

MINUTES OF THE HOUSE ENERGY AND UTILITIES COMMITTEE

The meeting was called to order by Chairman Carl Holmes at 9:00 A.M. on March 21, 2007 in Room 241-N of the Capitol.

All members were present except:

Vaughn Flora-excused
Forrest Knox-excused

Committee staff present:

Mary Galligan, Kansas Legislative Research
Dennis Hodgins, Kansas Legislative Research
Mary Torrence, Revisor's Office
Renae Hansen, Committee Assistant

Conferees appearing before the committee:

Frank Caro
Allie Devine, Kansas Livestock Association
Terry Holdren, Farm Bureau
Dave Sharp, ONEOK
Dick Brewster, BP America, Inc
Mike Loeffler, Northern Natural Gas
David Bleakley, EKOGA
Ed Cross, KIOGA

Others attending:

Forty including the attached list.

Informational Hearing:

S Sub HB 2485: **State corporation commission authority to fix, charge and collect fees for intent to drill a well, Kansas petroleum education and marketing act amendments.**

Ed Cross, KIOGA, (Attachment 1), presented an explanation to the committee on amendments that were made to **HB 2485** brought forth by KIOGA.

Chairman Holmes made the committee aware that **S Sub HB 2485** would be in conference tomorrow, March 22, 2007 at 8 am in 231-N.

Comments were made by Representatives: Tom Sloan, and Carl Holmes.

Sub SB 325: **State corporation commission jurisdiction over gas gathering systems.**

Proponents:

Frank Caro, (Attachment 2) spoke in favor of **Sub SB 325**.

Allie Devine, Kansas Livestock Association, (Attachment 3) offered written testimony in support of **Sub SB 325**.

Terry Holdren, Farm Bureau (Attachment 4), presented written testimony in support of **Sub SB 325**.

Dave Sharp, ONEOK, (Attachment 5), offered testimony in support of **Sub SB 325** noting that in its original form they were opposed to it.

CONTINUATION SHEET

MINUTES OF THE House Energy and Utilities Committee at 9:00 A.M. on March 21, 2007 in Room 241-N of the Capitol.

Neutral:

Dick Brewster, BP America, Inc, (Attachment 6), offered a detailed explanation of **Sub SB 325** in its amended form.

Questions were asked and comments made by Representatives: Tom Sloan, Carl Holmes, Peggy Mast, and Annie Kuether.

Mike Loeffler, Northern Natural Gas, (Attachment 7), gave testimony on **Sub SB 325** and made a suggestion for changes to **Sub SB 325**, urging the committee to adopt the amended suggested language.

Questions were asked by Representative: Tom Sloan.

David Bleakley, EKOGA, (Attachment 8), offered testimony from a neutral standpoint on **Sub SB 325**. EKOGA believes this legislation takes out the element of two parties working together to find a solution for a problem.

Questions were asked and comments made by Representatives: Tom Sloan, Cindy Neighbor, and Carl Holmes.

Ed Cross, KIOGA, (Attachment 9), presented written testimony from a neutral position on **Sub SB 325**.

Comments in response to questions regarding the neutral position were offered by Frank Caro, noting that **Sub SB 325** is a compromise between both sides of the issue.

Further questions were asked and comments made by Representatives: Tom Sloan, Margaret Long, and Carl Holmes.

Additional comments were made by Jack Graves, DCP Midstream, relating to the suggested amendments.

The hearing on **Sub SB 325** was closed.

Chairman Holmes made the committee aware of the information before the committee from KCPL (Attachment 10) and Midwest Energy (Attachment 11).

Discussion on:

Sub SB 20: Kansas underground utility prevention act amendments.

Representative Tom Sloan brought forth a suggested amendment to **Sub SB 20** (Attachment 12).

Questions were asked and comments made by Representative: Annie Kuether.

Representative Tom Sloan moved to amend Sub SB 20 (Attachment 12). Seconded by Representative Rob Olson.

Questions were asked and comments made by Representatives: Dan Johnson, Tom Sloan, Cindy Neighbor, Margaret Long, Rocky Fund, Tom Moxley, and Carl Holmes.

Representative Tom Sloan closed on the proposed amendment.

Motion to amend Sub SB 20 passed 9-6.

Further questions were asked and comments made by Representatives: Carl Holmes, and Tom Sloan.

CONTINUATION SHEET

MINUTES OF THE House Energy and Utilities Committee at 9:00 A.M. on March 21, 2007 in Room 241-N of the Capitol.

It was decided staff would make technical corrections to clean up the amendment language to its original intent.

Representative Tom Moxley moved to strike page six line 23 of the amended language of **Sub SB 20**.
Seconded by Representative Vern Swanson.

Questions were asked and comments made by Representatives: Tom Sloan, Annie Kuether, Tom Moxley, and Carl Holmes.

Motion to amend was carried, 8-7.

Representative Tom Sloan moved that we recommend **Sub SB 20** favorable for passage as amended.
Seconded by Representative Josh Svaty.

Comments were made by Representatives: Rocky Fund, and Annie Kuether.

Motion carried.

Representative Tom Sloan will carry **Sub SB 20** on the House floor.

Handed to the committee were articles from regional and national newspapers that related to KCP&L's news announcement from March 20, 2007, (Attachment 13).

Chairman Holmes announced the proposed agenda for March 22, 2007.

The next committee meeting is scheduled for March 22, 2007.

Meeting adjourned.

HOUSE ENERGY AND UTILITIES COMMITTEE GUEST LIST

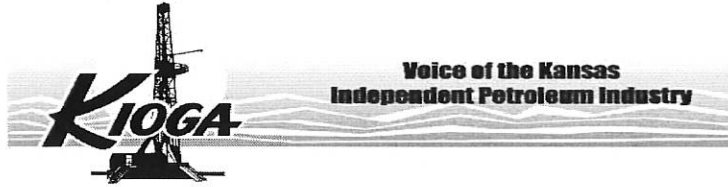
DATE: March 21, 2007

NAME	REPRESENTING
Lon Stanton	Northern Natural Gas Co
Mike Loeffler	Northern Natural Gas Co
Frank Caro	PEK Irrigators
Jim BARTLING	ATMOS ENERGY
TOM DAY	KCC
LARRY BERE	MIDWEST ENERGY
Tom Bruno	EKOGA
Jere White	KCGA
Steve Johnson	ONEOK FIELD SERVICES
Leo Hyman	KCC
Matt Tomc	KCC
Ed Cross	KIOGA
Joe Duke	KCBPU
DAVID BLEAKLEY	EKOGA & COLT Pipeline
Paul Snider	KLPL
J.P. Small	EXXONMOBIL
Tom Thompson	Sierra Club
Ross Seefler	Hem Law Firm
Ron Blueber	GBBA

HOUSE ENERGY AND UTILITIES COMMITTEE GUEST LIST

DATE: March 21, 2007

NAME	REPRESENTING
<i>Dick Brewster</i>	<i>BSA</i>



Kansas Independent Oil & Gas Association
800 SW Jackson Street – suite 1400
Topeka, Kansas 66612-1216
785-232-7772 Fax 785-232-0917
Email: kiogaed@swbell.net

Testimony to House Energy & Utilities Committee

Senate Substitute for House Bill 2485

An Act relating to oil and gas; concerning fees for application of intent to drill a well;
relating to the Kansas petroleum education and marketing act

Edward Cross, Executive Vice President
Kansas Independent Oil & Gas Association

March 21, 2007

Good morning Chairman Holmes and members of the committee. I am Edward Cross, Executive Vice President of the Kansas Independent Oil & Gas Association (KIOGA). KIOGA is a 1,400 member trade association representing the interests of the independent oil and gas industry in Kansas. I am here today to explain the amendments KIOGA provided for Senate Substitute for House Bill 2485 (Ssub HB 2485) and urge your support of the bill that passed the Senate yesterday afternoon.

The amendments offered by KIOGA for Ssub for HB 2485 were simple technical cleanups to make the Kansas petroleum education and marketing act more manageable to administrate. The Kansas petroleum education and marketing act is a voluntary checkoff program for the oil and gas industry very similar to other voluntary checkoff programs, including beef, soybean, and other state oil and gas checkoff programs. The Kansas oil and gas resources board (KOGRB) was formed to administer the provisions of the act. The KOGRB has met several times and is currently organizing Articles of Incorporation and By-Laws. However, the KOGRB meetings exposed some difficulties that needed technical cleanup to make the administration of the program more manageable and less costly for all parties concerned. Ssub for HB 2485 makes these technical adjustments.

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The technical cleanups include augmenting the definition of interest owner to better reflect the intent of the law. The augmented definition makes it clear that royalty and over-riding royalty interests are excluded, as was the intent of the law. Ssub for HB 2485 also removes the annual cap placed on voluntary assessments against any one interest owner. The program is voluntary and the amendments do not change that aspect of the program. Placing a cap on assessments is meaningless and only created programming and administration problems that were going to cost more to solve than the revenue generated by the program. Ssub for HB 2485 also allows the first purchaser to remit voluntary contributions to the program 60 days after the month they were collected instead of the 15 days in current law. The first purchasers the KOGRB communicated with indicated they do not send checks out in 15 day increments, but do so in 30 to 45 day increments. Changing the law to reflect industry practice greatly reduces the burden on first purchasers. Ssub for HB 2485 also amends the law to allow persons who get a partial refund of their voluntary contributions to be eligible to serve on the KOGRB board.

Ssub for HB 2485 was amended on the Senate Floor to reflect one more technical cleanup needed by the KOGRB. The Senate Floor amendment simply allows the KOGRB to permit the distributor of oil and gas revenues to deduct proceeds from interest owners who chose to participate in the voluntary checkoff program. Some first purchasers of crude oil and natural gas in Kansas distribute 100% of the revenue from oil and gas sales to the oil and gas operator. The operator then distributes the appropriate revenue to the individual interest owners. In these cases the first purchaser cannot identify individual interest owners. The amendment is needed by the KOGRB to allow the distributor of oil and gas revenue to make the deductions for interest owners who chose to participate in the voluntary checkoff program.

The KOGRB needs these minor technical cleanups to make the program more manageable to administrate. We urge your support of Ssub for HB 2485. Thank you.

**JOINT
STATEMENT IN SUPPORT OF SUBSTITUTE FOR S.B. 325
MARCH 21, 2007**

The Kansas Corngrower's Association, Kansas Farm Bureau, Kansas Livestock Association, Kansas Irrigator's Association, PEK Irrigators, Inc. and the Southwest Kansas NPUs are appearing today in support of Substitute for S.B. 325. The parties in support of Substitute for S.B. 325 believe that it is a reasonable compromise between the interested parties that moves toward reasonable access to natural gas for rural Kansas end users, and allows these customers to be able to use a gathering facility in order to move natural gas needed for their agricultural, business and incidental residential use on reasonable terms and conditions.

The parties' goal with the preparation of S.B. 325 was to create a statutory vehicle to address three primary issues: **Access, Service and Abandonment**. Substitute for S.B. 325 is progress toward these goals, and supplements and complements current statutory provisions, such as the NPU statutes and the Self-Help provisions. Sub. for S.B. 325 amends two sections of current law and adds a new statute pertaining to gas gathering systems and those persons who maintain or wish to acquire an exit tap on a gas gathering system. Substitute for S.B. 325 also permits the Kansas Corporation Commission to hear and review disputes, under certain conditions, concerning access, service and abandonment issues regarding exit taps on a gas gathering system.

Substitute for S.B. 325 maintains an appropriate balance between the needs of the agricultural and rural communities to meet their gas supply and transportation requirements, and the needs of the gas gatherers to maintain the operational stability and reliability of their systems.

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The parties will continue to work with all interested parties to resolve these important issues for the agricultural and rural communities and recommends that Substitute for S.B. 325 be approved.

Thank you for your consideration. We are available to answer any questions you may have.



Since 1894

Testimony

Date: March 21, 2007

To: House Energy and Utilities Committee
Representative Carl Holmes, Chair

From: Allie Devine
Vice President and General Counsel

Re: Substitute for SB 325

The Kansas Livestock Association (KLA), formed in 1894, is a trade association representing over 6,000 members on legislative and regulatory issues. KLA members are involved in many aspects of the livestock industry, including seed stock, cow-calf and stocker production, cattle feeding, grazing land management and diversified farming operations.

Members of the committee, please accept these written comments to support passage of Substitute for SB 325.

KLA worked with representatives of the Kansas Corn Growers and utilities to reach the compromise outlined in Substitute for SB 325. We encourage your support of the bill.

Our members are gas customers. They use natural gas for irrigation engines and as an energy source for operating feed mills in feed yards. Our members must have reliable, consistent service. In the past, our members have reported difficulties with understanding and weaving through the regulatory and industrial system when changes are proposed.

We support the bill as a means for our members to address some of the problems they have experienced and avoid similar situations in the future. Thank you for your support of Substitute for SB 325.

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PUBLIC POLICY STATEMENT

HOUSE COMMITTEE ON ENERGY & UTILITIES

RE: Sub SB 325; concerning natural gas and gas gathering activities.

March 21, 2007
Topeka, Kansas

Written testimony by:
Terry D. Holdren
National Director
KFB Governmental Relations

Chairman Holmes and members of the House Committee on Energy and Utilities, thank you for the opportunity to appear before you today. KFB is the state's largest general farm organization representing more than 40,000 farm and ranch families through our 105 county Farm Bureau Associations.

We appear before you today in support of Substitute for SB 325. This legislation provides clarity to the issue of exit taps in the gathering system and in the interaction between non-profit utilities and gas providers. The complaint process and subsequent limited review by the KCC seem fair, and in our opinion, not overly restrictive on the parties involved. This measure will provide an avenue to individual farmers and ranchers or small NPUs who face the challenge of negotiating and reaching agreement with providers, who are at times, less than willing to assist.

Our membership has considered this issue and supports efforts to ensure access to a dependable, timely, uninterrupted supply of affordable and quality gas for irrigation and other agricultural purposes, and for rural residences. We believe the substitute for SB 325 is a good product—one that will address the issues currently experienced by many well-head and gathering system users across the state.

Thank you for the opportunity to share the views of our membership. We respectfully ask that you take favorable action on the bill before you today.

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Kansas Farm Bureau represents grass roots agriculture. Established in 1902, the organization supports farm families who earn their living in a

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Before the House Energy and Utilities Committee
Sub SB 325
Testimony of Steve Johnson, Manager Governmental Affairs
ONEOK, Inc.
7421 W. 129th, Overland Park, Kansas
913-319-8604
March 21, 2007

Chairman Holmes and Members of the Committee,

My name is Steve Johnson and I represent the Gathering and Processing segment of ONEOK Partners, the owner of ONEOK Field Services Company, LLC ("OFS"). OFS owns and operates more than 5,100 miles of natural gas gathering pipelines in the State of Kansas from which it gathers gas from more than 5,700 wells. I appear before you today to give a few comments about Substitute for SB 325.

OFS believed the original bill was inappropriate, unnecessary, and would be unduly burdensome to both gas gatherers and to state offices charged with interpreting and enforcing the law. It was such a radical departure from existing practices that the consequences of its implementation couldn't be adequately foreseen. However, at a minimum, it would result in pointless effort and expense, and it would likely cause the premature abandonment of wells and loss of associated reserves – either directly, via higher line pressures that facilitate tap deliveries but inhibit production, or indirectly, through lower wellhead netback values.

Our gathering systems were built and are operated to efficiently move the maximum amount of gas practical to processing plants where the value of the gas and its components can be enhanced and delivered to markets. Declining pressures, reduced

volumes, underutilized processing facilities, and aging equipment put considerable pressure on this business, and gatherers have had to be nimble and resourceful to maintain efficient and profitable operations. Common carrier or public utility status, even for limited agricultural use, would be an additional impediment to effectiveness that this industry, and the state, can ill-afford.

OFS and other gatherers are sympathetic to the needs of agricultural users, but passage of the original bill will not solve the underlying problems of the decline in Hugoton field volumes and pressures, or remedy the issues encountered when delivering raw natural gas to an end-use customer. This is not to say that there is no situation where gas can be used for agricultural purposes. Therefore we have supported, Substitute SB 325 after much sole searching and negotiation with the various parties; other large gatherers, KIOGA, the corn growers, irrigators, KLA, other agricultural interests, NPU's, producers, large and small and the KCC have crafted this delicate compromise.

I would like to address some of the sections of the new bill as follows:

Our primary purpose as a gatherer is to serve producers and get all the gas we can out of the ground. We think this substitute bill recognizes that service to exit taps must not impair the ability of the gathering system to meet the needs of producers, or impose cost burdens on the gathering system.

We have also consistently made the point throughout the Senate hearings that the raw, unprocessed, un-odorized gas present in our gathering systems poses some safety concerns and is not suitable for any domestic use. This bill limits service to only those agricultural applications that can be safely supplied, and specifically excludes domestic use.

This substitute bill makes it clear to all exit tap users that service is interruptible and there is no recourse to gatherers regarding any losses incurred by exit tap users due to the use, interruption or curtailment of service. The previous bill made gatherers common carriers and public utilities, arguably with an implied obligation to serve.

This new bill recognizes the gatherer's desire to minimize the number of taps on the system and prohibits an unreasonable increase in the total number of exit taps and it properly puts exit tap users in the same position as other users of services with respect to credit-worthiness, ability to obtain gas, ability to pay all costs incurred and other financial requirements.

Finally, the substitute bill clarifies that gathering systems are neither public utilities nor common carriers, but does not otherwise divest the KCC of jurisdiction over gathering. The KCC would continue to have jurisdiction to review issues related to health and safety, and the bill further authorizes the KCC to review gathering disputes in certain other instances.

I would also like to thank all of the parties that have participated in the drafting of new Sub SB 325 and will be happy to answer any questions the committee may have.

Statement to:

Kansas House Committee on Utilities and Energy

On

Senate Committee Sub for S. B. No. 325

March 21, 2007

By:

E. R. (Dick) Brewster

BP America, Inc.

Mr. Chairman, members of the Committee, thank you for your time and attention. BP is one of the largest gas producers in Kansas, with operations in Southwest Kansas' Hugoton field. Through Amoco, before its merger with BP, we have a long history in the field and in the area. In addition to our production, we own and operate a gathering system, and we are the contract operator for a larger gathering system owned by another company. It's the old Williams gathering system. We are in the process of replacing most of the high pressure portion of that line, a \$30 million + project. These operations are handled out of our Ulysses office.

BP also owns and operates the Jayhawk processing plant, east of Ulysses, a plant we built some 9 years ago at a cost of over \$80 million. It is a state of the art plant with a design capacity of some 450 million cubic feet of gas a day. At the plant we extract liquids, as well as nitrogen and helium. So we are heavily invested in our Kansas operation.

Sub for S.B. 325 represents a compromise of sorts on the issue of so-called "exit taps" on gas gathering systems. These taps would provide gathering system gas, unprocessed gas, to end use customers. I have to say that BP believes that providing unprocessed gas to end use customers is not a good idea. We remain concerned about the safety of this gas containing liquids, potentially dangerous levels of H₂S, a lower Btu content than utility gas, and it's not odorized. And, exit taps on a gathering system not designed to provide end use gas causes operational problems as well. I cannot speak for other gathering operators, but we cannot support the portions of this bill that may allow the KCC to order that we grant exit taps on our gathering system. My impression is that other gathering operators share our concerns.

Having said that, I must hasten to add that I am not appearing as an opponent of the bill. The bill is the result of protracted and often very difficult negotiations. And if as a matter

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of policy, Kansas is going to require exit taps under certain circumstances, then Sub for S. B. 325 is represents what seems to be a workable solution.

Let me review the bill:

Sections 1 and 2 simply state that a gathering system does not become subject to regulation as a public utility or common carrier by granting an exit tap or by transporting gas to an exit tap for an end user. This is an issue that was relatively easy for all parties to agree on. The KCC indicated that current law lacked clarity, and these sections make it clear.

Section 3 represents the difficult part of the bill. Section 3 and 3(a) and (b) provides that on a complaint by a party who has or seeks an exit tap, the KCC may review disputes over access, service or abandonment of that exit tap. It sets out standards for review that apply to existing exit taps and to requests for new exit taps, and limits the review of requests for new taps to those sought by non-profit public utilities. Also, the NPU gas provided through the exit taps must be used exclusively for agricultural activity, as that activity is defined in section 3 (f) on page 4, beginning at line 14, and not for domestic use.

Section 3 (c) sets out three requirements that have to be met before the complaint may be filed with the KCC. The applicant for or holder of an existing exit tap must have a supply of gas, must meet financial and credit worthiness requirements, and must be prepared to pay the cost of installing the exit tap and service.

Section 3 (d) allows the KCC to order a tap and determine if the rates and charges are reasonable and non discriminatory, when compared to rates for similar service on the same gathering system. But the KCC can make such an order only after making the findings set forth in Section 3 (d) (1 through 10).

Then Section 3 (e) does not allow the commission to review the cost of gas, volume of gas or other terms of a gas supply contract to the exit tap user. It does not allow the commission to order any party to sell or provide gas to the exit tap user, and it does not allow the commission to order an exit tap on a gathering system that has not had any exit taps before the effective date of this bill.

Once again, Mr. Chairman, members of the Committee, this bill came about when the interim committee chairman asked the two sides to get together and try to develop a compromise solution to what was S.B. 576 last year, and S. B. 325 this year. A lot of people worked very hard right up to the wire on this bill. The final language of this bill as you have it now, was agreed to at literally the last minute before last week's Senate committee.

I'll be happy to answer any questions.



Northern Natural Gas Company
P.O. Box 3330
Omaha, NE 68103-0330
402 398-7200

**Testimony Before the House Energy and Utilities Committee
Kansas Substitute for Senate Bill 325
March 22, 2007**

Mr. Chairman and Members of the Committee:

My name is Mike Loeffler and I am the senior director of government and external affairs for Northern Natural Gas Company.

Northern Natural Gas is an interstate natural gas pipeline that is authorized to do business in fourteen states, including the state of Kansas. Northern transports natural gas from supply regions to its market area primarily in the upper Midwest. Northern owns and operates approximately 16,000 miles of natural gas pipelines and operates five natural gas storage facilities, including two in the state of Kansas. Northern has a major presence in the state and is proud to be an investor in the state, both in terms of physical plant and persons employed. A summary of Northern's facilities and its economic presence, as well as a system map of the state's facilities are attached to my pre-filed testimony.

Kansas natural gas producers initially have their gas gathered prior to delivery into the interstate natural gas stream. As such, Northern has an inherent interest in the substitute for Senate Bill 325 which primarily addresses the scope of regulation of gatherers in the state. Specifically, Northern supports an amendment to the substitute language for Senate Bill 325 that would allow interested parties such as Northern to bring certain complaints to the Kansas Corporation Commission for consideration.

Northern is not seeking to upset the careful balance struck by the parties that has resulted in the substitute language for SB 325. Northern's focus is on the expanded standing provision. A provision prescribing expanded standing to bring a complaint to the Kansas Corporation Commission was included in the original bill considered by the Senate Committee on Utilities as section 2. That specific provision was not included in the substitute bill that was advanced by the Senate and is now being considered by this committee.

Current law does not clearly provide a means for an interstate pipeline, as an interested party, to submit a complaint with the Kansas Corporation Commission, even in those circumstances where the pipeline believes a gatherer is engaging in unreasonable or discriminatory practices that negatively impact the operation of the interstate pipeline. Northern urges the committee to include language similar to the language found in section 2 of the original bill. That language provided standing to "any other person or entity adversely affected" to bring a complaint to the Kansas Corporation Commission

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asking the Commission to review “a fee, term, or practice being used by a person offering gas gathering services.”

Northern believes that the specific language in former section 2 clarifies standing and would allow Northern to initiate a complaint to the Kansas Corporation Commission in instances where Northern observes that gatherers are engaged in practices that create unreasonable trade restraints or unreasonable barriers to a competitive marketplace. It should be further noted that, under the current law, the Kansas Corporation Commission would still have authority to review the complaints and disputes and would continue to have the administrative discretion to accept such complaints for review.

Some have expressed concern that the language in section 2 of the original bill is so broad that there could be a flood of frivolous complaints lodged. While Northern believes that the cost and complexity of bringing such a complaint would limit any such concern, Northern is open to revising the language to expand standing only to interstate natural gas pipelines.

It is appropriate that an interstate pipeline that has ongoing relationships with gatherers, producers, and end-use customers be provided a regulatory avenue to resolve disputes and ask for the appropriate remedies for practices that negatively impact its business within the state. This requested language would also allow an interstate pipeline to assist parties, such as a small producer, that may not have the expertise, time or financial resources to pursue a complaint.

For these reasons, Northern Natural Gas supports an amendment to the substitute for Senate Bill 325 that would clearly provide standing to bring a complaint to the Kansas Corporation Commission. We urge the committee to adopt such language.

Northern Natural Gas Co. in Kansas

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- In Kansas, Northern employs 175 full-time employees with an annual base salary in excess of \$10 million
- In addition to the two storage facilities, Northern owns and operates approximately 2100 miles of pipe and 24 compressor stations
- In 2005, Northern paid Kansas property taxes totaling over \$10 million
- Northern serves approximately 670 farm taps
- Northern serves a growing ethanol market

NNG Facilities Kansas

This map is and shall remain the property of Northern Natural Gas Company and is provided to you for General information purposes only. It may not be used, distributed, or reproduced for any other purpose without the prior written consent of Northern.



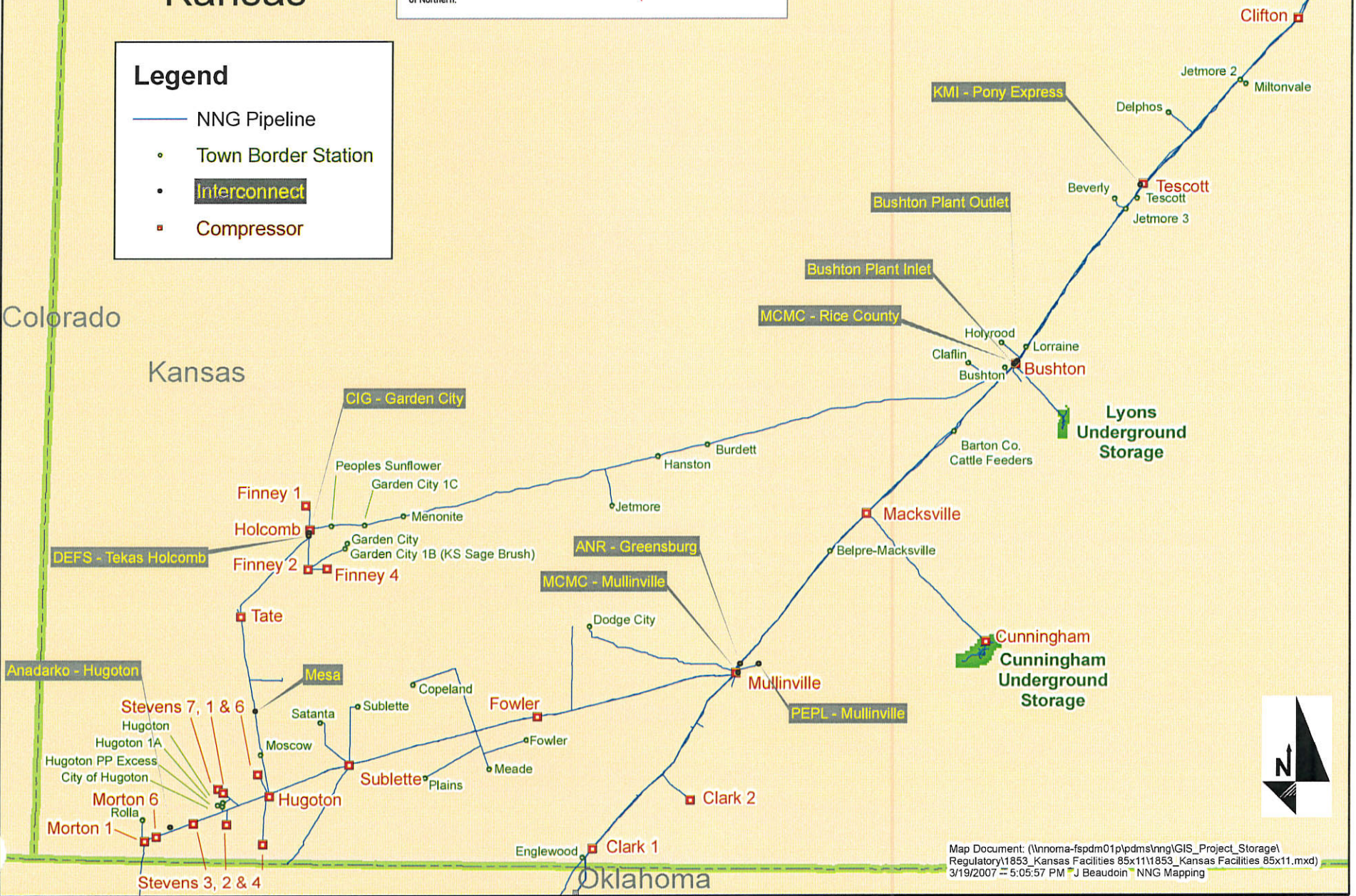
Legend

- NNG Pipeline
- Town Border Station
- Interconnect
- Compressor

Colorado

Kansas

Oklahoma



Map Document: (\\noma-fspdm01\pdms\nng\GIS_Project_Storage)\Regulatory\1853_Kansas Facilities 85x11\1853_Kansas Facilities 85x11.mxd)
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HOUSE UTILITY COMMITTEE
March 21, 2007

RE: Substitute for Senate Bill 325 - An Act concerning Natural Gas; relating to gas gathering facilities amending K.S.A 55-1,102, 55-1,104, 55-1,109, 66-104c and 66-2101 and K.S.A. 2006 Supp. 66-104 and 66-105a and repealing the existing sections.

Testimony of David Bleakley - Legislative Chairman
Eastern Kansas Oil and Gas Association
&
Director of Acquisitions & Land Management
Colt Energy, Inc.

The Eastern Kansas Oil and Gas Association (EKOGA) is neutral on amending K.S.A 55-1,102, 55-1,104, 55-1,109, 66-104c and 66-2101 and K.S.A. 2006 Supp. 66-104 and 66-105a and repealing the existing sections.

Our association represents and supports eastern Kansas oil and gas producers, gas gatherers, service companies, royalty owners and associated businesses along with the overall welfare of the Kansas oil and gas industry in this state.

BACK GROUND ON EASTERN GAS PRODUCTION KANSAS

Eastern Kansas and in particular Southeastern Kansas has been experiencing a boom in shallow gas production thru the major development of coalbed methane gas (CBM) over the past nine years. Several hundred miles of new gas gathering pipeline has been installed to bring this raw field gas (unprocessed gas) to market. This gas production has generated millions of dollars in severance tax and conservation fee fund tax going to the state general fund and the Kansas Corporation Commission (KCC), not to mention the millions of dollars the counties have derived from the new personal property taxes being assessed on all of these new wells, pipelines and assets. Numerous Gas Companies collectively have invested several hundred million dollars to bring this boom to fruition. Most of these companies have drilled their own wells in one company, operated their wells in another and have an affiliate company build the gas gathering systems and compression to move their raw field gas (unprocessed gas) to the market. Some of the companies gather third party raw field gas (unprocessed gas) for other gas producers for delivery into a major transmission line, but none of them consider themselves or want to be open systems (unless it's their choice) subject to having to defend their position of not wanting to give out exit taps to a consumer, homeowner, business, agricultural user in front of the KCC. The surge in eastern Kansas gas production last year of 20 plus BCF per year has offset the loss of 20 plus BCF from the Hugoton field in southwest Kansas.

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LINGERING CONCERNS & QUESTIONS

1. This appears to be a regional battle between the Southwest Kansas Corn Growers association and the southwest Kansas gas gatherers and to a smaller extent the southwest gas producers. Our question is, why should the rest of the gas producers and gas gatherers in the state be pulled into this regional battle thru legislation and a bill that sets up the KCC as court and the policeman to monitor, referee and enforce access to gathering lines, service from the gatherers, and when a gas gatherer would be allowed to abandon a segment of their own pipeline?
2. Who is going to pay for the additional KCC manpower necessary to accomplish the above requirements if this bill would pass? The answer is the entire oil and gas industry across the State thru an increase in the KCC conservation assessment. This assessment was just recently raised 41% on natural gas and 66% on oil December 22, 2006 due the fact that the oil and gas division of the KCC needed additional funding to operate. Additional manpower means additional cost which means additional KCC conservation assessments to the oil and gas industry. What is the cost to the state and in reality to the oil and gas industry state wide?
3. What obligations do any gas gatherers or any private company for that matter have to give open access to anyone who wants it, just because they want a cheaper energy source than they can find anywhere else in their area even though there are other choices for energy (albeit more expensive)? Why doesn't a private pipeline have a choice to sell or not sell gas to anyone they want to under private negotiations based on economics and a sound business decision?
4. Most small gas gatherers were organized and got into business to produce and gather their own gas or other producers gas to deliver into major pipelines and not for the purpose of distributing gas to individuals, but if that made good business sense, they should be able to make that decision on their own not be forced into it.
5. Another question that was never answered was how many southwest Kansas corn growers and irrigators is this bill going to affect; how many major gas gatherer is this going to affect; and how many unresolved disputes lead to this bill being brought to the legislature?

WHY AM I TESTIFYING AS NEUTRAL

Before this committee is the substitute bill worked out and compromised mainly between the southwest Kansas corn growers and the major gas gatherers of southwest Kansas to settle their private dispute that for some reason they couldn't resolve themselves and now because of political pressure from that region has come to the legislature. We still stand

on the principal that this bill does not belong in the legislature. It is unjust and it amounts to the taking of private property by a small group of individuals for their sole enrichment and bottom line. The original bill and the compromise bill had long been talked about and the major terms negotiated before the small gas gatherers around the state even became involved in the process. We, as small gas gatherers, were hopeful that this bill would never get out of committee due to the fact that this issue was a private issue between the southwest Kansas corn growers and the major gas gatherers of southwest Kansas not the legislature. Now the small gas gatherers around the state have a dilemma. The tracks are greased and the train is rolling. We either accept the substitute bill, as it seems to exempt many small gas gatherers, but not all, and hope that other groups don't use the legislature to settle disputes they can't settle on their own or we take the risk of trying to kill this bill and have a potentially far worse bill crammed down our throats.

So we will sit on our hands and neither oppose or support this substitute bill and hope we don't find ourselves in this position again before the legislature.

Thank you for your time.

David P. Bleakley



Kansas Independent Oil & Gas Association
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Topeka, Kansas 66612-1216
785-232-7772 Fax 785-232-0917
Email: kiogaed@swbell.net

Testimony to House Energy & Utilities Committee
Substitute Senate Bill 325
An Act concerning natural gas; relating to gas gathering activities

Edward Cross, Executive Vice President
Kansas Independent Oil & Gas Association

March 21, 2007

Good morning Chairman Holmes and members of the committee. I am Edward Cross, Executive Vice President of the Kansas Independent Oil & Gas Association (KIOGA). KIOGA is a 1,400 member trade association representing the interests of the independent oil and gas industry in Kansas. I am submitting this written testimony to express KIOGA's position regarding Substitute Senate Bill 325 (Sub SB 325).

Sub SB 325 represents a compromise bill worked out after many weeks and hours of meetings and debate between the oil and gas industry and the agricultural groups. Please note that KIOGA does not necessarily like Sub SB 325. KIOGA doesn't think any bill is needed and that the issue is a private contractual matter between individual gas gathering systems and potential exit tap users. The original SB 325 was completely unworkable for the independent oil and gas industry and KIOGA was strongly opposed to the bill. However, Sub SB 325 is better than the original and appears to be workable.

Oil and gas representatives from the Kansas Petroleum Council, KIOGA, EKOGA, and other individuals met with representatives from the agricultural group on March 8th to work to find a solution to the issue. Sub SB 325 is what emerged from the March 8th meeting. KIOGA agreed to the compromise reached at the meeting on March 8th. KIOGA stands by our word. While we are not happy with any bill, we do stand by our agreed compromise. However, that position could change should Sub SB 325 be amended in a way more unfavorable to the independent oil and gas industry.

Thank you for your time and consideration.

ENERGY AND HOUSE UTILITIES
DATE: 3/21/2007
ATTACHMENT 9

**AVERAGE RATES FOR
KANSAS CUSTOMERS**

AS FILED IN KS CASES
06-KCPE-828-RTS AND 07-KCPE-905-RTS

	2006 AVERAGE KS RATES \$/Kwh	2007 AVERAGE KS RATES \$/Kwh
Residential	\$ 0.0688	\$ 0.0746
SMALL Commercial & Industrial	\$ 0.0878	\$ 0.0928
MEDIUM Commercial & Industrial	\$ 0.0692	\$ 0.0734
LARGE Commercial & Industrial	\$ 0.0535	\$ 0.0583
LARGE POWER Commercial & Industrial	\$ 0.0457	\$ 0.0497
TOTAL	\$ 0.0650	\$ 0.0698

NOTE

KCPL requested an increase on March 1, 2007 of 10.82%. A decision by the Kansas Corporation Commission is expected later in 2007 to allow rates to become effective on January 1, 2008.

ENERGY AND HOUSE UTILITIES

DATE: 3/21/2007

ATTACHMENT 10-1

Rate History - 1987 to 2006

Year	Kansas	Missouri
1987	2.0% Rate Decrease	No Change
1988	4.85% Rate Decrease	2.21% Rate Increase
1989	ECA Eliminated (Energy Cost Adjustment)	No Change
1990	No Change	No Change
1991	No Change	No Change
1992	No Change	No Change
1993	No Change	No Change
1994	No Change	2.67% Rate Decrease
1995	No Change	No Change
1996	No Change	2.0% Revenue Decrease (Rates Redesign)
1997	No Change	2.5% Rate Decrease
1998	4.2% Refund (Rates Redesign)	No Change
1999	4.8% Rate Decrease (Rates Redesign)	3.2% Rate Decrease
2000	No Change	No Change
2001	No Change	No Change
2002	No Change	No Change
2003	3.237% Rate Decrease	No Change
2004	No Change (Frozen)	No Change
2005	No Change (Frozen)	No Change
2006	No Change Planned	No Change Planned

From: Larry Berg <lberg@mwenergy.com>
To: holmes@house.state.ks.us
Date: 03/20/2007 10:54 AM
Subject: Electric Rates

Mr. Chairman: Per your request, I have listed below our average electric rates (2006 actual & 2007 estimated) for residential, commercial and industrial classes.

	<u>2006 actual average</u>	<u>2007 estimated average</u>
Residential	8.6191	9.0
Commercial	7.8226	8.2
Industrial	5.6108	5.9

I will also furnish you with a hard copy.

Larry

ENERGY AND HOUSE UTILITIES
DATE: 3/21/2007
ATTACHMENT 11

Substitute for SENATE BILL No. 20

By Committee on Utilities

3-12

9 AN ACT concerning the Kansas underground utility damage prevention
10 act; amending K.S.A. 66-1802, 66-1804, 66-1805 and 66-1806 and re-
11 pealing the existing sections.
12

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

14 Section 1. On July 1, 2008, K.S.A. 66-1802 is hereby amended to
15 read as follows: 66-1802. As used in this act:

16 (a) "Damage" means any impact or contact with an underground fa-
17 cility, its appurtenances or its protective coating, or any weakening of the
18 support for the facility or protective housing which requires repair.

19 (b) "Emergency" means any condition constituting a clear and pres-
20 ent danger to life, health or property, or a customer service outage.

21 (c) "Excavation" means any operation in which earth, rock or other
22 material below the surface is moved or otherwise displaced by any means,
23 except tilling the soil for normal agricultural purposes, or railroad or road
24 and ditch maintenance that does not change the existing railroad grade,
25 road grade and/or ditch flowline, or operations related to exploration and
26 production of crude oil or natural gas, or both.

27 (d) "Excavator" means any person who engages directly in excavation
28 activities within the state of Kansas, but shall not include any occupant
29 of a dwelling who: (1) Uses such dwelling as a primary residence; and (2)
30 excavates on the premises of such dwelling.

31 (e) "Facility" means any *sanitary sewer* or underground line, system
32 or structure used for *transporting*, gathering, storing, conveying, trans-
33 mitting or distributing *potable water*, gas, electricity, communication,
34 crude oil, refined or processed petroleum, petroleum products or haz-
35 ardous liquids; facility shall not include, any *stormwater sewers* or pro-
36 duction petroleum lead lines, salt water disposal lines or injection lines,
37 which are not located on platted land or inside the corporate limits of any
38 city.

39 (f) "Locatable facility" means facilities for which the tolerance zone
40 can be determined by the operator using generally accepted practices
41 such as as-built construction drawings, system maps, probes, locator de-
42 vices or any other type of proven technology for locating.

43 (g) "Marking" means the use of stakes, paint, flags or other clearly

ENERGY AND HOUSE UTILITIES
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ATTACHMENT 12-1

1 identifiable materials to show the field location of underground facilities,
2 in accordance with the rules and regulations promulgated by the state
3 corporation commission in the administration and enforcement of this
4 act.

5 (h) "Municipality" means any city, county, municipal corporation,
6 public district or public authority located in whole or in part within this
7 state which provides firefighting, law enforcement, ambulance, emer-
8 gency medical or other emergency services.

9 (i) "Notification center" means the statewide communication system
10 operated by an organization which has as one of its purposes to receive
11 and record notification of planned excavation in the state from excavators
12 and to disseminate such notification of planned excavation to operators
13 who are members and participants.

14 (j) "Operator" means any person who owns or operates an under-
15 ground *tier 1 or tier 2* facility, except for any person who is the owner of
16 real property wherein is located underground facilities for the purpose of
17 furnishing services or materials only to such person or occupants of such
18 property.

19 (k) "Preengineered project" means a public project or a project which
20 is approved by a public agency wherein the public agency responsible for
21 the project, as part of its engineering and contract procedures, holds a
22 meeting prior to the commencement of any construction work on such
23 project in which all persons, determined by the public agency to have
24 underground facilities located within the construction area of the project,
25 are invited to attend and given an opportunity to verify or inform the
26 public agency of the location of their underground facilities, if any, within
27 the construction area and where the location of all known and under-
28 ground facilities are duly located or noted on the engineering drawing as
29 specifications for the project.

30 (l) "Permitted project" means a project where a permit for the work
31 to be performed must be issued by a city, county, state or federal agency
32 and, as a prerequisite to receiving such permit, the applicant must locate
33 all underground facilities in the area of the work and in the vicinity of the
34 excavation and notify each owner of such underground facilities.

35 (m) "Person" means any individual, partnership, corporation, asso-
36 ciation, franchise holder, state, city, county or any governmental subdivi-
37 sion or instrumentality of a state and its employees, agents or legal
38 representatives.

39 (n) "Production petroleum lead line" means an underground facility
40 used for production, gathering or processing on the lease or unit, or for
41 delivery of hydrocarbon gas and/or liquids to an associated tank battery,
42 separator or sales facility. Production petroleum lead lines shall include
43 underground lines associated with lease fuel and saltwater disposal and

12-2

12-3

1 injection.

2 (o) "Platted land" means a tract or parcel of land which has been
3 subdivided into lots of less than five acres for the purpose of building
4 developments, including housing developments, and for which a sur-
5 veyor's plat has been filed of record in the office of the register of deeds
6 in the county where the land is located.

7 (p) "Tier 1 facility" means an underground facility used for trans-
8 porting, gathering, storing, conveying, transmitting or distributing gas,
9 electricity, communications, crude oil, refined or reprocessed petroleum,
10 petroleum products or hazardous liquids.

11 (q) "Tier 2 facility" means an underground facility used for trans-
12 porting, gathering, storing, conveying, transmitting or distributing pota-
13 ble water or sanitary sewage.

14 (p) (r) "Tolerance zone" means the area within not less than 24 inches
15 of the outside dimensions in all horizontal directions of an underground
16 facility, except that a larger tolerance zone for a tier 2 facility may be
17 established by rules and regulations adopted under K.S.A. 2006 Supp. 66-
18 1815, and amendments thereto.

: (1) For a tier 1 facility,

from

such facility; and (2) for a tier 2 facility, the area not less than 36
inches from the outside dimensions in all horizontal directions of
such facility

19 (q) (s) "Update" means an additional request from the excavator to
20 extend the time period of the request for intent to excavate beyond the
21 15 calendar day duration of the request.

22 (r) (t) "Whitelineing" means the act of marking by the excavator the
23 route or boundary of the proposed excavation site with white paint, white
24 stakes or white flags.

25 (s) (u) "Working day" means every day Monday through Friday be-
26 ginning at 12:01 a.m., except for the following officially recognized holi-
27 days: New Year's day, Memorial day, Independence day, Labor day,
28 Thanksgiving day, the day after Thanksgiving and Christmas.

29 Sec. 2. On July 1, 2008, K.S.A. 66-1804 is hereby amended to read
30 as follows: 66-1804. (a) Except in the case of an emergency, an excavator
31 shall serve notice of intent of excavation at least two full working days,
32 but not more than 15 calendar days before the scheduled excavation start
33 date, on each operator having underground tier 1 facilities located in the
34 proposed area of excavation.

five

35 (b) An excavator may serve notice of intent of excavation at least ~~two~~
36 full working days, but not more than 15 calendar days before the sched-
37 uled excavation start date, on each operator of tier 2 facilities located in
38 the proposed area of excavation.

39 (b) (c) The notice of intent to excavate or any subsequent updates
40 shall be valid for 15 calendar days after the excavation start date and such
41 notice shall only describe an area in which the proposed excavation rea-
42 sonably can be completed within the 15 calendar days.

43 (c) (d) No person shall make repeated requests for remarking unless

1 the request is due to circumstances not reasonably within the control of
2 such person.

3 ~~(d)~~ (e) The notice of intent of excavation shall contain the name, ad-
4 dress and telephone number of the person filing the notice of intent, the
5 name of the excavator, the date the excavation activity is to commence
6 and the type of excavation being planned. The notice shall also contain
7 the specific location of the excavation.

8 ~~(e)~~ (f) The person filing the notice of intent to excavate shall, at the
9 request of the operator, whitelist the proposed excavation site when the
10 excavation location cannot be described with sufficient detail to enable
11 the operator to ascertain the location of the proposed excavation.

12 ~~(f)~~ (g) The provisions of this section shall not apply to a preengineered
13 project or a permitted project, except that the excavators shall be required
14 to give notification in accordance with this section prior to starting such
15 project.

16 Sec. 3. On July 1, 2008, K.S.A. 66-1805 is hereby amended to read
17 as follows: 66-1805 (a) This act recognizes the establishment of a single
18 notification center for the state of Kansas. ~~The notification center shall~~
19 ~~provide prompt notice to each affected member of any proposed exca-~~
20 ~~vation.~~ Each operator who has an underground facility shall become a
21 member of the notification center.

22 (b) *For operators of tier 1 facilities or operators of tier 2 facilities that*
23 *desire notification in the same manner as operators of tier 1 facilities, the*
24 *notification center shall provide prompt notice of any proposed excavation*
25 *to each affected operator that has facilities recorded with the notification*
26 *center in the area of a proposed excavation site.*

27 (c) *For operators of tier 2 facilities that desire direct contact with the*
28 *excavator, the notification center shall provide the excavator with the*
29 *name and contact information of the affected operator that has facilities*
30 *recorded with the notification center in the area of the proposed exca-*
31 *vation.*

32 ~~(b)~~ (d) Notification, ~~as required by K.S.A. 66-1804, and amendments~~
33 ~~thereto,~~ to operators *as defined in subsection (b)* shall be given by noti-
34 fying the notification center by telephone at the toll free number or by
35 other communication methods approved by the notification center. The
36 content of such notification shall be as required by K.S.A. 66-1804, and
37 amendments thereto.

38 (e) *Notification to operators as defined in subsection (c) may be given*
39 *by notifying the operator of tier 2 facilities using the contact information*
40 *provided by the notification center. The content of such notification shall*
41 *be as required by K.S.A. 66-1804, and amendments thereto.*

42 ~~(e)~~ (f) Each operator who has an underground facility within the state
43 shall be afforded the opportunity to become a member of the notification

12-4

1 center on the same terms as the original members.

2 ~~(d)~~ (g) A suitable record shall be maintained by the notification center
 3 to document the receipt of notices from excavators as required by this
 4 act. ¹ (h) A suitable record shall be maintained by operators of tier 2
 5 facilities that desire direct contact with the excavator pursuant to subsec-
 6 tion (c) to document the receipt of notices from excavators.

7 Sec. 4. On July 1, 2008, K.S.A. 66-1806 is hereby amended to read
 8 as follows: 66-1806. (a) ~~Within two working days, beginning on the later~~
 9 ~~of the first working day after the excavator has filed notice of intent to~~
 10 ~~excavate or the first day after the excavator has whitelined the excavation~~
 11 ~~site, an operator served with notice, unless otherwise agreed between the~~
 12 ~~parties, shall inform the excavator of the tolerance zone of the under-~~
 13 ~~ground facilities of the operator in the area of the planned excavation by~~
 14 ~~marking, flagging or other acceptable method.~~

15 (b) If the operator of tier 2 facilities cannot accurately mark the tol-
 16 erance zone, such operator shall mark the approximate location to the best
 17 of its ability, notify the excavator that the markings may not be accurate,
 18 and provide additional guidance to the excavator in locating the facilities
 19 as needed during the excavation.

20 (c) The operator of tier 2 facilities shall not be required to provide
 21 notification of the tolerance zone for facilities which are at a depth at least
 22 two feet deeper than the excavator plans to excavate but does have to
 23 notify the excavator of their existence.

24 ~~(b)~~ (d) If the operator of a tier 1 facility has no underground facilities
 25 in the area of the proposed excavation, such operator, before the exca-
 26 vation start date, shall notify the excavator that it has no facilities in the
 27 area of proposed excavation by telephone, facsimile, marking the area all
 28 clear or by other technology that may be developed for such purposes.

29 ~~(e)~~ (e) If the excavator notifies the notification center, within two
 30 working days after the initial identification of the tolerance zone by the
 31 operator, that the identifiers have been improperly removed or altered,
 32 the operator shall make a reasonable effort to reidentify the tolerance
 33 zone within one working day after the operator receives actual notice from
 34 the notification center.

35 ~~(d)~~ (f) If the excavator has provided notice to an operator pursuant
 36 to K.S.A. 66-1804, and amendments thereto, and the operator fails to
 37 comply with subsections (a), (b) or (c) or notifies the excavator that it has
 38 no underground facilities in the area of the planned excavation, ~~fails to~~
 39 ~~respond or improperly marks the tolerance zone for the facilities;~~ the
 40 excavator may proceed and shall not be liable to the operator for any
 41 direct or indirect damages resulting from contact with the operator's fa-
 42 cilities, except that nothing in this act shall be construed to hold any
 43 excavator harmless from liability to the operator in those cases of gross

(i) Any person who engages directly in excavation but who is excluded from the definition of "excavator" shall directly notify operators of tier 2 facilities of intent to excavate and shall not notify the notification center regarding such facilities.

(j) Except as provided by subsection (k), the excavator shall pay 50% of each referral fee assessed by the notification center and the operator shall pay the remainder of such fee, but such operator shall not be required to pay more than \$0.25.

(k) The excavator shall pay the full amount of the referral fee assessed for any referral to remark the location of facilities unless the request is due to circumstances not reasonably within the control of the excavator.

(l) An operator which can demonstrate a formal planning process through which excavators must receive authorization prior to commencing excavation may certify to the state corporation commission and the notification center that the operator's internal notification and marking system is at least comparable to process used by the notification center. Upon receipt of such certification, the state corporation commission and the notification center shall provide that information to any excavator contacting the state corporation commission or the notification center, at no charge to the operator.

Unless otherwise agreed between the parties, an operator served with notice of intent to excavate shall inform the excavator of the tolerance zone of the underground facilities of the operator in the area of the planned excavation by marking, flagging or other acceptable method: (1) Within two working days, beginning on the later of the first working day after the excavator filed the notice or the first day after the excavator has whitelined the excavation site, for tier 1 facilities; and (2) within five working days, beginning on the later of the first working day after the excavator filed the notice or the first day after the excavator has whitelined the excavation site, for tier 2 facilities.

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1 negligence or willful and wanton conduct.

2 (e) (g) For economic damages in any civil court of this state, failure
3 of an operator to inform the excavator ~~within two working days~~ of the
4 tolerance zone of the underground facilities of the operator in the manner
5 required by subsection (a) ~~of K.S.A. 66-1806, and amendments thereto,~~
6 shall not give rise to a cause of action on the part of the excavator against
7 an operator, except that nothing in this act shall be construed to hold any
8 operator harmless from liability in those cases of inaccurate marking of
9 the tolerance zone, gross negligence or willful and wanton conduct. Such
10 failure may subject an operator to civil penalties as determined by the
11 state corporation commission.

and within the time

12 (f) (h) Any person claiming that an operator has failed to inform the
13 excavator ~~within two working days~~ of the tolerance zone of the under-
14 ground facilities of the operator shall file a complaint with the state cor-
15 poration commission requesting enforcement of subsection (a) within one
16 year of becoming aware of the violation.

within the time required by subsection (a)

17 (g) (i) All tier 1 facilities installed by an operator after January 1, 2003,
18 shall be locatable.

19 (j) All tier 2 facilities installed by an operator ~~after July 1, 2007,~~ shall
20 be locatable.

on and

21 New Sec. 5. (a) All tier 2 facilities installed by an operator after July
22 1, 2007, shall be locatable.

23 (b) ~~As used in this section, "tier~~ 2 facility" means an underground
24 facility used for transporting, gathering, storing, conveying, transmitting
25 or distributing potable water or sanitary sewage.

26 Sec. 6. On July 1, 2008, K.S.A. 66-1802, 66-1804, 66-1805 and 66-
27 1806 are hereby repealed.

28 Sec. 7. This act shall take effect and be in force from and after its
29 publication in the statute book.

All tier 2 facilities shall be locatable on and after July 1, 2011.
(c) Before January 1, 2008, each person who owns or operates a tier 2 facility, other than a person who is the owner of real property where the tier 2 facility is located for the purpose of furnishing services or materials only to such person or occupants of such property, shall notify the notification center recognized pursuant to K.S.A. 66-1805, and amendments thereto, of such person's intent to receive notification in the same manner as operators of tier 1 facilities.
(d) As used in this section:
(1) "Tier 1 facility" means an underground facility used for transporting, gathering, storing, conveying, transmitting or distributing gas, electricity, communications, crude oil, refined or reprocessed petroleum, petroleum products or hazardous liquids.
(2) "Tier

**KCP&L Iatan 2 unit | Utility and environmental groups work together
Accord reached on power plants
Deal calls for more wind farms, energy- conservation efforts, cleaner technology.**
By Karen Dillon
March 20, 2007

In what officials are calling a groundbreaking deal, Kansas City Power & Light will build wind farms and use cutting-edge technology to make its power plants among the nation's cleanest.

The steps are part of an agreement reached Monday with the Sierra Club in Missouri and Kansas and a local citizens group that has been fighting the utility's plans to build another coal-fired plant near Weston.

For their part, the Sierra Club and the Concerned Citizens of Platte County will drop their six-year battle against the Iatan 2 plant, allowing it to be completed.

In a joint statement, the organization and the company said the agreement "can serve as a model for environmental groups and utilities working together."

It will be announced in a news conference at 11 a.m. today at the Discovery Center in Kansas City. The cost to KCP&L could be hundreds of millions of dollars, according to the Sierra Club.

KCP&L declined to speculate on the cost, citing portions of the pact that will need government approval and legislation.

But the pieces of the plan were clear. According to the settlement, KCP&L will:

- Add 400 megawatts of wind energy. The utility has a 100-megawatt wind farm near Spearville in southwest Kansas that cost more than \$150 million. Sites for the new wind turbines have not been determined, but KCP&L will build them by 2012.
- Create 300 megawatts of energy efficiency by encouraging conservation and working with businesses and communities to lower their electricity use.
- Reduce carbon dioxide emissions by 20 percent by 2020, even with a new plant on line. Carbon dioxide, which has not yet been regulated by the federal government, is considered a key cause of global warming.
- Decrease emissions of nitrogen oxide and sulfur dioxide, major contributors to ozone, and other pollutants at Iatan 1 and 2 and at two units at the La Cygne, Kan., plant. The new levels of emissions will be among the lowest in the country, according to a statement by the utility and environmental groups.
- Conduct a study of its Montrose plant in west-central Missouri with the Sierra Club to determine whether to close it or install modern antipollution controls there.
- Work with the Sierra Club and legislators to get approval for "net-metering" in the utility's service area. Net-metering allows residents to generate small amounts of electricity from solar panels and wind turbines in their backyards and sell excess energy to the utility.

ENERGY AND HOUSE UTILITIES

DATE: 3/21/2007

ATTACHMENT 13-1

Kansas City Star Cont.

•Finance several community projects, including some recommended by the Kansas City Climate Protection Committee to reduce greenhouse gases. Other projects include three more air-quality monitors for the region, upgrading the drinking-water infrastructure in Weston and creating a left-turn lane near the Iatan plants to help motorists avoid coal trains.

Bill Downey, president and chief executive officer of KCP&L, said utility officials were meeting with governors and legislators in Kansas and Missouri on several of the issues in the agreement.

“Finding collaborative solutions is something we started back in 2004,” Downey said. “We felt getting into this kind of discussion and bringing Sierra Club into it would be more productive than waging specific legal battles and winding up with partial solutions.”

Sierra Club and KCP&L officials promised to work together on getting regulators’ approvals for the measures.

Bruce Nilles, attorney and official with the Sierra Club, said the settlement was the most far-reaching ever made with a utility in the United States.

“It is significant, and in our mind it is turning the corner,” Nilles said. “KCP&L has raised the bar, and it will be impossible for any other responsible utility to ignore global warming.”

The environmental group hopes the measures to which KCP&L has agreed will create enough wind power and reduce enough demand for power to make additional coal-fired plants unnecessary in the future.

“Out of the fighting for the last six years, an agreement has been reached that we hope will lay a foundation” for KCP&L, Nilles said.

“In essence ... this will be the last coal plant built in the region.”

Susan Brown of the Concerned Citizens of Platte County was ecstatic.

“This is so exciting,” said Brown, who became involved because of worries over how mercury from the plants might harm her children.

“I never contended they were evil,” Brown said. “They were just working in a system that was backward and encouraged people to use and use and use more electricity.”

Construction has begun on the 850-megawatt Iatan 2 plant. It is expected to cost \$1 billion. But since 2001, the opponents have used the public arena and legal actions to delay work on the plant.

The fight became particularly abrasive last year when the Sierra Club said it had evidence that KCP&L had violated the federal Clean Air Act by failing to install modern pollution equipment on Iatan 1 when it upgraded the plant several years ago.

KCP&L maintained it never performed a major upgrade and had done nothing wrong.

As part of the agreement, the environmental groups agreed to drop all legal actions and challenges.

Continued on next page

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Kansas City Star Cont.

However, Monday's announcement doesn't have any effect on a federal investigation, Downey acknowledged. Last month a federal grand jury subpoenaed KCP&L records that the Sierra Club had collected on Jan. 1.

Downey said he didn't know why the government was seeking the information.

Key parts of the deal

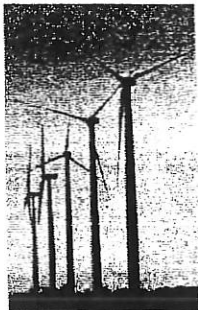
Under the pact, KCP&L will:

- Build 400 megawatts worth of wind turbines by 2012.
- Work with businesses and communities to lower electricity demand.
- Reduce carbon dioxide emissions, a major contributor to global warming, by 20 percent by 2020.
- Decrease emissions of nitrogen oxide and sulfur dioxide, major contributors to ozone.
- Fund several community projects, including some recommended by the Kansas City Climate Protection Committee.

Key elements

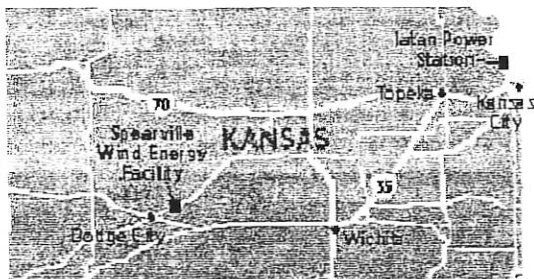
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SPEARVILLE NEWS

KCP&L wind farm near Spearville, Kan.



THE KANSAS CITY STAR

The New York Times

Utility and Sierra Club Deal Aims to Cut Carbon Dioxide

By MATTHEW L. WALD

March 20, 2007

WASHINGTON, March 19 — A Midwest electric company and the Sierra Club announced a deal on Monday under which the environmental group will drop its complaints against a coal plant, and the utility, Kansas City Power and Light, will take steps to cut carbon dioxide output by the amount that a new plant will produce.

The utility promised to buy hundreds of windmills and undertake a major conservation program, among other steps.

The Sierra Club said it was the first time a utility had agreed to “fully offset” a new power plant, which would produce six million tons a year of carbon dioxide. Such offsets have become popular as companies, groups and individuals pledge small steps to reduce carbon emissions by planting trees or investing in windmills or other alternative energy sources to make up for their own “carbon footprint.”

Also Monday, a group of 65 large companies and investors, including DuPont, BP America, the treasurers of nine states and Calpers, the pension fund for California state employees, called on Congress to establish a carbon policy to limit climate-change risk and to clarify for businesses what requirements are likely to emerge.

The group was organized by the Coalition for Environmentally Responsible Economies, known as Ceres, a corporate responsibility group, and the Investor Network on Climate Risk, a network of institutional investors and financial institutions focused on the financial risks and opportunities of climate change.

Their statement called for “leadership by the U.S. government to achieve sizable, sensible long-term reductions of greenhouse gas emissions,” reaching 60 percent to 90 percent below the levels of 1990 by the year 2050. It also asked for the Securities and Exchange Commission to clarify “what companies should disclose to investors on climate change” in their required reports.

The statement said that a program to cut carbon output could create “vast economic opportunities.” Mindy S. Lubber, the president of Ceres, said, “They’re all persuaded by the science.” But she added: “Not only is it a scientific imperative and a moral imperative to deal with, but an economic imperative. The companies and their portfolios will be stronger if we get on with the business of putting mandatory caps on carbon.”

In the utility agreement, the Sierra Club will withdraw its opposition to an 850-megawatt coal plant under construction in Weston, Mo., called Iatan 2, and will no longer argue that an existing plant there violates Clean Air Act rules.

The power company plans to save huge amounts of electricity by helping commercial landlords and homeowners replace air-conditioning and lighting with newer equipment that does the same work with less power.

Kansas City Power and Light, based in Kansas City, Mo., plans to ask regulators and state legislatures to let it invest in higher-efficiency equipment and earn a rate of return on the money it spends, just as it would earn a rate of return on a new power plant. In some cases customers will see bigger bills; others

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would see their bills go down because of lower consumption, but they would have to help pay the cost of any new equipment. The utility would subsidize the cost of new equipment.

“We believe there’s a lot of low-hanging fruit there, energy efficiency that can be invested in that costs less than building a baseload plant,” said Mike Chesser, the chairman and chief executive of the utility. “The trick is to get the business model in place,” Mr. Chesser said.

He said that, as part of the agreement, the Sierra Club would help the company persuade regulators that costs and pollution would be lower if the money could be invested in conservation instead of in new construction. The effort might involve buying central air-conditioners in bulk, going into residential neighborhoods and replacing equipment house after house, he said.

The agreement comes soon after the Natural Resources Defense Council and other environmentalists negotiated with investors buying a Texas utility, TXU, in an agreement to drop eight proposed coal-fired plants.

Electric Utility, Sierra Club End Dispute
Kansas City Power & Light Agrees to Offset New Coal-Fired Plant's Emissions

By Steven Mufson
Washington Post Staff Writer
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The Sierra Club and Kansas City Power & Light Co. have signed an unusual accord in which the utility agreed to offset all the greenhouse gas emissions from a new coal-fired plant by adding wind power and taking steps to conserve energy on a large scale.

The Kansas City utility, which serves half a million customers in western Missouri and eastern Kansas, also pledged to cooperate with the Sierra Club on legislative and regulatory changes that would reduce the company's overall emissions of carbon dioxide by 20 percent by the year 2020.

In return, the Sierra Club will end its campaign against the utility's 850-megawatt coal-fired plant under construction in Missouri.

The deal is the second in a month to involve corporate commitments to environmental groups over emissions blamed for global warming. Last month, buyout firms seeking to acquire the Texas energy company TXU promised two environmental groups that they would shelve eight of the 11 coal-fired plants on TXU's drawing boards. But unlike that agreement, the deal between the Sierra Club and Kansas City Power & Light is a legally binding contract that runs through the end of 2015.

"It's a joint victory," said Carl Pope, executive director of the Sierra Club. "This company has decided that it has a financially viable future that meets its customers and the planet's needs."

"Once we started talking . . . we realized that we really did have common goals," said Michael J. Chesser, chief executive of Great Plains Energy, which owns Kansas City Power & Light.

Under the accord, the Kansas City utility will offset the 6 million tons of carbon dioxide produced by its new coal unit by installing 400 megawatts of new wind power, launching programs to save 300 megawatts of energy demand, and closing or upgrading an older coal-fired unit. That package, to be implemented by 2012, includes four times as much wind power as the company had previously planned and a much more aggressive energy-efficiency program.

Chesser said that ultimately new technologies might make coal plants clean or nuclear plants viable but that wind and energy efficiency would bridge his company's needs until then. "Energy efficiency won't get us to the next century, but it sure will be handy in a transition," he said.

He also said he expected new legislation or regulation to limit carbon dioxide emissions. "It's a reasonable planning assumption," he said. "That's definitely a consideration."

Kansas City Power & Light also agreed to sharply reduce other emissions, such as sulfur dioxide and nitrogen oxides, at its existing coal plants.

The agreement ends six years of hostility between the environmental group and the utility.

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Kansas City Power & Light and the Sierra Club began fighting in 2001 when the utility proposed building five new coal-fired boilers to generate electricity. The utility currently operates 25 electricity generating units at eight plants. In 2003, new management took over and scaled back the expansion plan to two units. Later that year it scaled back the plan to one unit.

Last year Kansas City Power & Light won rate increases to help fund construction of the new 850 megawatt unit. The Sierra Club still had three filings before Kansas and Missouri courts and agencies seeking to stop the coal unit, but the unit has been under construction for seven months.

"In a perfect world we wouldn't be building any coal plants," said Bruce Nilles, a Madison, Wis., lawyer who has led the Sierra Club's battle against Midwest coal plants. "But recognizing that it was going to be very difficult to stop this plant from moving forward, we've put together a landmark agreement. It raises the bar for anyone adding new coal generation and says that you can't simply ignore the CO2 emissions."

The accord with the Sierra Club also requires that Kansas City Power & Light establish net metering, which allows businesses and homeowners with solar, wind or other electricity generation capabilities to sell excess power back to the utility's grid.

Chesser and Pope also said that they would push for state legislation that would allow Kansas City Power & Light to earn additional money even if it met needs through energy efficiency instead of higher electricity sales. "Utilities avoid decisions that are rational for their customers but not for their shareholders," Pope said. "We need to align those incentives."

In the still-pending TXU deal, the buyout firms initially pledged to abandon eight of 11 proposed pulverized coal plants but later indicated they might pursue other coal plants using different technology.