

MINUTES OF THE Senate COMMITTEE ON Energy and Natural ResourcesThe meeting was called to order by Senator Charlie L. Angell at  
Chairperson7:30 a.m./~~p.m.~~ on Wednesday, March 2, 1983 in room 123-S of the Capitol.All members were present ~~except~~:

## Committee staff present:

Ramon Powers, Research Department  
Don Hayward, Revisor's Office  
LaVonne Mumert, Secretary to the Committee

## Conferees appearing before the committee:

Jack Alexander, Kansas Water Authority  
Joe Harkins, Kansas Water Authority  
David Pope, Kansas Water Authority  
James F. Aiken, Jr., Kansas Water Authority  
Martha Manglesdorf, Kansas Water Authority  
Lowell Case, Mobil Oil  
Kay Wallick, Wyandotte-Leavenworth Area Agency on Aging  
Skeet Smith, Norman Hamm  
Ned A. Vahldieck, Kansas Power and Light Company  
Dee Likes, Kansas Livestock Association  
Brian Moline, Kansas Corporation Commission  
Patty Gorham, Kansas Corporation Commission

The minutes of the March 1, 1983 meeting were approved.

## S.B. 62 - Interbasin transfers of water

The Committee discussed the concept of water conservation plans in the bill. It was also discussed that the bill refers several times to "basin of origin" which would apply to surface water and reservoir water but not to groundwater. So that groundwater would also be included, Senator Feleciano moved that the following phrase, "or area of origin with respect to groundwater" be inserted after the words "basin of origin" wherever they appear throughout the bill. Senator Werts seconded the motion, and the motion carried.

Senator Hess expressed concern that because S.B. 62 has been substantially changed since it was proposed by the Kansas Water Authority, he wondered if the Authority has had an opportunity to comment on the revised version. Chairman Angell said he has been in contact with the Authority's Subcommittee that worked on this legislation as well as with the Chairman of the Authority, and their comments have ranged from "okay" to "good". The members of the Authority present at the meeting commented on S.B. 62 as follows.

Jack Alexander said in conversations he has had with Authority members, they are generally supportive of the changes and they certainly support the Authority's Subcommittee recommendations. Personally, he finds it a great step forward. Answering a question from Senator Hess, Mr. Alexander said he would not oppose an amendment that a transfer of 10 miles within the boundaries of a municipality would be exempt from the extraordinary hearing process.

Joe Harkins said he is aware that Chairman Regan has followed this bill very carefully and he is confident that Mr. Regan would have spoken out if he was in disagreement. Personally, Mr. Harkins feels the bill now addresses the issue. There has never been concern about the policy issue, only with the process. After investigation of the matter, Mr. Harkins believes there will probably be 8 or 9 transfers a year that will come under the extraordinary hearing process, and he feels that is about right. Senator Hess asked if Mr. Harkins feels that the Legislature should review denials as well as approvals. Mr. Harkins said there is an appeal process to the courts available for denials. In response to Senator Hess' suggestion that transfers within the boundaries of a municipality be exempt, Mr. Harkins said he would have no objection to that amendment.

David Pope said he has no concerns with the present form of S.B. 62, and he is not aware of any concerns that have been raised that have not been addressed. Senator Hess asked about the proposed amendment that the hearing panel consist of the Secretary of the Board of Agriculture or the Chief Engineer if so designated by the Secretary. Mr. Pope said he thinks the Chief Engineer is the appropriate person to sit on the hearing panel because of the responsibilities

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Energy and Natural Resources,

room 123-S, Statehouse, at 7:30 a.m./~~PM~~ on Wednesday, March 2, 1983

given him by the statutes.

James F. Aiken, Jr. said he is in agreement with the changes that have been made to the bill. He is in agreement with the 10 miles - 1,000 acre feet factor. He feels it is a conservative figure but is very appropriate at this time. Answering Senator Hess, Mr. Aiken said he has no objection to exempting transfers within municipal boundaries.

Martha Mangelsdorf said she would anticipate the full Authority meeting within the next two weeks.

S.B. 23 - Natural gas pipelines declared common carriers

S.B. 125 - Regulation of natural gas common source of supply

S.B. 161 - Natural gas for irrigation

S.B. 162 - Natural gas price for first sales to agricultural users

S.B. 167 - Access to natural gas by agricultural users

S.B. 146 - Natural gas well underproduction cancellation

S.B. 209 - Kansas natural gas price control act

S.B. 214 - Certificate of value required upon transfer of oil and gas working interest

S.B. 236 - Natural gas; maximum price of residential users

S.B. 248 - Flaring of natural gas permitted, when

Lowell Case said they take no position on S.B. 23. They have no problem with S.B. 125 except that striking the language in lines 58 through 60 will have the effect of putting all natural gas pools under the jurisdiction of the Kansas Corporation Commission (Commission). They suggest striking the words "except that the daily takes of gas from any well in an unprorated pool shall not exceed 25% of its open flow." in lines 51 and 52 of S.B. 125. This would give the Commission flexibility to establish whatever rules would be necessary for all pools in the state. Concerning S.B. 161, Mr. Case said their contracts are with individuals and contain a 30-day cancellation clause. Under the rules of the Federal Regulatory Energy Commission (FERC), they must have a new contract when there is a land transfer. It was discussed that FERC would have control over interstate gas, but not intrastate gas in this regard. Senator Feleciano asked if Mobil would use their cancellation clause even if this bill passed. Mr. Case said they feel it would be necessary because they have had instances of problems collecting from irrigators. Mr. Case said their policy is to provide irrigation gas in all cases where an application is made. He agreed to provide the Committee with a sample of Mobil's contracts. Referring to S.B. 161, Mr. Case said FERC has recently changed its policies, and Mobil will do what this bill requires anyway with regard to irrigators. Answering questions from Senator Feleciano, Mr. Case said the subject operation would have to take place on the land because they would not be able to get FERC approval otherwise. He said this was FERC policy but as far as he knew, not written in rules and regulations. Mobil opposes S.B. 146. Mr. Case said it would tie the Commission's hands in the handling of underages and overages and the reinstatement of underages. On S.B. 214, Mr. Case said it would be physically difficult for them to accomplish, and they oppose the bill. They support S.B. 248.\*

S.B. 234 - Energy audits of residential dwellings prior to sale

S.B. 235 - Thermal standards for newly constructed dwellings and commercial buildings

Kay Wallick said they support these two bills. They favor anything that will conserve energy in the future.

Skeet Smith testified in favor of S.B. 23. He read his written testimony (Attachment 1). Mr. Smith said under this bill, they could sell their gas to Kansas Power and Light Company (KPL). He mentioned testimony of Inter-North on H.B. 2426 that they co-mingle their gas, so Mr. Smith sees no problem with co-mingling.

Ned A. Vahldieck read his written testimony (Attachment 2) in opposition to S.B. 23. He mentioned gas quality, compressor facilities, measuring devices, hearing value measurement,

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Energy and Natural Resources,

room 123-S, Statehouse, at 7:30 a.m./~~p.m.~~ on Wednesday, March 2, 1983

available line capacity, load factor and main line taps as items that would have to be considered. Mr. Vahldieck said the problems caused by this type of arrangement would not be worth the trouble. Chairman Angell asked about the capacity KPL runs in their lines. Mr. Vahldieck replied that at any given time, they are in excess of 75% and sometimes run at 100%. He mentioned the seasonal nature of the gas business. He read his testimony (Attachment 3) opposing S.B. 209. He said this bill could be counter-productive because producers will sell where they can get the best price. If there is a price freeze on intrastate gas, then producers will sell interstate if the price is higher. They oppose S.B. 236 (Attachment 4) because a reduced cost for one group means the difference must be made up from somewhere. They feel granting preferential treatment would be an undesirable precedent.

Dee Likes testified in favor of S.B. 161, 162 and 167. His association's members believe they should have access. They feel they need S.B. 167 in order to make S.B. 162 effective. He agreed to provide the Committee with written testimony.

Brian Moline said they take no real position on S.B. 23. There is a jurisdictional question with the bill. He said that the bill could benefit large consumers possibly to the detriment of small consumers. The Commission is in general support of access, and therefore support S.B. 161 and 167. They take no position on S.B. 162. They support S.B. 209 and have supported this concept in the past. They take no position on S.B. 236. The Commission feels this is a judgmental policy for the Legislature to decide. Mr. Moline pointed out that the "old" gas is averaged in with the higher priced gas, and this bill would take the "old" gas and highlight it for certain customers. Senator Hess asked if it was Mr. Moline's legal opinion that the Commission does not have authority to institute a rate structure. Mr. Moline replied the Commission cannot highlight a certain group of customers. He said he would provide written testimony.

Patty Gorham said the Commission is in support of S.B. 125. The bill would remove language that is subject to different interpretations and would clean up some confusion. It does not reduce the access of any party to Commission proceedings and jurisdiction. She said they have no objection to the amendment proposed by Mr. Case. The Commission does not support S.B. 146. Ms. Gorham mentioned her previous testimony concerning the Commission's investigation into the Hugoton basic order and the order issued regarding cancelled underages. The Commission feels the proposed language in S.B. 146 is too limiting and could cause problems with the setting of market demand. The Commission supports S.B. 248 but recommends that the following be stricken from lines 53 through 55: "pending the time when, with reasonable diligence, such gas may be sold or utilized on terms which are just and reasonable."

Senator Hess asked if the Commission would agree that it would be a good idea for an interim study on natural gas. Mr. Moline said he thought it would be.

Chairman Angell appointed a Subcommittee on Natural Gas to consider the proposals and make a recommendation to the full Committee. The members of the Subcommittee are: Senator Kerr (Chairman), Senator Feleciano, Senator Chaney and Senator Angell.

The definition of "first sale" was provided to the Committee as has been requested (Attachment 5).

The meeting was adjourned at 9:06 a.m. by the Chairman. The next meeting of the Committee will be at 7:30 a.m. on Thursday, March 3, 1983.

\*The written testimony of Mr. Case has been received and is attached hereto. (Attachment 6).

# Senate Energy & Natural Resources

March 2, 1983

<u>Name</u>	<u>Organization</u>
Robert C. Anderson	Mid-Cent Oil & Gas
Paul Johnson	PACK
Ed Reinert	Sierra Club
David W. Nickel	KCC
Lowell CASE	MOBIL
George H. Simice	MOBIL
Chip Martin	PUD
Jan Johnson	Budget Division
Booth Wilkin	S. D.
Kenny Wedel	Ks. Natural Resources Council
Ross MARTIN	KPC
Annas Kramer	KPC
Don Willoughby	INI
Rosemary O'Leary	Ks. Corporation Commission
Don Schumaker	KIDOR
Yvonne Cozart	Northwest Central Lepidoptera Soc
Lee Huber	KLA
Kay Wallich	Wyan/Leav. Area Agency on Aging
BILL PERDUE	KPL
NED VAHLDBECK	KPL
Brian Halpin	KCC
Jatnara Boham	KCC
Skret Smith	W.R. Hanna

Senate Bill 23  
HOUSE BILL 2426

INTERPRETATION OF HOW IT MIGHT WORK:

The natural gas producer enters into an agreement with a buyer, to provide a specified monthly amount of gas.

The producer, with the contract in hand and a performance bond issued to a common carrier pipeline in an amount of money to insure replacement cost of said monthly contract, shall contract with common carrier for transportation of said quantity of gas. The common carrier shall issue a credit for the contract quantity of gas, to the producer and buyer. At that time the producer shall pay the common carrier for transportation and metering fees.

The producer shall deliver to the common carriers pipeline, the specified quantity of gas, adjusted accordingly for any differences in b.t.u. quality; however, that replacement gas shall be replaced at the convenience of the common carrier.

EXAMPLE: Norman Hamm, owner of a natural gas well, enters into a contract, to supply 15 million cubic feet of gas per month, with Kansas Public Service.

Mr. Hamm presents the contract and a bond for \$90,000.00 dollars (assuming as 6.00 per 1000cf, as the pipeline value) to the common carrier pipeline. In exchange, the common carrier issues a credit for 15 million cubic feet to Mr. Hamm and Kansas Public Service. Mr. Hamm at this time pays the common carrier its fees for transportation and metering.

Mr. Hamm endorses the credit over to Kansas Public Service in exchange for whatever his interest might dictate.

Kansas Public Service uses the 15 million cubic feet credit to apply to its next immediate billing from the common carrier.

The common carrier notifies Mr. Hamm, at their convenience, of when to replace the 15 million cf of gas into their line.

Atch. 1

SENATE BILL 23  
TESTIMONY OF NED A. VAHLDIECK  
VICE PRESIDENT-GAS OPERATIONS  
THE KANSAS POWER AND LIGHT COMPANY

SENATE BILL 23 IS INTENDED, AS WE UNDERSTAND IT, TO DECLARE NATURAL GAS PIPELINES COMMON CARRIERS, THEREBY MAKING PART OF THEIR CAPACITY AVAILABLE TO INDIVIDUALS TO TRANSPORT THEIR OWN GAS. IN THEORY, THIS CONCEPT HAS APPEAL BECAUSE IT SEEMS TO BE SIMPLE AND FAIR. THAT IS, ALLOW A CITIZEN TO TRANSPORT SOME GAS HE OWNS TO A PLACE HE CAN USE IT.

HOWEVER, IN PRACTICE, USING A UTILITY NETWORK TO TRANSPORT GAS IS A COMPLICATED BUSINESS AND WOULD RAISE SOME VERY REAL PROBLEMS.

KPL'S GAS SYSTEM IS A COMBINATION OF GATHERING LINES, TRANSMISSION LINES, DISTRIBUTION LINES AND VARIOUS APPURTENANCES THAT EXIST TO SERVE KPL'S CUSTOMERS. IT SEEMS OBVIOUS THAT, IN FAIRNESS, ANY ADDITIONAL COSTS CREATED BY AN INTRUSION OF AN INDIVIDUAL ON THESE SYSTEMS WOULD HAVE TO BE BORNE BY THAT INDIVIDUAL, AND THAT ANY SERVICE TO HIM WOULD HAVE TO BE SUBSERVIENT TO THE NEEDS OF KPL'S CUSTOMERS.

SOME OF THE OTHER FACTORS THAT MUST BE CONSIDERED ARE:

- GAS QUALITY
- COMPRESSOR FACILITIES
- MEASURING DEVICES (TWO LOCATIONS)
- HEATING VALUE MEASUREMENT (TWO LOCATIONS)
- AVAILABLE LINE CAPACITY
- LOAD FACTOR
- MAIN LINE TAPS

IN SHORT, THIS KIND OF TRANSPORTATION ARRANGEMENT FOR AN INDIVIDUAL ON A SMALL SCALE BASIS HARDLY SEEMS WORTH THE TROUBLE - - - AT LEAST, NOT ON KPL'S SYSTEM. IT WOULD UNQUESTIONABLY REQUIRE DETAILED RECORDS, CAUSE OPERATING PROBLEMS, ADMINISTRATIVE POTHOLES, AND INCREASED EXPENSES.

FOR THESE REASONS AND FOR THE OVERWHELMING PRACTICAL PROBLEMS WE FORESEE, KPL CANNOT SUPPORT SENATE BILL 23.

TLB

SENATE BILL 209  
TESTIMONY OF NED A. VAHLDIECK  
VICE PRESIDENT-GAS OPERATIONS  
THE KANSAS POWER AND LIGHT COMPANY

THE KANSAS POWER AND LIGHT COMPANY HAS ALWAYS BEEN VERY SUPPORTIVE OF ANY LEGISLATION THAT WOULD HELP TO HOLD DOWN THE COST OF SERVICE TO IT'S CUSTOMERS, AND AT THE SAME TIME, WOULD BE IN THE LONG-TERM BEST INTERESTS OF THESE SAME CUSTOMERS. WE ARE CONSTANTLY IN PURSUIT OF THAT GOAL.

THESE AND OTHER ACTIONS ARE AMONG THE MAJOR REASONS WHY KPL'S MAIN SYSTEM CUSTOMERS ENJOY THE LOWEST PRICE OF GAS IN KANSAS, AND INDEED, THE LOWEST IN ALL OF THE CONTINENTAL UNITED STATES.

CONSISTANT WITH OUR POSITION, WE NOW WISH TO EXPRESS OUR CONCERN THAT SENATE BILL 209 MAY BE COUNTERPRODUCTIVE FOR KPL AND IT'S CUSTOMERS.

AS WRITTEN, THE PROVISIONS OF THE BILL WOULD SEEM TO PLACE KPL IN A FUTURE NON-COMPETITIVE POSITION TO OBTAIN ITS FULL SHARE OF NEW INTRASTATE GAS AS IT BECOMES AVAILABLE. THIS IS FOR THE SIMPLE REASON THAT PRODUCERS WILL SELL WHERE THEY CAN GET THE BETTER PRICE OR WHERE THEY CAN AVOID CERTAIN PRICE UNCERTAINTIES.

TO THE EXTENT THAT THAT SITUATION WOULD OCCUR, KPL THEN WOULD BE OBLIGED TO PURCHASE AN EQUAL AMOUNT OF GAS FROM SOME OTHER SOURCE TO MEET ITS PUBLIC SERVICE RESPONSIBILITIES. IN THIS EXAMPLE, KPL WOULD END UP BUYING GAS IN THE INTERSTATE MARKET AT A PRICE, NO DOUBT, HIGHER THAN THE INTRASTATE GAS IT WAS DENIED.

FOR THESE REASONS, KPL CANNOT SUPPORT SENATE BILL 209.

TLB

*Attch. 3*



SENATE BILL 236  
TESTIMONY OF NED A. VAHLDIECK  
VICE PRESIDENT-GAS OPERATIONS  
THE KANSAS POWER AND LIGHT COMPANY

KPL IS OPPOSED TO SENATE BILL 236 WHICH DIRECTS THE KCC TO ESTABLISH LIFE-LINE RATES FOR RESIDENTIAL GAS CUSTOMERS. WE ARE OPPOSED TO THE CONCEPT OF LIFE-LINE RATES BECAUSE THEY ARE NOT AN EFFECTIVE ANSWER TO THE OVERALL ECONOMIC PROBLEMS FACED BY MANY KANSANS TODAY.

TO CONTINUE TO PROVIDE ADEQUATE RELIABLE SERVICE, A UTILITY MUST RECOVER THE FULL COSTS OF THAT SERVICE. WHEN THE PRICE OF GAS IS REDUCED BELOW ITS COSTS FOR ONE SEGMENT OF THE POPULATION, THE DIFFERENCE MUST BE MADE UP FROM SOME OTHER SOURCE. ONCE ONE SPECIAL GROUP IS SINGLED OUT AND FAVORED WITH PREFERENTIAL TREATMENT IN UTILITY RATES, WHERE WOULD IT END?

THE PROBLEM OF PROVIDING BASIC NECESSITIES OF LIFE TO CITIZENS IS A SOCIETAL PROBLEM. TILTING AND ALTERING COST BASED UTILITY RATES TO HELP SELECTED GROUPS WON'T SOLVE THE PROBLEM AND IT MAY CREATE OTHER PROBLEMS. KANSAS CITIZENS ARE RESPONSIBLE TO PROVIDE THESE BASIC NECESSITIES, BUT LET'S DO IT IN A STRAIGHT FORWARD WAY - - - - WITH PROPERLY DESIGNED GOVERNMENTAL PROGRAMS - - - - NOT THROUGH UTILITY RATES.

TLB

*Atch. 4*

**(21) First Sale.—**

(A) **General rule.**—The term “first sale” means any sale of any volume of natural gas—

(i) to any interstate pipeline or intrastate pipeline;

(ii) to any local distribution company;

(iii) to any person for use by such person;

(iv) which precedes any sale described in clauses (i), (ii), or (iii); and

(v) which precedes or follows any sale described in clauses (i), (ii), (iii), or (iv) and is defined by the Commission as a first sale in order to prevent circumvention of any maximum lawful price established under this chapter.

(B) **Certain sales not included.**—Clauses (i), (ii), (iii), or (iv) of subparagraph (A) shall not include the sale of any volume of natural gas by any interstate pipeline, intrastate pipeline, or local distribution company, or any affiliate thereof, unless such sale is attributable to volumes of natural gas produced by such interstate pipeline, intrastate pipeline, or local distribution company, or any affiliate thereof.

(22) **Deliver.**—The term “deliver” when used with respect to any first sale of natural gas, means the physical delivery from the seller, except that in the case of the sale of proven reserves in place to any interstate pipeline, any intrastate pipeline, any local distribution company, or any user of such natural gas, such term means the transfer of title to such reserves.

(23) **Certificate.**—The term “certificate”, when used with respect to the Natural Gas Act, means a certificate of public convenience and necessity issued under such Act.

(24) **Commission.**—The term “Commission” means the Federal Energy Regulatory Commission.

(25) **Federal agency.**—The term “Federal agency” has the same meaning as given such term in section 105 of Title 5.

(26) **Person.**—The term “person” includes the United States, any State, and any political subdivision, agency, or instrumentality of the foregoing.

(27) **Affiliate.**—The term “affiliate”, when used in relation to any person, means another person which controls, is controlled by, or is under common control with, such person.

(28) **Electric utility.**—The term “electric utility” means any person to the extent such person is engaged in the business of the generation of electricity and sale, directly or indirectly, of electricity to the public.

(29) **Mcf.**—The term “Mcf”, when used with respect to natural gas, means 1,000 cubic feet of natural gas measured at a pressure of 14.73 pounds per square inch (absolute) and a temperature of 60 degrees Fahrenheit.

(30) **Btu.**—The term “Btu” means British thermal unit.

(31) **Month.**—The term “month” means a calendar month.

(32) **Mile.**—The term “mile” means a statute mile of 5,280 feet.

(33) **United States.**—The term “United States” means the several States and includes the Outer Continental Shelf.

(34) **State.**—The term “State” means each of the several States and the District of Columbia.

(35) **Outer Continental Shelf.**—The term “Outer Continental Shelf” has the same meaning as such term has under section 1331(a) of Title 43.

(36) **Prudhoe Bay Unit of Alaska.**—The term “Prudhoe Bay Unit of Alaska” means the geographic area subject to the voluntary unit agreement approved by the Commissioner of the Department of Natural Resources of the State of Alaska on June 2, 1977, and referred to as the “affected area” in Conservation Order No. 145 of the Alaska Oil and Gas Conservation Committee, Division of Oil and Gas Conservation, Department of Natural Resources of the State of Alaska, as such order was in effect on June 1, 1977, and determined without regard to any adjustments in the description of the affected area permitted to be made under such order.

(37) **Antitrust laws.**—The term “Federal antitrust laws” means the Sherman Act (15 U.S.C. 1 et seq.), the Clayton Act (15 U.S.C. 12, 13, 14–19, 20, 21, 22–27), the Federal Trade Commission Act (15 U.S.C. 41 et seq.), sections 73 and 74 of the Wilson Tariff Act (15 U.S.C. 8–9), and the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a).

(Pub.L. 95–621, § 2, Nov. 9, 1978, 92 Stat. 3352.)

**Historical Note**

**References in Text.** The Natural Gas Act, referred to in pars. (15), (16), (18)(A)(ii), (B) (i), (iii)(II), (23), is Act, June 21, 1938, c. 556, 52 Stat. 821, which is classified to chapter 15B (section 717 et seq.) of this title. Section 1 of the Natural Gas Act, referred to in par. (16), is classified to section 717 of this title. Section 7 of the Natural Gas Act, referred to in pars. (18)(B)(i)(II), (III), (IV), (ii), (19), is classified to section 717f of this title. For complete classification of this Act to the Code, see Tables volume.

Section 6 of the Emergency Natural Gas Act of 1977, referred to in par. (18)(B)(i)(I), is Pub.L. 95–2, § 6, Feb. 2, 1977, 91 Stat. 7, which is set out in a note under section 717 of this title.

The Sherman Act (15 U.S.C. 1 et seq.), referred to in par. (37), is Act July 2, 1890, c. 647, 26 Stat. 209, as amended, which is classified to sections 1 to 7 of this title. For complete

classification of this Act to the Code, see Short Title note set out under section 1 of this title and Tables volume.

The Clayton Act (15 U.S.C. 12, 13, 14–19, 20, 21, 22–27), referred to in par. (37), is Act Oct. 15, 1914, c. 323, 38 Stat. 730, as amended, which is classified generally to sections 12, 13, 14 to 19, 20, 21, and 22 to 27 of this title, and sections 52 and 53 of Title 29, Labor. For further details and complete classification of this Act to the Code, see References in Text note set out under section 12 of this title and Tables volume.

The Federal Trade Commission Act (15 U.S.C. 41 et seq.), referred to in par. (37), is Act Sept. 26, 1914, c. 311, 38 Stat. 717, as amended, which is classified generally to section 41 et seq. of this title. For complete classification of this Act to the Code, see Tables volume.

Atch. 5

) **Prohibition on offsetting modifications in rates and charges.**—Any modification of the method of allocating costs to the rates and charges of such local distribution company in effect on November 9, 1978, is prohibited if a court, in any action brought under section 3414(b)(3) of this title, determines that such modification has the effect of creating any offset, in the rates and charges for natural gas applicable to any incrementally priced industrial facility served by such company, for the amount of any surcharge under this subchapter paid by such local distribution company with respect to natural gas delivered by any interstate pipeline indirectly to that incrementally priced industrial facility.

(c) **Special enforcement authority of Attorney General.**—In addition to such enforcement authority as may be available to the Commission or any person, the Attorney General may enforce the requirements of this subsection in accordance with the provisions of section 3414(b)(3) of this title.

(d) **Preemption of State or local law.**—The requirements of this subchapter shall preempt and supersede any provision of State or local law to the extent such provision of law would preclude the passthrough of any surcharge under this subchapter or prevent the application of the requirements of this section.

(e) **State commission defined.**—For the purposes of this subsection, the term “State commission” means the State, political subdivision, or any agency of either, having jurisdiction with respect to the rates and charges of any local distribution company.

(Pub.L. 95-621, Title II, § 205, Nov. 9, 1978, 92 Stat. 3378.)

#### Historical Note

**Legislative History.** For legislative history and purpose of Pub.L. 95-621, see 1978 U.S. Code Cong. and Adm. News, p. 8800.

## § 3346. Exemptions

### (a) Small existing industrial boiler fuel users.—

(1) **Interim exemption.**—During the period preceding the effective date of any permanent exemption under paragraph (2), the rule required under section 3341 of this title shall not apply with respect to any boiler fuel use of natural gas by any industrial boiler fuel facility in existence on November 9, 1978, if such use of natural gas by such facility does not exceed an average of 300 Mcf per day during any month of a base period determined appropriate by the Commission.

### (2) Permanent exemption.—

(A) **General rule.**—Not later than 18 months after November 9, 1978, the Commission shall prescribe and make effective a rule providing for the exemption of any small industrial boiler fuel facility from the rule required under section 3341 of this title (including any amendment under section 3342 of this title to such rule).

(B) **Definition.**—For purposes of this paragraph, the term “small industrial boiler fuel facility” means any industrial boiler fuel facility in existence on November 9, 1978, that had an average per day use of natural gas as a boiler fuel during the month of peak use during calendar year 1977 which did not exceed the lesser of—

(i) 300 Mcf; or

(ii) such average daily rate of use during a month of peak use as the Commission determines in such rule is necessary to assure that the volume of natural gas estimated by the Commission to have been used for boiler fuel during calendar year 1977 by facilities which are exempted under this paragraph does not exceed 5 percent of the total volume of natural gas estimated by the Commission to have been used for boiler fuel transported by interstate pipelines and used during calendar year 1977 as a boiler fuel.

### (b) Agricultural users of natural gas.—

(1) **Interim exemption.**—During the period preceding the effective date of any permanent exemption under paragraph (2), the rule prescribed under section 3341 of this title shall not apply to any facility to the extent of any agricultural use of natural gas.

(2) **Exemption by rule.**—Not later than 18 months after November 9, 1978, the Commission shall prescribe and make effective a rule providing for the exemption from the rule required under section 3341 of this title (including any amendment under section 3342 of this title to such rule) any facility with respect to any agricultural use of natural gas for which the Commission determines that an alternative fuel or feedstock is not—

(A) economically practicable; or

(B) reasonably available.

(3) **Agricultural use defined.**—For purposes of this subsection, the term “agricultural use”, when used with respect to natural gas, means the use of natural gas to the extent such use is—

(A) for agricultural production, natural fiber production, natural fiber processing, food processing, food quality maintenance, irrigation pumping, or crop drying; or

(B) as a process fuel or feedstock in the production of fertilizer, agricultural chemicals, animal feed, or food.

(c) **Schools, hospitals, and certain other facilities.**—The rule under section 3341 of this title (including any amendment to such rule under section 3342 of this title) shall not apply to—

(1) any school, hospital, or other similar institution;

(2) the generation of electricity by any electric utility; or

(3) to the extent provided by the Commission by rule, any qualifying cogenerator (as defined in section 796(18)(B) of Title 16)

# Mobil Oil Corporation

P.O. BOX 5444  
DENVER, COLORADO 80217

March 4, 1983

Chairman Angel and  
Members of the Senate Committee  
on Energy and Natural Resources  
State Capital Building  
Topeka, Kansas

Gentlemen:

Attached are the written positions and comments I offered the committee in my testimony on March 2, 1983.

Also attached for your information is a copy of a letter dated June 1, 1982, to Senator Dole from the Federal Energy Regulatory Commission (FERC) concerning the changed FERC policy on irrigation gas sales to a non-royalty interest owner and a copy of the FERC order in that case. Also attached are a copy of Mobil's irrigation gas contract, two purchaser's approvals of such contracts and a FERC order approving same.

Thank you for the opportunity to appear before your committee.

Yours very truly,



L. C. Case  
Division Regulatory Engineer

LCC/djs  
Attachments

Atch. 6

Testimony of L. C. Case, Mobil Oil Corporation, before the  
Kansas Senate Committee on Energy and Natural Resources  
March 2, 1983

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SB #23 - Mobil position: Neutral.

SB #125 - Mobil position: No objection with qualification as follows.  
If the paragraph beginning on Line 58 is stricken in the final version, then the wording beginning on line 51, "...except that the daily takes of gas from any well in an unprorated gas pool shall not exceed 25% of its open flow." should also be stricken,

Comments: If this wording is not stricken from the bill, every non-prorated gas well in the state would have to have an open flow test taken annually no matter how small the well and its production would be limited to 25% of this test result.

SB #161 - Mobil position: Oppose.

Comments: All of Mobil's irrigation contracts in Kansas involve gas dedicated to the interstate market and generally have 60 day cancellation clauses in them. Such contracts are made with the individual buying irrigation gas and are not transferable. Each such contract must be approved by the gas purchaser and thereafter, approved by the Federal Energy Regulatory Commission (FERC) before the quantity of gas involved can be abandoned from the interstate dedication. Mobil's current policy on irrigation gas sales would not prohibit execution of the new contract required on sale of irrigated lands so long as the lands to be irrigated are attributed to the gas well thereon.

SB # 162 - Mobil's position: Oppose

Comments: Restricting the price to that in effect the day before the Natural Gas Policy Act of 1978 became effective would not be fair to rest of royalty interests in a given gas unit nor to the producer. Proceeds from irrigation sales are distributed exactly in the same manner as are proceeds from regular sales. In effect, the other interest owners in a gas unit would be subsidizing the buyer of irrigation gas.

SB #167 - Mobil's position: Oppose to the extent that such sales would be for use off the lands attributed to the gas well at hand.

Comment: FERC always limits such sales to use on the lands attributed to the well.

SB #146 - Mobil's position: Oppose

Comments: The KCC has just promulgated a new amendment with considerably different provisions to the Hugoton Basic Proration Order addressing the very issue brought up in this bill. Such legislation would greatly reduce the Commission's ability to adopt new amendments in a changing gas market situation and probably would result in violation of the correlative rights of both royalty interests and producers.

SB #209 - Mobil's position: Oppose

Comments: Mobil sales or acquisitions generally involve other states and many other facilities than oil and gas leaseholds. Mobil would have to arbitrarily place a value on such items in addition to assigning values to oil and gas leaseholds because such contracts generally do not set out an item for item valuation.

SB #236 - No Mobil position taken.

SE #248 - Mobil's position: Support

Comments: The KCC should be authorized to permit flaring of gas in certain situations where a well needs to be tested to determine whether it is worthy of being connected to a purchaser's facilities. Many states' rules and regulations permit flaring of gas in such situations for 30 days or longer on a restricted basis.

FEDERAL ENERGY REGULATORY COMMISSION

WASHINGTON 20426

JUN 1 1982

Honorable Robert Dole  
United States Senator  
Washington, D.C. 20510

Dear Senator Dole:

Thank you for your inquiry of May 17, 1982 which attached a letter dated May 6, 1982 from Jack and Maxine Campbell concerning the sale of irrigation gas to a non-royalty interest owner.

According to the letter you forwarded, the Campbells wish to sell irrigated farmland. Mobil is currently supplying them with irrigation gas. However, the Campbells state that Mobil told them that no irrigation gas sales could be made to a new owner who is not a royalty interest owner. Consequently, they have been unable to sell their property.

The release by a producer of natural gas which is already dedicated to interstate commerce constitutes an abandonment of service under Section 7(b) of the Natural Gas Act. Such action requires the prior approval of the Federal Energy Regulatory Commission (Commission). In the past, the Commission limited its approval to those situations where the user of the irrigation gas was a royalty interest owner, the gas was to be used on the royalty interest owner's land, and the amount of gas to be released did not exceed the owner's royalty interest.

The Commission has recently changed its policy regarding sales of gas for irrigation purposes. In Mapco Production Company, Docket No. G-6086-000, issued March 4, 1982, the Commission determined that gas for irrigation purposes could be sold to a farmer who was not a royalty interest owner. In that order, the Commission noted that a small volume of gas would be released, the release would have a de minimis impact on the gas supply of the pipeline to which the gas was otherwise dedicated, and the released gas would

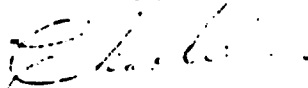
be used for essential agricultural purposes to fuel irrigation pumps. The Commission granted abandonment with the condition that the farmer would be subject to the same curtailment priority level applicable to the pipeline's other essential agricultural users.

As a result of the Mapco order, a buyer of gas for irrigation purposes does not have to be a royalty interest owner. However, a potential purchaser must still negotiate a sales contract with the seller of the gas. If such a contract is negotiated, the seller must file an abandonment application with the Commission. A copy of the Mapco order is enclosed.

In the case of the Campbells, the Mapco holding permits a buyer of the Campbell property to attempt to negotiate a contract with Mobil for the sale of gas for irrigation purposes. If a contract is negotiated, Mobil may seek abandonment authorization from the Commission for release of gas for irrigation purposes to non-royalty interest owners under the criteria set forth in Mapco.

I hope that this information is helpful to you. If I can be of further assistance on this or any other FERC matter, please let me know.

Sincerely,



Charles A. McManus  
Director, Office of  
Congressional and Public Affairs

Enclosures (2)



UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

ABANDONMENT (Irrigation Sales)

Before Commissioners: C. M. Butler III, Chairman;  
Georgiana Sheldon and J. David Hughes.

Mapco Production Company ) Docket No. G-6086-000

ORDER GRANTING ABANDONMENT APPLICATION

(Issued March 4, 1982)

Mapco Production Company (Mapco) filed pursuant to Section 7(b) of the Natural Gas Act an application for authorization to release certain quantities of gas from dedication to Northern Natural Gas Company (Northern) in order to supply gas to Ralph Grounds (farmer) for use as irrigation pump fuel. Northern has agreed to release the gas for this purpose.

Mapco's sale to Northern is made from acreage in Texas County, Oklahoma, and is covered under a contract dated September 15, 1949, on file as Mapco's FERC Gas Rate Schedule No. 10 for which the related certificate was issued in Docket No. G-6086. Mapco estimates that a total of 4,500 Mcf of gas will be used by the farmer annually. Northern executed a release from the contract of gas to be used for irrigation, with such release contingent upon Commission approval of the abandonment application. Further details are shown on the tabulation hereto.

The proposed release by Mapco to the farmer of gas already dedicated to interstate commerce constitutes abandonment of service and requires the prior permission of the Commission. 1/

In previous instances where a producer requested abandonment authorization to release gas for agricultural use as irrigation pump fuel, the user was a royalty interest owner and Commission

IP82-2

1/ Phillips Petroleum Company, et al., Docket Nos. G-8739, et al., Order Granting Abandonment Applications And Denying Petition For Declaratory Order, issued December 13, 1979.

Docket No. G-6086-000

- 2 -

approval was specifically limited to use on the royalty owner's land with the amount of gas to be released restricted to the particular owner's royalty interest. 2/ Furthermore, the costs incurred in supplying gas to the royalty owner were required to be negotiated between the royalty owner and the producer and such costs were not permitted to be passed on to the interstate pipeline purchaser.

The farmer to whom Mapco proposes to release the subject gas is not a royalty interest owner with respect to the gas involved here. However, the volume requested to be released by Mapco is small and the release would therefore have a de minimis impact on Northern's gas supply. Furthermore, the gas will be used for essential agricultural purposes to fuel irrigation pumps.

The subject release agreement between Mapco and Northern states that it shall remain in effect until terminated by Northern. In allowing farmers to buy gas directly from the producer supplying the pipeline, the agricultural user is essentially removed from the pipeline's curtailment plan. As the Commission pointed out in Northern Natural Gas Producing Company 3/, the unconditional grant of such abandonments could result in agricultural users maintaining their supplies while service to higher priority users may be curtailed. To prevent this from occurring, abandonment authorization granted herein shall be conditioned to provide that the farmer shall be subject to the same curtailment priority level applicable to Northern's other essential agricultural users. In addition, the release shall be conditioned to provide that the costs incurred in supplying gas to the farmer shall be negotiated between the farmer and Mapco and shall not be passed on to Northern.

After due notice by publication in the Federal Register, no protests or petitions to intervene in opposition have been filed.

At a hearing held on February 25, 1982, there was received and made a part of the record in this proceeding all evidence, including the application submitted in support of the

- 2/ Gulf Oil Corporation, Docket No. G-4143, order issued April 14, 1980.
- 3/ Northern Natural Gas Producing Company, et al., Docket Nos. G-5716, et al., Order Granting Abandonment Applications, issued February 29, 1980.

authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant herein is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission.

(2) The sale of natural gas proposed to be abandoned, as hereinbefore described and as more fully described in the application, is subject to the requirements of subsection (b) of Section 7 of the Natural Gas Act.

(3) The partial abandonment proposed by Applicant herein is permitted by the public convenience and necessity and should be approved as hereinafter ordered and conditioned.

(4) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the FERC gas rate schedule supplement related to the authorization hereinafter granted should be accepted for filing.

The Commission orders:

(A) Permission for and approval of the partial abandonment of service by Applicant in Docket No. G-6086-000 are granted, subject to the following conditions:

- (i) The release shall be limited to 4,500 Mcf of gas annually to be used by the farmer for irrigation on the SW/4 of Section 16, T4N, R17ECM, Texas County, Oklahoma.
- (ii) In the event of curtailment of similar usage on the Northern system, then Northern shall cancel the release to the same extent, proportionately, that it has curtailed into the applicable priority level.
- (iii) The costs incurred in supplying gas to the farmer shall be negotiated between the farmer and Mapco and shall not be passed on to Northern.

(B) The rate schedule supplement related to the authorization granted herein is accepted for filing, all as more fully set forth in the tabulation herein.

By the Commission.

(S E A L)

*Kenneth F. Plumb*

Kenneth F. Plumb,  
Secretary.

ORDER NUMBER 0-0000-000

**EXPLANATION**

0 - Initial Service

1 - Amendment

2 - Amendment to add coverage

3 - Amendment to delete coverage

4 - Total Reservations

5 - Partial Reservations

Order No. and Date Filed	Applicant	Purchaser and Location	Effective Date		C.M.
			1/	2/	
0-0000-000 0 7/24/81 2/	Hopco Production Company	Northern Natural Gas Company Saffranko No. 1 Well, Texas County, Oklahoma 2/	Release of Gas for Irrigation Fuel 7-1-81	10	53

1/ Effective Date: Date of Commission Authorization.  
 2/ Additional information filed August 23, 1981, September 9, 1981, and September 11, 1981.  
 3/ Applicant proposes to release approximately 4,500 Mcf of gas annually for agricultural use as irrigation pump fuel.

GAS SALES AGREEMENT

THIS AGREEMENT, made this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, between NORTHERN NATURAL GAS PRODUCING COMPANY, hereinafter called "Seller" and \_\_\_\_\_, whose address is \_\_\_\_\_, hereinafter called "Buyer", for the sale and purchase of natural gas on the terms and conditions as hereinafter stated.

WHEREAS, Buyer is farming the following described tract of land containing \_\_\_\_\_ surface acres, more or less, and Buyer desires to purchase gas for fuel to operate gas engine driven pumps used for pumping water for irrigation of crops and/or to operate gas fired dryers for the dehydration of grain crops produced on such acreage, and

ACREAGE DESCRIPTION:

WHEREAS, Seller owns and controls the sale of gas from a well or wells located in Sec. \_\_\_\_\_, Twp. \_\_\_\_\_, Rge. \_\_\_\_\_, \_\_\_\_\_ County, State of \_\_\_\_\_, and Seller is willing to accomodate Buyer so long as it may do so without prejudice to its own requirements or to permanent marketing arrangements for said gas, and provided Seller does not incur additional expenses or losses in supplying Buyer's fuel gas requirements or in complying with the rules and regulations of Federal or State regulatory bodies.

NOW, THEREFORE, WITNESS THIS AGREEMENT:

1. Seller hereby agrees to sell to Buyer, subject to the terms and conditions hereof, gas to be utilized by Buyer solely for engine fuel in pumping water for irrigating the above described surface acreage and for fuel to operate equipment for the dehydration of crops produced on said acreage. Buyer agrees that its irrigation of other than the described acreage or the dehydration of product of third parties at any time on any basis is a violation of this specific condition and shall cause the immediate termination of this agreement.
2. Buyer shall install, operate and maintain, at its sole risk and expense, and at locations which will not interfere with Seller's lease operations, all pipes, connections, regulators, and other equipment incidental and necessary to carry, control and handle such gas from the well-head of said wells, or other source or delivery point designated by Seller; and upon termination of this agreement, Buyer shall, within 90 days of such termination, remove all of said installations and equipment.
3. Seller shall, at its sole expense, supply, install, and maintain industry accepted gas measurement equipment of a make and type in general use. Such measurement equipment shall be installed at such place or point on Buyer's fuel gas system or facilities as determined by Seller. In the event the meter or meters measuring gas hereunder shall be found out of order, the amount of gas used during the time same were out of order shall be determined by estimating the amount delivered during a like period under similar conditions and Buyer hereby

agrees to furnish Seller, upon request, an accurate record of the operating time that said gas was used during the time the meter was out of order for the purpose of making a fair estimate (for billing purposes) of the gas consumed. The volume of gas delivered shall be calculated on the basis of 10 cubic feet consumed per horsepower hour of running time.

4. All gas measurement devices measuring gas furnished hereunder shall be read by Seller, at intervals of time to be determined by Seller, or as otherwise required by any governmental authority having jurisdiction.

5. The unit of volume for the measurement of gas delivered hereunder shall be one cubic foot of gas at a base temperature of 60 degrees Fahrenheit and at a pressure base of 14.65 pounds per square inch absolute, and measurements shall be computed in terms of such units.

6. All gas sold hereunder shall be delivered to Buyer at the well-head side gate, or at such other delivery point as may be designated by Seller, and title shall pass to Buyer at such point.

7. Buyer agrees to defend, protect, indemnify and save Seller harmless from and against all claims, demands, and causes of action of every kind or character arising in favor of any person or party including, but not limited to Buyer, Buyer's employees, or agents, Seller, Seller's employees or agents, or any other persons on account of personal injuries or death, or damage to property in any wise incident to or arising out of Buyer's use, control and possession of said gas, whether directly or indirectly due to Seller's negligence or whether such negligence is sole, joint, concurrent, or otherwise.

8. For all gas sold and delivered hereunder, Buyer agrees to pay to Seller the following:

- a) An original connection charge of \$ \_\_\_\_\_;
- b) A disconnect and reconnect charge of \$ \_\_\_\_\_ each;
- c) A monthly surcharge of \$ \_\_\_\_\_ each month the gas is connected; and
- d) For all gas delivered, its value computed at the price per MCF being paid at the time of delivery by the purchaser of the majority of the gas from the lease to which Buyer's pipeline is connected. At the time of execution of this agreement, the price is \_\_\_\_\_ per MCF; however, such price shall remain subject to unilateral adjustment by Seller to conform to that price paid by the purchaser of the majority of such lease gas.

Buyer agrees to make all payments required by this agreement within ten days following receipt of Seller's invoice therefor.

9. If, in the judgment of Seller, it becomes necessary or expedient to shut in, for any period or periods of time, such well or other source for which gas is sold hereunder, Seller may do so without notice to Buyer and without liability for any damages which may result therefrom; however, Seller will endeavor to give notice of such shut in made in the ordinary conduct of its operations.

18. It is understood and agreed that this agreement contains all the covenants, stipulations, and provisions agreed upon by the parties hereto, and no agent of either party to this contract has authority to alter or change the terms hereof and neither party is or shall be bound by any statement or representation not in conformity herewith.

NORTHERN NATURAL GAS PRODUCING COMPANY

By \_\_\_\_\_ (SELLER)

\_\_\_\_\_

By \_\_\_\_\_ (BUYER)

RELEASE OF GAS FOR IRRIGATION FUEL

WHEREAS, Northern Natural Gas Producing Company, a Delaware corporation, owns or controls the sale of gas from a gas well located in Section 21, Township 26S, Range 33W, Finney County, Kansas containing 640 acres, more or less, and described as follows:

Knapp A. No. 1  
Section 21-T26S-R33W  
Finney County, Kansas  
Station No. 101198  
ACR #05996, dated 11-01-52

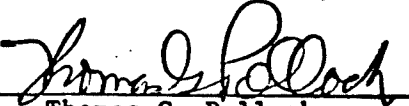
and

WHEREAS, F. Arthur Stone, a royalty interest owner, whose address is Star Route, Garden City, Kansas 67846, desires to purchase gas from said gas well for engine fuel in pumping water wells for irrigation on 160 acres - SE/4 Section 21-T26S-R33W, Finney County, Kansas

NOW, THEREFORE, Northern Natural Gas Company, ("Northern"), Division of InterNorth, Inc., purchaser of gas from the aforesaid acreage, agrees as follows:

1. Northern hereby releases gas, from the gas well on the above-described property, to be used exclusively for engine fuel in pumping water wells for irrigation on the above-described acreage from the terms of the Contract dated December 21, 1949 between Northern, as Buyer, and Mobil Oil Corporation, as Seller.
2. This Release is expressly conditioned upon the removal by Seller of the released gas at a point upstream from the delivery point specified in said Contract.
3. This Release is also expressly conditioned upon the receipt by Seller of appropriate regulatory approval of the discontinuance of the sale and delivery of gas to Northern, as contemplated hereby.
4. Subject to Paragraph (3), above, this Release shall be effective from the date of execution and shall remain in effect until terminated by Northern.

NORTHERN NATURAL GAS COMPANY  
Division of InterNorth, Inc.

By   
Thomas G. Pollock  
Manager, Supply Production

Date Executed: 1/23/83

Northern Natural Gas Producing Company is a  
Subsidiary of Mobil Oil Corporation

N-6326-GH.



CITIES SERVICE GAS COMPANY  
 FIRST NATIONAL BUILDING  
 OKLAHOMA CITY 1, OKLAHOMA

July 25, 1950

P/S.  
 8/4/50  
 m

Magnolia Petroleum Company  
 Dallas 1, Texas

Attention: Mr. R. D. Hanley, Vice President

RE: Gas for Irrigating Wells and School,  
 Hugoton Field, Kansas

Gentlemen:

We have your letter of July 24, referring to the use of natural gas produced from lands covered by our gas purchase contract with you dated June 13, 1946, for power required to irrigate such land for agricultural purposes and for use in a school house located upon said lands.

All of the gas produced from said lands has been dedicated to our said gas purchase contract, but we believe the use of gas to generate power for operating irrigating equipment may result in great benefit to the land owners and consumers of agricultural products, and that the use of gas in said school will promote the welfare of the community. We, therefore, release from our gas purchase contract such gas produced from any well located on the acreage dedicated to our contract as may be used in irrigating the lands comprising the 640-acre unit upon which the well is located. We also release from our gas purchase contract such gas as may be used in the school house mentioned in your letter. It is understood, of course, between us that our company will have no responsibility or expense in the making of deliveries of gas for said purposes and that all arrangements for such deliveries shall be made with the users by your company. This release is made upon your representation that sales of released gas will be made at a price not in excess of the price currently paid by us to you under the aforesaid gas purchase contract of June 13, 1946.

We believe the foregoing will accomplish the purposes requested in your letter and if you find it satisfactory, please indicate by executing and returning to us two copies of this letter, whereupon our gas purchase contract of June 13, 1946, shall be considered as amended to the extent above set out.

Yours very truly,

*Geo. H. Baird*  
 Vice President

Geo. H. Baird/d

Agreed to: Magnolia Petroleum Company

By *[Signature]*  
 - President

83

GASS No. 302N



Abandonment  
Irrigation Gas

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

John, memo  
Curtis  
LPO  
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RDH  
AD  
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ABANDONMENT (Irrigation Sales)

Taylor James

Before Commissioners: Charles B. Curtis, Chairman,  
Matthew Holden Jr., and George R. Hall.

Northern Natural Gas  
Producing Company )  
John B. Hawley, Jr. )  
John B. Hawley, Jr. )  
Trust No. 1 )  
Gulf Oil Corporation )

Docket Nos.

G-5716  
CI78-1162  
CI79-150 Gas Manager  
G-4143

MAR 11 '80

ORDER GRANTING ABANDONMENT APPLICATIONS

(Issued February 29, 1980)

Table with columns: Date, Description, Copies To. Includes handwritten number N-6326.

Northern Natural Gas Producing Company (Northern Producing), John B. Hawley, Jr. (Hawley), John B. Hawley, Jr. Trust No. 1 (Hawley Trust), and Gulf Oil Corporation (Gulf) have filed applications for partial abandonment of their gas sales to Northern Natural Gas Company (Northern). 1/ The producers wish to supply royalty gas to their farmer-lessors for use as irrigation pump fuel.

1/ Northern Gas' application was filed June 18, 1979, Hawley's August 31, 1978, Hawley Trust's November 17, 1978, and Gulf's June 15, 1979.

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R. D. HAWORTH

Northern has agreed to release the gas for this purpose contingent upon Commission approval of the abandonment applications.

### Producer Applications

Northern Producing proposes to abandon sales of gas produced from the Hugoton Field in Finney County, Kansas. The producer estimates that approximately 4,300 Mcf per year for each of the three connections involved will be needed to supply the lessor, Taylor Jones with gas for irrigation purposes. Gulf has filed an application to abandon partially its sale to Northern of gas produced from the Hugoton Field in Kearny County, Kansas. Gulf's lessor, Vernon E. Eberhart, is expected to use approximately 4,500 Mcf per year. Hawley and Hawley Trust propose to abandon two sales to Northern of gas produced from the Hugoton and Panoma Fields, Stevens County, Kansas, in order to supply two lessors, James Brecheisen and Andrew Stegman with gas for irrigation purposes. In each case, these lessors are not purchasing gas for irrigation purposes from a local distributor.

### Discussion

The proposed release by these producers to their lessors of gas already dedicated to interstate commerce constitutes an abandonment of service and requires the prior permission of the Commission. 2/

The right to take or release gas for irrigation purposes was not provided for in the leases between the producers and the farmer-lessors. Nor did the producers reserve a right to sell gas for such purposes in their contracts with Northern. In prior cases where the

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2/ Phillips Petroleum Company, et al., Docket Nos. G-8739, et al., "Order Granting Abandonment Applications And Denying Petition For Declaratory Order", issued December 13, 1979.

Commission has granted abandonment permission for these types of sales, reservation clauses have been included in the leases and contracts. A determination, however, of whether or not these proposed abandonments are justified should not turn on the timing or inclusion of reservation clauses. The end use of the gas to be abandoned and the impact of the diversion on the pipeline's (here, Northern's) supply are the primary considerations. 3/

In the present proceedings, the farmer-lessors would use the royalty gas to fuel irrigation pumps. Irrigation pumping is classified as an "essential agricultural use" under Section 401(f) of the Natural Gas Policy Act of 1978 which prohibits any pipeline or local distribution company from curtailing deliveries to essential agricultural users unless necessary to meet the requirements of higher priority users. We will permit the proposed abandonments because the volumes involved will not significantly affect Northern's ability to serve its market requirements. But, more importantly, the use of the gas has been identified by statute and the Secretary of Agriculture as an essential use.

We recognize that our action here may encourage other requests for abandonment to enable certain end users to acquire direct supplies of natural gas. We wish to make it clear that any such abandonments will be entertained only where the gas is to be used for high priority or essential agricultural uses as defined by statute. We are concerned that gas supply situations may change on individual pipelines after abandonments have been approved. Under certain circumstances, the grant of abandonment could result in agricultural users maintaining their supplies while service to higher priority users may be placed in

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3/ The Commission uses similar criteria in deciding whether to permit sales by pipeline companies to right-of-way grantors. Cities Service Gas Company, Docket No. CP77-89, issued April 5, 1977.

jeopardy. Such a result would be inconsistent with the intent of Section 401 of the NGPA. We do not consider this to be a potential problem in this case; however, we may impose conditions in future cases to protect higher priority users or restrict the use to a limited period of time.

The Commission orders:

(A) The applications for partial abandonment in Docket Nos. G-5716, CI78-1162, CI79-150, and G-4143 are granted, and the related rate filings are accepted for filing as designated in the Appendix hereto.

(B) Applicants and lessors are advised that:

(1) the amount of gas to be released for irrigation purposes should be used only on the royalty owner's land and shall not exceed the amount of gas attributable to the particular owner's royalty interest and;

(2) the costs incurred in supplying gas to the royalty owner shall be negotiated between the royalty owner and the producer and shall not be passed on to the interstate pipeline purchaser.

By the Commission.

( S E A L )

Kenneth F. Plumb,  
Secretary.

DOCKET NUMBER G-5716, et al.

## FILING CODE

A - Initial Service  
B - AmendmentC - Amendment to add acreage  
D - Amendment to delete acreageE - Total Succession  
F - Partial Succession

Docket No. and Date Filed	Applicant	Purchaser and Location	FPC Gas Rate Proceeds		
			Description and Date of Document	Number	Just.
G-5716 6-18-79 B	Northern Natural Gas Producing Company	Northern Natural Gas Company, Hugoton Field, Finney County, Kansas	Release of Gas 11-13-78 1/	2	139
CI78-1162 8-31-78 B	John B. Hawley, Jr. 3/	Northern Natural Gas Company, Panoma (Council Grove) Field, Stevens County, Kansas	-	-	-
CI79-150 11-17-78 B	John B. Hawley, Jr. Trust No. 1 3/	Northern Natural Gas Company, Hugoton Field, Stevens County, Kansas	-	-	-
G-4143 6-18-79 B	Gulf Oil Corporation	Northern Natural Gas Company, Hugoton Field, Kearny County, Kansas	Release of Gas 3-17-79 2/	117	23
1/	3 wells involved in 3 releases; wells located in Sec. 1, 2, and 11, T263-34W, land owned by Taylor Jones.				
2/	Well located in Section 36, T225-R35W; land owned by Vernon E. Eberhart				
3/	Sale covered by small producer certificate.				

- 1. Irrigation Sales - Abandonment
- 2. Kansas - Irrigation Sales
- 3. Abandonment

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UNITED STATES OF AMERICA  
 FEDERAL ENERGY REGULATORY COMMISSION

ABANDONMENT (Irrigation Sales)

Mobil Oil Corporation )  
 (Operator) )

Docket No. G-11742-005

*Note limitations on volumes, purchases and specified land.*

FINDINGS AND ORDER AFTER STATUTORY HEARING  
 PERMITTING AND APPROVING ABANDONMENT OF SERVICE

*Any change in one will require new filing. Continued sale after change would be a violation of CPCN*

(Issued March 3, 1983)

Mobil Oil Corporation (Applicant) filed pursuant to Section 7(b) of the Natural Gas Act an application for authorization to release certain quantities of gas from dedication to Northwest Central Pipeline Corporation (Northwest Central) in order to supply gas to farmers for use as irrigation pump fuel, all as more fully set forth in the tabulation and in the application in this proceeding.

Applicant's sale to Northwest Central is made from acreage in Kearny County, Kansas, covered under a contract dated June 17, 1946, on file as Applicant's FERC Gas Rate Schedule No. 3 for which the related certificate was issued in Docket No. G-11742. Applicant estimates that a total of 15,000 Mcf of gas will be used by the farmers annually. Under the terms of the subject contract, as amended, Applicant is granted the right to supply farmers gas for irrigation purposes.

The proposed release by Applicant to the farmers of gas already dedicated to interstate commerce constitutes abandonment of service and requires the prior permission of the Commission. 1/

The farmers to whom Applicant proposes to supply the released volumes are not royalty owners with respect to the gas involved here. Consistent with the Commission's order issued March 4, 1982, in Mapco Production Company, Docket No. G-6086-000, abandonment authorization granted herein shall be conditioned to provide that the farmers shall be subject to the same curtailment priority level applicable to Northwest

1/ Phillips Petroleum Company, et al., Docket No. G-8739, et al., Order Granting Abandonment Applications And Denying Petition for Declaratory Order, issued December 13, 1979.

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R. D. HAWORTH  
 U.S. GAS - OGC

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Central's other essential agricultural users and the costs incurred in supplying gas to the farmers shall be negotiated between the farmers and Applicant and shall not be passed on to Northwest Central.

After due notice by publication in the Federal Register on February 24, 1983 (48 Fed. Reg. 7780), no petitions to intervene, notices of intervention or protests to the granting of the application have been filed.

At a hearing held on March 2, 1983, there was received and made a part of the record in this proceeding all evidence, including the application submitted in support of the authorization sought herein, and upon consideration of the record,

It is found:

(1) Applicant herein is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission.

(2) The sale of natural gas proposed to be abandoned, as hereinbefore described and as more fully described in the application and in the tabulation herein, is subject to the requirements of subsection (b) of Section 7 of the Natural Gas Act.

(3) The abandonment proposed by Applicant herein is permitted by the public convenience and necessity and should be approved as hereinafter ordered.

It is ordered:

(A) Permission for and approval of the abandonment of service by Applicant in Docket No. G-11742-005 are granted subject to the following conditions:

(i) The release shall be limited to:

(a) 5,000 Mcf of gas annually to be used by Kearney County Feeders & Triple "T" Farms for irrigation in Section 35-25S-35W, Kearny County, Kansas.

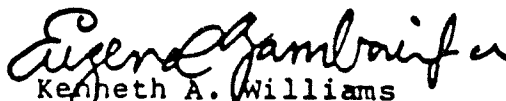
- (b) 5,000 Mcf of gas annually to be used by Kearney County Feeders & Triple "T" Farms for irrigation in Section 23-25S-35W, Kearny County, Kansas.
- (c) 5,000 Mcf of gas annually to be used by Corley Farm Account for irrigation in Section 24-26S-36W, Kearny County, Kansas.

(ii) In the event of curtailment of similar usage on Northwest Central's system, then Northwest Central shall cancel the release of this gas to the same extent, proportionately, that it has curtailed into the applicable priority level.

(iii) The costs incurred in supplying gas to the farmers shall be negotiated between the farmers and the Applicant and shall not be passed on to Northwest Central.

(B) The rate schedule supplement related to the authorization granted herein is accepted for filing, all as more fully set forth in the tabulation herein.

This action is taken pursuant to authority delegated by the Commission in Section 375.307 of Subchapter W of Chapter 1, Title 18 CFR.



Kenneth A. Williams  
Director

Office of Pipeline and  
Producer Regulation



FULL

A - Initial Service  
 B - Abandonment

C - Amendment to add acreage  
 D - Amendment to delete acreage

E - Total Succession  
 F - Partial Succession

Docket No. and Date Filed	Applicant	Purchaser and Location	FPC Gas Rate Schedule		Page
			Description and Date of Document	Number	
G-11742-005 B 1/24/83	Mobil Oil Corporation (Operator)	Northwest Central Pipeline Corporation Hugoton Field, Grant and Kearny Counties, Kansas 3/	Notice of Partial Cancellation 2/	3	53

FOOTNOTES

1/ Effective Date: Date of Commission authorization.

3/3/83

2/ Contract summary construed as notice of partial cancellation.

3/ *MP* Kearney County Feeders & Triple "T" Farms; Well: White Heirs "B",  
Section 35-25S-35W, Kearny County, Kansas.

*App* Kearney County Feeders & Triple "T" Farms; Well: USA White Unit "A",  
Section 23-25S-35W, Kearny County, Kansas.

Corley Farm Account; Well: H. C. Wear, Section 24-26S-36W, Kearny  
County, Kansas.