

The Governor vs. The Robber Baron: Harry Woodring's Battle For Lower Utility Rates, 1931-1933

by Keith D. McFarland

In November 1930 the voters of Kansas, following one of the most unusual campaigns in the state's history, elected Democrat Harry Woodring to the governorship. It had been an extremely close contest that had not been settled until the final tabulation was released ten days after the election. The official count showed Woodring nosing out the Republican candidate, Frank "Chief" Haucke by a mere 251 votes, 217,171 to 216,920. A third candidate, Independent Dr. John R. Brinkley, a Milford physician who had gained fame for his goat gland sex rejuvenation operations, was third with 183,278 votes. Brinkley's showing was especially impressive when it is realized that he was a write-in candidate. Charges were made that election officials had thrown out tens of thousands of Brinkley votes on minor technicalities and he had therefore been robbed of the governorship. But in spite of all the controversy, the results stood and on January 12, 1931 Woodring assumed his new post.¹

Harry Woodring's rise to the position of governor was a real rags to riches story. Born in Elk City, Kansas in 1887, the young man was forced by his family's economic plight to start working at the age of ten. Although holding down several part time jobs, he managed to stay in high school through his junior year. Starting off as an errand boy for the First National Bank of Elk City he rose to cashier before taking a similiar job at nearby Neodesha. During World War I he joined the Army Tank Corps but the war ended before he could be shipped overseas. Afterward, the young bachelor returned to banking and by the mid 1920's he had become vice-

1. Keith D. McFarland, "Harry H. Woodring: Early Career In Kansas." *Kansas Historical Quarterly*, 37 (Summer, 1973), pp. 211-212.



Harry H. Woodring
Governor of Kansas, 1931-1933



Henry L. Doherty
President of Cities Service Company

president and major stockholder of the First National Bank of Neodesha. It was during this time that he became very active in the American Legion, being elected State Commander in 1928. Through the Legion Woodring was able to cultivate friendships throughout the state, thus laying the basis for his later political support. By early 1929 the successful banker, feeling he had achieved as much as he could in his profession, retired. That retirement was short lived, however, for within a year he started his successful drive to the governor's mansion.²

Assuming the state's top elective post in early 1931 was not an enviable position when one considers the bleak economic situation facing Woodring and his fellow Kansans. As the Great Depression swept the country in the early years of the 1930's it left in its wake economic devastation the likes of which this nation had never seen. Unemployment, hunger and deflation teamed up to make life a rather miserable experience for millions of Americans. While some families and some geographical areas escaped the impact of the Depression, most citizens and most areas felt its full brunt. Unfortunately, Kansas was one of the states hardest hit, and those Kansans who lived through that period can recount personal experiences that later generations find difficult, if not impossible, to comprehend.

² *Kansas City Star*, October 5, 1930.

Being primarily a rural, agricultural state meant that Kansas had been given a preview of the Great Depression nearly a decade before it reached the urbanized, industrialized areas of the country. This was true because the 1920's had brought very hard times to the American farmer. The increased mechanization, improved fertilizers and insecticides, new farming techniques and the good weather that appeared in the post war years resulted in record crops with a consequent flooding of the market. As farm surpluses increased, farm prices went down and with income dropping the farmer responded in the only way he knew how—by increasing production. Such a “solution” only served to drive prices even lower. But while things were bad for the farmer in the 1920's, that was just the beginning, because the really hard times still lay ahead. Whereas corn had been selling for 99 cents per bushel in 1929 the price was to drop to 66 cents in 1930 and down to 33 cents the following year. Wheat and other grain prices showed an almost identical decline. Consequently, it was not unusual to find rural families whose incomes were dropping 20% to 40% per year.

The agricultural sector of the economy was not the only area that was experiencing difficulty. The petroleum industry, which was one of the mainstays in the state's economy, was also in big trouble because Kansas was “drowning in oil” and the huge surpluses had driven the price down from the 1926 level of \$2.31 per barrel to a 1930 level of 18 cents per barrel. The state's coal mining, milling and meat packing industries were likewise in difficult straits.³

As deflation continued unabated the economic picture became increasingly bleak. Banks failed, homes and farms were subjected to foreclosure, bankruptcies increased and the delinquent tax rolls grew longer. As money became more scarce the prices of goods and services dropped lower and lower. Consequently, it was not unusual to find a grocery store selling bread for 3 cents a loaf, milk for 5 cents a quart and eggs for 10 cents a dozen. Wages also plummeted; thus, it was common to find teachers earning 50 dollars a month and mechanics receiving a dollar a day. A man who could find employment of any kind at any wage considered himself very fortunate indeed.

But while the costs of most goods and services in Kansas were dropping, there was one important area in which reductions had not been forthcoming—utility rates. It was such a state of affairs that were very upsetting to Harry Woodring. The new governor had long been concerned over the fact that since the days of the World War, Kansans had experienced a decline in the cost of nearly everything

3. Francis W. Schruben, *Kansas In Turmoil, 1930-1936* (Columbia University of Missouri Press, 1969), pp. 69-75

except utilities. This meant that consumers were paying the same utility rates in hard times that they had in good. Furthermore, recent technological developments had lowered the production and operating costs of the utility companies, but the savings were being passed on to stockholders rather than consumers. Woodring desired to correct this "undesirable situation."⁴

The governor's intention to challenge the utility companies was made apparent in his very first message to the state legislature. In that speech he asked for the funds needed by the Public Service Commission, the agency responsible for policing the utilities companies, to take the action necessary to bring about "lower rates for all public utilities."⁵ While not appropriating as much money as requested, the legislators did provide the PSC with \$100,000 to be used specifically for bringing about lower gas and electric rates. Furthermore, a law was passed which gave the commission the authority to examine the books of holding companies associated with utility companies. This law made it possible to determine exactly how much profit those companies were making.⁶

Although the legislature had provided the funds and legal means necessary to force utility rate reductions, Governor Woodring hoped to achieve that goal without utilizing those tools. He wanted to bring about the reductions by voluntary means. Consequently, in the spring of 1931 he met with officials of various gas and electric companies and asked them to reduce their consumer rates by a minimum of ten per cent. This "friendly persuasion" approach worked well because in that year more than 200 cities and towns throughout Kansas had their electric rates lowered and more than 50 experienced reductions in gas rates. The following year, 1932, was even more successful with nearly 600 communities seeing electric rate reductions and 80 having their gas rates lowered.⁷ In all, nearly two out of every three communities in the state profited from voluntary rate reductions.

As impressive as Governor Woodring's voluntary rate reduction program was, he was not totally pleased because there was one large company, Cities Service Company, which supplied gas to nearly one hundred cities and towns, including most of the larger ones, that would not reduce its rates. Cities Service failure to act was due to the refusal of its President, Henry L. Doherty, to go along with a reduction. Woodring was especially desirous of getting the Doherty Company to lower its gas rates because of the large number of com-

4 *Message of Governor Harry H. Woodring to the Legislature of 1931* (Topeka: State Printer, 1931), pp. 9-10

5 *Ibid.*

6 Francis W. Schruben, *Harry Woodring Speaks: Kansas Politics During the Early Depression* (Los Angeles: Francis Schruben, 1963), pp. 9-10

7 *Democratic State Handbook* (1932), p. 28

munities involved, plus the fact that its rates were the highest in the state.

Henry L. Doherty's life was a true Horatio Alger story. Born in Columbus, Ohio just five years after the end of the Civil War, he quit school at the age of twelve to go to work for the Columbus Gas Company. Fourteen years later he had risen to the position of Chief Engineer. His engineering and managerial skills were soon in great demand and he utilized those abilities to mass a rather sizeable fortune. In 1910 he formed Cities Service Company, a utility conglomerate which by 1931 had grown to more than 100 utility companies with assets of more than \$660,000,000. Although Doherty had become a multimillionaire he continued to take an active part in the day to day operations of his business rather than turn the operations over to managers. It was a well known fact in the business world that if one wanted to deal with Cities Service he dealt with Doherty, not some vice-president.⁸

Governor Woodring realized that if he was going to see Doherty he would have to go to New York for the utility magnate would never come to Kansas to see him. Consequently, in late April, 1931 the governor traveled east. Armed with impressive data on gas rates throughout the state, Woodring appealed for a reduction in the "gate rate" so that lower rates could be passed on to the consumer. Doherty listened attentively to the plea, but would not commit himself to a decrease. He did, however, promise to consider the proposal and indicated he would probably send representatives to Kansas to discuss the matter.⁹ Encouraged by the tenor of the meeting, Woodring returned to Topeka to await the expected Cities Service negotiators. Every time Woodring asked the Doherty lawyers to begin rate discussion they asked for a delay. Eventually, it was two and a half months after Woodring's New York meeting with Doherty and still nothing had happened.

By mid-June the governor's patience was wearing thin as he began to question whether Doherty had any intention of reducing gas rates. Finally, he came to the conclusion that he could set back and wait no longer; thus, on June 20 he instructed the Public Service Commission "to proceed to force reductions."¹⁰ This announcement alarmed Doherty at least enough to open negotiations, but it soon became apparent that the conferences were designed for show rather than for the purpose of achieving concrete results. Not about to be made a fool of, Woodring, on June 26, informed Doherty that he was

8 David Lawrence, "American Business and Businessmen," *Saturday Evening Post*, 203 (July 26, 1930), p. 34, *Who's Who In America 1930-31* Vol. 16, p. 697

9 *Topeka Daily Capital*, April 30, May 2, 1931

10 *Topeka Daily Capital* June 21, 1931

tired of the stalling tactics and was giving him until July 2 to cut his gate rate from forty to thirty cents per thousand cubic feet. If such action was not taken, the governor added, the PSC would move to force the reduction.¹¹ Whether it was wise for the governor to issue such an ultimatum is debatable. On one hand, it ended any hope for voluntary reduction because it made Doherty determined to avoid taking any action which might make it appear as if someone else, especially a young mid-western governor, was telling him how to run his business. On the other hand, it seems unlikely that Doherty would ever have reduced the rates voluntarily. If he had been sincere about a reduction he had had plenty of time to institute one.

When Woodring's July 2 deadline arrived, Doherty's representatives asked, as they had in the past, for additional time to negotiate. The obviously upset governor rejected the request and announced that all peaceful negotiations were off and the PSC was proceeding. He also served notice on the Cities Service Company that he was about to wage an all out battle against it. "We are in the fight," he said, "to obtain reasonable gas rates and when the smoke clears away and the casualties are counted the gas company may find that it is not as big as the state of Kansas."¹² Later that same day Blue Sky Commissioner Carl Newcomer, whose responsibility it was to police the sale of securities within the state, announced that he was banning the sale of Cities Service stock in Kansas. While Woodring in all likelihood coordinated this action, he publicly denied that he had anything to do with it. He did, however, indicate that he supported Newcomer's decision.¹³

Newcomer's action and Woodring's verbal support infuriated the powerful Doherty, who began to fight back. On July 3 he went to court to get an injunction to stop the state of Kansas from banning the sale of Cities Service stock. In the application for the injunction Doherty charged Governor Woodring, or as he called him, "His Excellency," with conspiracy to "compel and coerce" him to accede to demands for lower gas rates.¹⁴ A few days later Doherty continued the assault with a 3,000 word telegram to Woodring condemning his "arbitrary and reprehensible" actions to bring about reductions. He charged the governor with inaugurating an unnecessary fight. The lengthy document also accused the state's chief executive of being a tool of the *Kansas City Star*. The *Star*, considered by many to be one of the best newspapers in the nation, had been quite vocal in urging utility rate reduction, especially by the Doherty interests. According

11. *Hutchinson News*, June 27, 1931

12. *Topeka Daily Capital*, July 3, 1931.

13. *Topeka Daily Capital*, July 3, 1931.

14. *Topeka Daily Capital*, July 4, 1931

to Doherty the paper was out to "impair City Service's credit and to cripple its operations." Subsequently, on July 6, Doherty filed a \$12,000,000 libel suit against the *Star* claiming it was involved in a conspiracy to destroy his business. He maintained the newspaper had printed articles and cartoons that convinced Woodring and the PSC to pursue utility rate reductions. According to Doherty, Woodring had "fallen under the evil influences of the men who control the *Kansas City Star*."¹⁵ He requested the Postmaster General to ban the *Star* from the mails because of the lies it contained. Doherty also appealed to Secretary of Commerce Robert P. Lamont to take legal action against Woodring because of the Governor's threats to "throw certain Cities Service subsidies into receivership" and because of his engineering of the action whereby Kansans could no longer purchase Cities Service stock within the state.¹⁶

Doherty, backed by a bevy of corporation lawyers, won a partial victory on July 14 when the United States Supreme Court issued an injunction which said that the state of Kansas could not halt the sale of Cities Service stock.¹⁷ The real winner of the July, 1931 clash between the governor and the utility king, however, was Woodring because the encounter resulted in a great deal of favorable publicity for him throughout the state and nation. Newspapers from coast to coast, including the renowned *New York Times*, carried detailed accounts of the controversy. In nearly every instance Governor Woodring was portrayed as an honest, hard working champion of the little man who was pitted against the wealthy, cold-hearted Robber Baron who was out to exploit the poor Kansas consumer for his own personal gain. In all these stories Woodring was clearly the hero and Doherty was just as clearly the villain.¹⁸

While the governor and utility company head were busy pointing the finger of guilt at one another, the Public Service Commission opened hearings to determine what would be a fair gate rate for Cities Service to charge. The proceedings were originally scheduled to begin on August 18, 1931 but lawyers on both sides wanted additional time to prepare their respective cases, so it was not until October 16 that the hearings got underway.¹⁹ For the next five months the members of the Commission listened to arguments and counter-arguments, with Doherty's lawyers claiming the forty cents per thousand gate rate was reasonable and the state's attorneys claiming such a rate was excessive. Finally, in mid-March 1932 the testimony came to an

15. *New York Times*, July 7, 1931.

16. *Topeka Daily Capital*, July 7, 1931.

17. *Topeka Daily Capital*, July 15, 1931.

18. *New York Times*, 3-17, 1931.

19. *Hutchinson News*, October 16, 1931.

end and the commission turned to the difficult task of wading through the mountains of evidence and making a determination of what the rate should be.²⁰ In the course of the hearings Doherty had offered to cut the rate from 40 to 35 cents per thousand cubic feet, but Woodring, feeling the reduction was not adequate, refused the offer and directed the PSC to proceed.²¹

Finally, on July 19, 1932, the commission announced its long awaited decision. It ordered a gate rate reduction of 10.5 cents per thousand—from 40 to 29.5 cents.²² At this point it appeared as if Woodring had won his fight for lower gas rates for Kansans. This was not to be the case, however, for Doherty was not about to accept defeat at the hands of the young governor from the Jayhawk State. With his battery of topnotch corporation lawyers, he took the case into the federal courts and on January 5, 1933, just four days before Woodring left the governorship, a three judge panel ruled that Cities Service 40 cent rate was not unreasonable and therefore could stand. When the governor heard the news he said, "I am rather disgusted with the whole attempt at regulation of utilities."²³ He wished that he had more time to carry on the battle. Unfortunately, that was not possible, because two months before the voters of Kansas, in a very close election, turned Woodring out of office and put in his place a Republican, Alfred M. Landon. For the man from Neodesha the battle against Henry Doherty was over.

As governor, Woodring had accomplished a great deal in the realm of utility rate reduction, with more than 800 Kansas towns experiencing electric rate reductions and over 130 seeing their gas rates cut. He left office however, very disappointed because he had let the "big one," Henry Doherty and his Cities Service Company get away. As far as he was concerned, the "Robber Baron" had won.

Although the January 1933 court ruling was a great personal blow to Woodring, it was to be only a temporary setback to Kansas consumers because Governor Landon picked up the battle flag and carried it forward against the Doherty forces. The fight was not an easy one, but after granting some minor reductions in 1934 and becoming concerned over Landon's threat to build state owned gas lines, Henry Doherty and his Cities Service Company responded in 1936 with a general rate reduction of 20%.²⁴ At last, the state of Kansas had won its fight against the powerful twentieth century "Robber Baron"—Henry L. Doherty.

20 *Topeka Daily Capital*, March 22, 1932

21 *Topeka Daily Capital*, July 19, 20, 1932

22 *Topeka Daily Capital*, July 19, 20, 1932

23 *Topeka Daily Capital*, January 6, 1933

24 Donald R. McCos, *Landon of Kansas* (Lincoln: University of Nebraska Press, 1966), p. 170