

MINUTES OF THE SENATE UTILITIES COMMITTEE

The meeting was called to order by Chairman Jay Emler at 9:30 A.M. on March 9, 2006 in Room 526-S of the Capitol.

Committee members absent:

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
Leann Hershfeld, Intern for Sen. Emler

Conferees appearing before the committee:

Steve Rome, president, Southwest Kansas Corn Growers Association
Kirk Heger, Southwest Kansas Irrigation Association
Jere White, Kansas Corn Growers Association
Dick Brewster, BP America, Inc., Oklahoma City, OK
Roger Thorpe, Vice President of Field Services, Oneok, Tulsa

Others in attendance: See attached list.

Chairman opened the hearing on: **SB 576 - Gas gathering facilities, regulation of**

Proponents

Steve Rome, president, Southwest Kansas Corn Growers Association, spoke in favor of **SB 576** as a bill that is fair and simple. It would guarantee that rural users in southwest Kansas would have access to the natural gas in the gathering lines and it provides KCC oversight. (Attachment 1)

Kirk Heger, board member of the Southwest Kansas Irrigation Association, felt that **SB 576** sends a clear message to the KCC, the gatherers, and the producing companies. (Attachment 2)

Jere White, executive director of the Kansas Corn Growers Association, noted the proposed changes would only expand the potential customers and make clear that the KCC has authority to make the final decision when there is a dispute. He also provided a summary of the statutory amendments proposed by **SB 576** as prepared by C. Edward Peterson, of the law firm of Finnegan, Conrad & Peterson in Kansas City. (Attachment 3)

Written testimony was submitted by Erick Nordling, executive secretary, Southwest Kansas Royalty Owners Association. (Attachment 4)

At the conclusion of testimony by proponents, the Chair opened for questions from the Committee. Questions included asking how this affected other forms of energy, if the focus was statewide, and whether there would be new services offered.

Opponents

Dick Brewster, BP America, Inc., Oklahoma City, OK, noted his company wears several hats in Kansas and has a large commitment to Kansas as they continue investment in their Southwest Kansas gas operations. He strongly urged the committee not to approve **SB 576**. (Attachment 5)

Roger Thorpe, Vice President, ONEOK Field Services Company, Tulsa, OK., cited the study being made by a task force for the KCC regarding the transitional issues on gathering gas from depleting natural gas fields. He summarized that **SB 576** will force unnecessary regulation on gas gatherers and will negatively impact the economy of Kansas and have a significant and adverse impact on all of the citizens of the State of Kansas. (Attachment 6)

The committee questioned Mr. Brewster and Mr. Thorpe regarding rules and regulations that are currently in effect on gas gathering and whether there were regulatory responsibilities to any other state.

CONTINUATION SHEET

MINUTES OF THE Senate Utilities Committee at 9:30 A.M. on March 9, 2006 in Room 526-S of the Capitol.

Due to the lack of time to hear the remaining opponents and neutrals, the Chairman announced the hearing on **SB 576** would be continued on Monday, March 13 at the next meeting of the Senate Utilities Committee.

Adjournment.

Respectfully submitted,

Ann McMorris, Secretary

Attachments - 6

SENATE UTILITIES COMMITTEE GUEST LIST

DATE: MARCH 9, 2006

Name	Representing
Leo Hayes	KCC
Matt Touc	KCC
Jon Callen	KIOGA
Jack Glaupe	DEFS
Lon Stanton	NORTHERN NATURAL GAS
Whitney Damm	ONEOK, INC
Steve Johnson	ONEOK
Roger Thorpe	ONEOK
David Crisp	ONEOK
BOB ALDERSON	AQUILA
Kimberly (Innes)	Aquila
Gary (Innes)	Aquila
Rudy Shaw	SWKIA
Kirk Heger	SWKIA
Joe White	KCGA - KESPA
J.P. SMALL	Exxon Mobil



**Testimony for hearing on Senate bill 577⁶
Senate Utilities Committee
March 9, 2006**

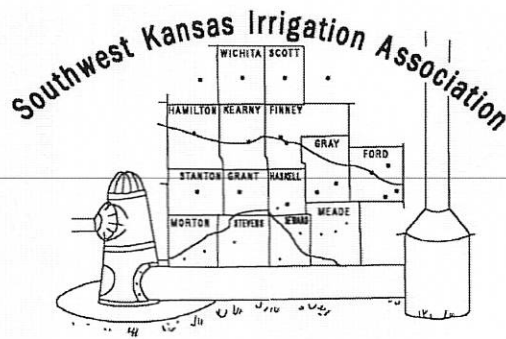
Chairman Emler and committee members, my name is Steve Rome. I farm in southwest Kansas and I serve as president of the Southwest Kansas Corn Growers Association. We sit on top of the Hugoton gas field, which was once one of the largest in the nation. Gas companies came into our communities and onto our farms to build an infrastructure to deliver that gas to its customers in Kansas and in other states. The gas companies set up a system to sell natural gas to local rural customers by tapping into well heads and gathering lines. It made sense at the time, and it makes sense now. What makes many rural natural gas customers in southwest Kansas unique is that they do not have the protections that other natural gas customers in the state have.

Many of the gathering lines have been sold to intrastate gathering companies that transport and process the gas in the state, removing the pipelines from Federal oversight. Gas gathering companies can arbitrarily terminate access to natural gas, and the rural users who lose that access have no representation on the state or national level. This happened last year when gas service to hundreds of residential customers was terminated on a cold winter night. Unfortunately, because these are intrastate gathering lines removed from Federal jurisdiction, there is no oversight at the federal level. If you think that we have recourse to appeal to the Kansas Corporation Commission, please note that the KCC is questioning whether it has jurisdiction in these matters. So right now, our only chance of appealing this is through the legal system. But how are we going to fight a gas company with deep pockets and a team of attorneys? The gas companies are betting that we won't.

Our economy in southwest Kansas runs on natural gas. Homes, business, industries and farms were all designed to operate on natural gas. And we've worked for years to find our own solutions and to find legislative solutions when necessary to our natural gas problems. When gas companies decided it was not profitable to add lines to service rural irrigators in some areas, farmers formed Non-Profit Utilities and spent millions of dollars to build pipeline systems that would allow us to tie in to high pressure gathering lines to move gas to our irrigation engines. Last year, when those residential customers were cut off from natural gas service, we sought protection by passing legislation we thought would address that problem. We also participated in a task force that looked into issues regarding curtailment of service and hydrogen sulfide issues.

We've been before the Kansas legislature before and the legislature passed legislation that they thought addressed these problems. But unfortunately, we are here again to tell you that the problem has not been fixed. This bill is fair and simple. It would guarantee that rural users in southwest Kansas would have access to the natural gas in the gathering lines, and it provides KCC oversight to make sure that rural customers in southwest Kansas have the same protections as natural gas customers in the rest of Kansas.

Senate Utilities Committee
March 9, 2006
Attachment 1-1



**922 W Oklahoma
Ulysses, Ks. 67880
620-356-3021**

**Written Testimony to the Senate Committee on Utilities
Regarding Senate Bill No. 576**

Chairman Emler, members of the committee, my name is Kirk Heger. I am a board member of the 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 Senate Bill 576.

The Hugoton gas field in Southwest Kansas has provided the State of Kansas with a great source of revenue for over 60 years. It also has provided the rural residences and rural businesses a “natural distribution system.” As the field was developed and wells were drilled and produced, those wells had to be connected to a central gathering facility to transport the gas to market. As the right of ways for these pipelines were granted, rural end users of gas were able to obtain access to provide fuel for various endeavors. In most cases a utility was placed between the producer gatherer and the rural end user. Those utilities were allowed certificates to serve these rural end users.

The Hugoton field has been mined over time and we now find ourselves in a precarious position. In a rapidly growing number of cases, the Hugoton field is depleted to the point of inadequate pressure and increasing contaminants, impeding the ability to provide adequate supplies for the rural end user.

As rural end users who have paid tariff rates for certificated service and have also provided for the State’s economy through agricultural production, we feel the KCC has not done enough to protect our interests. We need the same protections other residents of Kansas have. Our situation is only different because our “distribution” system is also a gathering system.

As long as gas is being mined in the Hugoton field and is being removed from our area via gathering lines, rural end users must be allowed access to this vital energy source. Rural end users must be protected from unwarranted abandonment of service.

Senate Utilities Committee
March 9, 2006
Attachment 2-1

This bill will give us at least some measure of security in planning for our future. Rural end users, whether they be homeowners, dairies, ethanol plants, farmers, feedlots, grain elevators, or even in many cases small municipalities, need to be guaranteed access to reliable safe supplies of natural gas, as long as such supplies exist.

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. We introduced the gas-gathering bill in 1997 and the Rural Kansas Self-Help Gas Act in 2001. In the last session of this legislature HB 2530 was passed. All of these bills addressed the fundamental issue of providing protection to rural end users regarding their needs for a reliable safe supply of natural gas. And yet we are here again.

This time let us send a clear message to the KCC, the gatherers, and the producing companies. It is only right to cooperate and plan with the rural end users in Kansas to allow a continual and positive approach in planning for the future of our State.

Thanks for your attention and I will be happy to answer any questions at the appropriate time.



WRITTEN STATEMENT

TO: Senate Utilities Committee
FROM: Jere White, Executive Director
DATE: March 9, 2006
SUBJECT: Senate Bill No. 576

The Kansas Corn Growers Association asked for the introduction of and supports Senate Bill 576. The purpose of the legislation is to extend statutory safeguards to customers who can be served from gathering lines. The proposed changes would only expand the potential customers and makes clear that the KCC has authority to make the final decision when there is a dispute. There is no change to the process or to the rules by which the KCC would act. The KCC has provided 120 years of regulatory service to the citizens of Kansas. According to the KCC website, "The mission of the state corporation commission is to protect the public interest through impartial, and efficient resolution of all jurisdictional issues." Fortunately, that is what we seek with Senate Bill 576.

On October 19, 2005, the KCC initiated a "General Investigation to Determine a Commission Policy Regarding Customers Served Directly or Indirectly by Gas Gathering Systems." I offer a direct quote from that document and ask that you consider the words that I have bold faced:

*Declining pressure in the field poses significant challenges for those consuming gas through exit taps as well as the utilities and gathering system operators that serve them. Declining wellhead pressure poses particularly complicated legal and policy questions due to the differing circumstances in which the service is provided and the ambiguities of the relevant statutes. **This instant proceeding is an attempt to explore the Commission's authority in situations where continuing gas service from gathering systems is in question.***



This bill is simple, although I would anticipate that those in opposition will want you to believe otherwise. It guarantees that rural customers on natural gas gathering lines will be given the same protections as other natural gas customers in the state. And while it does not require natural gas companies to sell gas regardless of circumstance to these rural customers, it does guarantee the opportunity to obtain access to the system.

Southwest Kansas is natural gas country and a complex infrastructure was built to take advantage of the vast Hugoton gas field. This infrastructure carried gas from the field to customers on the interstate market. The gas companies used this same infrastructure to provide natural gas service to thousands of residential and commercial customers in southwest Kansas. Because the gathering system was so large, it didn't make a lot of sense to build a second pipeline system solely to deliver gas to local customers. For years, this system worked well—both the gas companies and the customers benefited. In southwest Kansas, homes, businesses, industry and agriculture were all built to run on natural gas.

More recently, many of those gathering lines have been sold, and are now for use in intrastate gathering and processing. Because they are now in-state facilities, they are no longer under federal jurisdiction. You would assume then that these natural gas facilities would be under state jurisdiction, but unfortunately, in spite of attempts by the Legislature to address this issue, the Kansas Corporation Commission is unsure the role it should play. That leaves the court system for the airing of grievances. Unfortunately, a homeowner or a farmer would be no match for a gas company and its team of attorneys. Gas companies like this system because they like the edge it provides.

The proposed legislation clarifies that the KCC has authority to make final decisions over access to service and termination of service. There is still a tremendous burden placed on any person seeking relief from the KCC, but there is a process established and oversight provided. These decisions would be made in accordance with existing law, rules and regulations. Clarifying the KCC's authorities places the decision-making where it belongs, in an agency with expertise and not in courts where litigation would be expensive and time consuming for all parties.

We could argue that this is an economic issue because it is. But what it really comes down to is people. When you think about the people of Kansas, please remember that the citizens of rural southwest Kansas, who live the closest to the gas supply, should not be treated like second class citizens when it comes to natural gas.

We have no particular pride of authorship in the words before you today. We are here because the evolution of natural gas in Kansas has left us with disenfranchised consumers without protections taken for granted by the rest of us. It really is a simple question. Should the policy of this state hold these people, and those that sell them natural gas, out to a different standard? I hope the committee will agree with us that we shouldn't and recommend SB-576 favorably for passage.

Thank you.

FINNEGAN, CONRAD & PETERSON, L.C.
ATTORNEYS AND COUNSELORS AT LAW

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JEREMIAH FINNEGAN, P.C.
STUART W. CONRAD
C. EDWARD PETERSON*

*ALSO ADMITTED IN
KANSAS AND MASSACHUSETTS

March 8, 2006

Via Email and Facsimile

Jere White
Kansas Cornrowers Association
1 Easy Street
Garnett, Kansas 66032

Re: Kansas Senate Bill 576

Dear Mr. White:

You have requested a summary of the statutory amendments proposed by Senate Bill 576. The bill attempts to clarify the authority of the Kansas Corporation Commission over service connections and abandonments for service to individual customers from gas gathering lines. The bill was necessitated by the position of the Corporation Commission that it did not have authority to consider issues related to the attachment or abandonment of service from certain gas gathering lines. Senate Bill 576 seeks to close a loophole which, if uncorrected, would result in unequal treatment of those who may be served from gas gathering lines. Senate Bill 576 could result in greater utilization of gathering lines and a more economical use of Kansas resources.

The approach taken to clarify this authority is amendment of Chapter 55, Sections 1,101 *et seq.*, which cover the Corporation Commission's authority over gas gathering services. Those sections provide the Corporation Commission can resolve disputes over the terms and conditions of "gas gathering service" through essentially a complaint process. (See K.S.A. 55-1,104.) Senate Bill 576 merely amends those sections to include parties who operate "gathering facilities" as entities who are subject to current requirements. This change should make it clear that the Corporation Commission has authority to resolve problems associated with retail service directly from gathering lines, regardless of the nature of ownership and operation of the gathering lines. Senate Bill 576 would not eliminate the exemption for gathering lines that are not held out for hire and that do not purchase gas for resale. (See K.S.A. 55-1,101(1)(A) and (B).)

The changes proposed in Senate Bill 576 simply expand the definition of gathering lines that are subject to the jurisdiction of the Corporation Commission. The bill merely provides that where customers and gathering line operators are unable to come to agreement on hook-ups, terms of service, and abandonment, then the customer may seek final determination through a complaint at the Corporation Commission. There are no changes to the procedural aspects of current law; indeed a cursory review of Senate Bill 576 reveals that most of the changes to Sections 1,101 through 1,109 merely add the term "gas gathering facilities" to existing law. The value of this approach is to place the decision in the hands of an agency with expertise rather than subject the parties to the cost of litigation in the courts. As with any complaint proceeding, the burden will rest with the complaining party, i.e., the customer, to prove the requested relief is justified. Once again, these are the standards and provisions contained in existing law; only the definition of the parties who are subject to the terms has been expanded.

Care was taken in drafting the bill to avoid adding additional obligations upon those who provide gathering services. Senate Bill 576 does not create an obligation to serve; it does provide customers with a opportunity to obtain a regulatory decision where the customer and gathering line operator cannot reach agreement or where the gathering line seeks to abandon service. Senate Bill 576 does not require gathering lines to provide service where it would be dangerous or uneconomical to do so. Existing law governing curtailment of service, K.S.A. 66-105a(b) and (c), is not modified by Senate Bill 576; therefore, existing law would remain unchanged as to circumstances where low line pressure, public health, or declining production are concerned.

During informal conversations, potential opponents to Senate Bill 576 have expressed two concerns that could be remedied with minor language changes. First, they have expressed concern that gathering lines would become subject to the obligation to provide transportation services on a forward *and* backward basis. I believe this concern is unwarranted because transportation is defined in K.S.A. 55-150 as running from wellhead to pipelines. However, if necessary, the term "transportation" could be defined in Senate Bill 576 to resolve doubts about the direction of flow.

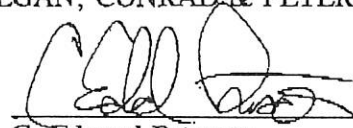
Second, potential opponents have expressed concern about the "public interest" standard. For the most part, this language occurs in current law. (See K.S.A. 55-1,105 and 55-1,108). Thus, this complaint of the opponents is directed at existing law and not at Senate Bill 576. There is one exception, however. Senate Bill 576 does contain in Section 6 an amendment to K.S.A. 55-1,107 that would require *certificated public utilities* to demonstrate that proposed abandonments are not in the public interest. This provision merely extends the obligation of public utilities to serve in accordance with their certificate of convenience and necessity, and therefore, this provision is appropriate to avoid creating questions about the obligation of certificated public utilities to serve under Chapter 66. As to the other references to the public interest standard, if there is interest in modifying existing law, then this standard could be changed to a "just and reasonable" standard without substantially changing the outcome of most complaint proceedings.

In summary, the proposed changes to Sections 55-1,101 *et seq.* are intended to clarify the Corporation Commission's jurisdiction to include consideration of complaints from those who are served by, or who seek service from, gas gathering lines. The design accomplishes this purpose without imposing additional regulatory obligations upon operators of gathering lines. Senate Bill 576 would place all customers on an equal footing and put the proper agency, the Corporation Commission, in the position of resolving disputes over service.

Very truly yours,

FINNEGAN, CONRAD & PETERSON, L.C.

By:



C. Edward Peterson

CEP:ach

SWKROA

SOUTHWEST KANSAS ROYALTY OWNERS ASSOCIATION

209 East Sixth Street
Hugoton, Kansas 67951

Telephone: 620-544-4333
Email: erickn@swkroa.com

Testimony before the Senate Utilities Committee Senate Bill 576 March 9, 2006

Chairman Emler and Members of the Committee:

My name is Erick Nordling, of Hugoton, Kansas. I would like to submit remarks on behalf of the members of SWKROA and on behalf of other Kansas royalty owners in support of Senate Bill 576.

Senate Bill 576 deals with access to gas gathering services and facilities. It also appears as a response to the curtailments of natural gas users who obtain natural gas from the wellhead and from natural gas gathering systems.

Kansas is blessed with many, many natural gas fields throughout the state. Access to the gas produced by these fields is vital to the residents of Kansas. Countless Kansans depend on gas acquired from gathering systems and facilities to heat their homes and keep their families warm. Furthermore, many Kansas farmers rely on gas purchased from gathering systems to fuel their irrigation operations. As such, gas accessed via gathering systems has allowed the Kansas farmer to increase productivity and allowed Kansas families to maintain warm homes.

Obviously, natural gas accessed through gathering systems is critical to the Kansas economy. Actions must be taken to ensure that as long as gas is produced in Kansas, Kansas residents and farmers will have access to that gas. Senate Bill 576 is a step in the right direction. The Bill:

- provides clarification as to what gas gathering facilities are and who can access them,
- provides clarification of the process by which complaints are to be resolved, and
- provides a means by which abandonment of service by a public utility can be protested.

To the extent that the clarifications and additional procedures provided for help ensure that Kansans will be able to continue benefitting from natural gas produced in Kansas, SWKROA and other Kansas royalty owners support Senate Bill 576.

Thank you for your consideration.

Respectfully submitted,

/s/ Erick E. Nordling

Erick E. Nordling
Executive Secretary, SWKROA

Senate Utilities Committee
March 9, 2006
Attachment 4-1

Comments to:

Kansas Senate Committee on Utilities

Re: Senate Bill No. 576

March 9, 2006

Topeka, Kansas

By:

E. R. (Dick) Brewster
BP Government Affairs Director

On Behalf of:

BP America Inc.

Senate Utilities Committee
March 9, 2006
Attachment 5-1

Mr. Chairman and members of the Committee, for the record, my name is Dick Brewster, and I am Government Affairs Director for BP America. We sincerely appreciate your time and attention in discussing Senate Bill No. 576.

BP is a worldwide energy Company, and is one of Kansas' largest producers of natural gas, and one of the largest gas producers in North America. Our Kansas production is located in Southwest Kansas in what is called the Hugoton gas field. We have a long history in Kansas in both gas production and in retail marketing of motor fuels and related products. In all BP's operations, safety is our number one priority.

It's never easy or comfortable to appear before a Senate Committee in opposition to a bill requested by the President of the Senate. But I do appear today in opposition to Senate Bill No. 576.

We wear several hats in Kansas: BP is (1) a producer of natural gas, (2) a gas gathering system owner/operator, (3) a gathering system contract operator, and (4) a gas processing plant owner and operator. We have a large and increasing commitment to Kansas as we continue investment in our Southwest Kansas gas operations.

Current Kansas law requires gathering system operators to provide "open access" to producers of gas. That is, gathering system operators are required to gather gas from any and all producers in the area, regardless of size. And gatherers are prohibited from charging unfair and/or discriminatory rates to producers for gathering services. BP did not oppose enactment of the current statute, or its implementation. We support open access for producers to have a way to get their gas to the marketplace; that is, into a processing plant and interstate pipeline.

We do not believe current law requires "open access" for *delivery* of gas to end use customers. However Senate Bill No. 576 appears to require such access, and we do not believe that turning gathering systems and operators into quasi-utilities is good policy or in the best interests of the producers, operators, processors or the people of Southwest Kansas.

BP and its predecessor operator in Southwest Kansas, Amoco, have provided a limited number of end users with gas for decades, usually gas directly from the wellhead and, to a much lesser degree, the gathering system. This is because many mineral leases require us to provide free gas to heat the primary residence on the lease as long as there is a producing well on that lease. And, like many other producers, we have provided many farmers with gas to fuel their irrigation pump engines. This irrigation gas is sold at a negotiated price, and usually sold at the wellhead. There are rare situations where irrigation gas is sold from a gathering line, or free gas for the principal dwelling is provided from the gathering line. In these cases, a gathering line tap was used as a convenience and cost saver for the customer.

Many free gas taps as described above are being replaced, at our cost, with propane, electricity if available, or utility gas service where available. We're converting many of these users from wellhead gas primarily for safety reasons. Pressures in the field are declining, and in some wells, there is an increasing health threat from H₂S in the gas stream. Irrigation gas remains subject to contract between the irrigator and producer.

From the gatherer's perspective, requiring exit taps creates significant problems: Measurement of gas tap volumes is difficult and untimely, often delaying shipper statements, leading to adjustments for prior royalty payments and payments to other interest owners.

The gas field pressure is declining, and BP and other operators have installed compressors on gathering systems, which increase the life of the field and help maintain or increase production rates. A gas tap on the suction side of a compressor may not leave adequate pressure to deliver the gas, so service will be curtailed or interrupted. Yet without this compression, the field decline rate will increase, hastening the abandonment of production.

Most gathering system lines have to be "pigged" to remove liquids. This activity and other maintenance require closing all exit valves, again curtailing service to any exit taps.

Furthermore, end users whose gas comes from gathering line exit taps may well get gas with excess liquids, gas not meeting utility specifications, un-odorized gas, and in an increasing number of areas, gas with an unsafe H₂S content.

All these observations lead to the conclusion that exit taps on gathering systems cannot provide end users with continuity and consistency of gas supply, nor can safety be assured.

Typically, the exit taps I have described require the end user to lay the line from the gas tap to the end user's building. Our experience has shown that there is very little maintenance on these lines. Leaks may develop and remain undetected. Remember this gas is not odorized. And, sadly enough, it has been our experience that from time to time, there are other "taps" on these customer owned lines, often with inferior plumbing that does not meet code requirements. Again, this event produces significant safety concerns.

Interestingly, when this legislature required open access by gathering lines for receipt of gas from all producers, it put a significant obstacle in the way of this bill. A gathering operator is required to carry gas belonging to many producers. But a gathering operator cannot contract for the sale and delivery of gas he or she does not own.

Looking at this bill from the perspective of a processing plant owner/operator is not helpful. The gas load at many plants in the area is already reduced significantly. Our Jayhawk plant at Ulysses is now processing volumes at less than half its capacity. (220 mmcf of the 450 mmcf capacity) Exit taps will further reduce these volumes, requiring major modifications to the plant to handle smaller volumes, or closing the plant and directing the gas to another processor.

Senate Bill No. 576 does not fare well from a producer's perspective either. Most of the gas exiting our processing plant serves multi-year contracts, primarily with public utilities. Exit taps will reduce supplies for these downstream customers, and result in less value to the plant operator, producer and royalty owner.

The simple fact is this: gathering systems were not designed to deliver gas to end users. Those who built them and those who invest in their operation did not intend to get into the gas utility business. Gathering systems cannot deliver gas with the assured continuity or quality that is required by most end users.

Requiring exit taps on the state's more than 100 gathering systems will result in increased costs to producers, gathering operators, and processors. Increased costs will equal earlier abandonment of processing, and ultimately an earlier abandonment of gas production.

The KCC staff recognized what I and others are saying to you, Mr. Chairman and members of the Committee. In the staff's Report and Recommendations of January 27, 2006, in Docket No. 06-GIMG-400-GIG, staff noted on page 7:

1. The provision of exit taps on a gathering system should be left to the discretion of the gathering system operator....Staff believes gas gathering services do not include delivery of gas to end use customers and ...must necessarily remain secondary to the primary function of gathering gas i.e. moving the gas from the producer to the transmission line. Open access for exit taps would eventually result in reconfiguration of the system that would be costly to the producer and ultimately lead to an early abandonment of the production reservoir. Exit taps would also diminish the amount of gas delivered to gas plants for processing....

We strongly urge this committee not to approve Senate Bill No. 576.

On a personal note: I've been associated with the Kansas Legislature since 1971, as a lobbyist and three term member of the House. Increasing the life of the Hugoton gas field has been a concern for at least that long. Since 1981, when I began working for Amoco, now BP, I've often been asked what can be done to increase the life of the Hugoton Field. That question has come to me from legislators, past and present as well as governors and their staffs, past and present.

In the final analysis, the decision when to stop producing gas from a well or lease is an economic one. As a gas production area matures, the cost of maintaining production, the cost of reducing the production decline, increases. So, when I get asked that question, my answer is: Do anything you can to reduce the cost of producing gas and getting it into the marketplace.

The biggest single state controlled cost of production in Kansas is the property tax. It is often the equivalent of an 8 to 12 or more percent severance tax. The severance tax rate itself in Kansas is relatively low, but reducing or eliminating it would help. My 6 years in

the Kansas House give me a clear enough picture of the need of local governments, not to mention their political power, to understand that asking for a property tax reduction or elimination on gas reserves is not realistic.

So, perhaps there is little or nothing Kansas can do to increase the life of the Hugoton Field. But what I suggest you should not do is adopt Senate Bill 576, or any other bill that can only increase the cost of production. What I believe you do not want to do is shorten the life of the Hugoton Field, even if there is little you can do to lengthen it.

Mr. Chairman, members of the committee, I appreciate your time and attention. I'll be happy to answer any questions you might have.

Respectfully,

E. R. (Dick) Brewster
BP Government Affairs Director



Before the Senate Utilities Committee

SB 576

Testimony of Roger Thorpe, Vice-President

ONEOK Field Services Company

100 W. Fifth Street, Tulsa, Oklahoma

918-588-7405

March 9, 2006

Chairman Emler and Members of the Committee,

I am Roger Thorpe, Vice President of ONEOK Field Services Company ("Field Services"), and I appreciate the opportunity to testify in opposition to Senate Bill 576. Field Services believes that Senate Bill 576 would have a profound and adverse impact on natural gas gatherers and producers across the State of Kansas. Field Services, which owns and operates more than 5100 miles of natural gas gathering pipelines in the State of Kansas from which it gathers gas from more than 5700 wells, is opposed to this bill because it will take away control of the gathering systems from their owners and operators and require them to operate as quasi-public utilities. Field Services believes that the end result of Senate Bill 576 will be to force the premature abandonment of gas producing wells in the State of Kansas, which will have an adverse impact on a large number of the citizens of the State of Kansas.

Historically, gas gathering systems were never intended or capable of being a reliable and quality source of supply for exit tap end use consumers. Many of the gathering systems in Kansas were built and developed directly by producers so they could gather their gas from their own wells. Many of the producers offered their gathering system services to other producers in the area to reduce their overall costs of gathering natural gas. Those systems were not subject to any type of rate regulation until 1997 when the Kansas Legislature passed the Chapter 55 legislation which provided for a complaint system of regulation before the Kansas Corporation Commission ("KCC") allowing producers to obtain relief who were otherwise unable to get fair, just and reasonable rates from a gathering system operator.

In contrast to previous legislation at either the federal or state level, Senate Bill 576 requires a gathering pipeline system to provide "open access" to any exit tap customer that wants to establish an interconnection. Any gas gatherer that either buys gas that is connected to its system or transports gas from others on its system, no matter how incidental, must agree to all requests for interconnections or be subject to proceedings before the KCC. These requests could come from any exit tap customer, including residential, commercial, and irrigation end use customers. The bill completely ignores the fact that these systems contain raw unprocessed natural gas and were designed and built

for the sole purpose of moving gas from the wellhead to a treating and processing plant which then provides merchantable quality gas on to a pipeline transmission system.

One of the fundamental problems with Senate Bill 576 is that it fails to recognize that it is impractical with today's technology to properly deplete a natural gas field and serve retail customers on the same pipelines. When these gas fields were originally developed, wellhead pressures were high and serving retail customers did not appear to be a problem in the foreseeable future. As time moved forward, the natural gas wells started to deplete requiring gatherers to reduce the pressure on the gathering pipelines so that the natural gas production would continue to flow. If the pressure on the gathering pipelines is not reduced, the wells will fail to produce any gas at all and, in effect, be shut-in because the well pressure is less than the gathering pipeline pressure. In order to increase natural gas production, many gathering operators are actually putting the wells on a vacuum system which physically sucks the natural gas from the wells. As can be surmised, it is impracticable to provide natural gas service to an exit tap customer when the system is on a vacuum. Field Services believes that over time all gathering fields will have to move toward a vacuum system in order to properly deplete the natural gas field.

Senate Bill 576 insures that gas gatherers will no longer have control over their own gathering systems. Interconnections can be demanded at any point on their systems and gas gatherers are subject to proceedings before the KCC if they refuse. While the gatherer can present evidence that the interconnection could cause harm to another party, the KCC will have to decide whether it is in the public interest to shut in gas wells or require interconnections for exit tap customers. The KCC will ultimately decide the public interest and will determine which producers will continue to get gathering service.

A task force for the KCC has been studying for over a year the issues regarding the transitional issues on gathering gas from depleting natural gas fields. While the KCC has yet to issue any orders, the Staff of the KCC recently recognized that a loss of control by the gatherer of its gathering system, as required by Senate Bill 576, is a recipe for disaster: *"Open access for exit taps would eventually result in reconfiguration of the system that would be costly to the producer and ultimately lead to an early abandonment of the production reservoir"* Report and Recommendation filed January 27, 2006, in Docket No. 06-GIMG-400-GIG. Because of the increased costs that would be incurred by both gas gatherers and producers to comply with Senate Bill 576, there would be a disincentive to both gatherers and producers to make the investments in their systems to avoid premature abandonment of production reservoirs. This, in turn, would result in a negative impact on employment in the natural gas industry in Kansas.

Senate Bill 576 also mandates that gas gatherers must open their records to the public just like a public utility but they receive none of the benefits as a public utility. Gas gatherers must file information on prices paid for gas purchased, rates charged for gathering services, the terms and duration of contracts, gas gathering maps and a host of other information. The KCC is prohibited from protecting the sensitivity of that commercial information and can fine a gatherer up to \$10,000 a day for each day it fails to file that

information with the KCC. Commercially sensitive information should be protected from public disclosure. Currently, the KCC allows parties to discover this type of information, but only in the discovery phase of a complaint proceeding and the parties are required to sign a nondisclosure agreement subject to a protective order. Under this process, parties are given the information necessary to pursue their claims, but the confidential information remains protected.

Senate Bill 576 further authorizes the KCC to rewrite any contracts of gas gatherers that it doesn't like. This causes grave concerns since many of these contracts have been in effect for a number of years and are clearly property rights of the gas gatherer. The constitutional implications of this part of the bill are obvious.

Finally, Senate Bill 576 specifically eliminates the protection of gas gatherers from public utility or common carrier type regulation provided by the 1997 law and now burdens both the KCC and gas gatherers with a new and unnecessary regulatory regime.

In summary, Senate Bill 576 will force unnecessary regulation on gas gatherers. That same regulation will force the premature abandonment of gas producing reservoirs in the State. The increased costs to be incurred as a result of the unnecessary regulation of gas gatherers and premature abandonment of gas wells will also negatively impact the economy in Kansas as the result of the losses that will be incurred by producers and mineral owners, as well as lost tax revenues that would benefit all citizens. The end result of enactment of Senate Bill 576 will unquestionably have a significant and adverse impact on all of the citizens of the State of Kansas.