

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

In the Matter of the Application of Kansas Gas    )  
Service, a Division of One Gas, Inc. Regarding    )  
February 2021 Winter Weather Events, as        ) Docket No. 21-KGSG-332-GIG  
Contemplated by Docket No. 21-GIMX-303-MIS    )

**SUR-REPLY IN SUPPORT KANSAS GAS SERVICE’S OBJECTION TO  
NATURAL GAS TRANSPORTATION CUSTOMER COALITION’S  
MOTION TO DESIGNATE AS PUBLIC DOCUMENTS**

1.       Kansas Gas Service, a Division of One Gas, Inc. (“Kansas Gas Service” or “Company”), hereby files a sur-reply in support of its objection to Natural Gas Transportation Customer Coalition’s (“NGTCC”) *Motion to Designate as Public Documents, the February 2021 Supplier Invoices Paid by Kansas Gas Service Company* (“Motion”) as follows:

**I.       BACKGROUND**

2.       On March 9, 2021, the Kansas Corporation Commission (“KCC” or “Commission”) issued an *Order Adopting Staff’s Report and Recommendation to Open Company-Specific Investigations; Order on Petitions to Intervene of BlueMark Energy, LLC and CURB; Protective and Discovery Order*, in Docket No. 21-GIMX-303-MIS (hereafter, “303 Order”). In its 303 Order, the Commission adopted Staff’s recommendations to open company specific dockets to document issues raised in the Commission’s investigation into each major jurisdictional utility’s performance during the February 2021 Winter Event and to record the company specific filings of the financial impact plans contemplated in the Commission’s 303 Order.

3.       Further, in the 303 Order, the Commission also issued its Protective Order in the instant docket, wherein the Commission established procedures “to facilitate the prompt and orderly conduct of this case” and to “govern the treatment and handling of confidential information until further order of the Commission.” The Commission’s 303 Order specifically

granted the parties to the docket the ability to “designate as confidential any information that it believes, in good faith to be a trade secret or other confidential commercial information.”

4. On June 10, 2021, the Commission issued a Supplemental Protective and Discovery Order amending the Protective Order to grant the Kansas Attorney General access “to review any and all discovery produced in this Docket.”

5. On June 11, 2021, NGTCC filed a Motion requesting a ‘limited amendment’ of the Commission’s Protective Order in this docket. More specifically, NGTCC requested that the Commission restrict a party’s ability to designate specific documents as confidential and instead to mandate that the same documents be “presented on the Commission’s website for public’s general view, inspection, and consideration.”

6. On July 20, 2021, the Commission issued its *Order Denying Motion to Amend Protective Order; Order Directing the Parties to Submit a Proposed Procedural Schedule*.

7. On August 2, 2021, NGTCC filed a Motion that alleged the February 2021 Supplier Invoices paid by Kansas Gas Service should be designated as public documents (“Motion to Designate”).

8. On August 11, 2021, Kansas Gas Service filed an Objection to NGTCC’s Motion to Designate. In its Objection, Kansas Gas Service argued that the 2021 Supplier Invoices should remain confidential pursuant to the Protective Order because they are protected by Kan. Stat. Ann. §§ 66-1220a(A) and 60-3320 as trade secrets and protected commercial/financial information.

9. On August 12, 2021, NGTCC filed a Reply in support of its Motion to Designate, which notably still failed to remedy the legal deficiencies in its argument, or even address, any of the controlling law of Kan. Stat. Ann. §§ 66-1220a(A) and 60-3320.

10. On August 13, 2021, the Commission Staff filed a Response to NGTCC's Motion to Designate and agreed with Kansas Gas Service that the February 2021 Supplier Invoices should remain confidential.

11. Kansas Gas Service hereby files this Sur-Reply in support of its Objection not to reiterate the arguments it made in its Objection or reiterate the arguments the Commission Staff made in its supportive Response, which filings stand on their own. Instead, Kansas Gas Service files this Sur-Reply to clarify misrepresentations and factual errors asserted by NGTCC that, if left uncorrected, distort and confuse the record. Accordingly, the Commission should not interpret this Sur-Reply as Kansas Gas Service conceding or waiving any argument or factual issue to NGTCC.

## **II. CORRECTION OF FACTUAL ERRORS ASSERTED BY NGTCC**

12. In its Paragraph 14, NGTCC incorrectly characterizes how Kansas Gas Service purchases its gas supply. NGTCC incorrectly contends that the manner in which KGS acquires its gas will not be adversely impacted by the disclosure of these invoices and thereby the terms of the contracts. According to the NGTCC, Kansas Gas Service does not engage in the negotiation of natural gas prices and the disclosure of invoices will not put Kansas Gas Service at a competitive disadvantage. This assertion is false. While it is true that gas supply contracts are tied to an index, they are not based solely on the index price as NGTCC seems to assert. Instead, contracts are awarded through competitive bids and include premiums/adders or discounts applicable to the index price. Similarly, some contracts also include reservation/demand charges. NGTCC's argument ignores the fact that there is a bid process to determine the lowest premium (or the highest discount) that is added to (or deducted from) the index prices. Consequently, disclosure of the adder or the discount will likely affect the willingness of suppliers to bid in the future and thus

place Kansas Gas Service (and its sales customers) at a competitive disadvantage. Thus, when Kansas Gas Service asserts that it will be placed at a competitive disadvantage because the release of the February 2021 Invoices will undercut its buying leverage, it is in fact referring to the price movement associated with these premiums/adders, discounts and reservation/demand charges which are negotiated terms that are competitively sensitive and should remain confidential.

13. In its Paragraph 15, NGTCC again incorrectly characterizes how Kansas Gas Service purchases its gas supply. This time, NGTCC suggests that the Kansas Gas Service has not reported fixed price contracts to S&P Global Platts Gas Daily Index (“Platts Index”) in over a year because Kansas Gas Service only acquires gas supply at the index price. Accordingly, NGTCC argues that it is irrelevant if the Company’s invoices are made public or not because the Platts Index will continue to be published irrespective of whether the Kansas Gas Service contracts are in the public domain. While it is true that Kansas Gas Service does not report fixed price contracts to Platts Index because such reporting is voluntary, there is no causal connection between reporting to the Platts Index and the level of the Company’s gas supply at the index price. To the contrary, Kansas Gas Service’s fixed price contracts represent a very small portion of the Company’s total natural gas portfolio because historically, fixed price contracts are significantly higher than market-based indexes, such as the Platts Index. This is because in unsettled markets involving the possibility of limited supplies, marketers are not unwilling to sell a fixed price contract for future days to protect themselves in the event they cannot find the needed supplies they have committed under contract. As a result, as with Winter Storm Uri, it is not uncommon for fixed price contracts to be unavailable and for the market to be relying exclusively on index price for natural gas sales.

14. In its Paragraph 16, NGTCC mischaracterizes both the free market for natural gas and Kansas Gas Service’s role in the market. Contrary to NGTCC statements, Kansas Gas Service

does not negotiate the index price, the market at large sets the Platts Index. In addition, Kansas Gas Service cannot refuse to purchase gas from marketers that are selling natural gas at the index price, because (as explained above) if all of the marketers are selling at the index price there would be no one/no place left to purchase the natural gas. NGTCC incorrectly concludes that a single entity, such as Kansas Gas Service, should have been able to wield incredible powers to offset the entire market's pricing of natural gas. Such a presumption is a mischaracterization of supply and demand dynamics

15. *WHEREFORE*, for the reasons set forth herein, Kansas Gas Service respectfully requests that the Commission find that NGTCC's basis for the Motion to Make Public the February 2021 Invoices is unsupported by relevant facts, law or sound public policy and is therefore denied.

Respectfully submitted,

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VERIFICATION

STATE OF ARIZONA     )  
                                  )  
COUNTY OF MARICOPA )

I, Kelly A. Daly, verify under penalty of perjury that I have caused the foregoing pleading to be prepared; that I have read and reviewed the same; and that the contents thereof are true and correct to the best of my information, knowledge, and belief.

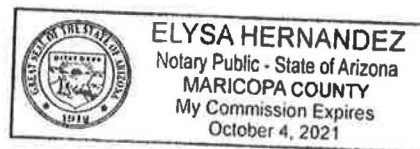
  
\_\_\_\_\_  
Affiant

SUBSCRIBED AND SWORN to before me on 8/23/21.

  
\_\_\_\_\_  
Notary public

My Appointment Expires:

10-4-21



### CERTIFICATE OF SERVICE

I hereby certify that on the 23rd day of August, 2021, a true and correct copy of the above and foregoing was sent electronically to the following:

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