

MINUTES OF THE House COMMITTEE ON Energy and Natural Resources

The meeting was called to order by Representative David J. Heinemann at  
Chairperson

3:00 ~~xx~~ a.m./p.m. on February 22, 1983 in room 313-S of the Capitol.

All members were present except:

Representative Keith Roe (excused)

Committee staff present:

Ramon Powers, Research Department  
Theresa Kiernan, Revisor of Statutes' Office  
La Nelle Frey, Secretary to the Committee

Conferees appearing before the committee:

Representative Kerry Patrick.  
Representative Keith Farrar.  
Representative Robert H. Miller.  
Hattie Norman.  
Representative Lawrence Wilbert.  
Representative Harold Guldner.  
Representative Ed Rolfs.  
Representative Elaine Hassler.  
Representative Bill Fuller.  
Representative Bob Ott.  
Representative Jayne Aylward.  
Representative Bob Vancrum.  
John Will, Northern Natural Gas Company.  
Donald Schnacke, Kansas Independent Oil and Gas Association.  
Glenn Cogswell, Northwest Central Pipeline Corporation.  
Ron Gaches, Kansas Association of Commerce and Industry.  
R. D. Randall, Petroleum, Inc.  
Ed Reinert, League of Women Voters of Kansas.

HB 2264 - An act establishing the Kansas natural gas authority; prescribing its membership, organization, powers and duties; authorizing the acquisition of property, the issuance of bonds, and the financing of its operation and payment of the cost of properties acquired.

Representative Kerry Patrick, key sponsor of HB 2264, testified in support of the bill. He said that co-sponsors of this proposed legislation believe the solution to natural gas pricing problems is the total removal of natural gas price controls, coupled with the breaking up of the monopoly which transmission pipelines and retail natural gas suppliers presently enjoy. He stated that free-market principles are the solution, but where these principles are not permitted by federal law to work, measures such as HB 2264 must be taken. He emphasized that the bill is a pro-competition measure, designed to aid both consumers and businessmen as they combat the present natural gas monopoly (see attachment 1).

Representative Keith Farrar, co-sponsor of HB 2264, testified in support of the proposed legislation. He said that he and others have felt frustrated, in that they apparently have not convinced the natural gas pipeline companies operating in the Hugoton field to change the direction they have been going the last few years. He noted that perhaps by introducing this bill, pipeline companies will respond by moving more natural gas out of the Hugoton field to benefit the Kansas consumers and in turn help restore the economy in Western Kansas (see attachment 2).

Representative Robert H. Miller, co-sponsor of HB 2264, testified in support of the bill. He said that interstate pipeline companies have little incentive to control their costs because of conditions under which they are regulated by the Federal Energy Regulatory Commission. He stated that these higher costs are ultimately passed on to consumers who are faced with a non-competitive situation; non-competitive because natural gas is provided by only one local utility company. He noted it is difficult to understand the reasons for high-priced natural gas when so much is available. He thought

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room 313-S, Statehouse, at 3:00 ~~xx~~ p.m. on February 22, 1983.

HB 2264 offered an innovative approach to solving this problem (see attachment 3).

Hattie Norman, a Kansas senior citizen, testified in support of HB 2264. She said that because natural gas utility prices are so high, many senior citizens are faced with the dilemma of either paying their utility bills or buying food. She noted that passage of HB 2264 might cause natural gas prices to decrease, enabling more senior citizens to be able to afford the costs of their utilities.

Representative Lawrence Wilbert, co-sponsor of HB 2264, testified in support of the bill. He noted that many countries own their own oil supplies which allows them to regulate their own natural resources, thus controlling their own destinies. He said it is his understanding that the intent of HB 2264 is to allow Kansas to do this by purchasing and reselling Kansas natural gas from Kansas gas fields at an affordable price to the state's natural gas consumers (see attachment 4).

Representative Harold Guldner, co-sponsor of HB 2264, testified in support of the proposed legislation. He noted that natural gas suppliers, with the help of government regulations, are now able to hold gas prices at artificially high levels during a time of oversupply, while drastically cutting production of the cheapest gas in the nation--gas from the Hugoton field. He said HB 2264 would promote competitive free enterprise and perhaps encourage companies to renegotiate take-or-pay contracts and blend in more of the cheaper gas so the price to consumers will stop rising (see attachment 5).

Representative Ed Rolfs, co-sponsor of HB 2264, testified in support of the bill. He said passage of HB 2264 would allow Kansans to use the natural gas resources in the state for the benefit of the people of Kansas. He said the bill would allow Kansas to act, not just talk about the outrageous increases that have been unnecessarily thrust upon them (see attachment 6).

Representative Elaine Hassler, co-sponsor of HB 2264, testified in support of the proposed legislation. She noted that high-priced natural gas has had an adverse affect on utility costs at Kansas schools, causing an increasingly larger percentage of a school's budget to be used to pay utility costs. She stated that these increased expenditures for utilities cut other budget items, adversely affecting educational programs. She thought this bill would encourage lower natural gas prices which would benefit consumers.

Representative Bill Fuller, co-sponsor of HB 2264, testified in support of the bill. He said the need for the legislation arose in part out of frustration with the pipeline companies who purchase higher-priced natural gas while not using cheaper gas in the Hugoton field. He said he thought the bill would focus attention on the need for a solution to these high-priced natural gas woes.

Representative Bob Ott, co-sponsor of HB 2264, testified in support of the proposed legislation. He said there were definite problems created because of high-priced natural gas and he thought that a free-enterprise system would address some of the associated problems. He also said take-or-pay contracts should be renegotiated since they are not in consumers' best interests.

Representative Jayne Aylward, co-sponsor of HB 2264, testified in support of the bill. She said she receives a lot of correspondence from her constituents saying that they have problems paying their natural gas utility bills. She read a letter from a businessman in her legislative district who was very concerned about the high price of natural gas and the affects it has on Kansas businesses and industries. She said this is a serious problem for the whole state, and the state legislature should take some type of action to solve the problem.

Representative Robert Vancrum, co-sponsor of HB 2264, distributed testimony in support of the proposed legislation. In the testimony, he noted that it was obvious the current price structure for natural gas was not working. He stated that anytime you have a product readily available in one part of the

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state that is not being produced because it cannot be sold at a fair price, and consumers in another part of the state are being charged eight or ten times as much for the same product as they have been paying to state producers, something should be done to rectify the situation (see attachment 7).

John Will, Northern Natural Gas Company, testified in opposition to HB 2264. He referred to the Natural Gas Act of 1938 (NGA), and some of the requirements set out in the Act which regulate the interstate natural gas transmission and sales of Northern Natural. He noted that since enactment of the NGA, transmission and sales have been under the jurisdiction of the Federal Energy Regulatory Commission. He said that in his understanding of the NGA, he thought at least two parts of HB 2264 would violate the so-called Commerce Clause of the Constitution of the United States if the bill was enacted and attempted to be applied against an interstate, FERC-certificated natural gas pipeline doing business in Kansas. He elaborated on his reasons for believing they were unconstitutional, and the difficulties they would pose to the natural gas industry. He also noted that in enacting the NGA, Congress plainly intended that federal control over interstate natural gas transportation would be exclusive, that no state would have the power to regulate in that area (see attachment 8).

Donald Schnacke, Kansas Independent Oil and Gas Association, testified in opposition to HB 2264. He said if this proposed legislation was enacted--every property, every new well--all financial effort devoted to natural gas exploration from now on would have to be weighed with the threat that some day the property might be taken over by the State of Kansas. He stated that the threat of condemnation of natural gas-producing properties would reflect on the enthusiasm of investors, the attraction of risk capital, and drilling activity that would take place in the future in Kansas. He also included with his testimony a point-by-point explanation of the federal administration's Natural Gas Proposal listing Department of Energy specifications for possible comprehensive natural gas legislation (see attachment 9).

Glenn Cogswell, Northwest Central Pipeline Corporation, testified in opposition to HB 2264. He said that Northwest Central had also been frustrated over the rapid rise in their natural gas sale prices caused by circumstances and events beyond their control, and the loss of market caused by economic conditions and other factors. He noted that Northwest is initiating action on every front they can to lower prices, and he outlined some of the company's efforts in this area. He referred to the Natural Gas Act of 1938 and its affects on the transportation of natural gas for resale in interstate commerce. He said that only by changing federal laws and regulations can they legally obtain lower prices for Kansas consumers and increased production from the Hugoton field (see attachment 10).

Ron Gaches, Kansas Association of Commerce and Industry, testified in opposition to HB 2264. He said passage of this type of legislation would lead to the erosion of the separation of government and private enterprise. He noted that in respect to business, the public interest requires the preservation of the benefits of the free, competitive, private-enterprise system, and the elimination of the threat to that system that is inherent in the entry of government into competition with private enterprise in various fields of business activity. He said that his organization noted both philosophical and technical deficiencies in the bill (see attachment 11).

R. D. Randall, Petroleum, Inc., testified in opposition to HB 2264. He said some of the problems the natural gas industry is currently experiencing regarding production and pricing are caused by federal regulations imposed on the industry. He said that federal "regulation by price" has affected the natural gas industry just as it would affect any other industry or company; the solution would be the deregulation of "regulation by price."

Ed Reinert, League of Women Voters of Kansas, distributed testimony regarding HB 2264. He stated that this type of legislation should address the subjects of conservation of natural gas resources and a method of pricing which encourages conservation (see attachment 12).

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A brief question and answer period followed several of the presentations of testimony on HB 2264.

There being no further business to come before the committee, the meeting adjourned at 5:10 p.m.

The next meeting of the committee will be held February 23, 1983.

Rep. David J. Heinemann, Chairman

Date 2-22-83

GUESTS

HOUSE ENERGY AND NATURAL RESOURCES COMMITTEE

NAME	ADDRESS	ORGANIZATION
Deb Miller	Topeka	Gov's Office
Jan Johnson	Topeka	Budget Division
Ed Reinert	Topeka	KS League Women Voters KS Chapt. Soccer Club
Lon Stanton	Topeka	KPL
BILL PERDUE	"	"
NED VAHLDIECK	"	"
Dave Black	"	"
Russ Bishop	KC.	Panhandle Eastern Pipeline
WAYNE BROWN	Omaha	Northern Natural Gas
John Will	"	"
Lon Willoughby	Topeka	InterNorth, Inc.
DAVE SATTERTHWAITE	"	The Gas Service Co
Alley Sloan	"	Reg
Ruth C. Wilkins	"	Girl Scouts
Ed C. Kays	Junction City	Public Rep.
Paul Lambert	Lawrence	Aide Rep Kays
Janora Boham	Topeka	KCA
David W. Nichel	"	RCC
Becky Guldner	"	
Mr + Mrs O.B. Gurdell	Syracuse	USD 494
Karl Guldner	Topeka	KIOGA
Walter Durnin	Topeka	EKOGA



Date 2-22-83

GUESTS

HOUSE ENERGY AND NATURAL RESOURCES COMMITTEE

NAME	ADDRESS	ORGANIZATION
Warren W. Shaw	Topeka, Kan.	Lawyer
Delores Meller	Indian Center 915 NW Western - Topeka	Indian Center of Topeka, KS
Elizabeth Underblomen	915 NW Western - Topeka	Indian Center of Topeka, KS
Nadine Buresh	1220 W. 13th Topeka	Ks. Coalition on Aging
Chub Hickey	804 Merchant Bank	TOPEKA
Emilie Derez	224 W. 5th	Topeka
Mark Intermill	1194 Garfield Topeka	Jayhawk Area Agency on Aging
Arturo Robles	3409 SW 37th	topeka, ks 666 (LULAC)
Hattie Norman	308 2 <sup>nd</sup> Left	Topeka Ks 66607 KDOA
Mary Carter	304 2 <sup>nd</sup> Left	" " "
Rose Suffer	415 Locust	" " "
Marcella Garcia	645 Cassman	" " 66607
Juanita Sugman	645 Cassman	" " 66607
Concha Escobedo		
Gen Cent Houngrum	Hugoton Kan	SWRA
Katie Spangler	Hugoton Ks. 67951	SWRA
Jo Ann Carpino	Pittsburg Kansas 67229	
Dena Revan	Pittsburg, Ks 66762	
Frank Carpino	Pittsburg, Ks	
Nancy Jade	909 W 4th Pittsburg, Kansas.	
Ed Verdine	Hugoton Ks	SWKRA
Georg Burton	" "	W com

Date 2-22-83

GUESTS

HOUSE ENERGY AND NATURAL RESOURCES COMMITTEE

NAME	ADDRESS	ORGANIZATION
Timothy Hageman	Box 903 LA KIN	L.P.G.
Ernest Dennis	Hugoton	WPA
Dr. Bygg	Joba	EKOGA
Jerry Goodrod	Topeka	KGEE
Tom Daches	TOPEKA	KACI
Andy Jordan	K.C. Mo.	Panhandle Eastern
Louis Stroup Jr.	McPherson	KMU
Al Ramirez	State House	Representative
<del>Tom</del>	Wichita	LAWSON
<del>Don</del>	Topeka	KPC
<del>John</del>	Lawrence	GRMC
<del>Doris</del>	Topeka	NOVE
Susan Jones		
Bill Wilson	Wichita	KTVH
Ed Peterson	Topeka	KCC

73 attendees

KERRY PATRICK  
REPRESENTATIVE, TWENTY-EIGHTH DISTRICT  
JOHNSON COUNTY  
10009 HOWE DRIVE  
LEAWOOD, KANSAS 66206



TOPEKA

HOUSE OF  
REPRESENTATIVES

COMMITTEE ASSIGNMENTS  
VICE-CHAIRMAN PENSIONS, INVESTMENTS,  
AND BENEFITS  
MEMBER JUDICIARY

Attachment 1  
2-22-83 House Energy  
and Natural  
Resources

Mr. Chairman, the co-sponsors of House Bill 2264 wish to thank you and the Committee for having so prompt a hearing on this bill.

I. INTRODUCTION

The present natural gas policy of this country is economically, politically, and morally indefensible. It is threatening both our economic and social life in Kansas and the rest of the country.

There is no way to explain to our fellow Kansans that, through the dictates of federal law, cheap Kansas gas remains shut in; and expensive out-of-state gas, with the added cost factor of higher transmission costs, is pumped into Kansas homes and businesses. This policy is forcing the elderly and the poor to make the choice between freezing and eating. Young couples are facing gas payments equal to monthly mortgage payments.

Natural gas prices have increased approximately 160% over the past three years. Natural gas transmission costs have risen over 395% over the past decade. The Federal Energy Regulatory Commission and the Kansas Corporation Commission have predicted that natural gas prices will be state-wide 40% higher next year. Contrasting this, is the fact that other forms of energy--oil prices have dropped over 25% the past year, and coal prices have dropped over 20% in the past year.

Perhaps the article attached to my testimony from the Wichita Eagle-Beacon will highlight some of the problems which have been brought about by federal law. (see attachment "A")

Is this an example of a free market system? Is this an example of an economic system which is working in the best interests of all concerned? Obviously not. This article shows how deeply and seriously flawed the present federal laws, under which we must operate, are. Congress has been aware of the problems it has caused since 1980, yet it has taken no action. And, according to one of the most influential oil and gas magazines, it will take at least two or three years before any action of any sort will be taken.

The co-sponsors of this legislation believe that total removal of natural gas price controls, coupled with the breaking up of the monopoly which transmission pipelines and retail natural gas suppliers presently



enjoy, is the solution to our natural gas pricing problems. We believe that free market principles are the solution, but where these principles are not permitted by federal law to work, then measures such as HB 2264 need be taken.

This bill is a measure which will inject competition into the present natural gas system. This measure is pro-competition, and is designed to aid both consumers and businessmen as they combat the present natural gas monopoly.

Going back to 1905, then Governor Hoch promoted and saw enacted into law a measure which would have brought about the construction of a state-owned oil refinery and transmission pipelines to counter the anti-competitive effects of the Standard Oil monopoly. This bill stands in that historic tradition, in an effort to combat the effects of the natural gas monopoly in this country.

Admittedly, this is a unique proposal to Kansas, but then again, principles of this proposal are present today in Kansas and American economic life:

A) Ownership of oil and gas wells

1. In Texas--The state there owns and/or controls between 10,000 and 11,000 oil and gas wells on state lands. They operate these wells through private contractors and they are operated effeciently and effectively. Net revenues from these wells was estimated to be \$500 million this past year.

2. In Oklahoma--The state of Oklahoma owns and/or controls approximately 1,000 and 1,200 wells, with revenues of approximately \$60 million.

3. In Kansas--According to legislative research, the State owns and/or controls already 200 to 250 oil and gas wells on state-owned land.

Nebraska, Colorado and other states also own wells...are these states socialistic?

B) Public owned utilities

1. In Kansas, according to the Kansas Corporation Commission:

a. Almost 17% of all electrical power is generated by municipally-owned utilities,

b. 50 Kansas municipalities are engaged in the retail sales of gas, including cities such as Winfield, Lawrence, Iola and Anthony.

B)

2. In Nebraska, all electrical power in the state is generated by publicly-owned power districts.

This measure is designed to stimulate competition in a segment of our economic life which knows none.

How?

1) By purchasing and/or condemning working interests of inexpensive Kansas gas, the State will be in a position to control and sell that gas to Kansas consumers, substituting the less expensive for the more expensive out-of-state gas.

A. According to the Kansas Corporation Commission, the Hugoton field possesses recoverable reserves without resorting to secondary recovery methods, reserves of 11 trillion cubic feet, which under law, would be sold at an average price of .57¢ per mcf, as opposed to the average \$5.00 per mcf that the consumer is now paying in Kansas.

B. 1982 production from the Hugoton field was a little over 214 bcf. The proposed 1983 takes from the field is to be some 20 to 30 percent lower. The 1982 production figure is some 200 lower than takes from the field, prior to the passage of the N.G.P.A. of 1978.

According to the industry and the Kansas Corporation Commission, Hugoton field production could be economically produced at a rate of 500 BCF per year. So then the decline in demand for inexpensive Kansas gas is not due to declining reservoir pressure or lack of gas present in the field; but, due to a conscious decision of producers like Amoco to substitute \$6.80 Wyoming gas for .85¢ Kansas gas as noted in the newspaper article.

Once again--is this the free market at work, where the lowest priced good is not sold, and the higher priced good is? This measure gives those high-priced producers competition.

2) By declaring both inter- and intrastate pipelines to be common carriers. Under existing state and federal law, producers are obligated to sell their gas production only to the transmission companies who in turn sell it to the retail natural gas suppliers.

A. By making these pipelines common carriers, producers and end users can enter into direct negotiations for the sale of gas. Thereby providing competition to the present transmission and retail suppliers who have a monopoly on the sale of natural gas. The transmission pipelines would be paid a reasonable fee for transporting the gas--All consumers would benefit from the competition.

B. Reduce transmission costs for Kansas consumers. More gas that is pumped from the Hugoton field to say Wichita, Topeka, or Kansas

City--the lower the end price to those consumers than transporting the gas from Wyoming.

C. Hooking up of wells not on existing lines--more gas available.

3) Constructing new pipelines--more competition.

4) Condemning existing pipelines--more competition.

Breaking up the natural gas transmission monopoly and providing competition to high-priced producers is what this measure is all about.

## II. ECONOMIC BENEFITS

1) Royalty owners higher income through increased production.

2) Local units of government will have more revenue, thus the area will experience overall lower property taxes.

3) Local businessmen will benefit due to overall lower taxes and greater income in royalty owner's pockets, through higher production rates.

4) Statewide consumers of all varieties benefit through lower gas by having higher real disposable incomes, AND therefore all businessmen benefit, since consumers have more money to spend.

5) More tax revenue generated without any tax increase.

## III. LEGAL

Obviously, the big oil companies which control 86% of the Hugoton field will be opposed to the bill. They will say that it is unconstitutional and illegal.

Much of this bill follows the language in the bill creating the Kansas Turnpike Authority, a constitutional, legal entity which has been operating for over 25 years.

These same big oil attorneys who will tell you that this bill is unconstitutional will be the same ones who told you that the Kansas Natural Gas Pricing Protection Act would be unconstitutional. Yet, the Kansas Supreme Court upheld the constitutionality of the bill, 7-0; and, the United States Supreme Court upheld the measure by a vote of 9-0.

There are five legislator attorneys on this bill who believe it to be constitutional. We have studied it, and believe it to be so, because of our own research, and because of discussion with other attorneys

Wichita Beacon 2/3/1983

# Gas Supplier Takes Fight Before FERC

By Gary Haden  
Staff Writer

Northwest Central Pipe Line Co. has asked federal regulators to sanction the company's fight against the use of expensive Wyoming gas.

The company, the largest supplier of interstate gas to Kansans, says it could cut residential gas bills by millions of dollars annually if it were allowed to stop buying the expensive gas from 84 Wyoming wells.

If the effort is successful, the gas bills of half a million Kansans could be cut by an average of about \$24 during 1983, said a spokesman for Northwest Central, formerly Cities Service Pipeline Co. Similar savings would continue in future years.

**CUSTOMERS OF** the Gas Service Co., Union Gas System and Kansas Power & Light's "C" system would be affected — about 90 percent of Wichitans burning gas in their homes.

Northwest Central petitioned the Federal Energy Regulatory Commission last week for a ruling on the proposal.

The company wants to replace 8.56 billion cubic feet of Wyoming gas at \$6.80 per unit with a like amount of gas from Kansas' Hugoton Field at 85 cents per unit.

Standard Oil of Indiana (Amoco) owns all 84 Wyoming wells, which are in the Wamsutter area. Amoco also produces the bulk of Northwest's Hugoton gas, so its expensive Wyoming gas would be replaced by the cheaper Hugoton gas.

**RC. EDWARDS** of Chicago, vice president for gas sales of Amoco Production, said Northwest had "chosen a rather drastic solution to a problem." He claimed that Northwest could "solve the problem itself overnight" by taking advantage of flexibility in its contracts with Amoco.

Edwards said there is sufficient flexibility in those contracts to allow the pipeline company to shift more of its production from expensive Wyoming production to cheaper Hugoton gas without going to the FERC.

He said current contracts would require Northwest to make payments to Amoco if no gas were taken from the Wyoming wells, but that Northwest would have the right to make up the takes from the Wyoming wells over a five-year period. Instead, he charged, Northwest wants Amoco to bear all of the burden in the matter.

**HE SAID** Northwest's actions surprised him, particularly in light of Amoco's willingness to grant Northwest some relief from take-or-pay requirements in the contracts.

But Northwest Central's vice president for corporate communications, J.N. Vallely, said Wednesday, "We were shocked and surprised to

hear Mr. Edwards' comments. At best, they were careless; at worst, irresponsible, because they are extremely misleading to the public."

He said, "Northwest Central made Amoco a fair offer to resolve the situation. It was rejected out of hand. They have not made any counteroffer and have been unwilling to negotiate. Instead, Amoco is now trying to give gas consumers the erroneous impression that the problem can be settled overnight if only we were to adopt their quick-fix solution.

"Amoco's quick-fix solution is for Northwest Central to not take their expensive gas but to go ahead and pay them more than \$100 million a year for it. The only other alternative they offer is decontrol of all natural gas prices."

**VALLELY TERMED** Amoco's solution "the cruelest hoax anyone can play on gas consumers."

The Oklahoma City-based pipeline's efforts to rid itself of the obligation to purchase the expensive Wyoming gas are being carried out on two fronts.

The company has advised Amoco that it intends to stop taking gas from the 84 wells on the grounds that the 19 contracts in force say it does not have to buy the gas if "gas delivered from these wells is uneconomical" — in other words, the gas cannot be resold.

Simultaneously, Northwest is asking the FERC for a declaratory judgment that Northwest will not violate the Natural Gas Act of 1938 if it temporarily stops taking gas from the wells.



2-1-83

Southwest Daily **NEWS**

## Comment



### IN WASHINGTON

Robert Walters

## Ignoring The Cheap Gas

WASHINGTON (NEA) — The natural gas that's readily available from easily accessible geological formations beneath Ohio and New Mexico hasn't been selling very well in recent years — because it's too cheap.

But the natural gas that's especially difficult to retrieve from offshore fields and very deep wells in Louisiana and Texas has been in great demand throughout the early 1980s — because it's unusually expensive.

That preposterous situation was created by an oil and gas industry which currently is seeking the removal of federal price controls on the low-cost gas, an action it claims will produce substantial savings for its customers.

But that same industry is now withholding from the market natural gas which costs less than \$1 per thousand cubic feet (Mcf) at the wellhead while selling its customers natural gas whose wellhead price is as high as \$10 per Mcf.

Although that high-cost natural gas is being "rolled in" or blended with cheaper fuel to moderate the price, the wellhead cost of the most expensive natural gas is equivalent to more than \$60 for a barrel of oil at a time when oil is selling for about half that.

The firms which dominate the industry — the natural gas producers (principally the country's major oil companies) and the corporations which operate the long-distance gas transmission pipelines — blame the unconscionable price disparity on the provisions of the Natural Gas Policy Act of 1978.

That federal law did indeed establish a disparate array of wellhead prices for approximately two dozen different categories of natural gas — but it surely did not require that unjustifiable emphasis be placed on production and sale of fuel in the most expensive price classifications.

Nevertheless, wells have been "shut in" or temporarily capped in natural gas fields throughout the country which contain substantial, proven reserves of low-cost fuel. In other instances, there are reports of cheap gas being vented from the wellhead into the atmosphere and thus irrevocably lost.

Nowhere are the inequities of the situation more apparent than in the Guymon-Hugoton field, the nation's largest single natural gas reserve which covers more than 4 million subterranean acres stretching from southwestern Kansas into the Oklahoma and Texas panhandles.

Natural gas from that vast reservoir sells for as little as 27 to 50 cents per Mcf at the wellhead, but the five interstate pipeline companies which rely upon that field have dramatically reduced their withdrawals in recent years.

The Panhandle Eastern Pipeline Co. says it is "temporarily resting its well" in the Guymon-Hugoton field. The Cities Service Gas Co. has cut back its purchases from the field while signing new contracts for natural gas priced at \$7 to \$9 per Mcf.

When a Cities Service executive was asked if the firm was considering renegotiating those contracts, he replied: "Why should we be doing that? How would that benefit our customers?" Instead, the firm has petitioned federal regulators for millions of dollars worth of rate increases — which eventually will be borne by consumers of the fuel.

The El Paso Co. has rebuffed small producers in the San Juan Basin of New Mexico which previously sold the pipeline firm natural gas at wellhead prices of \$2 to \$3 per Mcf for transmission to El Paso customers in Southern California.

Instead, El Paso has been paying \$8 to \$10 per Mcf for natural gas from the Anadarko Basin in Oklahoma — which then must be transported a greater distance to the West Coast.

In mid 1982, the Columbia Gas System Inc. asked thousands of its suppliers of low-cost natural gas in Ohio and adjoining states to shut down their wells for five-months. At the same time, the company was committed to purchasing 270 million cubic feet of natural gas from other producers at a projected cost of \$8 to \$8.50 per Mcf.



TOPEKA

HOUSE OF  
REPRESENTATIVES

KEITH FARRAR  
 REPRESENTATIVE, 124TH DISTRICT  
 STEVENS, GRANT, STANTON,  
 MORTON, HASKELL COUNTIES  
 STAR ROUTE  
 HUGOTON, KANSAS 67951

COMMITTEE ASSIGNMENTS  
 MEMBER WAYS AND MEANS  
 JOINT COMMITTEE ON STATE BUILDING  
 CONSTRUCTION  
 INSURANCE

Attachment 2

2-22-83 House Energy  
 and Natural  
 Resources

## PRESENTATION TO HOUSE ENERGY AND NATURAL RESOURCES COMMITTEE

TUESDAY, FEBRUARY 22, 1983

HB 2264

Mr. Chairman and members of the committee, I am sure many of you wonder why 21 legislators would consider condemning or purchasing natural gas pipelines and natural gas wells, and especially why I would be one of the 21. I will tell you it is certainly against my philosophy. However, as most of you are aware, over the past 5 years there has been a drastic reduction in natural gas produced in the Hugoton field. Not because the wells would not produce, but rather that most of the pipeline companies chose to take more and more high priced natural gas from other fields and have left the cheaper natural gas in the Hugoton field. The result has been a reduction in the economy in the area, in less jobs available in the gas companies, the Gas Service Industries, and certainly less income to the royalty owner. As this continues, there will be a reduction in the ad valorem tax base resulting in higher property taxes.

The natural gas companies have been saying that we can't do anything about the problem, and in many instances I feel natural gas pipeline companies have not tried very hard to renegotiate the high priced take or pay contracts (which has become an increasing source of their supply from other fields) since they don't feel they have to take the Hugoton field gas, it's like money in the bank and leaving it there, it will

draw interest. In the meantime, not only is the southwest Kansas economy suffering, it means less income to the State.

By introducing this bill and holding hearings such as this on the need or not of this type of legislation (I certainly hope we don't need it) the gas companies will find that possibly the state could do something like the bill suggests and therefore if the companies intend to continue to control the natural gas reserves in the Hugoton field, it would be to their best interest to actively pursue those methods which would result in producing more natural gas from the Hugoton field.

I and others have felt frustrated in apparently not convincing the natural gas pipeline companies operating in the Hugoton field to change the direction they have been going the last few years and as the old story goes, to get the stubborn mules attention, sometimes you have to use a good sized 2 x 4. I believe HB 2264 meets those measurements in seasoned oak. Hopefully, the pipeline companies will be able to provide an answer which will result in moving more natural gas out of the Hugoton field to benefit the Kansas consumer and in turn help restore the economy in western Kansas. We have a few natural gas companies doing everything they can to move Kansas gas, however we have some companies who seem to have forgotten they got their start in the Hugoton field and are more concerned about their investments in other areas.

You will notice my concerns are leveled at the pipeline companies, not the producers. In most instances, the producers in the Hugoton field area have no leverage on the pipeline companies to purchase the available cheap natural gas the producer would like to sell. My view

of the present situation is that free enterprise and the old supply and demand theory is not allowed to work. (Such as making available to the public a product that is cheaper to produce in a competitive market.) The pipeline companies are acting as a monopoly and choose which price gas they will make available to the ultimate consumer.

Something has to be done. The Kansas legislature cannot sit idly by without exploring all alternatives available, to make sure a Kansas resource (cheaper natural gas for homes and industry) will again be produced and consumed in Kansas in volumes that are more in line with the ability of the gas field to produce.



# STATE OF KANSAS

ROBERT H. MILLER  
HOUSE OF REPRESENTATIVES  
Sumner County



TOPEKA

HOUSE OF  
REPRESENTATIVES

COMMITTEE ASSIGNMENTS  
CHAIRMAN: RULES AND JOURNAL  
LEGISLATIVE POST AUDIT COMMITTEE  
FEDERAL AUDIT COMMITTEE  
MEMBER: WAYS AND MEANS  
PENSIONS, INVESTMENTS AND  
BENEFITS  
NATIONAL CONFERENCE OF STATE  
LEGISLATURES COMMITTEE ON  
AGRICULTURE, FOOD AND  
NUTRITION

Attachment 3

2-22-83 House Energy  
and Natural  
Resources

To understand why the cost of natural gas used in Kansas is soaring at a phenomenal rate, it is necessary to look at several recent events. A few years ago pipeline companies which transport natural gas to the local gas utilities or distribution companies, faced shortages and were unable to deliver all of the necessary gas desired by customers. I'm uncertain whether these shortages were real or just created. These severe gas shortages forced the closing of schools and factories and necessitated curtailment of new residential hookups in portions of the state.

Determined to prevent a recurrence of these circumstances, the interstate pipeline companies signed long-term agreements with the producers of natural gas, which assured a more reliable supply in the future but in effect obligated the pipeline companies to buy gas at almost any price. Those companies which act as wholesalers or middlemen between the producers and the local distributors have little incentive to control their costs because of the conditions under which they are regulated by the Federal Energy Regulatory Commission. FERC procedures allow the pipelines to submit, every six months, purchased gas adjustment filings, which allow them to automatically pass through to

ATTACHMENT 3

their customers, the local utilities, the cost increases imposed by the producers. Although FERC has the power to challenge these filings, it seldom scrutinizes and almost never contests them. Our local utilities then must pass on their higher costs to the customer. At the end of this line is the helpless consumer, our constituent, who is faced with a non-competitive situation which natural gas is provided by only one local utility company.

It is an uncontestable and constantly rising price. What makes these high prices impossible for our constituents to understand is the fact that there is so much natural gas available, that many wells have been temporarily shut in, yet the price continues to escalate. We see no relief or stability of prices in sight.

As legislators we have been looking for any way possible to get an answer to this problem, to get a handle on the situation. We have written our congressmen, we've talked to the regulators, still relief or stability is not in sight. The approach in this bill is innovative, but simple solutions do not solve complex problems.

I carried the natural gas pricing bill when it passed the House of Representatives and served as co-chairman of the joint committee which held hearings on the issue. Not being an attorney, I was in a real quandary. I didn't know how to react to the multitude of witnesses representing the gas industry who said our proposal was illegal, unconstitutional, and politically motivated. However, the majority of the Kansas Legislature did

what was right and passed the bill. Adoption of that one law is estimated to save the Kansas consumer more than \$130 million through 1985. Without a lot of headlines or fanfare, the anticipated court test of that law was conducted and we know the results. Earlier this year the United States Supreme Court unanimously upheld the Kansas law. When those of us who led that fight, and it was a fight, think back over those long weeks, we were pleased to see in the opinion this small pat on the back.

"The fact that there was a close vote at the committee stage, and that some of the committee dissention expressed the view that the Kansas act was special interest legislation, there is not any indication that the Kansas political process had broken down." "The bill was supported by the Governor, labor unions, farmers, and Municipal Representatives, and was passed by substantial margin in both Houses.

I hope that HB 2264 will be the second chapter in this section of Kansas history.

Rep. Lawrence J. Wilbert  
Third District - Kansas

I appear here in support of House Bill 2264. This proposal has been referred to, derogatorily, as the Iran Bill. It could as easily be referred to as the Norway Bill, the Britain Bill, the Nigeria Bill or any-one of the individual Organization of Petroleum Exporting Counties' Bill. They all have one thing in common, they own their own oil supplies.

This past week Britain and Norway cut the price of a barrel of oil by \$3 to \$3.50, setting the barrel price at \$30.50. Nigeria followed shortly thereafter and cut the price by \$5.50 bringing the crude oil price down to \$30 a barrel. It is reported that the OPEC nations have agreed to cut their crude oil barrel price--up to \$7 from their benchmark price of \$34 per barrel.

This recitation of oil price reductions is made to show that government ownership of vital natural resources has precedent allowing nations to regulate their own vital natural resources and in so doing, control their own destinies. For the purpose of argument, suppose those countries had "take-or-pay contracts" which prohibited them from adjusting prices to reflect the supply and demand in the market place--they would find themselves in the identical position the State of Kansas finds itself in, with regard to natural gas from its own natural gas fields.

The "take-or-pay contracts" existing in the natural gas industry has created a deplorable situation where consumers are being "ripped-off" in an unconscionable manner, while unacceptable excuses are given in an attempt to justify the action of the natural gas companies. Of course, this doesn't lower the cost, it doesn't make heat in cold homes, it doesn't boil water or cook meals for those persons whose meager income, if any, does not meet the demands of every day existence. The number of



Kansans unemployed and those living below the poverty level is at one of the state's all time highs. Kansas is among the top states with a high elderly population. Most of these people are retirees and live on a fixed income at an austere level. Their utility bills are usually their largest expenditure, next to food, and, at the present rate of increase, utilities will very soon outstrip food cost.

Congress is presently trying to address this problem in its own deliberate way. Who can say when and if that effort will bring any worthwhile results? The Kansas Legislature can focus the full attention of a recalcitrant industry and the Kansas citizenry on this exploitation of Kansas consumers of natural gas. Hopefully, all those "foot-draggers" who continue to talk, do nothing--except charge exhorbi<sup>ant</sup> prices and predict future raises in price, will respond to this bill's provisions by drastically lowering the price of natural gas. This could be done--by purchasing and reselling Kansas natural gas from Kansas natural gas fields at an affordable price to Kansas natural gas consumers. It is my understanding that is exactly what this bill intends to accomplish.

ED C ROLFS  
 REPRESENTATIVE, SIXTY-FIFTH DISTRICT  
 GEARY COUNTY



TOPEKA

HOUSE OF  
 REPRESENTATIVES

COMMITTEE ASSIGNMENTS  
 CHAIRMAN GOVERNMENTAL ORGANIZATION  
 MEMBER WAYS AND MEANS  
 JOINT COMMITTEE ON ADMINISTRATIVE  
 RULES AND REGULATIONS

Attachment 5

2-22-83 House Energy  
 and Natural  
 Resources

Kansas can be likened to an oasis of plentiful low-cost natural gas in the middle of a vast desert of high-priced natural gas. You can imagine what the people living in the oasis in the midst of this vast desert would do when they are told by some multi-national company that they can no longer drink from the pools of water around which they live, but must drink the water which comes from afar, transported through pipelines, at a very great cost. These people would rise and demand fair and equitable treatment.

This is the situation we find ourselves in today.

As you know, I am no constitutional lawyer, but you and I have taken a pledge, under oath, to uphold and defend the constitution; therefore must we make ourselves knowledgeable in this area and do our best to reach independent judgements.

In 1979, when we passed the Kansas Natural Gas Price Protection Act, many of the same opponents you'll hear from today were saying that bill was unconstitutional. As you will recall, that Pricing Act came up with little notice at the end of the session. I voted against that bill the first time it came through the House. I listened to those people and was convinced they were right. We then adjourned for several weeks

ATTACHMENT 5

before returning for sine die adjournment where we were to take final action. I had the opportunity to contemplate their arguments and visit with other people. I then became convinced their arguments were flawed and I changed my vote to yes, along with several of my colleagues.

The United States Supreme Court recently agreed in a unanimous decision that these companies were dead wrong. My only reason for bringing all this to your attention is to caution you to consider carefully the arguments of constitutionality that these companies will use.

In Proverbs 11, vs. 14, Solomon tells us: "Without vision, the people will perish."

The bill you have before you today is a bill of vision and foresight. It is a bill written for a thirsty people sitting in the middle of our great oasis in the midst of a vast desert. It is a bill that will allow Kansans to use this great asset for the benefit of the people of Kansas. It is a bill which will allow us to act, not just talk about the outrageous increases that have been unnecessarily thrust upon us.

STATE OF KANSAS

HAROLD GULDNER  
REPRESENTATIVE 12TH DISTRICT  
GREELEY HAMILTON KEARNY SCOTT  
WICHITA COUNTIES  
P O BOX 648  
SYRALUSE KANSAS 67878



TOPEKA

HOUSE OF  
REPRESENTATIVES

COMMITTEE ASSIGNMENTS  
VICE CHAIRMAN ELECTIONS  
MEMBER ENERGY AND NATURAL RESOURCES  
TRANSPORTATION

Attachment 6  
2-22-83 House Energy  
and Natural  
Resources

Mr. Chairman, Members of the Committee

It has been said that we are dramatizing or sensationalizing because of the drastic action proposed by this bill. I'll assure you that at least some of the sponsors of this bill feel that we could better be described as work horses instead of show horses. But if we have to dramatize or sensationalize to point out a serious problem we will.

I also know that we as well as about everybody else in this state and nation realize how serious the problem is when they look at their monthly gas bills, and we can thank the Lord for a relatively mild winter so far or they could be a lot worse.

We all know that this country has proven over the years that the capitalistic free enterprise type of government can do more for people than any other type, but even our government, state or national is certainly not always right or expedient. It is, however, the duty of government to try and right the wrong that it has created. We think the wrong in this case was caused by hastily passed laws and regulations made during a time of projected natural gas shortages which allowed an oligopolistic situation to be formed. This group monopoly with the help of government regulations are now able to hold gas prices at an artificial high price during a time of great oversupply of the product while drastically cutting production of the cheapest gas in the nation.

As you probably know we have all kinds of gas prices in this country because of these government regulations. Because of the time drilled and the depth drilled, Kansas has some of the cheapest gas in the nation. Even new wells in Kansas have such a low regulated price that many of them are not in production.

In 1978 and 79 the Hugoton field produced around 800 million cubic feet of gas a day which brought a price of less than 50¢ an M.C.F. Last year it produced about 300 million cubic feet and so far this year it has been producing about 200 million cubic feet and I have heard rumors that a drastic close down will start this week, with most wells only producing the very minimum that it takes to hold the lease which in most cases will mean only five days a month. Many royalty owners are saying that this is all that their wells have been producing for the last couple of years.

One pipeline company has laid off forty or more of its production workers due to cutting production in the field. Also the gas related industries such as salt water haulers, work over rigs and other maintenance crews have been drastically reduced or have gone broke. These people do not pay many taxes when they are not working, can you imagine what all of this is costing the state and local government in revenues. We would probably be getting more than any 7% severance tax will bring.

In closing I want to say that even though we are serious about this bill, the authors would much prefer to see the companies do what is right for the people of Kansas and what I would think would be good for them. That would be to renegotiate those take or pay contracts and blend in more of the cheaper gas so the price to the consumer will stop rising. I know it will take a little longer to pay out those deep wells but it might be worth it to keep from losing customers to other fuels or from having more government intervention. That's the way real competitive free enterprise works.

BO VANCURUM  
REPRESENTATIVE  
OVERLAND PARK  
OVERLAND PARK, KANSAS

STATE OF KANSAS



COMMITTEE ASSIGNMENT  
CHAIRMAN, TELEPHONE AND STATE AFFAIRS  
MEMBER, ASSESSMENT AND TAXATION  
EDUCATION

HB 2264

Testimony: Robert J. Vancrum  
To: House Energy and Natural Resources Committee

HOUSE OF  
REPRESENTATIVES

Attachment 7  
2-22-83 House Energy  
and Natural  
Resources

Thank you very much for the opportunity to appear briefly this afternoon. HB 2264 was sponsored by 21 House Representatives from vastly different areas of the state. No doubt each had different purposes in promoting the bill.

My intentions are fairly straightforward. It is obvious that the current price and structure for natural gas is not working. Anytime you have a product readily available in one part of the state that is not being produced because it cannot be sold at a fair price, and consumers in another part of the state are being charged eight or ten times as much for the same product as they have been paying in to state producers, the people will demand an end to this intolerable situation. It will not do to continue telling the people that we cannot do anything to influence the situation. The plain fact is that the state can step in and condemn the production rights, force the transmission of the gas and become a wholesaler if this is what is necessary to serve the public good.

There is ample legal precedent supporting the states power to do this. Moreover, it will not do for the large companies to continue piously maintaining their private property rights when so many have not been active in the public interest for so long.

Many have asked if we are serious in this endeavor. I have met with the other co-sponsors concerning this bill many times. I am convinced we are all very serious and dedicated to putting an end to the current status quo. I would urge you to promptly take favorable action on HB 2264. I further urge you to ask anyone opposing the bill what affirmative and productive measures they are taking to put an end to the intolerable situation that exists in regard to natural gas prices in Kansas at this time.

ATTACHMENT 7

HOUSE BILL NO. 2264

Testimony On Behalf Of Northern Natural Gas Company

February 22, 1983

My name is John Will. I am, and for the last 24 years have been a lawyer with Northern Natural Gas Company. Northern Natural is an interstate natural gas pipeline company. It owns and operates a pipeline system of more than 22,000 miles. Northern Natural buys gas at or near the wellhead in, among other places, Texas, New Mexico, Oklahoma and Kansas. It sells gas at wholesale in a number of states, including Kansas, Iowa, Nebraska, Minnesota and Michigan. The interstate natural gas transmission and sales activities of Northern Natural have, since the enactment of the Natural Gas Act in 1938, been under the jurisdiction of the Federal Power Commission and now its successor agency, the Federal Energy Regulatory Commission.

During that 45-year period and continuing even now, the FPC and the FERC have required that Northern Natural apply for and get what is called in the Natural Gas Act a "certificate of public convenience and necessity" before building or operating any pipeline which transports natural gas in interstate commerce. Northern Natural has applied for and received such Federal certificates covering all of its interstate gas pipelines in Kansas.

Similarly, the Natural Gas Act also requires that Northern Natural get a certificate of public convenience and necessity



before it can make any sale for resale of its gas to a natural gas distributor. Northern Natural makes sales to more than 70 distributors and has certificates authorizing all such sales.

The jurisdiction of the FERC over the activities of an interstate pipeline does not stop with its authority to grant or deny authority to build facilities and make sales. It extends also to the authority to require that the facilities continue to be used and that the sales continue to be made by the certificate company. Section 7(b) of the Natural Gas Act states that no interstate pipeline company may abandon any of its certificated facilities or sales unless and until it has received the permission of the FERC.

It was with this understanding of the Natural Gas Act that I have read House Bill No. 2264. It is my opinion that there are at least two parts of the Bill which would violate the so-called Commerce Clause of the Constitution of the United States if the Bill were enacted and attempted to be applied against an interstate, FERC-certificated natural gas pipeline doing business in Kansas.

The first is that part of Section 2(b) of the Bill which would authorize the Kansas Natural Gas Authority to, under a certain condition, acquire by the power of eminent domain any existing interstate natural gas pipeline. The second is that part of the same Section 2(b) which would, in the alternative, permit the Authority to declare any such pipeline to be a common carrier.

Both of these two parts of House Bill No. 2264 would, if included in the Bill as enacted, be unconstitutional because they would be an improper interference by a State with the exclusive power of Congress to regulate the interstate transportation and sale of natural gas for resale.

If, for instance, the Authority were to be able to take a portion of Northern Natural's pipeline system by eminent domain, then that portion would no longer be available to Northern Natural to render the service for which the FERC has issued certificates.

In the same manner, if the Authority were to declare a portion of Northern Natural's system to be a common carrier, then that portion would similarly be unavailable for the interstate service for which the FERC authorized it to be built and operated.

I realize that House Bill No. 2264 has been carefully drafted so as to give the Authority the power to acquire by eminent domain or to impose common carrier status on only those pipelines which were operated during the preceding calendar year at an average daily capacity of less than 45 percent of its connected deliverability. One could therefore argue that the exercise of such power by the Authority would not interfere at all with the movement of natural gas in interstate commerce. One could say that if the Authority took or declared to be a common carrier only such portion of a pipeline's capacity as had not recently been used to carry gas in interstate commerce, then the rest of the

system would still be available for certificated interstate transport of gas.

One difficulty with that line of reasoning is that a line which operates at less than 45 percent of its connected deliverability on an average daily basis over a full year may, for several days or weeks during that year, have operated at a much higher percentage of its connected deliverability. This may have been because of seasonal gas demand variations in the interstate pipeline's market area or because of equipment breakdown on some other portion of the interstate pipeline's system, or for some other reason. Therefore, it is entirely possible that any taking of a portion of an interstate pipeline or any imposition of common carrier status on the pipeline by the Authority would interfere with the ability of the interstate pipeline to perform the services for which it has been certificated by the FERC. This would be a direct and unconstitutional burden on interstate commerce.

Another difficulty with these two portions of the Bill is that if Kansas can constitutionally, by eminent domain or imposition of common carrier status, limit the ability of a certificated interstate pipeline to render the service it has been authorized by the FERC to perform, then every other State could also impose its own limitations on the ability of a pipeline to transport natural gas in interstate commerce. If Oklahoma, Texas and New Mexico, for instance, were also to enact statutes similar or identical to House Bill No. 2264, then Northern Natural would never

know from one month or year to the next what portions of its system would be available to render certificated service and what portions would no longer be available for such use. Depending on the percentage of capacity at which Northern Natural operated portions of its interstate pipeline system from year to year, more and more of its system could be either taken by the agencies of the States or subjected to the control of their agencies responsible for regulating common carriers. The resulting possible loss of system operating flexibility and the pipeline's possible inability to supply the daily contract entitlements of its distributor customers would be a direct and unconstitutional burden on interstate commerce.

House Bill No. 2264 is unquestionably innovative. The Natural Gas Act, however, simply does not permit a State to take over the ownership or regulation of interstate natural gas transmission facilities when such facilities have been certificated by the FERC to be owned and operated by an interstate natural gas pipeline company.

Section 1(a) of the Natural Gas Act states that "the business of transporting and selling natural gas for ultimate distribution to the public is affected with a public interest, and that Federal regulation in matters relating to the transportation of natural gas and the sale thereof in interstate and foreign commerce is necessary in the public interest." This shows that in enacting the Natural Gas Act Congress plainly intended that federal control

over interstate natural gas transportation would be exclusive, that no State would have the power to regulate in that area.

The same Congressional intent is also shown in Section 7(c) of the Natural Gas Act. Congress there decreed that no person shall construct, acquire or operate any facilities for the interstate transportation of natural gas unless they have first received from the Commission a certificate authorizing such construction, acquisition or operation. Like Section 1(a), this Section of the Act shows a clear Congressional intent that it be the Federal government and not the States who should control the acquisition and operation of lines to transport gas in interstate commerce.

It could be argued that Section 7(c) does not apply to a State's acquisition and operation of interstate gas transmission lines. Any such argument would not, however, be found valid by the United State Supreme Court. The legislative history and judicial decisions under the Natural Gas Act consistently support the principle that Congress has preempted all regulatory powers over the transportation of gas in interstate commerce. Congress has declared that the interstate transportation of gas is a national and not a State concern. With the Natural Gas Act in place, and with Federal preemption of the power to regulate in this area, the interest of Kansas in acquiring or controlling interstate gas pipelines in Kansas is subordinate to the national interest. Therefore, these two parts of House Bill No. 2264 would, I believe, be found unconstitutional if attempted to be applied to certificated interstate natural gas pipeline facilities.

\* \* \* \* \*



# KANSAS INDEPENDENT OIL & GAS ASSOCIATION

500 BROADWAY PLAZA • WICHITA, KANSAS 67202 • (316) 263-7297

February 22, 1983

To: House Committee on Energy and Natural Resources.

Re: HB 2264 - Kansas Natural Gas Authority.

We are appearing in opposition to HB 2264.

Attachment 9/2-22-83  
House Energy and Natural Resources

Last week, I met with our Association's Committee on Natural Gas along with 30 Kansas natural gas producers in Wichita. We discussed the bills that are before the legislature presently involving the subject of natural gas. HB 2264 was discussed in some detail. You would not believe the expressions of astonishment and dismay that arose from the meeting. They didn't believe that such a bill could arise in Kansas USA.

These producers, before expressing technical objections, labeled this as a pure socialistic approach to a very complex problem. They felt it was a direct slap at an important industry that has been operating for years in Kansas - investing heavily - creating thousands of jobs - and generated millions of dollars in state and local taxes over the many years. The bill caught them all by surprise - none of the sponsors had talked to anyone in the industry about this bill.

The flavor of all the bills before your committees in the Senate relating to natural gas production, regulation, contracting and pricing does give our industry concern and we urge you to move slowly and with careful study and understanding.

The national administration is beginning to move with a program that is contained in the attached 18 point plan to revamp the NGPA of 1978. We discussed this before. We are impressed that Congressional leaders such as Chairman John Dingell (D) MI. has publicly indicated the plan is very inovative and addresses many problems that are of concern to us in Kansas and to the consumers of America.

We have heard that the proponents of HB 2264 rely upon the recent decision of ERG vs. KPL as it relates to infringement of existing contracts. I want to again remind the Committee the U.S. Supreme Court reaffirmed a five way test for exercising the state's police power for impairing contractual rights as protected by the Contract Clause of the U.S. Constitution.

It is not clear under HB 2264 nor do we recognize the emergency; we do not recognize anything reasonable about the conditions imposed in HB 2264; and we do not recognize any subject as it relates the diversion of the so called emergency. The bill would seem to be in conflict with the Courts' test regarding this subject.

This bill would purport to extend its authority over natural gas properties throughout Kansas. Its a state wide bill and not related to Hugoton field as the publicity would have you think. The message is clear to our industry - every property - every new well - all financial effort devoted to natural gas exploration from now on must be weighed with the threat that some day the property might be taken over by the State of Kansas. If this bill would pass, drilling for natural gas would virtually stop!

Like the threat of a severance tax - the threat of condemnation of natural gas producing properties will reflect on the enthusiasm of investors, the attraction of risk capital, and drilling activity that will take place in the future in Kansas.

HB 2264 would seem to depart from regulation by the federal government's jurisdiction over natural gas in America under the NGPA. This apparent infringement of FERC jurisdiction is doubtful and an opinion of FERC should be sought before you seriously consider this proposal.

Mr. Chairman and members of the Committee, before I started representing KIOGA throughout Kansas 10 years ago, I was a practicing consulting engineer. I'm a licensed professional engineer, graduating at Oklahoma State University in 1951. My firm, of which I was an owner and one of the managing partners, was named Van Doren, Hazard, Stallings, Schnacke, based in several mid west cities, Alaska and overseas. I served as Chairman of a National Consulting Engineers Association in 1969. The point I'm making, is that I'm very familiar with large acquisition and large developments, that involves lots of money. Thats what we are talking about under HB 2264.

A large undertaking as contemplated here, should have attached with it, a very deep and indepth and expensive engineering and economic feasibility study to justify its consideration. I would like to know, if I were you, what was involved in this undertaking; whether the resources and production contemplated, can justify this committment; and what the ultimate cost will be to the consuming public?

When the legislature undertook the building of the Kansas Turnpike, such a report was made. When proposed extensions were considering studies were made, and most have indicated that the projects are not feasible.

For instance, under HB 2264 the proposal of upto 40 year revenue bonds in our industry on existing production, with sagging production trends, in my opinion, there is no justification for that type of an investment. I would want a bond expert to tell you that after a complete engineering report had been made.

I'm not going to take alot of time to exhaust all the reasons why this bill should not be passed. On the face of it, we believe its not feasible or a correct approach-let alone offend every warm blooded American's sense of desire to have the private enterprise system of America and Kansas flourish.

Despite, some of the problems caused in the natural gas industry arising from actions taken outside of Kansas and authorized by Congress - we do believe these problems will be addressed soon, and much of your concerns will be alleviated.

We urge you to not vote for HB 2264.

Donald P. Schnacke



## Point by Point Explanation

### Administration's Natural Gas Proposal

Attached to this summary is a point-by-point listing of DOE specifications for possible comprehensive natural gas legislation. The following explanation was prepared by IPAA staff based on discussions with DOE officials and others and represents an early assessment of the impact of the various provisions!

1. Decontrolled would be gas not covered by a binding contract. This would be wells drilled before enactment, but never committed to a contract. It would be new wells drilled after enactment on acreage not subject to and bound by an existing contract on that acreage. A new contract replacing any expired contract on any gas would be decontrolled.

2. If both parties, a buyer and a seller, agree (as in any contract for any commodity or labor) a contract may be opened and renegotiated. If so, that gas would be subject to no federal controls. Currently, even if both parties agree that say, an old 50 cent contract should be moved to \$1 to save a declining, marginal field, NGPA and the Natural Gas Act prohibit them from doing it.

3,4,14. Most existing NGPA era and old intrastate gas contracts contain escalator clauses. Those clauses typically call for periodic price increases reflecting either market changes or increases in allowable NGPA prices. After date of enactment, a new ceiling or "cap" would be placed on action of these clauses. This "gas cap" would be based on the volume-weighted average of all decontrolled gas contracts for some recent period. It is not yet clear whether the "cap" will be a single national cap, or one covering traditional gas marketing areas. Once this new cap is established, prices under existing contracts could be no higher than allowed NGPA prices or the "gas cap", whichever is lower. This provision continues until 1-1-86 or until such time as covered contracts are renegotiated. It is reasonable to assume that so-called anti-market aspects of current clauses would be removed in any renegotiation, thus "cap" would no longer be needed.

5. On 1-1-85, for any existing contract, high cost and old low priced alike, there will be a one time, bilateral "market out". In the case of a high priced contract, it is presumed the purchaser would "opt" out. In the case of low cost old gas, presumably the seller would "opt" out. If this option is exercised and pipeline purchaser and seller cannot agree on a new contract, the seller will have the option to sell his gas elsewhere with the pipeline being required to provide transportation for that gas at some incentive rate formula to be determined. This provision would be affected only if both parties had failed to voluntarily renegotiate the contract. Presumably producers of high priced gas would want to entertain reasonable renegotiation terms rather than risk a potentially chaotic situation if he waits until "D-Day". On the other hand, pipelines use reserves under contract, many times old gas reserves, as collateral for loans and bonds. They would be motivated to renegotiate rather than run the risk of losing those reserves on "D-Day".

6. NGA and NGPA contain a number of non-price regulations such as dedication of certain reserves to the interstate market, prior approval by FERC to abandon an old well, etc. If not dealt with in voluntary renegotiation sooner, they will cease to be a factor after 1-1-85.

7. Section 122 of NGPA currently provides a 2 year window after 7-1-85 when either House of the Congress or the President can reimpose NGPA controls through 1-1-89. That authority would be repealed.

8. This is pretty much self-explanatory and is opposed by virtually no one. Repeal would remove major impediments to the use of natural gas by industrial and utility customers enacted in 1978 under the misguided assumption that the U.S. was about to deplete its gas supplies.

9. All natural gas found in the federal offshore domain is currently reserved to the interstate pipeline system. This provision would allow intrastate pipelines as well as industrial and utility users to contract directly for these offshore supplies.

10. A large number of old interstate contracts were written during a period in the 1960's when the old Federal Power Commission would allow no price adjustment clauses. Subsequently, FPC provided "area rate clauses" to allow some price adjustment. Absent those "area rate clauses", those contracts would inadvertently revert to a low fixed-rate price. This simply provides for and tells the Courts that the "gas cap" will work to sustain "area rate clauses" until 1-1-86.

11,12,13. It is said by many pipelines that recent sharp increases in their rates are a result of contract clauses which requires them to "take" from 85 to 100 percent of the gas from certain wells regardless of a drop in demand. This provision, which runs through 1-1-86 would permit a pipeline to reduce that "take" as low as 70 percent without otherwise violating the contract terms. If that option is taken to any degree, however, the seller has the option of abrogating the entire contract and selling his gas elsewhere. If that option is taken, the pipeline has a "transportation obligation" similar to the one described under point 5 above.

15. This is the provision which has been described by the public media as a "price freeze for consumers". Traditionally, pipelines must file with and get approval of basic rates from FERC. Elements of those rates include such things as fixed costs, rate of return on investment and debt structure and adjustment for taxes. In addition, actual pipeline charges are adjusted automatically under Purchased Gas Adjustment filings. Under those filings, pipelines are given automatic passthrough of increased gas purchase costs. Under this provision, each pipeline would have a "base PGA" based on its last preenactment filing. Any increase in purchased gas costs, above inflation, after enactment and until 1-1-86, could not be automatically passed on to consumers. Any such increased costs would have to be approved by some sort of public FERC proceeding before it could be passed on to consumers in pipeline rates. Obviously, this would work to deter pipelines from actively contracting for additional high cost gas, LNG and imports and cause them to aggressively seek lower priced supplies from domestic producers.

16. This provision would set up a new FERC procedure whereby pipelines with available capacity could be required for an incentive transportation rate to transport gas sold directly by a producer to a local gas utility or to an industrial or electric utility user. Some describe this as the provision to "cut out the middle man". It is designed to create more competition at both the wellhead and the burner tip.

17. It has been the practice of some pipelines to use their own company or company affiliate owned production first, regardless of price. This provision would prohibit a pipeline from taking a higher percentage of that gas than it took of any less expensive gas available to it.

18. Deep gas is decontrolled under NGPA. Very expensive to find, it has been selling at relatively high prices. Wellhead prices for that gas would be frozen at current levels until the "gas cap" reaches those levels or until they are renegotiated. Existing contract provisions which could bring about lower prices, however, would be allowed to work in conjunction with the cap.

IPAA  
2-12-83

- 1) As of date of enactment, any new contract may be signed and may operate by its terms.
- 2) Any contract may be renegotiated and may operate by its new terms.
- 3) The volume-weighted average of the price for natural gas in all contracts under (1) and (2), for the most recent month with available data, is called the "gas cap".
- 4) Pending renegotiation, prices for all regulated gas are the lower of the Natural Gas Policy Act (NGPA) price ceiling or the "gas cap".
- 5) On 1/1/85, for any contract that has not been renegotiated, either party may exercise a "market out" (abrogate the contract). In that event, purchaser must carry gas for seller to any other purchaser at an incentive rate.
- 6) All gas is decontrolled from the non-price regulations of the Natural Gas Act (NGA) and the NGPA on 1/1/85, or on renegotiation, if sooner.
- 7) Section 122, which gives the President or Congress the power to reimpose controls, is repealed.
- 8) Immediately repeal Fuel Use Act (forbidding some uses of natural gas) and Incremental Pricing.
- 9) All buyers have equal access to offshore and interstate gas.
- 10) Latest gas cap is considered a federally-approved rate for area rate clauses.
- 11) Purchasers may reduce all "take-or-pay" contracts to 70 percent of deliverability (conservation exception for associated gas).
- 12) If option is exercised, seller can abrogate contract and sell gas elsewhere. In that event, the buyer must transport the gas at an incentive rate.
- 13) Option to reduce takes expires on 1/1/86.
- 14) All escalator clauses of all types in pre-enactment contracts are limited by the "gas cap". This limitation continues until 1/1/86.
- 15) Through 1/1/86, an interstate pipeline may not immediately pass-through purchased gas costs above its last preenactment level plus inflation. Any additional cost must be specifically approved by FERC after a public proceeding with appropriate standards.
- 16) FERC, on application, can require a pipeline with available capacity to carry gas under contract between producer and purchaser at an incentive rate.
- 17) No pipeline may take gas from its own production or from an affiliate at a rate higher than its rate of take for any less expensive gas.
- 18) Prices for currently deregulated gas ("Section 107") that are above the "gas cap" are frozen until or unless the cap rises above them.

TESTIMONY OF GLENN D. COGSWELL ON  
BEHALF OF NORTHWEST CENTRAL PIPELINE CORPORATION  
BEFORE THE HOUSE COMMITTEE ON ENERGY AND  
NATURAL RESOURCES IN OPPOSITION TO  
HOUSE BILL 2264 ON FEBRUARY 22, 1983

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Mr. Chairman and members of the Committee: My name is Glenn Cogswell. I am appearing here today in behalf of Northwest Central Pipeline Corporation in opposition to this bill.

Northwest Central-previously known as Cities Service Gas Company-is an interstate natural gas transmission company. We purchase gas in Kansas, Oklahoma, Texas, Wyoming and Colorado and sell gas to local distributors serving over 500 communities in Kansas, Missouri, Oklahoma, Nebraska and Texas with a population of approximately 3 million people. In addition to these wholesale sales, we sell directly to many plants, industrial customers and governmental facilities adjacent to our pipelines in Kansas, Missouri and Oklahoma.

Perhaps better known to you than our out-of-state activities are those that impact the State of Kansas directly. We supply over one-half of the natural gas consumed in the state and have more Kansas reserves dedicated to our pipeline system than any other company. These facts make it imperative that we give you our views on this bill and we appreciate the opportunity you have given us to do so.

We can sympathize with the frustration that obviously gave birth to this bill. We, too, have been frustrated over the rapid rise in our sale prices caused by circumstances and events beyond our control. We are frustrated by loss of market

caused by economic conditions and other factors that we can do nothing about. We are initiating action on every front we can to lower prices. Let me just recite some of what we have done, and are doing, in those areas wherein our influence and action may have some effect on consumer prices in Kansas, which obviously is the prime target of this bill:

\*We are attempting to negotiate lower prices with producers holding contracts for high priced gas and are attempting to minimize the "take or pay" provisions therein. We will not cease these efforts.

\*We voluntarily filed with the FERC in late December an application for a \$12.1 million reduction in gross annual revenues from rates which could have been collected.

\*We petitioned the FERC on January 4 to amend "through-put" requirements on our Rawlins-Hesston pipeline that could avoid additional costs to ratepayers in excess of \$578,000,000 over the next five years. The existing requirement would force Northwest Central to purchase additional high-priced gas in Wyoming in preference to low-cost supplies from Kansas and other states. The Kansas Corporation Commission is supporting us in this effort, for which we are deeply appreciative.

\*We exercised "market out" options in mid-January on all producer contracts containing such provisions. Generally, prices in these contracts were reduced from \$6.80 per mcf to \$3.30 per mcf, producing savings to consumers of approximately \$7,000,000 per year. It is important to note that this is the lowest "market out" price adopted by any pipeline company.

\*We petitioned FERC on January 31, for a declaratory order that Northwest Central's proposed action to cease temporarily the taking of gas from certain high-cost sources is permissible under the law. The petition covers contracts involving 84 wells in Wyoming, with prices of \$6.80 per mcf. Estimated reduced purchase costs are approximately \$50,000,000 in 1983.

\*We have pledged \$500,000 each to the states of

Kansas and Missouri to establish and administer a fuel assistance fund for the poor or needy. I am pleased to inform you that Governors Carlin and Bond have now accepted these pledges and that the money will not be passed on to ratepayers but, instead, will be absorbed by stockholders.

\*We are supporting federal legislation that would provide relief from "take or pay" contract obligations, thereby providing lower priced gas to consumers, and are actively contacting congressman to that end.

Ladies and gentlemen, that is what we have done so far, and are continuing to do, to help the consumers we serve in Kansas and other states. The company's management is thoroughly dedicated to lower gas costs to the consumer. Our dedication is not all together altruistic, however, for we know that as we benefit the consumer, through lower prices we can also benefit the company by regaining some of the market lost to competing fuels.

Let us turn our attention now to the pending bill and what we believe are its fatal deficiencies. Back in 1938, the Federal government assumed jurisdiction over the transportation of natural gas for resale in interstate commerce when Congress passed the Natural Gas Act. This Act has withstood several challenges as to its constitutionality and is now beyond questioned well settled law. The preemption of federal jurisdiction over the interstate transportation and sale of natural gas was further extended and strengtened by the U. S. Supreme Court's decision in the Phillips case in 1954 and by subsequent acts of Congress, including the Natural Gas Policy Act of 1978. Under the aegis of these laws, the Federal Energy Regulatory Commission (formerly the Federal Power Commission)



has issued regulations covering the dedication of gas to interstate commerce, the certification of facilities for use in interstate commerce, the authorization of sales in interstate commerce, etc.

The problems recited earlier which we are addressing, are Washington-created by virtue of this sweeping jurisdiction and solutions must come from the source of the problems--FERC and the U. S. Congress--these regulations and these laws proscribe the actions and powers contemplated in this bill insofar as they appertain to the activities of Northwest Central Pipeline Corporation.

We do not believe the State of Kansas has, nor should have, the legal or moral right to divert gas reserves from our customers in Missouri, Oklahoma, or other states we serve, to the sole and exclusive use of Kansas consumers. Similarly, we would challenge the right of Texas, Oklahoma or Wyoming (from which states we import gas to Kansas) to divert gas reserves from our customers in Kansas to the exclusive use of consumers in those states. In like manner, we doubt the right of the producing states to deny gas reserves to consumers in all other states.

Perhaps this bill best exemplifies the very reason the Natural Gas Act was passed!

We recognize that Kansas is delivering substantially more gas into interstate commerce than is consumed in the state. For this reason, it is important to work toward simple federal legislation that can be enacted quickly and which addresses

directly the primary causes of high gas prices--the "take or pay" clauses in producer contracts and the NGPA-created escalation of producer prices. Only by changes in federal laws and regulations can we legally obtain lower prices for Kansas consumers and increased production from the Hugoton field. We both want this and we will appreciate any support you can give us in our Washington efforts to secure the necessary changes to bring about these results.

\* \* \* \* \*



# Legislative Testimony

Kansas Association of Commerce and Industry

500 First National Tower, One Townsite Plaza

Topeka, Kansas 66603

A/C 913 357-6321

Attachment 11/2-22-83  
House Energy and Natural  
Resources

TESTIMONY OF THE KANSAS ASSOCIATION OF COMMERCE AND INDUSTRY

REGARDING: HB 2264, THE KANSAS NATURAL GAS AUTHORITY

PRESENTED BY: RON GACHES

February 22, 1983

Thank you Mr. Chairman for the opportunity to present the concerns of the Kansas Association of Commerce and Industry regarding the creation of the Kansas Natural Gas Authority as proposed in HB 2264. I am Ron Gaches, General Counsel for the Kansas Association of Commerce and Industry.

The Kansas Association of Commerce and Industry (KACI) is a statewide organization dedicated to the promotion of economic growth and job creation within Kansas, and to the protection and support of the private competitive enterprise system.

KACI is comprised of more than 3,000 businesses plus 215 local and regional chambers of commerce and trade organizations which represent over 161,000 business men and women. The organization represents both large and small employers in Kansas, with 55% of KACI's members having less than 25 employees, and 86% having less than 100 employees.

The KACI Board of Directors establishes policies through the work of hundreds of the organization's members who make up its various committees. These policies are the guiding principles of the organization and translate into views such as those expressed here.

KACI is opposed to the passage of HB 2264 and the creation of the Kansas Natural Gas Authority proposed in the bill. Passage of this type of legislation will lead to the erosion of the separation of government and private enterprise.

ATTACHMENT 11

The Statement of Principles of KACI include the following provisions which relate to the proposal before your committee.

"It is believed in respect to business --

That the future well-being of America requires the maintenance of an economy of private enterprise. Governmental limitation on private enterprise should be confined to such regulation and control as are truly necessary to insure free enterprise and protect public interest.

That the public interest requires the preservation of the benefits of the free, competitive, private enterprise system, and the elimination of the threat to that system that is inherent in the entry of government (federal, state, or local) into competition with private enterprise in various fields of business activity, such as manufacturing, distribution, transportation, communications, other utilities, construction, mining, insuring, lending, and the providing of professional or other services."

There is no sound rationale for the passage of this legislation. The private sector has provided abundant supplies of natural gas to all Kansans. Competition within the industry and with alternative supplies of energy have held prices to a level where almost all consumers can reasonably meet their needs. The private enterprise system, by allocating scarce investment resources based on demands from the marketplace, has developed the most efficient and responsive energy delivery and development system in the world. A Kansas Natural Gas Authority will not improve on that system.

As proposed by HB 2264, the Kansas Natural Gas Authority, with nine members, would replace the marketplace in decisions regarding the production, purchase, sale,

transmission, and distribution of natural gas in Kansas and its sister states. It should not be done. Nine individuals, all political appointees, cannot replicate the efficiency of the marketplace. Nine individuals cannot represent all consumer and producer interests in the state.

The development of this scarce natural resource should not be left to sway with the political winds. Problems with Federal gas pricing laws should not lead to the condemnation and taking of privately held property interests.

Apart from the major philosophical deficiencies of this bill there are numerous technical deficiencies as well. No where in the bill is "sister states" defined. No where is "our obligation to our sister states" defined. Furthermore, the pricing mechanism described in section 4 of the bill seems certain to assure higher prices for natural gas for all consumers since it is essentially a "cost-plus" reimbursement system for setting prices.

For these reasons we urge your rejection of ~~HB 2264~~.

# LWVK LEAGUE OF WOMEN VOTERS OF KANSAS

909 Topeka Boulevard-Annex

913/354-7478

Topeka, Kansas 66612

Attachment 12/2-22-83  
House Energy and Natural  
Resources

February 22, 1983

Comment on HB 2264 to the House Energy and Natural Resources  
Committee.

Any comprehensive natural gas legislation such as HB 2264 should  
address the subject of conservation.

Heating fuel, in this climate, like air, water and food is a  
necessity and must be within reach of every citizen. But whether  
the price of gas is kept down by state ownership of the gas fields,  
or government controls, or by a functioning competitive market,  
we must do more than simply lower the price. The cheaper gas of  
earlier years led to widespread waste and inappropriate use and  
eventually to shortages.

Natural gas is a finite resource, cleanest of all fuels, ideal  
for residential heating and invaluable for some manufacturing uses.  
It should be made to last as long as possible.

We need a system of gas apportionment based on long range public  
interest such as we are beginning to evolve with regard to water and  
we need a method of pricing which encourages conservation yet de-  
livers a minimum necessary amount of heating fuel for domestic use  
at affordable rates.

The economic incentives of the natural gas industry are incompatible  
with a serious effort at conservation. Some Government intervention  
is inevitable.



Ed Reinert, LWVK Lobbyist