

MINUTES OF THE HOUSE COMMITTEE ON UTILITIES.

The meeting was called to order by Chairperson Don Myers at 9:00 a.m. on January 14, 1998 in Room 514-S of the Capitol.

All members were present except:

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

Conferees appearing before the committee:

Others attending: See attached list

Chairman Don Myers asked if there were any bill introductions. Noting that there were none, the Chairman introduced Mary Ann Torrence, Staff, of the Revisor's Office, who continued the review and discussion of the Retail Wheeling Task Force bill draft. The Chairman noted that this is the bill that was introduced into Committee yesterday by Representative Sloan and the bill should be filed today.

Among the topics reviewed and discussed by Staff were Emergency Suppliers, Aggregation, Licensure, Alternative Rates and Environmental Impact Statements, and Electric Utility Deregulation Oversight Committee. The topics are detailed in the Final Report of the Task Force on Retail Wheeling.

The Chairman introduced Lynne Holt, Staff, of the Legislative Research Department, who continued with the review on the subject of policy. Referring to the Final Report of the Task Force on Retail Wheeling, Staff detailed information on the generation component, which she indicated is the basis of most discussion with restructuring. Among the topics reviewed and discussed by Staff was information on the State of Kansas as a whole and what electric utilities are within the state, Participation of and Specific Issues Related to Municipal Utilities. Staff mentioned that there is no federal legislation regarding retail wheeling as of now. The topics are detailed in the Final Report of the Task Force on Retail Wheeling. Questions and discussion followed.

The Chairman indicated that he intends to run two bills at a minimum. One bill is to set up the Tax Issues Committee to look into franchise taxes, property taxes and sales taxes, etc., regarding retail wheeling. The second bill would be an attempt to require unbundling of the various components that are in electric bills. The Chairman also indicated that he will possibly set up a sub-committee to look at the legislation that was introduced yesterday to relax the burden placed on the Kansas Corporation Commission in the area of regulation. Also, there were two letters distributed today. One from Kansas Electric Power Cooperatives, Inc. (Attachment #1) which explains why they signed the minority report and the second from the Kansas Corporation Commission (Attachment #2) regarding gas gathering.

The Chairman recognized Representative McKinney who requested that the Committee have an outside independent person come talk before the Committee to assess the current transmission line capability to handle a wheeling system. The Chairman requested that the Committee notify him if there are any suggestions.

The meeting was adjourned at 10:00 a.m.

The next meeting is scheduled for January 15, 1998.



Kansas Electric Power Cooperative, Inc.

• STEPHEN E. PARR - EXECUTIVE VICE PRESIDENT
& CHIEF EXECUTIVE OFFICER

December 16, 1997

Representative Don Myers
613 Briarwood
Derby, KS 67037

Dear Representative Myers:

The Kansas Electric Power Cooperative, Inc. (KEPCo) was proud to have been a part of the work of the Retail Wheeling Task Force during the past two years. It has been a very enlightening and educational experience as we explored the issues, learned about the legislative process, discovered the excellent support staff which makes all this possible, and produced a bill which we should be proud of. In our associations with utilities in other states, the work in Kansas is leading a pack of states exploring this topic--in fact we may have done more work than some of the states which have been headlining the retail wheeling debate.

However, KEPCo believes that Kansas need not hurry to make retail wheeling news and should be deliberate in its work to answer several significant questions which remain. As you know, the Task Force developed an understanding of the many complex issues but often turned decisions on those matters over to the Kansas Corporation Commission. We are also interested in learning more from states like California and New Hampshire as they push forward using their experience to examine the impact on rates, how to implement an effective customer education program, and other matters. We must also more thoroughly explore reliability issues and the tax implications of making a switch to the competitive market in Kansas.

That is why we signed the resolution circulated by Western Resources which will be included with the final report. We read the resolution simply as a call to be diligent in 1998, a call to perhaps examine some interim steps toward retail wheeling but to be cautious about the need to proceed full steam ahead. In no way do we interpret the resolution as a minority report intended to discredit the work of the task force. However, we were concerned that by not signing the resolution it appears we endorse retail wheeling in Kansas at this time.

We very much appreciate the work of the legislators and task force members on behalf of the rural electric distribution cooperatives. You have given them the ability to option out of retail wheeling, protection of service territory and no-by pass, plus REC consumers

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could benefit through a universal service fund in case competition for power supply doesn't materialize in rural Kansas. These provisions are consumer friendly and benefit the distribution cooperatives as well.

On the other hand, as you know from our eighteen months of deliberation, retail wheeling impacts electric cooperatives like KEPCo much differently. KEPCo is a generation and transmission cooperative which has served the wholesale power needs of our member RECs in Kansas for more than 20 years. While this legislation provides no assurance of our future, KEPCo is working to prepare for competition and customer choice. Retail wheeling, if implemented carefully, could be an opportunity for us to change and grow but first we have significant issues to address such as the recovery of stranded costs from our investment in the Wolf Creek Generating Station. Those who want immediate access to customer choice and a free market were fortunate not to have constructed generation, either nuclear or coal, during an impossible-to-predict period in our history of record high interest rates and government mandates. In addition, they generally have no track record, roots, and little investment in rural Kansas.

Thank you for the opportunity to serve together on the Retail Wheeling Task Force as well as your understanding of our decision to sign the resolution. KEPCo looks forward to working with you on the challenges ahead as we deal with this important issue.

Sincerely,



Stephen E. Parr
Executive Vice President
and Chief Executive Officer



Bruce Graham
Vice President, Member Services
and External Affairs



Kansas Corporation Commission

Bill Graves, Governor John Wine, Chair Susan M. Seltsam, Commissioner Cynthia L. Claus, Commissioner

January 12, 1998

The Honorable Don Myers, Chair
House Committee on Utilities
State Capitol - Room 175-W
Topeka, Kansas 66612

Dear Representative Myers:

At our administrative meeting last week the Commission took action on the proposed regulations implementing the gas gathering statutes. We are aware of your limited time during the legislative session and want you to know at the beginning of the session what action we took. Because it will take some time to revise and adopt the regulations and the reporting form, we are summarizing our decision in this letter.

First, we concluded that the exemption language in the statute is plain and unambiguous. Although some lawmakers indicated that the language does not accurately express legislative intent, it is not lawful for us to ignore the statutory language. Only the Legislature can amend express statutory provisions.

Second, we also concluded that the statutory language describing the reporting requirements is not plain and unambiguous so we must resort to the rules of statutory construction to interpret the meaning of those provisions. Because the first and most important rule is to follow legislative intent, we carefully considered the contradictory comments and concluded that although legislative efforts to require well-by-well reporting did not succeed, some form of "price transparency" was intended. We interpret this to require the filing of meaningful information on gathering prices without imposing unreasonable burdens on industry or resulting in volumes of data impossible to effectively utilize.

Although we directed the staff to make some changes in the proposed regulations (discussed in detail below), changes to the level of detail and format of the information to be reported would be contained in the form. Basically, we think the form now in use (Preliminary Form GG-1) may not provide sufficient information to provide meaningful price transparency. The comments tended to either support the level of detail in the current form or request much more extensive reporting and did not focus on alternative solutions. Therefore, we are giving all interested parties an opportunity to provide additional comments on the following issues:

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Attachment 2

1. The range of rates without additional data points may not provide sufficient information. Particularly in larger systems, anomalous high or low prices could make range by itself meaningless. Examples of additional data points that, if practicable to produce, might make the high and low points more useful include the median, mean or weighted average. Although we are open to other possibilities, we are not seeking comments that merely repeat old positions.
2. The range, even with modifications discussed above, might not provide meaningful information in larger systems. We are asking for practical methods of providing more localized information. Examples discussed include reporting the information by county, township or some functional segment of the system. Again, we will not decide details until we consider additional comments focused on an appropriate cut-off point (maximum size for single reporting) and methods for segmenting the larger systems.

We also decided that changes to the form should not take effect until July 1, 1998. We made this decision for a combination of reasons. First, we recognize that only the Legislature can accurately determine legislative intent and it may, after learning of our action, choose to provide more specific direction this session. Also, it will take some time for us to obtain and assess the additional comments and then additional time for parties to prepare for complying with the new reporting requirements. Finally, we do not want to burden or confuse parties with three different forms in a six month period. Instead, we will continue with the form now in use until July 1, 1998.

In addition to changes to the form, we will be making the following changes to the proposed regulations:

1. Specify that substantive changes will not be made to the new form without notice, a public hearing and opportunity for comment.
2. Clarify that the map referred to in the complaint portion of the regulations will be limited to gas gathering systems "known" to the complainant.
3. Require the staff to examine the circumstances surrounding any notice of termination filed and recommend, if appropriate, that a formal investigation be commenced.
4. Permit a report containing no changes from the previous report to summarily so indicate without refileing all of the same information.
5. Clarify that delay is not the only form of abuse of the complaint process that is prohibited.

In summary, we are soliciting additional comments and will be adopting a revised form to be effective July 1, 1998. The proposed regulations will be amended as described above, including

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the requirement that any substantive change to the new form can only be made after notice, hearing and comment.

We will continue to provide these committees with information about the implementation of these statutes. Please let us know if you would like any additional information.

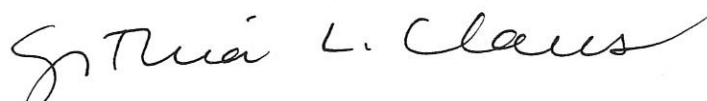
Sincerely,



John Wine, Chair



Susan M. Seltsam, Commissioner



Cynthia L. Claus, Commissioner

JW:SMS:CLC:jp

cc: Members of House Committee on Utilities
Chair & Committee Members of Senate Committee on Utilities
Chair & Committee Members of Joint Committee on Rules & Regulations
Legislative Research Department
Revisor of Statutes