

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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|------------------------------------|---|---------------------|
| APPLICATION OF THE |) | |
| HOUSING AUTHORITY OF WILLIAMSBURG |) | |
| FOR AUTHORITY TO DEVIATE FROM THE |) | CASE NO. 2005-00100 |
| REQUIREMENTS OF 807 KAR 5:022, |) | |
| SECTION 9(17)(A)(1), REGARDING THE |) | |
| INSTALLATION OF CURB STOP VALVES |) | |

O R D E R

The Housing Authority of Williamsburg (“Williamsburg HA”), on March 7, 2005, filed a letter with the Commission requesting a “variance” from installing curb stop valves for its natural gas distribution system for units located at its Moore Lance location. The Commission will treat this letter as an application requesting authority to deviate, pursuant to 807 KAR 5:022, Section 18,¹ from the requirements of 807 KAR 5:022, Section 9(17)(a)(1).

Subsequent to the above filing of Williamsburg HA, Delta Natural Gas Company, Inc. (“Delta”) addressed a letter to Commission Staff requesting a legal opinion from the Commission as to whether Delta, upon acquiring the natural gas facilities of the Corbin Housing Authority (“Corbin HA”), would be required to install curb boxes, curb stops or positive shut off valves pursuant to 807 KAR 5:022, Section 9(17)(a)(1). Delta states that it is its understanding that Corbin HA does not have to comply with that regulation

¹ 807 KAR 5:022, Section 18, provides for a deviation from these rules in special cases for good cause shown.

since Corbin HA is not a utility operator. Therefore, upon our own motion, we will make Corbin HA a party to this case.

Although, neither of the parties identifies the jurisdictional status of Williamsburg HA or Corbin HA, both are listed with the Commission as a municipally owned and operated master meter system. A master meter system generally is a pipeline system for distributing gas within a definable area such as a housing project where the operator purchases metered gas from a supplier for resale through a gas distribution pipeline system. A municipally owned facility is not a “utility” pursuant to an exception in KRS 278.010(3) for rates and service. However, for all aspects of natural gas pipeline safety, municipal facilities are subject to Commission regulation under the authority of KRS 278.495. In conjunction with its authority to enforce minimum safety standards pursuant to 49 U.S.C. § 60101, *et seq.*, the Commission has adopted regulations such as 807 KAR 5:022, Section 9(17)(a)(1).

Based upon the foregoing, we find that both Corbin HA and Williamsburg HA are “master meter operators” subject to the safety jurisdiction of the Commission, pursuant to KRS 278.495 and KRS 278.992. Corbin HA and Williamsburg HA are also subject to Commission jurisdiction under the authority of and in compliance with federal pipeline safety laws, 49 U.S.C. § 60101, *et seq.*, and the regulations of 49 CFR 189-199 for minimum pipeline safety standards.

Pursuant to KRS 278.280(2), the Commission promulgated 807 KAR 5:022, which administrative regulation establishes general rules that apply to gas utilities. It is from this particular regulation that Corbin HA and Williamsburg HA seek a deviation. While 807 KAR 5:022, Section 9(17)(a)(1) is a safety regulation, it speaks to the

ownership of service lines and applies to utilities that furnish and install service pipe from their mains to the property line or to the curb stop and curb box if used. Here both own the mains to which the curb stop valves would be attached. Delta does not now own or operate the facilities.

Williamsburg HA further states that, based upon the action of the Commission in regard to the deviation, Delta would continue discussions to acquire the Williamsburg HA system. This implies that Williamsburg HA does own the distribution system and could convey it to Delta. The same is true with Corbin HA.

The Commission has considered requests for a similar deviation in prior cases where a Commission Staff inspection found Barbourville Housing Authority (“Barbourville HA”) and Nicholasville Housing Authority (“Nicholasville HA”) in violation of 807 KAR 5:022, Section 9(17)(a)(1), for not maintaining the curb stop valves and curb box. In Case Nos. 1994-00293² and 2001-00175,³ the Commission did consider and grant a deviation to the Barbourville HA and Nicholasville HA, respectively. In fact, the letter from Barbourville HA is remarkably akin to the letter from Williamsburg HA, containing the reference to Delta’s possible assumption of the pipeline facilities.

To determine the safety question, the Commission ordered an inspection of both the Corbin HA and Williamsburg HA facilities focusing on curb box installations and shut-off valves and their overall relation to the safety of the subject systems.

² Case No. 1994-00293, The Application of the Housing Authority of Barbourville to Deviate From Commission Regulation 807 KAR 5:022, Section 9, Subsection 17(a)(1).

³ Case No. 2001-00175, The Deviation Request of Housing Authority of Nicholasville Concerning Installation of Curb Stop Valves.

Commission Staff inspectors filed a report that found both the Corbin HA and Williamsburg HA have cut-off valves at the master meter, sectionalizing valves (valves that will isolate one section of the system from another), and shut-off valves at each unit to provide sufficient safeguards to prevent the need for curb box valves or curb stops for either system. Therefore, we find that the existing cut-off valves located at the master meters, sectionalizing valves, and shut-off valves at each unit provide a means for shutting off the flow of natural gas in the event of a fire or explosion and that a deviation should be granted to both Corbin HA and Williamsburg HA. We find that, since this is a question of safety, if the configuration of the systems remains the same after any transfer of facilities to Delta, the same deviation would apply to Delta for each system. However, after any acquisition by Delta, if any reconfiguration of the present facilities of Corbin HA and Williamsburg HA occurs, Delta should notify the Commission.

IT IS THEREFORE ORDERED that:

1. Corbin HA is made a party to this case.
2. Corbin HA is granted authority to deviate from 807 KAR 5:022, Section 9(17)(a)(1), requiring the installation of curb stop valves and curb box on the service lines of its facilities.
3. Williamsburg HA is granted authority to deviate from 807 KAR 5:022, Section 9(17)(a)(1), requiring the installation of curb stop valves and curb box on the service lines of its facilities.

Done at Frankfort, Kentucky, this 18th day of May, 2005.

By the Commission

ATTEST:

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke at the bottom.

Executive Director

Case No. 2005-00100