

Approved: April 11, 1997  
Date

MINUTES OF THE SENATE COMMITTEE ON UTILITIES.

The meeting was called to order by Chairperson Pat Ranson at 1:00 p.m. on March 20, 1997 in Room 313-S of the Capitol.

All members were present

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

Conferees appearing before the committee:

Randal Loder, S.W. Kansas Irrigation Association  
Paul Hoag, Allied Small Producers & Consumers & Coalition for Competitive Energy  
David Pierce, Washburn University Law Professor, Regulatory Law  
Mari Ramsey, Attorney, Williams Field Services  
Charles Wilson, Kansas Independent Oil and Gas Association  
Ron Hein, Attorney, MESA  
Jack Glaves, Woolsey Petroleum, Wichita

Others attending: See attached list

Chairperson Ranson announced the committee will hold a hearing for **HB 2332-relating to natural gas gathering systems; providing for regulation of certain natural gas public utilities and common carriers.** She confirmed all proponents and opponents, who had requested time to testify, were present and announced the proponents and opponents (each side) would be given 30 minutes to present testimony. The following appeared as proponents:

Randal Loder, (Attachment 1);  
Paul Hoag, (Attachment 2);  
David Pierce, (Attachment 3).

The following appeared as opponents:

Mari Ramsey, (Attachment 4);  
Charles Wilson, (Attachment 5);  
Ron Hein, (Attachment 6);  
Jack Glaves, (Attachment 7).

Committee members questioned the proponents regarding proposed amendments (which are attached to their testimony). In particular, Mr. Loder was questioned about a part of his amendment regarding open access, and he responded that his association would like to have guaranteed access to the system. Mr. Pierce recommended deleting New Section 6 regarding attorneys fees, and he stated the bill does not make it mandatory. However, if a complaint is filed, and the complainant goes before the Corporation Commission to resolve the complaint, the gas company would be represented by an attorney. He reminded the committee the bill provides that the Corporation Commission may order the complainant pay all or part of the other party's reasonable expenses, including attorneys' fees. Mr. Pierce stated he was appearing before the committee at the request of Sens. Lee and Clark, and Sen. Lee added that Mr. Pierce is a national expert in the field of regulatory law.

Members also questioned the opponents, in particular, regarding proposed amendments (attached to testimony), and all of the opponents stated they supported the compromise worked out between the parties. Sen. Clark questioned Mr. Glaves' statements regarding reimposing regulation as a public utility on an existing system Woolsey is hoping to purchase and why that system would be regulated. Mr. Glaves explained the system he discussed in his testimony is a part of a distribution system and is also a retail supplier of gas and gathering is a part of the system. Sen. Barone then asked Ms. Ramsey if there is more than one gathering system not regulated, and she answered there are several. Ms. Ramsey also explained to Sen. Brownlee price posting and the importance to have that information.

Sen. Ranson announced there is no time left to discuss and take action on the bill today, but the committee will

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON UTILITIES, Room 313- -S Statehouse, at 1:00 p.m. on March 20, 1997.

meet on Monday, March 24, at 1:15 in Room 531-N. She asked the committee to study proposals presented today from the irrigators, the industry compromise and the MESA proposal and be prepared to discuss and take action on the bill on Monday.

Meeting adjourned at 2:30.

The next meeting is scheduled for March 24, 1997.

# SENATE UTILITIES COMMITTEE GUEST LIST

DATE: MARCH 20, 1997

NAME	REPRESENTING
Doug Smith	SWKROA
Bruce Nordling	SWICKROA
Charles B. Wilson	KIOGA
Steve M. Dillard	KIOGA
Steve Lome	SWK <sub>2</sub> J
Gray Gold	Hugoton City Council
Wyron Spikes	Hugoton Sig K IRR
Walker Randall	Whitney Lawson, L.A.
Mauritius Escuel	CCP
Paul Hoag	TRIGATOR, CCE, <del>CC</del>
Ron Heira	MESA
Gene Smith	Small Producers & Consumers
Don Schuette	KIOGA
Steve Coffin	Coastal Corporation
Shirley Campbell	Rice Land Office
John Thompson	Mid Continent Market Center
Steve Smith	KCC
Wm O'Flaherty	PanEnergy
Jack Shriver	KIV

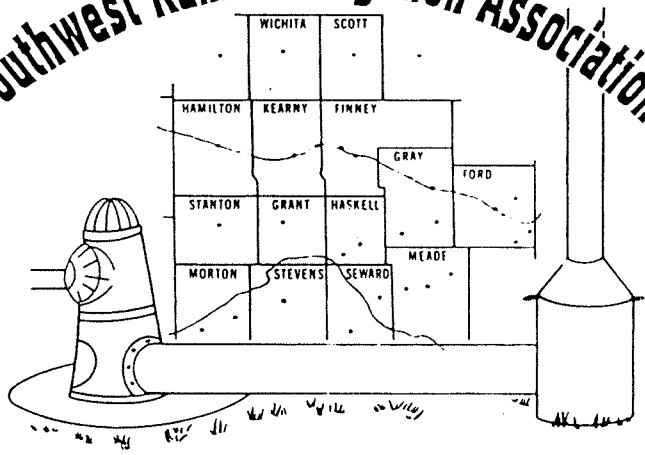
# SENATE UTILITIES COMMITTEE GUEST LIST

DATE: \_\_\_\_\_

NAME	REPRESENTING
Jack Graves	Oxy P & H Energy
Russ Bishop	Pan Energy Corp
Mari Ramsey	Williams Field Services Co.
Leslie Kaufman	Ks Farm Bureau
STEVE KEADNEY	SW KS IRRIGATION ASSN
RANDAL LOVER	SW KS IRRIGATION ASSN,
DAVID B SCHLOSSER	Pete McGinn & Assoc.
Whitney Dameron	Aradarko Petroleum Corp.

# Southwest Kansas Irrigation Association

11/1/97



Box 254  
Ulysses, Kansas  
67880

Testimony of Randal Loder on behalf of  
The Southwest Kansas Irrigation Association

In support of H.B. 2332

Before the Senate Utilities Committee

Pat Ranson, Chairperson

March 20, 1997

Senate Utilities  
3-20-97  
Att. 1

Madam chair and members of the Utilities Committee, my name is Randal Loder. My wife and I have an irrigated farming operation near Garden City, Kansas where in addition to some wheat, we grow corn and alfalfa which is marketed through area cattle feeding operations.

In addition to my involvement with the Board of Directors of the Southwest Kansas Irrigation Association (SWKIA), I served as the irrigation representative on the Task Force on Gas Gathering last year.

The Southwest Kansas Irrigation Association supports H.B. 2332, and would like to suggest some amendments.

Before I address those, I would like to summarize our interest in this legislation. First, natural gas is an important component in our business. The development of our industry, closely followed the development of natural gas. We were early users of the product, and have remained consistent and significant users of the product. Unlike alternative sources, our peak demand period falls outside the period of greatest demand for the product ( see first attached item "KN Gas Sales"). In fact during those winter months when virtually everyone demands gas, we get out of the way.

Second, we need continued access to natural gas. We prefer the gas that lies directly under our feet, and the lands we farm. It's a Kansas product and we like that. When we use our locally produced gas we add value to it, and the whole state of Kansas benefits.

Third, we have stated our willingness to pay a reasonable price for the product. That price should be determined by the marketplace, not by regulatory decree, and certainly not through the coercion that can come with the abuse or arrogance of a monopoly. That price cannot be determined in a marketplace that lacks price transparency in all areas of the production, gathering, and transportation process.

We feel that H. B. 2332 addresses our concerns in a reasonable fashion. It's a plan that attempts first to allow the marketplace to work, and we like that. In the event that someone feels the system has broken down, H.B.2332 provides for a reasonable complaint procedure with the state corporation commission and requires the commission to establish rules to prevent abuse of that complaint system.

As a package, H.B. 2332 represents the light handed approach to this question that we feel offers the minimum protection necessary for the marketplace to function properly. It's a reasonable compromise to the demands of the varied interests. We are not asking for legislation that would improve our position or give us a competitive advantage, and this legislation doesn't do that.

We would like to suggest some amendments that we feel will help the intent of this legislation. Those are detailed in the items following the "KN Sales" chart in your information.

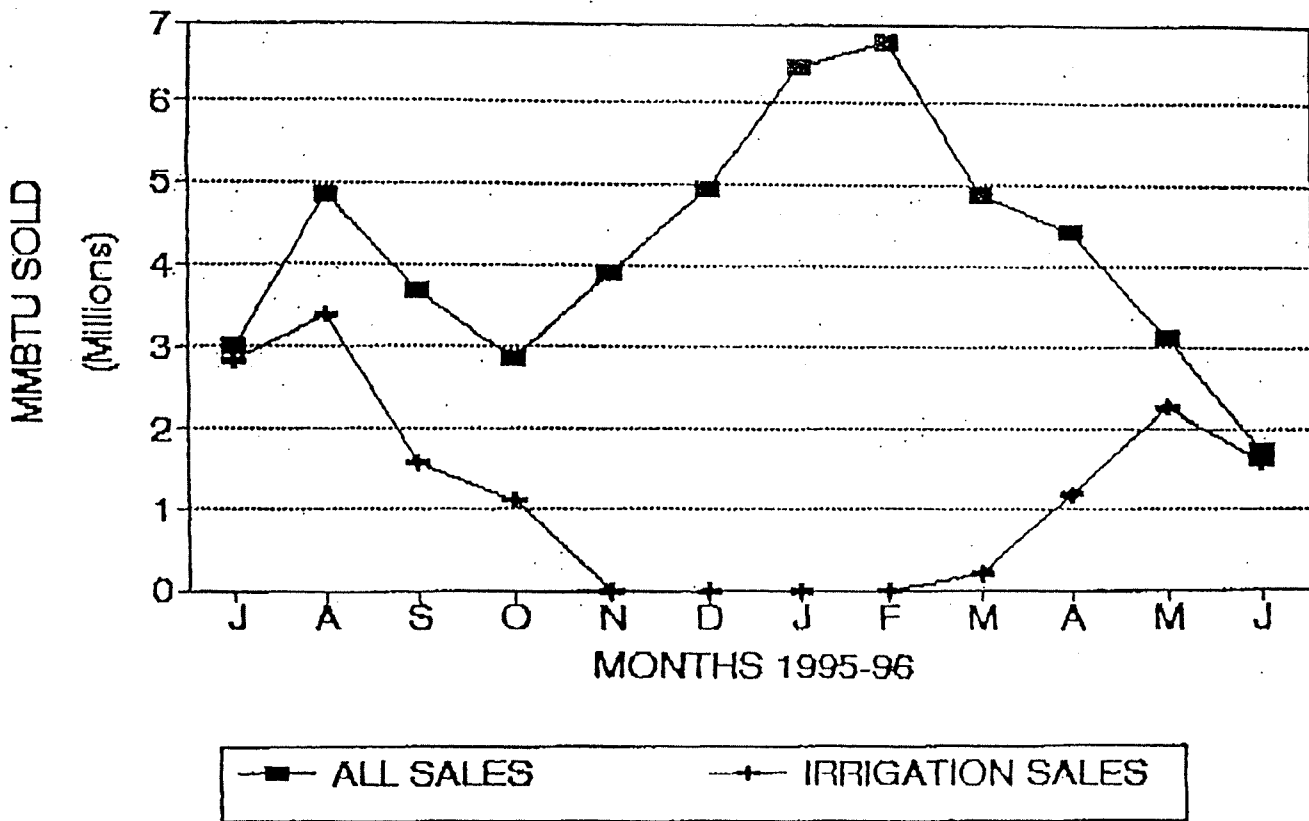
I urge your acceptance of these suggested amendments to H.B. 2332, and your passage of this bill from committee. As always we are available to discuss the legislation, and answer questions. We appreciate your attention and thank you for your consideration.

Randal Loder  
535 E. Hwy. 50  
Garden City, KS 67846-8024

316-275-1303 Phone/FAX/messages

# KN GAS SALES

## ALL SALES V.S. IRRIGATION SALES





1-5

1 ices.

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

7 (b) The commission may exempt natural gas sold directly to a con-  
8 sumer from the wellhead before the gas enters a gathering system from  
9 rate averaging or pricing systems that apply to gas sold from a gas gath-  
10 ering system.

11 New Sec. 9. In any retail natural gas service area where the com-  
12 mission has granted a certificate of convenience and necessity to sell nat-  
13 ural gas at retail from a gas gathering system, the commission may issue  
14 other certificates of convenience and necessity to make such sales in such  
15 area. A person purchasing natural gas or gas gathering services from a gas  
16 gathering system operator in a retail natural gas service area where the  
17 commission has issued more than one certificate of convenience and ne-  
18 cessity shall not be assessed an exit fee for electing to purchase natural  
19 gas or gas gathering services from another gas gathering system operator.

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

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

New Sec. 8 (a) Persons who wish to utilize gathering or  
mainline transmission services shall not be denied access  
to such services nor be required to utilize facilities or  
services of third party distributors where such third party  
distributors provide no pipelines utilized for such gathering  
or mainline transmission service and provide no  
distribution pipelines to serve the needs of such persons.

## Senate Utilities Committee Hearing on House Bill 2332 20 March 1997

### Testimony of Paul Hoag

My name is Paul Hoag and my address is 2140 Zinnia Lane, Liberal, Kansas. I am a public policy economist with thirty years of education, training, and experience, including four years of service as a public official in Seward County Kansas. Gas gathering is important to the Kansas economy Kansas. and I have been following these issues for the past two years.

I have been asked to testify today for the purpose of strengthening and improving this bill. Several groups support these amendments:

- \* Southwest Kansas Irrigation Association
- \* Kansas Corn Growers Association
- \* Allied Small Producers and Consumers
- \* Coalition for Competitive Energy
- \* Southwest Kansas Royalty Owners Association

Parts of Kansas gas gathering systems (and all utilities generally) are examples of what economists term "natural monopolies" – where direct competition by duplication is so economically inefficient as to be prohibitive. Where the product is important to the public good, a natural monopoly is permitted in the public interest. Obviously energy is essential to the public good so natural monopolies are tolerated, but regulated to prevent abuse of monopoly power – which is not in the public interest. Since monopolies by their nature will tend to exploit their power, regulation is required to prevent inequities as well as distortions of the market.

National regulatory policy is undergoing profound changes, and Kansas is part of the changing times and ideas. House Bill 2332 reflects the debate and the effort to make the system work fairly, efficiently, and without excessive, centralized bureaucratic control. I, and those who have asked me to speak for them, applaud your efforts, and we want to constructively contribute to your work. Here are our suggestions:

HOUSE BILL No. 2332

By Committee on Utilities

2-12

12. AN ACT concerning oil and gas; relating to natural gas gathering systems;  
13. providing for regulation of certain entities; concerning certain natural  
14. gas public utilities and common carriers; amending K.S.A. 1996 Supp.  
15. 55-150 and repealing the existing section:

16

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

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

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

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

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

28 (d) "Gas gathering system" means a natural gas pipeline system used  
29 primarily for transporting natural gas from a wellhead, or a metering point  
30 for natural gas produced by one or more wells, to a point of entry into a  
31 main transmission line, but shall not mean or include: (1) the gathering  
32 of natural gas produced from wells owned and operated by the gatherer  
33 and where the gathering system is used exclusively for its own private  
34 purposes; (2) Lead lines from the wellhead to the connection with the  
35 gathering system which are owned by the producing entity person; and  
36 (3) (2) gathering systems used exclusively for injection and withdrawal  
37 from natural gas storage fields under the jurisdiction of the federal energy  
38 regulatory commission.

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

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

2-2

8-3

1 (g) "Rlg" means any crane machine used for drilling or plugging  
2 wells.

3 (h) "Usable water" means water containing not more than 10,000  
4 milligrams per liter, total dissolved solids.

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

6 (1) Producing oil or gas;

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

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

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

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

15 (6) injecting or withdrawing natural gas.

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

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

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

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

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

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

34 "Gas gathering services" does not include the gathering of natural  
35 gas by an owner or operator of a well or wells connected to the  
36 owner's or operator's own gathering facilities, if the owner or op-  
37 erator does not hold such facilities out for hire on or after the  
38 effective date of this act.

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

41 New Sec. 4. (a) Each person offering gas gathering services in this  
42 state shall file with the commission copies of the following with regard  
43 to contracts entered into or renewed on or after July 1, 1997: (1)

Amendment One

"unless the commission, upon application or complaint, and after notice and hearing determines that:

(a) Within the area of service or proposed service of such gas gathering system, competitive market conditions do not exist;

(b) Gas gathering services are not likely to be effectively and efficiently furnished; and

(c) persons seeking gas gathering services have been subjected to fees that have been unjust, unreasonable, unjustly discriminatory or unduly preferential."

Amendment Two

"or its affiliated marketing company;"

Amendment Three

and if such facilities were not subject to federal regulation on January 1, 1993 and are not part of a pipeline system currently regulated by the commission as a public utility or common carrier"

Amendment Four

2-4

1 Rates paid for natural gas purchased by the person at the wellhead, if  
 2 the person purchases natural gas at the wellhead; (2) all rates  
 3 charged for ~~transportation, processing [necessary for transportation~~  
 4 ~~and sale of natural gas], manufacturing or other services offered by the~~  
 5 ~~person before natural gas enters a pipeline under the jurisdiction of the~~  
 6 ~~federal energy regulatory commission; and (3) such data related to the~~  
 7 characteristics of the gas purchased or handled by the person as the com-  
 8 mission determines reasonably necessary. The commission may adopt  
 9 reasonable rules and regulations prescribing the form and filing of such  
 10 rates, schedules and data. The commission shall not be required to  
 11 analyze, publish or disseminate such rates, schedules and data ex-  
 12 cept to the extent otherwise required by law.

gas gathering services

Amendment Five

13 (b) Upon notice and an opportunity to be heard in accordance with  
 14 the provisions of the Kansas administrative procedure act, the commission  
 15 may impose an administrative fine on any person for failure to file any  
 16 rate, schedule or data as required by this section and rules and regulations  
 17 of the commission. Such fine shall not exceed \$100 for each day the rate,  
 18 schedule or data remains unfiled as required or an aggregate amount of  
 19 \$10,000, whichever is less.

but shall make the same available for public inspection.

\$ 10,000

Amendment Six

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

\$ 500,000

Amendment Seven

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

"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, and not discriminatory nor  
 preferential.

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

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

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

Amendment Eight

34 (b) Any consumer of gas gathering system services, or any other per-  
 35 son impacted by the terms imposed by a gas gathering system operator,  
 36 may request the commission to investigate and initiate proceedings to  
 37 review a fee, term or practice being used by a gas gathering system op-  
 38 erator. As a condition to formal commission action, the person requesting  
 39 commission action must first file an application a complaint that in-  
 40 cludes:

"Upon such review, the commission shall have the authority to  
 order the remediation of any violation of section 5."

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

8-5

- 1 (2) a copy of the document described in subsection (b)(1);
- 2 (3) a statement that the requested meeting took place or the system
- 3 operator refused to meet with the complainant;
- 4 (4) detailed factual statement indicating how the fee, term or practice
- 5 violates section 5; and
- 6 (5) a statement of the precise remedy being requested that will make
- 7 the fee, term or practice consistent with the provisions of section 5; and
- 8 (6) a copy of the analysis of the complainant's natural gas, in-
- 9 cluding the nitrogen, carbon dioxide, hydrogen sulfide, water and
- 10 other contaminant content; the amount of volume; and the amount
- 11 of pressure.

Amendment Nine

When the complainant is a producer of natural gas,  
the complainant must provide

Amendment Ten

at the wellhead.

12 (c) The commission may resolve the complaint by use of an informal  
13 procedure established by the commission pursuant to rules and regula-  
14 tions adopted by the commission or the commission may conduct a formal  
15 hearing and take evidence as necessary to determine the merits of the  
16 complaint. If the commission uses an informal procedure and the com-  
17 plaint is not resolved within 60 days after the complaint is filed, the com-  
18 mission shall conduct a formal hearing on the complaint. The hearing  
19 shall be conducted and notice given in accordance with the Kansas ad-  
20 ministrative procedure act. Upon such hearing, the commission shall have  
21 authority to order the remediation of any violations of section 5, to the  
22 extent necessary for remediation as to the aggrieved person with respect  
23 to the particular violation.

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

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

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

37 ~~(g) The commission may order any party to a proceeding pur-~~  
38 ~~suant to this section to reimburse all or any part of the reasonable~~  
39 ~~expenses, including reasonable attorney fees, incurred by any~~  
40 ~~other party or parties to the proceeding.~~

Amendment Eleven

delete

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

2-6

1 ices.  
 2 New Sec. 8. (a) Each person selling natural gas directly to a con-  
 3 sumer from the wellhead before the gas enters a gathering system shall  
 4 file with the commission all prices for such sales. The commission may  
 5 adopt reasonable rules and regulations prescribing the form and filing of  
 6 prices.

7 (b) The commission may exempt natural gas sold directly to a con-  
 8 sumer from the wellhead before the gas enters a gathering system from  
 9 rate averaging or pricing systems that apply to gas sold from a gas gath-  
 10 ering system.

11 New Sec. 9. In any retail natural gas service area where the com-  
 12 mission has granted a certificate of convenience and necessity to sell nat-  
 13 ural gas at retail from a gas gathering system, the commission may issue  
 14 other certificates of convenience and necessity to make such sales in such  
 15 area. A person purchasing natural gas or gas gathering services from a gas  
 16 gathering system operator in a retail natural gas service area where the  
 17 commission has issued more than one certificate of convenience and ne-  
 18 cessity shall not be assessed an exit fee for electing to purchase natural  
 19 gas or gas gathering services from another gas gathering system operator.

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

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

New Sec. 8 (a) Persons who wish to utilize gathering or  
 mainline transmission services shall not be denied access  
 to such services nor be required to utilize facilities or  
 services of third party distributors where such third party  
 distributors provide no pipelines utilized for such gathering  
 or mainline transmission service and provide no  
 distribution pipelines to serve the needs of such persons.

**TESTIMONY OF DAVID E. PIERCE  
SENATE COMMITTEE ON UTILITIES  
MARCH 20, 1997**

**GAS GATHERING  
HOUSE BILL NO. 2332  
[As Amended by House Committee of the Whole]**

**I. INTRODUCTION**

My name is David Pierce. I am a law professor at the Washburn University School of Law where I teach courses in Oil and Gas Law, Advanced Oil and Gas Law, and Energy Law (Natural Gas Regulation and Public Utility Regulation). In addition to my interest in oil and gas law, during the past decade I have focused my study on the monumental regulatory transitions that have taken place in the natural gas industry.

I am appearing today at the request of Senators Stan Clark and Janis Lee to offer my analysis of House Bill No. 2332. As I noted in previous testimony to this Committee on January 29, 1997, the Federal Energy Regulatory Commission (F.E.R.C.) is in the process of eliminating its role in regulating gas gathering systems in Kansas, and throughout the United States. I also noted that most large gathering systems, particularly the systems previously subject to F.E.R.C. regulation, are natural monopolies and, in my opinion, constitute "public utilities" and "common carriers" under existing Kansas law.

**II. MONOPOLY POWER AND COST-OF-SERVICE RESPONSES**

The goal throughout the gas gathering legislative process, as I see it, has been to arrive at a regulatory compromise which attempts to control the negative aspects of monopoly power without employing cost-of-service public utility ratemaking techniques. I think House Bill No. 2332 does this by effectively balancing competing interests to ensure consumers are protected from monopoly abuses without subjecting the regulated community to unnecessary regulation. As currently drafted, New Section 2 takes gas gathering systems completely out of the public utility/common carrier arena. However, I have reviewed an amendment which is being offered by Senator Clark which provides for a sort of back-up mechanism which can be applied by the Commission in cases where abuses of monopoly power are occurring and the "lighter-handed" approach of HB 2332 proves ineffective. Such a provision, in my opinion, enhances HB 2332 by giving the Commission desirable discretion to apply public utility regulatory techniques in those instances where a history of abuse demonstrates the need for greater consumer protection. The mere existence of the provision may ensure it will never need to be used.

Senate Utilities  
3-20-97  
Att. 3



### III. INFORMATION AS A REGULATORY TOOL

House Bill No. 2332, at New Sec. 4, requires the disclosure of basic information to the public so consumers of gas gathering services can determine whether they are being treated in a just, reasonable, and non-discriminatory manner. Although the Commission is not required to do anything with the information, at a minimum, the information should be made available to the public in a useable format. The free flow of information in this situation is perhaps the best self-policing mechanism to ensure similarly situated consumers are treated in a similar fashion. Although I am generally not in favor of reporting natural gas sales prices (as contemplated by New Sec. 8), the disclosure of such prices by regulated gas gatherers (as contemplated by New Sec. 4(a)(1)) may be necessary to ensure net-back purchase arrangements are not used to thwart regulation. However, if the gas gatherer is an open access carrier, and correct information concerning gathering services is available, the consumer (whether a buyer or seller of gas) should be able to evaluate the gas gatherer's offered purchase price by comparing it with what it can sell the gas for after deducting known gathering charges. The monopoly bottleneck is the gatherer's transportation function, not its function as a buyer or seller of gas.

### IV. OPEN ACCESS IS ESSENTIAL

New Sec. 5 requires that access be open to gas gathering facilities under just, reasonable, and non-discriminatory terms. This is absolutely essential. This removes the pipeline bottleneck that could otherwise be used to inflate (for buyers) or deflate (for sellers) the price of the gas commodity. With open access, competition among gas sellers and buyers will determine the price of the gas commodity.

I have also reviewed the amended New Section 8 that is being offered by Senator Clark. The amendment protects open access by seeking to prohibit business structures that try to interfere with open access by creating unnecessary "toll gates" between the wellhead and pipeline marketing systems. I also view the existing New Sec. 9 as a mechanism to enhance the use of competitive forces to determine the value of the gas commodity and other gas services.

### V. A COMPLAINT PROCEDURE

New Sec. 6 implements a workable procedure for dealing with complaints. Subsection (d) again reaffirms that the Commission need not engage in any sort of cost-of-service ratemaking to evaluate or resolve a complaint. However, I firmly believe that subsection (g) of this section will ensure that only judgment-proof

consumers will ever bring a complaint. In the consumer/pipeline context of this complaint procedure, I think it is unworkable to make a complainant run the risk of paying another party's attorney fees in order to raise their concerns before a Kansas governmental body charged with protecting the public interest. I would urge the Committee to delete subsection (g) which provides:

(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.

#### VI. CONCLUSION

Subject to the items I have noted in my testimony, I believe to date House Bill No. 2332 [As Amended by House Committee of the Whole] presents the most fair and workable approach to dealing with the gas gathering issue. It provides the essential protection required by consumers while imposing a minimal amount of regulation on gas gathering service providers.

  
\_\_\_\_\_  
David E. Pierce

Attac 4

**PRESENTATION BEFORE THE SENATE UTILITIES COMMITTEE  
HOUSE BILL 2332**

My name is Mari Ramsey and I am in-house counsel for Williams Field Services Company. I appreciate the opportunity to speak to you today. Attached to my testimony is a balloon draft of HB 2332 which is being referred to as the "Industry Compromise Bill." It is the result of a compromise between the Kansas Independent Oil and Gas Association, most of the gathering companies who have been active on this issue, several large producers and large industrial customers. This is the same Bill that a KIOGA representative has presented to you today. On behalf of the other gathering companies listed below, I am authorized to state that in the interest of a compromise, these companies will support this Bill in the form attached.

I was a member of the Kansas Gas Gathering Task Force representing gathering companies affiliated with interstate pipelines. Although on the Task Force I voted that the regulation of gathering is not necessary, WFS and other gathering companies are willing to support the Industry Compromise Bill which KIOGA has presented to you. It is a compromise and therefore probably does not represent any party's ideal bill. However, as a member of the Task Force I observed that several competing interests are involved in gathering issues. Kansas has examined the possibility of gathering regulation for several years and the issues have been hotly debated throughout. I also observed that the political realities are that parties on both sides of the debate could continue to spend a great deal of energy debating the issues, but in the end any reasonable result would probably still not represent anyone's optimal outcome. Therefore, it is in everyone's best interest to reach a compromise so that we can all devote our energy to our day-to-day business.

All parties should consider accepting something less than all of what they desire. We sincerely hope that the Legislature will pass this Industry Compromise Bill without upsetting the delicate balance that has taken the Kansas natural gas industry a long time to achieve.

I would like to briefly describe the amendments to HB 2332 which are a part of this compromise bill.

Adoption of a requirement for filing of relevant gathering charges in lieu of filing all transportation and related charges. (New Section 5 a substitution for New 4 a). Rather than requiring the filing of all information even remotely related to a gatherer's business, the Commission can require the filing of information to solve a particular complaint. This reduces the burden on the industry and on the Commission, but still provides a method to obtain information when needed.

Senate Utilities  
3-20-97  
Att. 4

Removal of exemption for "private" gathering systems. Removing this exemption means that all gathering systems will be subject to the same regulatory burdens. If the exemption in HB 2332 is left in, gatherers could be encouraged to "close" their systems in order to avoid regulation. But, either actually or potentially, none of the "private systems" are truly private. Third party gas either exists or potentially exists on all gathering systems. This amendment, eliminating the exemption, would protect those third parties who do or could potentially have their gas gathered by a so-called "private system."

No exemptions for some gatherers is an important point. I'd like to illustrate that point. This map shows the producer interests in the Kansas Hugoton field. As you can see, there are some large areas where the gas leases are operated by a single producer. However, throughout and around those areas there are competing gathering systems (the gathering systems are not shown on this map). These competing gathering systems should not be subject to regulation while others are unregulated. That is not a "level playing field." The unregulated systems could cherry-pick the best wells, thus raising the gathering costs for the isolated wells. More importantly I'd like to point out that when Oklahoma Corporation Commissioner Cody Graves spoke to the Gas Gathering Task Force, he stated that most of the complaints in Oklahoma have been filed against gatherers who were not previously subject to Federal Energy Regulatory Commission regulation. There is no reason to exempt any one class of gatherers from regulation.

New Section 9 restores the sanctity of existing contracts. This protects existing investments. The Task Force voted overwhelmingly for the provision which is New Section 9. This provision recognizes that contract disputes should be settled by the courts.

A detailed standard for Commission remedies. New Section 5 is amended to provide a specific standard for determining an acceptable fee or acceptable terms and conditions of service. Instead of using "any form of analysis and remedy that is designed to accomplish the goals of this act," to determine a remedy the compromise sets forth several factors which the Commission shall consider. These include other fees charged by that gatherer and by other gatherers, the financial risks involved and other factors which the Commission reasonably determines are relevant. These factors are similar to the Oklahoma statute. They give the Commission, the producers and the gatherers some degree of certainty within which to conduct business.

HB 2332's new Section 9 is new Section 8 in the Industry Compromise Bill. We have not changed this provision. Although there may be

considerable concern as to the appropriateness of this provision within the subject matter of gas gathering, we nevertheless have not sought to delete it. We hope that in doing so, the agricultural interests can support the Industry Compromise Bill.

These are the primary changes which have gone into the Industry Compromise Bill, but each change is important in that they each represent a part of the negotiated balance the parties have achieved.

Like HB 2332, the Industry Compromise Bill does not subject gathering companies to public utility regulation. Such heavy-handed regulation is unnecessary. Public utilities, their customers and the KCC must spend months and sometimes years in rate hearings. This is an expensive process and leads to higher gathering rates and higher costs to the gatherers, the producers and to the State. Therefore, none of the parties to this compromise have sought public utility regulation.

Finally, I would like to add that in answering questions there are persons here representing almost every gatherer who has agreed to support the Industry Compromise Bill. Some participated more extensively in the discussions that led to this compromise. Rather than have each company speak redundantly they will not individually speak. However, I understand that the other gathering companies are also available for questions.

**Parties in Support of the Industry Compromise Bill:**

Kansas Independent Oil and Gas Association  
Mid Continent Market Center  
Coastal Field Services  
Williams Field Services  
Anadarko Petroleum Corp.  
Kansas Industrial Energy Supply Company  
Oxy, USA  
PanEnergy Corporation  
KN Energy  
Amoco  
Anadarko Gathering Co.  
The Boeing Company

March 18, 1997

Hon. Pat Ranson, Chair,  
and members of the Senate Utilities Committee  
Kansas State Capitol  
Topeka, Kansas 66612

re: HB 2332, regulating natural gas gathering

Dear Senators:

Although natural gas gathering issues may be new to you this year, our Kansas legislature has struggled for several years to find a resolution to satisfy the concerns of both users and providers of gas gathering services. We believe we have achieved a consensus-based compromise among the principal interested parties, which the undersigned fully support. Briefly, the compromise language will:

- replace the requirement to file *all* transportation and related charges with KCC authority to require filing gathering charges upon complaint;
- remove the exemption for producer-owned gathering systems, to assure reasonable access to gas gathering services and maximum competition in all areas of gas production in Kansas;
- protect existing contracts between producers and gatherers from regulatory interference, leaving contractual disputes to judicial resolution;
- adopt the KCC's meaningful, "just and reasonable" standard to use when the KCC must determine rates and remedies; and,
- addresses the needs of irrigation interests by permitting dual certification for providing retail gas supplies off gathering systems.

We support this compromise language. We believe all sides have sacrificed some of their important positions in order to advance this important public policy during the 1997 legislative session.

The legislature's interest in gas gathering has offered an important opportunity to discuss these challenging issues. We appreciate the chance to work cooperatively on a resolution. We look forward to answering any questions you may have.

Respectfully submitted,

Kansas Independent Oil and Gas Association  
Mid Continent Market Center  
Coastal Field Services  
Williams Field Services  
Anadarko Petroleum Corp.  
Kansas Industrial Energy Supply Company

Oxy, USA  
PanEnergy Corporation  
KN Energy  
Amoco  
Anadarko Gathering Co.  
The Boeing Company

4-4

HOUSE BILL No. 2332

By Committee on Utilities

2-12

12 AN ACT concerning oil and gas; relating to natural gas gathering systems;  
13 providing for regulation of certain entities; concerning certain natural  
14 gas public utilities and common carriers; amending K.S.A. 1996 Supp.  
15 55-150 and repealing the existing section.

16  
17 *Be it enacted by the Legislature of the State of Kansas:*

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

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

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

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

28 (d) "Gas gathering system" means a natural gas pipeline system used  
29 primarily for transporting natural gas from a wellhead, or a metering point  
30 for natural gas produced by one or more wells, to a point of entry into a  
31 main transmission line, but shall not mean or include: (1) ~~the gathering~~  
32 ~~of natural gas produced from wells owned and operated by the gatherer~~  
33 ~~and where the gathering system is used exclusively for its own private~~  
34 ~~purposes;~~ (2) Lead lines from the wellhead to the connection with the  
35 gathering system which are owned by the producing ~~entity~~ person; and  
36 (3) (2) gathering systems used exclusively for injection and withdrawal  
37 from natural gas storage fields under the jurisdiction of the federal energy  
38 regulatory commission.

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

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

4-5

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

3 (h) "Usable water" means water containing not more than 10,000  
4 milligrams per liter, total dissolved solids.

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

- 6 (1) Producing oil or gas;
- 7 (2) injecting fluid, air or gas in the ground in connection with the  
8 exploration for or production of oil or gas;

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

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

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

15 (6) injecting or withdrawing natural gas.

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

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

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

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

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

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

on a gas gathering system

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

41 New Sec. 4. ~~(a) Each person offering gas gathering services in this~~  
42 ~~state shall file with the commission copies of the following with regard~~  
43 ~~to contracts entered into or renewed on or after July 1, 1997. (1)~~

4-6



1 ~~Rates paid for natural gas purchased by the person at the wellhead, if~~  
 2 ~~the person purchases natural gas at the wellhead; (2) all rates~~  
 3 ~~charged for transportation, processing [necessary for transportation~~  
 4 ~~and sale of natural gas], manufacturing or other services offered by the~~  
 5 ~~person before natural gas enters a pipeline under the jurisdiction of the~~  
 6 ~~federal energy regulatory commission; and (3) such data related to the~~  
 7 ~~characteristics of the gas purchased or handled by the person as the com-~~  
 8 ~~mission determines reasonably necessary. The commission may adopt~~  
 9 ~~reasonable rules and regulations prescribing the form and filing of such~~  
 10 ~~rates, schedules and data. The commission shall not be required to~~  
 11 ~~analyze, publish or disseminate such rates, schedules and data ex-~~  
 12 ~~cept to the extent otherwise required by law.~~

13 (b) Upon notice and an opportunity to be heard in accordance with  
 14 the provisions of the Kansas administrative procedure act, the commission  
 15 may impose an administrative fine on any person for failure to file any  
 16 rate, schedule or data as required by this section and rules and regulations  
 17 of the commission. Such fine shall not exceed \$100 for each day the rate,  
 18 schedule or data remains unfiled as required or an aggregate amount of  
 19 \$10,000, whichever is less.

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

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

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

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

34 (b) Any consumer of gas gathering system services, or any other person  
 35 impacted by the terms imposed by a gas gathering system operator,  
 36 may request the commission to investigate and initiate proceedings to  
 37 ~~review a fee, term or practice being used by a gas gathering system op-~~  
 38 ~~erator. As a condition to formal commission action, the person requesting~~  
 39 ~~commission action must first file an application a complaint that in-~~  
 40 ~~cludes:~~

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

4

, or imputed fee if such person is purchasing natural gas at the wellhead or meter point,

New Sec. 5. (a) Any person seeking gas gathering service, or a producer on whose behalf such service is sought, may request the commission to investigate and initiate proceedings concerning a fee, term or practice being used by a gas gathering system operator that is alleged to be in contravention or violation of section 4. The commission may require the prompt filing of all relevant data relating thereto, including charges for gathering service, description of service provided, well information, contract terms and other data determined reasonably necessary in such proceeding or in making a determination pursuant to subsection (b) of section 4. All such data shall be treated as confidential information subject to the provisions of K.S.A. 66-1220a and amendments thereto which shall be applicable thereto.

(b)

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

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

4

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

4

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

8 (6) a copy of the analysis of the complainant's natural gas, in-  
9 cluding the nitrogen, carbon dioxide, hydrogen sulfide, water and  
10 other contaminant content; the amount of volume; and the amount  
11 of pressure.

i

(7) if available, a map showing the location of the affected wells and all gathering systems in the area.

12 (c) The commission may resolve the complaint by use of an informal  
13 procedure established by the commission pursuant to rules and regula-  
14 tions adopted by the commission or the commission may conduct a formal  
15 hearing and take evidence as necessary to determine the merits of the  
16 complaint. If the commission uses an informal procedure and the com-  
17 plaint is not resolved within 60 days after the complaint is filed, the com-  
18 mission shall conduct a formal hearing on the complaint. The hearing  
19 shall be conducted and notice given in accordance with the Kansas ad-  
20 ministrative procedure act. Upon such hearing, the commission shall have  
21 authority to order the remediation of any violations of section 5, to the  
22 extent necessary for remediation as to the aggrieved person with respect  
23 to the particular violation.

4

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

in a manner consistent with section 4. The commission shall not require a gathering system operator to pay for construction of facilities. Any remediation will not have a material adverse effect on the gathering system or the safety thereof. The gas meets minimum standards for quality, energy content, or recoverable hydrocarbon content consistently applied by the gatherer for that gas gathering system or, if no minimum standard for quality is consistently applied, the gas does not materially alter the commingled gas quality to prevent acceptance of gatherer's gas into a transmission system, processing facility or other delivery point.

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

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

37 (g) The commission may order any party to a proceeding pur-  
38 suant to this section to reimburse all or any part of the reasonable  
39 expenses, including reasonable attorney fees, incurred by any  
40 other party or parties to the proceeding.

(d) In the event a violation of section 4 is determined by the commission, then in establishing a fee, term or practice, the commission shall determine a fee, term or practice which would result from arm's length bargaining in good faith in a competitive market between parties of equal bargaining power and shall take into account: (1) The fees which the gas gathering system operator receives from other persons; (2) the fees charged by other gatherers within a relevant area; (3) the financial risks of installing, maintaining and operating a gas gathering system; and (4) such other factors as the commission reasonably determines to be relevant. In no event is such fee to be computed on a utility rate of return basis

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

6

Handwritten initials "H.S."

consistent with the other provisions of this act

ices  
New Sec. 8. (a) Each person selling natural gas directly to a consumer from the wellhead before the gas enters a gathering system shall file with the commission all prices for such sales. The commission may adopt reasonable rules and regulations prescribing the form and filing of prices.

7

(b) The commission may exempt natural gas sold directly to a consumer from the wellhead before the gas enters a gathering system from rate averaging or pricing systems that apply to gas sold from a gas gathering system.

New Sec. 9. 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. A person purchasing natural gas or gas gathering services from a gas gathering system operator in a retail natural gas service area where the commission has issued more than one certificate of convenience and necessity shall not be assessed an exit fee for electing to purchase natural gas or gas gathering services from another gas gathering system operator.

8

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

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

New Sec. 9. Nothing in this act shall be construed, or authorize the commission, to amend or otherwise affect any contractual obligations between the gatherer and the complainant or rights which may otherwise exist.

6-7

Attach. 5

**CHARLES B. WILSON**  
**STATEMENT BEFORE THE SENATE UTILITIES**  
**COMMITTEE**  
**MARCH 20, 1997**

My name is Charles B. Wilson. I am a vice president with BEREXCO INC. We are an oil and gas producer with headquarters in Wichita.

If you remember, I provided testimony before this committee on February 17<sup>th</sup> supporting the proposed bill that came from the Task Force on Natural Gas Gathering, of which I am a member.

Steve Dillard, of KIOGA and also a member of the Task Force, and I are here today representing the voice of hundreds of independent natural gas producers in support of what has been referred to as Industry Compromise to HB 2332. I am including a copy with this statement.

Although we have been pursuing complaint-based regulation for over two years, we believe HB 2332, as passed by the House, contains some provisions which are counter-productive to the industry and basically goes too far. Additionally, we are concerned that trying to pass legislation which contains aggressive regulation has a risky chance of ever becoming law.

In the last two legislative sessions, this has been an issue with three parties: the producers, the gathering companies, and the KCC. All three parties have presented different positions, but the framework of disagreement was well defined. Recently, it appears this important legislation has picked up a coalition of other parties. Parties that have political clout and can influence the early stages of legislation. KIOGA believes this new coalition is causing misguided, over-legislation. Yes, the royalty owners have a stake, but their interest should be no greater than the producers that produce the gas. Coming from a rural background myself and after sitting through Task Force hearings, I remain sympathetic with the irrigators problems, accordingly, we left in their provisions (New Sec 8 and 9) in the Compromise. But I do not see how even that will solve all their challenges.

Senate Utilities  
3-20-97  
Att. 5

## SO WHY COMPROMISE?

- As a director of KIOGA, I have witnessed many instances where legislation critical to oil and gas was turned back to the affected parties to work out compromises before proper legislation could be enacted.
- With gathering, on more than one occasion, we have had a senator, the chairman and the vice-chairman of the House Utilities committee either ask us or even plead with us to seek a compromise with the pipelines.
- There is an urgency to have complaint-based legislation enacted this year.
- Support for HB 2332, as passed by the House, is divided within KIOGA. If KIOGA could not present an united position in support of HB 2332, then you would be reluctant to advance the bill any further.
- Finally, a member of the pipeline group, Mr. Bill Gifford with PanEnergy, reached out to us offering to make some concessions from the pipeline position.

We agreed to meet last week to find common ground and the Industry Compromise is a result. Additionally, we were able to get the diverse interests within KIOGA to support the Compromise and Gifford was able to get the pipeline group as well as some major producers to support it. I cannot emphasize enough, it is no small matter to have a consensus of independent producers, major producers, and pipeline companies on any issue. And after boring you all on this matter for two years, I assumed a compromise by the industry would have been welcomed by the legislature with a hallelujah chorus. Well, based on some of the phone calls we have received this week, not all of you welcome a compromise and if I put any of you in an awkward position by making a deal, I want to publicly apologize to you.

Nevertheless, the Compromise remains consistent with KIOGA's original goals of obtaining light-handed, complaint based legislation, with the KCC providing the forum for both informal and/or formal hearings. It is consistent with FERC's intent when they began the de-regulation process several years ago; consistent with what the KCC believes is practical oversight; and the Compromise is fairly similar to Oklahoma's statute.

As you have heard in previous testimony, the gas gathering business has situations where a natural monopoly exists and there are situations where competition does exist. We do not believe it is appropriate to legislate or

regulate as if the entire industry operates under a monopoly. HB 2332 in its current form does this. Where competition does exist, the parties (both producers and gatherers) should be able to do their business without being handicapped by regulatory interference. When competition does not exist, and abuse occurs in the form of unjust or unreasonable gathering charges, practices or denial of access, then the complaint process should be made available. Industry Compromise to HB 2332 provides a practical, light-handed, inexpensive forum for aggrieved producers, gatherers, and the KCC.

**MAJOR CHANGES TO HB 2332** - Please refer to the Compromise  
1) **Just and Reasonable language - p3, lines 23-30.** This is great language and it stays in the Compromise. For over 2 years, KIOGA has insisted on this language and it was a main stumbling block in prior attempts to legislate. Both the KCC and pipelines fought us on this. We did not get it in the Task Force bill, but the KCC recently came around when we pointed out similar language was in a 5 year old REA statute. Commissioner McKee's balloon to SB 148 included this language. When the pipelines finally agreed to this language, we knew we could work out a compromise on the rest of the bill.

2) **Exemption for producer owned lines, p2, line 34** - This legislation should apply to all parties that have systems open to third parties. By definition this legislation applies only to "Gas gathering systems" and "Gas gathering services" for hire. If a producer owned system is truly not out for hire, then an exemption is implied. KIOGA's reasons for deleting lines 34-37 are: a) To prevent a producer/third-party gatherer from breaking up their system into separate sub-systems, thereby closing up an area where the entity is more a producer than gatherer, and thus denying access or even kicking off third party wells so the producer entity could control production. This scenario is anti-competitive, and wasteful of resources. b) If a producer owned line has limited third party gas connected, it would be covered by this legislation, but New Sec 5. (c) adequately protects the entity from allowing new gas on the system if such new gas were to cause an adverse affect on the gathering system. Exempting would discourage new drilling. c) And finally, it would be patently unfair and would defeat the intent of what we have been trying to accomplish over the last two years to exempt from this bill one group of gatherers over others.

### **3) Filing of gathering rates and prices paid at the well head, New Sec 4.**

We have deleted this section because we are opposed to this wholesale flood of paperwork for every gathering agreement on every gathering system in the state and also because of the following reasons: a) Where competition does exist, or producers have bargaining leverage- public filing of rates will have an anti-competitive effect. A leveling of rates would occur. As I said a month ago, active drillers have a chance of gaining bargaining position with the gatherers. It is not fair to those active producers that are spending literally millions of dollars in this state drilling for gas, hiring the brightest talent, embracing new technology to reduce risks only to give up any competitive advantage gained to those producers that are basically not in an exploration mode. I am not talking about discriminating against inactive producers, but pipelines are, as is any business, willing to be responsive to a party that offers them a chance to grow their business. Active drillers bring growth opportunities. b) I have heard the example that gathering rates should be no different than common carrier trucking rates or tariffs. I have worked with common carrier trucking in the movement of crude oil and from my experience there is no way you could make a similar illustration to gathering rates. Gathering rates are the function of many variables and to qualify them comparatively would be an impossible task. My concern is that accurate comparative analysis would not be performed, either by the KCC or a third party entrepreneur, and there would be tremendous turmoil as uninformed or naïve parties make arbitrary comparisons. c) I have heard it estimated that there are over of 400 gathering systems in Kansas. Since most rates are dynamic, this required paperwork burden would be a costly monthly exercise. I thought this legislature was desirous of less government interference, not more. d) Ultimately, if all pipelines are saddled with this additional cost, this cost would be shifted back to increased gathering rates. Consequently, producers, mineral owners, and the state of Kansas through reduced ad valorem and severance taxes would pay for this paperwork cost. e) We, however, have included in New Sec. 5 (a) of the Compromise that the KCC may request a prompt filing of area gathering rates and relevant data as necessary in reviewing a filed complaint.

Finally, in the end we producers need the gatherers to remain committed to our Kansas production. For us to maximize the exploitation of our gas reserves for the benefit of the producers, investors, mineral owners and ultimately the end consumers, gatherers must constantly maintain and fine

tune their systems. If gatherers are strapped with costly regulation, then they have less incentive and dollars to reinvest in maintenance, compression and facility expansion. I market the crude oil for my company. Over the last several years I have received numerous notices from crude oil gathering companies that our leases were being disconnected from their pipelines. The consistent reason being the volume from our marginal wells would not support the necessary capital required for maintenance. However, we are fortunate in that as the crude gathering systems are abandoned, we can bring in transport trucks to physically move the product from the leases. As a rule our costs increase, but at least we have an alternative. However, we can not truck natural gas from the lease. If gas gathering systems can not support the costs of maintenance, then the gas wells and remaining reserves will be abandoned. If the costs of unnecessary regulation causes premature abandonment of gas gathering systems, then we all lose and the consumer has less supply in the market place.

Senators, HB 2332 goes to far, I urge you to support the more light-handed approach and adopt our Industry Compromise to HB 2332.





# Full Text of Bill 2332

C. Wilson

5-6

fferent fonts indicate changes to the bill.

Supplemental note for this bill

Fiscal note for this bill

This bill with old style font codes (no html)

HB 2332--Am. by HCW

[As Amended by House Committee of the Whole]

As Amended by House Committee

Session of 1997

HOUSE BILL No. 2332  
By Committee on Utilities  
2-12

12 AN ACT concerning oil and gas; relating to natural gas gathering systems;  
13 providing for regulation of certain entities; concerning certain natural  
14 gas public utilities and common carriers; amending K.S.A. 1996 Supp.  
15 55-150 and repealing the existing section.

16

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

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

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

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

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

28 (d) "Gas gathering system" means a natural gas pipeline system used  
29 primarily for transporting natural gas from a wellhead, or a metering point  
30 for natural gas produced by one or more wells, to a point of entry into a  
31 main transmission line, but shall not mean or include: (1) the gathering  
32 of natural gas produced from wells owned and operated by the gatherer  
33 and where the gathering system is used exclusively for its own private  
34 purposes; (2) Lead lines from the wellhead to the connection with the

35 gathering system which are owned by the producing entity ~~person~~; and  
36 ~~(3)-(2) gathering systems used exclusively for injection and withdrawal~~  
37 ~~from natural gas storage fields under the jurisdiction of the federal energy~~  
38 ~~regulatory commission.~~

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

42 (f) "Person" means any natural person, partnership, governmental or  
43 political subdivision, firm, association, corporation or other legal entity.  
HB 2332--Am. by HCW

2

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

3 (h) "Usable water" means water containing not more than 10,000  
4 milligrams per liter, total dissolved solids.

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

6 (1) Producing oil or gas;

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

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

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

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

15 (6) injecting or withdrawing natural gas.

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

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

24 ~~(b) gas gathering services are not likely to be effectively and effi-~~

25 ~~ciently furnished unless a certificate of necessity and convenience and~~

26 ~~exclusive market territory is granted, with rates and practices established~~

27 ~~by the commission as in the case of other public utilities or common~~

28 ~~carriers.~~

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

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

31 (b) "Gas gathering services" means the gathering ~~or preparation of~~ of natural gas on a gas gathering system

32 ~~natural gas for transportation~~; whether such services are performed for Delete

33 hire or in connection with the purchase of natural gas by the gatherer.

34 ~~"Gas gathering services" does not include the gathering of natural~~

35 ~~gas by an owner or operator of a well or wells connected to the~~

36 ~~owner's or operator's own gathering facilities, if the owner or op-~~

37 ~~erator does not hold such facilities out for hire on or after the~~ Delete

5-7

8-5

38 effective date of this act.

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

41 New Sec. 4. (a) Each person offering gas gathering services in this  
42 state shall file with the commission copies of the following with regard  
43 to contracts entered into or renewed on or after July 1, 1997: (1)

HB 2932--Am. by HCW

3

1 Rates paid for natural gas purchased by the person at the wellhead, if  
2 the person purchases natural gas at the wellhead; (2) all rates  
3 charged for transportation, processing [necessary for transportation  
4 and sale of natural gas], manufacturing or other services offered by the  
5 person before natural gas enters a pipeline under the jurisdiction of the  
6 federal energy regulatory commission; and (3) such data related to the  
7 characteristics of the gas purchased or handled by the person as the com-  
8 mission determines reasonably necessary. The commission may adopt  
9 reasonable rules and regulations prescribing the form and filing of such  
10 rates, schedules and data. The commission shall not be required to  
11 analyze, publish or disseminate such rates, schedules and data ex-  
12 cept to the extent otherwise required by law.

13 (b) Upon notice and an opportunity to be heard in accordance with  
14 the provisions of the Kansas administrative procedure act, the commission  
15 may impose an administrative fine on any person for failure to file any  
16 rate, schedule or data as required by this section and rules and regulations  
17 of the commission. Such fine shall not exceed \$100 for each day the rate,  
18 schedule or data remains unfiled as required or an aggregate amount of  
19 \$10,000, whichever is less.

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

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

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

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

34 (b) Any consumer of gas gathering system services, or any other per-  
35 son impacted by the terms imposed by a gas gathering system operator,  
36 may request the commission to investigate and initiate proceedings to  
37 review a fee, term or practice being used by a gas gathering system op-  
38 erator. As a condition to formal commission action, the person requesting  
39 commission action must first file an application a complaint that in-  
40 cludes:

Delete

, or imputed fee if such person is purchasing natural gas at the wellhead or meter point,

New Sec. 5. (a) any person seeking gas gathering service, or producer on whose behalf such service is sought, may request the commission to investigate and initiate proceedings concerning a fee, term or practice being used by a gas gathering system operator that is alleged to be in contravention or violation of Section 4. The commission may require the prompt filing of all relevant data relating thereto, including charges for gathering service, description of service provided, well information, contract terms and other data determined reasonably necessary in such proceeding or in making a determination pursuant to Section 4 (d) hereof. All such data shall be treated as confidential information subject to the provision of KSA 66-1220a which shall be applicable thereto.

Delete

(b)

41 (1) A statement that the complainant has presented the complaint, in  
42 writing, to the gas gathering system operator and included a request for  
43 a meeting with the system operator to discuss the matter;  
HB 2332—Am. by HCW

4

(2) a copy of the document described in subsection (b)(1);  
2 (3) a statement that the requested meeting took place or the system  
3 operator refused to meet with the complainant;  
4 (4) detailed factual statement indicating how the fee, term or practice  
5 violates section 5; and  
6 (5) a statement of the precise remedy being requested that will make  
7 the fee, term or practice consistent with the provisions of section 5; and  
8 (6) a copy of the analysis of the complainant's natural gas, in-  
9 cluding the nitrogen, carbon dioxide, hydrogen sulfide, water and  
10 other contaminant content; the amount of volume; and the amount  
11 of pressure;

12 (c) The commission may resolve the complaint by use of an informal  
13 procedure established by the commission pursuant to rules and regula-  
14 tions adopted by the commission or the commission may conduct a formal  
15 hearing and take evidence as necessary to determine the merits of the  
16 complaint. If the commission uses an informal procedure and the com-  
17 plaint is not resolved within 60 days after the complaint is filed, the com-  
18 mission shall conduct a formal hearing on the complaint. The hearing  
19 shall be conducted and notice given in accordance with the Kansas ad-  
20 ministrative procedure act. Upon such hearing, the commission shall have  
21 authority to order the remediation of any violations of section 5, to the  
22 extent necessary for remediation as to the aggrieved person with respect  
23 to the particular violation;

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

30 (e) The commission shall maintain a publicized telephone number to  
31 facilitate the filing of informal complaints pursuant to subsection (b).  
32 (f) The commission shall adopt such rules and regulations as the com-  
33 mission determines reasonably necessary to prevent abuse of the com-  
34 plaint procedure provided for by this section. Such rules and regulations  
35 shall include provisions to prevent delay of the proceedings that may  
36 damage a party's ability to pursue or defend the complaint.

37 (g) The commission may order any party to a proceeding pur-  
38 suant to this section to reimburse all or any part of the reasonable  
39 expenses, including reasonable attorney fees, incurred by any  
40 other party or parties to the proceeding.

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

(7) if available, a map showing the location of the affected wells and all gathering systems in the area.

in a manner consistent with section 4: provided, the commission shall not require a gathering system operator to pay for construction of facilities; that any remediation will not have a material adverse effect on the gathering system or the safety thereof; and the gas meets minimum standards for quality, energy content, or recoverable hydrocarbon content consistently applied by the gatherer for that gas gathering system or, if no minimum standard for quality is consistently applied, the gas does not materially alter the comingled gas quality to prevent acceptance of gatherer's gas into a transmission system, processing facility or other delivery point.

(d) in the event a violation of section 4 is determined by the commission, then in establishing a fee, term or practice, the commission shall determine a fee, term or practice which would result from arm's length bargaining in good faith in a competitive market between parties of equal bargaining power and shall take into account the fees which said gas gathering system operator receives from other persons; the fees charged by other gatherers within a relevant area; the financial risks of installing, maintaining and operating a gas gathering system; and such other factors as the commission reasonably determines to be relevant; provided, in no event is such fee to be computed on a utility rate of return basis.

Delete

6

5-9

1 ices!

2 ~~New Sec. 8. (a) Each person selling natural gas directly to a con-~~

3 ~~sumer from the wellhead before the gas enters a gathering system shall~~

4 ~~file with the commission all prices for such sales. The commission may~~

5 ~~adopt reasonable rules and regulations prescribing the form and filing of~~

6 ~~prices.~~

7 (b) The commission may exempt natural gas sold directly to a con-

8 sumer from the wellhead before the gas enters a gathering system from

9 rate averaging or pricing systems that apply to gas sold from a gas gath-

10 ering system.

11 New Sec. 9. In any retail natural gas service area where the com-

12 mission has granted a certificate of convenience and necessity to sell nat-

13 ural gas at retail from a gas gathering system, the commission may issue

14 other certificates of convenience and necessity to make such sales in such

15 area. A person purchasing natural gas or gas gathering services from a gas

16 gathering system operator in a retail natural gas service area where the

17 commission has issued more than one certificate of convenience and ne-

18 cessity shall not be assessed an exit fee for electing to purchase natural

19 gas or gas gathering services from another gas gathering system operator.

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

21 Sec. 11. This act shall take effect and be in force from and after its

22 publication in the statute book.

consistent with the other provisions of this act.

7

8

New Sec. 9. nothing in this act shall be construed, or authorize the commission, to amend or otherwise affect any contractual obligations between the gatherer and the complainant or rights which may otherwise exist.

[HOME](#) | [INDEX](#) | [HELP](#) | [UTILITIES](#) | [IDEAS](#)

[[INK HOME](#)][[INDEX](#)][[HELP](#)][[UTILITY](#)][[COMMENTS](#)]

*The Information Network of Kansas* | [Please read this disclaimer!](#)

5-10

*Attach. 6*

**HEIN AND WEIR, CHARTERED**  
*ATTORNEYS AT LAW*  
5845 S.W. 29th Street, Topeka, KS 66614-2462  
Telephone: (913) 273-1441  
Telefax: (913) 273-9243

*Ronald R. Hein*  
*Stephen P. Weir*  
*Susan M. Baker*

**SENATE UTILITIES COMMITTEE**  
**TESTIMONY RE: HB 2332**  
**Presented by Ronald R. Hein**  
**on behalf of**  
**MESA**  
**March 20, 1997**

**[CORRECTED]**

Madam Chairman, Members of the Committee:

My name is Ron Hein, and I am legislative counsel for MESA. MESA is one of the nation's largest independent natural gas producers and currently has approximately 65% of its natural gas reserves in the state of Kansas.

MESA, as a major gas producer in the Hugoton field, has a substantial gas gathering system, which was built for the purpose of gathering its own gas. That gathering system has never been subject to Federal Energy Regulatory Commission (FERC) regulation. MESA believes that Kansas should not begin regulating gathering systems that have not previously been regulated by FERC.

In addition, MESA is in somewhat of a unique position because MESA does not have a specific direct charge to producers who utilize its gathering system. MESA, instead, charges for the cost of natural gas processing, which is based upon a percentage of the liquids derived from the gas. The primary motive of MESA is to get gas to its processing plant in Satanta, and it is generally irrelevant whether the gas is brought to the plant on MESA's own gathering system, or on a competitor's system. The charge is primarily based upon the processing of the gas itself.

Only producers who desire their gas to be processed utilize MESA's gathering as a means to get to the plant. MESA provides no gathering services, only processing. MESA does not hold out its gathering system "for hire" and only producers who desire their gas to be processed at MESA's plant are permitted to utilize MESA's gathering system. In short, MESA provides no gathering services for hire, and does not hold itself out as providing such services. MESA therefore supports the language on page 2, lines 34-38.

MESA would encourage and support the adoption of an amendment to HB 2332. The amendment would exempt from regulation any gathering system which was not regulated by FERC on January 1, 1993. The amendment would provide a remedy for producers using the gathering system to file a complaint with the commission signed by at least 30% of the producers using the system.

With the adoption of this amendment, set out in the balloon attached to this bill, MESA would withdraw our opposition to HB 2332.

Thank you very much for permitting me to testify, and I will be happy to yield to questions.

*Senate Utilities*  
*3-20-97*  
*Att. 6*

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

(h) "Usable water" means water containing not more than 10,000 milligrams per liter, total dissolved solids.

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

6 (1) Producing oil or gas;

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

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

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

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

15 (6) injecting or withdrawing natural gas.

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

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

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

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

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

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

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

41 New Sec. 4. (a) Each person offering gas gathering services in this  
42 state shall file with the commission copies of ~~the following with regard~~  
43 ~~to contracts entered into or renewed on or after July 1, 1997:~~ (1)

"Gas gathering services" shall not include services provided on systems which were not subject to federal regulation on January 1, 1993. However, the commission shall investigate and remedy fees, terms, and practices of such gatherer if presented an application for such investigation signed by at least 30% of the producers using this person's gathering services.

6-2

# HEIN AND WEIR, CHARTERED

ATTORNEYS AT LAW

5845 S.W. 29th Street, Topeka, KS 66614-2462

Telephone: (913) 273-1441

Telefax: (913) 273-9243

*Ronald R. Hein  
Stephen P. Weir  
Susan M. Baker*

March 21, 1997

Sen. Pat Ranson  
State Capitol, Room 449N  
Topeka, KS 66612

RE: HB 2332

Dear Pat:

Enclosed is a copy of corrected testimony to replace the testimony which I delivered on behalf of MESA to the Senate Utilities Committee on March 20, 1997. The correction made in the last sentence of Paragraph 4 was referred to by me in my oral testimony to the Committee. I've also corrected the first sentence of Paragraph 5 to reflect that I only had one amendment, not two as was reflected on my original testimony.

Please ask the Committee secretary to file this corrected testimony as a part of the written record.

Thank you for your assistance in this matter. If you have any questions, please call.

Sincerely,



Ronald R. Hein

RRH:djc

cc: Ed Hance, MESA w/enclosures



Attach. 7



# WOOLSEY PETROLEUM CORPORATION

107 NORTH MARKET SUITE 600 WICHITA, KANSAS 67202 (316) 267-4379  
FAX (316) 267-4383

RE: HOUSE BILL 2332

MARCH 17, 1997

Woolsey Petroleum operates gas wells within a core area in south central Kansas, including Barber, Kiowa, Comanche, Ford, Pratt, Harper and Kingman counties. As a producer, we have found it necessary to construct, restore, acquire and operate gathering systems in order to get our gas to a market.

Within the past 10 years, a regulated utility has purchased most of the gathering systems and controls the processing facilities in the Barber County area. The producers have been advised they will no longer be granted a discounted gathering rate. As a result, our firm has contracted to purchase a gathering system from Mid Continent Market Center and we have agreed to construct a processing plant near Medicine Lodge. We further plan an extensive drilling program in the south central Kansas area.

Our project is conditioned on the deregulation by the KCC of the gathering facilities we are under contract to purchase. Under our plan, in Barber County, we will be drilling, producing, transporting, processing and providing usable processed gas to Barber County industries and homes. We believe that regulation will be a serious impediment to the successful operation of this gathering system. Regulation is expensive and time consuming. It impedes the flexibility needed to respond in timely fashion to changing market conditions. In our years of oil and gas experience, unwarranted governmental control on a business discourages investment and dampens the entrepreneurial spirit. The Federal regulation of the price of gas at the wellhead was a failure for both producers and ultimately for the consumer.

HB 2332 could result in reimposing utility regulation on the system that we are purchasing. The absence of "competitive market conditions" and a desire to control our own destiny is the underlying force that has brought our project about. We believe as an unregulated producer, gatherer and processor, we will be able to offer better incentives and opportunities under negotiated contracts to other producers in the area. Our objective is to maximize utilization of the gathering system which has a much larger capacity than the current production requires.

In our view, the price posting and contract filing required by this Bill serves no useful purpose and will be time consuming and costly. It raises concerns that the next step would be to consider reimposition of wellhead controls.

In summary, we support the proposed KIOGA/gathering industry amendments, and particularly urge that in no event should utility-type regulation be adopted.

Respectfully submitted,

WOOLSEY PETROLEUM CORPORATION

I. Wayne Woolsey, President

Senate Utilities  
3-20-97  
Att. 7