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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

KENDRICK R. RIGGS

JULY 28, 2005

ELLEN L. COULTER, RPR
Coulter Reporting, LLC
101 East Kentucky Street
Suite 200
Louisville, Kentucky 40203
(502) 582-1627
FAX: (502) 587-6299
E-MAIL: CoulterLLC@bellsouth.net

received
8/9/05
MN

A P P E A R A N C E S

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2
3 SPECIAL GENERAL COUNSEL TO THE PUBLIC SERVICE
COMMISSION:

4 JONATHAN D. GOLDBERG
5 Goldberg & Simpson
6 3000 National City Tower
101 South Fifth Street
Louisville, Kentucky 40202

7
8 FOR THE WITNESS:

9 JOHN BALLANTINE
Ogden, Newell & Welch, PLLC
10 1700 PNC Plaza
500 West Jefferson Street
Louisville, Kentucky 40202

11 DAVID KAPLAN
12 Frost, Brown, Todd, LLC
3200 Aegon Center
13 400 West Market Street
Louisville, Kentucky 40202

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2 The sworn statement of KENDRICK R.
3 RIGGS, taken in the offices of Goldberg & Simpson,
4 3000 National City Tower, 101 South Fifth Street,
5 Louisville, Kentucky, on Thursday, the 28th day of
6 July, 2005, at approximately 8:00 a.m.

7
8 EXAMINATION

9
10 BY MR. GOLDBERG:

11 Q. Would you state your full name for us.

12 A. Kendrick R. Riggs.

13 Q. And your business address?

14 A. I am a member with the firm of Ogden,
15 Newell & Welch, PLLC, 1700 PNC Plaza, 500 West
16 Jefferson Street, Louisville, Kentucky.

17 Q. Okay. And I take it that makes you a
18 lawyer, does it not, Mr. Riggs?

19 A. Yes, sir.

20 Q. All right. And how long have you been
21 a lawyer?

22 A. I've been licensed to practice since
23 1983.

24 Q. All right, sir. And how long have you
25 been with the Ogden, Newell & Welch firm?

1 A. I have been with the firm since about
2 1992.

3 Q. All right, sir. And what area of the
4 law do you practice in?

5 A. Public utility regulation.

6 Q. All right, sir. And is Louisville
7 Gas & Electric a client of yours?

8 A. Yes.

9 Q. And how long have they been a client
10 of yours?

11 A. I began representing them early in my
12 career when I was at another law firm. I then
13 practiced for about two and a half years in Richmond,
14 Virginia. When I returned and joined the Ogden firm,
15 the Ogden firm represented Kentucky Utilities. In
16 about 1997, Louisville Gas, generally speaking,
17 acquired Kentucky Utilities. And from about that
18 point forward, I began representing both Kentucky
19 Utilities and Louisville Gas & Electric Company.

20 Q. All right, sir. So as I understand
21 it, you represented KU before you represented LG&E.

22 A. Yes.

23 Q. All right, sir. I want to take you
24 back in time to the year 2003. And first let me ask
25 you, are you familiar with a company by the name of

1 North American Stainless?

2 A. Yes.

3 Q. Okay. And are you familiar with a
4 controversy between North American Stainless and KU
5 with regard to the rate that KU was paying for
6 electrical power?

7 A. Yes. I would say it's more the
8 service schedule, but yes.

9 Q. All right, sir. Did you participate
10 in that matter?

11 A. In the proceeding before the Public
12 Service Commission --

13 Q. Yes, sir.

14 A. -- on that representation?

15 Generally. My partner, Walter Sales,
16 was primarily responsible for that, as I recall.

17 Q. Okay. Moving forward to November of
18 2003, do you have an understanding that a rate case
19 was filed by KU -- rate cases and LG&E in late
20 November of 2003?

21 A. I believe in November 2003, LG&E and
22 KU gave their notice of their intention to file the
23 rate cases. The rate cases themselves I don't
24 believe were filed until the very end of the year.

25 Q. Okay. December of 2003?

1 A. Yes, sir.

2 Q. Okay. Prior to the notice, did you or
3 anybody at LG&E that you're aware of, or KU, have
4 opportunity to discuss the filing of a rate case with
5 any third parties?

6 MR. BALLANTINE: Let's break that down
7 to him. And then if he has knowledge of anybody at
8 KU, he can answer.

9 MR. GOLDBERG: Fair enough.

10 What I'm after is did you have any
11 conversations with any of the potential interveners
12 prior to the notice of filing?

13 A. Not that I recall.

14 Q. Okay. Let me ask you the same
15 question with regard to any of the employees of the
16 Public Service Commission. Did you have any
17 conversations prior to the filing of the notice?

18 A. No.

19 Q. Okay. Now, let me ask you the same
20 question with regard to your knowledge of KU
21 personnel having any conversation first with any
22 potential interveners, and then Public Service
23 Commission employees.

24 A. No, not that I can recall.

25 Q. All right. And then finally let me

1 ask you the same question as it relates to LG&E
2 personnel.

3 A. No, not that I can recall.

4 Q. Tell me what steps you took after the
5 notice of filing through the time of the actual
6 petition or application being filed. What was your
7 participation with regard to the rate case?

8 A. I was preparing testimony -- preparing
9 the filing.

10 Q. All right. Did you have any
11 opportunity between the time of the filing of the
12 notice and the actual filing of the petition to talk
13 to employees of the Public Service Commission about
14 the rate cases?

15 A. No, not that I recall, no.

16 Q. Okay. Let's -- I take it to now the
17 filing of the petition. And tell me, after the
18 filing of the petition until the informal
19 conference -- and I'll give you the dates so you
20 don't have to guess -- April 28, 2004.

21 A. Okay.

22 Q. So from the filing of the petition to
23 April 28, 2004, what was your responsibility or
24 duties with regard to the rate case?

25 A. I was counsel of record for both

1 utilities.

2 Q. Okay.

3 A. Participating in their representation
4 before the Public Service Commission in those
5 proceedings.

6 Q. And so that we get a sense in your
7 statement what type of activity was going on, I trust
8 you were responding to requests for information. Is
9 that --

10 A. Yes.

11 Q. -- one of the things you were doing?
12 You were having testimony prepared for
13 filing of record, I take it?

14 A. Yes.

15 Q. Okay. Any other things that you were
16 engaged in?

17 A. That's essentially -- once you prepare
18 the testimony, it is filed with the application.
19 Thereafter begins a very intensive discovery process
20 with several rounds of discovery. So that was the
21 lion's share of the work.

22 Q. Okay. Now, again focusing on that
23 time period, filing of the actual petition
24 application until the informal conference of
25 April 28, 2004, do you have a recollection of any

1 conversations between yourself and any individuals
2 representing interveners?

3 A. Between the time we filed the
4 application to the time of informal conference, did
5 we have any discussions with the interveners, yes.

6 Q. Okay. Let's start at the beginning.
7 Who, to your knowledge, at that point in time were
8 the interveners?

9 A. There were approximately 12 parties
10 ultimately to the rate case. North American
11 Stainless' dispute was consolidated with the rate
12 case. The Kentucky Industrial Utility Customers, the
13 attorney general. A collection of what I would call
14 low income groups from Louisville, Lexington and then
15 the statewide out of the Frankfort office. Kroger,
16 Fort Knox, the Kentucky Department of Energy. That's
17 about all I can recall --

18 Q. All right, sir.

19 A. -- off the top of my head.

20 Q. Now, having established that as the
21 group of interveners, can you tell me about your
22 communication with them between filing the petition
23 and April 28, 2004?

24 A. We had discussions I think with all of
25 the parties in the case about the issues in the case,

1 the merits of the case and in some cases -- in the
2 case of Kroger, resolving issues in the case.

3 Q. Okay. And this is the interveners.

4 A. Yes, sir.

5 Q. All right. With regard to the Public
6 Service Commission staff team -- and I will give you
7 the list of the team -- do you recall any
8 conversations with them from filing of the petition
9 to April 28, 2004?

10 A. The only person I would have had any
11 conversations with would have been staff counsel,
12 Richard Raff.

13 Q. All right, sir. Let me identify some
14 of these persons. You may or may not know them as
15 team members. Do you know Isaac Scott?

16 A. I do.

17 Q. Okay. Did you communicate with
18 Mr. Scott between filing of the petition and
19 April 28, 2004?

20 A. About the rate case? I did not.

21 Q. All right, sir. These questions are
22 related to the rate case.

23 A. Okay.

24 Q. Cases.

25 A. Mm-hmm.

1 Q. For your edification, it's 2003-00433
2 and 2003-00434. So your response as to Mr. Scott
3 would be you did not.

4 A. That's correct.

5 Q. All right.

6 A. I did not have any verbal
7 communication with Mr. Scott about the rate case
8 during that time.

9 Q. Okay. And you're raising a good
10 point, verbal communication. I take it information
11 is going back and forth as a function of requests for
12 information that have been made. Am I correct?

13 A. Yes, sir.

14 Q. Okay. And as part of that procedure,
15 the Public Service Commission would issue a request
16 for information to LG&E and KU, and LG&E and KU would
17 respond.

18 A. Yes, sir.

19 Q. Other than that communication with
20 Mr. Scott, are you aware of any other communication?

21 A. No, only to the extent that we would
22 file pleadings in the public record.

23 Q. Fair enough.

24 A. Something like that.

25 Q. Are you familiar with Mr. Jeff Shaw?

1 A. Yes.

2 Q. Okay. Did you have any communications
3 with him between April 28, 2004 -- I'm sorry, between
4 the filing of the petition in 2003 and April 28,
5 2004?

6 A. No.

7 Q. Okay. Are you familiar with Mr. Faud
8 Sharifi?

9 A. I don't think so.

10 Q. All right, sir. Ms. Andrea Edwards?

11 A. Yes.

12 Q. Okay. Did you have any communication
13 with her during that time period?

14 A. No.

15 Q. Are you familiar with Ms. Martha
16 Morton.

17 A. Yes.

18 Q. Did you have any communication with
19 her?

20 A. No.

21 Q. Do you know Tom Dorman?

22 A. Yes.

23 Q. Okay. Did you have an understanding
24 of what his capacity at the Public Service Commission
25 was during that period of time?

1 A. He was the executive director of the
2 Public Service Commission.

3 Q. With regard to the rate cases, did you
4 have any communication with him during that period?

5 A. No.

6 Q. Okay. Other than the rate cases, do
7 you have a recollection of having any communication
8 with Mr. Dorman during that period of time?

9 A. During that period of time, I was
10 representing LG&E and KU in other matters that were
11 either pending or informally before the Public
12 Service Commission as well as other clients.
13 Mr. Dorman seemed to take a break for smoking
14 cigarettes, and sometimes I would see him as I would
15 walk in the building and I would say hello to him.

16 Q. Okay. Other than social contact, any
17 conversations about anything?

18 A. No.

19 Q. All right. Fair enough. Now, I trust
20 you're familiar with who the commissioners are, but
21 let me give you the names of the commissioners during
22 that period of time. As you know, some of them are
23 not there but for short periods.

24 A. Mm-hmm.

25 Q. I trust you know Mr. Marty Huelsman.

1 A. Yes, sir.

2 Q. Okay. During that period of time as
3 it relates to the rate cases that we've identified,
4 did you have any communication with Mr. Huelsman?

5 A. No, sir.

6 Q. Mr. Gary Gillis, do you know him?

7 A. Yes, sir.

8 Q. Again, during that period of time, did
9 you have any communication with him?

10 A. No, sir.

11 Q. Present chairman, Mark David Goss.

12 During that period of time did you have any
13 communication with him about the rate cases?

14 A. No, sir.

15 Q. And Ms. Ellen Williams, during that
16 period of time did you have any communication with
17 her?

18 A. No, sir.

19 Q. Do you know Mr. Bob Spurlin?

20 A. Yes, sir.

21 Q. Okay. I'm not quite sure that he
22 would have been a commissioner during the 2004
23 period, but I believe he was at some point in 2003.
24 So let me ask you the question with regard to him.
25 At any time during the period did you have any

1 conversations with him about the rate cases?

2 A. No.

3 Q. Okay. Now, just as a curiosity, as
4 you know, there is a sign-in sheet at the Public
5 Service Commission. While it's not a requirement
6 that you sign in, most people do. And I can find you
7 on April 28, 2004. I'm showing Mr. Riggs.

8 A. Yes, sir.

9 Q. But I'm representing to you without
10 going through all of it that you don't appear on all
11 of them, all right?

12 A. (Nods head up and down).

13 Q. Which is not a big deal, but I do want
14 to ask you if you were there -- I presume you were --
15 for all the sessions.

16 A. Yes, sir, I was.

17 Q. Okay. April 28, 2004 is the date of
18 the informal conference. Do you have a recollection
19 of having been there on that day?

20 A. Yes, sir.

21 Q. You do appear on the sign-in sheet for
22 that. Tell me what you recall of what transpired on
23 April 28, 2004 as part of the informal conference.

24 A. The informal conference began that
25 morning with all parties and staff in the room that

1 is the -- the small hearing room at the commission.
2 I can't exactly remember how we started, but there
3 was a discussion of kind of the general procedural
4 position of the -- of the case. We then started
5 talking about the earnings sharing mechanism portions
6 of the case, and that led to some settlement
7 discussions.

8 Q. Who were the settlement discussions
9 between?

10 A. All the parties.

11 Q. Okay.

12 A. All the parties. And that ultimately
13 led to a unanimous settlement of the earnings sharing
14 mechanism issues.

15 Q. And that occurred on April 28, 2004?

16 A. Is that the Wednesday of the week?

17 Q. No, sir. This is the -- actually the
18 week before the informal conference. The extended
19 negotiating sessions from day-to-day occurred in the
20 next week, which would have been May 3rd, 2004 is the
21 Monday, May 4, 5 and 6, Tuesday, Wednesday and
22 Thursday.

23 A. I don't think that's right,
24 Mr. Goldberg. I think that that -- the first week of
25 May is when the hearings began.

1 Q. Yes, sir.

2 A. Now, the informal conference where the
3 settlement discussions began occurred the week
4 before.

5 Q. That's what I'm representing to you.

6 A. Okay. And then continued through
7 those --

8 Q. Right.

9 A. -- hearings the following week.

10 Q. So April 28th would have been the
11 prior week.

12 A. Yes, sir.

13 Q. And the parties got together beginning
14 May 3rd, 4th, 5th and 6th for further discussions.
15 That's my understanding.

16 A. Yes. I mean, the parties discussed
17 settlement starting that Wednesday before the rate
18 cases began, and those discussions continued on
19 through the next week.

20 Q. Okay. I was not aware that there was
21 a settlement arrived at on anything on the first day
22 at the informal conference.

23 A. Oh, yes, sir. Yes. The earnings
24 sharing mechanism portion of the case -- it took all
25 day, but we did settle that portion of that. And

1 that is the subject of a separate settlement
2 agreement that was filed in the record in that case.

3 Q. Do I take it that all parties were in
4 the room during the negotiation -- that negotiation
5 of April 28, 2004?

6 A. Yes. There was some caucusing and
7 breakouts and that type of thing. Staff was acting
8 as a mediator, but the negotiations on the -- offers
9 and acceptances and that type of thing occurred in
10 that hearing -- or that small hearing room.

11 Q. Okay. Had you participated in
12 settlement discussions in other matters at the Public
13 Service Commission before where staff was involved?

14 A. Yes, I have.

15 Q. Was the procedure that was followed on
16 April 28, 2004 and for the two rate cases in general
17 the same?

18 A. Yes, it is.

19 Q. Okay.

20 A. Yes, it is.

21 Q. Okay.

22 A. With the -- at least four or five
23 other cases that I can recall --

24 Q. Fair enough.

25 A. -- where staff acted as a mediator.

1 Q. And did the attorney general
2 participate, and his staff, on April the 28th, 2004,
3 the settlement discussions?

4 A. Yes.

5 Q. Okay. And for the record, would you
6 identify the two individuals from the attorney
7 general's office who were present?

8 A. Betsy Blackford and Dennis Howard.

9 Q. Okay. It's my understanding those are
10 the two individuals that usually appear in Public
11 Service Commission matters for the attorney general?

12 A. Yes. There are one or two other
13 lawyers in the utility rate intervention division,
14 but they are the two lawyers that typically appear in
15 the LG&E and KU cases.

16 Q. All right, sir. You mentioned that
17 the staff was mediating. Who of the Public Service
18 Commission staff actually did the mediation?

19 A. Richard Raff.

20 Q. Okay. Any of the other team members
21 participate?

22 A. Not -- not directly. And certainly
23 not at the level that he did.

24 Q. All right. You had referenced that
25 you had some conversations with Mr. Raff, as I

1 recall, between filing a petition and April 28, 2004.

2 A. Yes.

3 Q. Okay. Tell me, as best you can
4 recall, sum and substance of those conversations.

5 A. They were procedural in nature,
6 Mr. Goldberg. That's about all I can recall. It may
7 have been motions for consolidation of cases and that
8 type of thing.

9 Q. Fair enough. Do I take it, then, you
10 do not have a recollection of having discussed with
11 Mr. Raff any of the merits of the case between the
12 filing of the application in 2003, April 28, 2004?

13 A. That's correct, I did not.

14 Q. Fair enough. How long did the
15 April 28, 2004 session take?

16 A. All day. After the ESM issues were
17 settled, we then started talking about the issues in
18 the rate case.

19 Q. And so that your statement is clear,
20 ESM is earnings sharing mechanism?

21 A. Yes, sir. It's a rate mechanism that
22 was at issue in the case.

23 Q. All right. After those were resolved,
24 you started -- did that take the whole day, April 28,
25 2004?

1 A. Almost the entire day. At the end of
2 the day we began discussing some of the issues in the
3 rate case. And we adjourned with the -- I think the
4 understanding that the KIUC and the attorney general
5 would work together to make an offer to us to settle
6 the case the following day.

7 Q. Okay. And when you say "settle the
8 case," all the remaining issues in the case?

9 A. The rate case and -- well, the issue
10 that we were struggling with was the revenue
11 requirements for electric cases and the gas case.

12 Q. I probably learned more than I need to
13 know, and I'm probably dangerous with this knowledge
14 now, Mr. Riggs, so bear with me. It's my
15 understanding there were two issues to the rate
16 cases: One was revenue requirement, which I define
17 as how much of a rate increase; and the other was
18 rate design, which I define as how it should be
19 charged. Is that essentially correct?

20 A. I would add to that a third issue
21 which is called revenue allocation.

22 Q. All right, sir.

23 A. Revenue requirement, generally
24 speaking, would be how much additional revenue should
25 be awarded to the companies. Revenue allocation

1 would be how should that increase be allocated among
2 the customer classes. And then rate design would be
3 your third point of how should that be charged, what
4 rate should be charged.

5 Q. Okay. In addition, I trust at that
6 point in time -- again, we're on April 28, 2004 --
7 the North American Stainless issues were still
8 outstanding.

9 A. Yes.

10 Q. Was there discussion by breakout
11 session of the North American Stainless issues?

12 A. Yes.

13 Q. On the April 28th?

14 A. I don't recall.

15 Q. Okay. Am I correct that the North
16 American Stainless issues were dealt with primarily
17 by Mr. Sales?

18 A. Yes.

19 Q. Okay. All right, sir. Any
20 communication between April 28, 2004 and the next
21 session, which would have been the prehearing
22 conference of May 3rd, 2004, with PSC staff?

23 A. Well, may I have a blank piece of
24 paper?

25 Q. Sure.

1 A. Can I write some dates down just to
2 keep this straight?

3 Q. Absolutely.

4 MR. BALLANTINE: I looked at a
5 calendar, and April 28 was a Wednesday. Derby Day
6 was Saturday, May 1, that year. And so Oaks Day
7 would have been the April 30th. And then Monday was
8 May 3, which started that week.

9 THE WITNESS: Okay.

10 Q. Again, communications with PSC staff
11 between April 28, 2004 and May the 3rd, Wednesday to
12 Monday.

13 A. Well, yeah. I mean, generally
14 speaking, yes, the negotiations continued through
15 that Monday.

16 Q. Okay. Now, the parties were not
17 physically at the PSC office, or were they?

18 A. Parties were physically at the PSC
19 office on Thursday, April 29th.

20 Q. All right, sir. They were not there
21 the 30th of April?

22 A. On Friday, April 30th, the
23 companies -- the counsel for KIUC, met with the
24 attorney general in his office and the PSC counsel
25 joined by phone.

1 Q. All right, sir. On the 29th that was
2 the only meeting of the parties?

3 A. No, sir. That's on the --

4 Q. On the 29th?

5 A. No, sir.

6 Q. 30th?

7 A. That was on the 30th.

8 Q. Thank you.

9 A. On April 29th, all the parties were
10 present at the PSC at the PSC's offices where further
11 negotiations were had.

12 Q. Was that an all-day session?

13 A. On the 29th, sir?

14 Q. Yes, sir.

15 A. Yes, sir.

16 Q. Okay. And was it -- from a
17 methodology and process point of view, was it handled
18 the same way April 28, 2004 was?

19 A. Yes, sir.

20 Q. Okay. Meaning with regard to the
21 Public Service Commission staff, Mr. Raff was
22 mediator.

23 A. Yes, sir.

24 Q. Okay. Any other participation by
25 other members of the PSC staff?

1 A. Well, other members of the PSC staff
2 were present, but in terms of active participation,
3 Mr. Raff was the active mediator.

4 Q. All right, sir. And who do you recall
5 being present from the Public Service Commission
6 staff on the 29th?

7 A. Mr. Shaw and Mr. Scott.

8 Q. Okay. Any others?

9 A. No.

10 Q. Okay. And I failed to ask you that
11 same question with regard to the 28th.

12 A. My answer would be the same, Mr. Raff,
13 Mr. Shaw and Mr. Scott.

14 Q. Would it be a fair statement to say
15 that those three gentlemen were present throughout
16 all sessions --

17 A. They were --

18 Q. -- at the Public Service Commission?

19 A. Yes. They were certainly present on
20 the 28th, the 29th. Mr. Raff was present by phone on
21 the 30th. And then through the sessions that
22 occurred the following week.

23 Q. You said Mr. Raff was present by phone
24 on May the 3rd. Did you mean April the 30th?

25 A. April the 30th, yes, sir.

1 Q. All right, sir.

2 A. Friday, April the 30th, Mr. Raff was
3 present by phone.

4 Q. Let's go back to the 29th. Anything
5 resolved on April 29th that you recall?

6 A. No. No issues were settled on the
7 29th. There was a standing number presented at the
8 end of the day by the commission staff that the
9 company was asked to advise whether it would
10 recommend or not.

11 Q. Okay. Let me see if I can understand
12 this. When you say "a standing number," what are you
13 communicating to us?

14 A. On Thursday, the 29th, the session
15 began with the attorney general and the KIUC
16 proposing an offer.

17 Q. When you say "an offer," so that I'm
18 clear, that's on the revenue requirements side?

19 A. Yes.

20 Q. Okay.

21 A. Yes. They made an offer of settlement
22 on the revenue requirement. The company caucused.
23 The company made a counteroffer, and at that point
24 the parties were fairly far apart. The interveners
25 then met separately with the commission staff over

1 several hours, and the company waited.

2 Following that meeting, the company
3 met with all the parties. And this was towards the
4 end of the day, and the staff counsel, acting as a
5 mediator, had then indicated that on a prehearing
6 basis staff, approximately more or less, could see
7 that the respective revenue requirements for the two
8 electric cases and the gas case were worth so much.
9 Staff indicated that these values were determined on
10 a -- what they said was a black box basis. They
11 weren't giving how they arrived at the figures. But
12 they said that on a prehearing basis, this is the
13 value of the revenue requirements, that they could
14 change more or less with the hearing of the case, but
15 that this is -- these were the values they put forth.

16 At that point, the attorney general
17 and the KIUC asked the companies whether they could
18 accept the numbers. The company said that they had
19 to evaluate them. They both, along with the
20 commission staff, wanted to then know whether we
21 could recommend those numbers for settlement. We
22 indicated to them that we needed the evening to
23 evaluate those and wanted to meet the next day to --
24 to tell them of our position. And that's -- that's
25 the way the session on Thursday, April 29th ended.

1 Q. All right, sir. Was it your
2 understanding that the staff was requested by the
3 attorney general and representatives of KIUC to make
4 this presentation?

5 A. I had the impression that either one
6 or both had asked for that.

7 Q. Who was representing KIUC?

8 A. Two lawyers, David Boehm and Mike
9 Kurtz from the firm of Boehm, Kurtz & Lowry.

10 Q. All right. Did you ever develop an
11 understanding that Mr. Boehm and/or Mr. Kurtz, along
12 with the attorney general's participants, had asked
13 Mr. Raff to make such a presentation too?

14 A. I don't think I have any direct
15 knowledge, but they seemed to be aware of the figure
16 when we walked back into the room.

17 Q. All right, sir. Next day -- so that
18 I'm clear, as you leave on the 29th, there is no
19 resolution of revenue requirements. You were going
20 back to your client for consideration.

21 A. Yes, that's correct.

22 Q. Okay. No meeting on the 30th, but
23 there is a phone call. Am I correct?

24 A. There is a meeting in the attorney
25 general's office in Frankfort, Kentucky, with the

1 attorney general and representatives from the
2 company, and KIUC. Mr. Raff joins that meeting by
3 phone.

4 Q. Okay. Was he originally invited to
5 the meeting?

6 A. Yes.

7 Q. Okay. He was unable to participate in
8 person?

9 A. Yes.

10 Q. All right. How long did that meeting
11 last?

12 A. The meeting started about 3:00. Maybe
13 lasted two hours.

14 Q. How long did Mr. Raff participate by
15 telephone?

16 A. The entire time.

17 Q. All right, sir. Anything resolved
18 during that phone conversation?

19 A. Yes. During that phone conversation,
20 the company told Mr. Raff, the attorney general's
21 representatives and the KIUC, that it would recommend
22 settling the revenue requirements for the two
23 electric cases and the gas base rate case on the
24 figures that had been identified in the settlement
25 conference on April 29th with some clarifications,

1 six clarifications.

2 Q. All right, sir.

3 A. And I presented those clarifications
4 to them. There was some negotiation over one of the
5 clarifications, and that was resolved by unanimous
6 agreement.

7 Q. All right. An agreement amongst
8 representatives of KIUC, attorney general, the
9 companies?

10 A. Yes.

11 Q. Okay. I presume Mr. Raff was simply
12 mediating?

13 A. Yes, he was. Yes, he was. Those
14 clarifications were reflected completely in the
15 settlement document, partial stipulation settlement
16 agreement recommendation that was filed with the
17 commission.

18 Q. All right. As you left the attorney
19 general's office on April the 30th, do I take it you
20 believe the matter had been -- well, at least the
21 matter between three of the parties had been
22 negotiated and resolved?

23 MR. BALLANTINE: What date was that?

24 MR. GOLDBERG: April 30th.

25 A. Yes, Friday, April 30th. When we

1 left, we left with the understanding that the
2 representatives of the attorney general would
3 recommend that settlement agreement, use their best
4 efforts to recommend that settlement agreement.

5 Q. To the group as a whole.

6 A. Yes.

7 Q. When I say "the group," the
8 interveners.

9 A. Yes. First to Mr. Stumbo and then to
10 the interveners.

11 Q. Okay. Who participated on behalf of
12 the attorney general in the April 30th meeting?

13 A. That would have been Mr. Howard and
14 Ms. Blackford.

15 Q. Okay. The attorney general himself
16 did not participate?

17 A. No, sir, he did not, not on
18 April 30th.

19 Q. To your knowledge, was Ms. Blackford
20 and Mr. Howard communicating with him during this
21 day?

22 A. I don't know.

23 Q. All right. Weekend occurs.

24 A. Yes, sir.

25 Q. May the 4th is a Monday. That is a

1 date -- I'm sorry, May the 3rd is a Monday. That's
2 the date that was scheduled for the prehearing
3 conference. Do you have a recollection of that being
4 the case, i.e., that it was scheduled for the
5 prehearing conference?

6 A. No, not one way or the other.

7 Q. All right. You do not have a
8 recollection?

9 A. No, I do not.

10 Q. All right. Nonetheless, you came on
11 May the 3rd, 2004, to the Public Service Commission.

12 A. No, I don't think so.

13 Q. All right. You don't think you were
14 there on that day?

15 A. Not on Monday, no.

16 Q. All right, sir. To your knowledge,
17 was anybody there on Monday?

18 A. I don't know.

19 Q. Okay. May the 4th.

20 A. Was the commencement of the hearing.

21 Q. All right, sir. And I trust you came
22 to the Public Service Commission on that day?

23 A. Yes, sir, I was there.

24 Q. And were all the interveners there, to
25 your knowledge?

1 A. Yes, they were.

2 Q. Okay. And tell me what you recall of
3 the events of May 4th, 2004.

4 A. On Tuesday, May 4th, the hearing began
5 at the regular scheduled time. The issues had not
6 been settled at that point, and the KIUC counsel
7 asked the commission if it would adjourn the hearing
8 for the purpose of allowing those negotiations to
9 continue. The attorney general agreed with that and
10 we adjourned. The hearing was adjourned, and we
11 commenced negotiations again.

12 During that day, the attorney general
13 told me that it could accept the values that had been
14 presented for resolution of the revenue requirement
15 issues at the April 29th conference and then
16 discussed again on the April 30th conference. The
17 attorney general told me on Tuesday, May 4th, that
18 they could accept those positions as a resolution of
19 the three revenue requirement issues.

20 Q. All right, sir. Do you have a
21 recollection of what time of the day that was?

22 A. No, sir, I don't.

23 Q. Okay. Was it after the record had
24 been closed for the day by the commissioners and
25 negotiations had begun?

1 A. Yes, sir.

2 Q. Okay. Now, who from the attorney
3 general's staff made that representation to you?

4 A. Mr. Howard.

5 Q. Okay. I take it the attorney general
6 himself did not.

7 A. That's correct. But Mr. Howard
8 represented that he had the authority of the attorney
9 general's offer to accept it.

10 Q. All right. I trust you inquired of
11 Mr. Howard of that very fact.

12 A. Yes, yes.

13 Q. Okay. He represented to you the
14 attorney general had agreed to the revenue
15 requirements proposal.

16 A. Yes, sir, he did.

17 Q. All right, sir. Anybody else in the
18 attorney general's office present when that
19 representation was made to you? Was Ms. Blackford
20 there?

21 A. Ms. Blackford was present. I don't
22 recall specifically if she was in that conversation
23 at that moment, but the general understanding among
24 all the parties was that with the acceptance of those
25 values for the revenue requirement by the attorney

1 general, we were now going to proceed for negotiation
2 on the revenue allocation and rate design issues.

3 Q. Okay.

4 A. And that was -- it was affirmatively
5 represented to the parties that the attorney general
6 had agreed.

7 Q. Do you have a recollection of
8 Mr. Howard having gotten up amongst all the parties
9 and made that announcement?

10 A. Yes.

11 Q. How many people approximately would
12 have been in the room at that point?

13 A. It was a very large number,
14 Mr. Goldberg. Easily 30.

15 Q. All right, sir. Now, do I take it
16 that on April the 30th, back at the attorney
17 general's office, there was little or no discussion
18 about rate design and rate allocation?

19 A. That's correct.

20 Q. Okay. So was it an agreement amongst
21 the parties to deal with revenue requirements issues
22 first and try to resolve those before going to the
23 other two?

24 A. Yes, sir.

25 Q. Okay. That was a conscious effort of

1 the parties?

2 A. Yes, sir.

3 Q. Okay. Fair enough. Now, we have this
4 announcement by the attorney general sometime on May
5 the 4th, 2004. Did the parties continue to negotiate
6 on May 4, 2004 on the other issues?

7 A. Yes, sir.

8 Q. Okay. So does that give you a sense
9 that it was -- the announcement was sometime during
10 the middle or early part of the day?

11 A. Yes, sir, because we were able to
12 settle a great number of issues during the course of
13 that day.

14 Q. All right. May the 4th.

15 A. Yes, sir, on Tuesday, May the 4th, we
16 were able to settle a great number of issues with
17 respect to revenue allocation and rate design and
18 other points that you can see in the settlement
19 agreement. And given the extent of the issues that
20 were resolved that day, that announcement would have
21 had to come fairly early.

22 Q. All right, sir. Now, I take it on May
23 the 4th, 2004, the commissioners were there for the
24 opening of the hearing and everything on the record,
25 but they did not participate in any of these

1 discussions you're referencing.

2 A. That's absolutely correct.

3 Q. All right. And they did not
4 participate on April the 30th, 2004 at the attorney
5 general's meeting.

6 A. No, they did not.

7 Q. All right. And the only person from
8 the Public Service Commission participating in those
9 was Mr. Raff by telephone.

10 A. On April 30th?

11 Q. Yes.

12 A. Yes, sir.

13 Q. Okay. Did you have any communication
14 with any of the Public Service Commission staff other
15 than Mr. Raff on May the 4th?

16 A. I'm sorry?

17 Q. On May the 4th?

18 A. Which --

19 Q. Did you have any communication with
20 any of the Public Service Commission staff? You've
21 identified Mr. Scott, Mr. Shaw and Mr. Raff would
22 have been present at the meetings.

23 A. Yes, sir.

24 Q. Do you have a recollection of having
25 communicated with Mr. Scott or Mr. Shaw?

1 A. I apologize, Mr. Goldberg. Did I have
2 any communications with Mr. Shaw or Mr. Scott on what
3 date, please?

4 Q. May the 4th.

5 A. On May the 4th?

6 Q. Yes, sir.

7 A. They would have participated in the
8 negotiation sessions. And to the extent that we were
9 sitting as a group in that small hearing room behind
10 the main hearing room at the tables and in the
11 chairs, Mr. Raff was seated at the table and Mr. Shaw
12 and Mr. Scott were seated to his respective right and
13 left, I think. They may have commented in those kind
14 of general discussions, but I never had any separate
15 discussions with them.

16 Q. Okay. Other than in the settlement
17 room.

18 A. Yes, sir.

19 Q. All right. Can you recall anything
20 else being agreed upon on May the 4th?

21 A. Let's see. Certainly the three
22 revenue requirement issues were agreed upon: LG&E
23 electric, LG&E gas and KU electric. The revenue
24 allocation issue was resolved. There were specific
25 rate design issues that were resolved for the

1 attorney general. A number of those were negotiated
2 with the attorney general. We also agreed to a pilot
3 program for the Kentucky Department of Energy. We
4 confirmed the rate program that the Kroger Company
5 had sought and had been reflected in the stipulation.
6 That's all I can recall.

7 Q. Okay. Mr. Sales and the North
8 American Stainless people are still off in their
9 little room?

10 A. They are.

11 Q. They're not part of the general
12 discussion at this point or are they in and out?

13 A. They're in and out.

14 Q. Okay. Any other sidebar negotiations
15 going on?

16 A. I think there were some sidebar
17 negotiations going on with low income over a program
18 to support contributions for energy assistance to low
19 income customers.

20 Q. Were you personally participating in
21 those or was somebody else?

22 A. I was in and out of those.
23 Mr. Cornett with my firm was handling those.

24 Q. Okay. What's Mr. Cornett's first
25 name?

1 A. Greg.

2 Q. All right, sir. All right.

3 A. He and Ms. Sturgeon, Allyson Sturgeon,
4 were working with them.

5 Q. Okay. How long were you there on May
6 the 4th?

7 A. I recall it was very late.

8 Q. Yes, sir.

9 A. It could have been 10:00.

10 Q. And the parties agreed to reconvene
11 again on May the 5th?

12 A. Yes, sir, we did.

13 Q. All right. Was -- well, take me
14 through the events of May the 5th, 2004.

15 A. We had begun drafting the settlement
16 agreement as -- once the attorney general had agreed
17 to the revenue requirements as the negotiations
18 progressed. At the time we would come to a tentative
19 agreement, come back, start putting it in. We went
20 back to the hotel, worked on the agreement more,
21 finished it late that night and brought it to the
22 commission Wednesday morning, May the 5th. All the
23 parties were present. We convened again in the small
24 conference room.

25 Q. Was there any hearing testimony taken

1 by the commission -- commissioners on that day?

2 A. Well, there ultimately was, but not at
3 the beginning of the morning.

4 Q. Fair enough. Beginning of the
5 morning --

6 A. Yes.

7 Q. -- is it the same parties that had
8 been there on May the 4th?

9 A. Yes.

10 Q. Okay. And the same personnel from the
11 Public Service Commission?

12 A. Yes.

13 Q. All right, sir.

14 A. Yes. We distributed the settlement
15 agreement to all the parties. We proceeded in the
16 small hearing room. We were doing a page turn,
17 describing the issue and presenting the way we had
18 drafted that and taking comments on that section by
19 section, point by point, page by page. And as we
20 walked through the settlement agreement, we would
21 resolve any comments or drafting points with that
22 and, again, confirming that this is what we had
23 talked about the day before.

24 During that review, Mr. Howard, I
25 think, entered the room and advised that the attorney

1 general could not agree to the settlement and that
2 Mr. Stumbo was en route to the Public Service
3 Commission.

4 Q. Do you recall generally what time of
5 day that was?

6 A. 9:30, 10:00.

7 Q. Okay. In the morning?

8 A. Yes, sir.

9 Q. All right, sir.

10 A. Mr. Stumbo arrived. He then met with
11 Mr. McCall and I and told us that he could not
12 support the settlement agreement and that there had
13 been some type of mistake or miscommunication between
14 his front office and himself with respect to that and
15 that he could not and would not support the
16 settlement agreement.

17 Q. How long did your conversation with
18 Attorney General Stumbo last?

19 A. No more than 5 minutes, 10 minutes at
20 most.

21 Q. Okay. What happened on May the 5th
22 after that?

23 A. I think that was still about
24 mid-morning. The parties, again, met in the
25 conference room where we had been discussing that.

1 It was announced of that. There was a discussion
2 among all parties about what to do. And there was a
3 general agreement reached that, well, given all the
4 progress that we had made on all of the issues and
5 the sense of momentum that we should continue to
6 negotiate, but we would revise the settlement
7 agreement from being a unanimous settlement agreement
8 to one that simply reflected where we had unanimous
9 agreement and where we could simply stipulate to
10 recommendations.

11 And we proceeded to revise the
12 settlement agreement with the consent or agreement of
13 all parties for that process. It was also agreed,
14 though, that we would proceed with the hearing. And
15 I believe the hearing was commenced that afternoon.
16 So we continued to negotiate and talk about points of
17 where the attorney general was in agreement and
18 points where the attorney general was not in
19 agreement so that could be reflected in the
20 settlement agreement. And then we commenced the
21 evidentiary hearing at, I guess, 1:00 or 1:30 that
22 afternoon, and the company began presenting its case.

23 The interveners who wished to
24 stipulate to the issues that the attorney general
25 would not agree with, agreed to withdraw their

1 testimony and did so on the record, stating that they
2 had reached an agreement with the company and they
3 wished to submit a joint stipulation in lieu of their
4 testimony. So the KIUC, Kroger, Kentucky Department
5 of Energy, low income, North American Stainless, made
6 that agreement.

7 And the company then proceeded with
8 its direct and rebuttal case. That was presented in
9 the typical way that that proceeding is presented
10 before the commission: Commissioners hearing that
11 evidence; the company's witnesses appearing, being
12 made available for cross-examination. The parties
13 were in attendance at the hearing, and the attorney
14 general asked questions of the company's witnesses,
15 cross-examined them. The other counsel for the
16 parties were offered the opportunity to ask
17 questions, and declined. Staff may have asked some
18 questions. Commissioners may have asked some
19 questions, and each witness appeared and gave their
20 testimony for that.

21 At the end of that session -- and this
22 is -- we're on May 5th, correct?

23 Q. Yes, sir.

24 A. The hearing was adjourned to the
25 following day. And the parties again, all parties,

1 returned to the small hearing room immediately
2 adjacent to the commission's main hearing room and
3 commenced negotiations again.

4 Q. That was the beginning of the day,
5 May 6th?

6 A. This was in the evening of May 5th.

7 Q. May 5th, all right, sir.

8 A. Is my recollection. And May 5th, we
9 continued to have further negotiations that evening
10 about some of the details of the points that we had
11 agreed to. And I believe that evening we agreed with
12 low income customers to an energy assistance program.
13 The attorney general was very much involved with
14 those negotiations. And we agreed to that -- that
15 part, and I believe we also agreed and resolved
16 almost all of the North American Stainless issues
17 that night as well.

18 Q. Any negotiations over revenue
19 requirements with the attorney general?

20 A. I'm sorry?

21 Q. Were there any negotiations on that
22 day with the attorney general over revenue
23 requirements?

24 A. There were. During that day, on
25 May 5th, the attorney general then advised that it

1 could agree to accept the \$12 million figure that had
2 been the value the staff had identified at the
3 April 29th conference. The attorney general advised
4 during the course of that day that the attorney
5 general could accept that to settle the gas revenue
6 requirement.

7 Q. Okay. So it was settled --

8 A. Yes, it was.

9 Q. -- on the 5th.

10 A. Yes, it was. The gas revenue
11 requirement for LG&E was settled on the 5th.

12 Q. But the electricity revenue
13 requirement was not resolved on May the 5th.

14 A. That's correct, as with the attorney
15 general. All other parties, though, were
16 recommending, through a stipulation, that the
17 commission award the companies the amounts that had
18 been identified at the April 29th conference.

19 Q. Okay. How long was Attorney General
20 Stumbo present on May the 5th?

21 A. I just recall the meeting he had with
22 Mr. McCall and I. He may have sat in the audience
23 when the hearing resumed for a period that morning,
24 but I don't know when he left.

25 Q. Okay.

1 A. He did not participate any further in
2 any negotiations.

3 Q. On May the 5th, did the attorney
4 general in his conversation reference -- in his
5 conversation with you and Mr. McCall, that he thought
6 ex parte conduct had occurred?

7 A. No, he did not.

8 Q. Okay. Did he reference that he
9 thought collusion or inappropriate behavior of some
10 kind had occurred?

11 A. No, he did not.

12 Q. Okay.

13 A. He simply said that there was a
14 disagreement or a -- between he and someone else in
15 his -- or a misunderstanding is more accurate --
16 between he and someone else in his front office with
17 respect to his own position on this case.

18 Q. All right. On May the 6th, 2004, did
19 the discussions continue?

20 A. The hearing continued. The attorney
21 general's witnesses I believe at this point were
22 presented for cross-examination. We cross-examined
23 them. And the discussions did continue. We were
24 working away, all parties, including the attorney
25 general, on the settlement agreement and the language

1 of that, and that had gone through a couple of
2 drafts. At the commencement of the hearing that
3 morning, though, I believe that's when staff counsel
4 announced on the record that he had heard an
5 interview by Attorney General Stumbo in which during
6 that radio interview he had made the allegation of
7 collusion.

8 Q. Staff counsel being Mr. Raff?

9 A. Yes.

10 Q. Okay. And he put that on the record
11 for the May 6th hearing, correct?

12 A. Yes, he did.

13 Q. All right, sir. Did he go into any
14 detail of the radio message from the attorney general
15 that he had heard?

16 A. He stated that he'd heard the radio
17 message I think on WHAS that morning, and that
18 Attorney General Stumbo was giving an interview and
19 in that interview, according to Mr. Raff, Mr. Stumbo
20 apparently stated that he believed that there was
21 some type of collusion between the parties in the
22 rate case.

23 Q. Okay. After Mr. Raff made his
24 statement, what course of action was taken with
25 regard to the attorney general's statement on the

1 record?

2 A. On the record, the chairman asked all
3 counsel to state whether they were aware of any
4 collusion, and each counsel affirmatively stated on
5 the record that they knew of no such collusion.

6 Q. Okay.

7 A. At that point, I also raised and asked
8 whether any party had any objection to the process by
9 which we had used through that period of time to
10 negotiate that settlement agreement and stated that
11 we had all been working very, very hard over this
12 past week and a half to reach the agreement that we
13 had reached, and I wanted to know whether any party
14 had any objection to the process that had been used,
15 and no objection was raised on the record.

16 Q. All right. Do you recall the response
17 of the attorney general's staff when the chairman
18 asked if they knew of any collusion?

19 A. Yes. I think Mr. Howard said that he
20 knew of no collusion, but he made some other
21 statement, of course, he didn't know what he didn't
22 know.

23 Q. All right. Ms. Blackford, did she
24 make a statement on the record, or do you recall?

25 A. Not that I recall.

1 Q. All right. Did you have a sense that
2 Mr. Howard was speaking for the attorney general?

3 A. He affirmatively represented the
4 attorney general. He was the representative for the
5 attorney general. He was counsel of record for the
6 office of the attorney general.

7 Q. And when you raised your question, I
8 presume he responded in a positive way?

9 A. I don't -- the record would show
10 whatever it would show, Mr. Goldberg. I don't
11 recall. But no one expressed any objection then or
12 at any time prior to that to the process that was
13 being used to negotiate that settlement at any time.

14 Q. All right, sir. After these events of
15 May 6th in the hearing room, what else transpired on
16 that day?

17 MR. BALLANTINE: Mr. Goldberg, pardon
18 my interruption in your flow. I'm not clear that
19 this record is clear. At the time of your inquiry,
20 Mr. Riggs, about the -- whether any party had any
21 objection to the process, were the representatives of
22 the attorney general physically present in the room
23 and heard your question?

24 THE WITNESS: Yes, sir. This was in
25 the hearing room. We were on the record, and they

1 were present and in attendance.

2 MR. BALLANTINE: Pardon my
3 interruption.

4 MR. GOLDBERG: No, no. Thank you very
5 much.

6 MR. BALLANTINE: Thank you.

7 Q. To follow up on Mr. Ballantine's
8 question, I take it your question was a rhetorical
9 question. If somebody knew of something, you were
10 requesting them to come forward, and you made it to
11 the group rather than individual -- individual
12 response?

13 A. Yes. I made the statement to the
14 group, and I asked the group if anyone in the group
15 had any objection to the process by which we had
16 achieved the settlement to date to speak now and
17 state any objection or concern they had because we
18 were very close to recommending the agreement. All
19 parties were very close to recommending the agreement
20 to their clients and signing the agreement, and I
21 wanted to know, after putting in that effort, then
22 and there, whether there was any objection to the
23 process in any respect to the agreement that we had
24 reached.

25 Q. All right, sir. And you heard no

1 negative response.

2 A. I heard no negative response, and at
3 no time on the record or off the record did anyone
4 ever indicate to me they had any concern with the
5 process that was being used to reach that settlement
6 agreement.

7 Q. All right, sir. How long was the
8 hearing process on May the 6th, 2004? How much time
9 was spent in the actual hearing room with the
10 commissioners?

11 A. I can't recall specifically. We -- we
12 finished the evidentiary portion of the case, and
13 then adjourned and probably talked some more among
14 the parties as to the particular details of the final
15 settlement agreement. I believe at the end of the
16 hearing, the chairman asked each of the counsel --
17 the issue was at that point -- the evidentiary
18 hearing was for all intents and purposes concluded.
19 And we had reached an agreement with the settlement
20 agreement, the language. There may have been a last
21 look to confirm things, but I think it was
22 essentially completed.

23 The chairman asked each of the counsel
24 at that point -- the parties had proposed having a
25 separate hearing the following week on the settlement

1 agreement itself. And the chairman asked each of the
2 parties specifically whether each of the parties
3 would recommend the agreement to their client for
4 accepting. And each counsel, to my recollection, on
5 the record stated that they would recommend the
6 agreement to their client.

7 Q. The attorney general, his
8 representatives so stated that?

9 A. Yes, sir, that's my recollection.

10 Q. Okay. Now, were all issues resolved
11 as of that point in time?

12 A. Excuse me, may I get a glass of water,
13 please?

14 Q. Absolutely. So that I'm clear, May
15 the 6th --

16 A. Yes.

17 Q. -- by the close of the evidence, was
18 it your understanding that all issues had been
19 resolved as of that point in time?

20 A. There was one outstanding issue that
21 remained to be negotiated, and that had to do with
22 what was called the energy credit for the curtailable
23 service rider. And that was a rate design issue that
24 was at issue between the KIUC and the attorney
25 general. We agreed to meet again on Monday,

1 May 10th, for that limited issue, and we did.

2 Q. All parties?

3 A. All parties were invited. I don't
4 think all parties had the same level of interest. I
5 recall that we had a phone line that if you wanted to
6 not attend physically, you could dial in and
7 participate by phone. But we met again at the
8 commission's offices on May 10th, it's my
9 recollection, to negotiate that energy credit for the
10 curtailed service rider. That was at that point in
11 the settlement agreement, and I think we had resolved
12 that issue. But then there was some discussion they
13 wanted to talk about that more. But other than that,
14 there was there was complete agreement as to all
15 issues when we adjourned on May 6th.

16 Q. All right. So that I'm clear, was the
17 attorney general in agreement on the revenue
18 requirements issue at that point in time?

19 A. The attorney general was in agreement
20 with respect to the gas revenue requirement on
21 Thursday, May 6th. The attorney general was not in
22 agreement with respect to the LG&E or KU electric
23 revenue requirements when we adjourned on May 6th.

24 Q. All right, sir.

25 A. And the agreement expressly stated

1 that.

2 Q. Okay. After May the 6th, the parties
3 meet. You've told us about May 10th.

4 A. Yes, sir.

5 Q. Did they meet on May 11th?

6 A. I believe the hearing was held on
7 May 11th on the settlement agreement.

8 Q. Okay. All right. Tell me what you
9 recall of the events of May 11th.

10 A. We had circulated the settlement
11 agreement to the parties by e-mail following the
12 meeting on May 10th where the attorney general and
13 the KIUC could not agree on the energy credit for the
14 curtail service rider. We removed the language, the
15 placeover, so to speak, from the settlement agreement
16 and circulated that again to the parties by e-mail is
17 my recollection.

18 The parties were asked -- and we
19 called all of the parties and asked them to meet us
20 at the Public Service Commission at 8:00 that morning
21 on Tuesday, May 11th for signature. All of the
22 parties appeared with the exception maybe of
23 Mr. McCormick, who was from out of town, and I think
24 he faxed his signature in to us. We had the
25 settlement agreements. All the parties signed the

1 settlement agreements, including the attorney
2 general. That agreement was then filed into the
3 record with the executive director's office. And it
4 took a period of time to copy the agreement and
5 distribute it, but that was done and the hearing on
6 the settlement agreement was commenced on May 11th.

7 Q. Was it concluded on May 11th?

8 A. Yes, sir, it was.

9 Q. Okay. Any meeting on May the 12th?

10 A. Not that I recall, no.

11 Q. Okay. Could it be that what you
12 thought was May 11th really happened on May the 12th?
13 Is that a possibility?

14 A. Yes, sir.

15 Q. Okay. I'm showing a sign-in sheet for
16 the 12th, but not the 11th. Possibility it could
17 have been on --

18 A. Yes, sir.

19 Q. All right.

20 A. Yes, sir.

21 Q. Fair enough. What is the status of
22 the matter now as you know it of the two rate cases?

23 A. Commission issued its orders on
24 June 30th, 2004, approving new rates, new electric
25 rates for LG&E and KU and new gas rates for LG&E.

1 The attorney general requested rehearing on two
2 issues: One having to do with the depreciation
3 issues, and the second on the effective tax rate
4 issue that was used in the calculation of the revenue
5 requirements. The commission denied rehearing on the
6 depreciation issues, but has granted rehearing on the
7 effective tax rate issue. That rehearing has not
8 been resolved to date. The attorney general then
9 subsequently raised these allegations of collusion
10 and ex parte and apparently has conducted an
11 investigation of that.

12 Q. All right, sir. Between the time of
13 May the 12th and the commission's ruling, have you
14 had any conversations about the two rate cases with
15 any members of the Public Service Commission staff?

16 A. No, sir.

17 Q. Okay. Let me ask you the same
18 question with regard to the commissioners themselves.

19 A. No, sir.

20 Q. Okay. Subsequent to the decision to
21 rehear the depreciation issues, have you had any
22 conversations with members of the Public Service
23 Commission staff?

24 A. About the rate cases?

25 Q. Yes, sir.

1 A. No, not that I can recall.

2 Q. Okay. Same question with regard to
3 the commissioners themselves.

4 A. No.

5 Q. Do I take it, having listened to your
6 statement, that you are unaware of any ex parte
7 communications having occurred in the two rate cases?

8 A. Yes, sir.

9 Q. Do I further take it, although it is
10 subjective definition, that you are unaware of any
11 collusion that has occurred with regard to the rate
12 cases?

13 A. Yes, sir.

14 Q. And finally, also a subjective
15 definition. Do I take it from your testimony you're
16 unaware of any inappropriate behavior on behalf of
17 the Public Service Commission staff or commission?

18 A. No, I'm not aware of any inappropriate
19 behavior by the commissioners or commission staff.

20 MR. GOLDBERG: Thank you, Mr. Riggs.
21 That's all I have. Appreciate it much.

22 MR. BALLANTINE: Thank you,
23 Mr. Goldberg.

24 (STATEMENT CONCLUDED AT 9:10 A.M.)

25

* * *

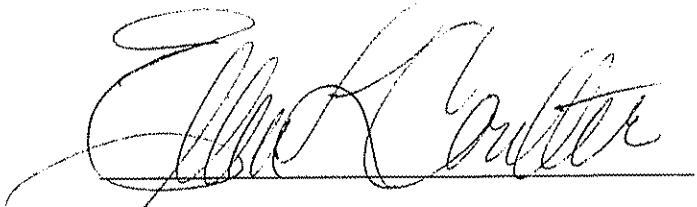
1 STATE OF KENTUCKY)(
)(
2 COUNTY OF JEFFERSON)(
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4 I, ELLEN L. COULTER, Notary Public,
5 State of Kentucky at Large, hereby certify that the
6 foregoing sworn statement was taken at the time and
7 place stated in the caption; that the appearances
8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

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

20 My commission as Notary Public expires
21 November 5, 2007.


22 Given under my hand this the 8th
23 day of August, 2005, at Louisville,
24 Kentucky.



25 ELLEN L. COULTER
NOTARY PUBLIC

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I, the undersigned, KENDRICK RIGGS, 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.


KENDRICK RIGGS

Subscribed and sworn to before me this 29th day of August, 2005.


NOTARY PUBLIC

My commission expires Notary Public, State at Large, KY
My commission expires Oct 5, 2007

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

ERRATA SHEET

NAME Kendrick Riggs DATE OF DEPOSITION July 28, 2005

After having read my deposition, I wish to make the following changes:

Page 27 Line 23
Change insert "offers" between "those and"
Reason for change clarification

Page 40 Line 19
Change insert "and" between "book, start"
Reason for change clarification

Page 40 Line 20
Change insert "some" between "agreement and more"
Reason for change clarification

Page 40 Line 22
Change insert "on" between "commission Wednesday"
Reason for change clarification

Page 55 Line 15
Change insert "placeholder"; strike "placeover"
Reason for change clarification

Page 54 Line 14
Change strike "there was"
Reason for change clarification

Page _____ Line _____
Change _____
Reason for change _____

Page _____ Line _____
Change _____
Reason for change _____

Page _____ Line _____
Change _____
Reason for change _____

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