

BEFORE THE
PUBLIC SERVICE COMMISSION OF KENTUCKY

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PUBLIC SERVICE
COMMISSION

In The Matter Of:

GENERAL ADJUSTMENT IN)
ELECTRIC RATES OF) CASE NO. 2005-00341
KENTUCKY POWER COMPANY)

**Opposition by Kentucky Power Company to Attorney General's
"Emergency Motion To Compel and To Refuse
Consideration Of The Application"**

Kentucky Power Company for its Opposition to the Attorney General's motion states:

(1) The Attorney General's motion is without merit. On November 29, 2005 Kentucky Power provided the parties to this proceeding a CD with the electronic files containing the inputs and outputs associated with Mr. Foust's cost of service study in its response to Attorney General Data Request No. 179 (by reference to KIUC Data Request No. 92). What Kentucky Power was unable to provide was a copy of the program, TACOS Gold, used in conducting the study. Kentucky Power licenses the TACOS Gold program from Threshold Associates, Inc. and, as is common with almost all licensing agreements, can not provide third parties with copies of the program as the Attorney General requested. A copy of the license agreement is attached as Exhibit 1.

(2) On Tuesday, December 6, 2005, the Attorney General's counsel contacted counsel for Kentucky Power to discuss the Attorney General's concerns. The parties subsequently agreed to meet by teleconference on Wednesday, December 7, 2005. Kentucky Power agreed to make Mr. Foust available in the teleconference to

answer any questions counsel for the Attorney General or his consultant might have about the electronic files or the program.

(3) The teleconference was conducted beginning at 8:30 a.m. on Wednesday, December 7, 2005. During the conference Mr. Foust explained that the licensing agreement prohibited Kentucky Power from providing third-parties with the soft ware on a disc. Mr. Foust also confirmed Kentucky Power's counsel prior statements that even if the Attorney General had access to the program, not all of the formulas used by the program in carrying out the study would be visible. That is, unlike an Excel spreadsheet for example, the computations are not revealed by clicking on a results cell.

(4) In response to concerns expressed by the Attorney General's counsel and his expert that access to each formula utilized by the program was required, Mr. Foust further explained that the formulas could be derived from the input and output files provided. Mr. Foust offered to assist the Attorney General's consultant in his review of the input and output files.

(5) Finally, Mr. Foust explained the program is not a "black box." Rather, prior to utilizing the TACOS Gold program to conduct cost of service studies, including the one he is sponsoring in this case, he tests the program to ensure the program is functioning properly and that the results are consistent with generally accepted cost of service methodologies.

(6) At the conclusion of the conference call, and at the request of counsel for the Attorney General, Kentucky Power contacted Threshold Associates, Inc. to determine whether the software developer would consent to Kentucky Power making a laptop computer owned by American Electric Power and loaded with the software

available for use by the Attorney General's consultant in this case only. After further discussions, Threshold Associates, Inc. agreed to the request.

(7) Following its delivery from Columbus, Ohio, and at approximately 6:10 p.m. on Friday, December 9, 2005, Kentucky Power made the American Electric Power laptop computer with the TACOS Gold software available to the Attorney General. In return, the Attorney General and his consultant agreed to limit their use of software and computer to this case and Kentucky Power disclaimed "the accuracy of any cost-of-service modeling results obtained by the Attorney General and its Consultant resulting from data input changes."

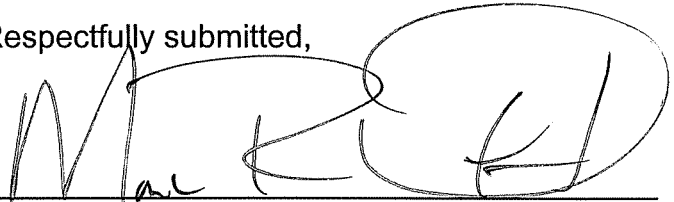
(8) Kentucky Power remains willing to continue to work with the Attorney General on this issue. Nevertheless, Kentucky Power has complied with the Commission direction to the parties to cooperate. It has acted in a timely fashion on each of the Attorney General's requests and has made Mr. Foust available to address any questions posed by the Attorney General or his consultant.

(9) Kentucky Power's cost of service study, the methodology used in conducting it and the TACOS Gold program comport with the requirements of 807 KAR 5:001, Section 10(6)(u). The cost of service study is "based on current and reliable information based on a single time period" as required by the Commission's regulation. The TACOS Gold program is consistent with generally accepted cost of service methodologies. Moreover, Mr. Foust, who will be available for cross-examination, can and will testify concerning his methodology in conducting the study and how it comports with generally accepted cost of service methodologies.

(10) In any event, even if the Attorney General were correct in his characterization of the TACOS Gold software and Mr. Foust's methodology (and he decidedly is not) the Attorney General's arguments go to the weight to be given Mr. Foust's study and his testimony and not whether the company's application is complete. Not only did the Commission find in its October 26, 2005 Order that the Company's application satisfied the minimum filing requirements as of October 11, 2005, but the Attorney General's position would have the perverse result of forcing a utility to try its case as prerequisite to filing it.

Wherefore, Kentucky Power Company respectfully requests the Attorney General's "Emergency Motion To Compel and To Refuse Consideration Of The Application" be denied.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Bruce F. Clark", written over a horizontal line. The signature is stylized and somewhat cursive.

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Mark R. Overstreet
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P.O. Box 634
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Telephone: 502-223-3477
COUNSEL FOR:
KENTUCKY POWER COMPANY

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was served via e-mail or facsimile transmission, upon:

Michael L. Kurtz
Boehm, Kurtz & Lowry
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Elizabeth E. Blackford
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Frank F. Chuppe
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Louisville, Kentucky 40202-2898

on this the 12th day of December, 2005.



Mark R. Overstreet

THRESHOLD ASSOCIATES, INC.
9611 Trail Hill Drive
Dallas, Texas 75238-1441
214/340-5818

LAMAR M. DICKEY, President

License Agreement for TACOS Gold

This License Agreement between American Electric Power Service Corporation, for itself and its affiliated companies and Threshold Associates, Inc. is effective September 13, 2001.

The License Agreement provides for the User, American Electric Power, to install and use the software on any PC Computer used by the Regulatory, Pricing & Analysis Organization. This license is for Desktop as well as Notebook Computers. The software is not to be given away, installed on non-owned computers or loaned to other parties. It should not be made available to ex-employees or employees who are leaving the Company.

The annual maintenance fee is billed and is payable each year. The fee is \$500.00 per year. Updates are provided periodically and telephone or email assistance in the use of the software or assistance in solving cost allocation problems that can be provided in a reasonable time period are provided at no cost.

Training for new employees is available either in Dallas, Columbus or Tulsa. The cost of the training is \$2,000 per student in Dallas. If training is held in Columbus or Tulsa, transportation, lodging and out of pocket expenses will be added to the cost per student. A minimum fee of \$10,000 (five students) is applicable if the training is not held in Dallas.

Please sign this agreement in the spaces provided below:

Signed: Dennis Muehl

Company: American Electric Power Service Corporation

Address: 1 Riverside Plaza
Columbus, OH 43215

Phone: (614) 773-2824

Date: September 17, 2001

THRESHOLD ASSOCIATES, INC.

9611 Trail Hill Drive
Dallas, Texas 75238-1441
214/340-5818

LAMAR M. DICKEY, President

Signed: Lamar M. Dickey.

Company: Threshold Associates, Inc.

Address: 9611 Trail Hill Drive

Dallas, Texas 75238-1441

Phone: 214 340-5818

Date: September 4, 2001