

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

NOTICE OF APPLICATION OF
FERN LAKE COMPANY

NOTICE OF FERN LAKE COMPANY PURSUANT)
TO KRS 278.180, 278.190, AND RELATED)
STATUTES AND 807 KAR 25:010, SECTIONS)
5 THROUGH 9, AND RELATED SECTIONS,)
THAT ON DECEMBER 1, 1980, FERN LAKE)
COMPANY WILL PLACE INTO EFFECT A)
TARIFF INCREASING THE WHOLESALE COST)
OF WATER TO KENTUCKY WATER SERVICE)
COMPANY, INC.)

APPLICATION FOR FOLLOWING:)

1. ORDER PLACING INTO EFFECT THE)
NEW TARIFF ADJUSTING ITS WHOLE-)
SALE RATES TO ITS SOLE CUSTOMER,)
KENTUCKY WATER SERVICE COMPANY,)
INC.)
2. APPLICATION FOR AUTHORITY TO)
BORROW THE SUM OF \$1,700,000)
FROM THE CITY OF MIDDLESBORO,)
KENTUCKY, TO PERFORM REMEDIAL)
WORK REQUIRED BY THE BUREAU OF)
NATURAL RESOURCES, ON FERN LAKE)
COMPANY'S LAKE AND DAM IN)
MIDDLESBORO, KENTUCKY, AND TO)
AMORTIZE THE LOAN BY INCLUDING)
IN THE TARIFF A SURCHARGE EN-)
TAILED AND ENCUMBERED FOR THE)
SPECIFIC PURPOSE OF THE DEBT)
SERVICE APPLIED FOR HEREIN)

CASE NO. 7982

O R D E R

On August 7, 1981, Fern Lake Company ("Fern Lake") filed a petition for rehearing of this Commission's Order issued July 23, 1981. Therein Fern Lake argues that the Commission erred in rejecting the proposed rate increase and that the record in Case No. 7292, a prior rate application, should be incorporated by reference in the above-styled case in order that the Commission might give due consideration to the prior evidence. In fact, the Commission, in the hearing of December 16, 1980,^{1/} on its own motion, incorporated the record in Case No. 7292 into the record herein, and due consideration was given to the information therein in arriving at the matter currently before the Commission.

Fern Lake also argues that the Commission erred by using the "operating ratio" method in calculating the fair, just and reasonable rate for it on the ground that KRS Chapter 278 does not specifically authorize the use of such a methodology. However, such an argument is fallacious for the following reasons:

KRS 278.040(2) grants this Commission exclusive jurisdiction over all non-municipal utility rates in this state, and KRS 278.030(1) provides that all such utility

^{1/} Transcript of December 16, 1980, page 62.

rates must be fair, just and reasonable. These statutory provisions are broad grants of authority which allow the Commission to exercise its discretion in selecting a methodology which will yield a proper result, and it is this result reached, rather than the methodology employed, that is controlling. Indeed, the Franklin Circuit Court (Judge Meigs) has so held in the recent case of Jefferson County Fiscal Court v. Kentucky Public Service Commission, 29 PUR4th 143, 144 (1979):

It is a well-settled principle of public utilities law that so long as the total effect of a commission's determination is within the authority of the commission and within the range of evidence, judicial inquiry is at an end. It is the result reached and not the method employed which is controlling. (Citations omitted, emphasis supplied.)

The "operating ratio" is simply another methodology which a regulatory agency can use in setting a just and reasonable rate for a utility. The operating ratio methodology is especially appropriate for use in setting a just and reasonable rate for those utilities which generally have a low plant investment, but high operating expenses.^{2/} The use of the operating ratio in such cases results in a more equitable rate for the consumers than when traditional rate

^{2/} A. J. G. Priest, Principles of Public Utility Regulation, Volume I, p. 221 (1969).

of return concepts are employed.^{3/} For these reasons, the Commission reiterates its conclusion that the operating ratio is the most appropriate method for determining a fair, just and reasonable rate for Fern Lake based on the evidence presented in this case.

For the above-stated reasons, IT IS THEREFORE ORDERED that the application for rehearing be, and it hereby is denied.

Done at Frankfort, Kentucky, this, the 27th day of August, 1981.

PUBLIC SERVICE COMMISSION

Marlin M. Vohy
Chairman

Did Not Participate
Vice Chairman

Devin Harrigan
Commissioner

ATTEST:

Secretary

^{3/} Francis X. Welch, Preparing the Utility Rate Case,
p. 282 (1954).