

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE.

The meeting was called to order by Chairperson David Corbin at 10:45 a.m. on March 1, 2001, in Room 519-S of the Capitol.

All members were present except:

Committee staff present: Chris Courtwright, Legislative Research Department
April Holman, Legislative Research Department
Don Hayward, Revisor of Statutes Office
Shirley Higgins, Committee Secretary

Conferees appearing before the committee: Walker Hendrix, Citizens Utility Ratepayer Board
Senator Stan Clark
Charles Gregor, Jr., Leavenworth-Lansing Area Chamber of
Commerce
Jim Ludwig, Western Resources
Jack Glaves, Duke Energy North America
Shannon Green, Jr., Kansas City Power & Light

Others attending: See attached list.

SB 177--Concerning certain electric generation facilities; relating to regulation and taxation thereof.

Chairman Corbin noted that **SB 177** was heard and amended by the Senate Utilities Committee and was referred to the Senate Assessment and Taxation Committee because it contains provisions concerning property taxation. For informational purposes, he called upon Walker Hendrix, Citizens Utility Ratepayer Board (CURB), who represents residential and small business customers.

Mr. Hendrix explained that **SB 177**, as amended, exempts all new coal fired and natural gas generating facilities as public utility facilities if the owner or lessee elects to have the facility not included in rate base. In essence, the bill establishes a statutory exemption for newly constructed facilities and allows for unregulated merchant power plants. In addition, **SB 177** changes the assessment rate from 33 percent to 25 percent for property tax purposes and changes the appraised tax basis of the new generation facility from "fair market value" to a residual value basis. Mr. Hendrix noted that the bill creates a tax incentive to invest in new generation facilities rather than investing in upgrades to existing utility plants. He discussed several public policy issues the bill raises as to whether it is desirable to have the generating capacity of the state outside the jurisdiction of the Kansas Corporation Commission and the protections afforded to ratepayers under the Public Utilities Act. In conclusion, Mr. Hendrix said, without more information, CURB has some doubts about the passage of the bill. It is the consensus of CURB that residential and small business customers are better protected by the traditional regulatory model which requires efficient and sufficient service at just and reasonable rates. In his opinion, shifting to an unregulated supply concept will subject ratepayers to price volatility and possible reliability concerns. He said the implication over time of the tax incentives in the bill is unknown, and he recommended that an independent study be conducted to determine the future generation needs in Kansas before considering passage of the bill. (Attachment 1)

Senator Stan Clark, explained that **SB 177** would allow newly constructed independent producer properties placed in service after January 1, 2001, to be classified for property taxation purposes as commercial and industrial property rather than public utility property, and he itemized five tax implications of this provision. He pointed out that, essentially, the bill would allow electrical generation to separate from electric transmission and electric distribution. He noted that, currently in the natural gas industry, the producing gas wells are classified as commercial and industrial property as well as the processing plant, and the transmission pipelines and distribution systems are public utility properties. In his opinion, electric transmission corresponds with the gas transmission pipelines, and the electric distribution system corresponds with the gas distribution system. He observed that Kansas is at a crossroad, and it can either be dependent on electric power generated from other states or it can encourage the construction of generating plants that will produce

CONTINUATION SHEET

power for the utilities that serve Kansans. He noted that most Kansas utilities will need additional base load generation within the next seven years, and the Senate Utilities Committee recognized that **SB 177** is a crucial first step in establishing a sound public policy foundation to compete for new electric generation. In his opinion, passage of the bill will not negatively impact the current state budget, and it will generate positive fiscal notes in the future because, without the policy changes contained in the bill, electric generation will be built elsewhere. He itemized other policy issues in the bill and noted that it does not seek to change the assessment rate in the Kansas Constitution for public utilities. ([Attachment 2](#))

Senator Lee observed that a new merchant power plant would not have a retail customer base and would have the ability to sell wholesale to anyone outside Kansas. She expressed her concern that the bill contains no provision which would guarantee that power generation from a new merchant plant built in Kansas will go to Kansas consumers. In response, Senator Clark reasoned that new plants will be built in Kansas; therefore, the power more likely than not will be sold to Kansans. Senator Pugh suggested that it would be better to give retail power generators the same tax benefits and continue to have the same safeguards in place for small businesses and individuals as are currently in place. In response, Senator Clark said he feels a utility will create an affiliate to take advantage of the tax incentives.

Charles Gregor, Jr., Leavenworth-Lansing Area Chamber of Commerce, testified in support of **SB 177**, stating that there is a need to encourage private capital investment in electrical generation facilities that will serve the growing demand for power from sources within the state. In addition, he pointed out the bill will make it possible to create new industrial facilities and jobs within Kansas. He noted that Kansas' 33 percent assessment rate is noncompetitive. He believes that, when "retail wheeling" becomes common place, Kansas will most likely become highly dependent on electrical power generation from outside the state if **SB 177** is not passed. He emphasized that electrical power generation plants built elsewhere provide no property taxes to support Kansas cities, counties, and school districts. ([Attachment 3](#))

Jim Ludwig, Western Resources, testified in support of **SB 177**, which he contends will encourage investment and jobs in Kansas. Although there is no way to guarantee that new generation facilities will be built in Kansas, he believes the bill is a good step to remove a competitive tax disadvantage. Mr. Ludwig also contended that the enactment of **SB 177** would not erode the current property tax base. ([Attachment 4](#))

Jack Glaves, Duke Energy North America, testified in support of **SB 177**. He explained that Duke Energy is in the business of constructing merchant power plants. Duke currently has ten operating plants, nine are under construction, and an additional ten are in the development phase. He noted that Duke is currently evaluating a prospective location for an additional plant in northeast Kansas. That evaluation takes into consideration all the economic factors in building in Kansas. Mr. Glaves feels it is necessary that Kansas recognize that the wholesale market has been deregulated, and plants are, in fact, being built all over the country. He noted that there is a need for more generation plants in Kansas. In his opinion, if Kansas wants plants to be built in Kansas, it is essential that **SB 177** be passed.

Shannon Green, Jr., Kansas City Power and Light (KCPL), gave final testimony in support of **SB 177**. He said it is very clear that, if new electric generation is to be developed in Kansas, changes must be made to reduce the extremely high property tax burden that is currently imposed on electric generation in the state. He noted that a number of electric generation projects have begun in nearby states with significant long-term tax abatements and minimal payment-in-lieu-of-tax provisions. He believes that **SB 177** provides a vehicle to allow the taxation of new electric generation property sited in Kansas to be more competitive with other states in the region. ([Attachment 5](#))

Chairman Corbin called attention to written testimony in support of **SB 177** submitted by Max Sherman, Aquila Energy in Kansas City, Missouri. ([Attachment 6](#))

J.C. Long, Utilcorp United, stood in support of **SB 177** and to comment on Mr. Sherman's written testimony. Mr. Sherman notes that taxation is a critical issue when considering construction of new merchant power plant projects. One of the reasons that Aquila Energy does not build in Kansas is because taxes for merchant power plants are treated just like utilities, which puts Kansas out of the market. Kansas is at a locational disadvantage, and the bill is needed to help compensate for that. With this, the hearing on **SB 177** was closed.

The meeting was adjourned at 12:00 p.m.

The next meeting is scheduled for March 5, 2001.

SENATE ASSESSMENT AND TAXATION COMMITTEE GUEST LIST

DATE: March 1, 2001

NAME	REPRESENTING
Richard Crum	KDOR
Charlie Gregor	LEAVENWORTH - LANSING AREA CHAMBER OF COMMERCE & LV. COUNTY
Cynthia Smith	KOPK
Shannon Green	KEPK
Ann DURKES	DOB
Marlee Carpenter	KCCF
Kathly Olsen	Ks Bankers Assn
Bill Sneed	Public Service Co of New Mexico
Lou BROWN	LBBA
Jim LUNDVIG	WR
DAVE HOLTMAUS	WRCS.
John Trudnick	The Boeing Company
BRUCE GRAHAM	KEPCO
JC Long	Utilicorp United



BILL GRAVES
A. W. DIRKS
GENE MERRY
FRANK WEIMER
RALPH SOELTER
FRANCIS X. THORNE
WALKER HENDRIX

GOVERNOR
CHAIR
VICE-CHAIR
MEMBER
MEMBER
MEMBER
CONSUMER COUNSEL

Citizens' Utility Ratepayer Board

1500 Southwest Arrowhead Road
TOPEKA, KANSAS 66604-4027
Phone: (785) 271-3200
Fax: (785) 271-3116

SENATE ASSESSMENT AND TAXATION COMMITTEE

S.B. 177

Testimony of the Citizens' Utility Ratepayer Board

By Walker Hendrix

March 1, 2001

S.B. 177 establishes a new direction for the development of electric generating capacity in the state of Kansas. ^{All} New coal-fired and natural gas generating facilities become exempt as public utility facilities if the owner or lessee elects to have the facility not included in rate base. In essence, S.B. 177 establishes a statutory exemption for certain newly constructed facilities and allows for unregulated merchant power plants. Power from the facilities can be freely bought and sold without regard to the obligations which would otherwise be required under the Public Utilities Act. S.B. 177 changes the assessment rate from 33% to 25% for property tax purposes and changes the appraised tax basis of the new generation facilities from "fair market value" to a residual value basis.

Unlike current regulations, a power plant operator under the statute could sell electricity at unregulated market rates. In time, this law could shift more and more generation to an unregulated status. The bill is also designed to spur construction of additional generating capacity at a time when concerns about the supply of electricity have been placed into question. Additionally, S.B. 177, as amended, creates a tax incentive for jurisdictional utilities to invest in new generation facilities rather than invest in reasonable and prudent upgrades to existing utility plant. Failing to maintain and upgrade existing facilities may reduce reliability.

This bill raises important issues of public concern over whether it is desirable to have the generating capacity of this state outside the jurisdiction of the Corporation Commission and the protections afforded to ratepayers under the Public Utilities Act.

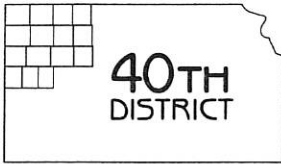
Because of the importance of this debate, several public policy issues must be considered. First, will unregulated generating capacity subject ratepayers to uncertainties over the rates that will become applicable for the sale of electricity. Second, will the cost of electricity be more or less if power is generated from unregulated facilities. Third, assuming that long term rate stability can be established under long term supply contracts which would have to be approved by the Corporation Commission, do periodic renegotiations and the prospect that power can be sold to other entities at the time of renewal place the continued future energy supply at risk or at prices which would be higher than under a regulated source of supply. Fourth, do the tax implications and the future funding of electricity require new revenue sources for funding public

Senate Assessment & Taxation
3-1-01
Attachment 1

education in Kansas. Fifth, will the tax incentives reduce utility investment to maintain and upgrade existing facilities.

It should be noted that the public debate is somewhat restricted because there are no analyses which have been provided to show what the energy needs for Kansans are and how existing capacity is unable to supply those needs. This bill is being considered without a reliable independent study.

Without more information, CURB has certain doubts about the passage of this bill. It is the consensus of CURB that residential and small business customers are better protected by the traditional regulatory model which requires efficient and sufficient service at just and reasonable rates. Shifting to an unregulated supply concept will no doubt subject ratepayers to some price volatility and possible reliability concerns. The implication over time of the tax incentives in S.B. 177 is ultimately unknown.



Stan Clark

COMMITTEE ASSIGNMENTS

CHAIR: UTILITIES
MEMBER: ASSESSMENT & TAXATION
ELECTIONS & LOCAL GOVERNMENT
ORGANIZATIONS, CALENDAR, & RULES
RULES & REGULATIONS

Testimony before the Senate Assessment & Taxation Committee

Senate Bill 177 - March 1, 2001

Chairman Corbin and members of the committee:

Senate Bill 177 would allow independent power producer properties newly constructed and placed in service after Jan. 1, 2001 to be classified for property taxation purposes as commercial and industrial property rather than public utility property. This would allow:

1. These properties to be assessed at 25% rather than 33% for ad valorem tax purposes.
2. Personal Property (equipment) would be depreciated using the constitutionally prescribed 7-year straight-line depreciation to 20 percent residual value rather than appraised at fair market value under current law.
3. Personal Property (equipment) would be eligible for the 15% income tax credit currently available to all commercial and industrial businesses in our state.
4. Manufacturer's inventory is constitutionally exempt property while Public Utility inventory is taxed.
5. Commercial and Industrial property is eligible for property tax abatements and payment in lieu of tax agreements with local government officials.

(See page 5) Tax implications of a 600-megawatt coal-fired generation plant.

Independent Power Producers do not have:

1. Eminent domain power.
2. They cannot sell electricity to retail customers.
3. Since they have no certified area or franchised service area, they have no retail customer base that serves as collateral for loan repayment purposes.

(see page 6-Kansas Gas Service Chart) Essentially we would be allowing electrical generation to separate from the other 2 components of electric public utility service i.e. electric transmission and electric distribution. Currently, in the natural gas industry the producing gas wells are classified as commercial and industrial property as well as the processing plant. The transmission pipelines and the distribution systems are public utility properties. It is my opinion that electric transmission corresponds with the gas transmission pipelines and the electric distribution system corresponds with the gas distribution system.

Page 2, lines 20 – 32 of SB 177 seeks to allow newly constructed electric generation power plants to be classified as commercial and industrial property. In Richard Cram’s testimony [Office of Policy & Research – Kansas Department of Revenue (pages 7-16)] dated February 13, 2001 before the Senate Utilities committee he outlined potential constitutional issues. He stated on page 8: “The Kansas Constitution does not contain a definition for the term ‘public utility’.” He continued his testimony on page 9 by referring to an Attorney General’s Opinion No. 99-21, dated April 6, 1999 which addressed this question and determined that “the Legislature has ‘some latitude’ in this area so long as the entities taken out of the definition of ‘public utility’ do not ‘possess the basic characteristics of a public utility so that the definition [of public utility] remains consistent with the common understanding of what the term meant at the time the Classification Amendment was adopted [in 1985 and 1986].” The Attorney General determined that the common definition of the term ‘public utility’ generally included “characteristics such as provision of an essential service or commodity to the public on a nondiscriminatory basis and, for such purposes, having a franchise, eminent domain powers, or other ability to acquire private property for a public purpose.” The Attorney General assumed that the type of electrical generating facility the Legislature might attempt to exclude from the definition of ‘public utility’ would not be monopolistic, but competitive, and would generate power for itself or sell power to perhaps one customer and not to the public. Also there would be no franchise or eminent domain powers given to the entity. . . . The merchant electric generating facilities contemplated in Senate Bill 177 seem to be consistent with the AG Opinion.” Page 3 of SB 177, beginning at line 43 and continuing to page 4, line 3 specifically allows for the exemption of an ‘electric generation facility’ from the definition of a ‘public utility’.

Mr. Cram's testimony on page 7 also refers to an article in the February 11, 2001 issue of the *New York Times* that stated: "most of the new power plants in the United States are being built not by regulated utilities but by independent and unregulated operators. Almost 20% of the electricity generated in the first 10 months of 2000 came from generators other than traditional utilities, twice the proportion in 1997. More than 100 companies have announced new plants."

Kansas is at a crossroads. We can either be dependent on electric power generated from other states or we can encourage the construction of generating plants that will produce power for the utilities that serve Kansans. Most Kansas utilities will need additional base load generation within the next 7 years. The 3 largest electric utilities in Kansas currently are partners in the construction of peaking generating plants located in other states that can transmit power to their Kansas service territory. Several years ago several of you were on a summer interim committee that compared utility tax policy with surrounding states. I have attached the Deloitte & Touche chart on page 17 that compares property tax costs as a percent of electric operating revenues. This chart shows that over 8% of Western Resources' (WRI) operating revenues go to pay property taxes, UtiliCorp United (UCU) is over 7 ½% and Kansas City Power & Light (KCP&L) is about 5 ¼ %. Utilities from Missouri, Oklahoma, Illinois, Arkansas, Wisconsin were all less than 4% of operating revenues going to pay property taxes. Additionally, Nebraska is a public power state, which of course pays no property taxes.

Currently Oklahoma offers 10-year tax abatement for the construction of new generation powered by natural gas. Counties in Missouri offer 20 to 25-year payment in lieu of tax arrangements in an effort to assure their citizens adequate electrical power. These 2 examples of changes in individual state's public policy have been since the Deloitte & Touche study so we are even more at a disadvantage.

Does this bill go far enough to eliminate the tax differences? No, but the Senate Utilities committee recognizes that SB 177 is a crucial first step in establishing a sound public policy foundation to compete for new electric generation. We do not believe that passage of this bill negatively impacts the current state budget and generates positive fiscal notes in the future because generation will be built elsewhere without these policy changes.

Other policy issues that you should be aware of:

1. The bill is silent on the source of fuel (page 2 line 26). Therefore coal, natural gas, nuclear, hydrogen, Helium 3 and any other fuel source qualify.
2. On page 2 line 24 it is the intention of the utility committee that new construction or new additions to existing generation plants qualify but at lines 33-36 remodeling, refurbishing to increase efficiency and replacing existing equipment will not qualify as an addition to an electric generation facility.
3. On page 2 line 38 allows all or a portion of an electric generation plant to be classified as a commercial and industrial property. This allows a public utility to build a large base-load plant, place a portion of the plant in rate-base for its customers in their certified franchise area and market the balance of the generation produced by the plant in the same competitive wholesale market as any other independent power producer.
4. On page 3 lines 3-8 define tangible personal property using the same accounts referenced by the Federal Regulatory Energy Commission (see pages 18-29).

This bill does not seek to change the assessment rate in the Kansas Constitution for public utilities. In anticipating a question regarding the tax consequences of such a rate change see page 30 of my attachments. If all existing electric generation facilities were assessed as 25% public utility property the taxes would decrease from \$60.3 million to \$45.7 million and would even impact the Senator from Pottawatomie's pocketbook. If all electric companies were assessed at 25% the taxes would decrease from \$122.6 million to \$92.9 million or a decrease of \$29.7 million and if all public utility property was assessed as 25% public utility property their would be a property tax decrease of \$65.7 million.

Coal-fired base-load plants require 5 to 7 years to build, combined cycle combustion engines require 3 to 4 years and other fuel sources require longer periods of time. To ensure an adequate supply of electric power for all Kansans now is the time to pass this legislation.

Mr. Chairman, I will gladly stand for questions.

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Original Cost \$ 660,000,000
 Capacity 600 Mega Watts
 Price per MW \$ 1,100,000
 Useful Life 25
 Assumptions 85.00% Taxed at 85 % of NBV
 Kansas Avg Mill Levy 11.87%
 Market Value Floor 132,000,000

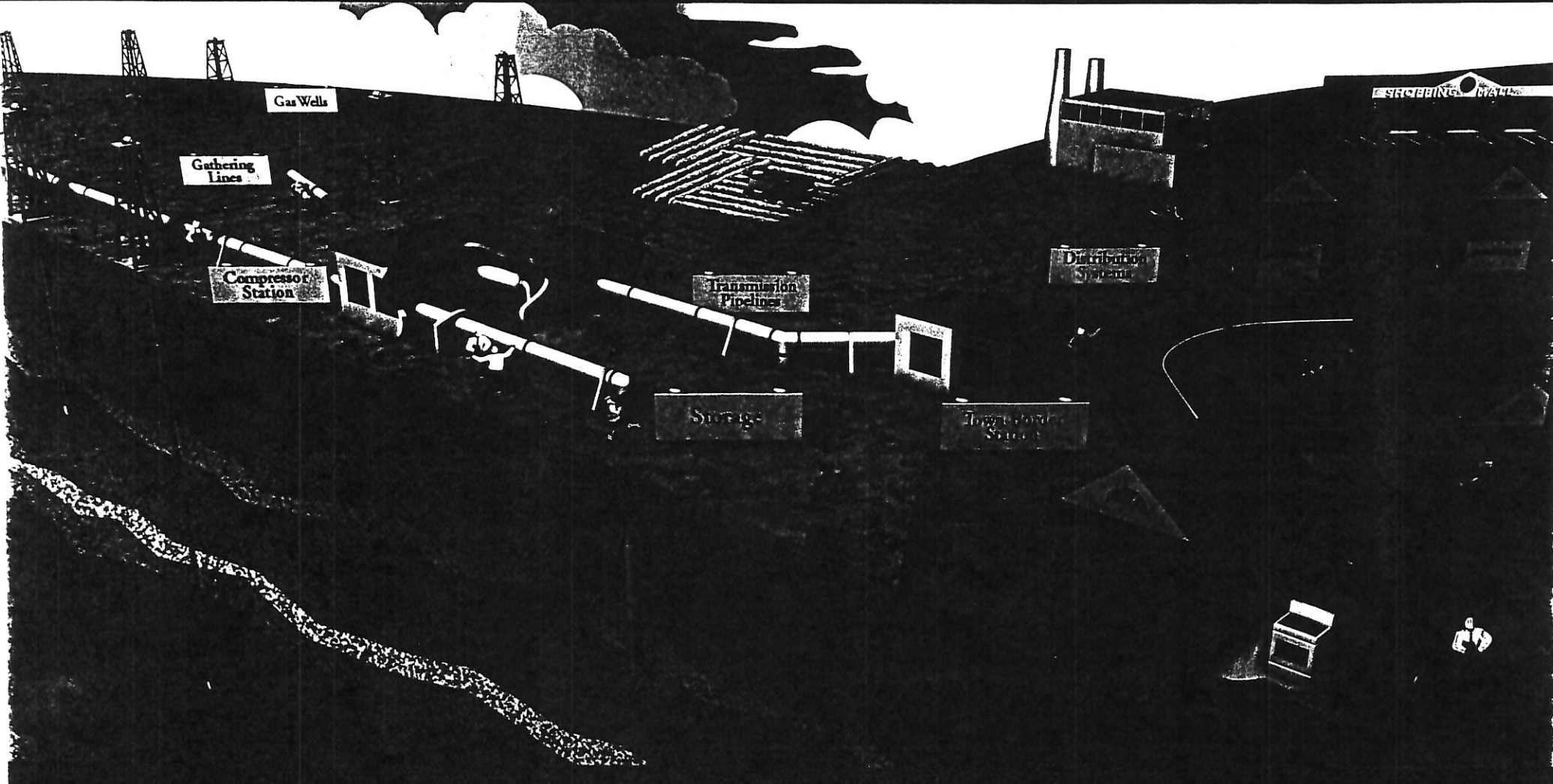
	Cost	Deprec	Net Book	Market Assessment Value	Assessed Rate	Assessed Value	Mill Levy	Tax Depreciation	Net Book Value	Taxable Assessment Value	Assessed Rate	Assessed Value	Mill Levy	Tax	Difference
1	660,000,000	26,400,000	633,600,000	538,560,000	0.3333	179,502,048	11.8710%	21,308,688	94,285,714	565,714,286	0.25	141,428,571	11.8710%	16,788,986	4,519,702
2		26,400,000	607,200,000	516,120,000	0.3333	172,022,796	11.9897%	20,625,034	94,285,714	471,428,571	0.25	117,857,143	11.9897%	14,130,730	6,494,305
3		26,400,000	580,800,000	493,680,000	0.3333	164,543,544	12.1096%	19,925,577	94,285,714	377,142,857	0.25	94,285,714	12.1096%	11,417,630	8,507,947
4		26,400,000	554,400,000	471,240,000	0.3333	157,064,292	12.2307%	19,210,067	94,285,714	282,857,143	0.25	70,714,286	12.2307%	8,648,854	10,561,213
5		26,400,000	528,000,000	448,800,000	0.3333	149,585,040	12.3530%	18,478,255	94,285,714	188,571,429	0.25	47,142,857	12.3530%	5,823,562	12,654,693
6		26,400,000	501,600,000	426,360,000	0.3333	142,105,788	12.4765%	17,729,886	94,285,714	132,000,000	0.25	33,000,000	12.4765%	4,117,258	13,612,628
7		26,400,000	475,200,000	403,920,000	0.3333	134,626,536	12.6013%	16,964,701	94,285,714	0	0.25	33,000,000	12.6013%	4,158,431	12,806,270
8		26,400,000	448,800,000	381,480,000	0.3333	127,147,284	12.7273%	16,182,440		132,000,000	0.25	33,000,000	12.7273%	4,200,015	11,982,425
9		26,400,000	422,400,000	359,040,000	0.3333	119,668,032	12.8546%	15,382,837		132,000,000	0.25	33,000,000	12.8546%	4,242,015	11,140,822
10		26,400,000	396,000,000	336,600,000	0.3333	112,188,780	12.9831%	14,565,624		132,000,000	0.25	33,000,000	12.9831%	4,284,435	10,281,188
11		26,400,000	369,600,000	314,160,000	0.3333	104,709,528	13.1130%	13,730,528		132,000,000	0.25	33,000,000	13.1130%	4,327,280	9,403,248
12		26,400,000	343,200,000	291,720,000	0.3333	97,230,276	13.2441%	12,877,274		132,000,000	0.25	33,000,000	13.2441%	4,370,553	8,506,721
13		26,400,000	316,800,000	269,280,000	0.3333	89,751,024	13.3765%	12,005,582		132,000,000	0.25	33,000,000	13.3765%	4,414,258	7,591,323
14		26,400,000	290,400,000	246,840,000	0.3333	82,271,772	13.5103%	11,115,168		132,000,000	0.25	33,000,000	13.5103%	4,458,401	6,656,767
15		26,400,000	264,000,000	224,400,000	0.3333	74,792,520	13.6454%	10,205,745		132,000,000	0.25	33,000,000	13.6454%	4,502,985	5,702,760
16		26,400,000	237,600,000	201,960,000	0.3333	67,313,268	13.7819%	9,277,022		132,000,000	0.25	33,000,000	13.7819%	4,548,015	4,729,007
17		26,400,000	211,200,000	179,520,000	0.3333	59,834,016	13.9197%	8,328,704		132,000,000	0.25	33,000,000	13.9197%	4,593,495	3,735,209
18		26,400,000	184,800,000	157,080,000	0.3333	52,354,764	14.0589%	7,360,492		132,000,000	0.25	33,000,000	14.0589%	4,639,430	2,721,063
19		26,400,000	158,400,000	134,640,000	0.3333	44,875,512	14.1995%	6,372,083		132,000,000	0.25	33,000,000	14.1995%	4,685,824	1,686,259
20		26,400,000	132,000,000	112,200,000	0.3333	37,396,260	14.3415%	5,363,170		132,000,000	0.25	33,000,000	14.3415%	4,732,682	630,488
21		26,400,000	105,600,000	89,760,000	0.3333	29,917,008	14.4849%	4,333,442		132,000,000	0.25	33,000,000	14.4849%	4,780,009	-446,568
22		26,400,000	79,200,000	67,320,000	0.3333	22,437,756	14.6297%	3,282,582		132,000,000	0.25	33,000,000	14.6297%	4,827,809	-1,545,227
23		26,400,000	52,800,000	44,880,000	0.3333	14,958,504	14.7760%	2,210,272		132,000,000	0.25	33,000,000	14.7760%	4,876,087	-2,665,815
24		26,400,000	26,400,000	22,440,000	0.3333	7,479,252	14.9238%	1,116,187		132,000,000	0.25	33,000,000	14.9238%	4,924,848	-3,808,661
25		26,400,000	0	0	0.3333	0	15.0730%	0		132,000,000	0.25	33,000,000	15.0730%	4,974,097	-4,974,097
								287,951,361						147,467,688	140,483,673

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2-6

WELLHEAD TO BURNER TIP



KANSAS GAS SERVICE
 A DIVISION OF ONEOK

2-8
2-6

Office of Policy & Research
Richard L. Cram, Director
915 SW Harrison St.
Topeka, KS 66625



(785) 296-3041
FAX (785) 296-7928
Hearing Impaired TTY (785) 296-3909
Internet Address: www.ink.org/public/kdor

Office of Policy & Research

To: Senator Stan Clark, Chair
Senate Utilities Committee

From: Richard L. Cram

Re: Constitutional Issues Concerning Senate Bill 177
Incentives Offered by Other States to Encourage Electricity Generating Capacity
Growth

Date: February 13, 2001

Background

An article in the February 11, 2001 issue of the *New York Times* stated that most of the new power plants in the United States are being built not by regulated utilities but by independent and unregulated operators. Almost a fifth of the electricity generated in the first 10 months of 2000 came from generators other than traditional utilities, twice the proportion in 1997. More than 100 companies have announced new plants.

Discussion of Senate Bill 177

Section 1 of the bill proposes to amend the definition of "public utility" in the public utilities regulatory statute, K.S.A. 2000 Supp. 66-104, adding a subparagraph (e) to exclude from that definition, at the option of the entity, generation, marketing and sale of electricity generated by an electric generation facility, or addition to such facility, place in service after January 1, 2001, which is coal-fired or uses natural gas, and is not in the rate base of a regulated electric public utility, a cooperative, or municipal electric utility. These will be referred to as "merchant" electric generation facilities.

Section 2 defines "independent power producer property" as the property used by a merchant electric generation facility in the generation, marketing and sale of electricity generated by such a facility, and provides that such real and personal property will be assessed as commercial and industrial property at the rate of 25%.

Section 3 proposes to amend the definition of "public utilities" in the property tax statute, K.S.A. 2000 Supp. 79-5a01, to exclude from that definition, at the option of the taxpayer, the

business of marketing and selling of electricity generated by a merchant electric generation facility.

Difference in Assessment Procedures between Commercial/Industrial Property and Public Utilities

Commercial and industrial property is valued by the county appraiser on an asset by asset basis, with real property set at the fair market value and tangible personal property valued at the original cost, with 7-year straight-line depreciation, down to a minimum value of 20% of original cost for as long as the property remains in use, as provided in Article 11, Section 1 of the Kansas Constitution and K.S.A. 79-1439. Fair market value is defined as the price arrived at by a willing, informed buyer and a willing, informed seller in an open competitive market. Commercial and industrial property is assessed at the rate of 25% of the appraised value.

no inventory tax

Point A public utility is valued centrally at the state level by the director of property valuation, pursuant to the Article 11, Section 1 of the Kansas Constitution and K.S.A. 79-5a04. The appraised value is based on the "going concern" fair market value of the business. This will reflect the synergies of all of the assets operating together. Therefore, it will include both the intangible value of the business and the value of the separate real and personal property assets, unlike the appraised value of commercial and industrial property. Public utilities are assessed at the rate of 33% of the appraised value. If the public utility does business in more than one state, then the director of property valuation must allocate to Kansas the appropriate portion of the value of the public utility.

Please see the attached flow chart for a comparison of the appraisal procedures for public utilities vs. commercial and industrial property.

Because Senate Bill 177 proposes to classify merchant electric generating facilities as commercial and industrial property (at the option of the entity owning/operating the facility), county appraisers would be called upon to appraise these facilities, instead of them being centrally appraised by director of property valuation. Because county appraisers are not likely to have the expertise needed to appraise such facilities (at least initially), they will probably need to retain the services of outside consultants. Local appraisal may also open the possibility for lack of uniformity among various county appraisers' valuations of merchant electric generating facilities in different locations, in comparison to the centralized appraisal process for public utilities.

Constitutional Issues

Article 11, Section 1 of the Kansas Constitution sets forth the different classes of property for purposes of property valuation and specifies the assessment rate that shall apply to each class of property. As previously discussed, public utilities are subject to a 33% assessment rate (based on going concern value), while commercial and industrial property (valued separately) is subject to the 25% rate. The Kansas Constitution does not contain a definition for the term "public utility." Therefore, it must conform to the commonly understood meaning of the term, as intended by the framers of the constitutional provision and the people adopting it. The legislature may not grant partial exemptions under the guise of improper definitions. Attorney General Opinion 93-142. Senate Bill 177 proposes that merchant electric generating facilities shall have the option of being valued as commercial and industrial property. How far can the Legislature go in defining electric generating facilities as other than public utilities?

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x Attorney General Opinion No. 99-21, dated April 6, 1999 (copy attached) addressed that question and determined that the Legislature has "some latitude" in this area, so long as the entities taken out of the definition of "public utility" do not "possess the basic characteristics of a public utility so that the definition [of public utility] remains consistent with the common understanding of what the term meant at the time the Classification Amendment was adopted [in 1985 and 1986]." The Attorney General determined that the common definition of the term "public utility" generally included "characteristics such as provision of an essential service or commodity to the public on a nondiscriminatory basis and, for such purposes, having a franchise, eminent domain powers, or other ability to acquire private property for a public purpose." The Attorney General assumed that the type of electrical generating facility the Legislature might attempt to exclude from the definition of "public utility" would not be monopolistic, but competitive, and would generate power for itself or sell power to perhaps one customer and not to the public. Also, there would be no franchise or eminent domain powers given to the entity.

The merchant electric generating facilities contemplated in Senate Bill 177 seem to be consistent with the AG Opinion. However, depending on how these facilities may evolve, questions could be raised as to whether they are in fact "public utilities" within the common meaning of the term in 1986. These merchant electric generating facilities are expected to market electricity on a wholesale basis, not to individual consumers on a non-discriminatory basis. However, nothing in Senate Bill 177 itself would appear to prevent such a facility from marketing electricity to individual consumers. In addition, the AG Opinion seems to assume that the non-public utility would market power to perhaps one customer. Even if the merchant electric generating facility sells power at wholesale, would a customer base consisting of several wholesalers veer outside the bounds of the AG Opinion? Generation and marketing of electricity are clearly characteristics of public utilities, as that term was understood in 1986.

Prevent marketing to retail customers

If the entities building these merchant electric generation facilities turn out to be primarily affiliates of existing public utilities, then the question may arise as to whether these merchant electric generating facilities remain part of a monopoly, which could point toward the common meaning of the term "public utility." To the extent these merchant electric generation facilities are owned and operated by independent entities, they are more likely to be competitive.

Removal of merchant electric generation facilities from the rate base of public utilities was clearly an important factor in the AG Opinion. The fact that merchant electric generation facilities will not be regulated as public utilities and are not guaranteed a rate of return is a distinguishing characteristic.

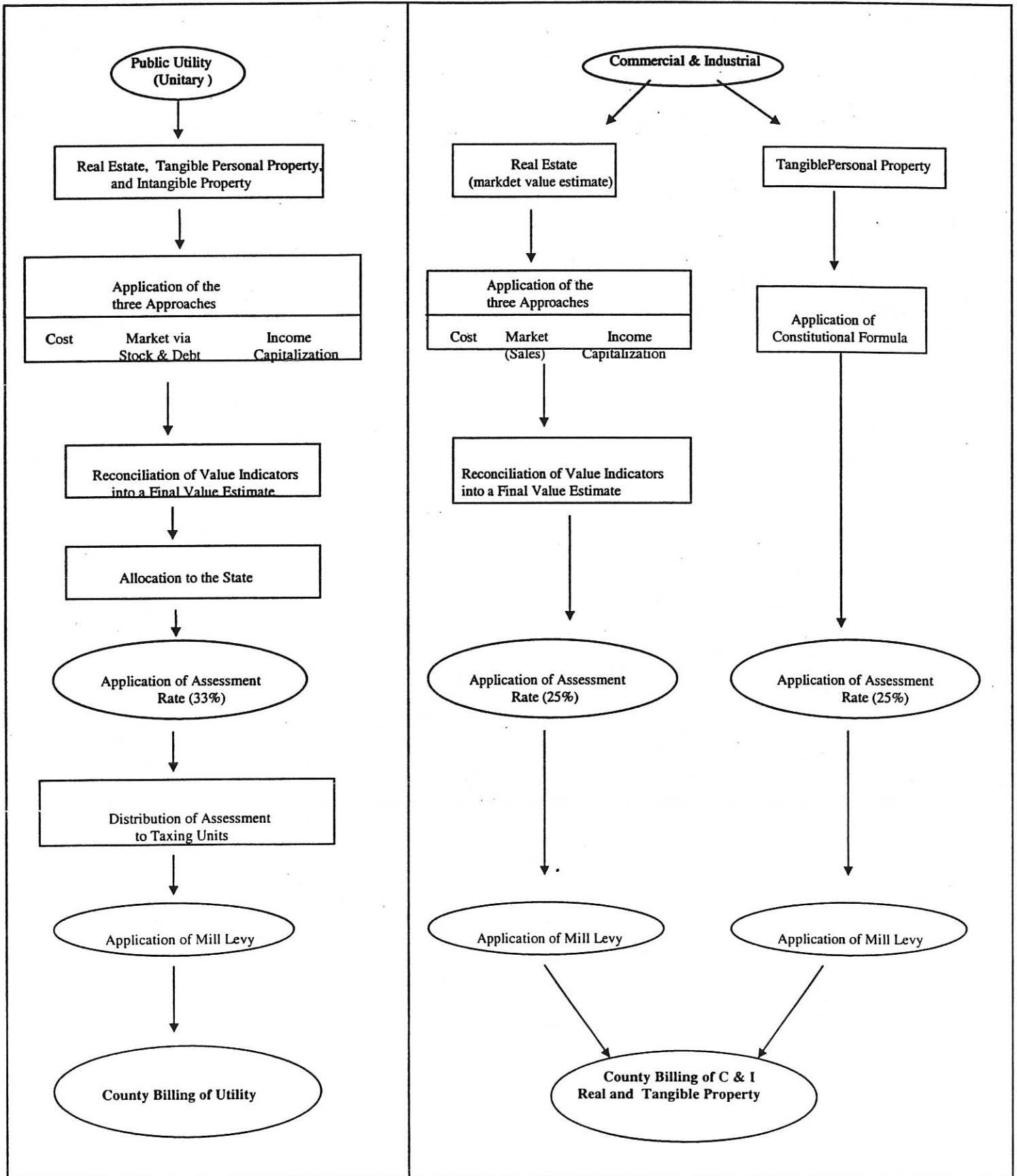
It does not appear that Senate Bill 177 would clothe merchant electric generation facilities with any eminent domain powers. However, to the extent that the acquisition and construction of any such facilities involve public financing, this could be used as an argument that these facilities are public utilities.

Survey of Other States' Tax Incentives for Encouraging Growth in Electricity Generating Capacity

Robert Badenoch, Property Valuation Department, has conducted a survey of other states to inquire about the tax incentives for encouraging growth in electricity generating capacity. He has prepared a handout showing the results of his survey, which should be distributed to everyone. These incentives include, among others, removal of property taxes—except those

negotiated with local municipalities (Arkansas); revenue bonds (Arkansas); use of an excise tax on kwh generated and resold instead of property tax (Iowa); personal property tax exemptions for individual generators (Minnesota); wind generation incentives (North Dakota, South Dakota); and 30-year life depreciation schedule and eligibility for enterprise zone tax incentives (Ohio).

The Valuation Process





The Information Network of Kansas

Kansas Attorney General Opinions

April 6, 1999

ATTORNEY GENERAL OPINION NO. 99- 21

The Honorable Carl Dean Holmes
Chairman, House Utilities Committee
State Capitol, Room 115-S
Topeka, Kansas 66612-1504

Re: Constitution of the State of Kansas Finance and Taxation System of Taxation; Classification; Definition of Public Utility; Exclusion of Property Used in the Generation, Marketing and Sale of Electricity

Taxation Public Utilities Definition; Constitutionality of Excluding Property of Certain Independent Power Producers

Synopsis:

The Legislature may, under Article 11, Section 1 of the Kansas Constitution, define the term "public utility" for purposes of property tax classification, as long as the legislative definition remains consistent with the commonly understood meaning of the term. Common definitions of the term "public utility" in 1985 and 1986, the years the Classification Amendment was framed and adopted, generally included characteristics such as provision of an essential service or commodity to the public on a nondiscriminatory basis and having a franchise, eminent domain powers or other ability to acquire and use private property for a public purpose. Cited herein: K.S.A. 1998 Supp. 66-104; K.S.A. 79-5a01; Kan. Const., Art. 11, § 1; 1999 H.B. 2400, § 13; L. 1986, Ch. 371, § 1; L. 1983, Ch. 314, § 1; L. 1969, Ch. 434, § 1.

Dear Representative Holmes:

You request our opinion regarding the authority of the Legislature to statutorily define certain property as commercial and industrial, as opposed to public utility property, for purposes of property tax classification. Due to time constraints, we initially responded by letter dated March 16, 1999. As per your request, we now address the question with a formal opinion.

The property in question is that which is defined in 1999 House Bill No. 2400 (H.B. 2400) as:

"[P]roperty used solely in the generation, marketing and sale of electricity generated by an electric generation facility no portion of which is included in the rate base of: (1) An

electric public utility that is subject to rate regulation by the state corporation commission; (2) a cooperative, as defined by K.S.A. 17-4603 and amendments thereto, or a nonstock member-owned cooperative corporation incorporated in this state; or (3) a municipally owned or operated electric utility."

The bill would amend the definition of "public utility" found in K.S.A. 1998 Supp. 66-104 to include the following language:

"The term 'public utility' shall not include any activity of an otherwise jurisdictional entity as to the generation, marketing and sale of electricity generated by a nonnuclear electric generation facility construction no portion of which is included in the rate base of: (1) An electric public utility that is subject to rate regulation by the state corporation commission; (2) any cooperative, as defined by K.S.A. 17-4603 and amendments thereto, or any nonstock member-owned cooperative corporation incorporated in this state; or (3) a municipally owned or operated electric utility."

The definition of "public utility" found in K.S.A. 79-5a01 would also be amended to exclude:

"the business of generating, marketing and selling electricity generated by a nonnuclear electric generation facility no portion of which is included in the rate base of: (A) An electric public utility that is subject to rate regulation by the state corporation commission; (B) a cooperative, as defined by K.S.A. 17-4603 and amendments thereto, or a nonstock member-owned cooperative corporation incorporated in this state; or (C) a municipally owned or operated electric public utility."

Article 11, Section 1 of the Kansas Constitution provides for the classification of both real and personal property, and fixes the assessment rate for each subclass. Thus, nonexempt property that falls within the subclass of "public utility real property . . ." or "public utility tangible personal property . . ." must be assessed at the rate of 33% of its value, whereas property falling within the subclass of "real property used for commercial and industrial purposes . . ." or "commercial and industrial machinery and equipment . . ." must be assessed at 25%. Your question is whether the Legislature may define the term "public utility" so as to exclude certain property from application of the 33% assessment rate.

This question was addressed by then Attorney General Robert T. Stephan in Attorney General Opinion No. 93-142. The Opinion concluded that because the term "public utility" is not defined in Article 11, Section 1 of the Constitution, and because that Section specifically authorizes the Legislature to define by law what property is in each subclass, there is some room for legislative interpretation of what is meant by the term "public utility" as used in Article 11, Section 1. "However, any legislative definition of a term used in the constitution must be within reason and must conform to the commonly understood meaning of the term, as intended by the framers of the constitutional provision and the people adopting it. . . . The legislature may not grant partial exemptions under the guise of improper definitions." The Opinion then examined definitions for the term "public utility" that existed at the time the Classification Amendment was framed and adopted in 1985- 1986. The American Heritage Dictionary defined the term at that time as "[a] private business organization, subject to government regulation, that provides an essential service or commodity, such as water, electricity, transportation, or communication, to the public." Black's Law Dictionary defined the term as "[a] privately owned and operated business whose services are so essential to the general public as to justify the grant of special franchises for the use of public property or of the right of eminent

domain, in consideration of which the owners must serve all persons who apply, without discrimination. It is always a virtual monopoly." In addition to these definitions discussed in Attorney General Opinion No. 93-142, we have found case law definitions that would have been considered common knowledge at the time the Classification Amendment was adopted. In determining that a common carrier was a "public utility" for purposes of the statute relating to collection of delinquent taxes owed by public utilities operating in not more than four counties, the Court found:

"In the absence of expressed intention otherwise it must be assumed that the legislature here used the term 'public utility corporation' in its broad and general meaning. . . . The essential characteristic is that the utility be one which is dedicated to public use, without unreasonable discrimination. From 51 C.J. 4 we quote:

"A "public utility" has been described as a business organization which regularly supplies the public with some commodity or service, as electricity, gas, water, transportation, or telephone or telegraph service. . . . the distinguishing characteristic of a public utility is the devotion of private property by the owner or person in control thereof to such a use that the public generally, or that part of the public which has been served and has accepted the service, has a right to demand that the use or service, so long as it is continued, shall be conducted with reasonable efficiency and under proper charges."

Two cases of limited interest (because they interpret the definition in K.S.A. 66-104, which the Court has found to be of limited relevance in determining what a public utility is for tax purposes) are *State ex rel. Grant v. City of Coffeyville* and *City of Cimarron v. Midland Water, Light & Ice Co.* In the former the Court held that a producer of natural gas having one customer only, the City of Coffeyville, was not a public utility as then defined by K.S.A. 66-104 because it was "not engaged in general commercial distribution of natural gas, and it does not have a pipe line long enough to bring it within the statutory definition of a public utility." Conversely, in *Midland Water* the Court concluded that a company "in arranging to supply the [City of Cimarron] with electricity, whether for its own use or to be distributed among its residents, was acting in its character as a public utility" for purposes of regulation by the then public utilities commission. One important factor in this latter case was that the company provided electricity to several other cities as well.

While definitions may vary depending on the context in which the term is used, certain characteristics are common to a majority of the definitions expressed above: The service or commodity provided is an essential one that is required to be made available without discrimination to all who apply; the entity has been granted eminent domain or special franchises for use of public property; the entity is subject to regulation and guaranteed a rate of return on investments; the entity is often monopolistic.

We note that K.S.A. 79-5a01 does not, and did not in 1985-1986, include these characteristics in its definition of "public utility" for purposes of State valuation. However, in our opinion, with regard to electricity in particular, the statutory definition's failure to include the characteristics generally thought of as constituting a public utility does not necessarily mean that those factors were consciously excluded from the definition, for in 1969 (when this provision was enacted) companies capable of generating, conducting or distributing electric power generally possessed those characteristics; it may have been considered unnecessary to spell them out. As electrical generation and distribution systems continue to evolve, it may at some point become necessary to include such characteristics in the definition in order to maintain consistency with the common understanding of the term "public utility" and avoid capturing within the net of the definition entities not possessing any of those characteristics.

Attorney General Opinion No. 93-142 concluded that "the legislature may, under article 11, section 1 of the Kansas constitution, define and redefine the term 'public utility' as necessary and reasonable to effectuate the makers' and adopters' intent in treating such property differently for purposes of taxation, as long as the legislative definition remains consistent with the commonly understood meaning of the term." We concur with this conclusion and further opine that entities generally having the characteristics listed above can be included by the Legislature in the definition of public utility for property tax purposes and conversely, entities generally having these characteristics cannot by statute be excluded from the definition of public utility for property tax purposes.

With regard to your specific question, the bill would exclude from the K.S.A. 79-5a01 definition of public utility "the business of generating, marketing and selling electricity generated by a nonnuclear electric generation facility no portion of which is included in the rate base of: (A) An electric public utility that is subject to rate regulation by the state corporation commission; (B) a cooperative, member-owned cooperative corporation incorporated in this state; or (C) a municipally owned or operated electric public utility." The element of government regulation appears to be absent from the type of entity sought to be excluded from the definition of public utility. We assume that any entities meeting this definition would not be monopolistic, but rather competitive. If it is a competitive industry, or an entity that generates electricity for its own use or that of just one customer, presumably there would be no need to require that the service or commodity be offered on a nondiscriminatory basis to everyone who applies to purchase the service or commodity. As far as we can tell, no franchise or eminent domain powers will be granted the type of entity in question; if the entity needs to use transmission lines, it will have to contract to use those already in existence or otherwise acquire the land on which any lines are installed. If these are indeed the facts, it appears that an argument can be made that these entities do not possess many of the "trappings" of a public utility and therefore can be excluded from the definition legislatively for property tax purposes. [This argument is particularly compelling for companies that only market or sell electricity as opposed to generating it.] On the other hand, 1985 entities that generated electricity for sale to the public generally were public utilities and it would not seem unreasonable for the Legislature to continue to define them as public utilities today even if some of the "trappings" are no longer present.

In our opinion, the Legislature has some latitude in the instant situation due to the change of circumstances attending generation and distribution of electric power over the past few years. Legislative acts are presumed constitutional, and must be clearly contrary to the Constitution before the Courts will strike them down. At this point in time, the Legislature may go either way with its definition and may choose to treat these "new" types of entities either as public utilities or not, as long as there is a rational basis for the decision and an argument can be made that they do, or do not, possess the basic characteristics of a public utility so that the definition remains consistent with the common understanding of what that term meant at the time the Classification Amendment was adopted.

In conclusion, the Legislature may, under Article 11, Section 1 of the Kansas Constitution, define the term "public utility" for purposes of property tax classification, as long as the legislative definition remains consistent with the commonly understood meaning of the term. Common definitions of the term "public utility" in 1985-1986, the years the Classification Amendment was framed and adopted, generally included characteristics such as provision of an essential service or commodity to the public on a nondiscriminatory basis and, for such purposes, having a franchise, eminent domain powers, or other ability to acquire private property for a public purpose.

Very truly yours,

CARLA J. STOVALL
Attorney General of Kansas

Julene L. Miller
Deputy Attorney General

CJS:JLM:jm

Kansas Attorney General Opinions

Sunday February 11, 2001 03:36:17 PM CST



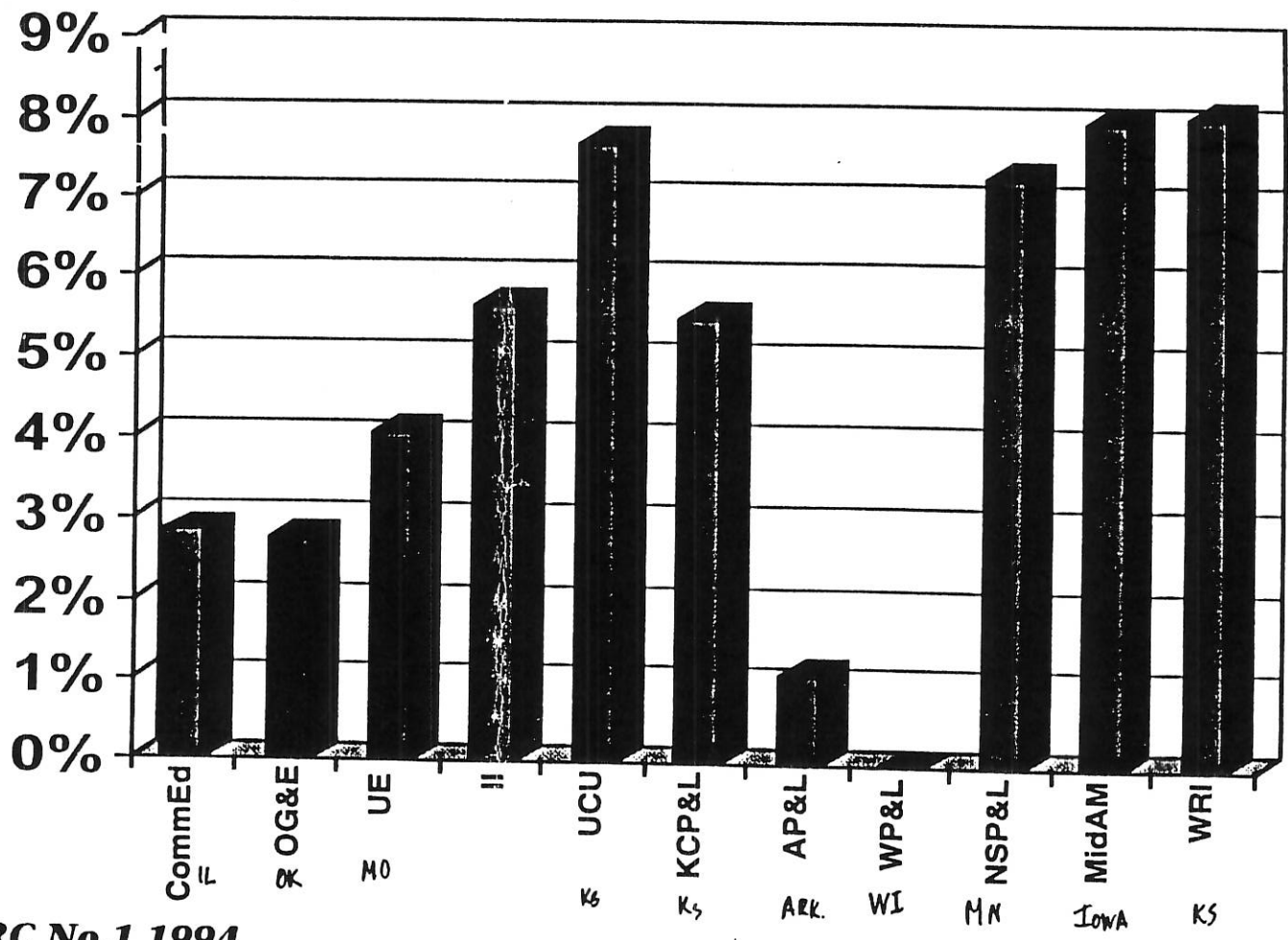
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HOW DOES KANSAS TAX BURDEN COMPARE?

.25
7 year def. @ 25%

COMPARISON OF PROPERTY TAX COSTS AS PERCENT OF ELECTRIC OPERATING REVENUES



Source: FERC No.1 1994

17

2-17

this account shall be charged with an amount equal to the related income tax effect, if any, arising from such disposition and account 411.1, Provision For Deferred Income Taxes—Credit, Utility Operating Income, or 411.2, Provision For Deferred Income Taxes—Credit, Other Income and Deductions, as appropriate, shall be credited. When the remaining balance, after consideration of any related tax expenses, is less than \$25,000, this account shall be charged and account 411.1 or 411.2, as appropriate, credited with such balance. If after consideration of any related income tax expense, there is a remaining amount of \$25,000 or more, the Commission shall authorize or direct how such amount shall be accounted for at the time approval for the disposition of accounting is granted.

When plant is disposed of by transfer to a wholly owned subsidiary, the related balance in this account shall also be transferred. When the disposition relates to retirement of an item or items under a group method of depreciation where there is no tax effect in the year of retirement, no entries are required in this account if it can be determined that the related balance would be necessary to be retained to offset future group item tax deficiencies.

Electric Plant Chart of Accounts

1. INTANGIBLE PLANT

- 301 Organization.
- 302 Franchises and consents.
- 303 Miscellaneous intangible plant.

2. PRODUCTION PLANT

A. STEAM PRODUCTION

- 310 Land and land rights.
- 311 Structures and improvements.
- 312 Boiler plant equipment.
- 313 Engines and engine-driven generators.
- 314 Turbogenerator units.
- 315 Accessory electric equipment.
- 316 Miscellaneous power plant equipment

B. NUCLEAR PRODUCTION

- 320 Land and land rights (Major only).
- 321 Structures and improvements (Major only).
- 322 Reactor plant equipment (Major only).
- 323 Turbogenerator units (Major only).
- 324 Accessory electric equipment (Major only).
- 325 Miscellaneous power plant equipment (Major only).

C. HYDRAULIC PRODUCTION

- 330 Land and land rights.
- 331 Structures and improvements.
- 332 Reservoirs, dams, and waterways.
- 333 Water wheels, turbines and generators.
- 334 Accessory electric equipment.
- 335 Miscellaneous power plant equipment.
- 336 Roads, railroads and bridges.

D. OTHER PRODUCTION

- 340 Land and land rights.
- 341 Structures and improvements.
- 342 Fuel holders, producers, and accessories.
- 343 Prime movers.
- 344 Generators.
- 345 Accessory electric equipment.
- 346 Miscellaneous power plant equipment.

3. TRANSMISSION PLANT

- 350 Land and land rights.
- 351 [Reserved]
- 352 Structures and improvements.
- 353 Station equipment.
- 354 Towers and fixtures.
- 355 Poles and fixtures.
- 356 Overhead conductors and devices.
- 357 Underground conduit.
- 358 Underground conductors and devices.
- 359 Roads and trails.

4. DISTRIBUTION PLANT

- 360 Land and land rights.
- 361 Structures and improvements.
- 362 Station equipment.
- 363 Storage battery equipment.
- 364 Poles, towers and fixtures.
- 365 Overhead conductors and devices
- 366 Underground conduit.
- 367 Underground conductors and devices
- 368 Line transformers.
- 369 Services.
- 370 Meters.
- 371 Installations on customers' premises
- 372 Leased property on customers' premises.
- 373 Street lighting and signal systems.

5. GENERAL PLANT

- 389 Land and land rights.
- 390 Structures and improvements.
- 391 Office furniture and equipment.
- 392 Transportation equipment.
- 393 Stores equipment.
- 394 Tools, shop and garage equipment.
- 395 Laboratory equipment.
- 396 Power operated equipment.
- 397 Communication equipment.
- 398 Miscellaneous equipment.
- 399 Other tangible property.

Electric Plant Accounts

301 Organization.

This account shall include all fees paid to federal or state governments for the privilege of incorporation and expenditures incident to organizing the corporation, partnership, or other enterprise and putting it into readiness to do business.

ITEMS

1. Cost of obtaining certificates authorizing an enterprise to engage in the public-utility business.
2. Fees and expenses for incorporation
3. Fees and expenses for mergers or consolidations.
4. Office expenses incident to organizing the utility.
5. Stock and minute books and corporate seal.

NOTE A: This account shall not include any discounts upon securities issued or assumed; nor shall it include any costs incident to negotiating loans, selling bonds or other evidences of debt or expenses in connection with the authorization, issuance or sale of capital stock.

NOTE B: Exclude from this account and include in the appropriate expense account the cost of preparing and filing papers in connection with the extension of the term of incorporation unless the first organization costs have been written off. When charges are made to this account for expenses incurred in mergers, consolidations, or reorganizations, amounts previously included herein or in similar accounts in the books of the companies concerned shall be excluded from this account.

302 Franchises and consents.

A. This account shall include amounts paid to the federal government, to a state or to a political subdivision thereof in consideration for franchises, consents, water power licenses, or certificates, running in perpetuity or for a specified term of more than one year, together with necessary and reasonable expenses incident to procuring such franchises, consents, water power licenses, or certificates of permission and approval, including expenses of organizing and merging separate corporations, where statutes require, solely for the purpose of acquiring franchises.

B. If a franchise, consent, water power license or certificate is acquired

by assignment, the charge to this account in respect thereof shall not exceed the amount paid therefor by the utility to the assignor, nor shall it exceed the amount paid by the original grantee, plus the expense of acquisition to such grantee. Any excess of the amount actually paid by the utility over the amount above specified shall be charged to account 426.5, Other Deductions.

C. When any franchise has expired, the book cost thereof shall be credited hereto and charged to account 426.5, Other Deductions, or to account 111, Accumulated Provision for Amortization of Electric Utility Plant (for Nonmajor utilities, account 110, Accumulated Provision for Depreciation and Amortization of Electric Plant), as appropriate.

D. Records supporting this account shall be kept so as to show separately the book cost of each franchise or consent.

NOTE: Annual or other periodic payments under franchises shall not be included herein but in the appropriate operating expense account.

303 Miscellaneous intangible plant.

A. This account shall include the cost of patent rights, licenses, privileges, and other intangible property necessary or valuable in the conduct of utility operations and not specifically chargeable to any other account.

B. When any item included in this account is retired or expires, the book cost thereof shall be credited hereto and charged to account 426.5, Other Deductions, or account 111, Accumulated Provision for Amortization of Electric Utility Plant (for Nonmajor utilities, account 110, Accumulated Provision for Depreciation and Amortization of Electric Plant), as appropriate.

C. This account shall be maintained in such a manner that the utility can furnish full information with respect to the amounts included herein.

310 Land and land rights.

This account shall include the cost of land and land rights used in connection with steam-power generation. (See electric plant instruction 7.)

311 Structures and improvements.

This account shall include the cost in place of structures and improvements used in connection with steam-power generation. (See electric plant instruction 8.)

NOTE: Include steam production roads and railroads in this account.

312 Boiler plant equipment.

This account shall include the cost installed of furnaces, boilers, coal and ash handling and coal preparing equipment, steam and feed water piping, boiler apparatus and accessories used in the production of steam, mercury, or other vapor, to be used primarily for generating electricity.

ITEMS

1. Ash handling equipment, including hoppers, gates, cars, conveyors, hoists, sluicing equipment, including pumps and motors, sluicing water pipe and fittings, sluicing trenches and accessories, etc., except sluices which are a part of a building.

2. Boiler feed system, including feed water heaters, evaporator condensers, heater drain pumps, heater drainers, deaerators, and vent condensers, boiler feed pumps, surge tanks, feed water regulators, feed water measuring equipment, and all associated drives.

3. Boiler plant cranes and hoists and associated drives.

4. Boilers and equipment, including boilers and baffles, economizers, superheaters, soot blowers, foundations and settings, water walls, arches, grates, insulation, blow-down system, drying out of new boilers, also associated motors or other power equipment.

5. Breeching and accessories, including breeching, dampers, soot spouts, hoppers and gates, cinder eliminators, breeching insulation, soot blowers and associated motors.

6. Coal handling and storage equipment, including coal towers, coal lorries, coal cars, locomotives and tracks when devoted principally to the transportation of coal, hoppers, downtakes, unloading and hoisting equipment, skip hoists and conveyors, weighing equipment, magnetic separators, cable ways, housings and supports for coal handling equipment.

7. Draft equipment, including air preheaters and accessories, induced and forced draft fans, air ducts, combustion control mechanisms, and associated motors or other power equipment.

8. Gas-burning equipment, including holders, burner equipment and piping, control equipment, etc.

9. Instruments and devices, including all measuring, indicating, and recording equip-

ment for boiler plant service together with mountings and supports.

10. Lighting systems.

11. Oil-burning equipment, including tanks, heaters, pumps with drive, burner equipment and piping, control equipment, etc.

12. Pulverized fuel equipment, including pulverizers, accessory motors, primary air fans, cyclones and ducts, dryers, pulverized fuel bins, pulverized fuel conveyors and equipment, burners, burner piping, priming equipment, air compressors, motors, etc.

13. Stacks, including foundations and supports, stack steel and ladders, stack brick work, stack concrete, stack lining, stack painting (first), when set on separate foundations, independent of substructure or superstructure of building.

14. Station piping, including pipe, valves, fittings, separators, traps, desuperheaters, hangers, excavation, covering, etc., for station piping system, including all steam, condensate, boiler feed and water supply piping, etc., but not condensing water, plumbing, building heating, oil, gas, air piping or piping specifically provided for in account 313.

15. Stoker or equivalent feeding equipment, including stokers and accessory motors, clinker grinders, fans and motors, etc.

16. Ventilating equipment.

17. Water purification equipment, including softeners and accessories, evaporators and accessories, heat exchangers, filters, tanks for filtered or softened water, pumps, motors, etc.

18. Water-supply systems, including pumps, motors, strainers, raw-water storage tanks, boiler wash pumps, intake and discharge pipes and tunnels not a part of a building.

19. Wood fuel equipment, including hoppers, fuel hogs and accessories, elevators and conveyors, bins and gates, spouts, measuring equipment and associated drives.

NOTE: When the system for supplying boiler or condenser water is elaborate, as when it includes a dam, reservoir, canal, pipe line, cooling ponds, or where gas or oil is used as a fuel for producing steam and is supplied through a pipe line system owned by the utility, the cost of such special facilities shall be charged to a subdivision of account 311, Structures and Improvements.

313 Engines and engine-driven generators.

This account shall include the cost installed of steam engines, reciprocating or rotary, and their associated auxiliaries; and engine-driven main generators, except turbogenerator units.

ITEMS

1. Air cleaning and cooling apparatus, including blowers, drive equipment, air ducts not a part of building, louvers, pumps, hoods, etc.
2. Belting, shafting, pulleys, reduction gearing, etc.
3. Circulating pumps, including connections between condensers and intake and discharge tunnels.
4. Cooling system, including towers, pumps, tank, and piping.
5. Condensers, including condensate pumps, air and vacuum pumps, ejectors, unloading valves and vacuum breakers, expansion devices, screens, etc.
6. Cranes, hoists, etc., including items wholly identified with items listed herein.
7. Engines, reciprocating or rotary.
8. Fire-extinguishing systems.
9. Foundations and settings, especially constructed for and not expected to outlast the apparatus for which provided.
10. Generators—Main, a.c. or d.c., including field rheostats and connections for self-excited units, and excitation systems when identified with the generating unit.
11. Governors.
12. Lighting systems.
13. Lubricating systems including gauges, filters, tanks, pumps, piping, motors, etc.
14. Mechanical meters, including gauges, recording instruments, sampling and testing equipment.
15. Piping—main exhaust, including connections between generator and condenser and between condenser and hotwell.
16. Piping—main steam, including connections from main throttle valve to turbine inlet.
17. Platforms, railings, steps, gratings, etc., appurtenant to apparatus listed herein.
18. Pressure oil system, including accumulators, pumps, piping, motors, etc.
19. Throttle and inlet valve.
20. Tunnels, intake and discharge, for condenser system, when not a part of a structure.
21. Water screens, motors, etc.

314 Turbogenerator units.

This account shall include the cost installed of main turbine-driven units and accessory equipment used in generating electricity by steam.

ITEMS

1. Air cleaning and cooling apparatus, including blowers, drive equipment, air ducts not a part of building, louvers, pumps, hoods, etc.
2. Circulating pumps, including connections between condensers and intake and discharge tunnels.

3. Condensers, including condensate pumps, air and vacuum pumps, ejectors, unloading valves and vacuum breakers, expansion devices, screens, etc.
4. Generator hydrogen, gas piping and de-trainment equipment.
5. Cooling system, including towers, pumps, tanks, and piping.
6. Cranes, hoists, etc., including items wholly identified with items listed herein.
7. Excitation system, when identified with main generating units.
8. Fire-extinguishing systems.
9. Foundations and settings, especially constructed for and not expected to outlast the apparatus for which provided.
10. Governors.
11. Lighting systems.
12. Lubricating systems, including gauges, filters, water separators, tanks, pumps, piping, motors, etc.
13. Mechanical meters, including gauges, recording instruments, sampling and testing equipment.
14. Piping—main exhaust, including connections between turbogenerator and condenser and between condenser and hotwell.
15. Piping—main steam, including connections from main throttle valve to turbine inlet.
16. Platforms, railings, steps, gratings, etc., appurtenant to apparatus listed herein.
17. Pressure oil systems, including accumulators, pumps, piping, motors, etc.
18. Steelwork, specially constructed for apparatus listed herein.
19. Throttle and inlet valve.
20. Tunnels, intake and discharge, for condenser system, when not a part of structure, water screens, etc.
21. Turbogenerators—main, including turbine and generator, field rheostats and electric connections for self-excited units.
22. Water screens, motors, etc.
23. Moisture separator for turbine steam.
24. Turbine lubricating oil (initial charge).

315 Accessory electric equipment.

This account shall include the cost installed of auxiliary generating apparatus, conversion equipment, and equipment used primarily in connection with the control and switching of electric energy produced by steam power, and the protection of electric circuits and equipment, except electric motors used to drive equipment included in other accounts. Such motors shall be included in the account in which the equipment with which they are associated is included.

ITEMS

1. Auxiliary generators, including boards, compartments, switching equipment, control

equipment, and connections to auxiliary power bus.

2. Excitation system, including motor, turbine and dual-drive exciter sets and rheostats, storage batteries and charging equipment, circuit breakers, panels and accessories, knife switches and accessories, surge arresters, instrument shunts, conductors and conduit, special supports for conduit, generator field and exciter switch panels, exciter bus tie panels, generator and exciter rheostats, etc., special housing, protective screens, etc.

3. Generator main connections, including oil circuit breakers and accessories, disconnecting switches and accessories, operating mechanisms and interlocks, current transformers, potential transformers, protective relays, isolated panels and equipment, conductors and conduit, special supports for generator main leads grounding switch, etc., special housings, protective screens, etc.

4. Station buses including main, auxiliary, transfer, synchronizing and fault ground buses, including oil circuit breakers and accessories, disconnecting switches and accessories, operating mechanisms and interlocks, reactors and accessories, voltage regulators and accessories, compensators, resistors, starting transformers, current transformers, potential transformers, protective relays, storage batteries and charging equipment, isolated panels and equipment, conductors and conduit, special supports, special housings, concrete pads, general station grounding system, special fire-extinguishing system, and test equipment.

5. Station control system, including station switchboards with panel wiring, panels with instruments and control equipment only, panels with switching equipment mounted or mechanically connected, truck-type boards complete, cubicles, station supervisory control boards, generator and exciter signal stands, temperature recording devices, frequency-control equipment, master clocks, watt-hour meters and synchronoscope in the turbine room, station totalizing wattmeter, boiler-room load indicator equipment, storage batteries, panels and charging sets, instrument transformers for supervisory metering, conductors and conduit, special supports for conduit, switchboards, batteries, special housing for batteries, protective screens, doors, etc.

NOTE A: Do not include in this account transformers and other equipment used for changing the voltage or frequency of electricity for the purposes of transmission or distribution.

NOTE B: When any item of equipment listed herein is used wholly to furnish power to equipment included in another account, its cost shall be included in such other account.

316 Miscellaneous power plant equipment.

This account shall include the cost installed of miscellaneous equipment in and about the steam generating plant devoted to general station use, and which is not properly includible in any of the foregoing steam-power production accounts.

ITEMS

1. Compressed air and vacuum cleaning systems, including tanks, compressors, exhausters, air filters, piping, etc.

2. Cranes and hoisting equipment, including cranes, cars, crane rails, monorails, hoists, etc., with electric and mechanical connections.

3. Fire-extinguishing equipment for general station use.

4. Foundations and settings specially constructed for and not expected to outlast the apparatus for which provided.

5. Locomotive cranes not includible elsewhere.

6. Locomotives not includible elsewhere.

7. Marine equipment, including boats, barges, etc.

8. Miscellaneous belts, pulleys, countershafts, etc.

9. Miscellaneous equipment, including atmospheric and weather indicating devices, intrasite communication equipment, laboratory equipment, signal systems, callophones emergency whistles and sirens, fire alarms, insect-control equipment, and other similar equipment.

10. Railway cars not includible elsewhere.

11. Refrigerating systems, including compressors, pumps, cooling coils, etc.

12. Station maintenance equipment, including lathes, shapers, planers, drill presses, hydraulic presses, grinders, etc., with motors, shafting, hangers, pulleys, etc.

13. Ventilating equipment, including items wholly identified with apparatus listed herein.

NOTE: When any item of equipment listed herein is wholly used in connection with equipment included in another account, its cost shall be included in such other account.

320 Land and land rights (Major only).

This account shall include the cost of land and land rights used in connection with nuclear power generation. (See electric plant instruction 7.)

321 Structures and improvements (Major only).

This account shall include the cost in place of structures and improvements used and

useful in connection with nuclear power generation. (See electric plant instruction 8.)

NOTE: Include vapor containers and nuclear production roads and railroads in this account.

322 Reactor plant equipment (Major only).

This account shall include the installed cost of reactors, reactor fuel handling and storage equipment, pressurizing equipment, coolant charging equipment, purification and discharging equipment, radioactive waste treatment and disposal equipment, boilers, steam and feed water piping, reactor and boiler apparatus and accessories and other reactor plant equipment used in the production of steam to be used primarily for generating electricity, including auxiliary superheat boilers and associated equipment in systems which change temperatures or pressure of steam from the reactor system.

ITEMS

1. Auxiliary superheat boilers and associated fuel storage handling preparation and burning equipment, etc. (See account 312 Boiler Plant Equipment, for items, but exclude water supply, water flow lines, and steam lines, as well as other equipment not strictly within the superheat function.)
2. Boiler feed system, including feed water heaters, evaporator condensers, heater drain pumps, heater drainers, deaerators, and vent condensers, boiler feed pumps, surge tanks, feed water regulators, feed water measuring equipment, and all associated drivers.
3. Boilers and heat exchangers.
4. Instruments and devices, including all measuring, indicating, and recording equipment for reactor and boiler plant service together with mountings and supports.
5. Lighting systems.
6. Moderators, such as heavy water, graphite, etc., initial charge.
7. Reactor coolant; primary and secondary systems (initial charge).
8. Radioactive waste treatment and disposal equipment, including tanks, ion exchangers, incinerators, condensers, chimneys, and diluting fans and pumps.
9. Foundations and settings, especially constructed for and not expected to outlast the apparatus for which provided.
10. Reactor including shielding, control rods and mechanisms.
11. Reactor fuel handling equipment, including manipulating and extraction tools, underwater viewing equipment, seal cutting

and welding equipment, fuel transfer equipment and fuel disassembly machinery.

12. Reactor fuel element failure detection system.

13. Reactor emergency poison container and injection system.

14. Reactor pressurizing and pressure relief equipment, including pressurizing tanks and immersion heaters.

15. Reactor coolant or moderator circulation charging, purification, and discharging equipment, including tanks, pumps, heat exchangers, demineralizers, and storage.

16. Station piping, including pipes, valves, fittings, separators, traps, desuperheaters, hangers, excavation, covering, etc., for station piping system, including all-reactor coolant, steam, condensate, boiler feed and water supply piping, etc., but not condensing water, plumbing, building heating, oil, gas, or air piping.

17. Ventilating equipment.

18. Water purification equipment, including softeners, demineralizers, and accessories, evaporators and accessories, heat exchangers, filters, tanks for filtered or softened water, pumps, motors, etc.

19. Water supply systems, including pumps, motors, strainers, raw-water storage tanks, boiler wash pumps, intake and discharge pipes and tunnels not a part of a building.

20. Reactor plant cranes and hoists, and associated drives.

NOTE: When the system for supplying boiler or condenser water is elaborate, as when it includes a dam, reservoir, canal, pipe lines, or cooling ponds, the cost of such special facilities shall be charged to a subdivision of account 321, Structures and Improvements.

323 Turbogenerator units (Major only).

This account shall include the cost installed of main turbine-driven units and accessory equipment used in generating electricity by steam.

ITEMS

1. Air cleaning and cooling apparatus, including blowers, drive equipment, air ducts not a part of building, louvers, pumps, hoods, etc.
2. Circulating pumps, including connections between condensers, and intake and discharge tunnels.
3. Condensers, including condensate pumps, air and vacuum pumps ejectors, unloading valves and vacuum breakers, expansion devices, screens, etc.
4. Generator hydrogen gas piping system and hydrogen detrainment equipment, and bulk hydrogen gas storage equipment.
5. Cooling system, including towers, pumps, tanks and piping.

6. Cranes, hoists, etc., including items wholly identified with items listed herein.
7. Excitation system, when identified with main generating units.
8. Fire extinguishing systems.
9. Foundations and settings, especially constructed for and not expected to outlast the apparatus for which provided.
10. Governors.
11. Lighting systems.
12. Lubricating systems, including gauges filters, water separators, tanks, pumps, piping motors, etc.
13. Mechanical meters, including gauges recording instruments, sampling and testing equipment.
14. Piping—main exhaust, including connections between turbogenerator and condenser and between condenser and hotwell.
15. Piping—main steam, including connections from main throttle valve to turbine inlet.
16. Platforms, railings, steps, gratings, etc. appurtenant to apparatus listed herein.
17. Pressure oil systems, including accumulators, pumps, piping, motors, etc.
18. Steelwork, specially constructed for apparatus listed herein.
19. Throttle and inlet valve.
20. Tunnels, intake and discharge, for condenser system, when not a part of structure water screens, etc.
21. Turbogenerators—main, including turbine and generator, field rheostats and electric connections for self-excited units.
22. Water screens, motors, etc.
23. Moisture separators for turbine steam.
24. Turbine lubricating oil (initial charge).

324 Accessory electric equipment (Major only).

This account shall include the cost installed of auxiliary generating apparatus, conversion equipment, and equipment used primarily in connection with the control and switching of electric energy produced by nuclear power, and the protection of electric circuits and equipment, except electric motors used to drive equipment included in other accounts. Such motors shall be included in the account in which the equipment with which they are associated is included.

NOTE: Do not include in this account transformers and other equipment used for changing the voltage or frequency of electric energy for the purpose of transmission or distribution.

ITEMS

1. Auxiliary generators, including boards, compartments, switching equipment, control

equipment, and connections to auxiliary power bus.

2. Excitation system, including motor, turbine and dual-drive exciter sets and rheostats, storage batteries and charging equipment, circuit breakers, panels and accessories, knife switches and accessories, surge arresters, instrument shunts, conductors and conduit, special supports for conduit, generator field and exciter switch panels, exciter bus tie panels, generator and exciter rheostats, etc., special housing, protective screens, etc.

3. Generator main connections, including oil circuit breakers and accessories, disconnecting switches and accessories, operating mechanisms and interlocks, current transformers, potential transformers, protective relays, isolated panels and equipment, conductors and conduit, special supports for generator main leads, grounding switch, etc., special housings, protective screens, etc.

4. Station buses, including main, auxiliary, transfer, synchronizing and fault ground buses, including oil circuit breakers and accessories, disconnecting switches and accessories, operating mechanisms and interlocks, reactors and accessories, voltage regulators and accessories, compensators, resistors, starting transformers, current transformers, potential transformers, protective relays, storage batteries and charging equipment, isolated panels and equipment, conductors and conduit, special supports, special housings, concrete pads, general station grounding system, fire-extinguishing system, and test equipment.

5. Station control system, including station switchboards with panel wiring, panels with instruments and control equipment only, panels with switching equipment mounted or mechanically connected, truck-type boards complete, cubicles, station supervisory control boards, generator and exciter signal stands, temperature recording devices, frequency-control equipment, master clocks, watt-hour meters and synchronoscope in the turbine room, station totalizing wattmeter, boiler-room load indicator equipment, storage batteries, panels and charging sets, instrument transformers for supervisory metering, conductors and conduit, special supports for conduit, switchboards, batteries, special housing for batteries, protective screens, doors, etc.

NOTE: When any item of equipment listed herein is used wholly to furnish power to equipment included in another account, its cost shall be included in such other account

325 Miscellaneous power plant equipment (Major only).

This account shall include the cost installed of miscellaneous equipment in and about the nuclear generating

plant devoted to general station use, and which is not properly includible in any of the foregoing nuclear-power production accounts.

ITEMS

1. Compressed air and vacuum cleaning systems, including tanks, compressors, exhausters, air filters, piping, etc.
2. Cranes and hoisting equipment, including cranes, cars, crane rails, monorails, hoists, etc., with electric and mechanical connections.
3. Fire-extinguishing equipment for general station and site use.
4. Foundations and settings specially constructed for and not expected to outlast the apparatus for which provided.
5. Locomotive cranes not includible elsewhere.
6. Locomotives not included elsewhere.
7. Marine equipment, including boats, barges, etc.
8. Miscellaneous belts, pulleys, countershafts, etc.
9. Miscellaneous equipment, including atmospheric and weather recording devices, intrasite communication equipment, laboratory equipment, signal systems, callophones emergency whistles and sirens, fire alarms, insect-control equipment, and other similar equipment.
10. Railway cars or special shipping containers not includible elsewhere.
11. Refrigerating systems, including compressors, pumps, cooling coils, etc.
12. Station maintenance equipment, including lathes, shapers, planers, drill presses, hydraulic presses, grinders, etc., with motors, shafting, hangers, pulleys, etc.
13. Ventilating equipment, including items wholly identified with apparatus listed herein.
14. Station and area radiation monitoring equipment.

NOTE: When any item of equipment listed herein is wholly used in connection with equipment included in another account, its cost shall be included in such other account.

330 Land and land rights.

This account shall include the cost of land and land rights used in connection with hydraulic power generation. (See electric plant instruction 7.) For Major utilities, it shall also include the cost of land and land rights used in connection with (1) the conservation of fish and wildlife, and (2) recreation. Separate subaccounts shall be maintained for each of the above.

331 Structures and improvements.

This account shall include the cost in place of structures and improvements used in connection with hydraulic power generation. (See electric plant instruction 8.) For Major utilities, it shall also include the cost in place of structures and improvements used in connection with (1) the conservation of fish and wildlife, and (2) recreation. Separate subaccounts shall be maintained for each of the above.

332 Reservoirs, dams, and waterways.

This account shall include the cost in place of facilities used for impounding, collecting, storage, diversion, regulation, and delivery of water used primarily for generating electricity. For Major utilities, it shall also include the cost in place of facilities used in connection with (a) the conservation of fish and wildlife, and (b) recreation. Separate subaccounts shall be maintained for each of the above. (See electric plant instruction 8C.)

ITEMS

1. Bridges and culverts (when not a part of roads or railroads).
2. Clearing and preparing land.
3. Dams, including wasteways, spillways, flash boards, spillway gates with operating and control mechanisms, tunnels, gate houses, and fish ladders.
4. Dikes and embankments.
5. Electric system, including conductors control system, transformers, lighting fixtures, etc.
6. Excavation, including shoring, bracing, bridging, refill, and disposal of excess excavated material.
7. Foundations and settings specially constructed for and not expected to outlast the apparatus for which provided.
8. Intakes, including trash racks, rack cleaners, control gates and valves with operating mechanisms, and intake house when not a part of station structure.
9. Platforms, railings, steps, gratings, etc., appurtenant to structures listed herein.
10. Power line wholly identified with items included herein.
11. Retaining walls.
12. Water conductors and accessories, including canals, tunnels, flumes, penstocks pipe conductors, forebays, tailraces, navigation locks and operating mechanisms, waterhammer and surge tanks, and supporting trestles and structures.
13. Water storage reservoirs, including dams, flashboards, spillway gates and operating mechanisms, inlet and outlet tunnels,

regulating valves and valve towers, silt and mud sluicing tunnels with valve or gate towers, and all other structures wholly identified with any of the foregoing items.

333 Water wheels, turbines and generators.

This account shall include the cost installed of water wheels and hydraulic turbines (from connection with penstock or flume to tailrace) and generators driven thereby devoted to the production of electricity by water power or for the production of power for industrial or other purposes, if the equipment used for such purposes is a part of the hydraulic power plant works.

ITEMS

1. Exciter water wheels and turbines, including runners, gates, governors, pressure regulators, oil pumps, operating mechanisms, scroll cases, draft tubes, and draft-tube supports.
2. Fire-extinguishing equipment.
3. Foundations and settings, specially constructed for and not expected to outlast the apparatus for which provided.
4. Generator cooling system, including air cooling and washing apparatus, air fans and accessories, air ducts, etc.
5. Generators—main, a.c. or d.c., including field rheostats and connections for self-excited units and excitation system when identified with the generating unit.
6. Lighting systems.
7. Lubricating systems, including gauges, filters, tanks, pumps, piping, etc.
8. Main penstock valves and appurtenances, including main valves, control equipment, bypass valves and fittings, and other accessories.
9. Main turbines and water wheels, including runners, gates, governors, pressure regulators, oil pumps, operating mechanisms, scroll cases, draft tubes, and draft-tube supports.
10. Mechanical meters and recording instruments.
11. Miscellaneous water-wheel equipment, including gauges, thermometers, meters, and other instruments.
12. Platforms, railings, steps, gratings, etc., appurtenant to apparatus listed herein.
13. Scroll case filling and drain system, including gates, pipe, valves, fittings, etc.
14. Water-actuated pressure-regulator system, including tanks and housings, pipes, valves, fittings and insulations, piers and anchorage, and excavation and backfill.

334 Accessory electric equipment.

This account shall include the cost installed of auxiliary generating apparatus, conversion equipment, and equipment used primarily in connection with the control and switching of electric energy produced by hydraulic power and the protection of electric circuits and equipment, except electric motors used to drive equipment included in other accounts, such motors being included in the account in which the equipment with which they are associated is included.

ITEMS

1. Auxiliary generators, including boards, compartments, switching equipment, control equipment, and connections to auxiliary power bus.
2. Excitation system, including motor, turbine, and dual-drive exciter sets and rheostats, storage batteries and charging equipment, circuit breakers, panels and accessories, knife switches and accessories, surge arresters, instrument shunts, conductors and conduit, special supports for conduit, generator field and exciter switch panels, exciter bus tie panels, generator and exciter rheostats, etc., special housings, protective screens, etc.
3. Generator main connections, including oil circuit breakers and accessories, disconnecting switches and accessories, operating mechanisms and interlocks, current transformers, potential transformers, protective relays, isolated panels and equipment, conductors and conduit, special supports for generator main leads, grounding switch, etc., special housings, protective screens, etc.
4. Station buses, including main, auxiliary, transfer, synchronizing, and fault ground buses, including oil circuit breakers and accessories, disconnecting switches and accessories, operating mechanisms and interlocks, reactors and accessories, voltage regulators and accessories, compensators, resistors starting transformers, current transformers, potential transformers, protective relays, storage batteries, and charging equipment, isolated panels and equipment, conductors and conduit, special supports, special fire-extinguishing system, and test equipment.
5. Station control system, including station switchboards with panel wiring panels with instruments and control equipment only, panels with switching equipment mounted or mechanically connected, trucktype boards complete, cubicles, station supervisory control devices, frequency control equipment, master clocks, watt-hour meter, station totalizing watt-meter, storage batteries, panels and charging sets, instrument transformers for supervisory metering,

conductors and conduit, special supports for conduit, switchboards, batteries, special housings for batteries, protective screens, doors, etc.

NOTE A: Do not include in this account transformers and other equipment used for changing the voltage or frequency of electricity for the purpose of transmission or distribution.

NOTE B: When any item of equipment listed herein is used wholly to furnish power to equipment, it shall be included in such equipment account.

335 Miscellaneous power plant equipment.

This account shall include the cost installed of miscellaneous equipment in and about the hydroelectric generating plant which is devoted to general station use and is not properly includible in other hydraulic production accounts. For Major utilities, it shall also include the cost of equipment used in connection with (a) the conservation of fish and wildlife, and (b) recreation. Separate subaccounts shall be maintained for each of the above.

ITEMS

1. Compressed air and vacuum cleaning systems, including tanks, compressors, exhausters, air filters, piping, etc.
2. Cranes and hoisting equipment, including cranes, cars, crane rails, monorails, hoists, etc., with electric and mechanical connections.
3. Fire-extinguishing equipment for general station use.
4. Foundations and settings, specially constructed for and not expected to outlast the apparatus for which provided.
5. Locomotive cranes not includible elsewhere.
6. Locomotives not includible elsewhere.
7. Marine equipment, including boats, barges, etc.
8. Miscellaneous belts, pulleys, countershafts, etc.
9. Miscellaneous equipment, including atmospheric and weather indicating devices, intrasite communication equipment, laboratory equipment, insect control equipment, signal systems, callophones, emergency whistles and sirens, fire alarms, and other similar equipment.
10. Railway cars, not includible elsewhere.
11. Refrigerating system, including compressors, pumps, cooling coils, etc.
12. Station maintenance equipment, including lathes, shapers, planers, drill presses, hydraulic presses, grinders, etc., with motors, shafting, hangers, pulleys, etc.

13. Ventilating equipment, including items wholly identified with apparatus listed herein.

NOTE: When any item of equipment, listed herein is used wholly in connection with equipment included in another account, its cost shall be included in such other account.

336 Roads, railroads and bridges.

This account shall include the cost of roads, railroads, trails, bridges, and trestles used primarily as production facilities. It includes also those roads, etc., necessary to connect the plant with highway transportation systems, except when such roads are dedicated to public use and maintained by public authorities.

ITEMS

1. Bridges, including foundations, piers, girders, trusses, flooring, etc.
2. Clearing land.
3. Railroads, including grading, ballast, ties, rails, culverts, hoists, etc.
4. Roads, including grading, surfacing, culverts, etc.
5. Structures, constructed and maintained in connection with items listed herein.
6. Trails, including grading, surfacing, culverts, etc.
7. Trestles, including foundations, piers, girders, trusses, flooring, etc.

NOTE A: Roads intended primarily for connecting employees' houses with the power plant, and roads used primarily in connection with fish and wildlife, and recreation activities, shall not be included herein but in account 331, Structures and Improvements.

NOTE B: The cost of temporary roads, bridges, etc. necessary during the period of construction but abandoned or dedicated to public use upon completion of the plant, shall not be included herein but shall be charged to the accounts appropriate for the construction.

340 Land and land rights.

This account shall include the cost of land and land rights used in connection with other power generation. (See electric plant instruction 7.)

341 Structures and improvements.

This account shall include the cost in place of structures and improvements used in connection with other power generation. (See electric plant instruction 8.)

342 Fuel holders, producers, and accessories.

This account shall include the cost installed of fuel handling and storage equipment used between the point of fuel delivery to the station and the intake pipe through which fuel is directly drawn to the engine, also the cost of gas producers and accessories devoted to the production of gas for use in prime movers driving main electric generators.

ITEMS

1. Blower and fans.
2. Boilers and pumps.
3. Economizers.
4. Exhauster outfits.
5. Flues and piping.
6. Pipe system.
7. Producers.
8. Regenerators.
9. Scrubbers.
10. Steam injectors.
11. Tanks for storage of oil, gasoline, etc.
12. Vaporizers.

343 Prime movers.

This account shall include the cost installed of Diesel or other prime movers devoted to the generation of electric energy, together with their auxiliaries.

ITEMS

1. Air-filtering system.
2. Belting, shafting, pulleys, reduction gearing, etc.
3. Cooling system, including towers, pumps, tanks, and piping.
4. Cranes, hoists, etc., including items wholly identified with apparatus listed herein.
5. Engines, Diesel, gasoline, gas, or other internal combustion.
6. Foundations and settings specially constructed for and not expected to outlast the apparatus for which provided.
7. Governors.
8. Ignition system.
9. Inlet valve.
10. Lighting systems.
11. Lubricating systems, including filters, tanks, pumps, and piping.
12. Mechanical meters, including gauges, recording instruments, sampling, and testing equipment.
13. Mufflers.
14. Piping.
15. Starting systems, compressed air, or other, including compressors and drives, tanks, piping, motors, boards and connections, storage tanks, etc.

16. Steelwork, specially constructed for apparatus listed herein.

17. Waste heat boilers, antifructuators, etc.

344 Generators.

This account shall include the cost installed of Diesel or other power driven main generators.

ITEMS

1. Cranes, hoists, etc., including items wholly identified with such apparatus.
2. Fire-extinguishing equipment.
3. Foundations and settings, specially constructed for and not expected to outlast the apparatus for which provided.
4. Generator cooling system, including air cooling and washing apparatus, air fans and accessories, air ducts, etc.
5. Generators—main, a.c. or d.c., including field rheostats and connections for self-excited units and excitation system when identified with the generating unit.
6. Lighting systems.
7. Lubricating system, including tanks, filters, strainers, pumps, piping, coolers, etc.
8. Mechanical meters, and recording instruments.
9. Platforms, railings, steps, gratings, etc., appurtenant to apparatus listed herein.

NOTE: If prime movers and generators are so integrated that it is not practical to classify them separately, the entire unit may be included in account 344, Generators.

345 Accessory electric equipment.

This account shall include the cost installed of auxiliary generating apparatus, conversion equipment, and equipment used primarily in connection with the control and switching of electric energy produced in other power generating stations, and the protection of electric circuits and equipment, except electric motors used to drive equipment included in other accounts. Such motors shall be included in the account in which the equipment with which it is associated is included.

ITEMS

1. Auxiliary generators, including boards, compartments, switching equipment, control equipment, and connections to auxiliary power bus.
2. Excitation system, including motor, turbine and dual-drive exciter sets and rheostats, storage batteries and charging equipment, circuit breakers, panels and accessories, knife switches and accessories, surge arresters, instrument shunts, conductors and conduit, special supports for conduit, generator field and exciter switch panels, exciter

bus tie panels, generator and exciter rheostats, etc., special housings, protective screens, etc.

3. Generator main connections, including oil circuit breakers and accessories, disconnecting switches and accessories, operating mechanisms and interlocks, current transformers, potential transformers, protective relays, isolated panels and equipment, conductors and conduit, special supports for generator main leads, grounding switch, etc., special housing, protective screens, etc.

4. Station control system, including station switchboards with panel wiring, panels with instruments and control equipment only, panels with switching equipment mounted or mechanically connected, trunktype boards complete, cubicles, station supervisory control boards, generator and exciter signal stands, temperature-recording devices, frequency control equipment, master clocks, watt-hour meter, station totalizing wattmeter, storage batteries, panels and charging sets, instrument transformers for supervisory metering, conductors and conduit, special supports for conduit, switchboards, batteries, special housing for batteries, protective screens, doors, etc.

5. Station buses, including main, auxiliary transfer, synchronizing and fault ground buses, including oil circuit breakers and accessories, disconnecting switches and accessories, operating mechanisms and interlocks, reactors and accessories, voltage regulators and accessories, compensators, resistors, starting transformers, current transformers, potential transformers, protective relays, storage batteries and charging equipment, isolated panels and equipment, conductors and conduit, special supports, special housings, concrete pads, general station ground system, special fire-extinguishing system, and test equipment.

NOTE A: Do not include in this account transformers and other equipment used for changing the voltage or frequency of electric energy for the purpose of transmission or distribution.

NOTE B: When any item of equipment listed herein is used wholly to furnish power to equipment included in another account, its cost shall be included in such other account.

346 Miscellaneous power plant equipment.

This account shall include the cost installed of miscellaneous equipment in and about the other power generating plant, devoted to general station use, and not properly includible in any of the foregoing other power production accounts.

ITEMS

1. Compressed air and vacuum cleaning systems, including tanks, compressors, exhausters, air filters, piping, etc.

2. Cranes and hoisting equipment, including cranes, cars, crane rails, monorails, hoists, etc., with electric and mechanical connections.

3. Fire-extinguishing equipment for general station use.

4. Foundations and settings, specially constructed for and not expected to outlast the apparatus for which provided.

5. Miscellaneous equipment, including atmospheric and weather indicating devices, intrasite communication equipment, laboratory equipment, signal systems, callophones, emergency whistles and sirens, fire alarms, and other similar equipment.

6. Miscellaneous belts, pulleys, countershafts, etc.

7. Refrigerating system including compressors, pumps, cooling coils, etc.

8. Station maintenance equipment, including lathes, shapers, planers, drill presses, hydraulic presses, grinders, etc., with motors, shafting, hangers, pulleys, etc.

9. Ventilating equipment, including items wholly identified with apparatus listed herein.

NOTE: When any item of equipment, listed herein is used wholly in connection with equipment included in another account, its cost shall be included in such other account.

350 Land and land rights.

This account shall include the cost of land and land rights used in connection with transmission operations. (See electric plant instruction 7.)

351 [Reserved]

352 Structures and improvements.

This account shall include the cost in place of structures and improvements used in connection with transmission operations. (See electric plant instruction 8.)

353 Station equipment.

This account shall include the cost installed of transforming, conversion, and switching equipment used for the purpose of changing the characteristics of electricity in connection with its transmission or for controlling transmission circuits.

February 13, 2001

Assessment and Tax Difference for
Public Utility Property Calculated
As if HCR 5013 was in effect
For Tax Year 2000

Category	Assessed Value @ 33% Rate	Assessed Value @ 25% Rate	Assessed Value Difference
Public Utility Less RR	\$2,756,218,327	\$2,088,044,187	\$668,174,140
Electric Companies	\$1,430,735,359	\$1,083,890,423	\$346,844,936
Generation Facilities	\$ 868,229,031	\$ 657,749,266	\$210,479,765

Category	Tax Using @ 33% Rate	Tax Using @ 25% Rate	Tax Difference
Public Utility Less RR	\$270,937,185	\$205,255,443	\$65,681,742
Electric Companies	\$122,602,140	\$ 92,880,409	\$29,721,731
Generation Facilities	\$ 60,340,614	\$ 45,712,586	\$14,628,028

The calculations presume no change in appraisal methodology *ie* centrally appraised using generally accepted appraisal procedures to determine the fair market value of public utility property, both real and personal, tangible and intangible.

TESTIMONY
CHARLES H. GREGOR, JR.
Executive Vice President
Leavenworth-Lansing Area Chamber of Commerce
Thursday, March 1, 2001
before the
Senate Assessment and Taxation Committee
Senate Bill 177

Mr. Chairman, members of the Committee, I am Charlie Gregor, executive vice president of the Leavenworth-Lansing Area Chamber of Commerce, representing over five hundred and twenty members. Today I am also representing Leavenworth Area Development Corporation, the industrial economic development organization serving Leavenworth County. I have also attached to my testimony a letter signed by the members of the Board of County Commissioners of Leavenworth County. I am here to urge your approval of Senate Bill 177 as amended by the Senate Committee on Utilities.

My collective interest today focuses on the provisions of Senate Bill 177 that provides that newly constructed independent power producer properties placed in service after the first of this year be classified for property taxation purposes as commercial and industrial properties rather than as public utility properties. This will reduce the assessed tax rate on such power producers from 33 percent to 25 percent. This provision passes the common sense test based on several considerations.

The first of these is the obvious need to encourage the sort of private capital investment in electrical generation facilities that will serve the growing demand for that power from sources within the State of Kansas. Failure to do so has made one state a disaster in terms of providing an environment where business and industry can grow and has made that state and its industries dependent on high priced out-of-state sources for electrical power. No industry, particularly in light of the California experience, will seriously consider relocation or expansion into a state where the power infrastructure to meet its needs is in doubt, or if the source of that power is perceived as sufficiently uncertain or potentially unstable to the point that it virtually precludes confident cost projections.

A second consideration is that this bill will make it possible to create new industrial facilities and new jobs within Kansas, involving the investment of hundreds of millions of dollars, bolstering the property tax base and making significant contribution to state and local economies. This is not a hypothetical opportunity. Leavenworth County is currently being considered as a site for a natural gas fired electrical generation plant. The project will involve an investment of over \$200 million in Kansas, provide a minimum of 25 jobs, and add very substantially to the property tax base. Passage of Senate Bill 177 can make that opportunity a reality.

At a 33 percent assessment rate (\$66 million assessed) a \$200 million capital investment at a representative mill levy of 100 mills will generate a local property tax of \$6.6 million. At a 25 percent assessment tax rate the assessed value of \$5.0 million would produce \$5.0 million in revenue for local property taxes. It would appear that we have lost \$1.6 million if Senate Bill 177 is passed.

Testimony of Charles H. Gregor, Jr.
Executive Vice President
Leavenworth-Lansing Area Chamber of Commerce
before the
Senate Assessment and Taxation Committee
March 1, 2001
Page 2

The reality is we have made \$5.0 million. The last time a private power producer tried to come to the eastern part of our state it found the cost of doing business in Kansas prohibitive. Kansas was simply not competitive. Cass County, Missouri, was the benefactor of our inability to compete. Kansas got nothing. At a 33 percent assessment rate we remain noncompetitive.

Electrical power can be transported economically nearly 1,000 miles. Using electrical power generated in another state will unquestionably be more expensive to the consumer in Kansas. And that is where our electrical power will come from in the future unless our assessment rate is reduced. A 33 percent tax rate generates little or no investment and little or no revenue for Kansas unless the taxed facility is built in Kansas. Based on experience and common sense, that is most unlikely. Independent electrical power producers have viable alternatives. If and when "retail wheeling" becomes common place, without Senate Bill 177 in place, Kansas will probably become highly dependent on electrical power generation from outside Kansas. Electrical power generation plants built elsewhere provide no property taxes to support Kansas cities, counties and school districts.

We need this bill. Kansas needs this bill. I urge your favorable consideration and support of Senate Bill 177. I will stand for any questions from the Committee.

-----end of testimony-----

COUNTY OF LEAVENWORTH

COURTHOUSE
300 WALNUT
LEAVENWORTH, KANSAS 66048
Area Code (913) 684-0400



FROM THE OFFICE OF:
THE BOARD OF COUNTY COMMISSIONERS
OF LEAVENWORTH COUNTY, KANSAS

February 28, 2001

SENATE COMMITTEE ON
ASSESSMENT AND TAXATION

RE: SB 177; Support for

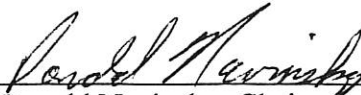
Dear Senators,

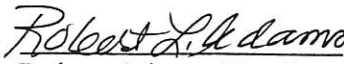
As the Board of County Commissioners of Leavenworth County, Kansas we would like to express to you our support for the enactment of Senate Bill 177. It is our belief that this Bill provides significant economic benefit to the State and local governments.


Aside from the benefit of helping to insure an adequate electrical power supply to the citizens of Kansas Senate Bill 177 will assist local governments in promoting economic development. An adjustment of the assessment upon power producing facilities will allow local governments, and certainly Leavenworth County, to compete with adjoining states in attracting new power facilities. Given the immense capital investments made for these types of facilities the assessment adjustments made by Senate Bill 177 will be more than offset by increased investment in the State.

Our support for Senate Bill 177 is unequivocal. The issue attracting power generating investments in our County and State is timely and important. We ask for your favorable consideration of and support for this action.

Sincerely,


Donald Navinsky, Chairman


Robert Adams, Member


Joe Daniels, Member

City-County Probation
684-0760

Council on Aging
684-0777

Emergency Medical Service
684-0788

Noxious Weeds
684-0494

Community Corrections
684-0775

County Infirmary
684-1010

Health Department
684-0730

Sheriff
682-5724

Testimony
before the
Senate Assessment and Taxation Committee
by
Jim Ludwig, Western Resources
February 29, 2001

Chair Corbin and Members of the Committee:

Western Resources supports SB 177. We testified in favor of the bill before the Senate Utilities Committee February 15, 2001. SB 177 encourages investment and jobs in Kansas, without eroding the property tax base.

Bill explanation

SB 177 provides an incentive to independent power producers to build ~~either coal or natural gas~~ plants by assessing their generation facilities at the rate of 25% for real and personal property. Under current law, independent power producer generation would be assessed at 33%, the rate for public utility property. SB 177 defines independent power producer property as generation facilities not in the rate base of a KCC jurisdictional electric utility.

Making incentives and removing barriers

Although there may not be any way for the legislature to guarantee new generation facilities are built in Kansas, the incentive proposed in SB 177 is a good step to remove obstacles and a competitive tax disadvantage compared to surrounding states.

Preserving tax base

Enacting SB 177 would not erode the current property tax base. Any generation built before January 1, 2001, would continue to be assessed at 33%. Any non-rate base generation built after January 1, 2001 would be assessed at 25%, while rate-based utility generation built after that date would be assessed 33%.

We urge the Committee to support SB 177.

Senate Assessment + Taxation
3-1-01
Attachment 4



Testimony before the Senate Taxation Committee
Senate Bill 177

Shannon L Green Jr.
Manager of Property and Misc. Taxes
Kansas City Power & Light Company
March 1, 2001

My name is Shannon Green, appearing on behalf of Kansas City Power & Light Company (KCPL). SB 177 is intended to encourage investment in new electric generation facilities in the state. In general, the bill includes the following major provisions:

- Commercial and Industrial (C&I) property tax treatment for newly constructed electric generation units placed in service after 1/1/01 of an independent power producer (IPP) that is not in rate base.
- Defines clearly the components of electric generation property that is personal property.

KCPL supports this bill as it is very clear that changes must be made to reduce the extremely high property tax burden that is currently imposed on electric generation in the state if new electric generation is to be developed in Kansas.

During the past few years evidence has been presented to various legislative committees, which has illustrated how Kansas electric utilities are taxed much higher than electric property located in other regional states. This difference has dramatically increased recently as a number of electric generation projects have commenced in nearby states with significant long-term tax abatements and minimal payment-in-lieu-of-tax (PILOT) provisions.

For instance, three separate large electric generation projects in three different counties in Missouri have all been granted total tax abatement during the construction periods and additional property tax abatements from 20 to 25 years after the in-service date. The reported annual PILOT on one of these projects (with a generation capacity approximating 600 Mw) was only \$350,000. That computes to about \$580 of property tax per Mw. For comparison, a \$200 million, 600 Mw electric plant if built in Kansas and taxed the public utility rates would have an approximate tax liability of \$7,500 per Mw or about 13 times that of the new Missouri facility. This trend is not limited to Missouri. I have attached a copy of an article from this Monday's February 26, 2001 edition of The Sentinel-Record that reports the ground breaking, near Hot Springs, Arkansas, of a 620 Mw electric generation plant with a 30 year tax abatement and an annual PILOT in the amount of only \$300,000. And there are other deals like these in the region.

- SB177 provides a vehicle to allow the taxation of new electric generation property, if sited in Kansas, to be more competitive with other states in the region. C&I treatment for IPP generation facilities would not only reduce the assessment rate from 33% to 25% but also provide for faster depreciation of personal property. Additionally, since this generation will not be centrally assessed, a clear and uniform definition of electric generation personal property as contained in this bill is imperative. This will help ensure the consistent appraisal treatment of such new facilities in counties throughout the state and allow for the proper planning and establishment of a business case for siting the new facilities.

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

Senate Assessment & Taxation
3-1-01
Attachment 5

**The Sentinel-Record's offices are located at 300
Spring St. Mailing address: P.O. Box 580 AR 71902
Phone: (501) 623-7711**

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February
26, 2001
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Power plant aims to sell wholesale

Matthew Hoffman, staff writer

The Sentinel-Record

An electric-generation power plant is under construction south of Malvern by a Charlotte, N.C.-based corporation, but don't look for their bills in the mail.

Duke Energy Corp. is excavating a site five miles south of Malvern off Arkansas Highway 67 for a 620 megawatt natural-gas fueled merchant power plant to sell electricity on the wholesale market.

Electric utilities, industry or cities will be able to buy electricity from Duke, which can use or resell it to its customers, from the plant generating enough electricity for about 1,000 average-size homes, said Duke Energy spokesman Rick Rhodes Thursday.

"Arkansas has a tremendous need for capacity," Rhodes said.

The southeastern United States currently has a need for 76,000 megawatts of extra electricity, Rhodes said. Duke Energy, the largest natural gas and electric utility in the United States, is building eight to 10 of the modular plants in the region.

The merchant plant is a base-load plant, meaning it will provide electric needs all year round, but at certain times of the day.

The Hot Spring (County) Energy Facility is the first Duke generation facility in Arkansas. Costing an estimated \$200 million, the location was chosen for its proximity to natural-gas headers and high-power transmission lines, Rhodes said.

"We typically locate a power plant where the need is," he added.

Economic Development Corp. of Hot Spring County Executive Director Marty Martin said Friday the plant is being constructed with

industrial development bonds through the state. The project engineer and construction company is a partnership between Duke Energy and Flour Daniel, one of the world's largest construction firms.

Flour Daniel was the project engineer for the \$34 million Hot Springs Civic & Convention Center.

The plant will be tax exempt, but Duke must pay the county \$300,000 each year for 30 years in lieu of taxes. The Malvern School District will get a significant portion of that, Martin said. The plant's 25 full-time employees will make a starting salary of \$50,000.

Garland County Economic Development Corp. Executive Director Jay Chesshir said Thursday that, although not located in Garland County, it should still be beneficial. The county didn't have land suitable for Duke's needs, he said.

Those constructing the facility and those high-paid workers likely will cross the county line and spend money in Hot Springs, Chesshir said.

Ice storms and wet weather have hampered construction, Rhodes said, but Duke Energy expects to complete the facility in 18 months and be generating by summer 2002. However, by winter of this year, Duke may decide to increase the plant to 1,240 megawatts, he added.

"We've designed this plant ... where we can double the size," he said.

Duke Energy Corp. currently operates in Arkansas, managing natural gas transmission and storage facilities, Rhodes said.

Duke Energy (DUK) is traded on the New York Stock Exchange, closing at 41.26 Friday, down 1.01 with a trading volume of 2,211,600 shares.

Source: WWW. Hotsr.com/files/news.html

Testimony of Max Sherman
Kansas Senate Utilities Committee
February 15, 2001

Mr. Chairman and members of the Committee:

I am Max Sherman, Vice President, Project Development, for Aquila Energy's Capacity Services organization in Kansas City, Missouri. I am presently responsible for developing Aquila generating projects in south-central and southeastern U.S.

Relevant work experience:

I've been in the electricity business since 1971 and employed by Aquila Energy since 1996. I am presently developing a power plant project in Clarksdale, Mississippi. 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 for gas- and coal-fired generating units; 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 a "top five" marketer in gas and power in the U.S. Aquila owns or otherwise controls approximately 4,000 MW of generation that is either operating, under construction, or in final stages of development. It has its corporate headquarters in downtown Kansas City, and has announced an IPO for this year.

Purpose of testimony

*Senate Assessment & Taxation
3-1-01
Attachment 6*

I am here to explain (1) what the major issues are for independent power plant developers in considering whether to build a merchant coal plant in the U.S., (2) issues specific to Kansas, and (3) support the property tax bill that is before this Committee. My message is simple: the timing for considering development of a coal plant in Kansas is appropriate, and the tax bill is a major step in the right direction. However, it'll take some time for developers (including Aquila) to figure out whether or not it makes sense to develop a coal plant in Kansas.

Major Development Issues

1. **Coal is on the "radar screen" in the development community.** The reasons are obvious – high natural gas prices and an improved political climate for coal plant development in the U.S. after the recent presidential election.
2. **Future natural gas prices will determine if coal is an economic alternative to combined cycle.** At today's natural gas prices of \$6/MMBtu, coal looks attractive. However, natural gas is a commodity whose price fluctuates with supply and demand. Today's high prices have stimulated additional drilling for gas, which we all hope will result in more supply and lower prices. The fact that the new Administration supports drilling for gas in areas presently off-limits to exploration may also stimulate new production. For the long term, a developer will have to estimate what future gas prices will be, in an environment where additional supplies and downward price pressure is offset by greater demand and a willingness of buyers to pay prices previously unseen. That "view" of future fuel prices will be a major driver in the decision on coal.
3. **Political risk is a major factor in developing coal plants compared to gas-fired combined cycle.** Coal hasn't been perceived as a clean technology, and the Environmental Protection Agency in the Clinton Administration was increasingly aggressive in attempting to lower emissions, and claiming that actions plant owners thought were merely maintenance were upgrades in violation of the rules. Had Vice President Gore been elected President, developers couldn't seriously consider development of coal plants. Because the Bush administration is perceived to support introduction of new power supplies, developers are more likely to consider developing coal plants. This is a matter of perception as much as it is of changing regulatory rules,

but it nevertheless is a significant factor. A negative of developing a coal plant is the lead time to get one to commercial operation (5 to 7 years), which is after the next presidential election cycle.

4. **Capital cost and development lead times are significant concerns (e.g., disincentives) in deciding whether to develop a coal plant.** The estimated cost of a new coal plant is approximately \$1100/kW, which is twice that of a new combined cycle plant. That means that a 600 MW coal-fired project would cost roughly \$660 million vs. have that for combined cycle. Because new power plants are now largely built and owned by merchant developers instead of regulated utilities, the time horizon for payback on investments is much shorter. That tends to favor less-costly plants, because less capital is at risk. In addition, the lead times for developing a coal plant of 5-7 years are roughly twice that of a combined cycle plant, which increases the risk that a change in markets will render a project uneconomic by the time it is ready to enter service.

Issues specific to Kansas

1. **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.
2. **Regional transmission consolidation hasn't occurred as expected.** When I testified before this Committee one year ago, I expected that consolidation of regional transmission organizations would be well under way, with utilities in MAPP, MAIN, ECAR and SPP joining the Midwest ISO. That hasn't happened. Instead, the Midwest ISO has lost favor as a non-profit entity in favor of a "for-profit" model (the Alliance RTO). Most MISO members are attempting to exit the organization to join the Alliance RTO, MAPP has failed to join MISO, and SPP/MISO merger negotiations came to naught. However, Entergy is willing to have a Transco under the SPP RTO, which will add some liquidity to the Kansas market. The overall effect of the delays in regional consolidation is to increase the number of transmission charges across a region, and incent developers to put plants closer to their expected markets. Because Kansas is a relatively small market, that puts

Kansas at a locational disadvantage unless a developer can find an "anchor tenant" to take a significant piece of the project's output.

3. **Taxes remain an issue.** The tax bill is a great first step. I am advised that in addition to lowering the tax basis from 33% of market value to 25%, the language also allows for PILOTs by removing classifying a new coal plant as commercial/industrial property. That issue is simply critical. Let me illustrate that point by describing more openly what PILOT rates have been for other merchant power plant projects in the Midwest and southern U.S.: For \$130 million peaking projects, the PILOT was \$158,000 to \$175,000/year for up to 30 years. If you scale that rate up for a coal plant that costs five times as much, the PILOT would be \$790,000 to \$875,000/year. That level of payments is drastically below the rates contemplated by the bill. I am not prepared to tell you at this time what tax payments or PILOTs work for a coal plant in Kansas (or elsewhere) for Aquila, because we haven't taken our analysis that far. I can tell you that the magnitude of capital at risk in a coal plant investment is large enough so that we'll look at all the capital-related issues quite closely, including taxes. For local coal projects, Kansas will be competing with Missouri's Chapter 100 bond program, so we'll just have to see what works in the places we consider doing these projects.

I thank you for your attention, and welcome any questions you may have.