

**COMMENTS OF
DUKE ENERGY FIELD SERVICES
ON SB 576
BEFORE THE SENATE COMMITTEE ON UTILITIES
MARCH 9, 2006**

Duke Energy Field Services (DEFS) has over 1,700 miles of gathering pipeline, consisting of many segments that provide gathering service to gas producers in southwest Kansas, at 1,100 receipt points under 376 contracts with Kansas producers.

The pressures, gas quality and volumes vary. Pressures range from -1 psig minimum to 358 psig maximum with an inexorable declining trend. We now have about 400 receipt points where the pressure is 20 psig or less.

The bulk of our facilities were originally part of the Panhandle Eastern Pipe Line interstate system, which were spun off in 1992 into a separate entity as a gathering system for the benefit of producers for the transport of gas from the wellhead to processing plants and transmission lines. That remains our sole function. All of our farm taps, that were granted by reason of right-of-way contracts, were transferred to Aquila's predecessor, a public utility, under KCC jurisdiction, for providing service to end-users. DEFS is not a public utility and has no end-use customers.

It is most difficult to understand what is sought to be accomplished by this Bill. We cannot defy physics. This Bill ignores the unrelenting decline in volume and pressure that can only exacerbate the instability of supply and safety issues in trying to use gas that is filled with impurities, and in some instances, H₂S. Varying pressures require compression in order to offset wellhead pressures that are approaching zero. The use of vacuum pumps is becoming more common, which makes continued production

inordinately expensive. Our systems were not designed nor intended to be used for end-user service. That is not the business we invested in.

We understand the concern of the southwest Kansas agricultural community over the future for irrigation farming, particularly for high water consuming corn. Given \$2.00 corn, \$8.00 gas, and a falling water table it is no wonder that we had only six requests for new farm taps last year, all of which were granted under right-of-way contract provisions.¹

Most farmers recognize the limitations inherent in utilizing raw gas from gathering systems with dwindling supply and pressure, and which were only designed to deliver gas from the wellhead to processing plants. At the request of those farmers, the legislature accommodated that recognition by enacting the Rural Kansas Self-Help Gas Act in 2002 (K.S.A. 66-2101 et. seq.). It allows rural gas user built distribution systems to openly compete with certificated public utilities in serving irrigation customers. The benefits are restricted to former users of wellhead gas from gathering facilities.

These non-profit entities, which are free of public utility regulation, have been able to obtain high pressure transmission line gas under various arrangements, with impressive numbers. Grant County irrigation project has over 300 irrigation wells connected; Finney County irrigation project has over 800 irrigation wells connected; Garden City irrigation project has over 200 irrigation wells connected.² Typically, the reasons cited for formation of these projects were:

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DEFS refers the requests to Aquila, a public utility, that contracts with the customer for setting of meter and providing service. DEFS has no customer service, billing, collection or other facilities for utility service. DEFS has no end-user sales or customers.

Source: Section V, KCC Staff Comments and Conclusion “to facilitate a working group in an effort to define the extent of Hugoton field operational issues that impact the natural gas supply in rural areas of southwestern Kansas”.

“the majority of the farmers represented in the group were being served by gathering system gas that was characterized by declining gas pressure. The farmers needed a new and more reliable source of natural gas to fuel their irrigation pumps (Garden City Irrigation Project) and, “Irrigators are looking at all types of fuels to power their irrigation motors and do not want to be locked into a long-term commitment. Farming practices will also be important as reduced use of water occurs.”

The right of access under SB 576 for gas from gathering systems is not limited to ag users or restricted in any manner and it would thus dramatically change the nature and economics of our business. It is conceivable that a gas processing plant could have to shut down prematurely if one or more large end-users attached themselves to their gathering systems and diverted the gas away from the plant. This Bill frustrates the nature and purpose of our investment and adversely impacts our future planned investments, particularly for maintaining enough volume to keep operating our processing plant (National Helium) near Liberal, Kansas.

The KCC is currently addressing the subject matter of SB 576. The gas supply aspect of the Commission’s “working group”² resulted in the Commission opening a docket entitled,

“In the Matter of the General Investigation to Determine a Commission Policy Regarding Customers Served Directly or Indirectly by Gas Gathering Systems” (Docket No. 06-GIMG-400-GIG).

The Commission Staff filed its Report and Recommendation, dated January 27, 2006, which submitted the following recommendation for the Commission’s consideration:

1. “The provision of exit taps on a gathering system should be left to the discretion of the gathering system operator. Commission involvement should be limited to the effect an exit tap may have on gas gathering services. Staff believes gas gathering services do not

include delivery of gas to end use customers and the practice of using the system for this purpose must necessarily remain secondary to the primary function of gathering gas i.e. moving the gas from the producer to the transmission line. Open access for exit taps would eventually result in reconfiguration of the system that would be costly to the producer and ultimately lead to an early abandonment of the production reservoir. Excessive exit taps would also diminish the amount of gas that is delivered to gas plants for processing. When turndown limits of a plant are met, the plant must shut down, reconfigure its operation, or deliver the gas to another source. This would obviously be an additional cost required from the gatherer and the producer in order to continue delivering gas to markets other than exit taps.”

These comments are squarely on point and embody our reason for opposing SB 576.

This proceeding is ongoing and is currently open to responsive comments to Staff’s position. The timing of this Bill is problematic. We suggest that the Commission should be permitted to perform its function without hindrance. There are glaring legal issues, including Section 7. that appears to authorize the Commission to amend existing contract obligations between us and a complainant and myriad other issues arising from totally changing the nature of our business, requiring us to be in a business we do not desire to be in.

This Bill calls for a whole new function for the KCC; investigating and potential rate and service determination for “non utility” gas distribution off of gathering facilities. It is regulation that has not previously existed. We assume a fiscal note will be required. What is the cost, who pays for it and what is accomplished? It seems a needless boondoggle.

Frankly, we have difficulty believing that this Bill solves any existing problem in the agri-economy, but it injects economic turmoil and uncertainty and inflicts costly regulatory burdens on the over 100 licensed gas gatherers in Kansas who will be

impacted by this Bill (see Exhibit A). Many of those firms are probably unaware of this legislation. There has to be a significant cost from added regulation to these companies doing business in Kansas.

We urge that, at the least, consideration of this Bill be deferred until the KCC has had an opportunity to complete its mission and a thorough airing of all of the issues involved has been achieved.

Respectfully Submitted:

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