

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

Before Commissioners: Andrew J. French, Chairperson
 Dwight D. Keen
 Susan K. Duffy

In the Matter of the Complaint by Circle H.)
Farms, LLC, Richard L. Hanson, Rome Farms)
and Stegman Farms Partnership Against) Docket No. 15-TKOG-236-COM
Texas-Kansas-Oklahoma Gas, LLC, for an)
Order for Adjustment and Refund of Unfair,)
Unreasonable and Unjust Rates for the Sale of)
Natural Gas for Irrigation Based on Inaccurate)
and/or False Pressure Measurements.)

ORDER DESIGNATING PRESIDING OFFICER

This matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and decision. Having reviewed the pleadings and record, the Commission makes the following findings:

1. On April 12, 2010, the Commission conditionally granted Texas-Kansas-Oklahoma Gas, LLC (TKO) a Limited Certificate of Public Convenience and Authority (Certificate) in the *Matter of the Application of Texas-Kansas-Oklahoma Gas, L.L.C., For a Limited Certificate of Public Convenience and Necessity*, Docket No. 08-TKOG-314-COC [*hereinafter* Docket No. 08-314], with later final approval of the certificate on March 16, 2012.¹ The Commission allowed TKO to serve specific customers transferred to TKO from Anadarko Natural Gas Company, LLC (Anadarko) and to negotiate individual contracts with non-residential customers for natural gas service.² The Commission Order further froze the rates TKO could charge to existing residential customers.

¹ Order Granting with Conditions, Docket No. 08-314 (April 12, 2010; Order Granting Limited Certificate of Public Convenience and Authority, Docket No. 08-314 (Mar. 16, 2012) [*hereinafter* Final Certificate Order].

² Order Granting with Conditions at 2-3, Docket No. 08-314 (Apr. 12, 2010).

2. On December 4, 2014, Circle H. Farms, LLC, Richard L. Hanson, Rome Farms, and Stegman Farms Partnership (Complainants) filed a complaint with the Commission against TKO. Circle H. Farms, LLC, Rome Farms, and Stegman Farms Partnership are irrigation customers of TKO.³ Richard L. Hanson is a residential customer of TKO.⁴ The Complainants allege “that the rates charged by TKO to complainants and others similarly situated for the sale of natural gas are unreasonable, unfair, unjust, unjustly discriminatory or unduly preferential, and are therefore unlawful and void.”⁵

3. On April 20, 2017, the Commission issued its Final Order.⁶ The Commission denied the requested relief to Circle H. Farms, LLC, Rome Farms and Stegman Farms Partnerships set out in their complaint; sustained and granted the requested relief of Hanson’s complaint; and set out specific instructions to TKO and Commission Staff.⁷

4. On May 5, 2017, the Complainants filed a Petition for Reconsideration,⁸ and on May 25, 2017, the Commission issued its Order on Petition for Reconsideration.⁹

5. On June 23, 2017, TKO filed a Petition for Judicial Review with the District Court of Stevens County, Kansas. The District Court issued an Order on Petition for Review on June 28, 2018, reversing the Commission’s order and remanding the case to the Commission “to calculate and order that TKO make refunds to its irrigation customers based on the 9.5% overbilling from the date TKO first began operations in Kansas in 2007 to the present.”

6. On July 26, 2018, TKO filed a Notice of Appeal of the District Court’s decision to the Court of Appeals of the State of Kansas. The Court of Appeals issued a decision on April

³ Notice of Filing of Staff’s Report and Recommendation at 1 (May 5, 2015) [*hereinafter* 2015 R&R].

⁴ *Id.*

⁵ Complaint at 2 (Dec. 4, 2014).

⁶ Final Order (Apr. 20, 2017).

⁷ *Id.*, pp. 16-17.

⁸ Complainants’ Petition for Reconsideration (May 5, 2017).

⁹ Order on Petition for Reconsideration (May 25, 2017).

10, 2020, affirming in part and reversing in part the District Court’s decision. The Court remanded the case “to the agency with directions to consider the appropriate steps to remedy TKO’s consistent overcharging of its customers.”

7. On May 8, 2020, TKO filed a Petition for Review with the Supreme Court of the State of Kansas. The Supreme Court issued its Syllabus by the Court on July 16, 2021, affirming the Court of Appeals’ decision on the issues subject to review, and affirming in part and reversing in part the Judgment of the District Court. The Supreme Court remanded the case to the Commission with directions outlined within the Syllabus.

8. The Commission may designate a presiding officer to conduct prehearing conferences to address any matters appropriately considered in a prehearing conference, including all items listed in K.S.A. 77-517(b) of the Kansas Administrative Procedure Act (KAPA). Accordingly, the Commission designates David G. Cohen, Assistant General Counsel, 1500 SW Arrowhead Road, Topeka, KS 66604, telephone number (785) 271-3198, d.cohen@kcc.ks.gov to serve as Presiding Officer in this proceeding.¹⁰ The Commission may designate other staff members to serve in this capacity.

THEREFORE, THE COMMISSION ORDERS:


A. David G. Cohen is designated Presiding Officer in this proceeding.

BY THE COMMISSION IT IS SO ORDERED.

French, Chairperson; Keen, Commissioner; Duffy, Commissioner

Dated: 09/16/2021

DGC



Lynn M. Retz
Executive Director

¹⁰ K.S.A. 77-514; K.S.A. 77-516; K.S.A. 77-551.

CERTIFICATE OF SERVICE

15-TKOG-236-COM

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of electronic service on 09/16/2021.

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CERTIFICATE OF SERVICE

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