

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF COLUMBIA GAS OF)
KENTUCKY, INC. REQUESTING THE COMMISSION)
FOR AN ORDER AUTHORIZING TERMINATION) CASE NO. 91-191
OF SERVICE TO JUSTICEVILLE GAS, INC.)

INTERIM ORDER

On June 12, 1991, Columbia Gas of Kentucky, Inc. ("Columbia") filed an application requesting approval to terminate service to Justiceville Gas Company ("Justiceville"), a gas distribution utility serving 88 customers. Justiceville is operated and managed by Case Enterprises in conjunction with a second natural gas distribution utility, Lyda Gas. Collection problems which have occurred since the initiation of service in September of 1988 have necessitated the filing of three separate lawsuits against Justiceville by Columbia for collection of payment on past due bills.

In a prior Commission proceeding, Case No. 89-013,¹ Columbia was granted intervention due to arrearages and amounts owed by Justiceville for gas purchases. During that proceeding, Columbia and Justiceville reached a settlement whereby Justiceville would make payments on the arrearage and keep all subsequent gas bills

¹ Case No. 89-013, Investigation Into the Operating Status of Justiceville Gas, Inc.

to Columbia current. According to Columbia, Justiceville has not lived up to the terms of that agreement even though Columbia and Justiceville have renegotiated several partial payment plans since the initial settlement.

Based upon Columbia's history of sales to Justiceville, it is apparent that Columbia sells to Justiceville only during the heating season, October through April of each year. Justiceville purchases from local production, R & H Transport, to meet its supply requirements in the remaining months. This local supply is also used as it is available in the winter months. However, the local supplies are not sufficient to meet all of Justiceville's supply requirements during the winter heating season.

After reviewing the record in this case and being otherwise sufficiently advised, the Commission finds that Columbia's request to terminate service to Justiceville Gas should be granted subject to certain conditions.

Justiceville's failure to pass through to its customers changes in Columbia's wholesale rate for gas has contributed to Justiceville's arrearages to Columbia. In July of 1989, Justiceville proposed a Purchased Gas Adjustment ("PGA") clause to allow it to adjust its rates in response to changes in wholesale gas prices, which was accepted by the Commission with minor revisions in its final Order in Case No. 89-013. Justiceville filed tariff sheets pursuant to the Commission's Order which were accepted effective June 28, 1990. However, no PGA clause was included with the tariff sheets as directed in the Order. Justiceville filed the approved PGA clause in its tariff on August

8, 1991. Due to Justiceville's delay in incorporating its approved PGA clause into its tariff and its failure to adjust its rates pursuant to that tariff, Justiceville's rates have not reflected the changes in Columbia's wholesale cost of gas. As a result, Justiceville has not recovered from its customers the actual cost of gas it has been charged by Columbia. Therefore, Justiceville has acted imprudently and not in the best interest of the customers it serves.

Justiceville has further failed to act in the best interests of its customers specifically with respect to its gas procurement practices. Justiceville uses local production to meet all of its customers' needs during the months of May through September. This gas is obtained from R & H Transport Company which is owned in part by Mabry Holbrook, a related party.

During the remainder of the year, Columbia supplies gas to Justiceville pursuant to its IOS tariff which includes a minimum monthly bill. The minimum monthly bill entitles Justiceville to a certain volume of gas. Since Justiceville relies solely on local production during the summer months, it incurs a bill of \$250 to \$300 from Columbia each month while taking no gas from Columbia. Logic would dictate that at least the volumes associated with Columbia's minimum bill be taken before any other purchases since Justiceville is billed this amount regardless of actual deliveries. Justiceville has continued this pattern of purchases despite advice from Columbia in 1990 that taking delivery of the minimum amount of gas represented by the minimum bill would ease the arrearage problem.

The Commission will not allow Justiceville's mismanagement to result in the loss of service to the customers served by Justiceville at the beginning of the heating season, especially since the customers are not the reason for the problem. Justiceville's customers are entitled to an adequate period of time to make other arrangements to secure an alternative fuel for their needs if Justiceville is unable to procure an adequate supply of natural gas. Due to the outstanding arrearages and Justiceville's history of delinquency, the Commission finds it appropriate to allow Columbia to terminate service to Justiceville effective at the end of the heating season, April 30, 1992. In the interim, Justiceville should make every effort to find another adequate and reliable source of uninterruptable gas. Demonstration that an adequate and reliable source of gas supply has been obtained will be required by the Commission if Justiceville is to continue providing natural gas distribution service. Justiceville should continue discussions with Columbia concerning any possibility of its continuing service to Justiceville and attempting to reduce or eliminate the outstanding arrearage.

Case Enterprises should provide to all of its customers a notice of Columbia's approved termination of service scheduled April 30, 1992 and the possibility that the Justiceville system would, in turn, have to terminate service to its customers if no adequate source of supply can be located. The notice should also advise the customers of their rights pursuant to KRS 278.260 and

KRS 278.280. Said notice should be provided in the next billing following the date of this order.

A hearing should be scheduled in February of 1992 to determine the status of Justiceville's efforts in securing a reasonable and adequate source of supply. The purpose of the hearing should also be to investigate the feasibility of compelling another gas company, pursuant to KRS 278.260 or KRS 278.280, to provide service directly to the Justiceville customers in place of Case Enterprises. The extent to which this issue is pursued should be dependent upon the extent to which an additional supply of gas for Justiceville has been secured.

IT IS THEREFORE ORDERED that:

1. Justiceville shall pay its current bills to Columbia for gas supplied during October 1, 1991 to April 30, 1992. Justiceville shall file with the Commission a copy of its cancelled check and a paid statement of account each month.

2. Columbia shall be allowed to terminate service to Justiceville as of April 30, 1992.

3. Case Enterprises shall provide the notice attached hereto and incorporated herein as an Appendix to all Justiceville customers of Columbia's approved termination of service on April 30, 1992. The notice shall be provided in the next billing following the date of this Order and Case Enterprises shall file with the Commission certification showing that the notice was sent to all its customers within five days after the notices are sent.

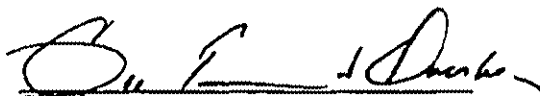
4. Case Enterprises and Justiceville Gas shall seek to obtain a long-term, reliable, and reasonable source of gas supply

and shall make an adequate demonstration that such a gas supply has been obtained.

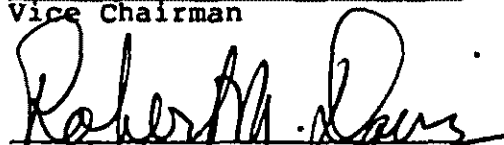
5. A hearing shall be conducted in the Commission's offices on February 4, 1992 to determine the status of Justiceville's effort in securing gas supply to its customers, and to investigate the feasibility of compelling another gas company, pursuant to KRS 278.260 or 278.280, to provide service directly to the Justiceville customers in place of Case Enterprises. The hearing shall be held at 10 a.m., Eastern Standard Time, in Hearing Room 1 of the Commission's offices at 730 Schenkel Lane, Frankfort, Kentucky.

Done at Frankfort, Kentucky, this 18th day of December, 1991.

PUBLIC SERVICE COMMISSION


Chairman

Vice Chairman


Commissioner

ATTEST:


Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 91-191 DATED 12/18/91

The following notice shall be given to the customers served by Justiceville Gas in the next customer billing following the date of this Order.

CUSTOMER NOTICE

Columbia Gas of Kentucky has received approval to terminate Case Enterprises, Inc. d/b/a Justiceville Gas as a wholesale gas customer effective April 30, 1992. The loss of Columbia Gas as a supplier to Justiceville Gas means that the possibility exists that Justiceville will have insufficient gas supplies to provide its customers with their full gas requirements in times of peak need.

A public hearing shall be conducted in the Commission's offices on February 4, 1992 in Frankfort, Kentucky, to determine the status of Justiceville's effort in securing gas supply to its customers and to investigate the feasibility of compelling another gas company pursuant to KRS 278.260 or KRS 278.280, to provide service directly to the Justiceville customers in lieu of the service currently being provided by Columbia Gas. The hearing shall be held at 10:00 a.m., Eastern Standard Time, in Hearing Room 1 of the Commission's offices at 730 Schenkel Lane, Frankfort, Kentucky. You have the right to file a written request for intervention in this proceeding, Case No. 91-191. Requests for intervention should be directed to Lee M. MacCracken, Executive Director, Public Service Commission, P. O. Box 615, Frankfort, Kentucky 40602. You may also petition the Public Service Commission asking that another utility be compelled to extend service to you.

Any inquiries regarding this notice should be directed to Case Enterprises, Inc., Ann Case, President, 319 Second Street, The Hopkins Building, Suite 204, Pikeville, Kentucky 41502, (606) 432-1853.