

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC INVESTIGATION OF THE GAS)	
COSTS OF JOHNSON COUNTY GAS)	CASE NO.
COMPANY, INC. AND HALL, STEPHENS AND)	2020-00122
HALL GAS COMPANY PURSUANT TO KRS)	
278.2207 AND KRS 278.274)	

ORDER

The Commission, on its own motion, establishes this proceeding, pursuant to KRS 278.2207 and KRS 278.274, to provide Johnson County Gas Company, Inc. (Johnson County), and Hall, Stephens, and Hall Gas Company (Hall) an opportunity to present evidence to (1) demonstrate that the cost of gas sold to Johnson County by its affiliate Hall between April 1, 2013, and September 3, 2019, is no greater than market as required by KRS 278.2207(1)(b); (2) demonstrate that the Gas Cost Recovery (GCR) component of Johnson County's rates and the rates charged by Hall between April 1, 2013, and September 3, 2019, are fair, just, and reasonable as required by KRS 278.274 for natural gas purchased by a utility from an intrastate affiliate; and (3) provide any reason why the GCR component of Johnson County's rates should not be reduced to market along with a corresponding reduction to the cost of gas sold by Hall to Johnson County between April 1, 2013, and September 3, 2019, under KRS 278.274.

Johnson County is a Kentucky corporation in good standing with the Kentucky Secretary of State. As a local gas distribution company, Johnson County is subject to the Commission's jurisdiction pursuant to KRS 278.040 and KRS 278.010(3)(c). Johnson

County provides natural gas service to 274 residential, commercial, and industrial customers in Johnson County, Kentucky.¹ Since 1998, Bud Rife (Mr. Rife) has been the president, director, and the sole stockholder of Johnson County.²

In addition to owning Johnson County, Mr. Rife is a minority owner and manager of Hall, a joint venture that transports and sells natural gas within Kentucky.³ Hall's sole customer is Johnson County.⁴ As Hall's manager, Mr. Rife enters into contracts on behalf of Hall, authorizes billing to Johnson County for gas provided by Hall, authorizes payment for Hall's bills, and divides any profit earned by Hall among Hall's owners.⁵ Pursuant to KRS 278.010(2) and KRS 278.010(18), an affiliate is a person, partnership, corporation, or two or more persons having a joint or common interest that controls, is controlled by, or is under common ownership with a utility. Based on the above facts, the Commission

¹ *Annual Report of Johnson County Gas, Inc. for the Year ended December 31, 2019*, at 9 and 31.

² Case No. 1998-00523, *Application of Mr. Bud Rife and the Kentucky Municipal Gas Utility Investment Trust for the Approval of the Acquisition of the Stock of Johnson County Gas Company, Inc. of Paintsville, Johnson County, Kentucky, by Mr. Rife, and the Issuance of Two Promissory Notes Evidencing Certain Indebtedness of Johnson County Gas* (Ky. PSC Mar. 3, 1999); *Annual Report of Johnson County Gas, Inc. for the Year ended Dec. 31, 2013*, (Annual Report) at 7; *Annual Report for the Year ended December 31, 2014*, at 7; *Annual Report for the Year ended December 31, 2015*, at 7; *Annual Report for the Year ended December 31, 2016*, at 7; *Annual Report for the Year ended December 31, 2017*, at 7; *Annual Report for the Year ended December 31, 2018*, at 7; *Annual Report for the Year ended December 31, 2019*, at 10.

³ Case No: 2012-00140, *Alternate Rate Filing Adjustment Application of Johnson County Gas Company*, Responses to Post-Hearing Data Requests (filed May 17, 2013), Item 1, Exhibit 1; Case No: 2019-00312, *Purchased Gas Adjustment Filing of Johnson County Gas Company*, Johnson County's Response to Commission Staff's First Request for Information (Response to Staff's First Request) (filed Sept. 30, 2019), Item 1, and Response to Staff's Second Request (filed Oct. 16, 2019), Item 3.; Case No. 2019-00056, *Electronic Investigation of Johnson County Gas Company, Inc. and Bud Rife, Individually and as an Office of Johnson County Gas Company, Inc. Alleged Violation of KRS 278.300, a Commission Order, and a Tariff*, Apr. 24, 2019, Hearing Video Transcript (HVT) at 10:16:14.

⁴ Case No. 2019-00056, HVT at 10:17:23.

⁵ Case No. 2019-00312, Response to Staff's First Request, Item 3; Case No. 2019-00056, Johnson County's Response to Attorney General's Post-Hearing Request for Information, Exhibit 3 (filed May 23 2019).

finds that Mr. Rife controls both Johnson County and Hall, and that Hall is therefore an affiliate of Johnson County as defined in KRS 278.010(18).

Johnson County purchases natural gas from Hall and sells this gas to Johnson County's customers.⁶ The affiliate nature of Johnson County's gas supply is subject to the provisions of KRS 278.274, which extends the Commission's jurisdiction to intrastate affiliated companies as though they were utilities as defined in KRS 278.010(3) to the extent necessary to ensure that rates charged the utility and ultimately the consumer are fair, just, and reasonable.

Johnson County's tariff approved by and on file with the Commission contains a Gas Cost Adjustment (GCA) clause that requires that Johnson County file a GCR rate report with the Commission quarterly in order to revise the retail rates charged to its customers to reflect any changes in its wholesale gas cost.⁷ The Commission approves GCR rate reports under statutory authority granted by KRS 278.030(1) to set rates that are fair, just, and reasonable.

For six years, between April 1, 2013, and September 3, 2019, Johnson County failed to file quarterly GCR rate report filings with the Commission.⁸ During this period, Johnson County purchased the following percentages of its natural gas from Hall at a rate of \$6.0000 per Mcf: 100 percent in 2013; 55 percent in 2014; 32 percent in 2015; 25

⁶ 2013 Annual Report at 36; 2014 Annual Report at 36; 2015 Annual Report at 36; 2016 Annual Report at 36; 2017 Annual Report at 36; 2018 Annual Report at 36; 2019 Annual Report at 36.

⁷ Johnson County Tariff Sheet unnumbered pages 12–14.

⁸ Case No. 2019-00056, Final Order (Ky. PSC Aug. 19, 2019) at 7–9.

percent in 2016; 66 percent in 2017; 52 percent in 2018; and 56 percent in 2019.⁹ The approved GCR rate for Johnson County has remained \$6.4140 per Mcf since February 2013.¹⁰ The Expected Gas Cost approved by the Commission in the 2013 GCR rate report case was based on the \$6.0000 per Mcf contract price not only from its affiliated supplier Hall but also from its long-time unaffiliated supplier Bradco Oil Company (Bradco), which was presumably a rate negotiated “at arm’s length.” In recent GCA cases for other Kentucky local distribution companies, the approved GCR rate is approximately \$4.0000 per Mcf.¹¹ Johnson County’s most recent GCR rate report filing, Case No. 2019-00312, contained discrepancies, errors and omissions, and for this reason, is still pending with the Commission.¹² Staff’s Third Request in that pending GCR rate report proceeding questions Johnson County’s management of its gas supply cost, including any attempts made by Johnson County to negotiate a lower rate from both Bradco and Hall. Any lower price achieved from Bradco could presumably be fairly and appropriately applied to Hall as well. The Commission notes that it is entirely the responsibility of Johnson County to pursue the lowest, most reasonable gas cost possible for its customers, consistent with security of supply.

⁹ 2013 Annual Report at 36; 2014 Annual Report at 36; 2015 Annual Report at 36; 2016 Annual Report at 36; 2017 Annual Report at 36; 2018 Annual Report at 36; 2019 Annual Report at 36. Johnson Gas also purchased gas from non-affiliates Bradco and EQT Energy, LLC.

¹⁰ Case No. 2012-00542, *Purchased Gas Adjustment Filing of Johnson County Gas Company* (Ky. PSC Jan. 30, 2013); Johnson County Tariff Sheet unnumbered pages 12–14

¹¹ See Case No. 2019-00040, *Purchased Gas Adjustment Filing of Columbia Gas of Kentucky, Inc.* (Ky. PSC Feb. 14, 2019) (approving GCA of \$4.2552 per Met); Case No. 2019-00036, *Electronic Purchased Gas Adjustment Filing of Duke Energy Kentucky, Inc.* (Ky. PSC Feb. 14, 2019) (approving GCA of \$4.188 per Met); Case No. 2018-00432, *Purchased Gas Adjustment Filing of Sentra Corporation* (Ky. PSC Jan. 31, 2019) (approving GCA of \$4.0229 per Met).

¹² Case No. 2019-00312, Staff’s First Request (filed Sept. 19, 2019); Staff’s Second Request (filed Oct. 8, 2019); Staff’s Third Request (filed Mar. 27, 2020).

Johnson County's purchases from Hall are governed by KRS 278.2207, which governs the pricing of transactions between a utility and a non-regulated affiliate and requires that services or products provided to a utility by an affiliate be priced at no greater than market price or in a manner that complies with the utility's existing allocation methodology approved by either the United States Department of Agriculture, the Securities and Exchange Commission, or the Federal Energy Regulatory Commission.¹³

Additionally, as stated above, Johnson County's purchases from Hall are governed by KRS 278.274, which requires the Commission to exert jurisdiction over an intrastate affiliate gas supplier as though it were a utility subject to the Commission's jurisdiction. Specifically, KRS 278.274(3)(b) and (c) provides that when a utility is purchasing natural gas from an affiliate, the Commission is required to ensure that the rates charged to the utility, and ultimately to consumers, are fair, just, and reasonable, and the Commission may reduce the purchased gas component of the utility's rates by the amount deemed unjust and unreasonable. Following the Commission's investigation of Johnson County in Case No. 2019-00056, the Commission found that Johnson County's GCR rate may no longer be reasonable.¹⁴

Therefore, based on the evidence of record and being otherwise sufficiently advised, the Commission opens this investigation, finds that Johnson County and Hall should be parties, and finds that Johnson County should collect the GCR component of its rates subject to a refund effective for bills rendered after the date of this Order until further Order of the Commission.

¹³ KRS 278.2207(1)(b).

¹⁴ Case No: 2019-00056, final Order at 8.

IT IS THEREFORE ORDERED that:

1. This proceeding is established to (1) investigate the reasonableness of the GCR component of Johnson County's rates and rates charged by Hall between April 1, 2013, and September 3, 2019, and (2) to ensure that Johnson County's current and future efforts to procure the lowest cost gas for its customers, irrespective of supplier, are reasonable, and that its gas cost is likewise appropriately market based.


2. Within 20 days of the date of entry of this Order, Johnson County and Hall shall submit to the Commission a written response to the allegations contained in this Order.

3. Johnson County shall collect the GCR component of its rates subject to refund effective for bills rendered after the date of this Order until further Order of the Commission.

By the Commission



ATTEST:



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