

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 AN ORDER	)	CASE NO. 2000-528
SUSPENDING THE REQUIREMENT TO FILE	)	
A RATE UNBUNDLING STUDY	)	

O R D E R

This matter comes before the Commission by the November 29, 2000 petition of Louisville Gas and Electric Company ("LG&E") and Kentucky Utilities Company ("KU") (collectively "Companies") requesting that the Commission suspend its requirement that the Companies file rate unbundling studies. The Commission had required the filing of informational rate unbundling studies by the Companies in its January 7, 2000 Orders in Case No. 98-426 for LG&E and Case No. 98-474 for KU (collectively "PBR Orders").<sup>1</sup> In those cases the Companies proposed Performance Based Rate-making ("PBR") mechanisms which, after investigation, were not accepted by the Commission. However, the Commission did require the Companies to reduce their respective electric rates and to file rate unbundling studies by May 1, 2000. Acting upon the Companies' requests for rehearing in those cases, the Commission granted their requests to change the date for the filing of the studies to January 1, 2001, to correspond to the date by which KU was required to file an unbundling study with the Virginia State Corporation Commission pursuant to the Virginia Electric Restructuring Act. The Companies

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<sup>1</sup> Case No. 98-426, Application of Louisville Gas and Electric Company for Approval of An Alternative Method of Regulation of its Rates and Services; Case No. 98-474, Application of Kentucky Utilities Company for Approval of An Alternative Method of Regulation of its Rates and Service.

submitted copies of the unbundling study filed by KU in Virginia along with their November 29, 2000 petition.

Having reviewed the reasons for originally requiring the studies and the basis for the Companies' request to suspend the filing requirement, the Commission finds that the Companies' request should be denied. We therefore affirm the requirement that LG&E and KU file rate unbundling studies and will require that such studies be filed within 60 days from the date of this Order.

### BACKGROUND

In the PBR Orders the Commission stated:

[T]here is no clear evidence at this time that retail competition will produce material benefits for Kentucky's ratepayers, largely due to the relatively low electric rates already enjoyed throughout the Commonwealth. However, future evidence, not yet developed, might show such benefits, and there is a real potential that federal legislation could mandate retail competition on a nationwide basis.

The Commission also found therein that informational rate unbundling studies that separately identified the generation, transmission and distribution components of electric service were "an important first step in the process of educating customers to make them better informed on this important and timely matter."<sup>2</sup>

As stated earlier, the Companies requested rehearing on the timing of filing the studies, but raised no objection to the requirement to file the studies. The Companies now offer three arguments in support of their request to suspend the requirement to file unbundling studies. First, they note that Kentucky's Special Task Force on Electric Restructuring ("Task Force") has completed its investigation and issued a final report, which found, "there is no compelling reason at this time for Kentucky to move quickly to

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<sup>2</sup> Id., Case No. 98-426, Order dated January 7, 2000, page 102; Case No. 98-474, Order dated January 7, 2000, page 101.

restructure” and that restructuring is “expected to cause greater variability in electricity rates over time.” Second, they argue that potential federal legislation that could mandate retail competition on a nationwide basis has not occurred.

Third, the Companies argue that to require them to file such studies now, while not imposing a similar requirement on other Kentucky electric utilities, has the effect of unfairly singling out LG&E and KU from those other utilities and will enable those other utilities to use information contained in the studies for their own business plans and to the detriment of LG&E and KU. The Companies contend that the “future evidence, not yet developed” referenced in the PBR Orders is now developed, and that such evidence: (1) questions whether there are any benefits at this time from retail competition; (2) shows that such studies will not be needed unless, and until, restructuring legislation is enacted; and (3) demonstrates that scrutiny of such studies will not be productive unless all electric utilities are required to file similar studies and all stakeholders have an opportunity to be heard on this issue.

The Attorney General of the Commonwealth of Kentucky, Kentucky Industrial Utility Customers (“KIUC”), and Metro Human Needs Alliance and People Organized and Working for Energy Reform intervened in this proceeding. KIUC filed a memorandum in opposition, contesting the Companies’ contention that unbundling studies are only important or valuable where a decision to restructure is imminent or has been made. KIUC argues that it is more valuable to use information from such studies in reaching a decision whether to restructure. KIUC maintains that the information revealed by unbundling studies would be critical to the decision of Kentucky to support or oppose efforts on the national level to require restructuring. KIUC agrees with the Companies that other Kentucky electric utilities, at least investor-owned electric utilities, should also be required to file rate unbundling studies.

## DISCUSSION

The Commission recognizes that since the issuance of its PBR Orders the likelihood of restructuring being enacted at the state level has diminished as a result of the final report of the Task Force. However, much of the information included in that report was already publicly available through the Task Force's interim reports when the PBR Orders were issued. Hence, the Task Force's findings produced no new evidence that differed from or was inconsistent with the evidence of which the Companies and the Commission were already aware when the PBR Orders were issued. It is true that federal legislation mandating restructuring has not been enacted and, in the time since the Companies filed their petition, it is clear that events in California have negatively affected the pace of restructuring movements at both the state and national levels. However, as the California situation shows, a few events can significantly shift the political considerations concerning electric restructuring in a very short period of time. The Commission does agree that any actual consideration of restructuring in Kentucky should include all electric utilities, not just LG&E and KU. However, the unbundling studies were not intended to be used in the context of imminent restructuring, but were, and are, considered of value to gauge the implications of restructuring versus maintaining the current regulatory structure in Kentucky.

## DECISION

Based on the arguments presented by the Companies and KIUC, the Commission finds that LG&E and KU should not be relieved of the requirement to file rate unbundling studies and that the requirement should not be suspended. The Commission's original intent was that the studies were to be filed for informational purposes. It was intended that the studies be used to measure the possible impacts of restructuring based on rate levels for the generation, transmission and distribution

components of the Companies' currently bundled rates. While the Companies now argue that they should not be required to file unbundling studies unless Kentucky's other electric utilities are also required to file such studies, the proper time to have raised this issue was on rehearing in the PBR cases. The Companies accepted the filing requirement at that time, objecting only to the timing of filing the studies. Furthermore, the Commission has not indicated that the other electric utilities should not file unbundling studies. To the contrary, the Commission believes that each major electric utility should eventually file an unbundling study. The Commission intends to seize the first available opportunity to require unbundling studies from the Commonwealth's other major electric utilities.

The Commission is not persuaded by the Companies' argument that other utilities could use information related to the studies for their own business plans and to the Companies' detriment. Other utilities would be hard pressed to justify a request to intervene in this proceeding for the purpose of gaining access to such information. In addition, the Commission clearly recognizes that some of the information may be proprietary in nature and may need to be received on a confidential basis.

Review of the Companies' unbundled costs of generation, transmission and distribution may conclusively demonstrate whether there are benefits to electric restructuring in Kentucky. It will be beneficial to the Commission, and the Commonwealth, to be able to devote a reasonable amount of time to such issues without the specter of an imminent deadline to implement restructuring. It may be that different methodologies will need to be considered for different utilities, and there might be a need for separate cases for individual utilities. In either event, having the opportunity now to look at rate unbundling studies, based on the methodology proposed by LG&E and KU, and absent a legislatively-imposed deadline, will greatly enhance the

ability of all parties to evaluate unbundling proposals that may need to be considered at some point in the future.

IT IS THEREFORE ORDERED that:

1. LG&E's and KU's request to suspend the requirement in the PBR Orders to file rate unbundling studies is denied.
2. LG&E and KU shall file their respective rate unbundling studies with the Commission within 60 days from the date of this Order.
3. This case shall remain open for the filing and review of LG&E's and KU's rate unbundling studies.

Done at Frankfort, Kentucky, this 27<sup>th</sup> day of April, 2001.

By the Commission

ATTEST:

  
Executive Director