

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

GENERAL ADJUSTMENT IN ELECTRIC)
AND GAS RATES OF LOUISVILLE) CASE NO. 8924
GAS AND ELECTRIC COMPANY)

ORDER DENYING REHEARING

On September 12, 1984, Arco Metals Company, E. I. duPont de Nemours and Company, Ford Motor Company, Kosmos Cement Company and Olin Company ("Industrial Intervenors") filed a petition requesting rehearing of the Commission's Order entered August 20, 1984. That Order clarified the effective date of Louisville Gas and Electric Company's ("LG&E") new LC and LP time-of-day rates ("TOD rates") by explicitly stating that such new rates were effective on May 14, 1984, as were LG&E's other new rates.

Industrial Intervenors argue that when the Commission approves new rates for a utility, KRS 278.160(2) prohibits such rates from being effective prior to the utility having on file with the Commission new tariff schedules reflecting such new rates. This same argument was previously presented by this intervenor and rejected by the Commission's Order of August 20, 1984. Industrial Intervenors continue to focus in on KRS 278.160(2) while ignoring the clear language of KRS 278.160(1) which requires utilities to file schedules of rates "within such

time and in such form as the commission designates." In this case the Commission designated that LG&E's new TOD rate schedules be filed within 20 days of the Order approving their use. This is the procedure authorized by KRS Chapter 278 and adhered to by the Commission in this case and in every rate case.

On September 18, 1984, LG&E filed a motion to summarily deny the petition for rehearing and, alternatively, a response to the merits. The motion to summarily deny is based on a claim that the petition for rehearing is untimely since it was filed 22 days subsequent to the date of the official certificate of service. LG&E cites KRS 278.400 as requiring such petitions to be filed within 20 days. On September 27, 1984, Industrial Intervenors filed a memorandum in support of its position that its petition for rehearing was filed timely. Industrial Intervenors cite the Commission's ruling in Case No. 8509, An Adjustment of Electric Rates of the Union Light, Heat and Power Company. In that case the Commission held that the service of its Orders as contemplated by KRS 278.400 was complete 3 days subsequent to the date of the certificate of service. This was based on findings that there is no statute or controlling case law interpreting when service is complete, except under the Civil Rules of Procedure which are not applicable to proceedings before this Commission, and that a presumption of receipt within 3 days of mailing is reasonable. See Alford v. Continental Casualty Co., 376 F. Supp. 237 (E.D. Ky. 1974).

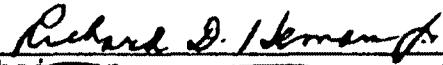
LG&E's response on the merits of the petition is that the petition raises no new questions of fact or law not previously raised and rejected by the Commission.

IT IS THEREFORE ORDERED that LG&E's motion to summarily dismiss be and it hereby is denied.

IT IS FURTHER ORDERED that the Industrial Intervenors' petition for rehearing be and it hereby is denied.

Done at Frankfort, Kentucky, this 1st day of October, 1984.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:

Secretary