

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

Before Commissioners: Thomas E. Wright, Chairman  
Michael C. Moffet  
Joseph F. Harkins

STATE CORPORATION COMMISSION

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

OCT 10 2008

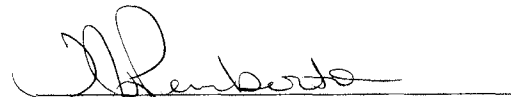
Docket No. 08-MDWG-486-MIS

*Susan K. Duffy* Docket Room

**STAFF MEMORANDUM**

COMES NOW the Commission staff (Staff) of the State Corporation Commission of the State of Kansas (Commission) and files its memorandum recommending the Commission approve Midwest Energy, Inc.'s Application requesting an additional extension of the Temporary Waiver for the minimum natural gas heat content value granted in Docket No. 08-MDWG-486-MIS. Staff submits its memorandum, prepared by Leo Haynos, and Don Low, recommending the Commission approve Midwest Energy, Inc.'s Application for the temporary waiver of its 900 Btu/scf gas quality standard contained in its Distribution transportation Terms and Conditions.


WHEREFORE, Staff recommends Commission approval of Midwest Energy, Inc.'s Application.



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MEMORANDUM

To: Thomas E. Wright, Chairman  
Michael C. Moffet, Commissioner  
Joseph F. Harkins, Commissioner

From: Don Low  
Leo Haynos 

Date Submitted to Legal: 10/2/08

Date Submitted to Commissioners: 10/10/08

DOCKET NUMBER: 08-MDWG-486-MIS

Re: Recommendation to Approve the Application of Midwest Energy for the Temporary Waiver of its 900 Btu/scf Gas Quality Standard Contained in its Distribution transportation Terms and Conditions

Summary:

On September 29, 2008, Midwest Energy, Inc. (Midwest) submitted a request for an extension of the 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 Transportation Company's (KMIGT) Holcomb to Scott City pipeline.

The original waiver was granted in this docket on November 21, 2007, and extended to October 1, 2008. Midwest is requesting an additional extension of the waiver for six months, until April 1, 2009. In this extension, Midwest seeks to modify the original waiver as follows:

- The heat content will be no lower than 870 british thermal units per standard cubic foot, (Btu/scf);
- KMIGT will provide progress reports every 60 days on the development of a plan to permanently alleviate the decline in heat content of gas deliveries from the subject line; and
- Midwest reserves the right to unilaterally and in its sole discretion refuse to accept natural gas with less than the tariff requirement of 900 Btu/scf

Staff recommends approval of the extension request.

## Background

The full background of this matter is set forth in Staff's original memorandum of November 20, 2007. In brief, OneOK Field Services, (OFS) reconfiguration of its gas gathering system to transport additional gas to its Scott City gas plant resulted in gas of lower heating value being transported on the Holcomb to Scott City pipeline. Midwest made its original waiver request in order to assist OFS in delivering unprocessed gas from its gas gathering system to the Scott City gas plant. By lowering the heat content to 840 Btu/scf, OFS was able to return approximately 10 million cubic feet of gas/day, (MMCFD ) to production. In May of 2008, Midwest amended the waiver request to allow a heat content of 850 Btu/scf in order to meet the requirements of its customers.

Staff recommended approval of the waiver and the subsequent extension of the waiver in order to allow OFS and KMIGT sufficient time to reconfigure the gas gathering and transmission system. The system reconfiguration was expected to provide Kansas producers and OFS a long term solution for delivering low quality unprocessed gas to the Scott City gas plant while providing the end use customers connected to the Holcomb/Scott City KMIGT pipeline with processed gas of consistent heat quality at or above 900 Btu/scf. Since the May 1, 2008 waiver extension was granted, Staff has sponsored 3 teleconferences with affected parties in an attempt to facilitate the successful conclusion of the negotiations between OFS and KMIGT. It is our understanding that little if any progress has been made between the two parties to reach resolution. At this time, 5 MMCFD of production remains shut in at the wellhead in order to allow OFS to meet the 850 Btu/scf standard.

## Analysis

Midwest's waiver extension request encourages KMIGT and OFS to continue working for a solution. At the same time Midwest expresses reluctance to continue the waiver indefinitely. In an effort to monitor the progress of the negotiations, Midwest has requested that KMIGT file progress reports on the status of the negotiations every 60 days. Staff shares Midwest's concern regarding the indefinite extension of this waiver. With that in mind, Staff recommends that an additional requirement be added to the waiver requiring Midwest to file the KMIGT progress reports in this docket. Staff believes the other modifications to the waiver as outlined above are reasonable. Staff will continue to facilitate the negotiations between the parties as long as our involvement is considered helpful.

## Recommendation

Staff recommends the Commission take immediate action to approve the request for extension since the current waiver extension expires October 1, 2008. Staff also recommends the Commission require Midwest to file a progress report on the status of the negotiations in this docket every 60 days. Although this waiver is not literally a change in the written tariffs, it does affect the application of the tariff. Consequently, Staff believes that this situation is covered by K.S.A. 66-117 but that there is sufficient good cause to allow the change in tariffs on less than 30 days notices, as permitted by that statute.

CERTIFICATE OF SERVICE

08-MDWG-486-MIS

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing Staff Memorandum was placed in the United States mail, postage prepaid, or hand-delivered this 10<sup>th</sup> day of October, 2008, to the following:

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