

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF LOUISVILLE GAS	)	
AND ELECTRIC COMPANY FOR A	)	
CERTIFICATE OF PUBLIC CONVENIENCE	)	CASE NO. 2004-00043
AND NECESSITY AUTHORIZING IT TO	)	
BID ON FRANCHISE ESTABLISHED BY THE	)	
CITY OF WEST POINT, KENTUCKY	)	

O R D E R

On February 10, 2004, Louisville Gas and Electric Company ("LG&E") filed with the Commission an application seeking a Certificate of Public Convenience and Necessity ("Certificate") to "effectuate" its new franchise from the city of West Point, Kentucky. Under the provisions of KRS 278.020(3), no utility may apply for a franchise from any governmental agency until it has obtained a Certificate from this Commission based on our finding that there is a need and demand for the service sought to be rendered.

LG&E entered into a new 10-year franchise agreement with the city of West Point, Kentucky on February 3, 2004. On March 11, 2004, LG&E filed an Amendment to Application wherein it acknowledges that it did not secure a Certificate prior to bidding on the franchise offered by the city of West Point. LG&E further acknowledges that the Commission has the authority to institute a show cause proceeding against it for its failure to obtain a Certificate. In an attempt to resolve the issue, LG&E proposes that the Commission assess a penalty of not more than \$500 and further proposes that, in light of its exemplary compliance history with regard to Certificates, any penalty assessed by the

Commission be suspended for a reasonable time. LG&E suggests that the penalty be waived if no similar violations are committed within the period of suspension.

The Commission does not take lightly the failure of any regulated utility to comply with Kentucky law. However, under the circumstances of this case and in consideration of LG&E's compliance record, the Commission accepts LG&E's proposal. The Commission finds that LG&E should be assessed a penalty of \$500 and that such penalty should be suspended for a period of 3 years. If, during the period of suspension, LG&E is found to have committed a further violation of KRS 278.020, this penalty should become immediately due and payable to the Treasurer of the Commonwealth of Kentucky.

The Commission's authority in such matters is limited by statute to finding only whether there is a need and demand for the service sought to be rendered. Since LG&E has already successfully bid on the franchise and entered into a Franchise Agreement with the city of West Point, no such finding is necessary. In addition, the Commission makes no finding or determination as to the qualifications of the bidder, the validity of any of the provisions of the franchises offered by said city, or the manner in which any franchise fee is to be treated for rate purposes.

IT IS THEREFORE ORDERED that:

1. LG&E is assessed a penalty of \$500 for its failure to comply with KRS 278.020(3) to be suspended for a period of 3 years. If, during the 3-year period, LG&E is found to have violated the provisions of KRS 278.020, this penalty shall become immediately due and payable.

2. This Order shall not be construed as granting a Certificate to construct utility facilities in said city.

Done at Frankfort, Kentucky, this 26<sup>th</sup> day of March, 2004.

By the Commission

ATTEST:

  
Executive Director