

MINUTES OF THE SENATE UTILITIES COMMITTEE

The meeting was called to order by Chairman Stan Clark at 9:30 a.m. on January 28, 2004 in Room 526-S of the Capitol.

All members were present.

Committee staff present:

Bruce Kinzie, Revisor of Statutes
Raney Gilliland, Legislative Research
Emalene Correll, Legislative Research
Ann McMorris, Secretary

Conferees appearing before the committee:

Don Low, Kansas Corporation Commission

Others attending:

See Attached List.

Bill Introduction

Moved by Senator Taddiken, seconded by Senator Emler, introduction of a bill regarding recovery of security costs by utilities. Motion carried.

Chairman Clark opened the hearing on

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

Proponent

Don Low, Director of the Utilities Division, Kansas Corporation Commission (Attachment 1)

This request for amendments to K.S.A. 66-138 and 66-177 would increase penalties on common carriers or utilities for violation of statutory or lawful Commission requirements from the current maximum penalty of \$1,000 per violation to \$20,000 per violation in K.S.A. 66-138; and in K.S.A. 66-177 to seek civil penalties in courts for willful violations would increase maximum penalties to \$20,000.

The current penalties set forth in the statutes are 92 years old and KCC felt they needed to be updated to at least reflect inflation.

Closed hearing on **SB 309**.

Chair opened for discussion. Questions were asked concerning definition of occurrence, recourse, fines levied in past years and amounts collected. Concern was expressed on giving so much statutory power to KCC. After considerable debate on the pros and cons, the committee requested that information be provided on (1) the Southwestern Bell penalty case as discussed in the Interim Commerce Committee, and (2) KCC prepare a listing of all fines for the past several years which were levied by KCC but possibly waived and the reason therefor.

The next meeting of the Senate Utilities Committee is scheduled jointly with the House Utilities Committee on January 29, 2004.

Adjournment.

Respectfully submitted,
Ann McMorris, Secretary

Attachments - 1

SENATE UTILITIES COMMITTEE GUEST LIST

DATE: January 28, 2004

Name	Representing
D. S. Kocou	SBC
Jim Garbner	SBC
Bill Sneed	PSIW
Judy Shaw	WTEC
Anne Giess	KTIA - KS Telecomm. Industry Assn.
Don Lowr	KCC
JOHN C. BOTTENBERG	WESTAP
Chris J. Nord	Sen. Oteen
TOM DAY	KCC
STEVE JOHNSON	Kansas Gas Service
JC Long	AQUILA, INC.
Paula N. Johnson	KCC
Dave Helthuser	KCC
Doug Smith	SITA

**BEFORE THE SENATE COMMITTEE ON UTILITIES
PRESENTATION OF THE
KANSAS CORPORATION COMMISSION ON**

SB 309

Don Low – Director of the Utilities Division
January 28, 2004

The Commission is requesting amendments to K.S.A. 66-138 and 66-177. 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.

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

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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.

Thank you for your consideration of this bill. I would be glad to answer any questions the Committee may have.