



## **II. Jurisdiction and Standards of Review**

2. The Commission holds full power, authority and jurisdiction to supervise and control ONEOK NGL as a miscellaneous public utility under K.S.A. 66-1,230. The Commission holds jurisdiction over ONEOK NGL's rates and terms of service under K.S.A. 66-1,232. All rates requested by ONEOK NGL pertaining to jurisdictional service must be approved by the Commission pursuant to K.S.A. 66-117.

3. According to K.S.A. 66-1,232, any rates charged by ONEOK NGL must be just and reasonable. The rates may not be unreasonably discriminatory or unduly preferential.

4. With respect to ONEOK NGL's request for a COC, the standard for approval is found in K.S.A. 66-131. According to K.S.A. 66-131, no public utility governed by the provisions of the act shall transact business in the state of Kansas until it shall have obtained a certificate from the Commission that "public convenience and necessity will be promoted by the transaction of said business..."

## **III. Staff's Report and Recommendation**

5. On December 11, 2018, technical Staff of the Commission (Staff) filed a Report and Recommendation in this docket. In its Report and Recommendation, Staff provided a brief history of the contractual arrangements between ONEOK NGL and HFRM dating back to April 20, 2006. Staff noted that the Commission had previously approved the Agreement and amendments in Docket Nos. 12-ONEP-333-CON and 15-ONEP-460-CON.

6. Staff explained that past Commission Orders approving the Certificate and Agreements between ONEOK NGL and HFRM have relied on Staff's analysis. In both previous dockets, Staff's analysis and the Commission's Orders found the Agreements and extensions of ONEOK NGL's Certificate to be just and reasonable, to have no adverse impact on public interest,

and to promote public convenience by examining whether: (1) there were separate tariff rates; (2) all parties had been notified; (3) there were no protests or interventions; (4) all of the pipeline's capacity was under lease; (5) the Certificate had been previously approved; (6) the lessor is qualified by its experience and financial strength to meet all of the demands associated with fulfilling its contractual obligations; and (7) the lease requires the use of the capacity.

7. Staff indicated in its Report and Recommendation that it believes the abovementioned examination is appropriate in this particular proceeding, as it addresses the Commission's previous concerns regarding this pipeline and ensures the Agreement results in just and reasonable rates and promotes the public convenience and necessity. As such, Staff has verified the seven factors used to evaluate and approve the Agreement in previous dockets are still met:

- a. There are no separate tariff rates for this line and § 1.3 (d)(iv) of the 2018 Amendment does not allow for any other tariffs to come about;
- b. All pertinent parties have been notified;
- c. To date, there have been no intervenors in this Docket nor have any complaints been filed;
- d. 100% of the pipeline's capacity is under lease;
- e. The Certificate and Agreement has been previously approved;
- f. ONEOK NGL is still qualified by its experience and financial strength to meet all of the demands associated with fulfilling its contractual obligations under the Agreement; and
- g. HFRM requires the use of the capacity in the Conway/El Dorado Pipeline in conjunction with its refinery operations in El Dorado, Kansas.

8. Additionally, Staff evaluated the reasonableness of the price from HFRM's perspective and from ONEOK NGL's perspective. Staff concluded the pricing was in line with the closest comparable option for HFRM, and ONEOK NGL is guaranteed to meet its variable costs and pay towards its fixed costs.

9. Because Staff finds the seven factors are still met, the pricing is in line with the closest option for HFRM, and ONEOK NGL is guaranteed to meet its variable costs and pay towards its fixed costs, Staff finds the Agreement results in just and reasonable rates and extending ONEOK NGL's Certificate promotes the public convenience and necessity.

10. The Commission finds Staff's findings and recommendations to be reasonable and hereby adopts the same.

**IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:**

A. The Commission hereby approves ONEOK NGL's Application for approval of its 2018 Amendment, and any extension of ONEOK NGL's Limited Contract Carrier Certificate required to fulfill its obligations under the 2018 Amendment.

B. The scope of the Limited Certificate shall cover only those terms as agreed to in the 2018 Amendment filed in this docket.

C. The Limited Contract Carrier Certificate modified by this order shall expire or terminate immediately upon the termination date reflected in the 2018 Amendment, or as otherwise provided by Commission Order.

D. Any party may file and serve a petition for reconsideration pursuant to the requirements and time limits established by K.S.A. 77-529(a)(1).

E. The Commission retains jurisdiction over the subject matter and parties for the purpose of issuing such further order, or orders, as it may deem necessary.

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

Albrecht, Chair; Emler, Commissioner; Keen, Commissioner

Dated: 12/18/2018



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Lynn M. Retz  
Secretary to the Commission

MRN/PZA

**CERTIFICATE OF SERVICE**

18-ONEP-502-CON

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of electronic service on 12/18/2018.

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