

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

JAN 28 2013

PUBLIC SERVICE
COMMISSION

In the Matter of:

ALTERNATIVE RATE FILING ADJUSTMENT)
APPLICATION OF JOHNSON COUNTY GAS) CASE NO. 2012-140
COMPANY)

RESPONSES TO STAFF'S THIRD REQUEST FOR
INFORMATION TO JOHNSON COUNTY GAS COMPANY

Comes the applicant, Johnson County Gas Company, and hereby respectfully submits its Responses To Staff's Third Request For Information To Johnson County Gas Company:

1. Refer to the responses to Items 1 and 2 of the Commission Staff's Second Request for Information ("Staff's Second Request"). The last sentence in the response to Item 1.b. states, "This amended request completely supplants the original request for increase in rates and makes the information previously submitted in ARF Form-1 irrelevant." Items 2.b.i., 2.b.ii., and 2.c. of the response include a proposed new rate structure consisting of a \$15.00 monthly customer charge for all residential and commercial meters, a per Mcf rate of \$10.3247, and a per Mcf surcharge of \$3.0772.

- a. As Johnson County's application and the notice it provided to its customers did not reflect the proposed new rate structure, explain whether Johnson County believes the Commission is permitted to process this case based on the existing procedural dates or whether the proposal of new rates now requires the Commission to establish a new "filed date" for this case, which would mean establishing a new effective date for the proposed new rates.

b. Item 2.b.ii. of the response states that Johnson County's Mcf sales for the 12 months ending September 30, 2012 were 12,674, down 22 percent from its calendar year 2011 sales of 16,316 Mcf. The response goes on to state that this decrease was primarily due to a much warmer 2011-2012 winter compared to the 2010-2011 winter.

(1) Identify the other reasons, aside from the warmer winter, that resulted in the decreased sales volumes for the more recent period.

(2) Heating Degree Day ("HOD") data for Kentucky published by the National Oceanographic and Atmospheric Administration ("NOAA") shows that, for the six months, October 2010 through March 2011 (the 2010-2011 "heating season"), HOD were 4,228 and, for the months which make up the 2011 -2012 heating season, October 2011 through March 2012, HOD were 3,241.1 The data also shows that the HOD for the 2010-2011 heating season were roughly 200 above normal while the HOD for the 2011 -2012 heating season were roughly 800 less than normal. Given that the temperature data, in the form of HOD, shows that the winter heating season from which Johnson County now wants to use the Mcf sales and base its rate calculations was much more abnormal than the prior heating season, explain why the Commission should calculate Johnson County's rates using the smaller sales volumes.

c. The last paragraph in Item 2.b.ii. of the response states that "A reasonable rate of return is 9% of total revenues (not including recovery of gas cost)" Explain how Johnson County determined that a percentage of total revenues approach is appropriate and why it believes 9 percent is a reasonable rate of return.

d. Explain whether Johnson County is familiar with the operating ratio method typically used by the Commission to determine the revenue requirement of small, privately-

owned utilities in which, for gas utilities, operating expenses (excluding gas costs) are divided by a ratio of 0.88 to derive revenues required from base rates.

RESPONSE to 1.

- a. **Johnson County does not believe that the change in the rate structure set forth in its Response to the Staff's Second Request for Information requires the Commission to establish a new "filed date" for this application. At an informal meeting with Staff, counsel for Johnson County posed this very question and was instructed by Staff to set forth the new structure in the Response to the Second Request for Information rather than filing a new application. However, if the Commission believes Johnson County's customers should receive notice of the new rate structure, Johnson County would be happy to provide such notice in whatever way the Commission requires, pursuant to 807 KAR 5:011 Section 8, so long as this procedure would not slow the process of establishing a new rate structure pursuant to this application.**
- b. **(1) Johnson County is not aware of any other reason why the sales would have dropped by 22% during the relevant time periods other than the warmer weather.**
(2) Data has shown that the weather patterns for Kentucky, and indeed for much of the United States, is trending warmer at a much higher rate than previously believed. In fact, the past decade has been reported to be the warmest on record. Johnson County believes that this trend is likely to continue and result in much milder winters than previously experienced. In addition, winters are typically milder in the mountains of Eastern Kentucky than in other parts of Kentucky, meaning that data for the entire state is not necessarily applicable to Johnson County's service territory. Therefore, setting a rate that is based on the more recent data is more likely to result in Johnson

County being able to continuously meet its fixed operating expenses than setting a rate based on historical data which appears no longer accurate.

c. A percentage of total revenues approach to setting a reasonable rate of return is appropriate because this is a recognized method for this Commission to set reasonable rates for larger Kentucky utilities. However, Johnson County is open to any other approach suggested by Staff.

d. Johnson County is familiar with this operating ratio method typically used by the Commission to determine the revenue requirement of small, privately-owned utilities, and is not opposed to applying this method to this rate case. Johnson County hereby amends its Responses to the Second Request for Information by stating that Mr. Rife's management fee should be kept at \$7,000 because that has been approved by the Bankruptcy Court. The operating ratio method may be adjusted (downward) to account for this additional management fee.

2. Refer to the response to Item 2.c. of Staff's Second Request and the bankruptcy documents attached as Exhibit 1 to the application. The response indicates that, pursuant to its reorganization plan filed in the U.S. Bankruptcy Court, Johnson County needs to repay its creditors \$39,000 annually for a period of five years, for a total of \$195,000. The bankruptcy documents appear to identify six creditors: (1) Johnson County Fiscal Court; (2) Constellation New Energy; (3) Atmos Energy Marketing, Inc.; (4) Columbia Gas Transmission, LLC; (5) the Kentucky Department of Local Government; and (6) the Internal Revenue Service.

a. These creditors were owed amounts for franchises taxes, natural gas purchases, natural gas delivery services, debt service payments, etc. Given that it was (1) legally permitted to request an increase in rates at any time to recover its operating expenses and (2) has had a Gas

Cost Adjustment clause in its tariffs for many years, explain why Johnson County's financial condition, under the management of its current president, Mr. Bud Rife, deteriorated to the point that it filed for bankruptcy.

b. Explain why the Commission should expect that Johnson County's fiscal operations, under the future management of Mr. Rife, will be improved compared to its historical level of operations under Mr. Rife's management.

RESPONSE to 2:

a. Johnson County's financial condition deteriorated primarily because after Mr. Rife purchased the company in 1998, and after a rate case in 1999, the company lost approximately 2/3 of its "low income" customers due to a) the rate case and b) the fluctuating price of natural gas. This created great financial stress on the company. Mr. Rife was hesitant to file for a rate increase because of his fear of losing even more customers to electric heating solutions. He thus managed Johnson County in such a way as to attempt to cut costs wherever possible and try to "make things work." However, ultimately, the company was forced into Chapter 11 Bankruptcy due to insufficient income from providing gas service. In addition, the cost of this ARF proceeding, which has consumed nearly one year, in attorney's fees and costs incurred, is now approaching one-third of the annual operating expenses of the company. This is a further disincentive to the filing of what is supposed to be a simple ARF rate proceeding for a small utility such as Johnson County.

b. Johnson County does not concede that its fiscal problems are due to mismanagement. Under the future management of Mr. Rife, fiscal operations will be improved compared to historical fiscal operations if the Commission now approves the

rate increase sought by the company. This rate increase will allow the company to pay its fixed operating expenses, earn a reasonable rate of return, pay its creditors over the next five years, and emerge from bankruptcy. The approved plan calls for Mr. Rife, as owner of Johnson County, to contribute \$100,000 of his personal money to pay certain secured creditors *in addition to* the \$195,000 to be collected through the surcharge. However, Mr. Rife is not obligated to pay this additional personal contribution until the Commission approves a rate plan. Furthermore, because of the bankruptcy filing, the management of Johnson County Gas now realizes the importance of seeking timely adjustment of its rates in order to meet the demands of its customers.

3. Refer to the responses to Item 5.a. and b. of Staff's Second Request.

a. The responses to Item 5, together with the responses to Item 7 of Commission Staff's First Request for Information, indicate that, based on his W-2s and his personal income tax return, Mr. Rife's combined compensation in 2011 from B & H Gas, Bud Rife Construction Company, and B & S Oil & Gas Company was \$69,387. Provide the amount of his management contract fee for 2011 that Mr. Rife reported as income for personal income tax purposes.

b. Provide the calculations, and accompanying narrative description, which show and explain how Johnson County determined that the secretarial services it receives via Mr. Rife's management contract would cost \$45,000 annually if they were charged directly to Johnson County.

c. The response identifies Renae Tackett as a B & H Gas employee who provides services to Johnson County under Mr. Rife's management contract. A review of B & H Gas's 2011 Annual Report filed with the Commission does not appear to reflect compensation for Ms. Tackett in any of the accounts in which secretarial, administrative, or clerical services would

normally be recorded. Provide the total amount of Ms. Tackett's compensation from B & H Gas in 2011, including all employee benefits, and state where this compensation is reflected in B & H Gas's 2011 Annual Report.

RESPONSE to 3:

- a. Mr. Rife reported income of \$84,000 from Johnson County on personal income tax return for 2011. Deductions for expenses from this income were reported elsewhere.**
- b. The salary of a full time administrative assistant for Johnson County, with the experience and qualifications necessary to perform the functions required, who has full health insurance benefits and an employer match to a retirement plan, plus payment of the employer's share of social security and medicare taxes, and payment of workers compensation insurance, would equal approximately \$45,000, including all benefits.**
- c. Ms. Tackett was not employed by B&H Gas in 2011. She began her services in 2012.**

Respectfully submitted,



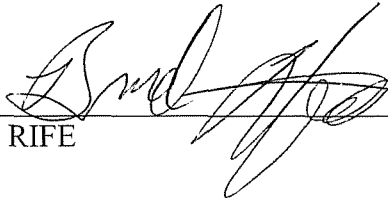
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COUNSEL FOR JOHNSON COUNTY
GAS COMPANY, INC.

VERIFICATION

I Bud Rife, do hereby state that I have read all of the foregoing Responses to Staff's Third Request For Information To Johnson County Gas Company, Inc. and each answer was made by me and is correct and accurate to the best of my recollection and belief.

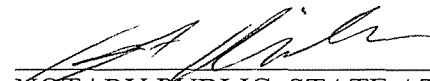


BUD RIFE

COMMONWEALTH OF KENTUCKY)
COUNTY OF FAYETTE)

Subscribed and sworn to before me by Bud Rife on this the 28th day of January, 2013.

My commission expires: 11/2/2014



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NOTARY ID NO. 431149