

Approved: Carl Dean Holmes
Date 3-9-99

MINUTES OF THE HOUSE COMMITTEE ON UTILITIES.

The meeting was called to order by Chairman Carl Holmes at 8:08 a.m. on February 22, 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: Ed Schaub, Western Resources
Bruce Graham, KEPCo
Burton Crawford, KCPL
Jon Miles, KEC
Don Schnacke, KIO&GA

Others attending: See Attached List

Chairman Holmes announced that **HB 2399** will not be heard tomorrow as previously scheduled. The Chair also announced the committee would be working **HB 2400** and will consider **HB 2271** and **HB 2057** since they are similar bills.

Hearing on HB 2495 - Retail wheeling task force extended

The Chair recognized Ed Schaub, representing Western Resources, who presented testimony in favor of **HB 2495** (Attachment 1)

Bruce Graham, Vice President of Member Services & External Affairs for Kansas Electric Power Cooperative, Inc., next testified as a proponent of the bill (Attachment 2).

Burton Crawford, who is the Manager of Industry Restructuring issues for Kansas City Power & Light Company, testified in favor of **HB 2495** (Attachment 3).

The next proponent for the bill was Jon K. Miles, Director of Governmental Relations and Administration for the Kansas Electric Cooperatives, Inc. (Attachment 4).

Following testimony, conferees responded to questions from the committee.

Hearing on HB 2497 - Creation of Kansas energy commission to address state energy policy.

Chairman Holmes welcomed Donald P. Schnacke, representing the Kansas Independent Oil and Gas Association, who testified in favor of **HB 2497** (Attachment 5).

Ed Schaub, Western Resources, testified in opposition to **HB 2497** (Attachment 6).

The committee received written testimony (Attachment 7) from Steve Miller, Senior Manager for External Affairs of Sunflower Electric Power Corporation, which stated support for **HB 2495** and opposition to **HB 2497**.

The Chair pointed out to the committee copies of a letter received from Jim Ludwig, Western Resources, in response to a letter Rep. Sloan had received from Cobalt Boats in Neodesha (Attachment 8).

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON UTILITIES, Room 522-S Statehouse, at 8:08 a.m. on February 22, 1999.

HB 2400 - Electric generation facility siting act, applicable to only nuclear generation plants.

Rep. Sloan provided a proposed balloon amendment to **HB 2400** (Attachment 9). Rep. Sloan explained that the balloon does incorporate parts of **HB 2271**. Rep. Sloan moved to adopt the balloon to **HB 2400**. Rep. Loyd seconded the motion. After discussion, motion carried.

Rep. Loyd moved to strike the words "and resolve" from Section 11(b) of the adopted balloon. Rep. Johnson seconded the motion. Motion carried.

Rep. Sloan moved that the committee report **HB 2400** as amended favorable for passage. Rep. Loyd seconded the motion. Motion carried. Rep. Sloan will carry the bill.

Chairman Holmes announced that **HB 2399** will be rescheduled for after turnaround, that **HB 2496** and **HB 2482** will have hearings tomorrow and **HB 2495** and **HB 2045** will be worked by the committee. He also announced that the committee would meet at 9:00 a.m on Wednesday.

Meeting adjourned at 9:54 a.m.

Next meeting is Tuesday, February 23.

HOUSE UTILITIES COMMITTEE GUEST LIST

DATE: February 22, 1999

NAME	REPRESENTING
Don K Miles	KEC
GC Long	UCM
ED SCHAUB	WESTERN RESOURCES
Don Schumaker	ICOGA
BURTON CRAWFORD	KCPA
RON GACHES	McGill, Gaches & Associates
Rob Hodges	KTTA
Tom Gleason	Independent Telecom Group.
BOB ANDERSON	ARCOS ENERGY CORPORATION
WALKER HENDRIX	CURB
Dave Halthaus	Western Resources
John Frederick	Boeing
Mick Kern	Helm and West, Chtd.
BRUCE GRAHAM	KEPCO
JERRY LONGRAN	KEVP

HOUSE UTILITIES COMMITTEE GUEST LIST

DATE: February 22, 1999

NAME	REPRESENTING
K.S. Wall	Kansas Pipeline
LEE EISENHAUER	PROPANE MARKETERS ASSN OF KS
Sandy Braden	McMill, Shebas & Assoc.
Susan Duran	Issues Management Group
Joe Duke	BPU KCK
Wayne Kitchen	Western Resources
Larry Holloway	KCC
Jim Boyer	KCC
DICK CARTER	ENRON

Testimony
before the
HOUSE UTILITIES COMMITTEE
by
Ed Schaub, Representing
Western Resources
February 22, 1999

Chairman Holmes and members of the Committee:

Western Resources supports HB 2495. This bill would extend the life of the Retail Wheeling Task Force until April 18, 2000. The task force is to meet as necessary to review any proposed retail wheeling legislation and other issues and may make recommendations to the legislature.

We would recommend one change to this proposal starting on page 2 at Lines 12 - 14 where the bill indicates that only previous taskforce members will be allowed to continue in that role. Therefore, we recommend that HB 2495 be amended as necessary to allow a new representative to represent the statutory membership. If other members are no longer able to participate (e.g., if a member is no longer employed by the represented entity listed in Section 1), it seems appropriate that the entity be able to name a replacement.


HB 2495 also extends the prohibition on the Corporation Commission from authorizing retail wheeling until July 1, 2001. The current prohibition runs until July 1, 1999. This provision is acceptable to us. If circumstances change in a way that it is necessary to enact retail wheeling sooner, the legislature has full authority to strike down or adjust this provision.

Thank you for allowing us to appear.

HOUSE UTILITIES
DATE: 2-22-99
ATTACHMENT 1



Kansas Electric Power Cooperative, Inc.

A Touchstone EnergySM Partner 

Testimony on House Bill 2495

Before the House Utilities Committee -- February 22, 1999

Bruce Graham, KEPCo's Vice President, Member Services & External Affairs

The Kansas Electric Power Cooperative, Inc. (KEPCo) supports HB 2495 to extend the Retail Wheeling Task Force. The Task Force did extensive and thoughtful work between the summer of 1996 and the end of 1997. Many issues were thoroughly debated and resolved, yet as you heard in testimony about HB 2025, there is additional work to be done. If extended, the Retail Wheeling Task Force can reconvene as that working group during the time the Legislature is not in session. It should take a look at action in other states, review those experiences and adjust legislative recommendations, if necessary. In addition, if Congress enacts a retail wheeling measure this year, the Retail Wheeling Task Force would be in place to study that language and have recommendations ready for the next legislative session.

KEPCo was proud to be a member of the original Retail Wheeling Task Force. The Task Force contained an excellent cross-section of interested parties, not dominated by any particular viewpoint. Legislative representation was strong, provided excellent guidance, and represented the people of Kansas very well. Electric utility representatives ran the gamut from go, go, go to slow, slow, slow. Other Task Force members lobbied business, consumer, environmental and regulatory interests. Therefore, we support the provision maintaining the current Task Force membership, recognizing that some new appointments will have to be made by the members.

If the Retail Wheeling Task Force had not been successful in achieving its original charge, KEPCo would not be supportive of the HB 2495. However, as I testified last week, the accomplishments of the Retail Wheeling Task Force still lead many of our neighboring states exploring this topic.

- Oklahoma has approved the implementation of retail wheeling but left many decisions to be determined through a series of task force studies. In fact, some of those decisions were deemed important enough, such as a fair and equitable tax policy, that without a resolution the original law says retail wheeling should be delayed.
- Colorado set up much the same study structure as Kansas, appointing a 30-member task force to examine the impact of retail wheeling and a report is due to the Colorado Legislature in the fall of 1999. Colorado also commissioned an independent study similar in scope to the McFadden/RDI study authorized by the Kansas Task Force, a draft of which is due July 1.

HOUSE UTILITIES

Phone: 785/273-7010 • Fax: 785-271-4888 • Home Page: www.kepcokans.com DATE: 2-22-99
Mailing Address: P.O. Box 4877 • Topeka, Kansas 66604-0877 • Street Address:

ATTACHMENT 2

- Nebraska has established a task force and advisory board that is meeting regularly to review restructuring issues and has decided not to support any legislation in 1999.
- In Missouri, a joint interim committee has been studying the issue for two years and is not recommending action in 1999 to restructure the industry. They do hope to focus on tax related matters this year.

In closing, KEPCo supports the provisions of HB 2495. The Retail Wheeling Task Force provided a fair, open and thorough forum for everyone interested in this issue to be heard. If extended the Task Force will serve the state well.

Testimony of
Burton Crawford
Before
House Utilities Committee
HB 2495

February 22, 1999

Chairman Holmes and members of the Committee:

My name is Burton Crawford. I am Manager Industry Restructuring Issues for Kansas City Power & Light Company (KCPL). KCPL supports HB 2495 which would extend the retail wheeling task force until April 18, 2000. This bill authorizes the task force to meet as necessary to review legislation and make recommendations to the legislature regarding any such legislation.

Retail wheeling or retail competition for electric energy continues to be proposed and in some states implemented throughout the nation. The transition from regulated monopolies to competitive markets for supply of electric energy is an extremely complex process. To ensure a reliable supply of energy at reasonable prices will require continued monitoring and review of activities nationwide and careful evaluation of any proposed legislation on the reliability and price of energy in Kansas. The retail wheeling task force is a valuable resource to assist the legislature in this endeavor.

Thank you.

HOUSE UTILITIES

DATE: 2-22-99

ATTACHMENT 3

**Testimony of Jon K. Miles
Director, Governmental Relations and Administration
Kansas Electric Cooperatives, Inc.**

**on
HB 2495**

Submitted to the House Utilities Committee

Mr. Chairman and members of the Committee, I am Jon Miles, Director of Governmental Relations and Administration for Kansas Electric Cooperatives, Inc., the statewide association for twenty-nine distribution rural electric cooperatives and two generation and transmission cooperatives. Collectively, these systems provide power to over 316,000 Kansans.

I appreciate the opportunity to appear before you today to testify in support of House Bill 2495.

In my testimony last week on the Retail Wheeling Task Force Bill 2025, I testified to the need to continue the discussions and education of this issue in other states. A couple of issues raised that, in our opinion, are important lynch pins as to whether the restructuring debate moves forward include resolution of the tax issue and the manner in which competitive wholesale markets develop.

The tax issue was discussed by the task force but was left unresolved due to the sheer complexity of the issue. Several task force members indicated a lack of expertise in the area of state tax matters. It was felt that the Senate or House Tax Committee would best be suited to offer a solution.

Based on last summer's capacity problems, we feel that sufficient time needs to be given for competition in the wholesale market to more fully develop.

HOUSE UTILITIES

DATE: 2-22-99

ATTACHMENT 4

New trends and developments are continuing to occur at a rapid pace across the country. It is important to continue to review and consider proposed legislation and public utility commission action in other states. Kansas Electric Cooperatives feels that the task force embodies the broad range of interests required to continue a balanced study on restructuring the electric utility business in Kansas.

Thank you Mr. Chairman and members of the Committee, for allowing me to testify on this issue.



KANSAS INDEPENDENT OIL & GAS ASSOCIATION

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Testimony of Donald P. Schnacke
Before the House Committee on Utilities
February 22, 1999

Re: HB 2497 - The Creation of a Kansas Energy Commission.

My name is Don Schnacke. I am representing the Kansas Independent Oil and Gas Association, a 62 year old association representing the oil and gas industry in Kansas and its supporting services and suppliers. We are appearing in favor of the passage of HB 2497.

Our original reaction to HB 2497 was that this bill should have been passed several years ago. There is no real energy policy at the federal or state level throughout America that we know of. The creation of a Kansas Energy Commission will contribute to the development of meaningful energy policies in Kansas.

Governor Graves is currently serving as the Chairman of the Interstate Oil and Gas Compact Commission. The IOGCC is presently struggling with the development of a national energy policy that can be agreed to by the oil and gas producing states. A Kansas Energy Commission could contribute to this on going effort.

Oklahoma, not long ago, created a Department of Energy, which would appear to be close to the intent of what is expected to evolve out of HB 2497. The Oklahoma Department of Energy has played a prominent role in bringing into focus the current energy issues arising from low crude oil and natural gas prices in Oklahoma. There is no comparable voice or energy policy leadership in Kansas, except that which might arise on a limited basis from the KCC and the KGS.

Governor Graves in his message to the legislature indicated the Kansas oil industry was "devastated" and urged the legislature to develop policies and enact laws that will relieve this industry of its devastated economic plight. Unfortunately, there is no official follow through, like that proposed under HB 2497, that can take the lead and present an "official" position that the legislature can follow and rely upon.

We think a representative of the Kansas Geological Survey should serve on the Commission. KGS is the official voice for technical energy policy and study effecting the geology of Kansas, including that effecting crude oil, natural gas and coal - all important energy related activities in Kansas.

HOUSE UTILITIES

DATE: 2-22-99

ATTACHMENT 5

Testimony
before the
HOUSE UTILITIES COMMITTEE
by
Ed Schaub, Representing
Western Resources
February 22, 1999

Chairman Holmes and members of the Committee:

Western Resources is before you today in opposition to House Bill 2497. This bill raises several questions that are the reason for our opposition.

1. Western Resources believes the reference to K.S.A. 66-616 through 66-622 in Sec 4(f) is incorrect and should read K.S.A. 74-616 through 74-622.
2. This bill would create a new Kansas Energy Commission that appears to duplicate some of the duties of the KCC. (See section 4 on page 2, lines 29-43). This proposed new commission will be responsible for making recommendations for energy policy on natural gas, oil and oil derivatives, coal, nuclear energy, electric energy, and every other energy resource. Yet the funding pursuant to Section 5 will only come from electric customers.
3. Section 5 of the bill provides the funding mechanism for this new commission at \$0.0001 (one-hundredth of a cent) per kWh of electricity sold and paid by customers. Currently Western Resources pays approximately \$1.7 million dollars in assessments as our share in funding the KCC. We estimate that the tax proposed in this bill will raise an additional \$1.7 million from our customers alone. We think this additional tax is excessive. Attached to my testimony today is a table indicating the additional cost electric customers would incur.

Western Resources understands the need to provide information on energy policy to the Legislature, the Governor's office and state agencies. We, however, recommend that the idea of a Kansas Energy Commission be studied further, and that the Retail Wheeling Task Force should be the group to conduct this study and make a recommendation to the next session of the legislature.

Thank you for this opportunity to appear before you today.

HOUSE UTILITIES
DATE: 2-22-99
ATTACHMENT 6

Impact of HB 2497

	Average Monthly Usage	Additional Monthly Cost to Consumer	Additional Annual Cost To Consumer
Residential	750	\$ 0.08	\$ 0.96
Small Commercial/Industrial	25,000	\$ 2.50	\$ 30.00
Larger Commercial/Industrial	300,000	\$ 30.00	\$ 360.00
Largest Industrial	25,000,000	\$2,500.00	\$30,000.00

From: "Steve Miller" <smiller@sunflower.net>
To: "'House Utilities Committee'" <joc-w@house.state.ks.us>
Date: 2/19/99 4:25PM
Subject: HB 2495 & HB 2497

February 19, 1999

Chairman Carl Holmes
House Utilities Committee
Kansas House of Representatives

Dear Chairman Holmes:

We are unable to provide testimony in person to the Committee on Monday regarding HB 2495 and HB 2497. We did, however, want to provide you with our position regarding these bills.

Sunflower would favor passage of HB 2495. The reason we take this position is simple. As was reported last week, the Retail Wheeling Task Force met for 36 days and developed a comprehensive piece of legislation that represented a compromise of all the members of the Task Force. HB 2495 would continue this group as an advisory body serving to review proposals and to make recommendations to the Legislature. Given the complex nature of the utility business, we continue to believe that this group represents all stakeholders and can provide valuable assistance to those of you who must make the final decision as to what, if any, changes should be made to the electric industry in Kansas.

I can't resist requesting that you consider an amendment to this bill that would see the Task Force hold at least one of its meetings in western Kansas.

As for HB 2497, we do not believe that the Kansas Energy Commission is an entity that needs to be created. By our calculations (using the EIA data provided by Larry Holloway in his testimony on HB 2025), the total cost to Kansas consumers would be approximately \$3.3 million annually. In our view, the responsibility for policy formation is correctly vested with the Governor and the Legislature. We strongly believe that Kansas does not need another government entity to add to the cost of power in Kansas.

We would point out that this bill assesses a new tax on electricity, but fails to tax any other energy source. Given the fact that we are approaching a new competitive environment^{3/4}one where other energy sources may compete against electricity, we would strongly urge the Committee to tax all energy sources if it feels the need to move this bill for passage.

We appreciate the opportunity to convey these thoughts to you and the Committee.

Steve Miller
Senior Manager, External Affairs
Sunflower Electric Power Corporation

HOUSE UTILITIES

DATE: 2-22-99

ATTACHMENT 7



JIM LUDWIG
Executive Director, Regulatory Affairs

February 18, 1999

House Utilities Committee Members
Kansas Legislature
522-S
State Capitol

Dear Chairman Holmes and House Utilities Committee Members:

I was dismayed during the House Utilities Committee meeting Tuesday, February 9, when I heard described Mr. Schuessler's letter to Representative Sloan. I have attached a copy of his letter. Mr. Schuessler works for Cobalt Boats Company. I had no knowledge of his situation until that time, had not seen his letter, and was not familiar with Cobalt Boats.

I have since had the matter investigated. Mr. Schuessler's letter would lead one to believe that KGE is Cobalt Boats' energy provider. This is not true. Cobalt Boats is not our customer. The firm is located in Neodesha, which is a municipal electric provider. Cobalt Boats is a customer of the municipality, not KGE.

Neodesha is a wholesale customer of KGE, and is an example of one of the types of wholesale customers I discussed in my testimony before the House Utilities Committee Monday, February 8. Neodesha has a generator that the city brings on line when KGE is reaching peak demand conditions. During non-peak periods, we sell electricity to the city, but we have no business relationship with the city's retail customers. They are not our customers. As a wholesale customer, Neodesha is interruptible in the same way some of our retail customers are interruptible. Their price is lower than the price firm customers pay. It's a trade off of reliability for lower price, feasible for Neodesha because it has its own generation.

Mr. Schuessler's letter indicates that Cobalt Boats experienced intermittent black-outs. As I mentioned to the Committee, none of our firm retail customers were involuntarily interrupted or blacked out during the crisis of this past summer. Since Cobalt Boats is not our customer, I do not know what might have caused its service to be interrupted.

Finally, I haven't been able to trace the remarks Mr. Schuessler attributes to someone from KGE that he should be glad he is not located in Colorado. It appears Mr. Schuessler is making a reference to black-outs in Colorado. When we discuss the black-outs in Colorado, our intent is not to be callous. I, too, mentioned to the Committee that some customers in Colorado

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HOUSE UTILITIES

DATE: 2-22-99
ATTACHMENT 8

House Utilities Committee Members
February 18, 1999
Page 2

experienced rolling black-outs. I was not suggesting that black-outs there diminished the gravity of the situation we experienced here. My point was that the problems experienced were widespread and not unique to Kansas.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jim".

JJL/mkv
attachment



send a letter customer

COBALT BOATS

Dear Sir,

I am writing you regarding the recent power outages in the area. I will not protest to any regulation and/or appropriation of utilities within our state. I would, however, like to express my concerns regarding the potential shortage of utilities, especially electric power, that could damage the success of our company.

Cobalt Boats is a Kansas based company located in Neodesha, KS. For over 30 years we have produced high quality pleasure boats sold throughout the world. We employ approximately 450 people with an annual payroll in excess of \$10 million dollars.

Last summer we not only experienced intermittent "black-outs", which cost us \$5,000.00 per hour in lost wages when employees were waiting for the electricity to resume, but we also lost sales revenue due to our production being sold out for our fiscal year. To my further dismay, I found out this fall we were one to two days away from experiencing a major "brown-out" of perhaps several days.

While attending a Southeast Kansas business forum, I asked what our provider, KG&E was doing to insure that service was available and the answer I received was I should be glad I was not located in Colorado.

Gentlemen, I can assure you If we cannot expect a reasonable supply of electricity to operate our business, we will not move to Colorado! We'll probably move to Missouri.

Sincerely

Jim Schuessler
Director of Operations
COBALT BOATS

dc

c:\plant\js-elec.ltr

PROPOSED AMENDMENT TO H.B. ~~2271~~ 2400

New Sec. 10. The department of health and environment and the chief engineer of the division of water resources of the department of agriculture shall consolidate all hearings by the department or the chief engineer related to the siting or construction of any physical plant to be used for the production or generation of electricity or electric power.

Sec. 11. K.S.A. 66-1,182 is hereby amended to read as follows: 66-1,182. (a) The provisions of this act shall not apply to:

(1) Any electric transmission line to be constructed solely on an easement where there currently exists one or more electric transmission lines if the easement is not within the corporate limits of any city or within three miles outside the corporate limits of any city.

(2) any electric utility which complies with the provisions of the national environmental policy act of 1969 with regard to the siting of electric transmission lines.

(b) An electric utility may negotiate to construct an electric transmission line on right-of-way of another electric utility. If the two electric utilities cannot reach an agreement regarding construction of such line, the commission shall mediate and resolve the dispute.

(c) No environmental study shall be required for construction of an electric transmission line on right-of-way where there currently exists one or more electric transmission lines.

Sec. 12. K.S.A. 1998 Supp. 66-104 is hereby amended to read as follows: 66-104. (a) The term "public utility," as used in this act, shall be construed to mean every corporation, company, individual, association of persons, their trustees, lessees or receivers, that now or hereafter may own, control, operate or manage, except for private use, any equipment, plant or generating machinery, or any part thereof, for the transmission of telephone messages or for the transmission of telegraph messages in or through any part of the state, or the conveyance of oil and gas through pipelines in or through any part of the state, except pipelines less than 15 miles in length and not operated in connection with or for the general commercial supply of gas or oil, and all companies for the production, transmission, delivery or furnishing of heat, light, water or power. No cooperative, cooperative society, nonprofit or mutual corporation or association which is engaged solely in furnishing telephone service to subscribers from one telephone line without owning or operating its own separate central office facilities, shall be subject to the jurisdiction and control of the commission as provided herein, except that it shall not construct or extend its facilities across or beyond the territorial boundaries of any telephone company or cooperative without first obtaining approval of the commission. As used herein, the term "transmission of telephone messages" shall include the transmission by wire or other means of any voice, data, signals or facsimile communications, including all such communications now in existence or as may be developed in the future.

(b) The term "public utility" shall also include that portion of every municipally owned or operated electric or gas utility located outside of and more than three miles from the corporate limits of such municipality, but nothing in this act shall apply to a municipally owned or operated utility, or portion thereof, located within the corporate limits of such municipality or located outside of such corporate limits but within three miles thereof except as provided in K.S.A. 66-131a, and amendments thereto.

(c) Except as herein provided, the power and authority to control and regulate all public utilities and common carriers situated and operated wholly or principally within any city or principally operated for the benefit of such city or its people, shall be vested exclusively in such city,

HOUSE UTILITIES

DATE: 2-22-99

ATTACHMENT 9

subject only to the right to apply for relief to the corporation commission as provided in K.S.A. 66-133, and amendments thereto, and to the provisions of K.S.A. 66-131a and K.S.A. 1998 Supp. 66-104e, and amendments thereto. A transit system principally engaged in rendering local transportation service in and between contiguous cities in this and another state by means of street railway, trolley bus and motor bus lines, or any combination thereof, shall be deemed to be a public utility as that term is used in this act and, as such, shall be subject to the jurisdiction of the commission.

(d) The term "public utility" shall not include any activity of an otherwise jurisdictional corporation, company, individual, association of persons, their trustees, lessees or receivers as to the marketing or sale of compressed natural gas for end use as motor vehicle fuel.

(e) The term "public utility" shall not include any activity of an otherwise jurisdictional entity as to the generation, marketing and sale of electricity generated by a nonnuclear electric generation facility construction no portion of which is included in the rate base of: (A) An electric public utility that is subject to rate regulation by the state corporation commission; (B) any cooperative, as defined by K.S.A. 17-4603 and amendments thereto, or any nonstock member-owned cooperative corporation incorporated in this state; or (C) a municipally owned or operated electric utility.

New Sec. 13. (a) As used in this section, "independent power producer property" means property used solely in the generation, marketing and sale of electricity generated by an electric generation facility no portion of which is included in the rate base of: (1) An electric public utility that is subject to rate regulation by the state corporation commission; (2) a cooperative, as defined by K.S.A. 17-4603 and amendments thereto, or a nonstock member-owned cooperative corporation incorporated in this state; or (3) a municipally owned or operated electric utility.

(b) For all taxable years commencing on or after July 1, 1999, independent power producer property is commercial and industrial property for the purposes of taxation of real property and tangible personal property.

Sec. 14. K.S.A. 79-5a01 is hereby amended to read as follows: 79-5a01. (a) As used in this act, the terms "public utility" or "public utilities" shall mean every individual, company, corporation, association of persons, lessees or receivers that now or hereafter are in control, manage or operate a business of:

- (1) A railroad or railroad corporation if such railroad or railroad corporation owns or holds, by deed or other instrument, an interest in right-of-way, track, franchise, roadbed or trackage in this state;
- (2) transmitting to, from, through or in this state telegraphic messages;
- (3) transmitting to, from, through or in this state telephonic messages;
- (4) transporting or distributing to, from, through or in this state natural gas, oil or other commodities in pipes or pipelines, or engaging primarily in the business of storing natural gas in an underground formation;
- (5) generating, conducting or distributing to, from, through or in this state electric power;
- (6) transmitting to, from, through or in this state water if for profit or subject to regulation of the state corporation commission;
- (7) transporting to, from, through or in this state cargo or passengers by means of any vessel or boat used in navigating any of the navigable watercourses within or bordering upon this state.

(b) The terms "public utility" or "public utilities" shall not include: (1) Rural water districts established under the laws of the state of Kansas; or (2) any individual, company, corporation,

association of persons, lessee or receiver owning or operating an oil or natural gas production gathering line which is situated within one county in this state and does not cross any state boundary line; or (3) any individual, company, corporation, association of persons, lessee or receiver owning any vessel or boat operated upon the surface of any manmade waterway located entirely within one county in the state; or (4) for all taxable years commencing on or after July 1, 1999, the business of generating, marketing and selling electricity generated by a nonnuclear electric generation facility no portion of which is included in the rate base of: (A) An electric public utility that is subject to rate regulation by the state corporation commission; (B) a cooperative, as defined by K.S.A. 17-4603 and amendments thereto, or a nonstock member-owned cooperative corporation incorporated in this state; or (C) a municipally owned or operated electric public utility.