

Kansas Administrative Regulations

Kansas Corporation Commission

Article 3.—Production and Conservation of Oil and Gas

82-3-802. Gas-gathering services and access, complaint, hearing.

(a) Each person offering any gas-gathering services or facilities essential to providing these services shall do so in a manner that is just, reasonable, not unjustly discriminatory, and not unduly preferential to persons seeking services or access to facilities.

(b) Each person performing gas-gathering services shall engage in practices and charge fees for such services that are just, reasonable, not unjustly discriminatory, and not unduly preferential.

(c) Any consumer of gas-gathering services, any person seeking direct purchase of natural gas at the wellhead, any royalty owner, or any natural gas producer may request that the commission investigate and initiate proceedings to review a fee, term, or practice being used by a person offering gas-gathering services.

(d) As a condition to commission action, the person under subsection (c) requesting the action shall file a complaint that includes the following:

(1) A statement that the complainant has presented the complaint, in writing, to the person offering gas-gathering services and has requested a meeting to discuss the complaint. A copy of this document shall accompany the complaint;

(2) a statement that the requested meeting took place and no resolution was reached or that the person offering gas-gathering services refused to meet;

(3) a detailed factual statement alleging how the fee, term or practice violates subsections (a) or (b);

(4) a statement of the precise remedy being requested that will make the fee, term, or practice consistent with the standards established in this section;

(5) if the complainant is a producer of natural gas, a copy of the analysis of the complainant's gas, including the nitrogen, carbon dioxide, hydrogen sulfide, water and other contaminant content; the volume; the Btu; and the pressure at the wellhead;

(6) if available, a map showing the location of the affected wells and all known gas-gathering systems in the area; and

(7) proof of service of the complaint on the gas gatherer.

(e) Upon the filing of a complaint, the parties to the complaint shall be contacted by the commission staff, and resolution of the matter shall be attempted by the commission staff through the use of informal procedures, including one or more of the following:

(1) A meeting with the complainant, the person offering gas-gathering services, and commission staff.

(2) A mediation conference conducted under the following procedures:

(A) Upon the request of any party and acceptance of the other party, the commission shall schedule a mediation conference. The purpose of the mediation shall be to assist the parties in reaching agreement on any disputed issues by the intervention of a third party who has no decision-making authority, is impartial to the issues being discussed, assists the parties in defining the issues in dispute, facilitates communication between the parties, and assists the parties in reaching resolution.

(B) Mediation conferences shall be conducted by mediators appointed by the commission who are qualified as mediators pursuant to the dispute resolution act, K.S.A. 5-501 et seq., and amendments thereto, and any relevant rules of the Kansas supreme court as authorized pursuant to K.S.A. 5-510, and amendments thereto.

(C) Persons with final settlement authority for each party shall be present, in person, at the mediation conference.

(D) All mediation conferences shall be conducted by a mediator in accordance with the dispute resolution act.

(E) The confidentiality and privilege provisions of K.S.A. 60-452(a) shall apply to all mediation conferences to assure that all verbal or written information transmitted between any party to a dispute and the mediator shall be treated as confidential information and that no admission, representation, or statement made in the mediation conference shall be admissible as evidence or subject to discovery.

(F) The costs of mediation shall be shared equally among all parties.

(G) The commission shall disseminate information about the mediation conference procedure.

(3) Other informal mediation procedures as may be agreed to by all parties.

(f) The commission may at any time review a fee, term, or practice. Upon notice and opportunity for hearing in accordance with the Kansas administrative procedures act, the authority to order the remediation of any violation of L. 1997, Ch. 132, § 24 shall rest with the commission.

(g) A formal hearing shall be scheduled by the commission if the complaint is not resolved by informal procedures within 60 days of its filing or upon notice that no party wishes to utilize any informal procedure. A scheduling order providing notice to the affected parties of the date of hearing and setting forth any additional conditions as the commission deems appropriate shall be issued by the commission.

(h) The hearing shall be conducted in accordance with the Kansas administrative procedure act, K.S.A. 77-501 et seq., and with the commission's rules of practice and procedure, K.A.R. 82-3-201 et seq.

(i) The costs of a proceeding may be assessed to a party or parties based on the findings of the commission.

(j) In determining whether or not to grant access to a system, factors including the following may be considered by the commission:

(1) whether or not the natural gas can be reasonably carried by a gatherer;

(2) whether or not construction of a new system would be feasible;

(3) whether or not a material extension or expansion of facilities would be required;

(4) whether or not there is another gatherer of natural gas who is willing to gather or can more conveniently gather gas;

(5) whether or not the gathering of gas can reasonably be expected to have a materially adverse effect on safety or on service to existing customers or on the operation of or recovery of any processing facility;

(6) whether or not the gas satisfies minimum standards for quality, energy or recoverable hydrocarbon content consistently applied by the gatherer of that system;

(7) whether or not the gas gatherer is gathering gas from an affiliated marketer or producer;

(8) the fiscal impact to all parties; or

(9) any other matters that the commission determines to be relevant.

(k) In evaluating or establishing a fee, term, or practice for a gathering service, whether or not the fee, term, or practice is a just, reasonable, not unjustly discriminatory, and not unduly preferential fee that would result from good faith negotiations in a competitive market shall be determined by the commission. In evaluating or establishing a fee, term, or practice, all economically relevant factors including the following may be considered by the commission:

- (1) the fees or terms that the gatherer receives from other shippers;
- (2) the fees or terms charged by other gatherers within a relevant area determined by the commission;
- (3) the financial risks of installing a gathering system;
- (4) the financial risks of operating a gathering system;
- (5) the capital, operating and maintenance costs of a gathering system;
- (6) the existing gas contract or contracts;
- (7) the fiscal impact to all parties;
- (8) the fees, terms, or practices that the gas gatherer offers to an affiliated producer or marketer; or
- (9) other factors that the commission determines to be relevant, provided that a fee shall not be required to be computed on a utility rate-of-return basis.

(Authorized by and implementing L. 1997, Ch. 132, § 24 and L. 1997, Ch. 132, § 25; effective April 3, 1998.)

***** Authenticated Kansas Administrative Regulation *****