

COMMONWEALTH OF KENTUCKY  
BEFORE THE ENERGY REGULATORY COMMISSION

\* \* \* \*

In the Matter of

THE REQUEST OF THE JOHNSON COUNTY	)	
GAS COMPANY FOR AN EXEMPTION FROM	)	CASE NO. 7576
807 KAR 50:015 (DEVELOPMENT OF A	)	
BUDGET PLAN)	)	

AND

TRANSFER OF STOCK OF JOHNSON	)	
COUNTY GAS COMPANY, INC.	)	CASE NO. 7743

AND

THE APPLICATION OF THE JOHNSON	)	
COUNTY GAS COMPANY, INC., JOHNSON	)	CASE NO. 7875
COUNTY, KENTUCKY	)	

FOR

- |         |                                   |       |  |
|---------|-----------------------------------|-------|--|
| (1)     | CERTIFICATE OF PUBLIC             | )     |  |
|         | CONVENIENCE AND NECESSITY         | )     |  |
|         | AUTHORIZING RECONSTRUCTION        | )     |  |
|         | OF ITS EXISTING GAS SYSTEM;       | )     |  |
|         | AND                               | )     |  |
| <br>(2) | <br>APPROVAL OF THE PROPOSED PLAN | <br>) |  |
|         | OF FINANCING THE RECONSTRUC-      | )     |  |
|         | TION AND TO RETIRE URGENT AND     | )     |  |
|         | PRESSING DEBTS.                   | )     |  |

O R D E R

On September 19, 1980, the Commission issued its Interim Order consolidating the above-styled cases for the purposes of analysis, decision and order and denying the transfer of ownership under the proposed terms and conditions. In addition, a further hearing was set for September 24, 1980, to take additional testimony, addressing all issues raised in these cases (Nos. 7576, 7743 and 7875) and to allow the Company to show cause, if any it could, why its certificate of convenience and necessity should not be revoked. The hearing was held as scheduled with one intervenor, Columbia Gas of Kentucky (Columbia), a gas supplier of Johnson County Gas Company, Inc., being present. Columbia's intervention is solely for the purpose of seeking to have the proceeds from the proposed financing applied to the retirement of the \$44,237.70 owed to it by Johnson County Gas Company, Inc.

At this hearing, on September 24, 1980, the parties to the proposed transfer of ownership requested that the Commission reconsider and approve the transfer under modified terms and conditions set out in a Memorandum of Understanding dated September 24, 1980.

The Commission, after consideration of the additional evidence presented at the hearing of September 24, 1980, and all prior evidence of record, concluded that the proposed transfer of ownership under the modified terms and conditions of the Memorandum of Understanding would be in the best interest of the consumers and should be approved. It was therefore ordered from the bench that said transaction be, and it was approved. The Commission is hereby reaffirming this Order.

In addition, the Commission ordered from the bench that the Company should be temporarily closed in order to evaluate the system and the possible dangers to the consumers of the system. However, after further testimony by Mr. Preston as to the possible damage to the system and the effects that closing the system would have on the consumers, the Commission determined that its closure order should be stayed until further hearing. It therefore set a further hearing for October 1, 1980, at 1:30 p.m. (EDT) in the Commission's offices in Frankfort, Kentucky. Further, the Commission informed the Company that at said hearing it would be required to present testimony concerning the loan application; the measures it plans to take to improve the system; and any reasons why its certificate of convenience and necessity should not be revoked.

The hearing was held as scheduled on October 1, 1980, with one intervenor, the Attorney General's Division of Consumer Intervention, being present. Testimony presented at this hearing indicates that the management of Johnson County Gas Company has taken steps to place both the two supply lines from Columbia Gas and the distribution mains that serve Van Lear in a condition that can reasonably be expected to provide safe, reliable service during the upcoming heating season. Mr. Preston and the consulting engineering firm of Heath and Associates have further stated that steps are being

taken to assure that emergency temporary measures are underway to provide continued service from Kentucky West Virginia Gas Company supply to the Hager Hill-East Point section. At the close of all testimony, the entire matter was submitted for final determination by the Commission.

#### COMMENTARY

This agency is charged by statute with the responsibility of seeing that safe and adequate service is provided to the customers served by the public utilities in this state. Therefore, the Commission is greatly concerned with the virtual lack of maintenance performed over the years on this gas system and the deficiencies, which relate to State and Federal Regulations for safe transportation of gas by pipeline systems as cited in the Staff Inspection Report dated September 10, 1980. With the proceeds from the loan approved herein, the Commission is of the opinion that this system can be reconstructed to enable it to provide adequate gas service to its customers. However, in order for the service to also be safe, all deficiencies cited in the Staff Inspection Report must also be rectified in a timely manner as outlined in attached Appendix "A".

A further area of immense concern to the Commission is the manner in which the Company proposed to effect the transfer of ownership. The Company proposed to record on its books 994 shares of its common stock as treasury stock. The remaining six (6) shares would be owned by Mr. Danny Preston and his wife, Betty. The debt incurred to purchase this stock would likewise be recorded on the books of the Company as a debt of the Company. It is obvious to the Commission that this is a transaction set up for the purpose of taking advantage of all possible tax benefits to the Company. While recording the transaction in this matter is legal and is proper for general accounting and tax purposes, the effect would be to require the rate payer to pay the interest cost on the debt. The Commission therefore wishes to apprise the Company, as well as

its stockholders, Mr. and Mrs. Preston, that neither this interest cost nor the excess of the purchase price over the net original cost will be recognized for ratemaking purposes.

#### FINDINGS AND ORDERS

The Commission, having carefully considered all evidence of record, is of the opinion and FINDS that:

(1) The Commission's closure order should be stayed indefinitely.

(2) Johnson County Gas Company suffered a line loss for the month of July (at the reduced summer pressure of 12 pounds) of 45.2% for the Van Lear area and 70.3% for the Hager Hill area and that such line loss not only represents a potential source of danger to the consumers but also makes it impossible for the Company to remain solvent.

(3) The proposed reconstruction and renovation, which must be begun immediately in order that substantial construction can be completed this construction season, will eliminate or greatly reduce the excessive line loss. The correction of this problem is necessary to assure continued and safe gas service for the consumers of Johnson County Gas Company, Inc. It is therefore in the public interest and should be approved.

(4) Any construction deviations from the proposed plans and specifications, which could adversely affect service to any consumer, or safety to the public should be subject to the prior approval of this Commission.

(5) The design, fabrication, installation, testing, operation and maintenance of all gas piping shall be done under the supervision of one whose credentials are known and are acceptable to the Energy Regulatory Commission.

(6) Installation and replacement of gas piping shall be performed only by a qualified installer or fitter, who is experienced in such work, familiar with all precautions required, and has complied with all requirements of applicable regulations.

(7) Johnson County Gas Company, Inc., should file with this Commission weekly reports reflecting the number and magnitude of leaks repaired in their emergency repair program. This reporting shall continue until such time as the line loss is brought to a level that can reasonably be expected to provide safe and reliable service.

(8) Within sixty (60) days of the date of substantial completion of the construction authorized herein, the Company should require the Engineer to furnish this Commission with a copy of the "As-Built Plans" and a certification that the construction has been satisfactorily completed in accordance with the plans and specifications.

(9) The Company's present financial condition is such that it will be unable to continue operating without the proposed loan, as it is currently unable to either pay its indebtedness or obtain further credit.

(10) The proposed borrowing by the Applicant of \$1,071,374 from the federal Economic Development Administration through the Kentucky Department for Local Government is for a lawful object within the corporate purposes of the utility, is necessary and appropriate for and consistent with the proper performance by the utility of its service to the public and will not impair its ability to perform that service and is reasonably necessary and appropriate for such purpose.

(11) Johnson County Gas Company, Inc., should immediately file with this Commission and implement its plan for budget billing in compliance with 807 KAR 50:015(11).

The Commission therefore ORDERS that:

(1) The Commission's closure order is stayed and shall remain stayed as long as the Company continues to operate in a responsible, safe manner.

(2) Johnson County Gas be and it is hereby granted a certificate of convenience and necessity to reconstruct and renovate its gas system.

(3) The proposed construction shall be performed in accordance with the applicable Federal and State Regulations.

(4) Any construction deviations from the proposed plans and specifications, which could adversely affect service to any consumer, or safety to the public shall be subject to the prior approval of this Commission.

(5) Johnson County Gas Company be and it hereby is authorized to borrow from the federal Economic Development Administration through the Department for Local Government the sum of \$1,071,374 at an interest rate of 5.125%.

(6) The funds authorized herein shall be used only for the purposes of renovating and reconstructing its system and paying the indebtedness set out in the record.

(7) Johnson County Gas Company, Inc. shall file with this Commission weekly reports reflecting the number and magnitude of leaks repaired in their emergency repair program. This reporting shall continue until such time as the line loss is brought to a level that can reasonably be expected to provide safe and reliable service.

(8) The Company shall submit monthly reports to the Commission setting forth in detail the status of the proposed renovation and reconstruction as well as the status of the funds authorized for said construction.

(9) The Company shall submit quarterly financial statements to the Commission until such time as the Commission is assured as to the financial stability of the Company.

(10) Johnson County Gas Company, Inc., shall file with this Commission, no later than ten (10) days from the date of this Order, its plan for budget billing in compliance with 807 KAR 50:015(11).

(11) If the Company receives no notice from the Commission that said plan is disapproved, the Company shall make known to its customers the availability of its plan and place said plan in full operation no later than November 1, 1980.

(12) Johnson County Gas Company, Inc., shall correct the deficiencies, which relate to State and Federal Regulations for safe transportation of gas by pipeline systems, in accordance with the schedule set out in attached Appendix "A".

(13) The Company shall file within thirty (30) days its financial statements reflecting the transactions approved by this Commission.

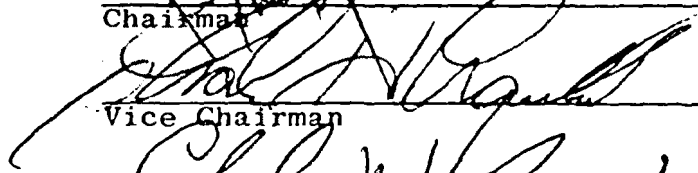
(14) The Company shall require the Engineer to furnish this Commission, within sixty (60) days of the date of substantial completion, a copy of the "As-Built Plans" and a certification that the construction has been satisfactorily completed in accordance with the plans and specifications.

Nothing contained herein shall be deemed a finding of value or a warranty on the part of the Commonwealth of Kentucky or any agency thereof as to the borrowings authorized herein.

Done at Frankfort, Kentucky, this the 6th day of October, 1980.

ENERGY REGULATORY COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

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Secretary

## APPENDIX "A"

### APPENDIX TO AN ORDER OF THE ENERGY REGULATORY COMMISSION IN CASES NO. 7576, 7743 and 7875 DATED OCTOBER 6, 1980.

The Commission finds it necessary to establish a schedule of compliance to insure a timely solution to the deficiencies listed in the Commission's Staff Report dated September 10, 1980, regarding the inspection of Johnson County Gas Company. The schedule that is established is as follows:

(1) To be complied with within 7 days from the date of this Order:

- (a) Establish continuing surveillance program in accordance with 49 CFR 192.613;
- (b) Conduct a leak survey of its transmission lines and establish a schedule for periodic survey in accordance with 49 CFR 192.706;
- (c) Establish a system of transmission line record keeping in accordance with 49 CFR 192.709;
- (d) Conduct a leak survey of its distribution system lines and establish a schedule for periodic surveys in accordance with 49 CFR 192.723;
- (e) Establish records for recording customer complaints as required by 807 KAR 50:015 Section 8;
- (f) Obtain copies of publications and codes adopted by the Energy Regulatory Commission as standards of accepted good practice as outlined in 807 KAR 50:035 Section 3;
- (g) Establish a standard method of meter and service line installations as required by 807 KAR 50:035 Section 11(4);



- (h) Establish a system of record keeping with regard to continuity of service as required by 807 KAR 50:035 Section 17.

(2) To be completed within thirty (30) days from the date of this Order:

- (a) The requirements of 49 CFR 192.13 and 192.14 with regard to system conversion.
- (b) Comply with the filing requirements of 49 CFR 192.17 regarding inspection and maintenance plans.
- (c) Comply with the requirements of CFR 192.51, 192.53, 192.55 and 192.59 with regard to the selection and qualification of pipe and components used in pipelines.
- (d) Establish procedures for the inspection and joining of materials other than by welding in accordance with 49 CFR 192.273, 192.281, 192.283, 192.285 and 192.287.
- (e) Establish specifications for the construction of transmission lines in accordance with 49 CFR 192.303.
- (f) Establish a written operating and maintenance plan and keep records necessary to administer the plan as required by 49 CFR 192.603.
- (g) Establish a written Emergency Plan as required by 49 CFR 192.615.
- (h) Establish written procedures for the investigation of failures as required by 49 CFR 192.617.
- (i) Establish procedures for the reinstating of service lines as required by 49 CFR 192.725.

(3) To be completed within ninety (90) days from the date of this Order:

- (a) Install emergency valves as necessary and establish a program for valve maintenance as required by 49 CFR 192.181, 192.745 and 192.747.
- (b) Install necessary telemetering or recording gauges as required by 49 CFR 192.741 and 807 KAR 50:035 Section 14.
- (c) Establish a standard heating valve for its gas and file the information required by 807 KAR 50:035 Section 8.

(4) To be completed in the course of reconstruction of the system but not later than September 1, 1981:

- (a) Replace copper pipe in the system for which specifications are not known. Reference 49 CFR 192.61.
- (b) Replace system valves for which the rating are not known. Reference 49 CFR 192.145.
- (c) Install supports and anchors on all lines requiring them, as required by 49 CFR 192.161.
- (d) Install regulators as required by 49 CFR 192.197.
- (e) Replace all pressure relief and limiting devices that do not meet the requirements of 49 CFR 192.199.
- (f) Calculate flow and test pressure relieving and limiting stations as required by 49 CFR 192.201.
- (g) Protect all transmission lines from hazards as required by 49 CFR 192.317.
- (h) Install all plastic pipe below ground and install tracer wires as required by 49 CFR 192.321.

- (i) All transmission lines shall be buried with a minimum cover as prescribed in 49 CFR 192.327.
- (j) All service lines shall meet the requirements of 49 CFR 192.361.
- (k) All service lines shall have service-line valves installed that meet the requirements of 49 CFR 192.363.
- (l) Establish a corrosion control program that meets the requirements of 49 CFR 192.451 through 192.491.
- (m) Establish and apply proper procedures for uprating the operating pressure in the system in accordance with 49 CFR 192.551 through 192.557
- (n) Establish a maximum allowable operating pressure for the system in accordance with 49 CFR 192.621 and maintain a standard system pressure in accordance with 807 KAR 50:035 Sections 15 and 16.
- (o) Eliminate all unsafe segments of pipeline and repair all hazardous leaks (49 CFR 192.703)
- (p) Install line markers as required by 49 CFR 192.707.
- (q) Establish a program for testing pressure limiting and regulating station and station relief devices as required by 49 CFR 192.739 and 192.743.
- (r) Discontinue service to all customers where a dangerous condition is found to exist on the customer's premises. [807 KAR 50:015 Section 11(1)(b)]
- (s) Establish provisions for meter testing and establish a meter record system as required by 807 KAR 50:015 Sections 13 and 15, and 807 KAR 50:035 Sections 13, 18 and 19.