

MINUTES OF THE SENATE UTILITIES COMMITTEE

The meeting was called to order by Chairman Stan Clark at 9:30 a.m. on January 15, 2004 in Room 526-S of the Capitol.

All members were present except:

Senator Jim Barone- excused
Senator Karin Brownlee- excused

Committee staff present:

Bruce Kinzie, Revisor of Statutes
Emalene Correll, Legislative Research
Ann McMorris, Secretary

Conferees appearing before the committee:

Tom Day, Kansas Corporation Commission
John Cita, Chief Economist, Kansas Corporation Commission

Others attending:

See Attached List.

Thomas Day, Legislative Liaison, Kansas Corporation Commission, presented the KCC request to introduce the following legislation: (1) Amend KSA 66-138 and 66-177 and (2) New statutory language for affiliated interests of jurisdictional utilities. (Attachment 1)

Bruce Kinzie, Revisor of Statutes Office, had prepared a draft of the proposed statute changes and reviewed this paper with the committee. (Attachment 2)

Moved by Senator Emler, seconded by Senator Lee, the proposed legislation be introduced. Motion carried.

Price of Natural Gas - History and Forecast

John Cita, chief economist, Kansas Corporation Commission, covered the following topics: (1) a look back on the price of natural gas; (2) current gas prices; (3) a look ahead; (4) gas bill affordability; (5) gas volatility; and (6) gas price hedging. Mr. Cita presented gas prices by year for inflation adjusted prices and average winter prices; for bundled price of gas and forecast future prices. He discussed the affordability of residential gas bills and natural gas price volatility. He explained the purpose of gas hedge programs and the implementation of hedge programs by Kansas gas utilities. He reported the results of some marketing research and how the utilities and KCC have responded. Hedge program performance. Research for several years has shown that consumers have used less natural gas in each household each succeeding year and the reasons (1) consumers are becoming more conservative; (2) more energy efficient household appliances; (3) new houses are built more energy saving. (Attachment 3)

Chairman announced computer training sessions would be held for the committee on Friday, January 16 and Tuesday, January 20. The next meeting of the committee is scheduled for January 21.

Adjournment.

Respectfully submitted,

Ann McMorris, Secretary

Attachments - 3

SENATE UTILITIES COMMITTEE GUEST LIST

DATE: **January 15, 2004**

Name	Representing
Andy Shaw	SWKIA
TOM DAY	KCC
Whitney Damron	KS Gas Service
Steve Johnson	KS Gas Service
Julie Hill	Horn Law Firm
Tom Brown	EXOGA
J Long	AQUILA, INC.
BOB ANDERSON	ATMOS ENERGY
Paul Johnson	PACK
Ed Cross	Ks Independent Oil & Gas Assoc.
John Lita	KCC

KANSAS

CORPORATION COMMISSION

KATHLEEN SEBELIUS, GOVERNOR

BRIAN J. MOLINE, CHAIR

JOHN WINE, COMMISSIONER

ROBERT E. KREHBIEL, COMMISSIONER

January 14, 2004

Honorable Stan Clark, Chairman
Senate Utilities Committee
Statehouse, Room 449-N
Topeka, Kansas 66612

Dear Senator Clark:

The Kansas Corporation Commission would respectfully request the Senate Utilities Committee to introduce the following legislation.

Attached please find the proposed statutory amendments to the motor carrier statutes.

- **Amend KSA 66-138 and 66-177** (Common carriers, public utilities; penalties for violation of law; disposition; enforcement.)
- **New Statutory Language for Affiliated Interests of Jurisdictional Utilities** (Clarifying the authority of the Commission regarding subsidization of non-regulated affiliates with funds of the regulated entities.)

The Corporation Commission respectfully seeks introduction of the bills through the Senate Utilities Committee. Should you have questions, please feel free to call me at 271-3190.

Thank You,

/s/

Thomas A. Day
Legislative Liaison

Senate Utilities Committee
January 15, 2004
Attachment 1-1

Statutory Amendments and New Language

Amend KSA 66-138 and 66-177 (Common carriers, public utilities; penalties for violation of law; disposition; enforcement.)

66-138. Common carriers, public utilities; penalties for violation of law; disposition; enforcement. (a) If any common carrier or public utility governed by the provisions of this act violates any of the provisions of this act, or shall do any act herein prohibited, or fails or refuses to perform any duty enjoined upon it in this act, or fails, neglects or refuses to obey any lawful requirement or order made by the commission, or any final judgment or decree made by any court upon appeal from any order of the commission, it shall, for every such violation, failure or refusal, forfeit and pay to the state treasurer a sum not less than \$100 and not more than ~~\$1,000~~\$20,000 for such offense. Upon receipt of any such sum, the state treasurer shall credit the entire amount thereof to the public service regulation fund or the motor carrier license fee fund, as the case requires.

Such forfeiture shall be enforced and collected by the attorney general in any court of competent jurisdiction. The attorney general may appoint a corporation commission attorney as a special assistant attorney general for the purposes of enforcing and collecting any forfeiture contemplated herein. In construing and enforcing the provisions of this act, any act, omission or failure of any officer, agent or other person acting for or employed by any such public utility or common carrier, while acting within the scope of such person's employment, shall in every case be deemed to be the act, omission or failure of such public utility or common carrier and every day during which any such public utility or common carrier or officer, agent or employee thereof, fails to comply with any order or direction of the commission, or to perform any duty required or enjoined by this act, shall constitute a separate and distinct violation of the provisions of this act.

(b) The provisions of subsection (a), shall not apply to any motor carrier.

66-177. Public utilities, common carriers; penalties for violation of law. (a) Any public utility or common carrier willfully violating or evading any of the provisions of law for the regulation of such public utility or common carrier not otherwise specifically provided for shall, for each offense, forfeit and pay a penalty of not less than \$100 nor more than ~~\$5,000~~\$20,000. All penalties provided for herein shall be recovered by a civil action, to be instituted and prosecuted in the name of the state, by the county attorney of the county in which the offense has been committed, upon the direction of the corporation commission. If upon the trial of the action the jury finds for the plaintiff, the jury shall assess and return with their verdict the amount of the fine to be imposed upon the defendant and the court shall render judgment accordingly. All such penalties recovered shall be paid to the state treasurer pursuant to K.S.A. 20-2801, and amendments thereto, and the corporation commission may require the attorney general to assist such county attorney in the prosecution of such action. No bond for costs shall be required of the state in any such action.

(b) The provisions of subsection (a), shall not apply to any motor carrier.

New Statutory Language for Affiliated Interests of Jurisdictional Utilities (Clarifying the authority of the Commission regarding subsidization of non-regulated affiliates with funds of the regulated entities.)

Public Utility Affiliates Act

(a) The commission shall ensure that public utilities do not use regulated operations to subsidize non-regulated activities of the utility or to subsidize activities of an affiliated entity. The commission shall ensure that the non-regulated activities of a public utility or affiliated entity do not materially impair the finances or credit of public utilities. The commission shall have full power and authority to adopt all reasonable and necessary rules, regulations and orders for carrying out this statute.

(1) As used in this article, “affiliate” or “affiliated entity” means any person, including an individual, corporation, firm, partnership, limited liability partnership, limited liability company, corporation or firm, corporate entity or subsidiary, and non-utility business unit which is not a public utility and which directly or indirectly, through one or more intermediaries, is controlled by or is under common control with a public utility.

(2) “Control” (including the terms “controlled by” and “common control”) means the direct or indirect possession of the power to direct or the ability to cause the direction of the management or policies of an entity. Control may exist whether the power to direct or ability to cause the direction is exercised alone, through one or more intermediary entities or in conjunction with or pursuant to an agreement with one or more other entities. Control may be exercised through a majority or minority ownership or voting of securities, common directors, officers or stockholders, voting trusts, holding trusts, affiliated entities, contract or any other direct or indirect means. The beneficial ownership of 10% or more of voting securities or partnership interest of an entity constitutes control for purposes of this article.

(3) “Non-utility activity” means all business activities, whether performed by the public utility or an affiliate, not involving the utility business for which the public utility is certificated.

(4) “Non-utility business unit” is any division, business unit, employee or group of employees of a public utility conducting a non-utility activity.

SENATE BILL NO. _____

By Committee on Utilities

AN ACT relating to the state corporation commission; concerning certain penalties; amending K.S.A. 66-138 and 66-177 and repealing the existing sections.

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

Section 1. K.S.A. 66-138 is hereby amended to read as follows: 66-138. (a) If any common carrier or public utility governed by the provisions of this act violates any of the provisions of this act, or shall do any act herein prohibited, or fails or refuses to perform any duty enjoined upon it in this act, or fails, neglects or refuses to obey any lawful requirement or order made by the commission, or any final judgment or decree made by any court upon appeal from any order of the commission, it shall, for every such violation, failure or refusal, forfeit and pay to the state treasurer a sum not less than \$100 and not more than ~~\$1,000~~ \$20,000 for such offense. Upon receipt of any such sum, the state treasurer shall credit the entire amount thereof to the public service regulation fund or the motor carrier license fee fund, as the case requires.

Such forfeiture shall be enforced and collected by the attorney general in any court of competent jurisdiction. The attorney general may appoint a corporation commission attorney as a special assistant attorney general for the purposes of enforcing and collecting any forfeiture contemplated herein. In construing and enforcing the provisions of this act, any act, omission or failure of any officer, agent or other person acting for or employed by any such public utility or common carrier, while acting within the scope of such person's employment, shall in every case be deemed to be the act, omission or failure of such public utility or common carrier and every day during which any such public utility or common carrier or officer, agent or employee thereof, fails to comply with any order or direction of the commission, or to perform any duty required or enjoined by this act, shall constitute a separate and distinct violation of the provisions of this act.

Senate Utilities Committee
January 15, 2004
Attachment 2-1

(b) The provisions of subsection (a), shall not apply to any motor carrier.

Sec. 2. K.S.A. 66-177 is hereby amended to read as follows: 66-177. (a) Any public utility or common carrier willfully violating or evading any of the provisions of law for the regulation of such public utility or common carrier not otherwise specifically provided for shall, for each offense, forfeit and pay a penalty of not less than \$100 nor more than ~~\$5,000~~ \$20,000. All penalties provided for herein shall be recovered by a civil action, to be instituted and prosecuted in the name of the state, by the county attorney of the county in which the offense has been committed, upon the direction of the corporation commission. If upon the trial of the action the jury finds for the plaintiff, the jury shall assess and return with their verdict the amount of the fine to be imposed upon the defendant and the court shall render judgment accordingly. All such penalties recovered shall be paid to the state treasurer pursuant to K.S.A. 20-2801, and amendments thereto, and the corporation commission may require the attorney general to assist such county attorney in the prosecution of such action. No bond for costs shall be required of the state in any such action.

(b) The provisions of subsection (a), shall not apply to any motor carrier.

Sec. 3. K.S.A. 66-138 and 66-177 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

Price of Natural Gas

History and Forecast

Senate Utilities Committee
January 15, 2004
Attachment 3-1



1/14/2004

John Cita, Chief Economist, Ph.D Kansas Corporation Commission



Introduction

an Overview of Some Current
Natural Gas Pricing Process

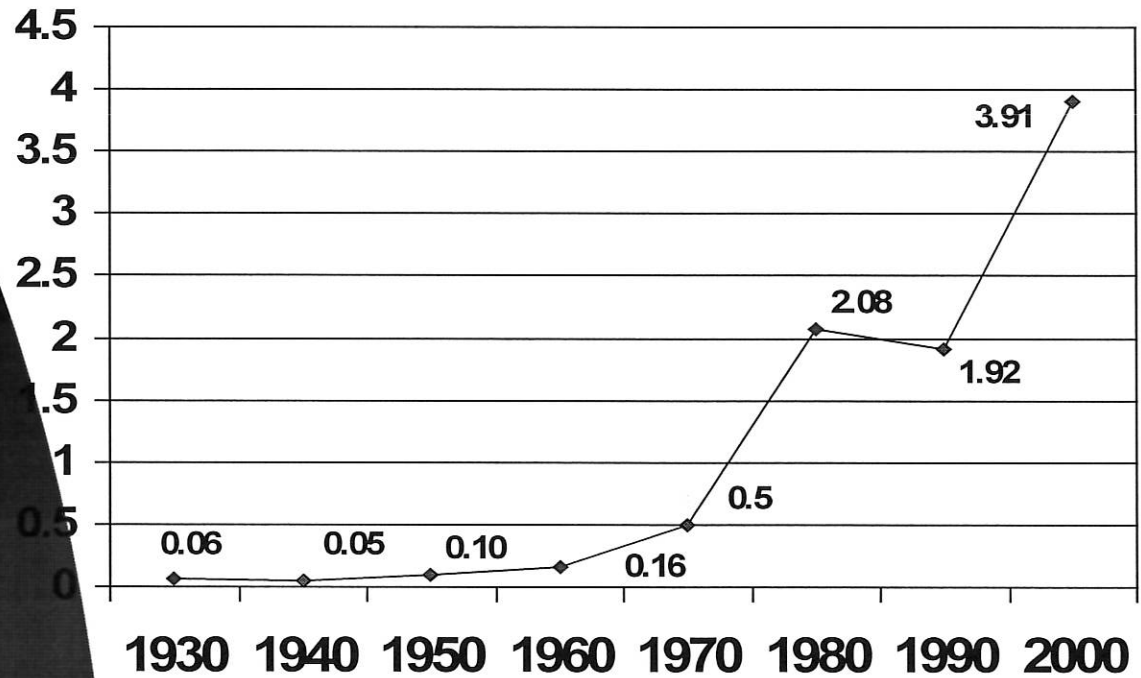


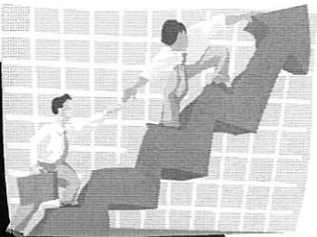
Topics of Discussion

- A Look Back
- Current Gas Prices
- A look Ahead
- Gas Bill Affordability
- Price Volatility
- Gas Price Hedging

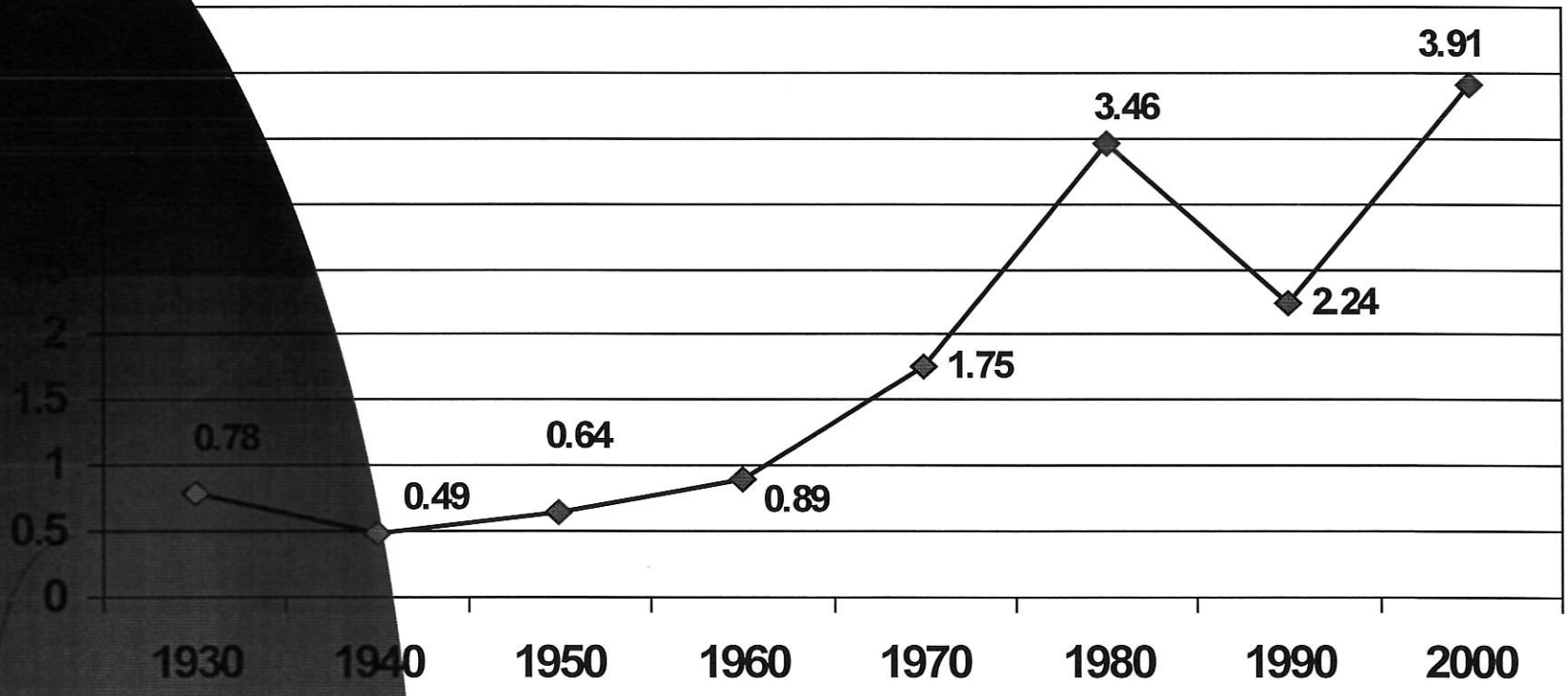


Price of Natural Gas: A Historical View (Nominal Prices per Mcf)





Price of Natural Gas (Inflation Adjusted Prices)

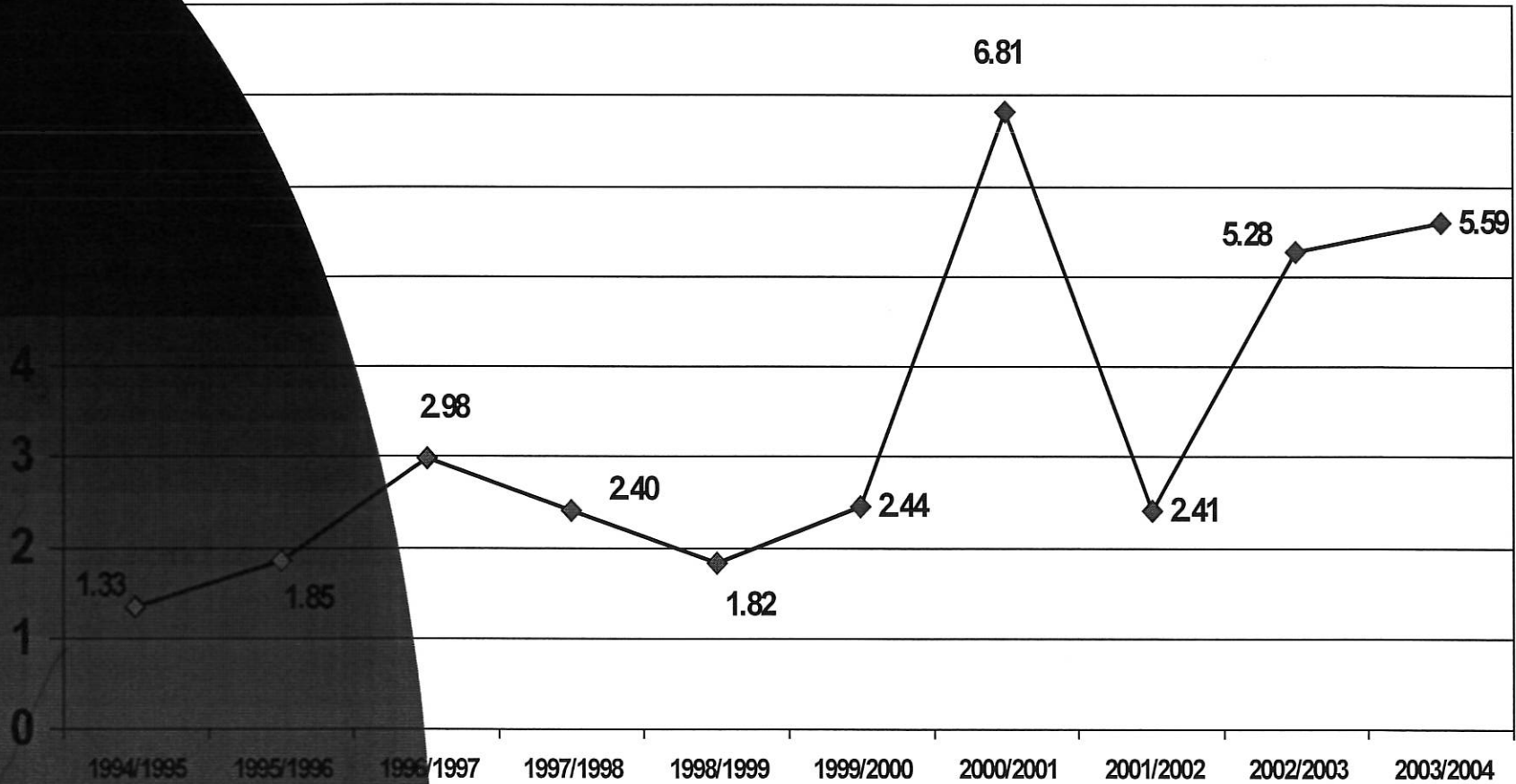


1/14/2004

Source: EIA, CPI Index

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Average Winter Prices: Mid-Continent Gas (Nominal Prices)



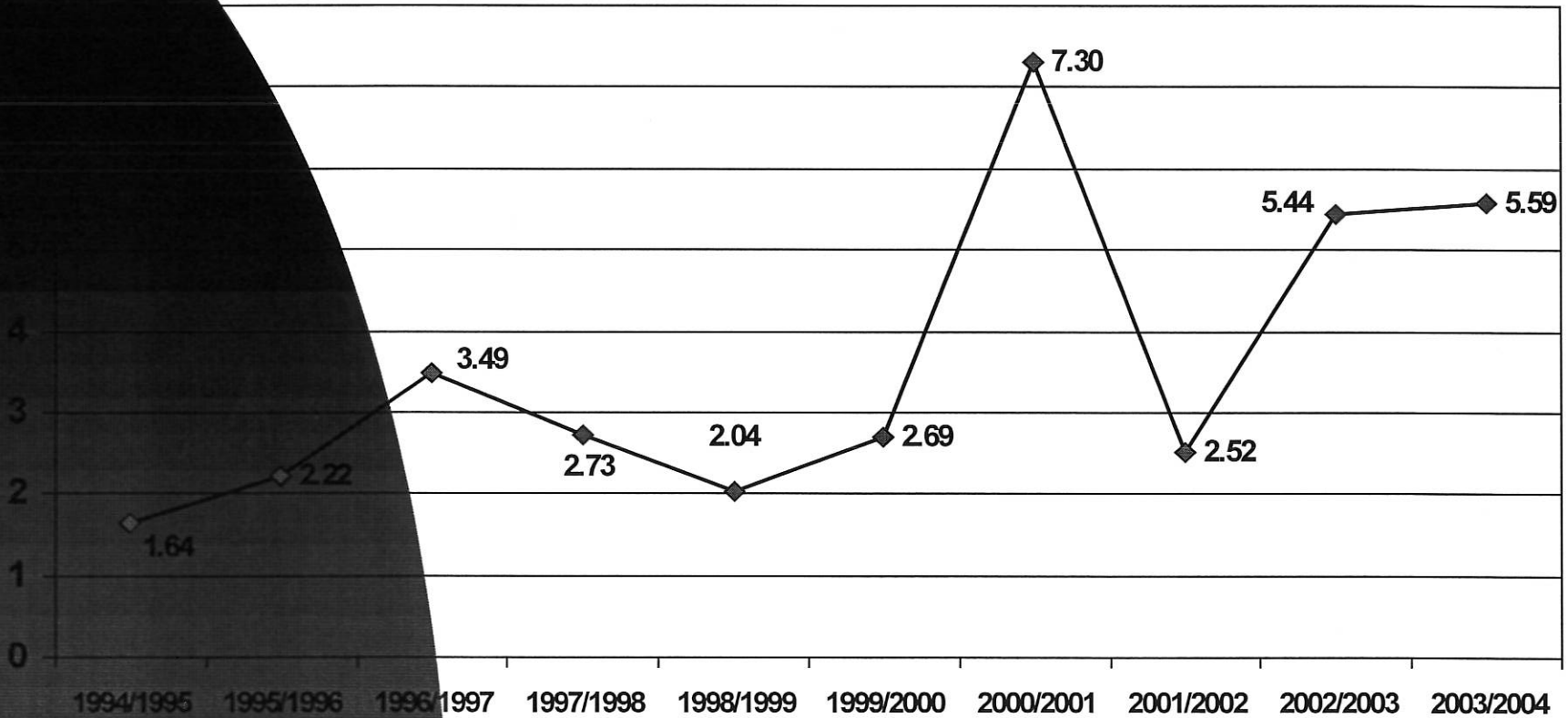
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Source: Inside FERC's Gas Market Report

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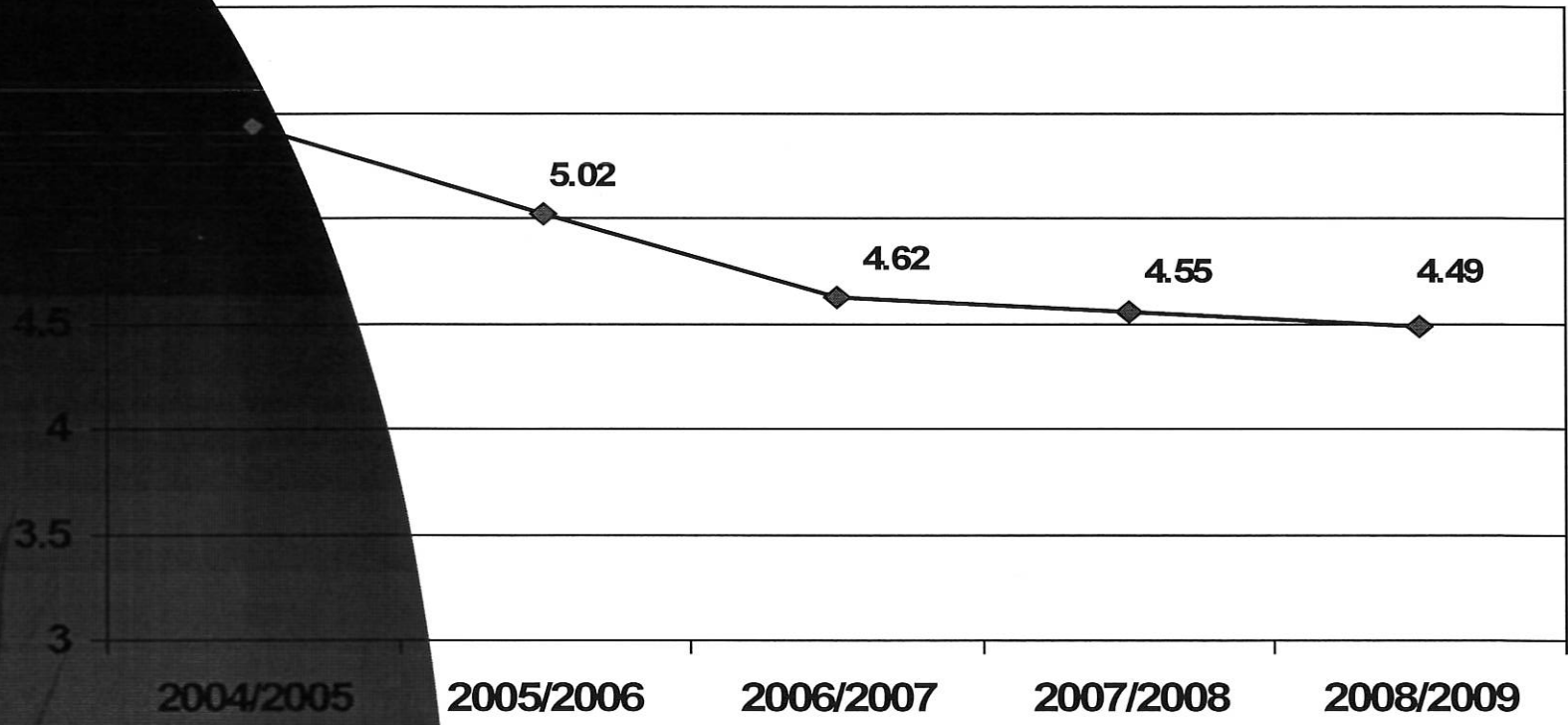
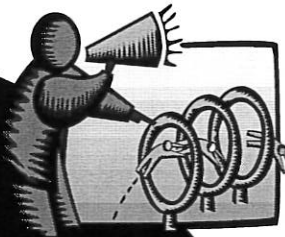
Average Winter Prices: Mid-Continent Gas (Inflation Adjusted Prices)



1/14/2004

Source: Inside FERC's Gas Market Report

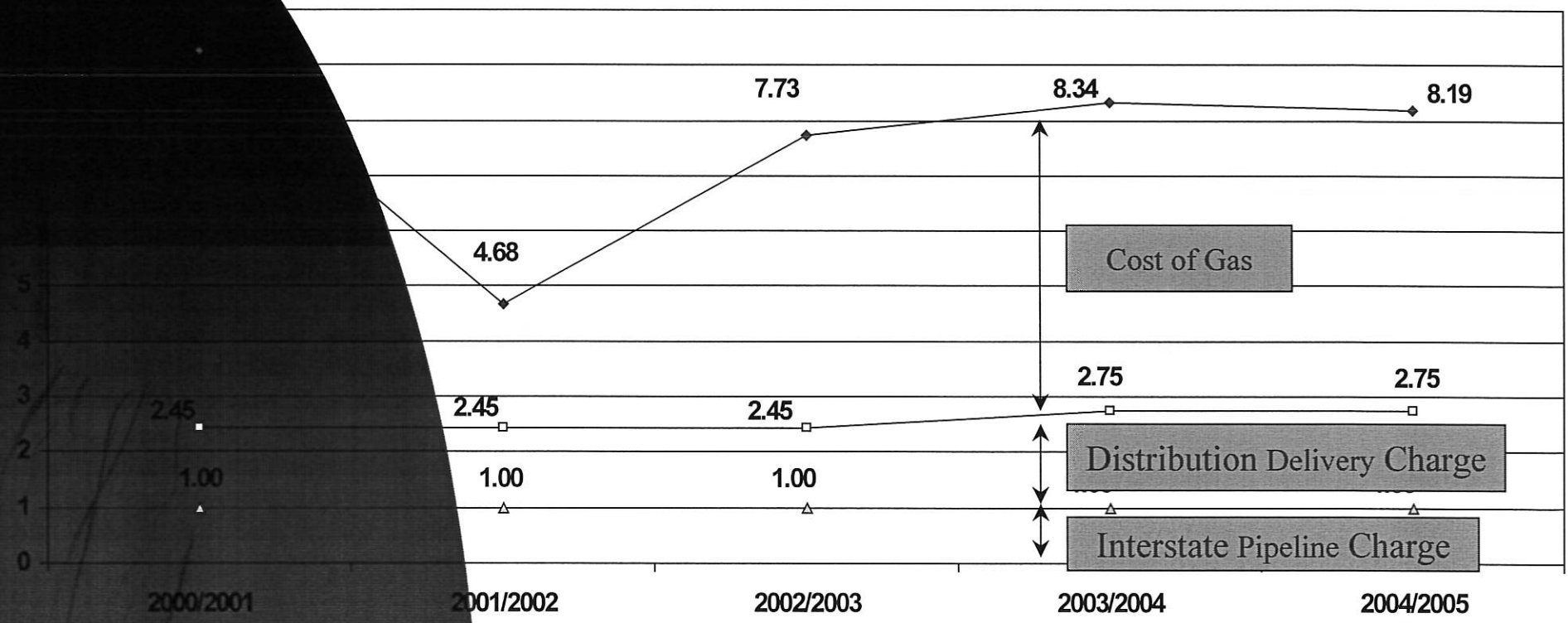
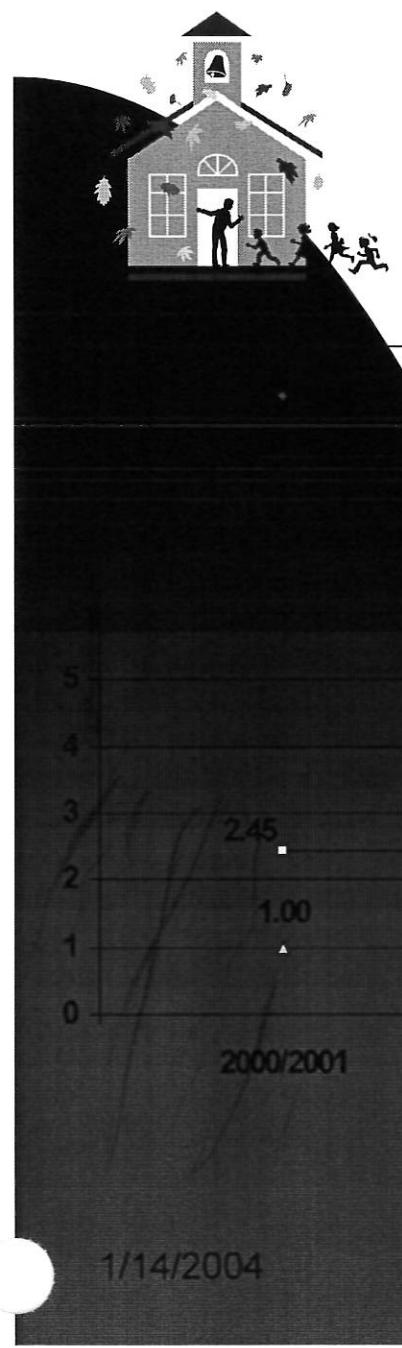
Winter Gas Price Forecast: Average Mid-Continent Prices (Based on Futures Prices at January 9, 2004 Close)



1/14/2004

Source: MYMEX

The Bundled Price of Gas/Mcf: Winter Average Delivered Price to Residential Customer (Based on KGS estimated charges, Non-hedged)

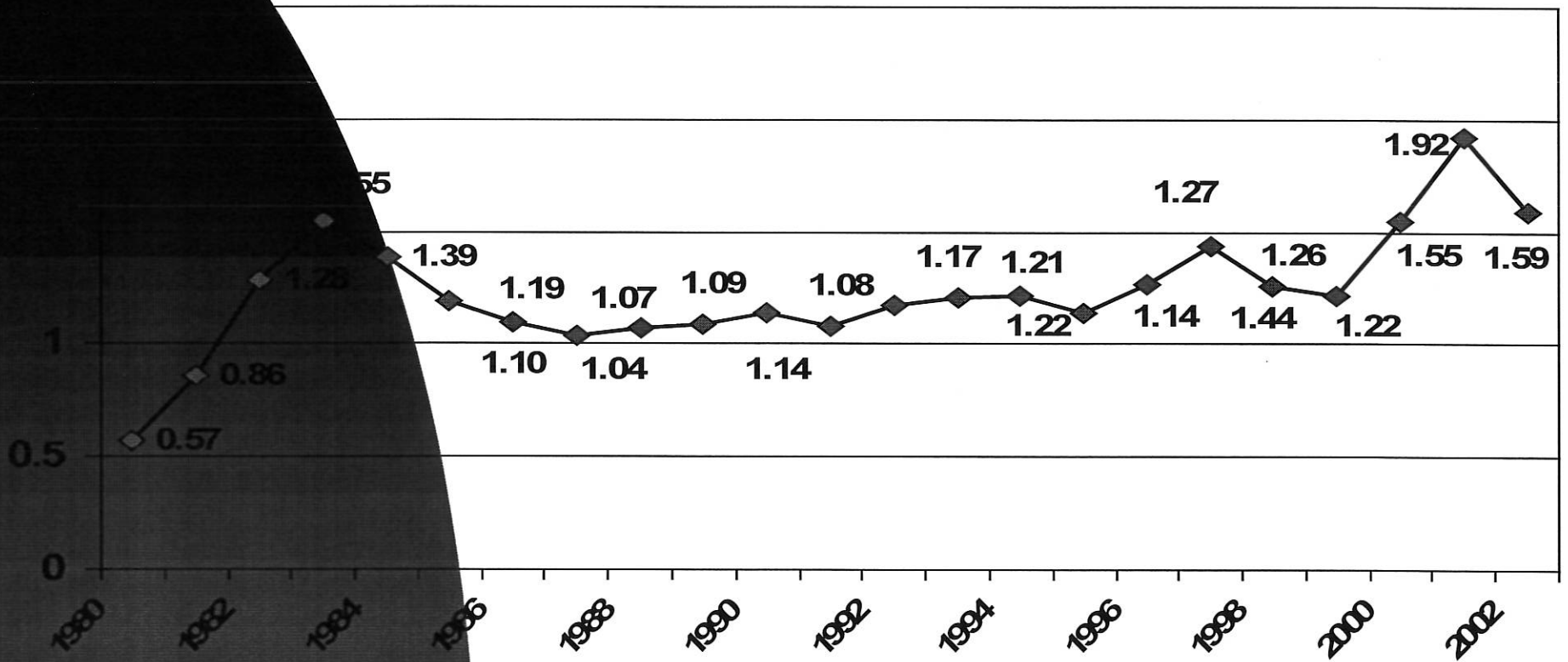


1/14/2004

Source: Inside FERC's Gas Market Report

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Affordability of Residential Gas Bills (Average Annual Gas Bill / Average Household Income)

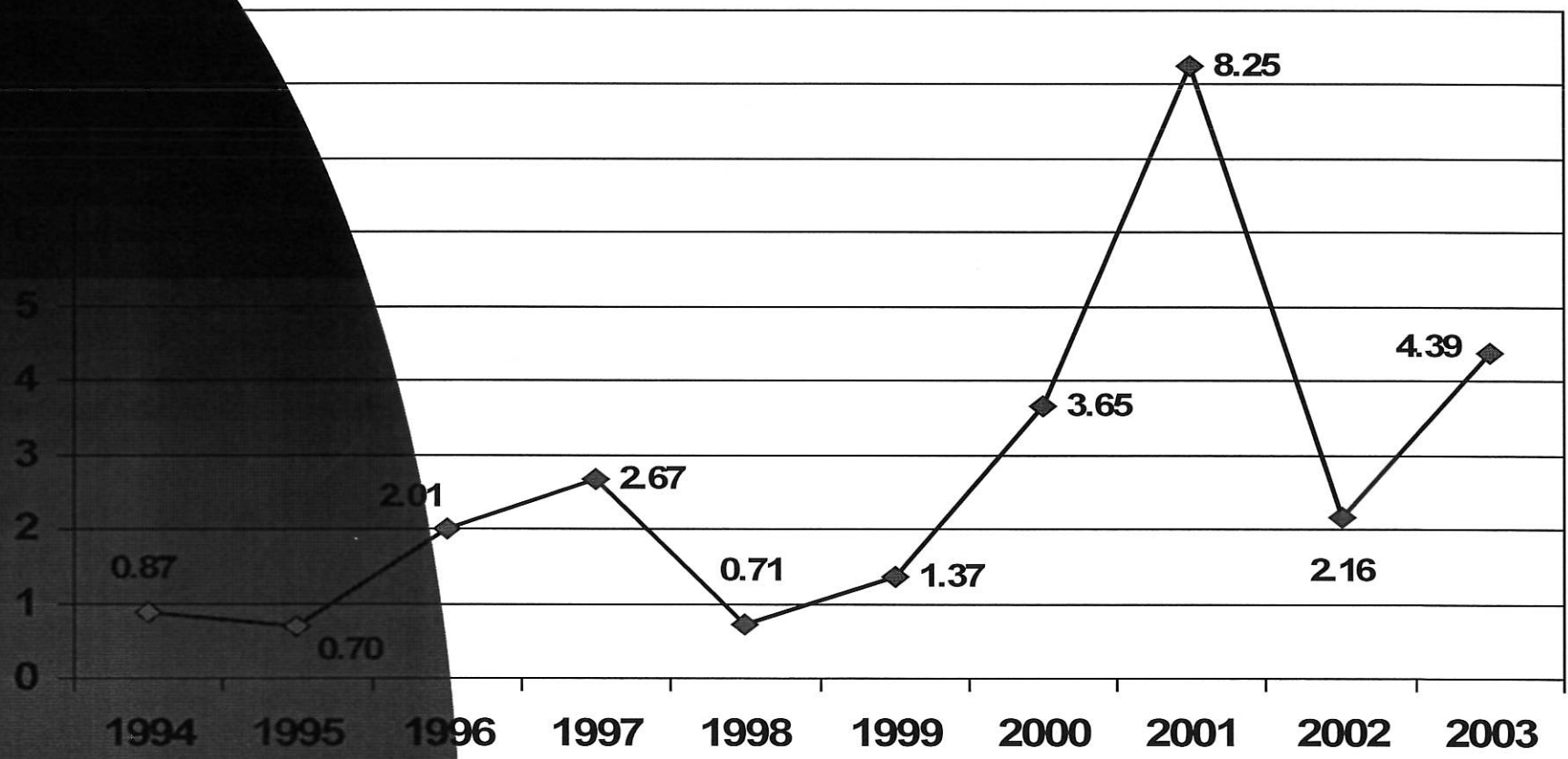


1/14/2004

Source: Available from KCC Staff



Natural Gas Price Volatility (Measured: High minus Low Price over Calendar Year, Normal Price Range)





Gas Hedge Programs

What does it mean to hedge?

A hedger seeks to shed or reduce risk exposure

A speculator seeks to increase or take-on risk.

- In the context of natural gas consumers, what does it mean to hedge?
 - It means reducing gas price volatility. Using our measure of risk, it means reducing the possible range of prices.



Kansas Gas Utilities that have implemented Hedge Programs

Approved March 1998

- Ameren Energy: Approved April 2001

- Aquila: Approved December 2001

- MWE: Indicates to Staff that it will apply for a Hedge Program fro the 04/05 winter.



Focus Group Results: Some Marketing Research

In the fall of 2001, KGS and Atmos Energy sought to evaluate their customers' attitudes toward natural gas price hedging. Through this marketing research they found:

- Customers want their utility to hedge on their behalf
- Customers understand that hedging is a value-added service and, therefore, costs extra
- Customers are not willing to spend a large amount on hedging, however, appear willing to pay about \$1/month (\$12/year)
- Customers are less concerned about downside risk, more averse to upside risk (have an asymmetric aversion to risk)



How have the Utilities and the Commission responded to the Market Survey Results?

Companies have applied for and the Commission has approved Gas Hedge Program implementation.

Companies must seek Commission approval prior to purchase/arrangement of hedging derivatives.

- Hedge Program budgets are limited to \$12/year per customer
- Hedge Programs are to be designed to establish protection from catastrophic prices, accordingly, the basic designs amount to price-cap-type designs. There are a number of different ways to establish price cap protection.



Hedge Program Performance

Protection from severe price spikes: *price caps* are provided via the Hedge Programs

Example 1: KGS capped 100% of its March 03 purchases at approximately \$3.10. The March 03 market price was \$8.66. All KCC approved Gas Hedge Programs afforded significant protection from the March 03 price spike.



Hedge Program Performance

Price Volatility

Example 2: the December 2003 to January 2004 price volatility: Using the KGS Hedge Program results,

Hedged volatility: \$0.48

Non-hedged volatility: \$1.30



Hedge Program Performance

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Net Savings: About zero in the long run
This is not a money making proposition. Total
Savings from Hedge Programs is expected to
be close to zero in the *long run*. This means, about
half the time the hedge instruments yield a profit,
the other half a loss. It is important to be aware that
money can be expended on financial derivatives
that ultimately yield no payoff.