

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

INVESTIGATION INTO THE MEMBERSHIP)	
OF LOUISVILLE GAS AND ELECTRIC)	
COMPANY AND KENTUCKY UTILITIES)	CASE NO. 2003-00266
COMPANY IN THE MIDWEST INDEPENDENT)	
TRANSMISSION SYSTEM OPERATOR, INC.)	

O R D E R

On February 16, 2005, Louisville Gas and Electric Company (“LG&E”) and Kentucky Utilities Company (“KU”) jointly filed a motion requesting the Commission for the second time to compel the Midwest Independent Transmission System Operator, Inc. (“MISO”) to supplement its response to the LG&E and KU data request of December 7, 2004, Item No. 1, which requested a resume or curriculum vitae for MISO witness McNamara. MISO’s initial response objected to the request as being overly broad and unduly burdensome, but partially responded by citing certain documents already in the record of this case which contain information on the witness’s background and certain of his writings, reports, and speeches.

In response to the earlier motion to compel filed by LG&E and KU, the Commission’s February 4, 2005 Order stated as follows:

[E]ach existing resume, curriculum vitae, or other similar document which lists or describes the education, background, or work experience of MISO witness McNamara should be filed. In addition, any existing list of the writings, reports, or speeches prepared or presented by this witness should also be filed. In the event that no such list exists, MISO should prepare and file a list of the writings, reports, and speeches that were prepared or presented by this witness and are in his possession or under his control.

In response to this Order, MISO filed on February 11, 2005 a supplemental response which states that witness McNamara has prepared a curriculum vitae which is attached to the supplemental response, along with copies of slides from five PowerPoint presentations given by witness McNamara that relate to the subject matter of this investigation. The second motion to compel filed by LG&E and KU is based on MISO's failure to provide a list of witness McNamara's writings, reports, and speeches, as required by the Commission's February 4, 2005 Order. The second motion to compel also states that witness McNamara presented remarks at a Kentucky Industrial Utility Customers, Inc. conference in February of 2004, and subsequently presented testimony to the Ohio Public Utility Commission on June 14, 2004, but no reference to either of these writings or speeches was included in MISO's supplemental responses.

Based on the second motion to compel and being otherwise sufficiently advised, the Commission finds that MISO has failed to comply with the February 4, 2005 Order directing MISO to file certain documents relating to the background and experience of MISO witness McNamara. The Commission notes that MISO has neither requested rehearing of the Commission's February 4, 2005 Order compelling it to file supplemental data responses, nor requested clarification regarding the information to be produced. A review of the February 4, 2005 Order leads the Commission to believe that there could not have been any ambiguity as to the documents that MISO was required to file, but, inexplicably, failed to file.

IT IS THEREFORE ORDERED that, within no more than 7 days from the date of this Order, MISO shall file any existing list of the writings, reports, or speeches prepared or presented by witness McNamara. In the event that no such list exists, MISO shall,

within no more than 7 days from the date of this Order, prepare and file a list of the writings, reports, and speeches that were prepared or presented by this witness and are in his possession or under his control.

Done at Frankfort, Kentucky, this 18th day of February, 2005.

By the Commission

ATTEST:



Executive Director