

Approved: Feb. 16, 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 February 2, 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:
Steve Miller, Sunflower Electric Power Cooperative
David Dittmore, Corporation Commission
Earnest Lehman, Western Resources
Bruce Graham, Kansas Electric Power Cooperative
Jon Miles, Kansas Electric Cooperatives
Susan Cunningham, Kansas City Power and Light
Barbara Hueter, Enron
J. C. Long, Utilicorp United, Inc.

Others attending: See attached list

Sen. Ranson recognized Steve Miller, who proposed a bill be drafted which would deregulate electric cooperatives with less than 15,000 customers and explained it would apply to only four in the state (Attachment 1). Sen. Morris made a motion a bill be drafted, and it was seconded by Sen. Steffes; the motion passed. There were no other bill requests.

Sen. Ranson announced the committee will hear **SB 436-establishes the joint committee on taxation of public utilities to study and make recommendations regarding taxation of deregulated electric generation public utilities.** The following appeared to offer testimony as proponents:

David Dittmore, (Attachment 2)
Earnest Lehman, (Attachment 3)
Bruce Graham, (Attachment 4)
Jon Miles, (Attachment 5)
Susan Cunningham, (Attachment 6)
Barbara Hueter, (Attachment 7)
J. C. Long, (Attachment 8)

Written testimony submitted by Leslie Kaufman, Kansas Farm Bureau (Attachment 9)

The committee discussed several points which were emphasized in the testimony. Sen. Barone questioned Mr. Dittmore regarding the recommendation in his testimony to develop tax policies which will be competitively neutral. Mr. Dittmore responded that it is the Commission's desire that revenues be taxed more broadly, and to be sure out of state companies don't have an advantage over state companies. And he stated the tax structure should be formulated so that it does not discourage competition. The Chair noted his recommendation for an amendment to the bill. Mr. Lehman emphasized the fact that Kansas electric utilities pay higher taxes, and the second page of his testimony contains a table of estimates of tax components of electric bills. The third page of his testimony shows a graph which compares Kansas taxes with those of surrounding states. Mr. Graham's testimony contains language from Oklahoma legislation which provides that in the event a uniform tax policy which would allow competitors to be taxed fairly has not been established by a definite date, the effective date for implementing customer choice shall be extended. Sen Ranson called the provision to the attention of Ms. Torrence as a possible amendment to the bill.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON UTILITIES, Room 531- -N, Statehouse, at 1:30 p.m. on February 2, 1998.

In answer to questions regarding Enron Corporation, Ms. Hueter explained she is director of Government Affairs for Enron and her office is in Columbus, Ohio with responsibilities to cover the Midwest, and that Enron Energy Services is gearing up to sell retail in the state. Sen. Morris asked her who operates the Hugoton field, and she responded Enron Oil and Gas. The committee discussed graphs attached to the testimony of J. C. Long and Mr. Lehman and their sources. Sen. Ranson stated the joint committee, which the bill establishes, would go into more detail when studying tax ramifications. She also stated it appears that Kansans could have lower utility rates if taxes were lower. There were no other conferees.

Sen. Ranson called the committee's attention to the Minutes of the Meeting for January 22 (Attachment 10). Sen. Salisbury made a motion the Minutes be approved, and it was seconded by Sen. Barone. Sen. Brownlee called attention to Page 2, first paragraph and the statement regarding her intent of the legislation passed last year. She requested the wording be changed to read, "stated the intent of legislation passed last year was not reason to exempt the Williams Company". The chair recognized the request, and Sen. Salisbury requested her motion to include Sen. Brownlee's language, and Sen. Barone agreed with that addition. The Minutes were approved as corrected.

Sen. Ranson asked committee members to talk with Ms. Torrence regarding possible amendments to **SB 436** prior to meeting tomorrow. She also called attention to an article in the Legislative magazine on Nuclear Waste Disposal and the money which was collected with the intention of taking care of the problem.

Meeting adjourned at 2:25.

The next meeting is scheduled for February 3, 1998.

SENATE UTILITIES COMMITTEE GUEST LIST

DATE: Feb. 2, 1998

NAME	REPRESENTING
Earrie Lehman	Western Resources
Dave Holthaus	" "
Heather Dindall	Whitney Senoron, D.A.
Kenneth Ann Brown	KS Govt Consult
Amy Campbell	Midwest Energy
Bruce Graham	KEPCO
Don Miles	KEC
Tom Gaches	McGill Asso.
Joe Long	UtiliCorp United Inc.
Lester Murphy	KEC
Susan Cunningham	KCP&L
Kelly Kustala	City of Overland Park
Cynthia Sturman	DOC
Tom Sturman	Southwest Electric Power Corp
SMC	Southwest Electric Power Corp
Laura Wolfson	KCC
Kim Sully	League of KS Municipalities
Barbara A. Hueter	Enron Corp.
Dick Carter, Jr	Enron

Steve Millie
Attach. 1

A bill to deregulate all electric cooperatives in the state of Kansas

SB 589

66-104d 66-104d. Certain electric cooperative public utilities not subject to commission jurisdiction; conditions; exceptions. (a) As used in this section, "cooperative" means any cooperative, as defined by K.S.A. 17-4603 and amendments thereto, ~~which has fewer than 15,000 customers and which provides power principally at retail or any non-stock member-owned cooperative corporation incorporated and providing power in the state of~~ Kansas.

(b) Except as otherwise provided in subsection (f), a cooperative may elect to be exempt from the jurisdiction, regulation, supervision and control of the state corporation commission by complying with the provisions of subsection (c).

(c) To be exempt under subsection (b), a cooperative shall poll its members as follows:

(1) An election under this subsection may be called by the board of trustees or board of directors or shall be called not less than 180 days after receipt of a valid petition signed by not less than 10% of the members of the cooperative.

(2) The proposition for deregulation shall be presented to a meeting of the members, the notice of which shall set forth the proposition for deregulation and the time and place of the meeting. Notice to the members shall be written and delivered not less than 21 nor more than 45 days before the date of the meeting.

(3) If the cooperative mails information to its members regarding the proposition for deregulation other than notice of the election and the ballot, the cooperative shall also include in such mailing any information in opposition to the proposition that is submitted by petition signed by not less than 1% of the cooperative's members. All expenses incidental to mailing the additional information, including any additional postage required to mail such additional information, must be paid by the signatories to the petition.

(4) If the proposition for deregulation is approved by the affirmative vote of not less than a majority of the members voting on the proposition, the cooperative shall notify the state corporation commission in writing of the results within 10 days after the date of the election.

(5) Voting on the proposition for deregulation shall be by mail ballot.

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(d) A cooperative exempt under this section may elect to terminate its exemption in the same manner as prescribed in subsection (c).

(e) An election under subsection (c) or (d) may be held not more often than once every two years.

(f) Nothing in this section shall be construed to affect the single certified service territory of a cooperative or the authority of the state corporation commission, as otherwise provided by law, over a cooperative with regard to service territory, charges for transmission ~~services, sales of power for resale, services~~ unless such services are under the direction of an agency of the federal government, wire stringing and transmission line siting, pursuant to K.S.A. 66-131, 66-183, 66-1,170 et seq. or 66-1,177 et seq., and amendments thereto.

(g) (1) Notwithstanding a cooperative's election to be exempt under this section, the commission shall investigate all rates, joint rates, tolls, charges and exactions, classifications and schedules of rates of such cooperative if there is filed with the commission, not more than one year after a change in such cooperative's rates, joint rates, tolls, charges and exactions, classifications or schedules of rates, a petition signed by not less than 5% of all the cooperative's customers or 3% of the cooperative's customers from any one rate class or by not less than 2 members of a generation and transmission cooperative's members. If, after investigation, the commission finds that such rates, joint rates, tolls, charges or exactions, classifications or schedules of rates are unjust, unreasonable, unjustly discriminatory or unduly preferential, the commission shall have the power to fix and order substituted therefor such rates, joint rates, tolls, charges and exactions, classifications or schedules of rates as are just and reasonable.

(2) The cooperative's rates, joint rates, tolls, charges and exactions, classifications or schedules of rates complained of shall remain in effect subject to change or refund pending the state corporation commission's investigation and final order.

(3) Any customer of a cooperative wishing to petition the commission pursuant to subsection (g)(1) may request from the cooperative the names, addresses and rate classifications of all the cooperative's customers or of the cooperative's customers from any one or more rate classes. The cooperative, within 21 days after receipt of the request, shall furnish to the customer the requested names, addresses and rate classifications and may require the customer to pay the reasonable costs thereof.

(h) (1) If a cooperative is exempt under this section, not less than 10 days' notice of the time and place of any meeting of the board of trustees at which

rate changes are to be discussed and voted on shall be given to all members of the cooperative and such meeting shall be open to all members.

(2) Violations of subsection (h)(1) shall be subject to civil penalties and enforcement in the same manner as provided by K.S.A. 75-4320 and 75-4320a, and amendments thereto, for violations of K.S.A. 75-4317 et seq. and amendments thereto.

**Before the Senate Utilities Committee
Comments by the
Staff of the Kansas Corporation Commission
February 2, 1998**

Senate Bill 436

Thank you Madam Chair, I'm David Dittmore, Director of Utilities for the Kansas Corporation Commission and I'm appearing today on behalf of the Staff of the KCC. My comments will be extremely brief.

The Staff of the KCC is in favor of this legislation, requiring further study of the effect generation deregulation has on state utility taxation. Electric restructuring will have profound implications for state and local taxing jurisdictions. We believe these implications should be known by all entities prior to implementing competition, recognizing that major changes in the way utilities are taxed may be necessary.

The KCC is the first to admit that it has no direct role in the development of state and local tax policies and has no unique expertise in this arena. However, we believe the KCC has a role in the development of a competitive market for generation in Kansas. Clearly a tax policy which is not imposed equitably between incumbent utility service providers and potential competitors could have a chilling effect on the development of competition. Therefore, we recommend the insertion of language in SB 436 that the proposed tax policies developed by joint committee shall be competitively neutral to all current and future Kansas electric industry participants.

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**TESTIMONY BEFORE THE
SENATE UTILITIES COMMITTEE
IN SUPPORT OF SB 436**

By Earnest A. Lehman,
Director, Rates - Western Resources

February 2, 1998

Madam Chairperson and members of the Committee:

I am Earnie Lehman, Director of Rates for Western Resources (KPL) and its KGE subsidiary. I am here to support passage of SB 436, which would establish a joint legislative tax committee on taxation of deregulated electric generation public utilities.

As you may recall, HB 2600, which established the Retail Wheeling Task Force, required analysis of "the impact on state general fund revenues and local franchise and tax revenues". The task force received a great deal of information concerning the generally higher taxes paid by Kansas electric utilities relative to other Kansas businesses and relative to electric utilities in nearby states. Attached is an example of such information, a one page comparison prepared by the Department of Revenue highlighting the property tax disparity between Kansas and neighboring states. The task force also heard the concerns of municipal utilities and local governments concerning sales taxes and franchise revenues.

From a customer perspective, directly and indirectly levied taxes are one of the largest components of the cost of electricity. Last summer, Western Resources presented estimates of the tax component of electric bills as follows (rounded to nearest percent):

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<u>Utility/Class</u>	<u>% Taxes</u>
KPL residential	23%
KPL commercial	21%
KPL industrial	23%
KGE residential	17%
KGE commercial	29%
KGE industrial	26%

Let me emphasize that these are estimates and depend in large part on how costs are allocated to each customer class through the regulatory process.

Ultimately, the Retail Wheeling Task Force determined the tax issues to be so complex, involving issues of revenue stability, competitive equality and fairness to customers, that the task force was unable to recommend appropriate revisions. The proposed Joint Legislative Tax Committee would have the clarity of purpose and access to expertise to recommend appropriate revisions. That is why Western Resources supports this legislation and offers its internal tax experts as a resource to work with the staff that will support the committee.

Thank you again for providing Western Resources with an opportunity to appear before the Committee. I would be pleased to answer your questions.

Kansas Department of Revenue
Multi-State Tax Comparison
October 1997

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Property Tax Comparison

Item	Kansas	Iowa	Oklahoma	Arkansas	Missouri
State Assessed	Yes	Yes	Yes	Yes	Yes
Appraisal Method	Going Concern	Going Concern	Going Concern	Going Concern	Going Concern
Special Utility Rate *	Yes	No	Yes	No	Yes
Utility Assessment Rate	33%	100%	22.85%	20%	32.2%
Average Statewide Mill Levy	118 mills	29 mills	80 mills	42 mills	58 mills
Tax Dollars @ \$1 M of Market Value	\$38,940	\$2,897	\$18,280	\$8,400	\$18,676
Other states property tax compared to \$1.00 of Kansas property tax	1.0	.0744	.4694	.2157	.4796

The Average Mill Levy was computed by dividing the total utility property tax by the total utility assessed value.

From - Dept. of Revenue

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Kansas Electric Power Cooperative, Inc.

**Testimony on SB 436
Before the Senate Utilities Committee
February 2, 1998**

by Bruce Graham,
Vice President, Member Services and External Affairs
Kansas Electric Power Cooperative, Inc.

The Kansas Electric Power Cooperative (KEPCo) is a non-profit generation and transmission electric cooperative. Headquartered in Topeka, it is KEPCo's responsibility to procure an adequate and reliable power supply for its 22 rural electric distribution members in Kansas. KEPCo's power supply resources consist of six percent ownership in the Wolf Creek Generating Station, hydro allocations from the Western Area Power Administration and the Southwestern Power Administration and power purchases from regional utilities.

KEPCo was an active participant in the Retail Wheeling Task Force and we strongly support SB 436 to establish a joint committee on utility taxation. Many states --Virginia, Iowa, Maryland, Minnesota, Ohio, and Oklahoma, just to name a few, are conducting similar studies before making decisions on how, or if, they should implement retail wheeling.

I included Oklahoma in that list because their Electric Restructuring Act of 1997 simply sets a goal of July 1, 2002 for implementation of retail wheeling while mandating numerous studies including a similar tax task force. In fact, Oklahoma legislation includes a provision which states "...in the event a uniform tax policy which allows all competitors to be taxed on a fair and equal basis has not been established on or before July 1, 2002, the effective date for implementing customer choice shall be extended until such time as a uniform tax policy has been established."

KEPCo believes that establishment of this tax task force in Kansas with a similar mission is an essential and prudent step as we continue the state's deliberate evaluation of retail wheeling and its impact on each and every Kansas consumer.

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**TESTIMONY OF KANSAS ELECTRIC COOPERATIVES, INC.
ON SENATE BILL 436**

**Kansas State Senate
Committee on Utilities**

February 2, 1998

Good afternoon, Senator Ranson and members of the Senate Utilities Committee. My name is Jon Miles, and I am Director of Governmental Relations for Kansas Electric Cooperatives, Inc., the statewide association of rural electric cooperatives in Kansas. I am testifying in support of SB 436.

KEC served as a member of the Legislative Task Force studying retail wheeling. As the members of that task force discovered, retail wheeling is a complex issue. Implementing retail wheeling in Kansas will require attention to a myriad of regulatory and operational details. No detail is more complicated than the impact of retail wheeling on public utility taxation.

All participants in a competitive electric market in Kansas, should one come to exist, should be treated equitably. Electric generation utilities from other states should not be afforded a competitive advantage against Kansas electric generation utilities by virtue of the tax structure in Kansas. We believe that the Joint Committee on Taxation can properly study the issue, determine the impacts of the introduction of competition in the retail electric business on utilities, and on the state revenues, and make a recommendation to the Legislature. We urge the passage of SB 436.

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**Testimony before the Senate Utilities Committee
In Support of Senate Bill No. 436**

**By Susan B. Cunningham
Kansas City Power & Light Company**

February 2, 1998

Madam Chairperson and members of the Committee:

I am Susan Cunningham, Attorney for Kansas City Power & Light Company, and am appearing before you today in support of SB 436, which establishes a joint committee on taxation of public utilities.

KCPL recognizes that one of the most important aspects of restructuring is properly addressing the issue of taxation of public utilities as it relates to moving to a competitive market. This issue must be addressed, and the necessary tax reform measures in place, prior to allowing customers the ability to choose an alternative provider of generation services. When addressing the taxation of public utilities, three perspectives must be considered to ensure tax equity: customers, utilities and taxing authorities.

First, for a truly efficient and competitive market to develop in Kansas, all participants must be allowed to compete on equal terms. Taxation is a major component to fair competition. The disproportionate level of taxes currently paid by investor owned utilities, such as KCPL, can place the incumbent utility companies in Kansas at a competitive disadvantage.

Second, it will be important to ensure tax equity between customers and customer classes. Whatever mechanism is utilized to collect tax revenues, it should not unfairly shift the tax burden between customers. Such a shift could have serious impacts.

And lastly, the impact on Kansas communities can be substantial. KCPL does not want the communities we serve to be detrimentally impacted in this move to retail competition.

As taxation is such a complex issue affecting every part of the Kansas economy, it will take a substantial amount of effort to ensure that the correct solutions are developed and implemented. KCPL believes this process should begin as soon as possible and therefore supports the formation of a joint tax committee as set out in SB 436.

Thank you for your time.

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Senate Bill 436

Testimony to the Committee on Utilities

**Submitted by:
Barbara A. Hueter
Director, Government Affairs
Enron Corp.
February 2, 1998**

Enron Corp. supports the creation of the joint committee to study taxation of public utilities as contained in Senate Bill 436. Enron also will participate in the committee's proceedings to recommend changes to the utility tax structure: changes that will lead to the fair and equitable treatment of suppliers and customers in the competitive electricity market.

The work of the joint committee on taxation of public utilities is crucial to the electricity restructuring policy debate. The state has a definite interest in maintaining revenue neutrality to provide the public services it deems necessary for public health, safety and welfare, however, the state must not do anything in achieving the former that will preclude the development and growth of the competitive electricity market. If the state sacrifices a robust electricity market for the ease of discriminatory tax revenue collections, it will defeat the purpose of restructuring.

Any changes the joint committee recommends to the electric utility tax structure must be competitively neutral to all electricity suppliers and like customers. If the tax code favors one type of supplier or customer over another, the market will not stand a fair chance for success. The tax code should not stand in the way of suppliers competing to sell electricity to Kansans nor should it prohibit Kansans from participating in the market.

For example, Illinois recently enacted deregulation legislation. The bill ensures that all municipalities will maintain revenue neutrality once deregulation begins¹. It maintains the gross receipts tax for customers who remain with the incumbent utility and implements a tax on each kilowatt hour consumed for customers who exercise choice. Under this scenario, some industrial customers will receive significant tax increases if they switch suppliers. For example, a large manufacturer in Commonwealth Edison's territory will receive an 80% municipal tax increase if they switch suppliers. The majority of customers, however, will receive a very slight tax decrease if they switch suppliers. Clearly, this tax scheme discriminates between customers who choose another supplier and those who remain with the incumbent supplier. This discriminatory tax treatment may keep the municipality whole, but it thwarts competition, penalizes certain customers and thus denies non-incumbent suppliers a fair chance to offer their products and services.

¹ House Bill 362, Article 3

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The joint committee also must keep current with the debate on competition and offer flexible recommendations since the transition to competition has yet to be fully determined. The McFadden/RDI report which was submitted to the Task Force on Retail Wheeling concluded that changes in tax revenues will depend on the stranded cost recovery and the transition plan for implementing competition.² The framework for transition and stranded cost recovery will offer a road map for the legislature to follow on how to implement tax changes. Moreover, difficulty in determining revenue losses or gains, or difficulty in determining how to implement tax changes must not preclude Kansas from moving forward. The issues involved in the transition to competition will require consistent oversight by the General Assembly and various state agencies.

In closing, the point of electric restructuring is not to deregulate utilities and offer them more favorable tax treatment. The point of restructuring and customer choice is: lower prices for electricity; increased innovation in products and services; and increased reliability of service. It is essential that the tax code not stand in the way of these three changes from occurring.

Enron will continue to participate in the process here at the state legislature. Thank you for this opportunity to express Enron's position.

² p. 36, the 'Final Report of the Task Force on Retail Wheeling to the 1998 Kansas Legislature' reports that "the consultant found that retail wheeling without stranded cost recovery would result in decreases in utility property values, profits, and gross receipts...However, if stranded costs are fully or partially recovered, the impact of retail wheeling on taxes would be less than the projected amount."

Senate Utilities Committee
Senate Bill 436

Testimony of J. C. Long
UtiliCorp United Inc.

Chairwoman Ranson and members of the committee:

I am J. C. Long representing UtiliCorp United which has electric operations in Kansas by the name of West Plains Energy.

Thank you for the opportunity to testify today in support of Senate Bill 436, which would establish a joint committee to review and hopefully change utility taxation before retail competition takes place in Kansas.

Taxes are a major component of our customer's bill. If you remember, Deloitte and Touche made a presentation about taxation issues last year. In their presentation, Deloitte and Touche ranked UtiliCorp second out of twelve regional electric utilities for the highest tax burden when state and local taxes were divided by megawatt hours sold (Attachment A). Further West Plains ranked third out of twelve companies when property tax costs as a percent of operating revenues was surveyed (Attachment B). These are not the types of incentives we look for when we look to build or own generation in Kansas.

Again, UtiliCorp supports the passage of Senate Bill 436 with the hope that this committee can bring Kansas' utility taxes in line with our surrounding states and future competitors.

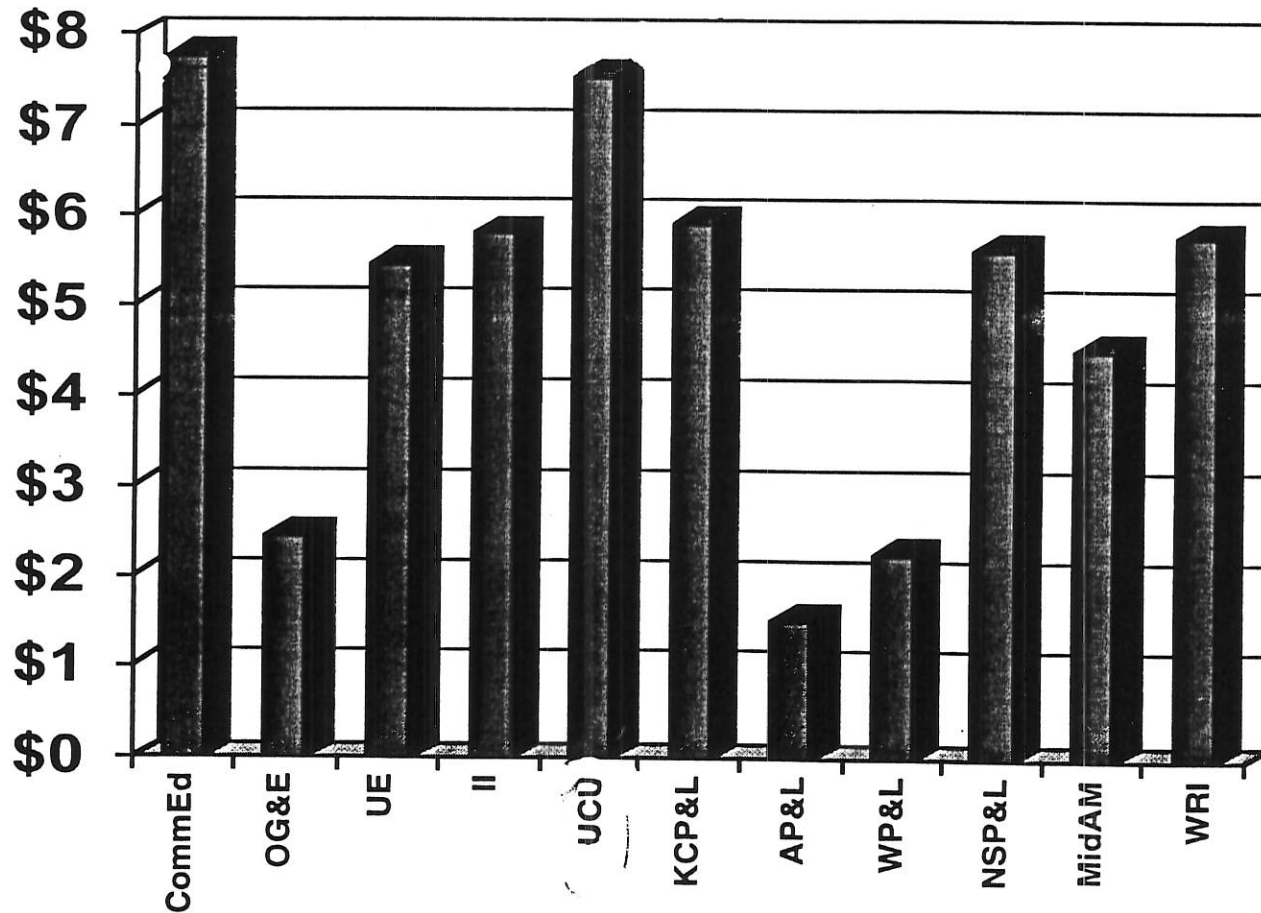
Thank you for the opportunity to appear before you today.

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HOW DOES KANSAS TAX BURDEN COMPARE?

8-2-8

COMPARISON OF TOTAL STATE & LOCAL TAX BURDEN OVER MEGAWATT HOURS SOLD



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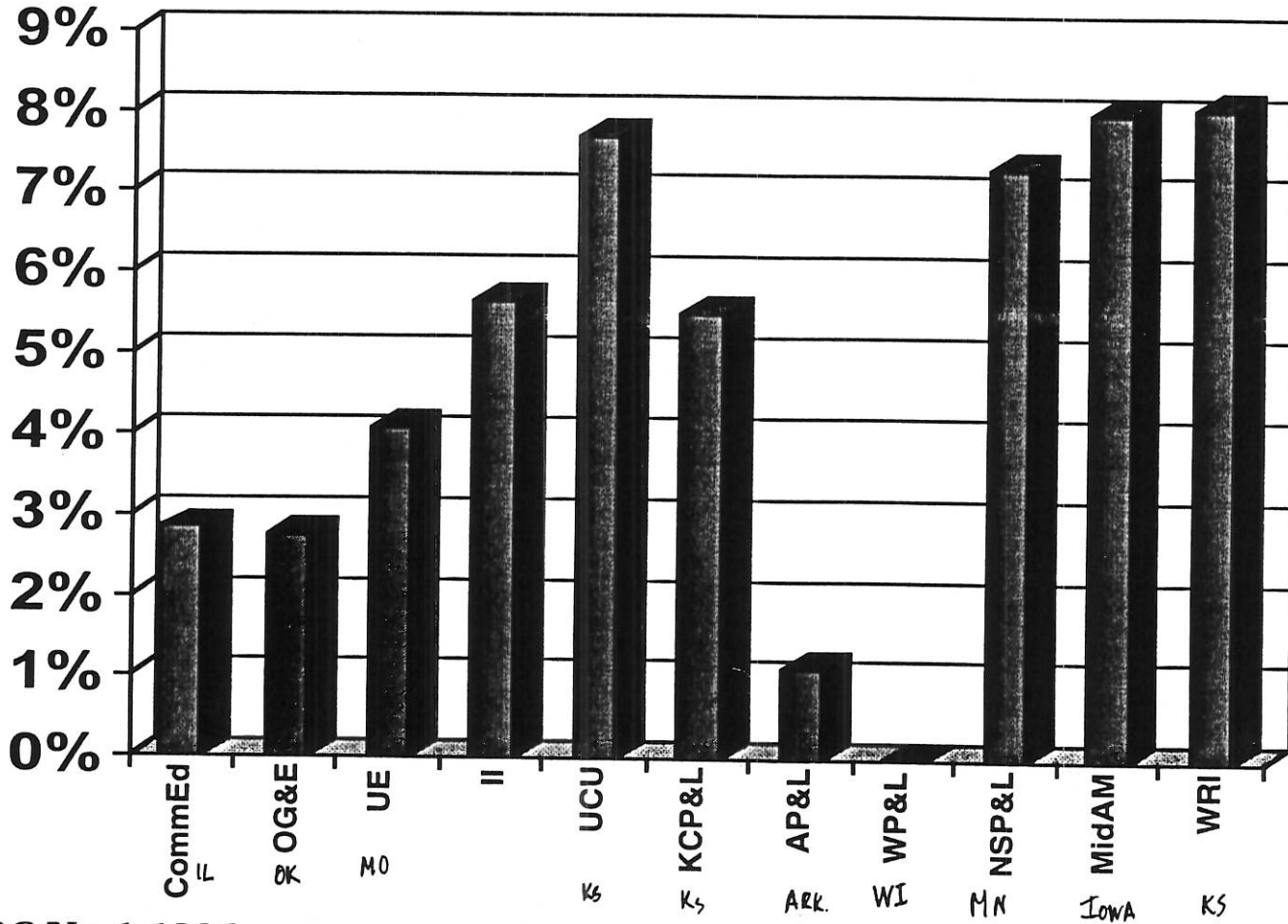
Source: FERC No.1 1994



HOW DOES KANSAS TAX BURDEN COMPARE?

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COMPARISON OF PROPERTY TAX COSTS AS PERCENT OF ELECTRIC OPERATING REVENUES

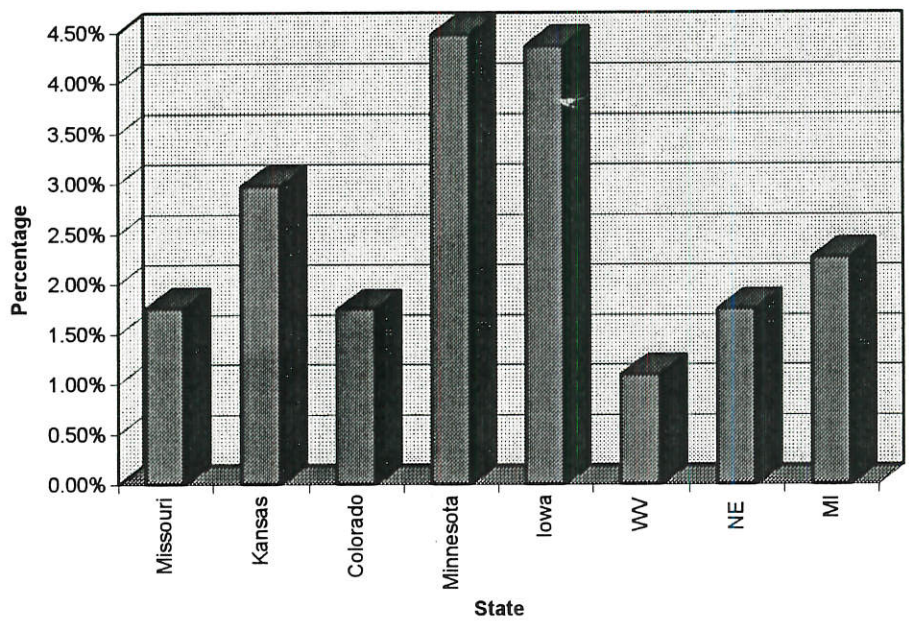


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Source: FERC No.1 1994

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Property Tax As A Percentage of Net Book Balue by State



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Attach. 9



PUBLIC POLICY STATEMENT

SENATE COMMITTEE ON UTILITIES

SB 436 – Establishing the Joint Committee on Taxation of Public Utilities

February 2, 1998
Topeka, Kansas

Prepared by:
Leslie Kaufman, Assistant Director
Public Affairs Division

Senator Ranson and members of the Committee, thank you for the opportunity to share written comments regarding SB 436 on behalf of our members. I am Leslie Kaufman. I serve as the Assistant Director of Public Affairs for Kansas Farm Bureau.

Farm Bureau has a strong interest in the retail electric industry restructuring debate. Retail electric restructuring should not be implemented unless the benefits from increased customer choice provide all consumers with the assurance of reliable service at an affordable price.

It is essential to our members that energy regulation and retail electric restructuring be advantageous to all segments of the

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economy including agriculture and rural consumers. Additionally, rules and regulations promulgated as a result of legislation, including electric industry restructuring, should assure Kansas is not at a competitive disadvantage with any other state. Careful examination of the issues and impacts of retail electric restructuring, including taxation issues, is critical to assure these standards are met.

As such, we support the creation of the joint committee on taxation of public utilities to study the tax issues surrounding deregulation of the electric generation industry. We respectfully ask the Committee for their support as well.

If you have questions regarding our position, please contact us.
Thank you.

Leslie J. Kaufman, Assistant Director
Public Affairs Division
Kansas Farm Bureau
785/234-4535

Legislation regarding energy regulation or retail electric restructuring should result in fair competition. Competition should result in lower prices, better service, utility innovations and more choices. Energy regulation and retail electric restructuring should be advantageous to all segments of the economy including agriculture and rural consumers.

We support the Kansas Corporation Commission's role in monitoring service quality and equitable rate treatment for all segments of the energy industry falling under its jurisdiction, whether through statute, regulation or retail electric restructuring. Rate structures should facilitate an open market and allow a reasonable return on generation, transmission, and distribution investments.

Rules and regulations promulgated as a result of legislation, including electric industry restructuring, should assure Kansas is not at a competitive disadvantage with any other state. Retail electric restructuring should not be implemented unless the benefits from increased customer choice provide all consumers with the assurance of reliable service at an affordable price.

Attach. 10

Approved: Feb. 2, 1998
Date
(As Corrected)

MINUTES OF THE SENATE COMMITTEE ON UTILITIES.

The meeting was called to order by Chairperson Pat Ranson at 1:30 p.m. on January 22, 1998 in Room 531-N of the Capitol.

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

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

Conferees appearing before the committee:
Michael Byington, Director, Envision Governmental Affairs Office
William Wix, General Counsel, Conservation Division., Corporation Commission
Glenn Smith, Chief of Natural Gas & Pipeline Safety, Utilities Division, Corporation Commission
J. C. Long, Director of Government Affairs, UtiliCorp United Inc.
Steve Hanna, Director of Network Operations, UtiliCorp United Inc.
Fred Taylor, Director of Network Operations for S.W. Kansas, UtiliCorp United Inc.

Others attending: See attached list

Sen. Ranson welcomed four pages who are assisting with the committee today and asked their names and stated two of them were paging for her and the other two for Sen. Brownlee.

Sen. Ranson introduced Michael Byington, who presented a bill request (Attachment 1) to the committee which would insure the blind and visually impaired utility customers receive their billings in a format allowing them to independently handle their business without assistance. Sen. Lee made a motion the committee introduce it as a bill, and it was seconded by Sen. Brownlee; the motion passed.

Sen. Ranson then introduced William Wix, who returned to the committee to discuss issues relating to Gas gathering. Mr. Wix first addressed the question of the Corporation Commission's phone number and its distribution to customers, and he stated it appears on all bills, was printed in a mailing and appears in phone books. He then referred to a letter dated January 12 signed by all three commissioners, which was distributed to the committee on January 15. It addressed the question of exemptions and the form being used. Mr. Wix stated the form is considered preliminary and that some change in that form was anticipated. He also stated the questions of exemptions is set out in Section 22 of the gas gathering legislation, which states that companies transporting gas are exempt, if the company does not re-sale it. He also stated that gas gatherers who are transporting gas only were not regulated as common carriers prior to passing the bill.

Sen. Lee stated her disagreement that companies transporting are not common carriers, and stated her belief that the bill was intended to exempt systems only. Sen. Ranson then said this is an issue of contention, and that the intent was to exempt a few for specific reasons, and the language was broader than intended as it emerged from conference committee.

Sen. Morris raised the questions of subsidiaries, and in particular Williams Companies and its subsidiaries. Mr. Wix defined "common carriers" for the committee, which is a carrier for public good and further stated Rep. McKinney asked for an Opinion on that question in November, 1997. Sen. Ranson stated her understanding is that an attempt may be made in the House to change language in the legislation.

Discussion turned to the form being used and that the Commission feels it has seen good disclosure on it. He stated the break-down factors are important, not just the actual rates. Sen. Lee then requested the commission submit revisions to the form before the end of this legislative session.

Sen. Brownlee returned to the definition of common carriers and exemptions. Joe Staskal, Senior

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CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON UTILITIES, Room 531- -N, Statehouse, at 1:30 p.m. on January 22, 1998.

Government Relations Specialist for Williams Field Services, commented on the licensing for Williams Gas Companies and acknowledged they come under the new statute, its investigatory regulations and complaint procedures. Mr. Staskal commented on the subsidiaries of the Williams Companies and stated Williams Gas Company purchases only a small amount of gas for its compressors and only transports gas and is not engaged in reselling the gas. Sen. Brownlee commented on the spinning down of companies by Williams and stated the intent of legislation passed last year was not reason to exempt the Williams Company".

Sen. Ranson introduced Glenn Smith, who referred to questions from the committee when he appeared last week. Copies of the following were distributed to the committee:

Certificate and Order Re: application of Peoples Natural Gas Company, Docket No. 183,775-U, (Attachment 2)

Application for Certificate Re: Peoples Natural Gas Company, Docket No. 183,775-U, (Attachment 3)

Mr. Smith discussed Certificates issued by the Commission for specific customers within an area, as opposed to a Certificate issued by the Commission for service within an area. He noted that Peoples' application is for specific customers it can provide service to within an area. Mr. Smith also provided a Certificate in the Application of Kansas Gas Supply Corporation, Docket No. 181,418-U, (Attachment 4), which is for an enlargement of its present Certificate to serve thirteen additional customers. Mr. Smith also provided copies of an Order in the case of Western Resources, Inc. vs. Peoples Natural Gas Company, Docket No., 193,371-U (Attachment 5), which is a customer complaint and sets out terms and conditions in the contract (which is attached to the Order). Mr. Smith stated he was trying to point out the difference between a gathering system and transmission. Mr. Smith also furnished two maps to the committee - one of Panhandle Eastern Pipeline showing where it provides service and the other a map of the state showing certified areas of natural gas pipelines (maps are available from the Kansas Corporation Commission).

Chairperson Ranson then introduced J. C. Long representing UtiliCorp United for presentations regarding low pressure problems, which the committee had discussed last week. Mr. Long briefly spoke to the committee (Attachment 6) and introduced the following:

Steve Hanna, (Attachment 7)

Fred Taylor, (Attachment 8)

Also present was Robert Fox, General Counsel for UtiliCorp United. The presentations emphasized that they do not own the pipelines and do not have control of pressure. Mr. Taylor emphasized communication with their customers and in his presentation outlines steps they are taking to improve and upgrade service to their customers.

Sen. Ranson then recognized the attorney for the company, Mr. Fox, and inquired regarding a meeting in Hugoton last week. She called on David Heinemann to tell the committee more about the meeting. Mr. Heinemann explained the meeting involved interested parties, irrigators and gatherers involved with providing service to the Hugoton area. He stated the Commission has received an application from KN Energy and a notice of intent from Midwest Energy to provide service to that area. Mr. Heinemann stated the Commission will conduct a general investigation and will determine if statutory requirements have been met. The Commission will also map the Hugoton fields. Mr. Heinemann stated the Corporation Commission is the only agency which can gather the information required to attempt to solve problems in this area. He felt the meeting was successful in getting the players together to discuss the situation. Sen. Morris stated his concern again to the problem the irrigators are having regarding certificated areas which may not be served, and the efforts to provide flexibility to hook to another supplier. Mr. Taylor responded there is the opportunity to hook onto another system and utilize multiple suppliers which the Corporation Commission can grant. Sen. Ranson stated the need for notification before an interruption of service, and Mr. Fox responded that his company cannot stop service unless they notify the Commission and go through a permission process.

Discussion by the committee continued regarding special contracts and limited certification. In answer to a question from Sen. Ranson regarding special contracts, Mr. Fox stated that his company serves some customers under special contract and under limited certification. His company did not purchase the certificate nor the right of way; however, they did purchase the obligation to serve those customers under the limited certificate. Sen. Ranson then asked Mr. Fox if, under the limited obligations, do you notify the customers. Mr. Fox responded that prior to the gas gathering legislation's effective date (on November 1), his company sent out 41 letters to 41 customers telling them of the problem in continuing service to them. Sen. Ranson then asked Mr. Wix if companies can stop serving specific customers, and Mr. Wix pointed out that under Section 28 of the legislation, it allows for multiple certificates, but the Commission cannot amend contracts. Mr. Fox stated the position of his company is that whether it is a limited or unlimited certificate that they will go to the commission.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON UTILITIES, Room 531- -N, Statehouse, at 1:30 p.m. on January 22, 1998.

Sen. Barone asked Mr. Fox if his company has gone to the Commission to notify them that they are going to disconnect service to customers. Mr. Fox responded they gave up certification to serve four customers in Western Kansas to a company closer to them who could provide service. Mr. Fox stated they have not discontinued service based on pressure problems. Sen. Barone referred to the 41 letters the company sent to customers and if they warned customers they were facing problems providing service to them. Mr. Taylor stated his company has to approach the problem with a business perspective to make decisions on abandonment; however, it is not their intention to abandon customers. Sen. Barone then asked if his company has gone to the Commission and filed notification that there is a problem serving certain customers, and Mr. Fox responded that they would so notify the Commission. Sen. Morris stated the intention of the legislation passed last year was to give flexibility to the irrigators and make the Corporation Commission aware of the problems and give them an option of going to someone else for service. Sen. Ranson then asked if a specific customer could break the contract and go to another provider for service under a special contract. Mr. Fox responded under a special contract, the customer would not be able to enter a contract with another provider unless the company holding the contract could not provide service. Sen. Ranson stated the legislation passed last year for dual certification apparently did not solve the problem and they have more work to do.

Meeting adjourned at 2:30.

The next meeting is scheduled for January 26, 1998.