

THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS

Before the Commissioners: Andrew J. French, Chairperson  
Dwight D. Keen  
Annie Kuether

In the Matter of a General Investigation )  
Updating the Certificates of Convenience and )  
Necessity Issued to Kansas Gas Service, a )  
Division of ONE Gas, Inc. and Black )  
Hills/Kansas Gas Utility Company, LLC d/b/a ) Docket No. 25-GIMG-114-GIG  
Black Hills Energy in Cowley, Sedgwick, )  
Sumner, Reno, and Rice Counties to Provide )  
Retail Natural Gas Service. )

**ORDER OPENING GENERAL INVESTIGATION  
AND SETTING COMMENT DEADLINES**

This matter comes before the State Corporation Commission of the State of Kansas (“Commission”) for consideration and decision. Having reviewed the pleadings and record, the Commission makes the following findings and conclusions:

1. On March 21, 2024, Black Hills/Kansas Gas Utility Company, LLC, d/b/a Black Hills Energy (“Black Hills”) and Kansas Gas Service, a Division of ONE Gas, Inc. (“KGS”) met with Commission Staff (“Staff”) to discuss a dispute over their respective service territories in and around the City of Goddard in Sedgwick County.<sup>1</sup> It is Staff’s understanding that the current dispute between Black Hills and KGS relates to a proposed residential housing development to be located on land annexed by Goddard in 2009.<sup>2</sup>

2. On August 12, 2024, Staff filed a Report and Recommendation (“R&R”) recommending the Commission open a General Investigation to update the Certificates of Convenience (“COC”) issued to KGS and Black Hills in Cowley, Sedgwick, Sumner, Reno, and

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<sup>1</sup> Staff’s Report and Recommendation, pg. 1 (Aug. 12, 2024).

<sup>2</sup> *Id.*, pg. 2.

Rice Counties.<sup>3</sup> The issue stems from COCs issued to KGS and Black Hills (including their predecessors) dating back to the 1920s. Highly summarized, the COCs at issue granted a utility the authority to serve a territory based on generic political boundaries (i.e., the name of a city or county, such as the “City of Goddard”) instead of using more definitive, permanent reference points.<sup>4</sup> Some of the COCs at issue granted authority to serve an area of a county — but exclude a city — such as the dispute here.<sup>5</sup> As cities expand and annex territory, these COCs create ambiguity as to which utility is authorized to provide service within these buffer areas, or “seams”, around a city.<sup>6</sup>

3. There are two related issues presented in Staff’s R&R with different urgency: (1) Resolving the current dispute between KGS and Black Hills regarding the service of territory annexed by City of Goddard in 2009; and (2) Resolving similar issues relating to the COCs issued to KGS and Black Hills in the counties identified in paragraph 2 above.

4. Staff recommends the proposed certification plan consider existing infrastructure in these areas and the capability of the utility to provide service in a buffer zone around the cities that currently have natural gas service.<sup>7</sup> Additionally, Staff recommends that KGS be authorized to provide service to the 2009 territory annexed by the City of Goddard in 2009 based on the existing COCs permitting KGS to provide service within the city limits of Goddard.<sup>8</sup>

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<sup>3</sup> *Id.*

<sup>4</sup> *Id.*, pg. 1.

<sup>5</sup> *Id.*, pgs. 1-2 (noting KGS was authorized to serve the “City of Goddard,” while Black Hills was authorized to serve Sedgwick County but excluded the City of Goddard).

<sup>6</sup> *Id.*, pg. 2. This issue arguably also intrudes on the Commission’s statutory authority and duty to govern public utility service areas. *See* K.S.A. 66-131(a) (“No...public utility...governed by the provisions of this act shall transact business in the state of Kansas until it shall have obtained a certificate from the corporation commission that public convenience and necessity will be promoted by the transaction of said business and permitting said applicants to transact the business of a common carrier or public utility in this state...”).

<sup>7</sup> *Id.*, pg. 4.

<sup>8</sup> *Id.*

5. After reviewing Staff's R&R, the Commission agrees that a general investigation should be opened to update these COCs issued to KGS and Black Hills. To avoid further territory disputes, the investigation should focus on developing metes and bounds descriptions for the certificate seams (as opposed to allowing the boundaries to follow expansion of the city limits) between BHE and the 33 communities that have natural gas service from a different provider in Cowley, Sedgwick, Sumner, Reno, and Rice counties.<sup>9</sup> Also, given that this issue may arise in other areas of the state in the future, any jurisdictional gas public utility may participate to the extent to provide input as to factors the Commission should consider when determining territory service areas when a previously issued COC used generic political boundaries.

6. Further, the Commission finds that the service issue dispute concerning the annexed territory is a time sensitive matter and should be addressed in an expedited manner. The Commission finds that KGS and Black Hills should provide reply comments to Staff's R&R, specifically on how to address the service issue in the territory annexed by the City of Goddard in 2009, and for Staff to make a final recommendation based on KGS' and Black Hill's comments.

**THEREFORE, THE COMMISSION ORDERS:**

A. A general investigation is opened to update the COCs issued to KGS and Black Hills in Cowley, Sedgwick, Sumner, Reno and Rice counties, and to resolve the current service dispute in the territory annexed by the City of Goddard in 2009. The investigation should consider existing infrastructure in these areas and the capability of the utility to provide service in a buffer zone around the cities that currently have natural gas service. Specifically, the investigation should address the issues as follows:

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<sup>9</sup> See *id.*, pg. 3-4, and Exhibit 3 attached to Staff's R&R (noting Black Hills has a COC to serve any customer outside those 33 communities' city limits).

1. Resolve the service issue as to the territory annexed by the City of Goddard in 2009. KGS and Black Hills shall have 60 days from the date of this Order to provide reply comments to address service issue as to the territory annexed by the City of Goddard in 2009, as discussed in Staff's R&R. Staff shall then provide a final R&R for this issue within 30 days of receipt of said comments. The Commission shall issue an Order on this service issue dispute within 30 days after the filing of Staff's final R&R.

2. Update the COCs issued to KGS and Black Hills in Cowley, Sedgwick, Sumner, Reno and Rice counties. This should focus on developing clear metes and bounds descriptions for the certificate seams between Black Hills and the other thirty-three (33) communities that have natural gas service from a different provider in Cowley, Sedgwick, Sumner, Reno, and Rice counties.

(a) Black Hills and KGS shall, within 120 days of the date of this Order file reply comments on Staff's R&R and on what the metes and bounds descriptions for these certificate seams should be, along with the possibility of a buffer zone around the cities that currently have natural gas service.

(b) Any intervening gas public utility may also provide comment on factors the Commission should consider when resolving similar disputes in the future within 90 days of the date of this Order.

(c) Staff shall then suggest to the Commission a proposed Procedural Schedule within 30 days of receipt of said comments to analyze the issues presented including a proposed timeline to provide a final R&R for this issue.

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

French, Chairperson; Keen, Commissioner; Kuether, Commissioner

10/22/2024

Dated: \_\_\_\_\_



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Lynn M. Retz  
Executive Director

ARB

**CERTIFICATE OF SERVICE**

25-GIMG-114-GIG

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of electronic service on 10/22/2024.

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**CERTIFICATE OF SERVICE**

25-GIMG-114-GIG

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