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March 8, 2006

Via Email and Facsimile

Jere White
Kansas Corngrowers Association
1 Easy Street
Garnett, Kansas 66032

Re: Kansas Senate Bill 576

Dear Mr. White:

You have requested a summary of the statutory amendments proposed by Senate Bill 576. The bill attempts to clarify the authority of the Kansas Corporation Commission over service connections and abandonments for service to individual customers from gas gathering lines. The bill was necessitated by the position of the Corporation Commission that it did not have authority to consider issues related to the attachment or abandonment of service from certain gas gathering lines. Senate Bill 576 seeks to close a loophole which, if uncorrected, would result in unequal treatment of those who may be served from gas gathering lines. Senate Bill 576 could result in greater utilization of gathering lines and a more economical use of Kansas resources.

The approach taken to clarify this authority is amendment of Chapter 55, Sections 1,101 *et seq.*, which cover the Corporation Commission's authority over gas gathering services. Those sections provide the Corporation Commission can resolve disputes over the terms and conditions of "gas gathering service" through essentially a complaint process. (See K.S.A. 55-1,104.) Senate Bill 576 merely amends those sections to include parties who operate "gathering facilities" as entities who are subject to current requirements. This change should make it clear that the Corporation Commission has authority to resolve problems associated with retail service directly from gathering lines, regardless of the nature of ownership and operation of the gathering lines. Senate Bill 576 would not eliminate the exemption for gathering lines that are not held out for hire and that do not purchase gas for resale. (See K.S.A. 55-1,101(1)(A) and (B).)

The changes proposed in Senate Bill 576 simply expand the definition of gathering lines that are subject to the jurisdiction of the Corporation Commission. The bill merely provides that where customers and gathering line operators are unable to come to agreement on hook-ups, terms of service, and abandonment, then the customer may seek final determination through a complaint at the Corporation Commission. There are no changes to the procedural aspects of current law; indeed a cursory review of Senate Bill 576 reveals that most of the changes to Sections 1,101 through 1,109 merely add the term "gas gathering facilities" to existing law. The value of this approach is to place the decision in the hands of an agency with expertise rather than subject the parties to the cost of litigation in the courts. As with any complaint proceeding, the burden will rest with the complaining party, i.e., the customer, to prove the requested relief is justified. Once again, these are the standards and provisions contained in existing law; only the definition of the parties who are subject to the terms has been expanded.

Care was taken in drafting the bill to avoid adding additional obligations upon those who provide gathering services. Senate Bill 576 does not create an obligation to serve; it does provide customers with a opportunity to obtain a regulatory decision where the customer and gathering line operator cannot reach agreement or where the gathering line seeks to abandon service. Senate Bill 576 does not require gathering lines to provide service where it would be dangerous or uneconomical to do so. Existing law governing curtailment of service, K.S.A. 66-105a(b) and (c), is not modified by Senate Bill 576; therefore, existing law would remain unchanged as to circumstances where low line pressure, public health, or declining production are concerned.

During informal conversations, potential opponents to Senate Bill 576 have expressed two concerns that could be remedied with minor language changes. First, they have expressed concern that gathering lines would become subject to the obligation to provide transportation services on a forward *and* backward basis. I believe this concern is unwarranted because transportation is defined in K.S.A. 55-150 as running from wellhead to pipelines. However, if necessary, the term "transportation" could be defined in Senate Bill 576 to resolve doubts about the direction of flow.

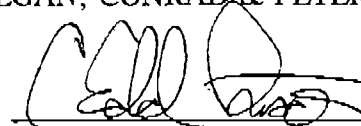
Second, potential opponents have expressed concern about the "public interest" standard. For the most part, this language occurs in current law. (See K.S.A. 55-1,105 and 55-1,108). Thus, this complaint of the opponents is directed at existing law and not at Senate Bill 576. There is one exception, however. Senate Bill 576 does contain in Section 6 an amendment to K.S.A. 55-1,107 that would require *certificated public utilities* to demonstrate that proposed abandonments are not in the public interest. This provision merely extends the obligation of public utilities to serve in accordance with their certificate of convenience and necessity, and therefore, this provision is appropriate to avoid creating questions about the obligation of certificated public utilities to serve under Chapter 66. As to the other references to the public interest standard, if there is interest in modifying existing law, then this standard could be changed to a "just and reasonable" standard without substantially changing the outcome of most complaint proceedings.

In summary, the proposed changes to Sections 55-1,101 *et seq.* are intended to clarify the Corporation Commission's jurisdiction to include consideration of complaints from those who are served by, or who seek service from, gas gathering lines. The design accomplishes this purpose without imposing additional regulatory obligations upon operators of gathering lines. Senate Bill 576 would place all customers on an equal footing and put the proper agency, the Corporation Commission, in the position of resolving disputes over service.

Very truly yours,

FINNEGAN, CONRAD & PETERSON, L.C.

By:



C. Edward Peterson

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