

Approved: April 9, 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 24, 1997 in Room 531-N 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:  
none

Others attending: See attached list

Chairperson Ranson recognized Sen. Brownlee who introduced her daughter. She is assisting the committee today, along with two other pages from her district.

Sen. Ranson then directed the committees' attention to **SB 148-relating to natural gas gathering systems; regulation of certain natural gas public utilities and common carriers**. She referred to testimony heard by the committee yesterday and the options:

- 1) Concurrent Resolution (Attachment 1)- urges KCC to implement complaint, phone procedure;
- 2) Resolution in bill form (Attachment 2) - directs KCC to implement phone complaint system;
- 3) **SB 148** with amendments drafted, as proposed by conferees (Attachment 3);

Sen. Ranson asked members to consider the first option - which is the Resolution - which would begin by setting up a complaint system and the KCC would then report to the Legislature. Sen. Steffes made a motion to adopt the Resolution, and it was seconded by Sen. Barone. Roll Call vote was taken, and the motion failed with Yes - 5; No - 6.

Sen. Ranson proceeded by asking the members to consider the bill form, and which would result in a substitute bill. Sen. Steffes made a motion the committee adopt the substitute motion, and it was seconded by Sen. Barone. Upon roll call vote, the motion failed - yes - 3; no - 8; the motion failed.

Sen. Ranson then opened the floor for consideration of amendments to the original bill and distributed amendments proposed by Sen. Lee (Attachment 4) and Sen. Clark (Attachment 5). Sen. Lee discussed defining "gas gathering system" and where the definition should be placed, and if a similar amendment was added in the House committee this morning. Ms. Holt stated the House committee added the amendment and placed it in Section 3. It was agreed the definition should be placed in both Section 1, (d) and under Section 3, (1). Sen. Morris made the motion the definition be placed in both sections, and it was seconded by Sen. Clark; the motion passed.

Sen. Ranson called the committees' attention to Page 1, Line 28, under (1) and striking that language, as proposed by the balloon amendment. Sen. Salisbury made a motion the language be stricken, and it was seconded by Sen. Hensley; the motion passed.

Sen. Clark referred to his amendment on Page 2, Section 2, and deleting Lines 21 to 25 and Line 27, under New Section 3. Sen. Clark made a motion the amendment be added to the bill, and it was seconded by Sen. Lee. The committee then discussed the amendment, and Sen. Barone asked if each gatherer would have to prove it is competitive to determine if there is a competitive market, and if not, would have to come before the commission. He commented upon how costly this procedure would be. Sen. Clark explained if gatherers can prove there is a competitive market, they are exempted; and Sen. Barone stated his concern that every gathering system would have to be dealt with on a one-on-one basis. Sen. Ranson requested information from the Corporation Commission, and Bill Wix, who is an assistant general counsel, was recognized and discussed whether this provision put regulation under Chapter 55 or 66. Sen. Ranson also stated her concern in stipulating a hearing to determine competition. David Heinemann, General Counsel for the Corporation Commission, also discussed whether the amendment would place regulation under Chapter 55 or 66. Sen. Lee stated that under Chapter 55, a hearing can be held to determine if there is a competitive market; and if it is

## CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON UTILITIES, Room 531 -N, Statehouse, at 1:30 p.m.  
On February 24.

found that Chapter 55 applies, a lower assessment of taxes is made. Sen. Steffes questioned how many gatherers it involves, and Mr. Wix stated there are approximately 1400 gas producers and 400 gatherers.; that if regulation is placed under Chapter 66, there is an assumption it is a public utility, unless it is proven otherwise. Tax consequences were then discussed, and Sen. Lee stated that without the amendment, regulation would be under Chapter 55 at an assessment of 25%; if under Chapter 66, assessment is at 33% (which is current law). The loss of revenue was also discussed, and Sen. Brownlee asked if **SB 148** is passed without amendments, what is the scenario, and Sen. Lee responded it would come under Chapter 55.

Sen. Ranson then questioned Mr. Heinemann where utilities are defined and under what provision. Mr. Heinemann stated that Chapter 79 defines what qualifies as a utility for tax purposes. Sen. Ranson then asked if the Department of Revenue has determined what utilities are assessed and at what rate, and Mr. Heinemann stated the Department of Revenue has not made that determination. Sen. Morris referred to the monopolistic process, as has been discussed, and stated his preference would be to allow the KCC to make that decision and to be a part of Chapter 66. Sen. Ranson called for a vote on the amendment, and Sen. Clark's amendment was defeated.

Sen. Lee was recognized with another amendment, in Section 2, Lines 13-19 to the word, "exist". She explained this amends Sen. Clark's balloon draft and provides that hearings are not required unless it is found that the market is not competitive. She also stated that gatherers have to prove there is not a monopoly in previous proposals, but the amendment reverses that and relieves gatherers from proving there is competition. Sen. Barone stated concern that extensive hearings will result because of the amendment and require additional staff position for the commission. Upon a show of hands, the motion passed: Yes - 7; No - 4.

Upon clarification, gas gathering services would be referred to in both sections. Sen. Lee was recognized with another amendment to Sen. Clark's balloon, on Page, 2, Section 4, Line 33 would be amended, deleting all of Section 3. Mr. Carman stated the lines do not agree with the balloon draft, and Sen. Lee responded by deleting line 33, Section 3 and leaving Lines 31 and 32, "(c) Persons" (definition) in and deleting Line 14 on Page 3. She continued by referring to Sen. Clark's balloon draft, adding New Section 4, reflecting price transparency, and requiring contracts be sent to the Corporation Commission for analysis. Sen. Ranson stated the committee did not discuss this subject matter and did not hear testimony in committee. Sen. Barone asked what the Commission would do with this information, and Sen. Lee responded the commission would simply file it. Sen. Clark added the gatherers would have access to the information in case action would be sought by the parties and that discrimination could be determined. Sen. Ranson added the next part of the balloon provides for an administrative fine, which has not been discussed in this committee, and Sen. Lee stated these amendments were adopted by the House this morning. Sen. Ranson responded that she is not interested in what the House did this morning. Committee members expressed concern that they were considering another bill than was originally being considered, particularly how rates would be filed and how gatherers could comply with these regulations. Sen. Ranson stated the committee had not heard testimony on the proposed amendments and had not been able to ask questions. She stated the House heard different testimony, and we are now looking at full blown regulation, if the committee proceeds down this path.

Sen. Ranson requested an explanation of New Section 6 and what it does. Sen. Clark stated New Section 6 sets up the complaint procedure, sets a time frame, authorizes establishment of a hotline number, and gives the KCC authority to establish rules and regulations necessary to process data and other necessary information to accomplish the goals of this act. Sen. Barone stated this amendment allows the KCC to do whatever they want to do, and that it is difficult for him to believe both sides of this issue would be willing to allow that much authority to be given to the KCC.

At that point, Sen. Ranson stated the bill has been materially changed, that the committee has not heard from both sides regarding issues addressed in the amendments, and that people are now totally confused. She advised the committee to take the material with them and to attempt to get answers to questions raised in the debate, and that the committee will consider the bill at a later date.

Meeting adjourned at 2:30.

The next meeting is scheduled for February 25, 1997.

# SENATE UTILITIES COMMITTEE GUEST LIST

DATE: Feb. 24, 1997

NAME	REPRESENTING
RANDAL LOOER	SW KS IRRIGATION ASSOC.
Steve Rome	SW KS Irrig Assoc
Dayton Ford	
Markus Eassey	CCE
Bernie Vandling	SWKROA
Don Schrock	KIOWA
WALTER HENDEIX	CUB
Doug Smith	SWKROA
Julie Hein	Mesa
Ron Hein	MESA
Jamie Schwarz	KPOC
DAVID B SCHLOSSER	PETE McGUIRE ASSOC
Dave Holthaus	Western Resources
Leslie Kaufman	Ks Farm Bureau
Bob Hodges	Ks Telecom Assn
BRUCE GRAHAM	KEPCO
STEVE KEARNEY	SW KS IRRIGATION ASSN
Jon Miles	KCC
Lester Murphy	KCC

# SENATE UTILITIES COMMITTEE GUEST LIST

DATE: 2-24-97

NAME	REPRESENTING
Rosemary Foreman	KCC
Denise Hassman	KCC
William W Sneed	KN Energy
Joe Staskal	Williams Field Services
Russ Bishop	Pan Energy
Jack Graves	PH-K IV Ofy
J. P. SMALL	MOBIL OIL
Roger Trautso	KGC
Whitney Dawson	Aradawco
JC Long	Utali Corp
Brenda Park	Jonathan Small
Kim Gulley	League of KS Municipalities
Da Shunke	ICIOGA
Gymna Starr	ATET
Ken Peters	KS Petroleum Council
ED SCHAUB	WESTERN RESOURCES

HHA ①  
JD

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.

Attachment 2 191

Senate Utilities  
2-24-97  
Att. 1

This could be a substitute for 148  
or  
one of the ~~passed~~ committees could introduce it

Attach. ②  
NO  
7 RS 11  
Substitute

BILL NO. \_\_\_\_\_

AN ACT directing the state corporation commission to implement a telephone complaint system concerning gas gathering.

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

Section 1. The state corporation commission shall implement a telephone complaint system by which aggrieved parties may report complaints concerning gas gathering services or fees. The commission shall investigate complaints it receives and mediate mutually satisfactory resolution between the parties.

Sec. 2. The commission shall maintain records of all complaints related to gas gathering and submit to the speaker and minority leader of the house of representatives and to the president and minority leader of the senate the commission's findings concerning such complaints received and the disposition of those complaints.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

Senate Utilities  
2-25-99  
Att. 2

# 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 immediately connected into a main transmission line

(1) the gathering of natural gas produced from wells owned and operated by the gatherer and where the gathering system is used exclusively for its own private purposes; (2)

Attach. 3  
Senate Utilities  
2-24-97  
Att. 3

3-2

- 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 or 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;~~  
 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 gas, the court shall determine the

[ unjust, unreasonable, unjustly discriminatory  
 or unduly preferential ]

[ unjust, unreasonable, unjustly discriminatory  
 or unduly preferential ]

[ unjust, unreasonable, unjustly discriminatory,  
 or unduly preferential ]

[ determines ]



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

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

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

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

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.

M-3

unjust, unreasonable, unjustly discriminatory or unduly preferential

unjust, unreasonable, unjustly discriminatory or unduly preferential

(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.

**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.

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

Lee  
Attach. ~~15~~  
Failed  
Senate Ht. 1. 11. 97  
2-24-97  
Att. 4

4-2

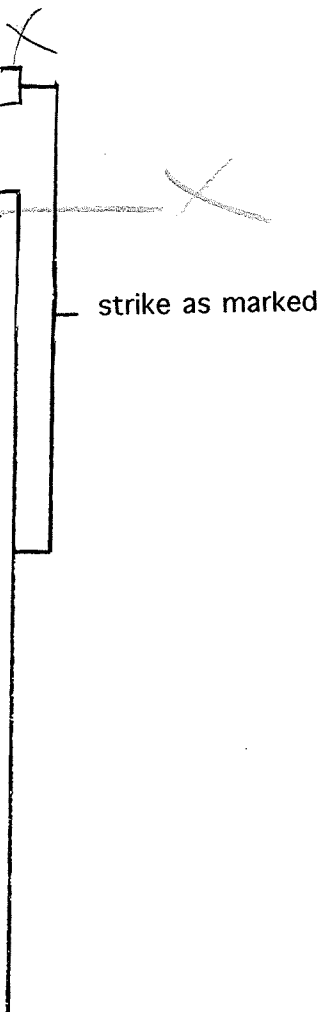
- 1 milligrams per liter, total dissolved solids.
- 2 (i) "Well" means a hole drilled or recompleted for the purpose of:
- 3 (1) Producing oil or gas;
- 4 (2) injecting fluid, air or gas in the ground in connection with the
- 5 exploration for or production of oil or gas;
- 6 (3) obtaining geological 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.~~

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-



strike as marked

4-3

1 ~~tion 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.~~

strike and insert attached

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.~~

9

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.

10

New Sec. 3. As used in sections 3 through 8:

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

(b) "Gas gathering services" means the gathering or preparation of natural gas for transportation, whether such services are performed for hire or in connection with the purchase of natural gas by the gatherer. "Gas gathering services" does not include the gathering of natural gas by an owner or operator of a well or wells connected to the owner's or operator's own gathering facilities, if the owner or operator does not hold such facilities out for hire on or after the effective date of this act.

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

New Sec. 4. (a) Each person offering gas gathering services in this state shall file with the commission copies of the following with regard to contracts entered into on or after July 1, 1997: (1) Rates paid for natural gas purchased by the person at the wellhead; (2) all rates charged for transportation, processing, manufacturing or other services offered by the person before natural gas enters a pipeline under the jurisdiction of the federal energy regulatory commission; and (3) such data related to the characteristics of the gas purchased or handled by the person as the commission determines reasonably necessary. The commission may adopt reasonable rules and regulations prescribing the form and filing of such rates, schedules and data. The commission shall not be required to analyze, publish or disseminate such rates, schedules and data except to the extent otherwise required by law.

(b) Upon notice and an opportunity to be heard in accordance with the provisions of the Kansas administrative procedure act, the commission may impose an administrative fine on any person for failure to file any rate, schedule or data as required by this section and rules and regulations of the commission. Such fine shall not exceed \$100 for each day the rate, schedule or data remains unfiled as required or an aggregate amount of \$10,000, whichever is less.

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

New Sec. 5. (a) Persons offering gas gathering services in this state, or facilities essential to provision of such services, shall provide, in a manner that is just, reasonable, nondiscriminatory and nonpreferential, access to such services or facilities for any person seeking such services or facilities.

(b) Persons performing gas gathering services may engage in any practice in connection with such services, and charge fees for such services, that are just, reasonable, nondiscriminatory and nonpreferential.

New Sec. 6. (a) The commission, in its discretion, may at any time review a fee, term or practice being used by a gas

gathering system operator to ascertain whether a violation of section 5 has occurred.

(b) Any consumer of gas gathering system services, or any other person impacted by the terms imposed by a gas gathering system operator, may request the commission to investigate and initiate proceedings to review a fee, term or practice being used by a gas gathering system operator. As a condition to formal commission action, the person requesting commission action must first file a complaint that includes:

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

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

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

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

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

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

(c) The commission may resolve the complaint by use of an informal procedure established by the commission pursuant to rules and regulations adopted by the commission or the commission may conduct a formal hearing and take evidence as necessary to determine the merits of the complaint. If the commission uses an informal procedure and the complaint is not resolved within 60 days after the complaint is filed, the commission shall conduct a formal hearing on the complaint. The hearing shall be conducted and notice given in accordance with the Kansas administrative procedure act. Upon such hearing, the commission shall have authority to order the remediation of any violations of section 5, to the extent necessary for remediation as to the aggrieved person with respect to the particular violation.

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

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

(f) The commission shall adopt such rules and regulations as the commission determines reasonably necessary to prevent abuse of the complaint procedure provided for by this section. Such rules and regulations shall include provisions to prevent delay

of the proceedings that may damage a party's ability to pursue or defend the complaint.

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

New Sec. 7. The commission may adopt such rules and regulations as the commission determines necessary to improve market competition in, improve access to or protect the public interest in gas gathering services.

New Sec. 8. In any retail natural gas service area where the commission has granted a certificate of convenience and necessity to sell natural gas at retail from a gas gathering system, the commission may issue other certificates of convenience and necessity to make such sales in such area.

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

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

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5-2

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

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

- 19 (a) Within the area of service or proposed service of such gas gath-
- 20 ering system, competitive market conditions ~~do not exist; and~~
- 21 ~~(b) gas gathering services are not likely to be effectively and effi-~~
- 22 ~~ciently furnished unless a certificate of necessity and convenience and~~
- 23 ~~exclusive market territory is granted, with rates and practices established~~
- 24 ~~by the commission as in the case of other public utilities or common~~
- 25 ~~carriers.~~

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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.~~

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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.

under contracts entered into on or after July 1, 1997

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

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

5-3

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

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

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

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

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

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

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

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

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

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

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

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

New Sec. 5. (a) Persons offering gas gathering services in this state,  
or facilities essential to provision of such services, shall provide access to  
any person seeking such services of facilities, in a manner that is just,  
reasonable, not discriminatory nor preferential.

(b) Persons performing gas gathering services may engage in any  
practice in connection with such services and charge fees for such services  
which are just, reasonable, not discriminatory nor preferential.

complaint

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

5-4

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

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

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

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

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

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

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

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

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

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

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

Delete Section 8

Renumber to: New Section 8

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Renumber to: New Section 9

Renumber to: New Section 10

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