

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

Electronic INVESTIGATION OF)
JURISDICTIONAL STATUS OF EAST)
KENTUCKY MIDSTREAM, LLC, AND OF)
ITS COMPLAIANCE WITH KRS)
CHAPTER 278, 807 KAR CHAPTER 005,)
AND 49 CFR PARTS 191 AND 192)

Case No.
2020-00238

**East Kentucky Midstream Comments to Sanders Resources' Final Report
on the East Kentucky Midstream, LLC Pipeline System**

East Kentucky Midstream, LLC (EKM) respectfully submits the attached comments in regard to the Sander Resources report on the jurisdictional status of EKM's gathering system. While EKM appreciates the Commission seeking an independent consultant with industry knowledge to review the physical aspects of the complex issues surrounding EKM's jurisdictional status, there are several factual inaccuracies in the report, to which we offer suggested corrections. More importantly, Sander's expertise and the resulting report focus on pipeline safety regulation, and not the appropriate level of economic regulation of the system by the Commission. Sander's efforts to classify individual segments of the system as either gathering, transmission, or distribution pursuant to PHMSA Minimum Federal Safety Standards (49 C.F.R. § 192.3) is not dispositive of, nor does it require, economic regulation of the EKM system as anything other than a gathering/farm tap system for purposes of Kentucky law. Under PHMSA regulations (incorporating API Recommended Practice 80) EKM is clearly a traditional Appalachian gathering system. For purposes of Kentucky law, EKM is a gathering system with

an obligation to provide farm tap service pursuant to its tariff on file with the Commission. To otherwise conflate PHMSA safety classifications of individual segments with economic regulation, however, would ignore and undermine the overall essential function of the system in facilitating natural gas production in the region.

EKM respectfully submits the attached itemized comments and corrections to the Sander report. The page, section, and wording of the report are identified and/or paraphrased, followed by EKM comments in italics and bold.

Respectfully submitted,

/s/ Jason R. Bentley

Jason R. Bentley

jbentley@mmlk.com

MCBRAYER PLLC

201 East Main Street; Suite 900

Lexington, KY 40507-1310

859-231-8780; fax: 859-960-2917

Counsel for East Kentucky Midstream, LLC