

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

BOYD COUNTY FISCAL COURT)	
)	
COMPLAINANT)	
)	
VS.)	CASE NO. 94-363
)	
KENTUCKY OHIO GAS ACQUISITION CORPORATION)	
(AKA KENTUCKY OHIO GAS COMPANY))	
)	
DEFENDANT)	

O R D E R

On September 27, 1994, the Boyd County Fiscal Court and the Boyd County Judge/Executive filed a complaint with this Commission naming Kentucky Ohio Gas Company ("KOG") as Defendant. The Complainants allege, inter alia, that KOG made material misrepresentations to the Commission relating to the construction of the integration pipeline for which the Commission granted a certificate in Case No. 93-144;¹ that the Defendant failed to obtain authorization from Boyd Fiscal Court to utilize county rights-of-way in construction of the pipeline; and, that the Defendant installed the pipeline in violation of Commission regulations regarding construction of transmission lines and mains.

KOG answered the complaint on November 10, 1994 and raised as defenses lack of standing to file the complaint; lack of

¹ Case No. 93-144, The Petition of Kentucky Ohio Gas Company for Approval of a Certificate of Convenience and Necessity to Construct Pipeline Facilities, Approval of Financing and Approval of Special Contract.

jurisdictional issues on which the Commission could rule; failure to state a claim for which relief can be granted; and that the issues raised have been rendered moot by Case No. 94-CI-00727 brought in Division II of the Boyd Circuit Court by Complainants and subject to an Agreed Order between the parties in this action. KOG filed a memorandum of law in support of its defenses. No reply has been filed by the Complainants.

After review of the memorandum of law, the complaint, and the answer, and being otherwise sufficiently advised, the Commission finds that while all of the legal grounds raised by the utility appear to be legally sufficient to justify dismissal, these issues have been addressed by the Agreed Order entered by the Boyd Circuit Court and principles of res judicata apply. Therefore, the complaint should be dismissed.

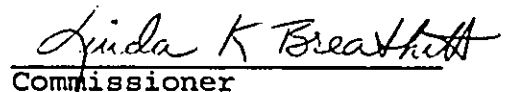
IT IS THEREFORE ORDERED that this case be and it hereby is dismissed with prejudice.

Done at Frankfort, Kentucky, this 19th day of January, 1995.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director