

**THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS**

Before Commissioners: Susan K. Duffy, Chair  
Dwight D. Keen  
Andrew J. French

In the Matter of the Application of Freedom )  
Pipeline, LLC for Approval of its Sales for ) Docket No. 23-FRPG-461-CON  
Resale Customer Contracts. )

**ORDER APPROVING CONTRACTS**  
**(Public Version of Attachments)**

This matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and decision. Having reviewed the pleadings and record, the Commission makes the following findings:

1. On November 14, 2022, Freedom Pipeline, LLC (Freedom) filed an Application for approval of its Sales for Resale Customer Contracts.<sup>1</sup> Freedom is proposing to provide Sales for Resale service to any third-party seeking service off the Freedom system rather than the standard open access transportation service.<sup>2</sup> Freedom seeks approval of its proposed proforma customer contracts that will be used with non-profit public utilities, who own Freedom (NPU) and any other customer requesting service on the facilities.<sup>3</sup> The proposed rates are the same for the NPU contract and the third-party contract -- a \$350 monthly customer charge with a volumetric rate of \$0.8483.<sup>4</sup>

2. On February 28, 2023, Commission Staff (Staff) filed both a confidential version and a public version of its Report and Recommendation, recommending approval of: (1) an

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<sup>1</sup> Application of Freedom Pipeline, Nov, 14, 2022.

<sup>2</sup> *Id.*, ¶ 12.

<sup>3</sup> Direct Testimony of Kirk Heger on Behalf of Freedom Pipeline, LLC, Nov. 14, 2022, p. 13.

<sup>4</sup> *Id.*

Amended Gas Purchase and Sales Agreement with Freedom's Member-Owners (attached as Attachment A); and (2) a Gas Purchase and Sales Agreement for non-affiliates (attached as Attachment B), both conditioned upon Freedom providing unredacted copies of the confidential version of Staff's Report and Recommendation and this Order to non-affiliates seeking service.<sup>5</sup> As a condition of its Certificate of Convenience and Necessity to operate as an intrastate open-access natural gas pipeline, upon completion of the pipeline, Freedom agreed to apply to the Commission for a maximum tariff rate for transportation services.<sup>6</sup> While Freedom currently only serves its six member-owners, Staff seeks to protect potential non-affiliate customers by placing conditions on Freedom.<sup>7</sup> Based on its review of Amended Gas Purchase and Sales Agreement between Freedom and each of its six member-owners and the Gas Purchase and Sales Agreement between Freedom and any non-affiliate seeking service, Staff is satisfied that an unaffiliated entity would not be disadvantaged relative to Freedom's member-owners.<sup>8</sup> Staff concludes that non-affiliates are actually afforded more generous terms than the member-owners.<sup>9</sup>

3. In Docket 16-FRPG-452-CON, Freedom's revenue requirement was set at of \$1,071,790.<sup>10</sup> Freedom is seeking to increase its rate from \$0.81/MMBTU to \$0.8483/MMBTU and add a monthly meter fee of \$350.<sup>11</sup> Freedom's consultant made a series of pro-forma adjustments to its 2021 test year to estimate a forward looking cost of operations.<sup>12</sup> Staff expressed concerns with increasing Freedom's depreciation and amortization to accelerate recovery of its start-up costs, but does not challenge the amortization amounts or period of recovery because the

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<sup>5</sup> Report and Recommendation, Feb. 22, 2023, p. 5.

<sup>6</sup> *Id.*, pp. 1-2.

<sup>7</sup> *Id.*, p. 2.

<sup>8</sup> *Id.*, p. 4.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*, p. 2.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*, p. 3.

only customers currently being served by the pipeline are its owners.<sup>13</sup> However, Staff believes that in three years, when Freedom has recovered those account balances, its rates may no longer be just and reasonable.<sup>14</sup> Thus, Staff suggests imposing condition designed to protect non-affiliates while avoiding the cost of a full rate filing.<sup>15</sup>

4. Staff explains there is no economic harm in the owner-members paying themselves an unjust and unreasonable rate, as any excess margins will accrue to Freedom's retained earnings.<sup>16</sup> By requiring Freedom to provide a non-affiliate seeking service unredacted copies of Staff's confidential Report and Recommendation and this Order, allowing an unaffiliated entity to be fully informed of the costs underlying the rate set in this Docket, non-affiliates should be protected.<sup>17</sup> If a non-affiliated party is unable to reach a negotiated rate with Freedom, it will be able to make an informed decision on whether to challenge the rate.<sup>18</sup>

5. Staff's Report and Recommendation is unopposed. Based on Staff's uncontroverted recommendations, the Commission approves (1) an Amended Gas Purchase and Sales Agreement with Freedom's Member-Owners and (2) a Gas Purchase and Sales Agreement for non-affiliates, conditioned upon Freedom providing unredacted copies of the confidential version of Staff's Report and Recommendation and this Order to non-affiliates seeking service. The Commission agrees with Staff's conclusion that requiring Freedom to provide a non-affiliate seeking service unredacted copies of Staff's confidential Report and Recommendation and this Order, will allow an unaffiliated entity to be fully informed of the costs underlying the rate set in this Docket, and enable it to make an informed decision on whether to challenge the rate.

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<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*, p. 4.

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

**THEREFORE, THE COMMISSION ORDERS:**

A. Freedom's Sales for Resale Customer Contracts are approved (attached as Attachments A and B), conditioned on Freedom providing unredacted copies of the confidential version of Staff's Report and Recommendation and this Order to non-affiliates seeking service.

B. Any party may file a petition for reconsideration pursuant to the requirements and time limits established by K.S.A. 77-529(a)(1).<sup>19</sup>

**BY THE COMMISSION IT IS SO ORDERED.**

Duffy, Chair; Keen, Commissioner; French, Commissioner

Dated: 03/23/2023



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Lynn M. Retz  
Executive Director

BGF

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<sup>19</sup> K.S.A. 77-503(c); K.S.A. 77-531(b).

PUBLIC VERSION

**EXHIBIT A**

**CONTAINS CONFIDENTIAL COMMERCIAL  
INFORMATION**

PUBLIC VERSION

**EXHIBIT B**

**CONTAINS CONFIDENTIAL COMMERCIAL  
INFORMATION**

## CERTIFICATE OF SERVICE

23-FRPG-461-CON

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of  
electronic service on 03/23/2023.

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