

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

Before Commissioners: Shari Feist Albrecht, Chair
Thomas E. Wright
Jay Scott Emler

In the Matter of the Complaint of SWKI-)
Seward West Central, Inc., and SWKI-) Docket No. 14-ANGG-119-COM
Stevens Southeast, Inc. Against Anadarko)
Natural Gas Company.)

PREHEARING OFFICER'S ORDER SETTING PROCEDURAL SCHEDULE

This matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and decision. The Commission has designated Brian Fedotin, Advisory Counsel, to act as Prehearing Officer in this proceeding. Having reviewed the pleadings and record, the Prehearing Officer makes the following findings:

1. On August 27, 2013, SWKI-Seward West Central, Inc. (SWKI-SWC) and SWKI-Stevens Southeast, Inc. (SWKI-SE) (collectively SWKI) filed a Complaint against Anadarko Natural Gas Company (Anadarko) alleging that SWKI overpaid for natural gas from Anadarko off the Hugoton Residue Delivery System, and therefore is entitled to a refund.¹ In their Complaint, SWKI requests a Commission finding that Anadarko has failed to file certain contracts with the Commission for approval in violation of K.S.A. 66-109 and K.S.A. 66-117 and a Commission order finding that all rates charged by Anadarko in excess of the latest lawfully established, Commission-approved rate are unlawful, void, and subject to refund with interest.²

¹ Complaint of SWKI-Seward West Central, Inc. and SWKI-Stevens Southeast, Inc. Against Anadarko Natural Gas Company, Aug. 27, 2013, ¶ 11.

² *Id.*, ¶ 14.

2. At the January 6, 2014 prehearing conference, the parties agreed to address certain threshold issues in legal briefs to allow the Commission to determine whether it has jurisdiction to hear this dispute. If the Commission determines it has jurisdiction, it will issue a new procedural schedule to address the merits of the underlying complaint.

3. On January 21, 2014, SWKI and Anadarko filed their lists of threshold legal issues and proposed initial procedural schedules. As the parties submitted identical proposed procedural schedules, the Prehearing Officer adopts the following initial procedural schedule:

<u>Date</u>	<u>Time</u>	<u>Action</u>
February 19, 2014		SWKI and Anadarko Briefs on Threshold Legal Issues due.
March 6, 2014		SWKI, Anadarko, and Staff ³ Reply Briefs on Threshold Legal Issues due.
April 7, 2014	9:00 a.m.	Procedural Conference (Advisory Conference Room)

4. Unlike their proposed procedural schedules, SWKI and Anadarko were unable to agree on a common list of threshold legal issues. But there is significant common ground between the submitted lists of threshold legal issues.

5. Essentially, both parties broadly agree three questions are threshold legal issues: (1) whether the Commission has jurisdiction to determine the merits of SWKI's complaint against Anadarko; (2) whether the Commission has authority to order a refund or award damages; and (3) what is the legal effect of gas sales agreements that may not have been filed with or approved by the Commission. The Commission agrees that all three topics are threshold legal issues for the parties to brief.

6. Therefore, the Commission requests briefing on the following issues:

³ Staff is not required to submit a Reply Brief, but has the option to do so. If Staff elects to file a Reply Brief, it is due on March 6, 2014.

a) Does the Commission have jurisdiction to determine the merits of SWKI's complaint?

b) If the Commission has jurisdiction to determine the merits, is its jurisdiction limited to the last two years?

c) Does the Commission have the authority to order a refund or award damages in SWKI's complaint?

d) What is the legal effect of Gas Sales Agreements if they have not been filed with or approved by the Commission?

7. Staff is not required to file an initial brief on February 19, 2014. Staff is also not required to file a reply brief, but may elect to do so by March 6, 2014.

8. After reviewing the briefs, the Commission will determine whether oral argument or a hearing is appropriate and issue a new scheduling order.

WHEREFORE, THE PREHEARING OFFICER FINDS AND CONCLUDES:

A. The procedural schedule set forth in paragraph 3 is adopted.

B. The parties have 15 days from the date this Order was served to petition the Commission for reconsideration.⁴

C. The Commission retains jurisdiction over the subject matter and parties for the purpose of entering such further orders as it deems necessary.

Dated: 2/3/14



Brian G. Fedotin
Prehearing Officer

BGF

⁴ K.S.A. 66-118b; K.S.A. 77-529(a)(1).

CERTIFICATE OF SERVICE

14-ANGG-119-COM

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing Prehearing Officer's Order Setting Procedural Schedule was served by electronic mail this 3rd day of February, 2014, to the following parties who have waived receipt of follow-up hard copies:

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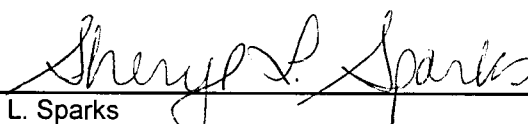
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