

MINUTES OF THE HOUSE COMMITTEE ON UTILITIES.

The meeting was called to order by Chairperson Don Myers at 9:00 a.m. on February 24, 1997 in Room 514-S of the Capitol.

All members were present except: Rep. Mayans - excused

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

Conferees appearing before the committee:

Others attending: See attached list

Representative Myers announced that the Committee would be working **HB 2332**. The Chair requested that Staff brief the Committee on the bill section by section.

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

Section 1- Mary Torrence, Staff - Revisor's Office, explained that this section of the bill is the provision of current law that relates to licensing of gas gatherers and oil and gas well operators and contractors.

Section 2 - Mary Torrence, Staff - Revisor's Office, explained that this section makes it clear that gas gathering systems are not regulated as public utilities or common carriers unless the Commission determines that competitive market conditions do not exist and that gas gathering services are not likely to be effectively and efficiently furnished unless they are treated as public utility or common carrier.

The Chair recognized Representative McKinney who had an amendment on Section 2. The Chair asked Representative McKinney if he would want to work through the bill section by section with the balloon he then distributed to the Committee and he agreed (Attachment #1). Representative McKinney mentioned that Section 1 adds #3 as far as systems not fitting under the definition of gas gathering systems. This #3 is gathering of natural gas by an owner/operator of a well or wells connected to the owner/operator after the effective date of this act does not hold such facilities out to hire. Section 2 in the balloon is stricken entirely. Discussion followed.

The Revisor, Mary Torrence, mentioned that Section 1 is the definition for purposes of licensing with the Commission and Section 3 is the definition for the purposes of the rest of the bill and maybe the exemption in (3) in the balloon in Section 1 should go under Section 3. She further described that Section 3 does define terms for the purposes for the rest of the bill which sets up the regulatory scheme for gas gathering purposes. Discussion followed. The Revisor, Mary Torrence, suggested leaving language in lines 13 - 16 and strike the language after the word thereto and put a period after thereto. Then strike all language after the word "unless" in new Section 2.

Representative Aurand made a motion that in the balloon in new Section 2 to leave the language in lines 13 - 16, in line 16 after the word "thereto" place a period and strike all language that follows beginning with the word "unless". Representative Johnson seconded the motion. Motion passed.

Representative McKinney made a motion to move the amendment in the balloon on Page 1, Section 1, to Section 3 as recommended by the Revisor. Representative Alldritt seconded the motion. Discussion followed. Motion passed.

Mary Torrence, Staff - Revisor's Office, continued to explain that Section 4 begins the regulation of provisions with regard to gas gathering services. The Chair recognized Representative McKinney who mentioned the balloons make the bill prospective. He said the Corporation Commission would be the repository for information and at a minimal expense. Representative McKinney asked the Revisor about adding the word "analyze" in the amendment in Section 4 before the word "publish" and she agreed. The

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON UTILITIES, Room 514-S Statehouse, at 9:00 a.m. on February 24, 1997.

Revisor also noted that the words "entered into or renewed" should also be added.

Representative McKinney made a motion to accept the changes in the balloon in Section 4 to add the word "analyze" before the word "publish" and add the words "entered into or renewed" in line 34. Representative McClure seconded the motion. Motion passed. Discussion followed.

Representative Sloan made a motion to insert the language in the balloon in Section 4, line 34 after (1) "if applicable," or what the Revisor determines it to be, on page 2. Representative McKinney seconded the motion. Motion passed.

Representative Aurand made a motion to delete the whole Section 4. Representative Humerickhouse seconded the motion. Discussion followed. Motion failed.

Staff, Mary Torrence - Revisor, explained that Section 5 establishes the standard for access to and fees charged for gas gathering services. She also explained that in Section 6 there are provisions for review by the Commission or complaint by a person. The Chair mentioned this sets up the complaint-based system. Discussion followed. Representative McKinney mentioned on line 26, Section 6, Page 3 that Chairman Mc Kee of the Kansas Corporation Commission suggested that the word application should be changed to complaint.

Representative McKinney made a motion to accept the balloon in Sections 5 and 6. Representative Alldritt seconded the motion. Discussion followed. Representative McKinney also mentioned that David Pierce, Professor, Washburn University School of Law, said in a letter referencing Section 8 that 8 (a) is not needed and it was stricken. Representative McKinney withdrew his motion and with no objection from Representative Alldritt who had seconded the motion.

Representative McKinney made a motion to accept the remaining parts of the balloon. Representative McClure seconded the motion. Motion passed.

Representative McKinney made a motion to pass **HB 2332** out of Committee favorable as amended. Representative McClure seconded the motion. Motion passed.

The Chair told the Committee that tomorrow, February 25, 1997, they will be hearing testimony and working **HB 2381**.

The meeting was adjourned at 10:00 a.m.

The next meeting is scheduled for February 25, 1997.

# HOUSE UTILITIES COMMITTEE GUEST LIST

DATE: February 24, 1997

NAME	REPRESENTING
Steve Rome	SW Ko. Indig
Dayton General	
Karlal Loder	SW KS. TRUCK. ASSOC.
KS Well	KS Pipeline
Jim Allen	Uteli Group.
Brenda Zanks	Jonathan Small
DAVID B SCHLOSSER	DESE McGILV. & ASSOC
Jack Blaves	PH N. O'Fly
Ken Peterson	KS Petroleum Council
BERNARD E NORDLING	SW KROA
Doug Smith	SW KROA
MONTGOMERY ESCUE .	CCE .
Rich McKee	KLA
WALKER HENDRIX	CURB
TOM DAY	KCC
Rob Hein	MESA
Don Schwack	ICIOCA
Joe STASKAL	Williams Field Services
Leslie Kaufman	KFB

## 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

; and (3) the gathering of natural gas by an owner or operator of a well or wells connected to the owner's or operator's own gathering facilities, if the owner or operator after the effective date of this act does not hold such facilities out for hire

House Utilities  
2-24-97  
Attachment 1

1-2

- 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.

— strike and renumber sections accordingly

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.
- 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.

the following with regard to contracts entered into on or after July 1, 1997

— strike

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

The commission shall not be required to publish or disseminate such rates, schedules and data except to the extent otherwise required by law.

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

; and ¶ (6) a copy of the analysis of the complainant's natural gas, including  
 the nitrogen, carbon dioxide, hydrogen sulfide, water and other contaminant  
 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.

(g) The commission may order any party to a proceeding pursuant  
 to this section to reimburse all or any part of the reasonable expenses,  
 including reasonable attorney fees, incurred by any other party or parties  
 to the proceeding.

— strike