

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN INVESTIGATION OF THE IMPACT OF )  
THE FEDERAL ENERGY REGULATORY )  
COMMISSION'S ORDER 636 ON ) ADMINISTRATIVE  
KENTUCKY CONSUMERS AND ) CASE NO. 346  
SUPPLIERS OF NATURAL GAS )

O R D E R

On January 29, 1993, the Commission initiated this case in order to fulfill its obligation to protect the interests of ratepayers and local distribution companies in light of the impact of the Federal Energy Regulatory Commission's Order 636. The Commission was particularly concerned with the availability of adequate supplies of natural gas and with the reasonableness of state regulatory practices.

The Commission has explored numerous issues in this proceeding through data requests and public hearing. The concern regarding an insufficient supply of natural gas in the first winter following the issuance of Order 636 was allayed. Since the issuance of the last Order in this case, the Commission has addressed several issues in individual company filings. The Commission is satisfied that restructuring of the natural gas industry has provided sufficient impetus for utilities to make reasonably responsive market changes. The increasing competitiveness in ever-expanding services should continue to bring about greater varieties and efficiencies in service offerings. The

Commission finds its concerns adequately addressed and, thus, good cause exists to terminate this investigation.

In responding to the Commission's Order of December 22, 1993, The Union Light, Heat and Power Co. ("ULH&P") requested confidential treatment of the pricing terms contained in its gas supply contracts.<sup>1</sup> Western Kentucky Gas Company ("WKG"), a division of Atmos Energy, Inc., requested confidential treatment of its gas supply and transportation agreements.<sup>2</sup> Except for the parties with whom the contracts have been executed, the information sought to be protected is not known outside ULH&P or WKG. The information is not disseminated within ULH&P or WKG except to those employees who have a legitimate business need to know and act upon the information.

KRS 61.872(1) requires information filed with the Commission to be available for public inspection unless specifically exempted by KRS 61.878(1). That subsection exempts, in Paragraph (c)1, commercial information confidentially disclosed to the Commission which, if made public, would permit an unfair commercial advantage to competitors of the party from whom the information was obtained. To qualify for the exemption, the party claiming confidentiality must demonstrate actual competition and the likelihood of substantial competitive injury if the information is disclosed. Competitive injury occurs when disclosure of the information gives competitors an unfair business advantage.

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<sup>1</sup> Administrative Case No. 346, The Request of The Union Light, Heat and Power Company for Confidential Treatment of Gas Supply Contract Pricing Information filed Pursuant to Administrative Case No. 346, filed January 20, 1994.

<sup>2</sup> Petition for Confidentiality, filed January 24, 1994.

The material in question consists of contracts for supplies and transportation of natural gas to local distribution companies. The contracts contain prices, purchase volumes, flexibility and quantities, points of receipt, expiration dates, and terms and supporting and illustrative calculations relating to these quantities, prices and charges. Disclosure of this information would allow ULH&P's and WKG's competitors to identify suppliers, determine the unit price, and overall cost of the gas ULH&P and WKG are purchasing. If these prices are more favorable than the prices competitors are currently paying, knowledge of the information would encourage those competitors to attempt to out-bid ULH&P and WKG for the gas, thereby, driving up their cost. This would weaken ULH&P's and WKG's position in the marketplace and lessen their ability to compete in the retail energy market; therefore, the information should be protected as confidential.

After considering the evidence of record and being otherwise sufficiently advised, the Commission finds that the contracts in question are generally recognized as confidential and proprietary, and that their disclosure to the public will create an unfair commercial advantage to local distribution companies' competitors. Supplier contracts should, therefore, be exempted from public disclosure under KRS 61.878 (1) (c) and should be afforded confidential treatment.

The Commission notes that in separately docketed cases,<sup>3</sup> Louisville Gas and Electric Company has requested confidential treatment of certain provisions of its supplier contracts. Orders consistent with this opinion are being entered simultaneously in those cases.

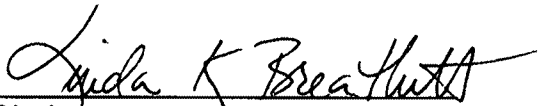
IT IS THEREFORE ORDERED that:


1. The petitions of ULH&P and WKG to protect as confidential certain supplier information are granted. The information shall be held and retained by this Commission as confidential and shall not be open for public inspection.

2. This docket be and it hereby is closed.


Done at Frankfort, Kentucky, this 26th day of June, 1996.

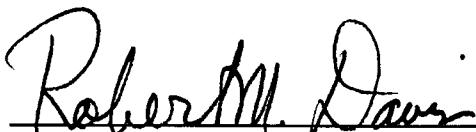
PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

ATTEST:

  
Executive Director

  
Commissioner

<sup>3</sup> Case No. 93-418, The Petition of Louisville Gas and Electric Company for Confidential Treatment of Certain Information, filed November 4, 1994; Case No. 94-522, The Petition of Louisville Gas and Electric Company for Confidential Treatment of Certain Information, filed December 21, 1994; Case No. 95-563, The Petition of Louisville Gas and Electric Company for Confidential Treatment of Certain Information, filed December 15, 1995.