

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC INVESTIGATION OF)	
JURISDICTIONAL STATUS OF LINDSEY)	CASE NO.
ENTERPRISES, LLC AND OF ITS COMPLIANCE)	2023-00207
WITH KRS CHAPTER 278, 807 KAR CHAPTER)	
005, AND 49 CFR PARTS 191 AND 192)	

ORDER

The Commission, on its own motion, finds that this proceeding should be initiated to investigate whether Lindsey Enterprises, LLC (Lindsey Enterprises) is selling, furnishing, or transporting natural gas to or for the public and is therefore subject to the Commission’s jurisdiction as a utility under KRS 278.040.

BACKGROUND

The Commission has been made aware of complaints to the office of the Attorney General concerning the termination of natural gas service to customers of Lindsey Enterprises in the Fords Branch area of Pike County, Kentucky. Copies of two such complaints are attached to this Order as Appendix A. Additionally, the Commission received a copy of the letter sent by Lindsey Enterprises on May 19, 2023, to a customer on Church of Christ Way in Pikeville, Kentucky, indicating that natural gas service will be terminated on June 30, 2023. The letter is attached to this Order as Appendix B. The letter identifies the service provided to this customer as “farm tap gas service.” The gas service provided to the owners of property within one-half air mile of a producing gas well or gathering line is commonly referred to as “farm tap service.” Rates charged for farm

tap service must be approved by the Commission.¹ The Commission has no record of approving farm tap rates to be charged by Lindsey Enterprises.

LEGAL STANDARD AND DISCUSSION

Pursuant to KRS 278.040, the Commission has jurisdiction over the rates and services of all utilities in Kentucky. Pursuant to KRS 278.010(3)(b) and (c), “utility” includes any person, except a regional wastewater commission or city, who owns, controls, operates or manages any facility used in connection with the production, manufacture, transportation, storage, distribution, conveying or sale of natural gas to or for the public for compensation. All utilities in Kentucky must provide adequate, efficient and reasonable service, and establish reasonable rules under which they will be required to render service.² The Commission has jurisdiction over complaints as to utility service,³ and if the Commission finds that any practice of a utility is unjust, unreasonable, unsafe, improper, inadequate, or insufficient the Commission will prescribe a practice for the utility that enables the utility to maintain adequate, efficient and reasonable service.⁴ Utilities found by the Commission to be in violation of any provision of KRS Chapter 278 are subject to the penalties set forth in KRS 278.990. Additionally, any person found to have violated federal pipeline safety laws contained in 49 U.S.C. Section 60101 et seq is subject to the penalties set forth in 49 C.F.R. Section 190.223.⁵

¹ 807 KAR 5:026, Section 9.

² KRS 278.030(2).

³ KRS 278.260(1).

⁴ KRS 278.280.

⁵ KRS 278.992.

The Commission's jurisdiction over gas pipeline companies offering only farm tap service is limited by certain provisions of KRS 278.485, in that the Commission cannot restrict the right of any gas pipeline company to abandon any gas well or gathering pipeline, and the gas pipeline company is not responsible for maintaining any specified gas pressure to farm tap customers.⁶ However, the Commission does maintain jurisdiction concerning the rates to be charged for farm tap service, and the Commission inspects the installation of the meter and gas regulator used in making a farm tap connection.⁷

Because it is evident from the complaints received that Lindsey Enterprises has been providing natural gas service in some capacity to customers in the Fords Branch area of Pike County, Kentucky, and because this service was not provided as farm tap service utilizing rates approved by the Commission, the Commission cannot conclude that this service was farm tap gas service, and therefore subject to only limited Commission jurisdiction. The Commission must investigate whether the service provided by Lindsey Enterprises is utility service. Lindsey Enterprises has announced its intentions to terminate natural gas services on June 30, 2023. However, if the Commission finds that Lindsey Enterprises has been providing utility service, Lindsey Enterprises will be required to maintain adequate, efficient and reasonable service or be subject to penalties assessed by the Commission. If the Commission finds that Lindsey Enterprises has been providing utility service, and Lindsey Enterprises alleges it is no longer possible to provide

⁶ KRS 278.485(4) and (6).

⁷ KRS 278.485(2).

adequate, efficient and reasonable service, Lindsey Enterprises may then request Commission approval to cease providing utility service.

Finally, the Commission directs Lindsey Enterprises to the Commission's July 22, 2021 Order in Case No. 2020-00085⁸ regarding filings with the Commission.

IT IS THEREFORE ORDERED that:

1. This proceeding is opened to investigate the jurisdictional status of Lindsey Enterprises and its compliance with KRS Chapter 278, 807 KAR Chapter 005, and 49 C.F.R. Parts 191 and 192.

2. Lindsey Enterprises is made a party to this proceeding.

3. Any interested party may, by counsel, file a motion to intervene within 14 days of the date of service of this Order.

4. Pursuant to 807 KAR 5:001, Section 8(9), within seven days of service of this Order, Lindsey Enterprises shall file a written statement with the Commission that:

a. Certifies that it, or its agent, possesses the facilities to receive electronic transmissions; and

b. Sets forth the electronic mail address to which all electronic notices and messages related to this proceeding shall be served.

5. Unless otherwise ordered by the Commission, the procedures set forth in 807 KAR 5:001, Section 8, related to service and electronic filing of papers shall be followed in this proceeding.

⁸ 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).

6. Pursuant to 807 KAR 5:011, Section 8(9), within seven days of service of this Order, Lindsey Enterprises shall file by electronic means a written statement that it waives any right to service of Commission orders by United States mail and that it or its authorized agents possess the facilities to receive electronic submissions.

7. Lindsey Enterprises shall respond to any requests for information propounded by Commission Staff, as provided in those requests.

8. Nothing contained herein shall prevent the Commission from entering further Orders in this matter.

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PUBLIC SERVICE COMMISSION



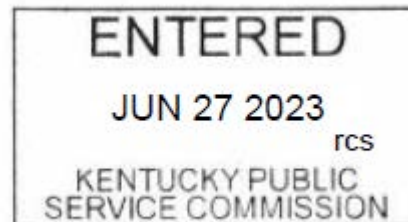
Chairman

Vice Chairman



Commissioner

Vice Chairman Angela Hatton did not participate in the deliberations or decision concerning this case.



ATTEST:



Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2023-00207 DATED JUN 27 2023

TWO PAGES TO FOLLOW

5/26/2023

ID ##### Date 5/26/2023 Time [] How Contacted Voice mail Capitol Log# []

Caller	Sal	FName-Caller	MNm	LName-Caller
CallersBusiness:	[]	[]	[]	[]
Phone number	[]			
Street Address	15 Fords Branch Lane South			
City, State Zip	Pikeville	KY	41501	
CallerEmail	[]			

Resolved

Rate Intervention Complaints

Business Complained about	
Business Name	Lindsey Enterprises
Business Phone	[]
Address of bus.	[]
Address 2 of bus.	[]
City, State, Zip	[] [] []

Savings/Refunds:	Prev. Comp. 18291 [] and 18287 []
Prev. ID Nos.	[]

Type of complaint	Natural Gas and Electric
Complaint	Farm Tap shutting down
Attorney(s)	[] Data Entry []
Resolution	[]

Previous Complaint: 18291 [] and 18287 []

Prev. ID Nos. [] DatePrevComp: []

Seventy Three and been there all her life. She's received her natural gas all her life and her parents before her. There were 25 people before, but now only about 14. This is to take effect July 1. Company has offered to provide propane "for a while" to customers.

Email to R. Tutt asking if she is aware of the farm tap being shut down, and if there are any natural gas companies that may pick up these customers.
Emailed copy of KRS 278.485

Tutt's response This has been turned over to the Gas Inspection group. At this point they are investigating and will keep us updated, will let you know when I hear anything. Provided to []

06/05/23 Email Tutt, PSC, requesting update. At this time there is a meeting scheduled with the PSC, Lindsey & Elliott and their legal consul on June 13 to discuss the issues. Hopefully at that time another supplier will be involved. Will keep you informed. Email to update []

06/13/23 Email to Tutt asking for status update.
We had a meeting today, will be in field Thursday and having a meeting with Commissioners on Tuesday. At this time we are investigating. But last letter sent to customers appears to be a disconnection on July 1, 2023

06/15/23 Email from [] requesting update. Lindsey Enterprises met with the Public Service Commission on 06/13/23. They will "be in the field" today, and the PSC has scheduled another meeting with the PSC Commissioners on Tuesday, June 20, 2023. According to the PSC, at this time they are investigating, but note that the last letter sent by Lindsey to customer appears to be a disconnection date of July 1, 2023. There have been no changes to this scheduled disconnection at this time. I will follow-up with the PSC on Wednesday, June 21, after they have met with Lindsey Enterprises again.

ID ##### Date 5/30/2023 Time 8:52 How Contacted Voice mail Capitol Log#

Caller

Sal	FName-Caller	MNm	LName-Caller
CallersBusiness:			
Phone number			
Street Address 194 Fords Branch			
City, State Zip Pikeville		KY	41501
CallerEmail			

Resolved

Rate Intervention Complaints

Business Complained about

Lindsey Enterprises Farm Tap

Business Phone

Address of bus.

Address 2 of bus.

City, State, Zip

Savings/Refunds:

Prev. Comp. 18291 and 18287

Prev. ID Nos.

Type of complaint Natural Gas and Electric

Complaint Discontinuation of Farm Tap services

Attorney(s) **Data Entry**

Resolution

Previous Complaint: 18291 18287

Prev. ID Nos. DatePrevComp:

Have had the same company for over 40 years. Owner "just decided" it's a farm tap and intends to quit serving them.

I received a response from Ms. Tutt at the PSC in which she stated, "This has been turned over to the Gas Inspection group. At this point they are investigating and will keep us updated, will let you know when I hear anything."

06/05/23 Email to Tutt, PSC, asking for update. At this time there is a meeting scheduled with the PSC, Lindsey & Elliott and their legal consul on June 13 to discuss the issues. Hopefully at that time another supplier will be involved. Will keep you informed. Updated .

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APPENDIX B

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2023-00207 DATED JUN 27 2023

ONE PAGE TO FOLLOW



Lindsey Enterprises, LLC



P.O. Box 902
Pikeville, Kentucky 41502

Telephone
(606) 437-0640

May 19, 2023

[REDACTED]
[REDACTED]
146 Church of Christ Way
Pikeville, KY 41501

Dear Valued Customer:

It is with great regret I am writing to inform you that as of July 1, 2023, Lindsey Enterprises, LLC will no longer be able to provide farm tap gas service to you.

We are writing this letter in order for you to have the adequate time to make arrangements or proper modifications for your home.

Lindsey Enterprises will pay for delivery and propane tank rental from Ferrell Gas for a period of one year. Each household will need to contact Sabra Rutherford with Ferrell Gas in order to set up their own individual accounts before the tanks can be delivered. It can be assumed that the property owners can have the tanks delivered and established in their names by June 30. Thus, the one year period will expire on June 30, 2024.

Sabra Rutherford, Senior Account Manager for Ferrell Gas, can be reached at (502) 523-8506.

If you have any questions or concerns, you may contact me at (606) 437-0640.

Sincerely,

Will T Lindsey, Jr.
Operations Manager
Lindsey Enterprises, LLC

*Todd P. Kennedy
Thompson & Kennedy, PLLC
PO Box 1079
Pikeville, KENTUCKY 41502

*Will Lindsey, Jr.
Lindsey Enterprises, LLC
PO Box 902
105 Laurel Lane
Pikeville, KENTUCKY 41502