

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE TARIFF FILING OF APACHE GAS)	
TRANSMISSION COMPANY, INC. AND)	CASE NO.
AN INVESTIGATION OF THE STATUS OF)	2000-483
THE FORT KNOX LINE)	

O R D E R

On October 10, 2000, Apache Gas Transmission Company, Inc. ("Apache Gas") filed a request for an increase in its transportation tariff for transportation of natural gas for Burkesville Gas Company, Inc. ("Burkesville Gas"). The tariff, as filed by Apache Gas, requested an increase in its transportation rate and an additional \$0.05 per Mcf as compensation for the use of a section of a transmission line known as the "Fort Knox line." In its Order of November 9, 2000, the Commission approved a transmission tariff for Apache Gas without the additional \$0.05 per Mcf and established within this case an investigation of the status of the Fort Knox line and the escrow account as established in Case No. 90-290.¹ That Order directed Burkesville Gas to establish an escrow account and to deposit \$0.05 per Mcf from its revenues as reasonable compensation for use of the pipeline until ownership of the line is determined. As part of the investigation, Burkesville Gas was made a party to this case.

¹ Case No. 90-290, Investigation to Determine Whether an Adequate Means For Delivery of Gas Is Available to Burkesville Gas Company, Inc., Order dated October 28, 1992.

Apache Gas transports natural gas from a tap on the Texas Eastern transmission line through a pipeline to the city gate of Burkesville. A five-mile portion of the pipeline used by Apache Gas for transportation was formerly a part of a gathering line, which was referred to as the "Fort Knox line" in Case No. 90-290. The portion of the Fort Knox line, which is now used by Apache Gas to supply gas to Burkesville, is located in Cumberland County, beginning at Franklin Branch. That portion was originally 26,550 feet of three-inch plastic pipeline, but approximately 4,000 feet of the pipeline has been replaced by six-inch plastic pipeline. The Apache Gas pipelines, which are connected to both ends of the Fort Knox pipeline, are six-inch plastic pipes.

The inclusion of the \$0.05 per Mcf in the transportation tariff proposed by Apache Gas and the continuing use of the Fort Knox line since 1992, without ownership being determined, required the Commission to examine the status of the Fort Knox line and the continued need for the escrow fund.

Initially the Commission required Apache Gas to file a comprehensive report detailing the status of the Fort Knox portion of its transmission line, including a full description of the pipeline and its capacity. Likewise, the Commission required Burkesville Gas to file a detailed report concerning the legal status of any agreements for the use of the Fort Knox line and the necessity for retaining the escrow account. Both Apache Gas and Burkesville Gas were requested to inform the Commission of any determination as to the ownership of the Fort Knox line.

Although there have been opportunities in the past 10 years for several parties to attempt to establish ownership in court proceedings, no one has undertaken to do so. The Commission is aware of litigation in Texas involving Burkesville Gas and Bill

Nickens, and a *Lis Pendens* filed by Freddie R. Lee in Cumberland County, Kentucky, which was allegedly acquired by Cumberland Mineral Trust. While these actions and filings may or may not affect the ownership of the section of the Fort Knox line herein, no person or entity has filed with the Commission a final Order from a court of competent jurisdiction establishing ownership of the Fort Knox line. In the intervening 10 years, someone should have come forward to establish legal ownership of the Fort Knox line; however, no one has come forward. The Commission concludes that the ownership issue could therefore continue into perpetuity, with Burkesville's ratepayers continuing to contribute to the escrow fund. The Commission now resolves that the ownership issue may be dealt with when and if it is raised in some future proceeding.

Burkesville Gas has assumed the operation of the five-mile section of the Fort Knox line apparently by default. Although Kentucky Energy Transmission Inc. ("KET") was ordered in Case No. 90-290 to maintain the Fort Knox line, Burkesville Gas has been using the escrowed money to maintain the Fort Knox line for a number of years. Apache Gas, by the acquisition of KET and the adoption of the tariff of KET, has therefore assumed all the rights and obligations of KET under that tariff, and is the proper party responsible for compliance with Commission regulations regarding the operation of the five-mile section of the Fort Knox line.

The Commission, upon reviewing the record, makes the following findings:

1. After 10 years of no activity in court to establish ownership of the Fort Knox line, there is no justification for the retention of the escrow fund by Burkesville Gas.

2. Apache Gas is the proper party to maintain and operate the five-mile section of the Fort Knox line.

3. Burkesville Gas has been collecting \$0.05 per Mcf for the escrow account through its gas cost adjustment mechanism; therefore, Burkesville Gas can discontinue the collection of the fee without undue administrative burden.

IT IS THEREFORE ORDERED that:

1. Burkesville Gas shall discontinue escrowing \$0.05 per Mcf from its revenues for the use of the Fort Knox line with the filing of its next Gas Cost Adjustment due July 1, 2001 to be effective August 1, 2001. Burkesville Gas shall, however, bring the escrow account up to date through July 31, 2001.

2. As of the date of this Order, Apache Gas shall assume responsibility for the operation and maintenance of the five-mile section of the Fort Knox line. Apache Gas shall separately account for the cost of maintenance of the Fort Knox line and be able to provide such information for as long as it maintains the five-mile section.

3. Burkesville Gas shall retain the escrow account for 4 years from the date of this Order, after which time it shall submit a plan to the Commission for disbursement of the funds.

4. This case is closed and removed from the Commission's docket.

Done at Frankfort, Kentucky, this 29th day of June, 2001.

By the Commission

ATTEST:


Executive Director