

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE PETITION OF )  
SIGMA GAS CORPORATION )  
FOR APPROVAL OF FINANCING )

CASE NO.  
96-252

O R D E R

On May 30, 1996, Sigma Gas Company, Inc. ("Sigma Gas") filed with the Commission its application seeking authority to borrow \$121,301 from the Department of Local Government ("DLG"). The DLG note would be secured by a lien on the assets of the system and would bear interest at 4.25 percent per annum with a life of 30 years. The proceeds of the DLG loan would be used to pay for construction cost overruns totalling \$6,994 and for payment of gas purchase arrearages totalling \$114,306 to Equitable Resources Energy Company ("Equitable").

KRS 278.300 provides:

(3) The commission shall not approve any issue or assumption unless, after investigation of the purposes and uses of the proposed issue and the proceeds thereof, or... the commission finds that the issue or assumption is for some lawful object within the corporate purposes of the utility, is necessary or appropriate for or consistent with the proper performance by the utility of its service to the public and will not impair its ability to perform that service, and is reasonably necessary and appropriate for such purpose.

(4) The commission may grant or deny the application in whole or in part, or may grant it with such modifications and upon such terms and conditions as the commission deems necessary or appropriate.

Thus, the Commission must evaluate the application in terms of whether the assumption is for a lawful object within the corporate purpose, is necessary or appropriate or consistent for proper performance by the utility, and will not impair the utility's ability to perform that service.

A review of Commission maintained records and the record of this case raise serious questions in the Commission's mind regarding the financial viability of this utility. The Annual Report filed by Sigma reveals that Sigma recorded a net loss of \$74,434 for the 12 months ended December 31, 1995. This loss does not include the impact of the \$632,671 in costs for construction certificated in a prior case<sup>1</sup> nor the cost of debt service for prior financing authorized in that same proceeding. Imputing the impact of these costs into the company's financial picture indicates that Sigma should seriously consider filing for a review of its rates, or should seek an infusion of equity capital from its owners, in order to prevent greater deterioration of its financial position.

The record also reflects that Sigma has used operating funds for purposes contrary to past Commission Orders and contrary to sound management practices. During the period in which the arrearage accrued to Equitable, Sigma incurred \$42,000 more in management fees than it would have incurred had the utility paid the \$2.97 per customer per billing month management fee as was found reasonable by the Commission in Case No. 94-435. Furthermore, the analysis provided by Sigma was

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<sup>1</sup> Case No. 94-435, The Petition of Sigma Gas Corporation for Approval of a Certificate of Convenience and Necessity to Construct Facilities and Approval of Financing, Final Order August 22, 1995.

inadequate to show that it could meet the entire proposed debt service requirements with existing revenues.

More disturbing to the Commission, is the fact that Sigma proposes to use the bulk of the financing proceeds to pay a gas supplier for gas purchases incurred between October 1994 and December 1995. Sigma, its management and creditors, are hereby advised that recovery of the costs of financing a prior period operating expense is prohibited as retroactive ratemaking.

The Commission cannot find, based on the record in this proceeding, that Sigma will be able to service the entire amount of the proposed debt given the financial position of the utility. The deterioration in Sigma's financial condition may, in fact, impair its ability to provide service to its customers in the future. However, the Commission, after consideration of the evidence of record and being advised, finds that the construction cost overruns totalling \$6,994 are for lawful objects within the corporate purposes of Sigma, is necessary and appropriate for and consistent with the proper performance by Sigma of its service to the public, and will not impair its ability to perform that service. The proceeds from that portion of the proposed loan approved herein should be used only for the lawful purposes set out in Sigma's application.


IT IS THEREFORE ORDERED that:


1. Sigma be and it hereby is authorized to borrow \$6,994 from DLG for a 30-year period bearing interest at 4.25 percent per annum for the purpose of paying for construction cost overruns.
2. The remainder of the proposed financing is denied.

Nothing contained herein shall be construed as a finding of value for any purpose or as a warranty on the part of the Commonwealth of Kentucky or any agency thereof as to the securities authorized herein.

Done at Frankfort, Kentucky, this 16th day of July, 1996.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director