

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

MARTIN GAS, INC.)	
_____)	CASE NO.
)	2017-00214
ALLEGED FAILURE TO COMPLY WITH KRS)	
278.300(1) AND KRS 278.160)	

ORDER

By Order dated May 31, 2017, the Commission initiated this proceeding to determine whether Martin Gas, Inc. (“Martin Gas”) should be subject to the penalties described in KRS 278.990 for allegedly violating KRS 278.300(1) through its failure to request Commission approval for issuing evidence of indebtedness in the amount of \$40,000 in April of 2016, and for allegedly violating KRS 278.160 through its failure to timely implement rates set by the Commission in previous Purchased Gas Adjustment (“PGA”) cases in 2015 and 2016.

On July 26, 2017, Martin Gas filed a response to the May 31, 2017 Order in which Martin Gas stated that it had already admitted to the violations in its Alternative Rate Filing case¹ before the Commission, but denied that Martin Gas committed any willful violations of KRS 278.300(1) or KRS 278.160. At Martin Gas’s request, an informal conference (“IC”) was conducted with Commission Staff in this matter on August 17, 2017. At the IC, Martin Gas admitted that it should have had procedures in place to prevent such

¹ Case No. 2016-00332, *Application of Martin Gas, Inc. for Rate Adjustment for Small Utilities Pursuant to 807 KAR 5:076* (Ky. PSC Apr. 6, 2017).

violations, and detailed the remedial actions that have been taken as a result of the violations. Martin Gas has provided its board members with a copy of the applicable statutes, so that they are aware of the requirements and potential penalties therein. Martin Gas's certified public accountant performs the calculations for rates, and submits the requests for any adjustments in rates to the Commission. When Commission approval for rates is received, Martin Gas's data entry worker enters the new rates and effective date into its system, and signs off that this has been performed. A copy of this, as well as a sample invoice including the new rates, is placed into a notebook that will be reviewed by Martin Gas regularly. Martin Gas also has begun refunds to its customers for its past over-collection of the PGA pursuant to the Commission's final Order in Case No. 2016-00332.

Following the IC, a Stipulation of Facts and Settlement Agreement ("Stipulation") was filed for the Commission's consideration. The Stipulation, attached hereto as the Appendix, sets forth Martin Gas's and Commission Staff's agreed-upon summary of the facts and provides for remedial action by Martin Gas in full settlement of this proceeding. In determining whether the terms of the Stipulation are in the public interest and are reasonable, the Commission has taken into consideration the circumstances surrounding the violations and the terms of the Stipulation. Based on the evidence of record and being otherwise sufficiently advised, the Commission finds that the Stipulation is in accordance with the law and does not violate any regulatory principle. The Stipulation is a product of arm's-length negotiations among capable, knowledgeable parties, is in the public interest, and results in a reasonable resolution of all issues in this case.


IT IS THEREFORE ORDERED that:

1. The Stipulation is adopted and approved in its entirety as a complete resolution of all issues in this case.
2. As a result of the alleged violations, Martin Gas agrees to pay a civil penalty, pursuant to KRS 278.990, in the amount of \$4,000, payable in four monthly installments, with the first payment of \$1,000 due on October 1, 2017. All payments shall be by cashier's check or money order made payable to the Kentucky State Treasurer and mailed or delivered to the Public Service Commission, Office of General Counsel, 211 Sower Boulevard, P.O. Box 615, Frankfort, KY 40602.
3. Upon the full payment of \$4,000 by Martin Gas, this case shall be closed and removed from the Commission's docket without further Order of the Commission.
4. The hearing scheduled in this matter for October 25, 2017, is hereby cancelled.

By the Commission



ATTEST:


Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2017-00214 DATED **OCT 09 2017**

STIPULATION OF FACTS AND SETTLEMENT AGREEMENT

By Order dated May 31, 2017, the Commission initiated this proceeding to determine whether Martin Gas, Inc. ("Martin Gas") should be subject to the penalties described in KRS 278.990 for allegedly violating KRS 278.300(1), for failure to request Commission approval for issuing evidence of indebtedness in the amount of \$40,000 in April of 2016, and KRS 278.160, for failure to timely implement rates set by the Commission in previous Purchased Gas Adjustment ("PGA") cases in 2015 and 2016.

On July 26, 2017, Martin Gas filed a response to the Commission's May 31, 2017 Order. Along with the response, Martin Gas also filed a motion requesting an Informal Conference ("IC") with Commission Staff ("Staff") to discuss the issues related to this matter. An IC was subsequently held at the Commission's offices on August 17, 2017. Discussions during the IC and subsequent discussions between Martin Gas and Staff counsel resulted in the following Stipulation of Facts and Settlement Agreement ("Stipulation"), which is submitted for the Commission's consideration in rendering its decision:

1. Martin Gas acknowledges the violations of KRS 278.300(1) and KRS 278.160, to which it previously admitted in Case No. 2016-00332,¹ its Alternative Rate Filing case before this Commission.

2. Martin Gas has undertaken various remedial measures with regard to board member awareness and documented procedures to ensure future compliance with Commission statutes and regulations.²

¹ Case No. 2016-00332, *Application of Martin Gas, Inc. for Rate Adjustment for Small Utilities Pursuant to KAR 5:076* (Ky. PSC April 6, 2017).

² See August 22, 2017 Staff IC Memorandum.

3. Martin Gas has begun refunds to its customers for its past over-collection of purchased gas cost through its PGA pursuant to the Commission's final Order in Case No. 2016-00332.

3. Martin Gas agrees to pay a civil penalty, pursuant to KRS 278.990, in the amount of \$4,000, payable in four monthly installments, with the first payment of \$1,000 due on October 1, 2017. The Commission's acceptance of this Stipulation will satisfy and resolve any and all claims against Martin Gas for any violation of KRS Chapter 278 or for any penalty under KRS 278.990 arising out of the failure to request Commission approval for the issuance of indebtedness in the amount of \$40,000 in April 2016, and the untimely implementation of rates approved by the Commission in PGA cases in 2015 and 2016. The scope of this proceeding is limited by the Commission's May 31, 2017 Order as to whether Martin Gas should be assessed penalties under KRS 278.990 for violations of KRS 278.300(1) and KRS 278.160. The Commission's acceptance of this Stipulation shall not be construed as a finding of willful violation of any Commission statute or order.

4. In the event that the Commission does not accept this Stipulation in its entirety, Martin Gas and Staff reserve their rights to withdraw therefrom and require that a hearing be held on any and all issues involved herein, and that none of the provisions contained herein shall be binding upon the parties thereto, used as an admission by Martin Gas of any liability in any legal proceeding or lawsuit arising out of the facts set forth in the May 31, 2017 Order, or otherwise used as an admission by either party.

5. This Stipulation is for use only in Commission Case No. 2017-00214, and neither party hereto shall be bound by any part of this Stipulation in any other

proceeding, except that this Stipulation may be used in any proceeding by the Commission to enforce the terms of this Stipulation or to conduct a further investigation of Martin Gas's service or safety practices, and Martin Gas shall not be precluded or estopped from raising any issue, claim, or defense therein by reason of the execution of this Stipulation.

6. Martin Gas and Staff agree that the foregoing Stipulation is reasonable for the purpose of resolving all issues in Commission Case No. 2017-00214, is in the public interest, and should be adopted in its entirety by the Commission. If so adopted by the Commission, Martin Gas waives its right to a hearing and will not file any petition for rehearing or seek judicial appeal.

IN WITNESS WHEREOF, the parties hereto have hereunto affixed their signatures this 25th day of September, 2017.

Martin Gas, Inc.

By: Zach W. Limberg
Title: Manager

Staff of the Kentucky Public Service Commission

By: Jennifer Zell

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