

MINUTES OF THE SENATE UTILITIES COMMITTEE.

The joint meeting of the Senate and House Utilities Committees was called to order by Chair Senator Stan Clark at 9:30 a.m. on January 15, 2002 in Room 526-S of the Capitol.

All members were present except: Senator Barone, excused

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

Conferees appearing before the committee:
 David Martin, Empire District Electric Company
 Larry Berg, Midwest Energy, Hays
 Colin Hansen, Kansas Municipal Utilities

Others attending: List attached to House Utilities Committee January 15, 2003 minutes

Presentations by Electric Cooperatives and Municipalities

Conferees gave a general background explanation of each of their companies, explained what services they provided, who they served and finances involved, and set forth current issues they were working on and legislative issues of concern to their field.

Larry Berg of Midwest Energy, Hays was accompanied by Bob Muirhead, Manager of Corporate Communications of Colby. (Attachment 1)

David Martin, Empire District Electric Company, Joplin, Missouri (Attachment 2)

Colin Hansen, Kansas Municipal Utilities (Attachment 3)

Chair Clark opened for questions. Conferees were questioned regarding regulations, rate of return, regulatory environment in Missouri, where new generation could be located, financing of new generation and cost of borrowing.

Chair Clark briefed the committee on the presentations scheduled before the committee during the next two weeks and asked for ideas on possible legislation to be introduced.

The next meeting of the Senate Utilities Committee will be on January 16, 2003.

Adjournment.

Respectfully submitted,

Ann McMorris, Secretary

Attachments - 3

Electric Industry Presentation

To the Senate and House Utilities Committees

January 15, 2003

Chairman Clark, Chairman Holms, Members of the Committees...My name is Larry Berg, and I'm with Midwest Energy in Hays, Kansas. With me today is Bob Helm, our Manager of Corporate Communications. I would like to visit with you today about the electric utility industry and the part that Midwest Energy plays in that industry.

HISTORY OF MIDWEST ENERGY

Midwest Energy, Inc. was formed in 1981 from the rare acquisition of an investor owned utility, Central Kansas Power (CKP), by an electric cooperative. CKP had been a subsidiary of United Telecommunications, Inc. (UTI) and its predecessors for over half a century. (United Telecommunications was more commonly known as United Telephone, and today is affiliated with The Sprint Corporation.) On October 19, 1977, UTI agreed to sell all its CKP stock to Central Kansas Electric Cooperative (CKEC).

On February 16, 1981, CKEC was merged into CKP, and the surviving corporation was renamed Midwest Energy, Inc., the same corporate entity that exists today.

Prior to 1979, CKP sold electricity, natural gas and water at retail to customers in Northwest Kansas. Service in some areas dated at least to the early 1920s. Much like many other investor owned utilities, the majority of its customers were in towns or along the transmission corridors linking the small towns. An important growth strategy was purchasing small, municipal distributions systems and generating plants. Power lines were built into rural areas only where there was significant load, such as the oil fields. Although CKP did not build many rural lines, it supported rural electrification by the neighboring cooperatives as a way to increase its wholesale market.

Midwest Energy grew via a series of acquisitions during the mid- to late 1980s. In 1986 the electric distribution system in the City of Ellis, Kansas was purchased, which included about 1,000 customers. Midwest Energy already provided natural gas service in Ellis. In 1988 the assets and liabilities of Great Plains Electric Cooperative in Colby, Kansas, were acquired. This brought nearly 4000 customers into the organization.

Midwest energy subsequently was able to reduce their electric rates by approximately thirty percent.

Two more natural gas systems, Producers Gas Equities and Rural Gas Equities, were purchased in 1990. While adding only 2000 customers, these acquisitions nearly doubled natural gas throughput. Their primary load was engine driven oil field pumping units that normally run around the clock.

Assets of three propane distributors were purchased in late 1995 and early 1996. These acquisitions included about 1,200 customers and 1.6 million gallons of annual volumes. We also mothballed 60 MW of ageing power plants and signed a very favorable contract for replacement power with Western Resources, now Westar Energy.

The company purchased another small natural gas company in 1997 and added another 500 customers in the towns of Wilson and Dorrance, Kansas. Then in April of 1998, the company purchased the Kansas natural gas distribution system from KN Energy, Inc. of Lakewood, Colorado. This was by far the largest single purchase in the company's history. We added nearly 31,000 new natural gas customers in western Kansas. With the acquisition, we added nearly 60 employees to our workforce and continue to hire as necessary to provide excellent customer service.

Including the KN acquisition, Midwest Energy now serves nearly 43,000 natural gas customers, and 35,000 electric customers. The company employs over 250 and has ten local offices in central and western Kansas.

The company also operates three companies through our subsidiary, Midwest Development, Inc. These include Midwest United Energy which provides natural gas marketing services in Colorado, Nebraska, Kansas, and surrounding states. WestLink Communications is a digital PCS telecommunications company with four local offices selling digital phones and services throughout the western third of the state, and as of the end of 2002, had over 6,000 telecommunications customers. The third is WestLand Energy. This company is an L.L.C and provides propane, leak checks on customer systems, safety information and contracting services to customers throughout western Kansas.

What We Do

Midwest Energy is a customer-owned utility serving customers in all or parts of 42 central and western Kansas counties. As was stated earlier, the company serves approximately 35,000 electric customers. We purchase electricity from Jeffery Energy Center and Holcomb Station. We also purchase up to 10 megawatts of electricity from the Gray County Wind

Farm in Southwest Kansas. We are members of the Southwest Power Pool, soon to possibly become the new Midwest Independent System Operator in the newly deregulated energy industry. Our peak electricity demand was 231 megawatts in 2001. We operate a distribution system with over 9,000 miles of transmission and distribution line which equates to approximately 2.6 customers per mile of line. We are a very rural system, indeed.

The company also serves nearly 45,000 natural gas customers. We purchase natural gas from Williams Pipeline, Kansas Gas Service and Kinder-Morgan. We are responsible for nearly 3200 miles of transmission and distribution line, again, throughout central and western Kansas.

Our electric residential rates average around seven and a half cents per kilowatt hour, which compares favorably to the state average of 7.7 cents, and the national average of 8.5 cents. Our natural gas residential rates are approximately 70 cents per therm. This is the lowest in the state and is below the national average.

As mentioned previously, we operate ten customer service offices throughout the service area, which are staffed by 20 certified customer service representatives. They are the only certified Customer Service Representatives in the United States, having been certified through the

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Midwest Energy Association CSR Certification Program. The Midwest energy Association is a large group of electric and natural gas companies throughout eight states in the central part of the country. We are accessible to our customers twenty four hours a day, seven days a week, via our toll-free phone number. We have extended customer service office hours and are available to customers from 8 a.m. to 6 p.m. Monday through Friday and from 8 a.m. till noon on Saturday.

We are very concerned about our quality of service. In 2002, we mailed 2738 service order contact surveys and marketing surveys. These surveys are sent to customers who actually have had work performed by our employees. We ask customers to answer yes or no to questions such as “Were we on time?”; “Was the property left in good condition?”; “Was the problem resolved?”; “Are you satisfied with the job?”; “Are you satisfied with Midwest Energy?” We received a 45% response rate, which is a tremendous rate for any of you who are familiar with surveys, and the overall satisfaction rate with yes answers was 98.4%. Of course, our goal is always 100%, but we’re very pleased with these results.

When we talk about customer satisfaction, we also must examine reliability throughout our electrical system. In 2002, our outage rate per

customer was 2.1 hours. Of course, this is, for the most part, weather driven and depends mostly on snow, ice and wind storms. Our goal is to remain under 2.5 hours per customer every year.

CURRENT ISSUES

Midwest Energy filed for a natural gas rate increase of \$5.7 million, May 31, 2002, which, if approved, would represent an average increase of 14% per residential customer, which is necessary to cover the cost of service. The company's last rate increases date back to the late '80's and early '90's. We expect a decision from the KCC in the next few months.

We also filed for an electric rate increase of \$1.67 million, July 1, 2002, which, if approved, would represent a 2.7% change in retail electric rates. The requested amount would be used to upgrade aging infrastructure. The company's last electric rate increase took effect 13 years ago. We expect a decision from the KCC by the end of April, 2003.

In mid-October of last year, Midwest Energy signed an agreement with Westar Energy to purchase approximately 10,000 customers in nine western and central Kansas counties. The service area includes customers in Ellsworth, Rice, Pratt, Reno, Barton, Stafford, Edwards and Pawnee

counties. This acquisition will be good for all concerned. Customers currently served by Westar, including wholesale customers, will become owners of their energy delivery company. Wholesale customers will also receive patronage capital, just like retail customers. Midwest Energy's sole mission is to provide reliable, economic energy delivery.

The company has a local presence throughout the proposed new service area, and will provide the same locally based, high quality customer service to the new customers that our existing customers have enjoyed. In the short term, the opportunity exists to eliminate overlap in the service areas and better utilize resources. Over time, Midwest Energy will be able to improve reliability and reduce service costs to **all** customers. Westar will also be able to concentrate on urban areas and maintain good utility service for those locations. We filed the necessary paperwork with the KCC last November and expect a decision by the KCC by mid-summer of this year.

LEGISLATIVE ISSUES

The main legislation that we were confronted with last year and opposed to was Senate Bill 547, also known as "The Rural Kansas Self Help Gas Act" which allows rural gas users to form a non-profit utility (NPU) for

the purpose of constructing their own gas distribution system. The main reason that Midwest Energy was in opposition of this legislation was the issue of safety. Although we were in opposition of this bill, we have been and will continue to work with the irrigators in southwest Kansas to procure a safe and reliable source of natural gas.

Some future issues we have identified include matters related to the merger of the Southwest Power Pool and the Midwest ISO. These issues have been and continue to be at the forefront of discussions related to the adequacy of transmission systems. This merger has implications on transmission rates, access and infrastructure construction. The Federal Energy Regulatory Commission (FERC) has also issued a notice of proposed rulemaking (NOPR) on its so-called standard market design (SMD) which will have far-ranging implications for the electric transmission business in general.

Midwest Energy, like most other utilities in the region, continues to look at expansion of wind generation facilities. Considerations involved in these discussions include pricing, energy availability/reliability, and economic implications to the region in general, and land owners in particular, importance of renewable resources in portfolio development,

adequacy and availability of transmission capacity, and stability impacts of additional wind generation resources.

Of increasing importance in the near future is rate design related to issues for utility services. Rate design – the way utilities price their services – sends important signals to consumers. Traditionally the focus of rate design has been on ensuring recovery of costs to serve each customer class. The biggest source of disagreement is on the relative share of costs that needed to be recovered from each class of customer and what rate of return each class of customer should provide the utility.

While none of that has changed, events in the market are reshaping not just the importance of recovering the “right” share of costs from each class of customers but by what pricing mechanism are the revenues recovered. Inappropriate rate design means poor price signals to consumers. That, in turn, means poor decisions by consumers. An example may be worthwhile:

A typical rate design may be to charge a fixed charge of \$5 per month and a variable charge of \$0.08 cents per kWh for electricity. However, the actual costs to serve that customer are \$30 per month fixed plus \$0.04 per

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kWh. In fact, for a customer who uses 625 kWh per month the total bill would be the same with either rate design. However, as Distributed Generation (DG) technology has improved, that same customer may be able to generate half his needs with his own micro-turbine for a cost of \$0.07 cents per kWh. Because the pricing signal he is receiving is inappropriate, he makes a poor decision and installs a micro-turbine to self generate at least part of his energy needs. The result is cost shifting to other customers. On a larger scale – economists would call this “inefficiency” – a decrease in the overall economic well being of the state. This has huge implications to a rural cooperative like Midwest Energy, where new DG technologies may become viable alternatives to line extensions, repairs, or upgrades. Without appropriate pricing signals, the resulting choices will be suboptimal and in fact the viability of the grid of the future comes into question.

It is important to note that one of the reasons for not charging the full fixed costs through a fixed or “customer” charge for utility service is that by so doing would be harmful to low-income customers. This is simply not true. Midwest Energy will be submitting testimony in its current electric rate case under docket 03-MDWE-001-RTS that will include a study of low-income customers and will detail the impacts of higher customer charges on those customers.



Testimony of David E. Martin,
Manager of Government Affairs,
Empire District Electric Company,
Before the Joint Committee Meeting of
Senate Utilities & House Utilities,
January 15, 2003.

EMPIRE DISTRICT ELECTRIC COMPANY

I would like to thank the Utilities Committee Chairs, Senator Stan Clark and Representative Carl Holmes, and members of the Utilities Committees for this opportunity to brief you.

I am David Martin, Manager of Governmental Affairs, with Empire District Electric Co., located in Joplin, Missouri. Also with me today is Whitney Damron, who helps represent Empire here in Topeka. Always feel free to contact either of us if you have any questions regarding Empire and our position on energy issues.

I would like to give you some background about Empire and then what we see in the near future. First, a thumbnail sketch on our company.

EMPIRE BACKGROUND

1. Empire is a Kansas corporation, headquartered in Joplin, Missouri.
2. Last Spring, Myron McKinney, President and CEO retired and Bill Gipson became Empire's new President and CEO.
3. Empire is the 4th largest investor-owned utility (IOU) in Kansas.
4. Empire serves about 10,000 customers in southeast Kansas, primarily in Cherokee County. Overall, Empire serves around 155,000 in southeast Kansas, southwest Missouri, northeast Oklahoma and northwest Arkansas. A service map is attached.
5. Empire is the 2nd largest generator of renewable energy in Kansas, with 16 MW of hydro generation.

Senate Utilities
January 15, 2003
Attachment 2-1

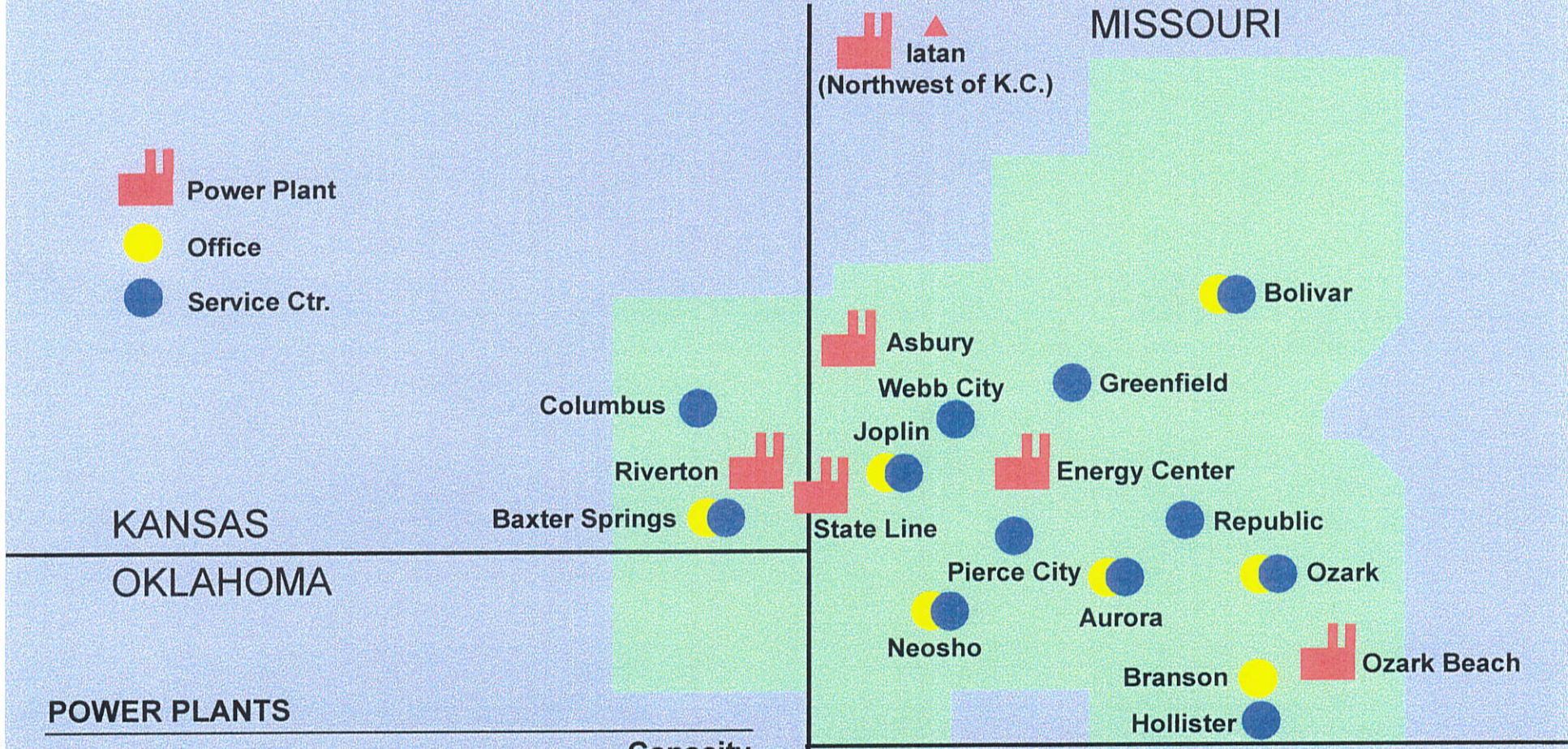
6. Empire has the newest generation – a state-of-the-art, 500 MW gas-fired, combined-cycle unit. Ownership is Empire (300 MW) and Westar (200 MW). This facility is the cleanest and most efficient of new generation.
7. Empire's total generation capability is around 1,300 MW with 2% hydro, 43% coal-fired and 55% gas-fired generation.
8. Empire will bring on-line, this spring, another 100 MW of new gas-fired generation.
9. Customer energy growth is excellent, around 2.8% per year.
10. Empire's winter and summer peak-loads are almost the same, just over 1,000 MW, resulting in a high capacity factor of 55%.
11. Empire's Kansas electric rates, since July 2002, for a residential customer are 6.9 cents winter and 7.6 cents summer. The previous rates, dating back to 1994, were 5.7 cents winter and 6.2 cents summer.
12. Empire's proposed merger with UtiliCorp, now Aquila, was terminated January 2001.

EMPIRE'S OUTLOOK

1. Empire wants to remain a regulated, vertically integrated, electric utility .
2. Energy growth is higher than the national average, so new generation will be necessary.
3. Empire's coal-fired generation is aging, and its replacement is our most pressing concern. By 2010, we'll have very old, coal-fired plants – Riverton will be 60 and Asbury will be 50 years old.
4. Changes in federal clean air law will be a significant influence on our decisions regarding future generation - refurbishment versus new construction.

THE EMPIRE DISTRICT ELECTRIC COMPANY SERVICE AREA

-  Power Plant
-  Office
-  Service Ctr.



POWER PLANTS

Name	Location	Capacity (Kilowatts)
Asbury	Asbury, MO	211,000
Energy Center	Sarcoie, MO	180,000
Iatan	N.W. of Kansas City, MO	80,000 *
Ozark Beach	Forsyth, MO	16,000
Riverton	Riverton, KS	170,000
State Line	Joplin, MO	401,000 *

* - Empire's share



Testimony before the

Joint House and Senate Utilities Committees

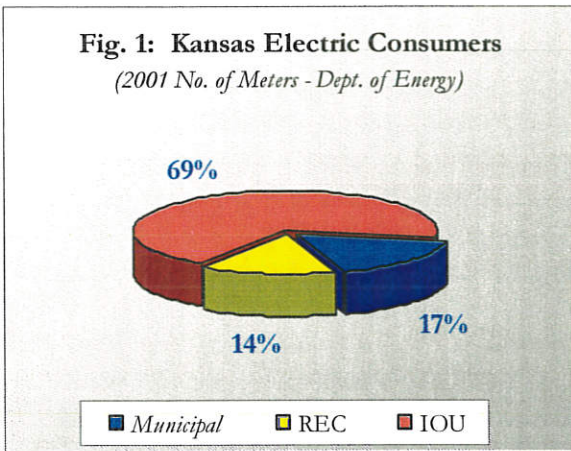
January 15, 2003

Colin Hansen

Executive Director

Kansas Municipal Utilities

Kansas Municipal Utilities (KMU) is the statewide association representing the interests of 159 Kansas municipal electric, natural gas and water utilities. Founded in 1928, KMU is currently celebrating its 75th year of service to member communities. These 159 member communities currently provide utility services to over one million Kansans.

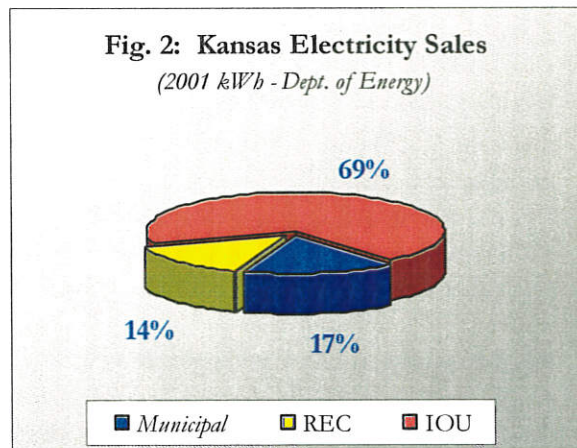


Today, there are 120 municipal electric utilities that provide service in Kansas. These utilities range in size from the Kansas City Board of Public Utilities, serving over 65,000 customers and most of Wyandotte County, to the City of Radium with a grand total of 22 meters and 47 residents. Overall, municipal utilities serve approximately 17% of the electric customers in the state.

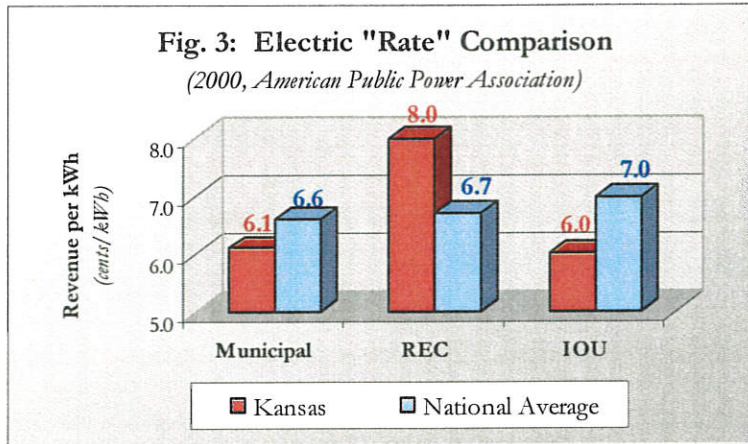
Municipal utilities also account for approximately 17% of electricity sales in the state. A portion of this electricity is self-

generated, with 63 of the 120 municipals owning generating capacity. However, the majority of this generation is comprised of diesel or natural gas peaking units with the community's baseload power typically purchased on the wholesale market. A number of municipal utilities receive an allocation of energy from federal hydropower projects through the Western Area Power Administration (WAPA) and the Southwestern Power Administration (SWPA).

Many municipal electric utilities in the state also work through their joint action agency to coordinate energy purchases. Under the guidelines of K.S.A. 12-885, the Kansas Municipal Energy Agency (KMEA) was organized in 1980. KMEA is the state municipal joint action agency that serves its 55 member cities by purchasing and arranging for transmission of electricity for redistribution among individual cities.



Senate Utilities
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Attachment 3-1



Citizens in municipal utility communities enjoy relatively low electric rates. Residential "rates" (estimated by calculating revenue per kilowatt-hour in each customer class) average approximately 7.7 cents per kilowatt-hour for Kansas public power communities. Rates for all customer classes (residential, commercial and industrial

combined) average 6.1 cents per kilowatt-hour, significantly less than national averages. We feel that the low rates are due primarily to public power's not-for-profit status and efficient management and operations.

There are numerous issues that have been of concern to municipal electric utilities over the past few years. One of the most pressing has been that of utility security. KMU members have been trying to evaluate how to best protect their power plants and other utility infrastructure while also employing just good, plain common sense. I might note that KMU – through an American Public Power Association (APPA) grant developed by engineering subcontractors Black & Veatch – is currently finishing up a *Vulnerability Assessment and Mitigation Manual* that we believe will be the standard used by all public power systems across the nation.

Two other issues that continue to be of interest to the KMU membership are the availability of transmission capacity and the ability of small municipal systems to properly train and retain key employees. In general, municipal utilities in Kansas are considered "transmission dependent utilities," relying on larger utilities to provide much-needed transmission service. The small size and lack of transmission ownership by most municipal utilities cause great concern about their ability to arrange transmission service in the future, as lines become more and more strained. We continue to monitor activities at both the Federal Energy Regulatory Commission (FERC) – such as the recently issued Standard Market Design (SMD) rulemaking – and in Congress with great interest and would be supportive of efforts to increase the amount of transmission in the state.

A long-term trend stemming from the uncertainty about available transmission has been a movement of municipal electric utilities to develop their own community generation. By owning and operating their own intermediate and peaking units, public power systems are less reliant on scarce peak-day transmission capacity. We see this trend continuing, with such medium and small communities as Chanute, Russell, Mulvane, Sterling, Baldwin City and others adding significant generation.

Finally, our membership continues to be concerned about the retention of key utility employees – especially electric linemen. As with most small, rural communities, "brain drain" is a constant threat. Unable to compete with the employee salaries of larger utilities, KMU is in the process of initiating a new job training and safety program to train local workers to become active and effective municipal utility professionals.