

MINUTES OF THE HOUSE COMMITTEE ON UTILITIES.

The meeting was called to order by Chairperson Don Myers at 9:00 a.m. on February 21, 1997 in Room 313-S off the Capitol.

All members were present except: Rep. Klein - excused

Committee staff present: Lynne Holt, Legislative Research Department  
Mary Ann Torrence, Revisor of Statutes  
Mary Shaw, Committee Secretary

Conferees appearing before the committee: David Schlosser for Steve Zuckweiler, Coastal Field Service  
Mari Ramsey, Williams Field Service  
Pierce Norton, KN Energy  
Bill Gifford, Pan Energy Field Service  
Ron Hein, MESA  
Jack Glaves, Woolsey Petroleum  
Eugene Smith, Independent Lawyer  
Tim Mc Kee, Chairman, Kansas Corporation Commission

Others attending: See attached list

Chairperson Myers mentioned to the Committee that they would be hearing opponent testimony on **HB 2332** this morning and since there was a long list of conferees, the testimony would be timed at four minutes each.

**Hearing on HB 2332 - regulation of natural gas gathering systems**

The Chair recognized David Schlosser who spoke for Steve Zuckweiler (not able to be present), President, Coastal Field Service, and testified in opposition to **HB 2332**. (Attachment #1)

The Chair recognized Mari Ramsey, Williams Field Service and Member of the Kansas Gas Gathering Task Force representing gatherers affiliated with interstate pipelines, spoke in opposition to **HB 2332**. She included in her testimony an attachment of an alternative proposal of a balloon draft of **SB 148** containing a complaint process, mediation process, eliminating vague standards, and protecting private business from unwarranted government interference and an attachment of an alternative concurrent resolution regarding a telephone complaint procedure to determine and remedy complaints regarding gathering services. (Attachment #2)

The Chair recognized Pierce Norton, General Manager for KN Energy, who spoke in opposition to **HB 2332**. (Attachment #3)

The Chair recognized Bill Gifford, Pan Energy Field Service, who spoke in opposition to **HB 2332**. (Attachment #4)

The Chair recognized Ron Hein, on behalf of MESA, who spoke in opposition to **HB 2332**. He mentioned that MESA strongly opposes **HB 2332** and that they object to turning gas gathering systems into "public utilities" under new Section of the bill. Although MESA opposes **HB 2332**, he included in his testimony their proposed amendments in a balloon which would eliminate their opposition to the bill. Also, he included in his testimony provisions of **SB 148** with the proposed amendments which MESA encourages the Legislature to adopt. (Attachment #5)

The Chair recognized Jack Glaves, Woolsey Petroleum Corporation, who testified in opposition to **HB 2332**. He mentioned that **HB 2332** could result in reimposing utility regulation on the system that they are purchasing. He mentioned that Woolsey urges the Legislature to not impose this new regulation on their industry. (Attachment #6)

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON UTILITIES, Room 514-S Statehouse, at 9:00 a.m. on February 21, 1997.

The Chair recognized Eugene Smith, Independent Lawyer, spoke in opposition to **HB 2332**. (Attachment #7)

The Chair recognized Tim Mc Kee, Chairman, Kansas Corporation Commission, who spoke in opposition to **HB 2332**. He included in his testimony amendments showing what the Commission feels should be made in the event the bill is eventually adopted. He feels the action contemplated by **HB 2332** is an extremely heavy handed approach that is not merited at this time. This is not to say that this matter cannot be revisited by the Legislature in the future if warranted, but at this time an unfunded piece of legislation which confuses utility and conservation practices goes far beyond what the Commission feels is necessary. The Task Force was a mandate of the Legislature. He respectfully submits to the Committee that the Task Force work product be considered over that proposed by **HB 2332**. (Attachment #8)

Questions and discussion followed. The Chair thanked the conferees for appearing before the Committee. Representative McKinney asked Chairman Mc Kee for ideas on facilitating competition. The Chair mentioned that on February 24, 1997, the Committee will be working **HB 2332**.

The meeting was adjourned at 9:50 a.m.

The next meeting is scheduled for February 24, 1997.

# HOUSE UTILITIES COMMITTEE GUEST LIST

DATE: February 21, 1997

NAME	REPRESENTING
Jack Glaves	Wooden Petrol Op, PZ & K N
Russ Bishop	Pan Energy
Bill Gifford	Pan Energy
Amy Campbell	R. R. Law Office
Mari Ramsey	Williams Field Services
Don Schwacke	K I O G W
DAVID B SCHLOSSER	Pete McGill & Assoc.
Brenda Parks	Jonathan Small
Tara A Nestor	K N Energy
Mary Beth Storingquist	K N Energy

TESTIMONY OF STEVE ZUCKWEILER

PRESENTED

TO THE

HOUSE UTILITIES COMMITTEE

BY

DAVID B. SCHLOSSER

OF

PETE MCGILL & ASSOCIATES

ON BEHALF OF

THE COASTAL CORPORATION  
AND COASTAL FIELD SERVICES

HOUSE BILL 2332

21 FEBRUARY 1997

*House Utilities  
2-21-97  
Attachment 1*

**TESTIMONY OF STEVEN ZUCKWEILER**  
**PRESIDENT, COASTAL FIELD SERVICES**

Mr. Chairman and members of the Task Force:

My name is Steve Zuckweiler, and I am President of Coastal Field Services ("CFS"). CFS is a subsidiary of The Coastal Corporation, a Houston-based diversified energy holding company with operations in natural gas marketing, transmission and storage, petroleum refining and marketing, oil and gas exploration and production, coal, chemicals and independent power production.

Coastal Field Services has 3600 miles of gathering lines that are connected to nearly 3200 wells in 8 states, gathering a total of 940 million cubic feet of gas per day. Over 1000 of these wells are located in the Hugoton and Greenwood Fields here in Kansas. Field Services' total plant investment in Kansas is nearly \$90 million, and we employ approximately 65 people in this state. In addition, CFS has seven processing plants and also has interests in three plants that are operated by others.

I appreciate the opportunity to come before you today to discuss the regulation of gas gathering. Our industry, as you know, is in a state of transition, and the issue you are examining today is a direct result of that. Historically, the gathering and processing of gas was just one of the many services a pipeline offered its customers, and the rates for these services were combined into one overall charge. Gathering was considered a means to the end -- getting one's gas to the city gate -- and was not recognized as a distinct or a separate service. As a result, pipeline customers -- and indeed, the pipelines themselves -- often did not know the true value

and the true cost of these services. Producers were simply unaware of the costs attributed specifically to that service, and in many cases were unprepared for the reality of having to pay for that service which, in our experience, equates to approximately 10 percent of the cost of the gas delivered to the city gate.

Beginning in the 1980's, the gas pipeline industry began to be deregulated, culminating with Order 636 in 1992. As a result of deregulation, pipelines could no longer offer bundled packages of services, and were required to unbundle gathering, processing, storage, transmission and other services and to charge separately for them.

Because these services needed to be distinct from the pipeline, pipeline companies began spinning off their gathering and processing businesses. Coastal did exactly that, forming Coastal Field Services earlier this year by combining the gathering and processing assets of Coastal's two major interstate pipelines, ANR and CIG, together with an existing gathering and processing system based in Houston.

As these business operations were spun off, they no longer fell within the definition of a gas company as defined in the Natural Gas Act. As such, they fell outside the regulatory authority of the Federal Energy Regulatory Commission, and the FERC, which has historically regulated the gas industry, declared its position that gathering regulation should be performed at the state rather than the federal level. (It is important to note, however, that the FERC has retained discretion to re-enter the regulation of gatherers affiliated with interstate pipelines should abuse be found, a point I will come back to later.)

All of the uncertainties caused by this transition from being part of a regulated monopoly to becoming a competitive industry and the corresponding shift away from the FERC's

regulation have led several states to examine their role in regulating gathering. There have been cries by certain interest groups for creation of extensive regulations, including public posting of contracts and utility commission regulation of gathering rates. Frankly, these ideas are unwarranted. Before any state rushes to fill a perceived void in regulation, it is important to take a step back, gain an understanding of the gathering business, and ask the fundamental question of whether there is even a problem that needs to be fixed.

Some of those arguing for strong regulation cite examples where they claim to have been unfairly treated by a gatherer that charges too much or refuses to connect to a well. While I am not familiar with all of these complaints, I would argue that many of the decisions that lead to these complaints are based on sound business judgment and not some kind of intent to cause harm. I know for a fact that that is the case with my company.

A fundamental and critical point that needs to be emphasized is that it is in the gatherers' business interest to hook up every well possible. Connecting new wells is the very nature of our business. The natural decline in production from gas wells is a constant motivation for a gatherer to provide service to new wells. The additional throughput from the new wells will offset the decline in deliverability and volumes from the existing wells already connected to the gatherers' system. To turn away new gas is thus not a "natural motive" for any gathering company in business to make money.

#### Factors bearing on the decision to connect or not to connect

There are many sound business factors that impact the terms, conditions and rates associated with connecting a well. These are factors relating to changes in the volumes or pressure or other critical characteristics that bear on the physical operation of the facilities and

the cost. Because of these factors, the "open access type" requirements which might work well on an interstate pipeline regulated by the FERC or a locally regulated intrastate pipeline or gas utility are not appropriate for gathering systems.

(REFER TO SCHEMATIC)

#### Location and Deliverability of wells

One such factor involves the simple issue of how remote the well is from the gathering system. Because it costs an estimated \$80,000 per mile to build a gathering line, the economics of connecting a new well located some miles away from an existing gathering system become less attractive the farther the well is from the system.

Likewise, a well which produces 1,000 Mcf/day may support a gathering extension which would not be economic if the well produced 100 Mcf/day.

#### Pressures and gathering line operational dynamics

Another factor is pressure. All gas wells produce at some level of pressure. If the pressure of the well is high, then the gas comes to the ground at a high pressure. If it is low, as is typical of older fields and wells, the gas will simply not enter the gathering lines unless the operating pressure on those lines is less than the pressure of the gas at the wellhead--this is simply a matter of physics. In such circumstances, it is necessary to reduce the pressure of the gathering line through compression or other means.

A gatherer that is evaluating whether to connect a low pressure well to its system will have to consider the impact of that well on its overall system. If, for example, that well cannot



produce into the gathering system given the operating pressure of the system, then additional compression may have to be installed, existing compression modified, the gathering line itself modified, or the gatherer may simply decline to connect the well.

On the other extreme, connecting a high pressure well may "overcharge" the gathering system and result in reduced production capability from other wells, or even shutting-in of other nearby wells. This may require modification of existing compression pressures, or even modifying compressor units to provide the new service. Making these kinds of operating changes to a particular gathering system can affect the terms, conditions and rates for connecting a new well.

#### Capacity limitations

A third factor is capacity. The capacity of any segment of pipeline is determined by the size of the pipe and its length, as well as the pressure at which it operates. A 4-inch pipe operated at 150 psig has about 70 percent more capacity than the same pipe operated at 100 psig. Consequently, while a well may be located close to an existing gathering line, that line may not have sufficient capacity to handle the additional volume. For instance, if the nearest line were a 4-inch line operated at 100 psig there might not be adequate capacity in that line to accommodate more volume without increasing the pressure in that line to something higher--and thereby shutting in all the other wells connected to that line that might only be able to produce against the hypothetical 100 psig pressure. Such a circumstance could well require that the gatherer build a much longer line to connect the specific well to a different, larger, gathering line, possibly miles away from the specific well.

### Compression issues

A fourth factor is that different points on a gathering system have different pressure requirements in order to allow gas to flow. At the remote ends of the system, the gathering lines may operate at very low pressures, with higher pressures toward the "core" of the gathering system. The lines may further be compressed up to near "mainline" pressure at the terminus of a gathering system where it interconnects with a longer-haul pipeline. Addition of new wells to an existing system can dramatically affect field compression or even gathering-to-mainline compression. For instance, if the compression serving a particular system is already maximized, the gathering company would be required to invest new capital to install additional compression horsepower to take the additional volumes. Those expenditures could well be uneconomic unless the additional wells will provide substantial incremental throughput sufficient to amortize the additional investment or the gatherer charges the shipper a higher rate than is being charged to the existing customers.

### Gas quality and protection of existing customers

A fifth issue is the quality of the gas produced by those wells. The marketability of gas is dependent upon the BTU content and the amount of elements contained in the gas. Individual wells in a producing field can have different or varying degrees of liquids or other contaminants in the gas stream from the well. Gatherers must therefore evaluate whether accepting gas from a new well would have any adverse impact on other customers' gas quality and whether special processing or treating facilities are needed to make it of acceptable quality. If additional treating or conditioning or processing are required the gatherer might reasonably insist on different terms of access, including higher rates.

### Previous commitments and dedications

Finally, the customers of a gatherer frequently want to guarantee the availability of space in the gathering system to meet their future development and production needs. This often results in producers dedicating gas to a particular gathering company in exchange for the gatherer's commitment to "hold" capacity for that gas. Another way in which gathering shippers seek to assure themselves of future access is through pressure limitations--specifying that at no time will the pressure in a particular system exceed an agreed-upon level and possibly seeking guarantees for future pressure reductions. In order to honor these long-range commitments, gathering companies may be compelled to decline requests to connect other gas supplies to the relevant systems even where there might "appear" to be available capacity.

All of these factors can have a direct bearing on whether to connect a particular well and what the gatherer must charge for service. Because of the degree of physical "integration" of all aspects of the operation of individual gathering systems and sub-systems, gathering activities are simply not comparable to the long-haul and high pressure pipelines in which system users are similarly situated with most other system users. Small operating changes in volume or well-head pressures that can have a dramatic effect on the gatherer's costs and economics are virtually undetectable in the operation and economics of a high pressure interstate pipeline. Thus the "model" of an interstate pipeline--with its "generally applicable" rates and charges for specific services that can be posted on an electronic bulletin board or on a tariff sheet--does not fit the gathering activity.

### The overall state of the gathering industry

It is important not only to understand these characteristics of a particular gatherer's

operation, but to also understand the overall state of the industry. Many of those calling for regulation argue that gatherers have a monopoly from which a producer needs protection. That is simply not the case.

(REFER TO SPAGHETTI BOWL MAP)

This map is from the Hugoton Field in southwestern Kansas, and it illustrates just how competitive this business is. A 1994 analysis of gathering in five producing states (Colorado, Kansas, New Mexico, Oklahoma and Texas) conducted by Foster & Associates found that there are over 200 separate entities in Kansas engaged in the gathering business and more than 7,000 miles of gathering lines in the state. In 1994, before Coastal Field Services had been formed, CIG was connected to 700 wells in the Hugoton Field and 70 percent of those wells were located one mile or less from a competing gathering system. And that is typical of gathering systems throughout the region. The 1994 Foster report found that in the states studied, the typical well required just under 1 mile of pipe to connect it to a gathering system. At a cost of approximately \$80,000—which the study reports is less than 10 percent of the total exploration and development costs for a well — virtually any entity capable of investing in the cost of drilling a well could bear the cost of connecting that well to an existing gathering system in this field.

It is also important to note that it is not just affiliates of interstate pipeline companies that are in the business of gathering. On a national basis, major and independent oil companies control more of the volume of gas gathered in the U.S. than do interstate pipelines. Thus, there are numerous competitive gathering alternatives available to producers for virtually every gas

well in the state.

Finally, I would like to briefly discuss the experience of the FERC and other states in the regulation of gathering. Some have argued that, with the FERC getting out of the business of regulating gathering, producers will have no protection and abuses will run rampant. The evidence, however, is to the contrary.

- X Since setting up a hotline in 1994 for complaints about gathering, the FERC has received only 11 complaints, of which only a few concerned rates or access issues.
- X Only nine cases have been filed with the Oklahoma Corporation Commission since that state established a complaint mechanism, of which two were dismissed at the request of the applicant, one is on appeal on a procedural matter, one is near decision and five are under consideration.
- X Although only in operation for a couple of months, a hotline established by the Texas Railroad Commission has received only a handful of calls, despite the fact that a mailing was sent to over 5000 producers notifying them of this complaint mechanism.

And, as I noted earlier, if a producer has been the subject of unfair practices by an affiliate of an interstate pipeline, the FERC has retained the authority to re-enter the field of gathering regulation. Therefore, producers who had been protected in the past by the FERC will continue to have ultimate protection from that agency.

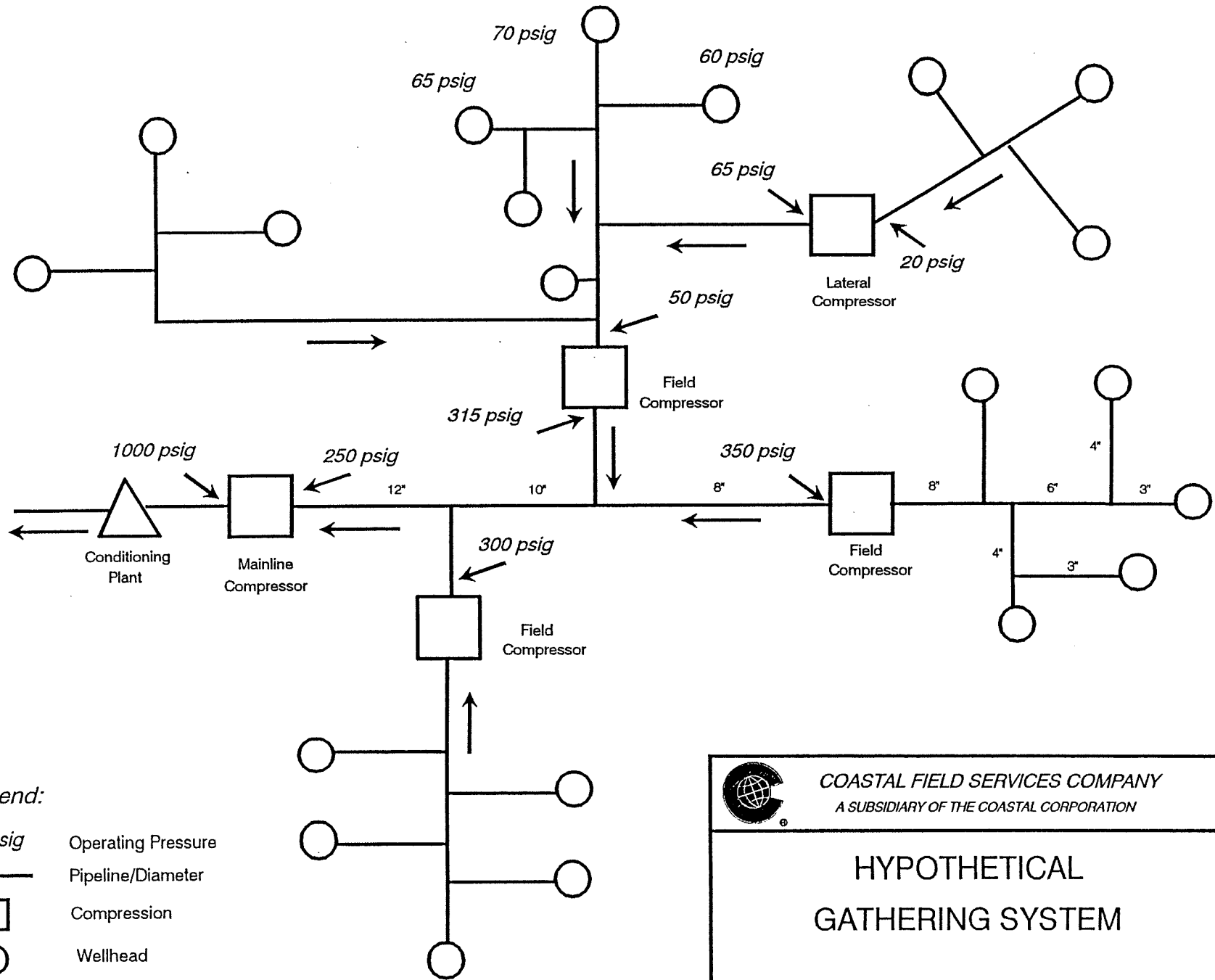
### Conclusion

In conclusion, we see no need for the state of Kansas or any other state to aggressively regulate gathering. There is little if any evidence that there is a problem that requires regulation,



It is frankly questionable as to whether or not this is merely a "red herring" issue being pushed by specific segments of the gas industry to further specific agendas. I do not believe regulation should be created and implemented on the basis of some undefined anticipated problem.


Gathering is a highly competitive business which does not require "open access" or rate regulation. There are numerous factors in this business that bear on what might appear to be simple issues. What might appear to be a case of refusal to connect a well may be nothing more than an appropriate "protection" by the gatherer for its existing system operations and the integrity of its existing contract customers. Likewise, what might appear to be unfair rates may be a reflection of specific operating costs which relate to a single shipper or group of shippers but not to others.

Gathering systems are highly competitive and very sensitive to changes in operations. The "model" of a single posted rate for gathering simply does not work in the context of these much smaller, operationally integrated gathering systems. Issues of access or claims of unreasonable rates and charges must be fully analyzed from both sides of the issue. Move cautiously and thoughtfully, and we look forward to working with you in this process.



**Legend:**

- $50\text{ psig}$       Operating Pressure
- $4"$               Pipeline/Diameter
-       Compression
-       Wellhead

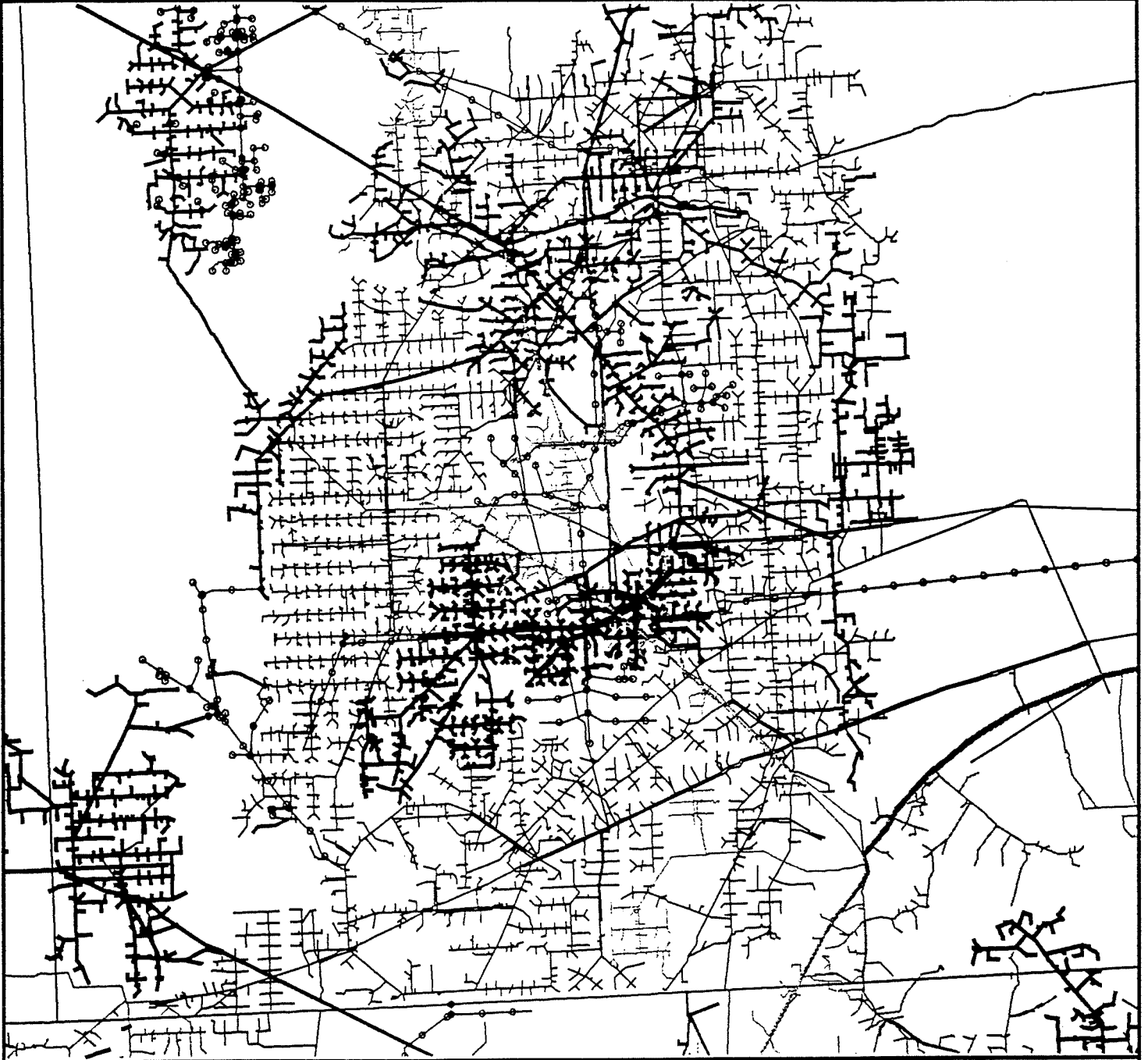


**COASTAL FIELD SERVICES COMPANY**  
A SUBSIDIARY OF THE COASTAL CORPORATION














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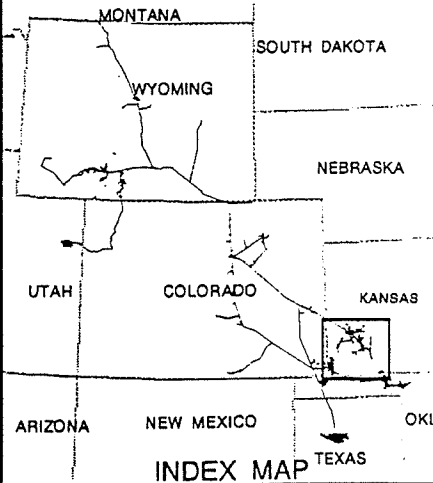
**HYPOTHETICAL  
GATHERING SYSTEM**

# HUGOTON



## GATHERERS

- |   |                    |   |           |
|---|--------------------|---|-----------|
|  | CIG Field Services |  | Mobil     |
|  | ANGI               |  | NNG       |
|  | Vastar             |  | PEPL      |
|  | KN                 |  | Richfield |
|  | KP&L               |  | Tekas     |
|  | Mesa               |  | Trident   |
|   |                    |  | Williams  |



INDEX MAP

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GAP / 1/25/98



*Natural gas gathering systems and regulation; public utilities and common carriers.  
Comments of Williams Field Services.*

House Utilities Committee  
Regulation of natural gas gathering systems  
Comments of Williams Field Services Company  
February 21, 1997

**Introduction:**

Mr. Chairman, Committee members. Thank you for the opportunity to speak today regarding issues related to regulation of gas gathering systems. My name is Mari Ramsey. I am in-house counsel for Williams Field Services Company, which I will refer to as "WFS." I was a member of the Kansas Gas Gathering Task Force representing gatherers affiliated with interstate pipelines. I participated in the minority report of the Task Force.

Williams Field Services is a subsidiary of the Williams Companies, Inc., based in Tulsa, Oklahoma. WFS gathers gas on a fee for service basis in Kansas, and owns gathering systems which deliver about 30% of gas produced from the Kansas Hugoton field. We also have gathering operations in Wyoming, Colorado, Utah, New Mexico, Oklahoma, Texas and Louisiana.

**House Bill 2332 is Unnecessarily Burdensome and Overly Broad**

We are very concerned that HB 2332 places an unnecessary regulatory burden on both the industry and the state. If the legislature determines that gathering regulation is needed, HB 2332 still goes far beyond reasonable regulation, narrowly-tailored to address the concern. Issues related to gathering alone are very complex and yet HB 2332 attempts to address gathering issues, irrigation issues, processing issues and local distribution company issues. These other services are not directly related to gathering.

The public utility provision is inappropriate to gathering which is not a natural monopoly and which is not a service offered to the public in general. The public disclosure of rates and all other proprietary information will be harmful to competition and could lead to uniform rates and cross-subsidies.

Section 9 related to exit fees is a local distribution company issue rather than a gathering issue. Other provisions would regulate processing and any other activity that a gatherer may engage in regardless of whether it is related to the gathering. Processing was not addressed by the Task Force and we would question why there is a need to regulate processing. Additionally, some provisions appear to assume that gatherers buy and sell gas, which is generally not the case.

House Utilities  
2-21-97  
Attachment 2

*Natural gas gathering systems and regulation; public utilities and common carriers.  
Comments of Williams Field Services.*

Other provisions would appear contradictory such as the non-public utility complaint procedure versus the public utility, cost of service ratemaking, exclusive service territory provision. Section 7 requires the commission to improve competition, but section 2 grants exclusive service territories and section 4 would require public posting of rates, both of which will greatly damage competition.

**The purpose of gas gathering systems:**

Like many other gathering companies, WFS is not a local distribution company and does not provide gas to consumers, except in some rare situations to fulfill right-of-way commitments. WFS does not buy or sell gas. WFS simply provides the service of gathering the gas for a specific class of customers who require that service—usually producers, but sometimes marketers. This is typical of most gatherers. Therefore it is important that as you consider HB 2332, please remember that the main business, operational and design purpose of gas gathering systems is the provision of gas gathering services to producers, not the local distribution or sale of gas for general commercial supply.

Although there is a lot of concern about high gas prices, the delivery of gas for consumption, and exit fees under KCC jurisdiction, those problems are different than the provision of gas gathering services to producers and cannot be remedied by gathering regulation.

**Gas Gathering Task Force Report:**

WFS supported the Minority Report of the Gas Gathering Task Force. That report responds to the Majority Report of the Task Force and to SB 148. The Minority Report concluded that: 1) the legislature should consider whether there is a demonstrated need for regulation of gathering; 2) If a need for regulation is demonstrated, a complaint-based statute in the conservation chapter (Chapter 55) is recommended; and, 3) Gathering systems should be exempted from public utility and common carrier status.

**No demonstrated need for gas gathering regulation:**

There was limited discussion on the Task Force about irrigation. There was certainly no discussion that would justify broad regulation such as public utility for the purpose of providing for the local distribution of gas to irrigators or others. Issues related to irrigation are complex. Natural gas is a depleting resource and gathering pressures are steadily declining. Irrigation taps may require expensive compression as the pressures decline and the question is who should pay for the compression.

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Indeed, in Senate hearings on SB 148 just this past Wednesday, the Chair of the Kansas Corporation Commission clearly stated that the KCC has jurisdiction over the provision of distribution service to irrigators, whether that occurs over gathering systems or otherwise, that a complaint has been received from members of the Southwest Kansas Irrigators Association, and that an investigation is under way.

A few producers did tell the Task Force that they had complaints. However, the complaints that were specifically described to the Task Force were not clearly gathering complaints. For example, some complaints involved rates charged to end-users by distribution companies who provide service from a gathering line. Those are "bundled" rates charged by distribution companies (not gatherers) and determined under public utility principles by the corporation commission. Other complaints consisted of vague allegations that certain gathering rates had gone up. However, they did not demonstrate that the particular change in rates was not reasonable.

#### **The elimination of cross-subsidies:**

In some cases the "unbundling" of gathering from gas commodity sales and transmission services may have resulted in higher gathering rates because of the elimination of cross-subsidies—cross-subsidies which were previously paid for by the end-user, the consumer. Gas used to be provided by interstate pipelines who would buy gas at the wellhead, transport it to the city and sell it to a local distribution company for a "bundled" rate. That rate included the commodity and all of the transportation, including gathering. In recent years, federal policy has required interstate pipelines to offer sales separate from transportation and to offer transmission services separately from gathering services (all referred to as "unbundling"). The result is that customers now may select, and pay for, only those services that they need.

However, this also eliminated some cross-subsidies. Before unbundling, pipelines often did not differentiate between transmission and gathering facilities or they drew the line improperly. The result was that costs related to gathering facilities were included in interstate pipeline transmission rates. The consumer who ultimately paid the bundled cost of the gas and transportation paid for the subsidization of gathering. In those instances where cross-subsidies existed, the gathering rates went up after the pipelines were required to properly distinguish their gathering costs. Sometimes that happened while the pipeline still owned the gathering facilities and the rates were regulated by FERC, but most often that happened in conjunction with a "spin-down" or sale of the gathering facilities.

*Natural gas gathering systems and regulation; public utilities and common carriers.  
Comments of Williams Field Services.*

I do not believe that factors such as the elimination of past cross-subsidies or the lack of verification of the few vague complaints were adequately considered by the majority report of the Task Force. For those reasons, I voted that the regulation of gathering is not needed.

**Information posting is expensive:**

The bill would require gathering companies to file massive amounts of information with the Corporation Commission. Much of this information is not readily available in a format and on a time basis which would provide any meaningful benefit. Development of information systems adequate to provide this information will be very expensive. Who will pay for this? In a commodity market where gas markets are national in aspect, these increased costs will result in lower netback prices to Kansas producers, who will have to lower their prices to be competitive and to make gas sales.

Additionally, the requirement in section 4(a)(1) that gatherer's who purchase gas at the wellhead must file the purchase price would require only a small segment of wellhead gas purchasers to post their costs placing them at a competitive disadvantage. This would appear to discriminate against a segment of the industry without justification.<sup>1</sup>

**Other reasonable solutions:**

WFS has proposed a balloon draft of SB 148 containing a complaint process, a mediation process, eliminating vague standards, and protecting private business from unwarranted government interference.

This balloon draft of SB 148 is "Attachment 1" to this paper. The changes would avoid the added bureaucracy, dual regulation, and vague standards imposed by SB 148. As a compromise, the attached balloon draft provides a regulatory process whereby complaints can be resolved, without adding overly burdensome regulatory requirements. In order to avoid such burdensome requirements, important threshold protections are included in the complaint process. Changes from SB 148 shown in the attached balloon draft are:

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<sup>1</sup>As stated earlier, WFS does not buy or sell gas therefore, it would not be affected by this provision. However, it is still important to point out because such discrimination appears to be poor public policy. Additionally, there are likely to be federal preemption issues related to any attempt to regulate the wellhead price of gas.

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1) At page 2, line 16, after the word "thereto", delete the remainder of section 2 through line 25. This removes gathering systems from public utility and common carrier treatment. Doing this preserves the benefits of competition, avoids costly subsidization of uneconomic ventures and increased bureaucracy and expense to the state, and eliminates a dual regulatory structure. The problems with the dual regulatory structure cannot be overemphasized. As drafted, SB 148 would have gatherers subject to both a complaint process and unnecessary public utility regulation.

2) The "unfair" standard is deleted at page 2, lines 38 and 40, and at page 3, lines 8 and 9. Both the Minority Report and Kansas Corporation Commission Chairman McKee's Minority Report call this standard "extremely vague and ambiguous". Chairman McKee has stated that Chapter 55 conservation statutes will provide the Commission adequate authority to address practices which are "unfair" to all customers of a gathering system through existing discrimination standards.

3) At page 3, line 6, after the words "procedure act.", insert language which provides standards to be applied in a complaint proceeding. These standards provide certainty. They are based on safety and on operational and economic concerns.

4) Insert new sub-section (d) after page 3, line 11. This section authorizes the Commission to establish a mediation process for use before a formal hearing process is employed. This provides an inexpensive forum for complaint resolution which was advocated by the proponents of regulation on the Task Force.

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5) At page 1, line 28, after the words "transmission line," add "or a gas processing plant." At page 2, line 28, after the words "or preparation," add "other than processing." These changes recognize the intent of the Task Force to cover gathering only. Gas processing, a separate activity, was not discussed. The change to the definition on page 1 is also consistent with the federal definition of "gathering."

**A careful approach to regulation:**

Unnecessary bureaucracy is not appropriate for the gathering industry. That view is shared by proponents and opponents of regulation alike. We urge the legislature to develop the least costly energy regulatory process with the most efficient and productive regulatory mechanism.

We urge this committee to only take action that will promote competition in the natural gas industry, and to do so at the least possible cost to the industry and to the state. In doing so, we ask you to avoid creating a new level of bureaucracy that goes beyond what is needed. Any action taken should be narrowly tailored to address precise problems that are identified. New requirements should provide benefits greater than their cost.

**An alternative proposal:**

A Concurrent Resolution marked "Attachment 2", is attached to my presentation for your consideration. In adopting this resolution, the legislature would request that the KCC implement a telephone complaint procedure to determine and remedy complaints regarding gathering services. The Commission would investigate complaints and mediate a voluntary resolution between the parties. It would maintain records of complaints received and report back to the legislature at the beginning of the next legislative session.

The Texas Railroad Commission has established such an informal complaint procedure, where its staff can facilitate the resolution of transportation disputes. This approach can be sound, provided it is inexpensive, accessible, and the parties can get a quick resolution. A copy of the "Informal Procedure for Responding to Complaints About Gas Transportation Service" adopted by the Railroad Commission of Texas is "Attachment 3" to my presentation.

*Natural gas gathering systems and regulation; public utilities and common carriers.  
Comments of Williams Field Services.*

An informal hotline approach allows the regulatory agency to recognize the many variables that can distinguish one gathering transaction from another — field pressure, well pressure, well location, gas quality, and more. Each gathering situation can be reviewed and judged on its unique facts. This approach would allow and encourage the Commission to receive and investigate specific complaints, and to determine the nature and severity of any abuses or problems occurring in Kansas. It provides an inexpensive forum for complaint resolution.

**Conclusion:**

We urge the legislature to consider both of these alternative proposals. We believe they are a means to avoid overly burdensome and unnecessary regulation. As the industry works to maximize efficient recovery of its resources, we ask that the legislature and the Commission carefully consider the demonstrated need for regulation of gas gathering systems, and that you respond only to specific problems with a narrowly tailored solution.

DRAFT, FEB. 11, 1997

CONCURRENT RESOLUTION NO. \_\_\_\_\_

A CONCURRENT RESOLUTION, in recognition of concerns expressed by representatives of certain producer organizations, urging the State Corporation Commission to implement an informal telephone complaint procedure to determine whether the State Corporation Commission should be authorized to implement explicit procedures to remedy complaints regarding gathering services.

Be it resolved by the Senate of the State of Kansas, the House of Representatives concurring therein: That the State Corporation Commission should implement a telephone complaint system whereby aggrieved parties may report complaints regarding gathering services or fees. The Corporation Commission is urged to investigate the complaints it receives and mediate a mutually satisfactory resolution between the parties.

Be it further resolved: That the State Corporation Commission should maintain records of all complaints related to gathering and submit to the Legislature, on or before January \_\_, 199\_\_, by filing with the Secretary of the Senate, the Chief Clerk of the House of Representatives and the chairpersons and ranking minority members of the Senate and House Committees on \_\_\_\_\_, the Commission's findings regarding the complaints received and the disposition of those complaints.



SENATE BILL No. 148

By Committee on Utilities

1-30

9 AN ACT concerning oil and gas; relating to natural gas gathering systems;
10 providing for regulation of certain entities; concerning certain natural
11 gas public utilities and common carriers; amending K.S.A. 1996 Supp.
12 55-150 and repealing the existing section.

13
14 Be it enacted by the Legislature of the State of Kansas:

15 Section 1. K.S.A. 1996 Supp. 55-150 is hereby amended to read as
16 follows: 55-150. As used in this act unless the context requires a different
17 meaning:

- 18 (a) "Commission" means the state corporation commission.
19 (b) "Contractor" means any person who acts as agent for an operator
20 as a drilling, plugging, service rig or seismograph contractor in such op-
21 erator's oil and gas, cathodic protection, gas gathering or underground
22 natural gas storage operations.
23 (c) "Fresh water" means water containing not more than 1,000 mil-
24 ligrams per liter, total dissolved solids.
25 (d) "Gas gathering system" means a natural gas pipeline system used
26 primarily for transporting natural gas from a wellhead, or a metering point
27 for natural gas produced by one or more wells, to a point of entry into a
28 main transmission line, but shall not mean or include: (1) the gathering
29 of natural gas produced from wells owned and operated by the gatherer
30 and where the gathering system is used exclusively for its own private
31 purposes; (2) Lead lines from the wellhead to the connection with the
32 gathering system which are owned by the producing entity person; and
33 (3) (2) gathering systems used exclusively for injection and withdrawal
34 from natural gas storage fields which remain jurisdictional to the federal
35 energy regulatory commission.
36 (e) "Operator" means a person who is responsible for the physical
37 operation and control of a well, gas gathering system or underground
38 natural gas storage facility.
39 (f) "Person" means any natural person, partnership, governmental or
40 political subdivision, firm, association, corporation or other legal entity.
41 (g) "Rig" means any crane machine used for drilling or plugging
42 wells.
43 (h) "Usable water" means water containing not more than 10,000

or a gas processing
plant

Attachment 1 1 of 3

- 1 milligrams per liter, total dissolved solids.
- 2 (i) "Well" means a hole drilled or recompleted for the purpose of:
- 3 (1) Producing oil or gas;
- 4 (2) injecting fluid, air or gas in the ground in connection with the
- 5 exploration for or production of oil or gas;
- 6 (3) obtaining geological information in connection with the explora-
- 7 tion for or production of oil or gas by taking cores or through seismic
- 8 operations;
- 9 (4) disposing of fluids produced in connection with the exploration
- 10 for or production of oil or gas;
- 11 (5) providing cathodic protection to prevent corrosion to lines; or
- 12 (6) injecting or withdrawing natural gas.

13 New Sec. 2. The term "public utility" as used in K.S.A. 66-104, and  
 14 amendments thereto, and the term "common carriers" as used in K.S.A.  
 15 66-105, and amendments thereto, shall not include a gas gathering sys-  
 16 tem, as defined in K.S.A. 55-150, and amendments thereto, unless the  
 17 commission, upon application or complaint, and after notice and hearing,  
 18 determines that within the area of service, or proposed service, of such  
 19 gas gathering system, competitive market conditions do not exist and that:  
 20 (a) The gas gathering system has, is or is about to engage in abusive  
 21 monopolistic practice which is inimicable to the public interests; or  
 22 (b) gas gathering services are not likely to be effectively and effi-  
 23 ciently furnished unless a certificate of necessity and convenience and  
 24 exclusive market territory is granted, with rates and practices established  
 25 by the commission as in the case of other public utilities.

~~delete~~

26 New Sec. 3. (a) As used in this section:

- 27 (1) "Commission" means the state corporation commission;
- 28 (2) "gas gathering services" means the gathering or preparation of
- 29 natural gas for transportation, whether such services are performed for
- 30 hire or in connection with the purchase of natural gas by the gatherer;
- 31 (3) "person" means any natural person, partnership, governmental or
- 32 political subdivision, firm, association, corporation or other legal entity.
- 33 (b) No person offering gas gathering services shall deny access to any
- 34 person seeking such services in a manner which is unduly, unlawfully, or
- 35 unreasonably discriminatory or unfair.

, other than processing,

36 (c) No person performing gas gathering services shall charge a fee  
 37 for such services, or engage in any practice in connection with such serv-  
 38 ices, which is unduly, unlawfully or unreasonably discriminatory ~~or unfair.~~  
 39 Any person seeking a gas gathering service who is aggrieved by reason of  
 40 any such unduly, unlawfully or unreasonably discriminatory ~~or unfair~~ fee  
 41 or practice may file a complaint with the commission. If the commission  
 42 makes a factual determination that competitive gathering conditions do  
 43 not exist for the gathering of the complainant's natural gas, the commis-

~~delete~~

~~delete~~

1 sion may resolve the complaint by use of an informal procedure estab-  
 2 lished by the commission pursuant to rules and regulations adopted by  
 3 the commission or the commission may conduct a hearing and take evi-  
 4 dence as necessary to determine the merits of the complaint. The hearing  
 5 shall be conducted and notice given in accordance with the Kansas ad-  
 6 ministrative procedure act. Upon such hearing, the commission shall have  
 7 authority to order the remediation of any unduly, unlawfully or unrea-  
 8 sonably discriminatory ~~or unfair~~ fee for gathering services, or any unduly,  
 9 unlawfully or unreasonably discriminatory ~~or unfair~~ practice in connection  
 10 with such services, to the extent necessary for remediation as to the ag-  
 11 grievd person with respect to the particular fee or service involved.

12 (e) ~~(d)~~ Nothing in this act shall be construed, or authorize the commis-  
 13 sion, to amend or otherwise affect any contractual obligations between  
 14 the gatherer and the complainant or rights which may otherwise exist.

15 Sec. 4. K.S.A. 1996 Supp. 55-150 is hereby repealed.

16 Sec. 5. This act shall take effect and be in force from and after its  
 17 publication in the statute book.

~~delete~~  
~~delete~~

Any aggrieved party as referred to in this act shall be required to allege and prove to the satisfaction of the Commission that the operator of the natural gas gathering system has sufficient facilities to accommodate the complainant's natural gas and in no instance shall the Commission require a gathering operator to construct facilities; further the aggrieved party must allege and prove that there is no other natural gas gathering system conveniently located to gather the complainant's gas; that the quality of the complainant's natural gas will not have an adverse effect on the gatherer's facilities or the safety thereof; and the complainant's gas is of the quality and content consistent with gas being gathered by the gathering system.

(d) Prior to conducting a hearing, the Commission may attempt to informally resolve the complaint through a non-binding mediation process established by the Commission pursuant to rules and regulations adopted by the Commission.



KN GAS GATHERING

002

K N Gas Gathering, Inc.  
A Subsidiary of K N Energy, Inc.  
370 Van Gordon Street  
P.O. Box 281304  
Lakewood, CO 80228-8304  
(303) 989-1740

Testimony to the Kansas House of Representatives Utilities Committee Hearing on Gas Gathering Regulations February 20, 1997.

Pierce H. Norton is General Manager for K N Energy's Heartland Region, covering Kansas, Nebraska, Western Missouri, and Northeast Colorado and a Vice President of KN Gas Gathering Inc., a wholly owned subsidiary of KN Energy, Inc.

KN owns and operates gathering facilities in Montana, Wyoming, Colorado, Kansas, Nebraska, Oklahoma, Utah, Texas and New Mexico. In the state of Kansas, KN is responsible for 750 miles of gathering pipeline connecting approximately 1000 wells.

Recently, KN entered into a "letter of intent" to acquire Enron's Hugoton gathering assets and the Bushton processing complex. This acquisition will add 2200 miles of gathering and an additional 3000 wells to KN's existing system. A portion of these wells are in Oklahoma.

I appreciate the opportunity to come before you today to address the necessity for gathering regulation in the state of Kansas. The word "necessary" means "absolutely required". From KN Energy's perspective, I am here to present sound and logical reasoning why regulation is "NOT" necessary.

So that you, as the leadership of the state of Kansas, can make an informed decision, I will ask you to focus on the 4 C's..

1. Competition; (is it adequate)
2. Complexity: (pricing / physical)
3. Cost: (who pays)
4. Consequences

First, let's take a look at COMPETITION in general. KN competes with such companies as Williams Natural Gas, Colorado Interstate, Pan Energy, Oxy, Natural Gas Clearinghouse, and many others. Every one of these companies has an identical goal. The name of the game is asset utilization. It could be compared to the commercial real estate rental business. If a company owned an apartment complex with 100 units, and they have 80 rented, the goal is to rent the other 20. It is no different in the natural gas gathering business. The goal is 100% utilization to maximize revenues. From KN's perspective, competition is REAL. In the 1980's our industry began moving toward deregulation; this became reality in 1992 with Order 636, which effectively unbundled gathering, transmission & storage.

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Attachment 3

One year after Order 636 (October 1993), KN's gathering rates were set in excess of 25¢/M. By December of 1994, those rates had been reduced an average of 10%. To compete, KN dropped its rates an additional 7% by December of 1995. Due to further competition, rates decreased another 19% in 1996. Over a 3 year period, KN's average gathering rates have fallen by 31%.

In those areas where the producer still thought KN's rates were too high, the producer built their system and bypassed KN. Because the other companies mentioned as competitors have the same goal as KN, these companies have built gathering systems to wells connected to KN's system resulting in loss of revenue to KN. Based on these results there is hardly a lack of competition.

The second "C" is COMPLEXITY, from both a pricing structure to physical limitations of the systems themselves. There is not a "one size fits all" in the gathering and processing business. Pricing structures are not that simple. There are currently eleven different options available to customers on KN's accounting systems when it comes to gathering and processing. Why so many? Because the customer has asked for them. To give you a better scope, I will walk you through these alternatives:

- I. Percent of proceeds (POP)
  - a. Fixed percentage (can be any combination)
  - b. Sliding scale (based on anything)
  
- II. Wellhead Price
  - a. Fixed
  - b. Index based (any kind of base with any kind of adjustment)
  - c. Sliding scale
  
- III. Fee
  - a. Flat (unconditional) or conditional (if something happens with a variable, a fee is charged)
  - b. Fixed Rate
  - c. Sliding scale
  
- IV. Keep Whole
  - a. Straight MMBTU (keep whole)
  - b. Keep whole with any kind of fee (compression, processing, gathering)
  - c. Value Keep Whole (we pay them for shrink through plant).

As you can see, posting of a gathering rate is not simple. Each producer has unique conditions that effects their rates such as location and quality of gas (helium, nitrogen, pressure, water content, hydrogen sulfide content, NGL content.) Deregulation has brought choice to the producer.

The second form of complexity is the physical operation of the gathering system. Each well connect is unique and has to be examined on a case by case basis. I want to reemphasize the drive behind a gathering company is to connect gas to its system. If you hear stories of gas not being connected or shut in, there is usually a good reason. I will take you through some real examples to illustrate my point.

Example 1: A producer drills into a zone that produces higher pressure. Connecting this gas to a low pressure system will shut in the low pressure wells. What would appear to be a quick short connect could end up being the laying of an entire new system for high pressure gathering

Example 2: A producer has a well that the pressure at the wellhead is not adequate to produce into an existing gathering pressure. The result is either: the producer has to install wellhead compression or the gathering company must install gathering compression.

Example 3: A producer has a well that has a high nitrogen content. Because the gathering system does not have nitrogen rejection capability or the nitrogen rejection facility is full, the well could not be hooked up. The solution requires building new facilities or expanding existing facilities.

The 3<sup>rd</sup> "C" is COST. One thing we can all agree upon is that it will take people and money to administer gathering regulation. The question is: WHO WILL PAY?? Will it be the taxpayer, gatherer, producer or end user. And, whoever pays, it means they will make less money than they make now or pay more for the gas than they pay now. Any additional cost will make the basin less economical.

The final "C" is CONSEQUENCES. All of our actions have an effect on someone or something. My biggest fear of regulation is the economic impact it could have to the state's economy. To achieve a thriving economy we all must be solution oriented. As leaders, we must be striving to make it easier to do business in the state of Kansas. If passed, and Kansas were to impose this legislation on gatherers, it could cause them to consider other basins in the United States in which to invest their capital dollars. In the long run, that will cost Kansas jobs and tax revenue - both in income taxes and ad valorem taxes.

Since setting up a hotline in 1994 about gathering, FERC has received only 11 complaints of which only a few concerned rates or access issues. The Oklahoma and Texas commissions have experienced similar results with their complaint mechanisms. Looking at the overall economic development of the state and analyzing all the results, it is my opinion the consequences of passing SB148 could have more devastating effects than not passing this bill.

There is one other note on consequences. Gathering companies view producers as customers. More times than not, gathering companies do business with these customers in other geographic areas. Even if a gathering company did hold a captive environment in one area, the consequences for leveraging that advantage will hurt the company in another

potential growth area. For that reason, KN does its best to work with producers to meet as many of their needs as possible.

In summary, do we live in a perfect gas gathering and processing world? The answer is "NO". But the more important question is "Looking at the overall picture, is regulating this industry going to make it better?" As you drive down the toll way you see "no U Turn signs". Those signs are a warning to not attempt to turn around and go back the direction from which you came. Before 1992, we were in a regulated environment in the gathering business with FERC, but were beginning the transition to deregulation. KN's position is "no U Turns". Let's don't go back to regulation. As leaders of the state of Kansas, it is our responsibility to look past today and to the future. I urge you to stay the deregulated course. Deregulation has brought change and choice. Let's work together as gatherers, producers, and government officials to continue to seek solutions to enhance throughput and the life of the producing basins in Kansas.

POLICY STATEMENT ON GATHERING IN KANSAS

BY K N GAS GATHERING, INC.

February 20, 1997

K N Gas Gathering, Inc., (K N) a wholly owned subsidiary of K N Energy, Inc., is concerned that state regulation of gathering facilities in Kansas will interfere with the strong competitive market forces that currently exist in the gathering industry. 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. As a gathering company, K N simply wants to be given the opportunity to gather gas on a level playing field with all other gatherers. State regulation, or selective state regulation, would only frustrate competition for gathering and increase regulation in the natural gas industry at a time when the trend has been to stimulate competition and reduce regulation.

Because of competition, gathering companies have both the incentive and the means to compete. The incentive is to be competitive enough in the field to increase the throughput in the system. The greater the throughput, the more competitive a gathering system can be. In addition, a healthy gathering system can be more customer responsive by having the financial ability to meet the customer's needs. K N Gas Gathering consistently spends millions to maintain and improve its Kansas gathering systems. Further, with respect to gathering affiliated with an interstate pipeline, the Federal Energy Regulatory Commission (FERC) has stated that it will exercise jurisdiction over affiliated gathering to the extent there is interference in transportation in interstate commerce. And as always, the federal and state antitrust laws are available to protect the consumer from possible anti-competitive gathering activity.

K N has natural gas gathering facilities in Montana, Wyoming, Colorado, Kansas, Nebraska, Oklahoma, Utah and Texas; competition is especially significant in Kansas where there are numerous natural gas gatherers. The competition takes place at the and at the outlet of producer-owned facilities. There are many other gathering companies in the United States and there is no significant concentration of the ownership of such 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



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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. The gas attached to K N's gathering systems is ultimately transported in interstate commerce to markets served by K N's interstate pipeline. KN recently entered into a letter of intent to purchase Enron's gas gathering and processing in the Hugoton field. This acquisition will add 2,200 miles of gathering pipe and approximately 3,000 wells.

### 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 addition, K N is consistently seeking to add new wells to its 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 NGLs. 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. Split connections, instances where a producer is connected to two or more gatherers, are also common in some producing fields.

There is no significant barriers for companies to begin providing gathering service. 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. In fact, over 2,000 companies have been found to own gathering facilities in the United States.

REGULATION

If regulation of gathering is appropriate, why not at the wellhead also? Producers would counter that they are not a "monopoly," but from an irrigator's perspective, for example, the single producer may, in fact, be his only source of supply, and given his lack of bargaining power, why shouldn't the producer's price be regulated as to his captive market?

The whole movement towards new regulation in the instance of intrastate and re-regulation in the instance of the interstate spindowns flies in the face of the prevailing free market philosophy. Most of the proponents of regulation acknowledge that if one segment of the industry is to be regulated, it all should be, lest the old nemesis, "uneven playing field," be permitted to thwart market efficiency and, indeed, equity. The end result is that we would have a newly regulated segment of our economy that by all accounts has operated efficiently, effectively, and without recorded complaint.

Several conferees have advised the legislative committees and this task force that there are, in fact, ample laws currently on the books (in Chapter 66), as well as the common purchaser statute (in Chapter 55) that empower the Commission to regulate gas gathering if it determines necessary to do so. While K N does not agree that such authority rests with the Commission, apparently, no one has sought to invoke such regulation, which compels the conclusion that there are no egregious situations that demand action.

Some of those that have testified previously indicated they do not envision that complaints would ever be filed if a complaint procedure is adopted, because of the presumed cost and time involved, and yet they espouse the adoption of full scale regulation which obviously would involve more costs, more time and more controversy. We believe that what is essentially desired is creation of a club to be used in the negotiating process for leverage in distortion of a free market that has worked without the necessity of such legislative mandate.

Is gas gathering a "natural monopoly," as several conferees have urged? We believe that the answer is a resounding "No." There are over 9,000 miles of gathering facilities in Kansas, and many gatherers engaged in supplying such service. A glance at the maps distributed to you are hardly suggestive of a dearth of pipelines in the gas fields of Kansas.

Spundown facilities, which seem to be the focus of this Legislative attention, have generally been providing gas gathering service for the 60 plus years of the Hugoton Field life. Those systems were regulated as a part of the overall regulation, from the wellhead to the burner tip, by federal regulators. These same regulators formerly regulated producers' prices as well.

The specter of limited access has been raised. However, if there is capacity in the system, how does it behoove the owner of the facilities to not permit new volumes of gas? Keep in mind that the parent of the spundown company is not in the exploration or production business. Those gathering facilities are simply pieces of pipe in the ground that are dependent upon flowing gas to realize revenue. There is no "discrimination" with respect to the parent of the spundown facility. Yes, the owner of the processing plant, which may straddle the gathering system, benefits from an enriched gas stream, as contrasted to a barren one, which results in a more favorable rate to one producer over another, but that is hardly "discrimination" which involves unequal treatment to those similarly situated.

Bottom line, the attack on spindowns is designed to control prices. Again, this falsely presumes a "natural monopoly" condition. Not only are there split connections (more than one purchaser and duplicate gathering facilities at the wellhead) in many instances, but current marketing practices have introduced new competition, advantaging the producer and permitting trading production, "moving" gas by displacement, etc. The ownership of physical facilities is no longer necessary, for the sale of gas from a wellhead in southwest Kansas to a market in New York City. Relating transportation costs to identified physical pipelines becomes less meaningful. All of the facilities are actually in competition in structuring purchase contracts for delivery of gas from the producer to the end-user, in the modern world. In the old world, the pipelines bought the gas and in many instances owned the production and sold it to the distribution companies or their own direct sales customers. The use of the gathering facilities, the processing, the storage and the pipelines, were all included in the customer's price. Now, producers, brokers, marketers, the LDC's and the customers can all be involved in determining what is the cheapest and most reliable source and method of acquisition available, which puts producers, gatherers and transporters against each other in bidding for the business. When the producer, broker and customer are not regulated, nor particularly intrastate gathering, fairness

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requires either across-the-board regulation of the entire system or no regulation. Equal treatment for all players.

In short, gathering in this marketing era does not enjoy monopoly status. But what about the guy out at the end of the line that has a marginal well that is uneconomically attractive to a pipeline, a gatherer, a broker or a customer? That situation has always existed. There are numerous shut-in wells in Kansas today that have never enjoyed a market because economics simply do not justify construction of the required facilities.

One result of regulation would be to subsidize the cost of gathering for marginal wells. Such would require the diversion of resources from the producer with economically desirable gas to the operator of the marginal uneconomical well. If the gathering company is to stay in business, it would have to raise the rates of the other producers. This is the end result of interfering with the free market by the imposition of regulation, which may hurt the marketing and transport of gas in the country. This is a public policy decision that we urge you to make by concluding that the free market has worked in the past, and can work in the future.

The only event that has caused assembly of this task force is another step in the de-regulation of the natural gas industry, at the Federal level, namely spindown of gathering. Only Oklahoma has taken the bait and instituted state gathering regulation, and the experience there does not indicate a crying need for a new regulatory regime. We simply do not believe that circumstances exist that warrant imposition of a whole new regulatory scheme on an industry that has been half-free and half-servile; that has not abused its new-found freedom and will not abuse it in the future, if it wants to stay in business and keep its customers competitive in the market place. Simply put, the realities of marketing of gas today belie the necessity for added regulation.

Concerning the authority to regulate gathering, the FERC has stated that it can and will exert control over the gathering activities of affiliated gatherers of interstate pipelines in particular circumstances where such action is necessary to accomplish the Commission's policies for the transportation of natural gas in interstate commerce. Moreover, the United States Constitution proscribes state gathering regulation as additional regulation would only serve to create an impermissible burden on interstate commerce. Furthermore, since the Commission 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 preempted by federal authority to regulate.

In summary, K N believes that the competition surrounding gathering services is significant, that state regulation of gathering in Kansas would only serve to create an anti-competitive effect in a competitive market place and that state gathering regulation is both unnecessary and prohibited.

STATEMENT OF  
Bill Gifford, Vice President  
PanEnergy Field Services, Inc.

February 20, 1997

HOUSE BILL 2332

PanEnergy Corp, formerly Panhandle Eastern Corp, has been a corporate citizen of this state for over 60 years. During this period of time Pan Energy has made a tremendous capital investment in plant and pipeline facilities, and paid substantial property taxes on those facilities. In 1996 alone, Pan Energy Corp's investment in this state amounted to over \$600 million dollars, with a property tax payment to the state of over \$9 million dollars.

What started all of this hue and cry for gathering regulation by a vocal minority of small producers was the removal of the interstate pipelines from the merchant business of buying and selling gas, which had been in effect for decades and the eventual "spin-down" of the interstate gathering systems to non-Ferc regulated subsidiaries or the spin-off to other non-Ferc regulated entities. The attached memorandum addresses in detail exactly why Panhandle Eastern Pipeline Company "spun-down" its gathering facilities. Suffice it to say, our ability to compete as a regulated gatherer with the multitude of unregulated gatherers was placed at a severe disadvantage resulting in the "cherry-picking" of our low cost, good wells by unregulated competitors. This "cherry-picking" was the result of utility-type rates set by FERC

for our gathering systems, as well as the lack of flexibility to move or add compressors, install gathering lines, or provide other gathering services without FERC approval. Such facilities and services are necessary to provide lower pressures so that producers could gain entry into the pipeline systems, and to give the producers better access to multiple markets.

Deregulation of natural gas wellhead prices, along with the "unbundling" of the interstate pipeline systems, has benefitted the producers and royalty owners, enabling them to access better markets, and resulting in increased gas production. Since 1986, gas production from the Kansas Hugoton Field has increased 84%. However, not just the majors have benefitted from this movement away from government regulation, as gas production from the smaller operators in this field has increased 51% over the same period of time. Conversely, re-regulation will only stifle competition and discourage millions of dollars of investment in facilities (such as compression discussed later) that are required to maintain production as these field pressures continue to decline. Without investment at this critical juncture, premature abandonment of wells will occur with the loss of otherwise recoverable reserves to the detriment of producers, royalty owners and the state tax coffers.

We have pointed out the dearth of actual producer or shipper complaints in the Task Force hearings. The experience in Oklahoma where a complaint statute exists, has been that only 9 complaints have been filed since passage of the act in 1993. Texas

established a help line and an informal complaint procedure in November of 1996. To date only 5 complaints have actually been filed and processed through this procedure. This is in a state with thousands of gathering systems and hundreds of small independent producers. As to the gathering situation in Texas, Railroad Commissioner Rylander recently noted "We shouldn't be identifying a solution until we have identified a problem." For this reason, the proposed Resolution recommending a help line and informal complaint process makes eminent sense in order to identify and document the exact nature and extent of any problems and resolve these through an informal process.

There is no need for a rush to judgment. Although our default contracts which contain FERC approved rates for gathering expire this July, we have offered a five year extension of those contracts to our shippers and producers for a dedication of their gas to our system. If rate gouging should occur, which we firmly believe will not be the case, the suggested informal complaint system will efficiently detect it and can be dealt with by Commission intervention. In any event, you will be better informed as to the need for specific regulation by next session.

PanEnergy Field Services views House Bill 2332 as unnecessary and an unwarranted governmental intrusion into business activities that are generally conducted under competitive conditions as privately negotiated contracts. For situations where competition may be non-existent, we have indicated agreement with complaint-type mechanism modeled after the current



Oklahoma Act, which provides for a forum for the airing of complaints.

House Bill 2332 is a far cry from that approach. It is heavy handed regulation and is clearly unsuited to the unique characteristics required for natural gas service. The scope of this legislation is so broad in its implications as to discourage investment in Kansas for the new facilities including compression that is required because of the continuing decline in pressure due to depletion of the Kansas gas fields. Pressure in Hugoton, for example, is less than one-fourth of the original pressure and simply reflects the fact that the field is over 70 percent depleted.

This re-regulation will also give larger producers a competitive advantage over smaller producers when it comes to getting necessary facilities installed. For instance, larger producers have the financial ability to carry an inventory of wellhead compressors to service wells in need of lower pressure while the smaller producer awaits the time consuming, bureaucratic regulatory process of getting rates approved that allow for the installation by a regulated gatherer. While the small producer is hindered by this process, the large producer is producing the gas.

The pressure decline has also impacted irrigators and other consumers who derive service from the gathering systems. That service, however, is in fact, regulated by the KCC both as to price and service, since it is provided by utility firms that have a utility obligation to serve. Unfortunately, there seems to be a

mind set that regulating gathering systems will somehow solve that problem. It appears to be the intent of this bill to regulate gathering systems in such manner as to effectively convert them into local distribution utilities, which would force the conversion of facilities used to prepare gas for market into facilities capable of providing marketable gas at any point, thus requiring uneconomic investment and unlawfully depriving the gatherer of his property rights. Specifically, we fault this bill in the following particulars:

1. **New Section Two:** The determination of utility status would be the subject of protracted and expensive hearings given the vagueness and speculative nature of the standards. Presumably, the fiscal note for this aspect of the proceeding would not be insignificant. Obviously, it would be very costly to the litigants, as well as to the regulatory body.

The utility designation would apparently be applicable to existing facilities notwithstanding the fact that those facilities were constructed under long term agreements as a result of negotiations between the producer and the gatherer. The economics of the transaction were determined when the investment was made based upon the risks and rewards for both parties. Unlike the Task Force Bill, Senate Bill SB 148 which specifically provides in Section 2 (d), "nothing in this act shall be construed or authorize the commission, to

amend or otherwise affect any contractual obligations between the gatherer and the complainants or rights which may otherwise exist." The sanctity of contract principle is present in the Oklahoma Act, but is totally ignored by HB 2332.

2. **New Section Four:** The gatherer is required to file with the KCC rates paid for natural gas purchased, "by the person at the wellhead." In most instances the gatherer does not purchase the gas at the wellhead and is without knowledge of what rate is paid for the gas. K.S.A. 79-4220 provides that the first purchaser is required to report market value of the gas at the wellhead to the revenue department for severance tax purposes. Optionally, the operator may do so. The gatherer is simply not involved in that transaction under many contracts. Additionally, the rate changes monthly or even daily in many cases, so how could this provision even be meaningful or helpful? While reserve and well performance data is critical in determining the appropriate gathering rate it is the producers that have this data related to the characteristics of the gas. Gatherers don't. The Bill is seriously flawed if the producers are exempted from providing performance, reserve and other data necessary for meaningful review of the gathering contract. Interestingly, the gatherers are subject to fines, but producers and marketers upon



meaningless because of incomparable facility requirements, well characteristics and contract terms on a well by well basis.

(b) Each negotiated contract is unique, not only from differing requirements and economics, but from competitive pressures and differing circumstances such as the potential availability of additional volumes from the particular producer involved.

(c) Most gathering contracts have confidentiality clauses to protect the proprietary interests of both parties. We could not unilaterally release such information and obtaining the producer consent would, we believe, be burdensome and extremely difficult.

(d) The information only becomes important if a dispute exists. Filing of all contracts and rates would be a costly, time consuming burden on gatherers, producers and regulators. Approximately 90% of volumes we gather in Kansas are flowing under contracts which were negotiated without the posting of prices having been required.

**New Section 5:** Subsection (a) requires the gathering system to accommodate the gas irrespective of quantity or quality, which was not a requirement of FERC jurisdiction. Presumably, the gatherer could be required to make uneconomic investment, accept gas with such impurities as to endanger human health or impair the

ability to serve existing shippers, with such access to be determined by a vagueness and subjective standard of "unjust" and unassociated with "discriminatory or unduly preferential conditions". Likewise, the standard for determining the level of the fee or service or practice in connection with such service has the same infirmity. This section contrasts with the Oklahoma law which provides an open access exemption if,

1. the natural gas cannot be reasonably carried by the gatherer;
2. an extension or expansion of facilities would be required;
3. there is another gatherer of natural gas that is willing to gather or that can gather natural gas more conveniently;
4. the gathering of such gas could reasonably be expected to have a material adverse effect on safety or on service to existing customers or on the operation of or recovery of any processing facility;
5. the gas does not satisfy the minimum standards for quality, for energy or recoverable hydro-carbon content consistently applied by the gatherer of that system; or that
6. such gathering is inconsistent with an existing contract which governs the gas of the person seeking gathering.

Additionally, the Oklahoma law allows its regulatory body to exempt a gatherer, "for such other good cause" as it may be determine by rule or in the particular case. If a gatherer is not exempt under the statute, one of those six basis and if the commission makes the additional findings that competitive conditions do not exist and that the producer is not bound by a valid contract governing gathering fees, the Commission may then determine a fee that would result from arms-length bargaining in good faith in a competitive market between parties of equal bargaining power. Additionally, the Oklahoma statute requires the Commission to consider all economically significant factors, a number of which are spelled out, in arriving at the gathering fee. The total lack of exemptions and a meaningful standard in HB 2332 would lead to exhaustive litigation over the contention that it is essentially an unlawful taking of private property without due process. It is unbridled government intrusion at its worst.

**New Section 6:** This section authorizes the commission, without complaint, to initiate action on its own in subsection "a". Subsection "b" permits initiation of proceedings by any "... person impacted by the terms imposed by a gas gathering system operator...." The broadness of those entitled to initiate action could presumably result in advocacy group harassment for

heavy-handed regulation envisioned by this Bill would, we believe, significantly increase cost of gathering service, drive the lesser capitalized systems out of business, lessen competition and lessen the ability to even make the investment that is required to deal with the declining field pressures from our very mature gas fields. Additionally, investment in facilities to serve new fields would be discouraged to the point of stopping exploration for gas in areas remote from existing gathering facilities.

We believe that the goal should not be to create an all-powerful and all-knowing regulatory body on the state level, but rather to encourage producers and gatherers to solve their problems themselves, and we believe that the Oklahoma model provides a compelling contrast to the provisions of this bill. Unlike Oklahoma, the complainants under this bill are not required to make a prima facie showing of harm to invoke the heavy hand of regulation. They only have to show that, "competitive market conditions do not exist". (Section 2 (a), coupled with the elusive prospect that "gas gathering services are not likely to be effectively and efficiently furnished...." which conditions exist any time a well in a remote area is obtained. Presumably, if you were so unfortunate as to have a gathering system in the general area you would be subject to imposition of utility status



on your system with the requirement of extending facilities to accommodate the new well, no matter how uneconomic the project, so long as the producer could establish it would be "unjust" for you to not provide the service. Obviously, such a scenario would result in either subsidization of such service by other producers, consumers or the state or the gatherer would simply sell his system or go out of business.

Section 6(d) is most troublesome. No standard or method is set for determining a fee or term. What about existing contracts or contracts which may have restructured for settlement agreements or from the dedication of reserves from other areas. For example, if a gatherer agreed to a lower rate because of receiving the benefit of dedicated reserves from other areas from a particular producer, why should a third party benefit from such lower rate? Obviously, average rates or uniform rates don't fit the variety existing in this competitive market.

In summary, this Bill is over-kill and is so misguided to be incapable of amendment to convert it to any sort of a reasonable approach to the undetermined problems that might exist in the industry. We have distributed a review of the Task Force study attempting to respond to the major concerns involved in the study. Given the dearth of actual producer complaints and the experience in Oklahoma and Texas that we have recited, we would urge you, as an alternative to this Bill, to adopt the distributed Resolution

which recommends that the KCC determine and document the real extent of the gathering problems and informally mediate resolutions to those complaints which have merit.

Respectfully submitted,  
Bill Gifford, Vice President  
PanEnergy Field Services, Inc.

1

**REVIEW OF TASK FORCE HEARINGS**  
**(attachment to PanEnergy Field Services Statement)**

1. **QUESTION:** How many producers of natural gas presented testimony during the task force study?

**ANSWER:** There were three witnesses associated directly with the production of natural gas. Tracy Carlile presented a statement in behalf of Mobil at the Liberal hearing stating that Mobil has a 400 well gathering system with only 7 wells involving third party gas.

Dale Lollar, President of Midwest Exploration of Liberal, that operates 34 wells in Kansas cited the disparity in gas gathering rates for wells operated by Midwestern, ranging from \$.1658 cents for gathering and fuel for wells connected to the Enron system to \$.56 for wells on a system in Morton County now owned by a subsidiary of PanEnergy. He further stated that the Colorado Interstate system is an alternative that he considered, but notwithstanding their gathering fee of \$.20 he declined because of a "better market" on the Panhandle system. In fact, the gas is purchased by Panhandle Field Services under a posted index price (\$4.10 for January 1997) less the charges enumerated in his testimony, netting Mr. Lollar's company \$3.60 per mmbtu less actual compressor fuel cost in January. The charges enumerated include costs to move the gas through PanEnergy's system and a system owned by Anadarko Petroleum. The cost to move the gas through Anadarko including the fuel charge is simply a pass through of the exact charge made by Anadarko. Thus, Mr. Lollar's gas is flowing through two systems and, as a result, is charged by each. Both companies are incurring costs to provide their respective service and both should be compensated.

The third witness was Montgomery Escue, Vice President of First National Oil from San Diego, California. Mr. Escue testified that,

"Panhandle Eastern raised my gathering fee from 16.5 cents in October 1995 to approximately 33 cents as of this date (9-18-96). All of this took place while the KCC remained silent."

First, Mr. Escue's gathering rate during October 1995 was 22.21 cents plus fuel rather than 16.5. We believe Mr. Escue is actually referring to October 1994. Mr. Escue's 16.5 cents which he was charged in October 1994 was a discounted rate from Panhandle's FERC authorized rate of 22.21 cents. In addition to the 16.5 cents, there was a fuel charge of 0.25 percent, which was less than actual

usage. Because of declining field pressures PanEnergy was required to invest approximately \$3.7 million for additional lines and compression in the Plains, Meade and Massoni area where Mr. Escue's gas is gathered. As a result of this installation in early 1995, a reduction of the pipeline line pressure from approximately 180 to approximately 60 psig was achieved and producers benefited. To compensate for this increased level of service, the discount was eliminated on Mr. Escue's deliveries, as well as others throughout the entire area. In January 1996 the fuel charge for all default service was increased to reflect actual experienced usage.

First National has been involved in litigation with PanEnergy, resisting the spin down of its gathering facilities to Panhandle Field Services which culminated in an adverse decision by the Tenth Circuit of the United States Court of Appeals, issued December 23, 1996. The Court found that First National did not have standing to bring its Petition because it had not been "aggrieved" by the FERC orders granting Panhandle's spin down.

"We find no evidence in the record that First National has suffered, or will unavoidably suffer, an economic injury as a result of the Commission's orders. First National was not a gathering customer of Panhandle prior to the spin down, and it is not now a gathering customer of Field Services. Instead, First National continues to sell its gas to independent marketers and, under the default contract, these marketers continue to receive the same gathering rates and services from Field Services as they previously received from Panhandle."

**2. QUESTION:** Were any specific examples of "abusive monopoly practices" cited by any of the witnesses appearing before the Task Force?

**ANSWER:** Obviously, "abusive monopoly practice" is not an objective term easy of determination. Presumably, Mr. Lollar would contend that the rate disparity in itself would indicate such a practice as to the highest rates. On the other hand, the gatherers contend that the quality and location of gas were determinative of the rate and that the rates are under existing contracts. In any event he has explored alternatives but in the instance of his primary complaint, the Morton County system, he determined that access to a good market outweighed switching to a cheaper gathering rate. The facts presented do illustrate the complexity and difficulty of requiring the Commission to determine which regulatory track, if any, would be appropriate. No doubt an extensive and expensive time consuming hearing would

first be required to determine 1) the existence of competition in the area 2) whether the facts constitute "an abusive monopoly practice" and 3) whether discriminatory or "unfair" treatment has existed to enable commission remediation and 4) whether the relationship exists under existing contract precluding consideration.

3. **QUESTION:** Are there gathering facilities in Kansas that have not been subject to regulation in the past that would be under this Bill?

**ANSWER:** Although K.S.A. 66-104 and 66-105 have always had the potential for regulation of intrastate gas gathering, in practice the Commission has not invoked the statutes, presumably from a lack of complaint or from the impracticality of trying to regulate such facilities on a cost of service rate making basis. Keep in mind there are some 9,000 miles of gathering lines in Kansas with an estimated 250 operators, including brokers and marketers. Yes, there are numerous producer/gatherers, and independent intrastate gatherers, who in practice have not been regulated that would be subject to regulation under this legislation. This would include OXY, Mesa, Anadarko, Amoco, Mobil and numerous smaller independent producer/gatherers as well as independent gathering systems located throughout the gas producing areas. A new regime of regulation would now be imposed on a significant part of the industry.

4. **QUESTION:** Why did the interstate pipelines spinoff or spin down their gathering facilities?

**ANSWER:** After FERC required the "unbundling" of all services involved in the supplying of gas from the wellhead to the burner tip and the effective abandonment of pipeline's historic merchant function of buying and selling gas, the pipelines were pitted against unregulated intrastate gathering systems at a competitive disadvantage. By spinning down the gathering facilities, the gathering companies were no longer subject to FERC jurisdiction and were free to compete with the historically unregulated intrastate gatherers, that had been free to "cherry pick" the desirable wells, based upon the inability of the interstate gatherers, to offer a competitive rate since they were bound under FERC to a rate structure utilizing average rates for all wells, be they high volume rich gas or marginal gas devoid of hydrocarbons. Additionally, deregulation, resulting from the spin down, gave the gathering affiliate, the needed flexibility, in the providing of compression and other producer desired services to secure his gas.

In short, the spin down permitted competition on an equal basis with the intrastate gatherers, representing at least 70% of all gas gathered in the United States, which had historically, in practice, been unregulated by either federal or state authority.

5. **QUESTION:** FERC required the spun down gatherers from the Interstate systems to offer a two year "default" contract basically keeping in tact their gathering arrangements with existing shippers. Does the expiration of those contracts pose a valid reason for enactment of legislation?

**ANSWER:** No. Testimony before the Task Force was, for example in the instance of KN, they had no default contracts as they were able to negotiate agreements with all shippers and in any event the two year term has expired without incident. PanEnergy testified that they are honoring the default agreements that are in existence and in fact have offered producers a five year extension under the same terms and provisions. Pipeline gatherers generally testified that competitive conditions are prevalent in the area of their operations; that there is no incentive for them to decline access or transport inasmuch as they totally rely on volume for the economic viability of their operation. They have every incentive to keep their systems as full as possible and to treat all shippers fairly in an effort to maximize values and avoid subsidization by one shipper of another. Uniform rates are not practical because of the enumerable differences in the requirements and gas quality and quantity which varies from well to well.

6. **QUESTION:** Why have some increases in gathering rates occurred?

**ANSWER:** Witnesses estimated that the Hugoton field is 70% depleted, pressures have declined from a virgin pressure of over 400 pounds to less than 100 pounds currently, which necessitates large investment in compression in order to permit entry of gas into the transmission system, which must be covered by increased gathering rates. This added investment is essential as a continued viability of the systems and in order to prevent premature abandonment of production. The added cost and lack of flexibility imposed by regulation constitutes an unnecessary deterrent. Ironically, the lowering of pressures for the benefit of the producer impairs the ability of irrigators to get gas from the wellhead or gathering systems, directing his frustration at the gatherer trying to satisfy the needs of its producer/shipper. This frustration was also evident at the Liberal hearing.

7. QUESTION: Why is "price transparency" unrealistic, i.e. Why shouldn't the gatherers file their rates with the KCC?

ANSWER: A gathering rate posting, by itself, is almost meaningless because of incomparable facility and well characteristics.

Each negotiated contract is unique, not only from differing requirements and economics, but from competitive pressures and potential availability of additional volumes from the particular producer involved.

Most gathering contracts have confidentiality clauses to protect the proprietary interests of both parties. We could not unilaterally release the information. Obtaining producer consent would be burdensome and extremely difficult.

The information only becomes important if a dispute exists. Filing of all contracts or rates would be a costly, time consuming burden on gatherers, producers and regulators.

If information is the key to competition, then all relevant data to the complete transaction, from the producer's well characteristics and reserves to the end user should be required. The underlying economics of the transaction are required for meaningful regulation. Historically, producers have resisted releasing such information and certainly have not desired regulation of wellhead prices.

**HEIN AND WEIR, CHARTERED**

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**HOUSE UTILITIES COMMITTEE**

**TESTIMONY RE: HB 2332**

**Presented by Ronald R. Hein**

**on behalf of**

**MESA**

**February 21, 1997**

Mr. Chairman, Members of the Committee:

My name is Ron Hein, and I am legislative counsel for MESA. MESA is one of the nation's largest independent natural gas producers and currently has approximately 65% of its natural gas reserves in the state of Kansas.

MESA strongly opposes HB 2332.

First of all, MESA strongly objects to turning gas gathering systems into "public utilities" under new Section 2 of the bill. With regards to companies such as MESA, the gas gathering system which MESA installed to gather their own gas was not paid for by rate payers under a public utility law that would permit a reasonable return on capital investment, but was installed by MESA utilizing its own private dollars. To now subject that gas gathering system to public utility oversight, including the possibility of having rates set which would not adequately compensate the producer/gatherer for the services being rendered to the well operator, constitutes an unreasonable and unlawful confiscation of private property without just compensation. In addition, MESA does not specifically charge for the transportation of natural gas along its gas gathering system, and therefore the language providing for the establishment of "rates" is totally non-applicable to MESA, since there are no specific rates being charged for the transportation of the gas.

A Task Force on Gas Gathering was created to deal with an issue created when the Federal Energy Regulatory Commission (FERC) decided no longer to regulate gas gathering. This left certain pipelines which had been previously regulated with no regulation. Some feel that those pipelines should be regulated at the state level. MESA was not originally regulated by FERC, and sees no reason why their gas gathering system, which was built with MESA's private dollars, should now be subject to regulation. The pipelines which were originally regulated by FERC were allowed to recover from rate payers the costs of construction of the pipeline system.

New Section 4 requires gas gatherers to file "rates paid for natural gas purchased by the person at the wellhead". Once again, MESA is not a party to the contract between the purchaser and the producer who wishes to utilize MESA's processing plant.

*House Utilities  
2-21-97  
Attachment 5*



House Utilities  
HB 2332 Testimony  
February 21, 1997

Therefore, this requirement places the responsibility upon the wrong party. It is also MESA's understanding that such information is already recorded and made available to the Department of Revenue by either the purchaser or the seller, due to the requirement for collection of severance tax and also for the determination of property tax by the local tax assessor. To require another bureaucracy to duplicate this information is not only bad government, but is costly and inefficient.

New Section 4 (a)(2) requires filing copies with the Commission of "all rates charged for transportation, processing, manufacturing or other services...". MESA does not establish written rates for processing charges, which are, once again, in MESA's case, generally competitively negotiated. In most instances where MESA is attempting to get a producer to utilize our processing plant, we are in competition with another gas gatherer, since there is significant competition in the Hugoton Field. MESA does not desire to publish the contracts that they have entered into for competitive reasons. By having competition in the industry, it enables the independent producer to get the lowest price for the cost of processing. The agreement between MESA and the independent producer is a win/win. The producer will pay a fee which is less than the additional value that their natural gas will bring after being processed in the MESA plant.

In addition, the terms that are negotiated with an individual producer are dependent upon the quality of the gas, the amount of nitrogen, hydrogen sulfide, carbon dioxide and water in the gas; upon the volume and pressure of the individual well; and the competitive prices in the area.

With regards to new Section 5, that prohibits the gas gatherer from denying access, the gas gatherer needs to have some protection for the benefit of existing gas producers who are utilizing the gas gathering system. If the operator who requests access has a well with gas that contains high levels of nitrogen, carbon dioxide, hydrogen sulfide, water, or other contaminants, to permit access of that operator's gas would contaminate the gas of other producers utilizing the system.

Although MESA opposes HB 2332, and feels that the amount of overregulation required is not justified at this time, we have proposed amendments in the balloon attached to this testimony which would eliminate our opposition to the bill.

If the House Utilities Committee feels that some sort of regulation is necessary, MESA would strongly encourage a light-handed approach, which would address concerns of the aggrieved party at minimal expense to both the individual producer as well as the gas gatherer. MESA would encourage the Legislature to adopt the provisions of SB 148 with the proposed amendments set out in the second attachment to this testimony.

Thank you very much for permitting me to testify, and I will be happy to yield to questions.

## HOUSE BILL No. 2332

By Committee on Utilities

2-12

9 AN ACT concerning oil and gas; relating to natural gas gathering systems;  
10 providing for regulation of certain entities; concerning certain natural  
11 gas public utilities and common carriers; amending K.S.A. 1996 Supp.  
12 55-150 and repealing the existing section.

13  
14 *Be it enacted by the Legislature of the State of Kansas:*

15 Section 1. K.S.A. 1996 Supp. 55-150 is hereby amended to read as  
16 follows: 55-150. As used in this act unless the context requires a different  
17 meaning:

18 (a) "Commission" means the state corporation commission.

19 (b) "Contractor" means any person who acts as agent for an operator  
20 as a drilling, plugging, service rig or seismograph contractor in such op-  
21 erator's oil and gas, cathodic protection, gas gathering or underground  
22 natural gas storage operations.

23 (c) "Fresh water" means water containing not more than 1,000 mil-  
24 ligrams per liter, total dissolved solids.

25 (d) "Gas gathering system" means a natural gas pipeline system used  
26 primarily for transporting natural gas from a wellhead, or a metering point  
27 for natural gas produced by one or more wells, to a point of entry into a  
28 main transmission line, but shall not mean or include: (1) ~~the gathering~~  
29 ~~of natural gas produced from wells owned and operated by the gatherer~~  
30 ~~and where the gathering system is used exclusively for its own private~~  
31 ~~purposes;~~ (2) Lead lines from the wellhead to the connection with the  
32 gathering system which are owned by the producing entity person; and  
33 (3) (2) gathering systems used exclusively for injection and withdrawal  
34 from natural gas storage fields under the jurisdiction of the federal energy  
35 regulatory commission.

36 (e) "Operator" means a person who is responsible for the physical  
37 operation and control of a well, gas gathering system or underground  
38 natural gas storage facility.

39 (f) "Person" means any natural person, partnership, governmental or  
40 political subdivision, firm, association, corporation or other legal entity.

41 (g) "Rig" means any crane machine used for drilling or plugging  
42 wells.

43 (h) "Usable water" means water containing not more than 10,000

or a gas processing plant immediately connected into a main  
transmission line

1 milligrams per liter, total dissolved solids.

2 (i) "Well" means a hole drilled or recompleted for the purpose of:

3 (1) Producing oil or gas;

4 (2) injecting fluid, air or gas in the ground in connection with the  
5 exploration for or production of oil or gas;

6 (3) obtaining geological information in connection with the explora-  
7 tion for or production of oil or gas by taking cores or through seismic  
8 operations;

9 (4) disposing of fluids produced in connection with the exploration  
10 for or production of oil or gas;

11 (5) providing cathodic protection to prevent corrosion to lines; or

12 (6) injecting or withdrawing natural gas.

13 New Sec. 2. The term "public utility" as used in K.S.A. 66-104, and  
14 amendments thereto, and the term "common carriers" as used in K.S.A.  
15 66-105, and amendments thereto, shall not include a gas gathering sys-  
16 tem, as defined in K.S.A. 55-150, and amendments thereto, unless the  
17 commission, upon application or complaint, and after notice and hearing,  
18 determines that:

19 (a) Within the area of service or proposed service of such gas gath-  
20 ering system, competitive market conditions do not exist; and

21 (b) gas gathering services are not likely to be effectively and effi-  
22 ciently furnished unless a certificate of necessity and convenience and  
23 exclusive market territory is granted, with rates and practices established  
24 by the commission as in the case of other public utilities or common  
25 carriers.

Delete

26 New Sec. 3. As used in sections 3 through 9:

27 (a) "Commission" means the state corporation commission.

28 (b) "Gas gathering services" means the gathering ~~or preparation~~ of  
29 natural gas for transportation, whether such services are performed for  
30 hire or in connection with the purchase of natural gas by the gatherer.

Delete

31 (c) "Person" means any natural person, partnership, governmental or  
32 political subdivision, firm, association, corporation or other legal entity.

33 New Sec. 4. (a) Each person offering gas gathering services in this  
34 state shall file with the commission copies of: (1) Rates paid for natural  
35 gas purchased by the person at the wellhead; (2) all rates charged for  
36 transportation, processing, manufacturing or other services offered by the  
37 person before natural gas enters a pipeline under the jurisdiction of the  
38 federal energy regulatory commission; and (3) such data related to the  
39 characteristics of the gas purchased or handled by the person as the com-  
40 mission determines reasonably necessary. The commission may adopt  
41 reasonable rules and regulations prescribing the form and filing of such  
42 rates, schedules and data.

43 (b) Upon notice and an opportunity to be heard in accordance with

1 the provisions of the Kansas administrative procedure act, the commission  
 2 may impose an administrative fine on any person for failure to file any  
 3 rate, schedule or data as required by this section and rules and regulations  
 4 of the commission. Such fine shall not exceed \$100 for each day the rate,  
 5 schedule or data remains unfiled as required or an aggregate amount of  
 6 \$10,000, whichever is less.

7 (c) Rates, schedules and data filed pursuant to this section shall not  
 8 be used by the commission to order a change in any rate except in a  
 9 proceeding pursuant to section 6.

10 New Sec. 5. (a) No person offering gas gathering services in this  
 11 state, or facilities essential to provision of such services, shall deny access  
 12 to any person seeking such services or facilities, in a manner that is unjust,  
 13 unreasonable, unjustly discriminatory or unduly preferential.

14 (b) No person performing gas gathering services shall charge a fee  
 15 for such services, or engage in any practice in connection with such serv-  
 16 ices, which is unjust, unreasonable, unjustly discriminatory or unduly  
 17 preferential.

18 New Sec. 6. (a) The commission, in its discretion, may at any time  
 19 review a fee, term or practice being used by a gas gathering system op-  
 20 erator to ascertain whether a violation of section 5 has occurred.

21 (b) Any consumer of gas gathering system services, or any other per-  
 22 son impacted by the terms imposed by a gas gathering system operator,  
 23 may request the commission to investigate and initiate proceedings to  
 24 review a fee, term or practice being used by a gas gathering system op-  
 25 erator. As a condition to formal commission action, the person requesting  
 26 commission action must first file an application that includes:

27 (1) A statement that the complainant has presented the complaint, in  
 28 writing, to the gas gathering system operator and included a request for  
 29 a meeting with the system operator to discuss the matter;

30 (2) a copy of the document described in subsection (b)(1);

31 (3) a statement that the requested meeting took place or the system  
 32 operator refused to meet with the complainant;

33 (4) detailed factual statement indicating how the fee, term or practice  
 34 violates section 5; and

35 (5) a statement of the precise remedy being requested that will make  
 36 the fee, term or practice consistent with the provisions of section 5.

37 (c) The commission may resolve the complaint by use of an informal  
 38 procedure established by the commission pursuant to rules and regula-  
 39 tions adopted by the commission or the commission may conduct a formal  
 40 hearing and take evidence as necessary to determine the merits of the  
 41 complaint. If the commission uses an informal procedure and the com-  
 42 plaint is not resolved within 60 days after the complaint is filed, the com-  
 43 mission shall conduct a formal hearing on the complaint. The hearing

No gas gatherer shall be compelled to provide access to any gas well where the characteristics, the volume, or the pressure of the gas would contaminate gas already utilizing the gathering system or would force the gatherer to spend additional funds to remedy any such defects.

(6) a copy of the analysis of the complainant's gas, including nitrogen, carbon dioxide, hydrogen sulfide, water, and any other contaminants content; the amount of volume; and the amount of pressure.

1 shall be conducted and notice given in accordance with the Kansas ad-  
2 ministrative procedure act. Upon such hearing, the commission shall have  
3 authority to order the remediation of any violations of section 5, to the  
4 extent necessary for remediation as to the aggrieved person with respect  
5 to the particular violation.

6 (d) In evaluating a fee or term, or in establishing a reasonable fee or  
7 term, the commission is not required to engage in cost-of-service rate-  
8 making or any other form of ratemaking. Instead, the commission can  
9 employ any form of analysis and remedy that is designed to accomplish  
10 the goals of this act while respecting the legitimate property interests of  
11 the gas gathering system operator.

12 (e) The commission shall maintain a publicized telephone number to  
13 facilitate the filing of informal complaints pursuant to subsection (b).

14 (f) The commission shall adopt such rules and regulations as the com-  
15 mission determines reasonably necessary to prevent abuse of the com-  
16 plaint procedure provided for by this section. Such rules and regulations  
17 shall include provisions to prevent delay of the proceedings that may  
18 damage a party's ability to pursue or defend the complaint.

19 New Sec. 7. The commission may adopt such rules and regulations  
20 as the commission determines necessary to improve market competition  
21 in, improve access to or protect the public interest in gas gathering serv-  
22 ices.

23 New Sec. 8. (a) Each person selling natural gas directly to a con-  
24 sumer from the wellhead before the gas enters a gathering system shall  
25 file with the commission all prices for such sales. The commission may  
26 adopt reasonable rules and regulations prescribing the form and filing of  
27 prices.

28 (b) The commission may exempt natural gas sold directly to a con-  
29 sumer from the wellhead before the gas enters a gathering system from  
30 rate averaging or pricing systems that apply to gas sold from a gas gath-  
31 ering system.

32 New Sec. 9. In any retail natural gas service area where the com-  
33 mission has granted a certificate of convenience and necessity to sell nat-  
34 ural gas at retail from a gas gathering system, the commission may issue  
35 other certificates of convenience and necessity to make such sales in such  
36 area. A person purchasing natural gas or gas gathering services from a gas  
37 gathering system operator in a retail natural gas service area where the  
38 commission has issued more than one certificate of convenience and ne-  
39 cessity shall not be assessed an exit fee for electing to purchase natural  
40 gas or gas gathering services from another gas gathering system operator.

41 Sec. 10. K.S.A. 1996 Supp. 55-150 is hereby repealed.

42 Sec. 11. This act shall take effect and be in force from and after its  
43 publication in the statute book.

## SENATE BILL No. 148

By Committee on Utilities

1-30

9 AN ACT concerning oil and gas; relating to natural gas gathering systems;  
10 providing for regulation of certain entities; concerning certain natural  
11 gas public utilities and common carriers; amending K.S.A. 1996 Supp.  
12 55-150 and repealing the existing section.

13  
14 *Be it enacted by the Legislature of the State of Kansas:*

15 Section 1. K.S.A. 1996 Supp. 55-150 is hereby amended to read as  
16 follows: 55-150. As used in this act unless the context requires a different  
17 meaning:

18 (a) "Commission" means the state corporation commission.

19 (b) "Contractor" means any person who acts as agent for an operator  
20 as a drilling, plugging, service rig or seismograph contractor in such op-  
21 erator's oil and gas, cathodic protection, gas gathering or underground  
22 natural gas storage operations.

23 (c) "Fresh water" means water containing not more than 1,000 mil-  
24 ligrams per liter, total dissolved solids.

25 (d) "Gas gathering system" means a natural gas pipeline system used  
26 primarily for transporting natural gas from a wellhead, or a metering point  
27 for natural gas produced by one or more wells, to a point of entry into a  
28 main transmission line, but shall not mean or include: (1) the gathering  
29 of natural gas produced from wells owned and operated by the gatherer  
30 and where the gathering system is used exclusively for its own private  
31 purposes; (2) lead lines from the wellhead to the connection with the  
32 gathering system which are owned by the producing entity person; and  
33 (3) (2) gathering systems used exclusively for injection and withdrawal  
34 from natural gas storage fields which remain jurisdictional to the federal  
35 energy regulatory commission.

36 (e) "Operator" means a person who is responsible for the physical  
37 operation and control of a well, gas gathering system or underground  
38 natural gas storage facility.

39 (f) "Person" means any natural person, partnership, governmental or  
40 political subdivision, firm, association, corporation or other legal entity.

41 (g) "Rig" means any crane machine used for drilling or plugging  
42 wells.

43 (h) "Usable water" means water containing not more than 10,000

5-7.  
or a gas processing plant immediately connected into a main  
transmission line

- 1 milligrams per liter, total dissolved solids.
- 2 (i) "Well" means a hole drilled or recompleted for the purpose of:
- 3 (1) Producing oil or gas;
- 4 (2) injecting fluid, air or gas in the ground in connection with the
- 5 exploration for or production of oil or gas;
- 6 (3) obtaining geological information in connection with the explora-
- 7 tion for or production of oil or gas by taking cores or through seismic
- 8 operations;
- 9 (4) disposing of fluids produced in connection with the exploration
- 10 for or production of oil or gas;
- 11 (5) providing cathodic protection to prevent corrosion to lines; or
- 12 (6) injecting or withdrawing natural gas.

13 New Sec. 2. The term "public utility" as used in K.S.A. 66-104, and  
 14 amendments thereto, and the term "common carriers" as used in K.S.A.  
 15 66-105, and amendments thereto, shall not include a gas gathering sys-  
 16 tem, as defined in K.S.A. 55-150, and amendments thereto, unless the  
 17 commission, upon application or complaint, and after notice and hearing,  
 18 determines that within the area of service, or proposed service, of such  
 19 gas gathering system, competitive market conditions do not exist and that:  
 20 (a) The gas gathering system has, is or is about to engage in abusive  
 21 monopolistic practice which is inimicable to the public interests; or  
 22 (b) gas gathering services are not likely to be effectively and effi-  
 23 ciently furnished unless a certificate of necessity and convenience and  
 24 exclusive market territory is granted, with rates and practices established  
 25 by the commission as in the case of other public utilities.

Delete

26 New Sec. 3. (a) As used in this section:

- 27 (1) "Commission" means the state corporation commission;
- 28 (2) "gas gathering services" means the gathering [or preparation] of
- 29 natural gas for transportation, whether such services are performed for
- 30 hire or in connection with the purchase of natural gas by the gatherer;
- 31 (3) "person" means any natural person, partnership, governmental or
- 32 political subdivision, firm, association, corporation or other legal entity.
- 33 (b) No person offering gas gathering services shall deny access to any
- 34 person seeking such services in a manner which is unduly, unlawfully, or
- 35 unreasonably discriminatory or unfair.

Delete

- 36 (c) No person performing gas gathering services shall charge a fee
- 37 for such services, or engage in any practice in connection with such serv-
- 38 ices, which is unduly, unlawfully or unreasonably discriminatory [or unfair].
- 39 Any person seeking a gas gathering service who is aggrieved by reason of
- 40 any such unduly, unlawfully or unreasonably discriminatory [or unfair] fee
- 41 or practice may file a complaint with the commission. If the commission
- 42 makes a factual determination that competitive gathering conditions do
- 43 not exist for the gathering of the complainant's natural gas, the commis-

Delete

Delete

1 sion may resolve the complaint by use of an informal procedure estab-  
 2 lished by the commission pursuant to rules and regulations adopted by  
 3 the commission or the commission may conduct a hearing and take evi-  
 4 dence as necessary to determine the merits of the complaint. The hearing  
 5 shall be conducted and notice given in accordance with the Kansas ad-  
 6 ministrative procedure act. Upon such hearing, the commission shall have  
 7 authority to order the remediation of any unduly, unlawfully or unrea-  
 8 sonably discriminatory [or unfair] fee for gathering services, or any unduly,  
 9 unlawfully or unreasonably discriminatory [or unfair] practice in connection  
 10 with such services, to the extent necessary for remediation as to the ag-  
 11 grievd person with respect to the particular fee or service involved.

12 (d) Nothing in this act shall be construed, or authorize the commis-  
 13 sion, to amend or otherwise affect any contractual obligations between  
 14 the gatherer and the complainant or rights which may otherwise exist.  
 15 Sec. 4. K.S.A. 1996 Supp. 55-150 is hereby repealed.  
 16 Sec. 5. This act shall take effect and be in force from and after its  
 17 publication in the statute book.

Any aggrieved party as referred to in this act shall be required to allege and prove to the satisfaction of the Commission that the operator of the natural gas gathering system has sufficient facilities to accommodate the complainant's natural gas without adversely impacting the gatherer's ability to continue gathering gas already connected and in no instance shall the Commission require a gathering operator to construct facilities; further the aggrieved party must allege and prove that there is not another natural gas gathering system conveniently located to gather the complainant's gas, that the quality and pressure of the complainant's natural gas will not have an adverse effect on the gatherer's facilities or the safety thereof; and the complainant's gas is of the quality and content consistent with gas being gathered by the gathering system.

Delete

Delete

(d) Prior to conducting a hearing, the Commission may attempt to informally resolve the complaint through a non-binding mediation process established by the Commission pursuant to rules and regulations adopted by the Commission.





# WOOLSEY PETROLEUM CORPORATION

107 NORTH MARKET SUITE 600 WICHITA, KANSAS 67202 (316) 267-4379  
FAX (316) 267-4383

RE: HOUSE BILL 2332

FEBRUARY 13, 1997

Woolsey Petroleum operates gas wells within a core area in south central Kansas, including Barber, Kiowa, Comanche, Ford, Pratt, Harper and Kingman counties. As a producer, we have found it necessary to construct, restore, acquire and operate gathering systems in order to get our gas to a market.

Within the past 10 years, a regulated utility has purchased most of the gathering systems and controls the processing facilities in the Barber County area. The producers have been advised they will no longer be granted a discounted gathering rate. As a result, our firm has contracted to purchase a gathering system from Mid Continent Market Center and we have agreed to construct a processing plant near Medicine Lodge. We further plan an extensive drilling program in the south central Kansas area.

Our project is conditioned on the deregulation by the KCC of the gathering facilities we are under contract to purchase. Under our plan, in Barber County, we will be drilling, producing, transporting, processing and providing usable processed gas to Barber County industries and homes. We believe that regulation will be a serious impediment to the successful operation of this gathering system. Regulation is expensive and time consuming. It impedes the flexibility needed to respond in timely fashion to changing market conditions. In our years of oil and gas experience, unwarranted governmental control on a business discourages investment and dampens the entrepreneurial spirit. The Federal regulation of the price of gas at the wellhead was a failure for both producers and ultimately for the consumer.

HB 2332 could result in reimposing utility regulation on the system that we are purchasing. The absence of "competitive market conditions" and a desire to control our own destiny is the underlying force that has brought our project about. We believe as an unregulated producer, gatherer and processor, we will be able to offer better incentives and opportunities under negotiated contracts to other producers in the area. Our objective is to maximize utilization of the gathering system which has a much larger capacity than the current production requires.

In our view, the price posting and contract filing required by this Bill serves no useful purpose and will be time consuming and costly. It raises concerns that the next step would be to consider reimposition of wellhead controls.

In summary, we believe that this legislation is unnecessary and untimely. Intrastate gathering has never been regulated in Kansas, and we are aware there are over 200 gatherers and marketers active in Kansas today that attests to a healthy arena, all without the discouraging hand of regulation.

We urge you to not impose this new regulation on our industry.

Respectfully submitted,

WOOLSEY PETROLEUM CORPORATION

*I. Wayne Woolsey*  
I. Wayne Woolsey, President

House Utilities  
2-21-97  
Attachment 6



# Full Text of Bill 2332

Different fonta indicate changes to the bill.

Supplemental note for this bill

Legal note for this bill

This bill with old style font codes (no html)

HB 2332--

Session of 1997

HOUSE BILL No. 2332  
By Committee on Utilities  
2-12

9 AN ACT concerning oil and gas; relating to natural gas gathering systems;  
10 providing for regulation of certain entities; concerning certain natural  
11 gas public utilities and common carriers; amending K.S.A. 1996 Supp.  
12 55-150 and repealing the existing section.

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14 *Be it enacted by the Legislature of the State of Kansas:*

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17 meaning:

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19 (b) "Contractor" means any person who acts as agent for an operator  
20 as a drilling, plugging, services rig or seismograph contractor in such op-  
21 erator's oil and gas, cathodic protection, gas gathering or underground  
22 natural gas storage operations.

23 (c) "Fresh water" means water containing not more than 1,000 mil-  
24 ligrams per liter, total dissolved solids.

25 (d) "Gas gathering system" means a natural gas pipeline system used  
26 primarily for transporting natural gas from a wellhead, or a metering point  
27 for natural gas produced by one or more wells, to a point of entry into a  
28 main transmission line, but shall not mean or include: (1) ~~the gathering~~  
29 ~~of natural gas produced from wells owned and operated by the gatherer~~  
30 ~~and where the gathering system is used exclusively for its own private~~  
31 ~~purpose;~~ (2) ~~lead lines from the wellhead to the connection with the~~  
32 ~~gathering system which are owned by the producing entity person;~~ and  
33 (3) ~~(2) gathering systems used exclusively for injection and withdrawal~~  
34 ~~from natural gas storage fields under the jurisdiction of the federal energy~~  
35 ~~regulatory commission.~~

36 (e) "Operator" means a person who is responsible for the physical  
37 operation and control of a well, gas gathering system or underground  
38 natural gas storage facility.

39 (f) "Person" means any natural person, partnership, governmental or  
40 political subdivision, firm, association, corporation or other legal entity.

41 (g) "Rig" means any crane machine used for drilling or plugging  
42 wells.

43 (h) "Usable water" means water containing not more than 10,000

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the owner of and any other person who is

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1 milligrams per liter, total dissolved solids.

2 (3) "Well" means a hole drilled or recompleted for the purpose of:

3 (1) Producing oil or gas;

4 (2) Injecting fluid, air or gas in the ground in connection with the

5 exploration for or production of oil or gas;

6 (3) obtaining geological information in connection with the explora-

7 tion for or production of oil or gas by taking cores or through seismic

8 operations;

9 (4) disposing of fluids produced in connection with the exploration

10 for or production of oil or gas;

11 (5) providing cathodic protection to prevent corrosion to lines; or

12 (6) injecting or withdrawing natural gas.

13 New Sec. 2. The term "public utility" as used in K.S.A. 66-104, and

14 amendments thereto, and the term "common carriers" as used in K.S.A.

15 66-105, and amendments thereto, shall not include a gas gathering sys-

16 tem, as defined in K.S.A. 55-150, and amendments thereto, unless the

17 commission, upon application or complaint, and after notice and hearing,

18 determines that:

19 (a) Within the area of service or proposed service of such gas gath-

20 ering system, competitive market conditions do not exist; and

21 (b) gas gathering services are not likely to be effectively and effi-

22 ciently furnished unless a certificate of necessity and convenience and

23 exclusive market territory is granted, with rates and practices established

24 by the commission as in the case of other public utilities or common

25 carriers.

26 New Sec. 3. As used in sections 3 through 9:

27 (a) "Commission" means the state corporation commission.

28 (b) "Gas gathering services" means the gathering or preparation of

29 natural gas for transportation, whether such services are performed for

30 use or in connection with the purchase of natural gas by the gatherer.

31 (c) "Person" means any natural person, partnership, governmental or

32 political subdivision, firm, association, corporation or other legal entity.

33 New Sec. 4. (a) Each person offering gas gathering services in this

34 state shall file with the commission copies of: (1) Rates paid for natural

35 gas purchased by the person at the wellhead; (2) all rates charged for

36 transportation, processing, manufacturing or other services offered by the

37 person before natural gas enters a pipeline under the jurisdiction of the

38 federal energy regulatory commission; and (3) such data related to the

39 characteristics of the gas purchased or handled by the person as the com-

40 mission determines reasonably necessary. The commission may adopt

41 reasonable rules and regulations prescribing the form and filing of such

42 rates, schedules and data.

43 (b) Upon notice and an opportunity to be heard in accordance with

HB 2332.

3

1 the provisions of the Kansas administrative procedure act, the commission

2 may impose an administrative fine on any person for failure to file any

3 rate, schedule or data as required by this section and rules and regulations

4 of the commission. Such fine shall not exceed \$100 for each day the rate,

5 schedule or data remains unfiled as required or an aggregate amount of

6 \$10,000, whichever is less.

7 (c) Rates, schedules and data filed pursuant to this section shall not

8 be used by the commission to order a change in any rate except in a

9 proceeding pursuant to section 6.

10 New Sec. 5. (a) No person offering gas gathering services in this

11 state, or facilities essential to provision of such services, shall deny access

12 to any person seeking such services or facilities in a manner that is unjust

(1) Probably pre-empted by and prohibited by Federal law

13 unreasonable, unjustly discriminatory or unduly preferential.  
14 (b) No person performing gas gathering services shall charge a fee  
15 for such services, or engage in any practice in connection with such serv-  
16 ices, which is unjust, unreasonable, unjustly discriminatory or unduly  
17 preferential.

18 New Sec. 6. (a) The commission, in its discretion, may at any time  
19 review a fee, term or practice being used by a gas gathering system op-  
20 erator to ascertain whether a violation of section 5 has occurred

21 (b) Any consumer of gas gathering system services, or any other per-  
22 son impacted by the terms imposed by a gas gathering system operator,  
23 may request the commission to investigate and initiate proceedings to  
24 review a fee, term or practice being used by a gas gathering system op-  
25 erator. As a condition to formal commission action, the person requesting  
26 commission action must first file an application that includes:

- 27 (1) A statement that the complainant has presented the complaint, in  
28 writing, to the gas gathering system operator and included a request for  
29 a meeting with the system operator to discuss the matter;
- 30 (2) a copy of the document described in subsection (b)(1);
- 31 (3) a statement that the requested meeting took place or the system  
32 operator refused to meet with the complainant;
- 33 (4) detailed factual statement indicating how the fee, term or practice  
34 violates section 5; and

35 (5) a statement of the precise remedy being requested that will make  
36 the fee, term or practice consistent with the provisions of section 5.

37 (c) The commission may resolve the complaint by use of an informal  
38 procedure established by the commission pursuant to rules and regula-  
39 tions adopted by the commission or the commission may conduct a formal  
40 hearing and take evidence as necessary to determine the merits of the  
41 complaint. If the commission uses an informal procedure and the com-  
42 plaint is not resolved within 60 days after the complaint is filed, the com-  
43 mission shall conduct a formal hearing on the complaint. The hearing  
HB 2332

and may, after notice, opportunity for hearing, and finding that a violation has occurred, make such orders as may be required to terminate the violation and punish for past violation, including orders which require recompense to persons adversely economically impacted by such violation.

4

1 shall be conducted and notice given in accordance with the Kansas ad-  
2 ministrative procedure act. Upon such hearing, the commission shall have  
3 authority to order the remediation of any violations of section 5, to the  
4 extent necessary for remediation as to the aggrieved person with respect  
5 to the particular violation.

6 (d) In evaluating a fee or term, or in establishing a reasonable fee or  
7 term, the commission is not required to engage in cost-of-service rate-  
8 making or any other form of ratemaking. Instead, the commission can  
9 employ any form of analysis and remedy that is designed to accomplish  
10 the goals of this act while respecting the legitimate property interests of  
11 the gas gathering system operator.

12 (e) The commission shall maintain a publicized telephone number to  
13 facilitate the filing of informal complaints pursuant to subsection (b).

14 (f) The commission shall adopt such rules and regulations as the com-  
15 mission determines reasonably necessary to prevent abuse of the com-  
16 plaint procedure provided for by this section. Such rules and regulations  
17 shall include provisions to prevent delay of the proceedings that may  
18 damage a party's ability to pursue or defend the complaint.

19 New Sec. 7. The commission may adopt such rules and regulations  
20 as the commission determines necessary to improve market competition  
21 in, improve access to or protect the public interest in gas gathering serv-  
22 ices.

23 New Sec. 8. (a) Each person selling natural gas directly to a con-  
24 sumer from the wellhead before the gas enters a gathering system shall

which remediation order may, without limitation, include provisions for refund, with interest, of any unlawful charges made from and after the date of filing of the complaint.

25 file with the commission all prices for such sales. The commission may  
26 adopt reasonable rules and regulations prescribing the form and filing of  
27 prices.

28 (b) The commission may exempt natural gas sold directly to a con-  
29 sumer from the wellhead before the gas enters a gathering system from  
30 rate averaging or pricing systems that apply to gas sold from a gas path-  
31 ering system.

32 New Sec. 9. In any retail natural gas service area where the com-  
33 mission has granted a certificate of convenience and necessity to sell nat-  
34 ural gas at retail from a gas gathering system, the commission may issue  
35 other certificates of convenience and necessity to make such sales in such  
36 area. A person purchasing natural gas or gas gathering services from a gas  
37 gathering system operator in a retail natural gas service area where the  
38 commission has issued more than one certificate of convenience and ne-  
39 cessity shall not be assessed an exit fee for electing to purchase natural  
40 gas or gas gathering services from another gas gathering system operator.

41 Sec. 10, K.S.A. 1996 Supp. 35-150 is hereby repealed.  
42 Sec. 11. This act shall take effect and be in force from and after its  
43 publication in the statute book.  
HB 2332

Where a producer sells gas at the wellhead to a rural consumer who utilizes gas gathering and/or other intrastate or interstate transportation service to cause such gas to be delivered to his point of use, neither the producer nor the consumer shall be required to obtain a certificate of convenience and necessity, nor be deemed to be in violation of the rights of any party who holds such a certificate.



[INK HOME] [INDEX] [HELP] [UTILITY] [COMMENTS]

The Information Network of Kansas | Please read this disclaimer!

Testimony of Timothy E. McKee  
Chair  
State Corporation Commission  
before the  
House Committee on Utilities  
February 21, 1997

Good Morning, Mr. Chair and members of the Committee. I am here today to testify against the adoption of House Bill No. 2332.

During the 1996 legislative session Senate Substitute for House Bill No. 2041 was adopted establishing the Task Force on Gas Gathering. The Task Force was comprised of small, medium and large producers and gas gatherers along with representatives consisting of a County Treasurer, a representative of the Southwest Kansas Irrigators, Association, a representative of the Southwest Kansas Royalty Owners, independent counsel and myself. Following numerous meetings which included hearing extended testimony from interested parties, proposed Senate Bill 148 was adopted by the Committee. By way of digression, I would note that for two years prior to the establishment of the Task Force, the State Corporation Commission on its own initiative had conducted numerous hearings in various parts of the State hearing testimony from individuals concerning gas gathering. I am here today to voice my opinion in opposition to House Bill No. 2332 and urge you to support Senate Bill 148.

The issue of gas gathering ranges the gamut from sophisticated systems in Southwestern Kansas to relatively simple systems in Eastern Kansas. It has always been the Commission's position that any approach to the regulation of gas gathering should be of a light handed nature as over-regulation would pose serious problems to the smaller systems within the State.

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The Task Force which was mandated by the 1996 legislative session produced a workable piece of legislation and to ignore their efforts would be a great disservice to both the work performed and the product which has been proposed.

Although we in no way support the adoption of House Bill 2332, I have today distributed a copy of the same along with my testimony which shows which amendments we feel should be made in the event it is eventually adopted. Certain amendments are obvious and I will confine my comments today to those of a more substantive nature.

New Section 4 would require that each person offering gas gathering services file with the KCC copies of comprehensive data concerning rates for each particular service offered as part of a gathering system and data related to the characteristics of the gas purchased. There is no provision for additional staffing or funding for this section. We estimate that there could be in excess of 400 gathering systems in the State of Kansas. The number of contracts could easily exceed 15,000 on an annual basis. The mere compilation, filing, review and retrieval of such data would be an overwhelming burden on existing staff. This also leads to the question of who would be required to pay for this service. Currently the Conservation Division is funded by a fee assessment on the production of oil and gas in the State of Kansas. Only since the 1996 Legislative Session have we been authorized to license gas gathering systems. To expect those systems to pay the costs of this program would be excessive. To date approximately 40 gatherers have obtained their license.

New Section 8 proposes that a person selling gas directly to a consumer shall file the prices for all such sales. Once again, this puts an extreme burden on Commission staff for the cataloging of such information.

More importantly New Section 8 and New Section 9 merely illustrate the confusing approach taken in House Bill 2332. The Corporation Commission has advocated that gas gathering be regulated by the Conservation Division under Chapter 55 of the Kansas Statutes Annotated by a simple complaint based system like the Oklahoma statutes. House Bill No. 2332 blurs the line between regulation under Chapter 55 Conservation and Chapter 66 Utility regulation. This is an ill conceived approach which will be difficult to administer and to enforce.

Oklahoma was the first State to adopt any sort of gas gathering regulation. In the last two years they have received nine complaints. The State of Texas has received approximately twelve complaints and FERC has receive eleven complaints. We do not contemplate a great number of filings concerning abusive or discriminatory practices by gathering systems. I believe that the action contemplated by House Bill 2332 is an extremely heavy handed approach that is not merited at this time. This is not to say that this matter cannot be revisited by the Legislature in the future if warranted, but at this time a unfunded piece of legislation which confuses utility and conservation practices goes far beyond what we feel is necessary. The Task Force was a mandate of the Legislature. I respectfully submit to you that their work product be considered over that proposed by House Bill No. 2332.

Thank you for taking the time to hear my comments today. If you have any questions, I would be glad to yield to them at this time.



## HOUSE BILL No. 2332

By Committee on Utilities

2-12

9 AN ACT concerning oil and gas; relating to natural gas gathering systems;  
10 providing for regulation of certain entities; concerning certain natural  
11 gas public utilities and common carriers; amending K.S.A. 1996 Supp.  
12 55-150 and repealing the existing section.  
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14 *Be it enacted by the Legislature of the State of Kansas:*

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21 erator's oil and gas, cathodic protection, gas gathering or underground  
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30 ~~and where the gathering system is used exclusively for its own private~~  
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32 gathering system which are owned by the producing ~~entity person~~; and  
33 (3) (2) gathering systems used exclusively for injection and withdrawal  
34 from natural gas storage fields under the jurisdiction of the federal energy  
35 regulatory commission.

36 (e) "Operator" means a person who is responsible for the physical  
37 operation and control of a well, gas gathering system or underground  
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4-8

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- 6 (3) obtaining geological information in connection with the explora-
- 7 tion for or production of oil or gas by taking cores or through seismic
- 8 operations;
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 35 gas purchased by the person at the wellhead; (2) all rates charged for  
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 37 person before natural gas enters a pipeline under the jurisdiction of the  
 38 federal energy regulatory commission; and (3) such data related to the  
 39 characteristics of the gas purchased or handled by the person as the com-  
 40 mission determines reasonably necessary. The commission may adopt  
 41 reasonable rates and regulations prescribing the form and filing of such  
 42 rates, schedules and data.

43 (b) Upon notice and an opportunity to be heard in accordance with

1 ~~the provisions of the Kansas administrative procedure act, the commission~~  
 2 ~~may impose an administrative fine on any person for failure to file any~~  
 3 ~~rate, schedule or data as required by this section and rules and regulations~~  
 4 ~~of the commission. Such fine shall not exceed \$100 for each day the rate,~~  
 5 ~~schedule or data remains unfiled as required or an aggregate amount of~~  
 6 ~~\$10,000, whichever is less.~~

7 ~~(c) Rates, schedules and data filed pursuant to this section shall not~~  
 8 ~~be used by the commission to order a change in any rate except in a~~  
 9 ~~proceeding pursuant to section 6.~~

10 New Sec. 5. (a) No person offering gas gathering services in this  
 11 state, or facilities essential to provision of such services, shall deny access  
 12 to any person seeking such services or facilities, in a manner that is unjust,  
 13 unreasonable, unjustly discriminatory or unduly preferential.

14 (b) No person performing gas gathering services shall charge a fee  
 15 for such services, or engage in any practice in connection with such serv-  
 16 ices, which is unjust, unreasonable, unjustly discriminatory or unduly  
 17 preferential.

18 New Sec. 6. (a) The commission, in its discretion, may at any time  
 19 review a fee, term or practice being used by a gas gathering system oper-  
 20 ator to ascertain whether a violation of section 5 has occurred.

21 (b) Any consumer of gas gathering system services, or any other person  
 22 impacted by the terms imposed by a gas gathering system operator,  
 23 may request the commission to investigate and initiate proceedings to  
 24 review a fee, term or practice being used by a gas gathering system oper-  
 25 ator. As a condition to formal commission action, the person requesting  
 26 commission action must first file an <sup>COMPLAINT</sup> application that includes:

- 27 (1) A statement that the complainant has presented the complaint, in
- 28 writing, to the gas gathering system operator and included a request for
- 29 a meeting with the system operator to discuss the matter;
- 30 (2) a copy of the document described in subsection (b)(1);
- 31 (3) a statement that the requested meeting took place or the system
- 32 operator refused to meet with the complainant;
- 33 (4) detailed factual statement indicating how the fee, term or practice
- 34 violates section 5; and
- 35 (5) a statement of the precise remedy being requested that will make
- 36 the fee, term or practice consistent with the provisions of section 5.

37 (c) The commission may resolve the complaint by use of an informal  
 38 procedure established by the commission pursuant to rules and regula-  
 39 tions adopted by the commission or the commission may conduct a formal  
 40 hearing and take evidence as necessary to determine the merits of the  
 41 complaint. If the commission uses an informal procedure and the com-  
 42 plaint is not resolved within 60 days after the complaint is filed, the com-  
 43 mission shall conduct a formal hearing on the complaint. The hearing

1 shall be conducted and notice given in accordance with the Kansas ad-  
2 ministrative procedure act. Upon such hearing, the commission shall have  
3 authority to order the remediation of any violations of section 5, to the  
4 extent necessary for remediation as to the aggrieved person with respect  
5 to the particular violation.

6 (d) In evaluating a fee or term, or in establishing a reasonable fee or  
7 term, the commission is not required to engage in cost-of-service rate-  
8 making or any other form of ratemaking. Instead, the commission can  
9 employ any form of analysis and remedy that is designed to accomplish  
10 the goals of this act while respecting the legitimate property interests of  
11 the gas gathering system operator.

12 (e) The commission shall maintain a publicized telephone number to  
13 facilitate the filing of informal complaints pursuant to subsection (b).

14 (f) The commission shall adopt such rules and regulations as the com-  
15 mission determines reasonably necessary to prevent abuse of the com-  
16 plaint procedure provided for by this section. Such rules and regulations  
17 shall include provisions to prevent delay of the proceedings that may  
18 damage a party's ability to pursue or defend the complaint.

19 New Sec. 7. The commission may adopt such rules and regulations  
20 as the commission determines necessary to improve market competition  
21 in, improve access to or protect the public interest in gas gathering serv-  
22 ices.

23 ~~New Sec. 8. (a) Each person selling natural gas directly to a con-  
24 sumer from the wellhead before the gas enters a gathering system shall  
25 file with the commission all prices for such sales. The commission may  
26 adopt reasonable rules and regulations prescribing the form and filing of  
27 prices.~~

28 ~~(b) The commission may exempt natural gas sold directly to a con-  
29 sumer from the wellhead before the gas enters a gathering system from  
30 rate averaging or pricing systems that apply to gas sold from a gas gath-  
31 ering system.~~

32 ~~New Sec. 9. In any retail natural gas service area where the com-  
33 mission has granted a certificate of convenience and necessity to sell nat-  
34 ural gas at retail from a gas gathering system, the commission may issue  
35 other certificates of convenience and necessity to make such sales in such  
36 area. A person purchasing natural gas or gas gathering services from a gas  
37 gathering system operator in a retail natural gas service area where the  
38 commission has issued more than one certificate of convenience and ne-  
39 cessity shall not be assessed an exit fee for electing to purchase natural  
40 gas or gas gathering services from another gas gathering system operator.~~

41 ~~Sec. 10. K.S.A. 1996 Supp. 55-150 is hereby repealed.~~

42 ~~Sec. 11. This act shall take effect and be in force from and after its  
43 publication in the statute book.~~

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