

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

GENERAL ELECTRIC COMPANY)	
)	
COMPLAINANT)	
)	
V.)	CASE NO. 2000-471
)	
LOUISVILLE GAS AND ELECTRIC COMPANY)	
)	
DEFENDANT)	

O R D E R

By Order dated October 18, 2000, the Commission found that a formal complaint filed by General Electric Company (“GE”) against Louisville Gas and Electric Company (“LG&E”) challenging certain terms of a 10-year electric contract did not constitute a *prima facie* case, but that the complaint did present sufficient evidence to justify the initiation of an investigation of the issues raised by GE in its complaint. The Commission further ordered LG&E to file a pleading setting forth any objections, claims, or defenses it may have to the complaint. For its pleading, LG&E filed a motion to dismiss, claiming there is no legal basis for the Commission to grant GE any relief from its existing electric contract.

More specifically, LG&E notes that GE has challenged neither the level of rates that it pays for service nor the quality of service that it receives. Rather, GE’s complaint challenges the contract provision which requires payment for a minimum level of electrical demand, irrespective of whether GE actually consumes that level. Under the

circumstances, LG&E alleges that GE's efforts are nothing more than a unilateral attempt to terminate a contract which may be uneconomic for one of the parties. Citing two prior cases where the Commission denied electric customers relief from minimum contract demands, LG&E asserts that those cases are controlling and that GE's request for relief should similarly be denied.

GE filed a response in opposition to the motion. GE states that its complaint raises both rate-making and public policy issues. GE argues that its electric contract with LG&E specifically provides that the contract is subject to abrogation or modification by the Commission and that the Commission has clear statutory authority under KRS 278.260(1) to initiate the rate investigation pending in this case. GE further cites numerous facts which it believes support its claim that the electric contract is no longer fair, just, and reasonable and should be reformed by the Commission.

LG&E filed a reply, asserting that despite the Commission's jurisdiction to investigate GE's rate issues, GE has presented no basis to support the relief it requested.

Based on the motion to dismiss, the response and reply thereto, and being sufficiently advised, the Commission finds that the motion is premature and should be denied without prejudice. The Commission has just initiated this investigation and will need to ascertain a myriad of facts before determining whether there is, or is not, a legitimate basis for the relief requested. The Commission further finds that LG&E should file within 20 days of the date of this Order a detailed response to the merits of GE's complaint. LG&E's response should include sufficient facts to afford the Commission a complete understanding of LG&E's position on each issue raised by GE.

IT IS THEREFORE ORDERED that:

1. LG&E's motion to dismiss is denied without prejudice.
2. LG&E shall file within 20 days of the date of this Order a response, in the detail described above, to the merits of GE's complaint.

Done at Frankfort, Kentucky, this 21st day of December, 2000.

By the Commission

ATTEST:


Executive Director