

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AMERIGAS PARTNERS, L.P., )  
AMERIGAS PROPANE, L.P., AND )  
ENERGY TRANSFER PARTNERS, L.P. ) CASE NO. 2013-00337  
\_\_\_\_\_) )  
) )  
ALLEGED FAILURE TO COMPLY WITH )  
KRS 278.020 )

ORDER

On June 21, 2013, AmeriGas Partners, L.P. (“AmeriGas”) and AmeriGas Propane, L.P. (“AmeriGas Propane”) filed an application seeking approval for the acquisition of Heritage Operating, L.P. d/b/a Bright’s Propane Service, Inc. (“Bright’s Propane”), the owner and operator of a gas distribution system in Old Bridge Subdivision, Boyle County, Kentucky.<sup>1</sup> The application stated that on October 15, 2011, AmeriGas, Energy Transfer Partners, L.P. (“Energy Transfer”), Energy Transfer Partners GP, L.P., and Heritage ETC, L.P. entered into a Contribution and Redemption Agreement (“Purchase Agreement”). Under the Purchase Agreement, AmeriGas agreed to acquire the propane operations of Energy Transfer, including its subsidiaries that operated Bright’s Propane. The Purchase Agreement closed on January 12, 2012, and AmeriGas became the owner of Bright’s Propane.

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<sup>1</sup> Case No. 2013-00241, *Application of AmeriGas Partners, L.P. and AmeriGas Propane, L.P., for Approval of the Acquisition of the Utility Assets of Heritage Operating L.P. d/b/a Bright’s Propane Service, Inc. and for Authority to Abandon the Pipeline System and Serve Customers by Other Means* (Ky. PSC June 21, 2013).

Bright's Propane owns and operates facilities that are used in the distribution, sale, and furnishing of natural gas to the public for compensation in Boyle County, Kentucky, and is a utility subject to Commission jurisdiction.<sup>2</sup>

In its Application filed in Case No. 2013-00241, AmeriGas acknowledged that it did not seek Commission approval prior to acquiring Bright's Propane.<sup>3</sup> In addition, the application in Case No. 2013-00241 for approval of the acquisition of ownership and control of Bright's Propane was filed almost one and one-half years after the closing of the Purchase Agreement.

KRS 278.020(5) provides, in relevant part, that:

No person shall acquire or transfer ownership of, or control, or the right to control, any utility under the jurisdiction of the commission by sale of assets, transfer of stock, or otherwise, or abandon the same, without prior approval by the commission.

KRS 278.020(6) provides, in relevant part, that:

No individual, group, syndicate, general or limited partnership, association, corporation, joint stock company, trust, or other entity (an "acquirer"), whether or not organized under the laws of this state, shall acquire control, either directly or indirectly, of any utility furnishing utility service in this state, without having first obtained the approval of the commission.

Based on the statements contained in the application filed by AmeriGas in Case No. 2013-00241 and the above cited statutes, the Commission finds that a prima facie case has been made that AmeriGas and Energy Transfer have violated KRS 278.020(5) and KRS 278.020(6) by the transfer and acquisition of a jurisdictional utility without prior Commission approval. Therefore, the Commission establishes this case to determine

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<sup>2</sup> KRS 278.010(3)(b) and KRS 278.040.

<sup>3</sup> Case No. 2013-00241, at page 4 and at page 4, footnote 2.

whether it is appropriate to assess a civil penalty pursuant to KRS 278.990 for the apparent violations of KRS 278.020(5) and KRS 278.020(6) by AmeriGas and Energy Transfer.

IT IS THEREFORE ORDERED that:

1. AmeriGas and Energy Transfer shall individually or jointly submit to the Commission, within 20 days of the date of this Order, a written response to the allegations contained in this Order.

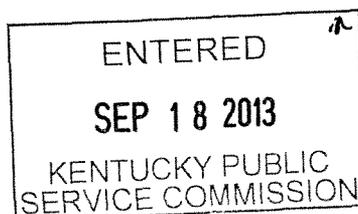
2. AmeriGas and Energy Transfer shall appear on October 24, 2013 at 10:00 a.m., Eastern Daylight Time, in Hearing Room 1 of the Commission's offices at 211 Sower Boulevard in Frankfort, Kentucky, for the purpose of presenting evidence concerning the alleged violations of KRS 278.020(5) and KRS 278.020(6), and to show cause why they should not be subject to the penalties prescribed in KRS 278.990(1) for the alleged violations.

3. The October 24, 2013 hearing shall be recorded by videotape only.

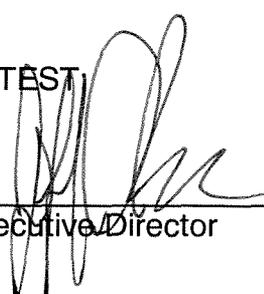
4. Any request for an informal conference with Commission Staff shall be set forth in writing and filed with the Commission within 20 days of the date of this Order.

5. The record of Case No. 2013-00241 shall be incorporated herein by reference.

By the Commission



ATTEST

  
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Executive Director

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