

Approved: Feb. 24, 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 11, 1998 in Room 531-N of the Capitol.

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

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

Conferees appearing before the committee:
Rosemary Foreman, Director, Public Affairs and Consumer Protection, Corporation Commission
Kathryn Valentine, LIEAP Program Administrator, Department of Social and Rehabilitation Services
Kim Gulley, League of Municipalities
Jon Miles, Kansas Electric Cooperatives

Others attending: See attached list

Sen. Ranson requested committee members to look at Minutes of the Meeting for February 2 and 3 for consideration later.

Sen. Ranson then introduced Rosemary Foreman, who presented information to the committee on the "cold weather rule" (Attachment 1). Sen. Ranson asked Ms. Foreman if she had statistics on how much the "cold weather rule" is used, and Ms. Foreman explained she did not, because that is done at a local customer service center. She added that many do take advantage of the rule to allow extra time to take care of bills and that they utilize the rule to maintain service with arrangements to pay the bill off. She also stated the rule applies to jurisdictional (coops and investor owned), residential customers and is not available to commercial customers. Sen. Ranson then asked if she is aware of how much loss is incurred and if that is considered in the rate structure. Larry Holloway answered that losses are incurred and that it is considered when the rates are set. Sen. Ranson then asked if that loss is built into the rates and if that is an obligation of the distribution company. Mr. Holloway answered that the loss is built into the rates and that it is an obligation of the distribution company and that repayment is made to the supplier of last choice. Sen. Ranson then asked if he knew, under deregulation, who would take the loss, and he replied it would be the obligation of the distribution company and would probably be included in a fund.

Sen. Barone asked if anyone knew the percentage of customers using the "cold weather rule" and Mr. Holloway did not know, but commented it would appear as a bad debt for revenue; Sen. Barone added there are other sources of bad debt, not particularly associated to the "cold weather rule". Sen. Ranson asked Ms. Foreman if the rule applied to other types of power, and Ms. Foreman answered to only electric and natural gas; that small business would not be eligible to utilize the rule.

Sen. Ranson then asked Jon Miles if the coops have a similar rule, and he answered they do, and that the systems who are deregulated have adopted the Corporation Commission's "cold weather rule". Mr. Miles did not know how many coop customers take advantage of the rule, but one coop told him it would be approximately six to eight per year at a cost of approximately \$10-15,000 per year.

Sen. Ranson then called on Kim Gulley to explain if the municipals have a similar rule. Ms. Gulley stated there are fourteen cities who are municipals and come under the jurisdiction of the Corporation Commission. They follow the "cold weather rule" and the larger municipals are governed by a modified version which involves less notification. She further explained that the smaller municipals, under 1,000 population, the policy is more informal and flexible. In answer to a question from Sen. Clark, Ms. Gulley stated there are 74 natural gas systems, including Belleville, and they set their own rules; and that the League's advice to these utilities is apply policy in a common sense way. In answer to a question from Sen. Barone, the committee discussed the genesis of the "cold weather rule", which passed in 1983 and modified in 1989. Sen. Ranson recognized Pete Loux, who has served as a Corporation Commissioner, explained the "cold weather rule" was his bill and gave further information on how the bill came to be.

Sen. Ranson introduced Kathryn Valentine who explained the Low Income Energy Assistance Program (LIEAP) (Attachment 2) to the committee. Ms. Valentine emphasized the LIEAP program is federally funded and administered by the state. Other states add money to the fund, but Kansas does not. The committee discussed the program, after which Sen. Ranson asked if there were other programs designed for the same purpose. Ed Schaub stated that Western Resources has a volunteer program, "Project DESERVE", which is administered by the Red Cross. Their customers receive information about the program with their bill, and are

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON UTILITIES, Room 531- -N, Statehouse, at 1:30 p.m. on February 11, 1998.

able to donate to the fund. Western Resources Foundation also makes contributions to the fund each year. Sen. Ranson asked Mr. Schaub is he would bring additional information to the committee, and he responded that he would.

In answer to an earlier question regarding the number of utilities involved in the LIEAP program, Ms. Valentine stated that there are 158 electric vendors, who have received funds through the program, and they are unregulated.

Sen. Ranson then asked the committee to consider the Minutes of the Meeting of February 3 - an error was found in the Minutes of February 2 - it will be corrected before submitting to the committee (Attachment 3). Sen. Pugh made a motion the Minutes be approved, and it was seconded by Sen. Clark; the Minutes were approved.

Sen. Ranson then asked Lynne Holt to present information on the unbundling bill the committee is considering. Ms. Holt referred to information from Illinois regarding the universal service charge imposed on January 1 (Attachment 4). Ms. Holt explained Illinois has not given customers a choice for providers and will not until May, 2002 for residential and October, 1999 for industrial; however, customers there found a ninety cents per month surcharge on their bill January 1, which has caused numerous complaints. That money is to go into their LIEAP fund and for renewable resources. The information describes customer complaints.

Sen. Ranson also referred to a "Consumer Guide", which has been published for Rhode Island consumers, and asked for copies to be made for committee members.

Sen. Ranson announced the hearing tomorrow on unbundling at 1:00 in Room 313-S.

Meeting adjourned at 2:30.

The next meeting is scheduled for February 12, 1998.

SENATE UTILITIES COMMITTEE GUEST LIST

DATE: Feb. 11, 1998

NAME	REPRESENTING
Larry Holloway	KCC
Kathryn Valentine	SRS
Joe Dick	KCK BPU
Wayne Kitcher	Western Resources
Paul Burke	" "
WALKER HENDRIX	CURB
Amy A. Campbell	Midwest Energy
Heather Randall	Whitney Lauron, P.A.
Tom Reeves	McGill's Asso.
Dick Carter, Jr.	ENRON
ED SCHAUB	WESTERN RESOURCES
David Byrum	KDOCH
Bernice Koch	Wichita Chamber
Andrea Walker	Rep. Findeey
J.C. Long	UtiliCorp Limited Inc.
Kim Gillig	League of KS Municipalities
Mike Huttles	SRS

**Before the Senate Utilities Committee
Comments by the
Staff of the Kansas Corporation Commission
February 11, 1998**

Overview of Cold Weather Rule

Good afternoon Madam Chair and Committee members. I'm Rosemary Foreman and I'm Director of Public Affairs and Consumer Protection for the KCC. My testimony today outlines the Commission's Cold Weather Rule.

The Cold Weather Rule was initially established by the Commission in 1983 and revised in 1989 to insure that Kansans have electric and natural gas service during the cold winter months to protect human health and life.

The provisions of the Cold Weather Rule provide for special payment and disconnection procedures for all residential customers with unpaid account balances to retain or restore utility service throughout the cold weather months. The rule is in effect from November 1 through March 31 and applies to all electric and natural gas utilities that are jurisdictional to the Commission. All jurisdictional residential customers qualify for and are protected by the Cold Weather Rule.

The Cold Weather Rule is comprised of two major parts. The first part of the rule prohibits disconnection of utility service based on the temperature forecast and requires additional disconnection notification procedures. The second part of the rule mandates payment arrangements.

The first part of the rule prohibits disconnection of service when the national weather service forecasts the temperature to drop below 35 degrees or to be in the mid 30s or colder in the next 48-hour period. In the event the temperature forecast for the next 48-hour

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period is 35 degrees or above, the company may begin disconnection notification procedures. During the first 24 hours, which is the day prior to disconnection, the company must attempt to make personal contact with the customer, either by phone or a visit to the service address. If personal contact is not made with the customer, the company must leave a disconnection notice on the door. This notification is in addition to the normal 10 day written disconnection notice mailed to the customer. On the day of disconnection, the utility must obtain a 24-hour forecast of 35 degrees or above. If the temperature is forecast to be below 35 degrees, the disconnection cannot be carried out and the utility must wait for another 48-hour period with a forecast of 35 degrees or above.

The second part of the rule is quite simple. All residential customers qualify for a 12 month payment arrangement either to maintain or restore their utility service. A customer must meet the requirements of what is referred to as the Good Faith Test. Under the Good Faith Test, a customer must inform the company they are unable to pay their bill in full, apply for any assistance they are eligible for, and make an initial payment of 1/12 of the total amount owed the company. The customer must also agree to pay the remaining 11 payments over the next 11 months in addition to their regular monthly bill. If a customer falls behind on their payment arrangement during the Cold Weather Rule period, they may re-qualify under the Good Faith Test and establish a new 12 month payment arrangement.

The Cold Weather Rule addresses the need for electric and natural gas service in the winter months in order for Kansans to stay warm, while providing a payment mechanism enabling customers to pay for utility service.

I'll be happy to answer any questions you might have concerning the Cold Weather Rule.

KANSAS CORPORATION COMMISSION

SECTION V. COLD WEATHER RULE

A. Availability

The provisions of the Cold Weather Rule (CWR) allow for special payment and disconnection procedures for any Kansas residential customer with unpaid arrearages to retain or restore utility service throughout the cold weather period, which extends from November 1 through March 31.

B. No Disconnections When Temperature Is Below 35 Degrees

A utility shall not disconnect a customer's service between November 1 and March 31 when the local national weather service office forecasts the temperature will drop below 35 degrees or will be in the mid 30s or colder within the following 48 hour period unless:

- (1) It is at the customer's request,
- (2) The service is abandoned,
- (3) A dangerous condition exists on the customer's premises,
- (4) The customer violates any rule of the utility which adversely affects the safety of the customer or other persons, or the physical integrity of the utility's delivery system, or
- (5) The customer causes or permits unauthorized interference with, or diversion or use of (meter bypass), utility service situated or delivered on or about the customer's premises.

In any of these situations, the utility may disconnect the service immediately. Services disconnected under (3), (4) or (5) above must be restored as soon as possible after the physical problems as defined in (3), (4) and (5) above have been corrected.

In order to keep from getting disconnected when the temperature is 35 degrees or above, or to get reconnected regardless of temperature, a customer must comply with the provisions of the Good Faith Test.

C. Good Faith Test

The requirements of the Good Faith Test are not applicable when the temperature is forecast to drop below 35 degrees or be in the mid 30s or colder within the next 48 hour period. To meet the Good Faith Test and qualify for the benefits of the Cold Weather Rule, the customer shall:

- (1) Inform the utility of the customer's inability to pay the bill in full;

- (2) Give sufficient information to allow the utility to make a payment-agreement;
- (3) Make an initial payment of the arrearage plus the bill for consumption during the most recent billing period for which service was provided divided by twelve (12).
- (4) Apply for federal, state, local or other funds for which the customer is eligible;
- (5) Enter a level payment plan (rolling average favored) for current and future consumption with arrears paid in equal installments over the next eleven (11) months;
- (6) Not illegally divert (bypass meter) utility service; and
- (7) Not default on a payment plan.

D. Responsibilities of the Utilities

- (1) Mail a written notice of the Cold Weather Rule once a year at least 30 days prior to the CWR period to each residential customer who is currently receiving service as well as to each residential customer who has been disconnected during or after the most recent cold weather period and who remains without service. Each utility shall file a copy of the notice with the Commission.
- (2) Send one written notice mailed first class at least ten (10) days prior to termination of service. A customer may not be disconnected until a 48-hour forecast above the activating temperature is predicted by the National Weather Service. During the first 24 hours, which will be the day prior to disconnection, the utility shall make at least one telephone call attempt with the customer of record and make one attempt at a personal contact with the customer of record on the day prior to termination of service if telephone contact on that day was not made. The telephone call attempt(s) and personal contact the day prior to disconnection is in addition to the already existing notice requirements contained in the Commission's standards under Section IV. If the customer is not contacted during the phone call(s) or the personal contact the day prior to termination of service, the utility employee shall leave a disconnect message on the door on the day prior to disconnect. There will be no charge for this service. On the day of disconnection, the utility must receive a 24-hour forecast above the activating temperature from the National Weather Service. If the temperature is then forecast to be below the activating temperature, the disconnection may not be carried out and the utility must wait for another 48-hour forecast above the activating temperature and follow the same procedures prior to disconnection.

Utilities shall in the telephone contact(s), the ten (10) day written notice, the personal contact and the disconnect message on the door in addition to the existing requirements contained in Section IV, also inform the customer of the existence of the Cold Weather Rule - that the customer can avoid disconnection by complying with the customer Good Faith Test - and the telephone number of the Commission's Consumer Protection Office.

- (3) Inform the customer of, or provide a list of, the Good Faith requirements.
- (4) Inform the customer of, or provide a list of, organizations where funds are available to pay utility bills.
- (5) Inform the customer of, or provide a list of, all other pay arrangements for which the customer might qualify.
- (6) Adopt and inform customers about a third-party notification plan.

E. Other Provisions

Security Deposits

Deposits made in conjunction with the Cold Weather Rule may be amortized over a twelve (12) month period. Written notice of this shall be provided to each customer required to make a deposit.

Weatherization Programs

The Commission recommends that the utilities inform their customers of the long-range advantages of weatherization programs.

Theft of Service

Upon documentation by the utility that diversion of service has occurred (meter bypass) and that the customer has benefitted from diversion, the customer shall be deemed in breach of the Good Faith Test. Such breach may be cured by payment by the customer for the value of the diverted service. The value of such use shall be estimated based on historic use of such customer or such residence.

Default

Any customer who has defaulted in the most recent cold weather period and remains in default has breached the requirements of the Good Faith Test. To cure such default, the customer shall make an initial payment as set forth in the Good Faith Test, pay any disconnect and reconnect charges incurred as a result of such default and comply with the provisions of the Good Faith Test.

Renegotiation of Cold Weather Rule Agreement

The customer should be encouraged to renegotiate Cold Weather Rule payments if they receive utility or other lump sum assistance.

Note

A utility may file a Cold Weather Rule plan with terms as favorable or more favorable than the terms outlined above.

SECTION VI. WAIVER OF REQUIREMENTS

The requirements contained in these standards may be waived in individual cases by the Commission upon written request by the utility and a showing the compliance with the requirement would not serve the interests of either the utility or the customer.

**State of Kansas
Department of Social
& Rehabilitation Services**

Rochelle Chronister, Secretary
Janet Schalansky, Deputy Secretary

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**Senate Utilities Committee
Wednesday, February 11, 1998**

Testimony: Low Income Energy Assistance Program (LIEAP)

**Income Maintenance / Employment Preparation Services
Candy Shively, Commissioner
785.296.6750**

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**Kansas Department of Social
and Rehabilitation Services
Rochelle Chronister, Secretary**

Senate Utilities Committee

**Low Income Energy Assistance Program
February 11, 1998**

Madam Chairman and Members of the Committee, thank you for the opportunity to appear before you today. I am Kathryn Valentine, Program Administrator of the Low Income Energy Assistance Program, within the Commission of Income Maintenance/Employment Preparation Services, Department of Social and Rehabilitation Services.

I am here to summarize the Low Income Energy Assistance Program (LIEAP), a federally funded block grant program which began in 1981. The 1998 block grant is \$8.3 million; 85% of this amount is used to provide home energy assistance and 15% is set-aside to the Kansas Department of Commerce and Housing to supplement the Weatherization Program funding.

Low Income Energy Assistance helps eligible households purchase a portion of their home heating costs. Applications for the annual benefit are accepted January through March. In order to be eligible, the income of everyone living at the address must be under 110% of poverty:

<u>Persons Living at the Address</u>	<u>Maximum 3-Month Income (110% of Poverty)</u>
1	2,128
2	2,849
3	3,569

The applicant must also provide proof that payments were made on the heating bill during at least two of the prior three months. The self-payment requirement reinforces the agency's efforts to promote personal responsibility.

The federal funding levels fluctuate annually, requiring that benefits be adjusted according to the available funds. LIEAP benefit levels are targeted according to the following factors:

- Household income
- Number of people living at the address.
- Type of dwelling.
- Type of heating fuel
- Utility rates charged by the fuel provider

In 1997, the average annual energy benefit was \$268. This represents about 18% of typical residential energy costs. Most of the 27,498 households assisted were elderly, disabled, or unemployed.

In order to locate needy households, the agency implements various outreach efforts. Applications are mailed to prior LIEAP recipients, disabled persons and other targeted households. Utilities, the KCC, Department on Aging, and community helping agencies assist in providing outreach. SRS press releases, posters, and a toll-free information line are also utilized to help the public learn about the available assistance.

About 60% of LIEAP benefits are paid directly to the larger utilities using an electronic matching process which applies the benefit directly to the customer bill. If the vendor is a smaller utility or a propane supplier, the benefit is issued as a two-party check payable to the recipient and the provider. In order to provide flexibility, the household may elect to have the benefit split between two providers, e.g., a propane provider and the electric utility.

Thank you for the opportunity to provide this program summary. If you need additional information, I would be glad to answer questions.

Approved: Feb. 11, 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 3, 1998 in Room 531-N of the Capitol.

All members were present

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

Conferees appearing before the committee:
None

Others attending: See attached list

Sen. Ranson announced the committee will consider taking action on **SB 436-Establish the joint committee on taxation of public utilities to study and make recommendations regarding taxation of deregulated electric generation public utilities.** She directed the committee's attention to a copy of the bill with suggested language changes (Attachment 1).

Mary Torrence explained the changes and after discussion, consensus of the committee is that they do not want to limit the scope of the joint committee and want all electricity providers included as well as all unbundled components which may be included. The committee also discussed the expiration date of the joint committee, which is the same date as the expiration date for the Retail Wheeling Task Force. After discussion, Sen. Barone made a motion the committee adopt amendments to the bill (Attachment 2), and it was seconded by Sen. Brownlee; the motion passed.

Sen. Clark made a motion that SB 436 be passed as amended, and it was seconded by Sen. Barone. Roll call vote was taken, with all members present, and the motion passed.

Sen. Ranson then asked Mary Torrence to review the following bill for the committee:

SB 491-concerning municipal energy agencies

She explained this bill removes the restriction placed upon municipal agencies in 1977, when it was enacted, that they could not enter into an agreement or contract for the direct sale of electricity to anyone other than to a member city of the agency or utility operating during the calendar year 1976. According to Mr. Widener's testimony before the committee, there are 40 members in the municipal agency, with 58 cities who can't join because of the requirement. It also has a provision to allow members of the agency to issue revenue bonds.

Sen. Ranson announced the committee will hear testimony tomorrow.

Meeting adjourned at 2:05.

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Some Illinois Power Customers Angry over New Surcharge

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By David Gosnell, Belleville News-Democrat, Ill.
Knight Ridder/Tribune Business News

A new surcharge on Illinois utility bills to help poor people pay their heating costs is generating some heat of its own.

Illinois Power Co. has received more than 500 complaints about the 90-cents-per-month surcharge -- 45 cents each on residential gas and electric service -- that took effect Jan. 1 and now is appearing on customers' bills.

"Nobody helps me," said Mary Ann Scott, a Belleville retiree living on a fixed income. "I scrimp and save. I turn the heat down when I leave. They are using our money to give to someone else."

The surcharge -- the result of a utility deregulation bill passed last year by the Illinois General Assembly -- is expected to generate about \$80 million statewide.

The tax apparently caught many people off guard, despite notification by the news media and in customers' bills.

"They are complaining about the charge itself. They didn't know it was coming," said Bob Kelsheimer, Illinois Power's regional manager.

Beth Bosch, a spokesman for the Illinois Commerce Commission, said her agency has received about 70 complaints, even though the ICC has nothing to do with the surcharge.

All residential, business and industrial customers with an electric and gas meter will pay the surcharge. Businesses and large industries will pay more.

Illinois Power has about 550,000 customers, of which 389,000 get both electric and natural gas service.

The surcharge is for gas and electric customers only and does not apply to telephone and water bills. The utilities collect the tax and transfer the money to the Illinois Department of Revenue.

The money then is turned over to a state agency, which makes energy-assistance grants available to poor and low-income people.

While most of the money is earmarked for power bill subsidies, some will help fund renewable energy, energy conservation and clean coal technology programs.

But customers such as Scott complain it is the power companies that stand to benefit most.

"They benefit in the end because they are getting the money," she said.

The monthly tax is not itemized on Illinois Power customers' bills. It is included in the "Account Charge," which includes a host of service fees utilities are allowed to charge, such as for maintaining residential gas lines.

"I think they kind of snuck this through," Scott said of the legislature. "I have talked to friends, and they didn't know anything about this either."

State Rep. Tom Holbrook, D-Belleveille, said lawmakers did not try to hide the new tax. Most agreed revenue from it is desperately needed, he said.

"I knew of no opposition to this bill," Holbrook said. "A lot of representatives had gotten calls, especially from seniors, that there were no funds available to keep their heat on. There is a huge need there."

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I knew of no opposition to this bill, Holbrook said. A lot of representatives had gotten calls, especially from seniors, that there were no funds available to keep their heat on. There is a huge need there."

In 1990, the General Assembly repealed a similar surcharge on telephone service after a public outcry. That is partly why legislators wanted the surcharge lumped in with other utility charges and not listed separately as a tax, Holbrook said.

Utility customers have been told that deregulation will mean lower power bills. An electric rate cut of 15 percent won't happen until August, under the deregulation law.

"I can understand why they are unhappy with this," Holbrook said. "Both of these should have come in at the same time."

The Illinois Department of Commerce and Community Affairs will administer the programs funded by the surcharge but has not set up a way for people to apply for the assistance.

"I can't give you definite eligibility requirements yet," Becky Enrietto said.

The agency also doesn't yet know how it will spend the new renewable energy fund either, Enrietto said. "We are developing plans at this moment," she said.

Before the surcharge, the state had relied solely on federal energy grants. But that money has declined by about \$24 million since 1989, when \$80 million was

Of the 700,000 people who qualify statewide for energy assistance, there was only enough state funding to help about 200,000 last year, Holbrook said.

The low-income assistance part of the surcharge will help about 150,000 more people in Illinois with their heating bills, he said.

In St. Clair County, about 21,400 people are eligible for heating assistance, but there was only enough money to help 3,740 people last year.

With the new surcharge revenue, thousands more people will be helped with their heating bills, Holbrook said. "Before this, it was so pathetic. We were out of money by November."

Holbrook said more than 60 percent of those who do get assistance are disabled or elderly.

Kelsheimer said Illinois Power did not ask for but supported the surcharge.

"There is a very serious need out there," he said.

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Return to headlines.

Texas Utilities May Bid for Britain's Energy Corp.

By Dan Piller, Fort Worth Star-Telegram, Texas
Knight Ridder/Tribune Business News

Jarrell Gibbs, vice chairman of Texas Utilities, was in London yesterday to negotiate a possible bid to buy Energy Corp., despite a raised bid last week by PacifiCorp of Portland, Ore.