

Approved: Carl Dean Holmes 2-8-95  
Date

## MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES.

The meeting was called to order by Chairperson Carl Holmes on January 23, 1995 in Room 526-S of the Capitol.

All members were present except: Representative Joann Flower - Excused  
Representative Phill Kline - Excused

Committee staff present: Raney Gilliland, Legislative Research Department  
Dennis Hodgins, Legislative Research Department  
Mary Torrence, Revisor of Statutes  
Shirley Wilds, Committee Secretary

Conferees appearing before the committee: William R. Bryson - KS Corporation Commission  
Don Schnacke - KS Independent Oil & Gas Association  
David Bleakley - Eastern KS Oil & Gas Association  
Rachel C. Lipman - KS Corporation Commission  
Jack Graves - K-N Energy  
Russell Bishop - Centana Energy Corporation  
John N. Di Nordo - K N Gas Gathering, Inc  
The Honorable Richard Reinhardt - House of Representatives  
Wayne E. Dougherty - Thayer, Kansas

Others attending: See attached list

Chairperson Holmes notified the Committee of possible bill action at tomorrow's meeting.

The Chair invited those freshman members who are to carry a bill on the Floor tomorrow to contact him if they have questions.

The Chair encouraged prompt attendance at all meetings when bills are scheduled for action. He announced that there are occasions a bill will be worked when a quorum has convened.

### Hearing on HB 2042:

**William R. Bryson.** Speaking as Director of the Oil and Gas Conservation Division of the Kansas Corporation Commission, Mr. Bryson appeared in favor of **HB 2042**, explaining that the statutes in the bill have not had application for several decades and he requested the support of the Committee to have them repealed. (See Attachment #1.)

### Hearing on HB 2043:

**William R. Bryson.** Mr. Bryson reported that Chairperson Holmes had requested the Commission in the fall of 1994 to review Chapter 55 for statutory language which was obsolete and no longer applicable to current regulation of the oil and gas industry. As a result of that review, Mr. Bryson recommended the repeal of KSA 55-603 and KSA 55-604. He said this change does not affect the operators opportunity to come before the Commission to seek a spacing order or specific allowable for a new pool, nor does it deter the operators from seeking a dissolution of existing spacing or allowable order for a field. Also, the repeal of existing statutory language would not affect the eligibility of new oil pools discoveries for severance tax exemption or allowance.

Mr. Bryson also recommends total repeal of KSA 55-604(b) on Pages 2 and 3 of **HB 2043**. He explained that since Kansas will never return as a major player in oil production this section is no longer needed.

## CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES, Room 526-S Statehouse, at 3:30 p.m.. on January 23, 1995.

Finally, he recommended repeal of KSA 55-612 and 55-613 saying these statutes were enacted by the 1973 Legislature as a result of concerns over low crude oil prices and empowered the Commission to determine inadequate field prices for crude oil. KCC recalls no hearings wherein prevention of physical and economic waste were a factor and price of crude was set accordingly (to comply with this statute). (See Attachment #2.)

### Hearing on 2044:

**William R. Bryson.** Mr. Bryson said the basic purpose of **HB 2044** is to provide flexibility to the Commission in setting fees on applications for intent to drill, operator licenses and drill rigs, by regulation rather than by statute. He maintains that passage of this measure would allow the Commission to recognize that there are different types of operators being regulated under Chapter 55 and a fee schedule may be more equitable. (See Attachment #3.)

Mr. Bryson said that those reviewing this bill have indicated that the wording on Page 3, line 9 is too general and covers activities regulated by agencies other than KCC. KCC concurs and believes this concern could be accommodated by making the demonstration of compliance limited to Chapter 55 activities or Federal statutes applicable on Chapter 55.

**Donald P. Schnacke.** (See Attachment #4.) Mr. Schnacke said like any industry, there are large and small operators and Kansas is known as the number one stripper well state with the highest percentage of Kansas oil classed as marginal, averaging about 3 BOD. Among 2,718 reporting producers, Mr. Schnacke said 273 of those producers and companies (mostly of them Kansans) have oil production below one BOD; 200 have oil production below 2 BOD. Those operators pay \$100 per year to the KCC to be licensed. He maintains these people hardly make enough to pay the existing KCC licensing fee, and to raise it up to \$600 (in many cases) is more than several operators net out.

Mr. Schnacke took the same opposing position on raising drilling and work over rigs fees from \$25 to \$50, and the intent to drill fee of \$50.

In urging defeat of **HB 2044**, Mr. Schnacke contended it is best to allow the industry to work on more meaningful legislative solutions that do have the support of the industry and can be of much greater value to the Commission in the future.

In conclusion he said passage of this measure would send a very negative message to the industry which has been, and still is, reeling from depressed economic conditions.

**David P. Bleakley.** (See Attachment #5) As President of the Eastern Kansas Oil and Gas Association (EKOGA), Mr. Bleakley testified as an opponent to **HB 2044**. He reports that the oil and gas producers have already taken a beating over the last nine years from the price paid for their product, new state and federal regulations (and last year the increase in the Conservation Fee fund).

Mr. Bleakley cited production statistics for eastern Kansas covering the first half of 1994, and examples showing the cost of producing oil, to indicate the belief of EKOGA that the industry cannot withstand an increase at this time.

When addressing the issue of raising rig fees, he said many rig owners in the state can ill afford an increase. Likewise he contends the same applies to establishing a fee of up to \$100 per drilling intent, prompting a disincentive to the industry in direct opposition to what the KCC and the State really need.

In summary, Mr. Bleakley expressed a desire for the Committee to understand the depressed state of the industry, and look to ways to build a healthy oil and gas industry in the state wherein once again a windfall of revenue could be realized for the KCC and the State.

### Hearing on HB 2097:

**Rachel C. Lipman.** Ms. Lipman appeared in support of **HB 2097** (and HB 2041). She offered a brief history of the natural gas industry in Kansas, noting that it has been in a state of transition from heavy-handed regulation to a more market-based system tied to commodity prices since Congress enacted the Natural Gas Policy Act in 1978. She cited certain Orders by the Federal Energy Regulatory Commission (FERC) in 1985, 1992 and 1994 that resulted in several changes and options for the industry. (See Attachment #6)

**Jack Glaves.** Mr. Glaves said that he was a member of the Chapter 66 Task Force representing KN Energy. Although in support of **HB 2097** Mr. Glaves suggested that on Line 26 of Page 2 of this bill to

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strike "*compression or.*" He explained it would not seem appropriate that the point of compression should be utilized for determining when regulation should commence or end. The gathering system is the pipeline system used for transporting natural gas from the well-head into the main transmission line. With this mind, Mr. Glaves believes that is the industry-understood definition and is appropriate for purposes of **HB 2097**. (See Attachment #7)

**Hearing on HB 2041:**

**Russell Bishop.** (See Attachment #8.) Mr. Bishop presented on behalf of Centana Energy Corporation (CEC), an affiliate of Panhandle Eastern Pipe Line Company. He reported the CEC strongly opposed enlarging the complaint jurisdiction envisioned by **HB 2041** to a utility-type rate-making procedure. He said that the Commission should not be put in a position of becoming a vehicle to enhance a parties' negotiating position or required to resolve "pricing disputes" between producers and gatherers, apart from those based on abusive behavior. He maintains such a procedure is not only very expensive but also very time consuming, making it impractical and burdensome to the producer, gatherer and the Commission's budget. He said there would be no satisfaction for either the producer or the gatherer by a protracted rate-case type of regulation.

Mr. Bishop said the terms "unjust or unreasonable" are undefined and are so nebulous as to render their application to gathering activities subjective and uncertain, since gathering systems provide different services, have different costs, pressures and operating conditions (as do the wells to which they are connected.) He said that without the discriminatory standard there is no reasonable way of determining objectively the reasonableness of one rate or practice over the other - without an extensive and expensive cost of service analysis.

Mr. Bishop recommended that the definition of "gas gathering system" (Section 1(d), lines 24 and 27 of **HB 2041**) should be broadened to include the movement of gas from the well-head. Further, he submits that the definition of "gas gathering services" (Page 2, Section 2(2), lines 8 and 9) should not include the language "preparation of natural gas," stating they are strongly opposed to the injection of unnecessary regulation on that segment of the industry (unintended or not).

In conclusion, Mr. Bishop asked that the Committee consider the proposed changes and emphasized that CEC does not want the bill enlarged to cover complaints not premised on alleged discriminatory practices. It is their belief that utility-type regulation of natural gas gathering or processing is necessary, nor in the best interests of the industry as a whole.

**John N. DiNardo.** (See Attachment #9) Mr. DiNardo is Vice President of K N Gas Gathering, Incorporated (K N), which is a wholly owned subsidiary of K N Energy, Inc, which owns and operates in seven states, including Kansas. He expressed concern that **HB 2041** will lead to state regulation of gathering facilities in Kansas, thus interfering with the strong competitive market forces currently in place in the gathering industry. He said this measure increases regulation in the natural gas industry at a time when the trend has been to stimulate competition. Among the seven states in their operating facility, Mr. DiNardo said competition is especially significant in Kansas.

K N owns and operates four gathering facilities in western and central Kansas (see attached maps). In addition, K N continually adds new wells to their gathering systems, in order to maintain sufficient gas volumes to offset the normal decline in production from older wells. Those gatherers are constantly competing for new and existing production. Thus, Mr. DiNardo argued that if this bill is adopted it will create an onerous burden on gathering in Kansas. It would increase the costs of providing the services and would ultimately interfere with the price and service flexibility (necessary competition elements). He respectfully recommended that the Committee not adopt this measure. Note: Mr. DiNardo illustrated KN gas gathering pipelines with a visual geological survey map. The Chair has retained this map in his file.

**Rachel Lipman.** Ms. Lipman testified in support of **HB 2041**, stating producers need a forum for complains if they are unable to economically produce their gas due to the rate charge or if pipeline pressures inhibit production of gas. She said the advantage of having jurisdiction in a new statute as proposed in **HB 2041** is that the KCC would be there, if needed, to act as a mediator of disputes between producers and operators. She pointed to the success of the Oklahoma Corporation Commission wherein a similar statute was enacted (as is proposed in this bill). (See Attachment #6)

**William R. Bryson.** (See Attachment #10.) Speaking in support of **HB 2041**, Mr. Bryson said the intent of this bill is threefold:

1. Include those who gather and transport natural gas from producing wells from a central metering point

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for one or more wells to a point of entry into a sales or transmission point under the applicable Chapter 55 statutory authority of the Commission and the rules and regulations.

2. Include underground natural gas storage operations under Chapter 55 statutory authority of the Commission and the rules and regulations. Traditionally gas storage has taken place in depleted oil or gas producing reservoirs although more recently, companies have been evaluating storage in abandoned salt cavities, previously used to store other hydrocarbons such as LPG or LNG. KSA 555-150 has been amended to reflect this new class of well and that these wells are recompletions.
3. Section 2 of **HB 2041** proposes establishing the Commission as a forum for receiving and hearing complaints for those who believe they are being subject to fees or practices in connection with gas gathering services which are unjustly or unlawfully discriminating. This proposal is very similar to legislation which was passed by Oklahoma in 1993 (except that **HB 2041** covers unlawfully discriminatory practices in addition to fees).

Mr. Bryson said that the Commission needs the flexibility to address complexities by rule and regulation and statutory definition may preclude coverage of many unique situations. He added that underground gas storage has taken place in depleted oil and gas storage reservoirs and the Commission as of two years ago has to certify the abandonment of the reservoir. The intention under **HB 2041** is to license operators of underground natural gas storage facilities. He urged passage of this bill.

**Donald P. Schnacke.** Mr. Schnacke proposed an amendment to **HB 2041**. (See Attachment #11.)

He said a KIOGA Committee studying these issues recommends the inclusion of language which would allow producers to request a hearing for unjust and unreasonable pricing, not only discriminatory pricing. He said this will be consistent with the provisions of KSA 66-104(g)(1). Also, the legislature passed a measure in 1992 dealing with the decontrol of the Kansas Electric Cooperatives, addressing the fair and equitable question of rates charged coop customers (a first-cousin of the subject in this bill). KSA 66-104 (g)(1) gives authority to the KCC to protect an aggrieved customer of a coop by looking at rates that may be "unjust, unreasonable, unjustly discriminatory or unduly preferential."

Mr. Schnacke furnished a graph with theoretical impact of the increase of gathering fees. He offered that while the graph is an example only, hundreds of millions of cubic feet of gas per month could be negatively impacted under scenarios very similar to that unless some meaningful language providing fairness and equity are included in **HB 2041**. The reader is referred to Mr. Schnacke attachment for proposed amendment in its entirety.

**The Honorable Richard R. Reinhardt.** (See Attachment #12.) Representative Reinhardt appeared in support of **HB 2041**. He reported in response to a constituent request he contacted the KCC to make inquiry regarding the gas gathering system (and operators). He said he discovered this was basically a function unlicensed, unregulated and unaccountable in Kansas.

Representative Reinhardt reasoned that in licensing the gathering systems there would be a central point for needed information, thereby producing a link between producers of natural gas and those who gather the product, making them accountable to the KCC.

**Mari Dugger.** (See Attachment #13.) Appearing as counsel for Williams Field Services Company (WFS), Ms. Dugger said this proposed legislation is premature due to actions at the federal level. She explained The FERC has given the states a two-year transition period to observe the gathering industry, to determine any possible problems requiring regulation; second, their orders on rehearing of its new gathering policy were issued in December. While the WFS supports the FERC position, Ms. Dugger believes it would be wise for the states to wait under federal policy is solidified before taking action, adding that there is no urgency for Kansas to act at this time.

Ms. Dugger concluded by saying if, after time to study the industry, evidence arises indicating real problems, WFS will support reasonable efforts to remedy such problems.

**Wayne E. Dougherty.** Mr. Dougherty is a landowner who has been working with a gathering system for approximately ten years, and states there is a grey area for which no one is responsible. He said there is a need for a hotline for problems that arise between the gathering system and landowner, particularly when the gathering system is a subsidiary of the leasing company as they sell and meter to themselves. As a landowner, Mr. Dougherty said he is primarily asking for an eighth at a legitimate price. He supports **HB 2041**. (See Attachment #14.)

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MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES, Room 526-S Statehouse, at 3:30 p.m.. on January 23, 1995.

Chairperson Holmes referred Committee members to written testimony:

**Montgomery Adam Escue.** (See Attachment #15.)

**Pete McGill & Associates.** (See Attachment #16.)

**Tim Aron.** (See Attachment #17.)

Upon completion of the hearings, Chairperson Holmes opened the meeting for discussion and inquiry.

The Chair reviewed the Committee agenda for the remainder of the week.

Also, the Chair announced that a subcommittee has been appointed on **HB 2041** and **HB 2097**, comprised of Representatives Lawrence; Krehbiel; and Sloan. The Chair has given a charge to the Subcommittee to report back to the Committee as a whole on Thursday, January 26.

There being no further business to come before the Committee, the meeting adjourned at 5:45 p.m.

The next meeting is scheduled for January 24, 1995.

HOUSE ENERGY AND NATURAL RESOURCES  
COMMITTEE GUEST LIST

DATE: January 23, 1995

NAME	REPRESENTING
TOM DAY	KCC
Pat Hubbell	Kans. RR Assn.
NICK POWELL	EKOGA
DAVID BLEATHLEY	EKOGA
Jim Allen	EKOGA
Michelle Peterson	Ks Gov Consulting
STEVE KEARNEY	KINI L.C.
TOM WHITAKER	Ks Motor Carriers Assn.
J.C. Long	Utili Corp
Jim Stanton	Northern Natural Gas
Jim Aron	Northern Natural Gas
Rachel LIPMAN	KCC
Nicole Bryant	CURB
Bill Bryson	KCC
TREVA POTER	MIDWEST ENERGY
Russ Bishop	Centana Energy Corp.
Jack Glaves	PIH & NE
Nathy McCoy	KIV GAS GATHERING INC.
JOHN DINARDO	KN GAS GATHERING INC.

Guest List (cont.)

Mary Jane Stattelman

David Drummer

Wendell Owens

Suzanna Aschenbrenner

Wayne E Dougherty

Eric L. Nitcher

KS Farm Bureau

Page - Rep. Laura McClure  
Resident

GPM Gas Corp

Southwest Kansas  
Royalty Owners Assn.  
Gathering systems 2041

Amoco Corporation

TESTIMONY ON HOUSE BILL 2042  
BY THE KANSAS CORPORATION COMMISSION  
PRESENTED BEFORE THE HOUSE ENERGY AND  
NATURAL RESOURCE COMMITTEE

January 23, 1995

I am William R. Bryson, Director of the Oil and Gas Conservation Division for the Kansas Corporation Commission. I am appearing in support of House Bill 2042 which proposes repeal of two statutes which have been on the books since 1905. Sometime last year, Chairman Holmes asked us to review our statutes for any outdated, obsolete measures which no longer apply to modern day oil and gas regulation.

KSA 55-110 is a general statute making it unlawful to drill or operate an oil or gas well within 100 feet of the center of a right of way of any steam or electric line of a railway. KSA 55-111 is a companion statute which describes the penalties for violation of KSA 55-110. This statute was passed when there was a concern over the personal health and safety of humans from fire, explosion or electrocution if such wells were located close to the passage of steam locomotives and electric trolley lines. Such accidents had occurred in Ohio and Pennsylvania in the late 1890's and early 1900's.

Current day railroads own the right of way which covers 100 feet from tracks and have the power of preventing a well from being drilled by just not leasing the property. In addition, KCC staff reviews well locations as a part of its intent to drill approval process.

These statutes have not had application for several decades and we are requesting your support to have them repealed.

1/23/95  
Energy & Natural Resources  
Attachment #1



TESTIMONY ON HOUSE BILL 2043  
BY THE KANSAS CORPORATION COMMISSION  
PRESENTED BEFORE THE HOUSE ENERGY AND  
NATURAL RESOURCE COMMITTEE

January 23, 1995

I am William R. Bryson, Director of the Kansas Corporation Commission, Conservation Division. I am testifying in favor of House Bill 2043. During the fall of 1994, the Commission was requested by the Chairman of this committee to review Chapter 55 for statutory language which was obsolete and no longer applicable to current regulation of the oil and gas industry. Contained in House Bill 2043 are two sets of statutes which we are recommending for repeal.

In KSA 55-603 and KSA 55-604, we are recommending deletion of all reference to the temporary bonus and discovery allowable. In 1994, the KCC approved amending regulations KAR 82-3-203 to greatly liberalize the allowable production under statewide rules for newly discovered oil wells believing that the regulations that we had in effect served as a deterrent or disincentive to exploration. The new regulation, which is attached as Table I, will cover most new discoveries under statewide rules and the need to give a temporary bonus or discovery allowable becomes academic. This change does not affect the operators opportunity to come before the Commission to seek a spacing order or specific allowable for a new pool nor does it deter the operators from seeking a dissolution of existing spacing or allowable order for a field. Finally, the repeal of existing statutory language would not affect the eligibility of new oil pools discoveries for severance tax exemption or allowance. The Commission, upon its own motion has put up over 600 oil and gas field spacing and proration orders for dissolution through hearing since 1991. This process is reflective of the fact that Kansas is rapidly becoming a unprorated state for oil production. In prorated fields, a temporary bonus could be allowed as a part of the Basic Proration Order.

We are also recommending total repeal of KSA 55-604(b) on pages 2 and 3 of House Bill 2043, which describes the process described to be followed by the Commission in establishing market demand for oil. There may be someone attending this hearing which recalls the last market demand hearing for oil, but it has been at least a decade. There is no way, Kansas with its 3% of the domestic market, can create a surplus or import price. Foreign entities such as OPEC do that for us. The Commission does have market demand hearings for statewide gas production every six months. Since Kansas will never return as a major player in oil production (we rank 8th in the U.S.), this part of KSA 55-604 is no longer needed.

The final set of statutes recommended for repeal are KSA 55-612 and 55-613. These are mentioned under Section 3 of page 4 of HB 2043. The entire text of these statutes is provide as an attachment. These statutes were enacted by the 1973 Legislature as a result of concerns over low crude oil prices and empowered the Commission to determine inadequate field prices for crude oil in the interest of preventing physical and economic waste and after hearings (KSA 55-613), to set a minimum price of crude oil at a price when such production would not create waste. As far as KCC staff recalls, no such hearings have ever been held and none are likely since Kansas acting alone would only hurt itself by taking such action. Acting in concert with other oil producing states would cause a form of cartel which has been dimly viewed from a legal perspective.

We would appreciate the Committees consideration repealing the statutory provisions set forth in House Bill 2043.

1/23/95  
Energy & Natural Resources  
Attachment #2

Attachment #1

82-3-203 State and pool allowable and proration.

(a) Well allowables for non-prorated pools. Allowables shall be assigned on an individual well basis. The allowables for each well in non prorated pools shall be set by the following depth schedule and shall take effect from the date of first production:

<u>Producing Interval</u>	<u>Daily Production Allowable</u>
Found Between	bbls/well/day
0-4000'	100
4001-6000'	200
Below 6000'	300

Regulation before change:

<u>Pool Depth</u> <u>Range</u>	<u>Maximum Allowable</u> <u>bbls/well/day</u>
0 to 2,500	50
over 2,500 to 4,500	53
over 4,000 to 4,500	56
over 4,500 to 5,000	62
over 5,000 to 5,500	70
over 5,500 to 6,000	78
over 6,000	88

TESTIMONY ON HOUSE BILL 2044  
BY THE KANSAS CORPORATION COMMISSION  
PRESENTED BEFORE THE HOUSE ENERGY AND  
NATURAL RESOURCE COMMITTEE  
January 23, 1995

I am William R. Bryson, Director of the Oil and Gas Conservation Division for the Kansas Corporation Commission. I am appearing on behalf of the Commission in support of House Bill 2044. The basic purpose of House Bill 2044 is to provide flexibility to the Commission in setting fees on applications for intent to drill, operator licenses and drill rigs, by regulation rather than by statute. The Commission currently has the authority to set fees and oil and gas assessment rates to fund Conservation Division regulatory activities by rules and regulations.

In December 1993, KCC had to significantly raise the assessment rate on oil and gas to continue funding the Division at an effective program level. We also, as a promise to the oil and gas industry, reduced expenditures approximately \$500,000 by leaving several positions unfilled, reducing operating expenditures and only spending \$300,000 out of the Abandoned Well Plugging Fund. During this period of funding shortfall, the KCC staff met with industry to obtain options, other than assessment increases, which would be acceptable. Possible increase of the operator's license was the only option mentioned by industry representatives.

Fortunately, the Conservation Division fund level has recovered to the point where the cash balance will not be in jeopardy of reaching dangerously low levels during the rest of FY1995 and through most or all of FY1996. We are still leaving selected position open and are continuing austerity measures on operating expenditure where program quality can be maintained though perhaps to a lesser degree than before.

Unlike most other states, Kansas has never imposed a fee for an intent to drill, except for a short period of time in the 1970's and early 1980's when a \$40 intent fee was enacted to fund the current building at Lawrence which houses the Kansas Geological Survey. We believe that a fee for processing forms associated with the drilling of a well is a viable alternative source of future funding.

The operator license fee has been set at \$100 for each operator and contractor since 1982. This fee is the same whether the operator has one well or several hundred. This Committee supported the Commission a few years ago when we recommended lowering the fee for operating a single family residential gas well to \$25. Passage of HB 2044 would allow us to recognize that there are different types of operators being regulated under Chapter 55 and a fee schedule may be more equitable. We would like to use the regulatory process to reach this goal. Similarly if HB 2041 passes, gas gatherers and those who store natural gas underground have a different set of simplicities and complexities that may not fit a flat \$100 fee. We support the legislative caps which are proposed in HB 2044.

Section 3(c)(3) of House Bill 2044 makes a demonstration of compliance with statutes, rules and regulations of Commission and enforcement orders as a condition for getting or renewing a license. Our District staff spends a great deal of time working with some operators to achieve or maintain compliance, only to find they have assigned the lease to a relative, partner or merely changed the name of the company. These persons are the 5-10% who habitually do not comply and who have little or no respect for regulations. Many states use bonding and other forms of financial assurance to eliminate recalcitrant operators. We believe licensing is equally effective but the amount of time spent working with certain operators is not a cost effective utilization of personnel. Those reviewing HB 2044 have indicated that the wording on page 3, line 9 is too general and covers activities regulated by agencies other than KCC. We concur and believe this concern could be accommodated by making the demonstration of compliance limited to Chapter 55 activities or Federal statutes applicable to Chapter 55.

We appreciate the opportunity to appear and hope the Committee will look favorably on HB 2044 and pass it.

1/23/95  
Energy, Natural Resources  
Attachment # 3

**55-612. Minimum price of crude oil; determination by corporation commission.** Whenever the corporation commission of the state of Kansas shall determine that inadequate field prices of crude oil are making it economically unfeasible to continue the production of crude oil from wells otherwise actively producing oil, thereby resulting in economic waste and physical waste of the oil resources of this state and nation, such commission is hereby authorized to fix the minimum price of crude oil at a level sufficient to conserve such oil resources and to prevent economic waste and physical waste of such resources.

**History:** L 1973, ch. 219, Section 1; July 1.

**55-613. Hearing on minimum price of crude oil.** The corporation commission may fix the minimum price of crude oil under the provisions of this act only after holding hearings thereon in proceedings conducted in the manner provided by K.S.A. 55-605, and amendments thereto. Actions for judicial review of any such order may be brought in the manner provided by K.S.A. 55-606, and amendments thereto.

**History:** L 1973, ch. 219, Section 2; L 1986, ch. 318, Section 76; July 1.



# KANSAS INDEPENDENT OIL & GAS ASSOCIATION

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## HOUSE ENERGY & NATURAL RESOURCES COMMITTEE JANUARY 23, 1995

*Testimony of Donald P. Schnacke, Executive Vice President  
Kansas Independent Oil & Gas Association*

**RE: In Opposition to HB 2044**

Mr. Chairman, members of the Committee, I am Don Schnacke appearing on behalf of the Kansas Independent Oil and Gas Association in opposition to HB 2044.

Mr. Chairman, I believe many on your committee have been exposed to the economic plight of the Kansas oil and gas industry. For that reason, the Kansas legislature has seen fit to build in tax exemptions to protect marginal wells and to help keep oil production going in Kansas.

This year the 2.5% sales tax repeal legislation is popular. Last year you took action to remove the 2.5% sales tax from pumping oil wells, recognizing the economic plight of the industry.

Petroleum Information of Tulsa lists 2718 oil and gas operators reporting their production in Kansas. Like any industry, there are large and small operators. In Kansas we are known as the number one stripper well state with the highest percentage of Kansas oil classed as marginal or stripper, averaging about 3 BOD.

Among the 2718 reporting producers, 273 of these individuals and companies have oil production below 1 BOD. Two hundred (200) have oil production below 2 BOD. Most all are Kansans and they are in the oil business. They pay \$100 per year to the KCC to be a licensed operator. I've listed just a few to point out these are active Kansans seeking to make a little money and operate within the rules and regulations of the KCC:

Clifton E. Cook	0.18 BOD
John T. Davis	0.23 BOD
Fred Denchfield	0.22 BOD
Don Ebert Oil Co	0.22 BOD
Horizons Energy	0.19 BOD
Jec Oil Company	0.31 BOD
Leonard Leadstrom	0.15 BOD
Southern Oil Inc.	0.11 BOD (the lowest)

The point I'm making is that these people hardly make enough to pay the existing \$100 licensing KCC fee. Changing the license fee from \$100 with authorization to raise it up to \$600, in many cases, is more than a lot of operators net out when considering their costs, payments of royalties and expenses to operate.

1/23/95  
Energy & Natural Resources  
Attachment #4

HOUSE ENERGY & NATURAL RESOURCES COMMITTEE

RE: HB 2044

January 23, 1995

We would urge the Committee to not permit the raising of license fees for oil and gas operators with authority to move up to \$600.

The same position is taken relating to raising fees on drilling and work over rigs from \$25 to \$50. In the early 1980's we had around 224 drilling rigs active in Kansas. Today the average is 30. There are about 150 work over rigs. To discourage these contractors from staying in Kansas by raising their fees should be avoided. We should encourage, not discourage, oil and gas contractors in Kansas.

The same position is taken on establishing a new intent to drill fee of \$50. If there was ever any economic development optimism in our industry, it is the filing of intent to drill applications with the KCC. We oppose placing a new fee on this activity. We should encourage intent to drill applications to be filed so money can be raised to be spent in Kansas and create Kansas jobs.

We urge you to oppose raising drilling and work over rigs fees from \$25 to \$50 or establish a new fee for intent to drill applications.

You may want to know where we are coming from in this extraordinary effort to raise more money from our industry to support the KCC. Last year, it became clear that the KCC Conservation Division was broke with a \$5 million budget. This was a first for us to understand how this could happen. A furlough plan for the 86 employees was established. The KCC asked for \$300,000 from the Department of Administration to solve the problem. A legislative post audit was conducted. None of this was implemented, but we do know the KCC imposed an assessment against our industry for about \$1 million. This not only alleviated the situation, but should support that agency for a long time to come.

Raising additional money from operator licensing fees, intent to drill applications, and fees on our drilling and work over rigs is not the way to go. We think the priority should be on management and preparation for the future. We think other legislative proposals that are on the 1995 legislative agenda should be considered first as follows:

1. A remediation-education plan in cooperation with the KCC which could eliminate the KCC's need for more money; and
2. The possibility of non-industry funds to be shifted to the KCC Conservation Fee Fund to be used for plugging and environmental activity on active producing leases.

The bottom line is that the licensing fees, the intent to drill fees, and the drilling and work over contractor fees don't amount to much money and only aggravate and discourage Kansas operators. Some won't be able to pay.

We urge you to defeat HB 2044 and allow the industry to work with you on more meaningful legislative solutions that do have the support of the industry and can be of much greater value to the State Corporation Commission in the future.

The timing for enacting HB 2044 is bad. Passage of this bill would send a very negative message to the industry which has been and is still reeling from depressed economic conditions.

Donald P. Schnacke

HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES  
January 23, 1995  
RE: HB 2044 - KANSAS CORPORATION COMMISSION  
OIL AND GAS FEE INCREASES

Testimony of David P. Bleakley - President  
Eastern Kansas Oil and Gas Association  
&  
Director of Acquisitions & Land Management  
Colt Energy, Inc.

The Eastern Kansas Oil and Gas Association strongly opposes HB 2044.

In testimony against HB 2044, EKOGA feels that the oil and gas producers have already taken a beating over the last 9 years from the price paid for their product, new state and federal regulations and just last year--- an increase in the Conservation Fee fund to raise an additional \$1,000,000 for the KCC. Why the KCC is looking for fee increases at all is hard for our membership to believe!

Our association represents and supports eastern Kansas oil and gas producers, service companies, royalty owners and associated businesses along with the overall welfare of the Kansas oil and gas industry in this state. Listed below are the production statistics for eastern Kansas covering the first half of 1994.

1,280 total operators eastern Kansas  
-192 shutin operators 1st half 1994  
1,088 producing operators 1st half 1994  
===

588/1088 producing operators (54%) produce 0.1 to 5 BOPD  
144/1088 producing operators (13%) produce 5 to 10 BOPD  
134/1088 producing operators (12%) produce 10 to 20 BOPD  
128/1088 producing operators (12%) produce 20 to 50 BOPD  
94/1088 producing operators (9%) produce over 50 BOPD

The following are examples to show the cost of producing oil from some of the oil production ranges above:

1. An operator producing 1.0 barrel of oil per day from 4 wells at a depth of 750 ft. based on 330 producing days per year, a conservative operating cost of \$125 per well per month, a net \$14.00 per barrel of oil sold and an 87.5% Net Revenue Interest in the lease would calculate as follows:

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1.0 BOPD X 330 days = 330 BOPY X \$14.00 = \$4,620 lease gross income per year  
X 87.5% Net Revenue Interest = \$4,042 operators gross revenue per year.

4 Wells X \$125 per/mo. operating cost X 12 months = \$6,000 total operating cost per year.

RESULT NET INCOME (LOSS) (\$1,958)  
=====

2. An operator producing 5.0 barrels of oil per day from 15 wells at a depth of 750 ft. based on 330 producing days per year, a conservative operating cost of \$125 per well per month, a net \$14.00 per barrel of oil sold and an 87.5% Net Revenue Interest in the lease would calculate as follows.

5.0 BOPD X 330 days = 1,650 BOPY X \$14.00 = \$23,100 lease gross income per year X 87.5% Net Revenue Interest = \$20,212 operators gross revenue per year.

15 Wells X \$125 per/mo. operating cost X 12 months = \$22,500 total operating cost per year.

RESULT NET INCOME (LOSS) (\$2,288)  
=====

These operators are obviously losing money or absorbing all the labor cost by do-it-yourself contracting to barely break even.

Does this look like an industry that can withstand an increase from \$100 per year currently paid for an operators license to possibly \$600 per year?

===

These are only the eastern Kansas numbers but this is not just an eastern Kansas problem. These same bottom line results can be used statewide by increasing the amount of oil produced per well per day and increasing the cost to operate a deeper more expensive well.

On the issue of raising rig fees from \$25 to \$50, the average active drilling rig count state wide for 1994 was 33. This is a fraction of the active drilling rigs that operated in the state during the mid 1980's and even in more recent years. If you take the total number of drilling rigs and the workover rigs that pay the current \$25 fee each year, then increase the rig fee by \$25 per rig, you are only looking at an estimated total increase in revenue of less than \$7,500. This is a slap in the face of the rig owners left in this State trying to scratch out a living. Many of these rig owners are once again the small operators that can ill afford an increase.

On the issue of establishing a fee of up to \$100 per drilling intent, we are again opposed to this. To an industry that is hanging on to survive, this is more of a Drilling disincentive



which is exactly opposite of what the KCC and the State really need. To generate some serious revenue, drilling must increase to increase production and jobs that benefit the Conservation Fee Fund and general taxes of this state.

Unfortunately, with respect to increase revenues, the KCC and the State are in the same boat as the oil and gas industry. The only way to realize any serious revenue increases for any of us is to have a steady long term price increase for both oil and gas. The mechanisms for both the KCC and the State are in place to receive higher revenues from our industry. The most fair and equitable is the Conservation Fee Fund which is tied to a barrel of oil and an MCF of gas produced and sold. We also pay the current Operators License fee \$100 and the Rig License fee \$25 which are sufficient enough as they are. A healthy oil and gas industry in this state will once again produce a windfall of revenue for the KCC and the State, starting with increased revenue for the industry from higher oil and gas prices then investment in the state, jobs and economic prosperity and revenue for the KCC's Conservation Fee Fund and the State of Kansas.

In summary, I think you understand the depressed state of our industry. We cannot afford these proposed fee increases. Therefore, Mr. Chairman and members of the Committee, we urge you to defeat HB 2044.

Thank you for your time.

David P. Bleakley

## Testimony in Support of H.B. 2041 and H.B. 2097

Submitted by

Rachel C. Lipman  
Commissioner  
Kansas Corporation Commission

### Background

I appear here before you today in support of H.B. 2041 and H.B. 2097. Even though I am a regulator by trade, I am not here because I am in search of more things to regulate. Generally speaking my philosophy is less regulation is better. My appearance before you today is occasioned by certain changes that have occurred at the federal level concerning the way natural gas is regulated. This is an issue I have taken an active interest in both at the federal level, and without being too presumptuous, I believe it is something I know a little bit about. For those of you who are not acquainted with me, I was appointed as one of the three KCC Commissioners in March 1991 as the Republican member of the Commission by Gov. Joan Finney. Prior to my appointment I had served on the legal staff of the Federal Energy Regulatory Commission (FERC) in Washington, D.C. in their Natural Gas Pipeline Rates Division, and prior to that I had been a member of the legal staff at the KCC and had the privilege of representing the KCC at FERC proceedings. And in case you were wondering, I did grow up in Lawrence, Kansas where I received all of my grade school and high school education. I hold degrees in journalism and law from the University of Kansas.

### History

As many of you know, the natural gas industry has been in a state of transition from heavy-handed regulation to a more market-based system tied to commodity prices since Congress enacted the Natural Gas Policy Act in 1978. Interstate pipelines such as Panhandle, Williams Natural Gas, Northern Natural and ANR, to name a few used to be wholesale merchants of gas. As wholesale merchants of natural gas the interstate pipelines would sell so-called "bundled service" that included both the commodity itself and transportation of that commodity from the wellhead to the city gate or town border station. (From the town border station, the gas is transported by the local distribution company, such as KPL, Peoples Natural Gas, United Cities Gas, Kansas Public Service. These are the entities to which ratepayers submit their monthly checks; however, a portion of the bills collected by the local companies are in turn remitted to the

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interstate pipelines, which are regulated by the FERC.)

In 1985, the FERC issued Order No. 436 which began to change the concept of interstate pipelines as wholesale merchants of natural gas. With Order No. 436, the FERC sought to remove pipelines from the merchant function and to make them transporters of natural gas. Local distribution customers and large industrial consumers of natural gas were then free to acquire their own supplies of natural gas and to arrange for transportation of those supplies on the interstate pipeline that served them. At the same time Order 436 was issued, the FERC also issued Order No. 451, which had a huge impact on the Hugoton field. Prior to Order No. 451, whenever a natural gas well was drilled, it was "dedicated" to a particular natural gas pipeline. For example, a large portion of the natural gas attached to the Williams Natural Gas system in the Hugoton Field is gas produced by Amoco. Similarly, gas produced by Mobil was attached primarily to the Northern Natural system, and gas produced by Anadarko was attached to Panhandle. With Order No. 451, producers such as Amoco, Mobil and Anadarko were able to obtain "their release" from the pipelines to whom their gas was originally dedicated. While Order Nos. 436 and 451 resulted in more options for customers and better prices for producers, many local distribution customers still opted for the bundled service because it was easier and more comfortable, not to mention the fact that there were contractual arrangements in place for certain time periods.

In 1992, the FERC was again on the march toward more deregulation and issued Order No. 636, which was designed to mandate total unbundling of the transportation of natural gas from the wellhead to the city gate or town border station. Under Order No. 636, pipelines had to carve up their services into their various pieces and parts, including gathering, storage, and transportation. Once gathering became a separate service, many pipelines began to spin-off their gathering systems into separate unregulated subsidiaries. The reason for this was that under section 1(b) of the Natural Gas Act, which was passed by Congress in 1938, regulation of production and gathering was reserved to the states. As long as gathering was being performed by interstate pipelines, gathering was considered part of the movement of gas within interstate commerce and therefore it was regulated at the federal level. If gathering was permitted to be a totally separate function, then it was no longer being performed as part of the movement of gas in interstate commerce and the potential existed for that regulation to return to the states.

In May 1994, the FERC issued a series of decisions with the main decision being a docket or case involving Arkla Interstate Pipeline, which said that if a pipeline spun off its gathering to a subsidiary and if that subsidiary was truly operated as an arm's length affiliate of the interstate pipeline, then the FERC would no longer exert jurisdiction over gathering rates. In addition, the FERC indicated that states were free to exercise jurisdiction if they so desired. In the meantime FERC has indicated that all contracts or tariff rates in place at the time of the spin-off should remain in place for a minimum of two years to enable states which so desired to make legislative changes, if necessary.

I testify here today in support of H.B. 2041 because I believe that producers need a forum to bring forth their complaints if they are unable to economically produce their gas because the rate they are being charged by their pipeline affiliate is too high or if the pipeline pressures that are being maintained are such that they are unable to produce their gas. We can regulate the allowables and the formulas used to assign allowables in the Hugoton field *ad infinitum*, but if the price is such that you can't get the gas out, then the field remains shut-in. Royalty owners are hurt, ad valorem tax receipts are down and the field is not being utilized as was envisioned by K.S.A. 55-703.

#### Interplay of H.B. 2041 and 2097

We have stated publically on numerous occasions that we believe the KCC currently has jurisdiction over gas gathering facilities in K.S.A. 66-104 as reads today, which states:

Public utility means any corporation, company, individual...that now or hereafter may own, control, operate or manage...the conveyance of oil and gas through pipelines in or through any part of the state, except pipelines less than 15 miles in length and not operated in connection with or for the general commercial supply of gas or oil...

I believe that jurisdiction of gas gathering facilities under the public utility statutes in Chapter 66 is not appropriate. Instead, the legislation proposed in H.B. 2041 would place jurisdiction over these facilities in Chapter 55, specifically K.S.A. 55-703. The advantage of having jurisdiction in the new statute as proposed in H.B. 2041 is that the KCC would be there, if needed, to act as a mediator of disputes between producers and operators of gathering facilities.

Testimony in Support of H.B. 2041  
Submitted by Rachel C. Lipman  
Page 4

Public utilities within the definition of K.S.A. 66-104 must pay annual assessments based on a percentage of revenues and must file annual reports in addition to keeping tariffs on file at the Commission. Rate increases would be subject to a cost of service analysis based on operating expenses and a return on rate base. This is the sort of heavy-handed regulation that most producers were trying to escape when they created subsidiaries for their gathering operations.

I do, however, believe it would be imprudent to relinquish any jurisdiction the KCC may have in Chapter 66 unless and until the KCC is given jurisdiction over these facilities in Chapter 55. It should be noted that Oklahoma enacted a statute similar to that proposed in H.B. 2041 in 1992, and according to all reports it has worked rather successfully. The Oklahoma Corporation Commission has dealt with three complaints filed under that statute, and two of those three complaints have been resolved prior to hearing.

Thank you for your consideration. I would be pleased to respond to any questions you have on this or any other KCC matter. My telephone number at the KCC is 271-3350.

Respectfully submitted,



Rachel C. Lipman

BEFORE THE HOUSE ENERGY AND  
NATURAL RESOURCES COMMITTEE  
STATEMENT OF JACK GLAVES IN SUPPORT OF  
HOUSE BILL 2097

House Bill 2097 originated from the Chapter 66 Task Force, and was included in the report presented last week by Mr. Haines of Western Resources. I was a member of that Task Force, representing KN Energy.

K.S.A. 66-104 defines the public utilities that are subject to KCC jurisdiction. The current definition includes oil and gas pipelines except pipelines less than 15 miles in length and not operated in connection with or for the general commercial supply of gas or oil. Although the Corporation Commission has exercised regulatory supervision of some oil and product lines, such has been done under the common carrier statutes rather than under the public utilities section. The gathering systems of natural gas pipelines have never been regulated by the KCC, to my knowledge. I don't believe anyone is certain as the genesis of the 15 mile exclusion, but presumably it was intended to exclude gathering systems from regulation under the utility statutes. The statute was adopted in 1911, and was amended in 1923. I presume that in those days no pipeline gathering system would have been more than 15 miles in length. Today, many systems involve hundreds of miles of pipeline.

Although Mr. Low's statement that was presented in connection with House Bill 2045 suggested that the Commission is interested in having some jurisdiction over gas gathering, he noted the Commission's support of House Bill 2041, stating that it would not

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want to give up potential jurisdiction under the current statutes unless passage of that or a similar bill is likely.

Mr. Low's statement further indicated that the definition of gas gathering systems in House Bill 2097 differed in material respects from House Bill 2041. The only difference that I detect is that 2041 refers to the transport of gas from a central metering point whereas 2097 would include natural gas transported from a well-head or a central metering point.

A considerable amount of gas is gathered behind central metering points in the field and I cannot imagine that the Commission would want utility jurisdiction from the wellhead. Frankly, we believe that the definition for both Bills should cover the transport of gas from the wellhead into the transmission line.

I would suggest, however, that on Line 26, Page 2 of House Bill 2097, the words "compression or" should be stricken. Compression may be located near the well-head or a great distance from the well-head. In any event, it would not seem appropriate that the point of compression should be utilized for determining when regulation should commence or end. The gathering system is the pipeline system used for transporting natural gas from the well-head into the main transmission line. We believe that is the industry understood definition and is appropriate for purposes of this Bill. Accordingly, we recommend that "compression or" be stricken from Line 26 of Page 2 of the Bill.

We contend that utility-type regulation of gathering systems, in any event, is inappropriate. The statement by Centana Energy

Corporation on House Bill 2041 amply points out the difficulties with trying to apply rate case methodology to natural gas gathering systems. It is simply too time consuming, expensive and unwieldy for the prompt decision making required to connect natural gas wells for the marketing of gas, and for the installation of compression and design of facilities for the providing of assured supply to consumers. I am sure these are some of the reasons as to why the public utility statute has never been used to regulate natural gas gathering. It simply is not workable. Utility-type regulation has never been, and is not now, in the best interest of producers, pipelines, consumers or the State. If the Commission were to conclude that regulation under the utility statutes gathering is appropriate I am sure the fiscal note, given the thousands of miles of gathering systems in existence in Kansas, would be mind boggling.

In essence, we submit that elimination of the potential for utility-type regulation of natural gas gathering conforms with the elimination of an obsolete statutory provision. It does not comport with industry needs or practices, and serves no useful purpose. It would be a deterrent to exploration, construction of facilities, and to reasonably priced energy to consumers. I would urge your favorable consideration of House Bill 2097.



STATEMENT OF RUSSELL E. BISHOP DIRECTOR,  
STATE GOVERNMENTAL AFFAIRS  
CENTANA ENERGY CORPORATION  
BEFORE THE HOUSE ENERGY AND NATURAL RESOURCES COMMITTEE  
RE: HOUSE BILL 2041

Centana Energy Corporation (CEC), an affiliate of Panhandle Eastern Pipe Line Company, presents this statement regarding House Bill 2041.

Panhandle Eastern and its affiliates have been gathering, processing, storing and transporting natural gas from the Kansas Hugoton Field for over 60 years. Panhandle is connected to 817 wells in the Hugoton Field alone (about 13% of the Field production). It is the third largest transporter of gas from the Field.

As a gatherer and processor of gas, Centana is not opposed to aggrieved producers having the availability of a state regulatory forum for arbitrating legitimate disputes over contended unjust discriminatory practices in the operation of gathering facilities, and CEC supports the proposal for the Conservation Division as the proper forum to entertain such complaints. We feel strongly, however, that enlarging the basis for complaint to a rate setting-type of procedure not tied to unlawful or unjustly discriminatory practices is inappropriate.

In short, the Commission should not be put in a position of becoming a vehicle to enhance a parties' negotiating position or required to resolve "pricing disputes" between producers and gatherers, apart from those based on abusive behavior. It is difficult to believe that anyone in the producing community would advocate a rate case methodology as a substitute for private negotiations and a more flexible, and efficient complaint process in resolving disputes over pricing of gathering services or practices associated with providing of such services.

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We strongly oppose enlarging the complaint jurisdiction envisioned by this Bill to a utility-type rate-making procedure. Such a procedure is not only very expensive to all parties, including the Commission, involving the expertise of accountants, economists and attorneys, but it is also very time consuming which is impractical and burdensome to the producer, gatherer and to the Commission's budget. The producer needs rapid cash flow for the financing of his operation. The gatherer needs certainty of supply for planning and operational purposes. Neither would be satisfied by protracted rate case type of regulation.

The removal of discrimination as the standard for complaint, would result in confusion as to what the basis for "unjust or unreasonable" conduct would be, and invite abuse of the system. These terms are undefined and are so nebulous as to render their application to gathering activities subjective and uncertain. Every gathering system provides different services, has different costs, different pressures and different operating conditions, as do the wells to which they are connected. A discriminatory standard permits a weighing of these variables in ascertaining compliance. Without this standard there is no reasonable way to determine objectively the reasonableness of one rate or practice versus another, without an extensive and expensive cost of service analysis, which constitutes utility-type rate making.

In theory that may sound reasonable. In practice it would be a nightmare. In such an environment, gatherers would be reluctant to expend capital to extend, improve or expand facilities to connect wells, add compression, etc. The fiscal note for the Commission would be difficult to predict, but could be very significant. For the gatherers it could be death by a thousand cuts. For producers it could mean restriction of markets and timely production of reserves. For consumers it would mean higher prices. For the State and counties it would mean less tax revenue from less production.

Additionally, we believe the definition of "gas gathering system" as contained in Section 1(d), Line 24 through 27, should be broadened to include the movement of gas from the well-head. A considerable amount of gas is gathered behind "central metering point(s)" in the field.

We further submit that the definition of "gas gathering services" in Section 2(2), Line 8 and 9 Page 2, should not include the language "preparation of natural gas." Presumably this language could embrace regulation over the processing of natural gas, which involves the removal of liquids, impurities, helium and other products from the natural gas stream. The refining and processing of natural gas is a competitive business and a significant contributor to the Kansas economy. We are strongly opposed to the injection of unnecessary regulation on this segment of the industry, whether unintended or not.

We recognize the relationship between this Bill and House Bill 2097, which essentially removes natural gas gathering from the definition of a public utility subject to regulation by the Commission. As we have indicated, we strongly believe that public utility type regulation of natural gas gathering is inappropriate and is not in the best interest of the producers, gatherers or the State. Adoption of House Bill 2041 should be premised on the assumption that House Bill 2097 would become law. There is quite obviously no need for both types of regulation.

In conclusion, Centana respectfully requests the Committee to consider the changes that we have suggested to House Bill 2041, and most emphatically, we urge that the Bill not be enlarged to cover complaints not premised on alleged discriminatory practices. We do not believe utility-type regulation of natural gas gathering or processing is necessary, nor in the best interests of the industry as a whole.

POLICY STATEMENT ON HOUSE BILL NO. 2041

BY K N GAS GATHERING, INC.

Dear Chairman Carl Holmes and Members of the Kansas House Energy and Natural Resources Committee:

K N Gas Gathering, Inc., (K N) a wholly owned subsidiary of K N Energy, Inc., an energy company which owns and operates gas pipelines, production, distribution and gathering systems in Kansas, Nebraska, Colorado, Montana, Wyoming, Texas and Oklahoma. K N is concerned that HB2041 will lead to state regulation of gathering facilities in Kansas which will interfere with the strong competitive market forces that currently exist in the gathering industry. Currently, natural gas gathering is unregulated in the State of Kansas, with the exception of gatherers affiliated with interstate pipelines which are regulated by the Federal Energy Regulatory Commission ("FERC"). There are numerous gas gathering companies operating in Kansas today. Those companies are constantly competing with each other for the production from thousands of gas wells in Kansas. Because of this competition, gathering companies have the incentive and the means to provide gathering service at a competitive price. State regulation would only frustrate existing competition for gathering. HB2041 increases regulation in the natural gas industry at a time when the trend has been to stimulate competition and reduce regulation.

K N operates natural gas gathering facilities in Kansas, Nebraska, Colorado, Montana, Wyoming, Oklahoma and Texas; competition is especially significant in Kansas where there are numerous natural gas gatherers. The competition takes place at the gas wellhead, the point where the gas is gathered and then transported through the gathering facilities to the pipeline's transportation system. In addition to K N, there are many other gathering companies in Kansas and throughout the United States with no significant concentration of ownership of these facilities.

K N owns gathering facilities in western Kansas and in central Kansas. In western Kansas, K N owns and operates both the Hugoton and Bradshaw gathering system. The Hugoton gathering system contains 620 miles of pipe connected to approximately 700 wells. The Bradshaw gathering system contains 175 miles of pipe connected to approximately 285 wells. In addition, K N owns and operates the Scott City processing plant which removes certain liquids from the gas to make it marketable. In central Kansas, K N owns and operates the Unruh gathering system which contains 228 miles of pipe and approximately 130 wells. The gas attached to K N's gathering systems is ultimately transported in interstate commerce to markets served by K N's interstate pipeline.

COMPETITION IS REAL

Gatherers are constantly competing for new and existing production. In the western Kansas area, K N competes with several gatherers including Colorado

Interstate Gas Company, Northern Natural Gas Company, Williams Natural Gas Company, Oxy, and Natural Gas Clearinghouse as well as others. In the Unruh area K N competes with such gatherers as Nimrod, Kansas Gas Supply and Western Resources. In addition, K N is always adding new wells to their gathering systems in order to maintain sufficient gas volumes to offset the normal decline in production from older wells. Further, since barriers to entry are few for gathering companies, there is both incentive and means for continued competition.

In order for a gatherer to be competitive, it must offer producers efficiency, reliability, availability of transportation to markets at the lowest possible price, and the ability to obtain a favorable price for residue gas and extracted liquids.

Gatherers compete for both old and new gas production. Producers can negotiate contracts with competing gatherers operating in their area, or build their own gathering lines. Competition occurs at the initial connection of new wells or at the expiration of existing contracts. Also, competition occurs if the existing contract is interruptible. Further, split connections are common in some producing fields, where a producer is connected to two or more competing gatherers.

There are no significant barriers for companies to begin providing gathering services. Gathering systems are less expensive, less complex to construct than transmission systems and allow for more expedient right of way acquisitions. The cost of gathering lines does not appear to be high relative to other costs associated

with gas production. And in fact, there are over 2,000 companies which own and operate gathering facilities in the United States.

FEDERAL REGULATION IS SUFFICIENT

The FERC has stated that pursuant to Sections 4 and 5 of the Natural Gas Act, the FERC may regulate rates charged for gathering services provided on an interstate pipeline's own gathering facilities in connection with jurisdictional interstate transportation. In addition, the FERC has stated that it can and will exert control over the gathering activities of affiliated gatherers of interstate pipelines, like K N, in particular circumstances where such action is necessary to accomplish the FERC's policies for the transportation of natural gas in interstate commerce. The FERC decisions are not final and are subject to appeal, which could result in even more regulation than initially contemplated. The FERC has held that the "in-connection with" provision of the Natural Gas Act vests jurisdiction with the FERC if an affiliated gatherer frustrates the FERC's effective regulation of an interstate pipeline. Additional regulation through HB2041 would only serve to create an impermissible burden on interstate commerce. Further, gathering companies in Kansas are not regulated, because competition provides efficient, reliable and available gathering services. Since the FERC has stated that it will retain the ability to assert, in appropriate circumstances, jurisdiction over affiliated gatherers and because of the language of the Natural Gas Act, any state regulation would be a preemption of federal authority to regulate.

SPECIFIC OBJECTIONS TO HB2041

HB2041 will create an onerous burden on gathering in Kansas. This legislation would increase the costs of providing gathering services and would ultimately interfere with the price and service flexibility which are necessary elements to sustain competition. For example, new section 2(b) provides that any person aggrieved by an "unjustly or unlawfully discriminatory fee" may file a complaint and the commission shall conduct a hearing and take evidence as necessary to determine the complaint. The commission is required to conduct a hearing on any complaint filed. There is no provision that would allow the commission to determine if the alleged complaint was actually bona fide before the gatherer is subjected to a timely and costly hearing. The legislation does not state whether the commission shall implement a full blown proceeding with expert testimony and numerous filings. Such proceedings are costly and time consuming and only serve to frustrate the business concern of the gatherer and the producer, which is to move the gas to the intended market.

In summary, K N believes that there is significant competition for gathering services and that state regulation of gathering through HB2041 would only serve to create an anti-competitive effect in a competitive market place. For these reasons K N respectfully recommends that this Committee no adopt HB2041.



Policy Statement on House Bill No. 2041

By K N Gas Gathering, Inc.

We are available to answer any questions regarding K N's position on HB-2041.

Sincerely,

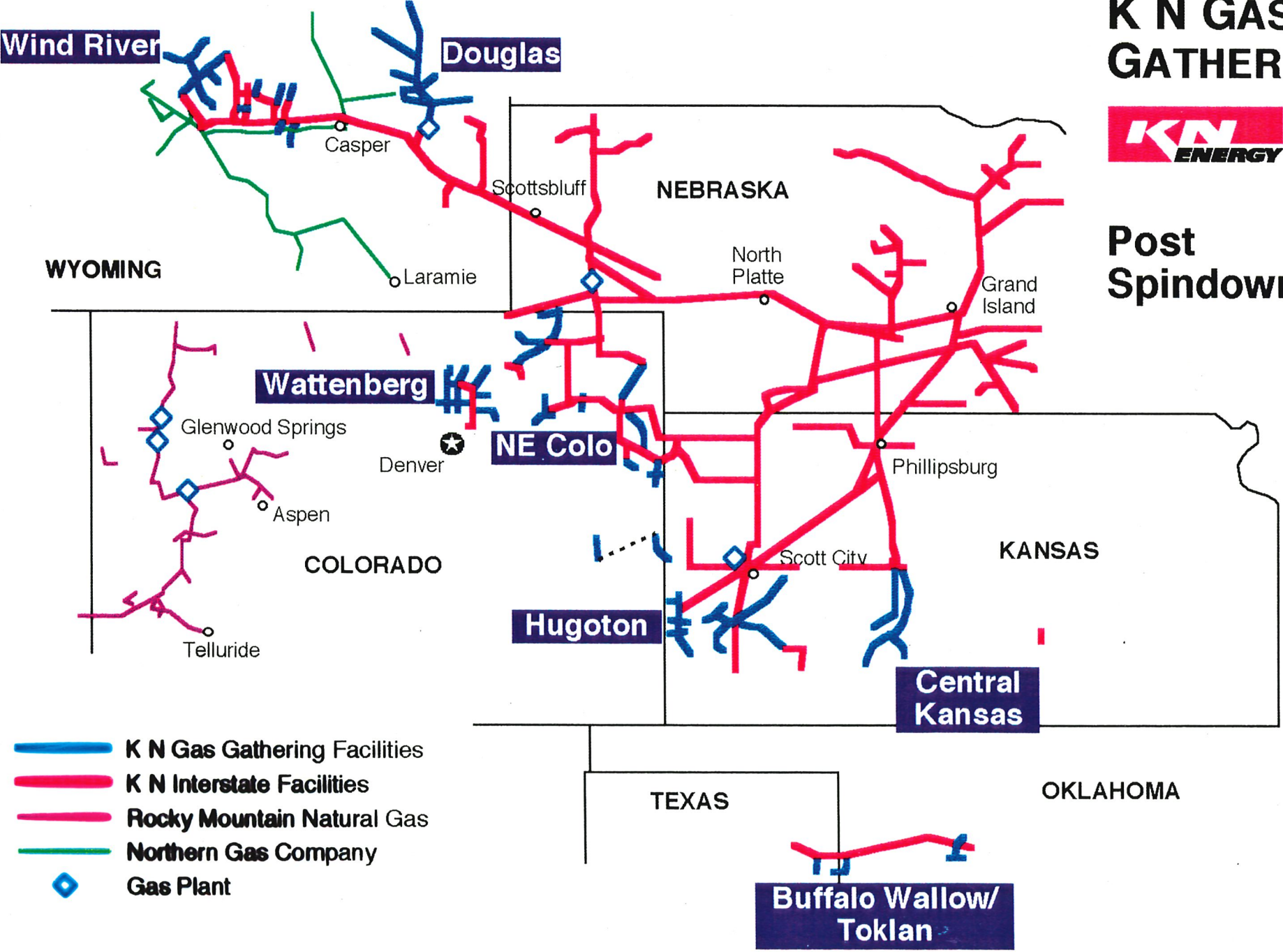
K N GAS GATHERING, INC.

John N. DiNardo  
Vice President

# K N GAS GATHERING



Post Spindown



- K N Gas Gathering Facilities
- K N Interstate Facilities
- Rocky Mountain Natural Gas
- Northern Gas Company
- ◆ Gas Plant

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TESTIMONY ON HOUSE BILL 2041  
BY THE KANSAS CORPORATION COMMISSION  
PRESENTED BEFORE THE HOUSE ENERGY AND  
NATURAL RESOURCE COMMITTEE

January 23, 1995

I am William R. Bryson, Director, Oil and Gas Conservation Division of the Kansas Corporation Commission. I am appearing on behalf of the Kansas Corporation Commission in support of HB 2041. The intention of HB 2041 is threefold:

- (1) Include those who gather and transport natural gas from producing wells from a central metering point for one or more wells to a point of entry into a sales or transmission point under the applicable Chapter 55 statutory authority of the Commission and the rules and regulations.
- (2) Include underground natural gas storage operations under Chapter 55 statutory authority of the Commission and the rules and regulations. Traditionally gas storage has taken place in depleted oil or gas producing reservoirs although more recently, companies have been evaluating storage in abandoned salt cavities, previously used to store other hydrocarbons such as LPG or LNG. KSA 555-150 has been amended to reflect this new class of well and that these wells are recompletions.
- (3) Section 2 of HB 2041 proposes establishing the Commission as a forum for receiving and hearing complaints for those who believe they are being subjected to fees or practices in connection with gas gathering services which are unjustly or unlawfully discriminating. This proposal is very similar to legislation which was passed by Oklahoma in 1993 except that HB 2041 covers unlawfully discriminatory practices in addition to fees.

In November 1994, the Commission held three public informational meetings to discuss its intentions to seek authority to license those who either operate natural gas gathering systems or store gas underground in subsurface formations. These meetings were highly successful and the industry-Commission discussion brought up many points which the Commission should consider in developing legislation. By and large, industry seemed to be supportive of the Commission's desire to license both entities as operators and contractors. There seemed to be general agreement that the Commission should have knowledge on where natural gas gathering and underground storage was occurring and that these practices were more associated with the production of natural gas than distribution and sales activities.

The natural gas producing industry has traditionally had long standing contracts with producers. Under a series of Federal Energy Regulatory Commission (FERC) Orders during the past few years, natural gas has basically become deregulated and the pipeline unbundling has relegated their function to transporting gas. More recently the major pipelines have "spun off" the gas gathering function to affiliates which are currently not subject to FERC regulation, by FERC's own interpretation. In addition, Kansas has a large number of smaller gas gathering systems which service independent producers and are not affiliates of major pipeline carriers. Many independents feel, and the Commission agrees, that the opportunity exists for the development of "at the mercy of" new contracts by new players who are affiliated with neither producers or independent gatherers. The opportunity for discrimination exists and has, in fact, occurred in Oklahoma and Arkansas. The Commission is the proper forum to hear complaints on these issues which may jeopardize the orderly production of natural gas. One of the Commission's mandates under Chapter 55 is to prevent waste of hydrocarbon resources and protect correlative rights.

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Discriminatory gas gathering practices have the potential to create adverse effects on both the operators ability to produce equitably and the land owners right to receive royalties.

Several people favored the definition contained in House Bill 2041 and having it placed in the statute. For the Committee's benefit, we have attached a diagram of one type of gathering system which may be too complex to fall under this gas gathering system definition. We have found during our discussions with industry that gas gathering systems may be structured in future ways not fitting the definition before you. The Commission needs the flexibility to address complexities by rule and regulation and a statutory definition may preclude coverage of many unique situations. The Commission finds the definition in Section 1(b) of HB 2097 more acceptable as having wider coverage. We believe that with either definition, the words "compression or," should be deleted. Compression may occur along points within the gathering system.

Underground gas storage has taken place in depleted oil and gas storage reservoirs and the Commission as of two years ago with the passage of SB 167, has to certify the abandonment of the reservoir. The intention under HB 2041, is to license operators of underground natural gas storage facilities.

We would appreciate your support in the passage of HB 2041

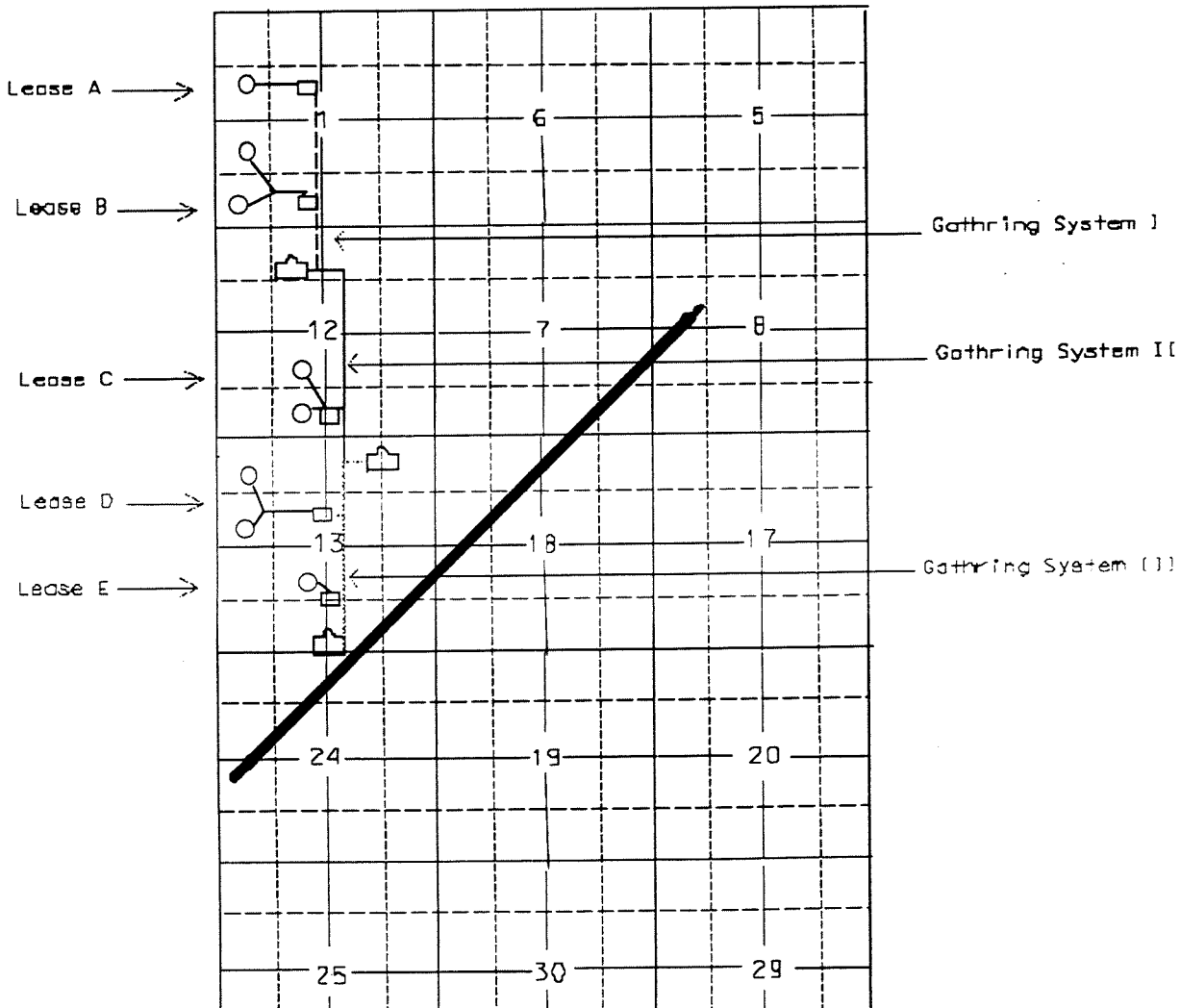
Gathering System I -----  
 Gathering System II \_\_\_\_\_  
 Gathering System III .....  
 Transmission Line **██████████**

Lease A has a single well and one meter, Lease B has multiple wells which use a common meter. Each lease has a different operator, one of which owns Gathering System I and the compressor which is necessary to access Gas Gathering System II.

Lease C has a single operator who owns Gas Gather System II. This system gathers for it's own leases and transports for System I. It also needs a compressor to access System III.

Lease D and E have different operators, one of which owns Gas Gathering System III, the Tap to the transmission line and the compressor.

The Commission probably will need some flexibility in determining by rules and regulations which functions of the system are operations and which are gathering.





## KANSAS INDEPENDENT OIL & GAS ASSOCIATION

105 S. BROADWAY • SUITE 500 • WICHITA, KANSAS 67202-4262  
(316) 263-7297 • FAX (316) 263-3021  
800 S.W. JACKSON • SUITE 1400 • TOPEKA, KANSAS 66612-1216  
(913) 232-7772 • FAX (913) 232-0917

### HOUSE ENERGY & NATURAL RESOURCES COMMITTEE JANUARY 23, 1995

*Testimony of Donald P. Schnacke, Executive Vice President  
Kansas Independent Oil & Gas Association*

*RE: HB 2041 - KCC Gas Gathering Regulation*

I am Don Schnacke, Executive Vice President of the Kansas Independent Oil and Gas Association. After I'm finished I'm not certain that you will interpret our comments as being in favor or opposed to HB 2041. We certainly are appearing as a longtime friend of this Committee and we represent the voice of the small and independent natural gas producers of Kansas. We are urging amendments to the bill.

When a proposal such as this is presented to us we immediately call on our standing Natural Gas Committee which is composed of a cross section of the Kansas natural gas industry, including gas producers, royalty owners, engineers, attorneys and gas gathering operators.

The KCC conducted informal fact finding meetings late in 1994 in Liberal, Wichita, and Chanute. I attended the one at Liberal where nearly fifty participated. KIOGA presented the only formal statement. There were independent producers represented at the meeting and their comments were directed at the hope that if the KCC pursued legislation for gas gathering regulation they would be *fair* and *equitable* and protect the rights of small gas producers who do not have gathering lines or access to pipelines and must negotiate with others to transmit natural gas they have produced. At the hearings, we were promised the opportunity to work with the KCC on developing any legislation, but, unfortunately, the next notice we received was the introduction of HB 2041.

Our Natural Gas Committee has reviewed HB 2041 and find it inadequate in providing a reasonable level of protection for gas producers in dealing with the distinct monopolistic advantage gas gatherers hold in several situations throughout Kansas.

Natural gas gathering systems, which are tied to interstate natural gas transmission systems, had been regulated by the Federal Energy Regulatory Commission (FERC). Through a series of recent orders, FERC has effectively waived jurisdiction of these previously regulated systems. This deregulation creates an environment of unregulated monopolies where gas producers are physically connected to only one gathering system, usually without a reasonable economic recourse of tying into another gas gathering system. On November 30, 1994, FERC tightened some restrictions by requiring natural gas gatherers to leave in place existing contracts for two years if a new one can not be negotiated with the producer. That gives the State of Kansas a window in which it has the opportunity to pass legislation that effectively addresses the potential abuses that could take place in an unregulated environment.

1/23/95  
Energy & Natural Resources  
Attachment # 11

HOUSE ENERGY & NATURAL RESOURCES COMMITTEE

RE: HB 2041

January 23, 1995

Page 2

At the Liberal meeting we reminded the KCC staff that similar legislation was passed by the Kansas legislature in 1992 dealing with the decontrol of the Kansas Electric Cooperatives. The legislature was addressing the fair and equitable question of rates charged co-op customers, a first cousin of the subject in HB 2041. KSA 66-104 d(g)(1) gives authority to the KCC to protect an aggrieved customer of a co-op by looking at rates that may be "*unjust, unreasonable, unjustly discriminatory or unduly preferential...*" That is what we consider *fair* and *equitable* and protection for an aggrieved party. In fact, KIOGA offered that amendment in 1992 to protect small oil producers from arbitrary rates imposed by a co-op that had no oil producers represented.

Our committee recommends the inclusion of language which would allow producers to request a hearing for *unjust* and *unreasonable* pricing, not only discriminatory pricing. That would be consistent with the provisions of KSA 66-104d(g)(1) pertaining to rates and charges of electric cooperatives. Under that statute, if a dispute arises as to whether any fees, rates, or charges of an electric cooperative are unjust, unreasonable, or discriminatory, an aggrieved party can seek and will be granted a hearing to determine the issues.

Several situations exist in Kansas where one of the producers in a gas field is also the gatherer of gas from the same field. As an example of one potential abuse, we suggest that should this combination gatherer/producer decide arbitrarily to increase its gathering rate from 30 cents per MCF to 60 cents per MCF, and it charged itself as a producer the same increased rate as all other producers on the system, there would be no recourse under this bill for the other producers on the system since no discrimination with regard to pricing had occurred. Everyone is charged the same fee even though it may be excessive and unreasonable. Yet, the inequities resulting from this gatherer increasing its fees affect the producer, its royalty owners, the State of Kansas, and the county in which the production is situated, negatively, possibly even to the point of premature abandonment of wells while the gatherer benefits from its advantage.

We are enclosing a graph, illustrating the impact of the increase of gathering fees on one MCF of gas from \$.30 to \$.60 per MCF upon the various parties involved in a theoretical well which receives \$1.30 per MCF into the interstate transmission line. For all producers in this system, other than the combination producer/gatherer, income drops from approximately 78 cents per MCF to 54.51 cents per MCF. The royalty owner with a one-eighth royalty has his income drop from 11.12 cents per MCF to 7.79 cents per MCF. Corresponding 30% drops in income are experienced by the state severance tax and the county ad valorem tax. For the gatherer that is solely a gas gatherer, income doubles and for the combination producer/gatherer, gathering gas from its own wells, income increases from \$1.078 to \$1.1451 per MCF. Under this example, no discrimination takes place. All producers are charged the same gathering rate and, as such, no producer would have any recourse under HB 2041 as originally drafted.

While this is just an example, hundreds of millions of cubic feet of gas per month could be negatively impacted under scenarios very similar to this unless some meaningful language which provided for *fairness* and *equity* is included in HB 2041, such as the language suggested in KIOGA's amendment to the bill.

Donald P. Schnacke

DPS:pp

Attch: Proposed Amendment  
Graph

## KIOGA SUGGESTED AMENDMENT TO HB 2041

On page 2, beginning on Line 12, amending Section (b) as follows:

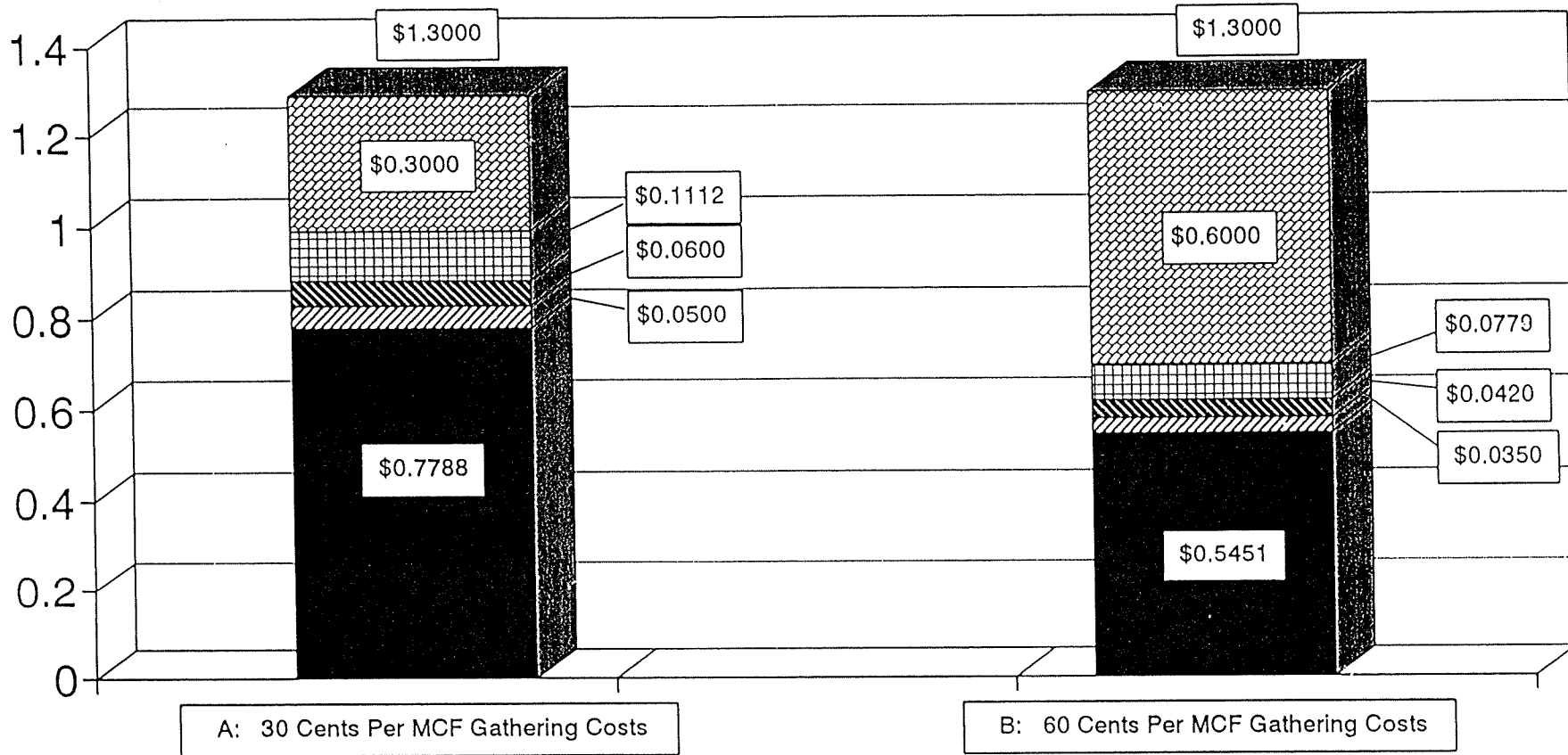
(b) No person performing gas gathering services for hire shall charge any fee for such services, or engage in any practice in connection with such services, which is *unjust, unreasonable or* unjustly or unlawfully discriminatory. Any person seeking any gas gathering service who is aggrieved by reason of ~~any such~~ *the imposition of any unjust, unreasonable or* unjustly or unlawfully discriminatory fee or practice may file a complaint with the commission. The commission shall conduct a hearing and take evidence as necessary to determine the complaint. The hearing shall be conducted and notice given in accordance with the Kansas administrative procedure act. Upon such hearing, the commission shall have authority to order the remediation of any *unjust, unreasonable or* unjustly or unlawfully discriminatory fee for gathering services, or any unjustly or unlawfully discriminatory practice in connection with such services, to the extent necessary for remediation as to the aggrieved person with respect to the particular fee or service involved.








# GATHERING FEES COMPARISON

## Effects on Various Entities

7-11



	Producer Receipts		Adv. Tax (County)		Sev. Tax (State)
	Royalty		Gas Gathering		

**NOTES:**

- a) Advalorem taxes estimated at five percent of income.
- b) Under Scenario "A" producer/gatherer receives total of \$1.0780 per MCF for it's own production.
- b) Under Scenario "B" producer/gatherer receives total of \$1.1451 per MCF for it's own production.

RICHARD R. REINHARDT  
REPRESENTATIVE, 8TH DISTRICT  
MOST OF NEOSHO COUNTY  
AND PART OF ALLEN COUNTY  
R. R. #1, BOX 118  
ERIE, KANSAS 66733



TOPEKA

HOUSE OF  
REPRESENTATIVES

COMMITTEE ASSIGNMENTS  
MEMBER: AGRICULTURE  
APPROPRIATIONS  
LEGISLATIVE EDUCATIONAL PLANNING COMM.

January 23, 1995

TO: HOUSE ENERGY & NATURAL RESOURCES  
FROM: REP. RICHARD R. REINHARDT  
RE: HB 2041

I'm here today to express my support of House Bill 2041 and to specifically add my support for the licensing of gas gathering systems.

We eastern Kansas folks aren't fortunate enough to have the large gas wells that are common in western Kansas. However, what we lack in gas volume we sure make up for in quantity of wells. Last year a constituent of mine had trouble with an operator and a gathering system so I contacted the KCC - thinking that they would have all the answers to my questions about the gathering system. They were very helpful but I found that they didn't have answers because basically this function was unlicensed, unregulated and unaccountable here in Kansas. It was one of those "things" that had fallen through the cracks.

In licensing the gathering systems I feel that we will have a central point for much needed information, for not only our community's needs such as our landowners, the Fire Marshall and County Engineer, but also for the agency which has jurisdiction for the regulation of oil and gas activities. This establishes a link between those who produce natural gas and those who gather the product and makes them both accountable to the Conservation Division of the KCC.

Richard R. Reinhardt  
State Representative  
District #8

*1/23/95  
Energy & Natural Resources  
Attachment #12*

TESTIMONY OF WILLIAMS FIELD SERVICES COMPANY  
BEFORE THE KANSAS HOUSE OF REPRESENTATIVES  
ENERGY AND NATURAL RESOURCES COMMITTEE  
Monday, January 23, 1994  
Topeka, Kansas

My name is Mari Dugger. I am in-house counsel for Williams Field Services Company ("WFS"). WFS owns and operates extensive gathering facilities throughout the U.S. and has been at the forefront of recent developments regarding natural gas gathering at the Federal Energy Regulatory Commission ("FERC").

This proposed legislation is premature due to actions at the federal level. There are primarily two reasons for this. The FERC has given the states a two-year transition period to observe the gathering industry and determine if there are any problems requiring regulation. Second, the FERC's orders on rehearing of its new gathering policy were issued in December. Therefore, many parties are requesting further rehearing and filing appeals. While WFS supports the FERC's position, we believe that it would be wise for the states to wait until federal policy is solidified before taking action.

In May, 1994 and on rehearing in December, the FERC reconsidered its policy on gathering. The FERC determined that it did not have jurisdiction over gathering. However, the FERC also recognized and attempted to deal with transition issues. It provided a transition mechanism to protect existing gathering customers by maintaining the status quo for at least two years. The FERC required that if an interstate pipeline desires to transfer its gathering to a non-regulated company, the gatherer must either demonstrate to the FERC that it has negotiated agreements with all existing customers or that it has offered them a FERC approved "default contract." The default contract must contain the rates, terms and conditions that the customer is currently receiving from the pipeline. The term must be for at least two years and the entire agreement must be approved by the Commission. WFS believes that this two year period is the ideal opportunity for the states to examine the issues and if a remedy is needed, fashion the proper remedy. Because the FERC has required the use of a FERC-approved contract for two years, no harm should result from an observation period. There is no urgency for Kansas to act at this time when hasty action could result in unnecessary and burdensome government.

WFS doesn't believe that there will be problems requiring a regulatory remedy. WFS has operated in basically unregulated environments for a few years and has not experienced any significant complaints. Additionally, there are state and federal antitrust laws which offer substantial protection from abuses. And the FERC has provided that if a gatherer affiliated with an interstate pipeline acts in concert with the pipeline frustrating the FERC's policies, the FERC will take jurisdiction over the gatherer. However, WFS wants a fair competitive environment and if abuses by gatherers occur it is in WFS' interests to see they are remedied. If after time to study the industry, evidence arises indicating real problems, WFS will support reasonable efforts to remedy such problems.

1/23/95  
Energy & Natural Resources  
Attachment #13

January 23, 1995

TO: House Energy & Natural Resources  
FROM: Wayne E. Dougherty  
RE: HB 2041

Mr. Chairman and members of the Committee:

I am Wayne E. Dougherty from Thayer, Kansas. As a landowner, I've been working with the gathering system for about ten years.

I've found there is a grey area that no one is responsible for, the KCC or anyone else.

I found that Rep. Reinhardt listened to my problems and with his help to the KBI, we did get some relief.

There is a need for a hotline for problems that arise between the gathering system and landowner. These problems are statewide.

It's definitely a problem when the gathering system is a subsidiary of the leasing company as they sell, meter to themselves.

Primarily, as a landowner, what I'm asking for is an honest eighth at a legitimate price. Is that asking too much?

I'm in support of House Bill 2041.

Wayne E. Dougherty  
Thayer, KS. 66776

1/23/95  
Energy & Natural Resources  
Attachment #14



**FIRST  
NATIONAL  
OIL, INC.**

Nelson B. Escue  
President

January 23, 1995

The Honorable Carl D. Holmes, Chairman  
The House Energy and Natural Resources Committee  
State Capitol, Room 1159  
Topeka, Kansas 66612-1504

Re: Hearings on the Proposal Bill #2041  
New Section 2 (3)(B)  
3:30 p.m., Monday, 23rd of January, 1995.

Dear Mr. Chairman:

I would like to submit this letter to you as written testimony for the record. I am truly sorry that I could not testify in person.

Due to the dramatic changes occasioned by the Federal Energy Regulatory Commission (FERC) clearly implying that it no longer wishes to regulate the gathering of natural gas, the State of Kansas is confronted with a host of issues and questions that face its natural gas industry and its citizenry. Irrigation farmers, royalty owners, natural gas producers, the states' collection of severance and ad valorem taxes and the consumer will be affected by the new change in jurisdiction.

In consideration of proposed House Bill #2041, New Section 2.(3)(b), I would like to bring forth just a few issues and questions that the irrigation farmers, royalty owners and small producers are already dealing with. As we look at the issues and raise the questions, one wonders how the currently proposed legislation could possibly assure everyone a fair playing field.

**Issue:**

Irrigation farmers and rural fuel users in the state of Kansas have already experienced tremendous increases in the price of their irrigation fuel. The reason is due to the interstate pipelines divesting themselves of their gathering system "taps" to a distribution company. These consumers who are in the heart of the production area, who paid for their meters and regulators when installed, and who's land is crossed by the gathering systems, are paying two possibly three times what they were paying previously.

1/23/95  
Energy & Natural Resources

The Honorable Carl D. Holmes  
January 23, 1995  
Page two

**Question:** Why are these consumers experiencing costs equivalent to consumers in cities where distribution facilities have been installed by the distribution company?

**Question:** Why are these consumers not able to purchase their gas from a producer, pay a transport fee to the gathering company and receive the gas at their delivery point or tap, in the same way a natural gas marketer would do? Since most of these rural consumers paid for the "tap" and the meters and regulators when they were initially installed, is the newly injected intermediate "distributor" entitled to enact a substantial charge merely for handling the paperwork?

**Issue:**

Royalty owners and producers previously have had the benefit of knowing what their actual costs for gathering was, simply because it was a filed rate with the FERC. The rate charged was the same for everyone. However, since the commencement of deregulation by FERC, gathering companies are not charging uniform rates to all parties, and "spin down" pipeline gathering affiliates are threatening similar action as soon as the FERC releases them from further Federal regulations.

**Question:** With gathering companies demanding strict confidentiality in their agreements, how will producers and royalty owners know if they are being discriminated against?

**Issue:**

I have enclosed a copy of an article dated October 10, 1994 from the Wichita Eagle. The article indicates that Western Resources will pay a "reservation charge", but will purchase the gas at "significantly lower than spot market price".

**Question:** Will the royalty owner and the state share in the reservation fee? Or will ad valorem, severance tax and royalty shares be calculated and settled at "significantly lower than spot market price." Is this really a good deal overall as the article states? I only use this article to illustrate the type of arrangements that are brewing in this new era of non-federal regulations.

**Question:** When the FERC has completely divested itself from regulation of gathering, how many of these types of arrangements will develop without our knowledge and without the right to question? What authority does the new proposed legislation give the commission to investigate unfair practices? How will a

The Honorable Carl D. Holmes  
January 23, 1995  
Page three

producer or royalty owner judge whether or not he was discriminated against.

**Issue:**

Many natural gas wells must transport gas through two or more pipelines before it reaches the main line. With each gathering pipeline charging a rate for gathering, the gathering charges often result in a wellhead price which is less than 50% of the quoted spot market price.

Considering the above and after reviewing the language in the proposed bill one wonders the following:

What does an irrigation farmer do when he is being charged an unreasonable rate for his gas?

If a royalty owner and small producer have a well that produces 75 mcf a day and they feel they are being discriminated against, or unjustly charged for gathering rates, how can they even begin to justify a specialized attorney, familiar with gathering cost, gathering contracts and all the other intricate details of gathering and bring this issue before the K.C.C. Under the current proposed bill the K.C.C. is a judicial body to hear evidence, but has no investigative powers. The total burden of proof lies upon the grieved party, who will have to oppose large gathering companies who have council specially retained for such matters?

Will the Kansas Corporation Commission have the authority to request all confidential information so that a party can determine discriminatory or unfair practices?

In the same manner in which I believe we are faced with the seriousness of the issues and questions aforementioned, plus many more, I believe if the state proceeds cautiously they can find reasonable solutions.

We do know that the FERC has offered a two year moratorium on all gathering rates. This could give us a little time to avoid at least some of the mines that are sure to be hidden in our path.

The FERC in the past has had a hot line that one could call for investigation of unfair treatment. No such provision is made in the new proposed legislation.

The Honorable Carl D. Holmes  
January 23, 1995  
Page four

Possibly we could set up an investigative body within the K.C.C. in a similar manor, funded by modestly increasing the K.C.C. assessment on natural gas.

Current statues provide for regulation of gathering lines in excess of sixteen miles in length as common carriers. As such, gathering companies are required to file and charge non-discriminatory rates and tariffs applicable informally to all parties who require transportation services. The proposed legislation does not require the filing and charging of uniform, non-discriminatory rates and tariffs.

I bring these issues and questions before you with great humility. I do not know the answers to many of the questions that I have raised. I do ask, with respect to you and the members of this committee that you proceed cautiously in respect to gathering legislation for there are many unanswered question and issues involved, which, if not addressed prior to hasty legislation could result in dire consequences.

Very truly and respectfully yours,

FIRST NATIONAL OIL, INC.



Montgomery Adam Escue

MAE/zb

Enclosure: Wichita Eagle article.



**Testimony Submitted to the**

**House**

**Energy & Natural Resources Committee**

**on**

**House Bill 2041**

**by**

**Pete McGill & Associates**

**on behalf of**

**Colorado Interstate Gas Company**

---

**January 23, 1995**

1/23/95  
Energy & Natural Resources  
Attachment #15

Chairman Holmes and Members of the House Energy & Natural Resources  
Committee:

During the month of November of 1994, the Kansas Corporation  
Commission hosted three public meetings on gas gathering systems in three  
different locations in Kansas: Liberal, Wichita and Chanute.

Although our client, Colorado Interstate Gas Company ("CIG"), did not  
submit written comments to the Commission at those meetings, they did  
subsequently offer written comments to the Commission on January 5, 1995 and  
have requested our firm to make those comments available to you at this hearing.

On behalf of CIG, we thank you for this opportunity to submit this  
information to you as you deliberate the merits of HB 2041 and other pieces of  
legislation affecting gas gathering operations. Please feel free to contact our firm if  
you have any questions of our client over this information.

---

**Pete McGill & Associates**  
**400 SW 8th Street, Suite 412**  
**Topeka, Kansas 66603**  
**(913) 233-4512**

# **BEFORE THE CONSERVATION DIVISION OF THE KANSAS CORPORATION COMMISSION**

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## **COMMENTS OF COLORADO INTERSTATE GAS COMPANY REGARDING PROPOSED GATHERING LEGISLATION**

---

Colorado Interstate Gas Company ("CIG") comes now and provides its comments on the proposed legislation imposing licensing requirements for natural gas gathering systems and natural gas storage facilities and establishing the Conservation Division of the Kansas Corporation Commission as the forum for complaints on gas gathering issues.

### **SUMMARY OF POSITION:**

CIG supports the adoption of the proposed KSA 55-703c which limits the jurisdiction of the Kansas Corporation Commission over gathering facilities and operations to those circumstances where an affected party has demonstrated unjust or unlawful discrimination on the part of the gatherer. CIG opposes any attempted extension of the jurisdiction of the Kansas Corporation Commission to the licensing of federally regulated and certificated natural gas storage facilities on the grounds that such an effort is preempted by the existing federal regulation of these facilities.

### **DISCUSSION:**

CIG is a Delaware corporation and a 100% wholly owned second-tier subsidiary of The Coastal Corporation. CIG is a natural gas company under the Natural Gas Act and is subject to the jurisdiction and regulations of the Federal Energy Regulatory Commission ("FERC"). CIG is involved in all phases of the production, gathering, processing, transportation, storage and sale of natural gas. CIG's interstate natural gas pipeline extends from gas supply areas in the Texas Panhandle, Western Oklahoma and Western Kansas in a northwesterly direction through eastern Colorado to the Denver area, and from interconnections with other pipelines and supply areas in Wyoming and eastern Utah in a southwesterly direction to the Denver area. CIG's principle pipeline facilities consist of more than 6,300 miles of pipeline and 65 compressor stations, providing a peak day deliverability of 2.0 Bcf. CIG owns and operates natural gas storage facilities in both Colorado and Kansas. CIG also owns and operates gathering systems in Utah, Wyoming, Colorado, Oklahoma, Texas and Kansas. In addition to owning and operating its own sources of natural gas

production (involving over 600 wells in Kansas, Oklahoma and Texas), the Merchant Division of CIG holds gas purchase agreements with approximately 1400 different gas producers involving approximately 2800 wells and several central delivery locations. This background and experience puts CIG in a unique position to comment on the proposed legislation.

CIG has actively followed the various inquiries into the appropriate level of regulation of gathering facilities. CIG believes that the conclusions reached in certain of these inquiries should be considered by the State of Kansas in reaching its conclusions on this matter.

The FERC conducted an examination of the need to regulate the gathering operations of affiliates of interstate pipelines and concluded that regulation of such gathering operations was not appropriate for the FERC **unless there was evidence of discrimination**. CIG believes that is the appropriate standard for the State of Kansas to adopt and CIG therefore supports limiting Kansas regulation of gathering operations to that level provided by the proposed KSA 55-703c. Under this proposed legislation the Kansas Corporation Commission will exert jurisdiction over gathering facilities and operations only as the result of a complaint demonstrating unjust or unlawful discrimination. If the Commission concludes, on the basis of evidence presented at the hearing on the complaint that the gatherer was engaging in unlawful discrimination, it shall have the power to order remediations to the injured party. This approach is similar to that which has been adopted and successfully implemented in the State of Oklahoma (Okla. Stat. tit. 52 § 24.3 (West 1993)). This approach effectively protects the gathering customer without imposing on both the Commission and the gatherer the administrative burden of a full cost-of-service analysis that would be required for a determination of the "justness" or "reasonableness" of the rates. This approach is also consistent with other proposed legislation pending in Kansas that would exclude natural gas gathering systems from the definition of public utility.

CIG also wishes to comment on the proposal to extend the jurisdiction of the Kansas Corporation Commission to the licensing of natural gas storage facilities. While CIG understands and appreciates the interest of the Kansas Corporation Commission in licensing the construction and operation of natural gas storage facilities within the State of Kansas, CIG feels compelled to point out that it is a natural gas company under the Natural Gas Act (15 USC § 717 et. seq.), and its natural gas storage facilities are certificated by the Federal Energy Regulatory Commission ("FERC"). Therefore, any attempt by the State of Kansas to exert jurisdiction over these facilities would be improper. It is well established that the Natural Gas Act confers upon FERC exclusive jurisdiction over the transportation on natural gas in interstate commerce (Northern Natural Gas Co. v. State Corporation Commission of Kansas, 372 U.S. 84, 89, 9 L. Ed. 2d 601, 83 S. Ct. 646 (1963)), and that "transportation" includes storage (Columbia Gas

Transmission Corp. v. Exclusive Gas Storage Easement, 776 F.2d 125 (CA6, 1985). In addition the Natural Gas Act requires a natural gas company such as CIG to obtain a certificate of public convenience and necessity before it constructs, extends, acquires, or operates any facility for the transportation or sale of natural gas in interstate commerce. §7(c)(1)(A) of the Natural Gas Act, as amended, 15 USC §717f(c)(1)(A). This comprehensive scheme of federal regulation preempts the jurisdiction of the Kansas Corporation Commission over the licensing of federally certificated natural gas storage facilities. See, Schneidewind v. ANR Pipeline Co., 485 U.S. 293, 99 L. Ed. 2d 316, 108 S. Ct. 1145 (1988). CIG notes, however, that to the extent that the Kansas Corporation Commission merely desires to acquire information regarding the operation of federally certificated natural gas storage in the State of Kansas, all of that information is readily available in the materials that must be filed with the FERC. CIG is completely willing to provide those filings to the Kansas Corporation Commission. What CIG is opposed to is the implementation of a second regulatory authority with the attendant administrative burdens.

### CONCLUSION:

CIG supports the extension of the jurisdiction of the Kansas Corporation Commission to those circumstances where an affected party has complained of unjust or unlawful discrimination. CIG opposes any attempted extension of the jurisdiction of the Kansas Corporation Commission to the licensing of federally regulated and certificated natural gas storage facilities.

Dated: January 5, 1995

Respectfully submitted,

By



Mark A. Minich  
Attorney for  
COLORADO INTERSTATE GAS COMPANY  
P. O. Box 1087  
Colorado Springs, CO 80944  
(719) 520-4269

**ENRON**  
**Northern Natural Gas Company**

P. O. Box 3330 Omaha, Nebraska 68103-0330 (402) 398-7200

January 23, 1995

Chairman Carl Holmes  
Statehouse, Room 115-S  
Topeka, KS 666112

Dear Chairman Holmes:

Northern Natural Gas Company has an interest in HB 2041 due to its potential impact on the natural gas industry. Attached is a copy of the comments Northern provided the Kansas Corporation Commission during its meetings in November. Northern believes these comments are appropriate in regards to the House Energy and Natural Resource Committee's deliberations on this bill. We ask for your consideration.

Sincerely,



Tim Aron  
Government Affairs Representative

Attachment

**ENRON**  
**Northern Natural Gas Company**

**Mary Kay Miller**  
Vice President  
Rates & Certificates

P. O. Box 3330  
Omaha, Nebraska 68103-0330  
(402) 398-7060  
Fax: (402) 398-7006

December 13, 1994

Mr. Bill Bryson  
Administrator, Oil and Natural Gas Division  
Kansas Corporation Commission  
Wichita State Office Building - Room 2078  
130 South Market  
Wichita, KS 67202

Dear Mr. Bryson:

Northern Natural Gas Company, a subsidiary of Enron Corp., appreciates the opportunity to submit written comments to the Kansas Corporation Commission addressing the issue of proposed licensing requirements for natural gas gathering facilities. Representatives of our Company attended the public hearings on the issue on November 3 and 16 in an effort to obtain a better understanding of the Commission's concerns regarding gathering in Kansas.

We are unable to make suggestions or express opinions at this time in the absence of a definitive proposal from the Commission. However, we want to inform the Commission of our interest in the issue and that we recognize its importance to the gas industry.

Northern at this time would make two related observations. First, comments made during the hearings did not establish any precise issue or concern which needs to be addressed. Williams Field Services detailed at the November 3 hearing the FERC proceedings now underway. We would agree with Williams that it is premature for the KCC to act until FERC has fully completed its process. The FERC's gathering policy was revised again in orders issued on November 30, 1994 and those orders are still subject to reconsideration. In the meantime, Northern believes it would be useful for the KCC to establish a working group of industry and legislative personnel to study the issue in greater depth to determine if legislation actually is needed.

If you have any questions, please feel free to contact me.

Sincerely,

*Mary Kay Miller*

Mary Kay Miller  
Vice President  
Rates & Certificates