SUBCOMMITTEE ON NATURAL GAS

March 14, 1983

The minutes of the Subcommittee meeting on March 10, 1983 were approved.

Copies of the testimony of David S. Black, Kansas Power and Light Company, May 9, 1979, were distributed to the Subcommittee.

Don Schnacke, Kansas Independent Oil & Gas Association (KIOGA), read his written testimony opposing S.B. 23 and S.B. 209. He said in 1976, KIOGA promoted a common carrier idea limited to transmission lines of intrastate pipelines. They oppose S.B. 23 because conditions and regulations have changed greatly and, in addition, Congress passed the NGPA. KIOGA opposes S.B. 209 because they feel it will result in continued shortages of Kansas produced gas and increasing dependence on interstate gas.

Answering questions from the Subcommittee members, Mr. Schnacke said they are not raising the argument of the legality of the proposal. The Supreme Court ruled in the Blaisdell case that five points must be met: emergency need, sunset provision, reasonable terms, societal purposes and not for the benefit of an individual. Mr. Schnacke agreed to provide copies of the case for the Subcommittee.

David Black, Kansas Power and Light Company, testified they supported the Kansas Natural Gas Price Protection Act (KNGPPA) in 1979 because they felt it would bring about some restraint in increasing gas prices in Kansas. The KNGPPA did not control the new gas supply, but Section 5 of S.B. 209 would have this effect; and this is the basis for their opposition. Mr. Black said S.B. 209 would permit the Kansas Corporation Commission, after one year, to set prices on all intrastate natural gas, including new gas. He said this threat could keep producers from selling new gas on the intrastate market. Their concern is whether or not there will be any real economic incentive to produce the gas. Mr. Black was asked if KPL would support the bill if Section 5 were amended so that it would not affect new gas. He said they would then have no reason to oppose the bill.

Don Willoughby, InterNorth, said they had already testified in opposition to S.B. 23 raising questions of the legality of the bill and the operational problems it would entail. Peoples Natural Gas is divided on S.B. 209. They see short term benefits to the consumer, but they think in the long run, it would not be beneficial to consumers because producers will dedicate their gas to the interstate market. Chairman Kerr asked if S.B. 209 would affect their market expense. Mr. Willoughby said no, because utility companies and pipeline companies make their money by transporting the gas. He said Peoples Natural Gas is an intrastate distribution company. They buy from InterNorth, Northwest Central, Colorado Interstate Gas, Panhandle and Northern Natural Gas. Peoples has a straight retail operation as well as an intrastate pipeline operation.

Bob Anderson, Mid-Continent Oil and Gas, testified they oppose S.B. 23 because they don't believe interstate pipelines can be controlled by the bill. He mentioned problems of who gets space in the pipelines when they are full. Mr. Anderson said the thrust of the bill will be to stop exploration for gas that would be sold on the intrastate market.

After discussion, Senator Chaney moved that the Subcommittee recommend that no action be taken in regard to S.B. 23 and if there is an interim study on the subject of natural gas, that S.B. 23 be recommended to be a part of that study. Senator Angell seconded the motion, and the motion carried.

Senator Feleciano made a conceptual motion that S.B. 209 be amended to include a sunset provision corresponding to the expiration of the Kansas Price Protection Act. Senator Chaney seconded the motion, and the motion carried. Senator Feleciano made a motion that Section 5 of S.B. 209 be amended to provide that no provisions of the act would pertain to any gas discovered after July 1, 1984. Senator Chaney seconded the motion, and the motion carried. Subcommittee members agreed by concensus to contact the legal staff of the KCC to see if most or all of Section 2 could be stricken from the bill without doing unnecessary harm to the legality of the bill. Senator Chaney moved that the Subcommittee recommend that S.B. 209, as amended, be presented to the full Committee with a recommendation that such a bill be introduced and referred to the Senate Energy and Natural Resources Committee for hearings and consideration. Senator Feleciano seconded the motion, and the motion carried 2-1, with Senators Chaney and Feleciano voting "yes" and Senator Angell voting "no".

The next meeting of the Subcommittee will be at 1:00 p.m. on March 15, 1983.

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TESTIMONY BY DAVID S. BLACK
ON BEHALF OF THE KANSAS POWER AND LIGHT
COMPANY SUPPORTING H.B. 2680

May 9, 1979

My name is David S. Black. I am Vice President and General Counsel of The Kansas Power & Light Company. I appear before this committee today at the request of Representative Miller to testify concerning the consequences of threatened natural gas price increases on KPL's gas and electric customers, and to state the Company's position supporting H.B. 2680. By way of personal introduction, I should explain that I joined KPL a little more than two months ago. Prior to that time I was engaged in private law practice in Washington, D.C. and represented KPL in several electric and gas matters. In the 1960's I served as a Commissioner and Vice-Chairman of the Federal Power Commission, Administrator of the Bonneville Power Administration, and Under Secretary of the Interior.

Mr. Chairman and members of the Committee, KPL strongly endorses H.B. 2680 because, if enacted it will protect utility customers in the State of Kansas from wholly unnecessary increases in their energy bills of well over $100 million in the next four or five years alone. KPL serves a large share of these consumers. We have some 102,000 direct gas customers residing and working in central Kansas, and over 265,000 electric customers across our system who are indirectly served by the natural gas KPL burns to generate power. Both classes of customers pay <u>all</u> of any increases in the cost of natural gas KPL must purchase to serve them.

The impact of these increases reaches beyond the customers of Kansas Power and Light, however. Information which the Legislative Research Department has gathered from KPL and other utilities in Kansas indicates that the total hike in gas costs will exceed $16 million in the first 12 months of the Natural Gas Policy Act, if the producers' claims are sustained, and more than $127 million through 1984. KPL's customers' share of the first year's increase is about $9 million and through 1984 about $85 million.

Spokesmen for the interests opposing this legislation have been quoted as saying that KPL will enjoy financial benefit by its enactment; otherwise what earthly reason would the Company have for supporting it? It has even been suggested that KPL is buying gas intrastate and selling it secretly at a profit in the interstate market or planning to do so. Our purpose here today is not to strike a defensive posture, but rather to endorse an important effort to check the frightening increases in the costs of energy to Kansas consumers. It should, however, be stated for this record that KPL does not benefit financially in any way by the level of its purchased gas costs. And the suggestion that KPL sells or plans to sell any of its purchased gas for a profit outside Kansas is ludicrous.

Essentially we provide a transportation service, and have title to the gas for the few hours required to move it from the wellhead to the burner tip. As the cost of this gas changes, it is reflected in our customers bills, through the operation of the purchased gas adjustment mechanism, penny for penny and dollar for dollar. Last winter 80% of their gas bills represented these purchased gas costs.

The price has skyrocketed in the past five years. From 1973 through 1978 the gas on our main system has grown in cost 447%. The revenues from these increases have gone to the natural gas producers - not to KPL. It has come out of the pockets of our gas and electric customers - all of it.

Lets look at the plight of the electric customer alone. Of the $9 million additional cost to which the producers now claim entitlement from KPL in only the first year of the NGPA, more than $4 million additional fuel cost will be borne by the electric customers served by KPL. This is so because 45% of the Company's purchased gas fuels our power plants at Hutchinson and Abilene and 20 municipal power plants to whom we sell gas, including those at McPherson, Larned, Lindsborg, Hoisington, Kingman, Pratt, Russell, Clay Center, St. John, and Wamego. Electric consumers of these communities and others pay the ultimate increase the same as KPL's direct retail customers on our own system.

The principal argument against this legislation which has been advanced by KIOGA and its other opponents is that if the producers with indefinite escalation clauses in their contracts are denied the NGPA new gas ceiling price by action of state law will simply walk away from Kansas and their contractual obligations and take their gas to a more generous and hospitable market. If KPL believed that such irresponsible threats were capable of realization, there would certainly be no purpose in our supporting H.B. 2680. About one-third of KPL's intrastate gas supply is subject to contractual provisions which the producers assert entitle them to NGPA ceiling prices. If that gas were suddenly to disappear without replacement, we could not meet our public utility responsibilities. But, for a number of reasons, that is not going to happen. And the producers do not intend it to happen. In the first place to terminate their contracts would be unlawful. Producers attempting to carry out such an apparently vindictive threat would become subject to swift injunctive action and severe civil and criminal enforcement penalties provided by the NGPA, to say nothing of the private damage actions by their purchasers. Federal Energy Regulatory Commission senior attorneys agree that the producers would have no legal right to cancel their contracts because state law restricted these price increases. There are additional reasons of simple economics and logistics to prevent the producers from moving large volumes of gas into other markets.

But finally, assuming somehow that the producers were in a position to carry out their threats over time, winning their protracted legal battles, and positioning themselves to sell some of their Kansas gas resources elsewhere, what <u>really</u> would happen? One alternative would then be for the purchasers simply to begin paying the producers the ceiling prices. The other would be for the utilities to go into the interstate market themselves and make up the gas we otherwise would lose from those producers here at home who had some elsewhere.

The important thing to remember in any such event is this: The natural gas purchasers in Kansas, in the final analysis, can never be required to pay more than the producers are demanding right now. And the Kansas Natural Gas Protection Act offers genuine hope that energy cost increases will actually be checked.

One final puzzling argument offered by the producers is that enactment of H.B. 2680 will somehow discourage their investment in new production in Kansas. This legislation puts no restriction whatever on new gas prices, and any suggestion to the contrary indicates that the producers simply don't understand the bill.

KPL believes that H.B. 2680 is entirely consistent with the purposes of the NGPA; that the proposed legislation is an appropriate exercise of the authority Congress specifically recognized in the states, and that it will achieve an important purpose of the federal law to accomplish gradual upward price adjustment within the NGPA ceilings.

H.B. 2680 is in the public interest and KPL supports it without qualification.

KIOGA
KANSAS INDEPENDENT OIL & GAS ASSOCIATION
500 BROADWAY PLAZA • WICHITA, KANSAS 67202 • (316) 263-7297

March 14, 1983

Re: SB 23
Common Carrier Pipeline

In 1976, KIOGA promoted the idea of a common carrier proposal to stimulate production of gas in Kansas, which was a problem in the state at that time.

An interim study was undertaken and the conclusion was that additional study needed to be done before recommendations could be made. (See Proposal 63 Nov. 29, 1976)

Since those days the Congress enacted the NGPA of 1978 and conditions and regulations of the industry have been greatly changed. We no longer support the common carrier concept.

Our proposal was very limited. It was limited to transmission lines only. Connecting links and gathering lines were exempt. We were talking about intra-state lines not inter-state lines, like SB 23 would propose. We don't believe Kansas can regulate inter-state natural gas pipelines, as proposed under SB 23.

Donald P. Schnacke

Encl: Interim Study (1976)

KIOGA

KANSAS INDEPENDENT OIL & GAS ASSOCIATION

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

March 14, 1983

To: House Energy & Natural Resources Committee

Re: SB 209 Maximum
Price of Natural Gas

SB 209 is an attempt to extend the Kansas Natural Gas Price Protection Act (KNGPPA). We think in the long run, that Act and the policy proposed in SB 209, will result in continued shortages of Kansas produced natural gas and a continued increase dependence on out of state higher priced natural gas. The result is and will be higher prices for consumers of Kansas.

First we comment on Section 2, which is a preamble to the bill.

(1) Admits the NGPA of 1978 is working in increasing supply. Prior to the passage of NGPA there were shortages throughout the nation. In Kansas there were 22 small Kansas communities that were denied extended services.

(2) SB 209 would extend jurisdiction over probably the cheapest natural gas in America, produced in Kansas. This gas is already restricted by the KNGPPA. SB 209 would not offer relief to approximately 90% of Kansans served by Northwest Central, Panhandle and others served by inter-state pipelines.

(3) We do not agree with this statement. The KNGPPA has held the price of Kansas gas far below the inter-state market.

(4) We have not seen evidence of "economic and social dislocation resulting in an economic emergency". We are aware of public utility assistance programs, such as LIEAP, that are providing assistance to citizens who are unable to pay utility bills.

Section 4 of SB 209 is the heart of the bill. It would freeze prices within contracts entered into before January 20, 1983 to a maximum price paid on that date and without any limitation to a so called emergency. (P. 9 ERG vs. KPL)

It is this proposed policy that leads us to our general objection to this bill, and we hope will be of concern to you.

In 1980, we ran a survey of Kansas natural gas producers to reflect their attitudes and concerns arising from the passage of the KNGPPA in 1979. Seventy producers responded. The results of the survey reflected hostility, frustration and a desire to divert what has normally been considered intra-state gas to inter-state markets when possible. There are Kansas producers today who have company policies not to drill where they would have to sell to an intra-state pipeline because of the passage of the KNGPPA and the threat of what the Legislature might do further, like the passage of legislation proposal in SB 209.

The trends in Kansas are disturbing to us and should be to this committee. Intent to drill filings dropped considerably in 1982 from 20,551 (1981) to 14,524 (1982). Gas production continues in a sharp decline in Kansas. (See Chart and Graph). Our rotary drilling rig count has dropped from 224 to 119 or 47% off. In Southeast Kansas the truck mounted rigs are largely idle-reportedly one in ten are operating.

We believe the issue presented by SB 209 is very serious and much is at stake for the Kansas economy. The interference of government in the market place; restricting contract obligations, freezing prices, favoring one class of consumers over another, is an will continue to have serious consequences for our state.

There is a strong ray of hope up ahead we would like to share with you. There is currently an effort to address the natural gas pricing dilemma in the Congress and its being seriously considered. (See Attached Clipping)

In the meantime, we oppose SB 209 and urge you to not report it favorably.

Donald P. Schnacke

RE: PROPOSAL NO. 63 - INTRASTATE OIL AND GAS PRODUCTION AND DISTRIBUTION

In August, the Legislative Coordinating Council directed the Committee to study intrastate oil and gas production and distribution; regulation and requirement for transportation of oil and gas to full capacity of pipelines; conservation of intrastate oil and gas; and possible state construction and operation of an intrastate oil and gas pipeline system and issuance of revenue bonds therefor.

Background

Natural gas supplies for Kansas users were studied by an Interim Committee of the Kansas Legislature in 1973 (Report on Kansas Legislative Interim Studies to the 1974 Legislature, Part II, 49-1) and a Special Committee on Natural Gas in 1975 (Reports of Special Committees to the 1976 Kansas Legislature, Proposal No. 43 - Natural Gas, 793-800). In 1974, legislation passed which authorized cities to establish natural gas acquisition systems as a means of minimizing the impact of natural gas shortages (1974 H.B. 1713, K.S.A. 1976 Supp. 12-870).

Bills introduced in the 1975 and 1976 Legislative Sessions to extend the regulatory authority of the Kansas Corporation Commission in the area of natural gas (1974 S.B. 564 and 1975 H.B. 2662) were not enacted. In early 1976 the State Corporation Commission began hearings to establish a general policy for the curtailment or proration of natural gas service to existing gas customers during periods of insufficient supply.

Natural Gas Production and Sales in Kansas

As the fifth largest producer of natural gas in the United States, Kansas produced 886 billion cubic feet (BCF) of natural gas in 1974, which was down from the 897.3 BCF produced in 1973. In 1975, production continued to fall to 844 BCF, and during the first six months of 1976 the state produced 419 BCF of natural gas. Total natural gas consumption in Kansas declined from 630.4 BCF in 1974 to 542 BCF in 1975. At the same time the net exports of natural gas from the state rose from 244.6 BCF in 1974 to 284 BCF in 1975.

Of the gas produced in Kansas, the natural gas dedicated to the interstate system and all gas transported in an interstate pipeline is designated interstate gas and falls under the regulation of the Federal Power Commission (FPC). Intrastate gas is gas produced in Kansas, transported in an intrastate pipeline, and consumed in Kansas; it is regulated by the Kansas Corporation Commission (KCC).

Kansas has approximately 20 companies that produce or purchase and sell natural gas. Of those 20 companies, most are under FPC jurisdiction for certain quantities of natural gas that they produce, purchase, or sell; the companies are also under KCC jurisdiction for other quantities of gas they produce, purchase, or sell. Those companies supplied Kansas customers from interstate sources with 218 BCF in 1974 and 211 BCF in 1975. These figures exclude interstate direct line sales and sales to certain Kansas municipalities, i.e., non-jurisdictional sales.

Intrastate sources provided 149.4 BCF in 1974 and 139.9 BCF in 1975 of the natural gas supply available to Kansas customers. However, the natural gas requirements of Kansas customers for 1974 were 392.5 BCF while the interstate and intrastate supply was 367.5 BCF (excluding non-jurisdictional sales) which resulted in a 6.4 percent curtailment of supply. In 1975 the total requirements were 399.6 BCF while the interstate and intrastate supply was 351.1 BCF which resulted in a 12.2 percent curtailment of supply.

Committee Deliberations

In its deliberations on this proposal, the Committee first decided to limit the scope of its study to the question of whether intrastate natural gas pipelines should be made limited common carriers in order to facilitate the flow of intrastate natural gas. Testimony was received from representatives of the Kansas Corporation Commission, the Kansas Energy Office, the League of Kansas Municipalities, Peoples Natural Gas Division of Northern Natural Gas Company, Kansas Power and Light Company, Mid-Continent Oil and Gas Association, Greeley Gas Company, Kansas Independent Oil and Gas Association, and other interested parties.

The diminishing supply of natural gas available to Kansas customers has led to the request that the Legislature

pipelines should be designated limited common carriers. Th request is partly based on the fact that the Legislature ha authorized cities to seek natural gas supplies in the intra state market. By making the existing pipelines limited com mon carriers, those cities could use existing pipelines when those lines fall below a certain percent of their peak design capacity. The available space in those pipelines would be used to transport gas owned by others.

It was argued that such legislation would help keep "Kansas gas in Kansas," and that it would stimulate purchasers to keep their lines full and increase purchasing activity in Kansas. As proposed, the limited common carrie authority would apply to transmission lines only and not t small connecting links of ten miles or less in length. It was suggested that only lines falling under 75 percent of design capacity should be subject to the legislation, and that otherwise the full private ownership rights of the pip lines would be protected. No data were presented to the Committee to show which pipelines and pipeline companies would be affected if the limited common carrier authority was established by legislation.

The natural gas pipelines which might possibly be affected by the proposal would be the intrastate pipeline transmission systems. They include:

Companies	Miles of Transmission
Anadarko Production Company (Cimarron River Division)	238.9
Kansas Gas Supply Corporation	129.9
The Kansas Power and Light Company	1,786.6
Skelly Gas Gathering, Inc.	86.8
Central Kansas Power Company (distribution)	49.7
Greeley Gas Company (distribution)	206.1
Union Gas System, Inc. (distribution)	403.5

The last three companies are listed as distribution systems because they primarily purchase at town border stations and distribute to individual communities and surround ing vicinities. They do list miles of transmission lines as given above. All of the companies listed could possibl

In testimony on the proposal to make intrastate pipelines limited common carriers, questions were raised on a number of points. Conferees were asked how frequently, if at all, intrastate pipelines now operate at less than 75 percent of their design capacity. Also, what volume of natural gas would any spare capacity represent for any given period of time? A question was raised as to how the spare capacity of a pipeline would be allocated if more than one party sought to use it. And, as the proposal was presented, it is unclear what would happen if the pipeline company sought to make full use of the design capacity of its pipeline after the spare capacity had been subject to common carrier jurisdiction. One conferee stated that if conservation of natural gas is the public policy of the state and the nation, this effort to stimulate natural gas distribution and sales would appear to fly in the face of that policy. Likewise, it appeared to certain conferees that this specific proposal is designed to raise the price of natural gas because it would encourage every business, industry, and power-generating municipality to bid up the price by having the right to use the pipelines of existing utilities.

Also, there is fear that such a proposal would affect the price of all gas coming from certain fields where contracts for natural gas contain provisions requiring periodic price re-negotiation based upon the highest price paid for gas in the field. Opposition was expressed to any encouragement of the idea of keeping Kansas Gas in Kansas because Kansans need the products of other states as much as those states need gas from Kansas.

Finally, various conferees raised a question as to the constitutionality of any proposed law that would deprive the intrastate pipeline company of its property without due process of law.

Committee Recommendations

The Committee has decided that the subject of study, Proposal No. 63 - Intrastate Oil and Gas Production and Distribution, requires further study before specific recommendations can be made. Consequently, the Committee requests that all information gathered by this Committee be submitted to the standing Energy and Natural Resources Committees of

the Kansas House of Representatives and the Senate for further study.

Respectfully submitted,

November 29, 1976

Senator Leslie Droge, Chai
Special Committee on Energ
and Natural Resources

Rep. William S. Southern, Vice-Chairman
Sen. Bud Burke
Rep. Arden Dierdorff
Rep. Gus Bogina

Rep. W. Edgar Moore
Rep. Ralph E. Bussman
Rep. Paul Feleciano, Jr.
Rep. Anita Niles