

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

BETHANY CHRISTIAN MISSION CENTER, INC.)	
)	
COMPLAINANT)	
)	
v.)	CASE NO. 98-282
)	
HOLLY CREEK PRODUCTION CORPORATION)	
)	
DEFENDANT)	

O R D E R

On May 18, 1998, Doug Allen, Superintendent, filed a formal complaint on behalf of Bethany Christian Mission Center (Complainant) against Holly Creek Production Corporation (Holly Creek). Mr. Allen alleged that Holly Creek overbilled Bethany Christian for gas service from December 1993 through December 1997. According to the complaint, the metering equipment at the school was equipped with a 20 psi compensating index and required 20 pounds of constant pressure in order to accurately measure consumption. Mr. Allen asserted that for at least four years, from December 1993 through December of 1997, the gas pressure averaged only 10 psi. Because gas pressure was less than the required 20 psi, Mr. Allen requested that the Commission order Holly Creek to reimburse the school for 40 percent of the gas bills paid from December 1993 through December 1997. As part of the original complaint, Mr. Allen calculated the total amount of the reimbursement to be between \$30,000 and \$35,000.

On June 22, 1998, Holly Creek filed an answer to the complaint. In its answer Holly Creek disputed the reimbursement figure set forth in the complaint and requested

a hearing for the purpose of establishing 1) the extent to which gas consumption was measured inaccurately, 2) the duration of the inaccurate measurements, and 3) the appropriate reimbursement amount. Holly Creek stated that it will abide by any scientifically-based findings concerning [the reimbursement].¹ The answer also contained an admission that one of Holly Creek's employees made a change to the metering equipment at Bethany Christian which may have caused incorrect measurements of natural gas usage at said property.²

In investigating the complaint, Commission staff requested data from each of the parties and held two informal conferences.³ A formal hearing was held on April 20, 1999. Doug Allen, Superintendent at Bethany Christian, testified on behalf of the school. Earl Alderman, Commission staff investigator, was also called as a witness for the Complainant. Charleton Beh, President of Holly Creek, and Joe Lindon, the Field Supervisor, testified on behalf of the Defendant.

STATEMENT OF THE CASE

Holly Creek is a gas exploration and production company with holdings in Wolfe and Breathitt counties in Eastern Kentucky. Its facilities include 15 wells and approximately 28 miles of gathering system, which serve approximately 43 farm tap customers, including Bethany Christian.⁴ As a gathering system serving farm tap

¹ Answer at paragraph 2.

² Id. at paragraph 1. The answer does not establish when the adjustment was made or the nature of the adjustment.

³ The first informal conference was held on January 27, 1999. The second was held on March 29, 1999.

⁴ Transcript at 61.

customers, Holly Creek is subject to the Commission's jurisdiction pursuant to KRS 278.485.

Bethany Christian is an elementary school located in Wolfe County, Kentucky. The school serves approximately 70 students in grades K through 8. Some of these students are boarding students who remain on the campus during the school year. During the summer months, other groups of individuals temporarily occupy the campus buildings. The campus is comprised of approximately 10 to 12 major buildings which include a used clothing store, print shop, dining hall, office, church, dormitory, gym and several other school buildings and residences.⁵

As originally installed in 1968 or 1969, the metering facilities at Bethany Christian included an American Meter No. 2300, a 20 psi compensating index, and a 0-100 psi adjustable regulator.⁶ In order for the equipment, as installed, to properly measure gas consumption at the school, there had to have been 20 psi of constant pressure flowing from the regulator to the meter.⁷ The index assumes a constant pressure and provides the factor (here, 20 psi) by which the cubic feet measurement taken at the meter is multiplied. The result of the calculation indicates gas consumption [meter reading in cubic feet \times index factor = Mcf per month consumed]. If there is less than 20 psi of pressure flowing through the meter to an index set at 20 psi, however, the index provides the wrong factor and results in an inaccurate measure of the gas consumed.

⁵ Id. at 21-23.

⁶ Id. at 64.

⁷ Id. at 48-50.

Mr. Allen testified that he came to Bethany Christian in June 1993.⁸ Mr. Allen stated that since his arrival he has noticed a fluctuation in the gas pressure on both the inlet side of the meter as well as the discharge side of the meter. Mr. Allen testified the pressure fluctuations and high gas bills caused him to be concerned that the school's gas usage was being metered incorrectly.⁹ After contacting the Commission in 1997 regarding his concerns, Mr. Allen stated that he consulted Larry Cox of Cox Metering Service. According to Mr. Allen, Larry Cox confirmed his suspicion that the metering was in error.¹⁰ Mr. Allen stated that Larry Cox informed him that there must be 20 psi of constant pressure coming in to the system in order for consumption to be measured accurately.¹¹

Mr. Allen also testified to the time period for which Bethany Christian seeks reimbursement as well as the method he used to calculate the reimbursement amount. He testified that he compared the total amounts billed to the school from 1993 through 1997 to the total amount billed for 1998 in order to calculate the reimbursement amount.¹² He explained that he used 1998 as a benchmark because he concluded the bills were close to accurate once the 20 psi index was changed to a 10 psi index in December 1997.¹³ He also explained that the reimbursement he requested failed to

⁸ Transcript at 28.

⁹ Id. 30-33.

¹⁰ Id. at 17 and 26.

¹¹ Id. at 34-35.

¹² Id. at 36-39.

¹³ Id. at 37.

account for variances in heating degree days during the period as well as the fact that the gas supply to a house and trailer was cut off during 1998.¹⁴

Finally, Mr. Allen presented evidence that the school continued to receive pressure less than that required for accurate billing.¹⁵ Mr. Allen testified that the Complainant's Exhibit 1 was a record of the daily pressure readings taken at Bethany Christian's metering facilities. The exhibit indicates that the pressure averaged less than 10 psi from January 28, 1999 through April 19, 1999. Since the index was adjusted to 10 psi in December 1997, Mr. Allen testified that he believed that the school continued to be overbilled because it was receiving less than the required 10 psi of pressure.¹⁶

With regard to the time period during which overbilling occurred, Mr. Beh testified that the overbilling began in June 1996. Mr. Beh stated that in June 1996 his former Field Supervisor, Milford Tolson, adjusted the setting on the regulator from 20 psi to 10 psi but failed to adjust the index accordingly.¹⁷ Mr. Beh conceded that the adjustment to the regulator caused the system to be out of balance with the regulator set at 10 psi and the index set at 20 psi.¹⁸ Mr. Beh stated that the imbalance came to his attention in December 1997, at which time a 10 psi index was installed at Bethany Christian.¹⁹ At

¹⁴ Id. at 37-38.

¹⁵ Id. at 14-16.

¹⁶ Id. at 12-15.

¹⁷ Id. at 64.

¹⁸ Id. at 105.

¹⁹ Id. at 64.

the time the 10 psi index was installed, Mr. Beh testified that Joe Lindon (who replaced Milford Tolson as Field Supervisor) checked the pressure gauges. According to Mr. Beh, Mr. Lindon advised him that the first gauge appeared to be malfunctioning, the second gauge read 15 psi, and the third gauge read 18 psi.²⁰

Although, he acknowledged that one of the two functioning gauges must have been wrong,²¹ Mr. Beh testified that he used these same gauge readings to calculate the refund amount that he originally offered Mr. Allen.²² Using the 15 psi pressure recorded at gauge #2,²³ Mr. Beh compared the actual pressure reading of 15 psi to the assumed pressure of 20 psi (the pressure assumed by the index.) Using this ratio of metered sales to delivered gas, Mr. Beh testified that he offered the school a refund of \$4,679.24 for overbillings from June 1996 to December 1997.²⁴

Mr. Beh also testified that Holly Creek has provided Bethany Christian with adequate gas, both in supply and in pressure, to serve the needs [of the school].²⁵

²⁰ Id. at 65.

²¹ Id.

²² Id. at 65 and 75. Mr. Beh testified to the contents of a letter he sent to Mr. Allen dated December 22, 1997. The letter contained an offer to refund the school \$4,679.24 for overbilled amounts from June 1996 through December 1997.

²³ Id. at 65.

²⁴ Id. at 76.

²⁵ Id. at 67.

During his testimony, Mr. Beh stated that Holly Creek was providing the school with a minimum of 10 psi of pressure.²⁶

DISCUSSION

Adjustments to any bill for gas service must be made in accordance with administrative regulation 807 KAR 5:006, Section 10. Since the parties agree that Bethany Christian was overbilled for gas service but do not agree on the time period during which a billing error existed, the Commission must determine the appropriate time period for the refund. 807 KAR 5:006, Section 10(2), states, in pertinent part, as follows:

If test results on a customer's meter show an average error greater than two (2) percent fast or slow, or if a customer has been incorrectly billed for any other reason, . . . the utility shall immediately determine the period during which the error has existed, and shall recompute and adjust the customer's bill to either provide a refund to the customer or collect an additional amount of revenue from the underbilled customer. The utility shall readjust the account based upon the period during which the error is known to have existed. If the period during which the error existed cannot be determined with reasonable precision, the time period shall be estimated using such data as elapsed time since the last meter test, if applicable, and historical usage data for the customer. . . *If the customer and the utility are unable to agree on an estimate of the time period during which the error existed, the commission shall determine the issue.* (Emphasis added.)

In accordance with the regulation, the Commission finds sufficient evidence to conclude that Bethany Christian was overbilled for gas service from 1993 through 1997. Bethany Christian filed the original bills it received for gas service from January 1993 through October 1998.²⁷ Bethany Christian also provided a chart summarizing the billed

²⁶ Id. at 69.

²⁷ Complainant's Response to the Commission's Order dated October 22, 1998.

amounts during the informal conference held on January 27, 1999. According to the information provided to the Commission, Bethany Christian was billed \$21,641.31 in 1993, \$19,113.47 in 1994, \$25,579.99 in 1995, \$24,234.97 in 1996, \$18,324.78 in 1997, and \$12,196.54 in 1998.

Based upon the billed amount figures, the accuracy of which is uncontested, it is reasonable to conclude that the total amounts billed for the years 1993 through 1997 are disproportionately high compared to the total amount billed for 1998. Because the Complainant originally requested reimbursement for overbilled amounts from December 1993 through December 1997, however, the recovery is limited to the period beginning in January 1994 through December 1997. Based upon the billed amount figures, the Commission, therefore, rejects the position set forth by Holly Creek that the overbilling occurred from June 1996 through December 1997.

With regard to the method for calculating the overbilled amount from January 1994 through December 1997, the Commission finds that the calculation should be based upon historical billing records. This calculation method uses the amount billed in 1998, \$12,196.54, as a reference for determining the amounts which were overbilled from 1994 through 1997. The 1998 benchmark is adjusted upward to \$12,999, however, in order to account for a savings of approximately \$802.50 [150 Mcf/year multiplied by the rate of \$5.35] which Bethany Christian realized by cutting off the gas supply to a house and trailer in 1998. The calculation method also takes into account the differences in heating degree days for each year compared to 1998. The following formula was used to determine the overbilled amount for each year: $\text{yearly heating degree days}/1998 \text{ heating degree days} \times \$12,999 = \text{adjusted billed amount for each}$

year. Appendix A, attached hereto, provides the figures used to determine the overbilled amount for each year from 1994 through 1997. Based upon the calculations set forth in Appendix A, the Commission finds that Bethany Christian was overbilled \$23,674 from January 1994 through December 1997.

Based upon the evidence of record and being otherwise sufficiently advised, the Commission HEREBY ORDERS that:

1. The Complainant's requested relief is granted as set forth herein.
2. Holly Creek shall refund Bethany Christian \$23,674 for overbilled amounts from January 1994 through December 1997.
3. Within 60 days from the date of this Order, Holly Creek shall file with the Commission a plan which sets forth the company's proposal for making a refund of \$23,674 no later than 3 years from the date of this Order.

Done at Frankfort, Kentucky, this 28th day of July, 1999.

By the Commission

ATTEST:

Executive Director

APPENDIX A

AN APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 98-282 DATED JULY 28, 1999

	1994	1995	1996	1997	1998
Heating degree days	4117	4418	4672	4464	3616
Actual billed amount	\$19,113	\$25,579	\$24,234	\$18,324	\$12,196
Adjusted billed amount	\$14,812	\$15,895	\$16,809	\$16,060	\$12,999
Estimated refund	\$4,301	\$9,684	\$7,425	\$2,264	0

\$4,301
\$9,684
\$7,425
+ \$2,264
\$23,674