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IN THE KENTUCKY PUBLIC SERVICE COMMISSION

IN RE: INVESTIGATION:

Case No. 2003-00433  
AN ADJUSTMENT OF THE GAS AND ELECTRIC RATES,  
TERMS, AND CONDITIONS OF LOUISVILLE GAS AND  
ELECTRIC COMPANY

and

Case No. 2003-00434  
AN ADJUSTMENT OF THE ELECTRIC RATES, TERMS, AND  
CONDITIONS OF KENTUCKY UTILITIES COMPANY

\* \* \*

SWORN STATEMENT

OF

DOROTHY O'BRIEN

JULY 29, 2005

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A P P E A R A N C E S

SPECIAL GENERAL COUNSEL TO THE PUBLIC SERVICE  
COMMISSION:

JONATHAN D. GOLDBERG  
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Goldberg & Simpson  
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FOR THE WITNESS:

DAVID KAPLAN  
Frost, Brown, Todd, LLC  
3200 Aegon Center  
400 West Market Street  
Louisville, Kentucky 40202

1  
2                   The sworn statement of DOROTHY  
3 O'BRIEN, taken in the offices of Goldberg & Simpson,  
4 3000 National City Tower, 101 South Fifth Street,  
5 Louisville, Kentucky, on Friday, the 29th day of  
6 July, 2005, at approximately 9:00 a.m.

7  
8                   EXAMINATION

9  
10 BY MR. GOLDBERG:

11           Q.       Would you state your name, please.

12           A.       Dorothy O'Brien, O, apostrophe,  
13 B-R-I-E-N.

14           Q.       All right. And your business address?

15           A.       220 West Main, Louisville, Kentucky.

16           Q.       And your occupation?

17           A.       Attorney.

18           Q.       All right. And who are you an  
19 attorney for?

20           A.       Louisville Gas & Electric.

21           Q.       As I was told by Mr. McCall,  
22 Louisville Gas & Electric Energy, LLC?

23           A.       LG&E Energy, LLC, would be appropriate  
24 for the record, so thank you.

25           Q.       How long have you been there?

1           A.       Twelve years.

2           Q.       Okay.  And just so I have a sense of  
3 what you do there, could you describe that for me?

4           A.       Official title is deputy general  
5 counsel.  Overall responsibility, obviously,  
6 reporting to McCall for the legal affairs of the  
7 company.  Eleven lawyers, four paralegals,  
8 administrative staff, who cover a range of legal  
9 issues from regulatory to environmental to litigation  
10 and so on.  So a small size firm with types of legal  
11 issues you would expect a company the size of LG&E to  
12 have.

13          Q.       Okay.  Do you manage any other persons  
14 other than persons in the law department?

15          A.       I do not.

16          Q.       Okay.  Let me give you, by way of  
17 example -- I asked Mr. McCall the same question --  
18 specifically asked him whether or not Mr. George  
19 Siemens reported to him and he said that he did.

20          A.       Yes.

21          Q.       Does Mr. Siemens report to you?

22          A.       He does not.

23          Q.       So your charge, as I understand it,  
24 then, is lawyers and resultant administrative  
25 personnel.

1           A.       That's correct.

2           Q.       Fair enough. Tell me what your duties  
3 are, if any, as it relates to regulatory activity  
4 before the Public Service Commission.

5           A.       The regulatory function from a legal  
6 perspective of the company would report to me. We  
7 have in-house lawyers, one at the time, Beth  
8 Cocanougher, with that responsibility. With Beth's  
9 direct supervision and collaboration, we engage  
10 outside counsel to assist us in that endeavor. And  
11 in my role I would have whatever involvement is  
12 appropriate on discrete matters, but generally would  
13 defer to Beth for the hands-on management of  
14 particular cases before the PSC.

15          Q.       Okay. Is it fair to say that you  
16 would have oversight responsibility as opposed to  
17 hands-on responsibility for matters dealing with the  
18 Public Service Commission?

19          A.       Generally that would be true. From  
20 time to time, I would have direct responsibility.  
21 Let me -- let me rephrase that. I would have more  
22 hands-on involvement than at other times, depending  
23 on the particular matter.

24          Q.       Going back to time period January 1st,  
25 2003, through the hearing process in the two rate

1 cases, LG&E/KU, which we've focused in at mid June of  
2 2004, are there any other persons, other than  
3 Ms. Cocanougher, who were -- legal persons who were  
4 doing work dealing with the Public Service Commission  
5 on staff?

6 A. Yes.

7 Q. Okay. Who were they?

8 A. Linda Portasik, P-O-R-T-A-S-I-K, at  
9 that time was our regulatory in-house counsel. Beth  
10 became involved when she returned from a two-year  
11 secondment to Powergen, our English affiliate. I  
12 can't tell you the specific time frame when one  
13 stepped out and another stepped in. But to the best  
14 of my recollection, Beth's involvement was at the  
15 very tail end or post rate case.

16 Q. Okay. Is it possible that she did not  
17 participate at all up and through a decision from the  
18 Public Service Commission which I believe was  
19 June 15?

20 A. Yes.

21 Q. Okay. Fair enough. Now, when did you  
22 first become aware that LG&E and/or KU was going to  
23 file a rate case?

24 A. I cannot recall a specific date.  
25 Obviously that's an evaluative process that would be

1 one that would be analyzed right up until the time  
2 the decision was made, but it would have been some  
3 period of time before the actual filing and enough  
4 time, obviously, for us to have the opportunity to  
5 prepare the appropriate paperwork. But I'm sorry,  
6 Jon --

7 Q. Let me benchmark it for you.

8 A. Yeah.

9 Q. Your notice of filing -- do you have  
10 an understanding of the term "notice of filing"?

11 A. I do.

12 Q. -- was in November of 2003. Do you  
13 have a recollection that you participated in any way  
14 in preparing the work on the two rate cases prior to  
15 November of 2003?

16 A. Let me ask you to repeat your question  
17 so that I'm responsive.

18 Q. Did you work on any of the -- did you  
19 work on anything related to the rate cases prior to  
20 notice of filing November 2003?

21 A. Yes.

22 Q. Okay. Tell me what you worked on that  
23 you can recall.

24 A. "Worked on" is a broad term.

25 Q. Sure.

1           A.       And applying it in its broadest sense,  
2 I would have had limited involvement in the  
3 discussion about strategy that would be employed as  
4 we developed our proof in the rate case. I did not  
5 work directly on the preparation of the papers.

6           Q.       Okay. Did you work with any of the  
7 experts on their testimony?

8           A.       Yes.

9           Q.       Okay. And did you work with outside  
10 counsel?

11          A.       Yes.

12          Q.       So fair to say you would have attended  
13 meetings and engaged in activities like that?

14          A.       Yes.

15          Q.       Okay. The actual filing is December  
16 of 2003. And let me ask you, do you in your duties  
17 have occasion to come in contact with staff members  
18 of the Public Service Commission?

19          A.       I have had contact with staff members  
20 of the Public Service Commission. It is not a  
21 regular or routine part of my job responsibilities.

22          Q.       Okay. Focusing in on the two rate  
23 cases, and in that time period prior to filing, okay,  
24 did you have any contact with any employees of the  
25 Public Service Commission, staff employees, about the



1 two rate cases prior to the filing?

2 A. No.

3 Q. Okay. And again, that was filing late  
4 December 2003. To be sure that we're communicating  
5 with each other, let me give you some names of some  
6 persons. Let's first see if you know these persons.  
7 I've represented to you they're all staff people at  
8 the Public Service Commission. Do you know Mr. Isaac  
9 Scott?

10 A. I know the name.

11 Q. Have you ever met him?

12 A. Probably.

13 Q. Okay. Did you talk to him about the  
14 two rate cases prior to filing in December of 2003?

15 A. No.

16 Q. Mr. Jeff Shaw, do you know him?

17 A. Yes.

18 Q. Did you talk to him about the rate  
19 cases prior to filing December 2003?

20 A. No.

21 Q. Okay. Do you know a Mr. Faud Sharifi?

22 A. I don't recall if I've met him.

23 Q. Okay. Do you know whether or not you  
24 had conversation with him about the rate cases prior  
25 to December of 2003, the date of filing?

1 A. I did not.

2 Q. Do you know Ms. Andrea Edwards?

3 A. I do not.

4 Q. Okay. It's fair to say you didn't  
5 talk to her about the rate cases prior to December of  
6 2003?

7 A. That's correct.

8 Q. Now, do you know any of the Public  
9 Service Commissioners?

10 A. Yes.

11 Q. Okay. Which ones do you know?

12 A. I have met Mark David Goss, Marty  
13 Huelsman, Ellen Williams. Those are the names that I  
14 recall now.

15 Q. Okay. Do you recall how you met -- in  
16 what context you met Mr. Huelsman?

17 A. In the rate case proceeding, and  
18 perhaps in a prior proceeding I may have come in  
19 contact with him. I don't recall, but it would have  
20 been in the context of an appearance before the  
21 Public Service Commission in the rate case.

22 Q. Except for an appearance of record in  
23 the rate case, did you have any other contact with  
24 Mr. Huelsman?

25 A. No.

1 Q. All right. And as a follow-up, with  
2 regard to the two rate cases, LG&E and KU.

3 A. Did I have --

4 Q. Any contact with Mr. Huelsman with  
5 regard to the rate cases, LG&E/KU, and let me refer  
6 to them as 00433 and 00434.

7 A. And is the question other than  
8 entering an appearance?

9 Q. Yes.

10 A. No.

11 Q. Okay. Let's leave Mr. Goss and  
12 Ms. Williams over to the side because my question  
13 that we've been working through is prior to filing,  
14 and they were not on the scene as of late  
15 December 2003. With that -- with that context, let  
16 me ask you about a couple of other commissioners that  
17 were. Do you know or have you ever met Mr. Gary  
18 Gillis?

19 A. Not that I recall.

20 Q. Okay. And do you know and have you  
21 ever met Commissioner Bob Spurlin?

22 A. Same response.

23 Q. Okay. Do you know Tom Dorman?

24 A. Yes.

25 Q. Okay. Have you ever had opportunity

1 to discuss with Mr. Dorman the two rate cases prior  
2 to filing in December of 2003?

3 A. No.

4 Q. Okay. And can you tell me the context  
5 of how you know Mr. Dorman?

6 A. Same way that I've met the other  
7 Public Service Commission staff. I would have met  
8 him either in the building in connection with a  
9 formal appearance or may have been introduced to him  
10 outside the hearing room.

11 Q. Okay. Let's segue to another subject.  
12 Are you familiar with a company North American  
13 Stainless?

14 A. I am.

15 Q. Are you familiar with a dispute, for  
16 lack of a better term, between North American  
17 Stainless and KU with regard to the amount that North  
18 American Stainless was paying for electricity?

19 A. Broadly speaking, yes.

20 Q. Okay. Who on staff would have been in  
21 charge of that particular dispute, if you can recall?

22 A. I do not recall.

23 Q. Okay. Do you know whether you  
24 participated in dealing with those issues other than  
25 as oversight meeting at a line responsibility for

1 those things?

2 A. Was the front end of your question did  
3 I have such responsibility?

4 Q. Yes.

5 A. The answer is no, in terms of direct  
6 communication.

7 Q. Okay. Who was responsible for either  
8 direct communication or oversight on the legal --  
9 in-house legal team at LG&E?

10 A. Let me think back in time. From the  
11 business side, I have a recollection of Martyn  
12 Gallus' involvement. And my recollection is that  
13 Walter Sales may have played a role in that, but we  
14 did not have an in-house lawyer that was directly  
15 involved in that.

16 Q. Let me frame it for you even a little  
17 better. In September of 2003, North American  
18 Stainless files a complaint with the Public Service  
19 Commission with regard to the rates it was paying,  
20 and it's my understanding that sometime after that KU  
21 filed a tariff request with the Public Service  
22 Commission. All of that was of record prior to  
23 notice of filing in November of 2003. And the reason  
24 why it is of interest is -- I'm sure you know this --  
25 that matter was consolidated with the two rate

1 cases --

2 A. I do.

3 Q. -- and was part and parcel of the  
4 issues presented to the Public Service Commission in  
5 the spring of 2004. So what I'm trying to understand  
6 is what, if anything, you know about the North  
7 American Stainless matters.

8 A. Enough that I would say that I'm aware  
9 of the dispute, not enough to comment on the  
10 specifics.

11 Q. Okay. Well, you've got the counsel,  
12 right?

13 A. Okay.

14 Q. Okay. Now, between filing, which  
15 would have been, as we've stated, end of  
16 December 2003, and the informal conference, which  
17 would have been April 28th, 2004, what participation,  
18 if any, did you have in the rate cases?

19 A. I can't recall specific time frames,  
20 but as the case developed, became more demanding in  
21 terms of time and a need for resources, I became more  
22 involved in that time frame in strategy, witness  
23 preparation. So I would say in a transition mode,  
24 without a specific date, of Linda Portasik's  
25 involvement becoming lesser and mine becoming greater

1 in that time frame, my level of involvement  
2 increased.

3 Q. Okay. Do you have a recollection by  
4 way of example of having participated in document  
5 requests?

6 A. I did not.

7 Q. Okay. Did you participate in the  
8 procuring of testimony by experts?

9 A. Let me amend the answer I just gave  
10 you, Jon.

11 Q. Okay.

12 A. There may have been occasions where  
13 there were discussions where legal advice was sought  
14 on whether a particular group of documents was  
15 responsive to a request. I may have been involved in  
16 some of those discussions. So with that amendment,  
17 could you repeat your next question?

18 Q. Sure. Did you participate in the  
19 procuring of expert testimony for the record during  
20 that period?

21 A. I had some involvement in preparation  
22 of witnesses and in review of testimony.

23 Q. Okay. Anything else you can think  
24 that you did during that time period?

25 A. As it relates to experts?

1 Q. As relates to anything to deal with  
2 the preparation of rate cases.

3 A. Broadly what you would expect, I  
4 think, the role of an in-house lawyer to be. Being  
5 sure that things were running well, that the clients  
6 were well informed about the preparation, that  
7 strategic decisions were being made at the right  
8 level by the right people, that there was consensus  
9 on issues, and that risks were appropriately defined.  
10 A broader strategic role rather than discrete  
11 individual tasks.

12 Q. I trust the discrete individual tasks,  
13 as you've defined them, were left up to counsel who  
14 had been hired by the company?

15 A. That would be fair.

16 Q. Okay. Now, during this period of  
17 time, you ended up getting two new commissioners,  
18 Mr. Mark David Goss -- and I believe you told me you  
19 had met him sometime along the line?

20 A. Met him during commission proceedings  
21 when I entered an appearance in the case.

22 Q. Other than that, have you ever had any  
23 opportunity to meet him and discuss anything with  
24 him?

25 A. I have not.



1 Q. Fair enough. Ms. Ellen Williams?

2 A. The same.

3 Q. Okay. So fair statement to say that  
4 between time of filing and the hearing of the case,  
5 first day April 28, 2004, you had no contact with  
6 Chairman Mark David Goss or Ms. Williams.

7 A. That's correct.

8 Q. Okay. Let me ask you with regard to  
9 the staff between the filing, end of December 2003  
10 and the informal conference, April 28, 2004, did you  
11 have any contact with the staff as we have defined  
12 them?

13 A. When we reviewed the staff --

14 Q. About the rate cases, I'm sorry.

15 A. Okay. About the rate cases, I did  
16 not. Let me amend that to say there may have been at  
17 some point a procedural question. I don't recall it  
18 now. Best of my recollection, no communication of  
19 any kind with any staff member other than when the  
20 rate case proceeding began. But I can't eliminate  
21 the possibility that there may have been some  
22 procedural question that might have been asked. I  
23 don't recall it at this point.

24 Q. Okay. Well, let me add the last staff  
25 member to the focus. Are you familiar with

1 Mr. Richard Raff?

2 A. I am.

3 Q. Do you have recognition of what his  
4 role for the PSC was in the rate cases?

5 A. I did.

6 Q. Okay. And what was that?

7 A. I think Richard served the role as  
8 legal advisor to the commission on the rate case.

9 Q. Okay. In fact, he was the lawyer for  
10 the Public Service Commission on the staff?

11 A. That's my understanding.

12 Q. Okay. Did you have any conversations  
13 with Mr. Raff between -- well, at any time about the  
14 two rate cases other than in the context of once the  
15 hearing started on April 28, 2004.

16 A. Any conversations with Richard Raff  
17 about the rate case anytime before the rate case  
18 proceeding began.

19 Q. Yes, ma'am.

20 A. Not to my recollection.

21 Q. Okay. Fair enough. Now, I'm  
22 representing to you that April 28, 2004 is the date  
23 of the informal conference. And let me first ask, do  
24 you have a recollection of having been there for the  
25 informal conference?

1           A.       I do.

2           Q.       Okay.  And while this may be hard, do  
3 you recall who, other than yourself, was present for  
4 LG&E?

5           A.       I do not have a specific recollection,  
6 but I can say most probably that Kendrick Riggs was  
7 present.  And, to be honest in answering the  
8 question, I have no specific recollection of anyone  
9 that was there.

10          Q.       Fair enough.  But give me your best  
11 recollection of the day's events of April 28, 2004,  
12 if you have a specific recollection.

13          A.       With embarrassment, I'll have to tell  
14 you I do not.

15          Q.       Okay.  Prior to going to the informal  
16 conference, were you assigned a specific role with  
17 regard to the whole hearing procedures?

18          A.       I was not assigned a specific role.  I  
19 think I had a specific role, so that's how I'd  
20 respond to your question.

21          Q.       All right.  What was the specific  
22 role?

23          A.       It was generally to be sure that  
24 things went as perfectly as they could.  The role  
25 that I think any lawyer in those proceedings would

1 have, to be sure that witnesses were well prepared,  
2 that -- broadly, to be sure that the company's case  
3 was well and ably presented.

4 Q. Okay. Do you have a recollection of  
5 participating in any discussions with any of the  
6 intervening parties, interveners, on that first date,  
7 April 28, 2004?

8 A. I do not recall.

9 Q. Do you have a general understanding of  
10 who the interveners were?

11 A. Broadly, yes.

12 Q. Okay. Give me your best recollection.

13 A. KIUC, the low income group, NAS, those  
14 are the ones that come to mind immediately.

15 Q. How about the attorney general?

16 A. Yes.

17 Q. Okay. And Kentucky Department of  
18 Energy?

19 A. I don't recall.

20 Q. Okay. Fort Knox?

21 A. I don't recall.

22 Q. Fair enough. Okay. Do I take it,  
23 then, you don't have a recollection of having  
24 participated in negotiations on April 28, 2004 or  
25 discussions with the interveners?

1 A. I do not recall.

2 Q. Okay. Do you have a recollection of,  
3 on April the 29th, participating in any discussions  
4 with the interveners?

5 A. I don't recall.

6 Q. Okay. I know you did not participate  
7 in a meeting at the attorney general's office on  
8 April the 30th. Is that correct?

9 A. That's correct.

10 Q. Were you aware of such a meeting?

11 A. As I sit here today, I don't recall.

12 Q. Fair enough. Next week, the hearings  
13 actually begin, May 4th, 5th and 6th. Can you tell  
14 me what your role was with regard to those hearings?

15 A. The same, to be certain that the  
16 company's case was well and ably presented.

17 Q. Were you there through some of the  
18 evenings for discussions with the interveners?

19 A. Let me ask for a clarification of the  
20 question.

21 Q. Sure.

22 A. Was this at a time that the parties  
23 were broadly engaged in settlement discussions?

24 Q. Yes.

25 A. Yes.

1           Q.       Okay. As I understood it, on several  
2 of these days there was testimony taken, and then  
3 discussions would ensue. And that was sort of a  
4 reoccurring pattern. Is that a fair statement?

5           A.       Yes.

6           Q.       Okay. Do you have a recollection of  
7 the date in particular when the LG&E staff thought  
8 the matter had been resolved? When I say "the  
9 matter," the issues related to the rate case early in  
10 the morning? Do you have a recollection of that?

11          A.       I have a recollection that we reached  
12 agreement with all of the parties on the significant  
13 issues in the rate case, or believed we had done so.  
14 I can't recall if that was an evening or a morning  
15 where we reached that conclusion. But broadly  
16 speaking, I do have a recollection that that was our  
17 belief.

18          Q.       All right. Do you have a recollection  
19 that subsequently you learned that there was not  
20 agreement?

21          A.       I do.

22          Q.       Okay. Tell me what you recall of that  
23 state of events.

24          A.       My recollection is that -- and  
25 obviously times are not specific, but that late on a

1 night -- late in the week -- and I want to say  
2 Thursday night, but I can't recall that with  
3 specificity -- we reached agreement. We left and  
4 communicated that within the client group at LG&E.  
5 The following morning I recall -- I think it was  
6 Dennis Howard, but I may be incorrect on that --  
7 preceding the attorney general -- representing that  
8 the attorney general, in fact, did not agree with the  
9 settlement that had been reached. I can't recall  
10 specifically how that was communicated. I can recall  
11 being very surprised by that. That's the best of my  
12 recollection.

13 Q. Okay. Do you have a recollection that  
14 after the team learned that the attorney general was  
15 not in agreement what transpired after that?

16 A. I have a recollection that at some  
17 point -- well, I have a number of recollections --

18 Q. Okay.

19 A. -- to be directly responsive to your  
20 question. There was -- there were statements taken  
21 on the record by the Public Service Commission. I  
22 can't recall if it was that morning in particular.  
23 Allegations of ex parte communications were broadly  
24 being articulated by the attorney general's office.  
25 I can't recall anyone specifically at this moment. I

1 cannot remember when Attorney General Stumbo made his  
2 formal announcement in front of the media, but it was  
3 shortly after that that the Public Service  
4 Commission, with our support and complete  
5 endorsement -- not that it was a prerequisite to  
6 it -- went on the record and asked each of the  
7 parties to the negotiations to affirmatively state on  
8 the record whether they were aware of any ex parte  
9 communications or collusive behavior, to which each  
10 responded emphatically there were not. I have that  
11 general recollection.

12 Q. Okay. Do you recall in terms of time  
13 frame whether that was on the last full day that  
14 testimony was taken or not?

15 A. I recall those proceedings generally,  
16 and I cannot recall if testimony was taken after  
17 those -- those statements were made on the record.

18 Q. Fair enough. Do you recall coming  
19 back to the Public Service Commission the next week  
20 for further proceedings?

21 A. Yes.

22 Q. With regard to the testimony  
23 submitted, did you develop an understanding that  
24 ultimately there was agreement by all the parties on  
25 all the issues, except for the attorney general on



1 the particular issue of revenue requirements for  
2 electricity?

3 A. Yes.

4 Q. Okay. And do I take it that the  
5 record that was finally submitted to the Public  
6 Service Commission was a stipulated agreement, except  
7 for the attorney general?

8 A. That's correct.

9 Q. Okay. And do you subsequently recall  
10 in June of 2004 the ruling of the Public Service  
11 Commission?

12 A. Broadly, yes.

13 Q. Okay. And did they endorse the  
14 agreement, to the best of your recollection?

15 A. They did.

16 Q. Okay. Fair enough. Now, with regard  
17 to you, from the time the hearings began until the  
18 Public Service Commission issued its ruling -- and  
19 I'm representing that's in June -- mid June of  
20 2004 -- did you have any contact or communication  
21 with the staff, as we've defined it, of the Public  
22 Service Commission about the two rate cases?

23 A. Other than in the context of a formal  
24 filing or any proceeding?

25 Q. Yes.

1 A. I did not.

2 Q. Okay. And let me ask you the same  
3 question with regard to the members of the Public  
4 Service Commission. Any communication or contact  
5 with them other than in the course of the proceeding?

6 A. I did not.

7 Q. Okay. Finally, in case it was  
8 unclear, did you have any contact with Mr. Dorman,  
9 Tom Dorman, during that same period of time about the  
10 rate cases?

11 A. In the same context?

12 Q. Yes.

13 A. Other than an appearance or as part of  
14 the formal procedure, no.

15 Q. Okay. Do you know who Ms. Beth  
16 O'Donnell is?

17 A. Yes.

18 Q. Okay. Have you met her?

19 A. I believe that I have.

20 Q. Okay. I'm representing to you she is  
21 the executive director now and took over the job of  
22 Mr. Dorman and would have been there for part of this  
23 period of time. Do you recall any conversations with  
24 her about the rate cases from April 28, 2004,  
25 informal conference, to decision, June 15, 2004?

1           A.       I had no such communication.

2           Q.       Okay. Are you familiar with the legal  
3 case of Louisville Gas & Electric versus Cowan?

4           A.       Generally.

5           Q.       Okay. Are you familiar with the  
6 admonitions as it relates to ex parte communications  
7 and, quote, inappropriate behavior?

8           A.       I am aware of our ethical legal  
9 obligation regarding communications with the Public  
10 Service Commission regarding matters before them,  
11 yes.

12          Q.       Okay. And I asked this question of  
13 Mr. McCall yesterday, and he gave us his vision of  
14 that case and its teachings and how it is  
15 incorporated at Louisville Gas & Electric. Do you  
16 have a recollection of that being the case also?

17          A.       I can tell you broadly that having a  
18 conversation with a member of the Public Service  
19 Commission staff, Public Service Commission, about an  
20 open matter while that case is pending, that goes to  
21 the merits of the case, would be inconsistent with  
22 what LG&E employees, KU employees, all of our  
23 employees are -- without getting into the issue of  
24 attorney advice, broadly that is a policy that is  
25 followed and is expected to be followed by every

1 employee of the company.

2 Q. Okay. Fair enough. Let me ask you  
3 about another issue that may or may not have been  
4 pending for discussion purposes before the Public  
5 Service Commission at the same time. Are you  
6 familiar with an issue relating to transmission lines  
7 over the Gene Snyder Freeway?

8 A. Yes.

9 Q. Tell me what you recall about that  
10 particular issue.

11 A. It's a broad issue. It's an issue  
12 that -- to be precise, there's a matter pending in --  
13 well, actually there's a decision that's on appeal  
14 from the Jefferson Circuit Court where we've sought  
15 discretionary review by the Supreme Court. Is that  
16 the matter that you're referring to?

17 Q. Yes, ma'am.

18 A. It is a case that is currently in  
19 litigation on appeal.

20 Q. With regard to where it was  
21 procedurally in the year 2004, do you have a  
22 recollection that issues related to transmission  
23 lines on the Gene Snyder were under discussion with  
24 not only developers, but with the Public Service  
25 Commission in the summer of 2004?

1           A.       I don't recall whether they were under  
2 discussion at that time.

3           Q.       Specifically, do you recall attending  
4 any meetings in April and May 2004 at the Public  
5 Service Commission with Public Service Commission  
6 personnel, LG&E personnel and developers?

7           A.       I did not attend those meetings.

8           MR. GOLDBERG: Fair enough. That's  
9 all I have, ma'am.

10           THE WITNESS: Good.

11           MR. GOLDBERG: Thank you.

12           THE WITNESS: Thank you.

13

14                    (STATEMENT CONCLUDED AT 9:40 A.M.)

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1 STATE OF KENTUCKY ) (  
 ) ( SS:  
2 COUNTY OF JEFFERSON ) (  
3

4 I, ELLEN L. COULTER, Notary Public,  
5 State of Kentucky at Large, hereby certify that the  
6 foregoing sworn statement was taken at the time and  
7 place stated in the caption; that the appearances  
8 were as set forth in the caption; that prior to  
9 giving testimony the witness was first duly sworn by  
me; that said testimony was taken down by me in  
stenographic notes and thereafter reduced under my  
supervision to the foregoing typewritten pages and  
that said typewritten transcript is a true, accurate  
and complete record of my stenographic notes so  
taken.

10 I further certify that I am not  
11 related by blood or marriage to any of the parties  
hereto and that I have no interest in the outcome of  
captioned case.

12 My commission as Notary Public expires  
November 5, 2007.

13 Given under my hand this the 8th  
14 day of August, 2005, at Louisville,  
15 Kentucky.

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18 ELLEN L. COULTER  
19 NOTARY PUBLIC  
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I, the undersigned, DOROTHY O'BRIEN, do hereby certify that I have read the foregoing sworn statement, and that, to the best of my knowledge, said sworn statement is true and accurate, with the exception of the corrections, if any, listed on the errata sheet.



DOROTHY O'BRIEN

Subscribed and sworn to before me this 30th day of August, 2005.

  
NOTARY PUBLIC

My commission expires Dec. 24, 2007

COULTER REPORTING, LLC  
101 EAST KENTUCKY STREET, SUITE 200  
LOUISVILLE, KY 40203

ERRATA SHEET

NAME Dorothy O'Brien DATE OF DEPOSITION July 29, 2005

After having read my deposition, I wish to make the following changes: None

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