

THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

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 serve Aquila's customers) Docket No. 05-CONS-222-CMSC
if gas supply is not in a dangerous condition and)
requesting joinder of this matter with Docket No.)
05-CONS-214-CMSC)

PREHEARING CONFERENCE ORDER

NOW, the above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration. Having examined its files and records, and being duly advised in the premises, the Commission hereby issues its Prehearing Conference Order.

1. A consolidated prehearing conference was held on the above-captioned docket and Docket No. 05-CONS-214-CMSC (Midwest complaint docket) on April 8, 2005. Susan B. Cunningham was appointed to preside over the prehearing conference.

2. W. Robert Alderson, Jr., appeared for Aquila, Inc. (Aquila); John R. Wine, Jr., Thomas J. Kirby and Ron Woods appeared for ONEOK Field Services Company (OFS); Frank A. Caro, Jr., appeared for Midwest Energy, Inc.; Niki Christopher appeared for the Citizens' Utility Ratepayer Board (CURB); and Matthew R. Tomc, Assistant General Counsel, appeared for Commission Staff (Staff) and the public generally.

3. Upon a recommendation by Staff, and without objection, the Commission finds that notice was proper and that the Commission has jurisdiction of the parties and subject matter in this docket for the purpose of conducting the prehearing conference.

4. On March 24, 2005, Aquila filed the instant complaint against 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 (H₂S) are at a dangerous level and pending a determination as to the appropriate means, methods and practices utilized by OFS to address potentially dangerous H₂S 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 the Midwest complaint docket, referenced in paragraph 1 above, for purposes of the April 11, 2005 hearing previously scheduled in the Midwest complaint docket.

5. 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.

6. After taking appearances of counsel and swearing in out-of-state counsel, Ms. Cunningham indicated that the purpose of the prehearing conference was to discuss procedures to be used at the April 11 hearing. However, in light of the Joint Motion to Approve Stipulation and Agreement, Dismiss Complaint, and to Continue Hearing filed earlier that day in the Midwest complaint docket, the scope of the prehearing conference had necessarily changed. Ms.

Cunningham requested comment by the parties as to: (1) canceling the April 11 hearing as proposed by Midwest and OFS in their Joint Motion; and (2) proceeding with the Aquila complaint in an orderly manner, and not under the time constraints imposed by the emergency order issued in the Midwest complaint docket.

7. The parties agreed that canceling the April 11 hearing, as proposed by Midwest and OFS in their Joint Motion, 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. To that end, the parties requested that the Commission provide for a reasonable time period in which to conduct discovery and prefile testimony before an evidentiary hearing is held. In addition, the parties requested the opportunity to attend the Commission's next H₂S Task Force meeting, which has been scheduled for May 6, 2005, before a definitive procedural schedule is contemplated. Aquila and OFS agreed to submit a joint status report on or before June 1, 2005, detailing any progress made in resolving the issues raised in Aquila's complaint and making a recommendation as to an appropriate procedural schedule in the event no progress is made on resolving the complaint issues.

8. The Commission finds that the parties' suggestion for an orderly approach for proceeding with Aquila's complaint is reasonable. The Commission believes that giving the parties adequate time in which to review the complaint, conduct discovery, prefile testimony and/or attempt to resolve the complaint will produce a better and more thorough basis on which the Commission might be required to render a decision.

9. Based on the parties' request to conduct discovery, the Commission will enter a separate order establishing discovery procedures for use in this case. Such discovery order will

be issued contemporaneous with the instant order. Parties were informed at the prehearing conference that they need not wait for the issuance of such discovery order before commencing discovery.

10. The Commission will also enter a separate order to address the treatment of potentially confidential and/or proprietary information. Such protective order will also be issued contemporaneous with the instant order.

11. Finally, the Commission will refrain from establishing a procedural schedule for use in this case until it receives Aquila's and OFS' joint status report on or before June 1, 2005.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

Based on the parties' request at the April 8, 2005 prehearing conference, the Commission will issue a separate Discovery Order to establish discovery procedures for use in this case. Parties need not wait for the issuance of such Discovery Order before commencing discovery. In addition, the Commission will issue a separate Protective Order to address the treatment of confidential and/or proprietary information disseminated in this case. Finally, the Commission hereby orders Aquila and OFS to file a joint status report on or before June 1, 2005 detailing any progress made in resolving the issues raised in Aquila's complaint and making a recommendation as to an appropriate procedural schedule in the event no progress is made on resolving the complaint issues.

To the extent permitted by law, the parties have 15 days, plus three days if service of this order is by mail, from the date this order is served in which to petition the Commission for reconsideration of matters decided finally herein. Petitions for reconsideration, and all further pleadings, should be served on the Executive Director, at the Commission's Topeka Office, 1500 SW Arrowhead Road, Topeka, Kansas, 66604.

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

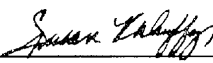
BY THE COMMISSION IT IS SO ORDERED.

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

Dated: APR 15 2005

ORDER MAILED

APR 15 2005

 Executive Director

Susan K. Duffy
Executive Director

SBC