

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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PUBLIC SERVICE
COMMISSION

In the Matter of:

ALLEGED VIOLATIONS OF KRS 278.020, KRS 278.160,) CASE NO.
KRS 278.140, AND 807 KAR 5:006, SECTION 4(2)) 2017-00120

ATTORNEY GENERAL'S MOTION FOR LEAVE TO CONDUCT EXPEDITED
DISCOVERY

Comes now, the Attorney General of the Commonwealth of Kentucky, by and through his Office of Rate Intervention, and hereby moves the Public Service Commission of Kentucky (hereinafter "PSC" or "Commission") for permission and opportunity to conduct expedited discovery of certain parties in this matter and in support thereof the Attorney General states as follows:

1. The Attorney General moved to Intervene in this matter on July 25, 2017 and was granted intervention by Commission Order on July 26, 2017.
2. As noted in this Commission's July 26, 2017 Order, state law provides authorization of such intervention by the Attorney General, whenever deemed necessary and advisable in the consumers' interest by the Attorney General, in order to represent and be heard on behalf of consumers' interests.¹
3. On July 7, 2017, prior to the Attorney General's Motion to Intervene, Commission staff filed into the record and served upon parties certain Requests for Information.

¹ KRS 367.150(8)

Pursuant to the Requests, the information requested was due within ten days of the filing, which would be on or before July 17, 2017.²

4. On July 31, 2017, Basil Pollitt proffered his “Response” to Commission staff’s First Request for Information. This “Response” included: 1) general and specific objections, some of which failed to identify the basis of the objection,³ 2) ignoring requests outright,⁴ and 3) occasionally sending Commission staff on a search for the answer themselves.⁵ In fact, in response to one request, Mr. Pollitt responded that he was seemingly unable to answer the request because the pipeline safety law that was cited was too long.⁶
5. Pursuant to a Commission Order dated June 12, 2017, a hearing in this matter is to be held at the Commission’s offices at 211 Sower Boulevard on August 9, 2017. The Attorney General, as a full party to this matter, intends on attending and participating in the August 9, 2017 hearing.
6. Mr. Pollitt’s refusal, unwillingness, or inability to fully and properly respond to the discovery propounded by Commission staff has unduly prejudiced the Attorney General’s ability to represent consumers’ interest at the August 9, 2017 hearing. Not only has Mr. Pollitt’s responses obstructed the Attorney General’s representation of consumers, but no discovery has been conducted on Whitney Clark Pollitt and

² Case No. 2017-00120. Commission Staff’s First Request for Information to Basil C. Pollitt, Individually, D/B/A The Gas Group, Inc. A/K/A The Gas Group. p 1.

³ Case No. 2017-00120. See Basil Pollitt’s Response to Commission Staff First Request for Information, numbers 1, 2 and 5.

⁴ Case No. 2017-00120. See Basil Pollitt’s Response to Commission Staff First Request for Information, number 11, unnumbered p. 3, wherein the respondent, under oath, failed to provide the information requested.

⁵ Case No. 2017-00120. See Basil Pollitt’s Response to Commission Staff First Request for Information, number 12, unnumbered p. 4.

⁶ Case No. 2017-00120. See Basil Pollitt’s Response to Commission Staff First Request for Information, number 1. The law in question was 52 pages. No citation to the length of the response was provided in support of the objection made.

Amanda Deeann Pollitt, parties to this case that have “respectfully decline[d] to respond” to Commission data requests.⁷

7. In support of Amanda and Clark Pollitt’s lack of response, counsel for the Pollitt children note that the Commission has yet to address the issue he raised in a prior filing, titled a “Response to Commission Order.” The Attorney General understands that “[a]ll request for relief that are not required to be made in an application, petition, or written request shall be by motion.”⁸ The Attorney General can find no Motion requesting such relief, in name or in substance.
8. In order to actively and entirely participate at the August 9, 2017 hearing, the Attorney General requests the Commission provide him the opportunity to conduct limited discovery via data requests, to only one party: Basil C. Pollitt. As no other parties to this matter seem to be interested in participating, the Attorney General sees no point in wasting the Commission’s time in requesting discovery to those parties at this juncture, although he respectfully reserves the right to do so at a later date pending the outcome of the related matters before Franklin Circuit Court.
9. In the Data Requests filed along with this Motion, the Attorney General has purposefully limited the scope of his discovery to responses and information that are necessary to properly conduct cross-examination of witnesses at the August 9, 2017 hearing. In limiting the scope of his discovery, the Attorney General believes the responses thereto should be straight forward and any documents that are requested should be either easy to find or on-hand for the respondent.

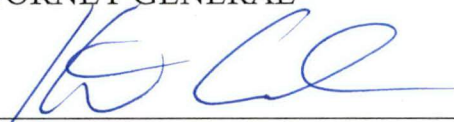
⁷ Case No. 2017-00120. Response of Amanda and Clark Pollitt to Commission Staff’s First Request for Information, unnumbered p. 1.

⁸ 807 KAR 5:001 Section 5

10. In light of the late and inadequate Responses provided by Mr. Pollitt, the Attorney General requests this opportunity for expedited discovery as necessary in order to adequately represent consumers' interests. The Attorney General's inability to do so will prejudice the consumers' interests he represents, especially the safety of those who live in and around the gas line at issue.
11. The Attorney General respectfully requests responses to the Data Requests tendered herein to be due, filed and served on all parties on or before Monday, August 7, 2017.

Respectfully submitted,

ANDY BESHEAR
ATTORNEY GENERAL



KENT A. CHANDLER
REBECCA W. GOODMAN
JUSTIN M. MCNEIL
ASSISTANT ATTORNEYS GENERAL
700 CAPITAL AVE., SUITE 20
FRANKFORT KY 40601-8204
(502) 696-5453
Kent.Chandler@ky.gov
Rebecca.Goodman@ky.gov
Justin.McNeil@ky.gov

Certificate of Service and Filing

Counsel certifies that an original and ten (10) photocopies of the foregoing were served and filed by hand delivery to Mr. John S. Lyons, Acting Executive Director, Public Service Commission, 211 Sower Boulevard, Frankfort, Kentucky 40601; counsel further states that true and accurate copies of the foregoing were mailed via First Class U.S. Mail, postage pre-paid, to:

Pollitt Enterprises, Inc.
Reg. Agent Whitney Clark Pollitt
12004 Ridge Road
Louisville, KY 40245

Kirk Hoskins
The Landward House
1387 S. Fourth St.
Louisville, KY 40208

This 2nd day of August 2017



Assistant Attorney General