

Approved: MARCH 11, 1997
Date

MINUTES OF THE SENATE COMMITTEE ON UTILITIES.

The meeting was called to order by Chairperson Pat Ranson at 1:30 p.m. on February 18, 1997 in Room 313-S of the Capitol.

All members were present

Committee staff present: Lynne Holt, Legislative Research Department
Fred Carman, Revisor of Statutes
Jeanne Eudaley, Committee Secretary

Conferees appearing before the committee:

Maria Seidler, Coalition for Competitive Energy
Dennis McLaughlin, Aurora Natural Gas
Emery Biro, Anadarko Petroleum Corp.
Mari Ramsey, Williams Field Services
Pierce Norton, Gen. Mgr. Of Operations, KN Energy
Russell Bishop, Vice-Pres., Govt. Affairs, PanEnergy Field Services

Others attending: See attached list

Chairperson Ranson called the meeting to order and announced the agenda for the remainder of the week, with KCC Chairman, Tim McKee, appearing tomorrow. She announced continuation of the hearing on **SB 148-relating to natural; gas gathering systems; providing for regulation of certain entities; certain natural gas public utilities and common carriers.** The following appeared in opposition to the bill:

Maria Seidler, Coalition for Competitive Energy (Attachment 1);
Dennis McLaughlin, Aurora Natural Gas, (Attachment 2);
Emery Biro, Anadarko Petroleum Corp., (Attachment 3);
Mari Ramsey, Williams Field Services, (Attachment 4)
Pierce Norton, General Mgr. Of Operations, KN Energy, (Attachment 5);
Russell Bishop, Vice-Pres., Govt. Relations, PanEnergy Field Services, Inc. (Attachment 6);
Steve Rome, S.W. Kansas Irrigation Association, (Attachment 7)

Sen. Ranson announced a letter and Resolution from the Southwest Kansas Irrigation Association (Attachment 8) was distributed to committee members.

Committee members questioned opponents regarding the Oklahoma law, the Task Force Minority Reports, which were referred to by opponents, and the complaint concept provision. Sen. Ranson also questioned opponents regarding publishing rates.

Sen. Ranson announced the committee will continue the hearing tomorrow in Room 519-S.

Meeting adjourned at 2:35.

Next meeting will be February 19, 1997.

SENATE UTILITIES COMMITTEE GUEST LIST

DATE: Feb. 18, 1997

NAME	REPRESENTING
Bernie Nordling	SWKROA
Jon Miles	KEC
LEW JONE SCHNEIDER	KLA
Mari Ramsey	Williamsfield Services
Joe StASKAL	" " "
DAVID B SCHWESER	PETE McGee & Assoc.
Bill Gifford	Pan Energy
Russ Bishop	Pan Energy
Jack Slane	P-9 K MZ Ory
Whitney Damon	Anadarko Petroleum Corp.
EMERY BIRD	ANADARKO PETROLEUM
BRUCE GRAHAM	KEPCO
Tom Bruno	Allen & ASSOC.
J. C. Long	Utah Corp United Inc.
Mike Hein	Western Resources, Inc.
WALKER HENDRIX	CURB
Warren W. Sikes	IRRIGATORS & Royalty
Dennis McLaughlin	⊙ Aurora Natural Gas
Maria M Seidler	Coalition for Competitive Energy

SENATE UTILITIES COMMITTEE GUEST LIST

DATE: _____

NAME	REPRESENTING
Montgomery Escue	CCE.
Leslie Kaufman	Ks Farm Bureau
Milly Shield	Harris News
Paul Rome	
Opel Diabey	
Steve Rome	S.W. Ks. Irrig.
Merle Krause	S.W. Ks. Irrig Assoc.
Jamie Clover Adams	Governor's Office
Don Schuman	KIDGR
J.P. SMALL	MOBIL EXP & PROD.
Robert E. Kuchiel	House of Reps
TOM DAY	KCC
ED SCHAUB	WESTERN RESOURCES
Shirley Lusco-Strong	Spr. Jones - (Washburn)
D. Holchans	Western Resource

Attac 1

Maria Mercedes Seidler

ATTORNEY-AT-LAW / CONSULTING
NATURAL GAS FEDERAL REGULATION & POLICY

3945 S. Trenton Ave.,
Tulsa, Oklahoma 74105
918-748-9741

**COMMENTS BEFORE THE KANSAS LEGISLATURE
PROPOSED LEGISLATION FOR REGULATION OF GAS GATHERING**

February 18, 1997

On January 4, 1995, I presented testimony before the KCC and then again on September 18, 1996, before the Legislative Task Force on the need for regulation of gathering. In both presentations, I noted that the FERC, in federally deregulating gas gathering, had relied heavily on representations by the Kansas Corporation Commission that the KCC would regulate:

The KCC has asserted that it "has developed in depth knowledge of the gas industry, including gas gathering facilities in the State of Kansas" and, in comparison with this Commission, "is uniquely situated and better able to make the necessary factual determinations concerning alleged discriminatory practices by gas gatherers in Kansas," and, therefore, "is better able to assure that gathering services performed on exempt gathering facilities are not abusive." Given the KCC's explicitly expressed interest in assuring that Kansas production will be moved through gathering systems to the market place, we anticipate that the KCC will provide an adequate forum for producers' complaints regarding gathering practices.¹

The KCC representations and promise referred to by FERC were made in the FERC's generic proceeding on gathering back in January 1994, three years ago, and still the need for regulation is being debated within the State. Meanwhile, Kansas producers and customers have lost the only means of protection from the monopsony power of gathering facilities over gas supplies when

¹ Panhandle Eastern Pipe Line Co., CP90-1050-003; CP94-151-002; Panhandle Field Services Co., CP94-152-001, "Order On Requests for Rehearing and Clarification and Modifying Prior Order," mimeo 14-15, (DATE), citing KCC Comments filed in FERC Docket No. RM94-4-000, "Natural Gas Gathering Services Performed by Interstate Pipelines and Interstate Pipeline Affiliates -- Issues Related to Rates and Terms and Conditions of Service" at pp.3 and 8 (January 14, 1994).

*SENATE UTILITIES
2-18-97*

ATT 1

Maria M. Seidler
Comments Before Kansas Legislature
February 18, 1997
Page 2

the D.C. Circuit struck down the default contract. It is now more imperative than ever that the KCC stand behind its promise to provide some forum for regulation and that the Kansas Legislature act quickly to provide the KCC whatever authority necessary to allow the KCC to act.

Because of the increased focus on gathering companies as a result of these legislative debates, it should not be surprising that these companies have not acted upon the advantage gained with the elimination of the default contract after the D.C. Circuit's opinion. However, in Arkansas, where there is no state regulation and no future consideration of state regulation of gathering, my Arkansas clients have informed me that NorAm Fields Services have already doubled its fuel use rate and gathering rates have steadily increased. It is the corporate nature -- in fact, it is the corporation's responsibility -- to maximize profits for shareholders. Arguably any corporation that does not take advantage of its market power, albeit within the limits of the law, in order to maximize its return would be failing its corporate responsibility. Corresponding, it is the legislature's responsibility to define those legal limits and provide a form of checks and balance between capitalistic enterprise and regulation.

The legislature can determine that there is no need to establish regulatory checks in a particular industry -- that competition sufficiently exists to restrain a corporation's capitalistic zealotry. However, testimony presented at previous hearings before the Natural Resource Committee of the Kansas Legislature, then again before the KCC,, and even before the FERC, demonstrates that most wellhead supplies do not have competitive alternatives for gathering. The historical development of the gas market under regulation did not support the construction of alternative facilities. And present day economics for most existing production in the Hugoton does not support future development of competitive systems.

Once it is determined that there is not sufficient gathering competition, then the threat to the wellhead market must be defined. The existence of a competitive wellhead market has been recognized by Congress in enacting the Wellhead Decontrol Act and by FERC in its sweeping regulatory change under Order No. 636. But what will happen to Kansas' wellhead market if physical access to that market is controlled by an unregulated company

Maria M. Seidler
Comments Before Kansas Legislature
February 18, 1997
Page 3

attempting to fulfill its corporate responsibility to maximize profits.²

For example, an independent aggregator enters into a contract providing for a fixed gathering fee. It then resells the gas at the interstate pipeline interconnect. At the resale point, the market will determine the price of the delivered gas. The higher the gathering cost embedded in that price, the lower the wellhead value of the gas commodity. The small independent is between the proverbial rock and a hard place if he wants to get his gas to market, and has the responsibility to do so to his royalty owners. Lower wellhead value affects taxes, and other forms of state and local revenue. It has a trickled down affect from the producers to the State and its citizens.

An alternative to a straight gathering contract is a percent of proceeds sales contract with a gathering company or a gatherer's marketing affiliate. Western Gas Resources presented an affidavit in a Panhandle spin-down case stating that percent of proceeds contracts are the most prevalent forms of contract for gas gathering and processing companies. In my own experience, a percent of proceeds contract is generally the first contract tendered to producers by either the gatherer itself or the marketing affiliate before the gatherer offers a straight gathering agreement.

I have grave concerns about these contracts which allow gathering companies or their affiliates to provide a bundled product for resale into the interstate pipeline. Gathering companies can use their control of essential facilities to augment their market power over wellhead supplies. They can then bundle that supply service with gathering services to acquire a market advantage when they resell the bundled services at the interstate pipeline interconnect. This is the same form

² To demonstrate the extensive impact of federal deregulation, consider that Panhandle Eastern is transferring over 3,000 miles of pipeline facilities and over 2,600 receipt point to its affiliate Panhandle Field Services, which will be added to the already substantial gathering facilities Panhandle acquired in its merger with Associated Natural Gas. Anadarko is adding to its existing systems by purchasing from Panhandle over 1,100 miles of pipeline, with control of over 1,000 receipt points in region where it is the primary producer. Consider similar numbers of receipt points and miles of pipe being abandoned by Northern, KN Energy and Williams Natural Gas.

Maria M. Seidler
Comments Before Kansas Legislature
February 18, 1997
Page 4

of bundling that pipelines did pre-636, when these systems were part of the integrated transmission system and which FERC found to be unlawfully discriminatory. Bundled gas services can hide preferential gathering rates, as well as operational preferences in how gatherers apply operational requirements and restrictions.

For example, a gathering affiliate offers producers 95% of resale price to purchase their gas at the wellhead. Assume that the resale price is equal to a market price of \$1.75, then the gatherer pays the producer \$1.66 and recovers only ten cents for the gathering services embedded in the market price. Third party purchasers cannot compete for supplies against such a preferential gathering rate, where they are paying a straight gathering fee. Competition at the thousands of spun-down receipt points will be severely frustrated, if not eliminated.

In addition, the proceeds from which the producer is to be paid may not equate to a market price for gas. Many items may be deducted from the proceeds before the producer receives its percentage. Further, the calculation of what proceeds make up a particular pool under a contract is often not specifically defined. Consequently, the proceeds pool can be manipulated. In an actual example, an affiliate of a gathering company is the wellhead purchaser under a percent of proceeds contract. It arranges for the gathering of its aggregated supplies, then processes those supplies and resells the residue gas to still yet another marketing affiliate for it to resell in the interstate market on its pipeline affiliate. What price the marketing affiliate pays that goes into the proceed pool and what gathering fees should come out of the pool can easily be manipulated, particularly where so many corporate affiliates are involved, to the economic advantage of the corporation and to the detriment of the wellhead value of the gas.

Because of preferential gathering rates embedded in the gatherer's or its affiliate's bundled price of gas, independent aggregators and marketers may not be able to compete with gatherers and their marketing affiliates in the resale market. Independent aggregators are thus shut out from the wellhead supply market and from the interstate resale market. Competitors for wellhead supplies will compete elsewhere. No matter what price increase may occur in the interstate market, the effective use of these facilities control over access to wellhead supplies, as described above, will impede the ability of producers, their royalty owners, and the State to share in the benefits of a rising market. In addition, production may be forever lost to the State. Marginal production, which is prevalent in the Hugoton, may be rendered uneconomical to produce. Small volume producers are forced either to sell to the

Maria M. Seidler
Comments Before Kansas Legislature
February 18, 1997
Page 5

gatherer or the gatherer's affiliate or to shut in their production.

Admittedly, I am not an economist, but based on what I understand from the economic experts that I have heard and read in various regulatory proceedings, competition works at the wellhead market because a benchmark value for gas supplies can be established through published prices, such as the postings in the Gas Daily or Inside FERC, and through trading in the futures market. This creates what has been termed price transparency. FERC is also attempting to establish a commodity market for interstate transmission capacity through the bidding process under pipeline's capacity release program. Bids for secondary capacity are posted on the pipeline's electronic bulletin board, providing price transparency in establishing a market value for interstate capacity.

Gathering capacity should also be considered a commodity with a need for price transparency if the wellhead market is to continue to be mature. Nevertheless, most gathering contracts today include a confidentiality provision. These provisions should be considered unlawful. Actual market value cannot be determined in an environment of secrecy and confidentiality. I cannot surmise any reason that gathering should be the only component in the delivered cost of gas that is secretly contrived.

Having sat through many FERC pipeline rate hearings, I know the financial burden on all parties, on the industry itself, that results from full-blown utility regulation. However, light-handed regulation will be ineffective alone, without public access to established gathering rates. In fact, public access to rates, and terms and conditions could help in minimizing complaints filed at the KCC. On one hand, public filing would serve as a deterrent to discrimination. On the other, a gatherer may provide in its filing a justification for a rate that deviates from the rates charged other shippers who appear to be similarly situated, and that justification may be sufficient to the shipper or producer to keep it from filing a complaint case.

Consistent with the above views, I would recommend the following:

1. that a moratorium be immediately adopted which would continue in effect the last effective gathering rate, terms and conditions approved by the FERC for affected gathering facilities, for a period of two years, or until such time as the KCC has established rules and regulations implementing whatever gathering authority future legislation mandates;

2. that all such terms, conditions, and rates be required to be on file with the KCC;
3. that any deviation from those filed rates, terms or conditions which a gathering company may have already negotiated with its customers prior to the moratorium also be required to be on file with the KCC, together with the location of the subject facilities and the reason for the deviation;
4. that all gathering companies operating facilities [excepting possibly de minimus facilities] not previously subject to FERC jurisdiction be required to file the terms, conditions, and rates under which gathering services are currently provided and the location of the related facilities;
5. that any change in the rate, terms or conditions initially filed with the KCC, together with an explanation for such change, or any new services being offered or rendered by a gathering company be filed with the KCC, and that such filings also be made available either through an Internet website or a pipeline's EBB;
6. that the KCC be required to implement a code of conduct for all gathering companies and any affiliate that may purchase, process or resell gas on the gathering system, possibly modeled after FERC Order No. 497 for interstate pipelines and their marketing affiliates; and
7. that the KCC be required to implement a complaint procedure under which producers or shippers (i) may complain to the KCC of a violation of statutory-mandated open access; (ii) may file a request for the KCC to determine a fair gathering rate, and/or other terms and conditions; or (iii) may complain of discriminatory conduct by the gathering company in charging a gathering rate or applying operational terms and conditions.
8. that the KCC not only have the authority to hear and adjudicate gathering complaints, but also the duty to investigate complaints of discrimination, and that it be granted subpoena and other discovery powers; [legislation should be designed so as to minimize the chilling effect that would occur if the producer or shipper had the financial burden generally involved in the legal process of discovery]; and
9. that the KCC be granted sanctioning powers with the authority to impose civil penalties in the case of willful

Maria M. Seidler
Comments Before Kansas Legislature
February 18, 1997
Page 7

abuse of market power, particularly in cases of discrimination that involve the gathering company's affiliate.

There has been concern that the KCC does not have the authority to resolve private contractual disputes and therefore existing contracts should be exempted from the KCC's jurisdiction. However, such exemption would create a regulatory gap that in itself would be discriminatory. The abandonment of most pipeline gathering has occurred. Producers, who are being coerced to enter into contracts now in order to move their gas through these deregulated facilities, would have no hope of relief under this future legislation. Further, it would deny producers any forum to address complaints, besides expensive and protracted antitrust litigation, where the producer becomes aware that he is being discriminated against, after he has entered into a contract or where the gathering affiliate abuses the terms of the contract to frustrate open access. However, if the law requires that all services, including services being rendered under existing contracts, be fair and non-discriminatory, then the KCC could determine whether the services under the contract meets the statutory requirement. If it does not, the contract is void as unlawful.

Maria Mercedes Seidler

ATTORNEY-AT-LAW / CONSULTING
NATURAL GAS FEDERAL REGULATION & POLICY

3945 S. Trenton Ave.
Tulsa, OK 74105
918-748-9741

February 3, 1997

TO: The Honorable Dennis McKinney
House Utility Committee
The Kansas Legislature

RE: Proposed Legislation For the Regulation of Gathering
Facilities, Rates and Services -- Legal Precedent Defining
the Just and Reasonable Standard for Rates

It has been represented that the standard of "just and reasonable" as used relative to the regulation of rates charged by natural gas companies and gas utilities requires that a cost-of-service methodology be used in the setting of such rates. FPC V. Hope Natural Gas Co., 64 S.Ct. 281 (1944), has been cited to support this interpretation. Not only is this a gross misstatement of Hope, but the Hope decision provides for the direct converse. The Supreme Court in Hope and other appellate courts in subsequent decisions citing Hope, have consistently held that the standard of "just and reasonable" under sections 4 and 5 of the Natural Gas Act does not mandate any one rate methodology, but only requires that the "end result" is just and reasonable.

The rate challenged in Hope was based on cost of service. Various parties disagreed with the Commission's¹ use of the present fair value of certain property included in the gas company's rate base, rather than the property's actual legitimate cost. The Supreme Court refused to determine whether the use of one or the other valuation of the property was proper. It held that the "Commission was not bound to the use of any single formula or combination of formulae in determining rates. . . . Under the statutory standard of 'just and reasonable' it is the result reached not the method employed which is controlling." Id., 287.

¹ As used in this memorandum, the "Commission" shall refer to both the federal Power Commission (FPC) and to the Federal Energy Regulatory Commission (FERC), the successor agency to the FPC.

To: The Honorable Dennis McKinney
House Utility Committee
Re: Just and Reasonable Standard for Rates
Natural Gas Gathering

Page 2

In determining just and reasonable rates, the Commission is merely required to consider the ultimate impact of the rate on the consumer and the utility. The "fixing of 'just and reasonable' rates involves a balancing of investor and consumer interest." Id., 288; see also, Jersey Central Power & Light Co. v. FERC, 810 F.2d 1169, 1172 (D.C. Cir. 1987) ("It is axiomatic that the end result of Commission rate orders must be "just and reasonable" to both consumers and investors, and that, in achieving this balance, the Commission must consider the impact of its rate orders on the financial integrity of the utility"). To require that the Commission consider the rate impact on the financial stability of a natural gas company is to require, not that the company's profitability must be somehow assured, but that the rate be higher than a confiscatory level. See FPC v. Texaco Inc., 94 S.Ct. 2315, 2323 (1974). Merely because the rates at issue in Hope (and also in Jersey Central) were based on the traditional cost-of-service methodology cannot lead to the conclusion that either of the cases mandates cost-of-service. Further, the Commission has never interpreted those cases to stand for such a proposition.

In determining just and reasonable rates for producers' well-head sales under sections 4 and 5 of the NGA, the Commission abandoned cost-of service based rates and established, first, area rates, affirmed by the Supreme Court in Permian Base Area Rate Cases, 390 U.S. 9 (), and, later a national rate, affirmed by the Court of Appeals, see, cf, Shell Oil Co. v. FPC, 520 F.2d 1061 (1975). In Shell, the D.C. Circuit limited its ability to review the FPC's approval of a national rate to determining whether, under the "end result" test,

the order protects the consumer against excessive rates and charges; and

the order is consistent with the maintenance of adequate service in the public interest.

Id., 1073. On determining whether the Commission should consider certain cost of service factors in setting a national rate or the commodity valuation of gas production, the Court did not state, nor in any way imply, that the just and reasonable standard require cost-of-service ratemaking. To the contrary, the Court notes only that the "Commission's long and often judicially approved practice of basing rates on cost carries a substantial presumption of validity." Id., 1084. Cost-of-service based rates are only presumed to be just and reasonable; they are not required for just and reasonable. Indeed, the Court's decision indicates that should a party demonstrate that the "net effect"

To: The Honorable Dennis McKinney
House Utility Committee
Re: Just and Reasonable Standard for Rates
Natural Gas Gathering

Page 3

of such a cost-based rate is "improper," and does not satisfy the end-result test, the rate could be determined unlawful under the just and reasonable standard. Id.

As part of its industry restructuring under Order No. 636, the Commission has approved market-based rates under its sections 4 and 5 authority. In Elizabethtown Gas Co. v. FERC, 10 F.3d 866 (1993), parties challenged the Commission's approval of market-based pricing for gas sales made by Transcontinental Gas Pipeline Corporation. They argue that market-based pricing "constitutes 'virtual deregulation' and is utterly at odds with [the Commission's] NGA obligation to insure that rates are cost-based so that consumers will be protected from abuse at the hands of natural gas companies," maintaining that the Commission "was required to adhere to its historical policy of basing rates upon the cost of providing service plus a fair return on invested capital." Id., 870. The court expressly denies any such requirement. It cites the Supreme Court's statement in Mobil Oil Exploration v. United Distribution Co., 498 U.S. 211, that it 'has repeatedly held that the just and reasonable standard does not compel the Commission use any single pricing formula.' It refers to its own previous decision that "when there is a competitive market the FERC may rely upon market-based prices in lieu of cost-of-service regulation to assure a 'just and reasonable' result, citing particularly, Tejas Power Corp. v. FERC, 908 F.2d 998, 1004 (D.C. Cir. 1990) ("In a competitive market, where neither buyer nor seller has significant market power, it is rational to assume that the terms of their voluntary exchange are reasonable and specifically to infer that the price is close to marginal cost, such that the seller makes only a normal return on its investment").

The Commission has also approved market-based pricing for jurisdictional storage services where the natural gas company has demonstrated a lack of market power over potential customers. See, e.g., Koch Gateway Pipeline Co., 66 FERC Para. 61, 385 (1994). These cases were considered pursuant to the Commission's recent "Alternatives to Traditional Cost-of-Service Ratemaking Policy Statement," 74 FERC Para. 61, 076 (1996). Generally, the Policy Statement provides for an examination of the relevant product, such as the gas commodity, storage services, etc., and the geographic markets, firm size and market concentration, and ease of entry into the market to determine whether market-based rates if charged by the applicant company are just and reasonable.

To: The Honorable Dennis McKinney
House Utility Committee
Re: Just and Reasonable Standard for Rates
Natural Gas Gathering

Page 4

Clearly, just and reasonable under sections 4 and 5 of the NGA and as defined in NGA case law does not require the use a cost-of-service methodology, nor does it mandate the use of any other methodology. The rate's end result must protect the consumer from excessive rates and charges by a natural gas company, while providing the company a rate that is not confiscatory. Under this end-result test, a rate is just and reasonable.

I have also enclosed with this memorandum excerpts from Energy Policy: The REEL World; Cases and Materials On Resources, Energy and Environmental Law by Professor Marla Mansfield (1996). These excerpts support this memorandum's conclusion that the just and reasonable standard does not mandate a cost-of-service methodology. Many of the cases she cites and includes in the text involve state utility regulation, in addition to federal regulation under the NGA.

**Panhandle Eastern
Pipe Line Company**
A Unit of PanEnergy™

P.O. Box 1642
Houston, Texas 77251-1642
5400 Westheimer Court
Houston, Texas 77056-5310
713 627-5400

December 10, 1996

Lois D. Cashell, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

Re: Panhandle Eastern Pipe Line Company,
Docket No. RP97-____-000

Dear Ms. Cashell:

Panhandle Eastern Pipe Line Company (Panhandle) submits herewith for filing an original and five copies of the revised tariff sheets identified in Appendix A for inclusion in its FERC Gas Tariff, First Revised Volume No. 1 to be effective January 9, 1997.

PURPOSE AND NATURE OF FILING

In accordance with the provisions of Section 154.204 of the Commission's Regulations, Panhandle proposes to establish the flexibility under its tariff to negotiate rates in accordance with the Commission's Statement of Policy on Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines, Docket No. RM95-6-000 and Regulation of Negotiated Transportation Services of Natural Gas Pipelines, Docket No. RM96-7-000 issued January 31, 1996 (Policy Statement).

This filing proposes to establish a negotiated/recourse rate program applicable to Panhandle's Part 284 firm transportation and storage services under Rate Schedules FT, EFT, LFT, IOS, WS, PS and FS consistent with the Policy Statement as well as Commission pronouncements respecting negotiated rate filings of other pipelines. The filed tariff revisions provide Panhandle the flexibility to negotiate a rate which may be greater than, less than or equal to the existing cost-based maximum rate for the applicable service, but which will not be less than the minimum cost-based tariff rate for that service. Under this proposal, shippers will retain their ability to choose the existing Commission approved cost-based maximum tariff rate as their recourse rate when their negotiated rate is not in effect. A negotiated rate will be in effect only when a shipper and Panhandle agree to such rate and its term. The negotiated rate may be based on a rate design other than straight fixed variable and it may include a minimum quantity. In instances of capacity release when a rate design other than straight fixed variable is chosen, the shipper and Panhandle also may agree on adjustments to the releasing shipper's bill other than those specified in Section 15.6 of the General Terms and Conditions in order to preserve the economic bases of the negotiated rate. Therefore, Panhandle has specified in the proposed tariff sheets that the negotiated reservation rate, negotiated commodity rate, duration of the negotiated rate and particular adjustments to the releasing shipper's bill will be stated on an Exhibit to the Service Agreement. No other charges, penalties or terms and conditions may be negotiated.

Shippers paying a negotiated rate in excess of the cost-based maximum rate will be considered to be paying the maximum rate for purposes of scheduling, curtailment and interruption, and calculating the economic value of a request for unsubscribed firm capacity. Replacement shippers under Panhandle's capacity release tariff provisions may not bid or pay a rate greater than the maximum rate and are not eligible for negotiated rates.

PROPOSED TARIFF CHANGES

Panhandle is proposing changes to the Rate Schedules, General Terms and Conditions and the Forms of Service Agreement in its tariff to establish the ability to negotiate rates as follows:

1. Rate Sheet - Panhandle is including a new rate sheet to reflect the details which will be filed with the Commission for each negotiated rate agreement.
2. Rates - The Rate section of Rate Schedules FT, EFT, LFT, IOS, WS, PS and FS is being revised to reflect that Panhandle and shipper may agree on a negotiated rate that differs from the rates and charges otherwise provided for under such rate schedule.
3. Definitions - Maximum Rate is defined in Section 1 of the General Terms and Conditions and is available to any shipper that does not choose a Negotiated Rate. The definitions for Negotiated Rate and Minimum Rate also have been added and capitalized throughout the tariff to indicate their designations as defined terms.
4. Contracting for Service Rights - Section 7 of the General Terms and Conditions is being modified to state that bids at a negotiated rate in excess of the cost-based maximum rate will be considered to be paying the maximum rate for purposes of determining the economic value of a requestor's bid.
5. Capacity Release - Panhandle has specified in Section 15 of the General Terms and Conditions that the maximum rate bid cannot exceed the Maximum Rate for a released service. The shipper and Panhandle may agree on payment obligations and crediting mechanisms other than those specified in Section 15.6 of the General Terms and Conditions.
6. Forms of Service Agreement - The Forms of Service Agreement under each applicable Part 284 firm transportation and storage rate schedule are being revised to provide for the negotiated rate option. A new Exhibit has been added to the form of service agreement where negotiated rates, term and particulars concerning adjustments to the releasing shipper's bill will be specified.

COMPLIANCE WITH THE POLICY STATEMENT AND COMMISSION PRONOUNCEMENTS

As required by the Policy Statement and Commission pronouncements, Panhandle will record the volume transported, billing determinants, rate components, surcharges, and the revenue associated with its negotiated rate transactions separately so that this information can be identified and totaled as part of Statements G, I, and J in Panhandle's next rate case filing. Further, Panhandle states that its recovery of surcharges such as ACA and GRI will not be affected under negotiated rate contracts.

As of this date, Panhandle has not entered into any specific negotiated rate transactions. The proposed tariff changes will provide increased flexibility in rate design for new and existing shippers utilizing Panhandle's firm transportation and storage services. The addition of negotiated rate tariff provisions will enhance Panhandle's ability to maintain and retain customers that may otherwise elect to leave the system at the termination of existing contracts.

When Panhandle and a Shipper effectuate a negotiated rate agreement, Panhandle will file a numbered tariff sheet stating the name of the shipper, the actual negotiated rate or the formula used to calculate the rate, the rate schedule for the service, the receipt and delivery points applicable to the service and the contract quantity.

The negotiated rate provisions proposed herein will not change or affect the characteristics of any firm or interruptible services currently provided. The revisions will not affect a shipper's rights to capacity, receipt or delivery point flexibility, nominations and scheduling, curtailment or capacity release.

IMPLEMENTATION

The proposed effective date of the instant filing is January 9, 1997. In the event the Commission elects to suspend the filed revised tariff sheets, Panhandle moves to place such tariff sheets into effect at the end of the applicable suspension period in accordance with Section 154.7(a)(9) of the Commission's Regulations. However, in the event any change to such tariff sheets is ordered by the Commission, Panhandle reserves the right to file a separate motion to place such tariff sheets in effect.

CONTENTS OF THE FILING

In addition to the Appendix material previously described, included herewith are:

1. An electronic version of the proposed tariff sheets on a 3-1/2 inch diskette containing the file name "TF121096.ASC," pursuant to Section 154.4 of the Commission's Regulations;
2. A marked version of proposed changes to tariff provisions pursuant to Section 154.201(a) of the Commissions Regulations; and
3. A Notice of Proposed Change in FERC Gas Tariff (Notice) in typed form and an electronic version of the Notice on a 3-1/2 inch diskette with the file name "NT121096.ASC," in ASCII format in accordance with Section 154.209 of the Commission's Regulations.

Lois D. Cashell, Secretary
Federal Energy Regulatory Commission
December 10, 1996
Page 4

COMMUNICATIONS, PLEADINGS AND ORDERS

Panhandle requests that all Commission orders and correspondence as well as pleadings and correspondence from other parties concerning this filing be served on each of the following:

William W. Grygar ¹
Vice President, Rates and
Regulatory Affairs
Panhandle Eastern Pipe Line Company
5400 Westheimer Court
Houston, TX 77056-5310
(713) 627-5400

Merlin E. Remmenga ¹
Vice President and General Counsel
Panhandle Eastern Pipe Line Company
5400 Westheimer Court
Houston, TX 77056-5310
(713) 627-5400

Lawrence G. Acker ¹
Mary A. Murphy
LeBoeuf, Lamb, Greene & MacRae, L.L.P.
1875 Connecticut Avenue, N. W.
Suite 1200
Washington, DC 20009-5728
(202) 986-8000

Panhandle Eastern Pipe Line Company
1620 L Street, N.W.
Suite 1200
Washington, DC 20036-5602

In accordance with Section 154.2(d) of the Commission's Regulations, a copy of this filing is available for public inspection during regular business hours at Panhandle's office at 5400 Westheimer Court, Houston, Texas 77056-5310. In addition, copies of this filing are being served on all jurisdictional customers and applicable state regulatory agencies.

Respectfully submitted,

PANHANDLE EASTERN PIPE LINE COMPANY

/s/ William W. Grygar

William W. Grygar
Vice President,
Rates and Regulatory Affairs

Enclosures

¹ Designated to receive service pursuant to the Commission's Rules of Practice and Procedure.

1-15

Attac 2

BEFORE THE KANSAS SENATE
ON SENATE BILL 148

FEBRUARY 18, 1997

Comments
of

DENNIS G. MCLAUGHLIN, III

3102 MAPLE, SUITE 600
DALLAS, TX 73201

*SENATE UTILITIES
2-18-97
ATT. 2*

I am the founder and President of Aurora Natural Gas. Aurora was formed four years ago in January to aggregate natural gas from small operators and resell the aggregated quantities to large users of natural gas. Aurora is very active in the Hugeton area and throughout the Mid-continent and other producing regions in the country. Aurora represents over one hundred and ten independent producers and has been able to witness first hand the effect of the spindown process of interstate gathering facilities.

Although I am impressed with the work the task force has done to solve a very difficult problem, I want to say right up front, I oppose this bill for only one reason: it does not go nearly far enough.

As I understand it, specific examples of abuse were requested yesterday. I want to state there has been abuse, but I believe it pales in comparison as to what is about to come, as most of the pipelines are aware they are currently being watched closely. My company and those that we represent have been a victims of such abuse.

Examples:

1. Aurora purchased natural gas from Gryphon operating, whose headquarters in Tulsa, Oklahoma, for over two years when Anadarko acquired gathering facilities from Panhandle Eastern. Those gathering facilities connected Gryphon's large volume, operated properties to the Panhandle Eastern mainline. Gryphon also owned small, scattered interests in wells that were operated by Anarko's production company. At that time of the spindown, Anadarko informed Gryphon that if it did not agree to sell its gas to Anadarko at a specified price that it would not sell Gryphons small non operated working interests in the wells operated by Anadarko. Since the operator usually sells the gas, this would have created an administrative nightmare for Gryphon. The net result was that Gryphon was compelled to sell its natural gas to Anadarko, even though Aurora's price was better. Although Gryphon was never able to get Anadarko put that it writing, it happened. Gryphon gave in, they saw no alternative.

2. Increase in fuel and gathering rates since spindowns.

The rate charged on fuel by Panhandle field service, et al, has gone from .25% in December of 1995 to 5.45% in November of 1996.

The rate charged on fuel by Williams was changed from 1.7% to 5.2%

The rate charged on fuel by Anadarko, has gone from .25% when the system was owned by Panhandle prior to the spindown to 3.78%.

In no case were these changes explained or justified, they are just a fact of life. Further, these charges did not create a corresponding decrease in the mainline fuel. Ironically enough, it takes around 5.5% fuel, plus the transport rate to move gas from Kansas to Michigan on an interstate pipeline, about the same amount fuel required to move gas thirty miles through a spundown gathering system.

I will not belabor on existing abuse, although it is present and I deal with it every day. As I have stated I do not believe it is nearly as bad as it is going to get, absent adequate oversight. It is a fundamental truth that the only way an entity does not become abusive is through competition, or oversight. THERE IS NOT AN ADEQUATE BASIS FOR competition TO PROTECT OTHER PARTIES. An operator connected to a gatherer, nine times out of ten, does not have another choice. he is compelled to deal with that party, period. That is not competition. As I have previously testified. I believe companies previously owned by interstate pipelines are the major problem because they were devoid of competition when the infrastructure was developed long ago. If the concept of competition had existed when the producing fields were new, we would not have this problem. We would have gathering lines everywhere owned by many companies.

Although the word deregulation sounds good, its not as simple as the government getting out of the way. In the Northeast, where large utilities are being "deregulated", this does not mean they are being removed from oversight, it means that they are being compelled to offer open access, that is, a customer may choose who is purchases natural gas from, the local

commission sets the transport rate that it may charge. This creates competition and brings down the price of gas to the consumer.

The FERC'S primary intent with the deregulation of the interstate pipeline system was to create open access from the wellhead to the burnertip. It realized that the states must help this process along. The states in the Northeast and Midwest, where most of the gas is consumed are holding up their end of the bargain, they are moving as quickly as possible to create competition, (which requires their oversight). The FERC never suggested that gathering should be void of oversight, it merely maintains that it does not have the authority itself to do it.

The bottom line is this: without your oversight, monopolistic companies without any checks or balances will be created. I would ask you to consider a simple concept: What is every companies' prime directive? To maximize its profits, it has an obligation to its stockholders to do so. I believe that this suggests that over time, these companies that own spundown gathering systems, if left unchecked, will charge gathering rates that are going to be ever increasing. What will keep them from doing this? And what will happen if they do? higher gathering rates, lower production because the demand signal won't make it to the wellhead. Where will this lead us? check the history books. We don't pay attention to energy policy until we have a crisis. This is energy policy, its yours to make

In conclusion, I have included my previous testimony and have included suggestions for the improvement of this bill or another one. I believe we must have price transparency as I have outlined and should also have a more formalized complaint process. I believe a standard of just and reasonable should be used. I certainly do not propose a utility type cost of service rate methodology, as I believe that would do more harm than good.

Although this is not a populace issue, it is very important. I am testifying before you at the risk of impairing my business. Many companies like mine and small operators are afraid to testify for fear of the repercussions. However, I believe this to be a moral issue as much as a business problem. I know the people who have spent their lives building the companies that provide our country with energy. I do not want to see them pay for someone else's excessive return. I believe you have an obligation to see that they are protected. You will need them.

Goals For Legislation For the State of Kansas Proposed by the Coalition For Competitive Energy

I. GAS GATHERING:

It shall be the public policy of Kansas that gas gathering rates shall be just and reasonable, and practices and conditions of service shall not be unjust or unreasonable nor unduly preferential or discriminatory; and that the enforcement mechanism shall be a combination of (1) market forces disciplined by price transparency and (2) the KCC administrative process.

1. Each gathering company shall post on its own electronic bulletin board, and in addition furnish upon request a paper version by fax or mail, for each gathering contract:
 - (a) the contract number;
 - (b) the rate charged;
 - (c) system on which it is charged ;
 - (d) basis of charge, including
 - (1) length of term,
 - (2) volume per day, and
 - (3) an annotation of any extenuating circumstances, including
 - (a) processing,
 - (b) additional compression or pipelines,
 - (c) a provided meter run, or
 - (d) a provided meter;
 - (e) throughput commitments.
2. Each gathering company shall file its gathering service contracts with the KCC, and the KCC shall keep these contracts confidential until and unless a complaint and allegation of an unjust or unreasonable rate, or an unjust, or unreasonable or unduly preferential or discriminatory practice or condition of service is made.
3. The complaint procedure shall be that:
 - (a) Any person requesting gathering service shall be deemed to have standing and may file a complaint, based upon a reasonable belief, alleging an unjust or unreasonable rate, or an unjust, unreasonable,

or unduly preferential or discriminatory practice or condition of service;

- (b) The KCC shall then furnish to the complainant within 5 days the contracts specified in the complaint;
- (c) The complainant shall inform the KCC within 21 days of receipt of the requested contracts that the complainant wishes to renew the complaint or else the complaint shall be dismissed;
- (d) If the complaint is not dismissed, the KCC shall investigate and determine the merits of the complaint and issue a finding as to whether the complaint is true in whole or in part and shall set forth its reasoning as well as its conclusions.
- (e) Unjust and unreasonable practices shall include but not be limited to:
 - (1) tying arrangements or requirements;
 - (2) coercion;
 - (3) excessive gathering charges;
 - (4) excessive fuel charges, including fuel, rates, and processing charges;
 - (5) excessive facilities charges, including meter runs, taps, and compression; and
 - (6) Quality standards substantially augmented over average gas quality.

4. The KCC may upon its own motion, bring a complaint or investigation in pursuance of its duty to defend the public interest and the public policy of Kansas. Nothing in this bill shall retard, diminish, or reduce the authority, power, and duties placed upon the KCC by the common carrier statute.

II. IRRIGATION AND RURAL FUEL USE:

- 1. The prohibition of the exclusive certificated areas where the certificated company owns no distribution or supply lines, at least in rural areas.
- 2. Current law should be modified to provide for bypass of utility company meters where the utility company owns only the meters and regulators, but does not own the supply or delivery pipelines.

ENERGY AND NATURAL RESOURCES COMMITTEE
Hearing on Proposal No. 26 -natural gas gathering systems, including
removing them from regulation as a public utility.

MY NAME IS DENNIS MCLAUGHLIN, I AM THE PRESIDENT AND FOUNDER OF AURORA NATURAL GAS. MY COMPANY IS IN THE BUSINESS OF AGGREGATING AND PURCHASING NATURAL GAS PRODUCTION FROM SMALL INDEPENDENT PRODUCERS. WE THEN SELL THE VOLUMES IN SUFFICIENT QUANTITIES FOR INDUSTRY AND UTILITY COMPANIES. CURRENTLY WE REPRESENT IN EXCESS OF EIGHTY PRODUCERS AND SELL APPROXIMATELY 250,000 MMBTUS, OR MCF PER DAY. I APPRECIATE THE OPPORTUNITY TO ADDRESS THE COMMITTEE ON THE TOPIC OF NATURAL GAS GATHERING DEREGULATION. AS YOU KNOW, THE FERC HAS TAKEN THE POSITION THAT IT SHOULD NOT REGULATE NATURAL GAS GATHERING FACILITIES. IN 1993, THE FERC ISSUED AND BEGAN IMPLEMENTING ORDER 636, THIS ORDER WAS DESIGNED TO IMPLEMENT THE FINAL PHASE OF NATURAL GAS DEREGULATION. AMONG OTHER THINGS, THE ORDER CALLED FOR THE UNBUNDLING OF GATHERING, TRANSMISSION, AND STORAGE. IN PARTICULAR, BY SEPARATING GATHERING FROM LONG HAUL TRANSMISSION LINES, TWO ENTITIES AND TWO FEES WILL BE CREATED. AS A RESULT, THE PIPELINES BEGAN TO SEE TREMENDOUS OPPORTUNITY BY CREATING UNREGULATED GATHERING ENTITIES USING THE FACILITIES THAT WERE CONSTRUCTED IN THE JURISDICTIONAL, REGULATED ERA. TO MEET THE GATHERING CRITERIA, THE PIPELINE COMPANIES ARE EITHER SELLING THESE GATHERING SYSTEMS TO OTHER COMPANIES, OR ARE CREATING WHOLLY OWNED SUBSIDIARIES TO HOLD THESE FACILITIES. THIS IS KNOWN AS THE "SPINDOWN PROCESS."

THE FERC HAS IMPOSED A TWO YEAR TRANSITION PERIOD ON THE SPINDOWNS. AS A RESULT, THE NEW GATHERING ENTITIES HAVE TO OFFER THEIR EXISTING REGULATED RATE FOR THE NEXT TWO YEARS. FURTHER, THE FERC REQUIRED THE PIPELINES TO DEMONSTRATE THAT IT HAD NEGOTIATED AGREEMENTS WITH ALL EXISTING CUSTOMERS, OR HAD OFFERED A FERC APPROVED DEFAULT AGREEMENT.

THIS WAS ESTABLISHED PRIMARILY SO THAT THE STATES WOULD HAVE THE OPPORTUNITY TO RESPOND TO THIS NEW INDUSTRY STRUCTURE. KEEP IN MIND HOWEVER, ITS ONLY TWO YEARS, AND AFTER THAT, ANYTHING GOES. ALTHOUGH MANY HAVE COMPLAINED TO THE FERC THAT THIS COURSE OF ACTION WILL BRING HARDSHIP TO PRODUCERS AND OTHER PARTIES THROUGH THE CREATION OF UNREGULATED MONOPOLIES, THEY HAVE MAINTAINED THEIR POSITION: IF ANYONE HAS AUTHORITY TO REGULATE GATHERING, ITS NOT THE FERC, ITS THE STATES.

THE FACT IS PRODUCERS HAVE FOUGHT THE SPINDOWNS TOOTH AND NAIL. THE FTC HAS BEEN INVOLVED AS A RESULT OF PRODUCER OUTCRIES. THE FERC CONTINUES TO RECEIVE COMPLAINTS OF ABUSE, OR IMPENDING ABUSE. ONE OF THE CONTRADICTIVE COMPONENTS OF THE WHOLE THING IS THAT INDEPENDENT PRODUCERS GENERALLY LIKE THE IDEA OF DEREGULATION, AS DO MOST BUSINESS PEOPLE. THE IDEA OF MARKETS DETERMINING PRICES IS SOMETHING THAT WE BELIEVE IN THIS COUNTY. IN FACT, THE FERC'S ENTIRE INTENT WAS AFTER ALL, TO CREATE COMPETITION FROM THE WELLHEAD TO THE BURNERTIP. BUT, HEREIN LIES THE ECONOMIC CONTRADICTION; THESE NEW ENTITIES ARE, OR WILL BECOME MONOPOLIES.

MONOPOLIES DO NOT PROMOTE COMPETITION, THAT'S WHY THEY ARE REGULATED. THESE COMPANIES WILL ARGUE THAT SUFFICIENT COMPETITION EXISTS. IF YOU LOOK AT A CONTINENTAL PIPELINE MAP YOU MIGHT COME TO THE SAME CONCLUSION. HOWEVER, LOOK AT THE MAP A LITTLE CLOSER YOU WILL SEE ITS NOT AS EASY AS DROPPING A NEW LINE TO CONNECT A WELL TO ANOTHER GATHERING LINE, AS I WILL DEMONSTRATE IN A MOMENT. THIS SIMPLE FACT CONTRADICTS ONE OF THE BASIC REASONS THESE ENTITIES ARE ASKING NOT TO BE REGULATED. THEY CONTEND THEY ARE NOT MONOPOLIES, BUT ASK ANY PRODUCER, OR ANY ONE WHO HAS BASIC KNOWLEDGE OF THE PRODUCING FIELDS IN KANSAS, OKLAHOMA AND TEXAS. THESE NEW COMPANIES ARE MONOPOLIES. THEY DO, OR WILL HAVE THE ABILITY TO

EXERCISE MONOPOLY POWER OVER PRODUCERS AND THIRD PARTY SHIPPERS.

IF YOU ARE STILL NOT CONVINCED THEY ARE MONOPOLIES, JUST ASK A PRODUCER WHO HAS A WELL CONNECTED TO ONE THEIR SYSTEMS AND HAS NO OTHER CHOICE BUT TO DEAL WITH THEM ON THEIR TERMS. AT THIS TIME, I WOULD LIKE TO DEMONSTRATE GATHERING AND HOW IT LOOKS AT THE NATIONAL, REGIONAL, AND LOCAL LEVEL. I WOULD FURTHER LIKE TO DEMONSTRATE EXAMPLES OF INTERSTATE GATHERERS WHO HAVE MONOPOLISTIC POWER.

PIPELINE AND PRODUCTION EXAMPLE

THESE NEW GATHERING ENTITIES WANT TO TAKE A MASSIVE NATURAL GAS GATHERING INFRASTRUCTURE THAT WAS CREATED UNDER REGULATION AND TREAT IT LIKE ITS A LEMONADE STAND. THEY WANT YOU TO BELIEVE THAT THEY ARE NOT MONOPOLIES AND IF THEY WERE, THEY WOULD NOT TAKE ADVANTAGE OF IT. IMAGINE IF THE CITY AND COUNTY DECIDED TO SELL THE ROADS THAT LEAD FROM YOUR HOME TO THE INTERSTATE HIGHWAYS. IMAGINE IF THIS NEW COMPANY WAS PERMITTED TO CHARGE YOU WHATEVER TOLL IT DESIRED. AND FURTHER IMAGINE THE COUNTY TOLD YOU THAT YOU DON'T HAVE TO USE THE ROADS, YOU COULD BUILD YOUR OWN, OR GET SOMEONE ELSE TO IF YOU DON'T LIKE IT. YOUR FIRST THOUGHT IS THAT YOU HAVE ALREADY PAID THE TAXES TO BUILD THE ROAD AND THE RULES HAVE BEEN CHANGED ON YOU. YOU ARE NOW DEALING WITH A COMPANY ON TERMS YOU COULD HAVE NEVER IMAGINED.

TO ACCENTUATE THIS FACT, THESE WERE INSTALLED BY INTERSTATE PIPELINES WHO HAD JURISDICTIONAL STATUS, THAT IS, THEY WERE PERMITTED TO PUT IN LINES WITHOUT THE WORRY OF COMPETITION. THE LINES WERE PAID FOR BY THE RATE BASE FROM THE TRANSMISSION LINES. THE CONCEPT OF A NATURAL MONOPOLY RESTS ON THE PREMISE THAT THE DUPLICATION OF EXPENSIVE FACILITIES IS NOT IN THE PUBLIC INTEREST. THEREFORE, ONE COMPANY IS GRANTED AN EXCLUSIVE RIGHT TO BUILD AND OPERATE FACILITIES, MUCH LIKE ANY MODERN UTILITY. THIS IS WHERE THE COST OF SERVICE RATE METHODOLOGY COMES FROM.

THE SYSTEMS THAT ARE TO BE SPUN DOWN WERE CREATED UNDER THAT STRUCTURE, HOW COULD THEY NOT BE MONOPOLIES. AS YOU MAY KNOW, THERE ARE A NUMBER OF INDEPENDENT GATHERING COMPANIES. GATHERING, IN AND OF ITS SELF DOES NOT CREATE A MEANINGFUL MONOPOLY. THE DIFFERENCE OF COURSE LIES IN HOW THE COMPANIES ARE CREATED.

AN INDEPENDENT GATHERER, A COMPANY NOT AFFILIATED WITH AN INTRA, OR INTERSTATE PIPELINE, GENERALLY MAKES A DEAL WITH A PRODUCER TO GATHER, AND/OR PURCHASE THEIR GAS WHEN A FIELD IS DISCOVERED, OR ENOUGH NEW PRODUCTION IS BROUGHT ON TO JUSTIFY A NEW FACILITY. LIKE ANY OTHER SERVICE, HIS RATES MUST BE COMPETITIVE, BECAUSE THERE ARE ANY NUMBER OF COMPANIES WILLING TO MAKE A SIMILAR DEAL. THE GATHERER HAS NO WAY TO ASSURE HIMSELF OF A PROFIT, OTHER THAN HIS ABILITY TO OPERATE EFFICIENTLY AND AGREE TO TERMS THAT ARE REASONABLE FOR BOTH PARTIES.

NATURAL GAS WELLS ARE NATURALLY PRODUCING RESERVOIRS. THEY DECLINE AS THEY AGE. A GAS RESERVOIR IS LIKE A BALLOON. WHEN YOU FIRST PUNCTURE IT, THE CONTENTS RUSH OUT. HOWEVER, AS THE CONTENTS DEPART, THEY CONTINUOUSLY DEPART SLOWER AND IN LESS QUANTITIES.

USING MY ANALOGY, THE AVERAGE FIELD IN THE THREE STATE AREA THAT IS GATHERED BY THE INTERSTATE GATHERING SYSTEMS IS ABOUT THREE FOURTHS DEPLETED. WHEN THE FIELDS WERE NEW, IF COMPETITION HAD BEEN THE STANDARD, THERE WOULD BE GATHERING LINES EVERY WHERE AND A PRODUCER WOULD HAVE A MULTITUDE OF CHOICES.

HOWEVER, THE REALITY IS THOSE CHOICES ARE LIMITED BY THE AGE OF THE PRODUCTIVE RESERVOIR HE IS DEALING WITH. FURTHER, AS THE FIELDS ARE PRODUCED, THESE FACTORS WILL BE MORE PRONOUNCED. IT JUST DOES NOT MAKE SENSE TO BUILD A LINE THAT COSTS \$100,000 TO RECONNECT A WELL THAT HAS \$150,000 WORTH OF RESERVES LEFT. THEREFORE, WITHOUT OVERSIGHT, THERE IS NO DOUBT IN MY MIND THAT GIVEN THE GREEN LIGHT, THESE NEW GATHERING COMPANIES

WILL CHARGE THE HIGHEST GATHERING RATE POSSIBLE. FURTHER, THEY WILL MAKE IT IMPOSSIBLE FOR COMPANIES SUCH AS MINE WHO COMPETE TO PURCHASE SUPPLIES FROM PRODUCERS AT THE WELLHEAD TO SHIP ON THEIR SYSTEMS. I BELIEVE THESE GATHERING ENTITIES WILL BASE THEIR GATHERING CHARGE, NOT ON WHAT WILL MAKE DECENT PROFIT, BUT RATHER, WHATEVER RATE THEY CAN EXACT THAT WILL FORCE THE PRICE RECEIVED BY THE PRODUCER RIGHT DOWN TO THE MARGINAL COST OF PRODUCTION, THAT IS, WHATEVER THE PRODUCER CAN BARE TO RECEIVE, SHORT OF GOING OUT OF BUSINESS.

MOST OF THE PIPELINES WHO HAVE RESPONDED TO THE IDEA OF REGULATION ON A STATE LEVEL WANT TO REMOVE THE COST OF SERVICE RATE METHODOLOGY AND THE KANSAS CORPORATION COMMISSION AS A MEANS OF REGULATION AND REPLACE IT WITH AN ARBITRATION BOARD. THEY ARE ASKING YOU TO COMPLETELY DISCARD ANY FACTUAL BASIS FOR THEIR RATES. RATHER THAN USING A DEFINABLE STANDARD, THEY WANT TO DEFER COMPLAINTS TO A 'BOARD' THAT WILL ARBITRATE BASED ON DISCRIMINATION, UNJUST, UNLAWFUL, AND UNREASONABLE. IF THERE IS NO FACTUAL BASIS, HOW DO YOU DETERMINE WHAT IS UNLAWFUL? WITHOUT AN OBJECTIVE STANDARD, HOW DO YOU DETERMINE WHAT IS UNREASONABLE? AND IF ALL PRODUCERS GET A BAD DEAL, THEN CAN'T ONE PRODUCERS BE INJURED BY A GATHERER WITHOUT DISCRIMINATING AGAINST?

IN MANY CASES THESE COMPANIES HAVE MADE MISLEADING STATEMENTS ABOUT WHAT A PRODUCER CAN AND CANNOT DO WITH RESPECT TO SELLING AND TRANSPORTING THEIR GAS. THEY HAVE MADE MISLEADING STATEMENTS ABOUT WHO ACTUALLY OWNS THE GATHERING LINES. THE STANDARD IMPLICATION HAS BEEN, SELL US YOUR GAS NOW ON OUR TERMS, BECAUSE THE TERMS THAT WILL BE OFFERED IN THE FUTURE ARE NOT GOING TO BE AS GOOD. IN MY OPINION, THIS PRACTICE HAS BEEN USED PRIMARILY TO COMPEL PRODUCERS TO AGREE TO LONG TERM CONTRACTS SO THAT THE NEW GATHERING ENTITY COULD MISLEAD THE FERC INTO

BELIEVING THAT THE TERMS OF THE SPINDOWNS WERE ACCEPTABLE TO THE PRODUCERS AND OTHER PARTIES INVOLVED.

IN CENTANA'S RESPONSE TO HOUSE BILL 2041, THEY SUGGEST THAT THE KCC SHOULD NOT BE USED AS "VEHICLE TO ENHANCE A PARTIES' NEGOTIATING POSITION", OR, BE USED AS A DEVICE TO "RESOLVE PRICING DISPUTES BETWEEN PRODUCERS AND GATHERERS". I POSE THE QUESTION, HOW ELSE WOULD A PRODUCER NEGOTIATE?

OUR POSITION IS THIS: THE CREATION OF NON REGULATED MONOPOLIES SHOULD NOT BE PERMITTED. IF THE FEDERAL GOVERNMENT IS NOT GOING TO OVERSEE THESE ENTITIES, THE STATES SHOULD. THESE NEW ENTITIES HAVE ASSUMED THAT THEY WILL NOT BE REGULATED WHICH HAS BEEN DEMONSTRATED BY THE CAVALIER MANOR THEY HAVE TAKEN WHEN APPROACHING PRODUCERS ABOUT ENTERING INTO AGREEMENTS.

I WOULD BE REMISS IF I ACCUSED ALL PIPELINES WHO HAVE GATHERING SYSTEMS OF ABUSIVE BEHAVIOR. SEVERAL OF THEM HAVE GONE OUT OF THEIR WAY TO BE EQUITABLE, CIG, ANR, AND WILLIAMS ARE GOOD EXAMPLES OF THIS. FURTHER, NONE OF THEM HAVE MONOPOLY POWER IN EVERY INSTANCE. I BELIEVE THERE IS A BETTER WAY TO REGULATE GATHERING THAN USING A COST OF SERVICE BASIS. HOWEVER, THE COMPLETE REMOVAL OF OBJECTIVE OVERSIGHT IS NOT THE ANSWER. THE PRIMARY INTENT MUST BE TO RETAIN COMPETITION AT THE WELLHEAD, INSURE THAT PRODUCERS ARE NOT SUBJECTED TO UNHARNESSED MONOPOLY POWER AND THAT OTHER RESTRAINTS OF TRADE ARE NOT PERPETRATED. IN ORDER TO ACHIEVE THESE GOALS, THE FOLLOWING MUST OCCUR:

1. A BOARD SHOULD BE ESTABLISHED THAT HAS WEIGHTED REPRESENTATION. THIS BOARD SHOULD HAVE THE AUTHORITY TO DETERMINE WHEN A GATHERER HAS MONOPOLY POWER OVER PRODUCERS AND THIRD PARTY SHIPPERS.
2. OPEN ACCESS TO ANY SHIPPER AND/OR PURCHASER MUST BE A STANDARD.

3. AN OBJECTIVE RATE DESIGN MUST BE ESTABLISHED, THAT CREATES A MAXIMUM RATE A MONOPOLISTIC GATHERER CAN CHARGE.

4. PRODUCERS AND OTHER PARTIES MUST HAVE THE RIGHT TO FILE THEIR COMPLAINTS WITH THE KCC.

5. RATES AND OTHER PERTINENT INFORMATION SHOULD BE OF PUBLIC RECORD.

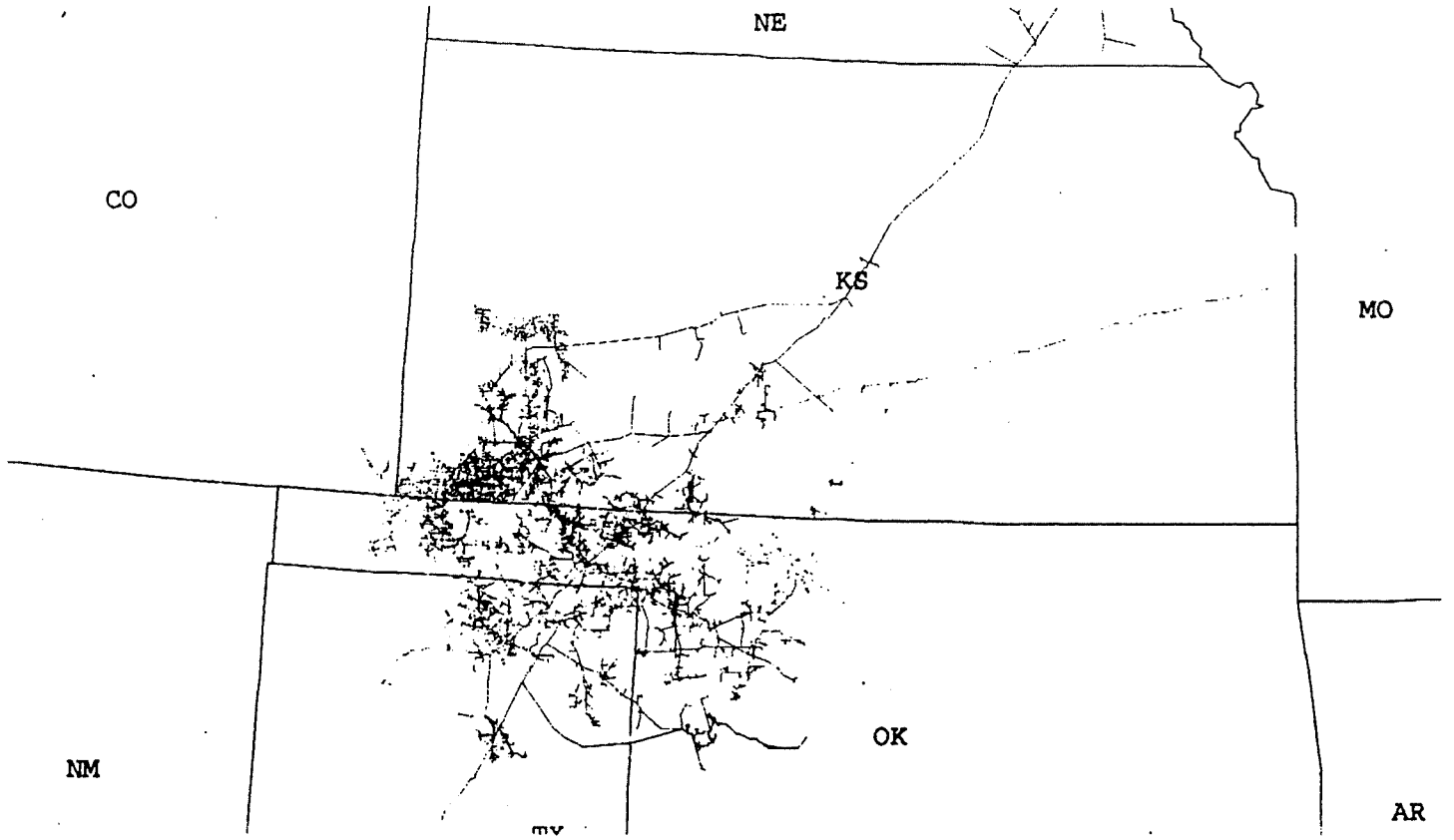
NSAS WELLS

WELL NAME	PATTERSON #1	ATWELL #1	BARTH #1
OPERATOR	WILSON COS.	AMERICAN WARRIOR	AMERICAN WARRIOR
LOCATION	SW 25-28S-37W	NW SE 9-33S-31W	C NW/4 10-35S-22W
CURRENT RATE	825 MCF/D	112 MCF/D	109 MCF/D
REMAINING RESERVES	.5BCF	49 MMCF	144 MMCF
DECLINE	5%	5%	5%
LINE PRESSURE	21-28	60 #	90#
LOE PER MONTH	\$1,000	\$826	\$1,384
CURRENT CONNECTION	PEPL	PEPL	NNG
CURRENT GATHERING RATE	0.1659	0.1659	0.0731
FUEL	0.25%	0.25%	
WELLHEAD PRICE			
NEW GATHERING COMPANY	ANADARKO	ANADARKO	GPM
NEW GATHERING RATE	0.2218	0.2218	0.2218
FUEL	0.25%	0.25%	0.25%
DISTANCE TO NEAREST	6730'	13980'	5000'
ALTERNATE LINE	CIG 6" LINE	CENTANA	TWPL
ALTERNATE RATE	0.159	0.22	0.1
FUEL	0	1%	1%
COST TO LAY NEW LINE AND INSTALL TAP (TAP = \$20,000) (LINE IS \$4/FT FOR 500 MCF/DAY OR LESS) (LINE IS \$6/FT FOR MORE THAN 500 MCF/DAY)	\$60,380	\$75,920	\$40,000
ASSUMPTIONS:	AVERAGE PRICES 10/94-9/95		INDEX
1/8TH ROYALTY		PEPL	1.383
5 % KS PROD TAX		NNG	1.323
MAINLINE PRICE		CIG	1.138
NO ESCALATION		TW	1.32
NO DISCOUNT			
Daily production	825	112	109
Decline	0.95	0.95	0.95
year 1	297,000	40,320	39,240
year 2	282,150	38,304	37,278
year 3	268,043	36,389	34,296
	848,018	115,126	110,814
Gathering Cost per MCF for 3 years	\$0.0712	\$0.6695	\$0.3610
CURRENT RATE	\$0.1659	\$0.1659	\$0.0731
RATE TO NEW FACILITY	\$0.2302	\$0.8795	\$0.4610
CURRENT PRICE	\$1.2141	\$1.1583	\$1.2499
PRICE TO ALTERNATIVE	\$0.9078	\$0.5035	\$0.8590
Operating cost	\$0.0425	\$0.2583	\$0.4496
Royalty	\$0.1598	\$0.0863	\$0.1236
Profit before prod taxes	\$1.0765	\$0.3459	\$0.4158
Tax	\$0.0559	\$0.0302	\$0.0433
Net before overhead, taxes et al	\$1.0205	\$0.3157	\$0.3725

2-14

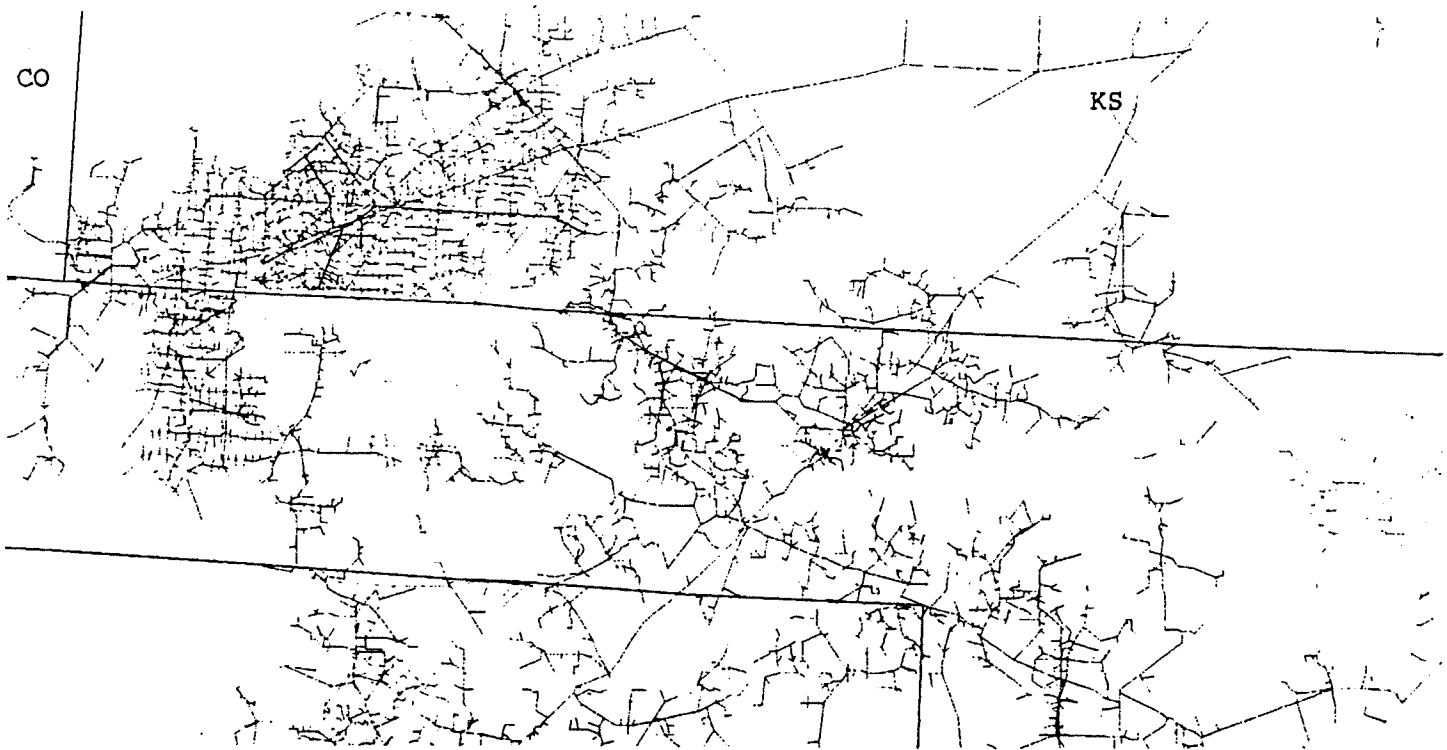
Northern Natural Gas Company

Panhandle Eastern Pipe Line Co
Panhandle Field Services Compa



Northern Natural Gas Company

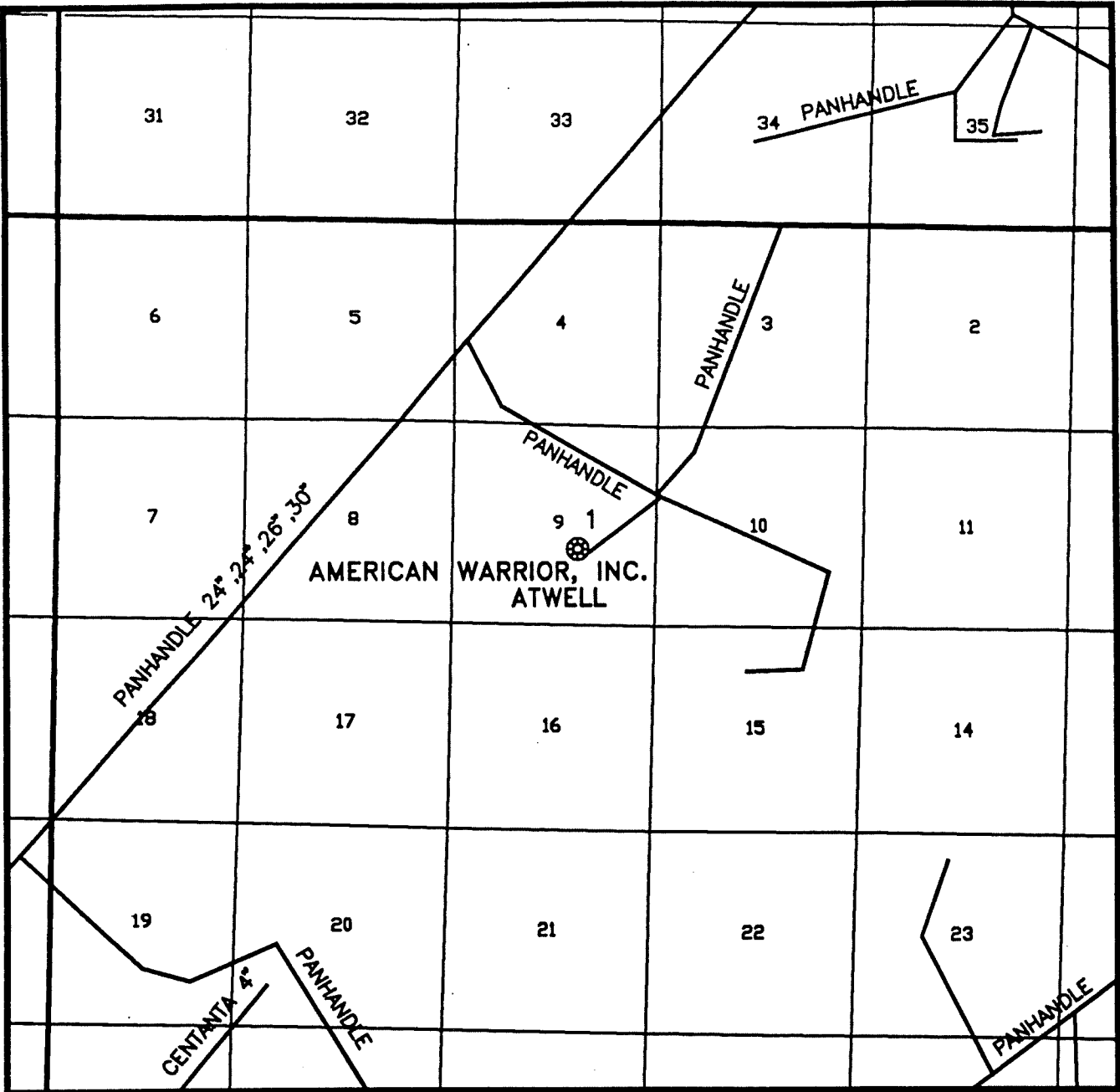
Panhandle Eastern Pipe Line to
Panhandle Field Services Compa



R-31-W

T
32
S

T
32
S



T
33
S

T
33
S

R-31-W

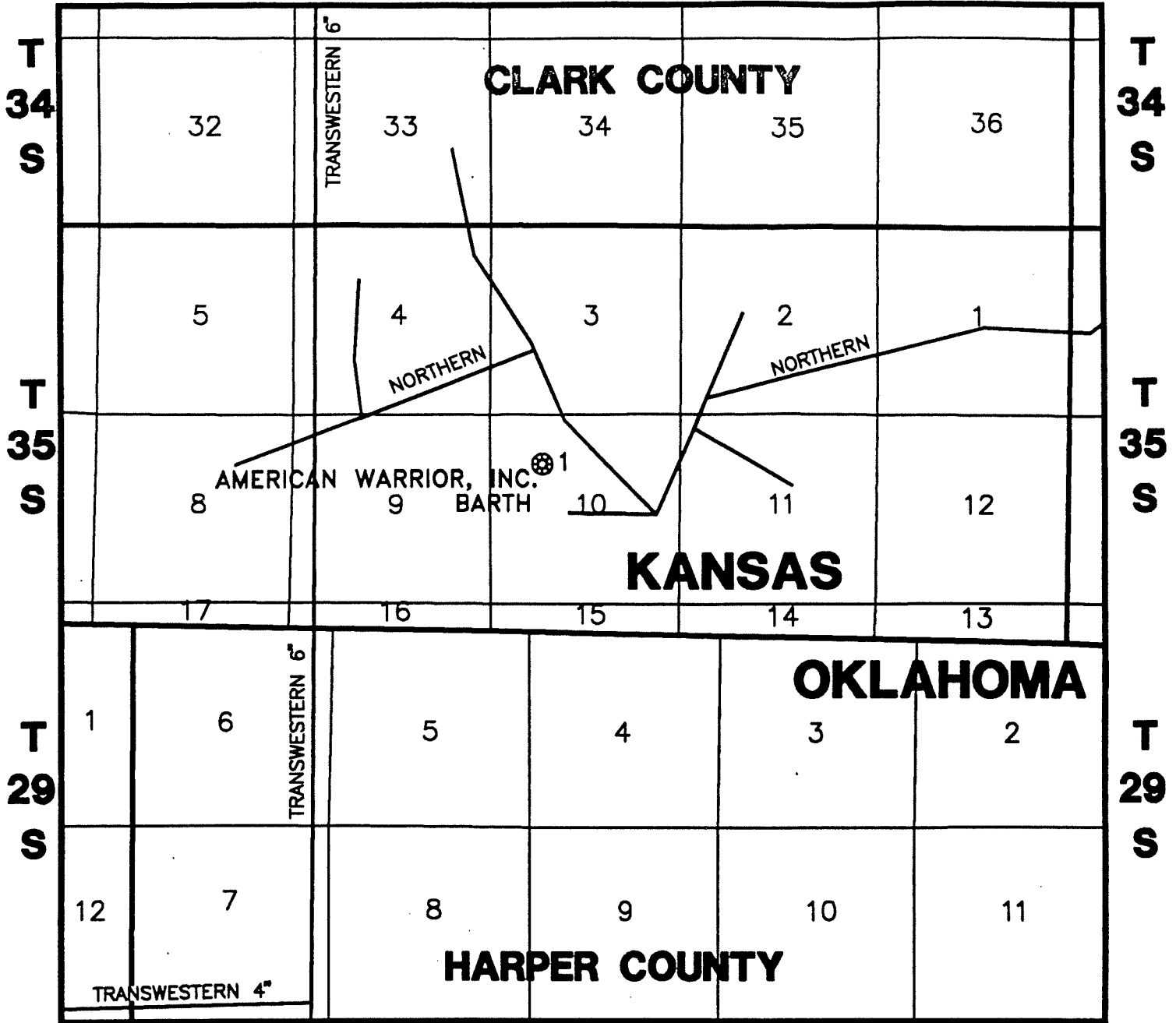
**LOCATION PLAT
FOR THE
AMERICAN WARRIOR, INC.- ATWELL # 1 WELL
SEWARD COUNTY, KANSAS**



SCALE IN FEET

2-17

R-22-W



R-23-W

**LOCATION PLAT
FOR THE
AMERICAN WARRIOR, INC - BARTH #1 WELL
CLARK COUNTY, KANSAS
HARPER COUNTY, OKLAHOMA**



218

R-37-W

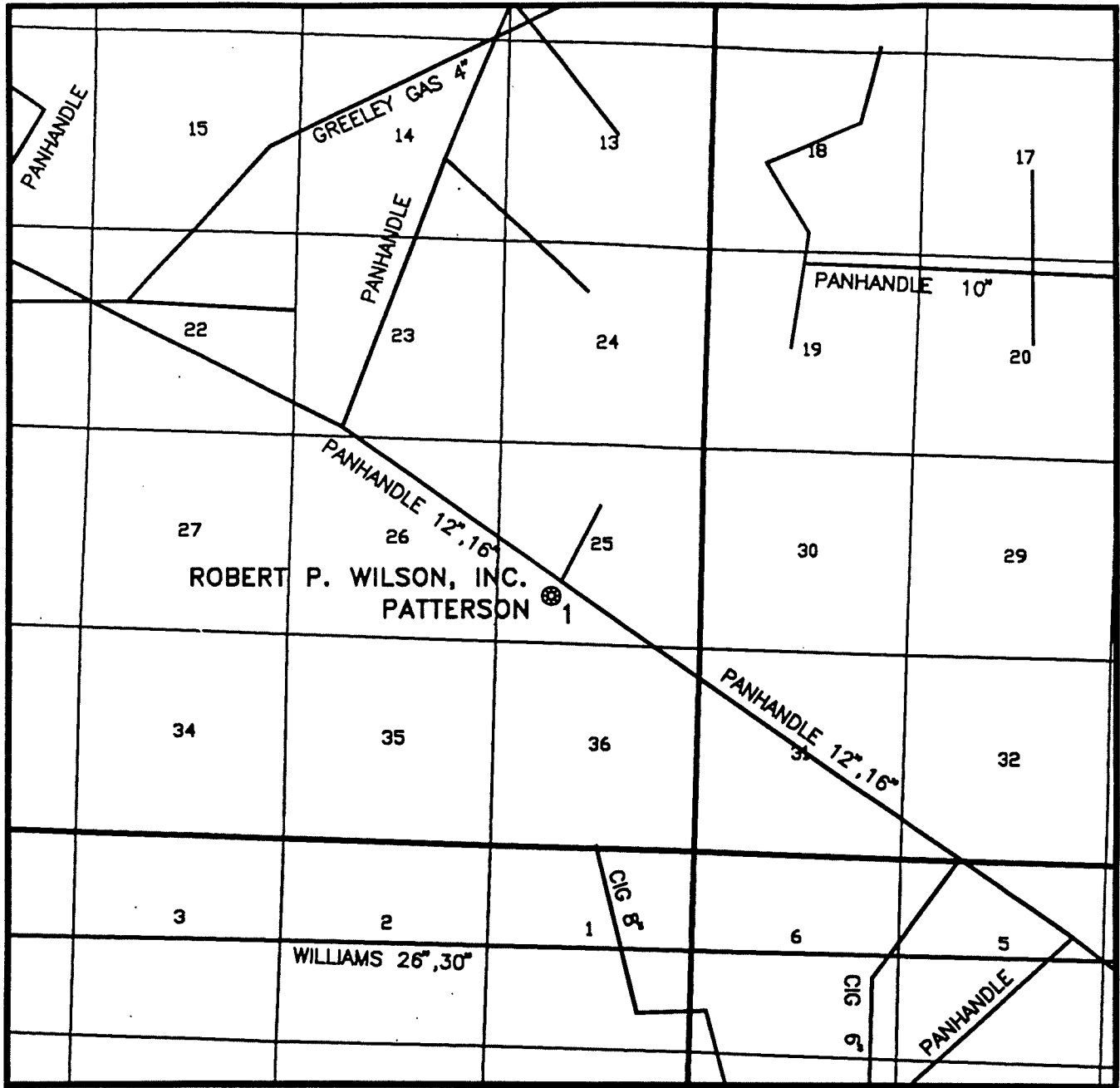
R-36-W

T
28
S

T
28
S

T
29
S

T
29
S



R-37-W

R-36-W

**LOCATION PLAT
FOR THE
ROBERT P. WILSON, INC. - PATTERSON #1 WELL
GRANT COUNTY, KANSAS**



TO: LORI VING
 FROM: LORI VING - Aurora Natural Gas, LLC
 PHONE: 214/880-0494 FAX: 214/880-0497

RE: SPIN DOWN GATHERING RATES

Mr. Smith - Dennis asked me to send you this information regarding Pipeline Spin Downs. I hope it is helpful to you. If you should need anything further, please let me know.

WILLIAMS: THE ONLY SIGNIFICANT CHANGE IN THE LAST YEAR OCCURRED IN JANUARY, 1997
 THE FUEL RATES INCREASED FROM 1.7% TO 5.2%

NORTHERN: ALL OF THE GATHERING SYSTEMS SPUN DOWN GPM, CTI AND ELSC ADOPTED DEFAULT RATES FOR TWO YEAR PERIOD.

PANHANDLE: VERY SIGNIFICANT IN CHANGING FUEL RATES:

FUEL	Oct-96	Nov-96	INCREASE
	4.35%	5.45%	1.10%
	Mar-96	Apr-96	0.57%
	3.78%	4.35%	
	Dec-95	Jan-96	3.7775%
	.0025%	3.78%	

RATE INCREASES:

Dec-95	Jan-96	
0.2221	0.2221	0
May-96	Jun-96	
0.2221	0.2277	0.0056

WESTANA: Became effective 6/96 Fuel rate = 4.91% and \$ 2221 gath rate
 The significant item with Westana is that they will not allow shippers to add points to their default contracts. They would only allow producers to negotiate a contract.

ANADARKO: Became effective 8/96. Fuel rate = 3.78% and \$ 2273 gath rate.

ANIRANS: Became effective 1/01/97.
 Significant item with the ANR spin down is the fact that the gathering fuel and charges had been absorbed by the mainline shippers. Effective with the spin down this will now be absorbed by the producers.

ANIRANS	Dec-96	Jan-97
Fuel	1%	1%
Rate	0.0303	0.05

GPM		
Fuel	0.00%	0.08%
		0.028

Note effective with March 1, 1997 production if your wells are not assigned to a gathering agreement or the production sold to GPM the rate assigned to these wells will be \$.12

If you need further information, please give me a call at the number listed above.

Lori J. Vining

*What are the default rates -
 Panhandle Eastern used fuel
 16.5 to 22.15*

**TESTIMONY OF
EMERY J. BIRO, III
SENIOR ATTORNEY
ANADARKO PETROLEUM CORPORATION**

FEBRUARY 18, 1997

**BEFORE THE SENATE UTILITIES COMMITTEE
SENATE BILL 148**

I. A COMPLAINT-BASED REGULATORY SYSTEM MUST HAVE MINIMUM STATUTORY REQUIREMENTS WHICH MUST BE SATISFIED BEFORE THE KCC MAY ADDRESS A COMPLAINT.

A. A lack of minimum requirements will encourage frivolous complaints to be filed. Such complaints will unnecessarily require time and expense by the Kansas Corporation Commission and gatherers. [ATTACHMENT 1]

B. The Oklahoma statute appropriately contains certain minimum requirements which must be satisfied before the Oklahoma Commission may address a complaint. [ATTACHMENT 2]

1. The Task Force briefly discussed adoption of certain reasonable threshold requirements, but these requirements were defeated simply by majority vote with almost no discussion on the merits.

a. Existence of a binding contract.

b. Availability of other gatherers.

II. SENATE BILL 148 DOES NOT REPRESENT "COMPROMISE" LEGISLATION.

A. KIOGA testified that Senate Bill 148 represents a "compromise" bill. However, Senate Bill 148 includes none of the provisions from the Oklahoma statute which are favorable to gatherers, and contains many additional provisions which are unfavorable to gatherers.

B. Almost none of the numerous proposals made by gatherer interests on the Task Force were adopted by the majority report.

- III. THE "UNFAIR" STANDARD FOR REGULATION OF GATHERER RATES AND "PRACTICES" IS OVERLY VAGUE.
- A. Such a standard will encourage frivolous complaints as it provides no guidance for producers or gatherers as to when rates or "practices" are fair or unfair.
 - B. The Task Force spent almost no time discussing the meaning of "unfair" as a standard.
 - C. A "not unduly discriminatory" standard provides a reasonable frame of reference for determining appropriate rates and "practices."
- IV. ANY INFORMAL OR FORMAL COMPLAINT PROCEDURE SHOULD ALLOW COSTS TO BE RECOVERED BY THE PREVAILING PARTY.
- A. Cost recovery is a reasonable and necessary protection against frivolous complaints.
 - B. Cost recovery will provide additional incentive for producers and gatherers to negotiate acceptable arrangements without unnecessary government involvement.
- V. SENATE BILL 148 MUST BE REVISED EXPRESSLY TO EXCLUDE REGULATION OF PROCESSING ACTIVITIES.
- A. As drafted, a complainant might incorrectly argue that the "preparation" of gas for transportation includes processing activities.
 - B. Processing regulation was never discussed by the Gathering Task Force, nor was any testimony presented before the Task Force regarding a need for processing regulation.
 - C. Processing activities were never federally regulated, so there is no "regulating gap" resulting from federal gathering deregulation.
 - D. Processing is a separate activity distinct from gathering, and should not be regulated "accidentally" because of ambiguous or vague enabling legislation.
- VI. ANADARKO SUPPORTS THE CONCEPT OF A TEMPORARY EXPERIMENTAL COMPLAINT PROCEDURE FOR DETERMINING WHETHER ADDITIONAL GATHERING REGULATION IS WARRANTED.

ATTACHMENT 1 TO
TESTIMONY OF
EMERY J. BIRO, III

REQUEST FOR ADMISSION NO. 1: Admit the Oklahoma Corporation Commission has jurisdiction to adjudicate this cause pursuant to XAE's Application and 52 Okla. Stat. §24.3.

REQUEST FOR ADMISSION NO. 2: Admit XAE's gas can be reasonably carried by PPC.

REQUEST FOR ADMISSION NO. 3: Admit that carriage of XAE's gas would require neither an expansion nor an extension of the PPC System.

REQUEST FOR ADMISSION NO. 4: Admit there is no other gatherer of gas willing to gather or that can more conveniently gather XAE's gas.

REQUEST FOR ADMISSION NO. 5: Admit that gathering of XAE's gas cannot reasonably be expected to have a material adverse affect on safety or on service to existing customers or on the operation of or recovery in any processing facility.

REQUEST FOR ADMISSION NO. 6: Admit XAE's gas satisfies minimum standards for quality or energy or recoverable hydrocarbon content consistently applied by PPC.

REQUEST FOR ADMISSION NO. 7: Admit the gathering sought by XAE is not inconsistent with any existing contract which governs XAE's gas.

REQUEST FOR ADMISSION NO. 8: Admit the fee for the gathering requested by XAE is not governed by a contract by which XAE is bound.

INTERROGATORY NO. 1: If your response to any of the preceding requests for admission was anything other than an unqualified or unconditional admission, provide the basis for such response.

INTERROGATORY NO. 2: Provide a brief operational and historical description of the PPC System including date of initial construction, your acquisition of it and any subsequent modification of it.

REQUEST FOR PRODUCTION OF DOCUMENTS NO. 1: Provide system maps (both current and historical if available) showing all PPC System facilities labeling and identifying all interconnecting pipelines, storage fields or processing plants on the system. When identifying interconnections, indicate whether they are receipt or delivery points. Additionally, provide copies of all alignment maps, easement and transfers of easements.

INTERROGATORY NO. 3: For each of the receipt and delivery points on the PPC System, identify the relevant producer, seller, shipper, transporter, purchaser or customer.

INTERROGATORY NO. 4: Identify each PPC affiliate engaged in the production, transportation, purchase, sale, storage, gathering, processing or compression of natural gas or which is engaged in the leasing of equipment in connection with any of the above activities and provide a brief description of its affiliation with PPC and its business activities. For purposes hereof, the term "affiliate" shall be deemed to include all persons or entities (a) in which PPC, Roy Rimmer or any equity owner of PPC have a legal or beneficial interest, or the right to acquire such an interest; or (b) controlled by, controlling or under common control with PPC.

INTERROGATORY NO. 5: Identify and describe any other pipeline owned or operated by PPC or any of its affiliates by reference to the name of the line, its location and the name of the owner operator. For purposes hereof, the term "affiliate" shall be deemed to include all persons or entities (a) in which PPC, Roy Rimmer or any equity owner of PPC have a legal or beneficial interest, or the right to acquire such an interest; or (b) controlled by, controlling or under common control with PPC.

REQUEST FOR PRODUCTION OF DOCUMENTS NO. 2: Provide flow diagrams including upstream and downstream pressures, pipeline length, and diameter (O.D.) and average gas temperature. If compressors are utilized, show compressor spacing, inlet and outlet pressures and compression ratios and a description of the compressors utilized. If dehydrators are utilized, provide dehydrator spacing and a description of the dehydration equipment utilized. Show all meters, valves, and other system components, and indicate the age for all pipeline segments and components.

INTERROGATORY NO. 6: Identify or describe your system design capacity from an engineering standpoint (assume maximum operating pressures).

INTERROGATORY NO. 7: Provide throughput volumes on a month to month basis for the period you have operated the PPC System. Throughput volumes include all transportation, sales, displacement and exchange volumes.

INTERROGATORY NO. 8: Identify each well that has been connected to the PPC System at any time while you have operated the system by well name, location and operator and provide the volumes of gas (on a monthly basis) each has produced into the system.

REQUEST FOR PRODUCTION OF DOCUMENTS NO. 3: Provide a statement identifying peak day and average day deliveries on the PPC System during the period you have operated the system; the average BTU content of the gas on the system, fuel gas used on a monthly basis and gas lost or otherwise unaccounted for on a monthly basis.

INTERROGATORY NO. 9: Referring to the third parties described in your response to Interrogatory No. 3, describe the rates being charged to them for service on the PPC System and the price being paid by PPC to them for gas purchased on the system.

REQUEST FOR PRODUCTION OF DOCUMENTS NO. 4: Provide all agreements, letters of understanding and modifications and amendments to same evidencing agreement between PPC or its predecessor and third parties for transportation, gathering, delivery, purchase or sale of gas and the rates to be charged for such service, the price to be paid for such gas.

REQUEST FOR PRODUCTION OF DOCUMENTS NO. 5: Provide the agreements and other documents used to document your purchase of ONG's K-134 and otherwise evidencing the consideration given by PPC or by third parties on its behalf. Consideration includes cash paid, obligations undertaken and commitments made, whether or not conditional. Also provide all correspondence by or between PPC or any affiliate and ONG or any of its affiliated entities regarding the potential or actual purchase of Line K-134. For purposes hereof, the term "affiliate" shall be deemed to include all persons or entities (a) in which PPC, Roy Rimmer or any equity owner of PPC have a legal or beneficial interest, or the right to acquire such an interest; or (b) controlled by, controlling or under common control with PPC.

INTERROGATORY NO. 10: For the period of time during which you have operated the PPC System, describe all revenues potentially eligible for credit to cost of service, including any revenues received from the sale of liquids or revenues from leased facilities on the system.

REQUEST FOR PRODUCTION OF DOCUMENTS NO. 6: Provide statements or other documents showing overall revenues, expenses and net income or loss realized by PPC on the operation of the PPC System. If such statement reflects income or expense realized by PPC in connection with other business activities, please indicate same and to the extent possible, segregate such items of income and expense from those pertaining to the PPC System.

REQUEST FOR PRODUCTION OF DOCUMENTS NO. 7: Provide a schedule or other records reflecting the number of regular and part time employees employed by PPC that have been involved in the operation of the PPC System, the portion of their salaries or cost of benefits allocated to the system by PPC and the basis for such allocation. If services are being

provided by contractors as opposed to employees, please provide a schedule or other documents showing the cost of such contractors' services as allocated to the system and the basis of such allocation.

INTERROGATORY NO. 11: Describe in detail the operation and maintenance expenses (O&M) on the PPC System and segregate the transmission O&M from overall expenses explaining in detail the derivation or allocation of the figure used.

INTERROGATORY NO. 12: Describe the administrative and general expenses on the PPC System and explain in detail the derivation or allocation of the figures used.

INTERROGATORY NO. 13: Describe the actual transmission plant in service and the total net plant in service explaining how the figures were derived (e.g. based on construction costs, acquisition costs, etc.) and providing a detailed explanation of any corporate allocations made.

INTERROGATORY NO. 14: By statement or otherwise, describe the computation of all federal and state income taxes as well as any other taxes paid or owed with respect to the operation of the PPC System and a detailed explanation of depreciation expense on the PPC System. To the extent that depreciation is based on factors other than the estimated life of the plant and equipment, please explain fully.

INTERROGATORY NO. 15: Explain in detail, by schedule or otherwise, the capital structure of the PPC System showing owners' equity and investment in the system, including a detailed inventory of capital assets and indebtedness allocated to the PPC System and explaining the basis of the allocation.

REQUEST FOR PRODUCTION OF DOCUMENTS NO. 8: If your response to the previous interrogatory reflects allocation of indebtedness to the PPC System, provide the loan agreements or other documents evidencing such indebtedness.

INTERROGATORY NO. 16: Explain and describe any services provided to PPC by its affiliates in operating, maintaining, managing or administering the PPC System and to the extent that payment for such services is included as a part of the cost of operating and maintaining the system, describe such payments. For purposes hereof, the term "affiliate" shall be deemed to include all persons or entities (a) in which PPC, Roy Rimmer or any equity owner of PPC have a legal or beneficial interest, or the right to acquire such an interest; or (b) controlled by, controlling or under common control with PPC.

INTERROGATORY NO. 17: Identify all communications between PPC or its representatives and third parties wherein said third party sought or asked for gathering services on the PPC System and PPC's response thereto.

REQUEST FOR PRODUCTION OF DOCUMENTS NO. 9: Produce all documents identified in the preceding interrogatory.

INTERROGATORY NO. 18: To the extent known or reasonably ascertainable by PPC, describe the fees or rates charged for gathering by other pipelines operating in the general vicinity of the PPC System.

INTERROGATORY NO. 19: Describe the fee or rate that should reasonably be charged by PPC to XAE for gathering gas from the McQuay #1 well and explain how it was derived. If such fee or rate has yet to be calculated, describe how it should be calculated and identify all documents or other sources of information that would be consulted or relied upon by PPC in deriving same.

REQUEST FOR PRODUCTION OF DOCUMENTS NO. 10: Produce all documents identified in your response to the preceding interrogatory.

INTERROGATORY NO. 20: Identify each person who assisted in the preparation of your responses to the foregoing Requests for Admission and Interrogatories or who has participated in the identification and gathering of documents produced or that will be produced pursuant to the foregoing Requests for Production of Documents.

REQUEST FOR PRODUCTION OF DOCUMENTS NO. 11: Produce copies of all reports filed by PPC or any affiliate with the Oklahoma Tax Commission (OTC) during 1994-1996 in connection with the severance, measurement, purchase, sale or transfer of natural gas produced in McIntosh and/or Okmulgee County. Provide any OTC purchasing numbers or any other OTC identification number(s) used by PPC or any affiliate. For purposes hereof, the term "affiliate" shall be deemed to include all persons or entities (a) in which PPC, Roy Rimmer or any equity owner of PPC have a legal or beneficial interest, or the right to acquire such an interest; or (b) controlled by, controlling or under common control with PPC.

REQUEST FOR PRODUCTION OF DOCUMENTS NO. 12: Produce copies of all reports filed by PPC or any affiliate with the Oklahoma Corporation Commission (OCC) during 1994-1996 in connection with the severance, measurement, purchase, sale or transfer of natural gas produced in McIntosh and/or Okmulgee County. Provide any OCC purchasing numbers or any other OCC identification number(s) used by PPC or any affiliate. For purposes hereof, the term "affiliate" shall be deemed to include all persons or entities (a) in which PPC, Roy Rimmer or any equity owner of PPC have a legal or beneficial interest, or the right to acquire such an interest; or (b) controlled by, controlling or under common control with PPC.

INTERROGATORY NO. 21: Provide a complete description of all assets, rights and intangibles acquired by PPC or any affiliate from ONG or any affiliate of ONG in connection with the acquisition by PPC of ONG Line K-134. For each such asset, right or intangible so acquired, specify:

- (a) from whom it was acquired by PPC or any affiliate of PPC,
- (b) the cost basis of ONG in such asset, right or intangible to the extent known by PPC, and
- (c) the cost basis of PPC or any affiliate of PPC in such asset, right or intangible.

For purposes hereof, the term "affiliate" shall be deemed to include all persons or entities (a) in which PPC, Roy Rimmer or any equity owner of PPC have a legal or beneficial interest, or the right to acquire such an interest; or (b) controlled by, controlling or under common control with PPC.

INTERROGATORY NO. 22: Describe in detail all modifications made by PPC to Line K-134, and provide a schedule of all capital expenditures by PPC for each such modification.

INTERROGATORY NO. 23: Describe in detail all additions to PPC's existing system required to transport or gather XAE's gas on Line K-134 and provide a schedule of all capital expenditures by PPC for each such required addition.

INTERROGATORY NO. 24: Describe in detail all increases in operating expense on PPC's existing system required to transport or gather XAE's gas on Line K-134 and provide a schedule of all such expenses. Include the amount of fuel consumption, line loss or shrinkage of gas required to transport or gather XAE's gas on Line K-134. Describe in detail how all such calculations were made and how such calculations were derived.

REQUEST FOR PRODUCTION OF DOCUMENTS NO. 13: Provide copies of any report study made or commissioned by PPC or any affiliate, or relied upon by PPC or any affiliate, in connection with the acquisition of Line K-134. For purposes hereof, the term

"affiliate" shall be deemed to include all persons or entities (a) in which PPC, Roy Rimmer or any equity owner of PPC have a legal or beneficial interest, or the right to acquire such an interest; or (b) controlled by, controlling or under common control with PPC.

INTERROGATORY NO. 25: Describe all gas production owned or operated by PPC or an affiliate of PPC which is gathered, transported or purchased by PPC or any affiliate of PPC. For purposes hereof, the term "affiliate" shall be deemed to include all persons or entities (a) in which PPC, Roy Rimmer or any equity owner of PPC have a legal or beneficial interest, or the right to acquire such an interest; or (b) controlled by, controlling or under common control with PPC.

INTERROGATORY NO. 26: Is PPC or any affiliate of PPC party to a gas purchase or sales contract with Public Service of Oklahoma for gas delivered into Transok from PPC's existing system? For purposes hereof, the term "affiliate" shall be deemed to include all persons or entities (a) in which PPC, Roy Rimmer or any equity owner of PPC have a legal or beneficial interest, or the right to acquire such an interest; or (b) controlled by, controlling or under common control with PPC.

REQUEST FOR PRODUCTION OF DOCUMENTS NO. 14: If your response to the previous interrogatory was in the affirmative, please provide a copy of such contract, including all amendments and ancillary agreements.

INTERROGATORY NO. 27: Describe the legal and beneficial ownership of PPC's facilities; if the ownership of Line K-134 differs, describe separately. Include all contingent interests.

TASK FORCE ON GAS GATHERING

ATTACHMENT NO. 4

TITLE 52 OKLAHOMA STATUTES ANNOTATED, SUPPLEMENT 1996,
CHAPTER 1, SECTION 24.3

52 § 1

OIL AND GAS

PIPELINES (ACT OF 1907)

§ 1. Corporation Commission or Commission defined

Law Review Commentaries

State regulation over the construction and operation of intrastate pipelines and gathering systems in Oklahoma. Jay C. Jimerson and Jack C. Moore, 28 Tulsa L.J. 393 (1993).

PRODUCTION AND TRANSPORTATION (ACT OF 1913)

§ 23. Pipeline operators common purchasers—Requirements—Exemptions

Law Review Commentaries

State regulation over the construction and operation of intrastate pipelines and gathering systems in Oklahoma. Jay C. Jimerson and Jack C. Moore, 28 Tulsa L.J. 393 (1993).

Notes of Decisions

4. Orders

Cities Service Gas Co. v. Peeries Oil & Gas Co., U.S.Okl.1950, 71 S.Ct. 215, 340 U.S. 179, [main volume] 95 L.Ed. 190.

§ 24. Pipeline companies declared common carriers—Discrimination—Exemptions

Every corporation, joint stock company, limited copartnership, partnership or other person, now or hereafter engaged in the business of carrying or transporting natural gas for hire, for compensation or otherwise, by pipeline, or pipelines within this state, and by virtue of and in conformity to, any valid law incapable of revocation by any law of this state or of the United States, or by virtue of and in conformity to the provisions of this act,¹ shall be a common carrier thereof as at common law, and no such common carrier shall allow or be guilty of any unjust or any unlawful discrimination, directly or indirectly, in favor of the carriage, transportation or delivery of any natural gas, offered to it, in its possession or control, or in which it may be interested, directly or indirectly, and, provided further, that any person, firm or corporation owning or operating a gas pipeline within the limits of any incorporated city or town in this state shall be exempted from the provisions of this section only as to its distributing lines located wholly within the corporate limits of said city or town; and provided further, that any person, firm or corporation engaged in gathering natural gas in this state shall be exempted from the provisions of this section as to such gathering activities and instead shall be subject to the provisions of Section 24.3 of this title.

Amended by Laws 1996, c. 293, § 1, emerg. eff. May 25, 1996.

¹Title 52, § 21 et seq.

§ 24.1. Refusal to purchase or transport natural gas—Complaint—Hearing—Orders

Law Review Commentaries

State regulation over the construction and operation of intrastate pipelines and gathering systems in Oklahoma. Jay C. Jimerson and Jack C. Moore, 28 Tulsa L.J. 393 (1993).

§ 24.3. Gathering of natural gas—Discriminatory fees—Open access—Authority of Commission to set fees—Rules

A. No person gathering natural gas for hire, for compensation or otherwise shall charge any fee for such service which is unduly discriminatory. Upon complaint of an

aggrieved party, the Corporation Commission shall have the authority to remedy any unduly discriminatory fee for gathering by ordering an adjustment of the fee as to the aggrieved party to the extent necessary to remove any unduly discriminatory portion of such fee; provided, no person may challenge as unduly discriminatory a fee which such person is obligated to pay by existing contract.

B. No person gathering natural gas for hire, for compensation, or otherwise or gathering natural gas, in whole or in part, for such person's own account, whether in connection with the purchase and resale of natural gas or otherwise, shall refuse to provide open access natural gas gathering for a fee for any person seeking such gathering unless:

1. The natural gas cannot be reasonably carried by such 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 more conveniently gather such natural gas;
4. The gathering of such gas could reasonably be expected to have a material adverse affect on safety or on service to existing customers or on the operation of or recovery in any processing facility;
5. The gas does not satisfy minimum standards for quality or energy or recoverable hydrocarbon content consistently applied by the gatherer for that system;
6. Such gathering is inconsistent with an existing contract which governs the gas of the person seeking gathering; or
7. For such other good cause as the Corporation Commission may determine by rule or in the particular case.

Upon complaint of an aggrieved party, the Corporation Commission shall have authority to determine whether a gatherer is required by reason of this section to provide open access gathering to such party, and if so, and the parties are unable to agree upon a fee for gathering, to fix a fee for such gathering.

C. If a person engaged in the gathering of natural gas and a person seeking gathering are unable to agree upon a fee for such gathering, then upon complaint of the person seeking gathering, the Corporation Commission shall have the authority to determine a fee for such gathering if:

1. The Corporation Commission makes a factual determination that competitive gathering conditions do not exist for the gathering of complainant's gas; and
2. The fee for such gathering is not governed by a contract by which complainant is bound; and
3. If under subsection B of this section the complainant would be entitled to an order requiring the gatherer to provide the gathering service for which complainant seeks to fix a fee.

D. Any action by the Corporation Commission under this section shall be initiated by the filing of a complaint by the aggrieved party, following which the Corporation Commission shall conduct a hearing and take evidence as is necessary to determine the complaint. Notice shall be given to the gatherer at least ten (10) days prior to such hearing. In fixing a fee under subsection B or C of this section for any gathering service, the Corporation Commission shall determine a fee which would result from arm's-length bargaining in good faith in a competitive market between parties of equal bargaining power. In determining such a fee, the Corporation Commission shall consider all economically significant factors which it determines to be relevant, which may include, but are not limited to:

1. The fees which said gatherer receives from other shippers;
2. The fees charged by other gatherers within a relevant area determined by the Corporation Commission;
3. The financial risks of installing such a gathering system;
4. The financial risks of operating such a gathering system;
5. The capital, operating and maintenance costs of such a gathering system; and
6. Such other factors which the Corporation Commission determines to be relevant; provided, in no event is such fee to be computed on a utility rate of return basis.

E. Nothing in this section shall give the Corporation Commission jurisdiction over the purchase, processing or resale of natural gas or the price or other compensation for or any of the other terms or conditions of any such purchase, processing or resale.

F. The Corporation Commission is hereby authorized to promulgate rules to administer the provisions of this section.

Added by Laws 1993, c. 340, § 1, emerg. eff. June 9, 1993. Amended by Laws 1995, c. 293, § 2, emerg. eff. May 25, 1995.

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

Senate Utilities Committee
Natural gas gathering systems and regulation; public utilities and common carriers.
Comments of Williams Field Services Company
February 18, 1997

Introduction:

Madame Chair, Committee members. Thank you for the opportunity to speak today regarding issues related to gas gathering systems in Kansas. 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.

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 SB 148, please remember that the focus of the legislative proposal is gas gathering systems and gas gathering services. It does not apply to gas purchases, gas sales, or the local distribution of gas. 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.

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.

SENATE UTILITIES
2-18-97
ATT. 4

No demonstrated need for gas gathering regulation:

My experience on the Task Force was that no one presented specific evidence of widespread market abuses by gatherers that would justify broad regulation such as public utility or common carrier treatment, or the expense of filing posted rates. I understand that the Chairman of the Corporation Commission has told this committee that no complaints against gatherers by producers have been received by the Commission.

A few parties 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 "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.

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 consumer. In the past, gas was 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 separately 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.

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.

However, you still have before you the majority Task Force recommendation, SB 148. In the interest of compromise, WFS would not oppose SB 148 if certain crucial changes were made. These changes are consistent with the minority report. These changes are shown in a balloon draft of SB 148 that 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:

- 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.

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.

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

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

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.

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.

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.

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-

, other than processing,

~~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.

~~delete~~
~~delete~~

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.

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.

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.

Attachment 2 191

RAILROAD COMMISSION OF TEXAS

Carole Keeton Rylander, Chairman
Barry Williamson, Commissioner
Charles R. Matthews, Commissioner

INTERNAL
Gas Services Division
Ronald L. Kitchens, Director

MEMORANDUM

TO: Chairman Carole Keeton Rylander
Commissioner Barry Williamson
Commissioner Charles R. Matthews

FROM: Ronald L. Kitchens *R.L. Kitchens*

DATE: November 26, 1996

SUBJECT: Informal Complaint Procedure and Helpline

Approved	Denied

The attached procedure which is intended to guide the Gas Services Staff in helping to resolve complaints about natural gas transportation and gathering services is presented for your consideration.

At previous Commission meetings these procedures were presented and alternatives which had been proposed by other parties were discussed. Since the last meeting, the only outstanding question is the confidentiality of any material that may be presented to Staff in the course of settlement of an issue. The Office of General Counsel is prepared to discuss the confidentiality issue at the Conference.

Gas Services recommends that the attached procedures be adopted.

Attachment 3 195

INFORMAL PROCEDURE FOR RESPONDING TO COMPLAINTS
ABOUT GAS TRANSPORTATION SERVICE

The Railroad Commission has established a Helpline at (512) 463-7077 that may be used to register complaints about natural gas transportation services (both gathering and transmission services). Calls to the Helpline will be taken by a receptionist from 8:00 a.m. to 5:00 p.m. on all regular Commission workdays. A voice-mail system will be in place to receive any calls during non-business hours.

The following procedure will be used to process complaints registered on the Helpline. The procedure does not require that legal counsel be hired to pursue resolution of a complaint.

1. The receptionist receiving the Helpline call will record preliminary information concerning the complaint and forward the call to a Special Projects Director in the Regulatory Analysis and Policy (RAP) section.
2. The Special Projects Director taking the call will document the complaint by recording information based on a standardized set of questions. *{{attached}}*
3. The Special Projects Director will direct the complaining party ("complainant") to submit its complaint in writing, along with supporting documents, if the complainant wishes to pursue the matter. The complainant will be directed to send a copy of these materials to the party which is the subject of the complaint ("respondent").
4. The Special Projects Director will contact the respondent by telephone within one business day to inform it that a Helpline complaint has been received. The respondent will be told that upon receipt of the written complaint, the Staff will send a copy of the complaint to the respondent with a cover letter *{{attached}}* asking it to reply to the complaint within 14 days (with a copy of the reply to the complainant).
5. After receiving the written complaint, the Special Projects Director will send the respondent a copy of the complaint and cover letter asking for a reply within 14 days.
6. The Special Projects Director will begin preliminary research of the complaint, and will seek technical and legal assistance from the Economic and Statistical Analysis section,

2 of 5

4-11

the Oil & Gas Division, and the Office of General Counsel as needed.

- 7. If resolution of the complaint is not reached within 30 days from the date the written complaint was received by the Commission, the Special Projects Director will:
 - Set an informal meeting with the parties, with the Special Projects Director acting as a facilitator between the parties, if the parties agree to such a meeting, or
 - Refer the matter to the Office of General Counsel to be set for hearing if requested by either party, or if the respondent has not filed a timely response to the complaint.

- 8. An internal report of all complaints received will be maintained by RAP personnel and will be circulated on a regular basis to the Commissioners, the Director of the Gas Services Division, and the General Counsel.

- 9. Anonymous complaints will not be processed.

- 10. The Staff may ask for additional written information of either party at any point in the process.

Approved this 26th day of November, 1996.

395

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

DATE

Name and Address of party that is the subject of the complaint

RE: Complaint by _____
RRC I.D. #, Field Name, Lease and Well No., County, RRC District

Gentlemen:

_____ has filed the enclosed complaint with the Railroad Commission alleging _____. Please file a written response to the complaint within 14 calendar days of the date of this letter, with a copy to _____. Please include any supporting documents you believe will assist the Commission in addressing the complaint. Failure to timely file a response to the complaint may result in the matter being set for hearing.

If you have any questions, please contact Virginia Hrachovy at (512) 463-6946. Fax transmissions may be sent to (512) 463-7962. Regular mail should be sent to the Commission P.O. Box address indicated below. In the event you desire to use courier service, my street address is:

Stephen Pitner, 9th Floor, Room 9-150-G
RRC - William B. Travis State Office Building
1701 North Congress Avenue
Austin, Texas 78701

Sincerely,

Stephen Pitner
Assistant Director, Regulatory Analysis and Policy
Gas Services Division

495

4-13

PRELIMINARY INFORMATION
INFORMAL GAS TRANSPORTATION COMPLAINT

Name of Person Registering Complaint _____
Company Name _____
Company Address _____
Company Phone Number _____
Date and Time of Complaint _____
Person Receiving Complaint _____

Description of Complaint _____

How long has the problem described in the complaint been going on?

Has complainant made contact with the party which is the subject of the complaint? _____
If answer is "No," why not? _____
If answer is "Yes," then what response did the complainant receive? _____

What is the current status of negotiations between the complainant and the party about which the complaint has been made? _____

Describe any other actions the complainant has taken to resolve the problem. _____

What is the relief sought by the complainant? _____

5 of 5

Attch. 5



KN Marketing, Inc.
A Subsidiary of KN Energy, Inc.
370 Van Gordon Street
P.O. Box 281304
Lakewood, CO 80228-8304

Presentation to the Kansas Senate Gas Gathering Hearing on February 18, 1997.

Pierce H. Norton is General Manager for KN 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.

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%.

SENATE UTILITIES
2-18-97
ATT. 5

In these 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, pricing 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 3rd "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.

Attach. 6

**STATEMENT OF RUSSELL BISHOP
Vice President, State Government Relations
PanEnergy Field Services, Inc.**

February 18, 1997

SENATE BILL 148

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

SENATE UTIL.
2-18-97
ATT. 6

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, reregulation will only stifle competition and discourage millions of dollars of investment in facilities (such as compression) 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 Helpline 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 helpline 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.

In the event, if it is nevertheless deemed necessary to adopt legislation this session, we support the revision suggested in the balloon amendments that have been distributed.

The imposition of a two track remedy makes no sense. It would result in a regulatory quagmire. The KCC would be unduly burdened by hearings to determine the elusive state of engaging or threatening to engage in an "abusive monopolistic practice". This is hardly a term of art. It is undefined and difficult to objectively determine. One man's abuse may be another's reasonable course of conduct under the circumstances. In addition, the cure

is likely to be worse than the malady. Producers have opined that they don't want cost of service rate making because of the expense and time involved. The KCC doesn't want it, and certainly the gatherers do not. It is unclear as to why Sec. 2 is proposed. We don't need a dual system that could lead to a litigation free-for-all.

We believe that the complaint-type procedure, modeled after the Oklahoma Act, provides an efficient and effective forum. Regulation under Chapter 66 is overkill, plain and simple.

We further suggest that the inclusion of an "unfair" standard would result in years of litigation, because of the vagueness of the term. It also is not a word of art that has been subject to judicial determination. "Discrimination or "preferential treatment" are terms that are definable and are frequently utilized in regulation. The high degree of variance in terms and conditions of gathering service and charges render the use of a vague standard, such as "fairness" a useless and confusing standard.

We further believe that it is essential to include specific standards for requiring access into the gathering system. The suggested language, paraphrases the Oklahoma Act and provides the necessary protection for maintaining the integrity of the system both as to volume and gas quality. It also avoids the imposition of the utility obligation to serve on a non-utility provider. It is unprecedented to require even a utility to provide service in an area that it has not sought to serve, because it doesn't make economic sense. That's why the REA's were enacted and subsidized by Federal laws.

We presume that the legislature doesn't desire to require subsidization of gathering, which would be implicit in requiring uneconomic construction of gathering facilities. Without subsidization such facilities could not be built, and if forced by regulation, the gatherer would simply go out of business.

We urge the Committee to support the proposed 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,
Russell Bishop

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.

Attac 7

Senate Utilities Committee
Chairperson: Pat Ranson
Capitol Building - Topeka, Kansas

TESTIMONY ON SB148

*Presented by: Steven D. Rome - Hugoton, Ks.
February 17, 1997*

Madame Chair and members of the Senate House Utilities Committee, thank you for the opportunity to address this committee regarding our concerns as irrigators have pertaining to the future of natural gas as an energy source in southwest Kansas.

My name is Steve Rome and I am involved in an irrigated farming operation in Southwest Kansas. The availability of natural gas is one of the main reasons irrigated crop production has been able to remain profitable in this area. Other sources of energy such as electricity and diesel fuel are available that would support the irrigation needs, however, there are economical and logistical problems involved with these alternative energy sources. Utilizing electricity would double or triple our pumping costs. In addition, it would place irrigators in a competitive situation with city customers during a time when energy needs for air conditioning are at a peak. This situation could potentially create higher utility rates and expenses for additional generating capacities. Diesel and LP gas are also possibilities; however, they would be more expensive and difficult to handle and store because of the volume needed.

Unfortunately, given our current situation, all alternative sources of energy that could be utilized are ultimately more expensive. Switching to any of these alternative energy sources to supply our irrigation presents an additional repercussion: as with any business budget, unless additional revenue could be generated, the increased cost of energy would have to be covered by saving or reductions in other areas of our operating budget. This would affect many agricultural businesses in our area due to reduced sales in machinery, equipment, vehicles, and crop production.

Clearly, natural gas has been and remains the most effective and cost efficient energy source in irrigated crop production.

SENATE UTIL
2-18-97
ATT. 7

As you put forth your efforts to create an effective gas gathering bill, I foresee three important ideas that need to be included within this piece of legislation.

1.) Certificated Areas:

My understanding of the present system is that utilities have been granted the right to be the only supplier of gas in that area. This may have served a purpose at one time and still may be a viable option in urban areas, however, in rural America it appears this unitary supplier theory has created a monopoly since the deregulation of the gathering lines a few years ago. In early February, we received a letter from Peoples Natural Gas stating that because of existing pipeline pressures, they may not be able to supply irrigators with gas to irrigate our crops this summer. (A copy of this letter is attached to this testimony.) We were told to contact them and they would help us find another source of energy if the pressure in our area didn't allow them to supply us with gas. I made this call and so far we don't know if we have a problem or a solution to that problem. Yet, our farming schedule timeline dictates that in approximately two months we will plant a crop that will require irrigation. At that point, we have implemented a business liability that dictates a commitment on our part for crop production.

In addition to the letter from Peoples Natural Gas, we also received a letter about the same time from Utilicorp Energy Solution. This company which with the deregulated side of the natural gas business. This letter stated that before we sign a contract, we should contact them concerning our irrigation gas needs for this crop season. They went on to say how they saved their customers twenty-two percent on the price of natural gas last year. Utilicorp also said that because they purchased large amounts of gas when prices were lower, they could pass along these savings to their customers. (A copy of this letter is attached to this testimony.) It appears these two letters are ironic in their contradictions especially since they are both subsidiaries of the same company (Utilicorp).

As I'm sure you're aware, cities and communities have received huge increases in the gas bills for heating their homes. I have included a copy of an article that recently appeared in our local paper. It states that Peoples doesn't contract ahead for gas but instead buys on the spot market. Subsequently,.... this year they got caught. The article goes on to state that it might even happen again. Pertaining to my own business, I can think of many articles and workshops for farmers indicating the need for us to learn how to market our agricultural products in order to remain profitable. This is usually the norm in how businesses are operated in a competitive environment, but it is evidently not required of gas utility companies (or monopolies).

2.) Price Transparency:

The fact that we need price transparency or posting of prices appears to be a necessity and is a common practice in the competitive business environment. An analogy would be to pull up to a service station and being asked to fill your car with gas without knowing what the cost is until you walk in to pay. Most service stations have signs that a consumer can see from several blocks. This price posting allows the consumer to know that the prices are competitive. This system also allows the businesses the opportunity to increase sales.

3.) Fair and Reasonable Transportation Rates:

The need for fair and reasonable rates in most business arenas is taken care of by competition within the job market. However, in a certificated area where no price competition exists, it seems imperative that the rates for the transporting of this gas should be addressed. When my farming business hires a trucking firm at harvest time to haul our grain from the field to the marketplace, they know their rates must be competitive or they will not get the business. In relating this to natural gas sales it seems like these transportation charges can be used to eliminate the competition.

In closing, I will say I am thankful to live in a state and country where we as consumers are able to address a legislative group like yourselves regarding our concerns. Thank you for your time and consideration in listening to our concerns. We appreciate your willingness to gather facts and information from all facets of the business industry which this piece of legislation will impact.

February 4, 1997

PEOPLES NATURAL GAS

ENERGYONE

RE: IMPORTANT NOTICE - Declining Gas Pressures on Pipeline Gathering Systems

Dear Peoples Natural Gas Customer:

Our records indicate that you receive gas service from Peoples Natural Gas through a pipeline gathering system owned by one of the following companies: Panhandle Eastern Pipeline, Anadarko, GPM or Northern Natural Gas.

Due to declining gas wellhead production, all of the above pipeline companies are systematically reducing the operating pressures of their gas gathering systems in an effort to maximize the production of the gas wells connected to their respective systems.

In the past these companies operated their gathering systems at pressures of approximately 50 lbs. or greater. The gathering system Peoples utilizes to serve you is scheduled to be lowered soon to 10 or 15 lbs. with the very likely chance that it will be lowered to even less pressure in the future.

The Peoples Natural Gas measurement station or meter that serves you is designed to operate at a pressure higher than 10-15 lbs. It will not measure accurately or provide sufficient gas flow under the lowered operating pressures. In some cases, Peoples may not be able to continue to provide gas service to customers attached to gathering systems because the lowered pressures will not provide sufficient volumes of gas on an hourly basis to meet the customer's needs.

Peoples Natural Gas is willing to assist you in determining if natural gas is still a viable energy option or if you will need to arrange for conversion to another source of energy. For your use, I have enclosed a Customer System Information worksheet. Please complete the worksheet and return it to the address shown for analysis of your natural gas needs.

I am making myself available to discuss your situation with you. Feel free to contact me at the Garden City office at (316)275-1183. Fred Taylor, Director of Operations in Liberal, Kansas is also prepared to answer your questions or concerns and can be reached at (316)624-1807.

Sincerely,

Don Bowlby
Consumer Market Representative

Enc.

UTILICORP ENERGY SOLUTIONS

ENERGYONE

January 16, 1997

Rome Farms
HCR 1, Box 18
Hugoton, KS 67951-9014

Dear Energy User:

Could You Negotiate A Better Deal On Natural Gas?

We hope you had a successful 1996 farming season. If you irrigate, a better deal on natural gas may help you enjoy even more success this year.

By our calculations, you paid an average of 22% more than necessary for natural gas used during the 1996 irrigation season by buying it through your local utility.

That's 22% more than you might have paid had you purchased your natural gas from UtiliCorp Energy Solutions (UES).

More than 1,200 Great Plains irrigators chose UES in 1996, and most of them saved an average of 22% on their gas bills for the irrigation season. While there's no guarantee we'll achieve comparable results in 1997, we're looking forward to another good year. Will you be among our customers and get the opportunity to save?

Of course, savings are great, but they're just one reason to choose UES. Many irrigators contract with us at a fixed rate for an entire season to avoid surprises brought on by fluctuating gas prices from their local utility. So, if stable prices are the main appeal to you, any savings we can pass your way will be a bonus.

When's The Best Time To Lock In Your Deal For 1997?

One reason we can offer very competitive prices is that we purchase large volumes of gas when prices are most favorable. We're constantly monitoring those prices, and we'll notify you soon regarding the great price we've secured for you for the coming irrigation season.

So don't buy or sign anything yet. Watch your mail in the next few weeks for a large

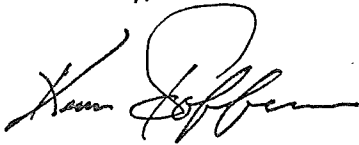
envelope from UES containing all the details.

Looking For Competitive Gas Prices Year 'Round?

If you'd like information on your natural gas service for the coming irrigation season —or to learn about competitive rates year 'round — please don't wait for our next letter. Call our toll-free number: 800-860-2746, and we will put you in contact with a sales representative. Ask for information on recent tariff changes that make "transporting" gas year 'round as competitive as buying sales tariff gas.

We hope you'll choose UES and take advantage of the benefits of our irrigation program.

Yours truly,



Kevin Stoffer
Vice President

P.S. The enclosed brochure offers information on our company, how other farmers have benefited by choosing UES, and **convenient features** such as multiple-year contracts. If you have questions, simply call our toll-free number: **800-860-2746**.

Council Cheers Bigger Project, Scolds Peoples For Big Increase

Approval of the proposed widening and extension of Highway 51 leading east from Washington Street was given by the Hugoton City Council Monday evening. The action

came on the heels of news an extension of the project had been approved by the Department of Transportation for inclusion in their 2000 program.

Originally the council hoped to get the highway treated from Washington Street to the drainage ditch but it also applied for the second phase, extending it to the cemetery road.

A letter from KDOT announced the approval of the larger project.

City Clerk Tom Hicks re-

*"There's no way we can
pass it up!"
City Clerk Tom Hicks*

joiced, "There's no way we can pass it up!"

Mayor Neal Gillespie remarked, "We're getting out to cemetery road a lot faster than we thought."

In a letter from KDOT Hicks was told the total project cost would be \$755,000. KDOT pays 95% of the costs of projects up to a maximum of \$630,000. So the city's share would be \$125,000.

Hicks noted that amount would soak up about half of the street bud-

get for 1997, but the two years to prepare for the costs would give them some time to get it done.

"Jerry (Utilities Superintendent Jerry Leonard) and I met with the group and they were very favorable. We may have to back off on some other things, but we've got to do it."

Most of the evening was devoted to a thorough discussion of the huge utilities cost increases Peoples Natural Gas has imposed on its customers. Over 100 percent increases have been delivered to everyone, including the elderly with limited fixed

Continued on Page 10

incomes.

A recurring theme was expressed by Councilman Johnnie Denton, "I think we need to pursue this to the max!It seems unfair - here we are on top of all this natural resource."

Fred Taylor and Ann Burkhart, representatives of Peoples from Liberal, attended to explain the situation to the group. Burkhart revealed they receive 150 phone calls a day on this problem.

Ruthanna Strickland, a Home Health employee of Stevens County Hospital, related that she helps many elderly people over 70 in their homes and they are devastated. She said 90% of them are on fixed incomes that are low but not low enough for heating assistance.

One of her clients had her house temperature set at 50 degrees. She could see her breath as she talked inside the home. The client asked her to help decide whether to discontinue her Life Line service to the hospital or medicine or food. Her cable service was the first to go.

The person had no living relatives and needed \$380 to pay her gas bill. Her medicine costs were \$300 per month. Her Social Security check was \$622 a month.

Strickland said, "I work with elderly people in four counties and Hugoton has been hurt the worst."

She informed the group her job was to help keep these people at home.

Taylor restated the reason for the gas increases were the deregulation of gas, an unusually cold winter in the east, and a need to restock reserves on the west coast.

Taylor noted the price has gone down \$1.45 from January

"I work with elderly people in four counties and Hugoton has been hurt the worst."

*Ruthanna Strickland
Home Health Worker*

prices. "Supply has caught up with demand."

Councilman Greg Gaskill asked Taylor why Peoples didn't buy gas in the summertime when the price is cheaper.

He was told Peoples usually purchases on the spot market instead of the retail contracts. This time it worked against them.

"So there's a good chance this will happen again," surmised Denton.

"Yes," Taylor replied.

About shutting off those who can't pay, it was mentioned a law prevents Peoples from this path until after April 1.

The representatives said they don't actually disconnect that many customers. "As long as they're working with us". They also warned against kerosene heaters being employed as "an accident waiting to happen".

More exchanges brought out the fact Hugoton customers pay the same price for gas as customers in eastern Kansas. Transportation charges for gas that hasn't been transported very far are being paid by customers here.

Councilman Everett Rowden also told Taylor, "We miss our local gas office here. We don't get near the service." He complained it took hours to get through on the telephone.

A work order from the fax machine in Liberal is needed before work can proceed, the group learned. By 1998 the ser-

vice men will be able to receive faxes in their vehicles to speed up service.

Rowden also encouraged the firm to install a drop at the building here they still own.

In a related matter the council was shown a Peoples Natural Gas bill for \$2,398 for a building where some city crew members work. A brief discussion on enclosing the office or insulating the structure took place.

A new police car was purchased from low bidder Don Trentham Motors for \$14,300.

Trentham, who was present, and serves on the Hugoton Golf Course Board, was asked about costs for tournaments the school board had previously resented.

Trentham replied the price is the same it has been for ten years. He believes they are not getting their labor costs restored with that fee. "I don't feel we should lower it", he concluded.

Building Inspector Jay Holcomb presented a comprehensive report on his activities in a clean up project and appliance of city codes. He also compiled a list of permit types granted by the city and to whom as well as a list of qualifying contractors.

Holcomb confirmed that the owners of two new trailer parks in the city are complying with city codes.

The problem of finding unmarked homes was presented. Emergency medical staff people have to search for places too

many times, wasting valuable minutes, only because the addresses are not posted anywhere.

Strickland related one occasion where she was with the ambulance crew and they drove around, looking for the emergency unmarked address until finally someone waved them down in the street.

Leonard reminded everyone the city has numbers which can be posted at no cost to the residence. Residents can just pick them up. However, they must be warned not to paint over them - a common occurrence. Now the possibility the new mail boxes may obscure them is evident.

Rowden urged the council to secure updated city maps. The men agreed, less absent councilman Gary Gold. They are needed as much growth has taken place in recent months and the existing maps were not up to date before the growth occur.

A detailed gas well production report revealed the city's three gas wells were not meeting the power plant needs. Someone intoned, "We need another gas well". The yearly totals show the Hugoton zone well produced 91,060 MCF, the Council Grove zone well 46,902 MCF and the deeper infill well 115,585 MCF. The group agreed any new well would have to go deep.

Hicks added the downtown plant, which had been erstwhile earmarked for closing, was taking up the slack after the south power plant generator explosion. The unit has been described a total loss.

The meeting closed with the acceptance of a bid from McBride Construction for curb and gutter and storm sewer for Tenth Street totalling \$75,807.80 and announcement of the split of the quarter purchased with the county at First and Washington Street, giving the city the north half and the county the south half.

ATTACH. 8

Southwest Kansas Irrigation Association

922 W. Oklahoma Street
Ulysses, Kansas 67880
(316) 356-3021

February 15, 1997

Senator Pat Ransom
State Senate
Capital Building
Topeka, Ks. 66612

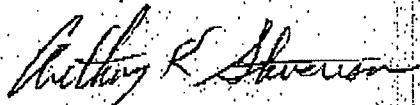
Blen

Dear Senator Ransom:

At the annual Southwest Kansas Irrigation Association membership meeting in Ulysses on February 12th, the association passed the following resolution (note senate and house bill numbers were added on Feb. 14th after the review by our staff). The association would ask for the opportunity to have one or more members to give testimony anytime from Feb. 18-21, 1997, to the Utility Committees on this very important legislation.

Please inform Senator Steve Morris if this is possible. We will be in contact with him for scheduling arrangements.

Sincerely,



Anthony Stevenson
President,
Southwest Ks. Irrigation Asso.

SENATE UTIL.
2-18-97
ATT. 8

S. 148 -- H.B. 2332

WHEREAS, the Board of Directors of the Southwest Kansas Irrigation Association has carefully reviewed the provisions of the proposed legislation pending before the Kansas legislature, known as S. 148, and having considered the potential impact of the enactment of such a bill into law would have upon the cost of fuel for rural users in Southwest Kansas, has determined that the enactment of said bill would not be in best interest of the members of our organization, and

WHEREAS, it appears to the Board of Directors that the alternative legislation H.B. 2332 providing for OPEN ACCESS, PRICE TRANSPARENCY, NON-EXCLUSIVE CERTIFICATE OF SERVICE and KCC's ability to review and report findings on disputes between suppliers and users of natural gas gathering lines. Thus we would support H.B. 2332 as it now reads. We believe it could considerably reduce the cost of fuel to our members and other rural gas consumers, while at the same time, potentially enhancing wellhead value of locally produced natural gas for the benefit of Kansas producers and royalty owners,

NOW THEREFORE, BE IT RESOLVED that the Southwest Kansas Irrigation Association opposes the enactment of S. 148 and urges the Legislature of the State of Kansas not to enact said bill, but to pass H.B.2332 as now proposed.