Approved: _____
Date

MINUTES OF THE SENATE UTILITIES COMMITTEE

The meeting was called to order by Chairperson Sen. Pat Ranson at 1:30 p.m. on March 10, 1999 in Room 531-N of the Capitol.

All members were present except:
Sens. Hensley, Lee and Salisbury were excused

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

Conferees appearing before the committee:
Robert Fox, Legal counsel, UtiliCorp United
David Dittemore, Director of Utilities, Kansas Corporation Commission
Walker Hendrix, Consumer Counsel, Citizens Utility Ratepayers Board

Others attending:
See attached list

Sen. Ranson introduced pages, who are assisting the committee today - they are from Sen. Barone's district. Sen. Ranson stated the committee will hold a hearing for the following bill:

HB 2290-relating to public utilities (pertains to public utility loans or credit)

Sen. Ranson asked Mary Torrence to brief the committee on the bill. Sen. Ranson introduced the following proponents:

Robert Fox, (Attachment 1 - includes two maps)
David Dittemore, (Attachment 2)

She also introduced Walker Hendrix, (Attachment 3), who appeared as an opponent. The committee asked questions regarding UtiliCorp's acquisitions, including a utility in New Zealand, and the recent acquisition of St. Joseph Power and Light Company. In answer to a question from Sen. Brownlee regarding similar legislation in other states, J.C. Long stated one-half the states, having such legislation, have repealed it, one sets a limit on the transaction and others are considering repealing the statute. Sen. Ranson asked questions regarding the ten-day time limit, and Mr. Dittemore responded the time limit is a problem. He stated his support of repealing the statute, and emphasized the Commission can quantify any increases in costs during the rate proceedings, since it is at the rate proceeding that the utility is able to pass such costs to consumers.

Mr. Walker gave a historical purpose and background for the statute, and stated now with competition coming into the picture, there is not a need for the application procedure. He recommended the bill be amended to provide that large loans should be reported to the Commission in the form of a letter filing. He added that it is more likely that a small utility will get into financial problems, and that there are reporting requirements by the Securities Exchange Commission. Sen. Brownlee discussed protection for the public, and that the Commission has the right to file a complaint against the utility. Sen. Steffes reminded the committee that there is significant reporting requirements already in place; that management has a responsibility to the stock holders, who stand to lose money first. Sen. Barone pointed out the last statement in Mr. Dittemore's testimony - that it is only during a rate proceeding that the utility can pass such costs to consumers.

Sen. Ranson stated that the committee will not take action on the bill today, which has nothing to do with the merits of the bill, and added the committee could consider it later. She also asked members if there is more information on Y2K, or any other subject of interest, to let staff know. Sen. Clark stated his understanding is there are three or four bills in the House which are being put into Senate bills, and he requested hearings be scheduled for those bills. Sen. Ranson stated reluctance to consider bills which have had no hearings in the Senate committee. Sen. Jones introduced his constituents and others who are visiting the committee today.

The committee adjourned at 2:10.

No other meetings are scheduled.

SENATE UTILITIES COMMITTEE GUEST LIST

DATE: MARCH 10, 1999

NAME	REPRESENTING
Robert A. Fox	Util. Corp United
J. C. LONG	UCU
SANDY BRADEN	McGill, Gaches, Assoc.
DAVE DITTEMORE	KCC
ADAM GATEWOOD	KCC
ED SCHAUB	WESTERN RESOURCES
DICK CARTER, JR	ENRON
Amy A. Campbell	Midwest Energy
TOM DAY	KCC

A-1

TESTIMONY OF ROBERT A. FOX

DATE: March 10, 1999

HB 2290

This is an act repealing K.S.A. 66-1213 and K.S.A. 66-1214 relating to public utilities.

K.S.A. 66-1213 generally provides that before a public utility loans its funds or pledges its credit to a person or corporation having an affiliated interest, the utility must apply to the Kansas Corporation Commission for approval. Thereafter, the Commission is given 10 days to investigate the matter and either approve the loan or set the matter for hearing. The Commission shall grant the Application unless it finds the loan will substantially impair the financial condition of the utility or substantially impair the ability of the utility to maintain sufficient and efficient services.

K.S.A. 66-1214 allows the Commission, on complaint or its own initiative, to review whether payment of a dividend by a jurisdictional public utility would impair the financial condition of the utility to the point that the utility could not maintain its facilities in reasonably efficient operating condition and render adequate service at reasonable rates. If after notice and hearing, the Commission makes such a finding, the Commission is authorized to enter an order denying payment of the dividend until the specified conditions cease to exist.

There are many reasons behind the move to repeal these statutes.

Senate Utilities
3-10-99
Attach. 1

First, repeal of the statutes does not limit the Commission's authority to monitor the provision of sufficient and efficient service by public utilities. That authority is expressly granted in K.S.A. 66-101d, 66-101e, 66-1,189, 66-1,202 and various other statutory grants of Commission authority. The Commission will retain its authority to investigate the sufficiency and efficiency of utility service and take steps necessary to remedy any adverse situation.

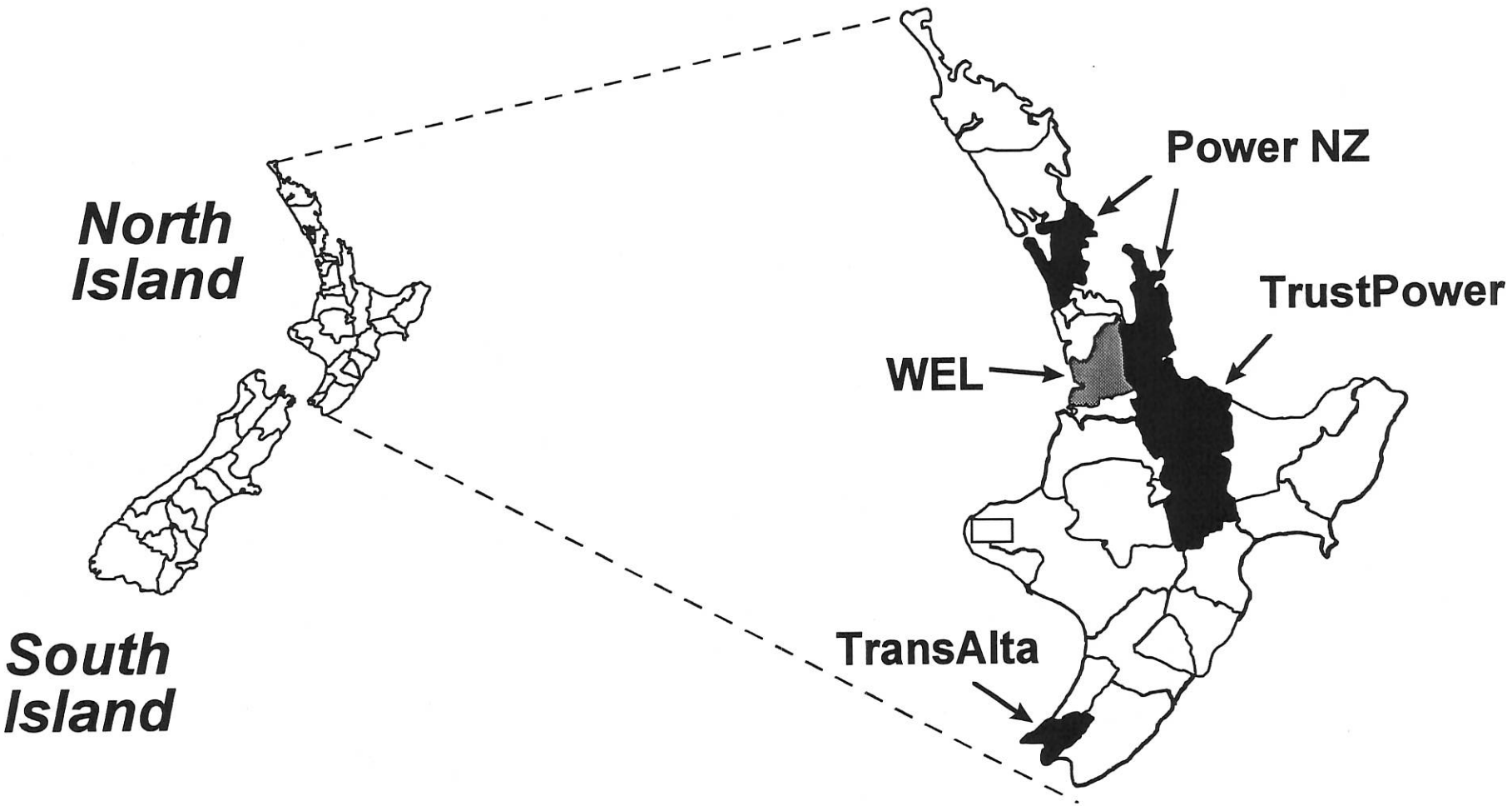
Second, the statutes sought to be repealed places an unnecessary and cumbersome burden on utilities in the normal course of business. UtiliCorp has affiliated interests all over the world. UtiliCorp has financial dealings with many of its national and international affiliates on a regular basis. Every time UtiliCorp loans money or pledges credit to an affiliate, UtiliCorp must first seek approval from the Kansas Corporation Commission by virtue of the fact UtiliCorp also happens to transact business in Kansas.

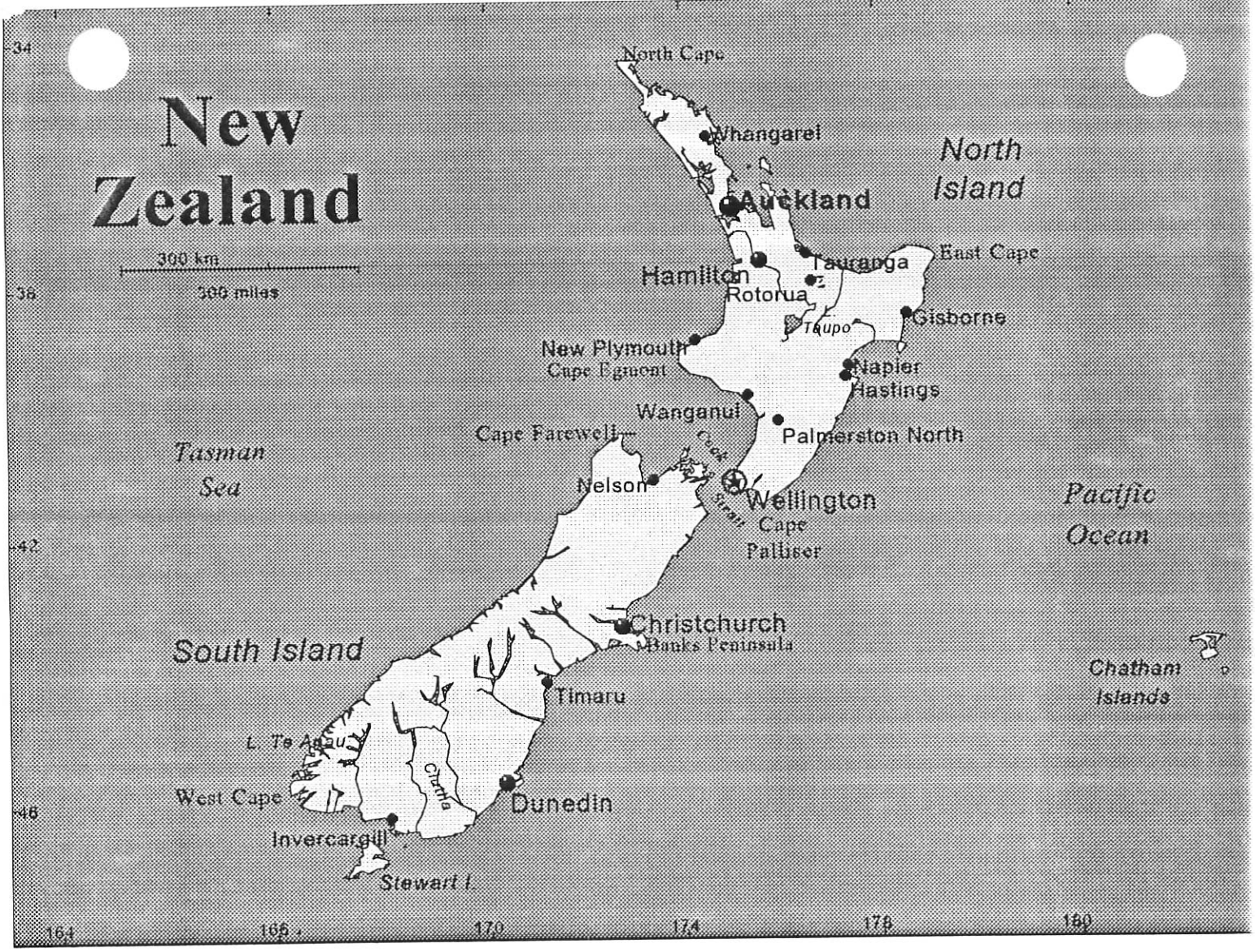
In 1997, a similar statute, requiring a public utility to obtain a certificate from the Commission prior to issuing stocks, bonds or other evidence of indebtedness, was amended to apply only to investor owned utilities. (i.e. utility subsidiaries of Western Resources). (K.S.A. 66-125) This amendment was enacted when it became apparent that the previous statute was imposing an inordinate amount of time and paperwork on the Commission and its Staff without sufficiently serving a public purpose. In the present case, the Application process is administratively cumbersome and provides no real benefit to Kansas consumers. As such, K.S.A. 66-1213 and 66-1214 are superfluous and should be repealed.

Finally, the statutes sought to be repealed present timing issues for both the Commission and the public utilities because the closing of financial transactions and payment of dividends cannot be easily timed with Commission review.

Because K.S.A. 66-1213 and K.S.A. 66-1214 do not expand the Commission's authority , but further burden the Commission's administrative workload with little public benefit, the statutes should be repealed.

UnitedNetworks Limited

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Napier
Hastings
Wanganui
Palmerston North
Cape Farewell
Tasman Sea
Nelson
Cook Strait
Wellington
Cape Palliser
Pacific Ocean
Christchurch
Banks Peninsula
South Island
Chatham Islands
Timaru
L. Te Anau
Clutha
West Cape
Dunedin
Invercargill
Stewart I.
34
38
42
46
164
166
170
174
178
180

A-2

Testimony of David Dittemore
HB 2290
On behalf of the Staff of the Corporation Commission
March 10th, 1999

The Commission Staff supports repealing K.S.A. 66-1213 which addresses the loaning of money and pledging of credit by utilities to persons having an affiliated interest in the utility.

Staff supports repealing 66-1213 because the statute has three flaws. First, it requires Commission Staff to make a number of forecasts regarding the affiliate's financial health and its ability to meet its obligations to lenders. These forecasts are very speculative in nature. Second, it requires Staff to forecast the impact on the utility of paying off its affiliate's loan. Once again, such a forecast is both time consuming and very speculative in nature. Third, the statute allows only 10 days for Staff to complete this investigation.

In the past, the Commission Staff has worked around the flaws in 66-1213, requesting that the Commission include in its Order language to inform the company that approval under 66-1213 does not guarantee that it can pass related costs to ratepayers. In essence, the Commission's orders grant the company authority to carry out the transaction, but caution the company that it is very unlikely that associated

Senate Utilities
3-10-99
Attach. 2

costs will be allowed in rates. That is, if the pledge of credit has the effect of increasing the costs to the utility to obtain financing, the Commission reserved the right to protect ratepayers from these incremental costs. By including this language in the order, the companies are very aware that Staff is intent on protecting ratepayers from costs associated with loans and pledging credit to affiliates.

Instead of requiring companies to file under 66-1213, the Commission believes it would be less cumbersome and just as effective to repeal 66-1213. Any increase in costs caused by guaranties and pledges of credit can be quantified during rate proceedings. It is only during a rate proceeding that the utility can pass such costs to consumers.

BEFORE THE SENATE UTILITIES COMMITTEE
HOUSE BILL 2290

Testimony of the Citizens' Utility Ratepayer Board
By Walker Hendrix

House Bill 2290 repeals to sections of the Public Utilities Act which are codified as K.S.A. 66-1213 and 66-1214. These sections have withstood the test of time. Both sections were enacted at a time when Public Utility Holding Companies were in prominent use and abuses were rampant in the fledgling utility industries.

Some business enterprises were used to siphon funds away from public utilities in the 1930's. These funds would be loaned and transferred to affiliated enterprises, leaving the utilities financially impaired. This left the utilities and their ratepayers without reliable services. Investors in some instances absconded with funds. To correct these abuses, the Corporation Commission was given oversight authority, which required that loans to affiliated companies had to be approved by the Corporation Commission. This procedure is embodied in K.S.A. 66-1213.

Although CURB recognizes that reporting requirements and auditing techniques have vastly improved to detect abuses which might occur, CURB does not think it is unsound to require a utility to report loans to affiliated companies. With the advent of competition, the number of affiliated utility enterprises has grown. This gives rise to the possibility that a utility would make a large loan and the affiliate could default. Who would be responsible for making up the shortfall? If there is the slightest chance that ratepayers could make up the difference, there is reason for the Commission to have some knowledge of large loans to affiliates.

Senate Utilities
3-10-99
Attach. 3

No doubt it will be argued that the filing process is cumbersome and expensive. However, the Commission must make a fairly quick approval of the loan within 10 days. Should you find, however, that this process is too much to bear, please consider the possibility of a reporting requirement, wherein each loan to an affiliate is reported to the Commission, with some information about the amount and purposes of the loan. This would lessen the filing requirements, but allow the Commission to see if there is a dangerous pattern of making loans which could financially impair a utility.

Additionally, H.B. 2290 requests the repeal of K.S.A. 66-1214. This statute provides protection for ratepayers and the general public. K.S.A. 66-1214 provides a process which allows a party to challenge the payment of a dividend that would financially impair a utility. No utility should be allowed to make a dividend payment which would financially impair a utility. This section also protects consumers from unreasonable rates which might be implemented to support a financially unsound dividend. CURB sees no reason for modification or repeal of K.S.A. 66-1214.

In conclusion, CURB would like for you to consider the protection of the general public. Even though both sections to be repealed were enacted some time ago when the financial climate was much different, CURB believes these sections have some redeeming value today. However, if you want to change K.S.A. 66-1213 to a reporting requirement, CURB would not make a strong objection.