

Approved: 4/28/94  
Date

## MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES

The meeting was called to order by Chairperson Ben Vidricksen at 9:00 a.m. on February 16, 1994 in Room 254-E of the Capitol.

All members were present except:

Committee staff present: Hank Avila, Legislative Research Department  
Ben Barrett, Legislative Research Department  
Bruce Kinzie, Revisor of Statutes  
Martha Ozias, Committee Secretary

Conferees appearing before the committee:

Jim Robertson - Chairman, KCC  
Donald P. Schnacke, Executive Vice President, KIOGA  
Steve Dillard - Pickard Drilling Company  
Don Elliott - Kansas One-Call  
David Warren - Director, Wichita Water & Sewer Department  
Bill Krawczyk - President, Board of Directors, Kansas One-Call  
Jack Glade - Panhandle Eastern Pipe Line Company  
J. C. Long - UtiliCorp United

Others attending: See attached list

### **SB 644 - Kansas Underground Utility Damage Prevention Act**

Jim Roberston spoke for the KCC in support of this bill with amendments. He explained that no one has been has been injured from a digging mishap and this type of thing is impossible to enforce because no one has any idea where all the lines are. He asked that the Committee consider making the 75 lbs pressure per square inch covered in the bill and under this amount to be exempt.

Don Schnacke explained that this bill came about because of a need for clarification of what was considered to be an exemption for the activities relating to exploration, drilling, and producing of oil and gas in the state. It had been thought that this legislation exempted all activities related to exploration and production of oil and gas in Kansas but there seem to be sufficient ambiguity in the law that clarification is need. He asked the Committee for this clarification that specifically leaves the word "exploration" in the bill on page 1, line 26, and substitutes the word "production" for the word "drilling" on page 1, line 27, under the definition of excavation. He also pointed out that the clarification definition for oil and gas on line 36 of page 1 indicates that if production lines are inside a city or platted land, they would be included under the Act. (Attachment 1)

Steve Dillard showed maps of where pipelines were located and urged the Committee to leave their industry exempt.

Don Elliott addressed the Committee in opposition to the bill stating that their sole purpose is to provide safety for the general public while protecting buried lines and pipes and reducing damages through a call notification system. Granting exceptions to the present law weakens the law and creates more confusion. Some underground owners and operators are not required to use the system under the present law and this exception aggravates the situation. (Attachment 2)

David Warren asked the Committee to vote "No" on this bill in the interest of protecting the environment from the release of toxic materials carried by underground lines of those who would be exempt. He stated that the only way to prevent damage to underground facilities is to insure that anyone who digs beneath the ground or has facilities beneath the ground are members of a service that notifies all owners/operators of underground facilities of excavations to be done in their area. (Attachment 3)

## CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES, Room 254E-Statehouse, at 9:00 a.m. on February 16, 1994.

Opposition to this bill was also expressed by Bill Krawczyk who stated that the purpose of Kansas One-Call was to reduce the chance of death and injury, property damage and the loss or interruption of vital services. They have had good identification with their "Call Before You Dig" message across the state and believe that allowing exemptions is in direct conflict with the intent of the original bill. He also expressed concerns that if this was allowed, others would seek exemptions also. (Attachment 4)

Jack Graves expressed concerns about the proposed exemption of gas gathering lines as proposed by **SB 644**. He questioned as to just what facilities would be exempt and just what facilities are "gathering" and what are "transmission". He pointed out aht there are almost 9,000 miles of gathering lines throughout the state and that the exclusion of these lines from the Damage Prevention Act makes for questionable public policy and is contrary to the public safety issue that was the reason for the enactment of the legislation last year. (Attachment 5)

The next meeting is scheduled for February 17, 1994.

# GUEST LIST

## SENATE TRANSPORTATION COMMITTEE

DATE: February 16, 1994

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
<u>Don Schmale</u>	<u>Topeka</u>	<u>ICIOGA</u>
<u>Steve Dillard</u>	<u>Wichita</u>	<u>Pickwell Drlg/KIOGA</u>
<u>Tom Whitaker</u>	<u>TOPEKA</u>	<u>Ks Motor Carriers Assn</u>
<u>DON ELLIOTT</u>	<u>Wichita</u>	<u>KANSAS ONE CALL SYSTEM, INC</u>
<u>Daniel R Warren</u>	<u>Wichita</u>	<u>City of Wichita / KCC Sys, Inc</u>
<u>Kevin Lorentson</u>	<u>TOPEKA</u>	<u>ENRON Corp</u>
<u>Bob Totten</u>	<u>Topeka</u>	<u>K Contractors</u>
<u>Shawn Butler</u>	<u>Topeka</u>	<u>KS Good Roads</u>
<u>Louis Stroup Jr.</u>	<u>McPherson</u>	<u>KANSAS Municipal Utilities</u>
<u>Ken Peterson</u>	<u>Topeka</u>	<u>KS PETROLEUM Council</u>
<u>Bill Krawczyk</u>	<u>Kansas City</u>	<u>Ks One Call</u>
<u>Lester Murphy</u>	<u>TOPEKA</u>	<u>KEC</u>
<u>JIM KEELE</u>	<u>PAORA</u>	<u>BKE</u>
<u>Whitney Dameron</u>	<u>Topeka</u>	<u>McMillan Associates/Williams Co.</u>
<u>ED SCHAUB</u>	<u>"</u>	<u>WESTERN RESOURCES</u>
<u>MIKE REECHT</u>	<u>TOPEKA</u>	<u>AT&amp;T</u>
<u>MARSHALL CLARK</u>	<u>TOPEKA</u>	<u>KEC</u>
<u>TOM DAY</u>	<u>TOPEKA</u>	<u>KCC</u>
<u>Brian J. Molin</u>	<u>"</u>	<u>"</u>
<u>Don Low</u>	<u>"</u>	<u>"</u>
<u>Patrick Hurley</u>	<u>Topeka</u>	<u>KCB</u>

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## KANSAS INDEPENDENT OIL & GAS ASSOCIATION

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### SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES FEBRUARY 16, 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 what was considered to be an exemption for the activities relating to exploration, drilling, and producing of oil and gas in Kansas.

The proposed Act has been around since 1985 and finally passed in 1993. During its legislative evolution exemptions were established for a "*pre-engineered project*", line 12(i), or a "*permitted project*", line 24(j), both on page 2 of the bill. Additional exemptions were added to the bill between 1985 and 1993 and begin on line 22(c) on page 1. That section provides exemptions from the Act for excavation activities that include "*tilling the soil, or railroad or road and ditch maintenance...or operations related to exploration and drilling of crude oil or natural gas, or both.*" The oil and gas industry exemption in this section was added in 1989 and has remained in the bill each year. We have always thought the committees working this legislation believed that the exemption of and exploration and drilling--exempted all activities related to exploration and production of oil and gas in Kansas. We certainly thought so!

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 law that clarifying legislation was needed.

We met with Kansas One-Call System, Inc. and they believed that all 3,300 + licensed Kansas oil and gas operators were included under the Act and were required to sign up as participating members. Their annual dues of a \$375/member minimum up to a \$15,000/member maximum, depending on how many quarter sections each operator is conducting business in, gave us grave concern. We not only thought we were exempt, but we know we couldn't financially support Kansas One-Call System, Inc. as was being suggested.

Therefore, we are again before your Committee asking for this clarification that specifically leaves the word "*exploration*" in the bill on page 1, line 26, and substitutes the word "*production*" for the word "*drilling*" on page 1, line 27, under the definition of excavation. What a "*facility*" is not is further defined to include lines related directly to the production of oil and gas in Section 1(e).

**SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES**  
**RE: SB 644 - KANSAS UNDERGROUND UTILITY DAMAGE PREVENTION ACT**  
**FEBRUARY 16, 1994**

Mr. Chairman, 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. Railroad, road grading and ditch maintenance, and oil and gas exploration and production are primarily rural activities and it makes sense to provide for these exemptions. The clarification definition for oil and gas on line 36 of page 1 indicates that if our production lines are inside a city or platted land, they would be included under the Act.

Therefore, Mr. Chairman and members of the Committee, we urge you to recommend passage of SB 644 with the clarification amendments contained therein.

Donald P. Schnacke





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TESTIMONY ON BEHALF OF KANSAS ONE-CALL SYSTEM, INC.  
BEFORE THE 1994 SENATE AND TRANSPORTATION AND UTILITIES COMMITTEE  
DON ELLIOTT, EXECUTIVE DIRECTOR, KANSAS ONE-CALL SYSTEM, INC.  
FEBRUARY 16, 1994  
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GOOD MORNING MR. CHAIRMAN AND MEMBERS OF THE TRANSPORTATION AND UTILITIES COMMITTEE. MY NAME IS DON ELLIOTT AND I AM EXECUTIVE DIRECTOR OF KANSAS ONE CALL SYSTEM, INC. A NON PROFIT CORPORATION LOCATED IN WICHITA AND ESTABLISHED OVER 10 YEARS BY MEMBER COMPANIES COMPRISED OF ELECTRIC, GAS, TELEPHONE UTILITIES AND MUNICIPAL WATER AND SEWER OPERATORS. ADDITIONALLY MAJOR INTRA AND INTERSTATE NATURAL GAS AND PETROLEUM PIPELINE COMPANIES WERE ALSO ORIGINAL MEMBERS.

SINCE THOSE EARLY DAYS WITH A HANDFUL OF MEMBERS AND A SMALL NUMBER OF EXCAVATORS USING OUR SYSTEM WE'VE GROWN STEADILY. OUR SOLE PURPOSE, HOWEVER, HAS NOT CHANGED. THAT PURPOSE IS TO PROVIDE SAFETY FOR THE GENERAL PUBLIC WHILE PROTECTING BURIED LINES & PIPES AND REDUCING DAMAGES THROUGH A CALL NOTIFICATION SYSTEM MADE AVAILABLE TO EXCAVATORS AND OWNER OPERATORS ALIKE. THE COST OF THIS NOTIFICATION SYSTEM AND ITS OPERATION IS UNDERWRITTEN BY THE MEMBERSHIP. NO EXCAVATOR, HOME OR BUSINESS OWNER CALLING FOR LOCATION OF BURIED LINES PAYS ANYTHING. WE ONLY ASK FOR 48 HOURS NOTICE SO THOSE OWNING LINES IN THE DECLARED AREA MAY LOCATE AND MARK THEM.

SINCE THE PASSAGE OF THE UNDERGROUND UTILITY PREVENTION ACT LAST YEAR, WE HAVE SEEN A SIGNIFICANT INCREASE IN MEMBERSHIP AND ACTIVITY. WE NOW HAVE

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APPROXIMATELY 300 UTILITY AND OWNER/OPERATORS OF UNDERGROUND PLANT AS MEMBERS, AND OVER 20,000 CONTRACTORS AND EXCAVATORS NOW USE OUR CENTER FOR LOCATION INFORMATION. LAST YEAR WE TOOK OVER 204,000 INCOMING CALLS WHICH GENERATED 800,000+ REQUESTS TO MEMBERS WHO LOCATED THEIR LINES SO EXCAVATION COULD TAKE PLACE WITHOUT DELAY, DAMAGE OR THREAT TO HEALTH AND SAFETY. THAT IS A 16% INCREASE IN VOLUME IN LAST YEAR ALONE, WHICH WAS NOT THE BEST CONSTRUCTION YEAR IN HISTORY IN OUR STATE.

WE ALSO WORKED CLOSELY WITH THE KANSAS CORPORATION COMMISSION STAFF IN 1993 AS THE ADMINISTRATOR OF THE NEW UNDERGROUND PROTECTION LAW AND ITS IMPLEMENTATION. A MEMBER OF THE KCC GAS PIPELINE SAFETY DIVISION JOINED US AS A ADVISORY MEMBER TO OUR OPERATING COMMITTEE AND HIS INPUT HAS BEEN EXTREMELY VALUABLE. WE ARE NOW WORKING TOGETHER ON AN AUDIT FORM WHICH MEMBERS WILL USE TO TRACK DIG-INS, COST OF REPAIRS, INTERRUPTION OF SERVICE, OR DELIVERY FOR REVIEW ON AN ANNUAL BASIS BY THE COMMISSION. AS WE CONTINUE TO GROW WITH INCREASED ACTIVITY NEW CHALLENGES PRESENT THEMSELVES.

AT KANSAS ONE CALL THIS YEAR, WE WILL BE REVIEWING OUR FEE STRUCTURE TOWARD A PER-TICKET OR PER-LOCATION BASIS. UNDER THIS FORMAT AN OWNER OF UNDERGROUND FACILITIES IN RURAL OR REMOTE AREAS WOULD PAY FOR LOCATION REQUESTS ONLY WHEN SOME ACTIVITY IN THAT AREA IS PLANNED. WE ARE ADDITIONALLY IMPROVING OUR DATA ENTRY SYSTEM TO A DIGITIZED PROGRAM WHICH WILL ALLOW OUR MEMBERS TO ENTER THEIR UNDERGROUND PLANT INFORMATION IN A MORE PRECISE MANNER REDUCING THEIR OVERALL COST AND IMPROVING OUR RESPONSE TIME TO INCOMING LOCATION REQUESTS.

I MENTION THESE IMPROVEMENTS TO ILLUSTRATE THAT OUR BOARD OF DIRECTORS



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EXPECTS US TO OPERATE AS EFFECTIVELY AS POSSIBLE WITH THE IMPLEMENTATION OF NEW TECHNOLOGY AS IT BECOMES AVAILABLE. WE WANT TO MAKE THE PROTECTION OF BURIED FACILITIES IN OUR STATE THE ABSOLUTE BEST IT CAN BE.

GRANTING EXCEPTIONS TO THE PRESENT DAMAGE PREVENTION LAW WEAKENS THE LAW AND FRANKLY CREATES MORE CONFUSION. WHEN AN EXCAVATOR CALLS IN WE CAN TELL HIM WHICH MEMBERS HAVE BURIED FACILITIES AT HIS SPECIFIC LOCATION AND WHO WE WILL NOTIFY. WE THEN HAVE TO INSTRUCT HIM, HOWEVER, THERE MAY BE OTHERS IN THE AREA HE WILL HAVE TO DETERMINE AND CONTACT HIMSELF. WE SIMPLY DON'T HAVE THAT INFORMATION. THAT'S BECAUSE SOME UNDERGROUND OWNERS/OPERATORS ARE NOT REQUIRED TO BELONG OR TO USE THE SYSTEM UNDER THE PRESENT LAW. GRANTING EXCEPTION FROM THE LAW SIMPLY EXACERBATES THAT SITUATION. THE CHANGES TO THE EXISTING LANGUAGE OF THE UNDERGROUND DAMAGE PREVENTION BILL SUGGESTS THAT GAS GATHERING LINES ALONG WITH OTHERS BE EXCLUDED. WE CURRENTLY HAVE 25 GAS COMPANIES IN THE KANSAS ONE CALL SYSTEM WITH GATHERING LINES AS PART OF THEIR SYSTEM. THIS CHANGE WOULD EXEMPT AS MUCH OF 60% OF THEIR SYSTEM FROM NOTIFICATION. THEY INFORM ME THAT EVEN THOUGH THAT WOULD DECREASE THEIR FEES THEY WOULD CONTINUE TO LEAVE THAT DATA IN THE SYSTEM AND PAY THE COSTS RATHER THAN PLACE THOSE FACILITIES AT RISK WHEN EXCAVATION MIGHT OCCUR WITHOUT NOTIFICATION.

MANY OTHER STATES WITH SIMILAR DAMAGE PREVENTION LAWS REQUIRE MEMBERSHIP AND PARTICIPATION BY ALL OWNERS OF UNDERGROUND FACILITIES. THEIR NOTIFICATION CENTERS THEN BECOME TRUE ONE-CALL CENTERS. MY PREVIOUS WORK EXPERIENCE INCLUDES 38 YEARS AT KANSAS GAS AND ELECTRIC COMPANY IN WICHITA. IN THAT TIME I SAW A LOT OF DAMAGE TO OUR SYSTEM BOTH OVERHEAD AND UNDERGROUND. THE OVERHEAD IS OBVIOUSLY EASIER TO HANDLE AND LESS EXPENSIVE. HOWEVER, THESE

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INTERRUPTIONS WERE ALMOST ALWAYS EXPENSIVE AND CAUSED INTERRUPTION OF VITAL SERVICES TO NUMBERS OF CUSTOMERS. WE READ TODAY OF MERGERS BETWEEN TELEPHONE AND CABLE TELEVISIONS COMPANIES TO MEET CUSTOMERS DEMANDS. AND SOMEDAY EACH OF US MAY DEPEND ON A FIBER OPTIC UNDERGROUND CABLE TO OUR HOMES PROVIDING COMMUNICATIONS, ENTERTAINMENT, SECURITY SYSTEMS, BANKING, INVESTMENT INFORMATION, ETC. THAT SERVICE WILL BECOME A NECESSITY TO US, NOT JUST A CONVENIENCE. THE INTEGRITY OF THESE TYPE SYSTEMS WILL BE EVEN MORE CRITICAL THAN TODAY.

WE KNOW WHAT HAPPENS WHEN THE COMPUTERS GO DOWN, WHEN YOU CAN'T REACH 911, OR AN AIR TRAFFIC CONTROL SYSTEM MALFUNCTIONS AS A RESULT OF CABLE CUTS. JUST A FEW WEEKS AGO TELEPHONE SERVICE TO SEVERAL SOUTHEAST KANSAS TOWNS WERE INTERRUPTED FOR 5 1/2 HOURS WHEN A CABLE WAS CUT IN WICHITA. NEW TECHNOLOGICAL ADVANCES WILL REQUIRE MORE UNDERGROUND INSTALLATIONS NOT FEWER. THE PROTECTION OF THESE SYSTEMS WILL BECOME EVEN MORE CRITICAL THAN IT IS TODAY. THE PROPOSED CHANGES TO THE PRESENT LAW DO NOT FIT TODAY'S TREND TOWARD MORE COMPLEX DELIVERY SYSTEMS NOR DO THEY ACCRUE TO THE BENEFIT OF THE GENERAL PUBLIC, AND THEY WILL PRESENT ADDITIONAL HEALTH AND SAFETY HAZARDS TO THE GENERAL PUBLIC AND PROBLEMS TO CONTRACTORS AND UTILITIES WHO OPERATE ACROSS OUR STATE.

THANK YOU FOR YOUR TIME.

Statement of

David R. Warren

before the

Senate Committee on Transportation & Utilities

regarding

Senate Bill 644

Amending

Kansas Underground Utility Damage Prevention Act

February 16, 1994

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Good morning Senators. My name is David Warren. I am director of the City of Wichita Water & Sewer Department. I am also vice-president of the Board of Directors of Kansas One Call System, Inc. I am speaking in opposition to the bill before you.

The purpose of the Kansas Underground Utility Damage Prevention Act, as I understand it, is two-fold: 1) to prevent damage to underground facilities which provide essential public services or which carry hazardous materials and, 2) to safeguard the general public. As a believer in the one-call concept as the foundation of any damage prevention program, the City of Wichita has voluntarily been a member of Kansas One-Call since its inception in 1983. Our voluntary experience has convinced us, and should serve as convincing evidence to others, that the easier it is for excavators to notify underground facility owners/operators of the intent to dig, the greater the reduction in third party damages.

Businesses, hospitals, farmers, industries and homes all rely on a dependable water supply for numerous essential purposes including sanitation and fire protection. While the product we carry is not life-threatening or toxic, disruption of a major water supply line can indeed produce life threatening results and tremendous damage to streets and adjacent property and other buried utilities. In the end, the customer often pays twice...once in inconvenience and a second time to cover the costs of repairing the damage.

A one-call system serves the excavator best when it guarantees the messages it transmits will go to the largest number of underground facility owners/operators. It is easy to see a

David Warren's Testimony

Re: SB 644

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reciprocal relationship exists: the more members a one-call system serves, the more likely an excavator will be to call before digging. The more calls the one-call center gets, the more valuable it is to member organizations and to the public. Not surprising is the fact that third party damages are more prevalent in areas with low one-call membership, simply because the excavator has no way of knowing what facilities may be buried and who may own them.

Some may argue that there is no need for oil and gas gathering lines to be included in the provisions of the act because they are located in rural areas. Wichita's raw water lines of 66", 60" and 48" in diameter each cross 20+ miles of rural areas. Water lines from Wichita serving the communities of Benton, Bentley, Kechi, Rosehill, Andover and Rural Water Districts Nos. 1, 3 and 8 all cross rural areas. I need to know when anyone is going to excavate near one of these lines. Likewise I want others with underground lines to know when our crews are excavating because damage to adjacent lines may spell disaster for our personnel, our lines, the environment or the general public.

Further, the issue of protecting the environment from the release of toxic materials carried by the underground lines of those you would exempt from the provisions of the act with this amendment must not be ignored. If the City of Wichita is concerned enough about the potential for damage to voluntarily participate in a one-call system, is it not reasonable to require those carriers of hazardous, toxic materials to also belong to a one-call system?

In summary, the goal of the act was to prevent damage to underground facilities....damage that could harm the environment, property, or other utilities.....damage that could inconvenience or endanger the public. The only way this can be accomplished is to insure that all persons or organizations who dig beneath the ground or have facilities beneath the ground call for locations and are members of a service that notifies all owners/operators of underground facilities of excavations to be done in their area. Notification so that underground lines can be located and protected from damage. Please, do not weaken Kansas' best tool for accomplishing the goal of the Kansas Underground Utility Damage Prevention Act. Please say, "No", to Senate Bill 644.





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**TESTIMONY ON BEHALF OF KANSAS ONE CALL SYSTEM, INC.  
BEFORE THE 1994 SENATE TRANSPORTATION AND UTILITIES COMMITTEE  
W. C. Krawczyk, President Board of Directors  
Kansas One-Call System, Inc.  
February 16, 1994**

Good morning Mr. Chairman and members of the Transportation and Utilities Committee. My name is Bill Krawczyk. I am President of the Board of Directors of Kansas One-Call System, Inc. and I am also Director of Customer Services for Kansas City Power & Light Company. I am here today to testify on behalf of the Kansas One-Call Board of Directors in opposition to Senate Bill #644 which amends the Kansas Underground Utility Damage Prevention Act.

As you know, Kansas One-Call System, Inc. is a non-profit corporation whose members are engaged in communications, gas distribution, transmission and gathering, electrical power generation, pipeline transportation, municipal services, cable television and rural water districts. The KOC operating center located in Wichita provides a state-wide communication link between those who dig (excavators) and those who operate underground facilities (operators). We are in our tenth year of operation and during 1993 received our 1,000,000th call. We have experienced good identification across the state among professional excavators, contractors, utility personnel, and more especially, homeowners. The message we've been sending - they've been receiving - call before you dig! Many large

and small companies across the state continue to provide outstanding support for our cause and the list is growing. The purpose and commitment of Kansas One-Call is to reduce the chance of death and injury, property damage and the loss or interruption of vital services. Everyone benefits from the elimination of dig-ins. The owners of the underground facilities, excavators, and the general public all benefit from Kansas One-Call. In addition, Kansas One-Call's computerized notification center is the most efficient and cost effective method of establishing communications between operators and excavators. Senate Bill #644 would permit the producers of crude oil and/or natural gas to be exempt from the requirements of the Kansas Underground Utility Damage Prevention Act. The Kansas One-Call Board of Directors does not agree with allowing this exception and believe it to be in direct conflict with the intent of the original act as well as our stated purpose. We have a deep concern that by allowing additional exceptions over and above those stated in the original act, the door would be open for others seeking an exception also. Kansas One Call has invested significant time and resources in communicating the Kansas Underground Utility Damage Prevention Act throughout the state of Kansas. Twenty-thousand excavator manuals have been printed and distributed as have literally thousands of booklets entitled "It's the Law" which states the act in its entirety. We would encourage you to think carefully before providing exceptions to the law. KOC needs your on-going support as we begin our second decade of serving the owner/operators of underground facilities and excavators in the state of Kansas. We appreciate your consideration for this extremely critical issue. Thank you for your time this morning. I would be more than happy to answer any questions at this time.

REMARKS OF JACK GLAVES  
BEFORE THE SENATE COMMITTEE ON  
TRANSPORTATION AND UTILITIES ON SENATE BILL 644  
ON BEHALF OF PANHANDLE EASTERN PIPE LINE COMPANY  
FEBRUARY 16, 1994

My client, Panhandle Eastern Pipe Line Company, is concerned about the proposed exemption of gas gathering lines from the Underground Utility Damage Prevention Act that was passed last Session as proposed by Senate Bill 644.

The first question that arises is to just what facilities the "gas gathering lines" exemption would be applicable. The definition of "gathering" is the subject of pending proceedings before the FERC (Docket No. RM 94-4-000) and pending litigation in the Tenth Circuit involving Northwest Pipe Line Company. The problem arises over the production and gathering exemption in the Natural Gas Act which has been severely restricted by FERC regulations and court decisions.

Over the years, the FERC has developed a series of tests which are applied to specific facilities to determine if the facilities are non-jurisdictional gathering facilities. Northwest Pipe Line Company v. FERC, Case No. 92-9553. The FERC tests involve ownership, "modified primary function" and other complex criteria to determine whether facilities are exempt under the Natural Gas Act, and whether facilities should be functionalized for rate purposes as production or transmission. The bottom line is, at this point, I don't believe that anyone can say exactly what facilities are "gathering" and what are "transmission" in Kansas or anywhere else.

The KCC has pointed out, in comments that have been filed in the FERC proceeding, that Kansas at the end of 1992, had 14,467 producing gas wells and has almost 9,000 miles of gathering lines throughout the state. Panhandle Eastern alone operates approximately 1,400 miles of what it classifies as gathering lines in Kansas, with lines generally ranging from 4" to 24" in diameter with pressures from 15 psig to over 250 psig. The extent of the gas pipelines in Kansas is demonstrated by a map which is presented for your review, and the specific system of Panhandle is also presented for illustrative purposes inasmuch as the statewide map does, in fact, not include wellhead gathering systems.

It is obvious that there is a web of pipelines in Southwest Kansas in particular and that the exclusion of these lines from the Damage Prevention Act makes for questionable public policy, and totally contravenes the public safety issue that was the reason for enactment of the legislation last year. Although it is contended that there really isn't a safety issue since its only facilities outside of cities and unplatted areas that would be exempt, this would be of little consolation to an equipment operator, a lease field hand or an innocent bystander that may be present upon the rupturing of a gas line of by an unsuspecting contractor or excavator. These gas lines serve a public purpose, and the public is entitled to be protected against the unwitting breaking of them which will likely result in an explosion. You had anecdotal evidence of the result of ruptured pipelines in the hearing last year.



We simply do not understand the necessity for relaxing a law that has only been on the books since last July. Unless there is some compelling reason that we are not aware of, we would urge that the law be left in-tact, at least as far as gas gathering is concerned.

Respectfully submitted,

  
Jack Graves