Approved: 3-16-04
Date

MINUTES OF THE SENATE UTILITIES COMMITTEE

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

All members were present except:
Senator Robert Tyson- excused

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

Conferees appearing before the committee:
Rep. Tom Sloan
Bruce Graham, Sunflower Electric Power Corporation
Alan Myers, Aquila
Mark Schreiber, Westar Energy
Larry Holloway, KCC
David Springe, CURB

Others attending:
See Attached List.

Chairman Clark opened the hearing on
HB 2516 - Incentives to increase electric transmission system and generation capacity; state corporation commission powers.

Proponents -
Rep. Tom Sloan (Attachment 1)
Bruce Graham, VP, Kansas Electric Power Cooperative, Inc. (Attachment 2)
In conjunction with Sunflower Electric Power Corporation and
Kansas Electric Cooperatives, Inc.
Alan Myers, Transmission Services, Aquila (Attachment 3)
Mark Schreiber, Senior Manager, Govt. Affairs, Westar Energy (Attachment 4)

Neutral
Larry Holloway, Chief of Energy Operations, KCC (Attachment 5)
KCC has some concerns and proposed amendments to the bill by deleting New Sections 3 and 7 and changing the language in New Section 8 where the word "shall" appears to the word "may".

Opponents
David Springe, Citizens Utility Ratepayer Board (Attachment 6)

Chairman Clark summarized the Wyoming Infrastructure Authority legislation. This legislation would create an agency to fund grid projects for new plants. Full text can be found at:
Http://legislweb.state.wy.us/2004/engross/SF0052.pdf

Chair opened for discussion. Questions regarding time requirement on depreciation, clarification on the proposed amendments to **HB 2516** by KCC, cost apportionment for building transmission lines across the state. Further discussion will be held at a later meeting.

The next meeting of the Senate Utililties Committee is scheduled for March 10, 2004.

Adjournment.

Respectfully submitted
Ann McMorris, Secretary
Attachments - 6

SENATE UTILITIES COMMITTEE GUEST LIST

DATE: **MARCH 9, 2004**

Name	Representing
J C Long	AQUILA, INC.
Alan F. Myers	Aquila, Inc
Mark Schreiber	Westar Energy
Joe Dick	KCBPU
Rep. Tom Sloan	House Utilities Comm.
NIKI CHRISTOPHER	CURB
Shelby Stacy	Midwest Energy
BRUCE GRAHAM	KEPCo
Dave Holthaus	KEC
Don Hellwig	DSTO REC
Kevin Parks	Sierra Club
Sandra Braden	GPE/KCPL
[illegible]	Hein Law Firm
TOM DAY	KCC
LARRY HOLLOWAY	KCC
David Springe	Curb

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STATE OF KANSAS

TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENT
CHAIRMAN: HIGHER EDUCATION
MEMBER: UTILITIES
ENVIRONMENT
GENERAL GOVERNMENT & HUMAN RESOURCES
BUDGET

Testimony on HB 2516 – Transmission System Enhancement Incentives

Mr. Chairman, Members of the Committee: Kansas has been recognized by the Chairman of the Federal Energy Regulatory Commission (FERC), the leadership of the Southwest Power Pool (SPP), NCSL, and other groups for its leadership on transmission and generation issues. At a recent meeting of the SPP's regional planning group in Wichita, the unique partnership between Kansas' policy-makers and electric providers to benefit consumers and economic development was specifically noted.

HB 2516 has nothing to do with the Flint Hills, instead it focuses on issues identified in "Western Kansas" (west of Salina) that are impediments to moving power from the proposed Sand Sage II coal plant to markets, reducing constraints on bringing in low cost power (when it is available) from out-of-state, and addressing on-going operational problems caused by Nebraska (Gentleman, NE line) and Colorado (Xcel's inadequately designed interconnection) utilities.

HB 2516 seeks to incrementally expand the existing public-private partnership and address several opportunities that currently exist. Section 2 authorizes the Kansas Development Finance Authority to participate in marketing bonds for transmission lines that cross state borders. Previous legislative actions provided such authority for lines within the state. However, discussions between transmission operators and KDFA quickly identified that having a new or upgraded transmission line stop at a state border would not benefit our state and consumers. Section 2 requires that KDFA may participate only if the investment is determined to be fiscally responsible and a majority of the investment is made in KS.

Section 3 authorizes the KCC to provide for recovery of capital expenditures on transmission lines in 15 years, instead of the current 20-year period. This is in keeping with the FERC and National Energy Bill directions.

Section 4 addresses a tax liability issue. Under current law, a new generator must construct the facilities necessary to connect to the grid and then "give" those facilities to the transmission operator. This creates a tax liability for the grid operator. Section 4 states that such facilities may be granted or leased to the transmission operator upon agreement between the parties and approval by the KCC.

Section 5 simply clarifies existing statutes that the KCC may approve the sale or operational transfer of transmission lines by a Kansas utility to a FERC-approved independent transmission system operator or regional transmission organization. The KCC shall provide for reasonable

Senate Utilities Committee
March 9, 2004
Attachment 1-1

sharing of proceeds from asset sales to ratepayers and the utility.

Section 6 specifies that the statutes uniformly reflect that electric transmission line means a line at least five miles in length and transferring 34.5 kilovolts or more of electricity. This section expands the number of projects that are eligible for KDFA assistance and relates to Section 10 of this bill that authorizes KDFA partnerships with municipal electric utilities.

Section 7 addresses House members' interests in stimulating economic development in rural counties. Under current law, all revenues above operating costs of utility "off system" power sales benefit ratepayers. Section 7 permits the utility to retain 10 percent of those 'profits' from new or expanded electric generation plants located in counties that are experiencing a decline in population.

Section 8 directs the KCC to permit recovery of prudent investments by electric utilities for research and development or for investment in research by nationally recognized centers. This section removes doubt that such investments are recoverable and is designed to encourage partnerships between Kansas' utilities and industry research centers. It reflects House members' belief that sound research will benefit Kansas ratepayers in the future. An example of practical applications of research is the Kingman-Aquila collaboration that will be the first commercial application of a new type of transmission line that is more heat resistant and has a higher capacity.

Section 9 is the current statute providing for advance determination by a utility from the KCC of how investments in new generation and transmission services will be considered from a rate perspective. Section 9 simply reduces the transmission line component from 69 kv to 34.5.

Section 10 provides for KDFA-municipal utility partnerships as was noted above and, as in Section 8, reflects the innovative partnerships that the City of Kingman, KS, has developed to install and test a new, more expensive, type of transmission line with great potential.

Mr. Chairman, I remind the Committee that KDFA assistance does not result in any liability or financial obligation to the State of Kansas. I also reiterate one of my opening statements, HB 2516 is an incremental change in existing statutes to assist Kansas' utilities and consumers export-import electric power – whichever is in our collective best interests. The most important aspect of HB 2516 is that it will serve to keep consumer electric bills as low as possible; the second most important good is to keep the partnership between Kansas' policy-makers and utilities before FERC and the SPP.

I will be pleased to respond to questions.

From: "Stan Clark" <sclark@ink.org>
To: <sclark@ink.org>
Date: 3/9/04 9:05AM
Subject: FW: FW: Sounds like a good idea!

Sen. Clark

I checked out the Wyoming Infrastructure Authority legislation mentioned below. The legislation can be found at:

http://legisweb.state.wy.us/2004/engross/SF0052.pdf

-----Original Message-----
From: Miller, Steve [mailto:smiller@sunflower.net]
Sent: Friday, March 05, 2004 2:01 PM
To: Stan Clark (clark@senate.state.ks.us); Carl D. Holmes 125 (repcarl@aol.com); Tom Sloan 45 (sloan@house.state.ks.us)
Cc: Bruce Graham; Dave Holthaus
Subject: Sounds like a good idea!

Megawatt Daily - March 5, 2004
WYOMING TO CREATE AGENCY TO FUND GRID PROJECTS FOR NEW PLANTS

Wyoming Gov. Dave Freudenthal plans to sign legislation approved by the state Legislature Wednesday that would establish a state agency authorized to issue up to $1-billion in bonds to build transmission lines in support of new generation projects in the state, an aide to the governor said Thursday. The bill (SF 52) calls for creation of the

Wyoming Infrastructure Authority, led by a five-member board to be appointed by the governor.

The authority will work with utilities to build and upgrade transmission lines and would finance, own and build the lines in instances where private investment isn't forthcoming. Wyoming has massive coal and wind reserves, but little transmission capability, according to bill supporters. If new lines are built, coal and wind power can be generated in the state and exported, boosting the local economy, they say.

Salt Lake City and Denver would be two key markets for exports from Wyoming, the aide said, adding that California would be the ultimate market.

Steve Miller

Sr. Mgr., External Affairs

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TESTIMONY SUBMITTED TO THE SENATE UTILITIES COMMITTEE

By
Steve Miller, Senior Manager, External Affairs
SUNFLOWER ELECTRIC POWER CORPORATION

Bruce Graham, Vice President, Member Services & External Affairs
KANSAS ELECTRIC POWER COOPERATIVE, INC.

David Holthaus, Manager, Government Relations
KANSAS ELECTRIC COOPERATIVES, INC.

March 9, 2004

Thank you, Mr. Chairman and members of the Committee for providing the electric cooperatives in Kansas time to speak today on the Substitute for House Bill 2516, a proposal we believe has the potential to bring about improvements to the electric power supply and delivery systems in Kansas.

Sunflower's engineers have suggested a change in the proposed language to clarify the meaning with regard to the voltage of transmission lines throughout the bill. Our suggestion is as follows:

> …for the bulk transfer of ***electricity on transmission lines with a design or operating voltage of*** 34.5 kilovolts or more of electricity.

The need for this change would be required on:
page one, beginning on line 26;
page three, beginning on line 11; and
page six, beginning on line 14.

The reason we suggest this change is that kilowatts (or megawatts) are transferred through these lines whose capacity ratings are measured in kilovolts.

Alternatively, and perhaps a simpler change given the evolution of the definition of transmission line in this bill, would simply be to modify the definition of electric transmission line on page one, lines 28-30 by adding to the end of the definition the following:

"on lines with a***n*** ***design or*** operating voltage of 34.5 kilovolts or more.

In this way, you could make one change in the definition and remove what would become duplicative definitions throughout the balance of this bill.

The next changes we suggest are contained in New Section 2 (a). First, the proposed language authorizes KDFA to "assist operators of transmission lines and appurtenances in marketing bonds…" We ask this be modified to include the owners of the transmission lines. It seems to us that financing assistance most likely would be required by transmission line owners.

The second issue we have concerns with pertains to lines that "originate in Kansas." I don't know how one can determine where a transmission line originates. For instance, Sunflower is working to get a line built that would connect its Spearville substation in Ford County Kansas to a substation near Mooreland, Oklahoma owned by the Western Farmers Electric Cooperative. In this case, it seems to us that a point of origination would be difficult to determine. Our suggestion would be that on page 1, line 35 the text would be changed as follows:

35 (a) The ~~lines originate in this state and a~~ majority of the costs of the

This change would eliminate any future argument about whether the line does, or does not, originate in the state.

Section 3 provides for the recovery of capital expenditures in transmission lines over a period of 15 years. This is an understandable proposal for companies that are building transmission facilities, but it could increase rates for all consumers if lines that normally would have been depreciated over 30 years are depreciated in one-half that amount of time. This is the only area where we believe the House did not support the changes suggested by the cooperatives.

Finally, while the impact of this bill may be unclear, cooperatives in Kansas believe that many additional regional and national issues will continue to circulate in this particular area of the utility industry for decades into the future. However, we further believe this proposal won't be a burden on the Kansas taxpayer and it has the potential, as this continuing transmission saga unfolds, to put Kansas in an improved position to take advantage of opportunities as they become available in the future.

We thank you again for the time to speak today and urge you to give favorable consideration to this bill.

Testimony on Sub House Bill No. 2516
Senate Utilities Committee
March 9th , 2004

Prepared by
Alan Myers
Transmission Services
Aquila Networks – WPK

Aquila Networks – WPK (Aquila) fully appreciates this opportunity to testify on Substitute House Bill 2516. Without a doubt, all of us realize that there is a need to expand and improve the transmission system in the State of Kansas, in order to improve electric system reliability and to provide the infrastructure for pending energy markets. We strongly support this committee's vision to supply the State of Kansas with a reliable and reasonably priced transmission system that provides transmission owners with adequate cost recovery. Substitute House Bill No. 2516 continues to build on the legislative processes that began in 2003 to fulfill that vision. Aquila supports the general intent of this bill as amended by the House Committee.

New Section 1 has adequately defined the terms in New Sections 2 through 6. Aquila would suggest that the term "bulk transfer" be defined since it appears at least three times in New Section 1.

New Section 2 authorizes the KDFA to provide marketing bonds to finance the construction and upgrade of Electric Transmission Lines and Appurtenances that originate in Kansas and have a majority of the costs of the construction and upgrades located in Kansas. The bill in its original form mandated that 85% of the new construction or upgrades must be located in Kansas. We believe that the change made by the subcommittee to strike this arbitrary percentage made sense and would encourage the committee to retain section 2 in its current form. Further, we believe this change to current law will increase the value to House Bill No. 2018 (KDFA financing of utility transmission infrastructure) passed last year. As a matter of fact, Aquila has visited with the officers of KDFA to discuss the possibility to using KDFA bonds for transmission enhancements in SW Kansas. Our enhancements in the SW Kansas are designed to provide additional voltage support for the area as well as potentially provide the resources necessary to support an additional wind farm.

Aquila fully supports New Section 3. Providing a 15-year depreciation cycle provides an incentive for a transmission owner to construct. This section is a positive addition to the proposed bill.

Aquila supports New Section 5. Aquila believes that if FERC approves the sale of transmission lines or contract for transmission operation, the Commission may approve and provide mechanism for appropriate ratemaking treatment. We do see where an issues can arise if the FERC approves a sale of transmission lines and the KCC does not.

Aquila supports the modifications proposed for Sections 6,7, 8, 9, 10, and 11. Finally, Aquila supports the language in New Sections 7.

As can be seen by the testimony, Aquila supports House Bill No. 2516. We would encourage your favorable consideration of this bill.

Thank you again Mr. Chairman for the opportunity to testify today.

Testimony on Substitute for HB 2516 before the Senate Utilities Committee by Mark Schreiber, Westar Energy March 9, 2004

Chairman Clark and members of the committee, I am Mark Schreiber, senior manager government affairs for Westar Energy. Thank you for the opportunity this morning to address Substitute for HB 2516.

This bill provides several incentives to the electric industry, especially for investments in construction or upgrades of transmission facilities. It provides economic development incentives to encourage higher retention of benefits for transmission and generation investments, especially but not exclusively directed toward counties with stagnant or declining populations.

It is difficult to know what incentives will be effective until Congress and FERC have established definitive ground rules. Last year this legislature enacted legislation that allows transmission costs to be recovered through a separate charge that can be changed to account for fluctuations in transmission costs. The charge and changes to it are to be set upon application to the KCC. We believe this law is a sound and foresighted way to address federal transmission policy that is still developing. In previous years, members of the Senate and House Utilities Committees have been in front on emerging transmission policy. We commend them for their diligence.

Meanwhile, if this committee wants to act before federal policy is in place, we would recommend that New Section 3, which is imposed on the KCC, be conditioned upon the authority it retains once federal policy is known. We recommend that New Section 3 be amended so that when the KCC is required to allow recovery of transmission investments, it does so to the extent costs remain under its jurisdiction. Otherwise, some transmission costs could arguably be recovered twice, once through FERC-approved rates and then again because the KCC is directed to allow recovery upon application.

Another option is for the committee to wait for several processes to unfold. The first would be to wait for Congress and FERC to act. Second, last October the state's utilities, the KCC, and members of the legislature participated in a meeting to review the Northeast blackout and proposals on how to prevent such an event from happening in Kansas. The primary message was that the region, working at the federal level, must provide the tools for enhancing the transmission system affecting reliability in our state. The heavy lifting is now in the hands of the federal government and regional power pools or regional transmission organizations. Third, the State Energy Resources Coordinating Council's (SERCC's) transmission task force has preliminarily found that the state's transmission system is controlled more by forces outside the state. It also has found the existing transmission system in Kansas is adequate and reliable. This task force is trying to identify upgrades that will be needed in the future. Some needed upgrades affecting Kansas are located outside the state, at "choke points" that can impede importing and exporting power. These "choke points" are unfortunately beyond the reach of state legislatures. During the June transmission summit in Lawrence with FERC chairman Pat Wood several of these transmission constraints were identified.

Thank you for the opportunity to address the committee this morning.

BEFORE THE SENATE UTILITIES COMMITTEE
PRESENTATION OF THE
KANSAS CORPORATION COMMISSION
March 9, 2004
Substitute HB 2516

Thank you, Chairman and members of the Committee. I am Larry Holloway, Chief of Energy Operations for the Kansas Corporation Commission. I appreciate the opportunity to be here today to provide comments on Substitute HB 2516.

This bill contains numerous provisions providing incentives for electric transmission and generation. While we generally support the intent of this legislation, we do have concerns and recommendations regarding three sections of the bill.

Section 3 of the Bill

Section 3 of the bill requires the KCC to allow recovery of capital expenditures for construction or upgrades of transmission facilities over a period of 15 years. We have two concerns with this section of the bill. First, allowing accelerated recovery of any utility asset is effectively discriminating between generations of ratepayers. Today's ratepayers end up paying for the benefits received by future ratepayers. This is a departure from sound ratemaking principles. Nonetheless, we recognize this accelerated recovery is occasionally allowed by policy makers to provide incentives for improvements that they believe are in the public interest.

The second concern involves jurisdiction. Incentives for transmission facilities at the state level may have little or no affect on the majority of electric transmission owners in Kansas. Last year the Legislature passed HB 2130 which required the KCC to allow electric utilities to pass through transmission charges approved by the Federal Energy Regulatory Commission (FERC). The majority of Kansas transmission owners are

Senate Utilities Committee
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obligated under regional and federal proposals to deliver transmission service to their retail customers under transmission tariffs approved by the FERC, and HB 2130 codifies those initiatives to pass through FERC-approved transmission charges to Kansas retail customers. While section 3 of this bill envisions the KCC allowing accelerated depreciation recovery in retail transmission rates, the reality is that last year's legislation and current practices dictate that these rates will likely be set by the FERC. As a result, this section of the bill will have no real effect or incentive on most Kansas electric transmission owners.

Nonetheless, to the extent the KCC has jurisdiction over transmission rates, it would appear to make more sense to allow the KCC to consider federal policies and incentives, whatever they may be, either now or in the future, when considering state rate treatment of similar assets. To the extent the KCC has jurisdiction over similar transmission assets, the mandatory provisions under Section 3 of this bill could actually prevent the KCC from coordinating such initiatives. For these reasons we recommend that this section of the bill be removed, or, as an alternative, that the word "shall" be changed to "may" on page 1, line 42 of Substitute HB 2516.

Section 7 of the Bill

Section 7 of this bill provides an incentive for electric utilities to construct generating plants in certain counties by allowing the utility to retain benefits equivalent to 10% of the net revenues from sales of electricity generated in Kansas and sold outside of the state. In most rate cases, the KCC uses revenues generated from off system sales to offset the costs of a utility's generating units, thereby reducing the burden on the utility's ratepayers. This section of the bill envisions an incentive that would allow the utility's shareholders to keep a portion of these revenues. While we recognize that the Legislature may desire this incentive, we are also obligated to note that the utility's ratepayers would pay for this subsidy.

As an alternative we would recommend that the word "shall" on page 3, line 18 of Substitute HB 2516 be changed to "may". This would give the Commission discretion in allowing such an incentive, and make the language similar to that of K.S.A. 66-1,184a, which grants the Commission discretion in allowing a utility to retain off-system sales revenue for purchasing renewable energy.

Section 8 of the Bill

This section of the bill would require the KCC to allow electric utilities to include in rates certain expenditures on research and development by nationally recognized research centers. We have two concerns about the wording of this section of the bill. First, we would note that the KCC has traditionally allowed such expenditures, and we are concerned that this bill would make such allowances mandatory. Mandatory provisions could affect the KCC's ability to protect ratepayers in certain circumstances. Second, we note that the exact language of the bill qualifies expenditures "... for research and development by the utility or for investment in research and development by research centers determined by the commission to be nationally recognized." Under this language the only determination by the Commission is that the research center be nationally recognized. This language could be misconstrued to allow utility recovery of research and development expenditures even if such research was not at all related to provision of utility service, as long as the center itself were "nationally recognized."

We believe our concerns can be easily addressed by providing the KCC with discretion to review and allow, or disallow, such expenditures. We recommend that the word "shall" on line 25, page 3 of Substitute HB 2516 be changed to "may."

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Citizens' Utility Ratepayer Board

Board Members:
Gene Merry, Chair
A.W. Dirks, Vice-Chair
Francis X. Thorne, Member
Nancy Wilkens, Member
Carol I. Faucher, Member
David Springe, Consumer Counsel

State of Kansas
Kathleen Sebelius, Governor

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SENATE UTILITIES COMMITTEE
Sub. H.B. 2516

Testimony on Behalf of the Citizens' Utility Ratepayer Board
By David Springe, Consumer Counsel
March , 2004

Chairman Clark and members of the committee:

Thank you for this opportunity to appear before you today to offer testimony on H.B. 2516. The Citizens' Utility Ratepayer Board opposes several provisions in this bill.

CURB testified in opposition to H.B. 2516 before the House Utilities Committee, and we were pleased that several of CURB's concerns were addressed in the substitute version. However, we have a few remaining concerns that we would like to see addressed.

First of all, as a general matter, it may be a laudable policy goal to encourage upgrading our electric systems in Kansas by providing additional incentives for investment in such projects, but CURB is concerned about any legislation that may turn the customers of the regulated utilities in Kansas into the primary financiers of projects that don't directly benefit them, or that may require Kansas utility customers to subsidize projects that don't benefit Kansans at all.

For example, New Section 3 requires capital expenditures for transmission to be recovered over fifteen years, instead of spreading recovery over the life of the facility. This would require increasing consumer rates. If the new transmission will truly be of use to Kansas customers, there is no reason to accelerate recovery so dramatically. This Section should be removed from the bill.

Second, when customers are paying for a generation plant in rates, any excess revenue that is generated from off-system sales is normally used to defray consumer costs. But New Section 7 would allow the utility to retain 10% of the net profits from sales of electricity to customers outside of the state. This means that Kansans will be subsidizing out-of-state customers of other utilities. Since the apparent intent of this bill is to improve electricity infrastructure for the benefit of Kansas, this Section should be removed from the bill.

Third, New Section 8 provides that "prudent" expenditures on research and development *shall* be included in rates. (See Page 3, Line 25). However, in circumstances where there is no direct benefit to Kansas consumers, the KCC may find it difficult to determine the "prudency" of certain expenditures. If the word "shall" were changed to "may," the Commission would retain the discretion it needs to protect customers from paying for R & D measures that provide no direct benefit to Kansas consumers. We would not oppose this provision if so amended.