

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 KRS 278.495. On August 12, 2022, the Commission expanded the scope of the investigation to determine whether East Kentucky Midstream is subject to Commission jurisdiction under other statutes, including whether East Kentucky Midstream is a common carrier under KRS 278.470.¹ Additionally, the Commission made Kentucky Frontier Gas, LLC (Kentucky Frontier) a party to this proceeding and put East Kentucky Midstream on notice that terminating service to Kentucky Frontier would violate KRS 278.022(2) and subject East Kentucky Midstream to the penalties set forth in KRS 278.990(1), should the Commission determine that East Kentucky Midstream was operating as a utility at the time this proceeding was opened.² On August 16, 2023, the Commission prohibited East Kentucky Midstream from materially altering the operation

¹ Order (Ky. PSC Aug. 12, 2022).

² Order (Ky. PSC Aug. 12, 2022) at 1-2.

or configuration of its natural gas pipelines system without first informing the Commission of its intent in writing and providing the exact location and the element of the system to be altered.³

To further facilitate this investigation, the Commission, on its own motion, finds that it is necessary for a third-party consultant to conduct a field assessment of East Kentucky Midstream's natural gas pipeline system. The Commission has designated Sanders Resources, LLC (Sanders) to conduct the field assessment of East Kentucky Midstream's natural gas system beginning on April 1, 2024, and ending by May 1, 2024. Sanders should provide a comprehensive report, including the details of the field assessment, as it relates to pipeline jurisdiction as prescribed by 49 CFR 192 and KRS 278.010(3), along with a final mapping and GIS data of the system with locations, components and the type, status, and function of pipeline segments. East Kentucky Midstream and Kentucky Frontier should have necessary personnel available to participate in person for the duration of the field assessment and should make any information requested available to Sanders to assist in the field assessment. The final report provided by Sanders will be placed in the record, subject to discovery, with the authors of the report subject to examination at any subsequent hearing in this case.

IT IS HEREBY ORDERED that:

1. East Kentucky Midstream shall make all necessary personnel available in person and all documents requested by Sanders available during the Sanders assessment.

³ Order (Ky. PSC Aug. 16, 2023).

2. Kentucky Frontier shall make all necessary personnel available in person and all documents requested by Sanders available during the Sanders' assessment.

3. The Commission's Division of Inspection (DOI) shall provide one member of staff to be present during the duration of the field assessment. Kory Kiser will be the DOI representative, will coordinate the field assessment and any exchange of documents necessary to complete the comprehensive report. Mr. Kiser may be reached at kory.kiser@ky.gov or (502) 791- 0237.

4. Sanders shall conduct a field assessment of East Kentucky Midstream's natural gas pipeline system.

5. Sanders shall make the field assessment schedule available to the DOI representative, prior to April 1.

6. The field assessment in this matter shall begin on April 1, 2024, during weekdays designated by Sanders, during working hours, and ending by May 1, 2024.

7. The consultants shall provide a comprehensive report, including the details of the field assessment, as it relates to pipeline jurisdiction as prescribed by 49 CFR 192 and KRS 278.010(3), along with final mapping and GIS data of the system with locations, components and the type, status, and function of pipeline segments.

PUBLIC SERVICE COMMISSION



Chairman



Vice Chairman



Commissioner

ENTERED
MAR 25 2024 rcs
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:



Executive Director

*L. Allyson Honaker
Honaker Law Office, PLLC
1795 Alysheba Way
Suite 6202
Lexington, KENTUCKY 40509

*J. Michael West
Office of the Attorney General Office of Rate
700 Capitol Avenue
Suite 20
Frankfort, KENTUCKY 40601-8204

*Angela M Goad
Assistant Attorney General
Office of the Attorney General Office of Rate
700 Capitol Avenue
Suite 20
Frankfort, KENTUCKY 40601-8204

*Steven E Shute
Kentucky Frontier
PO Box 408
2963 Ky Rte 321 North
Prestonsburg, KENTUCKY 41653

*Jack Justice
East Kentucky Midstream, LLC
525 George Road
PO Box 565
Betsy Layne, KENTUCKY 41605

*Honorable Jason R Bentley
Attorney at Law
McBrayer PLLC
201 East Main Street
Suite 900
Lexington, KENTUCKY 40507

*John Horne
Office of the Attorney General Office of Rate
700 Capitol Avenue
Suite 20
Frankfort, KENTUCKY 40601-8204

*Kathryn A Eckert
McBrayer PLLC
201 East Main Street
Suite 900
Lexington, KENTUCKY 40507

*Lawrence W Cook
Assistant Attorney General
Office of the Attorney General Office of Rate
700 Capitol Avenue
Suite 20
Frankfort, KENTUCKY 40601-8204