

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN INVESTIGATION OF THE NEED FOR)	
AFFILIATE TRANSACTION RULES AND COST)	ADMINISTRATIVE
ALLOCATION REQUIREMENTS FOR ALL)	CASE NO. 369
JURISDICTIONAL UTILITIES)	

O R D E R

On March 10, 2000, two petitions were filed seeking rehearing of the Commission's February 21, 2000 Order. One petition was filed jointly by the Kentucky Association of Plumbing-Heating-Cooling Contractors, Inc., the Kentucky Propane Gas Association, Inc., and Modern Security Systems, Inc. (collectively, the "Commenters"); the other was filed by Kentucky-American Water Company ("Kentucky-American").

Commenters requested rehearing on three issues: (1) the exemption of non-profit utilities, cooperatives, associations, districts, and small for-profit utilities; (2) the ability of utility affiliates to use the utility name, trademark, brand, or logo as long as a disclaimer pre-approved by the Commission is also used; and (3) the Commission's apparent intention to rely solely on the assertion of a utility as to the preemptive effect of federal law. The Commenters' positions on these issues were more than adequately expressed prior to the issuance of the February 21, 2000 Order, and those positions were fully considered by the Commission in determining the content of a draft code of conduct. The positions set forth in this petition for rehearing are cumulative and they provide no new information that was not already considered.

Kentucky-American requested rehearing on four issues; specifically paragraphs 7, 11, 14, and 15 of the draft code of conduct. Kentucky-American asserts that these four paragraphs are difficult to interpret because of their vagueness and ambiguity. Paragraph 7 requires that all dealings between a utility and its affiliate be at arms-length. Kentucky-American believes this provision is vague and would prohibit certain activities that would be of benefit to consumers. Paragraph 11 provides that utilities may not provide any type of preferential treatment to its affiliates or customers of its affiliates to the detriment of a competitor or customer. Kentucky-American objects to this provision as exceeding the Commission's jurisdiction by providing protection to competitors. Paragraph 14 prohibits the utility from entering any credit arrangement with an affiliate that would encumber or pledge the assets of the utility. Kentucky-American states that this provision is not necessary because appropriate protections are already included in an existing statute that requires Commission approval of financing. Paragraph 15 requires the utility to inform the Commission within 10 days of any new non-regulated activity by the utility or an affiliate. Kentucky-American objects to this provision because it encompasses the non-regulated activities of its out-of-state affiliates. In addition to these four issues, Kentucky-American urges the Commission to explicitly exclude "corporate support" and "emergency support" from the provisions of the draft code of conduct. All of the issues and arguments now raised by Kentucky-American were previously raised and fully considered by the Commission prior to the February 21, 2000 Order.

As an alternative to being granted a rehearing, Kentucky-American requests that the Commission defer any action to promulgate a regulation to embody a code of

conduct until after the 2000 General Assembly has acted on pending legislation to adopt such a code. The Commission finds this alternative request to be both reasonable and prudent. Furthermore, to the extent that these petitions for rehearing raise issues that involve utility specific facts, the draft code of conduct expressly provides that affected utilities may request a deviation upon showing good cause. Finally, as the Commission stated in the February 21, 2000 Order, the draft code of conduct will be given further consideration in the process of promulgating a regulation. That process will provide ample opportunities for all participants to file written comments to be heard.

IT IS THEREFORE ORDERED that the petitions for rehearing filed by the Commenters and Kentucky-American are denied.

Done at Frankfort, Kentucky, this 30th day of March, 2000.

By the Commission

ATTEST:



Executive Director