

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

FAILURE OF BAIDEN GAS COMPANY)
TO COMPLY WITH)
COMMISSION REGULATIONS) CASE NO. 9954

O R D E R

On June 26, 1987, an Order was issued directing Baiden Gas Company ("Baiden") to appear before the Commission and show cause why it should not be fined pursuant to KRS 278.990 for violations of KRS 278.485 and 807 KAR 5:022, 5:026, and 5:027, and to demonstrate what corrective action would be taken to comply. A hearing was conducted on July 31, 1987. Representing Baiden were Thelma Bailey, owner, and Jerry Garden, operator.

During review of this matter, Baiden also presented information regarding a proposed abandonment of four wells and related pipeline which would result in the discontinuance of gas service to 33 customers. On August 25, 1987, an Interim Order was issued regarding the proposed abandonment.

BACKGROUND

Baiden is a natural gas production and gathering company located near Louisa in Lawrence County, Kentucky, and has approximately 20 active wells from which most of the gas is sold to Columbia Gas Transmission Corporation, an interstate pipeline. Baiden's relationship with Columbia is regulated by the Federal

Energy Regulatory Commission under federal law. However, Baiden has testified that approximately 200 farm tap customers are served pursuant to KRS 278.485, including some free gas customers through rights-of-way contracts. The safety of these farm taps is this Commission's responsibility under KRS 278.485 and Public Service Commission regulations cited herein.

On March 10, 1987, the Commission's Gas Pipeline Safety Branch received a report of an accident concerning one of Baiden's customers. Julie Ratliff reported that a fire had destroyed a dwelling owned by Carl Ratliff, and other residents had incurred damage to water heaters and appliances. Ms. Ratliff also reported that the accident had occurred on February 16, 1987.

On March 11, 1987, the Commission conducted an accident investigation, meeting with Mr. Garden and Ms. Ratliff. During the course of the investigation, numerous violations of Commission regulations were discovered, and it was determined that virtually none of the gas hookups on the Baiden system complied with 807 KAR 5:026. Further investigation also discovered these violations: plastic pipe in use but not buried and the use of plastic unapproved for gas service [807 KAR 5:026, Section 6(9)]; and the use of unapproved fittings and unauthorized installers on plastic pipe [807 KAR 5:022, Section 6(6)-(9)].

During the investigation Mr. Garden stated that these farm tap hookups existed when he began as operator 6 years ago. He also stated that he was unaware of any responsibility to assure that each customer's meter set installation complied with 807 KAR 5:026 and KRS 278.485; that each hookup was to be inspected by a

Commission representative prior to initiating service [807 5:026, Section 3(4)]; and that he was required to report natural gas accidents [807 KAR 5:027, Section 4(1)].

On May 26, 1987, Baiden filed a response to the investigation report stating that all customers would be provided information to enable them to bring their hookups into compliance. The response also stated that all approved plastic pipe would be buried to the proper depth using approved fittings, and all unapproved plastic would be removed. Baiden provided a July 31, 1987, deadline for the customers to bring their hookups into compliance.

COMMENTARY

On July 20, 1987, a formal conference was conducted in Inez, Kentucky, to allow customers to discuss the safety problems on the system with Baiden and Commission staff. Many of the customers expressed concern regarding the cost of compliance and the imminent nature of the July 31, 1987, deadline. Staff explained the reasons for Commission gas safety regulations and the importance of the safety-related equipment required by those regulations. Regarding the deadline for compliance, the Commission received a letter from Baiden on July 30, 1987, seeking to extend the deadline to September 1, 1987.

During the hearing on July 31, 1987, Mr. Garden explained his responsibility as operator and described the types of maintenance work he routinely performs. He stated that when he began as operator 6 years ago he was unaware of any gas safety regulations that required compliance until the Commission investigated the accident. He testified that he now understands there are certain

minimum requirements for equipment and the installation of that equipment for gas hookups. Mr. Garden also agreed to notify the Commission by the end of August 1987 of the number of customers Baiden would have to disconnect due to noncompliance.

The Commission recognizes Baiden's cooperation and efforts toward bringing its operations into compliance with Commission regulations. Based upon testimony and numerous safety inspections performed by Commission staff, the Commission concludes that the hookups of those customers currently receiving gas from Baiden, as of the date of this Order, meet the minimum requirements of Commission regulations. However, the Commission notes that Baiden's efforts toward compliance began only after the Commission's accident investigation on March 11, 1987. During the course of this proceeding, Baiden has presented no evidence that it made any effort prior to 1987 to assure that its customers' hookups were in compliance. The Commission notes that Mr. Garden has been the operator of Baiden for 6 years, and Ms. Bailey has been an owner of Baiden since the mid-1960s. Mr. Garden has testified that he was unaware of Commission regulations as operator of the system until the March 11, 1987, investigation. Therefore, it is evident that the violations stated herein have existed for at least 6 years. Further, Mr. Garden also testified that all but three of the hookups on the Baiden system at the time of the hearing were in place when he began as operator. Thus, it is probable that the customer hookups on Baiden have been in noncompliance an even longer period of time than during the current ownership.

Baiden has failed to make itself aware of its responsibilities as an owner and operator of a gas utility, including compliance with Commission gas safety regulations. Given this fact, and the period of time during which these violations have existed, the Commission concludes that a fine should be levied against Baiden.

After reviewing the record, the Commission is of the opinion and hereby finds that:

1. Baiden is subject to Commission jurisdiction pursuant to KRS 278.485.

2. During an accident investigation on March 11, 1987, Baiden was found to be in violation of numerous Commission regulations, including: 807 KAR 5:022, Section 6(6)-(9); 807 KAR 5:026, Section 3(2)-(4) and Section 6(9); and 807 KAR 5:027, Section 4(1).

3. In its response to the Commission's accident investigation report citing the violations stated herein, Baiden did not question or dispute those findings.

4. Since the accident investigation, Baiden has demonstrated cooperation towards bringing its customers' hookups into compliance. As of the date of this Order, the hookups for all customers currently receiving gas from Baiden comply with Commission regulations or have been granted a deviation by the Commission.

5. Within 30 days of the date of this Order, Baiden should file a report with the Commission which provides: the total number of customers currently receiving gas; the total number

disconnected on September 1, 1987; and the estimated number of those disconnected who are still attempting to comply.

6. Based upon the testimony and other evidence of record, most of the violations to Commission regulations have existed for at least 6 years. In addition, Baiden failed to report a natural gas accident as required by Commission regulations.

7. Baiden should be assessed a fine for its failure to assure that its customers' hookups complied with Commission regulations and the period of time during which these violations existed and for its failure to report a natural gas accident.

8. Within 30 days of the date of this Order, Baiden should issue a check to the Commission in the amount of \$1,000 payable to the State Treasurer. Said fine should be mailed to Public Service Commission, P. O. Box 615, Frankfort, Kentucky, 40602.

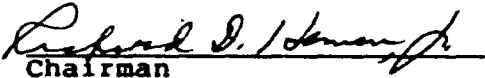
IT IS THEREFORE ORDERED that:

1. Pursuant to KRS 278.990, Baiden shall be and hereby is assessed a fine in the amount of \$1,000 for its failure to comply with 807 KAR 5:022, Section 6(6)-(9), 807 KAR 5:026, Section 3(2)-(4) and Section 6(9), and for its failure to comply with 807 KAR 5:027, Section 4(1).

2. Baiden shall comply with the directions set forth in Finding Nos. 5 and 8 as if the same were individually ordered.

Done at Frankfort, Kentucky, this 11th day of November, 1987.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman

Dissents from majority opinion.
Commissioner

ATTEST:

Executive Director