

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

SEP 22 2011

PUBLIC SERVICE
COMMISSION

In the Matter of:

APPLICATION OF LOUISVILLE GAS AND ELECTRIC)
COMPANY FOR AN AMENDED ENVIRONMENTAL)
COMPLIANCE PLAN, A REVISED SURCHARGE TO)
RECOVER COSTS, AND CERTIFICATES OF PUBLIC) CASE NO. 2011-00162
CONVENIENCE AND NECESSITY FOR THE)
CONSTRUCTION OF NECESSARY)
ENVIRONMENTAL EQUIPMENT)

In the Matter of:

APPLICATION OF KENTUCKY UTILITIES COMPANY)
FOR CERTIFICATES OF PUBLIC CONVENIENCE)
AND NECESSITY AND APPROVAL OF ITS 2011) CASE NO. 2011-00161
COMPLIANCE PLAN FOR RECOVERY)
BY ENVIRONMENTAL SURCHARGE)

**JOINT MOTION BY DREW FOLEY, JANET OVERMAN, GREGG WAGNER, RICK
CLEWETT, RAYMOND BARRY, SIERRA CLUB, AND NATURAL RESOURCES
DEFENSE COUNCIL THAT THE COMMISSION MODIFY THE SCHEDULE TO
ALLOW INTERVENORS TO FILE SUPPLEMENTAL TESTIMONY**

On September 14, 2011, less than 48 hours before Rick Clewett, Raymond Barry, Drew Foley, Janet Overman, Gregg Wagner, Sierra Club, and Natural Resources Defense Council's (collectively "Environmental Intervenors") testimony was due in these dockets, Louisville Gas and Electric Company and Kentucky Utilities Company (collectively, the "Companies") served supplemental discovery responses. See Exhibit 1 (email from Kendrick Riggs to Kristin Henry), attached hereto. These supplemental discovery responses were in reply to Staff Discovery Request 20(b), which was filed on July 12, 2011. This supplemental discovery response included

a “Supplemental Analysis,” which is an entirely new and substantively different analysis regarding the Companies’ conclusions than was originally produced

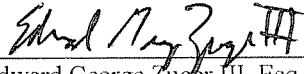
Serving this Supplemental Analysis less than 48 hours before testimony is due substantially prejudices the Environmental Intervenors. The direct testimonies that Environmental Intervenors prepared consist of a thorough and reasoned critique of the Companies’ original analysis and conclusions based on that analysis. These testimonies parse out different assumptions and/or inputs in the original analysis, discuss why those assumptions and/or inputs were unreasonable and re-run the Companies’ Strategist model with more reasonable assumptions and inputs to determine whether such changes would alter the decision to retire or retrofit certain units. Environmental Intervenors then made recommendations to the Commission based on this analysis.

It is simply impossible for Environmental Intervenors, in 48 hours, to re-run the Strategist Model with the new information contained in the Supplemental Analysis, which requires creating different model runs based on changes to individual or multiple parameters, and analyzing how those new model runs impact the decision whether to retire or retrofit each unit in the Companies’ fleet. While the Supplemental Analysis actually endorses Environmental Intervenors’ direct testimony on some key points, further evaluation is necessary to determine whether and how the late produced Supplemental Analysis impacts the points made and conclusions reached in that direct testimony.

To ensure that Environmental Intervenors are not unduly prejudiced by the Companies’ actions, Environmental Intervenors request that the Commission modify the procedural schedule in these **dockets** to allow the Intervenors to file supplemental testimony, which will discuss whether and how the late-breaking information released by the Companies impacts the original

critique, on September 23, 2011. The Companies do not object to this Motion to File Supplemental Testimony related to this updated information by September 23, 2011. See Exhibit 2 (email from Kendrick Riggs to Kristin Henry), attached hereto.

Respectfully submitted,



Edward George Zuger III, Esq.
Zuger Law Office PLLC
Post Office Box 728
Corbin, Kentucky 40702
(606) 416-9474

Of counsel

Shannon Fisk
Senior Attorney
Natural Resources Defense Council
2 N Riverside Plaza, Suite 2250
Chicago, IL 60660
Phone (312) 651-7904
Fax (312) 234-9633
sfisk@nrdc.org

Kristin Henry
Staff Attorney
Sierra Club
85 Second Street
San Francisco, CA 94105
Phone: (415) 977-5716
Fax: (415) 977-5793
kristin.henry@sierraclub.org

Dated September 22, 2011

CERTIFICATE OF SERVICE

I certify that I mailed a copy of this Motion for Supplemental Discovery by first class mail on September 29, 2011 to the following:

Lonnie Bellar
Vice President, State Regulation si. Rates
LG&E and KU Services Company
220 West Main Street
Louisville. KY 40202

Michael L Kurtz
Kurt J Boehm
Boehm, Kurtz & Lowry
36 East Seventh Street. Suite 1510
Cincinnati, OH 45202

Allyson K Sturgeon
Senior Corporate Attoriiiey
Louisville Gas & Electric and Kentucky
Utilities
220 West Main Street
Louisville, KY 40202

David J Barberie, Attorney Senior
Leslye M Bowman, Director of Litigation
Government Center (LFUCG)
Department of Law
200 East Main Street
Lexington, KY 40507

Robert M Conioy
Director, Rates
Louisville Gas & Electric and Kentucky
Utilities Company
220 W Main Street
P O Box 32010
Louisville, KY 40232-2010

Iris G Skidmore
415 West Main Street. Suite 2
Frankfort, KY 40601

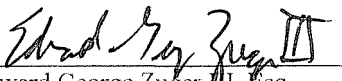
David C Brown, Esq
Stites & Harbison, PLLC
400 W Market Street, Suite 1800
Louisville, KY 40202

Kendrick R Riggs, Esq
Stoll, Keenon & Odgen, PLLC
2000 PNC Plaza
500 West Jefferson Street
Louisville. KY 40202

Tom Fitzgerald
P O Box 1070
Frankfurt, KY 4060

Dennis G Howard II
Lawrence W Cook
Attorney General's Office of Rate
Intervention
1024 Capital Center Drive, Suite 200
Frankfort, KY 40601-8204

Formatted: Left: 1", Right: 1",
Section start: Continuous


Edward George Zuger III, Esq
Counsel for Movants

KPSC: ECR Cases: Supplemental Response to KU KPSC-1 20(b) / LGE KPSC- 1 18(b)
Riggs, Kendrick R.

to:

David C. Brown, David J. Barberie, Dennis G. Howard II, Edward George Zuger III, Faith B. Burns, Iris G. Skidmore, Kristin Henry, Kurt J. Boehm, Lawrence W. Cook, Leslye M. Bowman, Michael L. Kurtz, Quang D. Nguyen, Richard G Raff, Robert A. Ganton, Scott E. Handley, Shannon Fisk, Tom FitzGerald

09/14/2011 01:54 PM

Cc:

"Sturgeon, Allyson"

Show Details

History: This message has been forwarded.

Dear Counsel,

Enclosed you will find the supplemental responses to KU KPSC-1 20(b) / LGE KPSC-1 18(b).

The original and 15 copies of each filing will be filed with the KPSC tomorrow. Hard copies will be mailed to all parties tomorrow as well.

Under separate cover, I will send the confidential portion of the filing to those parties who have signed confidentiality agreements.

Regards,

Kendrick R. Riggs
Stoll Keenon Ogden PLLC
2000 PNC Plaza
500 West Jefferson Street
Louisville, Kentucky 40202
Direct Dial: (502) 560-4222
Direct Fax: (502) 627-8722
Cell Phone: (502) 262-0172
Firm: (502) 333-6000
Email: kendrick.riggs@skofirm.com

Lexington | Louisville | Frankfort | Henderson | Morganfield | skofirm.com

From: Schroeder, Andrea [<mailto:Andrea.Schroeder@lge-ku.com>]
Sent: Wednesday, September 14, 2011 3:20 PM
To: Riggs, Kendrick R; Crosby, W. Duncan; Sturgeon, Allyson
Cc: Conroy, Robert; Bellar, Lonnie; Braun, Monica; Henry, Joan; Elzy, Tammy
Subject: ECR Supplemental Response to KU KPSC-1 20(b) / LGE KPSC-1 18(b)
Importance: High

ATTORNEY-CLIENT COMMUNICATION
CONFIDENTIAL & PRIVILEGED

Kendrick,

Attached are PDFs of the PUBLIC versions of the supplemental response to KU KPSC-1 20(b) / LGE KPSC-1 18(b) that are ready to be provided electronically to the parties in the ECR Plan cases. Also attached are PDFs of the CONFIDENTIAL pages from the attachment and the Petition for Confidential Protection.

The original and 15 copies of each filing will be filed with the KPSC tomorrow, September 15. Hard copies will be sent by US Mail to all parties tomorrow (9/15).

Please let me know if you have any questions.

Thanks,
Andrea

Andrea Schroeder
LG&E and KU
State Regulation and Rates
502-627-3651
502-627-3213 (fax)

KPSC Case Nos. 2010-00161 and 2010-00162
Riggs, Kendrick R.

to:
Kristin Henry
09/15/2011 01:59 PM
Show Details

Kristen,

I am writing to confirm our phone conversation this afternoon.

I understand the Sierra Club and other environmental intervenors plan to file testimony tomorrow along with a motion for leave to file supplemental testimony by September 23, 2011 addressing the information provided in the supplemental responses to KU KPSC-1 20(b) / LGE KPSC-1 18(b), distributed in my email of September 14, 2011.

KU and LG&E do not object to the motion of the Sierra Club and other environmental intervenors to file supplemental testimony related to this updated information by next Friday, September 23, 2011. You have my permission to represent this position in your motion.

Regards,

Kendrick R. Riggs
Stoll Keenon Ogden PLLC
2000 PNC Plaza
500 West Jefferson Street
Louisville, Kentucky 40202
Direct Dial. (502)560-4222
Direct Fax: (502)627-8722
Cell Phone (502) 262-0172
Firm: (502) 333-6000
Email: kendrick.riggs@skofirm.com

Lexington | Louisville | Frankfort | Henderson | Morganfield | skofirm.com