

Approved: JAN. 20, 1998
Date

MINUTES OF THE SENATE COMMITTEE ON UTILITIES.

The meeting was called to order by Chairperson Pat Ranson at 1:30 p.m. on January 14, 1998 in Room 531-N of the Capitol

All members were present except:
Sen. Hensley was excused

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

Conferees appearing before the committee:
For introductions only - Kansas Corporation Commissioners:
John Wine
Susan Seltsam
Cynthia Claus

Others attending: See attached list

Sen. Ranson called the committees' attention to an article published from the Colby Free Press, entitled "Pros and Cons:", dated January 8, 1998, regarding experience with retail wheeling in California. Copies were distributed to the committee.

Sen. Ranson recognized the Kansas Corporation Commissioners and asked them to introduce themselves and briefly describe their backgrounds. They are: John Wine, Susan Seltsam and Cynthia Claus. Ms. Claus explained she is the newest member of the commission, serving out Tim McKee's term.

Mr. Wine briefly explained the role of the commissioners, that being policy maker and quasi-judicial, and explained that the Corporation Commission is a part of the executive branch. In answer to other questions, Mr. Wine stated there are not specific statutory qualifications for being appointed commissioner, except that a commissioner cannot own or be a part of a utility or corporation coming under the jurisdiction of the commission. Ms. Seltsam added that their appointments require senate confirmation.

Tom Day introduced staff present, including the new executive director, David Heinemann, and the new general counsel, Glenda Cafer. Mr. Heinemann explained the organizational structure of the commission. Committee members asked several questions, including the amount of the budget, and Mr. Heinemann replied it is approximately \$15 million, which is almost entirely funded by fees. However, the legislature does control how the money is spent and the number of full time employees.

Sen. Ranson then introduced Lynne Holt, who gave an overview of 1997 legislation to the committee. Ms. Holt referred to the following: 1997 Summary of Legislation, (Attachment 1) and 1997 Session Laws of Kansas, Page 725, etc. (Attachment 2).

Sen. Ranson asked that the committee introduce a bill that would establish the Joint Committee on Taxation of Public Utilities to study and recommend tax legislation needed should the state introduce retail wheeling. The proposed bill is from a section of a draft bill offered by the Task Force on Retail Wheeling with minor changes.

Sen. Salisbury made a motion that the committee introduce the bill, and it was seconded by Sen. Barone; the motion passed.

Sen. Ranson asked members to be prompt so that the committee may begin at 1:30. She also stated she will arrange for more chairs to be placed in the meeting room to accommodate more visitors.

Meeting adjourned at 2:30.

Next meeting will be January 15.

SENATE UTILITIES COMMITTEE GUEST LIST

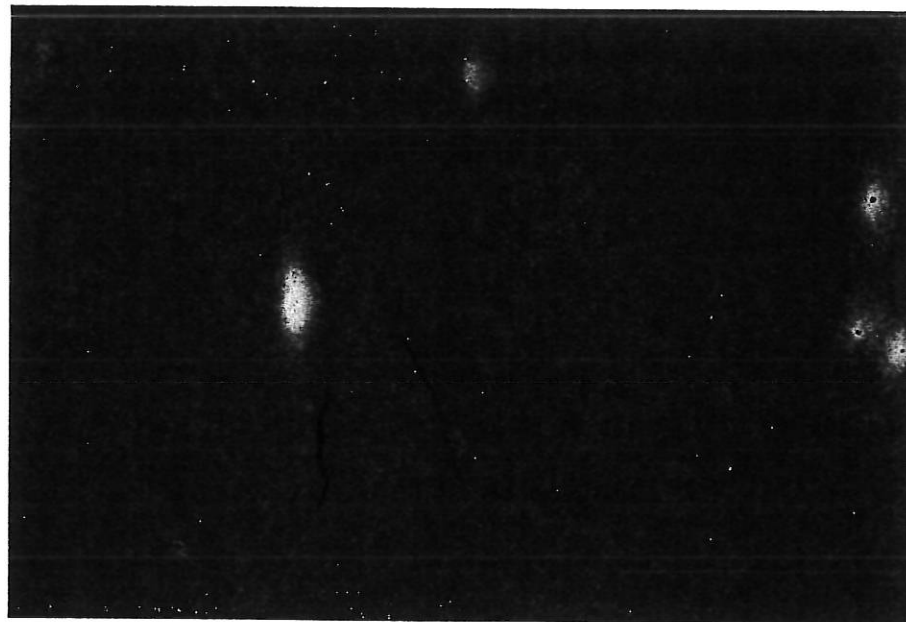
DATE: Jan. 14, 1998

| NAME | REPRESENTING |
|------------------|----------------------|
| Glen Smith | KCC |
| STEVE COLEMAN | KCC |
| Larry Holloway | KCC |
| Karen J. Matson | KCC |
| Glenda Cater | KCC |
| Jo Long | UtiliCorp United |
| Tom Deches | McGill & Assn. |
| Sandy Campbell | Midwest Energy |
| Patricia Randall | Whitney Jamison, PA |
| Harrie Ann Brown | KS Gov Consult. |
| Ken Peterson | KS Petroleum Council |
| Dwight Lemmerz | KCC |
| Thomas C Behner | KCC |
| BRUCE GRAHAM | ICEPC |
| Nancy King | KCC |
| Bill Wix | KCC |
| Ann Diggs | KCC |
| Cynthia Claus | KCC |
| Susan Soltman | KCC |

Attach. 1



1997 Summary of Legislation



Legislative Research Department

June, 1997

*Senate Utilities
1-14-98
Attach. 1*

UTILITIES

Changes in Regulatory Authority of Kansas Corporation Commission

S.B. 333 addresses several issues concerning the regulation of the Kansas Corporation Commission (hereafter referred to as the Commission):

- the assessment of expenses incurred by the Commission and the Citizens' Utility Ratepayer Board (CURB);
- the time period allowed the Commission to respond to requests or petitions for reconsideration of an order;
- investigations of various public utilities and common carriers by the Commission;
- exemptions granted to public utilities under certain circumstances from filing tariffs;
- requirements governing the issuance of securities by investor-owned electric public utilities;
- establishment of thermal efficiency standards;
- the time period authorized the Commission for making a determination on the rate requests of public utilities or common carriers; and
- the regulation of gas gathering services.

The explanation below addresses these components of the bill in greater detail. A severability clause is included at the end of the bill.

The Assessment of Expenses Incurred by the Commission and CURB. The bill changes the method to invoke the assessment by the Commission of expenses incurred by the Commission, its staff, or CURB for investigations or property appraisals of public utilities or common carriers. The bill requires that such assessments begin on the date the proceeding is filed or three business days after the Commission gives notice to the public utility or common carrier, whichever is later. Under prior law, the Commission had to wait until the affected utility waived its right to hearing in the entry of appearance.

In addition, the bill expands the pool of eligible businesses from which actual expenses incurred by the Commission and CURB may be recovered for general investigations and property appraisals. These businesses include both jurisdictional utilities and common carriers that have just commenced intrastate operations in Kansas and businesses that are not subject to assessments as public utilities or common carriers but are party to Commission investigations. Jurisdictional public utilities and common carriers which have been deriving revenues from intrastate operations will continue to be assessed at 0.6 percent of their gross operating intrastate revenues.

Furthermore, the bill changes the method of assessing jurisdictional public utilities and common carriers for expenses incurred by the Commission and CURB for salaries and operating expenditures by requiring that the amount assessed on a quarterly basis not exceed during any fiscal year the greater of \$100 or 0.2 percent of a utility's or common carrier's intrastate gross operating revenues. Under prior law, the assessed amount could not exceed 0.2 percent during any fiscal year. Amounts collected from utilities and common carriers will continue to be deducted from this assessment to defray the Commission's and CURB's expenses associated with: (1) general investigations and appraisals; and (2) application and processing fees for certificates authorizing the issuance of stocks or bonds.

Commission Response to Requests or Petitions for Reconsideration. The bill allows the Commission 30 days, instead of 20 days allowed under prior law, to issue an order in response to requests or petitions for reconsideration of a Commission order or decision; such change is likewise reflected in the Kansas Administrative Procedure Act in which the disposition of petitions for reconsideration by the Commission also is addressed.

Investigations by the Commission. The bill amends several statutes concerning investigations of electric, telecommunications, natural gas, and miscellaneous public utilities and common carriers by the Commission at its own initiative or upon complaint. Specifically, the bill clarifies that all complaint-initiated hearings will be subject to provisions of the Kansas Administrative Procedure Act. However, with respect to general investigations, the Commission will not have to adhere to provisions of the Act. Furthermore, the bill authorizes but does not require the Commission to initiate an investigation in response to any complaint about rates and services of a public utility or common carrier. Prior law required the Commission to initiate an investigation.

Exemption from Tariff Filing Requirements. The bill authorizes the Commission to exempt from filing tariffs any jurisdictional public utility or common carrier not subject to price regulation. After a utility or common carrier has been exempted, such utility or common carrier may be required to file tariffs when necessary to protect consumers from fraudulent business practices, practices that are inconsistent with public interest, convenience, and necessity, or any other situation the Commission deems necessary.

Issuance of Securities. The bill amends the law to require any investor-owned electric public utility incorporated in Kansas to receive permission from the Commission prior to issuing securities. Under prior law, only investor-owned electric utilities having a total capitalization in excess of \$1 billion were subject to that requirement. (If electric utilities do not seek approval from the Commission to issue securities, they must seek approval at the federal level.)

Thermal Efficiency Standards. The bill terminates the Commission's statutory jurisdiction over municipal gas and electric utilities and investor-owned utilities in Kansas for purposes of ensuring that such utilities verify compliance or noncompliance with thermal efficiency standards adopted by the Commission for new residential and commercial buildings.

Furthermore, the bill specifies the applicable thermal efficiency standard for new commercial and industrial buildings in Kansas. In addition, the bill requires any person who builds or sells a previously unoccupied new residential building to provide written disclosure to the buyer, on a form prepared and disseminated by the Commission, concerning insulation values, thermal properties for windows and doors, HVAC equipment efficiency levels, and water heating efficiency levels. The disclosure form is included in the bill.

Finally, the bill excludes manufactured housing (trailer homes and mobile homes) from the information requirements governing new residential housing for purposes of disclosure,

provided that the manufactured housing meets specified federal regulations. If this occurs, the builder or seller may instead elect to disclose information specifically applicable to manufactured housing.

Time Period for Commission Determinations of Rate Requests. The bill amends the law concerning the 240-day time period allowed the Commission to approve or disapprove rate requests filed by public utilities or common carriers. Specifically, the bill authorizes a waiver or extension of the 240-day period upon agreement of the affected public utility or common carrier and the Commission. Under prior law, the only exceptions to this deadline resulted from: (1) proposed amendments to applications for rate changes under certain circumstances; and (2) hearings that have not concluded on the last day of the 240-day period. These exceptions are retained in the law.

Regulation of Natural Gas Gathering Services. The bill articulates the state's policy regarding the regulation of natural gas gathering which will be incorporated into Chapter 55 (the statutes pertaining to the protection of surface and groundwater) of the *Kansas Statutes Annotated*. This chapter pertains to the Commission's authority to protect the state's surface and groundwater. A "gas gathering system" is defined statutorily as a natural gas pipeline system used primarily for transporting natural gas from a wellhead, or a metering point for natural gas produced by one or more wells, to a point of entry into a main transmission line. The Commission licenses the operators and contractors of such systems under Chapter 55. In addition, the bill does the following:

- Specifies that gas gathering systems will not be subject to regulation by the Commission as public utilities or common carriers.
- Defines "gas gathering services" and specifies that the definition not include the gathering of natural gas by an owner or operator of gathering facilities, provided that such facilities are not held out for hire on or after July 1, 1997, and the owner or operator does not purchase the gas for resale.
- Requires gas gatherers to file with the Commission: rates paid for natural gas purchased at the wellhead; rates charged for gas gathering services offered by the gas gatherer; data related to the characteristics of the gas purchased or gathered; and such information regarding the terms and duration of the contract as the Commission determines necessary. The Commission is not required to analyze, publish, or disseminate such data unless otherwise required by law.
- Authorizes the Commission to impose an administrative fine not to exceed \$10,000 per day or an aggregate amount of \$250,000 (whichever is less) for failure to satisfy filing requirements.
- Prohibits the Commission from using the filed information to change rates except for purposes of remediating violations of fees, terms, or practices.
- Provides that the statute pertaining to the requirements governing the Commission with respect to trade secrets and confidential commercial information of a corporation will not apply to the information required to be filed with the Commission by gas gatherers.
- Requires a gas gatherer to provide services, engage in practices, and impose fees considered to be just, reasonable, not unjustly discriminatory, and not unduly preferential.

- Authorizes the Commission to: review at its discretion any fee, term, or practice used by a gas gatherer; initiate a proceeding to determine whether a violation has occurred; and, in accordance with notice and hearing requirements in the Kansas Administrative Procedure Act, order remediation of any violation determined to have occurred.
- Establishes a procedure for the Commission to hear complaints concerning gas gathering fees, terms, or practices. Complaints may come from consumers of gas gathering services, persons seeking to purchase natural gas at the wellhead, or royalty owners. Such complaints must include information specified in the bill. Such complaints may be resolved through an informal procedure or through a formal hearing held in accordance with the Kansas Administrative Procedure Act. The Commission is authorized to order any remediation of violations of fees and services. The Commission is not required to engage in cost-of-service ratemaking in evaluating or determining fees or terms related to gas gathering services.
- Requires the Commission, upon request of a natural gas producer, to investigate the fees, terms, or practices of a gas gatherer who is otherwise exempt from filing requirements in the bill. Such investigation must be conducted in the same manner as will be accorded complaints filed against gas gatherers who are required to file information with the Commission. The Commission also may order any remediation of violations.
- Requires the Commission to maintain a publicized telephone number to facilitate the filing of informal complaints.
- Authorizes the Commission to exempt from rate averaging or pricing systems that apply to gas sold from a gas gathering system any natural gas sold directly to a consumer from a wellhead before the gas enters a gathering system.
- Authorizes the Commission to issue more than one certificate of convenience and necessity for the sale of natural gas at retail (also allowed under prior law). The bill prohibits the imposition of exit fees on customers who switch to another company in service areas where more than one company is certificated to sell natural gas or gas gathering services.
- Requires a public utility providing service from a gas gathering system to notify the Commission and affected customers (generally irrigators) not later than November 1 of each year if the utility has determined that it lacks sufficient services or facilities to serve those customers' needs during the following calendar year.
- Specifies that the provisions of the bill not be construed, or authorize the Commission, to amend any contractual obligations between the gas gatherer and the complainant unless the Commission determines, after investigation, notice, and hearing, that such obligations are unjust, unreasonable, unjustly discriminatory or unduly preferential and adversely impact the public welfare.
- Authorizes or requires the Commission to promulgate rules and regulations on various provisions pertaining to gas gathering services in the bill.

Regulation of Privately-Owned and Operated Water Utilities—KCC

H.B. 2381 authorizes any city to pass an ordinance relinquishing its authority to control and regulate any privately owned and operated water utility located and operated exclusively within the city. After the ordinance is adopted, the city must forward a certified copy of the ordinance to the Kansas Corporation Commission and the affected utility must file with the Commission an application for a certificate of convenience and necessity. The city could resume control of the water utility by passing an ordinance to that end. However, no ordinance to either relinquish or resume control of the utility may occur more often than once within a two-year period.

The bill also eliminates from the definition of “public utility” subject to regulation by the Kansas Corporation Commission any references to: trolley lines; street, electric, or motor railways operating in Kansas counties; and dining car companies.

Information Disclosed to Royalty Owners

S.B. 147 specifies the information to be included with payments to royalty owners from sales of oil and gas: a means of identifying the well or lease; the sale date for which the payment is made; the total volume of oil (in barrels) and wet or dry gas (in mcf); the price of oil or gas sold; the total amount of state severance and production taxes; the interest in the sale (expressed as a decimal) and the royalty owner’s share of the sale both before and after deductions or adjustments; and a point of contact from which additional information may be obtained. In the event that the information outlined above is not included with payments to royalty owners, it must be derivable from the enclosed information.

The bill also requires the person making the payment to submit to the royalty owner a listing and explanation of the amount and purpose of any other deductions and adjustments. This information must be requested by certified mail and a written response must be provided within 60 days of receipt of the request.

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CHAPTER 132
SENATE BILL No. 333

AN ACT concerning the state corporation commission; powers and duties; assessment of expenses; time to issue certain orders; granting of exemptions from certain filing requirements; issuance of certain certificates; duties and authority relating to energy efficiency standards for buildings; changes in rates and schedules of public utilities and common carriers; regulation of natural gas gathering systems and services; amending K.S.A. 66-1,191, 66-1,234, 66-1502 and 66-1503 and K.S.A. 1996 Supp. 55-150, 66-101d, 66-101e, 66-117, 66-118b, 66-125, 66-1,192, 66-1,204, 66-1,205, 66-1,219, 66-1,220, 66-1,235 and 77-529 and repealing the existing sections; also repealing K.S.A. 66-131a.

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

Section 1. On and after July 1, 1997, K.S.A. 66-1502 is hereby amended to read as follows: 66-1502. (a) Whenever, in order to carry out the duties imposed upon it by law, the state corporation commission, in a proceeding upon its own motion, on complaint, or upon an application to it, shall deem it necessary to investigate any public utility or common carrier or make appraisals of the property of any public utility, such public utility or common carrier, in case the expenses reasonably attributable to such investigation or appraisal exceed the sum of \$100, including both direct and indirect expenses incurred by the commission or its staff or by the citizens' utility ratepayer board, shall pay such expenses which shall be assessed against such public utility or common carrier by the commission; ~~except that no such public utility or common carrier shall be assessed for payment of such expenses, unless prior to the incurring of any such expense.~~ *Such expenses shall be assessed beginning on the date that the proceeding is filed or beginning three business days after the commission gives the public utility or common carrier notice of the assessment by United States mail, whichever is later.* The state corporation commission shall give such public utility or common carrier notice and opportunity for a hearing in accordance with the provisions of the Kansas administrative procedure act. At such hearing, the public utility or common carrier may be heard as to the necessity of such investigation or appraisal and may show cause, if any, why such investigation or appraisal should not be made or why the costs thereof should not be assessed against such public utility or common carrier. The finding of the commission as to the necessity of the investigation or appraisal and the assessment of the expenses thereof shall be conclusive, except that no such public utility or common carrier shall be liable for payment of any such expenses incurred by such state corporation commission or citizens' utility ratepayer board in connection with any proceeding before or within the jurisdiction of ~~the interstate commerce commission or other~~ *any* federal regulatory body.

The commission shall ascertain the expenses of any such investigation or appraisal and by order assess such expenses against the public utility or common carrier investigated or whose property is appraised in such

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proceeding, and shall render a bill therefor, by ~~registered~~ *United States* mail, to the public utility or common carrier, either at the conclusion of the investigation or appraisal, or from time to time during such investigation or appraisal. Such bill shall constitute notice of such assessment and demand of payment thereof. Upon a bill rendered to such public utility or common carrier, within 15 days after the mailing thereof, such public utility or common carrier shall pay to the commission the amount of the assessment for which it is billed. Such payment when made shall be transmitted by the commission to the state treasurer, who shall credit the same to the appropriations made for the use of such commission or for the use of the citizens' utility ratepayer board. The total amount, in any one state fiscal year for which any public utility or common carrier shall be assessed under the provisions of this section shall not exceed *the following*: (1) *For a public utility or common carrier that is under the jurisdiction of the commission and has not filed an annual report with the commission pursuant to K.S.A. 66-123, and amendments thereto, prior to the beginning of the commission's fiscal year, actual expenses, including direct and indirect expenses incurred by the commission or the commission's staff or by the citizens' utility ratepayer board; and* (2) *for any other public utility or common carrier ~~2%~~ ~~of 1%~~ of its under the jurisdiction of the commission, 0.6% of the public utility's or common carrier's 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. The commission may render bills in one fiscal year for costs incurred within a previous fiscal year.*

(b) *The commission, in accordance with the procedures prescribed by subsection (a), may assess against an entity, other than a residential or small commercial ratepayer, that is not subject to assessment pursuant to subsection (a) actual expenses of any services extended, filings processed or actions certified by the commission for the entity.*

Sec. 2. On and after July 1, 1997, K.S.A. 66-1503 is hereby amended to read as follows: 66-1503. (a) (1) The state corporation commission shall determine within 15 days after each quarter-year for each such quarter-year, the total amount of its expenditures during such period of time and the total amount of expenditures of the citizens' utility ratepayer board during such period of time. The total amount shall include the salaries of members and employees and all other lawful expenditures of the commission and the board, including all expenditures in connection with investigations or appraisals made under the provisions of K.S.A. 66-1502, and amendments thereto, except that there shall not be included in such total amount of expenditures for the purpose of this section the expenditures during such period of time which are otherwise provided for by fees and assessments made under other existing laws for the regulation

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(2) From the amount determined under paragraph (1) of this subsection, the commission shall deduct (A) all amounts collected under K.S.A. 66-1502, and amendments thereto, during such period of time and (B) the amounts of all fees collected during such period of time under the provisions of subsection (b)(1) of K.S.A. 66-1a01, and amendments thereto.

(3) To the remainder after making the deductions under paragraph (2) of this subsection, the commission shall add such amount as in its judgment may be required to satisfy any deficiency in the prior assessment period's assessment and to provide for anticipated increases in necessary expenditures for the current assessment period.

(b) The amount determined under subsection (a) shall be assessed by the commission against ~~the several~~ *all* public utilities and common carriers subject to the jurisdiction of the commission ~~in proportion to their respective~~ *and shall not exceed, during any fiscal year, the greater of \$100 or 0.2% of the respective utility's or common carrier's gross operating revenues derived from intrastate operation 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; except that the assessment during any fiscal year shall not exceed 2% of such gross operating revenues or made available to the commission upon request.* Such assessment shall be paid to the commission within 15 days after the notice of assessment has been mailed to such public utilities and common carriers, which notice of assessment shall constitute demand of payment thereof.

(c) The commission shall remit all moneys received by or for it for the assessment imposed under this section to the state treasurer at least monthly. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount thereof in the state treasury. Twenty percent of each such deposit shall be credited to the state general fund and the balance shall be credited to the public service regulation fund.

Sec. 3. On and after July 1, 1997, K.S.A. 1996 Supp. 66-118b is hereby amended to read as follows: 66-118b. No cause of action arising out of any order or decision of the commission shall accrue in any court to any party unless such party shall petition for reconsideration in accordance with the provisions of K.S.A. 77-529 and amendments thereto, *except that the commission shall have 30 days to issue an order on reconsideration.* No party shall, in any court, urge or rely upon any ground not set forth in the petition. An order made after reconsideration, abrogating, changing or modifying the original order or decision, shall have the same force and effect as an original order or decision, including the obligation to file a petition for reconsideration, as provided in this section, as a

condition precedent to filing an action for review thereof. The time for filing an appeal of any order or decision in a proceeding shall run from the date that all petitions for reconsideration in such proceeding have been denied or such petitions for reconsideration are deemed denied pursuant to subsection (b) of K.S.A. 77-529 and amendments thereto.

Sec. 4. On and after July 1, 1997, K.S.A. 1996 Supp. 77-529 is hereby amended to read as follows: 77-529. (a) Any party, within 15 days after service of a final order, may file a petition for reconsideration with the agency head, stating the specific grounds upon which relief is requested. The filing of the petition is not a prerequisite for seeking administrative or judicial review except as provided in K.S.A. 44-1010 and 44-1115, and amendments thereto, concerning orders of the Kansas human rights commission, K.S.A. 55-606 and 66-118b, and amendments thereto, concerning orders of the corporation commission and K.S.A. 74-2426, and amendments thereto, concerning orders of the board of tax appeals.

(b) Within 20 days after the filing of the petition, the agency head shall render a written order denying the petition, granting the petition and dissolving or modifying the final order, or granting the petition and setting the matter for further proceedings. The petition may be granted, in whole or in part, only if the agency head states, in the written order, findings of fact, conclusions of law and policy reasons for the decision if it is an exercise of the state agency's discretion, to justify the order. In proceedings before the Kansas corporation commission, the petition is deemed to have been denied if the agency head does not dispose of it within 20 30 days after the filing of the petition.

An order under this section shall be served on the parties in the manner prescribed by K.S.A. 77-531 and amendments thereto.

(c) Any order rendered upon reconsideration or any order denying a petition for reconsideration shall state the agency officer to receive service of a petition for judicial review on behalf of the agency.

(d) For the purposes of this section, "agency head" shall include a presiding officer designated in accordance with subsection (g) of K.S.A. 77-514, and amendments thereto.

Sec. 5. On and after July 1, 1997, K.S.A. 1996 Supp. 66-101d is hereby amended to read as follows: 66-101d. ~~It shall be the duty of the commission, either upon complaint or upon its own initiative, to The commission, upon its own initiative, may investigate all schedules of rates and rules and regulations of electric public utilities. If after investigation and hearing the commission finds that such rates or rules and regulations are unjust, unreasonable, unjustly discriminatory or unduly preferential, the commission shall have the power to establish and order substituted therefor such rates and such rules and regulations as are just and reasonable.~~

If after investigation and hearing it is found that any regulation, meas-

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urement, practice, act or service complained of is unjust, unreasonable, unreasonably inefficient or insufficient, unduly preferential, unjustly discriminatory, or otherwise in violation of this act or of the orders of the commission, or if it is found that any service is inadequate or that any reasonable service cannot be obtained, the commission shall have the power to substitute therefor such other regulations, measurements, practices, service or acts, and to make such order respecting any such changes in such regulations, measurements, practices, service or acts as are just and reasonable. When, in the judgment of the commission, public necessity and convenience require, the commission shall have the power to establish just and reasonable concentration or other special rates, charges or privileges, but all such rates, charges and privileges shall be open to all users of a like kind of service under similar circumstances and conditions.

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.*

Sec. 6. On and after July 1, 1997, 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 regulations of such electric public utility are in any respect unreasonable, unfair, unjust, unjustly discriminatory or unduly preferential, or both, or that any regulation, practice or act whatsoever affecting or relating to any service performed or to be performed by such electric public utility for the public, is in any respect unreasonable, unfair, unjust, unreasonably inefficient or insufficient, unjustly discriminatory or unduly preferential, or that any service performed or to be performed by such electric public utility for the public is unreasonably inadequate, inefficient, unduly insufficient or cannot be obtained, the commission shall *may* proceed, with or without notice, to make such investigation as it deems necessary.

~~The commission may, upon its own motion, and without any complaint being made, proceed to make such investigation, but~~ No order changing such rates, rules and regulations, practices or acts complained of shall be made or entered by the commission without a formal public hearing, of which due notice shall be given by the commission to such electric public utility or to such complainant or complainants, if any, in accordance with the provisions of the Kansas administrative procedure act. Any public investigation or hearing which the commission shall have power to make or to hold may be made or held before any one or more commissioners. All investigations, hearings, decisions and orders made by a commissioner shall be deemed the investigations, hearings, decisions and orders of the commission, when approved by the commission.

The commission shall have power to require electric public utilities to

make such improvements and do such acts as are or may be required by law to be done by any such electric public utility.

Sec. 7. On and after July 1, 1997, K.S.A. 66-1,191 is hereby amended to read as follows: 66-1,191. ~~It shall be the duty of the commission, either upon complaint or upon its own initiative, to~~ *The commission, upon its own initiative, may* investigate all rates, joint rates, tolls, charges and exactions, classifications or schedules of rates or joint rates and rules and regulations of telecommunications public utilities. If after full hearing and investigation the commission finds that such rates, joint rates, tolls, charges or exactions, classifications or schedules of rates or joint rates or rules and regulations are unjust, unreasonable, unjustly discriminatory or unduly preferential, the commission shall have the power to fix and order substituted therefor such rates, tolls, charges, exactions, classifications or schedules of rates or joint rates and such rules and regulations as are just and reasonable.

If upon any investigation it is found that any regulation, measurement, practice, act or service complained of is unjust, unreasonable, unreasonably inefficient or insufficient, unduly preferential, unjustly discriminatory, or otherwise in violation of this act or of the orders of the commission, or if it is found that any service is inadequate or that any reasonable service cannot be obtained, the commission may substitute therefor such other regulations, measurements, practices, service or acts, and make such order respecting any such changes in such regulations, measurements, practices, service or acts as are just and reasonable. When, in the judgment of the commission, public necessity and convenience require, the commission may establish just and reasonable concentration or other special rates, charges or privileges, but all such rates, charges and privileges shall be open to all users of a like kind of service under similar circumstances and conditions. *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.*

Sec. 8. On and after July 1, 1997, K.S.A. 1996 Supp. 66-1,192 is hereby amended to read as follows: 66-1,192. (a) Upon a complaint in writing made against any telecommunications public utility governed by this act, ~~by any mercantile, agricultural or manufacturing organization or society, or by any body politic or municipal organization, or by any taxpayer, firm, corporation or association,~~ that any of the rates or joint rates, tolls, charges, rules, regulations, classifications or schedules of such telecommunications public utility are in any respect unreasonable, unfair, unjust, unjustly discriminatory or unduly preferential, or both, or that any regulation, practice or act whatsoever affecting or relating to any service performed or to be performed by such telecommunications public utility for the public, is in any respect unreasonable, unfair, unjust, unreasonably

inefficient or that any communications public utility is inefficient, unduly preferential, or otherwise in violation of this act, the commission may proceed to fix and order substituted therefor such rates, tolls, charges, exactions, classifications or schedules of rates or joint rates and such rules and regulations as are just and reasonable.

~~The commission may~~ *The commission may* investigate all rates, joint rates, tolls, charges and exactions, classifications or schedules of rates or joint rates and rules and regulations of telecommunications public utilities. If after full hearing and investigation the commission finds that such rates, joint rates, tolls, charges or exactions, classifications or schedules of rates or joint rates or rules and regulations are unjust, unreasonable, unjustly discriminatory or unduly preferential, the commission shall have the power to fix and order substituted therefor such rates, tolls, charges, exactions, classifications or schedules of rates or joint rates and such rules and regulations as are just and reasonable.

(b) The commission may substitute therefor such other regulations, measurements, practices, service or acts, and make such order respecting any such changes in such regulations, measurements, practices, service or acts as are just and reasonable.

Sec. 9. On and after July 1, 1997, K.S.A. 66-1,193 is hereby amended to read as follows: 66-1,193. (a) Upon a complaint in writing made against any telecommunications public utility governed by this act, ~~by any mercantile, agricultural or manufacturing organization or society, or by any body politic or municipal organization, or by any taxpayer, firm, corporation or association,~~ that any of the rates or joint rates, tolls, charges, rules, regulations, classifications or schedules of such telecommunications public utility are in any respect unreasonable, unfair, unjust, unjustly discriminatory or unduly preferential, or both, or that any regulation, practice or act whatsoever affecting or relating to any service performed or to be performed by such telecommunications public utility for the public, is in any respect unreasonable, unfair, unjust, unreasonably

If after a full hearing and investigation the commission finds that such rates, joint rates, tolls, charges or exactions, classifications or schedules of rates or joint rates or rules and regulations are unjust, unreasonable, unjustly discriminatory or unduly preferential, the commission shall have the power to fix and order substituted therefor such rates, tolls, charges, exactions, classifications or schedules of rates or joint rates and such rules and regulations as are just and reasonable.

inefficient or insufficient, unjustly discriminatory or unduly preferential, or that any service performed or to be performed by such telecommunications public utility for the public is unreasonably inadequate, inefficient, unduly insufficient or cannot be obtained, the commission ~~shall~~ *may* proceed, with or without notice, to make such investigation as it deems necessary.

~~The commission may, upon its own motion, and without any complaint being made, proceed to make such investigation, but~~ No order changing such rates, joint rates, tolls, charges, rules, regulations and classifications, schedules, practices or acts complained of shall be made or entered by the commission without a formal public hearing in accordance with the provisions of the Kansas administrative procedure act, of which due notice shall be given by the commission to such telecommunications public utility or to such complainant or complainants, if any. Any public investigation or hearing which the commission shall have power to make or to hold may be made or held before any one or more commissioners. All investigations, hearings, decisions and orders made by a commissioner shall be deemed the investigations, hearings, decisions and orders of the commission, when approved by the commission.

(b) The commission shall have power to require telecommunications public utilities to make such improvements and do such acts as are or may be required by law to be done by any such telecommunications public utility.

Sec. 9. On and after July 1, 1997, K.S.A. 1996 Supp. 66-1,204 is hereby amended to read as follows: 66-1,204. ~~It shall be the duty of the commission, either upon complaint or upon its own initiative, to~~ *The commission, upon its own initiative, may* investigate all schedules of rates and rules and regulations of natural gas public utilities. If after investigation and hearing the commission finds that such rates or rules and regulations are unjust, unreasonable, unjustly discriminatory or unduly preferential, the commission shall have the power to establish and order substituted therefor such rates and such rules and regulations as are just and reasonable.

If after investigation and hearing it is found that any regulation, measurement, practice, act or service complained of is unjust, unreasonable, unreasonably inefficient or insufficient, unduly preferential, unjustly discriminatory, or otherwise in violation of this act or of the orders of the commission, or if it is found that any service is inadequate or that any reasonable service cannot be obtained, the commission may substitute therefor such other regulations, measurements, practices, service or acts, and make such order respecting any such changes in such regulations, measurements, practices, service or acts as are just and reasonable. When, in the judgment of the commission, public necessity and convenience require, the commission may establish just and reasonable concentration

or other special rates, charges or privileges, but all such rates, charges and privileges shall be open to all users of a like kind of service under similar circumstances and conditions. *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.*

Sec. 10. On and after July 1, 1997, K.S.A. 1996 Supp. 66-1,205 is hereby amended to read as follows: 66-1,205. (a) Upon a complaint in writing made against any natural gas public utility governed by this act that any rates or rules and regulations of such natural gas public utility are in any respect unreasonable, unfair, unjust, unjustly discriminatory or unduly preferential, or both, or that any rule and regulation, practice or act whatsoever affecting or relating to any service performed or to be performed by such natural gas public utility for the public, is in any respect unreasonable, unfair, unjust, unreasonably inefficient or insufficient, unjustly discriminatory or unduly preferential, or that any service performed or to be performed by such natural gas public utility for the public is unreasonably inadequate, inefficient, unduly insufficient or cannot be obtained, the commission ~~shall~~ *may* proceed, with or without notice, to make such investigation as it deems necessary.

~~The commission, upon its own motion and without any complaint being made, may proceed to make such investigation, but~~ No order changing such rates, rules and regulations, practices or acts complained of shall be made or entered by the commission without a formal public hearing in accordance with the provisions of the Kansas administrative procedure act, of which due notice shall be given by the commission to such natural gas public utility or to such complainant or complainants, if any. Any public investigation or hearing which the commission shall have power to make or to hold may be made or held before any one or more commissioners. All investigations, hearings, decisions and orders made by a commissioner shall be deemed the investigations, hearings, decisions and orders of the commission, when approved by the commission.

(b) The commission shall have power to require natural gas public utilities to make such improvements and do such acts as are or may be required by law to be done by any such natural gas public utility.

Sec. 11. On and after July 1, 1997, K.S.A. 1996 Supp. 66-1,219 is hereby amended to read as follows: 66-1,219. ~~It shall be the duty of the commission, either upon complaint or upon its own initiative, to~~ *The commission, upon its own initiative, may* investigate all rates, joint rates, tolls, charges and exactions, classifications or schedules of rates or joint rates and rules and regulations of common carriers, except a motor carrier holding a certificate of public service. If after full hearing and investigation the commission finds that such rates, joint rates, tolls, charges or exactions, classifications or schedules of rates or joint rates or rules and

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regulations are unjust, unreasonable, unjustly discriminatory or unduly preferential, the commission shall have the power to fix and order substituted therefor such rates, tolls, charges, exactions, classifications or schedules of rates or joint rates and such rules and regulations as are just and reasonable.

If upon any investigation it is found that any such regulation, measurement, practice, act or service complained of is unjust, unreasonable, unreasonably inefficient or insufficient, unduly preferential, unjustly discriminatory, or otherwise in violation of this act or of the orders of the commission, or if it is found that any service is inadequate or that any reasonable service cannot be obtained, the commission may substitute therefor such other regulations, measurements, practices, service or acts, and make such order respecting any such changes in such regulations, measurements, practices, service or acts as are just and reasonable. When, in the judgment of the commission, public necessity and convenience require, the commission may establish just and reasonable concentration or other special rates, charges or privileges, but all such rates, charges and privileges shall be open to all users of a like kind of service under similar circumstances and conditions. *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.*

Sec. 12. On and after July 1, 1997, K.S.A. 1996 Supp. 66-1,220 is hereby amended to read as follows: 66-1,220. (a) Upon a complaint in writing made against any common carrier, except a motor carrier holding a certificate of public service, governed by this act; ~~by any mercantile, agricultural or manufacturing organization or society, or by any body politic or municipal organization, or by any taxpayer, firm, corporation or association,~~ that any of the rates or joint rates, fares, tolls, charges, rules, regulations, classifications or schedules of such common carrier are in any respect unreasonable, unfair, unjust, unjustly discriminatory or unduly preferential, or both, or that any regulation, practice or act whatsoever affecting or relating to any service performed or to be performed by such common carrier for the public, is in any respect unreasonable, unfair, unjust, unreasonably inefficient or insufficient, unjustly discriminatory or unduly preferential, or that any service performed or to be performed by such common carrier for the public is unreasonably inadequate, inefficient, unduly insufficient or cannot be obtained, the commission ~~shall~~ *may* proceed, with or without notice, to make such investigation as it deems necessary.

~~The commission, upon its own motion, and without any complaint being made, may proceed to make such investigation, but~~ No order changing such rates, joint rates, tolls, charges, rules, regulations and classifications, schedules, practices or acts complained of shall be made or entered by

the commission without a formal public hearing in accordance with the provisions of the Kansas administrative procedure act, of which due notice shall be given by the commission to such common carrier or to such complainant or complainants, if any. Any public investigation or hearing which the commission shall have power to make or to hold may be made or held before any one or more commissioners. All investigations, hearings, decisions and orders made by a commissioner shall be deemed the investigations, hearings, decisions and orders of the commission, when approved by the commission.

(b) The commission shall have power to require common carriers, except a motor carrier holding a certificate of public service, to make such improvements and do such acts as are or may be required by law to be done by any such common carrier.

Sec. 13. On and after July 1, 1997, K.S.A. 66-1,234 is hereby amended to read as follows: 66-1,234. ~~It shall be the duty of the commission, either upon complaint or upon its own initiative, to~~ *The commission, upon its own initiative, may* investigate all rates, joint rates, tolls, charges and exactions, classifications or schedules of rates or joint rates and rules and regulations of miscellaneous public utilities. If after full hearing and investigation the commission finds that such rates, joint rates, tolls, charges or exactions, classifications or schedules of rates or joint rates or rules and regulations are unjust, unreasonable, unjustly discriminatory or unduly preferential, the commission shall have the power to fix and order substituted therefor such rates, tolls, charges, exactions, classifications or schedules of rates or joint rates and such rules and regulations as are just and reasonable.

If upon any investigation it is found that any regulation, measurement, practice, act or service complained of is unjust, unreasonable, unreasonably inefficient or insufficient, unduly preferential, unjustly discriminatory, or otherwise in violation of this act or of the orders of the commission, or if it is found that any service is inadequate or that any reasonable service cannot be obtained, the commission may substitute therefor such other regulations, measurements, practices, service or acts, and make such order respecting any such changes in such regulations, measurements, practices, service or acts as are just and reasonable. When, in the judgment of the commission, public necessity and convenience require, the commission may establish just and reasonable concentration, commodity, transit or other special rates, charges or privileges, but all such rates, charges and privileges shall be open to all users of a like kind of service under similar circumstances and conditions. *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.*

Sec. 14. On and after July 1, 1997, K.S.A. 1996 Supp. 66-1,235 is

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hereby amended to read as follows: 66-1,235. (a) Upon a complaint in writing made against any miscellaneous public utility governed by this act, ~~by any mercantile, agricultural or manufacturing organization or society, or by any body politic or municipal organization, or by any taxpayer, firm, corporation or association,~~ that any of the rates or joint rates, tolls, charges, rules, regulations, classifications or schedules of such miscellaneous public utility are in any respect unreasonable, unfair, unjust, unjustly discriminatory or unduly preferential, or both, or that any regulation, practice or act whatsoever affecting or relating to any service performed or to be performed by such miscellaneous public utility for the public, is in any respect unreasonable, unfair, unjust, unreasonably inefficient or insufficient, unjustly discriminatory or unduly preferential, or that any service performed or to be performed by such miscellaneous public utility for the public is unreasonably inadequate, inefficient, unduly insufficient or cannot be obtained, the commission ~~shall~~ *may* proceed, with or without notice, to make such investigation as it deems necessary.

~~The commission may, upon its own motion, and without any complaint being made, proceed to make such investigation, but~~ No order changing such rates, joint rates, fares, tolls, charges, rules, regulations and classifications, schedules, practices or acts complained of shall be made or entered by the commission without a formal public hearing in accordance with the provisions of the Kansas administrative procedure act, of which due notice shall be given by the commission to such miscellaneous public utility or to such complainant or complainants, if any. Any public investigation or hearing which the commission shall have power to make or to hold may be made or held before any one or more commissioners. All investigations, hearings, decisions and orders made by a commissioner shall be deemed the investigations, hearings, decisions and orders of the commission, when approved by the commission.

(b) The commission shall have power to require miscellaneous public utilities to make such improvements and do such acts as are or may be required by law to be done by any such miscellaneous public utility.

New Sec. 15. (a) The state corporation commission shall have the authority to exempt any public utility or common carrier over which the commission has jurisdiction from the requirements of publishing and filing with the commission copies of schedules of rates, joint rates, tolls, charges, classifications and divisions of rates for jurisdictional services affecting Kansas customers and charged for any such service that is not subject to price regulation. After a public utility or common carrier service has been exempted from such requirements, the commission may require such public utility or common carrier to publish and file with the commission tariffs for such service when necessary to protect consumers from fraudulent business practices or practices that are inconsistent with the

public interest, convenience and necessity or when the commission otherwise deems necessary.

(b) The provisions of this section shall take effect on and after July 1, 1997.

Sec. 16. On and after July 1, 1997, K.S.A. 1996 Supp. 66-125 is hereby amended to read as follows: 66-125. (a) Any investor-owned electric public utility incorporated in the state of Kansas ~~having a total capitalization in excess of \$1 billion dollars~~ may issue stocks, certificates, bonds, notes or other evidences of indebtedness, payable at periods of more than 12 months after the date thereof, when necessary for the acquisition of property, for the purpose of carrying out its corporate powers, the construction, completion, extension or improvements of its facilities, for the improvements or maintenance of its service, for the discharge or lawful refunding of its obligations, or for such other purposes as may be authorized by law. Prior to any such issuance, there shall be secured from the commission a certificate stating the amount, character, purposes and terms on which such stocks, certificates, bonds, notes or other evidences of indebtedness are proposed to be issued, as set out in the application for such certificate. In lieu of securing a certificate from the commission, if the issuance requires a registration statement to be filed with the securities and exchange commission or such utility obtains an authorization or approval of such issuance from another state or federal agency, the public utility may file with the state corporation commission a copy of the information filed with the securities and exchange commission or such other agency.

(b) The proceedings for obtaining such certificate from the commission and the conditions of its being issued shall be as follows:

(1) In case the stocks, certificates, bonds, notes or other evidences of indebtedness are to be issued for money only, the public utility or common carrier shall file with the commission a statement, signed and verified by the president or other chief officer of the company having knowledge of the facts, showing:

(A) The amount and character of the proposed stocks, certificates, bonds, notes or other evidences of indebtedness;

(B) the general purposes for which they are to be issued;

(C) the terms on which they are to be issued;

(D) the total assets and liabilities of the public utility or common carrier; and

(E) that the capital sought to be secured by the issuance of such stocks, certificates, bonds, notes or other evidences of indebtedness is necessary and required for such purposes and will be used therefor.

(2) In case stocks, certificates, bonds, notes or other evidences of indebtedness are to be issued partly or wholly for property or services or other consideration than money, the public utility or common carrier shall

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file with the commission a statement, signed and verified by the president or other chief officer having knowledge of the facts, showing:

(A) The amount and character of the stocks, certificates, bonds, notes or other evidences of indebtedness proposed to be issued;

(B) the general purposes for which they are to be issued;

(C) a general description and an estimated value of the property or services for which they are to be issued;

(D) the terms on which they are to be issued or exchanged;

(E) the amount of money, if any, to be received for the same in addition to such property, services or other consideration;

(F) the total assets and liabilities of the public utility or common carrier; and

(G) that the capital sought to be secured by the issuance of such stocks, certificates, bonds, notes or other evidences of indebtedness is necessary and required for such purposes and will be used therefor.

(c) The commission may also require the public utility or common carrier to furnish such further statements of facts as may be reasonable and pertinent to the inquiry. Upon full compliance by the applicant with the provisions of this section the commission shall forthwith issue a certificate stating the amount, character, purposes and terms upon which such stocks, certificates, bonds, notes or other evidences of indebtedness are proposed to be issued, as set out in the application for such certificate. Any issue of stocks, certificates, bonds, notes or other evidences of indebtedness not payable within one year, which shall be issued by such public utility or common carrier contrary to the provisions of this act shall be voidable by the commission, except as provided in subsection (d).

(d) The provisions of this section shall not apply to motor carriers, as defined in K.S.A. 66-1,108, and amendments thereto or any public utility except as provided in subsection (a). Any issue of stocks, certificates, bonds, notes or other evidences of indebtedness not payable within one year, which were issued by a motor carrier prior to the effective date of this act without obtaining a certificate from the commission shall be deemed valid.

New Sec. 17. (a) The American Society of Heating and Air Conditioning Engineers/Illuminating Society of North America 1989 90-1 Standard or Code (ASHRAE/IES 90.1-89) is hereby adopted as the applicable thermal efficiency standard for new commercial and industrial structures in this state.

(b) The state corporation commission has no authority to adopt or enforce energy efficiency standards for residential, commercial or industrial structures.

(c) Nothing in this section shall be construed to preclude a city or county from adopting or enforcing thermal efficiency standards for structures within the jurisdiction of such city or county.

New Sec. 18. (a) Except as provided by subsection (b), the person building or selling a previously unoccupied new residential structure shall disclose to the buyer information regarding the thermal efficiency of the structure on a form prepared and disseminated by the state corporation commission, which form shall be substantially as follows:

"ENERGY EFFICIENCY DISCLOSURE

This residence (mark one of the following):

_____ 1. Has been built to meet the energy efficiency standards of the Model Energy Code of 1993

_____ 2. Has been built to include the following energy efficiency elements:

(1) Insulation values (R-value of insulation installed) for each of the following:

Ceiling with attic above R-value _____

Cathedral ceiling R-value _____

Opaque walls R-value _____

Floors over unheated spaces R-value _____

Floors over outside air R-value _____

Foundation type:

Slab-on-grade _____

Crawlspace _____

Basement and percent of basement walls underground _____

(2) Thermal properties of windows and doors for each of the following:

Entry door(s) R-value _____

Sliding door(s) R-value _____

Other exterior doors R-value _____

Garage to house door R-value _____

Window U-value (determined from NFRC rating label or default table) _____

(3) HVAC equipment efficiency levels:

Heating systems:

Gas fired forced air furnace AFUE rating _____

Electric heat pump HSPF rating _____

Air conditioning systems:

Electric unit SEER rating _____

Electric heat pump EER rating _____

Ground source heat pump EER rating _____

Duct insulation levels: Insulation R-value of ducts outside envelope _____

Thermostat:

Manual control type _____

Automatic set-back type _____

(4) Water heating efficiency levels:

Water heater fuel type _____

Water heater capacity _____

NAECA energy factor _____

(b) If a structure is subject to both the national manufactured housing construction and safety standards act (42 U.S.C. 5403) and the federal trade commission regulation on labeling and advertising of home insulation, 16 CFR section 460.16, both as in effect on the effective date of this act, the builder or seller may disclose, instead of the information required

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by subsection (a), the information regarding such structure that is required to be disclosed pursuant to such federal act and regulation.

Sec. 19. On and after July 1, 1997, K.S.A. 1996 Supp. 66-117 is hereby amended to read as follows: 66-117. (a) Unless the state corporation commission otherwise orders, no common carrier or public utility over which the commission has control shall make effective any changed rate, joint rate, toll, charge or classification or schedule of charges, or any rule or regulation or practice pertaining to the service or rates of such public utility or common carrier except by filing the same with the commission at least 30 days prior to the proposed effective date. The commission, for good cause, may allow such changed rate, joint rate, toll, charge or classification or schedule of charges, or rule or regulation or practice pertaining to the service or rates of any such public utility or common carrier to become effective on less than 30 days' notice. If the commission allows a change to become effective on less than 30 days' notice, the effective date of the allowed change shall be the date established in the commission order approving such change, or the date of the order if no effective date is otherwise established. Any such proposed change shall be shown by filing with the state corporation commission a schedule showing the changes, and such changes shall be plainly indicated by proper reference marks in amendments or supplements to existing tariffs, schedules or classifications, or in new issues thereof.

(b) Whenever any common carrier or public utility governed by the provisions of this act files with the state corporation commission a schedule showing the changes desired to be made and put in force by such public utility or common carrier, the commission either upon complaint or upon its own motion, may give notice and hold a hearing upon such proposed changes. Pending such hearing, the commission may suspend the operation of such schedule and defer the effective date of such change in rate, joint rate, toll, charge or classification or schedule of charges, or any rule or regulation or practice pertaining to the service or rates of any such public utility or common carrier by delivering to such public utility or common carrier a statement in writing of its reasons for such suspension.

(c) The commission shall not delay the effective date of the proposed change in rate, joint rate, toll, charge or classification or schedule of charges, or in any rule or regulation or practice pertaining to the service or rates of any such public utility or common carrier, more than 240 days beyond the date the public utility or common carrier filed its application requesting the proposed change. If the commission does not suspend the proposed schedule within 30 days of the date the same is filed by the public utility or common carrier, such proposed schedule shall be deemed approved by the commission and shall take effect on the proposed effective date. If the commission has not issued a final order on the proposed

change in any rate, joint rate, toll, charge or classification or schedule of charges, or any rule or regulation or practice pertaining to the service or rates of any such public utility or common carrier, within 240 days after the carrier or utility files its application requesting the proposed change, then the schedule shall be deemed approved by the commission and the proposed change shall be effective immediately, except that (1) for purposes of the foregoing provisions regarding the period of time within which the commission shall act on an application, any amendment to an application for a proposed change in any rate, which increases the amount sought by the public utility or common carrier or substantially alters the facts used as a basis for such requested change of rate, shall, at the option of the commission, be deemed a new application and the 240-day period shall begin again from the date of the filing of the amendment, and (2) if hearings are in process before the commission on a proposed change requested by the public utility or common carrier on the last day of such 240-day period, such period shall be extended to the end of such hearings plus 20 days to allow the commission to prepare and issue its final order, and, (3) *nothing in this subsection shall preclude the public utility or common carrier and the commission from agreeing to a waiver or an extension of the 240-day period.*

~~(c)~~ (d) Except as provided in subsection ~~(b)~~ (c), no change shall be made in any rate, toll, charge, classification or schedule of charges or joint rates, or in any rule or regulation or practice pertaining to the service or rates of any such public utility or common carrier, without the consent of the commission. Within 30 days after such changes have been authorized by the state corporation commission or become effective as provided in subsection ~~(b)~~ (c), copies of all tariffs, schedules and classifications, and all rules and regulations, except those determined to be confidential under rules and regulations adopted by the commission, shall be filed in every station, office or depot of every such public utility and every common carrier in this state, for public inspection.

~~(d)~~ (e) Upon a showing by a public utility before the state corporation commission at a public hearing and a finding by the commission that such utility has invested in projects or systems that can be reasonably expected (1) to produce energy from a renewable resource other than nuclear for the use of its customers, (2) to cause the conservation of energy used by its customers, or (3) to bring about the more efficient use of energy by its customers, the commission may allow a return on such investment equal to an increment of from $\frac{1}{2}\%$ to 2% plus an amount equal to the rate of return fixed for the utility's other investment in property found by the commission to be used or required to be used in its services to the public. The commission may also allow such higher rate of return on investments by a public utility in experimental projects, such as load management devices, which it determines after public hearing to be reasonably designed to cause more efficient utilization of energy and in energy

conservation programs or measures which it determines after public hearing provides a reduction in energy usage by its customers in a cost-effective manner.

~~(e)~~ (f) Whenever, after the effective date of this act, an electric public utility, a natural gas public utility or a combination thereof, files tariffs reflecting a surcharge on the utility's bills for utility service designed to collect the annual increase in expense charged on its books and records for ad valorem taxes, such utility shall report annually to the state corporation commission the changes in expense charged for ad valorem taxes. For purposes of this section, such amounts charged to expense on the books and records of the utility may be estimated once the total property tax payment is known. If found necessary by the commission or the utility, the utility shall file tariffs which reflect the change as a revision to the surcharge. Upon a showing that the surcharge is applied to bills in a reasonable manner and is calculated to substantially collect the increase in ad valorem tax expense charged on the books and records of the utility, or reduce any existing surcharge based upon a decrease in ad valorem tax expense incurred on the books and records of the utility, the commission shall approve such tariffs within 30 days of the filing. Any over or under collection of the actual ad valorem tax increase charged to expense on the books of the utility shall be either credited or collected through the surcharge in subsequent periods. The establishment of a surcharge under this section shall not be deemed to be a rate increase for purposes of this act. The net effect of any surcharges established under this section shall be included by the commission in the establishment of base rates in any subsequent rate case filed by the utility.

~~(f)~~ (g) Except as to the time limits prescribed in subsection ~~(b)~~ (c), proceedings under this section shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

Sec. 20. On and after July 1, 1997, K.S.A. 1996 Supp. 55-150 is hereby amended to read as follows: 55-150. As used in this act unless the context requires a different meaning:

(a) "Commission" means the state corporation commission.

(b) "Contractor" means any person who acts as agent for an operator as a drilling, plugging, service rig or seismograph contractor in such operator's oil and gas, cathodic protection, gas gathering or underground natural gas storage operations.

(c) "Fresh water" means water containing not more than 1,000 milligrams per liter, total dissolved solids.

(d) "Gas gathering system" means a natural gas pipeline system used primarily for transporting natural gas from a wellhead, or a metering point for natural gas produced by one or more wells, to a point of entry into a main transmission line, but shall not mean or include: (1) the gathering of natural gas produced from wells owned and operated by the gatherer

and where the gathering system is used exclusively for its own private purposes; (2) Lead lines from the wellhead to the connection with the gathering system which are owned by the producing entity person; and (3) (2) gathering systems used exclusively for injection and withdrawal from natural gas storage fields under the jurisdiction of the federal energy regulatory commission.

(e) "Operator" means a person who is responsible for the physical operation and control of a well, gas gathering system or underground natural gas storage facility.

(f) "Person" means any natural person, partnership, governmental or political subdivision, firm, association, corporation or other legal entity.

(g) "Rig" means any crane machine used for drilling or plugging wells.

(h) "Usable water" means water containing not more than 10,000 milligrams per liter, total dissolved solids.

(i) "Well" means a hole drilled or recompleted for the purpose of:

- (1) Producing oil or gas;
- (2) injecting fluid, air or gas in the ground in connection with the exploration for or production of oil or gas;
- (3) obtaining geological information in connection with the exploration for or production of oil or gas by taking cores or through seismic operations;
- (4) disposing of fluids produced in connection with the exploration for or production of oil or gas;
- (5) providing cathodic protection to prevent corrosion to lines; or
- (6) injecting or withdrawing natural gas.

New Sec. 21. On and after July 1, 1997, the term "public utility" as used in K.S.A. 66-104, and amendments thereto, and the term "common carriers" as used in K.S.A. 66-105, and amendments thereto, shall not include any gas gathering system, as defined in K.S.A. 55-150, and amendments thereto.

New Sec. 22. (a) As used in sections 22 through 30:

(1) "Gas gathering services" means the gathering or preparation of natural gas for transportation, whether such services are performed for hire or in connection with the purchase of natural gas by the person gathering or preparing the gas or a marketer affiliated with the person gathering or preparing the gas. "Gas gathering services" does not include the gathering of natural gas by an owner or operator of gathering facilities who: (A) Does not hold such facilities out for hire on or after the effective date of this act; or (B) does not purchase the gas for resale.

(2) Other terms have the meanings provided by K.S.A. 55-150, and amendments thereto.

(b) The provisions of sections 22 through 30 shall be part of and supplemental to chapter 55 of the Kansas Statutes Annotated.

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(c) This section shall take effect and be in force on and after July 1, 1997.

New Sec. 23. (a) Each person offering gas gathering services in this state shall file with the commission copies of: (1) Rates paid for natural gas purchased at the wellhead by the person offering gas gathering services; (2) all rates charged for gas gathering services offered by such person; and (3) such data related to the characteristics of the gas purchased or gathered by the person offering gas gathering services and such information regarding the terms and duration of the contract as the commission determines necessary. The commission shall adopt rules and regulations prescribing the form and times of filing of such rates, data and information. The commission shall not be required to analyze, publish or disseminate such rates, data and information except to the extent otherwise required by law.

(b) Upon notice and an opportunity to be heard in accordance with the provisions of the Kansas administrative procedure act, the commission may impose an administrative fine on any person for failure to file any rate, data or information as required by this section and rules and regulations of the commission. Such fine shall not exceed \$10,000 for each day the rate, data or information remains unfiled as required or an aggregate amount of \$250,000, whichever is less.

(c) Rates, data and information filed pursuant to this section shall not be used by the commission to order a change in any rate except in a proceeding pursuant to section 25.

(d) Rates, data and information filed pursuant to this section shall not be subject to K.S.A. 66-1220a, and amendments thereto.

(e) This section shall take effect and be in force on and after July 1, 1997.

New Sec. 24. (a) Persons offering gas gathering services in this state, or facilities essential to provision of such services, shall provide, in a manner that is just, reasonable, not unjustly discriminatory and not unduly preferential, access to any person seeking such services or facilities.

(b) Persons performing gas gathering services shall engage in practices in connection with such services, and charge fees for such services, that are just, reasonable, not unjustly discriminatory and not unduly preferential.

(c) This section shall take effect and be in force on and after July 1, 1997.

New Sec. 25. (a) The commission, in its discretion, may at any time review a fee, term or practice being used by a person offering gas gathering services to ascertain whether a violation of section 24 has occurred. Upon such review, the commission may initiate a proceeding to determine whether a violation of section 24 has occurred. Upon notice and an opportunity for hearing in accordance with the Kansas administrative pro-

cedure act, the commission shall have authority to order the remediation of any violation of section 24 that the commission finds has occurred.

(b) Any consumer of gas gathering services, any person seeking direct purchase of natural gas at the wellhead or any royalty owner, may request the commission to investigate and initiate proceedings to review a fee, term or practice being used by a person offering gas gathering services. As a condition to formal commission action, the person requesting commission action must first file a complaint that includes:

(1) A statement that the complainant has presented the complaint, in writing, to the person offering gas gathering services and included a request for a meeting with such person to discuss the matter;

(2) a copy of the document described in subsection (b)(1);

(3) a statement that the requested meeting took place or the person offering gas gathering services refused to meet with the complainant;

(4) detailed factual statement indicating how the fee, term or practice violates section 24;

(5) a statement of the precise remedy being requested that will make the fee, term or practice consistent with the provisions of section 24;

(6) if the complainant is a producer of natural gas, a copy of the analysis of the complainant's natural gas, including the nitrogen, carbon dioxide, hydrogen sulfide, water and other contaminant content; the amount of volume; and the amount of pressure at the wellhead; and

(7) if available, a map showing the location of the affected wells and all gas gathering systems in the area.

(c) The commission may resolve the complaint by use of an informal procedure established by the commission pursuant to rules and regulations adopted by the commission or the commission may conduct a formal hearing and take evidence as necessary to determine the merits of the complaint. If the commission uses an informal procedure and the complaint is not resolved within 60 days after the complaint is filed, the commission shall conduct a formal hearing on the complaint. The hearing shall be conducted and notice given in accordance with the Kansas administrative procedure act. Upon such hearing, the commission shall have authority to order the remediation of any violations of section 24, to the extent necessary for remediation as to the aggrieved person with respect to the particular violation.

(d) In evaluating a fee or term, or in establishing a reasonable fee or term, the commission is not required to engage in cost-of-service rate-making or any other form of ratemaking. Instead, the commission can employ any form of analysis and remedy that is designed to accomplish the goals of this act while respecting the legitimate property interests of the person offering the gas gathering services.

(e) Any natural gas producer using the gas gathering facilities of a person engaged in activities described in subsection (a)(1)(A) or (B) of section 22 may request the commission to investigate and initiate pro-

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ceedings to review the fees, terms and practices of the person engaged in such activities. The commission shall conduct such investigation and proceeding in the same manner as provided by this section for complaints filed pursuant to subsection (b) and may order the remediation of any violation of subsection (b) of section 24 that the commission finds would exist except for the exemption provided by subsection (a)(1)(A) or (B) of section 22.

(f) The commission shall maintain a publicized telephone number to facilitate the filing of informal complaints pursuant to subsection (b) or (e).

(g) The commission shall adopt such rules and regulations as the commission determines reasonably necessary to prevent abuse of the complaint procedure provided for by this section. Such rules and regulations shall include provisions to prevent delay of the proceedings that may damage a party's ability to pursue or defend the complaint.

New Sec. 26. (a) The commission may adopt such rules and regulations as the commission determines necessary to improve access to gas gathering services or to improve market competition or protect the public interest in such services.

(b) This section shall take effect and be in force on and after July 1, 1997.

New Sec. 27. (a) The commission may exempt natural gas sold directly to a consumer from the wellhead before the gas enters a gathering system from rate averaging or pricing systems that apply to gas sold from a gas gathering system.

(b) This section shall take effect and be in force on and after July 1, 1997.

New Sec. 28. (a) In any retail natural gas service area where the commission has granted a certificate of convenience and necessity to sell natural gas at retail from a gas gathering system, the commission may issue other certificates of convenience and necessity to make such sales in such area. A person purchasing natural gas or gas gathering services from a person offering gas gathering services in a retail natural gas service area where the commission has issued more than one certificate of convenience and necessity shall not be assessed an exit fee for electing to purchase natural gas or gas gathering services from another person offering gas gathering services.

(b) This section shall take effect and be in force on and after July 1, 1997.

New Sec. 29. (a) Nothing in sections 22 through 28 shall be construed, or authorize the commission, to amend any contractual obligations between the person offering gas gathering services and the complainant unless the commission determines, after investigation, notice and hearing, that such contractual obligations are unjust, unreasonable, unjustly dis-

criminy or unduly preferential and adversely impact the public welfare.

(b) This section shall take effect and be in force on and after July 1, 1997.

New Sec. 30. If a public utility providing service from a gas gathering system determines that such utility lacks sufficient services or facilities to serve the needs of any person wishing to utilize such utility's services within such utility's certificated service area during any calendar year, such utility, not later than November 1 preceding the beginning of such calendar year, shall give notice thereof to the commission and to each person that such utility determines it will be unable to serve.

New Sec. 31. If any provisions of this act or the application of this act to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or application. To this end the provisions of this act are severable.

Sec. 32. K.S.A. 66-131a is hereby repealed.

Sec. 33. On and after July 1, 1997, K.S.A. 66-1,191, 66-1,234, 66-1502 and 66-1503 and K.S.A. 1996 Supp. 55-150, 66-101d, 66-101e, 66-117, 66-118b, 66-125, 66-1,192, 66-1,204, 66-1,205, 66-1,219, 66-1,220, 66-1,235 and 77-529 are hereby repealed.

Sec. 34. This act shall take effect and be in force from and after its publication in the Kansas register.

Approved April 24, 1997.

Published in the Kansas Register May 8, 1997.

CHAPTER 133

SENATE BILL No. 131

AN ACT concerning school buses; relating to the operation and use thereof; increasing certain penalties; amending K.S.A. 8-1556 and K.S.A. 1996 Supp. 8-2009a, 8-2118 and 72-8316 and repealing the existing sections.

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

Section 1. K.S.A. 1996 Supp. 72-8316 is hereby amended to read as follows: 72-8316. (a) Any board of education, pursuant to a policy developed and adopted by it, may provide for the use of district-owned or leased school buses when such buses are not being used for regularly required school purposes.

The policy may provide for:

- (1) (A) Transporting parents and other adults to or from school-related functions or activities, (B) transporting pupils to or from functions or activities sponsored by organizations, the membership of which is prin-

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