

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

Electronic INVESTIGATION OF JURISDIC-)
TIONAL STATUS OF EAST KENTUCKY)
MIDSTREAM, LLC, AND OF ITS COMPLI-)
ANCE WITH KRS CHAPTER 278, 807 KAR)
CHAPTER 005, AND 49 CFR PARTS 191)
AND 192)

Case No.
2022-00238

**MOTION TO EXCUSE/SUBSTITUTE FOR DARRELL PARKS AND
FURTHER RESPONSE TO KY. FRONTIER REQUEST RE MICHAEL HARRIS**

East Kentucky Midstream, LLC (“EKM”), by counsel, in accordance with the Commission’s 3/11/25 Order ¶12, hereby submits a showing of good cause why the Commission should excuse EKM employee Darrell Parks from the hearing scheduled in this matter for May 19 and 20, 2025. In addition, EKM herein further responds to Kentucky Frontier Gas (KFG) counsel’s arguments that Commission employee Michael Harris should be a witness at the hearing in this investigation, which began with a complaint and request for declaratory order from his former employer, KFG. Excusing both of these witnesses does not diminish the extensive record already established in this matter, nor is participation by these particular individuals in this hearing required for the Commission to make factual findings on the configuration and operation of EKM’s system (a.k.a. the former Jefferson Gas, LLC system), given that other witnesses present at the hearing can speak to those matters.

MOTION

In support of the motion to excuse/or substitute for Darrell Parks from appearing the hearing, EKM states the following:

1. Jack Banks and Darrell Parks were deposed as EKM employees by Commission staff in this matter on June 22, 2023. The transcripts of those depositions are part of this record.

2. Jack Banks is a retired employee of EKM, and currently consults for EKM. He has the most extensive experience and knowledge of the configuration and operation of the EKM system.

3. Jack Banks will appear as a witness in this matter at the May 19, 2023, hearing. Given that Jack Banks and Darrell Parks have the most experience with regard to operating the EKM system, it would not be good safety practice for both to be away from the system at the same time.

4. Both EKM's offices and Darrell Parks lack the technology and connectivity for Mr. Parks to appear at the hearing virtually/remotely with both video and audio. If Mr. Parks is required to testify virtually, it may be limited to by phone/audio. If he is needed to be out in the field attending to EKM operations, Mr. Parks is unlikely to have even phone connectivity.

5. EKM is making Jack Banks available as a witness to speak to any issues regarding EKM's configuration and operation. Mr. Banks can speak to the factual topics covered in Darrell Parks' deposition testimony and is willing to adopt the deposition testimony of Mr. Parks.

FURTHER RESPONSE

Michael Harris' continued participation in this proceeding, whether on behalf of Kentucky Frontier Gas or the Commission, is a direct conflict of interest.

This investigation stems from a contractual dispute between EKM and Kentucky Frontier Gas over a natural gas purchase/sale agreement and Kentucky Frontier's request for the Commis-

sion to declare EKM to be a public utility under Kentucky law.¹ At the time of the sale of Jefferson Gas to EKM, Kentucky Frontier Gas (KFG) had expressed interest in purchasing certain parts of the Jefferson Gas system,² presumably to obtain valuable interconnections to the interstate pipeline system without being burdened by less profitable parts of the gathering system or natural gas wells in the region.

Mr. Harris was employed by KFG when it was exploring purchasing parts of the Jefferson Gas system and was involved in those discussions. At the time this investigation was initiated following KFG's request for a declaratory order from the Commission, Mr. Harris was an employee of Kentucky Frontier Gas and was represented by counsel for Kentucky Frontier Gas at his deposition. He is now employed by the Commission.

It creates an appearance of bias for a current Commission employee to appear as a hearing witness (for the Commission? for KFG?) and be "cross-examined" by his former employer's counsel, who defended him at his deposition taken by Commission Staff. If there is a topic from Mr. Harris's deposition that cannot be covered at the hearing by one of the two witnesses on KFG's Witness List, then KFG should make available another, knowledgeable person to be its witness.

CONCLUSION

Excusing both Darrell Parks and Michael Harris from the upcoming hearing does not diminish the extensive record already established in this case, nor deprive the Commission of the ability to examine under oath representatives of EKM or KFG about the topics covered in their depositions.

¹ *Electronic Application of Kentucky Frontier Gas, LLC for a Declaratory Order Regarding Commission Jurisdiction*, Case No. 2022-00224.

² See Direct Testimony of Steve Shute, p. 3 and 5 (Oct. 26, 2022)

Respectfully submitted,

/s/ Jason R. Bentley

Jason R. Bentley

Katherine K. Yunker

McBrayer PLLC

201 E. Main Street, Suite 900

Lexington, KY 40507

(859) 231-8780

jbentley@mmlk.com

kyunker@mcbrayerfirm.com

Counsel for East Kentucky Midstream, LLC