

Approved: 3/8/93
Date

MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES

The meeting was called to order by the Vice Chairperson Lillian Papay at 9:00 a.m. on February 25, 1993 in Room 254-E of the Capitol.

All members were present except:

Senator Vidricksen - Excused
Senator Burke - Excused
Senator Jones - Excused
Senator Tiaht - Excused

Committee staff present: Hank Avila, Legislative Research Department
Ben Barrett, Legislative Research Department
Bruce Kinzie, Revisor of Statutes
Martha Ozias, Committee Secretary

Conferees appearing before the committee:

Myron McKinney, Vice President, Customer Services, Empire
District Electric Company
Brian Moline, Kansas Corporation Commission

Others attending: See attached list

A request was made for the approval of the minutes of the February 23rd meeting. A motion was made to this effect by Senator Emert and seconded by Senator Harris. Motion carried.

Attention was turned to **SB 309** which would amend the Kansas electric generation facility siting act. The committee heard from Myron McKinney who presented testimony in support of this bill. He explained that this was an attempt to correct a problem caused by the Kansas Plant Siting Act of 1981. This Act contains requirements that are not appropriate for units located outside the state and the bill will help to rectify a situation that requires a lot of time for these out of state utilities. (See Attachment A)

The next conferee was Brian Moline who explained the modifications to the siting act which would make it appropriate to forego examination of the environmental impact considerations and procedures and focus on the need for the facility and its impact on the system. He also presented a list of suggested amendments to **SB 309**. (See Attachment B)

A motion was made by Senator Rock to accept the amendments for **SB 309**. This was seconded by Senator Emert and the motion carried.

Senator Harris made a motion to recommend **SB 309** favorable for passage as amended. A second was made by Senator Rock and the motion carried.

The meeting was then adjourned by Senator Papay.

GUEST LIST

SENATE TRANSPORTATION COMMITTEE

DATE: February 25, 1993

[illegible]

Testimony of The Empire District Electric Company
Presented to
Kansas State Senate Transportation and Utilities Committee
on February 25, 1993

Mr. Chairman and Members of the Committee, thank you for the opportunity to appear here today. My name is Myron McKinney. I serve as Vice President of Customer Services for The Empire District Electric Company, a Kansas corporation located and headquartered in Joplin, Missouri. We serve approximately 121,000 customers. 85% of those customers are in Missouri, 8% in Kansas, 4% in Oklahoma, and 3% in Arkansas. We are regulated by the State Corporation Commission or its equivalent in all states where we operate. We are also regulated by FERC at the federal level.

I am appearing here this morning to present testimony in support of Senate Bill No. 309. Senate Bill 309 is a straightforward attempt to correct what we believe was an unintentional consequence of the Kansas Plant Siting Act of 1981. The Plant Siting Act was passed near the completion of construction of the Wolf Creek Nuclear Generating Station. It was passed in reaction to what some perceived to be a lack of public participation and input in the decision to build the Wolf Creek Plant.

The Plant Siting Act as presently constructed requires that very detailed and extensive data be submitted to the KCC and that the KCC hold public hearings to investigate the application prior to granting a permit for generating units to be built. The law is quite explicit that such a generating facility not be constructed without the appropriate permit. The permit application itself requires information regarding environmental impacts, commercial impacts, mechanical impacts, air quality impacts, and various other data in support of the application.

At the time of the passage of the Plant Siting Act, Empire did not anticipate that provisions of the bill would apply to facilities the Company might wish to construct in other states where it provides service, so we were quite surprised in 1984 to learn that a permit would be required when we decided to add a small 20 megawatt turbine to our existing Asbury plant, which is located near Asbury, Missouri. However, we did complete the application and the KCC held hearings and we were granted a permit to build such a facility, even though it was outside Kansas and a small facility.

In 1987 we added two 16.5 combustion turbines at our Riverton Generating Station at Riverton, Kansas. Again we went through the permitting process. In this instance, the Company felt that the permitting was not an inappropriate requirement since the units were located in the state of Kansas.

Currently, we are planning the construction of another combustion turbine, approximately a 100 megawatt unit, which will be located east of Joplin, Missouri. Since this unit will be constructed in Missouri and will have no environmental or resource impacts on Kansas, the Company feels that meeting the requirements of the Kansas Plant Siting Act is an undue burden and one that we would like to be able to avoid.

The Company has caused an amendment to be drafted to the Plant Siting Act which is very forthright. Basically, it would exclude Empire and any other electric utility that serves less than 10% of its retail customers in the state of Kansas and is constructing a generating facility located outside the state of Kansas

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from the requirements of the Act. Any generating facility we might build inside the state of Kansas which would have an impact on the air, water, or land usage of the state would still require completion of the permitting process. In that instance, we feel compliance is a reasonable requirement. It is just when those facilities are built outside the state we feel we are being required to do a good deal of work that is really not necessary.

As far as customer protection, the Kansas Corporation Commission would still maintain all authority over the Company regarding our operations in Kansas. They would certainly have the ability to hold prudency reviews regarding construction of the facilities at the time we might attempt to include those facilities in rates. I believe this legislation as proposed would help rectify a situation that requires the expenditure of a good deal of time and effort for utilities that are basically domiciled outside the state of Kansas.

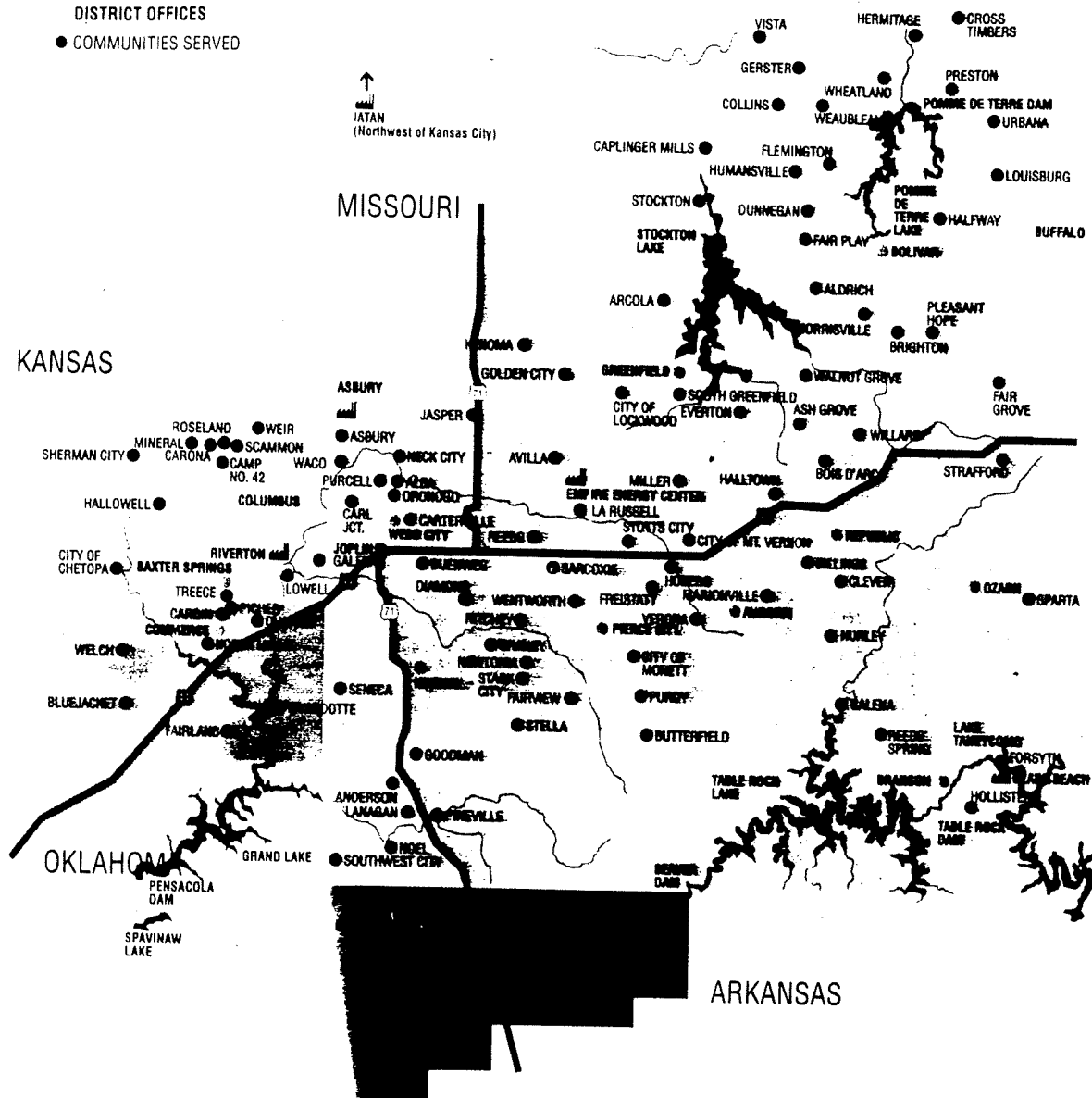
To my knowledge this bill would impact only Empire District and possibly Southwest Public Service Company of Amarillo, Texas who has a small operation in the very southwestern corner of the state. I don't believe it would affect any other investor-owned utility. Again, the provisions of the amendment are very straightforward and we would appreciate your favorable consideration.

I will be glad to try to answer any questions you might have. Thank you.

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**THE EMPIRE DISTRICT ELECTRIC COMPANY
SERVICE AREA**

- POWER PLANTS
- DISTRICT OFFICES
- COMMUNITIES SERVED



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SENATE TRANSPORTATION AND UTILITIES COMMITTEE

COMMENTS ON

SB 309 - Generation Siting Act

By

THE CORPORATION COMMISSION

Don Low - Director, Utilities Division

This bill would exempt from the generation facility siting act a proposed facility of an electric utility which has less than 10% of its retail customers located in this state and is located outside the state.

The Commission, under the existing statute, has the authority to review the necessity for a generation facility and the reasonableness of the proposed site even when that site is in another state. This is because the construction of the facility will impact Kansas customers in one way or another. The costs of the facility will presumably be allocated to Kansas by the utility so that it is desirable to have some upfront review of the need for the plant. Furthermore, although some of the issues surrounding the specific site selection, such as environmental impacts, may not be of concern when the site is in another state; others, such as system reliability and transmission costs, are important considerations for Kansas customers.

However, in order to not impose undue requirements it may be reasonable to provide for exemptions or modifications to the siting act requirements when the proposed facility will be located in another state, under certain conditions.

Total exemption from the siting act:

1. The exemption should apply only if another state commission has a process for upfront review of the need for the facility and the reasonableness of the proposed site. If the purpose of the bill is to avoid duplication of efforts, this condition accomplishes that purpose and ensures that some review of the proposed facility is made.
2. The 10% of retail customers criteria could lead to unintended

results if a utility acquires or merges with another out-of-state utility so that the Kansas customer base becomes less than 10% of the total company but is nonetheless significant in size. This should be addressed by adding one additional criteria - that the utility serve no more than 15,000 retail customers in Kansas. Furthermore the 10% criteria is reasonable only if it represents a percentage of customers for the discrete system which the facility is proposed to serve and not an entire utility company which could encompass more than one system.

Modifications to the siting act:

1. If the facility is not exempt but is located in another state, it may be appropriate to forego examination of the environmental impact considerations and the procedures associated with them and focus only on the need for the facility and its impact on the system.

Attached are proposed amendments which would accomplish those suggestions. The Commission would be concerned with totally exempting a facility from appropriate upfront review since it seems inconsistent with the purpose behind the siting act of requiring an examination of the need for, and reasonableness of, proposed generating facilities before they are built and costs incurred.

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KCC SUGGESTED AMENDMENTS TO SENATE BILL No. 309

AN ACT relating to public utilities; amending the Kansas electric generation facility siting act; amending K.S.A. 66-1,158 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 66-1,158 is hereby amended to read as follows:

66-1,158. As used in this act, the following words and phrases shall have the meanings ascribed to them herein:

(a) "Commission" means the state corporation commission;

(b) "Electric generation facility" means any physical plant used for the production or generation of electricity or electric power except that the remodeling, reconditioning or retrofitting of any existing physical plant shall not be deemed an addition to an electric generation facility. *Such term shall not include a facility or addition to a facility proposed to be located outside this state if: 1.) the need for the facility or addition and the reasonableness of its proposed siting is subject to review by the utility regulatory authority of that state; 2.) less than 10% of the retail customers on the electric system intended to be served by such facility or addition are located in this state; and 3.) such retail customers located in this state number no more than 15,000.*

(c) "Electric utility" means every public utility, as defined by K.S.A. 66-104, and amendments thereto, which owns, controls, operates or manages any equipment, plant or generating machinery for the production, transmission, delivery or furnishing, of electricity or electric power. ~~*Such term shall not include any electric utility which has less than 10% of its retail customers located in this state and is proposing to locate an electric generation facility outside this state;*~~

(d) "Landowner" means any person having an estate or interest in any land, which land is proposed to be acquired by an electric utility in connection with the construction, operation and maintenance of an electric generation facility or an addition to an electric generation facility;

(e) "Party" means any landowner, electric utility, governmental board or agency, or any other person allowed to intervene in any

proceeding under this act;

(f) "Person" means any individual, partnership, corporation or other association of persons.

Sec. 2. K.S.A. 66-1,169b is hereby amended to read as follows:

The provisions of the Kansas electric generation facility siting act shall not apply to unit number 3 of the Jeffrey Energy Center. Further, with regard to a facility proposed to be located outside this state; K.S.A. 66-1,160 and -1,161, and amendments thereto, shall not apply, and, for purposes of determining the most reasonable location of a proposed facility or addition to a facility pursuant to K.S.A. 66-1,162, the commission shall consider only the effects on system reliability and economic efficiency.

Sec. 23. K.S.A. 66-1,158 is hereby repealed.

Sec. 24. This act shall effect and be in force from and after its publication in the statute book.