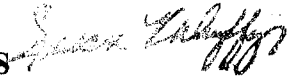


**BEFORE THE STATE CORPORATION COMMISSION STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS**

MAR 26 2009

In the Matter of the Application of Midwest)
Energy, Inc. for Approval of a Permanent)
Waiver of the 900 BTU Standard Contained)
in its Distribution Transportation Terms and)
Conditions.)

Docket No.: 08-MDWG-486-MIS



**MIDWEST ENERGY, INC.'S APPLICATION FOR A PERMANENT WAIVER OF THE
900 BTU STANDARD CONTAINED IN ITS DISTRIBUTION TRANSPORTATION
TERMS AND CONDITIONS FOR GAS DELIVERED FROM THE KMIGT HOLCOMB
TO SCOTT CITY PIPELINE**

COMES NOW, Midwest Energy, Inc. ("Midwest Energy" or "Company"), and pursuant to K.S.A. 66-104, 66-117, and 66-1,200 *et seq.*, files this Application with the State Corporation Commission of the State of Kansas ("Commission" or "KCC") for the purpose of making permanent the temporary waiver of the 900 Btu/scf minimum requirement which is contained in Section 5(B)(3) of its Distribution Transportation Terms and Condition for gas deliveries supplied from the Kinder Morgan Interstate Gas Transportation Company's ("KMIGT") Holcomb to Scott City pipeline. In support of its request, Midwest Energy states as follows:

I. INTRODUCTION

1. Midwest Energy is a customer-owned Kansas corporation, operating on a not-for-profit cooperative basis, in good standing in all respects, and is engaged, among other things, in the business of a natural gas public utility, as defined in K.S.A. 66-1,200, in certain areas in Central and Western Kansas. Midwest Energy holds certificates of convenience and necessity issued by the KCC authorizing Midwest Energy to engage in such utility business. Midwest Energy's principal place of business is located at 1330 Canterbury Drive, Hays, Kansas 67601. Midwest Energy has previously filed with the Commission certified copies of its Articles of

Incorporation under which it was organized, and all amendments thereto and restatements thereof, and the same are incorporated herein by reference.

2. In addition to the undersigned, copies of all pleadings and correspondence in this docket should be sent to:

Patrick Parke
Vice President Customer Service
Midwest Energy, Inc.
1330 Canterbury Drive
P.O. Box 898
Hays, KS 67601
patparke@mwenergy.com

II. MIDWEST ENERGY'S REQUESTS FOR TEMPORARY WAIVER OF APPROVED HEAT CONTENT

3. On December 12, 2005, in Docket No. 05-MDWG-674-TAR, the Commission approved Midwest Energy's Application requesting approval to combine its Distribution Transportation Service ("DTS") Schedule and Distribution Transportation General Terms and Conditions ("GT&C") Schedule into a single schedule entitled Distribution Transportation Terms and Conditions ("DTTC"). Pursuant to Section 5(B)(3) of the DTTC, Midwest Energy is currently required to receive at each Point of Receipt gas that is not less than 900 BTU nor more than 1020 BTU per cubic feet.

4. On November 20, 2007, Midwest Energy filed an application requesting a temporary waiver of the minimum natural gas heat content value contained in Section 5(B)(3) of its Distribution Transportation Terms and Conditions for gas deliveries supplied from KMIGT Holcomb to Scott City pipeline. This application was docketed in the above-captioned manner. Midwest Energy made its request for a temporary waiver in part to assist ONEOK Field Services ("OFS") in delivering unprocessed gas from its gathering system to the Scott City gas plant. As

noted in Midwest Energy's November 20, 2007 Application, the reason for its request is based upon the BTU level of gas Midwest Energy is currently receiving from KMIGT's Holcomb to Scott City Pipeline via several taps. In order to address the needs of OFS, KMIGT had notified Midwest Energy of the need to transport gas via this pipeline at a lower BTU level until a more permanent solution is reached regarding its gas transportation.¹ By lowering the heat content to 840 BTU/scf, OFS indicated that it would be able to return approximately 10 million cubic feet of gas/day (MMCFD) to production.

5. Because Midwest Energy's tariff requires it to receive gas with a heat content between 900 and 1020 BTUs, and consequently supply its customers with this gas, Midwest filed its November 20, 2007 request for approval to make a temporary revision to the tariff that would permit it to receive gas and serve customers supplied from the KMIGT Holcomb line at 840 BTU/scf until May 1, 2008.

6. Also on November 20, 2007, the Commission Staff recommended approval of the proposed temporary waiver of the heat content contained in Midwest Energy's tariff. Staff's Memorandum indicated that the decrease in heating content for a period of five months should not have any significant effect on the appliances of Midwest Energy's residential customers. Staff's Memorandum also indicated that this five-month period would provide time for KMIGT and OFS to reconfigure the gas gathering and transportation system in such a manner that only processed gas would be delivered to the Holcomb/Scott City pipeline. As noted in Staff's November 20, 2007 Memorandum, "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."

¹ One potential permanent solution that has been proposed is the construction of a pipeline from KMIGT's Holcomb compressor station to the west five miles, which would divert unprocessed gas from ONEOK to the KMIGT Lakin pipeline, where it would then flow to the same end location—the Scott City ONEOK processing plant.

7. On November 21, 2007, the Commission accepted Staff's analysis and issued an Order granting Midwest Energy's request for a temporary waiver of the tariff specification regarding Midwest Energy's BTU content.

8. On April 29, 2008, Midwest Energy submitted a request for an extension of the temporary waiver that was scheduled to expire on May 1, 2008. Midwest Energy requested an extension of the waiver for a period of five months, until October 1, 2008. Midwest Energy further requested two additional revisions to the previously granted waiver (1) to increase the minimum heat content to 850 BTU/scf; and (2) to allow 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.

9. On May 1, 2008, Staff issued its Memorandum that provided its analysis of Midwest Energy's request for an extension of the waiver, and provided additional background and facts. Staff stated that, despite continuing efforts, KMIGT and OFS had not achieved their November 2007 agreed-upon goal to reconfigure the gas gathering and transportation system. Staff supported the extension of the waiver, with Midwest Energy's two requested modifications, to allow more time for KMIGT and OFS to reach a solution and avoid disruption of current production. Staff also stated that sufficient good cause existed to permit the change in tariffs on less than 30 days notice, as permitted by K.S.A. 66-117.

10. Also on May 1, 2008, the Commission accepted Staff's analysis and issued an Order granting Midwest Energy's request for an extension of the temporary waiver of the tariff specification regarding Midwest Energy's BTU content.

11. As allowed in the May 1, 2008 Order, on May 21, 2008, Midwest Energy unilaterally requested that KMIGT increase the BTU content to 870 BTU/scf following a customer complaint about irrigation engine operation problems with lower BTU gas. KMIGT complied with Midwest Energy's request.

12. On September 29, 2008, Midwest Energy submitted a second request for an extension of the temporary waiver that was scheduled to expire on October 1, 2008. Midwest Energy requested an extension of the waiver at 870 BTU/scf for six months, until April 1, 2009. Midwest Energy also provided a summary of its efforts to facilitate a more permanent solution to the problem, and noted its hesitancy to continue to permit waivers of its approved tariff's heat content, absent a long-term solution.

13. On October 2, 2008, Staff filed its Memorandum and reported that, since the May 1, 2008 waiver extension, it had sponsored three teleconferences with the affected parties in an attempt to facilitate the successful conclusion of the negotiations between OFS and KMIGT. Staff reported that little progress towards a long-term solution had been made. Further, Staff noted that it shares Midwest Energy's concern regarding the indefinite extension of the waiver of Midwest Energy's approved heat content. Staff recommended that Midwest Energy be required to file a progress report on the status of the negotiations every sixty (60) days, and ultimately recommended approval of the waiver extension. The Commission issued its Order Granting Temporary Waiver on October 17, 2008, providing for the delivery of gas with a heat content no lower than 870 BTU/scf. This most recent waiver extension expires on April 1, 2009.

14. Subsequent to the issuance of the Commission's October 17, 2008 Order, Midwest Energy filed the required progress reports regarding the status of negotiations on December 22, 2008 and February 19, 2009.

III. MIDWEST ENERGY'S REQUEST FOR PERMANENT WAIVER OF APPROVED HEAT CONTENT FOR GAS DELIVERIES FROM THE KMIGT HOLCOMB TO SCOTT PIPELINE

15. As noted above, the most recent waiver of the minimum natural gas heat content value contained in Section 5(B)(3) of its Distribution Transportation Terms and Conditions for gas deliveries supplied from the KMIGT Holcomb to Scott City pipeline is set to expire on April 1, 2009. The current minimum acceptable heat content is 870 BTU/scf. It is Midwest Energy's understanding that there has been no progress made between OFS and KMIGT regarding the development of a more permanent solution to this issue. Further, Midwest Energy has received no customer complaints regarding the heat content at 870 BTU. Accordingly, Midwest Energy requests Commission approval to make permanent the temporary waivers of its minimum heat content only for gas deliveries supplied from this line. The heat content contained in Section 5(B)(3) of the DTTC, which is not less than 900 BTU nor more than 1020 BTU per cubic feet, would continue to apply to all other gas deliveries.

16. Midwest Energy submits that permanently reducing the minimum heat content to 870 BTU for gas deliveries supplied from the KMIGT Holcomb to Scott City pipeline will assist OFS and KMIGT in sustaining gas production in the field and will have no long-term detrimental effects on Midwest Energy's customers.

17. Midwest Energy recognizes that the KMIGT Holcomb to Scott City pipeline is regulated by the Federal Energy Regulatory Commission ("FERC"), and that the gas transported on this line is subject to KMIGT's FERC tariff. The minimum heat content value is set in this tariff at 950 BTU/scf, but, as the Commission has previously noted, the tariff allows KMIGT to waive its BTU limits as long as the waiver does not cause operational problems for KMIGT. As was recognized by the Commission Staff in its November 26, 2007 Memorandum in this docket,

KMIGT has consistently waived the minimum heat content for the last seven years because there were no complaints from other shippers regarding the gas quality.

WHEREFORE, Midwest Energy respectfully requests that the Commission approve Midwest Energy's request to permanently permit deliveries of gas with a heat content no lower than 870 BTU/scf for gas delivered off of KMIGT's Holcomb to Scott City pipeline, and grant such other and further relief as it deems just and reasonable.

Respectfully submitted,



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ATTORNEYS FOR MIDWEST ENERGY, INC.

VERIFICATION

STATE OF Kansas)
) ss.
COUNTY OF Johnson

I, Anne E. Callenbach, being duly sworn, on oath state that I have read the foregoing Application, and know the contents thereof, and that the facts set forth therein are true and correct to the best of my knowledge and belief.

By: A Callenbach
Anne E. Callenbach
Counsel for Midwest Energy, Inc.

The foregoing was subscribed and sworn to before me this March 26, 2009.

Brenda K. Smith
Notary Public

My Commission Expires:



CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing pleading has been faxed, hand-delivered and/or mailed, First Class, postage prepaid, this March 26, 2009, to:

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