

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

LOUISVILLE GAS AND ELECTRIC)	
COMPANY'S ANNUAL EARNINGS)	CASE NO. 2003-00076
SHARING MECHANISM FILING)	
FOR CALENDAR YEAR 2002)	

KENTUCKY UTILITIES COMPANY S)	
ANNUAL EARNINGS SHARING)	CASE NO. 2003-00077
MECHANISM FILING FOR)	
CALENDAR YEAR 2002)	

O R D E R

On May 14, 2003, Kentucky Industrial Utility Customers, Inc. (KIUC) filed a motion requesting the Commission to compel Louisville Gas and Electric Company (LG&E) and Kentucky Utilities Company (KU) to file responses to KIUC s first data requests, Item Nos. 5 and 6. In Item No. 5, KIUC requests the amount of litigation expenses, cost of repairs, damage claims, and insurance reimbursement associated with two combustion turbines which are subject to litigation in federal court. Item No. 6 requests information on any test year insurance reimbursements over \$100,000. LG&E and KU objected to both items on the grounds that the information requested is the subject of litigation, the disclosure of which could prejudice LG&E s and KU s litigation position. They also contend that the requested information is not relevant to the issues which can be considered outside of a rate case.

KIUC filed a supplemental motion to compel discovery and LG&E and KU have filed a response which includes some of the information requested by KIUC. LG&E and

KU responded to Item No. 5, sub-parts (b), (c), (d), and (h); and Item No. 6. LG&E and KU renew their objections to Item No. 5, sub-part (a), (e), (f), and (g) on the grounds that this is not a rate case; that rate-making adjustments may not be proposed; that only actual historic financial results are to be reflected; and that the information sought is not reasonably calculated to lead to the discovery of admissible evidence since no pro forma adjustments can be proposed absent prior Commission authorization.

In the alternative, LG&E and KU object to providing the requested information on the grounds that disclosure would prejudice their litigation position and the information is not subject to confidential protection under the Kentucky Open Records Act.

Based on the motions and responses thereto, the Commission finds that these cases are not rate cases and, pursuant to our June 1, 2000 Orders in Case Nos. 1998-00426¹ and 1998-00474,² any pro forma adjustment must be supported by a Commission Order. While it is certainly legitimate to inquire as to whether costs have been properly expensed, rather than capitalized, or properly allocated, the information sought here has not been shown to relate to those issues. Therefore, KIUC's request to compel responses to the remaining requests for information, Item No. 5, sub-parts (a), (e), (f), and (g) should be denied.

IT IS THEREFORE ORDERED that KIUC's motion to compel is denied.


¹ Case No. 1998-00426, The Application of Louisville Gas and Electric Company For Approval of an Alternative Method of Regulation of Its Rates and Service.

² Case No. 1998-00474, The Application of Kentucky Utilities Company For Approval of an Alternative Method of Regulation of Its Rates and Service.

Done at Frankfort, Kentucky, this 4th day of June, 2003.

By the Commission

ATTEST:

A handwritten signature in black ink, appearing to read "Thomas H. Dixon", written over a horizontal line.

Executive Director

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