

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE COMPLAINT OF CITY OF)	
BARBOURVILLE, ET AL. VS.)	CASE NO.
DELTA NATURAL GAS COMPANY,)	8496
INC.)	

O R D E R

On April 5, 1982, the cities of Barbourville and Corbin, Kentucky, ("Complainants") along with 21 other individuals or entities which are customers of Delta Natural Gas Company, Inc., ("Delta") filed a complaint with this Commission against Delta. The gravamen of this complaint is that the residents of Barbourville and Corbin, who were formerly customers of Peoples Natural Gas Company ("Peoples Gas"), were not properly informed of the magnitude of the rate increase that was requested from this Commission by Delta after it purchased Peoples Gas in December, 1980. The rate increase request in question was filed by Delta on June 11, 1981, wherein it requested \$3.5 million in additional revenue. On December 1, 1981, the PSC issued an order granting Delta approximately \$2.2 million in additional revenue. (PSC Case No. 8256.) This increase in rates affected all of Delta's customers, including those residing in Barbourville and Corbin who were previously served by Peoples Gas and who are now the Complainants herein.

After denying Delta's motion to dismiss the complaint, the Commission conducted an evidentiary hearing on the issue raised by the Complainants on May 18, 1982. Testimony was offered by the following persons on behalf of the Complainants: Craig L. Daniels, former staff writer for the Corbin Times and Tribune; Richard Trimble, editor of the Barbourville Mountain Advocate; Charles Buchanan, Mayor of the City of Barbourville; F. D. "Jack" Heath, Mayor of the City of Corbin; Mahlon Miller, President of Union College; Charles Saddler, a retired resident of Barbourville; Okrom Cloyd, a retired resident of Corbin; Louis Martin, superintendent of the Corbin City Schools; Don Robinson, a member of the Corbin Library Board; Hubert Sprinkles, a retired resident of Barbourville; Carl Baker, an employee of the Southeast Kentucky Baptist Hospital in Corbin; Charles Black, comptroller of the Knox County General Hospital; and Phillip Conley, a minister from Barbourville. The following Delta employees appeared and offered testimony pursuant to subpoenas issued at the request of Complainants: Nell C. Waller, Corporate Secretary and Public Relations Director; Harrison D. Peet, President; and Glenn R. Jennings, Treasurer. At the conclusion of the testimony counsel for Complainants and counsel for Delta presented oral arguments. Briefs were then filed by both parties.

Based upon the evidence of record and being advised, the Commission finds:

1. Delta's advertisement of its 1981 rate increase in Case No. 8256 was in strict compliance with the terms of 807 KAR 5:00, § 8. Accordingly, the cases cited by the Complainants 1/ in support of their position are inapplicable, as all involved situations in which there had been a failure to provide notice to the public in the manner statutorily prescribed.

2. Delta should have taken steps to clarify the misleading news stories contained in the Barbourville and Corbin newspapers once its local offices became aware of them. Nevertheless, as Delta complied with the legal requirements for notice as contained in our regulation, this complaint should be dismissed. However, the record in this case should be incorporated into the record of Delta's current rate case (PSC Case No. 8528) so that any party to this complaint may intervene in the current rate case and present his or her case against a rate increase for Delta as presumably would have been done in Case No. 8256.

Based upon the above findings, the Commission HEREBY ORDERS that this matter be, and it hereby is, dismissed.

The Commission FURTHER ORDERS that the record in this case be, and it hereby is, incorporated into the record of PSC Case No. 8528.

1/ City of St. Matthews v. Beha, Ky., 549 S.W.2d 842 (1977), O'Hara v. City of South Fort Mitchell, Ky., 290 S.W.2d 455 (1956), Queenan v. City of Louisville, Ky., 233 S.W.2d 1010 (1950) and Gollar v. City of Louisville, 219 S.W. 421 (1920).

Done at Frankfort, Kentucky, this 16th day of August, 1982.

PUBLIC SERVICE COMMISSION

Marlin M. Toke
Chairman

Katherine Sandall
Vice Chairman

L. L. Lunge
Commissioner

ATTEST:

Secretary