

connected to any other facilities and currently is used only to provide gas service to six residential customers.

Staff observed several potential violations of Commission regulations and pipeline safety standards. Staff observed, for example, that there were no customer meters,² and that plastic customer service lines had been installed above ground.³

By Warning Letter dated April 28, 2020, the Commission's Executive Director gave Slick Rock Gas notice of Staff's preliminary findings. The Executive Director advised Slick Rock Gas that if it intended to continue to operate as a gas distribution utility, Slick Rock Gas must bring its system into compliance with all applicable Commission safety standards or potentially face assessment of civil penalties under KRS 278.990 and KRS 278.992. The Executive Director also advised that if Slick Rock Gas could not bring the system into compliance and decided to cease operating a gas distribution utility, KRS 278.020(6) would require the Commission's prior approval to abandon utility service. A copy of the Warning Letter is attached to this Order as Appendix A.

By letter to Staff attorney, John Park, dated May 18, 2020, a copy of which is attached as to this Order as Attachment 1, Cecil Jarrell stated that he could not afford the upgrades that would be required to bring the system into compliance with applicable regulatory requirements and to continue to operate as a distribution utility. He further stated that he had decided that as of June 1, 2020, he would stop charging a fee for gas furnished from his well to the residences connected to his line.

² 807 KAR 5:022, Section 3(1)(a), requires that all gas sold by a utility in Kentucky to be metered by a measuring meter.

³ 49 CFR § 192.375(a) requires each plastic service line to be installed below ground.

KRS 278.020(6) provides that no utility shall acquire or transfer ownership of, or control, or the right to control, any utility under the jurisdiction of the commission by sale of assets, transfer of stock, or otherwise, or abandon the same, without prior approval by the commission.” While Mr. Jarrell’s May 18, 2020 letter does not expressly request permission to abandon utility service, he does indicate that he no longer wishes to operate a “distribution utility Company” and that he would no longer charge a fee for the gas from his well. The Commission finds this sufficient evidence to warrant an investigation to examine Slick Rock Gas’ current operations and Mr. Jarrell’s apparent intent to cease operating as a jurisdictional gas distribution utility. The Commission further finds that an informal conference should be held between Mr. Jarrell and Staff, and that the Attorney General of the Commonwealth of Kentucky should be served with a copy of this Order.

IT IS THEREFORE ORDERED that:

1. This case is initiated to investigate the request by Slick Rock Gas to cease operating as a jurisdictional gas distribution utility.
2. A telephonic conference call between Mr. Jarrell and Staff shall be held in this matter on September 1, 2020, beginning at 10 a.m. Eastern Daylight Time, for the purpose of discussing the issues in this case. Staff will contact all participants to provide the details for joining the conference call.
3. The Executive Director shall serve a copy of this Order upon the Attorney General.

By the Commission

Vice Chairman Chandler did not participate in this case.



ATTEST:



Deputy Executive Director

Case No. 2020-00258

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2020-00258 DATED AUG 13 2020

[THREE PAGES TO FOLLOW]



Andy Beshear
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Michael J. Schmitt
Chairman

Robert Cicero
Vice Chairman

Talina R. Mathews
Commissioner

April 28, 2020

Cecil Jarrell, d/b/a Slick Rock Gas Company
3375 KY RT. 321
Prestonsburg, KY 41653

Re: Jurisdictional distribution of natural gas

WARNING LETTER

Dear Mr. Jarrell:

On January 16, 2020, Staff from the Kentucky Public Service Commission's Division of Inspections (Staff) conducted a preliminary inspection of the natural gas pipeline and related facilities owned and operated by you under the business name of Slick Rock Gas Company in Prestonsburg, Kentucky (Slick Rock Gas System). Staff observed a single well feeding a pipeline extending approximately ½ mile to the southwest along Slick Rock Branch Road. The pipeline is both above and below grade, and has six service connections. The pipeline is not connected to any other facilities and currently is used only to provide gas service to six residential customers.

Based on the current configuration and use of your pipeline facilities, Staff has determined that you continue to operate a gas distribution utility and not a gathering system with farm taps. The furnishing of gas service for compensation is not incidental to production but is the only purpose now served by the Slick Rock Gas System.

As a jurisdictional gas distribution utility, you are subject to the jurisdiction of the Public Service Commission (Commission). KRS 278.040 grants the Commission exclusive jurisdiction of the rates and services of all utilities in the state and authorizes the Commission to adopt regulations to implement the provisions of KRS Chapter 278. KRS 278.280 directs the Commission to prescribe rules for the performance of any service or the furnishing of any commodity of the character furnished or supplied by the utility.

Pursuant to this statutory authority, the Commission promulgated 807 KAR 5:022, Section 3(1)(a), which requires that all gas sold by a utility in Kentucky to be metered by a measuring meter. During its preliminary inspection, Staff observed that there are no meters measuring the volume of gas furnished to each customer by the Slick Rock Gas System. KRS 278.990(1) provides that a utility's willful violation of any of the provisions

of KRS Chapter 278, or any administrative regulation promulgated pursuant thereto, shall subject the utility to a civil penalty assessed by the Commission not to exceed \$2,500 for each violation. <http://psc1vp-wsxx001/IRS/inspectionView.aspx?FI=385&T=irs>

As a gas distribution utility, you are also subject to minimum federal pipeline safety standards adopted by the United States Department of Transportation pursuant to 49 USC §60101, et seq. Pursuant to KRS 278.495(2), the Commission has jurisdiction to regulate the safety of gas distribution facilities and to enforce federal pipeline safety standards.

49 CFR § 192.375(a) requires each plastic service line to be installed below ground. During its preliminary inspection of the Slick Rock Gas System, Staff observed that the plastic customer service lines extending from the main line were not installed below ground.

You are potentially subject to assessment of a civil penalty under state law for the probable violations observed by Staff. Specifically, KRS 278.992(1) provides that any person who violates any federal minimum pipeline safety standard or any regulation adopted by the Commission governing the safety of pipeline facilities shall be subject to a civil penalty not exceed the maximum civil penalty contained in 49 CFR §190.223, as amended. As of July 31, 2019, the maximum civil penalty under 49 C.F.R § 190.223 is \$218,647 for each violation for each day the violation continues, with a maximum administrative civil penalty not to exceed \$2,186,465 for any related series of violations. Additionally, KRS 278.990 provides that any person who violates a Commission regulation is subject to a penalty of up to \$2,500 per violation.

To continue to operate as a gas distribution utility, you must bring the Slick Rock Gas System into compliance with all applicable Commission regulations and federal safety standards, or you will face possible assessment of civil penalties under KRS 278.990 and KRS 278.992. If you are unable to bring your system into compliance with federal safety standards and decide to cease operating a gas utility system, KRS 278.020(6) requires you to apply for and obtain the Commission's prior approval.

Within thirty days from the date of this letter, you are directed either to confirm to Staff in writing that you intend to continue to operate Slick Rock as a gas distribution utility, or to file a written request with the Commission for permission to abandon utility service. If operations continue, a full regulatory compliance inspection will be conducted and enforcement action undertaken should violations be identified.

This warning letter addresses only those matters specifically referred to in this document. This demand letter does not waive or otherwise affect any obligations or liabilities that may result from other activities. If you have any questions, please contact John Park at 502-782-2589.

Sincerely,



Kent A. Chandler
Executive Director

ATTACHMENT

ATTACHMENT TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2020-00258 DATED AUG 13 2020

[THREE PAGES TO FOLLOW]

May 18, 2020

Dear Mr. Park,

Replying to your letter concerning Slick Rock Gas on all the upgrades I would have to do to be a distribution utility Company, it would not benefit me to do those upgrades which I cannot afford to do. Therefore, I have decided to allow those six (6) customers to have free gas since most of them are on a fixed income. As of June 1st 2020 I will cease from charging all customers for this service.

Owner

Cecil Jarrell

SLICK ROCK GAS CO
CECIL GENE JARRELL
3375 KY RT 321
PRESTONSBURG, KY 41653

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FIRST-CLASS



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