

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	)	

ORDER

This matter involves the formal complaint of Sigma Gas Corporation (“Sigma Gas”) against B.T.U. Gas Company, Inc. (“BTU”) for alleged violations of KRS 278.020 which BTU allegedly committed by extending its natural gas facilities in and around the city of Salyersville, Kentucky to provide natural gas service to an area that Sigma Gas would otherwise have served.

Sigma Gas filed its complaint with the Commission on January 14, 2004. On June 29, 2004, after BTU answered the complaint and the parties had conducted discovery, the Commission conducted an evidentiary hearing. Shortly thereafter, Sigma Gas petitioned for relief under Chapter 7 of the United States Bankruptcy Code.<sup>1</sup> Since then, this matter has been effectively held in abeyance.

Recent events call into question whether this case should remain on the Commission’s docket. On January 8, 2006, the Kentucky Secretary of State

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<sup>1</sup> In Re: Sigma Gas Corporation, Case No. 04-71003, (Bankr. E.D. Ky. filed October 20, 2004).

administratively dissolved Sigma Gas.<sup>2</sup> On November 21, 2007, the Commission approved the transfer of the assets of Sigma Gas to DLR Enterprises, Inc. and Cow Creek Gas, Inc.<sup>3</sup> This transfer was completed on January 11, 2008.<sup>4</sup>

We find that, in light of these events, the parties to this proceeding should show cause why this proceeding should not be dismissed. We further find that those entities that have acquired the assets of Sigma Gas and that may have an interest in this proceeding, should be afforded an opportunity to intervene in this matter and to demonstrate why the Commission should proceed to issue a decision on the merits of the original complaint.

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

1. All parties to this matter shall, no later than April 15, 2008, show cause why this matter should not be dismissed.
2. Those entities that have purchased the assets of Sigma Gas shall have until April 15, 2008 to move for intervention in this matter and to show cause why this matter should not be dismissed.
3. The Executive Director shall serve a copy of this Order upon DLR Enterprises, Inc. and Cow Creek Gas, Inc.

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<sup>2</sup> See <http://apps.sos.ky.gov/business/obdb/OBDBDisplayImage.aspx?id=608404> (last visited Jan. 22, 2008).

<sup>3</sup> Case No. 2007-00419, Application of DLR Enterprises, Inc. and Cow Creek Gas, Inc. for Approval of the Transfer of Certain Assets Formerly Owned and Controlled by Sigma Gas Company (Ky. PSC Nov. 21, 2007).

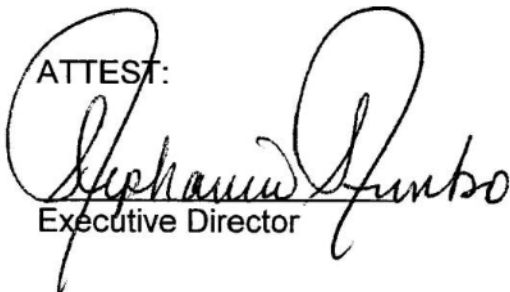
<sup>4</sup> Letter from Jerome A. Kanney, President, Cow Creek Gas, Inc., to Beth O'Donnell, Executive Director, Kentucky Public Service Commission (Jan. 14, 2008) (found in Case No. 2007-00419, Application of DLR Enterprises, Inc. and Cow Creek Gas, Inc. for Approval of the Transfer of Certain Assets Formerly Owned and Controlled by Sigma Gas Company).

Done at Frankfort, Kentucky, this 17<sup>th</sup> day of March, 2008.

By the Commission

Commissioner Clark abstains.

ATTEST:

  
Executive Director