

negotiations between it and KU were conducted, but no agreement was reached. The complaint further states that KU proposed service to Green River Steel based upon the terms contained in its Large Commercial/Industrial Time-of-Day (LCI-TOD) Rate Schedule but refused to accept modifications proposed by Green River Steel. Green River Steel subsequently filed its complaint.¹

In its complaint, Green River Steel alleges that the LCI-TOD Rate Schedule without modification is unjust and unreasonable in two respects. First, the LCI-TOD Rate Schedule does not provide enough consecutive hours of off-peak demand charges. Green River Steel claims that at least 16 consecutive hours of off-peak demand charges are required to efficiently produce steel products. Second, KU is allegedly demanding that Green River Steel accept a special termination provision of 5 years' perpetual notice. Green River Steel suggests that such a provision is not necessary as "little or no new investment is required" by KU to provide service.

In its Motion to Dismiss, KU contends that Green River Steel has been offered service at the lowest and most appropriate rate schedule - KU's LCI-TOD Rate Schedule - and that Green River Steel refuses to accept service at that rate schedule. KU further contends that Green River Steel, by its complaint, is seeking

¹ Green River Steel is now receiving service from KU under the terms of LCI-TOD Rate Schedule. The parties agreed that beginning July 1, 1988 service would be provided to Green River Steel at that rate schedule subject to such affirmation, revision, or other modification as may be made by any final Order entered in this case.

service for compensation less than that prescribed in KU's filed rate schedules, in violation of KRS 278.160(2), and is seeking an unreasonable preference in violation of KRS 278.170(1). Therefore, KU concludes, the complaint should be dismissed.

The arguments expressed in KU's motion ignore the provisions of KRS 278.260 and 278.270. KRS 278.260(1) requires us to conduct an investigation upon receipt of a written complaint "against any utility by any person that any rate in which the complainant is directly interested is unreasonable or unjustly discriminatory." Green River Steel's allegations of "unjust, unreasonable, and unjustly discriminatory" rates are sufficient to trigger the requirement for an investigation. Furthermore, should our investigation lead us to find that any KU rate is "unjust, unreasonable, insufficient, [or] unjustly discriminatory," KRS 278.270 requires this Commission to "prescribe a just and reasonable rate to be followed in the future." If Green River Steel presents sufficient evidence to show that KU's existing rates are unreasonable and unjustly discriminatory and that the appropriate rates are those stated in its complaint, then Green River Steel would be entitled to the relief which it seeks regardless of KU's currently filed rate schedules. To dismiss this case before the evidence is presented, therefore, would be premature.

Accordingly, this Commission finds that KU's Motion to Dismiss should be denied.

IT IS THEREFORE ORDERED that:

1. KU's Motion to Dismiss be, and it hereby is, denied.

2. The procedural schedule listed in Appendix A shall be followed.

3. All requests for information and responses thereto shall be appropriately indexed. All responses shall include the name of the witness who will be responsible for responding to the questions related to the information provided, with copies to all parties of record and 12 copies to the Commission.

4. Motions for extensions of time with respect to the schedule herein shall be made in writing and will be granted only upon a showing of compelling reasons.

5. Nothing contained herein shall prevent the Commission from entering further Orders in this matter.

Done at Frankfort, Kentucky, this 1st day of ~~September~~ 1988.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:

Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC
SERVICE COMMISSION IN CASE NO. 10300 DATED 9/1/88

Green River Steel shall file its testimony in
verified form no later than.....9/20/88

All requests for information to Green River Steel
shall be due no later than.....10/3/88

Green River Steel shall mail or deliver responses
to the original requests for information no later than....10/13/88

KU shall file its testimony in verified prepared
form no later than.....10/24/88

All requests for information to KU shall be
due no later than.....11/3/88

KU shall mail or deliver its responses
no later than.....11/14/88

Public Hearings are to begin at 9:00 a.m.,
Eastern Standard Time, in the Commission's offices
for the purpose of cross-examination of witnesses
of Green River Steel and KU and the presentation
of rebuttal testimony, if any.....12/5/88

Green River Steel and KU shall, if necessary,
file briefs, indexed by subject matter,
simultaneously.....12/19/88