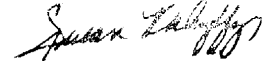


BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

NOV 10 2005

In the Matter of the General Investigation to)
Determine a Commission Policy Regarding)
Customers Served Directly or Indirectly by)
Gas Gathering Systems)

 Docket Room

Docket No. 06-GIMG-400-GIG

**RESPONSE OF COMMISSION STAFF
TO PETITION OF MIDWEST ENERGY, INC.
FOR RECONSIDERATION OF ASSESSMENT OF COSTS**

COMES NOW, the Staff of the State Corporation Commission of the State of Kansas (Staff and Commission respectively) and in response to the Petition for Reconsideration of Order Initiating Investigation and Assessing Costs filed by Midwest Energy, Inc., (Midwest) states as follows:

1. On October 19, 2005, The Commission issued an order initiating an investigation into issues related to the curtailment of gas service for customers receiving gas from gathering systems. The Commission assessed the costs of the docket to three different parties: ONEOK Field Services (ONEOK), Aquila, Inc. (Aquila), and Midwest Energy, Inc. (Midwest) in paragraph 18 (page 11) of its Order:

Pursuant to K.S.A. 66-1502, the Commission finds that expenses reasonably attributable to this investigation will exceed \$100 and hereby assesses the expenses against Midwest Energy, Inc. and Aquila, Inc. Additionally, ONEOK Field Services, Inc. is hereby assessed expenses pursuant to K.S.A. 55-176.

The Commission additionally provided for the possibility that other parties may be assessed in the future within paragraph 18, noting: "In addition to the parties already herein assessed, the Commission reserves the right to assess the costs of this docket to additional parties that may intervene."

2. On November 4, 2005, Midwest filed a petition for reconsideration of the assessment complaining that it should not be responsible for a third of the costs. Midwest noted that one-hundred gas gatherers were listed on Exhibit "A" and had no obligation to pay expenses. Midwest also expressed concern that the docket would be contentious and, therefore, would also be expensive.

3. Assessing all of the gatherers listed on Exhibit "A" of the Commission's Order would be improper. Midwest is correct to assert that the many gas gatherers listed on Exhibit "A" have not been assessed, with the exception of ONEOK. However, none of these gatherers, again with the exception of ONEOK, were parties at the time of the assessment. Accordingly, assessing costs to all of the entities listed would have been premature. Gatherers may not participate in the docket by filing comments unless they petition to intervene. If they do intervene, they could be assessed as well.

4. Staff agrees the issue of gas service curtailment in and around the Hugoton Field area is contentious. There is an uncertainty concerning the legal standards and obligations involved and there are many interested parties. However, it is important to note that this docket is a general investigation. The purpose of this docket is to gather information and begin to develop policy. It is hoped that guidelines will be developed and the identification of policy issues and legal standards will reduce the number of future conflicts. Although there are contentious issues involved, Staff hopes that approaching the issue from the perspective of a general investigation may reduce the need for litigated complaint proceedings in the future. This docket in fact may reduce expenses for the parties involved with this issue. The problems associated with low quality and low pressure exit tap gas is not going to go away. In fact, problems will most likely increase. By addressing the overall

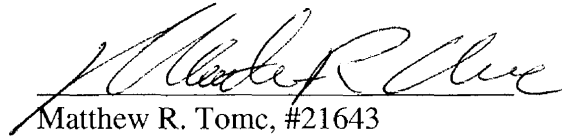
policy questions and hopefully resolving problems with legal interpretations in this docket, future conflict will most likely be averted or at least mitigated. Without this docket, the issue will continue to arise in form of individual isolated problems with increasing frequency in future years. It is better and more cost effective to address the issue from a broad state-wide perspective prior to the adjudication of individual issues. By resolving and clarifying certain legal and policy issues, the parties to future disputes will gain a better understanding of how service curtailment will be addressed and future conflict can be avoided.

5. ONEOK, Aquila, and Midwest are clearly parties particularly affected by the problems associated with gathering related service curtailment. Each party has appeared before the Commission in recent months related to problems involving gathering systems. If other parties intervene in this case that can be identified as facing significant problems associated with service curtailment, then those parties may be assessed as well.

6. Staff has reviewed Midwest's Petition for Reconsideration and concludes that costs have been assessed properly in the docket. Staff recommends that the Commission dismiss Midwest's Petition for Reconsideration. Staff additionally recommends that pursuant to K.S.A. 66-1505, the Commission schedule this matter for a hearing at its earliest convenience.

WHEREFORE, Staff respectfully requests that the Commission dismiss the Petition for Reconsideration filed by Midwest Energy, Inc. and grant any other relief that the Commission deems just and equitable.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Matthew R. Tomc", written over a horizontal line.

Matthew R. Tomc, #21643

John McCannon, #08277

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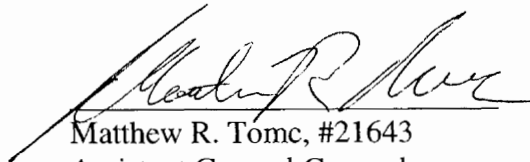
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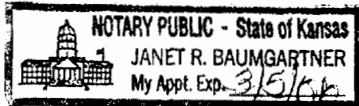
VERIFICATION

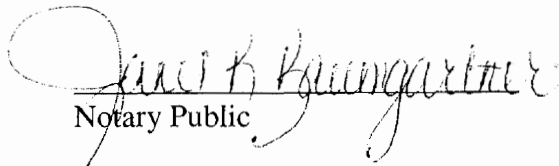
STATE OF KANSAS)
) ss:
COUNTY OF SHAWNEE)

Matthew R. Tomc, being duly sworn upon his oath deposes and states that he is an attorney for the Kansas Corporation Commission Staff, that he has read and is familiar with the foregoing responsive pleading and that the statements contained therein are true and correct to the best of his knowledge, information and belief.


Matthew R. Tomc, #21643
Assistant General Counsel
The State Corporation Commission
of the State of Kansas

Subscribed and sworn to before me this 10 day of November, 2004.




Notary Public

My Appointment expires:

4 March 5, 2006

CERTIFICATE OF SERVICE

06-GIMG-400-GIG

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing Response of Commission Staff to Petition of Midwest Energy Inc. for Reconsideration of Assessment of Costs was placed in the United States mail, postage prepaid, or hand-delivered this 10th day of November, 2005, to the following:

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CERTIFICATE OF SERVICE

06-GIMG-400-GIG

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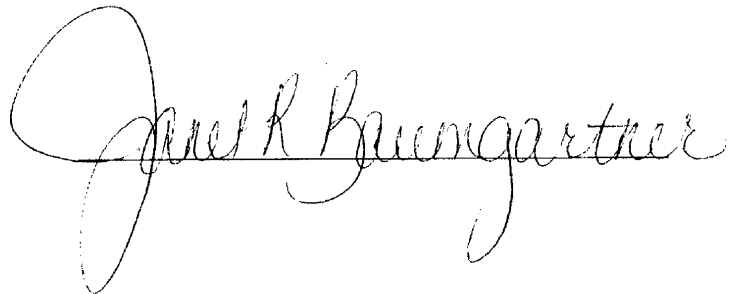
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A handwritten signature in cursive script, reading "Mark Baungartner". The signature is written in black ink and is positioned in the lower right quadrant of the page.