

Approved: Carl Dean Holmes  
Date 4/29/94

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES.

The meeting was called to order by Chairperson Carl Holmes at 3:30 p.m. on March 15, 1994 in Room 526-S of the Capitol.

All members were present except: Representative Lawrence - Excused  
Representative Hendrix - Excused

Committee staff present: Raney Gilliland, Legislative Research Department  
Dennis Hodgins, Legislative Research Department  
Mary Torrence, Revisor of Statutes  
Shirley Wilds, Committee Secretary

Conferees appearing before the committee: Don Elliott, KS One-Call System, Inc.  
Don Schnacke, KS Independent Oil & Gas Association  
David Bleakley, Eastern Kansas Oil & Gas Association, Inc.  
Brian Moline, KS Corporation Commission  
Pam Neeley, Northern Natural Gas Company

Others attending: See attached list

Chairperson Holmes announced in addition to bill action today, the Committee is asked to also plan on action on March 16 and 17.

**Hearing on SB 644.**

**Don Elliott.** (See Attachment #1) Mr. Elliott reported as a prelude to the final structure of this proposed legislation, Kansas One-Call was asked to adopt a fee structure that would permit participation by the independent oil and gas producers, without placing a financial burden upon their industry. In compliance, Kansas one-Call established a \$25 annual fee for each member plus \$1 for each call the member would receive. It was the understanding of Kansas One-Call that this was agreeable and removed the only remaining concern under the present law. Assuming they had responded to their concerns, it was understood that the independent oil and gas producers would participate in the Kansas One-Call System. Mr. Elliott said it appears they will still be excluded even with the proposed amendment and his organization is confused. It was their recollection that the independent oil and gas producers were not to be exempt in the original legislation and by Kansas One-Call establishing the fee, the cost of participation had been significantly reduced.

Explaining the dynamics of all that applies to underground lines, i.e. new installation, service interruption resulting from a dig-in and the cost of same, etc., Mr. Elliott said any change in the present law represents a threat to the safety of personnel operating in the affected areas, both contractors and utilities alike. Additionally, he said any dig-up of buried lines is environmentally damaging. He said he brings these issues to the attention of the Committee as they deliberate this amended bill.

**Donald P. Schnacke.** (See Attachment #2) Citing the evolution of this particular legislation from 1985 to 1993, Mr. Schnacke reported the Association was surprised to learn the Commission and Kansas One-Call System, Inc. either felt their activities were not exempt or that there was sufficient ambiguity in the definitions that clarifying legislation was needed. He said they were persuaded by the KCC to sponsor **SB 644** to secure the needed clarification and the Commission has been designated by law to administer and enforce this program.

Mr. Schnacke said controversy arose over whether "gas gathering lines" should be under the Act. It was agreed by all parties that gas gathering lines would be included the Act. Upon conferring with the Revisor's staff, Mr. Schnacke said they agreed that the word "gathering" on Page 1, line 34 should not be struck from the bill. By reinstating this word he said it will give the KCC ample authority to write their rules and enforce the Act.

Urging the Committee to make the suggested minor change, Mr. Schnacke asked for passage of **SB 644**.

**David Bleakley.** (See Attachment #3) Mr. Bleakley reported his Association supports Mr. Schnacke's testimony and urged the Committee to reinstate the word "gathering" and pass favorably, as amended.

**Brian Moline.** Mr. Moline said he was in attendance to primarily call attention to the minor change as has been reported by

## CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES, Room 526-S Statehouse, at 3:30 p.m. on March 15, 1994.

Mr. Schnacke, and they continue to support the bill.

Chairperson Holmes announced for the record written testimony is before the Committee from Jack Graves of Graves, Irby and Rhoads Law Offices. (See Attachment #4)

**Pam Neeley.** (See Attachment #4) Ms. Neeley reported that Northern is very concerned that the present proposal is unclear and could later be misconstrued to exempt gas gathering lines from the definition of one-call facilities. Their concern is, unless gathering is left intact under the definition of facility in the first half of the sentence, someone could later make the argument that because gas gathering lines were not specifically addressed they do not fall under confines of the one-call legislation. Ms. Neeley furnished a copy of their proposed amendment. Ms. Neeley emphasized in closing that they feel efforts to exempt any further facilities would unduly weaken the bill.

### **Action on SB 495:**

Staff briefed the Committee on the bill.

Representative Shore made a motion to table **SB 495**. Representative Mills seconded the motion. Motion failed.

Representative Gatlin made a motion to pass **SB 495** favorably. Seconded by Representative Alldritt. Motion carried.

### **Action on SB 496:**

Representative Shore moved to pass **SB 496** favorably. Representative Freeborn seconded. Motion carried.

### **Action on 3058:**

Representative Grotewiel presented a proposed amendment on **HB 3058**. (See Attachment #5)

Representative Grotewiel made a motion to adopt proposed amendment on **HB 3058**. Representative Gatlin seconded the motion. Motion carried. Representative Lloyd requested to be recorded as Nay.

Representative Grotewiel moved to pass **HB 3058** favorably, as amended. Representative Gatlin seconded. Motion carried. Representative Lloyd requested to be recorded as Nay.

Prior to adjournment, Chairperson Holmes again reminded the Committee of the agenda for duration of the week.

Upon completion of its business, the meeting adjourned at 4:40 p.m.

The next meeting is scheduled for March 17, 1994.



**TESTIMONY BEFORE THE KANSAS HOUSE ENERGY AND  
NATURAL RESOURCES COMMITTEE  
REGARDING SENATE BILL 644**

Don Elliott, Executive Director  
Kansas One-Call System, Inc.  
March 15, 1994

Mr. Chairman and members of the Committee: my name is Don Elliott and I am appearing as the director of Kansas One-Call System, the non-profit single-notification center for the state, on behalf of our 315 utility owner/operators of underground facilities.

When this amended bill appeared in the Senate committee earlier this year, much was made of the fact that 3,300 independent oil and gas producers would be required to join Kansas One-Call at a cost of several thousand dollars each. Kansas One-Call was asked as a result of that expressed concern to adopt a fee structure that would permit participation by these producers without placing a financial burden upon their industry. We were able to do this by establishing a fee of \$25 annually for each member plus \$1 for each call the member would receive. We understood this was agreeable and removed the only remaining concern they had with the present law. We assumed with this obstacle removed, they would join the Kansas One-Call System and participate. It now appears this proposed amendment would still exclude them and, frankly, we are confused by that stance. It is our recollection that the independent oil and gas producers were not to be exempt in the original legislation. By Kansas One-Call establishing the annual fee of only \$25, the cost of participation has been significantly reduced.

*Energy & Natural Resources  
Attachment #1  
3/15/94*

Underground lines carry vital services to rural customers and, quite often, entire communities. A service interruption resulting from a dig-in could be costly and even life threatening for these Kansans. Each year more and more underground lines are installed across our state and the necessity of installations such as major fiberoptic systems will continue to expand, particularly across rural areas. Any change in the present law also represents a threat to the safety of personnel operating in the affected areas, both as contractors and utilities alike.

Additionally, any dig-up of buried lines exposes the environment to damage. While most petroleum production in our state occurs in lightly populated areas, significant production is located adjacent to many of our communities. We believe this is a threat that you need to be concerned with. We wanted to call these areas to your attention as you deliberate this amended bill, and we thank you for your time.



## KANSAS INDEPENDENT OIL & GAS ASSOCIATION

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### HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES

MARCH 15, 1994

RE: SB 644 - KANSAS UNDERGROUND UTILITY DAMAGE PREVENTION ACT

*Statement of Donald P. Schnacke  
Executive Vice President, KIOGA*

The Kansas Underground Utility Damage Prevention Act was passed, signed and made effective July 1, 1993. This bill, SB 644, arises as a clarification of the definitions section of the Act, which defines who is under the Act and what activities are exempt. It is now cited as KSA 66-1801 through KSA 66-1814.

This legislation has been around since 1985 and finally passed in 1993. During the legislative evolution nine exemptions were established which include tilling of the soil (pg. 1, ln. 25); railroad or road and ditch maintenance (pg. 1, ln. 25); road and ditch flowlines (pg. 1, ln. 27); operations related to exploration and drilling of crude oil or natural gas (pg. 1, ln. 27); farm and city dwellers (pg. 1, ln. 30); operators furnishing services or materials (pg. 2, ln. 10); pre-engineered projects (pg. 2, ln. 13); and permitted projects (pg. 2, ln. 25).

The oil and gas industry exemption was added in 1989 and has remained in the bill each year thereafter. The industry felt and the committees working the legislation believed that the exemption of "*exploration*" and "*drilling*" exempted all activities relating to exploration and production of oil and gas in Kansas. The Senate Committee Chairman of the Senate Committee expressed that feeling at the hearing in February.

We were surprised to learn the State Corporation Commission and Kansas One-Call System, Inc. either felt our activities were not exempt, or that there was sufficient ambiguity in the definitions that clarifying legislation was needed. We were persuaded by the KCC to sponsor SB 644 to secure the needed clarification. KCC Chairman Jim Robinson testified in favor of the bill. The KCC has been designated by law to administer and enforce this program.

There were two Senate hearings set aside for SB 644. Controversy arose over whether "*gas gathering lines*" should be under the Act. After extensive inquiry, it was agreed by all parties, including the industry affected, that gas gathering lines would be included under the Act. Production lead lines, salt water disposal lines and injection lines are exempt, except when inside platted land or inside corporate city limits.

*Energy & Natural Resources  
Attachment #2 3/15/94*

**HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES  
RE: SB 644 - KANSAS UNDERGROUND UTILITY DAMAGE PREVENTION ACT  
MARCH 15, 1994**

This latter language relating to production lines associated with producing wells, was offered by the KCC and the industry accepted their suggestions. After talking to the Revisor's staff, we agree that the word "*gathering*" on page 1, line 34, should not be struck from the bill. We suggest your Committee reinstate "*gathering*" on page 1, line 34 as a term of art related to gas gathering. This will give the KCC ample authority to write their rules and enforce the Act.

Mr. Chairman, and members of the Committee, the record will show that KIOGA and its spokesmen, myself included, have always supported the underground utility damage prevention act. As a practicing consulting engineer for several years, I know the need to identify underground utilities in urban areas is important. Tilling of soil, railroad and road and ditch maintenance, and oil and gas exploration and production are primarily rural activities and it makes sense to provide for these exemptions. Recognizing the scope of activity and potential safety relating to gas gathering lines has been accepted by the industry. Requiring operators with gas gathering lines to participate under this act has our support.

Therefore, Mr. Chairman and members of the Committee, we urge you to make the minor change on page 1, line 34, by restoring the word "*gathering*" and recommend the passage of SB 644 as amended.

Donald P. Schnacke

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March 11, 1994

Representative Carl Holmes  
Chairman, Energy and Natural Resources Committee  
State House  
300 SW 10th Avenue, Room 115-S  
Topeka, Kansas 66612

Dear Carl:

I have noted that Senate Bill 644, that is set for hearing next Tuesday, was amended by the Senate Committee with the expressed intent of removing the exemption of natural gas gathering lines from the Underground Utility Damage Prevention Act. The amendment that was inserted by the deletion of "gas gathering lines" on Lines 37 and 38 of Page 1, accomplishes that expressed purpose. However, it is noted that the original Bill struck "producing, gathering" on Line 34 in the definition of "facility", and that remained unchanged by the Committee amendment, with the result, in my opinion, that "gathering" would not be subject to the one-call act.

I discussed this with Mary Torrance and she agrees. I urge restoration of "gathering" on Line 34 by your Committee. I appeared at the Senate hearing and urged keeping gas gathering subject to the Act for safety reasons.

Respectfully submitted,

GLAVES, IRBY AND RHOADS

  
Jack Graves

JG:ska

cc: Representative Walker Hendrix

Russell E. Bishop

*Energy & Natural Resources  
Attachment #3  
3/15/94*



TESTIMONY OF  
NORTHERN NATURAL GAS COMPANY

Good afternoon. My name is Pam Neely, Regional Manager for State Government Affairs for Northern Natural Gas Company, a wholly owned division of Enron Corp. Northern is an interstate pipeline company, operating about 10,000 miles of pipeline in a ten state area. In Kansas, we operate approximately 4,100 miles of pipe, mostly gathering facilities, with locations in Bushton, Clifton, Mullinville, Cunningham, Hugoton, Sublette and Tescott.

My remarks this afternoon will be brief. I want to emphasize to the committee my company's concern with SB 644.

Northern Natural Gas Company has a strong commitment to safety. As such, we have been active participants in the formation of one-call systems in several states and actively support the one-call system in Kansas.

I testified before the Senate Committee on Transportation and Utilities regarding the attempt to remove gas gathering lines from the confines of the one-call bill. I stressed the importance of safety, not only from the standpoint as an operator of underground facilities, but also from the standpoint as an excavator. It is my understanding that gas gathering lines have been exempted from the amendemnt and are still subject to one-call notification.

Northern is very concerned in that the present proposal is unclear and could later be misconstrued to exempt gas gathering lines from the definition of one-call facilities. If you look at the Senate version, paragraph E, gathering is removed from the definition of "facility." However, it is also removed from the italicized language that defines exemptions from the definition of facility. Our concern is that unless gathering is left intact under the definition of facility in the first half of the sentence, and addressed as such affirmatively, someone could later make the argument that because gas gathering lines were not specifically addressed, they do not fall under confines of the one-call legislation. The law must be clear that gas gathering lines are not exempt from one-call and should not be left ambiguous and subject to later debate.

A copy of our proposed amendment is attached. It simply keeps gathering under the definition of facility, which is the intent of the Senate's amended bill.

If I may, one final word about one-call. While deleting the exemption of gas gathering lines is a major concern to my company, I cannot stress the fact enough that we feel efforts to exempt any further facilities would unduely weaken the bill, the purpose of which is to provide safety, for people and our environment. Thank you for your time and attention.

*Energy & Natural Resources  
Attachment #4  
3/15/94*

Proposed Amendment to SB No. 644  
by Northern Natural Gas Co.

Amend Senate Bill 644 as follows:

(e) "Facility" means any underground line, system or structure used for ~~producing, gathering~~, storing, conveying, transmitting or distributing gas, electricity, communication, crude oil, refined or processed petroleum, petroleum products or hazardous liquids; facility shall not include, any production petroleum lead lines, ~~gas gathering lines~~, salt water disposal lines or injection lines, which are located on unplatted land or outside the corporate limits of any city.

1 (c) Prior to the issuance of the revenue bonds, the director may:

2 (1) Pledge to the payment of the principal and interest on the  
3 revenue bonds the gross revenues derived from water supply con-  
4 tracts with water users from revenue from participants in water  
5 assurance programs or from any one or more or all of such sources;

6 (2) pledge to the payment of the principal of and interest on the  
7 revenue bonds the proceeds of any grant-in-aid, gift, donation, be-  
8 quest; or other such fund, or the income from any of such sources  
9 obtained by the Kansas water office directly or in trust;

10 (3) ~~pledge to the payment of the principal of and interest on any~~  
11 ~~revenue bonds issued to acquire conservation water supply storage~~  
12 ~~capacity in federal reservoirs moneys appropriated from the state~~  
13 ~~economic development initiatives fund created by K.S.A. 79-4804 and~~  
14 ~~amendments thereto, the state general fund or the state water plan~~  
15 ~~fund created by K.S.A. 82a-951 and amendments thereto;~~

16 (4) create and maintain (A) revenue bond funds adequate to  
17 promptly pay both the principal of and interest on the revenue bonds  
18 when they become due and (B) a reasonable reserve fund; and

19 (4) (5) covenant or contract with respect to any and all matters  
20 consistent with the authority granted herein necessary and conven-  
21 ient in the determination of the director to sell the revenue bonds  
22 and obtain the most favorable interest rate thereon, including, but  
23 not limited to, maturities, priority of liens, number of issuances,  
24 special funds for security, redemption privileges, investments of the  
25 proceeds of the revenue bonds and any other funds pledged to the  
26 payment thereof or held as security therefor, security agreements,  
27 trust indentures, paying agencies, registration provisions and con-  
28 version privileges.

29 Sec. 2. K.S.A. 82a-1361 is hereby repealed.

30 Sec. 3. This act shall take effect and be in force from and after  
31 its publication in the statute book.

, if moneys otherwise authorized to be pledged are insufficient, moneys appropriated from the following, in descending order of priority: The state water plan fund created by K.S.A. 82a-951 and amendments thereto, the state economic development initiatives fund created by K.S.A. 79-4804 and amendments thereto or the state general fund

George H. Nelson  
Catastrophic  
3/15/94