

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF KENTUCKY UTILITIES)	
COMPANY FOR CERTIFICATES OF PUBLIC)	
CONVENIENCE AND NECESSITY AND)	CASE NO.
APPROVAL OF ITS 2009 COMPLIANCE PLAN)	2009-00197
FOR RECOVERY BY ENVIRONMENTAL)	
SURCHARGE)	

ORDER

On June 26, 2009, Kentucky Utilities Company (“KU”), pursuant to KRS 278.183, filed its application seeking Certificates of Public Convenience and Necessity (“CPCN”) for the construction of new emission control technology at E.W. Brown Unit No. 3 (“Brown 3”) and the construction of new landfills at the Ghent Generating Station (“Ghent Station”) and Trimble County Generating Station (“Trimble Station”). It also sought approval of its amended Environmental Compliance Plan (“2009 Plan”) for the purpose of receiving approval to recover the costs of new pollution control facilities through its environmental surcharge tariff, revisions to its Environmental Cost Recovery tariff (“Rate Schedule ECR”) and its Environmental Surcharge (“ES”) forms, and continuation of the use of the Return-on-Equity (“ROE”) authorized in its most recent base rate case.¹ KU indicates that the proposed environmental projects are needed to comply with the Clean Air Act as amended, the Clean Water Act, the Resource

¹ Case No. 2008-00251, Kentucky Utilities Company (Ky. PSC Feb. 5, 2009).

Conservation and Recovery Act, and other federal, state, or local environmental requirements that apply to coal combustion by-products.

PROCEDURAL BACKGROUND

A procedural schedule was established which provided for two rounds of discovery on KU's application, intervenor testimony, discovery on intervenor testimony, and a public hearing. Kentucky Industrial Utility Customers, Inc. ("KIUC") is the only person granted status as an intervenor in this proceeding. Two other requests to intervene were denied by separate orders.

On October 16, 2009, KU, KIUC, and KU's sister company, Louisville Gas and Electric Company ("LG&E") entered into a Settlement Agreement, Stipulation and Recommendation ("Settlement"), attached as an Appendix to this Order, which recommends that the Commission approve, by December 23, 2009, KU's requests for CPCNs, its proposed pollution control projects, its 2009 Plan for recovery of the associated costs through its environmental surcharge, its revised Rate Schedule ECR, its revised monthly ES forms, and its overall return based on the 10.63 percent ROE stipulated in KU's 2008 rate case.² The Settlement also addresses rate-making issues relating to the installation of the proposed pollution control projects and the associated retirement or replacement of existing pollution control facilities. The Settlement specifically addresses certain accounting issues to ensure there will be no double-recovery of environmental costs through KU's base rates and its revised environmental surcharge.

² The settlement agreement recommends the same approvals for LG&E's proposed pollution control projects and its 2009 Plan.

CPCN AND 2009 COMPLIANCE PLAN

KU is seeking a CPCN for the installation of a Selective Catalytic Reduction device ("SCR") for control of NO_x emissions at Brown 3 (Project 28). The estimated capital cost of the SCR is \$183.9 million, and it is estimated that the project will take 24-30 months to complete. KU indicated that its settlement of litigation with the U.S. Environmental Protection Agency ("EPA") and the resulting Consent Decree approved by the U.S. District Court in March of this year involving an alleged New Source Review violation require that it take one of two actions: either install Best Available Control Technology ("BACT") at Brown 3 or retire the unit. Installation of an SCR qualifies as BACT for Brown 3. KU's analysis considers the Present Value Revenue Requirements ("PVRR") of installing the SCR at Brown 3 versus retiring the unit, the other option available to it under the Consent Decree. The analysis compares installing the SCR to constructing a comparably sized combined cycle gas-fired combustion turbine ("CCCT") to replace Brown 3. The results of the analysis show installing the Brown 3 SCR to have a lower PVRR and to be more cost-effective than retiring the unit and replacing it with a CCCT.

KU is also requesting a CPCN for construction of a new landfill at the Ghent Station (Project 30). The estimated capital cost of the project is \$204 million and completion of the project is estimated to take 18-24 months. The project will require the acquisition of 350 acres of land and the relocation of approximately 2,500 feet of transmission lines. The station's original storage impoundments are nearing capacity and new capacity must be added in order to continue operation of the station's four generating units.

KU is requesting a third CPCN for construction of a new landfill at the Trimble Station. The estimated capital cost of the project ("Project 32") is \$94 million. KU and LG&E will own and be responsible for 75 percent of the station's coal-fired capacity.³ Accordingly, on a combined basis, they will be responsible for 75 percent of the \$94 million capital cost. KU's share will be approximately \$33.9 million and LG&E's share approximately \$36.7 million. The construction is expected to be completed in January 2013. The original storage impoundment is nearing capacity and new storage capacity must be added in order to continue operation of the station's generating facilities.

KU is also requesting approval of its 2009 Plan and authority to recover, by environmental surcharge, costs associated with the following:

1. Project 28: the Brown 3 SCR project described above.
2. Project 30: the Ghent Station landfill project described above.
3. Project 32: the Trimble Station landfill project described above.
4. Project 29: raise the elevation of the dam walls of the existing main and auxiliary ash treatment basins at the Brown Generating Station ("Brown Station") by 10 feet. The estimated capital cost is approximately \$24.9 million and completion is expected in 2012. Raising the dam walls is necessary to increase long-term storage capacity at the Brown Station. This represents phase one of a long-term multi-phase project.
5. Project 31: raise the elevation of the north, south, and west dikes of the existing ash pond for additional storage capacity at the Trimble Station. The total estimated capital cost of the project is roughly \$33 million. KU and LG&E will be

³ The Indiana Municipal Power Agency and the Illinois Municipal Electric Agency collectively own the other 25 percent of the station's coal-fired generating capacity.

responsible for 75 percent of this amount. KU's share is approximately \$11.8 million and LG&E's share is approximately \$12.8 million. The expected completion date is 2010.

6. Project 33: the operation and maintenance costs of beneficial reuse opportunities for waste produced at all coal-fired generating stations. The estimated cost is \$4.17 million.

The total estimated capital cost of the projects included in KU's 2009 Plan is \$462.55 million. In addition, KU is requesting recovery of operation and maintenance costs associated with the Air Quality Control System ("AQCS") equipment (Project 23) at Trimble County Unit No. 2 ("Trimble 2").⁴

ECR TARIFF AND ES FORMS

KU proposes to modify its ECR tariff to reflect that the costs of beneficial reuse opportunities will become one of the components of its monthly environmental revenue requirement calculation. It proposes to expand ES Forms 2.10 and 2.50 to include the cost impacts of the proposed environmental projects in its 2009 Plan. KU also proposes to add ES Form 2.60 to track and report the costs and revenues associated with cost-effective beneficial reuse opportunities.⁵

TERMS OF THE SETTLEMENT

The Settlement specifically recommends that the Commission: (1) grant KU's CPCN requests for construction of the SCR at Brown 3, the proposed Ghent Station

⁴ Trimble 2 AQCS (Project 23) and the capital cost thereof were approved in Case No. 2006-00206, Kentucky Utilities Company (Ky. PSC Dec. 12, 2006).

⁵ ES Forms 3.00 and 3.10 will be revised to remove the Small Time of Day Cost Recovery Factor revenues, effective with the February 2010 expense month. This is consistent with KU's most recent rate case, Case No. 2008-00251, under which it last reported such revenues in the February 2009 expense month.

landfill, and the proposed Trimble Station landfill; (2) approve the other environmental projects proposed within KU's 2009 Plan; (3) approve the revised Rate Schedule ECR, to be effective for bills rendered on and after January 28, 2010 (for the December 2009 expense month); (4) approve the proposed monthly ES forms; and (5) approve the continued use of the 10.63 percent ROE authorized for ECR purposes in Case No. 2008-00251.

The Settlement also provides that, for Projects 28, 29, 30, 31 and 32, to the extent that installation of new facilities results in the retirement or replacement of existing pollution control plant, the cost of which is included in base rates, KU will make the necessary adjustments "to the cost reported in the determination of the surcharge capital costs for the current expense month to credit consumers to remove the costs of the retirements or replacements caused by the installation of the new pollution control facilities."

For Projects 30 and 32, which expand or add to existing facilities, the costs of which are already included in base rates, the Settlement provides that, to the extent that the expansion of, or addition to, these existing facilities reduces the operation and maintenance expenses associated with existing facilities at the applicable generating stations, KU will include the necessary reductions in the determination of the environmental surcharge expenses for the current expense month.

The Settlement further provides that, for the Trimble 2 AQCS (Project 23) and the Brown 3 SCR (Project 28), once a facility is placed in service, KU will include the incremental expense associated with the operation and maintenance of the new facility in the expenses reported in the determination of surcharge operation and maintenance

expenses for the current expense month. In addition, the Settlement provides that, for beneficial reuse projects, KU will include in its environmental surcharge mechanism the expenses and revenues above a baseline, which will be the level of such expenses and revenues reflected in the test year of its most recent base rate case, Case No. 2008-00251; however, KU will not collect more through its environmental surcharge than the expenses associated with the beneficial reuse opportunities included in its 2009 Plan under Project 33.

ANALYSIS AND DISCUSSION

Our review of KU's application indicates that installation of the proposed SCR at Brown 3 (Project 28) is: (1) consistent with its settlement of the EPA litigation pursuant to the aforementioned Consent Decree; (2) results in the continued operation of a 429 MW baseload unit; and (3) is the most reasonable and cost-effective means of complying with the terms of the Consent Decree. The SCR is required for the long-term operation of Brown 3 in the manner necessary to comply with the provisions of the Clean Air Act, as amended, and various air quality environmental regulations. The Settlement recommends granting the requested CPCN.

KU's application indicates that the Ghent Station landfill project (Project 30) is required for the long-term operation of the station's four coal-fired generating units in the manner necessary to comply with the provisions of the Clean Water Act, the Resource Conservation and Recovery Act, and numerous state air quality environmental regulations which pertain to landfill operations. The Settlement recommends granting the requested CPCN.

Our review of KU's application also indicates that the Trimble Station landfill project (Project 32) is required for the long-term operation of both the existing generating unit, Trimble County Unit No. 1, and Trimble 2, which is scheduled to begin commercial operation in the summer of 2010, in the manner necessary to comply with the provisions of the Clean Water Act, the Resource Conservation and Recovery Act, and numerous state air quality environmental regulations which pertain to landfill operations. The Settlement recommends granting the requested CPCN.

The Commission notes that, under the provisions of the EPA Consent Decree, KU was provided the options of installing an SCR at Brown 3 or retiring the unit. It is a given, therefore, that installation of the proposed SCR will result in KU complying with the terms of EPA's Consent Decree. As our review indicates that the SCR option is the most reasonable and cost-effective means of achieving such compliance and does not result in wasteful duplication of facilities, we find that the requested CPCN should be granted.

We also note that the potential exists for EPA to determine that by-products created by coal combustion are hazardous wastes. In response to this issue, KU stated that it has considered what actions will be required if EPA makes such a determination and that it will be able to incorporate those actions into its planning, permitting and construction of the new Ghent Station and Trimble Station landfills. Taken as a whole, the evidence indicates that these landfill projects are reasonable and cost-effective and will not result in a wasteful duplication of facilities and, therefore, we find that the requested CPCNs should be granted.

KU's application reflects that Project 29, increasing the height of the dam walls of the existing Brown Station main and auxiliary ash ponds is necessary in order to increase the station's storage capacity and to continue to comply with the Clean Air Act, as amended, and various air quality regulations pertaining to landfill operations. The application also reflects that raising the height of the dikes at the existing Trimble Station ash pond (Project 31) is needed to increase the existing ash storage capacity in a manner that complies with the requirements of the station's permits during the time that is needed to complete the new Trimble Station landfill (Project 32). The application also supports the need for KU to recover the incremental operation and maintenance costs associated with the Trimble 2 AQCS, for which we had approved capital cost recovery in Case No. 2006-00206.⁶ Finally, our review of the application indicates that beneficial reuse opportunities can benefit both the utility and its customers by cost-effectively extending the lives of on-site storage impoundments. The Settlement recommends that all of these projects receive Commission approval. Based on a thorough review of the record, the Commission finds that KU's 2009 Plan is reasonable and cost-effective and should be approved.

The proposed revisions to Rate Schedule ECR and the ES forms are consistent with the components of KU's 2009 Plan. The record indicates that recovery of costs related to the operation of the Trimble 2 AQCS is a part of KU's 2009 Plan which should be considered a necessary supplement to its 2006 plan. The provisions of the Settlement addressing retirement and replacement of facilities and the manner in which costs should be calculated and reported for purposes of the determination of the costs

⁶ Case No. 2006-00206, Kentucky Utilities Company (Ky. PSC Dec. 12, 2006).

included for recovery in KU's monthly environmental surcharge filings are both reasonable and consistent with past Commission decisions. The use of an overall rate of return based on the 10.63 percent ROE authorized for environmental surcharge purposes in Case No. 2008-00251 is likewise reasonable and consistent with prior Commission decisions.

Based on our review of the record and considering the provisions of the Settlement, we find KU's proposed revisions to Rate Schedule ECR and its ES forms to be reasonable. We also find that recovery of the costs related to the operation of the Trimble 2 AQCS should be allowed. Furthermore, we find the provisions of the Settlement addressing the treatment of replacement and retirement of facilities and how costs are to be reported and determined for purposes of being included for recovery via KU's environmental surcharge to be reasonable and that they should be approved. Likewise, we find that use of an overall return based on the ROE of 10.63 percent that was authorized in Case No. 2008-00251 for environmental surcharge purposes is reasonable and should be approved.

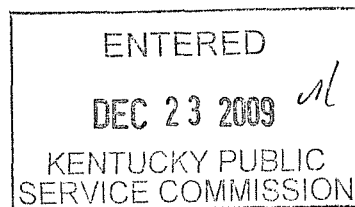
SUMMARY

Based on the evidence of record and being otherwise sufficiently advised, the Commission HEREBY ORDERS that:

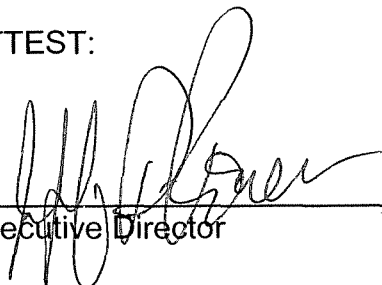
1. KU is granted a CPCN to construct the proposed SCR at Brown 3.
2. KU is granted a CPCN to construct the proposed landfill at the Ghent Station.
3. KU is granted a CPCN to construct the proposed landfill at the Trimble Station.

4. KU's 2009 Plan consisting of Projects 28, 29, 30, 31, 32 and 33 is approved.
5. The amendment to KU's 2006 Plan to include recovery of operation and maintenance costs related to the operation of the Trimble 2 AQCS is approved.
6. The proposed revisions to Rate Schedule ECR are approved.
7. The proposed revisions and additions to KU's monthly ES forms are approved with the effective dates of the revisions approved as requested.
8. The use of an overall return which continues to reflect the 10.63 percent ROE previously authorized for environmental surcharge purposes is approved.
9. The Settlement, attached hereto and incorporated herein as the Appendix, is approved in its entirety.
10. Within 10 days of the date of this Order, KU shall file with the Commission revised tariff sheets setting out Rate Schedule ECR as approved herein and reflecting that it was approved pursuant to this Order.

By the Commission



ATTEST:



Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2009-00197 DATED DEC 23 2009

SETTLEMENT AGREEMENT, STIPULATION AND RECOMMENDATION

This Settlement Agreement, Stipulation and Recommendation (“Settlement Agreement”) is entered into this 16th day of October 2009, by and between Kentucky Utilities Company (“KU”); Louisville Gas and Electric Company (“LG&E”) (collectively, the “Companies”); and the Kentucky Industrial Utility Customers, Inc. (“KIUC”) in the proceedings involving KU and LG&E which are the subject of this Settlement Agreement as set forth below:

WITNESSETH:

WHEREAS, KU filed on June 26, 2009 with the Kentucky Public Service Commission (“Commission”) its Application and Testimony in *The Application of Kentucky Utilities Company for Certificates of Public Convenience and Necessity and Approval of Its 2009 Compliance Plan for Recovery by Environmental Surcharge*, and the Commission has established Case No. 2009-00197 to review KU’s application;

WHEREAS, LG&E filed on June 26, 2009 with the Commission its Application and Testimony in *The Application of Louisville Gas and Electric Company for a Certificate of Public Convenience and Necessity and Approval of Its 2009 Compliance Plan for Recovery by Environmental Surcharge*, and the Commission has established Case No. 2009-00198 to review LG&E’s application;

WHEREAS, KIUC filed Petitions to Intervene in both proceedings with the Commission on July 20, 2009 and was granted intervention by the Commission in both proceedings on July 30, 2009;

WHEREAS, KIUC through its data requests and supplemental data requests has raised certain concerns relating to the potential for double recovery of costs through base rates and the proposed environmental surcharges in these proceedings;

WHEREAS, LG&E and KU through their respective responses to the KIUC data requests and supplemental data requests have addressed the concerns of KIUC for the potential for double recovery of costs through base rates and the proposed environmental surcharges in these proceedings;

WHEREAS, an informal conference for the purpose of reviewing the status of the case and discussing the possible settlement of issues, attended in person by representatives of the KIUC, the Commission Staff and the Companies, took place on October 1, 2009 at the offices of the Commission;

WHEREAS, KIUC and the Companies hereto desire to settle issues pending before the Commission in the above-referenced proceedings;

WHEREAS, the adoption of this Settlement Agreement will eliminate the need for the Commission and the parties to expend significant resources litigating these proceedings, and eliminate the possibility of, and any need for, rehearing or appeals of the Commission's final order herein;

WHEREAS, KIUC and the Companies agree that this Settlement Agreement, viewed in its entirety, is a fair, just and reasonable resolution of all the issues in the above-referenced proceedings;

WHEREAS, it is understood by the parties hereto that this Settlement Agreement is subject to the approval of the Commission insofar as it constitutes an agreement by the parties to the proceedings for settlement and, absent express agreement stated herein, does not represent agreement on any specific claim, methodology or theory supporting the appropriateness of any proposed or recommended adjustments to the Companies' rates, terms and conditions; and

WHEREAS, it is the position of the parties hereto that this Settlement Agreement is supported by sufficient and adequate data and information, and should be approved by the Commission.

NOW; THEREFORE, for and in consideration of the premises and conditions set forth herein, the parties hereto stipulate and agree as follows:

SECTION 1. The parties to this Settlement Agreement recommend the Commission approve the respective applications of LG&E and KU in the above-captioned cases filed on June 26, 2009 and grant the relief requested therein as amended by their responses to the requests for information in these proceedings and as more specifically stated below, subject to the conditions contained in this Settlement Agreement by entering orders on or before December 23, 2009 as follows:

SECTION 1.01 Kentucky Utilities Company

- (A) granting KU Certificates of Public Convenience and Necessity to permit the construction of the Selective Catalytic Reduction Nitrogen Oxide emission control technology at Brown Unit 3 as herein described, and to permit the construction of new landfills at the Ghent and Trimble County Generating Stations;
- (B) approving the new projects to KU's Environmental Compliance Plan for purposes of recovering the costs of the projects through the environmental surcharge ("KU 2009 Plan");
- (C) approving the revised Rate Schedule ECR to become effective for bills rendered on and after January 28, 2010 (i.e., beginning

with the environmental surcharge expense month of December 2009);

- (D) approving the proposed ES monthly filing forms, including revised ES Form 2.50; and
- (E) approving the recovery of the overall rate of return requested in KU's application.

SECTION 1.02 Louisville Gas and Electric Company

- (A) granting LG&E a Certificate of Public Convenience and Necessity to permit the construction of a new landfill at the Trimble County Generating Station;
- (B) approving the new projects to LG&E's Environmental Compliance Plan for purposes of recovering the costs of the projects through the environmental surcharge ("LG&E 2009 Plan")(collectively the "2009 Plans");
- (C) approving the revised Rate Schedule ECR to become effective for bills rendered on and after January 28, 2010 (i.e., beginning with the environmental surcharge expense month of December 2009);
- (D) approving the proposed ES monthly forms, including revised ES Form 2.50; and
- (E) approving the recovery of the overall rate of return requested in LG&E's application.

SECTION 2. LG&E and KU have proposed to recover the incremental capital costs, operation and maintenance expense and other costs associated with certain pollution control facilities at the Companies' generation stations. These facilities are identified as specific environmental pollution control projects in each utility's respective environmental surcharge compliance plan and as part of each utility's environmental surcharge application in these cases.

SECTION 2.01 Retirements or Replacements

For certain pollution control projects (Nos. 22, 23 and 24 for LG&E and Nos. 28, 29, 30, 31 and 32 for KU) contained in these environmental compliance plans, consistent with previous Commission orders,¹ to the extent that the installation of these facilities causes retirements or replacements of pollution control plant, the cost of which is already included in base rates, once the facilities are placed in-service LG&E or KU will include the necessary adjustment(s) to the cost reported in the determination of the surcharge capital costs for the current expense month to credit consumers to remove the costs of the retirements or replacements caused by the installation of the new pollution control facilities.

SECTION 2.02 Operation and Maintenance Expense for New Facilities

For certain new pollution control projects (No. 18 for LG&E and Nos. 23 and 28 for KU) contained in these environmental compliance plans, once the facilities are placed in-service, LG&E or KU will include

¹ Case No. 2004-00426, *Application of Kentucky Utilities Company for Approval of Its 2004 Compliance Plan for Recovery by Environmental Surcharge*, Final Order (June 20, 2005); Case No. 2004-00421, *Application of Louisville Gas and Electric Company for Approval of Its 2004 Compliance Plan for Recovery by Environmental Surcharge*, Final Order (June 20, 2005).

the incremental expense associated with the operation and maintenance (“O&M”) of these new facilities to the expense reported in the determination of the surcharge O&M expenses for the current expense month.

SECTION 2.03 O&M for Expansions of or Additions to Existing Ash Disposal Facilities

For certain pollution control projects (Nos. 22 and 24 for LG&E and Nos. 30 and 32 for KU) contained in these environmental compliance plans, which expand or add to existing pollution control ash disposal facilities the cost of which are already included in base rates, consistent with past Commission orders,² to the extent that the expansion of or additions to these ash disposal projects reduces the O&M expenses for existing associated ash disposal facilities at the applicable generation stations, LG&E or KU will include the necessary reduction(s) in the expense reported in the determination of the environmental surcharge O&M expenses for the current expense month. LG&E or KU will collect through the environmental surcharge mechanism the O&M expenses associated with ash disposal facilities at the applicable generation stations above a baseline level of O&M expenses associated with the ash disposal at the applicable stations included in base rates; however, LG&E or KU shall not collect through the environmental surcharge mechanism more

² Case No. 2002-00147, *The Application of Louisville Gas and Electric Company for Approval of Its 2002 Compliance Plan for Recovery by Environmental Surcharge*, Final Order (February 11, 2003) and Order on Rehearing (September 4, 2003).

than the O&M expenses associated with the new pollution control ash disposal facilities included in the 2009 Plans.

The baseline for determining the O&M expenses already included in base rates will be the expense for the operation and maintenance of the existing associated ash disposal facilities at the applicable generation stations prior to the expansions of or additions to the ash disposal facilities being placed in-service and incurred during the test year in the most recent base rate case prior to the in-service date of the new pollution control ash disposal facilities included in these environmental compliance plans.

SECTION 2.04 Beneficial Reuse Projects

The expenses and revenues associated with the beneficial reuse pollution control projects (No. 25 for LG&E and No. 33 for KU) not already included in existing base rates from beneficial reuse opportunities for coal combustion byproducts (“CCP”) will be reflected in the calculation of the respective environmental surcharge. LG&E or KU will include in the environmental surcharge mechanism the total expenses and revenues associated with beneficial reuse at the applicable generation stations above a baseline level included in base rates; however, LG&E or KU will not collect through the environmental surcharge mechanism more than the expenses associated with the new beneficial reuse opportunities included in the 2009 Plans under Project No. 25 for LG&E and Project No. 33 for KU.

The baseline for determining the beneficial reuse revenues and expenses already included in base rates will be the revenues and expenses incurred during the test year in the most recent base rate case for beneficial reuse opportunities at the applicable generation stations.

SECTION 3. Miscellaneous Provisions

SECTION 3.01 The signatories hereto agree that making this Settlement Agreement shall not be deemed in any respect to constitute an admission by any party hereto that any computation, formula, allegation, assertion or contention made by any other party in these proceedings is true or valid.

SECTION 3.02 The signatories hereto agree that the foregoing stipulations and agreements represent a fair, just and reasonable resolution of the issues addressed herein and request the Commission to approve the Settlement Agreement.

SECTION 3.03 The signatories hereto agree that, following the execution of this Settlement Agreement, the signatories shall cause the Settlement Agreement to be filed with the Commission by October 15, 2009, together with a request to the Commission for consideration and approval of this Settlement Agreement.

SECTION 3.04 The signatories hereto agree that this Settlement Agreement is subject to the acceptance of and approval by the Kentucky Public Service Commission. The signatories hereto further agree to act in good faith and to use their best efforts to recommend to the Commission that this Settlement Agreement be accepted and approved.

SECTION 3.05 The signatories hereto agree that, if the Commission does not accept and approve this Settlement Agreement in its entirety, then: (a) this Settlement Agreement shall be void and withdrawn by the parties hereto from further consideration by the Commission and none of the parties shall be bound by any of the provisions herein, provided that no party is precluded from advocating any position contained in this Settlement Agreement; and (b) neither the terms of this Settlement Agreement nor any matters raised during the settlement negotiations shall be binding on any of the signatories to this Settlement Agreement or be construed against any of the signatories.

SECTION 3.06 The signatories hereto agree that this Settlement Agreement shall inure to the benefit of and be binding upon the parties hereto, their successors and assigns.

SECTION 3.07 The signatories hereto agree that this Settlement Agreement constitutes the complete agreement and understanding among the parties hereto, and any and all oral statements, representations or agreements made prior hereto or contained contemporaneously herewith shall be null and void and shall be deemed to have been merged into this Settlement Agreement.

SECTION 3.08 The signatories hereto agree that, for the purpose of this Settlement Agreement only, the terms are based upon the independent analysis of the parties to reflect a fair, just and reasonable resolution of the issues herein and are the product of compromise and negotiation.

SECTION 3.09 The signatories hereto agree that neither the Settlement Agreement nor any of the terms shall be admissible in any court or commission except insofar as such court or commission is addressing litigation arising out of the implementation of the terms herein or the approval of this Settlement Agreement. This Settlement Agreement shall not have any precedential value in this or any other jurisdiction.

SECTION 3.10 The signatories hereto warrant that they have informed, advised and consulted with the respective parties hereto in regard to the contents and significance of this Settlement Agreement and based upon the foregoing are authorized to execute this Settlement Agreement on behalf of the parties hereto.

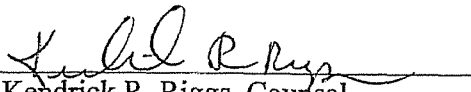
SECTION 3.11 The signatories hereto agree that this Settlement Agreement is a product of negotiation among all parties hereto, and no provision of this Settlement Agreement shall be strictly construed in favor of or against any party. Notwithstanding anything contained in the Settlement Agreement, the parties recognize and agree that the effects, if any, of any future events upon the operating income of the Companies are unknown and this Settlement Agreement shall be implemented as written.

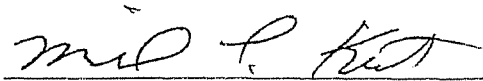
SECTION 3.12 The signatories hereto agree that this Settlement Agreement may be executed in multiple counterparts.

IN WITNESS WHEREOF, the parties have hereunto affixed their signatures:

Louisville Gas and Electric Company
and Kentucky Utilities Company

HAVE SEEN AND AGREED:

By: 
Kendrick R. Riggs, Counsel



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