

Approved: March 28, 2001
Date

Carl Dean Holmes

MINUTES OF THE HOUSE COMMITTEE ON UTILITIES.

The meeting was called to order by Chairman Carl D. Holmes at 9:10 a.m. on February 28, 2001 in Room 526-S of the Capitol.

All members were present except: Rep. Richard Alldritt
Rep. Margaret Long

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

Conferees appearing before the committee: Representative Tom Sloan
Ron Appletoft, Johnson County Water District #1
Mike Taylor, City of Wichita
Elmer Ronnebaum, Kansas Rural Water Association
Doug Allen, City of Sabetha
Larry Remmenga, City of Concordia
Representative Sue Storm
Boone Porter
Marcy Hunter
Leigh Mutert
Melissa Schlader
Susan Moore
Cynthia Smith, Kansas City Power & Light
Jim Ludwig, Western Resources
Jon Miles, Kansas Electric Cooperatives
Susan Cunningham, Kansas Corporation Commission

Others attending: See Attached List

HB 2006 - Sales tax exemption for water district purchases

Rep. Tom Sloan explained why **HB 2006** had been assigned to the committee and provided background on a proposed substitute bill (Attachment 1). Rep. Sloan also distributed a revised fiscal note from the Department of Revenue (Attachment 2). Rep. Sloan also distributed a proposed substitute for the bill. Rep. Sloan explained that this bill would do five things: 1) Create the Clean Drinking Water Fee Fund, 2) Remove sales tax on small drinking water systems in exchange for paying into the Fee Fund, 3) Give the six largest drinking water systems a choice of paying the sales tax or paying into the Fee Fund, 4) Sets the fee at three cents per 1,000 gallons of treated water sold, and 5) establishes that the Kansas Water Office may spend the money only on projects coordinated with the Advisory Committee.

Ron Appletoft, Governmental Affairs Coordinator for the Water District #1 of Johnson County, appeared in support of **HB 2006** (Attachment 3). Mr. Appletoft stated that this would help lower their costs and, by doing so, the public would benefit.

Mike Taylor, City of Wichita's Government Relations Director, testified in support of **HB 2006** (Attachment 4). Mr. Taylor provided additional background on the issues that prompted the introduction of this legislation. He also stated that this bill would clarify and correct the confusing, inconsistent question of what's taxable and what isn't.

Elmer Ronnebaum, General Manager for the Kansas Rural Water Association, appeared as a proponent of the proposed substitute for **HB 2006** (Attachment 5). Mr. Ronnebaum stated that the bill does two things that are needed. It clarifies the issue of state sales tax application on public water systems and it will provide funds to the state to address the fiscal note.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON UTILITIES, Room 526-S Statehouse, at 9:10 a.m. on February 28, 2001.

Mr. Douglas Allen, City Administrator for the City of Sabetha, testified as a proponent of the proposed substitute for **HB 2006** (Attachment 6). Mr. Allen explained that changing the method of payment will be a great benefit to the state and all water systems.

Larry Remmenga, Director of Utilities in Concordia, appeared in support of the proposed substitute for **HB 2006** (Attachment 7). Mr. Remmenga stated they would be able to administer this proposal at no additional cost to the ratepayers and would actually reduce their administrative costs significantly.

Written testimony in support of **HB 2006** was provided by Don Seifert, City of Olathe (Attachment 8), David Baldwin, City of Coffeyville Mayor (Attachment 9), and Bradley Mears, City of Holton City Manager provided written testimony in support of the proposed substitute for **HB 2006** (Attachment 10).

The conferees responded to questions from the committee.

Chairman Holmes closed the hearing on **HB 2006**.

HB 2294 - Electric transmission line siting act; application of requirements; notice requirements

Chairman Holmes opened the hearing on **HB 2294** by welcoming Representative Sue Storm, who requested the bill and who introduced her constituents supporting the proposed legislation.

Boone Porter appeared in support of **HB 2294** (Attachment 11). Mr. Porter stated he believes the bill fills a gap in current law and embodies good public policy.

Marceline Hunter appeared in support of **HB 2294** (Attachment 12). Ms. Hunter stated that a vote in favor of this bill would mean that people such as herself could protect their most valuable asset, their homes.

Ms. Leigh Mutert spoke in favor of **HB 2294** (Attachment 13). Ms. Mutert asked that this bill be passed to create a forum to give citizens the opportunity to be part of the decisions that affect the public interest such as the relocation of utility easements.

Melissa Schlader testified as a proponent of **HB 2294** (Attachment 14). Ms. Schlader shared her concerns about the safety issues associated with power lines, whether they are overhead or buried.

Susan Moore testified in favor of **HB 2294** (Attachment 15). Ms. Moore stated that there was no forum for public discussion on the fairness of construction or relocation of a distribution line.

Cynthia Smith, appearing on behalf of Kansas City Power & Light, spoke in opposition to **HB 2294** (Attachment 16). Ms. Smith stated that the bill was intended to prevent utilities from relocating small transmission lines and poles without going through the same siting process that applies to large transmission lines.

Jim Ludwig, representing Western Resources, appeared as an opponent to **HB 2294** (Attachment 17). Mr. Ludwig stated that enacting this legislation would impose more burdens and obstacles on electric utilities and their customers than any transmission statutes now in effect.

Testifying in opposition to **HB 2294**, Jon Miles of Kansas Electric Cooperatives, Inc. stated that this bill creates a regulatory process that could potentially involve both public and evidentiary hearings (Attachment 18). This process could cause additional costs that would ultimately be passed on to the ratepayer.

Susan Cunningham, Acting General Counsel for the Kansas Corporation Commission, appeared in opposition to **HB 2294** (Attachment 19). Ms. Cunningham explained that there were few state public utility commissions that require an application for electric distribution lines within a certificated area, much less a formal siting proceeding. She added that this bill could impact the Corporation Commission's budget upwards of \$10.9

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON UTILITIES, Room 526-S Statehouse, at 9:10 a.m. on February 28, 2001.

million, in the event that 600 applications were filed in a given year. These estimates do not consider the impact on the electric utilities. Ms. Cunningham stated that they believe it is far more efficient to regulate electric line construction in the current manner than to consider the changes proposed by **HB 2294**.

The conferees responded to questions from the committee. Although they did not provide formal testimony; Kim Gulley, Kansas League of Municipalities and Mark Dolejac, Kansas Corporation Commission, also responded to questions from the committee.

Chairman Holmes closed the hearing on **HB 2294**.

SCR 1607 - In support of the development of a federal energy policy

Chairman Holmes opened the hearing on **SCR 1607**. No conferees appeared. Chairman Holmes closed the hearing on **HB 2294**.

Chairman Holmes announced that **HB 2266**, **HB 2268**, and **SCR 1607** would be worked the following week.

The meeting adjourned at 10:57 a.m.

Next meeting will be Thursday, March 1, 2001.

HOUSE UTILITIES COMMITTEE GUEST LIST

DATE: February 28, 2001

NAME	REPRESENTING
Jerry Pennington	City of Concordia
Ron Appletoft	WATER DIST No 1 of Jo Co
TOM DAY	KCC
Doug Smith	Pinegar-Smith Company
Dave Holzman	WR.
Joe Dick	KCKBPU
Don Kyles	KEC
Jim Ludwig	WR
Elmer Rombbaum	Ks Rural Water Assoc.
Mike Taylor	City of Wichita
MARK DOLTAC	KCC
SUSAN CUNNINGHAM	KCC
BRUCE GRAHAM	KEPC
Cynthia Smith	KEPC
LOUIE HANSEN	KCC
Jerry D. Wall	Ks Water Office
John C. Bottenberg	Western Ks.
J. J. Craig	UCU
Jim Kelley	2 KCC
Doug Allen	City of Sabetha

HOUSE UTILITIES COMMITTEE GUEST LIST

DATE: February 28, 2001

NAME	REPRESENTING
Larry Remmenga	City of Concordia
Rep Seie Storm	
Boone Porter	Prairie Village KS
Marcy Hunter	" " "
Leigh Mutert	" " "
Melissa Schlater	" " "
Susan Moore	" " "

TOM SLOAN
REPRESENTATIVE, 45TH DISTRICT
DOUGLAS COUNTYSTATE CAPITOL BUILDING
ROOM 446-N
TOPEKA, KANSAS 66612-1504
(785) 296-7677
1-800-432-3924772 HWY 40
LAWRENCE, KANSAS 66049-4174
(785) 841-1526

TOPEKA

HOUSE OF
REPRESENTATIVESTestimony on HB 2006
Utilities Committee
February 28, 2001

Mr. Chairman, Committee Members:

HB 2006 should not be in our committee. It is a tax bill. The Tax Committee passed it and it sat on General Orders until the Speaker realized that passage of HB 2006 would cost the State \$3 million. Knowing that I am Chairman of a Rural Water District, the Speaker asked if the Utilities Committee could "fix" the bill. I assured him that we could.

HB 2006, as originally introduced, repealed the sales tax that water systems must pay on items they purchase. The House has passed this same bill at least four times.

Currently, if a waste water treatment plant purchases a pick-up truck, pipe, or valve, it is sales tax free. However, if the drinking water treatment plant purchases that same pick-up truck, pipe, or valve, it must pay sales tax. For many cities, this has proven to be a bookkeeping nightmare because the drinking and waste water departments are one and the same. If the truck is jointly used, it is taxed. If the city purchases valves for both operations, which ones are taxed and which are tax-free? It is this inequity and complexity that the original HB 2006 was designed to correct.

Because the Speaker recognizes that we should not be passing bills that reduce State revenues this year, I contacted several parties interested in drinking water issues. Many of those persons will testify today on the proposed Sub. for HB 2006 that is now being handed out to you.

Proposed Sub. for HB 2006 does five things:

1. It creates the Clean Drinking Water Fee Fund (Section 1);
2. It removes the sales tax on small drinking water systems in exchange for paying into the Fee Fund (Section 5(s) – page 10);
3. It gives the six largest drinking water systems (Johnson County District 1, Olathe, Wichita, Topeka, Lawrence, KC's BPU) a choice to continue paying the sales tax on their purchases or be sales tax free and pay into the Clean Drinking Water Fee Fund (Section 4b and Section 5(s) – page 11);

HOUSE UTILITIES

DATE: 2-28-01

ATTACHMENT 1

4. It sets the Clean Drinking Water Fee Fund at 3 cents per 1,000 gallons of treated water sold (Section 4); and
5. It establishes that the Kansas Water Office may only spend the money on a few types of projects (Section 2) that are coordinated with and approved by the Clean Drinking Water Fund Advisory Committee comprised of State agency heads and other parties interested in drinking water issues (Section 3).

Proposed Sub. for HB 2006, holds the State harmless in terms of revenues lost/collected. The fiscal note provided you notes that the original HB 2006 sales tax exemption would have cost the State between \$3.2 and \$3.6 million. Proposed Sub. for HB 2006 will raise \$3.4 million.

Why provide the big drinking water systems a choice, but not the small systems? The small systems generally recognize that the fee fund is much simpler for them to track and calculate than the current sales tax. My Water District Office Manager, our accountant, and the Board of Directors unanimously agreed that paying a fee for the gallons of water sold would be much simpler than struggling to ensure that the correct sales taxes are paid.

The largest six Kansas drinking water systems treat more than 50 percent of all drinking water. They have large fiscal and water staffs. The persons with whom I worked to develop Proposed Sub. for HB 2006 do not presume to "speak" for those systems. Thus the largest water systems may decide whether it is more beneficial to their water customers and city employees to continue paying the sales tax on their purchases, or to simplify the reporting and remittance process by paying the fee.

The key components of Proposed Sub. for HB 2006 are contained in the first three pages of the bill draft. With the exception of the underlined words on pages 10-11, the remaining 26 pages are included because the Revisor said they should be to reflect current statutory language.

Mr. Chairman, other conferees are better prepared than I am to tell the Committee Members why the current sales tax on drinking water systems causes major problems. Proposed Sub. for HB 2006 recognizes that the State cannot afford to lose more than \$3 million in this or the next fiscal years. It provides a simpler way to raise the appropriate revenues from the persons and organizations that will benefit from the fees collected and it is wholeheartedly endorsed by Douglas County Rural Water District # 1.

Proposed Sub. for HB 2006 also meets the Speaker's challenge "to fix the bill" so that the State does not lose revenue and drinking water systems and their customers benefit. I encourage you to recommend Proposed Sub. for HB 2006 favorably for passage.

2001 House Bill 2006b Revised Fiscal Note
Introduced as a House Bill

MEMORANDUM

To: Mr. Duane Goossen, Director
Division of Budget

From: Kansas Department of Revenue

Date: 01/31/2001

Subject: House Bill 2006
Introduced as a House Bill
Revised Fiscal Impact

Brief of Bill

House Bill 2006, as Introduced, amends K.S.A. 79-3606 to exempt from sales tax purchases made by city water utilities and provide a sales tax exemption on purchases made by public water supply systems, which includes rural water districts, for the construction, renovations, operation or maintenance of the district. The proposal would allow both direct and indirect purchases made by water suppliers to be exempt.

The act would be effective July 1, 2001.

Fiscal Impact

This proposal is estimated to reduce state sales tax revenue by \$3.2 million in fiscal year 2002, which represents 11 months of collections. Sales tax receipts would be reduced by \$3.6 million in fiscal year 2003. The state general fund would be reduced by \$3.0 million in FY 2002 and \$3.4 million in FY 2003. The highway fund would be reduced \$200,000 in FY 2002 and FY 2002.

The sales tax estimate is based on fiscal year 1996 data from a survey performed by the Kansas Rural Water Association and data compiled for the larger cities in Kansas. Based on discussions with water entity representatives, expenditure data has not changed significantly since this data was compiled. It was estimated that the water entities had purchases of \$84 million in 1996. This amount was increased at a growth rate of 4% annually to arrive at the fiscal estimate. *The estimate was lowered by \$1.5 million from previous fiscal notes due to the Johnson county RWD #1 case that determined that electricity used by water entities to move the water through the system is exempt.*

There would be a negative impact to local government with the sales tax exemption. The loss of local sales tax revenue is estimated at \$0.8 million in fiscal year 2002.

HOUSE UTILITIES

DATE: 2-28-01

ATTACHMENT 2

Administrative Impact

The proposal would require a notice to be issued and a change to the forms at a cost of \$700.

Administrative Problems and Comments

None.

Taxpayer/Customer Impact

Provides the city, rural water, and other water suppliers an exemption from sales tax on all purchases.

Legal Impact

Approved By:



Stephen S. Richards
Secretary of Revenue

WATER DISTRICT NO.1 OF JOHNSON COUNTY

Mailing Address: P.O. Box 2921, Shawnee Mission, KS. 66201
5930 Beverly Ave., Mission, Kansas 66202

Tel. (913) 895-5500
FAX (913) 895-1825

H.B. 2006 - Sales Tax Treatment of Water District Purchases

Testimony Presented at the
House Committee on Utilities
On February 28, 2001

By Ron Appletoft, Governmental Affairs Coordinator

Water District No. 1 of Johnson County appears in support of H.B. 2006 which would exempt publicly owned water utilities, including Water District No. 1, from sales tax on purchases of property and services used in the construction, operation and maintenance of publicly owned water utilities.

Water District No. 1 is organized as a regional public water utility and serves over 330,000 consumers in and around Johnson County. The Water District is operated as a quasi-municipal corporation pursuant to K.S.A. 19-3501 et seq.

In recent decades, providing water to the public has increasingly become a governmental function and should be exempt from sales tax similar to other governmental services. The Water District pays approximately \$500,000 in sales tax annually. If the Water District was exempt from this tax burden, its operational costs could be reduced, which would have a beneficial impact on water rates.

Current sales tax law, as applied to publicly owned water utilities, is complex and very confusing. The Water District has been forced to file several appeals challenging the Department of Revenue's application of the sales tax laws to the District. A recent court decision confirmed the Water District's position that electricity used to pressurize water mains should be exempt from sales tax. It is our understanding that many other publicly owned water utilities have also challenged the Department's interpretations. This is costly to water utilities and the state in terms of both time and money. The "integrated plant" tax legislation passed last year added additional confusing language to existing tax law.

Water District No. 1 urges your support of H.B. 2006 that will fully exempt publicly owned water utilities from sales tax. By lowering operating costs and simplifying administration of publicly owned water utilities, the public would be benefited statewide.

HOUSE UTILITIES

DATE: 2-28-01

ATTACHMENT 3



TESTIMONY

City of Wichita
Mike Taylor, Government Relations Director
455 N Main, Wichita, KS. 67202
Phone: 316.268.4351 Fax: 316.268.4519
Taylor_m@ci.wichita.ks.us

House Bill 2006 Water Utility Sales Tax

Delivered February 27, 2001
House Utilities Committee

In 1996, 1997, 1998, 1999 and again in 2000, the City of Wichita along with others, proposed changes in the way sales tax is applied to municipal water utilities. The City of Wichita's concern was prompted by a Department of Revenue audit which demanded sales tax be paid on all kinds of purchases and operations of the water utility. Purchases and operations which had never before been taxed.

House Bill 2011, written to correct the situation, passed the House by a vote of 121-4 in 1999. It was bottled up in the Senate Assessment and Taxation committee for the rest of the 1999 session and all of the 2000 session. Until of course, it was used as vehicle for the "integrated plant" tax breaks for business. In the closing hours of the 2000 session, the bill, which Wichita and many others, shepherded though the system all those years was hijacked, renegotiated behind closed doors and rewritten. In the end, municipal water utilities were once again left high and dry. The irony is that, few, if any, who understand how the taxation of municipal water utilities is carried out, think it makes any sense. The only opposition ever expressed to treating municipal water utilities like all other municipal services is that it carries a fiscal impact to the State. This version of the bill, HB 2006, was recommended by the Interim Committee and Assessment and Taxation and unanimously reported favorably by the House Taxation Committee a few weeks ago.

Traditionally, City governments do not pay sales taxes to the State government for providing municipal services. As the Wichita audit proves, that is not true when it comes to providing water to our residents. In fact we are finding the interpretation and application of the law amounts to an aggressive effort to tax all kinds of basic municipal services, including not just the providing of water, but fire protection, and street repairs if they are related to water utility projects. It also means sales tax must be paid on city vehicles, telephones and computers purchased by clearly tax-exempt City departments if those items are in anyway at anytime used by a Water Department employee. The issue is complex, but in effect Revenue Department auditors contend anything the Water Department "touches" is fully taxable at 5.9% (that includes the 1% local sales tax).

The lawyers and accountants can talk about this issue in far more technical terms than I, but let me explain in practical terms how this situation plays out in Wichita. I knew a secretary who worked in the Wichita Police Department on the fourth floor of City Hall. She answered phones and worked on a computer. She transferred to the Water Department offices on the eighth floor of City Hall. She did similar work on an identical computer and answered citizen calls on an identical telephone. But the cost of that phone and computer service is 5.9% more expensive because they sit in the Water Department offices and not the Police Department offices. It's especially hard to understand when you realize all computer and phone services in Wichita City Hall are provided through our own in-house Data Center. Money shifting from one City department to another is suddenly taxable.

The current approach and interpretation of the law also means the City must maintain an entirely different and separate asset base and purchasing system for the water utility to protect general assets and operations of the City from taxation. This results in inefficiency and cumulative administrative expenses. And there is lots of confusion caused for contractors and vendors who never quite know whether or how to determine if sales tax should be included in bids on city contracts. Another interesting note: under current interpretation, if a city government built a new city hall, the water offices, staff and accounting systems would have to be kept out of the building to prevent the entire city building from being taxable.

Providing water to citizens is a basic function of city government, the same as filling potholes, putting out fires or providing police protection. As such, exempting municipal water utilities from paying sales tax on purchases will clarify and correct the confusing, inconsistent question of what's taxable and what's not when it comes to providing basic City services.



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**COMMENTS ON HOUSE BILL 2006
BEFORE THE HOUSE UTILITIES COMMITTEE
February 28, 2001**

Mr. Chairman and Members of the Committee:

The Kansas Rural Water Association appreciates this opportunity to present comments on House Bill 2006. Kansas Rural Water Association has active membership of nearly 400 cities and 275 rural water and public wholesale water districts. In addition, the Association has a good working relationship with over 260 Associate members – suppliers, manufacturers, attorneys, engineering firms and others. KRWA provides services and training to public water and wastewater utilities.

The Kansas Rural Water Association supports HB 2006. This bill, as amended, does two things that are needed. First, it will clarify the issue of state sales tax application on public water systems. Second, it will provide funds to the State to replace the fiscal note.

Public water supply systems have tremendous difficulty in correctly applying the sales tax on purchases. The application of state sales on public water systems presents one of the most difficult administrative tasks by both cities and water districts. Many people believe that cities are exempt from sales tax on their municipal water systems. They are not. We are confident that some pay much more than they should; compliance by others is subject to some question. A component may be taxable or it may be tax-exempt, all depending on what its function is in the water system. Often a single component serves multiple functions, some which are taxable and some which aren't. Is it original construction or is it a repair? Is the service made on a component that is exempt? In each case the purchase is treated differently. Exemptions are for labor only used in the construction, not the materials. There is also often an issue as to what is "original" compared to replacement, etc.

As amended, HB 2006 will ensure that all systems have the opportunity to have a simplified method to calculate the payment. Paying a fee on water sold at retail has been on-going since 1989 when the State Water Plan came into existence. This procedure is one that also can be easily verified for accuracy. KRWA suggests that utilities do not need to pass any new fee on to ratepayers, as there will be a commensurate cost savings for the utility. By having the fee based on water sold at retail, the burdensome administrative issues associated with the application of sales taxes on public water systems will be ended.

The Kansas Rural Water Association respectfully asks for your support for HB 2006. A listing of the Association's membership is attached for your reference.

Respectfully submitted,


Elmer Ronnebaum
General Manager

HOUSE UTILITIES

DATE: 2-28-01

ATTACHMENT 5

Members, Kansas Rural Water Association
 February 26, 2001 Page 1

Allen RWD #10	City of Alton	City of Clay Center	City of Geneseo
Allen RWD #4	City of Altoona	City of Clifton	City of Girard
Allen RWD #7	City of Americus	City of Clyde	City of Glasco
Allen RWD #8	City of Andale	City of Coffeyville	City of Glen Elder
Anderson RWD #2	City of Anthony	City of Colby	City of Goessel
Anderson RWD #3	City of Arcadia	City of Coldwater	City of Goff
Anderson RWD #4	City of Argonia	City of Collyer	City of Grainfield
Anderson RWD #6	City of Arlington	City of Columbus	City of Greeley
Arnold Waterworks, Inc.	City of Ashland	City of Colwich	City of Green
Atchison RWD #1	City of Assaria	City of Concordia	City of Greenleaf
Atchison RWD #2	City of Atlanta	City of Conway Springs	City of Grenola
Atchison RWD #3	City of Attica	City of Cottonwood Falls	City of Gridley
Atchison RWD #4	City of Atwood	City of Council Grove	City of Grinnell
Atchison RWD #5	City of Auburn	City of Courtland	City of Gypsum
Atchison RWD #6	City of Axtell	City of Cullison	City of Haddam
Barber RWD #1	City of Barnard	City of Culver	City of Halstead
Barber RWD #2	City of Barnes	City of Cunningham	City of Hamilton
Barber RWD #3	City of Bazine	City of Damar	City of Hanover
Barber RWD #4 (proposed)	City of Beloit	City of Dearing	City of Hardtner
Barton RWD #1	City of Bennington	City of Deerfield	City of Harper
Barton RWD #2	City of Bentley	City of Delia	City of Hartford
Blue River Hills Imp. Dist.	City of Benton	City of Delphos	City of Harveyville
Bourbon RWD #2 Cons.	City of Bern	City of Denison	City of Haviland
Brown RWD #1	City of Beverly	City of DeSoto	City of Hays
Brown RWD #2	City of Bird City	City of Dighton	City of Hazelton
Butler RWD #1	City of Bison	City of Downs	City of Herington
Butler RWD #2	City of Blue Mound	City of Dwight	City of Herndon
Butler RWD #3	City of Blue Rapids	City of Edgerton	City of Hesston
Butler RWD #4	City of Bogue	City of Edna	City of Hiawatha
Butler RWD #5	City of Bonner Springs	City of Effingham	City of Highland
Butler RWD #6	City of Brewster	City of Elgin	City of Hill City
Butler RWD #7	City of Bronson	City of Elk City	City of Hillsboro
Butler RWD #8	City of Brookville	City of Elkhart	City of Hoisington
Caldwell Utilities, Inc.	City of Brownell	City of Ellinwood	City of Holcomb
Chase RWD #1	City of Bucklin	City of Ellis	City of Holton
Chautauqua RWD #1	City of Buffalo	City of Elmdale	City of Hope
Chautauqua RWD #2	City of Buhler	City of Elwood	City of Horton
Chautauqua RWD #3	City of Bunker Hill	City of Emmett	City of Howard
Cherokee RWD #1	City of Burden	City of Enterprise	City of Hugoton
Cherokee RWD #2	City of Burlingame	City of Erie	City of Humboldt
Cherokee RWD #3	City of Burlington	City of Esbon	City of Hunter
Cherokee RWD #4	City of Burns	City of Eudora	City of Inman
Cherokee RWD #5	City of Burrton	City of Everest	City of Iola
Cherokee RWD #6	City of Bushton	City of Fall River	City of Isabel
Cherokee RWD #7	City of Cambridge	City of Florence	City of Iuka
Cherokee RWD #8	City of Canton	City of Fontana	City of Jamestown
Cherokee Water Corp.	City of Carbondale	City of Fort Scott	City of Jennings
City of Admire	City of Cawker City	City of Frankfort	City of Jewell
City of Agenda	City of Cedar Vale	City of Fulton	City of Kanorado
City of Agra	City of Centralia	City of Galesburg	City of Kechi
City of Alexander	City of Chapman	City of Galva	City of Kensington
City of Allen	City of Chase	City of Garden City	City of Kingman
City of Alma	City of Cherryvale	City of Garden Plain	City of Kinsley
City of Almena	City of Cimarron	City of Gardner	City of Kiowa
City of Alta Vista	City of Circleville	City of Gas	City of Kismet
City of Altamont	City of Claflin	City of Gaylord	City of LaCygne

52

Members, Kansas Rural Water Association
 February 26, 2001 Page 2

City of LaHarpe	City of Mound City	City of Ransom	City of Valley Falls
City of Lancaster	City of Mound Valley	City of Rantoul	City of Vermillion
City of Larned	City of Mount Hope	City of Raymond	City of Victoria
City of Lebanon	City of Mulberry	City of Republic	City of Virgil
City of Lebo	City of Mullinville	City of Reserve	City of Wakefield
City of Lecompton	City of Munden	City of Rexford	City of Waldo
City of Lehigh	City of Muscotah	City of Richmond	City of Wallace
City of Lenora	City of Narka	City of Riley	City of Walton
City of Leon	City of Natoma	City of Robinson	City of Wamego
City of Leoti	City of Neodesha	City of Rolla	City of Washington
City of LeRoy	City of Ness City	City of Rossville	City of Waterville
City of Lewis	City of Netawaka	City of Rozel	City of Wathena
City of Liebenthal	City of New Strawn	City of Russell	City of Waverly
City of Lincoln Center	City of Newton	City of Sabetha	City of Weir
City of Lincolnville	City of Nickerson	City of Satanta	City of Wellsville
City of Lindsborg	City of Norcatour	City of Sawyer	City of West Mineral
City of Linwood	City of North Newton	City of Scammon	City of Westmorland
City of Little River	City of Nortonville	City of Scott City	City of Wetmore
City of Logan	City of Norwich	City of Scranton	City of White City
City of Long Island	City of Oakley	City of Sedan	City of Whitewater
City of Longford	City of Oberlin	City of Sedgwick	City of Whiting
City of Longton	City of Ogden	City of Seneca	City of Williamsburg
City of Lucas	City of Oketo	City of Severance	City of Willowbrook
City of Luray	City of Olmitz	City of Severy	City of Winchester
City of Lyndon	City of Olpe	City of Sharon	City of Windom
City of Lyons	City of Onaga	City of Sharon Springs	City of Winfield
City of Macksville	City of Oneida	City of Silver Lake	City of Winona
City of Madison	City of Osage City	City of Simpson	City of Woodston
City of Manchester	City of Oskaloosa	City of Smith Center	City of Yates Center
City of Manhattan	City of Oswego	City of Soldier	Clay RWD #2
City of Mankato	City of Overbrook	City of South Haven	Cloud RWD #1
City of Manter	City of Oxford	City of South Hutchinson	Coffey RWD #2
City of Maple Hill	City of Ozawkie	City of Spearville	Coffey RWD #3
City of Marion	City of Palco	City of Spring Hill	Comanche RWD #1
City of Marquette	City of Paradise	City of St. Francis	Comanche RWD #2
City of Marysville	City of Park City	City of St. George	Cowley RWD #1
City of Matfield Green	City of Parker	City of St. John	Cowley RWD #2
City of Mayetta	City of Parsons	City of St. Paul	Cowley RWD #3
City of McCune	City of Pawnee Rock	City of Sterling	Cowley RWD #4
City of McDonald	City of Paxico	City of Stockton	Cowley RWD #5
City of McFarland	City of Peabody	City of Strong City	Cowley RWD #6
City of McLouth	City of Perry	City of Sublette	Cowley RWD #7
City of Meade	City of Peru	City of Summerfield	Crawford Chicopee Corp.
City of Medicine Lodge	City of Phillipsburg	City of Sylvan Grove	Crawford Cons. RWD #1
City of Melvern	City of Plains	City of Sylvia	Crawford RWD #1
City of Meriden	City of Pleasanton	City of Syracuse	Crawford RWD #2
City of Milford	City of Pomona	City of Thayer	Crawford RWD #3
City of Miltonvale	City of Portis	City of Topeka	Crawford RWD #4
City of Minneapolis	City of Powhattan	City of Toronto	Crawford RWD #5
City of Moline	City of Preston	City of Towanda	Crawford RWD #7
City of Moran	City of Pretty Prairie	City of Treece	Dickinson RWD #1
City of Morganville	City of Protection	City of Tribune	Dickinson RWD #2
City of Morland	City of Quenemo	City of Troy	Doniphan RWD #1
City of Morrill	City of Quinter	City of Turon	Doniphan RWD #2
City of Morrowville	City of Randall	City of Ulysses	Doniphan RWD #3
City of Moscow	City of Randolph	City of Valley Center	Doniphan RWD #5

53

Members, Kansas Rural Water Association

February 26, 2001 Page 3

Douglas RWD #1	Lane RWD #1	Neosho RWD #9	Sumner RWD #4
Douglas RWD #2	Leavenworth Cons. RWD 1	Neosho-Allen RWD #2	Sumner RWD #5
Douglas RWD #3	Leavenworth RWD #10	Norton RWD #1	Sumner RWD #6
Douglas RWD #4	Leavenworth RWD #2	Osage RWD #2	Sundowner West
Douglas RWD #5	Leavenworth RWD #5	Osage RWD #3	Trego RWD #1
Douglas RWD #6	Leavenworth RWD #6	Osage RWD #4	Trego RWD #2
Elk RWD #1	Leavenworth RWD #7	Osage RWD #5	University Park Imp. Dist.
Ellis RWD #1	Leavenworth RWD #8	Osage RWD #6	Wabaunsee RWD #1
Ellis RWD #2	Leavenworth RWD 1	Osage RWD #7	Wabaunsee RWD #2
Ellis RWD #6	Linn RWD #1	Osage RWD #8	Washington RWD #1
Ellis RWD #7	Linn RWD #2	Osborne RWD #2	Washington RWD #2
Ellsworth RWD #1	Linn RWD #3	Osborne RWD 1A	Washington RWD #3
Finney RWD #1	Linn Valley Lakes	Ottawa RWD #1	Wilson RWD #1
Franklin RWD #1	Lyon RWD #1	Ottawa RWD #2	Wilson RWD #10
Franklin RWD #2	Lyon RWD #2	Pottawatomie RWD #1	Wilson RWD #11
Franklin RWD #3	Lyon RWD #3	Pottawatomie RWD #2	Wilson RWD #12
Franklin RWD #4	Lyon RWD #4	Pottawatomie RWD #3	Wilson RWD #3
Franklin RWD #5	Lyon RWD #5	Public Wholesale #12	Wilson RWD #5
Franklin RWD #6	Marion County Imp. Dist. #2	Public Wholesale #13	Wilson RWD #6
Franklin RWD #7	Marion RWD #1	Public Wholesale #4	Wilson RWD #7
Geary RWD #4	Marion RWD #2	Public Wholesale #5	Wilson RWD #9
Greenwood RWD #1	Marion RWD #4	Reno RWD #1 (101)	Woodson RWD #1
Greenwood RWD #2	Marshall RWD #1	Reno RWD #101	
Hamilton RWD #1	Marshall RWD #2	Reno RWD #3	
Harper RWD #1	Marshall RWD #3	Reno RWD #4	
Harper RWD #2	McPherson RWD #2	Reno RWD #8	
Harper RWD #3	McPherson RWD #4	Republic RWD #1	
Harper RWD #4	Miami RWD #1	Republic RWD #2	
Harper RWD #5	Miami RWD #2	Rice RWD #1	
Harvey RWD #1	Miami RWD #3	Riley RWD #1	
Jackson RWD #1	Miami RWD #4	Rooks RWD #1	
Jackson RWD #2	Mitchell RWD #1	Rooks RWD #2	
Jackson RWD #3	Mitchell RWD #2	Rooks RWD #3	
Jefferson RWD #1	Mitchell RWD #3	Rush RWD #1	
Jefferson RWD #10	Montgomery Cons. RWD #1	Russell RWD #1	
Jefferson RWD #11	Montgomery RWD #1	Russell RWD #3	
Jefferson RWD #12	Montgomery RWD #10	Russell RWD #4	
Jefferson RWD #13	Montgomery RWD #12	Saline RWD #1	
Jefferson RWD #2	Montgomery RWD #13	Saline RWD #2	
Jefferson RWD #3	Montgomery RWD #14	Saline RWD #3	
Jefferson RWD #6	Montgomery RWD #2	Saline RWD #4	
Jefferson RWD #7	Montgomery RWD #4	Saline RWD #6	
Jefferson RWD #8	Montgomery RWD #6	Saline RWD #8	
Jefferson RWD #9	Montgomery RWD #8	Sedgwick RWD #2	
Jewell RWD #1	Montgomery RWD #9	Sedgwick RWD #3	
Johnson RWD #6 Cons.	Morris RWD #1	Sedgwick RWD #4	
Johnson RWD #7	Nemaha RWD #1	Shawnee Cons. RWD #1	
Kingman RWD #1	Nemaha RWD #2	Shawnee RWD #3	
Labette Mont. RWD #3	Nemaha RWD #3	Shawnee RWD #4	
Labette RWD #1	Nemaha RWD #4	Shawnee RWD #6	
Labette RWD #2	Neosho RWD #12	Shawnee RWD #7	
Labette RWD #5	Neosho RWD #3	Shawnee RWD #8	
Labette RWD #6	Neosho RWD #5	Smith RWD #1	
Labette RWD #7	Neosho RWD #6	Sumner RWD #1	
Labette RWD #8	Neosho RWD #7	Sumner RWD #2	
Labette RWD 5	Neosho RWD #8	Sumner RWD #3	

5-4



Comments on House Bill 2006
House Utilities Committee
February 28, 2001

The City of Sabetha appreciates the opportunity to address the House Utilities Committee on proposed House Bill 2006. It is our understanding this new bill will clarify our present sales tax for public water systems.

The present sales tax application is extremely complicated. After discussions with other communities, it seems as though we all apply sales tax on our water system a little differently. The complexity of the current system is an administrative nightmare. Attempting to determine the appropriate tax is nearly impossible. The need for reform is now and House Bill 2006 is a good opportunity to simplify an antiquated system.

If public water systems are exempted from sales tax and if the revenue needs to be replaced, we can think of no fairer way to accomplish that other than with a fee based on water sold at retail. This would be an excellent remedy to the lost revenues from the present sales tax on water supply systems. It will assure that all systems are paying a fair and proper amount. The calculation will be easy and it can be verified for accuracy. All public water systems are accustomed to this as we all already make payments towards the State Water Plan Fund.

The City of Sabetha, like many other smaller communities, has limited staff. We encourage this Committee to approve House Bill 2006 and to find a way to replace the fiscal note. The present law is incredibly complex. Changing the method of payment will be a great benefit to the State of Kansas and all water systems.

Sincerely,

Douglas Allen
City Administrator
City of Sabetha

HOUSE UTILITIES

DATE: 2-28-01

CITY OF SABETHA, KANSAS

City Hall
701 Washington
PO Box 603
(785) 243-2670
FAX-(785) 243-3328
TDD-(785) 243-2336

Police Department
401 W. 6th
PO Box 603
(785) 243-3131
FAX-(785) 243-4727
TDD-(785) 243-3323

Fire Department
701 Washington
(785) 243-4411

Municipal Judge
812 Washington
(785) 243-1357

City Attorney
613 Washington
(785) 243-3790
FAX-(785) 243-5018

Comments on House Bill 2006 Before the House Utilities Committee February 28, 2001

Mr. Chairman and Committee Members:

My name is Larry Remmenga. I am Director of Utilities in Concordia, Kansas. I would like to thank the committee for allowing me to present my comments on House Bill 2006.

I am here to represent the Administration, Staff, as well as the citizens of Concordia. The City Of Concordia strongly supports HB 2006.

First of all, I would like to say that we support the fact that the State has an urgent need for the revenue that the sales tax is generating. However, I also feel that the current means of generating the revenue by using sales tax as it's method has created many problems for not only the vendors who are trying to comply with charging the tax, but is very confusing for the people who are paying the sales tax. In addition to the confusion the administration costs are very expensive for those of us who diligently try to follow the letter of the law. But more than that I feel the players are to a large degree playing on a very uneven field.

Please allow me a moment to give you a few examples of what is happening with the current system that raises questions:

1. Many times I receive bills from vendors that do not have state sales tax added. The City Of Concordia adds the sales tax to the tickets and pays the tax. My question to you is this: Do you think the vendors (who have already done their books by the time they receive payment from us) are going to redo their books and rewrite a sales tax check to the state after they have done it once? I think not.
2. Many vendors do not understand the correct amount of sales tax to bill each customer! The amount varies from city to city and also depends on whether I call the vendor and place my order at his place of business, (if it's not in our city) or whether I place the order with him when he comes to call on me.

HOUSE UTILITIES

DATE: 2-28-01

ATTACHMENT 7

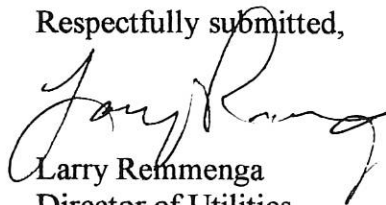
Example: If your sales tax rate is 6% and I call you at your place to order, I pay your rate. If my city rate is 8% and you take my order at my place, then you charge me at my rate, 8%. As you can see this gets terribly confusing. In Concordia, bills are handled by at least three people before the vendors and sales taxes are paid. The time and cost involved makes administrating the present system extremely cumbersome and expensive.

3. There are products that we purchase that are sales taxed and other products that are non-sales taxed. Until recently Concordia was paying tax on nontaxable items that cost us several thousands of dollars over a period of time.
4. When we address the products that are purchased out of state the system becomes more confusing. Out of state vendors have a real advantage when competing with people doing business in our state. By not charging sales tax on large items their prices could represent a significant savings, therefore many people might be willing to buy from out-of-state vendors. The playing field needs to be leveled so our own business people are not at a disadvantage.

I respect the fact that time is limited so I will close. I am here today to ask for your support of House Bill 2006. As amended, the bill will ensure that all systems have the opportunity to have an easily understood method of collecting and sending money to the state. The proposed method can be easily verified for accuracy, and assurance that it is being complied with. I also feel that the State of Kansas will be better served because we will now have a very level playing field for all that participate in generating this revenue. The City Of Concordia will be able to administer this proposal at no additional cost to our ratepayers. Our administrative costs will actually be reduced significantly.

Thank you for your support, and again I thank you for allowing me to come before you.

Respectfully submitted,


Larry Remmenga
Director of Utilities
City of Concordia, Kansas

7-2



MEMORANDUM

TO: Members of the House Utilities Committee
FROM: Donald R. Seifert, Policy Development Leader *MS*
SUBJECT: **House Bill 2006**; Sales Tax Treatment of Water Utility Purchases
DATE: February 28, 2001

On behalf of the city of Olathe, thank you for the opportunity to submit this statement of support for this bill. This issue has been part of the city's legislative program for several years. HB 2006 was recently heard and recommended favorably by the House Taxation Committee.

Introduced by the 2000 interim tax committee, HB 2006 would exempt purchases made by municipal water utilities and other public water suppliers from the state and local sales tax. The 2000 interim was the second interim study in three years to address this issue. An identical bill, 1999 HB 2011, passed the House by a vote of 121-4, but did not advance in the Senate. It is the city's understanding that the present \$3.2 million fiscal note is now significantly lower than estimated in 1999.

The city of Olathe has operated a municipal water utility since 1884. The city currently provides water service to approximately 29,000 customers. Under current law, the treatment and distribution of water is the only area of municipal government where the purchase of goods and services is subject to the state and local sales tax. Purchases made in all other areas of the city are exempt from the sales tax.

We estimate the application of sales tax to the water utility adds an additional \$100,000 annually to the operating cost of this service. It also adds to the cost of every capital item the city or its contractors purchase for the water system, such as pipe, trucks, equipment, and treatment capacity. For example, the city recently completed a \$20 million capacity expansion project at its Water Plant No. 2. If materials used in this project had been sales tax exempt, the savings to ratepayers would have been significant. Application of sales tax also causes administrative confusion, where certain line items in the city's budget are taxable and most are not.

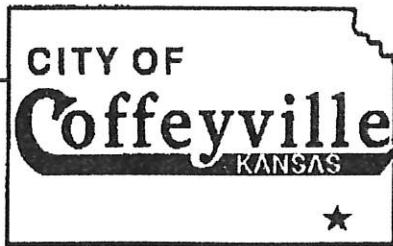
The city requests that the committee view HB 2006 as equalizing the playing field for a basic governmental service. In Kansas, furnishing drinking water is an essential governmental function. There are some 700 water suppliers in the state, all but a small handful of which are public entities. The state exempts from the sales tax every other type of purchase made by a political subdivision. We simply believe there is no more basic municipal service than the furnishing of water to citizens, and that it should be afforded the same sales tax treatment as the rest of city government.

Thank you again for the opportunity to comment today. We urge the committee to agree with the taxation committee and all prior studies of this issue and recommend HB 2006 favorably for passage.

HOUSE UTILITIES

DATE: 2-28-01

ATTACHMENT 8



7th & WALNUT • P.O. BOX 1620 • (316) 252-8100
COFFEYVILLE, KANSAS 67337-0949

February 27, 2001

Representative Carl Holmes
Chairman, House Utilities Committee
Topeka, Kansas

Dear Chairman Holmes and members of the committee:

The City of Coffeyville would like to express its support for the proposed House Bill 2006 (HB2006), which would exempt water utilities from the sales tax statutes.

We would also support the proposed amendment to HB2006, which would establish a clean drinking water fee, at a rate of \$0.03 per 1,000 gallons of water sold at retail by a public water supply system, in lieu of the payment of sales tax.

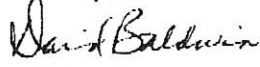
The current sales tax statutes for water systems are complicated and difficult to implement, due to the sales tax exempt status of certain portions of the water treatment operations, while other portions of water treatment operations, as well as all water distribution operations are not exempt.

The situation becomes even more complicated for many Cities, such as Coffeyville, which have a combined Water & Wastewater Utility. Since the wastewater utility is exempt and some parts of the water utility's operations are exempt, while other parts of the water utility's operations are not exempt, determining exactly which purchases are subject to sales tax and which are exempt can be very difficult and time consuming.

Publicly owned water systems are not typically profitable enterprises, especially with the new regulatory burdens recently imposed. They are most often a public service, similar to a wastewater utility.

Therefore, we would appreciate your consideration and support for HB2006.

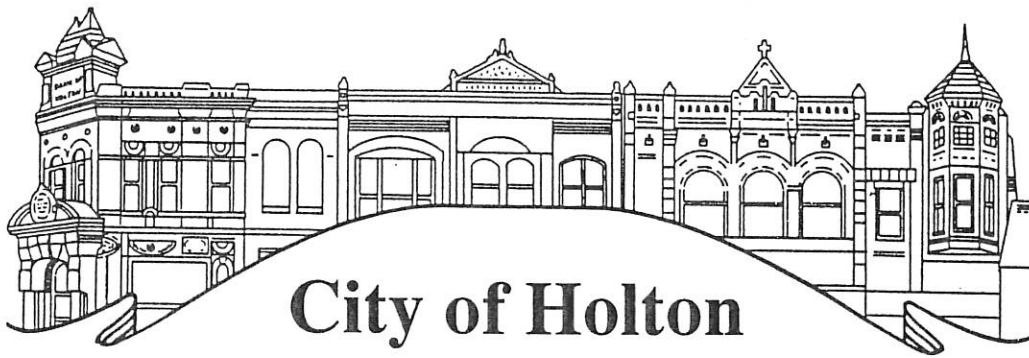
Sincerely,


David Baldwin
Mayor

HOUSE UTILITIES

DATE: 2-28-01

ATTACHMENT 9



February 28, 2001

The Honorable Carl Holmes
Chair, House Utilities Committee
Kansas House of Representatives
State Capitol
Topeka, Kansas 66612

RE: HB 2006

Dear Representative Holmes and Members of the House Utilities Committee:

On behalf of the City of Holton, we would like to comment on legislation proposed through House Bill 2006 which amends K.S.A. 79-3606. The bill, as we understand it, would provide a sales tax exemption for public water systems for the construction, renovations, operation, or maintenance, including both direct and indirect purchases made by water suppliers.

From the City's perspective, our goal would be to work in partnership with the State to consider some mechanism for simplifying the present sales tax structure in dealing with direct and indirect purchases as it applies to water systems. The current system is difficult and complicated particularly for many smaller systems. The administration of the sales tax issue for our system of 1,500 customers is more complex than we believe it should or could be.

We also share the State's concern about the fiscal impact of granting sales tax exemptions. However, other alternatives may be available for addressing a potential reduction in sales tax revenues, including a fee-based payment based on water sales. If we were able to achieve sales tax simplification for water systems, we would be open to working on alternative solutions that could potentially address the fiscal impact.

Again, our primary concern is simplification of the overly complicated sales tax structure as it applies to water suppliers. We appreciate the opportunity to express our concerns about the current sales tax structure, and we hope that the Utilities Committee can reach a workable solution to the issue.

Thank you for your consideration.

Sincerely,

Bradley J. Mears
City Manager

HOUSE UTILITIES

DATE: 2-28-01

430 Pennsylvania Avenue, Holton, Kansas 666
(785) 364-2721 FAX (785) 364-3887

ATTACHMENT 10

**SUMMARY OF THE TESTIMONY OF H. BOONE PORTER
IN SUPPORT OF H.B. 2294 GIVEN ON FEBRUARY 28, 2000
BEFORE THE HOUSE UTILITIES COMMITTEE**

My name is Boone Porter and I reside at 4104 West 91st Street in Prairie Village, Kansas. I urge your support of H.B. 2294. I believe that H.B. 2294 fills a “gap” which exists in current law and that the bill embodies good public policy.

Before my neighbors tell you why you ought to support H.B. 2294, let me briefly tell you what the bill does. I do not want there to be any misunderstandings about the bill’s operative provisions. Specifically, H.B. 2294 is intended to amend K.S.A. 66-1,177; 66-1,178; and 66-1,182 for the following purposes:

- To ensure that the owners of property adjoining proposed overhead power line easements are given notice and an opportunity to be heard at a public hearing to determine the **necessity** and the **reasonableness** of the proposed location of the easement.
 - **Current law** already so provides for power lines of 5 miles or more in length if they have a capacity of at least 230 kilovolts. *See* K.S.A. 66-1,177 (b).
 - **H. B. 2294** would extend the requirements of existing law to electric power lines to be located or relocated **within cities of the first class** if the lines are **¼ of a mile or longer regardless of voltage capacity**. *See* H.B. 2294, page 1, lines 25 to 27.
- To create the general rule that, unless the location or relocation of power lines which are subject to the statute come within one of four exceptions, there must be a hearing before the KCC to determine the necessity and reasonableness of the power line location or relocation.
 - **Current law** already provides three exceptions: (i) placement of the power lines on an existing electric transmission line easement if the line to be constructed is located outside the corporate limits of any city; (ii) placement of the transmission lines adjacent to the right of way alongside a four lane, limited access highway within the corporate limits of any city; and (iii) compliance with the national environmental policy act of 1969 regarding the siting of power lines. *See* K.S.A. 2000 Supp. 66-1,182 (a) (1), (2), and (3).
 - **H. B. 2294** would create a new fourth exception which would apply only in cases of low voltage, short distance lines located within cities of the first class: the location or relocation of such lines within a city of the first class where city approval is obtained in either of two ways at the utility’s option:
 - **For overhead lines:** by securing approvals which are **already required**

under municipal ordinances if such ordinances **already require notice to adjacent property owners and a public hearing**. *See* H.B. 2294, page 2, lines 28 to 34.

- **For buried lines:** by burying the transmission lines in compliance with any applicable ordinances and regulations, even if no notice to adjacent property owners or hearing is required. *See* H.B. 2294, page 2, lines 34 to 36.
- To preserve existing public policies embodied in K.S.A. 66-1,177; 66-1,178; and 66-1,182.
 - **Current law** excludes cities from jurisdiction over the siting of electric power lines excluded from coverage under K.S.A. 2000 Supp. 66-1,182 (a) (1), (2), and (3).
 - **H.B. 2294** continues to excludes cities from jurisdiction over the siting of electric power lines excluded from coverage under K.S.A. 2000 Supp. 66-1,182 (a) (1), (2), and (3). *See* H.B. 2294, page 2, lines 37 to 39.
- To avoid unreasonable administrative burdens being placed upon the KCC.
 - **H.B. 2294** does **NOT** excuse electric power companies from obtaining approvals from a first class city if the city's ordinances require such approval. *See* H.B. 2294, page 2, lines 31 and 32 ("approval which is required by ordinance of such city"). Any such approvals required under current law will still be required.
 - **H.B. 2294** does **NOT** require the KCC to approve low voltage, short distance lines within a first class city if the city's ordinances require notice to be given to adjacent property owners and a public hearing before approval can be given.
- To further public policies embodied in existing laws and regulations.
 - **H.B. 2294** recognizes that the KCC is in a better position to compel cities to adhere to their own ordinances requiring regulatory approvals of electric utility operations to promote health, safety, and public welfare than is the average homeowner.
 - **H.B. 2294** encourages electric utilities to reach accommodation with adjacent landowners to facilitate approval of necessary and reasonable power line sitings.
 - **H.B. 2294** provides aggrieved landowners with an assured governmental forum in which disputes concerning necessity and reasonableness can be economically and expeditiously resolved in a manner consistent with substantive and procedural due process of law, which is in the interest of all parties concerned.

Thank you Mr. Chairman and members of the Committee for permitting me to testify.

Proposed Amendment
2/27/01

Session of 2001

HOUSE BILL No. 2294

By Committee on Taxation

2-5

9 AN ACT concerning certain electric transmission lines; amending K.S.A.
10 66-1,177 and K.S.A. 2000 Supp. 66-1,178 and 66-1,182 and repealing
11 the existing sections.

12
13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 66-1,177 is hereby amended to read as follows: 66-
15 1,177. As used in this act, the following terms shall have the meanings
16 ascribed to them herein:

17 (a) "Electric utility" means every public utility, as defined by K.S.A.
18 66-104, *and amendments thereto*, which owns, controls, operates or man-
19 ages any equipment, plant or generating machinery for the production,
20 transmission, delivery or furnishing, of electricity or electric power;

21 (b) "Electric transmission lines" means:

22 (1) Any line or extension of a line, which is at least five ~~(5)~~ miles in
23 length and which is used for the bulk transfer of ~~two hundred thirty (230)~~
24 230 kilovolts or more of electricity; *or*

25 (2) *any line or extension of a line for the transfer of electricity, re-*
26 *gardless of kilovolt capacity, which is at least 1/4 mile in length and is*
27 *located within a city of the first class.*

28 (c) "Commission" means the state corporation commission.

29 Sec. 2. K.S.A. 2000 Supp. 66-1,178 is hereby amended to read as
30 follows: 66-1,178. (a) No electric utility may begin site preparation for or
31 construction *or relocation* of an electric transmission line, or exercise the
32 right of eminent domain to acquire any interest in land in connection with
33 the site preparation for a construction *or relocation* of any such line with-
34 out first acquiring a siting permit from the commission. Whenever any
35 electric utility desires to obtain such a permit, the utility shall file an
36 application with the commission setting forth therein that the utility pro-
37 poses to construct *or relocate* an electric transmission line and specifying:

38 (1) The proposed location *or relocation* thereof;

39 (2) the names and addresses of the landowners of record whose land
40 or interest therein is proposed to be acquired in connection with the
41 construction *of or relocation* or is located within 660 feet of the center
42 line of the easement where the line is proposed to be located *or relocated*;
43 and

11-3

1 (3) such other information as may be required by the commission.

2 (b) Upon the filing of an application pursuant to subsection (a), the
3 commission shall fix a time for a public hearing on such application, which
4 shall be not more than 90 days after the date the application was filed, to
5 determine the necessity for and the reasonableness of the location *or*
6 *relocation* of the proposed electric transmission line. The commission
7 shall fix the place for hearing, which shall be in one of the counties *or*
8 *cities of the first class* through which the electric transmission line is
9 proposed to traverse.

10 (c) The commission may conduct an evidentiary hearing on an ap-
11 plication filed pursuant to this section at such time and place as the com-
12 mission deems appropriate.

13 (d) The commission shall issue a final order on the application within
14 120 days after the date the application was filed.

15 Sec. 3. K.S.A. 2000 Supp. 66-1,182 is hereby amended to read as
16 follows: 66-1,182. (a) The provisions of this act shall not apply to:

after securing all required approvals under
all other applicable laws and regulations

17 (1) That portion of any electric transmission line to be constructed
18 *or relocated* on an easement where there currently exists one or more
19 electric transmission lines if the easement is not within the corporate
20 limits of any city;

21 (2) that portion of any electric transmission line to be constructed *or*
22 *relocated* on property adjacent to right-of-way along a four-lane controlled
23 access highway, as defined in K.S.A. 8-1410, and amendments thereto;
24 ~~or~~

25 (3) any electric utility which complies with the provisions of the na-
26 tional environmental policy act of 1969 with regard to the siting of electric
27 transmission lines; *or*

28 (4) *in the case of an electric transmission line described in subsection*
29 *(b)(2) of K.S.A. 66-1,177, and amendments thereto, any utility which ei-*
30 *ther: (A) Obtains from the city where the proposed line is to be located*
31 *or relocated a special use permit, variance, waiver or other approval*
32 *which is required by ordinance of such city and for which public notice*
33 *and hearing is required by ordinance before such permit, variance, waiver*
34 *or other approval may be granted by the city; or (B) if the city has not*
35 *adopted any ordinance described in (A), buries the electric transmission*
36 *line.*

37 (b) No city or county shall have jurisdiction or control over the siting
38 or construction of any electric transmission line exempted from the pro-
39 visions of this act by subsection (a)(1), (2) *or* (3).

40 (c) No environmental study shall be required for construction *or re-*
41 *location* of an electric transmission line on right-of-way where there cur-
42 rently exists one or more electric transmission lines.

43 Sec. 4. K.S.A. 66-1,177 and K.S.A. 2000 Supp. 66-1,178 and 66-1,182

11-4

- 1 are hereby repealed.
- 2 Sec. 5. This act shall take effect and be in force from and after its
- 3 publication in the Kansas register.

TESTIMONY OF MARCELINE HUNTER OF PRAIRIE VILLAGE
IN FAVOR OF H.B. 2294 GIVEN ON FEBRUARY 28, 2001
BEFORE THE HOUSE UTILITIES COMMITTEE

My name is Marceline Hunter. I reside at 9020 Mission Road in Prairie Village, Kansas, where I've owned my home for ___ years. I'm appearing today to speak in favor of passage of House Bill 2294.

Mr. Chairman and members of the Committee, thank you for giving me this opportunity to do so. While I agree with the testimony just given by Mr. Porter, and with that of the other witnesses who will speak after me, I will not repeat what they will say. Rather, I wish to focus on an economic issue.

I live alone, and my home is one of my most valuable assets. If the power company is going to take action on adjoining property which will have a material and adverse effect on the value of my home, I believe that as a voter, as a taxpayer, and as a rate payer of the power company, I have a right to be notified in advance and that I have a right to have my concerns voiced in a public forum before a governmental body.

I know that the power company can afford to hire many lawyers and lobbyists. I cannot, and I suspect most other homeowners in this state cannot either. As individuals, most homeowners in Kansas don't have unlimited economic resources to fight the power company in court for months on end. We all need a convenient forum that is readily accessible and where any material issues which may be in dispute can be fairly and expeditiously resolved. Such a forum would also permit the power company to communicate its position and to explain any merits which its proposal has.

Accordingly, please vote in favor of H.B. 2294, which will create a convenient, accessible and affordable forum, where decisions can be made in the open by public officials who are publicly accountable. A vote in favor of H.B. 2294 means that people such as myself can protect our most valuable asset, our homes.

Thank you, Mr. Chairman and members of the Committee.

HOUSE UTILITIES
DATE: 2-28-01
ATTACHMENT 12

TESTIMONY OF LEIGH MUTERT OF PRAIRIE VILLAGE
GIVEN ON FEBRUARY 29, 2001 BEFORE THE HOUSE
UTILITIES COMMITTEE IN SUPPORT OF H.B. 2294

My name is Leigh Mutert. I reside at 4000 West 91st Street in Prairie Village, Kansas with my husband and three children. We have lived at this address for 11 years. I am here today to speak in favor of passage of House Bill 2294.

Mr. Chairman and members of the Committee, we are not asking you to resolve our particular dispute with the power company. We are, however, experiencing a problem which many before us and many others in the future will encounter.

The problem arises when a power company seeks to move lines in a mature, densely populated, developed area. Our experience tells us Kansas law should be clarified to ensure that homeowners, who are taxpayers, voters, and utility rate payers, receive due process of law.

Current law is unclear vis-a-vis our situation. Our city tells us it can't help us. The Kansas Corporation Commission, the agency with plenary regulatory powers over utility companies, prefers not to be involved in these types of matters. In situations like ours, there is confusion concerning where homeowners can go to seek relief. Therefore, we look to you, the Legislature, to clarify and simplify the law.

As a ratepayer who is compelled to purchase my electric power from Kansas City Power & Light because it is a monopoly, I don't appreciate it bullying me and telling me there's nothing I can do about its moving utility poles and lines in such a way as to degrade the value of my property.

I don't think it's appropriate for the power company to negotiate in secret with my backyard neighbors to move the power easement corridor in our neighborhood. It's wrong for the power company to consistently promise to show me its plans to relocate the power easement in our neighborhood, but then never fulfill its promises.

People like me should not have to spend tens of thousands of dollars of our savings to file law suits and burden an already overtaxed court system to prevent the power company from degrading our properties? We should not have to endure years of delay and uncertainty regarding our homes while the judicial system grinds on.

As voters, we expect our government to provide better solutions to issues of public concern such as these. Accordingly, I'm asking you, the Legislature, to create a forum and a procedure where people

HOUSE UTILITIES

DATE: 2-28-01

ATTACHMENT 13

like me can have substantive and procedural due process under law when we seek to protect our properties. H. B. 2294 does that. Such a forum will give people like me confidence that all relevant information will become part of a public record, and that any decisions which affect the public interest, such as the location **or relocation** of utility easements will be made by government officials who are accountable to the public at large.

Thank you, Mr. Chairman and members of the Committee for your time today.

TESTIMONY OF MELISSA SCHLADER OF PRAIRIE VILLAGE
BEFORE THE HOUSE UTILITIES COMMITTEE ON FEBRUARY 28, 2001
IN SUPPORT OF H.B. 2294

My name is Melissa Schlader. I live at 3904 West 91st Street in Prairie Village, Kansas. My husband and I have owned our property for 2 years, which we share with our 15 month old son. I'm here today to speak in favor of passage of House Bill 2294.

Being the mother of a small child, health and safety issues are of greatest concern to me. We are constantly warned to stay away from power lines, whether they are overhead or buried.

I know from my own experience that when a power company relocates lines, in many instances those lines are moved from their existing location to a location which is much closer to our homes. This increases the risk of health and safety hazards to those living next to the relocated lines.

The location of power lines is a matter of public concern. I know we all need power, but the location of lines should be carefully considered so that safety hazards can be minimized and health issues can be properly assessed.

I also think that once a city government has determined the location of power lines during the platting of a subdivision, that location should not be changed without governmental approval. I do not believe that decades later, after surrounding properties have been fully developed, that a power company and private landowners should be able to unilaterally change the location of those power lines.

For example, the public can have no assurance that the power company and private landowners, acting in their own selfish economic interests, will properly take public health and safety issues into account if they are able to unilaterally change the location of power lines. I don't trust them to take adequate precautions unless I know that all concerns have been identified in a public forum - and those concerns have been properly weighed and acted upon by a governmental agency which is accountable to all parties and the public-at-large. House Bill 2294 would help ensure that such a forum exists.

Thank you, Mr. Chairman and members of the Committee, for your attention to this matter.

HOUSE UTILITIES
DATE: 2-28-01
ATTACHMENT 14

Susan Moore
4400 W. 91st St
Prairie Village, KS 66207

Kansas City Power & Light claims that they can build their distribution lines without any oversight from our city. They say that municipal planning and zoning ordinances set up to protect property values don't apply to them.

But in this case, KCPL is building a distribution line not to provide new service or to improve service – but to solve a business problem. They are building the line so that they don't get sued. In our neighborhood, KCPL seeks to placate one set of homeowners at the expense of my neighbors and me.

We have no forum for a public discussion of the fairness of what is being done.

I assure you, no public benefit or good is flowing from KCP&L's action.

I believe that they are abusing the public trust.

When Kansas City Power & Light's business needs take precedence over public responsibility and citizenship, they should be subject to greater oversight.

HOUSE UTILITIES

DATE: 2-28-01

ATTACHMENT 15



**Testimony on
House Bill 2294
(concerning certain electric transmission lines)**

**Committee on Utilities
Kansas House of Representatives
February 28, 2001**

House Bill 2294 is intended to prevent KCPL and other electric utilities from relocating small transmission lines and utility poles without going through the same siting process that applies to the construction of large transmission lines. KCPL opposes this legislation.

It is our understanding that this legislation was requested in response to a constituent complaint about the relocation of a power line by KCPL in Prairie Village, which moved the line closer to the Kenilworth subdivision. The constituent lives in the subdivision and has also filed legal action and sought an injunction; thus far rulings have sanctioned KCPL's actions in relocating the line.

KCPL believes the situation does not warrant a change in the law, and urges the committee to exercise restraint. Changes were made last year to the transmission line siting law in recognition of the fact that the transmission grid is a key component of a healthy power supply in the state. Overzealous siting laws create obstacles to our efforts to supply power where and when needed.

The most common reason lines are relocated is because of road improvements. Expanding the siting permit process to construction or relocations of short lines would create a tremendous burden on state and local regulators. If this legislation were adopted, these agencies would likely come pleading to the legislature next year asking for mercy.

The bill would also require the burying of electric transmission lines where there is no city ordinance requiring a permit or other approval. The zoning ordinances of cities typically exclude utility poles and power lines from permitting regulations, so this would have little practical effect. Elsewhere, the added expense to taxpayers and/or ratepayers to support city permitting or to cover the expense of a mandate to bury lines is simply not justified.

In addition, an expansion in the definition of transmission line would affect other statutes where the term is used.

Kansas City Power & Light Company is the second largest investor-owned electric utility in the state of Kansas, serving a population of over 1 million people in portions of 23 counties in northeastern Kansas, northwestern Missouri, and across the Kansas City metropolitan area. One of the nation's first electric utilities, KCPL has been providing reliable and economical energy to its customers for more than a century. Today, KCPL is the leading provider of energy and related products and services in the Kansas City metropolitan area and nationwide

HOUSE UTILITIES

Working hard for our friends and neighbors

DATE: 2-28-01

ATTACHMENT 14

Testimony
before the
House Utilities Committee
by
Jim Ludwig, Western Resources
February 28, 2001

Chairman Holmes and Members of the Committee:

Western Resources opposes HB 2294. Last session, based on this committee's action and the support of many in the electric industry, the siting act for transmission lines was amended to relax the regulatory burden for building and upgrading transmission lines. HB 2294 would make the siting act more burdensome than it has ever been for both electric utilities and their customers.

The definition of transmission lines would be changed to include any above ground line within a city of the first class extending more than a quarter of a mile. We are not aware of any state or other jurisdiction that has decided to call distribution lines transmission lines.

HB 2294 would affect dozens of projects every year. This means Western Resources would file dozens of siting act applications every year. In calendar year 2000, we estimate more than 80 applications would have been required if this bill had been law. By contrast, KPL and KGE have not sited transmission lines subject to the siting act since 345kv lines were built for Jeffrey Energy Center and Wolf Creek.

Some service connections for new home construction would be subject to full-blown siting applications. Delays for builders and new homeowners could be extraordinary. There are many other types of construction that would be impeded: line relocations for road work, electric service for new residential developments, improvements needed by local businesses, new service for new businesses, etc.

We do not know the reasons for HB 2294 or what problem it is intended to solve. Any person who thinks he/she is harmed by a line construction or relocation may file a complaint at the KCC. Last year's changes to the transmission siting act did not affect the KCC's authority to conduct complaint dockets. These dockets would typically be resolved much more quickly than siting act applications. Western Resources has also collaborated with city officials and neighborhoods to avoid dissatisfaction over line sitings. It is not unusual for us to hold briefings and neighborhood meetings in advance of building major lines within cities.

We believe there is a strong consensus that construction of new generation plants in Kansas should be encouraged. Generation by itself is not useful without transmission lines. As more generation is built to meet Kansans' needs, more transmission lines may also be needed. Enacting HB 2294 would impose more burdens and obstacles on electric utilities and their customers than any Kansas transmission statutes in effect now or ever in the past.

We urge the Committee to oppose HB 2294.

HOUSE UTILITIES

DATE: 2-28-01
ATTACHMENT 17

HOUSE UTILITIES COMMITTEE

February 28, 2001
Testimony of Jon K. Miles

Comments On House Bill No. 2294

Good morning, Mr. Chairman and members of the Committee. My name is Jon K. Miles. I am Vice President of Governmental and Technical Services for Kansas Electric Cooperatives, Inc. (KEC), the statewide association for 29 distribution cooperatives and the state's two generation and transmission cooperatives.

I would like to take the opportunity to thank you for allowing me to appear before the committee in opposition to House Bill No. 2294.

The bill as proposed includes distribution lines in first-class cities and not just high-voltage transmission lines as described in Section 1. The addition of certain distribution lines would impact at least two rural electric cooperative serving consumers within the cities of the first class.

This bill creates a regulatory process for the siting of certain distribution electric lines that potentially involves both public and evidentiary hearings. This process could cause additional costs be paid by electric cooperative consumers because of the public hearings. It is impossible to estimate what the total costs might be to adhere to the provisions of the bill. The number of new services built or relocated over one-fourth of a mile could be substantial when you consider the addition of distribution lines into the mix.

Currently, the electric utilities are required by K.A.R. 82-12-3, et seq., to file an application with the Kansas Corporation Commission for approval before any new or modified supply line in excess of one-half mile is built. The KCC rule requires maps, construction estimates and notice provided to neighboring utilities. This process is sufficient to protect the public interest and ensure compliance with the NESC.

I would be happy to answer any questions you might have.

HOUSE UTILITIES

DATE: 2-28-01

ATTACHMENT 18

***11490 K.A.R. 82-12-3**

**KANSAS ADMINISTRATIVE
REGULATIONS
AGENCY 82. KANSAS
CORPORATION COMMISSION
ARTICLE 12. WIRE-STRINGING
RULES**

*Current with rules/regulations filed before
January 1, 1999*

**82-12-3 Utility applications for electric
supply lines.**

Each utility proposing to build a new electric supply line, or contemplating a change in an existing electric supply line located outside the corporate limits of any city, shall present an

application to the commission for approval. The application shall consist of a completed application form as approved by the commission, and any other information required by the form or these regulations including:

(a) Maps and plats, of a scale of at least one inch to the mile, showing any changes or additions to the electric supply lines; and Wirestringing Rules

(b) a cost breakdown of the construction or extensions with unit cost of the plant.

On or before the day the application is submitted to the commission, the utility shall send written notice of the proposed construction or changes as required by K.A.R. 82-12-5.

(Authorized by and implementing K.S.A. 66-183; effective Aug. 11, 1995.)

18-2

**TESTIMONY ON HB 2294 BEFORE
THE HOUSE UTILITIES COMMITTEE
ON BEHALF OF THE
KANSAS CORPORATION COMMISSION
FEBRUARY 28, 2001**

Mr. Chairman and members of the Committee, I am Susan Cunningham, Acting General Counsel for the Kansas Corporation Commission ("Commission"), and I appreciate the opportunity to testify today in opposition to House Bill 2294. House Bill 2294 amends certain provisions of the Electric Transmission Line Siting Act ("Siting Act"), arguably creating the most onerous and costly regulatory process in the country for the construction of electric power lines.

Staff's research reveals that few state public utility commissions require even an application for electric distribution lines within a utility's established certificated territory, much less a formal siting proceeding. In fact, Staff is aware of application requirements in only a few states – Kansas, Nebraska, North Dakota and Illinois. In these states, applications for permits are required principally to verify distribution lines will comply with safety codes, will be built within the certificated territory of the utility and will be properly coordinated with the facilities of other utilities and railroads. Regulations in these states do not include provisions for public hearings or notices to landowners for common electric distribution construction in the applicant's territory. Furthermore, regulations in one of these states, North Dakota, limit application requirements only to lines built outside the municipal limits of cities for which the utility holds a franchise agreement.

In Kansas, only lines that are 230 kV or greater and more than five miles in length are currently subject to the scrutiny of the Siting Act. Under the Siting Act, transmission owning entities are required to make application with the Commission for a siting permit. The process entails notice to land owners within 660 feet of the route of the proposed line, review by technical and legal Staff, a public hearing in one of the counties or first class cities where the proposed line traverses, an evidentiary hearing if deemed necessary and an ultimate determination by the Commission as to the necessity for and the reasonableness of the location of the proposed line. The Siting Act applies only to lines capable of transmitting bulk supplies of electricity. According to the Commission's records, only one application has been filed pursuant to the Siting Act in the last eight years.

For new construction of primary distribution and transmission lines one-half mile in length or greater, public utilities are required to file an electric line ("EL") application, pursuant to the Commission's Wire-Stringing Rules, K.A.R. 82-12-1 *et seq.* EL applications are compliance filings that primarily verify that each proposed line: (1) will be built according to the National Electric Safety Code, (2) will be built exclusively in the applicant's certificated service territory, (3) will be coordinated with other utilities and railroads to avoid interference, (4) will be built at a reasonable cost, and (5) will not require a formal Siting Act review. These filings also enable the Commission to update and accurately maintain its county and state electric maps. If House Bill 2294 were enacted, all overhead lines built in first class cities (including lines that are not

HOUSE UTILITIES

DATE: 2-28-01
ATTACHMENT 19

even currently subject to the EL application process because they are smaller than one-half mile in length) would be subject to the same regulatory oversight as lines used for the bulk transfer of electricity.

Staff estimates that the Commission receives approximately 600 EL applications annually. In high growth areas such as many of the first class cities, EL applications may cover multiple lines constructed over a period. Staff works with these applicants to ensure compliance with the regulations and to decrease the burden associated with the process. Based on its experience, Staff estimates that roughly 300 of the ELs filed annually would require siting under this proposed legislation. We believe that this is conservative, since more than half of the Kansas population is located in its first-class cities. Additionally, other lines would require siting that either do not require an EL under the current regulations or may be filed as multiple lines in more complex EL filings. Consider that this bill would require lines that are relocated (even by as little as five to ten feet for street widening) and lines that are under one-half mile in length to be sited. These are new categories that would be subject to a siting permit under the bill. However, between the lines that are currently subject to EL application review and the new categories identified in the bill (i.e., relocations and those lines less than one-half mile in length), the Commission believes 300 additional applications would become subject to a Siting Act review each year, potentially totaling as many as 600 applications per year which would be subject to a review under the Siting Act.

The Siting Act review in each case would require Staff investigation, public notice, testimony and locally-held public and technical hearings. To meet the added demand for 300 Siting Act reviews, for example, Staff conservatively estimates that there would be a need for 78 more full-time equivalent ("FTE") employees on Commission Staff, and that the total cost to the Commission of implementing this bill would be approximately \$5.5 million. Staff, however, believes that the impact of House Bill 2294 on the Commission could be greater, as high as 155 FTE employees at a cost of \$10.9 million in the event 600 applications were filed in a given year. Furthermore, these estimates do not consider the impacts on the electric utilities that this bill would affect.

Aside from the administrative/regulatory cost and burden, it is just as important to consider that this legislation would delay street improvements, development of both residential homes and businesses and likely be one of the most restrictive siting requirements in the country. Passage of this bill seems at odds with the direction this Committee has taken in recent years to promote the construction of transmission lines (e.g., House Substitutes for Senate Bill 257, a form of which passed in the 2000 Legislative Session).

Further, we believe that cities are best suited to address the specific needs of their citizens when addressing the decision to site distribution lines. In fact, some Kansas cities have exercised authority via ordinances to require new utility facilities to be built underground, or even relocated according to their own demands. The Commission has respected such "home rule" authority and

has addressed customer equity issues with relocation of facilities tariffs, which allow the incremental costs of more costly decisions to be borne by the cost causers.

Also, the Commission investigates complaints regarding line constructions and relocations throughout the state. In the past 10 years, only five formal complaints have been filed objecting to some aspect of the utility's proposed line. It should be noted that the electric line complaints that the Commission has received to date largely are based on the proposed construction's impact to property value and aesthetics. While the Commission's mission is to protect the public interest, it does not have jurisdiction to award or address damages brought about through condemnation. This is a matter reserved for the courts. It is also the Commission's responsibility to achieve a reasonable balance of the needs of ratepayers and the obligations of the utilities to serve those needs with the impact on landowners affected by the construction of electric lines. It is not the Commission's mission, however, to decide which landowners should not be harmed, as some inevitably will be, or how those harmed will be made whole. Consequently, we believe it is far more efficient to regulate electric line construction in the manner that exists today compared to what is contemplated by House Bill 2294.