

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 COMPLIANCE WITH KRS CHAPTER)
278, 807 KAR CHAPTER 005, AND 49 CFR)
PARTS 191 AND 192

Case No.
2022-00238

**Direct Testimony of Jack Justice on behalf of
East Kentucky Midstream, LLC**

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

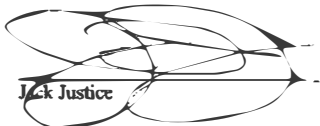
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KENTUCKY MIDSTREAM, LLC, AND OF)
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278, 807 KAR CHAPTER 005, AND 49 CFR)
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Verification

COMMONWEALTH OF KENTUCKY)
COUNTY OF JOHNSON)

I, Jack Justice, Member of East Kentucky Midstream, LLC, being duly sworn, states that I prepared or supervised the preparation of my Direct Testimony filed in the above-referenced case, and that the matters and things set forth therein are true and correct to the best of my knowledge, information and belief formed after reasonable inquiry.


Jack Justice

Subscribed and sworn to this 28th day of November 2022, before me a Notary Public in and before said County and State.


Notary Public

Angela M Jones
NOTARY PUBLIC
Commonwealth of Kentucky
Commission Number KYNP25892
My Commission Expires 3/18/2025

(SEAL)

My Commission expires: 03/18/2025



1 **Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS, AND OCCUPATION**
2 **FOR THE RECORD.**

3 A. Jack Justice, P.O. Box 1666 Salyersville KY 41465. I have ownership interests in several
4 businesses including East Kentucky Midstream (EKM) and Lawrence County Gas
5 (LCG); primarily I am an oil and gas producer.

6 **Q. HOW WOULD YOU DESCRIBE YOUR ROLE AT EKM?**

7 A. I am one of two members/investors of EKM. I handle mostly transactional matters and
8 work closely with Jack Banks, the President of EKM.

9 **Q. HOW MANY EMPLOYEES DOES EKM HAVE?**

10 A. EKM employs 5 field personnel and 2 office personnel.

11 **Q. WHEN DID EKM ACQUIRE THE JEFFERSON GAS GATHERING SYSTEM?**

12 A. EKM acquired the current system in two parts. First, EKM acquired Lines A-4 and A-5
13 effective January 8, 2021. The remaining portion of the system was acquired as effective
14 March 1, 2021.

15 **Q. HOW WOULD YOU DESCRIBE THE JEFFERSON GAS SYSTEM THAT IS**
16 **NOW OWNED BY EKM?**

17 A. The Jefferson Gas system has historically been an important gathering system for
18 producers to sell Kentucky-produced natural gas to local and interstate markets. EKM
19 now owns and operates a gathering system that allows Kentucky producers to get gas to
20 the same markets.

21 **Q. WHY DID EKM ACQUIRE THE JEFFERSON GAS SYSTEM?**

22 A. The decision was made to acquire this system for the following reasons. EKM acquired
23 Lines A-4 and A-5 to create additional markets for Kentucky-produced gas and prevent
24 production from being shut in. Lines A-4 and A-5 provide access to the Marathon

25 Catlettsburg refinery. Furthermore, Lines A-4 and A-5 provide more access to markets
26 for Lawrence County Gas (LCG) wells (both existing and future wells). At this time,
27 LCG has spent \$12 million dollars in 2022, and will invest \$45-50 million dollars in its
28 drilling program over the next five (5) years. EKM decided to acquire the remainder of
29 the system because it provides new city gate markets for Kentucky producers selling to
30 Kentucky Frontier Gas and West Liberty. Kentucky producers will have access to
31 competitive pricing to allow for continued and future drilling and oil and natural gas
32 production. Additionally, there is future value in multiple Rights-of-Way (ROW) when
33 the Rogersville Shale is developed. EKM's ROWs have access to 5 interstate pipelines
34 in Clark and Montgomery Counties. This system would provide pipeline access to
35 stranded producers, which will encourage additional investment and additional drilling
36 programs through "farm-outs" (lease assignments). The low acquisition price for
37 Jefferson Gas allowed EKM to re-invest in a pipe replacement program in order to lower
38 the percentage of lost and unaccounted for gas (LAUF).

39 **Q. WAS EKM OR ITS PRINCIPLES FAMILIAR WITH THE JEFFERSON GAS**
40 **SYSTEM PRIOR TO PURCHASING THE ASSETS, AND IF SO, HOW?**

41 A. We tried to purchase Lines A-4 and A-5 several years ago. We knew the previous
42 owners of the pipeline system, Jefferson Gas Transmission Company, Inc. prior to the
43 sale of system to Jefferson Gas, LLC on September 26, 2002.

44 **Q. DID EKM RECEIVE OR REVIEW ANY PROSPECTUS OR MARKETING**
45 **BROCHURE PRIOR TO PURCHASING THE ASSETS OF JEFFERSON GAS?**

46 A. EKM was contacted by Jason Stevens, Managing Director, Energy Advisor for Copper
47 Run Capital (CRC) as agent for Jefferson Gas in the sale of the company. CRC issued a

48 prospectus in the Winter of 2019 by email only. At that time, we were only interested in
49 Lines A-4 and A-5. We had significant experience transporting gas on Lines A-4 and A-
50 5. Therefore, we did not see the need to review the electronic version of the sales
51 prospectus or the Virtual Private Network (“VPN”) to review the due diligence materials.
52 We knew that Lines A-4 and A-5 were relatively new pipes having been completely
53 replaced by Ashland Oil prior to the sale of the pipeline to Jefferson Gas Transmission
54 Company, Inc. on September 13, 1995. The research for the sale of the rest of the
55 system (other than lines A-4 and A-5) included the following steps: phone conversations
56 with Jason Stevens and our “on the ground” due diligence, along with discussions with
57 existing producers who were currently selling gas to Jefferson Gas. Again, we already
58 knew the system since LCG’s past drilling programs have been in close proximity to the
59 Jefferson pipeline. We did not contact Kentucky Frontier Gas prior to the sale, but did
60 contact KFG following the sale.

61 **Q. TO EKM’S KNOWLEDGE, HAS THE JEFFERSON GAS SYSTEM EVER BEEN**
62 **REGULATED AS A UTILITY OR INTRASTATE PIPELINE FOR PURPOSES**
63 **OF RATES AND TERMS OF SERVICE (OTHER THAN FARM TAP SERVICE)?**

64 A. There was no mention by anyone who represented Jefferson Gas that the company was
65 regulated or following any kind of tariff. All existing contracts with KFG or West Liberty
66 were “special contracts”. As to farm taps, we were given an example of the customer’s
67 invoice, but nothing else. The Delta arrangement was described verbally as an existing
68 contract with TCO wherein Jefferson Gas was required to make natural gas deliveries to
69 Delta’s Frenchburg city gate at no cost. This was a requirement in order for Jefferson
70 Gas to acquire the KZ-East system from TCO.

71 **Q. HOW DOES THE EKM GATHERING SYSTEM PURCHASE GAS FROM**
72 **LOCAL PRODUCERS?**

73 A. All producers who feed gas fed into the EKM system are paid the same price, which is
74 80% of the Appalachian Index first of the month.

75 **Q. HOW IS WHOLESALE GAS PURCHASED OFF THE EKM SYSTEM?**

76 A. City gate and utility customers purchase gas under special contracts for gas supply
77 between EKM and the purchaser. Off-system sales are sold to Southern Energy.

78 **Q. DESCRIBE THE NATURE OF THE GAS SUPPLY CONTRACT DISPUTE**
79 **WITH KENTUCKY FRONTIER GAS.**

80 A. The dispute began as an honest mistake in the billing components for gas sales by EKM
81 to KFG. The previous Office Manager & Controller, Jessi Davis, did not continue her
82 employment after EKM's acquisition. The errors were brought to the attention of EKM
83 by KFG. As a result, EKM conducted a complete audit of all invoices from the date of
84 acquisition through March 2022. EKM sent a reconciliation Excel spreadsheet showing
85 that EKM had overcharged KFG by \$33,187. KFG disagreed with EKM's allocation
86 method and countered with \$51,000. Both EKM's and KFG's analysis was provided
87 "subject to further review." The disagreement was a matter of how to allocate local gas
88 as "First Through The Meter". The pricing mechanism is as follows: local gas price is
89 TCO Appalachian Index (First of the Month), and for interstate gas, the actual mid-month
90 price is charged by Southern Energy. Interstate gas was "Second Through The Meter"
91 because it was used to balance the system when there was insufficient volumes of Local
92 Gas. On multiple occasions, interstate gas was more expensive—especially in the
93 winter—because this gas was purchased mid-month. The difference is shown as follows.

94 In the initial analysis performed by EKM, EKM allocated local gas by Ratably
95 Apportioning based upon the demand of the following markets: 1) EKM farm taps 2)
96 KFG (city gate and farm taps) 3) West Liberty 4) Delta – Frenchburg. Based on this
97 initial analysis, EKM made an initial offer for credit of \$33,187. KFG countered with
98 \$51,000. Following this counter, KFG gave itself an unauthorized credit on its next
99 invoice in the amount of \$31,000. Following this bad faith action (unauthorized credit by
100 KFG) EKM reviewed the overall agreement with KFG in full and took the following
101 steps. Because the May 20, 2021 Natural Gas Sales & Transportation Agreement required
102 KFG to purchase “all natural gas produced and delivered in the Pipeline Assets from any
103 and all local oil & gas producers (“Local Gas”),” this included all Local Gas that was
104 delivered and sold, off-system, to Southern Energy at the TCO Van Lear meter.

105 **Q. STEVE SCHUTE TESTIFIED “GAS COSTS FROM EKM EXCEED ANY**
106 **CREDIBLE INDUSTRY STANDARD” AND THAT “GAS COST OF EKM WAS**
107 **ABOUT \$12.70 PER MCF. . . “ (SCHUTE TESTIMONY PG. 8, LINE 5; PG. 9**
108 **LINE 3). ARE YOU AWARE OF OTHER GAS COSTS IN THE GENERAL**
109 **AREA OF KFG CUSTOMERS?**

110 A. I’m personally familiar with bills for natural gas from the City of Paintsville and from
111 Columbia Gas at Green Meadow subdivision (Pikeville). My bill from Paintsville
112 Utilities shows gas costs of \$26.50/MCF. My sister’s Columbia Gas bill shows an all-in
113 cost of \$21.97/MCF. If the Columbia Gas bill is broken down by just the gas supply cost
114 and delivery charge per MCF (\$9.79 + \$5.25), the cost of delivered gas is \$15.04/MCF.
115 (See Exhibits A and B).

116 **Q. HOW WOULD YOU COMPARE THE COSTS OF TRANSPORTING GAS ON A**
117 **LOW-PRESSURE GATHERING SYSTEM LIKE EKM TO TRANSPORTING**
118 **GAS ON A HIGH-PRESSURE INTERSTATE SYSTEM?**

119 A. Clearly there are economies of scale when transporting gas on a high-pressure system
120 that allow costs to be kept down, even over long distances. It's common sense and why
121 we have an interstate system of pipelines to move gas around the Country. If you can
122 push more gas through a smaller space, the cost per energy unit to move the gas goes
123 down. For an older, low-pressure system with significant line-loss issues, the cost per
124 molecule is much greater, even over short distances.

125 **Q. SINCE ACQUIRING THE JEFFERSON GAS SYSTEM, HOW WOULD YOU**
126 **DESCRIBE THE CONDITION OF THE EKM GATHERING SYSTEM?**

127 A. The system has met the requirements in its inspections and is deemed safe but needs an
128 orderly repair and pipe replacement program that will last for many years.

129 **Q. STEVE SCHUTE TESTIFIED: "WHEN KENTUCKY FRONTIER ASSUMED**
130 **THESE ROUGHLY 500 FARM TAPS, WE ASSUMED THEY WERE TAPPED**
131 **ONTO THE JEFFERSON GAS MAINLINES SHOWN ON THE MAPS."**
132 **(SCHUTE TESTIMONY, PG. 17). ARE YOU FAMILIAR WITH THE STOCK**
133 **PURCHASE AGREEMENT, DATED 11/11/2011, BETWEEN KENTUCKY**
134 **ENERGY DEVELOPMENT (AKA JEFFERSON) AND GAS NATURAL IN KY**
135 **PSC CASE NO. 2012-00029? ARE YOU ALSO FAMILIAR WITH THE ASSET**
136 **PURCHASE AGREEMENT, DATED 08/05/2015, BETWEEN KENTUCKY**
137 **FRONTIER GAS AND PUBLIC GAS (AKA GAS NATURAL) FILED IN KY PSC**
138 **CASE NO. 2015-00299? UNDER THE DESCRIPTIONS OF PERSONAL**

139 **PROPERTY AND ASSETS UNDER BOTH AGREEMENTS, WHAT WOULD**
140 **YOU CONSIDER TO BE “PIPELINE INTERCONNECTIONS?”**

141 A. Yes. Based on these agreements, the line of demarcation for asset ownership is at the
142 “pipeline interconnect.” It is my understanding that since the asset acquisition of Public
143 Gas by KFG (effective November 11, 2011), Jefferson Gas was adamant that KFG’s
144 responsibility for gas service begins at the pipeline interconnections (e.g., the tap) on
145 Jefferson’s mainline, regardless of the location of the farm tap meter. This was EKM’s
146 understanding as well upon acquisition of its system. These “pipeline interconnections”
147 include all the KFG Farm Taps located on EKM’s gathering lines, regardless of where
148 the sales meter is located.

149 **Q. WHEN EKM ACQUIRED THE GATHERING LINE SYSTEM ASSETS OF**
150 **JEFFERSON GAS, DID JEFFERSON GAS HAVE A CURRENT TARIFF ON**
151 **FILE AT THE PUBLIC SERVICE COMMISSION FOR “FARM TAP”**
152 **CUSTOMERS?**

153 A. There was no discussion of tariffs when EKM acquired the assets of the old Jefferson gas
154 system. Having since looked further into the matter, it is unclear the extent of Jefferson’s
155 tariff or how it may apply to EKM providing farm tap service to customers within one-
156 half air mile of EKM’s system who request service. EKM has reached out to the Public
157 Service Commission for guidance on these questions.

Contact Us



Phone
Emergency Service 24/7
1-800-432-9515
For gas leaks or odors of gas

Customer Call Center Hours
1-800-432-9345
7 a.m. - 7 p.m. Mon. - Fri.

For hearing-impaired relay call 711.



Web
Make payments and access your account at ColumbiaGasKY.com



Payments 24/7
Pay by check, credit/debit card, PayPal, Amazon Pay, Venmo. Call 1-866-694-1828 (Paymentus convenience fee may apply)



Mail Payments
Columbia Gas of Kentucky
PO BOX 4660
Carol Stream IL 60197-4660



Authorized Payment Locations
Find locations online at ColumbiaGasKY.com

Account Profile

Customer Name:

Your Contact Information:

Type of Customer:

~~XXXXXXXXXX~~
Account Number:
10751862 002 000 3

~~XXXXXXXXXX~~
~~XXXXXXXXXX~~

Residential
Budget Payment Plan

- Is your contact information correct? Make all changes on the reverse side.

Budget Payment Plan

| | |
|---|----------|
| Previous Amount Due on 10/26/2022 | \$97.00 |
| Payments Received by 10/21/2022 Thank you | -\$97.00 |
| Balance on 11/10/2022 | \$0.00 |
| Budget Amount This Period | +\$97.00 |

Current Charges Due by 11/28/2022

\$97.00

- There are 5 months remaining in the Budget Year, which ends in April, 2023.

Financial Support

If you are struggling to pay your bill we can help. Flexible payment plans are available to customers experiencing a financial hardship. Any customer who is having trouble paying their bill should visit ColumbiaGasKY.com or call 1-800-432-9345 to learn about payment arrangements and/or financial assistance programs.

Foreign language interpreter service is available by phone. This service is available 24/7 to report emergencies.

Your Safety

In case of an emergency, such as odor of gas, carbon monoxide or fire:

1. Leave the area immediately.
 2. Leave windows and doors in their positions and avoid doing anything that could cause a spark.
- From a safe area, call 911 and Columbia Gas at 1-800-432-9515.

Always Call 8-1-1 Before You Dig

If you're planning a home or landscaping project, call Kentucky 811 at 8-1-1 at least two business days before digging. A representative will mark the approximate location of underground utility lines for free.



Know what's below.
Call before you dig.

Employee Identification

All of our employees and contractors carry photo identification. If someone claims to represent us, ask to see identification. Call the police if you see suspicious activity.

Message Board

- We've made it easier for you to sign up for paperless billing! Enjoy the convenience of managing your account online! You will receive monthly email alerts, have 24/7 account access and up to two years of past bills and payment history. Sign up at GoPaperFreeToday.com!
- Never worry about missing a payment or writing a check again by enrolling in Automatic Payment today at ColumbiaGasKY.com.
- Take control of your gas bill by choosing your natural gas supplier. It's your Choice. Go to ColumbiaGasKY.com and search Choice for more information.
- Natural gas prices for participating Customer CHOICE Program suppliers can be found at <http://psc.ky.gov/Home/ColumbiaChoice>.

Actual Account Summary

| | |
|-------------------------------|-------------------|
| Beginning Balance | \$281.72CF |
| Payments Received | -\$97.00 |
| Current Utility Charges | +\$70.32 |
| Actual Account Balance | \$308.40CF |

- Your Actual Account Balance reflects the actual amount you owe based on your billed usage and payments as of the date of this bill.
- For more information regarding these charges, see the Detail Charges section.

Helpful Definitions

Customer Charge covers a portion of the fixed fee required to ensure that natural gas service is available to your home. This amount is the same with each bill.

Estimated Readings are calculated based on historical monthly usage rather than on an actual meter reading.

Delivery Charges are the costs of transporting the gas to retail customers. The rates for these services are regulated and the charges must be purchased from Columbia Gas.

Supply Cost includes the cost of natural gas, interstate pipeline charges, storage costs, and other charges and is passed through to customers at cost without markup.

Supply service may be purchased from an alternative competitive gas supplier in the Alternative CHOICE program.

equal to 1,000 cubic feet and is used to measure your gas usage.

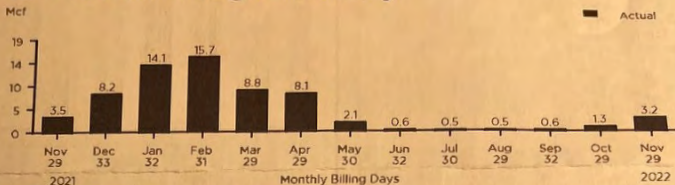
Additional Information

Rate Schedule
Information about rate schedules is available on our website or at ColumbiaGasKY.com.

Supply Notices
Columbia Gas of Kentucky, Revenue Department, PO Box 117, Columbus, OH 43216.

Correspondence (except payments)
Columbia Gas of Kentucky, P.O. Box 117, Columbus, OH 43216-2318 or contact us at ColumbiaGasKY.com.

13 Month Usage History



Meter Number:
20251957

Service Address:
83 Dudley Dr
Pikeville KY 41501-3113

Meter Readings - 29 Billing Days

Actual Reading on 11/10 694

Actual Reading on 10/12 662

Gas Used (Mcf) 3.2

Usage Comparison - Mcf

| Month | Mcf | Avg Temp | Mcf Per Day |
|---------------|------------|--------------|-------------|
| Nov 21 | 3.5 | 52.8° | 0.1 |
| Oct 22 | 1.3 | 62.6° | 0.0 |
| Nov 22 | 3.2 | 57.7° | 0.1 |

Your Average Monthly Usage = 5.3 Mcf.

Your Total Annual Usage = 63.7 Mcf.

Your next meter reading date is 12/13/2022.

Detail Charges

Customer Charge \$19.75
Gas Delivery Charge \$16.81

Delivery +\$36.56

Gas Supply Cost 3.2 Mcf at \$9.78820 per Mcf \$31.32

Supply +\$31.32

Safety Modification and Replacement Program Rider \$0.00

Energy Assistance Program Surcharge \$0.30

Energy Efficiency and Conservation Rider \$0.05

Research & Development Factor \$0.04

School Tax \$2.05

Taxes & Fees +\$2.44

Total Current Utility Charges \$70.32

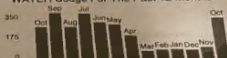


PAINTSVILLE UTILITIES
PO BOX 630
PAINTSVILLE, KY 41240-0630

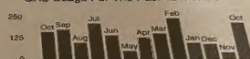
Exhibit B

SERVICE ADDRESS: 41 E DORTON BLVD
ACCOUNT NUMBER: 001775640002

WATER Usage For The Past 12 Months



GAS Usage For The Past 12 Months



6355 1 AV 0 455
JACK JUSTICE
1256-9009

BILLING DATE: 10/27/2022

| SERVICE | SERVICE PERIOD FROM TO | PREVIOUS READING | PRESENT READING | USAGE | CHARGES |
|------------|------------------------|------------------|-----------------|-------|---------|
| GAS | 09/07/2022 10/03/2022 | 5697 | 5842 | 145 | 384.77 |
| WATER | 09/07/2022 10/03/2022 | 2599 | 2839 | 240 | 250.34 |
| SEWER | | | | | 218.24 |
| SCHOOL TAX | | | | | 19.05 |

As we head into fall, Paintsville Utilities advises customers to have their gas furnaces and other gas appliances, professionally serviced to insure safe and efficient operation thru the fall and winter seasons. Also, this is a good time to check your existing carbon monoxide detectors or install new units.

Follow us on Facebook or download the PU Advisory APP for important updates regarding our utility systems.

| | |
|------------------------|-----------------|
| NET BILL | 872.40 |
| PREVIOUS BALANCE | 0.00 |
| AMOUNT DUE | \$872.40 |
| AFTER THE 15TH, 4:00PM | \$1,090.51 |

RETURN THIS PORTION WITH YOUR PAYMENT AND PLEASE INCLUDE THE ACCOUNT NUMBER ON YOUR CHECK

SERVICE ADDRESS: 41 E DORTON BLVD
NAME ON ACCOUNT: JACK JUSTICE

BILLING DATE: 10/27/2022
SUMMARY OF CHARGES:

GAS 384.77
WATER 250.34

| | |
|-----------------------|-------------------|
| ACCOUNT NUMBER | 001775640002 |
| AMOUNT DUE | \$872.40 |
| DUE DATE | 11/15/2022 |
| AFTER THE 15TH | \$1,090.51 |