SESSION OF 2007

SUPPLEMENTAL NOTE ON SUBSTITUTE FOR SENATE BILL NO. 325

As Recommended by Senate Committee on Utilities

Brief*

Sub. for SB 325 would amend two sections of current law and add a new statute relating to gas gathering systems and those persons who are maintaining or acquiring an exit tap on a gathering system.

Specifically, the bill would allow the Kansas Corporation Commission (KCC), upon complaint by a party who has or seeks an exit tap on a natural gas gathering system, to review disputes over access, service, or abandonment, regarding exit taps under certain conditions.

The KCC could review disputes for reasons other than health or safety of:

- Exit taps provided pursuant to right-of-way agreements between landowners and gas gathering system owners or operators; and

- Exit taps being provided on or before the effective date of this act, directly to an end user or to a public utility.

In addition, the bill would permit the KCC to review disputes for reasons other than health or safety for exit taps requested to serve a non-profit utility that provides natural gas service exclusively for agricultural activity, but not including any domestic use.

————————————

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at http://www.kslegislature.org

The bill would require that before filing a complaint with the Commission, the existing or proposed exit tap customer would be required to meet the following requirements:

- Customers must have acquired or be able to acquire a supply of natural gas with access to the gas gathering system;

- Customers must meet the same financial requirements and guarantees as all other shippers on the gathering system, including credit worthiness; and

- Customers must be prepared to pay all costs and any associated expenses for the exit tap installation and service as imposed by the provider.

After review, the bill would permit the KCC to order that exit tap service be provided and may determine if rates and charges for the service are reasonable and non-discriminatory, when compared to rates for similar service on the same gas gathering system.

Service would not be required unless the KCC finds all of the following:

- The service will not impair the ability of the gas gathering system to meet all existing and anticipated demand on the system;

- The provision of the service will not require installation, relocation, or modification of compression or other operations and equipment or features;

- The charges for the service are adequate to cover the provider's administrative and operating expenses for the exit tap service, the cost of installing the exit tap, and a reasonable profit margin considering the risks;

- The service would be provided on an interruptible basis and that the provider would be indemnified by the exit tap customer from liability for and would not be held liable for damages to human life, crops, livestock, equipment, environmental, or any other damage arising from the use, interruption of service, or curtailment of the service;

- The customer has agreed that the service may be terminated for failure to pay bills promptly and maintain credit worthiness;

- The customer has agreed that the 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;

- The service will not impair or modify existing contracts held by the gas gathering system owner or operator;

- The service will not unreasonably increase the total number of exit taps;

- The service can be provided in a safe and environmentally sound manner; and

- The provision of service would not adversely affect service or cost to any other gas gathering service customers on the system.

Further, the bill would provide that when addressing any complaint, the KCC would not review the terms, including the price and volume of the gas, of any purchase agreement for acquisition of natural gas by the exit tap customer and could not order any producer, gatherer, or other party to sell natural gas to the customer or proposed customer and could not require the provision of a new exit tap on any gathering system which has not provided at least one exit tap prior to the effective date of the bill.

Finally, the bill would modify the definition of "gas gathering system" to include transportation to a main transmission line or to any exit tap on a gas gathering system. Further clarification would be added to this definition to state that existing, new, or additional exit taps added to a gathering system would not cause a gathering system to be regulated as a public utility. A new definition of "exit tap on a gas gathering system" would be added and defined to mean 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. The terms "agricultural activity," confined feeding facility," and "feedlot" also would be defined.

Background

SB 325 was introduced at the request of a representative of the Kansas Corn Grower's Association. It was noted that there is a problem in Southwest Kansas regarding access to natural gas through gathering lines in order to supply irrigators and others involved in agricultural activities.

Conferees who testified before the Senate Committee in support of the bill, as introduced, included representatives of the Kansas Corn Grower's Association; PEK Irrigators Inc.; the Kansas Farm Bureau; and the Kansas Livestock Association (KLA). Also appearing in support of the introduced version of the bill included three corn growers from southwestern Kansas. Written testimony in support of the bill was submitted by Northern Natural Gas Company. Appearing neutral on the bill was a representative of the Kansas Corporation Commission (KCC).

The opponents of the bill included representatives of DCP Midstream; BP America Inc.; the Kansas Independent Oil & Gas Association (KIOGA); Pioneer Natural Resources USA, Inc.; ONEOK Field Services Company; American Energies Corporation; American Pipeline Company; and the Eastern Kansas Oil and Gas Association (EKOGA).

The Senate Committee adopted a substitute bill which was developed by representatives of the proponents and opponents.

The Division of the Budget's fiscal note on the introduced version of SB 325 states that the Kansas Corporation Commission (KCC) believes that the passage of the bill would require the agency to mediate and arbitrate disputes over gas gathering rates. That agency indicates that any additional expenditures associated with these disputes would be handled within existing resources. The Citizens' Utility Ratepayer Board indicates that it may be involved in more rate cases and that any additional expenditures associated with this increased involvement would be handled within existing resources.