**Rex Buchanan:** Good morning, I'm Rex Buchanan, former director of the Kansas Geological Survey. Today is November 2, 2023. Mike Lennen, former chair of the Kansas Corporation Commission and former Secretary of Revenue, is here with me for this interview of retired Westar Energy executive Jim Haines for the Kansas Oral History Project. Our videographer is former Representative Dave Heinemann. We're at the Dole Institute of Politics in Lawrence, Kansas. We thank the Dole Institute for allowing us to use the Elizabeth Dole Gallery and Reading Room for this interview.

From the early 1980s until 2007, Jim Haines was in executive management of Kansas Gas and Electric, Western Resources, and Westar Energy with a break of about six years when he was an executive at El Paso Electric Company in Texas. Prior to his career in Kansas, Jim was involved in utility regulation with the Missouri Public Service Commission in the mid- to late 1970s.

Jim was born and raised in Jackson, Michigan where he began his post-secondary education at the Jackson Community College. He earned degrees from the University of Missouri Columbia in English Literature and Law. Jim taught at Washburn University as the Clark Distinguished Professor of Business and at the University of Texas at El Paso as the Skov Professor of Business Ethics. Jim's work in the non-profit sector includes serving as [a member of the Board of Directors of] the Land Institute and the Climate + Energy Project, along with many other community organizations in Kansas and Texas.

This interview is part of the Kansas Oral History Project series examining the development of public policy at the nexus of energy and the environment during the late 20th and early 21st centuries. In these interviews, we explore those policies through the eyes of experts, executives, administrators, legislators, environmentalists, and others. The Kansas Oral History Project is a non-profit corporation created to collect and preserve oral histories of Kansans who were involved in shaping and implementing public policy. Recordings and transcripts of those oral history interviews are accessible online at KsOralHistory.org and through the Kansas Historical Society in the State of Kansas Library. The Kansas Oral History Project is supported by donations from generous individuals and grants from Evergy and ITC Great Plains.

Thank you for being here Mike and thank you Jim for agreeing to share your insights today. Let's start off a little bit with just how you happened to wind up in the utility electricity business.

**Jim Haines**: It wasn't intentional. When I graduated from law school, I started out working in the Attorney General's office in [Missouri]. After a year there, there was an opening at the Missouri Public Service Commission to join the legal staff, and I had worked with in the Attorney General's office, the person who was General Counsel for the Public Service Commission [(PSC)] and he asked me if I'd be interested in coming over to the PSC and working on his legal staff. I decided that might be a good move to make.

 

**RB: What year is this when you do this?**

JH: 1976.

**RB: Then when do you go from there into the private sector?**

JH: January 1980, I went to work for Kansas Gas and Electric Company [(KG&E)] in Wichita, Kansas, for the purpose of handling KG&E's legal affairs at the Kansas Corporation Commission [(Commission) or (KCC)].

**RB: How would you characterize the state of the electrical industry, specifically maybe utilities in general, but the electrical industry at the time you come on board there, then in the late 1970s?**

JH: It was in upheaval. The industry during the decade of the '70s went through tremendous turmoil. Prior to the '70s, I don't think Kansas Gas and Electric Company had ever, for example, had to go through a rate case, at the Kansas Corporation [Commission], a rate *increase* case. It periodically went through rate *decrease* cases, but never had to ask to *increase* its rates. That was a completely new phenomenon, not just in Kansas, but across the United States. So, from a regulatory point of view, it was a new landscape. Then externally we had the Arab oil embargo of 1973, the revolution in Iran in 1978, both of which, again, changed the landscape for the electric utility industry. KG&E, for example, prior to 1973 fueled all of its power plants with primarily natural gas and with a little bit of oil – a very little bit of oil. Those two events, the Arab oil embargo and the revolution in Iran changed the outlook for natural gas as a fuel for power plants so dramatically that KG&E and other companies around the country as well, but KG&E was probably the primary example, had to shift its virtual total reliance on natural gas as a boiler fuel to alternatives. And the alternatives at that time were coal and uranium, nuclear. No company in Kansas had any experience at all with a nuclear a power plant. KG&E was the lead partner in planning Wolf Creek [nuclear generating station]. We also participated in the planning and construction and operation ultimately of five large coal plants in Kansas. We did that in partnership with KPL for three of them and Kansas City Power & Light Company for two of them. Also, externally this was a period of huge inflation in the United States and that would ultimately figure into the development of many unforeseen consequences that proved to be very problematic for being involved in such a huge construction process, of being a 50% partner in a nuclear power plant and a 20%-50% partner in five coal plants. On top of that, one of the things that happened in the '70s, another thing that created this turmoil that I talked about was all of a sudden, the annual growth in sales. Again, this affected not only Kansas Gas and Electric Company but the electric power industry generally, the annual growth in sales of electric energy had pretty much revolved around 7% to 7 ½% for decades, so electricity usage was basically doubling every 10 years throughout the United States. All of a sudden, during the '70s, that number drops to between 2% and 3%-4%. The lead time for planning, designing, building, bringing into operation a major baseload power plant, the lead time is five to seven or eight years. So, you have to commit the capital. You have to commit to building the plant. You get it started. And all of this is based on the history of electricity usage doubling pretty much every 10 years. All of a sudden, it's doubling every 20-25 years. It's a big difference. That leads to problems when you finish these plants and attempt through your regulators to get rates increased to the extent necessary to pay for these plants. Then during this same period, you go from nuclear power being heavily encouraged by the federal government, applauded by local business communities to being demonized as the very worst thing that you can do as an electric utility company. We felt that in Kansas. When Wolf Creek was announced in the early '70s, it was met with congratulations from all corners. In five to six years, that turned around completely. All of a sudden, executives at Kansas Gas and Electric Company, as I say, were demonized for having cursed the state of Kansas with the prospect of a nuclear power plant. So, all of these things were percolating, boiling over, by the time 1980 came and I was just starting out at Kansas Gas and Electric Company. It was an exciting environment to come into. It was challenging. KG&E had a very contentious relationship with the Kansas Corporation Commission. That was as much KG&E's fault as it was the fault of the Commission itself. There should be some -- antagonism is not quite the right word. But there should be some difficulty between a regulator and the regulated company. You don't want to have a situation in which regulators don't challenge a utility company to do the best they can to keep rates low, to keep service safe and all of that. When I say there was a contentious relationship between the Corporation Commission and KG&E, I'm not referring to those things. There were personnel issues, it was not a healthy environment for the company, for the regulator, for the state. It was just not healthy. I was pitched right into the middle of that. All of these things were going on.

**RB: To just set the stage. The service area for KG&E I always associated with Wichita area, but I assume that it's much broader than that. Is that right?**

JH: Well, it is, but Wichita is the center pretty much geographically and certainly from the point of view of customer density.

**RB: Those five coal-fired power plants that you mentioned that were constructed during this period, probably planning begins late '60s, but construction is in the '70s. Those five are…**

JH: Two at La Cygne, where Kansas City Power & Light Company was the lead company and three at Jeffrey Energy Center. Initially there were going to be four coal plants at Jeffrey Energy Center. The fourth one eventually was cancelled. But there were three. The first one at La Cygne came online and started commercial operation in 1973. The second one, I believe, came online in 1975. Jeffrey Energy Center, the first one I think was 1976. Is that right, Mike?

**Mike Lennen: Maybe just a bit later than that. I think it was maybe 1978 or 1979.**

JH: 1978. Then in 1980 the second one came on and the third one came on in 1983, I believe. Another thing, going back to my initial explanation of turmoil that I was stepping into when I came to KG&E, the first unit at La Cygne – La Cygne 1 – had a very, very difficult time starting up. It probably should not have been declared in commercial operation as soon as it was because a coal plant is expected to operate 60%-70% of the time and La Cygne 1 never even got to 50% for several years. It was that poor operation that sort of led to the contentious relationship between KG&E and the [KCC] because the [KCC] attempted to keep La Cygne 1 out of rate base because of its poor operation. KG&E appealed the KCC's decision and the [Kansas] Supreme Court upheld KG&E and reversed the Commission's decision. That created problems between the Commission and the Legislature, between KG&E and the Legislature, between KG&E and the Commission, and led, I think, to some of the Commission's aggressiveness in the way it regulated Wolf Creek.

**RB: Again, to back up. The number one unit at La Cygne, is that the one that was supposed to use Kansas Coal?**

JH: It did and that was part of the problem.

**RB: There were so many problems.**

JH: That was a big part of the problem. The belief, I believe, I wasn't present at the time, but from hearing talk around the company and whatnot – and KG&E was not the lead company on the scene, KCPL was – but I believe that some of the romance around building La Cygne 1 was that it was going to breathe life into a part of Kansas and Missouri that was economically at a low point. We were going to use this Kansas coal, which from an engineering point of view was a disaster because it wasn't much better than dirt and the boiler had to be specially designed to burn this kind of coal. It just never worked. Eventually we moved away from Kansas coal. That's when the plant started to perform up to expectations. But it took 10 years to get there.

**RB: When you say that they wanted to be part of the rate base, in effect KG&E wanted customers to pay for an underperforming electrical plant, is that…**

JH: That's not the way I'd put it.

**RB: [*Laughter*]**

**ML: The Commission may have put it that way.**

JH: But bottom line, yes, that's what it amounted to. Our view was that we were prudent in the way we planned the facility. We were doing everything we reasonably could do to make it operate well. As a public utility under Kansas statutes, we believed that we were entitled to earn our return on our full investment in the plant, and KCC took the view that if the plant was not operating up to expectations, customers shouldn't have to pay the full amount. As I recall, the Commission didn't attempt to exclude the entire investment, but excluded only part of it. My memory is hazy about this. Do you…

ML: This preceded my time at the Commission, so I don't.

 

JH: At any rate, the Commission issued a rate order that was way, way below what KG&E needed to cover the cost of its investment in La Cygne and KG&E appealed and prevailed in the appeal—but the Kansas Supreme Court agreed with KG&E's interpretation of Kansas statutes. That's really what the problem was; that rates now were set on the basis of a highly technical reading of Kansas law, as opposed to being set on the basis of a power plant investment that was performing up to expectations. Revenge was sweet.

[*Laughter*]

**ML: I have one follow up question, going back earlier. Insofar as this move from natural gas to coal plants by all of the utilities, was there an understanding then that natural gas simply would not be available as a fuel source?**

JH: Well, it was more than an understanding. In 1967, KG&E's principal gas supplier was Cities Service Gas. And In 1967, Cities Service notified KG&E that when its current gas contracts expired, they would not likely be renewed. Utility companies would enter into long-term contracts for fuel for their power plants. You wouldn't want to build a power plant that had an expected life of 30 to maybe as long as 50 years if you didn't have a long-term contract for fuel, because without fuel, the power plant is useless. So, we had long-term gas contracts for all of our power plants at KG&E and they weren't for the entire expected life of the power plants, but they were for 10 to 15 years. And there would price-escalators in there and that sort of thing. In terms of the supply of gas, you were pretty much contractually safe if you had a long-term contract. At any rate, Cities Service notified KG&E in 1967 that its long-term contracts would probably not be renewed. That's when KG&E got busy and first entered into an agreement with KCPL to build the two coal plants. Soon after that, entered into a similar agreement with Kansas Power & Light to participate in the Jeffrey Energy Center. Then to sort of put the final nail in the gas coffin, if you will, in 1978 partly in reaction to the Arab oil embargo of '73, but primarily in reaction to the revolution in Iran and the effect that that had on the availability of oil and gas, the U.S. Congress passed the Fuel Use Act, which outright banned the use of gas in new power plants and said that gas would be banned in existing power plants by, I think it was, 1989. Now that became even more complicated when not five years after the Fuel Use Act was passed, it was repealed. The planning cycle for a power plant is, as I was saying earlier, five to 10 years. So, trouble all the way around.

**RB: When you show up there in 1980, planning for Wolf Creek and actual construction is well underway?**

JH: Yeah, Wolf Creek construction was well underway, yeah.

**RB: How does that fit into your time there?**

JH: Well, Wolf Creek beginning almost the day I got there and increasingly so for the next five years occupied more and more of my time. I don't quite know how to say this. We had controversy almost from day one with respect to Wolf Creek. The KCC at one point, this came along in ‘81 or ‘82, ordered the company to undergo a review of the construction management of Wolf Creek. They hired, but KG&E was required to pay for, the cost of an outside audit of construction management at Wolf Creek. They hired a firm called Cresap, McCormick, and Paget, one of the leading consulting firms for that sort of thing in the United States. At the end of their audit, Cresap, McCormick, and Paget, to bring it down to one sentence, concluded that Wolf Creek was one of the leading nuclear construction projects in the United States. But that didn’t seem to make a difference with the public, with the Commission. It certainly didn’t bring an end to any of our difficulties. But to put it in day-to-day terms, we could see what was coming at Wolf Creek in terms of how it was going to be regulated, what we would have to go through in a rate case in order to get our investment in Wolf Creek reflected in rates. We began preparing for the rate case as early as ‘81 or ‘82 and at the same time we had to go through rate cases for the two Jeffrey units that are still to come online. So, it was a busy time.

**RB: Is KG&E the lead on Wolf Creek and who are the partners?**

JH: Initially it was KCPL and KG&E at 50% each. Then there is a provision in the Atomic Energy Act that enabled municipally owned utilities and rural electric utilities to participate in nuclear power plants, that required them to be invited to participate in nuclear power plants. The rationale for this was that, I believe, nuclear power plants had gotten expensive enough and municipal utilities and rural electric utilities were small enough that they couldn’t afford by themselves to build a nuclear power plant. This provision in the Atomic Energy Act required that they be allowed to participate as minority partners. I can’t remember the exact number of Rural Electric Coops [(REC)] in Kansas that came together to form what was called KEPCo, Kansas Electric Power Cooperative. I want to say it was in the 20s -- 27, 28, something like that. It was quite a few, maybe all of the electric power coops in the middle and eastern part of Kansas. In the western part of Kansas there was another generating electric coop, Sunflower Electric Coop. The Sunflower RECs didn’t participate in KEPCo. But at any rate, KEPCo was formed by this large group of rural electric coops for the purpose of owning power generating facilities generally, but specifically Wolf Creek. [KEPCo intervened in our proceedings at the Nuclear Regulatory Commission.] They intervened in our licensing proceedings to ask the NRC to require us to let them come in as partners, which they eventually prevailed on. We knew they would. The law made that clear. They came in I want to say at 17%.

ML: I was going to say 16 or 17%.

JH: Yeah, maybe it was 16%. They would have been a substantial owner of Wolf Creek. Now eventually, as the demand for electricity in the ‘70s and continuing into the ‘80s declined from those annual growth rates of 7% to 7 ½%. So that’s one thing that’s happening. Another thing that’s happening is [while] the cost of Wolf Creek continues to escalate because of inflation, because of new regulatory requirements, the anticipated need for Wolf Creek was declining. And that was affecting not only KCPL and KG&E, but it was affecting the electric coops as well. The Kansas Corporation Commission, and KG&E, and KCPL went round and round about these annual cost increases at Wolf Creek, but then KEPCo comes into it and all of a sudden gets involved with the Legislature. I don't remember how all of this fits together, but the bottom line is that KEPCo was allowed and KG&E and KCPL were basically forced to accept that KEPCo's ownership interest in Wolf Creek would go down from that 16% to 17% to 6%. Well, that did some good for KEPCo and its rural electric coop customers, but it worsened the situation for KG&E and KCPL because all of a sudden, we have to shoulder more of the cost of Wolf Creek and justify bringing more of the capacity of Wolf Creek into our rate base when we get it finished. So that was a significant setback.

**RB: I want to follow up with the relationship between the KCC and the utilities, but before I do that, was there a feeling in this time that, you spoke earlier about in the early '70s everybody was like, nuclear power's kind of a blessing. By the time you're almost done with Wolf Creek, it must feel like, we did what everybody wanted us to do and now everybody hates us. There was so much concern about the cost and the environmental community pretty much mobilized. It must have felt like you're damned if you do and damned if you don't.**

JH: It felt worse than that.

**RB: [*Laughter*] What was that like? Publicly, people are out protesting the construction of Wolf Creek in ways that Kansans typically don't go to the barricades on.**

JH: They sure did for Wolf Creek. There were threats, personal threats. Wilson Cadman, when it started out, Wilson Cadman was the executive vice-president of KG&E during the early planning for Wolf Creek. By the time I get there in 1980, he's president of KG&E and within a year or two he becomes the CEO. But he was the face of KG&E. Everybody knew that from an executive management point of view, Wilson Cadman was the driving force for Wolf Creek power plant. He was attacked personally. His home was vandalized a few times. There was, I don't think there was ever anything actually done, but there was talk within the company as to whether or not security services should be hired to keep track of what was going on in his neighborhood. It got pretty ugly. I mean, it got to the point where, by the time Wolf Creek was going through the rate case and we were having local public hearings, there were standing room only crowds and the public testimony went on for well into the early morning hours and the threats had escalated. The General Counsel came to me one day and said that he wanted me to file a request with the Corporation Commission to require that people be searched before being allowed to come into the local hearings because KG&E executives were going to be there. There was a concern for violence. We never followed through with that. I think saner heads prevailed. But there was definitely an increasing sense of KG&E as a company and its executives being targeted by customers for a variety of reasons. I have never thought that all of this was driven primarily by a fear of nuclear power. It was the tremendous increases in rates that I think drove the customer angst more than anything. KG&E up until 1973 had among the lowest prices in the United States for electric power. Residential customers were paying, as I recall, less than 2 cents per kilowatt hour. That was unheard of then, it's impossible to believe today. With the rate increases from the coal plants, rates doubled. With the rate increases that we hoped to get for Wolf Creek, rates were going to quadruple.

**RB: To go back to something you said, I think it's a real interesting observation. I think some of that opposition was based on concerns about safe operation and disposal of nuclear waste. That is sort of one subset of the opposition and the other subset is people that are opposed to higher rates. Just from a distance, it always looked to me like those were pretty different groups of people.**

JH: They were.

**RB: They may have had a little bit of overlap with some folks in the social service community concerned about increasing rates on people that can't afford to pay for it. But by and large, that concern about rates and how expensive electricity is, that was always sort of a technical issue that a lot of folks in the environmental community didn't know anything about and really, from what I could tell, were never all that interested in. They just didn't like the environmental side of it.**

JH: I – Mike, I'm sure, has a perspective on this as well – I would just subtly modify what you just said, and that is that the people who were opposed because they were alarmed about the significant increases, I agree with the fact that they were a separate group entirely for that. The environmental people, I kind of agree that they weren't as concerned about the rate increases, but they saw that as a way to fan the flames. They knew when they were talking to a crowd of people about their opposition to Wolf Creek, they knew with this group we should emphasize the price increases, with this group over here we should emphasize environmental concerns.

**RB: Yeah, that sounds exactly right. Mike, when do you come into this picture?**

JH: Not soon enough. [*Laughter*]

**ML: I joined the Commission in 1983. The application was filed in 1985 for the rate case, I believe that's correct. It could have been right at the end of 1984.**

JH: Yeah, the very end of 1984, the very beginning of 1985.

ML: I was wanting to go back a little bit in terms of safety and concern as well as cost implications. Something that happened in the midst of construction was Three Mile Island [TMI], which helped raise concern, I think, generally. Not specifically about Wolf Creek but more generally about nuclear power. There was some of that underlying angst. Plus, in terms of cost, that had significant implications in so far as having changed requirements for construction. Jim would know way better than I what impacts that that had and how the Nuclear Regulatory Commission responded to Three Mile Island [(TMI)].

 

JH: You're correct, but incomplete. There were really three significant events federally that increased cost at Wolf Creek and one event in particular at the state level that increased costs at Wolf Creek. The three federal events, the first one was in 1972 or 1973, it involved the Calvert Cliffs nuclear plant that I believe was being built by Baltimore Gas and Electric. The issue in the Calvert Cliffs case, which went into the federal court system, was whether or not the siting of a nuclear power plant required environmental review. Prior to that case, nuclear power plants did not have to go through any kind of environmental review in order to get their license to operate. That was challenged and the federal appeals court, well it was challenged in federal district court. I don't remember how the district court ruled, but however they ruled it was appealed to the federal appeals court. The federal appeals court ruled that the Environmental Protection Act required environmental review of nuclear plants. That meant they had to file environmental impact statements. The Atomic Energy Commission had to give a substantive review to those environmental impact statements. The immediate effect of that is the Atomic Energy Commission, as I recall, I mean this precedes me even graduating from law school, so I was not on the scene when this was unfolding, but I'm aware of its impact. The Atomic Energy Commission, I believe, basically called time out for a full year in order to prepare itself to receive these environmental impact statements and be ready to substantively evaluate them. In the course of doing that, the NRC promulgated additional regulations for construction standards at nuclear power plants that increased the cost of nuclear power plants. The time that it took to prepare an environmental impact statement and then go through regulatory review of it, including possible appeals from decisions, that added to the length of time it took to construct a nuclear power plant. So that's the first thing that happened federally. [Haines note: It was estimated that the Calvert Cliffs decision resulted in a 35% increase to the direct costs of nuclear power plants.] Then the next thing that happened was at a Tennessee Valley Authority nuclear power plant, the Browns Ferry power plant, there was a fire. It was a devastating fire. Again, the Nuclear Regulatory Commission sort of declared a time out as it reviewed construction standards for nuclear power plants. The new construction standards—by this time I think we're into the NRC—these new standards added significantly more time to the construction of a nuclear power plant. [Haines note: The Energy Reorganization Act of 1974 dissolved the Atomic Energy Commission and simultaneously established the Nuclear Regulatory Commission.] This lengthening of the time is going to figure into my last comment about what increased the cost of nuclear power plants. But this was at the state level. Browns Ferry continued to cast its shadow over the construction of nuclear power plants for a decade. There were still new regulations being passed by the NRC in the 1980s coming out of a fire that occurred in a nuclear power plant in '75 or '76. So, then the third event that occurred that caused the NRC to change regulations substantially was the event that Mike brought up, the incident at TMI. Again, more construction standard regulations. In this case, we had -- I don't know how many, I can't say exactly how many -- but it could have been as much as 50 to 100 nuclear power plants under construction in the United States at the time that TMI happened. Many of those plants when new construction standard regulations were passed by the NRC as a result of TMI, when those came out, many of those plants were at the tail end of construction. In order to comply with the new regulations, they had to go in and tear out construction that was already completed, that had already been approved, and start over. So now the fourth thing that affected the price of nuclear power plants happened at the state level—not in every state—and that had to do with the concept referred to as construction work in progress. How do you deal with, you've got this power plant that's under construction, you're investing, by this time you're talking not about hundreds of millions, you're talking about billions of dollars that you've gone into the capital markets, you've issued bonds, you've issued preferred and common stock, you've got to pay interest on the bonds, you've got to pay dividends on the preferred stock and the common stock. A few states allowed utility companies to recover their financial costs—the interest and dividends of construction work in progress—through their rates on a current basis. Some states, many states, probably most states like Kansas said no, you don't get to recover a penny of this until the plant is finished and in commercial operation. Well, that significantly increased the cost of Wolf Creek and coupled with the regulatory changes that were coming out of the federal government, because they lengthened the time of construction, that added to the period of time that utilities had to finance out of their shareholders' pockets the carrying cost of what's invested in construction. All of those things worked together to, depending on what you take as the beginning estimate and there's disagreement about that, the beginning estimate for Wolf Creek. Some people put it at somewhere around $900 million and other people put it at just over $1 billion. Not that much difference. Wolf Creek eventually cost $3.1 billion, so you could say tripled the cost of it by KG&E's calculation. It's just a math problem at this point, so I don't think there should be much controversy about that excluding the carrying cost of construction work in progress from rates accounted for almost half the cost of Wolf Creek.

**RB: I have a quick question before we go back to the KCC relationship. You were touching on that period of protest about the power plant. How did you feel about the people who were expressing that opposition? I always hate those "how did you feel about" questions, but you must, you clearly formed good relationships with folks in those camps that continue on. How did you feel about them at the time? Did you feel like they were making good faith protests? What were your thoughts?**

JH: With some of them I had very wholesome feelings about them, and I looked at it as this is the way things get done in the United States. You go to court, you hash it out, and you accept the result and life goes on. Actually, I'd say for most of the people who we were dealing with I had those feelings. As a trained lawyer, you're taught not to begrudge your opponent the opportunity to make a good case in court. I appreciated the challenge of that and from my own personal point of view, I never approached it with the idea that KG&E was entitled to anything. I approached it with the idea that we believed we had done the right thing in building Wolf Creek. I believed that we had managed it effectively. If I couldn't prove that, then shame on me. But there were some people, organizations that weren't honest brokers and those I didn't like and still don't like.

**RB: To go back to this KCC relationship, why did you make this comment about Mike [Lennen] wasn't there early enough? What was that relationship like?**

JH: I hate to say this in front of him, but he was a breath of fresh air. [*Chuckling*]

**RB: It's ok to say something nice. How so?**

JH: I talked about some of the things that led to this contentiousness. The litigation over La Cygne 1, which I said when I brought it up and I will repeat it, that was as much KG&E's fault as it was the KCC's. But Mike didn't have that baggage, if you will. Actually, for that matter, if Mike had been chair of the KCC when that went on, I think it would have been handled differently and we would have reached an amicable result. I think Mike approached his responsibility as a regulator similarly to the way that I described my approach to being an advocate for KG&E. I never had any doubt in my mind that Mike was trying his best to do a good job as he understood it and in compliance with Kansas law. I had good relations with the former chair of the Kansas Commission. I certainly think that I improved KG&E's relationship with the Commission. But it was a struggle working with the former chair.

**RB: Were you chair during the rate hearings?**

ML: Yes.

**RB: What was it like?**

ML: Well, Jim's talking about the public hearings that went on into the early morning hours. Some were more contentious than others and we had multiple days as I recall in Wichita that may have gone to one or two in the morning at Century Two. There were large crowds in places like Pittsburg, [Kansas] as well where there was considerable animosity that you could sense. Some expressed toward the company. You mentioned Wilson Cadman [who, as CEO, was often the focus of public criticism]. There was concern about how, what the environment might be there. In terms of the rate case itself, we were learning as everybody was through the hearing process, about the construction project, the procedures, how it went. There were diverse opinions about it of course and sort of diverse recommendations as well. The hearings went on for months really. Ultimately the Commission came out with the decision that Jim probably did not think necessarily reflected the most thoughtful or fair result, but KG&E took it and then did absolutely what was necessary to begin to deal with the outcome of the decision in terms of things like cost cutting, refinancing debt, for example, and then ultimately came up with some really creative ways of addressing the company's financial needs without negatively impacting customers. I would say throughout from the KG&E perspective viewing it, it was one of respect for the work that they did throughout.

**RB: That adversarial relationship between people who were protesting Wolf Creek, did that spill over into the KCC too? That is, was KCC focus of some of that as well as the power and utility companies?**

ML: I didn't really perceive that. There always are criticisms about the process itself and concern that the Commission's going to be the lap dog of the utility. But I didn't really sense that that was a serious issue throughout that process. Jim may have had a different perspective on that.

JH: I never had the feeling that there was excessive animosity toward the Commission, it was focused on… [*Laughter*]

**ML: I think there's hope from every perspective that the Commission would go the direction that the particular party was advancing. I think that was an emotion that you could discern throughout the process.**

**RB: Do you look back on all this and feel vindicated today?**

JH: No, because I didn't feel unvindicated then. I felt like I was where I was supposed to be throughout the process and that the process didn't work as well as it should have, initially.

**RB: The process, meaning…**

JH: The process of regulation. The complete refusal of the Legislature and of the Commission to appreciate the fact that most of the cost increases of Wolf Creek were a product of government regulation, not a product of mismanagement. I'm not going to say that Wolf Creek's construction management was perfect in every respect, because I know that it wasn't, but it was not imperfect to the extent that warranted the reaction to Wolf Creek either from the regulators or from the customers. As I'm working through this now, I still wouldn't say that today I feel vindicated because I never felt like that. Well, no, I guess that is the right word. I guess I do feel vindicated, to some extent. I have my own reservations about nuclear power and have always had them. Not to the extent that I would not have advocated for KG&E and not to the extent that if I were the czar, I would have not permitted nuclear power plants to be built, but there were some pretty significant mistakes made by companies that were building nuclear power plants. The Diablo Canyon plants in California that were supposed to be mirror image plants. That's a pretty basic understanding when you're designing something on a mirror image, you do what's left over here is right over here. They messed that up. Or what happened with the Midland power plant in Michigan that was basically built on – this is an exaggeration, but – for purposes of the point it was basically built on quicksand, and they eventually had to abandon it. How do you make a mistake like that if you're doing well and if you are regulated well? Somebody should have caught that.

**RB: But here we are in 2023 and as you look at Wolf Creek, it's operated safely throughout that lifetime.**

JH: Yes. Its performance has far exceeded what even the company projected. We were criticized in the rate case for assuming that the plant would operate at a 70% capacity factor. That's the worst that it's operated at ever. The power plant has gone for years on end never being below 90%. Now if we had had any idea when we went through the rate case that the plant was going to perform that well, we wouldn't have had to ask for nearly as much as we did. That's one of the things that was a salvation, is the literally world-leading performance of Wolf Creek. Not for five years, not for ten years, but now for 38 years. It's been unbelievable.

**RB: It is pretty striking to look at that period in '70s and early '80s that in a lot of respects transforms the landscape of energy in Kansas as we built these big power plants like Jeffrey and Wolf Creek -- that changed the landscape. In that time since then, the big landscape change now is the profusion of renewable energy.**

JH: Yeah.

**RB: In some respects, and maybe in most respects similarly transforming.**

JH: Certainly. We're seeing the same thing repeat itself. People in Lawrence who were opposed to Wolf Creek for environmental reasons are now opposed to wind and solar in Douglas County.

**RB: In terms of siting and issues relating to that?**

JH: Yeah. Environmental reasons.

**RB: It does feel like there's a lot going on, both in terms of recent events and those events we spent all our time talking about is Kansans sort of responding to the whims – and that may be the wrong word – but a very changing federal position in terms of energy and pricing. It's almost like the winds change all the time and we have to figure out how to adapt to it.**

JH: Yeah.

**RB: So where is this all going?**

JH: Well, one thing we can be sure of -- people are not going to give up electricity. We're not going to go back to the days when we read by candlelight. We're not going to go back to the days before everything has been reduced to "Hey Siri." That's not going to happen.

**RB: No, it's going to be the other way.**

JH: That's right.

**RB: Electrification is the future.**

JH: Electricity is the most efficient form of energy that has been created. It increases our productivity by an unfathomable amount. There are so many things that we can do because of electricity. We're going to have electricity. We just need to figure out how we can get it so it doesn't hurt the environment, so that people are happy with it, with the way it's provided, and they see that it's worthwhile paying for it, and that it continues to be safe.

**RB: Mike, any other follow up questions?**

ML: I think that was really a good conclusion, actually.

**RB: But obviously a challenge. The challenge is doing all those things.**

JH: That's right.

**RB: Because for exactly what you just pointed out, in Douglas County the same folks that are in favor of renewable energy may not exactly like where you put it. And the issue of transmission lines to move the stuff from where they think it ought to be generated to where it is used poses its own sets of challenges. It's a hugely complicated issue.**

JH: It is, it is.

**RB: And one that's difficult to figure out how we're going to navigate it.**

JH: I do think though that the period of time that we've been talking about this morning, primarily the '70s and into the '80s, I think that has maybe been the most, in my lifetime anyway, the most turbulent time in the electric power industry. We haven't even talked about the fact that when all this started in the mid-1960s, there were literally hundreds of investor-owned utility companies in the United States and today there are less than 50. There have been mergers and acquisitions and I got all tangled up in that when KG&E and KPL merged to form Western Resources. There was one other thing that was going on in that period of time that I was going to bring up that we haven't talked about, but it slips my mind now. But it was certainly an exciting time to have a career in the electric utility industry.

**RB: Before we conclude here, let's talk a little bit about where KG&E goes and where you go as then the utility world . . .**

**ML: In the course of your discussion, you talked about the three relatively large investor-owned utilities in Kansas. You mentioned KG&E, KPL, and Kansas City Power and Light company. None of those entities exist as they did at that time. We now have Evergy that serves basically the same service territories. That seems to reflect sort of an evolution. You talked about the mergers and the reduced number of utilities. Can you discuss a bit more about this evolution that occurred in Kansas and particularly with respect to the investor-owneds?**

JH: Sure. Well, first, each of those three utilities KG&E, KPL, KCPL, were a product of 50, 60, 70 years' worth of consolidations. In the beginning, before high voltage transmission lines could move power over long distances, utility companies were typically organized at a municipal level and each city of any consequence had its own electric power company. Ironically, in the very beginning, power plants shut down in the evening. Now you'd think that's counter intuitive. Why wouldn't the power plants start up in the evening, because people wanted light. But initially power companies were primarily relied upon to provide power for businesses that were open during the day and closed at night. But also, there were problems with keeping up with, or there came to be problems with, keeping up with the increasing demand for electricity and eventually people figured out that it would be good to have lights in the house instead of gas lights. The first house that I lived in when I lived in Lawrence was built in 1911 and it had dual light fixtures, electric and gas from the same fixture. Now the gas didn't operate anymore when we lived there but it was certainly a curiosity. That lasted for a while. But at any rate, the power plants that were built to serve these municipal utilities were very small. One of the huge benefits that the electric utility industry discovered very early on was that the cost of building a 100-megawatt power plant was not double the cost of producing a 50-megawatt power plant. You could get a huge benefit of scale by increasing the size. As municipalities grew, their power plants grew in size. But the economies of scale were still not fully utilized and pretty soon power plants were 200 megawatts, 300 megawatts, 600 megawatts. But in most cases, that was more than a municipality could afford to build. They had no way to sell the excess power. Then we get the development of high voltage transmission systems where you could build a big power plant and serve multiple cities from it, multiple areas. As that happened, it occurred to people, well we don't need to have three separate power companies amongst these three cities anymore, and consolidation started. Kansas Gas and Electric Company, we did an exhibit for I think it was part of the process of KG&E and KPL merging. We did an exhibit which showed that KG&E and my memory is hazy here, but I think it was that KG&E was the product of 74 smaller companies in southeast Kansas. So, we get into the '70s and as we've discussed, you've got KG&E and KPL participating in Jeffrey Energy Center, KG&E and KCPL participating in Wolf Creek. The reason the companies are doing that is because of economies of scale. They want to capture the benefit of building a huge coal plant, a huge nuclear plant. But they can't use all of that electricity just for their own customers. But that caused people to begin to think about, well, maybe mergers and acquisitions in the electric utility industry need to keep going. I remember talking with our system engineers at KG&E before any of these consolidations had come to pass. But I can remember discussions with our system engineers along the lines of, if we were starting over, we wouldn't have a separate power company in Topeka, a separate power company in Wichita, and another one in Kansas City, we'd probably just have one. It made sense long before it happened. There was, notwithstanding that KG&E and KPCL were partners, KG&E and KPL were partners, there was considerable contention – that's a word that I've used earlier in this – there was considerable contention among those three companies. There was always a feeling that KPL got a better deal from the regulators than KG&E did, and I'm not going to step into whether or not that was the case, I'm just saying that that was the perception. There was always a feeling that the folks at KCPL considered themselves to be superior to everyone else. Wilson Cadman said, "as far as [they're] concerned, they're the country club and we're the country." You could look at it on paper and say it makes sense for there to be one company instead of three. But getting all these personalities together proved to be more difficult. Ultimately what happened to bring all of this about was John Hayes, who comes into the CEO position at Kansas Power and Light Company from the telephone industry. He had spent his entire career at Southwestern Bell Telephone and then he retired early and KPL needed a new CEO. John Hayes had served as Southwestern Bell's state executive in an earlier part of his career, so he was known in Topeka, and he was recruited to come to KPL, which he did. Well, KPL was a significantly smaller company than Southwestern Bell. And John Hayes was not satisfied to be just the CEO of another investor-owned company in Kansas. He openly talked about how initially KG&E and KPL should get together – his terms. Wilson Cadman didn't like the idea of that very much. Drue Jennings at KCPL, he knew what John Hayes was trying to do and I believe that Drue thought that he needed to do something quickly in order to get the edge on whatever KPL might be trying to cook up. And he launched an unsolicited tender offer for KG&E stock. This was unheard of in the utility industry. That was the only time it was ever attempted. Normally there would be conversations behind the scene. All of this would be worked out or it wouldn't be worked out. And if it wasn't worked out, the parties would just walk away and wait for another opportunity. If it was worked out, all the agreements would be executed and then it would be publicly announced, you'd get your regulatory approvals and be done with it. But Drue stepped into the fire and just said I'm going to pull the trigger, and he did. That was it for Wilson Cadman. The country club guys were not going to get his company, period. John Hayes had raised with him [Cadman] the possibility of KG&E and KPL getting together. John Hayes looked at all this and he said oh my word, I can't let this happen. My chance of building a bigger company can't go down the drain just because Drue Jennings takes an impetuous act and follows through with it. So then for a while it was KCPL trying to appeal to KG&E shareholders through its tender offer and privately behind the scenes. And not that it should not have been. I don't want to suggest that there was anything unsavory about this, this is the way mergers and acquisitions evolve. But behind the scenes privately, Cadman and Hayes were talking and pretty soon there were teams of people from KG&E and teams of people from KPL who were meeting to plan out how a merger of those two companies could occur and thereby KG&E could withstand the tender offer from KCPL. Eventually that is what happened. KG&E and KPL reached an agreement in which KPL would, through a combination of cash and stock, would buy out KG&E shareholders. Technically it wasn't an acquisition, it was a merger, but in reality, it was an acquisition. KG&E and KPL came together. I stayed with the company, moved up to Topeka, and eventually left and went to El Paso Electric. But all the time that I was gone from Kansas, all the time that I was in Texas, I would every month, every two months on a semi-regular basis I'd get a call from somebody in Kansas about, well what would you think if this happened or that happened. It always turned on the idea that somehow Western Resources, the company that came from the combination of KG&E and KPL, would acquire KCPL. A few of those calls were coming from one of your successors, Brian Moline. I don't want to in any way suggest that Brian was doing something inappropriate. More than anything I think he was hearing rumors here in Kansas and he wanted to have somebody who he could use as a sounding board just to try and get a sense of where the utility industry in Kansas might be going. But at any rate, then by this time John Hayes has retired and not under the best of circumstances. The person who succeeded him was a fellow who he recruited from Wall Street, David Wittig. This was right in David Wittig's wheelhouse. He handled mergers and acquisition business for some of the best, most respected, most successful Wall Street investment firms. The feeling was if anybody could put these companies together, he could do it. But he didn't. He had a couple of misfires and to the extent that there had been any contentiousness between KCPL and KG&E, and then KCPL and Western Resources, David Wittig succeeded in raising that to an even higher level, to an unprecedented level where they were slinging insults back and forth in the newspapers. David Wittig ran into some other troubles and ended up leaving the company. And I come along. KCPL, not too long after I come back to Kansas, by this time it's Westar, not too long after I come back, KCPL gets a new CEO. Mike – oh gosh, what's his last name? – Now I'm embarrassed, I can't remember Mike's last name. I'll think of it. But anyway, he comes back to Kansas, and I decided this is the time, this is the moment to get rid of this contentiousness between Westar Energy and KCPL. So, within two weeks of Mike Chesser starting at KCPL, I called him up and said I'd like to come over and meet you. He was very, very amicable to that. A week later I was in his office, and we hit it off quite well, I believe. Over the course of the next couple of years—I think this was a mutual thing, I don't think it was entirely on my initiative—we took every opportunity we could to be together at meetings, events, things like that, and we always had something to talk about, some business to talk about. I found Mike very easy to work with. I believe he found me to be easy to work with. I remember one time he said, you know, you're a lot nicer than any of my guys said you were. I took that as a compliment. Anyway, maybe in the second year, maybe the beginning of the third year, when we were getting to know each other, the question came up of KCPL and Westar getting together. We agreed that we should focus on discussing that. At the same time, we, Westar, were approached by Union Electric Company [UE] based in St. Louis. Union Electric Company had very successfully acquired two or three electric utility companies in Illinois. It's based in St. Louis, Missouri, but its service area stretched into southern Illinois. So, it was kind of a utility company like KCPL, it was right on the border, and it had service area in both states, Missouri and Illinois in UE's case -- Missouri and Kansas in KCPL's case. At any rate. So I talked with Gary [Rainwater] and I can't remember Gary's last name now and I probably won't remember it because I didn't have as long as a relationship with him as I did with Mike Chesser, but at any rate, Gary came to my office a few times, I came to his office a few times. Then when things really got serious, we met halfway in a setting where employees couldn't see that we were meeting, where regulatory staff that might be in our offices or his offices wouldn't see us meeting. We got pretty far along with UE, but ultimately, UE could not get to the price that we believed they had to pay in order to… Gary made no bones about this at all, that given their past practice this was going to be an acquisition. There would no longer be a headquarters in Topeka, there'd be a senior Vice President in charge of Kansas operations or something like that. But all of the typical home office functions, accounting, finance, legal, etc., would move to St. Louis. Typically, in an acquisition like that a company is paid a premium. It's called a control premium. If you're going to give up control, you should be paid a little bit more. Don't ask me the substantive logic of that, but the marketplace respects it, and your shareholders expect it. So, we couldn't make a deal with UE, so that went away. But during all of that, things were kind of quiet between Mike Chesser and me. Ultimately, Mike and I agreed that the time just wasn't right for Westar and KCPL to get together. So, I retire. Mike retires. Interestingly, the person who became the CEO at KG&E had been my General Counsel when I was at El Paso Electric Company. I had introduced him to Mike Chesser, who hired him to be his CFO. At any rate, then KPCL and Westar began talking and they make a deal and it's turned down by the KCC. But they keep talking and they get to a new deal. And that was approved by the Kansas Corporation Commission and the Missouri Public Service Commission and the Federal Energy Regulatory Commission and the Nuclear Regulatory Commission and the SEC [Securities and Exchange Commission]. The approval process for something like this is horrendous, but ultimately it happened. I think there are aspects of the deal that as a far-off observer that I wish had been a little different, but from the point of view of the quality and safety and economics of electric utility service in eastern Kansas and western Missouri I think everybody is better off. As I told the Commission when I testified at one of the local hearings regarding the merger, one of the public hearings, they shouldn't let *best* be the enemy of *good*, and that the deal wasn't perfect, but it was better than letting the companies remain as individual companies. Now the really interesting question is, where does Evergy go from here. Has Evergy reached sort of a natural landing point, and will there be another merger, say Evergy with UE or Evergy with Oklahoma Gas and Electric? I'm too far away from it to speculate on that now. But I think at least for the time being, everyone involved is better off for those three companies to be combined.

**RB: Well, with that I think we've covered a lot of territory.**

JH: Are we done?  Is it time to smile?

**RB: Yeah, I think it's time to look at Dave Heinemann and look pleasant.**

[end of recording]

 