

MINUTES OF THE SENATE UTILITIES COMMITTEE

The meeting was called to order by Chairman Jay Emler at 9:30 A.M. on March 14, 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:

Others in attendance: See attached list

Chair opened the hearing on:

**HB 2306 - Kansas electric transmission authority duties and powers**

Proponent

Written testimony submitted by Earnie Lehman, Midwest Energy (Attachment 1)

Mary Ann Torrence, Revisor of Statutes, explained the proposed changes in **HB 2306** authorized KETA to conduct its day-to-day business without the necessity of providing notice and allowing for responses. She noted this is a cleanup bill.

Chair closed the hearing on **HB 2306**.

Moved by Senator Apple, seconded by Senator Reitz, to move **H.B. 2306** out favorably and place on the consent calendar. Motion carried.

Chair continued the discussion on **SB 325** called on Frank Caro and Steve Johnson to continue their explanation of the agreement reached and to present any changes to the draft of **Substitute for SB 325 - 7rs1314**. Frank Caro noted both sides had agreed to the following changes in New Section 3 (d) which would now read: (Attachment 2)

(d) After review, the commission may order that exit tap service be provided and may determine if rates and charges for such service are reasonable and non-discriminatory when compared to rates for similar service on the subject gathering system. However, such service shall not be required unless the commission finds all of the following:

Moved by Senator Taddiken, seconded by Senator Petersen, to adopt **Substitute for SB 325** with suggested changes in New Section 3 (d). Motion carried.

Moved by Senator Reitz, seconded by Senator Lee, to move **Substitute for SB 325** out favorably as amended. Motion carried.

Approval of Minutes

Moved by Senator Apple, seconded by Senator Pine, minutes of the meetings of the Senate Utilities Committee held on March 12, 2007 and March 13, 2007 be approved. Motion carried.

Other Action Taken

Moved by Senator Apple, seconded by Senator Petersen, to table **HB 2485 - energy conservation; design standards for public buildings; L.E.D. traffic signals** and write a letter to LCC requesting authority for further study by an interim committee. Motion carried.

Adjournment.

Respectfully submitted,  
Ann McMorris, Secretary  
Attachments - 2

# SENATE UTILITIES COMMITTEE GUEST LIST

DATE: MARCH 14, 2007

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Name	Representing
- Sue Schutte	Kansas Corn Growers Assn.
Wm DeWard	KIDGA/ American Energies Corp.
Lon Stanton	Northern Natural Gas Co.
David Sprague	CURB
DAVE HOLTHUS	KCC
LARRY BERG	MIDWEST ENERGY
TOM DAY	KCC
STEVE JOHNSON	ONEOK PARTNERS
John C. Bottenberg	Westar
Les Haynes	KCC
Don Low	KCC

**Testimony Submitted by Earnie Lehman to the  
Senate Utilities Committee  
In Support of HB 2306**

March 14, 2007

Mr. Chairman and members of the Committee, I am Earnie Lehman, appearing before you today on behalf of the Kansas Electric Transmission Authority (KETA). I serve as KETA's Vice Chairperson and am one of three gubernatorial appointees. I urge your support for HB 2306. I would characterize HB 2306 as a technical correction of our enabling legislation, HB 2263 passed by the Legislature and signed by the Governor in 2005. It will streamline KETA's ability to operate while preserving the right of other entities to preemptively build and/or finance transmission facilities KETA would otherwise build and/or finance.

KETA has been fully operational since the beginning of 2006. As described in our first Annual Report, we have largely completed our fact-finding and have spurred the first significant transmission construction in Kansas in many years. Now, as we begin to take steps that may ultimately lead to our first construction project, it appears that our powers to perform the most routine acts, such as

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employing consultants, buying or leasing office equipment and setting up a bank account, could in theory be preempted by “private entities” who would enter into the contracts themselves. While this is nonsensical, it seems possible under a literal reading of HB 2263.

This is why HB 2306 is before you today. As you can see in the redlined version, Articles 9 and 16 of Section 1 are moved to a new Section 2, along with the Section 1 provisions that define a private entity’s preemptive rights and related KETA notice and oversight provisions. The current Section 1, Article 9 speaks to transmission facilities and Article 16 speaks to partnering with other entities in connection with such facilities. These transferred articles are the heart of KETA’s responsibility, the purpose for which we were created.

In contrast, preserving preemptive rights for private parties in the ancillary things KETA must do to analyze and prepare to build facilities, and in the conduct of our daily affairs, makes no sense. It will impede our ability to fulfill our statutory purpose “to further insure reliable operation of the integrated electrical transmission system, diversify and expand the Kansas economy and facilitate the consumption of Kansas energy through improvements in the state’s

electric transmission infrastructure.”

I urge your support for HB 2306. Mr. Chairman, I will stand for questions at the appropriate time.

Thank you.

## Proposed Substitute for SENATE BILL NO. 325

By Committee on Utilities

AN ACT concerning natural gas; relating to gas gathering activities; 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 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. 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-17-1997~~ 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, which provides gas gathering services, as defined in K.S.A. 55-1,101, and amendments thereto.

(b) Notwithstanding the provisions of subsection (a), and section 3, and amendments thereto, 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.

New Sec. 3. The commission may, upon complaint by a party who has or seeks an exit tap on a gathering system, review disputes over access, service or abandonment, regarding exit taps on a gas gathering system, only as follows:

(a) The commission may review such disputes for reasons other than health or safety of: (1) Exit taps provided pursuant to right-of-way agreements between landowners and gas gathering system owners or operators; and (2) exit taps being provided, on or before the effective date of this act, directly to an end user or to a public utility.

(b) The commission may review such disputes for reasons other than health or safety for exit taps requested to serve a non-profit utility organized pursuant to K.S.A. 66-104c, and amendments thereto, that provides natural gas service exclusively for agricultural activity, but not including any domestic use.

(c) Prior to filing a complaint with the commission, the existing or proposed exit tap customer shall meet the following requirements:

(1) Such customer must have acquired or be able to acquire a supply of natural gas with access to the gas gathering system;

(2) such customer must meet the same financial requirements and guarantees as all other shippers on the gathering system, including credit worthiness; and

(3) such customer shall be prepared to pay all costs and any associated expenses for the exit tap installation and service as imposed by the provider.

(d) After review, the commission may order that exit tap service be provided and may determine if rates and charges for such service are unduly discriminatory for such service, but such

service shall not be required unless the commission finds all of the following:

(1) That the service will not impair the ability of the gathering system to meet all existing and anticipated demand on the system;

(2) that the provision of such service will not require installation, relocation or modification of compression or other operations and equipment or features;

(3) that the charges for the service are adequate to cover the provider's administrative and operating expenses for the exit tap service, the costs of installing the exit tap and a reasonable profit margin considering the risks involved;

(4) that the service shall be provided on an interruptible basis and that the provider shall be indemnified by the exit tap customer from liability for and shall not be held liable for damages to human life, crops, livestock, equipment, environmental or any other damage arising from the use of the natural gas acquired through the service, or arising from interruption or curtailment of service;

(5) that the customer has agreed that such service may be terminated for failure to promptly pay billings or maintain credit worthiness;

(6) that the customer has agreed that such service may be terminated at any time if continued service threatens the operational stability and reliability of the provider's system or if service cannot be continued to be safely provided and that service may be interrupted for system maintenance, replacement or repairs;

(7) that such service will not impair or modify existing contracts held by the gas gathering system owner or operator;

(8) that such service will not unreasonably increase the total number of exit taps on the provider's system;

(9) that such service can be provided in a safe and environmentally sound manner; and

(10) that the provision of such service shall not adversely

affect service or cost to any other gas gathering service customers on the system.

(e) In addressing any complaint, the commission shall not review the terms, including the price and volume of the natural gas commodity, of any purchase agreement for acquisition of natural gas by the exit tap customer and shall not order any producer, gatherer or other party to sell natural gas to such customer or proposed customer and shall not require the provision of a new exit tap on any gathering system which has not previously provided at least one exit tap prior to the effective date of this section.

(f) As used in this section:

(1) "Agricultural activity" means the growing or raising of horticultural and agricultural crops, hay, poultry, livestock and dairy products for commercial purposes including a feedlot and confined feeding facility.

(2) "Confined feeding facility" means any lots, pens, pools or ponds.

(3) "Feedlot" means lots, yards, corrals, confined feeding facilities or other area in which livestock are fed for slaughter and are confined and such additional acreage as is necessary for the operation of the feedlot.

Sec. 4. K.S.A. 55-1,101 and K.S.A. 2006 Supp. 66-105a are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the statute book.