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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

WALTER SALES

AUGUST 10, 2005

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8/24/05 *ELC*

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I N D E X

Exhibit No. 1 38
(Sign-in sheets for April 28, 2004,
May 4, 2004, May 5, 2004 and
May 6, 2004)

A P P E A R A N C E S

SPECIAL GENERAL COUNSEL TO THE PUBLIC SERVICE
COMMISSION:

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FOR THE WITNESS:

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1 The sworn statement of WALTER SALES,
2 taken in the offices of Goldberg & Simpson,
3 3000 National City Tower, 101 South Fifth Street,
4 Louisville, Kentucky, on Wednesday, the 10th day of
5 August, 2005, at approximately 8:10 a.m.

6
7 EXAMINATION

8
9 BY MR. GOLDBERG:

10 Q. Could you state your name, please.

11 A. Walter Sales.

12 Q. And your business address?

13 A. 1700 PNC Plaza, Louisville, Kentucky.

14 Q. Can you tell me your occupation?

15 A. I'm a lawyer.

16 Q. Okay. And where are you a lawyer?

17 A. Odgen, Newell & Welch.

18 Q. I presume the address you gave me is
19 the offices of Odgen, Newell & Welch?

20 A. Yes.

21 Q. Okay. I trust you were familiar with
22 the company LG&E Energy, LLC.

23 A. Yes.

24 Q. Okay. Do you represent LG&E Energy,
25 LLC?

1 A. Yes.

2 Q. Okay. And for the purposes of your
3 statement, Mr. Sales, the time frame I want you to be
4 thinking of is generally September of 2003 through
5 June 30th, 2004. So my questions in terms of
6 relevancy and time frame are all in that particular
7 area.

8 A. Okay.

9 Q. With regard to the beginning of the
10 fall period of September 2003, were you engaged by
11 LG&E and/or KU to work on any particular projects?

12 A. Yes.

13 Q. Okay. Can you tell me what that was.

14 A. They -- an application -- tariff
15 application had been filed with the Public Service
16 Commission to establish what was known as -- or
17 called then a nonconforming load tariff for -- that
18 really was -- basically only one company fit the --
19 the profile of a nonconforming load, and that was
20 North American Stainless, a stainless steel
21 manufacturer between here and Cincinnati.

22 Q. Okay. Am I correct that prior to the
23 time you were engaged to file the tariff, that North
24 American Stainless had filed a complaint with the
25 Public Service Commission with regard to their

1 relationship with KU?

2 A. Yes.

3 Q. And were you -- had you been employed
4 to deal with that particular complaint?

5 A. I really became involved after the
6 complaint had been filed and actually after the
7 tariff application had been filed by the utility.
8 Someone else had been running -- had been managing
9 that before I came -- I became involved, so I can't
10 recall exactly which came first, but I'm thinking
11 that sometime in probably October or thereabouts,
12 maybe early November, is when I became involved in
13 any kind of a serious way. And I don't remember
14 whether the two -- the complaint case and the tariff
15 application had been consolidated yet or not, but if
16 they hadn't been consolidated when I got in there,
17 they got consolidated very rapidly thereafter.

18 Q. All right, sir. Let me give you a
19 little bit of a time frame. It's my understanding
20 that they ultimately got consolidated pursuant to
21 Public Service Commission order with the two rate
22 cases, which we will talk about, in the late winter,
23 early spring of 2004. Does that fit with your
24 recollection?

25 A. That -- that's a second consolidation.

1 Q. All right, sir.

2 A. I believe that there was a prior
3 consolidation. And, again, I -- I could be wrong.
4 My recollection was that the complaint case that had
5 been filed against KU, I guess it was, by North
6 American Stainless was consolidated with the tariff
7 filing case that had been filed by LG&E and KU for
8 the nonconforming load tariff. And then when the
9 rate -- the major rate case was filed, which I guess
10 was early December of 2003, thereafter we filed a
11 motion to consolidate the -- what I call NAS, N-A-S,
12 cases --

13 Q. Standing for North American Stainless.

14 A. North American Stainless -- into the
15 major rate case, the big -- what I call the large --
16 the big rate case that had been filed by the two
17 utilities.

18 Q. All right, sir. Now, you use the date
19 December. I will tell you officially for the record
20 notice of intent was the last day of November, and
21 the actual rates filed last of December. Using that
22 as a time reference, do you recall when you first
23 became aware of the fact that KU and LG&E were going
24 to file for rate increases?

25 A. I can't say specifically. I'm sure I

1 knew beforehand that -- that this was something that
2 would be happening because the occasion for me
3 actually being enlisted to represent the utilities on
4 the tariff application was the fact that Kendrick
5 Riggs, who would normally probably have handled that
6 matter, was going to be too swamped with the -- the
7 rate case, and he needed some first chair help on --
8 on some problems at the Public Service Commission.
9 And I -- because I've had the experience at the PSC
10 in the past, I was enlisted and was glad to help.

11 Q. Okay.

12 A. So I knew about the rate -- I knew --
13 I knew they were planning for a rate filing -- a
14 notice before it happened. When, how -- how much
15 before, I can't say.

16 Q. Am I understanding your statement that
17 you were not part of the team that actually worked on
18 the rate cases, at least prior to their actual
19 filing --

20 A. That's true.

21 Q. -- in December?

22 A. I did not work on the rate cases at
23 all prior to the filing.

24 Q. Okay. I take it you did work --
25 continued to work on the North American Stainless

1 tariff and complaint during that period of time,
2 September 2003 through the end of December 2003.

3 A. Yes.

4 Q. Okay. Now, do you have a recollection
5 of having had a communication with the staff of the
6 Public Service Commission during that period of time?

7 A. I don't have a recollection of any
8 specific conversations I might have had. It's
9 possible to make a telephone call to find out should
10 I handle -- should I do -- handle this motion in this
11 way or that way, and someone would tell me which way
12 to present it because there are -- that kind of a
13 conversation could occur --

14 Q. All right.

15 A. -- but -- but --

16 Q. Would you call those kinds of
17 conversations procedural in nature?

18 A. Oh, quite.

19 Q. And do you have a recollection who you
20 would have had communication with?

21 A. Actually, it would only -- there
22 was -- there was a switch, I believe, and I've really
23 forgotten who it was that I chatted with.

24 Q. Okay. You may have had a
25 conversation. You're not really sure that you

1 actually did --

2 A. I know that --

3 Q. -- during that period of time?

4 A. -- in fact, I had one.

5 Q. Okay.

6 A. I can't tell you that it occurred
7 before or after January 1. It happened in that time
8 frame between September of '03 and -- and June of
9 '04. My guess -- and there was a woman whose --
10 gosh, this is terrible, but I just don't recall her
11 name.

12 Q. All right. You recall her being on
13 the staff --

14 A. Yes --

15 Q. -- of the Public Service Commission?

16 A. -- she was on the staff.

17 Q. Let me give you some names, and see if
18 these are meaningful to you. Andrea Edwards?

19 A. No. I mean, could -- could have been,
20 but I don't recall.

21 Q. All right. Do you have a recollection
22 that this particular individual was working on the
23 North American Stainless case?

24 A. Yes. I only had one communication of
25 a procedural nature on the North American Stainless

1 case with any member of the commission staff. And my
2 recollection is that I called the wrong person first.
3 I was redirected to somebody else, and that it was
4 several months after I began working on it.

5 So my thinking is -- and now that I'm
6 thinking about it, I believe it was on our motion --
7 as a matter of fact, now I'm -- it is on our motion
8 to consolidate the North American Stainless cases
9 into the rate case, that I had some communication
10 procedurally how should I do this. And I think the
11 procedural question was do I file it just in the
12 North American Stainless case, or do I also file it
13 in the rate case simultaneously? In other words, the
14 same pleading, motion -- moving to consolidate the
15 cases together. That was the procedural question
16 that I had.

17 I called somebody and got the wrong
18 person, and then I was redirected to somebody else, a
19 young lady who -- I say "young lady" because
20 everybody is young now to me -- who answered my
21 question.

22 Q. All right. Do I take it that you did
23 not have any conversations with any member of the
24 staff prior to this conversation with regard to the
25 two rate cases?

1 A. No, I never had any conversation with
2 any member of the staff with respect to the rate
3 cases.

4 Q. All right. And for the record, the
5 two rate cases we referred to as 00433 and 00434.

6 A. Right.

7 Q. And to be clear, you did not have any
8 such communication with any member of the staff.

9 Let me ask you that same question with
10 regard to commission members. Did you ever have any
11 conversation about the rate cases with any commission
12 member?

13 A. No.

14 Q. Okay. All right. Do you have a
15 recollection of having performed any work on the two
16 rate cases as we've described them prior to their
17 actual filing?

18 A. No.

19 Q. Okay. Subsequent to their filing --
20 and moving our chronology between the date of filing
21 and April 28, 2004, which is the first informal
22 conference, okay?

23 A. Right.

24 Q. I will show you the sign-in sheet from
25 the first informal conference. You were there. Do

1 you recall working on the rate case --

2 A. Yes.

3 Q. -- cases?

4 Tell me what you did with regard to
5 that.

6 A. The issues involving the nonconforming
7 load tariff interrelated with issues which were going
8 to be litigated in the rate cases dealing with the
9 curtailable service rider. Curtailable service rider
10 is a credit and adjustment to the rates that
11 industrials get for allowing the utility to be able
12 to curtail their service with some notice in the
13 event of peak usage. A day like today, maybe, when
14 it's so hot and their facilities are being taxed to
15 the maximum.

16 And the industrials want to get as
17 much credit as they can on those riders and, you
18 know, there's that tension always between the utility
19 and the customer over how much credit to give and
20 what's -- what's justifiable. That was part of the
21 negotiation or part of this -- the litigation with
22 NAS was the -- its use of a curtailable service
23 rider.

24 So when it -- it became -- when we
25 started working actually developing testimony, it

1 became obvious to all of us that the curtailable
2 service rider issue that was present in the rate
3 cases was probably best handled together with the NAS
4 case, the NAS aspect of the cases once they were
5 consolidated. So that fell to me, and I started
6 working on understanding the ins and outs of the
7 curtailable service rider and being able to prepare a
8 case for the utilities to be made on -- on why the
9 curtailable service rider should be as they proposed
10 it.

11 Q. Okay. As part of the rate cases.

12 A. As part of the rate cases.

13 Q. All right. Now, let me assert my
14 knowledge here, which is slightly dangerous. I have
15 been informed that generally with the rate cases
16 there were two components, revenue requirement and
17 rate design or rate allocation.

18 A. Right.

19 Q. Do those terms have meaning to you?

20 A. Yes.

21 Q. Okay. Would the issue that you worked
22 on fit under revenue requirement or fit under rate
23 design?

24 A. Oh, rate design.

25 Q. Okay. With regard to that work, what

1 kinds of things did you do?

2 A. Really --

3 Q. Go ahead. By way of example, did you
4 do -- prepare witnesses for expert testimony?

5 A. Yes.

6 Q. Okay. Did you do document requests?

7 A. We prefiled -- I can tell you in
8 fairly -- we prefiled testimony of Charlie Freibert
9 and Howard Bush. Prefiled or adopted testimony --
10 prefiled testimony for Steve Seelye, who would have
11 been the expert witness. Prepared Mr. Seelye and
12 Martyn Gallus, who we were -- who I was ultimately
13 reporting to on these issues. He's the senior vice
14 president with the company. Prepared them for
15 examination, cross-examination at the commission
16 level. Responded to document production requests and
17 requests for information submitted by a variety of
18 interveners, but principally NAS and the Kentucky
19 Industrial Utility Customers.

20 Q. Okay. Were you engaged in any
21 discussion with any of the interveners during this
22 period of time? And again, the period of time of
23 date of filing until the first informal conference on
24 April 28, 2004?

25 A. No, not -- no -- no substantive

1 discussions. There were discussions of the sort that
2 lawyers who are litigating with one another and have
3 no intention of settling have, which -- you know,
4 posturing and, "What do you mean by this, we're not
5 going to provide you this," that -- I mean, that kind
6 of a discussion where you're trying to resolve
7 things -- resolve a discovery dispute or discovery
8 issue informally rather than formally.

9 Q. Fair enough. But I take it, again,
10 except for the one conversation you've told us about
11 with the staff, you had no communication with the
12 staff.

13 A. Staff was not involved. We responded
14 to staff. Staff prepared their own information
15 requests and document requests that we responded to.

16 Q. Other than that, no communication?

17 A. No communication.

18 Q. Okay. Let's -- let me take you to the
19 events of April the 28th, 2004. And I'll show you a
20 document that has your name on it, which is the
21 sign-in sheet for that particular conference,
22 informal conference. Tell me what you recall --
23 well, first, I trust that is your signature?

24 A. No, it's not. Somebody must have done
25 it for me, but I recall being there.

1 Q. Fair enough. It did indicate that --
2 your presence and you were there.

3 A. I was there. I do recall being there.

4 Q. Fair enough. Tell me what you recall
5 of the events of April 28, 2004, the informal
6 conference.

7 A. Not much. There were some formal
8 meetings -- I say "formal meetings" -- where all
9 parties were present in the small courtroom, the
10 small hearing room. There may have even been one in
11 the large hearing room. Discussion of -- and then a
12 lot of -- there were meetings that I attended, but
13 they were internal client meetings. They would not
14 have been meetings with a broader group of people.
15 And I really don't recall a lot of what was going on
16 in those big hearing rooms other than discussion
17 of -- very generalized discussion of order of
18 witnesses, how long we're going to -- you know,
19 that -- the kind of thing that you would typically
20 see at a prehearing conference.

21 Q. All right, sir. I take it you were
22 there all day --

23 A. Yes.

24 Q. -- or do you recall?

25 A. I was there all day.

1 Q. Did you have any discussions that you
2 recall on the merits of the case with North American
3 Stainless people --

4 A. None.

5 Q. -- on the 28th?

6 A. None.

7 Q. Okay. Do you have any recollection of
8 any conversation with any member of the staff on
9 April 28, 2004?

10 A. Yes, I would have -- I've known
11 Richard Raff for many years in a strictly
12 professional capacity. I saw -- I saw him, I said,
13 "Hello."

14 Q. Other than the salutations with
15 Mr. Raff, anything else that you recall?

16 A. No.

17 Q. Okay. And I take it you had no
18 conversations with any member of the commission on
19 that day.

20 A. No.

21 Q. Okay. April the 29th, which would
22 have been a Thursday -- do you have a recollection of
23 having come to the Public Service Commission for any
24 meetings?

25 A. I didn't check my records, so I -- to

1 see if I did. My recollection is that I did not, but
2 I could be wrong.

3 Q. All right.

4 A. I knew I was there on the 28th. I
5 remember that prehearing conference, but I don't
6 think I was there on the 29th.

7 Q. All right. So that I could give you
8 some reference for the week, April 30th, that would
9 have been a Friday, would have been Oaks Day, the day
10 before Derby. Using that as some sort of a compass
11 reference point, does it help you to refresh your
12 recollection of the events of April 29th, if you
13 participated or not?

14 A. I'm sure I worked. I don't recall
15 being in -- in Frankfort on the 29th, but I could
16 have been.

17 Q. Okay. With regard to the next day,
18 April 30th, did you participate in any discussions
19 with anyone with regard to the two rate cases or
20 North American Stainless that you recall?

21 A. I worked that day. I'm almost certain
22 it would have been in Louisville. I probably -- I'm
23 sure I -- because we were preparing for trial the
24 following week, I'm sure I discussed the issues that
25 I had responsibility for with one of four or five

1 people at LG&E.

2 Q. All right.

3 A. But I -- but I cannot recollect who I
4 would have spoken with on that day precisely.

5 Q. Okay. To put this in context for you,
6 there was a meeting on April the 30th at the attorney
7 general's office between various interveners,
8 including the attorney general, members of LG&E/KU
9 legal team. Did you participate in that?

10 A. I don't believe I did.

11 Q. Okay. And do you subsequently
12 remember any communication as a result of that
13 meeting with any member of the staff of the PSC on
14 April the 30th?

15 A. I did not have any.

16 Q. Okay. All right. Let's move to the
17 next week. Do you have a recollection of having
18 participated in the hearings?

19 A. Yes.

20 Q. Okay. And the next thing I'll show
21 you is a sign-in sheet for 5-4, May the 4th, that
22 bears your name. Is that your signature?

23 A. That is my signature.

24 Q. Okay. I guess we could compare the
25 two to make sure, but fair enough. And you were

1 there.

2 A. Yes, I was there.

3 Q. Tell me what you recall the events of
4 the day of May the 4th.

5 A. I recall the hearing being -- coming
6 to order, there being an adjournment because of a
7 settlement -- either settlement discussions or wrap
8 up of settlement negotiations that had -- that were
9 or had been taking place. I recall the folks from
10 North American Stainless wanting to discuss our
11 issues in the context of a possible -- is there any
12 way that we can settle? And I wasn't really in a
13 position -- I say "I" -- the utilities were not
14 really in a position to discuss that with them at
15 that time. We weren't putting them off, but we
16 didn't have anything to discuss with them.

17 So I was -- I continued my preparation
18 for the -- my part of the case on the assumption that
19 the worst thing that could happen to my client would
20 be for me to assume there would be a settlement,
21 only -- and only to have it fall through and me
22 having to try a case I'm not prepared to try. So I
23 had to keep focused on what I was responsible for
24 doing.

25 Q. All right. Do you have a recollection

1 of having communicated with the staff on May the 4th?
2 That would have been a Tuesday, first day of the
3 hearing.

4 A. Probably not May 4.

5 Q. Okay. Do you have a recollection of
6 having communicated with the commissioners on May the
7 4th?

8 A. No.

9 Q. Okay.

10 A. I may have greeted one.

11 Q. Okay. Who would that have been?

12 A. Ellen Williams.

13 Q. And when you say "greeted,"
14 salutation, hi?

15 A. Yeah, would have just said hello.

16 Q. Anything else?

17 A. No.

18 Q. Okay. I take it you're personally
19 familiar with Ms. Williams?

20 A. Yes.

21 Q. Other than the brief salutation with
22 Ms. Williams, any other conversations with any of the
23 other commissioners?

24 A. None. And I had no conversations with
25 her.

1 Q. Mm-hmm.

2 A. During the adjournment, saw her in the
3 hall, said, "Hello." She said, "Hello." We moved
4 on.

5 Q. Okay. I take it there was testimony
6 actually taken on the 4th.

7 A. You know, there may -- I believe there
8 was some testimony. I mean, I know there was
9 testimony taken, and then there was a lull while
10 there were discussions. And then there was --
11 when -- and then when there wasn't a settlement, at
12 least from the attorney general's perspective, when
13 they backed out, the parties had to go back on the
14 record and put on some sort of a truncated case.

15 Q. This is on May the 4th?

16 A. No, it wouldn't have been May 4th. It
17 would have been --

18 Q. During the week, okay. We'll walk
19 through that. I'm interested in what you were doing
20 on May the 4th and what the other parties were doing.
21 Were the other parties on May the 4th engaged in
22 negotiation?

23 A. Some of them may have been. I would
24 not have known -- I knew there were discussions that
25 had been taking place on -- on settlement. On May 4

1 or May 5, we became heavily involved. I say "we."
2 My -- the people that I was reporting to, the people
3 that I was responsible for became heavily involved in
4 negotiating a settlement of our part of the case.

5 Q. "Our part" being North American
6 Stainless?

7 A. And the -- yeah, but also the
8 curtailable service rider issue, which was applicable
9 to all the industrial customers.

10 Q. Okay. That was -- am I understanding
11 this correctly -- on May the 5th as opposed to May 4,
12 or can you discern between the two?

13 A. I can't discern between the two. It
14 was in that -- it was in that time frame. And again,
15 I did not -- I have not had time to go back and
16 review my time notes. And I'm not sure that even if
17 I did review my time notes, that it would be that
18 precisely broken down.

19 Q. Okay. Were you physically in the same
20 room with all the interveners on May the 4th or were
21 you separated, preparing for the hearing?

22 A. Well, both. There was a period of
23 time when we were all in the same room. And then
24 there was a period of time when we were separated, or
25 when I would have -- they may have left -- stayed,

1 and I would have left the room and -- and been
2 dealing with my clients.

3 Q. Okay. To your knowledge, were all the
4 interveners and LG&E/KU in the same room on May the
5 4th for the discussion?

6 A. I believe they were. I was not aware
7 of any other private discussions.

8 Q. All right. Fair enough. On May the
9 5th -- and here's what I'm referencing and trying to
10 get an understanding for. It has been communicated
11 to me that you and the North American Stainless
12 people and presumably LG&E and KU folks split off
13 into a separate room and had discussions that were
14 ongoing about North American Stainless issues. Do
15 you have a recollection of that?

16 A. Oh, yeah.

17 Q. Okay. And did that occur, to the best
18 of your knowledge, on May the 4th or was that the
19 next day, May 5th?

20 A. I know it occurred on May 5. Did it
21 start May 4? I can't say that it did or didn't.

22 Q. Fair enough.

23 A. I -- they were -- they kept prodding
24 us to meet with them, and I -- because -- we weren't
25 ready yet because of other issues that -- principally

1 Steve Seelye, who was one of our experts had -- was
2 involved in so many of these discussions, he couldn't
3 break away to really provide us with the guidance
4 that we needed in order to arrive at a settlement or
5 have meaningful, substantive settlement negotiations
6 until we could get a few minutes of his time, and we
7 just couldn't get it. So when did we first get
8 Steve's attention? It could have been late May 4.
9 It could have also been first time, May 5.

10 Q. Am I understanding your statement
11 correctly that the service curtailment issue
12 generally would have been discussed with the
13 interveners as a group and the North American
14 Stainless issues, tariff and complaint discussed only
15 with North American Stainless, or am I not
16 understanding this correctly?

17 A. That's not exactly correct.

18 Q. All right. Explain to me if there is
19 a distinction between the two.

20 A. What -- what North American Stainless
21 ultimately pays for electric service is a function
22 both of the tariff and the curtailable service rider.
23 So when we discussed with North American Stainless
24 the issues unique to their case and we arrived at
25 a -- at a form of a settlement with North American

1 Stainless on the basic tariff, it was contingent
2 on -- or was incomplete -- I don't want to say
3 contingent -- it was incomplete because there was a
4 curtailable service rider issue that North American
5 Stainless insisted upon -- and I'm sure we did too --
6 that had to be worked out.

7 Also, because of the nature of the
8 load that North American Stainless presents the
9 utilities with, there had to be limits on the amount
10 of that -- of load that could be served by the
11 utilities under the tariff that was filed that
12 ultimately covered North American Stainless. We --
13 the utilities couldn't take ten North American
14 Stainlesses. They didn't have the capacity. Their
15 demand charge was just out -- broke through the roof
16 as it was. Any more of that kind of a load and --
17 and the -- they would have had to build some power
18 plants in Muhlenberg County to service it.

19 The problem -- so what we had to do
20 was also go to KIUC, the Kentucky Industrial Utility
21 Customers, and get their buy into that load
22 restriction that we negotiated with NAS in the tariff
23 classification to which they were going to fit,
24 because other KIUC customers may say, "Hey, this
25 is" -- "we'd like that" -- "that also, that

1 opportunity."

2 Q. So all of that occurred on the 4th and
3 5th, then, I take it.

4 A. Yes. We discussed -- and so when we
5 brought in KIUC to get their approval on the one,
6 they were trying to leverage their approval -- my
7 view -- to get some concession on the curtailable
8 service rider. And then ultimately there was a
9 proposal for an energy surcredit which was a part of
10 the settlement discussions that ultimately were --
11 was worked out and ultimately rejected, but in a
12 convoluted sort of fashion.

13 Q. Okay. By the close of business
14 May 5th, close of business the end of the day on
15 May 5th, had you reached agreement -- "you" being
16 LG&E/KU -- with North American Stainless?

17 A. I think for the most part we were --
18 either we had reached agreement or we were real real
19 close.

20 Q. Okay. And were your results reported
21 back to the main group conversation between the
22 interveners, LG&E, KU?

23 A. Yes, but I can't say that it was
24 reported back on May 5th or whether it was reported
25 back on May 6th. But it was reported back certainly

1 in that -- in that time frame. It was the -- the --
2 because we had actually -- I had written the
3 settlement up. There was a rather complicated
4 formula that we had derived -- I expressed, but I was
5 mostly just a scrivener. I didn't come up with it.
6 It would have been come up with by, you know, the
7 engineering people at -- at the utility.

8 And we announced what the nature of
9 our settlement was for the main group of interveners,
10 being a -- a large industrial tariff classification,
11 which North American Stainless would fit in; and a
12 rate structure for that tariff for -- for them; an
13 agreement on a curtailable service rider for not just
14 North American Stainless, but all the industrials;
15 and then a proposal for an energy surcredit,
16 that -- because the attorney general did not agree
17 with the energy surcredit on a substantive basis, the
18 attorney general, the industrials, North American
19 Stainless and the utility agreed to present the
20 energy surcredit issue to the staff of the Public
21 Service Commission.

22 And if they agreed with the energy
23 surcredit, that it would become a part of the
24 settlement to be proposed to the commission with no
25 guarantee the commission would accept it or reject

1 it. But if the commission staff did not agree to the
2 energy surcredit, then the industrials and the
3 utilities agreed to withdraw the proposal, let it
4 drop, and have the settlement recommended to the
5 commission without the energy surcredit as a part of
6 it. That was the agreement that was reached with the
7 attorney general.

8 Ultimately, in an open meeting in
9 which the commission staff participated, we presented
10 that part of the settlement. I don't know if it
11 was -- I think it was the next week, but -- I believe
12 it was the next week the commission staff got back to
13 us, said they didn't like the energy surcredit. So
14 as a part of our agreement with the attorney general
15 and the industrials, the energy surcredit was removed
16 from the settlement package.

17 Q. Okay. Did the staff participate in
18 your discussions on May 4th, 5th or even the 6th with
19 North American Stainless?

20 A. Only in a kind of tangential way.
21 There was a point at which Richard Raff was inquiring
22 as to what progress we were making and could he help
23 us and --

24 Q. Except for that communication, any
25 communication with the staff?

1 A. Not directly. My understanding is
2 that Jeff Shaw was probably the person on the
3 commission staff most responsible for evaluating the
4 energy surcredit issue and the issues that we were
5 responsible for, and he apparently recommended
6 against agreeing to the energy surcredit. But I did
7 not have a specific conversation with Mr. Shaw about
8 that. I'm not aware of anybody who -- who did. I do
9 know that he was in the room -- the small hearing
10 room when the settlement was described and when the
11 energy surcredit was described and --

12 Q. This was to all the parties?

13 A. Yes. And the attorney general was
14 there. The -- all the industrials were there.
15 Kroger, the -- whoever -- you know, they had a whole
16 group of interveners, and the utilities.

17 MR. BALLANTINE: Can we go off the
18 record for 30 seconds?

19 MR. GOLDBERG: Sure.

20 (OFF THE RECORD)

21 Q. Let me take you back to what I think
22 is May the 5th, and let me ask you what you recall
23 with regard to the rate case discussions between
24 LG&E, KU and the interveners, specifically the
25 attorney general.

1 A. I did not participate in those
2 discussions. The only thing I knew would have been
3 what someone else would have told me and general
4 impressions.

5 Q. So you had no firsthand knowledge of
6 any agreements of any kind that were negotiated with
7 the attorney general on May 3rd, 4th or 5th.

8 A. I would not have had firsthand
9 knowledge. It would only have been secondhand.

10 Q. Okay. And further, do I take it that
11 you were not in the room at any time when it was
12 announced by any member of the staff of the attorney
13 general that previous understandings were not the
14 understanding that the attorney general actually had?

15 A. I remember being in a big hearing room
16 at which Mr. Howard made some reference to the fact
17 that they had -- they didn't have -- they had been
18 instructed not to agree.

19 Q. Okay. Tell me generally what you
20 recall of that. You were in the room during that
21 period of time.

22 A. There was a -- yes. There was a
23 hearing in the big hearing room.

24 Q. Was it an on-the-record hearing or was
25 it a negotiation, or do you recall?

1 A. I don't recall. My sense is that it
2 was probably on the record, but I could be mistaken.

3 Q. Fair enough. Tell me what you
4 generally recall of what Mr. Howard said.

5 A. I don't recall specifically. I only
6 have a general recollection that he acknowledged that
7 he had been instructed that -- that they weren't able
8 to settle on the revenue requirement issue, and they
9 had -- Mr. -- his boss had some problems with it.

10 Q. Okay. And do you recall using the two
11 dates, May 4th and May 5th, where that conversation
12 from Mr. Howard occurred on either of those two days
13 or --

14 A. I can't say.

15 Q. -- can you place it?

16 A. I -- I can't say.

17 Q. Fair enough. Let me show you May 5th
18 sign-in sheet, and I think you'll see your name at
19 the bottom. Is that your signature?

20 A. Yes.

21 Q. Okay. Now, on May the 5th, do you
22 have a recollection of the attorney general actually
23 coming to the Public Service Commission?

24 A. I can't say the specific day. I
25 remember being graced with his presence.

1 Q. All right. Do you recall
2 participating in any conversations with him
3 personally?

4 A. No.

5 Q. Okay. Do you have any recollection of
6 any meeting between he and members of the LG&E/KU
7 legal team?

8 A. I don't recall any.

9 Q. Okay. Were you present, either on May
10 the 5th or May the 6th -- and actually I'll represent
11 it to you for brevity purposes as May the 6th -- when
12 Mr. Raff went on record discussing a radio address
13 that he'd heard that morning?

14 A. Yes, I was there.

15 Q. Okay. Tell me what you recall of that
16 chain of events. And for the record, here is the
17 May 6th sign-in sheet that bears your name. Is that
18 your signature?

19 A. Yes.

20 Q. Okay.

21 A. At that point it was clear that the
22 attorney general had backed out of the settlement,
23 and there had been some accusation or allegation by
24 Mr. Stumbo at -- either at a press conference or in a
25 radio interview of some sort that something was wrong

1 with the way the settlement was negotiated. And I --
2 I can't say that I recall more specifically what his
3 accusation was then. I've since learned what he had
4 in mind, or at least I've since learned some of the
5 things that he was -- been complaining about. So I
6 can't say -- fit in time exactly when I became
7 specifically aware of his complaints.

8 I do know that Mr. Raff -- I remember
9 him going on the record in the big hearing room,
10 commission members presiding, everybody seated at
11 their normal place as if they were in trial, and him
12 inquiring about the -- those statements and the
13 support for those statements and wanting to make a
14 record to either put the truth or put the lie to --
15 to those statements.

16 Q. All right. To see if I can refresh
17 your recollection a little bit, do you have a
18 recollection that the allegations the attorney
19 general was making were that there were ex parte
20 communications, inappropriate behavior, and/or
21 collusive behavior with regard to the -- the
22 proceeding at the Public Service Commission?

23 A. I know that -- I know now and I
24 learned shortly thereafter and I may have even known
25 then that that was the nature of his accusations. I

1 can't say that I knew at that time that those were
2 precisely his accusations, but I do remember --
3 ex parte behavior and inappropriate discussions, I'm
4 sure I knew at the time.

5 Q. All right, sir. Do you recall after
6 Mr. Raff made his statement, what course of action
7 was taken in the hearing room?

8 A. There was a lot of people either
9 making statements or asking questions of others as to
10 their knowledge of any of this sort of in --
11 allegedly inappropriate activity taking place. I
12 believe there may have been some questions from the
13 chair of the commission. I think that Mr. Riggs, our
14 lead counsel for the utilities, may have made some
15 statements and asked some questions. And I believe
16 that a number of people were asked to state if they
17 were aware of any inappropriate behavior taking place
18 in any of these -- at all between any of the parties.

19 Q. Do you have a recollection of the
20 chairman having gone around the room to all persons
21 in the room who participated in the hearings and
22 asking them whether they knew of ex parte,
23 inappropriate, collusive behavior?

24 A. I remember that.

25 Q. All right, sir. And to your

1 recollection, did anyone stand up and say they knew
2 of such behavior?

3 A. No. No one stood up and said they
4 were aware of such behavior. Every -- and my
5 recollection is -- and I think there ought to be a
6 record of this or a transcript or a video of it of
7 some sort because I think it was on the record --
8 everybody said they were unaware of any of this kind
9 of behavior, and no one admitted participating in it.

10 Q. All right, sir. Do I take it that by
11 close of business May 6th, your participation as it
12 relates to North American Stainless issues had come
13 to an end?

14 A. Well, not exactly because we had a
15 meeting the following week that I attended to --

16 Q. May the 12th?

17 A. Yes, wrap up some matters, I believe.

18 Q. Is that your signature or did somebody
19 put that down there for you?

20 A. That's mine.

21 Q. So that of the five days in question,
22 we only have one signature that appears not to be
23 yours?

24 A. That's right, but I -- that one
25 signature someone put it there obviously with my

1 authorization.

2 Q. Okay. Fair enough. Tell me what you
3 recall of May the 12th.

4 A. May 12th was a wrap-up. And I think
5 May 12th now is the time when the commission staff
6 told us they nixed the idea of the energy surcredit.
7 I think that's when they announced that.

8 Q. Am I correct that the settlement
9 agreement had -- on that day was presented to the
10 commissioners?

11 A. Right.

12 Q. Okay. And is it also my understanding
13 that the only thing that ended up not being resolved
14 was revenue requirement on electricity as to KU?

15 A. That's my general understanding.

16 Q. Fair enough.

17 A. I never was responsible for that part,
18 so I -- I ...

19 Q. Is it fair to say that all issues
20 related to things you were responsible for were
21 resolved as of end of hearing May 12th?

22 A. Oh, absolutely.

23 Q. Okay. Do you have a recollection of
24 the commissioners making a ruling in this matter?

25 A. Yeah. Sometime six weeks later or

1 thereabouts.

2 Q. I'm going to represent to you it was
3 on June 30th, 2004. First let me ask you, other than
4 what you've told me about as your communication with
5 the staff, do you have a recollection of any other
6 communication with the staff at any time during the
7 period May the 4th, first day of actual hearing,
8 through decision on June the 30th, 2004?

9 A. Other than what I told you about, I
10 had no communications with any member of the staff or
11 any member of the commission about the case or about
12 anything else between May 4 and June 30.

13 MR. GOLDBERG: All right, sir. That's
14 all I have, Mr. Sales. Thanks much.

15 (DEPOSITION EXHIBIT NO. 1 MARKED)

16

17 (STATEMENT CONCLUDED AT 9:00 A.M.)

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

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I, ELLEN L. COULTER, Notary Public, State of Kentucky at Large, hereby certify that the foregoing sworn statement was taken at the time and place stated in the caption; that the appearances were as set forth in the caption; that prior to 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.

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

My commission as Notary Public expires November 5, 2007.

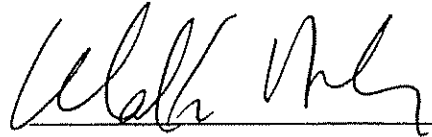
Given under my hand this the 22nd day of August, 2005, at Louisville, Kentucky.

Handwritten signature of Ellen L. Coulter

ELLEN L. COULTER
NOTARY PUBLIC

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I, the undersigned, WALTER SALES, 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.

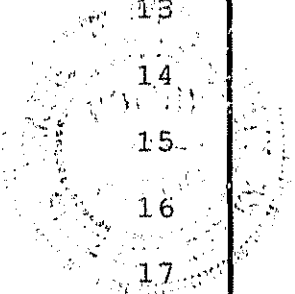


WALTER SALES

Subscribed and sworn to before me this 19th day of September, 2005.


NOTARY PUBLIC

My commission expires September 13, 2008



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

ERRATA SHEET

NAME WALTER SALES DATE OF DEPOSITION 8/10/05

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

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<p>- -- [199]</p>	<p>application [5] 4/14 4/15 5/7 5/15 7/4 application -- [1] 4/14 approval [2] 27/5 27/6 approval -- [1] 27/6 approximately [1] 3/5</p>	<p>being -- [1] 20/5 believe [10] 6/2 8/22 10/6 19/10 22/7 24/6 29/11 35/12 35/15 36/17 bellsouth.net [1] 1/24 best [2] 13/3 24/17</p>
<p>A</p>	<p>April [12] 2/3 11/21 14/24 15/19 16/5 17/9 17/21 18/8 18/12 18/18 19/6 19/14</p>	<p>between [13] 4/21 9/8 11/20 12/18 19/7 23/12 23/13 25/19 27/21 30/23 33/6 35/18 38/12</p>
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