

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	)	CASE NO.
COMPLIANCE WITH KRS CHAPTER 278, 807	)	2022-00238
KAR CHAPTER 005, AND 49 CFR PARTS 191	)	
AND 192	)	

ORDER

This matter arises on three motions: one filed by Kentucky Frontier Gas, LLC (Kentucky Frontier) on November 30, 2022, requesting a formal hearing in this matter; the second filed by East Kentucky Midstream, LLC (East Kentucky Midstream) on December 1, 2022, requesting that this matter to be submitted based on written record; and the third filed by Kentucky Frontier on December 6, 2022, requesting a briefing schedule if no formal hearing is scheduled.

KENTUCKY FRONTIER'S NOVEMBER 30, 2022 MOTION

In Kentucky Frontier's motion requesting a formal hearing in this matter, Kentucky Frontier argued that due to the complex nature of the proceeding and the technical information involved, that a hearing in this matter would be beneficial to all parties and to the Commission in determining the jurisdictional status of East Kentucky Midstream.

EAST KENTUCKY MIDSTREAM'S DECEMBER 1, 2022 MOTION

In response to Kentucky Frontier's November 30, 2022 motion, East Kentucky Midstream requested that this matter be decided based upon the written record. In support of its motion, East Kentucky Midstream argued that the record before the

Commission establishes that each segment of East Kentucky Midstream is a gas gathering pipeline as that term is used in KRS 278.485 and dedicated to gathering and low-pressure distribution of natural gas as specified in KRS 278.504. Additionally, East Kentucky Midstream argued that a public hearing would detract from the time and financial resources urgently needed to increase natural gas production and investment in line maintenance going into the winter heating season.

#### KENTUCKY FRONTIER'S DECEMBER 6, 2022 MOTION

In its motion requesting a briefing schedule in this matter, Kentucky Frontier argued that the Commission should allow the parties to file briefs because Kentucky Frontier has not had the opportunity to respond to or cross-examine witnesses regarding testimony and the responses to post-formal conference data requests filed by East Kentucky Midstream.

#### DISCUSSION AND FINDINGS

Having considered the motions and the material at issue, the Commission finds that Kentucky Frontier's motion requesting formal hearing should be denied and that East Kentucky Midstream's motion requesting to submit based on the record should be granted. This is because a robust record has been developed regarding the issue before the Commission: East Kentucky Midstream's jurisdictional status. East Kentucky Midstream responded to several rounds of discovery from Commission Staff, Kentucky Frontier, and the Attorney General of the Commonwealth of Kentucky, by and through the Office of Rate Intervention (Attorney General). A formal conference was held and East Kentucky Midstream and Kentucky Frontier responded to post-hearing discovery requests. East Kentucky Midstream and Kentucky Frontier filed testimony from their

respective witnesses. Thus, there is substantial evidence in the record regarding East Kentucky Midstream's jurisdictional status and a hearing would not be in the public interest.

The Commission further finds that Kentucky Frontier established good cause to establish a briefing schedule and therefore its request for a briefing schedule should be granted. Kentucky Frontier requested the opportunity to respond to East Kentucky Midstream's responses to post-formal conference discovery requests and East Kentucky Midstream's written testimony. Establishing a briefing schedule will afford Kentucky Frontier the opportunity to address issues raised by East Kentucky Midstream. To ensure that all parties are afforded the same opportunity, the briefing schedule will allow for simultaneous initial briefing and simultaneous response briefs. Although the Attorney General did not file a response to the pending motions, the Attorney General may, but is not required, to file an initial and response brief.

Once the briefs are filed, this matter will stand submitted for a decision on the record.

IT IS THEREFORE ORDERED that:

1. Kentucky Frontier's motion, filed on November 30, 2022, requesting a formal hearing is denied.
2. East Kentucky Midstream's motion, filed on December 1, 2022, requesting that this matter be decided based upon the written record is granted.
3. Kentucky Frontier's motion, filed on December 6, 2022, requesting a briefing schedule in this matter is granted.


4. Each party may file a memorandum brief in support of their respective post-formal conference position on or before January 20, 2023.

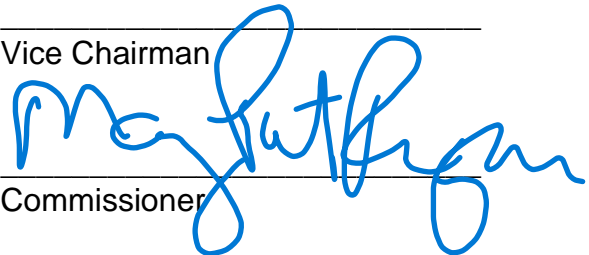
5. Each party may file a response brief addressing only issues raised in other parties' initial briefs on or before February 9, 2023.

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PUBLIC SERVICE COMMISSION

  
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Vice Chairman

  
Commissioner



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