

COMMONWEALTH OF KENTUCKY
BEFORE THE ENERGY REGULATORY COMMISSION

In the Matter of

GENERAL ADJUSTMENTS IN)
ELECTRIC AND GAS RATES)
OF LOUISVILLE GAS AND) CASE NO. 7799
ELECTRIC COMPANY)

ORDER DENYING REHEARING

On September 24, 1980, the Commission issued its Order in the above-styled case. On October 3, 1980, the Intervenor Yvonne Embry, et al. moved the Commission to enter findings of fact on "essential issues" raised by them in their brief. Thereafter, on October 14, these same Intervenor, filed an application for rehearing on the grounds that the Commission failed to respond to said motion, that the Order did not establish a reasonable rate of return on common equity, and that the evidence of record does not support the Commission's action in raising the Company's rate of return on common equity.

A motion for rehearing was also filed on October 13, 1980, by Jefferson County, Kentucky. Said motion requested that the Commission order a rehearing on the issues raised by its motion for a management audit.

Yvonne Embry asserts that the Commission's Order does not establish a reasonable rate of return on common equity for L.G. & E. The Commission's Order does, in fact, establish a rate of return of 15% on common equity as fair, just and reasonable. In addition, the Commission pointed out that while it finds this return to be fair, it is unlikely that the Company will actually achieve this return as only in 1970 and 1971 did the Company earn a return that equalled or approximated the 13.1% return the Commission defined as just and

reasonable in Case No. 7301. The returns on equity for the decade of the 70's are as follows: 1970, 13.1%; 1971, 12.9%; 1972, 11.7%; 1973, 10.8%; 1974, 8.7%; 1975, 10.8%; 1976, 10.1%; 1977, 10.0%; 1978, 7.0%; 1979, 7.1%.

The intervenor further argues that the record does not support the Commission's action in raising the Company's rate of return on common equity. As is virtually always the case in an adversary proceeding, the evidence was extremely conflicting and the conclusions of the expert witnesses on this point were quite divergent, although each of them had impressive qualifications. The Attorney General's witness, Mr. Parcell, presented testimony concluding that a range of return on common equity of 12% to 13% is fair for L.G. & E.^{1/} Likewise, the Company's witness, Dr. Brigham, presented testimony supporting a range of return on equity of 15% to 16.5% as fair for the company.^{2/} Accordingly, it was and it remains the Commission's opinion that the most reasonable conclusion which may be drawn from the expert testimony offered is that the appropriate decision lies somewhere between the extreme limits of the expert testimony.

The determination of a fair rate of return for a public utility requires the exercise of a fair and informed judgement having regard for all relevant facts. The range of returns must not only allow the utility to attract capital at reasonable costs to insure continued service and provide for necessary expansion to meet future requirements, but it must also provide for the lowest possible cost to the consumer. The Commission has determined that a range of returns on equity of 13% to 15% would meet these criteria. This finding of a "zone of reasonableness" for L.G. & E.'s return on equity is fully consistent with the precepts established by the United States Supreme Court in FPC v. Natural Gas Pipeline Company, 315 U.S. 574, 586 (1942).

^{1/} Page 43 of prefilled testimony

^{2/} Page 9 of transcript of June 27, 1980 hearing.

After careful consideration of L.G. & E.'s original cost, its cost of reproduction, its entire capital structure, its historical debt cost and equity requirements along with its inability to earn a fair, just and reasonable return on equity, the Commission has found that a rate of return on common equity of 15% is both necessary and adequate to provide a fair return on the combined operations of the utility. In addition, the rate of return allowed on equity will produce rates of return on net original cost and capital structure of 9.97% and 10.4%, respectively on those returns found fair, just and reasonable in its Order of September 24, 1980. The Commission, after additional consideration, hereby affirms its decision with regard to the fair, just and reasonable return.

The Intervenor Jefferson County, Kentucky has moved the Commission for a rehearing with respect to the issues raised in its motion for a management audit. Jefferson County has asserted that the points raised by it support its allegations of mismanagement. The Commission, in its review of all evidence of record, finds no support for these allegations. In fact, one of the best measures of the quality of management is the continued ability of a company to provide reliable service to its customers at the lowest costs possible. Jefferson County has not questioned the fact that L.G. & E. has provided reliable service, but only challenges the cost connected with such service. However, it is clear that L.G. & E.'s rates are no higher than the other comparable companies.

The record contains a comparison of the average electric bill for consumers in forty (40) major cities in the United States depicting Louisville as having the fifth lowest electric rates. 3/ While this alone does not prove or disprove the quality of management,

3/ Hart Exhibit 7.

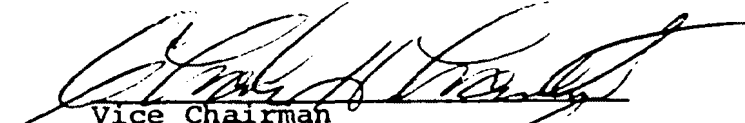
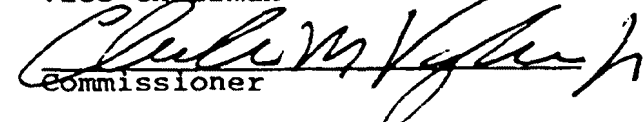
when coupled with the history of the company and the financial evidence contained in this record, it provides persuasive evidence from which a reasonable person could conclude that L.G. & E. is a well-managed company that does not require a management audit.

Unlike Jefferson County, this Commission does not equate a large utility's failure to meet its projected load requirements for a given year as evidence of bad management. Nevertheless, this Commission appreciates the problems created for those involved in public utility regulation when load growth forecasts are inaccurate. In this regard, the Commission recognized in its previous order that L.G. & E.'s projections as to use of electricity failed to materialize. The Commission recognizes this situation is not unique to L.G. & E. and has occurred nationwide. The great fluctuation in the usage of electricity brought on by changing consumer habits, the oil embargo, escalating fuel cost, and other factors have caused utility forecast procedures of the individual utilities to become obsolete. Furthermore, these forecasts lack coordination and a common methodology. The Commission recognizes a need for some centralized direction in this area and feels that it is the function of the Commission to establish a centralized and standardized method for forecasting. To achieve this goal the Commission has directed its staff to proceed in developing a centralized, standardized method of forecasting utilities growth and power requirements for the Commonwealth.

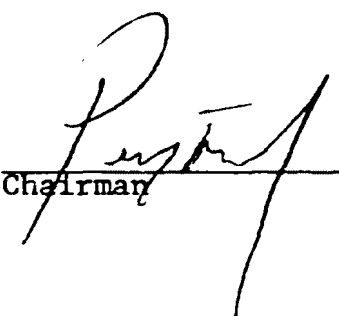
For all of the reasons set forth above, the Commission FINDS that the intervenors herein have not presented any facts or issues which were not a part of the Commission's original consideration in this matter, and that the petitions for rehearing should be, and hereby are, denied.

Done at Frankfort, Kentucky, this 3rd day of November,
1980.

ENERGY REGULATORY COMMISSION


Vice Chairman

Commissioner

I dissent to the extent I feel the Commission should
now avail itself of the opportunity at hand to reasonably
reduce the revenues previously granted and as set forth in
my original dissent.


Chairman

ATTEST:

Secretary