

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In The Matter of:

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| ELECTRONIC INVESTIGATION OF B & H GAS |) | |
| COMPANY, AND BUD RIFE, INDIVIDUALLY AND |) | CASE NO. |
| AS AN OFFICER OF B & H GAS COMPANY; |) | 2019-00055 |
| ALLEGED VIOLATION OF KRS 278.300 |) | |

**ATTORNEY GENERAL’S RESPONSE TO B&H’S RESPONSE TO
COMMISSION’S ORDER INITIATING INVESTIGATION**

Comes now the intervenor, the Attorney General of the Commonwealth of Kentucky, by and through his Office of Rate Intervention, and states as follows for his Response to B&H’s Response to the Kentucky Public Service Commission’s (“Commission”) Order initiating the investigation in this case.

The Commission has broad authority under KRS 278.250, 278.260, 278.280 and 278.990 to investigate utilities. As noted in the Commission’s Order dated February 27, 2019 initiating this investigation, the Commission has had “longstanding concerns regarding the operation and management of B&H by Mr. Rife.”¹ B&H’s ratepayers deserve the right to know what they are paying for when they receive their bills; moreover, they have a right to know the reasons for the significant increase in rates B&H proposes in its rate case.²

B&H’s application filed in Case No. 2018-00433 requests a significant increase in base rates premised at least in part on newly-provided evidences of indebtedness, in the form of promissory notes entered into with closely-affiliated entities. That application, filed under the Commission’s ARF procedure pursuant to 807 KAR 5:076, contained Mr. Rife’s sworn

¹ Order Initiating Investigation, p. 2.

² Case No. 2018-00433.

statement as “. . . an officer who is duly designated by the applicant and who has knowledge of the matters established in the application,”³ indicating that to the best of his knowledge all information set forth in the application was true and correct.⁴ Under the ARF regulation, had the Commission not provided a final order within six (6) months, B&H could have put the proposed rates into effect subject to refund.⁵ Importantly, the rates B&H intended to charge its customers included the amortization of the debts set forth in the promissory notes, which the utility has now inexplicably withdrawn mere months following their creation. The revocation of these promissory notes calls into question the very nature of B&H’s operations, and Mr. Rife’s fiduciary duty to the utility.

The Commission’s determination of fair, just and reasonable rates is contingent upon the information and candor of the applicant,⁶ including the dependability of the authorized signatory of the application. The cursory manner in which B&H entered into and provided the promissory notes, only to subsequently withdraw them, begs the question of exactly how B&H handles its internal and external finances, and places the validity of all financial information, which forms the basis of the application at hand, into question. Mr. Rife’s actions thus demonstrate an intentional lack of candor with this Commission, and B&H’s ratepayers.

The closely-held, closely-affiliated nature and structure of Mr. Rife’s enterprises has direct bearing on B&H’s rates. The failure to follow even basic accounting, financial and legal

³ 807 KAR 5:076, Sec. 4(1).

⁴ Much of alleged debt embodied within the scope of B&H’s promissory notes submitted in the ARF application was also submitted into the record of B&H’s gas cost investigation case, Case No. 2015-00367, again under oath.

⁵ 807 KAR 5:076 Sec. 7(2).

⁶ Case No. 2018-00230, *Electronic Application of Southern Water and Sewer District for an Alternative Rate Adjustment*, Order (Ky. PSC Jan. 31, 2019) p. 4, where the Commission dismissed an alternative rate adjustment based on the utility’s “lack of candor and a failure to properly provide documentation,” and due to the Commission’s inability to rely on the information provided.

formalities, much less the affiliate accounting rules set forth in KRS Ch. 278, result in abuse of the public trust, and place the financial solvency of these enterprises in question.

Therefore, the Attorney General urges the Commission to continue a generalized investigation into B&H's finances, before it allows B&H's pending rate case to proceed.

Respectfully submitted,

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Certificate of Service and Filing

Counsel certifies that the foregoing is a true and accurate copy of the same document being filed in paper medium with the Commission within two business days; that the electronic filing has been transmitted to the Commission on March 22, 2019; that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding.

This 22nd day of March, 2019.



Assistant Attorney General