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COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

DEC 08 2005

PUBLIC SERVICE  
COMMISSION

In the Matter of:

GENERAL ADJUSTMENT OF ELECTRIC RATES ) CASE NO.  
OF KENTUCKY POWER COMPANY ) 2005-00341

**EMERGENCY MOTION  
OF THE ATTORNEY GENERAL  
TO COMPEL AND TO  
REFUSE CONSIDERATION OF THE APPLICATION**

In response to AG-1-179, which asked the company to provide Mr. Foust's Exhibit LCF-1, the Cost of Service Study, in an electronic format and to include the type of software with which the study was prepared (ex. EXCEL 97), the Company, by reference to its response to KIUC request number 92, gave the name and version of a program used to produce the cost of service study, but refused to provide the cost of service study in an electronic format because doing so would be a violation of licensing agreements. Consequently, the company only provided some inputs and the outputs.

The Company also refused to provide the calculations, assumptions and workpapers used to prepare the Cost of Service study requested by the Attorney General in AG-1-180 on the same grounds.

Not only are Cost of Service studies routinely provided to intervenors in electronic format with all formulae intact in cases practiced before this Commission, the calculations, assumptions and workpapers used to prepare the Cost of Service Study are also provided. Refusal to provide this information renders it impossible to determine whether the methodology used to develop the Cost of Service Study complies with the requirement of 807 KAR 5:001 Section 10 (6) (u), which requires a rate case based on an historic test year to include a cost of service study "based on a

cost of service methodology generally accepted within the industry and based on current and reliable information based on a single time period.” Consequently, refusal to reveal all the data that went into the study and how the data was used and manipulated to reach the conclusions that were presented as outputs renders the filing incomplete under this regulation.

Further, the Commission has called for cooperation by the Company and intervenors when proprietary information and programs are used in connection with information relied upon in the rate cases, saying that it would be appropriate for Companies who plan to rely on information which cannot be copied or provided to make an effort to secure a waiver of those restrictions. They should seek permission from those to whom the rights to materials designed for use in rate cases belong to allow provision of a copy of the materials to the other parties to the case for use in that case.<sup>1</sup>

The Attorney General has spoken with the Company in an effort to secure the information. The Company maintains that it does not have access to the intermediate steps or manipulations that occur to produce the Cost of Service either. These steps or formula manipulations are simply built into the program and all the company does is put in data and pull out results. As a result, the Cost of Service is a black box. Consequently, the Company continues to refuse to provide the intermediate steps that would allow the validity of the Cost of Service study to be tested.

As now presented, the filing is incomplete under 807 KAR 5:001. Therefore, the Commission should reject the filing until a complete filing is made and refuse to consider the application as now filed.

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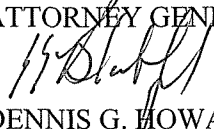
<sup>1</sup> In the Matter of: An Adjustment of Gas Rates of the Union Light, Heat and Power Company, Case No. 2005-00042, August 16, 2005 Transcript of Evidence, 131-134.

The Company clearly plans to rely on the Cost of Service study for the allocation of costs, but refuses to provide information vital to review its validity. Neither the intervenors nor the Commission can verify or challenge the Cost of Service study. The intervenors ability to cross examine is impaired.

Wherefore, given the statutory time constraints that govern this Application, the Attorney General moves the Commission to require the immediate production of the requested information or to declare the filing incomplete and to refuse to consider the application until such time as it is complete.

Respectfully submitted,

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ATTORNEY GENERAL OF KENTUCKY



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CERTIFICATE OF SERVICE AND NOTICE OF FILING

I hereby give notice that this the <sup>8</sup>7th day of December, 2005, I have filed the original and ten copies of the foregoing Request for Information with the Kentucky Public Service Commission at 211 Sower Boulevard, Frankfort, Kentucky, 40601 and certify that this same day I have served the parties by mailing a true copy of same, postage prepaid, to those listed below and by sending a courtesy electronic copy to Mark Overstreet at [moverstreet@stites.com](mailto:moverstreet@stites.com).

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