

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE UNION LIGHT, HEAT AND POWER)
COMPANY'S REQUEST FOR)
CONFIDENTIAL TREATMENT OF) CASE NO. 97-375
INFORMATION CONTAINED IN ITS)
CONTRACT WITH NEWPORT STEEL)
CORPORATION)

O R D E R

On August 5, 1997, The Union Light, Heat and Power Company ("ULH&P") filed, pursuant to 807 KAR 5:001, Section 7, for confidential protection of billing information in its Full Requirements Interruptible Natural Gas Transportation Contract with Newport Steel Corporation ("Newport Steel") on the ground that such information is proprietary.

On September 23, 1997, the Commission issued its Order which held that the billing information in the contract with Newport Steel was subject to public disclosure under the provisions of KRS 278.160.

On October 16, 1997, ULH&P filed a motion for rehearing requesting the Commission to reconsider its Order. The hearing was held on November 17, 1997.

After the hearing, ULH&P filed a memorandum in support of its motion. ULH&P contends that the Commission's reading of KRS 278.160 is unreasonable and outside the legislative intent. ULH&P would have the Commission interpret "rate" to mean "tariffs of general applicability," thereby excluding special contracts from the requirements of KRS 278.160. The legislature has expressed its intent in KRS 278.010(10) as to rates:

"Rate" means any individual or joint fare, toll, charge, rental, or other compensation for service rendered or to be rendered by any utility, and any rule, regulation, practice, act, requirement, or privilege in any way relating to such fare, toll, charge, rental or other compensation, and any schedule or tariff or part of a schedule or tariff thereof.

The Commission does agree with ULH&P in that KRS 61.878(1)(c)(1) applies in this case and the information would be entitled to protection, absent any statutory provision to the contrary.

Unfortunately, the very statute that would grant ULH&P the protection it seeks, nevertheless takes it away. KRS 61.878(3) states:

The exceptions provided for in subparagraphs 1. and 2. of this paragraph shall not apply to records the disclosure or publication of which is directed by another statute.

That statute is KRS 278.160. The Commission finds that KRS 278.160 requires and directs all utilities to file schedules of their rates and conditions of service with the Commission and to display those schedules for public inspection.

The Commission has considered the entire record in this matter and, based upon such consideration, must under the law deny the motion for reconsideration. The law of Kentucky relating to confidential matters and open records is contained in KRS 61.878(1). The Order issued by the Commission on September 23, 1997, recognizes that the exemptions do not apply where public disclosure is directed by another statute. Public disclosure of the information concerning rates and conditions of service is mandated by KRS 278.160 and the subject billing information must be made public.

The Commission, being otherwise sufficiently advised, HEREBY ORDERS that:

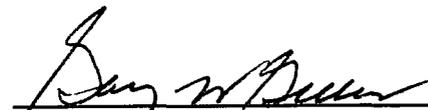
1. The Order previously issued on July 17, 1997 is affirmed with those matters directed to be held confidential remaining confidential.
2. The other items which were denied protection are again denied protection.
3. The motion for reconsideration is overruled and denied.

Done at Frankfort, Kentucky, this 24th day of March, 1998.

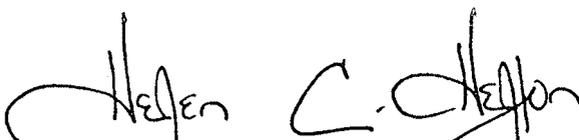
PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director