Approved: February 14, 2000 Carl Dean Holmes
Date

MINUTES OF THE HOUSE COMMITTEE ON UTILITIES.

The meeting was called to order by Chairman Carl D. Holmes at 9:14 a.m. on February 3, 2000 in Room 522-S of the Capitol.

All members were present except: Rep. Gene O'Brien

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

Conferees appearing before the committee: J. C. Long, UtiliCorp United
Sheldon Hamilton, UtiliCorp United
Max Sherman, Aquila Energy

Others attending: See Attached Guest List

HB 2597 - Natural gas, underground storage; condemnation, procedure and compensation; migrated gas

Chairman Holmes opened the debate on **HB 2597.**

Rep. Loyd distributed copies of proposed amendments. Rep. Loyd moved that three amendments be adopted. Rep. Dahl seconded the motion. Rep. Alldritt requested that the amendments be addressed separately. The Chairman allowed. Rep. Loyd's first amendment would change page 3, line 13 from "...in the form of annual payments which shall not exceed the highest existing rates payable...." to "...in the form of annual payments. If annual payments are elected, such payments shall be based on current rates payable....". Rep. Loyd closed on the first amendment, motion carried. The second amendment changed the words on page 4, line 23 from "not exceed the highest" to "be based on current". Rep. Loyd closed on the second amendment, motion carried. The third amendment added a (4) under Sec. 4 to provide that subsection (c)(3) be the exclusive remedy for recovery of damages or compensation. Rep. Loyd closed on the third amendment, motion carried. Rep. Loyd also provided another amendment to add a new Sec 4 and Sec 5 relating to K.S.A. 55-1208 and K.S.A. 55-1209 and changing the word 'owner' to 'utility' and requiring the filing of a plat map with the register of deeds of each county the facility is located. Rep. Loyd moved the adoption of the amendments, Rep. Sloan seconded the motion. Motion carried. Rep. Kuether moved to change the publish date to the Kansas Register. Rep. McClure seconded the motion. Motion carried. Rep. Loyd moved that the committee report **HB 2597**, as amended, favorable for passage. Rep. Kuether seconded the motion. Motion carried. Rep. Loyd will carry the bill.

Chairman Holmes welcomed J. C. Long, UtiliCorp United, to the Committee. Mr. Long introduced Sheldon Hamilton, Property Tax Manager for UtiliCorp and Max Sherman, Vice President for Project Development - Aquila Energy's Merchant Energy Partners (MEP).

Mr. Hamilton presented background information about UtiliCorp as well as comparative tax information about Kansas and surrounding states. Mr. Hamilton stated that UtiliCorp ranks 132nd on the Fortune 500 list and pays approximately $10.6 million a year in property tax in Kansas. He explained that the taxes in Kansas for a new generation plant would exceed the estimated Missouri property taxes by nearly $2.65 million per year. This accounts for one reason their merchant power plant is being built in Missouri. (Attachment 1)

MINUTES OF THE HOUSE COMMITTEE ON UTILITIES in Room 522-S on February 3, 2000 at 9:14 a.m.

Mr. Sherman provided information about why MEP chose to build the Aries Power Plant in Missouri, about national electric needs and tax changes that affect Kansas' competitive position for new plants and what our state can do to improve its competitive position. (Attachment 2) Mr. Sherman stated that, nationally, we need more power plants, but the regulatory paradigm makes it difficult for regulated utilities to build plants. He stated that most new plants are being built in the competitive market and that utilities can reduce their risk by buying power in that market. He stressed that power plants do not have to be built locally to meet the local power needs because of the ability to cost-effectively transport power.

Mr. Sherman then explained why the Aries Power Plant was built in Missouri. He stated three reasons:
1) Economics - open competitive bidding process, taxes and an economic development competitive package
2) Favorable site characteristics - location, existing infrastructure, and environmental (rural area)
3) Ability to quickly complete the project - fast track development required, favorable regulations (no siting act), and electric interconnection.

Mr. Sherman then outlined the company's current concerns about Kansas. They include high property taxes relative to other states, competition for plants in a large geographic market, locational disadvantages, the need for additional power supplies and the discouragement of investors for new plants by the Generation Siting Act. Mr. Sherman explained that Kansas can do three things to be more competitive. First, encourage power plant development, second, repeal the generation siting act and third, act quickly.

Mr. Hamilton and Mr. Sherman responded to questions from Rep,. Sloan, Rep. Loyd, Rep. McClure and Rep. Holmes.

Chairman Holmes reminded the committee that the KAN-ED Sub-Committee would be meeting on Monday, February 7 and Wednesday, February 9.

The meeting adjourned at 10:43 a.m.

Next meeting will be Tuesday, February 8, 2000 at 9:00 a.m.

HOUSE UTILITIES COMMITTEE GUEST LIST

DATE: February 3, 2000

NAME	REPRESENTING
JC Long	UtiliCorp United
Scott McGinley	Util:Corp United
Max Sterman	Aquila Energy
Tom Day	KCC
Whitney Damron	KS Gas Service
Steve Johnson	Kansas Gas Service
Joe Dick	KCK BPU
Sheldon Hamilton	UtiliCorp United, Inc.
Von Miles	KEC
Jack Glaves	Panhandle + Kinder Morgan
Ron Gaches	Coastal Interstate Gas
Robert E Hemmel	Kansas Independent Oil & Gas Assn
Jim Ludwig	Western Resources
Ed Schaub	" "
Robt Fasl	SWBell
CAROL DEASON	WR
BURTON CRAWFORD	KCPL
Sandy Braden	Williams Companies
DAVE HOLTHAUS	Western Res.
George Barbee	Enron

HOUSE UTILITIES COMMITTEE GUEST LIST

DATE: 2/3/00

NAME	REPRESENTING
Bruce Graham	KEPCo
Doug Smith	SWKROA
Rob Hodges	KTIA

Kansas House Utilities Committee
February 3rd, 2000

Mister chairman, and members of the Committee. UtiliCorp United, Inc. (UCU) is pleased to appear and present comments today regarding the status of its most recent power plant, located in Cass County, Missouri.

My name is Sheldon Hamilton, I am the property tax manager for UtiliCorp. I have been with the company for 12 years in the tax department.

I would like to present some background information about UtiliCorp as well as comparative tax information about the plant.

UtiliCorp was formed in 1985 from its predecessor company, Missouri Public Service. The company has transformed itself from a Missouri based company with 200,000 customers and $243 million in annual sales, to a global energy services company with more than 4.5 million customers and 12 month sales of $14.9 billion, in 5 countries.

Utilicorp is very active in energy marketing and trading - the fastest-growing segment in the industry. Its rapidly growing Aquila Energy unit is currently ranked second largest in the US.

UtiliCorp ranks 132nd on the Fortune 500 list, based on 1998 sales. The company is also included in Fortune's list of America's Most Admired Companies and Forbes Magazine's Platinum 400 listing, based on growth and profitability.

UtiliCorp pays approximately $10,600,000 a year in property taxes in Kansas through its regulated divisions, WestPlains Energy, Peoples Natural Gas and Missouri Public Service. These taxes cover approximately 80 counties.

I have been asked to provide the difference between Kansas and Missouri property taxes on a merchant power plant being built in Missouri. Identical assumptions about market valuation and mill levy increases have been used

to estimate the taxes. In Kansas, I used the average for the two most likely sites.

The estimated Kansas property taxes exceed the estimated Missouri property taxes by approximately $66,000,000 over the estimated 25-year-life of the plant. This equates to $2,640,000 per year.

UtiliCorp currently has electric generation in three states. The state-wide property tax rate on electric assets for those states is as follows. Kansas is 2.75%, Colorado 1.47% and Missouri is 1.77%. These percentages were derived by dividing property tax expense by net book value for 1998, the latest year that actual property tax expense in known.

My final comments pertain to property taxes on generation in Iowa and Missouri. In Iowa, property taxes on generation assets have been shifted to a combination of other taxes. An excise tax on energy delivered, a tax on transmission pole miles and a minimal tax on generation.

In Missouri, there is proposed legislation to shift existing taxes on generation assets to an excise tax on energy delivered and eliminate property taxes on generation altogether by the year 2002. SB803 MO

The intent of this type of legislation is two-fold. The first, is to preserve local revenue streams in advance of deregulation, and the second is to provide an attractive environment for new investment in generation. However, this may have the opposite effect. There can be significant local opposition to locating a power plant within a county. Property tax revenues are an incentive to local residents to accept this type of asset.

This concludes my presentation, I will answer questions at this time.

Testimony of Max Sherman
Kansas House and Senate Utilities Committees
February 3, 2000

Name, title, employer, and work location:

I am Max Sherman, Vice President, Project Development, for Aquila Energy's Merchant Energy Partners (MEP) subsidiary in Kansas City, Missouri. I am one of those responsible for development of MEP generating projects in the U.S.

Relevant work experience:

I've been in the electricity business since 1971 and employed by Aquila Energy since 1996. My most recent assignment was Project Director for development of the Aries Power Plant, near Pleasant Hill, Missouri, which is now under construction. Previously I had power marketing roles within Aquila Energy with responsibility for originating and structuring long term transactions in the Southwest Power Pool. Previous assignments included 12 years of wholesale power marketing for Entergy subsidiaries in New Orleans and Little Rock, including 3 years as a power plant asset manager; and 7 years of nuclear power plant equipment fabrication and construction roles for Commonwealth Edison and Entergy.

Aquila Energy

Aquila Energy, a "nonregulated" subsidiary of UtiliCorp, is an international energy merchant that provides energy-related risk management solutions to its customers in the U.S., Canada, and Europe. It is the 2nd largest gas marketer and 3rd largest power market in the U.S. Aquila has relocated its corporate headquarters and ~400 jobs from out-of-state to downtown Kansas City, and is working to make Kansas City a national energy center.

Purpose of testimony

I am here to explain (1) why MEP chose to build the Aries Power Plant in Missouri, (2) national changes that affect Kansas' competitive position for new plants, and (3) what Kansas

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ATTACHMENT 2

can do to improve its competitive position. The message is simple: Kansas is competing for new power plants in a large geographic market.

I'll start with a national overview of the business environment that results in power plants being built by new market entrants, so that the state issues can be presented in a broader context.

National overview

1. **The U.S. needs more power plants** as a result of the economic growth we've enjoyed since the last batch of plants were completed in the mid-1980s. This is particularly true in the mid-west, central states, and southeast.
2. **The regulatory paradigm makes it difficult for regulated utilities to build plants.** Utilities have major risk if they build new power plants because, with restructuring coming, they don't know if they'll have the customer base to pay for the new plants for their useful (e.g., 30+ years) lives. They also don't know what the restructuring rules will be. That, along with rate disallowances from construction of nuclear plants in the 1980s, has limited construction of new plants by utilities around the country.
3. **Most new plants are being built in the "competitive" market.** When demand for power exceeded supply in June 1998, it broke the log-jam on new plant orders. Most new projects are being undertaken by independent power producers or "merchant" developers (including non-regulated utility affiliates) willing to take the ownership risks for these plants without having them in rates. Power has become a commodity, and supply is becoming like than in other industries (steel, autos, chemicals) in that suppliers will build production capacity and compete with each other for sales in their markets.
4. **Utilities can reduce their risk by buying power in the market**. They can obtain bids to supply power from new plants built by others, for terms much shorter than the useful lives of the plants. This transfers risk from the regulated utility and its customers to the developer. For example, MPS had an open bidding process resulting in a 4 year contract with MEP Pleasant Hill for power from the plant we're building in Missouri. MPS is out

of the deal when our contract expires, and can shop the market for the best deal out there. Competition works, and customers win. We win only if we're the low cost provider.

5. **Power plants don't have to be built locally to meet local load.** A state's power needs can be served from plants built far outside the state as regional transmission organizations (RTO's) provide "one-price" transmission rates across long distances. FERC is strongly encouraging formation of RTOs. In the central U.S., RTOs or regional transmission tariffs are in place (SPP and MAPP) or forming (Midwest ISO), and they're all in merger discussions. We expect to see one RTO from Ohio to Kansas, and from Canada to the Texas border. That will allow for "one-price" transmission wheels across long distances, with large drops in transmission rates. For example, three years ago energy could be moved from North Dakota to Kansas City, Missouri for 1 cent per kWh. Today, under the MAPP tariff, it is ~0.1 cent per kWh. SPP has also reduced its rates, and adjusts them frequently to maximize transactions and revenues to transmission providers.

Aries Power Plant – why was it built in Missouri?

1. **Economics**
   - One reason for building the plant was to supply certain Missouri Public Service power requirements, which MEP won the right to meet in an open competitive bidding process. It made sense to locate Aries on MPS' transmission system to avoid the cost of "wheeling" power in from a remote location.
   - Taxes – Property taxes are higher in Kansas than Missouri. Mr. Sheldon Hamilton has testified on how Kansas property taxes compare to those in other states in which UtiliCorp has generating assets.
   - Economic Development incentives – We were able to obtain a competitive package.
2. **Favorable site characteristics**
   - Location -- In the load center of the initial customer (helps reliability).
   - Existing infrastructure -- The Aries site has 161 kV and 345 kV transmission lines crossing it, an adjacent electric substation and interstate natural gas pipelines nearby.

Water supply was a negative, but we overcame it with a bidding process which resulted in Kansas City (Mo.) agreeing to extend a water line to our site.

- Environmental – the site is in a rural area, which helps with zoning. It's in an EPA "attainment" air quality region, which made it easier to obtain the construction and operating permit from the state. Water supply was a drawback, but Kansas City, Mo. is extending their water system to our site.

3. **Ability to quickly complete the project**
   - The Aries Power Plant must be operational June 1, 2001 to meet the MPS contract obligation. This required a "fast track" development effort to get the project into construction, which is typical of new projects selling into wholesale power markets.
   - Missouri has a favorable regulatory environment, with no state siting process for new generation or transmission upgrades, which could have delayed construction.
   - Electric interconnection -- The utility worked with us to get interconnection arrangements in place. The time it takes for this elsewhere in the country is a real concern, because the time required can easily delay or kill a project.

Kansas overview

1. **Kansas property taxes are high relative to other states.** Kansas should treat new power plants for what they are – clean, efficient manufacturing plants that can locate almost anywhere to supply their geographic market. Without that treatment, taxes and jobs from these plants will go elsewhere. Power plants are major capital investments that create jobs and revenues for local government. Kansas should do what is needed to get its share of these projects, including making economic development incentives available that are competitive with other states.
2. **Kansas is competing for power plants in a large geographic market.** Power from much of the central U.S. can be wheeled to Kansas, and power from Kansas can be wheeled elsewhere. Kansas is competes with much of the country for new plants.
3. **Kansas has a locational disadvantage in its geographic market.** Major power markets are east or southeast of the state. Because of weak electric interconnections, Kansas can't readily sell into the Western Interconnection or most of Texas.

4. **Kansas also needs additional power supplies** to meet increased electric demands due to economic growth, just like many other states.
5. **Kansas' Generating Siting Act discourages investments by new entrants.**
   - The act seems intended to protect Kansas ratepayers from inappropriate investments by regulated utilities which could otherwise be included in rates. That makes sense when ratepayers bear the risk of those investments. It doesn't make sense for new market entrants that bear the financial risks of those investments themselves.
   - State review of project siting, beyond the environmental reviews, risks delay and higher project costs. We understand that Sunflower Electric Cooperative's Holcomb power plant took 1-2 years to get through the process. That kind of delay can and will kill projects. While recent proceedings have moved fairly quickly, the risk of intervention in the process by competitors to delay or kill an application still exists.
   - MEP believes that siting oversight should be the responsibility of local zoning authorities, as is the case for other industrial projects.

What can be done to make Kansas more competitive?

1. **Encourage power plant development,** such as treating them like other manufacturing plants considering locating in Kansas. That includes lower property taxes and making competitive economic development incentives available.
2. **Repeal the generation siting act** – it's no longer needed.
3. **Act quickly** – there's a boom underway in the building of new power plants, and when it's over it may be some time before many additional ones are built.

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