

MINUTES OF THE SENATE UTILITIES COMMITTEE

The meeting was called to order by Chairman Jay Scott Emler at 9:30 A.M. on March 21, 2005 in Room 526-S of the Capitol.

Committee members absent: Senator Mike Petersen- excused

Committee staff present: Athena Andaya, Kansas Legislative Research Department  
Raney Gilliland, Kansas Legislative Research Department  
Bruce Kinzie, Revisor of Statutes' Office  
Diana Lee, Revisor of Statutes' Office  
Ann McMorris, Committee Secretary

Conferees appearing before the committee:  
Don Low, Kansas Corporation Commission  
David Springe, Citizens' Utility Ratepayer Board

Others in attendance: See attached list

Chairman Emler opened the hearing on:  
**SB 303 - Natural gas service to consumer on gas gathering system, curtailment of service; corporation commission authority.**

Proponents:

Don Low, Kansas Corporation Commission, stated the Commission does support this bill as a desirable confirmation and clarification of the KCC's authority with regard to curtailment of service to end use customers on gathering systems. (Attachment 1)

David Springe, Citizens' Utility Ratepayer Board, suggested two revisions to **SB 303** to address the language in section (c). The suggested language revisions are contained on page 2 of his testimony. (Attachment 2)

After considerable discussion, a change was made in the language proposed by CURB in the first sentence to delete "that there is an immediate health and safety concern" and to insert "for emergency purposes." Language was added to the phrase in the last sentence by adding the word "subsequently" so the language would read "as subsequently determined by the Kansas Corporation Commission". Staff agreed to do some housekeeping on the language in the last sentence.

Written testimony was provided by:  
Kimberly Gencur, AQUILA. (Attachment 3)  
Andy Shaw, Southwest Kansas Irrigation Association (Attachment 4)  
Jeff Sanchet, Hugoton, Kansas (private citizen) (Attachment 5)

Chair closed the hearing on **SB 303**.

Moved by Senator Francisco, seconded by Senator Reitz, amend **SB 303** as suggested by CURB and containing the changes to CURB's amendments which were made during discussion as referenced above. Motion carried.

Moved by Senator Reitz, seconded by Senator Apple, **SB 303** be moved out favorably as amended. Motion carried.

Chair opened for action on bills previously heard.

**H.B. 2279 - Municipal utility services, liens for unpaid charges, exceptions**

Moved by Senator Pyle, seconded by Senator Francisco, pass **HB 2279** out favorably. Motion carried.  
"NO"votes recorded for Senator Lee and Senator Reitz.

CONTINUATION SHEET

MINUTES OF THE Senate Utilities Committee at 9:30 A.M. on March 21, 2005 in Room 526-S of the Capitol.

Approval of Minutes

Moved by Senator Apple, seconded by Senator Taddiken, minutes of the meetings of the Senate Utilities Committee held on March 14, 2005 (3:00 p.m.); March 15, 2005, March 16, 2005, and March 17, 2005. Motion carried.

The Chairman announced the chairpersons for Senate Commerce and House Utilities would be conferencing with representatives of Sprint regarding **SB 120** later this afternoon.

Adjournment.

Respectfully submitted,

Ann McMorris, Secretary

Attachments - 5



# KANSAS

CORPORATION COMMISSION

KATHLEEN SEBELIUS, GOVERNOR  
BRIAN J. MOLINE, CHAIR  
ROBERT E. KREHBIEL, COMMISSIONER  
MICHAEL C. MOFFET, COMMISSIONER

## KCC Testimony on Senate Bill 303 March 21, 2005

I am Don Low, with the Corporation Commission staff. Thank you for the opportunity to testify on this bill.

The Commission does support this bill as a desirable confirmation and clarification of the KCC's authority with regard to curtailment of service to end use customers on gathering systems. It ensures that the Commission could determine the reasonableness of non-contract related curtailments that would adversely affect end users. Also, because these issues affect natural gas service to end use customers, it is appropriate to ensure that the KCC can address these issues under the public utility statutes rather than the gas gathering statutes.

As you know, in recent months certain end users, who obtain gas from gathering systems have been faced with curtailments or proposed curtailments by operators of gathering systems due to safety issues. As a result of the first curtailment in February, the Commission formed a task force to address potential curtailment issues due to hydrogen sulfide (H<sub>2</sub>S) concerns and also problems of low system pressure. The task force consists of representatives of all the affected interests. A summary of the issues that is being addressed by the task force and additional background information is attached. The Commission fully intends to continue to work with that group to arrive at reasonable solutions. However, the Commission's statutory authority to deal with these problems has been an underlying question for the task force.

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**Attachment 1-1**

Despite statutory ambiguity regarding the KCC's jurisdiction to address these issues, the Commission did recently assert authority under K.S.A. 55-1,103, to temporarily prevent service shutoffs to Midwest Energy customers until there could be a hearing on April 11th on H<sub>2</sub>S safety criteria and curtailment practices. As I am sure it is with you, customer safety is of paramount concern to the Commission. However, there is a question whether the proposed curtailments are justified.

The curtailment of service to customers, whether due to safety concerns or low- pressure problems, obviously affects the interests not only of customers but also of the gathering system operator, producers, and affected public utilities. Although the Commission is not anxious to expand its responsibilities, non-contract related curtailment issues are important and significant and the KCC may be best suited to balance those various interests. We think we already have that responsibility but welcome the clarification provided by this bill. It should be noted that the bill would not give the Commission authority over contractual disputes between a system operator and an end-user customer. The Commission certainly does not want to supplant courts in resolving right-of-way or similar contract issues.

Again, thank you for the opportunity to testify on this bill. I will be glad to answer any questions.

## **Study Group on the Impact of H<sub>2</sub>S and Low Pressure in the Hugoton Field**

On February 3rd, Oneok Field Services informed the Commission of potentially toxic concentrations of Hydrogen Sulfide (H<sub>2</sub>S) in its Hugoton Field gas gathering system. They proceeded to notify the Commission and Aquila that immediate termination of gas supply to consumers served from gas gathering pipelines was necessary. The terminations of gas service to consumers connected to gas gathering began on Friday night, February 4.

One week later Commissioner Krehbiel and several staff members met with Sen. Morris, Sen. Emler, Sen. Umbarger, Rep. Holmes, and Rep. Light. Also present were company representatives from Oneok and Aquila. At the direction of Sen. Morris and the other members of the Kansas legislature, the Corporation Commission agreed to facilitate a working group in an effort to define the extent of Hugoton field operational issues that impact the natural gas supply in rural areas of Southwest Kansas.

The first meeting of the working group was held on March 1. The meeting was attended by 66 stakeholders representing legislators, gas gatherers, producers, transmission companies, distribution companies, agriculture and residential consumers, and various state agencies. As information is obtained, it is being placed on the Commission's website at [www.kcc.state.ks.us](http://www.kcc.state.ks.us)

The scope for the working group is to develop a clear technical understanding of the impact that H<sub>2</sub>S has/will have on consumers of unprocessed natural gas within the Hugoton field area and look for alternate means of providing natural gas service to these consumers. During discussion, the scope was expanded to include the impact of low pressure on consumers connected to gas gathering lines.

Because of the complexity and variety of issues that have surfaced regarding this problem, the working group was divided the issues into six teams that will further refine each category and report back to the group as a whole. The categories and teams are as follows:

- Team 1. DATA ACQUISITION
- Team 2. DEFINING THE H<sub>2</sub>S CONTAMINATION
- Team 3. PUBLIC AND EMERGENCY RESPONDERS EDUCATION
- Team 4. COMPANY TERMINATION PRACTICES
- Team 5. ALTERNATE MEANS OF SUPPLYING GAS
- Team 6. HUGOTON FIELD RULES FOR MONITORING H<sub>2</sub>S LEVELS

Over the last two weeks, it has become apparent to Commission Staff that another team is warranted. That team will attempt to categorize the contractual and policy issues that define the relationships between producers, gatherers, consumers, and state regulators.

**Gas Gathering Serving Rural Customers:  
Background Information**

- KCC Staff estimates 3000 consumers are served by gathering lines in the Hugoton Field. The majority of these consumers are irrigation wells.
- Interstate gas transmission companies at one time owned production rights from wells, the gathering system and the interstate pipeline. In the 1970s and 1980s all of this was under FERC jurisdiction.
- In the mid 1990s FERC required interstate transmission lines to divest of all retail customers.
- The interstate companies unbundled the gathering systems and production from the gas transmission lines. At this time, many of the consumer meters were acquired by public utility local distribution companies. The gathering pipelines supplying the meters were sold separately from the end use customer meters.
- In February 2005, Oneok Field Services curtailed its supply of gas to 97 Aquila residential customers.
- In March 2005 Oneok Field Services attempted to curtail the gas suppliers of Midwest Energy regarding supply of gas to 30 residential customers.
- KCC issued an emergency order to stay the termination of gas to the Midwest customers until Oneok Field Services can explain the rationale for the termination and provide evidence demonstrating its necessity.

## Citizens' Utility Ratepayer Board

**Board Members:**

Gene Merry, Chair  
A. W. Dirks, Vice-Chair  
Francis X. Thorne, Member  
Nancy Wilkens, Member  
Carol I. Faucher, Member  
David Springe, Consumer Counsel



**State of Kansas**  
*Kathleen Sebelius, Governor*

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<http://curb.kcc.state.ks.us/>

### SENATE UTILITIES COMMITTEE S.B. 303

Testimony on Behalf of the Citizens' Utility Ratepayer Board  
By David Springe, Consumer Counsel  
March 21, 2005

Chairman Emler and members of the committee:

Thank you for this opportunity to offer testimony on S.B. 303. The Citizens' Utility Ratepayer Board supports this bill for the following reasons:

This bill attempts to address a level of uncertainty regarding the Kansas Corporation Commission's jurisdictional authority over end use customers on gathering systems. Given the current issues in southwest Kansas related to hydrogen sulfide in gas gathering systems, and potential health and safety concerns that come with exposing end use customer to hydrogen sulfide, CURB supports this attempt to clarify and grant jurisdiction to the Kansas Corporation Commission for purposes of regulating and supervising curtailments.

CURB does have two concerns with the bill. First, there is no definition of what constitutes an "emergency" in section (c) for shut off purposes. While CURB does not have the expertise to suggest what threshold level of hydrogen sulfide in natural gas going to a residential or commercial structure would endanger the health of the occupants and therefore constitute an emergency, if the Committee, or another conferee on the bill can address this, CURB believes that adding a threshold level of what constitutes an emergency might be useful.

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Second, the language in section (c) seems to indicate that notice must be given to each “end use customer” “prior” to the actual curtailment. In an “emergency” situation “notice shall be provided not less than 24 hours before curtailment”. CURB is concerned that for a residential end use customer, requiring that notice be given 24-hours before a shutoff can occur may endanger the customer if there is in fact hydrogen sulfide in the gas going into the residence. While these unexpected curtailments certainly inconvenience and anger the customer, given the magnitude of the health and safety concern with hydrogen sulfide, CURB believes that residential customers should be shut off immediately if there is any chance that the health and safety of the customer is in jeopardy.

CURB suggest the following language revisions to address this issue:

- Change “not less than” to “within”. (Line 36)
- Add “If the end use customer is a residential dwelling, service to the dwelling may be curtailed immediately upon a good faith belief by the person seeking the curtailment that there is an immediate health and safety concern. The person seeking curtailment under this provision shall, within 24 hours, report to the Kansas Corporation Commission the basis for, and evidence supporting the good faith belief that curtailment was necessary under the emergency provisions of this section. In the event that the curtailment of the residential dwelling was unnecessary, as determined by the Kansas Corporation Commission, the person requesting the curtailment shall be held responsible for the cost of the service curtailment, including any reconnection costs and temporary heating costs.”



**Testimony In Support of Senate Bill No. 303  
Senate Utilities Committee  
March 21st, 2005**

*Presented by  
Kimberly Gencur- Director, Government Affairs  
Aquila, Inc.  
Topeka, Kansas*

Good morning Mr. Chairman and members of the committee. Thank you for the opportunity to provide testimony before you this morning. My name is Kimberly Gencur, and I am the Director of Government Affairs for Aquila, Inc.

Aquila provides natural gas service to over 105,000 customers in Kansas, including the communities of Lawrence, Dodge City, Garden City, Liberal, Goodland and parts of Wichita.

As part of our gas operations in Kansas, Aquila provides natural gas supply to more than 2,800 rural customers through gas pipeline facilities including gas gathering lines and interstate pipelines.

Aquila supports the passage of Senate Bill No. 303 to provide the Kansas Corporation Commission with authority to regulate and supervise any curtailment or proposed curtailment of natural gas that results in the loss of service to end-use customers.

Aquila's recent experience in Southwest Kansas points to the need for this legislation. On February 3, 2005, ONEOK, one of Aquila's natural gas suppliers, notified Aquila that: **"effective immediately they will cease delivery of gas and remove from service the Delivery Point Taps..." of 190 customers.**

ONEOK's notice indicated that:

**"This action is being taken because of the continued deterioration of the gas quality that could compromise the safety of Aquila's customers. ONEOK was...unaware of any practical measures that can be taken to correct the gas quality that would permit any further deliveries."**

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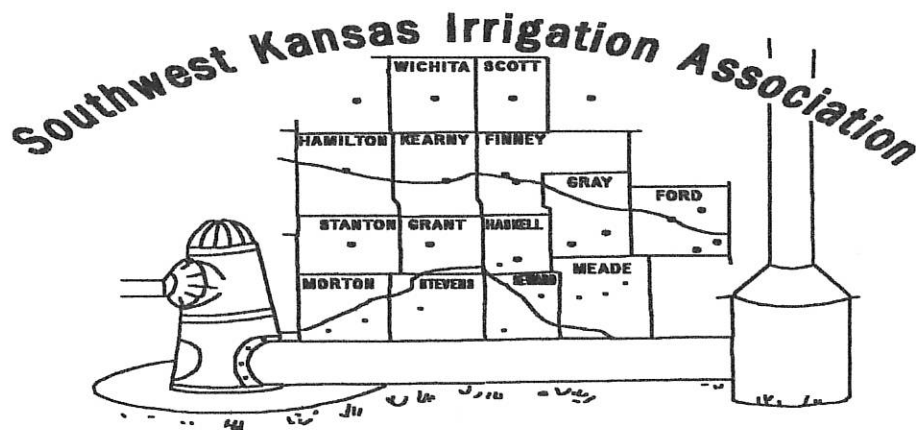
As a result of the abrupt notice of immediate shutoff due to a concern over safety, Aquila was left with no choice but to proceed with shut-off of service – on a Friday night in the beginning of February. Aquila took the necessary steps to ensure the safety of customers, offering lodging assistance and arranging for alternative sources of heat, so that no customer was left in danger of the cold, winter conditions.

Due to the permanent shut off of supplies, Aquila assisted customers with the conversion of heating equipment to an alternative source of energy, such as propane.

On Monday, February 7 ONEOK contacted Aquila and indicated that the problem was much more encompassing than first thought. On Wednesday, February 9, ONEOK indicated that **“based upon further investigation and development of new facts, they intended to cease delivery of gas without undue delay to all residential customers of Aquila along with removal of their delivery point taps. At that time, ONEOK, did however temporarily withdraw notice of discontinuance of gas deliveries to Aquila’s commercial and irrigation customers.**

Clearly, this is a situation that needs attention. Aquila believes it is in the public’s interest and is essential public policy to have an effective set of rules and regulations addressing curtailment of supplies on gas gathering systems. Senate Bill No. 303 will provide the KCC with appropriate regulatory authority to determine the reasonableness of, and regulate and supervise, curtailment of gas service by gas gathering companies. Utilities and customers alike need and deserve the advance notice of service shut-offs that would be provided under this bill, while allowing appropriate action to be taken in the event of emergencies.

Aquila supports this bill and urges your favorable consideration as well. Thank you for the opportunity to provide testimony before you today. We are happy to stand for questions at the appropriate time.



Southwest Kansas Irrigation Association  
922 W Oklahoma  
Ulysses, Ks. 67880  
620-356-3021

RE: Written Testimony provided to the House and Senate Committees on Utilities  
Regarding House Bill 2530 and Senate Bill 303

To: The Honorable Carl Holmes, Chair  
and members of the House Utilities Committee;  
The Honorable Senator Emler, Chair  
and members of the Senate Utilities Committee

From: Kirk Heger  
Board member Southwest Kansas Irrigation Association

Our organization represents approximately 400 irrigators and businesses directly tied to irrigation in Southwest Kansas.

We are testifying in support of House Bill 2530 and Senate Bill 303.

In our opinion the need to take to task the Kansas Corporation Commission, regarding the abandonment of service from the utilities in rural Kansas is long overdue.

As many of you may remember our Association has been very active in supporting legislation with the intent of protecting and serving the energy supply needs in rural Kansas.

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We introduced the gas-gathering bill in 1997 and the Rural Kansas Self-Help Gas Act in 2001 which were enacted into law.

It is our position the KCC has not had clear enough direction from current law to prevent gas gathering companies from allowing H2S gas into the system and then requiring another party to exit the same system because of the same gas.

This practice seems to be unjust, unreasonable, and unjustly discriminatory, towards the consumers, and unduly preferential to the gatherers and the producers as described in KSA 55-1,103 (a) which states:

- (a) Persons offering gas-gathering services in this state, or facilities essential to provision of such services, shall provide, in a manner that is just, reasonable, not unjustly discriminatory and not unduly preferential, access to any person seeking such services or facilities.

It is a clear contradiction to have the utilities ignore their certificated area and certificated customer obligations by effectively abandoning services and yet be able to request a tariff increase from their entire customer base to help pay for termination of services that rural Kansans have been paying for decades.

House bill 2530 and Senate bill 303 are necessary steps in clearing up any confusion regarding the responsibilities of the KCC in such matters. The time has come for the statutes to clearly define the KCC's authority.

Thank you for your attention and prompt action on this matter. I will be happy to answer any questions and can be reached by telephone at:  
620.544.1562

Sincerely,

Kirk Heger  
Southwest Kansas Irrigation Association

4-2

449-N

To: Patti Vanslyke  
Senator Morris

From: Jeff Sarchet  
112 S. Washington  
Hugoton KS 67951  
620 544 2923

Subject: Senate Bill 113

I am very much in support of the bill giving the KCC jurisdiction to investigate and mediate the problem with the gathering lines. The points of interest to me I have listed below:

1. The pipeline easement contract between the pipeline owner and the land owner has no intension of a utility company being imposed between the parties.
2. The actions of the KCC from the beginning of the problem until now have been very inconsistent.
3. It is unfair to the land owner or customers to have no option but to take on a utility company and the pipeline company in court.
4. Does the utility company have the right to charge extra fees to the customer or should the pipeline be paying the "servicing agent".
5. Oneok has shown very little to no evidence that the gas presents a hazard and no other companies operating in the Hugoton Field are taking these widespread drastic abandonment procedures.
6. These companies are abandoning my gas service and then telling me what they will replace in the house and they are not putting me back in the same situation or consideration as ~~far~~ far as the safety or efficiency of my house.

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Attachment 5-1