

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

A FORMAL REVIEW OF THE CURRENT )  
STATUS OF TRIMBLE COUNTY UNIT NO. 1 ) CASE NO. 9934

O R D E R

On November 23, 1987, Kentucky Industrial Utility Customers ("KIUC") filed a motion to amend the Commission's procedural Order entered October 27, 1987, to permit further discovery in the form of a deposition of Robert L. Royer, president of Louisville Gas and Electric Company ("LG&E"). The purpose of the deposition is to follow-up on previous discovery regarding the potential availability of generating capacity from Ohio Valley Electric Corporation ("OVEC") commencing in 1992.

On December 10, 1987, LG&E filed a motion to strike KIUC's request for further discovery and, in the alternative, a response in opposition to the request. The motion to strike alleges that: (1) the KIUC motion contains false statements and misrepresentations regarding a sale to a private entity of OVEC's sole customer, a Department of Energy uranium enrichment facility in Portsmouth, Ohio; and (2) the KIUC motion contains statements that were intended solely for use to support a media campaign of "disinformation." In its 12 page response to KIUC's motion for further discovery, LG&E sets forth an extensive discussion of the history of OVEC and its power contract with the Department of

Energy facility. The response attempts to demonstrate that there is no substance to KIUC's allegations and, consequently, no need for additional discovery.

Based on the motions and response, the Commission is of the opinion that KIUC's motion to amend the procedural schedule should be granted. The power to authorize the taking of depositions is reserved to the sound discretion of the Commission. KRS 278.340. The Commission finds no merit in either LG&E's motion to strike or its opposition to the requested discovery. The motion to strike, if granted, would place the Commission in the untenable position of foreclosing discovery on an emerging issue that could have an impact on the results of this investigation. Further, the motion to strike would have the Commission accept as true the characterization of the OVEC power contract set forth by LG&E's counsel and reject that of KIUC's. The Commission shall base its findings on the evidence of record, not the arguments of counsel. All relevant issues, including the availability of OVEC power, will be investigated in this proceeding. The deposition authorized herein should be held prior to January 16, 1988, on a date mutually agreeable to the interested parties.

Regarding LG&E's displeasure with KIUC's media campaign, the Commission notes that it is common practice for utilities and other parties before the Commission, as well as the Commission itself, to issue a press release simultaneously with the filing of a pleading or the issuance of an Order. The Commission's decision will be based on a review of the evidence, not the press releases.

