

## SENATE BILL No. 576

By Committee on Ways and Means

2-21

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9 AN ACT concerning natural gas; relating to gas gathering facilities;  
10 amending K.S.A. 55-1,101, 55-1,102, 55-1,103, 55-1,104, 55-1,105, 55-  
11 1,107, 55-1,108 and 55-1,109 and K.S.A. 2005 Supp. 66-105a and re-  
12 pealing the existing sections.  
13

14 *Be it enacted by the Legislature of the State of Kansas:*

15 Section 1. K.S.A. 55-1,101 is hereby amended to read as follows: 55-  
16 1,101. (a) As used in K.S.A. 55-1,101 through 55-1,109, and amendments  
17 thereto:

18 (1) "Gas gathering services" means the gathering or preparation of  
19 natural gas for transportation, whether such services are performed for  
20 hire or in connection with the purchase of natural gas by the person  
21 gathering or preparing the gas or a marketer affiliated with the person  
22 gathering or preparing the gas. "Gas gathering services" does not include  
23 the gathering of natural gas by an owner or operator of gathering facilities  
24 who: (A) Does not hold such facilities out for hire on or after the effective  
25 date of this act; and (B) does not purchase the gas for resale.

26 (2) "*Gas gathering facilities*" means natural gas pipeline facilities that  
27 are used primarily for gas gathering services, except that the use of such  
28 pipeline facilities secondarily for other transportation or delivery services  
29 shall not exclude the classification of such facilities as gas gathering fa-  
30 cilities.

31 ~~(2)~~ (3) Other terms have the meanings provided by K.S.A. 55-150,  
32 and amendments thereto.

33 (b) The provisions of K.S.A. 55-1,101 through 55-1,109, and amend-  
34 ments thereto, shall be part of and supplemental to chapter 55 of the  
35 Kansas Statutes Annotated.

36 Sec. 2. K.S.A. 55-1,102 is hereby amended to read as follows: 55-  
37 1,102. (a) Each person offering gas gathering services in this state shall  
38 file with the commission copies of: (1) Rates paid for natural gas pur-  
39 chased at the wellhead by the person offering gas gathering services; (2)  
40 all rates charged for gas gathering services offered by such person; and  
41 (3) such data related to the characteristics of the gas purchased or gath-  
42 ered by the person offering gas gathering services and such information  
43 regarding the terms and duration of the contract as the commission de-

1 termines necessary. *In addition, each person owning or operating gas*  
2 *gathering facilities shall file and maintain with the commission updated*  
3 *maps of the gathering facility that shall include the location of all wells*  
4 *connected to the system and all other interconnects for both receipts and*  
5 *deliveries of gas.* The commission shall adopt rules and regulations pre-  
6 scribing the form and times of filing of such rates, data and information.  
7 The commission shall not be required to analyze, publish or disseminate  
8 such rates, data and information except to the extent otherwise required  
9 by law.

10 (b) Upon notice and an opportunity to be heard in accordance with  
11 the provisions of the Kansas administrative procedure act, the commission  
12 may impose an administrative fine on any person for failure to file any  
13 rate, data or information as required by this section and rules and regu-  
14 lations of the commission. Such fine shall not exceed \$10,000 for each  
15 day the rate, data or information remains unfiled as required or an ag-  
16 gregate amount of \$250,000, whichever is less.

17 (c) Rates, data and information filed pursuant to this section shall not  
18 be used by the commission to order a change in any rate except in a  
19 proceeding pursuant to K.S.A. 55-1,104, *and amendments thereto.*

20 (d) Rates, data and information filed pursuant to this section shall not  
21 be subject to K.S.A. 66-1220a, and amendments thereto.

22 ~~(e) This section shall take effect and be in force on and after July 1,~~  
23 ~~1997.~~

24 Sec. 3. K.S.A. 55-1,103 is hereby amended to read as follows: 55-  
25 1,103. (a) Persons offering gas gathering services in this state, or *operating*  
26 *gas gathering facilities essential to provision of such services*, shall pro-  
27 vide, in a manner that is just, reasonable, not unjustly discriminatory and  
28 not unduly preferential, access to any person seeking ~~such gas gathering~~  
29 *services or transportation through or interconnection with such gas gath-*  
30 *ering facilities.*

31 (b) Persons performing gas gathering services *or operating gas gath-*  
32 *ering facilities* shall engage in practices in connection with such services  
33 *or operations*, and charge fees for such services, that are just, reasonable,  
34 not unjustly discriminatory and not unduly preferential.

35 ~~(c) This section shall take effect and be in force on and after July 1,~~  
36 ~~1997.~~

37 Sec. 4. K.S.A. 55-1,104 is hereby amended to read as follows: 55-  
38 1,104. (a) The commission, in its discretion, may at any time review a fee,  
39 term or practice being used by a person offering gas gathering services  
40 *or operating gas gathering facilities or review such person's refusal of an*  
41 *interconnection request or other form of denial of access to gas gathering*  
42 *facilities*, to ascertain whether a violation of K.S.A. 55-1,103, *and amend-*  
43 *ments thereto*, has occurred. Upon such review, the commission may in-

1 initiate a proceeding to determine whether a violation of K.S.A. 55-1,103,  
2 *and amendments thereto*, has occurred. Upon notice and an opportunity  
3 for hearing in accordance with the Kansas administrative procedure act,  
4 the commission shall have authority to order the remediation of any vi-  
5 olation of K.S.A. 55-1,103, *and amendments thereto*, that the commission  
6 finds has occurred.

7 (b) Any consumer of gas gathering services, *any person seeking trans-*  
8 *portation on or an interconnection with a gas gathering facility*, or any  
9 person seeking direct purchase of natural gas at the wellhead or any roy-  
10 alty owner, may request the commission to investigate and initiate pro-  
11 ceedings to review a fee, term or practice being used by a person offering  
12 gas gathering services *or operating gas gathering facilities*. As a condition  
13 to formal commission action, the person requesting commission action  
14 must first file a complaint that includes:

15 (1) A statement that the complainant has presented the complaint, in  
16 writing, to the person offering gas gathering services *or operating gas*  
17 *gathering facilities* and included a request for a meeting with such person  
18 to discuss the matter;

19 (2) a copy of the document described in subsection (b)(1);

20 (3) a statement that the requested meeting took place or the person  
21 offering gas gathering services *or operating gas gathering facilities* refused  
22 to meet with the complainant;

23 (4) detailed factual statement indicating how the fee, term or practice  
24 violates K.S.A. 55-1,103, *and amendments thereto*;

25 (5) a statement of the precise remedy being requested that will make  
26 the fee, term or practice consistent with the provisions of K.S.A. 55-1,103,  
27 *and amendments thereto*;

28 (6) if the complainant is a producer of natural gas, a copy of the  
29 analysis of the complainant's natural gas, including the nitrogen, carbon  
30 dioxide, hydrogen sulfide, water and other contaminant content; the  
31 amount of volume; and the amount of pressure at the wellhead; and

32 (7) if available, a map showing the location of the affected wells, *the*  
33 *proposed interconnection, where relevant* and all gas gathering systems  
34 in the area.

35 *Upon the filing of such a complaint, the commission shall review, in-*  
36 *vestigate and resolve the complaint pursuant to subsection (c).*

37 (c) The commission may resolve the complaint by use of an informal  
38 procedure established by the commission pursuant to rules and regula-  
39 tions adopted by the commission or the commission may conduct a formal  
40 hearing and take evidence as necessary to determine the merits of the  
41 complaint. If the commission uses an informal procedure and the com-  
42 plaint is not resolved within 60 days after the complaint is filed, the com-  
43 mission shall conduct a formal hearing on the complaint. The hearing

1 shall be conducted and notice given in accordance with the Kansas ad-  
2 ministrative procedure act. Upon such hearing, the commission shall have  
3 authority to order the remediation of any violations of K.S.A. 55-1,103,  
4 *and amendments thereto*, to the extent necessary for remediation as to  
5 the aggrieved person with respect to the particular violation.

6 (d) In evaluating a fee or term, or in establishing a reasonable fee or  
7 term, the commission is not required to engage in cost-of-service rate-  
8 making or any other form of ratemaking. Instead, the commission can  
9 employ any form of analysis and remedy that is designed to accomplish  
10 the goals of this act while respecting the legitimate property interests of  
11 the person offering the gas gathering services.

12 (e) Any natural gas producer using the gas gathering facilities of a  
13 person engaged in activities described in subsection (a)(1)(A) or (B) of  
14 K.S.A. 55-1,101, *and amendments thereto*, may request the commission  
15 to investigate and initiate proceedings to review the fees, terms and prac-  
16 tices of the person engaged in such activities. The commission shall con-  
17 duct such investigation and proceeding in the same manner as provided  
18 by this section for complaints filed pursuant to subsection (b) and may  
19 order the remediation of any violation of subsection (b) of K.S.A. 55-  
20 1,103, *and amendments thereto*, that the commission finds would exist  
21 except for the exemption provided by subsection (a)(1)(A) or (B) of K.S.A.  
22 55-1,101, *and amendments thereto*.

23 (f) The commission shall maintain a publicized telephone number to  
24 facilitate the filing of informal complaints pursuant to subsection (b) or  
25 (e).

26 (g) The commission shall adopt such rules and regulations as the com-  
27 mission determines reasonably necessary to prevent abuse of the com-  
28 plaint procedure provided for by this section. Such rules and regulations  
29 shall include provisions to prevent delay of the proceedings that may  
30 damage a party's ability to pursue or defend the complaint.

31 Sec. 5. K.S.A. 55-1,105 is hereby amended to read as follows: 55-  
32 1,105. ~~(a)~~ The commission may adopt such rules and regulations as the  
33 commission determines necessary to improve access to gas gathering serv-  
34 ices *or gas gathering facilities* or to improve market competition or pro-  
35 tect the public interest in such services *or facilities*.

36 ~~(b) This section shall take effect and be in force on and after July 1,~~  
37 ~~1997.~~

38 Sec. 6. K.S.A. 55-1,107 is hereby amended to read as follows: 55-  
39 1,107. ~~(a)~~ In any retail natural gas service area where the commission has  
40 granted a certificate of convenience and necessity to sell natural gas at  
41 retail from a gas gathering ~~system~~ *facility*, the commission may issue other  
42 certificates of convenience and necessity to make such sales in such area.  
43 *A public utility providing retail natural gas service from gas gathering*

1 *facilities under an exclusive certificate of convenience and necessity, shall*  
2 *obtain commission approval of any abandonment of service upon dem-*  
3 *onstrating that such abandonment is not adverse to the public interest. A*  
4 *person purchasing natural gas or gas gathering services from a person*  
5 *offering gas gathering services in a retail natural gas service area where*  
6 *the commission has issued more than one certificate of convenience and*  
7 *necessity shall not be assessed an exit fee for electing to purchase natural*  
8 *gas or gas gathering services from another person offering gas gathering*  
9 *services.*

10 ~~(b) This section shall take effect and be in force on and after July 1,~~  
11 ~~1997.~~

12 Sec. 7. K.S.A. 55-1,108 is hereby amended to read as follows: 55-  
13 1,108. ~~(a)~~ Nothing in K.S.A. 55-1,101 through 55-1,107, *and amendments*  
14 *thereto*, shall be construed, or authorize the commission, to amend any  
15 contractual obligations between the person offering gas gathering services  
16 *or gas gathering facilities* and the complainant unless the commission  
17 determines, after investigation, notice and hearing, that such contractual  
18 obligations are unjust, unreasonable, unjustly discriminatory or unduly  
19 preferential and adversely impact the public welfare.

20 ~~(b) This section shall take effect and be in force on and after July 1,~~  
21 ~~1997.~~

22 Sec. 8. K.S.A. 55-1,109 is hereby amended to read as follows: 55-  
23 1,109. If a public utility providing service from a gas gathering ~~system~~  
24 *facility* determines that such utility lacks sufficient services or facilities to  
25 serve the needs of any person wishing to utilize such utility's services  
26 within such utility's certificated service area during any calendar year,  
27 such utility, not later than November 1 preceding the beginning of such  
28 calendar year, shall give notice thereof to the commission and to each  
29 person that such utility determines it will be unable to serve. *The com-*  
30 *mission may review such proposed abandonment at its discretion, except*  
31 *that the commission shall review such proposed abandonment upon com-*  
32 *plaint by such person served. Unless the proposed abandonment is deter-*  
33 *mined by the commission to be adverse to the public interest, such service*  
34 *may be discontinued as proposed by the utility.*

35 Sec. 9. K.S.A. 2005 Supp. 66-105a is hereby amended to read as  
36 follows: 66-105a. ~~(a) On and after July 1, 1997,~~ The term "public utility"  
37 as used in K.S.A. 66-104, and amendments thereto, and the term "com-  
38 mon carriers" as used in K.S.A. 66-105, and amendments thereto, shall  
39 not include any gas gathering system, as defined in K.S.A. 55-150, and  
40 amendments thereto, *except that nothing in this section shall limit or*  
41 *abridge the commission's authority over natural gas gathering services*  
42 *and natural gas gathering facilities as provided in K.S.A. 55-1,101 et seq.,*  
43 *and amendments thereto.*

1 (b) Notwithstanding the provisions of subsection (a), for those per-  
2 sons providing gas gathering services in such a manner that allows end  
3 use customers to obtain natural gas by direct connection to a gathering  
4 system, the commission shall have authority, upon complaint or petition  
5 or upon its own motion, to determine the reasonableness of, and regulate  
6 and supervise, any health or safety related curtailment or proposed health  
7 or safety related curtailment of natural gas that results in the loss of serv-  
8 ice to the end use customer.

9 (c) Any person providing gas gathering services in such a manner that  
10 allows the offering of natural gas from a gas gathering system to an end  
11 use customer shall give notice thereof to the commission and to each  
12 affected end use customer and public utility of its intent to curtail service  
13 that will result in the loss of natural gas service to the end use customer.  
14 Except in the case of an emergency, notice shall be provided at least 30  
15 days prior to such curtailment. In the case of an emergency, service to  
16 residential dwellings or commercial offices may be curtailed immediately  
17 upon a good faith belief that an emergency exists. Notice shall be given  
18 immediately to the end user and public utility. The person curtailing  
19 service, within 24 hours of the determination of the emergency, shall  
20 report the curtailment to the state corporation commission and provide  
21 the basis for and evidence supporting the good faith belief that curtail-  
22 ment was necessary under the emergency provisions of this subsection.  
23 In the event that the curtailment was not based upon a good faith belief  
24 and was unnecessary, as subsequently determined by the state corpora-  
25 tion commission, the person curtailing service shall be held responsible  
26 for the cost of the service curtailment, including any reconnection cost  
27 and temporary heating costs.

28 (d) Nothing contained in subsections (b) and (c) shall be construed  
29 to diminish any authority vested in the commission prior to the effective  
30 date of this act.

31 Sec. 10. K.S.A. 55-1,101, 55-1,102, 55-1,103, 55-1,104, 55-1,105, 55-  
32 1,107, 55-1,108 and 55-1,109 and K.S.A. 2005 Supp. 66-105a are hereby  
33 repealed.

34 Sec. 11. This act shall take effect and be in force from and after its  
35 publication in the statute book.