

MINUTES OF THE SENATE UTILITIES COMMITTEE

The meeting was called to order by Chairman Stan Clark at 9:30 a.m. on March 15, 2004 in Room 526-S of the Capitol.

All members were present.

Committee staff present:

Bruce Kinzie, Revisor of Statutes
Raney Gilliland, Legislative Research
Ann McMorris, Secretary

Conferees appearing before the committee:

Others attending:

See Attached List.

Chairman Clark provided the committee with an article on Coal Bed Methane programs developing in northeastern Kansas. (Attachment 1)

Chair opened for discussion and possible action on
Substitute for HB 2516 - Incentives to increase electric transmission system and generation capacity, state corporation commission powers.

The committee was provided a balloon of **Substitute for HB 2516** with the various changes suggested by KCC and others who presented testimony. (Attachment 2)

Moved by Senator Taddiken, seconded by Senator Emler, to adopt the ballon **Substitute for HB 2516** which incorporates suggestions from Sunflower, Westar and KCC. Motion carried.

Moved by Senator Barone, seconded by Senator Tyson, to amend **Substitute for HB 2516** by striking Section 4. Motion carried.

Moved by Senator Lee, seconded by Senator Emler, to pass out **Substitute for HB 2516** favorably as amended. Motion carried.

Chair opened for discussion and possible action on
HB 2756 - public safety communication system; purchase of equipment to lease to public safety agencies, issuance of revenue bonds

There was considerable discussion on the \$5 million appropriation from the State Highway Fund to capitalize the new Communication System Revolving Fund and the 12 new employees as submitted in the February 18, 2004 Fiscal Note for **HB 2756**. (Attachment 3)

Moved by Senator Emler, seconded by Senator Taddiken, to pass **HB 2756** out favorably. Motion carried.

The next meeting of the Senate Utilities Committee is scheduled for March 16, 2004.

Adjournment.

Respectfully submitted,
Ann McMorris, Secretary
Attachments -3

SENATE UTILITIES COMMITTEE GUEST LIST

DATE: MARCH 15, 2004

Name	Representing
Joe Dick	KCBPU
JOHN C. BOTTENBERG	WESTAR ENERGY
Edwin Geer	KDOT
Bill Watts	KDOT
Larry Holloway	KCC
Tom Bruno	GBBA
Tom Day	KCC
Amy Campbell	Midwest Energy
Dan Sprinze	Carb
Dave Halthan	KFC
Colin Hansen	KCC
Whitney Jannin	KS Gas Service / Empire
Steve Johnson	KS Gas Service / ONEOK
Joey Long	Aquila -

E&P MOMENTUM

CBM SPROUTS IN THE SUNFLOWER STATE



PEGGY WILLIAMS,
SENIOR EXPLORATION
EDITOR

A new coalbed-methane (CBM) play is energizing the Forest City Basin in northeastern Kansas. Companies are leasing land and starting pilot programs in the farming and ranching country around Topeka. Multiple thin, shallow Pennsylvanian coal seams in the Cherokee Group are the focus of their efforts.

Kansas is no stranger to CBM, as operators in the southeastern part of the state already produce from coal seams in the Cherokee Basin. That activity has centered in Neosho, Montgomery and Wilson counties, near the state's border with Oklahoma. The Kansas Geological Survey notes that nearly 800 wells have been drilled in its portion of the Cherokee Basin for CBM, and it forecasts that the state's CBM production will be between 6- and 7 billion cubic feet (Bcf) in 2003.

The Forest City Basin, however, is in the initial stages of CBM exploration. The KGS says that around 100 CBM wells have been drilled there to date, mainly in Johnson and Miami counties. The area is attractive to companies because of its multiple coal seams, established pipeline network and predominance of private landowners.

The coal seams in the Forest City Basin are basically the same ones that produce in the Cherokee Basin, says Larry Brady, senior scientist with the KGS. "There are variations, however, and coals that become important in the Forest City may be different than those in the Cherokee Basin."

Denver-based Evergreen Resources Inc. is the high-profile player in the emerging CBM basin. The company has accumulated more than 700,000 acres in northeastern Kansas, including a purchase this summer of 43,000 acres from Bakersfield, California-based Berry Petroleum Co. From another independent, Evergreen picked up a pilot project in Atchison County that contains 12 CBM wells, a water injection well and a gathering system.

"We have drilled 10 CBM wells and one water-disposal well in Kansas," said Mark Sexton, president and chief executive officer, in a recent third-quarter 2003 earnings conference call. He noted that those wells have encountered aggregate coal thicknesses of six to 25 feet in multiple seams, with typical seams ranging between one and four feet.

The coal quality looks promising, with good cleating and permeability. One pleasant surprise for Evergreen is that the gas sands are coming in with aggregate thicknesses between 15 and 30 feet, high on the range of what it expected.

"We really don't know how good the project is going to be until we complete the wells, but at this early stage we are seeing what we expected to see in the basin."

The company plans to complete 40 wells by year-end 2003. These will be in seven pilot areas spread around its acreage, with each pilot containing four producing wells and one disposal well. In addition, it plans five core holes. According to the Kansas Corporation Commission, Evergreen has already permitted wells in Doniphan, Jackson, Miami and Linn counties.

During 2004, Evergreen has budgeted \$58 million for the Forest City Basin. This will be used to drill 150 wells in the area, build gathering and compression facilities, and pay for additional equipment and acquisitions. It expects to produce between 1.2 and 1.9 Bcf from its Kansas CBM wells during 2004.

Evergreen figures a producing well costs around \$100,000 to drill and complete; the core holes run \$130,000. Prorated gathering adds another \$70,000 to \$80,000 per well. The CBM wells, which range in depth from 750 to 2,000 feet, are forecast to recover between 250- and 400 million cubic feet of gas apiece.

Other players are also active in the basin.

Heartland Oil & Gas Corp., based in Vancouver, is working on a five-well pilot project in Nemaha County. It has acquired some 165,000 acres in the play, and reports that its Engelke 16-18 discovery well encountered 57 feet of coal.

Heartland recently closed on a \$12-million private placement, in which C.K. Cooper & Co. acted as agent. The capital will be used to finance an aggressive development program on its Forest City Basin acreage.

Additionally, local independent Osborn Energy LLC is working in Miami and Johnson counties, and Radnor, Pennsylvania-based Penn Virginia Oil & Gas Corp. has a pilot in Chase County. And, Suncor Energy and Meritage KCM Exploration both have pilots under way in Anderson County.

Substitute for HOUSE BILL No. 2516

By Committee on Utilities

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Senate Utilities Committee
March 15, 2004
Attachment 2-1

9 AN ACT concerning utilities; providing certain incentives to increase
10 electric transmission system and electric generating capacity; relating
11 to powers and duties of the state corporation commission; relating to
12 inclusion of certain expenses in rates; amending K.S.A. 66-128 and
13 K.S.A. 2003 Supp. 66-1239 and 74-8946 and repealing the existing
14 sections.

15
16 *Be it enacted by the Legislature of the State of Kansas:*

17 New Section 1. As used in sections 2 through 5, and amendments
18 thereto:

19 (a) "Appurtenances" means all substations, towers, poles and other
20 structures and equipment necessary for the bulk transfer of electricity.

21 (b) "Bulk transfer" means the transport of a large amount of elec-
22 tricity at high voltage.

23 (c) "Commission" means the state corporation commission.

24 (d) "Construction or upgrade of an electric transmission line and ap-
25 purtenances" means construction or upgrade of an electric transmission
26 line and appurtenances to be used for the bulk transfer of 34.5 kilovolts
27 or more of electricity.

28 (e) "Electric transmission line" means any line or extension of a line
29 which is at least five miles in length and which is to be used for the bulk
30 transfer of electricity. with an operating voltage of 34.5 kilovolts or more

31 New Sec. 2. The Kansas development finance authority is authorized
32 to assist operators of electric transmission lines and appurtenances in
33 marketing bonds to finance the construction and upgrade of such lines
34 and appurtenances if owners or

35 (a) ~~The lines originate in this state and~~ a majority of the costs of the
36 construction and upgrade is for construction and upgrade of lines and
37 appurtenances located or to be located in this state; and

38 (b) the commission certifies that the portions of the lines and appur-
39 tenances located outside this state will improve the reliability and security
40 of the state's electric transmission system or will contribute to the long-
41 term economic well being of the state.

42 New Sec. 3. Upon application, the commission ~~shall~~ provide for re-
43 covery of capital expenditures for construction or upgrade of any electric may

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1 transmission line or appurtenances over a period of 15 years.
 2 New Sec. 4. Any entity which, on or after January 1, 2004, constructs
 3 in this state new or expanded electric generation facilities having a ca-
 4 pacity of at least 100 kilowatts may either grant or lease interconnection
 5 facilities to transmission operators, upon agreement between the entity
 6 and operator and approval by the commission.

7 New Sec. 5. (a) Upon application, the commission may approve: (1)
 8 Any sale of transmission lines and appurtenances to an independent trans-
 9 mission company or system operator which has been approved by the
 10 federal energy regulatory commission; and (2) any contract for the op-
 11 eration of transmission lines and appurtenances by an independent trans-
 12 mission system operator or regional transmission organization which has
 13 been approved by the federal energy regulatory commission.

14 (b) The commission shall afford the transactions described in this
 15 section with appropriate rate-making treatment, including the reasonable
 16 sharing of proceeds from asset sales between ratepayers and the utility.

17 Sec. 6. K.S.A. 66-128 is hereby amended to read as follows: 66-128.

18 (a) The state corporation commission shall determine the reasonable
 19 value of all or whatever fraction or percentage of the property of any
 20 common carrier or public utility governed by the provisions of this act
 21 which property is used and required to be used in its services to the public
 22 within the state of Kansas, whenever the commission deems the ascer-
 23 tainment of such value necessary in order to enable the commission to
 24 fix fair and reasonable rates, joint rates, tolls and charges. In making such
 25 valuations the commission may avail itself of any reports, records or other
 26 things available to the commission in the office of any national, state or
 27 municipal officer or board.

28 (b) (1) For the purposes of this act, except as provided by subsection
 29 (b)(2), property of any public utility which has not been completed and
 30 dedicated to commercial service shall not be deemed to be used and
 31 required to be used in the public utility's service to the public.

32 (2) Any public utility property described in subsection (b)(1) may be
 33 deemed to be completed and dedicated to commercial service if (A)
 34 Construction of the property will be commenced and completed in one
 35 year or less; (B) the property is an electric generation facility that has a
 36 capacity of 100 megawatts or less and converts wind, solar, biomass, land-
 37 fill gas or any other renewable source of energy; (C) construction of the
 38 property has been authorized by a siting permit issued under K.S.A. 66-
 39 1,158 et seq. or 66-1,177 et seq., and amendments thereto; (D) the prop-
 40 erty is an electric generation facility or addition to an electric generation
 41 facility, which facility or addition to a facility is placed in service on or
 42 after January 1, 2001; or (E) the property is an electric transmission line,
 43 as defined by K.S.A. 66-1,177, and amendments thereto, including all

, unless recovery of capital expenditures for construction or upgrade of the
 transmission line or appurtenances is already provided for by tariffs and rates
 approved by the Federal Energy Regulator Commission or its successors

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1 towers, poles and other necessary appurtenances to such lines, which will
2 be connected to an electric generation facility ~~and which is placed in~~
3 ~~service on or after January 1, 2004.~~

4 (3) Electric generation facilities under the provisions of subsection
5 (b)(2)(D) or (b)(2)(E) shall not include facilities used in generating elec-
6 tricity by nuclear resources or technologies or by using renewable energy
7 resources or technologies, as defined in K.S.A. 79-20f, and amendments
8 thereto.

9 (c) *As used in this section, "electric transmission line" means any line*
10 *or extension of a line* ~~which is at least five miles in length and which is~~
11 ~~used or to be used for the bulk transfer of 34.5 kilovolts or more of~~
12 ~~electricity.~~ | with an operating voltage of 34.5 kilovolts or more

13 New Sec. 7. (a) If an electric public utility constructs new or ex-
14 panded electric generation capacity on or after January 1, 2004, in a
15 county where the population has not increased more than 5% between
16 the dates of the two most recent decennial censuses taken and published
17 by the United States bureau of the census, the state corporation com-
18 mission, in determining the utility's revenue requirements, shall make
19 adjustments that allow the utility to retain benefits equivalent to 10% of
20 the net revenues from sales of electricity generated by such new or ex-
21 panded capacity to customers outside the state.

22 (b) The provisions of this section shall not apply to net revenues
23 which are subject to the provisions of K.S.A. 66-1,184a, and amendments
24 thereto.

25 New Sec. 8. The state corporation commission shall allow an electric
26 public utility, as defined in K.S.A. 66-101a, and amendments thereto, to
27 include in rates the utility's prudent expenditures for research and de-
28 velopment by the utility or for investment in research and development
29 by research centers determined by the commission to be nationally
30 recognized.

31 Sec. 9. K.S.A. 2003 Supp. 66-1239 is hereby amended to read as
32 follows: 66-1239. (a) As used in this section: | , provided such research and development expenditures or investments
are intended to enhance reliability or efficiency of electric utility service

33 (1) "Commission" means the state corporation commission;

34 (2) "contract" means a public utility's contract for the purchase of
35 electric power in the amount of at least \$5,000,000 annually;

36 (3) "generating facility" means any electric generating plant or im-
37 provement to existing generation facilities;

38 (4) "stake" means a public utility's whole or fractional ownership
39 share or leasehold or other proprietary interest in a generating facility or
40 transmission facility;

41 (5) "public utility" has the meaning provided by K.S.A. 66-104, and
42 amendments thereto; and

43 (6) "transmission facility" means: (A) Any existing line, and support-

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1 ing structures and equipment, being upgraded for the transfer of elec-
2 tricity with an operating voltage of ~~69~~ 31.5 kilovolts or more of electricity;
3 or (B) any new line, and supporting structures and equipment, being
4 constructed for the transfer of electricity with an operating voltage of 230
5 kilovolts or more of electricity.

6 (b) (1) Prior to undertaking the construction of, or participation in,
7 a transmission facility, a public utility may file with the commission a
8 petition for a determination of the rate-making principles and treatment,
9 as proposed by the public utility, that will apply to the recovery in whole-
10 sale or retail rates of the cost to be incurred by the public utility to acquire
11 such public utility's stake in the transmission facility during the expected
12 useful life of the transmission facility.

13 (2) The commission shall issue an order setting forth the rate-making
14 principles and treatment that will be applicable to the public utility's stake
15 in the transmission facility in all rate-making proceedings on and after
16 such time as the transmission facility is placed in service or the term of
17 the contract commences.

18 (3) The commission in all proceedings in which the cost of the public
19 utility's stake in the transmission facility is considered shall utilize the
20 rate-making principles and treatment applicable to the transmission
21 facility.

22 (4) If the commission fails to issue a determination within 180 days
23 of the date a petition for a determination of rate-making principles and
24 treatment is filed, the rate-making principles and treatment proposed by
25 the petitioning public utility will be deemed to have been approved by
26 the commission and shall be binding for rate-making purposes during the
27 useful life of the transmission facility.

28 (5) If the commission does not have jurisdiction to set wholesale rates
29 for use of the transmission facility the commission need not consider rate-
30 making principles and treatment for wholesale rates for the transmission
31 facility.

32 (c) (1) Prior to undertaking the construction of, or participation in,
33 a generating facility or prior to entering into a new contract, a public
34 utility may file with the commission a petition for a determination of the
35 rate-making principles and treatment, as proposed by the public utility,
36 that will apply to recovery in wholesale or retail rates of the cost to be
37 incurred by the public utility to acquire such public utility's stake in the
38 generating facility during the expected useful life of the generating facility
39 or the recovery in rates of the contract during the term thereof.

40 (2) Any utility seeking a determination of rate-making principles and
41 treatment under subsection (c)(1) shall as a part of its filing submit the
42 following information: (A) A description of the public utility's conserva-
43 tion measures; (B) a description of the public utility's demand side man-

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1 agement efforts; (C) the public utility's ten-year generation and load fore-
2 casts; and (D) a description of all power supply alternatives considered
3 to meet the public utility's load requirements.

4 (3) In considering the public utility's supply plan, the commission
5 may consider if the public utility issued a request for proposal from a
6 wide audience of participants willing and able to meet the needs identi-
7 fied under the public utility's generating supply plan, and if the plan
8 selected by the public utility is reasonable, reliable and efficient.

9 (4) The commission shall issue an order setting forth the rate-making
10 principles and treatment that will be applicable to the public utility's stake
11 in the generating facility or to the contract in all rate-making proceedings
12 on and after such time as the generating facility is placed in service or
13 the term of the contract commences.

14 (5) The commission in all proceedings in which the cost of the public
15 utility's stake in the generating facility or the cost of the purchased power
16 under the contract is considered shall utilize the rate-making principles
17 and treatment applicable to the generating facility or contract.

18 (6) If the commission fails to issue a determination within 180 days
19 of the date a petition for a determination of rate-making principles and
20 treatment is filed, the rate-making principles and treatment proposed by
21 the petitioning public utility will be deemed to have been approved by
22 the commission and shall be binding for rate-making purposes during the
23 useful life of the generating facility or during the term of the contract.

24 (d) The public utility shall have one year from the effective date of
25 the determination of the commission to notify the commission whether
26 it will construct or participate in the construction of the generating or
27 transmission facility or whether it will perform under terms of the
28 contract.

29 (e) If the public utility notifies the commission within the one-year
30 period that the public utility will not construct or participate in the con-
31 struction of the generating or transmission facility or that it will not per-
32 form under the terms of the contract, then the determination of rate-
33 making principles pursuant to subsection (b) or (c) shall be of no further
34 force or effect, shall have no precedential value in any subsequent pro-
35 ceeding, and there shall be no adverse presumption applied in any future
36 proceeding as a result of such notification.

37 (f) If the public utility notifies the commission under subsection (d)
38 that it will construct or participate in a generating facility or purchase
39 power contract and subsequently does not, it will be required to notify
40 the commission immediately and file an alternative supply plan with the
41 commission per subsection (c) within 90 days.

42 Sec. 10. K.S.A. 2003 Supp. 74-8946 is hereby amended to read as
43 follows: 74-8946. (a) As used in this section:

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1 (1) "Appurtenances" means all substations, towers, poles and other
2 structures and equipment necessary for the bulk transfer of electricity.

3 (2) "Electric transmission line" means any line or extension of a line
4 which is at least five miles long and which is used for the bulk transfer of
5 electricity.

6 (b) The Kansas development finance authority is hereby authorized
7 to issue revenue bonds in amounts sufficient to pay the following de-
8 scribed costs of construction, upgrading and acquisition, including any
9 required interest on the bonds during such construction, upgrading and
10 acquisition, plus all amounts required for the costs of bond issuance and
11 any required reserves on the bonds: (1) Construction or upgrading of
12 electric transmission lines and appurtenances *which are owned and op-*
13 *erated by an electric municipal utility or which are to be used for the*
14 *transfer of 69 34.5 kilovolts or more of electricity;* (2) acquisition of the
15 right-of-way on which *such* transmission lines and appurtenances *to be*
16 *used for the transfer of 69 kilovolts or more of electricity* are to be con-
17 structed; and (3) upgrading of *such* electric transmission lines and ap-
18 purtenances *to be used for the transfer of 69 kilovolts or more of elec-*
19 *tricity*. The bonds, and interest thereon, issued pursuant to this section
20 shall be payable from revenues derived from use of the transmission lines.

of electricity with an operating voltage

21 (c) The provisions of subsection (a) of K.S.A. 74-8905, and amend-
22 ments thereto, shall not prohibit the issuance of bonds by the Kansas
23 development finance authority for the purposes of this section and any
24 such issuance of bonds is exempt from the provisions of subsection (a) of
25 K.S.A. 74-8905, and amendments thereto, which would operate to pre-
26 clude such issuance.

27 (d) Revenue bonds, including refunding revenue bonds, issued here-
28 under shall not constitute an indebtedness of the state of Kansas, nor
29 shall they constitute indebtedness within the meaning of any constitu-
30 tional or statutory provision limiting the incurring of indebtedness.

31 (e) Revenue bonds, including refunding revenue bonds, issued here-
32 under and the income derived therefrom are and shall be exempt from
33 all state, county and municipal taxation in the state of Kansas, except
34 Kansas estate taxes.

35 Sec. 11. K.S.A. 66-128 and K.S.A. 2003 Supp. 66-1239 and 74-8946
36 are hereby repealed.

37 Sec. 12. This act shall take effect and be in force from and after its
38 publication in the statute book.

February 18, 2004

The Honorable Carl Holmes, Chairperson
House Committee on Utilities
Statehouse, Room 115-S
Topeka, Kansas 66612

Dear Representative Holmes:

SUBJECT: Fiscal Note for HB 2756 by House Committee on Utilities

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2756 is respectfully submitted to your committee.

HB 2756 would authorize the Department of Transportation to purchase and lease radio communications equipment, including access to radio communication towers, to both governmental and non-governmental organizations. The bill would create the Communication System Revolving Fund in which all proceeds from the lease of radio communications equipment would be deposited.

HB 2756 does not limit or indicate the level at which the new program would operate. However, the Department of Transportation estimates that \$5.0 million would be an appropriate amount for FY 2005. Of this amount, \$568,302 would be used for salaries and wages in support of 12.0 new FTE positions, and the remaining \$4,430,698 would be available for the purchase, installation, and servicing of radio communications equipment. The agency would transfer \$5.0 million from the State Highway Fund to capitalize the new Communication System Revolving Fund under the authority that the bill grants to the Secretary of Transportation.

The Department anticipates that the revenue generated by the leasing of equipment and towers would support the ongoing costs of the communications system, and the clearing fund would be self-supporting thereafter. In addition, the agency estimates that these fees would generate enough revenue to repay the \$5.0 million capitalization loan from the State Highway

Senate Utilities Committee
March 15, 2004
Attachment 3-1

The Honorable Carl Holmes, Chairperson
February 18, 2004
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Fund. Any fiscal effect resulting from this bill would be in addition to amounts included in *The FY 2005 Governor's Budget Report*.

Sincerely,

Duane A. Goossen
Director of the Budget

cc: Bill Watts, Department of Transportation

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