

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

SONNY'S REAL PIT BAR-B-Q ON	)	
RED MILE PARKWAY, INC.	)	
	)	
COMPLAINANT	)	
	)	
VS.	)	CASE NO. 89-188
	)	
	)	
KENTUCKY UTILITIES COMPANY	)	
	)	
DEFENDANT	)	

O R D E R

On October 4, 1989, Sonny's Real Pit Bar-B-Q on Red Mile Parkway, Inc. ("Sonny's") filed an application for rehearing and a motion for a stay pending appeal of the Commission's Order dated September 20, 1989, dismissing Sonny's complaint against Kentucky Utilities Company ("KU"). That complaint alleged the unlawful threat by KU to disconnect Sonny's electric service for Sonny's refusal to give a deposit. The application for a rehearing was timely and KU filed a response to the application on October 10, 1989, asking that the application be denied. The Commission denies both the application for rehearing and the motion for a stay.

The arguments for rehearing made by Sonny's regard matters of evidence to which Sonny's might have availed itself had there been a hearing. That there was no hearing was Sonny's choice. Commission Staff contacted both parties to offer both discovery

and a formal hearing. Sonny's did not want either discovery or a hearing. It is too late now to complain that the Commission based its decision on the record as it stood submitted by Order of the Commission dated August 23, 1989.

The Commission decided this case on the clear language of KRS 278.460 and 807 KAR 5:006, Sections 7(1) and 11(1)(a). No consideration was made of Sonny's payment history, whether good or bad, because that history is irrelevant. Sonny's could be a blue-ribbon customer and still be confronted with the need to make this deposit. KU lawfully may require a deposit and threaten disconnection if one were not given.

Regarding the motion for a stay of the Commission's Order dismissing the complaint, the Commission finds that it has not been endowed by the legislature with the powers necessary and usual to accommodate the granting of stays, e.g., the authority to require a supersedeas bond. Certainly, there is no prohibition to Sonny's seeking similar relief from the circuit court should Sonny's appeal the Commission's decisions in this case.

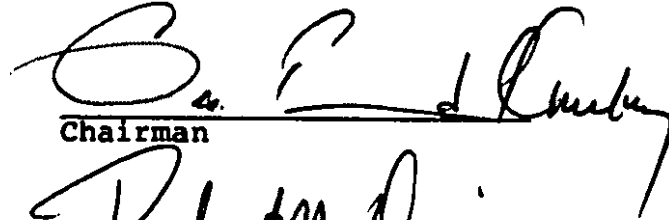
IT IS THEREFORE ORDERED that:

1. Sonny's application for a rehearing shall be and hereby is denied. The Order entered in this case on September 20, 1989, remains in effect in all respects.

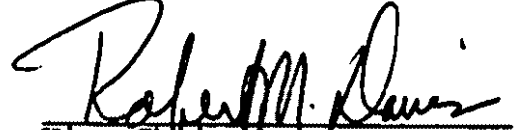
2. Sonny's motion for a stay of the September 20, 1989 Order pending appeal shall be and hereby is denied.

Done at Frankfort, Kentucky, this 24th day of October, 1989.

PUBLIC SERVICE COMMISSION



Chairman



Vice Chairman



Commissioner

ATTEST:

Executive Director