

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 MOTION FOR LEAVE TO LATE FILE HIS REPLY, AND  
REPLY TO JOINT RESPONDENTS' RESPONSE TO  
ATTORNEY GENERAL'S MOTION TO COMPEL

The Attorney General of the Commonwealth of Kentucky, by and through his Office of Rate Intervention, hereby moves the Commission for leave to late file his Reply to the Joint Respondents' Response to his Motion to Compel. In support of this Motion, counsel states that due to illness, he was unable to file the attached Reply within the five (5) period mandated by 807 KAR 5:001 § 5. The Attorney General's Reply is confined to the issues Joint Respondents raised in their Response. No party will be prejudiced by the late filing of this Reply.

Respectfully submitted,

ANDY BESHEAR  
ATTORNEY GENERAL

  
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*Certificate of Service and Filing*

Counsel certifies that an original and seven photocopies of the foregoing were served and filed by hand delivery to Aaron D. Greenwell, 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:

B&H Gas Company  
P. O. Box 447  
Betsy Layne, KY 41605

B&S Oil and Gas Company  
P.O. Box 155  
Harold, KY 41635

Joe F. Childers  
Joe F. Childers & Associates  
300 Lexington Bldg.  
201 W. Short St.  
Lexington, KY 40507

this 2<sup>nd</sup> day of August, 2016

  
\_\_\_\_\_  
Assistant Attorney General

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ATTORNEY GENERAL'S REPLY TO JOINT RESPONDENTS' RESPONSE TO  
ATTORNEY GENERAL'S MOTION TO COMPEL

The Attorney General of the Commonwealth of Kentucky, by and through his Office of Rate Intervention, states as follows for his Reply to the Joint Respondents' Response to the Attorney General's Motion to Compel.

As has been adequately demonstrated throughout the record of the instant case, and as the Commission has expressly found, Mr. Bud Rife either owns, operates or is a major partner in several businesses which are closely affiliated with each other. In fact, the Commission has expressly found that B&H Gas Company ["B&H"] and B&S Oil and Gas Co. ["B&S"] are affiliated entities.<sup>1</sup> Moreover, it has previously expressly found that B&H and Johnson County Gas Co. ["JCG"] are closely affiliated, even to the extent that both companies were included within the scope of the same financial audit.<sup>2</sup> Indeed, the record in the instant proceeding establishes that Mr. Rife operates both JCG and B&H from the exact same office.<sup>3</sup>

Mr. Rife owns and operates B&H and its primary gas supplier, B&S. Mr. Rife also owns and operates JCG, and is a major partner in Hall, Stephens & Hall ["HSH"], which

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<sup>1</sup> Case No. 2015-00367, Order dated Nov. 24, 2015, p. 4.

<sup>2</sup> Case No. 2004-00072, Order dated March 17, 2004, p. 4.

<sup>3</sup> Joint Respondents' response to AG 1-19, Case No. 2015-00367.

supplies at least a significant portion of JCG's gas.<sup>4</sup> Mr. Rife also owns and operates Bud Rife Construction Co., which performs maintenance operations for B&H, B&S, JCG and HSH.<sup>5</sup> Mr. Rife is the sole officer and director of B&H, JCG and Bud Rife Construction Co., and is also the sole proprietor of B&S.<sup>6</sup>

The Commission has thus already found affiliate relationships between: (a) B&H and B&S; (b) B&H and JCG; and (c) HSH and JCG. Attorney General data requests 1-6, 2-2(c), 2-3 (b) and (e), 2-4 and 2-8(c)-(e) sought more information regarding the closely affiliated relationship of these entities, and how those relationships affect the gas cost B&H ultimately passes on to its ratepayers. Thus *by definition*, the subject matter of these data requests, and the information therein sought, is completely relevant to the scope of the Commission's investigation; yet Joint Respondents continue to allege lack of relevance and refuse to provide a response.

In enacting KRS 278.2207 and KRS 278.274, the Kentucky Legislature understood and acknowledged the need to empower this Commission to examine the financial dealings of affiliates that supply local gas distribution companies with gas. In the case of B&H, the record amply demonstrates that B&H, B&S, JCG, HSH and Bud Rife Construction Co. all have extensive financial and service transactions between each other, and that Mr. Rife's involvement into the operations and management of each entity is nothing short of extraordinary. The information sought in these data requests is fully relevant to the Commission's investigation, and thus should be provided.

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<sup>4</sup> In at least one prior proceeding, the Commission has found that Hall, Stevens & Hall is affiliated with Johnson County Gas Co. Case No. 2012-00227, Order dated Nov. 29, 2012 , p. 2.

<sup>5</sup> Responses to AG 1-27, and AG 2-2(a).

<sup>6</sup> Response to AG 2-1.

In AG 1-11 and AG 2-5, the Attorney General requested information regarding B&S' gas costs. Not only is this information *highly* relevant to the scope of the Commission's inquiry, but indeed it goes to the very *core* of that inquiry. Unfortunately, Joint Respondents continue to obfuscate by asserting false defenses. In response to AG 2-5, Joint Respondents acknowledged that B&S incurs costs ". . . typical of gas production, including labor, repair, management, payment of royalties to mineral owners and material and maintenance costs."<sup>7</sup> But the record has also established that Bud Rife Construction Co., of which Mr. Rife is the sole officer and director, provides essential services to B&S, such as labor, repair material and maintenance.<sup>8</sup> Joint Respondents thus on the one hand partially acquiesce to inquiry into B&S' gas cost, but arbitrarily decide that they – and they *alone* – will be the sole arbiters of the extent of this inquiry, in derogation of the Commission's order establishing this proceeding that the scope of inquiry includes B&S' gas costs.

The Commission has properly found, pursuant to KRS 278.2207 and KRS 278.274, that B&S is indeed B&H's corporate affiliate. KRS 278.274 requires:

If the commission determines that the rates charged by the utility are not just and reasonable in that the cost of natural gas purchased from the affiliated company is unjust and unreasonable, the commission may reduce the purchased gas component of the utility's rates *by the amount deemed to be unjust or unreasonable*. The commission may also reduce *the rate charged by the affiliated company* by the same amount. KRS 278.274 (3)(c)-(d)[emphasis added].

By this statute's own terms, B&S' gas costs are *quintessentially* relevant in this proceeding. Therefore, Joint Respondents lack any grounds whatsoever to refuse to provide

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<sup>7</sup> Response to AG 2-5.

<sup>8</sup> Responses to AG 1-27, and AG 2-2(a).

this information. Joint Respondents should not be allowed to confound the Commission's inquiry in this matter by failing to provide this essential information.

Finally, the Attorney General believes that given the closely-affiliated nature of the entities at issue in this proceeding, the Commission has authority to enter findings both that: (a) Bud Rife Construction Co. is an affiliate of B&H, B&S, JCG and HSH, and also, (b) all five entities are affiliated with each other. This finding would also clarify the relationship between the entities in the event the Commission should order a comprehensive financial audit of any combination or all of these entities.

Respectfully submitted,

ANDY BESHEAR  
ATTORNEY GENERAL



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