

BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

DEC 22 1999

In the Matter of the Application of Kansas Gas)
Service Company, a Division of ONEOK, Inc.)
for Commission Determination for the Rate)
Treatment of Discounted Service Agreements)
Entered Into to Meet Competitive Alternatives.)

Jeffrey S. Wassman Docket Room

Docket No. OO-KGSG-420-RTS

REPORT AND RECOMMENDATION

COMES now the Staff of the State Corporation Commission of the State of Kansas (“Staff” and “Commission”, respectively), and presents its Report and Recommendation to the Commission in the above-captioned docket. In support of its recommendation, Staff states and reports as follows:

I. BACKGROUND

1. On November 19, 1999, Kansas Gas Service Company, a Division of ONEOK, Inc. (“KGS”) filed its Application for Commission Determination of the Rate Treatment of Discounted Service Agreements Entered Into to Meet Competitive Alternatives. KGS requested a Commission order ruling that there will be no imputation of revenue in the course of any future rate case filed by KGS associated with Discounted Service Agreements entered into in accordance with KGS’s tariffs.

2. On November 30, 1999, the Commission issued its Order assessing the costs of this investigation to KGS.

3. On December 2, 1999, the Citizens’ Utility Ratepayer Board (“CURB”) filed its Petition for Leave to Intervene in this proceeding.

4. On December 13, 1999, the Commission issued its Order No. 2, identifying the scope of the application and granting CURB intervention.

II. STAFF'S REPORT AND RECOMMENDATION

5. Staff has examined KGS's Application, and has composed a Memorandum advising the Commission of its analysis and recommendation. That Memorandum, attached hereto as Attachment "A", is hereby incorporated by reference. In summary, Staff's Memorandum states as follows:

A. KGS's Application

6. KGS requests the Commission issue an Order providing that there will be no imputation of revenue associated with Discounted Service Agreements in any future rate case it may file. Specifically, KGS requested in Paragraph 12 of its application that "the Commission issue an order in this Docket clarifying that it is not the policy of the Commission to impute revenues associated with Flex Contracts when such discounts are given to customers which have competitive alternatives and where the level of discounts are above the marginal cost of providing service to the discount customer." KGS offers three general reasons for its request for issuance of an order setting out such a Commission policy:

- (a) KGS views such a policy as consistent with the Commission's decision in the Owens-Corning Fiberglass Corporation complaint, Docket No. 162,960-U;
- (b) KGS asserts that it is necessary to correct apparent misconceptions evolving from the Wolf Creek Imputation Order in Docket No. 142,098-U; and
- (c) KGS suggests that the potential level of imputation has grown significantly since the Commission's order in Docket No. 97-WSRG-486-MER, in which Staff recommended 100% imputation, resulting in a revenue imputation of \$7.7 million for year-end 1996.

7. KGS further suggests that safety concerns are associated with the Commission's imputation policies. KGS questions whether it should continue to offer negotiated rates to customers with bypass options if the revenue imputation could be 100%. KGS states that not offering these negotiated rates could increase the number of customers utilizing the bypass option. Increased bypass interconnections may result in an increased risk of accidents,

B. Staff's Recommendation

8. Staff asserts that a hearing on KGS's application is not required at this time for the following reasons:

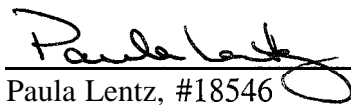
- (1) The questions before the Commission involve legal and policy issues.
- (2) Due process will be afforded by allowing responsive pleadings to this Report and Recommendation. In addition, the parties will have an opportunity to request reconsideration of any order issued in this docket.

9. Staff suggests that establishment of a Commission policy on imputation of revenue could not be limited to one company. KGS's bypass concerns exist for all rate-regulated natural gas utilities that face competitive alternatives. Further, the competitive alternative concerns exist not only for natural gas public utilities, but also for electric public utilities which may face the risk of losing customers to co-generation. Staff believes that the issue of revenue imputation of specially negotiated rates should either be treated on a case-by-case basis as it arises, or that a general policy regarding revenue imputation should be developed for the purposes of equal treatment of all rate-regulated utilities with competitive alternative concerns. Staff has met with KGS, and KGS understands that Staff views the issue of imputation of revenues as one that should be addressed either in the context of a rate proceeding, or alternatively under a generic docket soliciting comments from gas and electric utilities industry-wide.

10. Staff therefore recommends to the Commission that KGS's application for a Commission policy regarding revenue imputation in any future KGS rate proceeding be dismissed. Staff does not believe that such a wide-spread policy concern is proper for investigation in the context of one company alone. Staff recommends that the Commission either reserve the issue 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 co-generation concerns.

WHEREFORE, for the reasons set forth above, Staff recommends the Commission deny KGS's Application. Staff recommends that the Commission either reserve the issue for case-by-case determination, or that the Commission initiate a general investigation addressing the issue for all rate-regulated natural gas and electric public utility companies with competitive alternative concerns.

Respectfully Submitted,



Paula Lentz, #18546
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Attorney for the Commission Staff

MEMORANDUM

TO: CHAIR JOHN WINE
COMMISSIONER CYNTHIA L. CLAUS
COMMISSIONER BRIAN J. MOLINE

FROM: AL MAXWELL and JOE WILLIAMS

DATE: DECEMBER 10, 1999

DATE SUBMITTED TO LEGAL: _____

DATE SUBMITTED TO COMMISSIONERS: _____

DOCKET NO.: OO-KGSG-420-RTS

RE: In the Matter of an Application of Kansas Gas Service Company, a Division of ONEOK, Inc. for Commission Determination of the Rate Treatment of Discounted Service Agreements Entered Into to Meet Competitive Alternatives.

Kansas Gas Service Company, a Division of ONEOK, Inc. ("Kansas Gas Service" or "Company") has filed an Application for Commission determination of the Rate Treatment of Discounted Service Agreements Entered Into to Meet Competitive Alternatives. Under its Application the Company requests that the Commission issue an Order providing 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. In support of its Application Kansas Gas Service reviews several significant historical changes the natural gas industry has undergone, including decisions rendered and/or actions taken by the United States Congress, the Federal Energy Regulatory Commission, the Kansas Court of Appeals, and the Kansas Corporation Commission.

At Paragraph 12 of its Application Kansas Gas Service specifically request, "that the Commission issue an order in this Docket clarifying that it is not the policy of the Commission to impute revenues associated with Flex Contracts when such discounts are given to customers which have competitive alternatives and where the level of the discounts are above the marginal cost of providing service to the discount customer." Kansas Gas Service offers 3 reasons for its request for issuance of an order setting out a Commission policy as stated above. Generally speaking, the Company's reasoning is as set out below:

- (a) First, the Company views it as consistent with the Commission's decision in the Owens Corning case.

- (b) Second, the Company views it as necessary to correct misconceptions it believes have evolved following the Wolf Creek Imputation Order.
- (c) Third, the Company suggests that the potential level of imputation has grown significantly since the Commission's Order in Docket No. 97-WSRG-486-MER. Which docket is the Western Resource merger case where staff suggested that imputed revenues totaled approximately \$7.7 million dollar for year-end 1996.

Kansas Gas Service further suggests that there are safety concerns (increased risk of accidents resulting from bypass interconnections) associated with such a policy of imputation. Because if the Commission follows such a policy, the Company questions whether it should continue to offer negotiated rates to at risk customers.

The establishment of a Commission policy on imputation of revenue could potentially impact gas and electric utilities industry wide. The Company understands that Commission Staff (Staff) views the issue of imputation of revenues as an issue that should be addressed in the context of a rate case proceeding, or alternatively under a generic docket where the Commission requests the filing of written comments from gas and electric utilities industry wide and from CURB since they are already quite familiar with the subject.

The Company has indicated that it does not wish to file a rate case just to address this issue. However, Kansas Gas Service's Application recognizes that the Commission has opened dockets on its own to investigate many other issues outside of a rate case.

The Commission could address Kansas Gas Service's Application by simply dismissing or denying it because it is not a part of a rate case issue that is presently before the Commission requiring a policy decision. On the other hand, should the Commission desire to address the issue, it could dismiss this Application (to keep the docket as clean as possible) and on its own motion establish a generic docket to accommodate the filing of comments on the issue from gas and electric utilities doing business in Kansas and from CURB.

Staff would recommend that the Commission at this time deny this application based on the potential far reaching impact a Commission policy decision on this issue could have upon the gas and electric utility industry. Additionally, Staff would recommend the Commission, outside of this docket and on its own motion establish a generic docket for addressing revenue imputation.

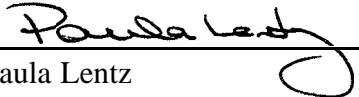
RECOMMENDATION: DENY

cc: Larry Holloway
Jeff Wagaman
Paula Lentz

VERIFICATION

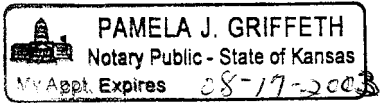
STATE OF KANSAS)
) ss:
COUNTY OF SHAWNEE)

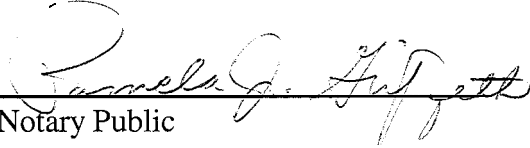
Paula Lentz, being duly sworn upon her oath, deposes and states that she is one of the attorneys of the Kansas Corporation Commission; that she has read and is familiar with the foregoing Report and Recommendation filed herewith; and that the statements made herein are true to the best of her knowledge, information and belief.



Paula Lentz

SUBSCRIBED AND SWORN to before me this 22nd day of December, 1999.





Notary Public

My Appointment Expires:

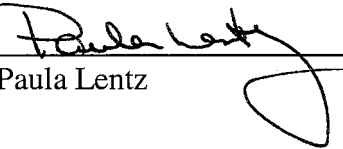
CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of December, 1999, a true and correct copy of the above and foregoing Report and Recommendation was placed in the U.S. Mail for delivery to the following:

John P. DeCoursey
Larry M. Cowger
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Overland Park, KS 66213

Larry G. Willer
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Walker Hendrix * HAND DELIVERED*
Allen Brady Cantrell
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Paula Lentz