

MINUTES

SPECIAL COMMITTEE ON UTILITIES

October 10, 11, & 12, 2001
Room 516-S—Statehouse

Members Present

Representative Carl Holmes, Chairman
Senator Stan Clark, Vice Chairman
Senator Jim Barone
Senator Jay Emler
Senator Mark Taddiken
Representative Nile Dillmore
Representative Tricia Lightner
Representative Laura McClure
Representative Don Myers
Representative Tom Sloan
Representative Jerry Williams

Staff Present

Robert Chapman, Kansas Legislative Research Department
Dennis Hodgins, Kansas Legislative Research Department
Mary Torrence, Revisor of Statutes Office
Jo Cook, Committee Secretary

Conferees

Charles Wilson, Berexco, Inc.
John Cita, Kansas Corporation Commission
Ken Peterson, Kansas Petroleum Council, BP Amoco
David Hughes, Duke Energy
Ron Gaches, Williams Companies
Bob Courtney, Olathe School District
Rich Kuzelka, Kansas Corporation Commission
Dale Worley, Kansas Department of Administration
Thaine Hoffman, Kansas Department of Administration
Joe Fritton, Kansas Department of Administration
Montgomery Escue, Agricultural Energy Services

Rick Kreul, UtiliCorp United
Bill Malcolm, Midwest Independent System Operations
Karl Zobrist, Midwest Independent System Operations
Pat Bourne, Southwest Power Pool
Steve Johnson, Kansas Gas Service
Bill Brier, Edison Electric Institute
Ken Rose, Ohio State University
Jim Ploger, Kansas Corporation Commission
Robert Kistner, Energy Planning Consultants, Inc.
Susan Mahoney, Office of the Governor
Stuart Lowry, Kansas Electric Cooperatives
Neil Harman, U.S. Fish & Wildlife Service
Ron Klatske, Audubon Society
Tim Kimmel
Brad Loveless, Western Resources, Inc.
Greg Wright, Western Resources, Inc.
Dick Rohlf, Western Resources, Inc.
Sandra Hazlett, Kansas Department of Social and Rehabilitation Services
Randy Speaker, Kansas Department of Commerce and Housing
Larry Holloway, Kansas Corporation Commission
Joe King, Coriolis
Bill Griffith, Sierra Club
Joseph Franz, Agricultural Energy Services

Others Attending

See attached list.

Wednesday, October 10 Morning Session

Chairman Holmes called the meeting to order by announcing that the November meeting would be held on Wednesday the 7th and Thursday the 8th. He then opened the hearing on the topic of Natural Gas Pricing and Supply.

The first conferee to appear before the committee was Charles Wilson, Vice President of BEREXCO, INC., ([Attachment 1](#)). Mr. Wilson provided a brief history of how natural gas pricing had been controlled by complex federal statutes and that the movement has gone from fixed long term contracts to contracts based on the NYMEX (New York Mercantile Exchange) futures pricing. Mr. Wilson provided a graph showing how natural gas prices rose dramatically in 2000 and remained high during the first months of 2001 but have dropped since late winter. He also stated that with the drop in prices, there was also a drop in new drilling activity. Mr. Wilson responded to questions from the committee.

Written comments ([Attachment 2](#)) provided to the committee from Kevan Vick, General Manager Nitrogen Manufacturing - Farmland Industries detailed the explanation for halting production at the Kansas Nitrogen Facility in Lawrence.

Mr. John Cita, Chief Economist for the Kansas Corporation Commission, provided information on the commission's staff's natural gas price forecasts ([Attachment 3](#)). Also included in his testimony was similar information from the Energy Information Administration. Mr. Cita responded to questions from the committee.

Ken Peterson, appearing on behalf of the Natural Gas Supply Association, presented a report on the Natural Gas Outlook - Winter Heating Season 2001-2002 ([Attachment 4](#)). Mr. Peterson provided a comparison of price pressure points between the last winter and the upcoming season. He concluded his remarks by stating that the natural gas market will stabilize for the winter heating season, natural gas demand is increasing and future stability of the market depends on producers overcoming supply barriers. Mr. Peterson also distributed copied of a press release from the Energy Information Administration titled "Americans Can Expect Lower Heating Fuel Bills This Winter" ([Attachment 5](#)). Mr. Peterson answered questions from the committee.

Dave Hughes, asset director for Duke Energy Field Services, addressed the committee with an overview of natural gas supply for the Hugoton Field and irrigation, and gathering rates in southwestern Kansas ([Attachment 6](#)). His presentation included a brief history of the Hugoton Field and the use of natural gas irrigation. Mr. Hughes explained that southwest Kansas will be facing new challenges that are a result of declining reserves in the area and the need to produce the remaining reserves efficiently. Mr. Hughes responded to questions from the committee.

Appearing on behalf of the Williams Companies, Ron Gaches reported on gas gathering, gas supply and pricing ([Attachment 7](#)). Mr. Gaches stated that Williams is working the both the KCC and the Kansas Department of Health and Environment on promulgating new rules and regulations to govern gas storage in Kansas. Mr. Gaches responded to questions from the committee.

Wednesday Afternoon Session

Bob Courtney, Energy Manager for the Olathe School District, addressed the committee ([Attachment 8](#)). Mr. Courtney explained how the deregulation of natural gas has affected his school district and it's ability to maximize the use of their state-allocated dollars. He thanked the legislature for recent legislation and for working with school districts to better utilize those funds. Mr. Courtney responded to questions from the committee.

Rich Kuzelka, appearing on behalf of the Corporation Commission Utilities Division Staff, provided information on the purchased gas adjustment (PGA) audit report structure ([Attachment 9](#)). Mr. Kuzelka explained that the PGA clause is the mechanism whereby gas

utilities are permitted to recover the fluctuating costs of gas from the ratepayers. Mr. Kuzelka, along with KCC staff members Joe White, John Cita and Phillips Sanchez, responded to questions from the committee.

Thaine Hoffman, Director of the Division of Architectural Services, testified on the Facilities Conservation Improvement Program ([Attachment 10](#)). He provided a brief history of the program and outlined some of the problems they have faced.

Dale Worley, Facilities Conservation Improvement Program Administrator, also addressed the committee ([Attachment 11](#)). Mr. Worley outlined the program's projects and explained that this is a fee-funded program that provides state agencies, interested in energy and resource conservation, assistance in several areas.

Mr. Hoffman and Mr. Worley responded to questions from the Committee.

Dale Fritton, Director of the Division of Facilities Management, testified on the use of alternative fuel initiatives for the Central Motor Pool ([Attachment 12](#)). Mr. Fritton explained that the Central Motor Pool supports the use of alternative fueled vehicles and has contracted to purchase 10% ethanol blended fuel. Mr. Fritton, along with Ed Spiess, responded to questions from the committee.

Justin Hamblin and Montgomery Escue, representing the Southwest Kansas Irrigation Association, addressed the committee on natural gas pricing and consideration. They responded to questions from the committee. Also responding to questions were Tom Day, Legislative Liaison for the Kansas Corporation Commission, and Steve Johnson, representing Kansas Gas Service.

In response to a committee member's earlier question regarding Kansas gas storage fields, the Kansas Corporation Commission provided a listing of such, which included specific details about each storage field ([Attachment 13](#)).

Thursday, October 11 Morning Session

Chairman Holmes opened the hearing on Electricity Infrastructure and Energy Policy.

Mr. Rick Kreul, Vice President of Network Operations for UtiliCorp United, addressed the committee on the future of Regional Transmission Operations (RTO's) and it's effect on his company ([Attachment 14](#)). He stated that when it came to RTO's, bigger is better. Mr. Kreul responded to questions from the committee.

Bill Malcom, representing the Midwest Independent Transmission System Operator, Inc. (MISO), provided an overview of the Midwest ISO ([Attachment 15](#)). Mr. Malcom explained MISO's transmission services and it's recent developments. He also provided a time line showing various operational activities.

Mr. Karl Zobrist, Counsel to Midwest Independent Transmission System Operator, Inc., provided additional information to the committee (Attachment 16). Mr. Zobrist's testimony included the company's philosophy of business, increases in operations, customer benefits, and the objectives in the development of large, independent regional transmission operators.

Mr. Malcom and Mr. Zobrist responded to questions from the committee. Also responding to questions was Carol Wagner from Sunflower Electric.

Mr. Pat Bourne, representing the Southwest Power Pool (SPP), addressed the committee (Attachment 17). Mr. Bourne spoke about the makeup of the SPP and how the FERC requirements would change the current structure. He stated that SPP was seeking RTO status and was awaiting the final order from FERC. Mr. Bourne responded to questions from the committee.

Steve Johnson, Executive Director of Corporate Relations for Kansas Gas Service, provided an update to the committee on the *ad valorem* tax refunds and referenced a report issued by the Kansas Corporation Commission (Attachment 18).

Jack Glaves provided a report on the *ad valorem* tax refund negotiations with Kinder Morgan, Inc.

Thursday Afternoon Session

Mr. Bill Brier, Vice President of Communications from the Edison Electric Institute, provided a power point presentation on Electricity Infrastructure and Transmission Lines (Attachment 19). Mr. Brier outlined how Kansas should address generation issues by making it more attractive to investors to build generation in the state. He also explained how the expansion of the U.S. transmission system is long overdue in that the nearly 160,000 miles of high voltage lines often traverse state lines and rapid economic growth has placed a strain on those lines causing reliability to be threatened. He explained that, although the solution may be simple - just build more transmission lines, obstacles exist at both federal and state levels. Policy changes are needed to ensure that the transmission system will be able to meet the needs of consumers in increasingly competitive electricity markets. Mr. Brier stated that, following the events of September 11, the focus was now on security and restoration and policy actions are needed to enhance security. Mr. Brier also distributed copies of written testimony provided by Eugene R. McGrath, Chairman, President and Chief Executive Officer for Consolidated Edison, Inc., before the Committee on Energy and Natural Resources of the U.S. Senate (Attachment 20) and a letter with suggested legislation from Thomas R. Kuhn, President of Edison Electric Institute, to Senator Jeff Bingaman, Chairman of the Senate Energy & Natural Resources Committee (Attachment 21). Mr. Brier responded to questions from the committee.

Dr. Ken Rose, Senior Institute Economist with the National Regulatory Research Institute at Ohio State University, addressed the committee on the performance of electric power markets (Attachment 22). Dr. Rose provided comparisons of states (California, Pennsylvania, and New Jersey) that have a retail electric market. He spoke of specific problems in California, such as strong demand and load growth with supply constraints and production costs increases. He concluded his remarks with a list of lessons for other states. Dr. Rose also distributed two booklets, "The California Electricity Crisis: Lessons for Other States" and "California's Power Crisis: What Happened? What Can We Learn" (Attachments 23 and 24), both available from Kansas Legislative Research Department or the State Library).

Mr. Jim Ploger, Kansas Corporation Commission, provided the committee and overview of the State Energy Office (Attachment 25). Mr. Ploger provided a chart listing the program grants for fiscal year 2002 and the school districts participating in the Kansas Institutional Conservation Program for fiscal year 2002. He also distributed a flyer for the Kansas Wind Energy Conference on October 22, 2001 in Dodge City (Attachment 26). This conference includes a tour of the new Montezuma Wind Farm.

Bob Kistner, President of Energy Planning Consultants Inc., told the committee of his involvement in the preparation of the Kansas State Energy Emergency Response Plan and distributed a draft copy of the first chapter (Attachment 27).

Ms. Susan Mahoney, Governor's Liaison on Energy Issues, explained the Governor's role in declaring an energy emergency in the state. Ms. Mahoney stated that K.S.A 74-619 outlines the specific activities of the Governor should an energy emergency arise.

Ms. Mahoney, Mr. Kistner, and Mr. Ploger responded to questions from the committee.

Friday, October 12 Morning Session

Chairman Holmes announced that during the afternoon session there would be discussion as to topics to include in the Committee Report prepared by Legislative Research Staff.

Stuart Lowry provided an update on the Rural Electric Cooperative annexation issue. Mr. Lowry stated there were two issues: how is the decision made and what will the compensation formula be. He asked for the opportunity to continue negotiations and to be on the next month's agenda. Chairman Holmes stated he would be added to the November 7 meeting agenda and should provide an agreement, in bill format, for presentation.

Mr. Neill Hartman, Supervisory Special Agent for the U.S. Department of Interior, Division of Law Enforcement for the U.S. Fish & Wildlife Service (Service) addressed the committee on the issue of Transmission Line Bird Proofing (Attachment 28). Mr. Hartman explained that they are working to reduce the number of eagles, raptors and other migratory birds killed via contact with power lines and distribution equipment. He stated that they

recognize that utility companies do not knowingly or intentionally kill the birds, but feel it is an unfortunate part of doing business. However, the taking of birds, regardless of knowledge or intent, constitutes a violation of federal laws. Mr. Hartman then outlined a program that puts a Memorandum of Understanding (MOU) between the Service and the utility company and constitutes a good faith agreement to work pro-actively and cooperatively. Signing the MOU is voluntary on the part of the utility. An integral part of the MOU is the development of an Avian Protection Plan and Mr. Hartman outlined each step of that plan. Mr. Hartman submitted, for the record, a copy of a video entitled "Raptors at Risk", and two manuals produced by the Edison Institute ("Suggested Practices for Raptor Protection on Power Lines - The State of the Art in 1996" and "Mitigating Bird Collisions with Power Lines - State of the Art 1994") (Copies available from Legislative Research).

J. Timothy Kimmel, Kansas Maser Falconer, addressed the committee on transmission line bird proofing from the falconry community's perspective (Attachment 29). Dr. Kimmel stated that the number of wild birds of prey that are killed or injured through interaction with electrical installations is difficult to estimate but, based on his observations and that of others, he estimated the number could be hundreds to thousands each year. He shared information he collected through a voluntary survey of 94 falconers on number of injuries or deaths and specifically those killed by electrocution. Dr. Kimmel also provided a copy of the "Raptors at Risk" video.

Diane Johnson, Director of Operation Wildlife Rehabilitation provided written testimony to the committee (Attachment 30).

Audubon of Kansas, Inc. Executive Director Ron Klataske addressed the committee on transmission line bird proofing (Attachment 31). Mr. Klataske stated that two major utilities in Kansas have been active partners in the conservation and restoration of raptor populations in the state. Mr. Klataske distributed a letter from Diane Ross-Leech, Program Manager for Pacific Gas and Electric Company' Habitat and Species Protection Program, (Attachment 32) which outlines their program for electrocution prevention. Mr. Klataske also distributed an Audubon of Kansas brochure (Attachment 33 and available from Legislative Research).

Brad Loveless, Senior Manager for Biology and Conservation Programs at Western Resources, testified on migratory bird protection and the practices they implement (Attachment 34). Mr. Loveless stated they began implementing these conservation practices in 1989.

Mr. Harman, Dr. Kimmel, Mr. Klataske and Mr. Loveless responded to questions from the committee.

Greg Wright, Senior Director for Business Development at Western Resources, addressed the committee on the subjects of peak shaving devices and conservation and demand management information (Attachment 35). Mr. Wright also distributed prints from their website addressing energy conservation tips: Tips for a More Energy Efficient Home (Attachment 36) and a bill-stuffer titled "Hot Weather Energy Efficiency Tips" (Attachment 37). Also provided for the committee review and available from Legislative Research are

a video tape and booklet titled “12 Easy Ways to Save Energy Dollars at Home”, “Making Your Home More Energy Efficient” and “How to Reduce Your Energy Costs.” Mr. Wright answered questions from the committee.

Mr. Dick Rohlfs, Director of Regulatory Requirements at Western Resources, addressed the committee regarding a KGE program allowing customers to pre-pay utility service ([Attachment 38](#)). Mr. Rohlfs responded to questions from the committee.

Sandra Hazlett, Director of Economic and Employment Support for the Department of Social and Rehabilitation Services, provided information to the committee on the 2002 Low Income Energy Assistance Program ([Attachment 39](#)) then responded to questions from the committee.

Director of Housing for the Department of Commerce & Housing Randy Speaker, testified on the Weatherization Assistance Program ([Attachment 40](#)). Mr. Speaker stated the program utilizes federal funds to make repairs to low-income families’ homes that will lower their energy use and make their homes affordable, safer and more comfortable. Mr. Speaker responded to questions from the committee.

Friday, October 12 Afternoon Session

Larry Holloway, Chief of Energy Operations for the Utilities Division of the Kansas Corporation Commission, provided an overview of electric generation reliability requirements for Kansas ([Attachment 41](#)).

Joe White, Director of the Utilities Division of the Kansas Corporation Commission, provided an overview of the National Energy Plan and presented documentation received during a recent NARUC conference. Copies of those documents are available from Legislative Research ([Attachment 42](#) - Electric Service Reliability; [Attachment 43](#) - State Enforcement Powers and Proceedings, [Attachment 44](#) - Alternative Energy Technologies: Issues, Options and Impediments, and [Attachment 45](#) - Evaluating Restructuring Impacts on the Public Interest and Industry Performance).

Kyle Klim also presented an overview of the National Energy Plan showing a comparison of the various options submitted ([Attachment 46](#)). Mr. Klim responded to questions from the committee.

Bill Griffith, Conservation Chairman for the Kansas Chapter of the Sierra Club, addressed the committee concerning renewable energy ([Attachment 47](#)). Mr. Griffith responded to questions from the committee.

Mr. Joe King, Coriolis Architecture-Energy, and Dr. Richard Nelson, Assistant Professor of Engineering Extension Programs at Kansas State University, testified jointly on the topics of wind, biomass and photovoltaics ([Attachment 48](#)). Mr. King and Dr. Nelson

stated that eventually we will have no choice but to move our economy toward substantial reliance on renewable energy and that we now have the technologies to begin that process at a reasonable costs because the longer we wait the more difficult it will become.

Joseph Franz, representing Agricultural Energy Services, provided a presentation on southwest Kansas wind resources (Attachment 49) and the results of a study on Wind Energy Resource Development in the Great Plains (Attachment 5 - copy is available from Legislative Resources).

Staff presented reports to the committee on the potential use of Yucca Mountain as a spent nuclear waste repository (Attachment 51) and on Severance Taxes Earmarked for Unified School Districts (Attachment 52).

Prepared by Jo Cook
Edited by Robert Chapman, Mike Heim,
and Dennis Hodgins

Approved by Committee on:

April 12, 2002