Approved March 4, 1983
Date

MINUTES OF THE Senate COMMITTEE ON Energy and Natural Resources.

The meeting was called to order by Senator Charlie L. Angell (Chairperson) at

7:30 a.m.XXXX on Thursday, March 3, 1983 in room 123-S of the Capitol.

All members were present XXXXX:

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

Conferees appearing before the committee:
Dick Brewster, Amoco Production Company
Robert Anderson, Mid-Continent Oil and Gas Association
Roger McCoy, Kansas Independent Oil and Gas Association
Glenn D. Cogswell, Delhi Pipeline and Northwest Central Pipeline
Stephen Holsteen, Governor's Office
Don Willoughby, InterNorth
Wayne Brown, Northern Natural Gas
Bill Beougher, Gove County Appraiser
Phil Martin, Division of Property Valuation
Ann Eslick, State Association of Appraisers

The minutes of the March 2, 1983 meeting were approved.

S.B. 62 - Interbasin transfers of water

Senator Hess made a conceptual motion that the 10-mile rule would not apply if the water was going to be transferred within the corporate city limits of a municipality if the municipality had a conservation plan. The motion failed. Senator Hess moved that the amendment proposed by Barbara Sabol that the hearing panel shall consist of the Secretary of the State Board of Agriculture or the Chief Engineer if so designated by the Secretary, the Director of the Kansas Water Office, and the Secretary of the Department of Health and Environment or the Director of the Division of Environment if so designated by the Secretary. Senator Feleciano seconded the motion. After discussion, Senator Hess amended his motion that the hearing panel consist of the Chief Engineer, the Director of the Kansas Water Office, and the Secretary of the Department of Health and Environment or the Director of the Division of Environment if so designated by the Secretary. The motion carried unanimously. Senator Feleciano moved that the insert to line 102 designated as subsection (d)(7) be amended to read as follows: "(7) conservation practices and conservations plans for the use of water currently available to the applicant and for the use of the water proposed to be transferred." Senator Kerr seconded the motion. Senator Hess made a substitute motion that (7) be adopted and in addition, (8) be added providing that persons who are going to object to the transfer also have a conservation plan for the water they want to keep in that area. Senator Rehorn seconded the motion. Senator Hess clarified his proposed amendment that the protestants who are protesting because they want the water for some alternative use must have a conservation plan. Chairman Angell ruled that the motion under consideration is divisible and each part shall be taken up separately. Upon a vote, Senator Feleciano's motion carried. Senator Hess restated his motion that any entity asking that a transfer application be denied who is presently using water in the area of the transfer must have a conservation plan or proposed conservation plan if they are going to ask that the application be denied. Upon a vote, the motion carried. After discussion, the Committee directed that the Kansas Water Authority and the Kansas Water Office provide the Legislature a listing of applications for water transfer that are denied. Senator Feleciano moved that S.B. 62 be reported favorably, as amended, for passage. Senator Kerr seconded the motion, and the motion carried 11-0.*

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

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.

MINUTES OF THE Senate COMMITTEE ON Energy and Natural Resources,

room 123-S, Statehouse, at 7:30 a.m./p.m. on Thursday, March 3, 1983

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

Dick Brewster distributed written testimony in opposition to S.B. 161, 162 and 167 (Attachment 1). He said their gas is all interstate and there are severe limits on how much the state can divert interstate gas. Mr. Brewster said these three bills reach beyond those limits. The Federal Energy Regulatory Commission (FERC) generally has not concerned itself with the diversion from the interstate market for the amount of gas used for irrigation purposes because it has been minimal. However, Mr. Brewster says, by broadening this to include all agricultural uses, he feels the federal government will not allow this amount of gas to be diverted. Mr. Brewster distributed written testimony opposing S.B. 146.

Robert Anderson said they oppose S.B. 23. They support S.B. 125 with the amendment proposed yesterday by Mr. Case of Mobil. They oppose S.B. 146. The Kansas Corporation Commission (Commission) has already acted, and Mr. Anderson mentioned the problem of respreading cancelled underages and the issue of correlative rights. They feel the problem has been addressed and is probably not something that should be in the statutes. They oppose S.B. 161. They oppose S.B. 162. Mr. Anderson said favoring one user can affect the rights of other royalty owners. They oppose S.B. 167. He said this would require permission of FERC and they don't feel this can apply to interstate gas. They oppose S.B. 209. Mr. Anderson said this kind of action causes difficulty in buying intrastate gas and dries up the supply of intrastate gas. They oppose S.B. 214. He said this would cause difficulties and be terribly complicated. Mr. Anderson said other industries are not required to report their sales to the assessors. They also oppose S.B. 236. They support S.B. 248. Mr. Anderson said they like the idea of the Subcommittee on Natural Gas and also the idea for an interim study on natural gas.

Cities Service Company's written testimony in opposition to S.B. 146 was distributed to the Committee (Attachment 3).

Roger McCoy reviewed his testimony (Attachment 4). They oppose S.B. 23 because major pipelines would not be affected at this time because of the 75% limitation in the bill and also because the bill interferes with interstate commerce. They support S.B. 125 with the amendment proposed by Mr. Case. They oppose S.B. 161 because the terms of their leases would not allow this. They oppose S.B. 162 because the price for agricultural use would be below that received by the producer or royalty owner. They oppose S.B. 167 because the bill includes the producer who has no right to sell gas to the surface owner if the surface owner has no mineral interest. They oppose S.B. 146 because of the market demand problem and violations of correlative rights. They oppose S.B. 209 because it will cause gas to go into the interstate market and create a shortage of intrastate gas, and other reasons. They oppose S.B. 214 because sales do not always have a dollar value. They oppose S.B. 236 because benefitting one group of customers will be at the expense of others. They support S.B. 248.

Glen D. Cogswell read his written testimony on behalf of Delhi Pipeline in opposition to S.B. 23 (Attachment 5). They feel there is a jurisdictional question, a violation of due process and the bill could cause the pipeline companies to bear the costs of connection. Northwest Central Pipeline opposes S.B. 146. They feel it would be an unfortunate diminishing of the authority of the Commission.

Steve Holsteen summarized his written testimony (Attachment 7) on S.B. 209. He mentioned the potential savings to consumers. Mr. Holsteen said they encourage an interim study on natural gas.

Don Willoughby provided written testimony in opposition to S.B. 23 (Attachment 8). They feel it would pose legal problems and Mr. Willoughby referred to testimony of John Will attached to his own testimony. They also oppose S.B. 236 (Attachment 9). They feel the appropriate method for dealing with this problem is through social programs not through rate reform. Mr. Willoughby also stated the figure of 30 m.c.f. seems an excessive figure.

Wayne Brown read his written testimony (Attachment 10). They oppose S.B. 146 because it will

violate correlative rights of producers, royal owners and purchasers. He explained the effect of the bill.

Bill Beougher testified in support of S.B. 214. He feels this bill would give the Director of the Property Valuation Division information to use in the guide for the appraisal of oil and gas properties.

Phil Martin said he supports S.B. 214 for the obvious reason of the oil and gas guide. Mr. Martin said he believes the bill allows for exemption of multiple jurisdiction assignments. He said they are looking for sales and arms-length transactions.

Ann Eslick said her association supports S.B. 214 for the reasons given by Mr. Beougher and Mr. Martin.

The meeting was adjourned at 8:58 a.m. by the Chairman. The next meeting of the Committee will be at 8:00 a.m. on March 4, 1983.

*Note: It was later agreed that Senator Hess' amendment would be as follows: "(8) conservation plans and practices or the need for such plans and practices of persons protesting or potentially affected by the proposed transfer."

Senate Energy & Natural Resources
Mar. 3, 1983

BARBARA J. SABOL	KDHE	Topeka
Leland E. Rolfs	KSBA-DWR	Topeka
David C. Pope	KSBA-DWR	"
Jim Aiken	KDHE	"
Joe Harkins	KWO	"
Deb Miller	Gov's office	Topeka
[illegible]	KANSAN	Lawrence
Diane Huber	Kansan	Lawrence
~~Cathy~~ Behan	AP	Topeka
Louis Stroup	KMU	McPherson
Paul E. Fleener	Ks. Farm Bureau	Manhattan
E.R. Brewster	Standard Oil (Ind.)	Topeka
BILL PERDUE	KPL	TOPEKA
Don Willoughby	INI	Topeka
WAYNE BROWN	Northern Natural Gas	Omaha, Ne.
Timothy Hagemann	L.P.G.	LARINKS
Ann Eslick	Appraiser	Grant Co.
Brad Welch	Appraiser	Kearny Co.
William O. Beaugher	Appraiser	Grove Co.
John A. Henderson	KWO	Topeka
Kerry L. Wedel	Ks. Natural Resource Council	Topeka
DAVID FURNAS	Chamber of Commerce	Wichita
Bill Anderson	Water Dist No. 1	Johnson County
Mary Ellen Conlee	City of Wichita	Wichita
Ed Reinert	Ks Sierra club	Topeka
John Blythe	KFB	Manhattan
Jack Alexander	K.L.W.A	Topeka
DALE SATTERTHWAITE	Gas Service Co	"

[illegible signature]	[illegible signature]	[illegible signature]
JAMES L. YOUNG	WASTE MANAGEMENT INC.	OAK BROOK, IL.
LOWELL CASE	MOBIL	DENVER
[illegible signature]	Mobil	[illegible]

Attachment 1

Amoco Public & Government Affairs
P. O. Box 2920
Shawnee Mission, Kansas 66201
913/661-2101
Representing
Amoco Chemicals Corporation
Amoco Oil Company
Amoco Pipeline Company
Amoco Production Company

E. Richard Brewster
Government Affairs Representative

March 3, 1983

Senate Committee on Energy and Natural Resources
Kansas Capitol building
Topeka, Kansas

Senate Bills No. 161, 162 and 167

Mr. Chairman, my name is Dick Brewster and I am Government Affairs Representative for Standard Oil Co. (Indiana). I appear today on behalf of Amoco Production Company, a wholly-owned subsidiary of Standard (Indiana) engaged in the exploration for and production of oil and gas in the United States, and specifically in Southwest Kansas in the Hugoton field.

Senate Bills 161, 162 and 167 are all designed to accomplish the purpose of making natural gas available to farmers in Kansas for agricultural use, and to make that gas available at the lowest possible price. Let me first speak to the bills one at a time, and then comment on the overall direction of this legislative package.

SENATE BILL No. 161

Senate Bill 161 prohibits the cancellation of a contract to provide natural gas for the purpose of irrigating land merely because the land is sold. Presently, in the case of Amoco, a person farming land upon which there is located a natural gas well enters into an agreement with the producer for the purpose of gas from that well for irrigation purposes. This is a personal contract between the two parties and is not subject to transfer or assignment. This bill attempts to transform that personal contract into an "incorporeal heredidament," an intangible contract right which runs with the land.

We oppose this bill for several reasons. First, it takes the existing contract far beyond the original intent of the parties. Contracts between Amoco and irrigation farmers provide that either party may cancel the contract upon thirty days written notice to the other. If this bill attempts to prohibit that cancellation once the property has changed hands, it gives the new buyer a protection not available to the existing property owner. In fact, I do not believe it prevents cancellation by either party in accordance with the contract terms. If I am correct, the bill's only effect will be to catch an unwary buyer. Let's assume, for example, that Smith wants to buy Jones' land. Smith

Atch. 1

is willing to pay $500.00 per acre, but would be willing to pay $800.00 per acre if a supply of irrigation gas is available. Jones shows Smith a copy of this bill. Smith believes that he has a right to continue the contract between producer and Jones, so he pays $800.00 per acre. Then, because of changes in market conditions, or any number of other reasons, producer sends Smith a cancellation notice. Smith has paid a premium for the land based on availability of gas which he cannot now buy.

Of course, Smith should have made his agreement to purchase Jones' land contingent upon availability of the irrigation gas, contacted producer and sought his own gas purchase agreement. And, this prudent action by Smith would be all that is needed now. With or without adoption of S. B. 161, Smith is in the same boat, except that with the bill, he might fail to take a very important step, and suffer the consequences.

If the bill does attempt to make changes in the producer's right to cancel his contract, there is a problem because of the restraint against impairing contract rights. This issue will be discussed later, in connection with all three bills to which I am speaking.

SENATE BILL No. 167

I will return to S. B. 162, but want to speak to S. B. 167 first because it is more akin to 161. Senate Bill No. 167 is an attempt to require any producer or pipeline company to supply natural gas to the farm operator of land upon which is located a natural gas well or gathering system. This gas may be used not just for irrigation but for any agricultural purpose as that purpose is defined in the bill.

First, let me say that all Amoco produced gas is contractually dedicated to interstate commerce. This means that any diversion of any volume of this gas from interstate commerce must be approved by the Federal Energy Regulatory Commission. I have heard the argument that the amount of gas used for irrigation is not significant when compared to the total gas production. But, keep in mind that this bill goes far beyond irrigation gas. Whether FERC would permit the diversion of this much gas from interstate commerce is to be seriously doubted. If today's situation were seen as permanent, FERC might be inclined to do so. But the excess of deliverable gas over demand is clearly not a permanent condition. It is hard for me to believe that the federal government will allow diversion of large amounts of interstate gas into the intrastate market. The point simply is that I do not believe the state has the authority to divert this gas by statute. And, to expect the FERC to allow it when the long term result might be deprivation of more densely populated areas from higher priority uses is to expect a great deal. This bill would be a direct and substantial interference with interstate commerce in an area wherein Congress and FERC clearly have preempted the field.

Additionally, this bill interferes with the contractual arrangement between the producer and purchaser of interstate gas. It requires removal of some gas from that purchaser, when the producer has contracted to sell all of it to the purchaser. Again, I will discuss the contracts issue later.

SENATE BILL No. 162

This bill attempts to force gas producers to sell agricultural use gas for a price lower than that price allowed by the Natural Gas Policy Act of 1978. Let me explain how this happens. For example, Amoco and a farmer whose land has a gas well on it agree that the farmer may purchase directly from the wellhead gas for powering irrigation pumps. In all cases with Amoco, this contract is quite apart from the mineral lease, and all these contracts contain the 30 day cancellation provision I mentioned earlier. The agreements provide that the farmer shall pay the same price for the gas as is being paid by the primary purchaser, in our case, Northwest Central Pipeline, formerly Cities Service, dedicated to interstate commerce.

Amoco now has 471 wells from which irrigation gas is sold under such contracts. The price to the farmer is 47 per MMBtu. However, 28 of these wells have become stripper wells. This happens when a well's production falls below a certain level specified in the NGPA, and a higher price is allowed. Now, the stripper price is about $3.37 per MMBtu, clearly quite a jump.

Before going any further, let me try to put these prices into perspective. Natural gas at 47 is the equivalent, in terms of MMBtu, of gasoline at 7.5 per gallon, and propane at 4.4 per gallon. Natural gas at the stripper price of $3.37 equates to gasoline at just under 50 per gallon and propane at just under 40 . Proponents of this bill are saying that southwestern Kansas farmers cannot afford to irrigate with stripper gas, fuel at about half the market cost. Yet Kansas farmers who do not have a wellhead on their property must either buy utility priced natural gas from pipelines, at prices above the wellhead stripper price, or must use propane or alternate fuel. And, there are Kansas farmers who are doing just that. And, keep in mind, their fuel costs are up to double the stripper price you are being told the proponents cannot afford to pay.

One of the reasons for the temporary oversupply of natural gas has been conservation. We all want to encourage conservation of our resources. I suggest to you that this bill would discourage the wise and prudent use of both natural gas and irrigation water. Both vital resources which I hope are still around when my children need them. I'll not belabor this point because none of you need be told by me about our need to encourage conservation.

I'd also suggest that this bill is not in the best interests of the irrigation farmer it is designed to protect. As I said, our contracts contain 30 day cancellation clauses. Put yourself in the producer's position. You are selling gas from well "A" at 47 per MMBtu, both to the pipeline and to Jones for his irrigation operation. Well "A" becomes a stripper well. Suddenly the price for gas from this well jumps to $3.37. That is the price paid by the pipeline. But there is this Kansas law which says you cannot sell irrigation gas for more than 47 . Your contract, however, says you can cancel. What would you do? Sell it for 47 or cancel the irrigation contract and keep it until the pipeline takes the gas at $3.37. The choice is obvious.

Under present law, without this bill, if the price of gas to a farm irrigator jumps to the stripper price, he has three choices. He can stop irrigating, he can make a large capital investment and convert his pumping motors to propane and begin paying the market price for propane, (double the price for stripper gas), or he can buy and use stripper gas for half the price that the rest of the world has to pay for alternate fuels. If this bill passes and the producer decides to cancel the contract, the irrigator has only two choices. He can stop irrigating or he can convert his equipment and start buying propane. This bill removes his third choice. When he realizes what has happened, he may tell you that he'd rather you did not try to help him.

All three of these bills clearly impair existing contracts. S. B. No. 161 extends the life of a contract, wiping out the existing cancellation clauses. S. B. 162 reduces the price of stripper irrigation gas below the contract price. And, S. B. 167 diverts gas contracted to interstate commerce.

You will be told, if you haven't already, that the U. S. Supreme Court said states could impair contracts when it upheld the Kansas Natural Gas Price Act of 1979, in the Energy Reserves case. I have read that case, and it does not nullify the constitutional prohibition against impairing contracts. The court merely said that the operation of the Kansas act fit into the exceptions to the prohibition. One of the tests to determine whether a bill which impairs contracts can be approved, is whether it reasonably responds to an emergency. At a time when we know our water supply is running out, when we know we will again be concerned about over use of natural gas, and when the President is asking farmers not to grow so much food, how can we say that emergency conditions compel impairing contracts so that farmers can grow more crops, using more and more water with natural gas costing only about 5 percent of any other fuel? Yet that is precisely what these three bills are designed to do.

Another of the court's tests is whether the legislation is designed to end when the emergency is gone. There is no sunset in any of these

bills. (Remember, there was one in the Kansas law upheld by the case under discussion.)

The court also said that a law impairing contracts cannot be upheld if it benefits a class of people and not the general public. Again, these bills benefit primarily Kansas irrigation farmers, not the general public. In fact, insofar as these bills would divert natural gas from higher priority uses in interstate commerce, they benefit these few farmers at the expense of the general public.

Mr. Chairman, members of the committee, we oppose these bills. I appreciate your time and attention, and will be glad to answer any questions.

E. Richard Brewster

ERB

Attachment 2

Amoco Public & Government Affairs
P. O. Box 2920
Shawnee Mission, Kansas 66201
913/661-2101
Representing
Amoco Chemicals Corporation
Amoco Oil Company
Amoco Pipeline Company
Amoco Production Company

E. Richard Brewster
Government Affairs Representative

March 3, 1983

To: The Senate Committee on Energy and Natural Resources

From: E. Richard Brewster, Government Affairs Representative
Standard Oil Company (Indiana)

Reference: Senate Bill 146

Dear Mr. Chairman and Members of the Committee:

I am appearing before you today on behalf of Amoco Production Company, a wholly owned subsidiary of Standard Oil Company (Indiana). We oppose enactment of Senate Bill 146 relating to cancellation of Hugoton underages.

The Basic Proration Formula for the Hugoton Field presently provides that a well which does not produce its monthly allowable is able to accumulate that underage up to a total of six times the January allowable. Beyond that any further underage is cancelled and the cancelled underage is totalled as it accrues. The Formula further provides that the cancelled underage may, upon Application to Kansas Corporation Commission and a hearing, be reinstated and the well will then be allowed to produce the cancelled underage in addition to its normal monthly allowable.

Similarly, the Hugoton Formula allows a well to produce more than its monthly allowable, and to thereby accumulate overage, until such time as the well is overproduced in an amount equal to six times its January allowable. The well is then shut in until its overage is reduced to five times its January allowable.

This system was designed to protect correlative rights of owners in this very large reservoir. As wells experience operating problems or difficulties with the purchaser's ability to take gas, the well accumulates underage. During that period, offsetting wells which are producing enjoy a competitive advantage relative to the wells that are not currently producing and, arguable, gas begins to migrate in the reservoir from the area around the nonproducing wells to the pressure sink created by the producing wells. However, this situation is reversed and the balance of correlative rights is restored when the producing wells become sufficiently overproduced and therefore shut in, and the nonproducing wells solve their problems and are permitted to produce the cancelled underage.

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This bill would destroy the system of "checks and balances" set up by the Basic Hugoton Proratin Formula and result in the "taking" of gas belonging to operators unfortunate enough to have gas contracts with purchasers whose gas markets have experienced relatively larger declines. The gas would be given, under the Bill, to those operators who have done nothing to deserve this windfall except to be fortuitously in contract with gas purchasers with better markets for the gas.

As you may know, Amoco operates approximately 780 Hugoton gas wells, of which some 97% are hooked up to Northwest Central Pipeline. Northwest Central has had great difficulty in marketing Hugoton gas and our wells are averaging perhaps five days "on" per month. Amoco is and has been, therefore, accumulating two to three BCF (billion cubic feet) of Hugoton underage per month. Approximately 80 BCF of these underages have been cancelled, representing perhaps $40 million. Other purchasers in the Hugoton Field are doing better and there are some operators who are actually accumulating overage in the present market. If Amoco is not allowed to reinstate and produce these underages, the gas will be produced through the well bores of those operators whose purchasers have better markets. This would be a clear violation of the letter and spirit of Kansas Statutes Annotated, Article 7, Section 55-703, which states that:

> "The (Kansas Corporation Commission shall so regulate the production of natural gas in a manner) as will permit each developed lease to ultimately produce approximately the amount of gas underlying such developed lease.....without uncompensated drainage between separately owned developed leases or parts thereof."

I believe this Bill is prompted by concerns which Kansas has about the Hugoton Field being used as a "storage reservoir" while purchasers dispose of higher priced gas and avoid "take or pay" provisions under contracts for other more higher priced gas. This was the rationale given by the Kansas Corporation Commission in calling for hearings on a proposal to amend the Hugoton Proration Formula last year. The Commission has now issued its order, Docket No. C-164. This order seems to be a more reasonable approach to the concerns this Bill is designed to address.

It may be argued by proponents of this Bill (as it was at the K.C.C. hearing) that Amoco and other similarly situated operators are not being deprived of property rights since the State only has to afford the opportunity to produce. The argument runs that we will never be able to produce the underage, so why not give it to other operators to produce. As we indicated at the K.C.C. hearings, Amoco was in a similar position previously and, demonstrated a capability to make up the underage with the upturn in its purchaser's markets. In the late 1960s and early

1970s, Amoco experienced very similar problems with "takes" from the Hugoton Field and some 66.7 BCF of underage was ultimately cancelled.

When the markets for gas improved, Amoco began to apply for reinstatement and to produce this underage, so that by November of 1982, 60.65 BCF of the underage had been reinstated and produced, representing 90.9% of the cancelled underage. It is yet hoped that the remaining six BCF will be produced.

Producers cannot control "takes" from the Hugoton Field. The pipelines determine how much gas will be produced, based on their estimates of market demand. To permanently cancel the underage deprives the producers of the right to produce gas in which they have invested and deprives the royalty owners of future royalty payments to which they are entitled, all due to factors which cannot be controlled either by the producer or the royalty owner.

Thank you for your time. If you have any questions, please do not hesitate to ask.

Attachment 3

STATEMENT IN OPPOSITION TO KANSAS S.B. 146
CITIES SERVICE COMPANY

BACKGROUND

Kansas Senate Bill 146 proposes to cancel underproduction from natural gas wells in the Hugoton Gas Field when they have accumulated underproduction in excess of three times the current allowable assigned to it for the preceding January. Additionally, the excesses cancelled shall be spread among other wells in the field.

CITIES SERVICE COMPANY POSITION

Cities Service Company opposes passage of S.B. 146 for the following reasons:

1) The Kansas Corporation Commission has jurisdiction over underproduction matters.

The Kansas Corporation Commission has the expertise and has been delegated the authority to determine how field orders are established. Effective state government necessitates the establishment of and respect for decentralized decisionmaking. It is poor public policy for the legislature to become involved with complex and technical issues which it does not fully understand and cannot completely control. This is especially so when the proposed legislaton would affect only one identified field. It is therefore vital to have rules and orders (rather than statutes) to respond to changing circumstances.

2) The Kansas Corporation Commission has already considered and ruled regarding cancelling underproduction.

Following lengthy hearings and an established record, the Kansas Corporation Commission most recently issued an order on this

Atch. 3

subject in November. This was the latest in dozens of amendments to the Kansas Hugoton Order altering the methods and underproduction amount since 1944.

3) The need for flexibility is paramount and restricted by S.B. 146.

S.B. 146 seeks to set in concrete a relationship between producers, pipelines, and the Commission which defies control. It would remove the flexibility needed by all to meet the consumer demand. S.B. 146 is too drastic a "solution" for a situation which is basically working.

4) S.B. 146 would be an administrative nightmare.

Rather than a panacea for a complex situation, S.B. 146 would open up a Pandora's Box of new problems which, even experts say, cannot be fully gaged at this time. Of course, Cities Service supports workable and ready solutions; however, S.B. 146 sees the complex world of cancelled underproduction as it perhaps should be; not as it is. The answer is not to compound the problem by beginning with an acknowledgement: "there are no easy answers."

5) S.B. 146 fails to protect correlative rights.

The bill unwillingly sets up a mechanism giving certain parties a license to steal gas from some neighbor's tracts. S.B. 146 tears down the protection of correlative rights.

KIOGA Statement regarding SB 23, SB 125, SB 161, SB 162, SB 167, SB 146, SB 209, SB 214, SB 236 and SB 248

KIOGA opposes SB 23 for the following reasons:

1. Major Pipelines would not be affected at this time because of 75% capacity limitation in bill. This makes the purpose of the bill useless at the time it would be of the most value to Kansans.

2. The bill interferes with interstate commerce.

KIOGA supports SB 125 subject to the following change:

1. Strike "except that the daily takes of gas from any well in an unprorated gas pool shall not exceed 25% of its open flow.", on lines 51 and 52. This provision, if left in the bill while removing lines 58 through 77 would hurt many small gas wells.

KIOGA opposes SB 161 for the following reason:

1. Under terms of lease with mineral owners and gas contracts with purchasers, producer would not have the right to do what is asked in this bill.

KIOGA opposes SB 162 for the following reason:

1. Bill sets price for agricultural use below that received by producer or royalty owner.

KIOGA opposes SB 167 for the following reason:

1. Bill includes producer who has no right to sell gas to the surface owner if such surface owner has no mineral interest

KIOGA opposes SB 146 for the following reason:

1. All purchasers in the Hugoton Field do not have the same market demand for gas. Cancelling underages and spreading excess among other wells with purchasers that have a market for the gas would cause a violation of correlative rights and ratable takes between purchasers in the Field.

KIOGA opposes SB 209 for the following reasons:

1. Would give KCC authority to set price at any level.

2. No sunset clause.

3. Does nothing to control interstate "high cost" gas, but further controls the price Kansas intrastate producers can receive for gas that is already among the least expensive to consumers.

KIOGA opposes SB 214 for the following reason:

1. Assignments in industry are commonly not for value. Sales are not a common transaction. No valid value information would be available.

KIOGA opposes SB 236 for the following reason:

1. Any attempt to benefit one class of customer will be at the expense of another.

KIOGA supports SB 248.

TESTIMONY OF GLENN D. COGSWELL ON
BEHALF OF DELHI PIPELINE CORPORATION
BEFORE THE SENATE COMMITTEE ON ENERGY AND
NATURAL RESOURCES IN OPPOSITION TO
SB 23, MARCH 3, 1983

My name is Glenn Cogswell. I am appearing here on behalf of Delhi Gas Pipeline Corporation, of Dallas, Texas. Delhi is an intrastate pipeline Company operating gathering lines in Kansas.

We do not object to reasonable regulation of common carrier pipelines to prevent abuses where producers can't get meaningful quantities of natural gas to market. We do not object to common carrier regulations to achieve that purpose. We do however find considerable objection when we view this proposed legislation.

First, we believe it violates the Commerce Clause of the U. S. Constitution in that the matter is preempted by Federal legislation and regulation under the Natural Gas Act, the Natural Gas Policy Act of 1978 and the regulations of the Federal Energy Regulatory Commission as to natural gas moving in interstate commerce.

Secondly, it's our position that this bill, if enacted would constitute a taking without just compensation and in violation of due process in that there is absolutely nothing here to limit the effect of the legislation to the 25% of capacity of the pipeline that is not being used.

There would be a regulatorily mandated price which on the face of this bill would not be required to compensate the pipeline company for it's investment.

Thirdly, the scope of the Commission's authority under Section 3(a)(1) where it is entirely possible for the Commission to order the pipeline company to bear the entire cost of connecting uneconomic reserves with the consumers of Kansas ultimately paying the costs of such a connection. All this being without regard to gas reserves and gas deliverability in relation to the miles of pipeline and facilties necessary to connect it.

Although we do not object to a reasonably regulatory structure to prevent abuses where a producer, having gas to market would be unable to get his gas to market, we do believe the scope of this bill is overly broad for effective common carrier regulation.

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TESTIMONY OF GLENN D. COGSWELL ON
BEHALF OF NORTHWEST CENTRAL PIPELINE CORPORATION
BEFORE THE SENATE COMMITTEE ON ENERGY AND
NATURAL RESOURCES IN OPPOSITION TO
SB 146, MARCH 3, 1983

My name is Glenn Cogswell and I represent Northwest Central Pipeline Corporation. It is our belief that SB 146 is an unwise incursion by the Legislature into the province of the Kansas Corporation Commission.

Political observers are in general agreement with the proposition that legislative bodies should not enact rigid laws in complex areas requiring the expertise that can only be acquired with years of experience in that area. I suppose the best example today illustrating the point is the Natural Gas Policy Act passed by the U. S. Congress in 1978. Most authorities agree that we could have avoided the present crisis in natural gas pricing if Congress had not overridden the expertise of the F.P.C. (now F.E.R.C.) by enacting rigid pricing provisions.

Many years ago, the Kansas Legislature wisely delegated to the Kansas Corporation Commission broad powers governing the production of gas, the conservation of gas, and the protection of property rights of mineral owners within a known source of supply, such as the Hugoton Field. The Commission has mandated production in accordance with the field rules adopted after lengthy and exhaustive public hearings as required by statute.

SB 146, if enacted, would cut across this mandate to the Kansas Corporation Commission. If would replace the knowledge,

experience, ilnformation and expertise of the Commission gained over a long period of time in the complex area of establishing allowables. We suggest that the Commission is the proper forum to determine the answer to technical problems involving such knowledge, experience and expertise.

We suggest that the Kansas Legislature would be just as guilty of enacting unwise legislation if it passes SB 146 as the U. S. Congress was in enacting the N.G.P.A.

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Attachment 7

STATE OF KANSAS

OFFICE OF THE GOVERNOR
State Capitol
Topeka 66612

John Carlin *Governor*

Testimony To
Senate Energy and Natural Resources
By
Stephen E. Holsteen
March 3, 1983

Mr. Chairman, Members of the Committee:

I am here as a representative of Governor John Carlin to comment on Senate Bill No. 209.

SB 209 would create the Kansas Natural Gas Price Control Act of 1983. The bill would freeze the price of intrastate natural gas at the price on the introduction date of this act and would impose a moratorium of at least one year on any future price increases for natural gas. The bill would apply to all contracts entered into before the effective date of this act for the sale at the wellhead of intrastate gas.

Future contracts would be exempted to provide incentive for further exploration, but SB 209 would cover contracts entered into since April 20, 1977, which currently are not subject to state price controls. The bill would confer authority on the Kansas Corporation Commission to review prices one year after the effective date of this act, and annually thereafter, to determine the extent, if any, intrastate gas prices may be allowed to increase. However, in no event would the KCC be allowed to raise the price in excess of the prices set by the federal Natural Gas Policy Act (NGPA) or the Kansas Natural Gas Price Protection Act (PPA).

The State has authority to establish this price ceiling for intrastate gas under Section 602 of the NGPA. As you are aware, this authority was exercised to a limited degree in the passage of the PPA in 1979 which restricted the operation of indefinite price escalator clauses in intrastate gas contracts. That Authority was recently upheld by the U. S. Supreme Court Case, Energy Reserves versus Kansas Power and Light, opinion issued January 24, 1983. By passing SB 209, the State would take one step beyong PPA -- placing a freeze on intrastate gas prices -- while staying within the legal limits for state action proscribed by Section 602 of the NGPA.

You, as Legislators, are keenly aware of the harsh impact rising energy costs are having on the Kansas residential and industrial gas users. The past two winters have brought these problems into sharp focus. Something must be done to relieve this pressure on Kansas consumers -- particularly the poor and elderly.

Atch. 7

The many bills which have been introduced in the Kansas Legislature during this Session to try to control the impact of natural gas prices is just one indication of the seriousness of the problem which we are all trying to combat.

It has been conservatively estimated that the Kansas Gas Price Control Act would provide for a total savings of nearly $100 million through 1985. Some of the major cities benefitting from SB 209 and the amount of their savings is as follows:

City	Savings
Abilene	$ 962,500
Clay Center	1,039,000
Concordia	693,000
Great Bend	1,848,000
Hutchinson	3,850
Junction City	1,463,000
Manhattan	3,234,000
McPherson	1,001,000
Pratt	1,540,000
Russell	1,155,000
Salina	3,465,000
Wamego	462,000

In addition to these savings, electrical customers, KG&E, KP&L and numerous municipal utilities will realize substantial savings because many Kansas utilities burn intrastate natural gas as fuel. The savings for KG&E alone is estimated to be $18,190,800.

In closing, I would like to point out that although SB 209 will not affect every Kansas energy consumer, it is a start. In fact, it is one of the most substantial steps that you, as Kansas Legislators, can take to help alleviate the impact of rising gas prices. Somethings needs to be done now. Senate Bill No. 209 is an important piece of legislation, and I strongly urge your favorable action.

Estimated Impacts of Natural Gas Price Moratorium

	1983	1984	1985	Total
Projected Savings For KP&L	6,050,000	12,650.000	19,800,000	38,500,000
Abilene Savings	151,250	316,250	495,000	962,500
Clay Center Savings	163,350	341,550	534,600	1,039,500
Concordia Savings	108,900	227,700	356,400	693,000
Great Bend Savings	290,400	607,200	950,400	1,848,000
Hutchinson Savings	600	1,265	1,980	3,850
Junction City Savings	229,900	480,700	752,400	1,463,000
Manhattan Savings	508,200	1,062,600	1,663,200	3,234,000
McPherson Savings	157,300	328,900	514,800	1,001,000
Pratt Savings	242,000	506,000	792,000	1,540,000
Russell Savings	181,500	379,500	594,000	1,155,000
Salina Savings	554,500	1,138,500	1,782,000	3,465,000
Wamego Savings	72,600	151,800	237,600	462,000
TOTAL	2,650,505	5,541,965	8,674,380	16,866,850

Estimated Impacts of Natural Gas Price Moratorium

ABILENE	Total	Residential	Commercial	Industrial
		44%	26.5%	29.5%
1983	151,250	66,550	40,081	44,619
1984	316,250	139,150	83,806	93,294
1985	495,000	217,800	131,175	146,025
Total	962,500	423,500	255,063	283,938
# Customers	3,033	2,647	381	5
CLAY CENTER		31.3%	14.0%	54.7%
1983	163,350	51,129	22,869	89,352
1984	341,550	106,905	47,817	186,828
1985	534,600	167,330	74,844	292,426
Total	1,039,500	325,364	145,530	568,607
# Customers	2,379	2,081	286	12
CONCORDIA		58.3%	34.2%	7.5%
1983	108,900	63,489	37,244	8,168
1984	227,700	132,749	77,873	17,078
1985	356,400	207,781	121,889	26,730
Total	693,000	404,019	237,006	51,975
# Customers	2,921	2,556	360	5
GREAT BEND		52.7%	36.4%	10.9%
1983	290,400	153,041	105,706	31,654
1984	607,200	319,994	221,021	66,185
1985	950,400	500,861	345,946	103,594
Total	1,848,000	973,896	672,672	201,432
# Customers	7,475	6,511	956	8
HUTCHINSON		56%	44%	--00--
1983	605	339	266	--00--
1984	1,265	708	557	--00--
1985	1,980	1,109	871	--00--
Total	3,850	2,156	1,694	--00--
# Customers	8	7	1	--00--

	Total	Residential	Commercial	Industrial
JUNCTION CITY		67.5%	29.8%	2.7%
1983	229,900	155,183	68,510	6,207
1984	480,700	324,473	143,249	12,979
1985	752,400	507,870	224,215	20,315
Total	1,463,000	987,525	435,974	39,501
# Customers	7,566	6,816	738	12
MANHATTAN		45.1%	22.2%	32.7%
1983	508,200	229,198	112,820	166,181
1984	1,062,600	479,233	235,897	347,470
1985	1,663,200	750,103	369,230	543,866
Total	3,234,000	1,458,534	717,948	1,057,518
# Customers	11,186	10,225	950	11
McPHERSON		65.7%	34.4%	--00--
1983	157,300	103,346	53,954	--00--
1984	328,900	216,087	112,813	--00--
1985	514,800	338,224	176,576	--00--
Total	1,001,000	657,657	343,343	--00--
# Customers	4,679	4,196	483	--00--
PRATT		27.8%	12.9%	59.3%
1983	242,000	67,276	31,218	143,506
1984	506,000	140,668	65,274	300,058
1985	792,000	220,176	102,168	469,656
Total	1,540,000	428,120	198,660	913,220
# Customers	3,064	2,705	354	5
RUSSELL		30.5%	16.3%	53.2%
1983	181,500	55,358	29,585	96,558
1984	379,500	115,748	61,859	201,894
1985	594,000	181,170	96,822	316,008
Total	1,155,000	352,275	188,265	614,460
# Customers	2,734	2,380	351	3

	Total	Residential	Commercial	Industrial
SALINA		62.4%	30.5%	7.1%
1983	544,500	339,768	166,073	38,660
1984	1,138,500	710,424	347,243	80,834
1985	1,782,000	1,111,968	543,510	126,522
Total	3,465,000	2,162,160	1,056,825	246,015
# Customers	16,662	15,161	1,452	49
WAMEGO		39.4%	13.6%	47.0%
1983	72,600	28,604	9,874	34,122
1984	151,800	59,809	20,645	71,346
1985	237,600	93,614	32,314	111,672
Total	462,000	182,028	62,832	217,140
# Customers	1,426	1,286	137	3

KGE EFFECT

(A) 22.962 BCF purchased by KG&E from KGS
24,672 BCF Total Sales by KGS
93% = KG&E portion of KGS sales

(B) 93% of KGS savings is KG&E savings
.93 * $19,560,000 = $18,190,800

(C) Wichita is 54.3% of KG&E market
.543 * $18,190,800 = $9,877,600

Pittsburg is 3.2% of KG&E market
.032 * $18,190,800 = $582,106

(D)

	Total	Residential	Commercial	Industrial
WICHITA		37.9%	59.9%	2.2%
	11,037,172	3,743,610	5,916,682	217,307
# Customers		123,455	35	
PITTSBURG		41.4%	57.5%	1.1%
	650,441	240,992	334,711	6,403
		9,708	1,215	

Testimony before the Senate Energy and Natural Resources Committee
March 3, 1983

SENATE BILL 23

Mr. Chairman and members of the committee, my name is Don Willoughby and I represent InterNorth, Inc. I am testifying today in opposition to SB 23, a bill creating common carrier pipelines.

It is our opinion that SB 23 would have some serious legal problems if enacted as it would relate to interstate natural gas pipelines. John Will, an attorney for InterNorth, presented testimony along this line on HB 2264, a bill which creates the Kansas Natural Gas Authority, or as some call it -- "The Nationalization Bill." HB 2264 has provisions for the creation of common carrier pipelines from existing lines. Copies of Mr. Will's testimony are provided along with what we feel are appropriate court cases concerning federal preemption of states rights in the governing of interstate natural gas pipelines.

I would also like to correct a statement Senator Steineger made about my company on this bill. At no time have I talked to Senator Steineger about this bill -- I have, on one occasion, talked to his assistant, Richard Larimore about this bill. It seems only appropriate that if part of the conversation is made public, the rest should be made public also.

In that conversation, Mr. Larimore stated that Northern Natural Gas, to the best of his knowledge, was not one of the companies people were having a problem with. Later, as we talked generally about the bill, I made the comment -- "It appears the only thing a company would have to do is pack the line once during

the two years and they would be all set for the next two." This was not in reference to my company or anyone's company in particular, but just a personal view on a generic point.

Northern Natural Gas has a department we call T & E -- for Transportation and Exchange. These 25 employees have the responsibility of arranging and moving "other peoples" gas in our line. It is my understanding that Northern will move gas for anyone if asked and both sides are agreeable to the contract. This is probably an oversimplification and I would be happy to discuss this in greater detail at your convenience.

It appears to me the bill may be an overkill for some problems which may be occurring. Therefore, we oppose SB 23.

Donald E. Willoughby
Regional Manager Public Affairs
Northern Natural Gas Company
817 Merchants National Bank Building
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913/357-5121

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 of its gas to a natural gas distributor and 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 until and unless it has received the permission of the FERC.

It was with this undertanding 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, certificated natural gas pipeline doing business in Kanasas.

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.

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 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 consistenly support the principle that Congress has preempted all regulatory powers over the transportion of gas in interstate commerce. The only reason a State can lawfully apply State law and take over the ownership or control of any portion of an interstate pipeline is that there is some legitimate State interest which would be served by doing that. But Congress has declared that the interstate transportion of gas is predominantly 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.

* * * * *

The following court cases give a good example of the coverage which shows the federal preemption of the states over interstate transportation of natural gas:

Interstate Natural Gas Co. v. FPC (1947) 67 S.Ct. 1482 331 U.S. 682

United Gas Pipe Line Co. v. FPC (1965) 87 S.Ct. 265 385 U.S. 83

Louisiana v. FPC (CCA 5, 1945) cert. den. 66 S.Ct. 22, 326 U.S. 717

Mississippi River Fuel Corp. v. FPC CCA (1941) 121 F. 2d 159

FPC v. Natural Gas Pipeline Co. (1942) 62 S.Ct. 736 315 U.S. 575

Public Service Commission of Kentucky v FERC (1979) 6th Circ. 610 F.2d 439

Information provided by:

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Testimony before the Senate

Energy and Natural Resources Committee

on SB 236

March 3, 1983

Mr. Chairman and members of the committee, my name is Don Willoughby and I am here today to express Peoples Natural Gas Company's opposition to SB 236, a bill to establish residential natural gas prices in Kansas.

Peoples recognizes the problems of low and fixed income consumers and supports their efforts to reduce the financial burden of the higher cost of necessities including energy. However, the company believes that such assistance should be made available to all those who are in need. Therefore, Peoples opposes lifeline type rate schedules for utility energy services in general for the following reasons:

1) There is no "unique quantity of energy" which provides basic requirements for all consumers.

2) There is evidence that low and fixed income consumers tend to use larger amounts of energy than moderate income consumers.

3) The poor and elderly frequently live in homes which are among the most inefficient from an energy standpoint.

4) Many consumers using oil or propane would receive no assistance.

5) Lifeline rates are a departure from cost-based utility rates and may lead to capricious and discriminatory rates.

More specifically, we oppose SB 236 because --

1) The federally mandated RCS program would appear to offer a greater opportunity for conservation of Kansas energy resources than does lifeline rates.

2) Peoples is rapidly moving to "flat rates" in Kansas. Flat rates are supposed to offer the ultimate in sending price signals to the consumer as to the cost of energy. Lifeline rates would force Peoples to regress to block rates.

3) SB 236 fails to take into consideration those poor and elderly that live in those jurisdictions served by municipally owned and operated electric or gas utilities and those utilities not covered by K.S.A. 66-104.

4) Those renters who have their utility costs blended in with their rent are a segment of the Kansas population who appear to be <u>not</u> covered by SB 236.

5) SB 236 does not include those who use oil and propane.

6) This bill also leaves the very distinct impression that the utilities' "other rate payers" would subsidize this program through increasing that sector's rates.

7) Peoples feels that a close examination and possible expansion of the energy assistance program administrated by the Kansas Department of Social and Rehabilitative Services would be one possible way of going and one which would be much more equitable.

8) Which one of the 13 section 104 prices is the KCC going to use in its establishment of the maximum price?

9) The monthly maximum of 30 mcf is very excessive. The average residential natural gas customer in Kansas uses, on the

average, between 110-120 mcf per year.

We think the legislature should not act on this legislation until they thoroughly investigate the experiences of those states who have experimented with lifeline rates.

Public utility rate structure should perform a resource alleviation function; they should not be a means of redistribution of income. Social welfare should be provided for openly through tax and welfare assistance plans. For, when we deviate from cost-based rates in pursuit of social objectives, we begin to distort the efficiency with which resources are allocated by giving price signals to consumers which do not properly reflect cost.

Subsidizing the cost of insulation and other energy saving measures by the State for low-value housing would help remedy causes for high weather-sensitive demand for electricity and gas by low-income individuals.

In closing, I would like to emphasize that welfare assistance should not be concealed in a highly discriminatory energy utility rate design. Rate structure should not be designed to accomplish a welfare goal. The most expeditious way of coping with the impact of rising cost of utility service on low-income people would be through appropriate adjustment of welfare payments provided for under existing legislation.

For additional information:

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My name is Wayne Brown. I am, and for the last 36 years, have been employed by Northern Natural Gas Company. During this time, I have held various engineering and management positions in which the Hugoton Gas Field was a portion of my responsibilities. For twenty of those years, I resided in Hugoton and Liberal, Kansas. During the last five years, I have been responsible for the administration of the rules and regulations of all states in which we purchase natural gas. In addition to Kansas, the states are Colorado, Montana, New Mexico, Oklahoma, Texas, and Wyoming. Northern Natural purchases gas from 1249 gas wells in the Kansas Hugoton Field. These wells represent about 25% of the total field calculated deliverability.

Northern Natural is opposed to Senate Bill No. 146 because it will violate the correlative rights of all producers, royalty owners, and purchasers whose underproduction is in excess of three times the January basic allowable. Kansas statues state that any person, firm, or corporation may produce only that portion of all the natural gas that may be produced without waste, and to satisfy market demands as will permit each developed lease to untimately produce approximately the amount of gas underlying the developed lease and currently produce proportionately with other developed leases in the common source of supply without uncompensated drainage between separately-owned, developed leases or parts thereof.

The Hugoton Field is currently 223.5 Bcf underproduced. This is 4.4 times the January, 1983 basic allowable. Using data contained in the January, 1983 Kansas Hugoton Field Proration Schedule, there are only four (4) purchasers of gas that would benefit from this bill. These four purchasers have about 17.9% of the total field deliverability. In other words, purchasers with 82.1% of the total field deliverability would be penalized, while purchasers with 17.9% of the total field deliverability would benefit.

This bill, if passed, would, again using data from the January, 1983 proration schedule, result in the immediate cancellation of about 72 Bcf. The redistribution of this volume to the four purchasers with 17.9% of the field deliverability would immediately result in these companies being in excess of three times underproduced, and they, in turn, would suffer cancel-

led allowables. Once this position is reached, there are no wells available to assign the cancelled allowables to. Proration rules are effected to satisfy the varying markets of all purchasers. There was never any intent that any one company should be permitted to produce, through the assignment of allowables, more gas than the amount underlying the developed lease.

The current cut back in takes from the Kansas Hugoton Field is not unique. All sources of supply from which Northern purchases gas are cut back. To my knowledge, this is true for the majority of all major interstate and intrastate purchasers; however, the magnitude of underproduction in other fields, in other states, is not as great because proration rules are designed to prevent this. When the takes from the majority of purchasers are reduced, the allowables in the fields are reduced proportionately for all purchasers to protect correlative rights and to prevent drainage. One state even assigns a zero (0) allowable when the field becomes underproduced to the extent that the underproduction plus the current allowable cannot be produced within the limits of the nominations.

During the last two months, I have visited with commissioners and commission personnel in New Mexico, Oklahoma, and Texas, and they are just as concerned as you are about the reduced takes. They are, however, working to alleviate the problems through the assignment of allowables consistent with the total demand for gas from all purchasers.

There is never an exact balance between supply and demand. You either have a surplus or a deficiency. At the current time, industry is experiencing a surplus, and it requires the cooperative efforts of the states, producers, and purchasers to achieve equitable solutions. This bill is not an equitable solution to the total industry problem, and would eventually cause a violation of correlative rights.