

Approved: March 23, 2004 *Carl Dean Holmes*
Date

MINUTES OF THE HOUSE COMMITTEE ON UTILITIES.

The meeting was called to order by Chairman Carl D. Holmes at 9:08 a.m. on March 9, 2004 in Room 231-N of the Capitol.

All members were present except: Representative Eric Carter

Committee staff present: Mary Galligan, Legislative Research
Dennis Hodgins, Legislative Research
Mary Torrence, Revisor of Statutes
Jo Cook, Administrative Assistant

Conferees appearing before the committee: Tom Day, Kansas Corporation Commission

Others attending: See Attached List

Chairman Holmes announced the formation of a sub-committee on **HR 6026**. The members include Representatives Sloan, Krehbiel, Kassebaum, Dillmore and Svaty.

Representative Sloan distributed a booklet entitled "Broadband for Rural American - 2002 Status Report" to the committee (copy available from Kansas Legislative Research Department).

SB 309 - Increasing certain penalties for public utilities or common carriers

Chairman Holmes opened the hearing on **SB 309**.

Tom Day, Legislative Liaison for the Kansas Corporation Commission, testified in support of **SB 309** (Attachment 1). Mr. Day stated that the Commission had requested the introduction of the proposed legislation in Senate Utilities. He told the committee that even though the Commission had not recently imposed fines under the statute, they felt that the potential penalties should be large enough to be a meaningful and significant incentive for compliance with the Commission requirements. Mr. Day responded to questions from the committee.

Chairman Holmes closed the hearing on **SB 309**.

The meeting adjourned at 9:38 a.m.

The next meeting will be Wednesday, March 10, 2004.

HOUSE UTILITIES COMMITTEE GUEST LIST

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NAME	REPRESENTING
Steve Johnson	Kansas Gas Service / ONEOK
Tom Day	KCC
Janet Buchanan	KCC
Sandy Braden	GRE/KCP
Denny Koch	SBC
Jim Garkner	SBC
Megan Chalfant	Burgess & Associates
Mike Reecht	AT&T
Bruce GRAHAM	KCP
Dave Holtzhus	KEC
Tom Gleason	Independent Telecom Group
Joe Dick	KCBPU

BEFORE THE HOUSE COMMITTEE ON UTILITIES
PRESENTATION OF THE
KANSAS CORPORATION COMMISSION ON

SB 309

Tom Day—Legislative Liaison
March 9, 2004

The Commission requested amendments to K.S.A. 66-138 and 66-177 with the introduction of Senate Bill 309. K.S.A. 66-138 provides the Commission with authority to impose a penalty on common carriers or utilities for violation of statutory or lawful Commission requirements. The penalty is to be a sum not less than \$100 and not more than \$1,000 per violation. K.S.A. 66-177 provides for civil penalties of not less than \$100 nor more than \$5,000 for willful violations, to be recovered in courts. The Commission wishes to increase the maximum penalties to \$20,000.

Although the Commission has not recently had many reasons to impose fines under K.S.A. 66-138, the potential penalties should be large enough to be a meaningful penalty and a significant incentive for compliance with KCC requirements. The current maximum of \$1,000 is inadequate as a meaningful penalty and provides no real deterrent relative to the millions of dollars at stake with regard to some issues. The penalty amounts set forth in the statutes are 92 years old (L. 1911, Ch. 238, §38) and need to be updated to at least reflect inflation. Using the Consumer Price Index, the inflation factor since 1911 is 19.653, which means \$1,000 in 1911 is now worth \$19,563. In addition, an increase in the maximum penalty is necessary to reflect the increase in the size of jurisdictional utilities. Although information on the size of Kansas utility companies in 1911 is not readily available, it is safe to suggest that, with consolidations and other growth, utilities are many times larger now than then, when measured by revenues.

HOUSE UTILITIES

DATE: 3-9-04

ATTACHMENT 1

The Commission has not, to my knowledge, proceeded under K.S.A. 66-177 to seek civil penalties in courts for willful violations. However, the maximum amount in that statute should also be increased to at least be consistent with K.S.A. 66-138. Currently, the maximum under -177 is five times that under -138. If that existing relationship between the maximums for willful and other violations were to be kept, the maximum penalty under K.S.A. 66-177 should be increased to \$100,000.

The Senate Committee on Utilities amended the statutory provision under KSA 66-138 to be a maximum of \$5,000 per day per violation and removed the amendment to KSA 66-177. The Kansas Corporation Commission would ask the House Utilities Committee to amend SB 309 back to the original language as introduced in the bill.

Thank you for your consideration of this bill and the Commission's request to amend this bill back to its original version. I would be glad to answer any questions the Committee may have.

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