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RECEIVED

FEB 28 2005

PUBLIC SERVICE
COMMISSION

February 25, 2005

Elizabeth O'Donnell, Executive Director
Public Service Commission
211 Sower Boulevard
P.O. Box 615
Frankfort, KY 40602-0615

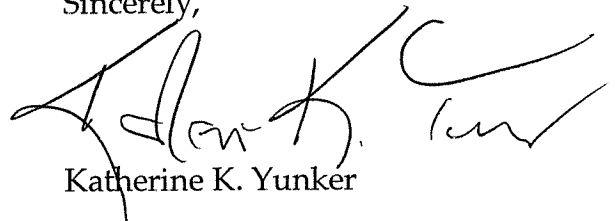
Re: Case No. 2003-00266, Investigation into the Membership of
Louisville Gas and Electric Company and Kentucky Utilities
Company in the Midwest Independent Transmission System
Operator, Inc.

Dear Ms. O'Donnell:

Enclosed please find the original and six (6) copies of a Supplemental Response and Contingent Motion for Rehearing/Clarification to be filed in the above-referenced proceeding on behalf of intervenor Midwest Independent Transmission System Operator, Inc. An additional copy has been enclosed to be stamped with the date of filing/receipt and returned in the self-addressed, stamped envelope enclosed.

Thank you for your assistance with this matter.

Sincerely,



Katherine K. Yunker

Enclosures

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

Investigation into the Membership of
Louisville Gas and Electric Company
and Kentucky Utilities Company in the
Midwest Independent Transmission
System Operator, Inc.

Case No. 2003-00266

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**Supplemental Response of
Midwest Independent Transmission System Operator, Inc.
and Contingent Motion for Rehearing/Clarification**

The Midwest Independent Transmission System Operator, Inc. ("Midwest ISO") hereby additionally supplements its response to Data Request No. 1 propounded by Louisville Gas and Electric Company and Kentucky Utilities Company (collectively, "LG&E/KU") on December 7, 2004. The initial response to the LG&E/KU 12/7/04 Data Requests was served on December 20, 2004, and filed with the Commission the next day. Pursuant to a Commission Order dated February 4, 2005, the Midwest ISO served and filed a supplemental response to Data Request No. 1 on February 11, 2005, to which it attached a curriculum vitae prepared by Dr. McNamara and complete copies of relevant presentations given by Dr. McNamara.

By Motion to Compel and for an Evidentiary Presumption filed February 16, 2005, LG&E/KU alleged that the Midwest ISO had withheld data from its supplemental response, citing two purported examples. In the afternoon of February 18, 2005, the Midwest ISO filed and served a Response showing that it had complied with the 12/4/05 Order. Apparently before receiving the Midwest ISO Response, and accepting the LG&E/KU allegations as true, the Commission entered an Order on February 18, 2005, requiring that the Midwest ISO prepare and file a list of the writings, reports, and speeches that were prepared or presented by Dr. McNamara and are in his possession

or under his control. The 2/18/05 Order noted that the Midwest ISO requested neither rehearing nor clarification of the 2/4/05 Order and found that the Midwest ISO had “inexplicably” failed to provide required documents.

As the Midwest ISO explained in its Response, it had provided one of the allegedly withheld documents and it did not have a copy of the other. The Midwest ISO still contends that it has complied with the 2/4/05 Order and the underlying LG&E/KU data request. However, in an effort to keep this discovery issue from consuming an increasingly disproportionate amount of time, the undersigned counsel contacted counsel for LG&E/KU to discuss whether there was further information in its possession or control that LG&E/KU thought should be provided. The particular information mentioned by LG&E/KU counsel was a listing of sworn statements — in whatever form — given by Dr. McNamara. The Midwest ISO has endeavored to put together a list of such statements (affidavits, prefiled testimony, hearing testimony) since Dr. McNamara joined the Midwest ISO as an officer/employee in February 2003; the list collected to date is provided with the supplemental response attached hereto.

If there is any further question whether the Midwest ISO’s response, as herein additionally supplemented, complies with the 2/4/05 Order, the 2/18/05 Order, or the underlying data request, the Midwest ISO hopes that LG&E/KU will do it the courtesy of first contacting its counsel with that question. If any question about compliance is presented to the Commission, however, the Midwest ISO respectfully requests that the Commission rehear or clarify the 2/18/04 Order.

Respectfully submitted,

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By: 

ATTORNEYS FOR MIDWEST INDEPENDENT
TRANSMISSION SYSTEM OPERATOR, INC.

CERTIFICATE OF FILING AND SERVICE

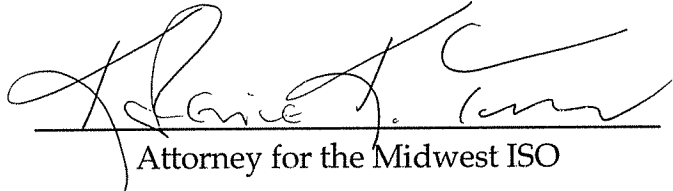
I hereby certify that on this the 25th day of February, 2005, via U.S. Mail, postage prepaid, the original and six (6) copies of this Supplemental Response and Contingent Motion were sent to the Commission for filing, and a copy was sent to:

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Louisville, KY 40202


Attorney for the Midwest ISO

REQUEST:

1. At page 1 of 89, lines 9 through 18, Dr. McNamara summarizes his educational and professional background.
 - a. Please provide a curriculum vitae and/or résumé for Dr. McNamara that includes a complete description of Dr. McNamara's professional certifications, educational and professional background, including each and every time he has testified before a court or regulatory agency, with the subject matter of his testimony, the docket number and the title of the case.
 - b. Please identify and provide a copy of each and every paper, report, presentation, speech, or publication that Dr. McNamara has prepared, or which he assisted in preparing, in the course of his professional career which relates to the subject matter of this investigation.

OBJECTION:

This request is overly broad and unduly burdensome. Dr. McNamara has provided information regarding his educational and professional background in his direct testimony prefiled in this proceeding in December 2003 and in September 2004, and responded to questions regarding that background in the hearing in this proceeding that began February 25, 2004. In addition, in his prefiled testimony and in responses to data requests (including this set of data requests), Dr. McNamara has specifically cited to affidavits and reports he has given or provided in various Federal Energy Regulatory Commission ("FERC") proceedings or in matters before state regulatory commissions. One of his presentations is attached as Appendix A to his rebuttal testimony prefiled in this proceeding on November 19, 2004; another was to the September 2004 EMLF at the initiation of LG&E/KU's outside counsel in this proceeding. If LG&E/KU can be more specific about information they seek and its potential relevance to this proceeding, the

Witness: Ronald McNamara

Midwest ISO will attempt to accommodate the request by providing materials for their inspection and copying.

SUPPLEMENTAL RESPONSE:

Without waiving its objection above, the Midwest ISO responds as follows:

- a. Dr. McNamara has prepared a curriculum vitae, which is attached to this response as Attachment No. 1. The Midwest ISO also provides that, although Dr. McNamara has expertise in the field of economics, he is testifying before the Kentucky Public Service Commission as an officer of the Midwest ISO with knowledge of and responsibility for the Midwest ISO's Energy Markets Tariff and related matters such as the FTR allocation, not as a third-party consultant hired to provide testimony in this investigation on behalf of the Midwest ISO.
- b. Attached are copies of slides from five PowerPoint® presentations given by Dr. McNamara that relate to the subject matter of this investigation. These copies are attached individually to this response as Attachment Numbers 2 through 6, respectively. These presentations are:
 - (1) *A Place for RTO's - ? or!*, dated February 14, 2004;
 - (2) *"Day 2" Overview*, dated April 20, 2004;
 - (3) *An Overview of MISO Cost Benefit Studies*, dated September 23, 2004;
 - (4) *Electricity Markets*, dated October 14, 2004; and
 - (5) *MISO Market Design Issues*, dated November 12, 2004.

These slides are also being provided to counsel for LG&E and KU in electronic format (.ppt files) via e-mail, and are available to other participants in that format upon request.

Witness: Ronald McNamara

ADDITIONAL SUPPLEMENTAL RESPONSE:

Without waiving its objection above, the Midwest ISO responds as follows:

- a. (no supplement)
- b. Attachment Number 7 is a table listing sworn or verified testimony or affidavits given by Dr. McNamara since February 2003, when he joined the Midwest ISO as an officer/employee. Most of the documents (or testimony transcripts) have been filed or served in this proceeding or a FERC proceeding in which LG&E/KU and the Commission participate or participated. Access to document or transcript copies in the Midwest ISO's possession and control, or assistance in obtaining a copy through a website or other publicly-available means, may be obtained through the Midwest ISO's counsel.

Witness: Ronald McNamara

| Date | Forum | Proceeding | Testimony |
|-------------|--------------|--|--|
| 2-21-05 | Ky. PSC | 2003-00266 | Additional Supplemental Testimony |
| 1-20-05 | Ky. PSC | 2003-00266 | Testimony regarding Updates and Corrections |
| 11-19-04 | Ky. PSC | 2003-00266 | Rebuttal Testimony (updated 1/20/05) |
| 9-29-04 | Ky. PSC | 2003-00266 | Supplemental Prepared Direct Testimony |
| 6-25-04 | FERC | ER04-691-000 EL04-104-000 | Affidavit |
| 5-28-04 | Ohio PUC | 03-0093-EL-ATA 03-2079-EL-AAM 03-2081-EL-AAM 03-2080-EL-ATA | hearing testimony (subpoenaed) transcript filed 6-14-04; available through http://dis.puc.state.oh.us/ |
| 3-31-04 | FERC | ER04-691-000 | Prepared Direct Testimony |
| 2-27-04 | Ky. PSC | 2003-00266 | hearing testimony |
| 12-29-03 | Ky. PSC | 2003-00266 | Direct Testimony |
| 9-26-03 | FERC | ER03-1118-000 | Affidavit in Support of Midwest ISO Answer |
| 7-25-03 | FERC | ER03-1118-000 | Prepared Testimony |

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