

Approved: MARCH 5, 1996  
Date

MINUTES OF THE SENATE COMMITTEE ON UTILITIES.

The meeting was called to order by Chairperson Pat Ranson at 1:30 p.m. on February 13, 1997 in Room 531-N of the Capitol.

All members were present except:  
Sen. Sallee was excused

Committee staff present: Lynne Holt, Legislative Research Department  
Fred Carman, Revisor of Statutes  
Jeanne Eudaley, Committee Secretary  
Dennis Hodgins, Legislative Research Department

Conferees appearing before the committee:  
David Heinemann, General Counsel, Kansas Corporation Commission

Others attending: See attached list

Chairperson Ranson called the meeting to order and called the committee's attention to **SB 84-concerning municipal and gas utilities; service outside three miles of city** and outlined amendments which the committee adopted yesterday. She distributed information regarding the amendments (Attachments 1, 2, and 3) acted upon yesterday. Sen. Ranson stated in adopting the amendments, the committee caused regulation within the 3-miles and subsequent action may have imposed regulations which were not intended. Ms. Holt explained the situation, and Mr. Carman stated the committee may not have understood the impact of an earlier motion and how it affected the later motion. Sen. Lee commented she did not propose the earlier amendment, only the last one. The committee discussed the amendments and questioned Mr. Heinemann regarding rates within and outside of the 3-mile area. He admitted the committee's amendments yesterday have caused a dilemma. Sen. Steffes stated he supported the amendment for a complaint-based appeal, and he did not think it was right for the committee to re-regulate. He stated he wanted to return to the complaint-based amendment. Sen. Ranson asked Sen. Lee if she wished to reconsider her motion, since the committee has not accepted the language. Sen. Lee responded she preferred to undo the first amendment and use the complaint alternate #2. Upon clarification, she stated her recommendation is to delete the option of equalizing the rates - the same outside the 3-mile area as inside the 3-mile area; however, she wants to leave the requirements in Rules and Regulations.

Upon further discussion, Sen. Jones asked if this bill is really needed, since there are serious ramifications when changes are made, as has been discussed. Sen. Ranson stated the testimony indicated it is difficult and expensive for the cities to be involved in the Hearing process. Sen. Lee made a motion to omit the first amendment and use the complaint alternate #2, and it was seconded by Sen. Clark, but the motion failed.

Sen. Lee made a motion to report SB 84 adversely, and it was seconded by Sen. Salisbury; but the motion failed. Sen. Barone made a motion to amend the bill as it was before the conceptual motion yesterday and move it out of committee, and it was seconded by Sen. Brownlee; a division was called; and the motion failed. The Chairperson announced the bill will stay in committee.

Sen. Ranson announced a hearing for **SB 177-relating to the corporation commission; time to issue reconsideration order** and introduced David Heinemann, who gave testimony (Attachment 4) as a proponent and was the only conferee to appear on behalf of the bill. Sen. Clark made a motion the bill be passed, and it was seconded by Sen. Barone; the bill passed.

Sen. Ranson announced the committee will hear a briefing on **SB 148-relating to natural gas gathering systems; providing for regulation of certain entities; certain natural gas public utilities and common carrier** and introduced Dennis Hodgins, who staffed the Task Force on Gas Gathering. Mr. Hodgins referred to Article 66, relating to regulated utilities, and Article 55, which relates to conservation. He told of the Task Forces' vote of 11 to 1 not to regulate under Article 66 and the fear of monopolistic practices. He pointed out the three bills, which are the result of the Report - the Dillard-Wilson bill, by producers; the Open Access bill, where criteria would be established, and the compromise recommendation of the Task Force (**SB 148**). Mr. Hodgins referred to the two Minority Reports, which follow the Task Force Report..

Sen. Ranson announced the committee will hear testimony on **SB 148** on Monday at 1:30 in Room 313-S.

Meeting adjourned at 2:30.

Next meeting will be February 17, 1997

# SENATE UTILITIES COMMITTEE GUEST LIST

- DATE: Feb. 13, 1997

	NAME	REPRESENTING
①	Jessica Lawrence	Page
②	Jessica Martin	Page
③	Wendy Helms	Western Resources
④	WALKER HENDRIX	CURB
⑤	J. C. LONG	UtiliCorp United, Inc.
⑥	Louis Stroop Jr.	KANSAS Municipal Utilities
⑦	BERNARD E. NORDLING	SWKROA
⑧	Doug Smith	SWKROA
⑨	Dea Meyer	HS Co. Consulting
⑩	Don Schuacke	ICTOGA
⑪	Jon & Miles	KEC
⑫	Brenda Smith	Jonathan Small
⑬	Whitney Jamron	Aradarko Petroleum
⑭	DAVID B. SCHLOSSER	PETE MCGILL & ASSOC.
⑮	Roger Trautze	KGC
⑯	Alvin	KCC
⑰	Kim Gulley	League of KS Municipalities
⑱	Mike Reel	AT&T
⑲	Mike Hein	Hein + Wein

# SENATE BILL No. 84

By Committee on Utilities

1-23

ATTACH 1

SENATE UTILITIES  
2-13-99  
ATT. 1

9 AN ACT concerning municipal and gas utilities; service outside three  
10 miles of city; amending K.S.A. 12-808a, 12-808b and 66-131 and re-  
11 pealing the existing sections.  
12

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

14 Section 1. K.S.A. 12-808a is hereby amended to read as follows: 12-  
15 808a. Whenever the governing body or the board of public utilities of any  
16 city owning or operating an electric or gas utility, any part of which is  
17 defined as a public utility under K.S.A. 66-104 *and amendments thereto*,  
18 shall deem it necessary for the proper construction, operation and man-  
19 agement of such public utility, said governing body or board shall have  
20 and are hereby granted the power of eminent domain outside the cor-  
21 porate limit of such city, within the area subject to the jurisdiction and  
22 control of the corporation commission.

23 ~~Subject to the approval of the corporation commission, Every such~~  
24 ~~utility shall have and is hereby granted the power and authority to deter-~~  
25 ~~mine the rate for service within any area located outside of and more~~  
26 ~~than three (3) miles from the corporate limits of a city. However, The~~  
27 ~~rate for service in such an area may not exceed the rate charged for similar~~  
28 ~~service to similar types and classes of service consumers located outside~~  
29 ~~of and within three miles of the corporate limits of the city. Nothing herein~~  
30 ~~shall be construed as affecting the validity of rates, charged to consumers~~  
31 ~~in such areas by a municipally owned or operated gas or electric utility,~~  
32 ~~which have been established and are in effect on the effective date of this~~  
33 ~~act; but any change in such rates shall be subject to the approval of the~~  
34 ~~corporation commission and must receive the commission's approval be-~~  
35 ~~fore said rates shall become effective.~~

36 Sec. 2. K.S.A. 12-808b is hereby amended to read as follows: 12-  
37 808b. Within ~~one hundred twenty (120)~~ 120 days after the effective date  
38 of this act, all municipally owned or operated electric or gas utilities hav-  
39 ing facilities located outside of ~~and more than three (3) miles from the~~  
40 corporate limits of the city shall file with the corporation commission in  
41 the manner prescribed by the commission:

42 (a) A schedule of rates charged to all consumers ~~outside of and more~~  
43 ~~than three (3) miles from the corporate limits of such municipality; and~~

the area outside of and more than three miles from the corporate limits of a city shall be the same as

outside of and more than three miles from the corporate limits of such municipality

1-2

1 (b) the location of all facilities of such utility located outside of and  
2 ~~more than three (3) miles from~~ the corporate limits of such municipality.

*and more than three miles from*

3 Sec. 3. K.S.A. 66-131 is hereby amended to read as follows: 66-131.

4 No common carrier or public utility, including that portion of any mun-  
5 icipally owned utility defined as a public utility by K.S.A. 66-104 and  
6 *amendments thereto*, governed by the provisions of this act shall transact  
7 business in the state of Kansas until it shall have obtained a certificate  
8 from the corporation commission that public convenience will be pro-  
9 moted by the transaction of said business and permitting said applicants  
10 to transact the business of a common carrier or public utility in this state.  
11 *Notwithstanding K.S.A. 66-104 and amendments thereto, in no event shall*  
12 *such jurisdiction authorize the corporation commission to review, con-*  
13 *sider or affect the rates charged for services of such municipally owned*  
14 *or operated electric or gas utility, if such rates are in compliance with*  
15 *K.S.A. 12-808a and amendments thereto.* In no event shall such jurisdic-  
16 tion authorize the corporation commission to review, consider or effect  
17 the facilities ~~or rates charged for services~~ or in any way the operation of  
18 such municipally owned or operated electric or gas utility within the cor-  
19 porate limits or outside but within three (3) miles of the corporate limits  
20 of any city, or facilities, ~~or rates charged for services~~ or in any way the  
21 operation of facilities or their replacements now owned by any such utility  
22 except as provided in K.S.A. 66-131a *and amendments thereto*. No pre-  
23 scribed rates, orders or other regulatory supervision of the corporation  
24 commission shall be contrary to any lawful provision of any revenue bond  
25 ordinance authorizing the issuance of revenue bonds to finance all or any  
26 part of the municipally owned or operated electric or gas utility so sub-  
27 jected to the jurisdiction of the corporation commission. This section shall  
28 not apply to any common carrier or public utility governed by the pro-  
29 visions of this act now transacting business in this state, nor shall this  
30 section apply to the facilities and operations of any municipally owned or  
31 operated utility supplying electricity or gas outside of the corporate limits  
32 of any municipality where such facilities and operations are in existence  
33 on the effective date of this act, but any extension of such facilities or any  
34 new facilities located outside of and more than three (3) miles from the  
35 municipality's corporate limits, shall be subject to the requirements of  
36 this section, nor shall this section apply to any municipally owned or op-  
37 erated electric or gas utility furnishing electricity or gas to a facility owned  
38 or jointly owned by such municipality and located outside the corporate  
39 limits of such municipality.

40 Sec. 4. K.S.A. 12-808a, 12-808b and 66-131 are hereby repealed.

41 Sec. 5. This act shall take effect and be in force from and after its  
42 publication in the statute book.

Attach. 2

parates

Alternate #1

The commission shall investigate all rates and schedules of rates applicable to customers outside the three-mile limit of such municipal utility if there is filed with the commission, not more than one year after a change in such municipal utility's rates, or schedules of rates, a petition signed by not less than 25% of all the municipal utility's customers outside the three-mile limit. If, after investigation, the commission finds that such rates, or schedules of rates, are unjust, unreasonable, unjustly discriminatory or unduly preferential, the commission shall have the power to fix and order substituted therefor such rates, or schedules of rates, as are just and reasonable for those customers outside the three-mile limit.

SENATE UTILITIES  
2-13-97  
ATT. 2

Complaint Alternate #2

Upon a complaint in writing made against a municipally owned or operated electric or gas utility by a customer within an area located outside of and more than three miles from the corporate limits of the city that any of the rates or rules and regulations of such utility are in any respect unreasonable, unfair, unjust, unjustly discriminatory or unduly preferential, or both, or that any regulation, practice or act affecting or relating to any service performed or to be performed by such 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 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 changing such rates, rules and regulations, 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 utility or to such complainant or complainants, if any, in accordance with the provisions of the Kansas administrative procedure act. 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 the municipally owned or operated gas or electric utility 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.

SENATE UTILITIES  
2-13-97  
ATT. 3

BEFORE THE SENATE UTILITIES COMMITTEE  
PRESENTATION OF THE KANSAS CORPORATION COMMISSION ON SB 177

Senate Bill 177 would extend the time the Commission has to respond to petitions for reconsideration after the issuance of final orders by ten days.

The Commission endorses Senate Bill 177 in its current form for the following reasons:

1. The Commission's current timeline for responding to a petition for reconsideration is twenty days. See Kan. Stat. Ann. §§ 66-118b (1992) and 77-529 (Supp. 1996). This 20-day time frame puts the Commission on an unrealistic schedule for the issuance of an order on reconsideration due to several procedural regulations of the Commission. According to Kan. Admin. Reg. § 82-1-118(d) (1994), a party may file a responsive pleading in response to any order of the Commission. Parties must file these pleadings within ten days of the issuance of the order to which they are responding. All such filings with the Commission are also allowed an extra three days for mailing. See Kan. Admin. Reg. 82-1-217(c) (1994). These regulations effectively reduce the time the Commission has available to consider the entirety of the petition for reconsideration and all the responsive pleadings to seven days. One week is an unreasonably short time period to require the Commission to issue an order on reconsideration, especially considering the volume of some of the responsive pleadings which the Commission receives in large cases, like rate proceedings.
  
2. Additionally, scheduling Administrative Meetings to receive suggestions of the Commission Staff on such matters, (these meetings are subject to the Kansas Open Meetings Act) ~~requires a minimum of one week's advance notice~~ in order to ensure that all parties are given proper notice.

The Commission recognizes the fact that extending the time allowed for issuing an order on reconsideration may seem to burden the parties involved in proceedings before it. However, it is in the best interest of the public, as well as those whose interests are represented before the Commission, that the Commission be allowed more time to properly consider all petitions and responsive pleadings.