

Approved: Feb. 9, 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 29, 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:
Shirley Sicilian, Director, Policy & Research, Department of Revenue
Chris McKenzie, Executive Director, League of Municipalities

Others attending: See attached list

Sen. Ranson opened the meeting by introducing two members who served on the Retail Wheeling Task Force, Earl Watkins, Sunflower Electric Power and Walker Hendrix, representing the Citizen's Utility Ratepayer Board (CURB). Sen. Steffes then introduced three pages from his district who are assisting the committee today.

Sen. Ranson announced the committee will hear a briefing today on **SB 436-Establishes Joint Committee on taxation of public utilities for study and recommendations; regarding taxation of deregulating electric generation.**

Sen. Ranson introduced Shirley Sicilian, who distributed copies of a memo to Chairman Carl Holmes dated July 17, 1997, regarding tax implications (Attachment 1) to the committee and explained it summarizes tax issues tax type by tax type. She announced the information she will give to the committee today will summarize tax issues stakeholder by stakeholder (Attachment 2). After her presentation, members asked questions regarding how separate companies are treated, such as KEPCO and Sunflower, and are they treated as one company? Ms. Sicilian stated for sales tax purposes they are treated as one company and that the statutes don't address the situation, which causes confusion. They also discussed cost recovery, companies divesting vs. unbundling and exemptions for commercial and residential properties. She stressed the importance of clarifying several tax issues that are involved in deregulation.

Sen. Ranson then introduced Chris McKenzie, who began his presentation by discussing local sales tax vs. state sales tax and referred to a chart on Page 2 of his prepared text (Attachment 3). He emphasized that the greater proportion of local sales and use tax receipts are derived from electricity and gas rather than at the state level. Mr. McKenzie continued by discussing policy issues relating to sales and use tax and emphasized the importance of accurate information and stated he has great concern for how taxes will be collected under deregulation. Sen. Ranson asked questions regarding the California power exchange and ISO and if its purpose is to collect this information. Mr. McKenzie stated the importance of utilizing accurate information regarding volume and pricing information. He continued by discussing franchise fees and the fact that it is common for the franchise fee to be passed on to the consumer; that the Corporation Commission allows it to be passed on. He also discussed nexus, unbundling, consumer education and the distribution of charges. Mr. McKenzie referred to a list of municipal electric utilities and other data (Attachment 4) and to Bulletins No. 643 and 644 regarding electric utilities and electric franchise fees (available from the League of Kansas Municipalities). He closed by stating the League's support for **SB 436**,

Sen. Ranson stated the importance of a careful study of tax issues and serious consequences relating to deregulation. She announced the committee will have a hearing Monday on the bill.

Meeting adjourned at 2:30.

Next meeting will be February 2, 1998

SENATE UTILITIES COMMITTEE GUEST LIST

DATE: JAN. 29, 1998

NAME	REPRESENTING
<i>Jim Kelly</i>	<i>Helm Work</i>
<i>Jim Ludwig</i>	<i>Western Resources</i>
BRUCE GRAHAM	KEPCO
<i>John J. Miles</i>	KCC
<i>Heather Randall</i>	<i>Whitney Damon, D.A.</i>
<i>Tom Laches</i>	<i>McCall's Asso.</i>
DAVID SCHNEWEIS	WESTERN RESOURCES
CAROL DEASON	WESTERN RESOURCES
<i>Dave Hotchans</i>	<i>Western Resources</i>
WALKER HENDRIX	CURB
ED SCHAUB	WESTERN RESOURCES
TOM HESTERMANN	SUNFLOWER ELECTRIC
<i>Earl Watkins</i>	<i>Sunflower Electric</i>
<i>Steve Miller</i>	<i>Sunflower Electric</i>
<i>Patrick Shurley</i>	KAPL
George Bambee	ENRON
<i>Larry Holloway</i>	KCC
DAVID BYBEE	KDOCH
S. Sicilian	KDOR

Shirley Sicilian, Director
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Topeka, KS 66625



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MEMORANDUM

TO: Chairman Carl Holmes
Retail Wheeling Task Force
FROM: Shirley Sicilian
RE: Income, Sales, and Property Tax Implications Retail Wheeling in Kansas
DATE: July 17, 1997

Good morning Chairman Holmes and members of the Retail Wheeling Task Force. My name is Shirley Sicilian, and I serve as Director of Policy & Research at the Kansas Department of Revenue. I appreciate the opportunity to testify before you today on the implications of retail wheeling for Kansas corporate income, sales/use, and property tax. For each one of these three tax types, I will discuss: 1) how the tax is currently administered generally, 2) the amount of tax revenue paid by the electric utility industry, and 3) tax issues that may arise as a result of retail wheeling.

I. Income Tax

A. General Administration

K.S.A. 79-32,110 (c) imposes a tax on "every corporation doing business within the state or deriving income from sources within the state." Electric Cooperatives and Municipal Electric companies are not subject to income tax. (79-32,113). If a corporation is doing business solely within Kansas, it will report all of its Kansas-modified federal taxable income on its Kansas return. A multistate corporation must allocate its income or apportion it among the states in which it has a sufficient level of business activity or "nexus."

1. Nexus.

Normally, sufficient nexus for income tax purposes is established when a corporation derives income from sources within the state, owns or leases property located or stored in the state, employs personnel in the state, or has other capital in the state. Nexus can be defined by state statute, but is subject to limitations imposed by the U.S. Constitution's due process and commerce clauses, and Public Law No. 86-272. For example, a state is prohibited from taxing a business when the only connection with the state is the solicitation of orders that are sent outside the state for approval or rejection and, if approved, are filled and shipped by the business from a point outside the state. (Public Law No. 86-272).

2. Business vs. Non-Business Income.

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To make this allocation or apportionment of income among states in which it has nexus, a multistate corporation must first separate its income into "business" and "non-business" income. "Business" income is defined by K.S.A. 79-3271 as "income arising from transactions and activity in the regular course of the taxpayer's trade or business and includes income from tangible and intangible property if the acquisition, management, and disposition of the property constitute integral parts of the taxpayer's regular trade or business operations." A Kansas taxpayer may elect to have all income which derives from the acquisition, management, use or disposition of tangible and intangible property treated as business income. Non-business income is generally allocated 100% to the state, while business income is apportioned among the states in which the firm does business and has nexus. (See K.S.A. 79-3275 through 3278 for the determinants of 100% allocation.)

3. Apportionment of Business Income.

K.S.A. 79-3279(b)(1) sets out an equally weighted, three factor apportionment formula. The three factors are property, payroll and sales. A ratio for each of the three factors is calculated by comparing the level of that factor in Kansas to the level in all states in which that corporation has nexus. If a corporation is doing business in a state, but does not have nexus in that state, that state is not included in the apportionment. When the seller is immune from tax in the destination state, sales are considered to be sales of the origination state under a "throwback" provision. The three ratios are then added together and divided by three to determine the percentage of the multistate corporation's income that will be apportioned to Kansas. Railroads, interstate motor carriers and qualifying telecommunications companies and other qualifying taxpayers have special apportionment rules or options. (K.S.A. 79-3279(a), (b)(2) and (b)(3)).

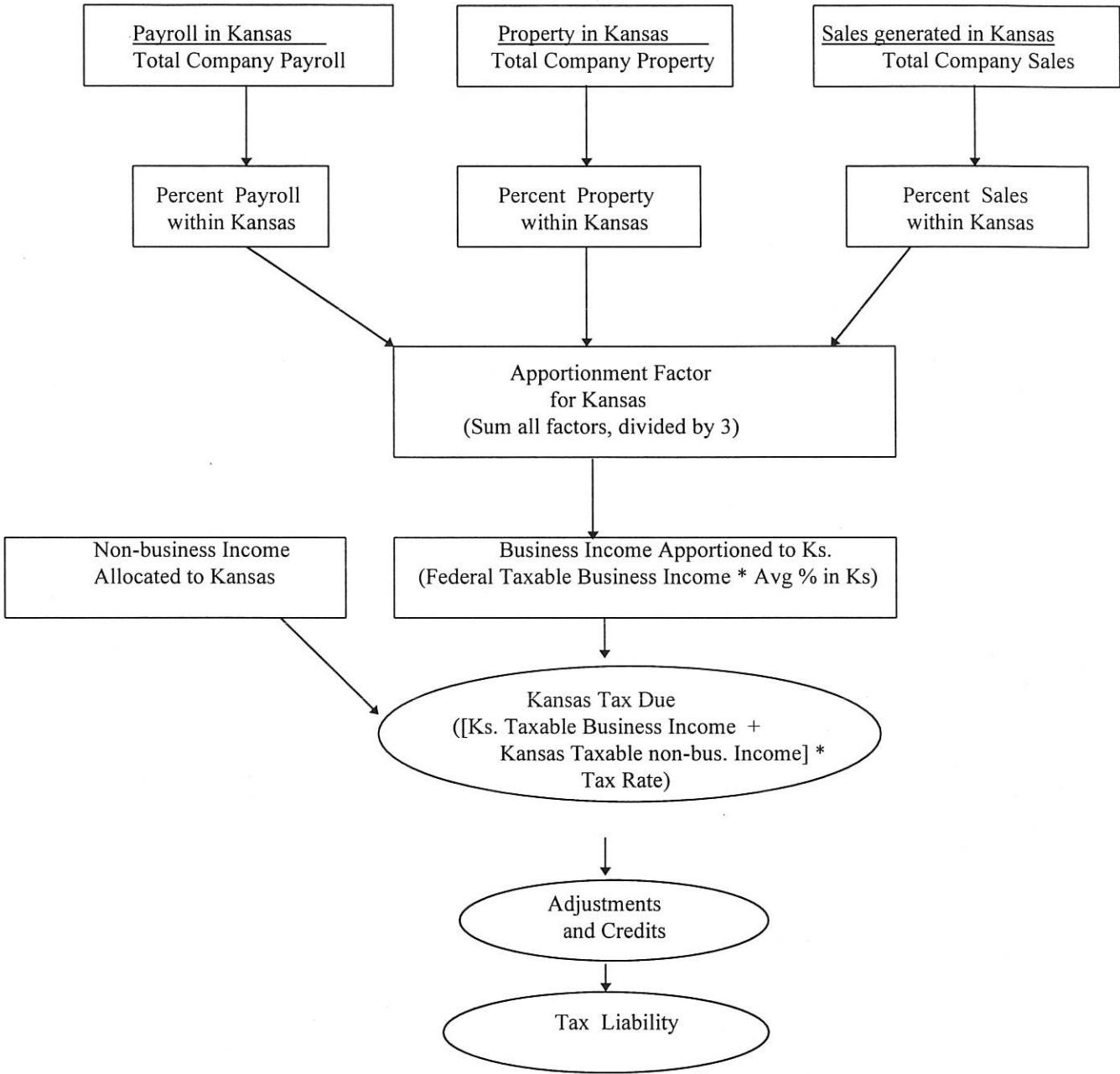
The three factor formula was adopted in 1963 when, along with twenty five other states, Kansas adopted the federal Uniform Division of Income for Tax Purposes Act (UDITPA) which defines business income and establishes a basic methodology of apportionment. The purpose of UDITPA is to create uniformity among the states in order to avoid either double taxation or less than full taxation of multistate corporations.

As of July, 1994, some form of the UDITPA three factor apportionment formula was in place in more than one-third of the states imposing a corporate income tax. However, approximately a third of those states had adopted a modified three-factor formula under which the sales factor is assigned a greater weight than the payroll or property factors. For example, Iowa, Nebraska, Texas, Colorado, and Missouri all provide a sales factor emphasis in their apportionment formulas. (1995 Multistate Corporate Tax Guide, Vol. I, Corporate Income Tax, William A. Raabe and Karen J. Boucher (1995) p. I367 - I368). Emphasizing the sales factor causes state tax liability to depend less on the relative amount of property and payroll in the state, and more on the relative amount of sales in the state. It thereby reduces the tax liability of export-oriented firms located in the state, and increases the liability of importing firms located outside the state.

4. Rate

After Kansas taxable income has been determined through allocation of non-business income and apportionment of business income, a rate is applied. The Kansas corporate tax rate is 4% of Kansas taxable income, plus a surcharge of 3.35% on income in excess of \$50,000.

Computing Kansas Corporate Income Tax



B. Receipts

In tax year 1995, which is the 1996 processing year, electric utilities paid approximately \$30 million in corporate income tax. This amount is about 13% of fiscal year 1996 corporate tax receipts after refunds. The amount does include tax received on non-utility income as well as utility income.

C. Issues

Retail wheeling, by itself, would not have a direct effect on corporate income tax revenues. It could have an indirect effect if it causes significant change in the profitability of utilities with nexus in Kansas or realignment of market share between utilities with Kansas nexus and those without Kansas nexus.

II. Sales and Use Tax

A. General Administration

1. Base and Rate.

State sales and use tax is imposed at a rate of 4.9% on sales of electricity to retail customers. (K.S.A. 79-3603 (c)). It applies to electricity furnished by both privately owned and municipal utilities.

There are at least five tax exemptions. Four are contained in K.S.A. 79-3606(w) which exempts electricity "delivered through ... lines" 1) to residential consumers, 2) for agricultural use, 3) for use in severing oil, and 4) to properties exempt from property tax under 79-201(b) *second* through *sixth* (certain housing for children, handicapped, and the elderly; political subdivisions; religious institutions, schools, hospitals). K.S.A. 79-3606(n) exempts sales of electricity consumed in the production of tangible personal property. In addition, the retail sales tax is not imposed on wholesale electric sales which are considered sales for resale.

Some city and county governments in Kansas impose a sales tax in addition to the state sales tax. The rates vary by jurisdiction, with the top rate at 2%. Local governments utilize the same tax base as the state and must provide the same exemptions as the state, with two significant exceptions: residential and agricultural electricity sales are both taxed at the local level even though they are exempt at the state level (K.S.A. 12-189a). The tax is applied where the electricity is consumed.

2. Nexus

Similarly to the income tax, the state can only impose a duty to collect sales tax on those vendors with sufficient nexus in Kansas. Again, the state may define nexus in its statutes, and again the due process and commerce clauses of the U.S. constitution create limits on the states ability to find nexus. For example, in *Quill Corp. v. North Dakota*, 504 U.S. 298, 112 S.Ct. 1904 (1992), the U.S. Supreme Court found a company cannot be required to collect and remit sales tax if the company has no connection to the state other than through the U.S. mail or common carrier. However, there are fewer limitations for sales tax purposes than for income tax purposes.

B. Receipts

1. State Receipts.

In fiscal year 1996, businesses classified as electric utilities or gas and electric utilities remitted approximately \$23 million in state sales tax. That is approximately 1.8% of the \$1.24 billion state sales tax collected in fiscal year 1996.

2. Local Receipts.

Also in fiscal year 1996, this same utility classification remitted approximately \$15 million in city and county sales tax. That is approximately 4% of the \$372 million in total local sales tax collected in fiscal year 1996.

C. Issues

1. Clarifications.

Retail wheeling will allow consumers to purchase electricity from one firm and have it distributed/transmitted by another. K.S.A. 79-3603(c) imposes a tax on the “sale or furnishing of ... electricity which ... is not otherwise exempt under this act.” K.S.A. 79-3606(w) exempts the “sales of ... electricity ... delivered through lines...” for agriculture, residential, oil production use and for use on property exempt from property tax. (emphasis added). If the intent of the electricity sales exemption statutes was to exempt both types of transactions, generation and transmission/distribution, it may be a good idea to make that clear at this time.

Likewise, 79-3606(n) exempts “tangible personal property consumed in production.” K.S.A. 79-3602(m) defines “property which is consumed” to include electricity. If the intent was to exempt both the electricity and the distribution/transmission, it may be a good idea to clarify that at this time also.

2. Nexus.

Under current case-law, it is clear an electric generator located in Kansas, selling to a Kansas consumer, has sufficient nexus to require the collection and remittance of state and local sales tax. Retail wheeling will allow consumers to purchase from out-of-state generators. If those generators do not themselves deliver the power into Kansas, or otherwise establish nexus, the state may not be able to impose the collection requirement.

In many cases where there is not sufficient nexus for sales tax to apply, the Kansas compensating use tax would apply. (K.S.A. 79-3701 et seq). The state compensating use tax is imposed on the consumer for use of a product or service in Kansas in any case where the sale of that product or service would have been subject to sales tax, but for the fact that it did not take place in Kansas. The purpose of the use tax is to level the competitive playing field between in-state and out-of-state suppliers.

There are two reasons why the use tax may not lead to a perfectly level playing field. First, with the exception of motor vehicles and boats, there is no city or county use tax. Thus, to the extent local taxes are due on in-state sales, there may still be an advantage for out-of-state suppliers with insufficient nexus. Second, the experience with mail order companies is that not all consumers are aware they owe the use tax and therefore many perceive a price difference where there really isn't one. To the extent these nexus issues are similar across the states, the Kansas supplier may have the same advantage in other states that the out-of-state supplier has in Kansas.

3. Effect of electricity price changes.

Some observers have commented that retail wheeling will introduce competition into the generation market and that competition will drive overall electricity prices downward. If that price decrease occurs and does not lead to an offsetting overall increase in electricity consumption, sales tax revenues might decrease.

Furthermore, the current price of electricity includes cost recovery for generating plant which may in the future be deemed "stranded investment" and recovered through some means other than the price of generated electricity. If the alternative cost recovery method is not subject to sales tax, the sales tax base may be smaller than would otherwise be the case.

III. Property Tax

A. General Administration

At its most basic level, determination of property tax due involves three steps: 1) appraisal, 2) determining assessed value, and 3) applying the mill levy. In Kansas, as in most other states steps 1) and 2) are different for public utilities than they are for other commercial and industrial property. Furthermore, public utility valuation requires an additional step between steps 2) and 3). The additional step is the allocation of value to Kansas and to the local taxing jurisdictions.

1. Determining Value.

Utility property is valued as a "going concern" vs. as a set of individual assets.

The determination of value for most property in Kansas is made by a county appraiser in accordance with K.S.A. 79-501, which references 79-1439, and K.S.A. 79-503a.

- Real estate. 79-501 and 79-1439 require residential, commercial and industrial real estate to be appraised at the fair market value of the property. Fair market value is defined as the value which would be arrived at by a willing, informed buyer and a willing, informed seller.
- Tangible personal property. K.S.A. 79-1439 reflects that commercial and industrial tangible personal property must be appraised in accordance with a formula in the Kansas constitution. The constitutional formula requires appraisal equal to the property's retail cost when new, depreciated over its economic life to a maximum seven year period. However, so long as the property is used, it is valued at no less than 20% of its retail cost when new. Sales tax is not included in the original cost when new, and freight and installation may not be included if those costs are readily discernible. There is an exemption for items which were \$250 or less.

Value for public utilities is determined by the state, rather than the county. The state appraiser follows the requirements of the constitution and of K.S.A. 79-5a04. This statute allows the value of all public utility property, "both real and personal, tangible and intangible" to be determined together as one going concern at its fair market value. As in the case of C&I real property, market value is defined as the price which would be arrived at by a willing, informed buyer and a willing, informed seller.

For C&I real property, market value of each real asset is determined separately. For public utility property, market value of the business will reflect the synergies of all the assets operating together, and

will include the contribution of intangible assets, as well as real and tangible personal assets. The unit value of the enterprise as a going concern may be either more or less than the sum of the value of the individual assets. In most cases you would expect that if each asset were sold separately, the total price received would be less than the value of the enterprise as a going concern.

Three approaches are used to establish market value.

There are three well established approaches for determining market value. All three are referenced in the Kansas property tax statutes. For C&I real property, the reference is in K.S.A. 79-503a, and for public utility property the three approaches can be found in K.S.A. 79-5a04 . These three approaches are: (1) Income approach, (2) Cost approach, and (3) Market approach.

In the income approach, an appraiser looks at what someone would be willing to pay for the property in light of the amount of income the market is indicating the property is able to produce over the time. Again, for C&I real property, the approach is are applied to the single asset and not the company as a whole.

In the cost approach, the appraiser is looking at what it would cost to build a similar property today, less depreciation.

In the sales approach the appraiser looks at what similar properties have recently sold for and makes appropriate adjustments to reflect the subject property. Public utility companies don't sell frequently, so the appraiser looks at stock and debt under this approach.

With public utility valuation, just as with all C&I valuation, the three approaches to value are used by the appraiser to establish a reasonable estimate of fair market value.

2. Allocating and Distributing Value.

Because market value is determined for a utility company as a going concern, and not on an asset by asset basis, the state must next determine how much of that final value is allocable to Kansas, if the company is a multistate utility, and then to each taxing jurisdiction with in Kansas. The method Kansas has chosen to allocate value to the state and to distribute value to the counties and each county's taxing units is the ratio of original cost to the estimate of market value. This allocation and distribution method can have a significant impact on the amount and shifting of value when companies add or delete significant portions to their operations, merge with other companies or break up into functional segments.

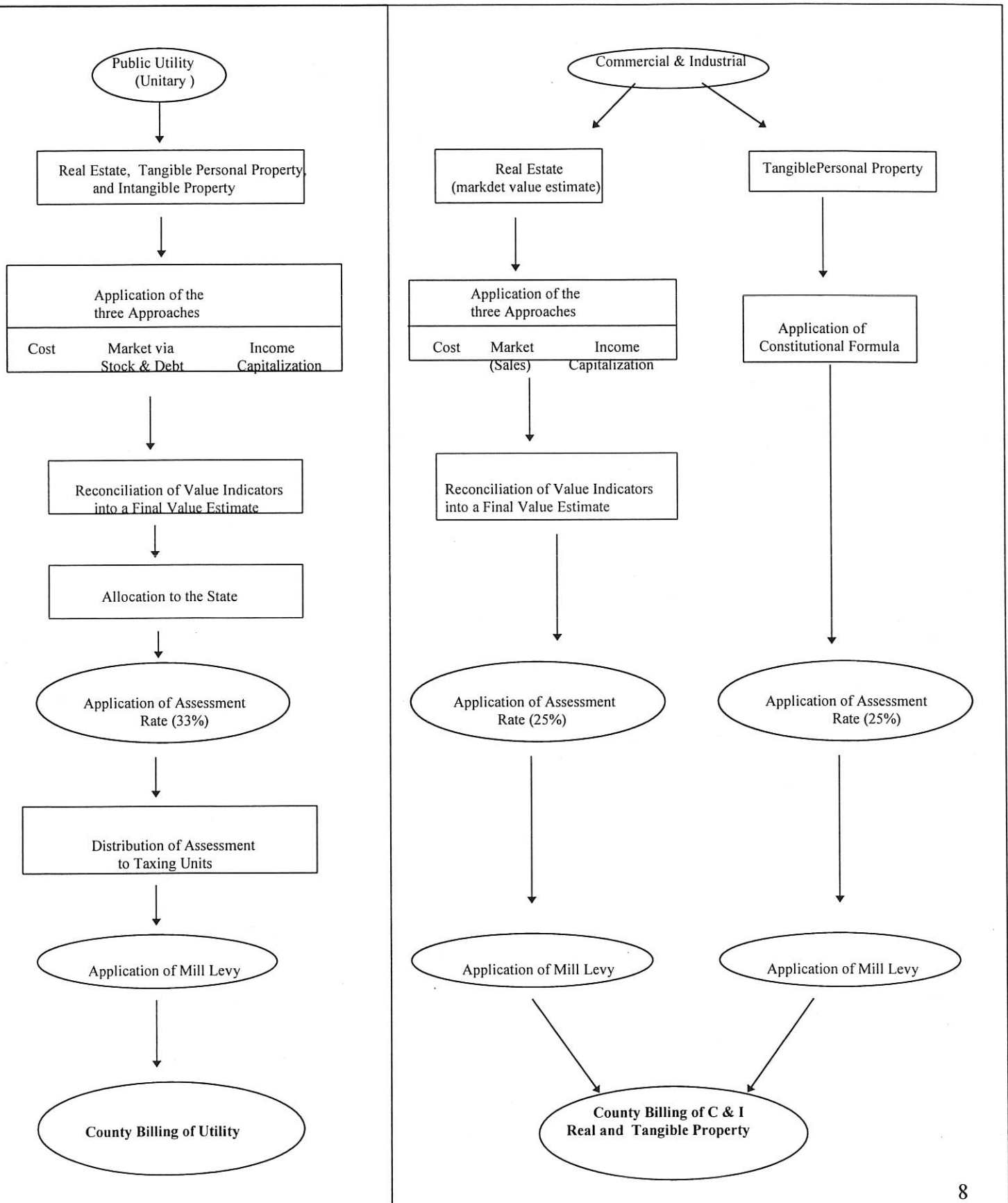
3. Applying the Assessment rate.

The assessment rate for public utility property in Kansas is 33%, compared to 25% for C&I real and tangible personal property.

4. Applying the Mill Levy.

Public utility assessed valuation is then subject to the mill levies of the different taxing jurisdictions. Statewide mill levies include the State Institutions Building and Educational Building Funds and the School District Finance Fund.

The Valuation Process



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B. Current Property Tax Revenues

Public Utilities and Property Taxes

Utility Type	1996 Statewide Assessed Valuation	% Utility Valuation of All Valuation	1996 Tax Levied on Utilities	% Utility Tax Levied of All Property Tax
Electric Utilities	\$1,486,051,325	8.9%	\$135,373,018	6.9%
Pipeline - Oil & Gas	\$637,509,260	3.8%	\$69,728,501	3.5%
Railroads	\$143,096,925	0.9%	\$17,111,143	0.9%
Telecommunications	\$556,262,147	3.3%	\$69,205,809	3.5%
Water Companies	\$2,115,960	less .01%	\$277,008	less .01%
Barge Lines	\$13,276	less .01%	\$1,612	less .01%
Total - All Utilities	\$2,825,048,893	16.9%	\$291,697,091	14.8%
Total Valuation in Kansas		\$16,681,826,867	\$1,971,013,077	

Electric Utilities and Property Taxes

Electric Utility Type	1996 Statewide Assessed Valuation	% Utility Valuation of Total Valuation	1996 Tax Levied on Utilities	% Utility Tax Levied of All Property Tax
Generating Facilities	\$920,921,918	5.5%	\$71,209,410	3.6%
Other Electric Facilities (Transmission & Distribution)	\$565,129,407	3.4%	\$64,163,608	3.3%
Total - Electric Utilities	\$1,486,051,325	8.9%	\$135,373,018	6.9%

Assessed Valuation Comparison

Counties with Generation Facilities
County Totals and Electric Utility
Tax Year 1996

County Name	County Assessed Valuation (all property)	All Electric Utility Assessed Value	% All Electric of Total County	Estimated Generation Facilities Value	% Electric Generation of Total County
Barton	\$145,666,718	\$10,502,666	7.2%	\$2,063,606	1.4%
Cherokee	\$93,646,758	\$12,984,881	13.9%	\$7,445,134	7.9%
Coffey	\$559,989,335	\$514,725,055	91.9%	\$510,063,038	91.1%
Dickinson	\$92,355,409	\$6,734,408	7.3%	\$1,248,130	1.3%
Douglas	\$528,354,653	\$43,122,305	8.2%	\$21,182,711	4.0%
Finney	\$306,507,682	\$52,639,900	17.2%	\$42,711,871	13.9%
Ford	\$163,764,755	\$8,753,144	5.3%	\$2,353,166	1.4%
Linn	\$146,333,488	\$106,856,245	73.0%	\$95,451,141	65.2%
Pottawatomie	\$304,115,380	\$218,355,017	71.8%	\$197,246,866	64.9%
Reno	\$327,617,275	\$23,973,456	7.3%	\$9,396,162	2.9%
Sedgwick	\$2,201,606,299	\$87,775,937	4.0%	\$15,731,854	0.7%
Seward	\$172,575,693	\$4,910,276	2.8%	\$1,527,196	0.9%
Shawnee	\$900,124,928	\$50,474,351	5.6%	\$13,380,782	1.5%
Washington	\$43,623,730	\$2,689,113	6.2%	\$1,120,261	2.6%
Total for the 14 Counties	\$5,986,282,103	\$1,144,496,754	19.1%	\$920,921,918	15.4%
Statewide Total	\$16,681,826,867	\$1,486,051,325		\$920,921,918	

Taxes Levied Comparison
 Counties with Generation Facilities
 County Totals and Electric Utility
 Tax Year 1996

County Name	County Taxes	Electric Utilities Taxes	% All Electric of Total County	Generation Facility Tax (Estimated.)	% Generation of Total County Tax
Barton	\$19,708,700	\$1,326,259	6.7%	\$257,159	1.3%
Cherokee	\$8,326,398	\$1,100,363	13.2%	\$633,115	7.6%
Coffey	\$38,329,046	\$34,507,951	90.0%	\$34,158,187	89.1%
Dickinson	\$9,723,854	\$661,285	6.8%	\$120,930	1.2%
Douglas	\$60,083,619	\$4,627,587	7.7%	\$2,281,957	3.8%
Finney	\$34,022,963	\$5,257,528	15.4%	\$4,238,770	12.5%
Ford	\$22,557,253	\$1,127,321	5.0%	\$302,622	1.3%
Linn	\$12,643,178	\$9,057,968	71.6%	\$8,071,077	63.8%
Pottawatomie	\$26,892,911	\$17,888,886	66.5%	\$16,145,137	60.0%
Reno	\$42,700,346	\$2,977,093	7.0%	\$1,177,534	2.8%
Sedgwick	\$248,216,324	\$9,404,861	3.8%	\$1,685,177	0.7%
Seward	\$19,300,117	\$531,407	2.7%	\$169,605	0.9%
Shawnee	\$133,412,804	\$6,880,949	5.2%	\$1,834,657	1.4%
Washington	\$5,567,764	\$327,592	5.9%	\$133,483	2.4%
Total for the 14 Counties	\$681,485,277	\$95,677,050	14.0%	\$71,209,410	10.4%
Statewide Total	\$1,971,013,077	\$135,373,018	6.9%	\$71,209,410	3.6%

C. Issues

There may be no immediate impact to property tax as a direct result of retail wheeling. Article 11, section 1 of the constitution requires public utility property to be assessed at 33% of market value. K.S.A. 79-5a01 defines a "public utility" as any company or persons which "control, manage or operate a business of ... (5) generating, conducting or distributing to, from, through or in this state electric power." Any firm which has a business of generating electric power, whether rate regulated or not, may arguably still fit the definition of "public utility" set out in the statute.

However, there may be an argument to the contrary. In two recent cases, the Kansas courts struggled with the issue of whether the company was "(3) transmitting to from or through the state a telephonic

message.” (K.S.A. 79-5a01). One case dealt with a pager company and the other a cellular company. In both cases the court ultimately found the company was not transmitting telephonic messages and therefore was not a public utility under 79-5a01. However, it is not perfectly clear from the cases the extent to which the courts took into account the fact that neither company was regulated, and how that might affect whether those companies would then come under the natural and ordinary meaning of the term “public utility” as that term is used in the constitution. (*First Page, Inc v. David C. Cunningham, et. al.*, 252 Kan. 593; *In re Appeal of Topeka SMSA Ltd., Partnership*, 260 Kan. 155).

If the courts were to find that unregulated electric generation companies cannot be considered “public utilities” for purposes of the property tax statutes, there would be two major changes. First, that electric generation property would no longer be state assessed - it would most likely be valued by the county appraiser on an asset by asset basis with real property set at market value and tangible personal property set in accordance with the constitutional formula. Second, the value would most likely be assessed at the C&I 25% rate, compared to the 33% public utility rate.

The impact would be a decrease in assessed value, with a revenue impact to the local taxing jurisdictions and the state of an estimated \$30 million. The tax year 1996 state education and building funds revenues would have been reduced approximately \$600,000/year. The tax year 1996 statewide school levy would have been reduced by approximately \$9.8 million.

Difference in Assessed Value and Tax Revenue Reduction Electric Generation Facilities by County

Location by County	Assessed Value as Utility	Estimated Assessed Value as C&I	% Decrease in Assessed Value	Estimated Decrease in Tax Revenue (A)	Electric Generating Plants
Barton	\$2,063,606	\$1,284,658	-37.7%	-\$97,069	Mullergren
Cherokee	\$7,445,134	\$3,770,417	-49.4%	-\$312,488	Riverton
Coffey	\$510,063,038	\$305,005,878	-40.2%	-\$13,732,383	Wolf Creek
Dickinson	\$1,248,130	\$544,566	-56.4%	-\$68,168	Abilene
Douglas	\$21,182,711	\$10,175,659	-52.0%	-\$1,185,761	Lawrence
Finney	\$42,711,871	\$40,741,486	-4.6%	-\$195,543	Holcomb
Ford	\$2,353,166	\$1,500,785	-36.2%	-\$109,618	Judson Large
Linn	\$95,451,141	\$44,686,088	-53.2%	-\$4,292,548	La Cygne
Pottawatomie	\$197,246,866	\$101,870,779	-48.3%	-\$7,806,765	Jeffery
Reno	\$9,396,162	\$4,149,018	-55.8%	-\$657,576	Hutchinson
Sedgwick	\$15,731,854	\$6,938,935	-55.9%	-\$941,887	Gills & Evans
Seward	\$1,527,196	\$870,019	-43.0%	-\$72,984	Cimarron River
Shawnee	\$13,380,782	\$6,560,301	-51.0%	-\$935,165	Tecumseh
Washington	\$1,120,261	\$544,830	-51.4%	-\$68,564	Clifton
Totals:	\$920,921,918	\$528,643,419	-42.6%	-\$30,476,519	

(A) The "Decrease in Tax Revenue" represents the estimated tax dollars difference between the utility assessment method and the combination method of C&I personal property & market value of real estate. The amount was generated by calculating the actual mill levy paid by the utility company on the generating property times the difference between the two assessments. For example, in Coffey County the mill levy for 1996 was 66.968 mills. The difference of the two assessments is \$207,057,160 (\$510,063,038-\$305,005,878). The "Decrease in Tax Revenue is \$13,732,383 ($\$207,057,160 * 66.968$ mills).

Methodology for computing the assessment valuation

- Data for the example was extracted from actual company renditions
- The assessment of real property is based on 75% of the original cost.
- All property is assessed as commercial and industrial.
- Assumes the economic life of the majority of personal property is 7 years or more.
- The assessment of personal property is based on using a 30 year life for all personal property. The estimate assumes that 80% is 7 years or older or is at the end of its economic life.
- The Kansas Supreme Court held that the term "retail cost when new," (a unique term used in the constitution for valuing commercial and industrial machinery and equipment) never includes sales tax and may not include freight and installation costs if these items are separable and readily discernible. This is contrary to appraisal practices used to determine the market value of property. There are likely considerable installation costs associated with the heavy industrial equipment common to electric generation. The reduction in value due to removing sales tax and installation costs, estimated to be significant, have not been taken into account in calculating this estimate.
- The \$250 small item exemption has not been taken into account in calculating this estimate.

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Office of Policy & Research

MEMORANDUM

TO: Senator Pat Ranson
Chair, Senate Utilities Committee
FROM: Shirley Klenda Sicilian
Director, Policy & Research, Kansas Department of Revenue
RE: Possible Tax Implications of Retail Wheeling
DATE: January 29, 1998

Senator Ranson and members of the Senate Utilities Committee, thank you for the opportunity to testify today regarding possible tax implications of retail wheeling. My name is Shirley Sicilian and I am Director of the Office of Policy & Research at the Kansas Department of Revenue. A move to retail wheeling would create several tax issues. Over the last year, I've presented testimony to this committee and the Retail Wheeling Task Force which lists these issues by tax type and gives a little background on how each tax operates. I've brought copies of that testimony for anyone who would like it. I thought it might be more meaningful this time to summarize the tax issues, not tax type by tax type, but stakeholder by stakeholder.

1. Electricity Providers - A level playing field.

A. Sales and use tax collection responsibilities for out-of-state generators.

Under current case-law, it is clear an electric generator located in Kansas, selling to a Kansas consumer, has "nexus," or sufficient level of business activity in Kansas, for us to require the collection and remittance of state and local sales tax. Retail wheeling will allow consumers to purchase from out-of-state generators. If those generators do not themselves deliver the power into Kansas, or otherwise establish nexus, the state may be constitutionally prohibited from imposing a tax collection requirement.

In many cases where there is not sufficient nexus for sales tax requirements to apply, the Kansas compensating use tax would apply. (K.S.A. 79-3701 et seq). The state compensating use tax is imposed on the consumer for use of a product or service in Kansas in any case where the sale of that product or service would have been subject to sales tax, but for the fact that it did not take place in Kansas. The purpose of the use tax is to level the competitive playing field between in-state and out-of-state suppliers.

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There are two reasons why the use tax may not lead to a perfectly level playing field. First, with the exception of motor vehicles and boats, there is no city or county use tax. Thus, to the extent local taxes are due on in-state sales, there may still be an advantage for out-of-state suppliers with insufficient nexus. Second, the experience with mail order companies is that not all consumers are aware they owe the use tax and therefore many perceive a price difference where there really isn't one. To the extent these nexus issues are similar across the states, the Kansas supplier may have the same advantage in other states that the out-of-state supplier has in Kansas.

B. Tax exemption for Rural Electric Cooperatives and municipal generators.

Rural Electric Cooperatives and municipal generators could have some tax advantage in competition with other generators as they do not pay state income taxes or local property taxes.

C. Property tax issues.

Article 11, section 1 of the constitution requires public utility property to be assessed at 33% of market value. Other Commercial and Industrial property is assessed at 25%.

K.S.A. 79-5a01 defines a "public utility" as any company or persons which "control, manage or operate a business of ... (5) generating, conducting or distributing to, from, through or in this state electric power." Any firm which has a business of generating electric power, whether rate regulated or not, may arguably still fit the definition of "public utility" set out in the statute.

However, there may be an argument to the contrary. In two recent cases, the Kansas courts struggled with the issue of whether the company was "(3) transmitting to from or through the state a telephonic message." (K.S.A. 79-5a01). One case dealt with a pager company and the other a cellular company. In both cases the court ultimately found the company was not transmitting telephonic messages and therefore was not a public utility under 79-5a01. However, it is not perfectly clear from the cases the extent to which the courts took into account the fact that neither company was regulated, and how that might affect whether those companies would then come under the natural and ordinary meaning of the term "public utility" as that term is used in the constitution. (*First Page, Inc v. David C. Cunningham, et. al.*, 252 Kan. 593; *In re Appeal of Topeka SMSA Ltd., Partnership*, 260 Kan. 155).

If the courts were to find that unregulated electric generation companies cannot be considered "public utilities" for purposes of the property tax statutes, there would be two major changes. First, that electric generation property would no longer be state assessed - it would most likely be valued by the county appraiser on an asset by asset basis with real property set at market value and tangible personal property set in accordance with the constitutional formula. Second, the value would most likely be assessed at the C&I 25% rate, compared to the 33% public utility rate. Both changes would significantly reduce property tax owed by electric generators.

D. Taxation of transmission and distribution.

It is possible that unbundled transmission and distribution would be considered a non-taxable service if provided separately, but a taxable service if provided together with taxable generated electricity.

2. Electricity Consumers

A. Clarification of exemptions.

Retail wheeling will allow consumers to purchase electricity from one firm and have it distributed/transmitted by another. K.S.A. 79-3603(c) imposes a tax on the “sale or furnishing of ... electricity which ... is not otherwise exempt under this act.” K.S.A. 79-3606(w) exempts the “sales of ... electricity ... delivered through lines...” for agriculture, residential, oil production use and for use on property exempt from property tax. (emphasis added). If the intent of the electricity sales exemption statutes was to exempt both types of transactions, generation and transmission/distribution, it may be a good idea to make that clear at this time.

Likewise, 79-3606(n) exempts “tangible personal property consumed in production.” K.S.A. 79-3602(m) defines “property which is consumed ” to include electricity. If the intent was to exempt both the electricity and the distribution/transmission, it may be a good idea to clarify that at this time also.

B. Property tax changes.

Any property tax change for electric generators has the potential to affect non-electric generation property if local jurisdictions raise the mill levy to make up for reductions in the electric generation property tax base.

3. State tax revenues.

A. Effect on Sales and Income taxes due to lack of nexus.

If out of state generators are not required to collect state use taxes, there could be a reduction in sales and/or use tax revenue to the state. Residential consumers are currently exempt from state sales tax anyway, but business consumers would need to be aware that they do owe use tax. Local governments would not be able to collect use tax from either residential or business consumers. Lack of nexus for income tax would reduce state income tax revenues to the extent Kansas consumers are buying from out of state generators.

B. Unbundling.

The current price of electricity includes cost recovery for generating plant which may in the future be deemed “stranded investment” and recovered through some means other than the price of generated electricity. If the alternative cost recovery method is not a sale of tangible personal property or electricity, it may not be subject to sales tax, and the sales tax base may be smaller than would otherwise be the case. The provision of unbundled transmission and distribution by a third party may be a non-taxable service.



**League
of Kansas
Municipalities**

Attach. 3

PUBLISHERS OF KANSAS GOVERNMENT JOURNAL 300 S.W. 8TH TOPEKA, KS 66603-3896 (785) 354-9565 FAX (785) 354-4186

TO: Senate Committee on Utilities
FROM: Chris McKenzie, Executive Director *cm*
DATE: January 29, 1998
SUBJECT: SB 436; and Possible Impact of Retail Wheeling on Local Sales/Use Tax, Franchise Revenues; and Municipal Electric Utility Funding of Community Services

Thank you for the invitation to share with you some of our early information on the possible impacts of retail wheeling on the current local government revenue structure. I appreciate the work of the Department of Revenue and Chris Courtwright of the Legislative Research Department in helping identify and analyze the likely impacts at both the state and local levels. It is important to appreciate the interrelatedness of many of these revenue sources and the fact that, in the case of the sales and use taxes, collection is done centrally at the state level.

The League worked very closely with the Retail Wheeling Task Force to begin the process of identifying these impacts and possible policy options. This experience, combined with municipal officials' experience with loss of revenues from deregulation of the natural gas industry, has given rise to deep concerns about these impacts. As a result, last week the League took action to adopt a formal position in support of SB 436 in order to have adequate time to study the many and complex tax issues raised by the proposal to deregulate part of the electric utility industry.

SALES AND USE TAX POLICY ISSUES

The connection between retail wheeling and cities is sensitive because cities today collect almost as much in sales/use tax revenues (1995--\$280 million) as they do in property tax (1995--\$303 million). One reason cities have been able to lessen their reliance on the property tax since the 1970s has been because of voter-approved sales/use taxes. One goal which state and municipal policy makers appear to have in common is to continue to reduce the property tax and its role in the overall financing of city government.

The state and local retailers' sales and compensating use tax rates are applied against the gross receipts received from the sale or furnishing of electricity (**for sales tax**), or the consideration paid to use, store or consume electricity (**for compensating use tax**). The wording of the current law raises a host of issues when considering a transition to a competitive retail market. Among these are questions of nexus and application of the tax to unbundled services. For cities and counties levying sales and use taxes or receiving a portion of the countywide sales tax (cumulative total is over 500), this problem is even more poignant since, unlike its state counterpart, the current local sales tax does not apply to the "**furnishing**" or electricity and the local compensating use tax does not apply to the "**use**" of electricity. Despite this narrower base, the local sales tax applies to sales of gas and electricity for residential and agricultural uses, and the state rate of 4.9% does not. As a result, a

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greater proportion of local sales and use tax receipts (4%) are derived from electricity and gas than at the state level (1.8%). The following table summarizes the current tax structure and the issues which may need resolution:

**STATUTORY FRAMEWORK FOR
STATE AND LOCAL SALES AND USE TAXES**

Tax	State (4.9%)	Local (1%/1%)	Policy Issues Raised By Wheeling
Sales	<p>Derived off of “gross receipts from <u>sale</u> or <u>furnishing</u> of gas, water, electricity and heat by <u>municipal</u> or <u>privately owned utilities</u>--K.S.A. 79-3603(c)</p> <p><u>Exceptions:</u> (1) residential use (2) agricultural use (3) use in severing oil (4) nonprofit housing groups (5) used in manufacturing---K.S.A. 79-3606 (n)&(w)</p>	<p>Same, but applies only to <u>sales</u> of gas, electricity, heat and water for residential/ag. uses---K.S.A. 12-187:12-189a</p> <p><u>Exceptions:</u> (3), (4) and (5)----K.S.A. 12-187:12-189)</p>	<p>(1) Would <u>underlined</u> words capture all the unbundled goods and services provided by utilities and nonutilities (e.g., marketers, suppliers, brokers, etc.) with retail competition?</p> <p>(2) If the local law is amended to apply to the “furnishing” of electricity, will information on gross receipts be provided to distribution companies by competitors? Can the state compel it to be provided?</p>
Use	<p>Derived from <u>consideration</u> paid to <u>use, store</u> or <u>consume any</u> article of tangible personal property in Kansas ---K.S.A. 79-3703</p> <p><u>Exceptions:</u> (1) Property used by persons in state less than 60 days (2) Property not purchased at retail (3) To the extent sales tax had been paid on the item in another state ---K.S.A. 79-3704</p>	<p>Derived only from <u>consideration</u> paid to <u>use</u> or <u>store</u> any <u>registered motor vehicle</u> or <u>vessel</u> in the city or county levying the tax. ---K.S.A. 12-198</p> <p><u>Exceptions:</u> Same ---K.S.A. 12-198</p>	<p>(3) Is current language adequate to capture unbundled services related to electricity?</p> <p>(4) Is it possible to capture the “consideration paid” to non-Kansas sellers of electricity? From whom? Seller? Distributor? Will registration with the state be necessary?</p> <p>(5) Even if the state requires licensing of all sellers, will this meet the “substantial nexus” requirements of physical presence (e.g., in-state sales force, plant, office, etc.) required by the U.S. Sup. Court in <i>Quill v. North Dakota</i> (1992)?</p>

SALES/USE TAX POLICY ISSUES

1. Basic Application. (a) Unbundled Services. In the deregulated environment, questions are bound to arise about the continued application of the state or local sales tax laws to all unbundled services. For example, if transmission costs are segregated on a consumer's bill from generation or distribution costs, will they be taxable as part of the cost of the "sale or furnishing" of electricity gas by all distributors, suppliers, brokers or aggregators? In its deregulation bill (HB 1509), the Pennsylvania legislature carefully defined the terms "electric distribution company," "electric generation supplier," and "electricity supplier" and imposed a gross receipts tax on sales by all such entities. Also included is the following language in § 2810(j):

(j) Sales of electric energy.—Retail sales of electric generation, transmission, distribution or supply of electric energy, dispatching services, customer services, competitive transition charges, intangible transition charges and universal service and energy conservation charges and such other retail sales in this Commonwealth the receipts of which, if bundled, would have been deemed to be sales of electric energy prior to the effective date of this chapter shall be deemed sales of electric energy for purposes of Section 1101....

I suspect there are other statutory "fixes" to this issue which can be devised by the Office of the Revisor of Statutes, but adequate time to develop and evaluate them is necessary.

(b) Financial Responsibility for Payment. With so many new suppliers of electricity expected to enter the marketplace, questions will inevitably arise about collection of the tax from new, and perhaps less sophisticated or diligent, suppliers. As a financial backstop, the Pennsylvania legislation mentioned above imposes a responsibility on all licensed electric distribution companies to pay an amount as a use tax which is not paid by any licensed electricity supplier. This assures collection of the taxes due from a source that can be expected to have a continuing presence in the state. Such costs are totally recoverable from the consumers of such electricity. The resolution of this question depends in part on the extent to which the licensing of suppliers can be linked to the tax collection process. Also relevant is whether we will retain the unitary consumer bill or whether multiple companies will be billing consumers for different aspects of the services or commodity provided.

2. Use Tax Statutes. Considerations similar to those discussed above for the state and local sales tax arise in connection with the state and local compensating use taxes. First, the unbundling of services will require taxation of more than the "article of tangible personal property" as that term is used in K.S.A. 79-3703. The unbundled services will have to be subject to use taxation as well if provision of services by out-of-state companies is going to be taxable in the same manner as those provided by distributors and in-state suppliers. Second, K.S.A. 12-198 needs to be amended to extend the scope of the local compensating use tax to the same basis as the state tax.

3. Getting Accurate Gross Receipts Information? One of the major questions the Joint Committee envisioned by SB 436 will need to address is whether in a competitive environment it will be possible to capture accurate gross receipts information from all retailers--i.e., suppliers, aggregators, brokers, etc. In its paper entitled "*Sales Taxes in the Changing Electric Industry*," part

of the NCSL Electric Utility Tax Series, NCSL suggests that an out-of-state competitor (Company A) of a Kansas electricity supplier (Company B1) which is a subsidiary of another Kansas company (Company B) using the transmission and distribution lines of a Kansas company (Company B2) which is another subsidiary of Company B will object to supplying price and gross receipts information to Company B2 for billing and tax collection purposes. (p. 10).

In an effort to help its new gross receipts tax work, the Pennsylvania legislation requires all participants to be licensed by the state, acquire a state tax account number, to report their annual gross receipts in Pennsylvania, and to waive confidentiality with respect to all state tax information, etc. Even if Kansas takes a similar approach, reporting can be expected to be spotty in the early years—particularly by out-of-state firms subject to the use tax. One alternative to a gross receipts approach would be to impose the tax on the basis of a billed unit of energy (e.g., kWh) or the “value” of commodity derived from some type of index. This would allow the reporting of all such usage by in-state distributors which may otherwise not have access to gross receipts information.

4. Commerce Clause And Substantial Nexus. As the Committee has been advised by staff of the Department of Revenue and Legislative Research, the Commerce Clause of the U.S. Constitution requires a “substantial nexus” exist between a state sales or use tax and the activity subject to the tax. Since the 1992 *Quill Corporation v. North Dakota* decision, there is little doubt that a physical presence by the seller the state desires to collect the tax is necessary to establish a “substantial nexus” between a tax on the use of electricity and the electricity supplier. In the context of taxing the sale or use of electricity in Kansas by a non-Kansas domiciled supplier, a court applying the principles enunciated in *Quill Corporation v. North Dakota* would look for something more than the use of the mail system, telecommunications system, or transmission system to market and deliver the product to a Kansas purchaser. Some evidence of a physical presence in the state by the company or its agents would be required; e.g., a small sales force, plant or office.

Can a state “legislate nexus” as Pennsylvania appears to have done by requiring licensing of all suppliers, requiring they secure a state tax I.D. number, report all gross receipts, maintain an office or designate a registered agent in Pennsylvania, and agree to collect and pay all taxes that are due under Pennsylvania law? This may work, but we may not know for sure until further action by Congress¹ or the Supreme Court clarify this critical principle. As you know, the draft Kansas deregulation legislation provides that all licensed suppliers would have to have an office in Kansas and receive all customer and distribution utility payments at that office. This may meet the nexus requirements for Kansas tax purposes. Other approaches which impose the tax on the act of “furnishing” or distribution” of electricity may work as well, but taxation of transmission and other components of what today we know as the “sale of electricity” will be important.

¹ In *Quill* the Court explicitly recognized that Congress may enact a law authorizing state imposition of use tax obligations on out-of-state vendors without the requirement of a substantial nexus.

FRANCHISE AGREEMENTS AND FEES

Since 1905 cities have had the clear statutory authority to control the use of public streets, alleys and rights of way by companies providing a range of public services, including the provision of electricity and gas. K.S.A. 12-848 (enacted 1905), K.S.A. 12-824 (enacted in 1915), and K.S.A. 12-2001 (enacted in 1945) all authorize the exercise of such control through the approval of an ordinance granting such right or franchise. In the last few decades, K.S.A. 12-2001 has been used most commonly for this purpose. It authorizes the grant of a franchise for up to 20 years after three public readings of the ordinance granting the franchise and subject to a public referendum if a sufficient petition is filed.

Most franchise agreements require companies which receive the grant of a franchise to compensate the city for such right and privilege by payment of a franchise fee. The franchise fee may be based on any agreed upon terms, but it is most commonly based on a **percentage of the gross receipts derived by the company from its services in the city**. Franchise fees can comprise a significant component of a city's revenues--easily three times what it receives from its 1% sales tax if the franchise fee rate is 3%. A recent League survey revealed that cities receiving electric franchise fees receive an amount which on the average equals **11%** of their total property tax revenues, and it would require an average mill levy of 7.5 mills to replace all electric franchise revenues. In cities with populations between 250 - 499, the average mill levy increase to replace the franchise fees would be 10.7 mills, representing an almost 60% increase in their mill levy. (See enclosed RIB No. 644). See the attached chart (Attachment A) which illustrates these impacts.

Since the advent of retail competition for supplying natural gas to industries, some cities have experienced noticeable reductions in franchise fees that are based on a percentage of gross receipts derived from local service. Local franchisees in such cases actually collect lower gross receipts on natural gas which they sell, but they offset this with distribution fees they collect for the natural gas they "wheel" through their distribution system. In these cases, cities have no such alternative since franchise agreements do not cover gas which is transported or "wheeled." This bypass of the franchise effectively increases pressure for increased property taxes or other revenues.

In its recent paper, "*Franchise Fees in the Changing U.S. Electric Utility Industry*," NCSL describes how deregulation of electric generation could raise similar concerns for cities. Moreover, with out-of-state suppliers using franchised local distribution systems owned by cities, IOUs or RECs, questions of nexus with the city could arise similar to the sales tax situation. If this potential loss of revenue is not addressed, it will competitively disadvantage franchisees which will sell electricity to a portion of the local market (which will pay the fee) and cities which must turn to other sources of revenue, including the property tax, to replace the lost revenue.

A number of options appear to be available for addressing this concern, but each has its own complexities. These include, but are not limited to: (1) impose the franchise fee on a different basis (e.g., volume or value); (2) eliminate the franchise fee and replace it with another form of taxation or revenue (e.g., use tax, state aid, etc.); and (3) assess an exit fee or surcharge on customers that leave

the franchised electricity provider in an amount sufficient to replace, but not increase, the compensation paid the city. Each of these approaches has its own complexities and must be considered carefully. For example, if cities are empowered to convert their gross receipts-based franchise fees to ones based on volume at the point of distribution (kWh), the burden of the fee would be distributed differently, causing industrial consumers with greater consumption to pay a larger share of the fee.

PROPERTY TAXES IN MUNICIPAL UTILITY CITIES

As the League and many other groups reported to this committee and the Retail Wheeling Task force over the last year, state law has for many years allowed cities with municipal utilities to use excess utility revenues to finance a variety of community services and keep property taxes lower. These services range from electric rate rebates for senior citizens to Christmas lights, to community buildings and other services. Sometimes these activities are financed directly from the utility fund and other times they are financed by a transfer to the general fund. In any case, the financial impact of the funding of these activities by the electric utility and through electric rates is significant. This is documented in the enclosed copy of League RIB No. 643.

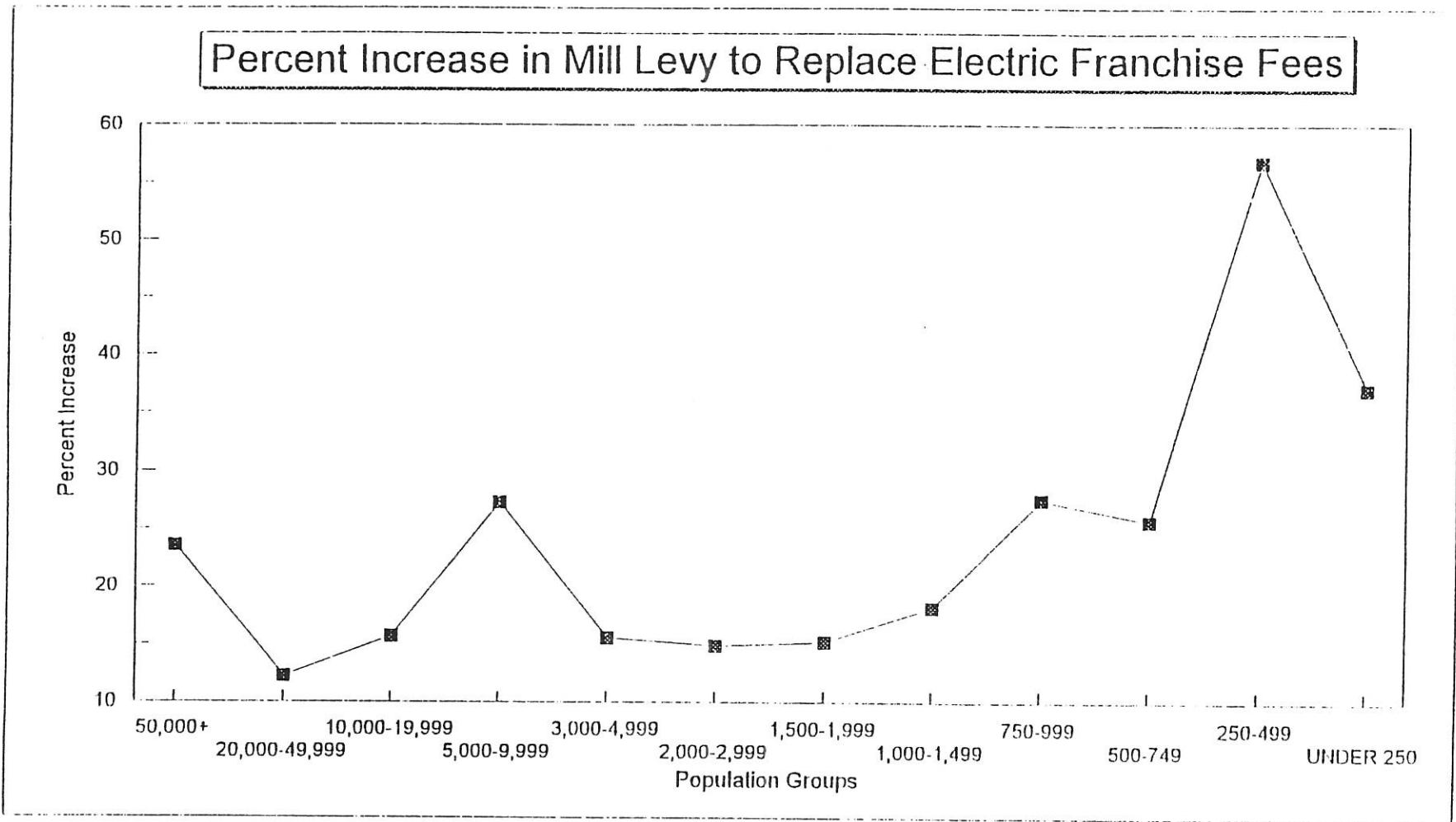
In 1995 municipal electric utilities contributed an amount equal to 53% of the total ad valorem property taxes levied by cities with municipal electric utilities. On average statewide, it would take an increase in mill levies of 108%, or 40.7 mills, to replace the level of financial support cities with electric utilities received in 1995 from those utilities for general operations and community services. See Attachment B for an illustration of these impacts.

Deregulation of the electric utility industry raises questions about the manner in which municipal electric utilities should be treated in order to not create fiscal stress in these cities. As written, HB 2619, the recommended Task Force bill, would reserve considerable community choice for these cities. If for any reason they were forced into competition, the financial consequences could be disastrous.

CONCLUSION

For the many reasons described above, we strongly recommend the enactment of SB 436 so the varied and complex tax issues discussed yesterday and today can be addressed with due care and consideration. Thank you for this opportunity. Please let me know if you have any questions or need any further information.

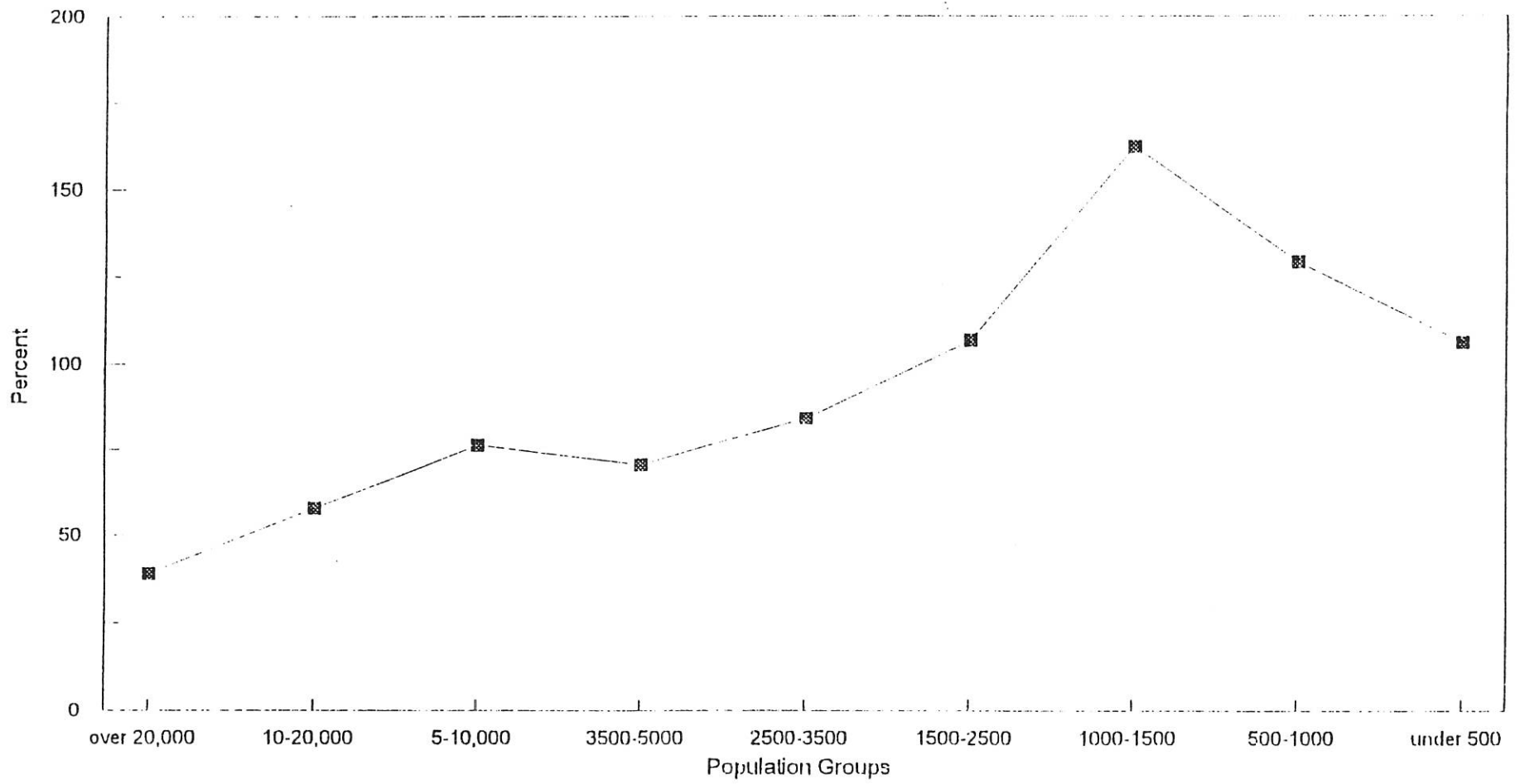
ATTACHMENT A ALL REPORTING CITIES RECEIVING ELECTRIC FRANCHISE FEES IN 1995



ATTACHMENT B
ALL REPORTING CITIES WITH
MUNICIPAL ELECTRIC UTILITIES

3-8

Average Percent Increase in Mill Levy



Municipal Electric Utilities in Kansas

March 11

Senate Utilities 1-29-98

Quick Facts

Total Municipal Utilities = 121

63 Generation & Distribution
58 Distribution Only

City Size

76 Cities of 3rd Class
42 Cities of 2nd Class
3 Cities of 1st Class

Number of Publicly Owned Electric Utilities by State*:

- | | |
|------------------|------------|
| 1. Nebraska | 157 |
| 2. Iowa | 137 |
| 3. Minnesota | 130 |
| 4. Kansas | 121 |
| 5. Missouri | 89 |

40 states have less than 50

*APPA, *Number of State & Local Publicly Owned Electric Utilities by State, 1995.*

Average Rate Comparison**

	Residential	All Classes
Munis	7.4	6.0
IOUs	7.7	6.3
COOPs	9.9	8.8

**1995 Average Revenue/kWh

City	Pop.	Year Est.	City	Pop.	Year Est.	City	Pop.	Year Est.
ALMA	872	1938	GREENSBURG	1747	1911	NORTON	2905	1912
ALTAMONT	1032	1934	HAVEN	1252	1908	OAKLEY	2106	1910
ANTHONY	2376	1909	HERINGTON	2643	1888	OBERLIN	1977	1901
ARCADIA	312	1913	HERNDON	160	1937	OSAGE CITY	2719	1890
ARMA	1545	1909	HILL CITY	1768	1900	OSAWATOMIE	4758	1913
ASHLAND	985	1909	HILLSBORO	2681	1930	OSBORNE	1744	1921
ATTICA	630	1915	HOISINGTON	3246	1940	OTTAWA	11418	1906
AUGUSTA	8439	1911	HOLTON	3253	1909	OXFORD	1194	1923
AXTELL	379	0	HOLYROOD	472	1918	POMONA	1107	1914
BALDWIN CITY	3654	1906	HORTON	1847	1912	PRATT	6702	1910
BELLEVILLE	2361	1923	HUGOTON	3240	1919	PRESCOTT	284	1921
BELOIT	4052	1890	IOLA	6336	1900	RADIUM	45	1935
BLUE MOUND	225	0	ISABEL	99	0	ROBINSON	285	0
BRONSON	313	1926	IUKA	169	1916	RUSSELL	4760	1910
BURLINGAME	1115	1902	JETMORE	892	1914	SABETHA	2354	1901
BURLINGTON	2904	1935	JOHNSON CITY	1327	1938	SAVONBURG	108	1902
CAWKER CITY	571	1913	KANSAS CITY	142630	1929	SCRANTON	722	1919
CENTRALIA	420	1911	KINGMAN	3302	1913	SENECA	1991	1903
CHANUTE	9497	1903	KIOWA	1129	1976	SEVERANCE	91	0
CHAPMAN	1290	1911	LACROSSE	1384	1906	SEWARD	59	0
CHETOPA	1243	1937	LAHARPE	718	1899	SHARON SPRINGS	871	1918
CIMARRON	1716	1913	LAKIN	2155	1915	ST FRANCIS	1442	1914
CLAY CENTER	4786	1907	LARNED	4474	1916	ST JOHN	1334	1910
COFFEYVILLE	12191	1901	LINCOLN CENTER	1274	1906	ST MARYS	1884	1908
COLBY	5625	1910	LINDSBORG	3272	1904	STAFFORD	1326	1910
DIGHTON	1342	1916	LUCAS	444	0	STERLING	2248	1916
ELLINWOOD	2226	1948	LURAY	233	1915	STOCKTON	1503	1908
ELSMORE	86	0	MANKATO	978	1950	SUMMERFIELD	160	0
ELWOOD	810	0	MARION	1978	1928	TORONTO	321	1917
ENTERPRISE	961	1910	McPHERSON	12937	1909	TROY	1049	1911
ERIE	1278	1915	MEADE	1545	1910	UDALL	820	1939
EUDORA	3818	0	MINNEAPOLIS	1940	1921	VERMILLION	106	0
FREDONIA	2583	1901	MONTEZUMA	745	1921	WAMEGO	4435	1908
GALVA	677	1918	MORAN	511	1900	WASHINGTON	1277	1938
GARDEN CITY	24902	0	MORRILL	292	1927	WATERVILLE	561	0
GARDNER	4277	1918	MOUNDRIDGE	1568	1909	WATHENA	1130	1937
GARNETT	3252	1918	MOUNT HOPE	1092	1920	WEBBER	39	1937
GIRARD	2756	1904	MULBERRY	530	1915	WELLINGTON	8574	1902
GLASCO	545	1910	MULVANE	5101	1902	WINFIELD	12090	1904
IN ELDER	444	1905	MUSCOTAH	161	0			
JODLAND	5034	1937	NEODESHA	2817	1922			

Shaded cities operate both generation and distribution systems.