

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN INVESTIGATION OF ELECTRIC RATES OF )  
LOUISVILLE GAS AND ELECTRIC COMPANY TO ) CASE NO. 10320  
IMPLEMENT A 25 PERCENT DISALLOWANCE OF )  
TRIMBLE COUNTY UNIT NO. 1 )

O R D E R

On December 24, 1991, the Louisville Gas and Electric Company ("LG&E") moved for a stay of further proceedings or, in the alternative, a full due process hearing. The Attorney General ("AG"), Jefferson County, Kentucky ("Jefferson"), and Human Metro Needs Alliance ("Metro") have responded to the motion. Because we lack the authority to grant the requested relief, the Commission denies LG&E's motion.

On September 27, 1991, the Franklin Circuit Court remanded this action to the Commission and mandatorily enjoined us to conduct certain administrative proceedings. On November 17, 1991, it entered an order purporting to make all prior orders final and appealable.<sup>1</sup> Appeals of these Orders are now pending before the Kentucky Court of Appeals. LG&E also moved the Court of Appeals for a stay of further administrative proceedings pending these

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<sup>1</sup> Commonwealth of Kentucky, ex rel., Cowan, et al v. Public Service Commission, et al, 89-CI-1783, 89-CI-1784 and 89-CI-1608 (Franklin Circuit Court, September 27 and November 17, 1991).

appeals. The Court of Appeals has denied this motion. (Louisville Gas and Electric Company v. Commonwealth of Kentucky, ex rel. Cowan, et al., 91-CA-2200, 91-CA-2643 and 91-CA-3043; Public Service Commission v. Commonwealth of Kentucky, ex rel. Cowan, et al., 91-CA-2389, 91-CA-2670; Commonwealth of Kentucky, ex rel. Cowan, et al. v. Louisville Gas and Electric Company, 91-CA-2958; and Commonwealth of Kentucky, ex rel. Cowan, et al. v. Public Service Commission, 91-CA-2959 (Kentucky Court of Appeals, Order dated January 10, 1992.)

Notwithstanding the motion's merits, the Commission is without authority to grant the motion. To hold in abeyance administrative proceedings expressly ordered by Franklin Circuit Court presumes that the Commission is superior to that Court. As the language of KRS Chapter 278 clearly shows, we are not. See, e.g., KRS 278.410 (making all Commission Orders subject to Franklin Circuit Court's review). Until a higher court relieves us of the obligations imposed by Franklin Circuit Court, we must obey that Court's orders. Any other action would be inconsistent with the principles of constitutional government.

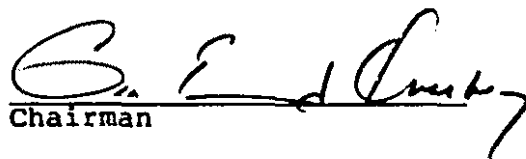
For the same reasons, LG&E's motion in the alternative must be denied. LG&E seeks to expand the scope of these proceedings beyond the parameters set by the Franklin Circuit Court. In view of its very detailed and specific directions, such expansion would be contrary to the Franklin Circuit Court Order of September 27, 1991 and, therefore, beyond this Commission's authority.

IT IS THEREFORE ORDERED that LG&E's motion is denied.

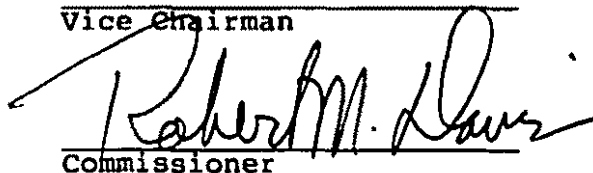
IT IS FURTHER ORDERED that pursuant to order of the Franklin Circuit Court announced in a hearing on January 22, 1992, in Civil Action Nos. 89-CI-1783, 89-CI-1784, and 89-CI-1608 (consolidated cases), this matter is hereby stayed until further Order of the Franklin Circuit Court.

Done at Frankfort, Kentucky, this 22nd day of January, 1992.

PUBLIC SERVICE COMMISSION

  
Chairman

Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director