

Approved: March 28, 2003  
Date

MINUTES OF THE HOUSE COMMITTEE ON UTILITIES.

The meeting was called to order by Chairman Carl D. Holmes at 9:07 a.m. on February 3, 2003 in Room 526-S of the Capitol.

All members were present except: Representative Cindy Neighbor

Committee staff present: Mary Galligan, Legislative Research  
Dennis Hodgins, Legislative Research  
Mary Torrence, Revisor of Statutes  
Jo Cook, Administrative Assistant

Conferees appearing before the committee:

Larry Dolci, Great Plains Energy  
Bruce Graham, Kansas Electric Power Cooperatives  
Mark Schuler, Great Plains Energy  
Scott Poe, Aquila, Inc.  
Mark Schreiber, Wester Energy  
Larry Holloway, Kansas Corporation Commission  
Kim Gulley, League of Kansas Municipalities

Others attending: See Attached List

**HB 2037 - Repeal of sunsets on recovery of certain utility costs for use of public rights-of-way and for security.**

Chairman Holmes opened the hearing on **HB 2037**.

Larry Dolci, Director of Resource Protection for Great Plains Energy, addressed the committee in support of **HB 2037 (Attachment 1)**. Addressing the sunset portion of the bill, Mr. Dolci stated that the current statute does not allow enough time to recover prudent security expenditures for projects that may take years to compete. He shared that according to the Report of the President's Commission on critical Infrastructure, the utility industry is viewed as a top target for domestic and international terrorists. Mr. Dolci told the committee that failure to upgrade systems can take them down and utilities must meet cyber threats as well as physical security threats since the electrical grid is controlled by automated systems.

Bruce Graham, Vice President of Member Services and External Affairs for the Kansas Electric Power Cooperative, appeared in support of **HB 2037 (Attachment 2)**. Mr. Graham told the committee that there are new requirements being implemented at the federal level and the measures are likely to become part of the company's standard operations. Such expenditures will need to be considered in subsequent rate filings.

Mark Schuler, Director of Resource Management for Kansas City Power and Light, testified as a proponent of **HB 2037 (Attachment 3)**. Mr. Schuler addressed Section I regarding recovery of right-of-way fees asking that the expiration date be eliminated from the law. He also stated that this portion of the bill was worked out with other parties.

Scott Roe, Senior Security Consultant for Aquila Inc, provided testimony in support of **HB 2037 (Attachment 4)**. Mr. Roe stated that the current political, regulatory and threat environment will require more security

enhancements that cannot be completed within the present sunset provision. Additionally, the Corporation Commission has yet to establish a process by which the utilities will be allowed to request and seek recovery of security related costs.

Mark Schreiber, Senior Manager of Government Affairs for Westar Energy, appeared as a proponent of **HB 2037 (Attachment 5)**. Mr. Schreiber stated that the removal of the sunset provides a utility the long-term assurance that extraordinary costs will be paid by those who directly benefit from a local ordinance. As to the current sunset concerning the recovery of prudent costs associated with security, Mr. Schreiber said that securing their assets does not end on June 30, 2004, therefore, the recovery of those costs will not either.

#### CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON UTILITIES, Room 526-S Statehouse, at 9:07 a.m. on February 3, 2003.

Larry Holloway, Chief of Energy Operations for the Kansas Corporation Commission, testified as an opponent to **HB 2037 (Attachment 6)**. Mr. Holloway told the committee that the Commission believes that the underlying legislation is not needed and deleting the provisions to sunset it is unnecessary. They would not oppose extending the provisions for an additional year. During his testimony, Mr. Holloway referenced several attached documents dealing with various utility company specific issue tariffs that are filed with the Commission to recover costs incurred for specific actions. Mr. Holloway also distributed copies of the recent issued order under Docket No. 03-GIMX-431-GIV (**Attachment 7**), which is a generic investigation establishing criteria and procedures for recovery of security expenditures that utilities may seek to recover under the 2002 Session bill Substitute for Senate Bill 545.

Kim Gulley, Director of Policy Development & Communications for the League of Kansas Municipalities, appeared in opposition to **HB 2037 (Attachment 8)**. Ms. Gulley explained that the League was working with cities to bring them up to speed on the right of way legislation adopted last year. They are developing a model right of way management ordinance that will apply to all users of rights of way. The current legislation was never intended to permanently change the rate setting processes of the Corporation Commission and the sunset should not be removed.

Mr. Dolci, Mr. Graham, Mr. Schuler, Mr. Poe, Mr. Schreiber, Mr. Holloway and Ms. Gulley responded to questions from the committee. Additionally, Chairman Holmes requested that Mr. Holloway provide a detailed review of the order issued (**see Attachment 7**).

#### **HCR 5007 - Concurrent Resolution urging FERC to take action to ensure expansion and improvement of the electric transmission system**

Chairman Holmes opened the hearing on **HCR 5007**.

Bruce Graham, appearing on behalf of Kansas Electric Power Cooperative, Inc; Sunflower Electric Power Corporation; Kansas Electric Cooperatives, Inc.; Westar Energy, Inc.; Aquila, Inc.; Great Plains Energy; and Kansas Municipal Utilities, addressed the committee in support of **HCR 5007 (Attachment 9)**. Mr. Graham told the committee that there is a need to expand and improve the transmission system in Kansas and the US in order to improve electric system reliability and efficiently deliver power to markets. Additionally, Mr. Graham suggested an amendment that would avoid any interpretation that the state was encouraging regulations that may ultimately be detrimental. Mr. Graham responded to questions from the committee.

Written testimony in support of **HCR 5007 (Attachment 10)** was submitted by Kyle Wetzel on behalf of the Kansas Renewable Energy Working Group.

Chairman Holmes closed the hearing on **HCR 5007**.

**HB 2037 - Repeal of sunsets on recovery of certain utility costs for use of public rights-of-way and for security.**

Additional comments were shared and the conferees responded to additional questions from the committee.

Chairman Holmes closed the hearing on **HB 2037**.

Chairman Holmes asked for bill introductions. Representative Krehbiel moved to introduce a bill that would provide further examination of the recovery of security costs. Representative P. Long seconded the motion. The motion carried. Representative Krehbiel moved to introduce a bill, modeled on legislation in Mississippi, that would provide for a fine of up to \$1000 if it is determined that the use of a cell phone contributed to an accident. Representative Reitz seconded the motion. The motion carried.

Chairman Holmes announced that there would be a sub-committee on security cost recovery and assignment to that sub-committee would be announced.

The meeting adjourned at 10:19 am.

The next meeting will be Tuesday, February 4, 2003 at 9:00 a.m.