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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

WILLIAM STEVEN SEELYE

JULY 29, 2005

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8/12/05 *ELC*

A P P E A R A N C E S

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SPECIAL GENERAL COUNSEL TO THE PUBLIC SERVICE
COMMISSION:

JONATHAN D. GOLDBERG
AARON SILETTO
Goldberg & Simpson
3000 National City Tower
101 South Fifth Street
Louisville, Kentucky 40202

FOR THE WITNESS:

DAVID KAPLAN
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3200 Aegon Center
400 West Market Street
Louisville, Kentucky 40202

1
2 The sworn statement of WILLIAM STEVEN
3 SEELYE, taken in the offices of Goldberg & Simpson,
4 3000 National City Tower, 101 South Fifth Street,
5 Louisville, Kentucky, on Friday, the 29th day of
6 July, 2005, at approximately 10:00 a.m.

7
8 EXAMINATION

9
10 BY MR. GOLDBERG:

11 Q. Could you state your name, please.

12 A. William Steven Seelye.

13 Q. All right, sir. And your address?

14 A. My address -- I have to look it up
15 myself -- 6435 West Highway 146, Suite 2, Crestwood,
16 Kentucky.

17 Q. All right, sir. And what is your
18 occupation?

19 A. I'm a consultant for the utility
20 industry. Specifically, I do rate consulting,
21 revenue requirement consulting, cost of service
22 studies and depreciation studies. That's my primary
23 services. We provide economic studies for electric,
24 gas and water utilities all over the country.

25 Q. All right, sir. How long have you

1 been doing that as the Prime Group, LLC?

2 A. We started a little over nine years
3 ago, since 1996.

4 Q. All right, sir. And do you have other
5 persons who are members of the LLC?

6 A. Yes. There's my partner, or the other
7 member is Martin Blake.

8 Q. Okay. Tell me what your educational
9 background is.

10 A. My undergraduate degree is in
11 mathematics, and I have probably over 60 hours of
12 graduate work in industrial engineering and in
13 physics.

14 Q. All right, sir. Did you have -- did
15 you work for the regulated utility industry prior to
16 becoming a consultant?

17 A. I did.

18 Q. Okay. And where did you work?

19 A. I worked for Louisville Gas & Electric
20 Company.

21 Q. And how long did you work there?

22 A. When I graduated from college -- I
23 believe it was 18 years from the time I graduated
24 from college until I left LG&E nine years ago.

25 Q. All right. And have you been a

1 consultant in these matters that you've described for
2 us since that period of time?

3 A. Yes.

4 Q. All right. Tell me if prior to your
5 appearance in the two rate cases, which we'll call
6 00433 and 00434, had you worked for LG&E as a
7 consultant?

8 A. Yes.

9 Q. Okay. Had you appeared before the
10 Public Service Commission on behalf of LG&E before?

11 A. Yes, on a number of occasions.

12 Q. Okay. Had you appeared before the
13 Public Service Commission in rate cases prior to your
14 participation in these two cases?

15 A. Yes.

16 Q. Okay.

17 A. Could -- if I could elaborate a little
18 bit.

19 Q. Sure.

20 A. Not just for LG&E, but for other
21 utilities in Kentucky.

22 Q. All right. Fair enough. Tell me when
23 you were first retained to work on the two rate
24 cases.

25 A. When I was first retained to work on

1 the two rate cases --

2 Q. And again, that's 00433 --

3 A. Approximately we began doing some of
4 the preliminary work on this rate case during the
5 summer prior to the filing. So what year was it
6 filed, if you could help me with that.

7 Q. I will. Notice of filing was November
8 of 2003.

9 A. November 2003.

10 Q. And the actual petition was filed
11 December 2003.

12 A. Right. Okay. That helps. We began
13 doing the preliminary work on this rate case during
14 the summer of 2003. However, at that point the
15 company hadn't -- which is typical, had not decided
16 whether it was going to file the rate case or not.
17 That's very typical with any rate case you file. You
18 have to do a lot of the preliminary work and also see
19 where the revenue requirement leads you before you
20 file a rate case.

21 Q. Okay. And was the Prime Group, LLC,
22 retained or was Steve Seelye retained; do you recall?

23 A. The -- well, it would have been the
24 Prime Group, LLC, I mean, because all of our work
25 goes through the Prime Group. And in addition to

1 that, I did have people who are in my organization
2 who work for me assist me in the case.

3 Q. All right, sir. And specifically with
4 regard to the two rate cases, what were you retained
5 to do?

6 A. I was retained to, number one, assist
7 them with the overall filing and preparing the
8 documents for filing; also, to prepare -- to assist
9 them in the preparation of the revenue requirement or
10 the level of the increase; and, three, to do a
11 cost-of-service study for the company. What that is
12 is a study where you allocate the cost of the classes
13 of service for purposes of spreading the rate
14 increase to the various classes. And then also to
15 develop the rate design for the two utilities.

16 Q. Okay. Was it your understanding that
17 you would be testifying before the commission on
18 those items?

19 A. Yes.

20 Q. Okay. I take it you had done this
21 kind of work before?

22 A. Yes, numerous times.

23 Q. Okay. As part of your consulting
24 practice?

25 A. Yes.

1 Q. And had you done the same kind of work
2 at LG&E?

3 A. When I worked at LG&E? Yes.

4 Q. Yes, sir. Okay. Fair enough. Now,
5 you performed this work, I take it, in the summer and
6 through the fall of 2003?

7 A. Yes.

8 Q. Okay. How long do you recall working
9 on the package that ultimately would be filed?

10 A. How long?

11 Q. Yes, sir.

12 A. A significant portion of that period.

13 Q. All right, sir. Are you familiar with
14 the company North American Stainless?

15 A. Yes.

16 Q. Okay. Are you familiar with a
17 controversy between North American Stainless and KU?

18 A. Yes.

19 Q. Okay. Did you participate in dealing
20 with any of the issues in that controversy?

21 A. Ultimately, yes, and -- but not until
22 late in the process.

23 Q. Okay.

24 A. The -- my involvement with them began
25 when the company asked me -- let me back up and

1 indicate that that case was on a separate track from
2 the rate case at the time, and it was ultimately
3 rolled into the rate case. And when it was rolled
4 into the rate case, the -- NAS had submitted
5 testimony, and I was asked to rebut that testimony.
6 So I prepared rebuttal testimony in response to their
7 direct testimony.

8 Q. Would you have not worked on anything
9 to do with North American Stainless until such time
10 as it was consolidated?

11 A. Would I not or did I not?

12 Q. Did you not?

13 A. I did not until it was consolidated.

14 Q. Fair enough. So you did nothing on
15 North American Stainless --

16 A. Right.

17 Q. -- until that point in time.

18 Okay. Let's go back to the period of
19 time notice of filing.

20 A. Mm-hmm.

21 Q. All right. And that would be in
22 November of 2003. Are you familiar with the staff of
23 the Public Service Commission?

24 A. Somewhat.

25 Q. Okay.

1 A. Somewhat.

2 Q. Do you know some of the individuals?

3 A. Yes.

4 Q. Okay. Let me ask you if you know
5 Richard Raff.

6 A. Yes.

7 Q. Did you talk to Richard Raff about the
8 rate cases prior to the notice of filing in November
9 of 2003?

10 A. No.

11 Q. Okay. Do you know Mr. Isaac Scott?

12 A. Yes.

13 Q. Did you talk to Mr. Isaac Scott about
14 the two rate cases prior to the filing in November of
15 2003?

16 A. No.

17 Q. Okay. Do you know Mr. Jeff Shaw?

18 A. Yes.

19 Q. Okay. Did you talk to Mr. Jeff Shaw
20 about the rate cases prior to the filing --

21 A. No.

22 Q. -- notice of filing in November of
23 2003?

24 A. No.

25 Q. Okay. Do you know Mr. Faud Sharifi?

1 A. Yes.

2 Q. Did you have occasion to talk to him
3 prior to the notice of filing about the rate cases?

4 A. No.

5 Q. Okay. Do you know Andrea Edwards?

6 A. No.

7 Q. Do you know Martha Morton?

8 A. Yes.

9 Q. Did you have an opportunity to talk to
10 her about the rate cases prior to the notice of
11 filing in November of 2003?

12 A. No.

13 Q. Okay. Do you know Tom Dorman?

14 A. I've been in meetings with him. I
15 can't say I really know him. I've been in technical
16 conferences with him.

17 Q. All right, sir. Have you ever talked
18 to him about the two rate cases -- or did you ever
19 talk to him about the two rate cases prior to the
20 notice of filing in November of 2003?

21 A. No.

22 Q. Okay. I take it, then, you didn't
23 talk to any member of the staff of the Public Service
24 Commission about the rate cases, at least as of prior
25 to the notice of filing in November of 2003.

1 A. That is correct.

2 Q. Okay. Do you know any of the Public
3 Service Commissioners as of that point in time?

4 A. As of the filing date --

5 Q. November of 2003.

6 A. I know them only insomuch as I've
7 testified before them.

8 Q. Okay. Do you know or did you know
9 Commissioner Marty Huelsman?

10 A. In -- I testified before Mr. Huelsman.

11 Q. Okay. And prior to the notice of
12 filing, did you ever talk to him about the two rate
13 cases?

14 A. No.

15 Q. Let me ask you the same question with
16 regard to Commissioner Gary Gillis. Did you -- do
17 you know him?

18 A. In the same way.

19 Q. Okay.

20 A. And did I -- I did not talk to him
21 prior to the filing.

22 Q. Okay. And let me ask you the same
23 question with regard to Commissioner Bob Spurlin.

24 A. I can't even remember him.

25 Q. Okay. Fair enough to say you never

1 talked to any of the Public Service Commissioners
2 about the two rate cases prior to notice of filing.

3 A. That is correct.

4 Q. Okay. Now, after the notice of filing
5 until the informal conference -- first informal
6 conference, which I'm representing to you as
7 April 28, 2004, tell me what you did with regard to
8 the two rate cases, what work you did.

9 A. Okay. Subsequent to the filing, the
10 first major thing that I did is to respond to data
11 requests. There were numerous data requests from the
12 commission. There were three sets of them from the
13 commission, and then there were two sets from the
14 other parties. And I worked on preparing responses
15 to those data requests.

16 The other thing that I did was to
17 help -- or to -- when the rebuttal -- excuse me, when
18 the intervener direct testimony came in, I reviewed
19 that and I developed rebuttal testimony and helped
20 other witnesses develop their rebuttal testimony in
21 response to the intervener direct.

22 I also -- we helped prepare for the
23 hearing that was coming up, as well as to have
24 discussions concerning possible settlement
25 discussions that were possibly coming up.

1 Q. Okay. During that period of time, did
2 you have any contact with any members of the Public
3 Service Commission staff as we have defined them?

4 A. I had one contact with the staff, and
5 what the contact involved was a question that we had
6 concerning one of their data requests. We didn't
7 understand it. It's typical practice if you don't
8 understand a data request, your attorney calls their
9 attorney to inquire as to the meaning of the data
10 request so you can respond to it. That happened.
11 LG&E's attorney contacted the staff attorney and --
12 which resulted in a very short conference call with
13 LG&E's attorney, me on one end and the PSC attorney
14 and one of the staff members on their end. It was --
15 we developed an understanding of what they were after
16 in that data request, and that was the extent of the
17 conversation.

18 Q. All right. Do you have a time frame
19 where you can reference that?

20 A. It was only -- I can't remember the
21 month, but I can remember it was the -- essentially
22 the third set of data requests by the commission, and
23 let me clarify that. The commission has a routine
24 data request that they submit to you right when you
25 file it, and then there's two follow-up data

1 requests. It would have been the last in that
2 series.

3 Q. All right, sir.

4 A. So it would have been a question on
5 that last data request.

6 Q. All right. And do you recall who
7 participated in the conference call?

8 A. Yes. On LG&E's side, me and Allyson
9 Sturgeon, which is the -- one of the attorneys
10 working on the case. And on their side it would have
11 been Richard Raff and Isaac Scott.

12 Q. All right. How long was the call?

13 A. I'm going to say 15 minutes. No more
14 than that.

15 Q. Okay. Other than that 15-minute call,
16 any contact with the staff between notice of filing
17 and informal conference, April 28, 2004?

18 A. None.

19 Q. Okay. Any contact with any of the
20 commissioners?

21 A. None.

22 Q. Okay. And let me say that by that
23 point in time you had two new commissioners. Present
24 chairman, Mark David Goss, have you ever met him?

25 A. Only during the hearing, but not prior

1 to then.

2 Q. All right, sir. Other than meeting
3 him, did you have any other contact with him?

4 A. No.

5 Q. Okay. And Ms. Ellen Williams, have
6 you met her?

7 A. Only in hearings, and I believe she
8 was in another company's hearing as well, but only
9 during the context of a hearing.

10 Q. All right. Fair enough. April 28,
11 2004 is the date of the informal conference. Did you
12 attend the informal conference?

13 A. I did.

14 Q. Okay. And what was your
15 participation?

16 A. One of the, if you will, negotiators
17 in -- in that conference.

18 Q. Tell me first who you recall being at
19 the informal conference.

20 A. I recall -- it's a little fuzzy who
21 all was there, but I -- the ones I do remember being
22 there was the staff -- representatives from the
23 staff, including Richard -- Richard Raff, Isaac Scott
24 and Jeff Shaw. I think those three.

25 Q. Do you recall any other members of the

1 staff?

2 A. I don't recall them being present.

3 Q. Okay.

4 A. The -- also the KIUC representatives.

5 Q. Mr. Boehm?

6 A. Mr. Boehm and --

7 Q. Mr. Kurtz?

8 A. -- Mr. Kurtz. They were there.

9 And the other ones would have been
10 Ms. Blackford and --

11 Q. Mr. Howard?

12 A. He was in and out, but yes, he was --
13 on one of the two days at least he was there. And I
14 cannot recall on those days -- I can't recall any
15 other party being there, but they may have been
16 there. Those are the ones that primarily did the
17 talking and the ones I remember. If there were other
18 parties there, they didn't say much.

19 Q. Well, let me test your recollection a
20 little bit, see if I can refresh it. Do you recall
21 representatives of what has euphemistically been
22 called the low income group?

23 A. That week -- I can recall them
24 specifically the next week because they began to
25 speak the next week. But that week, I don't remember

1 them saying anything.

2 Q. How about Mr. David Brown from Kroger,
3 was he present?

4 A. Yes. He was there during the
5 discussions, but whether he was there on those days,
6 I can't remember.

7 Q. Okay. Fair enough. So that's the
8 crew you remember on informal conference.

9 A. Mm-hmm.

10 Q. Tell me essentially what transpired on
11 that day.

12 A. On -- there were two days essentially
13 of -- if I recall correctly, of discussion of the
14 issues of the case primarily. And we went through
15 and tried to resolve a number -- or virtually all of
16 the issues in the case one at a time essentially.
17 And the -- I can't remember if there was -- first
18 day, I believe, there was primarily discussion on
19 trying to resolve some of the issues. And if I
20 remember correctly, there was on the second day,
21 maybe the -- late in the first day, there was an
22 issue-by-issue offer made by the intervener parties,
23 and it was primarily driven at that point by the
24 industrials. They were doing most of the talking.

25 Q. KIUC?

1 A. Yes. KIUC, their attorneys were doing
2 most of the talking. And probably the second most
3 vocal, but much less so, was the attorney general
4 attorneys, Ms. Blackford and Dennis Howard. And they
5 put an issue-by-issue response on the table at some
6 point, and I believe it was probably the second day.
7 And the company ultimately responded to that offer,
8 if you will. And then they made a counteroffer, and
9 that's what I basically remember the first couple of
10 days.

11 Q. All right. April 28th --

12 A. It was --

13 Q. April 28th and April 29th?

14 A. Yes.

15 Q. Okay. Now, where were you physically,
16 at the Public Service Commission?

17 A. Yes.

18 Q. Do you remember the particular room?

19 A. Yes.

20 Q. Okay. Where was it?

21 A. It was the second hearing room behind
22 the main hearing room.

23 Q. Okay. And was the staff contingent
24 that you've defined for me there for the whole
25 sessions, all sessions of the two days?

1 A. They were certainly present. I
2 can't -- I don't recall if they were at every single
3 discussion we had, but they were there.

4 Q. All right. And did they participate
5 in the discussion?

6 A. They participated, as is typical in
7 these types of proceedings, in a -- they stood back a
8 little bit first, and they got more involved in it as
9 the discussions proceeded.

10 Q. I have heard their role defined as
11 that of mediation. Would you agree with that?

12 A. Early on I would say not even the role
13 of mediation because it -- it was basically the
14 attorney general, KIUC, and the company hashing out
15 issues. Therefore, I wouldn't even say that they
16 were mediating at that point. Ultimately, as is
17 typical of staff throughout the country, they took on
18 a mediation role.

19 Q. All right. Fair enough. Now, do I
20 take it that all issues were still outstanding by
21 close of meeting second day, April 29?

22 A. Say it again.

23 Q. There was no resolution of any of the
24 issues by close of session April 29th, yes or no?

25 A. No.

1 Q. There was some agreement?

2 A. There was no agreement --

3 Q. All right.

4 A. -- by the close of the business day.

5 Q. Okay. Now, do I take it that there
6 was some general understandings reached on some
7 issues at the end -- by the end of April 29th?

8 A. They had agreed to a position that
9 they advanced to the company, okay? They -- I mean,
10 that -- an agreement -- it was probably at that point
11 provisional on the part of the AG, but the KIUC had
12 bought in at that point on advancing a position. The
13 company had not agreed to it by the end of the day.

14 Q. Fair enough. Did you have a sense
15 that KIUC and the attorney general were in agreement
16 on what their position was as a proposal to LG&E/KU?

17 A. I would say provisionally on the part
18 of the AG at that point. They needed to check
19 with --

20 Q. With the attorney general?

21 A. Yes.

22 Q. Okay. Did you have a sense they did
23 not have authority, at least as of the close of
24 business, April 29th?

25 A. That was my sense.

1 Q. All right. Let me see if we can agree
2 on some terms. And I'm smiling, as you can see,
3 because I've learned a lot of them and I'm slightly
4 dangerous now, Mr. Seelye, so bear with me. I have
5 been advised that the major issues -- as complex as
6 the cases may be, but the major issues really boil
7 down to two things: Revenue requirement, which is
8 how much essentially; and rate design, which is who
9 should pay. Is that a fair statement?

10 A. Yes.

11 Q. All right. As of close of business
12 April 29th, had a lot of issues on rate design been
13 at least agreed to?

14 A. Rate design?

15 Q. Yes, sir.

16 A. None.

17 Q. Okay. Revenue requirements?

18 A. We were approaching what I felt at the
19 time was a -- an agreement on those issues by the end
20 of the day. And that is a Thursday; is that correct?

21 Q. Yes, sir.

22 A. Oh, yes.

23 Q. All right. And that revenue
24 requirement, so I understand it, has a gas component
25 and an electrical component, electricity component.

1 A. Yes, that's correct.

2 Q. And did you have a sense that you were
3 closing in on agreement on both gas and electric?

4 A. They weren't differentiated at that
5 point, so the answer is yes.

6 Q. All right. Fair enough. Now I have
7 an understanding of what happened the first two days,
8 from your vision.

9 April 30th, which is also Oaks Day,
10 did you participate in any discussions on that day?

11 A. Yes, I did.

12 Q. Tell me what you recall of that day.

13 A. The -- there were two discussions.
14 One of them was by a telephone call in the morning
15 with KIUC and Dennis Howard and the company. And I
16 don't -- well, I don't think Betsy Blackford was in
17 that discussion.

18 Q. It was a telephone call?

19 A. Yes, there was a telephone call.

20 Q. Who participated from LG&E in the
21 telephone call?

22 A. Me and Kendrick Riggs were the only
23 two participants on that call. And on the other
24 side -- we were having trouble patching both -- I
25 believe it was Dennis in -- or the KIUC in one of

1 them, but eventually we had a discussion. And I
2 think we agreed to try to meet later on in the
3 afternoon in person with the KIUC representatives and
4 the AG, and that was the second meeting we had. And
5 I don't remember much of substance being discussed
6 during the telephone call other -- there may have
7 been a few points, but largely it was to see if they
8 would meet with us a second time so we could go over
9 the offer that was made on the other part -- party,
10 and -- which we met in the afternoon. We drove over
11 to the meeting.

12 In the second meeting John McCall,
13 Kent Blake, me -- or Kendrick Riggs and I went to
14 that meeting. And on -- from the KIUC, I don't think
15 David Boehm was there. I think it was only Mike
16 Kurtz.

17 Q. And that was in Frankfort?

18 A. Yes.

19 Q. At the office of the attorney general.

20 A. Yes.

21 Q. Okay. And who participated in that?

22 A. Okay. That's who I was describing,
23 but I'll go through it again. The four people from
24 LG&E's side that participated in the afternoon was
25 John McCall, Kent Blake, Kendrick Riggs and -- and

1 me.

2 Q. All right.

3 A. Okay. From the KIUC, it was Mike
4 Kurtz. I don't think David Boehm made it to that
5 meeting, if I recall correctly. And the -- from the
6 AG, only Dennis Howard. Ms. Blackford, I don't
7 think, could attend. So -- no. There was another
8 fellow -- and I can't remember his name -- from the
9 AG's office that sat in, and I don't remember him
10 saying anything. He was a tall, thinning fellow, and
11 I can't remember his name from the attorney general's
12 office. He works for Dennis.

13 Q. He worked for Mr. Howard?

14 A. Yes.

15 Q. All right. Now, am I understanding it
16 correctly, it was your belief that there was a
17 proposal on the table to LG&E from the attorney
18 general and KIUC at the time you went to that
19 meeting?

20 A. From the KIUC definitely. From the
21 AG, I think they still needed to clear it with the
22 attorney general, which they had intended to Friday.
23 And on -- I believe he had discussed it, and I think
24 that they were -- by the -- by Friday, if I remember
25 correctly, I believe that it was a firm offer from

1 the AG. That's certainly how we were talking is that
2 the AG -- that he had got clearance from the attorney
3 general, Dennis had, that Dennis had gotten clearance
4 from the attorney general and that it was a firm
5 offer at that point. And we were counterproposing
6 with a couple of other issues, not modifying the
7 revenue requirement, but future treatment of two
8 other issues.

9 Q. Okay. What was the offer, as best you
10 recollect it, from the attorney general?

11 A. Approximately \$101 million.

12 Q. All right, sir.

13 A. Approximately.

14 Q. Okay. And tell me why you had a
15 belief that Mr. Howard had authority from the
16 attorney general to make that offer on Friday,
17 April 30th.

18 A. On -- by Friday, I think he had
19 indicated it, number one. And if not by Friday, then
20 by Monday at the very least. But I believe by Friday
21 he had indicated it.

22 Number two, he was certainly
23 negotiating it as if it were on the table. They were
24 negotiating very hard against any movement away from
25 the 101 at that point. They ultimately declined or

1 rejected one of our proposals. The other proposal
2 they said they had assumed it all along so they
3 didn't have any trouble with it. One of them related
4 to a gas issue, and the other one related to a NOX
5 issue. And they rejected one --

6 Q. What kind of issue, I'm sorry?

7 A. A NOX, N-O-X. Capital N, capital O,
8 capital X.

9 Q. Okay.

10 A. And the -- like I said, he at that
11 point was arguing very hard for -- from the position
12 of 101 --

13 Q. Mr. Howard was?

14 A. Yes. And at that meeting the --
15 contrary to earlier meetings, he was principal voice
16 in -- in the opposition, if you will, or at the
17 settlement table as opposed to the KIUC. Prior to
18 that, it was the KIUC. And the KIUC was -- seemed to
19 be all right with either issue, but it was Dennis
20 Howard arguing against these two issues and arguing
21 from the point of view of retaining the 101 and not
22 providing both of these issues.

23 Q. All right, sir. How long did the
24 meeting last?

25 A. Probably an hour and a half.

1 Q. Okay. Any participation from staff in
2 that meeting?

3 A. Only by phone.

4 Q. Okay.

5 A. And that was -- Mr. Raff was on the
6 phone as well.

7 Q. Okay. And what do you recall was his
8 participation, if any, other than being connected to
9 you by phone?

10 A. He was pretty silent that day.

11 Q. All right.

12 A. I don't remember him making any
13 points.

14 Q. All right, sir. As you left on
15 Friday, April 30th, the attorney general's office,
16 did you believe you had an agreement on revenue
17 requirement?

18 A. Absolutely.

19 Q. And you believe that agreement to be
20 at \$101 million?

21 A. Yes.

22 Q. Did you have an agreement on rate
23 design?

24 A. No.

25 Q. Okay. Was anybody present at the

1 meeting charged with drafting a document to reflect
2 the understanding arrived at?

3 A. I don't recall that.

4 Q. Okay. What do you recall was going to
5 be the next step?

6 A. A discussion the following week to
7 bring the other parties up to -- to date that weren't
8 at that meeting, as well as to proceed with rate
9 design. There were other parties that were not at,
10 obviously, discussion on Friday. They were to be
11 brought up to speed on Monday, I believe it was. It
12 was either a Monday or a Tuesday, next time we met in
13 any event. And, for example, there were
14 representatives from Kroger there, NAS, North
15 American Stainless, the low income groups, maybe
16 others. Yes, there was one other principal one, and
17 that was the Department of Defense, which is a big
18 player in that. So those were the two things that
19 were going to happen next is bring the other parties
20 up to speed to make sure that they were still in
21 agreement with everything, and to proceed with rate
22 design issues.

23 Q. All right, sir. I presume nobody
24 worked Derby Day.

25 A. I probably did.

1 Q. All right. Well, nobody worked in a
2 negotiation setting.

3 A. No, no negotiation.

4 Q. Following day was Sunday. May 3rd
5 would be the Monday. Do you have a recollection that
6 there were discussions on May the 3rd?

7 A. Yes, I believe there was.

8 Q. Okay. And where would those
9 discussions have taken place, as best you recall?

10 A. The next settlement meeting was at the
11 commission, hearing room 2, or whatever it's called.

12 Q. All right, sir. Does the term
13 "prehearing conference" mean anything to you?

14 A. Yes.

15 Q. Do you have a recollection that there
16 was discussions either at the prehearing conference
17 or afterwards?

18 A. Yes. That was -- there were
19 discussions. That was probably what was scheduled
20 for Monday was a prehearing conference, that we
21 continued on with the discussions and the
22 negotiations, but there were some procedural issues
23 that had to be dealt with as well.

24 Q. All right, sir. Tell me who you
25 recall being present in hearing room 2 for the

1 discussions.

2 A. I believe every party in the case.

3 Q. All parties? Now, who was present --
4 who was the LG&E team at that point?

5 A. Okay. It was essentially -- it was
6 probably a broader team on that day because there
7 were more parties -- more individuals brought to it,
8 I believe, at that point. But the principal
9 negotiating team was the same group, which was --
10 Kendrick and I sat at the table, round table. And
11 John McCall and Kent Blake was there from the LG&E
12 team, but I believe there were other attorneys there.
13 Bob Watt comes to mind at that point. Greg Cornett
14 comes to mind, Allyson Sturgeon. I believe Dot
15 O'Brien may have been there. She was certainly there
16 the next day if she wasn't there that day. And there
17 were beginning to be support people that didn't sit
18 in the room, but they weren't in the -- or in the
19 room -- negotiation room, if you will.

20 Now, I guess that was your question is
21 who from LG&E was there.

22 Q. Mm-hmm. Was Mr. Sales there on that
23 day?

24 A. Who?

25 Q. Mr. Sales.

1 A. I can't recall if he was there that
2 day or the next day. It was one or the other because
3 he was working with the NAS issue.

4 Q. Tell me what you recall about the
5 negotiations on that day, May 3rd.

6 A. It gets a little fuzzy as far as the
7 sequence of events, but I remember there was a
8 discussion about a procedural issue. There was a
9 long discussion early on about withdrawing a certain
10 issue, and I think it had to do with earnings sharing
11 mechanism, that we reached agreement early on and
12 there was still some discussion procedurally how we
13 were going to -- how testimony, et cetera, would be
14 withdrawn on the earnings sharing mechanism. So
15 there was a lengthy discussion on that before we went
16 on to other issues in the case. And if I recall,
17 there was some discussion reviewing what -- where we
18 were at that point and still fine-tuning some of the
19 revenue requirement issues because, like I said,
20 there were a lot of other parties at the table.

21 There were also discussions -- Kroger
22 had an issue in the case, and I believe that they
23 wanted to discuss that as well. So the attorney for
24 Kroger -- I think it was Mr. Brown, if I remember
25 correctly -- raised several issues. But there

1 were -- we didn't move along as quickly as we thought
2 because there were a lot of issues brought up early
3 in the morning. And I can't remember if -- when
4 did -- was the hearing -- the hearing, I guess, was
5 scheduled to begin on maybe Tuesday.

6 Q. Yes, May the 4th.

7 A. Okay. But it didn't really take place
8 until Wednesday, so those two days run together
9 because at one point I recall Betsy Blackford got a
10 call from the attorney general's office saying, "I've
11 been directed to call off all negotiations." And I
12 can't remember if it was on the Monday or the
13 Tuesday. I think it was on the Tuesday because I
14 didn't come back on Wednesday because I was preparing
15 for the hearing because I thought the hearing was
16 probably going to go on at some point. But she
17 received a call at some point on one of those two
18 days saying, "Direct" --

19 Q. Do you recall being there --

20 A. Yes.

21 Q. -- when she received the call?

22 A. Yes.

23 Q. Okay.

24 A. She took the call. She got off the
25 phone. She stood up and said, "The attorney general

1 has said to cancel all negotiations."

2 And there was a long silence. And
3 then David Boehm said, "Well, you can leave if you
4 want to, but you can't tell us to call off the
5 negotiations. We're going to proceed with or without
6 you," is basically what his response was, that I
7 recall.

8 And she got up and left, but she
9 eventually at some point came back. And the day that
10 the -- on Wednesday, I wasn't -- didn't attend. And
11 then they called me at my office because I was
12 preparing for the -- the hearing, and the hearing was
13 to begin on Wednesday. We were going to continue
14 with negotiations, but continue -- go on with the
15 hearing because the AG had not agreed with it, even
16 though we were trying to continue to work on the
17 settlement with the other parties. And -- but I was
18 called back on Wednesday morning to come back because
19 the settlements were moving forward, and they were
20 going to move forward concurrently with the hearing,
21 which they did at that point on -- but it wasn't
22 until, I think, late Wednesday that the hearing
23 began. It was like in the afternoon, if I recall.
24 Now, I could be a little fuzzy on some of these.

25 Q. Let's walk back through some of this

1 and see if I can refresh your memory a little bit.

2 A. Okay.

3 Q. On May the 3rd, which would have been
4 the prehearing conference and would have been the
5 Monday, do I take it you recall negotiating, and at
6 that point in time was the revenue requirements
7 number still in place, meaning the understanding of
8 \$101 million?

9 A. Yes.

10 Q. And did all parties, after I presume
11 they were informed of the understanding reached on
12 the Friday, agree with the \$101 million?

13 A. No voice of opposition was raised.

14 Q. All right, sir. Do you have a
15 recollection that the conversation that occurred at
16 the attorney general's office was the first item on
17 the agenda disclosed to the other parties on Monday,
18 May the 3rd?

19 A. I don't think it was. I think there
20 was another matter, and that was the ESM matter was
21 the first, that I recall.

22 Q. All right, sir. Did you have a clear
23 recollection, do I take it, that the \$101 million
24 tentative understanding reached with the attorney
25 general was put on the table that day?

1 A. Yes.

2 Q. Okay. And there was no opposition
3 that you recall.

4 A. None whatsoever.

5 Q. Okay. May the 4th arrives. That's
6 Tuesday.

7 A. Mm-hmm.

8 Q. Now, you are present on the Tuesday.

9 A. On Tuesday I'm present.

10 Q. All right, sir. And do you recall
11 what the first item on the agenda was for the parties
12 on Tuesday, May the 4th?

13 A. I believe we were talking about rate
14 design at that point.

15 Q. All right. Do I take it that you were
16 talking about rate design because you believe revenue
17 requirement had been taken care of?

18 A. Yes.

19 Q. Okay. And do you have a recollection
20 that sometime in the morning or maybe in the early
21 afternoon that Ms. Blackford made her speech about
22 the attorney general wanting to call off
23 negotiations?

24 A. She received the phone call either
25 late afternoon -- or late morning, early afternoon.

1 One of those two. It was well into the day.

2 Q. All right. Was Mr. Howard with her?

3 A. No.

4 Q. Okay. You don't have a recollection
5 of Mr. Howard --

6 A. He was at -- I believe at the -- he
7 was, I don't think, in the room at the time when this
8 call was made.

9 Q. Okay. The reason I'm asking you that
10 is I've heard two or three renditions of this chain
11 of events. They all end up the same way.

12 A. Mm-hmm.

13 Q. But let me ask you to reflect on your
14 memory. Is it possible that Mr. Howard came in the
15 room, spoke with Ms. Blackford, and that Mr. Howard
16 made the announcement that the attorney general would
17 not honor the understanding of April the 30th and was
18 on his way to the Public Service Commission to talk
19 to various people?

20 A. I thought I remembered a phone call.

21 Q. All right. Fair enough.

22 A. So ...

23 Q. All right. Just checking to see
24 whether that jogged your memory or not.

25 A. Yeah. I mean, he -- I believe he was

1 around. He may have been taking a smoke break or
2 something like that.

3 Q. Fair enough. Do you recall a meeting
4 on Tuesday where the attorney general personally
5 attended?

6 A. On which day?

7 Q. Tuesday.

8 A. Tuesday. I thought it was Wednesday,
9 but it could have been Tuesday.

10 Q. All right.

11 A. I was there when he came in the room.

12 Q. Okay. But your reflection is that you
13 learned he was no longer in agreement with the
14 arrangements made on Friday, April the 30th, on
15 Tuesday, not on Wednesday, correct?

16 A. Yes, I believe it was Tuesday.

17 Q. Okay.

18 A. I'm almost certain it was Tuesday.

19 Q. All right. So in your mind there was
20 a day's separation between the time you first learned
21 he was not going to honor the understanding you
22 reached April 30th and the time he actually came to
23 the PSC.

24 A. There was -- say that again, I'm
25 sorry.

1 Q. Okay. In your mind there was a --
2 essentially a day passed between the time you learned
3 that he was not going to honor the arrangement of
4 April the 30th and the time he actually came
5 physically to the PSC; is that correct?

6 A. That was my recollection.

7 Q. Fair enough. Okay. So I take it that
8 you learned that -- from Ms. Blackford, your
9 recollection, that he was not going to honor the
10 agreement of April 30th. You gave me the colloquy
11 that -- between her and Mr. Boehm. What transpired
12 after that for the remainder of the day?

13 A. We continued to discuss issues.

14 Q. Okay. She participated?

15 A. No.

16 Q. She left?

17 A. She may have come back in, but she
18 left for a period of time.

19 Q. After her announcement?

20 A. Yes.

21 Q. Okay.

22 A. She stood up and walked out.

23 Q. Mr. Howard, where was he? You don't
24 remember him being on the scene?

25 A. Not in the room.

1 Q. Okay.

2 A. Because we continued with the
3 discussion, and there was no representative from the
4 AG there.

5 Q. All right. How long did that occur?

6 A. I can't remember if it was the rest of
7 the day or if she came back in.

8 Q. All right. It's possible she could
9 have gone out for a short period of time and come
10 back in?

11 A. Yes, that's very possible.

12 Q. Okay.

13 A. Because it seems like she did drift
14 back in --

15 Q. All right.

16 A. -- at some point.

17 Q. Okay. Wednesday, tell me what you
18 recall about the events of Wednesday the 4th.

19 A. Okay. We were -- because the AG
20 was -- it was our assumption that they weren't on
21 board at that point, we were going forward with the
22 hearing. And we were going to try to, I believe,
23 work out settlement discussions. But I needed to
24 prepare for the hearing, so I did not attend in the
25 morning because the assumption was that LG&E's first

1 witness was going on the stand.

2 Q. Were you the first witness?

3 A. No, I wasn't, but I was -- it gave me
4 time to prepare for my own cross-examination. But I
5 was called at about probably 9:30 or so, because I'd
6 already been in my office for a while, and then I
7 received a call saying, "Negotiations are back on.
8 You need to be here." So I drove, probably got there
9 at 10:30 or so and -- maybe 11:00, and we proceeded
10 with the rate design discussion.

11 Q. Any discussion about revenue
12 requirement?

13 A. Not at that point.

14 Q. Okay.

15 A. Not that I was involved in.

16 Q. All right. And same persons involved
17 in the discussions on Wednesday morning that had been
18 involved all along?

19 A. Yes, including at that point the
20 attorney general representatives, both Dennis and
21 Betsy.

22 Q. All right. They may have been there
23 on Tuesday afternoon, you simply cannot recall. Am I
24 correct?

25 A. I cannot recall.

1 Q. All right. Fair enough. But you do
2 recall them on Wednesday morning.

3 A. Yes, definitely on Wednesday morning.

4 Q. And the discussions, I take it, were
5 more about rate design than revenue requirement?

6 A. Yes. We proceeded further into the
7 rate design area.

8 Q. Okay.

9 A. Which I was the principal rate design
10 witness; therefore, they didn't want to begin that
11 without me, so ...

12 Q. All right. Then what happened?

13 A. We continued to negotiate with all the
14 parties.

15 Q. Do you recall -- is that when you
16 recall sometime that day the attorney general coming
17 to the building?

18 A. That was my recollection is the day
19 that he came because the hearing was on. The
20 television cameras were there, and I believe that's
21 the day that he showed up.

22 Q. Okay. Is it possible you were not
23 present for another discussion with the attorney
24 general between he and Mr. Riggs and Mr. McCall?

25 A. I was not involved in any other

1 discussion other than in the full room with all the
2 parties there.

3 Q. All right. Fair enough. So you don't
4 know anything about such a discussion or when it
5 occurred.

6 A. No.

7 Q. Okay. Was it ever reported to you
8 that there was a discussion between Mr. McCall and
9 Mr. Riggs and the attorney general?

10 A. Yes. There was -- there was an
11 indication that there was a discussion with the
12 attorney general and that they had made a
13 counteroffer.

14 Q. Okay. Now, memory is always fleeting.
15 I'm trying to get our Tuesday, Wednesday right, so
16 let's really try to focus in on that.

17 A. Yeah.

18 Q. Is it your understanding that you do
19 not have any recall of the attorney general being
20 present for a meeting with Mr. McCall and Mr. Riggs
21 on Tuesday, the 3rd, a short meeting?

22 A. I don't recall that.

23 Q. Fair enough.

24 A. It could have taken place while I was
25 dealing with other issues.

1 Q. All right.

2 A. Because --

3 Q. Do you recall a report --

4 A. Yes.

5 Q. -- being given to you?

6 A. I recall a report that the attorney
7 general had made an offer to the company --

8 Q. Okay.

9 A. -- that was fairly close to where we
10 were.

11 Q. What was your understanding of what
12 that offer was?

13 A. It was \$90 something million is what I
14 recall.

15 Q. All right, sir. And when do you
16 believe that offer was made?

17 A. I don't think I heard about it in
18 Wednesday, but -- sometime on Wednesday, which made
19 me think -- well, actually, I didn't know that it
20 took place directly between the attorney general and
21 Mr. McCall. All I heard was the attorney general had
22 made this offer.

23 Q. Right.

24 A. And it was my assumption it probably
25 came through some other party, like Dennis Howard.

1 But it was irrelevant.

2 Q. It was not made in front of you.

3 A. No, it was not made in front of me.

4 Q. Okay. This is May the 4th. Do you
5 believe -- do you believe the offer was made on May
6 the 4th? That's the Wednesday.

7 A. That would have been my guess, and
8 that would have been my estimation --

9 Q. I'm sorry, that's Tuesday.

10 A. It -- at least by Wednesday. I can't
11 say if it was Tuesday or not.

12 Q. Did you actually give testimony on May
13 the 4th?

14 A. No.

15 Q. Did you give testimony on May the 5th?

16 A. Yes.

17 Q. Okay. What do you remember about the
18 events of May the 5th?

19 A. May the 5th, we continued with
20 negotiations.

21 Q. All right.

22 A. And at one point around either
23 Wednesday or Thursday we had an agreement on the
24 revenue requirement. I believe it was by the end of
25 the day Wednesday, could have been on Thursday, on

1 gas.

2 Q. Okay. Which all parties signed off
3 on.

4 A. That all parties signed off on the
5 level increase for gas. And we were going to
6 continue with the rate design issues on the electric,
7 which were a lot more complex because there were so
8 many more parties involved in that one. So we
9 continued the discussion on rate design to try to
10 hash those out with all of the parties, including the
11 attorney general.

12 Q. Were you also giving testimony on that
13 day?

14 A. On Thursday I think I got on the
15 stand.

16 Q. Okay. Am I correct that testimony was
17 also given the day before, on Wednesday?

18 A. Wednesday afternoon, if I recall.

19 Q. Okay. So that the setting is people
20 are negotiating and testimony is also being given.

21 A. Yes, because I did not attend any of
22 the hearing. I was back in the negotiations almost
23 the entire time except when I came out to testify.

24 Q. Okay. That's the events of May 5th.
25 Do you remember anything else about May 5th? That

1 would be the Thursday.

2 A. I remember not getting a lot of sleep
3 the night before, but not on Thursday.

4 Q. Okay. May the 6th, next day. What do
5 you recall of the events of May the 6th?

6 A. I believe we essentially came to
7 agreement with all of the parties that we were going
8 to come to agreement with, including understanding in
9 the written document that was prepared the previous
10 two nights -- that was largely prepared by Mr. Watt
11 and Greg Cornett with us. We went through the
12 document, if I remember correctly, and we reached
13 agreement on final issues, one of the last being
14 North American Stainless. That was one of the last
15 issues that we resolved.

16 Q. All right, sir. It was my
17 understanding that there was never an agreement with
18 regard to revenue requirements with the attorney
19 general on electric.

20 A. No.

21 Q. Okay. And that was the -- is it your
22 understanding that was the only outstanding issue by
23 the close of business on May the 6th?

24 A. It was documented that way in the
25 agreement that the attorney general was going to

1 sign.

2 Q. All right. And did they ultimately
3 sign a document submitted to the Public Service
4 Commission?

5 A. Yes.

6 Q. Okay.

7 A. And I believe that happened on Friday.

8 Q. All right. Now, I want to take you
9 back to the morning of May the 6th. Were you in the
10 courtroom the morning of May the 6th?

11 A. Yes.

12 Q. The hearing room?

13 A. Yes.

14 Q. Do you recall Mr. Raff making a report
15 of comments made by the attorney general on the
16 radio?

17 A. Was that Friday or was that Monday?
18 That's Monday?

19 Q. That was May the 6th, which would have
20 been Friday.

21 A. Friday, yes, I recall that.

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

24 A. During the hearing, you mean?

25 Q. Yes, sir.

1 A. Okay. Mr. Raff made a -- made some
2 comments about being concerned about some
3 improprieties in the -- in this proceeding. And
4 he -- he asked -- if I remember correctly, he asked
5 it to be discussed. And the chairman agreed and went
6 around and asked everyone in the room if they knew of
7 any -- or every counsel in the room if they knew of
8 any improprieties. And everyone said -- no one said
9 that they were aware of any improprieties.

10 Q. All right, sir. And you say he was
11 concerned. Did he reference that he had been
12 listening to the radio and heard an interview by the
13 attorney general raising those kinds of issues?

14 A. It was either radio or TV, but yes.

15 Q. All right. And that was the predicate
16 for his raising the issue?

17 A. Yes.

18 Q. Okay. Fair enough. Okay. Do you
19 recall anything else from the chain of events of May
20 the 6th?

21 A. Other than getting on the stand again.
22 So I testified the second time to answer any
23 questions concerning the settlement agreement.

24 Q. All right, sir. Were you the main
25 witness of LG&E --

1 A. No.

2 Q. -- on the settlement agreement?

3 A. Mike Beer basically gave a summary.
4 He was not asked any questions. I was made available
5 to answer -- he was not asked any technical
6 questions. He just gave an overview of the -- of the
7 settlement that -- before the commission and on the
8 record. And then I was called to answer any
9 questions concerning the technical issues in the
10 settlement agreement.

11 Q. All right, sir. The next week, May
12 the 12th, do you recall any events occurring on May
13 the 12th?

14 A. No.

15 Q. Were you present on May the 12th?

16 A. Oh, yes. Yes, I was.

17 Q. What was the purpose of the hearing on
18 May the 12th; do you recall?

19 A. Was it a hearing? It was just a staff
20 conference, I thought. There was a subsequent staff
21 conference to resolve one more issue, and --

22 Q. Well, who attended, the same parties?

23 A. A little different set because from
24 LG&E there was a technical issue that had to be
25 discussed concerning interruptible credits.

1 Q. All right, sir.

2 A. And it was an issue that was -- the
3 KIUC and NAS were on one side, and the attorney
4 general was on the other side. And there was a
5 conference, not a hearing, to discuss the merits of
6 the issue on the interruptible credit. And who
7 attended was Kendrick, me, Kent Blake, Robert Conroy
8 and -- who was a technical person on that issue. And
9 I can't remember if John McCall was there or not.

10 Q. All right, sir. How long was the
11 meeting?

12 A. Probably an hour and a half or
13 something like that. It was primarily -- we didn't
14 have much to say other than to answer technical
15 questions.

16 Q. Any person from the PSC staff present?

17 A. Yes.

18 Q. Same group?

19 A. Essentially the same group. It may
20 have been -- I remember Jeff Shaw being there. Isaac
21 Scott may have not been there, but Jeff Shaw was
22 definitely there.

23 Q. Tell me what you -- what your
24 perception of the role of the PSC staff was for the
25 week beginning May the 3rd. Had their role changed

1 any from the way you had previously described, their
2 participation?

3 A. Essentially the same.

4 Q. Okay. Do I take it they were not
5 participating in any active negotiation, but there
6 mostly as a resource to facilitate conversation?

7 A. Yes.

8 Q. Fair enough. And again, the same
9 group, Mr. Raff, Mr. Scott, Mr. Shaw?

10 A. And there were some other ones that
11 were coming in and out. Mr. Sharifi may have been in
12 there at some point, but it was -- that was the core.

13 Q. Okay. Did you have an understanding
14 that his issues were depreciation issues?

15 A. Whose?

16 Q. Mr. Sharifi.

17 A. Yes.

18 Q. Do you have a recollection, I take it
19 then, he was in to talk about depreciation issues?

20 A. Yes.

21 Q. Okay. Fair enough. Do you remember
22 anybody else besides Mr. Scott, Mr. Shaw, Mr. Raff
23 and Mr. Sharifi?

24 A. There was a young woman -- I can't
25 recall her name -- that was in and out.

1 Q. Fair enough. Now, between the time of
2 the -- the hearings began -- and I'm going back to
3 the informal conference, April 28, 2004, to the
4 decision rendering by the Public Service Commission
5 on -- in mid June of 2004, did you have any contact
6 with the PSC staff other than in the negotiation
7 sessions?

8 A. Yes, one.

9 Q. All right, sir. Tell me about that.

10 A. Okay. There was an inquiry. The --
11 we had the settlement agreement. Then the company, I
12 believe, in the settlement agreement agreed to submit
13 tariff sheets to implement what was in the settlement
14 agreement, okay, which the company did. And the
15 staff had a question concerning the -- it's a very
16 technical question concerning the determination of
17 billing demand for LCI-TOD rate and the language that
18 was in the determination of the 15-minute -- there
19 was an average between a 15-minute and a 5-minute
20 demand, and whether the language that we adopted
21 fully incorporated --

22 Q. This is the tariff language?

23 A. The tariff language.

24 Q. All right.

25 A. And we --

1 Q. When do you recall that?

2 A. Probably three weeks after. It
3 was after the company had sent all the parties tariff
4 sheets, so ...

5 Q. Okay. And when would that have been?
6 Would it have been prior to a ruling by --

7 A. Oh, yeah. It would have been long
8 before the ruling of the commission. Like I said, it
9 was just a technical implementation issue. It was
10 not anything to the merits of the revenue requirement
11 or anything like that.

12 Q. All right, sir. Was that a phone
13 call?

14 A. That was a call that was made first
15 from Richard Raff to the attorney for the company.
16 And I think it was again -- this one was Kendrick --
17 made it through Kendrick, I believe, and not Allyson,
18 but -- although it could have been Allyson. And then
19 they either patched me in or scheduled a time when I
20 could be in on the phone call.

21 Q. So that I understand this, this was an
22 issue to try to understand some document --
23 documentation on tariff that had been submitted by
24 LG&E?

25 A. Yes, in compliance, if you will, with

1 the settlement agreement.

2 Q. All right. And the settlement
3 agreement had not yet been approved, correct?

4 A. No, it had not been approved.

5 Q. Do you recall information being sent
6 to all the parties as a result of that conversation?

7 A. Yes. It would have -- I believe we
8 ended up modifying the tariff sheet and sending them
9 out again with corrected language.

10 Q. Okay. And was it sent to everyone?

11 A. Yes.

12 Q. Fair enough. Other than that contact,
13 was there any contact between you and any member of
14 the staff from April 28, 2004 until the ruling was
15 issued in June of 2004?

16 A. None.

17 Q. Let me ask you the same question with
18 regard to communication with Public Service
19 Commission members. Between April 28th, 2004, and
20 the actual issuance of ruling from mid June 2004, did
21 you have any contact with any Public Service
22 Commission member?

23 A. No.

24 Q. Okay. In my prior question to you
25 about staff, I was also including Mr. Dorman and

1 Ms. Beth O'Donnell. Did you have any communication
2 with them?

3 A. No.

4 Q. Okay. While the term "collusion" is
5 very subjective -- and we all can form our personal
6 definitions of it -- throughout this whole hearing
7 process -- and let's start with notice of filing back
8 in November of 2003, through ruling by the
9 commissioners in June of 2004, did you ever see
10 anything that you personally thought was collusive or
11 inappropriate behavior?

12 A. No.

13 MR. GOLDBERG: Fair enough. That's
14 all I have. Thanks much.

15 THE WITNESS: Okay. Thank you.

16

17 (STATEMENT CONCLUDED AT 11:05 A.M.)

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1 STATE OF KENTUCKY) (
) (SS:
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
me; that said testimony was taken down by me in
10 stenographic notes and thereafter reduced under my
11 supervision to the foregoing typewritten pages and
12 that said typewritten transcript is a true, accurate
13 and complete record of my stenographic notes so
14 taken.

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

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

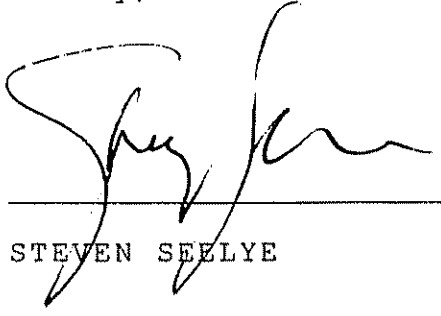
13 Given under my hand this the 10th
14 day of August, 2005, at Louisville,
15 Kentucky.

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18 ELLEN L. COULTER
19 NOTARY PUBLIC
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I, the undersigned, STEVEN SEELYE, 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.



STEVEN SEELYE

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



NOTARY PUBLIC

My commission expires 12-2-06

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

ERRATA SHEET

NAME Steven Seelye DATE OF DEPOSITION July 29, 2005

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

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Reason for change _____

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<p>B</p> <p>but... [44] 16/21 17/12 17/15 17/25 18/5 19/3 20/3 21/11 22/6 24/1 24/7 24/23 26/7 26/20 27/19 30/22 31/8 31/12 31/18 32/7 32/25 33/7 33/16 34/4 34/8 34/14 34/17 34/21 37/13 38/9 38/12 39/17 40/23 41/3 41/4 42/1 44/18 45/1 47/3 49/14 51/21 52/5 52/12 54/18</p> <p>but -- [1] 54/18</p> <p>by -- [1] 54/6</p>	<p>19/16 30/11 37/18 48/4 50/7 53/4 54/8 55/19 55/22 57/12</p> <p>Commissioner [3] 12/9 12/16 12/23</p> <p>commissioners [5] 12/3 13/1 15/20 15/23 56/9</p> <p>communication [2] 55/18 56/1</p> <p>company [17] 1/6 1/11 4/20 6/15 7/11 8/14 8/25 19/7 20/14 21/9 21/13 23/15 44/7 53/11 53/14 54/3 54/15</p> <p>company -- [1] 44/7</p> <p>company's [1] 16/8</p> <p>complete [1] 57/9</p> <p>complex [2] 22/5 46/7</p> <p>compliance [1] 54/25</p> <p>component [3] 22/24 22/25 22/25</p> <p>concerned [2] 49/2 49/11</p> <p>concerning [7] 13/24 14/6 49/23 50/9 50/25 53/15 53/16</p> <p>CONCLUDED [1] 56/17</p> <p>concurrently [1] 34/20</p> <p>CONDITIONS [2] 1/6 1/11</p> <p>conference [18] 13/5 13/6 14/12 15/7 15/17 16/11 16/12 16/17 16/19 18/8 30/13 30/16 30/20 35/4 50/20 50/21 51/5 53/3</p> <p>conference -- [1] 13/5</p> <p>conferences [1] 11/16</p> <p>connected [1] 28/8</p> <p>Conroy [1] 51/7</p> <p>consolidated [2] 9/10 9/13</p> <p>consultant [4] 3/19 4/16 5/1 5/7</p> <p>consulting [3] 3/20 3/21 7/23</p> <p>contact [10] 14/2 14/4 14/5 15/16 15/19 16/3 53/5 55/12 55/13 55/21</p> <p>contacted [1] 14/11</p> <p>context [1] 16/9</p> <p>contingent [1] 19/23</p> <p>continue [4] 34/13 34/14 34/16 46/6</p> <p>continue -- [1] 34/14</p> <p>continued [6] 30/21 39/13 40/2 42/13 45/19 46/9</p> <p>contrary [1] 27/15</p> <p>controversy [2] 8/17 8/20</p> <p>conversation [4] 14/17 35/15 52/6 55/6</p> <p>core [1] 52/12</p> <p>Cornett [2] 31/13 47/11</p> <p>correct [9] 12/1 13/3 22/20 23/1 38/15 39/5 41/24 46/16 55/3</p> <p>corrected [1] 55/9</p> <p>correctly [8] 18/13 18/20 25/5 25/16 25/25 32/25 47/12 49/4</p> <p>correctly -- [1] 32/25</p> <p>cost [2] 3/21 7/12</p> <p>cost-of-service [1] 7/11</p> <p>could [13] 3/11 5/17 5/17 6/6 24/8 25/7 34/24 38/9 40/8 43/24 45/25 54/18 54/20</p> <p>Could -- [1] 5/17</p> <p>COULTER [4] 1/21 1/21 57/4 57/18</p> <p>CoulterLLC [1] 1/24</p> <p>counsel [2] 2/2 49/7</p> <p>counteroffer [2] 19/8 43/13</p> <p>counterproposing [1] 26/5</p> <p>country [2] 3/24 20/17</p> <p>COUNTY [1] 57/2</p> <p>couple [2] 19/9 26/6</p> <p>courtroom [1] 48/10</p> <p>credit [1] 51/6</p> <p>credits [1] 50/25</p> <p>Crestwood [1] 3/15</p> <p>crew [1] 18/8</p> <p>cross-examination [1] 41/4</p>	<p>D</p> <p>dangerous [1] 22/4</p> <p>data [11] 13/10 13/11 13/15 14/6 14/8 14/9 14/16 14/22 14/24 14/25 15/5</p> <p>date [3] 12/4 16/11 29/7</p> <p>date -- [1] 12/4</p> <p>DAVID [6] 2/9 15/24 18/2 24/15 25/4 34/3</p> <p>day [38] 3/5 18/11 18/18 18/20 18/21 19/6 20/21 21/4 21/13 22/20 23/9 23/10 23/12 28/10 29/24 30/4 31/6 31/16 31/16 31/23 32/2 32/2 32/5 34/9 35/25 37/1 38/6 39/2 39/12 40/7 42/16 42/18 42/21 45/25 46/13 46/17 47/4 57/14</p> <p>day's [1] 38/20</p> <p>days [9] 17/13 17/14 18/5 18/12 19/10 19/25 23/7 33/8 33/18</p> <p>days -- [1] 17/14</p> <p>dealing [2] 8/19 43/25</p> <p>dealt [1] 30/23</p> <p>December [1] 6/11</p> <p>decided [1] 6/15</p> <p>decision [1] 53/4</p> <p>declined [1] 26/25</p> <p>Defense [1] 29/17</p> <p>defined [3] 14/3 19/24 20/10</p> <p>definitely [3] 25/20 42/3 51/22</p> <p>definitions [1] 56/6</p> <p>degree [1] 4/10</p> <p>demand [2] 53/17 53/20</p> <p>Dennis [10] 19/4 23/15 23/25 25/6 25/12 26/3 26/3 27/19 41/20 44/25</p> <p>Department [1] 29/17</p> <p>depreciation [3] 3/22 52/14 52/19</p> <p>Derby [1] 29/24</p> <p>described [2] 5/1 52/1</p> <p>describing [1] 24/22</p> <p>design [15] 7/15 22/8 22/12 22/14 28/23 29/9 29/22 36/14 36/16 41/10 42/5 42/7 42/9 46/6 46/9</p> <p>determination [2] 53/16 53/18</p> <p>develop [2] 7/15 13/20</p> <p>developed [2] 13/19 14/15</p> <p>did [60]</p> <p>did -- [1] 33/4</p> <p>didn't [12] 11/22 14/6 17/18 27/3 31/17 33/1 33/7 33/14 34/10 42/10 44/19 51/13</p> <p>different [1] 50/23</p> <p>differentiated [1] 23/4</p> <p>direct [4] 9/7 13/18 13/21 33/18</p> <p>directed [1] 33/11</p> <p>directly [1] 44/20</p> <p>disclosed [1] 35/17</p> <p>discuss [3] 32/23 39/13 51/5</p> <p>discussed [4] 24/5 25/23 49/5 50/25</p> <p>discussion [22] 18/13 18/18 20/3 20/5 23/17 24/1 29/6 29/10 32/8 32/9 32/12 32/15 32/17 40/3 41/10 41/11 42/23 43/1 43/4 43/8 43/11 46/9</p> <p>discussions [16] 13/24 13/25 18/5 20/9 23/10 23/13 30/6 30/9 30/16 30/19 30/21 31/1 32/21 40/23 41/17 42/4</p> <p>discussions -- [1] 32/21</p> <p>do [58]</p> <p>document [5] 29/1 47/9 47/12 48/3 54/22</p> <p>document -- [1] 54/22</p> <p>documentation [1] 54/23</p> <p>documented [1] 47/24</p> <p>documents [1] 7/8</p>
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