

Approved: April 11, 1997  
Date

## MINUTES OF THE SENATE COMMITTEE ON UTILITIES.

The meeting was called to order by Chairperson Pat Ranson at 1:30 p.m. on March 19, 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 called the committee's attention to the Minutes of the meetings on February 19, 20 and 21 (Attachment 1). She pointed out a misspelled word in the February 19 Minutes on Page 2, the word, "corrality" should be spelled "correlative", and that correction will be made. Sen. Clark made a motion the Minutes of the meetings on February 19 (as corrected), February 20 and 21 be approved, and it was seconded by Sen. Brownlee; and the motion passed.

Sen. Ranson announced the committee will hear a briefing by Lynne Holt on HB 2332-relating to natural gas gathering systems; providing for regulation of certain natural gas public utilities and common carriers. She also announced the committee will hold a hearing on the bill tomorrow at 1:00 in Room 313-S of the Capitol.

Ms. Holt distributed a chart comparing HB 2332 with SB 148-relating to natural gas gathering systems; providing for regulation of certain natural gas public utilities and common carriers (Attachment 2). She also referred to the fiscal note, the bill and the bill brief (Supplemental Note).

Ms. Holt stated HB 2332 sets out the states' policy regarding the regulation of natural gas gathering and read provisions in the present policy. She walked the committee through the bill, noting changes made in the House. In particular, she referred to the provision relating to price transparency (New Sec. 4) and the complaint procedure (New Sec. 6), which provides for an informal procedure and a formal hearing. She also pointed out several references in the bill to the Corporation Commission's adoption of rules and regulations; and she also pointed out several technical references for the committee to discuss. She also brought up the question, under provisions of this bill, of a breach of confidentiality, and if the Corporation Commission would be liable.

Committee members discussed the bill and questioned Ms. Holt regarding access to files and if a complainant can have access to files, and the liability issue. Tim McKee, Chairman of the Kansas Corporation Commission, discussed access to contracts and stated that common carriers publish tariffs, which would include phones, truck lines and electric and gas services, etc.; however, there are "special" contracts, which usually have a confidentiality clause. Mr. McKee also discussed with Sen. Morris the analysis required in New Section 6, and Mr. McKee stated an analysis is not required now, but it is usually done when the well is completed; and Glen Smith, from the Corporation Commission staff, stated an analysis would take only a matter of hours and can be done in the fields.

Sens. Lee and Brownlee questioned Mr. McKee regarding gathering line pressure, where it is taken and how often and who the information is available to. Sen. Ranson questioned some of the technical language pointed out by Ms. Holt - in particular, in New Section 4, the word, "transportation", and "manufacturing"; also, under New Section 6, the word, "term". Mr. McKee stated he could not know the definition of the terms, relevant to this bill.

Sen. Barone questioned New Section 4, and the intent of filing contracts and asked the number and the problems they might cause for gatherers, and Mr. McKee replied it would be a dramatic change, that the bill does not require the Corporation Commission to analyze the contracts, so do we just collect them and file them away? He stated he does not know the intent, but that someone should be made responsible - either the gatherer or the producer. He replied, "This bill puzzles me". He also added that the question of confidentiality comes up, and Sen. Ranson added that the Corporation Commission may adopt rules and regulations and add confidentiality, according to this bill.

## CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON UTILITIES, Room 531- -N, Statehouse, at 1:30 p.m. on March 19, 1997.

Mr. Carman added information on the question of indemnity and Sen. Ranson requested he talk with Mary Torrence, since she wrote the bill, and discuss some of the language that is vague. If committee members have further questions before the hearing tomorrow, Sen. Ranson advised they may call Glen Smith, at the Corporation Commission office, and he will be available to answer questions.

Meeting adjourned at 2:30.

The next meeting is scheduled for March 20, 1997.

# SENATE UTILITIES COMMITTEE GUEST LIST

DATE: MARCH 19, 1997

NAME	REPRESENTING
Ron Hein	MESA
J. C. Long	Utilicorp United
John K Miles	KCC
Tom McKee	Kan Corp. Council
TOM DAY	KCC
John Sommer	Mid Continent Market Center
Jack Graves	PH - K N + Oxy
Bernard Nordling	SWKROA
MONTGOMERY ESCUE	
Doug Smith	SWKROA
TERRY HOLDREN	KRAENNY LAW OFFICES
Bunda Pals	J. Small
Don Schmauck	KIGGA
Glen Smith	KCC
Jack Shriver	K-N.
Russ Bishop	Pan Energy Corp
Whitney Damron	Aradarko Petroleum Corp.
Rick Tangeman	Western Resources
Bill Sneed	KN Energy



Attach 1

Approved: MARCH 19, 1997  
Date  
(AS CORRECTED)

MINUTES OF THE SENATE COMMITTEE ON UTILITIES.

The meeting was called to order by Chairperson Pat Ranson at 1:30 p.m. on February 19, 1997 in Room 519-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:  
Randal Loder, S.W. Kansas Irrigation Assoc., Task Force member  
Ron Hein, MESA, Inc.  
Tim McKee, Chairman, Kansas Corporation Commission  
David Schlosser, Coastal Corp.

Others attending: See attached list

Chairperson Ranson recognized Sen. Morris, who introduced Chris Hagar, his son-in-law, who is a special guest today.

Sen. Ranson announced the continuation of the hearing on SB 148-relating to natural gas gathering systems; providing for regulation; certain natural gas public utilities and common carriers. She introduced the following opponents who gave testimony on the bill:

- Randal Loder, (Attachment 1)
- Ron Hein, (Attachment 2)
- Steve Zuckweiler - given by David Schlosser, (Attachment 3)
- Tim McKee, (Attachment 4)

Committee members questioned opponents and discussed the problem brought to light by the Irrigators Association. Sen. Barone stated his understanding is that if the utility has a certified service area, then they are obligated to serve all customers, and Mr. Loder responded that the problem is allowing multiple certificates. Sen. Barone asked if there are multiple certificates today, and if the KCC has authority to settle differences, and if that language is on the books. Mr. Loder answered that he thought they could and that his testimony explains what happens in the field. Sen. Ranson asked Mr. Loder if he has made a complaint to the KCC, and Mr. Loder responded that the association has talked with Walker Hendricks and he was to file a complaint but that Mr. Hendricks has not filed a complaint with the KCC. Sen. Ranson stated that the committee has been made aware of the concern of the irrigators, and asked if new legislation is needed, or if it can be handled by the KCC.

Sen. Ranson recognized Tim McKee and asked if a complaint were to be filed with the KCC, what would happen. Mr. McKee stated that some history and facts are important to understand: about ten years ago, after extensive hearings, the Commission allowed operators to drill a second well, allowing more gas to come out of the field. Mr. McKee stated it is a physical fact that the Hugoton field is declining - that is it not a renewable resource; that companies will have to re-build their infrastructure and spend a lot of money to continue utilizing that field. Mr. McKee further stated to his knowledge, no one has filed a complaint with the commission. He stated Rep. Carl Holmes brought this issue to his attention only a few days ago. He clarified the statement on dual certification and explained that it is really overlapping; that public service certification in the same geographic area is generally not done.

Sen. Barone asked Mr. McKee if the KCC gets a complaint, do you have legal authority to investigate, and Mr. McKee answered they do; they have a duty and legal authority. Sen. Ranson asked Mr. McKee if the KCC can initiate an investigation, and Mr. McKee answered "yes", that the commission can initiate an investigation. He further stated that technically, one is under way at this time, when Rep. Holmes wrote the commission regarding the irrigators' problems. Sen. Brownlee also discussed with Mr. Loder problems with service and transportation fees, and he stated the urgency of the situation and that the irrigators need the natural gas for their crops by the end of May or first of June.

Mr. McKee distributed a magazine article to the committee and briefly discussed it with the committee. He also referred to his Minority Report to the Report of the Gas Gathering Task Force and to proposed amendments to the bill (attached to his Minority Report). He emphasized that he does not embrace SB 148.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

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3-19-97  
Att. 1

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON UTILITIES, Room <sup>519</sup>531-N -Statehouse, at 1:30 p.m. on February 19, 1997.

but that it is better than HB 2332. He also stated it is important to let the KCC determine if it is a prima facie case and discussed Chapter 66. In answer to a hypothetical example from Sen. Morris, Mr. McKee stated the Commission has a duty to protect correlative rights and to protect our natural resources. Sen. Lee asked Mr. McKee his opinion of the bill if, on Page 2, Lines 13-19 were deleted, and Mr. McKee replied that would emasculate the bill.

Sen. Ranson then asked Mr. McKee if legislation is needed to correct the problem which the irrigators have laid out to the committee. Mr. McKee replied legislation is not needed now, and added that maybe he does not understand the problem - that the real problem is that the pressure is so low, the field is no longer producing gas - and that he does not know how to solve that problem. Sen. Ranson then asked if the KCC has both the jurisdiction and authority to receive and investigate claims. Mr. McKee replied that the Commission has both the authority and investigative powers.

Sen. Ranson announced the agenda for the remainder of the week and stated the committee will work this bill on Friday.

Meeting adjourned at 2:35.

The next meeting is scheduled for February 20, 1997.

Attach. 1

Approved: MARCH 19, 1997  
Date

MINUTES OF THE SENATE COMMITTEE ON UTILITIES.

The meeting was called to order by Vice-Chairperson Stan Clark at 1:30 p.m. on February 20, 1997 in Room 531--N of the Capitol.

All members were present except:  
Sens. Ranson and Lee were excused

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

Conferees appearing before the committee:  
David Heinemann, Gen. Counsel, Kansas Corporation Commission  
Jim Ludwig, Exec. Dir., Regulatory Affairs, Western Resources  
Fred Logan, Attorney, Kansas Pipeline Partnership  
Tom Day, Director, Admin. Services, Kansas Corporation Commission  
Jon Miles, Dir., Governmental Relations, Kansas Electric Cooperatives

Others attending: See attached list

The meeting was called to order by Vice-Chair, Sen. Clark, who announced the committee will hear testimony on **SB 207-concerning Kansas corporation commission; investigations and complaints; hearings.** He introduced David Heinemann, who appeared as a proponent with testimony (Attachment 1) and Jim Ludwig, who gave testimony (Attachment 2) opposing the bill. Mr. Heinemann offered amendments, which are attached to his testimony, to the bill, and Mr. Ludwig stated support for the amendment. No other conferees were present, and the Vice-Chair closed the hearing.

Sen. Clark opened the hearing for **SB 212-concerning public utilities and common carriers; change in rates and schedules.** He asked Ms. Holt to give the committee a brief overview of the bill. Dave Heinemann appeared as a proponent and offered testimony supporting the bill (Attachment 3). The following opponents appeared:

- Fred Logan, (Attachment 4)
- Jim Ludwig, (Attachment 5)

Sen. Clark questioned Mr. Heinemann regarding amendments he proposed (attached to his testimony), extending the 240-day clock and an incentive clause. Sen. Morris discussed the KN case, and their opposition to extending the deadline. Mr. Heinemann stated the Commission wanted to proceed with the rate case, as there was a long line of opponents to the case and there was a change in circumstances. Mr. Logan discussed his objection to the extension of time and stated there is no compelling reason why a rate matter cannot be settled within 240 days. He continued by discussing proposed amendments to the bill. Sen. Clark pointed out the bill is a result of a Court of Appeals decision. Sen. Barone asked what time limits are imposed in other states, and Ms. Holt recalled the law in a couple of surrounding states. Mr. Ludwig stated Western Resources has no objection to the bill, but they would like to see the commission move faster than the 240 days. Sen. Salisbury questioned Mr. Ludwig as to the need for this bill.

Sen. Clark announced the committee will discuss **SB 148** tomorrow, with action planned for Monday.

Meeting adjourned at 2:25.

Next meeting will be February 21, 1997.

1-3

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.

# KANSAS LEGISLATIVE RESEARCH DEPARTMENT

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*Attach. 2*

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<http://www.kumc.edu/kansas/ksleg/KLRD/klrd.html>

March 18, 1997

**To:** Senate Committee on Utilities

**From:** Lynne Holt, Principal Analyst

**Re:** Comparison of H.B. 2332 House Committee of the Whole  
 (HCOW) to S.B. 148—Gas Gathering

H.B. 2332 (HCOW)	S.B. 148
1. Amends definition of "gas gathering system" in <u>conservation</u> (Ch. 55) statutes. (New Sec. 1(d))	1. Same. (New Sec. 1(d))
2. Excludes definition of "gas gathering system" from definition of "public utility" and "common carrier" in Ch. 66 and, therefore, from cost-of-service regulation. (New Sec. 2)	2. Same but makes certain exceptions which would bring gas gathering systems under cost-of-service regulation—the KCC determines that competitive market conditions do not exist; and finds past, existing, or prospective abusive monopolistic practices of system, or determines a need for certificate of necessity and convenience to ensure the effective and efficient furnishing of gas gathering services. (New Sec. 2)
3. Defines "gas gathering services" as 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. Specifies that the definition does not include the gathering of gas by an owner or operator of a well connected to his or her own gathering facilities if the facilities are not held out for hire. (New Sec. 3 (b))	3. Same definition without specification about what the definition excludes. (New Sec. 3 (a)(2))

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H.B. 2332 (HCOW)	S.B. 148
<p>4. <u>Transparency requirement.</u> MaGas gatherers must file with the KCC copies of rates paid for natural gas at the wellhead (if applicable); rates charged for transportation, processing necessary for transportation and sale of gas; manufacturing and other services offered by the gatherer; and other data related to the characteristics of the gas purchased or handled by the gatherer, as determined by the KCC. The KCC is authorized to adopt rules and regulations on forms and filing procedures but is not required to analyze, publish, or disseminate the data. An administrative fine may be imposed on a gatherer for noncompliance. The KCC may not use the data filed for this purpose to order rate changes except for violations. (New Sec. 4)</p>	<p>4. No transparency requirement.</p>
<p>5. Prohibits gas gatherers providing services in this state or facilities essential to provision of such services from denying access to any person seeking such services or facilities in a manner that is unjust, unreasonable, unjustly discriminatory, or unduly preferential. (New Sec. 5 (a))</p>	<p>5. Similar prohibition except that there is no reference to facilities denying access and the standard used is "unduly, unlawfully, or unreasonably discriminatory or unfair." (New Sec. 3 (b))</p>
<p>6. Prohibits gas gatherers from charging a fee for gas gathering services or engaging in any practices in connection with such services, which is unjust, unreasonable, unjustly discriminatory, or unduly preferential. (New Sec. 5 (b))</p>	<p>6. Similar prohibition except that the standard used is "unduly, unlawfully, unreasonably discriminatory or unfair." (New Sec. 3 (c))</p>
<p>7. Authorizes the KCC, at its own initiative, at any time to review a fee, term, or practice being used by a gas gatherer to ascertain violations of access rights, fees, or practices in No. 5 and No. 6 above. (New Sec. 6 (a))</p>	<p>7. No comparable provision.</p>
<p>8. Authorizes a <u>complaint procedure</u> to be initiated by a consumer of gas gathering services against a gas gatherer. KCC may be requested to review a fee, term, or practice. The bill specifies six provisions that must be included in the complaint. (New Sec. 6 (b))</p>	<p>8. Authorizes a complaint procedure to be initiated by a consumer of gas gathering services against a gas gatherer. KCC may be requested to review a fee or practice. The bill does not specify provisions to be included in the complaint. (New Sec. 3(c))</p>

H.B. 2332 (HCOW)	S.B. 148
9.	9. Requires the KCC to make a factual determination that competitive gathering conditions do not exist for gathering services of the complainant's gas prior to any other form of resolution. (New Sec. 3(c))
10. Authorizes the KCC to resolve the complaint through an informal hearing established through rules and regulations or conduct a formal hearing. If the KCC uses an informal hearing and the complaint is not resolved within 60 days of filing, the KCC must conduct a formal hearing. The hearing and notice must be in accordance with KAPA. The KCC may order any remediation of violations in No. 5 and No. 6 above. (New Sec. 6 (c))	10. Authorizes the KCC to resolve the complaint through an informal hearing established through rules and regulations or conduct a formal hearing. There is no requirement for a formal hearing to be conducted if a complaint is not resolved through an informal hearing within 60 days. The same provision as in H.B. 2332 applies to compliance with KAPA. The KCC also may order remediation of violations in No. 5 and No. 6 above. (New Sec. 3(c))
11. Does not require the KCC to engage in cost-of-service ratemaking or any other form of ratemaking in evaluating a fee or term or establishing a reasonable fee or term. (New Sec. 6 (d))	11. No comparable provision.
12. Requires the KCC to maintain a publicized telephone number to facilitate the filing of informal complaints. (New Sec. 6 (e))	12. No comparable provision.
13. Requires the KCC to adopt rules and regulations to prevent abuse of the complaint procedure, including prevention of delays that may impede a party's ability to pursue or defend a complaint. (New Sec. 6 (f))	13. No comparable provision.
14. Authorizes the KCC to order any party to a proceeding to reimburse all or any part of reasonable expenses, including attorney fees, incurred by any other party to the proceedings. (New Sec. 6 (g))	14. No comparable provision.
15. Authorizes the KCC to adopt rules and regulations to improve market competition in, improve access to, or protect the public interest in gas gathering services. (New Sec. 7)	15. No comparable provision.

<b>H.B. 2332 (HCOW)</b>	<b>S.B. 148</b>
16. Authorizes the KCC to exempt from rate averaging or pricing systems that apply to gas sold from a gas gathering system any natural gas sold directly to a consumer from a wellhead before the gas enters a gathering system. (New Sec. 8)	16. No comparable provision.
17. Authorizes the KCC to issue more than one certificate of convenience and necessity in a service area for retail sales of natural gas from a gas gathering system. Prohibits the assessment of an exit fee on any consumer who elects to switch from one gas gatherer to another. (New Sec. 9)	17. No comparable provision.
18. Appears to authorize the KCC to affect contractual obligations between the gatherer and complainant if terms are determined to be in violation of No. 5 and No. 6 above. (New Sec. 6 (d))	18. Clarifies that the KCC is not authorized to amend or otherwise affect any contractual obligations between the gatherer and complainant or rights which may otherwise exist. (New Sec. 3 (d))