

Approved: Jan. 27, 1999  
Date

MINUTES OF THE SENATE UTILITIES COMMITTEE.

The meeting was called to order by Chairperson Sen. Pat Ranson at 1:30 p.m. on January 20, 1999 in Room 531-N of the Capitol.

All members were present except:  
Sen. Hensley was excused

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

Conferees appearing before the committee:  
David Dittmore, Director of Utilities, Kansas Corporation Commission

Others attending:  
See attached list

Sen. Ranson called members attention to a state- by-state electricity restructuring activity outline (Attachment 1), from the American Public Power Association, which is available to members by contacting Jeanne Eudaley. Lynne Holt distributed copies of Mr. Brown's Review on Electrical Restructuring, (Attachment 2), which was presented to the committee yesterday.

The Kansas Corporation Commission's Report to the Legislature on Internet Access (available from the Kansas Corporation Commission) was presented to the committee. Sen. Brownlee made a motion the committee accept the Report, and it was seconded by Sen. Clark; the motion passed.

Sen. Ranson called on David Heinemann, who introduced members of the Kansas Corporation Commission staff to the committee.

Sen. Ranson then introduced David Dittmore, who briefed the committee on major cases (open dockets), which are either pending before the Commission or those in which an order has recently been issued (Attachment 3). Committee members discussed several cases with Mr. Dittmore. Sen. Brownlee questioned him regarding the Sunflower Electric Cooperative application and the change in power contracts, and Sen. Clark discussed the reduction of rates to the average ratepayer and how much it would be. Sen. Morris questioned the case involving the distribution of Kansas Ad Valorem Tax Refunds from interstate pipeline companies to Kansas direct sales customers and the case involving a request by KN Interstate Gas Company to increase rates for wholesale transportation of natural gas for local distribution. Sen. Steffes questioned Mr. Dittmore regarding a Complaint by Farmland against Western Resources regarding interrupted service during peak periods in the summer of 1998. Sen. Brownlee referred to the "one-call" legislation passed last session and the possibility of changes to it, and Sen. Ranson stated the committee will revisit the last two issues at a later date.

Meeting adjourned at 2:30.

Next meeting will be January 21.

# SENATE UTILITIES COMMITTEE GUEST LIST

DATE: JAN. 20, 1999

NAME	REPRESENTING
JC Long	UCU
Jon Miles	KCC
Charles Cleb	SWBT
Mike Cavell	SWBT
Kevin J. Martin	Cass Co. Tex.
Anne Wickliffe	KCC
Glenda Carter	KCC
Leslie Kaufman	Ks Farm Bureau
Dave D. Hemore	KCC
BOB ALDERSON	ATMOS ENERGY CORP.
Doug Smith	SWKROA
Derek A. Blaylock	intern for Teresa Sittenauer
Kathy Valentine	SRS - LIEAP
Mark Doljac	KCC
Larry Holloway	KCC
Jim Ludwig	WESTERN RESOURCES
Susan Duran	Issues Management Group
DICK CARTER	ENRON
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## American Public Power Association

The service organization for the nation's 2,000 community owned, locally-controlled, not-for-profit electric utilities

# The Electric Utility Industry

This chart covers major restructuring efforts by the legislature and regulatory commission of each state. Governors have signed restructuring legislation into law in several states.

**NOTE:** States in *italic* indicate that restructuring legislation has been enacted or a final restructuring order has been approved by the state regulatory commission. Click on state links for a full legislative summary.

Our **restructuring activity map** presents a graphical overview of legislative and regulatory progress across the U.S.

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<p><b>Alabama</b></p>	<p>Governor signed HB 350 on May 6, 1996. It ensures that if a retail customer switches suppliers that stranded investment charges can be imposed.</p>	<p>The PSC granted an additional 90-day extension (beyond the original 2-month extension) to the deadline for submitting initial comments on electric restructuring for the state to January 11. The Alabama Municipal Electric Authority, among others, had requested an additional 120 extension to submit views on market power issues to the Commission. (ALPSC, (LEAP Letter Vol. 3-5)</p>
<p><b>Alaska</b></p>	<p>A special study committee was formed in May and began hearings in August aimed at developing recommendations for possible action in the 1999 session. Questions have increased about the ability of the committee to finish work in time for the beginning of the session. Public</p>	<p>The Public Utilities Commission started a regulatory docket in 1997 (R-97-10) to explore the future structure of the electric utility industry.</p>

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	Hearings will continue throughout the rest of this year. (LEAP Letter Vol. 3-5)	
<b><u>Arizona</u></b>	On May 29, 1998, the governor signed HB 2663 which calls for IOU and Salt River Project customers to be offered choice from 1999 to 2001. City of Mesa has an opt-out provision. All other public power has opt-in provisions.	On December 1, the State Supreme Court agreed to a request by the Arizona Attorney General to delay ACC hearings that would finalize price reductions and settlements for Tucson Electric Power and Arizona Public Service Co., allowing retail competition to begin January 1. On December 10, 1998 the Arizona Corporation Commission voted to permanently approve the start of competition on January 1, 1999, but in reality, competition will not start until the hearings, which will begin later in January, are completed. Meanwhile, the SRP Board agreed to implement a 5.4 percent rate reduction effective December 31, 1998 for customers that choose to keep their bundled service with SRP once competition begins. (Energy Central, SRP and APS News Releases)
<b>Arkansas</b>	The legislature adopted SCR 24 on March 28, 1997 calling for the Joint Insurance and Commerce Committee to study if retail choice should be implemented and when. The committee reports back to the assembly in 1999.	In October 1998, the PSC finalized a report on restructuring the state electric utility industry that recommends the Legislature pass a law allowing retail competition for generation to begin no later than January 1, 2002. PSC Chairman Lavenski Smith told the Arkansas House and Senate Insurance and Commerce Committee in late November that it

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		was in the state's "best interest" to move in the direction of restructuring next year in order to end the near monopoly status of Entergy. (AR PSC website; Electricity Daily 12/1/98)
<b><u>California</u></b>	<p>California voters opposed changes to the state electric restructuring law by rejecting Proposition 9 by nearly a three-to-one margin: 73.4 percent to 26.6 percent.</p> <p>AB 1890 was signed on Sept. 23, 1996 requiring retail choice by Jan. 1998 (later delayed to Apr. 1998), a 10% rate reduction for small IOU customers, among other items. Public power has opt-in provisions. Consumer protection bill SB 477 was enacted in 1998.</p>	<p>The Public Utilities Commission issued a restructuring policy decision in Dec. 1995. On Mar. 26, 1998, the CPUC adopted a new set of rules designed to protect small customers. (Docket No. 98-03-072)</p>
<b><u>Colorado</u></b>	<p>The Legislature's Electricity Advisory Panel begins a series of five official seminars exploring the state's electric industry and issues involved with restructuring on November 20. The panel is not due to issue its final report until November 1, 1999, well after the 1999 Legislative Session is over. (LEAP Letter Vol. 3-5)</p>	<p>The Public Utility Commission released its "Stakeholders' Views on the Future Structure of Colorado's Electric Utility Industry" in Dec. 1996. It was submitted to the state legislature in Jan. 1997. The Commission will act as technical staff for SB 152's restructuring study.</p>
<b><u>Connecticut</u></b>	<p>Governor signed HB 5005 on Apr. 29, 1998. It calls for a 10% rate cut and customer choice to begin Jan. 1, 2000 and be completed in July 2000.</p>	<p>The DPUC opened 7 additional dockets as a part of the regulatory implementation of the state restructuring law, including Docket 98-07-04: Promulgation of Regulations for Municipal Electric</p>

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<b>Delaware</b>	The 1998 Delaware legislative session ended without Senate action on HB 570, an electric utility industry restructuring bill which had passed the House earlier in the Spring.	The Public Service Commission issued a restructuring report on Jan. 27, 1998, in response to 1997's HR 36. They recommended that all customers have choice.
<b>District of Columbia</b>	Non applicable.	The staff of the Public Service Commission issued a report recommending a 2-year pilot choice program to begin on January 1, 2001. The PSC is expected to issue an order soon on competition in the District. (LEAP Letter Vol. 3-5)
<b>Florida</b>	Senator Crist introduced SB 1888 on Mar. 5, 1998, but it died without a hearing.	No current activity.
<b>Georgia</b>	No current activity.	The Public Service Commission staff released a report on Jan. 23, 1998 recommending that the state not rush into restructuring.
<b>Idaho</b>	The state legislative study commission looking into restructuring issued a draft report 12/5/98 which recommends against state action on restructuring and that the legislature only support the creation of pilot projects in Eastern Idaho. Issues of particular concern are historically low rates, opposition to federal legislation and water rights and river operations. (National	The Public Utilities Commission initiated a restructuring proceeding on July 2, 1997 as required by HB 399. In further response, the PUC opened an unbundling investigation in Feb. 1998.

	Journal; Idaho Falls Post Register)	
<b>Illinois</b>	<p>HB 362, the state restructuring bill, was signed, on Dec. 16, 1997. It calls for rate cuts, direct access beginning Oct. 1999 with full access for all customers by May 2002.</p> <p>Public Power received a customer choice opt-in provision.</p>	Residential customer rate decreases went into effect August 1, 1998; other portions of a residential consumer's bill will not be affected by the reductions. The ICC continues to study and revise standards for issues such as reliability and unbundling.
<b>Indiana</b>	Executive representatives from the state's five investor-owned utilities continue to meet through the summer in an effort to overcome differences on possible deregulation legislation for the 1999 legislative session.	On Mar. 27, 1998, the State Utility Forecasting Group completed a study for the Indiana Utility Regulatory Commission on electric deregulation.
<b>Iowa</b>	The interim legislative Deregulation and Restructuring of the Electric Utility Industry Study Committee has held four of the five anticipated meetings before finalizing a report to the Legislature recommending action for the 1999 Session. A group of eight stakeholders, composed of the Iowa Association of Municipal Utilities, Iowans for Choice in Electricity (ICE), the Iowa Association of Electric Cooperatives, MidAmerican Energy, Alliant, the Iowa Community Action Association, the Office of Consumer Advocate, and the Iowa Utilities Board is trying to reach consensus on draft legislation. (Committee Website/Meeting Minutes)	The Iowa Utilities Board restructuring staff report in Feb. 1997 recommended continued monitoring of the issue.



	In April 1998, the legislature passed SF 2416 which replaces the current property tax assessment with an excise tax on electricity and natural gas.	
<b>Kansas</b>	The Special Committee on Assessment and Taxation has been meeting throughout the Fall and reviewing the tax consequences of retail-wheeling in Kansas in order to assist in answering questions that arose during the 1998 Legislative Session debate on electric utility restructuring. (LEAP Letter Vol. 3-5)	The Kansas Corporation Commission opened a restructuring inquiry in Jan. 1996. The National Regulatory Research Institute produced a report for the Commission in Sept. 1997 – An Assessment of Retail Competition in Kansas.
<b>Kentucky</b>	The Special Task Force on Electricity Restructuring continues meeting throughout the Fall, working toward the goal of submitting legislative recommendations by November 15, 1999.	No current activity.
<b>Louisiana</b>	On Apr. 7, 1998 HJR 95 and HJR 89 were signed. The Electric Restructuring Task Force will report its findings by Nov. 15, 1999 and the Utility Tax Policy Task Force will report by Dec. 1, 1999	On September 1, 1998, the PSC ordered cost-of-service studies and unbundling of rates as a part of the continuing study of the effects of competition on the state's electric industry. (LEAP Letter Vol. 3-5)
<b><u>Maine</u></b>	The Governor signed restructuring legislation, LD 1804, on May 29 1997, which provides for customer choice by March 2000. LD 2018 was signed on Mar. 31, 1998. It allows customer-owned utilities to purchase power through their own competitive bidding process as long as their cost is no greater than	On July 1, 1998, the Maine PUC announced the formation of a public advisory panel, the Electricity Retail Choice Consumer Education Advisory Board, to advise the Commission on the development and implementation of a consumer education program about electricity retail access.

	the standard offer obtained by the commission.	
<b>Maryland</b>	HB 10, a bill to establish holding companies and later amended to offer customer choice by July 2000, passed the Senate, but the legislative session ended before the House could take up the amended version.	On October 9, 1998, Allegheny Power Company, Delmarva Power and Light and PEPCO filed suit to prevent the further implementation of the PSC's restructuring order from December 1997, indicating that legislative action is required to resolve tax, stranded cost and consumer protection issues. (LEAP Letter Vol. 3-5)
<u>Massachusetts</u>	<p>Massachusetts voters opposed changes to the state electric restructuring law by approving Ballot Question 4 by nearly a three-to-one margin: 71 percent to 29 percent.</p> <p>On Nov. 25, 1997, electric restructuring bill HB 5117/SB 2025 was signed. It provided for customer choice to begin on Mar. 1, 1998. Customers received a rate 10% reduction.</p> <p>In July 1998, the State Supreme Court assured a vote in November on a repeal referendum by rejecting a challenge to the signatures collected to put a measure on the state ballot rescinding the electricity deregulation law passed last year.</p>	The Department of Telecommunications and Energy is planning to conduct a two-month--\$2 million--restructuring educational campaign in 1998.
<b>Michigan</b>	A heavily amended deregulation bill passed the state Senate on 12/3/98 but died in the House of Representatives, which declined to take action on the bill before the session ended 12/11/98. Bill sponsors have	On June 30, 1998, Detroit Edison and Consumers Energy filed restructuring plans with the PSC. These plans await approval by the Commission and FERC, but both would speed up the pace of choice in the state. Under both plans,

	<p>promised another try in the 1999 session, when Republicans will control both the House and Senate. (Reuters, National Journal)</p>	<p>selected large industrial and commercial customers would be able to choose their supplier by the end of 1998; smaller and medium sized businesses and some residential consumers would be able to choose over a phased in schedule during 1999 until all consumer had choice by Jan. 1, 2002.</p>
<p><b>Minnesota</b></p>	<p>The Minnesota Senate Subcommittee on Electric Energy Deregulation held a hearing on October 13, 1998 to gauge views of federal restructuring legislation and the potential impact on Minnesota. Among those testifying at the hearing was Dan Adamson of the US Department of Energy and Scott DeFife of APPA. The Legislative Electric Energy Task Force (LEETF) also continues to conduct hearings on issues related to restructuring, but is unlikely to report that legislative action should be taken in 1999. (LEAP Letter Vol.3-5)</p> <p>On Apr. 9, 1998, HF 3654, an electric utility industry restructuring study bill, was signed. The study will be conducted by the Legislative Electric Energy Task Force and technical work groups who will prepare a report for the legislature by each Jan. 15<sup>th</sup>.</p>	<p>Various stakeholder groups have been working with the Public Utility Commission and the Department of Public Service on issues ranging from reliability to stranded investment.</p> <p>On Apr. 11, 1996, the Commission revised its principles and action steps regarding electric utility retail competition.</p>
<p><b>Mississippi</b></p>	<p>No current activity.</p>	<p>On June 17, 1998, the PSC released a Revised Proposed Transition Plan for Retail Competition in the Electric Industry after 8 months of</p>

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		review and comment. The Commission will continue to gather information and conduct hearings on specific issues outlined in the Revised Plan.
<b>Missouri</b>	<p>The Interim Joint Committee on Telecommunications and Energy Sources continues to meet to review issues related to electric utility restructuring as well as a PSC Retail Competition Task Force report on restructuring. (LEAP Letter Vol.3-5)</p> <p>Restructuring bill SB 728 was introduced Jan 12, 1998, which states that by Jan. 1, 2000, electric generation shall be deregulated and subject to the competitive market.</p>	The Public Service Commission's Retail Competition Task Force submitted its final restructuring report in May 1998. They recommended that choice be implemented only if it benefits all customer classes..
<u>Montana</u>	Restructuring legislation (SB 390) was enacted May 2, 1997. It calls for choice from July 1998 through July 2002.	The PSC continues to meet on issues related to implementation of the state's restructuring law. Most recently, the PSC has been reviewing the terms and conditions of the sale of PacificCorp's Montana facilities to Flathead Electric Co-op. (LEAP Letter Vol.3-5)
<b>Nebraska</b>	The Natural Resources Committee's task force will complete its final report on deregulation in Dec. 1999.	Non applicable.
<u>Nevada</u>	On July 16, 1997, restructuring bill AB 366 was signed which requires customer choice by Dec. 31, 1999.	<p>The Public Utilities Commission continues implementation of AB 366. (Mar/Apr98) on June 4, 1998 the PUC ruled that billing, metering, and customer service may be provided by alternative sellers.</p> <p>On July 15, 1998, the PUC set forth a schedule</p>

		for considering issues related to establishment of an Independent System Administrator (ISA) and called for a series of workshops and comments by involved parties for resolution in September.
<b><u>New Hampshire</u></b>	On May 7, 1998, the House approved SB 341, a bill that gives the PUC authority to delay a retail choice start date beyond July 1, 1998.	<p>The 1<sup>st</sup> U.S. Circuit Court of Appeals in Boston ruled in favor of a lower court ruling that prevents the New Hampshire PUC from implementing its deregulation plan because of the case filed by Public Service Company of NH arguing that the restructuring plan would force it into bankruptcy. (National Journal)</p> <p>The Federal court trial on the state's restructuring efforts has been further delayed until February 1999 at the request of the parties so that they can complete trial preparation. (LEAP Letter Vol.3-5)</p>
<b><u>New Jersey</u></b>	Negotiations over the recently introduced restructuring bills aimed at providing competition by June 1, 1999 have been delayed until January. Governor Whitman, who wanted passage of the legislation in 1998, continues to press for quick action, but it is taking longer to reach a bipartisan consensus on issues such as aggregation and timetables. (PMA OnLine; Newark Star-Ledger 12/13/98)	<p>The BPU has imposed a six month delay for implementing customer choice. BPU is saying that by April 1999 customers could begin to select their power supplier and begin to phase in choice, with choice hopefully being available to all by the end of the year. Full implementation by July 2000 is still being targeted.</p> <p>The Board of Public Utilities issued its final restructuring policy</p>

	<p>Identical bills were introduced in the Assembly and Senate (A10 and S5) in September aimed at restructuring the electric industry in New Jersey. The bills provide a legislative remedy for problems identified as the NJ Board of Public Utilities attempted to institute competition through regulatory changes. As drafted, the bills would institute electricity choice as of June 1, 1999; provide substantial stranded cost relief; exempt existing municipal utilities from the bill; and institute rate reductions for default customers who do not choose a new supplier for up to three years. Governor Christine Todd Whitman has stated that she would like to see legislation pass before the end of the year, but environmental and consumer groups have serious reservations with the legislation. (LEAP Letter Vol. 3-5; National Journal Nov. 18)</p>	<p>decision on in Apr. 1997. It called for choice to begin Oct. 1998, though by Spring 1998, choice was at least a year away because of implementation steps needed.</p>
<p><b>New Mexico</b></p>	<p>The Interim Utilities and Telecommunications Review Committee December 1, 1998 unanimously endorsed a draft bill authored by the committee Chairman, State Senator Michael Sanchez. Sanchez plans on introducing the legislation at the start of the 1999 session in January. The draft staggers the implementation of competition, allowing</p>	<p>In one of its final acts, the PUC November 30, 1998 ordered Public Service Co. of New Mexico (PNM) to cut rates by 10 percent in January and to open its transmission lines to a single competitor, Residential Electric. The rate cut is to eventually increase to 18 percent by 2001. Court challenges are expected to delay the implementation of this order, and the outcome</p>

	<p>schools and universities to choose their supplier starting January 1, 2000, residential customers a year later, and all other customers by January 1, 2002. The legislation exempts municipal utilities from competition unless they opt-in by selling outside their traditional service territory. (Albuquerque Journal; Bond Buyer)</p> <p>The Utilities and Telecommunications Interim Review Committee continues hearings around the state on electric utility restructuring through August. Reports indicate that Senator Michael Sanchez, Chairman of the interim committee, plans to release a draft restructuring bill for the 1999 session that would phase in competition over 3 or 4 years, with residential consumers having choice before industrial and commercial interests.</p>	<p>is unclear, especially because the appointed PUC ceases operation at the end of 1998 and is replaced by the newly elected Public Regulation Commission. (Albuquerque Journal)</p> <p>In Jan. 1998, the Public Utilities Commission sent a restructuring report to the legislature. It called for full customer choice by Jan. 2001.</p>
<p><b>New York</b></p>	<p>Assemblyman Paul Tonko has announced that he will introduce restructuring legislation early in the upcoming session similar to provisions he has carried during the two previous sessions. Though he has been unsuccessful in the past he feels it is necessary to correct the state's "crisis"-the extremely high cost of electricity in New York. (Energy Central; The Power Report)</p> <p>The 1998 legislative session ended with passage of measures on</p>	<p>The Public Service Commission has approved restructuring plans for six utilities under its May 1996 restructuring order. In Mar. 1998, the Commission issued an order detailing how utilities are to bill customers.</p>

	<p>electric rates and restructuring in each chamber, but no resolution sent to the Governor.</p>	
<p><b>North Carolina</b></p>	<p>The Study Commission on the Future of Electric Service in North Carolina may see new members has been unable to finalize a report on restructuring recommendations and may be further delayed now that the group is expected to have new members added after the start of the 1999 legislative session. (Energy Central; Raleigh News and Observer)</p> <p>The Study Commission on the Future of Electric Service created by SB 38 issued an interim report on electric rates in the state in July 1998, and will prepare a final report by Jan. 1999.</p>	<p>The Utilities Commission has been holding informational stakeholder hearings on restructuring issues.</p>
<p><b>North Dakota</b></p>	<p>The initial report of the Electric Utilities committee focused primarily on the tax implications of restructuring the electric industry of the state. The Chairman of the committee, State Rep. Al Carlson indicated that because of the low-cost nature of electricity in the state, there was no need to move quickly, and that the tax implications must be addressed first. (Megawatt Daily 11/25)</p> <p>HB 1237 established the Electric Utilities Committee to study industry competition on Mar. 23, 1997. It may meet until 2003.</p>	<p>In May 1997, the Public Service Commission closed its electric restructuring docket.</p>

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<p><b>Ohio</b></p>	<p>Restructuring legislation, SB237 and HB732, introduced by Senator Bruce Johnson and Rep. Priscilla Mead, respectively, will put off until the 1999 session of the legislature according to Senator Johnson. Continued talks among stakeholders and consumer groups have been unable to resolve certain questions, especially stranded cost decisions. Action will most likely take place early in the next session, according to Johnson. (Columbus Dispatch, 11/18)</p> <p>In Mar. 1998, restructuring legislation SB237 and HB732 were introduced. They call for choice by Jan. 2000.</p>	<p>The Public Utilities Commission of Ohio (PUCO) approved a set of consumer protection standards for customers on July 22, 1998 indicating that the move toward restructuring and events of the summer continue to raise questions about service and reliability. The proposed rules are grouped into five major areas: service standards, metering, reporting, disconnection and complaints.</p>
<p><b><u>Oklahoma</u></b></p>	<p>In June 1998, SB 888 was enacted as a follow-up to 1997's restructuring law SB 500. The bill accelerates the deadlines for the studies leading up to the state's competition start date of July 1, 2002.</p> <p>The Joint Electric Utility Task Force continues to meet to review the nearly 40 issues that must be addressed before competition is fully implemented. Five works groups were formed in November 1998 to analyze sets of issues and to coordinate work with the OCC on required studies. (LEAP Letter Vol. 3-5; OK Restructuring Website)</p>	<p>On June 6, 1996, the Oklahoma Corporation Commission began a restructuring inquiry.</p>
<p><b>Oregon</b></p>	<p>No current activity.</p>	<p>The PUC received news that PGE will end its</p>

		pilot choice program at the end of 1998, but extended the PacifiCorp pilot through September 30, 1999. The Commission also adopted guidelines for transition cost recovery under direct access orders. (LEAP Letter Vol. 3-5; OR PUC Website News Releases)
<b><u>Pennsylvania</u></b>	On Dec. 3, 1996, HB 1509 was signed. It phases in customer choice from Jan. 1999 through Jan. 2001. Public power has opt-in provisions.	The PUC settled its last rate case with GPU subsidiaries in October, nearly 2 million customers have signed up for retail competition and the first selections are taking place for customers who wish to switch suppliers in the second phase of competition. (LEAP Letter Vol. 3-5; PA ElectriChoice Website News)
<b><u>Rhode Island</u></b>	On Aug. 7, 1996, HB 8124 was signed. It mandates customer choice from July 1997 to July 1998. 1998 legislation includes bills to deregulate metering and billing and to ensure that the standard offer must foster competition.	To initiate choice in Jan. 1998, the Public Utilities Commission established a standard offer lower than the market price which has discouraged alternative suppliers from competing in the Rhode Island market.
<b>South Carolina</b>	The 1998 Legislative session ended without passage of restructuring legislation, but in October 1998, a Senate Task Force on Electric Deregulation was named by Senate Judiciary Chairman Donald Holland. The group will review possibilities of drafting legislation for the 1999 session. (LEAP Letter Vol. 3-5; The Columbia State 10/30/98)	On September 30, the PSC released estimates stranded costs for the state's IOUs assuming passage of restructuring legislation by the South Carolina General Assembly during the 1999 legislative session. The calculations were developed consistent with the Commission's Proposed Electric Restructuring Implementation Process for costs that are not recoverable in a

		competitive system: Duke Energy \$ 81,346,000; Carolina Power and Light \$409,885,000; South Carolina Electric and Gas \$882,308,000; and Lockhart Power Company \$0. (SC PSC Website News Releases)
<b>South Dakota</b>	No current activity.	No current activity.
<b>Tennessee</b>	The Tennessee Study Committee on Electric Deregulation met several times during 1998 to consider issues related to the unique nature of the electric industry in the state and the relationship with TVA should restructuring occur at a national level. The committee will receive a study on the potential effects of restructuring from the Comptroller of the Treasury office of research. (LEAP Letter Vol. 3-5)	No current activity.
<b>Texas</b>	State Rep. Steve Wolens, Chair of the House State Affairs committee, prefiled legislation which would institute retail choice by January 1, 2002, allow for utilities to choose a rate freeze, or get stranded cost recovery if they choose to spin off generating assets. The bill would also limit the market share of the largest IOUs to 20 percent of any geographic area. Meanwhile, on November 23, Wolens committee released a report entitled "Tax Impacts on Electric Restructuring". The report states that a	The PUC has issued order during the Fall of 1998 that are intended to facilitate competition in electric services by requiring utilities to unbundle electric rates and increase the responsibilities of transmission service providers. . (LEAP Letter Vol. 3-5)  The Public Utility Commission has issued an order March 1998 requiring all utilities to begin unbundling consumer bills.

	<p>major overhaul on the state's tax system is necessary if restructuring legislation is to be passed in the next legislative session. (Houston Chronicle, National Journal, MegawattDaily)</p> <p>Restructuring legislation failed in 1997. The legislature is not scheduled to reconvene until 1999. The legislature's Interim Senate Committee on Electric Restructuring is holding hearings and preparing a report for the 1999 session.</p>	
<b>Utah</b>	<p>The Electrical Deregulation and Consumer Choice Task Force decided November 12, 1998 that the best course of action on deregulation in the state was to continue to study, and will not recommend legislative action for the 1999 session. The Task Force concluded its 1998 schedule of hearings with a presentation by the PSC, which recommend no action at this time. The Task Force made a similar recommendation last year. (Electricity Daily, 11/17/98)</p>	<p>The Public Service Commission has had an open docket on restructuring since 1996.</p>
<b>Vermont</b>	<p>Governor Dean has released a report of the Working Group on Vermont's Electricity Future that he hopes will serve as a blueprint for passing restructuring legislation in the next session. Vermont Utilities support the Governor's plan, but are also working on</p>	<p>On Dec. 31, 1996, the Public Service Commission issued a final version of its proposal to institute retail competition. It called for customer choice in 1998.</p>

	<p>alternative plans because the Legislature has not been supportive of bills the past two sessions. Consumer groups are less than enthusiastic about the Governor's proposal because it does not work to get the state out of the contract with Hydro-Quebec. This has prompted some groups to urge the PUC to sidestep the legislature and agree to start retail choice in specific franchise areas based solely on action by state regulators. (Electric Power Daily; National Journal; Burlington Free Press)</p> <p>Four restructuring bills were introduced in 1998. In 1997, the senate approved a customer choice bill, but the house did not act on it before the session ended.</p>	
<p><b><u>Virginia</u></b></p>	<p>On Apr. 15, 1998, HB 1172 was signed. It calls for customer choice to begin in Jan. 2004. Detailed legislation is expected in 1999.</p> <p>The Joint Subcommittee Examining Electric Utility Restructuring has established a drafting group to begin preparation of a committee restructuring bill for the 1999 legislative session. All proposals must be submitted no later than December 1, 1998 to be considered at the December 8 meeting. (Energy Central)</p>	<p>State Corporation Commission staff filed a report with the legislative committee studying restructuring on Nov. 7, 1997.</p>

<b>Washington</b>	On Apr. 2, 1998, HB 2831 was signed which requires bill unbundling, and SB 6560 was signed which calls for utilities to disclose to consumers rate, metering and payment information.	On Feb. 17, 1998, the Utilities and Transportation Commission opened a generic cost unbundling inquiry.
<b>West Virginia</b>	On Mar. 14, 1998, the legislature approved HB 4277 giving the PSC authority to develop a restructuring plan to be submitted in 1999.	On November 19, 1998, the Public Service Commission (PSC) staff issued a status report on its study of electric restructuring in West Virginia, stating that utilities, industrial power users, consumer advocates and marketers have failed to reach consensus on a deregulation plan for the state. - (The Charleston Gazette 11/17/98; Energy Central)
<b>Wisconsin</b>	On Apr. 28, 1998, Governor signed AB 940, a bill designed to increase reliability in the state. Among other items, it gives the Public Service Commission authority to mandate ISO participation.	In Oct. 1997, the Public Service Commission stated that reliability and development of a competitive wholesale market are their top priorities. They will work on enhancing the state's electric utility infrastructure.
<b>Wyoming</b>	On Jan. 20, 1998, the Joint Minerals, Business and Economic Development interim committee voted not to introduce a restructuring bill this year.	In June 1998, the Public Service Commission retreated from holding on voluntary restructuring hearings out of concern that it was imposing itself into legislative matters.

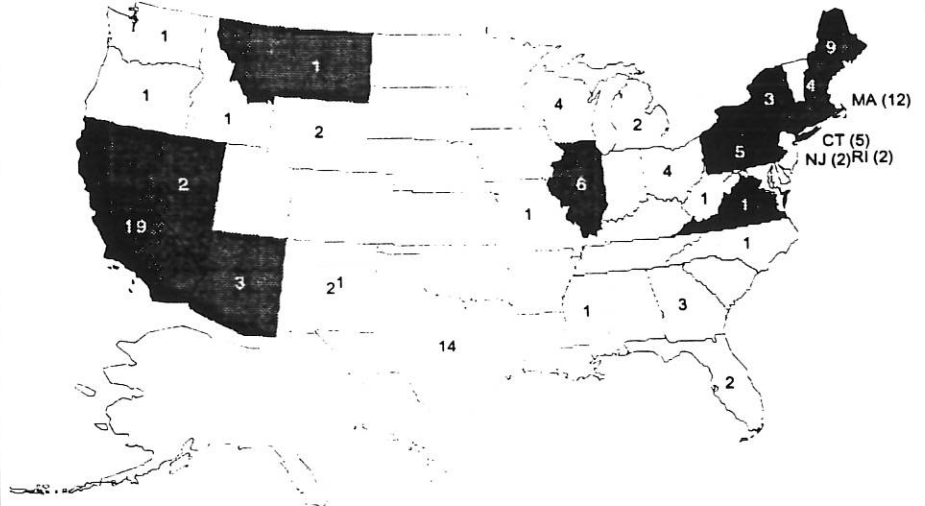
### Merchant Plant Boom in Restructuring States and Elsewhere . . .

Competition among electric generating plants is a primary driver for lowering prices in state efforts to restructure the industry from vertical monopolies. If a state restructures the industry, will the new competitive or "merchant plants" be built? The answer appears to be "yes" in the states that began restructuring as well as a number of other states.

The plant list by state shown below as of Dec. 10 is from the Electric Power Supply Assn. (EPSA) based on information from its members and trade press articles. The EPSA is the national trade assn. representing competitive power suppliers active in U.S. and global power markets. EPSA is on the web at: <<http://www.epsa.org>>.

The 30 states on the map below show announcements of 114 merchant plants totalling 68,488 MW. Most or 72 plants are in 12 of the 14 (shaded) states that began electric industry restructuring during 1996 through 1998.

Across the northern US border, however, the lack of new generating plants in Alberta, Canada which also began electric industry restructuring in 1995 is recently causing concern, however (see Canada article on p. 11).



Parent Company	MW	City	NERC Region
<b>Arizona** - 1650 MW</b>			
Calpine Corporation	500	Mojave County	WSCC
Houston Industries	500	Casa Grande	WSCC
PP&L Global	650	Kingman	WSCC
<b>California** - 12230 MW</b>			
AES Corporation*	563	Huntington Beach	WSCC
AES Corporation*	2083	Long Beach	WSCC
AES Corporation*	1310	Redondo Beach	WSCC
Bock Energy	113	Livingston	WSCC
Calpine Corporation	480	Yuba City	WSCC
Calpine Corporation, Bechtel Enterprises	600	Pittsburg	WSCC
Constellation Power Development, Inland Energy	700	Victorville	WSCC
Dynegy Power*	1020	EL Segundo	WSCC
Dynegy Power, NRG*	530	Long Beach	WSCC
Enron Capital & Trade	500	Pittsburg	WSCC
Houston Industries*	628	Cool Water	WSCC
Houston Industries*	48	Ellwood	WSCC
Houston Industries*	1030	Etiwanda	WSCC
Houston Industries*	570	Mandalay	WSCC
Nations Energy	177	Belridge	WSCC
Sunlaw Cogeneration	550	Vernon	WSCC
Thermo Ecotek*	154	Highgrove	WSCC
Thermo Ecotek*	126	San Bernadino	WSCC
U.S. Generating Company	1048	La Paloma	WSCC
<b>Colorado - 80 MW</b>			
Citizens Power	80	Rifle	WSCC
<b>Connecticut** - 3384 MW</b>			
Duke Energy Power Services, United Illuminati	520	Brigeport	NPCC
Power Development Co.	1000		NPCC
Power Development Co., El Paso	544	Milford	NPCC
PP&L, Stone & Webster Development	500	Wallingford	NPCC
U.S. Generating Company	820	Killingly	NPCC

*Senate Utilities*  
*1-20-99*  
*Attach. 2*

Parent Company	MW	City	NER	Region
<b>Florida - 1350 MW</b>				
Constellation Power Development	850	Brevard County	FRCC	
Duke Energy Power Services	500	New Smyrna Beach	FRCC	
<b>Georgia - 1265 MW</b>				
Dynergy Inc.	500	Jacksonville	SERC	
Sonat Energy Services	680	Columbus	SERC	
World Energy Systems	85	Dalton-Calhoun area	SERC	
<b>Idaho - 260 MW</b>				
Cogentrix Energy	260	Crow Tribe Coal Reserv	WSCC	
<b>Illinois** - 3288 MW</b>				
Dominion Energy*	1108		MAIN	
Dominion Energy, Peoples Energy	600	Elwood	MAIN	
Dynergy Inc.	236	Chicago	MAIN	
Houston Industries	634	Roxana	MAIN	
Indeck Energy Services	160	McHenry County	MAIN	
Polsky Energy Corp., Alliant Utilities	550	Northbrook	MAIN	
<b>Maine** - 2948 MW</b>				
American National Power	600	Gorham	NPCC	
Calpine Corporation, Energy Management, Inc	265	Rumford	NPCC	
Duke Energy Power Services	520	Veazie	NPCC	
Energy Mangement, Inc.	350	Harrison or Waterford	NPCC	
FPL Group*	500	Wiscasset	NPCC	
FPL Group*	500	Yarmouth	NPCC	
Indeck Energy Services, Ridgewood Power	24	West Enfield	NPCC	
Indeck Energy Services, Ridgewood Power	24	Jonesboro	NPCC	
Polsky Energy Corp.	165	Jay	NPCC	
<b>Massachusetts** - 7812 MW</b>				
American National Power	550	Bellingham	NPCC	
American National Power	550	Blackstone	NPCC	
American National Power	150	Milford	NPCC	
Berkshire Power (Power Development and EI	272	Agawam	NPCC	
Calpine Corporation, Energy Management, Inc	170	Dighton	NPCC	
Indeck Energy Services	38	Pepperell	NPCC	
Infrastructure Development Corp.	700	Bellingham	NPCC	
Power Development Corp.	272	Westfield	NPCC	
Sithe Energies	1750	Charlestown	NPCC	
Sithe Energies, Inc	1500	West Medway	NPCC	
Sithe Energies, Inc.	1500	Weymouth	NPCC	
U.S. Generating Company	360	Charlton	ERCOT	
<b>Michigan - 1480 MW</b>				
Nordic Electric	480	Wyandotte	ECAR	
U.S. Generating Company	1000	Covert	ECAR	
<b>Mississippi - 800 MW</b>				
LS Power	800	Batesville	SPP	
<b>Missouri - 250 MW</b>				
Duke Energy Trading & Marketing, AECI	250	Dunklin County	MAIN	
<b>Montana** - 220 MW</b>				
Cogentrix Energy	220	Rathdrum Power Project	WSCC	
<b>Nevada** - 536 MW</b>				
Biogen Partners	56		WSCC	
Houston Industries, Sempra Energy	480	Boulder City	WSCC	
<b>New Hampshire** - 1410 MW</b>				
AES Corporation	700	Londonderry	NPCC	
Indeck Energy Services	15	Alexandria	NPCC	
Sothorn Company	525	Newington	NPCC	
Tractabel Power, Sprague Energy	170	Newington	NPCC	
<b>New Jersey - 1900 MW</b>				
U.S. Generating Company	1100	Linden	MACC	
U.S. Generating Company	800	West Deptford	MACC	



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Parent Company	MW	City	NERC Region
<b>New Mexico - 291 MW</b>			
Deming Power Partners	217	Deming	WSCC
Williams Field Services	74	Bloomfield	WSCC
<b>New York** - 2530 MW</b>			
Sithe Energies, Inc.	700	Ramapo	NPCC
Sithe Energies, Inc.	750	Scriba	NPCC
U.S. Generating Company	1080	Athens	NPCC
<b>North Carolina - 800 MW</b>			
Dynegy Power Corp.	800	Rockingham County	SERC
<b>Ohio - 1340 MW</b>			
Columbus Power Partners	220	Columbus	ECAR
Duke Energy Power Services	640	Middletown	ECAR
Ohio National Energy	280	Shadyside	ECAR
Trigen-Cinergy Solutions	200		ECAR
<b>Oregon - 240 MW</b>			
PaciCorp	240	Klamath Falls	WSCC
<b>Pennsylvania** - 2120 MW</b>			
AES Corporation	700	South-Eastern	MAAC
Columbia Electric, Westcoast Power	500	Philadelphia	NPCC
Panda Energy International	70	Archibald	MAAC
PP&L Global	600	Martins Creek	MAAC
Williams Energy Group	250	Hazleton	MAAC
<b>Rhode Island - 750 MW</b>			
Calpine Corporation, Energy Management, Inc	250	Tiverton	NPCC
Houston Industries	500	Johnston	NPCC
<b>Texas - 8805 MW</b>			
American National Power	1100	Midothian	ERCOT
American National Power	250		ERCOT
American National Power, U.S. Generating Co	1000	Edinburg	ERCOT
Calpine Corporation	700	Edinburg	ERCOT
Calpine Corporation	750	Pasadena	ERCOT
CSW Energy	500	Mission	ERCOT
CSW Energy	330	Old Ocean	ERCOT
CSW Energy	78	Wharton	ERCOT
Dynegy Power	617	Channel View	ERCOT
LG&E Energy, Columbia Electric	500	Corpus Christi	ERCOT
Occidental Energy Ventures, Conoco Global P	440	Ingleside	ERCOT
Panda Energy International	740	Marion	ERCOT
Panda Energy International	1000	Paris	ERCOT
PECO Power Team	800	Grimes County	ERCOT
<b>Virginia** - 300 MW</b>			
AES Corporation and Commonwealth Chesap	300	Accomack County	SERC
<b>Washington - 710 MW</b>			
National Energy Systems CO.	710	Sumas	WSCC
<b>West Virginia - 276 MW</b>			
AYP Energy	276	Ft. Martin	ECAR
<b>Wisconsin - 983 MW</b>			
Mid-Atlantic Power, LLC	53	Cassville	MAPP
Polsky Energy Corp.	255	DePere	MAPP
PolskyEnergy Corp.	375		MAPP
Southern Energy	300	Neehan	MAPP
<b>Wyoming - 480 MW</b>			
North American Power Co.	240	Two Elk	WSCC
Zeiger Coal Holding	240	Wright	WSCC

**60,488 TOTAL MW**

\* Plants acquired through utility divestiture expected to become merchant capacity  
 \*\* States implementing electric industry restructuring by law and/or regulation

**SENATE COMMITTEE ON UTILITIES**  
**Briefing by David N. Dittmore,**  
**Director of Utilities, KCC**  
**January 20, 1999**

Listed below is an outline of major cases which are either pending before the Commission or those in which an order has recently been issued. Due to the large number of cases before the Commission, I have only focused on the most important dockets. This letter follows up on my earlier correspondence of September 9, 1998, sent to all members of the Senate Commerce and Utilities Committees and the House Utilities Committee.

**TELECOMMUNICATIONS**

1) *Docket 97-SCCC-149-GIT Southwestern Bell Unbundled Network Elements Pricing Docket (UNE)*

The purpose of this docket is to establish wholesale prices for SWBT for the provision of unbundled network elements as provided for in the 1996 Federal Telecommunications Act (FTA). The Commission is in the process of determining these wholesale prices in a three-part process:

- a) the Commission adopted SWBT's model as the appropriate mechanism to calculate prices;
- b) the Commission in November issued an extensive order deciding more than 120 input issues; and
- c) all parties have an opportunity to review the output of SWBT's model, incorporating the previously mentioned cost inputs, and to file comments in January.

2) *Docket No. 94-GIMT-478-GIT Generic Investigation into Competition within the Telecommunication Industry*

There are several Kansas Universal Service Fund (KUSF) issues within this docket which the Commission is currently addressing:

- a) SWBT has questioned the calculation of the 1998 assessment percentage. A third party accounting firm was selected by a task force comprised of Staff, CURB and industry representatives, to review the calculations. A hearing on this matter was held on January 5, 1999.
- b) The Commission created two work groups, moderated by Staff, to explore access charge reduction issues as required by the State Act. The reports of the two groups have been submitted to the Commission.
- c) The Legislative Working Committee sent a letter to the Commission requesting recommendations to the 1999 legislature regarding changes in the definition of basic

and enhanced universal services by February 15, 1999. The Commission has sought comments from interested parties on what definition changes, if any, are warranted.

3) *Docket 97-AT&T-290-ARB AT&T and SWBT Interconnection Agreement Arbitration*

Interconnection agreements set out in detail the scope and responsibilities of each party in the provision of wholesale telecommunications service. Competitive local exchange carriers either sign a generic interconnection agreement with the incumbent local exchange company (ILEC), or enter into negotiations on a unique set of terms and conditions. During the course of this docket, the KCC Staff has acted as a mediator and arbitrator between the parties, resulting in the resolution of many previously disputed issues.

AT&T and SWBT have conducted extensive negotiations in an attempt to reach agreement on interconnection terms. However, while a number of issues have been resolved, new contested issues have been identified by both parties. Consistent with the provisions of the FTA, the Commission must render a decision on those issues which remain at an impasse. A matrix of unresolved issues was submitted to the Commission on December 22, and further questions will be submitted by the arbitrator to the parties for a written response.

4) *Docket 97-SWBT-411-GIT SWBT's Compliance with Section 271 of the Federal Telecommunications Act*

The Commission held hearings in June to gather information on the question of whether SWBT has complied with the FTA's Section 271 checklist items. As you are aware, one of the goals of the FTA was the promotion of competition, both in the local and long distance markets. The FTA set forth a listing of items that incumbent Regional Bell Operating Companies (RBOCs) must meet in order to demonstrate that it has provided access to its network in order to permit competition to occur. While the ultimate determination of interlata entry rests with the FCC, the FTA requires that the FCC consult with state regulatory agencies in its review of 271 applications.

Once a Section 271 application is filed with the FCC, it has a 90-day window to determine compliance. Per the FTA, states are required to submit any information on Section 271 compliance to the FCC within 20 days of the date the application is filed with the FCC. As a result, the FCC has strongly encouraged states to develop full and complete technical records for the FCC's review prior to the date the incumbent files a 271 request. The KCC ordered SWBT to provide a 90 day advance notice of its intent to file a 271 application with the FCC, as well as a draft FCC filing. This requirement affords the KCC the opportunity to establish a full and complete record which can be forwarded to the FCC for their review.

The Commission conducted an extensive hearing and subsequently issued a report finding that SWBT had not complied with all of the competitive checklist items. The Commission staff is working with the parties to develop a procedural process to monitor the status of Section 271 compliance.

5) *Docket 98-SWBT-677-GIT In the Investigation into SWBT's Cost to Provide Universal Service (KUSF)*

The Commission opened this docket in late April, 1998, which immediately spawned debate concerning the appropriate costing methodology which should be employed; an embedded cost approach or a forward looking costing approach. Following oral arguments on this issue, the Commission, in September, unanimously authorized a separate docket to examine common Universal Service Fund costing issues including development of a record to support a decision on what costing methodology should be used. In a split decision, without determining the cost methodology issue, the Commission required SWBT to file a Fully Distributed Cost (FDC) study on November 13, 1998.

SWBT filed certain cost information, but is objecting to filing revenue information as being irrelevant to determining the costs to provide universal service. Commission staff has filed a Motion to Compel arguing that SWBT's filing is incomplete and does not comply with the Commission's earlier order. In addition, there are other discovery disputes pending before the Commission between Staff and SWBT.

6) *Docket 99-AT&T-266-MIS Petition of AT&T to Require SWBT to Implement IntraLATA Presubscription (1+ Long Distance Dialing)*

AT&T filed a petition asking the Commission to order SWBT to provide intraLATA presubscription by February 8, 1999, the earliest date on which a state Commission may take such action under the Federal Telecommunications Act of 1996, unless the company gets 271 authority first. IntraLATA presubscription allows the customer's intraLATA calls to be carried by a provider of choice by dialing 1 or 0 plus the area code and the telephone number. Currently, customers wishing to use an alternative provider to either SWBT or United must dial 1010, plus a unique three digit number.

The Commission also has a generic docket 98-GIMT-712-GIT in which LECs have filed their intraLATA dialing parity plans, including the associated cost.

7) *Docket 99-GCCZ-156-ETC and 99-SSLC-173-ETC Application of Sprint Spectrum L.P. (d/b/a Sprint PCS) and Western Wireless (WW) for Designation as an Eligible Telecommunications Carrier for Purposes of Receiving Federal and State Universal Service Support*

The purpose of a universal service fund is to enable end users to afford basic local telephone service. It is the general consensus in the telecommunications industry, at least in rural areas, that the rates end users pay for basic local telecommunications service do not cover the costs of providing local service.

The federal universal service fund is designed to support the cost of providing service in areas where those costs are substantially higher than average (high cost areas). High cost areas are generally those that require the installation of local loops over a long distance. The Federal Telecommunications Act of 1996 provides that carriers wishing to receive federal universal service funding must be designated eligible telecommunications carriers (ETCs) by their State Utilities Commission. The FCC issued an order implementing the Act that specified the services a carrier must offer in order to be eligible for federal universal service funding.

The Kansas Universal Service Fund is designed to support high cost areas, compensate for reductions in intrastate access rates, and fund programs to provide support to low-income end users and special equipment and services for disabled end users.

The applications for ETC status filed by Western Wireless and Sprint PCS are unique in Kansas because the entities seeking ETC status are wireless rather than landline carriers, and because they are requesting ETC status as to both federal and state universal service funds. The Commission has consolidated the two petitions and set a procedural schedule that will result in a hearing in May of 1999. Among the relevant issues the Commission has identified are:

- a) whether a wireless carrier should be required to conform its service area to an underlying LEC's (local exchange carrier) study area in order to be eligible for universal service support;
- b) whether wireless carriers should receive KUSF support for customers who also have landline service; and
- c) whether it is in the public interest to designate wireless carriers as ETCs in rural areas. The Commission must also consider the additional demands on KUSF funds if wireless carriers become ETCs, along with a host of competition related issues.

8) *Docket 99-GIMT-326-GIT Investigation into Establishing a Cost Based Kansas Universal Service Fund (Please see related Docket 99-SWBT-677-GIT)*

On November 9, 1999, the Commission opened this generic investigation to rule on numerous issues common to all KUSF recipients. The issues to be considered in the docket include, but are not necessarily limited to:

- a) how shall a cost-based mechanism for KUSF be defined;
- b) what is the cost to provide universal service, as defined;
- c) what cost methodology should be used to determine the cost of universal service;
- d) by what geographical area should the cost be broken down, e.g., by wire centers, zones, etc.;
- e) of those mechanisms that satisfy the definition of a cost-based KUSF mechanism, which is most likely to support the realization of the other general goals enumerated in the State and Federal Acts;
- f) what is a just, reasonable and affordable rate for universal service U.S.C. 254(i), K.S.A.; and
- g) what is the appropriate definition of subsidy 47 U.S.C. 254(k).

This docket is closely related to Docket 99-SWBT-677-GIT, which is designed to determine the specific costs of SWBT's provision of universal service.

## REQUEST FOR FEDERAL PRE-EMPTION

In July, Western Wireless petitioned the FCC seeking preemption of the Kansas State Telecommunications Act (Act) and the KCC orders implementing the Act, on the grounds that the Act and the orders are not competitively neutral and are inconsistent with the Federal Telecommunications Act (FTA). Section 253 of the FTA provides that the FCC must preempt state laws or state commission actions which are inconsistent with the FTA. Among its allegations, Western Wireless claims that the universal service fund does not assure universal service to customers, but rather assures a revenue stream to incumbents under the revenue neutral provisions of the Act. According to the company, the KUSF disburses support to incumbent local telephone companies statewide but limits other carriers' support to the smallest and most remote areas. Therefore, alternative providers are placed at a competitive disadvantage.

The KCC filed comments on September 3 opposing the Western Wireless petition, contending that no evidence was furnished to show that Western Wireless or any other provider is precluded from entry. The KCC argued that all carriers are eligible for the High Cost Funding program. The Commission described its efforts to study the costs of the incumbent telephone companies beginning with the biggest drawers from the KUSF and modify the KUSF accordingly. Staff does not know when the FCC may rule on Western Wireless' request.

## ELECTRIC

9) *Docket 97-WSRE-676-MER In the Application of WRI to Acquire the Common Stock of KCPL*

Western Resources Inc. (WRI) and Kansas City Power and Light (KCPL) filed a revised joint merger application on June 17, 1998, seeking authority for WRI to purchase the stock of KCPL. The joint applicants are claiming total merger savings of approximately \$956 million over a ten year period, with an acquisition price over book value (acquisition premium) which will likely be in excess of \$1.0 billion. These two amounts are not comparable because the savings is the summation of synergies achieved over an extended period of time, while the acquisition premium is a present value amount. WRI has requested the Commission adopt an incentive ratemaking plan which would permit it to retain all earnings up to a 13.5% Return on Equity (ROE). Earnings above the 13.5% mark would be shared between ratepayers and shareholders.

WRI seeks to spin off its electric businesses to a new entity called Westar Energy which will become a regulated electric utility. After the merger, Westar Energy will have three distinct operating divisions; KPL, KGE and KCPL.

There are a number of issues confronting the Commission in this case including, but not limited to:

- a) Does the proposed merger provide the opportunity for the newly created entity to exercise undue influence over the price of electricity in a competitive generation market (market power)?
- b) Does the price paid to acquire KCPL, relative to the synergies created by the transaction, create negative cost implications to ratepayers?
- c) Is the incentive ratemaking proposal in the public interest? If so, should it be modified?
- d) If approved, should the Commission adopt a policy or goal of moving toward rate parity among the three divisions?

10) **Docket 98-KCPE-500-TAR** In the Investigation of KCPL's Rate Design and Class Cost of Service

In November, 1997, KCPL, Staff and CURB entered into a Stipulation and Agreement as to KCPL's revenue requirement case. The settlement incorporated a \$14.2 million annual rate reduction which would be deferred pending the outcome of an application by KCPL to redesign its existing rates. Thus, the annual rate reduction is coupled with a KCPL refund obligation of approximately \$15.7 million, accruing from the date of the Commission's order approving the original rate reduction.

On December 21, the Commission approved a Stipulation and Agreement among the parties to KCPL's rate design. In addition, the agreement provided for the one-time refund to be made in March, 1999, while the base rate reduction of \$14.2 million is to be reflected beginning in February, 1999, bills.

11) **Docket 98-SEPE-730-COM** In the Application of Berexco, Murfin Drilling Co. Vess Oil Corporation and Lloyd Theimer to Abrogate the All Requirements Contracts Between Sunflower Electric Cooperative and Various Retail Electric Cooperatives

The applicants have requested the Commission find that the all-requirement contracts between various electric retail cooperatives and Sunflower Electric Power Cooperative are not in the public interest and, therefore, should be abrogated. Parties to the proceeding have presented a joint motion to the Commission on a proposed procedural schedule.

12) **Docket 99-WSRE-034-COM** In the Complaint Lodged by Farmland that WRI Improperly Interrupted Service During Peak Periods Throughout the Summer of 1998

Farmland Industries has filed a complaint with the Commission, requesting that it investigate service interruptions made by KGE during several periods this past summer. In addition, Farmland requested that the Commission investigate service interruptions to other industrial customers on the KPL/KGE system. In October, the Commission issued an order limiting the scope of the

investigation to whether or not WRI's actions violated the agreement between KGE and Farmland, whether the charges for service to Farmland during these periods were correct, and whether KGE discriminated against Farmland by failing to spread the interruptions on a pro-rata basis to all similarly situated customers.

13) *Docket 99-GIME-321-GIE Investigation into the Adequacy of Future Kansas Electric Generating Capacity*

Most major transmission and generating electric utilities are members of a regional reliability council. The major utilities serving Kansas are members of the Southwest Power Pool (SPP). Annually, the SPP is required to file a forecast with the Department of Energy. The 1998 SPP report revealed that Kansas utilities did not have adequate planned generation capacity to meet SPP minimum reliability criteria.

In October, Staff submitted a memo to the Commission requesting that a docket be opened to investigate future Kansas generating capacity. In early November, the Commission issued an order opening an investigation, directing utilities to respond to a list of questions regarding generation and demand forecasts, directing Staff to compile a summary of the responses, and stating the Commission's intention to issue an order establishing further proceedings based upon Staff's summary.

14) *Docket 99-SEPE-446-CON Application by Sunflower Electric Cooperative to Approve Certain Agreements with UtiliCorp United and Midwest Energy and to Approve Certain Rate Modifications*

On January 5, 1999, Sunflower Electric Cooperative filed an application seeking Commission approval of a capacity sales agreement with UtiliCorp and a new power supply agreement with Midwest Energy. Under the proposal, rates to Sunflower's member cooperatives, served under an all requirements contract, would be reduced by \$8 million, effective June 1, 1999. SEC has requested Commission approval by March 1, 1999.

15) *Docket 99-WSRE-381-EGF Western Resources Application to Site Three Natural Gas Turbine Electric Generation Units at the Existing Gordon Evans Energy Center*

On December 2, 1998, Western Resources filed a siting application for permission to construct three natural gas fired combustion turbine electric generation units at its existing Gordon Evans Energy Center (GEEC). GEEC is located in Sedgwick County near Colwich, Kansas, north and west of Wichita. GEEC is an existing KGE generation facility with four older gas fired steam turbine generation units (the newest unit was finished in 1959) with a current total capacity of approximately 330 megawatts. Under the proposal, Western Resources will install two 74 megawatt turbines with a projected operational date of June 1, 2000, and one 150 megawatt turbine with a projected operational date of June 1, 2001. Western Resources estimates the final cost of the proposal at \$133,498,000 or approximately \$450/kw installed capacity and states that the units are



needed to meet the needs of both KGE and KPL customers. Western Resources has stated in their application that they need Commission approval by April 15, 1999, to meet their procurement and construction schedule.

The Kansas electric generation facility siting act, K.S.A. 66-1,158 through 66-1,169c, requires the Commission to set a public hearing no less than 30 days nor more than 180 days after receiving an application (notification must be provided at least 20 days before the public hearing). A procedural schedule has been established with a public hearing scheduled in Wichita on January 28, 1999, and a technical hearing at the KCC on March 9 and 10, 1999. Commission Staff will be investigating the necessity and reasonableness of the proposal, as well as the location. The aggressive approval schedule requested by Western Resources is further complicated by the intervention of Farmland Industries and Empire District Electric.

16) *Docket 99-EPDE-416-EGF Empire District Electric Company Application to Site an Additional 350 MW of Natural Gas Combined Cycle Electric Generation Capacity at Their State Line Facility*

On December 18, 1998, Empire District Electric (EDE) filed a siting application for permission to construct additional generation facilities totaling 350 megawatts at its existing State Line facility. EDE's State Line facility is located on the Missouri side of State Line Road on the Kansas - Missouri border, immediately outside of Galena, Kansas. Empire estimates that construction will begin in the third quarter of 1999 and will be completed by the second quarter of 2001. Information regarding the estimated cost for the proposed facilities has been provided by EDE to KCC Staff, but has been filed as confidential.

17) *Docket 99-KCPE-445-EGF Kansas City Power & Light Company Application to Site an Additional 294 MW of Natural Gas Combustion Turbine and Combined Cycle Capacity at Their Hawthorn Generation Station*

On January 7, 1999, Kansas City Power & Light (KCPL) filed a siting application for permission to construct two generators totaling 140 megawatts at its existing Hawthorn Generation Station. KCPL estimates the two new units will be operational by June, 2000, and September, 2000. Overall estimated cost of the project is about \$95,000,000 or approximately \$323/kw installed capacity.

The Kansas electric generation facility siting act, K.S.A. 66-1,158 through 66-1,169c, does not require Kansas utilities that construct a generation facility out of state to file an application for a siting permit provided:

- a) the need for the facility or addition and the reasonableness of the siting is subject to review by the regulatory authority in state where it is being constructed;
- b) less than 10% of the utility's retail customers to be served by the facility are in Kansas; **and**
- c) such retail customers located in Kansas number no more than 15,000.

Additionally, for out of state units, the KCC siting approval is limited to only matters of system reliability and economic efficiency. KCPL is clearly required to file for a siting permit as the number of Kansas retail customers for KCPL greatly exceeds the 15,000 and 10% limitations.

## NATURAL GAS

- 18) *Docket 99-GIMG-068-GIG In the Matter of a General Investigation Upon the Motion of the Commission Staff to Establish General Policies with Regard to Distribution of Kansas Ad Valorem Tax Refunds from Interstate Pipeline Companies to Kansas Jurisdictional Direct Sales Customers*

Staff filed a Motion with the Commission in July arguing that the Commission should assert jurisdiction over any ad-valorem tax refunds received by interstate pipelines which are related to non-FERC jurisdictional sales. In November, the Commission issued an order finding that it had jurisdiction over refunds attributable to former retail sales customers of interstate pipelines. Williams has requested that the Commission reconsider its decision and argues that the Commission does not have jurisdiction over any portion of the ad-valorem tax refund. The Commission has requested comment on what amount of refund is appropriate and how such monies should be refunded to former sales customers.

The ad-valorem tax refund, required by FERC, greatly affected Kansas gas producers and is still the subject of litigation. Monies from Kansas producers have been paid to affected interstate pipelines who in turn have made refunds to local distribution companies consistent with FERC's mandate. However, during the period in which the refund applies, certain interstate pipelines made direct retail sales to end use customers which are not subject to FERC jurisdiction. This is the portion of the refund which is at issue in this case. There is also a companion KCC docket (98-GIMG-592-GIG) applicable to how disbursements should be made to customers from monies received by local distribution companies. The KCC's authority to determine how monies received by LDCs are to be refunded to its retail customers is not in dispute.

- 19) *Docket 98-KGSG-822-TAR In the Application of KGS for Approval of Proposed Tariff Changes Reducing the Minimum Requirements for Transportation Service to 3,000 MCF Annually and to Approve a Revenue Neutral Residential Basic Service Charge and an Upstream Capacity Charge*

KGS, a division of OneOk, has an application before the Commission containing numerous requests including:

- a) an increase in the basic service charge approximately \$5 per month, in conjunction with a revenue neutral reduction in the commodity charge ranging from \$.61 - \$.67 per MCF;

- b) adopting an upstream transportation charge, which would convert interstate pipeline capacity charges, now collected on a volumetric basis through the PGA mechanism, to a fixed charge of \$8.70 per month; and
- c) to lower the threshold for transportation service eligibility from 6,000 MCF per year to 3,000 MCF per year.

Staff has filed testimony opposing items one and two above and supporting item 3, while CURB opposes all three proposals listed above. A technical hearing on these issues was held January 12, 1999. Public hearings were held in December in Wichita, Salina and Topeka.

20) *Docket 99-GIMG-194-GIG In the Matter of a Generic Investigation Upon the Commission's Own Motion Into the Challenges and Opportunities Presented by the Decline in Wellhead Pressure in the Western Kansas Natural Gas Fields*

There are 3,000 - 10,000 natural gas users in SW Kansas whose service is provided from a producer's wellhead, or from a gathering line from either a producer or a utility. Many of these users are at risk of not having continuing natural gas service due to depletion of the Hugoton natural gas fields.

During 1998, prior to the opening of this docket, the Commission expedited the approval of 12 certificates for natural gas providers in the region. The majority of the certificates were for cooperative utilities described in KSA 66-104(c); the remainder were utilities under KSA 66-104. In response to the Commission's request for comments, several parties provided comments on this issue. Staff is in the process of analyzing and summarizing the comments for the Commission.

21) *Docket-99-KGSG-233-GIG In the Matter of an Investigation Upon the Commission's Own Motion Into Natural Gas Distribution Supplier Competition in the City of Wichita and Surrounding Areas Which are Dually Certificated to Kansas Gas Service Company, a Division of ONEOK, Inc., and Peoples Natural Gas Company, a Division of UtiliCorp United Inc.*

Much of downtown and western portions of Wichita and suburbs has redundant distribution piping of both OneOk and Peoples Natural Gas. It is Staff's opinion that in the interest of ongoing public safety, dual certification in urban areas is not in the public interest. Staff has met with the companies on several occasions concerning this issue, including a meeting on December 22, where each company exchanged proposed solutions to this problem.

## NATURAL GAS - FEDERAL

### 22) FERC Docket RP98-117

In February, 1998, KN Interstate Gas Company (KNI) filed with the Federal Energy Regulatory Commission (FERC) in Washington, D.C. to increase the rates it charges for wholesale transportation of natural gas. KNI is an interstate natural gas company that transports wholesale natural gas to local distribution companies in Kansas, Colorado, Nebraska, and Wyoming. KNI is a major transporter of natural gas for Midwest Energy of Hays, Kansas. Midwest serves approximately 50,000 retail gas customers in central and western Kansas.

A major issue in KNI's rate case is whether or not KNI may charge its current customers for the costs of a newly constructed pipeline that provides little benefit to customers such as Midwest Energy. The costs related to the new pipeline are material, thus, retail gas customers of Midwest Energy face the possibility of increased costs related to the transportation component on their gas costs. The rates that KNI has requested went into effect in August, 1998, but are subject to refund pending a decision on the rate case from the FERC.

The KCC has intervened in this case and will provide testimony that requests the FERC not to burden traditional customers such as Midwest Energy with the costs of a new pipeline that provides uncertain benefits. A hearing is scheduled in Washington, D.C. in June, 1999.

## OTHER

### 23) Docket 99-GIMX-241-GII In the Matter of a General Investigation Into Utility Preparedness for Year 2000 (Y2K) and Date Compliant Computer Problems

On October 5, the Commission Staff filed a Motion with the Commission requesting it authorize an investigation into Y2K preparedness. Staff requested that industry specific Y2K questionnaires and status reports be submitted to the Commission by January 1, 1999, and quarterly thereafter. Where possible, Staff suggested the Commission endorse specific existing industry Y2K questionnaires in order to minimize the reporting burden on jurisdictional utilities. On November 19th, the Commission adopted Staff's motion and indicated that utilities should develop contingency plans and take steps to educate consumers about Y2K issues.