

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

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

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.)

Docket No. 08-MDWG-486-MIS

ORDER GRANTING TEMPORARY WAIVER

The above-captioned matter comes before the State Corporation Commission of the State of Kansas ("Commission") for consideration and decision. Having examined its files and records, and being duly advised in the premises, the Commission makes the following findings:

1. This docket concerns the ability of local distribution companies to supply gas with heat content sufficient to meet existing tariffs. Entities that had an active role in November 2007 negotiations in this docket include the applicant, Midwest Energy, Inc. ("Midwest"), Kinder Morgan Interstate Gas Transportation Company's ("KMIGT"), ONEOK Field Services ("OFS"), interested Kansas gas producers, and Commission Staff (at that time collectively referred to as "Indicated Parties").

2. On November 20, 2007, Midwest filed an application requesting a 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 KMIGT Holcomb to Scott City pipeline. Midwest made this 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 British thermal units per standard cubic foot, (Btu/scf), OFS claimed it would be able to return approximately 10 million cubic feet of gas/day, (MMCFD) to production.

3. Also on November 20, 2007, Staff recommended approval of the proposed waiver to the Midwest tariff, effective until May 1 of 2008. By that time, the minimum heat value was expected to return to the tariff specification, 900 Btu/scf. Staff concluded the decrease in heating content for a period of five months should not have any significant effect on the appliances of Midwest residential customers. Further, it was expected that the waiver period would provide time for development of an interim solution to gas quality issues that had resulted in shut in gas production in north central Finney County, and would provide OFS and KMIGT the needed time to reconfigure the gas gathering/transportation system in such a manner that only processed gas would be delivered to the Holcomb/Scott City pipeline.

4. On November 21, 2007 the Commission adopted Staff's analysis and caused its order to be entered, allowing the request for a temporary waiver of the tariff specification relating to Midwest's Btu content.

5. On April 29, 2008, Midwest submitted a request for an extension of the temporary waiver that is scheduled to expire on May 1, 2008. Midwest requests an extension of the waiver for five months, until October 1, 2008. Midwest further requests two revisions of the waiver, one to increase the minimum heat content to 850 Btu/scf, the other to allow Midwest, unilaterally and in its sole discretion, to refuse to accept natural gas with less than the tariff requirement of 900 Btu/scf, if it receives customer complaints of operation issues associated with the lower heat content.

6. In its Memo of May 1, 2008, Staff provides background, facts and analysis relating to this extension request. In its Memo, Staff reports that despite efforts that are continuing, KMIGT and OFS have not achieved their November 2007 goal of agreement for reconfiguration of the gas gathering and transmission system or other solution. Staff further reports, however, that the goal for OFS to return approximately 10 MMCFD to production was met. Staff states that it supports the extension of the waiver, with the requested two modifications, to allow more time for the affected entities to reach a solution and to avoid disruption of current production. Staff further states that it will explore whether a Staff-sponsored meeting of the parties would be helpful. Staff recommends immediate approval of the waiver, which affects application of the tariff and thus invokes K.S.A. 66-117. Staff states that there is sufficient good cause to allow the change in tariffs on less than 30 days notice, as permitted by statute.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. Midwest Energy, Inc.'s request for a temporary waiver of the tariff specification relating to Btu content--allowing it to accept, in its discretion, gas having a Btu content as low as 850--is granted, effective until October 1, 2008.

B. The parties have fifteen days, plus three days if service of this order is by mail, from the date this order was served in which to petition the Commission for reconsideration of any issue or issues decided herein. K.S.A. 66-118b; K.S.A. 2006 Supp. 77-529(a)(1).

C. 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.

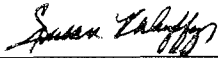
BY THE COMMISSION IT IS SO ORDERED.

Wright, Chmn.; Moffet, Comm.; Harkins, Comm.

Dated: MAY 01 2008

ORDER MAILED

MAY 01 2008

 Executive
Director

Susan K. Duffy
Executive Director

wtS

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April 29, 2008

BY FAX 785-271-3357

UNITED STATES MAIL

Mr. Don Low
Director of Utilities
Kansas Corporation Commission
1500 SW Arrowhead Road
Topeka, Kansas 66604

Re: Extension of temporary waiver of minimum natural gas heat content value granted in Docket No. 08-MDWG-486-MIS

Dear Mr. Low:

On November 21, 2007, in Docket No. 08-MDWG-486-MIS, the Commission granted Midwest Energy a 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 KMIGT Holcomb to Scott City Pipeline. The heat content standard was lowered to 840 British thermal units per standard cubic foot (Btu/scf), which is a departure from the 900 Btu contained in Midwest Energy's tariff. The waiver of the heat content standard expires on May 1, 2008.

The Commission's Order indicated that the intent of the waiver was to "...provide an interim solution to the shut in gas production in north central Finney County..." and "...provide OFS and KMIGT the needed time to reconfigure the gas gathering/transportation system in such a manner that only processed gas will be delivered to the Holcomb/Scott City pipeline." The Staff Memorandum submitted to the Commission on November 20, 2007 noted that, "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."

Although Midwest Energy believes that KMIGT and OFS continue to work toward a long-term solution to these low Btu issues, it has become apparent that such a solution will not be in place by April 30, 2008, the day before the expiration of the temporary waiver granted by the Commission.

KANSAS CORPORATION COMMISSION

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UTILITIES DIVISION

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As such, in order to provide KMIGT and OFS with additional time in which to devise a workable, long-term solution to the decline in the heat content of this unprocessed gas, Midwest Energy respectfully requests that the Commission extend its previously granted waiver of the heat content for gas deliveries supplied from the KMIGT Holcomb to Scott City Pipeline, with two modifications.

Midwest Energy will agree to extend the waiver for an additional five months, until October 1, 2008, as long as the heat content for gas delivered is no lower than 850 Btu. Further, if Midwest Energy receives customer complaints of operational issues associated with the lower heat content, Midwest Energy reserves the right to unilaterally and in its sole discretion refuse to accept natural gas delivered with a heat content at less than the tariff rate of 900 Btu. If, in Midwest Energy's judgment, a heat content greater than 850 Btu but less than 900 Btu meets customers' needs, the 900 Btu threshold will not be enforced.

Midwest Energy submits that the impending expiration of the current waiver constitutes sufficient good cause to justify a change in tariffs on less than thirty days notice, as permitted by K.S.A. 66-117.

As the Commission Staff has previously noted, the long-term solution to these issues is a reconfiguration of the KMIGT and OFS systems in a manner that will allow only processed gas to be delivered on this pipeline, and Midwest Energy encourages these parties to continue to explore all reasonable options for doing so. Absent a long-term solution, Midwest Energy is hesitant to continue to permit waivers of its approved tariff's heat content, and thereby potentially jeopardize the quality of service provided to its end-use customers.

Sincerely,



Anne E. Callenbach

AEC:AEC

cc: Leo Haynos
Patrick Parke