

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

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PUBLIC SERVICE  
COMMISSION

**In the Matter of:**

APPLICATION OF LOUISVILLE GAS AND ELECTRIC )  
COMPANY FOR AN AMENDED ENVIRONMENTAL )  
COMPLIANCE PLAN, A REVISED SURCHARGE TO )  
RECOVER COSTS, AND CERTIFICATES OF PUBLIC )  
CONVENIENCE AND NECESSITY FOR THE )  
CONSTRUCTION OF NECESSARY )  
ENVIRONMENTAL EQUIPMENT )

CASE NO. 2011-00162

**In the Matter of:**

APPLICATION OF KENTUCKY UTILITIES COMPANY )  
FOR CERTIFICATES OF PUBLIC CONVENIENCE )  
AND NECESSITY AND APPROVAL OF ITS 2011 )  
COMPLIANCE PLAN FOR RECOVERY )  
BY ENVIRONMENTAL SURCHARGE )

CASE NO. 2011-00161

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**JOINT MOTION BY DREW FOLEY, JANET OVERMAN, GREGG WAGNER, RICK  
CLEWETT, RAYMOND BARRY, SIERRA CLUB, AND NATURAL RESOURCES  
DEFENSE COUNCIL TO COMPEL DISCLOSURE OF NATURAL GAS FORECASTS**

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On September 14, 2011, Louisville Gas and Electric Company and Kentucky Utilities Company (collectively, the “Companies”) served supplemental discovery responses on Rick Clewett, Raymond Barry, Drew Foley, Janet Overman, Gregg Wagner, Sierra Club, and Natural Resources Defense Council’s (collectively “Environmental Intervenors”). *See* Exhibit 1. The Confidential Version of the “2011 Air Compliance Plan Supplemental Analyses” redacted the Compliance Plan’s natural gas forecasts from 2014 onward, the 2011 PIRA Energy Group (“PIRA”) forecast for high sulfur coal and natural gas, the 2011 Wood Mac/PIRA natural gas prices from 2015 onward, and the 2011 Cambridge Energy Research Associates (“CERA”) forecast for high sulfur coal and natural gas. The Commission should compel the Companies to

release these forecasts because all of their concerns for redacting this information are addressed by a confidentiality agreement entered into by the Companies and Environmental Intervenors and this information is essential to completely analyzing the Companies' applications for Certificates of Public Convenience and Necessity and related environmental surcharges.

The supplemental discovery responses were accompanied by a Petition for Confidential Protection, in which the Companies seek confidential protection because they "could be disadvantaged in negotiating fuel contracts in the future, and could also be disadvantaged in the wholesale energy market because fuel costs are important components of energy pricing" if this information were made public. Petition for Confidential Protection at 1 (Sept. 14, 2011). Later in the Petition, the Companies acknowledge that "it does not object to limited disclosure of the confidential information described herein, pursuant to an acceptable protective agreement, to intervenors with legitimate interests in reviewing the same of participating in this case." *Id.* at 2.

Despite acknowledging that a protective agreement would address their concerns, the Companies redacted the Compliance Plan's natural gas forecasts from 2014 onward, the 2011 forecast for high sulfur coal and natural gas, the 2011 Wood Mac/PIRA natural gas prices from 2015 onward, and the 2011 CERA forecast for high sulfur coal and natural gas in the Confidential Version of the Supplemental Analysis even though the Companies have entered into a confidentiality agreement with the Environmental Intervenors. The Companies did not proffer any reason why this information was redacted from the confidential version.

The Commission should compel the Companies to disclose these cost forecasts because the Companies' concerns about competitive disadvantage are addressed by the Confidentiality Agreement – and the Companies have advanced no other rationale – entered into by the Environmental Intervenors and the Companies. Pursuant to that Confidentiality Agreement,

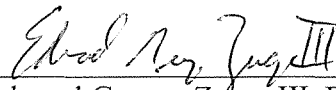
Environmental Intervenors, excluding the individual members listed, and their consultants and attorneys (collectively referred to as the “Authorized Representatives”) would have access to information for which the Companies have requested confidential protection but could “not publicize or otherwise disclose the Confidential Information to any third party and shall strictly limit access to the Confidential Information to the ... Authorized Representatives of Intervenors[] who have a need to know the Confidential Information for purposes of the Environmental Intervenors’ participation in Case Nos. 2011-00161 and 2011-00162.” In addition, “the Environmental Intervenors shall strictly limit their and Authorized Representatives of Environmental Intervenors use of the Confidential Information to use in Case Nos. 2011-00161 and 2011-00162 before the Commission and any appeals and remands from the case.” This Confidentiality Agreement thus addresses all of the Companies concerns about possible economic disadvantage as only a limited number of individuals, none of whom have a competitive economic interest in the Companies’ gas price forecasts, have access to this information. Moreover, the Companies had released the fuel forecasts that it used in its initial analysis to the Environmental Intervenors via a confidential response to a discovery request. *See Companies’ Confidential Response to Environmental Intervenors Request for Production of Documents, Question No. 16, 2011 Air Compliance Plan Sensitivity Analysis at pp. 2-3.*

The Commission should compel the Companies to disclose this information because it is a critical piece of information that is necessary to evaluate the Companies’ applications for Certificates of Public Convenience and Necessity and related environmental surcharges. As demonstrated through Dr. Jeremy Fisher’s Direct Testimony, the natural gas price forecast is a critical factor in determining whether existing units are kept on-line or retired. If an inflated natural gas forecast is used then the analysis will favor keeping the existing units on-line, while a

lower natural gas price will favor retirement. As such, in order to analyze whether the Compliance Plan proffered by the Companies represents a reasonable and prudent decision, all parties and the Commission need to know what fuel forecasts the Companies used and what are the justifications for using those forecasts. Without this key piece of information adequate assessment of the reasonableness of the Companies' Compliance Plan is severely hindered. That is why the Environmental Intervenors have provided all of their fuel forecasts and have provided and are providing through discovery a huge volume of material to justify our fuel forecasts.

The Commission should compel the Companies to release these forecasts as the confidentiality agreement addresses the Companies' concerns regarding being economically disadvantaged in negotiating fuel contracts and no party or the Commission could fully evaluate the reasonableness of the Companies' applications for Certificates of Public Convenience and Necessity and related environmental surcharges without knowing the natural gas price forecasts.

Respectfully submitted,



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Dated: October 6, 2011

## CERTIFICATE OF SERVICE

I certify that I mailed a copy of this Motion for Supplemental Discovery by first class mail on October 6, 2011 to the following:

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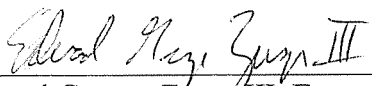
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