

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE PETITION OF SIGMA GAS            )  
CORPORATION FOR                        )  
AN ADJUSTMENT OF RATES            )            CASE NO. 98-244

ORDER

On February 18, 1999, the Commission issued an Order granting rehearing on the issue of refunds of illegally collected late payment charges. Sigma Gas Corporation ( Sigma ) filed a response to the information request that was included in the Order granting rehearing on March 5, 1999. Based on the unique circumstances described in this Order, the Commission will grant temporary relief from the requirement that the refunds be made immediately. In accordance with the findings in this Order, Sigma must begin refunding the illegal collections on a monthly basis beginning with the month of May 1999.

The information supplied in response to the data request reflects that Sigma had an increase in cash and cash equivalents in the amount of \$3,845 for the month of January 1999. The resulting cash ending balance for the month was \$21,049. This information reflects that Sigma had the financial capability to begin making refunds on the illegal collections as was required by the Order of January 14, 1999 in this matter.

The financial information supplied by Sigma further reflects that, based on projections of cash flow for the first six months of 1999, Sigma will have a reduction of cash and cash equivalents in the amount of \$13,794. The ending cash balance at June

30, 1999 would be \$3,410. Due to the nature of the gas business, sales in winter months account for a large part of the revenues of the company. The ability to refund the illegal collections is greater in the winter months than in the summer due to the larger volumes of sales. However, the winter of 1998-99 was milder than normal, which caused gas sales to be lower than normal. Consequently, if the information supplied by Sigma is correct, the refund of the entire amount of the illegal collections of \$21,698 would put Sigma in a net negative cash position for the months of January through June of 1999.

The Commission cannot, however, defer indefinitely the repayment of this obligation to which Sigma had agreed in the Settlement Agreement attached to the January 14, 1999 Order. In consideration of the financial hardship that the immediate refund would place on Sigma, the Commission will allow the refund to be made over a 21-month period, beginning with the month of May 1999. The amount to be refunded in each month will be based on the greater of \$1,000 or 10 percent of the net income recorded for the calendar month.

The total amount of refund due to each customer should be calculated by Sigma and filed with the Commission. The information should include, for each customer that is due a refund, the date the first late payment penalty was charged and the amount of penalties for each year of the five-year period. The sum of the list should equal the total amount to be refunded by Sigma.

Within 30 days of the close of each calendar month, Sigma should calculate the amount to be available for refunding for that month and make the refunds to customers within the 30-day period or in the billing cycle immediately following the 30-day period.

For example, the refund for the calendar month of May 1999 should be calculated by June 30, 1999 and reflected on customers bills rendered in the last billing cycle of June, or the first billing cycle in July if bills are rendered at the beginning of the calendar month. The refunds should be made in chronological order, with the first customers that paid the unauthorized charge receiving the first refund amounts. Refunds should be made on a per customer basis and may be by check or credit to customers bills, unless the bill is less than the credit due; in that case, a check should be issued. Furthermore, if the funds available for refunding in any month are not sufficient to cover the full amount to be refunded to a particular customer, those amounts may be carried over and refunded in the next month. All refunds should be made no later than the 21<sup>st</sup> month from May 1999.

To enable the Commission to monitor the progress of the refunds, Sigma should file on a quarterly basis the following information:

1. Income statement for each month of the quarter.
2. Comparative Balance Sheet for the beginning and end of the quarter.
3. A calculation of the amount to be refunded in each month.
4. The amount refunded in each month including:
  - a. The name, current address, and telephone number of each customer receiving a refund.
  - b. The amount refunded to each customer.
  - c. The nominal amount that could not be refunded and is being carried over to the next month.

d. The amount of any refunds that are returned due to incorrect mailing address, or for any other reason, along with the name of the intended recipient.

The relief from the requirement that the refunds be made immediately will be reconsidered upon the review and issuance of the final Order in Case No. 99-074.<sup>1</sup> At that time, the Commission may require an immediate and full refund of the amount outstanding. Nothing contained in this Order shall preclude the Commission from issuing further orders retracting the conditions of this Order should Sigma fail to make the systematic refunds and/or fail to make the quarterly filings required in this Order.

IT IS THEREFORE ORDERED that:

1. The request of Sigma to defer the refund of illegally collected late payment penalties in the amount of \$21,698 for an indefinite period of time is unreasonable and is hereby denied.

2. Sigma shall begin refunding the illegal collections immediately using the refund plan described above, beginning with the month of May 1999.

3. Sigma shall file a list of the customers who are due refunds. The list shall contain, for each customer due a refund, the name, address, telephone number, date the first late payment was collected, amount illegally collected each year for the five-year period, and the total amount due each customer. The list shall be prepared in chronological order based on the date of the first illegal collection from each customer.

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<sup>1</sup> Case No. 99-074, The Application of Sigma Gas Corporation for Approval of Financing.

4. Sigma shall begin filing the quarterly reports described above beginning with the second quarter of 1999 and each quarter thereafter until the full amount of the refund is made.

5. The civil penalty of \$5,000 for collection of an unauthorized rate, which was assessed on October 27, 1998, shall be deferred pending compliance by Sigma with the provisions of this Order. Nothing contained in this Order shall preclude the Commission from making the civil penalty due and payable immediately in the event Sigma fails to perform in accordance with the provisions of this Order.

6. Nothing contained in this Order shall prevent the Commission from entering further Orders modifying or rescinding the refund provisions in the event the financial circumstances of Sigma should improve and/or prove to be significantly better than estimated in the exhibits contained in the record of this case.

Done at Frankfort, Kentucky, this 21<sup>st</sup> day of May, 1999.

By the Commission

ATTEST:

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Executive Director