

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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PUBLIC SERVICE
COMMISSION

In the Matter of:

LOUISVILLE GAS AND ELECTRIC COMPANY)
AND KENTUCKY UTILITIES COMPANY 2009)
APPLICATION FOR APPROVAL OF) CASE NO. 2009-00353
PURCHASED POWER AGREEMENTS)
AND RECOVERY OF ASSOCIATED COSTS)

JOINT MOVANTS ATTORNEY GENERAL OF COMMONWEALTH OF KENTUCKY
AND KIUC'S OBJECTION TO E.ON COMPANIES' MOTION TO FILE REBUTTAL
TESTIMONY AND TO SUBMIT CASE FOR DECISION ON RECORD

Come now the Attorney General of the Commonwealth of Kentucky, by and through his Office of Rate Intervention, and Kentucky Industrial Utility Customers, Inc. [hereinafter jointly referred to as "Joint Movants"], and hereby tender the following objection to the EON Companies' motion for leave to file rebuttal testimony, and to submit the instant case for a decision on the record.

E.ON has the burden of proof in this important case of first impression and for that reason Joint Movants do not object to the submission of Rebuttal Testimony. Moreover, we strongly object to the request that this matter be submitted for decision on the existing record, that there be no public hearing and that there should be no post-hearing briefs. E.ON's proposal violates the due process rights of Joint Movants.

In this case of first impression, E.ON seeks Commission approval to recover from consumers all costs associated with two 20-year wind power contracts from facilities located in Illinois. These costs include the payment for energy and capacity, transmission and congestion costs. As shown in the testimony of Joint Movant witness

Mr. Kollen, these costs are \$421.9 million more than an equivalent amount of conventional power (\$214.2 million more on a net present value basis). If approved, the burden on consumers and the economy of Kentucky would be severe. Moreover, E.ON requires recovery by the creation of a new surcharge not authorized by statute, which Joint Movants believe would be unlawful. As the Commission is aware, Kentucky Power has requested approval of a similar 20 year wind power contract, but it apparently believes that base rate recovery is the appropriate Ratemaking approach. Kentucky Power does not seek to create a new surcharge of questionable legal validity.

Recently introduced legislation in the Kentucky 2010 Regular Session is HB 3, which would impose a Clean Energy Portfolio Standard on Kentucky electric suppliers, including renewable resources such as wind power. But the renewable resources mandated by HB 3 are required to be located in Kentucky. Therefore, the two Illinois wind projects at issue here would not qualify. HB 3 is not law, but this shows the inherent risk of rushing to get ahead of the curve, as E.ON argues is necessary, when the rules are not set.¹


The citizens of this Commonwealth deserve protection from this Commission from the imposition of unreasonable or unnecessary costs. This matter is too important to be rushed to judgment without a public hearing or legal briefs. Moreover, to impose a 20-year rate increase of \$421.9 million (\$214.2 on a net present value basis) without a hearing would violate the fundamental due process rights of Joint Movants.

¹ The Joint Movants express no opinion regarding the merits of HB 3 or any other pending legislation related to Clean Energy Portfolio Standards.

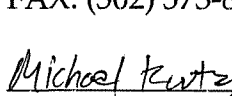
WHEREFORE, Joint Movants respectfully request that E.ON's motion be denied and that this matter be set for hearing.

Respectfully submitted,

JACK CONWAY
ATTORNEY GENERAL



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Certificate of Service and Filing

Counsel certifies that an original and ten photocopies of the foregoing were served and filed by hand delivery to Jeff Derouen, Executive Director, Public Service Commission, 211 Sower Boulevard, Frankfort, Kentucky 40601; counsel further states that true and accurate copies of the foregoing were mailed via First Class U.S. Mail, postage pre-paid, to:

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this 10th day of March, 2010.



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