

Approved 4-26-89  
Date

MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES

The meeting was called to order by Sen. Bill Morris at  
Chairperson

9:02 a.m. ~~pm~~ on April 3, 1989 in room 254-E of the Capitol.

All members were present ~~except~~.

Committee staff present:

Ben Barrett, Legislative Research Department  
Hank Avila, Legislative Research Department  
Bruce Kinzie, Revisor of Statutes  
Louise Cunningham, Committee Secretary

Conferees appearing before the committee:

Glenn Smith, Chief, Pipeline Safety, Kansas Corporation Commission  
Tom Taylor, KPL Gas Service  
Don Schnake, Kansas Independent Oil and Gas Association  
Don Ramlow, Kansas Contractors Association  
Jack Glaves, K N Energy and Panhandle Eastern Pipeline Co.  
Conni McGiness, Kansas Electric Cooperatives  
Janet Stubbs, Home Builders Association of Kansas  
Ed Shaub, State Independent Telephone Association  
Bob Frey, Kansas Trial Lawyers Association  
Mark Wettig, Department of Revenue

The following three bills would be heard together:

- H.B. 2454 - Requirements for natural gas transportation.  
H.B. 2456 - Corporation commission investigation of natural gas accidents and fires.  
H.B. 2457 - Gas pipeline safety; penalties for violations.

Glenn Smith, Chief, Pipeline Safety, KCC, said amendments were needed in H.B. 2456 to make the natural gas system much safer. They wanted the Commission to have authority to control evidence at the scene of an accident because they are the most objective party between the utility and customer in such circumstances. They requested a mandatory one-call system in H.B. 2456 and an increase in penalties in H.B. 2457. A copy of his statement is attached. (Attachment 1).

Tom Taylor, KPL Gas Service, said they support passage of these three bills. They would clear up some gray areas and provide for safer conditions.

Don Schnake, Kansas Independent Oil and Gas Association, spoke to H.B. 2454 and said they were asking for an exception for gathering outside of the urban development areas. Their lines are found primarily in remote and non-urban settled areas of the state. This standard would be more severe than the federal standard. A copy of his statement is attached. (Attachment 2).

Don Ramlow, Kansas Contractors Association, spoke to H.B. 2456 and said they would like to see anything buried in the ground included in the definition. They also feel "vertical" should be included in the tolerance zone under section 3. Also, under section 6 there should be a notification record number.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES,  
room 254-E, Statehouse, at 9:02 a.m./~~p.m.~~ on April 3, 1989.

Jack Glaves, K N Energy and Panhandle Eastern Pipeline Co., spoke to H.B. 2456 and said they were interested in section 1(b) of the bill. He related two cases where possession of property was vital in their cases and he felt that property should remain accessible for litigation. It should also be preserved. A copy of his suggested amendment is attached. (Attachment 3). He also felt the bill should apply to water and sewer lines as well as pipelines.

Conni McGinness, Kansas Electric Cooperatives, said one-call has not been effective for the rural electric cooperatives. It would be expensive for them and would increase regulation. They oppose mandatory one-call for all utilities. A copy of her statement is attached. (Attachment 4).

Janet Stubbs, said they are opposed to H.B. 2456 as amended by the House Committee of the Whole and it is not a true "one-call" system without a mandatory provision. A copy of her statement is attached. (Attachment 5).

Ed Shaub, State Independent Telephone Association, said the telephone companies had no interest in this until the talk started including the utilities. He urged caution with this bill. There should be more hearings on the issue.

Bob Frey, Kansas Trial Lawyers Association, said they should be careful in expanding this bill to include other utilities. If it were only for the pipelines he would not oppose it. This bill is very broad and it is complicated. The Chairman appointed a sub-committee on this bill with Sen. Doyen, Chairman and Sen. Francisco and Sen. Martin as members.

Charles Butterfield, Peoples Natural Gas Company, distributed copies entitled "Review of Laws and Regulations on the Transportation of Natural Gas" in which he speaks to the problems in the development of corrosion technology and getting the gas to customer-owned yard lines. This may involve a comprehensive yard line replacement program. A copy of this statement is attached. (Attachment 6).

Hearing on H.B. 2552 - Motor vehicles, certificates of title, contents.

Mark Wettig, Department of Revenue, said a new federal law beginning April 29, 1989 would have a requirement that both the seller and buyer sign the odometer statement. If both parties sign it, a notary would not be necessary. There have been few occasions in the past to prosecute a notary for false notarization. A motion was made by Sen. Hayden that H.B. 2552 be recommended favorably for passage and be placed on the Consent Calendar. Motion was seconded by Sen. Rock. Motion carried.

A motion was made by Sen. Rock to approve the Minutes of March 29, 1989. Motion was seconded by Sen. Sallee. Motion carried.

Meeting was adjourned at 10:00 a.m.



GUEST LIST

COMMITTEE: \_\_\_\_\_

DATE: 4-3-89

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
ED SCHAUB	TOPEKA	COSTAL CORP.
TOM DAY	TOPEKA	KCC
Robert Elliott	Topeka	KCC
Imbushogon	"	KDOT
Paul Blaver	Wichita	K-M + P Heald
Frank Caw	Topeka	KCC
Janet Stubbs	"	KBAK
TREVA POTTER	"	PEOPLES NAT. GAS
Robert Anderson	Wichita	MidCont Oil & Gas
Karl Walsh	KC Star	
Dave Carliss	Topeka	LKM
Louie Stroupe Jr.	McPherson	Kas Municipal Utilities
Janie Schwart	Topeka	KN Energy
RG FREN	"	RTLA
Dan Rambous	Topeka	Ks. Contractors Assn.
John Coulter	Topeka	Ks. Contractors Assn.
Woody Woodman	KCMO	KCPK
Charles Reese	Hays	Midwest Energy
DICK COMPTON	HAYS	" "
Michael Horak	Topeka	AP
Mark Wetley	"	KDOR
Rick Kready	"	KPL Gas Service
Pat Wiechman	"	KADRA
Tom Taylor	Topeka	KPL Gas Service

Senate Transportation and Utilities Committee

Testimony of

Glenn Smith, Chief, Pipeline Safety

Kansas Corporation Commission

April 3, 1989

The Kansas Corporation Commission appreciates the opportunity to appear before the Senate Transportation and Utilities Committee to address new laws which are necessary for natural gas pipeline safety. A few amendments are needed in House Bill No. 2456 to provide the Commission with the tools it needs to make the natural gas system much safer. First, the Commission requests that Section 1 of House Bill No. 2456 be amended to allow the Commission authority to control evidence at the scene of an accident because we are the most objective party between the utility and customer in such a circumstance. As House Bill No. 2456 currently reads, the Commission would have been prohibited from seizing evidence at Wednesday's explosion in Topeka and possibly hindered our ability to investigate that accident. We do not believe that the House realized it was tying the hands of the Commission to adequately enforce the pipeline safety regulations. Also, a clause needs to be added which exempts such authority when there are indications of arson. Second, third-party damage prevention is the highest legislative priority of the Commission in this session. We support House

ATT/ 1  
T&U  
4/3/89

Bill No. 2456 with the revision requested above in Section 1. We also have a strong preference that the bill include all Kansas utilities, but realize that it is within your discretion whether to undertake such an effort. I do need to point out what appear to be two (2) typographical errors. On line 137, Section "6" should be changed to read Section "5" and in line 168, "Section 2 through 13" would more appropriately read "Section 3 through 13." Third, legislation is proposed to increase the maximum civil penalty for pipeline safety violations from \$1,000 per day to \$10,000 per day and from \$200,000 to \$500,000 for any related series of violations. This brings Kansas law into conformance with recently passed Federal law. Fourth, a bill is requested to bring an old Kansas statute into conformance with contemporary standards for pipeline design.

I. Kansas Natural Gas Pipeline Safety Program

The Kansas Natural Gas Pipeline Safety Program is a Federal/state partnership wherein we annually certify that to the Office of Pipeline Safety, U.S. Department of Transportation (DOT) that we have the necessary legislative authorization and state regulations to comply with our Section 5(a) Agreement with them. The Natural Gas Pipeline Safety Act (NGPSA) of 1968 specifies that Section 5(a) Agreements are for those states who have state statutory authority to act as

DOT's agent in pipeline safety matters. The Commission has such statutory authority with respect to intrastate operators, privately-owned distribution facilities and municipally-owned facilities.

Pursuant to the NGPSA, the U.S. DOT, in 1971, adopted national pipeline safety standards. The Kansas Natural Gas Pipeline Safety Section is responsible for enforcing the Federal Natural Gas Pipeline Safety Regulations as amended by the Kansas Corporation Commission. The Pipeline Safety Section is funded in part by Federal grants-in-aid (36 percent in calendar year 1988), with the remainder coming from the Natural Gas Pipeline Safety Inspection Fee Fund, a fund assessed against jurisdictional gas operators, and the Public Service Regulation Fund, through assessments authorized pursuant to K.S.A. 66-1501, et. seq. There are 98 jurisdictional gas operators, with over 127 individual inspection units. In calendar year 1988, inspections were completed on every inspection unit in the state, resulting in 317 probable non-compliances being brought to the attention of operators for correction. In addition, the staff has conducted construction inspections as well as investigations of natural gas pipeline safety incidents. We are currently investigating the incidents at 5611 W. 98th Terrace in Overland Park and 3030 Kentucky in Topeka.

As members of the Committee may be aware, Governor Mike Hayden and Missouri Governor John Ashcroft will meet on April 10 to discuss natural gas pipeline safety issues affecting both states.

The need to strengthen the laws and regulations relating to natural gas pipeline safety cannot be overemphasized. The Kansas Corporation Commission has already taken steps to enact tougher Natural Gas Pipeline Safety Regulations. The new regulations can properly be characterized as some of the toughest pipeline safety regulations in the nation. They will be effective May 1, 1989.

II. Mandatory Underground Utility Damage Prevention Act ("One-Call") - Sections 3 through 13 of House Bill No. 2456

When Damage Prevention legislation was first introduced in the Kansas Legislature four years ago, there were approximately 26 states in the U.S. with damage prevention laws on the books. Today, the number of states has increased to 38 states and Kansas is still not among them. We believe the issues of public safety and damage prevention are inseparable. Outside force damage, principally damage by mechanized excavation equipment, continues to be the largest

single cause of pipeline incidents.<sup>1</sup> In fact it represents nearly 1 out of every 2 accidents on a national level. Kansas needs a mandatory damage prevention program.

You may be interested in knowing of some of the incidents which have occurred in the recent past which support the need for damage prevention legislation: (1) An inter-city telephone cable serving El Dorado, Eureka, Hamilton, and Towanda was severed when a sprinkler system was installed; (2) Several buildings in downtown Wichita had to be evacuated by fire department personnel because of a damaged natural gas pipeline; (3) In Topeka, a 900 pair telecommunications cable was cut during the placement of a culvert; (4) A residence in Liberal Kansas was destroyed by a natural gas explosion. The yard line in this instance had been hit by a crew installing a phone line; (5) According to media reports, one of the natural gas fires in Kansas City, Missouri, involved a natural gas line that had been struck by crews installing a water line; and (6) In Leawood, Kansas, on December 19, 1988, construction crews, digging in the area to install street lights, hit a natural gas line.

Several other examples from across the nation illustrate the need for action to prevent third-party damage: (1) A

---

<sup>1</sup>ANNUAL REPORT ON PIPELINE SAFETY, Calendar Year 1987, page 2; U.S. Department of Transportation, Research and Special Programs Administration, Office of Pipeline Safety



contractor installing storm sewer lines in a highway median in Austin, Texas, struck and ruptured a steel gas main pipe on December 18, 1987. Natural gas escaped and ignited; (2) On June 11, 1987, Colonial Pipeline Company's 32-inch petroleum products pipeline was punctured by a bulldozer ripping rock for a sidewalk across pipeline right-of-way in the area of a partly completed apartment development in Centreville, Virginia. Thirteen county and city personnel were treated for gasoline fume exposure; and (3) On August 5, 1987, a subcontractor working on installation of a sewer line for the City of Wilmington, North Carolina, struck and pulled a 3/4-inch gas service line out of its connection at the top of a 6-inch gas main. While gas company personnel were working to secure the leak, the escaping natural gas was ignited, resulting in 1 fatality and 19 injuries. In 1987, third-party damage resulted in 5 of the 8 deaths reported to the U.S. Department of Transportation. It also resulted in 46 of the 81 injuries.

The amendment to Section 3 of House Bill No. 2456 preferred by the Commission would establish a mandatory One-Call system. Like the existing One-Call system, the service would be provided by a non-profit corporation established by the utilities (the existing entity would continue to operate). Mandatory participation is important. When a contractor or homeowner is ready to dig, he or she

thinks very little of the importance of damage prevention. Calling the electric, gas, water, telephone, cable and sewer utilities might seem to be too much trouble to dig a hole for landscaping. However, I need to remind you of the 5 fatalities and 46 injuries I cited earlier. One-Call provides one easy call to a well-advertised toll-free number that will minimize the effort for the caller and ensure that the marking of facilities is completed.

Mandatory Damage prevention legislation is needed in Kansas to protect Kansans. Kansas has an existing voluntary One-Call System, but the lack of participation by all utilities in the state reduces its effectiveness. It is important that a damage prevention program be comprehensive in scope and easy to use.

The current voluntary One-Call program is a non-profit group with a membership of over 123 companies. Its membership includes Kansas natural gas companies, electric companies, telephone companies, cable television companies (Wichita and Olathe) and some municipalities as well as some interstate natural gas and telephone companies. Membership is open to any entity and the organization operates under By-laws and a Board of Directors. Costs to operate the notification center utilize a formula based on the number of telephone calls which are directed to that respective member and the size of the company. The Board of Directors has entered into a

contract with an outside entity to take care of the responsibilities of the day-to-day activities of the center. The notification center provides an 800 telephone number so that it can receive calls from anywhere in the state of Kansas. Contractors utilizing the notification center to determine the location of underground utilities near their projects receive this service free of charge.

III. Investigative Authority - Section 1 of House Bill No. 2456

HB 2456 provides a higher level of evidence collection for the utilities and places the Commission's investigative authority in a secondary role to that of the utility. Such legislation, as currently worded, would have hindered the Commission's ability to investigate the fatal explosion in Topeka last week. We believe such language contradicts other signals given the Commission by the Governor and members of the legislature. Additionally, new language should be inserted to exempt the Commission from taking evidence when the State Fire Marshall has reason to believe that arson may be involved. The interest of public safety in a complete and thorough investigation makes this legislation necessary.

IV. Training of Building Inspectors - Section 2 of House Bill  
No. 2456

We would like to advise the Committee of the obvious difficulties the Commission will have in implementing Section 2, as currently worded. First, the bill does not mandate participation by all cities and/or counties in the state. Thus, it seems inconsistent that the more stringent pipeline safety regulations recently adopted by the Commission are believed by the legislatures to be insufficient by themselves, but then the legislature failed to make this new approach require the mandatory participation by all cities. Second, I believe the city governments need to be canvassed to insure that they and their employees are aware of any liability they assume, if any, from accidents associated with their inspections or failure to act upon gross violations. I understand that even KCC inspectors can be held personally liable if the plaintiff could prove gross negligence was committed by an inspector. Third, no other state in the U.S. currently has a similar state/local pipeline safety relationship. However, several other states like Kansas have decided to use the avenue of more stringent pipeline safety regulations to accomplish the goal of increased safety. Fourth, additional clarification is needed in the statute on whether the building inspectors could halt construction and issue civil penalty recommendations to the staff of the Kansas

Corporation Commission. Fifth, the U.S. Department of Transportation has informally indicated both their reluctance and lack of statutory authority from Congress to begin communicating with local government pipeline safety inspectors. Sixth, the Commission estimates the budgetary impact on it from Section 2 will be approximately \$135,000 even if only a small number of Kansas' 4,000 communities desire to participate in such an agreement.

V. HB 2457 Increases in the Maximum Penalties that May be Levied (in conformance with the Federal Pipeline Safety Reauthorization of 1988)

The proposed legislation would increase the maximum civil penalty for pipeline safety violations from \$1,000 per day to \$10,000 per day and from \$200,000 to \$500,000 for any related series of violations. The legislation mirrors the maximum penalties contained in the Federal Pipeline Safety Reauthorization Act of 1988 which was recently passed by Congress.

VI. HB 2454 Clarification Language for Design Criteria

Finally, a bill is requested to bring a statute into conformance with contemporary standards for pipeline design. The change would bring the statute into conformance with standards already contained in the Natural Gas pipeline Safety

Regulations, as amended. Wrought or cast iron is no longer an acceptable material for new installations of pipe.





## KANSAS INDEPENDENT OIL & GAS ASSOCIATION

105 SOUTH BROADWAY • SUITE 500 • WICHITA, KANSAS 67202 • (316) 263-7297

April 3, 1989

TO: SENATE COMMITTEE ON TRANSPORTATION & UTILITIES

RE: HB 2454

HB 2454 would amend KSA 55-112 by simply making a partial reference to an appendix and to a sub part found within a 140 page document cited as "Pipeline Safety Regulations" issued by the U. S. Department of Transportation. Appendix "B" cited on line 27 is 3 pages; and Sub part "J" cited on line 29 is 3 pages.

HB 2454, by ignoring other parts of the federal safety standards for pipeline safety regulations would create a standard in Kansas more severe than the federal standard. Our concerns are for gathering natural gas from the wellhead. Sub part A - 192.1 of the federal standard would exempt the federal standards from the gathering of gas outside of any incorporated or unincorporated city, town or village, as well as any designated residential or commercial areas such as a subdivision, business or shopping center or community development.

We were present when HB 2454 was worked by the House Committee. At the time we had not yet found a copy of the federal pipeline safety regulations cited in the bill. The House Committee's primary concern, as noted by New Sec. 2 beginning on line 31, was safety inside municipalities.

If HB 2454 is not modified to grant an exception for gathering outside of the above cited urban development, our industry will be faced with an unnecessary massive review and testing program of all of its natural gas gathering lines found primarily in remote and non-urban settled areas of our state while not required under federal regulations.

We would ask your committee to adopt the exception for on shore gathering of natural gas outside of the urban areas cited in CFR Part 192 - Sub part A - Section 192.1 of the federal pipeline safety regulations.

Donald P. Schnacke

ATT. 2  
T&U  
4/3/89

**PART 192—TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE:  
MINIMUM FEDERAL SAFETY STANDARDS**

**Subpart A—General**

**§ 192.1 Scope of part.**

(a) This part prescribes minimum safety requirements for pipeline facilities and the transportation of gas, including pipeline facilities and the transportation of gas within the limits of the outer continental shelf as that term is defined in the Outer Continental Shelf Lands Act (43 U.S.C. 1331).

(b) This part does not apply to:

(1) Offshore gathering of gas upstream from the outlet flange of each facility on the outer continental shelf where hydrocarbons are produced or where produced hydrocarbons are first separated, dehydrated, or otherwise processed, whichever facility is farther downstream; and

(2) Onshore gathering of gas outside of the following areas:

(i) An area within the limits of any incorporated or unincorporated city, town, or village.

(ii) Any designated residential or commercial area such as a subdivision, business or shopping center, or community development.

(35 FR 13257, Aug. 19, 1970, as amended by Amdt. 192-27, 41 FR 34605, Aug. 16, 1976)

**§ 192.3 Definitions**

As used in this part:

"Distribution Line" means a pipeline other than a gathering or transmission line.

"Gas" means natural gas, flammable gas, or gas which is toxic or corrosive.

"Gathering Line" means a pipeline that transports gas from a current production facility to a transmission line or main.

"High pressure distribution system" means a distribution system in which the gas pressure in the main is higher than the pressure provided to the customer.

"Listed specification" means a specification listed in section I of Appendix B of this part.

"Low-pressure distribution system" means a distribution system in which the gas pressure in the main is substantially the same as the pressure provided to the customer.

"Main" means a distribution line that serves as a common source of supply for more than one service line.

"Maximum actual operating pressure" means the maximum pressure that occurs during normal operations over a period of 1 year.

"Maximum allowable operating pressure (MAOP)" means the maximum pressure at which a pipeline or segment of a pipeline may be operated under this part.

"Municipality" means a city, county, or any other political subdivision of a State.

"Offshore" means beyond the line of ordinary low water along that portion of the coast of the United States that is in direct contact with the open seas and beyond the line marking the seaward limit of inland waters.

"Operator" means a person who engages in the transportation of gas.

"Person" means any individual, firm, joint venture, partnership, corporation, association, State, municipality, cooperative association, or joint stock association, and including any trustee, receiver, assignee, or personal representative thereof.

"Pipe" means any pipe or tubing used in the transportation of gas, including pipe-type holders.

"Pipeline" means all parts of those physical facilities through which gas moves in transportation, including pipe, valves, and other appurtenance attached to pipe, compressor units, me-

PROPOSED AMENDMENT OF HOUSE BILL 2456

AS AMENDED BY SENATE COMMITTEE

SECTION 1(b) by adding at the end thereof:

"Provided however, the property possessed by the Commission shall remain available to the serving utility for the purpose of examining, testing, and analyzing. The possession thereof shall be in such manner and under such physical conditions as to preserve it for future evidentiary purposes.

ATT. 3  
T&U  
4/3/89

## TESTIMONY

May it please the Committee, my name is Conni McGinness, and I am Director of Legislative Relations for Kansas Electric Cooperatives, Inc. (KEC). KEC is the statewide service organization representing 34 rural electric cooperatives in the state, who in turn have a membership of over 160,000 consumers. I am speaking here today on behalf of KEC and its member systems in considerations of House Bill 2456.

First of all, I talked to several of our managers last Friday afternoon, they all mentioned that one-call has not been that effective in their opinion. They made several comments stating that when they have called one-call for location of lines, that the location they have been given has not been accurate, thereby losing some degree of effectiveness in credibility.

The second concern that the managers expressed was in the cost in a one-call if it were made mandatory for all utilities. For instance, we have one cooperative, Twin Valley located in Altamont, that has only one consumer that has underground. That one consumer is the U.S. Army Corps of Engineers. And yet, if the bill were expanded to include all utilities, that would make all of the consumers of Twin Valley paying for the service. I also visited with Lewis Mitchell of Wheatland Electric located in Scott City, and we visited about if Wheatland and Pioneer consolidated in the future they would have 469 miles of underground line. This would cost that particular cooperative several thousand dollars.

Another caveat to the cost that concerns us is that there are no actual regulations within this piece of legislation as to what those fees would be for belonging to one-call. If a mandatory

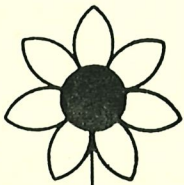
ATT. 4  
T&U  
4/3/89

one-call was in place for all utilities, who will set the fees, who would have the power to increase those fees, these are just a few questions that arise from a cost point of view.

Lastly, our members have a general philosophical problem with making a mandatory one-call for all utilities. This bill would increase regulation of utilities. We believe we are already over-regulated, and we certainly hate to see any further regulation mandated upon us.

In summary, if you do pass a mandatory one-call for all utilities, we would ask that electric cooperatives be exempt for the above stated reasons.

I thank the Committee for the opportunity to testify today and would welcome your questions.



# HOME BUILDERS ASSOCIATION OF KANSAS, INC.

Executive Director  
JANET J. STUBBS

## TESTIMONY BEFORE SENATE TRANSPORTATION AND UTILITIES COMMITTEE

HB 2456  
APRIL 3, 1989

### OFFICERS

*President*  
ROBERT HOGUE  
3330 S.W. Maupin Ct.  
Topeka, Ks. 66614  
913-273-8123

*Vice President*  
JIM MINER  
6606 West Central  
Wichita, Ks. 67212  
316-942-1891

*Treasurer*  
JIM STRAWN  
P.O. Box 1361  
Hutchinson, Ks. 67504  
316-662-7152

*Secretary*  
ELTON PARSONS  
3500 North Rock Rd.  
Bldg. 100  
Wichita, Ks. 67226  
316-686-7451

H.B.A. ASSOCIATIONS  
Central Kansas  
Dodge City  
Hutchinson  
Manhattan  
Montgomery County  
Pittsburg  
Salina  
Topeka  
Wichita

PAST PRESIDENTS  
Lee Haworth 1965 & 1970  
Warren Schmidt 1966  
Mel Clingan 1967  
Ken Murrow 1968  
Roger Harter 1969  
Dick Mika 1971-72  
Terry Messing 1973-74  
Denis C. Stewart 1975-76  
Jerry D. Andrews 1977  
R. Bradley Taylor 1978  
Joel M. Pollack 1979  
Richard H. Bassett 1980  
John W. McKay 1981  
Donald L. Tasker 1982  
Frank A. Stuckey 1983  
Harold Warner, Jr. 1984  
Joe Pashman 1985  
Jay Schrock 1986  
Richard Hill 1987  
M.S. Mitchell 1988



My name is Janet Stubbs. I am Executive Director of the Home Builders Association of Kansas.

The HBAK opposes HB 2456 as amended by the House Committee of the Whole.

As we have stated in past sessions with previous proposed legislation on this issue, we do not condone irresponsible actions by any excavator, whatever their occupation. We are concerned with the safety of private citizens who might be harmed by careless excavating activity.

However, we view the amendment added by the House Committee of the Whole as beneficial to the operators and for the purpose of preventing loss of federal funds for the State with provisions that cause additional time delays, expense and liability for the excavator.

Excavator members of HBAK have concern with Sec. 3(1) and urge your consideration of an amendment to reduce the "tolerance zone" from 24 inches to 18 inches. Some state damage prevention laws provide for an 18 inch with some providing for a 12 horizontal tolerance zone.

In addition, there is concern regarding the provision in line 117 which requires a notice of 2 days prior to excavating. As in the past, excavators continue to praise the cooperation of the utilities with respect to the response time. There is fear that with the language of line 117, they would feel less obligated to continue the prompt service they now provide.

We continue to oppose the rebuttable presumption provision of Sec. 12(a). As I stated earlier, we do not condone deliberate damage to any operator's underground facility, we believe operators currently have the ability to recover damages and, therefore, request the striking of this provision.

In 1987, the Kansas Contractors Association proposed an amendment which we supported which would require an operator to pay a contractor for down time damages due to the operator's error in facility location and its subsequent damage during construction.



We support the mandatory membership of all operators provided in this bill and believe this to be a necessity if a damage prevention act is to become law. Most utilities currently operate under the "Kansas One-Call System". However, membership is not mandatory and is, therefore, not a true "one call" system of notification for the excavators and continues to require individual contact with each utility to establish appointments for marking at the job site.

In conclusion, we request your consideration of our proposed amendments, if consideration is given to passage of HB 2456.

TESTIMONY BEFORE THE HOUSE AND NATURAL RESOURCES  
SPECIAL SUBCOMMITTEE

Review of Laws and Regulations on the Transportation of Natural Gas

By - Charles Butterfield  
Vice President, NE/CO/KS Area

I am Chuck Butterfield, Vice President of the Nebraska, Colorado, and Kansas operations for Peoples Natural Gas Company. On behalf of Peoples Natural Gas, I want to first say that we appreciate the opportunity to appear before this subcommittee to address these very important safety issues. We have a good safety record. We will gladly do whatever we can to keep it that way--including compliance with new legislation or rules.

Peoples has gas distribution operations in five states. In Kansas we serve approximately 39,000 customer in 19 cities and rural areas, primarily in the western part of the state. The majority of these customers have our meter and regulator at the property line and

ATT. 6  
T & U  
4/3/89

gas flowing at low pressure through a customer-owned yard line. This situation may be different from other Kansas utilities. Our leak survey, cathodic protection and other practices exceed DOT requirements, but these requirements only apply to Company-owned facilities, not customer-owned yard lines. In our opinion, this is the most important issue resulting from the recent KCC rule changes, even though some 20 other rule changes are being made.

The Kansas Corporation Commission has recently begun efforts to expand upon the DOT rules. We supported the KCC in these rulemaking changes, and the process to allow input from us was very much appreciated. However, we believe there will have to be some ratemaking flexibility in addressing the customer yard line problem.

Before anyone passes judgment on the Commission or the utilities, you should have some perspective on the history of customer-owned yard lines and the development of corrosion technology. You should understand, from an historical perspective, how customer-owned yard lines developed. Most of our customers began receiving natural gas

service in the 1940s and 1950s. During that period of time, most utilities used bare steel lines for their mains, distribution lines and service lines. There was, simply, no corrosion control technology at that time. Actual ownership of the line was thus not a terribly important issue, since neither the utility company nor the customer could do very much to protect the line after it was installed. In the late 1950s and 60s, the utility companies began what is known as cathodic protection of steel lines.

Let me explain this technology in some detail. This relatively recent technological change involves placing a small electrical charge on the steel lines. The electrical charge will control the corrosion of steel lines. The electrical charge is applied through either a rectifier or a buried sacrificial anode. The sacrificial anode acts just like a dry cell battery, in that it reacts with the ground and surrounding area to produce an electrical charge which is transferred to the protected line. Electrical surveying is used to determine whether that electrical charge still exists and whether or

not an electrical "short" is taking place through some contact with surrounding objects. Electrical surveys can also be used to locate corrosion "hot spots" on steel lines which are not cathodically protected.

To do any electrical surveying, the customer's yard line must first be "insulated" from the customer's house piping. This requires the installation of an insulated coupling at the point where the service line enters the building. Without a coupling, electrical surveys will not be meaningful and will usually be misleading.

Installation of one of these couplings costs an average of \$200 and entails excavation and cutting of customer lines; temporary shut-off of gas; as well as pilot relights, and most likely the attachment of anodes where hot spots subsequently show up. Attachment of anodes would raise average costs to \$300-350 per line. Even with the insulators and anodes, we are still left with a line that is, at best, an unknown entity. These lines have been in the ground for decades, with potential corrosion in many locations. That they don't

leak when they are first electrically surveyed does not mean they won't begin leaking a day or two later. In their potentially "weak" condition, they are also more susceptible to external stresses, including "freeze/thaw" effects, roadbed construction stress, internal house piping movement, and "dig-in" problems. We just don't know and can't know the true condition and potential problems these lines represent unless we dig them up and expose them. That, is cost prohibitive.

Because of the fairly recent corrosion technology, we are now left with a problem in that our company lines are protected from corrosion, but customer lines are not. Keep in mind that this was not planned, nor were utilities or the Commission at fault for the current situation. This was just an historic practice that did not predict the development of cathodic protection technology. Once the practice of customer ownership was begun, it was also difficult to change because of concerns about illegal discrimination in the facilities offered to similar customers. The utility's historic



obligation was to take care of utility-owned property and not to maintain the appliances, furnaces, water heaters, or yard lines owned by the individual customers. With the recent incidents involving yard lines and the reports concerning the frequency of leaks on customer-owned lines, it is obvious that many customers have not been adequately maintaining and replacing their own lines. The Kansas Corporation Commission is well on the way to adopting standards which would effectively require utilities to be responsible for customer-owned yard lines. With that responsibility, however, comes some rather extraordinary expense. Let me explain why. We are very reluctant to assume responsibility for the leaks occurring to lines which are old; with possible existing corrosion; which we did not install or maintain records on. We cannot determine through electrical surveys whether any yard line will begin leaking tomorrow, two months from now, ten years from now, or ever. This electrical survey technology allows us only to predict a potential for corrosion at specific spots. It tells us nothing about prior corrosion.

We have already begun leak surveying customer-owned yard lines. This is being done to comply with the new KCC rules which are not yet final. While leak surveys may surely prevent some accidents, they will not provide the virtual guarantee of safety which a utility is obligated to provide.

The safest and most effective response may be to begin a comprehensive yard line replacement program in which any line which is not made of modern materials would be replaced with a polyethylene service line. As Peoples has in excess of 34,000 customers which own their own yard lines, we believe the cost of this project would approach \$13.6 million, which is based on an average replacement cost of \$400 per service. It still compares favorably with the cost of the inadequate \$300 to \$350 cathodic protection and electrical survey response. This would virtually eliminate the risk at these lines of unknown integrity represent. We have proposed this solution to the Commission, and we are optimistic that we will receive a go-ahead from them. This project does represent a \$3 million annual cost to

the Company which, when recovered through rates, will result in about a \$77 addition to the average residential customer's bill per year; about \$6 per month. We do not feel this is an inappropriate cost to correct this longstanding problem with customer-owned yard lines.

Before we can make such major investments and greatly expand our sphere of responsibility, we must have some form of interim rate relief. We don't want to have to file annual rate cases. These only partially recover our capital costs anyway. There is a substantial lag in recovery of capital under current Kansas ratemaking procedure. Not only does the new plant have to be in service, but there is at least an 18-month additional lag before the regulatory process could even begin to provide a return on investment. We do not get to recover the cost of the capital which was invested in the system prior to a final rate order. It is a little like putting your money in a savings account that won't pay interest for two years-- when other banks in other states pay interest from the time of deposit.

We have proposed a surcharge mechanism to the Commission which would allow directly charging customers for the costs of extending our utility's jurisdiction into this completely new area---the customer's yard line. Surcharges would, of course, be subject to Commission review and disallowance. Alternatively, some form of interim rate relief would be required to prevent substantial earnings decline. We suspect that either type of relief would encourage utilities to spend the capital necessary to upgrade and replace the customer-owned yard lines. Without such interim relief, utilities will continue to resist making large capital expenditures in new areas where the subsequent earnings shortfalls make their stocks unattractive and which leads to higher rates in the future. It would also bring Kansas into sync with the rest of the states we operate in where interim relief is available and capital projects are not prohibitively expensive to the shareholders.

I know you're very interested in investigating and exploring areas where legislation may be required. We believe that the

Corporation Commission is already responding to this yard line problem and that no specific legislative response may be necessary. We think that the Kansas Commission is the appropriate body to address safety matters in Kansas and has the technical expertise in dealing with safety matters. For that reason, we would ask that the Legislature consider doing something short of passing new statutory safety legislation until the Commission has an opportunity to finalize its new safety regulations. Alternatively, the Legislature may want to consider passing a resolution to provide for some continuing oversight of Commission safety regulation. If the Legislature also wants utilities to make prudent investments in utility plant--such as insulators, anodes, or service lines--then you must also eliminate the penalties for such investment. You should mandate the right to interim rate relief for utilities in Kansas.

I would now be more than happy to attempt to answer any questions the subcommittee may have.