

THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

STATE CORPORATION COMMISSION

Before Commissioners: John Wine, Chair
Cynthia L. Claus
Brian J. Moline

JAN 04 2000

Abby A. Wagoner Docket Room

In the Matter of the Application of Kansas Gas)
Service Company, a Division of ONEOK, Inc.)
for Commission Determination of the Rate) Docket No. OO-KGSG-420-RTS
Treatment of Discounted Service Agreements)
Entered Into to Meet Competitive Alternatives)

RESPONSE OF KANSAS GAS SERVICE COMPANY,
A DIVISION OF ONEOK, INC.
TO COMMISSION STAFF'S
REPORT AND RECOMMENDATION

COMES NOW Kansas Gas Service Company, a Division of ONEOK, Inc. ("Kansas Gas Service") and files its Response to the Report and Recommendation filed by the Staff of the State Corporation Commission of the State of Kansas ("Staff") in the above Docket. In its Report, Staff recommends that the Commission dismiss Kansas Gas Service's Application. Staff recommends that the Commission either reserve the issues raised in Kansas Gas Service's Application for case-by-case determination, or that the Commission utilize its general powers of investigation granted by K.S.A. 66-101d and K.S.A. 66-1,204 to initiate its own investigation into the need for a general policy regarding revenue imputation for all rate-regulated public utilities with bypass or cogeneration concerns. For the reasons set forth below, Kansas Gas Service recommends that the Commission reject Staffs Report and Recommendation and proceed with Kansas Gas Service's Application.

1. On November 19, 1999, Kansas Gas Service filed its Application requesting the Commission establish its policy that there will be no imputation of revenue in the course of a rate case filed by Kansas Gas Service associated with discounted service agreements entered into by

Kansas Gas Service to meet competitive alternatives. Kansas Gas Service's Application demonstrated that prior Commission Orders and decisions by the Kansas Court of Appeals and the Federal Energy Regulatory Commission supported the position of Kansas Gas Service that there should be no revenue imputation associated with discounted service agreements. The basis for these decisions is clear. If a utility has a customer which has a competitive alternative, the logical business response is to lower your price to meet the competition to the extent the utility continues to cover its marginal cost. By lowering the charges to customers with competitive alternatives, those customers will continue to make a contribution to the recovery of fixed costs that would otherwise be spread to all remaining customers were the discount customer to leave the system. If, however, in setting rates for all other customers, the regulatory authority imputes revenue to the utility for the difference between the maximum tariff rate and the discount rate agreed to with the customer which has the competitive alternative, the utility is faced with the result that a sound business decision will be punished. The utility is faced with the potential result that the reduced revenues retained as a result of maintaining the customer through a discount will be swamped by the imputed revenue. This leaves the utility with the only economically logical alternative of refusing to offer a competitive discount to the customer with the likely result of losing that customer to the detriment of both the utility and its customers.

2. In its report, Staff states to the Commission that it has met with Kansas Gas Service and advised Kansas Gas Service of its position -- that this is an issue which should be determined on a case by case basis or that it should be addressed in a generic docket for all natural gas and electric public utilities. While Kansas Gas Service has met informally with Staff on this issue, Kansas Gas Service does not agree with Staff's position. Kansas Gas Service strongly disagrees with combining the issues it has raised with "comparable" issues in the electric utility industry.

The natural gas industry is significantly different from the electric utility industry in the matter of competition. Currently, end-use customers have the ability and Federal Energy Regulatory Commission support, to interconnect with the interstate pipelines which represent the major source of competition for Kansas natural gas local distribution companies (LDCs). There is no comparable source of competition for electric utilities. The closest forms of competition in Kansas between electric and natural gas are cogeneration for electric and switching from natural gas to oil for boiler fuel uses. Those situations occur infrequently.

3. As to the issue of a generic docket for the natural gas industry in Kansas, such action is unnecessary as Kansas Gas Service provides service to approximately 75% of all natural gas customers within the state of Kansas subject to rate regulation by the Kansas Corporation Commission. Kansas Gas Service will not object to other Kansas natural gas local distribution utilities intervening and providing their comments with regard to the issue of imputation of revenue in this docket.

4. The matters raised by Kansas Gas Service's Application should also not be deferred for determination on a case by case basis in a future rate case. Again, Kansas Gas Service represents the majority of the natural gas business within the state of Kansas and a determination here could announce a policy for all of the natural gas distribution utilities within the state. Kansas Gas Service's Application represents a request that the Commission reconfirm for Kansas Gas Service the principles it applied concerning the issue of revenue imputation in the Owens-Coming Case, KCC Docket No. 162,960-U, approximately 10 years ago.¹ More importantly, the issues involved here represent matters of public safety. As pointed out in

¹ *In the Matter of the Complaint of Owens-Corning Fiberglas Corp., Complainant, against Kansas Power and Light Company/Gas Service Company, Respondent.* KCC Docket No. 162,960-U.

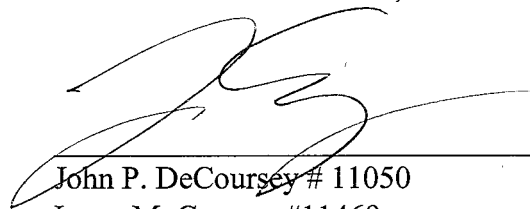
Kansas Gas Service's Application, the more underground pipelines built by customers to interstate pipelines in urban areas, the greater the risk of third parties damaging these underground facilities. Deferral of the issues raised in this Docket, may lead to increased public safety risks associated with increased bypass of LDC facilities.

5. As a separate matter, Staffs Report and Recommendation suggests that a hearing is not required because the questions 'raised by Kansas Gas Service's Application involve legal and policy issues. Kansas Gas Service agrees that the questions raised do involve legal and policy issues. However, there are factual underpinnings to those legal and policy issues that the Commission will need to consider in its deliberations and Kansas Gas Service would support a hearing where the Commission can listen to the positions of all parties on the important issues raised in the Application.

WHEREFORE, for the reasons set forth above, Kansas Gas Service requests that the Commission reject Staffs Report and Recommendation and proceed with Kansas Gas Service's Application on a timely basis.

Respectfully Submitted,

KANSAS GAS SERVICE COMPANY,
A DIVISION OF ONEOK, INC.



John P. DeCoursey # 11050

Larry M. Cowger #11469

KANSAS GAS SERVICE COMPANY
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ITS ATTORNEYS

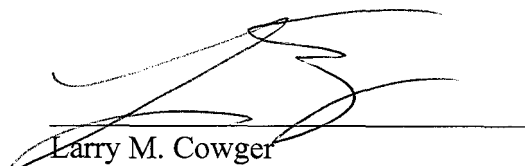
VERIFICATION

STATE OF KANSAS)

)ss

COUNTY OF SHAWNEE)

Larry M. Cowger, being duly sworn upon his oath deposes and says that he is an Attorney for Kansas Gas Service Company, a Division of ONEOK, Inc.; that he has read and is familiar with the foregoing **Response of Kansas Gas Service To Commission Staff's Report and Recommendation**; and that the statements contained therein are true to the best of his knowledge, information and belief.


Larry M. Cowger

Subscribed and sworn to before me, a notary public, this 4th day of January, 2000.




Teresa L. Burkett
Notary Public

My Appointment or Commission Expires:

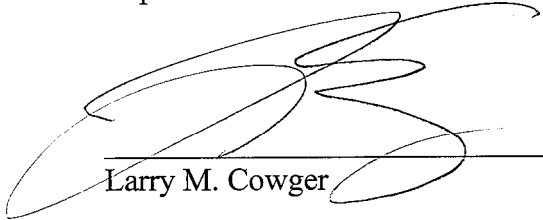
October 13, 2001

CERTIFICATE OF SERVICE

I hereby certify that on this 4th day of January, 2000, a true and correct copy of the above and foregoing Response of Kansas Gas Service To Commission Staffs Report and Recommendation was placed in the U.S. Mail for delivery to the following:

Paula Lentz
Kansas Corporation Commission
1500 S.W. Arrowhead
Topeka, KS 66604

Walker Hendrix
Citizens' Utility Ratepayer Board
1500 S.W. Arrowhead Road
Topeka KS 66604-4027



Larry M. Cowger