Approved:
Date - March 21, 2001

MINUTES OF THE SENATE UTILITIES COMMITTEE.

The meeting was called to order by Chairman Senator Stan Clark at 9:30 a.m. on March 20, 2001 in Room 231-N of the Capitol.

All members were present except:

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

Conferees appearing before the committee:
Jim Ludwig, Western Resources
Cynthia Smith, Kansas City Power & Light
Bruce Graham, KEPCO
Dick Rohlf, Western Resources

Others attending: See attached list.

Chair opened hearing on:
**HB 2245 - Electric generation from renewable resources; contracts for parallel generation; income tax credits**.

Proponent
Dick Rohlf, Senior Manager of Regulatory Requirements, Western Resources, Inc., stated since their concerns that this proposed legislation could be in conflict with Public Utilities Regulatory Policy Act and some internal conflicts were addressed, Western Resources is no longer opposed to this bill. He provided some background on PURPA and provided a simple example of the tax credit as it would apply to an investor owned utility. (Attachment 1)

Closed hearing on **HB 2245.**

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Chair opened hearing on both:

**HB 2266 - Independent power producers, coal-fired generation; exemption from regulation; bonds for pollution control devices; property tax.**

**HB 2268 - Electric public utilities; coal-fired generation; construction work in progress; bonds for pollution control; property tax exemption.**

Proponents:
Jim Ludwig, Western Resources (Attachment 2)
Cynthia Smith, Kansas City Power & Light (Attachment 3)
Bruce Graham, KEPCO (Attachment 4)

Closed hearing on **HB 2266**.

Hearing on **HB 2268** will continue on March 21.

MINUTES OF THE SENATE UTILITIES COMMITTEE at 9:30 a.m. on March 20, 2001 in Room 231-N of the Capitol.

Chair opened discussion on a proposed Senate Resolution urging the Governor to appoint nine representatives to work with the University of Kansas energy research center to develop an energy plan for Kansas. (Attachment 5) (Resolution introduced and assigned number **SR 1828** on 3/20/01)

Moved by Senator Wagle, seconded by Senator Lyon, the Senate Utilities Committee approves the introduction of the proposed resolution draft to develop an energy plan for Kansas for introduction in the Senate. Motion carried.

Action taken on bills previously heard:

Moved by Senator Lee, seconded by Senator Brownlee, to amend **SB 112** into **HB 2245** and pass it out of committee. Motion carried. "No" vote recorded for Senator Tyson.

Moved by Senator Barone, seconded by Senator Brownlee, to amend **SB 177** into **HB 2266** and pass it out of committee. Motion carried. "No" vote recorded for Senator Tyson.

Approval of Minutes

Moved by Senator Tyson, seconded by Senator Brownlee, to approve the minutes of the Senate Utilities meetings held on March 19, 2001 at 9:40 a.m. and March 19, 2001 at 3:00 p.m. Motion carried. "Yes" vote recorded for Senator Tyson.

Next meeting of the committee will be held on March 21, 2001.

Adjournment.

Respectfully submitted,

Ann McMorris, Secretary

Attachments - 5

# SENATE UTILITIES COMMITTEE GUEST LIST

## DATE: **MARCH 20, 2001**

| Name | Representing |
|---|---|
| Dick F Rohlfs | Western Resources |
| Shawn Green | Kansas City Power & Light |
| John C. Bottenberg | West. Resources |
| Paul Johnson | PACK |
| Joe Dick | KCKBPU |
| Whitney Damron | KS Gas Service |
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Testimony of
Dick F. Rohlfs
Senior Manager, Regulatory Requirements
Western Resources, Inc.
On
House Bill No. 2245
March 19, 2001

Chairman Clark and members of the committee, my name is Dick Rohlfs. I am Senior Manager, Regulatory Requirements at Western Resources. Thank you for letting Western Resources present testimony to you today on House Bill 2245. This proposed legislation amends K.S.A 66-1,184 the Parallel Generation and Small Power Production section of the statute. Western Resources had concerns that this proposed legislation could be in conflict with Public Utilities Regulatory Policy Act. In addition, the proposed legislation had internal conflicts as it was orginally written. Those concerns and internal conflicts were addressed. Therefore, Western Resources is no longer opposed to this bill.

The bill will provide a tax credit to utilities or renewable generation facilities depending on if the renewable generation facility is connected to a cooperative or municiple or investor owned utility. Investor owned utilities will pay the renewable generator the difference between 85% (for hydropower or 70% for other renewable resources) of the utility's residential rate and the utilities avoided cost for a period of 10 years. There is a cap of $500,000 associated with the payment in excess of avoided cost and the amount of tax credit the utility would receive.

Permit me to provide all of you some background on PURPA. In 1978 PURPA was passed as part of a comprehensive national energy policy. PURPA was designed to encourage cogeneration and renewable energy. It required utilities to purchase the excess energy at no more than the utility's avoided cost. In 1981 and 1982, the Kansas

Corporation Commission examined and considered evidence on the rate to be paid cogenerators for their power. (Docket No. 115,379-U). In accordance with PURPA, avoided cost of electric energy was defined as the incremental cost of electric energy, which the utility would have to generate or purchase from another source, if it did not buy from a cogenerator. The KCC found that since Kansas electric utilities bill their customers based on average embedded cost for energy, cogenerators should be paid on the same basis. Cogenerators can request to be reimbursed at the utility's incremental rate provided that the extra cost of metering is paid for by the cogenerators.

The definition of avoided cost of energy can include adjustments to the cost of energy. The KCC considered the cost of avoided capacity in their decision making. While this component is controversial, the KCC ruled that some capacity credit shall be included in the payment to cogenerators. This part of the KCC's ruling was challenged in court. The court found that the KCC's decision to include a credit for capacity exceeded avoided cost if a utility had excess capacity.

The final component part of avoided cost is the losses in the transmission and distribution system. The KCC ruled that utilities would avoid some losses of energy in their transmission and distribution system. While the amount of line losses avoided was unknown the KCC found that a credit equal to 50% of each utilities average line loss be provided to cogenerators.

Getting back to the HB 2245, I have attached a simple example of the tax credit as it would apply to an inverstor owned utility.

W... .ern Resources, Inc.
Calculation of Avoided Cost
for the KPL system

| | | |
|---|---|---|
| Average cost of fuel | $0.013410 | January 2001 |
| Capacity credit | $0.002680 | |
| sub - total | $0.016090 | |
| Line loss credit @ 3.6% | $0.000579 | |
| Total payment | $0.016669 | |

KPL's average cost of fuel in 2000 ranged between $0.01137 (Jan 2000) and $0.01981 (July 2000).
KPL's average for the year 2000 was approximately $0.016 to $0.017 per kWh

Applies to payments to small power producers of 100 kW or less
Larger power producers are by contract.

Example of 150% of monthly system average cost of energy

| | Low | Mi point | High |
|---|---|---|---|
| Average cost of fuel | $0.011370 | $0.016500 | $0.019810 |
| 150% of avg cost of fuel | $0.017055 | $0.024750 | $0.029715 |

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Western Resources, Inc.
Example of HB 2245

Assume:
1. Average residential rate of 6 cents per kWh
2. Hydropower rate at 85% = 5.1 cents per kWh
3. Other renewable rate at 70% = 4.2 cents per kWh
4. Avoided cost of 1.6 cents per kWh
5. Renewable generation of 1 million kWh per month or 12,000,000 per year
6. Renewable generation facility rated at 2,000 kW

| | |
|---|---:|
| Renewable energy produced - annual | 12,000,000 |
| Payment to renewable facility @ 5.1 ($0.06 * .85%) | $612,000 |
| Avoided cost @ 1.6 | 192,000 |
| Cost over avoided cost | $420,000 |
| Tax credit utility @ 110% of cost over avoided cost | $462,000 |

House Bill 2245 compared to SB 112

Size limitations:

**Senate Bill 112**
Residential 10 kW
Commercial 100 kW

**House Bill 2245**
Hydro 5,000 kW
Other (wind etc.) 2,000 kW

Payment:

**Senate Bill 112**
150% of System Average cost of energy

**House Bill 2245**
Public utilities -
Hydro - 85% of residential rate
Other - 70% of residential rate
Cooperatives and municipals -
Avoided cost
Payment in excess of avoided cost limited to 10 years

Tax credits

**Senate Bill 112**

None

**House Bill 2245**

Public utilities receive - 110% of difference between the multiplier times the residental rate and the Company's avoided cost.

Renewable generator in Coop or muni area - $10 per kW of rated capacity, provided it produces 30% of its rated capacity.
Limitation on tax credit to $500,000 per year

Testimony
before the
Senate Utilities Committee
by
Jim Ludwig, Western Resources
~~February 19~~, 2001
MARCH 20

Chair Clark and Members of the Committee:

Western Resources supports HB 2266 and 2268. We regard these two bills as "companions."

*Explanation*

HB 2266 and HB 2268 provide ten-year property tax abatements, plus abatements during construction, for new independent power producer (IPP) and new utility rate-based coal plants and natural gas plants, provided that they run less than 20% of the year. IPP plants would be assessed at the rate of 25% for real and personal property. Under current law, IPP generation would be assessed at 33%, the rate for public utility property. IPP property is defined as generation facilities not in rate base of a KCC jurisdictional electric utility. New high voltage transmission lines would also be exempt from property taxation for ten years. Additionally, HB 2268 would give the KCC discretion to allow utilities to recover the costs of construction work in progress.

*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 incentives proposed in HB 2266 and HB 2268 are a good step to remove obstacles and a competitive tax disadvantage compared to surrounding states.

*Preserving the tax base*

Enacting HB 2266 and HB 2268 will 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 that date would be assessed at 25%, while rate-based generation built after that date would be assessed at 33%.

We urge the Committee to approve HB 2268 and HB 2266.

Kansas City Power & Light

**Committee on Utilities**
**Kansas Senate**

**House Bills 2266 and 2268**
**Electric Generation**
**March 19, 2001**

House Bill 2266 and House Bill 2268 are intended to encourage investment in electric generation facilities in the state.

HB 2266 includes the following major provisions:

- Commercial and Industrial (C&I) property tax treatment for additions to coal-fired and limited gas-fired electric generation property placed in service after 1/1/01 of an independent power producer (IPP) that is not in rate base, since they would be removed from the definition of public utility.
- A 10-year exemption from property taxes on IPP generation facilities and revenue bond financing and tax abatement for IPP pollution control devises.
- Finally, 345kv transmission facilities also receive a 10-year exemption from property taxes.

HB 2268 would provide an incentive for traditional utilities to build new coal-fired generation, peaking units, and transmission lines because the returns on investment would occur sooner (during construction instead of after the construction is finished). HB 2268 includes the following major provisions:

- Allows construction work in progress (CWIP) to be included in a utility's rates, for construction of new coal-fired electric generation or natural gas "peaking" units or new electric transmission lines.
- Exempts the new generation plant construction, transmission lines and right-of-ways from property and ad valorem taxes for 10 years.

A few issues remain:

1. Fuel diversification: whether dual-fired coal/gas plants are covered.

2. With respect to the 10-year property tax abatement on 345kv transmission facilities, KCPL believes that a better incentive would be to apply the tax abatement to smaller transmission lines, and for the Commission to allow a premium of 300 basis points on the return allowed on 161kv or larger electric transmission property.

Relevant to these initiatives are the plans of KCPL to build new generation. Attached is an excerpt from a February 6, 2001, KCPL press release, which discusses the company's organizational plans, including plans to acquire or participate in new power plant construction. As you can see, in addition to gas-fired peaking units, KCPL is exploring the construction of a coal-fired power plant at our Iatan plant site in Missouri, but has not yet made a final decision on whether it will be located in Missouri, Kansas, or another state in the region.

KCPL appreciates the Committee's efforts at addressing needed incentives to locate electric generation in the state.

We urge your support for HB 2266 and 2268.

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## Questions and Answers

**If independent power producers are not obligated to sell the power they produce in Kansas, isn't it true that the residents of Kansas will not benefit from independent power producers?**

- Assuming that IPPs don't sell a single megawatt of power in the state of Kansas, the residents of Kansas will benefit from IPPs operating in Kansas. Kansas utilities routinely buy power on the wholesale market. As more power is sold on the wholesale market in this region by IPPs, the price of power will be reduced. This is true whether IPPs sell power directly to Kansas investor-owned utilities or indirectly through the wholesale market.

- In addition to lowering the price of power for the residents of Kansas, IPPs will create hundreds of high paying jobs.

- The newly created jobs, as well as the IPPs themselves, will contribute significant tax revenue to the state.

- Kansas ratepayers are under no obligation to repay IPPs the costs associated with building power plants. All financial risks are borne by the IPPs shareholders, not Kansas ratepayers. If the state fails to remove disincentives associated with IPPs building in Kansas, the state ensures that Kansas ratepayers will pay the lion's share of construction costs for the next generation of base load power plants that must be built over the next decade.

**Is there any reason to believe that IPPs will not do business in Kansas unless the legislature narrows the definition of "public utility" so that it excludes IPPs?**

- The Kansas legislature granted the Kansas Corporation Commission (KCC) expansive powers to regulate public utilities. The KCC regulates virtually every aspect of a public utility. IPPs operating without comprehensive state oversight would have a distinct advantage over Kansas-based IPPs that are subject to the KCC's jurisdiction. Accordingly, unless IPPs are exempt from the KCC's jurisdiction, it is highly unlikely that IPPs will build power plants in Kansas.

Media Contact: Tom Robinson
816-556-2902
Investor Contact: Greg Drown
816-556-2312

**FOR IMMEDIATE RELEASE**

**KANSAS CITY, Mo., February 6, 2001**

* * *

**Strategic Update:** In early 2000, KCP&L announced its strategy of organizing the company into three subsidiaries - power generation, retail power delivery and high-growth holdings - to enhance the performance of each business and build value for shareholders. KCP&L has begun managing the three businesses as separate subsidiaries, each accountable for its performance and contribution to shareholder value. During 2000, the company named top managers for each subsidiary and began implementing systems to provide additional visibility to the segments' financial results.

The company made filings with Missouri and Kansas authorities in 2000 seeking unregulated status for its generation assets, to enable the generation subsidiary to participate in wholesale electricity markets. Acknowledging recent events on the West Coast, KCP&L requested the state regulators to allow the company to withdraw those filings. The Company intends to proceed with an accelerated approach to establish a holding company with a generation subsidiary to develop new plants to serve the wholesale market. Under the new proposal, a separate subsidiary for generation will build, acquire or participate in power plants to serve an expanded regional wholesale market.

The company has ordered five combustion turbines to add 385 megawatts of peaking capacity to serve the region. Delivery is expected in early 2003. In addition, the generation subsidiary is pursuing permits for additional coal-fired generation capacity at the Iatan site.

"We are seizing the opportunity to meet the Midwest's growing energy needs, while ensuring that KCP&L customers have a reliable and affordable supply of electricity in the years to come," Mr. Beaudoin said. "This innovative approach will benefit our utility customers, the wholesale energy markets and KCP&L shareholders. In today's energy market, we see a need to accelerate construction of low-cost, efficient generating plants. The returns available in an unregulated setting will give us the financial flexibility to meet that need and create value for our shareholders."

Construction also is progressing on schedule for the rebuilt 550-megawatt Hawthorn No. 5 plant to meet an on-line date of June 2001. On top of 294 megawatts added last year, the new Hawthorn No. 5 will increase KCP&L's generating capacity- reducing the need for purchased power and increasing KCP&L's supply for the regional market.

* * *

KEPCo

# Kansas Electric Power Cooperative, Inc.

### *Testimony on HB 2266 and 2268*
### *Before Senate Utilities Committee – March 20, 2001*

*Bruce Graham, Vice President of Member Services and External Affairs*
*Kansas Electric Power Cooperative, Inc. (KEPCo)*

The Kansas Electric Power Cooperative (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. We constantly evaluate those contracts and other options and believe that new generation in Kansas, by KEPCo, other native utilities and/or independent power producers, will provide additional power supply flexibility in the future.

HB 2266 would give new merchant power plants a tax break by assessing the property at the commercial and industrial rate of 25 percent vs. 33 percent for Kansas utilities. Native utilities could also declare a new generation facility eligible for the lower assessment rate under provisions in this bill, if it is constructed outside of the ratebase. While this bill is similar to SB 177, HB 2266 provides additional incentives such as a property tax exemption, KDFA bond financing for pollution control equipment, and a tax exemption for new transmission lines.

Another important difference between the Senate and House bills is the incentive for natural gas generation. Both HB 2266 and 2268 recognize that the use of natural gas has its place but restrict the incentives to natural gas peaking units. For KEPCo, that will still be helpful. KEPCo is in the process of acting on options to replace some of our current power supply contracts. Our studies indicate that by constructing some peaking generation using natural gas, we can improve reliability, provide security of ownership and a lower cost alternative to the wholesale market for electricity which can be even more volatile and expensive a commodity than natural gas.

Whether we build the generation utilizing the tax abatement provisions for regulated utilities in HB 2268, or contract with an independent power producer or other utility that utilizes the incentives of HB 2266, permitting peaking units to qualify for the provisions of this act should benefit rural Kansas ratepayers. Most importantly, it will encourage KEPCo and other utilities to consider Kansas as the site for construction of these generation projects as well as baseload coal plants.

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.

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KEPCo is a generation and transmission utility that provides wholesale electricity and other services to 21 rural electric distribution cooperatives with member/consumers spanning two-thirds of rural Kansas.

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SENATE RESOLUTION NO. 1828

By Committee on Utilities

A RESOLUTION urging the Governor to appoint nine representatives to work with the University of Kansas energy research center to develop an energy plan for Kansas.

WHEREAS, The future of Kansas' economy is tied to the availability of energy for industry, agriculture and commerce; and

WHEREAS, International energy demand is growing while access to energy supplies is inconsistent; and

WHEREAS, Kansas has been a net explorer of energy sources in the past and should continue planning for the future energy needs of its citizens by assessing its access to energy sources, the supply available, new technologies and conservation; and

WHEREAS, The University of Kansas energy research center is a well-established, broadly based, externally-funded research and development organization which can undertake a study of the future energy needs of Kansas: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That the Senate of the state of Kansas urges the Governor to appoint nine representatives to work in conjunction with the University of Kansas energy research center in developing a state energy plan; and

Be it further resolved: That the Secretary of the Senate be directed to send an enrolled copy of this resolution to the Governor of the state of Kansas.