

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE EFFECTS OF THE FEDERAL TAX )  
REFORM ACT OF 1986 ON THE RATES OF ) CASE NO. 9789  
WESTERN KENTUCKY GAS COMPANY )

O R D E R

On December 11, 1986, the Commission established this case for the purpose of determining the effects of the Tax Reform Act of 1986 ("Tax Reform Act") on the rates of Western Kentucky Gas Company ("Western"). The Order initially establishing these proceedings was directed to all utilities with revenues in excess of \$1 million. The Commission limited its investigations to the major utilities since the impact on smaller privately owned utilities was relatively insignificant. After a review of the initial filings, the Commission disposed of a number of cases due to the minimal impact on rates and the extent of the Commission's regulation of certain competitive telecommunications utilities. At this time, 15 utilities remain under the purview of this examination.

On January 23, 1987, Western filed testimony and other exhibits in response to the Commission's Order which proposed to reduce annual revenues in two phases. The Phase I reduction was proposed to be effective January 1, 1987, and would reduce revenues by \$333,238. Phase II would become effective January 1, 1988, and reduce revenues by an additional \$272,649. In its

post-hearing brief, Western amended the Phase I and Phase II reductions to \$214,238 and \$151,649, respectively. As a result of the findings and determinations herein, the revenues of Western will be decreased by \$436,548 annually. The overall reduction in revenue requirements for the 15 utilities subject to these proceedings is in excess of \$75 million.

Motions to intervene were filed by the Utility and Rate Intervention Division of the Office of the Attorney General ("AG"); Utility Rate Cutters of Kentucky, Inc., ("URC"); and Kentucky Industrial Utility Customers ("KIUC"). All motions to intervene were granted by the Commission. Thomas C. Deward, on behalf of the AG, and David H. Kinloch, on behalf of URC, submitted prefiled testimony in this case. KIUC did not submit testimony, but filed comments through its counsel.

A public hearing was held at the Commission's offices in Frankfort, Kentucky, on May 14, 1987.

#### COMMENTARY

In its Order of December 11, 1986, the Commission expressed the opinion that the focus of this proceeding should be reflecting the effects of the Tax Reform Act in rates. Thus, the Commission considered the three primary issues in this matter to be: (1) determining the amount of the revenue change required due to the Tax Reform Act; (2) determining the appropriate date of any rate change; and (3) distributing the revenue change among rate schedules.

The Commission required that a 12-month period ending no more than 90 days from December 11, 1986, the date of the Order

establishing this case, should be used to determine the effects of the Tax Reform Act. Western proposed and the Commission has accepted the 12-month period ending November 30, 1986, as the test period for determining the reasonableness of the proposed rates.

#### PROCEDURAL ISSUES

##### Single-Issue Approach

Throughout these proceedings, there have been objections to the methodology used by the Commission in determining the reasonableness of each utility's rates subsequent to the Tax Reform Act. Certain utilities have characterized the Commission's actions as "single-issue" rate-making. Implicit in their objections is the notion that single-issue rate-making is contrary to law.<sup>1</sup>

This notion was rebutted by, among others, Kentucky Utilities Company ("KU"). In his opening argument, in Case No. 9780,<sup>2</sup> counsel for KU stated that this proceeding is soundly based. KU recognized that there was good reason to focus the proceeding on the tax changes.<sup>3</sup> In its post-hearing brief, KU further stated its agreement with the Commission's position that retaining the savings resulting from tax reform was not a proper way for KU to improve its earnings and indicated that a focused proceeding, expeditiously passing the tax savings to ratepayers, was

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<sup>1</sup> Other states have upheld single-issue rate-making proceedings, see for example, Consumers Power Company v. Michigan Public Service Commission, Mich. App., 237 NW 2d 189 (1975).

<sup>2</sup> Case No. 9780, The Effects of the Federal Tax Reform Act of 1986 on the Rates of Kentucky Utilities Company.

<sup>3</sup> Hearing Transcript, May 4, 1987, page 9.

reasonable as long as KU was permitted to maintain its test-period rate of return.<sup>4</sup>

Those complaining of single-issue rate adjustments overlook the Commission's long established practice of adjusting rates for fuel cost charges through Fuel Adjustment Clause ("FAC") and Purchased Gas Adjustment Clause ("PGA") proceedings. Each of these involves setting rates solely on the changes of the cost of coal or natural gas.

Apart from the propriety of single-issue rate-making, however, it must be pointed out that from the outset these cases have never been limited to a single issue. The order of December 11, 1986, did indicate that the Tax Reform Act was the focus of these investigations. However, it stated at page 2:

If, aside from the Tax Reform Act, a utility feels that its rates are insufficient, it has the discretion by statute to file a full rate case with the Commission. By initiating this case the Commission is in no way prohibiting or restricting any utility from filing a rate case encompassing all rate-making issues in a separate proceeding.

This Order was clarified on January 21, 1987, in Case No. 9799, The Effects of the Federal Tax Reform Act of 1986 on the Rates of Continental Telephone Company ("Continental"). That Order states:

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<sup>4</sup> Brief for KU, filed May 22, 1987, page 4.

Because of the breadth of this investigation and the number of parties involved, it is necessary to categorize some information into a consistent, well-defined scope. That scope is explained in the December 11, 1986, Order. The information as it relates to the specific changes occasioned by the Tax Reform Act should be filed as the December 11, 1986, Order requires. The expected effects of those changes on rates should be filed as well. Simply because the Commission deems certain information necessary, and deems it necessary to be filed in a particular format does not preclude the filing of other information a party believes is pertinent.

For these reasons, the Commission ORDERS that:

- (1) All parties shall comply with the December 11, 1986, Order;
- (2) Any party may file any additional information it deems relevant;
- (3) Any party may file alternative proposals for the resolution of this investigation.

Thus, there is not, nor has there been, any limitation on any party filing additional information up to and including an adjustment of all rates. The Commission focused its attention primarily on the Tax Reform Act because of the potentially extraordinary impact of this act on the finances and rates of utilities.

Federal income taxes are in one sense an assessment by the federal government on the utilities for their proportionate share of the federal government's budget. Under accepted regulatory rate-making practices, these federal income taxes are included as part of a utility's expenses that are used to establish rates. Thus, through the rate-making process, the utility can be thought of as a collection agent for federal taxes and a conduit through which federal taxes are transferred from ratepayers to the federal government. Because the Tax Reform Act represents such a historic change in federal tax policy, the Commission determined that it was in the best interests of all concerned--utilities and rate-

payers alike--to reflect these tax changes in each company's rates as expeditiously as possible. For that reason, the initial concern was the reduction of the corporate tax rate from 46 percent to 34 percent and other relatively minor adjustments caused by the changes in the Federal Tax Code. As we explained in our December 11, 1986, Order:

First, it would be extremely cumbersome and expensive for the Commission to simultaneously initiate rate cases covering all utilities affected by this Order. Many utilities may not wish to incur the time-consuming and expensive task of preparing a complete rate case at this time. A proceeding that recognizes only the effects of the Tax Reform Act would minimize the time and expense of both the Commission and the utilities.

Secondly, the Commission does not view retaining the savings that result from tax reform as a proper way for a utility to improve its earnings. Likewise, if the Tax Reform Act should result in major cost increases, these costs should be recognized in rates expeditiously....

Finally, by initiating limited cases for every major utility, the expertise of all interested parties can be pooled to assure that all aspects of the Tax Reform Act are fairly reflected in utility rates.

In an effort to fairly reflect only the effects of the Tax Reform Act in the companies' rates, the Commission, to the extent possible, and with the acquiescence of the companies, narrowed the scope of the analysis. All quantifiable aspects of the revenue requirement effects of the Tax Reform Act have been considered, and therefore the rate adjustments ordered herein should have no effect on the utility's earnings.

In summary, the Tax Reform Act is a unique and historic change in tax law that substantially affects the cost of providing utility service. The primary considerations in narrowing the

scope of these proceedings were that: (1) the cost change generated by the Tax Reform Act was clearly beyond the control of the utility; (2) the cost change generated by the Tax Reform Act affected all major privately owned utilities in a similar manner; (3) the cost change generated by the Tax Reform Act had a major impact on the cost of service of utilities; and, (4) the cost change generated by the Tax Reform Act was effective at a specified date which was scheduled to occur quickly, requiring expeditious action on the part of the Commission.

For all of the reasons previously stated, the procedure used by the Commission is one that is efficient, reflective of sound regulatory methods, responsive to the substantive and procedural rights of all parties, and consistent with the jurisdiction of the Commission.

#### Burden of Proof

Several utilities have suggested that the Commission bears the burden of proving the reasonableness of the rates that have been adjusted to reflect the effects of the Tax Reform Act. Continental, for example, cites KRS 278.430. However, this statute refers to appeals of Commission orders to circuit court. It obviously is not applicable to a proceeding before the Commission itself.

In its Order of December 11, 1986, the Commission on its own motion took the extraordinary step of establishing these investigations in response to the historic Tax Reform Act of 1986. There is no statute assigning a burden of proof in this type of special case. KRS 278.250 is particularly noteworthy. After giving the

parties a hearing and carefully reviewing the record, the Commission has determined the fair, just, and reasonable rates for each respective utility as prescribed by KRS 278.030. We believe that this procedure is consistent with our statutory responsibilities.

#### Retroactive Rates

Another issue that has been raised in these proceedings is the possibility of a retroactive change in rates. We have decided that the reduction in each utility's tax rate and the related adjustments will not be reflected in the utility's rates until July 2, 1987. Those rates will be charged for service rendered on and after July 2, 1987. Thus, the rates are entirely prospective, and the issue of retroactivity is moot.

#### Testimony of URC

The URC filed testimony in each of these cases. However, its witness did not appear at the hearing and was not subject to cross-examination. Several of the parties moved to strike URC's prefiled testimony. After considering the nature of the testimony filed by URC, the Commission will treat it as comment rather than evidence and weigh it accordingly.

#### DETERMINATION OF THE IMPACT OF THE TAX REFORM ACT

##### Excess Deferred Taxes

A reduction in the corporate tax rates results in an excess or surplus deferred tax reserve, since deferred taxes resulting from depreciation-related and non-depreciation-related tax timing differences were provided by ratepayers at a higher tax rate than the rate at which they will be flowed back.

On January 1, 1979, the federal corporate income tax rate decreased from 48 to 46 percent. Utilities, in general, flowed back deferred taxes at the new statutory tax rate, which resulted in an excess provision for deferred taxes. The Commission recognized the existence of these excess deferred taxes and in subsequent rate proceedings required that the excess be returned to the ratepayer over a 5-year amortization period.

The change in tax rates under the Tax Reform Act from 46 percent to 34 percent creates a substantial excess provision for deferred taxes. The Tax Reform Act requires that deferred taxes related to depreciation timing differences be flowed back no faster than under the "average-rate assumption method." Under this method an average rate is calculated and, as timing differences reverse, the accumulated deferred taxes are credited to income at the average rate, reducing the excess deferred taxes to zero over the remaining life of the property. Moreover, the Tax Reform Act provides that if a regulatory commission requires a more rapid reduction of the excess provision for deferred taxes, book depreciation must be used for tax purposes. The Tax Reform Act does not, however, have specific provisions for the excess deferred taxes that are not related to depreciation. Therefore, the excess deferred taxes have been generally characterized as "protected" (depreciation-related) and "unprotected" (not related to depreciation).

The treatment requested for the unprotected excess deferred taxes by the parties in these cases varies. The AG's witness has not recommended the flow back over an accelerated time period in

these cases. Mr. DeWard stated that it would be more appropriate to consider this issue in a general rate proceeding. This would allow companies to retain those benefits to offset some of the negative impacts of the Tax Reform Act, such as reduced cash flow. The Commission recognizes the existence of the excess deferred taxes and is of the opinion that these taxes provided by rate-payers in previous years should be returned in an equitable manner. However, the various options for returning these benefits could not be fully explored within the context of this expedited proceeding. Therefore, the issue regarding accelerated amortization of excess deferred taxes will be considered in future general rate proceedings and not in the present, limited proceeding.

The primary position taken by most utilities on this issue was that deferred income taxes should be amortized, as timing differences reverse, using the tax rates in effect at the time they originated or using the average rate assumption method. Therefore, adjustments have been made to insure that deferred taxes resulting from timing differences that are reversing are included at the rate provided, as required under the Tax Reform Act.

#### Rate Base Adjustments

In addition to adjusting tax expense to reflect the reduction in the tax rate, most utilities involved in these proceedings have proposed that the effects on cash flow be recognized in determining the effect on revenue requirements. Two views have been advanced as to how cash flow requirements are increased by the Tax

Reform Act. The first is that rate base is increased due to the Tax Reform Act's reduction in temporary timing differences between the book and tax return income tax expense. This reduction in timing differences reduces deferred taxes. Since deferred taxes serve as a deduction from rate base, the effect is to increase rate base. The second view is that the Tax Reform Act results in a greater current tax liability and, consequently, additional cash flow requirements. This additional cash flow must be provided for in additional capital requirements that increase the overall cost of service.

In its determination, the Commission has not distinguished between these two viewpoints, and has generally allowed adjustments to reflect the level of additional cash flow requirements it considers appropriate without regard to whether the result flows from a reduction in deferred taxes or an increase in capital requirements. The effect on revenue requirements is essentially the same.

The objective of the Commission in giving recognition to those aspects of the Tax Reform Act that affect capital requirements is to leave the company in the same earnings position as before the rate change in this case. A number of utilities, in determining the revenue requirements impact of the rate base adjustments, applied the rate of return granted in their last general rate case. The Commission finds this approach to be inappropriate. To apply the allowed return, where it is greater than the test-year actual return, to the incremental increase in rate base would result in improving the earnings position for the

utility with respect to return on rate base achieved prior to the implementation of the Tax Reform Act rate adjustment. The Commission, therefore, considers it more appropriate to use the test-year actual rate of return rather than the rate of return granted in the last rate case. This will maintain the company's rate of return at the test year level and will neither improve nor reduce the company's earnings position.

A number of adjustments were proposed by the various utilities as adjustments to rate base and cash flow. In evaluating the appropriateness of these adjustments, the Commission has concluded that adjustments which reflect changes resulting from the application of the Tax Reform Act to test year operations are acceptable. However, those adjustments that reflect the application of the Tax Reform Act to future operations are not. In other words, the Commission will not allow adjustments for those aspects of the Tax Reform Act which are dependent upon the addition of plant to the system. Such adjustments are beyond the end of the test year and relate to serving additional customers or growth in the system. In the absence of corresponding revenue and capitalization adjustments, the recognition of such post-test year adjustments would create a mismatch between revenue, capitalization, and rate base. The derivation of such revenue and capitalization adjustments are speculative in nature and not generally allowed by this Commission in rate cases. The Commission has, therefore, excluded from the determination of revenue requirements herein all adjustments which are affected by the Tax Reform Act on a post-test year basis.

Based upon the various adjustments proposed in one or more of these cases, following is a synopsis of the Commission's findings and determinations:

Rate Base Adjustments Allowed

The decrease in deferred taxes resulting from changes in the tax code relating to unbilled revenue, uncollectible accounts, certain business expenses, superfund taxes, and test-period investment tax credits ("ITC") has been included since it meets the criterion of being based upon the application of the Tax Reform Act to actual test year operations, is unrelated to plant growth, and does not create a mismatch between test-year rate base and pro forma revenues and capitalization.

Rate Base Adjustments Disallowed

1. Depreciation Several utilities proposed to recognize the effect of the Tax Reform Act's new Modified Accelerated Cost Recovery System ("MACRS") on rate base. Generally, MACRS will result in lower depreciation expense per tax return, which results in a greater current tax liability in the future. MACRS did not become effective, however, until January 1, 1987, and is applicable only to property placed in service after that date. This is a post-test year occurrence for all utilities participating in these proceedings. As previously noted, the Commission finds it inappropriate to recognize such post-test period adjustments.

2. ITC Based Upon Future Plant Additions The Commission has disallowed proposed adjustments to recognize the loss of ITC on plant placed in service subsequent to the test year since the

inclusion of plant and capital associated with said ITCs is not generally allowed by the Commission for rate-making purposes.

3. Capitalized Overheads The Tax Reform Act's capitalization requirements for interest, pension and benefit costs, and so forth, are not effective until January 1, 1987, and thus will only pertain to construction after this date. Because of the post-test year nature of this adjustment, the Commission has not included these adjustments in this proceeding.

4. Contributions in Aid of Construction The Tax Reform Act provision requiring contributions to be included as taxable income on the tax return of the utility is not effective until January 1, 1987, and thus will relate only to post-test period construction. The Commission has, therefore, disallowed adjustments proposing to reflect loss of cash flow resulting from the taxability of contributions.

#### Implementation Date

The Tax Reform Act, which reduces the top corporate tax rate to 34 percent, produces an effective tax rate for 1987 of 40 percent. This is the blended or average rate based on the current tax rate of 46 percent, which is in effect for the first 6 months of 1987, and the 34 percent rate which becomes effective July 1, 1987. The current rates of most utilities are based on the 46 percent tax rate which was in effect at the time the rates were set by the Commission. Therefore, since January 1, 1987, most utilities have charged rates based on a tax rate of 46 percent which is in excess of the 1987 blended rate of 40 percent.

Generally, in order to reflect the effects of the Tax Reform Act during 1987 and beyond, the Commission has two basic options: adjust rates retroactive to January 1, 1987, based on the 1987 blended tax rate of 40 percent and adjust rates January 1, 1988, based on the 34 percent tax rate, or make one adjustment effective July 1, 1987, based on a 34 percent tax rate, to achieve the same overall effect. By this second approach, most companies will have charged rates for the first half of 1987 based on a 46 percent tax rate and for the second half of 1987 based on a 34 percent tax rate. This will result in rates (and tax collections) for 1987 that equate to a blended tax rate of 40 percent.

In response to concerns of some utilities concerning the July 1, 1987, rate change, the Commission cites Section 15 of the Internal Revenue Code of 1986 which prescribes the method of computing taxes in 1987 for calendar year taxpayers. That section requires that "tentative taxes" for 1987 be computed by applying both the 46 percent tax rate and the 34 percent tax rate to taxable income for the entire calendar year; and the tax for the calendar year shall then be the sum of each tentative tax in proportion to the number of days in each 6-month period as compared to the number of days in the entire taxable year.

The Commission is of the opinion that a one-time adjustment, based on a 34 percent tax rate, effective July 2, 1987, will meet the transitional requirements of calendar year 1987 and achieve the Commission's goals for this proceeding as set out in its Order of December 11, 1986.

### Revenue Requirements

The Commission is of the opinion that while Western has proposed Phase One and Phase Two rates, the calculation of the total reduction in revenue requirements should be based on the full tax rate reduction to 34 percent. In that manner, Western will be placed on the same basis as other utilities.

Based on the tax rate reduction to 34 percent and other Tax Reform Act adjustments accepted herein, Western's annual tax expense and revenue requirement for rate-making purposes will decrease by \$540,208 and \$436,548, respectively, calculated as follows:

<u>Base Change</u>		<u>Income Tax Effect</u>	<u>Revenue Effect</u>
Taxable Income	\$ 3,332,374		
Tax Rate Change (49.9152% - 38.785%)	X <.1113>		
Change Income Tax Expense	<370,893>	\$<370,893>	
Revenue Multiplier	X 1.633587		
Revenue Decrease	<605,886>	<234,993>	\$<605,886>
<u>Rate Base Offset</u>			
Loss of ITC	625,000		
Unbilled Revenues	770,000		
Bad Debts	<u>25,000</u>		
Total Rate Base Adjustments	\$ 1,420,000		
Test Year Rate of Return	X <u>7.30%</u>		
Additional Return Requirements	103,660		
Revenue Multiplier	X <u>1.633587</u>		

<u>Base Change</u>		<u>Income Tax Effect</u>	<u>Revenue Effect</u>
Revenue Effect	169,338		<u>169,338</u>
Composite Tax Rate	X <u>.38785</u>		
Income Tax Effect	\$ 65,678	<u>65,678</u>	
TOTALS		<u>\$&lt;540,208&gt;</u>	<u>\$&lt;436,548&gt;</u>

In the above calculation the impact of the reversing tax timing differences is reflected in the tax reduction to conform with the requirements of the Tax Reform Act that the reversing timing differences be credited to income at the rate determined under the average rate assumption method.

The calculation also includes an adjustment to allow Western to maintain the actual test-year rate of return of 7.30 percent. As discussed in the section titled, Rate Base Adjustments, only adjustments not dependent upon future plant additions have been allowed. In this case, those include the effect of Loss of ITC, Unbilled Revenues and Uncollectible Accounts. Western did not file a proposed rate base, therefore, the November 30, 1986, rate base utilized herein is based upon Western's monthly filings with the Commission and is determined to be \$68,250,234, calculated as follows:

Utility Plant in Service	\$101,688,321
Construction Work in Progress	3,841,361
Gas Stored Underground - Noncurrent	<u>1,775,865</u>
Total Utility Plant	\$107,305,547

ADD:	
Materials and Supplies	\$ 1,179,044
Gas Stored Underground	13,984,908
Prepaid Gas Purchases - Average	3,043,912
Prepayments	205,171
Working Capital	<u>176,788</u>
Subtotal	\$ 18,589,823
DEDUCT:	
Accumulated Depreciation	47,451,755
Customer Advances	2,200,228
Deferred Taxes	7,837,043
Unamortized ITC	<u>156,110</u>
Subtotal	\$ 57,645,136
NET ORIGINAL COST	<u>\$ 68,250,234</u>

Therefore, based on the tax rate reduction to 34 percent and the other Tax Reform Act-related changes which the Commission has accepted herein, Western's annual revenue requirements decline by \$436,548. The reduction should flow the Tax Reform Act tax savings to Western's ratepayers while having a neutral impact on its earnings. Such a result is consistent with the Commission's objectives as set out in its Order of December 11, 1986.

Contributions in Aid of Construction and Customer Advances

The Tax Reform Act requires that any contributions received in aid of construction, or any other contribution by a customer or potential customer, to provide, or encourage the provision of services to or for the benefit of the transferor be included as taxable income.<sup>5</sup> On December 12, 1986, Kentucky-American Water Company ("Kentucky-American") submitted a letter to the Commission

<sup>5</sup> Explanation of Tax Reform Act of 1986. Commerce Clearing House, Inc., par. 1,670, page 486.

wherein it proposed the following options for treatment of contributions and customer advances for construction:

- a. "No Refund" Option: Under this alternative the contributor would not be entitled to any potential refunds. The total amount contributed would be recorded as ordinary income for tax purposes and the associated tax would be recorded as a payable. Kentucky-American would supply the capital necessary for completion of the construction (construction cost - net contributions).
- b. "Refund" Option: Under this alternative the contributor would be entitled to the potential refund. The contribution would be increased to include federal income taxes and the total amount received would be recorded as ordinary income for tax purposes. The contributor would then be entitled to the potential refund of the entire contribution within the statutory time limit of 10 years.

Further, Kentucky-American proposed that for contributions in aid of construction the no refund option be used for rate-making purposes.

After careful consideration of the information presented by Kentucky-American, the Commission is of the opinion that the refund option as proposed by Kentucky-American appears to be the most equitable method of passing on the taxes related to contributions to both the utility and its general body of ratepayers, in that it will require the customers receiving the service to pay

for the total cost of providing that service with the potential for future refunding. Further, the utility and its general body of ratepayers would be only obligated to contribute capital in the future as customers are added to the system and the benefits from those additions are received. Therefore, the Commission has chosen the refund option for use by Kentucky-American and for general applicability to all utilities.

The Commission recognizes that this policy is being established based solely on the evidence presented by Kentucky-American and is of the opinion that this matter should be investigated further in a separate proceeding. Therefore, the policy is being implemented on a temporary basis subject to the outcome of a formal investigation wherein all parties will be given the opportunity to submit evidence on this issue.

The treatment of contributions established herein will result in no revenue requirement impact on the utilities in these proceedings and, thus, no adjustment has been recognized.

#### Rate Design

In the order establishing this case, the Commission suggested that the reduction in revenue resulting from the Tax Reform Act could be spread to consumers by a uniform reduction to all Mcf charges. Western has filed rates designed to flow through the revenue requirement reduction resulting from the Tax Reform Act on a uniform Mcf basis. This method is equitable and achieves the intent of the Commission to conform with the rate design approved in the last rate case.

Western's reduction factor of \$0.0120 per Mcf was determined by dividing the revenue reduction of \$436,548 by Mcf sales of 36,467,621.

#### Statutory Notice

The Commission has determined, as provided in KRS 278.180, that a notice period of less than 30 days is reasonable. The shorter notice period was required because the Tax Reform Act was passed by Congress in October 1986, with an effective date of January 1, 1987, which provided a relatively short time for the Commission to conduct investigatory proceedings and issue orders implementing rates effective July 2, 1987, to reflect the 40 percent tax rate in utility rates for 1987 under the procedure established herein.

#### SUMMARY

The Commission, after consideration of the evidence of record and being advised, is of the opinion and finds that:

1. The Tax Reform Act results in a substantial cost savings to Western and said cost savings should be flowed through to rate-payers in an equitable manner.

2. The unique characteristics and primary considerations of this proceeding that require narrowing its scope are: (1) the cost change generated by the Tax Reform Act was clearly beyond the control of the utility; (2) the cost change generated by the Tax Reform Act affected all major privately owned utilities in a similar manner; (3) the cost change generated by the Tax Reform Act had a major impact on the cost of service of utilities; and, (4) the cost change generated by the Tax Reform Act became

effective at a specified date which required expeditious action on the part of the Commission.

3. The implementation procedure detailed herein is an equitable method for determining the adjustment in revenues required to reflect the 40 percent Federal Income Tax Rate in the rates of utilities for the calendar year 1987.

4. The existing rates of Western are unreasonable inasmuch as they reflect a federal income tax provision that is no longer in effect.

5. The adjustment to rates prescribed herein has no affect on the earnings of Western after recognition of the cost savings resulting from the Tax Reform Act, and consequently said rate adjustment is fair, just, and reasonable.

IT IS THEREFORE ORDERED that:

1. The motion to strike the testimony of Mr. Kinloch is denied.

2. All other motions not specifically addressed are denied.

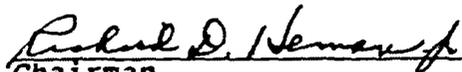
3. The rates in Appendix A are the approved rates for service rendered on and after July 2, 1987.

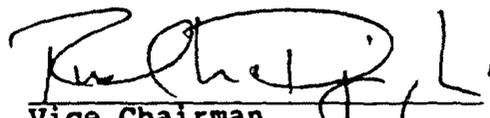
4. Revised tariffs reflecting the rates set out in Appendix A shall be filed within 30 days from the date of this Order.

5. Revised tariffs reflecting the Commission's policy on the treatment of taxes associated with contributions in aid of construction shall be filed within 30 days from the date of this Order.

Done at Frankfort, Kentucky, this 11th day of June, 1987.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 9789 DATED June 11, 1987.

The following rates and charges are prescribed for the customers in the area served by Western Kentucky Gas Company. All other rates and charges not specifically mentioned herein shall remain the same as those in effect under authority of this Commission prior to the effective date of this Order.

GENERAL SERVICE RATE G-1

Rate - Net:

Commodity Charge                      \$3.8806 per 1,000 cubic feet

INTERRUPTIBLE SERVICE RATE G-2

Rate - Net:

Interruptible Service:

All gas used per month in excess of the high priority service shall be billed at \$3.5658 per 1,000 cubic feet.

LARGE VOLUME INTERRUPTIBLE SERVICE RATE G-3

Rate - Net:

Interruptible Service:

All gas used per month in excess of the high priority service shall be billed at \$3.3958 per 1,000 cubic feet.