

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

MARTIN GAS, INC.)	
_____)	CASE NO.
)	2017-00214
ALLEGED FAILURE TO COMPLY WITH KRS)	
278.300(1) AND KRS 278.160)	
)	

ORDER

During the investigation of Martin Gas, Inc.'s ("Martin") recent Alternative Rate Filing ("ARF"),¹ the Commission discovered that Martin had executed a \$40,000 promissory note, which required prior Commission approval under KRS 278.300, but for which such approval was never sought or obtained. Also during the course of Martin's recent ARF, the Commission discovered that, between April 2015 and December 2016, Martin did not charge its customers the rates that were filed with the Commission and approved by Commission Order. In its April 6, 2017 Order entered in the ARF case, the Commission directed that an investigation be opened into the matter.²

In providing reasons for why it needed a rate increase, Martin included in its application a copy of a 60-month, \$40,000 promissory note it entered into in April of 2016 to pay its outstanding obligations to two gas suppliers, EQT and Basin Energy. In

¹ Case No. 2016-00332, *Application of Martin Gas, Inc. for Rate Adjustment for Small Utilities Pursuant to KAR 5:076* (Ky. PSC Oct. 10, 2016). Martin tendered its application on September 16, 2016, which was deemed filed on October 10, 2016, after various filing deficiencies were cured.

² Case No. 2016-00332, Order (Ky. PSC Apr. 6, 2017), ordering paragraph 4.

response to a Commission Staff Request for Information, Martin stated that it “made an error by not requesting Commission approval prior to obtaining the line of credit.”³

In addition, a review of sample bills produced by Martin in discovery in the recent ARF proceeding showed that some of the bills did not reflect the rates that were approved for Martin at the times the bills were rendered. Further discovery determined that Martin regularly reflected a lag of several months between the date when, by Commission Order, new rates were to be effective and the date when Martin actually implemented the new rates. This occurred following the issuance of Orders in several Purchased Gas Adjustment (“PGA”) cases in 2015 and 2016 (“Commission Orders”).⁴ Martin disclosed that its failure to correctly bill its approved rates was due to errors of a former employee and that it is now changing rates in its billing system as the Commission approves changes in its gas cost and total billing rates.⁵ In its response to a data request, Martin indicated that it had overcharged its customers for gas cost by \$15,601 during the period from April 2015 through December 2016 by not timely implementing the changes in rates that had been approved in the PGA cases applicable to that period.⁶ Martin has verified

³ Case No. 2016-00332, Response to Commission Staff’s Supplemental Request for Information (“Response to Staff’s Supplemental Request”), Item 4.

⁴ Case No. 2015-00054, *Purchased Gas Adjustment Filing of Martin Gas, Inc.* (Ky. PSC Mar. 12, 2015) (approving rates effective April 1, 2015); Case No. 2015-00172, *Purchased Gas Adjustment Filing of Martin Gas, Inc.* (Ky. PSC June 17, 2015) (approving rates effective July 1, 2015); Case No. 2015-00289, *Purchased Gas Adjustment Filing of Martin Gas, Inc.* (Ky. PSC Sept. 11, 2015) (approving rates effective Oct. 1, 2015); Case No. 2015-000395, *Purchased Gas Adjustment Filing of Martin Gas, Inc.* (Ky. PSC Dec. 7, 2015) (approving rates effective Jan. 1, 2016); Case No. 2016-00093, *Purchased Gas Adjustment Filing of Martin Gas, Inc.* (Ky. PSC Mar. 11, 2016) (approving rates effective Apr. 1, 2016); Case No. 2016-00188, *Purchased Gas Adjustment Filing of Martin Gas, Inc.* (Ky. PSC June 14, 2016) (approving rates effective July 1, 2016); Case No. 2016-00301, *Purchased Gas Adjustment Filing of Martin Gas, Inc.* (Ky. PSC Sept. 22, 2016) (approving rates effective Oct. 1, 2016).

⁵ Case No. 2016-00332, Response to Staff’s Supplemental Request, Item 25.c.

⁶ Case No. 2016-00332, Martin’s Response to Commission Staff’s IC Request for Information, Item 1.

that it has charged the rates approved by the Commission since the beginning of 2017.⁷ In approving a rate increase for Martin, the Commission directed that the over collection of \$15,601 be refunded by a credit of \$3.01 per customer per month for 12 months.

KRS 278.300(1) states that no utility shall issue any form of indebtedness unless it has been authorized to do so by an order of the Commission. The Commission finds that *prima facie* evidence exists that Martin violated KRS 278.300 in that the 60-month \$40,000 promissory note was an obligation and evidence of indebtedness that Martin issued and for which prior Commission approval was required, but was never requested or received. Pursuant to KRS 278.160, no utility can charge or receive from its customers greater or less compensation for any service rendered than that amount prescribed in the utility's filed schedules. The Commission finds that *prima facie* evidence exists that Martin violated KRS 278.160 in that it failed to put into effect the rates prescribed by the Commission on the effective dates specified in Commission Orders.

IT IS THEREFORE ORDERED that:

1. Martin shall submit to the Commission written responses to the allegations contained herein within 20 days of the date of this Order.

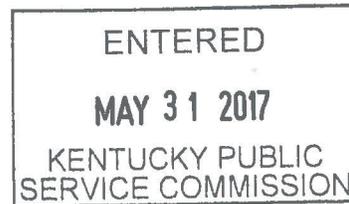
2. Martin shall appear at a hearing scheduled for Tuesday, August 8, 2017, at 9:00 a.m. Eastern Daylight Time, in Hearing Room 1 of the Commission's offices at 211 Sower Boulevard, Frankfort, Kentucky, and be prepared to show cause why it should not be subject to the penalties prescribed in KRS 278.990(1) for the alleged violations of KRS 278.300 and KRS 278.160.

⁷ Case No. 2016-00332, Response to Staff's Supplemental Request, Item 25.d.

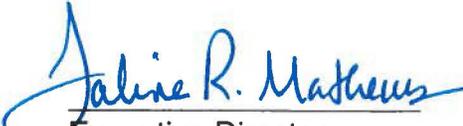
3. The August 8, 2017 Hearing shall be recorded by digital video recording only.

4. The record of Case No. 2016-00332 shall be incorporated into this case by reference only.

By the Commission



ATTEST:


Executive Director

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