

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

**JOINT APPLICATION OF LOUISVILLE GAS)
AND ELECTRIC COMPANY AND KENTUCKY)
UTILITIES COMPANY FOR A CERTIFICATE)
OF PUBLIC CONVENIENCE AND NECESSITY)
FOR THE CONSTRUCTION OF A COMBINED)
CYCLE COMBUSTION TURBINE AT THE)
GREEN RIVER GENERATING STATION AND A)
SOLAR PHOTOVOLTAIC FACILITY AT THE)
E.W. BROWN GENERATING STATION)**

CASE NO. 2014-00002

**LOUISVILLE GAS AND ELECTRIC COMPANY'S AND
KENTUCKY UTILITIES COMPANY'S MOTION TO HOLD
PROCEDURAL SCHEDULE IN ABEYANCE**

Louisville Gas and Electric Company (“LG&E”) and Kentucky Utilities Company (“KU”) (collectively, the “Companies”) respectfully request that the Commission hold the February 6, 2014 procedural schedule in abeyance for a period of up to 90 days while the Companies consider the impact of the potential departure of nine municipal wholesale customers. Holding the case in abeyance for a short time period will allow the Companies to analyze the effect that such departure could have on the need for the facilities proposed in this case.

On January 17, 2014, the Companies filed their Joint Application in this matter in which they sought a Certificate of Public Convenience and Necessity to construct a natural gas combined cycle facility at the Green River Generating Station in Muhlenberg County, Kentucky, and a solar photovoltaic facility at the E.W. Brown Generating Station in Mercer County, Kentucky (collectively, the “Facilities”). In support of their Joint Application, the Companies submitted Direct Testimony of a number of individuals, including the Direct Testimony of David S. Sinclair. Mr. Sinclair’s Direct Testimony and Exhibit DSS-1 to his testimony described the

need for the Facilities. Support for that need exists, in part, based on the results of the Companies' Joint Load Forecast of customer demand through 2035. The Joint Load Forecast includes customer demand from KU's twelve municipal wholesale customers.¹

KU's legal relationship with those municipal wholesale customers is governed by the terms of twelve individual contracts between KU and each of those customers. Those relationships are regulated by the Federal Energy Regulatory Commission ("FERC"). On April 21, 2014, KU received Notices of Termination from the following nine municipal utilities: Frankfort Electric & Water Plant Board; Madisonville Municipal Utilities; Corbin City Utilities Commission; City of Berea Municipal Utilities; Bardwell City Utilities; Falmouth City Utilities; Barbourville Utility Commission; Providence Municipal Utilities; and City of Paris, Kentucky.² The effective termination date stated in each of the Notices is April 30, 2019, except that the Notice from City of Paris states an effective date of April 30, 2017 or April 30, 2019, depending on developments in a related FERC proceeding involving both KU and the municipal wholesale customers. In that proceeding, KU is seeking to modify some of the terms of the contracts with the municipal wholesale customers. On April 22, 2014, the FERC Chief Administrative Law Judge granted KU's request that certain rate and contract terms remain suspended through June 12, 2014, including the disputed notice of termination term length.³ A settlement conference is scheduled to occur on May 29, 2014.

The Companies need time to address the Notices of Termination in the FERC proceeding and to consider and analyze the effect that the potential departure of these nine municipal wholesale sale customers will have on the Joint Load Forecast, the Companies' generation

¹ Note that the contract with the Benham Power Board (approximately 2 MW) was already scheduled to terminate in August 2016. See Kentucky Utilities Company, Filing of a Notice of Termination, Docket No. ER12-1574-000 (Apr. 19, 2012).

² Copies of the Notices of Termination were attached to the Companies' April 23, 2014 Response to Item 13 of the Attorney General's Second Request for Information.

³ A copy of the *Order Of Chief Judge Granting Kentucky Utilities Company's Request For Interim Rate Relief* issued April 22, 2014 in Docket Nos. ER13-2428 and EL14-5 is attached.

resource planning, and, ultimately, the need for the Facilities proposed in this case. The nine customers account for over 300 MW of customer demand. The Companies are sensitive to the expenditure of time and resources that will be required by the Commission and the intervenors for the further processing of this case. To that end, the Companies formally disclosed the Notices of Termination in their April 24, 2014 discovery responses.

In light of this development and in the interest of conserving resources, the sensible and reasonable approach is to hold the procedural schedule in abeyance while the Companies address and evaluate the effects of the Notices of Termination, and to allow KU to continue holding discussions with the municipal customers to try and resolve the disputes related to the wholesale contracts.⁴ The Companies propose that an informal conference be held at the conclusion of the abeyance period at which time the Companies will provide a report on their conclusions and the status of the FERC cases. The Companies recognize that if this matter goes forward after the abeyance period, further discovery may be warranted and that all parties should be allowed sufficient time to conduct such discovery and develop any testimony that may be appropriate.

WHEREFORE, the Companies respectfully request that the Commission hold the procedural schedule in this case in abeyance as described above.

⁴ The Commission has a history of holding cases in abeyance under appropriate circumstances. *In the Matter of: Nexus Communications, Inc. v. Bellsouth Telecommunications, Inc. d/b/a AT&T Kentucky*, Case No. 2010-00444, Order of March 27, 2013; *In the Matter of: An Investigation of East Kentucky Power Cooperative, Inc.'s Need for the Smith 1 Generating Facility*, Case No. 2010-00238, Order of September 24, 2010.

Dated: April 30, 2014

Respectfully submitted,



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CERTIFICATE OF SERVICE

This is to certify that Louisville Gas and Electric Company and Kentucky Utilities Company's April 30, 2014 electronic copy of this Response is a true and accurate copy of the documents being filed in paper medium, that the electronic filing was transmitted to the Commission on April 30, 2014; that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding; that a copy of the filing in paper medium is being hand-delivered to the Commission within two business days of this filing; and that on April 30, 2014, electronic mail notification of the electronic filing will be provided to the following:

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UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Kentucky Utilities Company

Docket Nos. ER13-2428-000
ER13-2428-002

Frankfort Electric and Water Plant Board and the Cities
of Barbourville, Bardstown, Bardwell, Benham, Berea,
Corbin, Falmouth, Madisonville, Nicholasville, Paris,
and Providence, Kentucky

v.

EL14-5-000
EL14-5-002

Kentucky Utilities Company

(Consolidated)

ORDER OF CHIEF JUDGE GRANTING KENTUCKY UTILITIES
COMPANY'S REQUEST FOR INTERIM RATE RELIEF

(Issued April 22, 2014)

1. On September 23, 2013, Kentucky Utilities Company (KU) filed Revised Agreements, proposing changes to the rates, terms and conditions of service it provides to its Kentucky municipal customers (Municipals)¹ from those reflected in its contracts with each of the Municipals, effective May 1, 2009 (Existing Contract), to a more updated form of agreement and formula rate (New Contract). On November 23, 2013, the Commission accepted the Revised Agreements filed by KU, in Docket No. ER13-2428-000, and suspended them for a five-month period, effective on April 23, 2014, subject to refund. In addition, the Commission consolidated Docket No. ER13-2428-000 with a complaint challenging the Revised Agreements filed by the Municipals in Docket No. EL14-5-000 and established hearing and settlement judge procedures. On November 26, 2013, the Chief Judge appointed Judge Michael J. Cianci, Jr. as the Settlement Judge. With the assistance of Judge Cianci, the parties are actively engaging in settlement discussions.

2. On April 15, 2014, KU filed a *Motion for Interim Rates and Request for Expedited Consideration* (Motion) requesting that certain rate and contract provisions it has proposed for the Municipals remain in suspension beginning April 23, 2014, through

¹ The Municipal Customers are: Frankfort Electric and Water Plant Board, and the Cities of Barbourville, Bardstown, Bardwell, Benham, Berea, Corbin, Falmouth, Madisonville, Nicholasville, Paris, and Providence, Kentucky.

June 12, 2014 (Temporary Suspension Period). KU is hopeful that a temporary suspension of the effectiveness of these provisions will assist the parties in achieving a settlement. In its Motion, KU requests permission to suspend, during the Temporary Suspension Period, the following provisions of the New Contract: (1) Section 6.4 regarding credit requirements; (2) Sections 2.1, 2.3, and 2.4 regarding the ten-year notice of termination requirement; and (3) Section 4.2.12 of the New Contract requiring each Municipal to pay for amounts not collected from other Municipals, together with those references to “Uncollectable Expense(s)” and “Uncollectable Account(s)” reflected as an input from FERC Account 904 on the formula included in the New Contract requiring each Municipal to pay for amounts not collected from other Municipals. During the Temporary Suspension Period, the corresponding provisions of the Existing Contracts, if any, would apply. Additionally, KU requests that the following Sections be reinstated during the Temporary Suspension Period: (1) Section 4.1.3.4 of the Existing Contract, addressing CWIP collection during the termination period; and (2). Sections 3.1.1, 3.3, 3.4. 3.5(i), 3.6 and related definitions in Paris’ Existing Contract, which address the terms pursuant to which KU can interrupt service to Paris.

3. On April 16, 2014, the Chief Judge shortened the time for answers to KU’s Motion to the close of business on April 18, 2014. No answers were filed.

4. For good cause shown, the Chief Judge hereby grants KU’s request that certain rate and contract provisions as outlined in its Motion remain in suspension during the Temporary Suspension Period, beginning April 23, 2014, through June 12, 2014. If no settlement is reached, KU must file a report to the Chief Judge detailing the timeline for the filing of such on or before June 12, 2014.

5. This order terminates Docket No. ER13-2428-002 and Docket No. EL14-5-002.

Curtis L. Wagner, Jr.
Chief Administrative Law Judge

Document Content(s)

ER13-2428-000.DOC.....1-2