

STITES & HARBISON PLLC
ATTORNEYS

421 West Main Street
Post Office Box 634
Frankfort, KY 40602-0634
[502] 223-3477
[502] 223-4124 Fax
www.stites.com

March 1, 2010

Mr. Jeff DeRouen, Executive Director
Public Service Commission
211 Sower Boulevard
P.O. Box 615
Frankfort, KY 40602-0615

RECEIVED

MAR 01 2010
PUBLIC SERVICE
COMMISSION

David C. Brown
(502) 681-0421
(502) 779-8251 FAX
dbrown@stites.com

RE: Case No. 2009-00548

Dear Mr. DeRouen:

Enclosed for filing, please find the original and twelve (12) copies of the FIRST SET OF DATA REQUESTS OF THE KROGER COMPANY in the above-referenced dockets.

Very truly yours,


David C. Brown

DCB/dab

Enclosure

KR091.00KR2:774738.1.LOUISVILLE

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:)
)
The Application of Kentucky Utilities)
Company for an Adjustment of Base Rates)

Case No. 2009-00548

RECEIVED

MAR 01 2010

PUBLIC SERVICE
COMMISSION

FIRST SET OF
DATA REQUESTS
OF THE KROGER COMPANY.

The Kroger Company requests the applicant, Kentucky Utilities Company, to respond to the First Set of Data Requests in accordance with the Order of Procedure entered herein.

DEFINITIONS

1. "Document(s)" is used in its customary broad sense and includes all written, typed, printed, electronic, computerized, recorded or graphic statements, communications or other matter, however produced or reproduced, and whether or not now in existence, or in your possession.

2. "Study" means any written, recorded, transcribed, taped, filmed, or graphic matter, however produced or reproduced, either formally or informally, on a particular issue or situation, in whatever detail, whether or not the consideration of the issue or situation is in a preliminary stage, and whether or not the consideration was discontinued prior to completion.

3. If any document requested herein was at one time in existence, but has been lost, discarded or destroyed, identify such document as completely as possible, including the type of document, its date, the date or approximate date it was lost, discarded or destroyed, the identity of the person (s) who last had possession of the document and the identity of all persons having knowledge of the contents thereof.

4. "You" or "your" means the person whose filed testimony is the subject of these requests and, to the extent relevant and necessary to provide full and complete answers to any request, "you" or "your" may be deemed to include any person with information relevant to any request who is or was employed by or otherwise associated with the witness or who assisted, in any way, in the preparation of the witness' testimony.

5. "KU" means Kentucky Utilities Company, and/or any of their officers, directors, employees or agents who may have knowledge of the particular matter addressed.

INSTRUCTIONS

1. The Requests shall be deemed continuing so as to require prompt further and supplemental production if at any time during this proceeding in the event you locate or obtain possession, custody or control of additional responsive documents.

2. Any studies, documents, or other subject matter not yet completed that will be relied upon during the course of this proceeding should be provided as soon as they are completed. You are obliged to change, supplement and correct all answers to these Requests to conform to available information, including such information as it first becomes available to you after the answers hereto are served.

3. Unless otherwise expressly provided, each interrogatory should be construed independently and not with reference to any other interrogatory herein for purpose of limitation.

4. The answers should identify the person(s) supplying the information.

5. Please answer each designated part of each information request separately. If you do not have complete information with respect to any interrogatory, so state and give as much information as you do have with respect to the matter inquired about, and identify each person whom you believe may have additional information with respect thereto.

First Set of Data Requests of the Kroger Co.

1. Please provide a copy of the Company's workpapers in Excel-compatible format with formulas intact.

2. Re Federal Income Tax Expense:

(a) In the past two years, has KU investigated or proposed any changes in the tax treatment of the cost of routine repairs and maintenance associated with electric generation, transmission, and distribution assets?

(b) If yes, please explain the changes investigated and indicate the status of the investigation.

(c) Also, if yes, please indicate whether KU's proposed revenue requirement reflects any changes adopted in the past two years in the tax treatment of the cost of routine repairs and maintenance associated with electric generation, transmission, and distribution assets.

(d) If KU has proposed any changes in the tax treatment of the cost of routine repairs and maintenance associated with electric generation, transmission, and distribution assets to the IRS, but the revenue requirement proposed by KU does not reflect the changed tax treatment, please quantify the going-forward revenue requirement adjustment(s) associated with IRS approval of the requested change in tax treatment.

3. With respect to Mr. Seelye's direct testimony at pages, 26-34, if not otherwise provided in response to Item 1, please provide the workpapers used by Mr. Seelye in constructing his example for Customers A, B, C, & D in Excel-compatible format with formulas intact.

4. Please refer to Mr. Seelye's testimony on page 27, lines 12-16. In this passage, is Mr. Seelye purporting to offer a legal opinion with respect to the application of the Commission's regulations?

5. Please refer to Mr. Seelye's testimony on page 27, lines 12-16. Is it Mr. Seelye's opinion that the multi-site customer in his example would obtain a lower rate through conjunctive billing? If so, please identify in the example the lower rate that was obtained (as distinct from a reduction in measured billing demand).

6. Please refer to Mr. Seelye's testimony on page 32, lines 17-20:

(a) If a single-site Customer E has the identical load pattern of the multi-site Customer A/B (when Customer A/B's demand is measured on a conjunctive basis), does Mr. Seelye agree that, absent conjunctive billing, Customer E would pay less for generation service than the multi-site customer A/B even though they use identical amounts of generation service?

(b) If yes, does Mr. Seelye agree that such a result could be regarded as discriminatory treatment according to the standards used by Mr. Seelye in his testimony?

(c) If not, please explain why the relationship between Customer A/B versus Customers C and D "could be easily regarded as discriminatory treatment" whereas the relationship between Customer A/B and Customer E would not be.

7. Please refer to the example of Customer E referenced in Item 6:

(a) Does Mr. Seelye believe that a single-site Customer E causes lower generation costs to be incurred by the utility than multi-site customer A/B that has an identical load when measured on a conjunctive basis?

(b) If yes, please explain the logical basis for the answer and provide an example as to how the utility would incur different generation costs for serving Customer E versus Customer A/B.

8. Section 3.11 of the Settlement Agreement entered in Case No. 2008-00251 states:

"The Utilities agree to work with interested parties to study the feasibility of measuring demand for generation service to multi-site customers based on conjunctive demand, where "conjunctive demand" herein refers to the measured

demand at a meter at the time that the total demand of a multi-site customer's loads, measured over a coinciding time period, has reached its peak during the billing period.”

Please provide all studies performed by KU regarding the feasibility of measuring demand for generation service to multi-site customers based on conjunctive demand as referenced in the Settlement Agreement.

9. Please refer to Mr. Seelye’s testimony on page 33, line 3 to page 34, line 12:

(a) Please provide any studies performed by Mr. Seelye or KU/LG&E pertaining to the application of “Coincident peak CP demand billing” to the KU/LG&E system.

(b) Please identify the generation portion of the demand charge for KU’s TODS, TODP and RTS rate schedules.

(c) Does Mr. Seelye agree that the demand charge for “Coincident peak CP demand billing” would necessarily be greater than the otherwise applicable generation portion of the demand charge in the Company’s tariff?

(d) If not, please explain in detail why not.

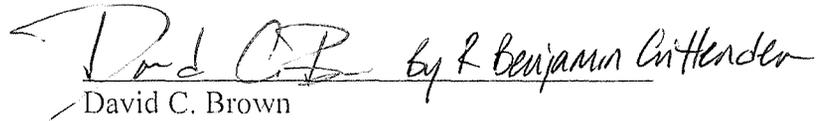
(e) Please provide Mr. Seelye’s best estimate of the demand charge that would be applicable to “Coincident peak CP demand billing” for the rate schedules listed in (b).

10. (a) Does Mr. Seelye believe that two customers with exactly identical loads, but different end-uses, cause different costs to be imposed on a utility?

(b) If yes, please explain.

(c) Does Mr. Seelye believe it is reasonable to charge customers with identical loads different rates based on the end-use to which the customer’s power is applied.

(d) If yes, please explain why two customers with identical loads should pay different rates based on their end use.

A handwritten signature in black ink, appearing to read "David C. Brown" followed by "by Benjamin Crittender". The signature is written in a cursive style.

David C. Brown
STITES & HARBISON, PLLC
400 West Market Street, Suite 1800
Louisville, KY 40202-3352
Telephone: (502) 587-3400
Counsel for The Kroger Co.

CERTIFICATE

I hereby certify that a copy of the foregoing was served by email on counsel for the Applicant and by mailing a true and correct copy, by regular U.S. mail to counsel for the Applicant and all parties on this the 1st day of March, 2010:

Lonnie E. Bellar
Vice President – State Regulation
Kentucky Utilities Company
220 West Main Street
P.O. Box 32010
Louisville, Kentucky 40202

Kendrick R. Riggs, Esq.
W. Duncan Crosby III, Esq.
Stoll Keenon & Ogden PLLC
2000 PNC Plaza
500 West Jefferson Street
Louisville, Kentucky 40202-2828

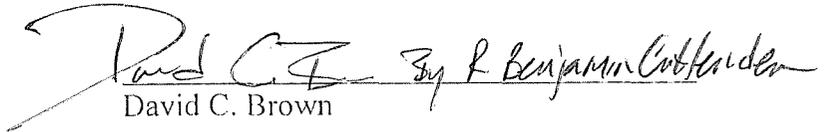
Robert M. Watt III, Esq.
Stoll Keenon & Ogden PLLC
300 West Vine Street, Suite 2100
Lexington, Kentucky 40507-1801

Iris G. Skidmore, Esq.
Bates and Skidmore
415 W. Main Street
Frankfort, Kentucky 40601

Allyson K. Sturgeon, Esq.
Senior Corporate Attorney
E.ON U.S. LLC
220 West Main Street
Louisville, Kentucky 40202

Michael L. Kurtz, Esq.
Boehm Kurtz & Lowry
2110 CBLD Center
36 East Seventh Street
Cincinnati, OH 45202

Dennis G. Howard II, Esq.
Assistant Attorney General
1024 Capital Center Drive, Suite 200
Frankfort, Kentucky 40601-8204


David C. Brown