Response of the Attorney General to
Initial Data Request of Duke Energy Kentucky to the Attorney General
Duke Energy Kentucky
Case No. 2006-00172

Witness Responsible:
ROBERT J. HENKES

Question 1: Refer to page 20 of Mr. Henkes Direct Testimony. In determining the average Other Operating Revenue did Mr. Henkes give additional weight to the last seven months of 2005 by including both calendar year 2005 and the twelve months ended May 31, 2006 in his average?

Response: Mr. Henkes believes that the methodology used by him to determine his recommended normalized annual Other Operating Revenues of $592,120 for the Forecasted Period has produced a reasonable end result.

Excluding the additional weight for the last 7 months of 2005 in the determination of Mr. Henkes' recommended normalized Other Operating Revenue (i.e., basing the normalized annual Other Operating Revenues on the average of the actual annual Other Operating Revenues in the 3-year period 2003 – 2005[1]), results in the following normalized Other Operating Revenues:

	Actual Average Annual Rev. For 2003 through 2005
Acct. 451 Miscellaneous Service Revenues	$ 31,781
Acct. 451020 Miscellaneous Connection Charge	54,875
Acct. 451040 Temporary Facilities*	95,020 (1)
Acct. 451050 Customer Diversion	4,416
Acct. 451060 Bad Check Charge	17,957
Acct. 454020 Rent Elec Other Equipment	26,998
Acct. 454100 Pole Contact Revenues	135,628 (2)
Acct. 456865 Transmission Rev RB Interco	212,261
Total Other Operating Revenues	$578,936

(1) Average for 2004 and 2005
(2) Based on 2005 only

Mr. Henkes would not disagree if one were to reflect this normalized revenue number of $578,936 rather than the revenue number of $592,120.

[1] Since actual Other Operating Revenues for the first 5 months of 2006 are not available in the record (only an annual amount for the 12-month period ended May 31, 2006 is available), the actual monthly 2006 Other Operating Revenues through May 2006 cannot be incorporated in the recommended determination of the normalized Other Operating Revenues.

Response of the Attorney General to
Initial Data Request of Duke Energy Kentucky to the Attorney General
Duke Energy Kentucky
Case No. 2006-00172

Witness Responsible:
ROBERT J. HENKES

Question 2: Why does Mr. Henkes believe that the last seven months of 2005 should receive additional weight in the calculation of average Other Operating Revenue?

Response: See Mr. Henkes' response to Question 1.

Response of the Attorney General to
Initial Data Request of Duke Energy Kentucky to the Attorney General
Duke Energy Kentucky
Case No. 2006-00172

Witness Responsible:
ROBERT J. HENKES

Question 3: Does Mr. Henkes agree that, if the revenue during the last seven months of 2005 is not representative of average operating revenues over the course of a twelve-month calendar year, then his method would not show a normalized level of average Other Operating Revenue for a twelve-month calendar year period?

Response: See Mr. Henkes' response to Question 1.

Response of the Attorney General to
Initial Data Request of Duke Energy Kentucky to the Attorney General
Duke Energy Kentucky
Case No. 2006-00172

Witness Responsible:
ROBERT J. HENKES

Question 4: Does Mr. Henkes have any knowledge, information or belief to suggest whether the revenue during the last seven months of 2005 is or is not representative of DEK's normal operating revenue over the course of a twelve-month period? If so, please state whether such revenues are representative, and provide the basis for your opinion.

Response: See Mr. Henkes' response to Question 1.

Response of the Attorney General to
Initial Data Request of Duke Energy Kentucky to the Attorney General
Duke Energy Kentucky
Case No. 2006-00172

Witness Responsible:
ROBERT J. HENKES

Question 5: Does Mr. Henkes agree that another method to calculate average Other Operating Revenues during the period in question is to give equal weight to each month?

Response: See Mr. Henkes' response to Question 1.

Response of the Attorney General to
Initial Data Request of Duke Energy Kentucky to the Attorney General
Duke Energy Kentucky
Case No. 2006-00172

Witness Responsible:
ROBERT J. HENKES

Question 6: Does Mr. Henkes have an opinion as to whether it would be reasonable to calculate average Other Operating Revenues during the period in question is to give equal weight to each month? If so, please state your opinion and the basis for your opinion.

Response: See Mr. Henkes' response to Question 1.

Response of the Attorney General to
Initial Data Request of Duke Energy Kentucky to the Attorney General
Duke Energy Kentucky
Case No. 2006-00172

Witness Responsible:
ROBERT J. HENKES

Question 7: *Please refer to pages 18 and 19 of Mr. Henkes' direct testimony.*

a. Please review the rent expense calculation for the forecasted test period. Does Mr. Henkes agree that the rent expense for the forecasted test period was calculated in the same manner as the rent revenues during the forecasted test period?

b. If the answer to the preceding information request is in the affirmative, does Mr. Henkes agree that the Company's expenses for the forecasted test period should be adjusted to reflect the correct amount of rent expense?

Response:

a/b The rent expense calculation for the Forecasted Period is not available to Mr. Henkes and, therefore, cannot be reviewed by him. For that reason, Mr. Henkes is not in the position to respond to part b of the request.

Response of the Attorney General to
Initial Data Request of Duke Energy Kentucky to the Attorney General
Duke Energy Kentucky
Case No. 2006-00172

Witness Responsible:
ROBERT J. HENKES

Question 8: Please refer to Schedule RJH-10. Please reconcile the $1,200 variance between the proposed revenue shown on line 1 of $666,192 and the amount in footnote (1) of $667,392.

a. Which of these two amounts did Mr. Henkes use in his calculation of the revenue requirement?

b. Does the reconciliation of these numbers cause any change to the amount that he used in the calculation of the revenue requirement? Explain why a change would or would not occur.

Response:

a. Mr. Henkes inadvertently annualized monthly rent revenues of $55,516 rather than monthly rent revenues of $55,616. The correct monthly rent revenue amount is $55,616 which, annualized, would be $667,392. Mr. Henkes' recommended revenue requirement calculation reflected an annualized rent revenue amount of $666,192. The reflection of the correct annualized revenue amount of $667,392 decreases Mr. Henkes' recommended rate increase amount by $1,200
b. See response to part a above.

Response of the Attorney General to
Initial Data Request of Duke Energy Kentucky to the Attorney General
Duke Energy Kentucky
Case No. 2006-00172

Witness Responsible:
ROBERT J. HENKES

Question 9: Please refer to Schedule RJH-19.

a. Mr. Henkes recommended that the Commission should reject the Company's proposal relating to the AMI program. Did Mr. Henkes' adjustment to working capital reflect the elimination of the O&M savings associated with the AMI program?

b. Does Mr. Henkes agree that, if the Commission rejects the Company's proposal relating to the AMI program, then his calculation of working capital should be revised to reflect the elimination of the O&M savings associated with the AMI program? If not, why not?

c. Does Mr. Henkes' proposal relating to uncollectibles impact the calculation of O&M expense?

d. Please explain why Mr. Henkes did not include the "Impact on Uncollectibles" from the various revenue adjustments he proposes as a change in O&M expense.

Response: Mr. Henkes acknowledges that the CWC impacts of his recommended AMI adjustment and uncollectible changes from his various recommended revenue adjustments should have been, but were not, reflected on his Schedule RJH-19. Mr. Henkes has calculated that the reflection of these additional CWC impacts increases his recommended CWC number on Schedule RJH-6 by $41,168:

	Impact on O&M Expense	
- AMI Adjustment (Sch. D-1, p. 8):	$284,737	(Sch. D-1, p.8)
- Uncollectible Exp Impacts of:		
. Emission Allowance Rev. Adj.	26,334	(RJH-8)
. MISO Make-Whole Rev. Adj.	11,467	(RJH-9)
. Rent Revenue Adj.	2,001	(RJH-10)
. Other Operating Rev. Adj.	2,200	(RJH-11)
. Weather Normalization Adj.	2,604	(RJH-12)
- Total Additional O&M Expenses:	$329,343	
- Additional CWC @ CWC Ratio of .125	$ 41,168	

The reflection of this additional CWC amount of $41,168 increases Mr. Henkes' recommended rate increase amount by $1,013.

Response of the Attorney General to
Initial Data Request of Duke Energy Kentucky to the Attorney General
Duke Energy Kentucky
Case No. 2006-00172

Witness Responsible:
ROBERT J. HENKES

Question 10: In light of the changes in the overall rate of return proposed by Dr. Woolridge, and incorporated by Mr. Henkes, does Mr. Henkes agree that the AFUDC Offset adjustment as originally filed by the Company, in Schedule D-2.20, should be revised? If not, why not?

Response: Mr. Henkes has not reflected this AFUDC Offset adjustment because the average Forecasted Period CWIP balance of $4,263,000 is 100% subject to AFUDC accrual at a rate equal to DEK's overall rate of return. Since this AFUDC accrual is reflected as above-the-line income, there should not be a revenue requirement associated with the inclusion of CWIP in rate base. However, Mr. Henkes agrees that the AFUDC Offset adjustment to be reflected for ratemaking purposes in this case should be based on the overall rate of return to be allowed by the Commission.

Response of the Attorney General to
Initial Data Request of Duke Energy Kentucky to the Attorney General
Duke Energy Kentucky
Case No. 2006-00172

Witness Responsible:
ROBERT J. HENKES

Question 11: Please refer to the Company's Schedule D-2.29.

a. Would Mr. Henkes agree that a change in the Company's earnings from production activities, such as a reduction in the approved return on equity, should result in a change in the level of deduction allowed under IRC Section 199?

b. Please confirm that Mr. Henkes did not propose a revision to the adjustment for IRC Section 199 as shown in the Company's Schedule D-2.29?

c. Given that the AG has proposed a reduction in the approved return on equity, shouldn't there also be a change in the level of deduction allowed under IRC Section 199?

Response: With regard to part b, Mr. Henkes confirms that he did not propose a revision to the adjustment for IRC Section 199 as shown in the Company's Schedule D-2.29.

Mr. Henkes did not review and address this particular tax issue in this case and is therefore not in a position to express an opinion regarding the questions raised in part a and c.

Response of the Attorney General to
Initial Data Request of Duke Energy Kentucky to the Attorney General
Duke Energy Kentucky
Case No. 2006-00172

Witness Responsible:
ROBERT J. HENKES

Question 12: On page 36 of his testimony, Mr. Henkes recommends that forecasted test period expenses be adjusted to remove certain professional services based upon his review of data requests KPSC-2-33 and KPSC-3-22.

a. As to the professional services expenses that Mr. Henkes proposes to exclude, please explain why each such professional service should not be recoverable from ratepayers.

b. Assume that DEK's parent companies have Sarbanes-Oxley compliance costs. Please explain why Mr. Henkes believes that DEK should not be allocated a share of DEK's parent companies' costs of complying with Sarbanes-Oxley requirements.

c. Please explain why Mr. Henkes believes that DEK should not be allocated a share of its parent company's cost of designing and printing an annual report to shareholders.

d. Assume that DEK avoided certain Sarbanes-Oxley costs by de-registering with the U.S. Securities and Exchange Commission at the time of the Duke/Cinergy merger. Does Mr. Henkes know whether DEK would still be subject to any other types of either direct or allocated Sarbanes-Oxley costs?

Response: Mr. Henkes made the expense adjustments described on page 36 of his testimony and Schedule RJH-15, footnote (3) based on his understanding (from his review of KPSC-2-33 and KPSC-3-22) that the inclusion of these expenses in the Forecasted Period is inconsistent with certain aspects of the Commission's May 3, 2006 Order in Case No. 2005-00228. Mr. Henkes has no other basis for these expense adjustments.

Response of the Attorney General to
Initial Data Request of Duke Energy Kentucky to the Attorney General
Duke Energy Kentucky
Case No. 2006-00172

Witness Responsible:
ROBERT J. HENKES

Question 13: Refer to Schedule RJH-10. Would Mr. Henkes agree that the Company included, on Schedule D-2.17 and WPD-2.17a, Affiliated Company Rents, a portion of Rent for Common Facility Unit 7? If yes, does Mr. Henkes agree that his adjustment is overstated because the Company has already included some portion of these revenues in the forecasted test period revenues, and Mr. Henkes' adjustment therefore double-counts such revenues?

Response: Mr. Henkes is not in a position to agree that a portion of the Rent for Common Facility Unit 7 was already included in the pro forma rent annualization adjustment on Schedule D-2.17 and WPD-2.17a because this information is not obvious from the information shown on this schedule and workpaper. Mr. Henkes also wonders why the monthly Forecasted Period rent revenues shown on D-2.17 and WPD-2.17a only amount to $4,065 given that the Company knew that the actual monthly revenues since January 2006 are $55,616 (see response to AG-2-9d), not $4,065.

However, if the Company's proposed rent revenue annualization adjustment of $48,780 on D-2.17 indeed reflects a portion of the same Common Facility Unit 7 rent revenues for which Mr. Henkes has recommended an annualized revenue adjustment of $666,192 (should be $667,392 – see response to Question 8), then Mr. Henkes' proposed rent revenue adjustment should be revised downward by $48,780. For Mr. Henkes to accept this, the Company would have to provide the necessary supporting information proving this claimed rent revenue double-count.

Response of the Attorney General to
Initial Data Request of Duke Energy Kentucky to the Attorney General
Duke Energy Kentucky
Case No. 2006-00172

Witness Responsible:
ROBERT J. HENKES

Question 14: Beginning on page 14, of his testimony, Mr. Henkes proposes an adjustment to include proceeds on the sale of emission allowances in the Company's forecasted test year revenue requirements.

a. Does Mr. Henkes agree that the Company's response to AG-DR-02-007(d) actually states it would treat the "margins" from the sales of EAs above-the-line for ratemaking purposes, rather than the "proceeds"?

b. Does Mr. Henkes agree that it would more appropriate to base his recommendation on EA "margins" rather than "gross proceeds," in order to recognize the cost of goods sold? If not, why not?

c. If the answer to the preceding information request is in the affirmative, please provide a calculation of the EA margins that Mr. Henkes proposes should be included in the forecasted test period revenues.

Response:

a. Yes.
b. Yes.
c. This calculation cannot be made by Mr. Henkes since the record evidence in this case only includes information regarding EA proceeds, not EA margins.

Response of the Attorney General to
Initial Data Request of Duke Energy Kentucky to the Attorney General
Duke Energy Kentucky
Case No. 2006-00172

Witness Responsible:
ROBERT J. HENKES

Question 15: Refer to Schedule RJH-8. In footnote (1), Mr. Henkes illustrates the calculation he used to arrive at his proposed annual EA sales proceeds.

a. Does Mr. Henkes agree that an average of the EA proceeds for calendar year 2005 and for the twelve months ending July 31, 2006 double weights the last five months of 2005?

b. Why does Mr. Henkes believe that the last five months of 2005 should receive additional weight in the calculation of annual EA sales proceeds?

c. Does Mr. Henkes agree that, if the revenue during the last five months of 2005 is not representative of annual EA sales proceeds over the course of a twelve-month calendar year, then his method would show a normalized level of annual EA sales proceeds for a twelve-month calendar year period?

d. Does Mr. Henkes have any knowledge, information or belief to suggest whether the revenue during the last five months of 2005 is or is not representative of DEK's normal annual EA sales proceeds over the course of a twelve-month period? If so, please state whether such revenues are representative, and provide the basis for your opinion.

e. Does Mr. Henkes agree that another method to calculate annual EA sales proceeds during the period in question is to give equal weight to each month?

f. Does Mr. Henkes have an opinion as to whether it would be reasonable to calculate average annual EA sales proceeds during the period in question is to give equal weight to each month? If so, please state your opinion and the basis for your opinion.

Response: Mr. Henkes believes that the methodology used by him to determine his recommended normalized annual EA proceeds of $8,766,435 for the Forecasted Period has produced a reasonable end result.

Excluding the additional weight for the last 5 months of 2005 in the determination of Mr. Henkes' recommended normalized annual EA proceeds (i.e., basing the normalized annual EA proceeds on the average of the actual monthly EA proceeds

Response of the Attorney General to
Initial Data Request of Duke Energy Kentucky to the Attorney General
Duke Energy Kentucky
Case No. 2006-00172

Response to Question 15 (continued):

for the 19-month period January 2005 through July 2006, results in the following normalized annual EA proceeds (source: response to AG-2-7):

Actual EA proceeds for 2005:	$10,102,405	- for 12 months
Actual EA proceeds 1/1/06-7/31/06:	$ 3,311,715	- for 7 months
Actual EA proceeds 1/1/05-7/31/06:	$13,414,120	- for 19 months
Avg. Monthly EA proceeds 1/05 – 7/06	$ 706,006	
	12 x	
Annualized EA proceeds	$ 8,472,072	

Mr. Henkes would not disagree if one were to reflect this normalized annual revenue number of $8,472,072 rather than the revenue number of $8,766,435.

Response of the Attorney General to
Initial Data Request of Duke Energy Kentucky to the Attorney General
Duke Energy Kentucky
Case No. 2006-00172

Witness Responsible:
ROBERT J. HENKES

Question 16: Would Mr. Henkes agree that any adjustment to revenue requirement for sales of emission allowances would have to be incorporated in the base year revenue requirement for future filings DEK may make in pursuant to KRS 278.183, for recovery of environmental compliance costs?

Response: Mr. Henkes is not familiar with KRS 278.183 and the Company's environmental compliance cost recovery mechanism and is therefore not in a position to express an opinion on the above question.

Response of the Attorney General to
Initial Data Request of Duke Energy Kentucky to the Attorney General
Duke Energy Kentucky
Case No. 2006-00172

Witness Responsible:
ROBERT J. HENKES

Question 17: At pages 15-17 of his testimony, Mr. Henkes discusses his proposal to include a "base" amount of MISO Make-Whole payments in the Company's revenue requirements.

a. Does Mr. Henkes agree that, if the Commission orders the Company to incorporate a level of make-whole payments in base rates, then in future FAC proceedings, there should be no adjustment related to the make-whole payment in the Company's calculation of the FAC rate?

b. Does Mr. Henkes' agree that, in his calculation on Schedule RJH-9, footnote (1) for the Woodsdale Unit 6 component of his calculation, the correct amount should be $974,637?

Response:

a. Yes.
b. Yes. The correction for this item decreases Mr. Henkes's recommended rate increase amount in this case by approximately $122,000.

Response of the Attorney General to
Initial Data Request of Duke Energy Kentucky to the Attorney General
Duke Energy Kentucky
Case No. 2006-00172

Witness Responsible:
ROBERT J. HENKES

Question 18: Please refer to page 8 of Mr. Henkes Direct Testimony and his Schedule RJH-2. Does Mr. Henkes agree that the Company's response to AG-DR-02-011 indicated that the total uncollectible expense was actually $1,585,770, not the $867,292 as originally indicated in response to AG-DR-01-048? Does Mr. Henkes agree that, by using the correct uncollectible expense of $1,585,770, this produces an uncollectible ratio of 0.5493%?

Response: Mr. Henkes has the following understanding regarding the appropriate uncollectible expense ratio in this case:

As shown in the responses to AG-1-48 and AG-2-11, the total unadjusted uncollectible expense for the Forecasted Period is $3,157,942. With the $2,289,942 adjustment for the discount rate that was proposed by DEK in this case, the net uncollectible expense ("Net Charge-Off per Filing") for the Forecasted Period is $867,292. This number of $867,292 represents the correct uncollectible expense. When taken as a ratio of the associated total billings of $288,693,617 (see WPD-2.31a and AG-2-11), this results in the appropriate uncollectible expense ratio of .3004%.

As shown in the response to AG-2-11, the Company's claimed total uncollectible expense of $1,585,770 includes $599,237 for below-the-line charge-offs and $119,241 worth of charge-offs that represent a forecast variance. These items should not be recognized for purposes of determining the above-the-line uncollectible ratio to be used for ratemaking purposes in this filing. Rather, the "Net Charge-Off per Filing" amount of $867,292 should be used for ratemaking purposes in this case.

Response of the Attorney General to
Initial Data Request of Duke Energy Kentucky to the Attorney General
Duke Energy Kentucky
Case No. 2006-00172

Witness Responsible:
ROBERT J. HENKES

Question 19: On page 25 of his testimony, Mr. Henkes states that "AMI related savings are not included in the Forecasted Period financial results." Does Mr. Henkes agree that the Company has included projected savings associated with the AMI program in its adjustment shown in Schedule D-2.35 and WPD-2.35a? Does this cause Mr. Henkes to change any other recommendations relating to the AMI program? If not, please explain why not.

Response: Mr. Henkes agrees that the Company, as part of its rate proposal for the AMI project, included total O&M expense savings of approximately $367,000. However, this fact does not cause Mr. Henkes to change his current recommendation relating to the AMI program. The reasons for Mr. Henkes' recommendation that the rate recovery for this program be disallowed in this case are discussed on page 24 of his testimony.

In addition to these primary reasons, Mr. Henkes pointed out on page 25 of his testimony that Company witness Stanley has claimed O&M expense savings of $34 million[2] through the year 2020. This would be equivalent to an average annual O&M savings amount of approximately $2.4 million ($34 million / 14 years) and – as Mr. Henkes testified on page 25, lines 8-9 - …"These AMI related savings are not included in the Forecasted Period financial results."

[2] In the response to AG-1-69, Mr. Stanley confirms that the $34 million savings number referenced in his testimony concern O&M expense savings only.

Response of the Attorney General to
Initial Data Request of Duke Energy Kentucky to the Attorney General
Duke Energy Kentucky
Case No. 2006-00172

Witness Responsible:
ROBERT J. HENKES

Question 20: Please provide copies of any testimony submitted by Mr. Henkes in any jurisdiction on the topic of automated or advanced metering initiatives or "smart metering."

Response: Mr. Henkes has not previously submitted any testimony on the topic of automated or advanced metering initiatives or "smart metering."

Response of the Attorney General to
Initial Data Request of Duke Energy Kentucky to the Attorney General
Duke Energy Kentucky
Case No. 2006-00172

Witness Responsible:
ROBERT J. HENKES

Question 21: Please provide copies of any testimony submitted by Mr. Henkes in any jurisdiction on the topic of retail rate recovery of MISO costs.

Response: The only testimony submitted by Mr. Henkes regarding the topic of retail rate recovery of MISO costs is pages 51 – 54 of his testimony in the most recent Louisville Gas & Electric electric rate case, Case No. 2003-00433. A copy of these testimony pages is attached.

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN ADJUSTMENT OF THE GAS AND ELECTRIC	)	
RATES, TERMS AND CONDITIONS OF	)	**CASE NO. 2003-00433**
LOUISVILLE GAS AND ELECTRIC COMPANY	)	

DIRECT TESTIMONY

AND EXHIBITS

OF

ROBERT J. HENKES

PERTAINING TO THE ELECTRIC CASE

On Behalf of the Office Of Rate Intervention Of The Attorney General Of The Commonwealth Of Kentucky

March 23, 2004

Louisville Gas and Electric Company
Case No. 2003-00433 Electric Rate Case
Direct Testimony of Robert J. Henkes

TABLE OF CONTENTS

revenue reduction adjustment is shown on line 4 of schedule RJH-15.

Q. **WHAT IS THE IMPACT OF YOUR MISCELLANEOUS ADJUSTMENT RECOMMENDATIONS ON THE COMPANY'S PROPOSED TEST YEAR ELECTRIC AFTER-TAX OPERATING INCOME ?**

A. As shown on schedule RJH-15, the recommended miscellaneous expense adjustments increase the Company's proposed test year electric after-tax operating income by approximately $127,500.

- **<u>FASB 143 Asset Retirement Obligation Adjustment</u>**

Q. **PLEASE EXPLAIN THE REASON FOR THE RECOMMENDED FASB 143 ASSET RETIREMENT OBLIGATION ("ARO") ADJUSTMENT SHOWN ON SCHEDULE RJH-16.**

A. The FASB 143 ARO adjustment shown on Schedule RJH-16 reflects the recommendations regarding this issue contained in the testimony of Michael Majoros, the AG's depreciation expert. As shown on Schedule RJH-16, Mr. Majoros' FASB 143 ARO recommendations have the result of increasing the Company's proposed pro forma test year after-tax operating income by $3.149 million.

- **<u>MISO Issues</u>**

Q. **WHAT IS YOUR UNDERSTANDING REGARDING THE MISO ISSUES THAT**

HAVE BEEN RAISED BY LG&E IN THIS PROCEEDING IN THE TESTIMONY OF MR. BEER?

A. First, I understand that LG&E is requesting a pro forma expense level of approximately $3.3 million for expected ongoing MISO Schedule 10 administrative costs in this case. This proposed pro forma base rate expense level assumes that LG&E will continue to be a member of MISO in the future.

I also understand that, in a separate proceeding in Case No. 2003-00266, the Commission is investigating whether or not LG&E's continued membership in MISO is in the public interest. If the Commission ultimately decides in Case No. 2003-00266 that LG&E's continued membership in MISO is not in the public interest and orders the Company to withdraw from MISO, then LG&E will be subject to a substantial exit fee. In its responses to AG-1-53 (d) and 1-235, the Company states that, assuming a final exit date of 12/31/2004, the estimated exit fee for both LG&E and KU would be in the range of $24 million. I have been informed by my counsel, however, that during the ongoing proceeding in Case No. 2003-00266, this total estimated exit fee may be as high as $38 million.

If, after the conclusion of the instant base rate proceeding, the Company is subsequently ordered by the Commission in Case No. 2003-00266 to exit MISO, it is proposing the following ratemaking treatment:

(1) Continued base rate recovery in the base rates established in the current rate case for all costs incurred in connection with its ongoing MISO membership obligations up

until the point in time that the Company is authorized by FERC to withdraw from MISO (this would involve the annual MISO Schedule 10 cost of $3.3 million proposed for base rate recovery by LG&E in this proceeding).

(2) A rate filing with the Commission for (a) removal of the $3.3 million ongoing MISO Schedule 10 costs from the then-current base rates, and (b) inclusion in base rates of the amortization of the exit fee over a specified amortization period.

Q. DOES THE COMPANY'S PROPOSAL TO RECEIVE BASE RATE RECOVERY FOR ANY MISO EXIT FEES REQUIRE THE ESTABLISHMENT OF A REGULATORY ASSET FOR THE MISO EXIT FEE OBLIGATION?

A. Yes. While Mr. Beer's testimony in this case does not make mention of this, it is my understanding that LG&E in this proceeding is essentially seeking approval to establish a regulatory asset for any potential MISO exit fees that may result from a Commission ruling in Case No. 2003-00266

Q. WHAT IS YOUR POSITION REGARDING THE AFOREMENTIONED MISO ISSUES?

A. I take no exception to the Company's proposal to include an estimated ongoing annual level of $3.3 million for MISO Schedule 10 administrative costs for base rate recovery in this case pending the Commissions decision in Case No. 2002-00266. However, I do not agree with the Company's proposal for another rate filing subsequent to the current rate proceeding in case the Commission were to order LG&E in Case No. 2002-00266 to withdraw from MISO. An important principle of proper ratemaking is rate stability and the

Company's proposal unnecessarily uproots that principle. Instead, I recommend that, if LG&E is ordered to exit MISO, the base rates to be established in the current case continue to remain in effect without any change for the net impact of the removal of the $3.3 million Schedule 10 base rate recovery and the addition of the amortization of the MISO exit fee in the regulatory asset account. The Company should be ordered by the Commission to establish a regulatory liability account for the continued annual $3.3 million base rate recovery for the MISO Schedule 10 costs it would no longer incur. The balance in this regulatory liability account should serve to offset the MISO exit fee in the regulatory asset account in LG&E's next electric base rate proceeding. If the balance in this regulatory liability account exceeds the balance in the regulatory asset account, this excess should be returned to LG&E's ratepayers in an appropriate manner.

- **Other Expense Issues**

Q. IN THE PARALLEL KENTUCKY UTILITIES ("KU") RATE CASE, AG WITNESS MAJOROS HAS IDENTIFIED CERTAIN ISSUES THAT HAVE NOT BEEN ADDRESSED BY YOU IN THIS LG&E RATE CASE. WHAT IS YOUR RECOMMENDED POSITION ON THIS?

A. Consistency would dictate that the two companies be treated for ratemaking purposes in like fashion and I would encourage the Commission to do so. For example, for reasons discussed in his testimony, Mr. Majoros has recommended that the Commission only recognize for ratemaking purposes the actual test year pension and Other Post-Employment Benefit expenses booked by KU, consistent with the Commission's finding in LG&E's

Response of the Attorney General to
Initial Data Request of Duke Energy Kentucky to the Attorney General
Duke Energy Kentucky
Case No. 2006-00172

Witness Responsible:
ROBERT J. HENKES

Question 22: On page 31 of his testimony, Mr. Henkes states that "the Company essentially committed that it would share its deferred cost on a 50/50 basis between its ratepayers and shareholders." Please provide the exact language in the Commission's Order or the Companies' filings in Case No. 2003-00252 that caused by Henkes to conclude that the Company made this commitment.

Response: Please refer to the Commission Order in Case No. 2003-00252.

On page 13 of the Order, the Commission states that "ULH&P has estimated that the total transaction costs would be $4.9 million .... On page 12 of the Order, the Commission states that "In its amended application, ULH&P requests that it be permitted to defer no more than $2.45 million of transaction costs incurred in conjunction with the proposed acquisition."

In footnote 21 on page 13 of the Order, the Commission states that "The [ULH&P] proposal to defer roughly half of the estimated transaction costs was one of the areas in which ULH&P felt comfortable in shifting the "balance more in customers' favor."

With regard ULH&P's proposal to defer roughly half of the estimated transaction cost (described in footnote 21), the Commission further states on page 13 of the Order: "Limiting the deferral provides for a sharing of the transaction costs between ULH&P's shareholders and ratepayers."

Response of the Attorney General to
Initial Data Request of Duke Energy Kentucky to the Attorney General
Duke Energy Kentucky
Case No. 2006-00172

Witness Responding:
Michael J. Majoros Jr.

23. Mr. Majoros' testimony states that DEK should be required to apply separated depreciation rates and that this does not require any change to current accounting. If DEK were to do so, please explain what procedure DEK would follow to accomplish this?

Response:

DEK would use depreciation rates separated at the level required by the Commission and apply those rates to plant balances in the same manner as current depreciation rates are being applied.

Response of the Attorney General to
Initial Data Request of Duke Energy Kentucky to the Attorney General
Duke Energy Kentucky
Case No. 2006-00172

Witness Responding:
Michael J. Majoros Jr.

24. Mr. Majoros' testimony states that the Company made an "unjustified switch to the equal life group procedure." Does Mr. Majoros agree that this the same procedure accepted by this Commission in Case No. 2005-00042 and Case No. 2001-00092?

Response:

Mr. Majoros answers this question at pages 11 to 13 of his testimony.

Response of the Attorney General to
Initial Data Request of Duke Energy Kentucky to the Attorney General
Duke Energy Kentucky
Case No. 2006-00172

Witness Responding:
Michael J. Majoros Jr.

25. Please define "composite depreciation."

Response:

He is not familiar with the phrase "composite depreciation." Mr. Majoros quoted the phrase "composite depreciation **rates**" from Staff's KYPSC-DR-03-009(a) and page 123.3 of the Company's 2005 FERC Form 1. He does not see much use of composite depreciation rates today. Typically individual plant account rates are calculated and applied at that level. He has seen composite depreciation rates at the functional plant level and composite depreciation rates at the plant account level when the plant account has been subdivided in the depreciation study. He would define a composite depreciation rate as a weighted-average rate applying to more than one depreciable category.

Response of the Attorney General to
Initial Data Request of Duke Energy Kentucky to the Attorney General
Duke Energy Kentucky
Case No. 2006-00172

Witness Responding:
Michael J. Majoros Jr.

26. In data request KyPSC-DR-03-009(a), Staff asked why the attachment to KyPSC-DR-02-006(c) does not show a composite rate "for the various plant groupings." Does this refer to the total of each functional group? If not, please provide what is your understanding of what "composite rate" referred to as used in this data request.

Response:

See Mr. Majoros's response to DEK-1-25.

Response of the Attorney General to
Initial Data Request of Duke Energy Kentucky to the Attorney General
Duke Energy Kentucky
Case No. 2006-00172

Witness Responding:
Michael J. Majoros Jr.

27. Exhibit___ (MJM-2) contains selected paged from DEK's (ULH&P) 2005 FERC Form 1. Referring to page 337 of that Exhibit, Mr. Majoros states: "ULH&P does not show anything in those cells because it uses composite depreciation rates." Does Mr. Majoros admit that page 337 could be blank as a result of instruction number 3 on page 336, requiring page 337 to be reported every fifth year beginning in 1971?

Response:

Yes.

Response of the Attorney General to
Initial Data Request of Duke Energy Kentucky to the Attorney General
Duke Energy Kentucky
Case No. 2006-00172

Witness Responding:
Michael J. Majoros Jr.

28. Please explain how non-regulated industries account for cost of removal.

Response:

Charge it to expense when incurred.

Response of the Attorney General to
Initial Data Request of Duke Energy Kentucky to the Attorney General
Duke Energy Kentucky
Case No. 2006-00172

Witness Responding:
Michael J. Majoros Jr.

29. Please explain how regulated electric utilities in Kentucky account for cost of removal.

Response:

Charge it to accumulated depreciation when incurred.

Response of the Attorney General to
Initial Data Request of Duke Energy Kentucky to the Attorney General
Duke Energy Kentucky
Case No. 2006-00172

Witness Responding:
Michael J. Majoros Jr.

30. Referring to Mr. Majoros' testimony at page 24, lines 16 through 18, could CG&E have established the cost of removal related to its deregulated generating assets as a regulatory asset under GAAP? If not, why not?

Response:

It should have been established as a regulatory "liability" prior to deregulation. In those circumstances it would have remained as a regulatory liability or it would have been returned in one form another to ratepayers.

Unfortunately that did not happen. Certainly CG&E could have established the cost of removal as a regulatory liability under GAAP. All it had to do was divulge the situation to the applicable regulators.

Response of the Attorney General to
Initial Data Request of Duke Energy Kentucky to the Attorney General
Duke Energy Kentucky
Case No. 2006-00172

Witness Responding:
Michael J. Majoros Jr.

31. Can DEK transfer any cost of removal to income without the related assets being deregulated?

Response:

Yes.

Response of the Attorney General to
Initial Data Request of Duke Energy Kentucky to the Attorney General
Duke Energy Kentucky
Case No. 2006-00172

Witness Responding:
Michael J. Majoros Jr.

32. Page 34 of Mr. Majoros' testimony states: "ULH&P's approach is not in harmony with generally accepted accounting principles and never has been..." Please explain how the Company, which is audited annually by independent auditors and periodically by FERC, can be permitted to follow an accounting procedure that does not conform to generally accepted accounting principles.

Response:

SFAS No. 71 provides for differences between regulatory accounting and GAAP.

Response of the Attorney General to
Initial Data Request of Duke Energy Kentucky to the Attorney General
Duke Energy Kentucky
Case No. 2006-00172

Witness Responding:
Michael J. Majoros Jr.

33. Regarding Exhibit MJM-11, please provide:

a. The source(s) of the underlying data for this exhibit.

b. The date when this exhibit was last updated.

c. Provide each version of this exhibit that Mr. Majoros has filed with any state utility commission since January 1, 2000 that contains different data than the data contained on Exhibit MJM-11.

Response:

a. The source of the underlying retirements data is the Energy Information Agency. The status was obtained via phone calls from William Zaetz of Snavely King to the companies involved.

b. The most recent version was printed and summarized as of August 14, 2005. There is a slight discrepancy between the number of units on that summary and an earlier version submitted by Mr. Majoros in other proceedings. We are tracking down the difference. Both copies are provided on CD.

c. Copies of all of Mr. Majoros's electric depreciation testimony back to 2000 are included on a CD which is being shipped overnight to the Attorney General for receipt on October 11, 2006, and will be provided then. The index to that testimony is provided on CD with this filing.

Response of the Attorney General to
Initial Data Request of Duke Energy Kentucky to the Attorney General
Duke Energy Kentucky
Case No. 2006-00172

Witness Responding:
Michael J. Majoros Jr.

34. Please reference page 18, lines 5-8 of Mr. Majoros' testimony. Please provide any the appropriate page number in FERC Order 631 all references where non-legal asset retirement obligations are defined as "excess collections."

Response:

Mr. Majoros is not aware of any such pages.

Response of the Attorney General to
Initial Data Request of Duke Energy Kentucky to the Attorney General
Duke Energy Kentucky
Case No. 2006-00172

Witness Responding:
Michael J. Majoros Jr.

35. Please reference page 18, lines 9-11 of Mr. Majoros' testimony. Please provide the complete citation for the supporting accounting or regulatory accounting guidance behind the statement: "If a utility has charged cost of removal for a non-legal ARO, that amount is to be segregated within accumulated depreciation and reclassified as a regulatory liability."

Response:

See FERC Order No. 631, paragraphs 38 and 39. See SFAS No. 143 paragraphs 20 and B73.

Response of the Attorney General to
Initial Data Request of Duke Energy Kentucky to the Attorney General
Duke Energy Kentucky
Case No. 2006-00172

Witness Responding:
Michael J. Majoros Jr.

36. Please reference page 18, lines 11-12 of Mr. Majoros' testimony. Please provide the complete citation for note 17 which supports the statement: "Furthermore, it a utility has collected too much depreciation for a legal ARO, the excess also becomes a regulatory liability."

Response:

See SFAS No. 143, paragraph 20.

Response of the Attorney General to
Initial Data Request of Duke Energy Kentucky to the Attorney General
Duke Energy Kentucky
Case No. 2006-00172

Witness Responding:
Michael J. Majoros Jr.

37. Please reference page 28, lines 20-22 of Mr. Majoros' testimony. Please provide all known examples of supporting the statement: "Experience indicates that it is highly unlikely that these amounts will be spent for cost of removal in the magnitude that they have been collected."

Response:

See Mr. Majoros's testimony at page 17 – 19, 23 – 27, 30 – 32, 36, 42 – 47.

Response of the Attorney General to
Initial Data Request of Duke Energy Kentucky to the Attorney General
Duke Energy Kentucky
Case No. 2006-00172

Witness Responding:
Michael J. Majoros Jr.

38. Please reference page 48, line 6 of Mr. Majoros' testimony.

a. Please provide a listing of the state agencies referred to that have adopted the proposals you are recommending.

b. Please provide a listing of the state agencies that have considered the proposals you are making in this docket, but the proposals were not accepted.

c. For each state agency in (1) and (2), please provided the following: state jurisdiction, company, docket, year, statement as to which proposals were made, which proposals were accepted, and which proposals were not accepted.

Response:

a. See attached discussion provided on CD as Attachment to DEK 38.

b. Mr. Majoros does not keep such as list.

c. See the attachment provided in response to part a.

Witness Responding:
Michael J. Majoros Jr.

39. Please reference page 9, line 3 of Mr. Majoros' testimony. Please provide a copy of any statements made by the Company where the Company stated it does not have any plans to retire or remove the plants.

Response:

See the response to AG-DR-01-173.

Response of the Attorney General to
Initial Data Request of Duke Energy Kentucky to the Attorney General
Duke Energy Kentucky
Case No. 2006-00172

Witness Responding:
Michael J. Majoros Jr.

40. Please reference page 9, lines 18-19 of Mr. Majoros' testimony. Please provide all supporting documentation, including calculations, to support your statement that the Company is experiencing positive net salvage.

Response:

See Exhibit___(MJM-10).

Response of the Attorney General to
Initial Data Request of Duke Energy Kentucky to the Attorney General
Duke Energy Kentucky
Case No. 2006-00172

Witness Responding:
Michael J. Majoros Jr.

41. Please reference page 12, lines 2-5 of Mr. Majoros' testimony. Has the Kentucky Commission or any other state commission ever considered and rejected the ELG method? If so, provide the case number and date of order.

Response:

Mr. Majoros does not know.

Response of the Attorney General to
Initial Data Request of Duke Energy Kentucky to the Attorney General
Duke Energy Kentucky
Case No. 2006-00172

Witness Responding:
Michael J. Majoros Jr.

42. Please reference page 15, lines 9-14 of Mr. Majoros' testimony. Provide the case number and date of order of the FCC orders referenced in this statement.

Response:

Mr. Majoros does not have those readily available. The cases began in 1980 with Docket 20188. Given their age, the paperwork associated with the cases has been disposed of in the normal course of business. Mr. Majoros is trying to locate other sources for the documents and will provide them when located.

Response of the Attorney General to
Initial Data Request of Duke Energy Kentucky to the Attorney General
Duke Energy Kentucky
Case No. 2006-00172

Witness Responding:
Michael J. Majoros Jr.

43. Please reference page 16, line 20 of Mr. Majoros' testimony. Please explain in detail the "theoretical considerations" to which Mr. Majoros is referring.

Response:

Whatever caused Mr. Spanos to avoid using the statistical fitting capability of his own software.

Response of the Attorney General to
Initial Data Request of Duke Energy Kentucky to the Attorney General
Duke Energy Kentucky
Case No. 2006-00172

Witness Responding:
Michael J. Majoros Jr.

44. Please reference page 17, lines 16-18 of Mr. Majoros' testimony. Does Mr. Majoros agree that, as a general ratemaking principle, the customers who receive the use of utility property, plant and equipment should be charged for the costs relating to such property, plant and equipment?

Response:

Mr. Majoros agrees with that statement only when the so-called concept of intergenerational equity is not also used as a pretext to charge current ratepayers for large future costs that do not or will not occur. If intergenerational equity the goal, by promising this commission that all the money collected for future cost of removal will be spent on future cost of removal, legal AROs will be created and this will end the debate (unless the company does not believe that intergenerational equity can be achieved with legal AROs).

Response of the Attorney General to
Initial Data Request of Duke Energy Kentucky to the Attorney General
Duke Energy Kentucky
Case No. 2006-00172

Witness Responding:
Michael J. Majoros Jr.

45. Please reference page 22, lines 25-27 of Mr. Majoros' testimony. Please provide details (company listing, statements, publications, filings, etc.) for utilities that consider amounts in accumulated depreciation to be their money.

Response:

In Mr. Majoros' opinion, based on his experience, every utility considers amounts in accumulated depreciation to represent capital recovery and thus their money.

Response of the Attorney General to
Initial Data Request of Duke Energy Kentucky to the Attorney General
Duke Energy Kentucky
Case No. 2006-00172

Witness Responding:
Michael J. Majoros Jr.

46. Please reference page 22, line 30 of Mr. Majoros' testimony. How is Mr. Majoros statement that the Company has no plans to retire/remove plants (see p. 9, line 3), consistent with his statement on page 22, line 30?

Response:

That comparison demonstrates the irrationality of the Company's position. It also suggests a means to protect ratepayer provided funds so long as retirement and removal are not occurring.

Response of the Attorney General to
Initial Data Request of Duke Energy Kentucky to the Attorney General
Duke Energy Kentucky
Case No. 2006-00172

Witness Responding:
Michael J. Majoros Jr.

47. Please reference page 23, lines 1-6 of Mr. Majoros' testimony. Please provide all known examples of electric utilities operating in states where retail electric generation has not been deregulated, where the utility recognized past collections of costs of removal as income.

Response:

Unknown.

Response of the Attorney General to
Initial Data Request of Duke Energy Kentucky to the Attorney General
Duke Energy Kentucky
Case No. 2006-00172

Witness Responding:
Michael J. Majoros Jr.

48. Please reference page 28, lines 20-22 of Mr. Majoros' testimony. Please specify all known examples for the statement: "Experience indicates that it is highly unlikely that these amounts will be spent for cost of removal in the magnitude that they have been collected."

Response:

The Company's actual experience proves the point.

Response of the Attorney General to
Initial Data Request of Duke Energy Kentucky to the Attorney General
Duke Energy Kentucky
Case No. 2006-00172

Witness Responding:
Michael J. Majoros Jr.

49. Please reference Exhibit MJM-6 of Mr. Majoros' testimony. Show support and specific procedures used to separate the capital recovery and cost of removal components of the proposed depreciation rates. Please provide the support for the ASL and salvage rate.

Response:

Provided on CD, please see the attached Excel versions of Exhibit___(MJM-6), Exhibit___(MJM-10) (the net salvage rate calculation) and Exhibit___(MJM-7) (the calculation of the ASLs for accounts where Mr. Majoros did not use Mr. Spanos's ASL).

Response of the Attorney General to
Initial Data Request of Duke Energy Kentucky to the Attorney General
Duke Energy Kentucky
Case No. 2006-00172

Witness Responding:
Michael J. Majoros Jr.

50. Please reference page 28, line 25 of Mr. Majoros' testimony. Explain the basis for the statement that ratepayers have a "security interest" in cost of removal incorporated into depreciation rates. Provide copies of all supporting cases and accounting principles.

Response:

Mr. Majoros believes that ratepayers have a security interest in any money they give to a regulated utility for any estimated future cost. If the utility does not incur the cost, the money should go back to ratepayers. It should not go to shareholders or management in the form of additional cash flow available to pay huge raises and bonuses and additional dividends.

Response of the Attorney General to
Initial Data Request of Duke Energy Kentucky to the Attorney General
Duke Energy Kentucky
Case No. 2006-00172

Witness Responding:
Michael J. Majoros Jr.

51. Please provide the case numbers, dates of orders, and copies of KyPSC order(s) where the Commission has ordered a utility company to perform separate identification and reporting for regulatory liabilities based on non-legal AROs.

Response:

None.

Response of the Attorney General to
Initial Data Request of Duke Energy Kentucky to the Attorney General
Duke Energy Kentucky
Case No. 2006-00172

Witness Responding:
Michael J. Majoros Jr.

52. Please reference page 30, lines 1-2 of Mr. Majoros' testimony. Show support in the calculation of the $278,000 average positive net salvage for the period 2001 through 2005.

Response:

See Exhibit___(MJM-10).

Response of the Attorney General to
Initial Data Request of Duke Energy Kentucky to the Attorney General
Duke Energy Kentucky
Case No. 2006-00172

Witness Responding:
Michael J. Majoros Jr.

53. Please reference page 39, lines 11-17 of Mr. Majoros' testimony. Explain the basis for the statement that "It is not even reasonable to assume that it (DEK) will incur these future removal costs." Also, please cite where DEK has stated that they will never incur actual costs of removal that would be the basis for the statement that the "only reasonable conclusion is that (DEK) will never incur actual costs of removal relating to non-legal AROs…"

Response:

The basis for the statement is included in the beginning portion of the sentence that was excluded for the purposes of your question. Mr. Majoros does not think DEK would ever admit that it will never incur actual cost of removal and it has resisted promising to spend all funds collected for cost of removal on cost of removal so as to create a legal ARO. It is DEK itself that places its cost of removal proposals in doubt.

Response of the Attorney General to
Initial Data Request of Duke Energy Kentucky to the Attorney General
Duke Energy Kentucky
Case No. 2006-00172

Witness Responding:
Michael J. Majoros Jr.

54. Please reference page 47, lines 16-18 and page 49 lines 11-15 of Mr. Majoros' testimony. Provide the case numbers, dates of orders, and copies of orders where a state utility commission has expressly adopted any of the three alternatives; cash basis, SFAS No. 143 Fair Value, net present value, or the normalized net salvage approach. Please indicate by order which approach was adopted.

Response:

See response to DEK 1-38.

Response of the Attorney General to
Initial Data Request of Duke Energy Kentucky to the Attorney General
Duke Energy Kentucky
Case No. 2006-00172

Witness Responding:
Michael J. Majoros Jr.

55. On page 5 of his testimony, beginning at line 1, Mr. Majoros states: "No, at best Mr. Spanos provides a misleading impression concerning current depreciation rates." Please provide each and every basis for this statement.

Response:

The company's present electric depreciation rates were not ELG rates.

Response of the Attorney General to
Initial Data Request of Duke Energy Kentucky to the Attorney General
Duke Energy Kentucky
Case No. 2006-00172

Witness Responding:
Michael J. Majoros Jr.

56. On page 6 of his testimony, beginning at line 22, Mr. Majoros states: "He [Mr. Spanos] implies that ULH&P's current depreciation rates were calculated using the same methods, procedures and techniques, but that is not the case." Please provide each and every basis for this statement.

Response:

Mr. Spanos proposed straight line, equal life group depreciation combined with the remaining life technique. The current depreciation rates for transmission and distribution were determined in the Company's 1975 rate case, general plant rates were developed in 1997, common plant rates were established in the Company's 2005 gas rate case, and this is UHL&P's first study of production plant depreciation rates. Mr. Majoros believes the 1975 rates were probably straight line, broad group, whole-life rates. The 1997 rates were probably the same, but they may have also been remaining life rates. He bases these assumptions upon his knowledge of past trends and timing in depreciation rate calculations.

Response of the Attorney General to
Initial Data Request of Duke Energy Kentucky to the Attorney General
Duke Energy Kentucky
Case No. 2006-00172

Witness Responding:
Michael J. Majoros Jr.

57. On page 8 of his testimony, beginning at line 10, Mr. Majoros states: "Yes. I have several additional examples of ULH&P's lack of credibility." Please provide each and every basis for this statement.

Response:

See the remaining portion of page 8, page 9 and page 10.