

MINUTES OF THE HOUSE COMMITTEE ON UTILITIES.

The meeting was called to order by Chairperson Don Myers at 9:00 a.m. on March 10, 1998 in Room 514-S of the Capitol.

All members were present except: Rep. Aurand - excused
Rep. Humerickhouse - excused
Rep. Mayans - excused

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

Conferees appearing before the committee: Jim Widener, Kansas Municipal Energy Agency
Marshall Lancaster, Utilities Consultant, Wichita

Others attending: See attached list

Chairman Don Myers announced that today the Committee would hold a hearing on **SB 491**.

The Chairman recognized Representative McKinney who made a motion to introduce a resolution to ask the Kansas Corporation Commission to take another look at the decision and prudence of the long-term natural gas contract P-0802. Representative Sloan seconded the motion. Motion carried.

Hearing on SB 491 - Authorizing certain cities to be members of the Kansas Municipal Energy Agency

Staff, Lynne Holt, Legislative Research, gave a briefing on **SB 491**.

The Chairman recognized Jim Widener, General Manager of the Kansas Municipal Energy Agency, proponent, who spoke in support of **SB 491** as amended. Mr. Widener indicated in his testimony that KMEA provides its member cities the opportunity to participate in projects such as power supply, interconnections, and financing. He also mentioned that the proposed deletion and addition in Section 2 KSA 12-897 will allow Municipal Energy Agencies to sell electricity wholesale to all member cities as well as to marketers and brokers, who did not exist in 1976. (Attachment#1)

The Chairman recognized Jim Widener, General Manager of the Kansas Municipal Energy Agency, testified in support of **SB 491** in the absence of Louis Stroup, Jr., proponent, Executive Director of Kansas Municipal Utilities, Inc., proponent. In the testimony, Mr. Widener indicated that KMEU supports **SB 491** as amended. Also, that the changes in the bill will allow the Kansas Municipal Energy Agency to better assist Kansas municipal electric distribution cities in the wholesale arena - a part of the electric industry that Congress and the Federal Energy Regulatory Commission has opened up. (Attachment#2)

The Chairman recognized Marshall Lancaster, Utilities Consultant, Wichita, proponent, who spoke in support of **SB 491**. Mr. Lancaster indicated in his testimony that he is testifying for informational purposes only and did not represent any organization having an interest in the passage or failure of the legislation. Also, he mentioned that **SB 491**, by granting flexibility to Kansas municipalities which is more equivalent to that already enjoyed by other utilities, would improve perceptions of Kansas municipalities by decisionmakers in the bond markets, whether those cities avail themselves of the joint energy agency act or not and urged favorable consideration of the bill. (Attachment#3)

The Chairman announced that the hearings were closed on **SB 491**.

The meeting was adjourned at 9:20 a.m.

The next meeting is scheduled for March 11, 1998.

HOUSE UTILITIES COMMITTEE GUEST LIST

DATE: March 10, 1998

NAME	REPRESENTING
Jim Widener	KDEA
Jon Miles	KCC
Harrie Ann Brown	Kans. Govt Consulting
Charlene Marek	Leadership - Russell Cty
Don Augustini	City of Russell (Leadership)
Sharon Nulth Edert	Leadership RSC
Linda McGill	PMA
Greg Rose	Leadership Russell County
Rick Waymaster	" " "
Paul Armbrust	" " "
Kince Ruggels	United National Bank
Marshall Lancaster	Wichita KS
Joe Dush	KCK BPU
Andy Peterson	DOE
ED SCHAUB	WESTERN RESOURCES

TESTIMONY ON SB 491
Before House Utilities Committee
March 10, 1998

Mr. Chairman, Members of Committee, I am Jim Widener, General Manager of the Kansas Municipal Energy Agency (KMEA) located in Overland Park, Kansas. I would like to request approval of Senate Bill 491 as amended.

Background. The Municipal Energy Agency Act, K.S.A. 12-885 et seq. (the "Act") was passed in 1977. KMEA (originally organized as the Northwest Kansas Municipal Energy Agency in 1978) was organized in 1980, and currently has forty (40) member cities. KMEA is the only Agency organized under the Act. KMEA provides its member cities the opportunity to participate in projects such as power supply, interconnections, and financing.

Provisions of SB 491. The proposed deleted language in Section 1 K.S.A. 12-886(b) eliminates the restriction on eligible member cities to those cities who generated "during the calendar year 1976". Of the one hundred twenty one (121) municipal electric cities, fifty eight (58) cities are currently not eligible to become members. Passage of SB 491 will allow those cities the opportunity to participate in joint action.

The proposed deletion and addition in Section 2 K.S.A. 12-897 will allow Municipal Energy Agencies to sell electricity **wholesale** to all member cities as well as to marketers and brokers, who did not exist in 1976.

Under present statutes marketers, brokers or other utilities can sell wholesale to municipal electric cities in Kansas, but Municipal Energy Agencies created to assist municipal electric cities are precluded from selling to them.

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Attachment 1

KMEA MEMBER CITIES

Ashland	Goodland *	Oberlin
Augusta	Greensburg	Osage City
Baldwin City	Herington	Osawatomie
Belleville	Hoisington	Ottawa
Burlingame	Holton	Pratt
Burlington	Iola	St. Francis
Chanute	Larned	Sharon Springs
Clay Center	Lincoln Center	Sterling
Colby	Meade	Stockton
Ellinwood	Minneapolis	Washington
Erie	Mulvane	Wellington
Fredonia	Neodesha	Winfield
Garnett	Norton	
Girard	Oakley	

* Membership request pending

MUNICIPAL ELECTRIC CITIES NOT GENERATING IN 1976

Alma	Glen Elder	Pomona
Altamont	Haven	Prescott
Arcadia	Hillsboro	Radium
Arma	Holyrood	Robinson
Axtell	Isabel	Savonburg
Blue Mound	Iuka	Scranton
Bronson	Kiowa	Seneca
Cawker City	LaHarpe	Severance
Centralia	Lindsborg	Seward
Chapman	Lucas	St. Marys
Chetopa	Luray	Summerfield
Cimarron	Mankato	Toronto
Dighton	Marion	Troy
Elsmore	Montezuma	Udall
Elwood	Moran	Vermillion
Enterprise	Morrill	Waterville
Eudora	Moundridge	Wathena
Galva	Mount Hope	Webber
Garden City	Mulberry	
Glasco	Muscotah	

TESTIMONY ON SB 491
Before House Utilities Committee
March 10, 1998

Mr. Chairman, 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 members provide utility services to more than 1 million Kansans.

KMU SUPPORTS SB 491 AS AMENDED

KMU supports SB 491 as amended which simply eliminates an outdated membership restriction placed on the Kansas Municipal Energy Agency.

KMU instigated the original KMEA legislation which was passed 21 years ago in the 1977 session to provide a useful **financing tool** for municipal electric generating cities who were suffering from heavy natural gas curtailments that began in the early 1970s. The electric cities needed a vehicle to assist them in meeting the challenge of planning for future power supplies.

The changes in the bill will allow KMEA to better assist Kansas municipal electric distribution cities in the **wholesale** arena – a part of the electric industry that Congress and the Federal Energy Regulatory Commission has opened up. The amendments do not allow KMEA to engage in retail sales.

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03-10-98
Attachment 2

MARSHALL LANCASTER
Financial and Utility Consulting
1706 North Brunswick
Wichita, Kansas 67212

Telephone (316) 773-3516 Facsimile (316) 773-3941 E-mail at L101M@aol.com

March 10, 1998

Statement to the House Utilities Committee
Re Senate Bill 491

Mr. Chairman, members of the Committee, I appreciate the opportunity to speak this morning concerning Senate Bill 491 as amended, containing proposed amendments to K.S.A. 12-886 and 12-897.

My interests in S. 491 are narrow. I am appearing today for informational purposes only and do not represent any organization having an interest in the passage or failure of this legislation.

As my qualifications touch on, I have been involved in drafting and implementing joint action energy legislation for more than 25 years in states such as Delaware, Indiana, Kansas, Massachusetts, Michigan, Minnesota, Mississippi, Nebraska, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, Virginia, Wisconsin and Wyoming. I have also taken part in drafting and commenting on proposed amendments to such legislation in a number of states.

S. 491 seeks to remove a restriction which Mr. Widener and Mr. Stroup have addressed. If enacted, the bill would bring Kansas joint action law to a status more in parity with the statutes of other states, as well as to make the availability of bulk electric service more comparable for all segments of the Kansas utility industry.

Across the country in the 1970s, nearly every joint action statute included some form of limitation at the time of its enactment. Original restrictions ranged from limiting the kinds of sales which a joint agency could make, to the kinds of members they could have, to the kinds and depreciable lives of projects they could pursue, to the geographical areas in which they could operate. Without getting bogged down with many examples, one statute actually required that the first project of any new joint agency had to be ownership in a nuclear power plant. (That restriction was mercifully repealed after nuclear plants stopped being fit objects for acquisition.) In most states, since the electric industry has been opened up by FERC, legislatures have seen fit to relax these limitations so that FERC's open access rules can, as mandated, apply to all segments of the industry. In my experience, although the restriction which S. 491 seeks to lift was not unusual 20 years ago, it is abnormal today. S. 491 would put Kansas law squarely in the mainstream.

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Attachment 3

House Utilities Committee

S. 491

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My other interest in S. 491 arises from 20 years' experience as an investment banker or advisor for bond issues and long-term power purchases of municipalities and joint energy utilities. My clients have ranged in size from towns of fewer than 100 persons to the New York Power Authority. Together, these clients have issued more than \$25 billion of bonds.

As this committee is aware, the electric industry remains capital intensive and the interest rates which municipalities and joint agencies and must pay are affected by decisions made by outsiders on the quality of their credits and operations. Rating agencies, insurance companies, investment banks and potential investors can and do affect the price of energy.

In this period of drastic change in the electric industry, the need for cities to have flexibility in buying and selling electricity is high on the list when evaluating credits. Senate Bill 491, by granting flexibility to Kansas municipalities which is more equivalent to that already enjoyed by other utilities, would improve perceptions of Kansas municipalities by decisionmakers in the bond markets, whether those cities avail themselves of the joint energy agency act or not. Quantifying the positive effect of S. 491 is impossible, but in my judgment it would be real. I urge favorable consideration of the bill.

Thank you for your consideration.

MARSHALL LANCASTER
Financial and Utility Consulting
1706 North Brunswick
Wichita, Kansas 67212

Telephone (316) 773-3516 Facsimile (316) 773-3941 E-mail at LI01M@aol.com

Summary of Professional Experience:

- Present:** Finance and utility advisory practice; consultant to utilities including the Kansas Municipal Gas Agency.
- 1994 to 1997:** Vice president of Public Finance America, L.L.C. and Ranson Municipal Consultants, L.L.C., of Wichita, financial advisors.
- 1985 to 1994:** President of Utility Advisors Corp., consultants to tax-exempt utilities and investment banks.
- 1978 to 1985:** Senior vice president of Dean Witter Inc., in fixed income division; First vice president and group manager of E.F. Hutton & Co. Inc., in public finance division; Vice president and group manager of Lehman Brothers Kuhn Loeb, in public finance division.
- 1972 to 1978:** Executive director of ElectriCities of North Carolina; helped create and managed three joint N.C. municipal power agencies.
- 1969 to 1972:** Professional staff member of U.S. Senate Committee on the Judiciary and of U.S. Senate Committee on Public Works; Legislative director for U.S. Representative.
- 1966 to 1969:** Reporter for *The News and Observer*, Raleigh, N.C.; front section editor for *The Washington Post*.
- EDUCATION:** B.A. from N.C. State University; attended Georgetown University Law Center; National Merit Scholar.