

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN INVESTIGATION INTO THE)
JURISDICTIONAL STATUS OF) CASE NO. 97-380
ROCKCASTLE RESOURCES, INC.)

O R D E R

On September 19, 1997, the Commission opened this case to investigate the jurisdictional status of Rockcastle Resources, Inc. ("Rockcastle"). Rockcastle is classified as an intrastate gas pipeline company by the Commission. An investigation was undertaken after a comprehensive inspection of the facilities of Rockcastle by Commission staff.¹ This inspection found the system operated by Rockcastle provides natural gas service to two industrial consumers and that no gas leaves the system. Rockcastle has filed two contracts with the Commission. The first contract is with Cintas Sales Corporation dated September 27, 1991, and the second contract is with Image Entry/Compunet America dated November 14, 1994. Both of these contracts state that Rockcastle agrees to sell gas to each industrial customer.² Rockcastle has heretofore been classified as an intrastate pipeline and has been required to file a tariff only with the Commission.

¹ Comprehensive Inspection Report, Rockcastle Resources, Mt. Vernon, Kentucky, August 29, 1997. Attachment A.

² Contract dated September 27, 1991 between Rockcastle Resources, Inc. and Cintas Sales Corporation, and contract dated November 14, 1994 between Rockcastle Resources, Inc. and Image Entry/Compunet America.

However, in Administrative Case No. 297 the Commission:

"reiterates that the sale of gas to the public, that is, one or more end-users, supersedes other business activities and subjects a utility to full rate-base and facilities regulation."

The type of configuration of the system and the sale of gas to an end-user as found herein could classify Rockcastle as a gas distribution company.

KRS 278.504(3) defines such a utility:

"Local distribution company" means any utility or any other person, . . . engaged in transportation or local distribution of natural gas and the sale of natural gas for ultimate consumption

However, the findings contained in this Order make it unnecessary to determine the status of Rockcastle at this time. The Commission finds that Rockcastle is not presently furnishing or conveying gas to the public. The response of Rockcastle indicates that such condition may or may not be temporary. Therefore, any determination of the jurisdictional status of Rockcastle should be held in abeyance until such time as Rockcastle complies with the notice requirements for resuming operations of its system.

During the same inspection it was found that the gas in Rockcastle's system contained 40 parts per million of hydrogen sulfide, which is a probable violation of 807 KAR 5:022, Section 15. That section permits no more than a trace of hydrogen sulfide in gas. On December 22, 1997, a hearing was held in response to an Order issued by the Commission, directing Rockcastle to show cause why it should not be assessed penalties under KRS 187.992 for supplying gas with more than a trace of hydrogen sulfide.

Based upon the evidence presented at the hearing, the Commission issued an Order finding Rockcastle in violation of 807 KAR 5:022, Section 15(1), by supplying gas to a consumer with more than a trace of hydrogen sulfide in its gas. The Commission imposed a \$500,000 penalty for the violation.³ The Commission also provided in that Order that the penalty imposed could be suspended if Rockcastle took certain actions, one of which was to submit a plan to the Commission whereby it would cease to supply gas from the Levisay well which was producing the gas containing hydrogen sulfide. On February 5, 1998, Rockcastle filed a response in which it stated that Rockcastle had ceased supplying gas from the Levisay well on December 29, 1997, and that Rockcastle is not presently supplying gas to customers and has no intention to do so until the problem with high reading of hydrogen sulfide is within limits.⁴ The Commission finds that the response of Rockcastle is sufficient to suspend the \$500,000 penalty as set out in its Order of January 16, 1998. Since it has been determined that the Rockcastle system is supplied from the Levisay well, and since no customers are being served from this well at this time, the Rockcastle system is effectively inoperative.

The inspection also resulted in findings of several deficiencies which are violations of Commission regulations, but these issues are not now before the Commission.

The Commission finds that the operations of Rockcastle have been improper and unsafe. As a result, the Commission is required by statute to determine safe and adequate practices and methods for a utility to employ in supplying any commodity to

³ Commission Order dated January 16, 1998.

⁴ Letter dated January 20, 1998 from Rockcastle Resources, Inc.

the public. KRS 278.280(1). The Commission also has the authority to suspend or revoke a certificate of a utility to operate. KRS 278.390.

The Commission being sufficiently advised, IT IS HEREBY ORDERED that:

1. The determination of the jurisdictional status of Rockcastle shall be held in abeyance until further Orders of the Commission.

2. The civil penalty imposed by this Commission in the amount of \$500,000 is suspended.

3. Prior to Rockcastle supplying gas from the Levisay well, or any other well in the Knox formation to any end-user or consumer, it shall give the Commission 30 days' written notice and said notice shall include a copy of laboratory test results of a sample of gas taken from any such well.

4. Prior to Rockcastle supplying gas from the Levisay well, or any other well in the Knox formation to any end-user or consumer, it shall give the Commission 30 days' written notice of a method of testing for, and a test schedule, which shall provide for daily testing, excluding Sundays and holidays, of hydrogen sulfide. The results of said tests shall be reported in writing to the Commission on a weekly basis, and said written results shall be retained by Rockcastle for at least six months.

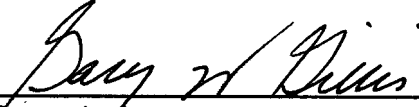
5. Until such time as Rockcastle shall notify the Commission of its intent to resume operations as required in this Order, Rockcastle's certificate of convenience and necessity to operate is suspended.

Done at Frankfort, Kentucky, this 6th day of March, 1998.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director