

Approved: April 9, 1997
Date

MINUTES OF THE SENATE COMMITTEE ON UTILITIES.

The meeting was called to order by Chairperson Pat Ranson at 1:15 p.m. on March 24, 1997 in Room 531-N of the Capitol.

All members were present

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

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

Others attending: See attached list

Chairperson Ranson announced the committee will hear additional testimony on **HB 2332-relating to natural gas gathering systems; providing for regulation of natural gas public utilities and common carriers** and recognized Mr. McKee, who was out of the city last week when testimony was heard. Mr. McKee offered additional testimony to the committee (Attachment 1) and discussed proposed amendments, which are attached to his testimony. He stated the amendments are to Chapter 66, and he clarified some language and terms in the bill.

Sen. Ranson outlined procedure, regarding proposed amendments, to the committee and a proposed compromise reached by some of the conferees. She then referred to amendments, which will be proposed by Sen. Clark, (Attachment 2) and Sen. Barone (Attachment 3) and those proposed by Mr. McKee today. Sen. Clark made a motion the committee adopt changes to New Section 2, Page 2, as outlined in his amendments, and the motion was seconded by Sen. Lee; and the motion passed.

Sen Barone explained an amendment on Page 2, New Section 3, Lines 31-33, and the deletion of Lines 34-38. Sen. Brownlee asked for clarification of "preparation/processing" and "gathering/processing", and Sen. Barone explained that transportation included gas gatherers and are synonymous and that preparation and processing are synonymous. Sen. Lee disagreed and stated they have two different meanings - that transportation and gathering take place in two different places. Committee members discussed the meaning of the terms and who would be excluded when Lines 34 to 38 are deleted on Page 2. Sens. Hensley and Morris questioned exemptions and private gatherers. Sen. Clark explained that by leaving the language in those companies who have never been regulated by FERC have the potential of still not being regulated. He further explained that the concept is patterned after the REA and that those who weren't regulated won't be, unless 30% file a complaint and come under Chapter 55. Sen. Barone pointed out the REA Co-op regulations are significantly less - that 5% of the producers and/or 3% of one rate class may file a complaint. Sen. Clark replied he is not hung up on the percentage, and Sen. Ranson questioned him as to why the 30%, and how many it would require to be able to file a complaint. Sen. Barone warned the amendment recommended by Sen. Clark gets into the bundled/unbundled concept. Sen. Barone made a motion the committee adopt his amendments, and it was seconded by Sen. Salisbury.

Sen. Clark then explained his amendment and stated the exemptions are justified and explained exemptions on Page 3. He made a motion his amendment be adopted by the committee, and it was seconded by Sen. Lee. The committee then discussed the differences between the two amendments, and Sen. Salisbury asked the Chairperson for clarification of procedure and if a substitute motion was proper, and Sen. Ranson answered she will not accept substitute motions, and that is by agreement of the committee. Sen. Barone pointed out the differences between the two amendments and that the 30% would make it tougher to file with the KCC and that is more than the REA regulation and stated he would like the committee to understand that the Coop language is different. The committee also discussed Mr. Hein's testimony and how many producers are involved. McKee then read from K.S.A. 66-104 (d), which substantiated that "not less than 5% of all customers or 3% of customers in one rate class may petition to be subjected to regulation".

Sen. Ranson then asked for a vote on the amendments. Sen. Barone's motion failed, but Sen. Clark's motion passed.

Sen. Clark then explained New Section 4, Page 2, Line 4 1 (a&b), and referred to price transparency. Sen. Clark made a motion the committee adopt the amendment, and it was seconded by Sen. Lee. Sen. Baron

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON UTILITIES, Room 531-N -Statehouse, at 1:30 p.m. on March 24, 1997.

referred to New Section 4 and his amendment to strike the entire section. Sen. Barone made a motion the committee adopt his amendment, and it was seconded by Sen. Salisbury. The motion failed, but Sen. Clark's motion passed.

Sen. Ranson recognized Sen. Barone, who explained his amendments to Section 5, and Sen. Pugh had questions regarding the "imputed fee". Sen. Clark then explained his amendments to Section 5, and Sen. Steffes questioned the unbundled concept. Mr. McKee answered a question by the Chair regarding language, which is patterned after the Oklahoma statute, and he also discussed the "imputed" concept. Sen. Barone made a motion the committee adopt his amendment, and it was seconded by Sen. Salisbury. Sen. Clark made a motion the committee adopt his amendment, and it was seconded by Sen. Lee; Sen. Clark's motion passed.

Sen. Clark explained his amendments to New Section 6, Pages 3 and 4 and reasons for deleting Lines 37 to 40 on Page 4, and discussed the map, as outlined in his amendment on Line 11 No. (7). Sen. Barone then outlined his amendments and reasons for deleting Lines 31 to 39 on Page 3, and provision for a map, also on Page 4, Line 11. After input from Mr. McKee and Mr. Heinemann regarding the percentage required to petition, Sen. Barone agreed to the ten percent and to the stipulation for a map. Sen. Clark made a motion the amendments be adopted, and it was seconded by Sen. Morris. Sen. Barone made a motion his amendments be adopted, and it was seconded by Sen. Salisbury; and Sen. Barone's motion passed.

There were no amendments to Section 7, and Sen. Ranson recognized Sen. Clark, who offered an amendment to Section 8. He read his amendment, No. (a), and stated the word, "distributor" should be added at the end of the first line, after third party. Sen. Morris made a clarification and added that Peoples Natural Gas has a series of taps located on the line, and the amendment gives consumers the option of going to some other pipeline, when one is not adjacent. Sen. Morris also recommended adding, "prior to November 1 of each year" after the word "commission", which is also on the first line of Sen. Clark's amendment. Sen. Clark made a motion the committee adopt his amendment, and it was seconded by Sen. Morris. Sen. Barone had no suggested amendments to Section 8. Sen. Ranson asked if this amendment would be added under Chapter 55 or Chapter 66, and Mr. Carman answered it would go under Chapter 55, unless the committee objected. Sen. Steffes asked if this would mean the commission would be required to review each producer by November 1 of each year, and it was concluded that would be true. Sen. Barone asked for clarification regarding if there are no certificated carriers in a territory, then the producer may go someplace else for service. Sen. Morris added that present law provides if there is only one certified carrier in an area, then a company can go around the certificated area. The motion passed, and the committee adopted the amendments.

Referring to Section 9, Sen. Barone discussed the question of the commission setting aside contracts, and stated it was a matter for the courts. Sen. Clark stated that the courts had declared contracts invalid in a decision 15 years ago. Mr. McKee added that the commission has some authority to set aside contracts and to settle/resolve existing contracts when it is in the public interest, which is a broad interpretation. The committee discussed two party contracts and pipelines performing as common carriers. Sen. Barone made a motion the committee adopt the amendment, and it was seconded by Sen. Steffes, and the motion passed.

The committee clarified the renumbering of sections, after amendments, and there were no amendments to Section 11. Sen. Clark made a motion in Section 12, the bill be published in the Kansas register, and it was seconded by Sen. Morris; the motion passed.

There were no additional amendments to the bill. Sen. Morris made a motion the committee pass the bill as amended, and it was seconded by Sen. Clark, and the motion passed. Roll call vote was taken: Yes - 8; No - 3.

Sen. Ranson announced she anticipates no other meetings this session.

Meeting adjourned at 2:30.

SENATE UTILITIES COMMITTEE GUEST LIST

DATE: MARCH 24, 1997

NAME	REPRESENTING
Martin Hauser	Hauser's Capital Report
Ron Hein	MESA
JACK SHIVER	K-N Energy
Ken PETERSON	KS Petroleum Council
Jack Graves	Opq-P7H + KN Energy
Bill Sneed	KN Energy
J.C. LONG	UtiliCorp United INC.
Whitney Dawson	Andarco Petroleum Corp.
Kathy Randall	Whitney Dawson, P.A.
Boak	Jonathan Small
Don Schuck	KIOGA
Bernie Nordling	SWKROA
DOVA SMITH	SWKROA
Joe Staska	Williams Field Service
Pat J	
Amy Campbell	B. Rice Law Office
John Hommer	Mid Continent Market Center
Wesley Appleton	Western Resources

Attach 1



Kansas Corporation Commission

Bill Graves, Governor Timothy E. McKee, Chair Susan M. Seltsam, Commissioner John Wine, Commissioner
Judith McConnell, Executive Director David J. Heinemann, General Counsel

March 19, 1997

The Honorable Pat Ranson
Chairman of the Senate Utilities Committee
Room 143-N, Capitol
Topeka, Kansas 66612

RE: Gas Gathering Legislation. (Hand Delivered)

Dear Senator Ranson,

I'm writing this letter because I have to be in Liberal on Thursday the 20th for the Hugoton/Panoma Council Grove Market Demand hearings and will not be available in Topeka. I've just come from your Wednesday afternoon session where House Bill 2332 [As Amended by the House Committee of the Whole] was briefed by Lynne Holt.

I have also been provided a copy of a marked-up version of the bill as suggested by a coalition of producer and gatherer representations including KIOGA, Anadarko Gathering Company, Colorado Interstate Gas Company, Williams Field Services, KN Energy, Pan Energy Corp. My clear understanding is that this marked-up version, a copy of which I'm enclosing with this letter, is supported by the persons represented by Jack Glaves and Don Schnacke.

From the Corporation Commission's standpoint we prefer the producer/gatherer coalition version of 2332 as it is a more simple, complaint based and lighthanded approach to regulation of natural gas gathering.

Senate Utilities
3-24-97
Att. 1

Senator Ranson
Page 2

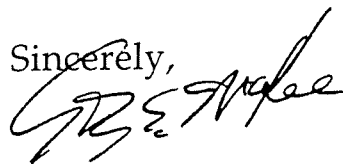
With that said I will have several observations about the coalition version of 2332 as follows:

1. On Page 2, Line 30, the definition of commission could be stricken because it is defined at Page 1, Line 21.
2. A similar problem is presented by Page 2, Line 39, where person is also defined a second time, see Page 1, Line 42.
3. At new Section 5A the balloon appearing Line 30, Page 3, and Line 4, on Page 4 we see the word "term" appearing again in the context of a gas gathering agreement i.e., contracts or agreements concerning "a fee, term or practice." It is the Commission's view that the use of the word "term" in this context does not mean the duration of the contract but means other elements or conditions of the contract, such as price, fee, quality of gas, pressure, distance of transport and possibly the duration also, but all other conditions. The word term is also used in the balloon for Section d, inserted at Line 23.

Senator Morris asked me to comment on Section 8 and 9 of House Bill 2332. I have consulted with our Natural Gas Pipeline and Utilities Department and believe, if we understand it correctly, that the intent of old Sections 8 and 9 would be better accomplished by a new Section 8 which I have enclosed and which shows language to be deleted and new language under a new Section 8 only.

Thank you for your consideration of these comments.

Sincerely,



Timothy E. McKee
Chairman

TEM:ps
encl.

cc: Senator Steve Morris (Hand Delivered)

Effective date of this act:

"Person" means any natural person, partnership, governmental or 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)

HFB 2332--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 unfilled 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.

39 As a condition to formal commission action, the person requesting
40 commission action must first file an application a complaint that in-
41 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 writing, to the gas gathering system operator and included a request for a meeting with the system operator to discuss the matter;
HB 2332—Am. by HCW

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 4; 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 4; 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 4; 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 rate-making. 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 par-

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 mingled 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

1-5

2332-Am. by HCW

1 local consistent with the other provisions of this act.

2 New Sec. 9. (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. 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.

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1-6

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.

DELETE

DELETE

RECLASSIFY AS AN AMENDMENT TO KSA ch. 66
(NEW STATUTE 66-1,203a)

New Section 8.
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.

A person purchasing natural gas or transportation services from a
jurisdictional utility shall not be assess an exit fee for electing to
purchase natural gas or transportation services from another
provider.

ed

Wills / Goulet

6-7

Full Text of Bill 2332

Different 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
- 4 purposes; (2) Lead lines from the wellhead to the connection with the

8-1

35 gathering system which are owned by the producing entity-person, and
 36 ~~(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.
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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 terms "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- Delete
 37 erator does not hold such facilities out for hire on or after the

HOUSE BILL No. 2332

By Committee on Utilities

2-12

Blank

Attach: 2

Senate Utilities
3-24-97
Att. 2

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.

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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

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

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

(a) Within the area of such services or proposed services, competitive market conditions do not exist; and

(b) persons seeking gas gathering services have been subjected to fees, terms or practices that are unjust, unreasonable, discriminatory or unduly preferential

or by a marketer affiliated with the gatherer

: (1) The

; or (2) services provided on systems not subject to federal regulation on January 1, 1993

2-3

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~~ gas gathering
 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 ~~—~~ strike as marked
 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~~ \$10,000
 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. \$500,000

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. Persons

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,~~ provide, in a manner that is just, reasonable, nondiscriminatory and not
 26 ~~unreasonable, unjustly discriminatory or unduly preferential.~~ unduly preferential,

27 (b) ~~No person~~ performing gas gathering services shall ~~charge a fee~~ Persons
 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.~~ engage in practices in connection with such services, and charge fees for such
 31 services, that are just, reasonable, nondiscriminatory and not unduly
 32 preferential

33 New Sec. 6. (a) The commission, in its discretion, may at any time
 34 review a fee, term or practice being used by a gas gathering system oper-
 35 ator to ascertain whether a violation of section 5 has occurred. Upon such review, the commission shall have authority to order the
 36 remediation of any violation of section 5.

37 (b) Any consumer of gas gathering ~~system~~ services, or any other per-
 38 son impacted by the terms imposed by a gas gathering system operator, ~~—~~ strike as marked
 39 may request the commission to investigate and initiate proceedings to
 40 review a fee, term or practice being used by a gas gathering system op-
 41 erator. As a condition to formal commission action, the person requesting
 42 commission action must first file ~~an application~~ a **complaint** that in-
 43 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;

2-4

- 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.~~

if the complainant is a producer of natural gas,

at the wellhead; and

(7) if available, a map showing the location of the affected wells and all gas 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.

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.~~

(g) The commission shall investigate and order remediation of fees, terms and practices of a person offering services described in subsection (b)(2) of section 3 if there is filed with the commission a petition requesting such investigation and signed by at least 30% of the total number of producers and retail purchasers using such person's services.

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-

*Prior to
Nov. 1 1996
reach JR.
distributor
2-5*

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~~

12

(a) Upon a determination by the commission that a utility or third party cannot serve any person or persons who wish to utilize gas gathering or mainline transmission services, such person or persons shall not be denied access to such services or be required to utilize facilities or services of a third party distributor if such distributor provides no pipelines utilized for such gas gathering or mainline transmission services and provides no distribution pipelines to serve the needs of such person or persons.

(b)

Kansas register

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.

Attachi 2

Senate Utilities
3-24-97
ATT. 2

3-2

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
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)

3-3

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:~~

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
 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)

3-4

- 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 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.

4

4

;

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

4

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

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 facilitate the filing of informal complaints pursuant to subsection (b).

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

37 (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.

(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 as the commission determines necessary to improve market competition in, improve access to or protect the public interest in gas gathering serv-

6

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. 10. 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.

12

13-5