

THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS

STATE CORPORATION COMMISSION

Before Commissioners:            Brian J. Moline, Chair  
   Robert E. Krehbiel  
   Michael C. Moffet

DEC 09 2005

 Docket  
Room

In the Matter of the General Investigation    )  
to Determine a Commission Policy            ) Docket No. 06-GIMG-400-GIG  
Regarding Customers Served Directly or    )  
Indirectly by Gas Gathering Systems.        )

**COMMENTS OF THE CITIZENS' UTILITY RATEPAYER BOARD**

The problems in the Hugoton natural gas field are more complex than the simple fact that that there is not enough gas left to serve existing customers, or that some customers are receiving sour gas. There are much larger economic problems to address in connection with these issues.

The economy of southwestern Kansas depends on agriculture, particularly the raising, feeding and processing of cattle and hogs. Irrigation enables farmers to grow feed crops that are otherwise unsuitable for the semi-arid climate of the area. They sell the crops to nearby feedlots, ranchers and manufacturers of cattle and hog feed. In turn, the cattle and hogs and are sold to meat processors, which supply the people of the United States and many foreign countries with meat and related products.

The meat-related industries that drive the southwestern Kansas economy would not exist without the availability of three main resources: lots of wide open space in which to raise crops and livestock, natural gas to power irrigation pumps, and water. While the focus of this docket is the natural gas in the Hugoton field, also underlying

much of western Kansas is the Oglallah aquifer, the primary source of groundwater for much of western Kansas. The fates of the Hugoton field and the Oglallah aquifer are inextricably intertwined, and it cannot be emphasized enough that policy makers must take the condition of both of these resources into account in making decisions about one or the other.

The Oglallah aquifer was created millions of years ago by the melting snows of the Rocky Mountains, but geological changes over the eons have cut off the aquifer from its primary supply of water. Although it is replenished by sparse rainfall, widespread use of irrigation in western Kansas is depleting the Oglallah faster than it is replenished. Exacerbating the problem is that certain methods of irrigation also tend to create caliche, a calcium-based deposit that forms a crust beneath irrigated soils that resists penetration by rainfall. Where caliche has formed, rainfall runs off rather than soaks in to recharge the aquifer. Thus, the Oglallah, for all practical purposes, is a finite, non-renewable resource.

In some areas of western Kansas, the aquifer has been depleted to the point where it is no longer economically viable to irrigate, because the costs of drilling deeper wells and pumping from greater depths erodes the profits that can be derived from irrigating crops. In other words, the Oglallah is a mine that is beginning to show signs of playing out.

The Hugoton field is also a finite, non-renewable resource. Natural gas in the Hugoton field has been an economical source of fuel for many years, but field pressures are dropping as the resource is being depleted, and in some areas of the field, the gas is so depleted that it is no longer economically viable to operate wells.

And, as everyone involved in this docket is aware, hydrogen sulfide is being discovered with more frequency in wells throughout the field. Gas soured by hydrogen sulfide is not only corrosive to field equipment and pipe, but is dangerous to humans and livestock. The appearance of sour gas in gathering systems and pipelines in the area has led operators of the systems to curtail service to exit tap customers in the region, and there is concern that curtailment will become widespread, damaging the economy that is so dependent on irrigated crops.

The concern is justified. There is still plenty of wide open space in southwestern Kansas, but it is becoming increasingly clear that the supply of natural gas and water is not unlimited. It is not a matter for speculation whether southwestern Kansas will run out of natural gas or water: it will, eventually. Time will tell whether the natural gas runs out before or after the water does.

But why is the Citizens' Utility Ratepayer Board (CURB), which represents the residential and small commercial customers of the regulated utilities, concerned about these issues, which are primarily affecting customers in southwestern Kansas who are not our constituents? And why is it raising concerns about the depletion of the Oglallah to the Kansas Corporation Commission, which has no jurisdiction over water supplies in Kansas?

The reasons are simple. First of all, the economy of southwestern Kansas depends on the viability of the Hugoton field and the Oglallah aquifer. Many of the residents of the area are our constituents. Their jobs depend on the continued success of agriculture in the region. If the feedlots or meat processors in the area close, the job losses would empty cities like Dodge City, Garden City or Liberal, and virtually destroy

smaller communities that depend on such industries. The remaining customers of the regulated public utilities in the area would be overburdened by the costs of supporting their public utilities with diminishing customer bases and decreasing revenues. CURB does not want that to happen to our constituents.

Secondly, CURB believes it is essential that policy makers who are developing policies concerning dwindling or poisoned supplies of gas in the Hugoton field develop them in consultation with policy makers charged with developing policy concerning the dwindling supplies of water in the Ogllalah aquifer. Without coordination of these efforts, the results may exacerbate the problems instead of provide solutions.

It would make no sense, for example, for the KCC to order the regulated public utilities to extend distribution systems to former exit tap customers if the water underlying those customers won't last long enough to enable the utilities to recoup the costs of building out to those customers. It would make no sense, for another example, to develop policies that would force the regulated utilities to build distribution systems out to curtailed irrigators if there are organizations of irrigators willing and able to build and operate these systems for themselves. It certainly would make no sense for the KCC to develop a system of rules and regulations intended to foster continued irrigation in southwestern Kansas if, across town, there is another body of decision makers developing a system of rules and regulations intended to discourage irrigation in the area.

Thus, it is clear that these issues cannot be addressed solely by the KCC. The KCC does not have jurisdiction or authority over gas gathering systems, water supplies or federally-regulated pipelines—all of which are critical elements of the problems in the Hugoton field and integral to any possible solution. There is no single agency in the

State of Kansas that has the expertise and competence to deal with these issues, let alone the jurisdiction.

Only the legislature has the power and authority to address the wide range of concerns that have arisen with the depletion of Hugoton field pressures and the appearance of sour gas in various gathering systems in the area. CURB does not believe that these issues can be effectively addressed by a task force without jurisdiction or authority to enact laws or regulations. Even the KCC's jurisdiction is not nearly broad enough to effectively address these issues. CURB is concerned that the problems of the Hugoton field are simply too complex and serious to be handled by any agency without jurisdiction or authority to act to address the broad range of concerns. The legislature must become more involved in providing the KCC or other agencies the jurisdiction, authority and resources necessary to tackle this huge and complex task.

Thirdly, CURB is concerned with who is going to have to pay for providing alternative supplies for individual customers who have been curtailed from exit taps that were used for residential purposes. Many residential customers have been shut off from exit taps that were maintained, metered and billed by regulated public utilities such as Aquila and Midwest Energy, and there are concerns that more shut-offs may be necessary as sour gas becomes more prevalent in the region. If those customers are converted to propane at the utilities' expense, why should ratepayers foot the bill? Those customers will never again contribute to the cost of service, because they have left the system entirely. CURB is not insensitive to the fact that last winter's shut-offs posed special problems for the utilities that may have merited emergency solutions, but that does not justify sticking ratepayers with the bills for problems entirely unrelated to the cost of

service of serving them. CURB certainly believes that any future KCC policies relating to residential curtailments should explicitly provide that ratepayers will not bear the costs of turning jurisdictional customers into non-jurisdictional customers.

Additionally, CURB is quite concerned about the economic non-viability of building distribution systems out to remote locations with a small, fixed set of customers. The cost of service of regulated public utilities outside densely-populated urban areas is already high: extending their distribution systems at high cost to serve only a few customers is going to make the cost of service even higher. And who will be there to bear the costs of building such systems in areas where the aquifer plays out? CURB urges all policy makers involved in making decisions about the curtailment problems in Hugoton field to investigate thoroughly the costs and benefits of extending distribution systems into remote areas before deciding this is a viable option.

Lastly, putting economic concerns aside for a moment, the safety of the public is of paramount concern. Hydrogen sulfide is deadly to people and livestock. Residential and interior commercial uses of sour gas must be discouraged, if not outlawed entirely. Any permitted uses of sour gas in proximity to humans or livestock should be strictly regulated. It may be possible, for example, to utilize sour gas relatively safely in irrigation engines in isolated locations, but safeguards must be provided to protect the lives of anyone who might come into contact with the gas. However, it must be noted that since fear of lawsuits have driven many of the curtailments thus far, even in circumstances where the danger wasn't apparent, the existence of safety regulations alone would not necessarily prompt system operators to allow taps in systems containing sour gas.

It might be simpler if the legislature enacted laws that authorize the state to order the operators of sour gas wells connected to gathering systems and pipelines with exit tap customers to disconnect the wells until the gas tests clean. This would help eliminate sour gas from contaminating other wells and pipelines, and would also prevent wholesale curtailment of exit taps on a system that could deliver clean gas to those customers if weren't for a few sour wells. Given the fact that laws in the state tend to favor the rights of producers over those of end users of gas, the elegance of this solution may be complicated by pressures to maintain the primacy of the rights of producers relative to end users.

Discussions in task force meetings have made it clear that developing legislation or regulations that designate what is an "unsafe" level of hydrogen sulfide in natural gas is going to be a difficult task. First of all, natural gas is already a toxic substance to humans and livestock, and it is dangerous to handle without proper safety mechanisms and procedures in place. How do we adequately address the irony of labeling a dangerous, toxic substance "safe" when it does not contain hydrogen sulfide, but "unsafe" when it does? It has taken a hundred years of experience to develop natural gas safety procedures, equipment and regulations that adequately protect the public; it goes without saying that it will not be a simple task to develop the same sort of safety protocols to handle the additional complications and dangers posed by sour gas.

The task will be complicated by the fact that sour gas is objectionable for more reasons than the safety to living beings who breathe deadly concentrations of it. It is highly corrosive to pipelines and equipment, which leads pipelines to curtail taking sour gas at concentrations that may damage their equipment. Thus, exit tap users may find

their supply cut off because the pipeline makes an economic decision to quit handling sour gas, a decision entirely independent of the concern for public safety. Certainly, corrosion in pipelines can create dangerous leaks, but the level at which a pipeline will refuse to take sour gas is determined primarily by economics, not concern for the safety of exit tap users.

If the costs of processing sour gas and maintaining a pipeline in spite of excess corrosion do not jeopardize the profits made from selling the processed gas, a company will continue to accept sour gas, even if it has cut off farm taps from taking the gas for safety or liability reasons. Likewise, there may be circumstances in which sour gas still has economic value to an irrigator, but the supplier curtails service out of liability concerns, regardless of the actual danger involved in providing the irrigator with sour gas. The level at which natural gas is unacceptably “sour” depends on the uses to which it may be put and under what kind of circumstances people or livestock may come into contact with it. Very sour gas used to run an irrigation well in an isolated and windy spot in far western Kansas may not pose nearly the danger that slightly sour gas might when used in heating a home or in a feed processing plant, so it is difficult to say what is or is not an acceptable level of hydrogen sulfide in natural gas.

Whatever specific level of hydrogen sulfide is determined should trigger notification or curtailment because of concerns for public safety, it will very likely be a level that does not correspond with a pipeline’s view or an irrigator’s view of what is an unacceptable level. Whoever makes the ultimate decision, they should keep in mind that there are economic reasons as well as safety reasons driving the various parties to advocate for certain thresholds.



CURB is not well-positioned to advise the Commission on the various contractual issues and pipeline safety issues beyond our jurisdiction. Our primary concern is that any efforts made toward solving the problems of the Hugoton field area not only address public safety in a rational manner, but make good economic sense as well, and protect the interests of residential and small commercial ratepayers. Additionally, we are concerned, as noted above, that realistic solutions to the problems are beyond the jurisdiction and authority of the Commission to implement, and therefore urge the Commission to seek assistance from the legislature in obtaining assistance from other agencies or the jurisdiction to tackle the wide range of issues that are involved.

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**CERTIFICATE OF SERVICE**

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