

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC INVESTIGATION OF)	
JURISDICTIONAL STATUS OF EAST KENTUCKY)	CASE NO.
MIDSTREAM, LLC, AND OF ITS COMPLIANCE)	2022-00238
WITH KRS CHAPTER 278, 807 KAR CHAPTER)	
005, AND 49 CFR PARTS 191 AND 192)	

ORDER

On August 11, 2022, the Commission opened an investigation into the jurisdictional status of East Kentucky Midstream, LLC (East Kentucky Midstream) and whether East Kentucky Midstream is subject to the Commission’s jurisdiction under KRS 278.040 or under KRS 278.495. The Commission, on its own motion, finds that the scope of the investigation should be expanded to determine whether East Kentucky Midstream would be subject to Commission jurisdiction under other statutes, including whether East Kentucky Midstream is a common carrier under KRS 278.470,¹ or subject to KRS 278.505 as an intrastate pipeline transporting natural gas in intrastate commerce.

Additionally, as noted in the August 11, 2022 Order, Kentucky Frontier Gas, LLC (Kentucky Frontier) notified the Commission that East Kentucky Midstream threatened to terminate service under a natural gas sales and transportation agreement (Agreement) if an alleged unpaid balance was not paid. Based upon the language in East Kentucky Midstream’s letter and Kentucky Frontier’s receipt of the letter on July 17, 2022, it appears

¹ Which, at a bare minimum, would require East Kentucky Midstream to transport gas from a source other than East Kentucky Midstream to a customer. See, generally, *City of Bardstown v. Louisville Gas & Elec. Co.*, 383 S.W.2d 918 (Ky. 1964).

that the Agreement could be terminated on August 16, 2022. Given the exigent circumstances, the Commission finds that Kentucky Frontier should be made a party to this proceeding and that a copy of this Order be served on Kentucky Frontier and its counsel at the service addresses provided in Case No. 2022-00224,² which has been incorporated by reference into this Order.

Finally, KRS 278.022 provides that any gas utility that intends to terminate service to another utility that is subject to the Commission's jurisdiction, such as Kentucky Frontier, shall not terminate service without notifying the Commission in writing of that utility's intent to terminate service at least 30 days prior to the date of termination.

The Commission puts East Kentucky Midstream on notice that if the Commission finds that East Kentucky Midstream is a utility at the time the Order opening this proceeding was entered, then terminating service to Kentucky Frontier without 30 days' notice to the Commission would violate KRS 278.022(2). The Commission further puts East Kentucky Midstream on notice that upon a finding of a willful violation of KRS Chapter 278, Commission regulations, or Commission Orders, a utility and its officers, agents, and employees may be subject to the assessment of penalties under KRS 278.990(1).

IT IS THEREFORE ORDERED that:

1. The August 11, 2022 Order is amended to expand the scope of investigation of this proceeding to include whether East Kentucky Midstream is subject to the Commission's jurisdiction under any provision of KRS Chapter 278.

² Case No. 2022-00224, *Electronic Application of Kentucky Frontier Gas, LLC for a Declaratory Order Regarding Commission Jurisdiction* (filed July 22, 2022), Application for Declaratory Order.

2. Kentucky Frontier is made a party to this proceeding.
3. A copy of this Order shall be served upon Kentucky Frontier and its counsel at the service addresses provided in Case No. 2022-00224.
4. The Commission puts East Kentucky Midstream on notice that if it is determined to be a utility, then it would be subject to penalties for violations of KRS Chapter 278, including but not limited to violations of KRS 278.022(2).

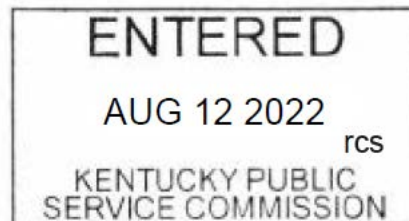
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PUBLIC SERVICE COMMISSION


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ATTEST:


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