

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE JOINT APPLICATION OF ANNVILLE GAS	)	
TRANSMISSION COMPANY, INC., AND MID-	)	CASE NO. 90-317
SOUTH ELECTRICS, INC., FOR THE APPROVAL	)	
OF THE ACQUISITION FOR A PORTION OF THE	)	
ANNVILLE PIPELINE BY MID-SOUTH ELECTRICS,	)	
INC.	)	

O R D E R

This matter arises upon the October 16, 1990 filing of a petition by Annville Gas and Transmission Company, Inc. ("Annville Gas") and Mid-South Electrics, Inc. ("Mid-South") requesting the Commission authorize the sale and transfer of a portion of the Annville Gas pipeline serving Mid-South's plant in Annville, Kentucky. Attached to the petition for Commission review and approval was a contract for the sale of the transmission line to Mid-South. The maintenance and consultation agreement between Mid-South and Annville Gas was also attached.

By motion filed October 19, 1990, Delta Natural Gas Company, Inc. ("Delta") requested full intervention in this proceeding. Delta alleged that it had a special interest in the proceeding which was not otherwise adequately represented; said motion was granted by Commission Order dated November 1, 1990. A procedural schedule was established in this case allowing for the filing of a brief by the intervenor Delta and allowing the applicants, Annville Gas and Mid-South, to respond. On January 8, 1991,

Annville Gas filed a motion to strike the petition for intervention filed by Delta. After consideration of the motion, the Commission finds that Delta's intervention should be allowed to stand.

After consideration of the petition, the brief of Delta and the response of joint applicants Annville Gas and Mid-South, all other matters of record and being otherwise sufficiently advised, the Commission makes the following findings:

Mid-South proposes to purchase a portion of a gas transmission pipeline owned by Annville Gas and used to serve the Mid-South plant near Sexton Creek in Clay County, Kentucky. Mid-South is the only customer currently served from this line. Mid-South further proposes to enter into a maintenance and consultation agreement with Annville Gas after approval of the sale of the pipeline whereby Annville Gas will provide all necessary maintenance on the pipeline and will act as a consultant to Mid-South in the operation of the pipeline.

In its brief, Delta argues that Annville Gas and Mid-South are using this proceeding to circumvent the requirements of the Commission's Order in Administrative Case No. 297<sup>1</sup> and Case No. 10419<sup>2</sup> and that Annville Gas is attempting to "shoehorn" itself into the end-user exception to bypass contained in Administrative

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<sup>1</sup> Administrative Case No. 297, An Investigation of the Impact of Federal Policy on Natural Gas to Kentucky Consumers and Suppliers.

<sup>2</sup> Case No. 10419, Delta Natural Gas Company, Inc. vs. Tranex Corporation.

Case No. 297. Delta further states that it takes no position with respect to the propriety of the sale of the pipeline.

KRS 278.020(4) provides that "no person under the jurisdiction of the commission shall acquire or transfer ownership of or control, or the right to control, any utility, by sale of assets, transfer of stock or otherwise . . . without prior approval by the commission. The commission shall grant its approval if the person acquiring the utility has the financial, technical, and managerial abilities to provide reasonable service." The Commission is limited in its consideration of a transfer application to a review of the financial, technical, and managerial abilities of the person acquiring the utility assets.

The statements of financial position filed by Mid-South with the petition in this case reflect that Mid-South possesses sufficient financial resources to meet the standard set forth in KRS 278.020(4). Upon approval of the transfer Mid-South intends to enter into a maintenance and consultation agreement with Annville Gas which provides that Annville will be responsible for maintenance of the gas line and will act as a consultant to Mid-South in the operation of the line. Annville Gas is currently classified by the Commission as a distribution utility and is known by this Commission to have sufficient technical and managerial expertise in the operation of this pipeline. The statutory standard having been met the Commission finds that the transfer of that portion of the pipeline at Sexton Creek in Clay County, Kentucky, from Annville Gas to Mid-South should be approved. As Delta has taken no position with respect to the

issue of whether the pipeline should in fact be sold to Mid-South and as the Commission recognizes that it is limited in its review of this petition to the standards set forth in KRS 278.020(4), the Commission finds that Delta's points are well taken but cannot be used as a basis for the Commission's action herein.


IT IS THEREFORE ORDERED that approval for the sale of the gas pipeline owned by Annville Gas to Mid-South, an end-user, is hereby approved. Annville Gas's motion to strike the Petition for Intervention of Delta is hereby denied.

Done at Frankfort, Kentucky, this 22nd day of January, 1991.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director