

Approved: Carl Owen Holmes 1-17-95
Date

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES.

The meeting was called to order by Chairperson Carl Holmes on January 11, 1995 in Room 526-S of the Capitol.

All members were present except: Representative Doug Lawrence - Excused

Committee staff present: Raney Gilliland, Legislative Research Department
Dennis Hodgins, Legislative Research Department
Mary Torrence, Revisor of Statutes
Shirley Wilds, Committee Secretary

Others attending: See attached list

Conferees appearing before the committee: Brian Moline, KS Corporation Commission

Chairperson Holmes opened the meeting announcing a scheduled meeting with freshman legislators Friday, January 13.

The Chair informed the Committee of Representative Lawrence's absence and his current status. He said Representative Lawrence would return to the Capitol for the evening session.

The Committee was reminded of their scheduled 3:00 p.m. meeting tomorrow to tour the Rolling Meadows Landfill.

Briefing on Kansas Corporation Commission:

Brian Moline: Mr. Moline offered a brief history of the Commission, citing its philosophy and mission. He explained in some detail their accountability, budget process and their jurisdiction. He specifically noted that the Commission is expected to exercise total quality management goals and ensure that essential goods and services will reach the rural areas of Kansas. (See Attachment #1 and #2.)

Mr. Moline reported the agency-wide goals for the Commission:

1. Provide responsive, impartial and efficient public service to consumers, regulated entities and others.
2. Ensure that regulated utility and common carrier services are available to all Kansans at rates that are just and reasonable.
3. Ensure that the State's oil and gas resources are appropriately developed through vigorous, and fair, enforcement of all laws and regulations.
4. Ensure appropriate utilization of utility and common carrier resources and the development of petroleum resources while protecting the public interests through comprehensive planning, assessment, licensing and inspection.
5. Ensure that regulated entities will provide sufficient and efficient service and operate in an environmentally sound and safe manner.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES, Room 526-S Statehouse, at 3:30 p.m.. on January 11, 1995.

6. Strive to recognize and adapt to changes and regulate where effective competition will serve the public interest, adopting appropriate regulatory policies to ensure balanced competitive opportunity with fair and equitable access to service for all Kansans.

Following a brief Committee discussion of the Commission's functions, the meeting adjourned at 4:20 p.m.

The next meeting is scheduled for January 12, 1995.

Bill Graves - Sheila Frahm
Transition Office
Room 123 South, State Capitol
291-3189

Staff Transition Contact: Jeff Wagaman

1. Please provide a 120-day calendar listing all important due dates, including but not limited to: legislative deadlines, grant applications, policy guidelines, appointments that will be made, administrative guidelines, reorganization activity.

1994 Senate Bill 799 requires the Kansas Corporation Commission to report to the Governor and the 1995 Legislature (on or before the first day of the Session) regarding its progress in obtaining the alternative fuels policy goals established in this legislation. A final report is expected on or before the first day of the 1996 Legislative Session.

1994 Senate Concurrent Resolution No. 1627 directs the development of a state strategic plan for telecommunications. During the first week of the 1995 Legislative Session, the KCC shall report to the Senate Committee on Commerce and the House Committee on Energy and Natural Resources regarding the status of the docket opened by the Commission to determine a plan of regulation to succeed the current scheme of regulation (TeleKansas I) of Southwestern Bell Telephone Company (Docket No. 187,730-U). Additionally, no later than January, 1995, the Commission must file an interim report to the 1995 Legislature (with a final report due in January, 1996) that addresses (but is not limited to) the telecommunication issues set out in SCR 1627.

K.S.A. 66-117b requires the Commission to report annually to the Legislature on or before February 1 regarding any change of rates or schedules approved by the Commission during the preceding fiscal year.

2. Please list any major lawsuits that are pending or expected.

a. Michigan, et al. v. Department of Energy, et al., United States Court of Appeals, D.C. Circuit, Case No. 94-1458. This is one of three consolidated cases dealing with the issue of whether the federal government has a statutory duty to take title to high level nuclear waste (i.e., spent nuclear fuel) beginning January 31, 1998. The Commission, and the Kansas Office of Attorney General, are co-petitioners with other states. The Department of Energy (DOE) has filed a motion to dismiss which has not been ruled on by the court at this time.

Highly summarized, in 1982 Congress passed the Nuclear Waste Policy Act (NWPA) which contained a quid pro quo provision. Utilities operating nuclear power generating facilities were required to enter into a contract with the federal government under which the utility collected a fee from its customers and transferred the amounts collected to the Nuclear Waste Fund. As of December 31, 1993, the fund has approximately \$10 billion. The federal government was to use those funds to develop a high level nuclear waste disposal site, to be operated by the DOE, which was to begin accepting waste no later than January 31, 1998. The DOE, in 1984, held the position that the NWPA created an obligation for the federal government to accept the waste, regardless of whether a disposal site had been developed.

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In 1993, the DOE reversed its position and opined in a series of letters and a notice of inquiry, that the NWPA did not create a clear legal obligation for the federal government to accept the waste if no site was available. A large number of states and public utilities have now sued the DOE to obtain a legal ruling on whether the NWPA creates an obligation for the DOE to take the waste no later than the date specified. If the DOE prevails, nuclear powered generation facilities such as Wolf Creek will be required to develop alternative plans for disposal of spent nuclear fuel. This will translate into increased rates and potential environmental concerns.

Michigan is acting as the lead state in this matter and the Commission is reviewing their proposed filings as they become due. No action is necessary at this time.

b. Mobil Exploration & Producing, et al. v. Kansas Corporation Commission, Kansas Court of Appeals. The Commission, after a lengthy series of hearing and consideration, amended the Basic Proration Order for the Hugoton Natural Gas Field. Several parties appealed to the Shawnee County District Court which affirmed the Commission's orders completely. Four parties, Mobil, Oxy USA, Vastar and Amoco, have appealed the Shawnee County decision to the Kansas Court of Appeals.

The Commission, in order to fulfill its statutory duty to prevent waste of natural gas, amended the definition of the deliverability standard pressure, determined allowable production should be based in part on the three month average demonstrated production capability of individual wells, provided an incentive for infill well drilling by increasing the acreage factor to .65 from .5, and then set new requirements for the cancellation of underages. The parties challenge various aspects of the order as either unlawful, not based on substantial competent evidence, unreasonable, arbitrary or capricious. The Commission will need to file its brief in mid to late January 1995. Oral argument will probably be set in March or April, 1995.

c. Williams Natural Gas Company, Inc. v. Kansas Corporation Commission, Kansas Court of Appeals Case No. 94-72,894 and Shawnee County District Court Case No. 94 CV 1278. These two cases are identical and arise out of the rate application of Kansas Natural Pipeline and Kansas Natural Partnership, Docket No. 190,362-U. Because there are two types of orders being challenged by Williams there is some confusion as to which court has jurisdiction. Williams has filed in both courts. During the proceedings in Docket No. 190,362-U, Williams filed a petition for declaratory ruling by the Commission which requested the Commission find that two accounting orders issued in October 1991 in Docket Nos. 178,513-U and 178,514-U respectively, were invalid and that any testimony by witnesses in Docket No. 190,362-U related to those accounting orders be struck from the record. The Commission denied that request in its entirety.

Williams has now appealed to the courts to overturn the Commission's rulings. The Commission has filed motions to dismiss in both courts on jurisdictional grounds. The Court of Appeals has given Williams until December 4, 1994 to respond to the motion to dismiss. The Court of Appeals, as required by statute, has also set an expedited briefing schedule. The Commission's brief will be due December 19, 1994. The district court may wait and see what the Court of Appeals does with the case before it acts on the motion to dismiss.

3. Please prepare a two page briefing paper of the department; highlighting budget, policy and personnel considerations.

Attachment A provides an organization/budgetary overview.

4. Please list the five most important issues facing the department at present.

- a. Developing appropriate regulatory policy for emerging competition in the telecommunication industry.
- b. Developing a fair and stable funding mechanism based on depleting natural resources for the Oil and Gas Conservation Division.
- c. Immediate overhaul of all statutes regarding trucking industry as a result of recent federal pre-emption legislation.
- d. Santa Fe Railroad merger and impact on Kansas.
- e. Appropriate regulatory policies for gas and electric industries in light of trends toward increased competition.

Please list the five most important issues facing the department five years from now.

- a. Managing federal pre-emption and de-regulatory mandates while achieving statutory and policy goals of universal access at manageable cost for electric, gas, telecommunication and transportation industries.
- b. Continued evolution of regulation of telecommunications to reflect changes in industry structure, technology and policies.
- c. Financing and operational implementation of state statutory mandate to plug all abandoned oil and gas wells in the state.
- d. Managing emerging competitive trends in the electric industry consistent with the statutory and policy goal of affordable access for both urban and rural residents.
- e. Managing impact of depletion of oil overcharge funds in 1997 which have been used for many years to fund a variety of energy and other projects.

5. Please compile any internal and external reports about your agency (i.e., Legislative Post Audit) that may have been undertaken in the last four years.

Attachment B is a compilation of reports filed with the Graves-Frahm transition team on November 28, 1994.

6. During the transition period, one of the transition team members may ask to speak with one of your agency staff members in the department about specific information. Please identify a contact person and telephone number for the areas of:

- | | |
|----------------------|--|
| A. Policy: | Brian Moline, General Counsel (271-3162)
Judith McConnell, Executive Director (271-3169) |
| B. Budget: | Judith McConnell, Executive Director (271-3169)
Donna Huxman, Chief Fiscal Officer (271-3262) |
| C. Personnel: | Judith McConnell, Executive Director (271-3169)
Dolores Gonzales, Personnel Director (271-3161) |

7. We would appreciate it if you would identify a member of the agency, who has an extensive service record and general knowledge about a variety of issues.

Name: Judith McConnell	Title: Executive Director
Phone: 271-3169	FAX: 271-3354

KANSAS CORPORATION COMMISSION
Information Compiled for Transition Team-1994

The Commission's responsibilities are very broad, diverse, and complex. The KCC is, like most regulatory agencies, something of a hybrid in state government. The Commission fulfills a combination of legislative, executive, and judicial functions. The services regulated by the KCC include electric, gas, telephone, water and transportation companies. Additionally, the Commission regulates oil and gas production by protecting correlative rights and environmental resources. The Corporation Commission's mission is to protect the public interest through impartial, and efficient resolution of all jurisdictional issues.

The Commissioner's are assisted in their responsibilities by a staff of 221 employees. The Commission's functions are carried out under four separate divisions: Administrative Services/Legal, Utilities, Transportation, and Conservation. The first three divisions are located in Topeka, while the Conservation Division is located in Wichita and is supported by four district offices.

Like most state regulatory bodies, the KCC is financed through a combination of fees, assessments, and federal funds--no state general fund revenues are involved. The Commission's approved Fiscal Year 1995 budget totals approximately \$13.4 million.

Administrative Services

The main functions of the Division are providing legal advice to the Commission, facilitating hearings, and performing the basic support services of the organization (including personnel, accounting, information services, public affairs and consumer protection). Legal, administrative, and support staff personnel total 57.5 F.T.E. positions.

<u>Object Code</u>	<u>- FY 1995 Budget -</u> <u>Amount</u>	<u>Percent of Total Budget</u>
Salaries	\$2,507,847	74%
Operating Expenditures	756,480	22%
Capital Outlay	<u>144,937</u>	4%
Total - Administrative/Legal	\$3,409,264	

Utilities Division

The Utilities Division administers the laws and regulations applicable to approximately 195 jurisdictional electric, natural gas, telephone, and water utilities. Its operation is primarily geared towards providing analysis and recommendations to the Commission on the fairness and reasonableness of utility rates and tariffs. It is also concerned with the sufficiency and efficiency of utility services and operations. The program generally tries to assure that the utilities are providing the service they are supposed to at a price that is fair to the consumer and the utility. The program has five basic operating functions: Accounting; Economic Policy and Research; Telecommunications Rates and Services; Electric Operations and Rates, and Natural Gas Operations and Rates, which also includes Pipeline Safety. The utilities program has 51 authorized positions.

<u>Object Code</u>	<u>Amount</u>	<u>Percent of Total Budget</u>
Salaries	\$2,143,373	75%
Operating Expenditures	617,325	22%
Capital Outlay	<u>80,289</u>	3%
Total - Utilities	\$2,840,987	

Conservation Division

The Conservation Division enforces statutes and regulations pertaining to the conservation of crude oil and natural gas, plugging of wells, underground disposal of salt water produced in connection with oil and gas recovery, repressuring and water flooding of oil and gas reservoirs, protection of correlative rights, and protection of fresh and usable water. All oil and gas exploration and production in Kansas is regulated by this program. Monitoring of Class II Underground Injection Control Wells are administered solely by the conservation program. They by 86.5 authorized positions to perform their programs.

<u>Object Code</u>	<u>- FY 1995 Budget -</u> <u>Amount</u>	<u>Percent of Total Budget</u>
Salaries	\$3,346,128	72%
Operating Expenditures	1,104,087	24%
Capital Outlay	<u>228,518</u>	4%
Total - Conservation	\$4,678,733	

Transportation Division

The Transportation Division regulates motor carriers of persons and property (common, contract and private carriers), railroads, and liquid pipelines. This division is responsible for all phases of motor carrier regulation including granting authority, registering equipment, and issuing Commission citations and orders. The Transportation Division has 20 authorized positions to carry out its responsibilities.

<u>Object Code</u>	<u>- FY 1995 -</u> <u>Amount</u>	<u>Percent of Total Budget</u>
Salaries	\$726,926	71%
Operating Expenses	281,709	28%
Capital Outlay	<u>13,711</u>	1%
Total - Transportation	\$1,022,346	

Energy Programs

While technically a section within the Administrative Services Division, the section is set out separately for budgetary purposes because of its unique responsibilities. The Energy Programs Section administers federally-mandated and state programs aimed at promoting energy conservation practices and delivering energy conservation. The Division is charged with developing a comprehensive state energy plan and the procedures for implementing the plan according to federal requirements. The Division makes requests for and accepts funds and other assistance from federal agencies for energy conservation and other energy-related activities in the state. The energy section has a total of 6 authorized positions.

<u>Object Code</u>	<u>- FY 1995 -</u> <u>Amount</u>	<u>Percent of Total Budget</u>
Salaries	\$236,911	21%
Operating Expenses	119,999	11%
Capital Outlay	4,400	1%
Aid to Local Units	<u>742,475</u>	67%
Total - Energy	\$1,103,785	

FY 1995 Agency Budget Recap

The Corporation Commission's FY 1995 authorized agency budget estimate is \$13,355,115 with a total 224.5 authorized positions. Funding for the commission's budget comes from four (4) special revenue fee funds, five (5) federal grants and oil overcharge funds.

<u>FY 1995 Budget Object Code</u>	<u>Amount</u>	<u>Percent of Total Budget</u>
Salaries	\$8,961,185	69%
Operating Expenditures	2,879,600	22%
Capital Outlay	471,855	4%
Aid to Local Units	<u>742,475</u>	5%
Total FY 95 Authorized Budget	\$13,055,115	
<u>Funding</u>		
Special Fee Funds	\$11,599,987	89%
Federal Grants	712,653	5%
Oil Overcharge Fund	<u>742,475</u>	5%
	\$13,055,155	

KANSAS CORPORATION COMMISSION
Information compiled for Transition Team-1994

Miscellaneous Brochures

Kansas Relay Center
Cold Weather Rule
Cold Weather Rule (Spanish)

Natural Gas
Kansas Operation Lifesaver
KCC Program Areas
Utilities Division
Transportation Division
Conservation Division
Alternative Fuels

Department of Energy

Letter reviewing Audit reports for fiscal years 1991, 1992, and 1993

Annual Review of Kansas Regulation, Regulatory Research Associates, Inc.

September 1994
September 1993
September 1992
September 1991

Kansas Railroad Safety Statistics

1993, 1992, 1991, and 1990

Annual Reports

Report to the 1994 Kansas Legislature
Report to the 1993 Kansas Legislature
Report to the 1992 Kansas Legislature
Report to the 1991 Kansas Legislature

Performance Audit Report (Legislative Division of Post Audit)

April 1994--Examining the Corporation Commission's Management and Use of Its
Conservation Fee Fund

March 1992--Reviewing Potential Overlap in State Agencies' Responsibilities for
Protecting Groundwater and Regulating Transportation

Data Management Implementation Committee, Final Report, November 1993

Kansas Energy Policy Committee Report, February 1993

Kansas Commission on Natural Gas Policy, Report to the Kansas Legislature, January 1993

First International Alternative Fueled Vehicle Round-Up Report, June 1992

Kansas State Review, Review of Oil and Gas Exploration and Production Waste Management
Regulatory Programs, August 1993

Uniform Production Reporting Model, Final Report, June 1994

KANSAS STATE CORPORATION COMMISSION

AGENCY MISSION:

The mission of the state corporation commission is to protect the public interest through impartial, and efficient resolution of all jurisdictional issues. The agency shall regulate rates, services and safety of public utilities, common carriers, motor carriers and regulate oil and gas production by protecting correlative rights and environmental resources.

AGENCY PHILOSOPHY:

The state corporation commission will act according to the highest standards of ethics accountability, and openness. We will regulate aggressively but fairly, in a competent, effective, and efficient manner. In serving the public, the Commission will balance the interests of consumers, regulated entities, and others treating all with respect and dignity.

PROGRAMS ESTABLISHED TO ASSIST WITH AGENCY MISSION:

- Administration/Legal Division
- Utilities
- Conservation
- Transportation
- Energy Programs

STATUTORY HISTORY:

KSA 74-601 establishes the state corporation commission consisting of three member appointed by the governor and subject to confirmation by the senate.

KSA 74-616 gives the corporation commission powers and duties relating to energy resources such as; develop a comprehensive state conservation plan; make requests for and accept funds and other assistance from federal agencies for energy conservation and other energy related activities in this state.

KSA 66-101 to KSA 66-1,238 gives the corporation commission the powers duties authority and jurisdiction to supervise and control electric public utilities, gas utilities, telephone public service, common carriers, defined to mean railroad companies, pipelines and all person and associations of persons whether incorporated or not, operating such agencies for public use in the conveyance of persons or property within the state.

Chapter 55 The corporation commission was given sole authority for regulating oil and gas activities and monitoring Class II Underground Injection Control Wells. Responsibilities include the prevention of waste and protection of all fresh-water strata.

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AGENCY WIDE GOALS:

1. We will provide responsive, impartial and efficient public service to consumers, regulated entities and others.
2. We will ensure that regulated utility and common carrier services are available to all Kansans at rates that are just and reasonable.
3. We will ensure that the State's oil and gas resources are appropriately developed through vigorous, and fair, enforcement of all laws and regulations.
4. We will ensure appropriate utilization of utility and common carrier resources and the development of petroleum resources while protecting the public interests through comprehensive planning, assessment, licensing and inspection.
5. We will ensure that regulated entities will provide sufficient and efficient service and operate in an environmentally sound and safe manner.
6. We will strive to recognize and adapt to changes in the industries we regulate and where effective competition will serve the public interest we will adopt appropriate regulatory policies to ensure these goals and balance competitive opportunity with fair and equitable access to service for all Kansans.