

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION FOR ADJUSTMENT OF ELECTRIC) CASE NO.
RATES OF KENTUCKY POWER COMPANY) 91-066

O R D E R

On July 19, 1991, Kentucky Power Company ("Kentucky Power") filed an objection to the Attorney General's office, Utility and Rate Intervention Division, ("AG") Supplemental Information Request, Item Nos. 19, 20, and 21, on the grounds that they are vexatious, capricious, and burdensome. Kentucky Power states that the three items seek vouchers and other documentation supporting approximately 6,600 charges recorded in its Operations and Maintenance ("O & M") Ledger. Of the 6,600 charges, Kentucky Power estimates that 2400 are for expenditures of less than \$100 each, including 700 that are less than \$10 each. Kentucky Power requests that the Commission strike the AG's Supplemental Information Request Nos. 19, 20, and 21 or, in the alternative, issue a protective Order.

Kentucky Power states that since June 5, 1991 it has offered to make available for inspection and copying at its offices all documents responsive to Item Nos. 19, 20, and 21, but the AG has declined that offer. Kentucky Power estimates that: (1) there are 1600 individual charges responsive to Item No. 19 and it would take one clerk, working eight hours per day, over 26 days to

provide the information requested; (2) there are 260 vouchers responsive to Item No. 20 and it would take one clerk an entire week to locate, compile, and copy those documents; and (3) there are 4,800 individual charges responsive to Item No. 21, the documentation exists only in the records of a Kentucky Power affiliate located in Columbus, Ohio, and due to the accounting format mandated by this Commission and the Securities and Exchange Commission it would be almost impossible for Kentucky Power or its affiliate to respond in the manner requested by the AG.

On July 25, 1991, the AG filed a response to Kentucky Power's objection. The AG argues that Kentucky Power has been uncooperative and fails to recognize that as a regulated utility the cost to provide documents to the AG can be passed on to ratepayers as a rate case expense. The AG states that as the statutorily designated legal representative of the ratepayer he has determined that the benefits of requesting documents to be sent to both its offices in Frankfort, Kentucky and the offices of his consultants outweigh Kentucky Power's costs to produce and copy such documents. Further, the AG requests that the Commission: (1) compel Kentucky Power to provide the Supplemental Information in accord with the AG's original request; and (2) modify the procedural schedule to afford the AG additional time to prepare his case.

On July 29, 1991, Kentucky Power filed a reply to the AG's response. Kentucky Power maintains that it has been cooperative during the discovery process but is not obligated to comply with

unreasonable and burdensome requests for information from the AG or any other intervenor.

Based on review of the pleadings and being otherwise sufficiently advised, the Commission finds that the objections are well taken. Kentucky Power has already responded to approximately 1,000 data requests, of which almost 500 were propounded by the AG. While the Commission does not believe a party should be limited to a specific number of data requests, it would be clearly burdensome in this case to require Kentucky Power to produce 6,600 vouchers and documents.

The AG cites no statute or case law to support his claim of right to have Kentucky Power compile, copy, and deliver 6,600 documents to the AG and his consultant. While the AG claims to have the unfettered discretion to determine on behalf of the ratepayers that it is more efficient and cost effective for Kentucky Power to produce the documents and to recover the cost through rates, rather than the AG incurring the expense to inspect and copy the records, the Commission cannot approve such a tactic in this case. The Commission fully recognizes that the AG, as well as other intervenors, and even the Commission's Staff, has limited time and resources to devote to any particular case. For that reason, the Commission has for many years required utilities to provide massive amounts of financial data in response to information requests. While the Commission does not believe that a bright line can be drawn between the permissible scope of discovery and a burdensome request, the 6,600 documents now sought by the AG are clearly burdensome.

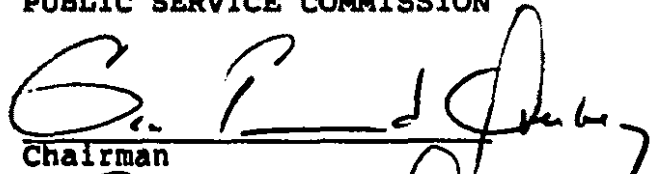
The Commission noted that there has been no challenge raised to the relevancy of these documents. Accordingly, they are properly subject to a request to inspect and copy. For this reason, Kentucky Power's offer to allow the inspection and copying of the requested documents at a mutually convenient time was an adequate and complete response to the AG's request. The Commission recognizes that the subject documents have been available for inspection and copying since January 5, 1991. To the extent that the inability to review the requested vouchers and documents results in difficulty to the AG in the preparation of his case, such difficulty is a direct result of the AG's refusal to participate in the document inspection offered by Kentucky Power.


IT IS THEREFORE ORDERED that:

1. Kentucky Power's response to AG's Supplemental Information Request Nos. 19, 20, and 21 be and they hereby are accepted as adequate and complete responses.
2. Kentucky Power shall continue through August 30, 1991 to make available for inspection and copying at its offices the vouchers and documents responsive to AG Supplemental Data Request Nos. 19, 20, and 21.
3. The AG's request to amend the procedural schedule be and it hereby is denied.

Done at Frankfort, Kentucky, this 30th day of July, 1991.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman

Commissioner

ATTEST:



Executive Director