

Approved: _____

Date 3/19/97

MINUTES OF THE HOUSE COMMITTEE ON UTILITIES.

The meeting was called to order by Chairperson Don Myers at 9:00 a.m. on March 14, 1997 in Room 220-S of the Capitol.

All members were present except: Rep. Alldritt - excused
Rep. Vining - excused

Committee staff present: Lynne Holt, Legislative Research Department
Mary Ann Torrence, Revisor of Statutes
Mary Shaw, Committee Secretary

Conferees appearing before the committee:

Others attending: See attached list

Chairperson Don Myers reminded the Committee for those going to Wolf Creek to meet at the north door of the Capitol instead of the south door on Monday. Also, he mentioned that additional information was received from Western Resources about the tour of Wolf Creek in that you are asked to wear comfortable shoes, casual clothing and leather shoes. Ladies will not be allowed to tour in high heels or open toed shoes and they suggest wearing slacks. Also very important is that each participant needs to bring a driver's license or other photo identification. KEPCo is providing lunch that day. An e-mail will be distributed regarding this information.

The Chair mentioned that the Committee would be working **SB 333** today.

SB 333 - state corporation commission assessment of expenses

The Chair opened the meeting to discussion on **SB 333**. The Chair recognized Representative Sloan who had a balloon amendment drafted by Mary Torrence, Revisor. Representative Sloan explained the balloon amendment (Attachment#1). Discussion followed.

Representative Sloan made a motion to adopt the balloon to SB 333. Representative Johnson seconded the motion. There being no more discussion, the motion passed.

The Chair recognized Tom Day, Legislative Liaison for the Kansas Corporation Commission, who then explained the Kansas Corporation Commission amendment (Attachment#2). Mr. Day explained the Kansas Corporation Commission amendment. Discussion followed.

The Chair inquired of Staff, Mary Torrence, Revisor, if there would be any problem putting the two amendments together and she saw no problem. Discussion followed.

Representative Sloan moved that a conceptual motion be made to merge the language on Page 2 of the Kansas Corporation Commission amendment with the balloon amendment drafted by the Revisor and Representative Sloan, and in addition, insert the word "business" between the words three and days on Page 1, in the paragraph beginning on line 29 of the Sloan amendment drafted by the Revisor. Representative Humerickhouse seconded the motion. Motion passed.

Discussion continued regarding the Kansas Corporation Commission amendment on Page 3 of their attachment.

Representative Sloan made a motion to accept the language on Page 3 of the Kansas Corporation Commission amendment and incorporate it into SB 333. Representative Stone seconded the motion. Motion passed.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON UTILITIES, Room 514-S Statehouse, at 9:00 a.m. on March 14, 1997.

The Chair recognized Representative McKinney who mentioned that SB 177, which has already had hearings before the Committee, allows the Corporation Commission 30 days to order response for request for a Commission Order, and under existing law, they only have 20 days to do that. He mentioned that in hearings it was indicated that some of the petitions take a lot of time to adequately consider them, and he felt it germane to SB 333. Discussion followed.

Representative McKinney made a motion to add the provisions of SB 177 onto SB 333. Representative Aurand seconded the motion. Discussion followed regarding a conforming amendment to SB 177 proposed by the Revisor (Attachment #3). Representative McKinney withdrew his motion which was currently on the floor with no objection from Representative Aurand who had seconded the motion. More discussion followed.

Representative McKinney then made a motion to add the conforming amendment to SB 177, that was proposed by the Revisor, and amend both into SB 333. Representative Aurand seconded the motion. Motion passed.

Representative Johnson made a motion to pass SB 333 favorable for passage as amended. Representative Burroughs seconded the motion. Motion passed.

The Chair asked Representative Sloan to carry SB 333 and he accepted.

The meeting was adjourned at 9:30 a.m.

The next meeting is scheduled for March 18, 1997.

HOUSE UTILITIES COMMITTEE GUEST LIST

DATE: March 14, 1997

NAME	REPRESENTING
Stacy Byrnes	KCC
Tom Wiley	KCC
Dick F. Baker	Western Resources
Mike Scott	SWIST
Mike Reecht	AT&T
J.C. Long	UtiliCorp United Inc
Denny Koch	SW Bell
ED SCHAUB	WESTERN RESOURCES
Amy Cunniff	R. Rice Law Office
Michelle Peterson	Peterson Public Affairs Group
Rob Hayes	Ks Telecom Assn

SENATE BILL No. 333

By Committee on Utilities

2-14

10 AN ACT concerning assessment of expenses by the state corporation
11 commission; amending K.S.A. 66-1502 and repealing the existing
12 section.

13
14 *Be it enacted by the Legislature of the State of Kansas:*

15 Section 1. K.S.A. 66-1502 is hereby amended to read as follows: 66-
16 1502. Whenever, in order to carry out the duties imposed upon it by law,
17 the state corporation commission, in a proceeding upon its own motion,
18 on complaint, or upon an application to it, shall deem it necessary to
19 investigate any public utility or common carrier or make appraisals of the
20 property of any public utility, such public utility or common carrier, in
21 case the expenses reasonably attributable to such investigation or ap-
22 praisal exceed the sum of \$100, including both direct and indirect ex-
23 penses incurred by the commission or its staff or by the citizens' utility
24 ratepayer board, shall pay such expenses which shall be assessed ~~begin-~~
25 ~~ning from the date of a proceeding upon its own motion, on complaint or~~
26 ~~upon an application to it is filed~~ against such public utility or common
27 carrier by the commission; ~~except that no such public utility or common~~
28 ~~carrier shall be assessed for payment of such expenses, unless prior to the~~
29 ~~incurring of any such expense.~~ The state corporation commission shall
30 give such public utility or common carrier notice and opportunity for a
31 hearing in accordance with the provisions of the Kansas administrative
32 procedure act. At such hearing, the public utility or common carrier may
33 be heard as to the necessity of such investigation or appraisal and may
34 show cause, if any, why such investigation or appraisal should not be made
35 or why the costs thereof should not be assessed against such public utility
36 or common carrier. The finding of the commission as to the necessity of
37 the investigation or appraisal and the assessment of the expenses thereof
38 shall be conclusive, except that no such public utility or common carrier
39 shall be liable for payment of any such expenses incurred by such state
40 corporation commission or citizens' utility ratepayer board in connection
41 with any proceeding before or within the jurisdiction of the interstate
42 commerce commission or other any federal regulatory body.

43 The commission shall ascertain the expenses of any such investigation

Such expenses shall be assessed beginning on the date that the proceeding is filed or beginning three days after the commission gives the public utility or common carrier notice of the assessment by United States mail, whichever is later.

House Utilities
2-14-97
Attachment 1

1 or appraisal and by order assess such expenses against the public utility
 2 or common carrier investigated or whose property is appraised in such
 3 proceeding, and shall render a bill therefor, by ~~registered~~ *United States*
 4 mail, to the public utility or common carrier, either at the conclusion of
 5 the investigation or appraisal, or from time to time during such investi-
 6 gation or appraisal. Such bill shall constitute notice of such assessment
 7 and demand of payment thereof. Upon a bill rendered to such public
 8 utility or common carrier, within 15 days after the mailing thereof, such
 9 public utility or common carrier shall pay to the commission the amount
 10 of the assessment for which it is billed. Such payment when made shall
 11 be transmitted by the commission to the state treasurer, who shall credit
 12 the same to the appropriations made for the use of such commission or
 13 for the use of the citizens' utility ratepayer board. The total amount, in
 14 any one state fiscal year for which any public utility or common carrier
 15 shall be assessed under the provisions of this section shall not exceed $\frac{3}{4}$
 16 of 1% of its ~~gross operating revenues derived from intrastate operations~~
 17 ~~as reflected in the last annual report filed with the commission pursuant~~
 18 ~~to K.S.A. 66-123, and amendments thereto, prior to the beginning of the~~
 19 ~~commission's fiscal year. actual expenses, including both direct and in-~~
 20 ~~direct expenses incurred by the commission or its staff or by the citizens'~~
 21 ~~utility ratepayer board $\frac{1}{3}$ s of 1% of its gross operating revenues de-~~
 22 ~~rived from intrastate operations as reflected in the last annual re-~~
 23 ~~port filed with the commission pursuant to K.S.A. 66-123, and~~
 24 ~~amendments thereto, prior to the beginning of the commission's fis-~~
 25 ~~cal year.~~ The commission may render bills in one fiscal year for costs
 26 incurred within a previous fiscal year.

27 ~~When such expenses are incurred by the commission in order to carry~~
 28 ~~out the duties imposed upon it by law, the state corporation commission,~~
 29 ~~in a proceeding upon its own motion, on complaint or upon an application~~
 30 ~~to it, shall deem it necessary to investigate certain electric cooperative~~
 31 ~~public utilities subject to commission jurisdiction pursuant to K.S.A. 66-~~
 32 ~~104(b) and 66-104(f) and amendments thereto, such electric coopera-~~
 33 ~~tive public utilities shall be assessed the same as all public utilities and~~
 34 ~~common carriers under the jurisdiction of the state corporation commis-~~
 35 ~~sion pursuant to K.S.A. 66-104 and amendments thereto.~~

36 Sec. 2. K.S.A. 66-1502 is hereby repealed.

37 Sec. 3. This act shall take effect and be in force from and after its
 38 publication in the statute book.

2-1

the following: (a) For a public utility or common carrier that derives no operating revenues from intrastate operations, actual expenses, including direct and indirect expenses incurred by the commission or the commission's staff or by the citizens' utility ratepayer board; and (b) for any other public utility or common carrier,

As Amended by Senate Committee

Session of 1907

SENATE BILL No. 333

By Committee on Utilities

2-14

House Utilities
3-14-97
Attachment 2

10 AN ACT concerning assessment of expenses by the state corporation
11 commission; amending K.S.A. 66-1502 and repealing the existing
12 section.

AND K.S.A. 66-1503

13
14 *Be it enacted by the Legislature of the State of Kansas:*

15 Section 1. K.S.A. 66-1502 is hereby amended to read as follows: 66-
16 1502. Whenever, in order to carry out the duties imposed upon it by law,
17 the state corporation commission, in a proceeding upon its own motion,
18 on complaint, or upon an application to it, shall deem it necessary to
19 investigate any public utility or common carrier or make appraisals of the
20 property of any public utility, such public utility or common carrier, in
21 case the expenses reasonably attributable to such investigation or ap-
22 praisal exceed the sum of \$100, including both direct and indirect ex-
23 penses incurred by the commission or its staff or by the citizens' utility
24 ratepayer board, shall pay such expenses which shall be assessed, *begin-*
25 *ning from the date of a proceeding upon its own motion, on complaint or*
26 *upon an application to it is filed,* against such public utility or common
27 carrier by the commission; ~~except that no such public utility or common~~
28 ~~carrier shall be assessed for payment of such expenses; unless prior to the~~
29 ~~incurring of any such expense.~~ The state corporation commission shall
30 give such public utility or common carrier notice and opportunity for a
31 hearing in accordance with the provisions of the Kansas administrative
32 procedure act. At such hearing, the public utility or common carrier may
33 be heard as to the necessity of such investigation or appraisal and may
34 show cause, if any, why such investigation or appraisal should not be made
35 or why the costs thereof should not be assessed against such public utility
36 or common carrier. The finding of the commission as to the necessity of
37 the investigation or appraisal and the assessment of the expenses thereof
38 shall be conclusive, except that no such public utility or common carrier
39 shall be liable for payment of any such expenses incurred by such state
40 corporation commission or citizens' utility ratepayer board in connection
41 with any proceeding before or within the jurisdiction of ~~the interstate~~
42 ~~commerce commission or other~~ any federal regulatory body.

DELETE

43 The commission shall ascertain the expenses of any such investigation

1 or appraisal and by order assess such expenses against the public utility
 2 or common carrier investigated or whose property is appraised in such
 3 proceeding, and shall render a bill therefor, by registered *United States*
 4 mail, to the public utility or common carrier, either at the conclusion of
 5 the investigation or appraisal, or from time to time during such investi-
 6 gation or appraisal. Such bill shall constitute notice of such assessment
 7 and demand of payment thereof. Upon a bill rendered to such public
 8 utility or common carrier, within 15 days after the mailing thereof, such
 9 public utility or common carrier shall pay to the commission the amount
 10 of the assessment for which it is billed. Such payment when made shall
 11 be transmitted by the commission to the state treasurer, who shall credit
 12 the same to the appropriations made for the use of such commission or
 13 for the use of the citizens' utility ratepayer board. The total amount, in
 14 any one state fiscal year for which any public utility or common carrier
 15 shall be assessed under the provisions of this section shall not exceed $\frac{3}{4}$
 16 of 1% of its gross operating revenues derived from intrastate operations
 17 as reflected in the last annual report filed with the commission pursuant
 18 to K.S.A. 66-123, and amendments thereto, prior to the beginning of the
 19 commission's fiscal year. *actual expenses, including both direct and in-*
 20 *direct expenses incurred by the commission or its staff or by the citizens'*
 21 *utility ratepayer board $\frac{3}{4}$ of 1% of its gross operating revenues de-*
 22 *derived from intrastate operations as reflected in the last annual re-*
 23 *port filed with the commission pursuant to K.S.A. 66-123, and*
 24 *amendments thereto, prior to the beginning of the commission's fis-*
 25 *cal year. The commission may render bills in one fiscal year for costs*
 26 *incurred within a previous fiscal year.*

27 *When such expenses are incurred by the commission in order to carry*
 28 *out the duties imposed upon it by law, the state corporation commission,*
 29 *in a proceeding upon its own motion, on complaint or upon an application*
 30 *to it, shall deem it necessary to investigate certain electric cooperative*
 31 *public utilities subject to commission jurisdiction pursuant to K.S.A. 66-*
 32 *104(b) and 66-104(f) and amendments thereto, such electric coopera-*
 33 *tive public utilities shall be assessed the same as all public utilities and*
 34 *common carriers under the jurisdiction of the state corporation commis-*
 35 *sion pursuant to K.S.A. 66-104 and amendments thereto.*

36 Sec. 2. K.S.A. 66-1502, is hereby repealed.
 37 Sec. 3. This act shall take effect and be in force from and after its
 38 publication in the statute book.

NEW TP

For entities not subject to assessment as a public utility under this section, the commission shall have the authority to assess actual expenses incurred against any corporation, partnership, limited partnership or sole proprietorship for which the commission extends services, processes filings or certifies action.

**NEW SECTION 2 (ATTACHED)
 "AND K.S.A 66-1503 ARE"**

*** RENUMBER SECTIONS AS NECESSARY**

New Section **2** KSA 66-1503 is hereby amended to read as follows: (a) (1) The state corporation commission shall determine within 15 days after each quarter-year for each such quarter-year, the total amount of its expenditures during such period of time and the total amount of expenditures of the citizens' utility ratepayer board during such period of time. The total amount shall include the salaries of members and employees and all other lawful expenditures of the commission and the board, including all expenditures in connection with investigations or appraisals made under the provisions of K.S.A. 66-1502, and amendments thereto, except that there shall not be included in such total amount of expenditures for the purpose of this section the expenditures during such period of time which are otherwise provided for by fees and assessments made under other existing laws for the regulation of motor carriers or for administering the oil proration and the oil and gas conservation laws. (2) From the amount determined under paragraph (1) of this subsection K.S.A. 66-1502, and amendments thereto, during such period of time and (B) the amounts of all fees collected during such period of time under the provisions of subsection (b)(1) of K.S.A. 66-1a01, and amendments thereto. (3) To the remainder after making the deductions under paragraph (2) of this subsection, the commission shall add such amount as in its judgment may be required to satisfy any deficiency in the prior assessment period's assessment and to provide for anticipated increases in necessary expenditures for the current assessment period.

~~(b) The amount determined under subsection (a) shall be assessed by the commission against the several public utilities and common carriers subject to the jurisdiction of the commission in proportion to their respective gross operating revenues derived from intrastate operation as reflected in the last annual report filed with the commission pursuant to K.S.A. 66-123, and amendments thereto, prior to the beginning of the commission's fiscal year, except that the assessment during any fiscal year shall not exceed .2% of such gross operating revenues.~~ (b) The amount determined under subsection (a) shall be assessed by the commission against the several public utilities and common carriers subject to the jurisdiction of the commission and shall not exceed, during any fiscal year, the greater of \$400 or .2% of their respective gross operating revenues derived from intrastate operations as reflected in the last annual report, filed with the commission pursuant to KSA 66-123, and amendments thereto, prior to the beginning of the commission's fiscal year, or made available to the commission upon request. Such assessment shall be paid to the commission within 15 days after the notice of assessment has been mailed to such public utilities and common carriers, which notice of assessment shall constitute demand of payment thereof.

(c) The commission shall remit all moneys received by or for it for the assessment imposed under this section to the state treasurer at least monthly. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount thereof in the state treasury. Twenty percent of each such deposit shall be credited to the state general fund and the balance shall be credited to the public service regulation fund.

PROPOSED AMENDMENT TO SENATE BILL NO. 177

Add a section to read as follows:

"Sec. 2. K.S.A. 1996 Supp. 77-529 is hereby amended to read as follows: 77-529. (a) Any party, within 15 days after service of a final order, may file a petition for reconsideration with the agency head, stating the specific grounds upon which relief is requested. The filing of the petition is not a prerequisite for seeking administrative or judicial review except as provided in K.S.A. 44-1010 and 44-1115, and amendments thereto, concerning orders of the Kansas human rights commission, K.S.A. 55-606 and 66-118b, and amendments thereto, concerning orders of the corporation commission and K.S.A. 74-2426, and amendments thereto, concerning orders of the board of tax appeals.

(b) Within 20 days after the filing of the petition, the agency head shall render a written order denying the petition, granting the petition and dissolving or modifying the final order, or granting the petition and setting the matter for further proceedings. The petition may be granted, in whole or in part, only if the agency head states, in the written order, findings of fact, conclusions of law and policy reasons for the decision if it is an exercise of the state agency's discretion, to justify the order. In proceedings before the Kansas corporation commission, the petition is deemed to have been denied if the agency head does not dispose of it within 20 30 days after the filing of the petition.

An order under this section shall be served on the parties in the manner prescribed by K.S.A. 77-531 and amendments thereto.

(c) Any order rendered upon reconsideration or any order denying a petition for reconsideration shall state the agency officer to receive service of a petition for judicial review on behalf of the agency.

(d) For the purposes of this section, "agency head" shall include a presiding officer designated in accordance with subsection (g) of K.S.A. 77-514, and amendments thereto."

House Utilities
3-14-97
Attachment 3