COMMONWEALTH OF KENTUCKY
FRANKLIN CIRCUIT COURT
DIVISION I
CIVIL ACTION NO. 14-CI-120

ENTERED
JAN 28 2014
FRANKLIN CIRCUIT COURT
SALLY JUMP, CLERK

COMMONWEALTH OF KENTUCKY, ex. rel.
JACK CONWAY, ATTORNEY GENERAL **PLAINTIFF**

V. **RESTRAINING ORDER**

UNITED PROPANE GAS, INC. et al. **DEFENDANTS**

This matter is before the Court on Plaintiff's Motion for Temporary Injunction. The parties were heard in open court on Tuesday, January 28, 2014. Both parties were represented by counsel. Having heard the arguments of the parties, reviewed the record, and otherwise being sufficiently advised, the Court hereby holds that the Plaintiff's motion for injunctive relief is GRANTED under CR 65.03, and the Court grants a restraining order as follows:

Accordingly Defendants UPG and its affiliated companies named Defendants in this action are hereby enjoined and restrained from exercising any right under KRS Chapter 234 to prevent other retail marketers of liquefied petroleum gas ("LPG" or "propane") as defined under KRS 234.100(1) from providing service to Defendants' customers until such time as Defendants are ready, willing and able to provide service to their customers but in no event shall customers be prevented from obtaining propane from other vendors through 11:50 p.m. of February 3, 2014 or until such other orders of the Court.

Furthermore, the operation of KRS 234.190(2) is suspended for the limited purpose of permitting any retail marketer of LPG to provide emergency or urgent supplies of propane to the industrial, commercial and residential customers of Defendants as their current supply permits until the Court determines otherwise but at least through 11:59 p.m. on February 3, 2014.

The Court finds that the issuance of this restraining order is necessary because of the extreme weather conditions and the urgent necessity for customers of the defendants to have all available options to obtain heat during these extreme weather conditions. The Attorney General has presented a substantial issue of law, the equities favor injunctive relief, the balance of the equities favors granting relief, and it is in the public interest to grant relief. Maupin v. Stansbury, 575 S.W.2d 695 (Ky. App. 1978). It is difficult to see how granting this relief will harm the defendant in any meaningful way, and it is evident to the Court that citizens and businesses who rely on propane for heat have an urgent need for relief to obtain propane from any sources during these extreme weather conditions, during a period in which the normal forces of supply and demand have been disrupted by the extreme weather conditions. Defendant has indicated a willingness to sign a release for any individual customer with such a problem, but the Court finds that such case by case relief would be impossible to implement in a timely manner.

Pursuant to the Kentucky Civil Rules of Procedure 81(a), no bond is required of the Plaintiff. This order shall take effect immediately upon its entry.

So **ORDERED** this the 28th day of January, 2014.

Time 5:15 p.m. EST

PHILLIP J. SHEPHERD, JUDGE
Franklin Circuit Court, Division I

DISTRIBUTION:

All counsel