

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF KENTUCKY FRONTIER GAS	)	
COMPANY, LLC AS BANKRUPTCY	)	
OPERATOR OF B.T.U. GAS COMPANY	)	CASE NO.
	)	2012-00028
V.	)	
	)	
HARRY THOMPSON, THOMPSON ENERGY,	)	
ET. AL. AND OTHER UNKNOWN ENTITIES	)	

O R D E R

B.T.U. Gas Company, Inc. ("BTU"), a Kentucky corporation that owns, operates, and manages facilities used for the distribution of natural gas to the public for compensation in Magoffin County, Kentucky, is a utility subject to Commission jurisdiction pursuant to KRS 278.010(3)(b) and KRS 278.040. KRS 278.280(2) directs that the Commission prescribe rules and regulations for the performance of services by utilities. Pursuant to that statutory directive, the Commission has promulgated 807 KAR 5:006, which establishes general rules for the operation of a utility and 807 KAR 5:022, which prescribes general rules for the operation of a gas utility.

KRS 278.020(1) states that "No person, partnership, public or private corporation, or combination thereof shall commence providing utility service to or for the public . . . for furnishing to the public any of the services enumerated in KRS 278.010 . . . until that person has obtained from the Public Service Commission a certificate of public convenience and necessity require the service . . . ."

Richard and Pamela Williams ("the Williamses") of Magoffin County, Kentucky, the former owners of BTU, are involved in a personal bankruptcy and, on August 11, 2011, the bankruptcy Trustee contracted with Kentucky Frontier Gas, LLC ("Frontier") to operate BTU, on behalf of the Trustee for six months. Since Frontier's appointment the Commission has been made aware of certain concerns involving the BTU system and possible unlawful third-party interference with Frontier's authority to manage and operate BTU. These concerns include BTU customers being misled and inappropriately removed from the BTU system, the unauthorized use of BTU facilities, and the syphoning of gas from BTU's pipelines. Upon information and belief, the Commission has attempted to identify the parties involved and the extent of these infractions.

On November 18, 2011, Jeff Derouen, Executive Director of the Public Service Commission, contacted Harry Thompson ("Mr. Thompson") via certified mail regarding the assertions made by the Williamses to employees of Frontier that Mr. Thompson, or one of his companies, was providing gas to certain locations and customers that Frontier believed to be BTU customers.<sup>1</sup> The Williamses further stated that these locations and customers were not part of BTU but were owned by Thompson Energy. Frontier employees were instructed by the Williamses to stay away from these areas and customers. As these areas and customers are identified to be within the BTU service area in Magoffin County, Kentucky, Mr. Thompson was asked to explain what

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<sup>1</sup> Letter from Jeff Derouen, Executive Director, Public Service Commission, to Harry Thompson (dated Nov. 18, 2011).

involvement he or one of his companies had in this situation.<sup>2</sup> A copy of Mr. Derouen's November 18, 2011 letter is attached hereto as Exhibit 1.

A letter dated December 19, 2011, received by the Commission on January 3, 2012, Mr. Thompson responded as follows:

Our company purchased the pipelines that you mentioned in 2006 but did not sell any gas to people along the line but we furnished the pipeline to B.T.U. Gas Company, Inc. for the use of their customers.

Since the filing of bankruptcy by the Williams, our company has supplied gas to those people without charging because we believe it would not be fair to them to cut off their supply of gas.<sup>3</sup>

A copy of Thompson's letter of December 19, 2011 is attached as Exhibit 2.

On January 13, 2012, Mr. Derouen sent a follow-up letter to Mr. Thompson requesting clarification of his response and the circumstances of his involvement in providing gas to BTU customers.<sup>4</sup> A copy of Mr. Derouen's January 13, 2012 letter is attached as Exhibit 3. In a letter dated January 27, 2012 and received by the Commission on February 2, 2012, Thompson responded to Mr. Derouen and admits that he is providing free gas to 31 BTU customers and has been since July of 2011.

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<sup>2</sup> Neither Harry Thompson, nor any company or entity he owns has ever sought or been authorized by the Commission to operate as a utility in the Commonwealth of Kentucky.

<sup>3</sup> Letter from Harry Thompson, President of Chattaco, Inc., to Jeff Derouen, Executive Director, Public Service Commission (received Jan. 3, 2012).

<sup>4</sup> Letter from Jeff Derouen, Executive Director, Public Service Commission, to Harry Thompson, Chattaco, Inc. (dated Jan. 13, 2012).

The customer list was provided to Mr. Thompson by Richard and Pam Williams.<sup>5</sup> A copy of Mr. Thompson's January 27, 2012 letter is attached as Exhibit 4:

On January 18, 2012, Frontier, as the current operator of BTU, filed a formal Complaint with the Commission against the following: Harry Thompson; Thompson Energy; Chattanooga Company or Chattaco; Wilon Gathering; entities associated with Mr. Thompson or Richard or Pam Williams; and other unknown entities. Frontier contends that its right and obligation to operate BTU is being disrupted to such an extent that BTU's ability to provide utility service to its customers has been impaired by the "unauthorized, uncompensated use by foreign entities." Frontier requested in its Complaint that the Commission order Harry Thompson, Thompson Energy, Chattanooga Company or Chattaco, Wilon Gathering, entities associated with Mr. Thompson or Richard or Pam Williams, and other unknown entities to:

[C]ease their improper and unlawful service to certain customers of BTU and of diverting gas supplies of BTU and Frontier to their own use without authorization by this Commission or BTU and for a determination of ownership of certain pipeline facilities.

Frontier further maintains that during the five months that it has operated BTU on behalf of the bankruptcy Trustee, it has encountered many customers who have been receiving unmetered gas, flat rate gas, and free gas from BTU.

KRS 278.160(2) provides that "No utility shall charge, demand, collect, or receive from any person a greater or less compensation for any service rendered or to be rendered than that prescribed in its filed schedules, and no person shall receive any

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<sup>5</sup> Letter from Harry Thompson, President of Chattaco, Inc., to Jeff Derouen, Executive Director, Public Service Commission (received Feb. 2, 2012).

service from any utility for a compensation greater or less than that prescribed in such schedules.”

According to Frontier, many of these free or reduced rate customers claim that they are entitled to continue receiving gas on these same terms because of contracts or agreements that they have with BTU or Richard or Pam Williams. Upon review of the Commission’s records, there are no such contracts or agreements between BTU and any customer that have been filed and approved by the Commission. 807 KAR 5:011, Section 13 provides that “[e]very utility shall file true copies of all special contracts entered into governing utility service which set out rates, charges or conditions of service not included in its general tariff.”

In response to the issue concerning customers who are claiming to be entitled to free or reduced rates, Frontier has requested that the Commission find:

[A]ny agreements, transfers of facilities, easements rights of way agreements or other transfer of service, rights or property by BTU or Richard or Pam Williams or others acting on their behalf be declared unlawful.

A copy of Frontier’s Complaint is attached hereto as Exhibit 5.

Based upon the foregoing, the Commission finds prima facie evidence exists that there has been a pattern of intentional interference with BTU operations by Harry Thompson, Thompson Energy, Chattanooga Company or Chattaco, Wilon Gathering, entities associated with Mr. Thompson or Richard or Pam Williams, and other unknown entities, and that BTU has provided free and reduced gas to certain customers, purportedly based on an agreement or contract, without Commission approval, in violation of the laws and administrative regulations set forth above.

The Commission, on its own motion, HEREBY ORDERS that:

1. This proceeding is initiated to investigate the activities of Harry Thompson; Thompson Energy; Chattanooga Company or Chattaco; Wilson Gathering; entities associated with Mr. Thompson; Richard and Pamela Williams and entities associated with them; and other unknown entities regarding the following:

a. Improper and unlawful provision of natural gas service to certain customers of BTU;

b. The diverting of gas supplies and facilities of BTU and Frontier to their own use without authorization by the Commission or BTU; and

c. A determination of the legality of any agreements, transfers of facilities, easements, rights of way or other transfers of service, rights or property by BTU and Richard and Pamela Williams.

2. The letters from Jeff Derouen to Harry Thompson dated November 18, 2011 and January 13, 2012, the letters from Harry Thompson to Jeff Derouen received January 3, 2012 and February 2, 2012, and, the Complaint filed on January 18, 2012 are all made a part of this proceeding.

3. Harry Thompson and Chattaco, Inc. shall, no later than February 17, 2012, respond under oath to this Order of the Commission with an original and ten copies.

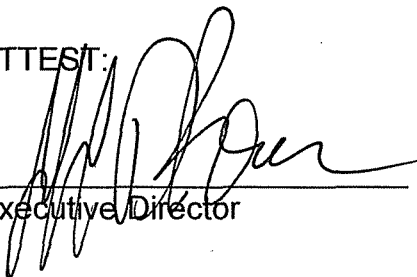
4. The response to be filed with the Commission shall be served upon all parties of record. Service of any document or pleading shall be made in accordance with 807 KAR 5:001, Section 3(7), and Kentucky Civil Rule 5.02.

5. All documents that the Commission requires any party to file with the Commission shall also be served upon all parties of record at or before the time of filing. Careful attention shall be given to copied material to ensure its legibility.

By the Commission

ENTERED *PA*  
FEB 03 2012  
KENTUCKY PUBLIC  
SERVICE COMMISSION

ATTEST:



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Executive Director

Case No. 2012-00028



Steven L. Beshear  
Governor

Leonard K. Peters  
Secretary  
Energy and Environment Cabinet

Commonwealth of Kentucky  
**Public Service Commission**  
211 Sower Blvd.  
P.O. Box 615  
Frankfort, Kentucky 40602-0615  
Telephone: (502) 564-3940  
Fax: (502) 564-3460  
psc.ky.gov

David L. Armstrong  
Chairman

James W. Gardner  
Vice Chairman

Charles R. Borders  
Commissioner

November 18, 2011

**CERTIFIED MAIL  
RETURN RECEIPT REQUESTED**

Mr. Harry Thompson  
3875 Hixson Pike  
Chattanooga, TN 37415

Dear Mr. Thompson:

The Commission is in receipt of two separate documents titled "Agreement and Bill of Sale," both dated February 15, 2006 by and between B.T.U. Gas Company, Inc. ("BTU") and Wilon Gathering Systems, Inc. ("WGS"). Both documents were signed on February 15, 2006 by Pam Williams, President of BTU, and Harry Thompson, President of WGS.<sup>1</sup> For reference purposes, the agreement that pertains to the construction of a pipeline by BTU for WGS that begins at the P&R Trust property will be referred to as "Agreement One" and the agreement that pertains to the construction of a pipeline by BTU for WGS that begins at the Mountain Parkway will be referred to as "Agreement Two." Pursuant to "Agreement One," BTU agreed to construct and lay a "gathering pipeline" in Magoffin County, Kentucky for WGS in the following location:

P&R Trust property located on Craft Creek and running across the easements of Alvin Minix, Greg and Manuel Minix, Paul Bailey and Carl J. Howard; thence along the bank to the railroad and following the railroad track along the Howard property to the Carver Church across Rob Minix and Paul Bailey properties; thence leaving Travis Shepherd property, Hager Minix, Patrick property, Ronald Minix, Franklin Bailey, Tommy Frazier, Larry Lee Arnett, R.C. May,

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<sup>1</sup> Both Agreement One and Agreement Two state that it was prepared by Wilon Gathering Systems, Inc., 3875 Hixson Pike, and Chattanooga, Tennessee. The signatures of Pam Williams and Harry Thompson at the end of both documents were notarized on February 15, 2006 by Stacy Dodd, a notary of Hamilton County, State of Tennessee. In addition, Agreement Two appears to have been recorded in Magoffin County, Kentucky, on October 28, 2011. According to the records of the Tennessee Secretary of State, "Wilon Gathering Systems, Inc." was inactivated on August 24, 2004, with its name changed to AXG, Inc. It appears that the name on the documents "Wilon Gathering Systems, Inc." was inactive at the time both agreements were executed.



and Willard Bailey to the compressor station located on the James Edgar Arnett property.

Agreement One describes the construction of a "gathering pipeline" which begins and ends in Magoffin County. The beginning of the pipeline is stated as the "P&R Trust property located on Craft Creek" with the pipeline's ending point being the "compressor station on the James Edgar Arnett property."

Agreement Two likewise describes the construction of a "gathering pipeline" in Magoffin County, Kentucky by BTU for WGSJ in the following location:

From the Mountain Parkway along State Route 30 to Middle Fork School a distance of approximately four (4) to five (5) miles.

According to the above description, the pipeline begins and ends in Magoffin County. The beginning of the pipeline is the Mountain Parkway with the pipeline ending point being the "Middle Fork School."

As you may be aware, Richard and Pamela Williams ("Williams") have filed for individual bankruptcy protection in the U.S. Bankruptcy Court in the Eastern District of Kentucky.<sup>2</sup> Because of the pending bankruptcy, the Williams currently have no authority or control over any component of the BTU system. The Bankruptcy Court has appointed a Trustee, who is in possession and control of BTU. Through an agreement between the Trustee and Kentucky Frontier Gas, LLC ("Kentucky Frontier"), Kentucky Frontier is operating BTU at this time. Recently the Williams have contacted Kentucky Frontier and stated that certain locations and customers that appear to be within the BTU service area in Magoffin County "do not belong to BTU" because "Harry Thompson," or one of your companies, owns the lines and provides gas service to the customers in those locations. Companies that have been connected to you by the Williams or that have otherwise been identified include Thompson Energy, Wilon Gathering Systems, Inc., AXG, Inc., Wilon Resources of Tennessee, Inc., US Natural Gas Corp of WV, Wilon Resources, Inc., Chattaco, Inc., CBG, Inc., Bluegator, Inc., and others not stated herein.

Based upon these explicit representations made by the Williams, along with the two Agreements, the Commission has now been made aware that you have natural gas operations in the area. In particular, the Commission must now identify the exact location of your pipelines as well as the names and addresses of any customers that

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<sup>2</sup> *In re: Richard Dow Williams and Pamela Jean Williams dba Circle J Farms*, Case No. 10-70767, United States Bankruptcy Court, Eastern District of Kentucky.

Mr. Harry Thompson  
November 18, 2011  
Page 3

you are providing with natural gas service. This information is necessary in order for the Commission to determine your status as either a gas company with gathering lines or as a public utility, since the regulatory requirements are different for each. While the Bankruptcy Court will make the final determination regarding the disposition of the Williams' assets, including BTU, the Commission maintains regulatory authority over natural gas operations, regardless of whether they are part of the BTU system or they are outside that system.

The details of your natural gas company's operations will determine whether it is considered to be a gathering company or a public utility. While stated to be a "gathering pipeline" in both Agreement One and Agreement Two, the actual operation of the pipeline determines whether it is a public utility under the jurisdiction of the Commission or is a gas company with gathering lines subject to state and federal regulations. In determining whether your gas company is a public utility, definitions found in KRS 278.010 must be applied to the details of your natural gas company's specific operations.

KRS 278.010 states in pertinent part:

(2) "Person" includes natural persons, partnerships, corporations, and two (2) or more persons having a joint or common interest;

(3) "Utility" means any person . . . who owns controls, operates, or manages any facility used or to be used for or in connection with;

(b) The production, manufacture, storage, distribution, sale, or furnishing of natural or manufactured gas, or a mixture of same, to or for the public, for compensation, for light, heat, power, or other uses;

(c) The transporting or conveying of gas, crude oil, or other fluid substance by pipeline to or for the public, for compensation.

If the operation of your company falls within KRS 278.010(3) above, it is a public utility, and the laws and regulations affecting public utilities in the Commonwealth of Kentucky must be complied with and observed. This includes, but is not limited to, compliance with the Kentucky Revised Statutes, Chapter 278 and the Kentucky Administrative Regulations, Title 807, Chapter 5.

If however, the Commission determines that your company is not a public utility but is a gas company with gathering lines, the requirements that apply are different.

KRS 278.470 defines a company transporting oil or gas by pipeline as a common carrier:

Every company receiving, transporting or delivering a supply of oil or natural gas for public consumption is declared to be a common carrier, and the receipt, transportation and delivery of natural gas into, through and from a pipeline operated by any such company is declared to be a public use.

A pipeline company which obtains natural gas from producing wells but does not meet the definition of a public utility is considered to be a gathering company.

KRS 278.485 describes requirements that in part apply in this situation:

Every gas pipeline company obtaining gas from producing wells located within this state, upon the request of the owner of the property on or over which any producing well or gas gathering pipeline is located or the owner of real estate whose property and point of desired service is located within one-half (1/2) air-mile of said company's producing gas well or gas gathering pipeline, shall furnish gas service to such owner and applicant, subject to and upon the following terms, conditions, and provisions, to-wit:

- (1) The gas service shall be furnished at rates and minimum monthly charges determined by the Public Service Commission.
- (2) The company, at its own expense, shall provide, install, and maintain the necessary gas meters.
- (3) The construction of each service line; the installation, type, and number of automatic gas regulators and gas meter or meters, and the connection there of with the gas producing well or

Mr. Harry Thompson  
November 18, 2011  
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pipeline shall be under the supervision of the Public Service Commission . . . and shall conform to such standards of safety, location, and convenience as may be prescribed by said commission.

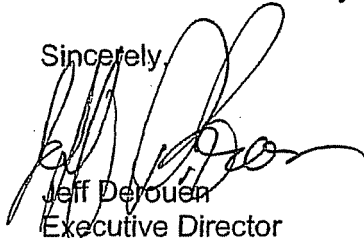
(5) The provisions of this section shall apply only to producing gas wells and to gas pipelines commonly know as gathering lines.

(8) Every gas pipeline company obtaining gas from producing wells within the state shall offer each surface owner the right of a tap or hookup for natural gas from any gathering line which crosses the surface owner's property. The cost of the tap or hookup shall be borne by the consumer.

Regardless of whether your company is determined to be a public utility or a gas company with gathering lines, it is subject to and must comply with the federal safety regulations of the Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 49 CFR §192- *Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards*.

The information contained in Agreement One and Agreement Two, as well as the representations made by the Williams, indicate that you are operating a gas company in Magoffin County, Kentucky. A review of the Commission's records, however, reflects that nothing has ever been filed for or on behalf of WGSI, or for any of your other companies. It is important that the Commission have accurate information from you directly and requests that you respond to this letter within 20 days regarding the above.

Sincerely,



Jeff Derouen  
Executive Director

VG/kar  
Attachments

Chattaco, Inc.

RECEIVED

JAN - 3 2012

PUBLIC SERVICE  
COMMISSION

December 19, 2011

Jeff Derouen  
Executive Director  
Public Service Commission  
Commonwealth of Kentucky  
P.O. Box 615  
Frankfort, Kentucky 40602-3940

Dear Mr. Derouen:

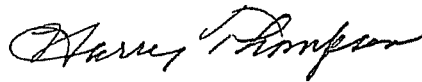
I am in receipt of a letter addressed to me dated November 18, 2011 wherein you inquire whether Chattaco, Inc. is a public utility within the meaning of the various code citations you referenced.

Our company purchased the pipelines that you mentioned in 2006 but did not sell any gas to people along the line but we furnished the pipeline to B. T. U. Gas Company, Inc. for the use of their customers.

Since the filing of bankruptcy by the Williams, our company has supplied gas to those people without charging because we believe it would not be fair to them to cut off their supply of gas.

I would appreciate any advice, direction or help in this matter because we desire to cooperate with the commission in any manner that we can.

Sincerely,



Harry Thompson  
President

HT/tb



Steven L. Beshear  
Governor

Leonard K. Peters  
Secretary  
Energy and Environment Cabinet

Commonwealth of Kentucky  
**Public Service Commission**  
211 Sower Blvd.  
P.O. Box 615  
Frankfort, Kentucky 40602-0615  
Telephone: (502) 564-3940  
Fax: (502) 564-3460  
psc.ky.gov

David L. Armstrong  
Chairman

James W. Gardner  
Vice Chairman

January 13, 2012

Harry Thompson  
c/o Chattaco, Inc.  
3875 Hixson Pike  
Chattanooga, TN 37415

Dear Mr. Thompson:

Thank you for your response to my November 18, 2011 letter regarding B.T.U. Gas Company, Inc. ("BTU"). You have asked for "any advice, direction or help in this matter because we desire to cooperate with the Commission in any manner that we can." Commission staff is agreeable to provide such assistance but in order to do so, we need the following questions answered.

As I stated, both Richard and Pamela Williams have told employees of Kentucky Frontier Gas, LLC ("Kentucky Frontier"), the company appointed by the Bankruptcy Court to operate BTU, that part of the BTU system was separately owned and served by "Thompson Energy" and these customers did not belong to BTU. The Williams' statements and your response have raised several questions that I would appreciate you answering as quickly as possible. You state that the reason you began providing gas to these customers was because of the Williams' bankruptcy and your concern about BTU customers not having any gas. Specifically, you state:

Our company purchased the pipelines that you mentioned in 2006 but did not sell any gas to people along the line but we furnished the pipeline to B.T.U. Gas Company, Inc. for the use of their customers.

Since the filing of bankruptcy by the Williams, our company has supplied gas to those people without charging because we believe it would not be fair to them to cut off their supply of gas.

My questions are as follows:

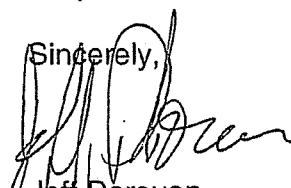
1. What is the name of your company that is providing gas to these BTU customers? Please provide the full name and address of the company. If the address is a post office box, please provide the office location.

Mr. Harry Thompson  
January 13, 2012  
Page 2

2. When did you first begin providing gas to BTU customers?
3. How did you know the names and addresses of these customers?
4. How many customers are being served by your company?
5. What are the names and addresses of each of these customers? If the address is a post office box, provide location description.
6. Are all of these customers metered? If not, explain.
7. What is the average volume of gas being provided monthly to each customer?
8. What is the average volume of gas being provided monthly to all customers?
9. Do you have any other companies operating in Kentucky? If yes, provide the name, address, and the nature of the business for each of those companies.

The Commission needs for you to respond to the above questions within seven days of this letter. Because of this period of uncertainty for BTU and its customers, it is the Commission's intention to identify and resolve any outstanding issues that may arise during this time of transition. Your assistance is appreciated. If you have any questions, please feel free to contact Virginia Gregg, Public Service Commission, 211 Sower Boulevard, Frankfort, KY 40601, Telephone 502-564-3940, Ext. 407.

Sincerely,



Jeff Derouen  
Executive Director

VG/kar



January 27, 2012

Jeff Derouen  
Executive Director  
Public Service Commission  
Commonwealth of Kentucky  
P.O. Box 615  
Frankfort, Kentucky 40602-0615

RECEIVED

FEB - 2 2012

PUBLIC SERVICE  
COMMISSION

Dear Mr. Derouen:

I am in receipt of your letter dated January 13, 2012 wherein you have listed nine (9) questions and our response is as follows:

Question 1: Chattaco, Inc., 3875 Hixson Pike, Chattanooga, Tennessee 37415, has provided gas to B.T.U. Gas Company, Inc.

Question 2: Chattaco first started to provide gas to B. T. U. Gas Company, Inc. in July 2011. On August 15, 2011 I received a telephone call from Kentucky Frontier Gas, LLC with reference to supplying them with gas. I offered to sell gas to them but I received no response to my offer.

Question 3: I was supplied a list of gas customers of B. T.U. Gas Company, Inc. by Richard and Pam Williams and those customers have continue to receive gas without charge.

Question 4: There are thirty-one (31) customers now receiving gas without charge.

Question 5: A list of such customers is attached to this response.

Question 6: All of the listed customers have a meter.


Question 7: The average volume of each user is approximately 10 mcf/m.

Question 8: The average volume of gas being furnished to the listed customers is approximately 10 mcf/m but the meters have not been read since August 15, 2011.

Question 9: Chattaco, Inc. has various leases and gas wells located in Magoffin County, Kentucky but have not commenced operations. AXG, Inc. 3875 Hixson Pike, Chattanooga, Tennessee 37415 has assets in Floyd County, Kentucky but is not in operation.

We will lend any assistance in resolving the outstanding issues that might be involved in this matter.

Sincerely,

  
Harry Thompson  
President

HT/tb



## OAKLEY LINE CUSTOMERS

1. Tex Helton-P.O. Box 1151, Salyersville, KY 41465
2. Kristie Rudd Nellipewitz – HC 60 Box 477, Salyersville, KY 41465
3. Jared Rudd – HC 60 Box 619, Salyersville, KY 41465
4. Bill Rudd – HC 60 Box 619, Salyersville, KY 41465
5. Aaron Salyer – Rt. 4, Salyersville, KY 41465
6. Larry & Wanda Salyer – HC 60 Box 472, Salyersville, KY 41465
7. Jack Juniper – HC 60 Box 493, Salyersville, KY 41465
8. Billy & Theda Salyer – HC 60 Box 497, Salyersville, KY 41465
9. Hager Minix – HC 60 Box 613, Salyersville, KY 41465
10. James J Howard – HC 60 Box 615, Salyersville, KY 41465
11. Donald Minix – c/o Hager Minix – HC 60 Box 613, Salyersville, KY 41465
12. Lynette Blanton – HC 60 Box 614, Salyersville, KY 41465
13. Travis & Angie Shepherd – HC 60 Box 498, Salyersville, KY 41465
14. Travis & Angie Shepherd – same as above
15. Shirley Shepherd – HC 60 Box 449, Salyersville, KY 41465
16. Paul Bailey – HC 60 Box 503, Salyersville, KY 41465
17. Paul Bailey – same as above
18. Ann Williams – HC 60 Box 513, Salyersville, KY 41465
19. Rob Minix – HC 60 Box 538, Salyersville, KY 41465
20. Carver Church Building – c/o Manuel Minix Carver Rd., Salyersville, KY 41465
21. Delos or Ora L Push – HC 60 Box 540, Salyersville, KY 41465
22. Alvin Minix – HC 60 Box 499, Salyersville, KY 41465
23. Johnny Salyer – HC 60 Box 544, Salyersville, KY 41465
24. Linda Bryant – HC 60 Box 545, Salyersville, KY 41465
25. Wendell Cole – HC 60 Box 546, Salyersville, KY 41465
26. Lester Minix – c/o Hager Minix, HC 60 Box 613, Salyersville, KY 41465
27. Carl Howard, Jr – HC 60 Box 345, Salyersville, KY 41465
28. Joe Salyer – HC 60 Box 558, Salyersville, KY 41465
29. Tonya Caudill – HC 60 Box 568, Salyersville, KY 41465
30. Arthur Cole – HC 60 Box 568, Salyersville, KY 41465
31. Louise Adams – HC 60 Box 570, Salyersville, KY 41465

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

JAN 18 2012

PUBLIC SERVICE  
COMMISSION

In the Matter of:

KENTUCKY FRONTIER GAS  
COMPANY, LLC AS BANKRUPTCY  
OPERATOR OF B.T.U.GAS COMPANY

Vs.

CASE NO. 2012-

HARRY THOMPSON, THOMPSON ENERGY  
ET. AL AND OTHER UNKNOWN ENTITIES

**COMPLAINT**

Kentucky Frontier Gas Company, LLC (Frontier), by counsel, petitions for an order directing Harry Thompson, Thompson Energy, Chattanooga Company or Chattaco, Wilson Gathering and entities associated with Thompson or Richard or Pam Williams et. al to cease their improper and unlawful service to certain customers of B.T.U. Gas Company ("BTU") and of diverting gas supplies of BTU and Frontier to their own use without authorization by this Commission or BTU and for a determination of ownership of certain pipeline facilities.

In support of its petition the following information is provided.

1. Kentucky Frontier Gas, LLC is a Colorado company authorized to do business in Kentucky. Its address is 4891 Independence St., Wheat Ridge CO 80033. Managing partners are Robert Oxford, Steven Shute and Larry Rich. A copy of its articles of organization and its certificate to operate in Kentucky were filed in Case No. 2008-00394.
2. The former owners and operators of BTU, Richard and Pam Williams, are involved in a personal bankruptcy case which has encumbered BTU's ability to continue operations. Frontier was appointed operator of BTU by the bankruptcy trustee in Case No.

10-70767-TNW on August 11, 2011.

3. Frontier as operator of BTU filed a tariff for a Gas Cost Adjustment mechanism on October 31, 2011. The tariff was approved for rates effective on and after November 2, 2011 in Case No. 2011-00374.

4. Frontier as operator of BTU filed a tariff for an emergency Gas Cost Adjustment mechanism on December 20, 2011. The tariff was approved for rates effective on and after January 9, 2012 in Case No. 2011-00512.

5. Frontier has learned in five months of operating the BTU system that the Lost & Unaccounted for gas (L&U) is inordinately high. For the August-December billing period, the L&U of BTU is at about 59%. In other words, almost 3/5ths of the gas purchased by BTU simply "disappeared". Some of this discrepancy is from leakage, but Frontier assisted BTU in a leak survey of the system in 2010 and believes leakage is a minor issue. Some of the L&U is due to inaccurate measurement, because most BTU meters are old and are apparently not under any meter testing program. Frontier believes that most of the L&U is plainly use by customers without meters, of which Frontier has found about 60 so far; and by foreign entities taking gas from illicit connections.

6. Under Commission rules, a gas utility cannot recover gas costs for more than 105% of its volumetric sales to customers. The L&U discrepancy between gas volumes purchased from suppliers versus gas costs recovered from customers results in a significant financial impact, as Frontier must subsidize the gas cost recovery losses incurred by BTU.

7. Frontier has found that the BTU system was interconnected with foreign pipelines. Three separate illicit connections to the Sigma system (now Frontier - Cow Creek) have been discovered and removed. These were direct and clandestine connections with no meter, both below- and above-ground, where BTU was improperly taking gas from Sigma. Area producers have similar stories, where BTU concealed connections to take un-measured gas from producing wells and pipelines.

8. On or about October 25, 2011, Frontier received a call from a BTU customer who wished to remain anonymous. The customer recounted a conversation with Pam Williams which purported to transfer the customer's account to Thompson Energy of Lexington, Kentucky. Information from customers in this area suggests that they are concerned about their gas supply and about uncertainty of the authorized gas supplier. Many fear the consequences of multiple gas operatives in the area.

9. On further investigation, Frontier found two pipeline segments which have served BTU customers for years, but which are now claimed by former owners Richard and Pam Williams as belonging to "Thompson Energy", which has no approved PSC tariff and no record of existence in Kentucky. These two segments at Hendricks and Oakley are still connected directly to BTU mains with no meter, just a block valve separating the putative Thompson lines from BTU. Frontier has closed these valves, but later found them slightly opened and feeding gas to the foreign "Thompson" pipeline sections.

10. The Hendricks segment is a 2-inch PE main that runs about two miles along Route 30 southwest of Salyersville from the Mountain Parkway into the Hendricks community. This segment serves a former school known as Hendricks Middle Fork School. Based on information Frontier has developed as operator of the BTU system and on information from a former BTU employee now working for Frontier, this meter was classified as a BTU customer for about 15 years. This segment was identified by Richard Williams to Frontier manager Robert Oxford as being a part of BTU in October, 2010. In direct conflict with this representation to Frontier, Richard Williams later produced a document purported to be a "deed" to sell this pipeline segment to Harry Thompson of Wilon Gathering. This document was executed in February, 2006, but not filed in the Magoffin County Clerk's office until October, 2011. No such sale or transaction was submitted by BTU for approval by, nor was it approved by the Commission. A copy of this document is attached as exhibit 1.

11. The Oakley system consists of at least two segments of 2-inch or 3-inch PE

main south of the Oakley community in the southern part of Magoffin County. BTU has meters on two "legs" of the system in this area, the main leg south-southeast along Rt. 1635 and the Chesapeake rail system into Bee Tree Branch, and a shorter leg along Right Oakley Creek Road. These two legs seem to be precisely described in a document "Descriptive Summaries of B.T.U. Pipeline, Inc. Service Areas and Pipelines" prepared by the Commission staff as Appendix Exhibit B for the original Case 92-220 that created the BTU utility. Copy attached as exhibit 2.

At that point in time - 1992-94 - the Oakley system was mainly old steel 6-inch lines FG-51 and G-39 stretching 13,000 feet and 2500 feet along Rt. 1635, with "also some service on... Right Branch Oakley Creek" (See exhibit 2 Section E on pages 5-6). Bee Tree Branch (See exhibit 2 Sec I on page 9) is similarly described as an old 4-inch steel line tying into the Oakley G-39 line, same area. The old steel lines have been replaced with PE, but these descriptions of BTU 1994 seem to precisely match BTU 2011 as recalled by the former BTU employee, now employed by Frontier. It appears from the investigation that there were 25-30 customers historically connected to and billed by BTU Gas on this section of Oakley Road, which are now claimed by Thompson et al.

12. Frontier has not completed its investigation and may likely identify such former customers on other segments formerly operated as BTU.

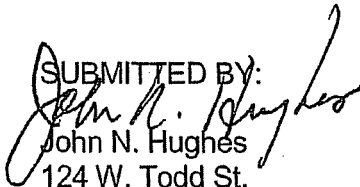
13. In Case 92-220 many of these same issues were presented to the Commission. The Commission determined the scope of the BTU system and of its unlawful activities. A letter from the Commission's Executive Director to Frontier dated November 28, 2011 summarizes the findings in the case. It is attached as exhibit 3.

To avoid additional harm to BTU by loss of customers and loss of gas due to unauthorized, uncompensated use by foreign entities, Frontier seeks an order directing Harry Thompson, Thompson Energy, Richard or Pam Williams or any other entity from improperly serving certain customers and from the improper use of pipeline segments of BTU.

Frontier requests that the Commission compel the immediate and complete reinstatement of any and all gas line segments and customers to BTU Gas as they are identified and to authorize Frontier to disconnect illegal connections and install metered service to all affected customers. .

Frontier further requests that the Commission find that any agreements, transfers of facilities, easements rights of way agreements or other transfer of service, rights or property by BTU or Richard or Pam Williams or others acting on their behalf be declared unlawful.

SUBMITTED BY:



John N. Hughes

124 W. Todd St.

Frankfort, KY 40601

502-227-7270

Attorney for

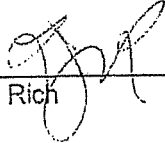
Applicant

AFFIDAVIT

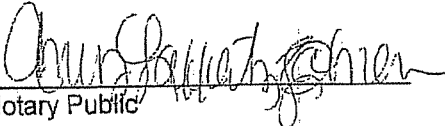
County of Floyd

Commonwealth of Kentucky

Affiant, Larry Rich, after being sworn, states that he is a Managing Partner of Kentucky Frontier Gas, LLC and that the information contained in this complaint is true and correct to the best of his knowledge.

  
\_\_\_\_\_  
Larry Rich

Sworn and subscribed before me by Larry Rich, the      day of January, 2012.

  
\_\_\_\_\_  
Notary Public

My commission expires: 9-24-13

EXHIBIT 1



AGREEMENT AND BILL OF SALE

THIS AGREEMENT AND BILL OF SALE, made and entered into this 15<sup>th</sup> day of February, 2006 by and between B.T.U. Gas Company, Inc. hereinafter referred to as BTU; and Wilon Gathering Systems, Inc., hereinafter referred to as WGS.

WHEREAS, WGS has advanced to BTU funds to construct and lay a gathering pipeline in Magoffin County, Kentucky from P & R Trust property located on Craft Creek and running across the easements of Alvin Minix, Greg and Manuel Minix, Paul Bailey and Carl J. Howard; thence along the bank to the railroad and following the railroad track along the Howard property to the Carver Church across Rob Minix and Paul Bailey properties; thence leaving Travis Shepherd property, Hager Minix, Patrick property, Ronald Minix, Franklin Bailey, Tommy Frazier, Larry Lee Arnett, R.C. May, and Willard Bailey to the compressor station located on the James Edgar Arnett property.

WHEREAS, BTU asserts no ownership in the aforesaid gathering pipeline and desires to assign, transfer, sell convey, and set over to WGS any interest it may have in the gathering system, and

WHEREAS, BTU desires to establish the ownership or title as to the gathering pipeline set forth herein, and

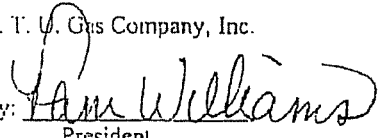
WHEREAS, BTU may from time to time have the need to transport gas through the gathering system, and

WHEREAS, BTU and WGS for and in consideration of the agreements set forth herein the parties do agree as follows:

1 That BTU does hereby assign, transfer, sell, convey and set over unto WGS any interest that it may have in the gathering pipeline in Magoffin County, Kentucky from P & R Trust property located on Craft Creek and running across the easements of Alvin Minix, Greg and Manuel Minix, Paul Bailey and Carl J. Howard; thence along the bank to the railroad and following the railroad track along the Howard property to the Carver Church across Rob Minix and Paul Bailey properties. thence leaving Travis Shepherd property, Hager Minix, Patrick property, Ronald Minix, Franklin Bailey, Tommy Frazier, Larry Lee Arnett, R.C. May, and Willard Bailey to the compressor station located on the James Edgar Arnett property

2 That BTU shall have the right to transport its natural gas through the said gathering pipeline to its customers and provide WGS an accounting for such natural gas transported.

B. T. U. Gas Company, Inc.

By:   
President

Wilon Gathering Systems, Inc.

By: Harry Thompson  
President

STATE OF TENNESSEE

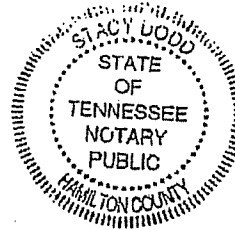
COUNTY OF HAMILTON

On this 15<sup>th</sup> day of February, 2006, before me a Notary Public in and for said state and county, personally appeared Pam Williams, President of B. T. U. Gas Company, Inc., known to be the person who executed and delivered the within Agreement and Bill of Sale and acknowledged to me that she executed the same for the purposes therein stated.

Stacy Dodd  
Notary Public

COMMISSION EXPIRES:  
April 22, 2009

My commission expires \_\_\_\_\_



STATE OF TENNESSEE

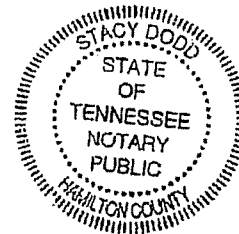
COUNTY OF HAMILTON

On this 15<sup>th</sup> day of February, 2006, before me a Notary Public in and for said state and county, personally appeared Harry Thompson, President of Wilon Gatherings Systems, Inc., known to be the person who executed and delivered the within Agreement and Bill of Sale and acknowledged to me that she executed the same for the purposes therein stated.

Stacy Dodd  
Notary Public

MY COMMISSION EXPIRES:  
April 22, 2009

My commission expires \_\_\_\_\_



THIS INSTRUMENT PREPARED BY:

Wilon Gathering Systems, Inc.  
3875 Hixson Pike  
Chattanooga, Tennessee 37415

By: \_\_\_\_\_

AGREEMENT AND BILL OF SALE

THIS AGREEMENT AND BILL OF SALE, made and entered into this 15<sup>th</sup> day of February, 2006 by and between B.T.U. Gas Company, Inc., hereinafter referred to as BTU; and Wilson Gathering Systems, Inc., hereinafter referred to as WGS.

WHEREAS, WGS has advanced to BTU funds to construct and lay a gathering pipeline in Magoffin County, Kentucky from the Mountain Parkway along State Route 30 to the Middle Fork School a distance of approximately four (4) to five (5) mile, and

WHEREAS, BTU asserts no ownership in the aforesaid gathering pipeline and desires to assign, transfer, sell convey, and set over to WGS any interest it may have in the gathering system, and

WHEREAS, BTU desires to establish the ownership or title as to the gathering pipeline set forth herein, and

WHEREAS, BTU may from time to time have the need to transport gas through the gathering system, and

WHEREAS, BTU and WGS for and in consideration of the agreements set forth herein the parties do agree as follows:

1. That BTU does hereby assign, transfer, sell, convey and set over unto WGS any interest that it may have in the gathering pipeline in Magoffin County, Kentucky from the Mountain Parkway along State Route 30 to the Middle Fork School a distance of approximately four (4) to five (5) miles.
2. That BTU shall have the right to transport its natural gas through the said gathering pipeline to its customers and provide WGS an accounting for such natural gas transported.

B. T. U. Gas Company, Inc.

By: *Sam Williams*  
President

Wilson Gathering Systems, Inc.

By: *Cherry Simpson*  
President

606 349 2328

Magoffin Co Clerk

08:05:00 p.m. 11-08-2011

2/2

STATE OF TENNESSEE

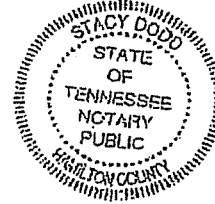
COUNTY OF HAMILTON

On this 15<sup>th</sup> day of February, 2006, before me a Notary Public in and for said state and county, personally appeared Pam Williams, President of B. T. U. Gas Company, Inc., known to be the person who executed and delivered the within Agreement and Bill of Sale and acknowledged to me that she executed the same for the purposes therein stated.

*Stacy Dadd*  
Notary Public

MY COMMISSION EXPIRES:  
April 14, 2009

My commission expires \_\_\_\_\_



STATE OF TENNESSEE  
MAGOFFIN COUNTY  
I, \_\_\_\_\_, Notary Public for Hamilton County and State of Tennessee  
did on the 28 day  
of Oct. 2011, at \_\_\_\_\_, Tennessee, acknowledge to me with the  
following and the return of \_\_\_\_\_ day, 2011, in my office  
that \_\_\_\_\_  
did execute the same on 3 day of Nov 2011.  
Wax  
Rev. 115, Page 554  
Thurs A.M. 11:13 P.M. *Melissa Hollister*

EXHIBIT 2

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 92-220 DATED 4/27/94

INSPECTION REPORT

B.T.U. Pipeline, Inc.  
Magoffin County, Kentucky.

April 8, 1994

BRIEF

On March 21-22, 1994, Commission Staff visited B.T.U. Pipeline, Inc. (B.T.U.) to inspect all of B.T.U.'s pipelines and customer services and to determine the jurisdictional status of B.T.U.'s operations. Present for Staff were: David Kinman, a gas safety investigator with the Commission's Gas Pipeline Safety Branch; and Mark Hostetter and Ralph Dennis with the Commission's Gas Branch. Representing B.T.U. was Richard Williams.

The pipeline facilities and service areas inspected fall into two categories: pipelines installed or owned by B.T.U. (Rockhouse Fork Area, Elk Creek/Lick Creek, Dixie Avenue/Auxier Branch, Lakeville Road/Petro); and pipelines originally owned by Inland Gas Company (Inland). The service areas in this latter category and the designated ex-Inland pipeline are: Oakley (FG-51), Royalton (FG-47/G-39), Punchedon Camp Creek, Salt Lick, and Long Branch (G-39), and Beetree Branch (FG-40/41). Also inspected in some of these service areas were lateral lines which B.T.U. has installed.

All of these pipelines have customer services; however, responsibility for those customers connected to or in the general area of pipelines previously owned by Inland is claimed by both B.T.U. and Sigma Gas Corporation (Sigma), a local gas distribution

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Page 2  
April 11, 1994

utility providing service in Salyersville and jurisdictional to the Commission. This dispute, concerning customers most of whom have been considered in the past to be subject to 807 KAR 5:026 (farm tap service), is the subject of Civil Action No. 93-CI-00185 in Magoffin Circuit Court.

Included in this report are: Exhibit A, a county map which depicts the geographical location of each pipeline/service area and the extent to which the pipelines are interconnected; and Exhibit B, a series of descriptive summaries with details on each pipeline/service area.

#### INVESTIGATION

*Separate formed in 11/11/94*

B.T.U. has installed a series of interconnected pipelines which stretch from north of Salyersville, southward through and around Salyersville, to the Bull Branch area south of Salyersville. This interconnected pipeline system includes several dead-end lateral lines from which additional service is provided. In the southern area of this system (Lakeville Road area), B.T.U. has connected its pipeline to the Petro pipeline (to which B.T.U. claims ownership) which had been but is not presently connected to an ex-Inland pipeline (FG-47).

B.T.U. also operates a pipeline in the vicinity of Highway 114 east of Salyersville designated Rockhouse Fork. It is a dead-end lateral line which has been disconnected from a pipeline which generally parallels Highway 114 (the R.C. Energy pipeline),

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operated by Sigma and which Sigma considers to be part of its distribution system.

From these pipelines and lateral lines, B.T.U. provides gas service to residential and small commercial end-users. According to B.T.U., the sources of gas for this portion of its operations are local wells; none of this gas leaves the pipeline system.

B.T.U. has also provided service to many end-use customers from various pipelines previously owned by Inland (and were operated by Inland as gathering pipelines): FG-47, FG-51, G-39, and FG-40/41. From some of these pipelines, B.T.U. has since installed lateral lines to provide service. Some of the customers served from some of these lateral lines were previously directly connected to ex-Inland pipelines, FG-47 or G-39. Pursuant to the Court's Order in CI-93-00185, B.T.U. has been ordered to maintain service to these customers, both those customers served directly from ex-Inland pipelines and those now served from more recently installed lateral lines, until the Court issues a final ruling.

*47-513  
Inland IN*

According to B.T.U., the source of gas for these customers is principally gas flowing through the G-39 pipeline for ultimate delivery to Sigma. Gas delivered into G-39 is from either Equitable Resources Exploration or Devco/Global Environmental Industries, Inc. However, B.T.U. stated that gas from local wells which belong to B.T.U. is used to provide service to customers now connected to two of B.T.U.'s lateral lines (which are actually well



Report - B.T.U. Pipeline  
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lines from the J. W. Howard and C. K. Stevens wells and have been disconnected from ex-Inland pipelines).

During the course of this inspection, Mr. Williams stated that all of his customers' taps and meter sets had been inspected by Commission Staff prior to the initiation of any service, except for the most recent group of customers who are provided service in the Puncheon Camp Creek area. However, after a search of Commission records, Staff has been unable to locate any documents which indicate that any of B.T.U.'s customers' services have been inspected, except for the farm tap customers who are presently connected to the G-39 pipeline. Since B.T.U. has considered itself a farm tap system providing gas service to customers pursuant to KRS 278.485, Commission Staff's inspection of a customer's tap and meter set is required prior to initiation of service [807 KAR 5:026, Section 3(4)].

FINDINGS

1. The pipelines which B.T.U. has installed (Elk Creek/Lick Creek, Buffalo Creek, and Dixie Avenue/Auxier Branch) and acquired through purchase (Petro), along with the various lateral lines, are operated as a self-contained gas system, the only purpose of which at present is to provide service to end-users. The Rockhouse Fork pipeline, while not interconnected with these other pipelines, is operating in the same manner. Gas service in all of these areas represents a distribution utility function as defined in KRS 278.010(3)(b).

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2. Meter sets for customers served from the Elk Creek/Lick Creek, Dixie Avenue/Auxier Branch and Petro pipelines generally comply with Commission regulations for distribution service. However, some meter sets had atmospheric corrosion; a limited number had copper tubing on the customer side of the meter; and some had hose clamps and aboveground plastic pipe connecting the customer's service line to the meter.

3. While inspecting the B.T.U.-installed pipelines, some areas were observed where the soil had eroded and exposed portions of plastic pipe. At each of these points, the depth of the pipeline did not appear to be adequate and in compliance with 807 KAR 5:022, Section 7(12)(a); and there was no evidence of the installation of tracer wire, a violation of 807 KAR 5:022, Section 7(12)(e). Inadequate depth and lack of tracer wire is also evident on the Lick Creek pipeline where it ends on Highway 3334, and the end of the pipe is exposed above ground.

4. B.T.U. has installed pipeline markers along the routes of the pipelines it has installed. However, none appeared to include the owner's name, address, or telephone number, a violation of 807 KAR 5:022, Section 14(5)(d)(1) and (2).

5. The only current source of gas for customers connected to the FG-51 pipeline (Oakley service area) is gas being backfed into the pipeline from the G-39 pipeline. While local wells are connected to the FG-40/41 pipelines and are being used to provide service to customers connected to these pipelines, no local gas

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enters the G-39 pipeline since the valve at the interconnection point of FG-40/41 and G-39 is closed. Gas service in each of these instances represents a distribution function as defined in KRS 278.010(3)(b).

6. B.T.U. is also providing service to customers connected to three lateral lines: the J. W. Howard well line, the C. K. Stevens well line; and the Puncheon Camp Creek line. Both the Howard and Stevens well lines used to be but are not presently connected to ex-Inland pipelines, FG-47 and G-39 respectively. The Puncheon Camp Creek lateral, which is directly connected to the G-39 pipeline, has no wells connected to it. Gas service in all three of these instances represents a distribution function as defined in KRS 278.010(3)(b).

#### RECOMMENDATIONS

1. B.T.U. should be declared a gas distribution utility and be required to develop and file with the Commission an Operating and Maintenance Plan [807 KAR 5:022, Section 13(2)(b)], an Emergency Plan [807 KAR 5:022, Section 13(9)], a Damage Prevention Program [807 KAR 5:022, Section 13(8)], and a Drug Testing Plan (807 KAR 5:023).

2. B.T.U. should adopt a standard method of meter and service line installation in compliance with 807 KAR 5:022, Section 8(2)(d), and provide a copy to the Commission and prospective customers. Any rebuilding of existing meter sets or service lines should comply with the standard method adopted.

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3. B.T.U.'s meters and regulators at all customer services should comply with 807 KAR 5:022, Section 9(2)(a), (b), (c), and (f).

4. Test requirements for service lines and plastic pipelines before being placed in service should comply with 807 KAR 5:022, Section 11(6)(a), (b), and (c); and Section 11(7)(a), (b), (c), and (d).

5. B.T.U. should operate its system at pressures in compliance with 807 KAR 5:022, Section 13(12)(a) and (b) and Section 13(13)(a) and (b).

6. Any service lines reinstated for service by B.T.U., or any facilities which B.T.U. abandons or inactivates, should comply with 807 KAR 5:022, Section 14(14) and (15).

7. Each B.T.U. customer should be separately metered to comply with 807 KAR 5:022, Section 8(2)(e), including customers who receive gas as compensation for leases and rights-of-way [807 KAR 5:022, Section 8(2)(b)]. B.T.U. should correct any existing service where a customer is not separately metered, including three services in the Dixie Avenue/Auxier Branch service area (Will Conley, Jimmy Hoskins, and Orvel Howard) and services in the Oakley area where three customers are served from one meter (Ronald Minix, Sr., Jasper Minix, and Ronald Minix, Jr.).

B.T.U. should also replace any inoperable meters at existing services, including the meters for Janet Smith (Dixie Avenue/Auxier Branch); Dave Montgomery (Oakley); and Randolph Jackson (Royalton).

Report - B.T.U. Pipeline  
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April 11, 1994

8. B.T.U.'s installation of plastic pipe should comply with 807 KAR 5:022, Section 7(12)(a), (c), (d), (f), and (e). The depth of B.T.U.'s plastic pipelines and whether tracer wire (or other means of location) has been used should be the focus of a follow-up inspection.

9. B.T.U. should immediately address the dangerous conditions in the following service areas viewed during the inspection to comply with 807 KAR 5:006, Section 14(1)(b), and notify the Commission that the corrections have been made: copper tubing at three meter sets in Elk Creek (Norma Howard, Virgil Plummer and Todd Plummer); aboveground plastic at one service (Molly Montgomery), and a pair of vise grips holding the regulator pin in the out position at another service (Troy Minix), both in Oakley; black plastic pipe at two meter sets in Puncheon Camp Creek (Adam Risner and Mary Risner); and the use of hose clamps at one meter set in Lakeville (Viola Minix).

10. B.T.U. should immediately replace the inoperable regulator at the Phillip Conley meter set in Puncheon Camp Creek to comply with 807 KAR 5:022, Section 4(30)(b)1, and notify the Commission that the replacement has been made.

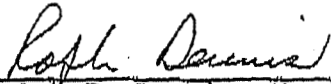
11. The tariff which B.T.U. has submitted in Case No. 92-220 should be rejected since it relates to gas service provided pursuant to 807 KAR 5:026. B.T.U. should resubmit its tariff as a gas distribution utility with all rates, services, and rules it intends to provide. B.T.U.'s tariff should address in some manner

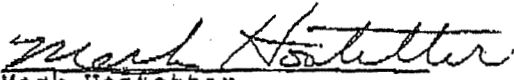
Report - B.T.U. Pipeline  
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the flat rates and free gas which B.T.U. currently provides to some customers, and such rates and service should be in compliance with KRS 278.030 and KRS 278.170.

12. Pipeline markers installed by B.T.U. should comply with 807 KAR 5:022, Section 14(5)(a), (c), and (d) 1 and 2.

Respectfully submitted,

  
Ralph E. Dennis, Manager  
Gas Branch

  
Mark Hostetter  
Geologist

  
David B. Kinman  
Utility Investigator

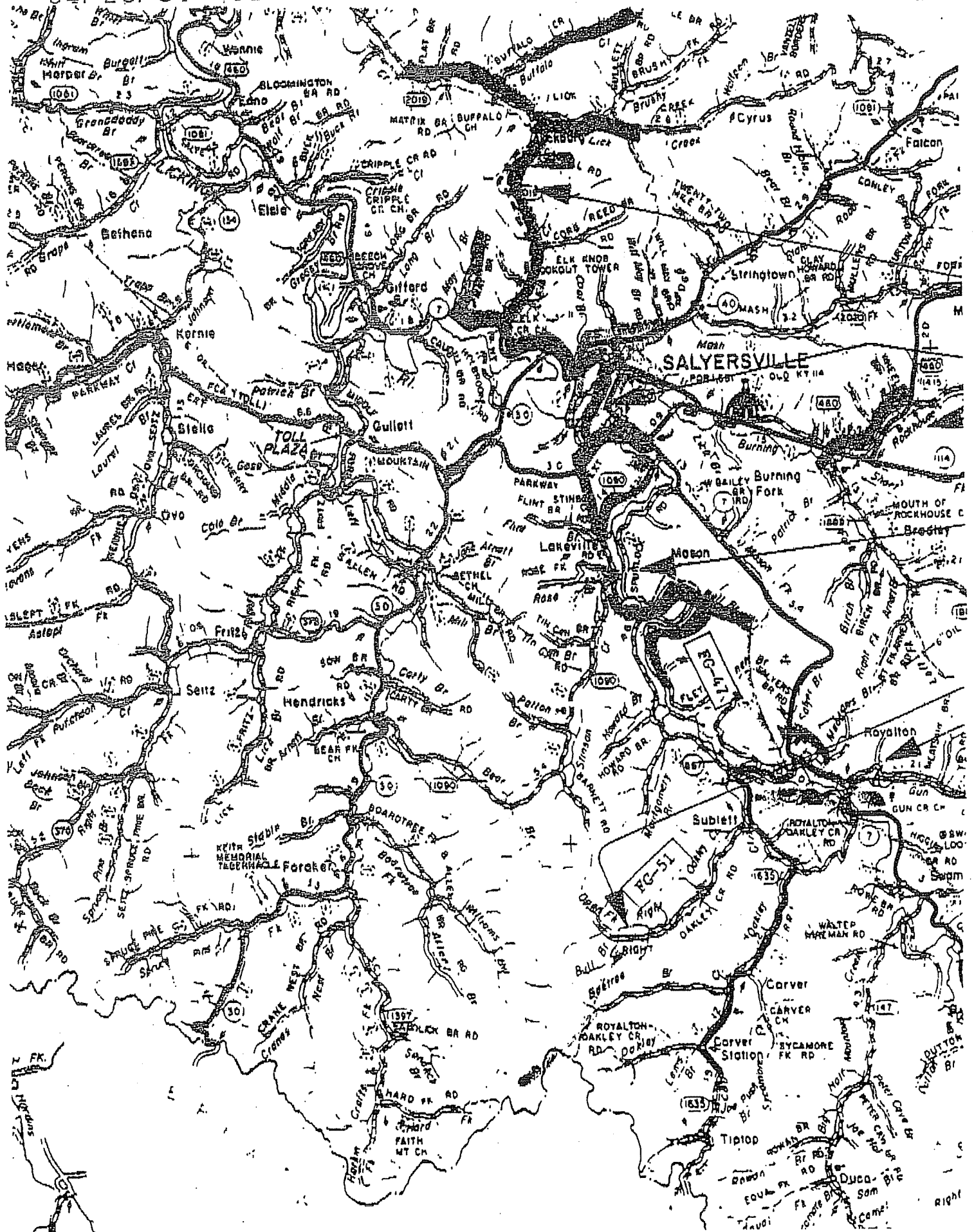


EXHIBIT "A"

B.T.U. PIPELINE, INC. PIPELINES

OLD INLAND GAS CO. PIPELINES  
G-39, FG-47, FG-51, FG-40,41

ROCKHOUSE FORK AREA

ELK CREEK, LICK CREEK, MAY BRANCH,  
BUFFALO CREEK AREA

DIXIE AVENUE, AUXIER BRANCH AREA

LAKEVILLE AREA

OAKLEY CREEK AREA

ROYALTON AREA WHICH INCLUDES:  
SUBLETT, MEADOWS AREA  
SANDBOTTOM, ROYALTON AREA

PUNCHEON CAMP CREEK AREA

SALT LICK BRANCH AREA

BEE TREE BRANCH AREA

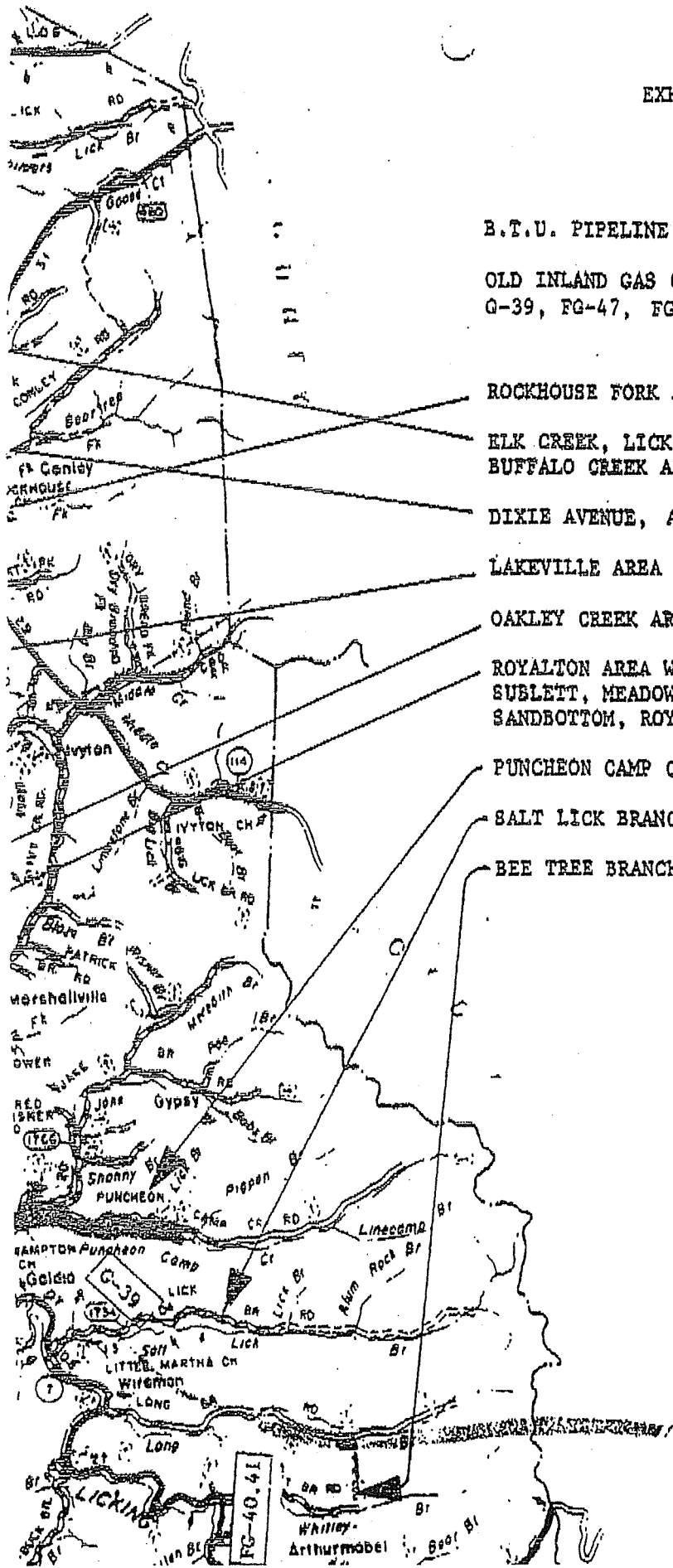




EXHIBIT B

DESCRIPTIVE SUMMARIES OF  
B.T.U. PIPELINE, INC. SERVICE AREAS AND PIPELINES

A. SERVICE AREA: Rockhouse Fork

LOCATION: Hwy. 114 east, left onto Hwy. 1415; also includes a lateral which crosses Highway 114 to Hwy. 1888.

NO. OF CUSTOMERS: 5 (includes 1 customer on Hwy. 1888 lateral)

CONSTRUCTION: Approximately 7,000 feet of 2-inch plastic pipe (with tracer wire according to B.T.U.).

SOURCE OF GAS: Local wells - Cain (2), Collinsworth (5), and Lemaster (1).

PIPELINE(S)/INTERCONNECTIONS: The Rockhouse Fork pipeline is currently connected to a series of active local wells. In the past, this line was connected to Salyersville's local distribution utility when operated as Salyersville Gas Company, Inc. The pipeline is presently disconnected from the distribution utility, now operating as Sigma Gas Corporation.

As currently configured, this system consists of a series of well lines connected to a pipeline, through which gas is moved to provide service to four end-users. B.T.U. has also laid a lateral pipeline from the Rockhouse Fork line, across Hwy. 114 to Hwy. 1888, to provide free gas to a well owner (Calvin Cain).

B. SERVICE AREA: Elk Creek (including May Branch) and Lick Creek

LOCATION: Elk Creek - Along Hwy. 460 west, right onto Hwy. 2019 and ending at the Hwy. 2019/Hwy. 3334 intersection;

includes two lateral pipelines--at May Branch (in the vicinity of Hwy. 460) and a gravel road off Hwy. 2019. Lick Creek - Begins at the Hwy. 2019/Hwy. 3334 intersection, follows Hwy. 3334 east until pipeline ends, and includes one lateral on a gravel road; and a second leg of Lick Creek follows Hwy. 2019 north beyond the intersection with Hwy. 3334 until the pipeline ends.

NO. OF CUSTOMERS: Elk Creek - 41

Lick Creek - 10

CONSTRUCTION: Elk Creek - Approximately 20,000 feet of three-inch plastic with tracer wire (according to B.T.U.) along Hwy. 460 and Hwy. 2019, plus approximately 4,000 feet of two-inch plastic with tracer wire (according to B.T.U.) for the May Branch and gravel road laterals. Lick Creek -Approximately 7,000 feet of three-inch plastic on Hwy. 3334, including the gravel road lateral; and approximately 11,000 feet of three-inch plastic for Hwy. 2019 (beyond the intersection).

SOURCE OF GAS: Local wells - Fred Howard (1), Tackett (2), Vanderpool (2), and Conley (1), Martin (1), G. V. Joseph (1), and R. C. May (2).

PIPELINE(S)/INTERCONNECTIONS: The Lick Creek pipeline interconnects with the Elk Creek pipeline, which in turn is interconnected with B.T.U.'s Dixie Avenue pipeline. The Howard well, which is directly connected to the Lick Creek pipeline on Hwy. 3334, is the principal source of gas for customers connected to these pipelines.

One end of each leg of the Lick Creek pipeline ends without connection to anything. The other ends of each leg interconnect to the Elk Creek pipeline which eventually interconnects with another portion of the B.T.U. system (the Dixie Avenue pipeline). At present all gas which enters these pipelines is used to provide service to end-users connected to these pipelines (as well as customers connected to other pipelines owned or claimed by B.T.U.).

C. SERVICE AREA: Dixie Avenue/Auxier Branch

LOCATION: Begins on Dixie Avenue (off Hwy. 460 west) and ends at its interconnection with the Petro pipeline owned by B.T.U. This pipeline includes a section along Auxier Branch which had been installed a few years ago.

NO. OF CUSTOMERS: 7

CONSTRUCTION: Approximately 7,000 feet of three-inch plastic pipe with tracer wire (according to B.T.U.), including one lateral on a gravel road (off the newer section of pipeline).

SOURCE OF GAS: Local wells - Fred Howard (1) and Tackett (2), Martin (1), G. V. Joseph (1), and R. C. May (2).

PIPELINE(S)/INTERCONNECTIONS: The Dixie Avenue pipeline, including the Auxier Branch section, is interconnected at one end with the Elk Creek pipeline and at the other end with the Petro pipeline. This pipeline system was interconnected with Salyersville's local distribution utility in the area of the Auxier Branch section. At present, this connection has been severed by Sigma Gas.

Dixie Avenue/Auxier Branch delivers gas to end-users directly connected to the pipeline. Some of the customers served have no meters since they are either free customers or billed a flat rate. One meter has been burned and needs to be replaced.

The source of the gas for these customers is identical to the source used for the Elk Creek/Lick Creek customers. The Dixie Avenue pipeline should be considered an interrelated part of the Elk Creek/Lick Creek and Petro pipeline systems which are operated by B.T.U. (the Petro pipeline is part of the Lakeville Road system described herein).

D. SERVICE AREA: Lakeville Road

LOCATION: Hwy. 7 south, right onto Hwy. 1090.

NUMBER OF CUSTOMERS: 11

CONSTRUCTION: Approximately 26,000 feet of four-inch plastic pipeline called the Petro pipeline (installed several years ago by another party); approximately 7,000 feet of two-inch plastic pipeline which connects a local well (R. C. May) to the Petro pipeline; and approximately 7,000 feet of a two-inch plastic lateral line. The two-inch lateral also has a short lateral paralleling a gravel road off Hwy. 1090.

SOURCE OF GAS: Local wells - Tackett (2), G. V. Joseph (1), Vanderpool (2), R. C. May (2), Conley and Martin, and Fred Howard (1).

PIPELINE(S)/INTERCONNECTIONS: The Lakeville Road pipeline system consists of the Petro pipeline with two major laterals.

The northern end of the Petro pipeline interconnects with the Dixie Avenue/Auxier Branch pipeline, while the southern end currently interconnects with a well line to B.T.U.'s G. V. Joseph well. The Petro pipeline has been disconnected from its connection to the FG-47 pipeline (previously owned by Inland).

At present, none of B.T.U.'s gas which enters the Lakeville Road pipeline system flows into the FG-47 pipeline. In fact, the flow of gas in FG-47 is to the north towards Salyersville (through the Cobra pipeline) for delivery to Sigma Gas. All of B.T.U.'s gas is used to provide service to the end-users directly connected to the Petro pipeline or lateral lines. Like the Dixie Avenue/Auxier Branch service area, there is a mixture of paying, free, and flat rate customers served from the Lakeville Road pipeline system.

E. SERVICE AREA: Oakley Creek Area

LOCATION: Hwy. 7 south, right onto Hwy. 867 and then left onto Hwy. 1635; also some service on right turn off Hwy. 1635 (Right Branch of Oakley Creek).

NO. OF CUSTOMERS: 13

CONSTRUCTION: The principal part of the Oakley system is the FG-51 pipeline, a six-inch steel pipeline installed 40-50 years ago. The portion of the pipeline with customers is approximately 13,000 feet. Some of the customers considered part of the Oakley system are connected to and served from a

section of the G-39 pipeline in this area, approximately 2,500 feet of six-inch steel.

SOURCE OF GAS: Unclear. Two wells, Carty and Rowe, are near the end of the FG-51 pipeline. In the past, B.T.U. has claimed the right to these wells, but more recently Devco/Global Environmental has claimed ownership. According to B.T.U., both of these wells are currently shut in, and the well lines from each well have been disconnected from the FG-51 pipeline.

In addition, it is unclear whether gas which is moving through the G-39 pipeline to the FG-47 pipeline for ultimate delivery to Sigma Gas in Salyersville is also being backfed into the FG-51 pipeline at the FG-51/G-39 interconnection point. Given the absence of any other sources of gas, it is likely that gas for B.T.U.'s customers served from the FG-51 pipeline is coming from one or both of these sources; that is, the Carty and Rowe wells or gas backfed from the G-39 pipeline.

PIPELINE(S)/INTERCONNECTIONS: The FG-51 pipeline's only interconnection is with the G-39 pipeline. Aboveground plastic was seen at one service on the customer side of the meter; and at another service, three customers were being served from one meter (at this site, it could not be observed whether each customer had adequate pressure regulation). Just past the three customers/one meter site, there was also a pair of vise grips holding the regulator pin in the out position.

Several of the customers on this system are also free or flat rate customers.

F. SERVICE AREA: Royalton Area

LOCATION: Hwy. 7 south past the turn for Hwy. 867, in the general vicinity of the communities of Royalton and Sublett, and the Sandbottom and Meadows Branch areas.

NO. OF CUSTOMERS: 31

CONSTRUCTION: Some service is directly from the FG-47 and G-39 pipelines, both of which are six-inch steel in this service area. The remaining service is from two local wells, each of which has a three-inch steel well line (although the J. W. Howard well line has a small section of two-inch plastic).

SOURCE OF GAS: Local wells - J. W. Howard (1) and Stevens (1); and the G-39 pipeline (probably from gas delivered into the pipeline by Devco or Equitable Resources Exploration for ultimate delivery to Sigma).

PIPELINE(S)/INTERCONNECTIONS: FG-47 connects to the Cobra pipeline (ownership claimed by Devco/Global Environmental), which is three-inch plastic, and with the G-39 pipeline, which connects with the Columbia Natural Resources system (approximately 15-20 miles east of this area). According to B.T.U., neither of the well lines from the J. W. Howard or Stevens wells is connected to the G-39 pipeline.

None of the gas currently produced from the J. W. Howard and Stevens wells enters the G-39 pipeline and is used solely

to provide service to customers connected to the well lines. Gas which enters the G-39 pipeline from other sources is used to provide service to B.T.U.'s customers directly connected to the G-39 pipeline.

G. SERVICE AREA: Puncheon Camp Creek

LOCATION: Hwy. 7 south; also, from Hwy. 7 left onto Hwy. 1766.

NO. OF CUSTOMERS: 19

CONSTRUCTION: Most of the service in this area is from one of two lateral pipelines connected to the G-39 pipeline. According to B.T.U., the first two-inch plastic lateral (which serves four customers) is in the vicinity where the G-39 pipeline crosses Hwy. 1766, and was installed by another party sometime in 1991. A second two-inch plastic lateral with tracer wire (according to B.T.U.) has been installed by B.T.U. to provide service to 11 customers who were previously directly connected to the G-39 pipeline.

SOURCE OF GAS: Gas which has been delivered into the G-39 pipeline from sources other than B.T.U.

PIPELINE(S)/INTERCONNECTIONS: Each of the lateral pipelines is connected to the G-39 pipeline, which is interconnected at one end (east) to the Columbia Natural Resources gathering system and at the other end with the FG-47 pipeline.

At least in one instance a customer's regulator needs to be replaced; and at two other services, black plastic pipe on the customer side of the meter needs to be replaced. None of



the gas used to provide service to customers from either of the two laterals goes anywhere but to the end-use customers.

H. SERVICE AREA: Salt Lick

LOCATION: Hwy. 7 south, left onto Hwy. 1734 (past turnoff for Hwy. 1766).

NO. OF CUSTOMERS: 2

CONSTRUCTION: None (except service lines for each customer).

SOURCE OF GAS: Gas flowing through G-39 pipeline.

PIPELINE(S)/INTERCONNECTIONS: None. Each customer is directly connected to the G-39 pipeline.

I. SERVICE AREA: Beetree Branch (formerly Inland FG40-41 pipeline)

LOCATION: Hwy. 7 south, left onto Hwy. 404, then right onto 1734.

NO. OF CUSTOMERS: 5

CONSTRUCTION: Pipeline is four-inch steel installed 40-50 years ago.

SOURCE OF GAS: Local wells - Stevens (1) and Salyer(1). (Six other wells are shut in.)

PIPELINE(S)/INTERCONNECTIONS: The Beetree Branch pipeline is connected to the G-39 pipeline. However, according to B.T.U., the valve at the interconnection point is closed, and therefore the gas being produced by the wells which are connected to these pipelines is not entering the G-39 pipeline.

J. ADDITIONAL PIPELINE(S): Buffalo Creek and Long Branch

During the March 21-22, 1994, inspection Staff also discussed two other pipelines: Buffalo Creek and Long Branch. The Buffalo Creek pipeline parallels a road off Hwy. 2019, past the turnoff for Hwy. 3334 (Lick Creek area). It is a three-inch plastic pipeline of approximately 12,000 feet connected to the Lick Creek pipeline. According to B.T.U., there is no gas service from this pipeline at present; B.T.U.'s intentions are to extend the pipeline northeast to interconnect with an Ashland Oil pipeline.

Long Branch is located off Hwy. 7 south between Salt Lick and Beetree Branch. Six customers (all free and metered) are served from this six-inch and eight-inch steel pipeline which is the G-39 pipeline. B.T.U. stated Sigma now services these customers, and B.T.U. does not claim any right to this service.

**EXHIBIT 3**



Steven L. Beshear  
Governor

Leonard K. Peters  
Secretary  
Energy and Environment Cabinet

Commonwealth of Kentucky  
Public Service Commission  
211 Sower Blvd  
P O. Box 615  
Frankfort, Kentucky 40602-0615  
Telephone: (502) 564-3940  
Fax: (502) 564-3460  
psc.ky.gov

David L. Armstrong  
Chairman

James W. Gardner  
Vice Chairman

Charles R. Borders  
Commissioner

November 28, 2011

Mr. Larry Rich  
Kentucky Frontier Gas  
2963 Ky. Route 321  
P. O. Box 408  
Prestonsburg, KY 41653

Dear Mr. Rich:

I would like to take this opportunity to address the questions and concerns you raised in your email to me on November 7, 2011, and as clarified during your telephone conference on November 14, 2011 with Commission Staff, regarding the jurisdictional status of B.T.U. Gas Company, Inc. Although BTU<sup>1</sup> has routinely argued that it is not a jurisdictional utility under the authority of the Commission, this claim has never been supported and has never been accepted by the Commission. In order for me to fully answer your question, I have taken the liberty to discuss the 20-year history of BTU's operations in Magoffin County, Kentucky, as well as the Commission's long history with Richard and Pamela Williams ("Williams") and BTU, which describes how BTU has always operated and been recognized as a local distribution company ("LDC") in Magoffin County.

1. On May 29, 1992, the Commission established Case No. 92-220, *An Investigation of Richard Williams, D/B/A B.T.U. Pipeline, Inc. and M5-A1, Inc.* after Williams, representing both BTU and M5-A1, informed the Commission that M5-A1 had purchased a natural gas pipeline in Magoffin County called the R. C. Energy Pipeline, which had been constructed in 1984 by Estill Branham as an extension of Salyersville Gas. Williams stated his intention to sever the R. C. Energy Pipeline from Salyersville Gas and include it in BTU's gathering system. The R. C. Energy pipeline represented 50% of Salyersville Gas' annual revenue. Salyersville Gas, which was in bankruptcy at that time, also claimed ownership of the R. C. Energy Pipeline. On July 20, 1992, at the request of Salyersville Gas, the Commission ordered that the proceedings be held in abeyance until the conclusion of the Salyersville Gas bankruptcy proceedings.

While Salyersville Gas' bankruptcy was pending, Commission Staff inspected BTU's remaining pipeline facilities on March 21-22, 1994, and prepared an Inspection Report on April 8, 1994, which reflected its findings and recommendations. This

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<sup>1</sup> BTU will refer to both B.T.U Pipeline, Inc. and B.T.U. Gas Company, Inc.

Inspection Report was ordered filed in Case No. 92-220, and was reviewed by the Commission at a hearing on June 3, 1994. At that hearing BTU accepted Staff's report as factually accurate and agreed with Staff's conclusion that BTU was operating as a gas distribution utility. By Order dated September 21, 1994, the Commission declared BTU to be a gas distribution utility pursuant to KRS 278.010(3)(b). That Order also incorporated the Commission's prior Order of April 27, 1994, which conclusively established BTU's operations, pipeline system, gas sources, and customer service as of March 22, 1994.<sup>2</sup> A copy of the April 27, 1994 Order, including the Staff Report dated April 8, 1994 is appended to this letter as Appendix A and a copy of the Commission's Order of September 21, 1994 is appended to this letter as Appendix B.

On January 17, 1995, in response to the Commission's September 21, 1994 Order, BTU filed information with the Commission that confirmed that the Salyersville Gas Bankruptcy Court had awarded ownership of the R. C. Energy pipeline to Sigma. At the time of its Final Order in Case No. 92-220, dated July 6, 2000, the Commission noted that Salyersville Gas was then operating as Sigma.

2. On October 25, 1995 in Case No. 95-103, *The Tariff Filing of BTU Pipeline, Inc. to Establish Rates and Conditions for Service* (filed January 17, 1995), Williams filed a tariff on behalf of "BTU Gas Company, Inc." Prior to filing this tariff, Williams had not notified the Commission that "BTU Pipeline, Inc." had changed its name, sold, transferred, or in any way conveyed any of its assets or operations to another entity named "BTU Gas Company, Inc." An adoption notice was not filed as required. The Commission was informed that BTU Pipeline, Inc. had filed bankruptcy proceedings.<sup>3</sup>

3. On November 19, 1997, the Commission consolidated Case No. 92-220, Case No. 95-029, Case No. 95-103, Case No. 95-513, Case No. 95-377, and Case No. 96-087 into a Show Cause matter, *An Investigation of Richard Williams d/b/a BTU Pipeline, Inc. and M5-A1*. This consolidation was done in order to deal with all of the outstanding issues involving BTU Pipeline, Inc. a/k/a BTU Gas Company, Inc. and R. D. Drilling and Completion, Inc. On January 22, 1998, in testimony before the Commission, Williams stated that when Case No. 92-220 was held in abeyance (pending the Salyersville Gas bankruptcy proceedings), "We simply formed a new

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<sup>2</sup> Order of April 27, 1994 contains as Exhibit B the Staff Report and Map of BTU's lines and facilities as of March 22, 1994.

<sup>3</sup> B T U. Gas Company, Inc. is currently the only BTU gas utility operating in Kentucky

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corporation and thought, 'Hey, we'll start over.'" The Commission found that BTU Pipeline, Inc. failed to follow the law and the regulations in its "starting-over" process. The Commission also found that evidence taken at the hearing revealed that the assets of the companies involved in supplying gas to numerous customers, and the customers themselves, were "passed around in what can best be described as a cavalier manner." There was no effort by Williams to inform the Commission that the name "BTU Pipeline, Inc." was being changed or its assets were being transferred to "BTU Gas Company, Inc."

4. In Case No. 2004-00018, *In the Matter of Sigma Gas Corporation v. BTU Gas Company, Inc.* (filed on January 14, 2004), Sigma Gas Corporation ("Sigma") filed a complaint against BTU alleging that BTU had extended its gas facilities in and around the city of Salyersville, Kentucky by connecting a number of customers that Sigma could serve. Sigma also alleged that BTU was serving customers that were previously served by Sigma.

On March 17, 2008, the Commission found that Sigma had been administratively dissolved and its assets had been transferred to DLR Enterprises, Inc. ("DLR") and Cow Creek Gas, Inc. ("Cow Creek"). Cow Creek was granted full intervention in this case and stood "in the shoes of Sigma."

At a formal hearing on June 29, 2004, Estill Branham, President and Manager of Sigma, testified about the loss of its customers to BTU. One example was the new Magoffin County Courthouse, which Sigma had a two-inch riser at the location prior to the courthouse construction and had to cap off and remove some of that line to be out of the way during construction. A second example was the Magoffin County Teen Coalition, which was being served by Sigma until the Teen Coalition directed Sigma to remove its meter, which was replaced by a meter set by BTU.

In reviewing the evidence presented, the Commission concluded that BTU believed that it was some sort of hybrid gas company, either an LDC, a gathering company, or a production company, even though this issue had been addressed and BTU's status as a jurisdictional utility had been established in Case No. 92-220, wherein BTU was found to be a LDC under the jurisdiction of the Commission. The Commission also found that BTU believed it could serve customers whenever and wherever it wanted to, regardless of whether a customer was presently being served by another LDC. The Commission determined that the extensions and service by BTU to the "new," "switched," and "exchange" customers were not, nor were they ever, in the

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ordinary course of business, exempt under 807 KAR 5:001, Section 9(3). Since BTU's actions were not exempt, BTU was required to first seek and obtain a CPCN prior to any such construction or service connections.

By Order in this consolidated case, dated June 30, 2009, the Commission found that the new service connections by BTU were contrary to established policy and law. There was no evidence in the record that Sigma was unwilling or unable to serve the customers or areas at issue. The Commission found that BTU was not authorized to serve customers of Sigma or any potential customers of Sigma in the Salyersville area. Specifically, BTU was not authorized to serve the customers previously served by Sigma in the Dixie area of Salyersville, the Magoffin County Courthouse, the Teen Coalition, H. C. Prater, Burke Arnett, Tommy Howard, Magoffin County Recycling Center, and Tom Bailey's home and garage (WRLV Radio station is listed as connected but not served). Finally, BTU was not authorized to serve any new customer in the Salyersville area until it had been granted a CPCN to do so. The Commission ordered BTU to submit a list of those customers it had begun serving in the Salyersville area since June 29, 2004, and Cow Creek was ordered to notify the Commission in writing of its intention to serve those customers and the time necessary to construct lines, set meters, and service lines to serve those customers. A copy of this June 30, 2009 Order is appended to this letter as Appendix C.

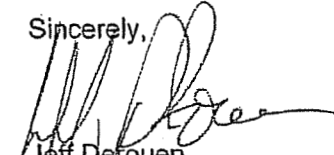
Once again, I would like to emphatically state that BTU is a local distribution company, a public utility, subject to the jurisdiction of the Commission. Any claims by Williams or BTU to the contrary are false.

We will continue to closely monitor the entire BTU situation, including the Williams actions and activities. Please do keep us informed of any new developments or information that you obtain during your operation of BTU.

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If you have additional questions or concerns, feel free to contact me.

Sincerely,



Jeff DeFouen  
Executive Director

VG/kar  
Attachments



Honorable John N Hughes  
Attorney at Law  
124 West Todd Street  
Frankfort, KENTUCKY 40601

Harry Thompson  
3875 Hixson Pike  
Chattanooga, TENNESSEE 37415

Richard & Pam Williams  
P.O. Box 242  
Salyersville, KENTUCKY 41465