guarantees the consumer the highest quality work at the fairest price."

Edward McCarty, Lang Heating and Air Conditioning, Merriam, KS

"Please note the attached proposal from KPL Gas to Mr. and Mrs. John Beasley of Kansas City, KS. The Beasley family is an acquaintance of mine and were unhappy with their new unit and called me to come see why it was so noisy when it ran, and why it would not cool their home. (He details the costs.) When you total all the above items, KPL has installed this unit some \$1,100 less than a HVAC contractor."

3. The utilities brag at the number of subscribers they have for their service policies. But who would not want a policy that was one third the realistic price. How would the other two thirds of the homeowners feel if they knew they were subsidizing their neighbors service policy? Because heating and air conditioning businesses understand this business, they would not offer this type of service policy. First, it discourages the homeowner from having proper maintenance performed on his equipment. Secondly, it raises the utility consumption by 22% based on a study by a group of these same Kansas utilities.

William Posladak, President A.B. May, Leawood, KS.

"I am not asking for market protection, A.B. May has always been a trend setter in our market and we have no fear of fair competition...The service plans offered by utilities I have seen lack any encouragement for energy conservation by doing timely preventive maintenance. They are for repair only."

The service contracts promoted by the utilities promote the increase consumption of gas and electric.

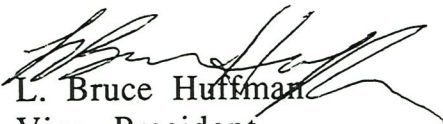
4. The last concern is safety.

Bill Anderson, President, LBA Air Conditioning, Heating & Plumbing< Inc., Merriam, KS

"I cannot believe the Utility Companies can do a safe and proper job in the appliance service business as I question their ability to do their own job safely. LBA...limit ourselves to certain aspects of the plumbing, heating and cooling business. We have years of schooling, knowledge, and experience in the particular areas we work in. You cannot fool me into believing some gas man-part time serviceman can do a safe and proper job.

We hope we all can count on your support for House Bill #3005 which "clarifies the jurisdiction of the Kansas Corporation Commission in regulating activities by utility companies."

Thank you for your kind attention.



L. Bruce Huffman
Vice President
cfm Distributors, Inc.
1104 Union Ave.
Kansas City, MO 64101
816-842-5400

FEBRUARY 28, 1992

MR. KEN GROTEWIEL
1504 WOODLAND
WICHITA, KS 67203

RE: HOUSE BILL #3005

DEAR MR. GROTEWIEL,

I AM WRITING TO YOU IN SUPPORT OF HOUSE BILL #3005.

I RESPECTFULLY REQUEST YOUR CONSIDERATION ON THIS IMPORTANT BILL. THE PROBLEM OF REGULATED UTILITY COMPANIES ENTERING INTO DIRECT COMPETITION WITH INDEPENDENT BUSINESS PEOPLE, LIKE MY EMPLOYER, CAN BE ADDRESSED WITH THIS BILL AS IT CLARIFIES THE JURISDICTION OF THE KANSAS CORPORATION COMMISSION IN REGULATING ACTIVITIES BY UTILITY COMPANIES.

SINCE I AM EMPLOYED BY A HEATING AND COOLING COMPANY, ALLOWING UTILITY COMPANIES TO COMPETE WITH THEM MAY JEOPARDIZE MY EMPLOYMENT STATUS, CREATING A HARDSHIP ON NOT ONLY ME AND MY FAMILY, BUT ON OUR NATION'S ECONOMY AS WELL.

PLEASE HELP TO CREATE A MORE FAIR ENVIRONMENT FOR THE BUSINESSES WHO ARE WORKING HARD TO SURVIVE, AND THE EMPLOYEES WHO ARE WISHING TO REMAIN EMPLOYED. PLEASE SUPPORT HOUSE BILL #3005.

YOURS TRULY,

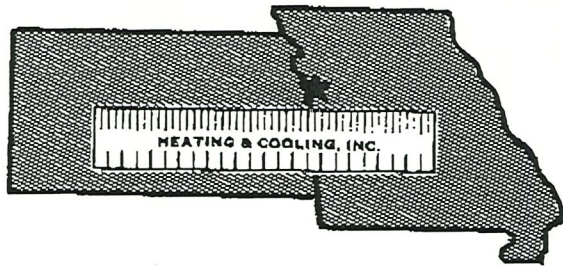
Nancy Branum

NANCY BRANUM

NB

NANCY BRANUM
26795 WEST 207TH
GARDNER, KS 66030
913-884-8397

MIDWEST PRECISION



13228 HOLMES • KANSAS CITY, MISSOURI 64145

816/ 942-2900

• William J. Lambert

February 27, 1992

Representative Kerry Patrick
House Post Office
State Capitol
Topeka, KS

Dear Representative Patrick,

I am writing to you in support of House Bill #3005.

As an independent businessman, I am obviously against being in direct competition with regulated utility companies. I believe this problem can be addressed with this bill as it clarifies the jurisdiction of the Kansas Corporation Commission in regulating activities by utility companies.

I hope I can count on your support of House Bill #3005. I appreciate your willingness to help create a more fair environment for those of us working hard to survive in the complex business climate of today.

Please feel free to contact me regarding this important issue.

Sincerely,

William J. Lambert
12807 Wedd
Overland Park, KS 66213

Gross Sales:	\$3,500,000.00
Number of employees:	26
Number who resides in Kansas:	14
75% of business done in Kansas	

1316

Olathe
913 - 782 - 8238

**POLAR
AIRE**
HEATING & COOLING, INC.

Overland Park
913 - 381 - 8238

400 Kansas Ave.
Olathe, KS 66061

February 28, 1992

Mr. Ken Grotewiel
1504 Woodland
Wichita, KS 67203

RE: House Bill #3005

Dear Mr. Grotewiel,

I am writing to you in support of House Bill #3005.

I respectfully request your consideration on this important bill. The problem of regulated Utility Companies entering into direct competition with independent business people, like myself, can be addressed with this bill as it clarifies the jurisdiction of the Kansas Corporation Commission in regulating activities by Utility Companies.

Allowing Utility Companies to compete with independent businesses may have a devastating effect on our economy. Because 65% of our business is dependent upon service calls, this would have a direct bearing on our existence.

We need your help in creating a more fair environment for those of us working hard to survive in the complex business climate of today. Please support House Bill #3005.

Thank you for your consideration. Please contact me if you require additional information on this vital issue.

Sincerely,

POLAR AIRE HEATING & COOLING



David L. Clegg
President

DC/nb

cc: Ms. Ruth Ann Hackler, St. Rep.

137

LENNOX Industries Inc.

HEATING AND AIR CONDITIONING
ESTABLISHED 1895

9650 DICE LANE
P.O. BOX 14008
LENEXA, KANSAS 66216
PHONE: 913 + 884-5555

February 27, 1992

Mr. Ken Grotewiel
House Post Office
State Capitol
Topeka, KS 66612

Dear Representative Grotewiel:

I am writing to you in support of House Bill #3005.

This bill is before the House Energy and Natural Resources Committee and is very important to me and my business. There is a real problem with regulated utility companies entering into direct competition with independent small businessmen.

My company conducts business with hundreds of small businessmen through out the State of Kansas. They also employ thousands of Kansas tax payers who would be adversely affected if these utilities are allowed to unfairly compete in our industry.

House Bill #3005 should have nothing objectionable to a utility company unless they want to engage in the contracting business and cross subsidize it.

I hope that I can count on your support of this bill. I would be happy to discuss the issues affecting the small businessman and creating a fair business environment for those of us working hard to survive in today's business climate.

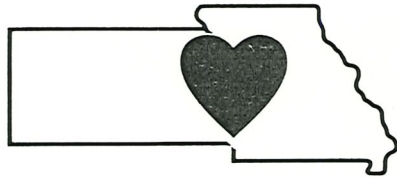
Please feel free to contact me should you require additional information on this issue. Thank you for your support.

Sincerely,



Ed Jones
Territory Manager

EJ/dg



CMIS. INC.
**HEART OF AMERICA
HOME SERVICES**

14008 RAINTREE
OLATHE, KS 66062
(913) 782-7538

February 27, 1992

Representative Ken Grotewiel
House Post Office
State Capitol
Topeka, Kansas 66612

Dear Representative Grotewiel:

I am writing to you in support of House Bill #3005. This bill is currently before the House Energy and Natural Resources Committee. HB #3005 clarifies the jurisdiction of the Kansas Corporation Commission in regulating activities by Utility Companies.

I have run my own heating and air conditioning company since 1978. My gross sales for the last fiscal year were more than \$400,000. I employ 7 people and have a customer base numbering in the thousands.

I have a real problem with regulated Utility Companies entering into direct competition with independent contractors, such as myself. By supporting House Bill #3005, you will help protect a fair work environment in the state of Kansas. Those of us working hard to survive with small businesses which support our families and the families of our employees cannot compete with Utility Companies who support their service programs by subsidizing them from utility income sales.

I hope I can count on your support of House Bill #3005. I will be happy to discuss the issues affecting businesses like mine that this bill would seek to correct. I would make myself available to testify before your committee if you need additional information on this issue.

Thank you for your consideration.

Sincerely,

Norman R. Clark, Jr.
President

13-9



HEATING & AIR CONDITIONING

5642 Nall Shawnee Mission, Kansas 66202

913-362-9402

FEBRUARY 28, 1992

MR. KEN GROTEWIEL, CHAIRPERSON
HOUSE COMMITTEE, ENERGY AND NATURAL RESOURCES

DEAR REPRESENTATIVE GROTEWIEL:

RECENTLY, WE PROPOSED AN INSTALLATION OF A GAS AIR CONDITIONING SYSTEM FOR A LONG TIME CUSTOMER. THEY ALSO RECEIVED A PROPOSAL FOR THE SAME SYSTEM FROM KPL GAS. MY TRUSTING CUSTOMER LET ME COMPARE SIDE BY SIDE THE TWO. BELOW ARE THE NUMBERS COMPARISON. PLEASE KEEP IN MIND: THE ADVERTISING DONE BY KPL GAS ON THIS TYPE OF SYSTEM RECENTLY, THE FACT THAT KPL GAS WOULD HAVE TO SUB-CONTRACT TO A REAL HVAC COMPANY, THE LABOR, DUCTWORK AND MISCELLANEOUS MATERIALS, BECAUSE THEY ARE NOT TRAINED TO DO THIS TYPE OF WORK. ALSO KEEP IN MIND THAT KPL GAS WOULD SUPPLY THE WARRANTY SERVICE ON THE GAS A/C FOR YEARS, ALONG WITH FINANCING AT A VERY LOW % RATE. ALL THIS COST MONEY. WHERE DO THEY GET THIS MONEY THEY LOSE?

	OUR PROPOSAL	KPL PROPOSAL
TOTAL SELLING PRICE	\$ 3195.00	\$ 2150.00
COST OF MATERIALS	1800.00	1800.00
COST OF LABOR	300.00	(LABOR MORE DUE TO SUB) 390.00
LEFT TO PAY	1095.00	NO WAY -40.00

FOR PROFIT AND OVERHEAD SUCH AS ADVERTISING, OFFICE SERVICE, WARRANTY, TRUCKS, INSURANCE, ETC.

I REQUEST YOUR SUPPORT OF HOUSE BILL #3005.

VERY TRULY YOURS,

MARK D. DAVENPORT, OWNER
DAVENPORT SERVICE COMPANY

sld

13-10

Ladd Service Co
5531 Beverly Ln.
Mission Ks. 66202
Phone 722-6200
Home 722-0374

February 26, 1992

Representative Tom Thompson
5001 Rock Creek Ln.
Mission, Ks. 66205

Dear Representative Tom Thompson.
During the recession of 1982 I graduated high school in Tonganoxie Ks.. With no money to my name and both my parents barely scrimping to get by, I had no chance of going to college. With a grant from the government and a night job I was able to attend AVTS to learn the trade of Heating and Air Conditioning. My typical day was fourteen to sixteen hours and very demanding but my resolve to overcome poverty was very powerful. I worked diligently and finally it paid off. I graduated trade school with honors and immediately began working for an air conditioning company in Lenexa, Ks.

My goal was to learn as much as possible about the business, save my money, and become an entrepreneur by opening my own business. I worked hard, stayed home on weekends, and never purchased anything that I absolutely couldn't do without. I attended night classes at college to learn business and better myself.

Three years later I started Ladd Service Company. All the sacrifices that I had made, and work that I had done to get to this point were small in comparison to the work and sacrifices that I had to invest to make my business succeed. After six years in business I have finally reached the point that I have given up so much for. My business is beginning to take off and I am realizing some of the rewards.

Recently it has come to my attention that I am in danger of losing my business, my life.

The local utility companies are gearing up and training service people to enter into the service contracting business under the guise of safety. Kansas Public Service of Lawrence Ks. and other utilities across the state have already started offering service contracts at a price of less than half of what my meager business could remain viable at. They certainly are not making a profit directly from these contracts but by cross-subsidizing and raising volume, rates, and investment.

I am not at all afraid of competition. The competition in my area is the fiercest in the city and that guarantees the consumer the highest quality work at the fairest price.

How can I compete with a corporation that is guaranteed a profit on its investment no matter what quality the work? It is impossible and it is unfair!


B-11

There is no way that I can keep this multi-billion dollar corporation from taking over my business without your help. House Bill #3005 addresses this problem by clarifying the jurisdiction of the Kansas Corporation Commission in regulating activities by Utility Companies.

Please support this bill and give the little guy, the backbone of this country, a chance to make an honest living.

Feel free to contact me at any time for more information. I plan to attend the hearing on Monday and hope to see you there. Thank you for your support.

Sincerely,



Mark E. Ladesic
Owner Ladd Service Company
5531 Beverly Ln.
Mission, Ks. 66202

LANG HEATING & AIR CONDITIONING, INC.

Since 1949

5100 Merriam Drive Merriam, Kansas 66203

432-5100

February 27, 1992

Mr. Ken Grotewiel, Chairperson
House Committee, Energy and
Natural Resources

Re: Testimony in support of HB 3005

Please note the attached proposal from KPL Gas To Mr. and
Mrs. John Beasley of Kansas City, Kansas dated June 29, 1990.

The Beasley family is an acquaintance of mine and were unhappy
with their new unit and called me to come see why it was so
noisy when it ran, and why it would not cool their home.

Please note the costs listed on this proposal. First the
3 ton Air Conditioning unit at \$1580.00. It is some \$400.00
to \$600.00 less than a HVAC contractor could purchase the
unit wholesale. Next note that the thermometer well and
tubing insulation was provided at no charge. A HVAC
contractor has to buy these pieces, so they certainly could
not give them away. Finally the unit was installed by KPL
employees for the sum of \$100.00. Normal installation
charges by a HVAC contractor would be about \$400.00.

When you total all the above items, KPL has installed this
unit some \$1,100.00 less than a HVAC contractor. This
definitely is a pure example of unfair competition.

Also this action took place just one year after the local
utilities were guests at our Air Conditioning Contractors
monthly meeting. Mr. Tom Hall of KPL Gas stood before our
group and assured us that KPL Gas was not in the contracting
business.

In view of these facts, that had to be an outright lie and
makes me wonder if I'm able to believe anything told to me by
KPL Executives

Sincerely,

Edward A. McCarty

Edward A. McCarty
Lang Heating & Air Conditioning, Inc

GAS AIR CONDITIONING PROPOSAL

CUSTOMER'S NAME WILLIAM D. BEASLEY
ADDRESS 1524 S 51st
CITY KS STATE KS ZIP CODE 66106

DATE 5-29-90
PHONE _____
WORK _____

CHILLER TYPE SCRWOL SIZE 3TON \$ 1580 -

COIL TYPE _____ \$ _____

CHILLER COUPLE KIT _____ \$ _____

ACCESSORIES (LIST) AND PART NUMBER

- 1. PT WELLS \$ n/c
- 2. _____ \$ _____
- 3. _____ \$ _____
- 4. _____ \$ _____
- 5. _____ \$ _____
- 6. INSULATION OF OUTSIDE WATER LINES \$ n/c

Total Equipment Cost \$ _____

INSTALLATION BY KPL \$ 100 -

Total Equipment & Installation Cost \$ 1680 -

Prices Quoted are
Good for 30 Days
From Above Date

State Tax 4% \$ 71.40

City Tax 1% \$ 16.80

County Tax 1/2% \$ 16.80

TOTAL \$ 1785 -

LESS DOWN PAYMENT \$ 200 -

LESS CUSTOMER BONUS \$ _____

TOTAL AMOUNT TO BE FINANCED \$ _____

FINANCE CHARGE \$ _____

TOTAL \$ 1585⁰²

DELIVERY TO JOB SITE BY _____ DATE _____ TIME _____

INSTALLATION SCHEDULED - DATE _____

WARRANTY INFORMATION _____

MARKETING REPRESENTATIVE

13-14

**HEATING & AIR CONDITIONING**

5842 Nall Shawnee Mission, Kansas 66202

913-362-9402

FEBRUARY 28, 1992

MR. KEN GROTEWIEL, CHAIRPERSON
HOUSE COMMITTEE, ENERGY AND NATURAL RESOURCES

DEAR REPRESENTATIVE GROTEWIEL:

I HAVE A RESIDENTIAL HVAC CUSTOMER THAT HAD A GAS LIGHT IN HIS BACK YARD HE RECENTLY PULLED OUT. WHEN IT WAS INSTALLED THE GAS SERVICE COMPANY ADVERTISED "LIFETIME WARRANTY" - "WE SERVICE FOR A LIFETIME FOR FREE". HE HAD A PROBLEM WITH IT NOT LIGHTING. WHEN HE CALLED ABOUT THE PROBLEM, THERE WAS NO SERVICE AVAILABLE. APPARENTLY, AS TIME GOES BY OUR "NOT SO HEAVENLY" UTILITY COMPANYS FORGET THEIR RESPONSIBILITIES THEY HAVE TO THE CONSUMER AND THERE IS NO ONE TO REMIND THEM. THE GAS COMPANY GIVE THESE LIGHTS AWAY EVEN NOW. THESE LIGHTS COST MONEY. WHO PAYS FOR THEM? OUR RATE FOR THIS UTILITY? PLEASE CHECK INTO THIS TERRIBLE SCAM. I AM CONFIDENT WE CAN RIGHT THIS PROBLEM.

SINCERELY,

MARK DAVENPORT, OWNER
DAVENPORT SERVICE COMPANY

sld

13-15

**Air Conditioning
Preventive Maintenance
Cleaning & Servicing
Procedures**

- **Improve Reliability**
- **Increase Efficiency**
- **Enhance Comfort Level of Residential Air Conditioning Systems**

**Kansas Electric Utilities
Research Program**

"EURP is a joint venture . . . to undertake and encourage applied research and development projects which may enhance reliability and minimize cost of electric service in Kansas."

- _____ Kansas City Gas and Electric Company
- _____ Centel Electric — Kansas
- _____ Kansas City Gas Service
- _____ The Empire District Electric Company
- _____ Kansas City Power and Light Company
- _____ Midwest Energy, Inc.

13-16
9/1-81

**Contractor/Homeowner
Preventive Maintenance
Service Guide Check List**

Perform at recommended intervals or whenever system fails to cool properly.

CONTRACTOR'S INITIAL VISIT

- Visual inspection of the air conditioning system to detect any gross errors in system design and/or installation.
- Visual check of system to assure that output of the AC system is matched to square footage of the house.
- If system is an expansion valve system (THV), ensure that the remote capillary sensing bulb is strapped tightly to the top side of suction line.
- Check thermostat for level. Clean and calibrate if indicated. Seal any holes in wall in back of thermostat.
- Inspect for return air leak; inspect and stop any duct leaks.

AT LEAST EVERY FIVE YEARS

- Clean indoor evaporator coils.
- Clean blower wheel.
- Measure temperature drop across indoor cooling coil.

ANNUAL CHECK

- Oil motor and blower wheel.
- Check fan belt for cracking, splitting, and tightness.
- Determine proper refrigerant charge by using indoor and outdoor temperatures, humidity readings and gauge pressures.
- Remove debris from outdoor condenser unit. Clean outdoor coils as needed, cleaning between double row coils if applicable. Use caution to ensure that debris does not become forced into the cooling coil assembly while cleaning.
- Check cooling fins on outdoor condenser unit; straighten bent fins if indicated.
- Obtain voltage and amperage readings of all fans and compressors.
- Inspect suction line to determine if line is flooding back to the compressor (a sweating compressor indicates a problem).

**EVERY SIX MONTHS
(Quarterly is preferred)
Replace or clean filter, as applicable.**

**PERFORM SERVICE OR REPAIR
based on findings from
system evaluation.**

**Consumer Air Conditioning
Check List**

- Keep debris cleared away from outdoor condenser unit.
- Avoid damaging cooling fins on outdoor condenser unit (Impact from lawn mower, baseball bat, other hard objects).
- Replace or clean filter as indicated. Filter maintenance is recommended every six months; quarterly is preferred.
- Clean interior supply air and return air grilles.

Consumer participation in air conditioning conservation efforts enhances comfort and convenience, and can extend the life of the air conditioning system.

Research done under contract by:
Kansas College of Technology
Salina, Kansas
Principal Investigator:
Rod Anderson, P.E.

SUMMARY

The Air Conditioning System Preventive Maintenance Demonstration Program was funded by KEURP PROJECT KRSD-196 and conducted by Kansas College of Technology in Salina, Kansas. The purpose of KRSD-196 was to determine cost effectiveness of a preventive maintenance program for residential air conditioning systems.

Kansas Electric Utilities Research Program (KEURP), and the host electric utility, Kansas City Power & Light (KCPL), in cooperation with Kansas College of Technology (KCT), and Lundberg Engineering Company (LEC), conducted a demonstration program for thirty (30) residential customers of KCPL (all in Johnson County, Kansas), who had agreed to have various on-site tests and services performed on their air conditioning equipment.

Test procedures were established by the project engineers and were conducted by a KCT engineering student and qualified air conditioning service technicians. Data were collected before and after service to determine the capacity and efficiency of each air conditioning system tested. These data were furnished to KCT and used by the engineering team to calculate cooling loads and operating costs.

System tested could be grouped as follows:

- Well maintained systems operating at or near rated capacity.
- Neglected systems operating inefficiently and below their rated capacity.
- Improperly maintained and serviced systems.

Calculated operating costs indicate that proper cleaning and service will reduce electricity costs by about 22% per unit of cooling. The findings further indicate the systems were in fair condition before service and in good condition after service. Before service the efficiency as measured by the Seasonal Energy Efficiency Ratio (SEER) was 7.5 and after service 9.5. Properly maintained and serviced residential air conditioning systems can benefit the consumer by reducing the operating costs (due to increased efficiency), increasing the reliability of the systems, and increasing the life of the systems.

As a result of this project a brochure/checklist was developed for use by a contractor, homeowner, or electric utility personnel. The brochure places emphasis on the continued development and implementation of standardized preventive maintenance procedures.

SERVICE PERFORMED

Service performed on the air conditioning systems in the test program included indoor and outdoor service, as follows:

Indoor Service

- Clean evaporator coils with water soluble degreaser and water.
- Clean blower wheel with water soluble degreaser and water.
- Oil blower motor.
- Check the fan belt.
- Check the air ducts for possible leak.
- Check the supply air and return air velocity.
- Install new air filter(s).

Outdoor Service

- Clean condenser coils with water soluble degreaser and pressurized water sprayed from a garden hose.
- Straighten any bent cooling fins.
- Check the refrigerant and charge to manufacturers specifications.
- Check the air supply for leaks.
- Bleed off the suction line if indicated.

CONCLUSIONS

Proper maintenance of air conditioning equipment yields cost savings to the homeowner. Based on the results of the Air Conditioning System Preventive Maintenance Demonstration Program indicate a 22% average improvement in efficiency (energy used per cooling unit) is to be expected. The cooling capacity of several of the most neglected systems increased 100% or more; efficiency improvements of 50% were achieved in several systems; and the average efficiency improvement for 14 of the least efficient systems increased by 39%.

The air conditioning systems evaluated through the preventive maintenance program fell into the following distinct categories:

- I. Approximately 20% were well-maintained systems operating at or near rated capacity and efficiency.
- II. Neglected systems operating inefficiently and below manufacturer rated capacity accounted for 30% of the units tested. A minimum amount of incorrect maintenance work had been performed by the homeowner.
- III. Improperly maintained systems where prior service work had been performed improperly and/or incompletely. Fifty percent of the units were in this category.

February 27, 1992

Representative Kerry Patrick
House Post Office
State Capitol
Topeka, KS 66612

Dear Representative Patrick:

I am writing to you in support of House Bill #3005.

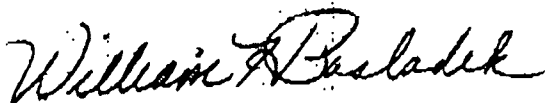
I respectfully request your consideration on this important bill. The problem of regulated Utility Companies entering into direct competition with independent business people, like myself, can be addressed with this bill as it clarifies the jurisdiction of the Kansas Corporation Commission in regulating activities by Utility Companies.

I am not asking for market protection. A.B. May has always been a trend setter in our market and we have no fear of fair competition; equity for all involved is our main concern.

The service plans offered by utilities I have seen lack any encouragement for energy conservation by doing timely preventive maintenance. They are for repair only. We all know the importance of conservation, also showing concern for lower energy use are the new efficiency standards that became effective January 1, 1992.

Thank you for your consideration and feel free to contact me should you require any additional information on this issue.

Sincerely,



William H. Posladak
President

A.B. May Sales & Service Co., Inc.
2017 W. 104th Street (913) 383-2222
Leawood, KS 66206

heating and cooling

sales and service

13-19

FEB 26, 1992

KEN GROTEWIEL, CHAIRPERSON
HOUSE COMMITTEE
ENERGY AND NATURAL RESOURCES

Dear Chairperson Grotewiel:

I am writing to you in support of House Bill #3005.

I respectfully request your consideration on this important bill. Although our business is located in Missouri, my partner Kenneth Beckwith lives in Kansas City, Kansas and we do approximately \$40,000 of contracts in Overland Park, Leawood and Mission Hills per year.

My partners and I are concerned with the problem of regulated Utility Companies entering into direct competition with business people like ourselves and our fellow Kansas Contractors. We feel this problem can be addressed with this bill as it clarifies the jurisdiction of the Kansas Corporation Commission in regulating activities by Utility Companies.

We hope that we can count on your support of House Bill #3005. We appreciate your willingness to help create a more fair environment for those of us working hard to survive in the complex business climate of today.

Sincerely,

Roger Stocker

ROGER STOCKER
R&R SERVICES
heating - air conditioning - electrical - duct design
5219 BLUE PKWY
K C MO 64130
816 861-4300

13-20

RESIDENTIAL • COMMERCIAL
MASTER PLUMBERS



AIR CONDITIONING
HEATING & PLUMBING, INC.

6226 Merriam Dr. Merriam, Kansas 66203 • CALL ANYTIME 268-6822

February 27, 1992

Representative
House Post Office
State Capitol
Topeka, KS 66612

Dear Representative

We are a small plumbing, heating and cooling contractor located in Merriam, Kansas. I feel that we desperately need to get House Bill #3005 passed. This House Bill, I feel, will help protect us all economically and our safety.

Economically, now the Utility Companies can cross-subsidize, hiding losses from their appliance service business and add the cost to our utility rates. This would mean contractors would have to work below cost to compete. I feel this is unfair and unjust.

The second issue is safety. I cannot believe the Utility Companies can do a safe and proper job in the appliance service business as I question their ability to do their own job safely. Our company, LBA Air Conditioning, Heating & Plumbing, Inc., limit ourselves to certain aspects of the plumbing, heating and cooling business. We have years of schooling, knowledge, and experience in the particular areas we work in. You cannot fool me into believing some gas man-part time serviceman can do a safe and proper job.

I respectfully request your consideration on this important bill. Please feel free to contact us should you require any additional information on this matter.

Sincerely,

Bill Anderson
President

BA/lvm

13-21

KENT'S HOME SERVICES

Master Plumber

P.O. Box 2718
Olathe, Kansas 66062
913/764-7990

February 28, 1992

Representative Ken Grotewiel
House Post Office
State Capitol
Topeka, Ks 66612

Dear Representative Grotewiel:

I am writing to you in support of House Bill #3005.

I respectfully request your consideration on this important bill. The problem of regulated Utility Companies entering into direct competition with independent business people, like myself, can be addressed with this bill as it clarifies the jurisdiction of the Kansas Corporation Commission in regulating activities by Utility Companies.

I hope that I can count on your support of House Bill #3005. I will be happy to discuss issues affecting the independent contractor that this bill would seek to correct. I appreciate your willingness to help create a more fair environment for those of us working hard to survive in the complex business climate of today.

Please feel free to contact me should you require any additional information on this issue. Thank you for your consideration.

Sincerely,



Kent Ensign
Re-Tech, Inc.
dba Kent's Home Services
P. O. Box 2718
Olathe, KS 66062
(913) 764-7990

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O'CONNOR COMPANY INC.

811 E. BAYLEY • P.O. BOX 2253 • WICHITA, KS 67201 • 316-263-3187

February 29, 1992

The House Committee on Energy and Natural Resources
Ken Grotewiel, Chairperson
House Post Office
Topeka, KS 66612

re: House Bill #3005

Dear Representatives:

I am president of O'Connor Company, Inc., a wholesale distributor of heating and air conditioning equipment and supplies. We are headquartered in Wichita, Kansas, and have operated in this industry for over 70 years. We have branches in Tulsa, Kansas City, and Omaha.

I wish to express our strong support of House Bill #3005.

During the life of our company, we have based our business on the relationships that we have built with heating and air conditioning contractors in our sales territories. We have come to know and respect the business men and women who own and operate these companies and feel that we have some idea of the challenges that they face in their struggles for success. To generate a profit in these difficult times is a notable accomplishment. These businesses now face a competitor that is guaranteed a profit, that they have no choice but to support with their monthly energy expenditures, and which is slowly but surely bringing about their demise.

The bill you are considering would create a forum to which these embattled business owners might bring their grievances against public utilities. As individuals, they have neither the resources nor the time to take on entities as large as the utilities - they should not have to. The utilities have been allowed to prosper and grow strong because it was felt this would be in the public interest. It is indeed important that we all have a stable supply of energy - our society cannot exist without it. With protection, however, comes accountability that this unique status is not abused. That is what is at issue here.

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The services that we object to are not the providing of energy, but the entry of the utilities into direct competition with the heating and air conditioning contractor and the subsidizing of this competition with revenues from their regulated operations in the form of marketing and other services, equipment, and personnel.

We believe that these contractors provide an important service in their communities. From our experience, the men and women who own their own businesses and who sell today's high tech equipment have a powerful motivation to give quality service to their customers. For example, every year we train more than a hundred contractors at our heating and cooling service schools. They attend these schools not because they must as part of a job requirement, but because they want to. They want these schools so that they may increase their chances of being successful by giving their customers the best service possible.

The revenues that these businesses generate are invested in their communities in many ways. They will be missed if they are allowed to die. In particular, the smaller communities in our state are suffering a decline in services as small businesses close or professionals relocate. We do not feel that it is in the best interests of the citizens of these communities if yet another business goes by the wayside.

The survival of these contractors depends on how they manage their business, serve their customers, and build for the future. It also depends on how they fare against their competitors. We respectfully request that you support this bill, so that their competitors may be legitimate competitors with the same obstacles facing them, not public utilities in whose favor the playing field is necessarily tilted.

Thank you for your consideration and support.

Sincerely,

Lynn J. Piller, President
O'Connor Company, Inc.

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College Hill



Plumbing & Heating, Inc.
Cooling & Electric

FULLY EQUIPPED TRUCKS FOR REPAIR SERVICE
2850 ADAMS, TOPEKA, KANSAS 66605
Telephone 913 235-6201

February 28, 1992
House Committee on Energy and Natural Resources
House Bill #3005

We need your help.

A large number of Kansans are going to loose their jobs if we cannot get your help.

The utilities in Kansas have decided that all these men and women are second class citizens and if they loose their jobs that is just too bad.

Please pass House Bill #3005. The Kansas House and Senate are our only hope.

We have already had Kaw Valley Electric use a rate paid salesman and several rate paid employees to take a job away from us and install a water heater at considerably less cost, and charge the rate payers the loses.

On June 6, 1990 we received a phone call from Ken Sherbert about a leak in a solar water heater. I sent my son and employee, Keith to inspect the heater and give the customer an educated and trained opinion of their problem. He foud the heater had a leak and needed replaced. We were given the authority to order and install a heater.

Keith then made several calls and found the heater could be replaced and then quoted the customer a price. The Sherberts then apparently called Kaw Valley Electric to get a second quote. A rate paid salesman quoted them a price cheaper than ours and the Sherberts called us to cancel their order with our company.

I talked to Dan Obrian at Kaw Valley Electric regarding that job and he admitted that the salesman was a rate paid salesman. Dan also said that this practice may not be moral but it is leagal in Kansas, and this was their policy and it would not change.

On June 12, 1990 I talked to Mrs. Sherbert and asked if their cancelation was due to something we had done or for other reasons. She said that they new someone at Kaw Valley Electric and had called them to get a price. They found the heater could be installed at considerable savings so the Sherberts had Kaw Valley Electric install the new water heater.

Independent service people cannot compete with the rate paid companies. If these utility companies loose money in service then it can be charged to the rate and we will all pay for those losses.

Please help the many men and women in the service trade and don't let the giant utility companies take there jobs.

Please pass house bill #3005.

Thank you for your support.

Jim Smith
President

24 Hour Service

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BEFORE THE HOUSE ENERGY AND NATURAL RESOURCES COMMITTEE
OF THE KANSAS LEGISLATURE
March 2, 1992

Testimony of Derek Seacat
Local District Manager, Kansas
Peoples Natural Gas

Chairman Grotewiel, members of the House Energy and Natural Resources Committee, my name is Derek Seacat. I am a Kansas Local Manager for Peoples Natural Gas, Dodge City, Kansas. Peoples began serving Kansans in 1930. Today, Peoples distributes natural gas to more than 40,000 customers in 21 Kansas communities.

I am testifying today in opposition to House Bill 3005. HB 3005 does not offer any protection to ratepayers or local contractors not already afforded by the Kansas Corporation Commission. Instead this bill only complicates existing utility regulation and seeks to treat one class of non-regulated business owner differently than other similarly situated business owners.

Peoples operates in Minnesota, Iowa, Kansas, Colorado, and Nebraska and is subject to intense review of the rates it charges. Peoples is not afraid of additional scrutiny, but finds the proposed legislation unnecessarily redundant. Regulatory oversight in Kansas is provided by the Kansas Corporation Commission. If cross-subsidies are flowing from a utility's jurisdictional customers to others, the subsidy will be discovered by the KCC staff.

In addition to Kansas law, Peoples has a strongly written policy to prohibit cross-subsidies between utility and non-regulated businesses. We believe as the Alliance does that subsidization is unfair to utility customers and harmful to non-regulated business competitors. Moreover, the competition in the marketplace for energy does not allow Peoples the ability to transfer costs from its non-regulated businesses. We already have a tough enough time convincing customers to use natural gas instead of propane, coal, or electricity without adding other business expenses to our cost of service.

In conclusion, HB 3005 should be rejected. As an investor-owned public utility operating in Kansas we believe HB 3005 discriminates against one class of non-regulated business to benefit another. Since review for cross-subsidization is provided for by the Kansas Corporation Commission, HB 3005 is unnecessary.

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Legislative Testimony

Kansas Telecommunications Association, 700 S.W. Jackson St., Suite 704, Topeka, KS 66603-3731

Testimony before the
House Committee on Energy &
Natural Resources

HB 3005

March 2, 1992

Mr. Chairman, members of the committee, I am Rob Hodges, President of the Kansas Telecommunications Association. Our membership is made up of telephone companies, long distance companies, and firms and individuals who provide service to and support for the telecommunications industry in Kansas.

As we read HB 3005, KTA members have taken a position in opposition to the proposal because of the impact the bill's contents could have on the way they do business.

Specifically, our members are concerned with use of the word "any" on line 25 of Section 2 of the bill. With that one word, Section 2 could prohibit telephone companies from performing many of the normal functions of operating their businesses. As we discussed the bill at a Board of Directors' meeting last week, we were hard pressed to name many activities in which telephone companies are engaged that are not also performed in private enterprise.

Some telephone companies do their own billing, but there are professional billing companies that also perform that service. Many companies install their own cable, but there are also companies that perform that service on a contract basis. Printing telephone directories is another example of a service that could be affected by this bill. As written, our members can see that the bill could be interpreted to mean they might no longer be able to perform those services for themselves. They could be forced to hire the services to be performed notwithstanding the potential for additional cost to the customers.

Part of the bill's potential threat is its lack of a definition of what constitutes an overriding or compelling public interest served by engaging in an activity. Presumably, the board created by this bill would promulgate rules and regulations to establish what does and what does not meet the "overriding or compelling public interest" test. We believe a test has already been passed. When the management of a telephone company decides to engage in an activity itself, it has determined that the needs of the customers are best served by so doing.

We ask that you do not put an additional, and unnecessary, layer of decision-making on our industry. On behalf of the membership of the KTA, we ask that you recommend HB 3005 be not passed. Thank you for your attention and the opportunity to appear before you.

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STATEMENT IN OPPOSITION TO HOUSE BILL 3005
BEFORE THE COMMITTEE ON ENERGY AND NATURAL RESOURCES ON
BEHALF OF GREELEY GAS COMPANY

D. Allen Spaur

Appearing in opposition to House Bill 3005 on behalf of Greeley Gas Company, I am Allen Spaur, Vice President and Manager of the Kaw Valley and Eastern Kansas Divisions of Greeley Gas Company with an office in Bonner Springs, Kansas.

Greeley Gas Company is a natural gas public utility authorized to do business in Kansas, Colorado and Missouri. In Colorado it operates nine divisions, which are Greeley, Canon City, Craig, Meeker, Steamboat Springs, Salida, Gunnison, Lamar, Durango and Cortez. In Missouri it operates one division, which is Southwest Missouri, the cities of Rich Hill and Hume. In Kansas it operates six separate divisions, which are Kaw Valley, Eastern Kansas, Central Kansas, Cane, Council Grove, and Southwest Kansas.

The Kaw Valley Division has its headquarters in Bonner Springs and distributes natural gas in the communities of Basehor, Bonner Springs, Lake Forest, Wilder, DeSoto, Kansas City, Eudora, Lenexa, Olathe, Shawnee, Lawrence, and Sunflower Village, Kansas. In addition, it serves rural areas of Johnson, Leavenworth, and Douglas Counties.

The Eastern Kansas Division has its local office in Pleasanton and serves the communities of rural Ft. Scott, Redfield, Hammond, Fulton, Prescott, Mound City, and Pleasanton. Additionally, it serves rural areas of Bourbon and Linn Counties.

The Central Kansas Division includes gas distribution

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service within the cities of Marion, Hillsboro, Peabody, Herington, Pilsen, Tampa, Ramona, Aulne, Lost Springs, Delevan, Lincolnville, Wilsey, White City, and certain rural areas of Marion, Morris and Dickinson Counties, with its headquarters in Herington, Kansas.

The Cane Division includes gas distribution to the communities of Eureka, Toronto, Neal, Anthony, Caldwell, South Haven, Hunnewell, Ness City, Bazine, Alexander and McCracken. The headquarters are in Herington, Kansas with supervisory assistance from the local offices in Eureka, Anthony and Ness City.

The Council Grove Division serves the City of Council Grove and certain areas adjacent to the city. It has a local office in Council Grove and is operated from the headquarters in Herington, Kansas.

The Southwest Kansas Division has its headquarters in Lamar, Colorado and serves the Kansas communities of Syracuse, Johnson, Ulysses, Kendall, Manter, and Hickok and some of the rural areas of Stanton, Hamilton, Grant, Kearney, Morton, and Stevens Counties.

Greeley Gas Company, in addition to providing natural gas distribution to its customers, provides non-regulated sales of gas fueled appliances, heating and air conditioning equipment and the installation and repair of those appliances and equipment in each of its divisions. It is the opinion of the Company that this activity is necessary as who else will promote the Company's product if the Company does not do it themselves. As natural gas

is one of the largest natural resources in the State of Kansas, it only makes sense that the Company try to promote its use within the state rather see it transported to other states, because if this bill passes there is no guarantee that private enterprise (as defined in the bill) will promote the sale of natural gas burning appliances and equipment within the State of Kansas.

There are three major issues that Greeley Gas Company views in this proposed House Bill 3005 - (1) discrimination - This bill would discriminate against the public utilities from marketing and servicing of appliances and equipment, for no apparent reason other than to eliminate competition for the private enterprise contractors. To perform any such work, the public utility must demonstrate an overriding or compelling public interest to do so while there has been no overriding or compelling need for this bill. The general public, who ultimately use these activities and services, should have a voice in this decision. (2) - safety - If the bill passes, the public utility personnel will not be on customer's premises as often and therefore will not be inspecting and advising the customers as to hazards or potential problems. This concerns our Company as people will be less likely to have the safety protection they presently possess. (3) - customer service and convenience - The customers of public utilities have always had the choice to either purchase appliances and equipment from the public utility or from private enterprise contractors or dealers. Now that choice will be eliminated, if the bill passes, and that concerns our Company as

in the rural areas, where most of Greeley Gas Company's customers are located, there is no other choice for these services other than the Company. Customer convenience to our Company's services is what has kept our customers using our product. They may switch to other energy sources if this convenience is eliminated.

Greeley Gas Company would like the Committee and all other interested parties to take a hard look at who this bill will benefit. As the Company sees it, only one group will benefit, the private enterprise contractors, by eliminating the public utilities as their competitors. The general public, or public utility customers, will not, as they have lost a choice in these services. The public utility may very well be a dual loser as they no longer could offer these services and could lose customer load as they may seek other energy services.

Because of the detrimental effect this bill would have on Greeley Gas Company and its customers and because Greeley knows of no reason how this bill will benefit the Company or the general public, Greeley is opposed to House Bill 3005.

HOUSE ENERGY AND NATURAL RESOURCES COMMITTEE
KANSAS LEGISLATURE
MARCH 2, 1992

TESTIMONY OF MICHAEL E. HERTLING
VICE PRESIDENT
KANSAS PUBLIC SERVICE

Chairman Grotewiel, Members of the House Energy and Natural Resources Committee, my name is Michael E. Hertling. I am Vice President - Administration of Kansas Public Service (KPS). KPS serves nearly 24,000 customers with natural gas in the City of Lawrence and surrounding area.

I am testifying today in opposition to House Bill 3005. The effect of this bill would be to PROHIBIT utilities from engaging in activities which cause competition with others in the private sector. I would like to remind members of this committee that most public utilities are also investor-owned. Denying those investors, without due cause, the right to compete in our free enterprise system is as wrong as placing the same restrictions on any other investor or privately owned business. At KPS, there is no due cause to prohibit competition. The Kansas Corporation Commission cannot prohibit a utility from engaging in such activities, but ensures that utility ratepayers do not pay for non-regulated activities. I can assure you that the KCC's review in this area is intense.

The bill also states that a utility would have to prove an "overriding or compelling public interest" to the public utility private enterprise review board in order to provide such services. Just what is the definition of "overriding or compelling public interest"? Enactment of this legislation would mean that Kansas consumers are denied CHOICE.

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Why has this bill been introduced? Because utilities have experienced success in their competitive efforts. Why are we successful? Not because of unfair competition, but because of the trust we have achieved from our customers. KPS has provided both residential and commercial appliance repair since the 1950's. We discontinued this work in the mid-80's, because we felt our customers could be served adequately by local contractors. However, we continued to receive many service requests. Based on the number of these requests, we re-entered this market in 1990. And, this is in a market area where contractors do exist. Whether it's because there is a consumer need for such service, or simply the goodwill we have earned throughout the years, people trust their local utility. They trust us to be there when they need us; trust us to perform capable service work and trust they will always have recourse if needed. I would respectfully recommend that members of this committee look to the desires of their constituents other than those who only seek to restrain trade.

In summary, HB 3005 should not be enacted. It is discriminatory in that it treats one class of non-regulated business to benefit another and it complicates existing utility regulation. Thank you for your consideration.

TESTIMONY BEFORE THE
HOUSE ENERGY AND NATURAL RESOURCES COMMITTEE

March 2, 1992
Jim Ludwig, KPL Gas Service

Chairman Grotewiel and Members of the Committee:

We oppose HB 3005.

Section 2 states:

It is the policy of this state that no public utility shall engage in any activity which is in competition with private enterprise, unless the public utility demonstrates an overriding or compelling public interest served by engaging in such activity.

The bill establishes an enterprise review board to enforce Section 2.

Energy utilities are becoming less and less integrated because of new federal and state laws and regulations. We are engaged in many "free enterprise" activities. Deregulation places us into greater competition with other business enterprises. We must diversify into energy-related, non-weather dependent businesses to reduce our business risks.

Please allow me to outline a few, among many, examples how this legislation would effect KPL Gas Service. All of them, I hope, exceed anything the proponents of HB 3005 ever intended.

KPL Gas Service Division

- Under existing federal regulation, our natural gas customers suitably situated may leave our distribution system, construct a line to the pipeline of a nearby interstate pipeline company, and buy natural gas directly from it. We presently must compete to retain these customers. HB 3005 would allow any interstate pipeline company doing business in the state to appeal to the enterprise review board to make us forfeit these customers.

What overriding or compelling public interest could we cite to prevent the review board from ruling in favor of our competitor? The public's interest is to have natural gas at the burner tip. Whether the gas comes from KPL Gas Service or from some other entity is not overriding or compelling.

- In 1989, this Committee, and ultimately this Legislature, voted for a natural gas pipeline safety bill that makes us

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responsible for lines up to the outside wall of our customers' homes and businesses.

We are engaged in a massive line replacement program to comply with this legislation. Our own crews are installing many of the new service lines. Other companies are capable of installing such lines. HB 3005 would allow them to appeal to the enterprise board to make us abandon this work to them.

What compelling and overwhelming public interest may we use in our defense? The public wants safe lines, regardless whether they are installed by us or by someone else.

KPL Electric Division

- Congress is likely to enact a bill this session to allow independent power producers (IPPs) greater access to the electric generation and transmission market. If Congress does not, we expect the Federal Energy Regulatory Commission (FERC) to open access to the market. HB 3005 allows any IPP to appeal to the enterprise board to order us to cease serving any customers they want as their own.

And what compelling and overwhelming public interest may we invoke to stay in business? The public wants lights on at the flip of a switch, regardless who generates the electricity flowing through the lines.

KPL Administrative Services Division

- KPL is self-insured. Insurance companies could appeal to the enterprise board. KPL has its own investor relations and financial development departments. Many Wall-Street businesses would like to vie for that business. Our fleet management department services our own vehicles. Many mechanics do business in our service territory. KPL even has a Government Relations Department. You all know their are "free enterprise" contract lobbyists, who would like another client. And what, if anything, is the overwhelming and overriding public interest with regard to these areas of KPL's business?

KPL Enterprises

- KPL Enterprises includes six subsidiaries involved in unregulated energy ventures such as natural gas marketing, production, gathering, compression, treating, and processing; financial and customer services; and meter reading technology research and development. The enterprise board would be a convenient place for competitors to eliminate the competition. Is the public even interested?

How to Address the Concerns of Proponents of HB 3005

- Attached to my testimony are three excerpts from Kansas statutes. KSA 66-1401 clearly grants the corporation commission jurisdiction over public utilities and their affiliated interests. KSA 66-1,205 authorizes the commission to investigate, upon a complaint or on its own motion, any activities of a natural gas utility that may entail unfair competition. KSA 66-101e provides the commission the same authority with regard to electric utilities.

The remedy for all the unfair competition the proponents allege resides in these statutes. The commission has clear authority to hear and investigate their complaints in an unbiased forum. If investigation shows unfair utility practices, the commission may order the utilities to desist.

HB 3005 is bad legislation. It is unnecessary legislation. We urge committee members to oppose it.

Article 14.—HOLDING COMPANIES

Cross References to Related Sections:

Assessment of costs and expenses of utility investigations, see ch. 66, art. 15.

Affiliated interests, see, also, 66-1213 to 66-1216.

66-1401. Jurisdiction over holding companies; "affiliated interests" defined.

(1) The state corporation commission shall have jurisdiction over holders of the voting capital stock of all public utility companies under the jurisdiction of the commission to such extent as may be necessary to enable the commission to require the disclosure of the identity in respective interests of every owner of any substantial interest in such voting capital stocks. One percentum or more is a substantial interest, within the meaning of this subdivision.

(2) Such commission shall have jurisdiction over affiliated interests having transactions, other than ownership of stock and receipt of dividends thereon, with utility corporations and other utility companies under the jurisdiction of the commission, to the extent of access to all accounts and records of such affiliated interests relating to such transactions, including access to accounts and records of joint or general expenses, any portion of which may be applicable to such transactions; and to the extent of authority to require such reports to be submitted by such affiliated interests, as the commission may prescribe. For the purpose of this section only, "affiliated interests" include the following:

(a) Every corporation and person owning or holding directly or indirectly ten percentum or more of the voting capital stock of such utility corporation.

(b) Every corporation and person in any chain of successive ownership of ten percentum or more of voting capital stock.

(c) Every corporation ten percentum or more of whose voting capital stock is owned by any person or corporation owning ten percentum or more of the voting capital stock of such utility corporation or by any person or corporation in any such chain of successive ownership of ten percentum or more of voting capital stock.

(d) Every person who is an officer or director of such utility corporation or of any corporation in any chain of successive ownership of ten percentum or more of voting capital stock.

(e) Every corporation which has one or more officers or one or more directors in common with such utility corporation.

(f) Every corporation which the commission may determine as a matter of fact, after investigation and hearing, is actually exercising any substantial influence over the policies and actions of such utility corporation even though such influence is not based upon stockholding, stockholders, directors or officers to the extent specified in this section.

(g) Every person or corporation who or which the commission may determine as a matter of fact, after investigation and hearing, is actually exercising such substantial influence over the policies and actions of such utility corporation in conjunction with one or more other corporations and/or persons with which or whom they are related by ownership and/or blood relationship or by action in concert that together they are affiliated with such utility corporation within the meaning of this section even though no one of them alone is so affiliated: *Provided, however,* That no such person or corporation shall be considered as affiliated within the meaning of this section if such person or corporation is otherwise subject to the jurisdiction of the commission or such person or corporation shall not have had transactions or dealings other than the holding of stock and the receipt of dividends thereon with such utility corporation during the two-year period next preceding: *Provided further,* No foreign holding company shall acquire the stock or control of a local operating unit or public utility in its own name or through a trustee without first entering into an agreement to keep the state corporation commission fully informed as to the transactions between the subsidiary or local operating unit and the holding company, and to submit to the jurisdiction of the commission insofar as such transactions affect the rate or charge to be made by the subsidiary or local operating unit.

History: L. 1931, ch. 239, § 1; March 9.

Research and Practice Aids:

Public Service Commissions—6.3.
C.J.S. Public Utilities § 39.

CASE ANNOTATIONS

1. Invalid preliminary investigation orders of commission cannot be enjoined. *State Corporation Comm. v. Wichita Gas Co.*, 290 U.S. 561, 54 S.Ct. 321, 323, 78 L.Ed. 500.

2. Commission has authority to determine reasonableness of city-gate charge by affiliated company. *State, ex rel., v. Capital Gas & Elec. Co.*, 139 K. 870, 873, 33 P.2d 731.

66-1,205. Same; investigation with or without complaint; authority of commission. (a) Upon a complaint in writing made against any natural gas public utility governed by this act, by any mercantile, agricultural or manufacturing organization or society, or by any body politic or municipal organization, or by any taxpayer, firm, corporation or association, that any of the rates or joint rates, tolls, charges, rules, regulations, classifications or schedules of such natural gas public utility are in any respect unreasonable, unfair, unjust, unjustly discriminatory or unduly preferential, or both, or that any regulation, practice or act whatsoever affecting or relating to any service performed or to be performed by such natural gas public utility for the public, is in any respect unreasonable, unfair, unjust, unreasonably inefficient or insufficient, unjustly discriminatory or unduly preferential, or that any service performed or to be performed by such natural gas public utility for the public is unreasonably inadequate, inefficient, unduly insufficient or cannot be obtained, the commission shall proceed, with or without notice, to make such investigation as it deems necessary.

The commission may, upon its own motion, and without any complaint being made, proceed to make such investigation, but no order affecting such rates, joint rates, tolls, charges, rules, regulations and classifications, schedules, practices or acts complained of shall be made or entered by the commission without a formal public hearing, of which due notice shall be given by the commission to such natural gas public utility or to such complainant or complainants, if any. Any public investigation or hearing which the commission shall have power to make or to hold may be made or held before any one or more commissioners. All investigations, hearings, decisions and orders made by a commissioner shall be deemed the investigations, hearings, decisions and orders of the commission, when approved by the commission.

(b) The commission shall have power to require natural gas public utilities to make such improvements and do such acts as are or may be required by law to be done by any such natural gas public utility.

History: L. 1985, ch. 225, § 35; July 1.

Source or prior law:
66-101e.

Revisor's Note:

For annotations to prior law, see 66-101e.

66-101e. Same; investigation with or without complaint. Upon a complaint in writing made against any electric public utility governed by this act, by any mercantile, agricultural or manufacturing organization or society, or by any body politic or municipal organization, or by any taxpayer, firm, corporation or association, that any of the rates or joint rates, tolls, charges, rules, regulations, classifications or schedules of such electric public utility are in any respect unreasonable, unfair, unjust, unjustly discriminatory or unduly preferential, or both, or that any regulation, practice or act whatsoever affecting or relating to any service performed or to be performed by such electric public utility for the public, is in any respect unreasonable, unfair, unjust, unreasonably inefficient or insufficient, unjustly discriminatory or unduly preferential, or that any service performed or to be performed by such electric public utility for the public is unreasonably inadequate, inefficient, unduly insufficient or cannot be obtained, the commission shall proceed, with or without notice, to make such investigation as it deems necessary.

The commission may, upon its own motion, and without any complaint being made, proceed to make such investigation, but no order affecting such rates, joint rates, tolls, charges, rules, regulations and classifications, schedules, practices or acts complained of shall be made or entered by the commission without a formal public hearing, of which due notice shall be given by the commission to such electric public utility or to such complainant or complainants, if any. Any public investigation or hearing which the commission shall have power to make or to hold may be made or held before any one or more commissioners. All investigations, hearings, decisions and orders made by a commissioner shall be deemed the investigations, hearings, decisions and orders of the commission, when approved by the commission.

The commission shall have power to require electric public utilities to make such improvements and do such acts as are or may be required by law to be done by any such electric public utility.

History: L. 1911, ch. 238, § 14; R.S. 1923, 66-111; L. 1985, ch. 225, § 31; July 1.

Source or prior law:

L. 1901, ch. 286, § 21.

Cross References to Related Sections:

Reparations act, see 66-154a et seq.

Law Review and Bar Journal References:

Review of history of regulations, Marion Beatty, 27 J.B.A.K. 186, 191 (1958).

"Practice and Procedure Before the State Corporation Commission," Fred B. Adam, 41 J.B.A.K. 199, 200, 201 (1972).

CASE ANNOTATIONS

1. Power to regulate and control location of telegraph stations. *The State, ex rel., v. Postal Telegraph Co.*, 96 K. 298, 302, 150 P. 544.

2. Acts which are subject to supervision and control by commission. *The State, ex rel., v. Postal Telegraph Co.*, 96 K. 298, 304, 150 P. 544.

3. Commission may require utility to make improvements, etc. *City of Parsons v. Water Supply and Power Co.*, 104 K. 294, 299, 178 P. 438.

4. Commission changing railroad freight rates; notice of hearing required. *The State, ex rel., v. Railway Co.*, 108 K. 847, 849, 850, 197 P. 192.

5. Adequate remedy before utilities commission; injunction will not lie. *City of Hutchinson v. Bell Telephone Co.*, 109 K. 545, 550, 200 P. 301.

6. Jurisdiction of commission to order siding built. *Railway Co. v. Utilities Commission*, 111 K. 805, 807, 208 P. 576.

7. Authority not given commission to find rates previously charged excessive. *Great Western Portland Cement Co. v. Public Service Comm.*, 121 K. 531, 532, 247 P. 881.

8. Section cited in determining who may be heard. *Kansas Gas & Electric Co. v. Public Service Comm.*, 122 K. 462, 465, 251 P. 1097; *City of Wichita v. Wichita Motor Bus Co.*, 126 K. 677, 681, 271 P. 403.

9. Division as to rehearing on order does not affect its validity. *City of Ottawa v. Public Service Commission*, 130 K. 867, 872, 288 P. 556.

10. Cited in construing reparations statute. *State, ex rel., v. Public Service Comm.*, 135 K. 491, 504, 11 P.2d 999.

11. Commission's order authorizing railroad to dualize station agencies held lawful and reasonable. *Community of Woodston v. State Corporation Comm.*, 186 K. 747, 752, 353 P.2d 206.

12. Invalid preliminary orders of commission cannot be enjoined. *State Corporation Comm. v. Wichita Gas Co.*, 290 U.S. 561, 54 S.Ct. 321, 322, 324, 78 L.Ed. 500.

13. Mentioned in upholding orders and decisions of commission in fixing rates for telephone company. *Southwestern Bell Tel. Co. v. State Corporation Commission*, 192 K. 39, 46, 386 P.2d 515.

14. In action charging termination procedures violated due process, court held statute provides adequate procedural remedies. *Stanford v. Gas Service Company*, 346 F.Supp. 717, 719.

15. Customers of utility companies had remedy in state courts and could not bring action in federal court; action challenging legality of late assessment charges. *Tennyson v. Gas Service Co.*, 506 F.2d 1135, 1141.

16. Legislative grant of authority to KCC includes control over rates and tariffs. *In re Application of Southwestern Bell Tel. Co.*, 9 K.A.2d 525, 533, 534, 685 P.2d 304 (1984).

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HOUSE BILL 3005

KN ENERGY, INC

COMMENTS BY JACK GLAVES

BEFORE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES

This Committee held hearings last year on House Bill 2361, which remains in Committee. KN presented statements in opposition to that Bill by Aaron Harmon, District Manager of KN's Regional Headquarters maintained at Phillipsburg; and also by Floyd Highland of Colby, Kansas, Division Service Specialist with KN at Colby, Kansas.

House Bill 2904 was introduced in the 1990 session "by request". All of these Bills have, I believe, the same objective as expressed by the attached March 1991 copy of ACCA News by the Air Conditioning Contractors of America, to-wit:

(1) to have utilities out of our business;

(2) to have manufacturers out of our service business; and ironically,

"(3) to have educated competition where everyone in the business knows what they are doing."

House Bill 3005 is a new twist from the previous proposals by the contractors' organizations; but, the objective is the same. Get the public utilities out of the service business.

The ACCA publication estimates that 30 utilities across the country, and in Canada, compete unfairly with contractors for service business. It further states:

"On the other hand, many utilities maintain a cooperative relationship with contractors, working with them instead of competing against them." (Second page of attachment.)

3/2/92
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Attachment 2/

If 30 utilities, out of presumably thousands in both countries, are the problem sought to be addressed by this legislation, it would seem to be a bit of overkill. I can't believe that all of the complained of utilities are located in Kansas.

KN Energy is a local distribution company of natural gas in Western Kansas, as well as a gas transmission firm. It provides natural gas service in communities that are small and in many cases widely separated in a rather sparsely populated area. The company sells natural gas at wholesale to 9 communities in Kansas and at retail in 54 communities. KN is convinced that legislation designed to restrict its furnishing of fair service, or in the sale of gas-fired appliances for that matter, would adversely impact its customers.

The proponents of this legislation will not doubt argue that competition by the utilities in the sales or service area is "unfair" because of contended cross-subsidization (i.e., that the utility ratepayers subsidize the non-utility contracting service). This contention was the subject of a KCC hearing last summer, which presumably did not support the contention in view of the absence of resulting enforcement action. In fact, the KCC does have jurisdiction and does monitor the financial activity of the utilities regulated by it, as stated by Mr. Brian Moline, General Counsel of the KCC, in the attached letter to Representative Glasscock last March 8,

"it would be impermissible for a jurisdictional utility to use revenues from their utilities operations to subsidize collateral business ventures."

In the instance of KN, we do sell and service gas-fired appliances and the other incidental services that are made available to their customers incident to their gas service, which are for the convenience to the customers and for obtaining and building system loan (i.e., to maximize a system utilization with the express purpose of lowering the per unit cost of doing business; and hence, lowering the overall cost of service and the rates that are required to be paid by its customers). In short, it is to the advantage of KN's customers to have a greater utilization of facilities, which results from the sale of gas-fired appliances as contrasted to electric appliances. That is the primary purpose of the offering of these appliances and providing the service that they require. This is not a subsidized service. If a serviceman performs service in both a utility and non-utility capacity, the costs are allocated and charged accordingly. The methodology and correctness of the allocation procedure is subject to KCC jurisdiction and supervision under current law.

The provisions of House Bill 3005 are unnecessary and would result in creation of added bureaucracy and expense to utility ratepayers. Notwithstanding the commitment by the contractors to the principle of "educated competition", this legislation would make it public policy that no public utility shall engage in any activity which is in competition with other contractors (Section 2, Lines 24 and 25). The supposed "safeguard" that would override this stricture if the utility demonstrates "an

overriding or compelling public interest served by engaging in such activity" (Section 2, Lines 26 and 27), is neither fair nor practical.

Colby is the largest Kansas city served by KN. They have division offices located in Atwood, Hill City, Hoxie, Lakin, Leoti, Norton, Oakley, ^{Oberlin}Overland, Phillipsburg, Plainville, St. Francis and Scott City, as well as Colby. Presumably only in the largest of those cities would the contractors have any interest in providing the complained of service. We have instances of service calls that are 45 miles from the district division office. When the request for service comes in, we don't know whether it is a utility problem or an appliance problem. We respond and bill accordingly. If a contractor is called out in the middle of the night and discovers that it is a utility problem, he would advise them to call KN. We can't believe that that arrangement is financially feasible, nor efficient, nor desirable from the public viewpoint. In many instances, we are the only provider of service in the community. The contractors simply don't exist, or are too far away to make the providing of service feasible. It is not realistic to segment service business, providing it only in isolated areas where independent service is not available. It has to be run as an integrated business to make it financially and operational practicable.

KN has no desire to limit or obstruct the independent providers of service or appliances. In fact, we have cooperative appliance programs, as do many other utilities. If this Bill

became law, it is our judgment that we would be required to cease engaging in the providing of repairs and maintenance or sale of gas-fired appliances. This would be to the detriment of KN's customers who currently rely on it for the providing of such service.

A 1990 survey by NRECA/AHP Research of Lincoln, Neb. for Midwest Energy of Hays concluded that 60% of Midwest's residential customers favored utilities selling merchandise and 66% said utilities should offer appliance and energy equipment repair service.

Obligation to serve is the basic tenant of utility regulation. The service that KN provides is necessary and is inextricably intertwined with safety and adequacy of its utility service. There is nothing in KN's practice that prevents any contractor interested in competing for this type of business from doing so. Their essential complaint is that we don't charge enough for the service. We doubt that our customers believe that. We know that the cost of that service is not borne by the ratepayers. If we were required to abandon this business, our customers would suffer the affects of a deteriorating load that will raise the per unit cost of service, and hence their utility bills. There is no need for this legislation, it is the antithesis of free enterprise that we all subscribe to. It creates additional state involvement in private affairs and seeks, in effect, to monopolize the repair business presumably

for the purpose of adding, to the bottom line of the industry proponents of this legislation.

The cross-subsidization contention can, and should be dealt with by the regulatory structure in place (the KCC). If it doesn't exist, which we firmly believe in the instance of KN, then this Bill simply becomes a vehicle to restrict competition and increase the price of service charged to the customers. This can't be in the best interest of Kansas. Simply put, this legislation is anti-consumer.

Do "What's Required" to Survive in the '90s

By Tom Kemper, ACCA President



Contractors in the 1990s must recognize which business segments are doing well and realign their companies to market to those customer niches.

ACCA contractors must differentiate themselves from the competition in order to succeed in the '90s. This means continuing to assert your company's difference — be it your high quality, commitment to customer satisfaction, engineering capabilities, service or design leadership — and fine tune your approach based on the realities of the market. This strategy allows your people to use their talents most effectively and your customers to take full advantage of your unique expertise.

As you implement this strategy you also will have to fine tune your operation in other ways to make you more profitable, to make your company a better place to work, and, most important, to be able to better serve your customers.

If you haven't taken a hard look at your company, I suggest you do that now. The place to start looking is at the top. What is your attitude like? What is the attitude of your managers? What do you talk about when you speak to your staff? Is it goal-directed language? Are you send-

ing conflicting messages? Do your thoughts, actions and words demonstrate the right attitude? Are your sales people being victimized by their own attitudes and the attitudes of other people?

Owners who ignore the things that work, the professional details of managing an organization, and who are not willing to put money, time and energy into doing what is required will not survive. Winston Churchill had the right attitude when he said, "It is not enough to do our best, sometimes we must do what is required."

We are entering a decade of opportunity. If we have the right attitude, we can make progress while others fall behind.

As a member of ACCA, you don't have to tackle these challenges alone. ACCA's mission is to assist you to acquire and satisfy your customers. My goal as president of ACCA is to work toward accomplishing this mission and provide members the support that is required to be a winner.

We will be listening to you in order to understand your requirements and doing everything possible to meet or exceed your requirements.

Some of our goals for the 1990s are:

- To have utilities out of our business
- To have manufacturers out of our service business
- To have educated competition where everyone in the HVAC

business knows what they are doing

- To have ACCA as the model of organizational excellence

I am grateful for the opportunity to serve as president of the best trade association that exists anywhere. And you have my commitment to do what is required to keep it the best!

Excerpted from remarks at ACCA's 23rd Annual Meeting, February 20-23, 1991, Tarpon Springs, FL.



Air Conditioning Contractors of America

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Executive Vice President
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21-7

Unfair Utility Competition Discussed at Annual Meeting

Unfair utility competition — including cross subsidization, unfair marketing advantages, etc. — is a growing concern for contractors in some parts of the country. It is estimated that 30 utilities across the country and in Canada compete unfairly with contractors for service business. On the other hand, many utilities maintain a cooperative relationship with contractors, working with them instead of competing against them.

During ACCA's Annual Meeting, a panel of four, moderated by Mike Miller, publisher, *Air Conditioning, Heating and Refrigeration News*, discussed unfair utility competition and methods used to fight it.

Clifford McCourt, Day and Night Heating and Cooling Co., Farmington Hills, MI, working with the Michigan Coalition Against Unfair Utility Competition, decided to file an antitrust lawsuit against the state's largest utility — Consumers Power — following years of trying to resolve the issue through other avenues. The coalition did its own fact finding and determined that the utility lost almost \$1 million the first year of the program and was projected to lose as much as \$78 million over the next eight years. This proved that the utility was subsidizing its program.

McCourt said that the discovery information obtained in the lawsuit not only helps the Michigan case, but other states with this problem. McCourt said he is optimistic about the outcome of the lawsuit.

Amie Hartman, Hartman Brothers Heating and Air Conditioning, New Haven, IN, said that the utility in Indiana (NIPSCO) approached contractors a year ago about the idea of providing maintenance agreements to con-



Cliff McCourt (left) and Amie Hartman

sumers. Although the contractors objected, NIPSCO proceeded with its plan. The utility got 6,000 consumers to subscribe to its plan and it's planning to hire an independent telemarketing firm to get 17,000 accounts. Hartman said that contractors in his area, working with the Alliance for Fair Competition have introduced legislation requiring an audit of the utility's books. He encouraged contractors who have problems in their state to write their state representatives and get involved.

Al Perri, A.J. Perri, Inc., Red Bank, NJ, said that the fight in

New Jersey surrounds proposed regulations which would have allowed utilities to compete directly with contractors in selling and servicing HVAC equipment. Perri said that at a hearing on the regulation, the Board of Public Utilities (BPU) announced that the regulation would be re-written. He said that the Board considered a ban on the sale and installation of equipment by utilities, but the attorney general's office advised that such a ban was outside the Board's authority. Perri said that contractors must now plan a new strategy which

(Continued on Page 11)

\$12,000 Raised for NUCF

ACCA's Raffle/'50s Party during the Annual Meeting raised nearly \$12,000 for the National Utility Competition Fund (NUCF).

James O. Nelson of Nelson Electric and Heating, Ellsworth, WI, held the lucky raffle ticket, winning a deluxe travel pack-

age for two to Hawaii, including two complimentary registrations for ACCA's 1992 Annual Meeting in Honolulu.

ACCA thanks all who participated in the raffle and contributed to the NUCF.

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Flinney
Governor

Jim Robinson
Chairman

Keith R. Henley
Commissioner

Rich Kowalewski
Commissioner

Judith McConnell
Executive Director

Brian Moline
General Counsel



Kansas Corporation Commission

March 8, 1991

Representative Kent Glascock
Capitol Building
Room 155-East
Topeka, Kansas 66612

Dear Representative Glascock:

I am in receipt of a copy of a letter from Gerald C. Hostettler of our Public Information staff to a Mr. Ron Flowers. Mr. Hostettler refers to a telephone conversation wherein he advised Mr. Flowers "... the Kansas Corporation Commission (KCC) does not have any jurisdiction over the non-utility portion of any public utility in the state." The letter was sent in response to a telephone inquiry and should be somewhat clarified. Mr. Flower's interpretation that the KCC "do[es] not investigate or have jurisdiction over cross subsidization" is not accurate.

The Kansas Corporation Commission does have full jurisdiction over all retail electric and gas operations, with the exception of municipally owned operations and private companies serving a single community. Some, but by no means all, jurisdictional companies conduct collateral business operations. As pointed out in Mr. Hostettler's letter, these business operations are not regulated by the KCC.

However, the Commission does have jurisdiction and does monitor the financial activity of the regulated entity. It would be impermissible for a jurisdictional utility to use revenues from their utility operations to subsidize collateral business ventures.

Such subsidization, if it existed, would come to the Commission's attention in one of two ways. Utility books and records are regularly audited by our staff of experienced accountants and cross subsidization would emerge as part of the regular audit. Secondly, a formal complaint of such activity would trigger an investigation into the complained activity.

I hope the above is of some help.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Brian J. Moline".

Brian J. Moline
General Counsel

BJM:gr

**Kansas House of Representatives
Energy and Natural Resource Committee**

**Testimony of Loren Washburn
March 2, 1992**

Mr. Chairman and Committee Members; my name is Loren Washburn, Crew Chief with KN Energy Inc. in Hoxie, Kansas. I am also representing the Communications Worker's of America Local 7476. I am appearing today in opposition to Kansas House Bill 3005 which would prohibit utilities such as KN from selling, installing and repairing gas burning appliances.

My fellow workers and I are the ones who will be impacted by this legislation. We are the ones who are in the customer's homes providing to them the services that they've come to depend on from KN Energy, Inc. Legislation such as this will severely curtail the services we perform. It is the reliance that the customers have on us for solutions to their appliance problems that should not be curtailed in small rural Kansas communities. Many of my fellow KN employees travel thousands of miles every year from one community to another providing a specialized degree of service that cannot be provided by others.

Do not erode the quality of life in our rural communities by allowing this bill to pass.

Thank You

*3/2/92
House E+NR
Attachment 22*



Kansas City Power & Light

TESTIMONY OF DAN HAAS
BEFORE THE HOUSE ENERGY AND NATURAL RESOURCES COMMITTEE
REGARDING HOUSE BILL NO. 3005
MARCH 2, 1992

Mr. Chairman and members of the Committee, I am Dan Haas, Manager, Government Affairs - Kansas, for Kansas City Power & Light Company. KCPL is an electric utility serving approximately 163,000 customers in eleven Kansas counties, and nearly 250,000 customers in Missouri.

I appear before you today in opposition to H. 3005, legislation which would establish a public utility private enterprise review board on the following grounds:

- This legislation duplicates authority which is already present at the Kansas Corporation Commission.
- It deters positive, promotional energy efficiency and energy conservation programs, as well as being an obstacle to "integrated resource planning".
- It interferes with development of new areas of benefit for customers including economic development and jobs producing programs frequently supported by utilities.

The bill as written would prohibit a public utility from engaging in any activity which is in competition with private enterprise unless there is a showing of an overriding and compelling public interest. This is a legal standard which would be difficult, if not impossible to meet. KCPL as a good corporate citizen engages in activities which are not strictly defined as utility business, but are demanded by our customers. These activities include energy audits, advice on conservation measures, peak shaving devices for

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Attachment 23*

residential air conditioning, as well as a number of economic development activities with the communities we serve. All of these activities would be in jeopardy if even one private company or individual decided to enter that business and thus put itself in competition with us. The bill makes no provision about whether a viable private market must exist, but flatly says that if there is private competition of any kind the utility must get out of that business.

KCPL is not in the business of supplying appliances or of servicing or installing those machines. In our program of installing peak shaving devices on air conditioners we even contract with private individuals to do the installation. We do encourage our customers to replace inefficient appliances with new high efficiency ones, and will assist in financing those purchases, although we leave the installation and sales up to private contractors. I suppose even this could be considered improper competition, since we would be competing with other entities which offer financing.

I believe the proponents of this legislation have gone too far and drafted it in such a broad manner that it reaches activities they should have little quarrel with. If their objective is to avoid unfair competition, the KCC already has the authority to prohibit cross-subsidization and below cost pricing. The injured party has a complaint procedure they can follow without any additional legislation. This bill would be a significant detriment to our efforts to implement demand side management and integrated resource planning, both activities which this committee should be encouraging. I find it a little disconcerting that this bill comes up at a time when the committee is working on legislation which would require utilities to engage actively in conservation and programs promoting energy efficiency. As you know, KCPL has testified earlier to our future planning process which achieves significant energy savings from nine demand side management measures. We believe this process would be jeopardized by enactment of this legislation.

In conclusion, we believe this bill is unnecessary by seemingly providing protection for private enterprise which already exists at the corporation commission. It would have a negative impact on utility activities

which promote conservation and energy efficiency, as well as activities we engage in to foster economic and community development. The bill, simply put, is bad public policy, and should be rejected.

Thank you for this opportunity to testify.

KANSAS HOUSE OF REPRESENTATIVES
ENERGY AND NATURAL RESOURCES COMMITTEE

Testimony on Behalf of WestPlains Energy
By Curt Carpenter
RE: HB-3005
March 2, 1992

Mr. Chairman and members of the Committee, I appreciate the opportunity to appear before you today.

My name is Curt Carpenter and I am Customer Services Administrator for WestPlains Energy, a division of UtiliCorp United. WestPlains Energy was acquired by UtiliCorp on October 1, 1991. We were formerly Centel Electric. Other UtiliCorp divisions in Kansas include Garden City based Peoples Natural Gas and Lawrence based Kansas Public Service.

WestPlains Energy serves 135,000 customers in Colorado and Kansas. We serve 65,000 retail electric customers in 122 communities from north-central to southwest Kansas. Our Kansas administrative headquarters are located in Great Bend.

My reason for appearing before you today is to voice opposition to H.B. 3005. Our Company has a real concern this bill restricts the boundaries of free enterprise.

In the two and one-half years I have monitored legislation in Topeka, it has become apparent to me that utilities often find themselves on the defense, accused of being wasteful and uncaring.

I can assure you that one of WestPlains priorities is to provide quality service to our customers as efficiently as possible. Two years ago we formally implemented a Quality Process that teaches us how to measure the cost effectiveness of our operations.

So, although we do not presently market non-traditional items or services, if our future market strategy dictates that we should or could, WestPlains would do so effectively with the ultimate benefactors being our customers. After all, the real issues for our company is to decide what is best for our consumers and stockholders and what is best for the communities in which we serve.

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"Testimony Continued"

As a business, we see this type of protective legislation as tying our hands from entering into potential regulated or non-regulated growth opportunities in the future. And there is no reason that if an investor owned public utility grows, private enterprise could not also benefit.

Concluding, I want to say that our Company is regulated and monitored very well by the Kansas Corporation Commission. With non-regulated ventures, cross-subsidization becomes an issue and should not be allowed. The KCC currently has the ability to do that. We feel this bill creates unnecessary bureaucracy which restricts a public utilities right to engage in activities that benefit their customers, stockholders, and communities.

Thank you for your attention.



521 KANSAS CITY RD. • OLATHE, KANSAS 66061
(913) 782-2415

February 25, 1992

KAFC
% PHCC Assoc. Inc.
320 Laura
Wichita, KS 67211

Dear Sirs:

In response to your request for action on House Bill #3005, I sent a letter on February 24 to Rep. Ken Grotewill to ask that a hearing be held for this bill.

On February 25, I wrote letters to Rep. Ruth Ann Hackler and Rep. Vincent Snowbarger asking for their support of House Bill #3005.

Thank you for contacting me about this urgent situation. If I can be of further assistance, please let me know.

Sincerely,

Ramon D. Blachly
Olathe Heating & Cooling

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House E+NR
Attachment 25*



1741 NORTH BROADWAY
P. O. BOX 3576 • WICHITA, KANSAS 67201-3576
TELEPHONE (316) 263-7201

February 24, 1992

House Post Office
State Capitol
Topeka, Ks. 66612

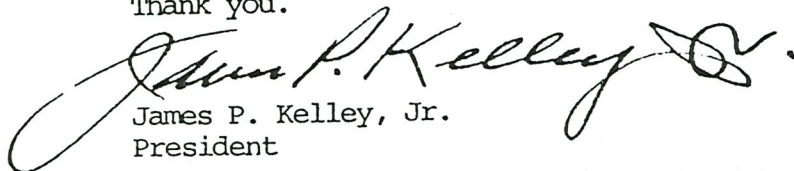
I am writing to you in support of House Bill #3005.

Please consider the importance of this bill in preventing the BIG Utility Companies from entering into the unfair practice of service to the captive clientele of their customer base. Small business is slowly but surely being forced OUT by these measures. Since I have been in the service and contractor business since 1960, we have seen other moves made by big business that have contributed to the demise of small business in all areas.

House Bill #3005 - it's support and passage - will be an effective tool in helping the small businessman and contractor in the heating and air conditioning industry to hold the line against these BIG Utility Companies as they seek to infringe on our business.

Your support of House Bill #3005 will be greatly appreciated!

Thank you.


James P. Kelley, Jr.
President

JPK:jm

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ROMO Inc.

February 28, 1992

Chairman Ken Grotewiel
Energy and Natural Resources Committee
House Post Office
State Capitol
Topeka, Kansas 66612

Re: House Bill #3005

Please take a moment to look at the following pages containing names of persons whom have purchased goods and equipment from Utilities.

This information was taken from public records financing statements at Courthouses located in Dodge City, Ashland, Jetmore, Cimarron and Meade, Kansas. It represents approximately 12-13 months of sales.

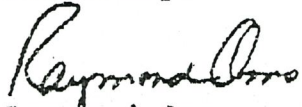
This list should help to illustrate the problem of unfair competition. The list only includes customers who took the option to make monthly payments on their gas bill. This list would probably be several pages longer if we could include the customers who paid cash.

The Utilities are the first to be called to a household in the event of trouble and, while they are there, are able to sell to the customer their services on washers, dryers, water heaters, refrigerators, ranges, ovens, furnaces or air conditioners. Or they can sell the new replacement equipment very easily by saying "we will just put it on your monthly gas bill"!

Chairman Grotewiel, it is impossible to compete against this kind of competition!

Will you and your committee please consider HE 3005?

Sincerely,


Raymond Omo

3/2/92
House E + NR
Attachment 27



• Water Conditioning
• Sheet Metal
• Refrigeration
• Air Conditioning
• Heating
• Plumbing

- | | | | |
|-----|--|------------------------|-------------------------|
| 1) | HANNA, Terry and Sheila
1005 4th Ave. Dodge City, Ks. | Peoples Natural Gas | Washer/Dryer |
| 2) | ROSTETTER, Nancy
1401 Ave. A Dodge City, Ks. | Peoples Natural Gas | Range |
| 3) | STEIN, Kenneth
RR #1, Box 319 Wright, Ks. | Kansas Power and Light | Range |
| 4) | VOSS, Ralph
601 S. Main Cimarron, Ks. | Peoples Natural Gas | Range |
| 5) | WHIPPLE, Kyle and Valerie
601 N. Birch Cimarron, Ks. | Peoples Natural Gas | Range |
| 6) | GARZA, Adolfo
700 E. Wyatt Earp Dodge City, Ks. | Peoples Natural Gas | Washer/Dryer |
| 7) | OSBORN, Carlene
718 S. 13th Ave. Dodge City, Ks. | Peoples Natural Gas | Furnace |
| 8) | SANCHEZ, Diane
900 5th Ave. Dodge City, Ks. | Peoples Natural Gas | Heater/Washer |
| 9) | BECK, Arthur and Leah
303 E. Prospect Cimarron, Ks. | Peoples Natural Gas | Household Goods |
| 10) | BUTTS, Danny and Stephanie
402 E. Ave. C Cimarron, Ks. | Peoples Natural Gas | Household Goods |
| 11) | BLACK, Larry
Meade County | Peoples Natural Gas | Boiler |
| 12) | ULSTERHOUSE, Bobbie and Betty
Hodgeman County | Midwest Energy | Furnace |
| 13) | RITTENHOUSE, Kent J.
Hodgeman County | Midwest Energy | Furniture |
| 14) | LEMASTER, Leroy
Meade County | Peoples Natural Gas | Refrigerator/Dishwasher |
| 15) | QUESENBERRY, Irene
Meade County | Peoples Natural Gas | Oven |
| 16) | CALLEROS, Lourdes
1106 Ave. H Dodge City, Ks. | Peoples Natural Gas | Washer/Dryer |
| 17) | FURNITURE OUTLET
WEECE, Donald - 503 2nd Ave. Dodge City, Ks. | Peoples Natural Gas | Furnace |
| 18) | GARCIA, Benjamin
608 Clark Dodge City, Ks. | Peoples Natural Gas | Washer/Dryer |
| 19) | SMITH, Kathy
902 Sunnyside | Peoples Natural Gas | Refrigerator |

20) SWARTS, M.A. 14th Ave. Dodge City, Ks.	Peoples Natural Gas	Furnace
21) TORRES, Lucio Countryside Manor #22B Dodge City, Ks.	Peoples Natural Gas	Furnace
22) TORRES, Paul 1008 E. Vine, Box 1265 Dodge City, Ks.	Peoples Natural Gas	Furnace
23) WAMPLER, Donald and Charolette 908 W. Park Dodge City, Ks.	Peoples Natural Gas	Washer/Dryer
24) GRIEVING, A.J. Box 255 Ingalls, Ks.	KN Energy, Inc.	Water Heater
25) CUNNINGHAM, Kevin Landfill Road Dodge City, Ks.	Peoples Natural Gas	Furnace
26) DIAZ, Maurico Countryside Manor #60B Dodge City, Ks.	Peoples Natural Gas	Washer/Dryer
27) HEADRICK, Elida 3102 Ross Court Dodge City, Ks.	Peoples Natural Gas	Washer/Dryer
28) LEWIS, Shaleh 704 E. Ash Dodge City, Ks.	Peoples Natural Gas	Furnace
29) MASON, Delores 1706 3rd Ave. Dodge City, Ks.	Peoples Natural Gas	Refrigerator
30) CHAPMAN, James 1205 Middle Road Dodge City, Ks.	Peoples Natural Gas	Regrigerator
31) GRADY, Carolyn 1001 Kelley Dodge City, Ks.	Peoples Natural Gas	Regrigerator
32) HALLING, Ronald A. 115 W. Maple Bucklin, Ks.	Kansas Power and Light	Air Conditioner
33) NEIL, Dennis 2805 Center Dodge City, Ks.	Peoples Natural Gas	Furnace
34) O'NEAL, Ned and Terri 1205 W. Elm Dodge City, Ks.	Peoples Natural Gas	Refrigerator
35) BENTON, Robert P.O. Box 83 Ingalls, Ks.	KN Energy, Inc.	Water Heater
36) BAKER, Charles Meade County	Peoples Natural Gas	Air Conditioner
37) HAWORTH, Wil Meade County	Peoples Natural Gas	Air Conditioner

38) JOHANNESAN, Leonard Meade County	Peoples Natural Gas	Refrigerator
39) LAMBERT, Star Meade County	Peoples Natural Gas	Air Conditioner
40) POWERS, Ron L. Box 402 Meade, Ks.	Peoples Natural Gas	Air Conditioner
41) SMITH, Diana Box 526 Fowler, Ks.	Peoples Natural Gas	Refrigerator
42) REITENHOUSE, James Hodgeman County	Midwest Energy	Comfortmaster
43) NAGEL, Tim Wilroads Tract 39 Dodge City, Ks.	Peoples Natural Gas	Furnace/Condensing Uni
44) ATAYDE, Eugene R. 1112 Lazy Lane Dodge City, Ks.	Peoples Natural Gas	Air Conditioner
45) BENNETT, Diane and Gary 1208 Highway 56	Peoples Natural Gas	Refrigerator
46) BUEHNE OIL CO. Wright, Ks.	Peoples Natural Gas	Furnace
47) DAY, Sparlen 2201 3rd Ave. Dodge City, Ks.	Peoples Natural Gas	Air Conditioner
48) GAUT, Pat K. 315 Fireside Dodge City, Ks.	Peoples Natural Gas	Condensing Unit
49) MILLER, Fran 305 Fireside Dodge City, Ks.	Peoples Natural Gas	Refrigerator
50) NAGEL, Tim Wilroads Tract #39 Dodge City, Ks.	Peoples Natural Gas	Furnace
51) BARTELLO, Tony 2705 Meadowlark Dodge City, Ks.	Peoples Natural Gas	Refrigerator
52) JONES, Raymond and Rochelle 1506 10th Dodge City, Ks.	Peoples Natural Gas	Condensing Unit
53) THOMPSON, Sharon 1600 10th Dodge City, Ks.	Peoples Natural Gas	Condensing Unit
54) TRABERT, Michael 702 Sunnyside Dodge City, Ks.	Peoples Natural Gas	Condensing Unit
55) WILLIAMS, Rosalie and Jack North Star Route Dodge City, Ks.	Peoples Natural Gas	Condensing Unit

56) ANDERSON, Jerry 310 N. 3rd Ave. Cimarron, Ks.	Peoples Natural Gas	Condensing Unit
57) ELLIS, B.B. P.O. Box 264 Cimarron, Ks.	Peoples Natural Gas	Condensing Unit
58) DIAZ, Jesus 611 Sunflower Dodge City, Ks.	Peoples Natural Gas	Refrigerator
59) SCHMIDT, Jack 108 LaMesa Dodge City, Ks.	Peoples Natural Gas	Washer/Dryer
60) BENTON, John 1703 Ave. D Dodge City, Ks.	Peoples Natural Gas	Dishwasher
61) MEYER, M.J. 1803 5th Dodge City, Ks.	Peoples Natural Gas	Central Air Unit
62) FIRA, Esiquio 708 Missouri Drive Dodge City, Ks.	Peoples Natural Gas	Refrigerator
63) TRENT, Thomas 1105 Wright #B Dodge City, Ks.	Peoples Natural Gas	Washer/Dryer
64) YEE, William 205 E. Brier Dodge City, Ks.	Peoples Natural Gas	Washer/Dryer
65) ELSEN, Don and Ellie 98 S. 16th Dodge City, Ks.	Peoples Natural Gas	Washer
66) CROTINGER, Rita 1507 5th Dodge City, Ks.	Peoples Natural Gas	Washer/Dryer
67) MEYER, M.J. 1803 5th Dodge City, Ks.	Peoples Natural Gas	Furnace/A-coil/Water H
68) LANEER, Robert Box 221 Fowler, Ks.	Peoples Natural Gas	Washer/Dryer
69) SALEM, Edith Box 73 Ingalls, Ks.	KN Energy, Inc.	Water Heater
70) MARTINEZ, Lorrie RR#3 Wilroads Gardens	Peoples Natural Gas	Washer/Dryer
71) PIANALTO, Elmer L. 2422 Howell Dodge City, Ks.	Peoples Natural Gas	Furnace
72) TIEMEYER, Bonnie Wilroads Garden Road	Peoples Natural Gas	Range/Dishwasher
73) ELLIOTT, Laura 1201 Ave. G Dodge City, Ks.	Peoples Natural Gas	Furnace

March 2, 1992

House Bill #3005

House Committee on Energy & Natural Resources

Honorable Chairman and Committee members:

My name is Ernie Schuler, President of Schuler Heating and Cooling Co. in Kansas City, Kansas.

I am the current President of the Kansas City Chapter of Air Conditioning Contractors of America (ACCA). We have approximately seventy-five (75) members at this time - made up of contractors, distributors and suppliers in the heating and air conditioning field.

I am here today to represent, and share with you, the feelings of the membership of the Kansas City Chapter of ACCA (as well as many non-members who have contacted our organization in great concern) regarding Unfair Utility Competition by Public Utility Companies.

Each and every contractor, distributor and supplier understands the effect Unfair Competition can have on our industry. We see how devastating unfair competition is to our counterparts all over the State of Kansas (and beyond).

The bill before this committee (HIB#3005) is very important to me personally; to every utility rate payer; to my business & my employees and their families - as well as to the hundreds of contractors all over the state of Kansas.

I am here to testify that no matter what any utility says...a very real problem exists with some regulated utility companies entering into direct competition with independent contractors. House bill #3005 addresses this problem by clarifying the jurisdiction of the Kansas Corporation Commission in regulating activities by these utility companies.

I hope that the ACCA members can count on this committees consider and support HIB #3005.

I want to thank all of you for the opportunity to express the concerns and wishes of the members of ACCA.

If you have questions, I will be happy to try to answer them.

Thank you.

Ernie Schuler
Schuler Heating & Cooling, Inc.
3400 Shawnee Drive
Kansas City, KS 66106
(913) 262-2969

3/2/92
House E+NR
Attachment 28



THE WALDINGER CORPORATION

1620 S. BAEHR / WICHITA, KANSAS 67209 / 316 / 842-7722 / FAX 316 / 942-8051

To: The Kansas House Committee on Energy and Natural Resources

From: Walt Shook

Dear Chairman and Committee members:

I respectfully request your support of House Bill # 3005.

My company bids, performs and services contract work for commercial, industrial and small businesses, throughout the central and eastern Kansas area. We are a union company with a fluctuating employment averaging around 50 people year round.

Our company and our employees depend upon our competitive performance, as it means continued employment for all of us. We bid jobs daily with this responsibility in mind. We are fortunate to not find ourselves bidding directly against our area utilities... today. We are aware that this does not guarantee that we won't have to, tomorrow.

My request is that, should we - as other companies, like ours already have, - find our company faced with the impossibility of bidding against the Utility company acting as a contractor; we will have somewhere to turn.

Our fellow contractors need your support, today, and we request your support so that all of us can continue to work, knowing that free enterprise really is guaranteed to us all.

Thank you very much.

*3/2/92
House E+NR
Attachment 29*

A-ONE PROPANE GAS
4950 NORTH BROADWAY
WICHITA, KANSAS 67219

MARCH 2, 1992

IN REGARDS TO: **HOUSE BILL # 3005**
HOUSE ENERGY AND NATURAL RESOURCES COMMITTEE
REP. KEN GROTEWIEL, CHAIRMAN

I AM LESLIE WARD, OWNER/MANAGER OF A-ONE PROPANE GAS IN WICHITA, KANSAS. OURS IS A SMALL BUSINESS EMPLOYING 21 PEOPLE IN THE SEDGWICK COUNTY AREA. IT WAS STARTED BY MY PARENTS IN 1947 AND HAS BEEN ACTIVE SINCE THAT TIME.

IT IS VERY DIFFICULT FOR A BUSINESS THIS SIZE TO COMPETE WITH PUBLIC UTILITIES. AND IT IS UNFAIR FOR US TO COMPETE AGAINST A LARGE BUSINESS WHO IS RECEIVING LOW INTEREST GOVERNMENTAL FUNDS AVAILABLE TO THEM AND NOT TO US, THE SMALL BUSINESS OWNER.

AS A SMALL BUSINESS, WE CANNOT OFFER "SPECIAL DEALS" ON APPLIANCES OR "CASH BONUSES" TO POTENTIAL CUSTOMERS.

WE OFFER A GOOD, SAFE PRODUCT THAT HAS BEEN AVAILABLE FOR OVER 50 YEARS TO THE RURAL COMMUNITY THAT IS LOCATED BEYOND "THE GAS LINES."

OUR FAMILY HAS ALWAYS BELIEVED IN THE FREE ENTERPRISE SYSTEM OF DOING BUSINESS. HOWEVER, I FEEL IT IS UNFAIR FOR US TO COMPETE AGAINST THE "BIG GUNS" WHEN THEY RECEIVE SUBSTANTIAL TAX BREAKS AND GOVERNMENT MONEY.

I URGE YOU TO VOTE "YES" ON HOUSE BILL NO. 3005.

RESPECTFULLY SUBMITTED,



LESLIE J. WARD
OWNER/MANAGER
316/838-5711

3/2/92
House E+NR
Attachment 30

Testimony before the:

House Committee on Energy and Natural Resources
March 2, 1992

Regarding HB 3005

by:

Robert A. Bramhall
President, Thermal Comfort Air, Inc.
Manhattan, Kansas

Mr. Chairman and members of the Committee, ladies and gentlemen, my name is Bob Bramhall, the president of Thermal Comfort Aire in Manhattan. As a contractor doing business in the State of Kansas, I am concerned about the economic climate in this state. I have to compete with each of the contractors in my area and I have to maintain my operation at peak efficiency to do so.

I knew when I went into business that it was highly competitive, and I thrive in this environment. Lately, I find that the fundamental basis of this competition has changed. While bidding a job for the community hospital in a neighboring town, I found myself bidding against the gas utility. Since the town generates its own electricity, it is cost effective for them to use their own power to operate the hospital.

Curiously, the gas company was bidding gas-fired chillers for the project. The price for the gas fired equipment is considerably higher than for the electric equipment. Nonetheless, their bid was lower than mine. Now, there are times I do get beaten on a job; remember, I said the business is competitive. I do not expect to get every job I bid. I do know that where costs are the same, prices will be similar. The gas equipment is not close in price, it is much higher. Yet it was beaten on the job. The gas company was going to lose on the project.

Fortunately the hospital did not accept the bid from the gas company. They knew the maintenance costs on the gas equipment would be higher, and the operating costs higher as well. So I've been thinking about all of this, wondering why the gas company was so eager to sell equipment at a loss that would not be in the best interests of the consumer.

I have only one answer. Greed, ladies and gentlemen. The gas company could cover the loss on the job through some juggling in the books, charging the rest of the gas customers for the hospital's air conditioning. The hospital, meanwhile would have equipment that cost more to run and maintain. Why, just so the gas company could sell more gas and make more money.

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Attachment 31

I used to think that the utilities could be trusted to act in the best interests of their customers and the community as a whole. I know now I was naive. It is ridiculous to believe that any utility given enough power and influence would not misuse that power. Given the chance the utility will do exactly what it wants to make more money.

Right now, there is a balance in the industry. The consumer has two places to turn for advice. If there is a question about the best kind of system to use or how to save energy, both contractors and the utilities can provide that. Imagine what will happen if the utilities are allowed to take over. The consuming public will have no alternatives at all. In some places in this state, the contractors are nearly gone. There is now just one source of service, equipment installation and advice.

Other states have seen the need to enact legislation to curb the excesses of public utilities. I think its time this state acted, too. Thank you.

March 2, 1992

To: House Energy and Natural Resources Committee
Rep. Ken Grotewiel, Chairman

From: Gary and Linda Doornbos
Rt. 1, Box 106
Leon, KS 67074

Re: Support of House Bill 3005

My husband and I are members of the Butler Rural Electric Cooperative based in El Dorado, Kansas. We are concerned to see not only this REC, but other utility companies in the state offering rebates on electric heating equipment or water heaters, and low interest financing to influence purchasing the equipment.

The REC's receive very low interest loans from the REA which gives them an unfair edge to compete in this manner. The small business owners in the state deserve a fair chance to exist and they aren't receiving it when utility companies are allowed to operate in this fashion.

We urge your help for small business by voting "YES" for House Bill number 3005.

Thank You.

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House E+NR
Attachment 32

WRITTEN STATEMENT FOR THE

HOUSE ENERGY & RESOURCES COMMITTEE

REP. KEN GROTEWIEL, CHAIRMAN

SUPPORTING BILL 3005

BY MONTE MILSTEAD, HEETCO, INC.

MARCH 2, 1992

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

My name is Monte Milstead. I am vice president of Heetco, Inc., a propane business in Lawrence, Kansas. I support House Bill 3005, establishing a public utility private enterprise board.

I know you have been provided numerous examples of statewide utility company practices which we feel present unfair competition to independent, small businesses. Some of those small businesses are the propane dealers providing product to rural Kansans - many are small, family owned and operated.

It is difficult enough today for a small business to compete with a large company in any instance. That is competition we must face, but when the large company has low-interest government funds available, enabling it to offer bonuses and low-interest financing, it is almost impossible.

A good example would be Kaw Valley Electric here in Topeka going into the propane business several years ago. When they did this, they used the same offices, employees, accounting department, customer records, etc., to go into direct competition with about 15 propane companies already serving their general service areas.

These kinds of practices create unfair competition to any business that has to compete with them. Utilities were never established to compete with independent businesses. The purpose was to provide electricity, natural gas, telephone lines, etc.

I welcome competition and believe in a free enterprise system of doing business, but how fair is it when small businesses (usually Mom & Pop businesses) have to compete against a utility or cooperative who is getting "cheap" government money & tax breaks and using them against private enterprise?

I urge your "YES" vote on House Bill No. 3005.

Thank you for your consideration.

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House E+NR
Attachment 33



Kansas LP-Gas Association

701 Jackson, Room 200

• Topeka, KS 66603

• 913/354-1749

Lee Eisenhauer
Executive Vice-President

March 2, 1992

WRITTEN STATEMENT OF SUPPORT

HOUSE BILL 3005

From: Lee Eisenhauer, executive vice-president, Kansas LP-Gas Association

To: House Energy and Natural Resources Committee
Rep. Ken Grotewiel, Chairman

On behalf of the retail propane dealers in Kansas who are members of the Kansas LP-Gas Association, I urge your support of House Bill 3005.

Most of these dealers are small independent businesses struggling financially just to stay in business, as are many other types of small businesses. Today's tough economical times, along with cost of compliance with increased governmental regulations of the industry (OSHA, EPA, U.S. & Kansas DOT, U.S. & Kansas Health & Environment, CPSC, State Fire Marshal, Kansas Corporation Commission, Department of Agriculture) and expected competition are problems and expenses enough.

We do not object to fair competition, but competing with those utilities who are receiving low-interest, taxpayers' monies and those who are able now to market services and products at ratepayers' expense (and not always providing correct information to the public), is not fair competition. Attached to this statement are some examples.

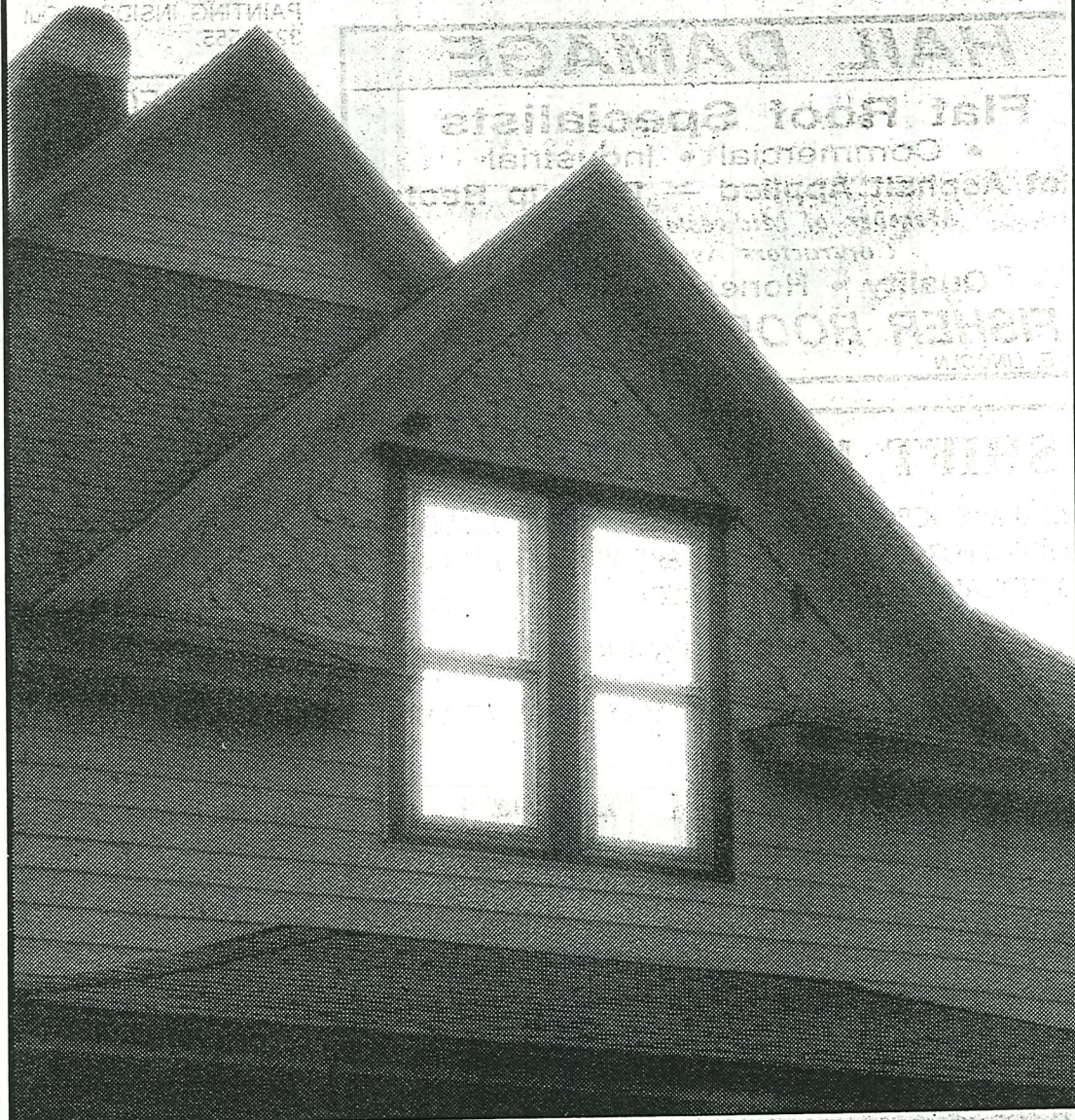
We are not asking for special treatment of any kind, only a fair playing field enabling maintenance of small businesses, too many of which are closing their doors throughout the state, as I'm sure you are witnessing in the districts you represent.

House Bill 3005 offers a beginning in establishing a way in which a more fair business climate, and service to the general public, may be obtained.

We appreciate your time and consideration and urge your "Yes" vote on House Bill 3005. Thank you.

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House E+NR
Attachment 34

Thanks to their new heat pump,
the Aurenheimers are going somewhere
they couldn't go last summer.



Upstairs.

Last summer, the air conditioning in John and Janet Aurenheimer's two-story farm home was so ineffective, the whole family had to sleep on the first floor.

They'd seen KG&E's ads on television, so they called to take advantage of our \$50 bonus offer.

The offer goes like this: let a KG&E representative tell you about the advantages of a heat pump, and no matter what kind of complete, high efficiency, electric central air system you buy, we'll give you \$50.

That's how confident we are in the benefits of a heat pump.

After hearing the heat pump story from KG&E, the Aurenheimers were convinced. And once their dealer began the installation, the family slept under air conditioning that very night. The entire project was done in two days.

Their heat pump beat last summer's scorching temperatures. And it beat the cold of last winter.

With their old furnace, John and Janet were going through four or five tanks of L.P. gas every winter.

Last year, they barely used one. If you're interested in year-round comfort, don't spend another miserable summer with a worn-out air conditioner. Call KG&E today, and get in on the \$50 bonus.

The Aurenheimers did. They spent just a little time getting in on the heat pump story. And now they spend a lot of time on their second story.

IN WICHITA CALL

261-6301

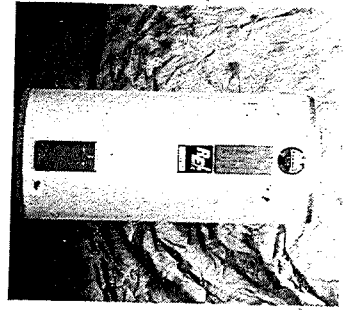
In Newton: 283-5007 • In Arkansas City: 442-6100
In El Dorado: 321-5572



KG&E, The Electric Company.

34-2

DS&O's Hot Deal On Hot Water



- ✓ Rebate for Replacement of Non Electric Water Heater with Electric \$175.00
- ✓ Rebate for Replacement of Electric Water Heater with Electric \$75.00
- ✓ Rebate for Electric Water Heater In New Construction \$175.00

Report from the Nominating Committee

The 1991 Nominating Committee members met in their respective homes for the purpose of nominating at least two candidates for each trustee position to be filled by election at the 1991 Membership Meeting.

The following persons were nominated to be placed on the ballot:

Northwest District

Steven L. Carlson Minneapolis, KS
Dean Allison Delphos, KS

Northeast District

William J. Chamberlin Chapman, KS
Alfred Koelling Abilene, KS

Trustee At Large

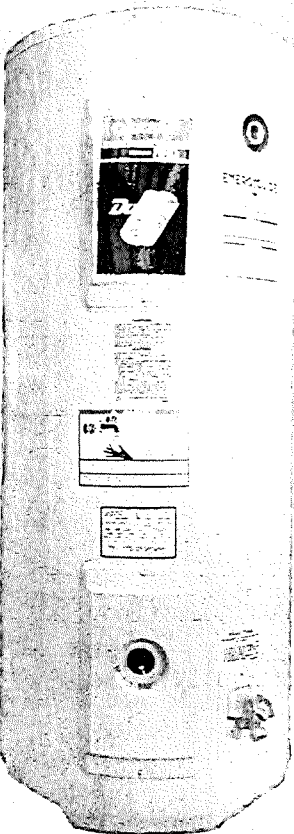
Kenneth D. Avery Solomon, KS
Phillip R. Reed Solomon, KS

Additional nominations may be made from the floor at the meeting.

The 1991 Nominating Committee consisted of:

Jeanette Schrader Eldon Tillberg Larry Dahisten Neil Lexow
Harris Leo Nichols Dean Hoover
be asked to cast your vote for one trustee from each of the positions.

When You Compare Versatility and Affordability, an Electric Water Heater Is Your Best Choice.



VERSATILE--electric water heaters come in various sizes and models to fit any need. Using electricity to heat your water also eliminates the need for chimneys, flues and venting.

AFFORDABLE--the Kansas Electric Power Cooperative, Inc. (KEPCo) offers, through its member cooperatives, a special electric water heater rebate program that makes electricity an even wiser investment.

CONTACT AN ENERGY EXPERT at your KEPCo member rural electric cooperative listed below to learn more about rebate qualifications for installation of a versatile and affordable electric water heater.

- | | | |
|--------------|----------------|-----------------|
| Ark Valley | Jewell- | Radiant |
| Brown- | Mitchell | Sedgwick County |
| Atchison | Leavenworth- | Sekan |
| Butler | Jefferson | Smoky Hill |
| C&W | Lyon-Coffey | Sumner-Cowley |
| CMS | NCK | Twin Valley |
| Caney Valley | Ninnescah | United |
| DS&O | Norton-Decatur | Victory |
| Flint Hills | PR&W | |



343

June 1991

Current Comments

A Monthly Newsletter

From Midwest Energy, Inc.

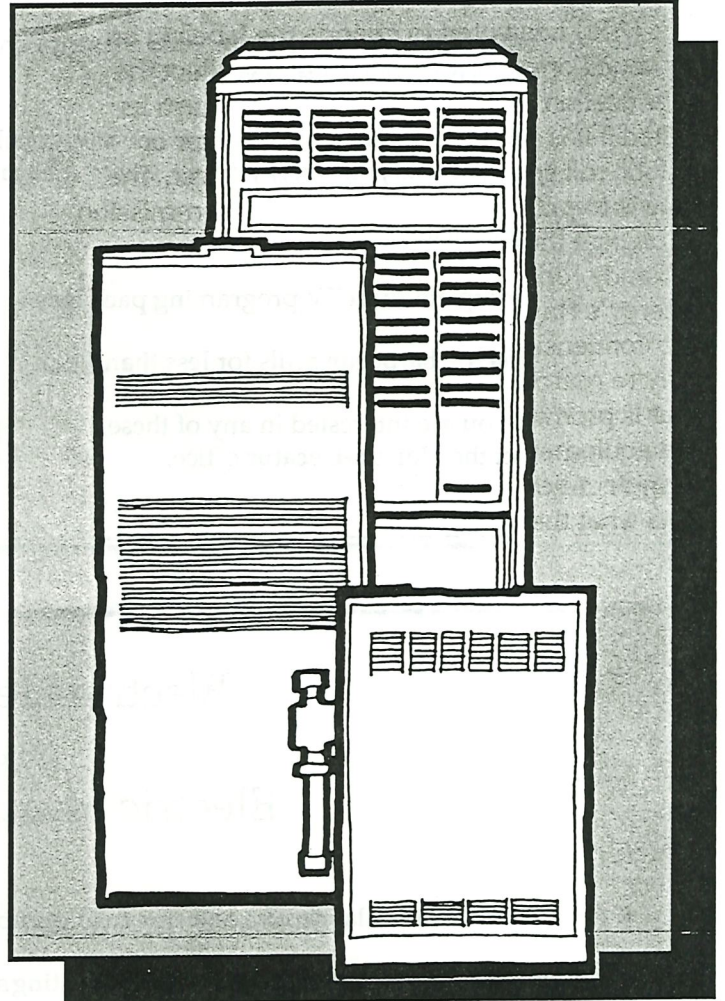
LOAN PROGRAM INTEREST RATE HAS CHANGED

During the last several years, the Energy Conservation Loan Program offered by Midwest Energy has featured two percent interest. This was made available to all customers to finance energy conservation items for their homes or businesses.

The low interest rate was made possible through a buy-down arrangement using funds set aside for a research project that never became a reality. Over one million dollars in loans has gone out, the fund pool has been exhausted and the loan rate must go up.

The new loan rate will still be a bargain at today's market interest rates. We will be offering the Energy Conservation Loan Program at only **FIVE PERCENT INTEREST**, as of June 1, 1991.

As in the past, loans will be made only to real property owners. Each customer will be eligible for only one loan. Loans can be obtained to finance the cost of energy conservation measures in existing structures and heating/cooling equipment in both new and existing structures. The minimum amount of the loans will be \$500.00 and the maximum term will be 48 months.



If you are interested in applying for a loan, the first step is to contact your local Midwest Energy office for a computerized energy analysis. An energy advisor will explain to you how to initiate the loan process. We have established certain limits based on the type of improvements financed, so please contact our office first.

5% Interest

34-4

Services For Norton-Decatur Members

Did You Know That These Services Are Available To All Qualifying Members Of Norton-Decatur?

1. Rebates up to \$100 are being offered for the replacement of electric water heaters.
2. Free Water heaters for replacement of gas water heaters and for installations in new facilities.
3. \$400 rebates for installation of heat pumps and qualifying electric heat systems.
4. 2% loans for installation of heat pumps, insulation and other qualifying energy conservation measures.
5. Energy audits.
6. Complete rural TV programming packages.
7. Electric barbecue grills for less than \$100.

If you are interested in any of these, contact the Norton-Decatur office.



Does your old gas water heater act and look like this?

Say
Good-bye



to an old flame!

Convert to electric water heating and discover the many advantages:

- Safe
- Dependable
- Flameless
- Efficient
- Clean
- Economical
- Installs Anywhere

Electric Heat Pumps and Electric Heating Systems

★ Rebate for the installation of an electric heat pump or other type of electric heating system = \$400.

★ Rebate for the replacement of a non-electric heating system with an electric heat pump or other type of electric heating system = \$400.

To Qualify for Rebate:

1. Must be installed on Norton-Decatur lines.
2. Must be at least 15,000 BTU or equivalent.
3. Must be permanently installed.
4. Must be verified by Norton-Decatur.
5. Will need proof of purchase.

For Further Information, Contact:
Norton-Decatur Cooperative Electric
P.O. Box 360
Norton, KS 67654
(913) 877-3323

NFIB Kansas

National Federation of
Independent Business

TESTIMONY

on House Bill 3005

House Committee on Energy and Natural Resources

Mister Chairman, and members of the committee, my name is Jim Yonally, Director of the Kansas chapter of the National Federation of Independent Business. I am pleased to speak on behalf of over 7,000 small businesses in Kansas who are members of our organization, and express our support for House Bill 3005. Our legislative program is determined by a vote of our membership, and on our 1992 Ballot, our members showed overwhelming support for some limitations on the ability of public utilities to compete with private enterprise.

The practice of offering free, or drastically-reduced prices for appliances, or service contracts, is well documented among our members. We believe that the loss from these activities is ultimately built into the "base" cost of providing the particular service for which the utility is licensed. This practice, if it exists creates an unfair competitive situation.

I wonder if there is a fiscal note with this bill. If there is, perhaps it could be offset by providing for a fee to be assigned when a complaint is filed. If the complaint is upheld by the board, the fee, and any accompanying expenses, would be paid by the utility. If the complaint is not upheld, it would be paid by the complainant. This would seem fair to us, as we are not interested in frivolous claims any more than you, or the utilities, would be.

I thank you for your time, and would be happy to try to answer any questions.

State Office
10039 Mastin Dr.
Shawnee Mission, KS 66212
(913) 888-2235

Jim Yonally



The Guardian of
Small Business

*3/2/92
House E+NR
Attachment 35*

WRITTEN STATEMENT

OF

JIM WEBER

SUPPORTING HOUSE BILL 3005

Submitted March 2, 1992 to the
House Energy and Resources Committee
Rep. Ken Grotewiel, Chairman

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

My name is Jim Weber. I am a propane retailer, owner/operator of Oakley Gas in Oakley, Kansas. I am writing to you in support of House Bill 3005.

I respectfully request your consideration of this important bill. The problem of regulated Utility Companies entering into direct competition with independent business people, like myself, can be addressed with this bill as it clarifies the jurisdiction of the Kansas Corporation Commission in regulating activities by Utility Companies.

I believe enactment of this bill will help to create a more fair business environment for those of us working hard to survive in today's complex business climate. I am not against fair business competition. We deal with that daily.

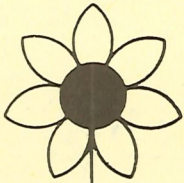
Please vote "yes" on House Bill 3005.

3/2/92
House E+NR
Attachment 34

in letter only

HOME BUILDERS ASSOCIATION OF KANSAS, INC.

Executive Director
JANET J. STUBBS



TO: HOUSE ENERGY & NATURAL RESOURCES COMMITTEE

DATE: MARCH 2, 1992

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

The Home Builders Association of Kansas, a trade association representing approximately 1100 diversified businesses throughout the State, strongly supports the concept embodied in HB 3005.

The HBA of Kansas has adopted a Statement of Policy which opposes the ability of a public utility to compete with private enterprise unless the public utility can demonstrate an overriding or compelling argument that the public interest is better served by its engaging in such activity.

We urge your support of HB 3005 and believe it is in the best interest of the economy of Kansas to protect the existing businesses of the State. We remind you that public utilities are regulated monopolies and should be viewed from a different perspective than private business.

OFFICERS

President
VERNON WEIS
P.O. Box 314
Salina, Ks. 67401
913-827-9169

Vice President
GILBERT BRISTOW
1916 Bluestem Terrace
Manhattan, Ks. 66502
913-539-4779

Treasurer
JIM PETERSON
P.O. Box 171
Hutchinson, Ks. 67501
316-662-7616

Secretary
TOM AHLF
7247 Oxford Ct.
Wichita, Ks. 67226
316-685-2025

H.B.A. ASSOCIATIONS

Dodge City
Hutchinson
Junction City
Manhattan
Montgomery County
Salina
Topeka
Wichita

PAST PRESIDENTS

Lee Haworth 1965 & 1970
Warren Schmidt 1966
Mel Clingan 1967
Ken Murrow 1968
Roger Harter 1969
Dick Mika 1971-72
Terry Messing 1973-74
Denis C. Stewart 1975-76
Jerry D. Andrews 1977
R. Bradley Taylor 1978
Joel M. Pollack 1979
Richard H. Bassett 1980
John W. McKay 1981
Donald L. Tasker 1982
Frank A. Stuckey 1983
Harold Warner, Jr. 1984
Joe Pashman 1985
Jay Schrock 1986
Richard Hill 1987
M.S. Mitchell 1988
Robert Hogue 1989
Jim Miner 1990
Elton Parsons 1991



3/2/92
House E+NR
Attachment 37

Testimony before the House of Representatives
Energy and Natural Resources Committee
March 2, 1992
Bruce H. Robinson - Topeka
HB 3005

Utilities in the Service and Contracting Business

The public utilities in the United States have built a marvelously efficient system of delivering reliable, safe and economical energy and communications service to almost every home in the country. This highly productive system has been built in the last one hundred years because of the very special type of protection that the utilities have been granted within the society.

Throughout most of our economy, the practice of "Monopoly" is impossible and illegal. A monopoly renders consumers powerless to choose among competing sources of goods and services to get the best deal possible, because there is *no competition*. However, it was decided long ago that in order to develop and maintain effective utility services, it would be necessary to grant public utilities monopoly status. This special exemption from typical practice was allowed because it was agreed that no good purpose would be served if the skies were crisscrossed with competing electric and telephone utilities' lines and the yards and streets were undercut with a maze of gas companies' pipes. Further, larger utilities should benefit from certain economies of scale, passing these savings on to consumers. It would be an appalling waste of money and material to provide duplicate, identical services from small, directly competing utilities.

*A monopoly is necessary for the
efficient operation of public utilities*

The special reason a monopoly can be allowed for utilities is the nearly complete uniformity of the services provided by them. Utility service is very much the same everywhere. Natural gas is essentially methane gas. It is extracted from the ground in different ways, is freely intermixed with gas from other wells, shipped across many miles in cross country pipelines, mixed with competitors' gas and finally delivered to our homes at a uniform pressure, functionally indistinguishable as to its original source. Electricity, whether generated by gas, coal, nuclear power, wind or whatever, enters the nationwide electrical grid at the generator and is the same as power generated elsewhere. A toaster produced in Cincinnati works fine in Pratt because of this uniformity. Telephones built anywhere work everywhere and cable television normally provides the same key channels everywhere. Uniformity of utility service makes choosing the best product from competing companies unnecessary because the product is the same. It is easy to set standards which are useful and beneficial based on easily defined physical principles of voltage, pressure, frequency, etc. This system works well and continues to provide economical and safe services to nearly everyone.

Granting monopoly status to a utility requires government supervision. Without this management and oversight, service would not be maintained at the current high level and costs could not be as well contained. Supervision, examination and accountability is essential in the maintaining of utility monopolies. In Kansas, this responsibility falls on the Kansas Corporation

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Attachment 38

Commission with three commissioners and staff. The K.C.C. gets its authority from the legislature and the governor. The Commission grants to regulated utilities a guaranteed investment return on assets used in the production and distribution of energy and communications, as well as recovery of all eligible expenses incurred in the production and distribution of these services.

This combined set of expenses and investment return is called the *rate base*. This total dollar value is spread over the entire base of customers to determine the rates the utility may charge for its services. The investments and expenses eligible for recovery are closely monitored by the regulating authorities. Otherwise, assets and expenses not related to the actual production and distribution of services could be added indiscriminately and our utility costs would increase without any benefit to us. Our utility cost would be inflated by investments that had no connection with utility services. In a ridiculous example, a utility could buy cattle, recover expenses for feed and pasture, and be guaranteed a minimum return on their "investment". This cost would be passed on, of course, to the utility's customers.

The rate base must be based just on utility operations not on outside, non-utility enterprises

In reality, no utility could continue this kind of abuse. The Corporation Commission and the legislature would never allow it. In practice, less obvious but equally abusive practices now exist in Kansas. It is becoming more and more common for utilities to give away water heaters and yard lights, as well as providing low or no interest loans on heating and cooling equipment. Some utilities give incentive payments to contractors for installing certain types of equipment. Rural utilities in many areas are replacing the services of existing contractors by installing water heaters and new wiring. Other utilities are providing direct and indirect incentives to customers and contractors who install certain types of heating and cooling equipment. These services as well as this equipment are being provided at a very low direct cost to customers.

These investments and expenses are frequently assigned to the general accounting heading of *marketing expenses* which are generally allowed under current guidelines for determining the rate base. Some utility activities fall completely outside what could reasonably be considered marketing. Some utilities actively pursue mechanical and electrical contracting and construction services at prices far below those possible by normal businesses. Utilities are allowed, and even encouraged, to participate in activities which permit them to make a profit. Local utility business offices sometimes maintain appliance showrooms selling household appliances at prices below those at competing businesses. Accounting techniques allow utilities to participate in ventures actually losing money while making those activities look profitable.

When a utility installs a furnace, for example, the installers may log their time as though they were reading meters. The trucks they drive and the office staff that provides support may be shown as expenses of another department altogether. Therefore, the costs of the furnace installation are partially paid by the other rate paying customers of the utility. This involvement in non-utility services which is then subsidized by the ratepayer is called ***cross-subsidization***. Considerable anecdotal evidence exists that utilities are doing this today. It is not allowable, but is very hard to find and nearly impossible to prove. Imagine an auditor trying to find out exactly where a given truck was from 2:30 p.m. to 5:00 p.m. on February 13, 1989.

Shifting of costs from one enterprise to another is cross-subsidization; it is at least unethical

This utility practice has caused increased concern among customers and contractors alike. Rate paying customers are concerned because they realize that the "benefits" of these practices fall unequally on various factions of the community while the costs fall on all customers. Utility customers operating a small manufacturing plant or grocery store are not as likely to take the same advantage of yard lights and low interest financing on a gas range as a homeowner. Contractors and dealers are concerned because, while they are not guaranteed a return on investment and recovery of nearly all expenses, the utilities are provided with these guarantees. In short, the regulated utility companies cannot loose money. ***Only contractors and dealers can go broke!*** In many counties, we are seeing this happening now. After just a few more years, there will be no independent dealers and contractors in some areas. Customers will have no choice in their selection of services because their only source of mechanical, appliance, and electrical services will be the utilities.

The need for such services is not uniform like the voltage of electricity or the standard plug of a telephone. Diversity of available services is the cornerstone of our economic system. Our free market has created a broad range of service contractors with varying levels of services and products. The market fairly regulates which of these will prosper and which will fail. Good, independent contractors and dealers live, work and contribute to their local economies. As they decline, the utility will gain a controlling market share and become an unfair monopoly in the local market.

As an example, a local gas utility might promote itself into the furnace replacement and service business by offering low cost maintenance contracts and unreasonably cheap furnace replacements. Some utilities in the state are currently doing just this. The current laws governing the safe installation and repair of furnaces, water heaters, and electrical gear do not apply to utilities. Utilities are specifically exempted from licensing of personnel as well as the safety inspection requirements that regulate contractors. With careful accounting, a utility company is able to assign a majority of its indirect costs to other operations. A contractor or dealer needs to recover all costs of office and sales personnel, lost time, warranties, warehousing, shipping, insurance, utilities, advertising and interest. A clever utility accountant or manager would assign these costs to other operations. This is the fundamental principle of ***cross-subsidization***. This

practice allows the utility to compete unfairly with contractors and gain a dominant market share.

Within a few years the local utility would find itself in the enviable position of controlling not only the supply of gas but also the demand for the same product. Most competing contractors would be gone; most service and installation would be through the same company. Try to imagine living in a town where all the cars and trucks were sold, serviced and tuned up by the same company. In addition, the same company sold all the gasoline in town, and was guaranteed a profit on all these operations. No one could accept that, but some utilities already enjoy this monopolistic situation.

Statewide, customers are demanding more and more efficient lighting, appliances, furnaces, and air conditioners. They can choose from a wide variety of brands and a variety of efficiency ratings. As more these more efficient appliances are installed, the demand for gas and electricity naturally decreases. This results in an increasing squeeze on the utilities. However, if a utility could establish monopolistic control of the new equipment and replacement market, it would have no incentive for promoting high efficiency equipment. Quite the contrary, it could price high efficiency equipment so high that only less efficient furnaces, appliances, air conditioners and lighting would be installed, thereby ensuring continued high demand for its primary products, gas or electricity, wasting non-renewable resources.

***Competition is essential
because service is not a commodity
like gas or electricity and cannot be
successfully regulated***

Utilities are currently replacing existing businesses. While some are actively participating as contractors and dealers in the marketplace, others are now recognizing the opportunity, given the protection of a guaranteed return that no other type of business enjoys. In the best interests of consumers and competitive business, this practice should not be allowed to continue. Other states have recognized this problem and enacted legislation to curb unfair competition by utilities. Some states have been very effective in curbing non-utility operations by utilities; others have not been so successful. In Iowa, for instance, legislation missed the mark. The net effect of the Iowa bill has been to encourage utilities to maintain old gas furnaces indefinitely, but not to install new ones. The result is that old, inefficient equipment is kept long past its useful life; this is not in the best interests of consumers, the economy, or the environment.

Legislation can be enacted in Kansas to remedy this situation. Ideally it would:

- a) Allow utilities the full freedom to operate efficiently and in the best interests of its stockholders, the ratepayer, and the environment.*
- b) Encourage utilities to continue to promote the wise and judicious use of energy.*
- c) Allow utilities to maintain and to operate their facilities economically and to provide safe and reliable service to their customers.*
- d) Require utilities engaging in non-utility operations to do so responsibly and to be accountable to the state.*

Currently, such a bill is under consideration within the Kansas Legislature. It is designated HB 3005. This act is designed to continue free market competition. It maintains the protection and freedom utilities require to operate effectively and does not in any way hamper their current marketing and conservation programs.

This bill does, however, provide that utilities be held accountable for their non-utility functions that private companies now provide. In areas where utilities have already replaced most existing contractors and service businesses, they are fully permitted, by this act, to continue their operation. They will operate in a freely competitive environment. Utilities choosing to enter the contracting and service business would be free to do so; they would operate as any other business, but without the monopoly protection normally given the utility.

In this way, the best interests of utility companies, their stockholders, the free market economy, private businesses and consumers are all served. This bill deserves careful consideration and support!

Bruce H. Robinson, Topeka

KANSAS ELECTRIC COOPERATIVES, INC.
TESTIMONY ON HB 3005

This written testimony is presented to your committee to strongly oppose HB 3005. The testimony is sponsored by the Kansas Electric Cooperatives, Inc. (KEC), the statewide association of the rural electric cooperatives in Kansas.

These cooperatives, as you all are well aware, are owned and operated by their own consumer members, using as democratic a procedure as exists anywhere. These consumers own the assets of the cooperative, are responsible for its operation and assume the mandatory responsibilities. These cooperatives are operated on a not-for-profit basis with the intent of providing reliable central station electricity to their members at an affordable rate. This is, of course, a challenge due to the generally remote location of cooperative lines and the very low density of consumers per mile of line.

Because of this remoteness, some cooperatives, at the mandate of their consumers, do perform very small amounts of related service. This is generally because that service simply isn't available out in the country at an affordable price. Cooperatives also work hard at load management and have promoted efficient water heaters, heat pumps, and load levelers to that end.

Unfortunately, these activities, on rare occasions, have been characterized as anti-competitive. We don't believe that really is the case. These services have been supplied for bona fide business reasons for load management purposes, or because of their unavailability.

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We find, in surveying the KEC member cooperatives, that they would much prefer that local contractors do this work or that local merchants sell these appliances. And, in actuality, that is overwhelmingly the case. Cooperatives do have good relations with local business people and again, in the large majority of cases, the work and appliances are supplied by those business people.

Our concern with HB 3005 derives from our concern that cooperatives would be prevented from conducting their own business as their consumers wish it conducted.

It appears to us that the bill is aimed not at fairness, but at protectionism.

The KCC already has authority to respond to situations of rate-subsidization of anti-competitive activities and that is as it should be. But that is as far as it should go. We feel the bill is redundant.

In any business, no matter how altruistic, there are bound to be differences of opinion over specific situations here and there. That human condition can't be fixed no matter how many laws are passed.

As for the rural electric cooperatives in Kansas, the negative impact of this bill would far outweigh whatever the protection is perceived to be.

Written Testimony Respectfully Submitted by Marshall Clark
for Kansas Electric Cooperatives, Inc.



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**WRITTEN COMMENTS OF MIKE REECHT
ON BEHALF OF AT&T
REGARDING HOUSE BILL 3005**

My name is Mike Reecht, I am State Director of Government Affairs for AT&T in Kansas. I offer written comments regarding House Bill 3005, since I will be out of the city during the scheduled hearing.

House Bill 3005 presents a potentially alarming situation for AT&T as it declares it is the policy of this state that no public utility may engage in any activity which is in competition with private enterprise. As many of you know, AT&T has been operating in a highly competitive environment since the break up of the Bell system in 1984; however, AT&T, due to its long distance business, continues to be classified as a public utility.

Although the majority of people equate AT&T with Long Distance service, the company is involved in many other areas of telecommunication services and products that are highly competitive. AT&T Phone Center stores compete with Wal-Mart, K-Mart and Sears for the sale of telephone sets, electronic typewriters, computers and car phones. AT&T Business Systems competes with Rolm and NEC in the PBX or switchboard market. AT&T Communications competes for placement of coin phones in locations like the State penitentiaries against private payphone providers. Even in the area of financial services, AT&T Universal Card competes with MasterCard, VISA and Discover for consumers' credit card business. As part of the long distance industry AT&T competes with providers of private microwave and cable systems for the provision of telephone facilities for large businesses.

House Bill 3005 could adversely impact AT&T in each of these businesses.

The American consumer benefits from the competitive marketplace. Prices tend to reflect costs and product innovation is stimulated. To stifle this competition is not in the best interest of the consumer.

I urge that you reject House Bill 3005 in its present form.

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