

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF KENTUCKY FRONTIER)	
GAS, LLC, BELFRY GAS, INC., FLOYD COUNTY)	
GAS (EAST KENTUCKY UTILITIES, INC.), ELAM)	
UTILITY COMPANY, INC., AND MIKE LITTLE)	
GAS COMPANY FOR APPROVAL OF)	CASE NO. 2005-00348
TRANSFER AND ACQUISITION OF ASSETS)	
AND STOCK AND ISSUANCE OF A)	
CERTIFICATE OF PUBLIC CONVENIENCE AND)	
NECESSITY, IF NECESSARY)	

ORDER

Kentucky Frontier Gas, LLC ("Kentucky Frontier"); Belfry Gas, Inc. ("Belfry Gas"); Floyd County Gas; Elam Utility Company, Inc. ("Elam Utility"); and Mike Little Gas Company ("Mike Little Gas") (collectively "Joint Applicants") have applied for Commission approval of Kentucky Frontier's acquisition of the assets or stock of the other entities. By this Order, we grant the application.

On August 30, 2005, the Joint Applicants¹ applied to the Commission for approval of the proposed transfer of stock or assets. On September 14, 2005, the Commission permitted the Attorney General ("AG") to intervene in this proceeding. On September 16, 2005, the AG and Commission Staff issued discovery requests to Kentucky Frontier. Kentucky Frontier has responded to these requests. The AG has moved for admission into the record of Kentucky Frontier's responses to additional written interrogatories that the AG submitted to Kentucky Frontier outside any

¹ Any reference in this Order to "Existing Utilities" refers to Belfry Gas, Inc., Floyd County Gas, Elam Utility Company, Inc., and Mike Little Gas Company.

established procedural schedule in this proceeding. No party has requested a hearing in this matter.

Having considered the evidence of record and being otherwise sufficiently advised, the Commission finds that:

1. Belfry Gas, a Kentucky corporation organized pursuant to KRS Chapter 271B, owns and operates facilities providing natural gas service to approximately 560 customers in eastern Pike County, Kentucky.

2. J. W. Kinzer owns 100 percent of all outstanding shares of stock of Belfry Gas.

3. Floyd County Fiscal Court owns facilities that operate under the name of Floyd County Gas and that provide natural gas service to approximately 1,100 customers in Floyd County, Kentucky. Since 1979 Floyd County Fiscal Court has leased these facilities to East Kentucky Utilities, Inc. ("EKU"), a non-profit Kentucky corporation organized pursuant to KRS Chapter 273.² EKU operates these facilities on behalf of the Floyd County Fiscal Court.

4. Elam Utility, a Kentucky corporation organized pursuant to KRS Chapter 271B, owns and operates facilities that provide natural gas service to approximately 475 customers in Morgan County, Kentucky.

5. Wilma Ison owns 100 percent of all outstanding shares of stock of Elam Utility.

² See, e.g., Kentucky Public Service Commission v. Floyd County, Kentucky and East Kentucky Utilities, Inc., Case No. 9478 (Ky. PSC July 10, 1986) at 1.

6. Mike Little Gas, a Kentucky corporation organized pursuant to KRS Chapter 271B, owns and operates facilities that providing natural gas service to approximately 400 customers in southwest Floyd County, Kentucky.

7. The Miki Thompson Successor Trust and the Winnie L. Greer Successor Trust own 50 percent each of all outstanding shares of Mike Little Gas stock.

8. Kentucky Frontier is a limited liability company that is formed under the laws of Colorado and is authorized to conduct business in Kentucky.

9. Kentucky Frontier does not presently own any facilities that provide utility service in the Commonwealth of Kentucky.³

10. Kentucky Frontier has entered into an agreement to purchase for \$750,000 the assets of Belfry Gas, as well as at least 300 farm taps owned by J. W. Kinzer or entities controlled by Mr. Kinzer and Alert Oil & Gas Company, Inc.

11. Floyd County Fiscal Court placed the assets of Floyd County Gas for public sale. On May 25, 2005, Floyd County Fiscal Court accepted Kentucky Frontier's bid to purchase these assets for \$1,075,000.

12. Kentucky Frontier has entered into an agreement with Wilma Ison to purchase the outstanding stock of Elam Utility for \$800,000.

13. Kentucky Frontier has entered into an agreement with the Miki Thompson Successor Trust and the Winnie L. Greer Successor Trust to purchase the outstanding stock of Mike Little Gas for \$475,000.

³ Kentucky Frontier has operated the facilities of Floyd County Gas since August 15, 2005 under the terms of an Operating Agreement executed with ECU. See Application, Exhibit 2.

14. Kentucky Frontier expects the total acquisition cost of these facilities to be \$3.1 million and the total project cost to be \$3.4 million including the cost of regulatory approvals and initial system upgrades.⁴

15. Kentucky Frontier proposes a capital structure that will consist of 30 percent cash equity (\$1,020,000)⁵ and 70 percent long-term debt.

16. The Existing Utilities have issued long-term debt instruments to the Governor's Office of Local Development ("GOLD") for loans from the Gas System Restoration and Development Project ("GSRP"). The Existing Utilities are currently indebted to GOLD in the following amounts:

Floyd County Gas - \$550,000

Elam Utility - \$775,000

Mike Little Gas - \$135,000

17. As a result of the proposed transaction, Kentucky Frontier will incur the following financial liabilities:

a. To purchase Belfry Gas, Kentucky Frontier will borrow \$350,000 from GOLD and \$175,000 from commercial sources.

b. To purchase the assets of Floyd County Gas, Kentucky Frontier will borrow \$550,000 from GOLD and \$200,000 from commercial sources.

⁴ See Kentucky Frontier Gas, LLC, Case No. 2005-00426 (Ky. PSC tendered Aug. 30, 2005), Application at ¶18.

⁵ Id. at ¶12.

c. To purchase Elam Utility, Kentucky Frontier proposes to assume \$450,000 of Elam Utility’s existing debt to GOLD, obtain forgiveness of the remaining \$325,000 debt to GOLD, and borrow \$110,000 from commercial sources.

d. To purchase Mike Little Gas, Kentucky Frontier proposes to assume \$135,000 of Mike Little Gas’s existing debt to GOLD, borrow an additional \$115,000 from GOLD, and borrow \$85,000 from commercial sources.

18. Upon completion of the proposed transactions, the following persons will be members of Kentucky Frontier and have the following ownership interest:

Industrial Gas Services, Inc.	20 percent
Gilmer Mickey	23 percent
Larry Rich	10 percent
Steven Shute	24 percent
Don Silversmith	23 percent

19. Other than to establish a single Gas Cost Recovery Account (“GCA”), Kentucky Frontier does not propose any immediate changes to the rates, regulations, or conditions of service presently applied to the Existing Utilities’ customers. After the proposed transfer occurs, Kentucky Frontier will continue to provide utility service to Elam Utility and Mike Little Gas customers under those utilities’ current operating names. It will provide service to customers of Floyd County Gas and Belfry Gas under the name of “Frontier Gas.”

20. Kentucky Frontier intends to develop eventually a single rate structure. It anticipates the consolidation of the Existing Utilities will result in greater economies of scale and a combined rate that is lower for the Existing Utilities’ customers.

21. Kentucky Frontier intends to initially lease the existing EKU office in Prestonsburg, Kentucky and will evaluate the requirements for a local office central to all utility operations at a later date.

22. Kentucky Frontier's management has extensive experience in the operation and management of gas pipeline and distribution systems.

23. Kentucky Frontier will retain Elam Utility and EKU's full-time operating and maintenance personnel and office personnel at least for the immediate period following the proposed transactions. Kentucky Frontier represents that it will hire additional workers as needed and will initiate an Operator Qualification program for current and future employees.

24. Kentucky Frontier represents that customer service and support will be locally based. It further represents that customers will be able to contact its central office through a local telephone number and that it will establish a 24-hour call center.

25. Kentucky Frontier represents that it will purchase a new billing and support system for the consolidated gas utility and to acquire and deploy drop boxes for personal payment in each area that the consolidated utility serves. It further represents that all payments will be deposited in a local bank and all billing, collections and front-end accounting will be based in Kentucky.

26. Kentucky Frontier has already prepared a draft Operations and Maintenance Manual, a drug and alcohol compliance plan and a draft Operator Qualification plan.

27. Kentucky Frontier has multiple sources of gas available for the acquired systems. One of its shareholders has significant experience in the management of gas supplies.

28. As Kentucky Frontier is purchasing 100 percent of the outstanding stock of Mike Little Gas and Elam Utility, no journal entry is required to reflect the transfer of these utilities. Except for the debt restructurings discussed above, the financial statements of Mike Little Gas and Elam Utility will not change as a result of the transfer. Kentucky Frontier will hold all assets and liabilities of the companies.

29. Kentucky Frontier is purchasing the assets of Floyd County Gas and is assuming its customer deposit liability and liability for accrued interest on customer deposits. Kentucky Frontier is purchasing the assets of Belfry Gas as well as certain farm tap customers and will assume Belfry Gas's liabilities for customer deposits and accrued interest on customer deposits.

30. Kentucky Frontier proposes to record the transfer at the purchase price rather than the original cost as the Uniform System of Accounts Prescribed for Natural Gas Companies ("USoA") requires. Its proposal to record the transaction omits the liabilities related to customer deposits and accrued interest on customer deposits.

31. The USoA requires that plant assets be transferred at original cost along with accumulated depreciation on those assets and that all other account balances being transferred be recorded. Recording the transfer of Belfry Gas and ECU in accordance with the USoA will require Kentucky Frontier to record a plant acquisition adjustment. The plant acquisition adjustment should be amortized over the remaining

life of the assets purchased. The annual amortization may be recorded in account 406, Amortization of Gas Plant Acquisition Adjustments.

Based upon these findings, the Commission makes the following conclusions of law:

1. Belfry Gas, Floyd County Gas, Elam Utility, and Mike Little Gas are utilities subject to Commission jurisdiction.⁶

2. Kentucky Frontier is not a utility and therefore not currently subject to Commission jurisdiction.⁷

3. Kentucky Frontier is a “person” for purposes of KRS Chapter 278.⁸

4. KRS 278.020(5) provides that “[n]o person shall acquire or transfer ownership of, or control, or the right to control, any utility under the jurisdiction of the commission . . . without prior approval by the commission.” As Kentucky Frontier is a person and is acquiring ownership of the Existing Utilities, this statute is applicable to and requires Commission approval of the proposed transfer.

5. KRS 278.020(6) provides that “[n]o individual, group, syndicate, general or limited partnership, association, corporation, joint stock company, trust, or other entity (an “acquirer”), whether or not organized under the laws of this state, shall acquire control, either directly or indirectly, of any utility furnishing utility service in this state, without having first obtained the approval of the commission.” As Kentucky Frontier is acquiring ownership of the assets of Belfry Gas and Floyd County Gas and control of

⁶ KRS 278.010(3)(b).

⁷ KRS 278.010(3).

⁸ KRS 278.010(2).

Elam Utility and Mike Little Gas through the acquisition of their corporate stock, this statute is applicable to and requires Commission approval of the proposed transfer.

6. Kentucky Frontier has the financial, technical, and managerial abilities to provide reasonable service to the Existing Utilities' present customers.

7. The proposed transfer is in accordance with law, for a proper purpose and is consistent with the public interest.

8. Upon completion of the transaction, Kentucky Frontier will be subject to Commission jurisdiction.

9. The AG's Motion to Introduce Evidence into the Record should be granted.

IT IS THEREFORE ORDERED that:

1. The AG's Motion to Introduce Evidence into the Record is granted.

2. Kentucky Frontier's proposed acquisition of the assets of Belfry Gas and Floyd County Gas and of the corporate stock of Elam Utility and Mike Little Gas is hereby approved.

3. Within 10 days of completion of the proposed transfer, Kentucky Frontier shall notify the Commission in writing of the completion of the transfer.

4. Within 10 days of the completion of the proposed transfer, Kentucky Frontier shall file a signed and dated adoption notice in accordance with 807 KAR 5:011, Section 11.

5. Within 10 days of the filing of its adoption notice, Kentucky Frontier shall issue and file with the Commission in its own name each utility's tariff, or such other tariff as it proposes to put into effect in lieu thereof in the form prescribed in 807 KAR 5:011, Section 11.

6. Within 20 days of the completion of the transfer, Kentucky Frontier shall file the journal entries it proposes to record the Belfry Gas and EKU acquisitions. The acquisitions shall be recorded in accordance with the USoA.

7. The rate-making treatment of the plant acquisition adjustment and any associated costs (i.e., amortization) shall be deferred until Kentucky Frontier's next rate case proceeding.

8. Belfry Gas and EKU shall be responsible for submitting to the Commission their financial and statistical reports, as described in 807 KAR 5:006, Section 3, for the period in 2005 in which they owned and operated the transferred assets.

Done at Frankfort, Kentucky, this 28th day of October, 2005.

By the Commission

ATTEST:


Executive Director