

**BEFORE THE PUBLIC SERVICE COMMISSION OF WYOMING**

IN THE MATTER OF THE TARIFF )  
FILING OF KINDER MORGAN, INC., )  
FOR AUTHORITY TO IMPLEMENT )  
TARIFF CHANGES CONCERNING )  
THE AUTOMATIC ROLLOVER )  
PROVISIONS IN THE CASPER, )  
GILLETTE AND TORRINGTON )  
DIVISIONS )

Docket No. 30022-GT-03-22  
(Record No. 8605)

PRE-FILED DIRECT TESTIMONY OF

Denise Kay Parrish

On Behalf of the Office of Consumer Advocate

Filed December 4, 2003  
Hearing December 9, 2003

1 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

2 A. My name is Denise Kay Parrish and my business address is 2515 Warren Avenue,  
3 Suite 304, Cheyenne, Wyoming 82002.

4  
5 **Q. WHAT IS YOUR OCCUPATION?**

6 A. I am currently the Deputy Administrator of the Wyoming Office of Consumer  
7 Advocate (OCA). In this position, I review and provide input into the  
8 recommendations made by the OCA. I review utility applications filed with the  
9 Wyoming Public Service Commission (Commission) and provide advice to the  
10 Administrator regarding the involvement the OCA should have, if any, in the  
11 various cases. I review applications, perform analyses and provide  
12 recommendations to the Commission relative to various utility matters, including  
13 revenue requirements, tariff language, competitive issues, rules and regulations,  
14 and other items. I write and issue press releases, perform special studies, as well  
15 as provide information and research to customers, the legislature, the OCA  
16 Administrator, and others. I do other assignments and tasks, as needed and as  
17 assigned by the OCA Administrator.

18  
19 **Q. WHAT IS YOUR EDUCATIONAL AND PROFESSIONAL**  
20 **BACKGROUND?**

21 A. In 1976, I graduated from Michigan State University with a Bachelor's degree in  
22 Accounting. I have spent more than twenty-six years as a regulator of public  
23 utilities, having been on the staff of four state utility regulatory commissions and  
24 two consumer advocate entities. Twelve of these years have been spent at the  
25 Wyoming Public Service Commission. I have taken classes related to various  
26 aspects of public utility regulation, including income taxes, regulatory accounting,  
27 capital recovery, cost-of-service, rate design, revenue requirements, separations  
28 and allocations, and other specialized topics. I have taught classes on issues of  
29 accounting standards, general ratemaking principles, affiliate transactions,  
30 regulatory accounting, financial reporting, and other specialized topics to  
31 regulatory professionals. For the past two years, I have been a member of the

1 faculty of the Michigan State University Institute of Public Utilities (CAMP  
2 NARUC). I am the past chair and a current member of the National Association  
3 of Regulatory Utility Commissioners' Staff Subcommittee on Accounting and  
4 Finance. I am a member of the International WHO'S WHO of Professional  
5 Management.  
6

7 **Q. DO YOU HAVE EXPERIENCE AS AN EXPERT WITNESS?**

8 A. Yes. I have testified more than one hundred twenty-five times as an expert  
9 witness. I have testified before the Michigan Public Service Commission, the  
10 Colorado Public Utilities Commission, the Colorado District Court, the Arizona  
11 Corporations Commission, the Wyoming Public Service Commission, and the  
12 Wyoming Legislature Joint Corporations Committee. I have testified in  
13 telecommunications, water, wastewater, electric, and natural gas cases. The  
14 subjects upon which I have testified include revenue requirements, rate design,  
15 cost-of-capital, nuclear decommissioning, accounting deferrals, adjustment  
16 mechanisms, income taxes, capital recovery, universal service funding, and other  
17 specialized topics.  
18

19 **Q. WHO DO YOU REPRESENT IN THIS PROCEEDING?**

20 A. As a member of the Office of Consumer Advocate, I represent the interests of  
21 Wyoming citizens and all classes of utility customers in this public utility matter,  
22 as required by W.S. § 37-2-401. It is neither my intent nor my charge to represent  
23 the position of any individual, group, municipality, or corporation.  
24

25 **Q. WHAT COURSE OF ACTION IS AVAILABLE TO INDIVIDUAL  
26 CONSUMERS OR OTHER INTERESTED PARTIES IF THEY WISH TO  
27 PURSUE ISSUES NOT ADDRESSED BY THE OFFICE OF CONSUMER  
28 ADVOCATE, OR TAKE A DIFFERENT POSITION FROM THE OFFICE  
29 OF CONSUMER ADVOCATE?**

30 A. Consumers and other parties may intervene in the proceedings and raise  
31 additional issues not addressed by the Office of Consumer Advocate, and may

1 take different positions than those presented by the OCA. Consumers may also  
2 present written or oral comments at the hearing, which then become part of the  
3 record in the case and are available to the Commission as it makes its decision on  
4 any particular proposal or suggested change. The OCA encourages the  
5 participation of the public and all interested parties in cases before the  
6 Commission.

7  
8 **Q. ARE YOU SPONSORING ANY EXHIBITS OR SCHEDULES IN THIS**  
9 **PROCEEDING?**

10 A. Yes. I am sponsoring OCA DKP-1 through OCA DKP-4. These are discussed  
11 throughout the remainder of my testimony.

12  
13 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

14 A. The purpose of my testimony is to advocate that the Commission reject the  
15 proposed change in the Choice Gas Program requested by Kinder Morgan, and to  
16 explain why such a proposal would be contrary to the public interest.

17  
18 **Q. WHAT PROPOSAL OF KINDER MORGAN'S ARE YOU**  
19 **RECOMMENDING BE REJECTED?**

20 A. On October 3, 2003, Kinder Morgan filed an application to change the automatic  
21 rollover provisions (known to many as the default provisions) of the Choice Gas  
22 program. Kinder Morgan proposes that the program be changed such that  
23 customers *would not automatically* receive the Pass-on Rate [Regulated Rate] if  
24 they made the conscious decision to not participate in the Choice Gas rate  
25 selection process. The result would be that customers who listened last year to  
26 the instructions that they could throw away their ballots and receive the Pass-on  
27 Rate [Regulated Rate] would continue to receive that rate. However, if a customer  
28 were to follow those same instructions this year, they *may or may* not receive the  
29 Pass-on Rate [Regulated Rate] and in some cases, it is not clear what rate they  
30 would receive.

31

1 **Q. PLEASE SUMMARIZE YOUR OBJECTIONS TO THIS PROPOSED**  
2 **CHANGE.**

3 A. The OCA finds that the proposal to force customers to actively select the Pass-on  
4 Rate [Regulated Rate] – the one commodity rate that contains no profit margins  
5 for the supplier and is subject to the Commission’s oversight – is contrary to the  
6 public interest and should be rejected because:

7 1. It completely reverses the Commission’s decision of last year  
8 without any additional justification, logic or support, but at a time  
9 that a change from the previous decision would be most  
10 advantageous to Kinder Morgan.

11 2. It tips the balance of the Choice Gas program which then again  
12 becomes more harmful to customers than it is beneficial.

13 3. It will likely confuse many customers, especially those customers  
14 who paid attention to the extensive educational efforts last year in  
15 response to the Commission’s investigation into the Choice Gas  
16 program. Furthermore, no new or updated educational materials  
17 are offered for review by the OCA or others, and as a result, the  
18 Commission is unable to determine whether that confusion would  
19 be escalated or mitigated with another round of educational efforts.

20 4. It will dull the competitive edge of the Choice Gas program.

21 5. It would be inconsistent with the “standard offer” aspect of the  
22 retail choice programs that are offered by many other electric and  
23 gas providers.

24

25 **Q. PLEASE EXPLAIN YOUR OBJECTION THAT ADOPTION OF THE**  
26 **KINDER MORGAN PROPOSAL WOULD REVERSE THE RECENT**  
27 **DECISION OF THE COMMISSION WITHOUT ADEQUATE SUPPORT**  
28 **OR JUSTIFICATION.**

29 A. This very issue of what rate customers should have when they choose not to make  
30 an affirmative Choice Gas rate selection was discussed in great detail in the  
31 Commission’s own investigation into Kinder Morgan’s Choice Gas Service

1 Program (Docket No. 30022-GI-02-3). In that case, Kinder Morgan strongly  
2 objected to the Commission’s decision to require that the Pass-on Rate [Regulated  
3 Rate] become the default rate. Kinder Morgan shows its opposition to the  
4 Commission’s decision in that case when it states, in an April 1, 2003 compliance  
5 filing, “KMI is also particularly concerned with the ‘slamming’ that will occur if  
6 customers are automatically switched from their previously chosen supplier to the  
7 Pass-on Rate without their prior consent and direction.” Yet, Kinder Morgan  
8 chose to continue with the retail choice program in spite of its objections and  
9 implemented the very program that it now claims is “discriminatory” and not in  
10 compliance with Wyoming law. Kinder Morgan implemented that program at a  
11 time that was advantageous to it, in spite of its objections, and there is now no  
12 reason to modify the program, when the current provisions might now become  
13 less advantageous to Kinder Morgan.

14  
15 **Q. HAVE CIRCUMSTANCES NOW CHANGED SO THAT THE**  
16 **COMMISSION SHOULD RECONSIDER ITS EARLIER DECISION TO**  
17 **REQUIRE THAT THE PASS-ON RATE [REGULATED RATE] BECOME**  
18 **THE RATE FOR CUSTOMERS WHO OTHERWISE DID NOT CHOOSE**  
19 **A RATE FROM ONE OF THE COMPETITIVE SUPPLIERS?**

20 A. No. The only circumstance that has changed is that Kinder Morgan has now  
21 captured a majority of the Wyoming Choice Gas market and appears to be  
22 looking for ways to retain that market without having to compete for it. If the  
23 provisions that Kinder Morgan proposes herein were to be adopted, it would  
24 change and confuse the rules of the program enough that Kinder Morgan would  
25 be likely to benefit from that confusion. The instructions to customers would  
26 change, once again, such that many customers would throw up their hands and  
27 ignore the choices they are given. This would then allow Kinder Morgan to retain  
28 the majority of customers for the upcoming year – based primarily on confusion  
29 and obfuscation, and not necessarily through competitive pricing and services.

30

1 **Q. WHAT PORTION OF THE MARKET DOES KINDER MORGAN**  
2 **CURRENTLY HAVE?**

3 A. The 2003-4 Choice Gas selection results are summarized as:

4	Pass-On Rate [Regulated Rate]	43.97%
5	Kinder Morgan Choice Gas Supply	29.58%
6	Wyoming Producer-Consumer Alliance	5.62%
7	Wyoming Community Gas	8.38%
8	Midwest United Energy	7.76%
9	Alliance for Community Energy	4.70%

10

11 **Q. PLEASE REMIND THE COMMISSION OF ITS LOGIC BEHIND**  
12 **REQUIRING THAT THE PASS-ON RATE [REGULATED RATE]**  
13 **BECOME THE DEFAULT RATE.**

14 A. The Commission's logic is explained at paragraphs 106-107 of the Commission's  
15 order of March 11, 2003, in Docket No. 30022-GI-02-3:

16 Taking all of this into account, it is clear that the Regulated Rate  
17 option, suitably renamed as discussed below, should be continued.  
18 We also find that the Regulated Rate option should be the default  
19 option for the program *in the ensuing years*. The substantial  
20 number of persons in the Torrington Division who expressed  
21 concern with the program or a lack of understanding of it, leads us  
22 to decide that the Regulated Rate option must be available in the  
23 Torrington Division and that it should be the default option there  
24 also. This option allows the substantial number of persons not  
25 wishing to deal with the program to avoid doing so all together.  
26 They do not have to become unwilling participants in the program  
27 by being assigned by default to the various competing suppliers.  
28 [Emphasis added.]

29

30 The statistics show that there is very little difference in the prices  
31 or in the service plans offered by the competing suppliers in the  
32 program. Whether this is due to "effective" competition driving all  
33 suppliers to cut prices to the same "bone," to a relative lack of  
34 competition allowing competitors simply to mirror each other's  
35 prices and services, or to the economic facts of a wholesale natural  
36 gas market in which the entire Kinder Morgan Wyoming customer  
37 base is too small to generate substantial price concessions,  
38 allowing the Regulated Rate option to be the default under the  
39 program will stimulate suppliers to sharpen their competitive

1 outreach and examine the competitiveness of their offerings very  
2 carefully. We hope that it will also improve the quality and vigor  
3 of the outreach of suppliers to customers. With this option,  
4 persons seeking to have choice may freely have choice and may  
5 exercise it as willing participants in the program. No supplier  
6 would hereafter be able to count on a “harvest” of unwilling,  
7 uniformed or confused customers whose “choice” was made for  
8 them without their input. This would further sharpen the  
9 competitive aspects of the program. We will look at this aspect of  
10 the program very carefully in the future because gas is a fungible  
11 commodity. One methane molecule is just as good as another from  
12 the standpoint of value, and the program should not simply add  
13 costs for the sake of allowing “choice.” [Emphasis added.]  
14

15 This logic still holds. Nothing has changed relative to the Commission’s  
16 statements about how competitive suppliers should only be allowed to harvest  
17 customers from competitiveness, and not from confusion. Nothing has changed  
18 such that customers should be forced to become unwilling participants in the  
19 program in order to receive the Pass-on Rate [Regulated Rate].  
20

21 **Q. IS THE PROGRAM ANY MORE OR LESS DISCRIMINATORY THAN IT**  
22 **WAS LAST SPRING WHEN THE COMMISSION’S DECISION WAS**  
23 **RELEASED AND IMPLEMENTED BY KINDER MORGAN?**

24 A. No. The Commission’s order indicated that its decision on the default mechanism  
25 is to be in place for more than one year. It is the same program with the same  
26 terms that were in place last spring when Kinder Morgan chose to implement it  
27 rather than appeal it or ask to discontinue the program. Kinder Morgan should  
28 not now be allowed to change one provision that was part of an overall package  
29 that balanced customers’ interests, and allowed the program to continue.  
30

31 **Q. PLEASE EXPLAIN THE BALANCED PACKAGE CONCEPT THAT YOU**  
32 **JUST REFERENCED.**

33 A. When the Commission deliberated whether to continue or eliminate the Choice  
34 Gas Program in early 2003, a series of compromises among the Commissioners  
35 were reached that allowed the program to continue, but not in the same way that it  
36 had in prior years. This concept of continuation with change is described nicely

1 in the Special Concurring Statement of Chairman Steve Ellenbecker, dated March  
2 11, 2003:

3 I have long applauded the leadership Kinder Morgan has shown as  
4 a pioneer, in Wyoming and the nation, by voluntarily opening its  
5 Wyoming retail natural gas markets to commodity supplier  
6 competition. Unfortunately, the results over time have not  
7 produced much price or product differentiation, and customers  
8 have been forced to deal with the complexities of volatile  
9 wholesale markets for relatively little observable gain. In  
10 deliberating this case, I voted to terminate the program on these  
11 and related grounds. However, given that the Choice Gas program  
12 will continue, I concur in the modifications directed by the  
13 majority in this case described in paragraphs 105 through 120 of  
14 the order above. In my opinion, these modifications will help the  
15 program to be more easily understandable and may stimulate  
16 greater competition. **It will also make it clear that persons who**  
17 **do not wish to participate in the program may take service**  
18 **under the Pass-on Rate [Regulated Rate]. It is properly the**  
19 **default rate.** [Emphasis added.]  
20

21 Nothing in the order stated, or even implied, that the Commission intended that its  
22 decision that the Pass-on Rate [Regulated Rate] be the default rate would be  
23 temporary or only in effect for the first year. Kinder Morgan has shown no reason  
24 for a change at this time, other than the fact that a change would tip the balance of  
25 benefits in Kinder Morgan's favor.  
26

27 **Q. WHILE IT IS CLEAR THAT YOU BELIEVE THAT THE CHANGE**  
28 **WOULD BENEFIT KINDER MORGAN, WOULD IT ALSO BENEFIT**  
29 **CUSTOMERS?**

30 A. No, it would not. Customers have said over and over again that the program is  
31 confusing and that it needs to be simplified. Many customers also commented that  
32 they believed that the Commission should oversee the rates and not make  
33 customers choose. Others commented, and are still commenting, that they are not  
34 happy playing the market. Yet, on the flip side, others wanted the choice of  
35 selecting their own rate and own supplier. Thus, one of the big selling points  
36 offered in last year's investigation was that by making the Pass-on Rate  
37 [Regulated Rate] the default rate, customers would have the option to do nothing

1 and be treated in a manner that was similar to the treatment offered under  
2 traditional ratemaking and the time before Choice Gas was offered. At the same  
3 time, they would have the option of selecting a fixed rate, or Winterguard rate, or  
4 indexed rate but would not be required to be bothered with all of it if it was too  
5 troubling or confusing.

6  
7 This is why the Commission concluded that making the Pass-on Rate [Regulated  
8 Rate] the default rate was the way to continue the program while still offering just  
9 and reasonable rates. Specifically, the Commission's March 11, 2003 order  
10 states, at paragraph 125:

11 The Pass-On Rate [Regulated Rate], as modified and extended  
12 hereinabove, is **central to the potential of the Choice Gas**  
13 **program to produce just and reasonable rates** and should, in the  
14 form approved hereinabove, be the program's universal default  
15 rate and should continue permanently. [Emphasis added.]  
16

17 As shown by the entirety of the record produced in Docket No. 30022-GI-02-3,  
18 there are grave concerns about whether the program benefits customers at all  
19 without the changes most recently adopted by the Commission. Making the Pass-  
20 On Rate [Regulated Rate] the default rate was the most consequential of those  
21 changes and must continue for the program to have the potential to provide any  
22 benefit to customers. The public interest aspects of the program are lost without  
23 it.  
24

25 **Q. WHEN SUMMARIZING YOUR RECOMMENDATION ABOVE, YOU**  
26 **EXPRESSED SOME CONCERN ABOUT CUSTOMER CONFUSION.**  
27 **PLEASE EXPLAIN.**

28 A. Many of the comments that customers have made about the Choice Gas program  
29 relate to the difficulty of understanding the choices and how confusing the entire  
30 matter is. Thus, in response to these comments, the Commission, and others, held  
31 a series of educational efforts about the Choice Gas program, *and specifically the*  
32 *changes that were made to the program last year.* One of the major changes

1 related to the process that would occur if a customer did not make an affirmative  
2 choice of one of the supply options.

3  
4 Even today, the Choice Gas educational efforts hold a prominent place on the  
5 Commission's website! The Commission continues to allow customers easy  
6 access to its educational meeting presentation. I have attached copies of the  
7 Commission's web page, showing the prominence of the Choice Gas program as  
8 OCA DKP-1. The actual power point presentation used by the Commission,  
9 which is also easily found on the Commission's website, is attached to this  
10 testimony as OCA DKP-2. Several times within this presentation, the  
11 Commission reiterates that the Pass-on Rate [Regulated Rate] will become (and  
12 now is) the default rate.

13  
14 In addition to posting educational materials prominently on its website, the  
15 Commission embarked upon an educational campaign using other methods to  
16 make sure that the public understood the revised components of the Choice Gas  
17 program. This effort included a series of meetings throughout the state, as well as  
18 the issuance of a press release, attached as OCA DKP-3. The press release states  
19 clearly and unequivocally:

20 'There are some important changes in the Choice Gas Program,'  
21 PSC Commissioner Kristin Lee said, 'The first is that the pass-on  
22 rate (regulated rate) will become the default service option. If  
23 customers either choose the pass-on rate or do not choose a  
24 supplier at all, this is how they will get natural gas service,' she  
25 said.

26  
27 It continues later in the same press release:

28  
29 Commissioner Steve Furtney added, 'If customers do not wish to  
30 be troubled with selecting a natural gas supplier under this  
31 Program, they can do nothing and this year they will default to the  
32 pass-on rate.'

33  
34 Clearly, this single point about the default rate was emphasized repeatedly to the  
35 public during the 2003 educational efforts. To change it now, especially without

1 a plan for what new educational efforts would be undertaken, would be nothing  
2 but chaotic to customers and their understanding of the Choice Gas program.

3  
4 **Q. WHAT DO YOU MEAN THERE IS NO EDUCATIONAL PLAN TO**  
5 **EXPLAIN KINDER MORGAN'S PROPOSED CHANGE?**

6 A. When the OCA met with Kinder Morgan in a meeting about this application, but  
7 prior to the filing of the application, we asked what plans Kinder Morgan might  
8 have to educate customers about its proposal. It indicated that there were no plans  
9 in place, and then mentioned in passing that it would be important to prepare  
10 something on the matter. Several months later, in response to the OCA's First  
11 Interrogatories and Request for Production of Documents, when asked to produce  
12 copies of the educational material, the response came back that "No educational  
13 material has been developed at this point." The response continued, "If the tariff  
14 revision is approved by the Commission, Kinder Morgan intends to work with the  
15 oversight committee to obtain input regarding educational material."  
16

17 **Q. DOESN'T IT SEEM REASONABLE TO DEVELOP THE MATERIAL**  
18 **ONCE THE CHANGES HAVE BEEN APPROVED?**

19 A. Perhaps. However, I am concerned that my past experience shows that the input  
20 of my colleagues and I was often resisted or unwelcome. Furthermore, we found  
21 that the deadline for the preparation of educational materials was often so tight –  
22 running up against mailing deadlines and supply selection deadlines -- that it was  
23 difficult to provide meaningful input. Lastly, it is not clear who, if anyone, from  
24 the Commission staff or the OCA would be part of the oversight committee, under  
25 the newly implemented reorganization of the Commission.  
26

27 **Q. DO YOU BELIEVE THAT RECEIVING AN EDUCATIONAL MAILING**  
28 **ON THIS MATTER WOULD BE AN ADEQUATE EXPLANATION OF**  
29 **THE CHANGE PROPOSED BY KINDER MORGAN?**

30 A. No. My concern relates to the fact that customers were inundated with material  
31 last year about the changes in the program, and especially the default aspects of

1 the program. Without a similar educational campaign, customers may not  
2 become aware of the change, and thus, may be inappropriately assigned a rate  
3 other than the Pass-On Rate [Regulated Rate] if they choose to do nothing.  
4

5 **Q. YOU ALSO EXPRESSED CONCERN THAT IMPLEMENTATION OF**  
6 **KINDER MORGAN’S PROPOSAL WOULD DULL THE COMPETITIVE**  
7 **EDGE OF THE PROGRAM. PLEASE EXPLAIN.**

8 A. In this matter, I agree with the Commission as it discussed in its order (cited  
9 above), that the Pass-On Rate [Regulated Rate] will “stimulate suppliers to  
10 sharpen their competitive outreach and examine the competitiveness of their  
11 offerings very carefully.” It is a common practice in retail electric or gas choice  
12 programs to have a regulated or standard offer rate which becomes the price to  
13 beat in the programs. As I have cited more fully in previous testimony before the  
14 Commission, the National Regulatory Research Institute report titled *The*  
15 *Competitiveness of the Georgia Deregulated Gas* states, in part: “As a provider of  
16 last resort, the utility remains regulated, while the process of marketers are  
17 unregulated. The utility’s price acts as a cap on prices that the marketers are able  
18 to charge.” While we haven’t seen the regulated price become the price to beat in  
19 Wyoming (instead, it is frequently at the low end of prices, rather than the high  
20 end), it does provide some competitive pressure and a point against which to  
21 measure prices of other suppliers.  
22

23 Pricing pressure comes from the Pass-On Rate [Regulated Rate] in that it is a rate  
24 that is reviewed by the Commission for reasonableness and consistency with  
25 current market activity, contains a modest amount of hedging, incorporates the  
26 use of storage, and contains no profit in the commodity portion of the rate.  
27 Removal of this pressure could adversely impact the unregulated prices offered to  
28 customers. Additionally, if a supplier is able to receive a certain number of  
29 customers each year – due to inactivity, confusion, or misunderstandings on the  
30 part of the customer – it will not have the same incentive to sharpen its pencil

1 when making rate offerings, as when it must actively compete for each and every  
2 customer each year.

3  
4 **Q. IN THE LAST OF YOUR FIVE CONCERNS LISTED AT THE**  
5 **BEGINNING OF YOUR TESTIMONY, YOU INDICATE THAT IT**  
6 **WOULD BE INCONSISTENT WITH MANY OF THE OTHER RETAIL**  
7 **CHOICE PROGRAMS IN THE NATION TO ELIMINATE THE**  
8 **PROVISION ALLOWING CUSTOMERS TO DEFAULT TO THE PASS-**  
9 **ON RATE [REGULATED RATE]. PLEASE EXPLAIN.**

10 A. In reviewing numerous retail choice programs that have been implemented  
11 throughout the United States, I found a common theme with the inclusion of a  
12 provision of a *standard offer* default rate. I have attached information about a  
13 smattering of these in OCA DKP-4 and provide a sampling of what is attached  
14 below:

15 ■ From Maryland:

16 The PSC settlement also established rules for the state’s investor-  
17 owned utilities to provide default electricity supply in a customer  
18 choice environment. Default electricity supply service is known  
19 throughout the industry as standard office service (SOS). This  
20 means if customers do not choose an alternative electricity  
21 supplier, they will continue to receive service from their local  
22 electric utility.

23 ■ From the Maine Public Utilities Commission

24 Standard offer service is the default supply for electricity  
25 customers, which means that customers receive it only if they have  
26 not purchased supply from a competitive provider on their own or  
27 through an aggregator.

28 ■ From Rhode Island

29 Electric distribution companies are required by Section 39-1-27.3  
30 of the Rhode Island Utility Restructuring Act of 1996 (“URA”) to  
31 provide Standard Offer service to retail customers who choose not

1 to purchase power through the retail access market from a  
2 nonregulated power producer. Pascoag offers Standard Offer  
3 service to any customer not otherwise served by a nonregulated  
4 power producer, even if the customer has previously left the  
5 system and wishes to return to having Pascoag supply its energy  
6 needs.

7  
8 In each of these cases, the standard offer service is clearly the default service.  
9 Customers can choose a competitive supplier or they can receive the standard  
10 offer service. This is unlike what Kinder Morgan is asking to implement. Kinder  
11 Morgan's request, if granted, would treat the Pass-On Rate [Regulated Rate] as  
12 another supply option, rather than as the safety-net default option that is  
13 implemented if a customer otherwise fails to take action.

14  
15 **Q. MS. PARRISH, HOW DO YOU RESPOND TO KINDER MORGAN'S**  
16 **ALLEGATION THAT CUSTOMERS WANT THE CHANGE THAT IT**  
17 **HAS PROPOSED?**

18 A. In making its statement that customers want the program change, Kinder Morgan  
19 appears to rely on two things: some undocumented conversations with Company  
20 representatives, and the results of a customer survey provided with its testimony  
21 and its application. Neither of these provide a reasonable assurance that this is the  
22 will of the majority of customers, and thus, it should not become a basis upon  
23 which the Commission makes its decision in this matter.

24  
25 **Q. WHY SHOULDN'T THE COMMISSION RELY UPON STATEMENTS**  
26 **MADE BY CUSTOMERS TO COMPANY PERSONNEL?**

27 A. The company appears to make several leaps of logic regarding these statements  
28 from customers. First, the testimony contains some general statements regarding  
29 the conversations held with customers and the comments received from  
30 customers. However, when asked by the OCA to provide specifics about these  
31 customer contacts and what was said, Kinder Morgan was unable to provide any

1 specificity. For instance, in response to OCA Interrogatory No. 5, Kinder Morgan  
2 stated,

3 The statement quoted in the Application was in reference to  
4 conversations Kinder Morgan representatives recalled having with  
5 customers. They were not formal complaints and nothing in  
6 writing was received from the customers. No contemporaneous  
7 record was kept of conversations with customers by non-call center  
8 employees.

9  
10 The response continued:

11 Records are kept of all calls made to call center customer service  
12 representatives. However those records are not categorized in a  
13 way that makes it possible to sort and retrieve individual call  
14 records on the basis of comments related to customer discontent  
15 over being assigned the company pass-on rate if they did not make  
16 a supplier selection.

17  
18 Thus, it is difficult to know whether there were a few or many, and how much  
19 interpretation of the statement is being made as it is relayed by the company  
20 personnel to the Commission through testimony.

21  
22 For example, it would be easy to interpret a statement by a customer who says,  
23 “This is very complicated and I don’t look forward to doing this each year,” into a  
24 request not to have to look at prices each year. However, in making that  
25 statement, the customer may not have intended that the cure be worse than the  
26 ailment itself. Yet, in this case, Kinder Morgan in attempting to simplify the  
27 matter for customers may be making the overall situation worse, as described in  
28 the testimony above.

29  
30 **Q. REGARDLESS OF WHETHER OR NOT YOU AGREE WITH THE**  
31 **PROPOSED CHANGE TO THE DEFAULT PROVISION, DON’T YOU**  
32 **AGREE THAT IT WILL BE SIMPLIER FOR CUSTOMERS?**

33 A. No. As described on page 4 of the application, even if a customer defaults to the  
34 same supplier that he/she had the previous year, that customer would have the  
35 option to still request a different price option from the supplier. Furthermore, as

1 indicated in response to OCA Interrogatory No. 7b, and cited below, the customer  
2 may still not be able to keep its prior year supply option, even if the changes  
3 requested by Kinder Morgan are approved.

4 Q. Please explain what pricing option would be provided to a  
5 customer under your proposed tariffs if a customer selected  
6 a supply and pricing option during the prior year's selection  
7 period but does not make a supplier selection in the  
8 subsequent year, and the supplier selected during the  
9 previous period does not offer an identical pricing option in  
10 the subsequent year.

11 A. Prior to the annual selection period the supplier would  
12 inform affected customers regarding the removal of any  
13 prior year pricing option and provide the customers with  
14 their current pricing options, including the default price  
15 option if the customer does not respond. In addition,  
16 customer education material would address the price option  
17 change and explain the customers' options.

18  
19 Before presuming that this is only a hypothetical, non-reality based question, I  
20 remind the Commission that pricing options are added and deleted over time. In  
21 the early years of the program, Kinder Morgan offered an indexed rate to  
22 residential customers. Now it does not.

23  
24 Thus, even pursuant to Kinder Morgan's proposed default mechanism, the  
25 customers may not be able to do nothing and receive the supply option of the  
26 prior year. Furthermore, the Commission should be wary of encouraging  
27 customers to become lax in reviewing the prices of the same option from year to  
28 year. As shown in the previous investigations and hearing on Choice Gas, the  
29 fixed price option can swing wildly from year to year. Customers should be  
30 encouraged to review their price options before agreeing to them for the entire

1 year – especially the price options whose components and make-up are not  
2 transparent through the Commission’s review and oversight.

3  
4 **Q. SURELY, THE COMMISSION CAN RELY ON THE RESULTS OF THE**  
5 **CUSTOMER SURVEY TO MAKE AN INFORMED DECISION OF WHAT**  
6 **CUSTOMERS WANT, CAN’T IT?**

7 A. Not in this case, based on this flawed survey. The OCA is concerned about  
8 several aspects of the survey and the corresponding reliability of the results.

9  
10 **Q. PLEASE EXPLAIN.**

11 A. Based on the review that I have been able to do in the past few days of the piles of  
12 individual survey notes and responses that were received in response to the OCA  
13 request, several concerns appear. First, it appears that there are different levels of  
14 comments and notes recorded by the different interviewers, making it hard to get  
15 a complete picture of the customers’ thoughts. Second, it appears that the Kinder  
16 Morgan sample may have been corrupted by the method that it used to select the  
17 customers to call. Third, while it is not my intent to question the integrity of the  
18 Kinder Morgan employees who conducted the survey, one always has to wonder  
19 whether having company employees conduct the phone survey is the best way to  
20 get unbiased results, rather than through the use of an independent, third party.

21  
22 **Q. PLEASE EXPAND ON YOUR CONCERN THAT THERE ARE**  
23 **DIFFERENT LEVELS OF COMMENTS RECORDED BY THE**  
24 **DIFFERENT INTERVIEWERS.**

25 A. Based on the description of the survey procedures used by Kinder Morgan, there  
26 was more than one employee calling customers in most, if not all, of each of the  
27 five divisions. In looking at the individual response sheets completed by those  
28 interviewers, it is apparent that some of the interviewers wrote down more  
29 comments from the customers than others. For example, in some divisions, there  
30 are virtually no comments recorded as having come from customers, and the  
31 records simply show a yes or no response to the second survey question.

1           However, for a portion of the Laramie division responses, there are numerous  
2 notes of comments made by customers. This difference in style makes it very  
3 difficult to compare the overall responses and feelings of customers.  
4

5   **Q.   WHY ARE THE COMMENTS IMPORTANT?**

6   A.   The comments are important since they can be as revealing as the answer itself.  
7       For instance, in reviewing the comments that were recorded in Laramie, there  
8       were four customers where the response sheet specifically notes that the question  
9       itself is either bad or confusing. If these four customers were confused by the  
10       question, how many others were also confused? And, in response, did the  
11       company representatives clarify and have a chat, perhaps unintentionally skewing  
12       the results? Did people answer the question, with each person interpreting it a  
13       different way?  
14

15           It is worth noting here the complexity of the second survey question. It is a 39  
16       word, compound question containing three different ideas: the option to do  
17       nothing, to keep the same selection made in prior year, and not having to  
18       resubmit. Researchers generally suggest that simpler questions are better.  
19

20           Other comments raise similar questions. Was the person who responded “yes,  
21       one supplier is all I need” thinking, “yes, I want to default to the one supplier I  
22       chose last year” or was that person thinking “yes, I only need one supplier so  
23       don’t bother me with choices at all each year”?  
24

25   **Q.   ARE YOU CONCERNED ABOUT THE RANDOMNESS OF THE**  
26       **SAMPLE AND THE PROCEDURE USED TO OBTAIN THE**  
27       **APPROPRIATE NUMBER OF RESPONSES?**

28   A.   Yes. While I have no problem with the idea of going through the customer list  
29       and picking every n<sup>th</sup> customer to call, that must be accomplished in a way where  
30       every customer has the same random opportunity to be called. That is, one should  
31       not just do that through the names beginning with certain letters of the alphabet,

1 and ignore all of the others on the list. Yet, this is precisely what appears to have  
2 been done. Based on my limited time to review the worksheets, it appears that a  
3 list of names for each division was printed and then divided among the  
4 interviewers for that division. Then, those interviewers began calling every 10<sup>th</sup>  
5 name on the list. The interviewer would call the number, and either record a  
6 response to the survey, or note the reason why not (e.g., no answer, number  
7 disconnected, etc.) Calls were made until at least 75 responses were received in  
8 each division. Then, the callers quit. In reviewing the workpapers, it is clear that  
9 there are pages of customers' names and numbers without any notes or markings,  
10 whereas other pages are full of notes relative to the lack of response. Thus, I am  
11 concerned that the survey may not meet the criteria of a random sample.

12  
13 **Q. IS THE FACT THAT THERE WAS NO CALLBACK TO THOSE WHO**  
14 **WERE NOT HOME OR NOT RESPONDING TO THE INITIAL CALL**  
15 **ALSO PROBLEMATIC?**

16 A. Yes. In reviewing the data for the Laramie Division, in order to get the 92 survey  
17 results for the Laramie Division (noting that there were different numbers of  
18 results in each of the divisions, e.g., 82 in Lander, 85 in Casper, etc.) hundreds of  
19 phone calls had to be made. I counted more than 400 calls made without survey  
20 results with most of those being no answers. Since the decision was made to  
21 simply skip those who did not answer, and move on to the next name and number,  
22 this could easily have skewed the results as well. For instance, some of the  
23 survey literature and experts indicate that there are differences between people  
24 reached on the first call and those reached on the second or third call.<sup>1</sup>

25  
26  
27  
28  

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<sup>1</sup> See <http://www.busreslab.com/articles/article3.htm>, The Science of Sampling – Telephone Samples from an internal training manual of The Business Research Lab. “Various studies have investigated whether people reached on the first call differ from those reached on the second or third call. There are differences.”

1 **Q. SO, ARE YOU SUGGESTING THAT IF THE SURVEY WERE**  
2 **PROPERLY CONDUCTED AND OFFERED THE SAME RESULTS AS**  
3 **THOSE SHOWN BY THE COMPANY IN ITS TESTIMONY, THAT THE**  
4 **COMMISSION SHOULD RELY UPON THEM TO MAKE ITS DECISION**  
5 **IN THIS PROCEEDING?**

6 A. In that situation, it would be appropriate for the Commission to incorporate the  
7 results as part of the mix of facts that it uses to make its decision – not the sole  
8 basis for the decision. It should be remembered that regulation is not based on the  
9 concept of majority rule. It is the job of the Commission to balance the interest of  
10 all parties and to promote and protect the overriding public interest. While we still  
11 have concerns about the long-run benefits of the Choice Gas program, we believe  
12 for now that the changes made by the Commission in its last review of the  
13 program improved it greatly – approaching that delicate balance – once it was  
14 determined that the program would continue. If the Commission had looked only  
15 at simplicity, its decision should have been to eliminate the program entirely, such  
16 that customers do not have to be involved in the decision making at all. The  
17 Commission should hold to its earlier decision, rejecting Kinder Morgan’s request  
18 to modify the program at this time.

19  
20 **Q. DOES THAT COMPLETE YOUR DIRECT, PREFILED TESTIMONY?**

21 A. Yes, it does.