

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

In the Matter of the Application of Kansas Gas )  
Service, a Division of One Gas, Inc. Regarding )  
February 2021 Winter Weather Events, as ) Docket No. 21-KGSG-332-GIG  
Contemplated by Docket No. 21-GIMX-303-MIS )

**MOTION FOR LIMITED WAIVER**

Kansas Gas Service, a Division of One Gas, Inc. (“Kansas Gas Service” or “Movant” or “Company”) submits the following application pursuant to K.S.A. 66-1,201, 66-1,207, 77-526 and K.A.R. 82-1-202, K.A.R. 82-11-6, and other applicable statutes and regulations. Movant is requesting a waiver of certain of its Kansas Corporation Commission (“Commission”) approved tariff provisions in addressing the winter weather event of February 2021. In support of its Motion, Kansas Gas Service states as follows:

1. Movant is a natural gas public utility operating in the state of Kansas pursuant to certificates of convenience and necessity issued by the Commission. Movant's principal place of business within the state of Kansas is located at: 7421 West 129<sup>th</sup> Street, Overland Park, Kansas 66213. Movant is a division of ONE Gas, Inc. (ONE Gas) and serves approximately 645,000 customers located in over 360 communities in Kansas.

2. The names, addresses and phone numbers of the persons authorized to receive notices and communications with respect to this Motion on behalf of Kansas Gas Service are as follows:

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3. For the sake of clarity, it is necessary to define certain terms that appear throughout this Motion. The terms defined are as follows:

- a) **Gas Sales Customer** – shall mean a customer for which Kansas Gas Service is responsible for procuring an adequate supply of natural gas to meet said customer’s needs.
- b) **Marketer** – shall mean a third-party natural gas marketer providing natural gas procurement services to a Kansas Gas Service’s customer as the customer’s Agent in accordance with the Company’s General Terms and Conditions (“GTC”), Section 10.03. The Marketer may provide service to individual transportation customers (individually balanced) or provide service to a group of transportation customers in aggregation groups as permitted in GTC, Section 10.04.
- c) **Individually Balanced Transportation Customer** - shall mean a customer being served from Kansas Gas Service’s natural gas pipeline facilities and who is individually responsible for procuring a supply of gas adequate for its needs.

4. Pursuant to Kansas Law, Kansas Gas Service has a duty and obligation to serve its customers in accordance with its tariffs and orders of the Commission.<sup>1</sup> On February 15, 2021, the Commission issued an Emergency Order in Docket No. 21-GIMX-303-MIS (“Emergency

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<sup>1</sup> K.S.A. 66-1,202; *See generally*, the Company’s General Terms and Conditions and specific customer class rate schedules.

Order”) which acknowledged the State of Disaster Emergency Proclamation issued by Governor Kelly, the higher than normal wholesale natural gas prices, and the potential for reliability issues related to the prolonged cold weather. The Emergency Order required jurisdictional natural gas and electric utilities to “. . . do everything necessary to ensure natural gas and electricity service continue[d] to be provided to their customers in Kansas.”<sup>2</sup> The Commission also authorized jurisdictional natural gas and electric utilities to defer, into a regulatory asset, any extraordinary costs associated with ensuring that their customers or the customers of interconnected Kansas utilities that are non-jurisdictional to the Commission continued to receive utility service during the cold weather event.

5. Prior to the Commission’s Emergency Order, Kansas Gas Service had begun communicating with its Gas Sales Customers, Marketers and Individually Balanced Transportation Customers, urging them to prepare for the cold weather. Relevant to this Motion, on February 4, 2021, the Company sent a Critical Notice to both the Marketers and Individually Balanced Transportation Customers. This Critical Notice advised of the need to be mindful of the upcoming weather and to make sure that confirmed nominations of natural gas into the Company’s system were adequate for planned usage during the winter weather event. The notification was effective February 6 through February 15, 2021. On February 9, 2021, Kansas Gas Service provided notice that it was extending the Critical Notice through February 16, 2021.

6. On February 9, 2021, Kansas Gas Service received notice of a standard Operational Flow Order (“OFO”) from Southern Star Central Gas Pipeline, Inc., (its upstream natural gas transmission provider) to begin on February 11, 2021. Later that same day, Kansas Gas Service issued an OFO for its transportation customers to begin on February 11, 2021 and remain in effect

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<sup>2</sup> *Emergency Order*, Docket No. 21-GIMX-303-MIS, In the Matter of Record Natural Gas Prices and Potential System Reliability Issues from Unprecedented and Sustained Cold Weather, February 15, 2021, page 2, paragraph 3.

until further notice. Accordingly, Kansas Gas Service notified all Marketers and Individually Balanced Transportation Customers that:

- a. natural gas nominations for all customers with electronic flow meters (“EFM”) were to be equal to the customer’s daily usage;
- b. those customers that do not have EFM are required to make sure natural gas nominations were equal to their required daily quantity (“RDQ”); and
- c. that any usage of gas in excess of confirmed nominations would be subject to penalties.

7. On February 14, 2021, Kansas Gas Service determined that it was necessary to restrict usage for all but residential and human needs customers.<sup>3</sup> The Company issued a Curtailment Notice to become effective February 15, 2021, to remain in effect until further notice. Again, Kansas Gas Service notified Marketers and Individually Balanced Transportation Customers of the restriction. Kansas Gas Service’s Curtailment Notice referenced Governor Kelly’s State of Disaster Emergency Proclamation and directed transportation customers to curtail their usage to the level necessary to protect their facilities from harm. Specifically, the Curtailment Notice directed customers to:

- a. switch to an alternate or back-up fuel source, if possible, or;
- b. place their facility into plant protection or idle mode, or;
- c. limit gas usage to the minimum system requirements necessary to prevent freezing of pipes and protect equipment and/or facility, or;
- d. take other steps to reduce natural gas usage to the extent possible and necessary in order to prioritize service to residential and human needs customers.

This curtailment did not apply to schools, hospitals, health care facilities, hotels or lodging

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<sup>3</sup> While Kansas Gas Service believed it might become necessary to discontinue service to one or more of its commercial customers, fortunately, all customer classes conserved to the extent required to avoid discontinuation of service to any customer. During the duration of the winter event, Kansas Gas Service maintained service to all customers, though at times, not at the preferred volumes of some customers.

facilities, grocery stores, universities, colleges, churches, public safety buildings, multi-family dwellings and apartments for uses other than electric generation. Pursuant to the Company's tariffs, during a Period of Curtailment, ("POC") any usage of gas in excess of confirmed nominations would be subject to higher penalties.<sup>4</sup>

8. During the OFO and POC, some Marketers and certain Individually Balanced Transportation Customers did not balance confirmed nominations with usage. Section 11.06 of the GTC in Kansas Gas Service's tariffs, provides that "[a] customer's unauthorized usage under an OFO or POC may cause the incurrence of penalties." Further, Section 11.06.02 of the GTC establishes the calculations of penalties as follows:

Penalties for Unauthorized Over-Deliveries or Under-Deliveries shall be calculated as follows:

(1) **Standard OFO Penalties:** For each day of the Standard OFO, the greater of \$5 or 2½ times the daily midpoint stated on Gas Daily's Index for Southern Star Central Gas Pipelines (Oklahoma) times the MMBtu of Unauthorized Over- or Under-Deliveries that exceed the tolerance level applicable under Section 11.06.01.

(2) **Emergency OFO Penalties:** For each day of the Emergency OFO, the greater of \$10 or 5 times the daily midpoint stated on Gas Daily's Index for Southern Star Central Gas Pipelines (Oklahoma) times the MMBtu of Unauthorized Over- or Under-Deliveries that exceed the tolerance level applicable under Section 11.06.01.

(3) **POC Penalties:** For each day of the POC, the greater of \$20 or 10 times the daily midpoint stated on Gas Daily's Index for Southern Star Central Gas Pipelines (Oklahoma) times the MMBtu of Unauthorized Over- or Under-Deliveries that exceed the tolerance level applicable under Section 11.06.01.

9. Kansas Gas Service believes it is appropriate to assess penalties in this instance.

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<sup>4</sup> See, Kansas Gas Service's General Terms and Conditions, Sections 11.05 and 11.06.

The failure of some Marketers and some Individually Balanced Transportation Customers to provide adequate gas supplies during the period of the OFO and POC jeopardized the ability of Kansas Gas Service to provide service to all its customers. Because some Marketers and some Individually Balanced Transportation Customers did not secure and/or deliver enough gas supply to meet their needs, there was a tangible risk that Kansas Gas Service's resources would not be sufficient to maintain distribution system pressures and other operational needs, as well as to provide service to all of the Company's customers during the exceptionally cold weather. Following the Commission's order to take actions required to provide service to its customers, the Company secured additional gas supplies for the continuation of service to Gas Sales Customers and, when necessary, to transportation customers to ensure operational integrity balance on the system and the availability of service to all customers. Had the Company not been able to acquire additional gas supplies, unplanned outages may have occurred, including possible outages to human needs customers. Based on the foregoing circumstances, Kansas Gas Service has determined that the assessment of penalties is necessary.

10. Under the provisions of the tariff, once it is determined that penalties will be assessed, Kansas Gas Service does not have discretion or flexibility in the calculation of the penalty amount. The tariff states that penalties "shall" be calculated as prescribed. As a result, if Kansas Gas Service follows the tariff provisions as written and given the extraordinarily high market gas prices experienced during the periods of the OFO and POC, the Company would accordingly issue penalties to Marketers and Individually Balanced Transportation Customers that would also be of an extraordinary nature.<sup>5</sup>

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<sup>5</sup> Section 11.06.03 of the GTC states that penalties for aggregation groups shall be billed to and collected from the agent representing the aggregated customers. Penalties for customers that are not part of an aggregation agreement are directly assessed the penalty.

11. Any penalties collected from Marketers and Individually Balanced Transportation Customers in the manner prescribed in GTC 11.06.03, are to be credited to the cost of gas the Company incurs on behalf of its Gas Sales Customers. At Sheet 4 of the Cost of Gas Rider (“COGR”), Kansas Gas Service’s tariff states:

Other Charges or credits shall be included as a separate component of the Cost of Gas and included only to the extent provided by a separate schedule, rider, or section of COGR, and approved by the Commission.

Penalty provisions are contained within the tariffs of Kansas Gas Service and are essentially a credit for the cost of gas the Company incurred to provide service to transportation customers who consumed gas supplies not provided by the Marketer or the Individually Balanced Transportation Customer as required to meet the transportation customer’s usage during the OFO and POC. Kansas Gas Service believes that crediting any penalty amounts collected against the extraordinary cost of gas (that is currently being deferred for recovery at a later date) is consistent with the COGR tariff requirements.

12. While the penalty provisions are in place to discourage Marketers and Individually Balanced Transportation Customers from creating imbalances on the distribution system at critical times of operation, Kansas Gas Service requests that in this instance, the Commission grant the Company a waiver from Section 11.06.02 of its GTC tariff to allow the Company to reduce the amounts assessed by permitting the removal of the multiplier from the penalty calculation. This relief will allow Kansas Gas Service to recover the cost of gas purchases which were required to keep the system in balance and operating when Marketers and Individually Balanced Transportation Customers did not provide adequate gas supplies during the winter weather event.

13. Without the collection of penalties, Gas Sales Customers would subsidize the additional gas cost incurred to serve transportation customers who did not adequately supply

natural gas to the Kansas Gas Service distribution system during the OFO periods and/or POC. Recently, Staff has expressed its support for using penalties to recover gas costs incurred for transportation customers in Docket No. 21-BHCG-370-MIS (“370 Docket”). In supporting a request for a temporary waiver of penalty provisions made by Black Hills Kansas Gas Utility Company, d/b/a Black Hills Energy, Staff states:

Staff generally supports a Local Distribution Company (LDC) using the penalty provisions in its Tariff to bill Transportation customers for the costs of FERC-regulated penalties or gas costs that the LDC incurred on behalf of the Transportation customer. These penalty provisions should be used to recoup the cost of these penalties *or gas costs, so that the LDC Sales customers are not harmed*. However, if interstate gas pipeline penalties will be waived, Black Hill's penalties may need to be waived as well because these penalties were never meant to be a profit center or to produce an unreasonable windfall for Sales customers.<sup>6</sup> (*Emphasis added*).

In the 370 Docket, the Commission found Staff’s recommendation to be reasonable and approved the temporary waiver request. Similarly, permitting Kansas Gas Service to remove the multiplier from the penalty calculation as requested, is consistent with Staff’s recommendation and position that penalties are not meant to be a “profit center or to produce an unreasonable windfall for Sales customers.” Removing the multiplier as requested by Kansas Gas Service would result in assessment of substantially lower penalties that would more closely reflect the estimated additional cost of gas procured by Kansas Gas Service to meet the usage of the transportation customers who did not comply with either the OFO and/or the POC. As stated previously, Kansas Gas service believes it is consistent with requirements of its COGR tariff to credit any penalties collected against the extraordinary gas costs currently being deferred for recovery at a later date.

14. Kansas Gas Service is prepared to invoice Marketers and Individually Balanced

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<sup>6</sup> *Order Approving Temporary Waiver*, Docket No. 21-BHCG-370-MIS, In the Matter of the Application of Black Hills Kansas Gas Utility Company, LLC d/b/a Black Hills Energy, for a Waiver of Tariff, Exhibit A, page 2.



Transportation Customers for penalties as calculated under either the current tariff method or under the requested waiver. Additionally, the Company will endeavor to collect all such amounts to offset the cost of gas associated with the winter weather event that has been deferred. Finally, the Company requests the Commission deem a grant of this waiver request as non-precedential in future Kansas Gas Service proceedings.

*WHEREFORE*, for the reasons set forth herein, Kansas Gas Service respectfully asks the Commission to issue an order approving the Company's Motion for a Limited Waiver, of Section 11.06.02 of the GTC as outlined in this Motion, to permit Kansas Gas Service to calculate penalties associated with the winter weather event as prescribed herein and for such other relief as the Commission may deem just and reasonable.

Respectfully submitted,

*Judy Jenkins Hitchye*

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**VERIFICATION**

STATE OF KANSAS        )  
                                  )  
COUNTY OF JOHNSON    )

I, Judy Jenkins Hitchye, of lawful age, being first duly sworn upon oath, states as follows: I am a Managing Attorney for Kansas Gas Service, a Division of ONE Gas, Inc. I have read the above *Motion for Limited Waiver* and all the statements therein are true to the best of my knowledge, information and belief.

/s/ Judy Jenkins Hitchye  
Judy Jenkins Hitchye  
  
*Affiant*

SUBSCRIBED AND SWORN to before me on 5/28/21.

  
Notary public

My Appointment Expires:

06/05/22



## CERTIFICATE OF SERVICE

I, Judy Jenkins Hitchye, hereby certify that a copy of the above and foregoing *Motion for Waiver* was forwarded this 28<sup>th</sup> day of May, 2021, addressed to:

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