

MINUTES OF THE Senate COMMITTEE ON Energy and Natural ResourcesThe meeting was called to order by Senator Charlie L. Angell at
Chairperson8:00 a.m./~~p.m.~~ on Thursday, January 12, 1984 in room 123-S of the Capitol.

All members were present except:
Senator Tom Rehorn (Excused)
Senator Ed Roitz

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

Conferees appearing before the committee:
Steve Melton, Acting General Counsel, Federal Energy Regulatory Commission

The minutes of the January 11, 1984 meeting were approved.

Senator Werts moved that the Committee introduce a bill providing for the process by which the State Water Plan will be adopted (3 RS 1536). Senator Gannon seconded the motion, and the motion carried.

Steve Melton briefly described the history of the Commission. The Natural Gas Act gave them authority to certificate interstate pipelines and also gave rate-setting authority. He went on to say that the passage of the Natural Gas Price Act, which sets maximum lawful prices for various categories of gas, removed a lot of jurisdiction in the area of rate-setting from the Commission. This has caused some uncertainty as to the exact scope of the authority and responsibility of the Commission. Mr. Melton mentioned recent Commission actions which would expand the authority that had been previously granted to allow sales of gas directly between producers and certain end-users and also to allow competition on over-run rate schedules. He mentioned matters concerning contract provisions regarding take-or-pay and indefinite price escalator clauses pending before the Commission. Mr. Melton said it is unclear how much jurisdiction the Commission has over these contracts. He said petitions have been filed seeking a determination of what cut-back practices would be appropriate. He explained that the Commission has no authority to lower the rates.

Chairman Angell asked if take-or-pay costs are automatically passed through. Mr. Melton replied that pass-through is not automatic but is subject to challenge. At the present time, many of these obligations are being accrued and not being paid and this has caused a rash of lawsuits. Mr. Melton mentioned "minimum bills", which are similar to take-or-pay clauses, as being another problem in this area. Chairman Angell asked if prepayments for gas not taken are treated as an asset until the gas is either used or lost. Mr. Melton agreed. Chairman Angell asked about the extent of this asseting. Mr. Melton said it is many, many millions of dollars. He explained the Commission has a five-year make-up period and there is going to be such a huge volume that can be made up that it will not be possible for some pipelines to take the volumes. There is also concern that the gas may not even be there by then. Chairman Angell asked about the possible effect this could have on rates. Mr. Melton said the potential is certainly there for this problem to cause an increase in rates, in the absence of renegotiation between producers and pipelines and depending upon changes in regulation of the gas industry. He talked about "buy-outs" of take-or-pay obligations and said the Commission generally allows these to be recovered as an expense item. Chairman Angell asked about the InterNorth filing concerning the Kansas ad valorem tax pass-through. Mr. Melton said the matter is presently being evaluated by Commission staff and he would expect a decision in the not-too-distant future. Mr. Melton was asked about whether the Commission allows the pass-through of service contracts such as those in the Williams Brothers acquisition of Northwest Energy. He said he is not familiar with that particular case, but it would depend on how the transaction was structured and what the company was receiving in return for those contracts.

Senator Werts asked about the Commission's policy on Construction-Work-In-Progress for electric utilities. Mr. Melton said that, to the best of his recollection, they allow up to 50% of CWIP to be included in the rate base phased in over a three-year period at six percent of the rate base. Senator Werts asked whether state regulatory bodies have the authority to override the Commission. Mr. Melton replied this is somewhat unclear. He said state commissions do not have authority to disallow the pass-through of certain costs allowed by the Commission; however, there may be situations where some type of certification

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Energy and Natural Resources,
room 123-S, Statehouse, at 8:00 a.m. ~~XXXX~~ on Thursday, January 12, 1984.

authority exists whereby a state can essentially halt a project. Senator Hess asked what Kansas can do to be more effective in influencing the Commission. Mr. Melton said that influence can be had by personal contact with the Commissioners and staff, through the Kansas Congressional delegation and by having Washington counsel. He explained that he was not referring to contacting the Commission about a specific case but rather explaining in general what problems Kansas has. He said the Commission is quasi-legislative, quasi-judicial and quasi-independent. He sees the Commission's role as being a forum and medium where information can be exchanged. He agreed that most of the matters filed with the Commission are negotiated or settled before they are heard.

Chairman Angell asked how much an mcf of gas is worth. Mr. Melton said it's worth what someone is willing to pay for it and is worth different amounts at different places. The Chairman asked if Mr. Melton understands the problems Kansas has with being a producing state with large reserves of low-priced gas and also being a consuming state. Mr. Melton said he feels the Commission understands the position Kansas is in but maybe not from the same perspective. He added that the Commission is responsible for stimulating additional development to meet future needs but yet at the same time to try to assure that the gas is delivered at a price the marketplace is willing to pay. They have to balance the various interests involved. He agreed that the Commission is consumer oriented and said they are responsible for assuring reliable service at the lowest reasonable cost. Senator Kerr asked Mr. Melton if he has any suggestions about what Kansas might do to resolve problems of both producers and consumers. Mr. Melton replied that policies which would be beneficial to Kansas can be promoted through Congress and pointed out this puts pressure on the industry to react whether or not Congress actually takes any action. He observed that stimulating production doesn't necessarily mean more gas is moved. He suggested some kind of policy that encourages or promotes the industry to respond to the problem by having more flexible contracting mechanisms by allowing the marketplace to be the determining factor where it is appropriate and where it will work. In response to a question from Senator Kerr, Mr. Melton said that from what he understands about Kansas' situation, complete deregulation would raise the price that is presently allowed. He said the question then becomes whether the contracts will allow the price to go up. He mentioned he would expect the Hugoton Field to be very competitive, because of its age. He also said it might be possible that some of the cheap long-term contracts might not be ironclad and there could be provisions in those contracts that could be reached by the state commission to make changes or adjustments. He pointed out federal intervention and action can cause the circumstances of contracts to change.

Chairman Angell thanked Mr. Melton for his testimony and expressed the Committee's appreciation of his appearance. The Chairman adjourned the meeting at 9:02 a.m. The next meeting of the Committee will be at 8:00 a.m. on January 17, 1984.

Senate Energy & Natural Resources

Jan. 12, 1984

Name Ed Reuert

Organization

George Dwyer

Amos Kramer

Ron Caches

Dick Compton

Jerry Leonard

Richard D. Keady

Walter A. McKee

Ed Petersen

David W. Michel

Jack Slaves

M. Hawver

Lyra Potter

Tom Sloan

Dick Brewster

Ks League on Votes

Ks Dept. on Aging

Kansas Petroleum Council

KACI

MIDWEST ENERGY

KG&E

KPL/Gas Service

Hershberger, Patterson, Jones & Platt

KCC

KCC

Panhandle Eastern

Tovrea Capital Journal

Northern Nat. Gas

Stacy

Standard Oil (Ind.)