

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

SIGMA GAS CORPORATION)	
)	
COMPLAINANT)	
)	
V.)	CASE NO. 2004-00018
)	
B.T.U. GAS COMPANY, INC.)	
)	
DEFENDANT)	

O R D E R

On January 14, 2004, Sigma Gas Corporation (“Sigma”) filed a formal complaint against B.T.U. Gas Company, Inc. (“BTU”) alleging that BTU constructed natural gas facilities to serve customers which were being served by Sigma. Sigma also alleges that BTU extended service within Sigma’s territory to compete for existing and new retail customers that could be served by Sigma. Sigma further alleges that a Certificate of Public Convenience and Necessity is required for said construction or extension by BTU since such construction is not an ordinary extension in the usual course of business pursuant to KRS 278.020 because it would create wasteful duplication of facilities. Sigma states it is able and willing to provide gas service to all customers.

Pursuant to KRS 278.380, BTU was served with a Satisfy or Answer Order by the Commission, but has failed to file any answer.

Based upon the failure of BTU to file an answer to the complaint of Sigma, we find that the list of contested customers attached to the complaint is uncontroverted and that Staff may assume that the list is correct for purposes of further information requests. BTU's failure to file an answer as directed is itself a violation of a Commission Order and renders BTU, its officers, and employees subject to the penalty provisions of KRS 278.990(1).¹

We further find that a formal hearing should be conducted to determine whether BTU has constructed facilities in violation of KRS 278.020(1).

IT IS THEREFORE ORDERED that:

1. On or before March 15, 2004, Sigma shall file with the Commission the original and 4 copies of the information requested in Appendix A hereto, with a copy to all parties of record. Each copy of the requested information shall be bound with each item tabbed. When a number of sheets are required for an item, each sheet should be appropriately indexed, for example, Item 1(a), Sheet 2 of 6. Sigma shall include with each response the name of the witness who will be responsible for responding to questions relating to the information provided. Careful attention shall be given to copied material to ensure its legibility.

2. On or before March 15, 2004, BTU shall file with the Commission the original and 4 copies of the information requested in Appendix B hereto, with a copy to all parties of record. Each copy of the requested information shall be bound with each item tabbed. When a number of sheets are required for an item, each sheet should be

¹ KRS 278.990(1) provides for civil penalties up to \$2,500, or 6 months in jail, or both, for each violation for any officer, agent, or employee of a utility who willfully violates any Order of the Commission.

appropriately indexed, for example, Item 1(a), Sheet 2 of 6. BTU shall include with each response the name of the witness who will be responsible for responding to questions relating to the information provided. Careful attention shall be given to copied material to ensure its legibility.

3. A formal public hearing shall commence at 10:00 a.m., Eastern Daylight Time, on April 6, 2004, in Hearing Room 1 of the Commission's offices at 211 Sower Boulevard, Frankfort, Kentucky.

4. Motions for extensions of time with respect to the schedule herein shall be made in writing and will be granted only upon a showing of good cause.

5. Service of any document or pleading shall be made in accordance with 807 KAR 5:001, Section 3(7), and Kentucky Civil Rule 5.02.

6. Nothing contained herein shall prevent the Commission from entering further Orders in this matter.

Done at Frankfort, Kentucky, this 23rd day of February, 2004.

By the Commission

ATTEST:


Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2004-00018 DATED February 23, 2004

1. Provide a map of Sigma's distribution system within the area of Salyersville, which will:
 - a. Show Sigma's mains and service connections for the customers listed in the attachment to its complaint.
 - b. Identify the customers and designate on said map of its system the location of the customers that were served by Sigma, but are now served by BTU.
 - c. Identify the area that Sigma claims is within its service territory, but is now being served by BTU according to the customer list attached to the complaint.
2. Provide the installation date of any facilities by Sigma as described in Item 1 above.
3. Refer to the customer list attached to Sigma's complaint. Are any of those customers located within a franchised area? If yes, how many?
4. Provide all correspondence, phone contacts, e-mails, etc. between Sigma and the customers listed on the attachment to the complaint that discuss the customers' desire to find another gas supplier or their dissatisfaction with Sigma's service.
5. Provide the actual usage for the period January through December 2003 for each customer listed on the attachment to the complaint.
6. Provide an analysis showing the economic impact to Sigma of the loss of both the customers previously served and the customers that could have been served.

APPENDIX B

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2004-00018 DATED February 23, 2004

1. Provide a map of BTU's distribution system within the area of Salyersville showing BTU's mains and service connections to the customers listed in the attachment to Sigma's complaint, including any customers in the Dixie section of Salyersville, which BTU presently serves.
2. Refer to Item 1 above.
 - a. State the date on which BTU first connected to any customer on the list.
 - b. State the cost of each construction.
 - c. State how the construction was financed (i.e., internally or by loan).
3. Refer to the customer list attached to Sigma's complaint.
 - a. For the each of the customers that Sigma had already been serving, state whether the customer or BTU initiated contact about switching.
 - b. Do any of the customers on the list receive free gas?
 - c. If yes, identify the customers and explain why they are entitled to free gas.
 - d. Provide all correspondence, phone contacts, e-mail, etc. between BTU and the customers listed on the attachment to Sigma's complaint that concern receiving service from BTU.