

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

DAVID STEPHENS, SR., DAVID STEPHENS, )  
JR., AND ELIZABETH BIERBAUER D/B/A )  
LESLIE GAS COMPANY )

CASE NO.  
89-277

\_\_\_\_\_ )  
ALLEGED FAILURE TO COMPLY WITH )  
COMMISSION REGULATION 807 )  
KAR 5:006, SECTION 3(1) )

ORDER TO SHOW CAUSE

David Stephens, Sr., David Stephens, Jr., and Elizabeth Bierbauer ("Respondents"), doing business as Leslie Gas Company, own, operate, and manage facilities used for the production, distribution, sale, and furnishing of natural gas to the public for compensation, for heat and power, and are therefore a utility under the jurisdiction of the Commission.

KRS 278.040 permits the Commission to adopt reasonable regulations to implement the provisions of KRS Chapter 278. Pursuant to this authority, the Commission promulgated Commission Regulation 807 KAR 5:006, Section 3(1), which requires all utilities to file on or before March 31 of each year a financial and statistical report for the previous calendar year upon forms furnished by the Commission.

Commission Staff has advised the Commission that the Respondents have yet to file a financial and statistical report on their utility operations for the 1988 calendar year as required by

Commission Regulation 807 KAR 5:006, Section 3(1), nor have they requested an extension of time in which to file this report. Commission Staff has further advised the Commission that it has made repeated efforts without success to obtain submission of the required report. An Affidavit concerning Respondents' alleged failure to submit the required report and Commission Staff's efforts in this matter is attached hereto as Appendix A.

IT IS THEREFORE ORDERED that:


1. Respondents shall appear on November 9, 1989 at 1:00 p.m., Eastern Standard Time, in Hearing Room No. 1 of the Commission's offices at 730 Schenkel Lane, Frankfort, Kentucky, for the purposes of presenting evidence concerning their submission of financial and statistical reports on their utility operations for the 1988 calendar year, and of showing cause, if any they can, why they should not be subject to the penalties of KRS 278.990 for their alleged failure to comply with Commission Regulation 807 KAR 5:006, Section 3(1).


2. Respondents may, if any so desire, waive their right to an evidentiary hearing in this matter, and instead, submit a written statement in their own behalf. If any Respondent chooses to waive his right to an evidentiary hearing, he shall submit to the Commission within 20 days of this Order a verified written statement expressly waiving this right and responding in detail to the allegations contained in Appendix A.


3. The affidavit attached hereto as Appendix A is hereby made part of the record of this case.

Done at Frankfort, Kentucky, this 4th day of October, 1989.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

\_\_\_\_\_  
Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC  
SERVICE COMMISSION IN CASE NO. 89-277 DATED 10/04/89

A F F I D A V I T

The Affiant, William Feldman, after being duly sworn, states as follows:

1. That I am currently employed by the Public Service Commission of Kentucky ("Commission") as a Statistical Supervisor and have held that position since 1984.
2. That, as one of the duties of my position, I am custodian of the financial and statistical reports filed annually with the Commission pursuant to KRS 278.140 and Commission Regulation 807 KAR 5:006, Section 3(1) and am responsible for the receipt, logging, cataloging and review of these reports.
3. That pursuant to Commission Regulation 807 KAR 5:006, Section 3(1), two copies of the financial and statistical form (annual report) and two copies of the gross intrastate operating revenues report form are mailed on the first business day of each calendar year to every regulated utility doing business in the state of Kentucky.
4. That on January 3, 1989, two copies of the financial and statistical form and two copies of the gross intrastate operating revenues report form were mailed to Ms. Elizabeth Bierbauer of Leslie Gas Company. A copy of the cover letter is attached hereto as Exhibit 1.
5. That on several occasions Ms. Bierbauer and Mr. David Stephens advised me that they were the persons responsible for the operation and management of the Leslie Gas Company.

6. That neither the financial and statistical report nor the gross intrastate operating revenues report for Leslie Gas Company nor a request for an extension of the filing deadline from Leslie Gas Company was received by the Commission on or before March 31, 1989.

7. That I spoke with Ms. Bierbauer by telephone on 11 different occasions between May 8, 1989 and August 21, 1989, advised her that the required reports were over due, and requested their submission.

8. That on April 28, 1989 and June 28, 1989, written requests for the submission of the required reports were sent to Ms. Bierbauer. A copy of each letter is attached hereto as Exhibits 2 and 3.

9. That on July 7, 1989, the gross intrastate operating revenues report for 1988 for Leslie Gas Company was received.

10. That as of this date, no financial and statistical report for 1988 for Leslie Gas Company has been received by the Commission.

FURTHER THE AFFIANT SAITH NOT

  
\_\_\_\_\_  
William Feldman

Subscribed and sworn to before me by William Feldman this 3<sup>rd</sup> day of October, 1989.

  
\_\_\_\_\_  
Notary Public

My commission expires:

June 2, 1992



COMMONWEALTH OF KENTUCKY  
**PUBLIC SERVICE COMMISSION**  
730 SCHENKEL LANE  
POST OFFICE BOX 615  
FRANKFORT, KY. 40602  
(502) 564-3940

January 3, 1989

ELIZABETH BIERBAUER  
MANAGER/TRUSTEE  
LESLIE GAS COMPANY  
1500 NEWMAN ROAD  
LEXINGTON, KY 40503

DEAR ELIZABETH BIERBAUER:

Enclosed are two copies of the financial and statistical form (annual report) and two copies of the gross intrastate operating revenues report form (gross operating report). These reports are to be completed for the calendar year 1988 and the original should be filed with this Commission on or before March 31, 1989, as required by Public Service Commission regulation 807 KAR 5:006, Section 3(1), KRS 278.140.

For good cause shown, the Commission may, upon written request sent to me, allow a reasonable extension of time for filing of the annual report. However, the request must be made before the March 31, 1989, deadline. An extension of time for filing the gross operating report cannot be granted.

The prompt and timely filing of the annual report and gross operating revenues report is essential to the efficient operation of this Commission. Any utility failing to comply with these statutes shall be subject to KRS 278.990, including the imposition of penalties provided therein.

Sincerely,

Phyllis R. Fannin  
Director  
Division of Rates and Tariffs

MJS/bt  
Enclosures



COMMONWEALTH OF KENTUCKY  
**PUBLIC SERVICE COMMISSION**  
730 SCHENKEL LANE  
POST OFFICE BOX 615  
FRANKFORT, KY. 40602  
(502) 564-3940

April 11, 1989

Ms. Elizabeth Bierbauer  
Manager/Trustee  
Leslie Gas Company  
1500 Newman Road  
Lexington, Kentucky 40503

Dear Ms. Bierbauer:

On January 3, 1989, your utility company was sent two (2) copies of both the Annual Report Form and the Gross Operating Revenues Report Form. These reports were to be completed for calendar year 1988, and the original filed with this Commission on or before March 31, 1989, as required by the Public Service Commission Regulation 807 KAR 5:006, Section 3(1), and KRS 278.140.

To date, the Commission has not received either of the above reports. They must be filed with this Commission by April 20, 1989. If you have any questions, please contact Mr. Bill Feldman at (502) 564-7418.

Failure to comply with Commission Regulation 807 KAR 5:006, Section 3(1), and KRS 278.140 will result in the imposition of penalties as provided in KRS 278.990 (copy attached).

Sincerely,

Phyllis R. Fannin  
Director  
Division of Rates and Tariffs

BF/bt

Attachment



COMMONWEALTH OF KENTUCKY  
**PUBLIC SERVICE COMMISSION**  
730 SCHENKEL LANE  
POST OFFICE BOX 615  
FRANKFORT, KY. 40602  
(502) 564-3940

June 28, 1989

Ms. Elizabeth Bierbauer  
Manager/Trustee  
Leslie Gas Company  
9909 Tacoma Lane  
Orlando, Florida 32817

Dear Ms. Bierbauer:

On January 3, 1989, your utility company was sent two (2) copies of both the Annual Report Form and the Gross Operating Revenues Report Form. These reports were to be completed for calendar year 1988, and the originals filed with this Commission on or before March 31, 1989, as required by the Public Service Commission Regulation 807 KAR 5:006, Section 3(1), and KRS 278.140.

I wrote you on April 11, 1989, instructing you to file these reports by April 20, 1989. To date, the Commission has not received either of the above reports. If these reports are not filed with this Commission by July 10, 1989, I will be forced to turn this matter over to our Legal Division to take whatever steps are necessary to obtain these reports. I want to remind you that penalties, provided for in KRS 278.990, is an option that I will pursue if these reports are not filed by July 10, 1989.

If you have any questions, contact Mr. Bill Feldman at (502) 564-7418.

Sincerely,

A handwritten signature in cursive script that reads "Phyllis R. Fannin".

Phyllis R. Fannin  
Director  
Division of Rates and Tariffs