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WORKING FOR JUSTICE IN ENVIRONMENTAL POLICY

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AUG 07 2018

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August 4, 2018

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Ms. Gwen Pinson, Executive Director  
Kentucky Public Service Commission  
211 Sower Boulevard  
Frankfort, Kentucky 40601

Dear Ms. Pinson:

Enclosed please find for filing the original and three (3) duplicate originals of a Formal Complaint against Peoples Gas KY, LLC. A copy has been served on that company's registered agent for process.

Given that the actions of Peoples threaten the Complainant with a loss of natural gas service on or around September 1, 2018, I respectfully request that the Commission investigate this formal complaint as expeditiously as possible consistent with affording all parties due process of law.

Cordially,

  
Tom FitzGerald  
Counsel for Georgia Johnson, Complainant

AUG 07 2018

PUBLIC SERVICE  
COMMISSIONCOMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION  
CASE NO. 2018-00263

GEORGIA JOHNSON

COMPLAINANT

V.

PEOPLES GAS KY, LLC

DEFENDANT

**FORMAL COMPLAINT**

Comes now the Complainant, Georgia Johnson (“Johnson”), by counsel, pursuant to 807 KAR 5:001 Section 20, and for her Formal Complaint against Defendant, Peoples Gas KY, LLC (“Peoples”), states as follows:

1. Johnson is the owner of property located at 15 C Loren Way, Garner, Kentucky 41817, with a mailing address of Post Office Box 682, Hindman, Kentucky.
2. The Defendant, Peoples Gas KY, LLC, is a Kentucky limited liability company with a mailing address of 463 Hambley Blvd., Pikeville, Kentucky 41501. The principal office of Peoples Get KY, LLC is, according to the Office of the Secretary of State, 375 North Shore Drive, Pittsburgh, Pennsylvania 15212. The registered agent for process is Corporation Service Company, 421 West Main Street, Frankfort, Kentucky 40601.
3. Johnson’s home is supplied with natural gas by Peoples, which delivers gas to customers from wells and pipelines owned by EQT Production Company (“EQT”).
4. On April 23, 2018, EQT Production Company notified Peoples that it was disconnecting the gas supplied by the WL745472 pipeline (“Pipeline”) on or around September 1, 2018, because it was no longer feasible to maintain and operate the pipeline. (See Letter from EQT to Peoples, attached as Exhibit 1).
5. On May 16, 2018, Peoples sent a letter to Johnson stating in part:

We have been put on notice recently by the supplier that owns the wells and/or pipelines that services your community/home that they will be terminating our supply received from WL 745472. They will not be delivering any more gas to the pipelines that serve your home on or around September 1, 2018. Peoples does not have any other gas supply in your area. Once the supplier terminates the gas, we will not be able to deliver natural gas to your home.

(See Letter from Peoples dated May 16, 2018, attached as Exhibit 2).

6. KRS 278.010(3) defines a “utility” as “any person . . . who owns, controls, operates, or manages any facility used or to be used for or in connection with: . . .(b) The production, manufacture, storage, distribution, sale, or furnishing of natural or manufactured gas, or a mixture of the same, to or for the public, for compensation, for light, heat, power, or other uses.”
7. KRS 278.010(11) defines a “facility” to include “all property, means, and instrumentalities owned, operated, leased, licensed, used, furnished, or supplied for, by, or in connection with the business of any utility.”
8. According to Peoples’ most recent tariff on file with the Commission, Peoples owns and maintains natural gas meters, service taps, saddles, and first service shut-off valves for all of its customers and this equipment is required for natural gas service. Peoples also acknowledges that it is in the business of delivering and selling natural gas to the public and according to the filed tariff, maintains a “service area.” Peoples “owns, controls, operates, or manages” a “facility” used in connection with selling and furnishing natural gas to the public for light, heat, and power, and is compensated for that service. Peoples is in the business of selling gas to the public and owning, operating, and maintaining equipment necessary to do so, and is thus a “utility” subject to the jurisdiction of the Public Service Commission. Thus, Peoples is a “utility” as defined by KRS 278.010(3).

9. KRS 278.485 imposes an obligation on a “gas pipeline company” obtaining gas from producing wells in the state to furnish gas service to a property owner whose point of service is within ½ air mile of the producing well or gathering pipeline.
10. Pursuant to KRS 278.485(6), a gas pipeline company may abandon any gas well or gathering pipeline.
11. In this instance, the gathering pipeline in question is owned by EQT, and EQT falls within the scope of a “gas pipeline company.”
12. Peoples is not a “gas pipeline company” within the meaning of KRS 278.485, since it does not own the gathering pipeline in question, but rather purchases and sells the gas to customers of the utility.
13. If EQT were furnishing gas service directly to Ms. Johnson pursuant to KRS 278.485, KRS 278.485(6) would be applicable in this instance. However, while EQT may abandon a gas well or gathering pipeline in accordance with KRS 278.485(6), Peoples’ obligations are not extinguished by that intended action of EQT.
14. KRS 278.030 requires that every utility shall furnish adequate, efficient and reasonable service. “Adequate service” is defined in part by KRS 278.010(14) to mean “to assure such customers of reasonable continuity of service” and to have sufficient capacity to meet the maximum estimated requirements of the customer.
15. As a regulated utility, Peoples has an ongoing obligation to provide adequate service to the customers within its service area, including *sub nom* Ms. Johnson, regardless of whether a particular supplier of gas to that utility abandons a gas line that delivers gas to the utility for sale and distribution to the utility customers.


16. Inasmuch as Peoples has indicated that it will cease delivering natural gas to a customer, it will not be providing adequate service. Thus, Peoples' attempt to discontinue service to Johnson is in violation of KRS 278.030.

17. There is no statutory distinction between the obligations of a utility obtaining a supply of gas from a gathering pipeline, and a utility obtaining a supply of gas from other sources, to provide adequate service. The Commission is without statutory authority to create a distinction between misnamed "farm tap utilities" and other "utilities," and cannot by administrative fiat relieve a utility of the obligation to provide adequate and continuous service.

WHEREFORE, the Complainant respectfully requests the following relief:

1. An Order from the Commission confirming that Peoples is a public utility under KRS 278.010(3) and subject to regulation by the Commission;
2. An Order from the Commission prohibiting the discontinuation of Complainant's natural gas service and requiring Peoples to continue to provide Complainant with adequate service in accordance with the obligations of a utility under KRS Chapter 278.

Respectfully submitted,

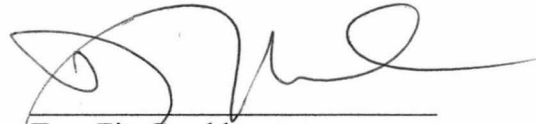


Tom FitzGerald  
Kentucky Resources Council  
P.O. Box 1070  
Frankfort, KY 40601  
(502) 875-2428  
[fitzkrc@aol.com](mailto:fitzkrc@aol.com)

*Counsel for Complainant, Georgia Johnson*

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Complaint was served by first-class mail to the registered agent for process for Peoples Gas KY, LLC, Corporation Service Company, 421 West Main Street, Frankfort, Kentucky, 40601, and that the original and three copies were lodged with the Public Service Commission this 5<sup>th</sup> day of August, 2018.



Tom Fitzgerald  
Counsel for Complainant

**EXHIBIT 1**



**EQT Production Company**

Darrell Smith, Regional Manager  
P.O. Box 3878  
Pikeville, KY 41502  
Phone: 606.218-2381  
FAX: 606.437.5219

April 23, 2018

Mr. Danny R. Bevins  
Peoples Gas KY, LLC  
463 Hambley Blvd  
Pikeville, KY 41501

**Re: WL745472 Abandonment**

Dear Mr. Bevins:

EQT Production Company, as pipeline owner and operator, has determined that it is no longer feasible to maintain and operate the WL745472 pipeline, located at Left Fork of Troublesome Creek, to which two (2) domestic consumer meters are connected due to several factors.

Therefore, pursuant to paragraph 5.11 of the Reimbursement, Construction, Ownership, and Operation Agreement between EQT Gathering, LLC, and Equitable Gas Company, LLC, for Various Delivery Point Farm Tap Interconnects (Kentucky) dated the 17<sup>th</sup> day of December, 2013; this letter shall serve as written notice that gas supplied by the aforementioned pipeline will be disconnected on or around **September 1, 2018.**

Therefore, EQT suggests Peoples Gas KY, LLC, make immediate arrangements and also notify the affected consumers so they may secure an alternative fuel source and have that alternate fuel source in place by **September 1, 2018.** If you have any questions regarding the pipeline abandonment, please contact me at (606) 218-2381.

Sincerely,

A handwritten signature in cursive script that reads "Darrell L. Smith".

Darrell Smith  
Regional Manager

Cc: Barry Leezer



**EXHIBIT 2**



May 16, 2018

Loran Rice  
PO Box 93  
Hindman, KY 41822

Re: WL745472 Abandonment  
Meter Number: 15502173

Dear Mr. Hall,

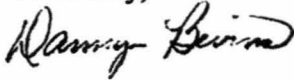
As you may know, Peoples Gas KY LLC delivers natural gas to your home from wells and pipelines owned by other parties, not Peoples. Peoples does not produce the gas that serves your home.

We have been put on notice recently by the supplier that owns the wells and/or pipelines that services your community/home that they will be terminating our supply received from WL745472. They will not be delivering any more gas to the pipelines that serve your home on or around September 1, 2018. Peoples does not have any other gas supply in your area. Once the supplier terminates the gas, we will not be able to deliver natural gas to your home.

Peoples very much regrets this situation and the inconvenience this may cause you and your family. You will want to obtain other fuel sources, such as home heating oil, or propane, to use for your heating source and/or any other appliances.

Once the supplier terminates the gas, Peoples will perform a final meter read at your residence and will be sending you a final bill. In the meantime, if you have any questions, please call our office at 606-218-6153/606-218-6154. We have enjoyed serving you and will be happy to do so again if a local gas supply is restored.

Yours truly,



Danny Bevins  
Supervisor, Gas Operations

Enclosure