



an e-on company

Mr. Jeff Derouen
Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, Kentucky 40601

RECEIVED

AUG 06 2010

PUBLIC SERVICE
COMMISSION

**Louisville Gas and Electric
Company**

State Regulation and Rates
220 West Main Street
PO Box 32010
Louisville, Kentucky 40232
www.eon-us.com

Rick E. Lovekamp
Manager - Regulatory Affairs
T 502-627-3780
F 502-627-3213
rick.lovekamp@eon-us.com

August 6, 2010

**RE: AN INVESTIGATION OF NATURAL GAS RETAIL
COMPETITION PROGRAMS
Case No. 2010-00146**

Dear Mr. DeRouen:

Enclosed please find and accept for filing the original and ten (10) copies of Louisville Gas and Electric Company's Motion to Compel Discovery Responses from Stand Energy Corporation in the above referenced docket.

Should you have any questions please contact me at your convenience.

Sincerely,

A handwritten signature in black ink that reads "Rick E. Lovekamp". The signature is written in a cursive, flowing style.

Rick E. Lovekamp

cc: Parties of Record

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN INVESTIGATION OF NATURAL)	
GAS RETAIL COMPETITION)	CASE NO. 2010-00146
PROGRAMS)	

**MOTION OF LOUISVILLE GAS AND ELECTRIC COMPANY TO COMPEL
DISCOVERY RESPONSES FROM STAND ENERGY CORPORATION
OR, IN THE ALTERNATIVE, TO STRIKE TESTIMONY OF MARK WARD**

Louisville Gas and Electric Company (“LG&E”), by counsel, moves the Commission to compel Stand Energy Corporation (“Stand”) to provide complete responses to LG&E’s data requests issued on July 15, 2010 or, in the alternative, to strike from the record in this proceeding the pre-filed testimony of Stand witness Mark Ward. As grounds for this motion, LG&E states as follows:

On unnumbered page 5 of 13 of Mark Ward’s testimony on behalf of Stand in this proceeding, Mr. Ward made the claim that “Stand Energy has served the Kentucky State Reformatory in Lagrange [sic] Kentucky which is served by Louisville Gas in [sic] Electric (LG&E). In the five years we have served this account the reformatory has saved \$522,000 over what they would have paid LG&E.” Because no evidence was offered to support that claim, LG&E issued a data request to Stand on July 15, 2010, pursuant to the procedural schedule in this matter, seeking all supporting workpapers and all spreadsheets, data, and other documents showing in detail how claimed savings was

calculated, along with a copy of all invoices rendered by Stand to the Kentucky State Reformatory for natural gas service.¹

Similarly, on unnumbered page 9 of 13 of Mark Ward's testimony, Mr. Ward claimed that Stand also serves "a large motel complex in the Louisville area.... Since January 2009 the account has saved close to \$35,000 over what they would have paid LG&E for tariff gas." LG&E also sought all supporting evidence for that claim in a data request to Stand.²

On July 29, 2010, Stand filed its responses to LG&E's data requests, refusing to provide any of the requested information on grounds that it is prohibited from release pursuant to Stand's own internal "Customer Privacy Policy."³ Stand cited no other basis for refusing to provide the requested information, and offered no legal basis for claiming that the requested information was in fact confidential. No petition for confidential protection was filed by Stand.

It is clear that Stand has not followed the mandates of the Commission's regulations in responding to LG&E's data requests. 807 KAR 5:001, Section 7 (5)(a) clearly states:

No party to any proceeding before the commission shall fail to respond to discovery by the commission or its staff or any other party to the proceeding on grounds of confidentiality [Emphasis added]. If any party responding to discovery requests seeks to have a portion or all of the response held confidential by the commission, it shall follow the procedures for petitioning for confidentiality contained in this administrative regulation. Any party's response to discovery requests shall be served upon all parties, with only those portions for which confidential treatment is sought obscured.

¹ LG&E Data Request No. 1 to Stand, issued July 15, 2010.

² LG&E Data Request No. 2 to Stand, issued July 15, 2010.

³ That Policy was not provided as part of Stand's response. Moreover, Stand's response did not explain how it could selectively choose to identify a customer, along with claimed savings achieved by that customer, in direct testimony without waiving or violating the purported limits of its Customer Privacy Policy.

That regulation requires Stand to provide the requested information to the Commission, under seal, along with a motion for confidential protection. If that motion is granted, then only parties who have entered into a confidentiality agreement may access the protected information. Alternatively, if the motion is denied, then the information in its entirety is made part of the public record. There is no provision in the regulation allowing a party to simply refuse to provide information, which is the remedy that Stand has self-selected here.

Because Stand chose to inject a claim that two customers have achieved savings over what would have been paid at LG&E's tariffed rates, LG&E is clearly entitled to discover the factual basis underpinning that claim, so that the validity of the claim can be tested. Indeed, Stand has not claimed that the requested information is irrelevant in light of Mr. Ward's testimony. Pursuant to 807 KAR 5:001, Section 7 (5)(a), the requested information must be provided, even if claimed confidential, along with a petition for confidential protection. Because Stand has failed to comply with that regulation, the proper remedy is an order from the Commission compelling complete discovery responses.⁴ Alternatively, the direct testimony of Mr. Ward, which contains the claims on which discovery was sought, should be stricken from the record as a remedy for Stand's failure to comply with its discovery obligations as set forth in the Commission's regulations.

WHEREFORE, for all of the reasons set forth above, LG&E respectfully requests the Commission to enter an order compelling Stand to provide complete

⁴ The undersigned counsel attempted to resolve this dispute by agreement with counsel for Stand, pointing out the clear requirements of 807 KAR 5:001, Section 7 (5)(a). As can be seen in the email exchange attached as Exhibit 1 hereto, that effort was not successful.

responses to LG&E's data requests dated August 15, 2010 or, in the alternative, striking the testimony of Mark Ward in this proceeding.

Dated: August 6, 2010

Respectfully submitted,

A handwritten signature in black ink, appearing to read "J. Gregory Cornett", written over a horizontal line.

J. Gregory Cornett
Senior Corporate Attorney
E.ON U.S. LLC
220 West Main Street
Louisville, Kentucky 40202
Telephone: (502) 627-2756

Counsel for Louisville Gas and
Electric Company

Cornett, Greg

From: Dosker, John [JDosker@stand-energy.com]
Sent: Monday, August 02, 2010 3:24 PM
To: Cornett, Greg
Subject: RE: Stand Energy Data Responses - KPSC Case No. 2010-00146

Mr. Cornett:

LG&E needs to get on the same page as your other Kentucky utility brethren. Some of you are demanding answers to information requests relating to gas transportation customers. Other utilities are stating this case is not about gas transportation issues and have refused to answer our questions on the subject. You cannot both be right. Interesting strategy, or lack thereof. I'm waiting on direction from the owners of the Company, but I suspect we'll see how the PSC resolves this conflict and go from there.

John Dosker

John M. Dosker*
General Counsel
Stand Energy Corporation
a Kentucky corporation
1077 Celestial St., Suite 110
Cincinnati, OH 45202-1629
Ph- 513-621-1113 Fax- 513-621-3773
jdosker@stand-energy.com
* Licensed Only in Kentucky

The information contained in this message is privileged and confidential information intended for the use of the individual or entity named above. If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone at 513-621-1113 and delete this electronic file. Thank you.

From: Cornett, Greg [mailto:Greg.Cornett@eon-us.com]
Sent: Monday, August 02, 2010 2:51 PM
To: Dosker, John
Subject: Stand Energy Data Responses - KPSC Case No. 2010-00146

Mr. Dosker,

I am representing LG&E in the above-referenced matter. We have received your responses to LG&E's data requests in this matter, which refused to provide requested information on grounds of confidentiality. 807 KAR 5:001, Section 7 (5)(a) states:

No party to any proceeding before the commission shall fail to respond to discovery by the commission or its staff or any other party to the proceeding on grounds of confidentiality [emphasis added]. If any party responding to discovery requests seeks to have a portion or all of the response held confidential by the commission, it shall follow the procedures for petitioning for confidentiality contained in this administrative regulation. Any party's response to discovery requests shall be served upon all parties, with only those portions for which confidential treatment is sought obscured.

Please advise whether, in light of this regulation, Stand will provide the requested information under seal, along with a motion for confidential protection. LG&E will enter into a acceptable protective order, consistent with standard practice before the Commission, to then gain access to the unredacted information. If you will not so agree, we will make a motion to compel. Please advise of your position within three (3) days.

If you have any questions, please let me know.

Sincerely,

Greg Cornett

J. Gregory Cornett

Senior Corporate Attorney

E.ON US LLC

220 West Main Street

Louisville, KY 40202

(P) 502-627-2756

(F) 502-217-4993

greg.cornett@eon-us.com

The information contained in this transmission is intended only for the person or entity to which it is directly addressed or copied. It may contain material of confidential and/or private nature. Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon, this information by persons or entities other than the intended recipient is not allowed. If you received this message and the information contained therein by error, please contact the sender and delete the material from your/any storage medium.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was served on the following persons on the 6th day of August, 2010, by United States mail, postage prepaid:

Katherine K. Yunker
John B. Park
Yunker & Park PLC
P.O. Box 21784
Lexington, KY 40522- 1784

Sandra Minch Guthorn
MXENERGY
10010 Junction Dr., Suite 104-S
Annapolis Junction, MD, 20701

Teresa Ringenbach, Manager
Government & Regulatory Affairs – Midwest
Direct Energy, LLC
9605 El Camino Ln.
Plain City, OH 43064

Matthew R. Malone
Hurt, Crosbie & May PLLC
The Equus Building
127 West Main Street
Lexington, KY 40507

Tracy McCormick
Executive Directory
Retail Energy Supply Association
P.O. Box 6089
Harrisburg, PA 17112

Lisa Kilkelly
Legal Aid Society
416 West Muhammad Ali Blvd. Suite 300
Louisville, KY 40202

Stephen Bennett
Retail Policy Manager -- East/Midwest
Exelon Power Team
300 Exelon Way
Kennett Square, PA 19348

Tom Fitzgerald
Kentucky Resources Council, Inc.
P.O. Box 1070
Frankfort, KY 40602

Lisa M. Simpkins
Vice President – Energy Policy, Natural Gas
Constellation Energy Resources
111 Market Place, Suite 500
Baltimore, MD 21202

Iris G. Skidmore
Bates & Skidmore
415 W. Main Street, Suite 2
Frankfort, KY 40601

Michael T. Griffiths
Legal Counsel
ProLiance Energy, LLC
111 Monument Circle, Suite 2200
Indianapolis, IN 46204

John M. Dosker
Stand Energy Corporation
1077 Celestial Street, Suite 110
Cincinnati, OH 45202-1629

Trevor L. Earl
Reed Weitkamp Schell & Vice PLLC
500 West Jefferson Street, Suite 2400
Louisville, KY 40202

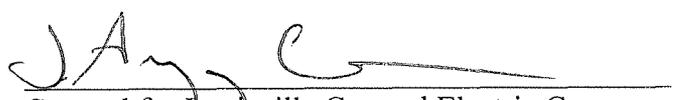
Mark Martin
Atmos Energy Corporation
3275 Highland Pointe Dr
Owensboro, KY 42303

John B. Brown
Delta Natural Gas Company, Inc.
3617 Lexington Rd.
Winchester, KY 40391

Judy Cooper
Columbia Gas of Kentucky, Inc.
2001 Mercer Rd.
P.O. Box 14241
Lexington, KY 40512-4241

Rocco D'Ascenzo
Duke Energy Kentucky, Inc.
139 East 4th Street, R. 25 at II
P.O. Box 960
Cincinnati, OH 45201

Brooke E. Leslie
Columbia Gas of Kentucky, Inc.
200 Civic Center Dr
P.O. Box 117
Columbus, OH 43216-0117


Counsel for Louisville Gas and Electric Company