



Commission Staff will file a copy of this map with corrections or additions, if any, as a Commission Staff exhibit to be tendered for filing in the record at hearing.

RESPONSE: No additions or corrections are known at this time.

2. In reference to the above map, answer the following:

a. From which source or sources does Sigma obtain its supply of natural gas? If possible, indicate clearly upon the map a point of interconnection to a pipeline, or location of wells and gathering lines used by Sigma to supply natural gas in the mapped area.

RESPONSE: All gas is transported to Sigma through the facilities of Auxier Road Gas Company. The location of this interconnection is not shown on this map, but is generally located on Highway 1427 near Abbott Creek approximately 12 miles from highway 3048, which is shown on the map.

b. In Item 5 of Sigma's responses filed in reply to the Commission's Order of February 23, 2004, Sigma identified a customer as "beside Grover Salyers". Is this customer located on the map and, if so, under which name?

RESPONSE: That customer is shown on the map as Jaynee May.

3. In response to the Order of February 23, 2004, Sigma identified mains and service connections for customers contained in its complaint. As to each area identified (College St area, Dixie, new courthouse, and waterworks) state the date each facility, pipeline, or connection was constructed.

RESPONSE: Sigma assumes the question refers to facilities installed by B.T.U. which are currently being used to serve those areas. To the best of Sigma's knowledge, the College Street area facilities were constructed in 2001; Dixie constructed in 1992; new

courthouse constructed in the fall of 2003; and the waterworks constructed in 2003.

4. In Paragraph 7 of its complaint, Sigma states that the extension of facilities may constitute a violation of safety regulations of 807 KAR 5:022. State which particular sections of the cited regulation BTU may allegedly have violated.

RESPONSE: Obviously, particular violations of the regulation cannot be specified. The point of the allegation is that construction has occurred without PSC knowledge or approval. As such, there may be improper pipe used, improper installation methods, uncertified welds, lack of inspection, and other violations of the specific requirements of the construction standards and safety criteria of the regulations. Further, without any inspection of the construction by the Commission staff or any review of the engineering specifications used to construct the facilities, there is no means to determine if the construction meets the Commission's standards. As a result, there may be any number of safety violations which are not known and may never be known.

5. In Paragraph 10 of its complaint, Sigma states that the actions of BTU are in violation of Commission regulations and constitute an interference with the operations of Sigma. Answer the following:

a. Identify the actions and specific regulations Sigma alleges were violated.

RESPONSE: Failure to obtain a certificate of convenience and necessity for construction is a violation of KRS 278.020. Failure to obtain approval to construct facilities as an ordinary extension of service is a violations of 807 KAR 5:001(9)(3). Any construction completed with prior approval creates the possibility that the construction and safety standards of 807 KAR 5:022 have been violated.

b. Identify the actions Sigma claims interfere with its operations.

RESPONSE: B.T.U. has selectively offered service to and currently serves several former customers that Sigma could serve and is willing to serve. This interferes with the ability of Sigma to recover its revenue requirement and to maintain its operations as projected in its last rate case and to maximize the value of its facilities. If B.T.U. can choose who to serve and continue to serve Sigma's customers, it will only further the declining financial condition of the company and create an excess capacity of facilities in the area. The Commission has not allowed this direct competition for individual customers.

Additionally, the construction of unnecessary facilities by B.T.U. creates wasteful duplication of facilities, which harms the financial condition of both companies. If this unfettered competition for customers is allowed in Salyersville, it will open the door to similar competition in other areas. There is already pending before the Commission a similar situation involving Columbia Gas and Natural Energy Utility Corporation: Case 2003-00422. Such direct competition has been explicitly discouraged since at least the issuance of Administrative Order 297.

6. In Paragraph 11 of its complaint. Sigma requests that the Commission "determine if BTU's service constitutes a violation of KRS Chapter 278." Identify which section or sections of KRS Chapter 278 Sigma claims BTU violated.

RESPONSE: KRS 278.020; 278.170

7. Sigma requests that the Commission determine the legitimate gas supplier to the affected customers and area in and near Salyersville. Given the absence of certified territory for local distribution companies, and the current existence of facilities to serve these customers, upon which statutory provision or legal precedent does Sigma contend the Commission should make the determination?

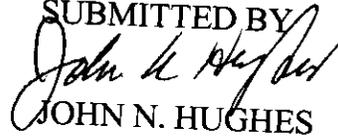
RESPONSE: B.T.U.'s violation of KRS 278.020 warrants a determination that the facilities are not needed due to the presence of Sigma's facilities and its ability to serve any and all customers in the Salyersville area. Because B.T.U. constructed those facilities without approval, it should bear the economic loss associated with that construction. If it is allowed to serve Sigma's customers and to expand its service to other customers that Sigma does or could serve, then it will be rewarded for its disregard of the Commission's regulation, but Sigma will be punished financially because of the diminution of its customer base.

This case is not one of certified territories, but of wasteful duplication of facilities and disregard of Commission regulations. Beginning with the Order in Administrative Case 297, the Commission has consistently ruled that gas utilities cannot extend facilities to serve customers currently being adequately served by another LDC.<sup>1</sup> It has also consistently ruled that construction of facilities to serve customers that can be served by the existing facilities of another LDC constitutes wasteful duplication of facilities. Both of those principles have been violated by B.T.U. There is ample precedent to support Sigma's claim of interference with its operations and of B.T.U.'s violation of the Commission's extension of facilities regulations and its rulings on the provision of service to areas and customers being served by an LDC.

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<sup>1</sup> For example: Administrative Case 297, May 29, 1987; Case No. 96-015, July 10, 1996: The Application of Columbia Gas To Extend a Pipeline to Cooper Tire, Inc.; Kentucky Utilities v. PSC, Ky., 252 S.W.2d 885 (1952); Case 92-489, July 2, 1993, Columbia Gas v. Kentucky-Ohio Gas Company; Case 91-138, December 18, 1991, Columbia Gas v. Kentucky-Ohio Gas Company

SUBMITTED BY



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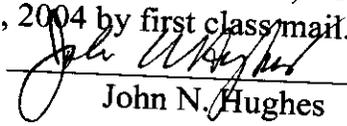
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Certificate:

I certify that a copy of this Response was served on Karen Chrisman, Box 1100,  
Frankfort, KY 40602-1100, the 18<sup>th</sup> day of June, 2004 by first class mail.



John N. Hughes