

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 March 5, 1997 in Room 531-N of the Capitol.

All members were present except:
Sen. Morris was excused

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

Conferees appearing before the committee:
none

Others attending: See attached list

Sen. Ranson requested the committee read the Minutes of the February 12 and 13 meetings (Attachment 1). Sen. Steffes made a motion the Minutes be approved, and it was seconded by Sen. Brownlee; the motion passed and the Minutes were approved.

Sen. Ranson referred to the Retail Wheeling Task Force and its work during the interim and announced the committee will hear a briefing on the Task Force's Report by Lynne Holt. Ms. Holt distributed information to the committee, as follows:

Retail Wheeling Task Force membership, (Attachment 2);
House Bill No. 2600, (Attachment 3);
Preliminary Report on Retail Wheeling, (Attachment 4).

Ms. Holt began her briefing by giving the definition of Retail Wheeling, which is found in the Preliminary Report, Page 1 and commented on the transmission and distribution processes as coming under monopolistic control. She walked the committee through the Report, with emphasis on deregulation, increased competition, how other states have approached the problem, FERC orders, electrical rates and how they compare across the United States. She also discussed stranded costs, economical impact of deregulation and enumerated policy questions, which appear on Page 5 of the Report.

Ms. Holt announced the Task Force has hired a consultant, McFadden Consultant Group and Resource Data International. The contract with McFadden was signed on February 21, 1997 for six months at a cost of \$269,765.00, and was financed through Kansas, Inc. and the Kansas Economic Development Institute. McFadden will conduct interviews with numerous groups and report back to the Task Force, who hopes to have legislation ready for the 1998 session. The Task Force also will receive three interim reports from McFadden.

Sen. Ranson announced the Committee will hear from staff of the Department of Revenue on tax issues.

Meeting adjourned at 2:30.

Next meeting is scheduled for March 6, 1997.

Approved: MARCH 5, 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 12, 1997 in Room 531-N of the Capitol.

All members were present except:
Sens. Hensley and Sallee were excused

Others attending: See attached list

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

Conferees appearing before the committee:
Doyle Fair, Consulting Petroleum Engineer, Wichita
Donald Schnacke, Exec. Vice-Pres., Kansas Independent Oil & Gas Association
Clark Duffy, Assoc. Dir., Kansas Petroleum Council
Bernard Nordling for John Crump, Dir., S.W. Kansas Royalty Owners Assoc.

Chairperson Ranson called the meeting to order and announced the continuation of the hearing for **SB 147-relating to oil and gas; prescribing information to be included with payments to interest owners from sales of oil and gas**. Sen. Ranson reminded the committee of yesterday's meeting where the committee heard testimony from Proponents Erick Nordling and Sharon Rooney. She announced continuation of hearing proponents for the bill; that written testimony (Attachment 1) has been distributed for F. Doyle Fair, and Sen. Clark gave a brief summary of the testimony. The following gave testimony as proponents:

Donald Schnacke (Attachment 2)
Clark Duffy (Attachment 3)
Bernard Nordling gave testimony of John Crump (Attachment 4)

The committee discussed a proposed amendment, which is part of Mr. Duffy's testimony, and an amendment drafted for committee consideration by Mr. Carman (Attachment 5).

The committee discussed proposed amendments and the wording. Sen. Morris made a motion the committee adopt language in the Revisor's draft, and it was seconded by Sen. Barone; the motion passed. Sen. Morris made a motion in Section 3, the last sentence to begin with an "A" and strike the "Such". The motion was seconded by Sen. Barone, and the motion passed. Sen. Morris made a motion SB 147 be passed as amended, and it was seconded by Sen. Jones; the motion passed. Roll call vote was taken, and the bill passed unanimously.

Sen. Ranson called committee's attention to **SB 84-concerning municipal and gas utilities; service outside three miles of city** and the hearing on February 11. She stated the rates furnished by the Kansas Corporation Commission were outdated and read current rates to the committee (Attachment 6) and also referred to the fiscal note. She reminded the committee of an error in the bill and the request from Mr. Stroup the language be changed. That change is on Page 1, Lines 42 and 43. Sen. Barone made a motion the original language be returned to the bill, and it was seconded by Sen. Steffes; and the motion passed.

Sen. Ranson also called attention to Page 2, Lines 1 and 2, and the request to restore that wording. Sen. Morris made a motion the changes be made, and it was seconded by Sen. Brownlee; and the motion passed. The committee continued by discussing another change, which had been requested by Western Resources, which is on Page 1, Line 27, and the new language which was added. The language desired should read that the rates outside the 3-mile areas would be the same as within the 3-miles. Mr. Carman indicated he understood wording the committee desired. Sen. Morris made a motion to so amend the bill, and it was seconded by Sen. Barone; the motion passed.

Sen. Ranson recognized Sen. Lee who made a conceptual motion to initiate the complaint procedure outside

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON UTILITIES, Room 531-N -Statehouse, at 1:30 p.m. on February 12, 1997.

the 3-miles, and it was seconded by Sen. Clark. The committee continued discussing the bill, and Sen. Salisbury questioned the complaint procedure and applying it outside the city and other committee members stated concern regarding the effect on customers both inside and outside the 3-mile area. Sen. Ranson warned that this amendment would regulate an area that has not been regulated before, and Mr. Heinemann read the statute which applies to cooperatives and the complaint process. Sen. Brownlee also questioned and voiced concern as to the procedure and the customers which it effects, both inside and outside the city. Sen. Lee further explained the Hearing process, which applies now, is time-consuming and expensive; the complaint process would be less time consuming and not as expensive. Sen. Ranson asked Mr. Stroup if the Kansas Municipal Utilities objected to the conceptual amendment, and Mr. Stroup answered they would not object. Sen. Ranson called for a vote on the conceptual amendment, and the conceptual amendment passed. Sen. Ranson requested that the amendment language be drafted and brought to the committee tomorrow for consideration.

Sen. Ranson announced the committee will consider **SB 177-relating to the corporation commission; time to issue reconsideration order** and a briefing on **SB 148-relating to natural gas gathering systems; providing for regulation of certain entities.**

Meeting adjourned at 2:20.

The next meeting is scheduled for February 13, 1997.

Approved: MARCH 5, 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 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

Attach. 2

RETAIL WHEELING TASK FORCE

House Members

Representative Carl Holmes, Chairman
Representative Richard Alldritt
Representative Tom Sloan

Senate Members

Senator Karin Brownlee
Senator Janis Lee
Senator Pat Ranson

Nonlegislative Members

Gene Argo, Midwest Energy, Inc.
Randy Burleson, Empire District Electric Company
David Bybee, Kansas Department of Commerce and Housing
E. Leon Daggett, Board of Public Utilities, Kansas City
Chris Giles, Kansas City Power and Light Company
L. Joe Hamman (residential consumer representative)
Gil Hanson, Kansas Municipal Utilities
Walker Hendrix, Citizens Utility Ratepayer Board
Larry Holloway, Kansas Corporation Commission
Dennis Lane, Department of Civil Engineering, the University of Kansas (environmental technology expert)
James Martin, Western Resources
Jon Miles, Kansas Electric Cooperatives, Inc.
Stephen E. Parr, Kansas Electric Power Cooperative, Inc. (KEPCO)
Randy Rohlfing, Farmland Industries Company (large commercial/industrial customers)
Penny Tvrdik, Utilicorp United Inc./West Plains Energy
Mike Vess, Vess Oil Corporation (small commercial/industrial customers)
Earl Watkins, Sunflower Electric Power Corporation

Kansas Legislative Research Department

Raney Gilliland
Lynne Holt

Revisor of Statutes

Mary Torrence
Fred Carman

Secretary

Pat Talbott

*Senate Utilities
3-5-99
Att. 2*

HOUSE BILL No. 2600

An Act concerning retail electric service; establishing the retail wheeling task force to study competition in such service; relating to authorization of such competition by the state corporation commission.

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

Section 1. (a) There is hereby established the retail wheeling task force. The task force shall consist of 23 members, as follows:

- (1) Two members of the house of representatives appointed by the speaker of the house of representatives and one member of the house of representatives appointed by the minority leader of the house of representatives;
- (2) two members of the senate appointed by the president of the senate and one member of the senate appointed by the minority leader of the senate;
- (3) a member of the staff of the state corporation commission designated by the chairperson of the commission;
- (4) a representative of the citizens' utility ratepayer board designated by the chairperson of the board;
- (5) a representative of the department of commerce designated by the secretary of commerce;
- (6) an environmental technology expert who is an authority on renewable energy, designated by the legislative coordinating council;
- (7) a large commercial or industrial electric customer, designated by the legislative coordinating council;
- (8) one representative of each of the following, designated by the governing body of the association: Kansas electric cooperatives, inc., and Kansas municipal utilities, inc.;
- (9) one representative of each of the following, designated by the chief

Senate Utilities
3-5-99
Att. 3

administrative officer of the company: Kansas City Power and Light, Kansas City Board of Public Utilities, Kansas Electric Power Cooperative, Empire District Electric Company, Midwest Energy, Sunflower Electric Power Corporation, Western Resources and West Plains Energy;

(10) a small commercial or industrial electric customer, designated by the legislative coordinating council; and

(11) a residential electric customer, designated by the legislative coordinating council.

(b) Not more than two members of the legislature appointed to membership on the task force shall be residents of the same congressional district. No members designated pursuant to subparts (7), (10) and (11) of subsection (a) shall be residents of the same congressional district. The legislative coordinating council shall designate two of the legislative members of the task force to serve, respectively, as chairperson and vice-chairperson of the task force.

(c) The task force shall meet at least four times a year on call of the chairperson of the task force.

(d) The staff of the office of the revisor of statutes, the legislative research department and the division of legislative administrative services shall provide such assistance as may be requested by the task force and authorized by the legislative coordinating council. The legislative division of post audit shall provide such assistance as may be requested by the task force and authorized by the legislative post audit committee. The state corporation commission and each other state agency shall provide assistance to the task force as may be requested by the task force.

(e) Task force members enumerated in subparts (1), (2), (6), (7), (10) and (11) of subsection (a) shall receive amounts provided by subsection (e) of K.S.A. 75-3223 and amendments thereto for each day of actual attendance at any meeting of the task force or any subcommittee meeting approved by the task force. Such amounts paid to members shall be paid from appropriations to the legislative coordinating council pursuant to vouchers prepared by the director of legislative administrative services and approved by the chairperson or vice-chairperson of the legislative

coordinating council.

(f) The task force shall study issues related to competition in the furnishing of retail electric service in this state, including but not limited to:

- (1) Actions of the federal energy regulatory commission;
- (2) the obligation of electric utilities to serve customers;
- (3) the economic impact on each class of electric utility customer;
- (4) the social impact on Kansas citizens;
- (5) the impact on state general fund revenues and local franchise and tax revenues;
- (6) the status of electrical generating facilities in a competitive environment;
- (7) savings that may be achieved by electric utility mergers and downsizing;
- (8) recovery of stranded costs;
- (9) unbundling of generation, transmission and distribution services;
- (10) leveling the financing of capital investment;
- (11) retail wheeling, including loop losses;
- (12) brokerage;
- (13) incentives for renewable energy investment;
- (14) the feasibility of establishment of retail customer service areas, consisting of all classes of customers, for which retail suppliers would compete to serve;
- (15) stranded benefits such as the cold weather rule and charitable

contributions by retail suppliers;

(16) nonprice issues such as customer service, storm damage repair, energy conservation and billing;

(17) the impact on municipal electric utilities and rural electric cooperatives; and

(18) the impact on existing statutes.

(g) The task force shall submit a preliminary report to the house and senate committees on energy and natural resources on or before January 15, 1997, and a final report of its findings and recommendations to the house and senate committees on energy and natural resources on or before January 11, 1998.

Sec. 2. Before July 1, 1999, the state corporation commission shall continue to regulate retail electric suppliers in accordance with the provisions of K.S.A. 66-1,170 through 66-1,176, and amendments thereto, and shall not authorize competition in the furnishing of retail electric service in this state. The commission may open one or more generic dockets to study the issue of competition in the furnishing of retail electric service.

Sec. 3. The provisions of sections 1 and 2 shall expire on July 1, 1999.

Sec. 4. This act shall take effect and be in force from and after its publication in the Kansas register.

Approved April 10, 1996.

Published in the Kansas Register: April 18, 1996.

Attach.

PRELIMINARY REPORT ON

RETAIL WHEELING

Presented to the

KANSAS LEGISLATURE

by the

RETAIL WHEELING TASK FORCE

January 1997

*Senate Utilities
3-5-97
Att. 4*

PRELIMINARY REPORT ON RETAIL WHEELING

(As Required by 1996 H.B. 2600)

Background—Retail Wheeling Task Force

The 1996 Legislature enacted H.B. 2600, which established the Retail Wheeling Task Force (hereafter referred to as the Task Force), and authorized that Task Force to study issues related to competition in the furnishing of retail electric service in Kansas. As reflected in the bill, the 23-member Task Force represents all types of utilities (investor-owned, rural electric cooperatives, and municipals) and each customer class (residential, commercial, and industrial). The bill assigned the Task Force 18 charges, which the Task Force subsequently expanded to 21 charges. The anticipated duration of the Task Force's study is 18 months, with requirements for a preliminary report and a final report to be presented to the House and Senate Committees on Energy and Natural Resources in January 1997 and January 1998, respectively.¹ This schedule assumes that retail wheeling would not be implemented (if it is to be implemented) until after the 1998 Legislature received the final report and was afforded the opportunity to use it as a basis for policy recommendations on restructuring issues. This intent is further clarified by the express prohibition in the bill against the Kansas Corporation Commission (KCC) authorizing competition in the furnishing of retail electric service in Kansas prior to July 1, 1999.

Background—Retail Wheeling

What Is Retail Wheeling?

In Edison Electric Institute's *Glossary of Electric Utility Terms*, "retail wheeling" is defined as "an unbundled transmission or distribution service that delivers electric power sold by a third-party directly to end-users. This service would allow a retail customer to buy power from someone other than the franchised local utility, but still receive delivery using the power lines of the franchised local utility." These alternative suppliers of electricity may be generating plants owned by other utilities, independent power producers (IPPs), or intermediaries, such as power marketers. With retail wheeling the generation component of a vertically integrated utility (monopoly) becomes deregulated. Under that scenario, neither the market for any generator's electricity, nor the price for that electricity is guaranteed. A utility may not necessarily be required to divest its generation facilities but it will be required, at a minimum, to unbundle or disaggregate its rates—separating the rates for supplying electricity from the rates for transmission and distribution—to make those rates explicit for purposes of allowing competition. Unlike the generation component, the distribution and transmission (the delivery) components of the utility likely will remain under state and federal regulation. The deregulation of the generation component has myriad implications for how electric power will be furnished to

¹ As a result of legislative reorganization, it is presumed this issue will be addressed by the House and Senate Utilities Committees.

businesses and homes. The result of the Task Force's work should be a thorough understanding of those implications with recommendations, if necessary, for state legislative action. The policy issues that have stimulated considerable Task Force discussion and will require further study are briefly discussed below.

How Do Retail Customers in Kansas Currently Receive Electric Power?

Currently, all six investor-owned electric utilities serving Kansas customers are regulated by both the KCC, with respect to retail transactions, and its federal counterpart, the Federal Energy Regulatory Commission (FERC), with respect to wholesale transactions. Only four of the 32 distribution rural electric cooperatives (RECs) are regulated by the KCC. The 121 municipal utilities are self-governing, except for the services to customers located at least three miles from municipal boundaries. The service to these customers is regulated by the KCC. Six RECs are owners of Sunflower Electric Power Corporation and 23 RECs are owners of the Kansas Electric Power Cooperative (KEPCo). (Sunflower and KEPCo are nonprofit generation and transmission cooperatives that are regulated by the KCC with limited oversight by FERC.) Of 121 municipal electric utilities, 64 generate their own power and the remaining 57 utilities are exclusively distributors.

As required by Kansas law, the state is divided into retail electric service territories. Within each territory, only one electric supplier may provide retail electric service to customers within that territory, as certified by the KCC. There is no statutory authority for retail customers to purchase electricity from any supplier other than the one certified to serve the territory. However, subject to the KCC's approval, retail electric suppliers may enter into agreements to establish other boundaries than those reflecting certificated areas. Nonetheless, retail wheeling could not occur without statutory amendments.

What Was the Impetus for Consideration of Restructuring the Electric Utility Industry in Kansas?

H.B. 2600, which established the Retail Wheeling Task Force, was recommended by the 1995 Special Committee on Energy and Natural Resources as a result of an interim study on retail wheeling in Kansas. In addition to the previously discussed provisions, the bill authorized the KCC to open one or more generic dockets to study the issue of competition in the furnishing of retail electric service. Prior to the enactment of 1996 H.B. 2600, the KCC opened a generic docket to that end on January 17, 1996. Three issues supported the need for the KCC's investigation: (1) the increased competition of nonregulated generators due to actions by FERC; (2) pressure exerted on regulated utilities by large industrial customers; and (3) other state regulatory commission and legislative proceedings on such matters. A fourth issue—federal activity—also affected the KCC's decision to open the docket. Subsequent to that decision, certain federal actions related to restructuring have occurred. These actions and each of the other three issues are summarized briefly below:

1. **The Increased Competition of Nonregulated Generators.** The KCC noted in its order several actions taken by FERC to restructure the wholesale market (the market involving sales of electric energy to other electric utilities or public authorities for resale purposes). Moreover, the KCC's order noted: "The industry itself is changing in response to public and private initiatives. Since

1989, over 50 percent of the generating capacity added in the electric industry has been by nonregulated generators. The increasing ability of independent power producers to finance, complete, and market their generating projects, as opposed to the traditional regulatory ratebase treatment of such projects, shows that a competitive wholesale market for electricity is evolving." (The emergence of these IPPs is largely attributable to provisions in two federal acts—the Public Utility Regulatory Policies Act of 1978 and the Energy Policy Act of 1992.)

2. **Pressure by Large Industrial Customers.** The KCC's order noted the concern expressed by several Kansas utilities about their ability to retain large industrial customers as restructuring proceeds. Large industrial customers are the most lucrative of all the customers utilities serve and are most likely to be able to negotiate contracts with nonregulated generators at more favorable rates than regulated utilities might be currently authorized to charge.
3. **Other State Actions.** At the time the KCC issued its order (January 1996), several other state regulatory commissions had commenced proceedings but no state had enacted legislation. As of December 1996, four states have enacted legislation that authorizes retail wheeling (California, Rhode Island, Pennsylvania, and New Hampshire). Retail wheeling pilot projects have been implemented in Massachusetts, New Hampshire, New York, and Illinois, and have been authorized in Michigan and Washington. All states that have proceeded to restructure the electric utility industry have had to consider many major issues. These issues appear to fall under six headings:
 - a. transitional considerations;
 - b. economic impact;
 - c. service considerations;
 - d. environmental considerations;
 - e. impact on state and local government revenues; and
 - f. implications for the responsibilities of the KCC.
4. **Federal Activity.** Below are some of the recent actions at the federal level which necessitate a review from the Kansas perspective. The most important action was the issuance by FERC of Order No. 888 on April 24, 1996. Although full implementation did not occur until July 9, 1996, the Order required public utilities owning, controlling, or operating transmission lines to file nondiscriminatory open access tariffs that offer others the same transmission service they provide themselves. In the open access final rule, FERC issued a single pro forma tariff describing the minimum terms and conditions of service to bring about this nondiscriminatory open access transmission service. All public utilities that own, control, or operate interstate transmission facilities are required to offer service to others under the pro forma tariff. These utilities also must use the pro forma tariffs for

their own wholesale energy sales and purchases. Because of these open access requirements, retail electricity providers are afforded greater opportunities to access wholesale power at a lower cost. The Order also provided for the full recovery of stranded costs. Such costs had to be prudently incurred to serve power customers and could go unrecovered if the customers for whom the power was intended avail themselves of the open access provisions to switch to another supplier. In addition, several bills—most notably, H.R. 3790, sponsored by Congressman Dan Schaefer and H.R. 3782, sponsored by Representative Edward Markey— were introduced in the last Congress. These bills address the issue of restructuring of the electric utility industry, including retail competition, and the relative roles of state and federal regulatory agencies. None of these bills has been enacted, but similar pieces of legislation are likely to be introduced in Congress in 1997.

What Are Some Major Considerations in Restructuring the Electric Industry?

The states leading the restructuring efforts, such as California, Rhode Island, and New Hampshire, are served predominantly by higher-cost, higher-priced utilities with expensive nuclear generating facilities and costly long-term power contracts. With the advent of competition in generation, these utilities are expected to incur significant “stranded” costs—costs that are not recoverable by electric providers under market-based rates. The examples of utilities in New Hampshire, Rhode Island, and California are most frequently cited as having high stranded costs because their debts are considerable and, therefore, their rates to all customer classes are among the highest in the country.

By contrast, according to a 1995 Edison Electric Institute (EEI) study of 202 investor-owned utilities, Kansas electric utility rates are, on average, approximately 13 percent lower than the national average. (Average rates, of course, mask considerable rate disparities among electric utilities for each customer class in Kansas.) Moreover, the EEI study does not address rural electric cooperative and municipal rates. Nonetheless, if retail wheeling were implemented, Kansas utilities also would confront the same problem as their higher-cost counterparts in other states to the extent that their generation costs and purchased power costs exceed market-clearing prices (prices established between buyers and sellers in an open market and not by regulators). If this issue is not addressed in a careful and thoughtful manner, the financial integrity of Kansas utilities might be jeopardized, with potentially serious consequences for both shareholders and customers.

The economic impact of restructuring is certainly intertwined with transitional considerations because stranded costs are essentially only considerations in the short term. In the long term, in a fully competitive environment, this will no longer be a consideration. Therefore, economic impact considerations require analysis for both the short term and the long term. According to Steve Daniel, a consultant from GDS who presented information to the Task Force, there has been very little state-specific or utility-specific analysis performed to date on the economic impact of retail wheeling.

What Are the Transitional Issues?

In the short term, of major concern to all policymakers and regulators are the net transition costs or stranded costs to be incurred by existing suppliers of electricity to Kansas consumers, including efforts to "mitigate" or reduce the expenses and previous investment incurred by utilities for facility construction and maintenance and purchased power contracts. Arguably, utilities made large investments and entered into contracts to meet their obligations to serve based on projections of customer demand in a monopoly environment within a certificated territory. The advent of competition can be expected to change: where customers buy their electricity; how much that electricity will cost; and how much of it they will use. These changes are expected to result in costs which cannot be recovered by electric utilities in a more competitive environment ("stranded costs"). The question of who should pay for stranded costs and how will need to be answered. Another issue that needs to be addressed is the means of assuring consumer protection, with respect to, and providing information about, the purchase and use of electricity in a restructured environment. Finally, restructuring involves matching energy supply and demand at market clearing prices since the former monopoly structure will no longer provide the appropriate mechanism for such exchanges. What are the features of the existing industry structure that prevent such matches from occurring in an equitable and expeditious manner and how can barriers to such transactions be removed?

What Is the Economic Impact?

The long-term economic impact of retail wheeling involves an analysis of the effects on each consumer class (residential, commercial, and industrial) and all existing suppliers (investor-owned utilities, generation and transmission cooperatives, generating municipal utilities, and independent power producers) of the deregulated generation component. An analysis of impact also would address the expected cost of energy supply and energy delivery to all customer classes in rural and urban areas of the state and the expected changes in energy use by all classes of customers in Kansas, including an analysis of factors that might contribute to such changes. The underlying policy questions are:

1. If retail wheeling is implemented, which classes of customers can be expected to pay more and where?
2. Which classes of customers can be expected to pay less and where?
3. How, if at all, will those cost projections affect projections for energy consumption?
4. What other factors might shape consumer behavior with respect to electric power consumption?

What Are the Service Considerations?

As restructuring occurs, policymakers will need to ensure that all customers in the state have continued access to electric services, that the quality of service is not undermined, and that service is reliable. In a deregulated environment, in which competition exists, customers may exercise choice concerning the type, quality, and reliability of services. What protections

are necessary to assure customers will have service choices and receive the quality of service they choose?

What Is the Environmental Impact?

How will retail wheeling affect air and water quality and water use? In other words, will competition among suppliers result in a different mixture of fuels used for generation in Kansas? What are the implications, if any, of such change for the state's water and air quality? How will renewable energy sources be addressed in a deregulated environment?

What Is the Impact on State and Local Government Revenues?

Retail wheeling could, but might not necessarily, result in reduced demand for electric power generated by Kansas investor-owned utilities, the generation and transmission cooperatives, and certain municipal utilities. This reduction could result in reduced revenues to these utilities, which could in turn reduce state and local tax proceeds. In 1994, Kansas investor-owned utilities paid slightly more than \$141 million in various state and local taxes. In 1995, Kansas rural electric cooperatives, including Sunflower Electric Power Corporation and KEPCo, paid more than \$20.5 million in state and local taxes. According to the League of Kansas Municipalities, Kansas municipal electric utilities contributed over \$37.2 million to fund government operations in 104 Kansas cities in 1995. The contributions ranged from a low of \$0 in Elsmore to over \$12.8 million in Kansas City. The mean contribution was approximately \$358,000 and the median, approximately \$151,000. In addition to considerations of potentially lost revenues to the state and cities is the consideration of the "nonlevel playing field." Out-of-state electricity providers do not have the same tax obligations as in-state providers, which pay property taxes, sales and use taxes, corporate income taxes, and city franchise fees in Kansas. A presentation to the Task Force on the tax burden on Kansas utilities (Deloitte & Touche) indicated that Kansas investor-owned utilities had high tax burdens, as compared to their counterparts in other states. Particularly notable tax burdens are the property tax (tangible personal property is assessed at 33 percent) and the corporate income tax (specifically, the three-factor apportionment formula). The payment-in-lieu of tax obligations, such as the \$37.2 million in contributions in 1995 of municipal electric utilities, also may place these utilities in a competitive disadvantage compared to other types of electricity providers. To the extent that utility tax obligations and municipal contributions are greater than such obligations of other types of electricity providers and all other factors are equal, Kansas utilities will be placed at a competitive disadvantage in supplying power to Kansas customers. Moreover, out-of-state suppliers with more favorable tax burdens might place Kansas suppliers at a competitive disadvantage. Conversely, Kansas produced electricity in a retail wheeling environment, when sold into other states, may bear a greater state tax burden putting Kansas companies at a disadvantage in the new national marketplace. This could have the effect in a competitive environment of further eroding the utility's revenue base and, consequently, revenues to the state and local governments.

What Are the Implications of Restructuring for the Responsibilities of the KCC?

One can expect differences in the KCC's responsibilities with respect to retail wheeling during the transition period, the short term after the transition occurs, and in the long term (at least ten years after the transition). During the transition period, the KCC might be involved in developing procedures and ensuring their compliance for the following: consumer protection and service, including low-income assistance programs; obligation to serve; unbundling of rates and services; recovery of "stranded costs"; mitigation efforts; possible rate structure modifications; service reliability; and retail wheeling pilot projects (if applicable). In the long term, it is assumed that generation services will no longer be subject to regulation and the KCC will increasingly assume a consumer protection role.

Committee Activities

The Retail Wheeling Task Force met six times in 1996: August 5, August 20, September 4, November 14, December 4, and December 17. A subcommittee of the Task Force met three times in 1996: September 26, October 22, and November 7. The first three meetings of the full Task Force were devoted to gathering information about the nature and implications of retail wheeling and restructuring of the electric utility industry.

At the August 5 meeting, Task Force members heard a presentation from Dr. Matthew Morey, the Director of Economic Policy, Edison Electric Institute, on: the current electric power system in the United States; the Energy Policy Act of 1992; FERC actions regarding wholesale competition; congressional activity regarding the restructuring of the electric utility industry and retail choice; state regulatory and legislative developments; and other transitional issues involving competition in the electric utility industry.

At the August 20 meeting, various Task Force members or designees presented information about the implications of restructuring from the perspectives of their type of utility or customer class. Staff presented a memorandum on an overview of social, environmental, and public service issues related to electric utility restructuring. Jerry Lonergan, the Executive Director for the Kansas Electric Utilities Research Program, explained the mission, goals, and research program of that organization. The members of the Task Force also received information from a staff person of the KCC (also a member of the Task Force) on the electric facility siting laws and construction requirements in other states. Finally, the Task Force approved several changes to the charges included in H.B. 2600, which included the expansion of the number of issues for review from 18 to 21.

The meeting on September 4 was devoted to presentations by the general public on issues and concerns related to retail wheeling. Presentations were made by conferees representing: Kansas Industrial Consumers; J. C. Penney; Kansas Hospital Association; Kansas Chapter of the Sierra Club and the Kansas Natural Resource Council; American Association of Retired Persons; Kansas Farm Bureau; Kansas Independent Oil And Gas Association; and Amoco Oil Corporation. Task Force members also heard a presentation by staff of Deloitte & Touche, who presented information on some of the local and state tax implications of electric utility industry restructuring in Kansas. Part of the presentation was a discussion of the Kansas tax burden on electric utilities as it compared to tax burdens imposed on utilities in other states. There also was discussion about the issues identified collectively by the Task Force members

as having the highest priority for consideration: economic impact, stranded costs, and short-term and long-term benefits of retail wheeling. The meeting concluded with the Task Force's agreement to have a bill drafted, upon request of Representative Tom Sloan, to be considered at a future meeting.

The three subcommittee meetings in September, October, and November were chaired by Jim Martin of Western Resources. These meetings resulted in the development of:

1. proposed clean-up legislation for Chapter 66 of *Kansas Statutes Annotated* —the Public Utility statutes; there was consensus to recommend amendments to six statutes which contained provisions that were obsolete or no longer relevant;
2. a working group (subcommittee) position paper on major retail wheeling issues which divided the general scope of Task Force study into overarching questions, with statements under each question reflecting points of general consensus of Task Force members, (where applicable) points of difference, and points requiring further study; and
3. a Task Force proposal authorizing a third-party study of retail wheeling that would entail engaging a consultant; payment for the study would not require appropriation of state funds and would primarily be financed by the various utilities represented on the Task Force.

The Task Force meeting on November 14 addressed the three products of the subcommittee. The Task Force approved the subcommittee's proposal to amend the six statutes in Chapter 66. The Task Force also reviewed the subcommittee's position paper (no action was needed as this is a working document). Finally, the Task Force approved adoption, with several modifications, of the proposal to hire a consultant to conduct a study on issues related to the five categories addressed above:

1. transitional issues;
2. economic impact issues;
3. service considerations;
4. environmental issues; and
5. impact on state and local government revenues.

Staff has facilitated the Request for Proposal (RFP) process, and selection of the winning proposal and acceptance of the final report will be reserved for the entire Task Force. The study is estimated to have a six-month duration, concluding August 1, 1997. The intent would be to use the findings of the consultant's report as a basis for Task Force deliberations and recommendations to the 1998 Legislature.

The remainder of the November 14 meeting was devoted to a hearing on Representative Sloan's draft legislation. This bill would assign the KCC jurisdiction over all generators in Kansas

until January 1, 2003, when stranded costs would be recovered, and require the KCC to adopt rules and regulations, implementing standards and procedures, as specified in the bill, to recover such costs. After January 1, 2003, transmission and distribution lines would be regulated for purposes enumerated in the bill. All persons engaged in the sale of electricity at retail and all persons using transmission and distribution systems, other than public utilities, would have to be licensed by the KCC. An Electric Energy Programs Fund would be established in the State Treasury. Proceeds from certain revenues collected by transmission facilities based on usage would be credited to the Fund. Costs associated with electric energy assistance, electric energy research, compensation for electric service providers of last resort, and other programs authorized by law would be financed from expenditures from the Fund. The KCC would determine the amount needed to finance the programs and tariffs would be adopted to meet those funding requirements effective January 1, 2003. The Task Force took no action on Representative Sloan's bill.

The meeting on December 4 was dedicated to a review of the RFP and the Task Force's preliminary report to the 1997 Legislature.

The meeting on December 17 was dedicated to reviewing and making modifications to the preliminary report to the 1997 Kansas Legislature. In addition, the members of the Task Force discussed the procedure for review of the responses to the RFP.

The remainder of the Task Force's work—until January 1998—will involve management and oversight of the consultant's activities and development of a final report for the 1998 Legislature incorporating the consultant's findings and the formulation of recommendations and proposed legislation, if applicable, on electric utility industry restructuring.