

Before the House Energy, Utilities, and Telecommunications Committee
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Proponent Testimony
On House Bill 2329

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On Behalf of
The Staff of the Kansas Corporation Commission

Chair Seiwert, Vice Chair Schreiber, Ranking Minority Member Kuether, and members of the committee, thank you for the opportunity to provide testimony to your committee today on behalf of the staff of the Kansas Corporation Commission (Commission).

The Commission Staff supports HB 2329, which proposes to revise and update Kansas statutes K.S.A. 66-1,150 and 66-1,151. The passage of this bill will amend the following items related to the state's pipeline safety program:

- K.S.A. 66-1,150: Amend the Kansas enabling statute to align state jurisdiction with the jurisdiction of USDOT Pipeline and Hazardous Material Safety Administration (PHMSA <*pronounced femsa*>) over intrastate natural gas pipelines; and
- Amend the maximum civil penalty that can be imposed for violations of pipeline safety regulations and for violations of the Kansas Underground Utility Damage Prevention Act to more closely represent PHMSA's maximum civil penalty levels.

The changes proposed for K.S.A. 66-1,150 will expand Kansas jurisdiction over intrastate natural gas gathering pipelines and intrastate pipelines connecting large volume gas consumers directly to a source of natural gas by expanding the definition of "manufacturing goods". Pipeline segments connecting transmission pipelines to large volume consumers are commonly known as Direct Sales Pipelines. While HB 2329 would expand Kansas authority over these two categories of pipelines, it is important to note that the Natural Gas Pipeline Safety Act (NGPSA) gives PHMSA jurisdiction over all pipelines that transport flammable gas, which include gas gathering and Direct Sales transmission lines. Because they move gas in transportation, gas gathering and Direct Sales pipelines currently are subject to federal pipeline regulation, and HB 2329 does not expand regulatory requirements for the industry. However, the federal law allows the states to have primacy over intrastate gas transportation provided the states certify their pipeline safety oversight program with the federal government. The primary purpose of the proposed amendment to K.S.A. 66-1,150 is to provide a clear dividing line with respect to pipeline safety jurisdiction. Kansas

would have safety jurisdiction over all intrastate natural gas facilities and all interstate facilities would remain under federal jurisdiction.

Gas Gathering Pipelines:

Gas gathering pipelines are generally described as the pipelines that provide the conduit to move gas from a gas production operation to a transmission pipeline. Although Kansas has many miles of this category of pipeline, the NGPSA allows PHMSA to define which segment of gathering lines are to be regulated.¹ After a long process of determining which section of gathering lines presented a sufficient safety risk to warrant safety oversight, PHMSA promulgated regulations in 2006 for gas gathering lines located in “non-rural” areas or that operated at high pressures. Staff believes there are seven companies in Kansas that operate jurisdictional gas gathering lines. In April of 2015, Staff conducted a review of Kansas pipeline safety enabling statutes at PHMSA’s request. In performing this review, Staff determined that gas gathering operators were omitted from the enabling statute when it was revised in 1993.

Direct Sales Pipelines:

In 1993, K.S.A 66-1,150 was amended to give Kansas pipeline safety authority over master meter operators and operators of privately owned pipelines providing gas service to a consumer for the purpose of manufacturing goods or generating power. The 1993 amendment also included an exemption from state jurisdiction of Direct Sales pipeline operators that consume large volumes of gas for farming or for activities associated with oil and gas production. Direct Sales pipeline operators for these activities would remain under PHMSA jurisdiction. Staff is unaware of any Kansas operations involving farming or oil and gas activities that qualify for the Kansas exemption. HB 2329 would remove this exemption in order to place all intrastate natural gas facilities subject to pipeline safety regulation under the state’s authority.

Civil Penalty Limitations:

Each year, PHMSA reviews the KCC pipeline safety program in order to certify that it meets the provisions of United States Code 60105 that allows the state of Kansas to assume primacy for the enforcement of pipeline safety regulations. One of the requirements of certification is that the state provide for the enforcement of safety standards by having the ability to impose civil penalties up to substantially the same level as those set by the Natural Gas Pipeline Safety Act.² At this time, the maximum civil penalty level requested by PHMSA for violations of pipeline safety regulations is \$200,000 for each violation for each day the violation exists and a maximum of \$2 million for any related series of violations.

¹ 49 USC 60101(a)(21)(B)

² See 49 USC60105(b)(7).

Kansas maximum penalty levels were last amended in 2012 to levels of \$25,000 for an individual violation or \$1 million for any related series of violations. HB 2329 amends K.S.A. 66-1,151 to meet the maximum civil penalty levels of \$200,000 for individual violations or \$2 million for related violations as required by the federal certification process.

PHMSA's review of the Kansas certification is also used to determine the amount of funding that will be provided by PHMSA for the operation of the state program. Both of the amendments provided in HB 2329 affect the level to which PHMSA will reimburse the state for pipeline safety program costs. For the current year, Kansas lost \$10,400 due to the current exemptions that do not allow for jurisdiction over all intrastate natural gas facilities, and another \$5,200 for not adopting maximum penalty levels equivalent to those stated in the federal law. These amounts vary from year to year but are generally in this range.

This concludes my testimony, and I would be happy to answer any questions you may have on this matter.