

SESSION OF 2003

**CONFERENCE COMMITTEE REPORT BRIEF
SENATE BILL NO. 104**

As Agreed to April 1, 2003

Brief *

Sub. for SB 104 would permit a public utility to file with the State Corporation Commission (KCC) a petition for a determination of the rate-making principles and treatment that will apply to the recovery in wholesale or retail rates of the cost to be incurred by the public utility's investment in either a transmission facility or a generating facility. The petition would have to occur prior to the undertaking of construction or participation in either the transmission facility or the generating facility.

If a public utility seeks a determination of rate-making principles and treatment for a generating facility, then as a part of the filing it would have to submit a description of its conservation measures, demand side management efforts, its ten-year generation and load forecasts, and a description of all power supply alternatives.

If the KCC fails to issue a determination within 180 days of the date a petition for a determination of rate-making principles and treatment is filed, those principles proposed by the public utility would be deemed to have been approved by the KCC and would be binding for rate-making purposes during the life of the generating facility or transmission facility or during the term of the contract on a generating facility.

The public utility would have one year from the effective date of the determination by the KCC to notify the KCC whether it will construct or participate in the construction of the generating or transmission facility or whether it will perform under terms of the contract.

*Conference committee report briefs are prepared by the Legislative Research Department and do not express legislative intent. No summary is prepared when the report is an agreement to disagree. The conference committee summary report may be accessed on the Internet at <http://www.kslegislature.org/klrd>

Under the bill, "transmission facility" would mean (1) any existing line, and supporting structures and equipment, being upgraded for the transfer of electricity with an operating voltage of 69 kilovolts or more of electricity; or (2) any new line, and supporting structures and equipment, being constructed for the transfer of electricity with an operating voltage of 230 kilovolts or more of electricity.

Also under the bill, the term "contract" would be defined to mean a public utility's contract for the purchase of electric power in the amount of at least \$5,000,000, annually.

Background

At the hearing on the original bill, conferees included spokespersons from Sunflower Electric Power Corporation, Empire District Electric Company, Kansas Electric Power Cooperative, Great Plains Energy (Kansas City Power and Light), Aquila, Inc, and the Kansas Chamber of Commerce and Industry. The conferee from Sunflower explained that recent developments in the power industry have changed the willingness and ability of utilities to invest in the infrastructure needed to meet the demands of consumers for power. He stated that the rate determination provision would permit some confidence in investing in these types of projects.

The conferees mentioned above either supported the bill or supported portions of the original bill. A spokesperson from the KCC offered information and perspective on the bill. A spokesperson from the Citizens' Utility Ratepayer Board appeared in opposition to the original bill. At the conclusion of the hearing, the Chairperson appointed a subcommittee to have additional hearings on the bill.

During subcommittee hearings on the bill, the subcommittee heard from representatives of the same groups. The subcommittee recommended that all of the provisions of the bill be eliminated except the provision relating to rate determination. The subcommittee determined that the provisions of the original bill relating to bond financing would be taken up in legislation (HB 2018) before the full Committee at a later date. With a few amendments, the full Committee adopted the subcommittee report.

The Conference Committee on the bill agreed to the Senate Committee language on the bill, except for the definition of the term

"transmission facility." In addition, the Conference Committee made an amendment to the term "contract."

According to the fiscal note on the original SB 104, expenditures would increase by \$58,750 beginning in FY 2004, according to the KCC. The note states that the original bill would require increased staff time to perform the study, which is estimated to be \$8,750 for salaries and wages. The fiscal note on the original bill also states that expenditures for consulting would be required because additional expert research would be needed for these types of decisions. The estimated cost is \$50,000 for the first year and \$25,000 for each subsequent year. The first year is expected to be more because of additional costs associated with letting bids for the initial contract.