Approved:
Date 2-19-01

MINUTES OF THE SENATE UTILITIES COMMITTEE.

The meeting was called to order by Chairperson Senator Stan Clark at 9:30 a.m. on February 15, 2001 in Room 231-N of the Capitol.

All members were present except:

Committee staff present: Raney Gilliland, Legislative Research
Emalene Correll, Legislative Research
Bruce Kinzie, Revisor of Statutes
Lisa Montgomery, Revisor of Statutes
Ann McMorris, Secretary

Conferees appearing before the committee:
Rep. Tom Sloan
Chris Giles, Kansas City Power & Light
Max Sherman, Aquilla Energy
Bruce Graham, KEPCO
Sheldon Hamilton, Utilitcorp

Others attending: See attached list

Chair reviewed the various handouts:

Three news stories - (1) Wyoming Gas Tapped but Waits to Flow tells how environmental lawsuits have slowed dramatically new production of natural gas; (2) legislative watch - National Resources Defense Council - regarding legislative efforts on energy policy, brownfield and pipeline safety; (3) Colorado may not be immune to power gap - Xcel Energy warned technology companies of the shortage of reliable power and are working hard to ensure a reliable power supply to Colorado's growing economy, much of it fueled by high technology. (Attachment 1)

Research staff provided copies of a 1997 study on "Electric Utility Industry Restructuring: Kansas Taxation Issues". (Attachment 2)

Chair opened the hearing on:

SB 177 - Independent power producer property, taxation, assessed rate

Proponents:

Rep. Tom Sloan (Attachment 3)
Committee questioned what constitutional changes would be required.

Max Sherman, Aquilla Energy (Attachment 4)
Committee questioned Mr. Sherman regarding water requirements, new technology for coal operations, and costs to establish new plants.

Chris Giles, Kansas City Power & Light (Attachment 5)

Bruce Graham, Kansas Electric Power Cooperatives, Inc. (Attachment 6)

Jim Ludwig, Western Resources (Attachment 7)

Sheldon Hamilton, Utilicorp (Attachment 8)
Mr. Hamilton provided statistics on market and taxable assessments for $250 million and $660 million plants. He noted the statistics do not include the impact the McGraw Fertilizer Case would have when settled, but estimated a 50% increase..

Chair closed hearing on **SB 177.**

Approval of committee minutes

Moved by Senator Emler, seconded by Senator Barone, minutes of the Senate Utilities Committee meetings held on February 12, 2001 and February 13, 2001, be approved. Motion carried.

Next meeting of the Senate Utililties Committee will be held on February 16 on adjournment of the Senate.

Respectfully submitted,

Ann McMorris, Secretary

Attachments - 8

SENATE UTILITIES COMMITTEE GUEST LIST

DATE: **February 15, 2001**

Name	Representing
Chris Giles	Kansas City Power & Light
Cynthia Smith	KCPL
Bruce Graham	KEPCo
Joe Dick	KCK BPU
Jeff Bottenberg	PNM
Robert M. Bodenweck	KDOR - PVD
Ron Gaches	GBBA
Tom Day	KCC
Chris Wilson	KGC
Dan Holthaus	WR
Jon K Miles	KEC
Andy Shaw	SWKIA
John C. Bottenberg	West Res
JC Long	Utilicorp
Sheldon Hamilton	"

Omaha.com – February 11, 2001

WYOMING GAS TAPPED BUT WAITS TO FLOW

Jerry Geer saw a lot of his neighbors in the Powder River Basin buying shiny new cars, paid for with money they got from natural gas produced on their ranches. So Geer, a third-generation rancher on this land, and his father decided to do the same. The first wells were drilled nearly a year ago, but the flow of gas - and the flow of royalties to the Geers - has been delayed as environmental worries deepened.

"We'd love production out here, especially now with natural gas prices so high," he said in the dry, rolling country south of Gillette. "We heard that some checks to mineral owners are just tremendous and that makes it all the harder."

The Powder River Basin along the Montana-Wyoming border already produces enough natural gas each year to heat a million homes, and estimates peg the potential at more than twice that. Production in the basin has doubled every year since 1994, with an estimated 4,700 wells now pumping more than 400 million cubic feet of gas each day.

But the pace of new production has dramatically slowed of late, the result of environmental lawsuits and bickering between the two states and between landowners who own mineral rights and those who don't.

At the core of the dispute is concern about the quality of the vast quantities of groundwater released when wells are drilled into coal seams to free the gas. The water often is discharged into rivers that flow from Wyoming into Montana.

Environmentalists and some farmers and ranchers say the groundwater can contain high levels of salt, alkali or metals that harm land and crops. They also fear drilling will damage area aquifers and water wells.

Montana temporarily suspended all new drilling last summer to settle an environmental lawsuit. The state also agreed to develop a long-range plan for future development and prepare a comprehensive environmental study.

In Wyoming, where most of the drilling has occurred, the state has delayed issuing some new water discharge permits after getting swamped with complaints from Montana state officials, ranchers and environmentalists. "Wyoming producers sort of overlooked, in their first flush of enthusiasm, that Montana is downstream and that there may be effects in Montana," said Abe Horpestad, a water-quality manager for the Montana Department of Environmental Quality.

Some companies drilling in Wyoming have permits to discharge water into three rivers - the Powder, the Little Powder and the Tongue - all of which flow into Montana. Mark Fix, an eastern Montana rancher who draws water from the Tongue River to irrigate alfalfa, worries about what's in his water. "The discharges are high in sodium and they're going to force us to use that," he said.

Montana would like to capitalize on its natural gas reserves and share in some of the wealth Wyoming has seen come out of the basin, but the water worries loom large. Soil scientists say the water from the natural gas wells is unsuitable for irrigation, a vital component of agriculture in the dry, rugged country.

The gas industry says the environmental dispute has been a costly delay. "We invest tens, if not hundreds, of millions of dollars and then have to wait for development," said Duane Zavadil, health safety and environmental manager with Barrett Resources Corp., a Denver-based company with nearly 1,100 producing wells in the basin. "You have to put that money to work."

Gary Beach, director of Wyoming's water-quality office, believes fears of environmentalists and Montana ranchers may be overblown. "I think some reactions in Montana come from a fear that Wyoming will just progress at a rate where Wyoming reaps all the financial benefits and Montana will get dirty water," said Beach, who added that drillers try to filter the discharged water of pollutants before it reaches rivers.

Gillette-area rancher Ed Swartz contends development upstream already has ruined some of his pastureland. He's complained, but said officials haven't been helpful. "Wyoming has been boom and bust forever and ever," he said. "When they get short on money, they don't (care) how they get it."

Environmentalists and some farmers and ranchers argue that cumulative effects should be examined before production progresses. "I hope we do not look back on this development as a series of environmental disasters that becomes the textbook example of what could have or should have been done," said Jill Morrison, an organizer for the Powder River Basin Resource Council, a group that opposes more production in the basin.

Despite such fears, Wyoming officials say complaints of environmental damage from natural gas drilling are rare, and problems that do arise are addressed quickly. Wyoming Gov. Jim Geringer said "we want the best quality of life and the best quality environment that we can have."

Natural Resources Defense Council – February 8, 2001
LEGISLATIVE WATCH

While the House and Senate work to complete their organizational structures, little actual legislative activity has occurred so far this session (House Democrats were expected to assign committee members on 2/7, while Senate committees continue to work out power-sharing arrangements). Early legislative efforts are expected to focus on energy policy, brownfields and pipeline safety.

Energy policy has emerged as an early key issue for the Bush administration, with the new resident expected to push for increases in the domestic energy supply through oil drilling in the Arctic National Wildlife Refuge and environmental protection rollbacks. The environmental community disagrees vehemently with Bush's policy that would place the primary energy focus on increasing domestic supply, rather than on reducing demand by increasing energy efficiency of vehicles, appliances and buildings. Environmentalists point out that because the United States uses 25 percent of the world's oil, but has only 3 percent of the world's energy resources, achieving energy independence through domestic supply increases alone is impossible.

A new NRDC report, "A Responsible Energy Policy for the 21st Century" outlines the components of an alternative energy policy -- one that can meet the nation's energy needs without destroying wilderness or rolling back environmental safeguards.

Nevertheless, Republicans in Congress, under the leadership of Sens. Murkowski (R-AK) and Lott (R-MS), plan to offer an energy policy bill that stresses supply. While this bill will contain a few provisions to increase energy-efficient buildings and equipment, it also would open up the Arctic National Wildlife Refuge to oil and gas drilling, effectively exempt coal power plants from clean air requirements and turn over federal oil and gas leasing to the states.

On 1/22, Sen. McConnell (R-KY) and Sen. Byrd (D-WV), from two of the biggest coal-producing states, introduced the National Electricity and Environmental Technology Act (S. 60), designed to encourage utilities to use more coal by waiving environmental standards that protect air quality. S. 60 effectively repeals Clean Air Act provisions that require new and modified coal-fired plants to meet tougher pollution control requirements and prohibit increased levels of pollution in or near national parks or areas that fail to meet air quality standards. By granting coal-fired power plants relief from Clean Air Act requirements, the bill could also undercut recent government enforcement actions -- a dozen of which are still pending -- that mandate new pollution controls on dirty power plants and assess penalties worth over $3.5 billion on polluters.

Sen. McCain (R-AZ) and Sen. Bingaman (D-NM) recently introduced S. 235, a pipeline safety bill that does not provide adequate environmental protections. Sens. McCain and Bingaman plan to bring this bill to the Senate floor on 2/8, despite the objections of the environmental community.

Rocky Mountain News. Com – February 12, 2001

COLORADO MAY NOT BE IMMUNE TO POWER GAP

Tom Clark, executive director of the Jefferson Economic Council, recalls a meeting about six months ago when Xcel Energy warned technology companies in Westminster that they could run out of reliable power by May 2002. Xcel said it needed to build a new substation in Broomfield and a power line across Rocky Flats to serve the dramatically growing demand for electricity in the area.

"Public Service (Xcel) said, `We need to get across the Flats,' " Clark recalled. "They said they were in a tight spot and were looking at the possibility of rolling outages." Clark characterizes some of the businesses as being "pretty shocked, no pun intended."

The case illustrates the behind-the-scenes activity -- some might say scrambling -- that is occurring as Xcel tries to ensure a reliable power supply to Colorado's growing economy, much of it fueled by high technology.

California's power crisis has put such issues into the spotlight. In fact, Colorado had hoped to benefit from a possible exodus of California-based companies frustrated by electricity outages there. It didn't expect to have to struggle with some of the same issues.

And the Rocky Flats proposal is particularly tricky because of soil contamination concerns. The former nuclear weapons plant is owned by the U.S. Department of Energy, which is overseeing cleanup of the facility. Some legislators have proposed the area as a future wildlife refuge.

Unlike utilities in California, Xcel has been adding generating capacity in the last 10 years and plans to add 2,000 additional megawatts between now and 2005.

But the Rocky Flats issue shows how growth in a particular location can throw an area's supply of reliable electricity into question. The area served by the proposed substation and transmission line would include the Interlocken business park in Broomfield, Westmoor Technology Park in Westminster and the Jefferson County Airport, according to Xcel.

Large businesses in the area include Sun Microsystems, Ball Corp. and Level 3 Communications. Additional development is expected. Just last week, another technology company, 360networks, leased an entire building under construction nearby at the Mountain View Corporate Center in Broomfield.

For its part, Xcel confirms the critical need for the substation and the transmission line. "Frankly, we're very concerned about having this facility by that time frame (May 2002)," said Nick Faes, Xcel's manager of siting and land rights.

But Xcel officials said last week that they can't recall suggesting there would be rolling blackouts. Mark Stutz, Xcel spokesman, stressed that because of interconnected lines and system redundancies, Xcel has the ability to switch electrical loads around between substations. As recently as July 1998, however, the Denver area experienced rolling blackouts during peak demand for electricity when a couple of plants and a series of transmission lines failed almost simultaneously.

Faes said that Xcel started studying expansion in the area in late 1998. But the utility soon realized that it wouldn't be able to build a permanent substation in time to meet all the growth demands in the area. "The growth, as a matter of fact, has drastically exceeded our forecasts," Faes said.

As a stop-gap measure, Xcel got permission to build a temporary substation on the Interlocken property, Faes said, as long as a permanent substation would be completed by May 2002.

It is that timetable that Xcel is now trying to meet. Xcel's plan is to extend an existing 230,000-volt transmission line across Rocky Flats to a new substation near Simms Street and West 112th Avenue. No easy task.

For one thing, that means getting the permission of the federal government to build the power line extension across Rocky Flats. After months of discussion, the DOE has agreed to start taking soil samples soon along four alternative routes across Rocky Flats to make sure that the concrete footings of the proposed power line would not stir up radioactive contamination.

DOE officials say they also will be considering the community's attitude toward granting Xcel permission to build the transmission line. "We are going to have a public involvement process," said Karen Lutz, spokeswoman at DOE's Rocky Flats field office. "We want to hear what the community wants, and we want to share our information . . . and we want to make sure the environmental impacts will be limited."

Legislation has been proposed to turn the defunct nuclear weapons plant into a wildlife refuge. The DOE and Xcel plan to jointly sponsor some public meetings, Lutz said.

As for possible resistance from environmental groups to a power line across Rocky Flats, Faes noted that there are a number of utility facilities in the area ranging from the existing transmission line to a gas pipeline to fiber-optic lines. "From our current understanding, there are no moves under way that would drive those facilities away from the (proposed) wildlife refuge."

But even if there isn't any such resistance, Xcel already is running into a timing problem. Faes said there is a long lead time, about a year, to ordering substation and transmission equipment. Xcel is coming up on that one-year lead time in May. "We can't order until we complete the design of the transmission line. Frankly, we're on a critical path coming up rapidly to that point," Faes said.

He said trying to extend the temporary substation is a possibility, "but there are no other major alternatives that we've defined. The line we need to tap exists on Rocky Flats." Others say Xcel has other options to increasing power to the area, but that they would be much more expensive.

Terry Bote, spokesman for the Colorado Public Utilities Commission, said the commission isn't aware of Xcel's Rocky Flats power line plan. Depending on the size of the plan, the PUC probably doesn't need to approve it, but state regulators could become involved in the issue if the DOE, Xcel and various community groups are unable to agree.

Faes said Xcel has been talking to real-estate developers and businesses in the area to keep them updated on the situation. Don Slack, executive vice president of Westfield Development, the developers of Westmoor Technology Park, said the park's large tenants have had several meetings with Xcel on the issue. "Our needs are simple. We need reliable power now and in the future, and we expect Xcel to do what it needs to do to provide the power," Slack said. "They've got some challenges to get the permit from the DOE to get across Rocky Flats. They're also doing alternative route analysis."

While no one expects a California-style crisis, it can't help but be in the back of some people's minds. "Xcel tells us the two situations (California and Colorado) are unrelated, and we want to be certain that remains the case," Slack said. "We really don't concern ourselves (with California). We're concerned with our issues." Officials at Sun, Ball and Level 3 all declined to comment.

The situation also illustrates the huge amount of electricity used by supposedly pollution-free high-tech companies. Faes said the old rule of thumb was that an office building would use about 4 to 6 watts per square foot. "Today, it's at least double, to 8 to 12 watts." And that's the low-tech type of offices, with personal computers in each work station. "When you get into the high-tech industry, the cyber centers, the load density is unbelievable," Faes said.

Deloitte & Touche LLP

State of Kansas
House Utilities Committe

Thursday, January 30, 1997

Senate Utilities Committee
February 15, 2001
Attachment 2-1

ELECTRIC UTILITY INDUSTRY RESTRUCTURING: KANSAS TAXATION ISSUES

Robert H. Uehling Senior Manager

2.2

AGENDA

- **Background**
- **State and Local Taxation of Electric Utilities**
- **State and Local Tax Issues Arising From Competition/Deregulation**
- **Kansas Electric Utility Taxation: Issues and Analysis**
- **State and Local Tax Policy Considerations**

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2-3

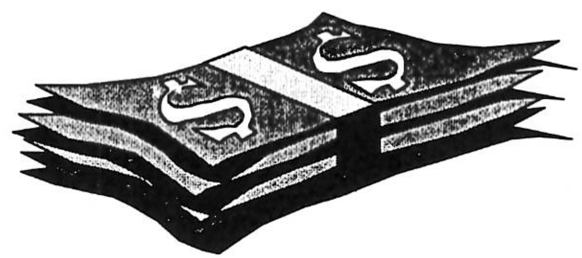
BACKGROUND

Electric Utilities Are Major

- Taxpayers

and

- Tax collectors



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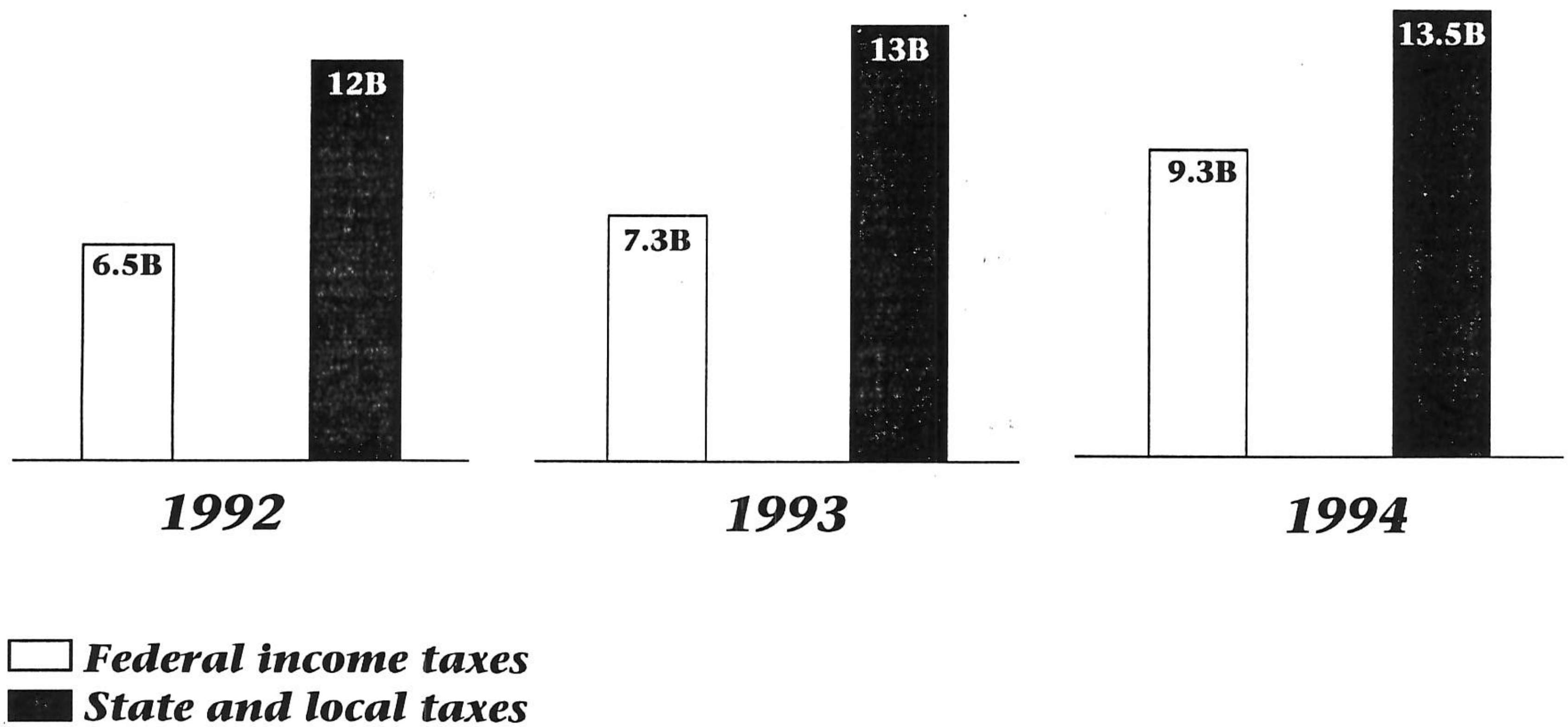
BACKGROUND

Taxes Paid by Investor-Owned Utilities



Source: FERC Form No.1

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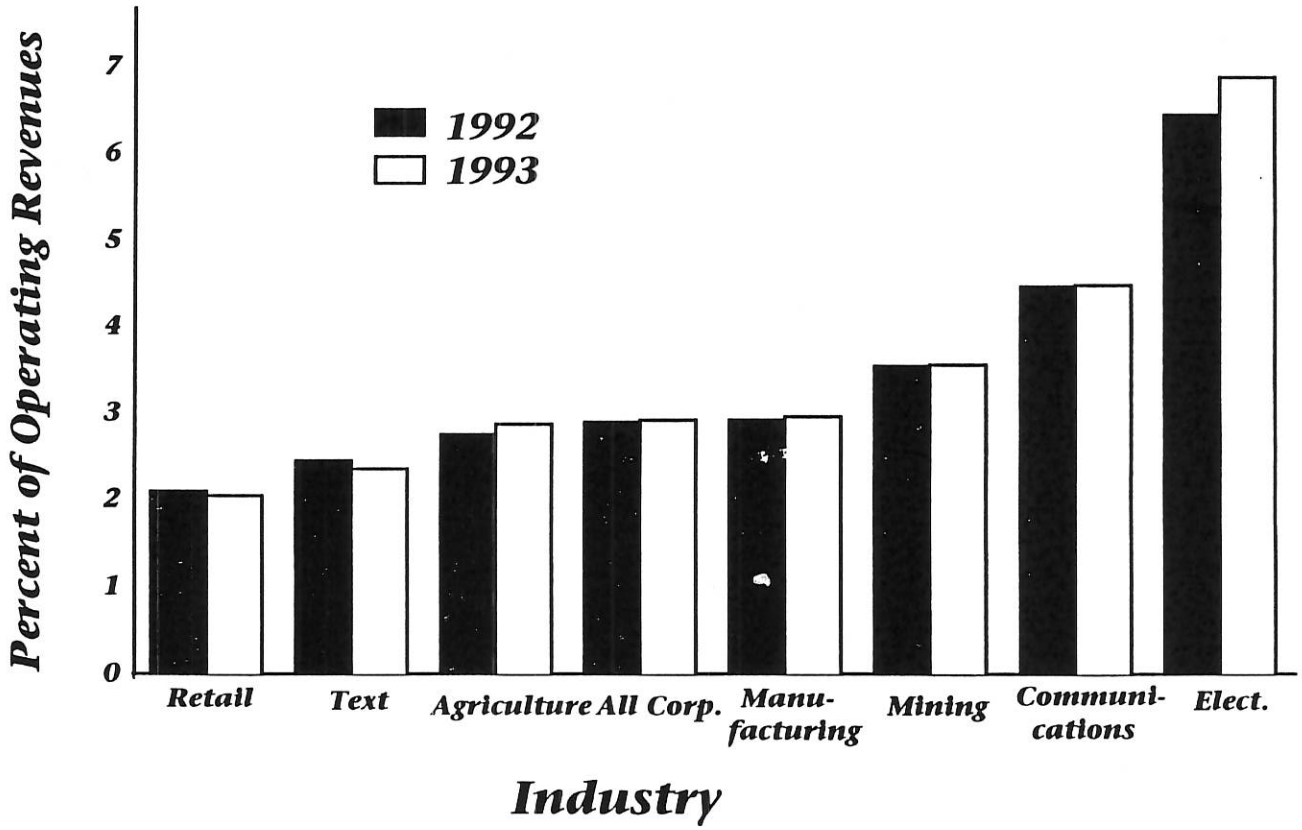
PROJECT OVERVIEW AND BACKGROUND

Industry Comparison of State and Local Taxes Paid



Source: Compiled by Edison Electric Institute ("EEI") from the *Source Book 1992, Statistics of Income, Corporation Income Tax Returns* and *Source Book 1993, Statistics of Income, Corporation Income Tax Returns.* Internal Revenue Service, Publication 1053, (Rev. 3-96)

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BACKGROUND

Taxation Is a Major Issue in Industry Transition

- **Competition increases incentive to reduce all costs, including taxes.**
- **Increased interstate activity presents new complexities.**
- **Evolution of electricity market raises tax policy issues and revenue implications.**

State and Local Taxes Paid by Electric Utilities

- **Property taxes**
- **Gross receipts taxes**
- **Sales and use taxes**
- **State income and franchise taxes**
- **Utility user taxes**
- **Regulator assessment fees**
- **Miscellaneous taxes and fees**

2-8

STATE AND LOCAL TAX ISSUES ARISING FROM COMPETITION/DEREGULATION

Major Issues

- **Possible electricity price reduction**
- **Declining property tax assessments**
- **Market share of tax advantaged providers**

Possible Electricity Price Reduction

- A decrease in electricity prices may cause reduction in tax revenues.
- Economic theory suggests, however, that lower prices may increase demand; therefore, tax revenue impact over long term may not be significant.

2-10

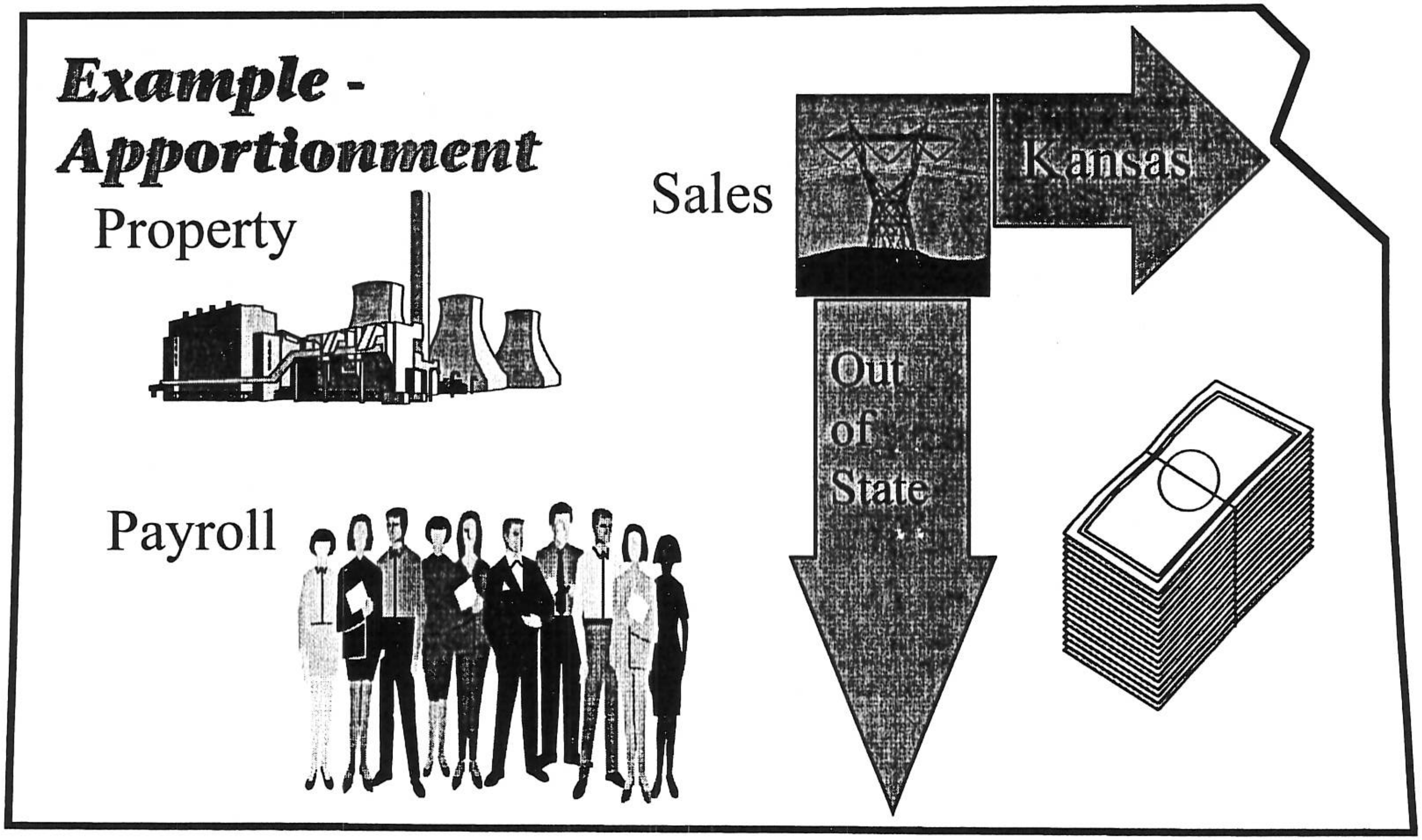
Declining Property Tax Assessments

- Competition may reduce value of high-cost generation property.
- Some high-cost generation property may be retired.
- Significant property tax revenue ramifications, particularly for local jurisdictions.
- Value of transmission and distribution property could increase in certain cases.

Market Share of Tax Advantaged Providers

- **Regulated vs. Non-Regulated**
- **In-State vs. Out-of-State Providers**
- **Taxable vs. Non-taxable Providers**

STATE AND LOCAL TAX ISSUES ARISING FROM COMPETITION/DEREGULATION



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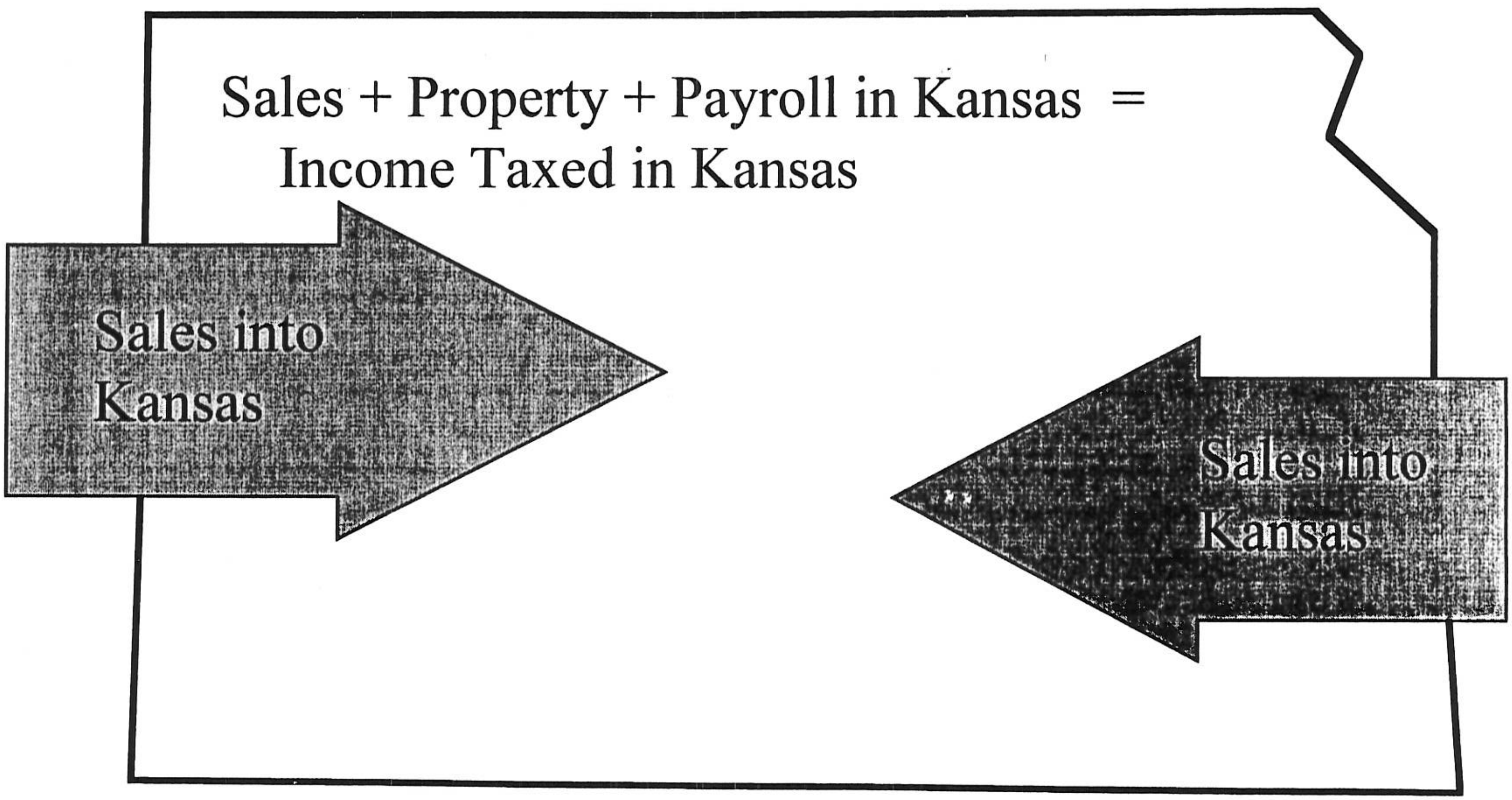
STATE AND LOCAL TAX ISSUES ARISING FROM COMPETITION/DEREGULATION



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HOW DOES KANSAS TAX BURDEN COMPARE?

- **Major Kansas Taxes Paid by Utilities:**
  - **Property Taxes**
  - **Sales and Use Taxes**
  - **Corporate Income Taxes**
  - **City Franchise**

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HOW DOES KANSAS TAX BURDEN COMPARE?

CURRENT KANSAS BUSINESS TAX ENVIRONMENT

- **Kansas Governor's Tax Equity Task Force Issued its report in December 1995 - Key Findings Include:**
  - **"Under the current tax structure, Kansas stands out as the state in the region with the highest taxes on mature business. The sources of the high overall tax level on Kansas businesses are the property tax and the corporate income tax." (Charles Krider and Pat Oslund, University of Kansas. Emphasis added.)**

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2/16

HOW DOES KANSAS TAX BURDEN COMPARE?

CURRENT KANSAS BUSINESS TAX ENVIRONMENT

- **"The property tax on business machinery and equipment is the highest in the region, with Iowa recently eliminating its tax."**
- **"While new and expanding firms can receive tax incentives, mature firms face not only the full tax burden but the highest taxes in this region. Tax incentives, such as the business and job development credits, are not available to utilities."**
- **"The Kansas business tax structure is not as favorable a climate for the state's export industries as exists in many other states."**

Source: Governors' Tax Equity Tax Force, December 1995

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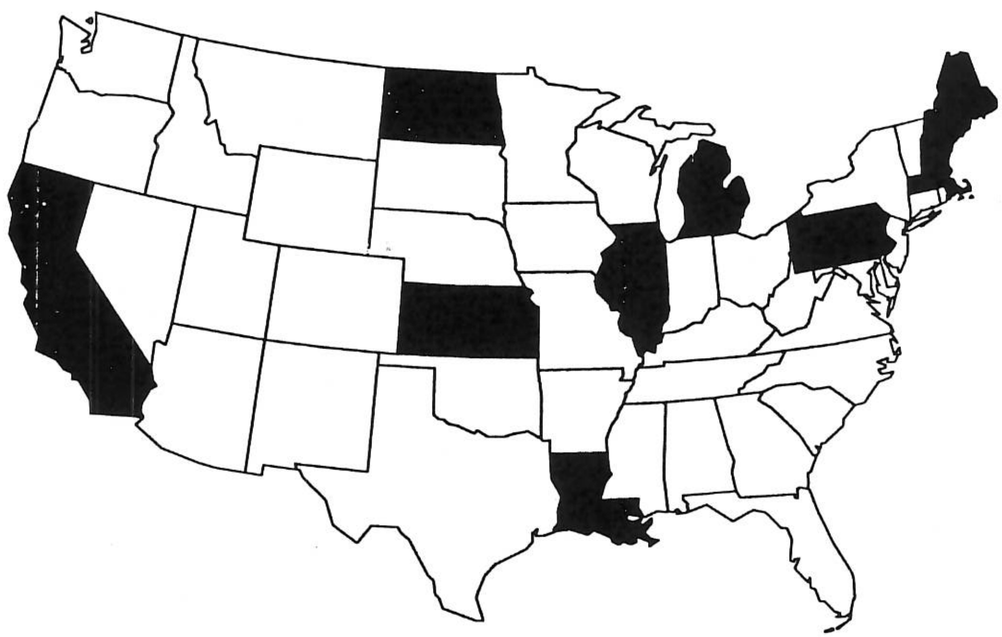
HOW DOES KANSAS TAX BURDEN COMPARE?

CURRENT KANSAS BUSINESS ENVIRONMENT

- CFO STATE TAX SURVEY

Where to avoid:

The survey rated state tax policy influence on business decisions on a scale of 1 (very positive) to 5 (very negative). Kansas made the "Top Ten" list of states to avoid based on tax policy.



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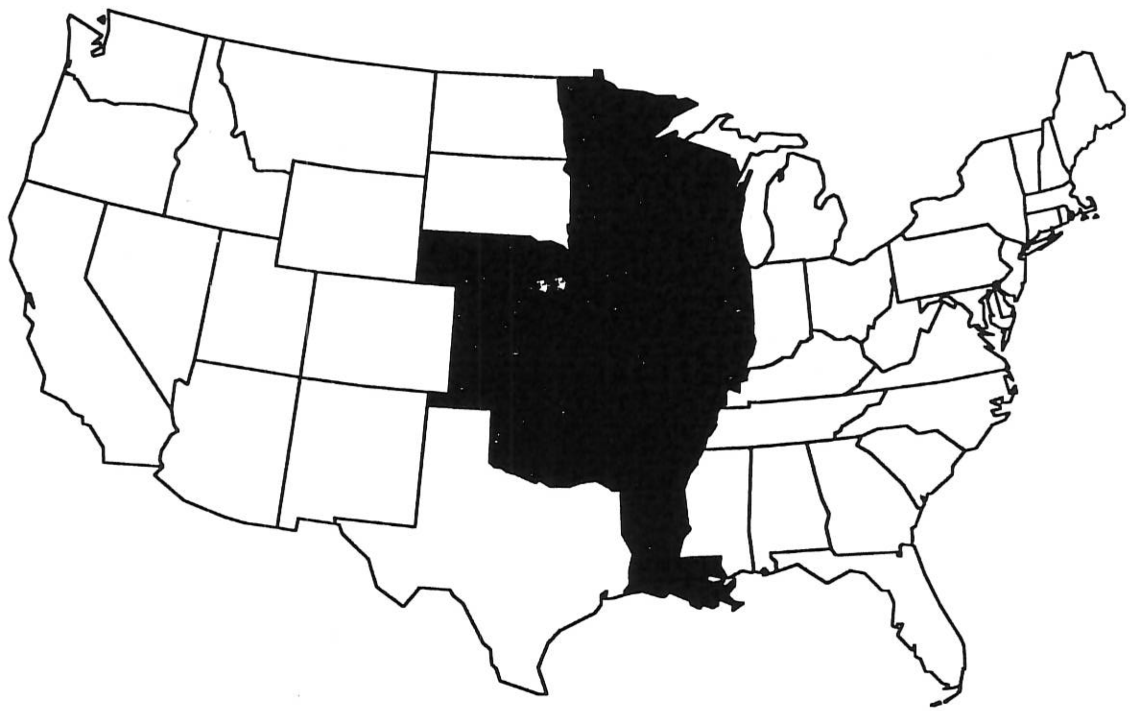
HOW DOES KANSAS TAX BURDEN COMPARE?

ANALYSIS OF IN-STATE VS. OUT-OF-STATE ELECTRIC UTILITIES

I.O.U.'s state tax burden in a region comprised of the following states:

- **Kansas**
- **Nebraska**
- **Missouri**
- **Oklahoma**
- **Illinois**
- **Minnesota**
- **Wisconsin**
- **Iowa**
- **Arkansas**
- **Louisiana**



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HOW DOES KANSAS TAX BURDEN ON I.O.U.'S COMPARE TO OTHER STATES?

- **Methodology for Comparison:**
  - **Obtained FERC Form No. 1 for 1994 for the major investor-owned utilities in the defined region**
  - **Did not audit data contained in FERC Form 1's**
  - **Utilized analysis of FERC Form 1 data to test previously documented studies citing Kansas as having the highest tax burden in the region related to property and income taxes on mature businesses**
  - **Since the "product" sold is electricity or megawatts, the analysis focused on the state tax burden on electric operating revenues and megawatts sold**

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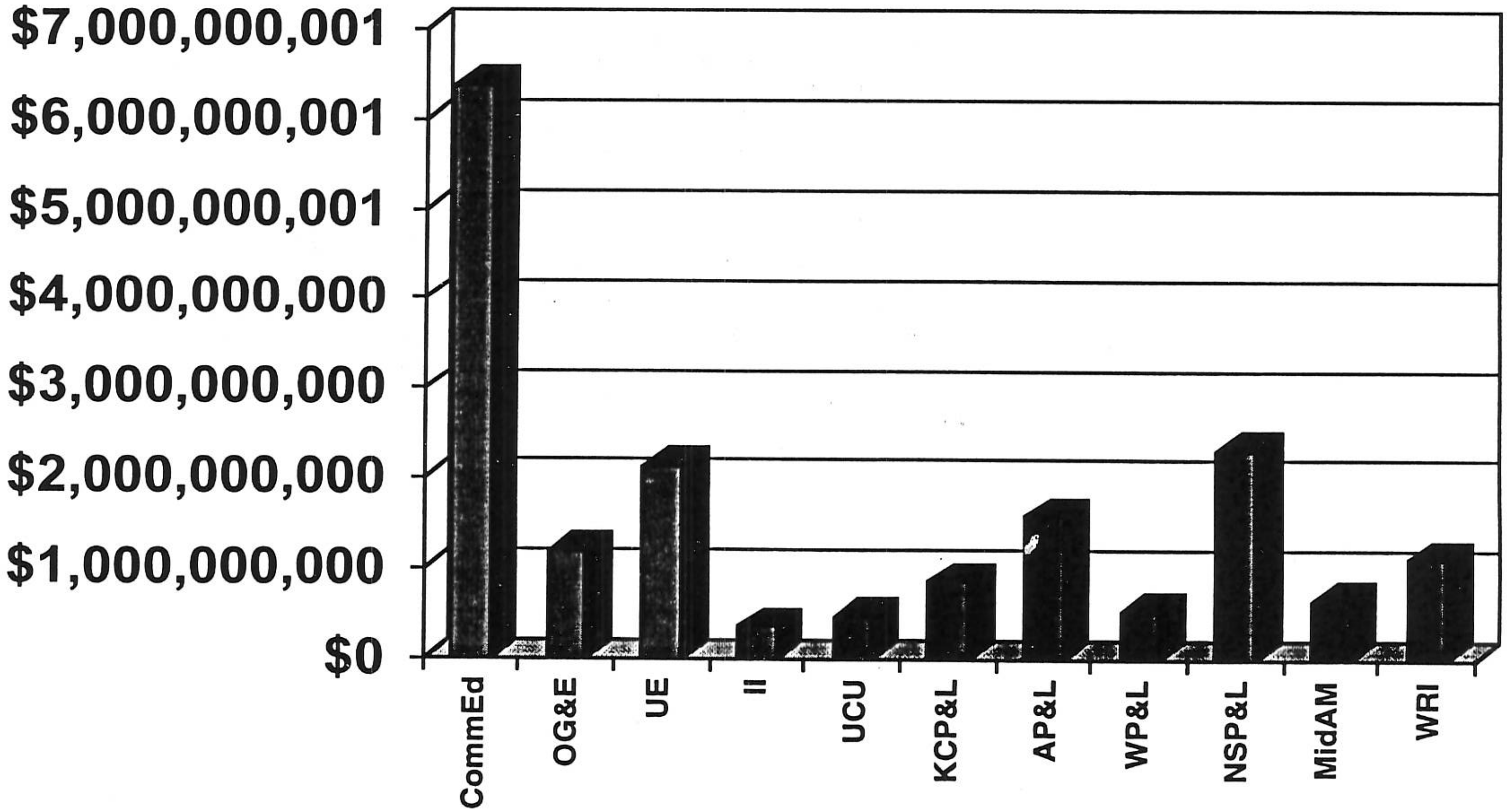
HOW DOES KANSAS TAX BURDEN COMPARE?

RANKING ELECTRIC OPERATING REVENUES BY ENTITY



Source: FERC No.1 1994

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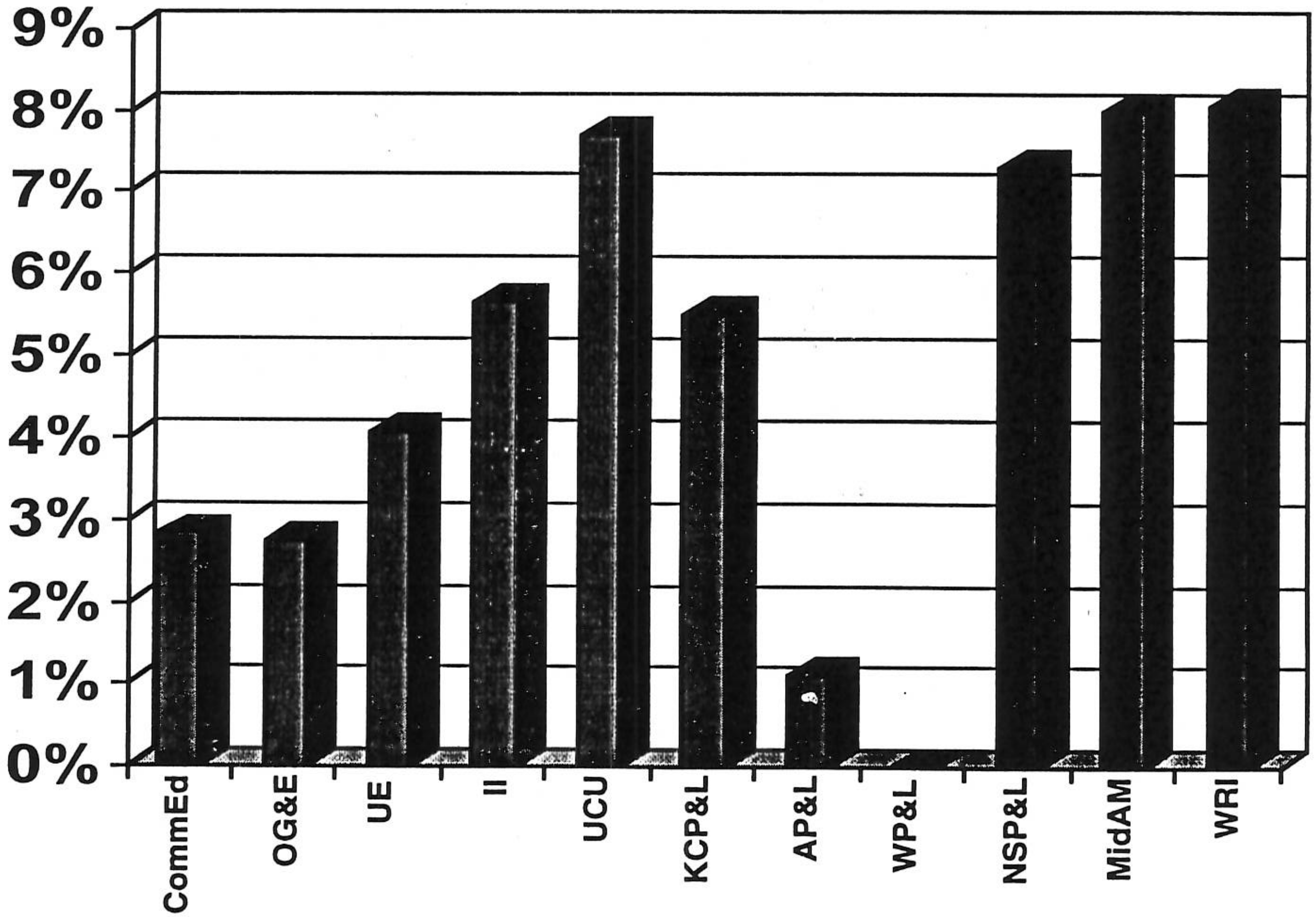
HOW DOES KANSAS TAX BURDEN COMPARE?

COMPARISON OF PROPERTY TAX COSTS AS PERCENT OF ELECTRIC OPERATING REVENUES



Source: FERC No.1 1994

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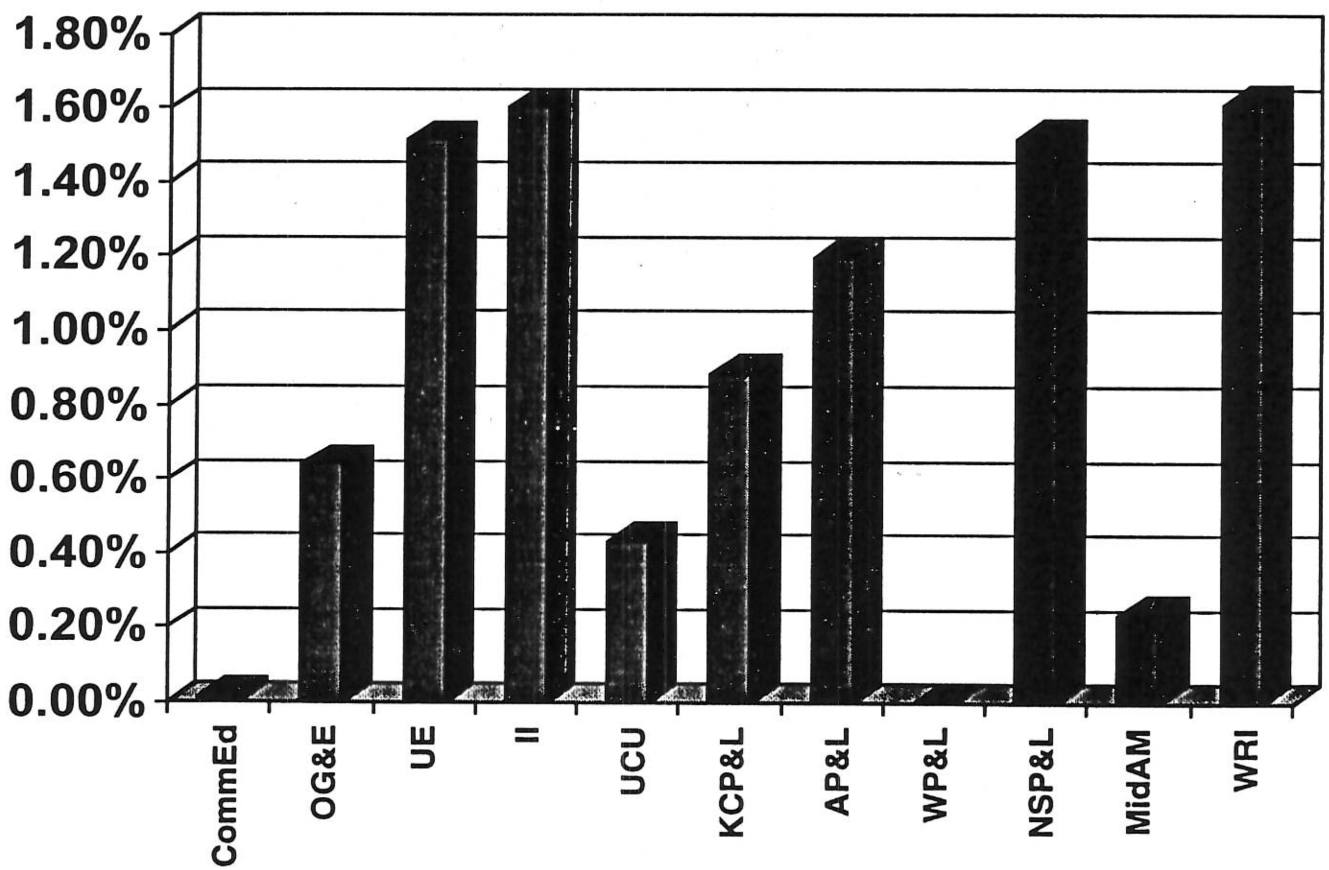
HOW DOES KANSAS TAX BURDEN COMPARE?

COMPARISON OF INCOME TAXES AS A PERCENT OF ELECTRIC OPERATING REVENUES



Source: FERC No.1 1994

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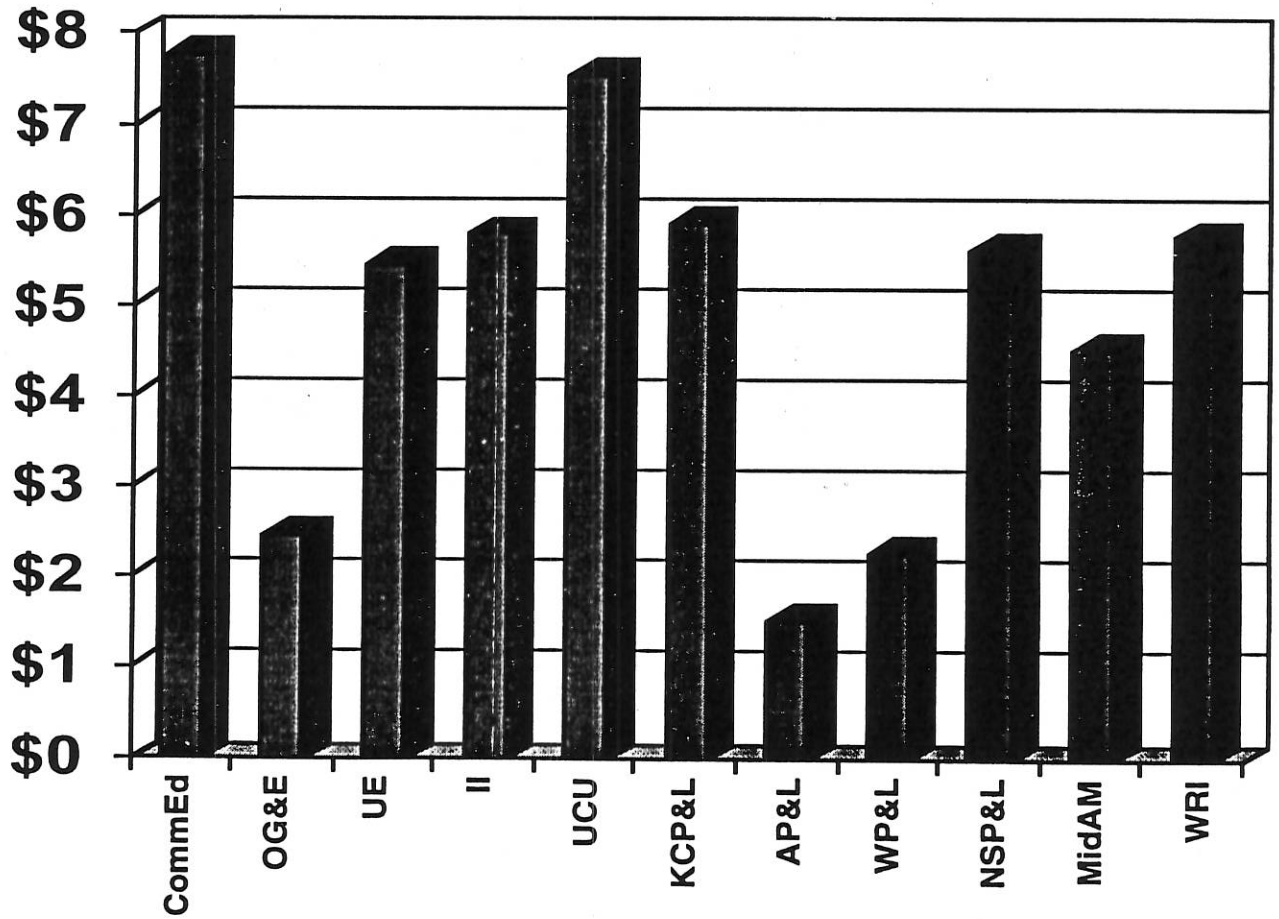
HOW DOES KANSAS TAX BURDEN COMPARE?

COMPARISON OF TOTAL STATE & LOCAL TAX BURDEN OVER MEGAWATT HOURS SOLD



Source: FERC No.1 1994

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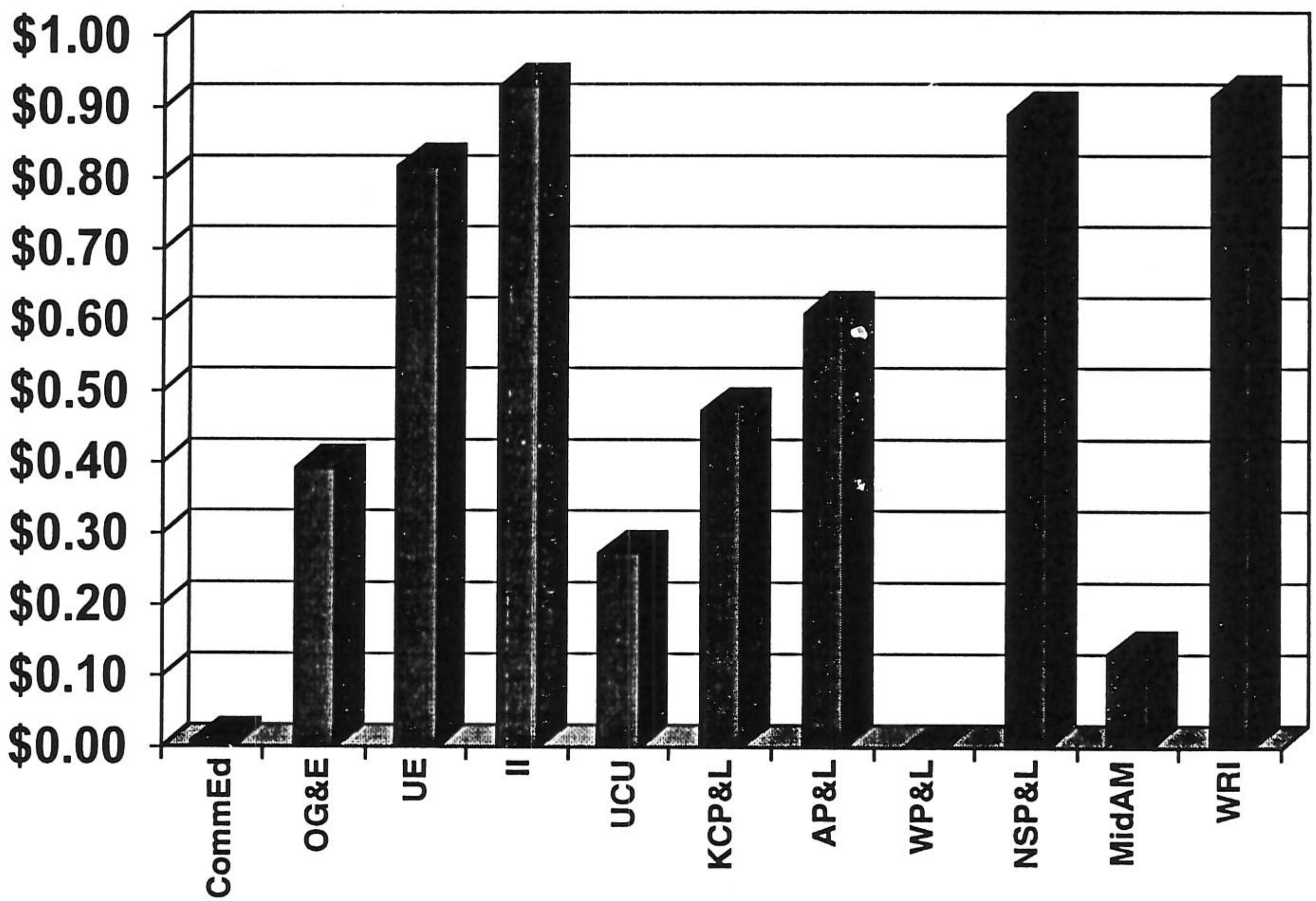
HOW DOES KANSAS TAX BURDEN COMPARE?

STATE INCOME TAX COSTS PER MEGAWATT HOURS SOLD



Source: FERC No.1 1994

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HOW DOES KANSAS TAX BURDEN COMPARE?

UTILITIES AS COMPARED TO OTHER INDUSTRIES

- **Kansas taxes utilities differently than it taxes other industries.**
- **Differences exist in property taxation - utilities are taxed significantly higher.**
- **Differences exist in sales/use taxation - businesses and other industries can lower their sales/use tax costs through qualification for credits and incentives which are not available to utilities**
- **Differences exist in income taxation - businesses and other industries can reduce their income tax liability through qualification for incentives and credits.**

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HOW DOES KANSAS TAX BURDEN COMPARE?

UTILITIES AS COMPARED TO OTHER INDUSTRIES

- **Kansas made changes in the way utility property is taxed in 1992 (See chart on following slide)**
- **Utility property is taxed at rates much higher than commercial and industrial property**
- **The Kansas property tax rates for commercial property are the highest in the region; with Kansas utility property taxed higher than commercial, Kansas utilities bear the highest property tax burden in the region.**

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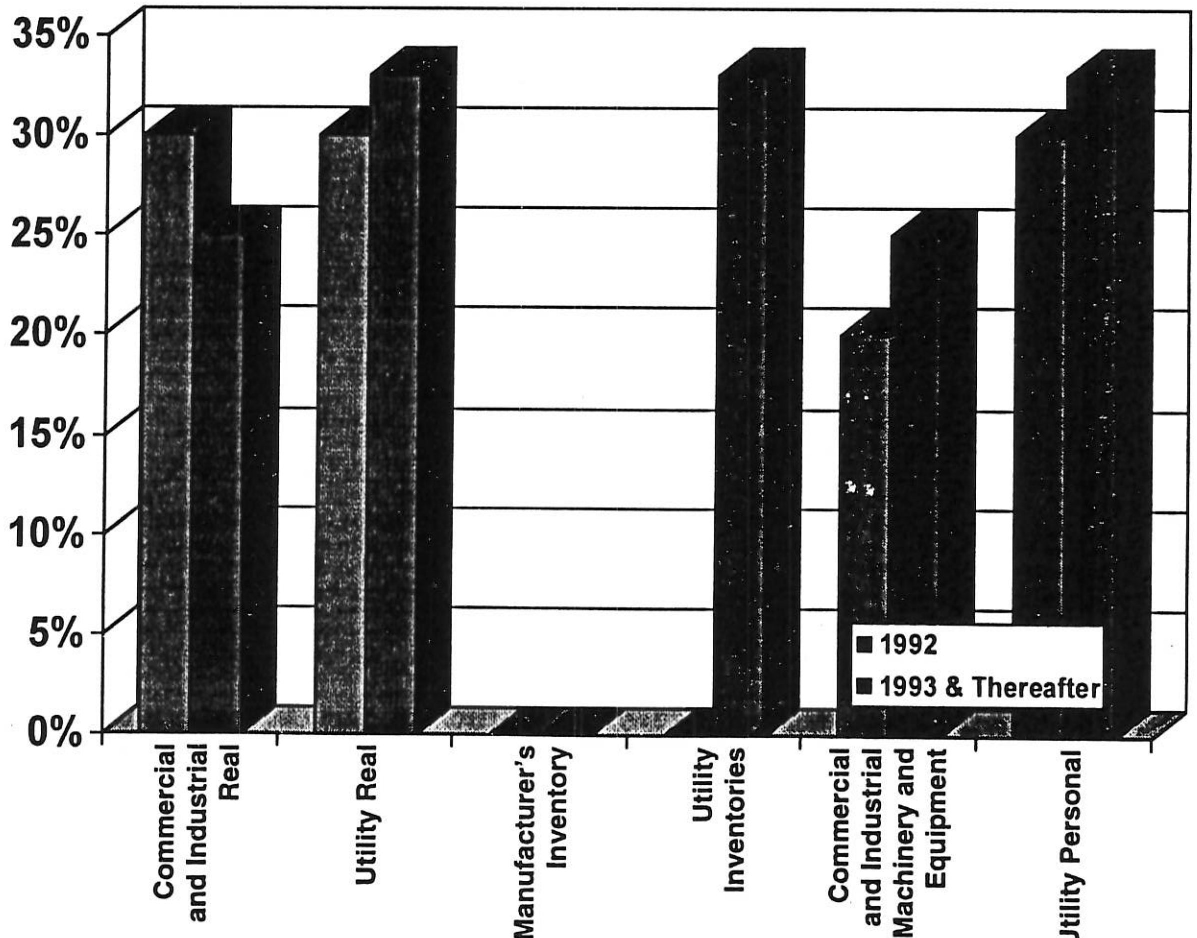
HOW DOES KANSAS TAX BURDEN COMPARE?

COMPARISON UTILITY PROPERTY TO COMMERCIAL AND INDUSTRIAL PROPERTY



SOURCE: 1995 GOVERNOR'S TAX EQUITY TASK FORCE REPORT

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WHAT DOES THIS MEAN TO KANSAS BASED UTILITIES ENTERING COMPETITION?

- Our analysis indicates that Kansas produced electricity may bear a greater state tax burden than electricity produced outside the state, within the region of comparison. (Region defined as the following states: Oklahoma, Nebraska, Missouri, Iowa, Minnesota, Illinois, Louisiana, Wisconsin and Arkansas)

- Non-Kansas produced electricity in a retail wheeling environment may be available to Kansas customers at costs which reflect lower state taxes.

- Kansas produced electricity in a retail wheeling environment, when sold into other states may bear a greater state tax cost, thereby, placing the Kansas producer at a possible competitive disadvantage.

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STATE AND LOCAL TAX POLICY CONSIDERATIONS

Proposals by Various Parties

- **Property tax reform**
- **Broad-based energy taxes**
- **Electricity consumption taxes**
- **Repeal of sales tax exemption**
- **Use taxes on imported electricity**
- **Repeal of gross receipts taxes**

2.30

STATE AND LOCAL TAX POLICY CONSIDERATIONS

Proposals by Various Parties: Property Tax Reform

- **Remove distinction between the treatment of public utility property versus non-public utility property**
- **Targeted state aid for local jurisdictions severely impacted by declining local tax base**

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2-31

STATE AND LOCAL TAX POLICY CONSIDERATIONS

Proposals by Various Parties: Broad-Based Energy Taxes

- **Based on percentage of selling price or fixed amount per British thermal unit (Btu)**
- **May create fewer distortions among competing sources of energy**
- **May produce adverse reaction from public, particularly regarding motor fuels, heating oil and natural gas**
- **May adversely affect business competitiveness**

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STATE AND LOCAL TAX POLICY CONSIDERATIONS

Proposals by Various Parties: Electricity Consumption Taxes

- **Equal tax on all electricity consumed in the taxing jurisdiction**
- **Tax could be a percentage of selling price or fixed amount per KWH**
- **Apply regardless of who generates the power**
- **Would discourage electricity consumption in favor of untaxed energy forms**

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2.33

Proposals by Various Parties: Repeal of Sales Tax Exemptions

- **Broadens the tax base**
- **Essentially produces the same economic result as a consumption tax equal to a percentage of price**
- **May produce adverse reaction from public and discourage new business investment**

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2-34

Proposals by Various Parties: Use Taxes on Imported Electricity

- **Eliminates incentive to buy from out-of-state providers not subject to gross receipts tax**
- **Constitutional concerns**
- ***General Motors Corporation v. Tracy* case (natural gas)**

STATE AND LOCAL TAX POLICY CONSIDERATIONS

Proposals by Various Parties: Repeal of Gross Receipts Tax

- **Eliminate disparities in existing gross receipts tax regimes**
- **Replacement by net income tax would raise less revenue**
- **Replacement by income tax may cause charge to company book earnings**

2-36

CONCLUSION

- **Industry competition will have a dramatic impact on tax revenues.**
- **Existing tax regimes will affect the competitive balance in the industry.**
- **Tax issues will be an important part of restructuring discussions.**
- **Examination of these issues in greater detail is required, particularly at state and local levels.**

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STATE OF KANSAS

TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSI NTS
VICE-CHAIR: UTILITIES
MEMBER: ENVIRONMENT
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Testimony on
HB 2266 and **HB 2268**
Senate Committee on Utilities
February 15, 2001

Mr. Chairman and Committee Members., I appreciate the opportunity to appear before you and explain why the Utilities Committee introduced House Bill 2266 and House Bill 2268. The Utilities Committee members are attempting to address the state's long term energy needs and supply.

Kansas has traditionally been a net energy exporter. Our oil, natural gas, and electricity production exports have steadily declined as the oil and gas resources are depleted and state consumers' demand for electricity approaches in-state generation capacity. While there are some incentives that we can address to minimally stimulate oil and natural gas production, the reality is that we literally are physically running out of oil and gas after 80 plus years of production. The fact that several interstate natural gas pipeline companies are planning to construct pipelines to 'move' gas from the Laramie, Wyoming area to Kansas is a very strong indicator that our petroleum-based energy supply is terminal.

Only in the realm of electric production can State action significantly stimulate production. No large-scale generation facility has been built in Kansas in sixteen years. While two small "peaking" units were constructed in Sedgwick County, larger plants are being constructed by Kansas based utilities, or their affiliates, in Missouri and Oklahoma. A Kansas City-area utility's affiliate is constructing large power plants in Mississippi and Illinois.

Electricity is a commodity that is both traded in the financial marketplace and 'transported' long distances across state lines. Thus, the construction of such capacity can be located many miles from the ultimate consumer of the power generated. Creating the appropriate mix of incentives is key to securing corporate and financial community investments in power plants in Kansas that will have at least forty years of operation, employment, and contribution to the tax base.

House Bill 2245 creates incentives for the generation of electricity from renewable resources. The U.S. Department of Energy concludes that Kansas has the third greatest potential to generate electricity from wind. While this is extremely good news and has the potential for rural residents and landowners to either generate their own electricity or to lease ground to commercial wind, biomass, or other "green" generators, it most likely will not result in Kansas' self sufficiency in electricity.

To that end, House Bill 2266 and House Bill 2268 were introduced. It takes both bills because of the nature of the nationally deregulated, wholesale electric business. The Kansas Constitution requires that utility properties be assessed and taxed on the basis of thirty-three percent valuation. Electric utilities in Kansas generally are vertically integrated. This means that production, transmission, and distribution of electricity within a certificated territory is owned by the same company. For example, Western Resources owns most of the Jeffrey Energy Center, the transmission lines that bring the power to the Topeka city limits, and the distribution lines that deliver electricity to the state Capitol.

Nationally, almost all new power plants constructed in the past ten years have been "merchant plants." These are electric generation plants that sell only wholesale power and do not have retail customers. Such plants are generally not price regulated by states (they are under the jurisdiction of the Federal Energy Regulatory Commission {FERC}). Their investors assume all risks and power is sold to "traditional utilities" on either the spot or long-term contract basis.

The Kansas Attorney General has provided the chairman of the Utilities Committee a letter opining that, because merchant plants do not have retail customers and do not recover their investment through state regulated rates, they are not utilities for tax purposes.

House Bill 2266 seeks to codify that opinion, recognize that merchant generators would, therefore, be treated as all other commercial properties and be assessed and taxed on the basis of twenty-five percent of their value.

The eight percent reduction of potential property tax liability (33% to 25%) is viewed as an inducement for the construction of such plants in Kansas. Remember, this applies only to new coal-fire generation. No current tax dollars are lost. This alone is not sufficient to attract such investment, with the attendant energy self-sufficiency and employment opportunities. Mississippi reportedly is permitting a new merchant plant to pay only $132,000 in lieu of taxes on a $132 million plant.

The House Utilities Committee members do not believe such an extreme inducement is warranted or prudent for Kansas. Instead, House Bill 2266 offers a ten year exemption from property taxes for coal-fired plants; specifies that such plants are eligible for state-sponsored economic development programs; authorizes the Kansas Development Finance Authority to issue revenue bonds on behalf of, and in cooperation with, such companies for the purchase and installation of pollution control devices; and provides a ten year property tax exemption for new transmission lines of at least 345kv capacity. At the end of the ten year period, the merchant plant would be assessed and taxed on the same basis as other commercial business properties.

The House Utilities Committee does not want to provide an unfair competitive advantage to merchant plants at the expense of the traditionally regulated utilities. Hence, House Bill 2268 has been introduced to provide the proverbial 'level playing field' to the extent possible under the Kansas Constitution and FERC regulations.

House Bill 2268 provides a ten year property tax exemption for new or upgraded coal-fired generation; the Kansas Development Finance Authority is authorized to issue revenue bonds for the purchase and installation of pollution control devices; and new transmission lines receive a ten year property tax exemption.

The Utilities Committee members believe that energy self-sufficiency is a very important part of ensuring the long term economic health of our state. Properly constructed and limited tax inducements are a critical component necessary to attract the hundreds of millions of dollars necessary to construct power plants.

Mr. Chairman, that concludes my formal comments. I will be pleased to respond to questions regarding the Utilities Committee's intent, energy issues, and the substance of House Bill 2266 and House Bill 2268.

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TESTIMONY
HOUSE BILL 2323, HOUSE BILL 2477 AND HOUSE CONCURRENT RESOLUTION 5013
Energy Demand Reduction Incentives

February 15, 2001

Mr. Chairman, Committee Members:

During my previous appearances before you, I spoke about Utilities Committee efforts to increase the supply of electricity generated in Kansas. Today, I will present information on several bills introduced to reduce demand.

HB 2323 will provide tax exemptions to consumers who purchase and install appliances that meet the federal Energy Star program requirements. The Energy Star program recognizes the appliances (washers, refrigerators, air conditioners) that rank in the top five percent of all such appliances for energy efficiency. It is important to point out that the provisions of this bill will also apply to landlords who install such appliances in their rental properties.

HB 2477 provides a tax credit equal to 30 percent or $100, whichever is less, to a taxpayer who purchases and installs ceiling insulation to an R-49 value or greater. This is the level of insulation protection recommended for Kansas. Ceiling insulation is specified because, as you recall from physics classes, heat rises. Insulating ceilings will result in more heat being retained in the building, with less energy being needed to maintain the desired internal temperature.

The Utilities Committee believes introduction of these bills is warranted because it is more cost effective to, on a one-time basis, reduce the demand for energy in a home than to continually try and assist people to pay their bills.

HCR 5013 would put a constitutional question to the voters regarding reducing the property tax assessment rate from 33 percent to 25 percent. All other commercial property is assessed at 25 percent of its appraised value.

The Department of Revenue reports that passage of this amendment would result in a tax shift of approximately $65 million from utilities companies (telecommunications, electric, natural gas, and railroads) to other property classes. The Department of Revenue estimate assumes that local and State government expenditures will not decrease by $65 million, hence the shift.

Utility companies have complained for many years that this hidden form of taxation hurts them in a competitive marketplace with out-of-state companies that have a less onerous taxation system.

Because of the monetary size of such a tax shift, it is unlikely that HCR 5013 will receive serious consideration unless it is significantly modified. Without prejudging the merits of this proposed constitutional change, two possible ways of mitigating the effect of reducing utility company assessments are:

1. "Freezing" utility company tax payments at today's level until the taxes owed at 25 percent assessment "grow" to today's amount; and
2. Reducing the assessment rate from 33 to 25 percent over eight years.

Both options would prevent any drastic shift of property tax liabilities.

Tom Sloan
Representative - 45th District

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

Name, title, employer, and work location:

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 the south-central and southeastern U.S.

Relevant work experience:

I've been in the electricity business since 1971 and employed by Aquila 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 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

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 if 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 on both new and existing plants. 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 per kilowatt of generating capacity, which is twice that of a new combined cycle plant. That means that a 600 megawatt coal-fired project would cost roughly $660 million vs. half 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.
5. **Generic requirements for a coal plant site.** These include land, water supplies, electric transmission access to markets, rail access for coal delivery (preferably including access to competing rail carriers), a need for the power, and a local community that wants (or at least is willing to accept) a large industrial project and the employment that comes with it. The last point is very important, because efforts to site a project that isn't welcome carries significant permitting and zoning risks.

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 the Mid-continent

Area Power Pool (MAPP), Mid-America Interconnected Network (MAIN), East Central Area Reliability Coordinating Council (ECAR) and Southwest Power Pool (SPP) joining the Midwest Independent System Operator (MISO). MISO was approved by the Federal Energy Regulatory Commission in 1998. 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.

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Testimony of Chris B. Giles
Senior Director Revenue and Resource Management
Kansas City Power & Light Company
Senate Utilities Committee
Senate Bill 177

My name is Chris B. Giles, appearing on behalf of Kansas City Power & Light Company (KCPL). SB 177 is intended to encourage investment in electric generation facilities in the state. The bill provides Commercial and Industrial (C&I) property tax treatment for additions to coal-fired or gas fired electric generation property placed in service after 1/1/01 of an independent power producer (IPP) that is not in rate base. KCPL believes this is one means to encourage investment, however, additional incentives are needed.

KCPL proposes the following additions to SB 177:

An automatic 10-year property tax abatement for all new coal-fired or gas-fired property of an IPP. Three separate political subdivisions in Missouri have recently granted 20 to 25- year property tax abatements with minor payments in lieu of taxes.

Add a definition to clearly identify the components of electric equipment that qualify as tangible personal property. Federal Energy Regulatory Commission accounts can be used for this purpose.

Add 10-year property tax abatement for all newly constructed additions, placed in service after 1/1/01 of any existing investor owned utility electric generation facility.

In addition to encouraging investment in generation facilities KCPL believes it is important to also encourage investment in new transmission facilities. For this purpose KCPL proposes the Commission shall allow a premium of 300 basis points on the return allowed on electric transmission property placed in service after 1/1/01.

KEPCo

Kansas Electric Power Cooperative, Inc.

Testimony on SB 177
Before Senate Utilities Committee – February 15, 2001
Bruce Graham, Vice President of Member Services and External Affairs
Kansas Electric Power Cooperative, Inc. (KEPCo)

KEPCo has consistently supported legislation that will encourage the construction of generation in the state of Kansas. One-third of KEPCo's power supply comes from contracts we have negotiated with other utilities. KEPCo constantly evaluates those contracts and other options and believes that new generation in Kansas, by native utilities or independent power producers, will provide KEPCo with additional power supply flexibility in the future.

SB 177 would give merchant plants or independent power producers (IPPs) a tax break by assessing their property at the commercial and industrial rate of 25 percent vs. 33 percent for Kansas utilities.

This idea makes sense because for such a facility there is no franchise/certified territory and no retail customer transaction. Simply put, an IPP is more like a Subway sandwich shop than a traditional utility. The owner determines if there is demand for his product, locates the business in an appropriate location, and then markets the product. The only difference is that an IPP will usually try to find a buyer for some, most, or even all of his generation before construction.

KEPCo can support this type of legislation but only if there is equitable treatment for native utilities. KEPCo is no different than an IPP. We provide wholesale generation and transmission service for 21 rural electric cooperatives in Kansas and have no direct retail customers.

As has been discussed in the past, the Kansas Attorney General has issued an opinion regarding the constitutionality of this type of language and it appears to give the Legislature the authority to redefine some types of utility property.

The Attorney General stated that 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." Furthermore, the Legislature may 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.

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The most equitable solution would be to redefine all generation as non-utility property. Most customers are not aware of who or what generates their electricity. For example, even though KEPCo has been providing service for the past 25 years, I would argue that an REC member/customer would define their utility as Jewell-Mitchell Rural Electric Cooperative, not Jewell-Mitchell and KEPCo. Most customers have no idea who, what, when or where their distribution utility gets the energy. KEPCo has long term contracts with its members which guarantee that KEPCo will meet all of their generation needs and those contracts are KEPCo's loan security. This arrangement again is no different than an IPP that would secure a bank loan with agreements from their prospective customers. Furthermore, KEPCo's members have the ability to buy out of their contract, therefore exposing KEPCo to marketplace risk, a situation similar to an IPP.

The State of Kansas needs to create rules that are as fair as possible for new and native generation, taxpayers, and other units of government. There are many additional incentives included in similar legislation before the House Utilities Committee such as authority to collect Construction Work in Progress costs, and a property tax abatement for new generation property.

We appreciate the Legislature's willingness to consider steps that can be taken now to ensure adequate generation, transmission, and an equitable tax structure, in order to maintain the state's history of reliable and affordable electric service.

Testimony
before the
Senate Utilities Committee
by
Jim Ludwig, Western Resources
February 15, 2001

Chair Clark and Members of the Committee:

Western Resources supports the intent and concept of SB 177. We are, however, also asking the Committee to approve an amendment.

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. Independent power producer property is defined as generation facilities not in the rate base of a KCC jurisdictional electric utility.

Making incentives and removing obstacles

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 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%.

Amendment

Attached is our balloon amendment. It provides that any portion of an electric utility plant not in rate base could qualify for the lower 25% assessment. The remaining portion in rate base would be assessed at 33%.

Under SB 177, as introduced, if an electric utility or the KCC were to exclude *any portion* of a utility's new plant from rate base, the *entire* plant would be assessed at 33%. It is often economically better to build a larger plant, because higher efficiencies can be attained. When an electric utility has generation facility not in rate base, it markets in the same wholesale market as any other independent power producer or marketer, and therefore should be assessed at the same tax rate for whatever portion of plant is in the competitive market.

We urge the Committee to support SB 177 with our amendment.

Session of 2001

SENATE BILL No. 177

By Committee on Utilities

1-31

AN ACT concerning certain electric generation facilities; relating to regulation and taxation thereof; amending K.S.A. 2000 Supp. 66-104 and 79-5a01 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2000 Supp. 66-104 is hereby amended to read as follows: 66-104. *(a)* The term "public utility," as used in this act, shall be construed to mean every corporation, company, individual, association of persons, their trustees, lessees or receivers, that now or hereafter may own, control, operate or manage, except for private use, any equipment, plant or generating machinery, or any part thereof, for the transmission of telephone messages or for the transmission of telegraph messages in or through any part of the state, or the conveyance of oil and gas through pipelines in or through any part of the state, except pipelines less than 15 miles in length and not operated in connection with or for the general commercial supply of gas or oil, and all companies for the production, transmission, delivery or furnishing of heat, light, water or power. No cooperative, cooperative society, nonprofit or mutual corporation or association which is engaged solely in furnishing telephone service to subscribers from one telephone line without owning or operating its own separate central office facilities, shall be subject to the jurisdiction and control of the commission as provided herein, except that it shall not construct or extend its facilities across or beyond the territorial boundaries of any telephone company or cooperative without first obtaining approval of the commission. As used herein, the term "transmission of telephone messages" shall include the transmission by wire or other means of any voice, data, signals or facsimile communications, including all such communications now in existence or as may be developed in the future.

(b) The term "public utility" shall also include that portion of every municipally owned or operated electric or gas utility located outside of and more than three miles from the corporate limits of such municipality, but nothing in this act shall apply to a municipally owned or operated utility, or portion thereof, located within the corporate limits of such municipality or located outside of such corporate limits but within three miles thereof except as provided in K.S.A. 66-131a, and amendments

thereto.

(c) Except as herein provided, the power and authority to control and regulate all public utilities and common carriers situated and operated wholly or principally within any city or principally operated for the benefit of such city or its people, shall be vested exclusively in such city, subject only to the right to apply for relief to the corporation commission as provided in K.S.A. 66-133, and amendments thereto, and to the provisions of ~~K.S.A. 66-131a and~~ K.S.A. 2000 Supp. 66-104e, and amendments thereto. A transit system principally engaged in rendering local transportation service in and between contiguous cities in this and another state by means of street railway, trolley bus and motor bus lines, or any combination thereof, shall be deemed to be a public utility as that term is used in this act and, as such, shall be subject to the jurisdiction of the commission.

(d) The term "public utility" shall not include any activity of an otherwise jurisdictional corporation, company, individual, association of persons, their trustees, lessees or receivers as to the marketing or sale of compressed natural gas for end use as motor vehicle fuel.

(e) At the option of an otherwise jurisdictional entity, the term "public utility" shall not include any activity or facility of such entity as to the generation, marketing and sale of electricity generated by an electric generation facility or addition to an electric generation facility which:

(1) Is placed in service on or after January 1, 2001;

(2) (A) is coal-fired; or (B) uses natural gas to generate electricity; and

(3) is not in the rate base of: (A) An electric public utility that is subject to rate regulation by the state corporation commission; (B) 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 (C) a municipally owned or operated electric utility.

New Sec. 2. (a) As used in this section, "independent power producer property" means property used solely in the generation, marketing and sale of electricity generated by an electric generation facility described in subsection (e) of K.S.A. 66-104, and amendments thereto.

all or any portion of

(b) For all taxable years commencing on or after January 1, 2001, independent power producer property is commercial and industrial prop-erty assessed at the rate of 25% for the purposes of taxation of real prop-erty and tangible personal property.

Sec. 3. K.S.A. 2000 Supp. 79-5a01 is hereby amended to read as follows: 79-5a01. (a) As used in this act, the terms "public utility" or "public utilities" shall mean every individual, company, corporation, association of persons, lessees or receivers that now or hereafter are in control, manage or operate a business of:

(1) A railroad or railroad corporation if such railroad or railroad cor-poration owns or holds, by deed or other instrument, an interest in right-of-way, track, franchise, roadbed or trackage in this state;

(2) transmitting to, from, through or in this state telegraphic messages;

(3) transmitting to, from, through or in this state telephonic messages;

(4) transporting or distributing to, from, through or in this state natural gas, oil or other commodities in pipes or pipelines, or engaging primarily in the business of storing natural gas in an underground formation;

(5) generating, conducting or distributing to, from, through or in this state electric power;

(6) transmitting to, from, through or in this state water if for profit or subject to regulation of the state corporation commission;

(7) transporting to, from, through or in this state cargo or passengers by means of any vessel or boat used in navigating any of the navigable watercourses within or bordering upon this state.

(b) The terms "public utility" or "public utilities" shall not include: (1) Rural water districts established under the laws of the state of Kansas; or (2) any individual, company, corporation, association of persons, lessee or receiver owning or operating an oil or natural gas production gathering line which is situated within one county in this state and does not cross any state boundary line; (3) any individual, company, corporation, asso-ciation of persons, lessee or receiver owning any vessel or boat operated upon the surface of any manmade waterway located entirely within one county in the state; ~~or~~ (4) for all taxable years commencing after Decem-ber 31, 1998, any natural gas distribution system which is owned and operated by a nonprofit public utility described by K.S.A. 66-104c, and amendments thereto, and which is operated predominantly for the pur-pose of providing fuel for the irrigation of land devoted to agricultural use*; or (5) for all taxable years commencing on or after January 1, 2001, at the option of the taxpayer, the taxpayer's business of generating, mar-keting and selling electricity generated by an electric generation facility described in subsection (e) of K.S.A. 66-104, and amendments thereto*.

Sec. 4. K.S.A. 2000 Supp. 66-104 and 79-5a01 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the statute book.

Senate Utilities Committee
February 15, 2001
Attachment 8-1

Original Cost	250,000,000	
Capacity	500	Mega Watts
Price per MW	500000	
Useful Life	25	
Assumptions	85.00%	Taxed at 85 % of NBV
Kansas Avg Mill Levy	11.87%	
Market Value Floor	50,000,000	

	Cost	Deprec	Net Book	Market Value	ssessment Rate	Assessed Value	Mill Levy	Tax	Depreciation	Net Book Value	Taxable Value	ssessment Rate	Assessd Value	Mill Levy	Tax	Difference
1	250,000,000	10,000,000	240,000,000	204,000,000	0.3333	67,993,200	11.8710%	8,071,473	35,714,286	214,285,714	214,285,714	0.25	53,571,429	11.8710%	6,359,464	1,712,008
2	240,000,000	10,000,000	230,000,000	195,500,000	0.3333	65,160,150	11.9897%	7,812,513	35,714,286	178,571,429	178,571,429	0.25	44,642,857	11.9897%	5,352,549	2,459,964
3	230,000,000	10,000,000	220,000,000	187,000,000	0.3333	62,327,100	12.1096%	7,547,567	35,714,286	142,857,143	142,857,143	0.25	35,714,286	12.1096%	4,324,860	3,222,707
4	220,000,000	10,000,000	210,000,000	178,500,000	0.3333	59,494,050	12.2307%	7,276,541	35,714,286	107,142,857	107,142,857	0.25	26,785,714	12.2307%	3,276,081	4,000,459
5	210,000,000	10,000,000	200,000,000	170,000,000	0.3333	56,661,000	12.3530%	6,999,339	35,714,286	71,428,571	71,428,571	0.25	17,857,143	12.3530%	2,205,895	4,793,444
6	200,000,000	10,000,000	190,000,000	161,500,000	0.3333	53,827,950	12.4765%	6,715,866	35,714,286	35,714,286	50,000,000	0.25	12,500,000	12.4765%	1,559,568	5,156,298
7	190,000,000	10,000,000	180,000,000	153,000,000	0.3333	50,994,900	12.6013%	6,426,023	35,714,286	0	50,000,000	0.25	12,500,000	12.6013%	1,575,163	4,850,860
8	180,000,000	10,000,000	170,000,000	144,500,000	0.3333	48,161,850	12.7273%	6,129,712			50,000,000	0.25	12,500,000	12.7273%	1,590,915	4,538,797
9	170,000,000	10,000,000	160,000,000	136,000,000	0.3333	45,328,800	12.8546%	5,826,832			50,000,000	0.25	12,500,000	12.8546%	1,606,824	4,220,008
10	160,000,000	10,000,000	150,000,000	127,500,000	0.3333	42,495,750	12.9831%	5,517,282			50,000,000	0.25	12,500,000	12.9831%	1,622,892	3,894,390
11	150,000,000	10,000,000	140,000,000	119,000,000	0.3333	39,662,700	13.1130%	5,200,958			50,000,000	0.25	12,500,000	13.1130%	1,639,121	3,561,836
12	140,000,000	10,000,000	130,000,000	110,500,000	0.3333	36,829,650	13.2441%	4,877,755			50,000,000	0.25	12,500,000	13.2441%	1,655,512	3,222,243
13	130,000,000	10,000,000	120,000,000	102,000,000	0.3333	33,996,600	13.3765%	4,547,569			50,000,000	0.25	12,500,000	13.3765%	1,672,067	2,875,501
14	120,000,000	10,000,000	110,000,000	93,500,000	0.3333	31,163,550	13.5103%	4,210,291			50,000,000	0.25	12,500,000	13.5103%	1,688,788	2,521,503
15	110,000,000	10,000,000	100,000,000	85,000,000	0.3333	28,330,500	13.6454%	3,865,812			50,000,000	0.25	12,500,000	13.6454%	1,705,676	2,160,136
16	100,000,000	10,000,000	90,000,000	76,500,000	0.3333	25,497,450	13.7819%	3,514,023			50,000,000	0.25	12,500,000	13.7819%	1,722,733	1,791,291
17	90,000,000	10,000,000	80,000,000	68,000,000	0.3333	22,664,400	13.9197%	3,154,812			50,000,000	0.25	12,500,000	13.9197%	1,739,960	1,414,852
18	80,000,000	10,000,000	70,000,000	59,500,000	0.3333	19,831,350	14.0589%	2,788,065			50,000,000	0.25	12,500,000	14.0589%	1,757,360	1,030,706
19	70,000,000	10,000,000	60,000,000	51,000,000	0.3333	16,998,300	14.1995%	2,413,668			50,000,000	0.25	12,500,000	14.1995%	1,774,933	638,735
20	60,000,000	10,000,000	50,000,000	42,500,000	0.3333	14,165,250	14.3415%	2,031,504			50,000,000	0.25	12,500,000	14.3415%	1,792,683	238,821
21	50,000,000	10,000,000	40,000,000	34,000,000	0.3333	11,332,200	14.4849%	1,641,455			50,000,000	0.25	12,500,000	14.4849%	1,810,609	-169,154
22	40,000,000	10,000,000	30,000,000	25,500,000	0.3333	8,499,150	14.6297%	1,243,402			50,000,000	0.25	12,500,000	14.6297%	1,828,716	-585,313
23	30,000,000	10,000,000	20,000,000	17,000,000	0.3333	5,666,100	14.7760%	837,224			50,000,000	0.25	12,500,000	14.7760%	1,847,003	-1,009,779
24	20,000,000	10,000,000	10,000,000	8,500,000	0.3333	2,833,050	14.9238%	422,798			50,000,000	0.25	12,500,000	14.9238%	1,865,473	-1,442,675
25	10,000,000	10,000,000	0	0	0.3333	0	15.0730%	0			50,000,000	0.25	12,500,000	15.0730%	1,884,128	-1,884,128
								109,072,485							55,858,973	53,213,512