

Approved: April 29, 2005

Date

Carl Dean Holmes

MINUTES OF THE HOUSE COMMITTEE ON UTILITIES.

The meeting was called to order by Chairman Carl D. Holmes at 9:12 a.m. on February 16, 2005 in Room 231-N of the Capitol.

All members were present except: Representative Virginia Beamer - Excused
Representative Eric Carter - Unexcused
Representative Judy Morrison - Excused
Representative Judy Showalter - Excused

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:
Larry Holloway, Kansas Corporation Commission, Topeka, KS
Paul Lira, Internat'l Brotherhood of Electrical Workers Local 304, Topeka, KS
Richard Good, Westar Energy, Topeka, KS
Steve Johnson, Kansas Gas Service, Overland Park, KS
Donna Quillin, Kansas City Power & Light, Kansas City, MO
General Tod Bunting, Adjutant General of Kansas, Topeka, KS

Others attending: See Attached List

HB 2407 - Kansas representatives to regional transmission organization authorized to participate fully

Chairman Holmes opened the hearing on **HB 2407**.

Larry Holloway, Chief of Energy Operations for the Kansas Corporation Commission, appeared in support of **HB 2407** (Attachment 1). Mr. Holloway stated this legislation would grant authority to fully participate in decision-making bodies of regional transmission organizations. Mr. Holloway responded to questions from the committee.

Written testimony in support of **HB 2407** was submitted by Representative Tom Sloan (Attachment 2) and Burton Crawford, Kansas City Power & Light (Attachment 3).

Chairman Holmes closed the hearing on **HB 2407**.

HB 2461 - Exemption of utility service trucks from hours of service limits in times of disaster emergencies

Chairman Holmes opened the hearing on **HB 2461**.

Mr. Paul Lira, Business Manager for the International Brotherhood of Electrical Workers Local 304, testified in support of **HB 2461** (Attachment 4). Mr. Lira explained that the current hours of service regulations have created numerous hardships for workers driving utility trucks. As a result of the federal Department of Transportation regulations targeting over the road truck drivers, utility workers have been faced with penalties commonly associated with the over the road truck drivers.

Richard Good, Director Disaster Recovery/Infrastructure Security for Westar Energy, spoke in favor of **HB 2461** (Attachment 5). Mr. Good stated there were unintended consequences of the adoption of the federal regulations by capturing utility service vehicle drivers. By providing a since number to request an emergency declaration, time and energy will be conserved and personnel will be able to assist in outages in a quicker manner.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON UTILITIES, Room 231-N, Statehouse, at 9:12 a.m. on February 16, 2005

Steve Johnson, Governmental Affairs Manager for Kansas Gas Service, addressed the committee in support of **HB 2461** (Attachment 6). Mr. Johnson shared the company's concerns about restoration of service to customers while waiting for work completion and service provider support that may be ended due to the hours of service requirements.

Donna Quillin, Kansas City Power & Light's Manager of Safety & Medical, submitted testimony in support of **HB 2461** (Attachment 7). Ms. Quillin explained that the bill addressed the delegation of responsibility for declaring a disaster emergency in order to meet the federal regulations on hours of service exemptions. She told the committee it was imperative they have the ability to rapidly contact a designated governmental representative who would assist in addressing the emergency.

Written testimony in support of **HB 2461** was submitted by Danielle Noe, Johnson County Kansas (Attachment 8), Randall Duncan, Sedgwick County Department of Emergency Management (Attachment 9), and David Springe, Citizens' Utility Ratepayer Board (Attachment 10).

General Tod Bunting, Adjutant General of Kansas, addressed the committee in opposition to **HB 2461**. General Bunting shared concerns about the declaration of an emergency process covered in the bill. Distributed to the committee was a Procedural Guide - Critical Infrastructure - Energy Emergencies (Attachment 11).

The conferees responded to questions from the committee. Additionally, Mr. Tom Whitaker, Executive Director of the Kansas Motor Carriers Association, responded to questions.

Chairman Holmes closed the hearing on **HB 2461**.

The meeting adjourned at 10:28 a.m.

The next meeting is Thursday, February 17, 2005 at 9:00 a.m.

HOUSE UTILITIES COMMITTEE GUEST LIST

DATE: February 16, 2005

NAME	REPRESENTING
Douglas Quilliv	Great Plains Energy
Vonda Spence	Great Plains Energy
Sandra Braden	Great Plains Energy
LARRY MARULLO	Great Plains Energy
Steve Johnson	Kansas Gas Service
BRUCE GRAHAM	KEPCO KEPCO
Dave HOLTMAUS	IS EC
Richard Good	Westar Energy
ADAM KING	ADJ GEN DEPT
Janice Harper	Adjutant General's Dept.
Jida Kimse	Adjutant Gen. Dept
Tod Bunting	Adjutant Generals Dept
Joe Duck	KC BPU
Lang Hollaway	KCC
Paul Lien	IBEW
Kimberly Lenceur	Aquila



KANSAS

CORPORATION COMMISSION

Harry Holloway

KATHLEEN SEBELIUS, GOVERNOR

BRIAN J. MOLINE, CHAIR

ROBERT E. KREHBIEL, COMMISSIONER

MICHAEL C. MOFFET, COMMISSIONER

**BEFORE THE HOUSE UTILITIES COMMITTEE
PRESENTATION OF THE
KANSAS CORPORATION COMMISSION
February 16, 2005
HB 2407**

This bill would grant a Kansas representative, as designated by the Governor, the authority to fully participate in decision-making bodies of regional transmission organizations, whether the decisions made by these bodies are advisory or binding.

The Commission supports this legislation, but has several suggested changes.

Regional transmission organizations, or RTOs, have traditionally established a role for state regulators to advise the RTO board. The Midwest Independent System Operator, or MISO, for example, has established a regional state committee, which provides input to MISO board discussions and decisions. The Federal Energy Regulatory Commission, or FERC, has indicated over the past several years that it is willing to consider RTO Regional State Committee decisions with deference and is increasingly looking to these regional bodies for advice and assistance in addressing important regional transmission decisions. When the Southwest Power Pool, or SPP, established its RTO, the SPP bylaws granted the Regional State Committee, or RSC, an increased role in the SPP decision-making process. Nonetheless, it is not clear that the individual members of the SPP RSC have been granted the authority necessary to take full advantage of the role granted to it by SPP.

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ATTACHMENT 1

The SPP RSC consists of one regulatory commissioner from each state in the SPP region. However, it is not clear that each state has granted the necessary authority to RSC members to allow their full participation. While there is little concern when the RSC is providing advice, or when the RSC reaches unanimous decisions, it is not clear that state utility regulatory commissioners have the authority to participate in a regional organization where a majority vote could create a binding decision for the organization. This bill would address this and clarify the Kansas Corporation Commission's ability to fully participate in the SPP RSC, or any similar organizations.

The Commission does have several concerns regarding the current wording of the bill. First, the Commission believes the intent of the bill is to allow unlimited participation in the SPP RSC. The current SPP RSC bylaws require each state to be represented by a utility commissioner, and the Commission believes that was the intent of this legislation. Our first suggested change addresses this.

Second, while the Commission is currently investigating whether or not there should be only one RTO in the state of Kansas, this decision has not been made, and more importantly it is possible that the decision will be made by the FERC, regardless of the Commission's position. Ultimately, regardless of any efforts at the state level, the decision of RTO membership may be decided by the FERC. Nonetheless, the Commission believes it may be in the best interest of Kansas for the Commission to participate in any RTO organization, if the RTO includes Kansas electric utilities. For this reason the Commission suggests that the language of this bill be revised to allow participation of the Commission in more than one RTO, if a Kansas electric utility is a member of that RTO. Our second suggested change to both section 1 and the bill title addresses this.

Third, the Commission remains concerned that actions taken by these regional state committees could be construed by the FERC as conceding the state's regulatory authority. The Commission believes it has an obligation to Kansans to be able to litigate RSC or RTO decisions

before the FERC, if that decision is not in the best interest of the state. Our proposed new section 2 addresses this.

The Commission believes the following changes address its concerns and clarify the intent of the bill:

AN ACT concerning the state corporation commission; authorizing participation in ~~a certain~~ regional transmission organizations.

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

Section 1. The state corporation commission representative ~~Kansas representatives, as designated by the governor, to the~~ any regional transmission organization recognized by the federal energy regulatory commission of which one or more Kansas electric utilities is a member ~~are~~ is hereby authorized to participate fully in all decision-making bodies of such regional transmission organization, whether the decision of such bodies are advisory to or binding on the ~~state~~ regional transmission organization.

Sec. 2. Nothing in this act shall authorize such representative to take any action which would diminish the commission's regulatory jurisdiction or authority.

Sec. 23. This act shall take effect and be in force from and after its publication in the Kansas register.

STATE OF KANSAS

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TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENT
CHAIRMAN: HIGHER EDUCATION
MEMBER: UTILITIES
ENVIRONMENT
AGRICULTURAL & NATURAL
RESOURCES BUDGET
KANSAS WATER AUTHORITY

Testimony on HB 2407
House Utilities Committee
February 16, 2005

Mr. Chairman, Members of the Committee: The Federal Energy Regulatory Commission (FERC) is in the process of changing the nature of this country's electric industry. Traditionally, electric companies were vertically integrated --- they generated the electricity, owned the transmission lines to move that power, and owned the distribution lines that serve customers. FERC is encouraging the development of regional transmission organizations as independent market coordinators so that less expensive power will be able to move to higher cost markets.

The Southwest Power Pool (SPP) has an independent board, a professional staff, and a regional state committee (RSC). Each SPP member state's public service commission's (in Kansas the Kansas Corporation Commission) chairperson serves on the RSC. The RSC is integrally involved in developing the benefit-determination and cost-recovery mechanisms for transmission line projects within the SPP footprint.

HB 2407 authorizes the state's representative to fully participate in the decision-making process. The KCC representative believes that existing state statutes do not authorize his participation in votes that may bind Kansas. This is an important issue, because the SPP Board has the ability to make binding decisions if the RSC cannot reach agreement. If Kansas' representative is unable to fully participate, we effectively are left to the "mercy" of the other states' RSC representatives and the Board. That is a situation that is unacceptable to me.

There is one change to the bill that is necessary to accurately reflect Kansas' relationship with the SPP. On lines 13-14, , *as designated by the governor*, should be deleted as the Governor does not currently appoint the RSC representative and it is not my intention to change the manner in which the SPP and states interact.

Thank you Mr. Chairman, I will respond to questions at your convenience.

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ATTACHMENT 2

**Testimony in Support of House Utilities Committee
House Bill No. 2407**

**Burton Crawford
Manager, Deregulation Issues
Kansas City Power & Light Company
February 16, 2005**

Kansas City Power & Light Company supports House Bill 2407. This bill authorizes Kansas representatives from the state corporation commission to participate fully in all decision-making bodies of a regional transmission organization (RTO).

It is our understanding that there have been questions as to whether or not the commission currently has sufficient authorization to participate in such decision-making bodies. Whether or not such authorization currently exists, KCP&L feels that it is very much in the interests of the state to directly participate in the activities and decision-making processes of any RTO within the state and supports such state involvement. Many issues related to regional transmission development, transmission services, reliability, and wholesale energy markets that affect electric service in the region (including Kansas) are discussed and decided in an open, stakeholder-driven process at the RTO. It is very important that Kansas be directly represented in this process. It is only through direct involvement that the interests of Kansas will be considered as decisions that impact the region are made. This bill makes it clear that Kansas representatives are authorized to participate.

Thank you for your consideration.

Presented by Burton Crawford
Manager, Deregulation Issues
Kansas City Power & Light Company
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Kansas City, Missouri 64141-9679

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ATTACHMENT 3

House Utilities Committee
HB 2461
Testimony by Paul E. Lira Business Manager
International Brotherhood of Electrical Workers Local 304,
Topeka, Kansas
February 16, 2005

Chairman Holmes and members of the committee, my name is Paul Lira, I am currently the Business Manager for International Brotherhood of Electrical Workers (IBEW) Local Union 304 located in Topeka, Kansas. IBEW Local Union 304 represents utility and construction workers throughout Kansas. Our organization covers approximately 2400 workers which includes a majority of the Rural Electric Cooperatives, Westar Energy, Aquila, Kansas Gas Service, and independent contractors doing utility work in Kansas such as Wrights Tree Service, Salina Tree, Par Electrical Contractors, Capital Electric Line Builders, and numerous others.

Since the hours of service regulations have been in effect it has created numerous hardships for the workers driving the utility trucks who maintain and restore service for the customers in Kansas. When the federal government changed the Department of Transportation Regulations it is my belief that the target was not the utility workers but over the road truck drivers, as a result we have been faced with penalties related more commonly with over the road truckers and it has been a challenge to stay compliant.

With our support and hopeful adoption of HB 2461 a "one call contact" would help ease the confusion of being exempted for hours of service while doing long hour restorations. Currently there is a fine and difficult balance the work force must strive to comply with while engaged in extended work hours restoring electrical and natural gas service to consumers.

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I am in support of the Division of Emergency Management making the determinations for a State of Emergency, as they would be knowledgeable of conditions and consistent in making the calls for exemptions. As conditions are constantly changing and our service areas don't usually follow the change in weather conditions a centralized contact point seems to make very good sense.

Thank you for the time for me to express my opinions on behalf of our member workforce. I will be glad to answer any questions.

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Testimony on HB 2461 before the
House Utilities Committee By
Richard Good, Director Disaster Recovery/Infrastructure Security
Westar Energy, Topeka, KS
February 16, 2005

Chairman Holmes and members of the committee, I am Richard Good, director disaster recovery/infrastructure security for Westar Energy. My testimony is supported by the Kansas Electric Cooperatives, Midwest Energy, Aquila, Empire District Electric Company, the Kansas Corporation Commission, Kansas Motor Carriers Association and Kansas Municipal Utilities.

Hours of Service (HOS) regulations have been in effect for many years. In October 2003, Kansas adopted the federal Department of Transportation (DOT) regulations. The unintended consequence of this law and the succeeding regulations is that it captured utility service vehicle drivers. The current transportation bill in Congress contains an exemption for utility service vehicle drivers. U.S. Representative Jerry Moran has said the transportation bill should be passed this year, but exact timing is uncertain. Until that time, utility service vehicle drivers must comply with the federal DOT regulations or face penalties. Utilities, such as Westar Energy, are regulated by the Kansas Corporation Commission and have an obligation to serve every customer without discrimination 24 hours a day, seven days a week.

Between the co-ops, Westar and the other utilities, we serve some remote areas of the state. Our service centers are strategically located, but even then outages occur in areas to which it may take some time to respond. For instance, our service center in Eureka, serves the south part of Greenwood County. That crew may be responding to an outage in Eureka. Meanwhile, an outage occurs at 10 p.m. in Fall River, and the backup crew is in Emporia. Depending on weather and road conditions, it will take over one and a half hours for the crew from Emporia to respond. The outage could take several hours to work and place the crew outside the Hours of Service limits, and they still have to drive back to Emporia. Our options at this point are:

1. Request a state of disaster emergency from one of the following: a local county commission chair, the governor of Kansas, the Federal Motor Carrier Safety Administration (FMCSA) administrator in Chicago or the President of the United States, or;
2. Have the crew stop restoration efforts and return to Emporia, while a second crew is sent from Emporia to continue the restoration work. This assumes a second crew has met their rest period.

Through discussions with the Kansas Division of Emergency Management (KDEM), the Kansas Highway Patrol, the Kansas Corporation Commission and several county emergency managers, the initial consensus had been if the number of counties involved is less than 6, the utilities would request the emergency from each individual county.

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commission chairperson. If 6 or more counties were involved, the utility would make their request through the 24/7 KDEM notification number. However, in practice this guidance did not work as well as planned. Since the guidance was distributed by KDEM, there have been at least 5 instances where a Kansas utility had contacted a local county emergency manager to request an emergency declaration to be exempted from the HOS limits and been denied or questioned extensively to the point where management of the utility needed to be called. Two of those instances were for gas leaks at a single family residence. It is not fair to say these types of events are emergencies in the classic sense of the ice storm we had in January in Wichita or the tornado in Pittsburg last year. However, when you are on life support and a power outage occurs, an emergency exists for you. The only time-efficient way to serve our customers as we are obligated by the KCC to do is to request an emergency be declared via a one-call system. In this way we can continue to work to get service restored quickly regardless if it's one person or one thousand.

House Bill 2461 addresses the need of the utilities to have a single 24/7 number to call to request the emergency declaration. The logical group to provide this service is KDEM. They have the system in place. It's been used consistently for many years. We have used it for large-scale declaration requests and it works very well. Their personnel are skilled in the process and provide quick response. This system prevents a utility from tracking down the local emergency manager or his/her backup. All we want to be able to do is to be sure the residents of Kansas have their power restored as quickly as possible while adhering to federal and state regulations. A one-call system is the best way to accomplish this.

As mentioned at the start, the 30 cooperatives of the Kansas Electric Cooperatives, Midwest Energy, Aquila, Empire District Electric, the KCC and the many members of the Kansas Motor Carriers Association, Kansas Municipal Utilities and my company, Westar Energy strongly support House Bill 2461 and urge the committee to pass it out favorably. The spring storm season is only a few weeks away and having this system in place will provide consistency for our dispatchers and quick response to Kansas residents.

Thank you for the opportunity to address you this morning. I will be glad to stand for questions at the appropriate time.



KANSAS GAS SERVICE

A DIVISION OF ONEOK

Before the House Utilities Committee
Testimony of Steve Johnson
Manager, Governmental Affairs
Kansas Gas Service
February 16, 2005

Chairman Holmes and Members of the Committee,

Thank you for the opportunity to address your committee this morning about our concerns with the restoration of service to our customers that have unfortunately been severed from their supply of gas and are awaiting the completion of our work to return their lives back to normal.

Hours of Service (HOS) regulations have been in effect for many years. In 2001, Kansas adopted the federal Department of Transportation (DOT) regulations. The unintended consequence of this law and the succeeding regulations is that it captured utility truck drivers. The current transportation bill in Congress contains an exemption for utility truck drivers and U.S. Representative Jerry Moran has made assurances that this bill should be passed this year, but exact timing is uncertain. Until that time, utility service vehicle drivers must comply with the federal DOT regulations or face penalties. Utilities, such as Kansas Gas Service, are regulated by the Kansas Corporation Commission and have an obligation to serve every customer without discrimination 24 hours a day, seven days a week (24/7).

We serve some remote areas of the state and even though our service centers are strategically located, outages occur in areas to which it may take some time to respond. For instance, an outage could take several hours to work and would therefore place the crew outside the Hours of Service limits, and if complete they still have to drive back to their office of origin. Our options at this point are:

1. Request a state of disaster emergency from one of the following: a local county commission chair, the governor of Kansas, the Federal Motor Carrier Safety Administration (FMCSA) administrator in Chicago or the President of the United States, or;
2. Have the crew stop restoration efforts and return to their home, while a second crew is sent from the same or another service center to continue the restoration work. Assuming a second crew has met their rest period.

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Through discussions with the Kansas Division of Emergency Management (KDEM), the Kansas Highway Patrol, the Kansas Corporation Commission and several county emergency managers, the initial consensus had been if the number of counties involved is less than six, the utilities would request the emergency from each individual county commission chairperson. If six or more counties were involved, the utility would make their request through the 24/7 KDEM notification number. However, in practice this guidance did not work as well as planned. Since the guidance was distributed by KDEM, there have been at least 5 instances where a Kansas utility had contacted a local county emergency manager to request an emergency declaration to be exempted from the HOS limits and been denied or questioned extensively to the point where management of the utility needed to be called. Two of those instances were for gas leaks at a single-family residence. It is not fair to say these types of events are emergencies in the classic sense of the ice storm in January in Wichita or the tornado in Pittsburg last year. However, when you are dependent on gas service and an outage occurs, an emergency exists for you. The only time-efficient way to serve our customers, as we are obligated by the KCC, is to request an emergency be declared via a one-call system. In this way we can continue to work to get service restored quickly regardless if it's one household or several thousand.

House Bill 2461 addresses the need of the utilities to have a single 24/7 number to call to request the emergency declaration. The logical group to provide this service is KDEM. They have the system in place. It's been used consistently for many years. We have used it for large-scale declaration requests and it works very well. Their personnel are skilled in the process and provide quick response. This system prevents a utility from tracking down the local emergency manager or his/her backup. All we want to ensure is to be sure the residents of Kansas have their gas restored as quickly as possible while adhering to federal and state regulations. A one-call system is the best way to accomplish this.

Kansas Gas Service strongly supports House Bill 2461 and urges the committee to pass it out favorably. Having this system in place will provide consistency for our dispatchers and quick response to Kansas's residents.

Again, thank you for the opportunity to address you this morning. I will be glad to stand for questions at the appropriate time.

State of Emergency Disaster Declaration
Kansas House Bill No. 2461

Kansas City Power & Light Company
February 16, 2005

Submitted by Donna Quillin

Chairman Holmes and members of the committee, I am Donna Quillin, Manager of Safety & Medical, Kansas City Power & Light Company, in Kansas City, Missouri.

Thank you for the opportunity to add our support relating to the proposed Kansas House Bill No. 2461.

This bill addresses delegating the responsibility for declaring a disaster emergency to meet the Hours of Service Exemptions applicable to the Department of Transportation regulations. CFR 390.5.

Emergency is any, storm, or other occurrence, natural or man-made, which interrupts the delivery of essential services (such as electricity, medical care, sewer, water, telecommunications and telecommunication transmissions) or essential supplies such as (food, and fuel) or otherwise immediately threatens human life or public welfare, provided such hurricane, tornado or other events results in:

1. A declaration of an emergency by the President of the United States of America, the Governor of a State or their authorized representative having the authority to declare emergencies: by the FMSCA Field Administrator for the geographical area in which the occurrence happens: or by other Federal, State or local government officials having the authority to declare emergencies or:
2. A request by a police officer for tow trucks to move wrecked or disabled motor vehicles.

Emergency Relief means an operation in which a motor carrier or driver of a commercial motor vehicle is providing direct assistance to supplement State and local efforts and capabilities to save lives or property or to protect public health and safety as a result of an emergency as defined above.

When these emergencies occur, it is imperative we have the ability to rapidly contact a designated governmental representative to assist in addressing the emergency, which may involve a city, local area or multiple counties located throughout the state.

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Our ability to respond and frequently obtain the mutual aid assistance of other utilities in an emergency is determined by our ability to confirm that a proper Hours of Service Exemption is in place.

House Bill No. 2461 would significantly assist all electric utilities in meeting our commitment to public safety, providing emergency service to our customers, expediting our ability to restore a safe electrical system and comply with governmental regulations.

Utilities have the responsibility to maintain the country's critical energy infrastructure. When outages occur, restoration of service must be completed as soon as possible. Reliability of our electrical system is critical to the health and safety of the public.

To identify the magnitude of the problems we, as a utility face daily, please let me share some statistical facts with you.

In 2004, our company recorded 5312 instances in Kansas of emergency unplanned outages, which resulted in businesses including schools, industrial facilities and residences being without out electrical service.

KCPL also responded to 615 instances of system damage that involved wires down. The potential for fatal or life threatening injuries in these situations cannot be minimized. A daily problem for utilities involves vehicle accidents with our facilities, usually power poles. In 2004, our employees responded to 38 such accidents.

We deal these situations individually within the scope of daily activities. However, it is the unplanned, unexpected emergencies that we seek your assistance in providing a workable solution to the declaration of such emergencies.

Please let me emphasize, we fully recognize this emergency declaration leading to our ability to work under an Hours of Service Exemption in no way exempts us from other DOT regulations including insuring physically fit, drug free, safe drivers and properly maintained and inspected vehicles.

As a company, KCPL is proud of the excellent driving and safety records of our drivers. KCPL has recorded zero vehicular accidents resulting in employee deaths in the past 35 years. In this time period, our drivers have been involved in only one accident resulting in a fatality. This occurred when a drunk driver crossed the medium and struck our vehicle. This accident occurred despite evasive actions by our driver to prevent the accident.

In 2004, KCPL's commercial vehicles were driven an average of 41.7 miles a day. That is less than 10,841 miles per year average. It is important to recognize most of these

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miles were driven in the metropolitan area with well-defined speed limits and "stop and go" traffic or in rural areas with minimal traffic conditions. KCPL drivers are assigned to five metropolitan and three rural show-up locations. They begin and end their daily activities at the same location and travel within a radius of 100 miles from their show-up. Frequently utility vehicles are driven only a few blocks between work assignments, which may also require the use of multiple vehicles to complete the repairs or restoration of service.

In general, utility crews are under supervision and must meet company requirements to assure their fitness for duty. Contractual agreements address the supervisors right to request a fit for duty examination where there are concerns.

Many labor contracts, including KCPL's, address specifically the issues of overtime, rest periods and call-outs for emergencies. However, in emergency conditions, employee/drivers may be requested to work additional hours to restore service in the interest of public safety.

In closing, as an electric utility, we are expected to respond to the various hazards and emergency conditions 24 hours a day, 7 days a week, 365 days a year. We need your support and passage of HB 2461 to permit us to respond in a timely manor to the needs of the citizens of Kansas when these unexpected emergencies arise.

As I stated previously, House Bill No. 2461 will significantly assist all electric utilities in meeting our commitment to public safety, providing emergency service to our customers, expediting our ability to restore a safe electrical system and comply with governmental regulations.

Thank you for your time and consideration. We request your support of HB No. 2461 which will provide a single point of contact when unplanned emergencies arise requiring exemptions from the DOT Hours of Service regulations.

Passage of this bill will also permit us to pre-plan what information needs to be provided to the approving agency to eliminate redundancy in the repetitious transfer of required information and potential numerous individual requests.

Thank you for opportunity to address you this morning.

Donna Quillin
Manager of Safety & Medical
Kansas City Power & Light Company
1201 Walnut PO Box 418679
Kansas City, Missouri 64141-9679 1-816-556-2200

17-3



Johnson County, Kansas

OFFICE OF THE COUNTY MANAGER

Written Testimony in support of HB 2461

presented to the

House Utilities Committee

by

Danielle Noe

Intergovernmental Relations Manager

February 16, 2005

Mister Chairman and Members of the committee:

Thank you for the opportunity to provide written comments in support of HB 2461 concerning states of disaster emergency.

The issue addressed by HB 2461 has become one of importance to Johnson County and specifically to the Johnson County Department of Emergency Management and Homeland Security in recent months.

We believe that HB 2461 will grant appropriate relief to utility crews who are attempting to restore services to our citizens in a timely and efficient manner, but who are prohibited by federal rules and regulations to provide continuous service in excess of 14 hours. The current procedure, utilizing the provisions of K.S.A. 48-925 and K.S.A. 48-932, requires the state or local government to declare a state of disaster emergency thereby allowing utility crews to work in excess of the 14 hour limitation. However, the scope of current requests by utilities involves situations in which such declarations are inappropriate and unwarranted. Therefore, we believe HB 2461 represents a potentially viable solution for these situations and would allow utility crews to provide the service that our citizens want and expect.

On behalf of Johnson County, I respectfully request your support of HB 2461.

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ATTACHMENT 8



SEDGWICK COUNTY, KANSAS
DEPARTMENT OF EMERGENCY MANAGEMENT



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Kansas House of Representatives
Hon. Carl Holmes. Chairman
Hon. Committee Members, Utilities Committee

My name is Randall C. Duncan, and I am the Emergency Management Director for Sedgwick County. We are very interested in the issue addressed by and want to show our support for HB 2461. We believe this bill will help us because we have recently received a number of calls from utility companies requesting relief from 49 CFR 395.2, which prohibits the operation of a commercial vehicle in excess of 14 hours without a declaration of disaster. We believe the use of our existing mechanism to declare a disaster – as specified in K.S.A. 48-925 and K.S.A. 48-932 – is not an appropriate use of this authority at the local level. Currently, however, this is the only known relief for the requirements imposed by the CFR referenced above. In our opinion, there seems to be a fundamental disconnect between utilizing this act to declare a disaster for an event that poses no challenge to a local jurisdiction in any way, shape or form. We believe HB 2461 represents a solution for this concern.

This solution, however, will impose a burden on the Adjutant General's Office, specifically the Kansas Division of Emergency Management. We understand the utilities desire relief from the provisions of the CFR. We also know this relief will be a benefit to our citizens as well as the utilities. In order to make sure this bill achieves this purpose, we would like to suggest:

- HB 2461 imposes a burden on the Adjutant General's Office and the Kansas Division of Emergency Management. Specifically, KDEM will assume a significant amount of risk in terms of responsibility for accidents involving drivers operating excessively long hours under the relief suggested in this bill.
- The current expectations of the utility companies (and, we understand, the Kansas Corporation Commission) as to the level and frequency of such situations potentially represent a significant workload and cost to the KDEM. Local governments are not willing to assume this workload.

HOUSE UTILITIES

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ATTACHMENT 9

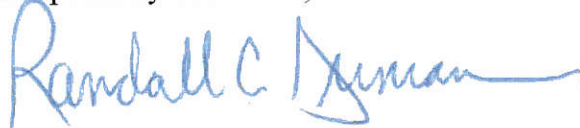
- The relief requested under this bill will represent a financial benefit to utility companies.

Sedgwick County Emergency Management strongly advocates amending Section 1(b) of HB 2461 to specifically authorize the Adjutant General to negotiate with the utility companies regarding the recovery of expenses associated with the cost of implementing the bill. These would be payable as a fee directly to the Kansas Division of Emergency Management to recover the costs associated with implementing this legislation.

In summary:

- 1. The current process requiring a formal disaster declaration at the local level Chair of the Board of County Commissioners is not appropriate for most of the situations covered by this bill. We therefore support the intent of HB 2461.**
- 2. We believe that the relief provided to the utility companies and the costs associated with implementing HB 2461 require that the Adjutant General be authorized to negotiate an appropriate fee for this service.**

Respectfully Submitted,



Randall C. Duncan, CEM®
Director

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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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HOUSE UTILITIES COMMITTEE

H.B. 2461

Testimony on Behalf of the Citizens' Utility Ratepayer Board

By David Springe, Consumer Counsel

February 16, 2005

Chairman Holmes and members of the committee:

Thank you for this opportunity to offer testimony on H.B. 2461. The Citizens' Utility Ratepayer Board supports this bill for the following reasons:

It is CURB's understanding that this bill seeks to create a more seamless approach to the process of declaring an emergency condition, so that utility line crews will be exempted from the limitation on hours of service when necessary.

In the event of a utility emergency, like a natural gas leak or repairing service after a storm, it is often imperative that the line crews be able to remain on station and to complete repairs to restore service to, or protect the safety of, the residential and small commercial customers that CURB represents.

From a policy perspective, CURB believes that government rules and regulations should operate in a manner that aids in, and does not hinder, the work that needs to be done in emergency situations. To that end, the establishment of a seamless, and easy to use process, like that proposed in this bill, would seem to be in the interest of the state, and certainly in the interest of utility customers.

Based on this understanding of the bill, CURB supports this intent, and supports this bill.

HOUSE UTILITIES

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ATTACHMENT 10



Critical Infrastructure - Energy Emergencies

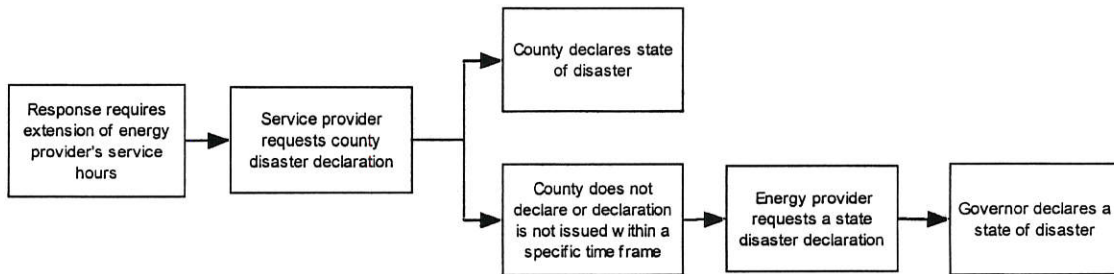
Energy emergencies may result from a variety of events such as severe winter storms, tornadoes or event terrorist activities. Regardless of the cause, energy emergencies can be isolated or widespread, and have the potential to last extended periods of time. Restoration of services to critical infrastructure and the general public is a top priority of emergency response agencies and energy providers.

What to Expect

1. Energy providers will determine the scope of the recovery efforts needed. All available resources will be deployed, including mutual aid support
2. The Kansas Corporation Commission explains that an "emergency declaration must be declared before a Commercial Motor Vehicle (CMV) driver operates beyond the 14 hour after having 10 hours off-duty".
3. To ensure their own compliance with federal regulations, energy providers will request a county disaster declaration through the county emergency management office, or their designated alternate. The energy provider's request will:
 - a. Specify how soon the declaration must be in place to ensure compliance with state and federal service hour regulations
 - b. Document the scope of the response with:
 - i. an estimate of the number of residents without services,
 - ii. an estimate of the expected duration of the outage, and
 - iii. identification of known critical facilities in the affected area, such as hospitals and other specialized facilities
4. Energy providers may request a state disaster declaration be issued if:
 - a. the request for a county disaster declaration is not approved,
 - b. the county declaration cannot be issued within the requested time frame, or
 - c. the outage affects 6 or more counties in the provider's service area

Title 49 of the Federal Regulations Part 390.23 states: "Parts 390 through 399 shall not apply to any motor carrier or driver when an emergency has been declared by local, state or federal governments"

Disaster Declaration Process Flowchart

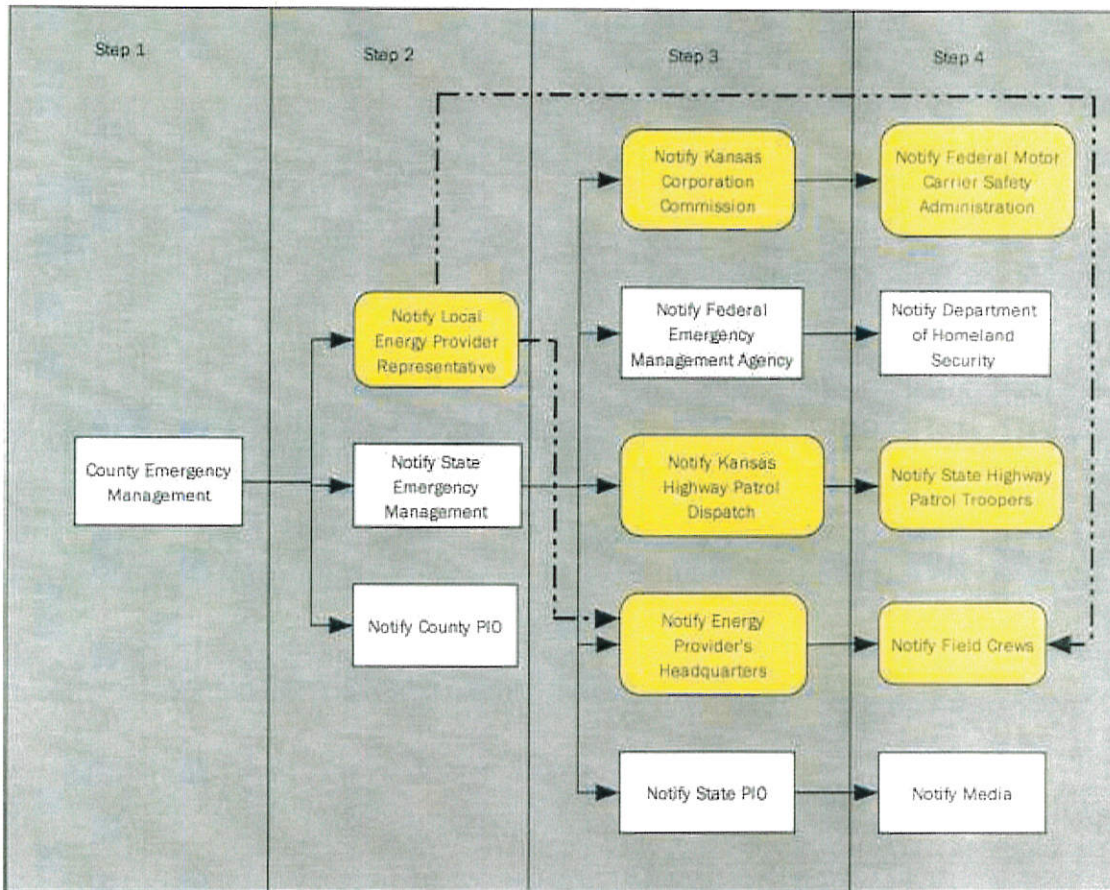


County and State Disaster Notification Process

Several steps are involved in ensuring all interested parties are notified that a county or state disaster declaration is in effect. The following illustrations show the notification processes after a county and a state disaster declaration is proclaimed. Energy emergencies require specific notification steps as depicted in the illustrations. Additional notification requirements may be part of each local jurisdiction's emergency response plan, depending on area-specific needs and other outside resource activation requests.

HOUSE UTILITIES
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ATTACHMENT 11

County Disaster Declaration Notification Process



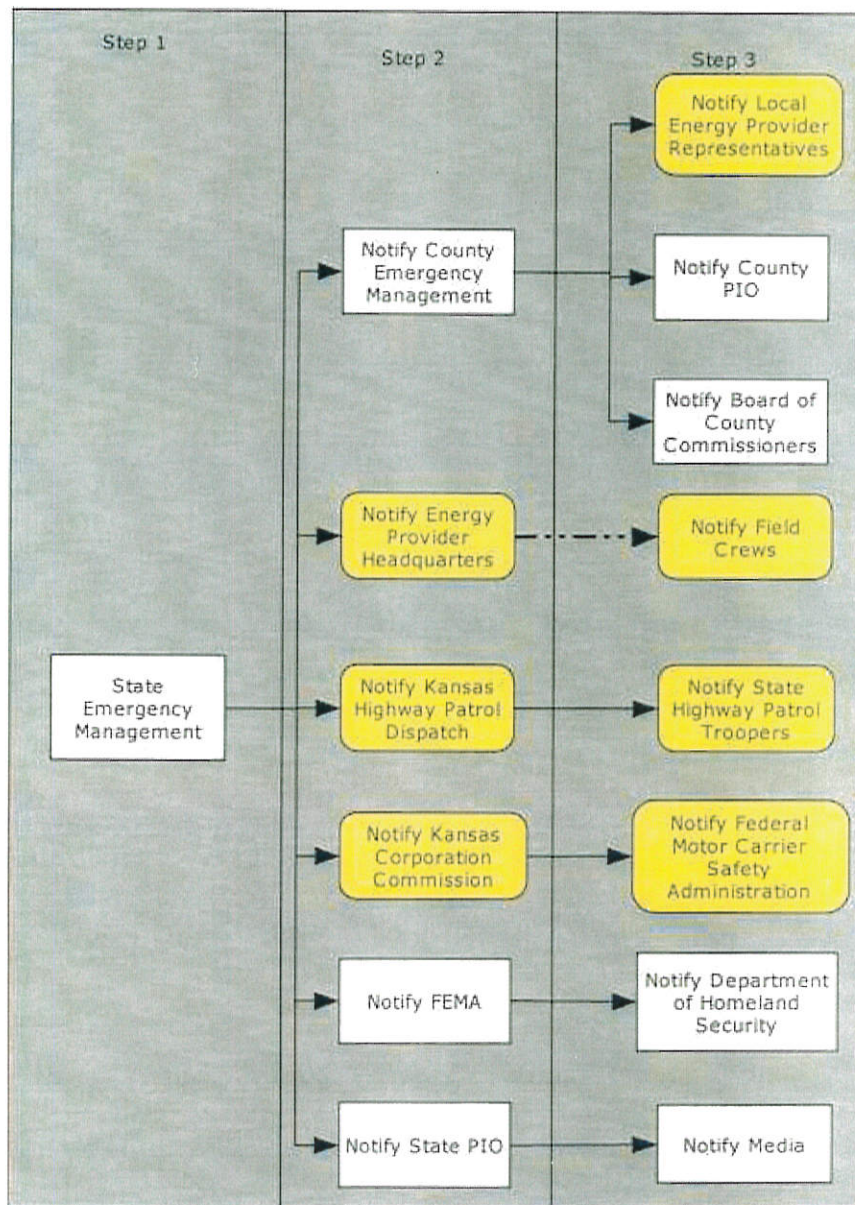
Notification step specific to meet federal "service hours" requirement in energy disasters




Internal communication link

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State Disaster Declaration Notification Process



 → Notification step to meet federal "service hours" requirements in energy disasters

-----▶ Internal communication link

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