

MINUTES OF THE HOUSE ENERGY AND UTILITIES COMMITTEE

The meeting was called to order by Chairman Carl Holmes at 9:00 A.M. on March 20, 2007 in Room 241-N of the Capitol.

All members were present except:

Forrest Knox, excused

Committee staff present:

Mary Galligan, Kansas Legislative Research
Dennis Hodgins, Kansas Legislative Research
Renaë Hansen, Committee Assistant

Conferees appearing before the committee:

Leo Haynos, KCC
Ron Hein, Associated Builders and Contractors Heart of America Chapter
Bob Totten, Kansas Contractors Association
Katy Steinbacher, BRB Contractors
Kimberly Winn, League of Municipalities
George Melling, KS Gas Service
Elmer Ronnebaum, Exec. Dir.
Ks Rural Water Association
Tom Day, KCC
Ed Cross, KIOGA

Others attending:

Twenty-nine including the attached list.

Paul Snider, KCPL, (Attachment 1), presented a news release that was jointly released by Sierra Club, Kansas City Power & Light, and Concerned Citizens of Platte County that reports an agreement to reduce emissions, and spur clean energy development.

Questions were asked by Representative: Tom Sloan.

Discussion on:

HB 2576: Regulation of Kansas City Board of Public Utilities by state corporation commission.

Representative Tom Sloan brought forth two proposed amendments for **HB 2576**, (Attachments 2 & 3), giving and explanation to each suggested amendment.

Questions were asked and comments were made by Representatives: Tom Sloan, Rob Olson, Cindy Neighbor, Carl Holmes, Josh Svaty, and Peggy Mast.

Provided to committee members were the base rates (Attachment 4) for Residential, Commercial, and Industrial rates from the Kansas City Board of Public Utilities that were requested by Chairman Holmes.

Representative Tom Sloan moved to amend, (Attachment 2), HB 2576, and additionally striking water from the amendment. Representative Cindy Neighbor seconded the motion.

Discussion ensued by Representatives: Josh Svaty, Bill Light, and Tom Sloan.

Motion to amend failed.

Representative Tom Sloan moved to amend, (Attachment 3), HB 2576 and striking water from the amendment. Representative Bill Light seconded the motion.

CONTINUATION SHEET

MINUTES OF THE House Energy and Utilities Committee at 9:00 A.M. on March 20, 2007 in Room 241-N of the Capitol.

Discussion continued by Representatives: Don Myers, Rob Olson, Carl Holmes, Josh Svaty, Tom Sloan, Margaret Long, Annie Kuether, Judy Morrison, Don Myers, and Peggy Mast.

Don Low from the KCC gave an explanation of the cost estimate process to their entity to conduct a rate case. Their fiscal impact statement estimates, \$100,000 to \$500,000 depending on if the KCC must go outside for accounting assistance.

Representative Tom Sloan closed on the motion to amend.

Motion to amend passed.

To give guidance to the conferees on **HB 2032**:

Representative Tom Sloan moved to recommend the amended **HB 2576** to the Conference Committee members. Seconded by Representative Peggy Mast.

Comments were offered by Representatives: Josh Svaty, Tom Sloan, Margaret Long, and Tom Moxley.

Representative Tom Sloan closed on the motion.

Motion to give guidance was carried 14- 4.

Further comments were made by Representatives: Tom Hawk and Carl Holmes.

Hearing on:

Sub SB 20: Kansas underground utility prevention act amendments.

Proponents:

Leo Haynos, Kansas Corporation Commission, (Attachment 5), spoke in support of **Sub SB 20**. He gave an explanation of the current methods used to identify buried utilities. Additionally, he gave an explanation of the Kansas Underground Utility Damage Prevention Act, KUUDPA or the One Call Law.

Ron Hein, Associated Builders and Contractors Heart of America Chapter, (Attachment 6), submitted written testimony only in support of **Sub SB 20**.

Bob Totten, Kansas Contractors Association, (Attachment 7), presented testimony in support of **Sub SB 20**. This bill would make the Kansas One Call system an actual one call system as opposed to the current system which requires anywhere from two to four calls.

Katy Steinbacher, BRB Contractors, (Attachment 8), spoke in support of **Sub SB 20** relaying specific incidences of problems under the current One Call Law.

Mark Tomb spoke for Kimberly Winn, League of Kansas Municipalities, (Attachment 9), in support of the current **Sub SB 20**, but they were opposed to the original bill. They like the tiered approach to the One Call legislation. Additionally, they offered a few suggestions for changes to the fee assessment.

George Melling, KS Gas Service, (Attachment 10), offered testimony in support of **Sub SB 20**.

Tom Shimon, One Call Kansas, (Attachment 11), submitted written testimony only in support of **Sub SB 20**.

CONTINUATION SHEET

MINUTES OF THE House Energy and Utilities Committee at 9:00 A.M. on March 20, 2007 in Room 241-N of the Capitol.

Opponents:

Elmer Ronnebaum, Executive Director, Kansas Rural Water Association, Attachment 12, offered testimony in opposition of **Sub SB 20**. He asked that fee rates for this service be put in statute and that a longer period of time to implement the One Call procedures into the water and sewer utility systems be given.

Darci Meese, Government Affairs Coordinator, Water One, Water District No. 1 of Johnson County, (Attachment 13), offered testimony in opposition to **Sub SB 20**.

Questions were asked and comments made by Representatives: Tom Sloan, Rocky Fund, Vaughn Flora, and Tom Moxley.

Hearing on **Sub SB 20** was closed.

Hearing on:

S Sub HB 2485- **State corporation commission authority to fix, charge and collect fees for intent to drill a well, Kansas petroleum education and marketing act amendments.**

Proponents:

Tom Day, KCC, (Attachment 14), gave an informational update on the changes the Senate put into **HB 2485**, which was formerly **SB 238**, effectively making it **S Sub HB 2485**.

The hearing will be continued tomorrow on **S Sub HB 2485**.

The next committee meeting is scheduled for March 21, 2007.

Meeting adjourned.

HOUSE ENERGY AND UTILITIES COMMITTEE GUEST LIST

DATE: March 20, 2007

NAME	REPRESENTING
Lon Stanton	NORTHERN NATURAL GAS Co
Pat Lehman	KS Rural/Water Assn
ELMER BONNEBAUM	KS RURAL WATER ASSOC.
Phil Wagos	KCP&CO
Don Low	KCC
Tom Day	"
Leo Haynos	"
Steve Johnson	Kansas Gas Service
George Melling	" " "
Dawn Jester	One Call Concepts
Joe Dick	KCBPU
Ed Cross	KIDGA
Tom Thompson	Sierra Club
Paul Snider	KCPL

FOR RELEASE: 20 March 2007
Contact: Josh Dorner, Sierra Club, (202) 675-2384
Susan Brown, CCPC, (816) 450-8948
Mike Deggendorf, KCP&L, (media), (816) 556-2104
Todd Kobayashi, KCP&L, (investor), (816) 556-2904

**Environmental, Community Groups Announce
Important Energy Agreement with Major Utility**
*Sierra Club, Kansas City Power & Light and Concerned Citizens of Platte County
Put Forward Agreement to Reduce Emissions, Spur Clean Energy Development*

(Kansas City, Mo. March 20, 2007) — In a groundbreaking agreement that can serve as a model for environmental groups and utilities working together, the Sierra Club, Kansas City Power & Light (KCP&L), and the Concerned Citizens of Platte County (CCPC) have agreed on a set of initiatives to offset carbon dioxide (CO₂) and reduce other emissions for the Kansas City-based utility. Under the agreement announced today, KCP&L agrees to pursue offsets for all of the global warming emissions associated with its new plant through significant investments in energy efficiency and renewable energy, and cut pollution from its existing plants in order to improve air quality in the Greater Kansas City metro area. The agreement proposes other investments in clean energy, significant decreases in emissions and resolves four appeals pending between the Sierra Club, CCPC, and KCP&L. Full implementation of the terms of the agreement will necessitate approval from the appropriate authorities, as some of the initiatives in this agreement require either enabling legislative policy or regulatory approval.

“We believe there is significant potential through new energy technology and innovative approaches to improve the environment and offer additional value to our customers across the Kansas City region. This is especially true with energy efficiency and wind generation, which we have been implementing already through our Comprehensive Energy Plan developed in 2005,” said Mike Chesser, Chairman and CEO of Great Plains Energy. “We look forward to collaborating with the Sierra Club and other stakeholders as we pursue these exciting new opportunities.”

“This agreement is a win for our climate, for the environment, and for the residents of the Kansas City area,” said Carl Pope, Sierra Club Executive Director. “It is the latest sign that smart energy solutions like wind power and energy efficiency are gathering steam. We look forward to working with KCP&L to help the Midwest realize its full potential as a leader in the clean energy technologies that will fuel the economy of tomorrow.”

The most significant element of the agreement is the unprecedented commitment by KCP&L to pursue the offset of carbon emissions from its proposed Iatan 2 generating station, located near Weston, Missouri. The estimated 6,000,000 tons of annual carbon dioxide emissions are targeted to be offset by adding 400 megawatts (MW) of wind power; 300 MW of energy efficiency; and a yet to be determined combination of wind, efficiency, or the closing, altering, re-powering or efficiency improvements at any of its generating units. These proposed offsets will be partially implemented by 2010 and fully implemented by 2012. The parties are also agreeing to work together on a series of regulatory and legislative initiatives to achieve an overall reduction in KCP&L’s carbon dioxide emissions of 20 percent by 2020.

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ATTACHMENT 1-1

“This agreement shows that we can work together to curb air pollution, combat global warming, and protect our local communities.” said Susan Brown, chairperson for Concerned Citizens of Platte County. “The renewable energy investments in this agreement can revitalize the region’s manufacturing economy and offer rural landowners a new source of steady income from wind turbines located on their property. The large investment in energy efficiency will also help everyone use less energy — reducing emissions and saving consumers and businesses money each month.”

In addition to offsetting its global warming emissions, residents of the Kansas City area will benefit from reduced emissions of criteria pollutants at KCP&L’s existing Iatan 1 and La Cygne plants. The agreement calls for annual reductions in nitrogen oxides, sulfur dioxide and particulate matter estimated to total some 9,100 tons. Within the next year, KCP&L will also work with the Sierra Club to study options, including retiring, re-powering or upgrading its Montrose power plant. Finally, KCP&L will fund several community projects including: recommendations of the Kansas City Climate Protection Committee targeting global warming reduction measures; additional monitoring of soot and smog pollution in the metro area; and an upgrade to the drinking water infrastructure in Weston, a community near the Iatan station.

In another important step for clean energy, KCP&L will also file for approval of a net metering program within six months. Net metering allows a utility’s customers to generate small amounts of renewable energy on-site, such as from rooftop solar panels or a small wind turbine, and sell any excess energy back to the utility.

KCP&L’s Comprehensive Energy Plan was collaboratively constructed with a broad group of stakeholders and includes investments in new generation (including renewable wind energy); innovative efficiency, affordability and demand response programs; infrastructure improvements; and proactive environmental investments. This balanced approach will enable KCP&L to satisfy growing energy demands across the region for years to come while improving environmental stewardship.

“KCP&L’s current Comprehensive Energy Plan addresses the energy needs and emissions reductions for the Kansas City region with actions into the year 2010. This Agreement is the start of the next set of discussions with stakeholders as we develop our plans for the 2010-2015 timeframe,” said Bill Downey, President and CEO of KCP&L. “It reflects the ongoing atmosphere of collaboration we established in developing the CEP, and proactively resolves differences. We look forward to working with all stakeholders to secure a long-term energy supply for Kansas City while improving air quality.”

This agreement builds on the success of a 2006 agreement that Sierra Club brokered with City Water Light and Power of Springfield, IL. That agreement stipulated that the municipal utility retire one of the dirtiest coal plants in the nation, purchase 120 MW of wind, invest four million dollars in energy efficiency, and significantly decrease emissions of soot, smog and mercury pollution. In addition, all of the government buildings owned by the state of Illinois are to be powered with green electricity. Last week, CWLP announced that it stands to at least break even and may reap significant profits from its purchase and resale the wind power investments required in their agreement.

“We were and continue to be very pleased with the agreement we reached in Springfield,” commented Pope. “Our exciting new agreement with KCP&L raises the bar even further and demonstrates just how much we can achieve when utilities and groups like the Sierra Club work together.”

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About the Sierra Club

Sierra Club, founded in 1892, is the nation's oldest and largest grassroots environmental organization with over 1.3 million members and supporters. For the past two years the Great Rivers Environmental Law Center has represented Sierra Club and CCPC in their appeal of the Missouri PSC approval of the Iatan 2 power plant. For the past year Washington University Interdisciplinary Law Clinic has represented Sierra Club in its appeal of the air permit Missouri DNR issued for Iatan 2.

About the Concerned Citizens of Platte County

Concerned Citizens of Platte County, Inc. (CCPC) is a group concerned about quality of life, children's health and property values in Platte County, Missouri and the surrounding region. The organization was incorporated in the early 1990's.

About Kansas City Power & Light

Headquartered in Kansas City, Mo., KCP&L (www.kcpl.com) is a leading regulated provider of electricity in the Midwest. KCP&L is a wholly owned subsidiary of Great Plains Energy Incorporated (NYSE: GXP), the holding company for KCP&L and Strategic Energy L.L.C., a competitive electricity supplier.

Information Concerning Forward-Looking Statements

Statements made in this release that are not based on historical facts are forward-looking, may involve risks and uncertainties, and are intended to be as of the date when made. Forward-looking statements include, but are not limited to, statements regarding projected delivered volumes and margins, the outcome of regulatory proceedings, cost estimates of the comprehensive energy plan and other matters affecting future operations. In connection with the safe harbor provisions of the Private Securities Litigation Reform Act of 1995, Great Plains Energy is providing a number of important factors that could cause actual results to differ materially from the provided forward-looking information. These important factors include: future economic conditions in the regional, national and international markets, including but not limited to regional and national wholesale electricity markets; market perception of the energy industry and Great Plains Energy; changes in business strategy, operations or development plans; effects of current or proposed state and federal legislative and regulatory actions or developments, including, but not limited to, deregulation, re-regulation and restructuring of the electric utility industry; decisions of regulators regarding rates its subsidiaries can charge for electricity; adverse changes in applicable laws, regulations, rules, principles or practices governing tax, accounting and environmental matters including, but not limited to, air and water quality; financial market conditions and performance including, but not limited to, changes in interest rates and in availability and cost of capital and the effects on pension plan assets and costs; credit ratings; inflation rates; effectiveness of risk management policies and procedures and the ability of counterparties to satisfy their contractual commitments; impact of terrorist acts; increased competition including, but not limited to, retail choice in the electric utility industry and the entry of new competitors; ability to carry out marketing and sales plans; weather conditions including weather-related damage; cost, availability, quality and deliverability of fuel; ability to achieve generation planning goals and the occurrence and duration of unplanned generation outages; delays in the anticipated in-service dates and cost increases of additional generating capacity; nuclear operations; ability to enter new markets successfully and capitalize on growth opportunities in non-regulated businesses and the effects of competition; application of critical accounting policies, including, but not limited to, those related to derivatives and pension liabilities; workforce risks including compensation and benefits costs; performance of projects undertaken by non-regulated businesses and the success of efforts to invest in and develop new opportunities; the ability to successfully complete merger, acquisitions or divestiture plans (including the acquisition of Aquila, Inc., and the sale of assets to Black Hills Corporation); and other risks and uncertainties. Other risk factors are detailed from time to time in Great Plains Energy's most recent quarterly report on Form 10-Q or annual report on Form 10-K filed with the Securities and Exchange Commission. This list of factors is not all-inclusive because it is not possible to predict all factors.

KCPL: Paul Snider

913-439-9723

HOUSE BILL No. 2576

By Committee on Federal and State Affairs

3-13

9 AN ACT concerning municipally owned or operated electric or natural
10 gas public utilities; concerning regulation by the state corporation com-
11 mission; amending K.S.A. 66-1,174 and K.S.A. 2006 Supp. 66-104 and
12 repealing the existing sections.
13

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

15 Section 1. K.S.A. 2006 Supp. 66-104 is hereby amended to read as
16 follows: 66-104. (a) The term "public utility," as used in this act, shall be
17 construed to mean every corporation, company, individual, association of
18 persons, their trustees, lessees or receivers, that now or hereafter may
19 own, control, operate or manage, except for private use, any equipment,
20 plant or generating machinery, or any part thereof, for the transmission
21 of telephone messages or for the transmission of telegraph messages in
22 or through any part of the state, or the conveyance of oil and gas through
23 pipelines in or through any part of the state, except pipelines less than 15
24 miles in length and not operated in connection with or for the general
25 commercial supply of gas or oil, and all companies for the production,
26 transmission, delivery or furnishing of heat, light, water or power. No
27 cooperative, cooperative society, nonprofit or mutual corporation or as-
28 sociation which is engaged solely in furnishing telephone service to sub-
29 scribers from one telephone line without owning or operating its own
30 separate central office facilities, shall be subject to the jurisdiction and
31 control of the commission as provided herein, except that it shall not
32 construct or extend its facilities across or beyond the territorial boundaries
33 of any telephone company or cooperative without first obtaining approval
34 of the commission. As used herein, the term "transmission of telephone
35 messages" shall include the transmission by wire or other means of any
36 voice, data, signals or facsimile communications, including all such com-
37 munications now in existence or as may be developed in the future.

38 (b) The term "public utility" shall also include that portion of every
39 municipally owned or operated electric or gas utility located outside of
40 and more than three miles from the corporate limits of such municipality;
41 ~~but~~ Nothing in this act shall apply to a municipally owned or operated
42 utility, or portion thereof, located within the corporate limits of such
43 municipality or located outside of such corporate limits but within three

(1)

ENERGY AND HOUSE UTILITIES
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ATTACHMENT 2-1

2-2

1 miles thereof except as provided in K.S.A. 66-131a, and amendments
2 thereto ~~any municipally owned or operated electric or gas~~ utility which
3 serves more than 50,000 customers shall be subject to commission regu-
4 lation concerning rates, charges and terms and conditions of service of
5 such utility.

except as provided in paragraph (2).
(2) Any municipally owned or operated electric, gas or water

6 (c) Except as herein provided, the power and authority to control and
7 regulate all public utilities and common carriers situated and operated
8 wholly or principally within any city or principally operated for the benefit
9 of such city or its people, shall be vested exclusively in such city, subject
10 only to the right to apply for relief to the corporation commission as
11 provided in K.S.A. 66-133, and amendments thereto, and to the provi-
12 sions of K.S.A. 66-104e, and amendments thereto. A transit system prin-
13 cipally engaged in rendering local transportation service in and between
14 contiguous cities in this and another state by means of street railway,
15 trolley bus and motor bus lines, or any combination thereof, shall be
16 deemed to be a public utility as that term is used in this act and, as such,
17 shall be subject to the jurisdiction of the commission.

but such regulation shall not apply to payments by such utility
to the municipality owning or operating such utility. The
commission's expenses of such regulation shall be recovered
by the commission in the same manner as provided by K.S.A.
66-1501 et seq., and amendments thereto, for recovery of
expenses of regulation of public utilities.

18 (d) The term "public utility" shall not include any activity of an oth-
19 erwise jurisdictional corporation, company, individual, association of per-
20 sons, their trustees, lessees or receivers as to the marketing or sale of
21 compressed natural gas for end use as motor vehicle fuel.

22 (e) At the option of an otherwise jurisdictional entity, the term "pub-
23 lic utility" shall not include any activity or facility of such entity as to the
24 generation, marketing and sale of electricity generated by an electric gen-
25 eration facility or addition to an electric generation facility which:

26 (1) Is newly constructed and placed in service on or after January 1,
27 2001; and

28 (2) is not in the rate base of: (A) An electric public utility that is
29 subject to rate regulation by the state corporation commission; (B) any
30 cooperative, as defined by K.S.A. 17-4603 and amendments thereto, or
31 any nonstock member-owned cooperative corporation incorporated in
32 this state; or (C) a municipally owned or operated electric utility.

33 (f) Additional generating capacity achieved through efficiency gains
34 by refurbishing or replacing existing equipment at generating facilities
35 placed in service before January 1, 2001, shall not qualify under subsec-
36 tion (e).

37 (g) For purposes of the authority to appropriate property through
38 eminent domain, the term "public utility" shall not include any activity
39 for the siting or placement of wind powered electrical generators or tur-
40 bines, including the towers.

41 Sec. 2. K.S.A. 66-1,174 is hereby amended to read as follows: 66-
42 1,174. A municipally owned or operated retail electric supplier shall be
43 subject to commission jurisdiction as a public utility, as defined in K.S.A.

1 66-104, and amendments thereto, with respect to all operations within its
2 certified territory extending more than three miles beyond its corporate
3 limits. A municipal retail electric supplier shall be subject to regulation
4 by the commission in matters relating to the right to serve in the territory
5 within three miles of the corporate city boundary, except that the com-
6 mission shall have no jurisdiction concerning such retail electric supplier
7 within its corporate limits. *Notwithstanding any provision of law to the*
8 *contrary, any municipally owned or operated retail electric supplier*
9 *which serves more than 50,000 customers shall be subject to commission*
10 *regulation concerning rates, charges and terms and conditions of service*
11 *of such supplier.*

12 Sec. 3. K.S.A. 66-1,174 and K.S.A. 2006 Supp. 66-104 are hereby
13 repealed.

14 Sec. 4. This act shall take effect and be in force from and after its
15 publication in the statute book.

HOUSE BILL No. 2576

By Committee on Federal and State Affairs

3-13

9 AN ACT concerning municipally owned or operated electric or natural
10 gas public utilities; concerning regulation by the state corporation com-
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18 persons, their trustees, lessees or receivers, that now or hereafter may
19 own, control, operate or manage, except for private use, any equipment,
20 plant or generating machinery, or any part thereof, for the transmission
21 of telephone messages or for the transmission of telegraph messages in
22 or through any part of the state, or the conveyance of oil and gas through
23 pipelines in or through any part of the state, except pipelines less than 15
24 miles in length and not operated in connection with or for the general
25 commercial supply of gas or oil, and all companies for the production,
26 transmission, delivery or furnishing of heat, light, water or power. No
27 cooperative, cooperative society, nonprofit or mutual corporation or as-
28 sociation which is engaged solely in furnishing telephone service to sub-
29 scribers from one telephone line without owning or operating its own
30 separate central office facilities, shall be subject to the jurisdiction and
31 control of the commission as provided herein, except that it shall not
32 construct or extend its facilities across or beyond the territorial boundaries
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36 voice, data, signals or facsimile communications, including all such com-
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38 (b) The term "public utility" shall also include that portion of every
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ATTACHMENT 3-1

3-2

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4 ~~lation concerning rates, charges and terms and conditions of service of~~
5 ~~such utility.~~

except as provided in section 2, and amendments thereto

6 (c) Except as herein provided, the power and authority to control and
7 regulate all public utilities and common carriers situated and operated
8 wholly or principally within any city or principally operated for the benefit
9 of such city or its people, shall be vested exclusively in such city, subject
10 only to the right to apply for relief to the corporation commission as
11 provided in K.S.A. 66-133, and amendments thereto, and to the provi-
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13 cipally engaged in rendering local transportation service in and between
14 contiguous cities in this and another state by means of street railway,
15 trolley bus and motor bus lines, or any combination thereof, shall be
16 deemed to be a public utility as that term is used in this act and, as such,
17 shall be subject to the jurisdiction of the commission.

18 (d) The term "public utility" shall not include any activity of an oth-
19 erwise jurisdictional corporation, company, individual, association of per-
20 sons, their trustees, lessees or receivers as to the marketing or sale of
21 compressed natural gas for end use as motor vehicle fuel.

22 (e) At the option of an otherwise jurisdictional entity, the term "pub-
23 lic utility" shall not include any activity or facility of such entity as to the
24 generation, marketing and sale of electricity generated by an electric gen-
25 eration facility or addition to an electric generation facility which:

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27 2001; and

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29 subject to rate regulation by the state corporation commission; (B) any
30 cooperative, as defined by K.S.A. 17-4603 and amendments thereto, or
31 any nonstock member-owned cooperative corporation incorporated in
32 this state; or (C) a municipally owned or operated electric utility.

33 (f) Additional generating capacity achieved through efficiency gains
34 by refurbishing or replacing existing equipment at generating facilities
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 8 ~~contrary, any municipally owned or operated retail electric supplier~~
 9 ~~which serves more than 50,000 customers shall be subject to commission~~
 10 ~~regulation concerning rates, charges and terms and conditions of service~~
 11 ~~of such supplier.~~

insert section 2, attached

12 Sec. 3. ~~K.S.A. 66-1,174 and~~ K.S.A. 2006 Supp. 66-104 are hereby
 13 repealed.

14 Sec. 4. This act shall take effect and be in force from and after its
 15 publication in the statute book.

New Sec. 2. (a) As used in this section, "municipal utility" means any municipally owned or operated electric, natural gas or water utility which serves more than 50,000 customers.

(b) The state corporation commission shall investigate all rates, joint rates, tolls, charges and exactions, classifications and schedules of rates of a municipal utility if there is filed with the commission, not more than one year after a change in such utility's rates, joint rates, tolls, charges and exactions, classifications or schedules of rates, a petition signed by not less than 5% of all the utility's customers or 3% of the utility's customers from any one rate class. If, after investigation, the commission finds that such rates, joint rates, tolls, charges or exactions, classifications or schedules of rates are unjust, unreasonable, unjustly discriminatory or unduly preferential, the commission shall have the power to fix and order substituted therefor such rates, joint rates, tolls, charges and exactions, classifications or schedules of rates as are just and reasonable.

(c) The municipal utility's rates, joint rates, tolls, charges and exactions, classifications or schedules of rates complained of shall remain in effect subject to change or refund pending the state corporation commission's investigation and final order.

(d) Any customer of a municipal utility wishing to petition the commission pursuant to subsection (b) may request from the utility the names, addresses and rate classifications of all the utility's customers or of the utility's customers from any one or more rate classes. The municipal utility, within 21 days after receipt of the request, shall furnish to the customer the requested names, addresses and rate classifications and may require the customer to pay the reasonable costs thereof.

(e) Nothing in this section shall be construed to authorize the state corporation commission to regulate payments by a municipal utility to the municipality owning or operating such utility.

(f) The commission shall assess its expenses of any investigation or proceeding pursuant to this section against the municipal utility.



Board of Public Utilities MEMORANDUM

TO: Honorable Chairman Holmes
FROM: Lori Austin
DATE: March 19, 2006
SUBJECT: Requested Rate Information

Below is the breakout between our winter and summer cost per kWh for **2006** for our Residential, Commercial and Industrial customers. The rates are made up of two charges; the Energy Rate Component (ERC), which is a pass through of fuel and purchased power costs and the Base Rate. The ERC is calculated and adjusted every six (6) months to determine the Winter ERC and the Summer ERC. The ERC is combined with the base rate to determine the total cost per kWh as identified below:

Residential - 2006

Winter - .08511 cents per kWh
Summer - .010191 cents per kWh
Annual average - .09351 cents per kWh

Commercial - 2006

Winter - .07515 cents per kWh
Summer - .08410 cents per kWh
Annual Average - .07962 cents per kWh

Industrial - 2006

Winter - .04834 cents per kWh
Summer - .06574 cents per kWh
Annual Average - .05704 cents per kWh

Note: Our Energy Rate Component Rider (ERC), for 2006 was higher due to a 3 month scheduled outage of the Nearman power plant which is our main base load unit.

The Annual Average is the base rate costs plus both the Winter and Summer ERC for 2006.

The schedule below illustrates our 2007 annual projected cost per kWh by Residential, Commercial and Industrial customers based on our 2007 Approved Budget. The 2007 annual average includes the projected ERC for the winter and summer periods plus the base rate. The ERC for 2007 is lower than 2006 as a result of no major outage of our base load units this year.

Residential - 2007

Annual average - .08963 cents per kWh

Commercial - 2007

Annual Average - .07537 cents per kWh

Industrial - 2007

Annual Average - .05219 cents per kWh

-

Contracts

The Kansas City Board of Public Utilities currently has contracts with a few customers located in the Village West area which have installed electric heat in their facilities. These contracts are for a ten year period and provide for a billing rate table which averages demand and energy charges based on a designed load. All other monthly charges including customer charges, facilities and metering charges are applied on top of the billing rate table.

Utility bills for the Kansas City Kansas Community College

The Kansas City Kansas Community College (KCKCC) does not have one monthly rate for the entire campus. Currently, KCKCC has twelve (12) accounts with the BPU. There are eight (8) accounts which have a rate class of Small General Service and four (4) accounts which are under the Large General Service rate class. Each rate class has a different monthly customer, facilities, demand, and energy charge as well as a metering adjustment charge. Each account is calculated based on consumption on a cost per kW for facilities charges and demand charges and a cost for energy based on kWh and a percentage adjustment for metering.

The BPU has not been contacted by staff from KCKCC and is currently unaware of any issues KCKCC may have with regard to their utility bill. We will be contacting our customer to make sure we address any issues they may have.

If you have any additional questions, I can be contacted through Joe Dick, BPU's lobbyist.



KANSAS

CORPORATION COMMISSION

KATHLEEN SEBELIUS, GOVERNOR

BRIAN J. MOLINE, CHAIR

ROBERT E. KREHBIEL, COMMISSIONER

MICHAEL C. MOFFET, COMMISSIONER

**Before the House Utilities Committee
Comments by the
Staff of the Kansas Corporation Commission
March 20, 2007**

Senate Bill 20

Thank you Mr. Chair and members of the Committee. I am Leo Haynos, Chief of Gas Operations and Pipeline Safety for the Kansas Corporation Commission. I am appearing today on behalf of the KCC Staff in support of SB 20 which will require operators of potable water systems and sanitary sewers to participate in the Kansas Underground Utility Damage Prevention Act. This act is also known by the acronym KUUDPA or as the One Call law. Currently under KUUDPA, water and sewer facilities are not considered to be underground utilities. Therefore, the operators of these types of facilities are not required to participate in the call center or to perform utility locates. By the same token, excavators are not required to notify these operators of a pending excavation. In Kansas, most water and sewer utilities are municipally owned and operated. To aid in the protection of their facilities, at least 105 cities with water utilities have voluntarily joined One Call. According to available records, there are 251 cities with a water utility and 53 rural water districts that are members of One Call. Those that have not joined rely on the knowledge and good will of the excavators to request locates directly from the water or sewer operator. While the voluntary membership is noteworthy, there are still 50% of the cities with water utilities and 82% of the rural water districts that are not members of One Call. On every locate request, the call center warns excavators that other non-member utilities may be present at their excavation site, and excavators typically will make as many calls as necessary if they know who to call. Unfortunately, excavators have no easy source of contact information for utilities that do not

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participate in One Call, nor do they know which water or sewer utility may have facilities located where they want to dig. Even when phone numbers are available and the excavator knows who to call, the utility operator usually does not have the 24-hour phone coverage offered by the One Call center. Without knowledge of the location of non-participating facilities, excavators have a higher risk of damaging them, and unless a leak brings fluids to the surface, the excavator and operator would have no indication that a damage occurred. Damaged sewer lines may go undetected for years before expensive repairs are required. There are known cases where gas lines were installed through sewer facilities where neither the operator nor the excavator had any knowledge of damage. When the sewer lines were eventually cleaned, sometimes years later, there have been tragic accidents from the ruptured gas lines. Although water and sewer line breaks do not usually cause an immediate safety hazard to the excavator, they have the potential for serious impacts on the safety and environment of a community. These impacts can range from flooding and road damage to contamination of drinking water supplies.

In the United States, only three states, Kansas, West Virginia, and Vermont do not require water and sewer facilities to provide any type of locate service to excavators. Last year, there were 481,000 notices of excavation that were processed through the call center operated by Kansas One Call. It is unknown how many of these required 2nd or 3rd calls by the excavator to notify non-participating utilities. Information provided by Water One of Johnson County, indicates only 8% of the excavators make a second call.¹ I believe it is a fair assumption to state that an excavator will attempt to make as many calls as necessary to notify non-participating utilities in order to avoid damage to the facility, equipment downtime waiting on repairs, and potential

¹ Testimony presented to Special Committee on Utilities, Sept. 15, 2006 states WaterOne expected to receive 7500 notifications of excavation. Johnson County Wastewater, a voluntary member of One Call, received 91,178 notifications. Assuming WaterOne would receive the same number of locates as JCW, the data indicates only 8% of excavators made a 2nd call.

safety concerns for employees. The low percentage of 2nd calls made indicates the excavator just does not know whom to call or assumes there are no water or sewer facilities in conflict with its excavation.

Water and sewer facility operators that do not participate in KUUDPA indicate they are not suffering damages as a result of not performing locates. It appears that the depth of water and sewer facilities, (which are at least 3 feet deep), may be responsible for minimizing damage from excavation activity. Based on data from voluntary members of One Call, an excavator is 10 times more likely to hit a gas or telecommunications line than he is a water or sewer line.² Although damages to exempt facilities may be rare when compared to other utility sectors, we contend the fact that excavators have no way of knowing whom to call in a given area and no means of requiring this information to be available is problematic for the excavation industry in Kansas and needs to be addressed. Senate Bill 20 recognizes the fact that water or sanitary sewer lines are placed deeper than most excavations. Therefore, the proposed change does not require Tier 2 operators to provide locates if their facility is more than 2 feet below the planned excavation depth.

There is a significant cost associated with providing locates. Although the statute is silent on what a utility may charge an excavator for performing locates, the industry practice is to provide the service free of charge to the excavator. The utility operator pays a \$25 annual membership fee to Kansas One Call, and it is charged \$1.14 by the call center for each request sent to them. Additionally, the utility must provide the manpower and associated costs of performing the locate. Providing an accurate locate is estimated to cost approximately \$15 for a total cost of

² Testimony presented by Leo Haynos to Special Committee on Utilities, September 15, 2006.

\$16.50 per locate. In 2005, municipal utility operators that are members of One Call received an average of 200 requests for each 1000 residents while small towns located in high growth areas received as many as 2000 requests for each 1000 residents. Using the average number and the costs listed above, mandatory participation could result in an additional charge of \$3.30 per year for each resident of a town with municipal operated exempt utilities. No data is available to the KCC staff for the costs of providing locate service for rural water systems. I would expect the costs to be slightly higher than municipal operators because of the distance and time involved in providing locates on rural systems. The substitute bill as passed by the Senate recognizes that water and sanitary sewer facilities do not pose the same risk as natural gas and electric underground utilities. It also recognizes that the great majority, if not all, water and sewer facility operators are either nonprofit or municipally owned utilities. For this reason, SB 20 establishes special considerations for these facilities by defining them as a "Tier 2" or a separate class of underground utility. In order to minimize the costs of participating in KUUDPA, Tier 2 facilities are allowed the option of receiving locate requests in the conventional way or being contacted directly by the excavator. In addition, Tier 2 operators will not be required to provide locates for every notice received. They will be required to provide the notification center with operator contact information and a map of the geographical area where they have buried facilities.

The cost of \$16.50/locate is based on the manpower necessary to provide locates with a ± 2 foot accuracy as required under KUUDPA. Unfortunately, most water and sanitary sewer facilities are unable to use conventional methods to identify the location of the line from above ground level. When remote detection fails, the operator must rely on his maps of the facility. Water and

sanitary sewer facilities have no requirement to develop or maintain maps of their facilities, and in fact, there are cases where maps do not exist. Most maps that do exist were prepared at the time of facility construction and usually reference landmarks that were available at that time. Any change in surface features such as the center of a street, will render a map useless unless it is maintained to reflect changing surface features. Exempt facility operators that have non-conductive facilities, no tracer wire, and inaccurate maps have expressed a concern that they will become liable for damages if they are required to provide accurate locates. SB 20 has two provisions that address this situation. First of all, any Tier 2 facility built after July 2007 would be required to be locatable. Secondly, SB 20 does not restrict Tier 2 facilities to the standard 24-inch tolerance zone. The bill will allow the KCC to develop regulations that will accommodate the operator's difficulty in providing accurate locates while preserving the right of the excavator to be made aware that a potential conflict exists. Hopefully, this would minimize the liability of both parties when digging near a line of unknown location.

In summary, KCC Staff supports the passage of SB 20 which requires operators of potable water and sanitary sewer facilities to participate in the Kansas Underground Utility Damage Prevention Act. Although SB 20 still requires the excavator to make more than one call to find out about buried utilities at a dig site, at least under this proposal the excavator will know whom to call. Although utilities currently not participating in KUUDPA will incur some costs when providing the required locating service, we believe the information provided to the excavator ultimately will reduce damages and result in a more efficient communications link between excavators and underground utility operators.

This concludes my testimony, and I would be happy to answer any questions you may have.

HEIN LAW FIRM, CHARTERED

5845 SW 29th Street, Topeka, KS 66614-2462

Phone: (785) 273-1441

Fax: (785) 273-9243

Ronald R. Hein

Attorney-at-Law

Email: rhein@heinlaw.com

Written Testimony re: Sub SB 20
House Energy and Utilities Committee
Presented by Ronald R. Hein
on behalf of
Associated Builders & Contractors Heart of America Chapter
March 20, 2007

Mr. Chairman, Members of the Committee:

My name is Ron Hein, and I represent the Associated Builders and Contractors Heart of America Chapter (ABC). The ABC is a professional association of builders and contractors concerned with labor management and other issues affecting the commercial construction industry.

ABC supports Sub SB 20. In today's world of construction, most all utilities – gas, electricity, water, sewer, communications, data, cable TV – are expected to be installed underground. Contractors are charged with the responsibility of installing them and the contractor chosen is usually selected based on low bid.

Competitive forces in the market dictate that we perform this work as efficiently and quickly as possible. As part of this process, contractors must be prudent in trying to make sure they do not run into existing facilities causing delays, expensive repairs, down time and potential safety risks.

The One Call system works well in providing them a resource to avoid these situations, but as you have already seen, not all utilities are covered. Contractors are, pretty much, flying blind when it comes to the location of some water and gas lines.

Contractors do their best to compensate for these gaps in the system, but when you work in many different cities and counties it is almost impossible to know every utility that might possibly have facilities in a given area.

If damage is done to a utility line that is not a part of the One Call system, contractors are responsible for the damages even if they had no way of knowing it was there. This can be a very expensive proposition in terms of dollars and lost time.

Contractors consider the situation serious as it is today. More and more facilities are being installed under ground every day. If the Legislature doesn't do something now to start addressing these issues, the problem will be even greater in the future. Either all

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utilities need to be brought under the One Call system, or the law must be changed so that the responsibility for personal and property damage resulting from excavation is on the utility which doesn't participate in the One Call system, rather than the contractor who has no control over the situation.

The Senate Utilities Committee amended this bill by creating two tiers of underground facilities for the purpose of notification. Tier 1 facilities are for gas, electricity, communications, crude oil, petroleum, and hazardous liquids. Tier 2 facilities are for potable water and sewage. Once an excavator calls One Call, all necessary information will be obtained from that call; for tier two facilities, an excavator will be given an alternative number to contact the facility directly. ABC supports the bill as amended by the Senate.

ABC urges you to support Sub SB 20.

THE KANSAS CONTRACTORS ASSOCIATION, INC.



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316 SW 33RD ST • PO BOX 5061
TOPEKA KS 66605-0061

TEL (785) 266-4152

FAX (785) 266-6191

kca@ink.org

www.kansas.gov/kca

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Testimony

By the Kansas Contractors Association before the House Energy and
Utilities Committee regarding the Kansas Underground Utility Prevention Act and
the Inclusion of Water Facilities Under One Call—SB 20

March 20, 2007

Mr. Chairman and members of the Committee, I am Bob Totten, Public
Affairs Director for the Kansas Contractors Association. Our organization represents
over 400 companies who are involved in the construction of highways and water
treatment facilities and utilities in Kansas and the Midwest.

Today, I come to you in support of Senate Bill 20. Our members wholeheartedly
agree that all facility exemptions contained in the One Call program should be addressed
and that all underground operators should be part of the Kansas Underground
Utility Damage Prevention Act.

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We strongly believe the safety of our employees should be paramount and knowing where a line is buried only adds to their safety. In addition, there are costs involved when a line is dug into. Those costs sometimes are not defined very well but trust me not only the contractor suffers down time when a line is incorrectly marked but in some cases lives could be at stake if a line is disrupted for any length of time.

Many of our members work in other states and they have for years groused to me about why the Kansas One Call Program doesn't include everyone. In Kansas it really isn't one call. It is 2 calls or 3 calls or maybe 4 calls in addition to the main call to the Kansas One Call Notification Center. Those extra calls are costly and those costs are passed on to the customer when a project is bid and could be changed if the system were actually a one call system.

If this measure were approved, all sanitary sewer facilities and or potable water facilities would become part of the one call program as it pertains to facilities put in the ground after July 1 of 2007. That is a step in the right direction however it is unfortunate that this legislation doesn't address all the water lines and sewer lines already in the ground.

Our members are constantly on the alert when they move dirt worrying about whether a line is buried beneath the ground that they are not aware of. They are concerned they might disrupt a gas line, a water line or a communication line.

They are concerned about hitting a gas line primarily but water lines can also be lethal. Each time a water line is hit, it effects service...and although most water lines are small...some are a foot in diameter and some can be up to 4 feet in diameter. Would you like to be digging and hit a 4 foot water line? Such an incident could take out an intersection and flood all the businesses in the area. It is not only a danger to the excavator who digs into the line but it can also be costly to those whose houses are flooded or businesses damaged.

And what about a line that is damaged. An 8-inch line taken out by a contractor can empty a large water tank...at least that is what a water board member in Manhattan told me last fall. What happens if a fire occurs and there is no water in the line. I think sometimes we don't look at the big picture because such a mishap happens on a rare occasion but when it does happen the mishap is in the baby white spot light for a long time.

I have heard many stories from various contractors about digging into an unknown line. Trust me, ask a contractor about a time he/she dug into a line and they can take 20 minutes to explain what happened. It is usually a big mess.

I also want to take a moment and talk about how the downtime of a contractor who hits a line and how that effects you. If a line is hit by a contractor because it was not marked correctly, there is a delay in the project. The contractor usually has to help clean up the mess and spend more time on the job than what she had planned. Our contractors don't appreciate having to be on a job longer than planned. As a community, We never take into consideration who should pay for the contractor who has been held up because a line was not marked correctly causing a delay in his work.

I would suspect you will hear from various groups that it is too expensive for them to have their lines marked or located...but who pays the bill when a line not marked correctly holds up the contractors or hurts someone.

In essence you or the next customer does. Because it costs more for the contractor to do this job and the contractor will figure that cost in his next bid. So to think that we should allow utilities not to mark their lines because it costs the utility money...let's remember who the contractor is working for....you would soon realize the owner of the project ends up paying for allowing one group not to be paying for the service.

One last thing, when a utility puts a facility into the ground...it is a privilege although in most cases it is serving the greater good. In our opinion, the utility should be required to know where its facilities are located....as a public safety issue. ...and to streamline this effort...be part of the One Call system like the rest of the utilities in the state and most of the nation are.

Thank you once again for the time you have made for our concerns to be heard

Testimony before Kansas State House of Representatives

**Katherin Steinbacher, P.E.
Director, Business Development, BRB Contractors, Inc.**

March 19, 2007

Re: Senate Bill 20

My name is Katherin Steinbacher and I am Director of Business Development for BRB Contractors. We are a large heavy contractor specializing in the construction of utilities and in water and wastewater treatment facilities. We work within Kansas and throughout the United States and are headquartered in Topeka, Kansas. I am also a licensed Professional Engineer and worked for many years as a consulting engineer in eastern Kansas. I come before you today to speak in support of requiring participation by all operators of underground facilities, including municipalities and rural water districts, in the Kansas Underground Utility Damage Prevention Act, or the Kansas "One Call Law".

I have worked in the field of civil engineering and construction for almost fifteen (15) years. I have worked in many different states, including Kansas. Kansas is one of only three states within this country that does not require water and sewer operators to provide location information regarding underground pipelines. Municipalities and other operators say that they want continued exemption from the One Call Law because they do not have the monetary resources to map or locate their facilities. I would submit to you today, that it is because of their refusal to provide these necessary maps or locates that these owners and operators in Kansas find their funding more limited than those in other states. They are indirectly paying an exorbitant, and often unknown, price for their refusal to provide necessary information.

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Allow me to offer a specific example, one of countless stories that I and my colleagues in the field could share with you. A few years ago, I was the design and construction inspection engineer for a street rehabilitation project within an eastern Kansas town. The contractor that was awarded the project completed all necessary due diligence in relation to locating existing underground utilities. He made the one call, then the second call, then the third, as he had previously worked in the area and knew the affected operators that were exempt from the One Call Law. During the course of the project, an out of state private utility contractor performed duly permitted directional boring work within the limits of this project. As they had not previously worked in the area, they naturally assumed that their "One Call" was sufficient to locate all underground utilities in the vicinity. They realized that this was not the case when they bored through a large water transmission main. The owner of this line, a municipality, was exempt from the One Call Law, and had chosen not to spend the estimated \$16.50 as they had no legal responsibility for location. The breach of this water pipeline caused significant flooding and delay to the ongoing road project as well as flooding to several adjacent homes and private properties. In the end, this municipality had not only spent the \$16.50 they saved by not joining Kansas One Call, but they were responsible for over \$500,000 in legal costs, damages and repair costs, the completion of their new street was delayed by almost three months, the water supply to several neighborhoods was disrupted and their insurance rates raised significantly. How much money did this municipality really save by choosing not to locate their underground utilities?

As a contractor that works in Kansas as well as throughout the U.S., I also have the responsibility to explain to you how Kansas' refusal to provide for comprehensive underground utility

locations affects a construction company's business practices as well as the local and state economies. When we bid projects in Kansas, we are forced to include contingencies for costs related to the encounter of unknown, unmarked underground utilities. Our insurance brokers and bonding agents insist on greater protection for projects within Kansas. These costs are eventually passed on to the tax-payer, and contribute to decreasing local and state revenues, as well as causing a chilling effect on development and construction of infrastructure within the community. The bottom line is that by forcing this amount of unreasonable risk onto the contractor, or excavator, the owner pays a premium for all construction activities occurring in their domain, resulting in the construction of fewer projects for the same cost. Only through more educated and more comprehensive risk allocation can these communities stop wasting large amounts of revenue for nothing. The Kansas Corporation Commission's proposal to expand the Kansas One Call Law is the first step in this improved risk allocation process.

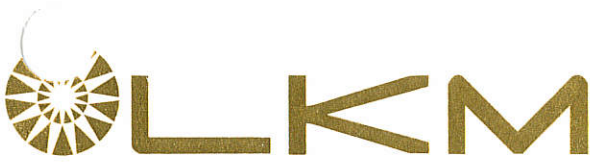
Contractors and engineers, as a group, are labeled most often as problem solvers. We enjoy finding new and effective ways of meeting challenges. Our industry is very aware that the KCC is currently unable to exercise control over municipalities and pseudo-municipalities in relation to the One Call Law. But, just because we don't waste our time complaining about it does not mean that there is not a problem.

The technology needed to provide for comprehensive locates is readily available and affordable. Many towns and cities in Kansas already utilize some sort of GIS, or Geographic Information System, that could easily be expanded to include accurate underground utility information, including vertical elevation and the use of tracer wire and transponders has become common

practice in underground utility placement. And, if these facilities are truly found to be un-locateable, then the preparation of maps would be a simple alternative and certainly a step in the right direction.

In closing, un-located underground utilities can result in environmental catastrophes, wasted resources, decreased worker safety and contingent liability that will continue to adversely affect the future development of our state. I strongly support requiring participation by all operators of underground facilities in the Kansas "One Call Law".

Thank you, ladies and gentlemen, for your consideration, and I now stand for any questions you may have.



League of Kansas Municipalities

To: House Energy and Utilities Committee
From: Kimberly Winn, Director of Policy Development & Communications
Date: March 20, 2007
Re: SB 20

Thank you for giving me the opportunity to offer comments regarding SB 20 on behalf of the 576 member cities of the League of Kansas Municipalities (LKM). Throughout our policy process last fall, the issue of mandatory participation in one-call by water and sewer utilities was debated. The LKM Convention of Voting Delegates adopted a position opposing such a mandate. Based on this position, LKM opposed this legislation when it was originally heard in the Senate.

The Senate Utilities Committee addressed many of the concerns that we expressed and produced a bill which represents a compromise on this issue. Last week, the LKM Governing Body considered the provisions of Substitute for SB 20 and endorsed the concept of this legislation.

The critical feature of this bill is that it recognizes that water and sewer utilities are indeed different than electric and gas utilities. They are inherently less dangerous and they are generally buried much deeper than other types of utility facilities. Substitute for SB 20 establishes a two-tiered approach to the state's one-call system that we believe is an appropriate compromise. In adopting a two-tiered approach, Kansas would not be alone. At least 14 other states have some kind of differential treatment for water and sewer utilities. LKM support of this bill is contingent upon this two-tiered approach.

We have one remaining concern with the bill and that is in regard to the fees which will be required to be paid to the one-call center. As the bill is currently written, water and sewer utilities would be at the mercy of a non-public entity that would have the authority to establish whatever fee they want with regard to Tier 2 facilities.

Last fall, we attempted to receive some information from Kansas One Call regarding the calls they take concerning water and sewer utilities. When we were refused this information, we filed an open records request pursuant to the Kansas Open Records Act (KORA). Again, after a lengthy wait we were informed that Kansas One Call is not subject to KORA.

While we whole heartedly support the concept in Substitute for SB 20, we believe that it is very important that the fees be certain and established by the Legislature. We believe that it is inappropriate to authorize an entity that does not have finances which are open for public review to establish fees without any kind of statutory limitation on those fees. We request that the Legislature establish a flat fee for Tier 2 facilities and put that fee into the statute.

Thank you for the opportunity to appear today. I would be happy to stand for questions at the appropriate time.



KANSAS GAS SERVICE

A DIVISION OF ONEOK

**Before the House Committee on Energy and Utilities
Senate Bill 20
Testimony of George R. Melling, Manager – Claims and Risk
Kansas Gas Service, a Division of ONEOK, Inc.
7421 W 129th Street, Overland Park, Kansas
913-319-8627
March 20, 2007**

Chairman Holmes and members of the Committee:

I appreciate the opportunity to testify before you regarding this important issue. Kansas Gas Service is supportive of efforts by the legislature to enhance public safety including the reduction of damages and therefore exposure to risk arising from damage to underground facilities. Kansas Gas Service has long been a supporter of the Kansas One Call system as a means for all utility operators to make a joint effort to achieve these goals. During 2005 Kansas Gas Service recorded 1220 damages to our underground facilities. In 2006 this number rose to 1260. In each of these instances Company personnel had to control the escaping gas flow as quickly as possible in order to minimize risk to the public and themselves.

As outlined by Mr. Haynos the current Underground Damage Prevention Act excludes operators of sanitary sewer and potable water systems. These exclusions tend to undermine the intent of the law given the fact that in many areas of the State an excavator must make multiple calls to obtain information regarding the location of all buried facilities. As a result some excavators simply do not make the additional calls. This lack of information sometimes results in damage to underground facilities in addition to the potential risk and service interruptions to the public, the very ones the law is intended to protect.

In addition to operating our Distribution and Transmission systems, Kansas Gas Service is a major excavator in the State of Kansas, which means that our personnel are required to make additional calls every day attempting to insure all underground facilities have been located prior to beginning our work.

In summation Kansas Gas Service endorses efforts to improve public safety by strengthening the Underground Damage Prevention Act by including sanitary sewer and potable water system operators.

I am willing to take any questions you may have.

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Kansas One-Call
8100 E. 22nd St. N.
Wichita, KS 67226

Mr. Chairman and Members of the Committee:

My name is Tom Shimon. I am the Executive Director of Kansas One-Call. While I am unable to be present at today's hearing I felt that Kansas One-Call's position be presented.

Kansas One-Call, a non-profit corporation, is dedicated to underground utility damage prevention, public safety and uninterrupted utility service to the general public. The system is designed so that the costs of operation are covered by the members in proportion to their use of the system and this position and proposal is designed to continue the ability of KOC to continue to operate in a cost effective manner.

This past fall, I presented testimony to the Special Committee on Utilities on behalf of Kansas One-Call. In that testimony I presented four positions developed and approved by our Board of Directors.

- 1. Kansas One-Call would support legislation that all underground utilities become regular members of the call center.**
- 2. That Kansas One-Call was opposed to any tiered method of participation.**
- 3. That Kansas One-Call was open to the idea of a graduated ticket rate for new water and sewer members for a period of five years. First year free, second year a 75% discount of our current ticket price, third year a 50% discount, fourth year a 25% discount and beginning in the fifth year full ticket price.**
- 4. For smaller members, Kansas One-Call would allow new members who receive sixty tickets or less, for a period of five years to receive their excavation notices by voice.**

Recently the Senate asked me to prepare some cost estimates of integrating a tiered membership structure whereby we would notify the caller or excavators with the name and phone number of those utilities who would not receive a notice of excavation directly from Kansas One-Call.

PHONE: 316-687-2102 FAX: 613-687-3753

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We have done that. I must say it was a lot like throwing a dart at a dart board in a dark room. At the end, of this lengthy and detailed process we could not formulate a pricing structure that would be truly fair and equitable to both our current members and those that would be tier two members.

We looked at a yearly flat fee by city class, by population and by geographical area. None of these provided a pricing structure that would prevent current members of Kansas One-Call from subsidizing the tier two system in one manner or another.

At our most recent Board of Directors meeting, the directors voted to re-affirm the four positions stated above. While the position of KOC has not changed we are cognizant of the mandate for a cost to provide this tier two system. Therefore, if this bill is passed and eventually signed into law, a rate of between \$0.45 and \$0.50 per referral will be presented to the Board of Directors for approval. In addition, return calls due to the caller being unable to contact the tier two members will be billed at the referral rate. We just want to make it clear, that under SB20 each tier two member will have to pay Kansas One-Call the referral fee, plus the internal costs to process and document the second call from the caller/excavator.

For the year 2006, it cost Kansas One-Call approximately \$5.60 to process each incoming locate request. The majority of this cost is labor and communications. Our current ticket charge to the members is \$1.14 for each excavation notice, which has not increased since 1995.

Kansas One-Call will continue to honor our longstanding commitment to damage prevention and public safety by offering all new water and sewer members the five year discount pricing structure to become tier one members, as this will be the most cost effective way to establish a true one-call system for the state of Kansas.

In the interest of public safety and damage prevention Kansas One-Call recommends passage of SB20.

Thank-You



KANSAS
RURAL
WATER
association

Quality water, quality life

P.O. Box 226 • Seneca, KS 66538 • 785/336-3760
FAX 785/336-2751 • <http://www.krwa.net>

**Comments on Substitute for Senate Bill 20
Before the House Energy and Utilities Committee
March 20, 2007**

Mr. Chairman and Members of the Committee:

My name is Elmer Ronnebaum. I am General Manager of the Kansas Rural Water Association. The Association has membership of nearly 295 rural water districts and 465 cities. The Association appreciates the opportunity to comment on Senate Bill 20.

While there is concern by utilities and contractors alike to avoid damage to underground facilities, many city and rural water districts are unable to locate their pipelines, and certainly not within the 2-foot tolerance as required by the present One Call process. If water systems are unable to locate their lines the risk of loss to their lines or damages shifts to them, even if the line is in private easement. A water system could not show negligence (triggering liability on the excavator) if the water supply cannot locate its lines. However, the zone of tolerance and the time frames involved add to the responsibilities of the utilities and their potential for failure to meet those standards increases substantially as members of One Call. While it may be beneficial for a uniform notification process, the mandatory participation will not help any water or wastewater system to locate their facilities. Those are the reasons the Kansas Rural Water Association opposes mandatory participation of public water and wastewater systems in Kansas One Call.

Senate Bill 20 has been heavily modified since its original introduction. The Kansas Rural Water Association submits the following for your consideration for further amendment:

We support that excavators should contact Tier 2 utilities directly or use the One Call referral system; private citizens shall normally contact the utility directly without access to One Call.

We support that excavators participate in the cost of the tickets.

We believe that excavators should pay the full cost of One Call ticket assessment for call backs (reworking) by Tier 1 and Tier 2 utilities unless the request is due to circumstances not reasonably within the control of the excavator.

We believe that persons requesting locates should know where the area of excavation is. That is presently not nearly always the case. We suggest that all excavators be required to "whiteline" the location of the proposed excavation prior to contacting Tier 1 or Tier 2 utilities or calling One Call. Water systems presently members of One Call are frustrated in having to contact the excavators to inquire where the excavation is going to take

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place, many times only to be told that the excavator has not even yet been issued a work order, or that the firm has no idea.

We suggest that any fees associated with participating be established in statute.

We believe that the time for implementation should be extended to allow utilities more time to determine to be Tier 1 or Tier 2 and to be informed of any new requirements.

We support that Tier 2 utilities' facilities installed after July 1, 2007 to be locatable. We support having all Tier 2 facilities be locatable at some future date, perhaps after five or more years.

There are municipalities and rural water systems in Kansas that operate excellent locate services. Those utilities that can demonstrate such capacity to the Kansas Corporation Commission ought to be exempted from requirements of One Call.

Thank you for your consideration.

Respectfully submitted,



Elmer Ronnebaum
General Manager

**TESTIMONY IN OPPOSITION
TO SUBSTITUTE SENATE BILL 20**

To: Members of the House Energy and Utilities Committee

**From: Darci Meese, Government Affairs Coordinator
Water District No. 1 Johnson County**

Date: March 20th, 2007

RE: Substitute Senate Bill 20

On behalf of Water District No. 1 of Johnson County, I am writing to convey our concerns with the effects of Substitute Senate Bill 20 that would require water and sewer utilities to become members of the Kansas One Call Center. The exclusion in current law, of water supply facilities from the provisions of KUUDPA exists, in part, because underground water facilities do not present the same health and safety issues posed by other underground utilities. A mandate requiring water utilities to participate in the One Call Center will result in a substantial unnecessary expense to the utility's ratepayers, without providing any benefit or enhanced service.

WaterOne successfully operates its own in-house locate department consisting of one administrative employee and four field employees. Excavators in Johnson County contact WaterOne directly to request locates of our facilities and our own field employees are then dispatched to the area to perform the locate. WaterOne follows KUUDPA with regards to the timing of field locates under normal and emergency circumstances.

It has been our experience that excavators in the Johnson County area are well informed of the fact that they are required to contact not only the KUUDPA call center, but also WaterOne directly. Our mains are damaged from time to time. Most interference with WaterOne facilities that occurs is the result of to excavator error or a discrepancy in the location of the water main. These human error causes of damage would not be eliminated if water utilities were required to become members of the One Call Center, in fact, we believe that it may be likely utilities would incur more damage to facilities if forced to participate because of the necessity of outsourcing the locating work. Our water lines are generally located within the public right of way or adjacent thereto and are buried at a depth of at least 42-inches, minimizing the chances of a resident coming in contact with a main during routine lawn maintenance.

Water and sewer utilities that would be forced to become Tier II members of One Call by Substitute Senate Bill 20 will incur not only increased administrative costs but also an unknown cost based upon a referral fee to be established by the Kansas One Call Center. a private

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corporation, outside of the statutory provisions. The result being, a private corporation, not subject to open records/open meetings, setting fees to be charged to public utilities to pay for a service that the utilities do not want. At the end of the day, a mandate requiring water utilities to participate in the One Call Center will result in a substantial unnecessary expense to the utility's ratepayers, without providing any benefit or enhanced service. Another problem will be budgeting for a fee that is not set in statute and can be changed at the pleasure of the One Call Board. Ultimately the fee will have to be passed on to the ratepayers either in the form of a rate increase or some stand alone charge.

Senate Bill 20 does not present a new issue to the Legislature. Requiring water and sewer utilities to become members of One Call was thoroughly considered in the years 2000 and 2001. In both instances the decision was ultimately made not to bring water utilities into the provisions of the Act. The Kansas Corporation Commission reported that it received 438 complaints from excavators in 2005 about not receiving locates or being charged for damages. None of the 438 complaints were about water or sewer utilities failing to locate facilities. It appears that Senate Bill 20 is a solution where there is no problem. It would be very difficult to justify to a customer an increase in water rates to cover mandated membership in the Kansas One Call Center, when the current system in place has proven sufficient, at a lower cost to the public.

Thank you for your consideration of our opposition to SB 20.

Contact Information

Darci Meese, Government Affairs Coordinator
Water District No. 1 of Johnson County, Kansas
913-895-5516 direct
913-579-9817 cell
dmeese@waterone.org

**Comments
of the
Conservation Division
State Corporation Commission
before the
House Committee on Energy and Utilities
March 20, 2007**

HB 2485

Chairman Holmes and members of the House Energy and Utilities Committee. The Conservation Division of the State Corporation Commission provides these comments today in support of those portions of House Bill 2485 which provide for certain amendments to K.S.A. 55-151.

The proposed amendments to K.S.A. 55-151 contained in the bill are twofold: (1) Instead of sending copies of intents to drill to the Kansas Department of Health and Environment (KDHE) and the Clerk of the County in which a well is located, the information concerning the intent to drill could be made available to these parties, (2) The prohibition against the Commission charging a fee for an application for an intent to drill would be eliminated and the Commission would be allowed to charge a fee for an intent to drill. Any such fee would be established by regulations adopted by the Commission.

Currently, at their request, the Commission is not sending copies of intents to drill to KDHE or to county clerks. The intents to drill issued are posted daily on the KCC website and are available to KDHE, county clerks and the public. This practice has been in place for several years and has been satisfactory to all parties. In addition, we are currently in the testing stage to allow electronic filing of applications for intents to drill. The proposed amendment aligns the statute with the current practice which has evolved with technological changes and which appears to be working very well for those involved in the process.

The bulk of the Conservation Division's operating funds come from assessments on oil and gas produced in the State. Experience over the last ten years has shown that an assessment based on production of depleting resources needs to be increased every four or five years. Although small in comparison to the price of oil and gas, the last two increases have doubled the assessment. We believe that we need to start looking at other methods for funding part of the Division's operations at some point in the future. One such possible option is to place a fee on drilling intents with funds raised from that directed to the Conservation Fee Fund.

While the Division has no immediate plans to propose a regulation placing a fee on intents to drill we believe it is an option that should be available for consideration by the Commission. Any such fee would be subject to the Commission's regulatory process, which would have the Commission receiving recommendations from the Oil and Gas Advisory Committee and would also involve a public hearing to receive additional comment from industry and the general public. By way of background the membership of the Oil and Gas Advisory

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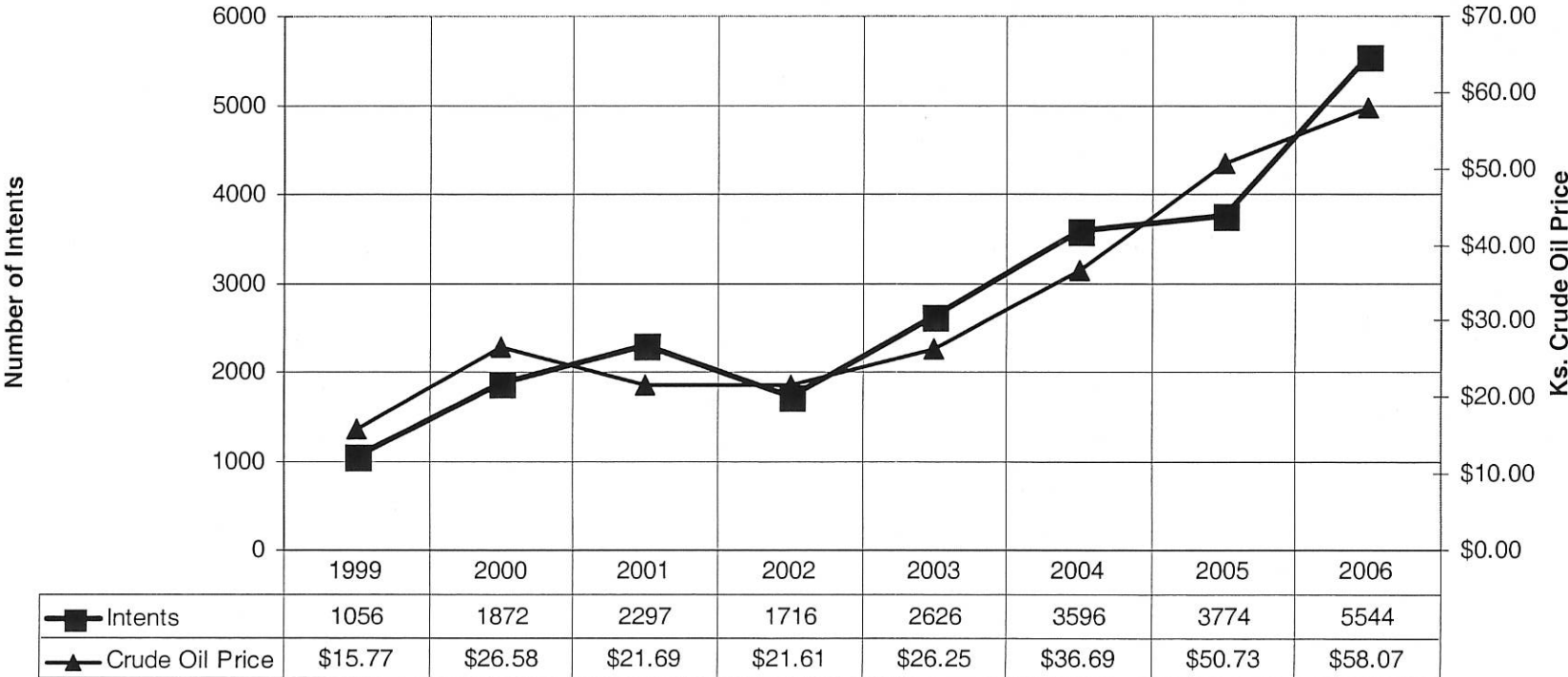
ATTACHMENT 14-1

Committee is set by statute and consists of members from the following organizations and state agencies: the Kansas Petroleum Council, the Kansas Independent Oil & Gas Association, the Eastern Kansas Oil & Gas Association, the Oil & Gas Conservation Division, the Kansas Department of Health and Environment, the Kansas Water Office, the Division of Water Resources, the Association of Groundwater Water Management Districts, and a Public Member appointed by the Governor. This Committee must review all recommended regulations and / or changes to regulation brought before the Commission.

For informational purposes attached is a graph, which shows the number of drilling intents issued during the period 1999 –2006 and compares that to the average posted price for Kansas crude oil for those same years.

Thank you for the opportunity to provide these comments.

Attachment KCC Comments HB 2485 3-20-2007



Intents Crude Oil Price