

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN INVESTIGATION INTO THE RELIABILITY)
OF THE NATURAL GAS SUPPLY FOR) CASE NO. 2000-346
STEPP BRANCH GAS COMPANY AND)
ALLEGED VIOLATIONS OF KRS 278.300)

O R D E R

Stepp Branch Gas Company ("Stepp Branch"), a Kentucky corporation that owns and operates facilities used in the distribution, sale, and furnishing of natural gas to the public for compensation in Martin County, Kentucky, is a utility subject to Commission jurisdiction. KRS 278.010(3)(b) and KRS 278.040.

By Order dated July 7, 2000, the Commission required Stepp Branch to appear before the Commission to present evidence on the adequacy of its current natural gas supply and its ability to provide adequate, efficient, and reasonable utility service during the 2000-2001 winter heating season, and, if it lacks adequate supplies of natural gas, to show cause why it should not be required to cease providing natural gas service to the public. In addition, the Commission ordered James G. Sluss (the former owner of Stepp Branch) and Michael Davis and Lisa M. Davis (the present owners and operators) to appear before the Commission for the purposes of presenting evidence concerning their alleged violation of KRS 278.020(4) and (5) and to show cause why they should not be subject to the penalties prescribed in KRS 278.990(1) for their alleged conduct.

James G. Sluss, Michael Davis, and Lisa M. Davis were each ordered to respond to the allegations in writing within 20 days of the date of the July 7, 2000 Order. Stepp Branch, Michael Davis, and Lisa Davis filed a response on July 31, 2000.

Since the issues that bear upon the existence of Stepp Branch as a distribution company concern Stepp Branch only, we find that the issues concerning James G. Sluss should be addressed in a separate proceeding. Accordingly, the allegations concerning James G. Sluss should be severed and treated separately.

A formal hearing was held on August 25, 2000. Michael Davis, shareholder and operator of Stepp Branch Gas Company, testified among other things that he had had recent contact with a representative of Columbia Natural Resources (“CNR”) concerning a source of natural gas supply for Stepp Branch for the upcoming winter heating season. The Commission then adjourned the hearing and directed Stepp Branch to present written evidence regarding its ability to provide an adequate supply of natural gas to its customers. Stepp Branch was also directed to file a copy of any signed agreement for a supply of natural gas for the 2000-2001 winter heating season and to provide notice to each customer by first class mail that the formal hearing would be reconvened on September 19, 2000.

The formal hearing in this matter was reconvened on September 19, 2000 at the time scheduled in the Commission’s Order of August 29, 2000. Present at that hearing were Michael Davis and Lisa Davis. After some discussion, it was determined that Stepp Branch had entered into an agreement with Commission Staff which would, if accepted by the Commission, dispose of the issues concerning Stepp Branch.¹

¹ Transcript of Evidence, September 19, 2000 hearing, at 7, 12.

The agreement between Commission Staff and Stepp Branch was entered in the record and will be regarded as stipulations of fact by the Commission.² Stepp Branch and Commission Staff stipulated to the following:

1. Stepp Branch does not have an adequate supply of natural gas for the winter heating season as alleged in the show cause Order.³

2. Stepp Branch does not have a contract or written agreement from any supplier of natural gas to serve its system for the 2000-2001 winter heating season.⁴

3. CNR has supplied Stepp Branch with a temporary tap and gas supply for the past two seasons. CNR has indicated it will provide this temporary tap for the 2000-2001 season, but no longer.⁵

4. Stepp Branch cannot service its customers if CNR does not furnish a temporary supply of natural gas.⁶

5. Stepp Branch will cease operations as a local distribution company on April 1, 2001.⁷

6. Stepp Branch will remove its meters and plug its lines.⁸

² *Id.* at 12-17.

³ *Id.* at 12-13.

⁴ *Id.* at 13.

⁵ *Id.*

⁶ *Id.* at 13-15.

⁷ *Id.* at 15.

⁸ *Id.* at 15-16.

7. Stepp Branch will notify its customers that it will cease operations as a local distribution company.⁹

The Commission, after reviewing the record and considering the stipulations between Stepp Branch and Commission Staff, makes the following findings of fact and conclusions of law:

1. No application for the transfer of control or ownership of Stepp Branch to Michael or Lisa Davis has been filed with the Commission, which is a violation of KRS 278.020(4)(5).

2. Stepp Branch owns two natural gas wells in Martin County, Kentucky that serve as the utility's principal supply of natural gas.

3. On December 30, 1998, Stepp Branch experienced low pressure in its system that resulted in the loss of service to its residential customers for approximately 6 days. With the assistance of Commission Staff, Stepp Branch obtained a temporary supply of natural gas from CNR on January 12, 1999 for a 90-day period and was thus able to avoid additional system problems.

4. Following the 1998-1999 winter heating season, Stepp Branch failed to secure additional sources of natural gas.

5. Prior to the 1999-2000 winter heating season, Stepp Branch attempted to refurbish its natural gas wells to ensure a reliable supply of natural gas. These efforts, however, failed to increase the output or reliability of the wells.

⁹ *Id.* at 16-17.

6. During the 1999-2000 winter heating season, CNR, at the request of Commission Staff, again agreed to provide natural gas to Stepp Branch on a temporary basis.

7. CNR removed its tap to Stepp Branch and ceased providing natural gas to Stepp Branch after February 1999.

8. Stepp Branch does not have a written contract or agreement with any person to furnish Stepp Branch with a supply of natural gas for the 2000-2001 winter heating season.

9. Stepp Branch does not have an adequate supply of natural gas for the 2000-2001 heating season and is unable to secure an adequate natural gas supply to provide service to its customers.

10. Stepp Branch will be able to provide service to its customers during the 2000-2001 winter season only if an emergency gas supply is arranged with CNR.

11. An arrangement has been made on a temporary basis with CNR to provide Stepp Branch with a temporary natural gas supply for the 2000-2001 season only.

12. Stepp Branch will cease operations as a natural gas distribution company on or before April 1, 2001.

13. Stepp Branch will notify its customers of the termination of service and take all necessary steps to cease operations as a local distribution company.

Pursuant to KRS 278.260, the Commission is authorized to make an investigation of any utility under its jurisdiction to determine if that utility's service is insufficient or inadequate. The evidence produced in the hearing and in the stipulations

made by Stepp Branch establish that Stepp Branch has neither the resources nor supply to provide its customers with adequate natural gas service. It is therefore incumbent upon the Commission to determine the reasonable and proper practice to be employed by the utility. KRS 278.280.

Having considered the record including the stipulations herein, the Commission HEREBY ORDERS that:

1. The allegations contained herein against James G. Sluss are severed from this proceeding.

2. The agreement and stipulations entered into between Stepp Branch and Commission Staff are adopted by reference.

3. Michael Davis and Lisa Davis are assessed a penalty of \$2,500.00 for the violation of KRS 278.020(4).

4. Within 30 days of the date of this Order, Michael Davis and Lisa Davis shall remit the sum of \$25.00 by certified check payable to the Kentucky State Treasurer and shall mail or deliver the check to the Office of General Counsel, Public Service Commission, 211 Sower Boulevard, Post Office Box 615, Frankfort, Kentucky.

5. The balance of the penalty, \$2,475.00, shall be suspended upon the condition that Michael Davis, as owner and operator of Stepp Branch, timely complies with ordering paragraphs 6 through 8 of this Order. Commission Staff will continue to monitor the operations of Stepp Branch concerning its timely compliance with the cessation of its operations as a local distribution company pursuant to the terms of this Order.

6. Stepp Branch shall cease operations as a natural gas distribution company on or before April 1, 2001.

7. On or before April 1, 2001, Stepp Branch shall certify to the Commission that its operations as a natural gas distribution company have been terminated, pursuant to 807 KAR 5:022, Section 14(15), by performing the following:

a. Service to each customer shall be terminated individually at each customer's meter and said meter shall be removed and the service line sealed.

b. Any connector valve and any pipe located between the source of Stepp Branch existing wells and the main gas line shall be locked and sealed.

8. On or before November 15, 2000, Stepp Branch shall give notice by certified mail, return receipt requested, to each Stepp Branch customer that it will remove its gas meters and seal its service lines prior to April 1, 2001, and that it will cease operations as a natural gas distribution company on April 1, 2001.

9. On or before January 1, 2001, Stepp Branch shall give notice to the general public that it will cease operations as a local distribution company on April 1, 2001 by publishing notice in a newspaper of general circulation in the area served by Stepp Branch, with proof of publication to be filed with the Commission.

Done at Frankfort, Kentucky, this 1st day of November, 2000.

By the Commission

ATTEST:


Executive Director