Approved: Carl Dean Holmes
Date 2-3-99

MINUTES OF THE HOUSE COMMITTEE ON UTILITIES.

The meeting was called to order by Chairperson Rep. Carl Holmes at 9:06 a.m. on February 1, 1999 in Room 522-S of the Capitol.

All members were present except:

Committee staff present: Lynne Holt, Legislative Research Department
Mary Torrence, Revisor of Statutes
Jo Cook-Whitmore, Committee Secretary

Conferees appearing before the committee: Representative Mike Farmer
Mike Taylor, City of Wichita
Joan Wagnon, Mayor, City of Topeka
Senator Anthony Hensley
David Dittemore, KCC

Others attending: See Attached List

Chairman Holmes asked for bill introductions, there were none.

Hearing on HCR 5011 - request to the corporation commission to address Western Resources' rate disparities.

The Chair welcomed Rep. Mike Farmer (87th District-Wichita) who testified in favor of **HCR 5011**. (Attachment 1)

The Chair welcomed Mike Taylor, representing Mayor Bob Knight of Wichita, who testified in favor of **HCR 5011**.(Attachment 2)

Chairman Holmes then acknowledged Joan Wagnon, Mayor of the City of Topeka, who testified in opposition to **HCR 5011**. Mayor Wagnon provided the committee members a copy of the testimony she presented to the Kansas Corporation Commission during the Western Resources and Kansas City Power & Light merger hearing in Topeka. (Attachment 3). She highlighted several points of the presentation for the committee, specifically, 1) the proposed merger will create an opportunity for the merged company to be a viable and financially successful member of the community; 2) the merger is not an appropriate vehicle for rate parity; and 3) sharing merger savings with customers of Westar Energy will assist the economic development efforts of Topeka and all other communities served by the merged companies.

Chairman Holmes then called upon Senator Anthony Hensley (19th District-Topeka), who testified in opposition to **HCR 5011**. Senator Hensley shared remarks from a letter sent to KCC Chairman John Wine. (Attachment 4) Highlights of the letter include responses to the four principals presented to the KCC by Mayor Bob Knight of Wichita. Attached to the letter is a listing of Senators and Representatives listed as co-signors and copies of two editorials from the Topeka Capital-Journal newspaper.

The Chair then welcomed David Dittemore, Director of Utilities from the Kansas Corporation Commission, who provided neutral testimony on **HCR 5011**. (Attachment 5)

The Chair opened the floor for questions from the committee to the conferees

Chairman Holmes then provided the conferees an opportunity to restate their positions and respond further to additional questions asked by committee members.

Meeting adjourned at 10:18 a.m.

Next meeting is Tuesday, February 2.

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.

526

HOUSE UTILITIES COMMITTEE GUEST LIST

DATE: February 1, 1999

NAME	REPRESENTING
Dave Dittsmore	KCC
Heineman	"
Kerri Case	
BURTON CRAWFORD	KCPL
DOUG LAWRENCE	KEC
Joe Dick	KCKBPU
Jon K Miles	KEC
DICK CARTER	ENRON
JOHN C. BOTTENBERG	WEST. RESOURCES
ED SCHAUB	" "
John Pinegar	City of Topeka
Rick Lee	Rep. Nichols

STATE OF KANSAS

MIKE FARMER
REPRESENTATIVE, 87TH DISTRICT
SEDGWICK COUNTY
1033 BLACKWILL
WICHITA, KANSAS 67207
(316) 682-0364

ROOM 182-W, CAPITOL BLDG.
TOPEKA, KANSAS 66612-1504
(785) 296-7649

TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
CHAIRMAN: EDUCATION AND LEGISLATIVE BUDGET COMMITTEE
VICE-CHAIRMAN: SELECT COMMITTEE ON INFORMATION MANAGEMENT
MEMBER: APPROPRIATIONS

February 1, 1999

To: House Utilities Committee

Subject: HCR 5011

Mr. Chairman and members of the Utilities Committee:

My name is Mike Farmer, State Representative from the 87th in Wichita, Kansas. I am here today representing not only my constituents in Wichita, but also as a taxpayer and ratepayer in the KGE service area of Western Resources.

House Concurrent Resolution 5011 is the result of a building sense of frustration on the part of tens of thousands of ratepayers in south central Kansas. This resolution makes five statements of fact and then asks that the Kansas Legislature request the Kansas Corporation Commission to take specific action.

Simply stated, Western Resources is one integrated company that treats it's customers differently depending in what "old" service area they live in. If you happen to live in the KGE service area, even though you purchase your electricity from the same company as one who lives in the KPL service area, you will be charged approximately 32.6% more if you are a residential customer, 42.6% more if you are a commercial customer, and 13.4% more if you are an industrial customer.

It now appears that if the Kansas City Power and Light (KCPL) acquisition is approved by the KCC, there will be a third service area with yet another set of rates. I do not believe that a single, regulated company operating in Kansas with one commonly owned set of assets, one set of stockholders, one base of electric generation that serves their entire grid, should be allowed to continue this unfair rate structure that penalizes so many thousands of individuals.

Thank you Mr. Chairman.

HOUSE UTILITIES
DATE: February 1, 1999
ATTACHMENT 1

CITY OF

WICHITA

TESTIMONY

to
House Utilities Committee
February 1, 1999

House Concurrent Resolution 5011

Western Resources Electric Rate Disparity

Western Resources operates as one integrated company, but divides its customers into different service areas, charging its customers in the KGE service area of the company more for electricity than it charges customers in the KPL service area of the company. The rate disparity is unfair because the Wolf Creek Nuclear Generating Station, which is the reason for the higher KGE rates, benefits all Western Resources customers and stockholders.

Western Resources officials claim that KPL customers don't receive any power from Wolf Creek. That's not true. Power for all Western Resources customers is dispatched from a central computer room in downtown Topeka. Wolf Creek is fired up first and used as the base load, then other plants are brought on line as needed. Electrons produced by Wolf Creek, or any other power plant, can't be controlled. Once they are produced, they travel along the wires to all Western Resources customers.

But don't take my word for it. This fact is confirmed by the Kansas Corporation Commission, which in it's 1997 rate reduction order stated the following:

"...the Wolf Creek Generating Station, which represents the highest fixed cost of all Western's assets, is dispatched first to serve the needs of Western's customers generally. However, costs associated with Wolf Creek are assigned exclusively to KGE. By assigning costs in this manner, Western has failed to consider the relative demands placed on Western by KGE and KPL customers and has failed to recognize that KPL customers are using and benefitting from KGE generation and transmission assets. Although Western's management has chosen to maintain KGE as a separate corporate entity, KGE and KPL are functionally operated as mere divisions of one integrated electric system."

HOUSE UTILITIES
DATE: February 1, 1999
ATTACHMENT 2

That statement, written by the agency of experts which regulates utilities, is crystal clear. But Western Resources executives have mastered the ability to twist and obscure the facts. Perhaps if they put as much effort into solving the problem as they do trying to explain why it exists, the problem could be solved.

Once the merger with Kansas City Power and Light is approved, Western Resources will own 94-percent of Wolf Creek. Yet, Western Resources will try to claim it is three separate companies and will want to have three separate rate structures. Charging one set of customers higher rates for something which benefits all customers, all stockholders and the company in general, is unfair and penalizes South Central and Southeastern Kansas.

The rate disparity must be addressed and resolved if Wichita is to meet its potential and promise. Based on calculations by the City of Wichita Finance Department, Wichita residents and businesses would have paid at least $500-million dollars less for electricity since 1993 had Western Resources treated its customers equally.

The City of Wichita wants Western Resources to be successful and profitable. The City of Wichita favors the success of the merged companies. In fact, it is the success of the merger which allows the rate disparity issue to be dealt with in a way which is fair and equitable for everyone.

With assistance from our technical and legal experts, the City of Wichita is preparing a plan for reaching rate parity. The concept of our plan is simple. It is based on four common sense principles:

Principle One: Western Resources is one company and should be treated as such.
Principle Two: All Western Resources customers should be treated equally.
Principle Three: Western Resources should treat customers with the same fairness and equality it treats stockholders.
Principle Four: All Western Resources customers should share in the merger savings, but those savings should be targeted so customers with the highest rate burden benefit first.

These four principles are amazingly simple, yet they are technically and economically sound. Will there be enough savings generated by the merger to fund the equalization of rates? It's too early to answer that question. The City of Wichita has experts diligently working toward that answer, as does the Kansas Corporation Commission. But, if Western Resources, the Kansas Corporation Commission and others with a role in this issue can agree these four basic principles should guide our actions, the problem of rate disparity can and will be resolved in a fair and equitable way which serves the best interests of Western Resources stockholders and customers.

CITY OF TOPEKA

Joan Wagnon, Mayor
215 S.E. 7th Street Room 352
Topeka, Kansas 66603
Phone 785-368-3895
Fax Number 785-368-3850

February 1, 1999

Commissioner John Wine, Chair
Commissioners Cynthia Claus and Brian Moline
Kansas Corporation Commission

Dear Commissioners:

Thank you for the opportunity to appear tonight on behalf of the citizens of Topeka regarding the proposed merger of Western Resources and Kansas City Power & Light (KCPL) into one company, Westar Energy. With me are members of the Topeka City Council who believe as I do, that the City of Topeka has benefited from the low rates for electric service which have been provided by Western Resources as well as the company's contributions to the life of our community. The proposed merger will also provide benefits, to Topeka and all of Westar customers and the communities it will serve. We are here to support the merger. We are also here to ask you to approve the merger in a manner which allows <u>all affected parties to share</u> in its financial benefits, and not just a few of its customers.

You probably heard some eloquent and persuasive arguments from Wichita Mayor Bob Knight -- and he certainly had a lot of petitions, judging from the photograph I saw in the Wichita Eagle. And quite frankly, with municipal elections approaching, it is a good issue to raise, if you're just looking at the politics of the situation.

But fortunately in this state we choose to keep the politics out of decision-making on sensitive and complex issues such as rate-making and utility regulation. We ask you to make your recommendations based on a thoughtful and careful examination of all the facts in a case.

I would like to make several points for you to consider in your deliberations.

1. <u>The proposed merger will create an opportunity for the merged company to be a viable and financially successful member of the community.</u> The benefits of the merger will be shared by Westar's investors and consumers. The trends in the utility industry toward retail wheeling mean that if we want to retain our Kansas-based utility, they must be able to compete with the larger companies We've seen the negative impact on community participation when banks no longer are locally-based. I don't want to see Topeka served by some out-of-state company with no local interests.

HOUSE UTILITIES
DATE: February 1, 1999
ATTACHMENT 3

1. Since the benefits of the merger will result from the economies associated with combining the three existing companies, any approach which allocates merger benefits to one group of communities to the exclusion of others would be unfair and inappropriate. The merger between KPL and KG&E was approved in 1991 and the disparate rates were addressed at that time. KPL customers were told they wouldn't have to pay for the Wolf Creek plant's higher costs. It wasn't fair then, and it wouldn't be fair now. ***Common sense and fairness would say all ratepayers should share in the savings generated by the merger***.

2. It is misleading to imply that rates could be both equalized and then communities could share the remainder. If, in fact, the KCC chose to equalize rates in the KG&E area by applying the savings there first, all the savings would be consumed and rates would still be higher. The merger is not an appropriate vehicle for rate parity.

3. Reasonable electric rates are central to economic development for cities. Western Resources' rates, as well as those of KGE and KCPL are below the national average. In recent years, the rates of all three companies have continued to decrease. Sharing merger savings with customers of Westar Energy will assist the economic development efforts of Topeka and all other communities served by the merged companies. The sooner the merger is approved, the sooner Topeka, and the other Westar communities can take advantage of even lower rates to attract new businesses and new jobs to their communities.

On behalf of the City of Topeka, I urge you to approve the merger in a manner which fairly allocates merger benefits and allows all the communities to benefit, not just one area.

Sincerely,

Joan Wagnon

Joan Wagnon, Mayor

State of Kansas

Senate Chamber

ANTHONY HENSLEY
STATE SENATOR, NINETEENTH DISTRICT
SHAWNEE, DOUGLAS & OSAGE COUNTIES

HOME ADDRESS:
2226 S.E. VIRGINIA AVENUE
TOPEKA, KANSAS 66605-1357
(785) 232-1944—HOME

Office of Democratic Leader

ROOM 347-N, STATE CAPITOL
TOPEKA, KANSAS 66612-1504
(785) 296-3245
1-800-432-3924

COMMITTEE ASSIGNMENTS
VICE CHAIRMAN: CONFIRMATIONS OVERSIGHT
MEMBER: EDUCATION
HEALTH CARE REFORM OVERSIGHT COMMITTEE
INTERSTATE COOPERATION
LABOR EDUCATION CENTER ADVISORY COUNCIL
LEGIS. COORDINATING COUNCIL
LEGIS. POST AUDIT
STATE FINANCE COUNCIL
UTILITIES
WORKERS COMPENSATION FUND OVERSIGHT

January 12, 1999

John Wine, Chairman
Kansas Corporation Commission
1500 S.W. Arrowhead
Topeka, Kansas 66604-4027

Re: Docket No. 97-SWRE-676-4027

Dear Chairman Wine:

As members of the Kansas Legislature, we would strongly urge the Commission not to use the Western Resources/Kansas City Power and Light (KCPL) merger proceeding as a venue for resolving the rate disparity between customers of Kansas Gas and Electric (KGE) and Kansas Power and Light (KPL). Mayor Bob Knight presented testimony to the Commission on January 4, 1999, supporting four principles and we would like to respond to each of them:

1. **Western Resources is one company and should be treated as such.**

Our response: KPL and KGE are separate corporations that have separate service territories, separate costs of service, separate rate structures, and separate long-term debt obligations that are supported by separate assets. It is not entirely clear what it means to treat Western Resources as one company, at least from a regulatory perspective, because KPL and KGE have always been treated as separate corporations in regulatory proceedings. Moreover, KGE's share of Wolf Creek is 547 MW. This capacity was intended for KGE customers, not KPL customers. Wolf Creek is a base load unit which is not even able to meet more than half of KGE customers' capacity demand on low usage days. If this principle is intended to mean that rates of KPL customer classes should be the same as those of KGE customer classes because Western Resources is one company, past regulatory and planning decisions do not support that interpretation.

HOUSE UTILITIES
DATE: February 1, 1999
ATTACHMENT 4

2. **All Western Resources customers should be treated equally.**

Our response: We define "equal treatment" as the equitable disposition of any benefits derived from a merger. As we indicated in our response to the first principle, KPL and KGE are two separate corporations for service and rate-making purposes. Therefore, it is too simplistic to suggest, for example, that KPL's residential customers pay the same rates as KGE's residential customers. In this merger proceeding, the Commission will be faced with a balancing act. The merger has to be financially viable for the company but *all* customers need to benefit from it. Any rate design which provides savings disproportionately to one class of customers at the expense of another will violate the "equal treatment" principle. Assuming the Commission approves the acquisition by Western Resources of Kansas City Power and Light (KCPL), any savings realized from that acquisition should accrue equally to all KPL, KGE, and KCPL customers within each customer class. Moreover, along those lines, we would strongly dissuade the Commission from increasing rates of KPL customers to offset any additional rate reductions that may be approved for KGE customers to ensure economic feasibility of the merger. Not only would such an action violate Mayor Knight's second principle, *as we define it*, but it would set a regulatory precedent for the treatment of stranded costs if and when electric restructuring is approved in Kansas. This means that KPL ratepayers potentially could be penalized twice – first in this proceeding and, second, in an electric restructuring docket. The ramifications of this type of cost shift could extend far beyond this proceeding – another reason for not resolving the rate disparity issue in this proceeding.

3. **Western Resources should treat customers with the same fairness and equality it treats stockholders.**

Our response: We agree with this principle.

4. **All Western Resources customers should share in the merger savings, but those savings should be targeted so customers with the highest rate burden benefit first.**

Our response: The fourth principle appears to contradict the second principle with which we agree if "equal treatment" is to be defined as the equitable disposition of any benefits derived from a merger. We certainly believe that all Western Resources customers should share in the merger savings but that "equal treatment" of any savings should be the prevailing principle. (Please see our response to the second principle.)

We appreciate your consideration of the points made in this letter.

Sincerely,

Anthony Hensley
Rocky Nichols

cc: Commissioner Cynthia Claus
Commissioner Brian Moline

4-2

The following Senators and Representatives agree with the information presented in this letter and wish to be considered as co-signors:

Senators
Senator Sandy Praeger, District 2
Senator Donald Biggs, District 3
Senator Mark Gilstrap, District 5
Senator Harry Stephens, District 17
Senator Marge Petty, District 18
Senator Anthony Hensley, District 19
Senator Alicia Salisbury, District 20 10
Senator Janice Hardenburger, District 21
Senator Don Steffes, District 35
Senator Larry Salmans, District 37

Representatives
Representative Sue Storm, District 22
Representative L. Candy Ruff, District 40
Representative Troy Findley, District 46
Representative Joann Flower, District 47
Representative Becky Hutchins, District 50
Representative Cindy Hermes, District 51
Representative Lynn Jenkins, District 52
Representative Dixie Toelkes, District 53
Representative Doug Mays, District 54 16
Representative Annie Kuether, District 55
Representative Nancy Kirk, District 56
Representative Vaughn Flora, District 57
Representative Rocky Nichols, District 58
Representative Joe Humerickhouse, District 59
Representative Vern Osborn, District 61
Representative Bruce Larkin, District, 62

Date: Wed 1-13-99

( )	Topeka Capital Journal	( )	Hays Daily News	( )	Olathe Daily News
( )	Wichita Eagle	( )	Hutchinson News	( )	Ottawa Herald
( )	Kansas City Star	( )	Iola Register	( )	Parsons Sun
( )	Chanute Tribune	( )	Johnson County Sun	( )	Pittsburg Morning Sun
( )	Dodge City Daily Globe	( )	Kansas City Kansan	( )	Salina Journal
( )	Emporia Gazette	( )	Lawrence Journal World	( )	Winfield Daily Courier
( )	Garden City Telegram	( )	Manhattan Mercury		

EDITORIALS

WESTERN RESOURCES

Promise must be kept

■ KPL customers were told they wouldn't pay for a merger with KG&E. Some 7 years later, it's in doubt.

When the merger of Topeka's Kansas Power and Light and Wichita's Kansas Gas and Electric was approved by the state in 1991, northeast Kansas customers of KPL had reason to be suspicious and fearful. KG&E's electric rates were 50 percent higher, after all, because the utility was burdened with the expensive-to-build Wolf Creek Nuclear Operating Facility.

KPL customers were patted on the head and told they had nothing to worry about.

Now, however, they do.

With the combined Western Resources' intent to acquire Kansas City Power and Light — the other major player in Wolf Creek — KG&E ratepayers in Wichita and elsewhere are taking the opportunity to cry for rate equalization with KPL customers.

Certainly the Kansas Corporation Commission, which must approve the merger, should look at lowering electric rates somewhat, perhaps as a condition of the merger. And you can understand why KG&E customers would want to be the first to get a break.

But both KPL and KCC officials made it clear that KPL ratepayers wouldn't be punished in the merger with KG&E by paying higher rates. And that promise should be iron-clad, even in the face of mounting political pressure for rate parity.

KPL invested wisely in building the coal-fired Jeffrey Energy Center. Some in the KG&E area would now use that against the company — which should outrage northeast Kansas customers of KPL.

The KCC also must be careful not to poison Western's merger with KCPL by requiring too much of the company's projected $904 million in savings over the next decade to be spent in reducing KG&E rates. That could eliminate the very reason for the merger.

KG&E customers presented some 85,000 signatures at a recent KCC hearing on the merger, seeking rate reductions down there.

It should be made clear, at a public hearing at 7 p.m. Tuesday at KCC headquarters, 1500 S.W. Arrowhead Road, that KPL customers expect that the promise made to them some seven years ago be kept — and that KG&E rates not be reduced on the backs of KPL customers.

If they are, then a lot of customers in the KPL area will blow a circuit.

3

4-4

Sunday, January 31, 1999

Topeka Capital-Journal

EDITORIALS

WESTERN RESOURCES

Parity? Not at this rate!

Gov. Bill Graves is to be commended for making it clear Friday that he doesn't want northeast Kansas utility customers to suffer in order to lower rates in Wichita and surrounding areas.

■ Northeast Kansans don't begrudge their neighbors rate equity. But not overnight — and not at the cost of this merger.

Electric rates in Topeka and northeast Kansas, in Western Resources' KPL service area, are about 32 percent cheaper than those in Western's KG&E service area in Wichita and environs because of expenses involved in the Wolf Creek Nuclear Power Plant down there. The KPL area is served by the coal-fired Jeffrey Energy Center.

But since the two divisions are owned by one company — Western Resources — ratepayers in Wichita led by Mayor Bob Knight are demanding rate parity.

Early last week, Gov. Graves said in a Wichita speech that rate parity "should be the top priority" in the Kansas Corporation Commission's consideration of Western's impending multimillion-dollar merger with Kansas City Power and Light.

On Friday in Topeka, Graves backed off that statement somewhat, saying that parity can't come at the expense of higher rates for northeast Kansans.

Good. At least as far as it goes.

Of course, even if northeast Kansas rates aren't raised, every dollar they are lowered in south-central Kansas is a dollar that could have lowered rates in both service areas. So even without raising KPL customers' rates, parity might come at their expense anyway.

Furthermore, it would be a huge mistake for everyone involved if rate parity was such a priority that it eats up much of the $900 million in projected savings from the merger over 10 years.

Fact is, it might eliminate the financial incentive for shareholders — and might sabotage the merger.

If that happens, everyone loses. Western is prevented from growing — in a business age in which you either swallow or get swallowed. That might make Western a takeover target by an out-of-state firm — endangering one of Topeka's largest and best corporate entities.

Lower rates for Wichita weren't what this business agreement was predicated on. Political pressure to do just that might blow the deal.

Parity is a reasonable goal. But it has to be achieved reasonably, not overnight. Northeast Kansans don't begrudge their neighbors rate equity. But not at this rate.

4-5

Comments Before the House Utilities Committee on HCR 5011
by David N. Dittemore, Director of Utilities
On Behalf of the Kansas Corporation Commission
February 1, 1999

Thank you, Mr. Chairman, for the opportunity to briefly address the Committee on House Concurrent Resolution No. 5011. There are several points I'd like to make concerning this resolution. In summary, while the KCC Staff does not oppose HCR No. 5011, it believes HCR No. 5011 duplicates current KCC responsibilities and is unnecessary.

The KCC already has the responsibility to ensure that utility rates are just and reasonable. The resolution calls for the Commission to determine whether the rate disparities are in the public interest. This public interest determination falls within the umbrella of the Commission's requirements that rates be just and reasonable and is therefore redundant.

The Commission has recently commented on the rate disparity between KGE and KPL in a 1996 rate decision in which it stated, "As a matter of policy the Commission believes that the pending rate case presents an opportunity to take an appropriate step in phasing in rate reductions to reduce the existing rate disparity between Western's customers, while quite conceivably, allowing the company to effectively become more competitive in a changing electric industry." This statement was made in the context of the Commissions decision to assign $65 Million of the total $75 Million rate reduction to KGE customers. Clearly, the Commission considered the public interest aspects of rate parity in reaching its rate case decision.

This Resolution indicates that the rate disparities are unfair. I disagree with that finding and suggest that KGE's rates today are less than they would have been without the merger between KGE and KPL. Thank you.

HOUSE UTILITIES
DATE: February 1, 1999
ATTACHMENT 5