Approved: April 3, 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 March 24, 1998 in Room 531-N of the Capitol.

All members were present except:
Sens. Hensley, Lee 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:
none

Others attending: See attached list

Sen. Ranson called attention to an article, "Electricity Daily", published by The Electricity Journal, March 23, 1998, and to page 4, the "Commentary: Toss States From the Restructuring Train" and read portions of it. She thanked Earnie Lehman for providing the article.

Sen. Barone then introduced pages from his district who are assisting the committee today.

Sen. Ranson called attention to the Minutes of the Meeting for March 12, 16 and 17 (Attachment 1). Sen. Clark made a motion the Minutes be approved, and it was seconded by Sen. Barone; the Minutes were approved.

Sen. Ranson announced continuation of discussion on:

HCR 5035-Urging Congress not to take action regarding deregulation of electric generation industry and to leave that responsibility to individual states

She reminded the committee of the request made yesterday for changes to the Resolution, and she called on Mary Torrence to read proposed amendments (Attachment 2). Sen. Brownlee made a motion the amendments be adopted, and it was seconded by Sen. Clark; the motion passed. Sen. Clark made a motion the Resolution be adopted, and it was seconded by Sen. Brownlee. Upon roll call vote, the Resolution was adopted unanimously.

Sen. Ranson referred to:

SB 686-Refunds of rates and charges received for reimbursement of ad valorem taxes for the sale of natural gas

She recalled the committee has deliberated several days and have worked on new language that is acceptable but have not been successful. Since we are nearing the deadline for consideration of bills, she stated there are other alternatives: the committee could have a rail meeting to vote on the bill or it could be amended into a house bill on the floor of the Senate, which is probably the better alternative. Sen. Morris indicated he agreed with the decision.

Sen. Ranson announced distribution of an article, "Gas Price Volatility", published in the Public Utilities Fortnightly, March 15, 1998. She thanked the committee for participating and commended the committee on "ducking" most of the issues; which, she stated, is probably just as well for the public.

Meeting adjourned at 1:55.

No other meetings are planned

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

SENATE UTILITIES COMMITTEE GUEST LIST

DATE: March 24, 1998

NAME	REPRESENTING
J.C. Long	UtiliCorp United Inc.
Larry Holloway	KCC
Joe Dick	KCKBPU
Bruce Graham	KEPCo
Heather Rydell	Whitney Damron, P.A.
Amy A. Campbell	Midwest Energy Inc.
Ron Hein	Pioneer
Shelby Smith	KSPG
Ron Hachy	McGill & Assoc.
Don Schnacke	KIOGA
Leslie Kaufman	Ks Farm Bureau
Tom Day	KCC

A-1

Approved: MARCH 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 March 12, 1998 in Room 531-N of the Capitol.

All members were present except:
Sens. Hensley, Salisbury 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:
John Cita, Chief of Economic Policy, Corporation Commission
Mike Eichenberg, President and CEO, Mountain Energy

Others attending: See attached list

Sen. Ranson called the committee's attention to the agenda, which has been revised, to add next Tuesday as a time to hear and act upon the senate bill assigned to the committee yesterday. She also acknowledged that the Kansas Corporation Commission has a number of employees attending the meeting today.

Sen. Ranson announced the committee will continue with presentations on natural gas pricing. She then introduced John Cita. He announced he had numbers regarding threshold levels previously discussed in committee. He gave the following information: Kansas Gas Service threshold level is 6,000 mcf's in their K system (Kansas City and Wichita) and 3,000 mcf's on their main system (central Kansas), with 1,050 transport only customers; UtiliCorp's threshold is 500 mcf's, with 1,500 transport customers; United Cities's threshold is 3,000, with approximately 170 transport customers only; Midwest Energy's threshold is 500 mcfs, with 40 customers; KN Energy makes transport service available to commercial and industrial customers, with approximately 3,000 being served; Greeley's threshold is 4,000 mcf's; number of customers is unknown. He added that there are 120 different owners of natural gas in the state.

Mr. Cita continued by offering additional information to the committee regarding natural gas pricing (Attachment 1). He stated the wholesale of natural gas is highly competitive and discussed market shares, which are shown in the table on Pages 8 and 9. He stated there are positive and negative price spikes and explained the graph on Page 11 and the reasons for the negative spike from 1994-96 and the positive spike which followed in 1997. He explained the reasons for increased prices have to do with cold weather in November, 1996, depleted storage below comfort levels, and the fact that companies did not have adequate amounts in storage. They purchased gas in January, 1997; however, he stated he does not know why prices elevated in January of 1997. He then asked Bill Eliason (Western Resources) for input regarding the market. Mr. Eliason explained depleted storage of gas below the comfort levels, and stated the price of natural gas is market driven and the perceived market effects the price of gas.

Sen. Ranson then introduced Mike Eichenberg, who explained his company is an energy service provider to 400 customers, and they have been doing business in the state for 11 years. He explained the market is driven by simple basics, that of supply and demand. He explained the role of the utility is to transport natural gas, while his company's role is to make sure customers have a supply of the commodity. He referred to the Kansas City Star articles, which had previously been distributed to the committee, and stated the price is driven by the NYMEX; that the traders are out to make money; that the result of high prices last winter was that Enron was suspected of shortages, which drove the price up. He discussed hedging, which is a tool and should be utilized to avoid spikes in the price of natural gas. He believes that hedging is prudent to protect customers from high prices. He discussed storage as a means to use for keeping prices low, as well as negotiating storage and transportation contracts. Mr. Eichenberg discussed deregulation of natural gas and stated the role of the utility must be defined. He believes the utility is best able to handle distribution. He also stated the advantage of unbundling is to stabilize prices and to shift the risk of price to companies who want to take the risk and to those who will promote good business practices. He concluded by saying that natural gas

Senate Utilities
3-24-98
Attach. 1

is a volatile commodity because there are not enough players; that with hedging, prices will stabilize and then the risks will be borne by marketers.

Sen. Barone asked Mr. Eichenberg, since he is an advocate of hedging, because it takes the volatility out of the price, if there are times when the result is that it costs the consumers more; and Mr. Eichenberg agreed that there are times when this can increase the cost to consumers and continued by enumerating some of the risks. He continued by discussing costs and the levels of production, which are effected by whether production is off- shore, which is more costly, than on- shore production. He also stated some of the larger producers are combining their function with the marketing function, which gives them a greater opportunity to make profits.

Sen. Ranson then asked what it is his company does and how it interacts. Mr. Eichenberg answered that Mountain Energy is a re-saler; that they purchase spot gas, and re-sale it for a profit. He stated they utilize hedging and pricing capabilities, which weren't available to utilities until recently, and buy at a fixed price. He then gave examples of two school districts in Johnson County and emphasized the school districts buy at a fixed price, so they know the cost; that the difference is in the timing as to when the contracts are signed. Sen. Ranson then asked what his company uses for delivery, and Mr. Eichenberg responded that the utility delivers the gas for them, at a guaranteed delivery price.

Sen. Steffes asked questions regarding coal, where it comes from and why no fluctuations, and Mr. Eichenberg answered that the coal contracts are long term, usually 20-year contracts; that the utility has to contract for transportation and has to guarantee delivery. He added that the marketer and utility operate differently. Sen. Barone then asked if his company has considered offering services to residential customers; how big a consumer would have to be that his company would approach. He answered that the residential customer would not be benefitted; that they would like to be able to offer services to the residential customers. He went on to state that he believes in the future we will see the consolidation of utilities to bring about a shift in high prices to someone besides the consumer. Sen. Ranson referred to retail wheeling in the electrical utilities and divestiture and stated the Legislature could force deregulation, if it wanted. Mr. Eichenberg answered that he believes full competition will happen on its own, which will force utilities into more efficient operation.

Sen. Ranson announced that Sen. Morris has a Resolution to explain to the committee, which calls for a hearing on the contract, known as P-0802. Sen. Morris made a motion the Resolution be introduced, and it was seconded by Sen. Clark; the motion passed.

Sen. Ranson announced the distribution of a gas bill (Attachment 3), which shows costs of taxes and other charges. Sen. Lee then asked questions regarding the PGA Report.

Meeting adjourned at 2:30.

The next meeting is scheduled for March 16, 1998.

Approved: MARCH 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 March 16, 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:
David Banks, Energy Manager, Wichita Public Schools
Jeanne Hernandez, Auditor, City of Wichita

Others attending: See attached list

Sen. Ranson announced the committee will continue hearing information regarding natural gas pricing. She introduced David Banks, who provided information on a pilot program for transporting natural gas to sites of USD 259 (Attachment 1). Members of the committee then questioned Mr. Banks on the program. Sen. Lee stated she understood minimal requirements had to be met, and she asked who set those. Mr. Banks answered the minimum requirements are established by negotiations with the local utility and approved by the KCC. Sen. Lee then asked questions regarding adjusting rates, and if the KCC adjusted those rates. Glenn Smith, of the KCC, answered those rates are adjusted down; and that the minimum is 6,000 mcf (1,500 per month). Mr. Banks also responded to a question regarding transportation and indicated they have to transport a set amount of gas or the rates go up. Sen. Clark questioned the amount of savings realized for the school district by participating in the pilot program, and Mr. Banks stated the approximate figures are a savings of $120,000 for approximately 42 buildings; that the school district estimates they are paying approximately $4.00 per mcf, which includes transport charges, taxes and fees. Mr. Banks also confirmed that under the Large Volume Transport tariff (LVTK), the charge is $3.13 per mcf for those buildings.

Sen. Ranson questioned Mr. Banks regarding rates and stated that the school district could be paying three rates for the use of natural gas. Mr. Banks continued by explaining that not all buildings are in the pilot program, since the maximum usage is 6,000 mcf's; that they have dropped smaller, elementary schools from the LVTK and moved them to the pilot program. Sen. Ranson asked which companies the school district is contracting with, and Mr. Banks stated they have no regular transport contracts with Kansas Gas Service, but contract with UtiliCorp United which covers 32 buildings under the General Service Tariff. They then discussed the meter fees the school district pays, which was raised from $32.50 to $175.00 per month, and Sen. Ranson asked questions regarding the lease of meters. Mr. Banks stated the meters are leased from Kansas Gas Service and are paid on a monthly basis. Mr. Smith confirmed the increase in meter fees was approved by the KCC and was part of the realignment of the rate structure. Sen. Ranson referred to Mr. Banks' statement on the conservation and cost containment efforts of USD 259, which have amounted to a $2 million savings per year. The down side is that the school district has lowered their volume, consequently, they will not be eligible to participate in the program, unless they wastefully burn off enough natural gas to qualify for the program. Sen. Barone asked if the school district has offered to pay for the gas and not burn it off; Mr. Banks stated the school district's contract is to qualify for the tariff minimum; that they have offered to pay for the gas, which they have not used, in order to qualify for the program. He stated both the local utility company and the KCC have answered they cannot do that. He continued by stating he is ashamed to waste this natural resource to be eligible to continue participation in the program, and Sen. Ranson made the statement it appears both the KCC and utility company are advocating wasting natural resources.

Sen. Ranson then introduced Jeanne Hernandez, who presented information (Attachment 2) regarding the impact of the loss of revenue for the City of Wichita. Committee members discussed with Ms. Hernandez having an equal, or consistent, rates for access to utilities, instead of the 5% of gross receipts being accessed. She referred to the graph on Page 2 of her presentation and pointed out that there is a $1.81 per line access fee for phone service and that the cable service is based on gross receipts; that the water franchise fee is by rate class. Sen. Barone discussed charging a flat fee, and Sen Ranson stated that the solution may be to charge by usage, not by gross receipts. She referred to the Retail Wheeling Task Force Report and stated that is why the committee is looking at tax issues, because when one thing is changed, it upsets others. She stated that if an independent marketer sells natural gas to a customer in the Wichita area, there are no franchise fees paid into the city.

Meeting adjourned at 2:20. Next meeting will be March 17, 1998

Approved: MARCH 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 March 17, 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:
Ron Hein, Pioneer Natural Resources, USA, Inc.
Don Schnacke, Kansas Independent Oil and Gas Association
David Dittemore, Director of Utilities, Kansas Corporation Commission

Others attending: See attached list

Sen. Ranson acknowledged a group of guests attending the meeting today from Pottawatomie County Farm Bureau and Labette County Farm Bureau Capitol Experience. She announced the pages assisting the committee today are from Baldwin.

Sen. Ranson announced the committee will hear testimony on the following:

SB 686-Refunds of rates and charges received for reimbursement of ad valorem taxes for the sale of natural gas

Mary Torrence briefed the committee on the bill and Sen. Morris explained events precipitating the bill. They are as follows:

1974 - Federal Power Commission ruled that ad valorem taxes may be included in tax base
1978 - That ruling was reaffirmed by Federal Energy Regulatory Commission
1983 - FERC examined the ruling and reaffirmed it
1986/87 - FERC looked at ruling and reaffirmed it
1993 - Northern Pipeline, Colorado Interstate and others filed case in Federal District Court asking for relief from ruling; required FERC to again look at ruling
1993 - Changed mind on ruling with decision that principal, penalties and interest be refunded to pipeline companies and customers

Sen. Morris explained that the decision was referred to the Supreme court, who refused to hear the case. Rep. Moran and Sen. Roberts have filed a bill which would delete the penalties and interest being refunded, but no action has been taken on it. **SB 686** sets out the procedure whereby the Kansas Corporation Commission would collect the money from legitimate claims and return it to the producers.

The following appeared on the bill:

Ron Hein, proponent, representing Pioneer Natural Resources USA, Inc. (Attachment 1)
Donald Schnacke, opponent, Kansas Independent Oil & Gas Association (Attachment 2)
Dave Dittemore, neutral conferee, Kansas Corporation Commission (Attachment 3)
Written testimony was submitted by Erick Nordling, Southwest Royalty Owners Association, (Attachment 4)

The committee questioned conferees regarding the bill. Specifically, Mr. Hein was questioned regarding identifying and locating the consumers of LDC's and setting up a mechanism to make the appropriate refunds. Mr. Hein expressed concern, because of the class action lawsuit, that the injured parties will not receive the refunds; he also told of the administrative nightmare in locating the injured parties during the 1983-88 years. He estimates that the Decision may cost Kansas producers $500 million, with Pioneer putting several million in an escrow account. He stated the need to protect the royalty owners, and concluded by saying he supported the concept of returning the money to those entitled to refunds. Sen. Morris added that many of the small producers have gone out of business.

Mr. Schnacke stated the deadline, which was March 9, has already passed and his belief is that if argued legally, the bill would be held invalid. Sen. Morris argued that the money can be transferred to an escrow account until such time as the appropriate refunds can be made, and Sen. Pugh stated he thought refunds were to be paid to the state treasurer. Mr. Dittemore stated the concern the Commission has regarding conflicts between the bill and provisions set out by FERC. He cautioned the committee that passing the bill could result in litigation, since some companies could ignore the statute and follow FERC guidelines. He stated the interstate pipelines cannot keep the refunds, but are to pass them on to the end users. Sen. Barone asked if the individual user/consumer could get a windfall, and Mr. Dittemore stated some likely did not pay the tax but are likely to get credit for refunds, as he understands the utilities would blanket refund to consumers. He stated he has spoken to Kansas Gas Service and their intention is to pass it on to customers. Sen. Ranson asked who determines what the refund would be, and Mr. Dittemore stated his understanding is that after the money is received from the LDC's, the state regulatory agency is to determine how the refunds will be handled. He further stated the KCC will appeal the decision to the 10th Circuit Court and that it is their concern that the interstate pipelines would not comply, leaving the state regulatory agency trying to enforce the law. Sen. Morris stated it is difficult to work through the layers of bureaucracy, but the premise of the bill is to make it possible for those eligible for refunds to apply with the KCC for refunds; a concern has been that some companies will keep a portion of the refunds and not pass it along to the user/customer.

Mr. Dittemore referred to the last page of his presentation, which is refund procedures outlined by FERC. Sen. Ranson asked if FERC is in charge of the process and asked if there is some middle ground the state could pursue; when can the state intervene and what is the intent to retail consumers? Sen. Lee asked who controls the escrow account, and Mr. Dittemore answered that FERC oversees the escrow account. John Bell of the KCC stated the FERC order requires the producers to make refunds to the pipelines, who have to return it to the customer; that only the disputed amounts will go into the escrow account; that they can hold the refund for only 30 days before forwarding it on. Sen. Barone stated there must be a paper trail if there is $336 million dollars in question, and Mr. Bell responded that there will be a release from FERC on the status of accounts within 60 days past the March 9 deadline. Sen. Ranson asked members of the Corporation Commission staff to being a flow chart to committee meeting to try to clarify some of the questions committee members have.

Meeting adjourned at 2:30.

The next meeting is scheduled for March 18, 1998.

Attach. 2

Senate Utilities
3-24-98
Attach. 2

Session of 1998

House Concurrent Resolution No. 5035

By Committee on Utilities

1-22

A CONCURRENT RESOLUTION urging Congress not to take action ~~regarding deregulation of the electric generation industry~~ and to leave that responsibility to the individual states.

to mandate competition in retail sales of electricity

WHEREAS, Each state is able and has the right to determine if ~~the electric generation industry should be deregulated within the state and the time period for such deregulation~~; and

there should be competition in retail sales of electricity within the state and the time period for implementation of competition

WHEREAS, Each state has unique electric power supply sources and demand requirements that cannot readily be accommodated by ~~deregulation at the federal level~~; and

a federal mandate

WHEREAS, Availability of reliable electric energy at affordable prices has a tremendous impact on the public health and welfare in each state; and

WHEREAS, The Legislature of the State of Kansas created the Retail Wheeling Task Force, composed of legislators and representatives of all interested parties, to study and make recommendations regarding ~~deregulation of electric generation~~ in Kansas; and

WHEREAS, The Task Force devoted long hours for 18 months to understanding the issue of ~~deregulation~~, its potential impact on the citizens of this state and means of addressing the issue to benefit the greatest number of Kansans; and

competition in retail sales of electricity

WHEREAS, The federal government does not have the knowledge, time or money necessary to similarly assess the needs of each individual state: Now, therefore,

Be it resolved by the House of Representatives of the State of Kansas, the Senate concurring therein: The Legislature of the State of Kansas strongly urges the Congress of the United States not to take action to ~~deregulate the electric generation industry~~ and to leave that responsibility to the individual states; and

mandate competition in retail sales of electricity

Be it further resolved: The Secretary of State is directed to send enrolled copies of this resolution to the President of the United States Senate, the Speaker of the United States House of Representatives, each United States Senator and each United States Representative representing Kansas, the secretary of the United States Department of Energy and the President of the United States.