

BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

In the Matter of the Application of ONEOK)
NGL Pipeline, L.L.C. for an Order Approving)
an Amendment to the Pipeline Capacity Lease) Docket No. 18-ONEP-502-CON
Agreement with Holly Frontier Refining &)
Marketing LLC.)

STAFF'S RESPONSE TO ONEOK'S MOTION FOR INTERIM APPROVAL

The Staff of the Kansas Corporation Commission (Staff and Commission, respectively) states the following in response to ONEOK NGL Pipeline, L.L.C.'s (ONEOK's) October 31, 2018, *Motion for Approval to Extend Limited Contract Carrier Certificate on an Interim Basis to Provide Services Pending the Commission's Review of the Pipeline Capacity Lease Agreement* (ONEOK's Motion):

Introduction & Concerns

1. On May 16, 2018, ONEOK filed an Application for approval of a 2018 Amendment to its Pipeline Capacity Lease Agreement with Holly Frontier Refining & Marketing LLC (HFRM). ONEOK also specifically sought an extension of its limited contract carrier certificate of convenience (COC) to fulfill its obligations under the 2018 Amendment.

2. The issue that Staff has raised with the company is that ONEOK's COC actually expired already. This is because in Docket No. 15-ONEP-460-CON (Docket 15-460), the Commission's Order extended ONEOK's COC to coincide with the terms of the 2015 Amendment, and the 2015 Amendment expired prior to ONEOK's May 16, 2018, Application.¹

¹Order Granting Application, p. 4-5, Docket No. 15-ONEP-460-CON (June 25, 2015).

3. Additionally, Staff was informed by ONEOK's counsel that ONEOK has continued providing service to HFRM even though the prior contract expired.

4. Technically, ONEOK has been operating without a license (*see* K.S.A. 66-131) and utilizing rates that have not been approved by the Commission (*see* K.S.A. 66-117) since expiration of the 2015 Amendment. However, there have been no changes in the terms of the contract since 2011.

ONEOK's Defense

5. ONEOK's defense is that in the past, ONEOK filed for approval after contract and certificate expiration and it has never been an issue. For example, in Docket 15-460, the previous contract had expired on March 31, 2015, and the company did not file for its 2015 Amendment until April 3, 2015, with approval being granted by the Commission on June 25, 2015. No parties or the Commission raised any concerns with the practice.

Staff's Response

6. Staff understands that the company has relied on the fact that these issues have not been raised before and also understands the timing issues involved with contract negotiations.

7. Given that ONEOK has operated in reliance on past Commission practice on this matter, Staff would recommend that in this specific instance, Interim Approval be granted and any penalties that would have accrued be waived.

8. However, Staff would request that the Commission put ONEOK on notice that if it chooses to seek any further contract amendments or certificate extensions, it make its filings before the expiration of the existing rates and/or certificate. ONEOK may seek interim approval at that time. If ONEOK chooses not to do this, it should stay its operations until the proper authorizations have been obtained or else be enjoined and/or penalized.

WHEREFORE, Staff respectfully requests that the Commission grant ONEOK's Motion and waive any penalties associated therewith.

Respectfully Submitted,



Michael Neeley, S. Ct. #25027
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STATE OF KANSAS)
) ss.
COUNTY OF SHAWNEE)

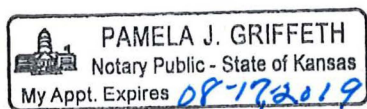
VERIFICATION

Michael Neeley, being duly sworn upon his oath deposes and states that he is Litigation Counsel for the State Corporation Commission of the State of Kansas, that he has read and is familiar with the foregoing *Staff's Response to ONEOK's Motion for Interim Approval* and that the statements contained therein are true and correct to the best of his knowledge, information and belief.



Michael Neeley # 25027
Kansas Corporation Commission of the
State of Kansas

Subscribed and sworn to before me this 6th day of November, 2018.



Notary Public

My Appointment Expires: August 17, 2019

CERTIFICATE OF SERVICE

18-ONEP-502-CON

I, the undersigned, certify that a true and correct copy of the above and foregoing Staff's Response to ONEOK's Motion for Interim Approval was served by electronic service on this 6th day of November, 2018, to the following:

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