

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

GASCO DISTRIBUTION SYSTEMS, INC.)	
_____)	CASE NO. 2000-147
ALLEGED VIOLATION OF KRS 278.020)	

O R D E R

On April 3, 2000, the Commission ordered Gasco Distribution Systems, Inc. (“Gasco”), Fred A. Steele, and Charles D. Hercher (collectively “Respondents”) to show cause why they should not be penalized under KRS 278.992(1) for an alleged violation of KRS 278.020(1). Responding to this Order, Respondents have requested that the proceeding be dismissed on the grounds that the alleged misconduct does not constitute a violation of and is not related to any minimum safety standard established by federal pipeline safety laws. Respondents assert that the Commission is therefore “without jurisdiction to impose a penalty.”¹ The Commission shall consider Respondents’ response as a motion to dismiss this investigation.

The Commission has “exclusive jurisdiction over the regulation of rates and services of utilities.” KRS 278.040(2). Our statutory authority includes the authority to enforce the provisions of KRS Chapter 278. KRS 278.040(1). Pursuant to KRS 278.990(1), the Commission must assess a civil penalty against any utility or any utility officer, agent, or employee who willfully violates a provision of KRS Chapter 278.

¹ Gasco’s Response to Order of April 3, 2000 at 3.

Pursuant to KRS 278.992(1), the Commission further has the authority to assess a penalty against any person who violates any minimum safety standard set forth in federal pipeline safety laws.

In our Order of April 3, 2000, we made certain allegations that suggest that Gasco and certain Gasco officials violated KRS 278.020(1). While such a violation would not constitute a violation of any federal pipeline safety law, it would constitute a violation of KRS Chapter 278 and, therefore, would subject Gasco and these officials to civil penalties pursuant to KRS 278.990(1).

Accordingly, we find that the Commission has jurisdiction over the issues presented in the Order of April 3, 2000, and that Respondents' motion to dismiss should be denied. We further find that the Order of April 3, 2000 should be amended to reflect the statutory authority for the possible assessment of any civil penalty arising from this investigation and that the Respondents should be afforded an opportunity to supplement its response in light of that amendment.

IT IS THEREFORE ORDERED that:

1. Gasco's motion to dismiss is denied.
2. The hearing in this matter, originally scheduled for May 11, 2000, is cancelled and rescheduled to June 22, 2000.
3. Ordering Paragraph 1 of the Commission's Order of April 3, 2000 is amended as follows:

1. Gasco shall appear before the Commission on June 22, 2000 at 9:30 a.m., Eastern Daylight Time, in Hearing Room 1 of the Commission's offices at 211 Sower Boulevard, Frankfort, Kentucky for the purpose of presenting evidence concerning the alleged violations of KRS 278.020(1), and of showing cause why it should not be

subject to the penalties prescribed in KRS 278.990(1) for this alleged violation.

4. Ordering Paragraph 2 of the Commission's Order of April 3, 2000 is amended as follows:

2. Fred A. Steele, president of Gasco, and Charles D. Hercher, project engineer, shall also appear before the Commission on June 22, 2000 at the same time and place as stated above for the purpose of presenting evidence concerning their conduct to aid and abet Gasco's violation of KRS 278.020(1), and of showing cause why each should not be subject to the penalties prescribed in KRS 278.990(1) for this alleged violation.

5. Within 20 days of this Order, Respondents may supplement their response to the Order of April 3, 2000.

Done at Frankfort, Kentucky, this 5th day of May, 2000.

By the Commission

ATTEST:


Executive Director