

Approved: MARCH 19, 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 21, 1997 in Room 531-N of the Capitol.

All members were present except:
Sens. Hensley and Pugh were excused

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

Conferees appearing before the committee:
Tim McKee, Chairman, Kansas Corporation Commission

Others attending: See attached list

Chair Ranson called committees' attention to Committee Minutes for January 30 and February 4 meetings (Attachment 1). After Committee members read them, Senate Barone made a motion the Minutes be approved, and Sen. Steffes seconded the motion; and it passed. The Minutes for those two meetings were approved.

Sen. Ranson announced the committee will discuss **SB 148-relating to natural gas gathering systems; providing for regulation of certain natural gas public utilities and common carriers.** She pointed to three alternatives for consideration: 1) Resolution form (Attachment 2), which had been presented to the committee; 2) Amendments to the bill, which have been presented by the Kansas Corporation Commission (Attachment 3) and MESA (Attachment 4); and 3) **HB 2332-relating to natural gas gathering systems; providing regulation of certain natural gas public utilities and common carriers.** She explained this bill includes rate transparency and more regulation. In answer to a member's questions, the Chair stated the committee will discuss and work the bill today and vote on it Monday.

Sen. Ranson then questioned Mr. McKee regarding the three alternatives, and he commented that the house bill commits the same sin as **SB 148**, in that they both mix utility and conservation concepts. Mr. McKee then distributed testimony (Attachment 5) he had given to the House Utility Committee, which includes a proposed amendment to the house bill. Mr. McKee briefly discussed his testimony with the committee and explained the proposed amendment would turn **HB 2332** into a complaint-based procedure. He also explained that by striking Section 2 of **SB 148**, that procedure would be complaint-based. Sen. Barone then asked Mr. McKee to educate the committee on the proposed complaint-based legislation. Mr. McKee briefly described that a complaint can be filed; the KCC can investigate and gather information and initiate proceedings. He stated his opposition to the rate-based concept, as gas moves differently, is measured differently and there are reasons for different rates. He stated he understands that the utilities want a return on their investments. He continued by recommending an informal proceeding process, as required by both bills. Mr. McKee referred to the procedure as outlined by the Oklahoma law, which is complaint-based, and which would proceed with hearings, an informal process and mediation. He stated he has taken out language related to rates in his proposed amendment to **SB 148**, and he deleted Section 8 on page 4 on proposed amendments to **HB 2332**.

Sen. Morris asked Mr. McKee what would happen when Section 8 is included in the bill. Mr. McKee replied the Commission would attempt to comply with the law, but it would be awkward. He stated he had met with the Irrigators Association and that there is another meeting on March 5. Sen. Ranson then asked Mr. McKee if there is now a process available to resolve differences brought to the committees' attention. Mr. McKee replied that the Commission presently investigates complaints and works to resolve differences. He continued by stating that the Legislature would have to let the Commission know if it desires to change KCC philosophy and wants to adopt a new policy; in other words, a policy of granting exclusive territory for utilities, or grant dual territories. Mr. McKee stated that he understands the Irrigators Association concerns, and they are real, based on current statutes, and he added it will take legislative action to exempt dual, certificated areas. Sen.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON UTILITIES, Room 531-N -Statehouse, at 1:30 p.m. on February 21, 1997.

Lee also questioned Mr. McKee if both the Senate and the House bills have rate and complaint procedures.

Sen. Ranson stated that HB 2332 is an option and the issue is whether to get rid of certificated areas, which would mean they would be regulated as a public utility and that it would be irresponsible to change the system this late in the session without taking testimony and carefully considering that option.

Sen. Clark and Mr. McKee discussed Chapter 55 vs. Chapter 66 concepts, and which one gives the KCC broad powers to investigate. Mr. McKee responded that the Commission does not want a rate-based, rate-making system; that they do not want to set rates. It was concluded that under both concepts, the Commission is not limited in what it can do - that they can receive complaints, conduct investigations and try to resolve the problem. Sen. Ranson and Mr. McKee also discussed the MESA amendment, proposed by Mr. Hein, and Mr. McKee stated he is not opposed to the Oklahoma Statute, which is contained in Mr. Hein's proposed amendments, but he would like the committee to make improvements in it. Sen. Barone stated it appears the utility-type proposal is broader in scope and questioned the difference between utility-type regulation and complaint-based regulation; the conclusion was that complaint-based is an one-on-one resolve, while the utility-based is one complaint, but that one complaint could solve/affect others.

Sen. Morris questioned irrigators' access to gas, under the multiple-certificated area; he also requested to the Chair that the committee needs at least two more hours next week to come to a consensus and vote on the bill. Sen. Ranson assured Sen. Morris the committee will devote two hours to continue work on the bill.

Sen. Ranson requested the Revisor put the Resolution, discussed earlier, into bill form; that two amendments be drafted for SB 148, which would include Mr. McKee's recommended deletions to the bill and the other from the MESA proposal. Sen. Lee asked if committee members can bring additional amendments to the committee for consideration, and Sen. Ranson answered they could. Sen. Brownlee then asked for clarification as to the two amendments the committee will consider and stated it appears the customers don't have information they need to determine rates they are paying and stated they should be provided with more information. Mr. McKee explained the customers can now file a complaint with the KCC, which will be investigated, information gathered and discovery made.

Sen. Ranson announced the committee will continue with consideration and possible action on the bill on Monday, February 24. Meeting adjourned at 2:30.

The next meeting is scheduled for February 24, 1997.

SENATE UTILITIES COMMITTEE GUEST LIST

DATE: Feb. 21, 1997

NAME	REPRESENTING
Ron Hein	MESA
Brady Cottrell	Citizens' Utility Ratepayer Board (CURB)
Nancy Heinz	Kansas Corporation Commission
Brenda Sack	Jonathan Small
Don Schumaker	KILOGA
Tim McKeel	KCC
STEVE KEARNEY	KEARNEY LAW OFFICE
Ken Peterson	KS Petroleum Council
Whitney Dauran	Anadarko Petroleum Corp
J.C. Long	UtiliCorp United
William Sneed	PRENEWAL WHITE
Bill Gifford	PanEnergy
Russ Bishop	PanEnergy
Jack Slaves	PZ - Oxy on TV
Mari Ramsey	Williams Field Services
GENE SMITH	SMITH, GREENLEAF & BROOKS PRO BONO PUBLICO
DAVID B. SCHLOSSER	PETE McGILL & Assoc.
Lauren Schneider	KS Livestock Assoc.
ED SCHAUB	WESTERN RESOURCES INC.

HEINEMANN

KCC

Approved: Feb. 21, 1997
Date

MINUTES OF THE SENATE COMMITTEE ON UTILITIES.

The meeting was called to order by Chairperson Pat Ranson 1:30 p.m. on January 30, 1997 in Room 123-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:
See attached

Others attending: See attached list

Chairperson Ranson called the meeting to order and announced the following have been distributed to the committee: letter from Donald Schnacke, defining "small producer" (Attachment 1); memorandum from Lee Eisenhower regarding increased price of propane (Attachment 2).

Sen. Ranson announced the committee will consider introduction of bills and introduced Tom Day. Mr. Day outlined four proposals (Attachment 3) and was asked by Mr. Carman if his request was for all four proposals to be in one bill. Mr. Day responded the four proposals should be split out into four different bills, and the committee agreed. Sen. Salisbury made a motion the committee introduce the bills, and it was seconded by Sen. Clark; the motion passed.

Sen. Ranson introduced Diane Gjerstad, who outlined a proposal utilizing retail wheeling for the Wichita Public Schools (Attachment 4). Sen. Sallee stated there is a bill being drafted regarding retail wheeling and perhaps the committee should wait for that bill. Ms. Gjerstad explained the Wichita Public Schools have a contract with a company to study electrical usage in the public school and make recommendations and this proposal has come from that study; she also stated that Wichita public schools spend approximately \$3.9 million for electricity each year. Sen. Ranson responded that her proposal would put the issue on the table for consideration, even though the committee may receive another bill on the same subject. Sen. Jones made a motion it be drafted as a bill, and it was seconded by Sen. Salisbury; the motion passed.

Sen. Ranson recognized Sen. Clark, who explained a proposal permitting electric and natural gas unbundling and open access demonstration projects (Attachment 5). Sen. Clark made a motion it be drafted as a bill, and it was seconded by Sen. Steffes; the motion passed.

Sen. Ranson reminded the committee of the deadline for filing bills and stated she does not want to squelch discussion of bills, and will schedule each bill for a hearing, based upon the deadline for getting bills out of the committee.

Sen. Ranson recognized Sen. Sallee, who served as chairman of the Gas Gathering Task Force. He made a statement regarding the Minority Report, previously heard by the committee, that the Task Force heard hours of testimony, and he felt Mr. Biro's accusations were not fair, and that he tried to accommodate all those who wanted to be heard.

Sen. Ranson then introduced Glenda Cafer, who referred to the Overview of Recent Activity, (Attachment 6), which she discussed with the committee on January 16. She reviewed three rate increase cases with the committee, that of Utilicorp, Western Resources gas rate case and Western Resources electric rate case. She commented these were the only two rate increases in the past year. She explained the factors considered when looking at requests for a rate increase, which is the cost of gas, the allowable return on investment and expenses. Ms. Cafer pointed out that when a company's costs increase, they can automatically raise the rates, in accordance with KCC policy; however, the company has to notify the Commission and file the new rates with them. Sen. Lee questioned regarding the incentives for companies to get the best price possible and on charges for connecting and disconnecting meters. Mr. Williams explained the reason why companies charge for connecting and disconnecting meters.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON UTILITIES. Room 123-S-Statehouse. at 1:30 p.m. on January 30, 1997.

Ms. Cafer then introduced Glenn Smith, who explained the Spot Index (Attachment 7) and how gas is priced. He referred to the last column on the first page - average price - and stated that gas prices are tied to the spot index. He also stated that some companies store gas, which saves money and is reflected in the cost of gas; and that there are two components in the cost of gas - cost of upstream transportation and the commodity cost of gas. He commented that Williams Gas Company probably stores one-third of its gas. Sen. Morris questioned Mr. Smith on the margin, which is shown on Page 2, and how it relates to the customer rate; and Sen. Clark questioned the rate of return, which is six to seven per cent for most companies. In the case of the two rate increases which were granted, the rate of return is higher - 11 to 12%. Sen. Steffes asked questions regarding supply and demand and the Hugoton Oil Field and the availability of the gas supply.

Sen. Ranson reminded the committee that the price of gas is deregulated and is subject to the market, and that the higher price is the result of market forces.

Sen. Ranson announced that next week the committee will meet back in the old room (531-N) and that a hearing is scheduled on Wednesday for SB 84.

Meeting adjourned at 2:30.

Next meeting is scheduled for February 4.

Approved: Feb. 21, 1997
Date

MINUTES OF THE SENATE COMMITTEE ON UTILITIES.

The meeting was called to order by Chairperson Pat Ranson 1:30 p.m. on February 4, 1997 in Room 531--N of the Capitol.

All members were present except:
Sen. Sallee was excused

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

Conferees appearing before the committee:
See attached

Others attending: See attached list

Sen. Ranson called the meeting to order and announced that two articles have been distributed to them - one from the Kansas Government Journal and the Business Report from the Topeka Capital-Journal. The Annual KCC Report has also been distributed to the committee.

Sen. Ranson also called the committee's attention to the Committee Minutes of January 28 (Attachment 1) and gave them a few minutes to read them. Sen. Barone made a motion the Minutes be approved, and Sen. Clark seconded the motion; the motion passed.

Sen. Ranson announced that tomorrow the House Utilities Committee will hear a consultant speak on stranded cost issues relating to electric retail wheeling.

Sen. Ranson then introduced Larry Holloway, who briefed committee on the regulation of electric power, and its relevance to SB 84, which the committee will be considering. Mr. Holloway provided copies of Chapter 66 and 77 Statutes, Rules of Practice & Procedure (on file with the Kansas Corporation Commission) and KCC General Jurisdictional Authority of Electric and Natural Gas Utilities (Attachment 2) to the committee. Mr. Holloway began with Chapter 66-104, the first section of his presentation, and the definition of a public utility and explained that outside the 3-mile zone the KCC has jurisdiction, but inside the 3-mile zone, the KCC has no jurisdiction. He continued by explaining the various sections in Chapter 66, and stated that he has not seen Chapter 66-133 used, as it applies to small nonprofits. Chapter 66-104c states that if FERC has jurisdiction, it pre-empts state jurisdiction; that FERC has no jurisdiction over rural municipalities; and FERC has jurisdiction over natural gas interstate regulation activities. Also, Chapter 66-131 stipulates the KCC to approve rates, rules and service and provides for issuance of a Certificate of Public Convenience. Mr. Holloway also stated that 5% of the members of the Coop can ask the KCC to investigate rates.

Mr. Holloway explained Section 2, beginning with the "Alfalfa Law" and deregulation of electric cooperatives and Section 3, which relates to jurisdictional authority of electric utilities. On Page 3 of Section 3, he discussed general statutes, which relate to electrical utilities only. Mr. Holloway referred to a map, previously discussed with the committee, and Sen. Ranson asked if the map was a directory of certified territories in Kansas, and Mr. Holloway answered that it was. Mr. Holloway also referred to RESA, Retail Electric Supplier Act, which is outlined in Chapter 66-1,170 and stated there are 200 retail electric suppliers in the state. Section 3, Pages 11 to 12 relate to safety, and Section 2, Page 4 contains a table of KCC electric utility jurisdiction. Mr. Holloway pointed out in Section 3, Pages 12-17, the Generation Siting Act, which can relate to investor owned utilities as well as independent power producers, states the regulations can also be for out of state locations. FERC regulates rates and services only as it relates to transmission lines, the remainder is regulated by the KCC. Mr. Holloway also distributed a list of Municipal Electric Systems and Municipal Natural Gas Systems with 3-mile jurisdiction (Attachment 3)

Committee members asked questions of Mr. Holloway, after which he introduced Glenn Smith. Mr. Smith referred to a graph and a listing of Statutes relating to Gas Regulation (Attachment 4). He explained the

CONTINUATION SHEET

531-N

MINUTES OF THE SENATE COMMITTEE ON UTILITIES. Room ~~125-S~~ Statehouse. at 1:30 p.m. on February 4, 1997.

Kansas Statutes, but that K.A.R. 82-11-1 is Federal Statute. He stated that Kansas regulations are more stringent than Federal regulations and that they provide special provisions. K.S.A. 66-1801 refers to underground storage damage and excavation provisions.

Sen. Ranson introduced Dave Dittmore, who referred to a graph (Attachment 5) and discussed debt cost of electric systems. He stated that costs for financing coops are generally lower and that investor-owned utility companies have more capital. The municipal systems get their funding in two ways: by general obligation bonds or by general revenue bonds.

Sen. Ranson announced the committee will hear testimony on SB 84 tomorrow.

Meeting adjourned at 2:30.

The next meeting is scheduled for February 5, 1997.

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 20, 1998, 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 Utilities, the Commission's findings regarding the complaints received and the disposition of those complaints.

Senate Utilities
2-21-97
Att. 2

Attach. 3

Senate Utilities
2-21-97
Att. 3

Session of 1997

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 purpose; ~~(2)~~ (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

3-A

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,~~ DELETED

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~~ DELETED
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.

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

27 ~~(1) "Commission" means the state corporation commission;~~ DELETED

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~~ DELETED
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~~ unjust, unreasonable, unjustly discriminatory or unduly preferential
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.~~ unjust, unreasonable, unjustly discriminatory or unduly preferential

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 unjust, unreasonable, unjustly discriminatory or unduly preferential

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- DETERMINES

*used in 1992
for
66-104 (b)(3)(i)*

mg
m

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 grieved person with respect to the particular fee or service involved.

— The commission shall not be required to hold a hearing
 if competitive conditions do not exist.

— unjust, unreasonable, unjustly discriminatory or unduly preferential
 — unjust, unreasonable, unjustly discriminatory or unduly preferential

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

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

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

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
wells.

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

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

MESA
Attach. 4
Senate Utilities
2-21-97
Att. 4

4-2

1 milligrams per liter, total dissolved solids.

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

3 (1) Producing oil or gas;

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

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

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

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

12 (6) injecting or withdrawing natural gas.

13 New Sec. 2. The term "public utility" as used in K.S.A. 66-104, and
14 amendments thereto, and the term "common carriers" as used in K.S.A.
15 66-105, and amendments thereto, shall not include a gas gathering sys-

16 tem, as defined in K.S.A. 55-150, and amendments thereto, unless the
17 commission, upon application or complaint, and after notice and hearing,
18 determines that 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;

Delete

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

33 (b) No person offering gas gathering services shall deny access to any
34 person seeking such services in a manner which is unduly, unlawfully, or
35 unreasonably discriminatory or unfair.

Delete

36 (c) No person performing gas gathering services shall charge a fee
37 for such services, or engage in any practice in connection with such serv-
38 ices, which is unduly, unlawfully or unreasonably discriminatory [or unfair].

Delete

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-

4-3

1 sion may resolve the complaint by use of an informal procedure estab-
 2 lished by the commission pursuant to rules and regulations adopted by
 3 the commission or the commission may conduct a hearing and take evi-
 4 dence as necessary to determine the merits of the complaint. The hearing
 5 shall be conducted and notice given in accordance with the Kansas ad-
 6 ministrative procedure act. Upon such hearing, the commission shall have
 7 authority to order the remediation of any unduly, unlawfully or unrea-
 8 sonably discriminatory ~~or unfair~~ fee for gathering services, or any unduly,
 9 unlawfully or unreasonably discriminatory ~~or unfair~~ practice in connection
 10 with such services, to the extent necessary for remediation as to the ag-
 11 grievd person with respect to the particular fee or service involved.
 12 (d) Nothing in this act shall be construed, or authorize the commis-
 13 sion, to amend or otherwise affect any contractual obligations between
 14 the gatherer and the complainant or rights which may otherwise exist.
 15 Sec. 4. K.S.A. 1996 Supp. 55-150 is hereby repealed.
 16 Sec. 5. This act shall take effect and be in force from and after its
 17 publication in the statute book.

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

Delete

Delete

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

Attach. 5
opponent has balloon

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

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

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

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

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

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

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

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

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

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

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

HOUSE BILL No. 2332

By Committee on Utilities

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9 AN ACT concerning oil and gas; relating to natural gas gathering systems;
10 providing for regulation of certain entities; concerning certain natural
11 gas public utilities and common carriers; amending K.S.A. 1996 Supp.
12 55-150 and repealing the existing section.
13

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

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

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

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

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

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

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

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

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

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

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1 milligrams per liter, total dissolved solids.

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

- 3 (1) Producing oil or gas;
- 4 (2) injecting fluid, air or gas in the ground in connection with the

5 exploration for or production of oil or gas;

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

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

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

12 (6) injecting or withdrawing natural gas.

13 New Sec. 2. The term "public utility" as used in K.S.A. 66-104, and
14 amendments thereto, and the term "common carriers" as used in K.S.A.
15 66-105, and amendments thereto, shall not include a gas gathering sys-
16 tem, as defined in K.S.A. 55-150, and amendments thereto, unless the

17 commission, upon application or complaint, and after notice and hearing,
18 determines that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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