

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF BLAZER ENERGY CORP., INC.)
A WHOLLY OWNED SUBSIDIARY OF EASTERN) CASE NO. 98-489
STATES OIL & GAS, INC. TO ADJUST RATES)

O R D E R

On February 29, 2000, Pike County Citizens United for Justice, Randall Ratliff, Jonah May, Marquette Deskins, and Linda McCoy ("intervenors") filed, pursuant to KRS 278.400, a request for rehearing of the Commission's February 9, 2000 Order. The intervenors claim that the right-of-way ("ROW") customers have certain rights under KRS 278.485 and that the Commission has the jurisdiction to protect those rights. The intervenors argue that because they are landowners over which company pipelines are laid, their gas service falls under the provisions of KRS 278.485 and, therefore, under the jurisdiction of the Commission.

The intervenors' reliance upon KRS 278.485 is misplaced. KRS 278.485 grants to certain situated persons the right to obtain gas service from gas pipeline companies. It requires those persons so situated to apply for gas service pursuant to the statute. Only under these circumstances is such service subject to the statute. Public Service Commission of Kentucky v. Kentucky West Virginia Gas Co., 531 S.W. 2d 491 (Ky., 1975).

In this case there is no evidence that any ROW customer has applied for or has received gas service pursuant to KRS 278.485. Instead, the ROW customers receive their gas service exclusively under the terms of the right-of-way agreements. The obligation to furnish natural gas to the ROW customers is based upon the consideration set out in the right-of-way agreements and not pursuant to KRS 278.485. The intervenors have not offered to produce any new evidence that could not have been reasonably available in the former hearing and the issues specified in the rehearing application have been heretofore decided by the Commission.

IT IS THEREFORE ORDERED that the application for a rehearing filed by the intervenors is denied.

Done at Frankfort, Kentucky, this 16th day of March, 2000.

By the Commission

ATTEST:

Executive Director