

MINUTES OF THE SENATE UTILITIES COMMITTEE

The meeting was called to order by Chairman Jay Emler at 9:30 A.M. on February 20, 2007 in Room 526-S of the Capitol.

Committee members absent:

Committee staff present: Raney Gilliland, Kansas Legislative Research Department
Mike Corrigan, Revisor of Statutes
Tatiana Lin, Legislative Fellow
Ann McMorris, Committee Secretary

Conferees appearing before the committee:

Steve Rome, Rome Farms, Hugoton
Ron Oliver, Grower, Seward County
Richard Wenstrom, Grower, Edwards County
Ed Peterson, Atty. Kansas Corn Growers Assn.
Frank Caro, Atty, PEK Irrigators, Inc & Southwest Kansas Non-Profit Utilities
Terry Holdren, Kansas Farm Bureau
Allie Devine, Kansas Livestock Assn.

Chair opened the hearing on

SB 325 - State Corporation Commission jurisdiction over gas gathering systems

Proponents:

Steve Rome, president of the Southwest Kansas Corn Growers Association, explained the problem in Southwest Kansas regarding access to gathering lines and representation for citizens who rely on these lines to transport their gas supply requirements. He noted **SB 325** cleans up previous laws governing gathering lines in providing clear guidance to the KCC. If the provisions of this bill are enacted, the legislature will finally have set a clear direction for natural gas legislation in Kansas and will give rural end users less reason to fear letters from natural gas companies. (Attachment 1)

Ron Oliver, farmer in Seward County, Kansas, is dependent on irrigation gas for his farming operations. He explained the dilemma he will have if the source of gas supply is eliminated. (Attachment 2)

Richard Wenstrom, landowner in Edwards County, Kansas and member of the Board of Directors of PEK Irrigators, Inc. spoke in favor of **SB 325**. He mentioned two main concerns: (1) continued access to natural gas from the gathering systems in the area; and (2) ability to negotiate a fair gas contract with the suppliers. (Attachment 3)

Ed Peterson, attorney, Kansas Corn Growers Association, reviewed Sections 3, 4 and 6 of **SB 325** that codified KCC authority for full public utility regulation of existing taps. The bill also addresses Non-Profit Utilities (NPU) in Section 5 to provide express authority to the KCC to determine whether new service or abandonment of service to NPUs is in the public interest. (Attachment 4)

Frank Caro, representing PEK Irrigators, Inc. and the Southwest Kansas Non-Profit Utilities, focused on four main issues: (1) brief history of issues surrounding gas gathering systems; (2) interplay between previously enacted legislation regarding gas gathering systems and **SB 325**; (3) KCC's recent investigation and Order regarding the legal and policy issues that exist regarding gas gathering regulation; and (4) the need to enact **SB 325** to remedy issues regarding the regulation and oversight of gas gathering systems and why the KCC is the appropriate agency to regulate and oversee these issues. (Attachment 5)

Terry Holdren, National Director, Governmental Relations, Kansas Farm Bureau, notes that KFB supports **SB 325** as it provides clarification on KCC jurisdiction over potential residential taps and use for agricultural operations. (Attachment 6)

Allie Devine, Kansas Livestock Association, reported that due to their membership being gas customers, KLA supports **SB 325** as a means for their members to address some of the problems they have experienced. (Attachment 7)

CONTINUATION SHEET

MINUTES OF THE Senate Utilities Committee at 9:30 A.M. on February 20, 2007 in Room 526-S of the Capitol.

Mary K. Miller, Vice President Regulatory and State Government Affairs, Northern Natural Gas, provided written testimony in support of **SB 325**. (Attachment 8)

Questions from the committee regarding services and pricing functions, requested KCC to provide comments and recommendations.

Hearing on **SB 325** continued to February 21, 2007 at which time the opponents would testify.

Adjournment.

Respectfully submitted,

Ann McMorris, Secretary

Attachments - 8

SENATE UTILITIES COMMITTEE GUEST LIST

DATE: FEBRUARY 20, 2007

Name	Representing
Bill Sneed	Polsinelli
Frank Caro	Polsinelli
RICHARD WENSTROM	PEK INNOVATIONS
MONTGOMERY ESCUE	AES
Kirk Heger	Southwest Kansas Fr. Assoc.
Sue Schulte	Ks. Corn Growers Assoc.
Steve Stone	Ks Corn Growers Assoc.
Ron Oliver	self
Jere White	KS Corn Growers Assn
Steve Johnson	ONEOK
Dave Scharf	ONEOK FIELD SERVICES
Jim Fieherly	Pioneer
Charlie Sizemore	Pioneer
Whitney Danna	ONEOK
TERRY HOUDEW	KFB
Ron Seeber	Oxy

ROME FARMS

Steve Rome

1108 S. Main, Hugoton, KS 67951

620-544-4243

**Testimony for hearing on Senate Bill 325
Senate Utilities Committee
February 20, 2007**

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 and also on the board of the Kansas Corn Growers Association.

I'm not a lobbyist or an attorney and unlike many of the people who will testify here today and tomorrow, I don't feel comfortable standing before you today. But I have been here before and I am back to try to explain to you why we need Senate Bill 325. We have a problem in Southwest Kansas regarding access to gathering lines and representation for citizens who rely on these lines to transport their gas supply requirements. The KCC has studied this problem and made a recommendation, but has also asked for a legislative solution to issues it feels it cannot address.

The natural gas infrastructure that southwest Kansas was built upon has served our families and our farms for many years. It worked for the natural gas companies and it worked for the citizens of southwest Kansas. When these lines were a part of an interstate pipeline under one ownership, we could appeal to a federal authority if we had a problem. Now that the gas lines have been separated from the interstate system and no longer under federal jurisdiction, the obvious solution would be that the Kansas Corporation Commission would have jurisdiction in matters relating to these facilities. But the KCC had not claimed that authority until its recent order asserting that the KCC does have jurisdiction in some instances but not all.

I'll let other proponents explain the technical details of how this bill works. But I did want to share with you an example of how this problem affects people like me. In fact, my example affects me and my family personally.

Attached to my testimony is a letter from DCP Midstream (formerly Duke) that I received on January 26. DCP Midstream (Duke) supplies much of the natural gas to the irrigation wells on our farm. It states along with some other requirements that they will substantially increase the price of natural gas we purchase from them. Doing some rough math, it would represent an increase of about \$100,000 for natural gas on our farm this year. The letter ends stating that if we agree, we can let them know and they will prepare the contract. It then states: "If you do not wish to continue to receive gas under these terms, let us know and we will disconnect the taps."

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Attachment 1-1

We might be able to find a more competitively priced supply of gas, but what good would that do if we cannot transport the gas since Duke owns the pipeline and threatens to remove the tap. There are other potential gas supplies but no other gas pipelines. Because they own the pipe, they can hold us hostage to their price. We have been able to work with Duke in the past to resolve issues, which makes this particular ultimatum even more disappointing. But why should Duke negotiate? Under the current law, even with the recent KCC ruling, it is unclear whether the KCC has the authority to do anything and so the only way I could fight this would be to try to beat them in court. I think it's fairly obvious that me and my lone attorney would be no match this corporation and its team of attorneys.

This bill is fair and simple. It would give the KCC oversight to ensure that no gathering company would deny transportation and access to a tap on their system arbitrarily. I could use the gas pipeline to move gas supply that I arranged for my gas needs. It doesn't require the gas companies to provide gas where it is not available, but does allow access to gathering lines where natural gas is available. These lines are already subject to oversight by the KCC for the benefit of producers using gas gathering services. This bill would extend KCC oversight to the other uses of these lines giving rural customers at least some level of consumer protection as enjoyed by other natural gas customers in Kansas. .

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 serve 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. Two years ago, 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. This legislation cleans up the previous bills ensuring that the laws governing gathering lines work together in providing clear guidance to the KCC. I feel confident that if the provisions of this bill are enacted, the legislature will finally have set a clear direction for natural gas legislation in Kansas and will give rural end users like me less reason to fear letters from natural gas companies.

Thank you.



DCP Midstream
6120 S. Yale, Suite 1100
Tulsa, OK 74136
918-492-3331

January 26, 2007

SWKI-STEVENS NORTH, INC.,
Formerly SWKI-SPIKES NORTH, INC.
Attention: Mr. Rick Hansen
1020 West City Limits
Hugoton, Kansas 67951

Re: Gas Sales Contract dated April 1, 2001
Seller's File No. GSC-0003-00* ("Contract")

Dear Mr. Hansen:

We have become aware that the subject Contract expired March 31, 2002, and that the Contract did not contain any "evergreen" term extension provisions. We have continued to deliver gas to the three taps notwithstanding expiration of the Contract. However, we cannot maintain service indefinitely; the Contract expired almost five years ago.

We are willing to continue to provide gas to the taps designated in the Contract under an amendment that extends the term, increases the amount of the Irrevocable Letter of Credit, and provides for a price increase that reflects current market values for natural gas, natural gas liquids and/or NGLs.

We would be willing to agree to a 3 year extended primary term, with annual evergreen provisions, subject to termination upon 60 days notice as of the end of the extended primary term or any anniversary of that date. The new price, based on actual 2006 prices, will be the price quoted as the "Texas/Oklahoma (Mainline)" price index for gas delivered to Panhandle Eastern Pipe Line Company, LP as contained in the first issue of *Inside F.E.R.C.'s Gas Market Report* for the delivery month plus \$1.29/MMBtu. The new Irrevocable Letter of Credit, representing a 60 day exposure for peak summer volumes, will need to be for \$300,000, and you will need to maintain it continuously in force. The Contract amendment would also provide for annual price redeterminations based on the then-current values of gas and NGLs.

If the foregoing is acceptable to you, please so advise us promptly, and we'll prepare the Contract amendment. If you do not wish to continue to receive gas under these terms, let us know and we'll disconnect the taps.

Very truly yours,

Susan H. Moldenhauer
Commercial Accounts Manager, Liberal Asset

BEFORE THE SPECIAL COMMITTEE ON UTILITIES

February 20, 2007

Testimony of Ron Oliver

I am Ron Oliver. I am a farmer with a farm in Seward County, Kansas. I have farmed there for the past twenty-five (25) years, and, like most farmers in Seward County, I am dependent on irrigation gas for my farming operations. Previously, I have used well-head gas directly off the producer's well. However, as that production will soon deplete, I will be forced to look for another source for gas supply. I attempted to enter into discussions with the gathering company in my area, British Petroleum, also raising with them the possibility of forming an NPU to address, not only my needs, but my neighbors who have similar gas supply issues. The company has indicated that it will not give us access to its system to provide exit taps. When the production on which I now rely goes away, if I cannot ask for help from the KCC in negotiating with the gathering company, my question for this Committee is, what am I to do? Where do I go to get my gas supply if the gatherer can say no?

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Attachment 2-1

Tuesday, February 19, 2007

RE: Senate Bill 325

Chairman Emler and members of the Senate Utilities Committee:

Thank you for the opportunity to provide testimony to the Senate Utilities Committee. My name is Richard Wenstrom, and I am a landowner and irrigated producer from Edwards County, Kansas. I am testifying this morning as a proponent of Senate Bill 325. I am also appearing as a Board Member on behalf of the Board of Directors of PEK Irrigators, Inc., a non-profit public utility headquartered in Larned, Kansas. PEK Irrigators, Inc. purchases and receives natural gas from a gathering system and supplies this gas for irrigation use to 55 family farm members with in excess of 200 meters in a five county area (Pawnee, Edwards, Kiowa, Stafford, Barton).

Our farming operation has used gathering line natural gas for irrigation for over thirty years without adverse effect on our irrigation motors. The biggest change we have seen has been in gas suppliers. Last spring, our gas supplier went into bankruptcy, and we were notified in May that we would lose our irrigation gas service as of June 1, 2006, subsequently changed to July 1, 2006. Those affected by this notification met to figure out what to do on such short notice. We obtained assistance from non-profit utilities that access gas from gathering lines in southwest Kansas, quickly organized and formed a non-profit public utility, and negotiated a contract with Sem Gas for gas supply. I can tell you in all candor that the last thing I or any of my producer friends wanted to do was be involved in a utility company. Yet we had no choice due to the short time frame and the hundreds of irrigated circles already planted and growing. Alternative sources such as electric were not available on such short notice, and the cost of diesel fuel made this extremely unattractive, even if there would have been time to convert pumping plants.

We would prefer to continue using natural gas from these gathering systems. We have two main concerns that we want to bring to your attention. First, we need continued access to natural gas from the gathering systems in the area in the future. Secondly, we need to be able to negotiate a fair gas contract with our suppliers, and know that we have some recourse, other than being forced to accept whatever is offered just to get gas, in the event that gas offered to us comes with terms that we cannot accept in terms of operating cost to our member producers.

We ask for your support of Senate Bill 325 to accomplish this for PEK Irrigators, and other affected non-profit public utilities located in southwest Kansas.

I will stand for questions at your convenience.

Richard J. Wenstrom,
Member, Board of Directors
PEK Irrigators, Inc.

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February 20, 2007
Attachment 3-1

WRITTEN STATEMENT

ON BEHALF OF

KANSAS CORN GROWERS ASSOCIATION

To: Senate Transportation and Utilities Committee

From: Ed Peterson, Attorney
FINNEGAN, CONRAD & PETERSON, LC
Kansas City, Missouri

Date: February 20, 2007

Subject: Senate Bill 325

I am appearing on behalf of the Kansas Corn Growers Association this morning in support of Senate Bill 325. Several organizations recognize the need for the statutory changes that are included in SB 325, and we concur in one another's remarks. Other conferees will testify to the need for the provisions of SB 325 and the soundness of its policies. My task is to explain the way in which SB 325 remedies the statutory gaps that leave a significant number of rural natural gas customers unprotected and without access to natural gas service.

The problem occurs as a result of reduced federal regulation of gathering facilities and incomplete state efforts to fill the void left when federal regulators ceased oversight of gathering facilities in Kansas. Originally, most gathering facilities were operated as part of the interstate gas production and delivery system. In recent years federal regulators have withdrawn from regulation of the gathering systems and the companies themselves have restructured leaving intrastate gathering operations. There have been several attempts in Kansas to provide state regulatory oversight – most notably the Gas

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Gathering Services statutes at K.S.A. 55-1,101 et seq. and the Kansas Self Help Act at K.S.A. 66-2101 et seq. These efforts failed to fully address the concerns of customers and consequently, the KCC was asked to exercise authority. In response, the KCC conducted an investigation, Doc. No. 06-GIMG-400-GIG, and issued an order that failed to deal with the gap in regulation, thus prompting this legislative initiative.

The Commission's order made three important findings:

1. The statutory scheme is unclear. The KCC order provides a detailed explanation of the gaps and inconsistencies between Chapter 66 (public utilities and common carriers) and Chapter 55 (gathering and production). The lack of clarity impacts KCC authority over both public utility aspects and gathering line aspects of the problem.
2. The KCC concluded that it had full authority to regulate, *existing taps* as public utilities, including the duty to serve, rate regulation, and abandonment. Arguably, this conclusion extends *greater* regulation to gathering lines with existing taps than was expressly stated in the statutes.
3. The KCC concluded that it did not have authority over *new* taps and that it had no power to regulate transportation or distribution of gas to persons under the Kansas Self-Help Act.

Despite the KCC's acknowledgment of the uncertainty of its statutory authority, it nevertheless created a new regulatory framework where existing taps receive all the benefits/disadvantages of complete utility regulation, while any new taps will experience none of the same benefits/disadvantages.

The approach taken in SB 325 is to amend the statutes to codify the KCC conclusions as to existing taps and to extend KCC authority to include new taps and transportation and distribution under the Kansas Self Help Act.

The codification of the KCC authority for full public utility regulation of existing taps is dealt with in Sections 3, 4, and 6 of SB 325. In Section 3, new language is added to K.S.A. 55-1,109 to make certain that public utilities that are operating gathering lines are subject to the Commission's authority in the event of a proposed abandonment. Section 4 of the bill amends K.S.A. 66-104, which defines public utilities, to exclude lines that perform gathering services only, thereby including as public utilities those lines that perform additional services such as transportation and distribution. This provision results in classifying as utilities all gathering lines that serve customers either directly or as transporters. Section 6 of Senate Bill 325 makes a corresponding change to K.S.A. 66-105a to clarify that lines that provide *gathering services only* are not public utilities, but that lines that perform the "secondary" functions of *transportation and distribution* will be treated as public utilities. These changes combined make clear that existing taps off gathering lines will be subject to the same rate and abandonment regulation that the KCC imposed with its order in Doc. No. 06-GIMG-400-GIG. I should note that these changes do not distinguish between taps based on date of service, and therefore, the conditions would apply to any future taps as well.

In addition to codifying the KCC authority over existing taps, Senate Bill 325 also includes amendments to confer clear authority to the KCC to resolve issues relating to new or proposed service taps. Section 2 of the bill amends K.S.A. 55-1,104 to authorize the KCC to review and correct any "fees, terms or practices" of a gas gathering service

provider. "Practices" would include the unreasonable refusal to serve or the imposition of unreasonable terms before agreeing to provide service. The mechanism for presenting and resolving such issues is the complaint procedure previously authorized by the Legislature. Thus, this provision stops short of imposing a duty to serve all potential customers as would be the case with a certificated utility. This provision does provide oversight by the KCC where customers seek service and are unable to obtain cooperation from the gathering service provider.

Senate Bill 325 addresses one additional area that was not specifically addressed in the KCC order: Non-Profit Utilities (NPU). These entities are currently subject to regulation as to safety and service territory. Most parties seem to agree that the NPU offers an effective and efficient way to address situations where service to one or more customers is jeopardized by declining gathering line conditions. In fact the NPUs have been a lifeline on more than one occasion. Despite the attractiveness of this alternative, the KCC order provided no assurances of future approvals or protection, and apparently the KCC would treat future NPUs as a new tap with no regulatory oversight over access to service. Section 5 of SB 325 would correct this situation by amending K.S.A. 66-104c(b) to provide express authority to the KCC to determine whether new service or abandonment of service to NPUs is in the public interest. Again, this approach stops short of requiring service to NPUs, but does allow the KCC to be the arbiter of whether service to an NPU is in the public interest.

Thank you for your attention; I would be happy to respond to any questions.

**COMMENTS OF PEK IRRIGATORS, INC. AND
THE SOUTHWEST KANSAS NON-PROFIT UTILITIES
IN SUPPORT OF SENATE BILL 325**

February 20, 2007

Good morning. My name is Frank Caro, and I am a shareholder at the law firm of Polsinelli Shalton Flanigan Suelthaus, located in Overland Park. In that capacity, I have practiced energy law for over twenty years and have directed the energy and telecommunications practice at the firm. I am also the former general counsel of the Kansas Corporation Commission. I appreciate the opportunity to present testimony in support of S.B. 325 on behalf of two of my clients, PEK Irrigators, Inc. and the Southwest Kansas Non-Profit Utilities.

PEK Irrigators is a non-profit public utility in Kansas that was formed to provide natural gas service only to its member/owners. PEK provides natural gas services to its members in southwestern Kansas for agricultural uses, including irrigation engines, pumping fuel, grain drying, and other agricultural uses. The Southwest Kansas Non-Profit Utilities is an informal coalition of non-profit utilities that also provide natural gas services to their respective members.

PEK Irrigators and the Southwest Kansas NPUs wish to demonstrate and explain their support of Senate Bill 325, which, if passed, would enact legislation concerning natural gas gathering activities, and which would amend several current Kansas statutes in order to clarify the regulation of gas gathering systems.

My comments today will focus on four main issues.

First, I will provide a brief history of issues surrounding gas gathering systems. Second, I will discuss the interplay between previously enacted legislation regarding gas gathering systems and SB 325. Third, I will discuss the Kansas Corporation Commission's recent investigation and Order regarding the legal and policy issues that exist regarding gas gathering regulation. Finally, I will briefly discuss why the Kansas Legislature's enactment of SB 325 is necessary to remedy issues regarding the regulation and oversight of gas gathering systems, and will discuss why the KCC is the appropriate agency to regulate and oversee these issues.

BACKGROUND

As a brief background to this issue, the Commission noted in 1998 that the Hugoton Natural Gas Field, as well as several other natural gas fields located in southwest Kansas, has been a tremendous asset to the economy of the State of Kansas for many decades. Expansive gathering systems are present throughout these southwest Kansas gas fields, and are primarily used to collect natural gas from numerous wells and

deliver it to one or more points for transportation on intrastate and interstate pipelines to markets and end users.

Many rural Kansas citizens and businesses use the gas from the fields by tapping directly into the miles of gathering system pipe throughout the region. The gas is primarily used for irrigation, feedlot operation, and residential consumption, but is also used for other commercial and institutional purposes. Customers take gas from points along the gathering systems, referred to as "exit taps", prior to the final delivery point of the system. The final delivery point is the physical end of the gathering system, usually a processing plant or point of sale to another pipeline.

Because of the sale of parts of what was once an interstate pipeline to different gathering companies wholly located within the State of Kansas, there is no longer federal jurisdiction over these pipelines. Therefore, under K.S.A. 55-1,101, the Kansas Legislature authorized the Commission to regulate gas gathering services rendered on these lines.

The Legislature further responded to rural customers' gas supply needs by adopting the Kansas Self-Help Gas Act to ensure that rural consumers could arrange gas supply when the franchised utility refused to provide service on reasonable terms. Likewise, the non-profit public utility statutes were also enacted to assist rural customers. The Self-Help Gas Act provides a means by which rural consumers can join together to help themselves with their gas supply needs. The Self-Help Act provides that any rural gas user, defined as a person using gas from a wellhead or gathering facility for agricultural purposes on property they own, lease or operate, may construct its own pipeline connection to a gas supply system and will not be considered a public utility.

However, despite these statutory protections, many rural end use customers have been denied access to gathering lines in order to transport their gas requirements, and, in some cases, have lost access to existing distribution and transportation services. Without access to these gathering lines, the Self-Help Act and the non-profit utility provisions are rendered meaningless.

As the Commission has recently noted, declining pressure in the field poses significant challenges for those consuming gas through exit taps, as well as for 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. Therefore, in an effort to address these issues, on October 19, 2005, the Kansas Corporation Commission issued an Order initiating an investigation to determine a policy regarding customers served directly or indirectly with natural gas service by means of a gas gathering system.

KANSAS CORPORATION COMMISSION INVESTIGATION AND ORDERS

The Commission's investigation highlighted the necessity for the Legislature to enact S.B. 325. The Commission's investigation into these issues was contained in

Commission Docket No. 06-GIMG-400-GIG, and eventually resulted in a Final Order by the Commission on November 22, 2006. The parties to this docket included non-profit public utilities, gas gatherers, producers and public utilities. Many of these parties or their representatives are here today.

In this Order, the Commission made several findings, and stated how it would likely interpret the various legal issues presented in future proceedings before it, as depletion of gas reserves in the Hugoton field continues to require consideration of various important policy issues.

1. First, the Commission found that it lacks jurisdiction under the gas gathering statutes to require open access to remove gas from a gas gathering system.
2. Second, the Commission found that it has varying jurisdiction over the numerous exit taps on gathering systems that supply gas to homes, businesses, irrigation engines and public utilities.
3. If exit taps are provided under right-of-way agreements between the landowner and the gas gatherer, then they fall within the purview of K.S.A. 55-1,101 and are therefore exempt from public utility jurisdiction under Chapter 66.
4. Finally, the KCC found that all other exit taps are not exempt from public utility jurisdiction under K.S.A. 66-105a. The Commission then found that its jurisdiction over this category of exit taps varies depending on the use of the tap.

Subsequent to this Order, numerous parties filed petitions for reconsideration, requesting that the Commission clarify, expand, or rethink its analysis and findings contained in its Order.

On January 17, 2007, the Commission issued an Order Denying Reconsideration. The Commission noted that complicated issues and legal matters remain unresolved, and reiterated that the complicated legal analysis that results from attempting to read all statutory provisions together could benefit from legislative clarification. Although the Commission intended for the docket to clarify issues surrounding gas gathering systems for the various parties, the Commission's January 17, 2007 Order Denying Reconsideration stated that complicated and issues and legal matters remain unresolved.

Therefore, the Commission concluded that reconsidering or further articulating its previous conclusions would not present the best solution to this problem. The Commission affirmed its previous conclusion that the "Legislature may be the best equipped to resolve such issues," and urged the parties involved in the docket to "participate in any related legislative process in a manner that is open to compromise and committed to pragmatic approaches to an undeniably complicated set of policy problems."

EXPLANATION OF S.B. 325

The next section of my testimony will briefly address how S.B. 325 remedies

these issues.

PEK Irrigators, Inc. and the Southwest Kansas Non-Profit Utilities desire to preserve the Commission's findings in Docket No. 06-GIMG-400-GIG, regarding Commission authority and jurisdiction over certain types of exit tap service from gas gathering systems.

S.B. 325 will provide various amendments to certain statutory provisions to: (i) clarify under what circumstances consumers will have access to the gas gathering systems; (ii) clarify the service obligations of gas gathering systems; (iii) protect existing farm tap service delivery points and permit future delivery points as needed, and (iv) clarify the obligations of public utilities providing service from a gas gathering system with respect to abandonment and cessation of service.

S.B. 325 codifies the KCC's findings of regulatory authority, resolves any potential questions of ambiguity, and fills the regulatory gaps identified by the KCC. S.B. 325 also remedies the inequity of regulatory protection by assisting rural end use customers in ensuring pipeline capacity so that they can access gas supply areas to contract for their gas requirements and, in the event of unfair denial of transportation, S.B. 325 will provide recourse through the KCC.

You may hear from several gas gatherers or producers tomorrow that are in opposition to this amendment. They will argue that K.S.A. 66-105a unequivocally states that a gas gathering system, with a primary function of delivering gas from production wells to transmission pipelines, cannot be considered a public utility or common carrier in Kansas. PEK and the Southwest Kansas NPUs agree, and S.B. 325 does not alter this. S.B. 325 does, however, make the statute consistent with current practice, and recognizes that many entities use gas gathering systems in a secondary manner: to provide transportation and distribution services of behalf of public utilities and end use customers. It is this secondary function that S.B. 325 proposes to regulate as a common carrier service.

You may also hear comments in opposition to portions of S.B. 325 in which the opponents argue against requiring owners or operators of gas gathering systems to provide new exit taps on demand. The comments may suggest that supply, technical and operational constraints will not permit full open access to the gathering system. It is important to note that S.B. 325 does not mandate full open access to the gathering system. What S.B. 325 does is provide certain procedural safeguards and a regulatory body, the KCC, to oversee and regulate issues pertaining to access, service and abandonment.

In addition, the proposed amendment to K.S.A. 66-104(a) will, consistent with the Commission's Order, exclude from the definition of public utility a pipeline that operates or utilizes a gas gathering system, to the extent the pipeline provides only gas gathering services, as defined in K.S.A. 55-1,101, and which does not provide transportation and distribution services via the gathering system.

KCC OVERSIGHT OVER GAS GATHERING

The KCC, as the agency charged with regulating the public utilities and common carriers operating within the State of Kansas, is the appropriate entity to oversee the regulation of exit taps, and will provide a forum to adjudicate complaints brought by parties who believe they are adversely affected by issues regarding access, service and abandonment. The KCC is very familiar with the history of gas gathering systems and the numerous issues facing producers, gatherers, public utilities and customers who utilize gathering systems for all or a portion of their natural gas needs.

Enactment of S.B. 325 will ensure continued and bolstered regulatory oversight of these complicated issues.

In closing, I appreciate the opportunity to present testimony in favor of S.B. 325, and welcome any questions or comments that you may have.

PUBLIC POLICY STATEMENT

SENATE COMMITTEE ON UTILITIES

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

February 20, 2007
Topeka, Kansas

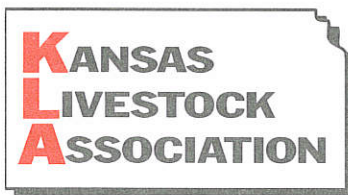
Testimony provided by:
Terry D. Holdren
National Director
KFB Governmental Relations

Chairman Emler and members of the Senate Committee on Utilities, thank you for the opportunity to appear before you today. I am Terry Holdren, National Director—Governmental Relations for Kansas Farm Bureau. 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 SB 325. This legislation provides clarity to the issue of KCC jurisdiction over potential residential taps and use for agricultural operations and allows for regulation and investigation, if necessary, by the KCC. It will allow farmers and ranchers who rely on this supply of gas to continue their operations and provide them a mechanism to request review of decisions made by suppliers and the industry.

Our membership has considered this issue and supports efforts to ensure access and to provide a dependable, timely, uninterrupted supply of affordable and quality gas for irrigation and other agricultural purposes, and for rural residences. We believe 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.



Since 1894

Testimony

Date: February 20, 2007

To: Senate Utilities Committee
Senator Jay Emler, Chair

From: Allie Devine

Re: 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.

Good morning, my name is Allie Devine and I am here today to offer KLA's support for SB 325.

Utilities law is a specialty area, and one with which I have very little experience. Today, we join with the technical comments offered by the Kansas Corn Growers Association, Ed Peterson.

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 like those outlined by the previous proponents.

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 SB 325.

Senate Utilities Committee
February 20, 2007
Attachment 7-1



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

February 19, 2007

State Senator Jay Emler
Chairman, Senate Utilities Committee
Kansas State Capitol
10th and Jackson
Topeka, KS 66612

Dear Senator Emler and Members of the Committee:

On behalf of Northern Natural Gas Company (Northern), I submit this letter in support of Senate Bill 325. Although Northern understands and embraces the importance of "open-access" gathering service that is being advanced in the bill, Northern's support of SB 325 is principally focused on section 2 of the proposed legislation that would provide standing to "any other person or entity adversely affected" allowing them to bring a complaint to the Kansas Corporation Commission asking the Commission to review "a fee, term, or practice being used by a person offering gas gathering services."

Northern is an open-access interstate natural gas pipeline regulated by the Federal Energy Regulatory Commission. Northern employs 175 full-time employees in the state of Kansas and operates, within the state, 2,100 miles of pipeline, 24 compressor stations, two underground natural gas storage facilities. In 2005, Northern paid over \$10 million in taxes to the state of Kansas. There are approximately 670 farm taps that receive service downstream from Northern's pipeline. Northern serves as the natural gas transporter from gatherers and producers to the major market areas of Kansas, Nebraska, Iowa, Minnesota, Wisconsin and Michigan.

Without the expanded scope of standing as provided in SB 325, Northern's ability to bring a complaint against harmful practices of natural gas gatherers is significantly limited. Northern believes the bill clarifies standing and would allow Northern to initiate a complaint to the Kansas Corporation Commission in instances where Northern observes that gatherers are conducting practices that create unreasonable restraints or barriers to a competitive market place. Northern and its customers have been harmed by unreasonable gathering practices but, given the current reading of K.S.A. 55-1,101 *et seq.*, Northern has not been able to get its concerns about those practices properly before the Kansas Corporation Commission. Even though the producers are typically the parties harmed, our experience has been that independent producers often times do not have the time or resources to formally file grievances with the Commission. Section 2 of SB 325 merely provides standing to other parties that may be harmed. Advancing the bill will increase the opportunity for unreasonable practices or conduct to be reviewed, remedied before the Kansas Corporation Commission and for the purposes of the law to be fully realized.

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Senator Emler and Members of the Committee

February 19, 2007

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It should be noted that the bill retains the authority of the Kansas Corporation Commission to use its discretion in entertaining a review of conduct alleged against a gas gatherer. In addition, the Commission may continue to utilize informal complaint resolution processes to address grievances brought to the Commission.

In short, any version of SB 325 advanced by the Committee should retain the expanded standing provisions that are delineated in section 2 of the current bill. By expanding standing to other parties, the Committee will ensure that there is a complaint resolution procedure in law that can be used by any party aggrieved by the conduct of natural gas gatherers. For these reasons, Northern supports advancement of SB 325 by the Committee with language similar to that found in section 2 of the bill.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Mary Kay Miller".

Mary Kay Miller

Vice President Regulatory and State Government Affairs