

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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| THE TARIFF FILING OF LOUISVILLE GAS |) | |
| AND ELECTRIC COMPANY FOR THE |) | |
| INSTALLATION AND MAINTENANCE OF |) | CASE NO. 92-019 |
| CUSTOMER SERVICE LINES |) | |

O R D E R

This matter arises upon the August 14, 1992 filing by Louisville Gas and Electric Company ("LG&E") of an application requesting rehearing of the Commission's final Order of June 27, 1992 in this proceeding. The Intervenor, Kentucky Alliance for Fair Competition, et al., filed its response to the petition on August 24, 1992. LG&E maintains in support of its requested rehearing that "(1) the Order applies improper ratemaking principles in determining the reasonableness of LG&E's proposed rates; (2) the Order does not support the Commission's findings that the proposed rate was 'not fair, just or reasonable' with evidence from the record; and (3) the Order misstates relevant facts of the case." After consideration of LG&E's application for rehearing, the arguments set forth by LG&E and being otherwise sufficiently advised, the Commission finds LG&E's application for rehearing should be denied for the following reasons.

LG&E asserts that the Order of the Commission "suggests" that the Commission failed to recognize how the company developed its charge for this service. The Order at page 2 reflects that the Commission clearly understood LG&E's methodology. LG&E attempts to

discredit the analytical analysis in the Order by stating that the Commission disregarded an elemental fact and compared the proposed rate to the recovery of an item that is expensed. LG&E has totally misconstrued the statement contained in the Order at page four which simply notes that the principal amount of investment per customer would be collected in five and 1/2 years at the rate of \$4.91 per month. This statement is not related to the recovery by LG&E of its investment to provide a service line installation. The Order points out that the inequity in LG&E's proposal is that the monthly service charge would generate an excessive level of revenues in the long run. It is likely that a service line installation would last in excess of 35 years and that it will require little or no maintenance over its service life. The monthly charge proposed by LG&E would be billed to the customer residing at or owning the facility receiving service for the life service of the line and the monthly charge would be adjusted periodically as LG&E submitted applications for rate increases. The Commission is convinced its Order is based on sound economic considerations, and that the proposed rate is neither fair, just, nor reasonable.

LG&E argues that the Commission's Order did not identify any improper or imprudent costs which LG&E included in the calculation of the carrying charges used to determine the rate. The point of contention with LG&E's proposal is not the calculation of the rate, but rather the provisions relating to the application of the rate over a lengthy and indefinite period of time which, we opine,

result in unfair, unjust and unreasonable rates to LG&E's customers.

The lengthy terms of the proposed rate, and the uncertainty as to how frequently and in what amounts the rate may increase, make the proposed tariff unreasonable. LG&E's proposal makes it difficult for the consumers to make a reasonable and informed economic decision as to whether it is more beneficial to incur the cost up front to replace a faulty service line or to begin incurring a monthly charge to pay for the replacement, to avoid the large up-front expense. Many of the consumers will only consider the difference between the large up-front investment and the small monthly rate and will opt for the monthly rate without consideration of the overall cost of that option. Therefore, the Commission affirms its decision that the proposed tariff should be denied.

LG&E's petition demonstrates a fundamental misunderstanding of the intent of the Commission's Order. LG&E attempts to establish that the Commission believed that the proposed monthly charge would be terminated after a particular period of time. No statement of the Order validates this statement of LG&E. The mere fact that the Commission noted that the monthly charge would continue throughout the useful life of the service line does not in any way imply that the rate would be terminated.

LG&E criticizes language in the Order referring to the market value of the line upon a potential purchase of the line by the customer, and attempts to establish that the Commission believed

that a market value would be the basis for the transaction, rather than depreciated market value. A response of LG&E to the Commission's Order of March 20, 1992 states that "The customer will have the choice of either continuing under the optional rate or purchasing the service line at market value." The tariff proposal of LG&E did not contain a provision for establishing the price of the assets in the event they were sold to the customer and any proposal similarly structured to LG&E would have to include such a provision.

LG&E states that the Commission misinterpreted the fact that non-participating customers will not be impacted by this tariff. LG&E has not established in the record that non-participating customers will not be impacted at least to a negligible extent. In fact, various citations to the record would support the Commission's statement that "the revenue impact on non-participating customers would be negligible." In the response to Item 2 of the March 20, 1992 Order, LG&E states that "Even though LG&E is proposing a monthly charge for installing, owning and maintaining the customer service line so as to mitigate the impact on customers who do not choose or need this service option, we anticipate that any unrecovered costs would be reflected, subject to Commission approval, in the same manner as any other utility investment."

LG&E states at page 8 of its rehearing application that the Commission is incorrect that currently the "installation and maintenance must be performed by a certified installer of plastic

pipe." The Commission advises LG&E that no person shall make a plastic pipe joint unless that person has been qualified to do so. "Qualified" means qualified to join plastic pipe. 807 KAR 5:022, Section 6.

The Commission's position regarding utility ownership of gas service lines is clear. The Commission stated in its July 27, 1992 Order at page 3:

The benefits afforded customers and utilities of company-operated service lines are attractive, so much so, that the majority of regulatory jurisdictions require utility ownership of the service line. The optional nature of LG&E's proposal does not reflect the trend of the natural gas industry.

One of the principal benefits afforded customers is the added degree of safety when the utility is responsible for the installation and maintenance of the service line. In the Commission's opinion, this added benefit equates to a better quality of service. However, under LG&E's proposal such responsibility would not be applied systemwide; rather, it would be limited to those customers who choose to participate, which based upon LG&E's estimate, would be less than one-half of its total gas customers. Without 100 percent participation, which is inherent in

the two previous programs the Commission has approved,¹ LG&E's proposal would result in an uneven application of the added safety benefit.

Any program that proposes to increase the level of safety and quality of service should be applied systemwide. This is not a decision the customer should make, but is the decision the utility should reach in designing and implementing a program with safety-related implications. It is unfortunate that LG&E has chosen to ignore the inherent inequity in its proposal with regard to the additional safety benefit and, instead, attempted to obfuscate the issue by improperly chastising the Commission for believing that LG&E "is better suited to decide what is best for customers...."

LG&E states at page 7 that the Commission's Order:

[t]hwarts LG&E's effort to provide its gas customers with a needed service at a fair, just and reasonable rate, which the customers themselves can choose to receive or not to receive. LG&E does not believe that it is appropriate for the Commission to exercise this amount of control over the services that LG&E offers to its customers. It is unfortunate that the Commission believes it to be

¹ Case No. 10127, Application of Columbia Gas of Kentucky, Inc. for an Order Authorizing It to Amend Its Tariff and for Authority to Deviate from Commission Regulation 807 KAR 5:022, Section 9(17)(a)(1), and 807 KAR 5:022, Section 9(17)(a)(2), Order Dated November 10, 1988; and Case No. 89-041, The Application of Delta Natural Gas Company, Inc. for An Order Authorizing It to Amend its Tariff and for Authority to Deviate from Commission Rules in Order to Permit Company Ownership of Customer Service Lines, Order Dated August 17, 1989.

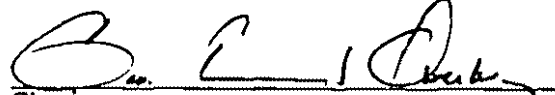
better suited to decide what is best for customers than the customers themselves. The Commission should not limit the choices which are available to customers in this manner.

LG&E should be reminded that the objective it seeks to accomplish through this optional service requires a deviation from a validly promulgated administrative regulation. Administrative regulations have the force and effect of law. Union Light Heat and Power v. Public Service Commission, Ky., 271 S.W.2d 361 (1954). Good cause must be demonstrated in order to justify a deviation from the rules. 807 KAR 5:022, Section 18. LG&E has not demonstrated good cause to allow a deviation from 807 KAR 5:022, Section 9(17)(a).

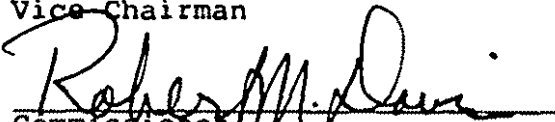
IT IS THEREFORE ORDERED that LG&E's application for rehearing be and it hereby is denied.

Done at Frankfort, Kentucky, this 28th day of August, 1992.

PUBLIC SERVICE COMMISSION


Chairman


Vice-Chairman


Commissioner

ATTEST:


Executive Director