

(5) The use of customer specific Certificates of Convenience and Necessity and what, if any, obligation to serve exists for the certificated utility to serve future customers; and

(6) The ability to access gas supply from interstate pipelines.

2. On June 12, 2014, the Commission issued an Order Opening Docket and Setting Procedural Schedule, initiating the general investigation requested by Staff and set a procedural schedule for interested parties to provide written comments on the six issues listed above.

3. The NPU's appreciate the Staff and the Commission's desire to explore and discuss these issues. Following a brief summary of the history and formation of the NPU's, the NPU's' comments regarding each enumerated issue are set forth below.

I. History and Formation of the NPU's

4. The NPU's are not-for-profit utilities that were created, beginning in 1998, to assist Kansas farmers with obtaining access to natural gas service when all other avenues have been foreclosed or depleted. Southwest Kansas has a long history as a plentiful area of the state for the agricultural and farming community and it is also a large natural gas production area. This area of the state is home to numerous family farms, livestock operations, dairies, and thousands of acres of cropland that create many economic benefits for the citizens of these rural communities and the state of Kansas as a whole. Most of these agricultural operations require natural gas for fueling irrigation engines, grain dryers, cotton gins, feedlots, as well as rural residential, shop and curtilage building heating fuel. These farmers have substantial investments in land preparation, crops, irrigation equipment, and other agricultural investments that are wholly reliant on natural gas—without which these individuals, and thus the state's economy, may sustain staggering economic losses. The largest concentration of rural users of natural gas overlies the Hugoton Natural Gas Field, which has fueled irrigation pumps and other agricultural

equipment for over seventy years. As all are aware, the Hugoton field has experienced a continual precipitous decline in pressure over the last twenty-five years, and this has exacerbated the rural communities' concerns about access to natural gas supply and service.

5. The NPUs have a long history of being proactive in aggregating farmers to procure natural gas service where the farmers have been stranded by a production or gathering company that no longer have sufficient pressure to serve them. Kansas has created, by enactment of the NPU statute, the opportunity for members of the agricultural community to organize non-profit utilities as a means of self-help so that they may secure and distribute their own gas supply to individual member-customers. The nature and goal of the NPUs is to work towards providing natural gas service to the agricultural community. As a result, the NPUs strive to help all of the agricultural community where they are in need.

6. In 1998, the first NPU requested and received a certificate of convenience and necessity from the Commission. Since that time, ten other NPUs have been certificated by the Commission, and the NPUs continue to develop and expand in order to procure reliable, economical natural gas supply for the agricultural community.

II. Response to Commission Questions

Issue 1: Developing or relinquishing certificated territory held by existing public utilities.

Issue 2: Allowing open competition/multiple Certificates of Convenience and Necessity to entities wishing to distribute natural gas in rural areas.

7. The NPUs believe that Issue 1 and Issue 2 are so inter-related as to require discussion together. As the Commission Staff correctly noted in its May 13, 2014 Report and

Recommendation in this proceeding, the issue of certificated territory continues to be a contentious one. Many for-profit natural gas public utilities in Southwest Kansas vigorously protest the certification of another utility in the same geographic territory, despite the fact that in almost all cases the public utility does not have natural gas distribution infrastructure in place to provide service to an agricultural customer.

8. Historically, farmers in southwestern Kansas acquired natural gas for irrigation directly from wellheads or from direct taps off of natural gas gathering systems, often in exchange for granting easements or rights-of-way for gathering systems to cross their property. Customers receiving this type of service were responsible for constructing the distribution system necessary to connect their irrigation systems to the gathering system or wellhead, as well as the meters and behind-the-meter connections necessary to tap onto the pipelines, all at the customer's expense.

9. This structure changed significantly between 1985 and 1992, as natural gas was deregulated at the federal level through a series of Federal Energy Regulatory Commission ("FERC") orders.¹ Pipelines that had been permitted to directly serve customers at bundled rates that included the cost of production and transportation now were no longer allowed to own any of the gas that they transported. This regulatory shift caused the interstate pipeline companies that had owned the entirety of the gathering and transportation systems to spin-off their gathering assets and meters and operate solely as interstate transporters. Those gathering system assets, including the individual meters and behind-the-meter assets used to serve customers that had tapped directly onto well-heads and gathering systems, were typically purchased by more localized gathering system operators. As a result, customers that had received natural gas service

¹ See, FERC Order No. 436 (1985); FERC Order 636 (1992).

directly off of well-heads and gathering systems were now required to purchase their gas from gathering system operators.

10. Over time the gas gatherers sold or transferred the meters and behind-the-meter assets relating to these customers to the applicable certificated utilities, while the gatherers retained all the gathering system infrastructure. Similarly, new customers that sought to receive natural gas service directly from well-heads or gathering systems were instructed to contact the applicable certificated utility to install a meter, while the gathering system operator continued to own and operate the gathering system infrastructure.

11. The utility is not required to invest money to construct the infrastructure needed to serve these rural customers connected directly to wellheads or gathering systems. The risk and expense of constructing the distribution system to connect the customer's property to the meter is placed upon the customer. The only investment the certificated utility needs to make is to purchase or install a block valve and a meter, and in many cases even those costs were originally paid by the farmers. Often, the utility does not own the natural gas itself, the production facilities that extract the gas from the wellhead, nor the gas gathering system that the gas flows into. The only assets the utility owns are the block valve, a meter, and a short length of pipe connecting to the customer's system.

12. This problem has been exacerbated in recent years by the fact that the Hugoton Natural Gas Field has been steadily depleting, and in many places now lacks sufficient pressure to operate customers' agricultural equipment. Where the certificated utilities have not developed distribution infrastructure in these rural areas, individuals have been required to lay thousands of dollars of pipelines, only to discover that the field no longer has sufficient pressure to run their irrigation motors. When customers contact the certificated utility to address deficiencies in

pressure, the utility's only obligation is to offer to serve the customer through the utility's Line Extension Tariff, often at exorbitant prices. This requires the customer to pay for the cost of constructing the necessary infrastructure to connect to the utility's traditional natural gas supply, which in many cases is ten to twenty miles away or in a different county altogether. Because the only asset the utility owns in the area is usually a meter that calculates the fees the utility collects from the customer, the cost of constructing a new pipeline to connect the customer to the utility's traditional supply is exceptionally high. In short, the utilities often lack the infrastructure necessary in these counties to properly serve all members of the agricultural community. Yet often a public utility protests the certification of an NPU in its geographic territory, often citing bypass, cost-shifting or stranded investment as its rationale for the protest.

13. The NPUs are mindful that Kansas permits the certification of more than one natural gas utility in a given geographic area. However, in reality, for-profit utilities are able to wield monopolistic power to limit competition in their territories. While the Self-Help Act has provided some relief to Kansas farmers, the Act limits service to only those customers connected to gathering systems or wellhead gas. The fact that certificated utilities retain a right to serve these rural customers, even though perhaps one or two distribution lines have been constructed by the utilities that hold certificates, creates substantial regulatory and financial burdens for NPU customers.

NPU Recommendations

- The NPUs submit that there should be no certificated territories in rural areas of Kansas, with the exception of within municipalities. Instead, natural gas service in rural areas should be by customer-specific contract. The contract would specify all costs required for any necessary distribution facilities, which would be paid prior to expiration

of the contract term, leaving no costs stranded. In practice, the costs related to distribution infrastructure are already being borne by the party who is in need of natural gas supply.

Issue 3: Providing transparency and objectivity in line extension policies.

14. The NPU's agree with Staff that currently there is little uniformity or transparency in the line extension tariffs on file with the Commission. In general, the NPU's believe that the public utility's line extension policies are too costly and too opaque, with little knowledge or understanding by the layperson regarding what formulas or factors are used to arrive at a utility's line extension policy. The NPU's have never been able to utilize a public utility's line extension policy because the public utilities do not have distribution infrastructure for the NPU's to request an extension from. Line extension policies may work well in municipalities, but fall short in rural communities. As such, the NPU's make the following recommendation regarding providing transparency and objectivity in line extension policies:

- The Commission should develop a standard or rule governing line extension policies so that the current public utility policies will be more uniform. The Commission's standard should include goals for establishing and maintaining transparency such that each customer is clearly informed of all fees and costs associated with line extension, as well as the customer's obligations with respect to repayment, any applicable interest, etc. Line extension policies should not be used in any manner to extend a for-profit public utility's certificated territory or to hinder others from providing gas service.

Issue 4: The appropriate mechanism for recovery of line extension costs that encourages rural development without cross-subsidization of customer classes.

15. Line extension policies were developed to provide gas service in municipal areas; they do not encourage rural development and in many cases hinder rural development because for-profit utilities can utilize line extension policies to expand their certificated territory. There is a significant difference between a municipal customer who requires twenty feet of pipe versus a rural customer who requires three miles of pipe. Lines in rural areas are developed based upon a need for natural gas service.

Issue 5: The use of customer specific Certificates of Convenience and Necessity and what, if any, obligation to serve exists for the certificated utility to serve future customers.

16. Customer-specific certificates of convenience and necessity should continue to be permitted and encouraged by the Commission, as the NPU's believe that the issuance of a customer-specific certificate allows a customer to have additional options for access to natural gas service. The Commission should continue its policy that all customer-specific contracts need to be filed with and approved by the Commission to retain appropriate regulatory oversight of rates and terms and conditions. There should be no exclusive certificates of convenience and necessity in rural areas of Kansas; a customer-specific certificate allows service to be provided by contract. Once the contract term has expired, and all costs related to the customer have been recouped thus leaving no stranded costs, the customer can elect to sign a new contract with the same provider or choose an alternate provider.

Issue 6: The ability to access gas supply from interstate pipelines.


17. Individual customers, or groups of customers, in designated areas of Southwest Kansas should have the option to access natural gas supply from interstate pipelines. Procuring natural gas from an interstate pipeline is often the most convenient and economical supply of

natural gas. Irrigators in Southwest Kansas should have the ability to access gas supply from interstate pipelines if doing so is more efficient and cost-effective. The State of Kansas and the Commission should wholeheartedly support its utilities and consumers who seek reasonably-priced access to interstate pipelines.

Respectfully submitted,

POLSINELLI PC

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VERIFICATION

STATE OF Missouri)
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I, Anne E. Callenbach, being duly sworn, on oath state that I am counsel to the NPUs, that I have read the foregoing entry of appearance and know the contents thereof, and that the facts set forth therein are true and correct to the best of my knowledge and belief.

By: _____

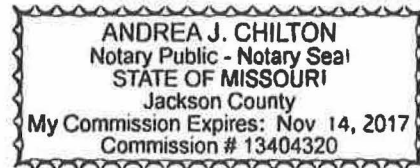

Anne E. Callenbach

The foregoing pleading was subscribed and sworn to before me this July 28, 2014.

Andrea J. Chilton
Notary Public

My Commission Expires:

11/14/2017



CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing pleading has been _____ emailed, _____ faxed, _____ hand-delivered and/or mailed, First Class, postage prepaid, this 28 day of July, 2014, to:

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