

MINUTES OF THE SENATE UTILITIES COMMITTEE

The meeting was called to order by Vice Chairman Pat Apple at 9:30 A.M. on February 21, 2007 in Room 526-S of the Capitol.

Committee members absent: Senator Jay Scott Emler- excused

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:

Jack Glaves, DCP Midstream  
Dick Brewster, BP America Inc.  
Jon M. Callen, Kansas Independent Oil & Gas Assn. (KIOGA )  
Charles Sizemore, Pioneer Natural Resources USA Inc.

Others in attendance: See attached list

Chair Apple continued the hearing from February 20, 2007 on  
SB 325 - State Corporation Commission jurisdiction over gas gathering systems

Opponents

Jack Glaves, representing DCP Midstream (formerly Duke Energy Field Services), provided a critique of the provisions of **SB 325** and his company's concerns. He stressed that the threat of **SB 325** to the integrity of their system and their ability to continue to provide the vital service to their customers of getting their gas transported, processed and marketed is real and undefinable. He noted that DCP is not a public utility and has no end-use customers and would be more favorably disposed to accommodate future requests for special service by NPU's if there was assurance the regulatory authorities were not part of the negotiations. (Attachment 1)

Dick Brewster, on behalf of BP America, Inc. echoed the concerns of Jack Glaves and provided a proposed substitute bill for **SB 325**. He briefed the committee on the substitute bill and urged their consideration of the proposed substitute as an attempt to let the issues presented here be resolved in voluntary negotiations. (Attachment 2)

Jon M. Callen, representing Kansas Independent Oil and Gas Association (KIOGA), stated KIOGA's mission is to improve the market for oil and gas produced in Kansas and to promote the welfare of the oil and gas industry in Kansas. **SB 325** creates an environment that would upend the natural gas industry by reintroducing regulatory controls over private enterprise without just compensation. (Attachment 3)

Charles M. Sizemore, on behalf of Pioneer Natural Resources USA, Inc., opposed **SB 325** for several reasons, which were set out in his written testimony in detail, and stated they can generally support the proposed substitute bill. He urged the committee to report **SB 325** out adversely or take no action. (Attachment 4)

Due to the shortness of time, the Chair indicated those still scheduled to testify as opponents would be heard at a later date by the Senate Utilities Committee, and asked the committee for any questions for those who had just presented their testimony. Questions on the fluctuating of rates, free gas users, creation of vacuum, distribution centers for processed gas, and other fuels available when natural gas is depleted.

Approval of minutes

Moved by Senator Taddiken, seconded by Senator Pyle, approve the minutes of Senate Utilities Committee meetings held on February 12, 2007, February 13, 2007, February 14, 2007 and February 19, 2007. Motion carried.

Adjournment.

Respectfully submitted,  
Ann McMorris, Secretary - Attachments - 4

# SENATE UTILITIES COMMITTEE GUEST LIST

DATE: FEBRUARY 21, 2007

Name	Representing
Tom Bruno	EKOGA
Jim Flaherty	Pioneer
Charles Sizemore	Pioneer
Whitney Damm	ONEOK, Inc.
Jack Slaves	DPC Midstream
Leo Haynos	KCC
BOB ANDERSON	AQUILA
Steve Johnson	ONEOK
Dave Scharf	ONEOK FIELD SERVICES
Frank Caro	Polsinelli
LARRY BEEG	MIDWEST FULGUY
Tom DAY	KCC
Wes Ashton	Aquila
Jon Callen	KIOGA
Ron Seiber	Oxly
LON STANTON	NORTHERN NATURAL

**COMMENTS OF DCP MIDSTREAM**  
**(formerly Duke Energy Field Services)**  
**ON SB 325**  
**BEFORE THE SENATE COMMITTEE ON UTILITIES**  
**FEBRUARY 21, 2007**

Duke Energy Field Services has changed its name to reflect the ownership interest of Conoco Phillips and the spin-off of Duke Energy's gas business to Spectra Energy, but the Kansas gas gathering facilities of over 1,700 miles of gathering pipeline and the National Helium processing plant in Liberal and our opposition to being regulated as a public utility, or common carrier, has not changed.

On November 22, 2006 the KCC issued its Order in its "general investigation to determine a Commission policy regarding customers served directly or indirectly by gas gathering systems" (Docket 06-GIMG-400-GIG) setting forth "... how the Commission will likely interpret the various legal issues presented in the inevitable future proceedings before it as depletion in gas reserves in the Hugoton field continues..." (Paragraph 8 of "Order Denying Reconsideration" filed January 17, 2007. The matter is now on appeal in the Shawnee County District Court.

The Commission recited in Paragraph 10,

"regardless of the outcome of legislative efforts, the Commission will address future matters brought before the Commission on a case-by-case basis, examining the specific facts and applicable provisions of law in those matters".

Although some would contend that legislative action is needed on this complex subject and, indeed, we are supportive of the proposed industry Bill that will be presented today, we are adamantly opposed to SB 325. Appended hereto is a critique of its provisions and our concerns.

Senate Utilities Committee  
February 21, 2007  
Attachment 1-1

We are one of the one hundred licensed gas gatherers in Kansas (Exhibit A). Our gathering and processing system, with 1,100 receipt points under some four hundred contracts with Kansas producers, was not constructed or intended nor has it ever operated as a public utility system, but SB 325 declares that we are a public utility (Section 4) and that we are a common carrier as to “secondary uses” of our system for transportation and distribution services on behalf of public utilities and end-use customers (Section 6). In other words, our facilities would be effectively taken from contractually dedicated service to our producer customers and rendered available to anyone willing to risk using unprocessed gas.

The threat of this Bill to the integrity of our system and our ability to continue to provide the vital service to our customers of getting their gas transported, processed and marketed is real and indefinable. It is not possible to determine the scope or extent of the demand on our system, but given contentions of demand by ethanol plants, cotton gins, pig parlors, feed lots and other high volume users, the potential to disrupt and diminish supply to our processing plant could be so injurious that it would not be possible to be compensated by KCC ratemaking methodology.

The fifth amendment to the United States constitution reads “... nor shall private property be taken for public use, without just compensation”. We won’t inflict a constitutional treatise on you, but SB 325, we believe, would lead to an attorney’s litigation heaven.

It threatens our investment and the tax base flowing from it. My client alone estimates 2006 property taxes for southwest Kansas of \$4.4 million. The processing plants are only operating at 50-60% of capacity. The section in Seward County, where

our plant is located, has an assessed valuation of \$71 million. The diversion of significant volumes of gas from our system would not only render these facilities uneconomic, but could cause the already marginal wells to which we are connected, to be prematurely abandoned, wrought by reconfiguration of the systems resulting from meeting a public utility obligation of providing service upon demand. The mantra of the public utility obligation is “efficient and sufficient service at reasonable rates”. The threatened transformation from a competitive, entrepreneurial business to a fully regulated entity is the most extreme treatment imaginable.

The necessity for this all encompassing and drastic legislation has not been made.

We recognize the problems faced by irrigators of unreliable wellhead gas supply resulting from the field depletion and associated problems. We have not, at this point, been required to terminate service on the farm taps that many years ago were transferred to Aquila that provide utility service, under KCC jurisdiction, to the irrigation customers. DCP is not a public utility and has no end-use customers. We have, upon occasion, accommodated requests by the non-profit utilities for the granting of taps for gas supply to their irrigation customers. These contracts are totally dependent upon our continued ability to provide available gas supply at the particular tap location. This service has been provided under current law, resulting solely from private negotiation. The hesitancy in making such service available is premised on the concern over being subjected to regulatory oversight, which the industry substitute Bill addresses. We obviously would be more favorably disposed to accommodate any future requests for such service by NPUs if we had assurance that we are not thereby putting our neck in the regulatory noose.

We urge the proponents to support the substitute Bill and to give the gathering industry a chance to respond to requests for aggregating existing taps at delivery points that can operationally be supplied for more reliable service, but with recognition that the utilization of unprocessed gas from gathering systems can never be equivalent in reliability and safety to supply obtained from pipelines or public utilities. Gas supply from gathering systems, regulated or not, can never be a long-term solution to the reality of the unrelenting decline, in volume and pressure, of the reservoir. These systems were simply not designed nor intended for end-user service. Converting gas gathering to public utility or common carrier service doesn't recharge the Hugoton field. Any accommodation for irrigation, or any other use, must necessarily comport with existing contracts with our customers, the producers and transporters on our system.

Senate Bill 325 is inimical to our business purpose and our investment and adversely impacts our future planned investments, particularly obtaining enough volume to keep operating our processing plant (National Helium) and the associated facilities near Liberal, Kansas. It would potentially bestow public utility and common carrier status on the one hundred licensed gatherers in Kansas and would involve a tremendous expense resulting from the imposed regulatory burdens on our industry. Someone has to pay for the economists, accountants, engineers, lawyers and experts constituting the ratemaking industry. That "somebody" would be our industry and eventually the gas consumers. Unfortunately, this new regulatory boondoggle would fail to deliver any enduring satisfaction to those seeking its enactment. It is bad public policy, bad for Kansas taxpayers and bad for maximizing the production of the remaining gas reserves, all without solving the dilemma of the agricultural community.

The issue before you is should you hobble this established business with a mandated public utility burden that deprives royalty owners, producers and the gatherers of the liquids and helium contained in the unprocessed gas that would be wasted by SB 325?

Why do we resist public utility status? Under SB 325 we would be obligated to provide exit taps and transport service to anyone requesting it, irrespective of the adverse impact on the primary function of our business. You can't operate a reliable gas gathering service half free / half slave. We either operate as the entrepreneurial service business that we are or as a fully regulated public utility and common carrier as envisioned by SB 325. Our business would be so hamstrung as to endanger our investment in both the gathering and processing functions as to effectively deprive us of our property without recompense.

Respectfully submitted

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Jack Glaves  
Glaves, Irby and Rhoads



DCP MIDSTREAM  
COMMENTS RE: SB 325  
2-21-07

What does SB 325 change with respect to KCC's Chapter 66 jurisdiction over gas gathering owners and operators?

Section 4 amends the "public utility" definition of K.S.A 66-104a to include gas gathering systems performing "gathering services" as defined by K.S.A 55-1,101, i.e. the gathering or preparation of natural gas for transportation with certain exemptions. The bottom line – DCP Midstream would become a public utility, with all of the ramifications thereof.

Section 5 amends K.S.A 66-104c, which has exempted from KCC regulation, the non-profit utilities created under the Rural Kansas Gas Users proviso to specifically grant the commission jurisdiction over the addition or termination of pipeline and gathering line taps to serve such utility. Currently the existing non-profits have, on occasion, received service taps by negotiated contracts with gathering systems, including my clients, without the necessity of obtaining KCC approval. This provision would presumably require a formal application and probable hearing on the granting or termination of either a pipeline (interstate transmission lines) or gathering line taps. Presumably, the proponents would utilize this section to mandate granting of a tap by either interstate pipelines or gathering systems, presenting an interesting conflict with jurisdiction by the FERC, with respect to the interstates.

Section 6 amends K.S.A. 66-105a which was adopted in 1997 in connection with the enactment of the Gas Gathering Act, to exclude gas gathering systems from public utility and common carrier regulation. Section 6 would apparently retain the exemption for "the primary use" of any gas gathering system, but eliminate the exemption by providing "... except that the term 'common carriers' shall include secondary uses of gas gathering systems for transportation and distribution services on behalf of public utilities and end-use customers within the state of Kansas, not excluding transportation and distribution of gas to future delivery points requested by public utilities and end-use customers within the state of Kansas" (Lines 12-17).

The apparent effect of this amendment is to invoke KCC common carrier regulation with the effect of requiring gas gathering systems to provide, upon demand, transportation and distribution of gas to any point requested by public utilities and end-use customers within the state. It is perplexing as to how this common carrier obligation for "secondary uses" of the gas gathering system is reconciled with the amendment of Section 4 that bestows "public utility" status on gas gathering systems, without limitation. Presumably, the conclusion is that we are a public utility for all purposes, notwithstanding our primary business of delivering gas from the wellhead to transmission lines and are also subject to common carrier status to all comers as a secondary use of the system.

Currently, there is not an established ratemaking regimen for regulating gas pipelines as common carriers, although K.S.A. 66-128 and related statutes provide for full blown cost of service, ratemaking authority. Sufficient to say, our business would be severely impacted by either a public utility or common carrier classification.

Although the KCC order, dated 11-22-06, in docket # 06-GIMG-400-GIG concluded that exit taps currently providing gas to a public utility fall under common



carrier regulation when such exit taps are provided at the discretion of the gas gatherer, no such jurisdiction was expressed as to transportation and distribution of gas to end-use customers. Clearly, Section 6 expands the Commission jurisdiction beyond its own interpretation of its existing authority which, of course, is currently subject to pending petitions for judicial review in the Shawnee County District Court.

Section 7(f) amends the definition of “gas provider” in K.S.A. 66-2101 (Rural Kansas Self Help Gas Act), apparently to include gas marketers and similar entities, also making them subject to KCC jurisdiction under chapter 66. Interestingly, K.S.A. 66-2102, which declares “gas providers” not to be public utilities is not amended and is thus in conflict with Section 7(f). We would be a public utility under 2101, but declared not to be under 2102 of the same Act.

#### AMENDMENTS TO CHAPTER 55

The existing gas gathering statutes, K.S.A. 55-1,101 et seq, adopted in 1997 and administered by the Conservation Division of the KCC are proposed to be amended, to wit:

Section 1 of SB 325 (Lines 23 – 27) would require filing with the KCC gas gathering facility maps, including the location of all wells connected to the system and all interconnects for both receipt and delivery of gas. Aside from security considerations this would be a very onerous obligation. Although segmented maps are filed with the Commission (K.A.R. 82-3-801(5)) they do not include well locations or receipt and delivery points. In fact, a gas gathering operator does not necessarily know the location of all wells connected to the system. The operator simply knows the receipt points for a particular producer/operator.

Section 2 amends K.S.A. 55-1,104(a) to enable any person who may be adversely affected, including other governmental agencies and entities, to request Commission review of gatherers’ fees, terms and practices. Obviously, the Commission is currently empowered to do so and why this amendment is necessary or appropriate is not clear. The proposed amendment of Sub-section b, which adds a similar broadening to the class of claimants smacks of potential public harassment, given the broad scope of “adversely affected”. The need for such an amendment escapes us.

Section 3 amends K.S.A. 55-1,109 being applicable to public utilities providing service from gas gathering systems which, I trust will be responded to by those entities.

Respectfully Submitted:  
Jack Glaves

## EXHIBIT A

## GAS GATHERERS \_ ACTIVE

10-25-06

CONO	STAT	CONAME	ADDR1	ADDR2	CITY	STATE	ZIP1	ZIP2
32053.A		A.I.R. Pipeline Corporation	PO Box 782523		Wichita	KS	67278	
33098.A		Acme Energy Services, Inc.	110 N. Marienfeld, Suite 200		Midland	TX	79701	
5399.A		American Energies Corporation	155 N. Market, Ste 710		Wichita	KS	67202	
33178.A		American Energies Gas Service, LLC	155 North Market, Suite 710		Wichita	KS	67202	
33179.A		American Energies Pipeline, LLC	155 North Market, Suite 710		Wichita	KS	67202	
32019.A		American Pipeline Company, L.L.C.	125 N. Market Street, STE 1000		Wichita	KS	67202	
4058.A		American Warrior, Inc.	PO Box 399		Garden City	KS	67846	
31947.A		Anadarko Gathering Co.	1201 Lake Robbins Drive		The Woodland	TX	77380	
32458.A		Angell Pipeline, LLC	PO Box 721436		Norman	OK	73070	
4419.A		Bear Petroleum, Inc.	PO Box 438		Haysville	KS	67060	
5817.A		Benson Mineral Group, Inc.	1560 Broadway, Ste 1900		Denver	CO	80202	6000
5363.A		Berexco, Inc.	PO Box 20380		Wichita	KS	67208	
33563.A		Big Creek Field Services, LLC	1605 E. 56th Ave.		Hutchinson	KS	67502	
33343.A		Bluestem Pipeline, LLC	9520 North May Ave., Suite 300		Oklahoma City	OK	73120	
33820.A		Bourbon County Pipeline, LLC	7060 B South Tucson Way		Centennial	CO	80112	
33479.A		Branch Systems, Inc.	2711 N. Haskell, Su 2800, LB #2		Dallas	TX	75204	
30743.A		Brenco Gas Transmission, Inc.	PO Box 13394		Overland Park	KS	66282	
30916.A		Bridwell, Kayla & Gary	RR 3, Box 345		Independence	KS	67301	
33261.A		Brower Oil & Gas Co., Inc.	6506 S. Lewis Ave., Ste 115		Tulsa	OK	74136	
31888.A		C & J Pumping, Inc.	PO Box 158		Sylvia	KS	67581	
33677.A		Canary Operating Corporation	7230 W. 162nd Street, Suite A		Stilwell	KS	66085	
33801.A		Canary Pipeline, Inc.	7230 West 162nd Street, Suite A		Stilwell	KS	66085	
33073.A		Cherokee Basin Pipeline LLC	600 Dart Rd.	PO Box 177	Mason	MI	48854	0177
33499.A		Cherryvale Pipeline, LLC	1900 Shawnee Mission Parkway		Mission Woods	KS	66205	
32334.A		Chesapeake Operating, Inc.	PO Box 18496	6200 N Western Ave.	Oklahoma City	OK	73154	0496
32020.A		Clarco Gas Co., Inc.	414 Plaza Drive STE 204		Westmont	IL	60559	
33697.A		Coal Creek Pipeline, Inc.	3161 E. Warm Springs Rd., Suit		Las Vegas	NV	89120	
5150.A		Colt Energy Inc	P.O. Box 388		Iola	KS	66749	
30253.A		Cyclone Petroleum, Incorporated	7030-C S. Lewis St., Ste 541		Tulsa	OK	74136	
32109.A		Dakota Production Co., Inc.	19504 325 Rd.		Neodesha	KS	66757	
33243.A		Dorchester Minerals Operating LP	3838 Oak Lawn Avenue - Suite 3		Dallas	TX	75219	4541
33515.A		Double Eagle Resources, LLC	507 South 14th Street		Fort Smith	AR	72901	
32782.A		Duke Energy Field Services, LP	370 17th St., Ste. 2500		Denver	CO	80202	
31491.A		Einsel Gas Marketing, LLC	7570 W 21st St N, Ste 1010-D		Wichita	KS	67205	1734
30031.A		Ellsworth Systems, Inc.	Union Center Building	150 N Main St. #922	Wichita	KS	67202	1317
32797.A		Englewood Corporation	PO Box 8206		Wichita Falls	TX	76307	8206
32730.A		Four Star Oil & Gas Company	PO Box 36366		Houston	TX	77236	
30163.A		Great Plains Petroleum, Inc.	221 Circle Drive		Wichita	KS	67218	
32786.A		Guardian Energy Consultants, Inc.	403 S. Cheyenne Suite 403		Tulsa	OK	74103	
32601.A		Haven Natural Gas, LP	PO Box 2325		Hutchinson	KS	67504	2325
33720.A		Heartland Gas Gathering, LLC	1625 Broadway - Suite 1480		Denver	CO	80202	
4894.A		Horseshoe Operating, Inc.	110 W. Louisiana, Suite 200		Midland	TX	79701	
5707.A		Inter-American Energy Corp.	260 Adelaide St. E.	PO Box 191	Toronto, Canad		M5A	1N1
32447.A		Joel Associates Inc.	1999 Amidon, Ste 375		Wichita	KS	67203	
32654.A		Jones Gas Corporation	PO Box 970		Wichita	KS	67201	0970
32787.A		Kansas Natural Gas Operating, Inc.	PO Box 818	1200 Main Street	Hays	KS	67601	

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## EXHIBIT A

## GAS GATHERERS \_ ACTIVE

10-25-06

CONO	STAT	CONAME	ADDR1	ADDR2	CITY	STATE	ZIP1	ZIP2
33516.A		Kansas Processing EQR, LLC	15425 North Freeway, Suite 230		Houston	TX	77090	
33002.A		Kerr-McGee Oil & Gas Onshore LP	5735 Pineland, Suite 300		Dallas	TX	75231	
33468.A		KG System Limited Partnership	1250 NE Loop 410, Suite 1100		San Antonio	TX	78209	
33419.A		Layne Energy Sycamore Pipeline LL	1900 Shawnee Mission Parkway		Mission Woods	KS	66205	
30282.A		Lobo Production, Inc	6715 Road 22		Goodland	KS	67735	
33675.A		Lumen Midstream Partnership, LLC	20 East Fifth Street, Suite 1300		Tulsa	OK	74103	
30146.A		Mach Petroleum, Inc.	PO Box 35583		Tulsa	OK	74133	
30590.A		Mapleton Gas Pipeline, Inc.	PO Box 15		Mapleton	KS	66754	
33188.A		Midcoast Holdings No. One, LLC	1100 Louisiana, Suite 3300		Houston	TX	77002	
33741.A		Midwest Energy, Inc.	12101 NW Crooked Road		Parkville	MO	64152	
32064.A		Monument Resources, Inc.	PO Box 1450		Castle Rock	CO	80104	
5602.A		N & B Enterprises, Inc.	PO Box 812		Chanute	KS	66720	0812
33688.A		Nat-Gas, LLC	3800 E. 9th		Winfield	KS	66783	
33693.A		Neodesha Pipeline Inc.	3161 E. Warm Springs Rd. #300		Las Vegas	NV	89120	
6914.A		Oil Gas Management, Inc.	PO Box 411121		Kansas City	MO	64141	1121
8061.A		Oil Producers Inc. of Kansas	1710 Waterfront Parkway		Wichita	KS	67206	
32144.A		OKKAN Gas Co.	1551 N. Waterfront Parkway, Sui		Wichita	KS	67206	
33851.A		Oneok Field Services LLC	100 W. Fifth Street, MD 16-1		Tulsa	OK	74103	4298
33487.A		Orbit Energy LLC	4801 Woodway Suite 305 West		Houston	TX	77056	
32811.A		OSAGE Resources, LLC	1605 E. 56th Avenue		Hutchinson	KS	67502	
5447.A		Oxy USA, Inc.	5 E. Greenway Plz	PO Box 27570	Houston	TX	77227	7570
33655.A		Pawnee Western, LLC	4300 South Dahlia Street		Cherry Hills Vill	CO	80113	6101
4448.A		Perkins Oil Enterprises, Inc.	PO Box 707		Howard	KS	67349	
32832.A		Petrohawk Operating Company	Suite 320, West Tower	4975 Preston Park Blvd.	Plano	TX	75093	
33325.A		Petroleum Development Corporation	103 E Main St.	P.O. Box 26	Bridgeport	WV	26330	
5123.A		Pickrell Drilling Company, Inc.	100 South Main - Suite 505		Wichita	KS	67202	3738
32825.A		Pioneer Exploration, Ltd.	15603 Kuykendahl, Suite 200		Houston	TX	77090	
4824.A		Pioneer Natural Resources USA, Inc.	5205 N. O'Connor Blvd.		Irving	TX	75039	3746
32752.A		Prafford Gas System, LC	PO Box 48788		Wichita	KS	67201	8788
32082.A		Prairie Pipeline, LLC	9431 East Central		Wichita	KS	67206	
32192.A		Pride Energy Company, a General Pa	Box 701950		Tulsa	OK	74170	
31609.A		Priority Oil & Gas LLC	PO Box 27798		Denver	CO	80227	0798
31191.A		R & B Oil & Gas, Inc.	904 N. Logan	PO Box 195	Attica	KS	67009	
3911.A		Rama Operating Co., Inc.	101 S. Main		Stafford	KS	67578	
33242.A		Regency Midcon Gas LLC	1700 Pacific, Suite 2900		Dallas	TX	75201	
33221.A		Roxanna Pipeline, Inc.	4600 Greenville Ave., Suite 200		Dallas	TX	75206	
5047.A		Rupe Oil Company, Inc.	111 Whittier #1000	PO Box 783010	Wichita	KS	67278	3010
33647.A		SemGas Gathering LLC	Two Warren Place	6120 S. Yale Ave, Ste 70	Tulsa	OK	74136	4216
32496.A		Seminole Gas Company, L.L.C.	1323 E 71st St. - Suite 300		Tulsa	OK	74136	
33584.A		SemKan, LLC	Two Warren Place, Suite 700	6120 South Yale Avenue	Tulsa	OK	74136	
5062.A		Shaw, George R.	1001 Commerce Bank Center	150 N. Main	Wichita	KS	67202	
5192.A		Shawmar Oil & Gas Co., Inc.	1116 E Main	PO Box 9	Marion	KS	66861	0009
33673.A		Southeastern Kansas Pipeline and Tr	1300 Humble		Fort Worth	TX	76107	
33735.A		Superior Pipeline Co., LLC	7130 S. Lewis Ave., Suite 1000		Tulsa	OK	74136	
32278.A		Tengasco, Inc.	1327 Moose Road	PO Box 458	Hays	KS	67601	0458
77777.A		Test Company	3333 43rd	Box 999	Wichita	KS	99999	8888

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## GAS GATHERERS \_ ACTIVE

10-25-06

CONO	STAT	CONAME	ADDR1	ADDR2	CITY	STATE	ZIP1	ZIP2
32156 A		Timberland Gath & Proc Co. Inc.	810 Houston St., STE 2000		Fort Worth	TX	76102	6298
9232 A		Timberline Oil & Gas Corporation	4000 Penrose Place		Rapid City	SD	57702	
9408 A		Trans Pacific Oil Corporation	100 South Main Ste 200		Wichita	KS	67202	
33202 A		West Wichita Gas Gathering, LLC	20 E. 5th, Suite 1300		Tulsa	OK	74103	
33091 A		Western Gas Resources, Inc.	1099 18th - Suite 1200		Denver	CO	80202	
33294 A		Western Gas Resources-Westana, In	1099 18th Street, Suite 1200		Denver	CO	80202	
33203 A		WGP-KHC, LLC	9450 Grogan's Mill Rd, Suite 145		The Woodland	TX	77380	

Comments to:

Kansas Senate Committee on Utilities

February 21, 2007

On:

Senate Bill 325

By:

E. R. (Dick) Brewster

On Behalf of:

BP America, Inc

Mr. Chairman, Members of the Committee, for the record I am Dick Brewster, Government Affairs Director for BP America. I appreciate your time and attention today as I present our comments on Senate Bill No. 325.

First, let me say that we oppose S.B. 325. As you know a group of natural gas gatherers have held meetings with proponents of this bill, to review how those proponents might have what they refer to as “access” to natural gas from gathering systems. The two groups were unable to reach a compromise.

You have heard or will hear from representatives of other gas gathering firms the many and deep concerns this bill raises among gatherers. I won't be redundant, except to say we agree. The bill is confusing in many parts, but it does appear to put gathering operations under both common carrier and public utility regulations, at least when the gathering operation is providing, or is asked to provide exit taps along the gathering line.

Essentially the bill changes the nature of the gas gathering business, requiring that gathering operations provide end use gas from a gas stream not processed or prepared for end use customers; from a gas stream often not really suitable for end use.

There are many questions about how this would work. Whose gas is it that would be delivered through an exit tap? Could a gathering operation be required to sell gas through an exit tap if the gas were contractually obligated to another buyer? If the gatherer were merely transporting gas already sold to or owned by the NPU or whoever the gas tap was for, how can the gatherer maintain control of the quality of gas in the gathering system?

What of the gatherer's obligation to a processing operation or an interstate pipeline to deliver certain gas volumes? Once a gathering operation has begun to deliver gas through an exit tap it becomes a utility or common carrier and subject to those regulations. That obligation may go on even when the gatherer can no longer fulfill the obligation to the processor or interstate pipeline.

Of course, we've talked about the operational issues as well. Gatherers must maintain the gathering system, and that often requires down time. Lines must be pressure tested, or pigs run through the line to remove



condensed moisture, or the operator must use smart pigs to try to determine corrosion levels and therefore the continued safety of the line. These activities require closing of any exit taps. Will that be allowed, given the new status as common carriers or public utilities? If not, how can the gathering operator be held responsible for the safe operation of the gathering line? Must a gathering operator seek KCC approval before every such event?

There are significant problems associated with making a gathering system something other than what it was designed to be. Of course there are some exit taps on gathering systems in existence now. So, providing gas via an exit tap is not an impossibility. Some of these taps are part of a right-of-way agreement, some are for other reasons, and some were granted simply because the gathering operator wanted to be a good neighbor. It seems to us the difficult operational and other issues, only some of which I've touched on, can be best worked through in contract negotiations, not through legislation or agency rule making.

Rest assured a gatherer now providing gas to an NPU or end user by way of these taps did not do so with the understanding that it would subject it to public utility or common carrier regulation. In fact, we all thought the opposite was true: gatherers assumed that these taps were incidental to the primary business of providing gathering services, and therefore exempt from such regulation.

It seems to me that if an individual or firm wants a gathering tap, it needs to approach a gathering operation with a specific proposal and begin negotiation. However, gatherers will naturally be very reluctant to even begin this process if they are faced with regulation as a public utility or common carrier.

This bill, giving the KCC jurisdiction over existing, or additional taps on the gathering line, changes the rules. This approach seems a little draconian, to say the least.

With your permission, Mr. Chairman and members of the Committee let me suggest another approach.

If the possibility of subjecting a gathering operation to regulation as a public utility or common carrier makes a gatherer shy away from agreeing to

provide gas through an exit tap, let's try to remove that obstacle. I cannot tell you that removing this obstacle would result in any new gathering taps. But I can tell you that some gatherers we met with indicated a willingness to entertain concrete proposals from parties wanting such a tap, but only if they were assured they would not become utilities or carriers.

So, we've put together the attached proposed substitute bill for S.B. 325.

This proposal simply states that a gathering operation that provides gas to end users NPU's or other entities through an exit tap does not become a public utility or common carrier. It recognizes and keeps in place the existing limited jurisdiction of the KCC over gathering operations, but states essentially that providing gas to end users via an exit tap is incidental to the purpose, the exempt purpose of the gathering operation. It also states that the addition of a gathering tap is not required. It paves the way for a gathering operation to contract freely with a party for a tap, without fear of additional needless burdensome regulation.

This proposal seems worth a try, Mr. Chairman, members of the Committee. It does not convert the primary purpose of an existing business operation.

I've tried to be brief, and perhaps not gone in to the detail I'd like. But I know your time is limited. Let me urge your consideration of the proposed substitute as an attempt to let the issues presented here be resolved in voluntary negotiations, before taking the major step of changing the nature of an existing operation entirely.

Mr. Chairman, let me again thank you for your attention. I'll be happy to try to answer any questions you might have.

Respectfully Submitted.

## PROPOSED Substitute for SENATE BILL NO. 325

By

AN ACT concerning natural gas; relating to gas gathering activities; definitions; amending K.S.A. 55-1,101 and K.S.A. 2006 Supp. 66-105a and repealing the existing sections.

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

Section 1. K.S.A. 55-1,101 is hereby amended to read as follows: 55-1,101. (a) As used in K.S.A. 55-1,101 through 55-1,109, and amendments thereto:

(1) "Gas gathering services" means the gathering or preparation of natural gas for transportation, including transportation to a main transmission line or to any secondary exit tap on a gas gathering system, whether such services are performed for hire or in connection with the purchase of natural gas by the person gathering or preparing the gas or a marketer affiliated with the person gathering or preparing the gas. "Gas gathering services" does not include the gathering of natural gas by an owner or operator of gathering facilities who: (A) Does not hold such facilities out for hire on or after the effective date of this act; and (B) does not purchase the gas for resale. Gas gathering services shall not require the installation of new or additional exit taps on a gas gathering system. Existing, new or additional exit taps added to a gas gathering system shall not cause a gas gathering system to be regulated as a public utility as that term is used in K.S.A. 66-104, and amendments thereto, or as a common carrier as that term is used in K.S.A. 66-105, and amendments thereto.

(2) "Exit tap on a gas gathering system" means the point on a gas gathering system at which natural gas is delivered to a consumer, homeowner, business, agricultural user, person, gas marketer or public utility.

~~(2)~~ (3) Other terms have the meanings provided by K.S.A. 55-150, and amendments thereto.

(b) The provisions of K.S.A. 55-1,101 through 55-1,109, and amendments thereto, shall be part of and supplemental to chapter 55 of the Kansas Statutes Annotated.

Sec. 2. K.S.A. 2006 Supp. 66-105a is hereby amended to read as follows: 66-105a. (a) On and after July 1, 1997, the term "public utility" as used in K.S.A. 66-104, and amendments thereto, and the term "common carriers" as used in K.S.A. 66-105, and amendments thereto, shall not include any gas gathering system, as defined in K.S.A. 55-150, and amendments thereto, including transportation of gas on a gas gathering system to a main transmission line or to any exit tap as defined in subsection (a) of K.S.A. 55-1,101, and amendments thereto. Except for sales made by certain nonprofit utilities as defined by K.S.A. 66-104c, and amendments thereto, and sales to a rural gas user under the rural self-help gas act, under K.S.A. 66-2101 et seq., and amendments thereto, persons who sell gas after delivery of gas through an exit tap on a gas gathering system shall be regulated as a public utility as that term is used in K.S.A. 66-104, and amendments thereto.

(b) Notwithstanding the provisions of subsection (a), for those persons providing gas gathering services in such a manner that allows end use customers to obtain natural gas by direct connection to a gathering system, the commission shall have authority, upon complaint or petition or upon its own motion, to determine the reasonableness of, and regulate and supervise, any health or safety related curtailment or proposed health or safety related curtailment of natural gas that results in the loss of service to the end use customer.

(c) Any person providing gas gathering services in such a manner that allows the offering of natural gas from a gas gathering system to an end use customer shall give notice thereof to the commission and to each affected end use customer and public utility of its intent to curtail service

that will result in the loss of natural gas service to the end use customer. Except in the case of an emergency, notice shall be provided at least 30 days prior to such curtailment. In the case of an emergency, service to residential dwellings or commercial offices may be curtailed immediately upon a good faith belief that an emergency exists. Notice shall be given immediately to the end user and public utility. The person curtailing service, within 24 hours of the determination of the emergency, shall report the curtailment to the state corporation commission and provide the basis for and evidence supporting the good faith belief that curtailment was necessary under the emergency provisions of this subsection. In the event that the curtailment was not based upon a good faith belief and was unnecessary, as subsequently determined by the state corporation commission, the person curtailing service shall be held responsible for the cost of the service curtailment, including any reconnection cost and temporary heating costs.

(d) Nothing contained in subsections (b) and (c) shall be construed to diminish any authority vested in the commission prior to the effective date of this act.

Sec. 3. K.S.A. 55-1,101 and K.S.A. 2006 Supp. 66-105a are hereby repealed.

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

**EDMISTON OIL COMPANY, INC.**  
**OIL OPERATORS**  
**125 N. MARKET SUITE 1130**  
**WICHITA, KANSAS 67202**

E. K. EDMISTON (1906-1995)  
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Testimony for public hearing on S.B. 325  
Before the Senate Utilities Committee  
Kansas Senate  
February 21, 2007

The Kansas Independent Oil & Gas Association (KIOGA) represents oil and gas producers in Kansas, the majority of which are small family businesses. Kansas oil and gas operations include over 2,400 oil and gas producers of which includes over 1,000 natural gas producers. Kansas oil and gas operators produce over 450 billion cubic feet of gas per year from over 17,000 gas wells and over 33 million barrels of oil per year from over 41,000 oil wells. KIOGA's mission is to improve the market for oil and gas produced in Kansas and to promote the welfare of the oil and gas industry in the State of Kansas. KIOGA has represented the Kansas oil and gas industry since 1937.

Because of the capital investment required, the number of gas gathering pipelines is limited in any one area. The cost for competitors to lay parallel lines along the same routes seldom makes sense. As a result, while gas producers may have choices as to who they can sell their gas, they rarely have a choice for which pipeline will carry the gas to market.

Further, in spite of higher natural gas prices since the winter of 2000-2001, and the current emphasis of producers to seek natural gas as a production target, the graph below (See Figure 1), demonstrates that gas production in this state is in a very mature state with steady declines.

S.B. 325 legislation to provide open access to pipelines will only accelerate the production decline in Kansas. This will be the natural result of an increased cost of doing business for gathering lines to administer the regulatory environment that would thrust upon them. It would also reduce their flexibility to rapidly adjust to changing market conditions. The gathering lines would have no choice but to pass those costs on to producers. They can no longer pass those costs on to end users as they could before federal deregulation of natural gas. In today's world of declining throughput, pipelines must constantly review their economics. Interfering with a gathering systems internal planning by forcing open access to one and all who request a connection will raise

Senate Utilities Committee  
February 21, 2007  
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the cost of doing business, thus shortening the life of the producing wells connected to the line.

KIOGA recognizes the importance of the agricultural community to the financial well being of this state. However, gas producers rely solely on the gathering lines as their primary arteries to justify their decisions to explore for natural gas. We would vigorously oppose any proposals that would threaten those lifelines, especially any proposal that would unilaterally alter our investment decisions negatively.

S.B. 325 creates an environment that would upend the natural gas industry by reintroducing regulatory controls over private enterprise without just compensation. The expense of operating in such a regulatory environment would ultimately be passed along to producers. Because of its potential to harm the natural gas industry in Kansas, we respectfully request that you vote against S.B. 325.

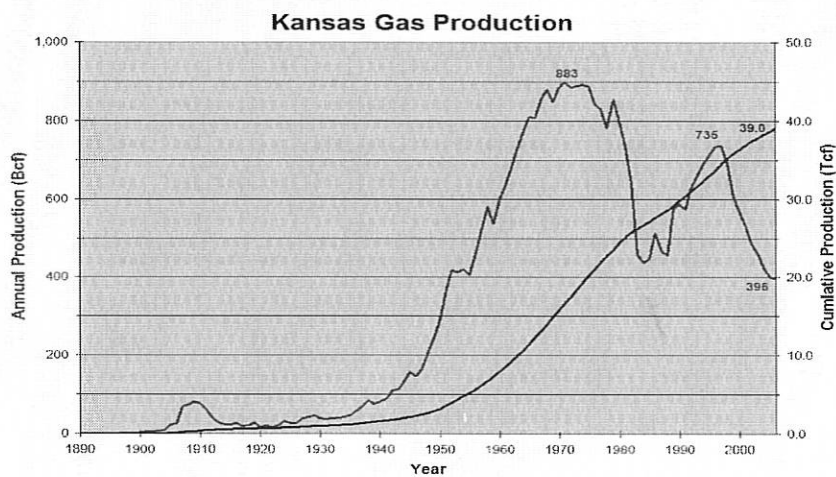


Figure 1—Gas production history in Kansas (red line) and cumulative gas production (black line) through 2005. Courtesy of the Kansas Geological Survey.

**Written Testimony, Re: SB 325  
Senate Utilities Committee  
Submitted by Charles M. Sizemore,**

**P.E.**

**on behalf of  
Pioneer Natural Resources USA, Inc.  
February 21, 2007**

Mr. Chairman, Members of the Committee:

My name is Charles M. Sizemore, and I am the Manager, Operations Engineering for the Mid-Continent Division for Pioneer Natural Resources USA, Inc. Pioneer is one of the largest independent exploration and production oil and gas companies in North America and is a major natural gas producer in the Hugoton and Panoma Fields in Southwest Kansas. Pioneer currently operates approximately 662 Hugoton gas wells and 328 Panoma gas wells in Kansas.

An essential part of Pioneer's operations includes the ownership and operation of a gas gathering system. The gas gathering system transports gas from approximately 881 wells in the Hugoton and Panoma gas fields to the Satanta processing plant and then on to interstate and intrastate pipelines. Pioneer also owns and operates gas gathering systems in other states.

Pioneer opposes SB 325 for the reasons that are set forth in my testimony.

The current law establishes a regulatory framework to assure that Kansas producers have the ability to connect their wells to a gas gathering system so they can get their gas to market. That law was never intended to require owners and operators of gas gathering systems to become common carriers or public utilities. It appears the intent of SB 325 is to amend the current statutes so as to add a requirement that gas gathering companies in Kansas become common carriers or public utilities that most provide open access transportation services to end use customers on their gas gathering systems.

Pioneer previously provided testimony to this Committee on this subject matter when it appeared during the last legislative session in opposition to SB 576. In that previous testimony, Pioneer explained that Pioneer and other gas gathering companies and producers operating in Southwest Kansas have historically attempted to accommodate and allow oil and gas lessors, right-of-way easement providers, and irrigation farmers to have access to natural gas supplies transported through their gas gathering systems.

Pioneer explained how the main function of its gas gathering system in Southwest Kansas is to move natural gas and the liquids in that natural gas stream from the wellhead

(Point A) to the processing plant (Point B). Historically, when wellhead and gathering systems' pressures in Southwest Kansas were much higher than they are now, Pioneer was able to move natural gas from the wellhead (Point A) to oil and gas lessors' exit taps (Points C, D, E, etc.) and irrigators' exit taps (Points F, G, H, etc.) which were located along the way to the processing plant (Point B).

However, given the maturity of the natural gas fields connected to the gathering systems, the necessity of operating gathering systems on vacuum and at very low pressures to accommodate producers with depleting gas reserves and the increasing problems with high concentrations of H<sub>2</sub>S due to the depletion of the natural gas fields, it is no longer practical and it is contrary to public policy to pass legislation, like SB 576 last session or SB 325 this session, that would require gas gathering companies to provide open access transportation services to end users on gas gathering systems that, for the most part, are not in a position nor were they originally designed to provide reliable and safe service to end use customers. Simply put, Pioneer is no longer economically able to move gas from the wellhead to various exit taps on its gas gathering system because of the very low pressures that now exist.

As Pioneer mentioned last session, the changes proposed by the legislation before you are contrary to and go against the recent trend of the efforts being made to move end use customers off of gas gathering systems that can no longer provide safe and reliable service, for the various reasons I just stated, over to systems that can provide safe and reliable pipeline quality natural gas. For the past several years, Pioneer has voluntarily implemented several successful programs to move oil and gas lessors and irrigation farmers off of Pioneer's gas gathering system because of the very low pressures that exist and to work out other accommodations so those parties could meet their energy supply needs. Pioneer is continuing to work with the few remaining oil and gas lessors and irrigators on Pioneer's gas gathering system to see if accommodations can be made for those remaining parties. It makes absolutely no sense to create a new law, which would require Pioneer and the other gas gatherers in Kansas to essentially add distribution customers to these gas gathering systems, when these systems are no longer capable of providing safe and reliable distribution service.

This legislature should continue its efforts to promote programs such as rural natural gas cooperatives and not-for-profit utilities (NPU's), where groups of natural gas users can combine efforts to construct their own pipeline systems to connect to suppliers of pipeline quality gas to replace the less reliable and increasingly unsafe natural gas transported through gas gathering systems. This legislature should not adopt legislation that requires gas gathering companies to connect end users to systems that are no longer able to provide safe and reliable service to those end users.

Pioneer, like other operators in the Hugoton and Panoma Fields, is dealing with declining volumes in the field. This is attributed to the natural decline as reserves are depleted. As these fields approach depletion, gathering becomes a more critical operation. A system that was once used primarily for gathering gas (and secondarily for allowing lessors, right-of-way easement owners, and irrigators to use gas off of the system) can no longer physically handle both functions. Pioneer certainly can't abandon the gathering function on its system and is no longer in a position to operate that

gathering system as a distribution system.

As mentioned in my opening remarks, Pioneer owns and operates gas gathering systems in other states. None of those other states require Pioneer to provide open access transportation service and exit taps to third parties and I know of no state that has such a requirement. While it may be appropriate for intrastate and interstate pipelines and distribution utilities to provide for open access transportation service on their systems, it is not appropriate to require gas gathering systems to provide said services when those systems are not economically set up to do so.

Pioneer has reviewed the substitute bill proposed by several of the other gas gathering system owners and can generally support that bill. As Pioneer understands the intent of the substitute bill, a gas gathering system, which was economically able to provide transportation service to an exit tap on its system could do so without having to become a public utility or common carrier and without having to become subject to all of the rate, tariff and cost of service requirements that are imposed upon a public utility or common carrier.

Again, we would recommend that SB 325 either be reported adversely, or that the committee take no action on this legislation.

Thank you very much for permitting Pioneer to submit written testimony.

Charles M. Sizemore, P.E.  
Manager, Operations Engineering -

MidContinent