

MINUTES OF THE SENATE UTILITIES COMMITTEE.

The meeting was called to order by Chairperson Senator Stan Clark at 9:30 a.m. on February 25, 2003 in Room 231-N of the Capitol.

All members were present except: Senator Tyson, excused

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

Conferees appearing before the committee:

Others attending: See attached list

Chair continued action on

SB 51 - prohibiting the exclusion of excessive employee compensation ("golden parachutes") in public utility rates-

Consideration was turned to the motion on the table -

Moved by Senator Barone, seconded by Senator Clark, to amend SB 51 to exclude telecommunications companies under price cap regulation from the provisions to disclose ranges of salaries on page 2, line 12. Motion failed.

Revisor had provided a markup of **SB 51** as amended by action taken by the committee on February 21, 2003. (Attachment 1)

Moved by Senator Emler, seconded by Senator Lyon, further amend S.B. 51 by deleting lines starting on page 1, line 14 thru page 2, line 10. Motion carried.

The minutes to reflect it is the intent of the committee that KCC should use page 2 lines 19 thru 27 as a laundry list for guidelines for preparing rules and regulations

Moved by Senator Taddington, seconded by Senator Lee, amend SB 51 on page 2, line 30 by changing the language "an increase" to "a change". Motion carried.

Moved by Senator Emler, seconded by Senator Brownlee, SB 51 be passed out favorably as amended. Motion carried.

Chair instructed the Kansas Corporation Commission to use the language we have to define excessive compensation as a model to prepare the rules and regulations.

Chair reopened for action on

SB 80 - Public Utilities, Commission approval for selling, assigning or leasing certain assets.

After the action taken by the Federal Energy Regulatory Commission (FERC) on February 20 which set stricter debt terms for US Utilities, KCC was requested to provide a list of companies this action would involve. KCC reported Kansas has KSA 66-125 which applies only to Kansas incorporated utilities and affects only Westar and Empire who are required to come to KCC unless they have the option also of going to another entity which could be FERC, another state or FCC. Depending on the company, they can go to a variety of options to get authority. Decision to take no action.

No further meetings have been scheduled.

Adjournment.

Respectfully submitted,
Ann McMorris, Secretary
Attachments - 1

SENATE UTILITIES COMMITTEE GUEST LIST

DATE: **FEBRUARY 25, 2003**

Name	Representing
Bruce Graham	KEPC
Anne Spiess	KTIA
Don Holhaus	KEC
Tim Pickering	SBC
Jusan Cunningham	KCC
John McNish	KCC
Phil Sanchey	KCC
MARK SCHREIBER	Westar Energy
Shirley Allen	SITA
Steve Miller	Sunflower
Robert Michael	Midwest Energy Inc
Whitney Gannon	KS Gas Service
Doug Smith	SITA

SENATE BILL No. 51

By Senators Buntin and Clark

1-22

AN ACT concerning public utilities; relating to certain employee compensation; prohibiting inclusion in rates.

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

Section 1. (a) As used in this section:

(1) "Excessive compensation" ~~means any one or more of~~ the includes but is not limited to following:

(A) The value of pension benefits, insurance policies, stock, stock options, annuities or deferred compensation plans that exceeds the value of similar benefits, policies, stock, stock options, annuities or other compensation plans routinely offered to all the utility's fulltime employees, or to its employees generally;

(B) the value of severance payments in excess of those routinely offered to all the utility's fulltime employees, or to its employees generally, when they terminate employment with the utility;

(C) the value of compensation for time spent on unregulated activities;

(D) the value of compensation for time spent solely on behalf of shareholders;

~~(E) the value of compensation that conceals profits;~~

~~(F) the value of management incentive or bonus payments which are not in accordance with management's proportion of the payroll;~~ (E)

~~(G) the value of merit increases for executives or senior management which are not supported by evidence of increased productivity, increased cost savings, improved quality of service or improved financial stability and performance of the utility;~~ (F)

~~(H) the value of compensation which is not proportionate to the compensation of persons holding similar positions with other utilities in Kansas and the surrounding four states;~~ (G)

~~(I) the value of compensation of any kind made during a test period to any employee who was not employed by the utility during the test period;~~

~~(J) the value of nonmonetary benefits paid for by the utility, or provided by the utility to executives, managers or their spouses or families, which are not routinely provided to all the utility's fulltime employees, to~~ (H)

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Attachment 1-1

1 the utility's employees generally or to employees' spouses and families
 2 generally, such as, but not limited to: Vehicles; club memberships; en-
 3 hanced or luxury travel arrangements or accommodations; enhanced or
 4 luxury living quarters; or any other such nonmonetary benefits that are
 5 not essential for conducting business activities on behalf of ratepayers; or
 6 ~~(4)~~ the value of any expenditure made by the utility for any insurance
 7 policy in the name of a current, former or departing employee, if the
 8 utility is a beneficiary of the policy, including any expenditures resulting
 9 from any loan taken out on such a policy and any payments made by the
 10 utility from the proceeds of such loans.

(1)

11 (2) "Public utility" has the meaning provided by K.S.A. 66-104, and
 12 amendments thereto.

(3) "Compensation" has the same meaning as provided by 17 CFR
 229.402, as in effect on July 1, 2003, or any later version as established in rules
 and regulations adopted by the state corporation commission.

13 (b) No public utility providing excessive compensation to any em-
 14 ployee shall recover the value of the excess from the utility's ratepayers.

15 (c) The state corporation commission shall allow a public utility to
 16 recover from ratepayers only that employee compensation, including
 17 compensation of executives and senior management employees, which
 18 the commission finds:

- 19 (1) Benefits ratepayers;
- 20 (2) is justified by the productivity, cost savings, quality of service,
 21 overall performance and financial condition of the utility;
- 22 (3) is reasonable compensation in comparison to regional norms in
 23 the utility industry;
- 24 (4) was paid within any test period, for work performed during the
 25 test period;
- 26 (5) will not result in unjust or unreasonable rates; and
- 27 (6) is otherwise not excessive compensation.

28 (d) The state corporation commission shall review compensation of a
 29 public utility's employees as a part of any proceeding before the com-
 30 mission which may result in an increase of the utility's rates. The com-
 31 mission shall deny recovery from ratepayers that amount of the value of
 32 any compensation which the commission finds is excessive compensation
 33 or does not meet the conditions stated in subsection (c), by excluding that
 34 amount from the utility's cost of service, or otherwise excluding it from
 35 rates. Whether shareholders have approved the compensation in question
 36 shall not be considered by the commission in determining whether com-
 37 pensation is excessive compensation. A public utility shall have the burden
 38 of proving that compensation of current, former and departing employ-
 39 ees, including compensation of executives and senior management em-
 40 ployees, is not excessive compensation and that such compensation meets
 41 the conditions stated in subsection (c) before recovery of such compen-
 42 sation shall be allowed in rates.

(e) A publicly traded public utility shall file a clear, concise and
 understandable disclosure statement on or before April 1 of each year with the
 state corporation commission disclosing the compensation ranges of the
 officers of the public utility for the preceding calendar year. The disclosure
 statement required to be filed under this subsection shall be open for inspection
 by any person in accordance with K.S.A. 45-218, and amendments thereto.

43 ~~(e)~~ Any federal or state tax liabilities of any employee or public utility

(f)

1 for compensation considered excessive under this section shall not reduce
2 the amount that is to be excluded from the utility's cost of service or
3 otherwise excluded from rates.

4 ~~(f)~~ The provisions of this section shall apply to any proceedings pend-
5 ing before the state corporation commission on the effective date of this
6 act and to all proceedings filed with the commission on or after that date.

(g)

7 Sec. 2. This act shall take effect and be in force from and after its
8 publication in the statute book.

(h) The state corporation commission may adopt reasonable rules and
regulations to implement the provisions of this section.

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