

Approved: 3-14-95
Date

MINUTES OF THE SENATE COMMITTEE ON ENERGY & NATURAL RESOURCES.

The meeting was called to order by Chairperson Don Sallee at 8:00 a.m. on March 7, 1995 in Room 254-E- of the Capitol.

All members were present:

Committee staff present: Raney Gilliland, Legislative Research Department
Dennis Hodgins, Legislative Research Department
Mary Ann Torrence, Revisor of Statutes
Mike Corrigan, Revisor of Statutes
Clarene Wilms, Committee Secretary

Conferees appearing before the committee:

Gilbert E. Hanson, Jr. General Manager, Kansas Municipal Energy Agency, Overland Park
Joe L. Norton, General Counsel, Kansas Municipal Energy Agency, Gilmore & Bell, Wichita, Kansas
Louis Stroup, Jr., Executive Director, Kansas Municipal Utilities, Inc.
Art Griggs, Department of Administration
Jack Ranson, Wichita, Kansas

Others attending: See attached list

The Chairperson called attention to the minutes presented for approval or correction, also a list of bills assigned to the committee. Due to the short period of time for hearings, members were requested to advise the Chair of any bills they wished to have scheduled for hearings.

SB 337: An act relating to energy; concerning purchase of energy by municipal energy agencies; relating to financing of energy sales

Gilbert E. Hanson, Jr., General Manager of the Kansas Municipal Energy Agency, appeared before the committee in support of **SB-337**. (Attachment 1) Mr. Hanson stated that **SB-337** would amend the Municipal Energy Agencies Act to allow energy agencies to finance State purchases of its electricity needs, thus providing the State with opportunities to reduce its costs. This bill would promote an environment where the State could combine its electricity needs for the purpose of planning, coordinating and financing long-term purchase arrangements.

A member questioned why the suppliers would want to enter into such an agreement with Mr. Hanson stating that one reason would be they would obtain the cash at a discounted value up front.

Joe L. Norton, General Counsel, Kansas Municipal Energy Agency, Gilmore & Bell, Wichita, Kansas, appeared in support of **SB-337**. (Attachment 2) Mr. Norton told the committee this bill proposes several amendments to statutes comprising the Municipal Energy Agency Act which authorizes the creation by one or more cities of a municipal energy agency. Mr. Norton stated any revenue bonds issued by an Agency must be approved by the Kansas Corporation Commission, also to fund any agreement that the state may enter into pursuant to the bill, the Kansas legislature must annually appropriate funds necessary to make repayments to an Agency. The bill does not approve any particular financing of a state purchase to be undertaken nor does it establish the parameters of any such financing. The six proposed changes to statute are outlined in Mr. Norton's written testimony.

Louis Stroup, Jr., Executive Director of Kansas Municipal Utilities, Inc., appeared in support of **SB-337** stating that his organization has worked with the Kansas Municipal Energy Agency for a number of years and felt the proposed amendments could be beneficial to the state of Kansas as well as the electric utilities that serve the state. (Attachment 3)

Art Griggs, Department of Administration, appeared in support of **SB-337**. (Attachment 4) Mr. Griggs stated the bill would allow the State of Kansas to pre-pay for electricity used by State agencies. If the state could finance

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES, ROOM 254-E-Statehouse, at 8:00 a.m. on March 7, 1995.

the pre-payment at tax-exempt interest rates they should be able to obtain pre-payment discounts from an electric utility that would more than offset the interest expense of the funds borrowed to make a pre-payment. Mr. Griggs proposed a new Section 7 to the bill which would authorize the Secretary of Administration to authorize issuance of bonds or other forms of indebtedness in order to pre-pay for State purchases of electric power and energy requirements of State agencies. The amendment would authorize the Secretary of Administration to enter into agreements with the Kansas Municipal Energy Agency or the Kansas Development Finance Authority to act as an issuer of bonds or other forms of indebtedness that are issued to provide funds to pre-pay for such electric power and energy requirements. This bill, with proposed amendments, would offer the state three new options to carry out financing to pre-pay electrical services and provide an opportunity for substantial savings for the taxpayers of the State.

A committee member asked how KMEA felt about the change proposed by the Department of Administration. Jack Ranson told the committee they were not aware of the changes suggested by the Department of Administration and stated they had been working on their proposal for well over a year had been in discussions with Western Resources during that time. Mr. Ransom stated KMEA was not prepared to respond to this suggestion at the present time.

Senator Vancrum made a motion to approve the minutes for February 21, 22 and 23, 1995. Senator Lee seconded the motion and the motion carried.

The meeting adjourned at 8:58 a.m.

The next meeting is scheduled for March 8, 1995.

TESTIMONY ON SB 337

Before the Senate Energy & Natural Resources Committee

March 7, 1995

Mr. Chairman, members of the Committee, I am Gilbert E. Hanson, Jr., general manager of the Kansas Municipal Energy Agency, located in Overland Park.

KMEA is a joint action agency formed in 1980 by 32 Kansas municipalities that operate municipal electric utility systems. KMEA's main activity is to assist its member cities in securing economical and reliable electricity supplies. KMEA provides similar services to 26 other municipal utility systems in Kansas.

I appear today to support SB 337, which amends the Municipal Energy Agencies Act to allow energy agencies to finance State purchases of its electricity needs, thus providing the State opportunities to reduce its costs. Using the financing options permitted by the amendment, the State could enter into arrangements with its electricity suppliers that would benefit the State and its suppliers. Prior to requesting this proposed legislation, KMEA discussed the potential for shared benefits with Western Resources, Inc., a major supplier to the State.

When considered in total, the State is a substantial electricity consumer. The State purchased \$31.6 million of electricity during fiscal year 1994, according to the Department of Administration. The Department reports that over the last ten years the State's annual purchases ranged from \$25.4 to \$31.5 million.

SB 337 would promote an environment where the State could combine its electricity needs for the purpose of planning, coordinating and financing long-term purchase arrangements. The State would examine whether it could save money by making an upfront investment in its future electricity needs and receiving credit for doing so. It would permit KMEA, which has successfully

issued electric utility bonds for its municipal members, to arrange financing on behalf of the State. KMEA would coordinate the terms of the purchase arrangements and provide financing with revenues bonds that could be issued without the pledge of the faith and credit of the State.

The proposed amendment would not obligate any party to enter into electricity purchase arrangements. Instead, the parties would be given flexibility to structure mutually beneficial methods to supply electricity to the State.

I cannot today quantify savings that would accrue to the State from the opportunities created by the amendment. Any purchase arrangement must be approved by the State, its current electric supplier and any other affected utility suppliers. (See Section 17.) The Kansas Corporation Commission's review authority over jurisdictional utility suppliers would not change.

We appreciate that the Legislature made KMEA's formation possible with the legislation passed in 1976. KMEA has helped its members secure economical electricity for their citizens, by jointly planning, financing and purchasing their electricity needs. I look forward to having KMEA take part in bringing the same cost-savings approach to the State.

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KANSAS SENATE ENERGY AND NATURAL RESOURCES COMMITTEE MARCH 7, 1995

SENATE BILL No. 337

Background. Senate Bill No. 337 (the "Bill") proposes several amendments to statutes comprising the Municipal Energy Agency Act, K.S.A. 12-885 *et seq.* (the "Act"). The Act authorizes the creation by one or more cities of a municipal energy agency (the "Agency"). Such cities must operate electric utility systems having generation capabilities during 1976. The agreement creating an Agency must be approved by the Attorney General, filed with the Secretary of State, the State Cooperation Commission (the "KCC") and with the Register of Deeds of each county in which a member city is located. The Act provides that Agencies are authorized to operate as a public utility without obtaining a certificate of public convenience; provided, however, that such Agencies are subject to the jurisdiction of the KCC in the same manner as a public utility. Agencies have the power to issue revenue bonds for certain projects relating to electric energy, may provide planning and other services and may purchase and sell electricity; provided they may not enter into an agreement or contract for the direct sale of electricity to any person other than a member city of the Agency or a utility operating an electric generating system during the calendar year 1976. Agencies have no authorization to issue general obligation bonds or to levy taxes of any kind.

KMEA. The Kansas Municipal Energy Agency ("KMEA") is the only Agency organized under the Act. KMEA, (originally organized as the Northwest Kansas Municipal Energy Agency in 1978) was organized in 1980, and currently has 32 member cities. The above-captioned firm has served as general counsel to KMEA since its inception.

Provisions of the Bill. The following comments are made with respect to substantive changes to the Act made by the Bill. Various other technical or "clean-up" changes to the Act included in the Bill have been suggested by the Revisor of Statutes.

Section 1 (page 2, lines 9-13). The definition of "state purchase" is added. This deals with purchases of electric power and energy of the state at the location where the same is to be consumed from the retail supplier certificated to serve such location. This definition would not alter the territorial requirements of other Kansas law with respect to sale of electricity.

Section 2 (page 4, lines 10-15). This expands the powers of an Agency to finance a state purchase from the retail supplier then providing such electric service to the state at the location where the service is to be consumed. Such a financing is **conditioned** on a written agreement between state and affected utilities or persons granted certificated authority to provide electric service to the state.

Section 3 (page 4, lines 37-38). Clarifies the financing of a state purchase to **not** be a direct sale of electricity within the meaning of the Act.

Section 4 (page 4, line 42). Clarifies that revenue bonds of an Agency are **not** obligations of the state.

Section 5 (page 5, lines 11-12). Includes the financing of a state purchase in the list of purposes for which an Agency may issue revenue bonds .

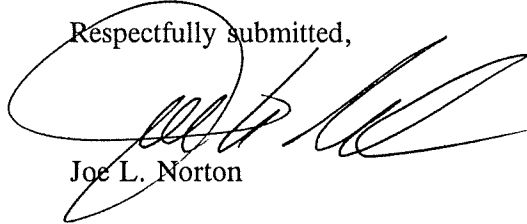
Section 5 (page 6, lines 38-40). Authorizes the Secretary of Administration to enter into contracts, on behalf of the state, with an Agency for a period not to exceed 40 years to secure the financing of a state purchase.

Commentary. The Bill, if adopted in its present form, merely authorizes an Agency to finance a state purchase and authorizes the Secretary of Administration to enter into an agreement relating thereto. It is important to note what the Bill does **not** do. The Bill does not approve any particular financing of a state purchase to be undertaken. Nor does it establish the parameters of any such financing. Many complicated and technical market conditions and federal laws may inhibit the completion of such a financing. The Bill requires that before such financing takes place the state must enter into an agreement with the Agency and the retail supplier of electricity to the state. In addition, revenue bonds issued by an Agency must be approved by the KCC. Finally, in order to fund any agreement that the state may enter into pursuant to the Bill, the Kansas legislature must annually appropriate funds necessary to make repayments to an Agency.

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Any additional questions concerning legal matters relating to the Bill or its impact on Agencies or KMEA, may be addressed to the undersigned.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Joe L. Norton", is written over the typed name. The signature is fluid and cursive, with a large loop at the beginning.

Joe L. Norton

JLN:sls

JLN\00458.05\CORRESP

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The Kansas Municipal Energy Agency

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* *KMEA Member City*
* *Contract City*

(This memorandum prepared by the Kansas Municipal Energy Agency,
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About the Kansas Municipal Energy Agency

The Kansas Municipal Energy Agency ("KMEA") is a joint-action electric power supply agency which was created pursuant to the Municipal Energy Agencies Act, K.S.A. 12-885 *et seq.* On May 1, KMEA will complete its 15th year of operations.

KMEA has purchased, marketed and sold electricity since 1982. Among its ongoing activities, all with the purpose of enhancing the reliability and obtaining savings on the cost of electric power, KMEA has:

- Financed a 15.96% entitlement share of the output of a coal-fueled electric power plant.
- Issued bonds for transmission and substation facilities in order to interconnect five electric systems and make them more efficient.
- Contracted for bulk power purchases and reliability services on behalf of its members.
- Negotiated agreements to administer two pools in Kansas to distribute hydroelectric power from the Southwest Power Administration and Western Area Power Administration of the U.S. government and to make certain that benefits from this power reach all participating customers.
- Undertaken management and staffing of the Kansas Municipal Gas Agency, which makes bulk purchases of natural gas for municipalities which furnish gas to consumers.
- Negotiated with other Kansas utilities on a spectrum of electric supply issues, including pricing, transmission and quality of service.
- Helped members to improve the efficiency and economics of their electric systems.
- Played a role in developing national and state energy policy, including the National Energy Policy Act of 1992, which opened markets so that additional savings on electric purchases are possible, and the Clean Air Act of 1991.

KMEA, a quasi-municipal corporation, has engaged in all of these activities on a nonprofit basis. Each program of the Agency has been successful.

To date, KMEA has marketed 10 issues of new and refunding electric revenue bonds, with total primary sales aggregating to more than \$59 million. The Agency is headquartered in Overland Park, Kansas. It serves 58 cities.

Reasons For KMEA To Facilitate The State's Prepayment of Electric Needs

- KMEA has the experience in power supply negotiations to conduct the prepayment purchase negotiations between the State and its energy suppliers.
- KMEA has a diverse membership whose energy usage patterns are complex like the State's energy purchases at large and small facilities under different rate schedules and at different voltages.
- KMEA has advanced hardware and software in place to process major billings and payments under power purchase contracts.
- KMEA is involved with demand-side management programs and integrated resource planning and can understand the impact of the State's conservation program on its power purchases.
- KMEA is particularly familiar, through ratemaking, licensing and power supply negotiations, with the costs and operations of KP&L and KG&E, which are the State's major electric suppliers.
- KMEA has negotiated and designed single-rate tariffs for multiple purchasers of electricity.
- KMEA has issued tax-exempt electric revenue bonds for power supply and is a known and well-regarded credit in the financial markets.
- With KMEA as the issuer of prepayment bonds, the State Corporation Commission--- which must satisfy itself that any arrangement is at least neutral to the suppliers' other customers--- would not face the conflict of having to pass judgment on a financing of another state agency.

TESTIMONY ON SB 337
Before Senate Energy & Natural Resources Committee
March 7, 1995

Mr. Chairman, members of the Committee, I am Louis Stroup, Jr., executive director of Kansas Municipal Utilities, Inc., a statewide association of municipal electric, gas and water cities which was founded in 1928 and whose member cities provide utility services to more than 1 million Kansans.

KMU instigated the original KMEA legislation which was passed 18 years ago by the 1976 legislature. KMEA has done a wonderful job serving its members and has worked jointly with KMU on many issues.

SB 337 would provide amendments to the original act that we think could be beneficial to the state of Kansas as well as to the electric utilities that serve the state.

As we enter a new challenging era in the electric industry, it will be helpful to be innovative and we feel SB 337 is a step in the right direction. KMU urges your support of this measure.

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TESTIMONY TO THE
SENATE ENERGY AND NATURAL RESOURCES COMMITTEE

By

Art Griggs, Department of Administration

Tuesday, March 7, 1995

Re: Senate Bill No. 337

Mr. Chairman and members of the committee,

My name is Art Griggs. I am an attorney for the Department of Administration. Today I am appearing to testify on behalf of the Department of Administration in support of Senate Bill No. 337.

The bill would allow the State of Kansas to pre-pay for electricity used by State agencies. Because the State could finance the pre-payment at tax-exempt interest rates, the State should be able to obtain pre-payment discounts from an electric utility that more than offset the interest expense of the funds borrowed to make a pre-payment.

By way of background, the State did a somewhat similar pre-payment in 1993 for telephone service. In that case the State pre-paid \$4.6 million to Southwestern Bell for Plexar Telecommunication services in the Capital Complex area and for the Kansas Corporation Commission Building. The discount rate the State obtained by pre-paying for this service was 11.81% in the case of the Capital Complex and 10.21% in the case of the KCC building. The interest rate on the funds borrowed to make the pre-payment was 4.97%, thus the State realized a savings of \$1,252,997 by carrying out this pre-payment.

The State is currently entering into a new contract for the State's KANS-A-N backbone network. The State has negotiated a provision with A.T. & T. that gives the State the right to pre-pay not less than \$40,000 per month for service with a discount rate of 13.138%. Based on our estimate of current market rates this pre-payment option, if exercised, would provide an estimated \$147,226 savings for services through February 28, 1998.

The type of savings realized in the pre-payment of telecommunications services appears to have an equal potential for savings in the electric utility area. In short, the Department of Administration endorses the concept of pre-paying for services where savings can be achieved and the best interests of the State protected.

Senate Bill No. 337 provides one mechanism to accomplish a pre-payment by having the Kansas Municipal Energy Agency issue the debt on behalf of the State in order to provide funds to accomplish a pre-payment. For information, in fiscal year 1994 the State expended \$31.5 million for electric utility services.

Under current law, K.S.A. 75-3799, the State is authorized to utilize a financial services negotiating committee to obtain financing, including financing for pre-payment of services. The type of competitive procurement of financing authorized by this statute does not allow bonds or

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certificates of participation to be issued by the State. Rather, the financing is obtained from a single financing company or consortium, as opposed to selling bonds or certificates of participation to individual investors or financial institutions.

In order to provide the State with a broader array of options to obtain financing to pre-pay electric services, the Department of Administration recommends the addition of an additional section to Senate Bill 337 which provides as follows:

New Sec. 7. The Secretary of Administration is authorized to issue bonds or other forms of indebtedness in order to pre-pay for State purchases of electric power and energy requirements of State agencies. The Secretary of Administration also is authorized to enter into agreements with the Kansas Municipal Energy Agency or the Kansas Development Finance Authority to act as an issuer of bonds or other forms of indebtedness that are issued to provide funds to pre-pay for such electric power and energy requirements.

In summary, Senate Bill No. 337, with the amendments suggested above, would offer the State three new options to carry out financing to pre-pay electrical services. Such options provide an opportunity for substantial savings for the taxpayers of the State. I would be pleased to respond to any questions from committee members.

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