

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the matter of:

JOHNSON COUNTY GAS COMPANY, INC. )  
AND BUD RIFE, INDIVIDUALLY AND AS SOLE )  
OFFICER OF THE UTILITY )  
\_\_\_\_\_ ) CASE NO. 2006-00165  
)  
AN INVESTIGATION INTO THE STATUS AND )  
DISCONTINUANCE OF THE KENTUCKY-WEST )  
VIRGINIA GAS COMPANY SURCHARGE TARIFF )  
OF JOHNSON COUNTY GAS COMPANY, INC. )  
AND ALLEGED VIOLATIONS OF A COMMISSION )  
ORDER )

O R D E R

Johnson County Gas Company, Inc. ("Johnson County Gas") is a local gas distribution company subject to the Commission's jurisdiction. KRS 278.010(3)(b), KRS 278.040. The Federal Energy Regulatory Commission approved a settlement agreement in Docket Nos. TQ89-1-46-000, et al., authorizing Kentucky-West Virginia Gas Company ("Kentucky-West") to surcharge several small Kentucky gas utilities, including Johnson County Gas, for past due amounts. The surcharge was intended to discharge Johnson County Gas's debt over a 10-year amortization period, beginning in 1991; however, the settlement allowed for the surcharge to be extended for an additional 5 years. This Commission authorized Johnson County Gas to pass the Kentucky-West surcharge through to its customers in Case No. 10415-B.<sup>1</sup>

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<sup>1</sup> Case No. 10415-B, The Purchased Gas Adjustment Filing of Johnson County Gas Company, Inc.

On May 26, 2004, the Commission issued an Order in Case No. 2004-00072<sup>2</sup> finding that Johnson County Gas and Bud Rife, individually and as sole officer of Johnson County Gas, had violated the Commission's directives in Case No. 1999-00155.<sup>3</sup> Based on that finding the Commission assessed a penalty, pursuant to KRS 278.990, against both Johnson County Gas and Bud Rife. A portion of the penalty amounts was suspended on the condition that Johnson County Gas and Bud Rife deposit all surcharge revenues into a surcharge account on a monthly basis, make timely payments to Kentucky-West, and file timely quarterly reports with the Commission.

On June 16, 2006, the Commission initiated this proceeding and directed Johnson County Gas and its sole officer, Bud Rife, to appear at a hearing before the Commission on July 24, 2006, to show cause why the penalties suspended in Case No. 2004-00072 should not be due and payable for probable violations of the conditions set forth in that Order and why the pass-through of the Kentucky-West surcharge should not be terminated as the total amount collected from Johnson County Gas customers appeared to be in excess of the total amount due to Kentucky-West.

Johnson County Gas, Bud Rife, and Commission Staff entered into negotiations to resolve all outstanding issues in this proceeding. A Stipulation of Facts and Settlement Agreement ("Settlement Agreement") was entered into by Johnson County

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<sup>2</sup> Case No. 2004-00072, Johnson County Gas Company, Inc. and Bud Rife, Individually and as Sole Officer of the Utility, Alleged Violations of Commission Order, (Ky. PSC May 16, 2004).

<sup>3</sup> Case No. 1999-00155, Application of Johnson County Gas Company, Inc. for a Rate Adjustment Pursuant to the Alternative Rate Filing Procedure for Small Utilities, (Ky. PSC Sept. 1, 1999).

Gas, Bud Rife, and Commission Staff. The Settlement Agreement is attached hereto as Appendix A and incorporated herein by reference. Based on the evidence of record and being otherwise sufficiently advised, the Commission finds that the Settlement Agreement is in accordance with law, does not violate any regulatory principle, is in the public interest, and is a reasonable resolution of all issues in this case.

IT IS THEREFORE ORDERED that:

1. The Settlement Agreement is adopted and approved in its entirety as a complete resolution of all issues in this case.

2. Within 30 days of the date of this Order, Johnson County Gas and Bud Rife shall discontinue the assessment and collection of the Kentucky-West surcharge.

3. Within 30 days of the date of this Order, Johnson County Gas and Bud Rife shall file a plan for the repayment of the remaining Kentucky-West debt.

4. Within 30 days of the date of this Order, Johnson County Gas and Bud Rife shall file a purchased gas adjustment. Included in that filing shall be a written explanation of how Johnson County Gas plans to pay its outstanding indebtedness to Interstate Natural Gas and how it plans to remain current on its natural gas supply purchases.

5. Johnson County Gas and Bud Rife shall file with the utility's annual report to the Commission a statement that sets forth the amount Kentucky-West invoiced Johnson County Gas during the previous calendar year and the amount Johnson County Gas paid Kentucky-West during the same calendar year. This annual filing shall continue until the debt owed to Kentucky-West is repaid.

6. Within 3 months of the date of this Order, Bud Rife, individually and as sole officer of the utility, shall pay the \$4,500 penalty amount suspended in Case No. 2004-00072.

7. Upon receipt of the \$4,500 penalty payment from Bud Rife, this case shall be closed and removed from the Commission's docket without further Order of the Commission.

Done at Frankfort, Kentucky, this 17th day of January, 2007.

By the Commission

ATTEST.



Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2006-00165 DATED January 17, 2007.

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

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PUBLIC SERVICE  
COMMISSION

In the Matter of:

JOHNSON COUNTY GAS COMPANY, INC. )  
AND BUD RIFE, INDIVIDUALLY AND AS SOLE )  
OFFICER OF THE UTILITY )  
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CASE NO.  
2006-00165

AN INVESTIGATION INTO THE STATUS AND )  
DISCONTINUANCE OF THE KENTUCKY-WEST )  
VIRGINIA GAS COMPANY SURCHARGE TARIFF )  
OF JOHNSON COUNTY GAS COMPANY, INC. )  
AND ALLEGED VIOLATIONS OF A COMMISSION )  
ORDER )

**STIPULATION OF FACTS AND  
SETTLEMENT AGREEMENT**

THIS AGREEMENT is made and entered into this 6<sup>th</sup> day of November, 2006,  
by and between the STAFF OF THE PUBLIC SERVICE COMMISSION OF KENTUCKY  
("Commission Staff") and JOHNSON COUNTY GAS COMPANY, INC. ("Johnson  
County Gas") and BUD RIFE, INDIVIDUALLY AND AS SOLE OFFICER OF JOHNSON  
COUNTY ("Rife").

**WITNESSETH**

THAT, WHEREAS, Johnson County Gas is a Kentucky corporation that owns  
and operates facilities used in the distribution, sale, and furnishing of natural gas to the  
public for compensation in Kentucky and as such is a utility subject to Commission  
jurisdiction pursuant to KRS 278.010(3)(b) and KRS 278.040; and

WHEREAS, Rife is the sole manager of Johnson County Gas, having taken that position on March 20, 1997, and is ultimately responsible for all of Johnson County Gas's operations; and

WHEREAS, the Federal Energy Regulatory Commission ("FERC") approved a settlement agreement authorizing Kentucky-West Virginia Gas Company ("Kentucky-West") to assess a surcharge against Johnson County Gas over a ten-year period to discharge a debt and the Kentucky Public Service Commission ("Commission") subsequently authorized Johnson County Gas to pass the Kentucky-West surcharge through to its customers; and

WHEREAS, the Commission directed Johnson County Gas in Case No. 1999-00155 to deposit all Kentucky-West surcharge revenues into a separate interest-bearing bank account, to make all payments to Kentucky-West from that account, to use any excess surcharge revenues not required to pay current invoices to pay Kentucky-West for past due amounts and to accumulate any remaining excess surcharge revenues in the account to be paid to Kentucky-West at the end of the ten-year amortization period; and

WHEREAS, On March 17, 2004, the Commission initiated Case No. 2004-00072 and directed that Johnson County Gas and Bud Rife appear before the Commission on April 27, 2004 to show cause why they should not be penalized for failing to comply with the Commission's Order in Case No. 1999-00155; and

WHEREAS, on May 26, 2004, the Commission found that Johnson County Gas and Rife willfully violated the Commission's Order in Case No. 1999-00155 and assessed a \$7,500 penalty against each, but suspended the entire \$7,500 penalty

against Johnson County Gas and \$4,500 of the penalty against Rife provided that they comply with certain conditions; and

WHEREAS, on June 16, 2006, the Commission initiated this proceeding and issued an Order directing that Johnson County Gas and Rife appear and show cause why: (1) the Kentucky-West surcharge should not be eliminated as the total amount collected from Johnson County Gas customers appeared to be in excess of the total amount due to Kentucky-West; and (2) why the penalties suspended in Case No. 2004-00072 against Johnson County Gas and Rife should not be due and owing for their alleged failure to comply with the conditions set forth in the Commission's May 26, 2004 Order in that case; specifically, for their failure to file timely quarterly reports, failure to make deposits to the surcharge account on a monthly basis, and failure to make timely payments to Kentucky-West; and

WHEREAS, Johnson County Gas and Rife filed a written response to the Commission's June 16, 2006 Order acknowledging that Johnson County Gas's surcharge collections have exceeded its indebtedness to Kentucky-West and acknowledging their failure to comply fully with all the conditions enumerated, but denied that their actions were intentional or willful; and

WHEREAS, an informal conference was held in this case on August 4, 2006 and a follow-up telephone conference was held on September 12, 2006. Johnson County Gas revealed at the conferences that it is also behind in its payments for gas supply to Interstate Natural Gas; and

WHEREAS, Johnson County Gas, Rife and Commission Staff desire to settle the issues raised by this proceeding;



NOW, THEREFORE, based upon the recitals set forth above, the signatories hereby agree as follows:

1. Within three (3) months from the date of the Commission's acceptance of this Settlement Agreement, Rife shall deliver to the Commission the sum of \$4,500, being the amount of the penalty assessed and suspended in Case No. 2004-00072.

2. The \$7,500 assessed and abated against Johnson County Gas in Case No. 2004-00072 shall cease and shall not be due and owing.

3. Johnson County Gas and Rife shall discontinue the assessment and collection of the Kentucky-West surcharge within 30 days from the date of the Commission's acceptance of this Settlement Agreement.

4. If the Commission accepts this Settlement Agreement and the cessation of the surcharge as set forth in paragraph 3 above, then the quarterly reports ordered filed by the Commission in Case No. 2004-00072 shall cease.

5. Within thirty (30) days of the Commission's acceptance of this Settlement Agreement, Johnson County Gas and Rife shall file, or cause to be filed, a plan for the repayment of the remaining Kentucky-West debt.

6. Johnson County Gas and Rife shall file, or cause to be filed, a purchase gas adjustment ("PGA") within thirty (30) days from the date of the Commission's acceptance of this Settlement Agreement and shall include with the PGA filing a written explanation of how Johnson County Gas plans to pay its past due indebtedness to Interstate Natural Gas and how it plans to remain current on its natural gas supply purchases.

7. Johnson County Gas and Rife shall file, or cause to be filed, with the utility's annual report to the Commission a statement that sets forth the amount Kentucky-West invoiced Johnson County Gas during the previous calendar year and the amount Johnson County Gas paid Kentucky-West during that same period of time. This annual filing shall continue until the debt owed to Kentucky-West is repaid.

8. Nothing contained herein shall be construed as an admission of a willful violation of any statute, administrative regulation or Commission Order nor shall the Commission's acceptance of this Settlement Agreement be construed as a finding of a willful violation of any statute, administrative regulation or Commission Order.

9. This Settlement Agreement is subject to the acceptance of and approval by the Commission.

10. Commission Staff shall recommend to the Commission that this Settlement Agreement be accepted and approved.

11. If the Commission fails to accept and approve this Settlement Agreement in its entirety, the underlying proceeding shall go forward and neither the terms of the Settlement Agreement nor any matters raised during settlement negotiations shall be binding on any of the signatories.

12. If the Commission, by Order, accepts and adopts this Settlement Agreement in its entirety, neither Johnson County Gas nor Rife shall apply for a rehearing in this matter or bring legal action for judicial review of that Order.

13. This Settlement Agreement resolves all allegations raised by the Commission in its Order of June 16, 2006.

14. This proceeding has not involved a comprehensive review of Johnson County Gas' rates and does not represent any finding with respect to the relative adequacy of such rates. Johnson County Gas shall be free to petition the Commission for a general adjustment of its rates should it so desire, pursuant to the Commission's normal rules and procedures.

COUNSEL FOR JOHNSON COUNTY GAS  
AND BUD RIFE

BY: C. Kent Haydel

TITLE: Stoll, Keenan, Ogden

DATE: Nov. 6, 2006

STAFF, PUBLIC SERVICE  
COMMISSION OF KENTUCKY

BY: Amie K Mitchell

TITLE: Staff Attorney

DATE: November 3, 2006