

MINUTES OF THE SENATE UTILITIES COMMITTEE.

The meeting was called to order by Chairman Senator Stan Clark at 9:30 a.m. on March 7, 2002 in Room 231-N of the Capitol.

All members were present except:

Committee staff present:     Raney Gilliland, Legislative Research  
                                  Bruce Kenzie, Revisor of Statutes  
                                  Ann McMorris, Secretary

Conferees appearing before the committee:

                  Justin Hamlin, Southwest Kansas Irrigation Association  
                  Larry W. Headley, Utilicorp United Inc.  
                  Leo Haynos, Kansas Corporation Commission  
                  Bill Dowling, Midwest Energy

Others attending: See attached list

Chairman Clark extended an invitation to the committee members to attend the Homeland Security Briefing on March 11, 2002 from 10:00 to 11:30 a.m. in the Kansas Defense Building, 2800 SW Topeka Blvd., Topeka. No Senate Utilities Committee meeting would be held on that date.

Appointment of Brian Moline to KCC

Senator Clark asked the committee to let him know by Tuesday, March 12 if they wanted Brian Moline to make a personal appearance before the committee to confirm his appointment to the Kansas Corporation Commission to serve a four year term ending March 15, 2006.

Chair continued hearing on

SB 547 - Rural Kansas self-help gas act

Justin Hamlin, Southwest Kansas Irrigation Association, reported they were working with Midwest Energy on a compromise but still have not reached an agreement on all issues. The group had contacted Utilicorp but were told upper management would be back with them but no contact was made. He noted this is not about rates, this is truly a problem with service. Utility companies say they want to serve but no cooperation is received on our requests. He urged the passage of **SB 547**.

Larry Headley, Utilicorp United Inc., noted **S.B 547** promotes the creation of non-profit utilities (NPU) at the expense of other ratepayers. The proposed KCC amendments are reasonable, by inserting a logical step-by-step process. He felt the 30 days for a utility to develop a proposal is unrealistic and recommended a period of 60 to 70 days be allowed to contact absentee landowners for real estate easements and obtain data. He corrected a statement in a letter sent the committee which said that NPUs paid taxes. Under KSA 79-201j NPUs are exempt from all property or ad valorem taxes levied under the laws of the state of Kansas. (Attachment 1)

Leo Haynos, Kansas Corporation Commission, reviewed KCC's response to Midwest Energy's proposed language for **SB 547**. (Attachment 2)

Bill Dowling of Midwest Energy presented supplemental comments on their previous testimony. (Attachment 3)

Committee members questioned the various conferees regarding rates, service cost, 30 days time period to develop a proposal, cost to customer to connect to service where customer is out of normal service area.

Chair closed the hearing on **SB 547**.

CONTINUATION SHEET

MINUTES OF THE SENATE UTILITIES COMMITTEE at on March 7, 2002 in Room 231-N of the Capitol.

Senator Tyson offered an amendment to **SB 547**.

Moved by Senator Tyson, seconded by Senator Emler, **SB 547** be amended as offered by Senator Tyson. Motion failed 4-4. (Attachment 4)

Moved by Senator Taddington, seconded by Senator Brownlee, **SB 547** be amended as proposed by KCC with an amendment to change from publication in statute book to publication in Register. Motion carried. 5-4 (Attachment 5)

Moved by Senator Brownlee, seconded by Senator Tyson, **SB 547** be passed out favorably as amended. Motion carried.

The next meeting of the Senate Utilities Committee will be on March 12, 2002.

Adjournment.

Respectfully submitted,

Ann McMorris, Secretary

Attachments - 5

# SENATE UTILITIES COMMITTEE GUEST LIST

DATE: MARCH 7, 2002

Name	Representing
- GARY WISE	UTILICORP UNITED
Don Bowlby	Utilicorp United
Lynn R. Walker	Utilicorp United
<del>John York</del>	SWKIA - Self
John Smith	SWKIA. SRIF
Anthony Stevenson	SWKIA Self
Roger Lehman	" "
Ernie Ochs	HASKELL Co. SWKIA SELF
Steve Rome	SWKIA - CIMBAC
Chris Hammer	SWKIA * self
Wilferd Nichols	KS COAL Growers
Larry Koplos	SWKIA SELF
LARRY HEADLEY	UTILICORP UNITED
BILL DOWLING	MIDWEST ENERGY, INC.
LARRY BERG	MIDWEST ENERGY, INC.
Susan Cunningham	KCC
Bruce Graham	ICE PG
Gene Dawdy	KCC
Amy Campbell	Midwest Energy



# *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

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

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.

# 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%**





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## Kansas Corporation Commission

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Bill Graves, Governor   John Wine, Chair   Cynthia L. Claus, Commissioner   Brian J. Moline, Commissioner

Susan Cunningham  
General Counsel  
(785) 271-3272 (telephone)  
(785) 271-3167 (telecoppy)  
s.cunningham@kcc.state.ks.us

March 6, 2002

Midwest Energy, Inc.  
1330 Canterbury Rd.  
P.O. Box 898  
Hays, KS 676-0898

*(sent via e-mail)*

Attn: Messrs. Bill Dowling, Charles Reese, Pat Parke

This letter is in response to Bill Dowling's e-mail submittal to Kansas Corporation Commission Staff on March 4, 2002, wherein Bill attached a cover letter and red-lined version of SB 547 on behalf of Midwest Energy, Inc. Staff shares Midwest's objective to provide constructive input for both short-term and long-term benefits to all stakeholders involved in SB 547. With that in mind, Staff offers the following comments to Midwest's proposed language.

Staff agrees with the language proposed for Sections 1 and 4. Midwest's language offered for Section 1 clearly identifies the intended beneficiaries of this bill while the proposed changes to Section 4 state the specific pipeline safety requirements that are prescribed for all operators of natural gas distribution.

Staff is concerned with the possible legal ramifications of Section 2 and, therefore, does not agree with the proposed changes offered in this section. This section would allow individual users to connect to other sources of gas and, after providing notification, bypass the public utility certificated in the area. Because certificates are considered to be an asset of the public utility, Staff believes allowing such a bypass without prior Commission review and consideration would subject the bypass to legal challenge as a "taking" of a valuable property right of the public utility. 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. Staff's proposal gives the public utility the right of first refusal, and it allows the Commission the opportunity to weigh the merits of the public utility's and rural gas user's plans to serve for the benefit of the customer and the future development of the infrastructure.

The proposed language in Section 3 would prohibit the Commission from issuing dual certificates of service. While the ability of the public utility to serve is always considered in a nonprofit utility application, the proximity of facilities should not limit the Commission's



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## *Kansas Corporation Commission*

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*Bill Graves, Governor   John Wine, Chair   Cynthia L. Claus, Commissioner   Brian J. Moline, Commissioner*

authority to grant dual certificates. This concern, coupled with the very broad terminology of "... having distribution facilities in place," renders this section unacceptable to the Commission.

If you have any questions or wish to discuss further, please feel free to contact:

Leo Haynos	Chief of Pipeline Safety	(785) 271-3278
Gary Dawdy	Utility Engineer	(785) 271-3216
Susan Cunningham	General Counsel	(785) 271-3272

Sincerely,

Susan B. Cunningham

Cc:    Sen. Stan Clark  
      Southwest Kansas Irrigators Association  
      UtiliCorp (Jim Flaherty and J.C. Long)  
      Montgomery Escue

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**SENATE BILL No. 547**  
**AN ACT Establishing the Rural Kansas Self-Help Gas Act**

**Supplemental Comments of Midwest Energy, Inc.**  
**March 7, 2002**

As noted in previous comments to this Committee, Midwest Energy, Inc. has taken the position that the original language proposed in SB 547 was not in the best long-term interest of the majority of the gas customers in southwest Kansas currently faced with the decline in production capability of the Hugoton field and the resulting loss of service from gathering systems or wellhead service.

We recently met with representatives of the irrigators in an attempt to craft language that helped them realize their goals while protecting the interests of our customers. Ultimately, we could not agree on the appropriate language for SB 547 and cannot support the amendments they intend to offer to this Committee. That is not to say that Midwest Energy, Inc. does not appreciate the tenuous position the irrigation customers in the region find themselves in. Conversely, we have reviewed the proposal for modifications to SB 547 that has been developed by the Kansas Corporation Commission. We believe these recommendations are in the public interest and do offer our support to the language changes they are suggesting. Our basic reasons for supporting the suggestions of the KCC include:

- We believe there is value in the territory certification process that has long been in place in Kansas, and that it plays a vital role in bringing both order and safety to a business that is capital intensive. Certificated territory represents an asset of a public utility, and is relied upon in an economic analysis by a utility considering an expansion of its gas delivery facilities.
- The legislation proposed by the irrigators would at least weaken the ability of a utility to economically expand its facilities to serve those customers requesting service. Furthermore, it would enable the unrestricted bypass of capable gas delivery facilities already in place or planned by a utility.
- We are also concerned by any proposal that would weaken or distort the provisions of K.S.A. 66-104c which provides for the establishment of non-profit public utilities and delegates certain responsibilities to the Kansas Corporation Commission.

We would also offer some additional comments on current and planned practices of Midwest Energy, Inc. as it relates to providing sufficient and reliable gas delivery service to a wide variety of agricultural, commercial and residential customers throughout our service territory. These particular comments are offered in answer to some recent questions asked in regard to the proposed Senate Bill.

- Midwest has consistently reached out to customers of all types, including irrigators, to find ways to help them meet their energy needs. This includes the construction of new distribution facilities (in excess of 200 miles over the past three years) to serve those customers being forced to replace their former gathering or wellhead service.
- Safety is always a concern in any discussion of the construction of new facilities. While the original language was woefully short in this area, most of the suggestions by various parties to amend the language have made improvements in this critical area. This requires continued vigilance on the part of all parties involved.
- Questions have been raised as to the magnitude of, or necessity for, a utility to charge a “transportation” or “delivery” rate for delivering gas to an end user. In general, this “delivery rate” is the same whether customers purchase gas supply from the utility or from third parties. This “delivery rate” compensates the public utility for the installation of facilities, professional operation and maintenance of those facilities, and continued investment in the system it operates. These rates are charged across the system, in most cases, without regard to the exact facilities installed for a particular customer. This helps to keep the costs reasonably low for all customers.

We hope that the Committee finds these additional comments helpful, and stand ready to continue to assist both the Committee and the customers of southwest Kansas in any way we can. While we clearly cannot “be all things to all people” we believe we have consistently worked very hard and constructively to provide reliable and economical service to as many customers as possible.

**SENATE BILL No. 547**

\_\_\_\_\_ By Committee on Utilities

2-8

AN ACT establishing the rural Kansas self-help gas act.

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

Section 1. As used in sections 1 through 5, and amendments thereto, the following words and phrases shall have the following meanings:

- (a) "Certificate" means authority granted to a natural gas public utility to transact business pursuant to chapter 66 of the Kansas Statutes Annotated, and amendments thereto, to include any certificated area, territory or exclusive service rights;
- (b) "city limits" means the area within the defined corporate limits of an incorporated city;

(c) “ existing natural gas service utility” means a natural gas public utility that presently owns, operates, maintains and is responsible for an existing gas service line that the natural gas public utility, or its predecessor in interest, constructed from its distribution system to the point of service physically located on the property being served and which is currently being used to provide the property with firm gas service. ~~In no event will it include a public utility that merely owns, operates, maintains or is responsible for a meter or meter station and incidental pipeline connections;~~

(d) “ firm gas service” means the level of gas service which obligates the natural gas public utility to provide their customer with an unlimited supply of gas, available at all times and delivered to the customer’s property without interruption for any reason other than force majeure;

(e) “ gas” means natural gas as the term is commonly understood in the natural gas industry to include the meanings ascribed to the terms “ gas” and “ natural gas” in chapter 66 of the Kansas Statutes Annotated, and amendments thereto;

(f) “gas gathering system” 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.

(fg) “ gas provider” means any person that provides gas, gas transportation, gas supply management or other gas services and any related facilities associated with delivering gas to a rural gas user;

(g) “ gas supply system” means any well, pipeline, plant tailgate, meter or other facility which is a source of gas or which is associated with the transportation, treatment, processing or delivery of gas;

(h) “ person” means an individual, association or other legal entity;

(i) “ public utility” means a natural gas public utility or common carrier as defined in chapter 66 of the Kansas Statutes Annotated, and amendments thereto;

(j) “ rural gas service” means all activities necessary or convenient to procure, manage, transport and deliver gas to a rural gas user; and

(k) “ rural gas user” means any person desiring to use gas on property they own, lease or operate that is located outside city limits, ~~and~~ not presently receiving gas service from an existing gas service utility, and the property is presently being supplied, or in the past has been supplied, with gas from: a gas gathering system, an oil or gas well well head connection, or lead lines connecting a well head to a gas gathering system.

Sec. 2. Any rural gas user who constructs its own pipeline connection to a gas supply system, and any gas provider assisting the rural gas user, shall not be considered a public utility. 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, or their gas provider, in establishing and maintaining the rural gas service provided for by this act.

Sec. 3. When two or more rural gas users 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 users, the NPU, or their gas provider, in establishing and maintaining the rural gas service provided for by this act.

Sec. 4. All facilities provided for in sections 1 through 5, and amendments thereto, will comply with all ~~applicable~~ pipeline safety laws as prescribed by the Kansas Corporation Commission.

Sec. 5. The provisions of sections 1 through 5, and amendments thereto, shall be known as the rural Kansas self-help gas act.

Sec. 6. This act shall take effect and be in force from and after its publication in the statute book.

SB 547 Page 1

- 9. AN ACT establishing the rural Kansas self-help gas act.
- 11. *Be it enacted by the Legislature of the State of Kansas:*
- 121. Section 1. As used in sections 1 through 5, and amendments thereto,
- 13 the following words and phrases shall have the following meanings:
- 14. (a) "Certificate" means authority granted to a public utility to transact
- 15. business pursuant to chapter 66 of the Kansas Statutes Annotated, and
- 16. amendments thereto, to include any certificated area, territory or exclusive
- 17. service rights;
- 18. (b) "city limits" means the area within the defined corporate limits
- 19. of an incorporated city;
- 20. (c) "existing gas service utility" means a public utility that presently
- 21. owns, operates, maintains and is responsible for an existing gas service
- 22. line that the public utility, or its predecessor in interest, constructed from
- 23. its distribution system to the point of service physically located on the
- 24. property being served and which is currently being used to provide the
- 25. property with firm gas service. In no event will it include a public utility
- 26. that merely owns, operates, maintains or is responsible for a meter or
- 27. meter station and incidental pipeline connections;
- 28. (d) "firm gas service" means the level of gas service which obligates
- 29. the public utility to provide their customer with an unlimited supply of
- 30. gas, available at all times and delivered to the customer's property without
- 31. interruption for any reason other than force majeure;
- 32. (e) "gas" means natural gas as the term is commonly understood in
- 33. the natural gas industry to include the meanings ascribed to the terms
- 34. "gas" and "natural gas" in chapter 66 of the Kansas Statutes Annotated,
- 35. and amendments thereto;
- 36. (f) "gas provider" means any person that provides gas, gas transportation,
- 37. gas supply management or other gas services and any related facilities
- 38. associated with delivering gas to a rural gas user;
- 39. (g) "gas supply system" means any well, pipeline, plant tailgate, meter
- 40. or other facility which is a source of gas or which is associated with the
- 41. transportation, treatment, processing or delivery of gas;
- 42. (h) "person" means an individual, association or other legal entity;
- 43. (i) "public utility" means a public utility or common carrier as defined

SB 547: Proposed Amendments Page 1

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- 121. Section 1. As used in sections 1 through 5, and amendments thereto,
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- 14. (a) "Certificate" means authority granted to a natural gas public utility to transact
- 15. business pursuant to chapter 66 of the Kansas Statutes Annotated, and
- 16. amendments thereto, to include any certificated area, territory or exclusive
- 17. service rights;
- 18. (b) "city limits" means the area within the defined corporate limits
- 19. of an incorporated city;
- 20. (c) "existing gas service utility" means a natural gas public utility that presently
- 21. owns, operates, maintains and is responsible for an existing gas service
- 22. line that the natural gas public utility, or its predecessor in interest, constructed from
- 23. its distribution system to the point of service physically located on the
- 24. property being served and which is currently being used to provide the
- 25. ~~property with firm gas service.~~ In no event will it include a natural gas public utility
- 26. that merely owns, operates, maintains or is responsible for a meter or
- 27. meter station and incidental pipeline connections;
- 28. (d) "firm gas service" means the level of gas service which obligates
- 29. the natural gas public utility, unless otherwise agreed between the natural gas public
- 30. utility and the customer, to provide their customer with an unlimited supply of
- 31. gas, available at all times and delivered to the customer's property without
- interruption for any reason other than force majeure;
- 43. (i) "public utility" means a natural gas public utility or common carrier as defined



- 1. in chapter 66 of the Kansas Statutes Annotated, and amendments thereto;
- 2. (j) "rural gas service" means all activities necessary or convenient to
- 3. procure, manage, transport and deliver gas to a rural gas user; and
- 4. (k) "rural gas user" means any person desiring to use gas on property
- 5. they own, lease or operate that is located outside city limits and not presently
- 6. receiving gas service from an existing gas service utility.
- 7. Sec. 2. Any rural gas user who constructs its own pipeline connection
- 8. to a gas supply system, and any gas provider assisting the rural gas user,
- 9. shall not be considered a public utility. If the rural gas service is provided
- 10. within an area where a public utility holds a certificate, the existence of
- 11. such public utility and its certificate will not in any way limit the rural gas
- 12. user, or their gas provider, in establishing and maintaining the rural gas
- 13. service provided for by this act.

- 14. Sec. 3. When two or more rural gas users combine pursuant to
- 15. K.S.A. 66-104c, and amendments thereto, to operate as a nonprofit public
- 16. utility (NPU), if the rural gas service is provided within an area where a
- 17. public utility holds a certificate, the existence of such public utility and
- 18. its certificate will not in any way limit the rural gas users, the NPU, or
- 19. their gas provider, in establishing and maintaining the rural gas service
- 20. provided for by this act.
- 21. Sec. 4. All facilities provided for in sections 1 through 5, and amendments
- 22. thereto, will comply with all applicable pipeline safety laws.
- 23. Sec. 5. The provisions of sections 1 through 5, and amendments
- 24. thereto, shall be known as the rural Kansas self-help gas act.
- 25. Sec. 6. This act shall take effect and be in force from and after its
- 26. publication in the statute book.

5-2

- 4. (k) "rural gas user" means any person currently using natural gas from a wellhead or gathering facility for agricultural purposes ~~desiring to use gas~~ on property
- 5. they own, lease or operate that is located outside city limits and not presently
- 6. receiving gas service from an existing gas service utility.
- 7. Sec. 2. Any rural gas user who desires to constructs its own pipeline connection
- 8. to a gas supply system, and any gas provider assisting the rural gas user,
- 9. shall not be considered a public utility. If the rural gas service is provided
- 10. within an area where a public utility holds a certificate, the rural gas user or its gas provider shall first
- notify the existing gas service utility of their intent to provide a rural gas service. ~~the existence of~~
- 11. ~~such public utility and its certificate will not in any way limit the rural gas~~
- 12. ~~user, or their gas provider, in establishing and maintaining the rural gas~~
- 13. ~~service provided for by this act.~~

Sec. 3. (a) When notified pursuant to Sec. 2, an existing gas service utility shall have 30 days to develop plans and propose an offer to the potential rural gas user for providing rural gas service. The proposed plan shall include plans for installing facilities, price of natural gas, and projected completion date.

(b) Failure of the existing gas service utility to propose an offer or complete the project by the projected completion date pursuant to Sec. 3(a), unless otherwise agreed to by the rural gas user and the existing gas service utility, shall cause the existing gas service utility to waive its exclusive right to serve the rural user.

(c) If the potential rural gas user does not accept the offer presented by the existing gas service utility, the existing gas service utility shall release the rural gas user from the certificated area or may request from the state corporation commission a determination to approve the utility's plan or allow the rural gas user to use a different public utility or gas provider to provide rural gas service.

(d) Upon request for determination described in paragraph (c) of this section and upon receipt of the proposed plans from the existing gas service utility and from the rural gas user or their provider, the state corporation commission shall have 30 days to complete such determination. The state corporation commission may suspend its determination for an additional 60 days for sufficient cause.

- 14. Sec. ~~3~~ 4.
- 21. Sec. ~~4~~ 5.
- 23. Sec. ~~5~~ 6. The provisions of sections 1 through ~~5~~ 6, and amendments
- 25. Sec. ~~6~~ 7.