

55-1,111. Commission review of exit tap on gathering system, access, service, abandonment; procedure. The commission may, upon complaint by a party who has or seeks an exit tap on a gathering system, review disputes over access, service or abandonment, regarding exit taps on a gas gathering system, only as follows:

(a) The commission may review such disputes for reasons other than health or safety of: (1) Exit taps provided pursuant to right-of-way agreements between landowners and gas gathering system owners or operators; and (2) exit taps being provided, on or before the effective date of this act, directly to an end user or to a public utility.

(b) The commission may review such disputes for reasons other than health or safety for exit taps requested to serve a non-profit utility organized pursuant to K.S.A. 66-104c, and amendments thereto, that provides natural gas service exclusively for agricultural activity, but not including any domestic use.

(c) Prior to filing a complaint with the commission, the existing or proposed exit tap customer shall meet the following requirements:

(1) Such customer must have acquired or be able to acquire a supply of natural gas with access to the gas gathering system;

(2) such customer must meet the same financial requirements and guarantees as all other shippers on the gathering system, including credit worthiness; and

(3) such customer shall be prepared to pay all costs and any associated expenses for the exit tap installation and service as imposed by the provider.

(d) After review, the commission may order that exit tap service be provided and may determine if rates and charges for such service are reasonable and nondiscriminatory, when compared to rates for a similar service on the subject gathering system. However, such service shall not be required unless the commission finds all of the following:

(1) That the service will not impair the ability of the gathering system to meet all existing and anticipated demand on the system;

(2) that the provision of such service will not require installation, relocation or modification of compression or other operations and equipment or features;

(3) that the charges for the service are adequate to cover the provider's administrative and operating expenses for the exit tap service, the costs of installing the exit tap and a reasonable profit margin considering the risks involved;

(4) that the service shall be provided on an interruptible basis and that the provider shall be indemnified by the exit tap customer from liability for and shall not be held liable for damages to human life, crops, livestock, equipment, environmental or any other damage arising from the use of the natural gas acquired through the service, or arising from interruption or curtailment of service;

(5) that the customer has agreed that such service may be terminated for failure to promptly pay billings or maintain credit worthiness;

(6) that the customer has agreed that such service may be terminated at any time if continued service threatens the operational stability and reliability of the provider's system or if service cannot be continued to be safely provided and that service may be interrupted for system maintenance, replacement or repairs;

(7) that such service will not impair or modify existing contracts held by the gas gathering system owner or operator;

(8) that such service will not unreasonably increase the total number of exit taps on the provider's system;

(9) that such service can be provided in a safe and environmentally sound manner; and

(10) that the provision of such service shall not adversely affect service or cost to any other gas gathering service customers on the system.

(e) In addressing any complaint, the commission shall not review the terms, including the price and volume of the natural gas commodity, of any purchase agreement for acquisition of natural gas by the exit tap customer and shall not order any producer, gatherer or other party to sell natural gas to such customer or proposed customer and shall not require the provision of a new exit tap on any gathering system which has not previously provided at least one exit tap prior to the effective date of this section.

(f) As used in this section:

(1) "Agricultural activity" means the growing or raising of horticultural and agricultural crops, hay, poultry, livestock and dairy products for commercial purposes including a feedlot and confined feeding facility.

(2) "Confined feeding facility" means any lots, pens, pools or ponds.

(3) "Feedlot" means lots, yards, corrals, confined feeding facilities or other area in which livestock are fed for slaughter and are confined and such additional acreage as is necessary for the operation of the feedlot.

History: L. 2007, ch. 109, § 3; July 1.