

Approved: May 1, 2002
Date

Carl Dean Holmes

MINUTES OF THE HOUSE COMMITTEE ON UTILITIES.

The meeting was called to order by Chairman Carl D. Holmes at 9:10 a.m. on March 26, 2002 in Room 526-S of the Capitol.

All members were present.

Committee staff present: Robert Chapman, Legislative Research
Dennis Hodgins, Legislative Research
Mary Torrence, Revisor of Statutes
Jo Cook, Administrative Assistant

Conferees appearing before the committee: Wilfred Nichols
Chris Hammer
Justin Hamlin, Southwest Kansas Irrigation Association
David Pierce, Washburn University
Todd Johnson, Kansas Livestock Association
Greg Krissek, Kansas Corn Growers Association
Larry Berg, Midwest Energy
Larry Hedley, Aquila
Leo Haynos, Kansas Corporation Commission
Steve Johnson, Kansas Gas Service

Others attending: See Attached List

SB 547 - Rural Kansas self-help gas act

Chairman Holmes opened the hearing on **SB 547**.

Wilferd Nichols, Copeland Kansas, addressed the committee in support of **SB 547 (Attachment 1)**. Mr. Nichols explained his situation regarding his request to be released from a natural gas certificated area.

Chris Hammer, Haskell County, Kansas, spoke in support of **SB 547 (Attachment 2)**. Mr. Hammer shared his problems with obtaining natural gas for irrigating his crops.

Justin Hamlin, Executive Director for the Southwest Kansas Irrigation Association, appeared in support of **SB 547 (Attachment 3)**. Mr. Hamlin shared the history of the bill and addressed some concerns the Corporation Commission had indicated they had during Senate hearings.

David Pierce, law professor at Washburn University of Topeka, spoke to the committee in support of **SB 547**.

Todd Johnson, Kansas Livestock Association, testified in support of **SB 547 (Attachment 4)**. Mr. Johnson stated they were not asking for elimination of the certificated area, just flexibility to obtain connection to a gas supply.

Greg Krissek, Director of Operations for the Kansas Corn Growers Association, requested support for **SB 547 (Attachment 5)**. Mr. Krissek stated the bill will allow rural Kansans the opportunity to secure reliable supplies of natural gas.

Leslie Kaufman, Associate Director for Public Policy at Kansas Farm Bureau, presented testimony supporting **SB 547 (Attachment 6)**. Ms. Kaufman stated that the Farm Bureau supports legislation to provide a dependable supply of affordable natural gas for irrigation and other agricultural purposes.

Written testimony in support of **SB 547** was submitted by Chris Wilson, Southwest Kansas Groundwater Management District (**Attachment 7**); Erick Nordling, Southwest Kansas Royalty Owners Association (**Attachment 8**); and Bill Lower, Haskell County Commissioner (**Attachment 9**).

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON UTILITIES, Room 526-S Statehouse, at 9:10 a.m. on March 26, 2002.

Larry Berg, Midwest Energy, testified in opposition to **SB 547 (Attachment 10)**. Mr. Berg addressed three areas of concern: safety, actions taken to resolve gas pressure problems in southwest Kansas, and the purpose and value of certificates of convenience.

Larry Headley, Director of Regulatory Affairs for Aquila Inc., addressed the committee in opposition to **SB 547 (Attachment 11)**. Mr. Headley stated the current version not only promotes the bypass of public utilities, but promotes the bypass of the Corporation Commission's involvement. Mr. Headley also stated that the legislation is bad public policy.

Leo Haynos, Chief of Pipeline Safety for the Kansas Corporation Commission, spoke in opposition to **SB 547 (Attachment 12)**. Mr. Haynos said that although the bill fully addresses their concern regarding pipeline safety, they believe it still has potential for unintended legal and other problems that could occur.

Steve Johnson, Manager of Community Affairs for Kansas Gas Service, appeared in opposition to **SB 547 (Attachment 13)**. Mr. Johnson stated they were concerned about changes in certificated areas and, although they have relinquished certification on a case-by-case basis, they believe the Corporation Commission should regulate all changes.

The conferees responded to questions from the committee. Additionally, Mr. Bob Muir, Head of Operations for Midwest Energy, and Mr. Gary Wise, Field Operations Director for Aquila, responded to questions.

Chairman Holmes closed the hearing on **SB 547**.

The meeting adjourned at 10:57 a.m.

The next meeting will be March 28, 2002.

HOUSE UTILITIES COMMITTEE GUEST LIST

DATE: March 26, 2002

NAME	REPRESENTING
Joe Dick	KCBPU
LARRY HEADLEY	AQUILA INC
GARY WISE	AQUILA INC
JIM BARTLING	GREELEY GAS CO / ATMOS ENERGY CORP
J. I. Fong	AQUILA INC.
LARRY BERTZ	MIDWEST ENERGY, INC.
Bob Muirhead	Midwest Energy Inc.
Jon Miles	KEC
Andy Shaw	SWKIA
Chris Hammer	SWKIA
Leo Hypos	KANSAS CORPORATION COMMISSIONER
Gary Dandy	Ks Corp Comm
Wilfred Neepos	SWKIA
David E. Kreis	SWKIA
Just Hall	SWKIA
BOB ANDERSON	ATMOS ENERGY CORP
Bob Kuehnel	KIOBA
Todd Johnson	KLA
Steve Johnson	KEPCO
Steve Johnson	Kansas Gas Service

HOUSE UTILITIES COMMITTEE GUEST LIST

DATE: March 26, 2002

NAME	REPRESENTING
Ron CACHES	GBBA
Dane Hollister	Heri Law Firm
KARLA OLSEN	Westar Energy
MARK SCHREIBER	Westar Energy
Leslie Kaufman	Ks Farm Bureau
Whitney Jamron	KS Gas Service
Greg Krusch	KCGA
Tom DAY	KCC
Robert Budekock	KDDP-PVD
Chris Wilson	GMP 3

WILFERD NICHOLS
431 TT RD
COPELAND, Ks. 67837

HOUSE UTILITIES COMMITTEE
CARL HOLMES (CHAIRMAN)
TOPEKA, KS.

DEAR COMMITTEE;

MY NAME IS WILFERD NICHOLS I HAVE AN IRRIGATED FARM IN NORTHEAST HASKELL COUNTY. I SERVE AS A DIRECTOR FOR THE SOUTHWEST CORN GROWERS AND THE KANSAS CORN GROWERS ASSOCIATION; I AM A MEMBER OF THE KANSAS WHEAT GROWERS ASSOCIATION AND THE KANSAS LIVESTOCK ASSOCIATION. THANK YOU FOR THE OPPORTUNITY TO SHARE MY SITUATION WITH YOU.

ONE FARM THAT I OPERATE PREVIOUSLY HAD A WELLHEAD TAP FOR NATURAL GAS FOR IRRIGATION AND FREE GAS FOR MY FARMSTEAD. AFTER A PERIOD OF DECLINING GAS PRODUCTION MY GAS WELL WAS RECLASSIFIED AS A STRIPPER WELL. GAS PRICES IN THE EARLY 1980S WERE LESS THAN 1 DOLLAR AND ESCALATED TO \$5.72 BY JUNE OF 1989. SHORTLY THEREAFTER WELLHEAD PRESSURE WENT TO ZERO DUE TO CASING FAILURE, LEAVING ME WITH NO GAS FOR MY FARMSTEAD AND IRRIGATION. CIG (COLORADO INTERSTATE GAS) ALLOWED ME A TEMPORARY CONNECTION TO THE HIGH-PRESSURE GAS LINE TO HEAT MY HOME AND FINISH THE IRRIGATION SEASON. THIS GAS SERVICE WAS 50 FT. FROM MY EXISTING WELLHEAD TAP AND METER.

THIS PARTICULAR PROPERTY LIES WITHIN THE KANSAS NEBRASKA CERTIFICATED AREA. THE CLOSEST KN DISTRIBUTION LINE WAS 1 1/4 MILES FROM MY PROPERTY, BUT DID NOT HAVE THE CAPACITY TO HANDLE ANY MORE CUSTOMERS. KN REFUSED ME SERVICE.

I ASKED KN FOR A RELEASE FROM THE CERFIFICATED AREA TO PURSUE A GAS CONTRACT FROM COLORADO INTERSTATE GAS COMPANY, WHICH WAS THE GATHERING LINE FROM MY GAS WELL. KN TOLD ME THAT IF I COULD ACQUIRE TAP AND GAS CONTRACTS THEY WOULD RELEASE ME. I WAS ABLE TO GET WRITTEN CONTRACTS FOR IRRIGATION TAP AND METER SETTING FROM CIG AND A WRITTEN AGREEMENT FOR GAS SERVICE FROM COASTAL GAS MARKETING COMPANY.

KANSAS NEBRASKA THEN REFUSED RELEASE AND REFUSED GAS SERVICE FROM THEIR GAS LINE.

I PLEADED MY CASE TO THE KANSAS CORPORATION COMMISSION; THE COMMISSION CONSIDERED THIS A "BY PASS" AND REFUSED INVOLVEMENT.

HOUSE UTILITIES

DATE: 3-26-02

ATTACHMENT 1

SUBSEQUENTLY KANSAS NEBRASKA CHANGED THEIR INFRASTRUCTURE FOR ADDED VOLUME AND OFFERED SERVICE BUT REFUSED TO LAY DISTRIBUTION LINE TO MY PROPERTY. THE COST OF THIS LINE WAS OVER \$10,000, ALL MY EXPENSE. IF KANSAS NEBRASKA WOULD HAVE RELEASED ME FROM THEIR CERTIFICATED AREA I WOULD HAVE HAD TO LAY ONLY 50 FT. OF LINE TO BE CONNECTED TO CIG GATHERING SYSTEM.

COMMITTEE MEMBERS WE ARE HERE TODAY TO ASK FOR YOUR SUPPORT OF SB 547 (RURAL KANSAS SELF-HELP ACT) THIS BILL WILL HELP US TO OBTAIN NATURAL GAS SERVICE FROM EXISTING UTILITY CERTIFICATE HOLDERS OR WILL FORCE THEM TO RELEASE US SO WE CAN PROVIDE SERVICE FOR OURSELVES.

SERVICE OR RELEASE!

SINCERELY YOURS,

WILFERD NICHOLS

1-2

Committee members and Mr. Chairman:

My name is Chris Hammer. I am an irrigating farmer from Haskell County.

I am here today to let you know how certificated areas for gas utility companies are causing me problems in producing grain on my farm.

My irrigation engines are fueled from natural gas. That natural gas comes from well-head and from a gathering system. When gas companies began putting compressors on those systems, the pressure of the gas declined dramatically. When this first started happening, Peoples Gas Company sent out letters to all the farmers in this area stating that they (Peoples Gas Company) were not going to be responsible for any declining gas pressure, and that they (Peoples Gas Company) would continue service to their customers.

On NW $\frac{1}{4}$ of Section 19-30-31, I have had a meter on the Peoples Gas that has had zero pressure for the last three years. Because of this, another gas source was needed so I could continue to run my engines to irrigate my fields. I had to lay a line from a gas well that is serviced by Helmerich & Payne. I just received notice in a letter that as of April 1, Helmerich & Payne is shutting off gas that is used for irrigation purposes. Because Helmerich & Payne is now shutting off gas for irrigation purposes, I must

HOUSE UTILITIES

DATE: 3-26-02

ATTACHMENT 2

once again seek another source of fuel for my irrigation engine. I am putting in these lines and seeking sources for my irrigation gas at my own expense.

According to KCC regulation KAR 82-3-804, I was to be notified that Peoples Gas could not service the meter that I have had on NW $\frac{1}{4}$ of Section 19-30-31. I have been waiting for three years, thinking that the gas service would soon return. I recently contacted Peoples Gas Company to have them remove that meter. I have been paying a service fee of \$22.50 a month for the last three years waiting for the gas pressure to return.

I have two other Peoples Gas Company meters on other irrigation engines on my farm. According to the local gas employees, the pressure on those two meters will be zero by the middle of the summer, when I need to be irrigating my crops the most. Without irrigation, I will have no crops to harvest.

With all that is happening with my sources of natural gas, and because of the KCC regulation of "Certificated" natural gas utilities, I cannot go out to find a reasonable priced, reliable source of natural gas.

Two years ago, I did try to solve my problems of having natural gas to fuel my irrigation engines through a "Not-For-Profit" utility (NPU), but the KCC denied the request for the NPU's at the urging of several different gas utility companies.

2-2

With the farm economy as bad as it is, with the weather and the low prices that the farmers are receiving for their crops that are produced, it is very disheartening that the farmers in this area must come to Topeka to ask your committee to undo a situation, which in my mind, should never have happened. There should already be a ready supply of gas in my area if the gas utility companies would support their obligation of servicing the irrigation engines that are in their certificated area.

I understand if the gas utilities do not wish to spend the capital that it would take to provide me and the other farmers in this area who are in danger of losing their gas service also, but don't hold me hostage! Either provide the service that is not only necessary, but also needed very badly, or release the "certificated" areas so the farmers in this area can get the gas service they need to run their irrigation engines.

Please support Senate bill 547!

Thank You,

Chris Hammer

\

23

February 4, 1997

PEOPLES NATURAL GAS

ENERGYONE

RE: IMPORTANT NOTICE - Declining Gas Pressures on Pipeline Gathering Systems

Dear Peoples Natural Gas Customer:

Our records indicate that you receive gas service from Peoples Natural Gas through a pipeline gathering system owned by one of the following companies: Panhandle Eastern Pipeline, Anadarko, GPM or Northern Natural Gas.

Due to declining gas wellhead production, all of the above pipeline companies are systematically reducing the operating pressures of their gas gathering systems in an effort to maximize the production of the gas wells connected to their respective systems.

In the past these companies operated their gathering systems at pressures of approximately 50 lbs. or greater. The gathering system Peoples utilizes to serve you is scheduled to be lowered soon to 10 or 15 lbs. with the very likely chance that it will be lowered to even less pressure in the future.

The Peoples Natural Gas measurement station or meter that serves you is designed to operate at a pressure higher than 10-15 lbs. It will not measure accurately or provide sufficient gas flow under the lowered operating pressures. In some cases, Peoples may not be able to continue to provide gas service to customers attached to gathering systems because the lowered pressures will not provide sufficient volumes of gas on an hourly basis to meet the customer's needs.

Peoples Natural Gas is willing to assist you in determining if natural gas is still a viable energy option or if you will need to arrange for conversion to another source of energy. For your use, I have enclosed a Customer System Information worksheet. Please complete the worksheet and return it to the address shown for analysis of your natural gas needs.

I am making myself available to discuss your situation with you. Feel free to contact me at the Garden City office at (316)275-1183. Fred Taylor, Director of Operations in Liberal, Kansas is also prepared to answer your questions or concerns and can be reached at (316)624-1807.

Sincerely,

Don Bowlby
Consumer Market Representative

Enc.

4-7
2-4



HELMERICH & PAYNE, INC. UTICA AT TWENTY-FIRST • TULSA, OKLAHOMA 74114

March 18, 2002

Dear Irrigation Farmer

As previously communicated to you, effective the week of April 1, 2002, Helmerich & Payne, Inc. will be terminating your Irrigation Gas Sales Service.

As part of this termination, H&P will disconnect and remove the Irrigation Gas Meter from the wellhead and make it available to you for your subsequent use.

At your earliest convenience during this first week of April, please make arrangements to stop by the location of your meter and pickup it up. If you have questions, please call either Brad Klein (Cell phone number 620-521-2402) or Mick Lovelady (Cell phone number 620-521-2401).

Thank you for your cooperation.

Sincerely,

A handwritten signature in cursive script that reads "Gerald P. McLaughlin".

Gerald (Jerry) McLaughlin
Manager, Gas Marketing
Helmerich & Payne, Inc.

David Cook
Brad Klein
Mick Lovelady

2-5

PEOPLES NATURAL GAS
ENERGYONE

October 28, 1997

Dear valued customer,

As a natural gas customer served from a gas gathering system, you are receiving service from Peoples Natural Gas. Peoples obtained the right to serve you from the gathering system or the pipeline company that owns the facilities that run near or across your property. The facilities used by Peoples to deliver your gas requirements are not owned, controlled, managed or operated by Peoples; the lines are totally controlled by the owner of the gathering system. As a result, Peoples and its customers have been, or may in the future be, impacted by the pipeline owner's decisions.

Since 1995 Peoples has been aware that gathering system owners are reducing the operating pressure in gathering lines to improve gas recovery from the reservoir. The owners have stated that gathering systems were created to gather gas, and are not primarily for gas distribution. Their focus therefore is gathering natural gas, while the distribution function is of secondary importance. Their program of pressure reduction will ultimately result in lower pressure in gathering fields, and farm taps such as the one serving you will be affected. A continuing decline in pressure will ultimately make natural-gas-fueled irrigation engines that are being served through the this tap inoperable with the existing equipment.

While Peoples has no control over gathering system or interstate pipeline operating pressures, we continue to work to provide a solution to this problem. We have been successful to date in that no significant loss or interruption of service has occurred.

The 1997 Kansas legislature passed Senate Bill 333, which provides regulatory oversight of certain gas gathering systems in Kansas. In response, the Kansas Corporation Commission recently proposed regulations under the gas gathering bill. One of the regulations, K.A.R. 82-3-804(a) states:

Any public utility providing service from a gas gathering system and determining that it lacks sufficient services or facilities to serve the needs of any person wishing to utilize the utility's services within the utility's certificated service area shall, not later than November 1 preceding the calendar year of service, give written notice to the Commission and to each such person that it will be unable to provide the service. Such notice shall contain a detailed explanation of the reason(s) for the utility's inability to perform the services and shall include any substantiating data and information relied upon by the utility in making such determination.

2-6

This letter is being sent to notify you of the owner/operators' pressure reduction plans and make you aware that if pressure reductions continue, a service problem could arise. It is not our intention to abandon service to any of our customers. We will continue to address the pressure reduction program so that we can continue to provide safe and reliable gas service to you.

Our most recent effort to find a solution is Peoples' Gathering System Low Pressure Service Tariff, which provides discounted rates to customers who install a compressor at their expense to maintain their supply pressure. If you have any questions regarding this new tariff or your particular service, please contact me in our Garden City office at (620) 275-4378.

As we continue to address the declining pressure situation, we will keep you advised of options to minimize disruption to our customers.

Lynn Walker
Consumer Market Representative
Peoples Natural Gas

2-7

**THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS**

Before Commissioners: John Wine, Chair
 Cynthia L. Claus
 Brian J. Moline

In the Matter of the Application of Sublette Consumer)
Owned Gas System, a Kansas Not for Profit Corporation,)
for a Certificate of Convenience and Necessity to)
Provide Natural Gas Service in Certain Locations Within) Docket No. 00-SCOG-135-COC
Haskell County, Kansas, Pursuant to K.S.A. 66-104c, as)
Amended by Chapter 126, Section 1 of the 1999 Session)
Laws of Kansas and K.S.A. 66-131.)

ORDER DENYING APPLICATION

The above matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration. Having examined its files and being fully advised of all matters of record, the Commission finds as follows:

1. On November 10, 1999, Sublette Consumer Owned Gas System (Sublette), a not for profit corporation, filed an Amended Application for a certificate of convenience and authority (COC) to provide natural gas service to its members. The proposed members of Sublette are farmers in Haskell County, Kansas. The majority of the area requested in the COC is certificated to Peoples Natural Gas Company (Peoples), Kansas Gas Service Company (KGSC) and Midwest Energy, Inc. These utilities object to the granting of the COC and maintain that they are ready and able to provide efficient and sufficient natural gas service within their territories.

2. The Commission has jurisdiction over this matter pursuant to K.S.A. 66-104, K.S.A. 1999 Supp. 66-104c, K.S.A. 66-131, K.S.A. 1999 Supp. 55-1,107, and K.S.A. 66-1,200, *et seq.*

3. An evidentiary hearing before the Commissioners was held on February 29 and March 1, 2000. Notice of the hearing was given in Orders dated December 17, 1999, and January 7, 2000.

2-8

Mr. Chairman and Fellow Committee Members,

My name is Justin Hamlin and I am the Executive Director for the Southwest Kansas Irrigation Association (SWKIA). My primary job is operating roughly 1200 acres of irrigated ground and 800 of dryland. I stand before you today to ask your support for Senate Bill 547 with out any more amendments.

Originally, the Rural Kansas Self Help Act was intended to help all Kansans. We believe that all rural Kansans who can not access natural gas due to the utilities inability to build infrastructure should be allowed to access natural gas where the utilities fall short. Why Kansans can not access natural gas when we have the largest natural gas field in the world? It is unconscionable that utilities are saying that they are serving people when we are currently installing compressors to provide natural gas to serve people so they can plant their crops and protect their livelihood.

The SWKIA proposed the Rural Kansas Self Help Act to the Senate Utilities Committee. At the first hearing the committee agreed that they would like all parties to come together and come up with some compromised language. We then worked with the KCC and Midwest Energy to try to come up with compromised language. We sent our compromised language to the KCC and never heard anything back. The next day 10 minutes before the utilities hearing the KCC came up with what they called compromised language. The KCC language did not represent anything in the language that the SWKIA sent to them. At that hearing the SWKIA introduced their own compromised language since the KCC language did nothing for our problem. At the last Senate Utilities meeting Senator Tyson made a motion to pass Senate Bill 547 with the SWKIA amendments and it was voted down 5 to 4. At that point Senator Emler made the motion to pass Senate Bill 547 with the KCC amendments. It passed Senate Utilities with the KCC amendments.

After we had time to review the KCC language we found that by adding one sentence we could actually get the help we came for. On the Senate Floor Senator Taddiken offered the amendments that added the one sentence that we needed. The bill passed with those amendments and some more language from the KCC that had to do with safety concerns.

So here we stand in front of you with a bill that has the KCC's language and the SWKIA's one sentence. I do not think the SWKIA can compromise any more than what they already have. This bill has been amended enough. It is time to pass it out the way it is so the rural citizens of Kansas will have the ability to solve their own problems.

I'd like to specifically address some of the KCC and utilities' concerns with Senate Bill 547 and show how this Bill helps us address those concerns.

SAFETY

HOUSE UTILITIES

DATE: 3-26-02

ATTACHMENT 3

The KCC's main concern from the start was safety. We have always supported in our language that everyone should abide by the Pipeline Safety Act, and Senate Bill 547 contains all KCC proposed language and amendments regarding safety. We are the ones that live and work over these gas lines and I can promise you that no one is concerned about safety more than we are. In all the years we have been irrigating using natural gas I can not think of one accident caused by a gas lined laid by an irrigator. We all hire professionals to do that sort of thing. I would be willing to bet that the Irrigators have a better safety record than the utilities when it comes to natural gas pipelines.

COST OF SERVICE

The utilities are going to tell you that we want to bypass certificated utilities resulting in higher cost of service for the rest of their customers. They are not serving gas in the areas we are talking about so this should not have any effect on the cost to their existing customers although it would not surprise me if they use it as an excuse to raise prices. The utilities confused the issue in the Senate with all sorts of excuses but it is simple to figure out why we need help.

COMPETITION

The utilities have also expressed concern over introducing competition into their certificated areas. They claim that by introducing competition, investment in long-term facilities would be stifled because no one would have an assured return on investment. Senate Bill 547 would promote investment by allowing other providers to make such investments in areas where no investments by the utilities are happening today. Today, rural fuel users are the ones bearing 100% of the facility cost.

Regarding competition, it's also interesting to note that in previous arguments before the KCC, Utilicorp worked with an irrigator who was currently being served in a Western Resources' certificated area to access their meter off of another pipeline. In Docket 193-371U, Utilicorp puts for the following argument:

Modification by customers in an effort to purchase Utilicorp \$2.00 per mcf gas in place of Western Resources \$4.00 per mcf gas represents the type of gas on gas competition that the Commission has encouraged. Customers should be applauded for their self-help ingenuity, and they should not be denied the benefits of gas on gas competition available to them.

It appears that all are in agreement that competition would be beneficial in this situation.

BYPASS

The utilities are also concerned that Senate Bill 547 promotes bypass. However, bypass is when you have an existing facility already providing a durable gas supply to an existing customer, and the customer chooses to lay another line to bypass that facility. Currently, there are no facilities to bypass.

The utilities feel that their main extension policies should address this issue and provide a means for service. However, utilities don't own any main extensions or pipelines in the

area. Furthermore, they're not willing to invest in laying more lines, unless there is a big user in the area.

To illustrate the point that you can only bypass service that is currently in existence, consider this: In 1999 a group of farmers got together to form a non-profit utility around Sublette Kansas. They hired an attorney and filed for a certificated area with the KCC. Part of the area they were asking for is certificated by 3 different utilities. The 3 utilities protested the non profit utility because they said they were willing and able to serve in this area. The KCC denied the irrigators the right to their certificated area because of this reason. We are now 2 years down the road and not a single one of these utilities have contacted these irrigators to solve their problems unless they were one of the few irrigators whose land was in the path of a pipeline that was laid to serve a feedlot . How can they bypass something that doesn't exist?

In summary, we have a real problem on our hands. This problem has been in existence for several years and no action has been taken. The irrigators that the utilities do serve off of gathering lines have received a letter from the utility stating that the pressure is declining and they will not be held responsible for any problems that relate to the loss of natural gas. Even though they will not be held responsible or assume responsibility, they will not allow the irrigator or rural fuel user to get gas from another source because of their certificated area.

We have a letter proving that the utilities have known about this problem since 1997 and have done nothing to address it. I am also providing you with a letter from Aquila (formerly Energy One/Peoples Natural Gas) that is finally going out to solve the problems we have been dealing with for 7 years now. The only reason they are sending this letter out is because of the action the irrigators have taken with Senate Bill 547. As soon as this issues drops they will start reacting the same way they have for the past 7 years.

The issue is simple. The utilities do not want the small load that the irrigators need but they do not want to release the certificated territory because some day a feedlot or some other large natural gas user may move in. This country was built on competition and that is what makes this the greatest country in the world. All we are asking for is to allow competition in rural areas so we are not stuck with a utility that has a monopoly and can cherry pick the customers they want. . If you had a large number of customers in the city who were going to lose natural gas service, and the utilities were non-responsive, you would have an outcry.

We have a real problem on our hands. We literally have hundreds of irrigation customers who are currently experiencing interruptions in natural gas service or are about to. Their livelihoods are at risk and they are looking to the legislature to help. The name of the Rural Kansas Self-Help Act says it all. All we want is the ability to help ourselves.

As you can see, the utilities have been totally ineffective in addressing this large-scale problem. Since the utilities have not met the challenge, it is only reasonable to let people find alternative ways to solve their energy issues. Senate Bill 547 does not get rid of certificated areas. All it does is provide the ability for other utilities to or gas providers to come in and provide service to people that the utilities in the area.

Thank you for your time and I hope you can see the problems we are faced with. Please support Senate Bill 547 as it sets in your committee now.

Justin Hamlin
Executive director of SWKIA

3-4

FAY 401411 1157



Aquila

March 20, 2002

**KENNY GLADDEN
PO BOX 82
PLAINS KS 67869-0082**

Dear **KENNY GLADDEN**

Aquila (formerly EnergyOne/Peoples Natural Gas) is evaluating interest in a new high-pressure natural gas service among our customers currently on gathering systems. This is to address declining field pressures in the Hugoton Field.

Aquila understands the need for stable, reliable natural gas service to the irrigator, farmer and homeowner. We have every intention of serving your needs.

Enclosed is a postage-paid reply card. Please complete and return the card as quickly as possible. If enough interest in high-pressure gas distribution is determined, Aquila can complete a feasibility study and begin construction without delay.

Thank you for your interest.

Sincerely,

**Gary Wise
Director, Field Operations-Southwest Kansas**

Enclosure

35

Thank you for completing this survey from Aquila regarding high-pressure natural gas service for our customers on gathering systems. (Please print)

Name: _____

Phone: () _____ Cell () _____

Location of well(s) that would be on a high-pressure system:

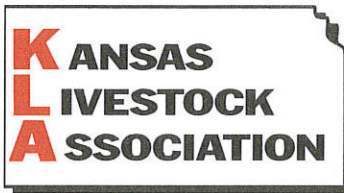
Section	Town	Range	Engine Size

If feasible, do you wish to have high-pressure natural gas service for your home or irrigation well(s) now? Yes No

If not now ("No" above), when do you anticipate needing high-pressure natural gas service? (Circle one)

6 months 12 months 18 months Never

3-10



Since 1894

To: The House Utilities Committee
Representative Carl Holmes, Chairman

From: Todd Johnson, Kansas Livestock Association Staff

Subject: Support of SB 547

Date: March 26, 2002

Chairman Holmes and committee members, I am Todd Johnson with the Kansas Livestock Association and I appear before you to express KLA's support of SB 547. The Kansas Livestock Association is composed of independent farmers, ranchers and cattle feeders - all consumers of natural gas. Our members depend on natural gas to power feed mill boilers and irrigation engines, and to heat homes in rural areas.

In many cases, the natural gas service they receive from companies holding the certificate, or right to provide service in their area, is limited or service is not available at all. In other cases, our members bear the entire cost of constructing lines to their facility and still must pay the certificate holder for service, even though no service has been provided. SB 547 intends to remove the barriers that keep rural gas users from solving their own gas shortage and pressure problems and being charged by the certificated area for their efforts.

SB 547 would help rural gas users in two cases. First, natural gas users would have the ability to transport gas within a certificated area without being considered a public utility, if they have constructed their own pipeline connection to a gas supply. Second, if others along the line wish to connect and form a nonprofit utility (NPU), the NPU would not be limited by the public utilities certificated area. Also, the lines constructed would be held to safety standards as required by the Kansas Corporation Commission.

We are not asking for elimination of the certificated area. We believe when the certificate holder has no investment, and is unwilling to provide a service, gas users should have the flexibility to solve their own problems and not pay a gas provider for lack of performance.

We have heard from many of our members that gas pressure has dropped and companies may not be able to provide the service available in the past. The possibility of being disconnected is real. In farming and feedlot operations, natural gas is essential. Gas users need to have the flexibility to solve their own problems in cases where the certificated area is no longer able or willing to provide service. Our members are willing to solve their own problems, but they need the certificated area barriers removed in order to do so. That is why we support SB 547 as passed by the Senate and urge this committee to pass the proposal favorably, without amendment.

Thank you for your consideration.

HOUSE UTILITIES

DATE: 3-26-02

ATTACHMENT 4



**Testimony Regarding Senate Bill No. 547
Before the House Utilities Committee
March 26, 2002**

Good morning Chairman Holmes and members of the House Utilities Committee, my name is Greg Krissek. I serve as Director of Operations for the Kansas Corn Growers Association. On behalf of our membership, I respectfully request your support of Senate Bill No. 547, as amended by the Senate.

This bill is concerned with allowing rural Kansans the opportunity to secure reliable supplies of natural gas. Many of our members who reside directly above some of the largest natural gas deposits in the world find themselves with a greater challenge in procurement of that gas, than residents located hundreds or even thousands of miles away. The irony is not lost on them, but unfortunately, irony won't heat the home or run an irrigation pump.

Senate Bill No. 547 provides the opportunity for Kansas residents to seek alternatives, when their natural gas needs are not being met. It isn't about price. It isn't even about forcing a service to be given. It is merely about allowing those that are not otherwise being adequately served to find service elsewhere. Entities that won't provide appropriate services should not hinder service from others.

We are only asking for reasonable alternatives. Sometimes the current system needs tweaking to adapt to changing circumstances. Predicting availability of natural resources is not an exact science. The game plan had to be adjusted from time to time. With natural gas service, the existing restrictions of certification are no different. A needed adjustment can be found in Senate Bill No. 547.

We support the existing language found in Senate Bill No. 547 and ask you to recommend this bill favorably, without amendments.

Thank you for your consideration in this matter.



Kansas Farm Bureau

2627 KFB Plaza, Manhattan, Kansas 66503-8508 • 785.587.6000 • Fax 785.587.6914 • www.kfb.org
800 S.W. Jackson, Suite 817, Topeka, Kansas 66612 • 785.234.4535 • Fax 785.234.0278

PUBLIC POLICY STATEMENT

HOUSE COMMITTEE ON UTILITIES

RE: SB 547 – establishing the rural Kansas self-help gas act.

**March 25, 2002
Topeka, Kansas**

**Presented by:
Leslie Kaufman, Associate Director
Public Policy Division**

Chairman Holmes and members of the House Utilities Committee, thank you for the opportunity to present testimony supporting the concept of increasing opportunities for rural Kansans to access dependable natural gas supplies. I am Leslie Kaufman and I serve Kansas Farm Bureau as the Associate Director of Public Policy.

The ability to access dependable, affordable natural gas for agricultural and residential use is a significant concern for many of our members and working to address these issues is nothing new for our organization. For many, especially in the southwest area of the state, the inability to secure dependable service, at a reasonable cost or through reasonable investment, is nearly impossible. As such, our members have enacted policy regarding natural gas and certain policy provisions that are relative to the bill before you, SB 547, are as follows:

- We support national and state legislative or regulatory commission action to prolong the life of existing gas fields, insure access to and provide a dependable, timely, uninterrupted supply of affordable natural gas for irrigation, other agricultural purposes and rural residences; and
- We support existing law which provides agriculture producers the opportunity to create non-profit utilities.

SB 547 provides one approach for increasing access opportunities for rural Kansans, particularly agricultural producers, to acquire dependable gas supplies. We respectfully encourage the Committee to act favorably on concepts that advance this policy goal. Thank you.

*Kansas Farm Bureau represents grassroots agriculture. Established in 1910, this non-profit
advocacy organization supports farm families who earn their living in*

HOUSE UTILITIES

DATE: **3-26-02**

ATTACHMENT **6**

**TO: HOUSE UTILITIES COMMITTEE
REP. CARL HOLMES, CHAIR**

**FROM: SOUTHWEST KANSAS GROUNDWATER MANAGEMENT
DISTRICT, Chris Wilson, Legislative Representative**

RE: S.B. 547, Establishing the rural Kansas self-help gas act

The Southwest Kansas Groundwater Management District (GMD 3) supports S.B. 547 and appreciates your consideration of this legislation, which would assist many family farmers in our District. GMD 3, based in Garden City, is one of the largest groundwater districts in the world, with our territory including over 10,000 irrigation wells.

A recent study conducted by the Docking Institute at Fort Hays State University showed the tremendous contribution that the agricultural economy of Southwest Kansas makes to the state's economy. Much of this agricultural economy is dependent on the production of crops, utilizing natural gas. As pressures on gathering lines for natural gas have dropped over the last several years, more of these farming operations have been unable to secure natural gas from utilities. Alternative natural gas supplies are needed. S.B. 547 would allow farmers facing this situation to help themselves by allowing other utilities to come in to serve them when their past utilities no longer do.

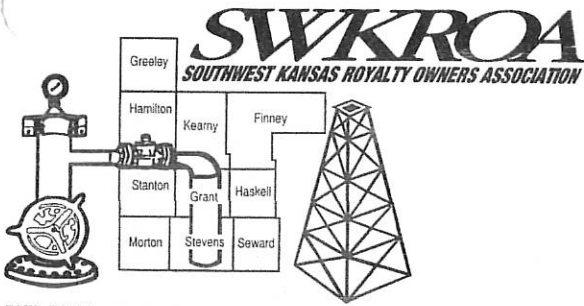
This is a problem we've been hearing about in legislative committees for several years. It has come to a crisis for these individual family farming operations and is a critical problem to address for Southwest Kansas. S.B. 547 provides a solution.

GMD 3 supports the Senate amendments to S.B. 547 and respectfully urges you to recommend S.B. 547 as amended favorable for passage. Thank you for your consideration.

HOUSE UTILITIES

DATE: 3-26-02

ATTACHMENT 7



PHIL DICK, PRESIDENT

ERICK NORDLING, EXECUTIVE SECRETARY

B.E. NORDLING, ASS'T. SECRETARY

**Statement of
Erick E. Nordling, Executive Secretary
Southwest Kansas Royalty Owners Association
Hugoton, Kansas**

March 26, 2002

To the Honorable Members of the House Utilities Committee:

Re: Senate Bill 547 relating to the rural Kansas self-help gas act.

Chairman Holmes and Members of the Committee:

My name is Erick E. Nordling of Hugoton. I am Executive Secretary of the Southwest Kansas Royalty Owners Association (SWKROA). I am writing on behalf of members of our Association and on behalf of Kansas royalty owners to express our support of Senate Bill 547 and creation of the rural Kansas self-help gas act in the State of Kansas.

As pressures in the Hugoton Gas Field continue to decline and lesser quality gas is produced, gas providers are trying to reduce, if not eliminating entirely, services provided by well-head taps, primarily affecting irrigation farming in southwest Kansas. Passage of Senate Bill No. 547 would permit a rural gas user (RGU) or a non-profit public utility (NPU) to provide a valuable service to these agricultural interests in our communities. We believe this legislation will aid the Hugoton Field by providing an additional, although marginal, market and thus it would be in the interest of our members. In its broader aspects, passage of Senate Bill No. 547 can contribute to the general economic well-being of the southwest corner of the state and is worthy of our support on that basis.

Many agricultural users of natural gas are having their source of fuel evaporate under their feet when a producing company arbitrarily determines that it will no longer sell gas for agricultural uses. Often there is no other source for purchasing natural gas as fuel from an existing utility.

Rural Kansas is literally crisscrossed with miles and miles of pipelines. Taps on these pipelines, or at the wellhead, give a rural gas user access to a clean, reliable fuel ... natural gas. It makes sense that if you have a gas well located on your farm, or a pipeline running across your land, that you should be able to tap into that line and have access to this clean, reliable fuel.

Yet many producers and utility companies are not committed to selling gas at the well head, or off a gathering, or transmission pipeline. This is unfortunate because it forces the rural gas users to consider switching to other fuels, or limiting their current irrigation and agricultural

HOUSE UTILITIES

DATE: 3-26-02

ATTACHMENT 8

uses. Other fuel sources are often more expensive than natural gas, and involve additional costs to convert to a different fuel source.

Senate Bill No. 547 does not harm the producers of natural gas, or the certificated utilities since the rural gas user is already using gas from the wellhead or a pipeline. The service is already in place. Senate Bill No. 547 permits the continued use of gas.

Theoretically, both the royalty owners as well as the State of Kansas would benefit from the sale of gas at the wellhead or on a pipeline system.

Thank you for this opportunity to present our support of Senate Bill No. 547 to your honorable committee.

Respectfully submitted,

Erick E. Nordling
Executive Secretary, SWKROA

8-2

**Testimony to the
House Committee on Utilities
Regarding Senate Bill No. 547
By
Bill Lower, Haskell County Commissioner
And
Kansas Legislative Policy Group
March 27, 2002**

Mr. Chairman, Members of the Committee:

I appear before you today in support of Senate Bill No. 547 as amended by the Senate Committee of the Whole. The number one industry in southwest Kansas is agriculture. It is the backbone of our economy! We are blessed to have good soil and a supply of water we judiciously use for the purposes of raising farm commodities.

I serve as an elected member of the Haskell County Commission. Not only do I represent myself here today; a third generation farmer, but I represent every farmer in Haskell County and speak in behalf of the 36 western Kansas Counties that belong to Kansas Legislative Policy Group.

For many, many years we have relied on natural gas from the Hugoton field at the well head. With the gas supply decline in the Hugoton field, so goes the pressure. Without adequate pressure we cannot operate an irrigation engine. Many farmers already have received notices that their gas contracts will be terminated for this year. We have a lifetime of investment in these irrigation operations. We must have access to another source of affordable natural gas if these companies with certificated areas are not going to supply farmers with natural gas. Simply put, this proposed legislation would permit a rural gas user (RGU) or non-profit utility (NPU) to construct a pipeline connection to a gas supply system and would not be considered a public utility. The NPU, if it is an area where an existing public utility holds a certificate for the service area, shall not be limited in establishing or maintaining rural gas service.

Please remember this proposed legislation is about the backbone of the economy of rural Kansas. The economies of our towns and cities in western Kansas are dependent on agriculture. I urge the House Committee on Utilities to favorably approve of Senate Bill No. 547 as amended by the Senate Committee of the Whole.

I appreciate being permitted to provide the Committee written testimony.

Thank you.

Bill Lower
Haskell County Commissioner

HOUSE UTILITIES
DATE: 3-26-02
ATTACHMENT 9

Comments to the House Utilities Committee

By Larry Berg

Midwest Energy, Inc.

SENATE BILL No. 547
(As Amended by Senate Committee of the Whole)

March 26, 2002

HOUSE UTILITIES

DATE: 3-26-02

ATTACHMENT 10

In these comments, Midwest Energy will address three topics related to SB547.

1. Safety
2. Actions taken to resolve gas pressure problems in SW Kansas
3. Purpose and Value of Certificates of Convenience

I'll conclude by offering amendments to SB547 as it stands.

Safety

If this Committee chooses to adopt some version of SB547, we urge you to retain Sections 5 and 7 as adopted by the Senate Committee of the Whole. The current language specifies that providers of the proposed "rural gas service" would indeed be subject to specific pipeline safety standards. With memories of Hutchinson fresh in our minds, the public should be assured that new pipeline systems not create unnecessary risks. Hutchinson was not an isolated case. In Midwest Energy's service area, a county road crew ruptured a non-regulated, unmarked private line built on public right of way. Only by chance, no one was injured.

Stretching from north of Scott City to south of Sharon Springs, and between Copeland and Ingalls, are two farmer-built pipelines each roughly 200 miles in length called the Wheatland Systems that were installed with substandard materials and practices. KN Energy, and now Midwest Energy, via the acquisition of KN, and its ratepayers are bringing those systems up to standards subject to KCC scrutiny. Relaxing safety standards to give certain customers price advantages does not serve the public interest.

Also in southwest Kansas, Midwest Energy is working with the KCC to bring a private industrial gas line into safety compliance. Were it not for KCC inspection and enforcement authority, that deficient installation may have gone unnoticed.

Progress Underway

The testimony of some suggests that utilities are doing nothing to remedy gas pressure problems in southwest Kansas. Those assertions are puzzling. Since acquisition of KN Energy's gas distribution properties in 1998, Midwest Energy has built over 200 miles of pipeline almost exclusively to serve farmers' irrigation pumps. Just one utility investing over four million dollars in three short years cannot be the result of ignoring problems. Not included in that total is another 70-mile project completed during the KN-to-Midwest Energy transition. As proposed, SB547 would jeopardize much of that investment.

As we speak, Midwest Energy has another major project on the drawing board. And, Midwest and Peoples Natural Gas are studying the exchange of territory to improve the feasibility of both reaching a significant number of irrigation wells in Haskell and Seward Counties. But, developing new projects is not easy. Some farmers still receive free or discounted gas from wellhead and gathering systems. Understandably, they balk at paying the going market price for natural gas on top of the cost of new distribution systems when their old system fails. But, utilities should not be blamed for that sticker shock based on unrealistic expectations. We've also found it difficult to get farmers to commit to new systems when cheaper sources of gas are

10-2

still flowing. Unfortunately, this makes project planning difficult and premature construction a risk for our other customers.

Certificates of Convenience

All public utilities in Kansas, including the not for profit utilities (NPU) created by 66-104c, are required to obtain a certificate from the KCC before commencing service. Rarely do two utilities hold certificates in the same area, and only after the KCC determines that possible duplication of facilities serves the public interest. SB547 creates an end-run around an orderly process and allows just about anyone to build gas distribution systems anywhere outside of city limits.

This Committee, the Retail Wheeling Task Force, and many others, devoted hundreds, if not thousands of hours thoroughly studying utility deregulation. Time and national events suggest your “go slow” approach was right for Kansas. SB547 is even more radical than that model of retail wheeling. At least retail wheeling legislation would have mandated the use of existing wires and not allowed unregulated entities from cherry-picking the biggest loads to the disadvantage of other customers. Sections 2, 3 and 4 of SB547 do just that.

If big customers can pick up and leave at any time:

- Smaller customers whose loads in isolation can't pay for a system may lose any chance of obtaining affordable pipeline quality gas service.
- The value of pipes in the ground, for which utilities spend real money, will decrease and overhead expenses will be shifted to other customers.
- New investment to serve new areas will be discouraged.
- The concept of “obligation to serve” all customers will be destroyed.
- Aggregating many customers' needs for the benefit of all will be more difficult.
- A new category of untaxed utility providers will be created.

In short, some of the same problems attributed to retail wheeling would be created.

To remedy these shortcomings in Sections 2-4 of SB547, we suggest you adopt the attached amendments that accomplish the following:

1. Defines gas distribution systems and gas gathering systems as two distinct items
2. Clarifies that “firm service” may include one or both of delivery service and gas supply
3. Retains the rights of individual users to build a private pipeline to interstate facilities
4. Prevents unnecessary duplication of facilities where distribution systems already exist.

Summary

We encourage this Committee to reject SB 547 in its current form because it is not a positive solution for the long term. KSA 66-104c already allows for small, customer owned gas systems. The KCC has approved dozens while rejecting only one.

If this Committee chooses to advance some version of SB 547, we urge you to retain Sections 5 and 7 as adopted by the Senate Committee of the Whole and adopt Midwest Energy's amendments that are attached. Thank you.

10-3

Midwest Energy's Amendments to SB547

1. Insert a definition for "distribution facility":

"distribution facility" means a state-regulated natural gas pipeline system constructed by the existing natural gas service utility or its predecessor in interest, used primarily to deliver natural gas from a higher pressure transmission system, whether carrying processed or unprocessed gas, to one or more rural gas users.

2. Insert a definition for "gas gathering facility":

"gas gathering facility" means a natural gas pipeline system used primarily for transporting natural gas from a well head, or a metering point for natural gas produced by one or more wells, to a point of entry into a main transmission line or processing plant;

3. Amend the definition of "firm gas service" by appending the following:

"Firm gas service does not preclude the eligible rural gas user or its agent from procuring gas supply from a third party for delivery by the natural gas public utility."

4. Amend Section 2 by inserting the indicated words so that lines 18 and 19 read:

Any single rural gas user who desires to construct its own pipeline connection to a an interstate gas supply system solely for its own use...

5. Revise Section 4 to read as follows:

"When two or more rural gas users file an application with the state corporation commission to combine pursuant to K.S.A. 66-104c, and amendments thereto, to operate as a nonprofit public utility (NPU), if the rural gas service is provided within an area where a public utility holds a certificate, the existence of such public utility and its certificate will not in any way limit the rural gas user, the NPU, or their gas provider, in establishing and maintaining the rural gas service provided for by this act such certificate applied for shall not overlap the certificated area of a public utility having distribution facilities in place and capable of providing service to the rural gas users as determined by the state corporation commission."

10-4

Kansas House Utilities Committee

SB 547

Comments by Larry W. Headley
Director, Regulatory Affairs, Aquila Inc.
March 26, 2002

Chairman Holmes and Members of the House Utilities Committee:

My name is Larry Headley and I am Director, Regulatory Affairs for Aquila Inc., formerly UtiliCorp United doing business in Kansas as Peoples Natural Gas Company and Kansas Public Service Company. Peoples Natural Gas (Peoples) serves approximately 2,000 irrigators in Southwest Kansas.

Thank you for allowing me the opportunity to testify before the House Utilities Committee on the latest version of Senate Bill 547. Earlier this month, I testified before the Senate Utilities Committee (testimony attached) in favor of the proposed KCC amendments. At that time, Peoples' position was that the legislation, as drafted, was objectionable, but in the spirit of compromise, felt the proposed Commission amendments brought some equity to the process. The original bill legalized bypass of public utilities, but at least the Commission amendments provided some regulatory oversight. Peoples does not support the version of the bill that has made its way back to the House Committee.

The latest amendments to SB 547 neutralize the Commission amendments. Now, the bill not only promotes the bypass of public utilities, it promotes the bypass of the KCC's involvement. The Commission amendments provide some regulatory oversight over the creation of non-profit utilities (NPU's); the Commission can decide what is in the public interest, either the existing exclusive certificate held by the public utility or a dual certificate with an NPU.

The latest amendment allows the individual rural gas user to preempt the Commission's determination of public interest and decide for themselves what is

HOUSE UTILITIES
DATE: 3-26-02

ATTACHMENT 11

best. Even though a public utility owns the certificate to serve the area, owns facilities in the area, and is willing and able to serve the customers, this bill may prevent the utility from providing service. If the public utility does not have any facilities on the property of the rural gas user, the latest amendment allows the rural gas user to *help themselves* to whatever gas service might suit their fancy. This scenario is an invitation for disaster!

Objections to SB 547:

- Promotes duplication of facilities, creating safety issues.
- Ignores the public utilities' certificated territory.
- Inhibits future investment by the public utility, depriving smaller customers of future service.
- Erodes the public utilities' customer base, raising prices for remaining customers.
- Erodes the tax base (NPU's are exempt from property taxes), lowering the tax revenue for schools and local government.
- Hampers orderly growth of utility infrastructure.
- Stifles economic development.

Senate Bill 547, as amended, is just plain bad public policy. It helps only the wealthy landowners, while destroying the economic feasibility for the public utility to serve the small gas user. The large gas users who can afford to build their own facilities can ignore the long established regulatory oversight to the detriment of the small gas users that have no choice. Peoples is opposed to SB 547, because it is just another form of subsidy for the large gas user.

Thank you for your time and attention.

Attachments: Senate Utilities Committee testimony, March 7, 2002.

Property Tax exemption, K.S.A. 79-201j.

11-2

Kansas Senate Utilities Committee

SB 547

Comments by Larry W. Headley
Director, Regulatory Affairs, UtiliCorp United Inc.
March 7, 2002

Chairman Clark and Members of the Senate Utilities Committee:

My name is Larry Headley and I am Director, Regulatory Affairs for UtiliCorp United Inc., doing business in Kansas as Peoples Natural Gas Company and Kansas Public Service Company. UtiliCorp serves over 100,000 gas customers spread over a large service territory from Liberal to Lawrence, Kansas. More importantly for this proceeding, Peoples Natural Gas (Peoples) serves approximately 2,000 irrigators in Southwest Kansas.

Thank you for allowing me the opportunity to testify before the Senate Utilities Committee on Senate Bill 547, which is called the "rural Kansas self-help gas act." As drafted, the bill legalizes bypass of public utilities and allows for competition between regulated and unregulated parties (utilities, which are regulated and "gas providers", which are not). SB 547 promotes the creation of non-profit utilities (NPU's) at the expense of other ratepayers, because it ultimately inhibits long term investment by public utilities, stifles economic development, and insulates NPU customers from KCC protections such as the Cold Weather Rule. This proposed legislation upsets the natural balance between regulated utilities and protected consumers.

The proposed Commission amendments are reasonable, attempting to bring order to chaos by inserting a logical step-by-step process. The Commission amendments offer some much needed oversight by an independent

11-3

third party. I believe the proposed Commission amendments are fair in principle, but somewhat unrealistic in practice. For example, the 30 days for a utility to develop a proposal is unrealistic when absentee landowners must be contacted for right-of-way. The utility also needs information from the rural user, such as exact location, equipment specifications, and load profiles. This information has not always been forthcoming in the past.

In spite of lowering field pressures in the Hugoton basin, Peoples has established a track record of consistent efforts to maintain service to those customers served off gathering systems. For example:

- Piping and meter upgrades to increase flows.
- Discounted rate offered to customers who elect to install compression equipment to maintain line pressure.
- Continual upgrades to rural distribution systems.
- Recently contracted for capacity on William's proposed Frontier Pipeline that will bring Rocky Mountain gas to the area.

The irrigation load is as important to Peoples Natural Gas as crops are to the local economy. Peoples is doing everything it can to maintain or expand its customer base, but it must maintain economies of scale to continue providing service at reasonable rates. This legislation, as drafted, legalizes bypass of the local public utility, which diminishes the economies of scale to the detriment of remaining customers. Additionally, NPU's erode the tax base, which ultimately impacts "innocent bystanders".

Peoples' rates are established during a general rate case and ultimately approved by the KCC. Customers are grouped in classes, depending on their consumption profiles and/or use of the gas; e.g. residential, commercial, industrial, and irrigation. Rates are set to recover the total costs caused by each class of customer, and all customers within the class are charged the same rate. All irrigators pay the same rate for delivery, \$.52 per MMBtu, because they are part of the same class, and the average rate required to recover the total cost for that class is \$.52 per MMBtu. Every customer within a class has a unique set of

11-4

circumstances, but it would be impractical to design a rate for each individual customer's cost of service.

The irrigation class of customers pay the lowest rate of any class. The attached exhibit shows Peoples' irrigation rates for the last 15 years, and demonstrates stable rates. Each time the rates were changed, they were approved by the KCC in a general rate case. Irrigators had every opportunity to intervene in those cases, and chose not to. Since 1986, irrigation rates have increased at an annual rate of approx. 1.7%, which is less than half the inflation rate over the same period.

In summary, Peoples is opposed to dual certification. Peoples' position is very simple: rural gas service will be offered to any customer in our certificated territory under main extension policy and rates approved by the Commission. The amendments to SB547 are essential for fair treatment of all parties. The utility should not have to give up its certificated area without having an opportunity to serve; likewise, the rural gas user should not be tied to a utility unwilling or unable to serve.

Thank you for your time and attention.

11-5

Kansas Senate Utilities Committee

SB 547

March 7, 2002

Peoples Irrigation Rates 1986-2001

Tariff	Tariff Eff. Date	Monthly Customer Charge	Commodity Charge \$/Therm		Average Bill Excludes Cost of Gas
IR	9-1-2000	\$ 22.50	0.05200		\$ 1,310.00
IR	12-1-1996	20.00	0.05000		1,240.00
LGS	11-1-1992	20.00	Summer 0.04507	Winter 0.08207	1,289.40
RGS-3	1986	6.00	0.04791		1,030.20

- Notes: 1. Average Bill computed using volume of 20,000 Therms/Yr.
2. LGS average bill computed using 80-20 split between summer/winter commodity charge

Average annual increase from 1986 to 2001 is 1.7%

11-6

el; house-
aveyards.
the extent
y exempt
ied under

pressed and preserved by its own fermentation for fodder.

Second. All farm storage and drying equipment meeting eligibility requirements, as provided in Title 7, Chapter XIV, Subchapter B, Part 1474 of the Code of Federal Regulations and as in effect on December 31, 1977, for loans under the federal farm storage and drying equipment loan program, whether financed or not, and all used farm storage and drying equipment meeting such eligibility requirements but for the fact that the same was not purchased from the commodity credit corporation, which equipment is used for the storage or drying of haylage, silage, corn, oats, barley, grain sorghum, wheat, rye, soybeans, flaxseed, rice, dry edible beans or sunflower seed, for any eight of the 10 calendar years next following the calendar year in which such equipment is acquired or construction thereof is completed. The provisions of this subsection shall apply to equipment acquired or the construction of which was completed during the calendar year 1977, or any year thereafter.

The provisions of this section shall apply to all taxable years commencing after December 31, 2000.

History: L. 1975, ch. 495, § 5; L. 1978, ch. 391, § 1; L. 1978, ch. 392, § 3; L. 1982, ch. 390, § 1; L. 1985, ch. 311, § 3; L. 1988, ch. 375, § 1; L. 2001, ch. 192, § 1; July 1.

79-201j. Property exempt from taxation; farm machinery and equipment; aquaculture machinery and equipment; Christmas tree machinery and equipment. The following described property, to the extent specified by this section, shall be exempt from all property or ad valorem taxes levied under the laws of the state of Kansas:

(a) All farm machinery and equipment. The term "farm machinery and equipment" means that personal property actually and regularly used in any farming or ranching operation. The term "farm machinery and equipment" shall include: (1) Machinery and equipment comprising a natural gas distribution system which is owned and operated by a nonprofit public utility described by K.S.A. 66-104c, and amendments thereto, and which is operated predominantly for the purpose of providing fuel for the irrigation of land devoted to agricultural use; and (2) any greenhouse which is not permanently affixed to real estate and which is used for a farming or ranching operation. The

t
c
o
c
l
t
i
t
j

PROPERTY EXEMPT FROM T

term "farming or ranching operation" shall include the operation of a feedlot, the performing of farm or ranch work for hire and the planting, cultivating and harvesting of nursery or greenhouse products, or both, for sale or resale. The term "farm machinery and equipment" shall not include any passenger vehicle, truck, truck tractor, trailer, semitrailer or pole trailer, other than a farm trailer, as the terms are defined by K.S.A. 8-126 and amendments thereto.

The provisions of this subsection shall apply to all taxable years commencing after December 31, 1999.

(b) (1) All aquaculture machinery and equipment. The term "aquaculture machinery and equipment" means that personal property actually and regularly used in any aquaculture operation. The term "aquaculture operation" shall include the feeding out of aquatic plants and animals; breeding, growing or rearing aquatic plants and animals; and selling or transporting aquatic plants and animals. The term "aquaculture machinery and equipment" shall not include any passenger vehicle, truck, truck tractor, trailer, semitrailer or pole trailer.

(2) All Christmas tree machinery and equipment. The term "Christmas tree machinery and equipment" means that personal property actually and regularly used in any Christmas tree operation. The term "Christmas tree operation" shall include the planting, cultivating and harvesting of Christmas trees; and selling or transporting Christmas trees. The term "Christmas tree machinery and equipment" shall not include any passenger vehicle, truck, truck tractor, trailer, semitrailer or pole trailer.

The provisions of this subsection shall apply to all taxable years commencing after December 31, 1992.

History: L. 1982, ch. 390, § 3; L. 1985, ch. 311, § 4; L. 1992, ch. 102, § 4; L. 1997, ch. 122, § 1; L. 1999, ch. 126, § 2; L. 2000, ch. 139, § 4; July 1.

79-201m.

CASE ANNOTATIONS

3. Rent-to-own company's inventory qualified for ad valorem tax exemption; inventory construed. Board of Sedgwick County Comm'rs v. Action Rent to Own, Inc., 266 K. 293, 295, 969 P.2d 844 (1998).

79-201t. Property exempt from taxation; oil leases. The following described property, to the extent herein specified, shall be and

is hereby

taxes lev

(a) A

therein,

is three l

barrels o

completi

(b) T

to all tax

31, 1997.

Histor

130, § 27

1. BOTA

emption is

Tax Exemp

K.A.2d 467,

79-20

tion; ma

supplies.

the exten

empt fron

under the

(a) Ar

terials anc

tion of th

required t

pursuant

thereto, a

conduct of

of activitie

come taxa

amendme

when new

(b) Th

to all tax

31, 1995.

History

130, § 24;

79-201

tion; resi

school lev

following d

specified, s

property ta

K.S.A. 72-6

erty used fe

\$20,000 of

History:

130, § 26; I

§ 9; July 1.

**Before the House Utilities Committee
Comments by the
Staff of the Kansas Corporation Commission
March 26, 2002**

Senate Bill 547 as Amended

Thank you, Mr. Chair, and members of the Committee. I am Leo Haynos, chief of pipeline safety for the Corporation Commission. Although the current version of SB 547 fully addresses Staff's concerns regarding pipeline safety jurisdiction, we believe the bill still has the potential for unintended legal and other problems that could occur because of the terms in the proposed bill.

On Page 2, line 27, the bill contains a condition that says the existence of a public utility certificate can not prevent a rural gas user from building his own system as long as he is not being served by the public utility. Essentially, this would allow a bypass of the public utility certificated in the area even if that utility had a pipeline next to the facility desiring service. Apart from the fact that development of overlapping gas systems in this fashion would be inefficient and potentially dangerous, certificated areas are considered to be an asset of the public utility. Legislation that would unilaterally allow a bypass of this type without any type of due process consideration by the Commission could be challenged in court as a "takings" of property. The Commission currently has the authority to issue dual certificates if it believes dual certificates are in the best interest of providing safe and efficient service to the public. Staff believes a process similar to the one we offered in our proposal before the Senate Utilities Committee on February 26 adequately addresses

this concern. Our proposal gives the public utility the right of first refusal, and it allows the Commission to weigh the merits of the public utility's plan to serve and the rural gas user's plan to serve for the benefit of the customer and future development of the infrastructure. The bill would keep this process on a strict time line of 60 days. Therefore, Staff encourages this committee to strike the language in brackets that begins on line 27 of Page 2 and ends on Line 31 of Page 2.

Commission Staff remains concerned about the impact multiple owners and operators of gas delivery systems would have on pipeline safety. The amendment shown on the bill as Section 7 was added on the Senate floor and thoroughly addresses the jurisdiction of Kansas pipeline safety regulations to rural gas services. As you well know, the existence of regulations does not necessarily mean they will be followed. Regardless of KCC pipeline safety jurisdiction, a proliferation of small systems operated by individuals or promotion companies would not be in the best interest of public safety in Kansas, particularly if the rural gas provider had no KCC oversight. I would like to relate to you a discovery Staff made within the last week regarding a direct sales pipeline in Southwest Kansas. A direct sales line is a line that bypasses the certificated utility by connecting one customer directly to an interstate transmission line. Although these facilities are not subject to KCC oversight on price or supply, they are in the jurisdiction of the KCC for pipeline safety. We were never contacted by the company that built this line. We discovered its existence from conversations with the local public utility. The line is about 3 miles long, operates at 400 psi, and serves a processing plant. From what we know so far, the line was built by a promoter that would meet the definition of a rural gas provider under this bill. The

12-2

customer was to pay for the line by paying a tariff on the gas used to the promoter. Shortly after the line became operational, the promoter sold its contract on the line to a gas marketing company. The gas marketing company considered the customer as the owner of the pipeline while the customer assumed the marketing company owned the line. To make a long story short, no one has done any maintenance on this 400 psi line for two years. Maintenance would include such things as making sure there is odorant in the gas, putting up pipeline markers that identify who owns the line, making sure emergency valves work, and maintaining pressure regulators. In addition to these safety issues, there are no right-of-way agreements on file with the county for 2 miles of this line. So far, we have identified fifteen probable violations of pipeline safety regulations and we have just started our investigation. The most serious probable violation is the lack of a critical pressure relief valve. Without this valve, the failure of one piece of equipment could put 400 psi gas into plant equipment. There is a reason for pipeline safety regulations. Almost all pipeline safety regulations are promulgated in response to tragic safety accidents. In the case of this processing plant, the main reason for pipeline safety regulations is that everyone will get to go home each evening without an explosion or injury affecting their day. Staff believes this example illustrates the need for KCC oversight with the rural gas system provided for in this bill beginning with the planning phase of the system.

This concludes my testimony, and I will now stand for questions.

12-3



KANSAS GAS SERVICE

A DIVISION OF ONEOK

TESTIMONY

Before the House Utilities Committee

Steve Johnson

Manager, Community Affairs

Kansas Gas Service

SB 547

March 26, 2002

Dear Chairman Holmes and members of the Committee,

Kansas Gas Service is interested in this bill because we are firm believers in the regulated system now in place to economically serve the natural gas customers in the State. We are certificated throughout the State in many counties providing service to over 630,000 natural gas customers in 340 communities. The vast majority of these customers are served in an urban setting and a few are served through a mainline tap or from wellheads and gathering lines. We take, very seriously, our responsibility and obligation to serve and expend many dollars, manhours and expertise to make sure we provide gas to all of our customers, when they need it, in the quantities they require and at a reasonable price.

We are aware of the several customers in rural Kansas that are losing service because their wellhead gas or gathering lines have lost pressure or gas altogether. We have not experienced the proliferation of this problem as other utility companies, but we are in agreement with them, that this is an economic situation that should be taken care of through an analysis that makes sure other customers of the Utility are not subsidizing the facilities that need to be installed. Without the benefit of new revenue to gain a return on such investment the new facilities would be paid for entirely by the existing customer, since little if any new load is realized. Additionally, those captive customers left on the system, will eventually bear the burden of higher rates if these few customers were allowed to bypass the Utility.

HOUSE UTILITIES

DATE:

3-26-02

ATTACHMENT

13

In some isolated cases, after all options had been exhausted, we have relinquished our certificate on a customer specific basis, so the customer has the freedom to make any other type of arrangement needed with another service provider. Again, I would stress that even that entity needs to economically justify this new service and be held to safety standards as high as the Utility that is giving up their certificate. In other words, we believe that an "even playing field" requires the Kansas Corporation Commission regulate these new utilities.

Kansas Gas Service is in support of the KCC and others that have expressed these same concerns before this committee. I will be happy to stand for questions at the appropriate time.

13-2