

MINUTES OF THE SENATE UTILITIES COMMITTEE.

The meeting was called to order by Chairperson Senator Stan Clark at 10:20 a.m. on adjournment of the Senate on February 16, 2001 in Room 231-N of the Capitol.

All members were present except: Senator Barone, excused
Senator Wagle, excused

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:
Mike Reecht, AT&T
Joe Fritton, Director, Division of Facilities Management

Others attending: See enclosed list.

Continued hearings on:
SB 111 - State Corporation commission, investigations initiated by complaint

Opponent:
Mike Reecht, Government Affairs Consultant, American Telephone & Telegraph (Attachment 1)

Chair closed hearing on **SB 111**.

SB 112 - Corporation Commission, energy cost adjustment clauses

Chair opened for questions. Committee questioned no historical reference to disallowance. Joe White of KCC explained the procedures followed by the Commission. Current regulations were set in 1977 before deregulation. Study is being made on new operating procedures of the market and getting input from the producers, marketers, etc. Walker Hendrix noted the issue is that KCC does not do an ongoing review of purchasing practices of distributing companies. He referred to the prudency review of contracts conducted by Missouri. Since 1977 when the KCC regulations were set, there has been a shift from longer term contracts to short term contracts. KCC should look at what opportunities are available to the companies for purchasing. A question also was asked on a current docket. White noted performance-based rates are a part of the solution. KCC looks at many different alternative to reach a prudent decision.

Chair reported he and Rep. Holmes had written a letter to KCC requesting comparison of the December bills of each company and asking for a itemization of componets. No date set for receipt of this report.

Chair closed hearing on **SB 112**.

SCR 1606 - Setting temperature in state buildings at 66 degrees

Joe Fritton, Director of the Division of Facilities Management, provided information on the operations of state buildings. (Attachment 2)

Chair opened for questions. Committee asked questions on setting thermostats and increase in cost as compared to consumption.

Chair closed hearing on **SCR 1606**.

CONTINUATION SHEET

Cynthia Smith, Kansas City Power and Light, a balloon for **SB 177** for consideration by the committee.
(Attachment 3)

Next meeting of Senate Utilities will be held on February 19.

Adjournment.

Respectfully submitted,

Ann McMorris, Secretary

Attachments - 3

MIKE REECHT

GOVERNMENT AFFAIRS CONSULTANT

SMOOT & ASSOCIATES
800 SW JACKSON, SUITE 808
TOPEKA, KANSAS 66612
(785) 233-0016
(785) 234-3687 (fax)

10200 STATE LINE ROAD
SUITE 230
LEAWOOD, KANSAS 66206
(913) 649-6836

Testimony of Mike Reecht
On Behalf of AT&T
Before the Senate Utilities Committee
Regarding SB 111
February 14, 2001

Mr. Chairman and Members of the Committee,

I appear before you today in opposition to Senate Bill 111.

The telecommunications industry has changed dramatically in the last 15 years, culminating with the Federal Telecommunications Act which passed in February of 1996. In May of that same year, the Kansas Legislature passed HB 2728 which established a new regulatory landscape for the industry. The Federal and State legislation sought to establish guidelines to encourage the development of a competitive industry.

The 1996 Kansas Telecommunications Act price deregulated Telecommunications Carriers in Section 66-2005(v). "Telecommunications Carriers shall not be subject to price regulation" However, Senate Bill 111 in Section 3 and 4 would subject all Telecommunications Public Utilities to a mandatory investigation of "all rates, joint rates, tolls, charges and exactions" Telecommunications Carriers are Telecommunications Public Utilities by definition. Senate Bill 111 would require the KCC to investigate the rates of a price deregulated company.

AT&T opposes SB 111 as it seems to turn the clock back to a pre-1996 regulatory environment, and that is not consistent with the competitive marketplace in which telecommunications carriers operate.

I will be glad to answer any questions.

Senate Utilities Committee
February 16, 2001
Attachment 1-1

Utilities Committee
February 14, 2001

Joe Fritton, P.E. - Director

Division of Facilities Management

SCR 1606 - Temperature in State Buildings.

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to provide information on behalf of the Department of Administration regarding the impact of natural gas prices on the operations of state buildings. My name is Joe Fritton and I am the Director of the Division of Facilities Management. My division operates the state owned buildings in the Topeka Capitol Complex, the former Topeka State Hospital Campus, and the Department of Health & Environment Labs at Forbes Field. The Division operates three steam boiler plants for heating including the Capitol Complex steam distribution plant located under the front yard of the Docking State Office Building.

The Division of Facilities Management would like to take this opportunity to talk about measures it has taken to reduce the impacts of increased gas prices.

1. **Impacts of Gas Prices** – Year to date natural gas and fuel oil bills for Division buildings are up \$380,842 (328%) from this time last year. Fuel consumption due to the weather is up 10,896 MMBTU's (11%). Thus the bulk of the increase in costs is due to fuel prices, not consumption.
2. **Cost Savings Measures** – At the end of December the Division switched from burning natural gas in its boilers to burning diesel fuel. Even though the cost of diesel fuel was up almost 25 cents a gallon since this time last year, a savings of \$46,000 was achieved by this switch. At the beginning of February, the Division has switched back over to natural gas as the price has fallen to a level which provides no savings from burning diesel fuel.
3. **Other Considerations** – The Division chose not to set back the thermostats in the Capitol Complex. Setting the thermostat back to save money in the winter is a difficult task for the building managers. Every individual thermostat must be opened and set back. In the Capitol Complex alone there are approximately 2300 thermostats. To increase the difficulty further complicate matters three quarters of these thermostats will have to be reset for the cooling season. If they are not reset, then the building would be air conditioned to 66 degrees which would increase electrical usage.

The Division of Facilities Management is constantly striving to find ways to reduce the environmental costs of operating the buildings while at the same time providing an environment which supports employee productivity. I will be happy to answer any questions regarding this testimony.

Senate Utilities Committee
February 16, 2001
Attachment 2-1

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43

Section of Bill

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 70-6a01 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. 68-131a, and amendments

SB 177

1 thereto.

2 (c) Except as herein provided, the power and authority to control and
3 regulate all public utilities and common carriers situated and operated
4 wholly or principally within any city or principally operated for the benefit
5 of such city or its people, shall be vested exclusively in such city, subject
6 only to the right to apply for relief to the corporation commission as
7 provided in K.S.A. 66-133, and amendments thereto, and to the provi-
8 sions of ~~K.S.A. 66-131~~ and K.S.A. 2000 Supp. 66-104e, and amendments
9 thereto. A transit system principally engaged in rendering local transpor-
10 tation services in and between contiguous cities in this and another state
11 by means of street railway, trolley bus and motor bus lines, or any com-
12 bination thereof, shall be deemed to be a public utility as that term is
13 used in this act and, as such, shall be subject to the jurisdiction of the
14 commission.

15 (d) The term "public utility" shall not include any activity of an oth-
16 erwise jurisdictional corporation, company, individual, association of per-
17 sons, their trustees, lessees or receivers as to the marketing or sale of
18 compressed natural gas for end use as motor vehicle fuel.

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

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

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

26 (3) is not in the rate base of: (A) An electric public utility that is
27 subject to rate regulation by the state corporation commission; (B) any
28 cooperative, as defined by K.S.A. 17-4603 and amendments thereto, or
29 any nonstock member-owned cooperative corporation incorporated in
30 this state; or (C) a municipally owned or operated electric utility.

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

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

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

NEW
c) As used in this section, "independent power producer property" of the nature itemized in Federal Energy Regulatory Commission plant accounts 101-312, 313, 314, 315, and 316 or 101- 342, 343, 344 and 345 of the Code of Federal Regulations, shall be tangible personal property.

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

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

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

7 (4) transporting or distributing to, from, through or in this state nat-
8 ural gas, oil or other commodities in pipes or pipelines, or engaging pri-
9 marily in the business of storing natural gas in an underground formation;

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

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

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

17 (b) The terms "public utility" or "public utilities" shall not include:

18 (1) Rural water districts established under the laws of the state of Kansas;

19 or (2) any individual, company, corporation, association of persons, lessee

20 or receiver owning or operating an oil or natural gas production gathering

21 line which is situated within one county in this state and does not cross

22 any state boundary line; (3) any individual, company, corporation, asso-

23 ciation of persons, lessee or receiver owning any vessel or boat operated

24 upon the surface of any manmade waterway located entirely within one

25 county in the state; or (4) for all taxable years commencing after Decem-

26 ber 31, 1998, any natural gas distribution system which is owned and

27 operated by a nonprofit public utility described by K.S.A. 66-104c, and

28 amendments thereto, and which is operated predominantly for the pur-

29 pose of providing fuel for the irrigation of land devoted to agricultural

30 use; or (5) for all taxable years commencing on or after January 1, 2001,

31 at the option of the taxpayer, the taxpayer's business of generating, mar-

32 keting and selling electricity generated by an electric generation facility

33 described in subsection (e) of K.S.A. 66-104, and amendments thereto.

34 Sec. 66-104 K.S.A. 2000 Supp. 66-104 and 70-5a01 are hereby repealed.

35 Sec. 66-104 This act shall take effect and be in force from and after its
36 publication in the statute book.

66-128

New Sec. 66-128. The following described property, to the extent herein
specified, shall be exempt from all property or ad valorem taxes levied
under the laws of the state of Kansas:
(a) All electric generation facilities described in subsection (e) of
K.S.A. 66-104, and amendments thereto.
(b) The provisions of this section shall apply for the 10 taxable years
immediately following the taxable year in which construction of such
property is completed.

including
pollution control
devices.

Section 5, K.S.A. 2000 Supp. 66-128 is hereby amended to read as

follows: 66-128. (a) The state corporation commission shall determine the
reasonable value of all or whatever fraction or percentage of the property of any common carrier or
public utility governed by the provisions of this act which property is used and required to be used
in its services to the public within the state of Kansas, whenever the commission deems the
ascertainment of such value necessary in order to enable the commission to fix fair and reasonable
rates, joint rates, tolls and charges. In making such valuations the commission may avail itself of
any reports, records or other things available to the commission in the office of any national, state
or municipal officer or board.

(b) For the purposes of this act, property of any public utility which has not been completed
and dedicated to commercial service shall not be deemed to be used and required to be used in the
public utility's service to the public, except that, any property of a public utility may be deemed to
be completed and dedicated to commercial service if: (1) Construction of the property will be
commenced and completed in one year or less; (2) the property is an electric generation facility
that has a capacity of 100 megawatts or less and converts wind, solar, biomass, landfill gas or any
other renewable source of energy; or (3) construction of the property has been authorized by a
siting permit issued under K.S.A. 66-1,158 et seq. or 66-1,177 et seq., and amendments thereto.

(c) For the purpose of establishing retail electric rates, the commission shall allow a premium of 300
basis points on the return allowed on electric transmission property as defined in this section. This
premium shall be in addition to the return on equity allowed by the commission on the remainder of
the utility property.

(1) All electric transmission lines used for the bulk transfer of 161 or more kilovolts of
electricity, including all towers, poles, and other necessary appurtenances to such lines and the right-
of-way on which such lines are located.

(2) The provisions of this section shall apply to property the construction of which is completed
after December 31, 2000.

(d) The following described property, to the extent specified, shall be exempt from all property or ad
valorem taxes levied under the laws of the state of Kansas:

(1) any additions or capital expenditures completed on or after January 1, 2001 on electric
generation facilities, (i) regulated by the state corporation commission and (ii) existing as of January
1, 2001.

(2) the provisions of this section shall apply to the 10 taxable years immediately following the
year in which construction of such property is completed.

NEW