

Approved: April 9, 1997  
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 25, 1997 in Room 531-N of the Capitol.

All members were present except:  
Sen. Hensley was excused

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

Conferees appearing before the committee:  
David Heinemann, General Counsel, Kansas Corporation Commission  
Tom Day, Director, Administrative Services, Kansas Corporation Commission  
Ed Schaub, Executive Director, Regulatory Affairs, Western Resources  
Jon Miles, Director, Governmental Relations, Kansas Electric Coops  
Rob Hodges, Kansas Telecommunications Association

Others attending: See attached list

Sen. Ranson called the committees' attention to Minutes of the meeting (Attachment 1) on February 5 and 11 and the committee read the Minutes. Sen. Jones made a motion the Minutes be approved, and it was seconded by Sen. Morris; the motion passed.

Sen. Ranson then requested the committee turn to **SB 207-regarding the Kansas corporation commission, investigations and complaints.** She recognized David Heinemann, who provided additional information (Attachment 2) to the committee, which included a proposed amendment. After committee discussion, Sen. Clark made a motion the amendment be adopted, and it was seconded by Sen. Salisbury; the motion passed.

Sen. Ranson asked the committee to look at **SB 212-regarding public utilities and common carriers; change in rates and schedules.** She again recognized David Heinemann, who proposed an amendment to adopt two proposals. He stated the proposals would clarify some questions raised since his testimony before the committee. They are to delete Subsections 2 and 4 on Page 2 and to delete Lines 5 and 6 and 14 and 15 on Page 3 and to renumber as needed. After discussion, Sen. Salisbury made a motion to adopt the proposed amendment, and it was seconded by Sen. Barone; the motion passed. Sen. Barone made a motion to pass the bill out of committee as amended, and it was seconded by Sen. Clark; the motion passed.

Chairperson Ranson opened the hearing for **SB 333-relating to assessment of expenses by the state corporation commission.** The following appeared to offer testimony on the bill:

Proponent:  
Tom Day, Legislative Liaison, Kansas Corporation Commission, (Attachment 3)

Opponents:  
Ed Schaub, Legislative Liaison, Western Resources, (Attachment 4);  
Jon Miles, Director, Governmental Relations, Kansas Electric Coops, (Attachment 5);  
Rob Hodges, Kansas Telecommunications Association, (Attachment 6)

Sen. Ranson then read testimony opposing the bill (Attachment 7) from Louis Stroup, Jr., Executive Director, Kansas Municipal Utilities, Inc.

Committee discussion included questions regarding the 3/4 of 1% and its affect on municipalities, as well as the affect both inside and outside the 3-mile areas. Mr. Miles was asked several questions, and he expressed his concern regarding initiating of authority and the expansion of authority it gives to the KCC. Sen. Clark asked questions regarding the dispute between Sunflower and the City of Hill City and linesiting and if the KCC has authority to become involved. Mr. Day was also questioned as to the number of rate cases the Commission sends in the mail and the cost. Sen. Clark made a motion to amend SB 333 to allow the first three proposals from the KCC, but not to include that last two issues. It was seconded by Sen. Lee, and the motion passed. Sen. Clark made a motion to pass the bill out of committee as amended, and it was seconded by Sen. Lee; and the motion passed.

Sen. Ranson stated the committee will discuss retail wheeling after the break. Meeting adjourned at 2:30. Next meeting is scheduled for March 5, 1997.

# SENATE UTILITIES COMMITTEE GUEST LIST

DATE: Feb. 25, 1997

NAME	REPRESENTING
Doug Smith	SITA
Rob Hodges	Ks Telecom Assn
Dore Hollhaus	Western Resources
Jennie Schwarz	Kansas Pipeline
K.S. Wall	Kansas Pipeline
J.C. Long	UtiliCorp United Inc.
BRUCE GRAHAM	KEPCO
Tom Bruno	Allen Assoc.
Don Schuman	KIOGN
Leslie Kaufman	Ks Farm Bureau
Whitney Jamison	Anadarko Pet. Co.
Julie Hein	Home + Work
WALKER HENDRIX	CARB
Brandy Parks	Jonathan Small
Jack Blawie	P/H-K/N + Opfy
Amy Campbell	R. Rice Law Office
<i>LeAnne Schneider</i>	<i>Ks Livestock Assoc.</i>
STEVE KEARNEY	SW KS IRRIGATION ASSN
Roger Trautle	KGC
DAVID B SCHLOSSER	PETE McGUIRE & ASS

Attach. L

Approved: Feb. 25, 1997  
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 5, 1997 in Room 531-N of the Capitol.

All members were present

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

Conferees appearing before the committee:  
Louis Stroup, Jr., Executive Director, Kansas Municipal Utilities, Inc.  
Colin Whitley, Director, Electric Utility, City of Winfield  
Carl Myers, City Manager, City of Wellington

Others attending: See attached list

Sen. Ranson called the meeting to order and directed attention to Committee Minutes of January 29, and members discussed the third paragraph and the minority report given by Mr. Biro. Sen. Barone made a motion the Minutes be approved, and it was seconded by Sen. Clark; the motion passed and the Minutes were approved.

Sen. Ranson announced the distribution of a newspaper article from the Wall Street Journal and Municipal rate deregulation facts sheet (Attachment 2).

Sen. Ranson recognized pages assisting the committee today, and Sen. Barone introduced them, since they were from his district.

Sen. Ranson requested Lynne Holt brief the committee on **SB 84-municipal and gas utilities; service outside three miles of city.** Sen. Ranson referred to the fiscal note to the bill (Attachment 3) and went over it with the committee.

Sen. Ranson opened the hearing for **SB 84** and introduced Louis Stroup, Jr., who offered testimony (Attachment 4) as a proponent. Mr. Stroup outlined two suggested amendments, which are a part of his testimony. He stated he was not opposed to a proposed amendment, which KCC will offer to the committee. The committee discussed the bill and Sen. Lee questioned Mr. Stroup on representation inside and outside the 3-mile territory and the possibility of raising rates without a vote of the customers. Sen. Steffes questioned regarding rate differential and additional questions were raised regarding rate jurisdiction. The proposed amendments were also discussed and the types and class of service included in the amendment on Page 1, Lines 42 and 43 and who pays the cost.

Mr. Stroup then introduced Colin Whitley, who gave testimony (Attachment 5), and Carl Myers, who gave testimony (Attachment 6), both supporting the bill.

The committee questioned the proponents, with Sen. Ranson noting the City of Wellington has 83 KCC jurisdictional customers and if they have the right to deny service, or can they be forced to provide service to those customers. Mr. Myers answered that they cannot deny service; they are required to provide service, even if they are losing money. Sen. Lee questioned Mr. Myers regarding tax money being returned to the city to be used for economic development purposes, and Mr. Myers replied that is not unusual - that it is investor owned and the utility is giving the dividends back. Sens. Lee and Barone questioned Mr. Myers regarding rate differential between those customers living inside and outside the 3-mile area. Mr. Myers gave an example to the committee, and Sen. Barone noted there is a rate differential of 28% between city and rural customers, which shows that the city is losing money providing service to the KCC customers. Mr. Myers noted it cost more to provide service to those customers because of more lines to service and maintain. It was also noted that the KCC has not approved a rate increase for those customers living in its jurisdiction. It was also noted if customers are not happy with service or rates, they are not allowed to seek out other suppliers.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

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CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON UTILITIES, Room 531-N -Statehouse, at 1:30 p.m. on February 5, 1997.

Sen. Ranson asked if customers have complaints, what is their recourse, and Mr. Holloway replied they receive about twelve complaints per year, and they are referred to the Attorney General's office; that if the complaining customer lives inside the city, they are advised to talk with their city council; if the customer lives in the 3-mile area, there is a general complaint process. Mr. Myers advised the complaint can be taken to District Court, and Sen. Lee questioned the complaint procedure when the customer is complaining about a rate increase and what their recourse is. Sen. Steffes stated that paying for a service without representation is common; that taxpayers within a city pay for services that are used by people who live outside the area - they don't pay for services, but use them.

Meeting adjourned at 2:30.

The next meeting is scheduled for February 11, 1997

Approved: Feb. 25, 1997  
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 11, 1997 in Room 531-N of the Capitol.

All members were present

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:

Jim Ludwig, Executive Dir., Regulatory Affairs, Western Resources  
David Heinemann, General Counsel, Kansas Corporation Commission  
Erick Nordling, Executive Director, S.W. Kansas Royalty Owners Assoc.  
Sharon Rooney, Minneola, Royalty Owner

Others attending: See attached list

Sen. Ranson called the meeting to order and recognized pages assisting the committee today and asked them to introduce themselves to the committee. They did so, and the Chair acknowledged they are granddaughters of Sen. Sallee.

Sen. Ranson announced the committee will hear testimony on **SB 84-concerning municipal and gas utilities; service outside three miles of city**. She then called on Jim Ludwig, who appeared as an opponent and offered an amendment (Attachment 1). She then recognized David Heinemann, who gave testimony (Attachment 2) opposing the bill. Mr. Heinemann clarified a misunderstanding which he says may have occurred, in that the KCC indicated they would support the concept of equal rates inside and outside the 3-mile areas. He explained the way the bill is drafted, that is not the case; and the KCC appears as an opponent.

The committee questioned both Mr. Ludwig and Mr. Heinemann regarding the 3-mile areas and rights of the customers within the area and the complaint process available. They also discussed the municipalities' recourse regarding rates and if an investigation is conducted by the KCC.

Sen. Ranson then introduced Dennis Hodgins who briefed the committee on **SB 147-relating to oil and gas; prescribing information to be included with payments to interest owners from sales of oil and gas**, and the Task Force's Report on Gas Gathering.

Sen. Ranson announced the committee will hear testimony on **SB 147** and the following appeared as proponents to the bill:

Erick Nordling, (Attachment 3)  
Sharon Rooney, (Attachment 4).

The committee questioned proponents, especially the examples provided by Mr. Nordling. Sen. Ranson announced the committee will continue to hear proponents tomorrow.

Meeting adjourned at 2:30.

Next meeting will be February 12, 1997.

BEFORE THE SENATE UTILITIES COMMITTEE  
PRESENTATION OF THE KANSAS CORPORATION COMMISSION ON SB 207

Senate Bill 207 clarifies the scope of the Commission's investigatory authority set out at K.S.A. §§ 66-101d, -101e, -1,191, -1,192, -1,204, -1,205, -1,219, -1,220, -1,234 and -1,235 (1992 and Supp. 1996).

The Commission endorses SB 207 for the following reasons:

SB 207 amends the Kansas Statutes to clarify the Commission's investigative authority. The Commission feels the current version of these statutes are potentially misleading in designating which statute covers Commission investigations and which statute covers complaints.

The amendments contained in SB 207 clarify the controlling statutes when the commission initiates an investigation upon a complaint by a third party, and when the Commission initiates an investigation on its own motion, such as a general investigation into an industry practice.

The necessity of this distinction stems from the Commission's responsibility to protect Kansas utility consumers and keep tabs on industry practices that affect Kansas rates. When an industry engages in a practice which the Commission believes may potentially impact consumers, but the quantifiable impact remains undeterminable until a later point in time, the Commission requires an extended schedule in order to properly investigate all issues relating to such practices and determine the actual effect on Kansans. However, in the event a third party has a complaint against a particular utility, the Commission believes these situations should be promptly investigated and acted upon, and that hearings upon complaints should be subject to the Kansas administrative procedure act.

A copy of the suggested technical amendment is attached for your consideration.

SENATE BILL No. 207

By Committee on Utilities

2-5

9 AN ACT concerning the Kansas corporation commission; investigations  
10 and complaints; hearings; amending K.S.A. 66-1,191 and 66-1,234 and  
11 K.S.A. 1996 Supp. 66-101d, 66-101e, 66-1,192, 66-1,204, 66-1,205, 66-  
12 1,219, 66-1,220 and 66-1,235 and repealing the existing sections.

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

15 Section 1. K.S.A. 1996 Supp. 66-101d is hereby amended to read as  
16 follows: 66-101d. ~~It shall be the duty of the commission, either upon~~  
17 ~~complaint or upon its own initiative, to The commission, upon its own~~  
18 ~~initiative, may~~ investigate all schedules of rates and rules and regulations  
19 of electric public utilities. If after investigation and hearing the commis-  
20 sion finds that such rates or rules and regulations are unjust, unreasona-  
21 ble, unjustly discriminatory or unduly preferential, the commission shall  
22 have the power to establish and order substituted therefor such rates and  
23 such rules and regulations as are just and reasonable.

24 If after investigation and hearing it is found that any regulation, meas-  
25 urement, practice, act or service complained of is unjust, unreasonable,  
26 unreasonably inefficient or insufficient, unduly preferential, unjustly dis-  
27 criminatory, or otherwise in violation of this act or of the orders of the  
28 commission, or if it is found that any service is inadequate or that any  
29 reasonable service cannot be obtained, the commission shall have the  
30 power to substitute therefor such other regulations, measurements, prac-  
31 tices, service or acts, and to make such order respecting any such changes  
32 in such regulations, measurements, practices, service or acts as are just  
33 and reasonable. When, in the judgment of the commission, public ne-  
34 cessity and convenience require, the commission shall have the power to  
35 establish just and reasonable concentration or other special rates, charges  
36 or privileges, but all such rates, charges and privileges shall be open to  
37 all users of a like kind of service under similar circumstances and condi-  
38 tions.

39 ~~Hearings shall be conducted in accordance with the provisions of the~~  
40 ~~Kansas administrative procedure act.~~

41 Sec. 2. K.S.A. 1996 Supp. 66-101e is hereby amended to read as  
follows: 66-101e. Upon a complaint in writing made against any electric  
public utility governed by this act that any of the rates or rules and reg-

Hearings shall be conducted in accordance with the  
provisions of the Kansas administrative procedure act,  
unless, in the case of a general investigation,  
for good cause, the commission orders otherwise.

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Senate Bill 333  
BEFORE THE SENATE UTILITIES COMMITTEE  
PRESENTATION OF THE KANSAS CORPORATION COMMISSION  
February 19, 1997

Tom Day

Senate Bill 333 was introduced at the request of the Kansas Corporation Commission. K.S.A 66-1502 deals with the assessment of expenses of investigations or appraisals of public utilities and common carriers. The Commission proposes adding explicit language in KSA 66-1502 that all assessments of expenses of investigations or appraisals of public utilities and common carriers begin at the time of application or the opening of a general investigation, and that the limitation of 3/5 of 1% of the public utility's intrastate gross operating revenues be repealed and actual direct costs be recovered. Finally, the Commission proposes eliminating the costly certified or registered mail requirements of KSA 66-1502. This would only require changing the word "registered" to "United States".

Removing the 3/5 of 1% limitation for expenses incurred during a proceeding allows the Commission to bill for all expenditures in that proceeding. Presently, when one or more companies are involved in a general investigation, and one or more of those companies reaches its expenditure cap, the amount of expenditures incurred thereafter roll into the general quarterly assessment which covers all jurisdictional utilities. If the companies involved in a general investigation are from the telecommunications industry, the Commission does not believe electric, natural gas, water or non-telephone companies should pay for those expenditures incurred in that particular general investigation. When assessing costs for the general quarterly assessments, pursuant to KSA 66-1503, the Commission's assessment during any fiscal year shall not exceed 1/5 of 1%. When determining the amount of money to be collected, "the commission shall deduct (A) all amounts collected under KSA 66-1502.....and (B) the amounts of fees collected during such period of time under the provisions of subsection (b)(1) of KSA 66-1a01...". Many companies, under the jurisdiction of the KCC and those areas subjecting electric cooperatives to the jurisdiction of the agency, reach their limitation during the first or second quarter of each fiscal year and cannot be assessed from that point forward. At that time, the expenditures revert to all the companies left in the pool who have not attained their limit, and distributed for payment from those public utilities and common carriers.

During the 1991 and 1992 Legislatures, the electric cooperative public utilities put forth a proposal to exempt certain coops from the commission's jurisdiction. During the 1992 session this proposal passed, amending KSA 66-104d. However, KSA 66-104b(b) and 66-104d(f) specifically states certain actions by the cooperatives will still remain under the commission's jurisdiction. Among those actions not affected are single certified service territory, charges for transmission services, sales of power for resale, wire stringing and transmission line siting pursuant to KSA 66-131, 66-183, 66-1,170 et seq. or 66-1,177 et seq. The reason the commission is requesting explicit language is due to the fact one electric cooperative three or four years ago, shortly after exempting themselves from the commission's jurisdiction, believed they

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were not liable for direct assessments from a wire stringing investigation. The commission did not pursue this, at the time, because the cooperative exemption statutes were fairly new. All assessments dealing with wire stringing or any other provision as outlined in KSA 66-104b(b) and 66-104d(f) were implied to pertain to electric cooperatives, but were not explicit.

When general investigations are initiated by the commission, or wire stringing and transmission line siting applications are received, and throughout the entire general investigation or investigation of applications, significant costs are incurred. The Commission does not feel other public utilities should bear the costs of the electric cooperative public utilities for their proportionate share of general investigations or siting applications etc.

There would be no fiscal impact on the agency or other units of government. The changes proposed for KSA 66-1502 would merely shift the costs of investigations to the cost-causer(s) as opposed to adding those expenses to the general assessment of expenses for the commission, pursuant to KSA 66-1503. There would be minimal postage cost savings, in the overall budget, by removing the word "registered" from the statute and replacing with "United States".

Thank you for the opportunity to testify before the Senate Utilities committee. I would be glad to answer questions relevant to Senate Bill 333.

TESTIMONY BEFORE THE  
SENATE UTILITIES COMMITTEE

by ~~Jim Ludwig~~ Ed Schaub

WESTERN RESOURCES, INC.

February 20, 1997

Chair Ranson and Members of the Committee:

I am Jim Ludwig, executive director, regulatory affairs for Western Resources. Western Resources, through its operating companies KPL and KGE, provides natural gas to approximately 650,000 customers in Kansas and northeastern Oklahoma, and electric service to 600,000 customers in eastern and central Kansas. We are headquartered in Topeka.

I am testifying on Senate Bills 212, 207 and 333.

I agree with the amendments being offered to SB 212 and 207 by David Heinemann, General Counsel of the Kansas Corporation Commission. I have discussed my amendment to SB 333 with Mr. Tom Day of the Commission, and he is in agreement with it.

**Senate Bill 212**

When a utility files a request for a rate increase with the Commission, the rates requested go into effect in 30 days unless the Commission suspends the implementation of the increased rates. The Commission almost always issues a suspension order. Once the suspension order is issued, the Commission has 240 days to render a decision on the utility's request for a rate increase.

SB 212, as amended in the way we propose, assures that the Commission can take longer than 240 days if there are extenuating circumstances. But it also provides a safeguard for the

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utility which filed for a rate increase. If the Commission decides on its own initiative to suspend the 240 day period, the utility may put some or all of its request to increase rates into effect after the 240 day period expires. Any rate change put into effect under these circumstances would be subject to refund, with interest, if the Commission ultimately decided some or all of the increase was not justified.

#### **Senate Bill 207**

Western Resources agrees with the amendment Mr. Heinemann is offering to SB 207 at page 1, lines 39-40. The stricken language would be restored, but with the following clause added to the end of the sentence, "unless, in the case of a general investigation, for good cause, the commission orders otherwise." This change allows the Commission to establish alternative procedures for industry-wide generic studies, but preserves KAPA rules for other hearings.

#### **Senate Bill 333**

Western Resources proposes to amend SB 333. As introduced, the bill removes any cap on the annual amount the Commission may assess on a public utility for expenses the Commission or the Citizens' Utility Ratepayers Board (CURB) incurs. Removing the cap is too open-ended.

As we understand the issue, some small utilities do not cover the actual expenses incurred by the Commission and CURB through the formula based on  $\frac{3}{5}$  of 1% of gross operating revenue. Rather than striking this cap, however, the problem can be solved by the amendment attached.

This amendment simply allows the Commission to assess the greater of \$250,000 or  $\frac{3}{5}$  of 1% of gross operating revenues. It preserves a cap, but allows the Commission to assess actual expenses to the utility which caused the expenses to be incurred.



## Full Text of Bill 333

Different **fonts** indicate changes to the bill.

Supplemental note for this bill

Fiscal note for this bill

This bill with old style font codes (no html)

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SB 333--

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Session of 1997

SENATE BILL No. 333  
By Committee on Utilities  
2-14

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

12

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

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

39 corporation commission or citizens' utility ratepayer board in connection  
40 with any proceeding before or within the jurisdiction of the interstate  
41 commerce commission or other any federal regulatory body.  
42 The commission shall ascertain the expenses of any such investigation  
43 or appraisal and by order assess such expenses against the public utility  
SB 333

2

1 or common carrier investigated or whose property is appraised in such  
2 proceeding, and shall render a bill therefor, by registered United States  
3 mail, to the public utility or common carrier, either at the conclusion of  
4 the investigation or appraisal, or from time to time during such investi-  
5 gation or appraisal. Such bill shall constitute notice of such assessment  
6 and demand of payment thereof. Upon a bill rendered to such public  
7 utility or common carrier, within 15 days after the mailing thereof, such  
8 public utility or common carrier shall pay to the commission the amount  
9 of the assessment for which it is billed. Such payment when made shall  
10 be transmitted by the commission to the state treasurer, who shall credit  
11 the same to the appropriations made for the use of such commission or  
12 for the use of the citizens' utility ratepayer board. The total amount, in  
13 any one state fiscal year for which any public utility or common carrier  
14 shall be assessed under the provisions of this section shall not exceed <sup>5/5</sup>  
15 of 1% of its gross operating revenues derived from intrastate operations  
16 as reflected in the last annual report filed with the commission pursuant  
17 to K.S.A. 66-123, and amendments thereto, prior to the beginning of the  
18 commission's fiscal year. ~~actual expenses, including both direct and in-~~  
19 ~~direct expenses incurred by the commission or its staff or by the citizens'~~  
20 ~~utility ratepayer board.~~ The commission may render bills in one fiscal  
21 year for costs incurred within a previous fiscal year.  
22 *When such expenses are incurred by the commission in order to carry*  
23 *out the duties imposed upon it by law, the state corporation commission,*  
24 *in a proceeding upon its own motion, on complaint or upon an application*  
25 *to it, shall deem it necessary to investigate certain electric cooperative*  
26 *public utilities subject to commission jurisdiction pursuant to K.S.A. 66-*  
27 *104b(b) and 66-104d(f) and amendments thereto, such electric coopera-*  
28 *tive public utilities shall be assessed the same as all public utilities and*  
29 *common carriers under the jurisdiction of the state corporation commis-*  
30 *sion pursuant to K.S.A. 66-104 and amendments thereto.*  
31 Sec. 2. K.S.A. 66-1502 is hereby repealed.  
32 Sec. 3. This act shall take effect and be in force from and after its  
33 publication in the statute book.

the greater of \$250,000 or  
3/5 of 1% of its gross  
operating revenues derived  
from intrastate operations  
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.

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**TESTIMONY OF JON MILES  
KANSAS ELECTRIC COOPERATIVES, INC.  
IN OPPOSITION TO S.B. 333**

Good afternoon, members of the Committee, my name is Jon Miles and I am the Director of Governmental Relations for Kansas Electric Cooperatives, Inc., a statewide association of electric cooperatives headquartered in Topeka, Kansas. I am testifying today in opposition to the proposed amendments to S.B. 333. Our belief is that the proposed amendments contained in S.B. 333 would 1) increase the extent of regulation by the Kansas Corporation Commission over deregulated electric cooperatives; 2) increase costs to electric cooperative consumers due to the increased regulations; and 3) result in inefficient regulation by the KCC.

The Legislature adopted K.S.A. 66-104d in the 1992 session. This statute allows a small distribution electric cooperative (a cooperative with fewer than 15,000 customers) to conduct an election to determine whether the cooperative should deregulate from the jurisdiction, control and authority of the Kansas Corporation Commission. A list of those cooperatives that have conducted member elections and have chosen to deregulate under the law and those who remain under the jurisdiction of the KCC follows this testimony. Electric cooperatives are owned by their consumers and managed by a consumer-elected board of trustees. The Legislature found that regulatory oversight by the KCC is generally duplicative, given the significant oversight by the consumer-owners. Regulation adds cost to electric cooperative operations without benefiting the consumer-owners. Oftentimes, cooperatives found regulation increasingly expensive and time-consuming.

Even for those cooperatives that have deregulated, the Commission has jurisdiction over several aspects of the cooperatives' operations. First, the Commission has the authority to review changes in rates if 5% of the cooperative's customers or 3% of the customers from any one rate

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class petition the Commission for review. The statute also provides that the Commission retain jurisdiction over service territory, charges for transmission services, sales of power for resale, wire-stringing and transmission line-siting.

Our first concern with S.B. 333 is with the proposed language in lines 22-30 on page 2 of the bill. This language may allow the Corporation Commission to initiate a proceeding on its own, to investigate a complaint or to consider an application as a trigger for assessment. This is an expansion of the Commission's authority from what is granted in K.S.A. 66-104d(f). Specifically, in 66-104d(f), the Commission's authority over service territory, charges for transmission, transmission line-siting, sales of power for resale and wire-stringing is limited to the authority authorized by those statutes (K.S.A. 66-131, 66-183, 66-1,170, or 66-1,177). For example, the Commission's authority over transmission line-siting is limited by the express provisions of K.S.A. 66-1,177, the line-siting statute. The Commission may not initiate a proceeding or review a complaint under the current line-siting statute. The language proposed in S.B. 333, however, could be interpreted to expand the Commission's jurisdiction to allow the Commission to initiate its own proceeding or investigate a complaint.

Secondly, we do not believe that other regulated utilities are suffering specific assessments to process wire-stringing applications or transmission line-siting application, nor to file tariffs for sales of power for resale or certification issues. We question why specific assessments would be issued against deregulated electric cooperatives in this case, when other utilities are not assessed. If deregulated cooperatives are assessed for proceedings before the KCC, the assessment would have to be passed through to the consumer owners, effectively increasing the rates they pay for electric service. We are concerned with and opposed to any unnecessary regulation that increases the cost to our members.

Lastly, we are also concerned with the proposed deletion of the language in lines 14-18 of page 2 of the bill. The effect of the deletion of this language is to give the Commission a "blank check" to cover all expenses associated with the investigation as the KCC deems necessary. Currently, the Commission is limited to 3/5 of 1% of a public utility's gross operating revenues. The existing language is appropriate in order to promote efficiency by the Commission and to ensure cost-effective regulation.

Our position on this bill can be summarized as follows: We oppose any expansion of the Commission's jurisdiction over deregulated cooperatives. For those matters undertaken by deregulated electric cooperatives over which the Commission retains jurisdiction, the assessment, if any, should be identical to the assessment against a regulated public utility. The changes to the bill as attached to this testimony address our concerns, as well as meet the stated objectives of the Commission.

This concludes my testimony and I will be happy to answer any questions.



**ELECTRIC COOPERATIVES OF KANSAS  
DEREGULATED FROM KANSAS CORPORATION COMMISSION**

Alfalfa  
Ark Valley  
Brown-Atchison  
Butler  
C&W  
Caney Valley  
CMS  
Doniphan  
DS&O  
Flint Hills  
Heartland  
Jewell-Mitchell  
Lane-Scott

Leavenworth-Jefferson  
Lyon-Coffey  
NCK  
Nemaha-Marshall  
Ninnescah  
Norton-Decatur  
PR&W  
Radiant  
Sedgwick County  
Smoky Hill  
Sumner-Cowley  
Twin Valley  
Western

**ELECTRIC COOPERATIVES OF KANSAS  
REGULATED BY KANSAS CORPORATION COMMISSION**

Kaw Valley  
Pioneer

Victory  
Wheatland

SENATE BILL No. 333

By Committee on Utilities

2-14

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

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

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

42 The commission shall ascertain the expenses of any such investigation  
43 or appraisal and by order assess such expenses against the public utility

commencement of a proceeding

5-5

5-6

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

— Leave existing language,  
 Delete proposed language.

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

may

other  
 would be assessed in a similar proceeding

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

Attach. 6



# Legislative Testimony

Kansas Telecommunications Association 700 SW Jackson St., Suite 704, Topeka, KS 66603-3758 V/TTY 913-234-0307 FAX 913-234-2304

## Before the Senate Committee on Utilities

SB 333

February 24, 1997

Madam Chair, 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.

The KTA membership has asked me to appear today to indicate varying levels of support and opposition to specific provisions of SB 333. It should come as no surprise that an organization with a membership as diverse as ours would have different opinions on certain topics. I'll attempt to address one-by-one the various amendments to current statute proposed by SB 333.

On page 1, beginning at the end of line 23, a change would be made in the starting date for the KCC to accrue costs to be assessed to utilities that are parties to a proceeding. After visiting with the KCC staff, we have a better understanding of the KCC's "cash-flow" problems with the current system and the KTA does not have a problem with the proposed change.

Likewise, the KTA does not have a problem with the amendment proposed at lines 40 and 41 of page 1.

The change to remove the requirement that bills for assessments be sent by registered mail, on page 2, in line 2, also appears to us to be a good change.

Many KTA members have serious concerns, however, with the changes proposed beginning on page 2 in lines 14 through 20. Removing the existing cap on direct assessments would have the effect of handing a blank check to the KCC, its staff, and CURB. That check could be "cashed" for any and all expenses - direct and indirect - incurred in a commission proceeding. The words "any" and "all", combined with the words "direct" and "indirect", would make it difficult to imagine an expense that would not be able to be assessed against a utility.

In researching the current "KCC assessment spending lid," the 3/5ths of 1% of gross intrastate operating revenues, we found that the dollars involved varied tremendously. For Southwestern Bell Telephone Company, Sprint, AT&T, and other large telecommunications companies, the amount computes to be several

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Att. 6*

million dollars a year. For the smaller telecommunications companies, we found the more typical ceiling was around \$11,000 or \$12,000.

We found that removing the ceiling might have little or no effect on the large companies, but could have a tremendous impact on the smaller companies. It's no surprise, then, that the greatest concern about this portion of SB 333 came from the independent telephone companies.

While opposing this portion of the bill, the KTA believes that the authors of SB 333 have correctly focused the legislature's attention on the subject of KCC assessments. In a rapidly changing competitive environment, it would be unwise to assume that the old KCC assessment formulas would always be appropriate.

We believe this portion of SB 333 is a timely signal that the matter of KCC assessments needs to be reviewed. Our proposal is that the bill be amended to leave unchanged the current assessment ceiling and that the utilities be charged to work with the KCC to develop a recommendation or set of recommendations to be considered in the 1998 Kansas Legislature.

KTA members are ready to facilitate that study in whatever manner they can. We've proven in the past that the telecommunications industry can come together and achieve consensus. We know that other utility groups have enjoyed similar successes in consensus building. We have every reason to believe that the study can result in meaningful and appropriate recommendations for change.

The study group could return with something as simple as a different cap formula or a recommendation that the cap be removed as is proposed in SB 333. But, the recommendations could also include a different formula for different types of utilities. Competition is impacting nearly all utilities. A "one size fits all" formula may prove to be unworkable in the future. We won't know the answers until we get into the study.

Taking the spending lid off government agencies has rarely been the approach favored by legislators, business people, or consumers who ultimately pay the bills. We hope this committee will take seriously our proposal. We hope you'll retain the current 3/5ths of 1% of gross intrastate operating revenues cap on KCC assessments and charge someone with the responsibility for developing a new approach.

The KTA pledges to help in that effort.

The section of the bill contained in lines 22 through 30 on page 2 deals with electric cooperatives and does not affect our membership. We make no comments on that language.

Thank you for your time. I'll attempt to answer questions.

**TESTIMONY ON SB 333**  
Before Senate Utilities Committee  
February 20, 1997

Madam Chair, 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 strongly opposes SB 333**

This measure impacts the 14 municipal electric cities that have Kansas Corporation Commission jurisdictional customers (those outside the 3 mile limit) and the 17 municipal gas distribution cities that have jurisdictional customers:

**Electric cities:**

Anthony	Ashland
Burlingame	Clay Center
Coffeyville	Larned
McPherson	Pomona
Pratt	Russell
Sabetha	Sterling
Wellington	Winfield

**Gas Distribution cities:**

Alma	Alta Vista	Auburn
Aurora	Burlingame	Eskridge
Garden Plain	Harveyville	Jamestown
LaCygne	Milford	Norwich
Palmer	Pawnee Rock	Rozel
Spearville	Uniontown	

As KMU understands the bill, it would remove the cap or limitation on assessments by the KCC to jurisdictional utilities; thus in sense providing the KCC with a blank check. We oppose not having a limit on costs which are imposed by someone else.

Cities do not have unlimited resources and under the current practice where a cap is placed (3/5ths of 1% of gross operating revenues), cities can plan for an anticipated amount to be assessed annually and therefore can budget for that expense. Without a cap or limitation, assessments could be whatever the KCC would determine they would be -- which might be small or could be very large if the KCC undertook a large project -- such as opening a docket to investigate retail wheeling. The cities already are paying a large amount for two studies on retail wheeling and would not look favorably at helping pay for a third -- especially one in which they would have no say in determining the parameters.

Current practice protects jurisdictional municipal utilities from over zealous spending by the KCC since it has the authority to open any investigation it desires, but not the responsibility for payment.

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*Att. 7*