

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN INVESTIGATION INTO THE FUEL )  
PROCUREMENT PRACTICES OF KENTUCKY ) CASE NO. 9631  
UTILITIES COMPANY )

O R D E R

On January 18, 1989, Kentucky Utilities Company ("KU") filed a motion requesting the Commission to schedule a conference for the purpose of identifying the issues to be adjudicated in this investigation. KU states that the only issues to be addressed are those set forth in the intervenors' testimony, and that the Attorney General's Office, Utility and Rate Intervention Division, ("AG"), was the only intervenor to file testimony. KU further argues that due process and basic fairness require the Commission to now identify the issues.

On January 20, 1989, Don Wiggins, a limited intervenor, filed an objection to KU's motion. His objection notes that he has filed testimony related to KU's fuel procurement practices and that testimony has been accepted by the Commission as evidence in this case. On January 25, 1989, the AG also filed a response in opposition to KU's motion. The AG states that the issues in this investigation were identified by the Commission's July 10, 1986 Order which initiated this case. The AG notes that KU has on at least two prior occasions attempted to similarly limit the issues in this investigation and both attempts were unsuccessful. The AG further notes that the Commission has broad investigative powers


and is not restricted in this review to only those issues contained in the AG's testimony. Finally, the AG argues that the KU fuel procurement case at the Federal Energy Regulatory Commission generated a massive evidentiary record which has been frequently referenced in this investigation. Consequently, there cannot now be any issue raised which would be new, or a surprise, to KU.

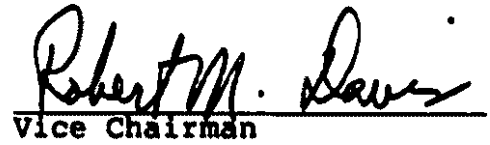
Based on KU's motion, the responses, and the evidence of record, and being advised, the Commission is of the opinion and hereby finds that KU's motion should be denied. KU has been on notice since July 10, 1986 as to the issues in this investigation. The Commission retained an independent consultant to review and submit a report on KU's fuel procurement practices related to its 1973 River Processing coal contract, its 1976 renegotiation of that contract, and its 1978 South East coal contract. If the issues were to now be limited as KU requests, the parties and the Commission would be denied an opportunity to examine the consultant's report in a public hearing. Further, as pointed out in Mr. Wiggins' response, he has also filed testimony on the fuel procurement issues in this investigation and that testimony will be subject to cross-examination at the public hearing.

IT IS THEREFORE ORDERED that KU's motion to identify the issues be and it hereby is denied.

Done at Frankfort, Kentucky, this 10th day of February, 1989.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

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Executive Director