

**ENTERED**

**APR 18 2005**

2005.04.15 08:35:48  
Kansas Corporation Commission  
/S/ Susan K. Duffy

**THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS**

2006.05.10 15:23:43  
Kansas Corporation Commission  
/S/ Susan K. Duffy

Before Commissioners:                    Brian J. Moline, Chair  
   Robert E. Krehbiel  
   Michael C. Moffet

In the matter of the Complaint of Aquila, Inc.            )  
against ONEOK Field Services Company,                    )  
requesting an emergency order of the Commission        )  
directing ONEOK Field Services to continue to            ) Docket No. 05-CONS-222-CMSC  
serve Aquila's customers if gas supply is not in a        )  
dangerous condition and requesting joinder of this        )  
matter with Docket No. 05-CONS-214-CMSC.                )

**ORDER GRANTING INTERVENTION**

NOW, the above-captioned matter comes on for consideration and determination by the State Corporation Commission of the State of Kansas (Commission). Having examined its files and records, and being fully advised in the premises, the Commission finds and concludes as follows:

1. On March 24, 2005, Aquila, Inc. (Aquila) filed the instant complaint against ONEOK Field Services Company (OFS) seeking: (1) an emergency order from the Commission enjoining OFS from disconnecting Aquila's irrigation and commercial customers from OFS' gathering system pending a determination that measured levels of hydrogen sulfide (H<sub>2</sub>S) are at a dangerous level and pending a determination as to the appropriate means, methods and practices utilized by OFS to address potentially dangerous H<sub>2</sub>S levels are reasonable, just, not unjustly discriminatory and not unduly preferential toward OFS producers, Aquila or others; and (2) an order from the Commission directing the joinder of the instant docket with a similar complaint proceeding filed by Midwest Energy, Inc. (Midwest) for purposes of the April 11, 2005 hearing previously scheduled in the Midwest complaint docket.

2. On April 6, 2004, the Commission issued an order denying Aquila's request for emergency relief based on a finding that OFS has not given notice of termination to Aquila of its irrigation and commercial customers at this time. In addition, the Commission granted the requested consolidation of both the Midwest and Aquila complaint proceedings for purposes of the April 11, 2005 hearing. Finally, the Commission scheduled a prehearing conference for April 8, 2005.

3. At the April 8, 2005 prehearing conference, it was announced that Midwest and OFS had filed a settlement resolving the issues raised by Midwest in its complaint against OFS, requesting that the Midwest complaint be dismissed and seeking a cancellation of the April 11 hearing. As a result, the parties agreed that canceling the April 11 hearing, as proposed by Midwest and OFS in their settlement, was reasonable. In addition, the parties discussed the appropriate manner in which to proceed with Aquila's complaint. In general, the parties agreed that a more orderly approach to proceeding with and/or resolving Aquila's complaint made sense. The Commission's Prehearing Conference Order in this docket more fully sets out the procedures to be utilized in this case based on the parties' requests.

4. On April 12, 2005, the Citizens' Utility Ratepayer Board (CURB) filed a Petition to Intervene in this docket in order to represent the interests of Aquila's residential and small commercial ratepayers of Kansas that it claims may be affected by these proceedings.

5. In support of its petition, CURB states that it is composed of five volunteer consumer advocate members and is statutorily authorized to represent the interests of Kansas residential and small commercial ratepayers in utility proceedings. CURB contends that the representation of its interests in this proceeding by existing parties is or may be inadequate. CURB maintains that the residential and small businesses whose interests it represents will or

may be bound by a Commission order in this proceeding, thereby necessitating its full participation.

6. The Commission has broad discretion to grant a petition for intervention if intervention is in “the interests of justice and orderly and prompt conduct of the proceedings will not be impaired. . . .” K.S.A. 77-521(a)(3) (1997). K.A.R. 82-1-225 (1997) also recognizes the Commission’s broad discretion to grant interventions. A petition to intervene must set out “facts demonstrating that the petitioner’s legal rights, duties, privileges, immunities or other legal interests may be substantially affected by the proceeding or that the petitioner qualifies as an intervenor under any provision of law.” K.A.R. 82-1-225(a)(2). Further, the Commission may limit an intervenor’s participation to designated issues in which the intervenor has a particular interest as demonstrated in the petition, require two or more intervenors to combine their presentations of evidence or argument and limit an intervenor’s use of discovery. K.A.R. 82-1-225(c).

7. The Commission concludes that CURB has met the requirements of K.A.R. 82-1-225 and as such should be granted intervention in these proceedings. CURB should be added to the mailing list to receive service of all pleadings in this matter.

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

A. The Petition to Intervene filed by CURB complies with the requirements set forth in K.A.R. 82-1-225. CURB is therefore granted intervention in the above-captioned proceeding. Petitioner shall receive service of all pleadings in this matter.

B. A party may file a petition for reconsideration of this Order within fifteen days of the service of this Order. If this Order is mailed, service is complete upon mailing, and three days may be added to the above time frame. K.S.A. 66-118; K.S.A. 2003 Supp. 77-529(a)(1).

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

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

Moline, Chr.; Krehbiel, Com.; Moffet, Com.

Dated: APR 15 2005

ORDER MAILED

APR 15 2005

 Executive  
Director

Susan K. Duffy  
Executive Director

SBC:llp