

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

DELTA NATURAL GAS COMPANY, INC.	)	
	)	
COMPLAINANT	)	
	)	
VS.	)	CASE NO. 10419
	)	
TRANEX CORPORATION	)	
	)	
DEFENDANT	)	

O R D E R

On February 2, 1989, Delta Natural Gas Company, Inc. ("Delta") filed a request to take the depositions of Ralph Dennis and Larry Amburgey, both Public Service Commission employees, for the purpose of conducting oral examination regarding information about the ownership of Mid-South Electric, Inc. and Annville Gas Transmission, Inc. and about the business of TranEx Corporation, Annville Gas Transmission, Inc. and Mid-South Electric, Inc.

The Commission, having considered the request and being otherwise sufficiently advised, finds that Delta's request to depose two members of Commission Staff should be denied for the following reasons. It is the Commission's opinion that the deposition of Commission Staff regarding information closely related to this pending complaint case would be an unjustified intrusion into its decision-making process. Courts have recognized that it is proper to disallow depositions and inquiry of administrative decision-makers. United States v. Morgan, 313

U.S. 409 (1941). The Commission Staff is an arm of this Commission charged with the responsibility of advising and assisting the Commission in technical and legal matters. It is not, nor can it ever be, under the Commission's existing structure, totally independent of the decision-making process. Because of the unique relationship between Commission and Staff, it is important that Staff not be subjected to any influence which would have a chilling effect on this relationship.

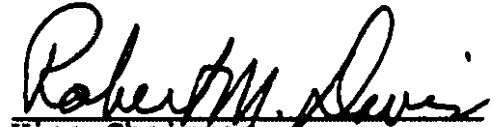
Furthermore, the Commission finds that Delta will not be prejudiced by the denial of the requested depositions. Delta has made no allegation that this information is not available from another source or is not discoverable by another means. Facts of ownership regarding Anville Gas Transmission, Inc., Mid-South Electric, Inc., and the business of TranEx Corporation are not matters which are within the personal knowledge of Staff. Ralph Dennis and Larry Amburgey therefore are not competent witnesses to testify on these matters. The parties to this action can and should provide the requested information regarding knowledge of ownership and business relationships. All public records that the Commission has relating to the requested information have been made available to Delta for inspection and copying and remain available to all parties. The information is obviously discoverable by alternative means.

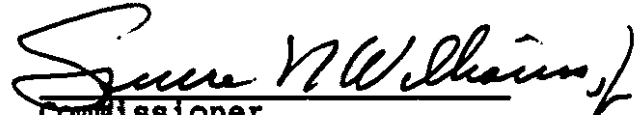
On the basis of the foregoing findings and conclusions, it is hereby ORDERED that Delta's request for depositions is hereby denied.

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

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

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Executive Director