Approved: Carl Dean Holmes
Date 4-29-99

MINUTES OF THE HOUSE COMMITTEE ON UTILITIES.

The meeting was called to order by Chairman Carl Holmes at 9:14 a.m. on March 5, 1999 in Room 522-S of the Capitol.

All members were present except: Rep. Mary Compton
Rep. Don Dahl
Rep. Gene O'Brien

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

Conferees appearing before the committee: Rob Hodges, KTIA
Glenda Cafer, KCC

Others attending: See Attached List

Hearing on HB 2351 - Telephone companies prohibited from charging for unlisted numbers

Rep. Douglas Johnston (D-92nd District) presented an overview and history of **HB 2351**. Rep. Johnston is the author of the bill.

Rob Hodges, President of the Kansas Telecommunications Industry Association, testified in opposition to **HB 2351** (Attachment 1).

Following his testimony, Mr. Hodges responded to questions from the committee.

Hearing on HB 2119 - Time limit on corporation commission action in rate cases.

Glenda L. Cafer, General Counsel for the Kansas Corporation Commission, presented testimony in opposition to **HB 2119** (Attachment 2).

HB 2322 - Utility billings in different formats for visually impaired or blind person

Rep. Sloan moved to reconsider **HB 2322**. Rep. McClure seconded the motion. Motion carried. Rep. Sloan moved to accept Substitute for **HB 2322** (Attachment 3). Rep. M. Long seconded the motion. Motion carried. Rep. Sloan moved that **Substitute for HB 2322** be recommended favorable for passage. Rep. M. Long seconded the motion. Motion carried.

Rep. Sloan distributed copies of a letter sent by Western Resources to Kansas shareholders from David C. Wittig, Chairman of the Board, President and Chief Executive Officer (Attachment 4).

Meeting adjourned at 10:20 a.m.

Next meeting is Monday, March 8.

HOUSE UTILITIES COMMITTEE GUEST LIST

DATE: March 5, 1999

NAME	REPRESENTING
J.C Long	UCU
Whitney Damron	Empire District Electric Co.
Patrick D. Hurley	KCPL
Rob Hodges	KTLA
ED SCHAUB	WESTERN RESOURCES
Dave D. HEMORE	KCC
Glenda Cafer	KCC
DAVE Heinemann	KCC
TOM DAY	KCC
BRUCE GRAHAM	KEPCo
Jon K. Miles	KCC
W. Holtzman	Western Resources
L. Ferguson	AP
Beth Cannuteson	Sprint PCS
~~Heinemann~~	~~KCC~~

HOUSE UTILITIES COMMITTEE GUEST LIST

DATE: 3-5-99

NAME	REPRESENTING
Doug Lawrence	SWBT
Mike Lura	CURB

KTIA

Kansas Telecommunications Industry Association 700 SW Jackson St., Suite 704, Topeka, KS 66603-3758 V/TTY 785-234-0307 FAX 785-234-2304

Legislative Testimony

Before the House Committee on Utilities

HB 2351 March 5, 1999

Mr. Chairman, members of the committee, I am Rob Hodges, President of the Kansas Telecommunications Industry Association. Our membership is made up of local telephone companies, long distance companies, wireless telecommunications companies, and firms and individuals that provide service to and support for the telecommunications industry in Kansas.

HB 2351 would prohibit a telecommunications public utility from charging a fee to a customer who requests an unpublished phone number. KTIA members oppose enactment of this bill.

Current practice in Kansas for "non-published numbers" is for the telephone company to charge the requesting customer a monthly fee for the service. Historically, the Kansas Corporation Commission approved tariffs permitting telephone companies to charge customers for withholding publication of the customer's number in the local telephone directory. This remains the case for rate-of-return regulated telephone companies today. Price cap regulated companies have more flexibility in setting prices for "non-pub service."

Regardless of the type of regulation chosen by the company, revenue from "non-pub service" makes up a portion of the income stream of some telecommunications public utilities. That income stream would be eliminated if HB 2351 was enacted. The companies would have to decide whether to seek replacement revenue.

For rate of return companies, that could mean a filing with the KCC seeking a change in the rates for other services. For price cap companies, enactment of HB 2351 could mean adjustments in the prices charged for other services within the appropriate price basket. In either case, the revenue derived from "non-pub service customers" would come from other customers. KTIA members question if it is the desire of the Legislature to shift the cost onto customers who have not requested the service.

Thank you for the opportunity to present our opposition to enactment of HB 2351. I will attempt to answer your questions.

HOUSE UTILITIES
DATE: 3-5-99
ATTACHMENT 1

TESTIMONY ON HB 2119
GLENDA L. CAFER
GENERAL COUNSEL
KANSAS CORPORATION COMMISSION
MARCH 5, 1999

KSA 66-117 presently provides that the Kansas Corporation Commission (KCC) can suspend an application filed by a utility company for up to 240 days. If the KCC has not rendered a decision by the 240th day, the proposed change contained in the application is deemed approved and becomes effective. The KCC has recently interpreted this language to mean that, after 240 days, the proposed change becomes effective and the KCC **can not** issue a decision on the application after that date.

In reviewing suspension statutes of other states, there is a very critical difference between their provisions and the provisions of KSA 66-117, as interpreted by the KCC. The suspension statutes in a number of other states allow the suspension of an application for varying periods of time (180 days in Oklahoma, 300 days in Missouri). However, if the suspension period passes without a decision being rendered by their commission, these other statutes clearly state that the requested change in the application may go into effect, **but only until the commission issues its decision. Some states even provide that the proposed change goes into effect at the option of the applicant subject to refund, based upon the decision finally rendered by the commission on the application**. This difference between the suspension statutes in many other states, and the Kansas suspension statute as interpreted by the KCC, is critical in protecting the public and establishing the reasonableness of the time period allowed a commission for issuing an order on a docket.

When a utility files an application, the commission conducts an investigation to determine if the proposal is fair to the ratepayers of the company. The commission is there to protect the public interest. If the time to conduct that investigation is shortened to the point that a thorough investigation can not be completed by the commission, it directly harms ratepayers. Placing an unreasonably short deadline on the commission will have the effect of reducing the quality of the commission's investigation and decision, especially in highly complex cases. It must be kept in mind that the KCC has no control over the number of applications filed with the agency and, thus, has no ability to keep its work load at a particular level where a shorter deadline can be met. Furthermore, the KCC does not have complete control over the speed at which a docket might proceed, since an applicant can delay the process by not cooperating with discovery, and a large number of interveners can cause a docket to slow down as we provide all parties with the due process to which they are entitled.

If the KCC's suspension statute was similar to other state's, as discussed above, a shorter suspension period would cause less concern. In other states where the suspension period ends without an order being issued so that an application is considered effective only until the

commission issues its decision, the harm to consumers is particularly limited, especially if the interim rate collected by the utility is subject to refund based upon the commission's ultimate decision. However, in Kansas, the "deemed approval" is considered the final action in the docket and can lock in proposals which are highly detrimental to ratepayers for long periods of time. As such, the KCC can not let the suspension period run without an order so as to adequately complete their investigation. The KCC **has** to finish the investigation and issue an order before the suspension period runs or the harm to ratepayers is severe and irrevocable.

Finally, the KCC has a very good record of completing a great majority of the applications filed with the agency well before the expiration of the 240 day time line. As such, a shortening of that deadline seems unnecessary. The cases which take 240 days are usually highly contentious and complex, and frequently involve many parties. In most cases, when the 240 days is taken it is because it is needed, not because the KCC is failing to be diligent in its responsibilities. It should be pointed out that, the generic investigations conducted by the KCC which are the ones about which we have received complaints regarding the time taken to complete them, are not subject to KSA 66-117 to begin with, so the amendment in HB 2119 would have no effect on them.

The KCC would welcome amendments to KSA 66-117 which would modify the statute so that the expiration of the suspension period would only allow the application to go into effect subject to refund until the KCC issues its decision. If such a modification is made, the reduction in time from 240 to 180 would be less problematic. However, the KCC is opposed to reducing the time period without other modifications which would help to protect Kansas ratepayers.

I am unsure as to why HB 2119 would remove the ability for an applicant to voluntarily waive the 240 time limit. There are circumstances where an applicant might prefer to waive its rights in this regard as opposed to having its application dismissed, causing it to have to refile. The KCC opposes this aspect of HB 2119.

I have attached the suspension statutes of Missouri, Arkansas, Oklahoma, and Colorado for your information.

Arkansas

93-383) and to have their governing bodies exercise any and all powers conferred on Housing Authorities and Urban Renewal Agencies, including but not limited to, eminent domain; redevelopment activities; housing; public housing; urban renewal; and community development in its broadest sense."

SECTION 3. That Section 3 of Act 163 of 1975 is hereby amended to read as follows:

"Section 3. Powers granted to municipalities and counties herein are supplemental and in addition to all other powers of municipalities and counties. Nothing in this Act shall be construed as changing, limiting, or otherwise affecting the powers of any existing Housing Authority, Urban Renewal Agency, or their Commissions."

SECTION 4. It is hereby found and determined by the General Assembly that the United States Congress has adopted the Community Development Act of 1974 which provides that the governing bodies of municipalities and counties shall be responsible for community development; and, whereas, cities are already working on their applications on this program and the State law must be clarified in order for Arkansas counties as well as cities and towns to participate in this federal program. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate protection of the public peace, health and safety and this Act shall take effect and be in full force and effect upon its passage and approval.

APPROVED: February 11, 1976.

73-217

2-3

ACT 1181

AN ACT to Amend Section 18 of Act 324 of 1935, as Amended, [Ark. Stats. 73-217], to Provide for Approval of Utility Rates; and for Other Purposes.

Be It Enacted by the General Assembly of the State of Arkansas:

SECTION 1. Section 18 of Act 324 of 1935, as amended, the same being Ark. Stats. 73-217, is hereby amended to read as follows:

"Section 18. (a) Unless the Commission otherwise orders, no public utility shall make any change in any rate now in force or which shall hereafter have been duly established under this Act, except after thirty (30) days notice to the Commission, which notice shall plainly state the changes proposed to be made in the rates then in force, and the time when the changed rates will go into effect. The utility shall also give notice of the proposed changes to other interested parties as the Commission in its discretion may direct. All proposed changes shall be shown by filing new schedules, or shall be plainly indicated upon schedules filed and in force at the time and kept open to public inspection. The Commission, for good cause shown, may allow changes in rates without requiring the thirty (30) days notice, under such conditions it may prescribe. All such allowed changes shall be immediately indicated upon its schedules by such public utility.

(b) Whenever there is filed with the Commission

by any public utility any schedule stating a new rate or rates, the Commission may, either upon complaint or upon its own motion, upon reasonable notice, enter upon an investigation concerning the lawfulness of such rate or rates; and pending such investigation and the decision thereon the Commission, upon delivering to the utility affected thereby a statement in writing of its reasons therefor, may at any time before said new rate or rates become effective suspend the operation of said rate or rates, but not for a longer period than ninety (90) days beyond the time when such rate or rates would otherwise go into effect unless the Commission shall find that a longer time will be required for the investigation, in which event the Commission may extend the period of suspension for not to exceed six (6) months; provided, however, that if the public utility contends that an immediate and impelling necessity exists for the requested rate increase, a petition may be filed with the Commission narrating such alleged circumstances, which petition must be set for hearing within fifteen (15) days from the date of the filing thereof or to such subsequent time as may be mutually agreeable to the Commission and the utility, and if the Commission finds at such hearing that there is substantial merit to the allegation of the utility's claims, said Commission may permit all or a portion of said rate to become effective under the following conditions: That there shall be filed with the Commission a bond to be approved by it, payable to the State of Arkansas in such amount and with such sufficient security to insure the prompt payment of any damages or refunds to the persons entitled thereto if the rate or rates so put into effect are finally determined to be excessive; or there may be substituted for such bond other arrangements satisfactory to the Commission for the protection of the parties interested. Provided, further, that in the event no final rate determination has been made upon the schedule of new rates within a period of 150 days from the date the new schedule was filed with the Commission, then notwithstanding any suspension order by the Commission, the public utility may put such suspended rate or rates into effect immediately upon the filing of a bond to be approved by the Commission payable to the State of Arkansas in such amount and with sufficient security to insure the prompt payment of any refunds to the persons entitled thereto including an interest rate as determined by the Commission not to exceed ten percent (10%) per annum, if the rate or rates so put into effect are finally determined to be excessive, or there may be substituted for such bond other arrangements satisfactory to the Commission for the protection of the parties interested.

(c) If, after such investigation and hearing thereon, the Commission finds such new rates to be unjust, unreasonable, discriminatory, or otherwise in violation of the law, or rules of the Commission, it shall determine and fix the just and reasonable rate or rates to be charged or applied by the utility for the service in question, from and after the time said new rate or rates took effect, and in the same order the Commission shall fix the amount or amounts plus interest, if any, to be refunded to the consumer of such service and collected by the said utility during the time such new rate or rates were in effect.

(d) If the public utility fails to make refund within thirty (30) days after the effective date of such

2-4

§ 151. Public utility defined—Exemption of nonprofit water and sewer corporations—Washington County—Authority of certain beneficiaries to condemn property

Cross References

Assessment upon public utilities, public utility defined as provided in this section, see Title 17, § 180.11.

§ 152. Commission's jurisdiction over public utilities—Examination of requests for review of rates and charges

A. The Commission shall have general supervision over all public utilities, with power to fix and establish rates and to prescribe and promulgate rules, requirements and regulations, affecting their services, operation, and the management and conduct of their business; shall inquire into the management of the business thereof, and the method in which same is conducted.

B. 1. When any public utility subject to general supervision pursuant to this section or to Section 158.27 of this title shall file with the Commission a request for review of its rates and charges, such request shall be given immediate attention.

2. In the exercise of this responsibility, the Commission shall complete any examination of such request for a review of its rates and charges within one hundred twenty (120) days from the date such application for review of its rates and charges is filed.

3. Public hearings on such matter must commence within forty-five (45) days of the end of such examination to be conducted by the Commission and in no event shall the conclusion of such examination of the rates and charges and the hearing conducted by the Commission exceed one hundred eighty (180) days from the date the request was filed.

4. If such request for review of the applicant's rates and charges has not been completed and an order issued within one hundred eighty (180) days from the date of filing of such application, some or all of the request for changes in the rates, charges, and regulations made in such application shall be immediately placed into effect and collected through new tariffs on an interim basis at the discretion of the applicant.

5. Should the Commission determine upon the completion of its examination and public hearings that a refund regarding the amount of interim relief is appropriate and necessary, the Commission shall order such refund including reasonable interest at the one-year U.S. Treasury bill rate accruing on that portion of the rate increase to be refunded for a period not to exceed ninety (90) days from the effective date of the rate increase which is being refunded.

C. The Commission shall have full visitorial and inquisitorial power to examine such public utilities, and keep informed as to their general conditions, their capitalization, rates, plants, equipments, apparatus, and other property owned, leased, controlled or operated, the value of same, the management, conduct, operation, practices and services; not only with respect to the adequacy, security and accommodation afforded by their service, but also with respect to their compliance with the provisions of this act,[1] and with the Constitution and laws of this state, and with the orders of the Commission.

Amended by Laws 1993, c. 231, § 2, emerg. eff. May 26, 1993; Laws 1994, c. 315, § 6, eff. July 1, 1994.

[1] Title 17, § 151 et seq.

Cross References

Discovery requests, responses, see Title 17, § 281.

Rate increase applications, effect given to known and measurable changes, see Title 17, § 261.

Telephone utilities, rate reviews conducted in accordance with this section, see Title 17, § 137.

United States Supreme Court

Takings clause, public utilities, cost of construction as part of rate base, see Duquesne Light Co. v. Barasch, U.S.Pa.1989, 109 S.Ct. 609, 488 U.S. 299, 102 L.Ed.2d 646.

Notes of Decisions

3. In general

Oklahoma Corporation Commission's (OCC) power to regulate is not unfettered, but must be exercised only within confines of State Constitution and existing statutes. Public Service Co. of Oklahoma v. State ex rel. Corp. Com'n ex rel. Loving, Okla., 918 P.2d 733 (1996).

6. Jurisdiction

Corporation Commission is not court of general jurisdiction and cannot enter money judgment against any party, nor does Commission have jurisdiction over case involving liability of public utility for tortious and wanton acts of negligence resulting in damages beyond its expertise. Fent v. Oklahoma Natural Gas Co., Div. of Oneok, Inc., Okla.App., 804 P.2d 1146 (1990), certiorari denied.

29. Rebates or refunds

Oklahoma Corporation Commission (OCC) had state constitutional and statutory authority to enforce its rules through remedy of refund, in proceeding in which Commission granted manufacturing customer refund for overpayment for electric service, arising from electric utility's delay in switching customer to requested lower rate, despite contention that case was one involving entering of money judgment against party; Commission was more than proper forum for relief, it was sole forum for customer to seek relief in rate dispute. Public Service Co. of Oklahoma v. Norris Sucker Rods, Okla.App., 917 P.2d 992 (1995), rehearing denied, certiorari denied.

Oklahoma Corporation Commission (OCC) is sole forum in which utility customer can seek relief in rate dispute. Public Service Co. of Oklahoma v. Norris Sucker Rods, Okla.App., 917 P.2d 992 (1995), rehearing denied, certiorari denied.

Oklahoma Corporation Commission (OCC) exercises exclusive jurisdiction over utility refunds and reparations. Public Service Co. of Oklahoma v. Norris Sucker Rods, Okla.App., 917 P.2d 992 (1995), rehearing denied, certiorari denied.

Oklahoma Corporation Commission (OCC) did not abuse its powers when it awarded interest on refund, in proceeding in which Commission granted manufacturing customer refund for overpayment for electric service, arising from electric utility's delay in switching customer to requested lower rate, where Commission decided as a matter of policy it would be best to charge interest for this rule violation. Public Service Co. of Oklahoma v. Norris Sucker Rods, Okla.App., 917 P.2d 992 (1995), rehearing denied, certiorari denied.

Broad supervisory authority granted to Oklahoma Corporation Commission (OCC) by state constitution and statutes in area of utility rate refunds includes power to award interest. Public Service Co. of Oklahoma v. Norris Sucker Rods, Okla.App., 917 P.2d 992 (1995), rehearing denied, certiorari denied.

31. Rehearing

Southwestern Bell Tel. Co. v. State, Okla., 181 Okla. 246, 71 P.2d 747 (1937), appeal dismissed 58 S.Ct. 528, 303 U.S. 206, [main volume] 62 L.Ed. 751.

§ 153. Implied and incidental powers of Commission—Contempt

Notes of Decisions

1. Construction and application

Oklahoma Corporation Commission (OCC) had state constitutional and statutory authority to enforce its rules through remedy of refund, in proceeding in which Commission granted manufacturing customer refund for overpayment for electric service, arising from electric utility's delay in switching customer to requested lower rate, despite contention that case was one involving entering of money judgment against party; Commission was more than proper forum for relief, it was sole forum for customer to seek relief in rate dispute. Public Service Co. of Oklahoma v. Norris Sucker Rods, Okla.App., 917 P.2d 992 (1995), rehearing denied, certiorari denied.

RETAIL ELECTRIC SUPPLIER CERTIFIED TERRITORY ACT

§ 158.21a. Provisions of Act in conflict or inconsistent with Constitution—Amendment to Constitution

If this act,[1] or any provision hereof is, or may be deemed to be, in conflict or

40-6-111 - Hearing on schedules - suspension - new rates - rejection of tariffs.

(1) (a) Whenever there is filed with the **commission** any tariff or schedule stating any new or changed individual or joint rate, fare, toll, rental, charge, classification, contract, practice, rule, or regulation, the **commission** has power, either upon complaint or upon its own initiative and without complaint, at once, and, if it so orders, without answer or other formal pleadings by the interested public utilities, but upon reasonable notice, to have a hearing concerning the propriety of such rate, fare, toll, rental, charge, classification, contract, practice, rule, or regulation if it believes that such a hearing is required and that such rate, fare, toll, rental, charge, classification, contract, practice, rule, or regulation may be improper.

(b) Pending the hearing and decision thereon, in the case of a public **utility** other than a rail carrier, such rate, fare, toll, rental, charge, classification, contract, practice, rule, or regulation shall not go into effect; but the period of **suspension** of such rate, fare, toll, rental, charge, classification, contract, practice, rule, or regulation shall not extend beyond one hundred twenty days beyond the time when such rate, fare, toll, rental, charge, classification, contract, practice, rule, or regulation would otherwise go into effect unless the **commission**, in its discretion, and by separate order, extends the period of **suspension** for a further period not exceeding ninety days.

(c) (I) Pending the hearing and decision thereon in the case of a rail carrier, the **commission** may suspend a proposed rate, classification, rule, or practice during the course of a **commission** proceeding under this section upon petition and in accordance with 49 U.S.C. 10707 and the regulations promulgated by the **commission** thereunder, and only when it appears from the specific facts shown by the verified statement of a person that:

(A) It is substantially likely that the protestant will prevail on the merits of its challenge to the rate change;

(B) Without **suspension**, the proposed rate change will cause substantial injury to the protestant or the party represented by the protestant; and

(C) Because of the peculiar economic circumstances of the protestant, the provisions of subparagraph (III) of this paragraph (c) do not protect the protestant.

(II) The burden shall be on the protestant to prove the matters described in sub-subparagraphs (A), (B), and (C) of subparagraph (I) of this paragraph (c).

(III) The **commission** may by rule or regulation provide for: Carrier refunds to shippers, including interest, when a rate increase is subsequently found unreasonable; carrier assessments on shippers, including interest, when a suspended rate increase is subsequently found reasonable; and carrier refunds to shippers when a suspended rate decrease is subsequently found reasonable. Such rules or regulations shall be in conformance with 49 U.S.C. 10707.

(2) (a) If a hearing is held thereon, whether completed before or after the expiration of the period of **suspension**, the **commission** shall establish the **rates**, fares, tolls, rentals, charges, classifications, contracts, practices, rules, or regulations proposed, in whole or in part, or others in lieu thereof, which it finds just and reasonable. In making such finding in the case of a public

Missouri Revised Statutes

Chapter 393
Gas, Electric, Water, Heating and Sewer Companies
Section *393.150*

August 28, 1998

Commission may fix rates after hearing--stay increase--burden of proof.

393.150. 1. Whenever there shall be filed with the commission by any gas corporation, electrical corporation, water corporation or sewer corporation any schedule stating a new rate or charge, or any new form of contract or agreement, or any new rule, regulation or practice relating to any rate, charge or service or to any general privilege or facility, the commission shall have, and it is hereby given, authority, either upon complaint or upon its own initiative without complaint, at once, and if it so orders without answer or other formal pleading by the interested gas corporation, electrical corporation, water corporation or sewer corporation, but upon reasonable notice, to enter upon a hearing concerning the propriety of such rate, charge, form of contract or agreement, rule, regulation or practice, and pending such hearing and the decision thereon, the commission upon filing with such schedule, and delivering to the gas corporation, electrical corporation, water corporation or sewer corporation affected thereby, a statement in writing of its reasons for such suspension, may suspend the operation of such schedule and defer the use of such rate, charge, form of contract or agreement, rule, regulation or practice, but not for a longer period than one hundred and twenty days beyond the time when such rate, charge, form of contract or agreement, rule, regulation or practice would otherwise go into effect; and after full hearing, whether completed before or after the rate, charge, form of contract or agreement, rule, regulation or practice goes into effect, the commission may make such order in reference to such rate, charge, form of contract or agreement, rule, regulation or practice as would be proper in a proceeding initiated after the rate, charge, form of contract or agreement, rule, regulation or practice had become effective.

2. If any such hearing cannot be concluded within the period of suspension, as above stated, the commission may, in its discretion, extend the time of suspension for a further period not exceeding six months. At any hearing involving a rate sought to be increased, the burden of proof to show that the increased rate or proposed increased rate is just and reasonable shall be upon the gas corporation, electrical corporation, water corporation or sewer corporation, and the commission shall give to the hearing and decision of such questions preference over all other questions pending before it and decide the same as speedily as possible.

(RSMo 1939 § 5647, A. 1949 H.B. 2165, A.L. 1967 p. 578)

Prior revisions: 1929 § 5191; 1919 § 10479

(1960) A tax adjustment provision providing for apportionment of city gross receipts tax to purchasers of steam service held to constitute a "rule * * * or practice" relating to rates subject to approval of the commission. State ex rel. Hotel Continental v. Burton (Mo.), 334 S.W.2d 75.

(1976) Rate increases are properly sought by utilities under the "file and suspend" method and this is true whether or not current rates had been set by the "file" method or fixed by order of the commission after a hearing. State ex rel. Jackson County v. Public Service Commission (Mo.), 532 S.W.2d 20.

1999

9rsl194

Substitute for HOUSE BILL NO. 2322

By

AN ACT concerning visually impaired or blind persons; relating to billing procedures for certain services.

Be it enacted by the Legislature of the State of Kansas:

Section 1. Upon request of a visually impaired or blind customer, any provider of sewer, water, electric, gas, telecommunications or cable television service, or any provider of two or more of such services, whether public or private, shall provide the customer's bills, indicating usage and the amount owed, in the customer's choice of one of the following formats: Braille, print of not less than 24-point type or audio. The provision of such bills in an alternative format shall be at no additional charge to the customer making the request.

Sec. 2. This act shall take effect and be in force from and after January 1, 2000, and its publication in the statute book.

HOUSE UTILITIES

DATE: 3-5-99

ATTACHMENT 3

Western Resources®

David C. Wittig
Chairman of the Board,
President and Chief Executive Officer

February 23, 1999

Dear Kansas Shareholder,

As you may have noticed, there have been several news stories concerning Western Resources in recent weeks. Although you will be receiving our 1998 annual report later this spring, I want to share some information with you, our shareholders in our home state of Kansas. It is you who follow our fortunes most closely and it is you who know our commitment to our state. Most of you are customers and others of you will soon be customers once our merger with KCPL is completed.

On January 27, we announced year-end earnings of $2.10 per common share excluding one-time items. The one-time items included charges resulting from our decision to exit the international power development business in order to concentrate on our consumer services businesses: electricity, gas and security.

Our number one focus in 1999 is to complete the merger with KCPL, creating Westar Energy. However, there are individuals trying to derail the merger by forcing changes that we believe would hurt our shareholders and our customers.

This argument primarily stems from a misrepresentation of our operations by certain individuals in the Wichita area. Simply put, while it is perfectly acceptable for a chain of grocery stores to charge different prices at different stores they own throughout Kansas... and it is okay for *The Wichita Eagle* to charge different advertising rates than *The Kansas City Star* even though both are owned by Knight-Ridder... in some peoples' minds it is somehow wrong for KGE customers to pay more for electricity than KPL customers.

Let me once again set the record straight. Before KPL completed its merger with KGE, the customers in Wichita and the entire KGE service area were facing the probability of a $50 million rate increase. This increase would have been on top of rates that were already 10% above the national average. Because of the merger, that rate increase was shelved.

Since the merger, KGE customers have benefited from an additional $65 million in rate reductions and another $23 million in rebates. That number includes another rate <u>decrease</u> already set for KGE customers in June, 1999. These rate reductions were possible <u>only</u> through the savings from the KPL/KGE merger and the anticipated savings with our merger with KCPL. In total, KGE customers have seen their rates go from 10 percent above the national average to 10 percent <u>below</u> it.

We are proud of KGE's record. It is even more remarkable that these rate reductions have occurred in spite of the high cost of building the Wolf Creek nuclear plant. Customers of both KGE and KCPL (who together own 94% of Wolf Creek) and the Kansas Electric Power Cooperative (the 6% owner), are still paying for its construction under the plan approved by the Kansas Corporation Commission. In fact, a key point of the KPL/KGE

HOUSE UTILITIES

DATE: 3-5-99

ATTACHMENT 4

customers would not pay for Wolf Creek. Therefore, we set the utilities up separately with separate rate bases because it was both the right thing to do and a plan the public supported.

Now, some people are seeking to change that understanding by claiming that KPL customers use Wolf Creek power. That claim is not true. This power was built for and serves KGE, KCPL and KEPCo. There are no power lines leaving Wolf Creek that go to the KPL service territory.

The rate reductions implemented in anticipation of savings from the KCPL merger have reduced Western Resources' earnings per share by over 0.75¢/share. The decision to freeze our dividend at $2.14 reflects the utility earning less money than it did three years ago.

Now, some individuals are trying to extract more money from either shareholders or KPL customers in the merger approval process. In fact, in a recent article in the *Wichita Business Journal*, Mayor Bob Knight said, "...the solution is to quit trying to privatize the profits."

We will fight this effort. If they are successful in making the KCPL merger uneconomical, we will walk away from the transaction. That will prevent our shareholders, and KCPL shareholders, from getting the benefits of a new, stronger electric operation. That will prevent customers from benefiting from the economies of scale that only Western Resources can realize from this merger. That will ultimately mean higher rates for KGE customers. It also may ultimately mean more outside power companies will enter the area, sending profits to companies outside Kansas. These companies won't care about Kansas, Kansas jobs, or its civic and charitable needs.

We think that as a Western Resources shareholder, as a consumer, and as a Kansan, that it is in your interest to help us fight this effort to distort our strong record. We are proud of what we have done. However, no Kansas company is safe if such demagoguery goes unchallenged.

Write the Kansas Corporation Commission. Send a letter to your state senator or state representative or the Mayor of Wichita. Don't allow our efforts to be mis-characterized in conversations. Talk to people you know who can help. Give them the message that we have an outstanding consumer record and a commitment to Kansas. Tell them that such irresponsible efforts to distort that record by holding our merger hostage need to stop.

We have arranged an opportunity for you to express your opinion directly to your state lawmaker. Simply call toll-free 1-800-437-5422 between now and March 15. Provide your name and complete address on the recording so we can identify your representative. Then tell us what it is you want your lawmaker to know about this attempt to undermine Western Resources. We will have the letter prepared and sent directly to the senator or representative in Topeka.

Together, we have been through a great deal to make Western Resources a regionally and nationally recognized, innovative company. Together, we can continue working to make Western Resources a great success story.

Thank you for your support.

Sincerely,

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