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COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

AUG 17 2009

PUBLIC SERVICE
COMMISSION

In the Matter of:

THE APPLICATION OF DUKE)
ENERGY KENTUCY, INC. FOR APPROVAL OF)
ENERGY EFFICIENCY PLAN, INCLUDING AN ENERGY) CASE NO. 2008-00495
EFFICIENCY RIDER AND PORTFOLIO OF ENERGY)
EFFICIENCY PROGRAMS)

**ATTORNEY GENERAL’S MOTION TO MODIFY THE PROCEDURAL
SCHEDULE TO POSTPONE THE SCHEDULED HEARING AND TO ALLOW FOR
DISCOVERY ON THE NEW PRE- FILED TESTIMONY OF DONALD L. STORCK**

Comes now the intervenor, the Attorney General of the Commonwealth of Kentucky, by and through his Office of Rate Intervention, and moves the Commission to modify the procedural schedule in the action to postpone the scheduled August 27, 2009 hearing date and to allow his office to propound additional data requests concerning the newly filed testimony of Donald L. Storck. As grounds for his motion, the Attorney General states the following.

While the Attorney General does not object to the substitution of Donald L. Storck as a witness to sponsor the testimony of a previous company witness, who is now unable to testify at the hearing, the filing of modifications, corrections and additions with this new testimony has raised issues which the Attorney General has not had the opportunity to address in his previous data requests.

Additionally, it should be noted that the filing of this testimony is clearly untimely as it was filed well beyond the time prescribed in the procedural schedule.

Although the company claims that the witness “adopts” the testimony of the prior witness, Paul G. Smith, a preliminary review indicates that Mr. Storck’s testimony also includes modifications and/or corrections to previously filed attachments and a brand new attachment DLS-1, which addresses the allocation concerning the proposed rider with regard to natural gas

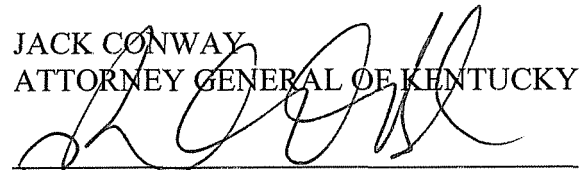
customers. These modifications, corrections and additions have not been subject to discovery by the intervenors. Obviously, this unduly prejudices the Attorney General and any other intervenors who have now been precluded from any opportunity for discovery on the new material. Moreover without the additional discovery, the Attorney General will effectively be denied meaningful opportunity in the evidentiary proceeding with respect to the witness and the subject matter.

It should be noted that should the Commission allow the company to file additional testimony at the eleventh hour, then the Commission sets a precedent whereby all utility companies in the future will consider doing likewise. It is anticipated that such a precedent would unduly complicate future proceedings before the Commission. The Commission recently addressed the same situation in Case. No. 2008-00154, Owen Electric Cooperative's application for an adjustment of its rates. In that case, the Commission agreed with the position of the Attorney General and postponed the scheduled hearing to allow the intervenors an additional opportunity for discovery.

WHEREFORE, the Attorney General respectfully moves the Commission to modify the procedural schedule to postpone the August 27th hearing and to allow for additional discovery concerning the new testimony of Donald L. Storck.

Respectfully submitted,

JACK CONWAY
ATTORNEY GENERAL OF KENTUCKY



DENNIS HOWARD II
LAWRENCE W. COOK
PAUL D. ADAMS
ASSISTANT ATTORNEYS GENERAL
FRANKFORT KY 40601-8204
(502) 696-5453
FAX: (502) 573-8315

dennis.howard@ag.ky.gov

CERTIFICATE OF SERVICE AND NOTICE OF FILING

I hereby give notice that this the 17th day of August, 2009, I have filed the original and ten copies of the foregoing with the Kentucky Public Service Commission at 211 Sower Boulevard, Frankfort, Kentucky, 40601 and certify that this same day I have served the parties by mailing a true copy of same, postage prepaid, to those listed below.

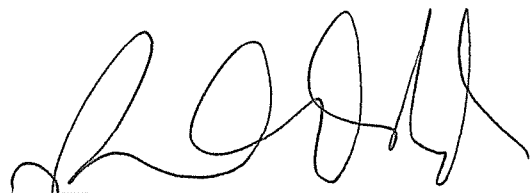
Honorable Amy B. Spiller
Associate General Counsel
Duke Energy Corporation
Room 2500, Atrium II
P.O. Box 960
Cincinnati, OH 45201-0960

Honorable Rocco D'Ascenzo
Senior Counsel
Duke Energy Corporation
Room 2500, Atrium II
P.O. Box 960
Cincinnati, OH 45201-0960

Honorable Catherine Heigel
Assistant General Counsel
Duke Energy Corporation
P.O. Box 1006 (Mail Code EC03T)
Charlotte, NC 28201-1006

Mark David Goss
Frost, Brown, Todd, LLC
250 West Main Street
Suite 2700
Lexington, KY 40507

Honorable Michael L Kurtz
Attorney at Law
Boehm, Kurtz & Lowry
36 East Seventh Street
Suite 1510
Cincinnati, OH 45202



Assistant Attorney General