## COMMONWEALTH OF KENTUCKY

## BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

INVESTIGATION INTO ALLEGED UNAUTHORIZED RATES OF WESTERN KENTUCKY GAS COMPANY

CASE NO. 90-030

ALLEGED VIOLATION OF KRS CHAPTER 278

## ORDER

On February 22, 1990, the Commission initiated this proceeding in order to determine why Western Kentucky Gas Company ("Western"), a division of Atmos Energy Corporation, should not be subject to the penalties of KRS Chapter 278.990 for alleged violation of KRS 278.160. On May 25, 1990, the Attorney General of the Commonwealth of Kentucky, by and through his Utility and Rate Intervention Division ("AG"), was granted full intervention.

On August 31, 1990, the Commission issued an Order seeking requests for a public hearing. There being no request, the AG's motion to submit was granted.<sup>1</sup>

The undisputed evidence is that in various months during the period from March 1986 to June 1989, Western reduced its otherwise

<sup>&</sup>lt;sup>1</sup> Case No. 90-030, Order dated September 17, 1990.

applicable tariff rate to certain industrial customers in order to meet alternate fuel competition and to retain industrial load on its system. Western provided copies of correspondence sent to the Commission regarding these rates and "special contracts." While correspondence does not constitute a tariff filing, Western did inform and attempt to seek the Commission's approval of its plans to reduce rates to certain industrial customers. The Commission finds that Western was operating in good faith regarding these rate reductions.

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Western's other customers have not been adversely affected by the rate reductions. In fact, Western attributed a benefit in the amount of \$1,779,039 credited to gas cost. Due to the operation of Western's gas cost adjustment clause, this amount probably would have been borne by the other customers if the industrial customers had switched to alternate fuel or left the system entirely.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that:

Western did not willfully violate the provisions of KRS
278.160.

2. Western should not be subject to the penalties of KRS 278.990.

IT IS THEREFORE ORDERED that this case be and it hereby is dismissed.

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Done at Frankfort, Kentucky, this 31st day of October, 1990.

PUBLIC SERVICE CONNISSION

Kee for Chairman ce Chairman am Commissioner

ATTEST:

Executive Director