

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

RATE ADJUSTMENT OF WESTERN)	CASE NO.
KENTUCKY GAS COMPANY)	90-013

O R D E R

On October 3, 1990, Western Kentucky Gas Company ("Western"), the Attorney General of Kentucky ("Attorney General"), and Kentucky Legal Services ("KLS") representing Martha Sue Holmes, petitioned for rehearing.

Western requests rehearing on eight issues, specifically: deferred income taxes; the acquisition adjustment; capital structure; merchandising sales and jobbing; aircraft charges; outside services; demonstration and selling expenses; and allowable return on equity. KLS raises three issues on rehearing: valuation of working gas; lost and unaccounted for gas; and the Energy Assurance Program ("EAP"). The Attorney General has petitioned the Commission to rehear seven issues: acquisition adjustment; rate case expenses; corporate allocations; tax adjustments for ESOP dividends; cost-of-service study; expense for personal use of autos; and pension expense.

After consideration of each petition, the response of the Attorney General to Western's petition for rehearing¹ and to the

¹ Filed October 12, 1990.

petition of KLS² and being otherwise sufficiently advised, the Commission finds that rehearing should be granted on all issues raised in the petitions with the exception of the following:

Capital Structure

Western requested rehearing on the capital structure, contending that the Order was arbitrary and unreasonable in double counting the post test-year long-term debt issuance of \$14 million as a component of both long-term debt and short-term debt. The Commission, contrary to Western's assertions, did not double count the post test-year issuance. The Commission imputed a hypothetical capital structure which included the post test-year debt issuance as known and measurable and occurring shortly after the end of the test period, and also included the average daily test period level of short-term debt of \$15,858,356 as a representative level of short-term debt based on Western's extensive use of short-term debt to mitigate seasonal swings in revenues and expenses. The Commission determined what it considers to be a representative capital structure. Western claimed that short-term debt will continue to be used to offset seasonal swings in revenues and expenses.³ The Commission notes that Western's end of test-period capital structure included \$31,600,000 of short-term debt outstanding, and that Western's

² Filed October 11, 1990.

³ T.E., Volume II, pp. 79-80.

comparative capital structure for the past five years indicates significant levels of short-term debt outstanding.⁴

Aircraft Charges

The Commission disallowed \$185,899 of travel expenses related to aircraft leased at the corporate level, a portion of which is allocated to Western. Since Atmos no longer leases the aircraft, the expense no longer exists, however, Western repeats its argument that the charges have been replaced by commercial airfare. There was a sufficient amount of airfare allowed in Western's test-period sufficient to cover a reasonable level of commercial aircraft costs.

Return on Equity

Western argues that the allowed 12.5 percent return on equity was arbitrary, unsupported by probative evidence, and particularly unreasonable in light of the depressed equity component and understated rate base to which it was applied.

There was extensive evidence by both Western and the Attorney General regarding the proper return on equity to be allowed. The Commission carefully considered all of this evidence, including current economic conditions, in finding that Western's cost of common equity was within a range of 12.0 to 13.0 percent. It is unnecessary to re-examine the proper return on equity in total.

⁴ Response to Item 1 of the Commission's Order dated 2/9/90, filed 3/2/90.

The Commission will, however, allow Western and the other parties the opportunity to present any additional evidence they consider pertinent on how the Commission's treatment of deferred income taxes and the acquisition adjustment affects Western's riskiness and hence its cost of equity.

Rate Case Expense

The Commission provided for a 3 year amortization of Western's rate case expense of \$216,309.

The Attorney General states that the entire amount should be rejected because it is outside the test year.⁵ However, this Commission has consistently allowed recovery of the reasonable cost incurred in the presentation of evidence in formal rate proceedings. While this is a cost which is incurred outside the test period, it is not a normal expense which is built into the reasonable ongoing level of operating expenses. The only way for the utility to recover this cost is through amortization. The Attorney General also argues that the charges are unreasonable and should be more closely scrutinized.⁶ This Commission is always concerned about the cost of any proceeding before it. The discovery was protracted and the hearing lengthy. Western's rate case expense was not unreasonable.

⁵ Attorney General's Petition for Rehearing, page 4.

⁶ Id.

Corporate Allocations

The Attorney General claims the Commission did not discuss at length the issues raised by him.⁷ He identifies several issues that were not specifically addressed in our Order.

The issue was addressed at great length during the hearing and much data was generated on discovery. The Commission is not obligated to discuss at length in its final Orders, each and every point made on each issue by every party. As the Sixth Circuit Court of Appeals has stated, administrative agencies are "not required to supply a comprehensive explanation for the rejection of evidence." Cotter v. Harris, 650 F.2d 481, 482 (6th Cir. 1981).

Cost-of-Service Study

The Attorney General requests that the Commission reconsider his evidence and modify Western's cost-of-service study pursuant to his recommendations. The Attorney General maintains that the Commission indicated that Western's cost-of-service study was accepted because it was the only complete cost-of-service study presented.

The Attorney General criticized two cost allocation methodologies contained in Western's cost-of-service study: the allocation of storage costs and the acquisition adjustment. The Attorney General asserted that storage costs should have been allocated on the basis of volume instead of peak or design day and

⁷ Id., page 5.

that the acquisition adjustment as shown in Western's cost-of-service study should have been disallowed by the Commission.

The Commission found Western's cost-of-service study to be reasonable and acceptable as a starting point for rate design. Contrary to the Attorney General's assertion, this decision was not based on the fact that Western's cost-of-service study was the only complete study to be filed. Rather, the Commission's decision was based on all the evidence presented in the case pertaining to Western's cost-of-service study and on the responsiveness of Western's study to the Commission's concerns expressed in Administrative Case No. 297⁸ and Case No. 9556⁹. The Attorney General's concerns regarding the allocation of storage costs and the acquisition adjustment were considered by the Commission, as were all other criticisms directed at Western's cost-of-service study by intervenors. The Attorney General's petition presents no new information that has not previously been considered.

⁸ Administrative Case No. 297, An Investigation of the Impact of Federal Policy on Natural Gas to Kentucky Consumers and Suppliers.

⁹ Case No. 9556, Rate Adjustment of Western Kentucky Gas Company.

Personal Use of Automobiles

The Attorney General argues that this expense is "unnecessary in providing utility service" and "the individuals who drive them are already adequately compensated."¹⁰

The Attorney General failed to provide any evidence that would indicate the amount of personal use of the automobiles and the Commission does not believe that it is unreasonable for Western to furnish automobiles for its supervisors, district managers, etc.

Lost and Unaccounted-for Gas

KLS points out that the Commission did not address the issue of lost and unaccounted-for gas attributable to transportation customers. KLS requests that the Commission order Western to determine the test-year cost of lost and unaccounted-for gas attributable to transportation customers and assign this cost directly to those customers through their commodity charges.

KLS argues that Western's cost-of-service study was not an adequate guide for designing rates due to the absence therein of any allocation of lost and unaccounted-for gas to transportation customers. The Commission was and is cognizant of this position, as well as the opposing views expressed by Western and Kentucky Industrial Utility Customers ("KIUC"). Both Western and KIUC opined that the adequacy of Western's cost-of-service study did not depend on the allocation of one component of cost.

¹⁰ Id., page 8.

The Commission found Western's cost-of-service study to be reasonable and acceptable as a starting point for rate design. The question of lost and unaccounted-for gas was but one of several criticisms the intervenors directed at Western's study. The Order did not address each criticism individually, but all were considered in the Commission's decision making.

The fact that the cost-of-service study is used but as a starting point for rate design mitigates the concern that each and every component of cost must be assigned in a prescribed manner. The petition presents no new information that has not previously been considered.

Energy Assurance Program

KLS reiterates its argument that the EAP would not violate Kentucky Statutes, specifically KRS 278.160 and KRS 278.170. KLS argues that adoption of the EAP would not put Western in the position of administering a social program, a concern expressed by the Commission. KLS requested the Commission implement a pilot program for the EAP, similar to a plan recently approved by the Pennsylvania Public Utility Commission, to test the program on a company-specific basis.

As stated in our previous Order, KLS's proposal would allow a sub-group of Western's residential customers to receive service at a rate less than the amount prescribed in Western's filed rate schedules, a violation of KRS 278.160 and the filed rate doctrine; and, most importantly, those customers reduced monthly payments would have no relation to Western's costs, and would give them an unreasonable preference over Western's remaining customers. The

statutory limitations found by the Commission effectively renders KLS's remaining arguments moot.

On October 11, 1990, the Attorney General filed responses to the petitions for rehearing of Western and KLS. Western subsequently filed a motion to strike responses arguing that the issues which were the subject of the responses were not raised by the Attorney General in his petition on rehearing and were barred by the 20 day limitation of KRS 278.400. Western further argues that the response filed was not authorized by KRS Chapter 278 or the Commission's administrative regulations. After consideration of the motion and being otherwise sufficiently advised, the Commission finds that no prejudice will result to Western by denying the motion to strike and further that the Commission should permit the parties broad latitude in responding to arguments raised by other parties. The motion to strike should, therefore, be denied.

IT IS THEREFORE ORDERED that:

1. Rehearing shall be granted on all issues raised by the parties with the exception of those issues specifically addressed above upon which rehearing is specifically denied.

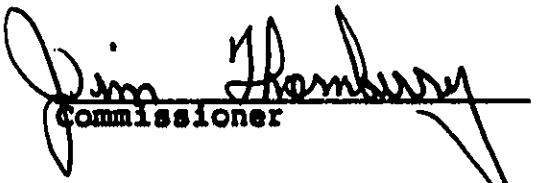
2. Western's motion to strike the Attorney General's responses to the petitions of Western and KLS be and it hereby is denied.

Done at Frankfort, Kentucky, this 22nd day of October, 1990.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director