

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC INVESTIGATION INTO VALLEY)	
GAS, INC. FOR AN ALLEGED FAILURE TO)	CASE NO.
COMPLY WITH COMMISSION ORDERS AND)	2023-00331
KRS 278.160)	

ORDER

The Commission, on its own motion, establishes this proceeding, pursuant to KRS 278.160, KRS 278.250, KRS 278.260, KRS 278.270, and KRS 278.990 to conduct a formal investigation into the alleged violations by Valley Gas, Inc. (Valley Gas) of previous Commission Orders in Case Nos. 2020-00085¹ and 2014-00368,² and the statutory requirements of KRS 278.160.

LEGAL STANDARD

Pursuant to KRS 278.040, the Commission has exclusive jurisdiction over the rates and service of utilities and is charged with enforcing the provisions of KRS Chapter 278.³ Each utility is required to file with the Commission a schedule of all rates and conditions for service.⁴ KRS 278.160 codifies the “filed rate doctrine,” which requires a utility to file

¹ Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus COVID-19* (Ky. PSC Sept. 21, 2020), Order at 7 (finding that late fees shall not be assessed on any past due residential amounts accrued between March 16, 2020, and December 31, 2020, following the December 31, 2020 deadline).

² Case No. 2014-00368, *Valley Gas, Inc. Request for Approval of a Special Contract with Mago Construction Company and a Deviation from the Gas Cost Adjustment Clause*, (Ky. PSC Oct. 28, 2014).

³ KRS 278.040(1), (2).

⁴ KRS 278.160(1).

with the Commission “schedules showing all rates and conditions for service established by it and collected and enforced.”⁵ It further states:

No utility shall charge, demand, collect, or receive from any person a greater or less compensation for any service rendered or to be rendered than that prescribed in its filed schedules, and no person shall receive any service from any utility for a compensation greater or less than that prescribed in such schedules.⁶

Under KRS 278.250 and KRS 278.260, the Commission is authorized to investigate and examine the condition of any utility subject to its jurisdiction, including any practice or act relating to the utility’s service.

Under KRS 278.270, whenever the Commission, upon its own motion or upon complaint as provided in KRS 278.260, and after a hearing had upon reasonable notice, finds that any rate is unjust, unreasonable, insufficient, unjustly discriminatory, or otherwise in violation of any of the provisions of KRS Chapter 278, the Commission shall by order prescribe a just and reasonable rate to be followed in the future.

Upon a finding of a willful violation of any provision of KRS Chapter 278, Commission regulations, or a Commission Order, KRS 278.990 authorizes the Commission to assess civil penalties not to exceed \$2,500 for each offense against a utility and against any officer, agent, or employee of a utility who willfully violates any provisions of KRS 278, Commission regulations, or orders.

⁵ KRS 278.160(1).

⁶ KRS 278.160(2).

DISCUSSION

The Commission finds that an investigation is necessary to determine whether Valley Gas has violated the Commission's Order in Case No. 2014-00368,⁷ which approved the terms of a special contract between Valley Gas and an industrial customer. During the pendency of Case No. 2022-00315,⁸ the Commission became aware that Valley Gas had been charging the industrial customer rates that are not set forth in the special contract nor appearing in Valley Gas's tariff. Under the terms of the special contract approved by the Commission in Case No. 2014-00368, the industrial customer should be charged Valley Gas's tariffed rates, which would be the monthly \$15 customer charge, the quarterly Gas Cost Recovery (GCR) rate, and the current \$3.0061 per thousand cubic feet (Mcf) usage rate. Instead, Valley Gas is charging this customer a monthly \$489 meter charge rate in lieu of the monthly \$15 customer charge tariff rate in violation of KRS 278.160 and the Commission's Order in Case No. 2014-00368.

The Commission further finds that an investigation should be conducted into approximately 18 occurrences where Valley Gas allegedly charged an amount different from the approved tariff amount of \$43 for Reconnection Charges, in violation of KRS 278.160(2). In addition, the Commission finds that an investigation is necessary into residential forfeited discounts (late fees) that were possibly billed in error and contrary to a Commission Order in Case No. 2020-00085.⁹ Finally, the Commission further finds that

⁷ Case No. 2014-00368, (Ky. PSC Oct. 28, 2014).

⁸ Case No. 2022-00315, *Electronic Application of Valley Gas, Inc. for an Alternative Rate Adjustment* (Ky. PSC Aug. 18, 2023).

⁹ Case No. 2020-00085, Sept. 21, 2020 Order at 7 (finding that late fees shall not be assessed on any past due residential amounts accrued between March 16, 2020, and December 31, 2020, following the December 31, 2020 deadline).

an investigation into Valley Gas' GCR rate report is necessary to determine the amount of purchased gas cost revenue that has been under- or over-collected since the industrial customer's gas supply costs were removed from the GCR rate calculation in Case No. 2018-00089,¹⁰ yet the charges continued to be billed in violation of the Commission's Order.

Furthermore, the Commission finds that Valley Gas should be required to show cause why it should not be sanctioned pursuant to KRS 278.990 for violating KRS 278.160(2) and the Commission's Orders in Case Nos. 2014-00368 and 2020-00085. The Commission also finds that a procedural schedule should be established to ensure the orderly processing of this case.

IT IS THEREFORE ORDERED that:

1. This proceeding is established to investigate whether Valley Gas is in violation of KRS 278.160 or any possible willful violation by Valley Gas of previous Commission Orders in Case Nos. 2014-00368 or 2020-00085.

2. Within 20 days of the date of service of this Order, Valley Gas shall cause to be filed an entry of appearance by an attorney licensed in Kentucky.

3. Within 20 days of the date of service of this Order, said attorney shall, on behalf of Valley Gas, submit to the Commission a written response to the allegations set forth in this Order.

4. The procedural schedule set forth in Appendix A to this Order shall be followed. This schedule shall be amended if any intervenors are joined.

¹⁰ Case No. 2018-00089, *Purchased Gas Adjustment Filing of Valley Gas, Inc.* (filed Mar. 5, 2018).

5. Valley Gas shall respond to requests for information propounded by Commission Staff by the date set forth on the request, whether the request appears on the procedural schedule.

6. All documents, records, and Orders included in the record of Case No. 2014-00368, Case No. 2022-00315, and Case No. 2020-00085 are incorporated by reference into the record of this proceeding.

7. Any party filing a paper with the Commission shall file an electronic copy in accordance with the electronic filing procedures set forth in 807 KAR 5:001, Section 8. Electronic documents shall be in portable document format (PDF), shall be searchable, and shall be appropriately bookmarked. The Commission directs the parties to the Commission's July 22, 2021 Order in Case No. 2020-00085¹¹ regarding filings with the Commission.

8. As set forth in 807 KAR 5:001, Section 4(11)(a), a person requesting permissive intervention in a Commission proceeding is required to demonstrate either (1) a special interest in the proceeding that is not adequately represented in the case, or (2) that the person requesting permissive intervention is likely to present issues or develop facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings. Therefore, any person requesting to intervene in a Commission proceeding must state with specificity the person's special interest that is not otherwise adequately represented, or the issues and facts that the

¹¹ Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus COVID-19* (Ky. PSC July 22, 2021), Order (in which the Commission ordered that for case filings made on and after March 16, 2020, filers are NOT required to file the original physical copies of the filings required by 807 KAR 5:001E, Section 8).

person will present that will assist the Commission in fully considering the matter. A mere recitation of the quantity of utility service consumed by the movant or a general statement regarding a potential impact of possible modification of rates will not be deemed sufficient to establish a special interest. In addition, any motion to intervene filed after the date established in the procedural schedule shall also show good cause for being untimely. If the untimely motion is granted, the movant shall accept and abide by the existing procedural schedule.

9. Valley Gas shall give notice of any scheduled hearing in accordance with the provisions set forth in 807 KAR 5:001, Section 9(2). In addition, the notice of hearing shall include the following statement: "This hearing will be streamed live and may be viewed on the PSC website, psc.ky.gov"; and "Public comments may be made at the beginning of the hearing. Those wishing to make oral public comments may do so by following the instructions listing on the PSC website, psc.ky.gov." At the time publication is requested, Valley Gas shall forward a duplicate of the notice and request to the Commission.

10. At any public hearing in this matter, neither opening statements nor summarization of direct testimonies shall be permitted.

11. Pursuant to KRS 278.360 and 807 KAR 5:001, Section 9(9), a digital video recording shall be made of the hearing.


12. The Commission does not look favorably upon motions for continuance. Accordingly, motions for extensions of time with respect to the schedule herein shall be made in writing and will be granted only upon a showing of good cause.

13. The Commission does not look favorably upon motions to excuse witnesses from testifying at Commission hearings. Accordingly, motions to excuse a witness from testifying at a Commission hearing or from testifying in person at a Commission hearing shall be made in writing and will be granted only upon a showing of good cause.

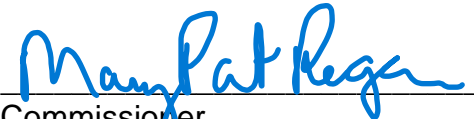
14. Nothing contained herein shall prevent the Commission from entering further Orders in this matter.

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PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ENTERED
OCT 26 2023 bsb
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2023-00331 DATED OCT 26 2023

Last day for intervention requests to be accepted.....	11/06/2023
All initial requests for information to Valley Gas shall be filed no later than.....	11/17/2023
Valley Gas shall file responses to initial request for information no later than.....	12/01/2023
All supplemental requests for information to Valley Gas shall be no later than.....	12/15/2023
Valley Gas shall file responses to supplemental requests for information no later than.....	01/03/2024
Last day for Parties to request a Public Hearing or submit a Request for the matter to be decided based upon the written record.....	01/12/2024

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