Approved: February 10, 2000
Date

MINUTES OF THE SENATE UTILITIES COMMITTEE.

The meeting was called to order by Chairperson Sen. Pat Ranson at 1:30 p.m. on February 3, 2000 in Room 531-N of the Capitol.

All members were present except:
Sen. Hensley was excused

Committee staff present:
Lynne Holt, Legislative Research Department
Mary Torrence, Revisors of Statute Office
Jeanne Eudaley, Committee Secretary

Conferees appearing before the committee:
J. C. Long, Director of Government Services, UtiliCorp United
Max Sherman, Vice President, Project Development, Aquila Energy (subsidiary of UtiliCorp United)
Sheldon Hamilton, Property Tax Division, UtiliCorp United

Others attending:
See attached list

Sen. Ranson introduced her pages and thanked them for assisting the committee. Sen. Ranson then announced deadlines for introductions and consideration of bills. She also announced distribution of the 2000 Report to the Kansas Legislature by the Kansas Corporation Commission (available from the Kansas Corporation Commission). Sen. Ranson referred to a memo sent to members yesterday, along with Minutes of the Meeting for January 19, 20 and 25 and asked if there were questions regarding the Minutes. There was none. Sen. Clark made a motion the Minutes be approved, and it was seconded by Sen. Lee; the Minutes were approved.

Sen. Ranson announced the committee will have a briefing on merchant power plants and the property tax differential. She then introduced J. C. Long, who introduced Sheldon Hamilton. Mr. Hamilton presented information to the committee relating to property taxes (Attachment 1), and began by telling the history of UtiliCorp's creation and growth and stated that UtiliCorp ranks as the fourth largest utility company in the U.S. based on sales. He then compared the estimated property taxes for Kansas and Missouri; he also discussed electric generation in the three states - Kansas, Colorado and Missouri. Sen. Steffes asked how the property tax rate on electric assets is measured, and how the net book value is calculated. Mr. Hamilton answered to measure the rate of tax, they take the property tax expense and divide by the net book value (or the original cost of the property less depreciation), and that is how the rate of tax was calculated for 1998. Sen. Steffes questioned how the estimated useful life of the plant is measured, and Mr. Hamilton replied that they are required to determine the useful life of the plant, and it is estimated the merchant plant in Kansas City's useful life is 25 years. He added that the property depreciates each year it is in operation. He also discussed proposed legislation in Missouri which will shift existing taxes on generation assets to an excise tax on energy delivered and eliminate property taxes on generation by 2002. The intent is to preserve local revenue streams before deregulation and to provide an attractive environment for an investment in generation, which could overcome local opposition to building a power plant in the community. The Missouri bill is SB 803, and Sen. Ranson requested that Ms. Torrence get a copy of the bill for the committee.

Sen. Ranson introduced Max Sherman, who first gave a brief biography and continued to the history of Aquila Energy, which is a "nonregulated" subsidiary of UtiliCorp United. He outlined the purpose of his testimony and gave a national overview, which points out the need for more power plants, and the difficulty for regulated utilities to build plants because of regulations. He continued by discussing the "competitive" market, and independent power producers or "merchant" developers (including non-regulated utility affiliates) and how the ownership risks are being undertaken by them because they are competing with each other. The outcome of this change has resulted in the transfer of the risk factor from the regulated utility and its customers to the developer. The results of this are that competition works and drives the price down and the customers win. He emphasized the fact that a state can meet its power needs from plants which are built far outside the state as regional transmission organizations develop and they provide a “one price” transmission rate across long distances. Also, the formation of RTOs and regional transmission tariffs, which is being encouraged by FERC, allow for “one price” transmission charge to wheel energy across long distances with large decreases in transmission rates.

Mr. Hamilton continued by discussing why the plant was built in Missouri and cited three reasons: one was to supply certain Missouri Public Service power requirements and the fact that property taxes are higher in Kansas than Missouri as well as economic development incentives to obtain a competitive package. Location was another consideration and access to existing transmission lines and adjacent electrical substations and natural gas pipelines. The environmental considerations were also important, because the site could be located in a rural area. One of the negatives was the water supply, but Kansas City extended the waterlines to the site to accommodate the plant. Another reason for building the plant in Missouri is that it has a favorable regulatory environment. Mr. Hamilton emphasized the fact that Missouri has favorable regulations with no siting requirements, while Kansas’ siting regulations require considerable time to accomplish, which disqualified Kansas in the competition. The project required a “fast track’ development because it must be operational by June 1, 2001, and it will supply one-fourth of the 2001 summer peak capacity.

Sen. Brownlee asked if the Kansas Siting Act had been repealed last session, it would have made a difference in their decision, and Mr. Hamilton replied they would have taken a harder look. He also stated that Missouri had interconnections in place for their plant; that some utilities drag their feet, which is a real disincentive. Sen. Steffes discussed building on top of the source of energy and inquired about coal plants, and if that was a consideration. Mr. Hamilton replied that coal plants are not environmentally friendly; that all merchant power plants will have to be gas powered; that declining costs can be credited to the costs of electrical power generation.

Mr. Hamilton continued by giving a Kansas Overview, beginning with the high property taxes relative to other states and that Kansas is competing for power plants in a large geographic market. He recited the hot markets are the States of Oklahoma, Missouri, Arkansas and Illinois, with the capitol of hot markets being the State of Mississippi. An advantage to the state is that power can be wheeled to Kansas and power from Kansas can be wheeled elsewhere. Along with the advantages is a locational disadvantage, with major power markets located east or southeast of the state. He referred to a map, which is attached to his testimony, and pointed out the various regions and to the fact that Texas has its own grid. He also stated that building a grid to Western Kansas, which would be very costly and the Holcomb experience of fifteen years ago, would scare off developers. Major power markets are either east or southeast of the state, and Kansas can’t sell into the Western Interconnection or most of Texas. Mr. Hamilton pointed out to the committee the fact that the ideal situation exists in the State of Mississippi, which requires only a Certificate of Public Convenience and Necessity, for all plants, and that from the filing date, only 75 days are required for approval. He stated that repeal of the Generation Siting Act does not repeal environmental or zoning requirements, which leaves that responsibility to local authorities, and requires developers to negotiate with local entities, as it should be. He closed by recommending that power plant development be treated like manufacturing plants, with lower property taxes and competitive economic development incentives. He also urged repeal of the Generation Siting Act and quick action, as there is a stampede to build plants now, and it may be sometime before additional ones are built.

Sen. Ranson asked questions regarding property tax abatements and job credits, and Mr. Hamilton answered that they were given different tax incentives in Missouri, and that the job credits are not significant for the project; that Kansas did have the 10-year tax abatement. Sen. Steffes asked which unit of government gave them abatements in Missouri, and Sen. Barone asked if they even checked with Kansas to see what was available; if Kansas offered a package to Aquila and if they even contacted the State of Kansas to see what was available. Mr. Hamilton replied that they did check to see what was available and that an initial look indicated that financially Kansas appeared to have an advantage. However, when the Missouri economic development package was put together, the advantage swung to Missouri, which technically was the better site. Sen. Barone asked Mr. Hamilton to not make assumptions regarding what Kansas might offer, but to give us a chance to compete, and to inquire as to what is available. Sen. Barone also asked questions regarding taxes and the formula used, and Mr. Hamilton cited the methodologies used and explained the net book value is the company’s investment. He also told of disadvantages in Oklahoma; however, it is closer to the trading hub, there is significant demand, and tax incentives can be credited for the stampede there.

Sen. Steffes discussed differences in cost per kilowatt hour for the nuclear, coal and the gas powered merchant plants, and Sen. Ranson asked Mr. Sherman if the new transmission interconnection in Western Kansas extending on to Lamar, Colorado will be of benefit to Kansas. Mr. Sherman answered it would add reliability; however, the cost of the transmission line and the additional cost into Colorado would have to be considered. Sen. Ranson stated the problem with transmission needs solving and plays a part when considering Retail Wheeling. The federal government will play a part in solving the problem. Mr. Sherman cited the problem of joining regional transmission organizations, whether it could be done in a voluntary or mandatory process, and the question of forcing the transfer of assets to another entity, as problems confronting FERC. Sen. Ranson thanked Mr. Sherman and Mr. Hamilton for their presentations.

Sen. Ranson announced the agenda for next week.

Committee adjourned at 2:30.

Next meeting will be February 8.