

M I N U T E S

SPECIAL COMMITTEE ON NATURAL GAS

October 20, 1975

Members Present

Senator Ross Doyen, Vice-Chairman
Senator George D. Bell
Senator Paul Burke
Senator Jack Janssen
Senator Vincent E. Moore
Senator John Simpson
Representative Keith Farrar
Representative Ben Foster
Representative Walter Graber
Representative William S. Southern
Representative Herbert A. Rogg

Staff Present

J. Russell Mills, Jr., Legislative Research Department
William G. Wolff, Legislative Research Department
Don Hayward, Revisor of Statutes' Office

Conferees Present

G.T. VanBebber, Chairman, Kansas Corporation Commission
Sard Fleeker, Acting General Counsel, Kansas Corporation
Commission

Morning Session

The Special Committee on Natural Gas was called to order by Vice-Chairman Ross Doyen at 10:00 a.m. Due to a conflict in Chairman Harold P. Dyck's schedule, he was unable to attend the session.

Minutes of the last meeting were approved with an amendment on page 3 in reference to Vice-Chairman Doyen's remarks. The time period to close down industries as a means of saving fuel ran from November until April as opposed to April through November as indicated.

Don Hayward, Revisor of Statutes' Office, presented a proposed bill draft concerning wasteful uses of natural gas. (Attachment I) Primarily, this proposed legislation would authorize the Kansas Corporation Commission to prohibit the sale of natural gas for purposes which the Commission determines to be wasteful and not required for the convenience and necessary of the public.

Senator Burke pointed out that the bill did not specifically determine what was wasteful usage, such as gas lights and grills. Rather, the KCC would establish what was meant by wasteful uses of natural gas. Senator Simpson felt that the bill did not make a sufficient distinction between curtailments and end-use prohibitions.

Senator Bell drew the Committee's attention to page 7 of the September 12 minutes in which Acting KCC General Counsel Sard Fleeker indicated that existing statutes give the KCC authority to impose curtailment regulations through the power of tariff approval. However, on page 7, the staff was directed to prepare two bills: one that established curtailment schedules and another that set up end-use priorities of natural gas within the state.

It was stated that wasteful usage was not now properly defined in the statutes and it should be precisely described. Senator Burke also indicated there is no fine distinction as to what the KCC describes as end-use or wasteful use. Mr. Hayward responded that K.S.A. 55-701 applied only to production wastes of natural gas.

Representative Foster inquired if there would be any difficulty with existing contracts for gas service should end-use prohibitions be authorized.

Senator Doyen stated that, should the KCC determine that power generation was wasteful, it could issue an order to cease this usage within a specific amount of time. Senator Bell wondered if this would apply to the public utility in Wichita. Mr. Hayward stated that all such utilities would fall under this proposed bill.

The Natural Gas Committee should not attempt to reverse legislation passed on the 1974 Session, stated Senator Moore. He said that the bill draft should define exactly what waste means or it would be ineffective. Reminding the Committee that the Spivey contracts expire in December, 1975, Senator Moore maintained that this gas would soon be up for sale on the open market. Vice-Chairman Doyen stated that it is necessary to determine exactly what were wasteful uses of resources. For example, it was stated that more natural gas was used for heating swimming pools than was utilized for irrigation in Kansas.

Homeowners should be made more aware of wasteful usage, pointed out Representative Farrar. In his opinion, federal guidelines overly protect the homeowner, and similar state regulations

would be to his disadvantage. Should there be a 10 percent curtailment, the homeowner could not use alternate sources of fuel as easily as an industry could shift to a stand-by fuel.

Senator Moore responded that the term waste should include improper insulation in homes and buildings, in addition to excessive heating. Representative Foster suggested that wasteful usage, as heated swimming pools and yard lights, for example, should be listed in the proposed bill.

Mr. Hayward then presented a proposed bill concerning curtailments. (Attachment II) This bill would give KCC the authority to require public utilities and municipally-owned gas companies to submit curtailment schedules of natural gas delivery in times of peak demand. The KCC would also have authority to modify these schedules.

Representative Farrar expressed concern that the bill would deal only with peak days and this would be the only time that the regulations could be enforced. Mr. Hayward responded that the KCC would create guidelines for the curtailment schedules. All utilities engaged in the sale of natural gas would be subject to the bill.

Senator Bell maintained a need for explicit terminology in relation to "peak demand" and "short supply". The two terms need not mean the same thing. However, "short supply" would, indeed, create a major fuel problem.

Senator Simpson inquired if the KCC had power to do anything similar to the procedure outlined in the bill. Mr. Hayward remarked that the regulatory agency does as it has just initiated curtailment hearings.

Uniform priorities are needed on both the state and federal level, said Senator Moore. Mr. Hayward responded that guidelines could be established similar to the end-use priority system of the Federal Power Commission (FPC). Senator Moore explained that the Kansas Energy Office now has authority to function in an emergency situation.

Vice-Chairman Doyen then recognized general comments from conferees in the audience. George Sims of Mobile Oil indicated that the KCC already has the authority under discussion. Hal Hudson, KPL, was in agreement with Senator Moore that there should be an explicit definition of waste. The Energy Committee has stressed the manner in which poor insulation contributes to the waste of natural gas and that a homeowner should be better educated in proper fuel usage.

Representative Foster approved of the "laundry list" concept of prohibiting waste. However, Senator Simpson felt the bill should contain a broad description of what could not be done as opposed to the more extensive listing of prohibited uses. In such instances, the KCC needs flexibility in setting priorities, said Senator Simpson.

Senator Bell inquired as to what actually constituted one million cubic feet of natural gas or how long would it take an average yard light to burn this amount. Mr. Hudson responded that the average homeowner uses 140,000 cubic feet per year. Therefore, the typical homeowner could heat his home for the next seven years on one million cubic feet of natural gas.

KCC Chairman G.T. VanBebber appeared before the Committee to express his views on the proposed bills. Accompanying him were Commissioner Pete Loux and Acting General Counsel Sard Fleeker. Chairman VanBebber stated that the KCC does not now have authority to curtail some municipalities. Any KCC curtailments would not affect these municipalities. The proposed legislation, though, would subject all gas utilities to KCC regulation. Under Section 1 of the curtailment bill, each utility would be required to submit a schedule in accordance with the general order. This provision is similar to present KCC authority, except that it now includes some exempted municipalities.

Senator Simpson expressed concern over the value of including municipalities. Mr. VanBebber felt that these smaller units should be under jurisdiction as they were indeed part of the state system.

Senator Moore inquired if it would be to the state's advantage to have guidelines similar to the FPC. The KCC Chairman felt that any discussion of this matter should be before a KCC open hearing. All affected parties would have an opportunity to testify.

Mr. VanBebber pointed out that, under this bill, the KCC would have authority to make certain utilities discontinue wasteful uses of natural gas. However, it would likely entail a lengthy examination of gas usages.

Senator Bell inquired if wasteful usage would be determined by the amount of gas used in relation to resources and supplies. Chairman VanBebber indicated that supply and demand would indicate what uses should have priority.

Afternoon Session

The Special Committee on Natural Gas reconvened to make final recommendations on Committee reports and proposed bills.

Representative Southern moved that the bill prohibiting waste be reported unfavorably. Motion was seconded by Representative Foster.

Senator Janssen indicated that he would vote against the motion. He felt all cities should have their share of gas and it was not an attempt to take gas away from anyone.

Representative Farrar was interested in salvaging the bill in some form. He believed it would not provide mandates for every utility. Rather it would give the KCC the authority to end wasteful uses.

Representative Foster indicated that advocates of the free enterprise system would not approve the measure. As more governmental regulations were enforced, much of the natural gas business would be taken away from the private sector.

Representative Farrar moved to amend the bill by changing it to read as follows:

The state corporation commission, pursuant to its rules of practice and procedure, is hereby authorized to require any public utility engaged in the business of the sale or resale of natural gas within this state which is subject to its jurisdiction and control, and any municipally owned or operated gas utility to discontinue service to its customers for certain purposes which are found by the commission to be wasteful and not required for the convenience and necessity of the public.

Motion was seconded by Senator Burke.

Representative Foster reported that this change provided no significant change and the final decision rested with the KCC. Representative Farrar indicated that the motion would reinforce KCC authority but not require the KCC to act. In Senator Burke's opinion, it would make regulation subject to legislative scrutiny.

Senator Moore remarked that the KCC now functions without this bill as evidenced by the November 17 hearings on priorities. If the bill defined what waste was, it would be more instrumental; however, it would most likely saddle the KCC with endless litigation.

Representative Farrar maintained that it would give the KCC some control over end-use. Senator Burke agreed with Representative Southern in that waste is a crucial matter and should be specifically defined.

Representative Farrar's motion to amend the bill was approved. Voting against the measure were Representatives Foster, Rogg and Southern, and Senator Moore.

Representative Foster moved to amend the bill to apply only to utilities presently regulated by the KCC. Senator Moore seconded the motion. Representative Foster pointed out this would define KDD jurisdiction and was not designed as a punitive measure.

Senator Simpson felt that Wichita and some other municipalities would then be treated differently and he would like to see all utilities treated uniformly.

Senator Moore maintained that Wichita is a major industrial center that needs fuel for certain purposes such as meat packing and aircraft industries. Wichita had taken initiative in creating a municipal utility that purchases gas directly which sold to subscribing customers.

Senator Burke mentioned that even if the KCC cut off one wasteful user, another location could be wasting fuel at the same time.

Motion to amend the bill failed.

Senator Burke moved that the proposed bill, as amended by Representative Farrar, be reported favorably to the 1976 Legislature. Motion carried. Voting no were Senator Moore and Representatives Foster, Southern and Rogg.

Senator Moore moved that the proposed curtailment bill be reported unfavorably. He felt it unnecessary in relation to what the Committee had learned about KCC authority and the FPC categories of priority. Motion seconded.

Representative Farrar moved that there be a distinction between short supply and peak demand. Motion carried.

Senator Simpson indicated that he was not necessarily opposed to curtailment. He went on to move that the Committee support the idea of KCC curtailment schedules and giving the regulatory agency this power without defeating the legislation. Senator Janssen seconded the motion.

A substitute motion was made by Senator Moore that the bill be reported unfavorably because the KCC already had adequate authority to assign end-use of gas. In relation to his substitute motion, Senator Moore indicated that this bill was not needed because the KCC had the stipulated powers. Representative Farrar was not sure, however, that the regulatory agency had such authority because some municipalities were exempt. Senator Moore reiterated that under FPC jurisdiction, eight priority categories applied to municipalities even from interruptible sources. Motion carried.

Representative Southern moved and Representative Farrar seconded that the Special Committee on Natural Gas recommend that no further action be taken on Senate Bill No. 564. Motion carried.

In reference to the Committee report (Attachment III) Representative Farrar felt there should be some distinction between interstate and intrastate terminology, for example underscoring one word and double underscoring the other.

In addition, on page three, in the final paragraph, there should be some mention that Kansas Power and Light provides 16 percent of the total natural gas sold in the state and that 34 percent of the sales of natural gas are controlled by these other 20 companies. In addition, on page 2, section entitled Natural Gas Background, it could easily be misunderstood whether the 63 percent of the state's energy requirements (609.8 billion cubic feet of natural gas) was intrastate or interstate. This matter should be clarified.

Senator Simpson was concerned as to who actually regulates municipalities on the intrastate system. Vice-Chairman Doyen replied it was the duty of the suppliers, such as KPL and Cities Service.

Senator Simpson moved that the report suggest that the Legislature investigate the question of curtailment to those municipalities which are now exempt from KCC jurisdiction. Motion was seconded by Representative Graber. Senator Moore commented that this would again include municipalities not at present subject to KCC control. Motion carried.

Again referring to the Committee report, Representative Farrar suggested that information should be included in relation to the total amount of gas imported and exported in Kansas. Senator Simpson also felt that it was necessary to indicate in what manner the gas was used in the state. Senator Moore emphasized that on page 3, it indicated 78 percent of the electricity used in the state is generated from natural gas. Uses of natural gas should be broken down by category, stressed Senator Simpson.

Vice-Chairman Doyen directed the staff to make these changes.

Representative Farrar suggested that staff undertake an investigation to determine the ramifications of legislative action which would establish a definition of the term "depleted natural gas field". At present, most of the Kansas natural gas reserves are dedicated to the interstate system for the life of the field, but there is no definition of when a field is depleted.

Senator Burke felt it advisable to pursue Representative Farrar's suggestion and have it researched before the 1976 Session.

Vice-Chairman Doyen ruled that it was the consensus of the Committee to recommend such action.

The meeting was adjourned.

Prepared by J. Russell Mills, Jr.

Approved by Committee on:

11-26-75

Date

Attachment I

_____ BILL NO. _____

By Special Committee on Natural Gas

AN ACT concerning certain public utilities; providing for the discontinuance of natural gas service for certain purposes upon order of the state corporation commission.

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

Section 1. The state corporation commission, pursuant to its rules of practice and procedure, is hereby authorized and directed by order to authorize or require any public utility engaged in the business of the sale or resale of natural gas within this state which is subject to its jurisdiction and control, and any municipally owned or operated gas utility to discontinue service to its customers for certain purposes which are found by the commission to be wasteful and not required for the convenience and necessity of the public.

Sec. 2. This act shall take effect and be in force from and after its publication in the statute book.

_____ BILL NO. _____

By Special Committee On Natural Gas

AN ACT concerning certain public utilities; providing for curtailment schedules for natural gas and approval thereof by the state corporation commission.

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

Section 1. Every public utility engaged in the business of the sale or resale of natural gas within this state and which is subject to the jurisdiction and control of the state corporation commission, and every municipally owned or operated gas utility otherwise exempted from the jurisdiction and control of the commission by K. S. A. 1975 Supp. 66-104, shall submit to the state corporation commission, for its approval, a schedule for the curtailment of deliveries of its natural gas in periods of peak demand. Such schedule shall be submitted in such form and within such time limits as specified by the commission by rules and regulations adopted therefor and shall be consistent with guidelines established therefor by order of the commission issued pursuant to its rules of practice and procedure.

Sec. 2. The commission, pursuant to its rules of practice and procedure, shall consider and act upon such schedule and shall approve or modify and approve the same. In any case where a curtailment schedule is modified, the commission shall alter such schedule to reflect the guidelines established in its order issued therefor.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

COMMITTEE REPORT

TO: Legislative Coordinating Council
FROM: Special Committee on Natural Gas
SUBJECT: Proposal No. 43 - Natural Gas

Proposal No. 43 directed the Special Committee on Natural Gas to conduct a "study of the supply, use, pricing and regulation of natural gas production and distribution which includes monitoring federal legislation on natural gas well-head price regulation."

Overview

The energy crisis of the 1970's has focused attention upon the need for abundant and reliable energy sources for both the United States and Kansas. The natural gas problem, one aspect of the overall energy crisis, is of particular importance to Kansas as both a producer and consumer of natural gas. The availability of natural gas for Kansas users was studied by an interim committee of the Kansas Legislature in 1973 (Report on Kansas Legislative Interim Studies to the 1974 Legislature, Part II, 49-1). The Kansas Legislature has enacted legislation authorizing cities to establish natural gas acquisition systems in an attempt to minimize the impact of the natural gas shortage (1974 H.B. 1713, KSA 1974 Supp. 12-870). A bill was also introduced in the 1975 Legislature to extend the regulatory authority of the Kansas Corporation Commission in the area of natural gas (S.B. 564). The Special Committee on Natural Gas was appointed to review the

natural gas situation both in Kansas and throughout the United States and to monitor federal legislative and regulatory proposals which would affect the availability and usage of natural gas.

Committee Activity

During the course of its study, the Special Committee on Natural Gas heard testimony from representatives of the natural gas industry, including producers, transporters and distributors. Consumers affected by natural gas shortages, (industrial, municipal, agricultural and residential) also appeared as conferees. Technical information and assistance was provided to the Committee by representatives of the Kansas Geological Survey, the Governor's Advisory Committee on Energy and Natural Resources, the Energy Policy Project of the National Conference of State Legislatures, the State Fuels Coordinator, the Kansas Energy Office, and the Kansas Corporation Commission. Current developments in other states and at the federal level pertaining to the natural gas situation were also brought to the Committee's attention during the course of this study.

Natural Gas Background. Kansas is the fifth largest producer of natural gas in the United States. In 1974, 894.3 billion cubic feet of natural gas was produced in Kansas, slightly less than the 1973 production of 897.3 billion cubic feet. Kansas remains a net exporter of natural gas, although the 236 billion cubic feet exported in 1974 is less than 244 billion cubic feet exported in 1973. In 1974, Kansas consumed 609.8 billion cubic feet of natural gas which accounted for 63% of this state's energy requirements. According to information supplied to the Committee

by the Kansas Independent Oil and Gas Association, there are 652 gas producers active in 326 producing gas fields located in 39 counties in the state. The Hugoton field located in the southwest corner of the state produces about 72% of the state's total gas production. About 85% of the natural gas produced in the Hugoton field is dedicated to the interstate system which serves customers in Kansas as well as other states. Total natural gas reserves in Kansas are estimated to be about 12 trillion cubic feet, with a life expectancy of approximately 12 years. The importance of natural gas in Kansas is illustrated by the fact that 82% of the homes in Kansas are heated with natural gas, and 78% of the electricity used in the state is generated from natural gas. In total, 83% of the non-transportation energy used in Kansas is supplied by natural gas.

Kansas has about 22 gas companies that produce or purchase and sell natural gas. Of those 22 companies, Cities Service Gas Company, an interstate natural gas pipeline company, purchases about 1/3 of all the gas produced in Kansas and delivers about one-half of all the gas consumed in the state. Cities Service supplies about 71% of the residential and commercial requirements and 49% of the industrial, electrical power generation, and other natural gas requirements of the state. The largest intrastate gas company in the state, Kansas Power and Light Company, provides approximately 16% of the total natural gas sold in this state. The balance of the natural gas sold in Kansas is provided by the remaining 20 inter- and intrastate natural gas companies.

Natural Gas Regulation. The responsibility for natural gas regulation is divided between federal and state regulatory agencies. The Natural Gas Act of 1938 gave the Federal Power Commission jurisdiction over sales made by interstate pipelines to local distributors (sales for resale) and over the transportation of natural gas by interstate pipelines. In 1954, the U.S. Supreme Court ruled in Phillips Petroleum Company v. Wisconsin, that the Federal Power Commission also had regulatory authority over producer sales to interstate pipelines. Thus, the following three transactions are now regulated by the Federal Power Commission: producer sales to interstate pipelines; interstate pipeline sales to distributors; and interstate pipeline transportation for direct sales. The key characteristic of the interstate market is that the price of natural gas at the wellhead is determined by the Federal Power Commission. This uniform national ceiling price is currently set at approximately 51¢ per thousand cubic feet (mcf).

At the state level, the Kansas Corporation Commission is authorized to exercise regulatory authority over the production and conservation of natural gas and the transmission and distribution of intrastate natural gas. In other words, intrastate natural gas is gas which is produced in Kansas, transported in an intrastate pipeline, and consumed in Kansas. Intrastate gas is regulated by the Kansas Corporation Commission. Interstate natural gas is gas dedicated to the interstate system and all natural gas which is transported in an interstate pipeline. This gas falls under the regulation of the Federal Power Commission. The Kansas

Corporation Commission does not, however, have the authority to regulate the price of intrastate natural gas at the wellhead.

Natural Gas Problems. During the past few years, the nation and Kansas have experienced shortages of natural gas. While production of natural gas has remained relatively stable and some new supplies have been discovered, the total production has not been sufficient to meet the growing demand for this efficient and clean-burning fuel. Representatives of the natural gas industry were in general agreement that the shortages now being experienced are the result of too much regulation by the federal government. Several representatives noted that the primary reason for the shortages was that an artificial demand was created for natural gas due to the very low price set by the Federal Power Commission. Because of this low price, industries switched to natural gas instead of using coal or other forms of energy. Representatives of the natural gas industry also agreed that price deregulation of new natural gas is a single most effective measure that could be taken today to alleviate the natural gas shortage. It was noted that natural gas selling at 50¢ per mcf is equivalent to a barrel of crude oil selling at \$2.00, while the market value of a barrel of crude oil is currently about \$12.00. Producers also noted that the cost of drilling new wells had increased dramatically in recent years. For example, a 4,500 foot gas well one year ago would have cost about \$50,000. Today, this same well will cost from \$90 to \$100,000.

Other suggestions and recommendations made by representatives of the natural gas industry included: (1) that S.B. 564 and any similar legislation which attempts to regulate intrastate

natural gas should be defeated; (2) the enactment of legislative incentives to stimulate new production of natural gas in Kansas (this suggestion is being studied by the Special Committee on Assessment and Taxation as Proposal No. 67); (3) that the KCC be given authority to automatically pass through the increased cost of supply of natural gas in order to eliminate the need for full rate hearings arising from each purchase; (4) that legislation be considered which would declare intrastate natural gas lines in Kansas to be common carriers; (5) that the state strongly oppose any federal legislation which would regulate intrastate natural gas; (6) and, that the Kansas Department of Economic Development be motivated to stimulate the natural gas industry in Kansas.

Various consumers affected by natural gas shortages and curtailments also appeared before the Committee. For example, representatives of agricultural irrigation stated that a supply of natural gas for irrigation fuel is of vital importance to agricultural production in several parts of the state. It was stated that without reasonably priced natural gas to fuel the irrigation engines, there will simply be no irrigation in southwest Kansas because there is no reasonably priced alternate energy source available.

Representatives of the alfalfa dehydrating industry stated that a supply of natural gas is essential to the survival of this industry. It was noted that it takes approximately 10 mcf of natural gas to produce one ton of dehydrated alfalfa. At present alfalfa dehydration is placed in FPC priority categories 2, 3, or 6, which may subject this industry to natural gas curtailments. Representatives of this industry stated that it is imperative that

a high priority be established for the use of natural gas for agricultural processes including alfalfa dehydration. Representatives of the fertilizer industry stated that natural gas is important as a feedstock in the production of fertilizer. It was stated that low gas and oil prices have caused wasteful use of these resources and that deregulation would let the free economy reduce gas and oil use through higher prices.

Representatives of the fiberglass insulation industry stated that, at present, natural gas is the best fuel source for the process of fiberglass manufacture. It was noted that for each BTU of natural gas used in producing fiberglass insulation, 600 BTU's are saved over the normal mortgage lifetime of the building in which the insulation is installed. In order to assure a stable supply of natural gas, these representatives expressed support for S.B. 564 as a means to fairly allocate natural gas at a fair price.

Representatives of the municipal electrical systems of Kansas stated that 66 of the 67 municipal generating systems depend solely on natural gas or middle distillate or residual fuel oils for energy production. During the first three months of 1975, the municipal systems experienced natural gas curtailments of more than 38,000 hours which necessitated the use of alternate forms of energy. The use of alternate fuels has resulted in very large increases in the cost of electrical power generation by these municipal systems. These representatives stated that they are attempting to convert the municipal systems to alternate forms of energy. However, these representatives recommend that intrastate gas in Kansas be placed under the jurisdiction of the Kansas

Corporation Commission, both for pricing and allocation, until the conversion to alternate forms of energy can be accomplished.

Representatives of the Kansas Association of Commerce and Industry stated that, given the limited supplies of natural gas available, state regulations should be undertaken only so far as to determine priority of use. These representatives stated their belief that the state government should avoid those types of regulation of natural gas which would work to decrease rather than increase the available supply.

Several conferees noted that the state should consider conservation measures to reduce the consumption of this scarce commodity. It was suggested that the state attempt to establish a conservation ethic among Kansas citizens in order to conserve the dwindling supplies of natural gas. The Committee also considered a staff memorandum which detailed various policy considerations relating to action by the state government in the field of natural gas.

Natural Gas Proposals. Pursuant to its charge, the Committee monitored legislative and regulatory proposals and action at the federal level. A number of bills pertaining to the natural gas situation are currently pending in the U.S. Congress. However, for a variety of reasons, no definitive action relative to the natural gas problem has been taken at the federal level. Several of these federal proposals have serious implications for the state. One proposal in particular, S 692, would virtually eliminate a producing-state's control over the production, distribution and pricing of intrastate natural gas. Since proposals such as S 692 would drastically alter the existing authority of the state with

regard to natural gas regulation, any action at the state level may very well be nullified by federal enactment at some future time. Consequently, the Committee feels that the alternatives available for state legislative action are severely limited. As of the writing of this report, it is still uncertain as to when, or even if, the U.S. Congress will make a policy decision which would then allow the states to make appropriate legislative responses.

Conclusions and Recommendations