

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

JOHNSON COUNTY GAS COMPANY,)	
INC. AND BUD RIFE, INDIVIDUALLY)	
AND AS SOLE OFFICER OF THE)	
UTILITY)	CASE NO.
_____)	2004-00072
)	
ALLEGED VIOLATIONS OF)	
COMMISSION ORDER)	

O R D E R

Johnson County Gas Company, Inc. ("Johnson County") is a local gas distribution company subject to the Commission's jurisdiction pursuant to KRS 278.040. As part of a settlement in the Federal Energy Regulatory Commission ("FERC") Docket Nos. TQ89-1-46-000, et al., Johnson County, as well as several other small Kentucky gas utilities, were authorized to charge a surcharge to their customers to pay past due amounts owed to Kentucky-West Virginia Gas Company ("Kentucky-West"). The surcharge was intended to discharge debt owed by each of the companies over a 10-year amortization period; however, the settlement allowed for a 5-year extension to the original 10-year amortization period. Kentucky-West invoices Johnson County monthly for debt payment.

On May 6, 1999, Johnson County filed an application for a rate adjustment pursuant to 807 KAR 5:076, the Commission's alternative rate filing ("ARF") procedure,

which was docketed as Case No. 1999-00155.¹ Pursuant to the ARF procedure, Commission Staff performed a limited financial review of Johnson County's operations for the test-year ending December 31, 1998. During the review, Staff found that the rate at which Johnson County was collecting the surcharge exceeded the amounts billed by Kentucky-West. The amounts collected in excess of the amounts remitted ("excess surcharge revenue") were not escrowed to pay future billings from Kentucky-West but were apparently used to fund current operations. In the Order in Case No. 1999-00155, Johnson County was ordered to deposit all Kentucky-West surcharge revenues into a separate interest-bearing account ("surcharge account") and make all payments to Kentucky-West from that account. Johnson County was further ordered to use any excess surcharge revenues not required to pay current billings to pay past due amounts billed by Kentucky-West. After the past due amounts were paid, any excess amounts collected were to accumulate in the bank account and were to be paid to Kentucky-West at the end of the 10-year amortization period.

In April 2003, Johnson County was requested by Staff to provide information regarding the current status of its payments under the terms of the FERC settlement. Johnson County provided information showing that it had collected \$117,473 as of the end of 2002. However, only \$58,443 had been remitted to Kentucky-West leaving \$59,030 in revenues billed to customers but not remitted to Kentucky-West.

After several unsuccessful attempts to contact Bud Rife, the company's officer/manager, to schedule a meeting to discuss the issue, Mr. Rife was informed by

¹ Case No. 1999-00155, Application of Johnson County Gas Company, Inc. for a Rate Adjustment Pursuant to the Alternative Rate Filing Procedure for Small Utilities.

letter that Staff would be at his office on October 28 and 29, 2003 to review records related to the surcharge. Through this and later visits to Johnson County, Staff was able to obtain the following information:

Original amount owed to Kentucky-West	\$136,913.01
Total billed to Johnson County customers as of 10/31/03	\$125,965.28
Amount remitted to Kentucky-West as of 10/31/03	\$59,418.75
Amount billed to customers but not remitted to Kentucky-West	\$66,546.53
Obligation to Kentucky-West as of 10/31/03	\$77,494.26

Staff's review revealed that, although a surcharge account has been established as directed, Johnson County has not made monthly deposits as ordered, nor has the utility remitted excess surcharge revenues to Kentucky-West. Staff's review also showed that, in 2002, \$9,000 was transferred from the surcharge account to another Johnson County account. As of October 31, 2003, the balance in the surcharge account was \$1,005.80.

Having reviewed the evidence of record and being otherwise sufficiently advised, the Commission finds that:

1. The Order in Case No. 1999-00155, dated September 1, 1999, is a final Order from which all rights of appeal have exhausted. A copy of that Order is appended hereto as Appendix A.
2. Johnson County's Annual Report for Corporations, dated April 25, 2003, as filed with the Kentucky Secretary of State, lists Bud Rife as the sole officer of the company. Likewise, the 2002 Annual Report filed by Johnson County with the Commission lists Bud Rife as the officer/manager of Johnson County.

3. A *prima facie* showing has been made that Johnson County has violated the Commission's Order of September 1, 1999 by not depositing all surcharge proceeds into the surcharge account; not remitting to Kentucky-West its excess surcharge revenues; and not accumulating its excess surcharge revenues in the surcharge account.

4. A *prima facie* showing has been made that Bud Rife has aided and abetted Johnson County in its violation of the Commission's Order.

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

1. Johnson County and Bud Rife, sole officer of Johnson County, shall appear before the Commission on April 27, 2004 at 10:00 a.m., Eastern Daylight Time, in Hearing Room 1 of the Commission's offices at 211 Sower Boulevard, Frankfort, Kentucky for the purpose of presenting evidence concerning their alleged failure to deposit surcharge proceeds into a separate interest-bearing account and accumulate excess surcharge revenues for payment to Kentucky-West as directed in the Commission's Order of September 1, 1999 and of showing cause why Johnson County and Mr. Rife should not be subject to the penalties prescribed in KRS 278.990(1).

2. The official record of the proceeding shall be by video only, unless otherwise requested by a party to this proceeding.

3. Pursuant to KRS 278.230, the Commission's Financial Audit Branch will perform a financial examination of both Johnson County and its affiliated company, B&H Gas Company, Inc. d/b/a B&H Gas Company, for the year ended December 31, 2003. Mr. Rife and all other employees of Johnson County are directed to cooperate with Commission Staff in scheduling the examinations.

4. The Commission does not favor motions for continuance and will grant them only when such a motion is made in writing and states compelling reasons for granting the motion.

5. Corporate entities are advised that under Kentucky law a corporation, its employees, and any representative, who are not licensed to practice law in Kentucky, are not permitted to make objections, examine, or cross-examine witnesses in administrative hearings.

6. The record in Case No. 1999-00155 is incorporated by reference into the record of this proceeding.

7. Within 20 days of the date of this Order, Johnson County and Mr. Rife each shall file a written response with the Commission concerning the allegations contained herein.

8. Any motion requesting an informal conference with Commission Staff to consider any matter that would aid in the handling or disposition of this proceeding shall be filed with the Commission no later than 20 days from the date of this Order.

Done at Frankfort, Kentucky, this 17th day of March, 2004.

By the Commission

ATTEST:


Executive Director

Case No. 2004-00072

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2004-00072 DATED March 17, 2004

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF JOHNSON COUNTY GAS)	
COMPANY, INC. FOR A RATE ADJUSTMENT)	CASE NO. 99-155
PURSUANT TO THE ALTERNATIVE RATE)	
FILING PROCEDURE FOR SMALL UTILITIES)	

O R D E R

On May 6, 1999, Johnson County Gas Company, Inc. ("Johnson County") applied for Commission approval of proposed gas rates. The proposed rates would generate additional revenues of \$78,639.

On May 20 and 21, 1999, Commission Staff conducted a field review of Johnson County's test-period financial records and issued a Staff Report on August 6, 1999. The Staff Report recommended that the level of increase, and the proposed rates for commercial customers requested by Johnson County, be approved but it recommended a different rate design for residential customers than that proposed by Johnson County.

By Order dated August 6, 1999, Johnson County was advised to file comments on the Staff Report or to request a hearing or informal conference within 10 days of the date of the Order or the case would stand submitted to the Commission for decision. No comments or requests for a conference or hearing have been filed.

As noted in the Staff Report, Johnson County is required to pay a surcharge to Kentucky West Virginia Gas Company ("Kentucky West") in the amount of 61.4 cents per Dth. The surcharge was intended to discharge a debt of \$136,913.01 over a ten-year amortization period and was approved by the Federal Energy Regulatory

Commission as part of a settlement in Docket Nos. TQ89-1-46-000, et. al., between Kentucky West and this Commission. Johnson County collects a surcharge from its customers in the amount of 41.55 cents per Mcf for the payment of the Kentucky West debt.

The rate at which Johnson County is collecting the surcharge exceeds the amounts billed by Kentucky West. This imbalance has existed for several years. The amounts collected in excess of the amounts remitted were not escrowed to pay future billings from Kentucky West but were used to help fund current operations.

The Commission, after consideration of the record and being sufficiently advised, finds that:

1. The surcharge approved by the Commission to be collected from Johnson County's customers is to be used solely for the payment of the debt to Kentucky West. Johnson County should deposit all surcharge revenues into a separate interest-bearing bank account and pay all Kentucky West billings from the account. Johnson County should use any excess revenues not required to pay current billings to pay past due amounts billed by Kentucky West. After the past due amounts have been paid, any excess amounts collected by Johnson County should be accumulated in the bank account and paid to Kentucky West at the end of the ten-year amortization period.

2. Johnson County requested a smaller increase than it determined necessary to satisfy its revenue requirements due to the likelihood of losing customers if the entire requirement was recovered. Citing Johnson County's concern regarding the possible loss of customers, the Staff Report recommended approval of the amount of increase requested by Johnson County even though the increase does not cover the

entire revenue deficit as determined by Staff. It is noted that many of the amounts included in the adjusted test year expenses are projections since the company was previously operated under a management contract; however, ownership has subsequently changed and services will no longer be provided pursuant to a management contract. Johnson County is urged to operate as efficiently and economically as possible while maintaining service and safety standards. Johnson County is also directed to closely monitor its financial situation and notify the Commission if its cash flow is not sufficient to meet its obligations. The Commission will also be monitoring the financial status of the company through the quarterly reports Johnson County is required to submit pursuant to the final order in Case No. 98-523.²

3. The recommendations and findings contained in the Staff Report are supported by the record, are reasonable, are adopted as the findings of the Commission in this proceeding, and are incorporated by this reference.

4. The rates in the Appendix, which is attached, are the fair, just, and reasonable rates for Johnson County and will produce total annual revenues of \$267,280 from gas operations.

IT IS THEREFORE ORDERED that:

1. Johnson County shall deposit all surcharge revenues into a separate interest-bearing bank account and make all payments to Kentucky West from that account. Any excess surcharge revenues not required to pay current billings from

² Case No. 98-523, Application of Mr. Bud Rife and the Kentucky Municipal Gas Utility Investment Trust for the Approval of the Acquisition of the Stock of Johnson County Gas Company, Inc. of Paintsville, Johnson County, Kentucky, by Mr. Bud Rife and the Issuance of Two Promissory Notes Evidencing Certain Indebtedness of the JCGC.

Kentucky West are to be used to pay past due amounts billed by Kentucky West. After payment of all past due amounts, any excess surcharge revenues collected by Johnson County are to accumulate in the bank account and be paid to Kentucky West at the end of the ten-year amortization period.

2. The rates contained in the Appendix are approved for service rendered by Johnson County on and after the date of this Order.

3. Within 30 days of the date of this Order, Johnson County shall file with the Commission its revised tariff setting out the rates approved herein.

Done at Frankfort, Kentucky, this 1st day of September, 1999.

By the Commission

ATTEST:



Executive Director

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 99-155 DATED SEPTEMBER 1, 1999

The following rates and charges are prescribed for the customers in the area served by Johnson County Gas Company, Inc. All other rates and charges not specifically mentioned herein shall remain the same as those in effect under the authority of this Commission prior to the effective date of this Order. The rates included herein reflect all gas cost adjustments through Case No. 10415-JJ.

Residential

Minimum Bill:	0 – 1 Mcf	\$10.50
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All Additional Mcf		\$ 9.50
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Commercial

All Mcf		\$9.85
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