

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter:

A FORMAL REVIEW OF WESTERN KENTUCKY)	
GAS COMPANY'S DECISION TO TERMINIATE)	
A NATURAL GAS SALES, TRANSPORTATION)	
AND STORAGE AGREEMENT WITH NORAM)	CASE NO. 99-447
ENERGY SERVICES, INC. AND ENTER INTO)	
A NATURAL GAS SALES, TRANSPORTATION)	
AND STORAGE AGREEMENT WITH)	
WOODWARD MARKETING, L.L.C.)	

O R D E R

IT IS ORDERED that Western Kentucky Gas Company ("Western") shall file with the Commission the original and 10 copies of the following information, with a copy to all parties of record. The information requested herein is due no later than January 28, 2000. Each copy of the data requested should be placed in a bound volume with each item tabbed. When a number of sheets are required for an item, each sheet should be appropriately indexed, for example, Item 1(a), Sheet 2 of 6. Include with each response the name of the person who will be responsible for responding to questions relating to the information provided. Careful attention should be given to copied material to ensure that it is legible.

1. Refer to Western's response to Item 1 of the Commission's Order of November 23, 1999, which includes Western's Motion to Dismiss filed in this proceeding on November 23, 1999. Specifically refer to Item 18 of the Motion to Dismiss which

states that “Selecting Option 3, re-bidding, would have exposed customers to unfavorable current market conditions and bidders’ concerns over NorAm’s failure. It was reasonable to expect significantly lower bids upon re-bid.”

a. This is one of numerous references made by Western to the unfavorable market conditions that existed at the time it was made aware of the problems NorAm was experiencing under its contract with Western. Provide all evidence relied upon by Western during this period of time which demonstrates that market conditions were unfavorable compared to the market conditions at the time it issued its original Request for Proposal (“RFP”) in June 1998.

b. That section of the Motion to Dismiss also refers to “bidders’ concerns over NorAm’s failure.” Given the confidential nature of the communications between NorAm and Western, explain how potential bidders under Option 3 would have had knowledge of the circumstances under which the NorAm – Western agreement was terminated that would have raised concerns in their minds and possibly influenced their bids under Option 3, re-bidding.

2. Refer to Attachment A of the Motion to Dismiss, specifically to the statement that it is not uncommon practice for a high bid to be rejected and a second best bid accepted if performance is an issue.

a. Cite and document all instances of Western’s experience during the past 10 years (1990 through 1999) in which it encountered a similar situation and accepted a second best bid when performance was at issue.

b. Provide any documentation in Western's possession, identifying other instances outside of Western's own experience, but of which Western is aware, which supports the statement referenced in the lead-in to this request.

c. Provide any documentation in Western's possession that indicates that selecting the second best bid, rather than re-bidding a contract, is a common practice when one-third of the term of the original contract has already expired.

3. Refer to the "Standards of Conduct" included in the "Rules of Conduct for Affiliate Transactions" submitted by Western in Case No. 97-513,¹ under which Western agreed to conduct itself during the operation of its experimental performance-based rate plan, specifically Item (d) which states "The Utility may not give its marketing affiliate preference over non-affiliated companies in natural gas supply procurement activities."

a. Explain why Western's contact with Woodward regarding whether Woodward would honor its original bid did not result in giving preference to an affiliate in violation of above-cited standard of conduct.

b. Identify and elaborate on the reasons why Western did not contact all the other original bidders, including Woodward, for the purpose of making them aware that it was considering terminating the NorAm agreement for reasons of performance and inquiring whether they might be able to improve their original bids in order to be more favorably considered as a potential replacement for NorAm.

¹ Case No. 97-513, In the Matter of Modification to Western Kentucky Gas Company, a Division of Atmos Energy Corporation (WKG) Gas Cost Adjustment to Incorporate an Experimental Performance-Based Ratemaking Mechanism (PBR).

4. Refer to Attachments C-3 and B of the Motion to Dismiss, specifically the response provided to Issue B of the Commission's Order dated November 5, 1999.

a. Provide the following:

(1) The calculations that support Western's contention that its customers would have received gas cost reductions through its Gas Cost Adjustment ("GCA") mechanism of approximately \$2.6 million for the remaining 23 months of the original contract had it continued for the full term.

(2) The calculations supporting Western's contention that combining the benefits of the Woodward replacement contract with the amount of the NorAm/Reliant buy-out will provide customers with gas cost savings of approximately \$2.5 million over the remaining term of the original contract.

b. Provide any calculations that support Western's contention that "based on the time value of money associated with the up-front buy-out, the customers receive no less total benefit under Option 2 than under the NorAm contract."

5. Refer to the response to Item 10 of the Commission's Order of November 23, 1999, which states that "Western had no reason to believe that Reliant could not perform. Reliant had previously provided to Atmos acceptable and reliable gas commodity service."

a. Explain if this statement means that Western performed no due diligence assessment in evaluating NorAm/Reliant's ability to perform the duties set out in Western's June 1998 RFP prior to entering into its agreement with NorAm.

b. Identify any efforts undertaken by Western to determine the amount of NorAm's prior experience in energy supply asset management.

c. Provide all information Western obtained during its assessment of NorAm's ability to perform that show the level of experience NorAm had in energy supply asset management and explain the degree to which Western relied on that information in making its decision to select NorAm.

6. Refer to the responses to Items 9 and 10 of the Commission's Order of November 23, 1999, related to the bids received by Western in response to its June 1998 RFP and its evaluation of those bids.

a. The 13th proposal included in the response to Item 9 offered a price that was less than the price proposed by Woodward. That proposal was deemed to be a "non-conformance" bid in the tally sheets included in the response to Item 10 and is the 5th bid so identified. Explain in detail the reasons why that proposal was deemed not to conform to Western's RFP.

b. Describe the modifications to that proposal that would have been necessary for Western to accept it as conforming to its RFP.

c. Identify and document any efforts made by Western to contact that bidder to attempt to negotiate the modifications to the proposal that Western believed were required in order to make it a conforming bid.

7. Western's GCA filing of December 1, 1999, Case No. 95-010-ZZ,² contained an estimate of Expected Commodity Gas Cost ("EGC") for the month of January 2000. The estimate of \$2.75 per MMBtu was adjusted for the one-time effect of the NorAm contract buy-out, and was discounted to \$2.58 per MMBtu.

a. Explain how Western derived the rate of \$2.58 per MMBtu, and provide calculations showing the amount Western expects to be flowed through to customers via the reduced EGC estimate.

b. Explain whether Western expects the entire amount of the buy-out to flow-through to customers during January of 2000. If not, explain how Western proposes to flow-through the remainder.

c. Explain whether Western anticipates using the Correction Factor that will be effective April 1, 2000 to reconcile the actual flow-through to customers with the buy-out amount. If not, explain how Western intends to accomplish the reconciliation.

8. Western's GCA filing of December 30, 1999, Case No. 99-070-A,³ includes as Exhibit E a summary of its Performance Based Rate activity for the period from November 1998 through October 1999. Included in that summary is an amount identified as the "NorAm Contract Buy-Out Reduction." Explain why the amount so

² Case No. 95-010-ZZ, In the Matter of the Notice of Purchased Gas Adjustment Filing of Western Kentucky Gas Company.

³ Case No. 99-070-A, In the Matter of Gas Cost Adjustment Filing of Western Kentucky Gas Company.

identified is \$62,500 less than the buy-out amount identified in other correspondence that has been supplied by Western in the course of this proceeding.

9. Refer to the response to Item 13 of the Commission's Order of November 23, 1999, specifically the statement that "Western had no reason to believe that Woodward could not perform. Woodward had previously provided to Atmos acceptable and reliable gas commodity service."

a. Explain if this statement means that Western performed no due diligence assessment in determining Woodward's ability to perform the duties set out in Western's June 1998 RFP prior to entering into its agreement with Woodward.

b. Identify any efforts undertaken by Western to determine the amount of Woodward's prior experience in energy supply asset management.

c. Provide all information Western obtained during its assessment of Woodward's ability to perform that show the level of experience Woodward had in energy supply asset management and explain the degree to which Western relied on that information in making its decision to select Woodward to replace NorAm.

Done at Frankfort, Kentucky, this 14th day of January, 2000.

By the Commission

ATTEST:

Executive Director