

Dwight D. Keen, Chair  
Susan K. Duffy, Commissioner  
Andrew J. French, Commissioner

Laura Kelly, Governor

Before the Senate Utilities Committee

March 2, 2022

Proponent Testimony

On House Bill 2329 as Amended

Submitted by Leo Haynos, Chief Engineer, Utilities Division

On Behalf of

The Staff of the Kansas Corporation Commission

Chair Thompson, Vice Chair Petersen, Ranking Minority Member Francisco, 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 as amended by the House during the 2021 legislative session. The bill in its current form proposes to revise the Kansas enabling statute K.S.A. 66-1,150 to align state jurisdiction with the jurisdiction of USDOT Pipeline and Hazardous Material Safety Administration (PHMSA *<pronounced femsa>*) over intrastate natural gas pipelines.

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. The Natural Gas Pipeline Safety Act (NGPSA) gives PHMSA jurisdiction over all pipelines that transport flammable gas. However, the federal law also allows the states to have primacy over intrastate gas transportation provided the states certify their pipeline safety oversight program with the federal government. The proposed amendments would ensure that Kansas has safety jurisdiction over all intrastate natural gas facilities and that all interstate facilities remain under federal jurisdiction. HB 2329 does not expand regulatory requirements for the industry.

Specifically, the proposed changes to K.S.A. 66-1,150 will expand Kansas jurisdiction over intrastate natural gas gathering pipelines, and intrastate pipelines that connect large volume gas consumers directly to a source of natural gas by removing an exemption found in the definition of

“manufacturing goods”. This latter category of pipeline segments connecting transmission pipelines to large volume consumers are commonly known as Direct Sales Pipelines. Because these two categories of intrastate gathering pipelines move gas in transportation, both gas gathering and Direct Sales pipelines are currently subject to federal pipeline regulation, and HB 2329 merely pulls these categories of intrastate pipeline under the State primacy program.

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.<sup>1</sup> 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. Effective in May of 2022, PHMSA will expand its regulations to include low pressure gathering lines greater than eight inches in diameter in rural areas as well as reporting requirements for all other gas gathering lines. Staff believes there are seven companies in Kansas that operate “non-rural” jurisdictional gas gathering lines. At this point we are uncertain as to the additional number of companies that will become subject to federal reporting regulations in May of 2022. Our best guess at this time is approximately 140 Kansas operators will be required to file annual reports with PHMSA by March of 2023.

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

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<sup>1</sup> 49 USC 60101(a)(21)(B)

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.

When introduced in 2021, this bill contained provisions to align Kansas' maximum civil penalty for pipeline safety regulation violations with the penalty provisions contained in the Natural Gas Pipeline Safety Act.<sup>2</sup> The House amended the bill to strike that provision and leave Kansas civil penalty range at their current caps of \$25,000 for each violation for each day the violation exists and a maximum of \$1 million for any related series of violations. While the removal of proposed penalty modification will cost Kansas a reduction of approximately \$5,000 per year in federal funding, the current penalty cap is still significant, and it should not limit the effectiveness of our enforcement abilities. Therefore, Staff supports the House amendment.

The KCC also loses approximately \$10,000 per year of federal funding for not establishing state jurisdiction over all intrastate natural gas pipelines. HB 2329 as amended will remedy that loss of funding. More importantly, however, this bill will allow Kansas oversight over Kansas companies, which has proven to be a successful formula to provide safe and effective natural gas service to Kansans.

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

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<sup>2</sup> See 49 USC60105(b)(7).