

Approved: MARCH 3, 1997  
Date

## MINUTES OF THE SENATE UTILITIES COMMITTEE

The meeting was called to order by Chairperson Sen. Pat Ranson at 1:30 p.m. on February 18, 1999 in Room 531-N of the Capitol.

All members were present except:  
Sen. Pugh was excused

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

Conferees appearing before the committee:  
Sen. David Corbin  
Jim Ludwig, Director of Regulatory Affairs, Western Resources  
J. C. Long, Government Affairs, UtiliCorp United  
Bruce Graham, Vice-President, External Affairs, Kansas Electric Power Cooperative, Inc.  
Burton Crawford, Kansas City Power and Light  
Steve Miller, Sr. Manager, External Affairs, Sunflower Electric Power Corp.

Others attending:  
See attached list

Sen. Ranson asked Sen. Steffes to introduced his pages, who are assisting the committee today; since they are from his district. Sen. Ranson announced a hearing for the following bills:

**SB 243-concerning electric generation facility siting**  
**SB 257-concerning siting of certain electric generation facilities**

Mary Torrence briefed the committee on the bills by explaining the Siting Act first. She then briefed the committee on the bills, which amend the generation siting act to make it easier to build power plants in Kansas. Sen. Ranson asked when the Siting Act was passed, and it was determined that it was passed in 1979 and was triggered by the construction of Wolf Creek.

Sen. Ranson introduced Sen. Corbin, who authored **SB 243**, and he gave brief remarks regarding his bill. He stated he served on the Interim Tax Committee, and it became evident there are problems with the Siting Act, which is one of the reasons Kansas faces problems with generation capacity. He recalled when there were problems last summer and cutbacks by the utilities. He also stated it is difficult to meet the requirements of the Act, since it is very expensive and time consuming. Sen. Corbin stated he supports both bills and will leave the decision with the committee as to which one they choose to endorse.

Sen. Ranson introduced the following, who offered testimony to the committee:

Jim Ludwig, (Attachment 1)  
J. C. Long, (Attachment 2)  
Bruce Graham, (Attachment 3)  
Burton Crawford, (Attachment 4)  
Steve Miller, (Attachment 5)

Mr. Ludwig stated that he supports both bills, but that **SB 243** tilts toward construction at or adjacent to present generation sites, and that **SB 257** applies to new generation as well. He emphasized that our neighboring states do not have siting requirements. Sen. Steffes discussed with Mr. Ludwig the feasibility of building a major base power plant, and Sen. Hensley asked specific question regarding the Colwich project and other plant locations. Mr. Long stated that Kansas is generation deficient and that his company looks at the market area, close proximity to transmission lines and tax structure before committing the finances and time it takes to go through a siting procedure. He also told what his company looks for in an area before making the commitment in a particular marketplace. Sen. Ranson called attention to the last paragraph in Mr. Long's testimony.

## CONTINUATION SHEET

MINUTES OF THE SENATE UTILITIES COMMITTEE, Room 531-N Statehouse, at 1:30 p.m. on February 18, 1999.

Mr. Burton answered questions regarding the recent fire and explosion KCPL suffered and damage to the plant, which is located in Missouri, east of Kansas City. He discussed the impact of the explosion on their generation capacity, and that it will also impact their stranded costs. Mr. Burton recounted their siting application, which took eleven months to completion and was very expensive. He stated his preference for **SB 257**, and his concern with **SB 243**, which needs clarification as to whether or not it applies to independent power producers as well as utility generators. Mr. Miller also endorsed both bills, and on behalf of the Western Kansas Rural Economic Development Lines, stated a preference for **SB 243**. He stated it would greatly enhance the economic well being in Western Kansas, as they have 10,000 acres available, 7500 of which is for partners. Mr. Graham stated their preference for **SB 257**, which will add additional power options and encourage generation.

The committee discussed some new construction taking place across Western Kansas, and potential new transmission paths Mr. Miller described. Sen. Brownlee stated someone has pointed out there is a requirement on the books to do siting before transmission is to be done and asked if that is something we should decide and preface this bill. Mr. Ludwig answered that when he testified on this, Sen. Ranson said we would revisit it later. Sen. Ranson stated the committee will do that on Monday and asked Ms. Torrence if that could be done on one of these bills. Ms. Torrence stated she believed it could, depending upon what the committee wanted, whether to exempt it if on existing easement, or what direction the committee wanted to go. Mr. Ludwig stated that Western Resources would like to either (1) abolish it; or (2) exempt the upgrades of existing lines. Sen. Ranson stated it would be a step to upgrade existing lines. Mr. Miller pointed out how such an exemption would benefit Sunflower, and Sen. Brownlee stated she has heard that we can't send power west. Mr. Long stated it would be a benefit to his company, as they can't exchange power between Kansas and Colorado. Susan Cunningham (from the Kansas Corporation Commission) stated, as a follow-up to testimony, the Corporation Commission would agree it is more difficult to site a transmission line than a generation facility; however, the committee should be aware it is not because of stringent KCC requirements, but is because of the homeowners and property owners they have to deal with and condemn property and take easements. It is not necessarily because of strict KCC requirements. Sen. Ranson stated it could make one portion of the problem easier, then they could work it out with the homeowners after that. Sen. Ranson asked Ms. Torrence to draft amendments: (1) to exempt the upgrade of existing lines and (2) exempt siting for new construction. Sen. Ranson announced the following testimony on the above two bills has been distributed to the committee:

Larry Holloway, (Attachment 6)  
Barbara Hueter, (Attachment 7)  
James Widener, (Attachment 8)

Sen. Ranson closed the hearing.

Sen. Ranson announced the committee will meet next Monday and Tuesday, from 1:00 to 2:30 p.m. Monday will be dedicated to working bills which have been heard.

Meeting adjourned at 2:30.

Next meeting will be February 22, 1999.

# SENATE UTILITIES COMMITTEE GUEST LIST

DATE: Feb. 18, 1999

NAME	REPRESENTING
Tom HESTERMAN	Sunflower Electric
Steve Miller	Sunflower Electric
BURTON CRAWFORD	KCP&L
Susan Cunningham	KCC
J.C. Long	UCU
BRUCE GRAHAM	KEPCO
John C. Bottenberg	West Res.
John Mill	Sunflower
ED SCHAUB	WESTERN RESOURCES
Larry Sisson	Hearney Law Office
Sandy Braden	McMill, Gachis & Assoc.
Kim Gullett	LKM
Dave Spryng	Curb.
Kelly Harrison	Western Resources
Jim Ludwig	"
Senator David Corbin	

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Testimony  
before the  
SENATE UTILITIES COMMITTEE

by  
Jim Ludwig, Senior Director, Regulatory Affairs  
Western Resources  
February 18, 1999

Chair Ranson and members of the Committee:

Western Resources supports SB 243 and SB 257. Both bills amend the generation siting act to make it easier to build power plants in Kansas. The current siting act imposes an unnecessary burden on building needed generation capacity. Our neighboring states do not have siting acts. Western Resources believes either of these two bills will encourage building plants in Kansas. Kansas' reserves of natural gas, which fuels most new plants, put it in a favorable position for attracting generation, provided we lift burdens from prospective generation builders. Both bills would do that.

*What the Siting Act Does*

Under the siting act, a siting proceeding before the KCC is intended to determine the need for new generation and, if need is shown, whether the proposed construction is the most economic way to fulfill that need.

*What the Siting Act Does Not Do*

The KCC does not allow recovery of the costs of constructing the new generation in the context of a siting act proceeding. That takes – in our opinion – a questionable duplication of effort in a separate rate proceeding, but it takes it nonetheless. KCC siting approval does not mean customers will begin paying for the new plant.

Siting a plant requires approvals other than, and in addition to, the current KCC siting approval. Amending the siting act as proposed in SB 243 and SB 257 would not exonerate utilities or non-utilities from any environmental agency proceedings or requirements, local ordinances, or other non-KCC requirements. Neither bill subjects currently exempt entities (such as generating municipalities) to any more requirements than they already have under the existing siting act.

*Western Resources supports SB 243*

This bill exempts construction of new generation from a siting act proceeding if it is non-nuclear generation being built on a site where there are already generation facilities. Siting act proceedings would still be required for any new nuclear generation - whether on a new or existing site - and for any other kind of generation being built on a new site.

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I want to disclose that this bill is arguably tilted in favor of incumbent generation owners like Western Resources. We and others who own generation in the state own the existing sites where additional generation could be built without siting act approval. New entrants would have to build on a new site, and be subject to a siting act proceeding, or buy an existing site from an incumbent to avoid a siting proceeding. The policy decision hinges on whether a new entrant should be subject to a greater burden than an incumbent or whether it's more important to hold siting proceedings to build on new sites.

*Western Resources supports SB 257*

This bill would make the siting act apply only to construction of new nuclear generation, no matter whether it was built on a new or existing site. Other types of generation could be built without undergoing a siting act proceeding. I don't think anyone will propose building more nuclear generation in my lifetime, but I'm sure there would be resistance if someone tried. The siting act would provide an extra venue for resistance. To put it in perspective, Wolf Creek nuclear plant was built before the siting act was passed, Wolf Creek was not subject to siting act approval, and opponents were still heard.

This bill would allow new entrants the same opportunities as incumbents, but would not require siting proceedings at new sites.

*Transmission Line Siting*

Please allow me to bring a related issue to your attention. Kansas also has a siting act for building or upgrading transmission lines above 230 kV. Transmission lines are the way generation gets to customers. Generation by itself isn't useful without transmission lines. As we build more generation to meet our customers' needs, we will also need to build or at least upgrade transmission lines. It would be very helpful to either repeal the transmission siting act or at least exempt the upgrading of existing lines from transmission siting proceedings.

Western Resources supports either SB 243 or SB 257, and encourages the committee to advance the one the members think is most appropriate. We also encourage the committee to consider advancing a bill repealing or amending the transmission siting act to exempt line upgrades from transmission siting proceedings.

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Senate Utilities Committee

Testimony in Support of Senate Bills 243 and 257

by

J. C. Long, Director  
Government Affairs  
UtiliCorp United Inc.

Senator Ranson and members of the committee:

My name is J. C. Long, and I am Director of Government Affairs for UtiliCorp United in Colorado and Kansas. UtiliCorp's WestPlains Energy division has 70,000 electric customers in central and western Kansas and serves numerous cities wholesale power in the same area. I appear before you today in support of Senate Bill 243 and 257 however, if we had to pick between the two, Senate Bill 257 would be our choice.

UtiliCorp's generation division has identified two reasons power plants have not been built, let alone proposed in Kansas, the plant siting act and property taxes. Senate Bill 243 and 257 bill deal with the issue of plant siting; additional work needs to be done on the property tax situation so Kansas will have the generation capacity it needs here.

Senate Bill 243 will remedy a short term solution to the power generation shortfall in Kansas. With Senate Bill 243, incumbent utilities in Kansas, like UtiliCorp, will be able to expand or build new power plants on our existing sites. While this sits well with incumbent utilities, we believe the merchant power plant is the future in electric generation plant expansion and may be excluded under Senate Bill 243.

Senate Bill 257, which is almost a complete repeal of the plant siting act for all power plants except nuclear, is by far the better alternative. Currently, Kansas'

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surrounding states have very little plant siting requirements. Nebraska, Oklahoma and Missouri are competitors to us for power plants and we have lost this competition – for now. Currently, Duke Energy is building a merchant plant in Missouri and Texas. Empire District Electric has sited a plant on the Missouri state line and other companies are reviewing the area and by all the information available, the location they select will not be in Kansas.

The plant siting act, was passed to assure Kansans that there would not be another Wolf Creek, and that has surely happened. In fact, the power plant siting act has been an enabler for Kansas' utilities, including UtiliCorp, to look at other states to locate our generation facilities. By repealing the plant siting act for all power plants, except nuclear, as proposed in Senate Bill 257, one reason not to build power plants in Kansas will have been solved. The other reason, property taxes on generation facilities, will have to be addressed in the near future.

Thank you for the opportunity to appear on Senate Bills 243 and 257.



# **Kansas Electric Power Cooperative, Inc.**

A Touchstone Energy<sup>SM</sup> Partner 

## **Testimony on SB 243 and 257**

**Before the Senate Utilities Committee -- February 18, 1999**

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

While KEPCo does not have plans to construct generation that would be subject to the Kansas Electric Generation Siting Act in the near future, our projections parallel those of other planners across Kansas--the state will soon be short on electricity generation.

New generation will be constructed in the future to serve Kansas consumers. We should relax the rules so that generation is not built just across state lines in order to avoid burdensome regulation and taxes.

Some may find comfort in the siting act's call to determine whether the proposed generation is needed before construction begins. In the face of a changing environment where customer choice is possible and a poor generation decision would raise costs, perhaps to a non-competitive level, a generation company should be expected to invoke its own prudence examination that would rival the most miserly of KCC regulators. Furthermore, it is our understanding that even without the siting act, local governments and citizens have the appropriate authority to approve a construction plan, plus the environmental impact must be approved by the Kansas Department of Health and Environment.

Therefore, KEPCo supports the amendments to the Kansas Electric Generation Siting Act as outlined in SB 243 and SB 257. Of the two, SB 257 is the most flexible and would likely be the most attractive to those considering Kansas for a new power plant. Regardless, any step you take to encourage new power plant construction will result in more reliable service to all Kansas consumers and possibly provide KEPCo with additional power supply options for its members.

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**Testimony before the Senate Utilities Committee  
In Support of Senate Bill No. 243 and Senate Bill No. 257**

**By Burton L. Crawford  
Manager of Deregulation Issues  
Kansas City Power & Light Company  
February 18, 1999**

Madam Chair and members of the Committee:

I am Burton Crawford, Manager of Deregulation Issues for Kansas City Power & Light Company, and am appearing before you today in conditional support of Senate Bills No. 243 and 257 concerning the siting of certain generation facilities.

KCPL supports this effort to minimize the requirements for siting new generating plants. The current application process is a time consuming and costly procedure, with the last case we filed in Kansas taking several months to prepare, and the involvement of 10 to 15 people.

Of the two bills, we would prefer to see bill 257 enacted since it reduces the application process to cover only nuclear facilities.

One concern that we do have with Senate Bill No. 243 is that it is not completely clear whether or not it would apply to independent power producers as well as utility generators. It appears to us that the intent is to treat all generating facilities equally, since in several places the term "electric utility" is changed to "electric generator". However in Section 2, (page 2, lines 36,37, and 40) the terms "electric generator" and "utility" appear to be used interchangeably. We would like to see the term "utility" changed consistently to "electric generator" so that it is clear that all generators would be treated equally.

Thank you for your time. I would be happy to take any questions that you have.

**TESTIMONY SUBMITTED TO THE  
SENATE UTILITIES' COMMITTEE**

**By**

**SUNFLOWER ELECTRIC POWER CORPORATION**

**February 17, 1999**

**COMMENTS ON SENATE BILLS 243 and 257**

I would like to thank the Chair and members of the Committee for providing Sunflower time to share our thoughts with you on these bills. My name is Steve Miller. I serve as Sunflower's Senior Manager, External Affairs.

Senate Bills 243 and 257 would both significantly modify the Kansas generation facility siting act. As you probably know by now, Sunflower is the only Kansas jurisdictional utility that has endured the rigors of a plant site hearing.

Sunflower's hearing for its Holcomb site was conducted in 1978 and resulted in six days of technical hearings that generated approximately 747 pages of transcript, 27 witnesses and 36 exhibits. Although I cannot give the Committee the exact cost of that hearing, I can safely say that it was very costly in terms of time and monies spent.

We certainly could support either bill, but we do have a preference. Our preference would be SB 243. However, we strongly believe that a bill in one of these forms is necessary in order to meet the generation needs of the state in a timely and orderly fashion.

SB 257 modifies the existing plant siting act to provide for plant site applications and hearings for only new nuclear generation facilities. Non-nuclear facilities of any size would be exempt from the act.

On the other hand, SB 243 amends the existing plant siting act to require that only nuclear facilities and non-nuclear facilities greater than 100 megawatts, not built on

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existing plant sites, be subject to the act. We believe that SB 243 should be preferred by the Committee because the existing sites in Kansas have already had some level of regulatory and environmental review as to the suitability of each location.

Any of these bills will reduce the regulatory barriers that may slow down or prevent the necessary construction of new generation facilities needed to provide Kansans with reliable electric power and energy.

We leave to you the decision as to what one, if any, to pick. When you consider all of the new generation projects that have been announced, including our recommissioning of the 90 MW S-2 unit in Garden City, it's clear to us that Kansas' generating utilities are working to meet the needs of the public.

Thank you for the time to share our views with the Committee. I would be happy to answer any questions.

**BEFORE THE SENATE UTILITIES COMMITTEE  
PRESENTATION OF THE  
KANSAS CORPORATION COMMISSION ON  
SENATE BILL NO. 243 & SENATE BILL NO. 257**

Thank you, Madam Chair, and members of the committee; I'm Larry Holloway, Chief of Energy Operations for the Kansas Corporation Commission and I'm appearing today on behalf of the KCC. The KCC takes no position on these bills. The purpose of my testimony is to provide some background information regarding the electric generation facility siting act and some concerns the KCC has about specific details of this legislation.

In 1979 the legislature passed the generation siting act. During this time period Kansas utilities were actively engaged in the construction of 3 large base load coal units and the Wolf Creek Nuclear Plant. The generation siting act requires that any entity wishing to construct a power plant must first get approval from the Commission. The Commission is required to consider the need, cost, location and feasibility of the facility before granting a siting permit.

In 1979, with the exception of small cogeneration and some renewable energy projects, virtually every generation plant was constructed, owned and operated by electric utilities to serve their native wholesale and retail customers. Since the generation siting act was passed in Kansas there have been substantial changes in the way electric generation facilities are financed, owned and operated and the business and investment opportunities available to electric utilities.

Starting in the 1980s many generation plants have been built by Independent Power Producers (or IPPs) that were not affiliated with the utility that purchased their power. However, until the last few years, the majority of these IPPs were financed by long-term purchase power contracts with regulated electric utilities. Recently (in the last three to four years) there has been an

increasing amount of new electric generation facilities built by independent power producers that fall into the category commonly referred to as “merchant plants.” Merchant power plants are generation facilities that are financed, constructed and operated by nonutilities without long-term contract obligations. Because merchant plants can be built anywhere, and do not represent a long-term contractual obligation to the electric utility or its ratepayers, the Commission has proposed HB 2057 which would exempt these plants from the electric generation facilities siting act.

While the ownership and financing of generation plants has evolved since the siting act was first enacted, there have also been changes in investment and financial opportunities for electric utilities. In the late 1970s most electric utilities were focused on the utility business. The primary way an electric utility expanded its investments and shareholder opportunities was to invest in generation facilities. The addition of air conditioning to the residential and commercial load, as well as increasing industrial automation, caused electric demand to increase rapidly. As a result, generating plants were often needed as soon as they were built. Additionally, until the mid 1970s, technology advancements in power plant efficiencies often meant that a new power plant, even when added to the electric utility’s ratebase, saved enough fuel and operating expenses that electric rates were decreasing in real terms. This was the best of all worlds. By adding the new power plant the utility expanded its ratebase and lowered its expenses, often allowing decreases in electric rates with a corresponding increase in the amount of shareholder investment opportunities. The ratepayer benefitted and the utility benefitted.

Today, of course there are quite different investment incentives for the utilities. Environmental and safety regulations, as well as high interest rates and decreasing technological

improvements meant that new power plants constructed in the late 1970s and early 1980s were far more expensive to build and operate than anticipated. Increases in electric demand had leveled off to growth rates that were more reflective of the general economy. Utility regulators often denied or limited the electric utility's return on, and return of, their investment in new expensive power plants. Addition of these new facilities to electric rates often resulted in dramatic and unpopular rate increases. Building generation was no longer seen as a sure bet for a utility's shareholders or to the benefit of their ratepayers.

Since this period in time the typical electric utility has become diversified and may invest in a variety of unregulated enterprises. Additionally, increasing wholesale competition and the perception of impending retail competition has created a great deal of uncertainty. There is no longer an incentive for electric utilities to invest in expensive generating plants for ratebase purposes, and in fact many utilities may consider this type of investment as risky as investment in their nonregulated subsidiaries.

With regard to SB 243 and SB 257, both bills would still require siting for nuclear power plants. In addition SB 243 also attempts to require siting for any new power plant that is not constructed at an existing generation site. While the Commission does not take a position on either of these pieces of legislation, it does have several concerns with SB 243.

Exempting construction at existing facilities from the siting act would provide a distinct advantage to utilities already in Kansas. In fact, this creates the strange situation where a merchant power plant, that could be built in any neighboring state and would not be added to the ratebase of any Kansas utility, would need to get siting approval from the KCC if built in Kansas. Conversely, a new power plant at any existing generation facility, which could affect the rates of

Kansas ratepayers, would not be required to be sited under this proposal. Additionally, lines 25 through 28, on page 2, of SB 243 seems to define "site" only as land next to an existing generation facility, even though this does not appear to be the intent of other portions of the bill.

**SB 257**  
**Committee on Utilities**  
**February 17, 1999**

**Testimony of**  
**Barbara A. Hueter**  
**Director, Government Affairs**  
**Enron Corp.**

SB 257 removes the requirement for an electric public utility to apply for and receive a permit from the Kansas Corporation Commission in order to begin site preparation, construction, and land acquisition for a generation facility. The intent of the legislation appears to be to decrease the amount of regulatory efforts electric public utilities must undertake in order to build non-nuclear generating facilities in Kansas. Given the projected need for electric capacity in Kansas and the midwest as well as the June 1998 temporary power shortage and wholesale market price spikes, this legislation would appear to be an incentive to electric public utilities to increase capacity and prevent a repeat of last summer's dilemma.

This legislation assumes that only existing Kansas electric public utilities are interested in and capable of building generating facilities in the state. Current law (K.S.A. 1998 Supp. 55-1,158) does not define or allow for a non-utility business to own electric generating facilities. Inclusion of non-regulated companies as providers of electric generation will be an integral part of electricity industry restructuring legislation.

A competitive market for the construction and operation of generating facilities will provide for more efficient plants and lower prices. Under this scenario, the company is driven to build the most cost-effective and efficient facility possible so that it is able to compete with other generating facilities in the sale of power. If a competitive company is inefficient or makes bad

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*Attach. 7*



business decisions, its owners or stockholders will pay for mistakes through losses or profit decreases. In contrast, under regulation, utilities continue to build power plants under their monopoly status as exclusive providers of retail service. The regulated utility is not necessarily required to competitively bid to select the most competent company to build the facility.

Generally, all costs associated with the construction of a generating facility are included in the rate base. In sum, it means that the incentive to construct a plant as cost-effectively and efficiently as possible is lacking since the plant will be paid for in full by rate payers. Indeed, any failure of the plant - i.e. its inability to survive in a competitive market - will be borne by customers in rates or as stranded costs.

For Kansas to maximize its potential for attracting cost-effective and efficient power plants, it should enact legislation to do the following:

1. deregulate all competitive services (generation, ancillary services, metering, customer services) provided by existing utilities and allow non-utility suppliers to enter the market;
2. separate competitive services from non-competitive services (transmission and distribution) provided by the public utility;
3. include non-utility generating companies in the permit exemption contained in HB2400 (K.S.A. 1998 Supp. 66-1,158);
4. analyze existing tax structures and economic development programs for generation facilities to determine if Kansas is an attractive state to locate facilities, if not, then make necessary improvements to these policies and statutes; and,
5. provide other measures as needed to assure a fair, functioning environment for competitive generation.

At a minimum, SB 257 should be amended to require that any electric utility planning to construct a generation facility must:

1. establish an affiliated company to own new generating facilities;
2. put the project out for competitive bidding;
3. do not place the plant in the general ratebase; and,
4. have the utility contract for the foreseeable future (until deregulation) with the affiliate for the output of the plant to meet its obligation to serve.

These four steps are critical for the future of Kansas' retail electricity market. Given that restructuring legislation will determine the amount of utility costs that will be uneconomic in a competitive market (i.e. stranded costs), new costs should not be allowed into rate base. A lack of incentive for the utilities to build and operate economically efficient plants will increase the stranded cost burden on customers and the state's economy.

Nearly one-half of all states have passed deregulation laws and orders. Competitive generation facilities are being built in other states. Kansas should look to the future and not to the past to govern the construction of new generating facilities.



KANSAS KANSAS  
MUNICIPAL MUNICIPAL  
ENERGY GAS  
AGENCY AGENCY

6330 Lamar Avenue, Suite 110  
Overland Park, Kansas 66202-4247  
(913) 677-2884  
(913) 677-0804 FAX

To: Senate Utilities Committee  
From: James R. Widener, General Manager  
Date: February 18, 1999  
Re: SB 243

In 1977, K.S.A. 12-885 authorized the formation of municipal energy agencies. The Kansas Municipal Energy Agency (KMEA) was formed to allow municipalities to jointly acquire economical and reliable electric power for its members. KMEA currently serves 49 member cities in this manner.

One of the primary purposes of KMEA is to provide a mechanism by which cities that operate municipal electric utilities may act collectively in order to operate as efficiently as possible in service to their customers. This service is of particular importance to our smaller members who would find it difficult to serve a very small number of customers in an economical fashion.

With this goal in mind, KMEA has reviewed generation capacity needs with its member cities. One option which is currently being considered would be the building of new generation in a single location, but which is owned by several municipalities. Under current law, a municipality may build new generation without implicating KCC regulation. However, SB 243 as currently proposed would appear to require such regulation when municipalities act collectively to establish generation siting.

KMEA respectfully requests an amendment to SB 243 to allow municipalities to do collectively what they are currently allowed to do individually. I have attached proposed language for your consideration.

On behalf of KMEA member cities, thank you for taking the time to review and consider our concerns.

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Attach. 8*

PROPOSED AMENDED LANGUAGE  
FOR  
SENATE BILL NO. 243

Line 39/40...constructed by such utility is located within the corporate limits of ~~the~~ *any electric* municipality *that owns or operates an electric utility* or within three miles thereof. If an electric utility owned or

Line 43...<sup>cor</sup>porate limits of *any such* ~~such~~ municipality, the municipal utility shall be deemed...