

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN EXAMINATION BY THE PUBLIC SERVICE )  
COMMISSION OF THE ENVIRONMENTAL SURCHARGE )  
MECHANISM OF KENTUCKY UTILITIES COMPANY ) CASE NO. 95-445  
AS BILLED FROM FEBRUARY 1, 1995 TO )  
JULY 31, 1995 )

O R D E R

On November 28, 1995, Kentucky Utilities Company ("KU") filed a Motion in Limine to exclude portions of Kentucky Industrial Utility Customers' ("KIUC") testimony consisting of legal opinions, statutory interpretations and other legal analyses relating to the Commission's authority, on the grounds that the witness is not qualified to offer legal opinions and the Commission can only receive testimony on factual issues. KIUC has responded in opposition to KU's motion, stating, inter alia, that the testimony offers policy considerations to support an immediate implementation of the decision in Commonwealth of Kentucky, ex rel. Gorman v. Public Service Commission, 94-CI-01399 (Franklin Cir. Ct. July 28, 1995) by requiring KU to refund certain monies already collected.

Based on the motion and being otherwise sufficiently advised, the Commission finds that while KIUC's testimony is not admissible as legal opinions or statutory interpretations, it is admissible to the extent it presents policy considerations on the issue of refunds. However, the only issues now before the Commission relate to KU's environmental surcharge as billed for the period February


1, 1995 through July 31, 1995. Any testimony on surcharge amounts billed prior to February 1, 1995 is not relevant here. Furthermore, the July 28, 1995 decision of the Franklin Circuit court speaks for itself and has been appealed to the Court of Appeals by numerous parties.

IT IS THEREFORE ORDERED that:


1. KU's motion in limine is denied.
2. KIUC's testimony shall be admitted, subject to any other objections, for the limited purposes as provided for in the above findings.

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

PUBLIC SERVICE COMMISSION

  
Chairman

Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director