

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

JOINT APPLICATION OF LOUISVILLE	)	
GAS AND ELECTRIC COMPANY AND	)	
KENTUCKY UTILITIES COMPANY FOR	)	CASE NO. 97-300
APPROVAL OF MERGER	)	

O R D E R

On July 31, 1997, the Louisville Gas and Electric Company and Kentucky Utilities Company ("Joint Applicants") filed a motion requesting the Commission to reconsider its Order entered July 22, 1997 granting full intervention to the Kentucky Association of Plumbing-Heating-Cooling Contractors ("KAPHCC"). The Joint Applicants state that they were unaware of KAPHCC's motion to intervene until it was granted by the Commission and, thus, they had no opportunity to express the following objections: 1) the interest of KAPHCC is already adequately protected; 2) any special interest of KAPHCC relates to competition with unregulated subsidiaries of the Joint Applicants and is too remote from the issues in this case; and 3) KAPHCC's participation would unduly complicate and disrupt this case. In the alternative, the Joint Applicants request that if the Commission declines to withdraw intervenor status from KAPHCC, limitations be established to exclude raising issues of competition with unregulated subsidiaries or any other issue not related to the merger.

KAPHCC filed its response on August 4, 1997, stating that: 1) the statutory standard by which the Commission is to review the merits of this proposed merger is sufficiently broad in scope to include the interests of KAPHCC; 2) the Joint Applicants have recognized the relevance of their dealings with unregulated affiliates by filing in this

case their current and proposed policies on interaffiliate transactions; 3) the special interest of KAPHCC is not shared by any other intervenor; and 4) the issues to be raised relate to the public interest and will not unduly complicate or disrupt this case.

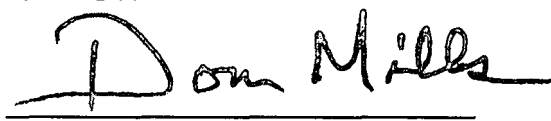
Based on the motion, the response, and being otherwise sufficiently advised, the Commission finds that this proposed merger case was filed pursuant to KRS 278.020(4) and (5). The statutory standard for approval of a merger under KRS 278.020(5) is that the Commission find the transaction "is to be made in accordance with law, for a proper purpose and is consistent with the public interest." This mandate is broad in scope and clearly obligates the Commission to receive evidence on any merger related issue that tends to implicate the public interest.

KAPHCC certainly has a special interest in this case and that interest is not otherwise adequately protected by any other party. The interaffiliate transactions among the Joint Applicants and their unregulated subsidiaries are proper issues to be raised in this case. The extent to which KAPHCC can demonstrate the relevance of its competition issues, which appear to relate solely to unregulated activities, should be reserved for the hearing, after all parties have had an opportunity to engage in discovery and file testimony.

IT IS THEREFORE ORDERED that the Joint Applicants' motion for reconsideration of KAPHCC's intervention is denied.

Done at Frankfort, Kentucky, this 8th day of August, 1997.

ATTEST:



Executive Director

PUBLIC SERVICE COMMISSION

  
For the Commission