

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

INVESTIGATION INTO THE)	
MEMBERSHIP OF LOUISVILLE)	
GAS AND ELECTRIC COMPANY)	
AND KENTUCKY UTILITIES)	CASE NO. 2003-00266
COMPANY IN THE MIDWEST)	
INDEPENDENT TRANSMISSION)	
SYSTEM OPERATOR, INC.)	

O R D E R

The Commission, on its own motion, hereby opens this investigation of the membership of Louisville Gas and Electric Company (LG&E) and Kentucky Utilities Company (KU) in the Midwest Independent Transmission System Operator, Inc. (MISO). Both LG&E and KU own, control, operate, and manage facilities used for the generation, production, transmission, and distribution of electricity to or for the public, for compensation, for lights, heat, power and other uses. Thus, both LG&E and KU are utilities as defined by KRS 278.010(3)(a) and they are subject to the jurisdiction of the Commission.

MISO is a non-profit corporation formed by numerous transmission-owning utilities in the Midwest, including LG&E and KU, for the purpose of independently controlling and operating its members transmission facilities. MISO has been approved by the Federal Energy Regulatory Commission to operate as a Regional Transmission Organization (RTO). LG&E and KU spent a number of years working with other Midwest utilities to organize MISO and they became charter members over 5 years

ago. However, it was not until sometime last year that LG&E and KU actually transferred control of their respective transmission facilities to MISO.

MISO currently provides numerous services to its transmission-owning members, some of whom operate in states that allow retail customers to choose their source of generation. In those states, retail customers receive an unbundled bill for the generation, transmission, and distribution components of electric service. Other states, like Kentucky, do not allow customer choice, and the utilities provide bundled electric service within a franchised territory. The Commission finds that one issue to be reviewed herein is the extent to which LG&E and KU, as providers of bundled retail electricity, utilize and receive benefits from the services provided by MISO, and whether those benefits are commensurate with the costs. A similar investigation was recently concluded in response to the application of Kentucky Power Company d/b/a American Electric Power to join PJM Interconnection, L.L.C.¹

Another issue to be reviewed is the applicability of the transfer-of-control statute, KRS 278.020(4), to LG&E s and KU s transfer of their respective transmission assets. Under KRS 278.010(3)(a), a utility is defined as any person who controls, or operates. . . any facility used or to be used for or in connection with: (a) the. . . transmission. . . of electricity. . . . In this instance, neither LG&E nor KU requested or received Commission approval to transfer control of the facilities comprising their respective electric transmission utilities to MISO.

¹ Case No. 2002-00475, Application of Kentucky Power Company d/b/a American Electric Power For Approval, to the Extent Necessary, to Transfer Functional Control of Transmission Facilities Located in Kentucky to PJM Interconnection, L.L.C. Pursuant to KRS 278.218.

A further issue is MISO's anticipated expansion of services to include new matters, such as resource adequacy and demand response programs (DSM). These are matters that were not within MISO's original scope and have traditionally been provided under the direct supervision and control of state utility regulators, rather than multi-state, regional organizations. Specifically, in Kentucky, resource adequacy is reviewed as part of an electric utility's integrated resource plan under 807 KAR 5:058, while DSM is reviewed under KRS 278.285. Thus, this investigation should include consideration of the appropriateness of, and jurisdictional basis for, shifting these matters from Kentucky to multi-state, regional organizations.

Finally, since LG&E and KU joined MISO, electric utilities to the south of Kentucky have been working in a number of geographic sub-regions to establish RTOs. Since most of the utilities in the southern region of the country are similar to LG&E and KU to the extent that they are vertically integrated and provide bundled retail service, the feasibility of joining a southern RTO should also be part of this investigation.

IT IS THEREFORE ORDERED that:

1. This case is opened to investigate the membership of LG&E and KU in MISO.
2. The procedural schedule set forth in Appendix A shall be followed in this case.
3. LG&E and KU shall file direct prepared testimony in accordance with the procedural schedule on the issues of: costs and benefits of membership in MISO, both currently and over the next 5 to 10 years; the need for prior approval under KRS 278.020(4) for the transfer of control of the facilities comprising LG&E's and KU's

transmission utilities to MISO; the appropriateness of, and jurisdictional basis for, MISO to provide services traditionally within the supervision and control of the Commission, including, but not limited to, resource adequacy and DSM; and the feasibility of joining a southern RTO.

4. Copies of this Order shall be served on LG&E and KU, who shall be deemed to be parties to this case, and on the Attorney General so that he may timely exercise his right to intervene on behalf of Kentucky's ratepayers.

Done at Frankfort, Kentucky, this 17th day of July, 2003.

By the Commission

ATTEST:


Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2003-00266 DATED

LG&E and KU shall file direct testimony in
verified prepared form no later than 08/06/03

All initial requests for information to LG&E
and KU shall be filed no later than 08/18/03

LG&E and KU shall file responses to initial
requests for information no later than..... 08/29/03

All supplemental requests for information
to LG&E and KU shall be filed no later than 09/10/03

LG&E and KU shall file responses to
supplemental requests for information
no later than 09/19/03

Intervenor testimony, if any, shall be filed
in verified prepared form no later than..... 10/03/03

Further procedural steps(to be scheduled)