

COMMONWEALTH OF KENTUCKY

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BEFORE THE PUBLIC SERVICE COMMISSION

JUN 29 2005

PUBLIC SERVICE
COMMISSION

In the Matter of:

THE APPLICATION OF LOUISVILLE GAS)
AND ELECTRIC COMPANY FOR APPROVAL OF) CASE NO. 2004-00421
ITS 2004 COMPLIANCE PLAN FOR RECOVERY)
BY ENVIRONMENTAL SURCHARGE)

LOUISVILLE GAS AND ELECTRIC COMPANY'S
MOTION TO RECONSIDER THE COMMISSION'S
JUNE 20, 2005 ORDER

Louisville Gas and Electric Company ("LG&E") hereby moves the Public Service Commission ("Commission") to reconsider and amend its June 20, 2005 Order in this proceeding to make clear that the Commission will allow LG&E to recover, through its environmental surcharge, the Operations and Maintenance expense ("O&M"), (i.e. the incremental costs of limestone and dibasic acid) associated with the Trimble County Unit 1's Flue Gas Desulfurization unit ("FGD"), as set out in Project 16 of LG&E's 2004 Compliance Plan and as LG&E's witnesses described in their pre-filed testimony. In support of this Motion, LG&E states:

LG&E believes the Commission inadvertently erred in its June 20, 2005 Order ("Order") in this proceeding, in which the Commission stated:

Other than the one-time charge for the ash transfer, LG&E stated its belief that the 2005 Plan would not result in any operation and maintenance ("O&M") expense changes from the levels already included in existing base rates. Consequently, LG&E did not seek environmental surcharge recovery of any incremental expenses associated with the 2005 Plan.¹

¹ In the Matter of: THE APPLICATION OF LOUISVILLE GAS AND ELECTRIC COMPANY FOR APPROVAL OF ITS 2004 COMPLIANCE PLAN FOR RECOVERY BY ENVIRONMENTAL SURCHARGE, Case No. 2004-00421 ("LG&E 2004 ECR Case"), Order (June 20, 2005) at 13.

In support of its statement, the Commission cited to the pre-filed direct testimony of LG&E witness Valerie Scott;² however, the cited portion of Ms. Scott's testimony stated:

Other than recovery of the expense associated with the ash transfer at Mill Creek, no O&M expenses *for Project 11* will be recovered through LG&E's environmental surcharge. *Project No. 12*, Cane Run Landfill, is an expansion of an existing assets [*sic*], the O&M expenses for which are included in LG&E's base rates. *Project Nos. 13, 14, and 15*, as explained in Mr. Malloy's testimony, seek recovery of costs incurred to refurbish existing assets -- the FGDs at Cane Run and Trimble County. LG&E's base rates include O&M associated with these assets and because no discernable changes are anticipated in the level of on-going O&M, LG&E is not seeking ECR recovery of incremental expenses.³

What Ms. Scott stated, therefore, was that LG&E was not seeking O&M recovery of incremental costs associated with Project Nos. 11-15, with the exception of the expense associated with the ash transfer at Mill Creek. What Ms. Scott did not state in her testimony was that LG&E was not seeking O&M recovery of incremental costs associated with Project 16, which costs result from limestone and dibasic acid use at the Trimble County Unit 1 FGD.

This understanding of Ms. Scott's testimony is supported by other parts of Ms. Scott's and other LG&E witnesses' testimony and an exhibit thereto. Beginning with Ms. Scott's direct pre-filed testimony, at page two she stated:

*The projects for which LG&E is seeking recovery of operating and maintenance ("O&M") expense are Projects 11, 16 and 17.*⁴ ... Project 16 seeks recovery of investments to enhance the operation of Flue Gas Desulfurization ("FGD") equipment at Trimble County Unit 1. To the extent that increased SO₂ removal increases the use of limestone and/or chemical additives (i.e., dibasic acid) beyond the level currently indicated in base rates, LG&E is seeking recovery of those additional operating expenses.⁵

Ms. Scott further stated in her testimony:

² See *id.* at 13 n.25, citing LG&E 2004 ECR Case, Direct Testimony of Valerie L. Scott (December 20, 2004) ("Scott Testimony") at 4.

³ Scott Testimony at 4 (emphases added).

⁴ The Commission approved LG&E's recovery of Project No. 17's expenses for the purchase of emission allowances in its Order at 23, ¶ 1, and 24, ¶ 5.

⁵ Scott Testimony at 2 ln. 21 - 3 ln. 10 (emphasis added)

As previously explained, *with the exception of ash dredging at Mill Creek (Project No. 11) and increased limestone and/or chemical additives at the Trimble County Unit 1 FGD to increase operational efficiency of the unit (Project No. 16)*, LG&E is not seeking recovery for O&M expenses associated with projects included in the 2004 Plan. To the extent that limestone expense and/or chemical additives at Trimble County Unit 1 are included in base rates, ECR recovery will be limited to the incremental expense incurred.⁶

In addition to Ms. Scott's testimony, LG&E witness Robert M. Conroy testified that "LG&E is proposing modifications to incorporate additional Operations and Maintenance ("O&M") expense associated with the 2004 Plan[.]"⁷ Getting to specifics, Mr. Conroy stated:

LG&E is proposing to remove the references to specific O&M accounts on Form 2.40, using the O&M expenses on Form 2.40 for the calculation of Cash Working Capital only. LG&E is proposing to add Form 2.50, Report of Current Month O&M Expenses to the monthly filing forms. LG&E's proposed Form 2.50 will report current month O&M expenses by expense account and by location.⁸

Mr. Conroy included a copy of LG&E's proposed Form 2.50 as Exhibit RMC-4, Page 9 of 11, as part of his pre-filed direct testimony. That Form, which bears the subtitle, "Pollution Control -- Operations & Maintenance Expenses For the Month Ended," explicitly lists "502006 -- Scrubber Operations" and "512005 -- Scrubber Maintenance" for Mill Creek and Trimble County as being components of "Total 2004 Plan O&M expenses."⁹ Moreover, the Commission approved LG&E's monthly surcharge reporting formats in its Order.¹⁰

LG&E's position is further supported by its responses to two data requests, as well as the Joint Post-Hearing Brief that LG&E and Kentucky Utilities Company filed in this proceeding ("Joint Brief"). In response to Question No. 12 of the Commission Staff's First Data Request to LG&E, dated January 26, 2005, the Companies responded:

⁶ *Id.* at 6 ln. 16-22 (emphasis added).

⁷ LG&E 2004 ECR Case, Direct Testimony of Robert M. Conroy (December 20, 2004) ("Conroy Testimony") at 2 ln. 6-7.

⁸ Conroy Testimony at 4 ln. 19-23.

⁹ Conroy Testimony Exh. RMC-4, Page 9 of 11. LG&E's May 9, 2005 update to Mr. Conroy's Exh. RMC-4 did not affect this in any way.

Q-12. Refer to the Direct Testimony of Valerie L. Scott (“Scott Testimony”), page 3. Provide an estimate of the additional operating expenses beyond the level currently included in base rates for the increased SO₂ removal.

A-12. Operating expenses for the Flue Gas Desulfurization equipment at Trimble County Unit 1 will increase approximately \$100,000 annually, for limestone and dibasic acid, beyond the level currently included in base rates.

In response to the KIUC’s Question No. 16 of its First Data Request to LG&E, the Companies stated:

Q-16. Refer to page 6 line 22 of Ms. Scott’s Direct Testimony. Please define the term “incremental expense incurred and provide the methodology the Company proposes to compute the incremental O&M.

A-16. The Company is only requesting incremental expenses associated with limestone for the Trimble County Unit 1 FGD (Project 16). Incremental O&M is defined as actual expenses that are above or below those included in current base rates (Case No. 2003-00433). Current base rates include limestone expenses of \$654,087.38 in FERC Account No. 502006. Incremental O&M is calculated by taking the current month total O&M expenses for the limestone less one twelfth of the test year O&M expenses for the limestone.

Current base rates include no expenses associated with chemical additives at Trimble County Unit 1 and no expenses for the proposed ash dredging activities in Mill Creek Project No. 11. Expenses for the Trimble County chemical additives and the Mill Creek ash dredging activities will be tracked in separate FERC Account 502 subaccounts, and included in the 2004 ECR expenses.

Finally, LG&E stated in its Joint Brief that “[t]he scope chosen for upgrading TC1 [Trimble County Unit 1] involves the addition of a dibasic acid (“DBA”) injection system to increase the FGD’s removal rate . . . ,”¹¹ and that:

LG&E and KU have proposed amendments to their environmental surcharge tariffs to recover ... the operating expenses associated with these pollution control facilities.¹²

¹⁰ Order at 24, ¶ 7.

¹¹ LG&E 2004 ECR Case, Joint Post Hearing Brief (May 31, 2005) at 18.

¹² *Id.* at 31.

Again, these excerpts show that LG&E did ask the Commission for the recovery by environmental surcharge of the incremental O&M expenses of limestone and dibasic acid associated with Trimble County Unit 1's FGD, as included in Project 16. Furthermore, that the Commission approved all of the projects in LG&E's 2004 Compliance Plan,¹³ and that the Commission specifically approved LG&E's monthly surcharge reporting formats, which included new Form 2.50 (setting out scrubber O&M as 2004 Plan O&M expenses), all indicates that the Commission unintentionally erred with respect to Project No. 16 by stating that LG&E was not seeking O&M recovery of expenses not already included in base rates.

WHEREFORE, the Companies move the Commission to reconsider and amend its June 20, 2005 Order in this proceeding to allow LG&E to recover, through its environmental surcharge, the incremental expenses of limestone and dibasic acid for Trimble County Unit 1, as set out in Project 16 of LG&E's 2004 Compliance Plan and identified in the ECR monthly reporting form 2.50.

¹³ Order at 23, ¶ 1.

Dated: June 29, 2005

Respectfully submitted,

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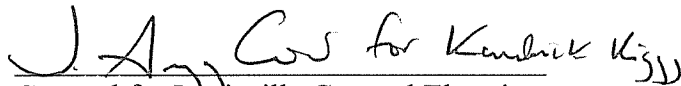
Counsel for Louisville Gas and Electric
Company

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Motion to Reconsider the Commission's June 20, 2005 Order was served via U.S. mail, first-class, postage prepaid, this 29th day of June 2005, upon the following persons:

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