COMMONWEALTH OF KENTUCKY

BEFORE THE ENERGY REGULATORY COMMISSION

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In the Matter of

PAN BOWL GAS COMPANY UNAUTHORIZED INCREASE IN RATES	)))	CASE NO. 7042

O R D E R

On March 16, 1978 representatives of Pan Bowl Gas Company and other parties intervening in the matter appeared before the Public Service Commission to respond to a show cause Order issued by the Commission concerning overcharges the Company had imposed on its customers during the period from October 15, 1977 through March 7, 1978. On May 18, 1979, the Energy Regulatory Commission (successor to the Public Service Commission)issued an Order in this matter directing the Company to initially refund $15,000 of the overcharges and file a plan to refund the balance of the monies collected in excess of the prescribed rates subject to the Commission's approval. The Company misinterpreted the May 18, 1979 Order and a second Order was issued on September 27, 1979 which clarified the Commission's intent. On November 23, 1979 Pan Bowl Gas Company refunded the initial $15,000 to its customers as previously ordered.

The issue addressed herein is the remaining balance of the overcharges which has not been refunded.

DISCUSSION & FINDINGS

Precipitated in part by a Motion for Reconsideration filed by Pan Bowl Gas Company (now Public Gas Company) and,furthermore,by its concern for the customers of the Company, the Commission has reviewed the evidence of record and matters pertaining to this case. From its review the Commission concludes that the findings in the Order of May 18, 1979 clearly represent the situation as it existed. Although the findings do recognize that no gain was made by the Company and that the conditions under which the Company purchased the gas supplies were

extreme, that Pan Bowl did in short fail to obtain the Commission's approval to pass through the increased costs of gas from its suppliers during the time period mentioned above. In doing so the Company was clearly in violation of state law and the Commission's regulations and, therefore, the refund as ordered was the proper and appropriate action to be taken.

The Commission does, however, recognize that the appropriate and the practical implications of an action are sometimes at odds. In Pan Bowl's case, the practical impediment of this action is that to refund the remaining balance of approximately $71,000 would place the already financially weak company in a gravely dangerous if not bankrupt position. This action then is clearly not in the public interest. In righting the former injustice done to the customers of the gas company, the future harm to them would be far greater as the financial viability of the Company directly affects the availability, reliability and price of future service.

The Commission, therefore, finds that to protect the customers of the Company a modification of the original order is necessary and further finds that to require a refund of the remaining balance of the overcharges is not in the public interest.

The Commission does not expect this decision to be taken as a ruling in favor of the Company's failure to comply with the Commission's regulations. Moreover, the Commission stresses to the Company that it will not tolerate any future lack of adherence to its rules and regulations whether such actions are deliberate or due to the negligence of management.

IT IS THEREFORE ORDERED, that Pan Bowl Gas Company (Public Gas Company) shall not be required to refund the remaining balance of the overcharges collected during the period from October 15, 1977 through March 7, 1978.

Done at Frankfort, Kentucky, this 11th day of August, 1980.

ENERGY REGULATORY COMMISSION

Chairman

Vice Chairman

Commissioner

ATTEST:

Secretary