

6201 College Boulevard, Suite 500 | Overland Park, KS 66211-2423
(913) 451-8788 | Facsimile: (913) 451-6205 | www.polsinelli.com

Anne E. Callenbach
(913) 234-7449
acallenbach@polsinelli.com

September 29, 2008

BY FAX 785-271-3357
UNITED STATES MAIL

STATE CORPORATION COMMISSION

SEP 29 2008

Mr. Don Low
Director of Utilities
Kansas Corporation Commission
1500 SW Arrowhead Road
Topeka, Kansas 66604



Re: Additional extension of temporary waiver of minimum natural gas heat content value granted in Docket No. 08-MDWG-486-MIS

Dear Mr. Low:

On November 21, 2007, in Docket No. 08-MDWG-486-MIS, the Commission granted Midwest Energy a temporary waiver of the minimum natural gas heat content value found in section 5(B)(3) of its Distribution Transportation Terms and Conditions for gas deliveries supplied from the Kinder Morgan Interstate Gas Transmission (KMIGT) Holcomb to Scott City Pipeline. The heat content standard was lowered to 840 British thermal units per standard cubic foot (Btu/scf), which is a departure from the 900 Btu contained in Midwest Energy's tariff. The waiver of the heat content standard expired on May 1, 2008.

The Commission's Order indicated that the intent of the waiver was to "...provide an interim solution to the shut in gas production in north central Finney County..." and "...provide ONEOK Field Services (OFS) and KMIGT the needed time to reconfigure the gas gathering/transportation system in such a manner that only processed gas will be delivered to the Holcomb/Scott City pipeline." The Staff Memorandum submitted to the Commission on November 20, 2007 noted that, "the long term solution envisioned as part of this waiver is that the Holcomb/Scott City pipeline will begin to transport only processed gas by May of 2008."

On April 29, 2008, Midwest Energy submitted a request for an extension, until October 1, 2008, of the temporary waiver of the Btu standard contained in Midwest Energy's tariff. Midwest Energy also sought two minor revisions to the waiver terms, one to increase the minimum heat content to 850 Btu/scf, and the other to permit Midwest Energy, unilaterally and in its sole discretion, to refuse to accept natural gas with less than the tariff requirement of 900 Btu/scf, if it received customer complaints of operational issues associated with the lower heat content. On May 1, 2008, the Commission Staff submitted a memorandum to the Commission providing

Mr. Don Low
September 29, 2008
Page 2

certain background information, facts, and analysis pertaining to Midwest Energy's request for an extension of the waiver. Also on May 1, 2008, the Commission issued an Order granting Midwest Energy's request for an extension of the waiver of the tariffed Btu standard.

As noted in the Commission Staff's November 21, 2007 Memorandum, the intent of the Btu content waiver was to provide KMIGT and OFS with additional time in which to devise a workable, long-term solution to the decline in the heat content of unprocessed gas deliveries supplied from the KMIGT Holcomb to Scott City Pipeline. On September 3, 2008, Midwest Energy sent the attached letter to KMIGT, noting that although Midwest Energy had not been a party to any formal discussions or negotiations between KMIGT and ONEOK to reconfigure their systems in a manner that will allow only unprocessed gas to be delivered on this pipeline, Midwest would consider an extension of the waiver beyond the current deadline if an agreement for a permanent solution has been entered into between KMIGT and ONEOK that cannot be implemented by the October 1, 2008 expiration of the current waiver period.

Subsequent to Midwest Energy's September 3, 2008 letter, KMIGT and Midwest Energy participated in a conference call during which the parties discussed potential terms for another extension of the waiver that expires on October 1, 2008.

As a result of that conference call, Midwest Energy verbally agreed to extend the waiver until April 1, 2009, as long as the heat content for gas delivered is no lower than 870 Btu. As a condition of this waiver extension, KMIGT verbally agreed to provide documentation to Midwest Energy every sixty (60) days that indicates progress on development of a plan to permanently alleviate the decline in heat content of gas deliveries from this line, including construction of any new lines required to serve Midwest Energy's customer with tariff-quality gas.

The parties also agreed that if Midwest Energy receives customer complaints of operational issues associated with the lower heat content, Midwest Energy reserves the right to unilaterally and in its sole discretion refuse to accept natural gas delivered with a heat content at less than the tariff rate of 900 Btu. If, in Midwest Energy's judgment, a heat content greater than 870 Btu but less than 900 Btu meets customers' needs, the 900 Btu threshold will not be enforced.

Midwest Energy submits that the impending expiration of the current waiver constitutes sufficient good cause to justify a change in tariffs on less than thirty days notice, as permitted by K.S.A. 66-117.

As the Commission Staff has previously noted, and as Midwest Energy noted in its April 29, 2008 letter, the long-term solution to these issues continues to be a reconfiguration of the KMIGT and OFS systems in a manner that will allow only processed gas to be delivered on this pipeline. Midwest Energy encourages these parties to continue to explore all reasonable options for doing so. Absent a long-term solution, Midwest Energy reiterates that it is hesitant to continue to permit waivers of its approved tariff's heat content, and thereby potentially jeopardize the quality of service provided to its end-use customers.

Mr. Don Low
September 29, 2008
Page 3

Sincerely,



Anne E. Callenbach

AEC:AEC

cc: Leo Haynos
Patrick Parke
Bob Muirhead
Randy Holstlaw, KMIGT

048773 / 106678
AECAL 296454