

MINUTES OF THE HOUSE ENERGY AND UTILITIES COMMITTEE

The meeting was called to order by Chairman Carl Holmes at 12:28 P.M. on March 22, 2011, in Room 785 of the Docking State Office Building.

All members were present except:
Representative Reynaldo Mesa

Committee staff present:
Matt Sterling, Office of the Revisor of Statutes
Cindy Lash, Kansas Legislative Research Department
Corey Carnahan, Kansas Legislative Research Department
Renaë Hansen, Committee Assistant

Conferees appearing before the Committee:
Wes Ashton, Blackhills Energy Company
Dave Springe, CURB

Others attending:
Thirty eight including the attached list.

Hearing on:
SB 215-Abolishing the liquefied petroleum gas advisory board.

Matt Sterling gave an explanation (Attachment 1), of **SB 215**. This bill would abolish the liquefied petroleum gas advisory board repealing K.S.A. 55-1811.

Written Proponents:

Testimony from the Senate Utilities (Attachment 2) was presented to the committee from the State Fire Marshall's office.

The hearing on **SB 215** was closed.

Hearing on:
SB 224-Gas safety and reliability surcharge; extension of deadline for rate schedule.

Matt Sterling presented the committee with an explanation (Attachment 3) of **SB 224**.

Proponents:

Wes Ashton, Black Hills Energy, (Attachment 4), offered testimony explaining why and how **SB 224** would change the current statute language.

Dave Springe, CURB, (Attachment 5) appeared as a proponent before the committee to **SB 224** and provided testimony.

Questions were asked and comments made by Representatives: Don Hineman, Nile Dillmore, and Tom Sloan.

The hearing on **SB 224** was closed.

Action on:
SB 215-Abolishing the liquefied petroleum gas advisory board.

Representative Nile Dillmore moved to recommend **SB 215** favorably for passage. Seconded by Representative Phil Hermanson.

Questions were asked and comments made by Representatives: Tom Sloan, and Carl Holmes.

CONTINUATION SHEET

The minutes of the House Energy and Utilities Committee at 9:00 A.M. on March 22, 2011, in Room 785 of the Docking State Office Building.

The motion carried.

Action on **SB 215** was closed.

Representative Rob Bruchman will carry **SB 215** on the house floor.

Action on:

SB 224-Gas safety and reliability surcharge; extension of deadline for rate schedule.

Representative Mike Burgess moved to amend SB 224 (Attachment 6) to add HB 2267 into SB 224. Seconded by Representative Don Hineman. Motion carried.

Representative Mike Slattery moved to recommend SB 224 as amended favorably for passage. Seconded by Representative Stephen Alford. Motion Carried.

Action on **SB 224** was closed.

Representative Phil Hermanson will carry **SB 224** on the house floor.

Continued Action on:

Sub SB 72- Telecommunications

Representative Rob Bruchman moved to amend SubSB72 (Attachment 7) . Seconded by Representative Stan Frownfelter.

Questions were asked and comments made by Representatives: Forrest Knox, Mike Burgess, Don Hineman, Rob Bruchman, Mike Slattery, Tom Sloan, Nile Dillmore, and Annie Kuether.

Motion to amend failed 8-9.

Representative Don Hineman moved to amend SubSB72 page 25 and 26 on Representative Tom Sloan's set of amendments and additionally changes the sunset to 2015 and this amendment allows an ILEC to sell the local exchange to any entity and that capitol gains from such sale shall be tax exempt. Seconded by Representative Vern Swanson.

Questions were asked and comments made by Representatives: Stan Frownfelter, Nile Dillmore, Tom Sloan, Joe Seiwert, Forrest Knox, Annie Kuether, and Don Hineman.

Matt Sterling helped to answer committee questions.

Motion to amend failed 8-9.

Representative Tom Sloan moved to offer the same amendment to SubSB72 and included any rural cooperative in the language for eligibility. Seconded by Representative Don Hineman.

Questions were asked and comments made by Representative Mike Slattery.

Motion to amend failed 8-9.

Representative Forrest Knox moved to amend SubSB72 (Attachment 8) regarding uniform price throughout each exchange for the carrier's services. Seconded by Representative Don Hineman.

Questions were asked and comments made by Representatives: Vern Swanson, Forrest Knox, Mike Slattery, Mike Burgess, Tom Sloan, and Nile Dillmore.

CONTINUATION SHEET

The minutes of the House Energy and Utilities Committee at 9:00 A.M. on March 22, 2011, in Room 785 of the Docking State Office Building.

Matt Sterling helped to answer committee questions.

Motion to amend failed 5-10.

Representative Forrest Knox moved to amend **SubSB72** (Attachment 9) regarding quality of service and restore KCC regulation as a penalty if service quality falls. Seconded by Representative Don Hineman.

Questions were asked and comments made by Representatives: Mike Slattery, Forrest Knox, Stan Frownfelter, Annie Kuether, and Mike Burgess.

Matt Sterling helped to answer committee questions.

Motion to amend failed.

The action on **SubSB72** was suspended.

The next meeting is scheduled for March 23, 2011 upon recess of the house.

The meeting was adjourned at 1:59 P.M.

HOUSE ENERGY AND UTILITIES COMMITTEE

GUEST LIST

DATE: March 22, 2011

NAME	REPRESENTING
Tom Day	KCC
Pete Bouthier	Hein Law Firm
Len Stinson	NORTHERN NATURAL GAS CO
Scott Jones	KCC
Wes Asher	Black Hills Energy
Dan Sprague	Culb
Steve Johnson	ONEOK
Dina Fisk	VERIZON
JIM BARTLING	ATMOS ENERGY
Joe Voll	Eschco Consulting
Dan Hatthorn	KEC
Patrick Fulk	Sprint
Mark Ditt	DT
Mike Reed	Sprint / Atmos
Lon Gaches	Atmos / Sprint
Tim Granger	DT
Dave Dittmar	KGS
George Shulard	DT
Mike Murray	CenturyLink
Whitney Lamson	KS Gas Service

HOUSE ENERGY AND UTILITIES COMMITTEE
GUEST LIST

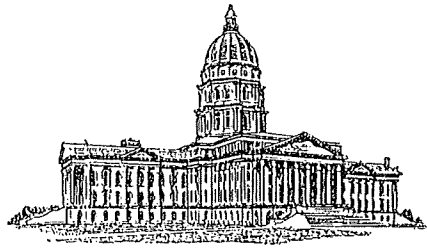
DATE: March 22, 2011

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MARY ANN TORRENCE, ATTORNEY
REVISOR OF STATUTES

JAMES A. WILSON III, ATTORNEY
FIRST ASSISTANT REVISOR

GORDON L. SELF, ATTORNEY
FIRST ASSISTANT REVISOR



OFFICE OF REVISOR OF STATUTES
KANSAS LEGISLATURE

Legal Consultation—
Legislative Committees and Legislators
Legislative Bill Drafting
Legislative Committee Staff
Secretary—
Legislative Coordinating Council
Kansas Commission on
Interstate Cooperation
Kansas Statutes Annotated
Editing and Publication
Legislative Information System

MEMORANDUM

To: Chairman Holmes and members of the House Energy and Utilities Committee
From: Matt Sterling, Assistant Revisor of Statutes
Date: March 22, 2011
Subject: Senate Bill 215

SB 215 abolishes the liquefied petroleum gas advisory board and repeals K.S.A. 55-1811. The advisory board serves in an advisory capacity to the governor and the state fire marshal. The advisory board is directed to review and make recommendations on proposed rules and regulations or proposed revisions to current rules and regulations concerning liquefied petroleum gas prior to the submission of such rules and regulations.

HOUSE ENERGY AND UTILITIES

DATE: 3/22/2011

ATTACHMENT 1

700 SW Jackson, Suite 600
Topeka, KS 66603

Doug Jorgensen, Fire Marshal



Office of The State Fire Marshal

phone: 785-296-3401
fax: 785-296-0151
www.ksfm.ks.gov

Sam Brownback, Governor

Testimony before the Senate Committee on Natural Resources
By Doug Jorgensen, Acting Kansas State Fire Marshal

K.S.A 55-1811 established the Liquefied Petroleum Gas Advisory Board in 2004. The advisory board is comprised of nine members to include: propane marketers, insurance companies, wholesalers or resellers of propane, manufacturers, and members of the general public. The board was established to serve in an advisory capacity to the governor and the state fire marshal for matters concerning the enforcement of the Kansas Propane Safety and Licensing Act. The board is currently set-up to meet on a quarterly basis, however due to a lack of attendance, it was agreed upon that the board would only meet if anyone had concerns or topics to discuss. The last meeting was held on April 30, 2010 where there was discussion concerning training for all inspectors involved in propane inspections. Subsequent to that meeting, all KSFM fire prevention staff attended a 1-day training offered by the Kansas Propane Education and Resource Council.

The State Fire Marshal's office does not see any major changes or adjustments to the current propane rules and regulations in the near future and will be working with the Kansas Propane Education and Resource Council and the Legislature if and when any rule or regulation changes or adoptions are considered.

HOUSE ENERGY AND UTILITIES

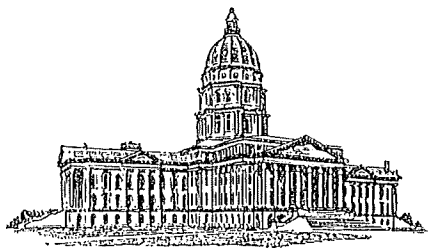
DATE: 3/22/2011

ATTACHMENT 2

MARY ANN TORRENCE, ATTORNEY
REVISOR OF STATUTES

JAMES A. WILSON III, ATTORNEY
FIRST ASSISTANT REVISOR

GORDON L. SELF, ATTORNEY
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MEMORANDUM

To: Chairman Holmes and members of the House Energy and Utilities Committee
From: Matt Sterling, Assistant Revisor of Statutes
Date: March 22, 2011
Subject: Senate Bill 223

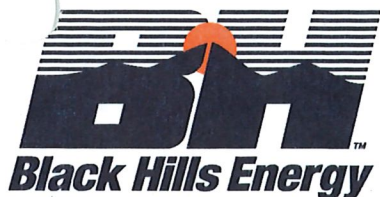
SB 224 amends K.S.A. 66-2203 concerning the Gas System Reliability Surcharge. Under current law, a natural gas public utility providing gas service may file a petition and proposed rate schedules with the commission to establish or change GSRS rate schedules to allow for the recovery of costs for eligible infrastructure system replacements. Current law provides that the commission shall not approve any GSRS for any natural gas public utility that has not had a general rate proceeding decided or dismissed by the commission and that the utility may not collect a GSRS for a period exceeding 60 months unless the utility has filed or is the subject of a new general rate proceeding.

This bill provides that upon motion by a natural gas public utility, the commission may extend these 60-month deadlines for a period of up to 12 months.

HOUSE ENERGY AND UTILITIES

DATE: 3/22/2011

ATTACHMENT 3



Wes Ashton
Government Affairs Manager

M: 785.764.2359
wes.ashton@blackhillscorp.com

Legislative Testimony on SB 224
Before the House Energy and Utilities Committee
March 22, 2011

Good afternoon Chairman Holmes and members of the committee, my name is Wes Ashton with Black Hills Energy. Thank you for the opportunity to testify in support of SB 224 on behalf of Atmos Energy, Black Hills Energy and Kansas Gas Service, a division of ONEOK.

This bill simply adds one sentence to the existing statutory language of the Gas Safety and Reliability Policy Act, often referred to as the GSRS. This legislation originally passed the Kansas Legislature in 2006. GSRS provisions allow for a regulated natural gas company like Atmos, Black Hills or Kansas Gas Service to make an annual filing for recovery of capital investment in our natural gas system for the purpose of system integrity, safety and reliability, or costs to move our existing mains and services pursuant to government mandated road relocation projects.

The current law allows natural gas utilities to make filings to recover such capital expenditures for a period of five years after the utilities' most recent rate case and to collect such recoveries for a period of five years. The proposed legislation simply extends such filing and recovery periods by 12 months, and only upon the approval of the Kansas Corporation Commission.

The language contained in SB 224 was drafted working with representatives of the KCC and CURB. If a natural gas utility filed for a motion for a 12 month extension, CURB and Commission Staff would still have the opportunity to argue the motion if so desired, and the ultimate decision for an extension would rest with the KCC.

Thank you for the time to address the bill, and we would ask you to consider voting favorably for this legislation. I would be happy to stand for any questions the Committee may have and appreciate your consideration of this issue.

HOUSE ENERGY AND UTILITIES

DATE: 3/22/2011

ATTACHMENT 4

Citizens' Utility Ratepayer Board

Board Members:

Nancy Jackson, Chair
A. W. Dirks, Vice-Chair
Carol I. Faucher, Member
Stephanie Kelton, Member
Kenneth Baker, Member



State of Kansas
Sam Brownback, Governor

David Springe, Consumer Counsel
1500 S.W. Arrowhead Road
Topeka, Kansas 66604-4027
Phone: (785) 271-3200
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<http://curb.kansas.gov>

HOUSE UTILITIES COMMITTEE S.B. 224

Testimony on Behalf of the Citizens' Utility Ratepayer Board
By David Springe, Consumer Counsel
March 21-23, 2011

Chairman Holmes and members of the committee:

Thank you for this opportunity to offer testimony on S.B. 224. The Citizens' Utility Ratepayer Board supports this bill for the following reasons:

SB 224 amends the existing gas safety and reliability surcharge (GSRS) law, K.S.A. 66-2201 *et seq.* The GSRS allows natural gas distribution utilities in Kansas the opportunity to create a line item charge on customer bills to begin rate recovery of capital spent on certain types of projects as set forth in the GSRS law. The natural gas utility can update the line item charge each year, with a 40 cent per month limit each year for residential customers. As originally passed, the GSRS law requires a natural gas distribution utility with a GSRS charge on customer bills to come before the state corporation commission at least every 60 months for a full rate review.

CURB opposed the implementation of the GSRS law when it was originally passed. Traditional ratemaking practice does not favor this type of capital recovery scheme between full rate case reviews. That said, the GSRS is the law in Kansas and CURB does participate in the cases creating the line item charge and updating the annual charge for current year expenditures.

SB 224 allows a natural gas utility with a GSRS to file a motion with the state corporation commission requesting a 12 month extension to the 60 month rate case review requirement. Effectively, if SB 224 is passed, the utility can avoid a full rate case review for a total of 72 months. CURB worked with the natural gas utilities on the language contained in SB 224. Of importance to CURB is that the extension be no more than 12 months, that the utility must file a motion asking for the extension, allowing CURB the opportunity to object if CURB believes the extension is unwarranted, and maintaining the 40 cent cap on GSRS annual increases for residential customers. As drafted, SB 224 meets these important objectives and CURB does not therefore object to providing an opportunity for a 12 month extension in the rate case filing requirement of the GSRS law.

CURB supports passage of SB 224 as currently drafted.

HOUSE ENERGY AND UTILITIES

DATE: 3/22/2011

ATTACHMENT 5

Session of 2011

SENATE BILL No. 224

By Committee on Federal and State Affairs

3-3

1 AN ACT concerning the gas safety and reliability surcharge; relating to a
2 petition for rate schedule, extension of deadline for proceeding
3 utilities; amending K.S.A. 2010 Supp. 66-2203 and repealing the
4 existing section.
5

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

7 New Section 1. On or before February 1, 2013, and every two years
8 thereafter, the state corporation commission shall compile a report
9 regarding electric supply and demand for all electric utilities in Kansas.
10 The report shall include, but not be limited to, generation capacity needs,
11 system peak capacity needs and renewable generation needs associated
12 with the 2009 Kansas renewable energy standards. The commission shall
13 submit the report to the house energy and utilities committee and the
14 senate utilities committee.

15 ~~Section 1~~ Sec. 2. K.S.A. 2010 Supp. 66-2203 is hereby amended to
16 read as follows: 66-2203. (a) Notwithstanding any other provisions of
17 chapter 66 of the Kansas Statutes Annotated, and amendments thereto,
18 beginning July 1, 2006, a natural gas public utility providing gas service
19 may file a petition and proposed rate schedules with the commission to
20 establish or change GSRS rate schedules that will allow for the
21 adjustment of the natural gas public utility's rates and charges to provide
22 for the recovery of costs for eligible infrastructure system replacements.
23 The commission may not approve a GSRS to the extent it would produce
24 total annualized GSRS revenues below the lesser of \$1,000,000 or ½% of
25 the natural gas public utility's base revenue level approved by the
26 commission in the natural gas public utility's most recent general rate
27 proceeding. The commission may not approve a GSRS to the extent it
28 would produce total annualized GSRS revenues exceeding 10% of the
29 natural gas public utility's base revenue level approved by the
30 commission in the natural gas public utility's most recent general rate
31 proceeding. A GSRS and any future changes thereto shall be calculated
32 and implemented in accordance with the provisions of K.S.A. 2010 Supp.
33 66-2202 through 66-2204, and amendments thereto. GSRS revenues shall
34 be subject to a refund based upon a finding and order of the commission
35 to the extent provided in subsections (e) and (h) of K.S.A. 2010 Supp. 66-

HOUSE ENERGY AND UTILITIES

DATE: 3/22/2011

ATTACHMENT 2

SB 72—Am. by SCW 17

1 or any local exchange carrier that does not have a carrier of last resort
2 obligation in a specific exchange shall not be eligible for KUSF funding for
3 carrier of last resort obligations, as required by K.S.A. 66-2009, and
4 amendments thereto, in those specific exchanges.

5 (6) Notwithstanding the provisions of this subsection (x), an electing
6 carrier shall offer single residential local exchange access lines in the electing
7 carrier's exchanges in which the carrier serves as the carrier of last resort.

8 (7) For the purposes of this subsection:

9 (A) "Facilities based carrier" means a telecommunications carrier or
10 entity providing local telecommunications service either wholly or partially
11 over its own network. Facilities based carrier shall not include any radio
12 communication services provider licensed by the federal communications
13 commission to provide commercial mobile radio services;

14 (B) "rural exchange" means any exchange in which there are fewer than
15 6,000 local exchange access lines served by the electing carrier and all
16 facilities based carriers; and

17 (C) "urban exchange" means any exchange in which there are 75,000 or
18 more local exchange access lines served by the electing carrier and all
19 facilities based carriers.

20 (y) Notwithstanding the provisions of this act, a telecommunications
21 carrier is entitled to interconnection with an electing carrier to transmit and
22 route voice traffic between both the telecommunications carrier and the
23 electing carrier regardless of the technology by which the voice traffic is
24 originated by and terminated to a consumer. The commission shall afford such
25 telecommunications carrier all substantive and procedural rights available to
26 such carrier regarding interconnection pursuant to 47 U.S.C. §§ 251 and 252
27 as in effect on the effective date of this act.

28 Sec. ~~3~~. **[4.]** K.S.A. 50-6,103 **[and 66-1,187]** and K.S.A. 2010 Supp. 66-
29 2005 are hereby repealed.

30 Sec. ~~4~~. **[5.]** This act shall take effect and be in force from and after its
31 publication in the statute book.
32

HOUSE ENERGY AND UTILITIES

DATE: 3/22/2011

ATTACHMENT 7

SB 72—Am. by SCW 16

1 consumers and to ensure compliance with quality of service standards adopted
2 for all local exchange carriers and telecommunications carriers in the state.

3 (x) (1) *Any local exchange carrier with a majority of the carrier's local*
4 *exchange access lines in the state price deregulated pursuant to subsection (q)*
5 *may elect to no longer be regulated as a local exchange carrier and, not*
6 *withstanding any other provisions, upon such election shall instead be*
7 *regulated as a telecommunications carrier, except as provided in this*
8 *subsection. A local exchange carrier making such election shall be referred to*
9 *as an "electing carrier." [A local exchange carrier may make such election*
10 *by providing the commission with at least 90 days' written notice of election.*
11 *The notice of election shall include a verified statement that a majority of*
12 *the carrier's local exchange access lines are price deregulated. Such*
13 *notification shall include information regarding the number of access lines*
14 *the carrier serves in each of the carrier's exchanges. Within 45 days of*
15 *receipt of such a notification, the commission shall review the information*
16 *concerning the carrier's local exchange access lines and upon failure of the*
17 *commission, within 45 days of receipt of the notification, to determine that a*
18 *majority of such lines of the carrier are not price deregulated the*
19 *commission shall designate the carrier as an electing carrier.]*

20 (2) *An electing carrier shall not be subject to price regulation and shall*
21 *be subject to nondiscriminatory regulation by the commission in the same*
22 *manner as and subject to no more regulation than other telecommunications*
23 *carriers operating in the state, except that the carrier shall remain subject to:*

24 (A) *The reasonable resale of retail telecommunications services, as well*
25 *as unbundling and interconnection obligations as required by K.S.A. 66-2003,*
26 *and amendments thereto;*

27 (B) *the requirements of subsection (c) concerning intrastate access*
28 *charges;*

29 (C) *the requirements of the KLSP, as required by K.S.A. 66-2006, and*
30 *amendments thereto; and*

31 (D) *shall remain eligible to receive KUSF funding.*

32 (3) *An electing carrier's rates for single residential or business local*
33 *exchange access lines in its rural exchanges shall be no higher than the*
34 *average of such rates for single residential or business local exchange access*
35 *lines respectively in its urban exchanges.*

36 (4) *An electing carrier shall offer a uniform price throughout each*
37 *exchange for the carrier's services.*

38 (5) *An electing carrier may elect to be relieved of the requirement to*
39 *serve as carrier of last resort, as required by K.S.A. 66-2009, and amendments*
40 *thereto, by providing written notification to the commission of the specific*
41 *urban exchanges for which the electing carrier is electing to be relieved of*
42 *carrier of last resort obligations, in the electing carrier's urban exchanges.*

43 (6) *Notwithstanding any other provision of law to the contrary, an*

SB 72—Am. by SCW 17

1 or any local exchange carrier that does not have a carrier of last resort
2 obligation in a specific exchange shall not be eligible for KUSF funding for
3 carrier of last resort obligations, as required by K.S.A. 66-2009, and
4 amendments thereto, in those specific exchanges.

5 (6) The commission may resume regulation of an electing carrier as a
6 local exchange carrier, deregulated under this subsection, upon finding, after a
7 hearing, that such carrier has: Violated minimum quality of service standards
8 pursuant to subsection (l) of K.S.A. 66-2002, and amendments thereto; been
9 given reasonable notice and an opportunity to correct the violation; and failed
10 to do so.

11 ~~(6)~~ (7) Notwithstanding the provisions of this subsection (x), an electing
12 carrier shall offer single residential local exchange access lines in the electing
13 carrier's exchanges.

14 ~~(7)~~ (8) For the purposes of this subsection:

15 (A) "Facilities based carrier" means a telecommunications carrier or
16 entity providing local telecommunications service either wholly or partially
17 over its own network. Facilities based carrier shall not include any radio
18 communication services provider licensed by the federal communications
19 commission to provide commercial mobile radio services;

20 (B) "rural exchange" means any exchange in which there are fewer than
21 6,000 local exchange access lines served by the electing carrier and all
22 facilities based carriers; and

23 (C) "urban exchange" means any exchange in which there are 75,000 or
24 more local exchange access lines served by the electing carrier and all
25 facilities based carriers.

26 (y) Notwithstanding the provisions of this act, a telecommunications
27 carrier is entitled to interconnection with an electing carrier to transmit and
28 route voice traffic between both the telecommunications carrier and the
29 electing carrier regardless of the technology by which the voice traffic is
30 originated by and terminated to a consumer. The commission shall afford such
31 telecommunications carrier all substantive and procedural rights available to
32 such carrier regarding interconnection pursuant to 47 U.S.C. §§ 251 and 252
33 as in effect on the effective date of this act.

34 Sec.-3. [4.] K.S.A. 50-6,103 [and 66-1,187] and K.S.A. 2010 Supp. 66-
35 2005 are hereby repealed.

36 Sec.-4. [5.] This act shall take effect and be in force from and after its
37 publication in the statute book.
38