

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN ADJUSTMENT OF RATES OF THE MIKE)
LITTLE GAS COMPANY, INC.) CASE NO. 9535

O R D E R

On October 27, 1986, the Commission issued an Order granting Mike Little Gas Company, Inc., ("MLG") a rehearing on three issues adjudicated in the September 17, 1986, Order authorizing an adjustment in gas rates. The issues pending on rehearing are revenue generated by rates granted; rent expense; and theft loss.

A hearing was held on January 22, 1987, at the Commission's offices in Frankfort, Kentucky. Kentucky-West Virginia Gas Company was the only intervenor to participate in the hearing.

Revenue Generated by Rates Granted

In its petition for rehearing MLG contended that the rates granted in Appendix A of the Commission's September 17, 1986, Order did not produce the revenues found to be fair, just and reasonable. The Commission therefore allowed rehearing on this issue to afford MLG the opportunity to present evidence that the rates did not produce the granted revenues after consideration of reduction through Purchased Gas Adjustment Case No. 8799-N. However, in its filing of November 26, 1986, MLG withdrew its contention with respect to the rates allowed; the Commission therefore affirms its September 17, 1986, decision regarding this issue.

Theft Loss

In its Order of September 17, 1986, the Commission denied the inclusion as an operating expense for rate-making purposes \$4,345 associated with a theft which occurred at the offices of MLG in February of 1986. Upon rehearing MLG has provided detailed evidence regarding the circumstances surrounding that incident.

The evidence supports MLG's contention that there was no serious negligence involved in the theft. On Friday, February 1, 1986, the manager of MLG, Mike Little, accidentally left the funds on the office counter. The funds were subsequently stolen. MLG had no insurance to cover this loss. All but \$600 of this amount was in checks.

Whereas this action by MLG was accidental and was not itself imprudent, the actions of management subsequent to the theft were imprudent. MLG failed to notify the police of the theft. MLG failed to do this despite the manager's apparent knowledge of who had stolen the money. Referring to the family of an MLG employee, Mike Little stated, "I'm pretty positive they got this money."¹ Had this matter been reported to the authorities and a professional investigation conducted, the recovery of the funds might have occurred.

MLG defended its failure to notify authorities by citing a previous incident when "\$12 or \$15"² was stolen. In that instance MLG notified the police; however, the police were unable to make

¹ Hearing Transcript, January 22, 1987, page 16.

² Ibid., page 14.

an arrest. The Commission does not consider this to be valid justification for not reporting the February 1986 theft. Aside from the much greater amount involved which would obviously merit more serious treatment by the police, it is an imprudent management policy to fail to request the assistance of professional investigators to help recover stolen funds.

MLG further failed to exercise prudent management by not attempting to contact the issuers of the stolen checks to have payment stopped and duplicate checks issued. This action could have reduced the loss substantially. Eighty-six percent of the stolen funds may have been recovered by this action. MLG testified that it could have identified the customers to whom the stolen checks related.³ No detailed information such as this was provided in this case which would be conclusive as to the amount of loss to MLG.

Based on the foregoing, the Commission finds that the actions of MLG subsequent to the theft were imprudent and the evidence in this case does not document the amount of loss to MLG. Therefore, the Commission is of the opinion that the \$4,345 theft loss amount should not be borne by the ratepayers. The finding regarding this issue in the September 17, 1986, Order is therefore affirmed.

Rent Expense

In its Order of September 17, 1986, the Commission disallowed the \$9,000 1985 rental charge (\$750 per month), allowing instead \$3,600 (\$300 per month), the amount charged to Phelps Gas Company

³ Ibid., page 17.

("Phelps"), a gas company occupying and renting the same office as MLG. The office building is owned by the president of MLG, Mike Little, so the Commission views this as a less-than-arms-length transaction; thus the burden is placed upon MLG to clearly demonstrate that the \$750 per month rental charge is just and reasonable.

MLG has continued to rely upon its original justifications for MLG being charged a higher rent than the other companies occupying the same office. These justifications are that MLG has more customers and MLG's customers live nearer to the office than do the customers of the other companies. MLG has also continued to advance the argument introduced much later in the proceeding that MLG uses more of the space than the other companies; however, as explained in the Commission's September 17, 1986, Order, this argument is contradicted by earlier testimony and is not consistent with other aspects of the record.⁴ Upon rehearing, MLG has failed to provide evidence documenting that MLG does in fact have greater office space allocated to it than to the other companies.

It is the Commission's opinion that the location of a utility's office relative to where its customers reside should not have a large bearing on rent expense. For utilities with large service areas the Commission does not set higher rates for customers who happen to reside near the office than for those who reside a great distance from it; which is in effect what MLG is requesting the Commission to do. MLG makes reference to the great

⁴ Commission's Order dated September 17, 1986, pages 10-11.

deal of "foot traffic" by its customers to pay their bills in person. The Commission can only assume that the customers do this to save the cost of postage. The effect of MLG's proposed rent expense if allowed for rate-making purposes would be to increase the amount of a gas bill considerably more than the amount of the postage, thus defeating the ratepayers' effort to save money by paying their bills in person.

With regard to MLG's contention that its rate should be set higher because it has a greater number of customers, the Commission cites the consistent treatment it has applied over the years to the numerous cases involving utilities owned by Carroll F. Cogan (e.g., Case No. 9099).⁵ The basic facts were the same as in this one: Mr. Cogan owned the office out of which he ran more than one utility. For rate-making purposes, the Commission allowed each utility \$150 per month without regard to the number of customers. This treatment reflects the Commission's opinion that in an arms-length transaction a landlord would not base the rental charge of a tenant upon the number of customers the tenant has.

The record in this case reflects that the office that MLG rents is also used by five other companies which are owned and operated by Mike Little: Phelps, Elzie Neeley Gas Company, two cable companies and Mike Little Real Estate. MLG has provided an

⁵ The Application of Willow Creek Utilities, Inc., D/B/A Willow Creek Sewer System, for an Adjustment of Rates Pursuant to the Alternative Rate Adjustment Procedure for Small Utilities, Final Order entered February 22, 1985.

appraisal report which states that the fair market rental value of the office is \$1,500 per month. In establishing the fair rental expense for one segment of combined business operations, the Commission finds that where no persuasive evidence is presented that the office space being rented is utilized to a greater extent by one of the businesses, the total rent should be shared equally among the related parties. Therefore, assigning the total rent of \$1,500 evenly to the six businesses operated from these facilities results in a monthly rent of \$250 per month. The Commission allowed \$300 per month in its September 17, 1986, Order; however, the Commission finds that since the amount is insignificant no further reduction should be made at this time. The September 17, 1986, finding regarding this issue is therefore affirmed.

IT IS THEREFORE ORDERED that the findings and decisions of the Commission's Order dated September 17, 1986, are hereby affirmed in all respects.

Done at Frankfort, Kentucky, this 30th day of March, 1987.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:

Executive Director