

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

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PUBLIC SERVICE  
COMMISSION

In the Matter of:

AN INVESTIGATION OF THE GAS COSTS OF B&H )  
GAS COMPANY PURSUANT TO KRS 278.2207 AND ) Case No.  
THE WHOLESALE GAS PRICE IT IS CHARGED ) 2015-00367  
BY ITS AFFILIATE, B&S OIL AND GAS COMPANY, )  
PURSUANT TO KRS 278.274 )

ATTORNEY GENERAL'S RESPONSE TO MOTION OF B&H GAS CO. AND B&S  
OIL AND GAS CO. TO HOLD INVESTIGATION IN ABEYANCE PENDING  
FILING OF ALTERNATIVE RATE FILING

Comes now the Attorney General of the Commonwealth of Kentucky, by and through his Office of Rate Intervention, and for his response to the motion of B&H Gas Co. and B&S Oil & Gas Co. [hereinafter referred to as "B&H," "B&S," or jointly as "the companies"] to hold this matter in abeyance pending B&H's filing of an Alternative Rate Filing ["ARF"], states as follows.

The Commission's Order dated November 24, 2015 which established this investigation clearly expressed its deep concern that B&H's current gas cost adjustment ("GCA") of \$9.38 / Mcf is greatly in excess of the GCAs of the eleven (11) other similarly-sized Kentucky LDCs which file quarterly GCAs with the Commission.<sup>1</sup> Additionally, market prices for natural gas have declined significantly in the more than seven (7) years since B&S's last GCA filing in 2008.<sup>2</sup>

Moreover, the Commission noted that both the jurisdictional LDC B&H, and its sole gas supplier, B&S, are owned by the same individual, Mr. Bud Rife.<sup>3</sup> Based on this fact, the Commission appropriately found that B&H's purchases from B&S are governed by: (a) KRS

<sup>1</sup> Case No. 2015-00367, Order dated Nov. 25, 2015, p. 2.

<sup>2</sup> *Id.* at p. 3.

<sup>3</sup> *Id.* at p. 1.

278.2207 (also known as the “Affiliate Pricing Rules”) which provides, *inter alia*, that services or products provided to a utility by an affiliate be priced at no greater than the market price or in a manner that complies with the utility's existing allocation methodology approved by either the United States Department of Agriculture, the Securities and Exchange Commission, or the Federal Energy Regulatory Commission; and (b) KRS 278.274, which requires the Commission, *inter alia*, to exert jurisdiction over an intrastate affiliate gas supplier as though it were a utility subject to the Commission's jurisdiction.<sup>4</sup>

Based on the gross discrepancy between B&H's GCA and those of the eleven (11) other small jurisdictional LDCs, the Commission found *prima facie* evidence that B&H's gas costs are in violation of both the Affiliate Pricing Rules set forth in KRS 278.2207(1)(b), and of KRS 278.274.<sup>5</sup> Accordingly, the Commission ordered that the GCA component of B&S' rates be collected subject to refund until further order.<sup>6</sup> Finally, the Commission ordered that the instant investigation be opened to provide B&H and B&S an opportunity to present evidence to demonstrate that the gas price B&S charges to its affiliate B&H is compliant with KRS 278.2207(1)(b), and that the GCA component of B&H's rates is just and reasonable, in accordance with KRS 278.274.<sup>7</sup>

However, on January 29, 2016 B&H and B&S filed into the record their motion to hold this case in abeyance, in support stating that B&H's allegedly lower base rates set-off the high GCA component of its rates, such that the total bill impact on its customers is allegedly comparable to similarly-sized LDCs. Rather than seeking to reduce its high GCA rate, B&H further states it may need to increase its base rates in an ARF application that it

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<sup>4</sup> *Id.* at p. 5.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.* at pp. 5-6.

<sup>7</sup> *Id.* at p. 6.


is currently contemplating filing no later than April 10, 2016. Additionally, the companies requests that the Commission suspend ordering refunds to B&H customers as a result of B&H's extraordinarily high gas cost.

The Attorney General shares the Commission's concerns that B&H's gas cost is far in excess of average gas cost of the eleven similarly-sized jurisdictional LDCs. As a result, the gas cost rates passed on to B&H's ratepayers for much of the last seven (7) years have been and remain unfair, unjust and unreasonable. For these reasons, the Attorney General urges the Commission to continue the instant investigation. The investigation opened in the instant case will allow the Commission to quickly and expediently explore the gas cost issue and make adjustments, if required. B&H can certainly file an ARF proceeding if it so chooses, but based on the Commission's reasons set forth in its Order dated Nov. 25, 2015, this case is far too important to B&H's ratepayers to be held in abeyance.

WHEREFORE, the Attorney General urges the Commission to DENY the companies' motion to hold this case in abeyance.

Respectfully submitted,

ANDY BESHEAR  
ATTORNEY GENERAL



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*Certificate of Service and Filing*

Counsel certifies that an original and six photocopies of the foregoing were served and filed by hand delivery to James W. Gardner, Acting Executive Director, Public Service Commission, 211 Sower Boulevard, Frankfort, Kentucky 40601; counsel further states that true and accurate copies of the foregoing were mailed via First Class U.S. Mail, postage pre-paid, to:

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this 24<sup>th</sup> day of February, 2016

  
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Assistant Attorney General