

MINUTES OF THE SENATE UTILITIES COMMITTEE

The meeting was called to order by Chairman Jay Emler at 9:30 A.M. on February 5, 2008 in Room 526-S of the Capitol.

Committee members absent:

Committee staff present: Raney Gilliland, Kansas Legislative Research Department
Cindy Lash, Kansas Legislative Research Department
Mike Corrigan, Revisor of Statutes
Ann McMorris, Committee Secretary

Conferees appearing before the committee:

Earl Watkins, CEO, Sunflower Electric Power Corp.
Andy Sanchez, Kansas AFL-CIO 224 7298
Brian Moline, ASEP - Alliance for Sound Energy Policy
Bob Vancrum, Tri State Generation & Transmission, Inc.
William Wehrun, Hunton & Williams LLP, Washington, DC
Duane Simpson, Kansas Grain and Feed Assn.
Corey Peterson, Associated General Contractors

Others in attendance: See attached list

Chair continued hearing on **SB 515 - Electric generation, transmission and efficiency and air emissions**

Proponents:

Earl Watkins, Jr., President & CEO, Sunflower Electric Power Corporation, noted its goal is to provide energy to its customers at the lowest possible cost. Recent events make it clear we cannot afford to take reliable and affordable energy for granted. Sunflower continues to focus its efforts on carbon dioxide emissions and have concluded Phase One of a test to determine the best strain of algae to be used in an algae reactor at Holcomb. The algae reactor uses CO² as a food stock for algae that is then processed to produce oil used to produce biodiesel and starch for ethanol production, protein for cattle feeding and will clean water for reuse in the power plant. Sunflower has enhanced the reliability of its generation system by having the right to call upon the other plant to provide up to 200 megawatts of power in an emergency. Without clear public policy and regulatory certainty, there is no predictability. Without predictability, there is no stability and without stability, there is no progress. **SB 515** restores the public's confidence in government's ability to function properly. (Attachment 1)

Andy Sanchez, Kansas AFL-CIO, concentrated on the opportunities provided by this legislation - namely, jobs and the potential for a skilled workforce. (Attachment 2)

Brian Moline, Chairman, Alliance for Sound Energy Policy, stated the Alliance was established to ensure the economic prosperity of Kansas by promoting a climate of regulatory stability and a balanced energy policy. The Alliance believes that prosperity and environmental stewardship stem from sound energy policy, which require the fair and uniform application of Kansas statutes, regulations and rules. This legislation will place Kansas on a level playing field with its neighboring states. More importantly, this bill will help create new jobs, ensure that existing jobs remain in Kansas, and promote our state's economic prosperity. (Attachment 3)

Bob Vancrum, Tri-State Generation & Transmission Association, Inc., provided legislative history on KSA Section 65-3012. He quoted from a January 28, 1993 memo by John Irwin, Director, Bureau of Air and Radiation, Kansas Department of Health and Environment, which sets out KDHE's response to testimony presented by the Sierra Club.

CONTINUATION SHEET

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The position of KDHE is that **SB 29** and therefore 65-3012 as amended by **SB 29** was never intended to take the state of Kansas beyond the requirements of federal law. ([Attachment 4](#))

William Wehrun, Hunton & Williams LLP, Washington, DC, said he was present for a very particular purpose, to talk about the provisions of **SB 515** that relate to 65-3012 of Kansas Statutes. Provisions of the bill specify that Section 3012 does not apply, and has never been applicable, to the air quality permitting process. As to his qualifications, he has been an environment professional for close to 25 years and focused on the Clean Air Act. He provided a short history on Section 3012 and stated this law was intended to be directed at extraordinary air pollution episodes. Section 3012 has been amended only once in its history and that was 1993. In looking at the legislative history, it is very clear that the intent of the Kansas Legislature at that time was to expand the scope of Section 3012 to make it consistent with the scope of the comparable federal provisions. Section 3012 should not be construed to apply to proposed new air emissions sources. The Federal Clean Air Act has a second provision that is very important to the analysis and that is the provision the Federal government has an important responsibility to control air pollution; the federal government sets goals, standards, sets structure. The Federal Clean Air Act also gives states primary responsibility for adopting the air pollution control measures necessary to provide healthy air. ([Attachment 5](#))

Duane Simpson, Kansas Grain and Feed Assn., voiced the concern of its members about the KDHE decision to deny the Holcomb air permit. Each of its members believes the Kansas' regulatory agencies should all base their regulations on sound science. He listed concerns of its membership on (1) New Section 11 which applies the new carbon dioxide regulation to new fossil fuel based electric generation facilities, and (2) New Section 12 which had several provisions which it felt needed some change. ([Attachment 6](#))

Corey Peterson, Associated General Contractors, presented an amendment for consideration. The amendment related to new state building efficiency standards on state-owned buildings and public schools. ([Attachment 7](#))

Paul Beck, President, Kansas Legislative Policy Group, presented written testimony in support of **SB 515**. ([Attachment 8](#))

Questions from the committee to various conferees: (Q) What is happening in federal government? (A) There are two primary events underway. Under EPA whether that agency should regulate greenhouse gases, but they have taken no action. At the federal level, there is legislation to take action on this. (Q) What is happening with carbon tax at the federal level? Does that decision impact regulation of mobile sources and not stationary sources? (A) this was specific to most vehicles. There are no regulations for stationary sources. (Q) Explain the financing on this Holcomb project. (A) \$540 million would be the cost of Sunflower's investment in the two plants and Mr. Watkins gave a detailed explanation of Sunflower's money sources. (Q) Life expectancy of the plants (A) 30 to 35 years (Q) Will plans go ahead with the energy center?(A) yes Q. Would the construction of just one plant rather than the two allow for the establishment of a training facility? A. Absolutely.

The committee had requested information which was distributed as follows:

Kansas Chamber of Commerce - 2007 Corporate Survey ([Attachment 9](#))

Kansas Legislative Research - Comparison chart of Kansas Power Plants ([Attachment 10](#))

Adjournment.

Respectfully submitted,

Ann McMorris, Secretary

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