

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THOMAS RICHARD THACKER AND)	
SHANNON CHAPMAN THACKER)	
)	
COMPLAINANT)	CASE NO.
)	2015-00269
V.)	
)	
EQT MIDSTREAM)	
)	
DEFENDANT)	

ORDER

On July 24, 2015, Thomas Richard Thacker and Shannon Chapman Thacker (the “Thackers”) filed a formal complaint against EQT Gathering, LLC, also referred to as EQT Midstream, (“EQT”)¹ alleging that they had been notified that EQT would be abandoning the pipeline that serves their residence and that their natural gas service would be terminated on August 1, 2015 (“Complaint”). The Thackers’ complaint requests that EQT be required to continue providing them with natural gas service. Attached to the complaint was the correspondence from EQT to the Thackers.²

¹ EQT Gathering is referred to as “EQT Midstream” in the Commission’s Order of August 18, 2015.

² Letter from Paul G. Walker, Jr., Supervisor – Free Gas & Analytical Support Land Administration – Contracts, EQT Production Company, to Thomas R. and Kimberly Thacker (June 4, 2015). This letter was identified as “EQT” at the top of the document; was signed by Mr. Walker, Jr. for “EQT Production Company”; and, was further identified as “EQT Gathering 1710 Pennsylvania Avenue, Charleston, WV 25302,” at the bottom of the document.

PROCEDURAL HISTORY

On August 18, 2015, the Commission ordered EQT to satisfy or answer the Thackers' complaint, and on August 28, 2015, EQT filed an answer to the complaint ("Answer"). On October 28, 2015, Commission Staff ("Staff") issued an initial request for information to EQT ("Staff's Initial Request to EQT"), seeking information regarding its operation, management and the service it provides to farm tap customers, including the Thackers. On November 6, 2015, EQT filed a response to Staff's Initial Request to EQT.

On March 1, 2016, Staff issued an initial request for information to the Thackers ("Staff's Initial Request to the Thackers"). On March 11, 2016, the Thackers filed a request for an extension of ten days to respond to Staff's Initial Request to the Thackers, and on March 21, 2016, filed their response. On May 13, 2016, Staff issued a second request for information to EQT ("Staff's Second Request to EQT"), and EQT filed its response on May 27, 2016. On January 20, 2017, the Commission found that there is sufficient information in the record to make a decision, but allowed the parties ten days to present any comments or to request a hearing. Neither party filed comments, or requested a hearing, and this case now stands submitted for a decision. There are no intervenors in this matter.

DISCUSSION

On June 4, 2015, EQT notified the Thackers that:

EQT Gathering ('EQT') will soon be abandoning the pipeline it has in the area in which you are currently tapped as a farm tap consumer. As a result, it is necessary that we terminate gas service to you, which termination shall occur on **August 1, 2015.**

Therefore, EQT suggests you make immediate arrangements to secure an alternative fuel source.³

On July 24, 2015, the Thackers filed a complaint requesting “[c]ontinued gas service by EQT or Chesapeake Energy,” or an extension beyond the termination date of August 1, 2015, in order to “transition to electric”.⁴ The Thackers state that inquiries made to other gas companies in their area to provide natural gas service had not been successful, and that their home is equipped with multiple appliances that require gas, including a water heater, furnace, oven, and stove, and that to switch these appliances to electric service would be expensive.⁵ On August 28, 2015, EQT filed an answer to the Thackers’ complaint, stating that it had both a statutory and a contractual right to terminate service to the Thackers and requesting that the Thackers’ complaint be dismissed and that the Commission enter an order granting EQT permission to abandon the pipeline and discontinue service to the Thackers.

EQT and EQT Production are both indirect subsidiaries of EQT Corporation, a publicly traded company,⁶ and are the only entities of EQT Corporation actively operating in the Commonwealth of Kentucky.⁷ EQT operated the pipeline that serves the Thackers until April 1, 2016, when EQT Production took over the responsibility for all

³ *Id.*

⁴ Complaint at 2.

⁵ *Id.*

⁶ EQT’s Response to Staff’s Initial Request to EQT, Item 1.

⁷ *Id.*

day-to-day operations and maintenance of the pipeline.⁸ The rates charged to the Thackers and other EQT farm tap customers in Kentucky are on file with the Commission.⁹

EQT's provision of natural gas service to the Thackers is pursuant to the provisions of KRS 278.485, the "farm tap" statute. KRS 278.485 generally provides for the provision of gas service from producing wells or gathering pipelines to land owners who live within one-half air-mile of said facilities. Farm tap customers are not entitled to the same quality or guarantees of service that normal retail gas customers enjoy, as providers of farm tap service are exempted from having to treat the natural gas or maintain minimum pressure requirements. In addition, EQT's intent to terminate gas service to the Thackers is consistent with KRS 278.485, which permits providers of farm tap service to abandon gathering lines or wells, and states in part, that:

(6) Nothing in this section shall be construed to restrict the right of any gas pipeline company to abandon any gas well or any gathering pipeline, or any part thereof, and to remove any such abandoned pipeline or lines

EQT's assertion that it made a business decision to discontinue the line serving the Thackers' residence and to abandon the connected wells, which affected service to the Thackers and others in the service area,¹⁰ is not disputed by the Thackers.¹¹ The Thackers acknowledge that EQT provided them with the names of

⁸ EQT's Response to Staff's Second Request to EQT, Item 2. EQT Production now owns and operates the pipeline.

⁹ *Id.*, Item 3. EQT Production's filed tariff became effective August 11, 2005.

¹⁰ Answer at 2, paragraph 4.

¹¹ Thackers' Response to Staff's Initial Request to the Thackers, Item 3.

three other utility providers in their area, but maintain that none of these utilities offer service in their area.¹²

Although EQT initially claimed that it would no longer have a producing well or gas-gathering pipeline within one-half mile¹³ of the Thackers' residence,¹⁴ it subsequently confirmed that it had identified two gas-producing wells, identified as 566972 and 566973, as well as a gathering pipeline, identified as Pipeline WL 566972, as potentially being located within a one-half air-mile radius of the Thackers' residence.¹⁵ EQT indicated that "[s]hould the Thackers desire to be connected to one of the identified sources, they may apply to be farm tap customers pursuant to KRS 278.485 and 807 KAR 5:026."¹⁶ Regardless, EQT maintains, that even if one of these gas-producing wells or gathering pipeline is located within a one-half air mile radius of the Thackers' residence, this does not change EQT's contractual right to abandon the PK-2016 line that is currently servicing the Thacker residence and EQT's right to terminate service to the Thackers from that line.¹⁷

¹² Thackers' Response to Staff's Initial Request to the Thackers, Item 5. The Thackers noted that Chesapeake was not included in the list of other utility providers given by EQT, but was only mentioned in subsequent phone conversations with an EQT representative.

¹³ KRS 278.485 provides for the provision of gas service from producing wells or gathering pipelines to land owners who live "within one-half (1/2) *air-mile*" of said facilities (Emphasis added).

¹⁴ Answer at 3, paragraph 10.

¹⁵ EQT's Response to Staff's Initial Request to EQT, Item 4.

¹⁶ 807 KAR 5:026 is the Commission's administrative regulation pertaining to the implementation of the provisions of KRS 278.485(1), which provides that gas service shall be furnished at rates and charges determined by the Commission, and of KRS 278.485(3), which provides that safety standards for the installation of service lines may be prescribed by the Commission to service from natural gas gathering pipeline systems.

¹⁷ EQT's Response to Staff's Initial Request to EQT, Item 4.

In addition to its position that it has a statutory right to abandon any gas well or gathering pipeline and terminate service to the Thackers' residence,¹⁸ EQT also asserts that it has a contractual right to terminate service to the Thackers, as the successor-in-interest to Ashland Exploration, Inc. ("Ashland"),¹⁹ to a contract entered into by Ashland and the Thackers on January 26, 1996, (the "Contract")²⁰ which provides that either party has the right to cancel the Contract on 15 days' written notice.²¹ The Thackers agree with this assertion.²²

EQT argues that since they entered into the Contract, the Thackers were aware or should have been aware that the gas pipeline could be abandoned; that their supply

¹⁸ KRS 278.485(6).

¹⁹ EQT's Response to Staff's Initial Request to EQT, Item 6, states, in part, that: a) On or about March 13, 1997, Ashland changed its name to Blazer Energy Corp. On or about August 19, 1997, Blazer Energy Corp. changed its name to Eastern States Oil & Gas, Inc. On May 24, 2000, Eastern States Oil & Gas, Inc. changed its name to Equitable Production-Eastern States, Inc. On or about April 13, 2001, Equitable Production-Eastern States, Inc. merged with and into Equitable Production Company. On or about March 18, 2009, Equitable Production Company changed its name to EQT Production Company, or EQT Production, as identified herein.¹⁹ EQT, however, operates the pipeline PK-2016 servicing the Thackers' residence, pursuant to a Pipeline Agreement between EQT Production and EQT, entered on or about January 1, 2005.

²⁰ Answer at 1-2, states, in part, that:

The Company shall not be liable to the Customer for discontinuance of service resulting from the plugging and abandonment or change in the use of any of its wells. It is understood and agreed that the Barnes Transportation Company line from which the Company supplies gas is not permanent and that service to the customer by Company may cease, either temporarily or permanently, if Barnes Transportation Company in its discretion discontinues transportation of gas through that line.

Section 1 of this contract, further provides in part:

The Company has the right to plug and abandon any of its gas wells. In such event, the Company will have no gas to furnish to customers connected to a line leading from such abandoned wells and the Company shall not be liable to the Customer for discontinuance of service resulting from such action.

²¹ *Id.*, Exhibit A at 2.

²² Thackers' Response to Staff's Initial Request to the Thackers, Item 2.

of gas was temporary and not permanent; and that the contract provided for 15 days' written notice to terminate the gas supply.²³ The Thackers admit that based on the Contract, "either party had the right to cancel the contract on fifteen (15) days written notice."²⁴

EQT states that it would follow all applicable local, state, and federal law, in addition to internal regulations, in abandoning the pipeline, including: disconnecting the pipeline from all sources of gas; purging the abandoned segment of the pipe; and, sealing the ends of the pipe segments.²⁵ In addition, each service connection would be physically disconnected from the pipeline at the farm tap and the meter, regulators, and all other above-ground appurtenances would be removed.²⁶

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

1. On January 26, 1996, the Thackers entered into a contract with Ashland, a company that agreed to provide natural gas to the Thackers' residence in Eastern Kentucky, subject to the provisions of KRS 278.485.
2. EQT is a gas pipeline company with producing wells and gas-gathering pipelines located in Kentucky, subject to the provisions of KRS 278.485 and 807 KAR 5:026.

²³ Answer at 3.

²⁴ Thackers' Response to Staff's Initial Request to the Thackers, Item 2.

²⁵ EQT's Response to Staff's Initial Request to EQT, Item 11(d).

²⁶ *Id.*, Item 11(e).

4. On or about March 18, 2009, EQT became the successor-in-interest to Ashland's January 26, 1996 contract with the Thackers, subject to the same terms and conditions.

5. The contract between Ashland and the Thackers provided that it was to remain in force until cancelled or terminated by either party by the giving of 15 days' written notice to the other party.

6. KRS 278.485(6) provides that any gas pipeline company has the right to abandon any gas well or any gathering pipeline, or any part thereof, and to remove any such abandoned pipeline or lines.

7. On or about June 4, 2015, EQT notified the Thackers that it planned to abandon the pipeline that was providing natural gas to the Thackers' residence and that the Thackers' service would terminate on August 1, 2015.

8. As the successor-in-interest to the contract between Ashland and the Thackers, EQT has the right to terminate natural gas service to the Thackers upon 15 days written notice.

9. Pursuant to the provisions of KRS 278.485(6), EQT has the right to abandon any gas wells or gathering pipelines used to supply natural gas to the Thackers' residence and to terminate service thereof. Abandonment of these gas wells and gathering pipelines should be undertaken following all applicable local, state, and federal law, in addition to EQT's internal regulations. This includes disconnecting the pipeline from all sources of gas; purging the abandoned segment of the pipe; sealing the ends of the pipe segments; physically disconnecting each service connection from

the pipeline at the farm tap; and removing the meter, regulators, and all other above-ground appurtenances.

10. Based upon the above, the Commission finds that this case should be dismissed with prejudice.

IT IS THEREFORE ORDERED that:

1. EQT's proposal to discontinue farm tap service to the Thackers is granted, consistent with the findings above.

2. The Thackers' complaint is dismissed with prejudice and removed from the Commission's docket.

By the Commission

Chairman Michael Schmitt did not participate in the deliberations or decision concerning this case.

ENTERED
MAR 07 2017
KENTUCKY PUBLIC
SERVICE COMMISSION

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