

MINUTES OF THE SENATE UTILITIES COMMITTEE

The meeting was called to order by Chairman Jay Emler at 9:30 A.M. on February 1, 2007 in Room 526-S of the Capitol.

Committee members absent:

Committee staff present: Raney Gilliland, Kansas Legislative Research Department
Tatiana Lin, KSU Legislative Fellow
Mike Corrigan, Revisor of Statutes
Ann McMorris, Committee Secretary

Conferees appearing before the committee:

Martha Smith, Kansas Manufactured Housing Association
Luke Bell, Kansas Association of Realtors
Richard Spring, Kansas City Power & Light

Others in attendance: See attached list

Leo Haynos, KCC, had been asked to provide information on what other states are doing on One Call. He provided a document listing language from statutes of other states that address the option of limited membership in One Call. The excerpts deal with the issues of limited participation in the call center and expansion of the tolerance zone. (Attachment 1)

Chair continued the hearing on:

SB 120 - Energy efficiency standards for certain new buildings, disclosure of such standards to potential real estate purchasers.

Opponents:

Martha Neu Smith, executive director, Kansas Manufactured Housing Association, noted while the Manufactured Housing Industry is excluded from this statute because it is federally regulated, **SB 120** is applicable to Modular Housing. She suggested the Disclosure language be changed to "upon request and prior to the signing of the contract to purchase" and that the Disclosure form remain in the statute. (Attachment 2)

Luke Bell, director of government relations, Kansas Association of Realtors, also recommended a change in the language of **SB 120** similar to that suggested by Kansas Manufactured Housing Association. (Attachment 3)

Chair closed the hearing on **SB 120**.

Regional Transmission Organizations

Richard Spring, vice president, Transmission Services, Kansas City Power & Light, gave a power point presentation on Electric Transmission. He discussed the transmission system, grid reliability, Electric Reliability Organization (ERO), and Regional Transmission Organization (RTO). He provided the history of RTO formation, their activities, and benefits. He reviewed the Southwest Power Pool formation and growth. SPP services include reliability coordinator, transmission tariff administration, transmission planning and operating studies. The SPP transmission expansion plan creates a detailed list of projects across the entire SPP region. He reported on the current SPP expansion plan and transmission rates. He reviewed maps of the entire United States diagramming NERC regions and interconnections and approved RTOs and existing ISOs and a map of the states with the SPP footprint. (Attachment 4)

Approval of Minutes

Moved by Senator Taddiken, seconded by Senator Reitz, the minutes of the Senate Utilities Committee meetings on January 29, 2007 and January 30, 2007 be approved. Motion carried.

Adjournment.

Ann McMorris, Secretary

Attachments - 4

SENATE UTILITIES COMMITTEE GUEST LIST

DATE: FEBRUARY 1, 2007

Name	Representing
TODD FRIDLEY	KANSAS CITY POWER & LIGHT
Richard Spring	KCP&L
Carl A. Hustis	ITC Great Plains
Alan K. Myers	ITC Great Plains
Bruce SNEAD	K&EC
Paul Snider	KCP&L
JOE HARKINS	GOV. OFFICE
Frank & Carolyn Clubine	Allen Co Farm Bureau
John C. Sollenby	Wester Energy
Kimberly Sollenby	ITC Great Plains

WATER & SEWER UTILITIES OTHER STATES

Notification Center Membership:

- 1 Three states currently don't recognize water utilities or require notification center membership: Kansas, Vermont and West Virginia

- 2 Two other states don't mandate membership by all water utilities:
 - Louisiana: Water and Sewer are part of the utility definition. Water utilities ARE mandated to be members EXCEPT for parish governments and incorporated municipalities.
 - Texas: Water and Sewer are part of the utility definition. Membership is not mandated but voluntary. Most large utilities are members.

Note: Previously, Florida had exempted smaller municipalities but that provision has since expired and now ALL are mandated to membership. Additionally, Arkansas has some minor exemptions which are currently being removed also.

Note: These statistics do not include sewer "laterals" as several states exempt those.

ALL other states MANDATE "membership" in a notification center. Some make provisions for special circumstances, but nonetheless do require membership.

In summary, only five states (Kansas being one of them) do not mandate **all** water & sewer participation in a notification center.

Limited membership language from some other states:

- 1 Ohio: (The water/sewer utility) may elect to participate on a limited basis and if it does so, it **shall** register the location of its underground utility facilities only by identifying the municipal corporations, and outside the limits of a municipal corporation, the townships by county in which it has facilities. The excavator then contacts the utility.
 - Limited basis locating language: If the utility cannot accurately mark the approximate location, the utility shall mark the approximate location to the best of its ability, notify the excavator that the markings may not be accurate, and provide additional guidance to the excavator in locating the facilities as needed during the excavation.

- 2 Colorado: Colorado has a two-tier membership provision. Most are required to be a “tier one” member, which is FULL membership. Municipalities and counties are allowed to be a “tier two” member, which is limited.
- Tier Two membership description: Tier two members shall pay a one-time membership fee of twenty-five dollars to the notification association. The notification association shall not assess any charges, costs, or fees to any tier two member other than the one-time membership fee. ALL tier two members shall provide the association with the accurate information regarding the boundaries of such member’s service area, they type of underground facility that may be encountered within the service area, and the name, address, and telephone number of a person who shall be the designated contact person for information regarding such member’s underground facilities. A tier two member shall also provide geographical information concerning underground facilities it owns or operates which are not located within the designated service area to the notification association. The notification association shall provide any person who contacts the association regarding information concerning underground facilities owned or operated by a tier two member with the name of the aforementioned person.

Note: Missouri requires all to be a member but has a unique provision: **Note on notification center:** On or after 1/1/03, an owner or operator of underground facilities (as a participant in the notification center ... will maintain participation in the notification center UNLESS it is determined that the inaccuracy rate of the notification center reaches 15% (the number of notifications of an excavation where operator has no underground facilities at the excavation site divided by the total number of notifications to an owner or operator during any 12 month period) at which time such owner or operator may withdraw from participation in the notification center by providing written notice to the center of its withdrawal. Such withdrawal may not be used in any legal proceeding to claim the operator failed to comply with any standard of care. However, the owner or operator shall then also publish, at least quarterly, in a newspaper or other publication of general circulation in counties that have underground facilities a statement that the owner or operator has underground facilities and who the excavator shall contact regarding its intent to excavate.

Language from other states that have guidance language for locating facilities although membership is full and not limited:

Arizona: If operator is unable to properly locate within specified time they shall promptly notify excavator and assign one or more representatives to be present at the excavation site at all pertinent times as requested by the excavator to provide facility location services until the facilities have been located and marked. The excavator is not responsible for damages as long as the representative is present and as long as it wasn't caused by excavator's negligence.

Georgia: In the event that (any) unlocatable facility becomes exposed when the facility owner or operator is present, such facility shall be made locatable through the use of a permanent marker or an updating of permanent records. If a sewer lateral is unlocatable, a triangular green mark shall be placed at the sewer main pointing at the address in question.

Montana: Underground facility owners are to provide "the best available information as to their locations" for identified but unlocatable underground facilities; however, if an excavator complies with their part of the law, they will not be responsible for damages.

North Dakota: Water facilities are **not** bound to the subscribed tolerance zone. However, they need to mark as accurately as possible and the excavator may proceed with caution. When excavation operations approach the estimated location of the underground facility to convey water, the exact location of the facility must be determined by safe and acceptable means. The uncovered facility must be supported and protected to prevent damage.

Oregon: For unlocatable underground facilities (cannot be marked with reasonable accuracy, including nonconductive sewers and nonmetallic underground facilities that have no trace wires) the operator shall provide the excavator the best description available to the operator in the area of the proposed excavation including as-constructed drawings, or other facility maps that are maintained by the facility operator. The operator does not have to mark underground facilities which are at a depth greater than the excavator plans to excavate but does have to notify the excavator of their existence.

Virginia: Note: a going-forward provision: No excavator shall be held liable for the cost to repair damage to any such systems constructed or replaced prior to 1/1/95, unless such systems are located. (May want to add some kind of phased-in requirement for updated maps and specify a date upon and after which any newly installed facility or otherwise discovered facility must be on map and deemed locatable.) However, I can find no language that gives guidance on current facilities that are unlocatable.

As far as being able to locate their facilities, many states use general language such as "that can be **reasonably** located using accepted methods and current technologies" and then leave it up to the excavator/operator to work out and determine who is responsible when damage occurs. The language used by **Ohio** is close to what many other states use, but is the most straightforward.

From: Jay Emler
To: Ann McMorris
Date: 1/31/2007 2:02 PM
Subject: FW: SB 20 what other states are doing
Attachments: OtherStates.doc

Jay Scott Emler
Kansas State Senator
District 35

From: "Leo Haynos" [mailto:l.haynos@kcc.state.ks.us]
Sent: Tuesday, January 30, 2007 3:56 PM
To: <emler@senate.state.ks.us>, <apple@senate.state.ks.us>, <lee@senate.state.ks.us>, <petersen@senate.state.ks.us>, <taddiken@senate.state.ks.us>
Cc: "Don Low" <d.low@kcc.state.ks.us>, "Tom Day" <t.day@kcc.state.ks.us>, "Rosemary Foreman" <r.foreman@kcc.state.ks.us>
Subject: SB 20 what other states are doing

Dear Senators,

The attached document lists language from other states that address the option of limited membership in One Call. The excerpts are from the laws of various states and deal with the issues of limited participation in the call center and expansion of the tolerance zone.

Leo

-----Original Message-----

From: Kris Casarona
Sent: Tuesday, January 30, 2007 3:37 PM
To: Leo Haynos
Subject: other states

Attached is all I can come up with. I can only find the two states that talk about "limited" membership specifically (I'm still looking through all the laws) and Ohio was really the only the one I could find with decent language used to describe unlocatable facilities.

1-4



TESTIMONY
BEFORE THE
SENATE COMMITTEE
ON UTILITIES

TO: Senator Jay Emler, Chairman
And Members of the Committee

FROM: Martha Neu Smith, Executive Director
Kansas Manufactured Housing Association

DATE: January 29, 2007

RE: SB 120 – Thermal Standards Disclosure

Chairman Emler and Members of the Committee, my name is Martha Neu Smith and I am the Executive Director of the Kansas Manufactured Housing Association (KMHA). KMHA is a statewide trade association, which represents all facets of the manufactured housing industry (i.e. manufacturers, retailers, community owners and operators, finance and insurance companies, service and suppliers and transport companies) and the modular housing industry (i.e. manufacturers and retailers). I would like to thank you for the opportunity to comment on SB 120.

My comments today address the position of the Modular Housing Industry, the Manufactured Housing Industry is excluded from this statute because it is federally regulated by the National Manufactured Housing Construction and Safety Standards Act which is a federal preemptive code that includes energy standards and consumer notification, however, the statutes in SB 120 are applicable to modular housing.

Senate Utilities Committee
February 1, 2007
Attachment 2-1

The Modular Housing Industry is opposed to the changes in Section 1 of the bill. We interpret these changes as a major shift in policy for residential housing from the current situation where local elected officials adopt building codes with input from their constituents, to the proposed situation where the Kansas Corporation Commission adopts standards for an industry without the benefit of constituent input. We view these changes as usurping home rule authority and taking residential construction one step closer to a statewide building code.

The industry does not have a problem with the existing requirement of providing the Energy Efficiency Disclosure, however, we would suggest the Disclosure language be changed to "**upon request and prior to the signing of the contract to purchase**" instead of "*at the time the residential structure is offered for sale*". We feel this provides the potential buyer information about the thermal properties before the buyer becomes bound by a contract.

The industry also feels strongly that the Disclosure form should remain in statute. By removing the Disclosure from the statutes it becomes less visible. Not to mention, we feel changes to the Energy Efficiency Disclosure document should come before the Legislature where all districts are represented.

KMHA would respectfully ask that you consider leaving the statute as is with the exception of when the Disclosure must be provided.

Thank you for your consideration.

To: Senate Utilities Committee
From: Luke Bell, KAR Director of Governmental Relations
Date: January 29, 2007
Subject: **SB 120** – Energy Efficiency Disclosure Forms

The Kansas Association of REALTORS® (“KAR”) is a trade association representing over 10,000 real estate professionals in 35 local boards from every area of the state of Kansas. KAR has faithfully represented the interests of real estate professionals in the state of Kansas for over 85 years.

SB 120 would mandate that the builder or seller provide the Energy Efficiency Disclosure Form to the buyer or prospective buyer at the time the home is offered for sale. While we agree that it is important for the buyer to receive this information early in the home-buying process, as real estate licensees we currently are not able to provide that information to the home buyer at the time the home is offered for sale. KAR would urge the committee to strike lines 35 through 37 on Page 2 of the legislation and insert the following language in Section 2 beginning in line 33 of Page 1 of the legislation as follows:

“Sec. 2. K.S.A. 2006 Supp. 66-1228 is hereby amended to read as follows: 66-1228. (a) Except as provided by subsection (b), the person building or selling a previously unoccupied new residential structure shall disclose to the buyer or prospective buyer, ~~upon request or prior to closing~~ **prior to the signing of the contract to purchase and at any time thereafter upon request**, information regarding the thermal efficiency of the structure on a form prepared and disseminated by the state corporation commission. . .”

In many cases, when a new home is offered for sale, the actual construction of that home has not yet been completed. In situations like this, it would be completely impossible for the seller to provide information on the energy efficiency of a home when that home has not been completed and the energy-related systems and components may not yet have been installed. While we support the intent of providing timely information on the energy efficiency of new homes to the buyer, we are concerned about the enactment of legislation which would create requirements under state law that would render compliance impossible.

In order to make energy efficiency a significant factor in the decision whether or not to purchase a new home, we agree that the buyer must be made aware of the energy efficiency of the home prior to becoming obligated to purchase the home. If this information is provided to the buyer before he or she signs the purchase contract and becomes obligated to purchase the home, then they have been adequately informed on the energy efficiency of the home prior to making their final decision to purchase the property.

Senate Utilities Committee
February 1, 2007
Attachment 3-1

Electric Transmission

Presentation
To
Senate Utilities Committee

Richard A. Spring

**Vice President
Transmission Services
Kansas City Power & Light**



Electric Transmission Discussion Agenda

- Electric transmission systems
- Grid Reliability
- Regional Transmission Organizations
- Southwest Power Pool
- Future Expansion Plans
- Transmission Rates

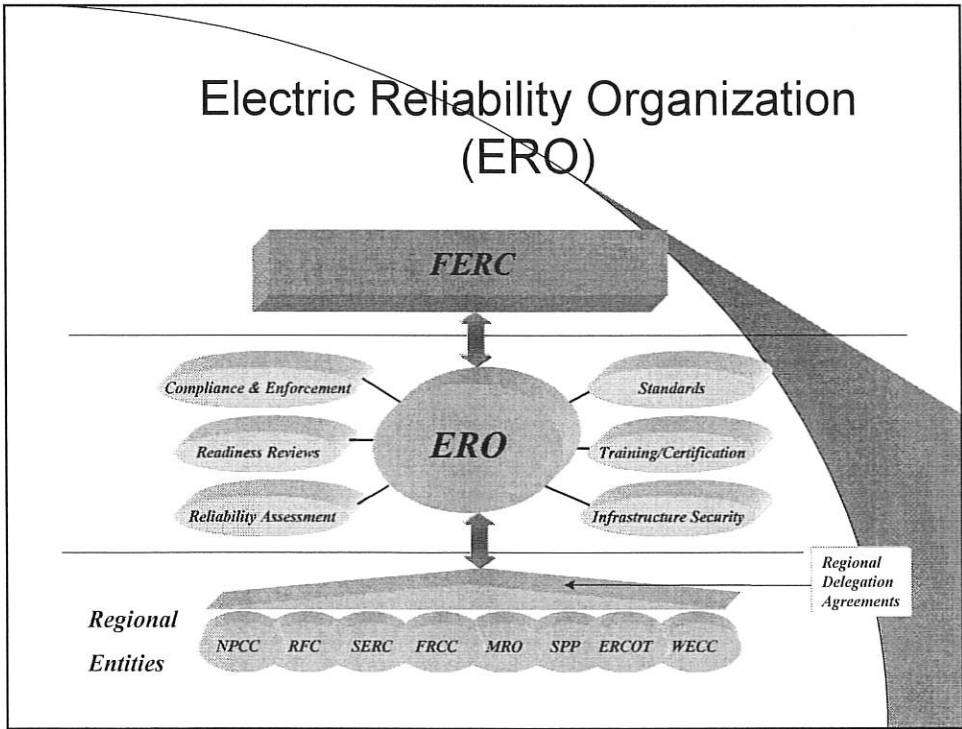
Transmission System

- Efficiently transfers electric energy from generators to local distribution systems.
- High voltages (100kV & up) allow large energy transfers and optimum conductors.
- Interconnected grid operations
- Grid reliability is top priority

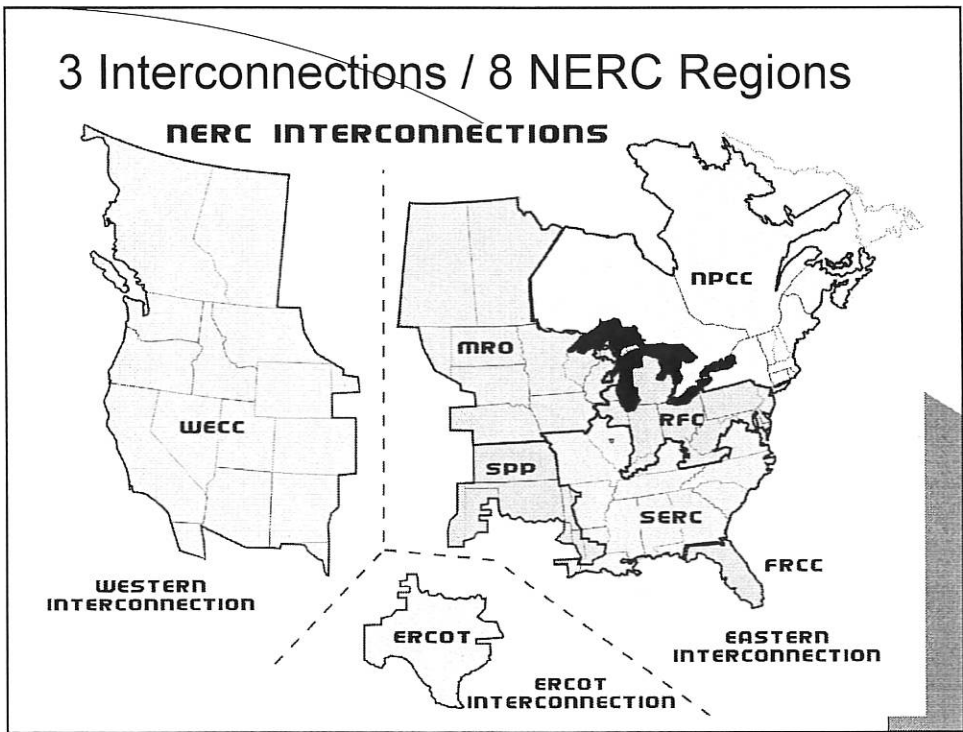
Grid Reliability

- North American Electric Reliability Council (NERC) provided reliability oversight.
- EPOA 2005
 - Gives FERC jurisdiction over grid reliability.
 - Electric Reliability Organization (ERO)
 - Mandatory Compliance
 - ERO to monitor and enforce mandatory reliability standards
 - Now applies to all users and operators
- Reliability standards: strict, complex and growing.

Electric Reliability Organization (ERO)



3 Interconnections / 8 NERC Regions



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Regional Transmission Organization (RTO)



History of RTO formation

- 1970's – energy crisis points out the need for more fuel diversity in the United States
- 1978 – Federal law (PURPA) to encourage alternative energy development such as cogeneration
 - Required existing utilities to buy electricity from certain new facilities
- 1992 – Federal law (Energy Policy Act) granting authority to FERC to order Open Access to the transmission system
 - Existing transmission owners required to negotiate with entities interested in using the transmission system

History of RTO formation

- 1996 – FERC Order 888 and 889 required transmission owning utilities to file open access tariffs
 - Standardized the terms and conditions of transmission service
 - FERC provided the standard terms
 - Terms could be modified with FERC approval
 - Required a split between a utility’s transmission and energy marketing operations
- 1999 – FERC Order 2000 encouraged RTO formation
 - Established the general characteristics and functions to be performed by RTOs
 - “Voluntary” process – however FERC threatened to revoke a utility’s ability to sell electricity at market prices if they did not join an RTO

History of RTO formation

- 2002 – FERC issues Standard Market Design (SMD) notice of proposed rulemaking
 - Mandated RTO formation
 - Final order never issued due to many states expressing concern over the proposal
- 2004 – FERC orders Standards of Conduct
- 2004 – SPP Receives RTO Approval from FERC
- Each of these events has led towards regionalized transmission service and energy markets

RTO Activities

- Establish and administer Transmission Tariffs
- Regional transmission planning and expansion
- Congestion management
- Establish available transmission capacity
- Interregional reliability coordination
- Implement energy markets

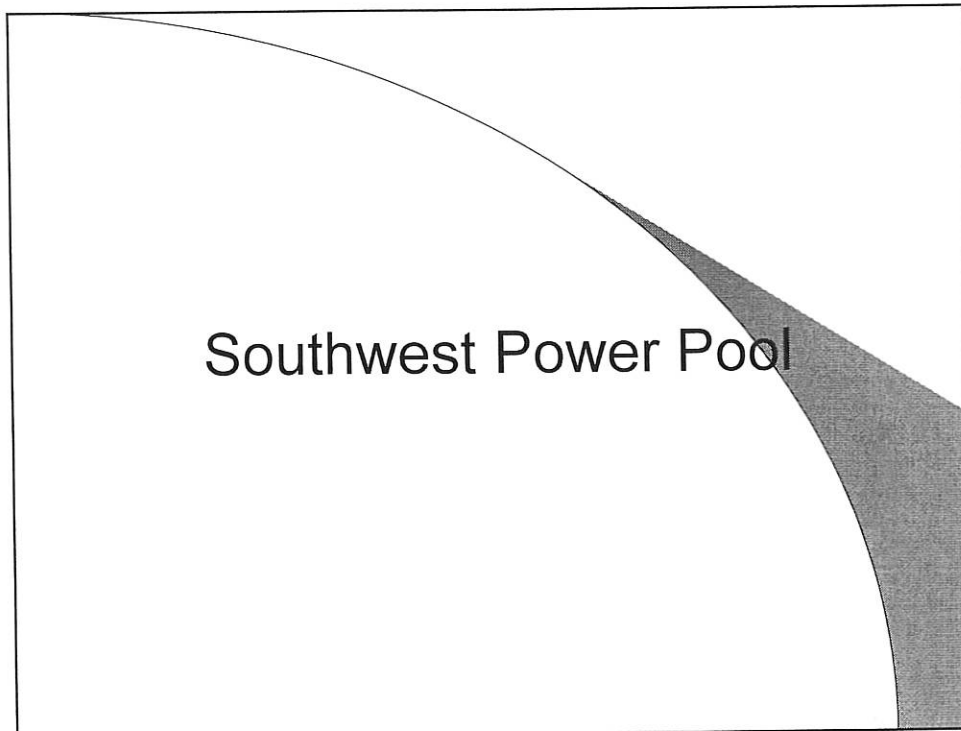
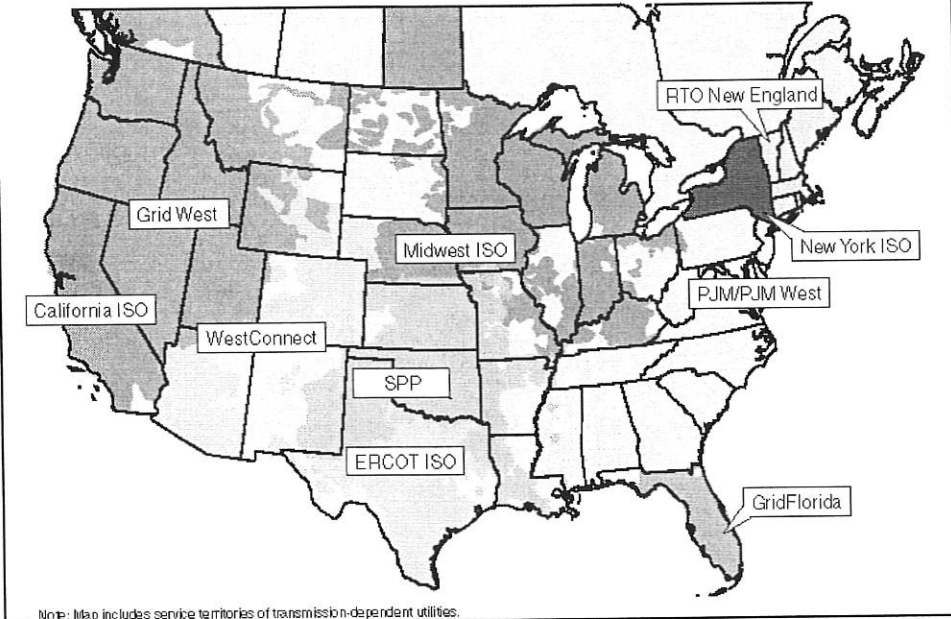
RTO Benefits

- One transmission tariff for all regional transmission customers.
 - Eliminates pancake rates
- More efficient use of transmission and generation network
 - Reduced production costs
 - Maximized use of transmission grid
- Improved larger-scale expansion planning
- Increased grid reliability



Approved RTOs and Existing ISOs

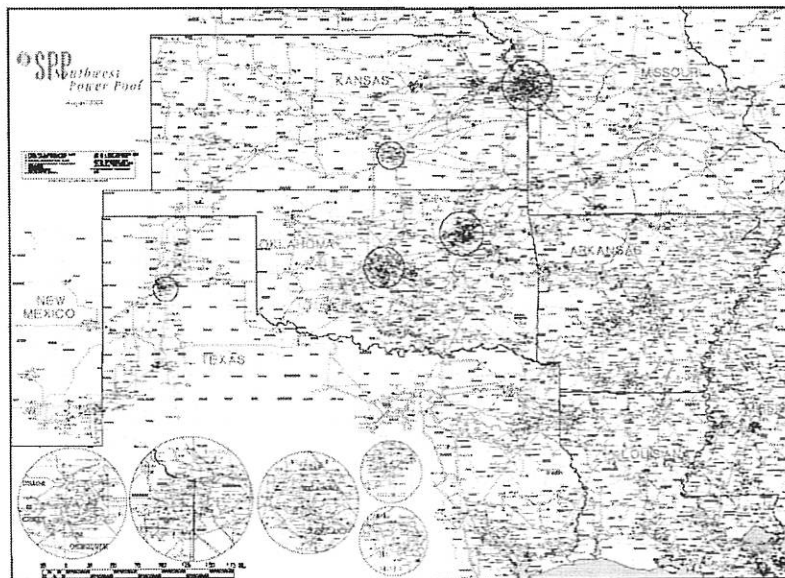
Utility Participation as of June 2004



Southwest Power Pool

- 1941: Formed to serve defense needs
- 1968: Joined as NERC Regional Council
- 1980: Telecommunications network
- 1991: Operating Reserve Sharing
- 1994: Incorporated
- 1997: Security Coordination
- 1998: Tariff Administration
- 2001: Regional Scheduling
- 2004: FERC Approved RTO
- 2007: Energy Imbalance Market

SPP Footprint



4-8

SPP Services

● Reliability Coordinator

- 24/7 System Operations Center
- Coordinates real-time and emergency operations
- Approves planned outages
- Maintains regional black start plan
- Coordinates operations between SPP and other regions

SPP Services

● Transmission Tariff Administration

- SPP Tariff provides “one-stop” shopping for regional transmission service
- Maintains consistent rates, terms and conditions
- Centralized coordination of schedules
- Independent administration
- SPP processes 15,000 transactions/month

SPP Services

● Transmission Planning & Operating Studies

- Reliability assessment studies
- Regional transmission modeling
- Aggregate studies include transmission requests
 - Includes firm transmission service requests by generator or load serving entity customers.
- SPP Transmission Expansion Plan
 - Reliability Projects
 - Economic Projects

SPP Transmission Expansion Plan

- Expansion Plan creates detailed list of projects across entire SPP region
 - Reliability-based (majority)
 - Necessary to fulfill NERC Reliability Stds
 - Funding mechanism allows shared cost:
 - 1/3 funded by all members
 - 2/3 funded by benefiting members
 - Economic-base (minority)
 - Result of firm transmission requests, increase capacity
 - Based only on market transactions and not reliability requirements.

4-10

Current SPP Expansion Plan

- \$1.4B reliability-based transmission investments over the next 10 years
- 6 economic projects totaling \$142M
- Kansas utilities are included in a host of SPP expansion plan projects.

Transmission Rates

- State regulated retail rates provide the majority of transmission revenues and cost recovery for utilities.
- Additional transmission revenues are realized through the SPP tariff by users in the wholesale market.

Questions ?

Richard A. Spring
richard.spring@kcpl.com

