

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

RATE APPLICATION OF WESTERN KENTUCKY)
GAS COMPANY) CASE NO. 95-010

O R D E R

This Order addresses motions filed by Western Kentucky Gas Company ("Western") objecting to intervention requests and requesting reconsideration of Orders granting intervention. These motions are denied as discussed below. Further, the Attorney General's request for an extension of time is denied; Western's motion to quash is granted; and, the requests for full intervention filed by the Kentucky Industrial Utility Customers ("KIUC"), Southern Gas Company of Delaware, Inc. ("Southern Gas"), and Ms. Shirley Manley, are granted. A revised procedural schedule is included in the Appendix.

Western first filed a notice of opposition to intervention on March 13, 1995 objecting to the intervention requests of four residential customers, namely David A. Spainhoward, Philip Warren, Herbert Eades, and Kent Long. Western argues that the Attorney General under his statutory mandate will adequately represent and be heard on behalf of consumers' interests and that additional participation by residential consumers is unwarranted.

The Commission granted full intervention to David Spainhoward by Order issued March 14, 1995, prior to the docketing of Western's objections to the intervention request.

On March 10, 1995, Western filed a memorandum opposing the motion of CMS Gas Marketing ("CMS") to intervene and on March 15, 1995 filed a memorandum opposing the requests for intervention made by Commonwealth Energy Services ("CES") and Southern Gas. Western objects to granting intervention to these parties claiming the requests to intervene are deficient in both form and content. In addition, Western again suggests the Attorney General's participation should ensure adequate protection of all consumer interests and argues numerous intervenors will unduly complicate the proceeding.

By Orders entered March 14, 1995, the Commission granted full intervention to both CES and CMS. Southern Gas's request is still pending before the Commission.

On March 21, 1995, Western filed a motion for reconsideration requesting the Commission reconsider its decisions granting intervention to Mr. Spainhoward, CES and CMS. The other three residential customers, Messrs. Warren, Eades, and Long, did not request to participate in the case and their letters were treated as protests. In addition to its prior objections, Western requests the Commission order Mr. Spainhoward, CES, and CMS to respond to a data request "so that the Commission might have additional information on which to base a decision regarding the intervention of these parties."

The Commission is unpersuaded by the arguments advanced by Western. Although the Attorney General has intervened in this proceeding, his intervention should not preclude intervention by

any other party. Mr. Spainhoward, in his response to Western's motion filed April 7, 1995, suggests that it is impossible at this time to tell whether his interests could be represented by the Attorney General. Western has refused his request to obtain a copy of the rate Application, a copy of the prefiled testimony, a procedural schedule and a copy of the Attorney General's data request. Without any of these documents Mr. Spainhoward is unable to determine if some portion of his interest can be adequately represented by the Attorney General.

By his own admission in past cases before the Commission, the Attorney General represents residential rather than commercial and industrial customers' interests. In its response to Western's motion, CMS states that it is a customer of Western's purchasing pipeline capacity from Western on a regular basis.

CES points out in its response that it has frequent and substantive contact with Western employees and has been retained by certain Western customers to represent their interests in natural gas matters. Thus, CES's interest is akin to that of KIUC. The Commission also notes that both Western and CES are parties in the pending Administrative Case No. 346.¹ Thus CES's activities should be known to Western. Based upon the representations of CES and CMS, the Commission finds that its prior orders granting full intervention should not be vacated.

¹ Administrative Case No. 346, An Investigation of the Impact of the Federal Energy Regulatory Commission's Order 636 on Kentucky Consumers and Suppliers of Natural Gas.

Southern Gas argues that its interest as set forth in its original request was sufficient to justify intervention. Southern Gas further states that it has been marketing and selling natural gas in Kentucky since 1983 and has numerous customers within the Western system. Based upon the foregoing, the Commission finds that Southern's request for full intervention should be granted.

On March 23, 1995, Western filed a notice of opposition to the intervention requests of Bernard Standard and W. W. Bryan, Jr. Both are residential customers of Western and Mr. Bryan is the Mayor of Hopkinsville, Kentucky, which has granted Western a franchise to provide natural gas service within the city limits. Mr. Standard did not request intervention and his letter has been treated as a protest letter for purposes of this case. To the extent that Mayor Bryan represents the citizens of Hopkinsville, and Western is the city's franchisee, limited intervention should be granted.

On March 23, 1995, the Attorney General filed a motion for an extension of time to file data requests in this case. The Attorney General cites staffing problems as grounds for excusable neglect. On March 27, 1995, Western responded objecting to the Attorney General's request arguing that the Attorney General received the application on February 10, 1995 the same day the application was filed with the Commission. Western further argues that the data requests filed with the Attorney General's motion are vague, ambiguous, disorganized and duplicative. The Attorney General has requested information to be provided in a format that does not

currently exist. In addition, the Attorney General has requested the production of voluminous information requiring the compilation of multi-year reports and extensive affiliate information. Rather than produce this information, Western offers to make this information available at the company office or at counsel's office. The Commission deems this offer sufficient compliance with the Attorney General's request.

On April 5, 1995, the Attorney General served a "continuing" first round data request on Western. Western moved to quash the request on April 6, 1995. The Attorney General's first set of data requests totalled 339 questions with multiple parts, while the "continuing" first round request contains an additional 91 questions. The Commission agrees with Western that a data request consisting of 430 questions with multiple subparts appears excessive. The motion to file additional data requests should be denied. The motion to quash the "continuing" first round data request filed April 5, 1995 should be granted.

Motions for full intervention filed by KIUC and Shirley Manley are also pending. Although by the standard set forth in its objections Western would deem these petitions deficient in both form and content, Western has not objected to the intervention of either. Full intervention should be granted to both.

On April 12, 1995, the Attorney General filed a motion to compel Western to respond to the Attorney General's March 23, 1995 data request. As we have directed Western herein to make the

information available to the Attorney General and other parties, a ruling on this motion is unnecessary.

IT IS THEREFORE ORDERED that:

1. Western's request for reconsideration of Orders granting intervention to Mr. Spainhoward, CES, and CMS is denied.

2. The motions to intervene filed by Southern Gas, KIUC, and Shirley Manley are granted.

3. Southern Gas, KIUC, and Ms. Manley each shall be entitled to the full rights of a party and shall be served with the Commission's Orders and with filed testimony, exhibits, pleadings, correspondence, and all other documents submitted by parties after the date of this Order.

4. Should Southern Gas, KIUC or Ms. Manley file documents of any kind with the Commission in the course of these proceedings, they shall also serve a copy of the documents on all other parties of record.

5. W. W. Bryan, Jr., Mayor of Hopkinsville, Kentucky, is granted limited intervention. Mr. Bryan shall be entitled to the full rights of a party at any hearing and shall be served with the Commission Orders but shall not be served with filed testimony, exhibits, pleadings and all other documents submitted by parties and shall not be certified as a party for the purpose of receiving service of any petitions for rehearing or petition for judicial review. Mr. Bryan shall serve on all parties a copy of any and all documents filed with the Commission.

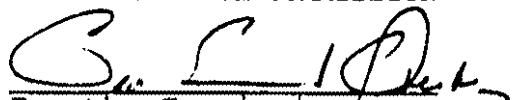
6. The Attorney General's motion for an extension of time is denied.

7. Western's motion to quash is granted. Western shall make the information requested by the Attorney General in his first data request available at a time and place convenient to both parties. Any other party desiring to do so shall be allowed to view the information under the same conditions as the Attorney General. Western shall file one copy of the information with the Commission for inclusion in the public record. Western shall immediately provide a copy of the application and prefiled testimony to Mr. Spainhoward.

8. The revised procedural schedule, attached as an appendix to this Order, shall be followed by all parties to this proceeding. Extensions of time or other motions requiring adjustments to the procedural schedule will be granted only for the most compelling reasons.

Done at Frankfort, Kentucky, this 14th day of April, 1995.

PUBLIC SERVICE COMMISSION


For the Commission

ATTEST:


Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 95-010 DATED APRIL 14, 1995.

Initial requests for information to Western shall
be served no later than 4/17/95

Western shall serve responses to initial requests
for information no later than 5/01/95

All supplemental requests for information to
Western shall be served no later than 5/08/95

Western shall serve responses to supplemental
requests for information no later than 5/15/95

Intervenor testimony, if any, in verified prepared
form shall be served no later than 5/22/95

All requests for information to Intervenors
shall be served no later than 5/31/95

Intervenors shall serve responses to requests
for information no later than 6/07/95

Last day for Western to publish
notice of hearing date 6/06/95

Public Hearing is to begin at 10:00 a.m., Eastern
Daylight Time, in Hearing Room 1 of the Commission's
offices at 730 Schenkel Lane, Frankfort, Kentucky,
for the purpose of cross-examination of witnesses
of Western and Intervenors 6/13/95