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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

JEFFREY S. SHAW

JULY 26, 2005

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8/5/05 *[Signature]*

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I N D E X

Exhibit No. 1..... 25
(Page 20 of PSC Employee Information Handbook)

A P P E A R A N C E S

SPECIAL GENERAL COUNSEL TO THE PUBLIC SERVICE COMMISSION:

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

1 The sworn statement of JEFFREY S.
2 SHAW, taken in the offices of the Public Service
3 Commission, 211 Sower Boulevard, Frankfort, Kentucky,
4 on Tuesday, the 26th day of July, 2005, at
5 approximately 10:15 a.m.

6
7 EXAMINATION

8
9 BY MR. GOLDBERG:

10 Q. Mr. Shaw, would you state your full
11 name.

12 A. Jeffrey Scott Shaw.

13 Q. And your address, please.

14 A. I'm trying to remember the business
15 address.

16 Q. I know the business address. We'll
17 get to that.

18 A. Personal?

19 Q. Yes.

20 A. Okay. 318 Mallard Drive, Frankfort,
21 Kentucky.

22 Q. All right, sir. And you are employed
23 at the Public Service Commission?

24 A. Yes.

25 Q. Okay. And you work -- physically you

1 report to work here on Sower Boulevard?

2 A. That's correct.

3 Q. Okay. And how long have you worked
4 for the Public Service Commission?

5 A. Approximately 25 years.

6 Q. And let's go back 20 years and tell me
7 what you were doing here at the Public Service
8 Commission 20 years ago and bring it forward to date.

9 A. Well, exactly 20 years ago I was not
10 here at the Public Service Commission. I'm a
11 retread.

12 Q. Oh.

13 A. I left to go to the state auditor's
14 office, auditor of public account's office. And at
15 this time 20 years ago that's where I was. I came
16 back to the Public Service Commission in the summer
17 of '86, and have done some work in the area of
18 revenue requirements. When I first came back to the
19 commission, I was working actually in
20 telecommunications and water industry areas. And
21 then within the first year and a half or two years
22 after I came back to the commission, I moved over
23 into the gas and electric rate area where I've been
24 since that time.

25 Q. All right, sir. What is your

1 educational background, if you would?

2 A. Bachelor of Business Administration
3 degree from Eastern Kentucky University with an
4 accounting major.

5 Q. All right, sir. And what year would
6 that have been?

7 A. 1979.

8 Q. All right. And again, going back to
9 this period of time when you came back, was it your
10 job function to participate in just rate cases or did
11 you do other things beside rate cases?

12 A. It's been other things besides rate
13 cases. Cases involving utilities at the mainside
14 management programs. Work on financing cases to some
15 extent. Integrated resource plan, filings by the
16 electric utilities to the extent that the financial
17 analysis division participates in cases involving
18 requests for certificates of convenience and
19 necessity on construction projects. Occasionally on
20 complaint cases. Review of tariff filings. Other
21 sundry cases.

22 Q. All right, sir. What is your job
23 title presently?

24 A. Assistant director, division of
25 financial analysis.

1 Q. Okay. And how long have you been the
2 assistant director?

3 A. A little less than three years.

4 Q. All right, sir. I take it, then, in
5 September of 2003 through May 15th 2004, you would
6 have been the assistant director, financial division?

7 A. That's correct.

8 Q. Okay. Now, in addition -- well, let
9 me rephrase this. Assistant director sounds like a
10 management position. Do you manage other personnel
11 in the financial division?

12 A. Yes.

13 Q. Okay. How many folks work in the
14 financial division?

15 A. Around 25. I'm not certain of the
16 exact number that are in the division.

17 Q. All right, sir. And who is the person
18 that you report to?

19 A. Phillip Cave.

20 Q. All right. And Mr. Cave would be the
21 director of the financial division?

22 A. Yes.

23 Q. Okay. Are there any other assistant
24 directors besides Jeff Shaw?

25 A. No.

1 Q. Was Mr. Cave the director, again using
2 that time period, September 2003 through mid
3 May 2004?

4 A. No, he was not.

5 Q. Who was the director during that
6 period?

7 A. Mr. Aaron Greenwell.

8 Q. All right. And do you have a
9 recollection of how long he was the director?

10 A. He became director in mid 1998, and
11 was director until March or April of this year
12 when -- when Mr. Cave assumed that position.

13 Q. Mr. Cave assumed the position in March
14 of 2005.

15 A. In March or April.

16 Q. Okay. That's who you work for now.

17 A. Yes.

18 Q. All right. But during the time period
19 I described, it would have been Mr. Greenwell.

20 A. That's correct.

21 Q. Am I understanding that in addition to
22 your management duties, that you also do hands-on
23 accounting work of some kind on various projects?

24 A. Yes. Maybe accounting is not exactly
25 the right term, but financial rate design,

1 rate-making type of work.

2 Q. All right, sir. Rate design, how
3 would you describe what rate design is?

4 A. Well, it's -- you probably have to
5 link it with revenue allocation and just say that
6 it's the basis for allocating or assigning the
7 required revenues to the various classes of customers
8 and then how to charge the customers within a -- a
9 particular class as well.

10 Q. In my statements taken from people
11 yesterday, I had it defined as revenue requirement,
12 which is the second part that we talked -- you talked
13 about, was how much was to be assigned in terms of
14 the rate. And the rate design was who was to pay the
15 particular rate.

16 A. That's -- that's -- I would agree
17 that's generally accurate.

18 Q. A rough-cut accurate?

19 A. Yes.

20 Q. Okay. Now, so I take it that you do
21 not only managerial work, i.e., assign folks, but you
22 also do a little bit of the work yourself.

23 A. Yes.

24 Q. Okay.

25 A. Maybe more than a little bit.

1 Q. All right, sir. Fair enough. And do
2 you do just public utilities and -- I'm sorry, do you
3 do just gas and electricity?

4 A. Primarily. On occasion I will get
5 involved with something involving a different
6 industry, but that's pretty rare.

7 Q. All right, sir. Does -- do the folks
8 that you manage in the financial division all work on
9 gas and electric?

10 A. Well, yes and no. My title is
11 assistant director. I still directly manage the
12 employees in the electric and gas rate design branch,
13 which manager of that branch was my title previously.
14 As assistant director, I continue with -- with that
15 function and also provide some assistance and general
16 guidance -- assistance to the director and some
17 general guidance to the managers of the other
18 branches within the division.

19 Q. All right, sir.

20 A. And most of those other branches work
21 in areas other than electric and gas.

22 Q. How many folks work in electric -- in
23 gas, and again, time period September 2003 through
24 mid May, 2004?

25 A. In the electric and gas rate design

1 branch, at that time, there were two employees
2 reporting to me. There was the manager of the
3 electric and gas revenue requirements branch. And
4 during that period of time, he would have had two
5 employees reporting directly to him.

6 Q. All right.

7 A. So a total of six electric and gas
8 employees in the two branches during that time frame.

9 Q. And again, tell me what the two
10 branches were.

11 A. Electric and gas rate design.

12 Q. Right.

13 A. And electric and gas revenue
14 requirements.

15 Q. Fair enough. Who was the branch
16 manager during that period of time of the revenue?

17 A. Isaac Scott.

18 Q. Okay. And who were the folks that
19 reported to him during that period of time?

20 A. Tim Blakley and Andrea Edwards.

21 Q. All right, sir. And who were the
22 folks that reported to you in your capacity as branch
23 manager?

24 A. Dawn McGee, D-A-W-N, and Daryl Newby.

25 Q. All right, sir. Now, let's

1 specifically talk about the KU/LG&E rate cases of
2 2003 and give you the actual case, No. 2003-00433 and
3 2003-00434. You're familiar with those two cases?

4 A. Yes.

5 Q. All right. And I'm also advised that
6 in addition to those two rate cases, some matters
7 involving North American Stainless were consolidated
8 for the purposes of hearing before the Public Service
9 Commission with the two rate cases I've just
10 referenced. Is that correct?

11 A. That's correct.

12 Q. Okay. Were you personally assigned to
13 work on the two rate cases, 00433 and 00434?

14 A. Just 433.

15 Q. Just 433. And 433 would have been the
16 LG&E?

17 A. That's correct.

18 Q. Okay. And who was the team assigned
19 to -- with you on the LG&E?

20 A. Well, let's see. The entire team,
21 Isaac Scott, Richard Raff was the attorney on the
22 team. I believe Elie Russell was the team member
23 from the engineering division. Dawn McGee from --
24 from my shop was responsible for rate of return, and
25 I think that Isaac -- I believe Isaac also had Andrea

1 Edwards assigned to assist him on revenue
2 requirements.

3 Q. Okay. How was that assignment made?
4 Was it made by the director of the financial
5 division?

6 A. Well, no. I would say -- I mean,
7 it's -- it's really just standard procedure for when
8 an electric or gas rate case is filed that someone
9 from -- you know, at least two individuals in the
10 division, one from each of those two branches that
11 we've discussed earlier, would be assigned --

12 Q. Revenue requirements and rate design?

13 A. And rate design.

14 Q. Okay.

15 A. It's just kind of evolved over time
16 that -- that our branch, the electric and gas rate
17 design branches, generally had to -- an employee
18 who's had responsibility for rate of return or return
19 on equity issues in -- in major rate cases. So even
20 if -- and Dawn McGee is the person that's been
21 involved in that for the past few years. So she
22 was -- ended up being assigned both those cases just
23 because that's -- that's part of her job. As far as
24 the assignment beyond that, I think, you know, just
25 due to the -- I guess the magnitude of these cases

1 and the complexity of them which is really just
2 something that you, I guess, assume at the time you
3 first know that the cases are -- are going to be
4 filed.

5 In my situation I split the two cases
6 up and put myself on as the team member responsible
7 for revenue allocation and rate design in the LG&E
8 case and assigned Daryl Newby to do that same work in
9 the KU case with some oversight by me. Mr. Scott, I
10 think because of his level of experience and the
11 relative lack of experience of the -- the people that
12 work for him, put himself on the cases -- on both
13 cases kind of in the lead position in the revenue
14 requirements area with, like I said, I believe Andrea
15 Edwards also assisting some. But that really was not
16 directed by our division director in terms of how we
17 assigned those cases. That would have been up to the
18 individual branch managers.

19 Q. It would have been up to you and
20 Mr. Scott?

21 A. Yes.

22 Q. Okay. Can you tell me what role
23 Ms. Martha Morton played in either of the two cases?

24 A. Well, I said Elie Russell earlier, and
25 it may be that I was mistaken. I can't recall

1 whether -- the extent to which these cases involved
2 depreciation studies done by outside consultants.
3 Several of our major rate cases in the past two or
4 three years have involved those types of studies.

5 Q. Is that the kind of work Ms. Morton
6 does?

7 A. Yes. The engineering division has
8 primary responsibility for depreciation issues as
9 part of rate cases, and she -- she may have been
10 the -- the engineering team member that participated
11 in those cases rather than Mr. Russell. I'm just a
12 little fuzzy on that particular detail.

13 Q. All right, sir. How about Mr. Faud
14 Sharifi, did he participate in --

15 A. Well, yes, I guess the LG&E case
16 being -- LG&E being a combination electric and gas
17 utility and it filing for increases both in electric
18 and gas rates, he -- I think he would have been a
19 team member on the LG&E case. I don't -- I don't
20 know that there would be any reason why he would have
21 been involved in the KU case. I know on occasion,
22 just depending on workload and just the number of
23 cases that we have on our docket, that someone will
24 be sort of temporarily assigned to work in an area
25 that they don't normally work in, but I believe he

1 probably was just on the LG&E case.

2 Q. All right, sir. Can you remember
3 anybody else on the LG&E case?

4 A. Well, as far as the teams themselves,
5 I don't recall anyone else. I know that in our
6 division John Rogness, who is the manager of our
7 management audit branch and who by training is an
8 economist.

9 Q. Can you spell his last name?

10 A. R-O-G-N-E-S-S.

11 Q. All right.

12 A. In -- in a number of rate cases in the
13 past three or four years, he's -- he's generally not
14 been assigned to the teams formally, but he has
15 worked with Dawn McGee some on rate-of-return issues.
16 So I -- I believe that was the case in these rate
17 cases, that he was not a formal -- formally assigned
18 to the teams, but probably worked with or assisted
19 her some on rate-of-return issues.

20 Q. All right, sir. Was there a team put
21 together to deal with North American Stainless
22 issues?

23 A. Well, there would have been a team
24 assigned to the cases that were, I guess, originally
25 docketed that specifically related to North American

1 Stainless. My recollection is that there were --
2 that there were two cases, one that was a -- I
3 believe that started as a complaint filing by North
4 American Stainless against KU, and then another that
5 was initiated by KU as a -- a --

6 Q. Tariff?

7 A. -- tariff proposal that would apply to
8 customers of a certain size. And I believe in KU's
9 case North American Stainless would have been the
10 only customer. My recollection is that those two
11 were consolidated, and then later on they were
12 consolidated with the KU rate case. I was on the
13 team of both of those cases.

14 Q. North American Stainless --

15 A. Yeah.

16 Q. -- and KU?

17 A. KU, yes. And I believe that -- I
18 believe that Mr. Raff was the attorney on one of the
19 cases and that Rebecca Goodman, who has since left
20 the commission, at least initially -- and I just
21 don't remember exactly when she left, but I believe
22 that initially she was the attorney on one of the
23 cases. And because of the nature, you know, of the
24 complaint case and tariff case, sometimes those cases
25 don't have any other team members other than an

1 attorney and someone on the rate design staff. So
2 I'm just not sure if there were any other team
3 members.

4 Q. All right, sir. Do you have a
5 recollection of any other matters being consolidated
6 with the LG&E/KU rate cases like the North American
7 Stainless?

8 A. There were -- there were separate
9 cases for both LG&E and KU that related to the
10 earnings sharing mechanisms that they had been
11 operating under since I want to say maybe sometime in
12 2000. And I believe that those earnings sharing
13 mechanisms had been approved for a three-year pilot
14 phase. And if KU and LG&E wanted to continue those
15 earnings sharing mechanisms, they -- they were
16 required to make a filing with the commission to do
17 so. And I believe that that's what resulted in cases
18 on the earnings sharing mechanism. The commission
19 hired an outside consultant to evaluate those who had
20 filed a report that I think was part of the record in
21 those cases.

22 Q. Would that have been a separate case
23 or just part of the LG&E and KU rate case?

24 A. Well, they started out separately.
25 And that's another thing, too, with the -- the common

1 parent company LG&E Energy, of LG&E and KU, on
2 occasion -- not very common, but on occasion there
3 will be just one case that is for both LG&E and KU.
4 I think there were separate cases on the earnings
5 sharing mechanism that were subsequently rolled into
6 or consolidated into the rate cases. There might
7 have just been one case, but I think it was two
8 separate cases. And then the earnings sharing
9 mechanism or the -- the agreement to discontinue the
10 earnings sharing mechanisms was part of what came out
11 of the rate cases.

12 Q. All right, sir. As I understood the
13 earnings sharing mechanism resulted -- was as a
14 result of the combination of KU and LG&E.

15 A. No. Now, there's a merger surcredit
16 that came about as a result of the merger of the two
17 companies back in 1998, I believe. The earnings
18 sharing mechanisms came about as a result of the rate
19 reduction cases that both utilities had in which the
20 commission issued orders in January of 2000 that
21 reduced the rates of both companies and offered to
22 the companies the earnings sharing mechanism, which
23 they accepted as -- as something they would operate
24 under -- on a three-year trial basis.

25 Q. All right. Using a time line that

1 shows the first informal conference being April 28th,
2 2004, do you have a recollection of what work you
3 would have performed prior to April 28, 2004, on the
4 rate case or rate cases?

5 A. Well, we would have -- we would have
6 reviewed the initial application -- and I was
7 specifically working on the LG&E case -- and would
8 have issued a data request, prepared questions for a
9 data request, a discovery request for additional
10 information to LG&E. And then based on the responses
11 to that initial request, we would have done a
12 supplemental or follow-up request to LG&E.

13 The next step in the case would have
14 been to receive testimony from interveners and -- and
15 then prepared, to the extent that we -- that we did.
16 I'm thinking that we probably got the most extensive
17 testimony from the attorney general's office and the
18 Kentucky Industrial Utility Customers which we issued
19 data requests to, to those interveners. And I want
20 to say that we were far enough along in the case that
21 we would have received responses to the data request
22 to the interveners by that point in time.

23 Q. All that would have been done by April
24 the 28th, 2004, formal conference date?

25 A. I believe it would have been. I know

1 we issued the data request to the interveners.
2 Whether we had gotten their responses, I just off the
3 top of my head don't recall, but I think we had.

4 Q. Was it your responsibility to draft
5 the data request and to review the information
6 obtained from the data request?

7 A. Well, within the revenue allocation
8 and rate design aspect of the case, you know, within
9 that area of responsibility.

10 Q. And do I take it you would have
11 written an analysis, internal analysis of the
12 responses you received from the data request?

13 A. Well, not -- not really prepared a
14 written analysis. Once -- once we go through the
15 data request, at some point, you know, we would be
16 responsible for beginning to prepare questions for
17 cross-examination at the hearing. So I guess for
18 myself personally with the intent being or the hope
19 being that through the data request certain things
20 get resolved and things maybe get narrowed or focused
21 more so than they were initially in terms of then
22 what will be left to be covered at the hearing,
23 usually I'll -- I will just, you know, make some
24 notes to myself after I review the responses, say in
25 the case of the data request to the companies -- the

1 company, review the responses to the last request
2 that we send out, and then make some notes as to
3 which areas I feel like have been resolved and which
4 still need to be pursued further in the hearing.

5 Q. And you share those notes with the
6 team?

7 A. If we have a team meeting, which we
8 would generally do at some point in time prior to
9 going to the hearing, typically there would be, you
10 know, some give and take in discussion about, well,
11 these issues still need to be covered further at the
12 hearing and maybe these others don't need to be
13 covered further based on the information that we
14 received. So there would be some just sort of
15 general discussion along those lines, but we've --
16 we've typically -- in fact, very rarely that I can
17 recall -- conducted our team meetings in such a way
18 that I would be, you know, kind of giving a report
19 or -- or reporting on the status of particular issues
20 to -- to the team as a whole.

21 Q. Only team members come to the team
22 meetings?

23 A. Usually it's just team members. On
24 occasion someone's -- you know, someone's immediate
25 supervisor might attend just to have a better feel

1 for what -- what's going on in a case at a given
2 point in time or where things stand in terms of the
3 issues. But other -- other than a given team
4 member's immediate supervisor, it would generally be
5 just team members.

6 Q. All right. With regard to the LG&E
7 case specific, and frankly any of the consolidated
8 cases, do I take it that the data request is a
9 written document that goes out but that there's no
10 direct oral communication with LG&E or KU in this
11 particular example?

12 A. Yeah, that -- that's correct. I don't
13 recall in -- in this particular case. You know,
14 there are instances where once a data request has
15 been received, that someone on behalf of the utility
16 may initiate a contact with the commission staff if
17 there's something that needs to be clarified.
18 Typically, in the case of our larger utilities that I
19 guess are, you know, maybe more sophisticated, they
20 will handle those kind of things in the manner in
21 where -- in which, you know, their attorney contacts
22 the staff attorney as opposed to contact being at
23 some other level. But as far as the data request
24 itself, the written document is -- is all that there
25 is. There's not any kind of a verbal request that --

1 that would be done at that same point in time.

2 Q. Prior to the convening of the informal
3 conference, does the staff meet at any time with the
4 commissioners to discuss the rate-making cases? Let
5 me be more specific than that, with regard to the
6 LG&E and KU rate filings, case numbers we've
7 discussed.

8 A. Prior to --

9 Q. The informal conferences.

10 A. I don't recall that we had any
11 meetings with the commissioners.

12 Q. Fair enough. Now, let me ask you
13 specifically as it relates to Jeff Shaw. Do you have
14 any recollection that anyone, i.e., either from the
15 utilities or KIUC or North American Stainless had
16 contact with you prior to the informal conference of
17 April 28, 2004?

18 A. Specifically related to --

19 Q. Yes.

20 A. -- the -- the case?

21 Q. Specifically related to the
22 rate-making cases, yes.

23 A. No, no.

24 Q. Your answer is no? Okay. Now,
25 searching your memory banks -- and memory is always

1 fleeting sometimes -- do you have a recollection of
2 any entity or person contacting Jeff Shaw for
3 discussion about the two rate-making cases prior to
4 April 28, 2004? That could be the attorney general.

5 A. I don't recall that I was contacted by
6 anyone that was a party to the proceedings in any
7 fashion. There is a -- an organization called
8 Regulatory Research Associates that tracks
9 information related to utility proceedings of
10 different types with all of the state commissions in
11 the United States as well as the Federal Energy
12 Regulatory Commission and the Federal Communications
13 Commission. From time to time over the years, I've
14 been contacted by someone on their staff who is just
15 wanting information for something that they're going
16 to put in one of their monthly --

17 Q. A nonparty --

18 A. -- monthly or quarterly reports.

19 Q. Yeah.

20 A. I recall that I was contacted by one
21 of the people with Regulatory Research Associates at
22 some point in time just asking for information about
23 the case.

24 Q. Okay. They are a nonparty, though.

25 A. Correct.

1 Q. So fair to say, no parties -- you had
2 no contact with any of the parties, interveners or
3 the attorney general prior to April 28, 2004, except
4 for the sending of the data request.

5 A. On any -- yeah, on anything related to
6 the rate cases.

7 Q. Right. Related to the rate cases.

8 A. Yes.

9 Q. Okay. And I'm using as a definitional
10 standard for the rate cases anything that was
11 consolidated in the two rate cases, 00433 and 00434.

12 A. That's correct.

13 Q. All right. Now, I take it you're
14 familiar with the ex parte policy that is part of the
15 Public Service Commission employee information
16 handbook.

17 A. Yes.

18 (DEPOSITION EXHIBIT NO. 1 PREVIOUSLY
19 MARKED)

20 Q. All right, sir. And just for our
21 record, I'm going to show you page 20, item G. And
22 that's the policy I'm representing to you has been in
23 place at least since 1993. Do you have a
24 recollection of having seen that before?

25 A. Yes.

1 Q. Okay. And I take it there is some
2 internal review of that policy from time to time
3 also, is there not, on to the employees?

4 A. Yes. I don't know that there's been
5 anything that I would call necessarily a formalized
6 review process, but from -- from time to time there
7 are, I guess, occasions where it's -- it's -- I guess
8 it's brought up and staff members are reminded of the
9 need to review it.

10 Q. All right. Using the definition of
11 ex parte as it's found on page 20, let me first ask
12 you, did you, Jeff Shaw, engage in anything with any
13 of the parties to these two rate-making cases that
14 would fit the definition of an ex parte contact, as
15 you understood it, from the beginning of the filing,
16 which would have been December 2003, to -- through
17 the conclusion and the reaching of a settlement
18 agreement?

19 A. No.

20 Q. Okay. Now, going back, if I can, you
21 were present at the informal conference on April 28,
22 2004?

23 A. Yes.

24 Q. Okay. I take it there was no
25 negotiation that occurred between any of the parties

1 and the commission staff on that day. Am I correct?

2 A. I just don't recall when the
3 negotiation actually got started.

4 Q. Okay. I'm representing to you, to
5 make this easier for you, that negotiations began the
6 week of May the 3rd, and actual -- May 3rd was the
7 prehearing conference -- and actual hearing dates had
8 been scheduled for May 4th, 5th and 6th. Do you have
9 a recollection of that?

10 A. Yes.

11 Q. Okay. You participated in the
12 negotiations, I take it, with the various parties?

13 A. Yes.

14 Q. Okay. And were you assigned a
15 particular team to work with in that negotiation?

16 A. Well, the way -- and I don't -- I
17 really don't recall exactly how this came to be the
18 group that was really involved on the part of the
19 staff. But for the purpose of the negotiations, I
20 think after it kind of started out being most of the
21 team members on the two cases, it -- it kind of got
22 brought down to just Isaac Scott, Richard Raff and
23 myself being the three staff members that -- we were
24 not all three there for every minute of every
25 session, but it was the three of us that really had

1 primary responsibility on the staff's part. And I
2 think at least one of us was there for some part of
3 all the meetings.

4 Q. I take it the negotiation that you're
5 talking about on the 4th, 5th and 6th until final
6 settlement was reached, was in negotiation with all
7 the parties present.

8 A. Yes.

9 Q. Okay. Did you yourself participate in
10 any discussions which were not part of the general
11 discussion with all parties other than with obviously
12 conferences amongst the PSC staff?

13 A. Only -- only to the extent that there
14 were, I recall, a -- a couple of issues that the
15 Kentucky Division of Energy or Kroger Company or
16 someone else was interested specifically in one or
17 two issues. And at a point in time after those
18 issues had been resolved, they didn't stick around
19 for the rest of the discussion. So to the extent
20 that they were not represented because the issues
21 they were concerned with had already been agreed
22 upon, then in that context I participated in some
23 discussions that involved all the rest of the
24 parties, but not the parties that had opted to leave.

25 Q. All right. Fair enough. And it was

1 your recollection that they had resolved whatever
2 issues they had prior to leaving.

3 A. Yes.

4 Q. Okay. Other than that example, are
5 you aware of any other situations, other than
6 conferences amongst staff, where there were
7 discussions that were not part of the group as a
8 whole?

9 A. Did you say am I aware or did I
10 participate?

11 Q. Let's start with participate.

12 A. I did not participate in any of those
13 times.

14 Q. Are you aware of any?

15 A. It's my understanding that there were
16 instances where on particular issues the companies
17 and representatives of one intervener group or
18 another got together and tried to work out something
19 on a particular issue that then the companies and
20 that particular intervener could then come back and
21 discuss with the group as a whole.

22 Q. Okay. And I think what you're
23 indicating to me is there were situations where
24 individual interveners had issues with regard to LG&E
25 and KU, resolved those issues and reported back to

1 the group as a whole what their understandings were
2 that were arrived at.

3 A. Yes.

4 Q. And that was reported and then
5 incorporated into the settlement document.

6 A. Yes.

7 Q. Okay. By way of example, were you
8 aware of the fact that North American Stainless and
9 KU had discussions that would fit that particular
10 characterization?

11 A. Yes.

12 Q. Okay. Because they had issues related
13 only to North American Stainless and the amount that
14 KU was charging, correct?

15 A. Yes.

16 Q. Okay. That was not an issue that
17 anybody else would have been concerned about,
18 correct?

19 A. Well, I recall that because of how
20 those issues were resolved would impact how much
21 North American Stainless was going to pay. And if it
22 was going to pay less than it might have under some
23 other resolution, then the -- the difference that --
24 between the amount that was agreed upon and possibly
25 a larger amount that it might have been responsible

1 for under what KU had initially proposed was going to
2 have to be spread back over the remainder of KU's
3 customers. I think that was something that after it
4 was kind of reported back to the group that I recall
5 the attorney general's office representatives wanting
6 to discuss something further to make sure they
7 understood exactly what the implications of that
8 were.

9 Q. So the group had a discussion of it as
10 a whole at that point?

11 A. Yes.

12 Q. Okay. And to your knowledge, the
13 attorney general approved of the particular
14 resolution of the problem --

15 A. Yes.

16 Q. -- between KU and North American
17 Stainless.

18 A. Yes.

19 Q. Okay. Other than those situations,
20 you're aware of no other contacts the parties had
21 that were not at the negotiating table.

22 A. I believe that the companies and
23 the -- the groups representing the low income
24 interveners had some similar --

25 Q. Discussions.

1 A. -- separate discussions that then got
2 reported back to everyone else.

3 Q. Okay. And that was also incorporated
4 into the settlement agreement?

5 A. Yes.

6 Q. Okay. And all those discussions were
7 going on, again, during this time frame, May 4th, 5th
8 and 6th, correct?

9 A. Yes.

10 Q. Now, do you recall the attorney
11 general participating in these discussions?

12 A. Yes.

13 Q. And when I say "the attorney general,"
14 his people?

15 A. Yes.

16 Q. And do you recall whether or not they
17 agreed with the final settlement document or not?

18 A. The -- the final document, which was
19 unanimous on all issues except for the magnitude of
20 the KU rate increase and the LG&E electric rate
21 increase, they signed off on and were in agreement
22 with.

23 Q. So they agreed with rate design?

24 A. Yes.

25 Q. Did they agree with the revenue

1 request?

2 A. They agreed with the revenue increase
3 for LG&E's gas operations. That was -- that was the
4 unanimous part of the settlement, but not the revenue
5 increase for LG&E's electric operations or for KU's
6 electric operations, which is all KU has.

7 Q. All right, sir.

8 A. That was the part of the settlement
9 that was not unanimous.

10 Q. Do you have a recollection of -- other
11 than at hearings where the commissioners were
12 present, of the commissioners participating in any
13 way in these negotiations?

14 A. No.

15 Q. Do you have any knowledge of any of
16 the parties, be it KU/LG&E, interveners, discussing
17 any of the issues and the two rate cases with the
18 commissioners?

19 A. No.

20 Q. Are you familiar with Mr. Tom Dorman?

21 A. Yes, I am.

22 Q. Okay. Do you know Tom?

23 A. Yes.

24 Q. And I trust you knew him, at least at
25 the point in time when he was executive director of

1 the Public Service Commission?

2 A. Yes.

3 Q. Do you have a recollection of him
4 being still employed by the Public Service Commission
5 as of April 28th, 2004, through May 15th, 2004?

6 A. Well, to be honest, I'm not sure
7 exactly his end date, but my recollection is that he
8 was here during that time you said.

9 Q. Do you have a recollection of having
10 discussed any of the issues in the two rate-making
11 cases or any of the consolidated matters with
12 Mr. Dorman?

13 A. In what time period or --

14 Q. Good question. Let's start from the
15 time the rate-making cases were filed.

16 A. I believe -- I believe that because of
17 some informal meetings that predated any of the cases
18 that pertained to North American Stainless, but
19 because of an informal meeting or two with some
20 North -- some of the folks from North American
21 Stainless that he attended, that --

22 Q. Did you attend those also?

23 A. Yes.

24 Q. Okay. And that was prior to their
25 filing the procedural mechanism which codifies the

1 dispute with KU in September of 2003, correct?

2 A. Correct.

3 Q. Okay.

4 A. I think because of our both having
5 attended those meetings, that there were a couple of
6 occasions prior to when those cases were consolidated
7 with the rate cases that just -- you know, before
8 some other meeting that we were both attending or
9 maybe after a meeting as we were sitting around a
10 table, he might have just inquired as to what the
11 status of those cases were, you know, during that
12 time that they were here just because I think his
13 attendance at those informal meetings that predated
14 the cases just kind of piqued his interest in what
15 was going on.

16 Q. And so the record is clear, those
17 informal meetings that you're talking about occurred
18 prior to any rate-making case -- I'm sorry, strike
19 that, not rate making -- prior to any complaint being
20 filed by North American Stainless.

21 A. Correct, correct.

22 Q. Do you recall any meetings with
23 Mr. Dorman from the date the complaint was filed,
24 which I'm representing to you was September 2003,
25 through the conclusion of the settlement agreement

1 reached in the two rate cases?

2 A. No.

3 Q. Fair enough. Using our definition of
4 improper ex parte communication, which you're
5 familiar with from page 20, section G in the
6 handbook, are you aware of any ex parte
7 communications that occurred in these two matters,
8 the two rate cases?

9 A. No.

10 MR. GOLDBERG: Fair enough. That's
11 all I have, sir.

12 THE WITNESS: Okay.

13 MR. GOLDBERG: We are concluded.

14

15 (STATEMENT CONCLUDED AT 11:15 A.M.)

16

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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 4th 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, JEFFREY SHAW, 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.

Jeffrey S Shaw
JEFFREY SHAW

Subscribed and sworn to before me this 6th day of OCTOBER, 2005.

Mary Frances Betward
NOTARY PUBLIC

My commission expires Nov. 30, 2008

COULTER REPORTING, LLC
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LOUISVILLE, KY 40203

1710

Jeffrey S. Shaw

ERRATA SHEET

NAME JEFFREY SHAW DATE OF DEPOSITION 7/26/05

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

Page 4 Line 14
Change INSERT "THE" BEFORE "AUDITOR OF PUBLIC ACCOUNTS"
Reason for change CLARITY

Page 4 Line 17
Change DELETE "HAVE DONE" AND INSERT "DID"
Reason for change CORRECT TENSE

Page 5 Line 13
Change ADD "S" TO MAKE "UTILITIES" POSSIBLE
Reason for change CORRECTION

Page 5 Line 13
Change DELETE "AT THE MAIN" AND INSERT "DEMAND"
Reason for change CORRECTION

Page 5 Lines 14-17
Change CHANGED COMMAS TO SEMICOLONS & DELETED "IN"
Reason for change PROPER SENTENCE STRUCTURE

Page 6 Lines 6 & 7
Change INSERT "ANALYSIS"
Reason for change CORRECTLY IDENTIFY DIVISION NAME

Page 6 Line 16
Change DELETE "THAT ARE" & INSERT "OF PEOPLE"
Reason for change CLARITY

Page 7 Line 12
Change DELETE "--" & "WHEN"
Reason for change CLARITY

Page 7 Line 85
Change INSERT COMMA
Reason for change "FINANCIAL" & "RATE DESIGN" ARE 2 ITEMS

Signed before me on 10/6/05.
10/30/08 Mary A. Richard

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2 of 10
Jeffrey S. Shaw

ERRATA SHEET

NAME JEFFREY SHAW DATE OF DEPOSITION 7/26/05

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

Page 8 Line 4
Change DELETE "IT'S" & "--"
Reason for change CLARITY

Page 8 Line 8
Change DELETE "--" & "A"
Reason for change CLARITY

Page 8 Line 16
Change DELETE "THAT'S -- THAT'S --"
Reason for change CLARITY

Page 9 Line 12
Change CHANGE COMMA TO SEMICOLON
Reason for change CORRECT SENTENCE

Page 9 Line 13
Change DELETE "WHICH"
Reason for change CLARITY

Page 9 Line 14
Change DELETE "-- WITH"
Reason for change CLARITY

Page 9 Lines 15-16
Change DELETE "ASSISTANCE AND GENERAL GUIDANCE"
Reason for change ELIMINATED DUPLICATION

Page 11 Line 20
Change DELETE "ENTIRE" & COMMA; INSERT "LEADER WAS"
Reason for change IMPROVED ACCURACY

Page 11 Line 21
Change DELETE COMMA & INSERT "AND"
Reason for change CLARITY

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Jeffrey S. Shaw

ERRATA SHEET

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

Page 11 Line 23
Change DELETE "FROM --"
Reason for change ELIMINATE DUPLICATION

Page 11 Line 25
Change DELETE "I THINK THAT ISAAC --"
Reason for change ELIMINATE DUPLICATION

Page 12 Lines 6-7
Change DELETE "I MEAN, IT'S --"; INSERT "THAT"
Reason for change CLARITY

Page 12 Line 7
Change DELETE "FOR" & INSERT "THAT"
Reason for change CLARITY

Page 12 Line 9
Change INSERT COMMA & DELETE " -- YOU KNOW"
Reason for change CLARITY

Page 12 Line 16
Change ELIMINATE " THAT --"
Reason for change ELIMINATE DUPLICATION

Page 12 Line 17
Change CHANGE "BRANCHES" TO "BRANCH"
Reason for change SINGULAR INSTEAD OF PLURAL

Page 12 Line 17
Change DELETE " TO --"
Reason for change IMPROVED SENTENCE

Page 12 Line 20
Change DELETE " IN --"
Reason for change ELIMINATE DUPLICATION

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4710
Jeffrey B. Shaw

ERRATA SHEET

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

Page 12 Line 22
Change DELETE "WAS --" & INSERT "TO"
Reason for change CLARITY

Page 12 Line 23
Change DELETE "-- THAT'S"
Reason for change ELIMINATED DUPLICATION

Page 12 Line 24
Change DELETE "YOU KNOW"
Reason for change CLARITY

Page 12 Line 25
Change DELETE "-- I GUES THE"
Reason for change REDUNDANT PHRASE

Page 13 Line 3
Change DELETE "AND --"
Reason for change ELIMINATED DUPLICATION

Page 13 Line 11
Change DELETE "-- THE"
Reason for change ELIMINATED DUPLICATION

Page 14 Line 1
Change DELETE "WHETHER --"
Reason for change CLARITY

Page 14 Lines 9-10
Change DELETE "SHE --" & "THE --"
Reason for change ELIMINATED DUPLICATION

Page 14 Line 15
Change INSERT "IN"
Reason for change CLARITY

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5 of 10

Jeffrey Shaw

ERRATA SHEET

NAME JEFFREY SHAW DATE OF DEPOSITION 7/26/05

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

Page 16 Lines 17-18
Change DELETE " -- I BELIEVE THAT "
Reason for change ELIMINATE DUPLICATION

Page 17 Line 8
Change DELETE " -- THESE WERE "
Reason for change ELIMINATE DUPLICATION

Page 17 Line 11
Change INSERT COMMAS
Reason for change SET PHRASE APART

Page 17 Line 15
Change DELETE " THEY -- "
Reason for change ELIMINATION DUPLICATION

Page 17 Line 25
Change DELETE " THE -- "
Reason for change ELIMINATE DUPLICATION

Page 18 Lines 9-10
Change INSERT COMMA & DELETE " -- THE " & INSERT COMMA
Reason for change CLARITY & ELIMINATE DUPLICATION

Page 18 Line 15
Change DELETE " NOW "
Reason for change CLARITY

Page 18 Line 21
Change DELETE " TO "
Reason for change CLARITY

Page 18 Line 23
Change DELETE " AS -- "
Reason for change ELIMINATE DUPLICATION

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6 of 10
Jeffrey S. Shaw

ERRATA SHEET

NAME JEFFREY SHAW DATE OF DEPOSITION 7/26/05

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

Page 19 Line 5
Change DELETE " -- WE WOULD HAVE "
Reason for change ELIMINATE DUPLICATION

Page 19 Line 14
Change DELETE " -- AND "
Reason for change ELIMINATION DUPLICATION

Page 19 Line 15
Change INSERT "DATA REQUESTS"; INSERT "DID RECORD SUCH TESTIMONY"; -- THAT
Reason for change FULY COMPLETE THE SENTENCE & ELIMINATE DUPLICATION DELETE " WE DID "

Page 19 Line 18
Change DELETE " WHICH " AND INSERT " AND "
Reason for change CLARITY

Page 19 Line 19
Change DELETE " TO "
Reason for change ELIMINATE DUPLICATION

Page 20 Lines 2-3
Change DELETE " I " & INSERT " I "
Reason for change IMPROVE FLOW OF SENTENCES

Page 20 Line 13
Change DELETE " -- NOT " & DELETE " D "
Reason for change ELIMINATE DUPLICATION & CORRECT TENSE

Page 20 Line 14
Change DELETE " -- ONCE "
Reason for change ELIMINATION DUPLICATION

Page 20 Line 15
Change ADD AN "S" TO "REQUEST"
Reason for change CHANGED TO PLURAL

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Jeffrey S. Shaw

ERRATA SHEET

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

Page 70 Line 18
Change INSERT COMMA AND DELETE "BEING"
Reason for change CLARITY

Page 70 Line 19
Change ADD AN "S" TO REQUEST
Reason for change CHANGED TO PLURAL

Page 70 Line 21
Change DELETE "THEN"
Reason for change ELIMINATE UNNECESSARY WORDING

Page 70 Line 23
Change DELETE ", YOU KNOW"
Reason for change REDUNDANT PHRASE

Page 71 Line 8
Change DELETE "WOULD"
Reason for change REDUNDANT PHRASE

Page 71 Lines 9-10
Change DELETE ", YOU KNOW,"
Reason for change REDUNDANT PHRASE

Page 71 Line 14
Change DELETE "JUST"
Reason for change UNNECESSARY WORDING

Page 71 Lines 15-16
Change DELETE " -- I'VE TRIPLED -- IN FACT,"
Reason for change ELIMINATE MY REPEATED WORD

Page 71 Line 18
Change DELETE ", YOU KNOW, KIND OF" & INSERT COMMA
Reason for change MUCH UNNECESSARY WORDING; CLARITY

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Jeffrey B. Shaw

ERRATA SHEET

NAME JEFFREY SHAW DATE OF DEPOSITION 7/26/05

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

Page 71 Lines 19-20
Change DELETE "OR --" & "TO --"
Reason for change ELIMINATED DUPLICATION

Page 71 Line 24
Change DELETE "SOMEONE'S -- YOU KNOW,"
Reason for change REDUNDANT PHRASING

Page 72 Lines 1 AND 3
Change DELETE "WHAT --" AND "-- OTHER"
Reason for change ELIMINATED DUPLICATION

Page 72 Line 12
Change DELETE "THAT --"
Reason for change ELIMINATED DUPLICATION

Page 72 Line 13
Change DELETE "IN --"; INSERT COMMA & "BUT"; DELETE "YOU KNOW"
Reason for change ELIMINATED DUPLICATION; CLARITY

Page 72 Line 15
Change DELETE "RECORDED" & INSERT "ISSUED"
Reason for change MAINTAIN STAPP'S POINT OF VIEW

Page 72 Lines 20-21
Change DELETE "IN WHERE --" AND " , YOU KNOW,"
Reason for change REDUNDANT PHRASING

Page 72 Line 24
Change DELETE " -- 15 "
Reason for change ELIMINATED DUPLICATION

Page 74 Line 7
Change DELETE " A --"
Reason for change ELIMINATED DUPLICATION

9 of 10
Jeffrey S. Shaw

ERRATA SHEET

NAME JEFFREY SHAW DATE OF DEPOSITION 7/26/05

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

Page 26 Line 6 "FROM --"
Change DELETED
Reason for change ELIMINATED DUPLICATION

Page 26 Line 7
Change DELETED "ITS -- ITS -- I PHESS"
Reason for change REDUNDANT PHRASES; CLARITY

Page 27 Line 81 "-- 17"
Change DELETED
Reason for change ELIMINATED DUPLICATION

Page 27 Line 82
Change DELETED "BRIDGEMAN" & INSERT "NARRATED"
Reason for change CLARITY; IMPROVE PHRASES

Page 28 Line 14
Change DELETED "THAT" & INSERT "WHERE"
Reason for change CLARITY

Page 30 Line 19
Change DELETED "BECAUSE OF"
Reason for change CLARITY

Page 30 Line 23
Change DELETED "THE --" & "THAT --"
Reason for change ELIMINATED DUPLICATION; CLARITY

Page 31 Lines 3-4
Change INSERT COMMAS
Reason for change SET PHRASE APART

Page 31 Line 23
Change DELETED "THE --"
Reason for change ELIMINATED DUPLICATION

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ERRATA SHEET

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

Page 32 Line 18
Change DELETE " -- THE "
Reason for change ELIMINATED DUPLICATION

Page 33 Line 3
Change DELETE " -- THAT WAS "
Reason for change ELIMINATED DUPLICATION

Page 34 Line 7
Change INSERT "OF"
Reason for change CLARITY

Page 34 Line 16
Change DELETE " -- I BELIEVE " ; INSERT COMMA
Reason for change ELIMINATED DUPLICATION; CLARITY

Page 34 Line 20
Change DELETE " NORTH -- SOME "
Reason for change ELIMINATE DUPLICATION

Page 35 Line 4
Change INSERT COMMA
Reason for change CLARITY

Page 35 Line 7
Change DELETE " -- YOU KNOW "
Reason for change REDUNDANT PHRASING

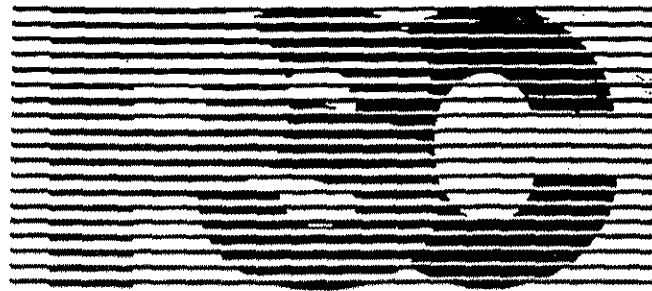
Page _____ Line _____
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Reason for change _____

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EMPLOYEE INFORMATION HANDBOOK

EXHIBIT

SHAW # /
7-26-05

The contents of this Employee Information Handbook reflect the current policies and procedures in effect at the PSC at the time of its printing.

Amendments to personnel law, regulations and policies may modify or supercede all statements in this information handbook.

It is the policy of the Public Service Commission to affirm equal opportunity for employment and advancement to all qualified persons without regard to race, color, religion, national origin, disability, sex, age, or sexual orientation.

Printed with State Funds

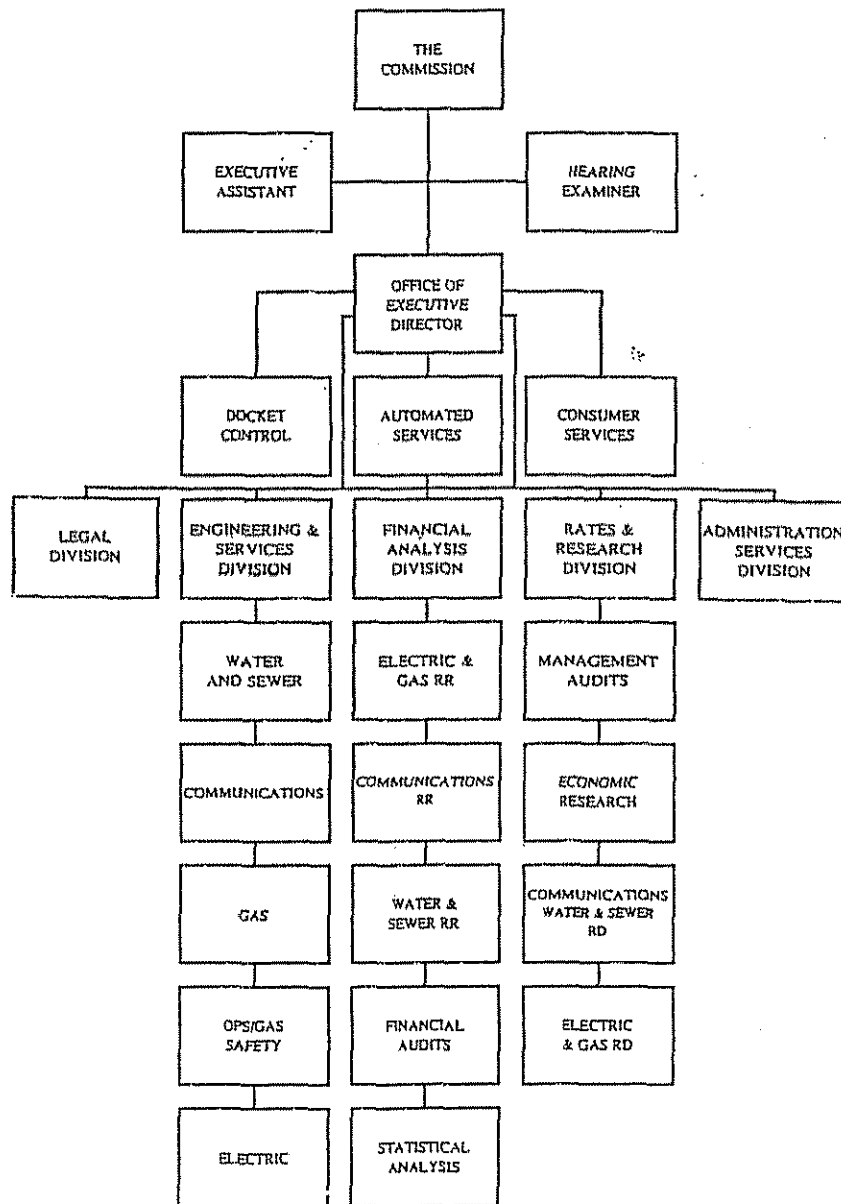
Effective 10-1-93

PSC EMPLOYEE HANDBOOK

TABLE OF CONTENTS

Introduction	3
Affirmative Action Policy	4
Americans with Disabilities Act (ADA)	4
Sexual Harassment Policy	4
Vacancies	5
Probationary Period	5
Transfers	5
Promotions	6
Reclassifications	6
Hours of Work	6
Training	7
Performance Evaluations	7
Job Classification	7
Compensation (Pay) System	7
Paychecks	8
Resignation	8
Retirement	8
Deferred Compensation	9
U. S. Savings Bonds	10
Credit Unions	10
Workers' Compensation	10
Unemployment Insurance	10
Agency Leave Procedures	11
Family and Medical Leave Act of 1993 (FMLA)	11
Holidays	12
Smoking Policy	12
Health Insurance	12
Life Insurance	13
Other Insurance	13
Commonwealth Choice	13
Kentucky Employment Assistance Program (KEAP)	14
Drugfree Workplace	14
Health and Safety	14
Disciplinary Action	15
Grievances	15
Misuse of Facilities and Equipment	16
Professional Conduct and Ethical Responsibilities	17
A. Adverse Pecuniary Interest	17
B. Gifts and Favors	18
C. Representing Non-State Interests	19
D. Misuse of Information	19
E. Outside Employment	19
F. Post-PSC Employment	19
G. Improper Ex Parte Communication	20
H. Executive Agency Lobbyists	21

Public Service Commission Organizational Chart



PSC INFORMATION HANDBOOK

Introduction

The Commissioners and management team of the Kentucky Public Service Commission (PSC) recognize their employees as their most valuable asset. This booklet has been prepared to help employees learn about their commission, its structure and functions, and some of the many facets of the employment relationship into which they have entered. In referring to employees, "he" shall mean male or female.

Questions concerning employment should be directed to your immediate supervisor, or to your agency Personnel Administrator.

The Public Service Commission is an independent administrative body established by the Legislature in 1934 with quasi-legislative and quasi-judicial duties.

The Commission regulates intrastate rates and services of investor-owned electric, natural gas, telephone, water and sewage utilities, rural electric and telephone cooperatives, and water districts and associations. The Commission performs its regulatory functions through written orders following adjudicative and rulemaking procedures outlined in Chapter 278 of the Kentucky Revised Statutes and administrative regulations promulgated by the Commission in Title 807 of the Kentucky Administrative Regulations.

The Commission's goal is to ensure that every utility within its jurisdiction charges fair, just and reasonable rates for the services rendered and that those services are safe, adequate, efficient and reasonable.

The PSC consists of three (3) members appointed by the Governor with the advice and consent of the Senate. Commissioners are appointed for staggered four year terms. Appointments run from July 1 to June 30, with each commissioner staying in the office until his successor is sworn into office. The Governor designates one commissioner to act as Chairman and Chief Executive Officer and a second commissioner to serve as Vice Chairman and act for the Chairman in the latter's absence.

The PSC is divided into the following units: General Counsel (Legal), Engineering, Rates and Research, Financial Analysis, and Administrative Services. The Commission appoints an Executive Director, to serve at its pleasure, and to act as Chief Administrative Officer directing day-to-day operation of the Commission.

Affirmative Action Policy

The Commission is committed to the law of the Commonwealth in establishing a work place free from the injustices of discrimination. It is the policy of the Commission to affirm equal opportunity for employment and advancement to all qualified persons without regard to race, color, religion, national origin, disability, sex, age, or sexual orientation. Any employee who believes he has been subjected to discriminatory treatment in the workplace has the responsibility immediately to bring the problem to the attention of the agency Personnel Administrator.

The Americans With Disabilities Act of 1990 (ADA)

The Americans With Disabilities Act, 42 U.S.C. §12101 et seq., is a federal law that requires that public facilities and programs, when viewed in their entirety, be accessible to persons with all types of disabilities. The ADA also makes it unlawful to discriminate against a qualified person with a disability in any aspect of employment. The ADA applies to Commission employment practices and the terms, conditions and privileges of employment. The ADA protects qualified persons with a disability. This includes current Commission employees, qualified applicants seeking Commission employment and citizens seeking to utilize Commission facilities and programs. Contact the agency Personnel Administrator for further information.

Sexual Harassment Policy

The Commission does not tolerate sexual harassment of any kind. Sexual harassment in the workplace is a serious offense against the dignity of fellow workers and a violation of both state and federal law. Sexual harassment is viewed as misconduct and will subject any offending employee to disciplinary action up to and including dismissal. Any employee who has a complaint of sexual harassment at work by supervisors, co-workers, visitors or clients should immediately bring the problem to the attention of his supervisor, or, if the complaint involves supervisory personnel in the employee's line of command, complaints may be made to another supervisor, the agency Personnel Administrator or the Cabinet Personnel Administrator.

Vacancies

When a vacancy occurs in the Commission, it is usual practice to attempt to fill the position from within the agency or state government through promotion or transfer. When recruiting from the outside for a merit position, a register of names is requested from the Department of Personnel for the vacant position. A selection is made from this register. The new employee serves a probationary period of six months to obtain merit status. Non-merit appointments are made by the Commission to serve at the pleasure of the Commission.

Probationary Period

1. Initial probationary period is the period an agency observes an employee's job performance and determines to continue his employment or terminate it. The initial probationary period is six months. Employees who perform satisfactorily gain merit system status.
2. Promotional probationary period is the six months following a promotion during which the agency observes the employee's job performance. With satisfactory performance, the employee gains merit system status in the new job. If performance is not satisfactory, the employee is returned to his former position or to a position in the same job classification as the former position.

Transfers

If an employee wishes to transfer to another position or location within the Commission, he should submit the request in writing to his supervisor. If an employee wishes to transfer to another state agency, it is his responsibility to locate the new position. The Commission and the hiring agency will coordinate the transfer of Personnel records. The employee is responsible for notifying his immediate supervisor and negotiating a transfer date.

Promotions

Promotion is a change from a position in one class to a position in another class having a higher minimum salary or carrying a greater scope of discretion or responsibility. Employees who are promoted are required to serve a promotional probationary period. Employees who are promoted retain their status in the class from which they are promoted; if an employee does not successfully complete the promotional probation he must revert to a position in his former class. An employee who is promoted receives a salary increase of at least five percent or advances to the minimum of the grade for the new position (whichever is greater). An agency may give a five percent promotional increase to an employee who successfully completes promotional probation. If the promotion is to a position which constitutes an unusual increase in the level of responsibility, the agency, with the prior written approval of the Commissioner of Personnel, may grant upon promotion a ten percent or fifteen percent salary increase over the employee's previous salary.

Reclassifications

A reclassification occurs when an employee is given a different job classification because of a material and permanent change in his duties or responsibilities. An employee who is advanced to a higher pay grade through reclassification shall receive a salary increase of five percent except that in no case shall the employee's salary be below the minimum for the new pay grade. An employee placed in a lower pay grade through reclassification shall receive the same salary he received before reclassification.

Hours of Work

Full-time state employees are required to work 7.5 hours per day. Part-time and hourly employees shall be scheduled to work hours in accordance with the needs of the position. The normal work hours are from 8:00 a.m. to 4:30 p.m., Monday through Friday, unless flextime has been approved by the Executive Director. The employee shall not be scheduled to begin work earlier than 7:30 a.m. nor later than 8:30 a.m. Habitual tardiness or excessive absenteeism from work stations shall constitute grounds for disciplinary action.

Training

The Commission encourages all employees interested in career development to take advantage of courses offered at the Governmental Services Center at Kentucky State University. The Commission also encourages job enrichment through work-related workshops and seminars of a technical nature to improve job efficiency and effectiveness if within the budgetary allowance.

Performance Evaluations

Performance evaluations enable both the supervisor and employee to determine whether the employee is meeting the requirements of the job. Performance evaluations, updated job descriptions, standards and goals are to be completed for merit employees on June 30 (mid-year) and December 31 (year-end) of each year. An employee is not eligible to begin the evaluation process unless his probationary period is completed by January 1 of the year for which he is to be evaluated.

Job Classification

The goal of the classification process is to maintain a system that accurately matches what the employee does with how the employee is classified. Each employee has a detailed position description (PD) of his job duties. The PD is developed and monitored as a joint effort of both the employee and his supervisor.

Compensation (Pay) System

When jobs are classified, they are evaluated on thirteen (13) factors and compared to jobs in their proposed class. The following factors are included in the evaluation: minimum education requirement; minimum experience requirement; supervisory responsibilities; responsibilities for following, interpreting, enforcing, or developing policies or procedures; responsibility for materials and supplies; authority to handle and spend money; responsibility for personal contacts; responsibility for records and reports; responsibility for machinery and equipment; types of mental skills required; types of mental demands required; types of physical demands; and types of working conditions. This evaluation provides a basis for internal ranking of classes. In addition, the Department of Personnel maintains information about the salaries other employers pay for similar jobs. Using all available information, each class is assigned a pay range on the salary schedule.

Paychecks

All payroll checks are paid two weeks in arrears. For example, a new employee will not receive his first paycheck for four weeks. If the appointment date is September 1, he will receive his first check on September 30 for the September 1 - 15 pay period. Payday is always on the 15th and 30th of each month, unless payday falls on a Saturday or Sunday, in which case paychecks are delivered on the preceding Friday.

Resignation

An employee who desires to terminate his service with the state shall submit a written resignation to the agency. Resignations shall be submitted at least fourteen (14) calendar days before the final working day. Failure of an employee to give fourteen (14) calendar days notice with his resignation may result in forfeiture of accrued annual leave.

Retirement

All salaried employees and hourly Commission employees working an average of 100 hours a month are members of the Kentucky Employees Retirement System and contribute 5% of their base pay to the retirement system. The state contributes 7.65% of the employee's base salary to his retirement account. The following are benefits provided by the Retirement System:

Normal Retirement

1. A member who has attained age 65 and has acquired at least 48 months of service credit (12 months must be current service) is eligible for an annual retirement benefit as determined by the following formula:

YEARS OF SERVICE X 1.97% X FINAL COMPENSATION*

EXAMPLE: A member has 20 years of service and final compensation of \$15,000.

$$20 \times 1.97 = 39.4\%$$

$$39.4\% \text{ of } \$15,000 = \$5,910 \text{ annual payment}$$

$$\$5,910 \text{ divided by } 12 = \$492.50 \text{ monthly payment}$$

*Final compensation is the average annual salary earned during the five fiscal years when the member's salary was highest.

2. A member who has attained age 65 but has less than 48 months of service is eligible for a monthly benefit equal to the actuarial equivalent of twice the member's accumulated contributions. This amount must be calculated by the retirement system.

Early Retirement

1. A member may elect early retirement at any age with no decrease in benefits if the member has 27 years of service credit. At least 15 years of the service must be current service.
2. A member may choose early retirement if he is age 55 or older and has at least 60 months of service credit.
3. A member may also choose early retirement if he is under age 55, and has at least 25 years of service, 15 of which must be current service. The benefits are calculated the same as for normal retirement and are reduced 5% for each year of service credit under 27.
4. Under early retirement, the benefit is calculated the same as under normal retirement, except that benefits are reduced depending on the member's age or years of service.

Disability Retirement

A member who has acquired 60 months of service credit (12 months must be current service) is eligible for a monthly disability benefit if he should become disabled while actively contributing to the retirement system. Application for disability benefits must be made within 12 months of termination of employment. Disability benefits are calculated in the same manner as Normal Retirement benefits except that additional years of service credit may be added to the member's account and years of service at the time of disability.

Any questions should be referred to the Kentucky Employees Retirement System office at (502) 564-4646.

Deferred Compensation

All Kentucky state government employees may participate in the Deferred Compensation program. Deferred Compensation lets the employee set aside income from his paycheck for retirement. Money set aside for Deferred Compensation is

automatically payroll deducted twice each month. The employee pays no state or federal income tax on the money deferred until he begins receiving benefit payments at retirement or early retirement, when he may be in a lower tax bracket. For additional information, contact the Kentucky Public Employees Deferred Compensation System at 564-7240.

U.S. Savings Bonds

Savings Bonds are available to all employees through payroll deduction. Employees should contact the agency Personnel Administrator for forms and information.

Credit Unions

A state employee may join the Commonwealth Credit Union or the Kentucky Employees Credit Union. Each offers a wide range of financial services, including secured and unsecured loans, savings plans, and payroll deductions. Information may be obtained by calling:

Commonwealth Credit Union	(502) 564-4775
Kentucky Employees Credit Union	(502) 564-5597

Workers' Compensation

All Commission employees are protected by Workers' Compensation. If an employee is injured at work, he should advise his supervisor immediately. Reporting should be coordinated through the Personnel Administrator's office. Failure to report injuries to the supervisor within 24 hours may jeopardize an employee's entitlement to Workers' Compensation benefits.

Unemployment Insurance

All employees of the Commission (except Commissioners) are eligible for unemployment compensation under certain circumstances. Direct any questions to the agency Personnel Administrator.

Agency Leave Procedures

Accumulation and use of the following leave are controlled by 101 KAR 2:100:

Annual	Voting
Sick	Blood Donation
Compensatory	Military
Court	

Family and Medical Leave Act of 1993 (FMLA)

FMLA, 29 U.S.C. §2601 *et seq.*, requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to "eligible" employees for certain family and medical reasons. Unpaid leave must be granted for any of the following reasons:

- > to care for the employee's child after birth, or after placement of a child with the employee for adoption or foster care;
- > to care for the employee's spouse, child, or parent, who has a serious health condition; or
- > for a serious health condition that makes the employee unable to perform his job.

Job Benefits and Protection:

- > For the duration of FMLA leave, the employer must maintain the employee's health coverage under any "group health plan."
- > Return from FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

For additional information regarding FMLA, please contact the agency Personnel Administrator.

Holidays for State Personnel

State offices shall be closed and state employees shall be given a holiday on the following days:

- (a) The 1st day of January plus one extra day;
- (b) The 3rd Monday in February;
- (c) Good Friday, one-half day;
- (d) The last Monday in May;
- (e) The 4th day of July;
- (f) The 1st Monday in September;
- (g) Presidential election day as required under KRS 2.190;
- (h) The 4th Thursday in November plus one extra day;
- (i) The 25th day of December plus one extra day.

Smoking Policy

To provide a workplace that respects the rights of non-smokers, while ensuring smokers are not deprived of their rights, smoking is permitted only in specifically designated areas. This policy is in effect at all times.

Health Insurance

An employee has the option of receiving coverage through the carrier holding the state health insurance contract or if he lives or works within a defined service area, he may choose coverage through one of the health maintenance organizations (HMO's). Health coverage becomes effective the first day of the second month following the date of employment. When his employment terminates, the employee remains covered for the following month by the state's contributions.

The Retirement System provides hospital/medical insurance or Health Maintenance Organization coverage for recipients of a retirement benefit. Participation in these plans is optional and a recipient may purchase, at his own expense, coverage for his beneficiaries and dependents. The cost of coverage for the retirement system member may be partly paid by the retirement system depending on the number of years of service that the member accumulated. Percentages of the premium that will be paid by the system are as follows:

Less than 4 years	0%
4 - 9	25%
10 - 14	50%
15 - 19	75%
20 or more years	100%

Life Insurance

All eligible employees receive term life insurance coverage paid for by the state in the amount of \$6,560.00. To be eligible for life insurance benefits, a state employee must be a contributing member to one of the state administered retirement systems. The insurance becomes effective the first day of the second month following the date of employment. As with health insurance coverage, an employee will be covered by the state term life insurance one month following his separation from state service. State employees also have the option of purchasing additional life insurance. See the agency Personnel Administrator for additional information.

Other Insurance

Several dental insurance options are available for state employees through payroll deduction. The state does not contribute toward any of these premiums. Many premiums can be payroll deducted. See the agency Personnel Administrator for additional information.

Commonwealth Choice

Commonwealth Choice is a tax-saving opportunity that can benefit employees and their families who have dependent day care or out-of-pocket healthcare expenses. **Commonwealth Choice is not an insurance plan.** This optional benefit was implemented by the Kentucky Department of Personnel to help reduce taxes and increase spendable income. The cost-saving advantage of the plan is simple: any eligible dependent care and health care expenses paid through the plan are tax free. No federal or state income tax or Social Security tax on the money used to pay these eligible expenses is owed. Any full-time or permanent part-time, active state government employee who is eligible for state-sponsored health insurance coverage and will have completed one full year of continuous service by December 31 of a given year, can enroll in this tax-saving plan. For additional information on Commonwealth Choice, contact the agency Personnel Administrator.

Kentucky Employee Assistance Program (KEAP)

The Kentucky Employee Assistance Program (KEAP) is dedicated to helping employees find solutions to personal problems that may hinder effectiveness at work. Problems concerning marital, family, or emotional distress, alcoholism and drug abuse, financial or legal difficulties, or even medical problems can seriously diminish an individual's job performance. As a progressive employer, the Commonwealth of Kentucky recognizes that there are positive, workable solutions to many of these problems which trouble employees. All state employees and their families are eligible for KEAP services, and there is no cost for its information or referral services. All contact with KEAP is strictly confidential; any personal information disclosed will be kept confidential to the full extent permitted by state and federal law.

Drugfree Workplace

The Drug Free Workplace Act of 1988, 41 U.S.C. §701 et. seq., provides that recipients of federal grants shall inform their employees that the unlawful manufacture, distribution, dispensation, possession, or use of alcohol and other controlled drugs in any designated workplace is prohibited. Conviction for such conduct may subject the employee to appropriate disciplinary action under state law, up to and including dismissal. The state may, in lieu of disciplinary personnel action, require an employee convicted of such conduct to participate in a drug abuse assistance or rehabilitation program.

Health and Safety

The Commission adheres to federal and state laws established to guarantee the health and safety of all employees in the workplace. Employees must follow the safety rules and procedures pertaining to their work unit. They must also maintain a personal commitment to exercising safe work habits and practices. For further information regarding health and safety in the workplace, please contact the agency Safety Coordinator.

Disciplinary Action

Supervisors are responsible for disciplining employees for just cause including conduct while on or off duty which may be prejudicial or detrimental to the Commonwealth or otherwise affect adversely the confidence of the public in the integrity of the Commission. Discipline may range from written reprimand to suspension or dismissal from state service. If an employee disagrees with any discipline received, he may appeal the action. The steps outlining these procedures are described in the Grievances Section.

Grievances

A grievance is a complaint filed by an employee which concerns some aspect of his employment. A grievance must be filed within thirty (30) days of the date of the action complained of or the date upon which the employee, exercising due diligence, became aware of the action.

Procedures

1. A grievance shall be filed with the employee's immediate supervisor.
2. The employee shall set forth in writing the basis of his grievance or complaint together with the corrective action desired. If the employee wishes to submit additional information or documentation, he may attach it to the grievance.
3. When a grievance is filed that alleges discrimination on the basis of race, color, religion, national origin, sex, disability or age (forty (40) or over), the supervisor shall immediately notify the agency Personnel Administrator in compliance with affirmative action requirements.
4. Interviews to evaluate or investigate the grievance held with the complainant or other employees shall not require the use of leave time. For interviews held outside of normal working hours, compensatory time shall be granted.

5. All parties may have a representative present at each step of the grievance procedure.

To obtain additional information, contact the agency Personnel Administrator.

Misuse of Facilities or Equipment

No employee shall use any equipment, supplies, or properties of the Commonwealth for other than officially designated purposes. Any questions in this area should be directed to the employee's immediate supervisor.

Telephones are to be used for state business. If it is necessary for employees to make personal long-distance calls, they shall reimburse the state for personal calls in cash or by personal check payable to Kentucky State Treasurer.

PROFESSIONAL CONDUCT AND ETHICAL RESPONSIBILITIES

Employees of the Commission work for the benefit of the people of the Commonwealth of Kentucky. As public servants, employees are bound to adhere faithfully to standards of professional and ethical conduct. Employees represent the Commission and are expected to conduct themselves in a manner which will inspire the confidence, trust, and respect of the public.

Principles of ethical behavior are based on the belief that public servants must be independent and impartial; government policy and decisions must be made through established processes; public servants must not use public office to obtain private benefits; and the public should be able to have confidence in the integrity of its government. KRS 11A.005. The Commission requires its employees to avoid conflicts of interest, improper ex parte communications, and participation in activities which present the appearance of impropriety.

The following guidelines are set forth to illuminate areas of concern:

A. Adverse Pecuniary Interest

Commissioners are statutorily prohibited from holding an official position or owning stocks, bonds, or any other pecuniary interest in a utility. KRS 278.060(2). The Commission has adopted the same prohibition for its staff. The Commission has determined that participation in an investment plan where utility stocks or bonds are purchased as part of a total portfolio and where the Commission staff member has no control over the company chosen for investment (such as a mutual fund), does not constitute a violation of this prohibition. Any staff member who is in violation of this policy shall immediately disclose that fact to the Executive Director.

All employees are subject to the provisions of the Kentucky Model Procurement Act ("Act") which detail prohibited conflicts of interest for public officers and employees. An employee cannot be interested, either directly or indirectly, in any contract in which he may be called to act or vote. KRS 45A.430. Likewise, the Executive Branch Ethics Code ("Code"), applying to all employees of the Commission, prevents a public servant from acting as a representative of the state in a business transaction with himself or in any business in which he or a family member has a greater than five percent interest. KRS 11A.040(3). "Family" is defined in KRS 11A.010(4) to mean a person's "spouse and children, as well as a person who is related to a public servant as any of the following, whether by blood or adoption:

parent, brother, sister, grandparent, grandchild, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister.”

Another Code provision, KRS 11A.040(4), could affect employees by providing that they and their family members holding more than a five percent interest in a business cannot be parties, directly or by virtue of their partial ownership of the business, to any contract, agreement, lease, sale or purchase between that business and any state agency. For example, it is impermissible for the owner of a computer business to sell products to the Department of Human Resources if at least five percent of its shares are owned by the spouse of a Commission employee. Violation of this statute is a Class D felony.

B. Gifts and Favors

The Code provides that a public servant cannot knowingly accept compensation, other than that provided by law for public servants whose salary is paid by the Commonwealth, for the performance of any activity included in his official duties. KRS 11A.010(5). Compensation is defined as “any money, thing of value, or economic benefit conferred on, or received by, any person in return for services rendered, or to be rendered, by himself or another.” KRS 11A.010(3).

The Executive Branch Ethics Commission has concluded that when dealing with a civic organization or other organization not comprised of entities regulated by the commission:

“an executive branch employee may accept a free meal at an event in which he is invited to participate in furtherance of his official duties, provided these tests are met:

1. The meal is an integral part of the event and the employee's role in the program occurs immediately before, during, or immediately after the meal.
2. The employee's meal is the same available to all others at the event and is consumed on the premises.

We also approve acceptance of a small token of appreciation such as a coffee mug. Public servants are encouraged to make speeches and presentations for the benefit of citizens of the Commonwealth, but public servants shall be zealous to accept nothing more than a small token of appreciation.” AO 90-10.

The Executive Branch Ethics Commission states that employees involved in regulating utilities should not accept meals or beverages from those utilities or trade associations whose members are regulated utilities. AO 93-50.

The Commission prohibits its employees from accepting any item, including food or entertainment, from any employee of or executive agency lobbyist for a regulated utility. The Commission strives to avoid the public perception that an improper relationship may exist between regulated utilities and the Commission or its staff.

C. Representing Non-State Interests

No employee shall represent or act as an agent for any private interest, whether for compensation or not, in any transaction in which the state has a direct and substantial interest and which could be reasonably expected to result in a conflict between a private interest of the official or employee and his official state responsibilities.

D. Misuse of Information

The Code prohibits Commission employees from knowingly disclosing or using confidential information acquired during the course of their work. KRS 11A.040(1).

Employees should carefully and conservatively evaluate a document before providing it or describing its contents to anyone other than another Commission employee. Consult the Commission's General Counsel for assistance if you are unable to determine whether a particular document should be released.

E. Outside Employment

Members of the Commission are required by statute to devote their entire time to the duties of their offices. KRS 278.050(1). Members of the Commission's staff are not legally prohibited from having other jobs. However, employees who do seek outside employment are expected to ensure there is no conflict with their Commission duties. Employees who are unsure whether outside employment conflicts with their Commission duties should notify the Executive Director or consult the General Counsel.

F. Post-Commission Employment

The Code places three restrictions on the type of employment a public servant is permitted to accept after leaving state government:

1. A former public servant may not act as a lobbyist or lobbyist's principal for a period of one year after the date he leaves state employment or his term of office expires, whichever is later.
2. A former public servant may not represent a person in a matter before a state agency in which the former public servant was directly involved for a period of one year after the date he leaves employment or his term of office expires, whichever is later.
3. A present or former public servant may not, within six months of the termination of his state employment, accept employment, compensation, or other economic benefit from any person or business that contracts or does business with the state in matters in which he was directly involved during his tenure. This prohibition does not apply to individuals returning to the same business, firm, occupation, or profession in which they were involved prior to state government employment. The Executive Branch Ethics Commission has indicated through its Executive Director that it considers the Commission to be "doing business with" the utilities it regulates.

G. Improper Ex Parte Communication

1. "Ex parte communication" means an oral or written communication which relates to the merits of a formal proceeding pending before the Commission, or which the employee reasonably anticipates will be filed with the Commission, and which is not included in the public record, without notice and opportunity for all parties or interested persons to participate. A communication relevant to the merits includes any issue of fact or law relative to the matter pending.
2. The following types of communication are not prohibited ex parte communications if such communication is reasonably limited to the matter at hand:
 - (a) Any procedural inquiry, including prefiling inquiries.
 - (b) Staff's communications when performing routine operational inspections and safety inspections not for the purpose of investigating a matter pending before the Commission.
 - (c) Staff's communications when performing management audits pursuant to KRS 278.255 and routine field audits of accounts, books, and the Commission.

- (d) Staff's communications when performing cell site field inspections.
 - (e) Staff's communications when performing field reviews or inspections for preparation of Commission staff reports to be filed in pending or anticipated rate cases.
 - (f) Staff's communications in cases without intervenors, unless the staff determines intervention is likely.
3. Commissioners or Commission staff shall not participate in any prohibited ex parte communication with any interested person regarding the merits of any formal case or proceeding pending before the Commission or a case or proceeding that the employee anticipates will be filed with the Commission. It is improper to disclose a Commission decision prior to the issuance of an Order on the matter.
 4. If an employee participates in a prohibited ex parte communication, he shall immediately disclose the relevant details of the communication to the General Counsel.

H. Executive Agency Lobbyists

As of September 16, 1993, any individual who is engaged to promote, oppose, or otherwise influence the outcome of an executive agency decision is considered an executive agency lobbyist and is required to register with and make certain disclosures to the Kentucky Executive Branch Ethics Commission.

An "executive agency decision" is narrowly defined to include only those agency decisions regarding the expenditure of state or agency funds with respect to the award of a contract, grant, lease, or other financial arrangement under which those funds are distributed or allocated. PSC employees are rarely involved in agency decisions affecting the disbursement or allocation of state or agency funds.

However, executive agency lobbyists are required to report on a quarterly basis all expenditures made on behalf of or financial transactions with any executive branch employee in any agency, whether or not the employee works for the agency the executive agency lobbyist was engaged to influence. All Commission employees must be aware that disclosure of expenditures and financial transactions involving them could be detrimental to the public's perception of the Commission and act accordingly.

Kentucky Public Service Commission
730 Schenkel Lane
Frankfort, Kentucky 40601
(502) 564-3940
(502) 564-7279 fax
(800) 772-4636 Public Information Hot Line

WHEN THE PUBLIC ASKS FOR DIRECTIONS TO PUBLIC SERVICE COMMISSION:

Take I-64 to the Frankfort/Versailles exit (Exit 58). Turn off the exit onto U.S. 60 (Versailles Road) toward Frankfort. Follow U.S. 60 all the way in until you reach the intersection of U.S. 60, 460 and 421 (approximately 3 miles). As you approach the intersection, the road will widen to 5 lanes and a sign will read "Capital Plaza Complex". Continue straight through the light onto U.S. 421 (Wilkinson Boulevard) for approximately 1 mile. At the first light (at Hardee's) you will turn right onto Schenkel Lane. We are on the second block, in a two-story brick building located on the right, across from the Chrysler dealership (Frankfort Auto Sales) and right before you get to the liquor store.

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also [9] 7/22 8/22 9/15 11/5 11/25 13/15 26/3 32/3 34/22	B	cases -- [1] 13/12
always [1] 23/25	Bachelor [1] 5/2	Cave [5] 6/19 6/20 7/1 7/12 7/13
am [5] 7/21 27/1 29/9 33/21 37/10	back [13] 4/6 4/16 4/18 4/22 5/8 5/9 18/17 26/20 29/20 29/25 31/2 31/4 32/2	certain [3] 6/15 16/8 20/19
American [15] 11/7 15/21 15/25 16/4 16/9 16/14 17/6 23/15 30/8 30/13 30/21 31/16 34/18 34/20 35/20	background [1] 5/1	certificates [1] 5/18
amongst [2] 28/12 29/6	banks [1] 23/25	certify [2] 37/4 37/10
amount [3] 30/13 30/24 30/25	banks -- [1] 23/25	characterization [1] 30/10
analysis [5] 5/17 5/25 20/11 20/11 20/14	based [2] 19/10 21/13	charge [1] 8/8
and -- [2] 9/2 19/14	basis [2] 8/6 18/24	charging [1] 30/14
Andrea [3] 10/20 11/25 13/14	be [26] 6/20 8/13 12/11 13/3 13/25 14/20 14/24 18/3 20/15 20/22 20/22 21/4 21/9 21/11 21/12 21/14 21/18 22/4 22/17 23/1 23/5 24/4 27/17 31/2 33/16 34/6	City [1] 2/12
another [3] 16/4 17/25 29/18	became [1] 7/10	clarified [1] 22/17
answer [1] 23/24	because [10] 12/23 13/10 16/23 28/20 30/12 30/19 34/16 34/19 35/4 35/12	class [1] 8/9
any [32] 6/23 14/20 16/25 17/2 17/5 22/7 22/25 23/3 23/10 23/14 24/2 24/6 25/2 25/5 26/12 26/25 28/10 29/5 29/12 29/14 33/12 33/15 33/15 33/17 34/10 34/11 34/17 35/18 35/19 35/22 36/6 37/10	been [34] 4/23 5/6 5/12 6/1 6/6 7/19 11/15 12/20 13/17 13/19 14/9 14/18 14/21 15/14 15/23 16/9 17/10 17/13 17/22 18/7 19/14 19/23 19/25 21/3 22/15 24/14 25/22 26/4 26/16 27/8 28/18 28/21 30/17 30/25	classes [1] 8/7
any -- [1] 25/5	before [3] 11/8 25/24 35/7	clear [1] 35/16
anybody [2] 15/3 30/17	began [1] 27/5	codifies [1] 34/25
anyone [3] 15/5 23/14 24/6	beginning [2] 20/16 26/15	combination [2] 14/16 18/14
anything [4] 25/5 25/10 26/5 26/12	behalf [1] 22/15	come [2] 21/21 29/20
appearances [1] 37/5	being [12] 12/22 14/16 14/16 17/5 19/1 20/18 20/19 22/22 27/20 27/23 34/4 35/19	commission [23] 1/1 2/10 3/3 3/23 4/4 4/8 4/10 4/16 4/19 4/22 11/9 16/20 17/16 17/18 18/20 22/16 24/12 24/13 25/15 27/1 34/1 34/4 37/12
application [1] 19/6		commissioners [5] 23/4 23/11 33/11 33/12 33/18
application -- [1] 19/6		commissions [1] 24/10
apply [1] 16/7		
approved [2] 17/13 31/13		
approximately [2] 3/5 4/5		
April [10] 7/11 7/15 19/1 19/3 19/23 23/17 24/4 25/3 26/21 34/5		
are [15] 3/22 6/16 6/23 13/3 13/3 22/14 22/19 24/24 26/7 26/8 29/4 29/14 33/20 36/6 36/13		

<p>C</p> <p>common [2] 17/25 18/2 communication [2] 22/10 36/4 communications [2] 24/12 36/7 companies [7] 18/17 18/21 18/22 20/25 29/16 29/19 31/22 companies -- [1] 20/25 company [5] 1/6 1/11 18/1 21/1 28/15 complaint [5] 5/20 16/3 16/24 35/19 35/23 complete [1] 37/9 complexity [1] 13/1 concerned [2] 28/21 30/17 concluded [2] 36/13 36/15 conclusion [2] 26/17 35/25 CONDITIONS [2] 1/6 1/11 conducted [1] 21/17 conference [6] 19/1 19/24 23/3 23/16 26/21 27/7 conference -- [1] 27/7 conferences [3] 23/9 28/12 29/6 consolidated [9] 11/7 16/11 16/12 17/5 18/6 22/7 25/11 34/11 35/6 construction [1] 5/19 consultant [1] 17/19 consultants [1] 14/2 contact [5] 22/16 22/22 23/16 25/2 26/14 contacted [3] 24/5 24/14 24/20 contacting [1] 24/2 contacts [2] 22/21 31/20 context [1] 28/22 continue [2] 9/14 17/14 convenience [1] 5/18 convening [1] 23/2 correct [17] 4/2 6/7 7/20 11/10 11/11 11/17 22/12 24/25 25/12 27/1 30/14 30/18 32/8 35/1 35/2 35/21 35/21 could [2] 24/4 29/20 COULTER [4] 1/21 1/21 37/4 37/18 CoulterLLC [1] 1/24 COUNSEL [1] 2/9 COUNTY [1] 37/2 couple [2] 28/14 35/5 covered [3] 20/22 21/11 21/13 cross-examination [1] 20/17 customer [1] 16/10 customers [5] 8/7 8/8 16/8 19/18 31/3</p>	<p>32/23 detail [1] 14/12 did [10] 5/10 14/14 19/15 26/12 28/9 29/9 29/9 29/12 32/25 34/22 didn't [1] 28/18 difference [1] 30/23 different [2] 9/5 24/10 direct [1] 22/10 directed [1] 13/16 directly [2] 9/11 10/5 director [16] 5/24 6/2 6/6 6/9 6/21 7/1 7/5 7/9 7/10 7/11 9/11 9/14 9/16 12/4 13/16 33/25 directors [1] 6/24 discontinue [1] 18/9 discovery [1] 19/9 discuss [3] 23/4 29/21 31/6 discussed [3] 12/11 23/7 34/10 discussing [1] 33/16 discussion [6] 21/10 21/15 24/3 28/11 28/19 31/9 discussions [8] 28/10 28/23 29/7 30/9 31/25 32/1 32/6 32/11 dispute [1] 35/1 division [16] 5/17 5/24 6/6 6/11 6/14 6/16 6/21 9/8 9/18 11/23 12/5 12/10 13/16 14/7 15/6 28/15 do [30] 5/11 6/10 7/8 7/22 8/20 8/22 9/1 9/2 9/2 9/3 9/7 13/8 17/4 17/16 19/2 20/10 21/8 22/8 23/13 24/1 25/23 27/8 32/10 32/16 33/10 33/15 33/22 34/3 34/9 35/22 docket [1] 14/23 docketed [1] 15/25 document [5] 22/9 22/24 30/5 32/17 32/18 does [3] 9/7 14/6 23/3 Does -- [1] 9/7 doing [1] 4/7 don't [15] 14/19 14/19 14/25 15/5 16/21 16/25 20/3 21/12 22/12 23/10 24/5 26/4 27/2 27/16 27/17 don't -- [2] 14/19 27/16 done [5] 4/17 14/2 19/11 19/23 23/1 Dorman [3] 33/20 34/12 35/23 down [2] 27/22 37/7 draft [1] 20/4 Drive [1] 3/20 due [1] 12/25 duly [1] 37/6 during [9] 7/5 7/18 10/4 10/8 10/16 10/19 32/7 34/8 35/11 duties [1] 7/22</p>	<p>electric -- [1] 9/22 electricity [1] 9/3 Elie [2] 11/22 13/24 ELLEN [3] 1/21 37/4 37/18 else [5] 15/3 15/5 28/16 30/17 32/2 employed [2] 3/22 34/4 employee [3] 2/3 12/17 25/15 employees [5] 9/12 10/1 10/5 10/8 26/3 end [1] 34/7 ended [1] 12/22 Energy [3] 18/1 24/11 28/15 engage [1] 26/12 engineering [3] 11/23 14/7 14/10 enough [7] 9/1 10/15 19/20 23/12 28/25 36/3 36/10 entire [1] 11/20 entity [1] 24/2 equity [1] 12/19 evaluate [1] 17/19 even [1] 12/19 every [2] 27/24 27/24 everyone [1] 32/2 evolved [1] 12/15 ex [5] 25/14 26/11 26/14 36/4 36/6 ex parte [5] 25/14 26/11 26/14 36/4 36/6 exact [1] 6/16 exactly [6] 4/9 7/24 16/21 27/17 31/7 34/7 EXAMINATION [1] 3/7 example [3] 22/11 29/4 30/7 except [2] 25/3 32/19 executive [1] 33/25 Exhibit [2] 2/2 25/18 experience [2] 13/10 13/11 expires [1] 37/12 extensive [1] 19/16 extent [6] 5/15 5/16 14/1 19/15 28/13 28/19</p>
<p>D</p> <p>D-A-W-N [1] 10/24 Daryl [2] 10/24 13/8 data [15] 19/8 19/9 19/19 19/21 20/1 20/5 20/6 20/12 20/15 20/19 20/25 22/8 22/14 22/23 25/4 date [4] 4/8 19/24 34/7 35/23 dates [1] 27/7 Dawn [4] 10/24 11/23 12/20 15/15 day [3] 3/4 27/1 37/14 deal [1] 15/21 December [1] 26/16 defined [1] 8/11 definition [3] 26/10 26/14 36/3 definitional [1] 25/9 degree [1] 5/3 depending [1] 14/22 DEPOSITION [1] 25/18 depreciation [2] 14/2 14/8 describe [1] 8/3 described [1] 7/19 design [14] 7/25 8/2 8/3 8/14 9/12 9/25 10/11 12/12 12/13 12/17 13/7 17/1 20/8</p>	<p>E</p> <p>E's [2] 33/3 33/5 E-MAIL [1] 1/24 each [1] 12/10 earlier [2] 12/11 13/24 earnings [10] 17/10 17/12 17/15 17/18 18/4 18/8 18/10 18/13 18/17 18/22 easier [1] 27/5 East [1] 1/22 Eastern [1] 5/3 economist [1] 15/8 educational [1] 5/1 Edwards [3] 10/20 12/1 13/15 either [2] 13/23 23/14 electric [21] 1/5 1/6 1/10 4/23 5/16 9/9 9/12 9/21 9/22 10/3 10/7 10/11 10/13 12/8 12/16 14/16 14/17 32/20 33/5 33/6</p>	<p>F</p> <p>fact [2] 21/16 30/8 fair [7] 9/1 10/15 23/12 25/1 28/25 36/3 36/10 familiar [4] 11/3 25/14 33/20 36/5 far [4] 12/23 15/4 19/20 22/23 fashion [1] 24/7 Faud [1] 14/13 FAX [1] 1/24 Federal [2] 24/11 24/12 feel [2] 21/3 21/25 few [1] 12/21 Fifth [1] 2/12 filed [6] 12/8 13/4 17/20 34/15 35/20 35/23 filing [5] 14/17 16/3 17/16 26/15 34/25 filings [3] 5/15 5/20 23/6 final [3] 28/5 32/17 32/18 financial [9] 5/16 5/25 6/6 6/11 6/14 6/21 7/25 9/8 12/4 financing [1] 5/14 first [6] 4/18 4/21 13/3 19/1 26/11 37/6 fit [2] 26/14 30/9 fleeting [1] 24/1 focused [1] 20/20 folks [7] 6/13 8/21 9/7 9/22 10/18 10/22 34/20 follow-up [1] 19/12 foregoing [2] 37/5 37/8 formal [2] 15/17 19/24 formal -- [1] 15/17 formalized [1] 26/5</p>

<p>F</p> <p>formally [2] 15/14 15/17 forth [1] 37/6 forward [1] 4/8 found [1] 26/11 four [1] 15/13 frame [2] 10/8 32/7 Frankfort [2] 3/3 3/20 frankly [1] 22/7 from -- [3] 11/23 12/9 26/6 full [1] 3/10 function [2] 5/10 9/15 further [5] 21/4 21/11 21/13 31/6 37/10 fuzzy [1] 14/12</p>	<p>her [2] 12/23 15/19 here [5] 4/1 4/7 4/10 34/8 35/12 hereby [1] 37/4 hereto [1] 37/11 him [6] 10/5 10/19 12/1 13/12 33/24 34/3 himself [1] 13/12 hired [1] 17/19 his [6] 13/10 15/9 32/14 34/7 35/12 35/14 honest [1] 34/6 hope [1] 20/18 how [14] 4/3 6/1 6/13 7/9 8/2 8/8 8/13 9/22 12/3 13/16 14/13 27/17 30/19 30/20</p>	<p>Isaac [5] 10/17 11/21 11/25 11/25 27/22 Isaac -- [1] 11/25 issue [2] 29/19 30/16 issued [4] 18/20 19/8 19/18 20/1 issues [21] 12/19 14/8 15/15 15/19 15/22 21/11 21/19 22/3 28/14 28/17 28/18 28/20 29/2 29/16 29/24 29/25 30/12 30/20 32/19 33/17 34/10 issues and [1] 33/17 it [36] 4/8 5/9 6/4 7/19 8/5 8/11 8/20 12/4 13/19 13/25 14/17 18/7 19/25 20/4 20/10 22/4 22/8 23/13 25/13 26/1 26/9 26/15 26/24 27/12 27/20 27/21 27/21 27/25 28/4 28/25 30/21 30/22 30/25 31/3 31/9 33/16 it -- [1] 27/21 it's [12] 5/12 8/4 8/6 12/7 12/7 12/15 21/23 26/7 26/7 26/8 26/11 29/15 it's -- [4] 8/4 12/7 26/7 26/7 item [1] 25/21 itself [1] 22/24</p>
<p>G</p> <p>gas [18] 1/5 1/6 4/23 9/3 9/9 9/12 9/21 9/23 9/25 10/3 10/7 10/11 10/13 12/8 12/16 14/16 14/18 33/3 general [10] 2/9 9/15 9/17 21/15 24/4 25/3 28/10 31/13 32/11 32/13 general's [2] 19/17 31/5 generally [5] 8/17 12/17 15/13 21/8 22/4 get [4] 3/17 9/4 20/20 20/20 give [2] 11/2 21/10 given [3] 22/1 22/3 37/13 giving [2] 21/18 37/6 go [3] 4/6 4/13 20/14 goes [1] 22/9 going [12] 5/8 13/3 21/9 22/1 24/15 25/21 26/20 30/21 30/22 31/1 32/7 35/15 GOLDBERG [3] 2/11 2/11 3/9 Good [1] 34/14 Goodman [1] 16/19 got [5] 19/16 27/3 27/21 29/18 32/1 gotten [1] 20/2 Greenwell [2] 7/7 7/19 group [7] 27/18 29/7 29/17 29/21 30/1 31/4 31/9 groups [1] 31/23 guess [8] 12/25 13/2 14/15 15/24 20/17 22/19 26/7 26/7 guidance [2] 9/16 9/17 guidance -- [1] 9/16</p>	<p>I</p> <p>I -- [1] 15/16 I'll [1] 20/23 I'll -- [1] 20/23 I'm [15] 3/14 4/10 6/15 9/2 11/5 14/11 17/2 19/16 25/9 25/21 25/22 27/4 34/6 35/18 35/24 I've [3] 4/23 11/9 24/13 i.e [2] 8/21 23/14 if [8] 5/1 12/20 17/2 17/14 21/7 22/16 26/20 30/21 if -- [1] 12/20 immediate [2] 21/24 22/4 impact [1] 30/20 implications [1] 31/7 improper [1] 36/4 in [111] in -- [3] 12/19 15/12 22/13 income [1] 31/23 incorporated [2] 30/5 32/3 increase [4] 32/20 32/21 33/2 33/5 increases [1] 14/17 indicating [1] 29/23 individual [2] 13/18 29/24 Individuals [1] 12/9 Industrial [1] 19/18 industry [2] 4/20 9/6 informal [9] 19/1 23/2 23/9 23/16 26/21 34/17 34/19 35/13 35/17 information [8] 2/3 19/10 20/5 21/13 24/9 24/15 24/22 25/15 initial [2] 19/6 19/11 initially [4] 16/20 16/22 20/21 31/1 initially -- [1] 16/20 initiate [1] 22/16 initiated [1] 16/5 inquired [1] 35/10 instances [2] 22/14 29/16 Integrated [1] 5/15 intent [1] 20/18 interest [2] 35/14 37/11 interested [1] 28/16 internal [2] 20/11 26/2 intervener [2] 29/17 29/20 interveners [8] 19/14 19/19 19/22 20/1 25/2 29/24 31/24 33/16 into [5] 4/23 18/5 18/6 30/5 32/4 INVESTIGATION [1] 1/4 involved [7] 9/5 12/21 14/1 14/4 14/21 27/18 28/23 involving [4] 5/13 5/17 9/5 11/7 is [33] 4/25 5/22 6/17 7/24 8/3 8/12 9/10 11/10 12/8 12/20 13/1 14/5 15/6 15/7 16/1 16/10 18/3 22/8 22/24 22/24 22/25 23/24 23/25 24/7 24/14 25/14 26/1 26/3 29/23 33/6 34/7 35/16 37/8 is -- [1] 22/24</p>	<p>J</p> <p>January [1] 18/20 Jeff [4] 6/24 23/13 24/2 26/12 JEFFERSON [1] 37/2 JEFFREY [3] 1/17 3/1 3/12 job [3] 5/10 5/22 12/23 John [1] 15/6 JONATHAN [1] 2/11 JULY [2] 1/18 3/4 just [36] 5/10 8/5 9/2 9/3 11/9 11/14 11/15 12/7 12/15 12/22 12/24 13/1 14/11 14/22 14/22 15/1 16/20 17/2 17/23 18/3 18/7 20/2 20/23 21/14 21/23 21/25 22/5 24/14 24/22 25/20 27/2 27/22 35/7 35/10 35/12 35/14 just -- [1] 35/7</p>
<p>H</p> <p>had [28] 8/11 10/4 11/25 12/17 12/18 17/10 17/13 17/19 18/19 20/2 20/3 23/10 23/15 25/1 27/7 27/25 28/18 28/21 28/24 29/1 29/2 29/24 30/9 30/12 31/1 31/9 31/20 31/24 half [1] 4/21 hand [1] 37/13 handbook [3] 2/3 25/16 36/6 handle [1] 22/20 hands-on [1] 7/22 has [6] 14/7 15/14 16/19 22/14 25/22 33/6 have [53] have -- [1] 19/5 having [3] 25/24 34/9 35/4 he [15] 7/4 7/9 7/10 10/4 14/14 14/18 14/18 14/20 14/25 15/14 15/17 33/25 34/7 34/21 35/10 he -- [1] 14/18 he's [2] 15/13 15/13 he's -- [1] 15/13 head [1] 20/3 hearing [7] 11/8 20/17 20/22 21/4 21/9 21/12 27/7 hearings [1] 33/11</p>	<p>K</p> <p>KENTUCKY [13] 1/1 1/11 1/22 1/23 2/13 3/3 3/21 5/3 19/18 28/15 37/1 37/4 37/15 kind [11] 7/23 12/15 13/13 14/5 21/18 22/20 22/25 27/20 27/21 31/4 35/14 KIUC [1] 23/15 knew [1] 33/24 know [22] 3/16 12/9 12/24 13/3 14/20 14/21 15/5 16/23 19/25 20/8 20/15 20/23 21/10 21/18 21/24 22/13 22/19 22/21 26/4 33/22 35/7 35/11 knowledge [2] 31/12 33/15 Kroger [1] 28/15 KU [26] 11/1 13/9 14/21 16/4 16/5 16/12 16/16 16/17 17/6 17/9 17/14 17/23 18/1 18/3 18/14 22/10 23/6 29/25 30/9 30/14 31/1 31/16 32/20 33/6 33/16 35/1 KU's [3] 16/8 31/2 33/5</p>	
	<p>L</p> <p>lack [1] 13/11 Large [1] 37/4 larger [2] 22/18 30/25 last [2] 15/9 21/1 later [1] 16/11 lead [1] 13/13 least [5] 12/9 16/20 25/23 28/2 33/24 leave [1] 28/24 leaving [1] 29/2 left [4] 4/13 16/19 16/21 20/22 less [2] 6/3 30/22 let [4] 6/8 23/4 23/12 26/11 let's [5] 4/6 10/25 11/20 29/11 34/14</p>	

<p>L</p> <p>level [2] 13/10 22/23</p> <p>LG [28] 11/1 11/16 11/19 13/7 14/15 14/16 14/19 15/1 15/3 17/6 17/9 17/14 17/23 18/1 18/1 18/3 18/14 19/7 19/10 19/12 22/6 22/10 23/6 29/24 32/20 33/3 33/5 33/16</p> <p>like [4] 6/9 13/14 17/6 21/3</p> <p>line [1] 18/25</p> <p>lines [1] 21/15</p> <p>link [1] 8/5</p> <p>little [4] 6/3 8/22 8/25 14/12</p> <p>LLC [1] 1/21</p> <p>long [3] 4/3 6/1 7/9</p> <p>LOUISVILLE [4] 1/6 1/23 2/13 37/14</p> <p>low [1] 31/23</p>	<p>Mr. [15] 3/10 6/20 7/1 7/7 7/12 7/13 7/19 13/9 13/20 14/11 14/13 16/18 33/20 34/12 35/23</p> <p>Mr. Aaron [1] 7/7</p> <p>Mr. Cave [4] 6/20 7/1 7/12 7/13</p> <p>Mr. Dorman [2] 34/12 35/23</p> <p>Mr. Faud [1] 14/13</p> <p>Mr. Greenwell [1] 7/19</p> <p>Mr. Raff [1] 16/18</p> <p>Mr. Russell [1] 14/11</p> <p>Mr. Scott [2] 13/9 13/20</p> <p>Mr. Shaw [1] 3/10</p> <p>Mr. Tom [1] 33/20</p> <p>Ms. [2] 13/23 14/5</p> <p>Ms. Martha [1] 13/23</p> <p>Ms. Morton [1] 14/5</p> <p>much [2] 8/13 30/20</p> <p>my [14] 8/10 9/10 9/13 11/24 13/5 16/1 16/10 20/3 29/15 34/7 37/7 37/9 37/12 37/13</p> <p>myself [4] 13/6 20/18 20/24 27/23</p>	<p>offered [1] 18/21</p> <p>office [4] 4/14 4/14 19/17 31/5</p> <p>offices [1] 3/2</p> <p>Oh [1] 4/12</p> <p>Okay [39]</p> <p>on [60]</p> <p>once [3] 20/14 20/14 22/14</p> <p>Once -- [1] 20/14</p> <p>one [11] 12/10 16/2 16/18 16/22 18/3 18/7 24/16 24/20 28/2 28/16 29/17</p> <p>only [6] 8/21 16/10 21/21 28/13 28/13 30/13</p> <p>Only -- [1] 28/13</p> <p>operate [1] 18/23</p> <p>operating [1] 17/11</p> <p>operations [3] 33/3 33/5 33/6</p> <p>opposed [1] 22/22</p> <p>opted [1] 28/24</p> <p>or [39]</p> <p>or -- [2] 21/19 34/13</p> <p>oral [1] 22/10</p> <p>orders [1] 18/20</p> <p>organization [1] 24/7</p> <p>originally [1] 15/24</p> <p>other [24] 5/11 5/12 5/20 6/10 6/23 9/17 9/20 9/21 16/25 16/25 17/2 17/5 22/3 22/3 22/23 28/11 29/4 29/5 29/5 30/23 31/19 31/20 33/10 35/8</p> <p>other -- [1] 22/3</p> <p>others [1] 21/12</p> <p>our [11] 12/16 13/16 14/3 14/23 15/5 15/6 21/17 22/18 25/20 35/4 36/3</p> <p>out [6] 17/24 18/10 21/2 22/9 27/20 29/18</p> <p>outcome [1] 37/11</p> <p>outside [2] 14/2 17/19</p> <p>over [4] 4/22 12/15 24/13 31/2</p> <p>oversight [1] 13/9</p>
<p>M</p> <p>made [2] 12/3 12/4</p> <p>magnitude [2] 12/25 32/19</p> <p>mainside [1] 5/13</p> <p>major [3] 5/4 12/19 14/3</p> <p>make [5] 17/16 20/23 21/2 27/5 31/6</p> <p>making [1] 35/19</p> <p>making -- [1] 35/19</p> <p>Mallard [1] 3/20</p> <p>manage [3] 6/10 9/8 9/11</p> <p>management [4] 5/14 6/10 7/22 15/7</p> <p>manager [5] 9/13 10/2 10/16 10/23 15/6</p> <p>managerial [1] 8/21</p> <p>managers [2] 9/17 13/18</p> <p>manner [1] 22/20</p> <p>many [2] 6/13 9/22</p> <p>March [3] 7/11 7/13 7/15</p> <p>MARKED [1] 25/19</p> <p>marriage [1] 37/10</p> <p>Martha [1] 13/23</p> <p>matters [4] 11/6 17/5 34/11 36/7</p> <p>may [11] 6/5 7/3 9/24 13/25 14/9 22/16 27/6 27/6 27/8 32/7 34/5</p> <p>maybe [7] 7/24 8/25 17/11 20/20 21/12 22/19 35/9</p> <p>McGee [4] 10/24 11/23 12/20 15/15</p> <p>me [12] 4/6 6/9 10/2 10/9 13/9 13/22 23/5 23/12 26/11 29/23 37/7 37/7</p> <p>mean [1] 12/6</p> <p>mechanism [6] 17/18 18/5 18/9 18/13 18/22 34/25</p> <p>mechanisms [5] 17/10 17/13 17/15 18/10 18/18</p> <p>meet [1] 23/3</p> <p>meeting [4] 21/7 34/19 35/8 35/9</p> <p>meetings [9] 21/17 21/22 23/11 28/3 34/17 35/5 35/13 35/17 35/22</p> <p>member [4] 11/22 13/6 14/10 14/19</p> <p>member's [1] 22/4</p> <p>members [8] 16/25 17/3 21/21 21/23 22/5 26/8 27/21 27/23</p> <p>memory [2] 23/25 23/25</p> <p>merger [2] 18/15 18/16</p> <p>mid [3] 7/2 7/10 9/24</p> <p>might [5] 18/6 21/25 30/22 30/25 35/10</p> <p>minute [1] 27/24</p> <p>mistaken [1] 13/25</p> <p>monthly [2] 24/16 24/18</p> <p>monthly -- [1] 24/16</p> <p>more [4] 8/25 20/21 22/19 23/5</p> <p>Morton [2] 13/23 14/5</p> <p>most [3] 9/20 19/16 27/20</p> <p>moved [1] 4/22</p> <p>MR [1] 3/9</p>	<p>N</p> <p>name [2] 3/11 15/9</p> <p>narrowed [1] 20/20</p> <p>National [1] 2/12</p> <p>nature [1] 16/23</p> <p>necessarily [1] 26/5</p> <p>necessity [1] 5/19</p> <p>need [4] 21/4 21/11 21/12 26/9</p> <p>needs [1] 22/17</p> <p>negotiating [1] 31/21</p> <p>negotiation [5] 26/25 27/3 27/15 28/4 28/6</p> <p>negotiations [4] 27/5 27/12 27/19 33/13</p> <p>Newby [2] 10/24 13/8</p> <p>next [1] 19/13</p> <p>no [24] 1/5 1/10 2/2 6/25 7/4 9/10 11/2 12/6 18/15 22/9 23/23 23/23 23/24 25/1 25/2 25/18 26/19 26/24 31/20 33/14 33/19 36/2 36/9 37/11</p> <p>nonparty [2] 24/17 24/24</p> <p>nonparty -- [1] 24/17</p> <p>normally [1] 14/25</p> <p>North [16] 11/7 15/21 15/25 16/3 16/9 16/14 17/6 23/15 30/8 30/13 30/21 31/16 34/18 34/20 34/20 35/20</p> <p>North -- [1] 34/20</p> <p>not [29] 4/9 6/15 7/4 7/24 8/21 13/15 15/13 15/17 17/2 18/2 20/13 20/13 22/25 26/3 27/24 28/10 28/20 28/24 29/7 29/12 30/16 31/21 32/16 32/17 33/4 33/9 34/6 35/19 37/10</p> <p>not -- [1] 20/13</p> <p>Notary [3] 37/4 37/12 37/18</p> <p>notes [5] 20/24 21/2 21/5 37/7 37/9</p> <p>November [1] 37/12</p> <p>now [10] 6/8 7/16 8/20 10/25 18/15 23/12 23/24 25/13 26/20 32/10</p> <p>number [3] 6/16 14/22 15/12</p> <p>numbers [1] 23/6</p>	<p>P</p> <p>page [4] 2/3 25/21 26/11 36/5</p> <p>pages [1] 37/8</p> <p>parent [1] 18/1</p> <p>part [14] 8/12 12/23 14/9 17/20 17/23 18/10 25/14 27/18 28/1 28/2 28/10 29/7 33/4 33/8</p> <p>parte [5] 25/14 26/11 26/14 36/4 36/6</p> <p>participate [6] 5/10 14/14 28/9 29/10 29/11 29/12</p> <p>participated [3] 14/10 27/11 28/22</p> <p>participates [1] 5/17</p> <p>participating [2] 32/11 33/12</p> <p>particular [12] 8/9 8/15 14/12 21/19 22/11 22/13 27/15 29/16 29/19 29/20 30/9 31/13</p> <p>parties [12] 25/1 25/2 26/13 26/25 27/12 28/7 28/11 28/24 28/24 31/20 33/16 37/10</p> <p>parties -- [1] 25/1</p> <p>party [1] 24/6</p> <p>past [3] 12/21 14/3 15/13</p> <p>pay [3] 8/14 30/21 30/22</p> <p>people [4] 8/10 13/11 24/21 32/14</p> <p>performed [1] 19/3</p> <p>period [9] 5/9 7/2 7/6 7/18 9/23 10/4 10/16 10/19 34/13</p> <p>person [3] 6/17 12/20 24/2</p> <p>Personal [1] 3/18</p> <p>personally [2] 11/12 20/18</p> <p>personnel [1] 6/10</p> <p>pertained [1] 34/18</p> <p>phase [1] 17/14</p>
<p>O</p> <p>obtained [1] 20/6</p> <p>obviously [1] 28/11</p> <p>occasion [5] 9/4 14/21 18/2 18/2 21/24</p> <p>occasion -- [1] 18/2</p> <p>Occasionally [1] 5/19</p> <p>occasions [2] 26/7 35/6</p> <p>occurred [3] 26/25 35/17 36/7</p> <p>of -- [1] 33/10</p> <p>off [2] 20/2 32/21</p>		

<p>P</p> <p>Phillip [1] 6/19 physically [1] 3/25 pilot [1] 17/13 piqued [1] 35/14 place [2] 25/23 37/5 plan [1] 5/15 played [1] 13/23 please [1] 3/13 point [9] 19/22 20/15 21/8 22/2 23/1 24/22 28/17 31/10 33/25 policy [3] 25/14 25/22 26/2 position [4] 6/10 7/12 7/13 13/13 possibly [1] 30/24 predated [2] 34/17 35/13 prehearing [1] 27/7 prepare [1] 20/16 prepared [3] 19/8 19/15 20/13 present [3] 26/21 28/7 33/12 presently [1] 5/23 pretty [1] 9/6 previously [2] 9/13 25/18 Primarily [1] 9/4 primary [2] 14/8 28/1 prior [13] 19/3 21/8 23/2 23/8 23/16 24/3 25/3 29/2 34/24 35/6 35/18 35/19 37/6 probably [4] 8/4 15/1 15/18 19/16 problem [1] 31/14 problem -- [1] 31/14 procedural [1] 34/25 procedure [1] 12/7 proceedings [2] 24/6 24/9 process [1] 26/6 programs [1] 5/14 projects [2] 5/19 7/23 proposal [1] 16/7 proposed [1] 31/1 provide [1] 9/15 PSC [2] 2/3 28/12 public [17] 1/1 2/9 3/2 3/23 4/4 4/7 4/10 4/14 4/16 9/2 11/8 25/15 34/1 34/4 37/4 37/12 37/18 purpose [1] 27/19 purposes [1] 11/8 pursued [1] 21/4 put [4] 13/6 13/12 15/20 24/16</p>	<p>23/10 24/5 24/20 27/2 27/17 28/14 30/19 31/4 32/10 32/16 35/22 recall -- [1] 21/17 receive [1] 19/14 received [4] 19/21 20/12 21/14 22/15 recollection [14] 7/9 16/1 16/10 17/5 19/2 23/14 24/1 25/24 27/9 29/1 33/10 34/3 34/7 34/9 record [4] 17/20 25/21 35/16 37/9 reduced [2] 18/21 37/7 reduction [1] 18/19 referenced [1] 11/10 regard [3] 22/6 23/5 29/24 Regulatory [3] 24/8 24/12 24/21 related [9] 15/25 17/9 23/18 23/21 24/9 25/5 25/7 30/12 37/10 relates [1] 23/13 relative [1] 13/11 remainder [1] 31/2 remember [3] 3/14 15/2 16/21 reminded [1] 26/8 rephrase [1] 6/9 report [4] 4/1 6/18 17/20 21/18 reported [6] 10/19 10/22 29/25 30/4 31/4 32/2 reporting [4] 1/21 10/2 10/5 21/19 reports [1] 24/18 representatives [2] 29/17 31/5 represented [1] 28/20 representing [4] 25/22 27/4 31/23 35/24 request [20] 19/8 19/9 19/9 19/11 19/12 19/21 20/1 20/5 20/6 20/12 20/15 20/19 20/25 21/1 22/8 22/14 22/23 22/25 25/4 33/1 requests [2] 5/18 19/19 required [2] 8/7 17/16 requirement [1] 8/11 requirements [6] 4/18 10/3 10/14 12/2 12/12 13/14 Research [2] 24/8 24/21 resolution [2] 30/23 31/14 resolved [6] 20/20 21/3 28/18 29/1 29/25 30/20 resource [1] 5/15 responses [6] 19/10 19/21 20/2 20/12 20/24 21/1 responsibility [5] 12/18 14/8 20/4 20/9 28/1 responsible [4] 11/24 13/6 20/16 30/25 rest [2] 28/19 28/23 result [3] 18/14 18/16 18/18 resulted [2] 17/17 18/13 resulted -- [1] 18/13 retread [1] 4/11 return [3] 11/24 12/18 12/18 revenue [14] 4/18 8/5 8/11 10/3 10/13 10/16 12/1 12/12 13/7 13/13 20/7 32/25 33/2 33/4 revenues [1] 8/7 review [7] 5/20 20/5 20/24 21/1 26/2 26/6 26/9 reviewed [1] 19/6 Richard [2] 11/21 27/22 right [34] 3/22 4/25 5/5 5/8 5/22 6/4 6/17 6/20 7/8 7/18 7/25 8/2 9/1 9/7 9/19 10/6 10/12 10/21 10/25 11/5 14/13 15/2 15/11 15/20 17/4 18/12 18/25 22/6 25/7 25/13 25/20 26/10 28/25 33/7 Rogness [1] 15/6 role [1] 13/22 rolled [1] 18/5</p>	<p>rough-cut [1] 8/18 RPR [1] 1/21 Russell [3] 11/22 13/24 14/11</p> <p>S</p> <p>said [5] 13/14 13/24 34/8 37/7 37/8 same [2] 13/8 23/1 say [8] 8/5 12/6 17/11 19/20 20/24 25/1 29/9 32/13 say -- [1] 12/6 scheduled [1] 27/8 Scott [6] 3/12 10/17 11/21 13/9 13/20 27/22 searching [1] 23/25 second [1] 8/12 section [1] 36/5 see [1] 11/20 seen [1] 25/24 send [1] 21/2 sending [1] 25/4 separate [5] 17/8 17/22 18/4 18/8 32/1 separately [1] 17/24 September [5] 6/5 7/2 9/23 35/1 35/24 SERVICE [12] 1/1 2/9 3/2 3/23 4/4 4/7 4/10 4/16 11/8 25/15 34/1 34/4 session [1] 27/25 set [1] 37/6 settlement [8] 26/17 28/6 30/5 32/4 32/17 33/4 33/8 35/25 Several [1] 14/3 share [1] 21/5 Sharifi [1] 14/14 sharing [10] 17/10 17/12 17/15 17/18 18/5 18/8 18/10 18/13 18/18 18/22 SHAW [8] 1/17 3/2 3/10 3/12 6/24 23/13 24/2 26/12 she [5] 12/21 14/9 14/9 16/21 16/22 she -- [1] 14/9 shop [1] 11/24 show [1] 25/21 shows [1] 19/1 signed [1] 32/21 similar [1] 31/24 similar -- [1] 31/24 Simpson [1] 2/11 since [4] 4/24 16/19 17/11 25/23 sir [20] 3/22 4/25 5/5 5/22 6/4 6/17 8/2 9/1 9/7 9/19 10/21 10/25 14/13 15/2 15/20 17/4 18/12 25/20 33/7 36/11 sitting [1] 35/9 situation [1] 13/5 situations [3] 29/5 29/23 31/19 six [1] 10/7 size [1] 16/8 so [16] 8/20 10/7 12/19 12/21 15/16 17/1 17/17 20/17 20/21 21/14 25/1 28/19 31/9 32/23 35/16 37/9 some [27] 4/17 5/14 7/23 9/15 9/16 11/6 13/9 13/15 15/15 15/19 20/15 20/23 21/2 21/8 21/10 21/14 22/23 24/22 26/1 28/2 28/22 30/22 31/24 34/17 34/19 34/20 35/8 someone [6] 12/8 14/23 17/1 22/15 24/14 28/16 someone's [2] 21/24 21/24 someone's -- [1] 21/24 something [8] 9/5 13/2 18/23 22/17 24/15 29/18 31/3 31/6 sometime [1] 17/11 sometimes [2] 16/24 24/1 sometimes -- [1] 24/1 sophisticated [1] 22/19</p>
<p>Q</p> <p>quarterly [1] 24/18 question [1] 34/14 questions [2] 19/8 20/16</p>		
<p>R</p> <p>R-O-G-N-E-S-S [1] 15/10 Raff [3] 11/21 16/18 27/22 rare [1] 9/6 rarely [1] 21/16 rate [52] rate-making [8] 8/1 23/4 23/22 24/3 26/13 34/10 34/15 35/18 rate-of-return [2] 15/15 15/19 rates [4] 1/5 1/10 14/18 18/21 rather [1] 14/11 RE [1] 1/4 reached [2] 28/6 36/1 reaching [1] 26/17 really [7] 12/7 13/1 13/15 20/13 27/17 27/18 27/25 reason [1] 14/20 Rebecca [1] 16/19 recall [16] 13/25 15/5 20/3 21/17 22/13</p>		

<p>S</p> <p>sorry [2] 9/2 35/18 sort [2] 14/24 21/14 sounds [1] 6/9 South [1] 2/12 Sower [2] 3/3 4/1 SPECIAL [1] 2/9 specific [2] 22/7 23/5 specifically [7] 11/1 15/25 19/7 23/13 23/18 23/21 28/16 spell [1] 15/9 split [1] 13/5 spread [1] 31/2 SS [1] 37/1 staff [11] 17/1 22/16 22/22 23/3 24/14 26/8 27/1 27/19 27/23 28/12 29/6 staff's [1] 28/1 Stainless [15] 11/7 15/21 16/1 16/4 16/9 16/14 17/7 23/15 30/8 30/13 30/21 31/17 34/18 34/21 35/20 Stainless -- [1] 16/14 stand [1] 22/2 standard [2] 12/7 25/10 start [2] 29/11 34/14 started [4] 16/3 17/24 27/3 27/20 state [5] 3/10 4/13 24/10 37/1 37/4 stated [1] 37/5 statement [4] 1/15 3/1 36/15 37/5 statements [1] 8/10 States [1] 24/11 status [2] 21/19 35/11 stenographic [2] 37/7 37/9 step [1] 19/13 stick [1] 28/18 still [4] 9/11 21/4 21/11 34/4 Street [2] 1/22 2/12 strike [1] 35/18 studies [2] 14/2 14/4 subsequently [1] 18/5 such [1] 21/17 Suite [1] 1/22 summer [1] 4/16 sundry [1] 5/21 supervision [1] 37/8 supervisor [2] 21/25 22/4 supplemental [1] 19/12 surcredit [1] 18/15 sure [3] 17/2 31/6 34/6 sworn [4] 1/15 3/1 37/5 37/6</p>	<p>than [14] 6/3 8/25 9/21 14/11 16/25 20/21 22/3 23/5 28/11 29/4 29/5 30/22 31/19 33/11 that [187] that -- [6] 12/16 22/12 22/25 27/23 30/23 34/21 that's [20] 4/2 4/15 6/7 7/16 7/20 8/16 8/16 8/17 9/6 11/11 11/17 12/20 12/23 12/23 17/17 17/25 22/12 25/12 25/22 36/10 that's -- [2] 8/16 12/23 the -- [9] 12/25 13/11 14/10 17/25 18/9 23/20 30/23 31/23 32/18 their [6] 20/2 22/21 24/14 24/16 30/1 34/24 them [1] 13/1 themselves [1] 15/4 then [16] 4/21 6/4 8/8 16/4 16/11 18/8 19/10 19/15 20/21 21/2 28/22 29/19 29/20 30/4 30/23 32/1 there [30] 6/23 10/1 10/2 14/20 15/20 15/23 16/1 16/2 17/2 17/8 17/8 18/2 18/4 18/6 21/9 21/14 22/14 22/24 24/7 26/1 26/3 26/6 26/24 27/24 28/2 28/13 29/6 29/15 29/23 35/5 there's [5] 18/15 22/9 22/17 22/25 26/4 thereafter [1] 37/7 these [9] 12/25 14/1 15/16 21/11 21/12 26/13 32/11 33/13 36/7 they [24] 14/25 16/11 17/10 17/15 17/15 17/24 18/23 18/23 20/21 22/19 24/24 28/18 28/20 28/21 29/1 29/2 30/12 31/6 32/16 32/21 32/23 32/25 33/2 35/12 they -- [1] 17/15 they're [1] 24/15 thing [1] 17/25 things [6] 5/11 5/12 20/19 20/20 22/2 22/20 think [14] 11/25 12/24 13/10 14/18 17/20 18/4 18/7 20/3 27/20 28/2 29/22 31/3 35/4 35/12 thinking [1] 19/16 this [10] 4/15 5/9 6/9 7/11 22/10 22/13 27/5 27/17 32/7 37/13 those [31] 9/20 11/3 11/6 12/10 12/22 13/17 14/4 14/11 16/10 16/13 16/24 17/12 17/14 17/19 17/21 19/19 21/5 21/15 22/20 28/17 29/12 29/25 30/20 31/19 32/6 34/22 35/5 35/6 35/11 35/13 35/16 though [1] 24/24 three [6] 6/3 14/4 15/13 27/23 27/24 27/25 three-year [2] 17/13 18/24 through [8] 6/5 7/2 9/23 20/14 20/19 26/16 34/5 35/25 Tim [1] 10/20 time [34] 4/15 4/24 5/9 7/2 7/18 9/23 10/1 10/4 10/8 10/16 10/19 12/15 13/2 18/25 19/22 21/8 22/2 23/1 23/3 24/13 24/13 24/22 26/2 26/2 26/6 26/6 28/17 32/7 33/25 34/8 34/13 34/15 35/12 37/5 times [1] 29/13 title [3] 5/23 9/10 9/13 to -- [6] 11/19 12/17 21/20 23/8 23/18 26/16 together [2] 15/21 29/18 Tom [2] 33/20 33/22 too [1] 17/25 top [1] 20/3 total [1] 10/7 Tower [1] 2/12</p>	<p>tracks [1] 24/8 training [1] 15/7 transcript [1] 37/8 trial [1] 18/24 tried [1] 29/18 true [1] 37/8 trust [1] 33/24 trying [1] 3/14 Tuesday [1] 3/4 two [29] 4/21 10/1 10/4 10/8 10/9 11/3 11/6 11/9 11/13 12/9 12/10 13/5 13/23 14/3 16/2 16/10 18/7 18/16 24/3 25/11 26/13 27/21 28/17 33/17 34/10 34/19 36/1 36/7 36/8 type [1] 8/1 types [2] 14/4 24/10 typewritten [2] 37/8 37/8 typically [3] 21/9 21/16 22/18 typically -- [1] 21/16</p>
<p>T</p> <p>table [2] 31/21 35/10 take [10] 6/4 8/20 20/10 21/10 22/8 25/13 26/1 26/24 27/12 28/4 taken [5] 3/2 8/10 37/5 37/7 37/9 talk [1] 11/1 talked [2] 8/12 8/12 talked -- [1] 8/12 talking [2] 28/5 35/17 tariff [4] 5/20 16/6 16/7 16/24 team [23] 11/18 11/20 11/22 11/22 13/6 14/10 14/19 15/20 15/23 16/13 16/25 17/2 21/6 21/7 21/17 21/20 21/21 21/21 21/23 22/3 22/5 27/15 27/21 teams [3] 15/4 15/14 15/18 telecommunications [1] 4/20 tell [3] 4/6 10/9 13/22 temporarily [1] 14/24 term [1] 7/25 terms [6] 1/6 1/10 8/13 13/16 20/21 22/2 testimony [4] 19/14 19/17 37/6 37/7</p>	<p>U</p> <p>unanimous [3] 32/19 33/4 33/9 under [6] 17/11 18/24 30/22 31/1 37/7 37/13 under -- [1] 18/24 understanding [2] 7/21 29/15 understandings [1] 30/1 understood [3] 18/12 26/15 31/7 United [1] 24/11 University [1] 5/3 until [2] 7/11 28/5 up [5] 12/22 13/6 13/17 13/19 26/8 upon [2] 28/22 30/24 us [2] 27/25 28/2 using [5] 7/1 18/25 25/9 26/10 36/3 usually [2] 20/23 21/23 utilities [7] 1/11 5/13 5/16 9/2 18/19 22/18 23/15 utility [4] 14/17 19/18 22/15 24/9</p>	
		<p>V</p> <p>various [3] 7/23 8/7 27/12 verbal [1] 22/25 very [2] 18/2 21/16</p>
		<p>W</p> <p>want [2] 17/11 19/19 wanted [1] 17/14 wanting [2] 24/15 31/5 was [77] was -- [2] 12/22 33/3 water [1] 4/20 way [4] 21/17 27/16 30/7 33/13 way -- [1] 27/16 we [26] 8/12 13/16 14/23 19/5 19/5 19/11 19/15 19/15 19/16 19/18 19/20 19/21 20/1 20/2 20/3 20/14 20/15 21/2 21/7 21/7 21/13 23/10 27/23 35/8 35/9 36/13 we -- [1] 19/15 We'll [1] 3/16 we've [4] 12/11 21/15 21/16 23/6 we've -- [1] 21/15 week [1] 27/6 well [20] 4/9 6/8 8/4 8/9 9/10 11/20 12/6 13/24 14/15 15/4 15/23 17/24 19/5 20/7 20/13 21/10 24/11 27/16 30/19 34/6 were [48] were -- [2] 16/1 17/8 what [19] 4/7 4/25 5/5 5/22 8/3 10/9 13/22 17/17 18/10 19/2 20/22 22/1 29/22 30/1 31/1 31/7 34/13 35/10 35/14</p>

W

what -- [1] 22/1
what's [1] 22/1
whatever [1] 29/1
when [10] 4/18 5/9 7/12 7/12 12/7 16/21
 27/2 32/13 33/25 35/6
when -- [1] 7/12
where [10] 4/15 4/23 22/2 22/14 22/21
 26/7 29/6 29/16 29/23 33/11
where -- [1] 22/21
where on [1] 29/16
whether [3] 14/1 20/2 32/16
whether -- [1] 14/1
which [18] 8/12 9/13 13/1 14/1 18/19
 18/22 19/18 21/3 21/3 21/7 22/21 26/16
 28/10 32/18 33/6 34/25 35/24 36/4
who [13] 6/17 7/5 7/16 8/14 10/15 10/18
 10/21 11/18 15/6 15/7 16/19 17/19 24/14
who's [1] 12/18
whole [5] 21/20 29/8 29/21 30/1 31/10
why [1] 14/20
will [6] 9/4 14/23 18/3 20/22 20/23 22/20
with -- [1] 9/14
within [5] 4/21 8/8 9/18 20/7 20/8
witness [1] 37/6
work [22] 3/25 4/1 4/17 5/14 6/13 7/16
 7/23 8/1 8/21 8/22 9/8 9/20 9/22 11/13
 13/8 13/12 14/5 14/24 14/25 19/2 27/15
 29/18
work -- [1] 3/25
worked [3] 4/3 15/15 15/18
working [2] 4/19 19/7
workload [1] 14/22
would [45]
written [4] 20/11 20/14 22/9 22/24

Y

yeah [4] 16/15 22/12 24/19 25/5
year [3] 4/21 5/5 7/11
years [11] 4/5 4/6 4/8 4/9 4/15 4/21 6/3
 12/21 14/4 15/13 24/13
yes [41]
yesterday [1] 8/11
you [90]
you're [7] 11/3 25/13 28/4 29/22 31/20
 35/17 36/4
your [12] 3/10 3/13 4/25 5/9 5/22 7/22
 10/22 20/4 23/24 23/25 29/1 31/12
yourself [2] 8/22 28/9