

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE PETITION OF DUSMIKE NATURAL GAS)
COMPANY FOR APPROVAL OF TRANSFER OF) CASE NO. 95-580
JOHNSON COUNTY GAS COMPANY)

O R D E R

The Commission has before it a petition of Dusmike Natural Gas Company ("Dusmike") for approval of its acquisition of Johnson County Gas Company ("Johnson County") from the Kentucky Municipal Gas Utility Investment Trust. The petition is flawed on its face and must therefore be dismissed. At paragraphs 7, 8, and 9 of the petition, Dusmike alleges that reinstatement of a surcharge terminated by the Commission on June 1, 1994, is "necessary for the repayment" of indebtedness Dusmike would assume under the transfer agreement. Reinstatement of the surcharge would clearly be a change in Johnson County's rates and therefore could only be accomplished after the utility had complied with the requirements of KRS 278.180 and KRS 278.190, and the regulations promulgated pursuant to those statutes.

As the petition alleges that such a change in rates is "necessary" to support the utility's debt and such a change cannot be made in this proceeding, the Commission could not find that Dusmike has the financial capability to provide reasonable service under KRS 278.020(4). Furthermore, given the history of the

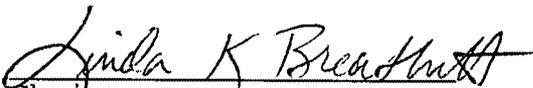
utility,¹ the Commission could not find that a transfer under these circumstances would be in the public interest under subsection (5) of that statute.

¹ Case No. 7576, The Request of Johnson County Gas Company for an Exemption from 807 KAR 50:015, Final Order dated October 6, 1980; Case No. 7743, Transfer of Stock of Johnson County Gas Company, Inc., Final Order dated October 6, 1980; Case No. 7875, The Application of Johnson County Gas Company, Inc., Johnson County, Kentucky for (1) Certificate of Public Convenience and Necessity Authorizing Reconstruction of Its Existing Gas System; and (2) Approval of the Proposed Plan of Financing the Reconstruction and to Retire Urgent and Pressing Debts, Final Order dated October 6, 1980; Columbia Gas of Kentucky, Inc. v. Johnson County Gas, 83-CI-149, Johnson Circuit Court filed April 25, 1983, Dismissed by Order dated May 23, 1983; Case No. 8235, Johnson County Gas Company, Inc., Van Lear, Kentucky Approval for Authority to Adjust Rates on an Emergency Basis, Orders dated October 3, 1983 and March 29, 1984; Case No. 8966, Joint Application of Danny Preston and Betty Preston, Davis Branch Road, Van Lear, Kentucky and Jupiter Gas Company, Inc. a Kentucky Corporation with its Principal Place of Business at 865 Sparta Court, Lexington, Kentucky, for the Sale and Purchase of all Issued and Outstanding Shares of Johnson County Gas Company, Inc. a Kentucky Corporation with its Principal Place of Business Located in Van Lear, Johnson County, Kentucky, Final Order dated June 19, 1984; In Re Johnson County Gas Company, Debtor, Case No. 83-00002, U.S. Bankruptcy Court, Eastern District of Kentucky, filed January 18, 1983, dismissed May 31, 1988; Columbia Gas of Kentucky, Inc. v. Johnson County Gas Company, Adversary Proceeding No. 84-0143; Kentucky West Virginia Gas Company v. Johnson County Gas, Adversary Proceeding No. 91-0149, Judgment entered April 3, 1992; Columbia Gas of Kentucky, Inc. v. Johnson County Gas Company, Inc., 83-CI-338, Johnson Circuit Court, Division II, Dismissed by Order entered December 2, 1987; Columbia Gas of Kentucky, Inc. v. Johnson County Gas Company, Inc., 83-CI-209, Pike Circuit Court, Order and Judgment entered July 21, 1983; Columbia Gas of Kentucky, Inc. v. Johnson County Gas Company, Inc., 83-CI-178, Fayette Circuit Court, Order and Judgment entered July 21, 1983; Johnson County Gas Company, Inc., et al. v. Public Service Commission, et al., 84-CI-0813, Franklin Circuit Court, Division I, Dismissed August 14, 1984; Case No. 10415, An Investigation of the Rates of Johnson County Gas Company, Inc., Final Order dated October 30, 1990; Case No. 91-392, Johnson County Gas Company, Inc., Alleged Failure to Comply with Commission Order from Case No. 10415, Final Order dated November 14, 1994; Estill Branham v. Public Service Commission, 94-CI-01822, Franklin Circuit Court, Appeal Pending.

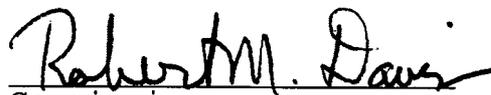
IT IS THEREFORE ORDERED that the petition of Dusmike for permission to acquire Johnson County Gas is dismissed.

Done at Frankfort, Kentucky, this 11th day of January, 1996.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director