



2. On November 15, 2018, CURB requested intervention in the proceeding. Intervention was granted by Order dated November 17, 2018.

3. On November 27, 2018, the Commission entered a Suspension Order deferring a decision on the Contract until July 11, 2019. On that date, the Commission also entered Protective and Discovery Orders to govern the handling of discovery of confidential information and the treatment of discovery procedures.

4. On March 26, 2019, the Commission entered an Order designating a prehearing officer and establishing a procedural schedule for this Docket. The matter is currently set for Prehearing Conference on May 14, 2019, for Evidentiary Hearing on May 22-23, 2019, and for Post-Hearing and Reply Briefing on June 3, 2019, and June 11, 2019, respectively.

5. The Contract, which is subject to Commission approval, provides that KGS will purchase and operate the Distribution System for a 50-year period after completion of an 18-month transition period. The Contract also addresses the purchase price and payment schedule for the Distribution System, as well as charges to be paid by Fort Riley for KGS's provision of the privatized natural gas distribution service.

6. In the Application, KGS proposed to include revenues, investments, and costs associated with providing the privatized service in its overall calculation of rate base, cost of service, and revenue requirement for its Kansas jurisdictional operations. KGS also proposed that certain Contract-related costs, including Distribution System capital investments and related depreciation, be tracked and accounted for separately.

7. On March 29, 2019, Staff pre-filed direct public and confidential testimony of two witnesses – Justin T. Grady and Leo M. Haynos. Both Staff witnesses testified that ratepayers

could benefit from KGS's ownership and operation of the Distribution System and that performance under the Contract could promote the public interest. However, each of them expressed concerns about certain aspects of the Contract.

8. Mr. Grady concluded that the Contract exposed ratepayers to the potential risks that expenses would exceed revenues collected under the Contract and that revenues received from the Government might not fully offset the revenue requirement attributable to serving Fort Riley. Accordingly, he recommended that the Commission should establish certain conditions for approval of the Contract to obviate such risks. Specifically, he recommended that KGS should (a) establish and maintain identifiable subaccounts for all direct, incremental capital investments, revenues, and expenses associated with serving Fort Riley under the Contract; (b) provide testimony and supporting calculations in all future KGS rate cases or tariff change proceedings in Kansas detailing fully adjusted test year revenues, investments, accumulated depreciation and directly identifiable expenses associated with serving Fort Riley; (c) unequivocally agree that ratepayers should not experience a detriment from the Contract in future KGS rate cases or tariff changes affecting KGS rates; and (d) agree to file the Contract Rate Charge ("CRC") and underlying supporting documentation in a Commission compliance docket. Additionally, he recommended that KGS should determine whether revenues recovered under the Contract in a subject test year exceed the revenue requirement associated with serving Fort Riley and identify adjustments necessary to eliminate any detriment to then current ratepayers.

9. Mr. Haynos explained that the Distribution System has not been subject to pipeline safety regulatory oversight since 1971 and did not appear to have had national pipeline safety standards and regulations rigorously applied. He also observed that that KGS's due

diligence regarding the condition of the Distribution System has been limited. He testified that he did not expect the Distribution System to be in compliance with applicable safety standards on the day KGS assumed operations and identified the lack of known pressure test records as his greatest concern.

To address his compliance and safety concerns, Mr. Haynos recommended that KGS apply to the Commission for a waiver of the requirements found in 49 C.F.R. Part 192.619, as adopted by K.A.R. 82-11-4 (reduce pipeline operating pressure from current levels by at least 33% or pressure test old lines to 150% of operating pressure). He noted that approval of the Pipeline and Hazardous Materials Safety Administration ("PHMSA") would also be required. As part of the waiver request, Mr. Haynos further recommended that KGS should: (a) complete semi-annual leak surveys for at least five years; (b) pressure test piping remaining in service if tests can be conducted safely and with minimal disruption; and (c) provide a replacement plan for obsolete piping.

10. KGS filed rebuttal testimony of three Company witnesses on April 18, 2019. In that testimony, KGS generally agreed to conditions proposed in Mr. Grady's pre-filed testimony with the provision that the conditions he recommended be revisited in 2025, at which time KGS may request that the Commission, if appropriate, release KGS from fulfilling the conditions. KGS testified that by that time it should have gained sufficient knowledge and experience regarding the Distribution System to ascertain whether any detriment to other customers has been identified.

11. In response to Mr. Haynos' recommendations, KGS indicated it had no objection to filing a request with the Commission (to be forwarded to PHMSA upon approval by the

Commission) seeking a waiver of 49 C.F.R. 192.619, as adopted by K.A.R. 82-11-4. In conjunction with the waiver request, KGS proposed an alternative compliance plan detailed in the rebuttal testimony of Randal B. Spector. The alternative compliance plan provided that KGS would: (a) perform a complete leak survey of the Distribution System during the transition period; (b) conduct a pot-hole survey of the Distribution System; (c) conduct a review of all available records to identify any portion of piping where Maximum Allowable Operating Pressure ("MAOP") verifications are not available; (d) establish a minimum requirement of at least a bi-annual leak survey schedule for all portion of the Distribution System where MAOP verifications are not available; (e) maintain the minimum leak survey frequency for a period of 5 years from the date of ownership of the Distribution System (or until such time as adequate system repairs and upgrades have been made); (f) establish a minimum requirement of at least a bi-annual leak survey schedule for portions of the Distribution System where KGS has determined that pressure testing is unreasonable; (g) complete GIS mapping of the Distribution System within 24 months of assuming ownership; and (h) enter relevant data into the Company's Asset Investment Planning and Management System to track, monitor, risk assess and plan for replacement of the pipeline system in a systematic, effective and efficient manner. Additionally, Mr. Spector stated that KGS would commit to operating untested piping at the lowest pressure necessary to provide safe, reliable service.

12. Subsequent to the filing of KGS's rebuttal testimony, Joint Movants engaged in extensive discussions via teleconference and electronic mail regarding possible conditions that would address Staff concerns while permitting KGS to move forward in accordance with terms of the Contract. As a result of those discussions, Joint Movants entered into a Unanimous

Settlement Agreement (the “Agreement”). A Joint Motion to Approve Settlement Agreement (“Joint Motion”), along with the Agreement itself, was filed with the Commission on April 29, 2019.

13. The Joint Motion related that Joint Movants believed the Agreement represented a fair and reasonable resolution of matters related to approval of the Contract and the subsequent ownership and operation of the Distribution System by KGS. It also stated that the Agreement enhances public safety and protects other ratepayers from any detrimental rate consequences attributable to the Contract.

14. The Joint Motion identified matters to be considered by the Commission in determining whether to approve a settlement agreement and explained how the Agreement and the process leading to its execution and submission to the Commission affirmatively address those considerations.

15. On May 3, 2019, Staff witness Justin T. Grady filed public and confidential testimony in support of the Agreement; Staff witness Leo M. Haynos filed public testimony in support of the Agreement; and KGS witness Janet L. Buchanan filed public and confidential testimony in support of the Agreement.

16. Mr. Grady’s testimony includes: (a) an overview and analysis of the Agreement; (b) a discussion of the standard of review for Commission consideration of the Agreement; and (c) a discussion of evidence supporting the Agreement. He notes that the conditions for KGS’s ownership and operation of the Distribution System “differ very little from the conditions [he] recommended in his Direct Testimony.” (Grady, Supporting Testimony, p. 8). In settlement discussions, Mr. Grady recommended the conditions be in place until 2030, rather than 2025;

KGS agreed to this change in timing. Prior to the close of 2029, KGS may initiate a formal docket to revisit the conditions and request that the Commission, if appropriate, release KGS from fulfilling the conditions. This review may be initiated by KGS either within the application of a formal rate case or other proceeding. Mr. Grady relates Staff's contention that the Agreement will promote the public interest and concludes with a recommendation for Commission approval.

17. Mr. Haynos' testimony also reviews the five-factor test to be applied by the Commission. He notes that Mr. Grady addresses the just and reasonable rate factor, but that, as to the other factors, each has been met. His testimony is consistent with that of Mr. Grady in expressing the belief that the Agreement is in the public interest. He testifies that "allowing KGS to provide natural gas service will enhance the safety of the system . . . [and that he] would expect the ultimate consumers also will receive more reliable service than they are currently receiving from a system that appears to be somewhat antiquated." (Haynos, Supporting Testimony, pp. 6-7)." Mr. Haynos recommends approval of the Agreement. He also recommends approval of KGS's request for waiver of the regulation regarding the establishment of a Maximum Allowable Operating Pressure, 49 CFR Part 192.619 as adopted by K.A.R. 82-11-4. In recommending the waiver, he explains that the alternative compliance plan included in the waiver "requires actions that exceed minimum pipeline safety code requirements." (Id., p. 3).

18. Ms. Buchanan's supporting testimony provides background information regarding the Application and the underlying Contract. It also contains a detailed summary of terms of the Agreement. Additionally, her testimony addresses the five-factor test applied by the Commission in determining whether to approve settlement agreements and conveys her understanding that the Agreement meets those factors. Ms. Buchanan relates that the parties "had differing opinions

about certain issues raised in the case, and yet, were able to negotiate a compromise that satisfied each Party.” (Buchanan, Supporting Testimony, p. 11). As a result, she affirms that the Agreement constitutes a reasonable resolution of issues arising in this Docket.

19. All Parties have reviewed the Contract, associated discovery and pre-filed testimony, and have signed the Agreement requesting its approval by the Commission. All provisions of the Agreement have been addressed by the pre-filed direct and/or rebuttal testimony of one or more witnesses in the docket. Additionally, as described above, Staff and KGS have submitted substantial testimony in support of the Agreement itself.

20. Further, the Parties have agreed that all pre-filed testimony and exhibits may be incorporated into the record of the proceeding without objection and that they will waive cross examination on all pre-filed testimony. (Agreement, ¶ 24). Accordingly, the Parties have agreed to waive their right to file post-hearing briefs in this Docket. (*Id.*)

21. In the absence of any substantive or procedural dispute as to the merits of the Agreement and with all Parties’ agreement that its approval is in the public interest, Joint Movants respectfully submit that waiver of the evidentiary hearing scheduled to be conducted on May 22-23, 2019, and the subsequent filing of Post-Hearing and Reply Briefs is appropriate and would facilitate an efficient, expeditious and reasonable resolution of this matter.

WHEREFORE, Joint Movants respectfully move the Commission to: (a) waive the evidentiary hearing scheduled to be conducted on May 22-23, 2019; (b) waive the filing of Post-Hearing and Reply Briefs; and (c) incorporate into the record of this proceeding the Application and attached exhibits, the pre-filed public and confidential testimony and exhibits of all witnesses, the Agreement and attached waiver request, and such other documents filed by Joint

Movants that the Commission deems appropriate for inclusion in the evidentiary record of this proceeding.

Respectfully submitted,

**KANSAS GAS SERVICE**

A Division of ONE Gas, Inc.

/s/ Judy Jenkins Hitchye

Judy Jenkins Hitchye, Managing Attorney #23300  
7421 West 129th Street  
Overland Park, Kansas 66213-5957  
(913) 319-8615 Phone  
(913) 319-8622 Facsimile  
[judy.jenkins@onegas.com](mailto:judy.jenkins@onegas.com)

/s/ C. Michael Lennen

C. Michael Lennen, # 08505  
MORRIS, LAING, EVANS, BROCK &  
KENNEDY, CHTD.  
800 SW Jackson Street, Suite 1310  
Topeka, Kansas 66612-1216  
(785) 232-2662 Phone  
(785) 232-9983 Facsimile  
[mlennen@morrislaing.com](mailto:mlennen@morrislaing.com)

**KANSAS CORPORATION COMMISSION**

/s/ Amber Smith

Amber Smith, Chief Litigation Counsel #23911  
1500 SW Arrowhead Road  
Topeka, Kansas 66604-4027  
(785) 271-3301 Phone  
(785) 271-3167 Facsimile  
[a.smith@kcc.ks.gov](mailto:a.smith@kcc.ks.gov)

/s/ Carly R. Masenthin

Carly R. Masenthin, Litigation Counsel #27944  
1500 SW Arrowhead Road  
Topeka, Kansas 66604-4027  
(785) 271-3110 Phone  
(785) 271-3167 Facsimile  
[c.masentin@kcc.ks.gov](mailto:c.masentin@kcc.ks.gov)

**CITIZEN UTILITY RATEPAYER BOARD**

/s/ Todd E. Love

Todd E. Love, Litigation Counsel #13445

Topeka, Kansas 66604-4027


(785) 271-3200 Phone

[t.love@curb.kansas.gov](mailto:t.love@curb.kansas.gov)

**VERIFICATION**

STATE OF KANSAS       )  
                                      )  
COUNTY OF JOHNSON   )

I, Judy Jenkins Hitchye, of lawful age, being first duly sworn upon oath, states as follows: I am a Managing Attorney for Kansas Gas Service, a Division of ONE Gas, Inc. I have read the above *Joint Motion to Waive Evidentiary Hearing and Filing of Post-Hearing Briefs and to Incorporate Evidence into the Record of this Proceeding* and all the statements therein are true to the best of my knowledge, information and belief.

  
Judy Jenkins Hitchye

*Affiant*

SUBSCRIBED AND SWORN to before me on 5/14/19.

  
Notary public

My Appointment Expires:

06/05/22



**CERTIFICATE OF SERVICE**

I, Judy Jenkins Hitchye, hereby certify that a copy of the above and foregoing *Joint Motion to Waive Evidentiary Hearing and Filing of Post-Hearing Briefs and to Incorporate Evidence into the Record of this Proceeding* was forwarded this 14<sup>th</sup> day of May, 2019, addressed to:

JOSEPH R. ASTRAB  
CITIZENS' UTILITY RATEPAYER BOARD  
1500 SW ARROWHEAD ROAD  
TOPEKA, KS 66604  
[j.astrab@curb.kansas.gov](mailto:j.astrab@curb.kansas.gov)

TODD E. LOVE, ATTORNEY  
CITIZENS' UTILITY RATEPAYER BOARD  
1500 SW ARROWHEAD RD  
TOPEKA, KS 66604  
[t.love@curb.kansas.gov](mailto:t.love@curb.kansas.gov)

DAVID W. NICKEL, CONSUMER COUNSEL  
CITIZENS' UTILITY RATEPAYER BOARD  
1500 SW ARROWHEAD RD  
TOPEKA, KS 66604  
[D.NICKEL@CURB.KANSAS.GOV](mailto:D.NICKEL@CURB.KANSAS.GOV)

SHONDA RABB  
CITIZENS' UTILITY RATEPAYER BOARD  
1500 SW ARROWHEAD RD  
TOPEKA, KS 66604  
[s.rabb@curb.kansas.gov](mailto:s.rabb@curb.kansas.gov)

DELLA SMITH  
CITIZENS' UTILITY RATEPAYER BOARD  
1500 SW ARROWHEAD RD  
TOPEKA, KS 66604  
[d.smith@curb.kansas.gov](mailto:d.smith@curb.kansas.gov)

MICHAEL DUENES, ASSISTANT GENERAL COUNSEL  
KANSAS CORPORATION COMMISSION  
1500 SW ARROWHEAD RD  
TOPEKA, KS 66604  
[m.duenes@kcc.ks.gov](mailto:m.duenes@kcc.ks.gov)

CARLY MASENTHIN, LITIGATION COUNSEL  
KANSAS CORPORATION COMMISSION

1500 SW ARROWHEAD RD  
TOPEKA, KS 66604  
[c.masenthin@kcc.ks.gov](mailto:c.masenthin@kcc.ks.gov)

AMBER SMITH, CHIEF LITIGATION COUNSEL  
KANSAS CORPORATION COMMISSION  
1500 SW ARROWHEAD RD  
TOPEKA, KS 66604  
[a.smith@kcc.ks.gov](mailto:a.smith@kcc.ks.gov)

JANET BUCHANAN, DIRECTOR- REGULATORY AFFAIRS  
KANSAS GAS SERVICE, A DIVISION OF ONE GAS, INC.  
7421 W 129TH ST  
OVERLAND PARK, KS 66213-2713  
[janet.buchanan@onegas.com](mailto:janet.buchanan@onegas.com)

JUDY JENKINS HITCHYE, MANAGING ATTORNEY  
KANSAS GAS SERVICE, A DIVISION OF ONE GAS, INC.  
7421 W 129TH ST  
OVERLAND PARK, KS 66213-2713  
[judy.jenkinshitchye@onegas.com](mailto:judy.jenkinshitchye@onegas.com)

JOE KENT, DIRECTOR OF BUSINESS DEVELOPMENT  
KANSAS GAS SERVICE, A DIVISION OF ONE GAS, INC.  
5828 E 15TH STREET  
TULSA, OK 74112  
[joe.kent@onegas.com](mailto:joe.kent@onegas.com)

C. MICHAEL LENNEN, ATTORNEY  
MORRIS LAING EVANS BROCK & KENNEDY CHTD  
800 SW JACKSON STE 1310  
TOPEKA, KS 66612-1216  
[mlennen@morrislaing.com](mailto:mlennen@morrislaing.com)



---

Judy Jenkins Hitchye, KS Bar No. 23300  
Managing Attorney  
KANSAS GAS SERVICE  
A Division of ONE Gas, Inc.  
7421 West 129<sup>th</sup> Street  
Overland Park, Kansas 66213-5957  
(913) 319-8615 Phone  
(913) 319-8622 Fax  
[judy.jenkinshitchye@onegas.com](mailto:judy.jenkinshitchye@onegas.com)