

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

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

In the Matter of a General Investigation Regarding        )  
the Acceleration of Replacement of Natural Gas        )        Docket No. 15-GIMG-343-GIG  
Pipelines Constructed of Obsolete Materials        )  
Considered to be a Safety Risk.        )

**ORDER DENYING PETITIONS FOR RECONSIDERATION  
AND GRANTING CLARIFICATION**

This matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and decision. Having reviewed the files and records, and being duly advised, the Commission finds and concludes as follows:

**I. Procedural Background**

1.        On February 2, 2015, Commission Staff (Staff) submitted a Report and Recommendation (R&R) recommending the Commission open a general investigation to receive comments from Atmos Energy (Atmos), Black Hills Energy (Black Hills), Kansas Gas Service (KGS), the Citizens' Utility Ratepayer Board (CURB) and Staff on proposed parameters of an accelerated natural gas pipeline replacement program.<sup>1</sup>

2.        On March 12, 2015, the Commission issued an *Order Opening General Investigation* and adopted the recommendations set forth in Staff's R&R.

3.        On October 8, 2015, Atmos filed the Direct Testimony of Christian L. Paige, Gary L. Smith, and John S. McDill and on February 26, 2016, filed the Rebuttal Testimony of Christian L. Paige and Gary L. Smith.

---

<sup>1</sup> Atmos, Black Hills, and Kansas Gas Service shall henceforth be referred to collectively as the "Gas Utilities."

4. On October 8, 2015, Black Hills filed the Direct Testimony of Richard G. Petersen, Jerry A. Watkins, and Todd J. Jacobs and on February 26, 2016, filed the Rebuttal Testimony of Nicholas Gardner.

5. On October 9, 2015, KGS filed the Direct Testimony of David Dittmore and Randal B. Spector and on February 26, 2016, filed the Rebuttal Testimony of David Dittmore and Randal B. Spector.

6. On November 3, 2015, the Commission issued an *Order Setting Procedural Schedule, Discovery Order and Protective Order*.

7. On January 29, 2016, Staff filed the Direct Testimony of Leo M. Haynos and Justin T. Grady.

8. On January 29, 2016, CURB filed the Direct Testimony of Andrea Crane and Edward McGee.

9. On March 16, 2016, KGS filed a list of issues to clarify the scope of the Accelerated Pipeline Replacement Plan to be considered in this docket.

10. On March 17, 2016, Staff, CURB, Atmos, and Black Hills filed a joint List of Contested Issues. The filing parties specifically offered the following issues for Commission consideration:

- a. Is it in the public interest for Kansas utilities to accelerate replacement of pipelines constructed of obsolete materials?
- b. If the Commission finds programs for the accelerated replacement of obsolete pipe to be in the public interest:
  - i. What are the necessary and appropriate parameters of the programs; and
  - ii. Should the gas utilities be allowed to recover the costs of the programs through an alternative ratemaking mechanism; and if so,
  - iii. What type of alternative ratemaking mechanism is most appropriate for recovery of program costs?

11. On March 30 and 31, 2016, the Commission held an evidentiary hearing at its Topeka office to create an evidentiary record allowing the Commission to establish a policy on gas infrastructure replacement within the state of Kansas. The hearing was conducted in two phases and was intended to narrowly focus on the two main issues provided in the joint List of Contested Issues. Testimony in each phase was given in a panel discussion format with opportunity for cross-examination, redirect and Commission questions.

12. On March 17, 2017, KGS filed a Motion to Supplement the Evidentiary Record with the Supplemental Testimony of Randal B. Spector.

13. On September 12, 2017, the Commission issued a Final Order (Order).

14. On September 27, 2017, Atmos, Black Hills and KGS each filed a Petition for Reconsideration (PFR, collectively Petitions).

15. On October 9, 2017, CURB filed a Response to Black Hills, Atmos, and KGS' Petitions.

## **II. Petitions**

### **Atmos**

16. Atmos sought reconsideration of the Commission's Final Order on two grounds.<sup>2</sup> First, Atmos asserted the conditions imposed by the Commission's alternative ratemaking mechanism referred to as the Accelerated Replacement Program (ARP) lacked evidentiary support.<sup>3</sup> Further, Atmos claimed its due process rights are violated because it has not been granted an opportunity to introduce evidence that the ARP as proposed by the Commission is unreasonable, without foundation, and cost prohibitive to customers, and Atmos requested the

---

<sup>2</sup> Petition for Reconsideration of Atmos Energy Corporation, pp. 1-2 (Sep. 27, 2017) (Atmos PFR).

<sup>3</sup> Atmos PFR, p. 1.

Commission conduct further proceedings allowing Atmos to present the evidence it believed necessary for the Commission's consideration.<sup>4</sup>

17. Second, Atmos asserted the Commission's concern that Atmos' system may be at imminent risk of catastrophic failure and that Atmos places a higher emphasis on shareholder profits than on customer safety is unsupported by the evidentiary record.<sup>5</sup> In support of its contention Atmos maintained the evidentiary record showed that its system was safe<sup>6</sup> and that safety was its highest priority.<sup>7</sup> Atmos further stated that it was untenable for the Commission to have suggested in its Order that gas utility customers in Kansas have somehow been financially harmed by the gas utilities' previous pace of replacement of obsolete pipe; that gas utilities have somehow been imprudent in the pace of such replacement; and therefore, that implementing an alternative ratemaking mechanism allowing the gas utilities to recover their costs should be accompanied by a financial penalty because customers have been harmed by the absence of a more aggressive replacement program.<sup>8</sup> Atmos stated such a finding was not supported by substantial competent evidence.<sup>9</sup>

### **Black Hills**

18. Black Hills sought reconsideration of the Commission's order on two primary grounds. First, Black Hills requested reconsideration of any findings suggesting Black Hills' natural gas distribution system is not safe or that the gas utility has not shown a commitment to

---

<sup>4</sup> *Id.* at pp. 2-5.

<sup>5</sup> *Id.* at p. 5.

<sup>6</sup> *Id.* at pp. 6-12.

<sup>7</sup> *Id.* at p. 12.

<sup>8</sup> *Id.* at pp. 11-12.

<sup>9</sup> *Id.* at p. 12 (The Commission is not able to fully address this provision of Atmos' PFR, because Atmos failed to cite the portion of the Order containing the finding Atmos allegedly made by the Commission. The Commission has reviewed its Order and notes that it did not assess a penalty against any party nor did it state Atmos' past replacement efforts were imprudent. Therefore, the Commission cannot reconsider a finding it never made).

the operational safety of its system.<sup>10</sup> Black Hills argued the Commission's findings regarding the safety of its system and its commitment to operational safety were arbitrary and capricious and were not based upon reason and judgment.<sup>11</sup>

19. Second, Black Hills took issue with portions of the ARP. Specifically, Black Hills requested the Commission reconsider the 10-year pace of obsolete infrastructure replacement.<sup>12</sup> Black Hills also requested the Commission reconsider the prioritization of replacement of pipe in Class 3 locations.<sup>13</sup> Black Hills claimed there was no support in the record to change the recommended five year pilot program to four years and no overall support for a proposal that is different than the proposal that had the support of all parties to this general investigation.<sup>14</sup> Finally, Black Hills argued that requiring ARP be implemented as part of a general rate case is counter-intuitive to the reason for using an alternative ratemaking mechanism, namely the avoidance of filing a general rate case.<sup>15</sup>

## **KGS**

20. KGS raised a number of issues for reconsideration. First, KGS argued the Commission's condition of a 10 year replacement pace on an alternative ratemaking mechanism for accelerated infrastructure replacement is unsupported by the record.<sup>16</sup> Second, KGS argued the Commission erred in finding it would take KGS 67 years to replace its entire inventory of

---

<sup>10</sup> Petition for Reconsideration of Black Hills Energy, p. 16 (September 27, 2017) (Black Hills PFR)

<sup>11</sup> *Id.* at p. 5.

<sup>12</sup> *Id.* at pp. 7-8.

<sup>13</sup> *Id.* at p. 8.

<sup>14</sup> *Id.* at pp. 8-9.

<sup>15</sup> *Id.* at p. 9.

<sup>16</sup> Petition for Reconsideration of Kansas Gas Service, A Division of One Gas, Inc., pp. 3-6 (Sep. 27, 2017) (KGS PFR).

obsolete bare steel pipe.<sup>17</sup> Third, KGS requested the Commission reconsider its requirement to develop a new annual lost and unaccounted for gas report.<sup>18</sup>

21. Likewise, KGS took issue with a number of the components of the ARP, arguing that the record either does not support those components or the order does not adequately answer a number of necessary questions.<sup>19</sup> Specifically, KGS contested that the record is silent as to the rate impacts on customers if utilities are required to compress replacement programs into a 10-year period.<sup>20</sup> Second, KGS questioned whether the Commission considered that a program requiring removal of all bare steel and cast iron mains in Class 3 locations with the 10-year ARP time frame would divert resources from other projects that present higher safety risks.<sup>21</sup> Third, KGS questioned whether the \$.40 cap on ARP charges would permit recovery of costs appropriately and reasonably incurred to comply with the 10-year mandate.<sup>22</sup> Fourth, KGS argued the Commission did not consider the potential resource constraints that may hinder or negatively impact a compressed pipeline replacement schedule.<sup>23</sup> Fifth, KGS contended that the Commission did not consider the impact an implementation of a 10-year pipeline replacement program would have on affected towns and cities.<sup>24</sup> Sixth, KGS argued that the limitation on recovery of pipeline replacement costs to a utility's average replacement expenditures for the period 2014-2016 was unsupported in the record and directly penalizes KGS.<sup>25</sup> Seventh, KGS argued the four year pilot program was not supported by substantial competent evidence and

---

<sup>17</sup> *Id.* at p. 9.

<sup>18</sup> *Id.* at p. 12.

<sup>19</sup> *Id.*

<sup>20</sup> *Id.* at p. 4.

<sup>21</sup> *Id.* at p. 5.

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> *Id.* at p. 6.

<sup>25</sup> *Id.* at pp. 9-10.

directly contrary to the record evidence in support of a five year program.<sup>26</sup> KGS also argued the Commission erred in referring to KGS' Distribution Integrity Management Program (DIMP) Asset Investment Planning and Management (AIPM) as reactionary and requested the Commission find that investments in replacing Class 3 bare steel mains undertaken as a result of the DIMP/AIPM program would be eligible for recovery through the ARP.<sup>27</sup>

22. Finally, KGS requested the Commission approve KGS' proposed deferred cost recovery mechanism as an option for recovering costs attributable to an accelerated pipeline replacement program.<sup>28</sup>

### **CURB**

23. In its Response to the Gas Utilities' PFRs, CURB argued that the Commission's Order was lawful and reasonable and the Commission's findings were based upon substantial competent evidence.<sup>29</sup> Furthermore, CURB maintained the Commission's ARP formed a balance of the various positions urged by the parties in the docket and the Gas Utilities PFRs were meritless should be denied.<sup>30</sup> Specifically, CURB argued the Gas Utilities want the Commission to determine that the bare steel pipelines need to be replaced but only at the pace that the Gas Utilities deem to be necessary to spur rate base growth opportunities.<sup>31</sup>

### **III. Legal Standards**

24. Kansas courts examine the validity of Commission orders pursuant to the Kansas Judicial Review Act (KJRA), K.S.A. 77-621 et seq. On appeal, the party challenging the

---

<sup>26</sup> *Id.* at pp. 6-8.

<sup>27</sup> KGS PFR p. 8.

<sup>28</sup> *Id.* at pp. 14-15.

<sup>29</sup> CURB's Response to Petitions for Reconsideration, p. 18 (Oct. 17, 2017).

<sup>30</sup> *Id.*

<sup>31</sup> *Id.* at p. 9.

Commission's order bears the burden of proving the Commission's action was invalid.<sup>32</sup> The validity of the Commission's action is determined in accordance with the standards of judicial review provided in K.S.A. 77-621, as applied to the Commission's action at the time it issued its Final Order.<sup>33</sup> The party challenging the Commission's action must prove one of the eight grounds under K.S.A. 77-621(c) in order to obtain relief. The Gas Utilities arguments can be construed to assert the Commission's action was based upon the determination of facts that were not supported by evidence that is substantial when viewed in light of the record as a whole and was arbitrary and capricious.

25. The statute further states that the "record as a whole" shall include all record evidence, whether it supports or detracts from the Commission's findings.<sup>34</sup> The statute also notes that a court, in reviewing the record, will not re-weigh the evidence.<sup>35</sup> The Kansas courts have found that the Commission has discretion to weigh and accept or reject testimony.<sup>36</sup> On appeal, the court may not substitute its judgment for that of the Commission even though there may be conflicting evidence in the record that would support a contrary result.<sup>37</sup> Further, the court recognized that the Commission's decisions 'involve complex problems of policy, accounting, economics, and other special knowledge.' The Commission has experienced staff with backgrounds in statistics, accounting, and engineering, which appellate courts lack.<sup>38</sup>

26. The Kansas Supreme Court has held that substantial competent evidence possesses both relevance and substance and provides a substantial basis of fact from which the

---

<sup>32</sup> K.S.A. 77-621(a)(1).

<sup>33</sup> K.S.A. 77-621(a)(2).

<sup>34</sup> K.S.A. 77-621(d).

<sup>35</sup> *Id.*

<sup>36</sup> *Citizens' Util. Ratepayer Bd. v. State Corp. Comm'n of State*, 47 Kan. App. 2d 1112, 1124, 284 P.3d 348, 356-57 (2012).

<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

issues can be reasonably determined.<sup>39</sup> K.S.A. 77-621(c)(7) allows that “[t]he court shall grant relief only if it determines...the agency action is based on a determination of fact, made or implied by the agency, that is not supported to the appropriate standard of proof by evidence that is substantial when viewed in light of the record as a whole,<sup>40</sup> which includes the agency record for judicial review, supplemented by any additional evidence received by the court under this act” (emphasis added). The Commission is only required to make a clear finding that is specific enough to allow judicial review of the reasonableness of the order and which has record evidentiary support.<sup>41</sup>

27. An agency’s action is arbitrary and capricious if it is unreasonable or without foundation in fact.<sup>42</sup> “Whether an agency’s decision is arbitrary or capricious tests the reasonableness of the [agency’s] exercise of discretion in reaching the determination” at issue.<sup>43</sup> Unreasonable action is action taken without regard to the benefit or harm to all interested parties.<sup>44</sup>

#### IV. Analysis

28. Upon review of the record, the Commission finds it is necessary to amend its Final Order to provide the following clarifications.

---

<sup>39</sup> *Frick Farm Properties v. Kansas Dept. of Agriculture*, 289 Kan. 690, 709, 216 P.3d 170 (2009).

<sup>40</sup> In light of the record as a whole is defined as, “...the adequacy of the evidence in the record before the court to support a particular finding of fact shall be judged in light of all the relevant evidence in the record cited by any party that detracts from such finding as well as all of the relevant evidence in the record, compiled pursuant to K.S.A. 77-620, and amendments thereto, cited by any party that supports such finding, including any determinations of veracity by the presiding officer who personally observed the demeanor of the witness and the agency's explanation of why the relevant evidence in the record supports its material findings of fact. In reviewing the evidence in light of the record as a whole, the court shall not reweigh the evidence or engage in de novo review. Kan. Stat. Ann. § 77-621

<sup>41</sup> *Farmland Indus., Inc. v. State Corp. Comm'n of State of Kan.*, 25 Kan. App. 2d 849, 852, 971 P.2d 1213, 1217 (1999). “To assure the KCC has engaged in lawful procedures and followed prescribed procedures, K.S.A. 77-621(c)(5), the KCC must render a written decision that is concise and contains a specific statement of relevant law and basic facts that support the decision. The KCC is not required to state factual findings in minute detail, but must be specific enough to allow judicial review of the reasonableness of the order. To guard against arbitrary action, conclusions of law must be supported by findings of fact supported by evidence in the record.”

<sup>42</sup> *Sunflower Racing, Inc. v. Bd. of Cty. Comm'rs of Wyandotte Cty.*, 256 Kan. 426, 431, 885 P.2d 1233, 1237 (1994)

<sup>43</sup> *Muir v. Kansas Health Policy Auth.*, 50 Kan. App. 2d 854, 862, 334 P.3d 876, 881 (2014).

<sup>44</sup> *Sunflower Racing, Inc. v. Bd. of Cty. Comm'rs of Wyandotte Cty.*, at 431.

*The safety of Atmos and Black Hills distribution systems*

29. The Commission did not state that Atmos or Black Hills' gas distribution systems were unsafe. Rather, the Commission noted that, based upon the evidentiary record the Commission was concerned about Atmos and Black Hills' marginal efforts at replacing infrastructure that Atmos and Black Hills recognized as obsolete and a safety concern. The record is abundantly clear and persuasive regarding the following points. First, bare steel pipe is prone to corrosion and should be replaced.<sup>45</sup> Second, although there was testimony that at the time of the hearing Atmos and Black Hills systems were safe, there was also testimony that indicated the longer that bare steel pipe remained in the ground the more likely it would corrode, develop a leak<sup>46</sup> and would increase the likelihood of a catastrophic event.<sup>47</sup> This point was persuasively made through the cross-examination testimony of two of Atmos' witnesses.

Q. Let me ask you if the rate of replacement is slow, that increases the potential for catastrophic failure?

A. I would say yes. I mean obviously, you know, you never know when a catastrophic failure is going to occur. But obviously leaving these risky materials in the ground for a longer period of time unnecessarily exposes the public to risk.<sup>48</sup>

Q. If the Commission denies Atmos' request for an SIP, would that put Atmos system in Kansas to be in imminent danger of catastrophic failure?

A. You know, the panel yesterday talked a lot about that. It's always a question about when that time may come. But we do have a concern that if we continue to go down the road far enough, then we believe it would introduce the risk of a catastrophic incident.<sup>49</sup>

---

<sup>45</sup> C. Paige Direct p. 10-11; Tr., Vol. 1, p. 110 ("Actually I believe the leading cause [of leaks] in Kansas has been corrosion, and third party damage leaks I believe is second.").

<sup>46</sup> Tr. Vol. 1 p. 136 (Since a leak has got to be the precursor of any kind of catastrophic event or tragic incident, you would assume based on that that would be the older age of steel).

<sup>47</sup> Tr. Vol. 1 pp. 134-135.

<sup>48</sup> Tr. Vol. 1 p. 56.

<sup>49</sup> Tr. Vol. 2 pp.240-241.

30. Third, the record indicated that until a leak is detected, either by a member of the public or a utility's leak detection efforts, there is no way for the utility to know a pipe has corroded.<sup>50</sup> Fourth, the record showed that until a gas utility digs up a leaking pipe, there is no way for the utility to know the condition of its pipe buried underground.<sup>51</sup> This point was most strikingly and persuasively made by Atmos' own cross-examination of CURB's engineering witness.<sup>52</sup>

Q. Right. But would you agree with me that the day before Atmos found this leaking distribution main, the piece that looks like Swiss cheese up there in the cart, that the day before they didn't know that was there before they discovered that?

A. I believe that was their statement, yes.<sup>53</sup>

Fifth, despite testimony that their systems were safe, the Gas Utilities were unable to quantifiably determine the risk of failure by not replacing obsolete pipe within a set time frame.<sup>54</sup>

This point was made through CURB's cross-examination of one of Atmos' witnesses.

Q. And if you were to replace it in 45 years instead of 35 years, could you quantify the risk in terms of failure?

A. No.

Q. How about 50, could you quantify the initial risk by 50 years?

A. I'm unaware of any generally accepted upon quantifiable risk number that anyone has given.<sup>55</sup>

Finally, the expense to both the ratepayer and the public, in the form of loss of life and property damage, would be significantly increased if the Gas Utilities were to wait to replace obsolete pipe until after a catastrophic failure occurred.<sup>56</sup>

31. Consequently, the Commission is unmoved by Atmos and Black Hills' protestations regarding their per capita level of investment,<sup>57</sup> the conditions of the systems they

---

<sup>50</sup> Tr. Vol. 1 pp. 68, 116, 206.

<sup>51</sup> Tr. Vol. 1 p. 102.

<sup>52</sup> A witness that Atmos now cites heavily in of its assertions regarding the safety of its system.

<sup>53</sup> Tr. Vol. 1 p. 102.

<sup>54</sup> Tr. Vol. 1 pp. 57-58.

<sup>55</sup> *Id.*

<sup>56</sup> Tr. Vol. 1 pp. 145.

purchased,<sup>58</sup> the number of customers served,<sup>59</sup> the location of their systems,<sup>60</sup> the date the pipe was placed into service,<sup>61</sup> prior management of the system,<sup>62</sup> or any other suggested differences. The plain and simple truth is that Atmos and Black Hills operate systems with significant amounts of obsolete materials and at the time the evidentiary record was made, their levels of capital expenditures set a pace of replacement at 181 years and 74 years respectively, despite their clear appreciation of the risks to the public safety associated with maintaining an aging system of obsolete material.

32. The Commission notes Atmos and Black Hills are sophisticated public utilities that were well aware of the conditions of their systems at the time they were purchased. Furthermore, no party has pointed the Commission to any evidence that Atmos and Black Hills at the time they purchased their respective systems notified the Commission they would be needing to conduct major replacement efforts to replace their obsolete pipe. Rather than significantly increasing investment in the state of Kansas to address this growing concern, these two utilities filed rate case after rate case requesting a myriad of alternative rate mechanisms.

33. Had Atmos and Black Hills attempted to demonstrate to this Commission that they had undertaken serious efforts to significantly accelerate the pace of replacement prior to seeking an alternative rate mechanism to reduce regulatory lag to the benefit of the shareholders, the Commission might be more sympathetic today. Atmos and Black Hills correctly asserted that the experts were in agreement that at the time of the hearing their systems were safe. However, equally clear was that none of the experts could tell the Commission with any certainty when those systems would become unsafe. This is the reality that troubles the Commission.

---

<sup>57</sup> Black Hills PFR, p. 5; Atmos PFR, pp. 10-11.

<sup>58</sup> Black Hills PFR, p.6.

<sup>59</sup> *Id.*

<sup>60</sup> *Id.*

<sup>61</sup> *Id.*

<sup>62</sup> *Id.*

34. Likewise, the Commission is unmoved by Black Hills' protest that it did not know that its system and levels of investment would be compared to those of the other Kansas gas utilities.<sup>63</sup> The Commission believes that the customers of Kansas' certificated public gas utilities rightfully expect safe and reliable gas service which is of a comparable standard to that provided to other Kansans served by competing certificated public gas utilities. A customer of Black Hills should never have to worry whether his or her gas service is as safe as that provided by Atmos or KGS or vice versa.

35. Therefore, the Commission denies Atmos and Black Hills' requests to reconsider its findings regarding the safety of their respective systems or their commitment to safety.

*The Plan for replacement of obsolete cast iron and bare steel pipe in Class 3 locations*

36. The Commission focused on Class 3 locations because the testimony on the record was that Class 3 locations were areas with the highest population density.<sup>64</sup> The Commission's rationale prioritizing these locations was the Commission's belief that the primary focus of an accelerated replacement of obsolete infrastructure should be a significant reduction of risk to public safety. The Commission's intent was not to divert the Gas Utilities' current investment in infrastructure towards Class 3 locations, but rather to direct new investments in obsolete infrastructure replacement to areas where a catastrophic failure would have the highest consequences in terms of human life.

37. The Commission recognizes KGS' complaint regarding the Commission's inclusion of both unprotected and protected bare steel pipe. However, the record is clear that the gas industry has determined that bare steel pipe deteriorates with age and becomes more prone to leaks and potential failure and has thus been found to be inappropriate for use in the construction

---

<sup>63</sup> Black Hills PFR, p. 7 fn. 1.

<sup>64</sup> Tr. Vol. 1, p. 179 lns 1-5; p.176 lns 7-13.

of natural gas distribution systems.<sup>65</sup> The record also indicated that bare steel pipe begins to corrode upon being placed into the ground.<sup>66</sup> The Commission further recognizes that although cathodic protection of bare steel pipe may reduce the risk of a failure,<sup>67</sup> the Commission believes bare steel's proclivity for corrosion hastens the time of prudent replacement.

38. The Commission ordered the Gas Utilities to prepare and file a plan. The Commission's intent was to review the plans filed by the Gas Utilities to determine whether the Commission's focus resulted in an increased likelihood of risk reduction at a reasonable cost to ratepayers. If the Gas Utilities believe that the Commission's objective of reducing the risk to human life is better served by prioritizing other Class locations or other types of obsolete pipe, in addition to the plan ordered by the Commission, the Gas Utilities may propose an alternative plan they believe to be in keeping with the Commission's stated objectives.

39. Because the Commission's rationale was reasonable and based upon the evidence in the record<sup>68</sup> and the burden placed upon the Gas Utilities was merely the preparing and filing of a plan for the systematic accelerated replacement of all bare steel service/yard lines, cast iron mains, and all bare steel mains within a Class 3 locations, the Commission denies the Gas Utilities request for reconsideration regarding the Commission's focus on the type of pipe needing replacement and the location of pipe needing replacement.

*Lost and unaccounted for gas reports*

40. The Commission is granted broad authority in the supervision of the public utilities.<sup>69</sup> That authority includes the statutory right to require from a public utility any annual, monthly, or other regular reports, or special reports, and such other information as the

---

<sup>65</sup> Paige Direct, p. 1, 6; 49 C.F.R. § 192.461.

<sup>66</sup> Tr. Vol. 1, p. 134 lns. 3-15.

<sup>67</sup> Tr. Vol. 1, p. 139 lns 2-3.

<sup>68</sup> Tr. Vol. 1, p. 103.

<sup>69</sup> K.S.A. 66-1,201.

Commission may require.<sup>70</sup> Furthermore, the Commission may at any time require from any public utility specific answers to any questions upon which it may desire information in connection with matters pending before it.<sup>71</sup> Any public utility that refuses to file with the Commission any report required by the Commission shall be subject to a civil penalty.<sup>72</sup>

41. Therefore, the Commission denies the request for reconsideration regarding the Commission's order that Atmos, Black Hills, KGS, and Staff develop a reporting plan that will annually update the Commission on the mileage of mains per material broken down into Class locations, as defined by 49 C.F.R. 192.7, and develop an annual lost and unaccounted for gas report sub-categorized by city over 10,000 customers. However, any party in addition to providing the required information may provide a recommendation regarding how the data provided should be interpreted.

42. In regards to alternative ratemaking mechanisms, the Commission is reluctant to depart from traditional ratemaking principles unless there is substantial evidence that extraordinary circumstances exist in support of said departure and there is an evident nexus between the need for the alternative mechanism and significant benefits for the ratepayers. In regards to accelerated obsolete infrastructure replacement programs, the Commission finds that an alternative ratemaking mechanism is necessary when the rate mechanism is coupled with a replacement program that substantially decreases the risk to public safety and limits the ratepayers exposure to rate increases. Nothing within the Commission's Order is intended to restrict the Gas Utilities from proposing programs for the accelerated replacement of obsolete infrastructure, including programs that exceed the Commission's stated preference for a ten year replacement pace.

---

<sup>70</sup> K.S.A. 66-123.

<sup>71</sup> *Id.*

<sup>72</sup> *Id.*

43. However, the Commission flatly refutes any suggestion that the Commission, in a proceeding such as this, which involves establishing a forward looking policy for a voluntary alternative rate recovery program, is bound to a “take it or leave it” decision making scheme in regards to the company specific proposals and settlement proposals offered and supported by the Gas Utilities. Such a suggestion creates a false dilemma that would result in poor public policy because it confuses the Commission with a court<sup>73</sup> and can exploit unequal bargaining power amongst parties<sup>74</sup> and would improperly diminish the wide discretion and authority statutorily granted to this body.<sup>75</sup>

44. The Commission rejected the parties’ proposals because in the Commission’s view those proposals did not provide sufficient oversight over the Gas Utilities’ replacement efforts, did not adequately balance the needs of shareholders and ratepayers, and did not provide a sufficient benefit to ratepayers in the form of increased public safety to justify the expense. While the Commission fully reviewed the testimony of the Gas Utilities in support of their respective programs, the Commission found their testimony to be self-serving and unpersuasive. Furthermore, the Commission found the testimony of Ms. Crane to be incredibly persuasive. The Commission was particularly persuaded by Ms. Crane’s observation that the only options being put forth by the Gas Utilities were options that put the full burden on the ratepayers, despite their

---

<sup>73</sup> *Scenic Hudson Preservation Conf. v. FPC*, 354 F.2d 608, 620 (2d Cir. 1965) ([T]he Commission has claimed to be the representative of the public interest. This role does not permit it to act as an umpire blandly calling balls and strikes for adversaries appearing before it; the right of the public must receive active and affirmative protection at the hands of the Commission); Scott Hempling *Preside or Lead? The Attributes and Actions of Effective Regulators* 208-209, (2013) (The court has no general “public interest” power independent of the dispute as defined by the parties. But a commission is not a court. A commission’s powers are defined not by the case-as-filed, but by the substantive statute that enables, creates and empowers the commission. The commission’s baseload duty – to ensure reliable service at reasonable prices – does not vary with parties’ private decisions to initiate or “settle” disputes. The regulatory purpose is not inter-party peace but public interest advancement.).

<sup>74</sup> Scott Hempling *Preside or Lead? The Attributes and Actions of Effective Regulators* 208, (2013)(First when there are resource differentials among the parties and the settlement process is unguided by commission principles, large parties can grind down the small, making “settlement” a euphemism for “take it or leave it.”).

<sup>75</sup> K.S.A. 66-1,201.

lack of responsibility for the problem of an aging gas distribution system largely constructed out of obsolete materials.<sup>76</sup>

45. The Commission recognized that the parties presented a spectrum of options from retaining the status quo of cost recovery through traditional rate cases to a cost deferment mechanism with zero regulatory lag.<sup>77</sup> The Commission also notes the record clearly demonstrated through uncontested testimony, that the Commission had available options which were not even discussed at hearing<sup>78</sup> and the recommendations by the Gas Utilities, Staff and CURB still had room for improvement.<sup>79</sup> Although the Commission generally prefers the traditional rate recovery approach, because it provides tremendous oversight and recognizes more frequent rate proceedings would reduce the Gas Utilities' regulatory lag and risk of not earning their full rate of return, the Commission determined to propose an alternative mechanism in order to decrease the ratepayers' burden of paying the costs of more frequent rate cases and expediting the replacement of obsolete infrastructure.<sup>80</sup>

46. The Commission was persuaded by Ms. Crane's recommendation to utilize an accelerated mechanism similar to the GSRS.<sup>81</sup> The Commission was also persuaded by Mr. Grady's testimony that an annual surcharge mechanism, akin to the GSRS, should be sufficient.<sup>82</sup> The Commission, therefore, proposed an annual surcharge mechanism substantially similar to the GSRS, called the ARP, as a potential solution to the concerns raised by the Gas Utilities, Staff and CURB while also addressing the concerns the Commission had regarding the Gas Utilities' proposals. Because the Commission's decision to deny the Gas Utilities' proposed

---

<sup>76</sup> Tr. Vol. 2 pp.303-304.

<sup>77</sup> Tr. Vol. 2 pp. 330-331.

<sup>78</sup> Tr. Vol. 2 p. 343.

<sup>79</sup> Tr. Vol. 1 p. 151.

<sup>80</sup> Tr. Vol. 2 pp. 350-351.

<sup>81</sup> Tr. Vol. 2 p. 314.

<sup>82</sup> Tr. Vol. 2 pp. 329-330.

alternative rate mechanisms was reasonable and based upon the evidentiary record, the Commission denies the Gas Utilities requests to reconsider the denial of their alternative rate mechanisms proposed in this docket.

47. In regards to the Commission's ARP, it was not the intent of the Commission for this docket to include requests for specific program approvals. Rather, the Commission's intent in opening this docket was to determine the appropriate parameters of an accelerated natural gas pipeline replacement program.<sup>83</sup> In response to the specific programs proposed by the parties, which as explained above, the Commission did not believe to be appropriate, the Commission proposed the ARP to highlight the Commission's rationale regarding Staff's proposed program parameters.

48. The Commission offered the ARP as guidance for the type of proposal the Commission would consider a substantial reduction in risk to public safety and an adequate balance of shareholder and ratepayer interests. Therefore, the Commission clarifies that participation in the ARP is strictly voluntary. If the Gas Utilities believe the ARP, as proposed, is unworkable, they are free to propose modifications. Consequently, because the Commission's creation of the ARP places no burden upon any of the Gas Utilities nor does it deprive the Gas Utilities from any statutorily granted right of cost recovery, the Commission denies their requests to reconsider any portion of the terms and conditions related to the ARP.

49. Notwithstanding the above, the Commission will provide clarification for the following terms of the ARP in order to demonstrate that the ARP is based upon substantial competent evidence and to assist any of the Gas Utilities who may want to craft a proposal for an alternative rate mechanism that is consistent with the Commission's public policy objectives.

---

<sup>83</sup> Atmos, Black Hills, and Kansas Gas Service shall henceforth be referred to collectively as the "Gas Utilities."

*The ARP should be based on a 10 year replacement pace*

50. The Commission's determination that the ARP should require the replacement of obsolete cast iron and bare steel mains and service/yard lines utilizing a ten year time frame was appropriate and supported by the record because the Commission's Order focused on a significantly reduced inventory of pipe as compared to that proposed by the Gas Utilities. The Commission's focus was limited to cast iron and bare steel pipe. For Atmos and Black Hills, this focus significantly reduced the total miles of pipe needing to be replaced: Atmos by 55%<sup>84</sup> and Black Hills by 72%.<sup>85</sup>

51. The Commission thus reasoned a 55%-72% reduction in the miles of pipe needing to be replaced would have a similar, if not exact, reduction in the time necessary for replacement. For the purpose of establishing a rough estimate of an aggressive, but reasonable, pace of replacement of obsolete bare steel and cast iron pipe, the Commission reduced the time the Gas Utilities had proposed to fully replace their obsolete pipe inventories of both bare steel and vintage plastic pipe by 65%, the average of the 55%-72% range. The Commission's results ranged from 9 years to 13 years.<sup>86</sup> The Commission then applied the same 65% reduction to the 30 year aggressive pace described by Mr. Haynos<sup>87</sup> and the result was 10.5 years. This analysis, fully supported by the evidentiary record, established the basis for the Commission's 10 year pace for replacement.

---

<sup>84</sup> C. Paige Direct, pp. 5-9 (Atmos testified that it had 682 miles of bare steel mains and 816 miles of vintage plastic mains).

<sup>85</sup> J. Watkins Direct, p. 7, Table 1 (Black Hills testified that it had 245 miles bare steel mains and transmission lines and 607 miles of vintage plastic mains).

<sup>86</sup> See, Tr. Vol. 1, p. 211 (The Commission's analysis was based upon data reported by Atmos and Black Hills because the data KGS provided was based solely on the replacement of its cast iron and unprotected bare steel mains. The Commission's attempt to acquire the specific data from KGS did not prove fruitful. Be that as it may, the Commission considered that KGS' ability to replace bare steel mains would increase dramatically once it had fully removed its existing bare steel service lines and cast iron mains in. This assumption was confirmed by KGS in its PFR.

<sup>87</sup> L. Haynos Direct, p. 12.

52. Additionally, the Commission analyzed the total number of bare steel service lines needing to be replaced and determined that a ten year time frame, though aggressive, was within the 9-14 year range already proposed by Black Hills for the replacement of all of its obsolete bare steel service/yard lines and bare steel mains.<sup>88</sup> The Commission further extrapolated that, because Black Hills and Atmos had comparable numbers of retail customers<sup>89</sup> and bare steel service lines,<sup>90</sup> Black Hills' estimate of a possible pace of service line replacement could be reasonably applied to Atmos, as well.

53. The Commission also reasoned that the reduction of pipe needing to be replaced in those areas classified as Class 3 locations would further reduce the total mileage of pipe needing to be replaced and may have a commensurate reduction in the time necessary for replacements. However, the Commission further reasoned that reduction in the time necessary for replacements may be countered by logistical difficulties associated with urban infrastructure replacement programs or other logistical considerations. For this reason, the Commission's Order allowed a participating gas utility to seek a waiver of the 10 year replacement pace for logistical purposes, such as those identified by the Gas Utilities' PFRs.

*ARP should result in an increase in overall capital expenditures*

54. The Commission's decision that the ARP should result in an increase in overall capital expenditures was supported by substantial competent evidence.<sup>91</sup> The Commission utilized a three year average to set current expenditures because the nature of the natural gas

---

<sup>88</sup> J. Watkins Direct, p. 7, Table 1, p. 12 Chart 2 (Black Hills estimated that it could replace all of its existing bare steel service/yard lines in 9.2 years).

<sup>89</sup> J. Watkins Direct, p. 3 (Black Hills serves approximately 112,000 retail customers); C. Paige Direct, p. 6 (Atmos serves approximately 131,182 retail customers).

<sup>90</sup> J. Watkins Direct, p. 3 (Black Hills operates 29,633 bare steel service lines); C. Paige Direct, p. 6 (Atmos operates 28,149 bare steel service lines).

<sup>91</sup> G. Smith Rebuttal, p. 16; T. Jacobs Direct, p. 11; A. Crane Direct, p. 34; J. Grady Direct, p. 4, L. Haynos Direct, p. 13.

industry does not guarantee a smooth level of capital expenditures and the three year average was intended to remove some of the roughness from consideration.

55. The Commission also rejected KGS' objection that requiring an increased level of capital expenditures was unfair to KGS. KGS argued that it had already undertaken costly infrastructure replacement programs and would thus be at a disadvantage to Atmos and Black Hills who had not. The record supported the requirement that proposed programs include a long term plan to eliminate all types of undesirable pipe in the utility's system over a pre-determined time frame.<sup>92</sup> The record also clearly showed that KGS had a significant inventory of protected bare steel pipe<sup>93</sup> and, unlike Atmos<sup>94</sup> and Black Hills,<sup>95</sup> KGS did not intend to accelerate the full replacement of its entire inventory of obsolete pipe.<sup>96</sup> Rather, KGS stated it preferred to utilize its AIPM and DIMP principals for identifying threats, evaluating risk, and mitigating projects.<sup>97</sup>

56. The record indicated that pipeline safety regulations require that when a gas utility finds an unsatisfactory condition it must be addressed.<sup>98</sup> Testimony further showed that the DIMP goes a step further in that it formalizes how a gas utility determines when conditions are unsatisfactory.<sup>99</sup> Though the DIMP could be considered as proactive, in that it requires the gas utility define the risk and then address it, the Commission was persuaded by testimony that the DIMP is reactionary because by its very nature the DIMP requires a gas utility to have a risk that needs to be addressed in the first place.<sup>100</sup> Furthermore, the Commission was persuaded by testimony that although the DIMP requires the gas utilities have a formal continuous

---

<sup>92</sup> G. Smith Rebuttal, p. 16; T. Jacobs Direct, p. 11; A. Crane Direct, p. 34; J. Grady Direct, pp. 3-4.

<sup>93</sup> L. Haynos Direct, pp. 14-15.

<sup>94</sup> C. Paige Direct, p. 9.

<sup>95</sup> J. Watkins Direct, p. 7 Table 1.

<sup>96</sup> R. Spector Direct, p. 12.

<sup>97</sup> *Id.*

<sup>98</sup> Tr. Vol. 1 p. 155.

<sup>99</sup> *Id.*

<sup>100</sup> *Id.* at p. 156.

improvement process, in contrast the DIMP does not establish the rate that the gas utilities must exceed that improvement process, just that the gas utilities must have responses to risks.<sup>101</sup> Therefore, the Commission's finding that KGS' reliance on its DIMP to address the risk of remaining obsolete infrastructure was reactionary was supported by the record.<sup>102</sup>

*ARP should be implemented as part of a general rate case*

57. The Commission relied upon Mr. Grady's testimony when it determined that the ARP should be implemented as a part of a general rate case filing. Mr. Grady testified on March 31, 2016 that he was comfortable if an alternative rate mechanism for the accelerated recovery mechanism for the replacement of obsolete infrastructure was implemented outside of a general rate case.<sup>103</sup> Mr. Grady took that position because the Commission had received rate case filings recently enough that he was comfortable that the Gas Utilities were not overearning.<sup>104</sup> However, the Commission did not issue its Final Order in this docket until September 12, 2017. Thus, with the passage of almost a year and half, the Commission was not confident that the financial situation of the Gas Utilities had remained constant and decided to give its Staff an opportunity to reassess the condition of the Gas Utilities prior to implementing an alternative rate mechanism.

*The ARP should include a \$0.40 per customer per month cap*

58. The Commission decided to cap customer impacts to \$0.40 per customer per month because it believed that \$0.40 is within the upper band of what residential customers can reasonably bear for an infrastructure replacement program without the transparency of a full rate

---

<sup>101</sup> *Id.*

<sup>102</sup> Tr. Vol. 1 pp. 155-156.

<sup>103</sup> Tr. Vol. 2 p. 363.

<sup>104</sup> *Id.*

case. This customer cap was supported by the testimony of Andrea Crane,<sup>105</sup> who the Commission found to be quite persuasive on the matter. This component of the ARP was so critical that the Commission provided a substantial waiver to the previously discussed 10 year replacement pace in order to ensure that customers were not overburdened by the cost of accelerated replacement.

59. The Commission's ARP was designed to be initially implemented through a four year pilot program. The record provided a range from no pilot program to a five year pilot program. The Commission utilized a four year pilot program because it synchronized with the rate moratorium provision of the ARP. The Commission sought to utilize the ARP as an incentive to reduce the number of rate cases filed by the Gas Utilities. The Commission believed a successful alternative rate mechanism for the accelerated replacement of obsolete materials would need to provide an obvious decrease in the frequency of rate cases as a benefit to ratepayers. The Commission sought to utilize the pilot program to highlight and demonstrate this benefit of the ARP. Because the Commission reasoned that a five year moratorium would be overly burdensome on the Gas Utilities, the Commission reduced the pilot program to align with the length of time between rate cases. The Commission noted that the record was silent regarding why the parties recommended a pilot program of five years. The Commission has reviewed the record cited by KGS on this point but does not believe those citations explain why a five year moratorium is more appropriate than a six year or four year moratorium. Rather, those citations address the benefit of a pilot program in general. Therefore, the Commission believes a four year pilot program is reasonable, because it provides benefits to both the Gas Utilities and the ratepayers. The four year time-frame fell within the range of options recommended by the parties, and therefore, that portion of the ARP was supported by substantial competent evidence.

---

<sup>105</sup> Tr. Vol. 2 p. 322; Crane Direct, pp. 34-35.

## Conclusions

60. The Commission concludes that its Order's findings were well reasoned and based upon substantial competent evidence. Furthermore, the Commission concludes that its Order did not deprive the Gas Utilities of any statutory rights and imposed only the minimal burden of additional reporting, and the filing of a plan for the systematic accelerated replacement of all of their bare steel service/yard lines, cast iron mains, and all bare steel mains within a Class 3 location. Therefore, the Commission denies the Gas Utilities' PFRs.<sup>106</sup>

61. The Commission additionally concludes its Order and the clarifications provided, herein, is consistent with the Commission's original intent of considering the appropriateness of the proposed parameters to be used in an accelerated natural gas pipeline replacement program. The Commission believes its findings regarding Staff's proposed parameters, especially those relating to the need for alternative rate mechanisms to substantially decrease the risk to public safety while limiting the ratepayers' exposure to rate increases, may be of aid to any of the Gas Utilities who may seek to propose an alternative rate mechanism and are supported by the record.<sup>107</sup> Because the Commission will allow any party to provide additional comments with the submission of any report newly required by the Order and the Commission will consider any alternative rate mechanisms proposed by the Gas Utilities, the Commission does not believe additional testimony or proceedings in this docket is warranted or required by due process at this time.

---

<sup>106</sup> The omission from this decision of any argument or portion of the record raised by the Gas Utilities in their PFRs does not mean that it has not been considered. All such arguments have been evaluated and found to either lack merit or significance to the extent that their inclusion would only tend to lengthen this decision without altering its substance or effect.

<sup>107</sup> Tr. Vol.1 p. 151.

**THEREFORE, THE COMMISSION ORDERS:**

- A. Atmos, Black Hills, and KGS' Petitions for Reconsiderations are denied.
- B. Atmos and CURB's request for additional proceedings are denied.
- C. To the extent this Order constitutes final agency action as defined by K.S.A. 77-607(b)(1), Lynn M. Retz, Secretary to the Commission, is the agency officer designated to receive service of a petition for judicial review on behalf of the agency.<sup>108</sup>
- D. The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering such further orders as it deems necessary.

**BY THE COMMISSION IT IS SO ORDERED.**

Apple, Chairman; Albrecht, Commissioner (Dissenting); Emler, Commissioner.

Dated: OCT 26 2017

  
Lynn M. Retz  
Secretary to the Commission

SF

**EMAILED**

OCT 26 2017

---

<sup>108</sup> K.S.A. 77-529(d).

Commissioner Albrecht, Dissenting:

The Commission conducted this general investigation under K.S.A. 66-1, 201 *et seq.* and K.S.A. 66-117,<sup>1</sup> which require the Commission to conduct the hearing under the Kansas Administrative Procedure Act (KAPA).<sup>2</sup> Any decision rendered, whether quasi-legislative or quasi-judicial, must conform to KAPA and is subject to review under legal standards established in the Kansas Judicial Review Act (KJRA).<sup>3</sup> Even though this general investigation is forward-looking and thus legislative in nature, the broad authority granted to the Commission by the Kansas legislature in public utility matters is not unbounded.<sup>4</sup> The evidentiary hearing the Commission conducted here gathered facts from expert witnesses who submitted sworn testimony and proceeded under the due process requirements of the Commission's enabling law and KAPA. These laws mandate an order be based on the evidence of record as a whole and reasoned decision-making. As I observed in my earlier dissent regarding the Accelerated Replacement Program (ARP), the Commission's order does not comply with these mandates.

This Order's purported reasoning in support of the ARP is based on "estimates" and "extrapolations" that no party has had the opportunity to refute. Unlike a policy decision made following a hearing before a legislative committee, which relies on unsworn testimony, the KJRA requires the Commission's Order be based on substantial, competent evidence. Even if the Commission's decision is "a forward looking policy for a voluntary alternative rate recovery program"<sup>5</sup> that advances the public interest, this Order does not reasonably rely on evidence sufficient to support that policy. For these reasons, I respectfully dissent.

---

<sup>1</sup> Order on Jurisdictional Issue, Docket No. 15-GIMG-343-GIG, issued June 18, 2015.

<sup>2</sup> K.S.A. 77-501 *et seq.*

<sup>3</sup> K.S.A. 77-601 *et seq.*

<sup>4</sup> See *Williams Natural Gas Company v. The State Corporation Commission of the State of Kansas*, 22 Kan. App. 2d 326 (1996).

<sup>5</sup> Order Denying Petitions for Reconsideration and Granting Clarification, ¶ 43.

## CERTIFICATE OF SERVICE

15-GIMG-343-GIG

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of

Electronic Service on OCT 26 2017.

JAMES G. FLAHERTY, ATTORNEY  
ANDERSON & BYRD, L.L.P.  
216 S HICKORY  
PO BOX 17  
OTTAWA, KS 66067  
Fax: 785-242-1279  
jflaherty@andersonbyrd.com

JENNIFER G. RIES, VICE PRESIDENT, RATES AND  
REGULATORY AFFAIRS-COLORADO/KANSAS  
ATMOS ENERGY CORPORATION  
1555 BLAKE ST STE 400  
DENVER, CO 80202  
jennifer.ries@atmosenergy.com

PATRICK JOYCE, SR MANAGING COUNSEL  
BLACK HILLS/KANSAS GAS UTILITY COMPANY, LLC  
D/B/A BLACK HILLS ENERGY  
601N IOWA ST  
LAWRENCE, KS 66044  
Fax: 402-829-2691  
patrick.joyce@blackhillscorp.com

DAVID W. NICKEL, CONSUMER COUNSEL  
CITIZENS' UTILITY RATEPAYER BOARD  
1500 SW ARROWHEAD RD  
TOPEKA, KS 66604  
Fax: 785-271-3116  
d.nickel@curb.kansas.gov

SHONDA SMITH  
CITIZENS' UTILITY RATEPAYER BOARD  
1500 SW ARROWHEAD RD  
TOPEKA, KS 66604  
Fax: 785-271-3116  
sd.smith@curb.kansas.gov

WALKER HENDRIX  
ARMSTRONG TEASDALE, LLP  
2345 GRAND BOULEVARD, SUITE 2000  
KANSAS CITY, MO 64108-2617  
Fax: 816-221-0786  
whendrix@armstrongteasdale.com

ROBERT J. AMDOR, MANAGER, REGULATORY  
SERVICES  
BLACK HILLS/KANSAS GAS UTILITY COMPANY, LLC  
D/B/A BLACK HILLS ENERGY  
1102 E FIRST ST  
PAPILLION, NE 68046  
Fax: 402-829-2227  
robert.amdor@blackhillscorp.com

THOMAS J. CONNORS, ATTORNEY AT LAW  
CITIZENS' UTILITY RATEPAYER BOARD  
1500 SW ARROWHEAD RD  
TOPEKA, KS 66604  
Fax: 785-271-3116  
tj.connors@curb.kansas.gov

DELLA SMITH  
CITIZENS' UTILITY RATEPAYER BOARD  
1500 SW ARROWHEAD RD  
TOPEKA, KS 66604  
Fax: 785-271-3116  
d.smith@curb.kansas.gov

SAMUEL FEATHER, DEPUTY GENERAL COUNSEL  
KANSAS CORPORATION COMMISSION  
1500 SW ARROWHEAD RD  
TOPEKA, KS 66604-4027  
Fax: 785-271-3167  
s.feather@kcc.ks.gov

**CERTIFICATE OF SERVICE**

15-GIMG-343-GIG

ROBERT VINCENT, LITIGATION COUNSEL  
KANSAS CORPORATION COMMISSION  
1500 SW ARROWHEAD RD  
TOPEKA, KS 66604-4027  
Fax: 785-271-3354  
r.vincent@kcc.ks.gov

JANET BUCHANAN, MANAGER OF RATES & ANALYSIS  
KANSAS GAS SERVICE, A DIVISION OF ONE GAS, INC.  
7421 W 129TH ST  
OVERLAND PARK, KS 66213-2713  
Fax: 913-319-8622  
janet.buchanan@onegas.com

JUDY JENKINS, MANAGING ATTORNEY  
KANSAS GAS SERVICE, A DIVISION OF ONE GAS, INC.  
7421 W 129TH ST  
OVERLAND PARK, KS 66213-2713  
Fax: 913-319-8622  
judy.jenkins@onegas.com

JAMES H. JEFFRIES IV  
MOORE & VAN ALLEN PLLC  
100 NORTH TYRON STREET  
STE 4700  
CHARLOTTE, NC 28202-4003  
jimjeffries@mvalaw.com

C. MICHAEL LENNEN, ATTORNEY  
MORRIS LAING EVANS BROCK & KENNEDY CHTD  
800 SW JACKSON STE 1310  
TOPEKA, KS 66612-1216  
Fax: 785-232-9983  
mlennen@morrislaing.com

/S/ DeeAnn Shupe  
DeeAnn Shupe

---

***EMAILED***

OCT 26 2017