

**BEFORE THE SENATE COMMITTEE ON UTILITIES
PRESENTATION OF THE
KANSAS CORPORATION COMMISSION ON**

SB 309

Don Low – Director of the Utilities Division
January 28, 2004

The Commission is requesting amendments to K.S.A. 66-138 and 66-177. K.S.A. 66-138 provides the Commission with authority to impose a penalty on common carriers or utilities for violation of statutory or lawful Commission requirements. The penalty is to be a sum not less than \$100 and not more than \$1,000 per violation. K.S.A. 66-177 provides for civil penalties of not less than \$100 nor more than \$5,000 for willful violations, to be recovered in courts. The Commission wishes to increase the maximum penalties to \$20,000.

Although the Commission has not recently had many reasons to impose fines under K.S.A. 66-138, the potential penalties should be large enough to be a meaningful penalty and a significant incentive for compliance with KCC requirements. The current maximum of \$1,000 is inadequate as a meaningful penalty and provides no real deterrent relative to the millions of dollars at stake with regard to some issues. The penalty amounts set forth in the statutes are 92 years old (L. 1911, Ch. 238, §38) and need to be updated to at least reflect inflation. Using the Consumer Price Index, the inflation factor since 1911 is 19.653, which means \$1,000 in 1911 is now worth \$19,563. In addition, an increase in the maximum penalty is necessary to reflect the increase in the size of jurisdictional utilities. Although information on the size of Kansas utility companies in 1911 is not readily available, it is safe to suggest that, with consolidations and other growth, utilities are many times larger now than then, when measured by revenues.

The Commission has not, to my knowledge, proceeded under K.S.A. 66-177 to seek civil penalties in courts for willful violations. However, the maximum amount in that statute should

also be increased to at least be consistent with K.S.A. 66-138. Currently, the maximum under -177 is five times that under -138. If that existing relationship between the maximums for willful and other violations were to be kept, the maximum penalty under K.S.A. 66-177 should be increased to \$100, 000.

Thank you for your consideration of this bill. I would be glad to answer any questions the Committee may have.