

Approved: 4-10-99
Date

MINUTES OF THE SENATE ASSESSMENT AND TAXATION.

The meeting was called to order by Chairperson Senator Audrey Langworthy at 11:10 on March 31, 1999, in Room 519-S of the Capitol.

All members were present except:

Committee staff present: April Holman, Legislative Research Department
Shirley Higgins, Committee Secretary

Conferees appearing before the committee: Dave Holthaus, Western Resources
Mark Beck, Property Valuation Department
Karen Bartz, Hallmark Cards, Inc.
Carolyn Zimmerman, Marian Clinic
Steve Dillard, Pickrell Drilling Company

Others attending: See attached list.

The minutes of March 23, 24, and 25, 1999, were approved.

HB 2438—Concerning property exempt from taxation; renewable energy resources or technologies.

Dave Holthaus, Western Resources, testified in support of **HB 2438**. He explained that exempting land and equipment utilizing renewable energy resources for generation of electricity from property tax would foster investment in additional facilities and equipment utilizing renewable energy resources and technologies. He noted that the bill would have a minimal effect on current property tax revenues because there is little renewable resource generation in existence. (Attachment 1)

Senator Stephens questioned if it is wise at this point in time to include all potential renewable energy resources other than wind in the bill. Mr. Holthaus responded that Western Resources currently has interest in wind only; however, new technology for renewable energy may create another interest in future years.

Mark Beck, Property Valuation Department, discussed possible amendments to reflect the original intent of Western Resources when the bill was drafted. He explained that the amendments became necessary after the bill was amended in the House. He further noted that the original bill identified all real and tangible property, but it did not address the issue of intangible property. He called attention to a copy of the bill which indicated his proposed amendments, starting on page 5, line 5 of the bill. He recommended that the language regarding K.S.A. 79-5a01 be stricken because that language became irrelevant to the concept of the bill when the House expanded the bill to apply to private facilities. (Attachment 2)

Senator Bond requested that a balloon of the bill be prepared for the sake of clarity. In summary, Senator Langworthy confirmed that Mr. Beck proposes to insert on page 5, line 6, of the bill the words "used substantially and predominantly to produce and generate electricity utilizing renewable energy resources or technology" and, essentially, to strike the remainder of the bill.

Mr. Holthaus stood to confirm that Western Resources is supportive the amendments suggested by Mr. Beck. With this, the hearing on **HB 2438** was closed.

HB 2530—Income taxation; relating to certain credits.

Karen Bartz, Hallmark Cards, Inc., testified in support of **HB 2530** as it would enhance the Kansas Community Service Program which provides vital services to needy Kansans. She described the positive experience Hallmark Cards has had with the Kansas program. She noted that non-profit organizations feel

CONTINUATION SHEET

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE, Room 519-S Statehouse, at 11:10 a.m. on March 31, 1999.

that Hallmark's services are often as valuable as their dollars. She also explained that the bill would increase the number of credits available, and it would make the Community Service Program credit more flexible for donors. (Attachment 3)

Senator Bond commented that, when the program was put in place, the intent of the Legislature was to provide \$5 million of tax credits per year to encourage contributions. However, the money is not being managed well as tax credits go unused by charitable groups who applied for them but did not get their projects off the ground. He feels that a mechanism needs to be put in place wherein organizations must turn in unused credits so others can use them to complete their projects.

Ms. Bartz responded that the program has existed for only five years, and it will take a while for "not-for-profits" to become familiar with the program. Furthermore, it takes time for state staff supporting the program to become skilled in spotting the programs which will become successful in the review process and to set up monitoring systems indicating that credits are available. She feels improvement will occur with experience with the program.

Carolyn Zimmerman, Marian Clinic, followed with further testimony in support of **HB 2530**, noting that the tax credit incentive has been a tool for the Marian Clinic and others in the daunting task of finding money over and above routine expenses, dollars that can easily be two, three, or four times the annual budget. She contended that a tax incentive can prompt timely action by business donors and can increase the size of the gift. (Attachment 4)

Steve Dillard, Pickrell Drilling Company, testified in support of **HB 2530**, particularly the provision which provides tax credits for small oil and gas wells. He reminded the Committee that the oil and gas industry in Kansas is in a dire state and that the industry is struggling to survive. He contended that the oil and gas industry should no longer be the most heavily taxed industry in the state and urged the Committee to take action to reduce the taxation of small oil and gas wells. (Attachment 5)

There being no further time, Senator Langworthy announced that the hearing on **HB 2530** would continue on April 1.

The meeting was adjourned at 12:10 p.m.

The next meeting is scheduled for April 1, 1999.

SENATE ASSESSMENT AND TAXATION COMMITTEE GUEST LIST

DATE: March 31, 1999

NAME	REPRESENTING
Don Schnacke	KCOGA
Robert E. Hubbell	Kans Ind Oil & Gas Assoc
Steve M. Dillard	Pickrell Drilling
Jack Graves	K N - Oxy & Rubber
NED WEBB	Kansas Department of Commerce
Karen Barton	Stallmarks Cards
Carolyn Zimmerman	Marion Clinic
Shirley Soudain	KDOR
Mark Bink	KDOR
Bill Waters	KDOR - PVD
SCOTT SCHNETDER	MGA
LES EVANS	WESTERN RESOURCES
DON SNOODERASS	Ks FOOD DEALERS ASSOCI.
Jillie Heit	Heit and War, CATH.
Natalie Brugli	KCCI
BRUCE GRAHAM	KEPCO
Jon & Miles	KCC
Alex Kotlyantz	Ks Academy of Science
John Bottenberg	Western Resources

Housing

House Taxation Committee
House Bill 2438

Madam Chairman and Members of the Committee:

My name is Dave Holthaus. I am the Senior Manager of Governmental Affairs for Western Resources. Thank you for the opportunity to speak before you today.

Western Resources supports HB 2438, the property tax exemption of renewable energy production facilities. The bill would exempt land and equipment utilizing renewable energy resources and technologies for generation of electricity from property tax. The purpose of the bill is to foster investment in facilities and equipment utilizing renewable energy resources and technologies to generate electricity. Western Resources believes that the intent of this bill is to strengthen and diversify the energy supply infrastructure of the state of Kansas, and to obtain environmental protection and benefits for the state.

In an effort to continue our environmental stewardship, Western Resources is currently constructing a pilot wind generation facility located at Jeffrey Energy Center near St. Mary's, Kansas. The investment in the facility will be approximately \$2 million for two wind turbines and associated equipment with a generating capacity of 1.5 MW.

HB 2438 will have a minimal effect on current property tax revenues because there is little renewable resource generation in existence. However, Western Resources supports this tax incentive to encourage investment in additional renewable energy projects.

Western Resources recently filed a renewable tariff with the Kansas Corporation Commission. The tariff will permit customers to voluntarily elect a portion of their energy from renewable resources such as wind. This exemption will promote the expansion of renewable resources for Kansas customers and hold down the cost of research and development of renewable electricity.

It has long been the policy of this state to support energy conservation and environmental protection. We ask that you continue that policy by enacting HB 2438.

Thank you.

Senate Assessment & Taxation
3-31-99
Attachment 1

6 (e) the actual use of property for which an exemption is claimed must be
 19 substantially and predominantly related to the purpose of providing hu-
 20 manitarian services, except that, the use of such property for a nonexempt
 21 purpose which is minimal in scope and insubstantial in nature shall not
 22 result in the loss of exemption if such use is incidental to the purpose of
 23 providing humanitarian services by the corporation; (f) the corporation is
 24 exempt from federal income taxation pursuant to section 501(c)(3) of the
 25 internal revenue code of 1986 and; (g) contributions to the corporation
 26 are deductible under the Kansas income tax act. As used in this clause,
 27 "humanitarian services" means the conduct of activities which substan-
 28 tially and predominantly meet a demonstrated community need and
 29 which improve the physical, mental, social, cultural or spiritual welfare of
 30 others or the relief, comfort or assistance of persons in distress or any
 31 combination thereof including but not limited to health and recreation
 32 services, child care, individual and family counseling, employment and
 33 training programs for handicapped persons and meals or feeding pro-
 34 grams. Notwithstanding any other provision of this clause, motor vehicles
 35 shall not be exempt hereunder unless such vehicles are exclusively used
 36 for the purposes described therein.

37 Tenth. For all taxable years commencing after December 31, 1986, any
 38 building, and the land upon which such building is located to the extent
 39 necessary for the accommodation of such building, owned by a church or
 40 nonprofit religious society or order which is exempt from federal income
 41 taxation pursuant to section 501(c)(3) of the federal internal revenue code
 42 of 1986, and actually and regularly occupied and used exclusively for
 43 residential and religious purposes by a community of persons who are

HB 2438--Am. on FA

1 bound by vows to a religious life and who conduct or assist in the conduct
 2 of religious services and actually and regularly engage in religious, be-
 3 nevolent, charitable or educational ministrations or the performance of
 4 health care services.

5 *Eleventh. For all taxable years commencing after December 31, 1998,*
 6 *all [real] property **used substantially and predominantly to produce***
 7 ***and generate electricity utilizing renewable energy resources or***
 8 ***technologies.** which is subject to valuation under K.S.A. 79-5a01 et*
 9 *seq., and amendments thereto, and [upon which is located facilities which*
 10 *utilize renewable energy resources or technologies for the purpose and*
 11 *as the primary means to produce and generate electricity and which is*
 12 *used predominantly for such purpose, to the extent necessary to*
 13 *accommodate such facilities, and all tangible personal property which]*
 14 *is subject to valuation under K.S.A. 79-5a01 et seq., and amendments*
 15 *thereto, and which [comprises such facilities]. For purposes of this section,*
 16 *"renewable energy resources or technologies" shall include wind, solar,*
 17 *thermal, photovoltaic, biomass, hydropower, geothermal and landfill gas*
 18 *resources or technologies. [For purposes of valuation of property subject*
 19 *to valuation under K.S.A. 79-5a01 et seq., and amendments thereto, the*
 20 *value of the exempt property set forth in this clause shall be removed from*
 21 *the unit value prior to apportionment under K.S.A. 79-5a25, and amend-*
 22 *ments thereto.]*

21 The provisions of this section, except as otherwise more specifically
 22 provided, shall apply to all taxable years commencing after December 31,
 23 1995.

Strike
Strike

Senate Assessment & Taxation
 3-31-99
 Attachment 2

24 [Sec. 2. K.S.A. 79-5a01 is hereby amended to read as follows: 79-
25 5a01. (a) As used in this act, the terms "public utility" or "public utilities"
26 shall mean every individual, company, corporation, association of persons,
27 lessees or receivers that now or hereafter are in control, manage or op-
28 erate a business of:

29 (1) A railroad or railroad corporation if such railroad or railroad cor-
30 poration owns or holds, by deed or other instrument, an interest in right-
31 of-way, track, franchise, roadbed or trackage in this state;

32 (2) transmitting to, from, through or in this state telegraphic
33 messages;

34 (3) transmitting to, from, through or in this state telephonic messages;

35 (4) transporting or distributing to, from, through or in this state nat-
36 ural gas, oil or other commodities in pipes or pipelines, or engaging pri-
37 marily in the business of storing natural gas in an underground formation;

38 (5) generating, conducting or distributing to, from, through or in this
39 state electric power, ~~except for private use;~~ *Strike*

40 (6) transmitting to, from, through or in this state water if for profit
41 or subject to regulation of the state corporation commission;

42 (7) transporting to, from, through or in this state cargo or passengers
43 by means of any vessel or boat used in navigating any of the navigable

HB 2438--Am. on FA

1 watercourses within or bordering upon this state.

2 (b) The terms "public utility" or "public utilities" shall not include:

3 (1) Rural water districts established under the laws of the state of Kansas;
4 or (2) any individual, company, corporation, association of persons, lessee
5 or receiver owning or operating an oil or natural gas production gathering
6 line which is situated within one county in this state and does not cross
7 any state boundary line; or (3) any individual, company, corporation, as-
8 sociation of persons, lessee or receiver owning any vessel or boat operated
9 upon the surface of any manmade waterway located entirely within one
10 county in the state.

11 Sec. 3. K.S.A. 79-201 and 79-5a01 are hereby repealed.]

12 Sec.[4.] 2. This act shall take effect and be in force from and after its
13 publication in the statute book.

21 The provisions of this section, except as otherwise more specifically
predominantly

Good morning, Senator Langworthy and members of the committee. My name is Karen Bartz. I am the Community Development Manager for Hallmark Cards in Kansas City. I have worked with Hallmark's charitable giving programs for nine years. I am responsible for the company's charitable contributions, including oversight of those made here in Kansas through our four facilities in Lawrence, Leavenworth and Topeka, as well as our contributions to organizations in Wyandotte and Johnson Counties that serve the Kansas side of the Kansas City metropolitan area.

It is a pleasure to be here this morning to testify in support of House bill No. 2530, the amendments to the Kansas Community Service Program (CSP). My purpose is to share with you Hallmark's experience with the Kansas program and to encourage your support of these changes, which will enhance a program that is providing vital services to needy Kansans.

Prior to 1994 when the Kansas Legislature approved the Community Service Program, Hallmark had participated in the Missouri Neighborhood Assistance Program for more than a decade. Our goal then was to encourage a similar program for Kansas. We support such programs because their intent relates closely to Hallmark's social responsibility philosophy and our objective to be a good corporate citizen. We also believe that such programs promote greater giving by other companies for the benefit of all citizens.

At that time, we said that regardless of whether the Community Service Program became law, Hallmark would continue to make charitable contributions in Kansas. And we have. We've contributed more than \$2.5 million to Kansas non-profits since the Community Service Program was enacted.

Although we were delighted that the program was signed into law, we believe that the adjustments proposed in this bill will make the program even more effective in addressing the needs of Kansas families and individuals.

Since the Community Service Program became law, there have been approximately \$25 million in credits available (Fiscal years 1995, 1996, 1997, 1998 and 1999). As I said before, during that period, Hallmark has contributed more than \$2.5 million to Kansas not-for-profit organizations. Of those donations, only \$80,000 in cash donations were made to designated non-profit organizations in the Community Service Program. In return, Hallmark received \$40,000 of CSP credits. Why so few CSP credits? In part, because the current law does not permit donors tax credits for non-cash donations. This bill would allow such donations.

Why are non-cash contributions so important? All across the country we are seeing companies increase their giving of in-kind services to not-for-profit organizations. Not-for-profit organizations are telling us that our services are often as valuable as our dollars. Consistent with that trend, Hallmark increased its in-kind services to 36 percent of our charitable budget in 1999 from just seven percent in 1997.

Senate Assessment & Taxation
-2- 3-31-99
Attachment 3

To provide these in-kind services, we utilize Hallmark employees who agree to work temporarily at nonprofit agency sites or public buildings providing physical revitalization services such as repairs, renovations and painting of the facilities. The employees receive their regular Hallmark salary and benefits from the company while working full-time completing these projects. In Leavenworth during 1998, 35 Hallmark employees provided in-kind labor services for Catholic Community Services, the Carnegie Arts Center and the Alliance Against Family Violence.

Earlier this month Sister Jane Albert Mehrens of Catholic Community Services appeared before the House Taxation Committee to describe how her organization benefited from this work. She is out of town with her family today. During her testimony, she described Hallmark's work to build a retaining wall and a patio, replace concrete steps and paint two of the organization's transitional houses. She also mentioned that the work was completed with donations of concrete blocks and concrete donated by Geiger Ready-Mix Co., Inc. She characterized the donation of labor and materials as "the types of non-cash contributions we value because we operate on a very limited budget." If non-cash donations qualified for tax credits, we believe Kansas non-profits would have a whole new opportunity to cultivate business contributions.

Another provision in this bill would increase the number of credits available. Based on 1999 applications from non-profits for the \$5 million of tax credits as currently authorized, there was approximately \$15 million of need. Of the 96 organizations that applied for credits, 30 organizations received them. We believe that the pool of tax credits should be increased to \$10 million to more fully address the needs of non-profits in their efforts to seek out and expand charitable contributions in support of their vital community programs and services.

Finally, the bill would make the CSP credit more flexible for donors. By allowing the credit to be refundable and transferable, donors can make contributions to eligible community service organizations early in the year with the confidence that, if later in the year their business is in a loss situation, they will have options.

Considering that the Community Service Program has already leveraged more than \$50 million to assist Kansans in need, we encourage your support of House Bill No. 2530. There is still greater potential for this public-private partnership. This bill will unleash that greater potential.

3-31-99

Ladies and gentlemen, good morning! My name is Carolyn Zimmerman. I am development director of the Marian Clinic, and a proponent of House Bill 2530.

By way of introduction, Marian Clinic is an 11-year-old community based clinic for the low-income people of Shawnee County. As an affiliate of the Sisters of Charity of Leavenworth, we provide medical and dental care to individuals who live at or below 175% of federal poverty guidelines and do not have health insurance. To make our services affordable for the working poor, we charge very modest patient fees which account for about 23% of our annual operating budget. Consequently, Marian Clinic relies on the volunteerism of doctors and nurses, and has an ongoing program of fund development to sustain its operation.

We must be relentless in pursuit of adequate funding. We have asked for and been awarded annual grants from the State of Kansas and the City of Topeka -- and we are hopeful these grants will be renewed in future years. We cultivate friends we call Good Samaritans who contribute personal gifts on a monthly basis. We appeal to churches, fellowships and service clubs for donations and we approach (on bended knee, sometimes) private foundations. But we don't let the corporate community off the hook either. Each year we ask for support from business leaders who have a stake in a healthy community. All this activity goes on just to meet operating expenses.

And I can assure you that Marian Clinic is not alone in such efforts! As any citizen can tell you, there are many good causes across the state -- many needs to address -- much to be accomplished.

For Marian Clinic -- and many other charitable organizations -- to move beyond mere survival and to take the steps that will ensure the future of our work, often demands quite a stretch in fundraising. When we are faced with the daunting task of finding money over and above

Medical Plaza Building 1001 SW Garfield Avenue Topeka, Kansas 785-233-9814

*Senate Assessment & Taxation
3-31-99 Attachment 4*

MARIAN CLINIC

the routine expenses, dollars that can easily be two, three or four times the annual budget, we need an extraordinary tool.

For Marian Clinic and others, the tax credit incentive has been such a tool. This year we are participating in the Kansas Department of Commerce and Housing's Community Service Program. We have seen corporate gifts increase dramatically and enable the start of a much needed renovation of our medical facility and the expansion of our dental center.

I do not claim that a tax advantage alone motivates a corporate gift. Even business donors must be touched by the cause and believe in the mission, but a tax incentive can prompt timely action and can increase the size of the gift. In our case, when we explained the community service program, two gifts for renovation grew from \$500 to \$7,500. Another from \$1,000 to \$5,000. And one \$200 annual donor upgraded his contribution to \$2,500. I only wish the generous friends donating materials and equipment, such as the vendor who gave us 12 software packages, could also benefit from this program.

An enormous amount of good is accomplished by not-for-profits all across Kansas. You can help these organizations-- and the corporate citizens of conscience who support them. Please do so by your action on House Bill 2530.

STEVE M. DILLARD
TESTIMONY BEFORE THE SENATE
ASSESSMENT AND TAXATION COMMITTEE
March 31, 1999

My name is Steve M. Dillard. I am Vice-President and Land Manager for Pickrell Drilling Company, Inc. in Wichita. I am here today to address the provision of HB 2530 that provides a property tax credit on leases with oil wells that produce 15 barrels of oil per day or less and on gas wells that produce 90 MCF per day or less.

I know that this committee has previously been informed of the dire state of the oil and gas industry in Kansas. The infrastructure of the oil and gas industry in our state is crumbling. Oil prices when adjusted for inflation are running at all time lows and while the recent uptick in prices is welcome, the oil price is still far below the price needed to make the production in this state profitable. Some of my friends that are not involved with the oil and gas business have recently commented that with the increase in gasoline prices, "you guys must be doing a lot better". That is far from the case.

The recent increase in gasoline prices has not been in correlation to oil price increases. While oil prices have risen from lows in the \$8.00 per barrel range to a current price of nearly \$13.00 per barrel, the price of gasoline has risen more than \$.20 per gallon. There are 42 gallons per barrel of oil. If you divide the \$5.00 per barrel increase by 42, you should expect to see an increase of less than \$.12 at the pump for a gallon of gasoline. There are other forces at work that impact the cost of gasoline from which producers do not benefit.

Most of the experts believe that the oil price increase is merely a brief uptick and the

Senate Assessment & Taxation
3-31-99
Attachment 5

pundits expect prices to hover at low levels for the next 3-5 years. The predictions are not encouraging.

Natural gas, which had been a rather bright spot in comparison to oil, is selling for \$1.25 per MCF at the wellhead and lower this month. Mild winter weather coupled with oil on gas competition has driven wellhead prices for natural gas down by more than 27% when compared with last year. I have heard several people express, "How can natural gas prices be down? My gas bill at my house seems to just keep going up." Again, the producer is not the one receiving the increase in price, it is the middle men. I have attached a few graphs comparing wellhead prices vs. burner tip prices. These graphs are a little dated, yet the trends continue the same. Wellhead prices remain relatively depressed while burner tip prices escalate. If you want to tax a profit center, you should be looking somewhere else other than the wellhead.

There are many of us that have been surviving on our natural gas revenues to attempt to maintain any profitability during this oil price collapse. Now, with natural gas prices falling, more wells are going to be shut-in and more employees will face lay-offs. This income tax credit could lessen the effects of the depressed prices and allow many wells to remain marginally profitable or be operated at near break-even levels.

The severance tax was passed in 1983 on the basis of several incorrect assumptions on behalf of this state. The first incorrect assumption is that prices for oil and gas were going to continue to escalate from historically high prices that existed in 1983. I wish that assumption would have proven true, but we now know that it was a tremendously flawed projection.

The second, and most frustrating incorrect assumption was that the severance tax on natural gas along with the ad valorem tax on natural gas could be passed through to the pipeline companies in the then regulated price environment. The passage in 1983 of the severance tax triggered a catastrophic event for Kansas natural gas producers.

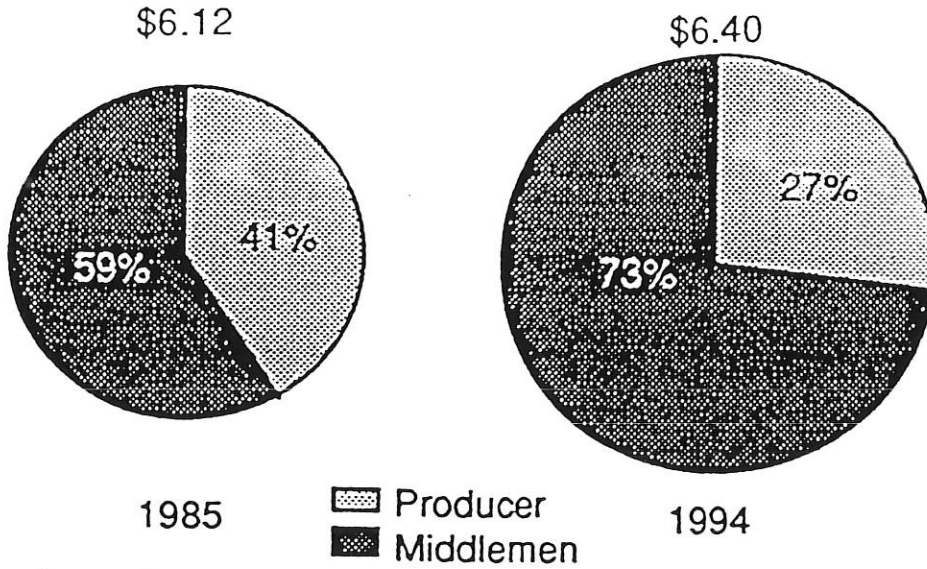
The ad valorem tax that had been determined to be eligible for pass through since 1974 was challenged by the pipeline companies. The pipelines reasoned that if Kansas passed a severance tax on top of the ad valorem tax, then the ad valorem tax should not be eligible for pass-through. After years of rulings and appeals by the Federal Energy Regulatory Commission and the courts, the gas producers of Kansas have been ordered to refund ad valorem taxes to the pipelines with interest in the total amount of more than \$340,000,000 for the period 1983 through 1988. This is on top of refunds already made by producers on ad valorem taxes after 1988. Producers in this state are facing huge liabilities associated with this adverse ruling for which I believe our state should acknowledge their error.

Now, with the deregulation of natural gas prices by FERC Order No. 636, prices have fallen (see graphs) and there is no opportunity to pass either the ad valorem tax or the severance tax through. The taxes solely burden the gas producer.

This industry is struggling to survive. It should no longer be the most heavily taxed industry in our state. I urge you to take action to reduce the taxation on our small oil and gas wells.

WHO GETS WHAT?

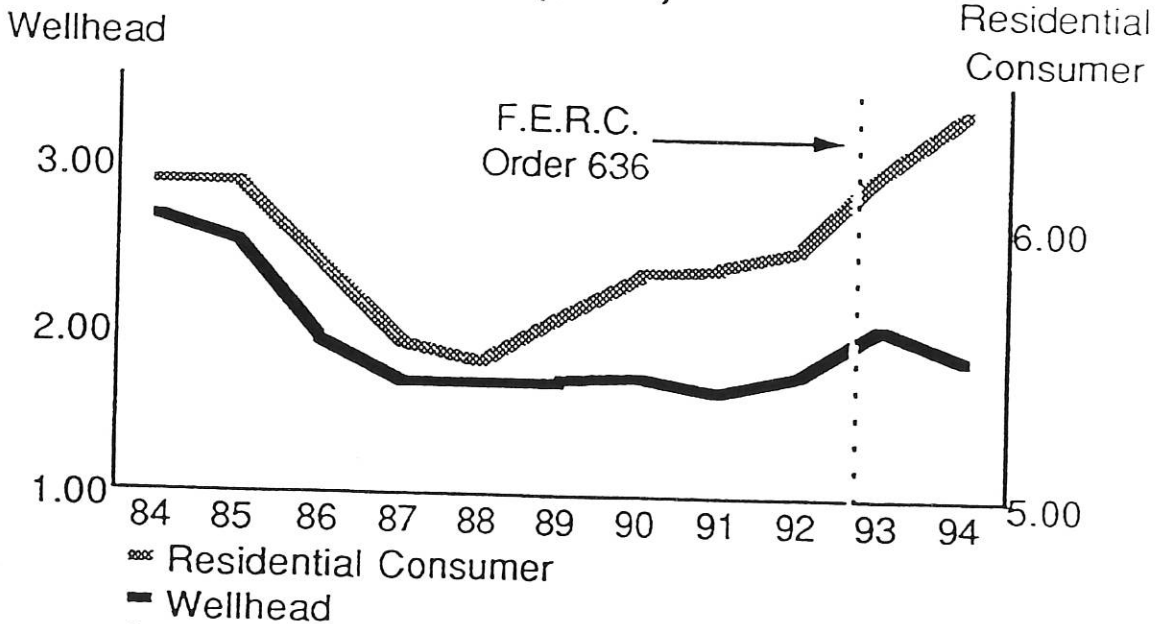
(Residential Consumer Gas Price - \$/Mcf)



Source: DOE/EIA

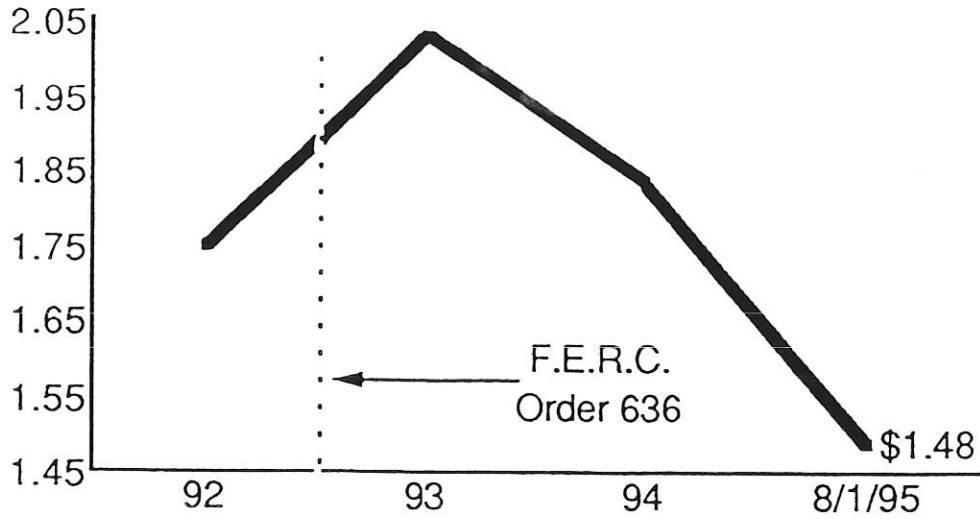
NATURAL GAS PRICE COMPARISON I

(\$/Mcf)



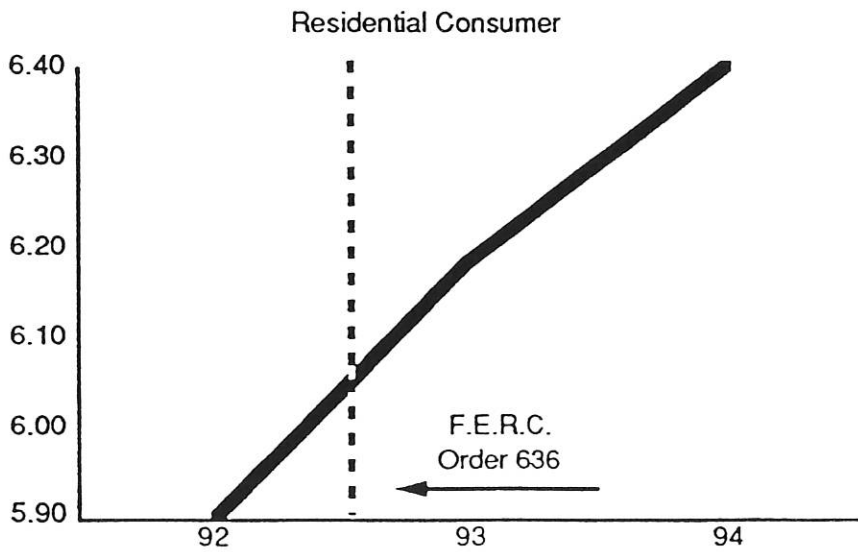
Sources: DOE/EIA; Oil Daily

Natural Gas Price Comparison II (\$/Mcf) Wellhead



Source: DOE/EIA

NATURAL GAS PRICE COMPARISON II (\$/Mcf)



Source: DOE/EIA