COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ADJUSTMENT OF GAS AND ELECTRIC RATES OF LOUISVILLE GAS AND ELECTRIC COMPANY	) CASE NO. 10064

O R D E R

On March 8, 1988, representatives of the Attorney General's Office, Residential Intervenors, Department of Defense, City of Louisville, Jefferson County Government, Consumer Advocacy Groups and Kentucky Industrial Utility Customers ("Intervenors") jointly filed a letter objecting to the procedures being followed in the settlement conference that commenced on March 7, 1988. The settlement conference, requested by Louisville Gas and Electric Company ("LG&E"), was established pursuant to the Commission's Order dated February 23, 1988.

The Intervenors object to the Commission's Staff actively participating in the settlement conference on the grounds that the Staff will subsequently participate in drafting an Order on the merits if a full settlement is not reached. The Commission finds no substance to this objection. When a settlement document is tendered, it is the Commission which makes the determination as to whether it is in the public interest and should be accepted. If a full settlement is not reached, it is the Commission, not its Staff, that decides the merits of the issues. The Staff

participates in the drafting of a final Order only as directed and instructed by the Commission.

The Commission is of the opinion that the Staff is an essential participant to any conference scheduled by the Commission. The Staff is the only participant that does not represent either ratepayers exclusively or the utility exclusively. Rather, the Staff, on behalf of the Commission, represents the public interest. That interest includes a balancing of the ratepayers' interest to receive adequate, efficient, and reasonable service at the lowest possible cost and the utility's interest to provide that service at rates that fully compensate its investors for the risks assumed. This is a delicate balance to be struck by the Commission and its Staff.

The Intervenors' letter further states that the Staff's attempts to use the settlement conference to request information not already in the record, to offer opinions on evidence in the record, and to respond to questions relating to record evidence transforms the settlement conference into a technical conference which must be transcribed by a court reporter. Intervenors also contend that it is improper to combine in one conference the aforementioned attributes of a technical conference with those of a settlement conference.

The Intervenors' letter does not directly disclose their perception of the permissible scope of a settlement conference. However, the letter leads the Commission to believe that the scope must be limited to discussing the issues and their financial implications without the offering of opinions or responding to

questions relating to record evidence. The Commission is of the opinion that such a limitation is arbitrary, unduly restrictive, and would operate to inhibit rather than facilitate a settlement.

If settlement negotiations are to be meaningful, the Staff and all parties must be free to ask questions and comment on the evidence. The potential to achieve a settlement would be greatly diminished if the negotiations are to exclude relevant information, such as Staff's comments on the evidence. Furthermore, conferences must be conducted in an atmosphere that maximizes the interaction among counsel, expert witnesses, and technical personnel. Accordingly, conferences should not be transcribed by a court reporter unless so ordered by the Commission on a showing of exceptional circumstances.

While the findings set forth herein overrule all of the intervenors' objections, the Commission has, on its own initiative, undertaken a further review of its decision to establish a technical conference. At the outset the Commission is seriously concerned that the proximity of the March 22, 1988, hearing date may not afford the parties and the Staff adequate time to participate in the conference and concurrently prepare for trial in the event a settlement is not reached. A conference of this nature should be held further in advance of the hearing. However, due to unforeseen circumstances, the discovery phase of this case became enlarged and the schedule could not be met.

The Commission is aware that this case presents a number of major issues that will have substantial, long-range financial implications for LG&E, its ratepayers, and its investors. Among

the most significant of these issues are the regulatory treatment of the Trimble County construction expenditures, and the weather normalization of electric sales. The important public interest surrounding these issues, coupled with the brief time allotted for the technical conference, has convinced the Commission that it should cancel the conference.

IT IS THEREFORE ORDERED that:

1. The Intervenors' objections to the technical conference, set forth in their March 8, 1988, letter, be and they hereby are overruled.

2. The technical conference established pursuant to Commission Order dated February 23, 1988, be and it hereby is cancelled.

Done at Frankfort, Kentucky, this 17th day of March, 1988.

PUBLIC SERVICE COMMISSION

Chairman

Vice Chairman

Commissioner

ATTEST:

Executive Director