

## ATTACHMENT

### EKM Comments to Final Report of Regulatory Status

EKM

Item # Report Page

1. Pg 6 – South to North Gas Delivery

- Cannel City line connecting to A-3

***Cannel City connects to A-2***

- Salyersville connecting to the A-3

***Salyersville never been connected to A-3. A producer line previously leased to Sloan Energy was connected to A-2, but Sloan ended the lease. The line formerly connecting Salyersville to A-2 is physically disconnected.***

Transmission or Distribution

- EKM has pipelines that could be considered transmission. However, those lines do not appear to meet the criteria for being transmission lines because they do not operate at a MAOP of 20 percent or greater than SMYS.

***EKM’s “system” does not contain ANY pipelines that operate at a MAOP of 20 percent or greater than SMYS.***

2. Pg 7 - Transmission or Distribution

- According to the 2023 PHMSA annual report filed by EKM, the company reported 29 miles of transmission pipeline.

***The 29 miles of transmission pipeline is exclusively the C-Line. The C-Line begins in the north at Ezel (the interconnect with KZ-East) and traverses south to the interconnect with the City of Jackson. There are errors with the maps contained in “Group 2 – Central” on the report pages 16 thru 19 as to C-Line, KFG Hazel Green, and Jackson Line as discussed below in item 5 (report Pg 17) 1<sup>st</sup> bullet, item 6 (report Pg 18) 2<sup>nd</sup> bullet, and item 7 (report Pg 3) 1<sup>st</sup> bullet.***

3. Pg 8 – Outstanding Issues

- The most recent Class Location survey conducted.... Without this survey, which should have been conducted and documented....

***EKM has this Class Location survey available in its office. This survey was not requested by Sander.***

4. Pg 9 – Safety Issues

- Cracked valve photo of valve located at the inlet of the Van Lear compressor station.

***The valve is not cracked. The cracked item, shown in the photo, is the “indicator” that simply sits on top of the valve and shows if the valve is “on” or “off”. The indicator works properly despite this crack. There is no threat of gas leakage due to the crack in the indicator.***

- Regarding EKM pipeline markers:

***EKM has installed approximately 1000 new signs since February of this year and is more than halfway complete with its pipeline marker replacement efforts.***

5. Pg 17 – C Line

- Type of System: Distribution

***As stated in item 2, above, the C Line is a 29-mile transmission pipeline that begins in the north at Ezel (the interconnect with KZ-East) and traverses south to the interconnect with the City of Jackson. The C Line does not consist of the pipeline segments designated in the Report as “KFG Hazel Green” (pg 18) and “Jackson Line” (pg 19). The C-Line is one continuous pipeline from Ezel south to the City of Jackson.***

***The Report designates the C-Line as a Distribution pipeline; it needs to be changed to a Transmission pipeline.***

- Reason for Undetermined Status:
  - “There is not enough data to evaluate whether the line is operating at a MAOP of greater than or less than or equal to 20 percent of SMYS...  
***See comments above in item 1 (Pg 6) 3<sup>rd</sup> bullet.***
  - “and there is no class location information available”.  
***See comments above in item 3 (Pg 8) 1<sup>st</sup> bullet.***

6. Pg 18 – KFG Hazel Green

- Gas Meters/Taps - The information chart on Pg 18 designates EKM as the owner of the Hazel Green “Master Meter”.

***All “Master Meters” were conveyed by Public Gas to Gas Natural in the Stock Purchase Agreement, dated 11/11/2011. Subsequently, these “Master Meters” were conveyed by Public Gas (subsidiary of Gas Natural) to Kentucky Frontier Gas in the Asset Purchase Agreement, dated 08/05/2015. See attached letter from EKM counsel to Steve Shute dated 12/21/2023, regarding the ownership of “Master Meters.”***

- Type of System: Distribution

***The information chart on Pg 18, wrongly labeled as “KFG Hazel Green”, is a segment of the C Line and should be designated as a Transmission line and not a Distribution line. See comments above in item 5 (Pg 17) 1<sup>st</sup> bullet.***

7. Pg 19 – Jackson Line

- Type of System:

***The information chart on Pg 19, wrongly labeled as “Jackson Line”, is a segment of the C Line and should be designated as a Transmission line. See comments above in item 5 (Pg 17) 1<sup>st</sup> bullet.***

- Reason for Undetermined Status:

- “There is not enough data to evaluate whether the line is operating at a MAOP of greater than or less than or equal to 20 percent of SMYS...

***See comments above in item 1 (Pg 6) 3<sup>rd</sup> bullet.***

- “and there is no class location information available”.

***See comments above in item 3 (Pg 8) 1<sup>st</sup> bullet.***

8. Pg 21 & 22 – Trent/ A-1 Lines

- Reason for Undetermined Status:

- “There is not enough data to evaluate whether the line is operating at a MAOP of greater than or less than or equal to 20 percent of SMYS...

***See comments above in item 1 (Pg 6) 3<sup>rd</sup> bullet.***

- “and there is no class location information available”.

***See comments above in item 3 (Pg 8) 1<sup>st</sup> bullet.***

9. Pg 23 – Campton NW

- Gas Meters/Taps - The information chart on Pg 23 designates EKM as the owner of the Campton “Master Meter”.

***See comments above in item 6 (Pg 18) 1<sup>st</sup> bullet.***

10. Pg 25 – Pine Ridge

- Gas Meters/Taps - The information chart on Pg 25, designates KFG as the owner of a “Home” meter.

***The Pine Ridge meter is a “Master Meter” that is owned by KFG.***

***See comments above in item 6 (Pg 18) 1<sup>st</sup> bullet.***

11. Pg 28 – Cliff View

- Gas Meters/Taps - The information chart on Pg 28, designates EKM as the owner of a “traditional” meter.

***The Cliff View meter is a “Master Meter” that is owned by KFG.  
See comments above in item 6 (Pg 18) 1<sup>st</sup> bullet.***

12. Pg 30 – A-2 Line

- Gas Flow Direction – “The Hazel Green compressor is delivering gas into the A-2 Line from the C-Line (north to south)”

***The Hazel Green compressor does not deliver gas from the C-Line into the A-2 Line. The Hazel Green compressor ONLY receives gas from the A-2 Line and delivers it solely into the C-Line.***

- Reason for Undetermined Status:

- “There is not enough data to evaluate whether the line is operating at a MAOP of greater than or less than or equal to 20 percent of SMYS...

***See comments above in item 1 (Pg 6) 3<sup>rd</sup> bullet.***

- “and there is no class location information available”.

***See comments above in item 3 (Pg 8) 1<sup>st</sup> bullet.***

13. Pg 32 – A-3 Line

- Gas Flow Direction (#1)– “When Hazel Green compressor delivers gas into the A-2, which ties into the A-3 Line from the C-Line”.

***The Hazel Green compressor does not deliver gas from the C-Line into the A-2 Line. The Hazel Green compressor ONLY receives gas from the A-2 Line and delivers it exclusively into the C-Line.***

- Gas Flow Direction (#2)– “When Hazel Green compressor delivers gas into the A-2 from the Jackson Line or when the A-3 line is moving gas from the east to the west and delivering gas into A-2 and the Hazel Green Compressor”.

***The Hazel Green compressor does not deliver gas from the C-Line into the A-2 Line. The Hazel Green compressor ONLY receives gas from the A-2 Line and delivers it exclusively into the C-Line.***

- Reason for Undetermined Status:

- “There is not enough data to evaluate whether the line is operating at a MAOP of greater than or less than or equal to 20 percent of SMYS...

**See comments above in item 1 (Pg 6) 3<sup>rd</sup> bullet.**

- “and there is no class location information available”.

**See comments above in item 3 (Pg 8) 1<sup>st</sup> bullet.**

14. Pg 33 – Salyersville

- Operational Description – “This system is less clear as to purpose due to the pipeline north of the production tie-in location on the south end near the tie-in with A-3. This has previously been a sales line to the City of Salyersville, but the City of Salyersville no longer buys gas from EKM anymore.”

***The Salyersville line, when it was operational, tied into the A-2 Line.***

- Reason for Undetermined Status:
  - “There is not enough data to evaluate whether the line is operating at a MAOP of greater than or less than or equal to 20 percent of SMYS...

**See comments above in item 1 (Pg 6) 3<sup>rd</sup> bullet.**

- “and there is no class location information available”.

**See comments above in item 3 (Pg 8) 1<sup>st</sup> bullet.**

15. Pg 34 – J-Line Van Lear

- Gas Flow Direction: “Receiving gas from Hazel Green via A-2 as a distribution line”.

***The Hazel Green compressor does not deliver gas from the C-Line into the A-2 Line. The Hazel Green compressor ONLY receives gas from the A-2 Line and delivers it solely into the C-Line.***

- Reason for Undetermined Status:
  - “There is not enough data to evaluate whether the line is operating at a MAOP of greater than or less than or equal to 20 percent of SMYS...

**See comments above in item 1 (Pg 6) 3<sup>rd</sup> bullet.**

- “and there is no class location information available”.

**See comments above in item 3 (Pg 8) 1<sup>st</sup> bullet.**

16. Pg 35 – A-4 Line

- Reason for Undetermined Status:

- “There is not enough data to evaluate whether the line is operating at a MAOP of greater than or less than or equal to 20 percent of SMYS...

**See comments above in item 1 (Pg 6) 3<sup>rd</sup> bullet.**

- “and there is no class location information available”.

**See comments above in item 3 (Pg 8) 1<sup>st</sup> bullet.**

17. Pg 37 – Jackson East Loop

- Reason for Undetermined Status:

- “There is not enough data to evaluate whether the line is operating at a MAOP of greater than or less than or equal to 20 percent of SMYS...

**See comments above in item 1 (Pg 6) 3<sup>rd</sup> bullet.**

- “and there is no class location information available”.

**See comments above in item 3 (Pg 8) 1<sup>st</sup> bullet.**

18. Pg 39 – Panbowl, Sewel, Mountain Valley and Taube

- Gas Meters/Taps\_- The information chart on Pg 39, designates EKM as the owner of a “traditional” meter.

**The Panbowl meter is a “Master Meter” that is owned by KFG. See comments above in item 6; Pg 18; 1<sup>st</sup> bullet.**

- Reason for Undetermined Status:

- “There is not enough data to evaluate whether the line is operating at a MAOP of greater than or less than or equal to 20 percent of SMYS...

**See comments above in item 1 (Pg 6) 3<sup>rd</sup> bullet.**

- “and there is no class location information available”.

**See comments above in item 3 (Pg 8) 1<sup>st</sup> bullet.**

19. Pg 40 – Jackson West Loop

Gas Meters/Taps\_- The information chart on Pg 40, designates EKM as the owner of a “traditional” meter.

**The Jackson West Loop meter is a “Master Meter” that is owned by KFG. See comments above in item 6 (Pg 18) 1<sup>st</sup> bullet.**

- Reason for Undetermined Status:

- “There is not enough data to evaluate whether the line is operating at a MAOP of greater than or less than or equal to 20 percent of SMYS...

**See comments above in item 1 (Pg 6) 3<sup>rd</sup> bullet.**

- “and there is no class location information available”.

**See comments above in item 3 (Pg 8) 1<sup>st</sup> bullet.**

20. Pg 41 – Jackson Wolverine

- Operational Description – “The Jackson Wolverine sub-system is served by two delivery receipt points – Jackson Loop Lines East and West. Two “master meters” are also located on the sub-system.”

**The Jackson Wolverine meters (Jackson Loop Lines East and West) are “Master Meters” that are owned by KFG. See comments above in item 6 (Pg 18) 1<sup>st</sup> bullet.**

21. Pg 42 – SW Elkatawa

- Reason for Undetermined Status:
  - “There is not enough data to evaluate whether the line is operating at a MAOP of greater than or less than or equal to 20 percent of SMYS...

**See comments above in item 1 (Pg 6) 3<sup>rd</sup> bullet.**

- “and there is no class location information available”.

**See comments above in item 3 (Pg 8) 1<sup>st</sup> bullet.**

22. Pg 43 – Lawson

- Reason for Undetermined Status:
  - “There is not enough data to evaluate whether the line is operating at a MAOP of greater than or less than or equal to 20 percent of SMYS...

**See comments above in item 1 (Pg 6) 3<sup>rd</sup> bullet.**

- “and there is no class location information available”.

**See comments above in item 3 (Pg 8) 1<sup>st</sup> bullet.**

December 21, 2023

**VIA CERTIFIED MAIL**

Mr. Steve Shute  
Kentucky Frontier Gas, LLC  
PO Box 408  
2963 Kentucky Route 321 North  
Prestonsburg, KY 41653

RE: Opinion Regarding Ownership of Campton/Pine Ridge Master/Supply Meters

Dear Mr. Shute:

It is my understanding that a dispute has arisen over ownership of certain meters and related equipment on the property of Mary M. Brown. Having reviewed the history of the purchase/sale agreements of the relevant parties, we are of the legal opinion that the meters measuring gas from East Kentucky Midstream (EKM) to Kentucky Frontier Gas (KFG) distribution mains serving KFG customers in the communities of Campton and Pine Ridge were included in the August 2, 2015 Asset Purchase Agreement of Public Gas Company as approved by the Kentucky Public Service Commission in PSC Case No. 2015-00299 and are the property of KFG.

I. The Assets in question were owned by Public Gas Company when it was sold to KFG.

The stock purchase agreement between Gas Natural Inc. and Kentucky Energy Development, LLC (KED) for ownership and control of Public Gas Company, Inc. dated November 11, 2011, and approved by the Kentucky Public Service Commission in Case No. 2012-00029 included the meters in question. Section 3 of the Agreement (Assets; Employees) describes the Public Gas assets transferred from KED to Gas Natural:

(a)(ii) ... all pipelines, *meters*, inventory including gas, work in progress, *rights of way*, licenses, *easements*, *pipeline interconnections*, office equipment, *leases*, *fixtures*, machinery, equipment, *pipe*, and vehicles ....” (Emphasis added).

In addition, as part of the Due Diligence of the parties prior to the sale, Mr. Jack Banks (at that time employed by Public Gas) accompanied Mr. Richard Osborne (then President and CEO of Gas Natural) to investigate and inspect the nature and condition of the assets being transferred. Mr. Osborne specifically noted that the meters in question would be the property of Public Gas and would thus transfer to Gas Natural.



KFG executed an Asset Purchase Agreement dated Aug 2, 2015, to acquire the assets of Public Gas Company, which included the meters in question. “Assets” defined in the KFG Purchase Agreement mirror the language of the Gas Natural acquisition:

Disclosure Schedules; Section 1.01: Purchased Assets: ... all pipelines, *meters*, inventory (including gas), work in progress, *rights of way*, licenses, *easements*, *pipeline interconnections*, office equipment, *leases*, *fixtures*, machinery, equipment, *pipe*, and vehicles ....” (Emphasis added).

Pursuant to Section 4.11 “Disclaimer” of the Agreement dated August 15, 2015, KFG understood and agreed to purchase the Assets “as is, where is” and relied on its own examination of the purchased assets, which included the meters in question.

II. Were KFG to connect anew with EKM, KFG would own the meters.

EKM is only required by Kentucky law to own the meters of its farm tap customers. (807 KAR 5:026 Section 3(6)) All other meters on EKM’s system are owed by persons connected to EKM and maintained for accuracy by EKM (with the exception of TCO meters discussed, below). Producers connecting to EKM’s gathering system own the producer purchase meters. Sales meters to West Liberty (municipality and prison) are owned by those customers. Were KFG to connect a new gas main to EKM, KFG would own the meter and recover the costs plus a reasonable return as part of its used and useful utility assets. It is well established that local distribution companies (LDCs) own and operate metering and regulating stations to measure and control the flow of gas in their system for safety and reliability purposes, in addition to customer meters to measure gas supplied to customers.

The meters at TCO owned by EKM but operated and maintained by TCO were acquired from Jefferson Gas, LLC. Jefferson acquired them (i) as part of the abandonment/sale by Columbia Gas Transmission to Jefferson Gas, and (ii) meters initially installed by Columbia Gas Transmission in 1972 for Capitol Oil & Gas Company, which were owned by Capitol.

Conclusion

The transaction record clearly establishes KFG ownership of the “master” supply meters for the distribution mains serving communities of Campton and Pine Ridge, along with the other seven meters listed on the monthly KFG invoice from EKM. Were circumstances different, KFG would undoubtedly claim ownership of the meters as utility assets. The issues at the Mary Brown property pose a complicated situation where both KFG and EKM each own property. Based on the discussion above, EKM is of the opinion that resolution of the Brown complaint is the sole responsibility of KFG.

Respectfully,

Jason R. Bentley, Esq.  
McBrayer, PLLC