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January 24, 2005

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JAN 25 2005

PUBLIC SERVICE
COMMISSION

Elizabeth O'Donnell
Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, Kentucky 40601

RE: *In the Matter of the Investigation Into the Membership of Louisville Gas and Electric Company and Kentucky Utilities Company in the Midwest Independent Transmission System Operator*
Case No. 2003-00266

Dear Ms. O'Donnell:

Enclosed please find and accept for filing the original and ten copies of Louisville Gas and Electric Company's and Kentucky Utilities Company's Objection to the Midwest Independent Transmission System Operator, Inc.'s Motion to Suspend Deadlines Regarding Discovery Requests and Tendered Supplemental Data Responses, and Request for Expedited Consideration in the above-referenced matter. Please confirm your receipt of this filing by placing the stamp of your Office with the date received on the enclosed additional copies and return them to me in the enclosed self-addressed stamped envelope.

Should you have any questions or need any additional information, please contact me at your convenience.

Very truly yours,

J. Gregory Cornett

GJC/ec

Enclosures

cc: Parties of Record

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

JAN 25 2005

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

**OBJECTION OF KENTUCKY UTILITIES COMPANY AND
LOUISVILLE GAS AND ELECTRIC COMPANY TO THE MIDWEST
INDEPENDENT SYSTEM OPERATOR, INC.'S MOTION TO SUSPEND DEADLINES
REGARDING DISCOVERY REQUESTS AND TENDERED SUPPLEMENTAL DATA
RESPONSES, AND REQUEST FOR EXPEDITED CONSIDERATION**

On January 21, 2005, the Midwest System Operator, Inc. ("MISO") filed a motion to suspend the deadlines relating to data requests, as well as another pleading purporting to be "supplemental responses" to certain data requests served by Louisville Gas and Electric Company and Kentucky Utilities Company (collectively the "Companies"). For all of the reasons set forth below, the Companies object to those filings by MISO, and request the Commission's expedited review of the issues raised therein.

MISO's Motion to Suspend Deadlines

MISO's request to suspend the procedural deadlines relating to data requests is based solely on the fact that MISO also filed, on January 19, 2005, a Motion to Strike a portion of the Companies' supplemental rebuttal testimony. The fact that the Motion to Strike is pending, however, does not justify a delay of the procedural schedule in this Investigation. Quite simply, the fact that MISO has filed a Motion to Strike does not prevent MISO from formulating and propounding data requests concerning the Companies' supplemental rebuttal testimony. In fact,

MISO does not contend otherwise and already served a number of “basic” data requests concerning that testimony on January 20, 2005 – the same day it served its Motion to Suspend Deadlines on the parties to this Investigation.¹ And, even assuming, for the sake of argument only, that MISO’s Motion to Strike is granted, in whole or in part,² it will be the Companies, and not MISO, who will have expended significant effort which ends up being unnecessary, because responding to data requests requires much greater effort than does formulating those requests. The Companies are willing to accept that risk in order to keep this proceeding moving forward without delay. And, if the Commission denies MISO’s Motion to Strike, then this matter will have proceeded on schedule and will not have been delayed unnecessarily.

The Companies have consistently expressed an interest in bringing this Investigation to a prompt conclusion. The Commission has established a procedural schedule that has allowed the parties a full, fair opportunity to make their cases. MISO’s recent filings, which do not dispute the existence of mistakes in the previously-filed cost-benefit analysis, will, if accepted by the Commission, have the effect of indefinitely delaying this Investigation. There is no good reason, however, for the dispute over the content of MISO’s cost-benefit analysis and the Companies’ supplemental rebuttal testimony to derail the Commission’s procedural schedule, including the February 8, 2005 hearing date. MISO’s Motion to Suspend Deadlines Regarding Discovery Requests should, therefore, be denied. If MISO has further data requests which it wishes serve, the Companies have no objection to the service of those further requests, outside of the procedural schedule, by the close of business on Wednesday, January 26, 2005. The Companies

¹ MISO contends that it should not have to serve more detailed requests at this time because it is not clear of the scope and purpose of such requests, such as whether they would be needed to gather information for surrebuttal or supplemental testimony. The answer, however, is simple: The purpose of the discovery is confined by the procedural schedule, which does not allow for the filing of any further testimony by MISO. There is thus no need to delay the deadlines further.

² For all of the reasons set forth in the Companies’ Objection to MISO’s Motion to Strike, which was served on all parties electronically on January 21, 2005 and filed on January 24, 2005, the Motion to Strike should be denied.

will endeavor to respond to any such further requests by February 1, 2005, the date on which the Companies' data responses are due under the Commission's procedural schedule, in order to bring this Investigation to a timely close.

MISO's "Supplemental Responses" to Data Requests

MISO has also filed a pleading labeled "Supplemental Responses" to data requests issued by the Companies on December 7, 2004. A review of that pleading, however, reveals that it contains much more than supplemental data responses. Specifically, MISO has in reality filed additional testimony from Dr. Ronald R. McNamara. And, furthermore, while MISO labels that additional testimony as a mere "update," it is actually much more. Dr. McNamara's latest testimony contains a cost-benefit analysis with results that are significantly different than those contained in the analysis filed as part of his last-filed testimony in this proceeding.

As noted above, the Commission has put in place a procedural schedule in this matter that, among other things, set forth deadlines for the filing of testimony. Under that schedule, MISO's last opportunity for filing testimony passed on November 19, 2004. MISO made no motion for leave to file additional rebuttal testimony from Dr. McNamara, but instead chose to file that testimony without approval of the Commission. Because the Commission's procedural schedule made no provision for the filing of this additional testimony by MISO, the Companies move that the testimony be stricken from the record in this proceeding. Alternatively, the Companies request leave to file testimony in response to Dr. McNamara's latest testimony. Even though MISO was made aware of the errors in its previous cost-benefit analysis through the Companies' January 10, 2005 supplemental rebuttal testimony, it has not corrected those errors in its latest analysis. MISO's new study is as flawed as its previous study because, among other things, it continues to erroneously attribute to the Companies contractual rights to certain

generation units, which rights the Companies do not in fact have. For that reason, if MISO's latest study is not stricken, the Companies should, in the interest of fairness and completeness, have the opportunity to respond to that study, through further rebuttal testimony, before the scheduled hearing. The Companies would propose to file such testimony on February 4, 2005 and to serve copies thereof, along with supporting workpapers, upon counsel electronically so that they would have the information sufficiently in advance of the hearing.

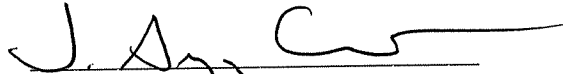
The Companies' Motion for Expedited Consideration

As outlined above, there are a number of important procedural issues pending before the Commission in this matter. In order that the current procedural schedule can remain in place, including the scheduled hearing on February 8, 2005, the Companies move for expedited consideration of, and ruling on, these pending issues.

WHEREFORE, for all of the foregoing reasons, the Companies move the Commission: (1) to deny MISO's Motion to Suspend Deadlines Regarding Discovery Requests; (2) to strike MISO's "Supplemental Responses" to the December 7, 2004 Data Requests from the record in this proceeding or, alternatively, to allow responsive testimony from the Companies on February 4, 2005; and (3) to consider and rule on these issues in an expedited manner.

Dated: January 24, 2005

Respectfully submitted,



Kendrick R. Riggs

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W. Duncan Crosby III

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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Objection was served electronically and via U.S. mail, first-class, postage prepaid, this 24th day of January 2005, upon the following persons:

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