

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 REVIEW,)	
MODIFICATION, AND CONTINUATION OF)	CASE NO. 2014-00003
EXISTING, AND ADDITION OF NEW,)	
DEMAND-SIDE MANAGEMENT AND ENERGY)	
EFFICIENCY PROGRAMS)	

**MOTION OF LOUISVILLE GAS AND ELECTRIC COMPANY
AND KENTUCKY UTILITIES COMPANY
TO SUBMIT THE CASE FOR DECISION ON THE RECORD**

Louisville Gas and Electric Company (“LG&E”) and Kentucky Utilities Company (“KU”) (collectively, the “Companies”) hereby move the Kentucky Public Service Commission (“Commission”) to issue an order deciding the issues in this proceeding on the record and declining to hold an evidentiary hearing in this proceeding. The Companies further move the Commission to require that any party requesting a hearing to support the request by stating expressly and with particularity which substantive factual issues were not adequately addressed through testimony and discovery so as to require a lengthy and costly evidentiary hearing.

In support of this Motion, the Companies state there is no genuine issue as to any material fact because all parties to the proceeding have fully addressed their factual concerns through testimony and discovery; thus, no evidentiary hearing is necessary for the Commission to rule on the Companies’ application. The Commission has previously denied requests for hearings in the absence of issues of material fact, and it should follow its own precedent here.¹ A similar standard is used by the Federal Energy Regulatory Commission (“FERC”) when

¹ *In the Matter of Ruben Barnett v. South Anderson Water District*, Case No. 95-397, Order at 3 (March 28, 1996) (“No issues of material fact existed, so an evidentiary hearing was not required.” Citing *Cumberland Reclamation Company v. Secretary, United States Department of the Interior*, 925 F.2d 164 (6th Cir. 1991)).

determining whether to hold an evidentiary hearing: “[A] trial-type hearing is required only when written submissions do not afford an adequate basis for resolving disputes about material facts.”² More recently, FERC held that the “decision whether to conduct a hearing is within our discretion, and an evidentiary hearing is required only when a genuine issue of material fact exists.”³ The Commission possesses comparable authority under KRS Chapter 278, the Companies and other parties to this proceeding have sufficiently expressed their factual issues through testimony and discovery. The Commission Staff and multiple intervenors have asked of the Companies, and the Companies have responded to, multiple sets of data requests. Several intervenors submitted testimony, and the Companies, as the parties bearing the burden of proof, submitted rebuttal testimony. Thus, the factual record in this proceeding is adequate for the Commission to consider and weigh the evidence and issue an order without requiring a hearing.

Indeed, the only disagreements between the parties in this proceeding are matters of law and policy, not matters of fact. Nobody disputes the data the Companies have supplied; rather, they disagree about how the data should affect the demand-side-management and energy-efficiency (“DSM-EE”) portfolio the Companies have proposed, as well as what kinds of information the Companies should have to consider when evaluating such programs and portfolios. For example, intervenor Sierra Club believes the Companies should have to account for “non-energy benefits” when conducting DSM-EE cost-benefit analyses; in their rebuttal testimony, the Companies have argued the Commission has no jurisdiction even to consider such “benefits.” These are plainly legal and policy questions, not a question of fact. That disagreement, as well as all the other remaining disputes between the parties, do not require or support the need for an evidentiary hearing.

² Iroquois Gas Transmission Sys., L.P., Opinion 357-A, 54 FERC ¶ 61,103, at 61, 346 (1991), *aff’d sub nom. La. Ass’n of Indep. Producers & Royalty Owners v. FERC*, 958 F.2d 1101 (D.C. Cir. 1992).

³ *Entergy Services Inc. and Midcontinent Independent System Operator, Inc.*, 145 FERC ¶ 61, 246 (2013).

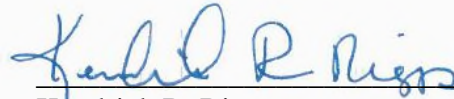
The Companies' rebuttal testimony presents largely policy arguments and does not provide an independent need to hold an evidentiary hearing. To the extent the intervenors wish to address the arguments in the Companies' rebuttal testimony or the other disputes need to be addressed, they should do so through briefing and, if requested, oral argument. Declining to hold a hearing and submitting the case on the record as it stands (or as supplemented by briefs) will avoid the Commission and the parties the unnecessary expenditure of time, resources, and money for a lengthy and unnecessary hearing. The submission of briefs and scheduling an oral argument will be a more efficient use of the Commissioners' busy schedules and the pressing workload of the Commission Staff than a lengthy and unwarranted hearing to address the issues in this case.

Furthermore, if a party does request a hearing, the Companies respectfully request the Commission to require the requesting party to state expressly and with particularity the substantive factual issues which were not adequately addressed through testimony and discovery and now require a lengthy and costly evidentiary hearing, and then limit the hearing only to trial of those issues.

WHEREFORE, Louisville Gas and Electric Company and Kentucky Utilities Company respectfully move the Commission to issue an order declining to hold an evidentiary hearing in this proceeding and, following the submission of briefs and, if requested, oral argument, deciding the issues in this proceeding on the record. The Companies further move the Commission to require that any party requesting a hearing state expressly and with particularity which substantive factual issues require a hearing and then to limit the hearing to those issues.

Dated: July 3, 2014

Respectfully submitted,

A handwritten signature in blue ink, reading "Kendrick R. Riggs", is written over a horizontal line.

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CERTIFICATE OF SERVICE

This is to certify that Louisville Gas and Electric Company and Kentucky Utilities Company's July 3, 2014 electronic filing of the Motion to Submit the Case for Decision on the Record is a true and accurate copy of the same document being filed in paper medium; that the electronic filing has been transmitted to the Commission on July 3, 2014; that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding; and that an original and one copy in paper medium of the Motion to Submit the Case for Decision on the Record are being mailed to the Commission on July 3, 2014.



*Counsel for Louisville Gas and Electric Company
and Kentucky Utilities Company*