

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ADJUSTMENT OF GAS AND ELECTRIC RATES OF)
LOUISVILLE GAS AND ELECTRIC COMPANY) CASE NO. 90-158

O R D E R

On September 28, 1990, the Attorney General's office, Utility and Rate Intervention Division ("AG"), filed a motion requesting: 1) reconsideration of the Commission's September 21, 1990 Order denying in part the AG's September 11, 1990 motion to compel LG&E to respond to information requests; 2) an Order compelling LG&E to respond to all outstanding requests for information; and 3) a postponement of the hearing for a period of at least 30 days subsequent to the date that LG&E delivers responses to the information requested in this motion.

In support of its motion, the AG claims that the detailed trial balance requested by the Commission as Item 8 of its July 29, 1990 Order, does exist at LG&E on microfiche cards, but that LG&E failed to provide that information. The AG also states that the Commission's September 21, 1990 Order is unreasonable to the extent that the inspection of documents at LG&E's offices was limited to two days. The AG further states that although one of its counsel attended the document production, its efforts were defeated by LG&E's failure to provide meaningful access to personnel with knowledge of LG&E's accounting and data processing

systems. Access to LG&E's personnel was sought because the AG intended to commence its document inspection through interviews and direct questions of such personnel, followed by an inspection of a complete set of current books, both budget and accounting.

During the document inspection, the AG further requested access to LG&E's most currently available monthly accounting and budget reports, but its request was denied. The AG further requested that LG&E provide copies of the 900 series of general ledger accounts for the test year which are contained on microfiche cards, expense reports of certain named and unnamed individuals for the test year, and invoices for professional services. Since these documents had not been received as of the date the AG filed this motion, an Order compelling LG&E to file the copies was requested. In addition, the AG requests LG&E to provide a copy of its accounts payable register for the test year.

LG&E filed on October 3, 1990 its response, with supporting affidavits, to the AG's motion. LG&E notes that the Commission's September 21, 1990 Order states that LG&E had already fully responded to each of the AG's requests for information and that the AG had acted unreasonably in refusing to participate in either of LG&E's two prior offers to allow inspection of certain books and records at its offices. Despite this finding by the Commission, LG&E was ordered to schedule a third document production, on September 24 and 25, 1990, at LG&E's offices.

LG&E states that the AG was advised that no accounts payable register existed and that all documents which had been previously offered for inspection were made available to the AG. LG&E

claims that the crux of the AG's current motion is an attempt to seek discovery of documents and records that were neither covered by previous requests for information nor offered for production by LG&E. LG&E concludes its response by stating that since the AG spent less than three hours out of the total allotted two days for the document production, there is no basis to compel LG&E to provide any information that was subject to inspection at LG&E's offices.

The AG filed on October 3, 1990 a supplemental motion to reconsider and compel. This supplemental motion seeks production of copies of LG&E's professional services invoices in excess of \$500. The AG states that these invoices were requested during the September 25, 1990 document inspection but the copies subsequently provided were incomplete. The AG further states that LG&E has been notified of the deficiencies in an attempt to obtain complete invoices.

On October 11, 1990, LG&E filed a response to the AG's supplemental motion. LG&E states that rather than being obligated to provide invoices for professional services in response to the AG's first data request, Item 224, those invoices were only to be made available for inspection at LG&E's offices. However, LG&E further states that it subsequently agreed to provide the AG copies of invoices responsive to Item 224 and that those copies have now been provided as an attachment to its response.

The record also reflects that Jefferson County, Kentucky filed comments relating to the AG's September 28, 1990 motion and

LG&E's response thereto, and the AG filed a reply to LG&E's October 3, 1990 response.

Based on the motions and responses, and being advised, the Commission hereby finds that its September 21, 1990 Order required LG&E to produce and allow inspection of only those documents and records that had been previously offered by LG&E for inspection. That Order created no new right for the AG or any other party to expand the scope of discovery to include books or records not previously requested. That Order did not require LG&E to make any personnel available for interviews or cross-examination, and these matters are clearly beyond the scope of a document production.

A review of the printouts of the information contained on LG&E's microfiche cards, which were attached to LG&E's response, indicates that the information contained thereon is not a trial balance. Although the Commission had requested a trial balance showing account number, account title, and amount, the transactions reported on the microfiche cards are not a trial balance, but merely a listing of monthly transactions with neither a beginning balance nor an ending balance by account number nor a total balance by account type. Inasmuch as the transaction details contained on the microfiche cards are not responsive to any Order by the Commission or request for information propounded by a party, LG&E is under no obligation to provide the microfiche cards. However, since the AG believes that those cards contain information relevant to this proceeding, a further opportunity to inspect those cards will be granted.

The AG's request to inspect LG&E's current monthly accounting and budget reports is outside the scope of any previous request for information tendered by the AG. In the absence of any showing of good cause why this information should be produced, the AG's request should be denied. Similarly, the AG has failed to reference any prior request for information which sought production of an accounts payable register and the expense reports of certain individuals. The AG had previously requested information contained in LG&E account Nos. 909, 921, 931, and 930.209, and LG&E responded to those requests by offering to allow inspection and copying of its microfiche cards which contain the transaction details of those particular accounts.

Pursuant to the AG's request, LG&E prepared from its microfiche cards paper copies of Account Nos. 909, 921, 931, and 930.209, made said copies available to the AG for inspection, and upon such inspection further offered to allow inspection of any invoice related to the accounts inspected. Despite LG&E's efforts, the AG refused to inspect them. None of the other information contained on the microfiche cards is responsive to a specific request for information by the AG. Under the circumstances, the Commission finds that LG&E has fully complied with the Commission's September 21, 1990 Order and fully and completely responded to all of the AG's outstanding requests for information. Although the AG had ample opportunity during the two day document production to inspect and review the microfiche cards, the Commission will allow a further inspection of those

cards at LG&E's offices on a date mutually agreeable to the AG and LG&E.

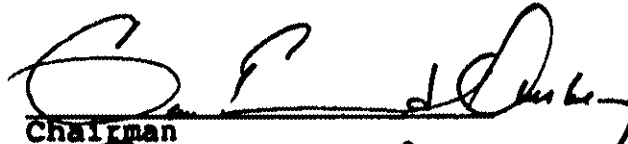
Regarding the AG's supplemental motion, the Commission finds that the invoices attached to LG&E's October 11, 1990 response constitute a full and complete satisfaction of the AG's first data request, Item 224.

IT IS THEREFORE ORDERED that:

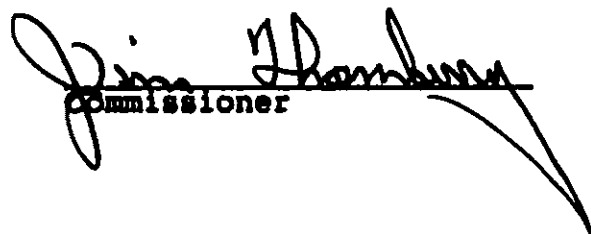
1. The AG's motions be and they hereby are denied.
2. LG&E shall make available for inspection and copying at its offices, on a date mutually agreeable with the AG, the test year microfiche cards.

Done at Frankfort, Kentucky, this 18th day of October, 1990.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director