

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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PUBLIC SERVICE
COMMISSION

In the Matter of:

KENTUCKY UTILITIES COMPANY)
) **CASE NO. 2003-00434**
)

REPLY TO KENTUCKY UTILITIES
COMPANY'S OBJECTION TO KDOE'S
MOTION FOR FULL INTERVENTION

Comes now the Commonwealth of Kentucky, Environmental and Public Protection Cabinet, Division of Energy (KDOE), and for its Reply to Kentucky Utilities Company's Objection to KDOE's Motion for Full Intervention, states as follows:

The Kentucky Utilities Company and Louisville Gas and Electric Company ("the Companies") both object to the request of the Kentucky Environmental and Public Protection Cabinet, Division of Energy ("KDOE") for full intervention in the above-styled case. The Companies' objections are without merit.

In their Objection, the Companies refer to KDOE's statutory mandate to "develop and implement programs for the development, conservation, and utilization of energy in a manner to meet human needs while maintaining Kentucky's economy at the highest feasible level." They claim that "that mandate, however, has absolutely nothing to do with the level of rates for electricity or natural gas, or the protection of the broader public interest, in connection with, or in the context of, a rate proceeding."

The Companies statement implies that a rate proceeding determines nothing but the level of rates. In fact, however, rate cases determine far more than allowable revenues and rate levels alone. The Commission, in the context of rate cases, routinely determines the utility's rate structure as well.

KDOE was granted full intervention status in Case No. 98-426 [and its companion Case No. 98-474 for Kentucky Utilities], Application of Louisville Gas and Electric Company for Approval of an Alternative Method of Regulation of Its Rates and Service. In addition to determining the revenue requirement and rate level in that case, the Commission devoted a great deal of attention to the utility's rate structure. Commission Order dated January 7, 2000, pages 1-51, 101-114.

However, the Commission directly addressed issues of rate structure in the rate case parts of those cases. At the same time as it mandated a revenue decrease, the Commission determined that the rate structure shall yield the allowable revenues in the following manner:

After Reviewing LG&E's Tariffs And Considering the magnitude of the decrease found reasonable herein, the Commission has determined the manner in which LG&E's rates should be reduced. Once the decrease has been allocated to each customer class and each rate schedule, LG&E shall adhere to the following guidelines in calculating its reduced rates: 1) customer charges should remain unchanged on all rate schedules – there will be no reductions to any of LG&E's customer charges; 2) on rate schedules where both demand and energy usage are metered, the decrease should be allocated so that both demand and energy charges are reduced by an equal percentage; 3) on rate schedules where only energy usage is metered the full amount of the decrease should be allocated to the energy charge; and 4) on rate schedules with no metering that include fixed monthly charges, such as lighting schedules, the same percentage decrease shall be applied to each of the fixed charges included in the rate schedule. These guidelines shall also be consistently applied to the rates charged to customers served under the special contracts that LG&E currently has in effect.

In deciding that customer charges should remain at their existing levels, the Commission considered the fact that LG&E's current customer charges are among the lowest of any of the electric utilities we regulate. Also, LG&E's current customer charges were established nearly 10 years ago, in Case No. 90-158, based on a calendar year 1989 test period. For these reasons, the Commission has determined that, in the absence of any evidence demonstrating that LG&E's customer charges are in excess of its "customer costs," none of the approved revenue decrease should be applied to the existing customer charges. Order, pp. 103-104.

Because rate cases routinely also deal with issues of rate structure, rate cases are directly relevant to KDOE's mission. The reason is that all regulation is incentive regulation. National Association of Regulatory Utility Commissioners, *Least-Cost Utility Planning for Public Utility Commissioners*, pages IV.22-24. Rate structures clearly affect the incentives faced by both the utility and its customers. To the extent that utilities and their customers are rational economic actors, these incentives will in turn affect the degree of interest and commitment the parties will show toward measures to improve energy efficiency and economic efficiency. KDOE therefore has a direct and immediate interest in issues related to rate structure that are likely to be an integral part of these proceedings.

To cite only one example among many, rate structures can strongly influence the degree of demand responsiveness that will obtain in the Companies' service areas in future years. The large majority of customers today face averaged rates that do not vary as a function of time of use. A major disconnect between the wholesale and retail electric markets is thereby created. To the extent that rate structures could be changed to transmit more price information to consumers, major economic inefficiencies could be eliminated, utility revenue requirements would be reduced, and virtually all customers would benefit.

“Demand Response: Not Just Rhetoric, It Can Truly Be the Silver Bullet,” Michael O’Sheasy, *Electricity Journal*, December 2003, pp.48-60.

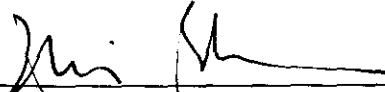
The Companies claim that the interests of consumers are represented by other intervenors such as the Attorney General and the Commission Staff, and that KDOE therefore “simply has no special interest in this proceeding.” Based on its experience in the rate case aspects of Cases No. 98-426 and 98-474, however, KDOE perceived that these parties, as well as the Kentucky Industrial Utilities Customers (KIUC), focused mainly on accounting considerations that related to the determination of allowable revenue, and less on rate structure issues that influence the future behavior of customers and the utility. KDOE believes that it will be able to contribute analysis and testimony related to rate structures and incentives that other intervenors may not address.

Further, KDOE believes it will be able to focus on these issues without unduly complicating or disrupting the proceedings. As demonstrated above, the Commission routinely addresses rate structure issues even in the context of straightforward rate cases. KDOE believes its analyses and testimony will involve topics such as the rate structure that the Commission will be considering in the normal course of the rate case. For this reason, there is no basis for the Companies’ allegation that “the development of those issues by the KDOE would simply not be germane to this rate proceeding, and would only serve to inject unnecessary collateral issues into this case, thus wasting the time and resources of the parties and the Commission and its Staff.”

In view of the fact that any discovery or testimony KDOE introduces would relate to issues such as rate structure that the Commission will be addressing, there is no

justification for the Companies' alternative motion, that KDOE be granted only limited intervention.

Respectfully submitted,



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CERTIFICATE OF SERVICE

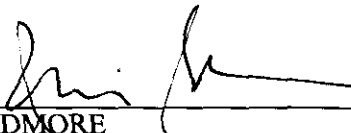
I hereby certify that on the 15th day of **January, 2004**, a true and accurate copy of the foregoing pleading was mailed, postage pre-paid, to the following:

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