

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

SOUTH KENTUCKY RURAL ELECTRIC)
COOPERATIVE CORPORATION'S FILING)
OF AMENDMENT NO. 2 TO THE) CASE NO. 90-145
INDUSTRIAL POWER AGREEMENT WITH)
ASAHI MOTOR WHEEL COMPANY, INC.)

O R D E R

On September 17, 1990, the Commission issued its Order approving in part Amendment No. 2 to the Industrial Power Agreement ("Amendment No. 2) between South Kentucky Rural Electric Cooperative Corporation ("South Kentucky") and Asahi Motor Wheel Company, Inc. ("AMW"). Therein, the Commission: 1) approved on a permanent basis the reduction in AMW's minimum contract demand to 1,000 KW that had been granted interim approval on July 11, 1990; 2) denied a proposed reimbursement and repayment plan involving AMW and South Kentucky's wholesale power supplier, East Kentucky Power Cooperative, Inc. ("East Kentucky"); and 3) required AMW to be billed for service rendered in April and May 1990 based on the terms of Amendment No. 1 to the Industrial Power Agreement ("Amendment No. 1") between South Kentucky and AMW.

On October 5, 1990, South Kentucky filed a motion for rehearing or amendment of the Order to permit the reduced minimum contract demand to be effective for the months of April and May 1990. As grounds for its motion, South Kentucky states that the Commission's rationale for requiring that AMW be billed for

service in April and May under the terms of Amendment No. 1, namely to fully reimburse East Kentucky for its \$357,000 investment in facilities built to serve AMW, is flawed. South Kentucky contends that the \$240,000 paid by AMW through March 1990 is adequate compensation to East Kentucky for its premature investment to serve AMW; that the facilities constructed to serve AMW provide added system reliability and load growth potential; and that the amount of \$240,000 represents total compensation to East Kentucky for the portion of the facilities which would serve only AMW.

South Kentucky also points out that Amendment No. 2 was signed prior to the billing for service rendered in April and had an effective date of April 1, 1990. South Kentucky contends that Amendment No. 2 would have been effective for April and May 1990 but for its suspension by the Commission. South Kentucky maintains that the provisions of Amendment No. 2 are consistent with its filed tariffs, are not new rates, and, therefore, making those provisions applicable to April and May would not constitute retroactive ratemaking or violate the filed rate doctrine.

Based on the motion and being advised, the Commission hereby finds that South Kentucky has incorrectly interpreted the Commission's rationale for requiring that AMW be billed under the terms of Amendment No. 1. Based on the May 14, 1990 file date of Amendment No. 2, the Commission, pursuant to KRS 278.180(1), found that the amendment could not legally become effective prior to June 13, 1990. Regardless of the Commission's suspension of the

contract through November 13, 1990,¹ the amendment could not have been effective for April and May 1990. The Commission's rationale for requiring that AMW be billed pursuant to Amendment No. 1 for April and May was based on the amendment's earliest possible effective date of June 13, 1990 and the actual effective date on an interim basis of July 11, 1990. Under no circumstances did South Kentucky have a right to bill AMW under the provisions of Amendment No. 2 prior to June 13, 1990.

The Commission's September 17, 1990 Order found that East Kentucky should be reimbursed for its investment in facilities to serve AMW. The Commission also found that upon receipt of the additional amount of \$118,000 from AMW for the months of April and May 1990, East Kentucky would be fully reimbursed. However, the amount of the reimbursement was not the basis for the Commission's decision that AMW's service for April and May should be billed under the terms of Amendment 1.

In spite of South Kentucky's contentions, the evidence shows that the substation and transmission facilities in question were constructed for the sole purpose of serving the AMW load. While the facilities may increase reliability and load growth potential, those buzzwords could be applied to virtually any construction project. Clearly, the facilities are not needed for any other purpose and would not have been constructed but for the erroneous load projections of AMW.

¹ Case No. 90-145, Order dated May 24, 1990.


IT IS THEREFORE ORDERED that:

1. South Kentucky's motion for rehearing or amendment be and it hereby is denied.

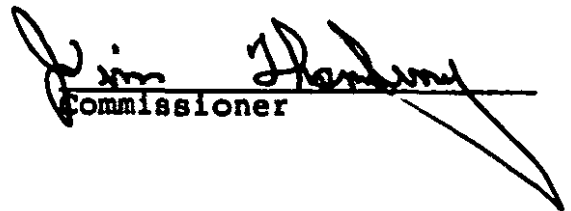
2. Within 20 days of the date of this Order, South Kentucky shall comply with Ordering paragraph 4 of the Commission's September 17, 1990 Order and file the signed copies of a revised Amendment No. 2.

Done at Frankfort, Kentucky, this 25th day of October, 1990.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director