

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF WESTERN KENTUCKY)
GAS COMPANY, A DIVISION OF ATMOS)
ENERGY CORPORATION, OWENSBORO,)
KENTUCKY FOR A CERTIFICATE OF) CASE NO.
PUBLIC CONVENIENCE AND NECESSITY) 2002-00196
AUTHORIZING IT TO BID ON FRANCHISE)
ESTABLISHED BY THE CITY OF WINGO,)
KENTUCKY)

O R D E R

On June 11, 2002, Western Kentucky Gas Company (Western) filed with the Commission its application seeking a Certificate of Public Convenience and Necessity to qualify it to bid on a gas franchise in the city of Wingo, Kentucky. Under the provisions of KRS 278.020(3), no utility may apply for a franchise from any governmental agency until it has obtained a Certificate of Public Convenience and Necessity from this Commission based on our finding that there is a need and demand for the service sought to be rendered.

Western states that it submitted a written proposal for the natural gas franchise created by the city of Wingo and that it was awarded the franchise on April 15, 2002. Western acknowledges that this was done prior to receiving Commission approval and acknowledges that the Commission has the authority to institute a show cause proceeding against it for its failure to obtain prior approval of this action. In order to resolve the issue, Western proposes that the Commission assess a penalty of not more than \$500, and

further proposes that, in light of its exemplary compliance history, any penalty assessed by the Commission be suspended for a reasonable time. The Commission does not take lightly the failure of any regulated utility to comply with Kentucky law. However, under the circumstances of this case and in consideration of Western's compliance record, the Commission accepts Western's proposal. The Commission finds that Western should be assessed a penalty of \$500 and that the penalty should be suspended for a period of 3 years. If at the end of the 3-year period, Western has not been found to have committed any further violations of Commission statutes, regulations, or Orders, the penalty will be vacated. If further violation is found by the Commission to have been committed, this penalty will become immediately due and payable to the Kentucky State Treasurer.

The Commission believes that if Western's request been presented timely, the Commission would clearly have found that there is evidence of a need and demand for gas service in the above-mentioned city. Since the Commission's authority in such matters is limited by statute to finding only whether there is a need and demand for the service sought to be rendered, no finding or determination is made as to the qualifications of the bidder, the validity of any of the provisions of the franchises offered by said city, or the manner in which any franchise fee is to be treated for rate purposes.

IT IS THEREFORE ORDERED that:

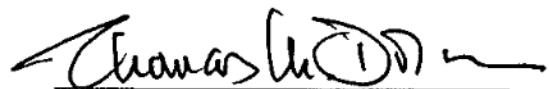
1. Western is assessed a penalty of \$500 for its failure to comply with KRS 278.020(3), and the penalty shall be suspended for a period of 3 years. If, during the 3-year period, Western is found to have violated any of the provisions of KRS Chapter 278, the regulations promulgated thereunder, or any Commission Order, this penalty shall become immediately due and payable.

2. This Order shall not be construed as granting a Certificate of Public Convenience and Necessity to construct utility facilities in said city.

Done at Frankfort, Kentucky, this 25th day of June, 2002.

By the Commission

ATTEST:



Thomas H. Dorn
Executive Director