

filed intervenor testimony. KIUC, however, merely filed a letter of record on 12 September 2013 stating that “[it] will not file Direct Testimony in the above-referenced matter, but reserves the right to file Rebuttal to testimony of other intervenors.”³ Based purely on the procedural schedule, no such right exists. Moreover, the original procedural order dated 17 June 2013 required that “[A]ny objections or motions relating to discovery or procedural dates shall be filed upon four business days’ notice or the filing party shall explain, in writing, why such notice was not possible.”⁴ KIUC did not file any objection or motion relating to discovery or **procedural dates** until by way of its letter wherein it seemingly seeks to alter the procedural schedule to file something which is not permitted. Last, any right a party has or may have to file rebuttal testimony by definition exists to rebut testimony that has been filed against that party’s original or direct testimony. Having filed no direct testimony renders any right to file rebuttal testimony illogical and that rebuttal testimony should not be considered. KIUC is always free to exercise the sole remedy available to it under these facts and circumstances, that of filing a brief in which it may contest any position asserted by other intervenors.

In the event the Commission determines that KIUC is entitled to some sort of procedural due process right to file rebuttal testimony against any of the intervenors, then the other intervenors should be entitled with the same procedural due process right to rebut KIUC’s testimony. To do otherwise would enable KIUC to wait until well into the litigation after the other intervenors have filed their positions and then file their expected contrary position – thus creating great prejudice to the other intervenors. Accordingly, if KIUC’s request is granted, the Attorney General respectfully requests that he be entitled to file surrebuttal testimony to KIUC in

³ See letter of record.

⁴ See Order dated 17 June 2013, paragraph 8.

the event the Attorney General elects to do so, and that the procedural schedule be amended to reflect that right.

WHEREFORE, the Attorney General respectfully objects to KIUC's letter or, in the alternative, that the Attorney General be afforded the right to file surrebuttal testimony to KIUC and that the procedural schedule be amended to reflect same.

Respectfully submitted,

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Certificate of Service and Filing

Counsel certifies that an original and ten photocopies of the foregoing were served and filed by hand delivery to Jeff Derouen, Executive Director, Public Service Commission, 211 Sower Boulevard, Frankfort, Kentucky 40601; counsel further states that true and accurate copies of the foregoing were mailed via First Class U.S. Mail, postage pre-paid, to:

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this 17th day of September, 2013



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