

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PHILIP W. WHITLEY	)	
	)	
COMPLAINANT	)	
	)	CASE NO.
V.	)	2023-00052
	)	
NATURAL ENERGY UTILITY CORPORATION	)	
	)	
DEFENDANT	)	

ORDER

On February 14, 2023, Philip W. Whitley tendered a formal complaint with the Commission against Natural Energy Utility Corporation (Natural Energy) alleging price gouging after receiving four increasing price quotes for gas service to be supplied to three houses in Rush, Kentucky. As a preliminary matter, the Commission notes that according to the complaint, Mr. Whitley does not own all three properties.<sup>1</sup> Mr. Whitley may bring a complaint against Natural Energy on his own behalf, but unless he is licensed to practice law in Kentucky, he may not bring a complaint on behalf of other people.<sup>2</sup> On information and belief, Mr. Whitley is not an attorney licensed to practice law in Kentucky. Therefore, the Commission will review this complaint only as it pertains to Mr. Whitley.

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<sup>1</sup> Complaint at 2. Mr. Whitley refers to his “neighbors” and splitting the cost of installation “to be paid by each homeowner.”

<sup>2</sup> 807 KAR 5:001E, Section 4(4) states that a person shall not file a paper on behalf of another person, or otherwise represent another person, unless the person is an attorney licensed to practice law in Kentucky.

Pursuant to Commission regulations 807 KAR 5:001E, Section 20(4)(a), upon receipt of a formal complaint, the Commission must determine whether the complaint establishes a prima facie case. A complaint establishes a prima facie case when, on its face, it states sufficient allegations that, if uncontradicted by other evidence, would entitle the complainant to the requested relief. If a complaint fails to establish a prima facie case, it may be dismissed.

Based upon a review of the tendered complaint, the Commission is unable to determine at this time whether the complaint establishes a prima facie case, but the allegations support our further investigation into the merits of the complaint. For example, Mr. Whitley failed to state the distance from Natural Energy's nearest existing distribution main to the proposed service location.<sup>3</sup> Mr. Whitley did not include any written cost estimates from Natural Energy documenting the prices quoted for making the extension and the dates on which those estimates were made. Also, the actual cost to Natural Energy to install the extension in excess of 100 feet is not included in the complaint.

The Commission finds that additional information is needed to assist the Commission in making a determination of whether the complaint establishes a prima facie case. The Commission finds that the distance from the proposed service location to the closest Natural Energy distribution main, the estimated cost of installing the excessive footage over 100 feet, and the estimates provided to Mr. Whitley are necessary in determining whether the complaint establishes a prima facie case. Because this information is in the possession of Natural Energy, we find that a copy of this Order should

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<sup>3</sup> 807 KAR 5:022, Section 4(1) requires a natural gas utility to install an extension of 100 feet or less without charge for a prospective customer who applies for and contracts for service for at least one year.

be served on Natural Energy for the purpose of requesting the documents. Therefore, Natural Energy shall file its responses to Commission Staff's First Request for Information, attached to this Order as Appendix A, on or before the date set forth by the Commission's Staff in the request. Natural Energy shall respond to any future requests for information propounded by Commission Staff by the date or dates set forth on any such requests. A copy of Mr. Whitley's complaint is attached to this Order as Appendix B to inform Natural Energy of the subject of the complaint and to assist in identifying Mr. Whitley's account.

Additionally, any hearing scheduled in this matter shall be held on the designated day or days and continued until called from the bench by the presiding officer. Pursuant to 807 KAR 5:001E, Section 2, if the hearing is not concluded on the designated day, the hearing may be continued upon verbal announcement by the presiding officer. A verbal announcement made by the presiding officer shall be proper notice of the continued hearing. Hearings are held in the Richard Raff Hearing Room at the offices of the Public Service Commission at 211 Sower Boulevard, Frankfort, Kentucky. Witnesses who sponsor schedules, testimony, or responses to data requests are expected to participate in person at a hearing.

IT IS THEREFORE ORDERED that:

1. A copy of this Order shall be served on Natural Energy for the sole purpose of requesting necessary documents to assist the Commission in determining whether the complaint establishes a prima facie case.
2. Natural Energy shall respond to Commission Staff's First Request for Information as provided in Appendix A, attached to this Order.

3. Natural Energy shall respond to any additional requests for information propounded by Commission Staff, as provided in those requests.

4. Nothing contained in this Order shall prevent the Commission from entering further Orders in this matter.

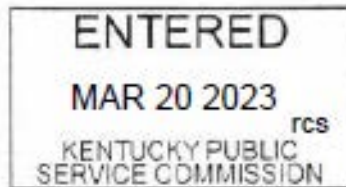
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PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner



ATTEST:

  
Executive Director

## APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2023-00052 DATED MAR 20 2023

### COMMISSION STAFF'S FIRST REQUEST FOR INFORMATION TO NATURAL ENERGY UTILITY CORPORATION

Natural Energy Utility Corporation (Natural Energy), pursuant to 807 KAR 5:001E, is to file with the Commission an electronic version of the following information. The information requested is due on April 7, 2023. The Commission directs Natural Energy to the Commission's July 22, 2021 Order in Case No. 2020-00085<sup>1</sup> regarding filings with the Commission. Electronic documents shall be in portable document format (PDF), shall be searchable, and shall be appropriately bookmarked.

Each response shall include the question to which the response is made and shall include the name of the witness responsible for responding to the questions related to the information provided. Each response shall be answered under oath or, for representatives of a public or private corporation or a partnership or association or a governmental agency, be accompanied by a signed certification of the preparer or the person supervising the preparation of the response on behalf of the entity that the response is true and accurate to the best of that person's knowledge, information, and belief formed after a reasonable inquiry.

Natural Energy shall make timely amendment to any prior response if Natural Energy obtains information that indicates the response was incorrect or incomplete when

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<sup>1</sup> Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus COVID-19* (Ky. PSC July 22, 2021), Order (in which the Commission ordered that for case filings made on and after March 16, 2020, filers are NOT required to file the original physical copies of the filings required by 807 KAR 5:001, Section 8).

made or, though correct or complete when made, is now incorrect or incomplete in any material respect.

For any request to which Natural Energy fails or refuses to furnish all or part of the requested information, Natural Energy shall provide a written explanation of the specific grounds for its failure to completely and precisely respond.

Careful attention shall be given to copied and scanned material to ensure that it is legible. When the requested information has been previously provided in this proceeding in the requested format, reference may be made to the specific location of that information in responding to this request. When applicable, the requested information shall be separately provided for total company operations and jurisdictional operations. When filing a paper containing personal information, Natural Energy shall, in accordance with 807 KAR 5:001E, Section 4(10), encrypt or redact the paper so that personal information cannot be read.

1. Provide the distance from Mr. Whitley's proposed service location in Rush, Kentucky to the closest existing gas main.
2. Provide the exact price that was initially quoted to Mr. Whitley to extend the gas main. Include copies of any written estimates provided to Mr. Whitley. If a written estimate was not provided, state why it was not.
3. State whether Mr. Whitley was provided with subsequent estimates to extend the gas main.
4. If subsequent estimates were provided, state the price that was quoted and explain why it differed from the previous estimate.

5. Provide the current cost to Natural Energy to install an extension in excess of 100 feet from its nearest gas main to Mr. Whitley's property in Rush, Kentucky. Include a detailed itemized estimate.

6. Provide documents of line extension charges for any/all line extensions greater than 100 feet charged to other customers for the past three years.



APPENDIX B

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2023-00052 DATED MAR 20 2023

TWO PAGES TO FOLLOW

RECEIVED

FEB 14 2023

PUBLIC SERVICE COMMISSION

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the matter of:

Philip W. Whitley  
(Your Full Name)  
COMPLAINANT

VS.

Natural Energy Utility Corporation  
(Name of Utility)  
DEFENDANT

COMPLAINT

The complaint of Philip W. Whitley  
(Your Full Name) respectfully shows:

(a) Philip W. Whitley  
(Your Full Name)

14402 Deerhaven Court Rush, Ky 41168  
(Your Address)

(b) Natural Energy Utility Corporation  
(Name of Utility)

2560 Hoods Creek @ Pike Ashland Ky 41102  
(Address of Utility)

(c) That: We received a verbal price quote  
(Describe here, attaching additional sheets if necessary,

about a year ago for natural gas to  
the specific act, fully and clearly, or facts that are the reason

be installed on to the three houses  
and basis for the complaint.)

located on Deerhaven Ct. the verbal

Continued on Next Page

\* Sid notes  
Other houses in  
the area were  
installed for  
600-800 dollars

Formal Complaint

Philip W. Whithy vs. Natural Energy Utility Corporation

Page 2 of 2

Quote was \$3000.00 splitting the cost per house 1000.00 to be paid by each homeowner. After talking to my neighbors the price jumped to 3100.00 per house. I called the office to investigate the change ~~Freeman~~ Freeman then verbally raised the price to 16000.00 for all houses. After the entire complaint was filed Jay Freeman met with me

Wherefore, complainant asks

(Specifically state the relief desired.)

and said basically it was not worth his time and monetary return to run the line at said price. He went on to say it would cost 26000.00 to run the line for the three houses. Jay Freeman did mention applying for a grant through the state to run the line for 26000.00

Dated at Rush, Kentucky, this 10 day (Your City)

of February, 20 (Month)

→ Honor price Original price gouging is occurring and see it

(Your Signature\*)

(Name and address of attorney, if any)

Date

\*Complaints by corporations or associations, or any other organization having the right to file a complaint, must be signed by its attorney and show his post office address. No oral or unsigned complaints will be entertained or acted upon by the commission.

Philip W. Whitley  
14402 Deerhaven Court  
Rush, KENTUCKY 41168

\*Natural Energy Utility Corporation  
2560 Hoods Creek Pike  
Ashland, KY 41102

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Natural Energy Utility Corporation  
2560 Hoods Creek Pike  
Ashland, KY 41102