

STATE OF KANSAS

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Curt T. Schneider
Attorney General

April 13, 1978

ATTORNEY GENERAL OPINION NO. 78-142

The Honorable Donald E. Mainey
State Representative
3rd Floor - State Capitol
Topeka, Kansas 66612

Re: Corporation Commission--Utilities--Jurisdiction

Synopsis: Once the Corporation Commission determines that the proposed sale of generating capacity of a generating plant located in the State of Kansas will not affect Kansas ratepayers and will not impair the "public convenience and necessity," it has no further jurisdiction in the matter.

* * *

Dear Representative Mainey:

As chairman of the Special Committee on Electrical Energy Investigation, you advise that the committee is undertaking an inquiry and study of the proposed sale by Kansas City Power and Light Company of a portion of Wolf Creek Generating Station, Unit No. 1, to the Nebraska Public Power District.

You request my opinion whether the Kansas Corporation Commission, under K.S.A. 66-101 or under any other applicable statute, has authority to regulate and monitor the sale of an interest in an electricity generating plant located in Kansas where the sale or proposed sale will not affect Kansas ratepayers of the utility involved.

You advise that through its chairperson, Mr. G. T. Van Bebber, the Commission has expressed its view that the Commission has

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authority to regulate and monitor a sale of a portion of the generating capacity of any generating station located in Kansas by virtue of K.S.A. 66-101. In addition, the Commission takes the view that it may determine whether such proposed sale of generating capacity is in the best interest of Kansas ratepayers.

Under K.S.A. 66-101, the Corporation Commission is

"given full power, authority and jurisdiction to supervise and control the public utilities . . . doing business in the state of Kansas, and is empowered to do all things necessary and convenient for the exercise of such power, authority and jurisdiction."

Under K.S.A. 66-156, the

"corporation commission shall have the general supervision of all public utilities . . . and of all persons, companies or corporations doing business as public utilities . . . and shall inquire into any neglect or violations of the laws of this state by any person, company or corporation engaged in the business of operating a public utility . . . or by the officers, agents or employees thereof; and shall also from time to time carefully examine and inspect the condition of each public utility and common carrier, and of its equipment and the manner of its conduct and the management *with reference to the public safety and convenience.*" [Emphasis supplied.]

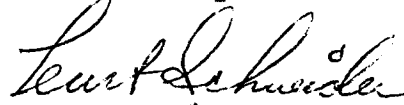
Once the Commission determines that a proposed sale of generating capacity will not affect Kansas ratepayers, and that the remaining capacity operated by the utility is sufficient, including all necessary reserve capacity, to provide a level of service which satisfies the "public safety and convenience," the Corporation Commission has no further authority regarding the sale.

Doubtless, as Chairman Van Bebber has indicated, the Commission has authority to inquire into the proposed sale, and to take appropriate steps in the exercise of its supervisory jurisdiction

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to forestall a proposed disposal of generating capacity which would impair the "public safety and convenience." Once, however, the Commission determines that the public safety and convenience is not affected by a proposed sale, it has no further jurisdiction in the matter.

Yours truly,


CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj