

### KCS shares hit hard by news of loss in lawsuit

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Houston Chronicle

Wall Street hammered KCS Energy's shares Monday after a Texas jury said the company should pay \$143 million to Tenneco for spiking its natural gas with propane.

The suit by Tenneco charged KCS forced the Houston company to buy more natural gas under a high-priced contract by adding propane to increase the energy content.

The latest development in KCS Energy's longstanding legal battle with Tenneco took an immediate toll on the Edison, N.J., firm.

The company's shares fell 6%, to 35¼, in

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trading Monday on the New York Stock Exchange.

Also, KCS will delay and possibly terminate a planned public offering and acquisition of the oil and gas operations of MidAmerican Energy Co. until the legal cloud created by the jury verdict is lifted, said James W. Christmas, KCS president and chief executive officer.

The planned MidAmerican Energy deal, valued at \$220 million, would have doubled KCS Energy's production and reserves.

A state district court jury in Zapata County ruled that KCS must pay \$28.5 million in actual damages, \$114.1 million in punitive damages and \$473,000 in attorneys fees to Tenneco's Tenneco Gas Pipeline Co.

Tenneco filed its lawsuit after July 1994 tests revealed that gas produced by KCS in Zapata County had higher than expected concentra-

tions of propane.

KCS was obligated by its contract to deliver gas with a set energy content per thousand cubic feet.

When KCS substantially increased production in 1993, much of the gas did not meet the contract specification, Tenneco argued in court.

KCS began injecting propane in the gas to raise the heat value to create the appearance the gas met the specification, said Mark Wawro, an attorney with the Houston firm of Susman, Godfrey, which represented Tenneco in the lawsuit.

Tenneco was required to take a share of the production in the field, but it had the right to reject production that failed to have the required energy content.

The contract required Tenneco to pay about \$8.25 per thousand cubic feet at a time when natural gas was selling for about \$1.50 to \$2, Wawro said.

Tenneco routinely tests gas delivered to its pipelines to determine whether the gas is predominantly methane and to make sure it meets

contractual requirements for heating values, said spokesman Russell Johnson.

"We believe the jury's verdict was not supported by the facts and is inconsistent with applicable law," Christmas said in a written statement. "We are shocked and very disappointed with the jury's verdict on this matter."

He said the company will ask a judge to set aside the verdict. Failing that, KCS will seek a new trial or appeal the verdict.

Tenneco was represented by the Houston law firm of Susman Godfrey.

Tenneco and KCS are not strangers to courtroom battles.

The Texas Supreme Court ruled in August that Tenneco should pay KCS, Tesoro Petroleum and Coastal Corp. a total of \$206 million to cover the difference between what Tenneco paid for the companies' natural gas from the Bob West field in Zapata County and what it would have been required to pay under its contract with them.

The court's action upheld a 20-

year contract dating back to 1971 that requires Tenneco to buy natural gas from the three companies through 1999 at prices well above the current market.

The contract is a "take-or-pay" agreement, under which Tenneco must take an allotted share of the field's natural gas production each day or pay for what is not taken.

In the earlier case, Tenneco argued unsuccessfully that KCS showed bad faith by increasing production of gas covered by the high-priced contract.

KCS said the latest dispute with Tenneco does not affect the sale contracts, which run through January 1999.

Tesoro said Monday that it holds no interest in the producing properties that are the subject of the latest dispute between Tenneco and KCS and its lawsuit is not affected.

Tenneco, of Greenwich, Conn., has agreed to sell its gas operation including Tennessee Gas Pipeline to El Paso Natural Gas Co. The deal is scheduled to be completed next month.