

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

| | | |
|---------------------------------|---|-----------------|
| PETITION OF ALLEN COUNTY GAS |) | |
| TRANSPORTATION, INC. FOR |) | |
| APPROVAL OF A CERTIFICATE OF |) | |
| CONVENIENCE AND NECESSITY TO |) | CASE NO. 99-260 |
| CONSTRUCT AND OPERATE A |) | |
| NATURAL GAS DISTRIBUTION SYSTEM |) | |

O R D E R

On June 16, 1999, Allen County Gas Transportation, Inc. ("Allen County") filed a petition with the Commission seeking approval for a Certificate of Convenience and Necessity to construct and operate a natural gas distribution system. In its petition, Allen County requested it be allowed to deviate from certain of the Commission's filing requirements. On July 15, 1999, the Executive Director, by letter, informed Allen County that its petition could not be accepted because its filing was deficient: it had failed to comply with the filing requirements set out in the Commission's administrative regulations. Also on July 15, 1999, the Commission, by Order, addressed Allen County's request for deviation from certain filing requirements of the Commission. With that Order the Commission informed Allen County that if the required information was not filed within 15 days from the date of the Order, its filing would be rejected and its case dismissed.

On July 30, 1999, Allen County filed a response to the letter and Order, curing some deficiencies but leaving several areas still deficient. Allen County had not even

addressed all of the items for which its request for deviation had been denied. On August 23, 1999, the Commission issued an Order that described in detail the information that Allen County would need to file in order to cure its deficiencies and scheduled an informal conference between Allen County and members of Commission Staff to discuss the remaining deficiencies. On August 30, 1999, Staff met with representatives of Allen County in an informal conference to clarify the outstanding deficiencies and specifically to identify the information Allen County was required to file in order to cure those deficiencies.

On September 15, 1999, Allen County requested a 60-day extension of time to file the information necessary to cure its filing deficiencies. By Order dated October 7, 1999, the Commission granted Allen County a 30-day extension of time and informed Allen County that if, at the expiration of the 30-day period, it had not responded to the July 15, 1999 Order and letter, its application would be dismissed without prejudice. On November 8, and December 13, 1999, Allen County filed additional information; however, that information failed to cure all of its outstanding filing deficiencies.

DISCUSSION

After consideration of the record and being otherwise sufficiently advised, the Commission finds that Allen County has not met the minimum filing requirements for the financing and rate components of its application. Absent adequate information supporting its proposed financing, Allen County's application remains deficient, and the Commission cannot assess the proposed Certificate of Convenience and Necessity to construct a gas distribution system, nor can the Commission make reasoned determinations concerning Allen County's requests for approval of financing and rates.

Therefore, in accordance with its earlier Orders, the Commission has determined that the petition of Allen County should be dismissed without prejudice.

Neither Allen County nor other parties interested in the provision of natural gas service in the area that Allen County proposes to serve should view this decision as a final denial of the project. The Commission is supportive of such efforts and will approve a proposal that is demonstrably feasible and in the best interests of the potential customers in the area.

Prior to our issuing Orders that would provide the opportunity for such projects to be approved, the parties proposing such projects must provide assurances to the Commission on several key points. They must assure the Commission that the individuals and parties proposing such ventures are appropriately qualified, adequately financed, and committed to attaining their goals in a manner consistent with sound regulatory practices and the Commission's performance of its duties in accordance with the statutes that govern its responsibility as a regulatory agency. Unless the parties that apply for approval to establish a new utility can provide such assurances and demonstrate that they are able and willing to comply with the requisite necessities of regulation, the Commission cannot issue Orders of approval.

This decision does not close the door on Allen County's efforts to attempt to construct a natural gas distribution system and provide natural gas service. Should it wish to continue this endeavor, the Commission suggests that Allen County contact the Commission requesting assistance from the Commission Staff in further developing its proposal and preparing an application that will provide adequate justification for the project. Such a filing must comply with applicable regulations, meeting the minimum filing requirements and providing information that demonstrates the feasibility of the proposed project. A filing of this nature by Allen County would demonstrate to the Commission and to the parties interested in having natural gas service brought to their area that Allen County is capable of providing natural gas service to an area of the Commonwealth where such service currently is non-existent.

IT IS THEREFORE ORDERED that Allen County's petition for a Certificate of Convenience and Necessity to construct a gas distribution system is dismissed without prejudice.

Done at Frankfort, Kentucky, this 22nd day of December, 1999.

By the Commission

ATTEST:

Executive Director