

Approved: Carl Dean Holmes  
Date 2/13/96

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES.

The meeting was called to order by Chairperson Carl Holmes at 3:38 p.m. on January 29, 1996, in Room 526-S of the Capitol.

All members were present except:

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

Conferees appearing before the committee: William J. Wix, Kansas Corporation Commission  
Chris McKenzie, Chair, 1995 Environmental Law Task Force

Others attending: See attached list

Chairperson Holmes opened the meeting by distributing written testimony as promised by a conferee on January 23, 1996. He announced we would work HB 2613 and 2614 as combined by the sub-committee if time permitted today. He also made some announcements regarding next week's agenda.

Chairperson Holmes introduced Chris McKenzie, of the League of Kansas Municipalities, who chaired a task force to review the environmental statutes on the books and identify areas that need to be looked at by the committee. No legislators or state agency officials were part of the task force who worked over the summer at the chairperson's request.

**Briefing on: 1995 Environmental Law Task Force Final Report**

**Chris McKenzie.** Mr. McKenzie recognized some of the members of the task force who were present in the room. All of the task force members contributed an incredible amount of time. The process followed the work of the utility task force last year. They broke down into four sub-committee areas after establishing rules at the beginning on how they would operate. Invitations were issued initially to a large segment of individuals drawn primarily from the list of registered lobbyists. The door was open to anyone who wanted input.

Mr. McKenzie reviewed the recommendations in the Final Report (copies available in the State Library). Questions followed. The Chair thanked Mr. McKenzie and his committee for all their time spent working on the report.

**Hearing on SCR 1614: Requesting corporation commission to report to legislature regarding remediation of oil and gas pollution**

**William Wix.** Mr. Wix, assistant general counsel for the Conservation Division of the Kansas Corporation Commission, testified that they are in the process of updating and expanding the report due to the Legislature on February 1, 1996. (Attachment #1)

There being no other conferees and no questions, the hearing was closed.

**Hearing on SCR 1613: Requesting corporation commission to report to legislature regarding regulation of natural gas gathering lines**

**William Wix.** Mr. Wix, assistant general counsel for the Conservation Division of the Kansas Corporation Commission, reported on the fact finding hearings conducted by the KCC regarding regulation of gas gathering. (Attachment #2) Their report and recommendations are due to the Legislature on March 1, 1996.

The Chair informed the committee this is tied to HB 2041 which is now sitting in the Senate. His position is to wait for Senate action after they get the report, and then try to reconcile any differences in conference committee. There being no discussion, the hearing was closed.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES, Room 526-S Statehouse, at 3:30 p.m.. on January 29, 1996.

**Action on SCR 1613: Requesting corporation commission to report to legislature regarding regulation of natural gas gathering lines**

Representative Don Myers moved that SCR 1613 be passed out favorably. Representative Clay Aurand seconded the motion. Discussion followed. The motion carried.

**Action on SCR 1614: Requesting corporation commission to report to legislature regarding remediation of oil and gas pollution**

Representative Dennis McKinney moved that SCR 1614 be passed out favorably. Representative Don Myers seconded the motion. Discussion followed. The motion carried.

**Action on Proposed Substitute Bill for HB 2613 and 2614: Use of moneys recovered in Arkansas river compact case**

Representative Clay Aurand reviewed the draft of the Proposed Substitute for HB 2613 and the Report of Subcommittee on HB 2613 and 2614 (Attachment #3).

Questions and discussion followed.

Representative Clay Aurand moved that the Proposed Substitute Bill for HB 2613 be adopted. Representative Terry Presta seconded the motion. The motion carried.

Representative Richard Alldritt moved to amend the Substitute Bill on Page 2 by striking all language beginning on Line 6 and ending after Line 14 thereby eliminating the sunset clause to the water litigation fund. Representative Don Myers seconded the motion. Discussion followed. The motion failed.

Representative Terry Presta moved to amend the Substitute Bill on Page 4, Line 14 by striking the number 50% and substituting the number 25%, and on Line 15 by striking the number 50% and substituting the number 75%. Representative Doug Lawrence seconded the motion. Discussion followed. The motion failed.

Representative Laura McClure moved to amend the Substitute Bill on Page 4, Line 14 by striking the number 50% and substituting the number 75%, and on Line 15 by striking the number 50% and substituting the number 25%. Representative Bill Feuerborn seconded the motion. The motion failed.

Representative Tom Sloan moved to amend the Substitute Bill on Page 4, Line 23 by striking the words "statute book" and adding the word "register." Representative Doug Lawrence seconded the motion. The motion carried.

Representative Bob Krehbiel moved to amend the Substitute Bill on Page 3, Line 25 by striking the sum of \$10,000 and substituting the sum of \$2,000. Representative Vaughn Flora seconded the motion. Discussion followed. The motion failed.

Representative Tom Sloan moved to amend the Substitute Bill on Page 2 by striking Lines 34 and 35. Representative Bill Feuerborn seconded the motion. Discussion followed. The motion failed.

Representative Sloan moved to amend the Substitute Bill on Page 1, Line 21 by adding the words "current or" before the first word "future." Representative Rich Becker seconded the motion. The motion carried.

Representative Joann Freeborn moved to amend the Substitute Bill on Page 2, line 27 by adding the words "and similar types of projects" after the words "delivery projects." Representative Terry Presta seconded the motion. Discussion followed. The motion carried.

Representative Tom Sloan moved to report Substitute for HB 2613 favorable for passage as amended. Representative Doug Lawrence seconded the motion. The motion carried.

The meeting adjourned at 6:05 p.m.

The next meeting is scheduled for January 30, 1996.



Testimony of William J. Wix  
Assistant General Counsel  
Kansas Corporation Commission  
Conservation Division  
before the  
1996 House Committee on Energy and Natural Resources  
January 29, 1996

Mr. Chairman and Committee members, good morning. My name is William J. Wix. I am the Assistant General Counsel of the Conservation Division of the Kansas Corporation Commission. Today I am here to provide testimony on Proposal No. 27 and Senate Concurrent Resolution 1614.

Pursuant to Chapter 204 of the 1995 Session laws, eighteen remediation sites were transferred from KDHE to the KCC. However, that Legislation also specifically provided that we were not allowed to increase assessments to pay for remediation. Thus, the funding of remediation remained an open issue to be resolved. Proposal No. 27 and House Bill 2599 provide for such financing.

During hearings before the Interim Committee a preliminary report was presented. Senate Concurrent Resolution 1614 requires a comprehensive report be submitted by the Commission which addresses anticipated costs and the gravity of the various sites. We are currently in the process of updating and expanding on that report. Those revisions will reflect work done to date, additional data which has been gathered and expanded to address those areas set forth in Senate Concurrent Resolution 1614. That report is due on or before February 1, 1996 and we will have the report available for distribution when appropriate.

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Attachment 1

KCC Testimony  
January 29, 1996

Although the resolution contemplates distribution to certain individuals, we will be distributing copies of that report to all members of both the House and Senate Committees on Energy and Natural Resources.

Thank you for letting me appear here today. If you have any questions, I will be glad to answer them.

Testimony of William J. Wix  
Assistant General Counsel  
Kansas Corporation Commission  
Conservation Division  
before the  
1996 House Committee on Energy and Natural Resources  
January 29, 1996

Good morning, Mr. Chairman, members of the Committee, I am William J. Wix, Assistant General Counsel for the Conservation Division of the Kansas Corporation Commission. It is the Commission's belief that the Interim Committee on Energy and Natural Resources felt the regulation of gas gathering was of great concern. The Commission concurred in that opinion and proceeded to conduct the fact finding hearings contemplated in Proposal No. 26 and Senate Concurrent Resolution No. 1613.

In May of 1994, FERC issued a series of decisions with the main decision being a docket 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, FERC would no longer exert jurisdiction over gathering rates. In addition, FERC indicated that states were free to exercise jurisdiction if they so desired. In the meantime, FERC 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 to make legislative changes.

In the December 4, 1995 issue of Inside F.E.R.C. it states:

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Attachment 2

If and when producer-shippers believe that gathering companies are taking advantage of monopoly positions to deny access or charge unreasonable rates, their sole source of regulatory relief will emanate from state capitals, commissioners asserted last week in making clear that FERC has washed its hands of the matter. And fearful that states have not adequately prepared for their new role, Commissioners James Hoecker and Donald Santa Jr. urged them to gear up.

Public hearings were held in Wichita on January 4, 1996, Chanute on January 9, 1996, and Liberal on January 10, 1996. Approximately 36 witnesses appeared and gave testimony ranging from recommending extremely light-handed regulation to the creation of a very comprehensive mini-FERC within the Corporation Commission. We have provided a legal opinion stating that jurisdiction could properly be found under Chapter 55 or Chapter 66 of the Kansas Statutes Annotated. The type of regulation eventually determined to be necessary by the Legislature should effect what Division of the Corporation Commission has jurisdiction. Light-handed regulation similar to that used by Oklahoma would properly be in the Conservation Division. Regulation which would involve filing of rates and rate making determinations would probably be under Chapter 66 as the Utility Division has staff familiar with this type of regulation.

Our report and recommendations are due to the Legislature as contemplated by Proposal No. 26 and Senate Concurrent Resolution 1613 on or before March 1, 1996. We will have the report for distribution when appropriate.

Thank you for letting me appear before you today. If you have any questions I will be glad to answer them.



## Report of Subcommittee on H.B. 2613 and 2614

The subcommittee recommends that the committee amend H.B. 2613 by adopting the proposed substitute bill that accompanies this report.

The proposed substitute bill:

- (1) Combines H.B. 2613 and 2614 into one bill.
- (2) Creates an interstate water litigation fund and a water conservation projects fund similar to those in H.B. 2613 and 2614
- (3) Distributes money recovered in the Colorado case by
  - First reimbursing those who contributed money for the litigation
  - Crediting 75% of the money to the litigation fund and 25% to the water conservation projects fund until the amount in the litigation fund equals the amount spent in the Colorado case, then crediting 50% to the state water plan fund for use for conservation projects and 50% to the water conservation projects fund
  - Abolishing the litigation fund on July 1, 2001, and transferring the balance to the state general fund, unless there is on-going litigation
- (4) Allows the interstate water litigation fund to be used for any water dispute with another state, the federal government or an Indian nation
- (5) Changes the uses of the water conservation projects fund found in H.B. 2614 by
  - Providing that canals and laterals paid for from the fund must be owned by a ditch company
  - Allowing reimbursement for projects required by the division of water resources and commenced after July 1, 1994
  - Providing for priority to be given to funding projects that achieve the greatest water conservation efficiency for the public good and projects required by the division of water resources
- (6) Provides for interest on both the interstate water litigation fund and the water conservation projects fund to be credited to the state general fund

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Attachment 3