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Kansas Corporation Commission

THE STATE CORPORATION COMMISSION OF THE STATE OF KANSAS

Before Commissioners: Shari Feist Albrecht, Chair
Jay Scott Emler
Pat Apple

In the Matter of Kaw Pipe Line Filing for Approval of Tariff Rates Implementing Increased Rates Based on the FERC Indexing Methodology	Docket No. 15-KAWP-564-TAR

ORDER APPROVING TARIFF REVISIONS

The above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and decision. Having reviewed the pleadings and record, and being duly advised in the premises, the Commission makes the following findings and conclusions:

I. BACKGROUND

1. On May 28, 2015, Kaw Pipe Line Company (Kaw) filed an Application with the Commission seeking to implement tariff revisions that would increase its rates consistent with the Federal Energy Regulatory Commission's (FERC's) annual indexing methodology.[1]

2. On June 4, 2015, this Commission issued a Suspension Order giving Commission Staff (Staff) additional time necessary to conduct a review of Kaw's Application.[2]

3. On June 30, 2015, Staff prepared a Report and Recommendation for the above-captioned matter, wherein Staff recommended Commission approval of the instant Application.[3]

[1] *See* Application for Kaw Pipe Line Company (May 28, 2015).
[2] Suspension Order (Jun. 4, 2015).
[3] *See* Report and Recommendation, p. 1 (Jun. 30, 2015) (R&R).

II. ANALYSIS

4. Staff's Report and Recommendation dated June 30, 2015, attached hereto, is hereby adopted by reference and incorporated in full into this order.

5. Kaw's Application seeks to replace supplements in its tariffs K.C.C. No. 140, K.C.C. No. 143, K.C.C. No. 144, and K.C.C. No. 145.[4] Kaw's proposed revisions seek to implement an annual rate adjustment utilizing the FERC's indexing methodology.[5]

6. Kaw is proposing to increase its overall general commodity rates by 4.5829% to reflect the annual change in the Producer Price Index for Finished Goods as utilized in FERC's indexing methodology.[6] As Staff notes, in the liquids pipeline industry (which Kaw is engaged in), the most commonly accepted method for adjusting rates is the FERC indexing methodology that establishes ceiling levels for base rates.[7] The Commission has approved indexing methodology rate increases for companies engaged in the liquid pipeline business in previous dockets.[8]

7. Staff has analyzed the instant Application, and confirms that Kaw's Application contains the correct application of FERC's indexing methodology as applied to Kaw's proposed intrastate tariff revisions.[9] Based on those calculations, Kaw's proposed tariff revisions bring its general commodity rates up to FERC ceiling levels. Staff considers the requested rate increase to be both reasonable and consistent with rate methodology applied and accepted throughout the liquids pipeline industry.[10] Staff noted that it considers the FERC indexing methodology an

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[4] *See* Application, p. 1; *See also* R&R, pp. 1-2.
[5] *See* R&R, p. 1.
[6] *See id.*
[7] *See id.* at p. 2.
[8] *See id.* at p. 3.
[9] *See id.* at p. 2.
[10] *See id* at pp. 2-3.

acceptable means of adjusting base rates, and that Kaw's Application will result in just and reasonable rates while maintaining sufficient and efficient service.[11]

III. FINDINGS AND CONCLUSIONS

8. Pursuant to K.S.A. 66-117, a public utility over which the Commission has jurisdiction cannot make effective any changed rate, joint rate, toll, charge or classification or schedule of charges, or any rule or regulation or practice pertaining to the service of a public utility except by filing with the Commission.[12] The Commission may suspend the effective date of the application or order while it conducts its investigation of the utility's proposal.[13]

9. The Commission finds that utilization of the FERC indexing methodology in this instance is an appropriate means to calculate Kaw's base rates. The Commission finds that its practice of pattern regulation of intrastate oil and liquids pipeline rates and tariffs from federally authorized rates for interstate service is prudent. However, the Commission reserves the right to subject such filings to further investigations as necessary and proper upon the receipt of complaints or protests from third parties, or upon the recommendation from Staff.

10. The Commission concurs with Staff's Report and Recommendation as well as its findings. Specifically, the Commission finds that approval of Kaw's Application will result in just and reasonable rates and sufficient and efficient service.

11. Upon review of the record as a whole, the Commission concludes Staff's findings and recommendation are reasonable and therefore adopts the same. Kaw's request for Commission approval of tariff revisions is granted.

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[11] *See id.* at p. 3.
[12] *See* K.S.A. 66-117(a).
[13] *See* K.S.A. 66-117(c).

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. Kaw Pipe Line Company's Application to implement tariff revisions based upon the Federal Energy Regulatory Commission's annual indexing methodology is hereby granted.

B. The parties have 15 days, plus three days if service of this Order is by mail, to petition the Commission for reconsideration.[14]

C. The Commission retains jurisdiction over the subject matter and parties for the purpose of entering such further orders as it deems necessary.

BY THE COMMISSION IT IS SO ORDERED.

Albrecht, Chair; Emler, Commissioner; Apple, Commissioner

Dated: JUL 30 2015

Amy L Gilbert

ORDER MAILED JUL 31 2015

Amy L. Gilbert
Secretary to the Commission

REV

[14] K.S.A. 66-118b; K.S.A. 77-529(a)(1).

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REPORT AND RECOMMENDATION
UTILITIES DIVISION

TO: Chair Shari Feist Albrecht
Commissioner Jay Scott Emler
Commissioner Pat Apple

FROM: Kristin Casarona, Natural Gas and Pipeline Operations Analyst
Leo Haynos, Chief of Pipeline Safety
Jeff McClanahan, Director of Utilities

DATE: June 30, 2015

SUBJECT: Docket No. 15-KAWP-564-TAR:
In the Matter of Kaw Pipe Line Company Filing for Approval of Tariff Revisions Implementing Increased Rates Based on the FERC Indexing Methodology.

EXECUTIVE SUMMARY:

In the instant Application, Kaw Pipe Line Company (Kaw) is filing for approval to implement an annual rate adjustment utilizing the Federal Energy Regulatory Commission's (FERC's) indexing methodology. The rate adjustment sought would increase overall rates by 4.5829%.

The estimated aggregate revenue value of the proposed rate increases to Kaw is $383,500 annually. This amount is based on estimated Kansas intrastate volumes to be moved from July 1, 2015, through June 30, 2016, on Kaw's system along with the proposed rate changes described in this filing.

Staff is recommending Commission approval of the instant Application.

BACKGROUND:

Kaw operates as an intrastate liquids pipeline common carrier in the State of Kansas under the current tariffs K.C.C. No. 140, K.C.C. No. 143, K.C.C. No. 144, K.C.C. No. 145, and Supplements thereto. Kaw transports crude petroleum from various points in Graham, Rooks, Trego, Ellis, Rush, Russell, and Barton Counties in Kansas to Chase and Lyons Stations in Rice County, Kansas. The Kaw system is a Kansas-only intrastate system. The tariff comprising the rules and regulations that govern the aforementioned tariffs is Supplement No. 1 to K.S.C.C. No. 118, approved by the Commission on October 1, 1991.

Kaw was originally formed as a business entity on October 1, 1935, in the State of Kansas. Kaw was originally certificated by the Commission on September 14, 1953, in KCC Docket No. 16365. The National Cooperative Refinery Association (NCRA) in McPherson, Kansas, owns seventy-five percent of Kaw and CITGO Petroleum Corporation owns the remaining twenty-five percent.

On May 28, 2015, Kaw filed an Application with the Commission to approve tariff revisions in order to implement overall rate increases by 4.5829% utilizing FERC's annual indexing methodology. In implementing these rate increases, Kaw seeks to replace its tariffs as follows:

- K.C.C. No. 140: Supplement No. 9 replaces No. 8
- K.C.C. No. 143: Supplement No. 11 replaces No. 10
- K.C.C. No. 144: Supplement No. 11 replaces No. 10
- K.C.C. No. 145: Supplement No. 11 replaces No. 10

All of Kaw's intrastate shippers and subscribers have received proper written notification as required by the Commission. Additionally, Kaw will be posting the revised tariffs on its official company website: http://www.jayhawkpl.com, providing public access to all parties in interest. There have been no objections to the changes nor any complaints made or filed with the Commission to date.

ANALYSIS:

Kaw is a liquids pipeline common carrier under the jurisdiction of the Commission that is engaged in the transportation of liquid hydrocarbons within the meaning of K.S.A. 2014 Supp. 66-105 and K.S.A. 66-1,215 (which defers to the 66-105 definition).[1]

Tariffs and associated rates for liquids pipeline common carriers are subject to the Commission's authority pursuant to K.S.A. 66-117, K.S.A. 66-1,217, K.S.A. 66-1,218, and K.A.R. 82-10-2. Relevant excerpts are included in Attachment A.

In the liquids pipeline industry, the most commonly accepted method for adjusting rates is the FERC's indexing methodology that establishes ceiling levels for base rates annually. This methodology gives pipeline companies the option to adjust their interstate tariff rates every year, effective July 1st, provided the adjusted rates do not exceed their annual calculated ceiling level (unless circumstances warrant an alternative rate adjustment be used). The FERC's indexing methodology uses the *Producer Price Index for Finished Goods* (PPI-FG) indexing factor and is detailed in Attachment B to this Report and Recommendation. The PPI-FG indexing factor posted on the FERC

[1] Common Carriers are defined in K.S.A. 2012 Supp. 66-105, which states, "As used in this act, 'common carriers' shall include all freight-line companies, equipment companies, pipe-line companies, and all persons and associations of persons, whether incorporated or not, operating such agencies for public use in the conveyance of persons or property within this state."

website for the period of July 2015 through June 2016 is 4.5829%.[2] Pipeline companies that take advantage of the interstate tariff adjustments most often file concurrent adjustments in their intrastate rates.

In this specific filing, Kaw is proposing to increase its overall general commodity (base) rates by 4.5829% to reflect the annual change in the PPI-FG by utilizing the FERC indexing methodology described above. These rates include all transportation rates and most related service charges necessary to the transportation of Kaw's products. The related charges include services for metered truck receipts, leased metered receipts, and pipeline connection receipts. Kaw has provided ceiling level calculations in the instant Application. Staff has analyzed these calculations and verified the correct application of the current indexing factor has been applied, bringing each rate up to its respective FERC ceiling level. Although the Kaw pipeline system is strictly a Kansas intrastate system at this time, Staff considers the requested rate increases to be both reasonable and consistent with the rate methodology applied and accepted in the liquids pipeline industry.

There are two standards typically used to review liquids pipeline common carrier tariff applications in Kansas[3]:

1. Just and reasonable rates: rates with terms and conditions that are non-discriminatory – available to all shippers, are comparable with rates for shipping similar products over similar routes and facilities within the industry in Kansas; and
2. Efficient and sufficient service: Service that is non-discriminatory and attempts to meet the needs of the shippers while providing adequate recovery of costs to the suppliers (carriers).

Generally, in the absence of shipper complaints and/or protests, the Commission's regulatory practice has been to pattern its regulation of intrastate oil/liquids pipeline rates and tariffs from the federally authorized rates for interstate service. Staff finds a consistent application of rates and regulatory treatment is prudent and also considers the FERC's indexing rate methodology an acceptable means of adjusting rates that meets the two standards of review. Staff, therefore, determines there will be no adverse impact on public convenience as a result of approving this filing and supports the requested rate increases. Further, the Commission has approved the indexing methodology in previous tariff filings.[4]

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[2] The annual average PPI-FG index figures were 196.6 for 2013 and 200.4 for 2014. Therefore, the index factor used for the period of July 2015 through June 2016 is [200.4-196.6]/196.6 = 0.019329 + .0265 = 0.045829.

[3] Pursuant to K.S.A. 66-117 and 66-1,217.

[4] Examples include KCC Docket Numbers 14-MDAP-548-TAR, 14-MDAP-549-TAR, 14-KNBP-553-TAR, 14-MGPP-555-TAR, 14-PPLP-552-TAR, 14-ONSP-554-TAR, 14-KAWP-547-TAR, and 14-JYHP-550-TAR.

RECOMMENDATION:

In conclusion, Staff recommends the Commission grant Kaw's request to approve the tariff revisions identified as Supplement No. 9 to K.C.C. No. 140, Supplement No. 11 to K.C.C. No. 143, Supplement No. 11 to K.C.C. No. 144, and Supplement No. 11 to K.C.C. No. 145, increasing its overall rates by 4.5829% utilizing the FERC indexing methodology.

Attachments

ATTACHMENT A

KCC Liquids Pipeline Jurisdiction - excerpts:

K.S.A. 66-117(d) states in part:

> (d) Except as provided in subsection (c), no change shall be made in any rate, toll, charge, classification or schedule of charges or joint rates, or in any rule or regulation or practice pertaining to the service or rates of any such public utility or common carrier, without the consent of the commission.

K.S.A. 66-1,217 states in part:

> Every common carrier, except a motor carrier holding a certificate of public service, governed by this act shall be required to furnish reasonably efficient and sufficient service, joint service and facilities for the use of any and all products or services rendered, furnished, supplied or produced by such common carrier, to establish just and reasonable rates, joint rates, tolls, charges and exactions and to make just and reasonable rules, classifications and regulations.

Further, K.S.A. 66-1,218 further requires every liquids pipeline common carrier doing business in Kansas:

> … to publish and file with the Commission copies of all schedules of rates, joint rates, tolls, charges, classifications and divisions of rates affecting Kansas traffic, either state or interstate, and shall furnish copies of all rules, regulations and contracts between common carriers … pertaining to any and all services to be rendered by such common carriers. The Commission shall have power to prescribe reasonable rules and regulations regarding the printing and filing of all schedules, tariffs, and classifications of all rates, joint rates, tolls, charges and all rules and regulations of such common carriers.

K.S.A. 66-131(a) states in part:

> (a) No person or … common carrier or public utility, including that portion of any municipally owned utility defined as a public utility by K.S.A. 66-104, and amendments thereto, governed by the provisions of this act shall transact business in the state of Kansas until it shall have obtained a certificate from the corporation commission that public convenience and necessity will be promoted by the transaction of said business and permitting said applicants to transact the business of a common carrier or public utility in this state.

Finally, K.A.R. 82-10-2 provides the Commission with the authority to require, "all relevant facts and data pertaining to its [liquids common carrier pipeline companies'] business and operations which will assist the commission in arriving at a determination of rates which will be fair, just and reasonable both to the applicant and the public."

<u>ATTACHMENT B</u>

In the liquids pipeline industry, the most commonly accepted method for adjusting rates is the Federal Energy Regulatory Commission's (FERC's) indexing methodology. FERC established this methodology in FERC Order No. 561, Revisions to Oil Pipeline Regulations Pursuant to the Energy Policy Act of 1992, and deemed that all rates being charged by pipeline companies in 1995 be considered **ceiling** levels for each pipeline company's rates. Subsequently, every pipeline company must recalculate its ceiling rate annually using this indexing methodology to compensate for both inflationary and deflationary costs (unless circumstances warrant an alternative rate adjustment to be used). Every pipeline company then has the option to adjust the actual rates it charges, effective July 1st of each year, based on these adjustments **as long as** it does not exceed its calculated ceiling rate. The indexing methodology is delineated in 18 CFR Part 342.3.

Currently, the index is based on the annual change in the Producer Price Index for Finished Goods (PPI-FG). The index is usually calculated each year around the month of May to be used in tariff filings for the following fiscal year. If it is determined at any time that a pipeline company had been charging its ceiling tariff and subsequently failed to lower its tariffs when its ceiling rate was recalculated at a lower rate due to deflationary costs (as was the case in 2003 and 2010 when the annual change in PPI-FG was negative), then that pipeline becomes subject to refunding the amount of overcharge with interest applied. The rules regarding refunds and interest can be found in 18 CFR Part 340.1 (c). The interest rate applied is typically derived from this section of the federal code and the quarterly rates are posted on the FERC web site at http://www.ferc.gov/legal/acct-matts/interest-rates.asp. The code also states that "interest shall be computed from the date of collection (of the overcharged amounts) until the date refunds are made … and interest is to be compounded quarterly."

Every five years the FERC reviews the annual reports for each period of all the liquid pipeline companies. Based on costs, expenses and revenues, FERC determines an indexing factor based on the PPI-FG. Pipeline companies may use this factor to establish new ceiling base rates for each July through June fiscal year. A table of the indices applied each year from 1995 to present can be found at http://www.ferc.gov/industries/oil/gen-info/pipeline-index.asp. FERC completed a five-year review in 2010 and established the factor to be used in annual indexing for the five-year period ending in 2015 to be PPI-FG PLUS 2.65%. Their "Order Establishing Index for Oil Price Change Ceiling Levels" was issued on December 16, 2010. **Pipeline companies that take advantage of the interstate tariff adjustments have always filed concurrent adjustments in their state rates, where applicable.** Furthermore, if a pipeline company does not take advantage of an indexing rate adjustment in one particular year, it is then allowed to take advantage of that indexing adjustment in subsequent years, aggregated, to bring its rates up to its current ceiling base rate allowed by FERC. Again, this aggregate index filing is accepted as long as the pipeline company **does not exceed its calculated ceiling base rates**.

IN RE: DOCKET NO. **15-KAWP-564-TAR** DATE **JUL 3 0 2015**

PLEASE FORWARD THE ATTACHED DOCUMENT (S) ISSUED IN THE ABOVE-REFERENCED DOCKET TO THE FOLLOWING:

NAME AND ADDRESS	NO. CERT. COPIES	NO. PLAIN COPIES
ROBERT VINCENT, ASSISTANT GENERAL COUNSEL KANSAS CORPORATION COMMISSION 1500 SW ARROWHEAD RD TOPEKA, KS 66604-4027 *****Hand Delivered*****		
ELLEN GILBERT KAW PIPE LINE CO. 2000 S MAIN MCPHERSON, KS 67460		
RICK PETERSEN, VICE PRESIDENT KAW PIPE LINE CO. 2000 S MAIN MCPHERSON, KS 67460		

ORDER MAILED JUL 3 1 2015

The Docket Room hereby certified that on this ___ day of ________________, 20______, it caused a true and correct copy of the attached ORDER to be deposited in the United States Mail, postage prepaid, and addressed to the above persons.