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**PUBLIC SERVICE
COMMISSION**

January 4, 2018

Via Hand Delivery

Gwen R. Pinson
Executive Director
Kentucky Public Service Commission
211 Sower Blvd.
Frankfort, KY 40601

RE: Kentucky Industrial Utility Customers, Inc., Complainant, v. Kentucky Utilities Company, Louisville Gas and Electric Company, Kentucky Power Company, and Duke Energy Kentucky, Inc., Defendants
Case No. 2017-00477

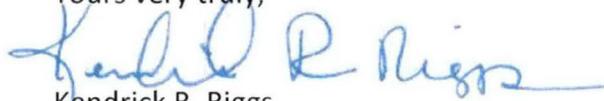
Dear Ms. Pinson:

Enclosed please find, for filing, the original and ten copies of the Response of Kentucky Utilities Company and Louisville Gas and Electric Company to the Attorney General's *Motions to Consolidate, for Use of Electronic Filing Procedures, and for an Informal Conference Between All Parties* filed in the above-referenced matter.

Please also find enclosed for filing the original and ten copies of the *Joint Motion of Kentucky Utilities Company and Louisville Gas and Electric Company to Separate Complaint Proceeding*.

Please confirm your receipt of this filing by placing the stamp of your Office with the date received on the enclosed additional copies and return them to me via our office courier. Should you have any questions, please contact us at your convenience.

Yours very truly,



Kendrick R. Riggs

KRR:ec

Enclosures

cc: Parties of Record in Case No. 2017-00477
Parties of Record in Case No. 2017-00481

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COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

KENTUCKY INDUSTRIAL UTILITY CUSTOMERS, INC.
COMPLAINANT
v.
KENTUCKY UTILITIES COMPANY, LOUISVILLE GAS AND ELECTRIC COMPANY, KENTUCKY POWER COMPANY, AND DUKE ENERGY KENTUCKY, INC.
DEFENDANTS
CASE NO. 2017-00477

RESPONSE OF KENTUCKY UTILITIES COMPANY AND LOUISVILLE GAS AND ELECTRIC COMPANY TO ATTORNEY GENERAL'S MOTIONS TO CONSOLIDATE, FOR USE OF ELECTRONIC FILING PROCEDURES, AND AND FOR AN INFORMAL CONFERENCE BETWEEN ALL PARTIES

Kentucky Utilities Company and Louisville Gas and Electric Company (the "Companies"), by counsel, and for its response to the Attorney General's Motions to Consolidate, for Use of Electronic Filing Procedures, and for an Informal Conference Between All Parties ("Motion") state as follows:

1. The Companies have no objection to intervention by the Attorney General in Case No. 2017-00477 and concur with that part of the Attorney General's Motion requesting the Commission to confer electronic case status on Case No. 2017-00477 to allow the use of electronic filing procedures. The Companies agree that good cause exists for the Commission to authorize a deviation from its Rules of Procedure and direct the use of electronic filing procedures in this proceeding.

1 Motion, Par. 6.

2. The Companies object to that part of the Attorney General's Motion requesting the consolidation of this complaint proceeding with the Commission's investigation into five other investor-owned utilities in Case No. 2017-00481.² Consolidating the two proceedings will not create judicial economies or efficiencies. Rather, because the cases are so fundamentally different, consolidating a complaint proceeding initiated by the KIUC with a Commission investigation will only cause the parties and the Commission to incur more time and devote more resources. Two of the companies subject to the KIUC complaint proceeding and one of the companies subject to the Commission investigation have base rate proceedings pending before the Commission, making their procedural positions significantly different from those utilities who do not have pending rate cases.³ The conflicting procedural requirements between the two proceedings will only create inefficiencies, procedural uncertainties and arguments, and a muddled record of evidence.

3. The Attorney General's Motion contends there are two main issues to be considered -- Federal Income Tax Expense and Excess Accumulated Deferred Income Taxes.⁴ For this reason, the Attorney General's Motion argues "[t]hese issues affect all of the IOUs that are parties to either matter similarly, and thus a consolidated matter will not unduly disrupt the

² *An Investigation of the Impact of the Tax Cuts and Job Act on the Rates of Atmos Energy Corporation, Delta Natural Gas Company, Inc., Columbia Gas of Kentucky, Inc., Kentucky-American Water Company, and Water Service Corporation of Kentucky*, Case No. 2017-00481 Order (December 27, 2017).

³ *In the Matter of: Application of Kentucky Power Company for (1) A General Adjustment of Its Rates for Electric Service; (2) An Order Approving Its 2017 Environmental Compliance Plan; (3) An Order Approving Its Tariffs and Riders (4) An Order Approving Accounting Practices to Establish Regulatory Assets and Liabilities; and (5) An Order Granting All Other Required Approvals and Relief*, Case No. 2017-00179, Application (Ky. Pub. Serv. Comm'n June 28, 2017); *In the Matter of: Application of Duke Energy Kentucky, Inc. for: 1) An Adjustment of the Electric Rates; 2) Approval of an Environmental Compliance Plan and Surcharge Mechanism; 3) Approval of New Tariffs; 4) Approval of Accounting Practices to Establish Regulatory Assets and Liabilities; and 5) All Other Required Approvals and Relief*, Case No. 2017-00321, Application (Ky. Pub. Serv. Comm'n Sept. 1, 2017); *In the Matter of: Application of Atmos Energy Corporation for an Adjustment of Rates and Tariff Modifications*, Case No. 2017-00349, Application (Ky. Pub. Serv. Comm'n Sept. 28, 2017).

⁴ Motion, Par. 3.

proceedings.”⁵ This assertion, however, overlooks the essential fact that each of the nine utilities in question is likely to have different circumstances, and thus very different facts, especially on the treatment and calculation of the Excess Accumulated Deferred Income Taxes. The assertion also fails to note that the changes contained in the 2017 Tax Cuts and Jobs Act are greater in reach and complexity than a simple change in the tax rate. For example, the 2017 law eliminates the Section 199 deduction for domestic production activities and eliminates “bonus depreciation” for utilities. The elimination of bonus depreciation will require the Companies to raise more debt and equity, increasing their respective weighted costs of capital. Thus, while the main questions of law may be essentially the same, the facts are likely to be quite different, unique and particular to each utility. Consolidation is likely to create confusion rather than judicial economy.

4. In support of the Motion, the Attorney General asserts that “[o]ther than the process in which the cases were initiated (complaint vs. Commission motion), the only difference between the two proceedings seems to be the amount of time in which the utilities have to respond.”⁶ But this assertion ignores other important differences between the two proceedings. There is a substantive difference between the answers to be filed by the four electric utilities in the complaint case and the testimony to be filed by the five utilities subject to the Commission’s investigation. Further, KIUC, as the party with the burden of proof, will likely ask for discovery prior to filing its testimony.⁷ The electric utility defendants in the KIUC complaint proceeding could also ask for discovery before filing their responsive testimony. In contrast, in the Commission’s investigation case, the Commission has already ordered the five utilities to file testimony. Even with the Motion’s proposed extension of time, the filing of the

⁵ *Id.*

⁶ Motion, Par. 4.

⁷ *Donald L. Fuller v. Harrison County Sanitation District*, Case No. 2015-00266 (Ky. PSC Sept. 24, 2015); *Walter Callihan v. Grayson Rural Electric Cooperative Corporation*, Case No. 2011-00351 (Ky. PSC Dec. 14, 2011); *Office of Attorney General v. Atmos Energy Corporation*, Case No. 2005-00057 (Ky. PSC Feb. 9, 2007).

answers and the filing of the testimony at about the same time will not place the respective parties in comparable procedural or substantive positions.⁸

5. The Attorney General's Motion "requests the Commission hold an informal conference in the consolidated docket so that the parties may discuss the relevant issues of substance and procedure."⁹ For the reasons previously stated, the Companies object to the consolidation of the complaint case with Commission's investigation proceeding. The Companies, in general, favor informal conferences for purposes of discussing substantive and procedural issues and expect to request an informal conference for this purpose when they file their answers to the complaint on January 8, 2018.

6. In a separate motion filed today, the Companies are also asking the Commission to separate KIUC's complaint case into four separate, utility specific proceedings. The Companies believe separate proceedings will be the most economical, efficient and effective process for addressing the questions raised by KIUC's complaint, and will create a clear and complete record for each of the Commission's decisions.

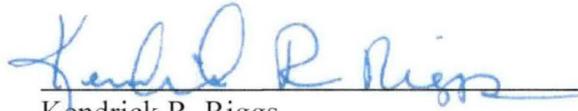
WHEREFORE, Kentucky Utilities Company and Louisville Gas and Electric Company respectfully request the Commission issue an order conferring electronic case status on Case No. 2017-00417 and otherwise denying the Attorney General's Motion.

⁸ Motion, Par. 5.

⁹ Motion, Par. 7.

Dated: January 4, 2018

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing Response of Kentucky Utilities Company and Louisville Gas and Electric Company was served upon the following persons by first class U.S. Mail, postage prepaid, on the 4th day of January 2018.

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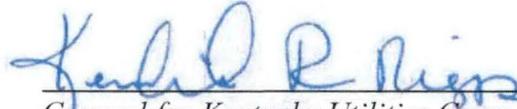
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