

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

SIGMA GAS CORPORATION)	
_____)	CASE NO. 2000-345
)	
ALLEGED VIOLATION)	
OF KRS 278.020)	

O R D E R

On July 18, 1999, Sigma Gas Corporation (“Sigma”) filed an application for approval of financing.¹ In the course of that case, it was discovered that Sigma had exceeded its authority as granted by a Certificate of Public Convenience and Necessity to construct plant facilities in Case No. 94-435.²

By Order dated August 22, 1995 in Case No. 94-435, Sigma was granted a certificate to construct 13.5 miles and 3.5 miles of natural gas distribution facilities in Magoffin County, Kentucky. Sigma was also directed to file with the Commission a copy of the final construction contract and construction schedule 15 days prior to construction. Sigma was further ordered to file the actual-cost report and as-built plans within 3 months after completion of construction. No such documents have been filed in Case No. 94-435.

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

² Case No. 94-435, The Petition of Sigma Gas Corporation for Approval of a Certificate of Convenience and Necessity to Construct Facilities and Approval of Financing.

In Case No. 99-074, Sigma applied for financing to re-finance its prior loans and for additional funding. In response to an information request dated May 5, 1999, Sigma furnished the Commission information indicating Sigma had constructed new plant without obtaining a certificate to construct said plant, as required by KRS 278.020(1). KRS 278.020(1) prohibits any person, partnership, public or private corporation, or combination thereof, from beginning construction of any plant, equipment, property, or facility for furnishing to the public any of the services enumerated in KRS 278.010 until such person has obtained from the Commission a certificate that the public convenience and necessity require such construction. According to the information supplied by Sigma in its response to this data request, the construction consisted of approximately 18 miles of new gas distribution mains and facilities to provide natural gas to approximately 200 new customers. These customers were in addition to the 250 customers Sigma anticipated adding with the construction approved in Case No. 94-435.

Based on the evidence herein, a *prima facie* showing has been made that Sigma is in violation of KRS 278.020(1) by constructing natural gas distribution facilities without a Certificate of Public Convenience and Necessity and is in non-compliance of an Order of this Commission. A *prima facie* showing has been made that Estill Branham, President of Sigma, has aided and abetted Sigma in its violation of KRS 278.020(1) in its construction of the facilities without first obtaining a Certificate of Public Convenience and Necessity from the Commission and in its non-compliance with an Order of the Commission.

The Commission, on its own motion, HEREBY ORDERS that:

1. Sigma shall appear before the Commission on August 30, 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 violation of KRS 278.020(1) and the Commission's Order dated August 22, 1995 in Case No. 94-435, and of showing cause why it should not be subject to the penalties prescribed in KRS 278.990(1) for these alleged violations.

2. Estill Branham, President of Sigma, shall also appear before the Commission on August 30, 2000, at the same time and place as stated above, for the purpose of presenting evidence concerning his conduct to aid and abet Sigma's violation of KRS 278.020(1) and the Commission's Order dated August 22, 1995 in Case No. 94-435, and of showing cause why he should not be subject to the penalties prescribed in KRS 278.990(1) for this alleged violation.

3. Within 20 days of the date of this Order, Sigma and Estill Branham each shall file a written response to the Commission concerning the allegations contained herein.

4. The records in Case No. 94-435, Case No. 96-252, Case No. 98-244, and Case No. 99-074 are incorporated by reference into the record of this proceeding.

5. Any motion requesting an informal conference with Commission Staff to consider any matter which would aid in the handling or disposition of this proceeding shall be filed with the Commission no later than 20 days from the date of this Order.

Done at Frankfort, Kentucky, this 11th day of July, 2000.

By the Commission

Chairman B. J. Helton took no part in the deliberations or decision concerning this case.

ATTEST:


Executive Director