

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE NOTICE OF GAS COST ADJUSTMENT)	
FILING OF BURKESVILLE GAS COMPANY,)	CASE NO. 2008-00071
INC.)	

ORDER

On November 20, 2000, in Case No. 2000-00158,¹ the Commission approved rates for Burkesville Gas Company, Inc. (“Burkesville”) and provided for their further adjustment on a quarterly basis in accordance with Burkesville’s Purchased Gas Adjustment (“PGA”) Clause Rate Schedule. Pursuant to its PGA Clause, Burkesville, on February 28, 2008, filed its monthly report which contained an updated Gas Cost Recovery (“GCR”) Rate. Burkesville proposes to place the updated GCR in effect on March 26, 2008.

As the monthly report was not filed until February 28, 2008, Burkesville’s PGA Clause will not permit the updated GCR to become effective prior to April 1, 2008. The PGA Clause requires a monthly report containing any updated GCR be filed at least 30 days prior to the beginning of each calendar month.² It further provides that “[t]he GCR

¹ Case No. 2000-00158, The Application of Burkesville Gas Company, Inc. for a Rate Adjustment Pursuant to the Alternative Rate Filing Procedure for Small Utilities (Ky. PSC Nov. 20, 2000).

² Burkesville’s PGA Clause states:

“Calendar Month” means each of the twelve one month periods of (1) January, (2) February, (3) March, (4) April, (5) May, (6) June, (7) July, (8) August, (9) September, (10) October, (11) November, (12) December.

shall become effective for billing for service rendered on or after the first day of each calendar month.”³

Burkesville has requested a waiver of the 30-day notice requirement set forth in its PGA Clause. Kentucky law does not permit a utility to deviate from its filed rate schedule. KRS 278.160(1) provides:

No utility shall charge, demand, collect, or receive from any person a greater or less compensation for any service rendered or to be rendered than that prescribed in its filed schedules, and no person shall receive any service from any utility for a compensation greater or less than that prescribed in such schedules.

In Case No. 1990-00108,⁴ the Commission noted the effect of this statute on a utility’s authority to deviate from a filed rate:

The primary effect of KRS 278.160 is to bestow upon a utility’s filed rate schedule the status of law. “The rate when published becomes established by law. It can be varied only by law, and not by act of the parties. The regulation . . . of . . . rates takes that subject out of the realm of ordinary contract in some respects, and places it upon the rigidity of a quasi-statutory enactment.” . . . While a utility may file or publish new rate schedules to change its rates pursuant to KRS 278.180, it lacks the legal authority to deviate from its filed rate schedule. It “can claim no rate as a legal right that is other than the filed rate.”

The proposed “deviation” requires an amendment to Burkesville’s existing PGA Clause Rate Schedule to allow an updated GCR Rate to become effective on a day other than the “first day of each calendar month.” The Commission cannot grant a

³ Tariff of Burkesville Gas Company, Inc., P.S.C. Ky. No. 1, Sheet No. 1 (effective Oct. 25, 2007).

⁴ Case No. 1990-00108, Americoal Corporation v. Boone County Water and Sewer District (Ky. PSC Apr. 24, 1992) at 6 (citations omitted).

deviation from the terms of Burkesville's filed rate schedules, but can only permit prospective amendments to those schedules.

After reviewing the evidence of record and being otherwise sufficiently advised, the Commission finds that:

1. Burkesville's notice includes revised rates designed to pass on to its customers its expected change in wholesale gas costs.

2. Burkesville's proposed expected gas cost ("EGC") is \$12.5264 per Mcf, which is \$1.6301 per Mcf less than the prior EGC of \$14.1565.

3. Burkesville's notice sets out no refund adjustment.

4. Burkesville's notice sets out a current actual cost adjustment ("ACA") of (\$2.2311) per Mcf. Burkesville's total ACA is also (\$2.2311) per Mcf, which is a decrease of \$.6083 per Mcf from the previous total ACA.

5. Burkesville's GCR is \$10.2953 per Mcf, which is \$2.2384 per Mcf less than the previous rate of \$12.5337.

6. The rates in the Appendix to this Order are fair, just, and reasonable, and should be approved for billing for service rendered by Burkesville on and after April 1, 2008.

IT IS THEREFORE ORDERED that:

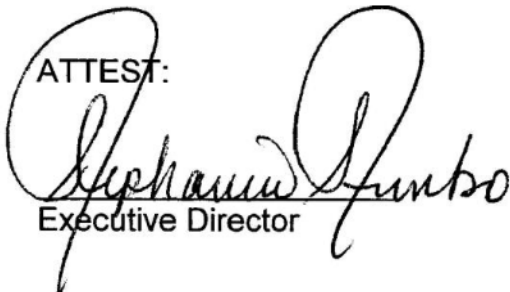
1. The rates in the Appendix, attached hereto and incorporated herein, are approved for billing for service rendered on and after April 1, 2008.

2. Within 20 days of the date of this Order, Burkesville shall file with the Commission its revised tariffs setting out the rates authorized herein.

Done at Frankfort, Kentucky, this 25th day of March, 2008.

By the Commission

ATTEST:

A handwritten signature in black ink, appearing to read "Stephen J. Finkbeiner". The signature is written in a cursive style with a large initial "S".

Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2008-00071 DATED MARCH 25, 2008

The following rates and charges are prescribed for the customers served by Burkesville Gas Company, Inc. All other rates and charges not specifically mentioned herein shall remain the same as those in effect under authority of the Commission prior to the effective date of this Order.

RATES:

	<u>Base Rate</u>	Gas Cost Recovery <u>Rate</u>	<u>Total</u>
Residential	\$4.25	\$10.2953	\$14.5453
Industrial			