

MINUTES OF THE SENATE UTILITIES COMMITTEE

The meeting was called to order by Chairman Jay Scott Emler at 9:30 A.M. on March 16, 2005 in Room 526-S of the Capitol.

Committee members absent:

Committee staff present: Athena Andaya, Kansas Legislative Research Department
Raney Gilliland, Kansas Legislative Research Department
Bruce Kinzie, Revisor of Statutes' Office
Diana Lee, Revisor of Statutes' Office
Ann McMorris, Committee Secretary

Conferees appearing before the committee:

Major General Tod Bunting, Adjutant General
Richard Good, Westar Energy
Steve Johnson, Kansas Gas Service
Donna Quillin, Kansas City Power and Light

Others in attendance: See attached list

Chairman Emler opened the hearing on

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

Proponents:

Major General Tod Bunting, Adjutant General, spoke in support of **HB 2461** which would allow the Division of Emergency Management (KDEM) of the Adjutant General's Department to declare an "emergency" in all or part of the state to allow the exemption of drivers of utility vehicles (as defined in 49 CFR) from the federal limitation on the hours of service they operate. (Attachment 1)

Richard Good, Director Disaster Recovery/Infrastructure Security, Westar Energy, and also representing Kansas Electric Cooperatives, Midwest Energy, Aquila, Empire District Electric Company, Kansas Municipal Utilities, the KCC and the Kansas Motor Carriers Association, spoke in support of **HB 2461** which addresses the need of the utilities to have a single 24/7 number to call to request an emergency declaration. (Attachment 2)

Steve Johnson, Manager, Government Affairs, Kansas Gas Service, briefly voiced the same concerns as the other proponents and urged passage of the bill. (Attachment 3)

Donna Quillin, Manager of Safety & Medical, Kansas City Power and Light, noted the utilities have the responsibility to maintain the country's critical energy infrastructure. **HB 2461** would significantly assist the utilities in meeting their commitment to public safety, providing emergency service to their customers, expediting their ability to restore service and comply with governmental regulations. (Attachment 4)

Written testimony from Paul E. Lira, Business Manager, International Brotherhood of Electrical Workers Local 304, supported the adoption of **HB 2461**. (Attachment 5)

Chair closed the hearing on **HB 2461**.

Moved by Senator Taddiken, seconded by Senator Reitz, **HB 2461** be passed out favorably. Motion carried.

Approval of Minutes

Moved by Senator Reitz, seconded by Senator Petersen, minutes of the meeting of the Senate Utilities Committee held on March 14, 2004 at 9:30 a.m. be approved. Motion carried.

Respectfully submitted,
Ann McMorris, Secretary

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SENATE UTILITIES COMMITTEE GUEST LIST

DATE: MARCH 16, 2005

Name	Representing
DAVE HOLTHAUS	KEC
MARK MACKEN	KCP&L
Lyndall Blake	KC POL
Carol Baker	KCP&L
May Chen	DepM
Joe Rosa	KCP&L
GEORGE PHILLIPS	KCP&L
Shawn O'Connor	KCP&L
Douglas NEWITT	KCP&L
Richard Good	Westar Energy
Mark Schreiber	Westar Energy
Pet Bush	Westar Energy
MIKE HOEME	KCC
STEVE JOHNSON	Kansas Gas Service
Tod Bunting	Adjutant Generals Dept

Senate Committee on Utilities
Testimony concerning House Bill 2461 as amended
Major General Tod Bunting, the Adjutant General
March 16, 2005

Mr. Chairman, thank you for the opportunity to testify today on House bill 2461 as amended.

I first want to say we are supportive of all the men and women that work for all utilities serving Kansas. They keep the lights on, the home warm, the bath fixtures with water and allow us to stay in touch with our families. They are out in the most difficult weather working hard, taking chances and all to keep the citizens of Kansas safe and comfortable. We in the Adjutant General's Department and Emergency Management work closely with both the public and private utilities. We respect them and their duties and responsibilities.

The amended House bill 2461 is legislation allowing the Division of Emergency Management (KDEM) of the Adjutant General's Department to declare an "emergency" in all or part of the state to allow the exemption of drivers of utility vehicles (as defined in 49 CFR) from the federal limitation on the hours of service they operate. This bill will require the Adjutant General's Department, (KDEM), to develop rules and regulations to effect the intent of this legislation.

Our most recent fiscal note on this legislation is only an estimate based on notional input from the utilities. This figure will need to be revised as we develop a historical record for the frequency of these events. Regardless of the frequency, we anticipate no cost to the state since we may pursue reimbursement through a fees fund similar to the process in use with Wolf Creek and WESTAR.

The bottom line is that with the agency's responsibility for Homeland Protection and the immediate response to actual disasters, we cannot withstand an onslaught of calls and not be compensated for the time, money and workload it will cause to the staff.

Thank you again for the opportunity to testify, and I will stand for your questions.

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Attachment 1-1

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

Chairman Emler 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, Kansas Municipal Utilities (KMU), the Kansas Corporation Commission (KCC) and the Kansas Motor Carriers Association.

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. This bill just passed the House last week. Until we get the exemption, utility service vehicle drivers must comply with the federal DOT regulations or face penalties. Utilities, such as Westar Energy, are regulated by the KCC 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 KCC and several county emergency managers, the initial consensus had been if the number of counties involved were less than 6, the utilities would request the emergency from each individual county 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, the 97 members of KMU, Midwest Energy, Aquila, Empire District Electric, the KCC, the many members of the Kansas Motor Carriers Association 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 Senate Utilities Committee
Testimony on HB 2461
Steve Johnson
Manager, Governmental Affairs
Kansas Gas Service
March 16, 2005

Chairman Emler 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 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.

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**State of Emergency Declaration
Kansas House Bill No. 2461
Kansas City Power & Light Company
March 16, 2005
Comments Presented by Donna Quillin
To the Senate Utilities Committee**

Chairman Emler 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 an emergency to meet the Hours of Service Exemptions applicable to the Department of Transportation regulations. CFR 390.5.

Emergency is defined: Any hurricane, tornado, storm, (e.g. thunderstorm, snowstorm, ice storm, blizzard, sandstorm, etc.) high water, wind driven water, tidal wave, tsunami, earthquake, volcanic eruption, mud slide, drought, forest fire, explosion, blackout 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 that 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 that 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 with these situations individually within the scope of our daily activities. However, it is the unplanned, unexpected emergencies that we seek you 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 the operation of 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 1 accident resulting in a fatality. This occurred when a drunk driver crossed the medium and struck our vehicle. This accident occurred in spite of evasive actions by our driver to prevent the accident.

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

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of these 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 if 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, the employee/driver 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 would significantly assist all electric utilities in meeting our commitment to public safety, providing emergency service to our customers and your citizens, and 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 the opportunity to address you this morning and will be available to answer questions at the appropriate time.

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

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Senate Utilities Committee
HB 2461
Testimony by Paul E. Lira Business Manager
International Brotherhood of Electrical Workers Local 304
March 16, 2005

Chairman Emler and members of the committee, My name is Paul Lira, I currently serve as Business Manager for International Brotherhood of Electrical Workers Local Union 304 and a former electrical Lineman for the utility industry for 20 years. Our organization covers 2400 workers through out the state of Kansas including half 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 affect it has created hardship on maintaining compliance for the workers driving utility trucks maintaining and restoring service for the customers in Kansas. It is our belief that when the federal government changed the Department of Transportation Regulations that the intended target was not utility workers but over the road truck drivers. As a result of this regulation we have been faced with penalties previously geared toward over the road truckers and it has been a challenge for utility workers to stay compliant.

With the adoption of HB 2461 a one call contact would help ease the confusion of being exempted for hours of service while doing the necessary long hour restorations. We maintain our integrity on safety and our trained to work under adverse conditions. We would still be under all other regulation governing the use of DOT covered vehicles. Currently, there is a fine balance the work force must juggle to maintaining extended

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hours for service restoration and not compromise the hours of service regulations. The International Brotherhood of Electrical Workers Local 304 supports the Division of Emergency Management in making the determinations for a State of Emergency in situations involving major utility interruptions as they would be knowledgeable of conditions and consistent in making the calls for exemptions. As weather conditions are constantly changing our service areas don't usually follow the patterns or outage needs and a centralized contact point seems to be the best solution.

Thank you for your time allowing me to express our point of view on behalf of our member workforce. I will be glad to answer any questions.