

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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|-----------------------------------|---|----------------------------|
| APPLICATION OF KENTUCKY |) | |
| UTILITIES COMPANY FOR AN |) | CASE NO. 2014-00371 |
| ADJUSTMENT OF ITS ELECTRIC |) | |
| RATES |) | |

MOTION OF KENTUCKY UTILITIES COMPANY
FOR A DEVIATION FROM 807 KAR 5:001, SECTION 9(2),
AND THE COMMISSION’S ORDER OF JANUARY 30, 2015

Pursuant to 807 KAR 5:001, Section 22, Kentucky Utilities Company (“KU”) moves for authority to deviate from the hearing notice requirements of 807 KAR 5:001, Section 9(2)(b), and the Commission’s Order of January 30, 2015.¹ KU petitions the Commission because, although the required notice was published in the *Courier-Journal* and *Herald-Leader* on April 15, 2015, publication in the weekly newspapers will not occur within the time prescribed by 807 KAR 5:001, Section 9(2). To date the public has had an opportunity to be publicly heard at hearings held in Lexington and Louisville and to file written comment and will have a third opportunity to be heard at the hearing beginning on April 21, 2015, before the commencement of the evidentiary hearing. If the Commission wants to ensure a fourth opportunity for such public comment, KU recommends the Commission modify the procedural schedule in this proceeding to provide another opportunity for such comment, to be held at the Commission at a time it prescribes in May 2015, of which hearing KU would provide notice under 807 KAR 5:001, Section 9(2) at its own expense. In support of this petition, KU states as follows:

1. Commission Regulation 807 KAR 5:001, Section 9(2)(b), requires an applicant for a rate adjustment to give notice of any hearing on its application, and, if such notice is by

¹ The Commission’s December 12, 2014 Order also ordered KU to publish notice of the hearing (before a hearing date was set) and to submit a copy of the notice and request for publication. Those documents are attached.

newspaper publication, to publish notice of the purpose, time, and date of the hearing at least one time and not less than seven nor more than 21 days prior to the hearing in a newspaper of general circulation in the areas that will be affected. The purpose of this regulation is to ensure public awareness of the scheduled hearing and to provide a meaningful opportunity for the public to view the hearing and to comment upon the applicant's rate application.²

2. On January 30, 2015, the Commission ordered that a hearing in this matter begin on April 21, 2015 and that KU publish notice of those hearings pursuant to 807 KAR 5:001, Section 9(2).

3. Because of an oversight in requesting publication of notice, KU will not have obtained publication of notice of hearing in all of the newspapers of general circulation in the counties in which it serves (in which it typically publishes such notices), within the time period required by 807 KAR 5:001, Section 9(2). However, KU has caused notice to be published on April 15, 2015 in the *Courier-Journal* and *Herald-Leader*, the newspapers with the largest statewide circulation in Kentucky.³ Due to these statewide circulations, this notice is available to a large portion of KU's customers. KU has requested the Kentucky Press Association to arrange for notice of the hearing to be published with all possible speed in the other 91 newspapers in KU's service territory.

4. To ensure that the public has an opportunity to view the Commission proceedings and to submit comments on the Companies' applications *and* any matter presented at the hearings, the Companies have taken or will take the following actions:

² See *Conrad v. Lexington-Fayette Urban County Government*, 659 S.W.2d 190, 195 (Ky. 1983) (citing *Queenan v. City of Louisville*, 233 S.W.2d 1010 (1950) ("Substantial compliance in regard to publication requirements has been authorized. The purpose of the statute is to allow the public an ample opportunity to become sufficiently informed on the public question involved.")). See also *Lyon v. County of Warren*, 325 S.W.2d 302 (Ky. 1959) (publishing notice of bond referendum outside statutory time limits, accompanied by media attention and other means, held sufficient notice to public).

³ The *Courier-Journal* has a reported daily circulation of 114,719. The *Herald-Leader* has a reported daily circulation of 92,874.

- A press release was issued on April 14, 2015 to all news media organizations, including radio, television, and alternative media, in KU's service areas advising of the hearing's time, date, place, and purpose. This press release also describes how the public may view the hearing in real-time or after the hearing's completion through the Commission's website and how it may submit comments on the KU's application through the Commission's website. Additional releases will be issued at closer intervals to the scheduled hearing date.
- Beginning on April 14, 2015 and continuing until 7 days after the hearing, KU will post in a very prominent manner on its webpages notice of the scheduled hearing, the opportunity to view the hearing through the Commission's website, and the opportunity to submit comments through the Commission's website. It will also place in a very prominent manner on its website a link to the Commission's live feed of the hearing, and, after the hearing concludes, a link to the video transcript of the hearings. The notice and the link to video transcript will be prominently displayed until the end of the period in which public comment on the Companies' applications is accepted.
- Beginning on April 14, 2015 and continuing until seven days after the hearing, KU will make postings daily on its Twitter Page regarding the hearing, the opportunity to view the hearing through the Commission's website, and the opportunity to submit comments through the Commission's website.
- Beginning on April 14, 2015 and continuing until 7 days after the hearing, KU will make postings daily on its Facebook page regarding the hearing, the opportunity to view the hearing (or video transcript) through the Commission's website, and the opportunity to submit comments on the Companies' application through the Commission's Website.
- Beginning on April 15, 2015, for all customers who have established online accounts with KU, upon login to the online account, they will be notified of the April 21, 2015 hearing in the "My Account" section of the account.

5. While KU regrets its failure to cause timely publication of notice of the scheduled hearings in all the newspapers in which it typically publishes, it respectfully submits the measures proposed will ensure the public's awareness of the scheduled hearing and provide adequate opportunities for the public to view the hearing and comment upon the Companies'

applications. Indeed, through these efforts, it is likely that customers will have received more effective notice than via newspaper publishing alone.

6. KU's rate application and scheduled hearing has already received a significant amount of attention in the news media.⁴ The public has also been provided with several forums in which to comment upon the Companies' applications⁵ and the public will be able to view the hearing live on the Commission's website and/or review a video of the hearing by accessing the Commission's video hearing archive after the hearing is completed. These facts, when coupled with KU's efforts, ensure that the public has adequate notice of the hearing and an adequate opportunity to view the hearing and present comment.

7. Granting the requested deviation and permitting the use of alternative means to provide public notice of the scheduled hearings will not adversely affect development of evidentiary record. The parties to this proceeding have had notice of the scheduled hearing since January 30, 2015. The use of alternative methods to notify the public will not impede, prejudice, or otherwise limit any party's right to participate in the development of the evidentiary record.⁶

⁴ See, e.g., *Utility Rate Hike Challenged*, Public News Service, Apr. 13, 2015, <http://www.publicnewsservice.org/2015-04-13/senior-issues/utility-rate-hike-challenged/a45526-1> (last viewed Apr. 14, 2015); *PSC Sets Public Meetings In KU, LG&E Rate Cases*, Lebanon Enterprise, Mar. 11, 2015, <http://infoweb.newsbank.com/resources/doc/nb/news/1541476177C06E30?p=NewsBank> (last viewed Apr. 14, 2015); *PSC Holds Public Meeting to Discuss Kentucky Utilities Proposed Rate Hike*, WMKS, Mar. 31, 2015, <http://wkms.org/post/psc-holds-public-meeting-discuss-kentucky-utilities-proposed-rate-hike> (last viewed Apr. 14, 2015). See also Press Release, Kentucky Public Service Commission, *PSC Sets Public Meetings in Lexington and Louisville in KU, LG&E Rate Cases* (Mar.9, 2015), http://psc.ky.gov/agencies/psc/press/032015/0309_r01.PDF (last viewed Apr. 14, 2015).

⁵ The Commission has already provided several opportunities for public comment on the Companies' applications. The Commission held a public meeting regarding the KU's application on April 13, 2015 in Lexington, Kentucky. The Commission has also been receiving public comments on through its website in addition to those submitted through regular mail. As of April 13, 2015, the Commission had received 130 comments regarding KU's application.

⁶ The Commission's Rules of Procedure and its Orders of December 12, 2014 effectively limited any intervention at this stage of the proceedings. 807 KAR 5:001, Section 4(11) requires a party to make a timely request for intervention. By its Orders of December 12, 2014, the Commission effectively found that a request for intervention after December 29, 2014 was untimely.

8. Granting the requested deviation will allow these rate proceedings to continue in an orderly manner without any significant disruption or delay or waste of resources of the parties. Rescheduling the hearing which is scheduled to begin on April 21, 2015 would extend this proceeding by several weeks, possibly months, at the inconvenience of the parties who are planning to participate in the evidentiary hearing. Given the Commission's demanding schedule, a new date and time for the hearing may not be available for several weeks. Furthermore, conflicts with schedules of the parties' counsel and witnesses are also very likely and may create additional hardships.

9. Granting the requested deviation and permitting the use of alternative means of notice is not a departure from Commission precedent or practice. The Commission has on several instances where notice of the hearing was not published in a timely manner allowed the proceedings to continue, but scheduled additional hearings to ensure receipt of public comments.⁷

10. Because KU recognizes the value and importance of receiving whatever comment its customers and the public would like to offer, if the Commission wishes to schedule an

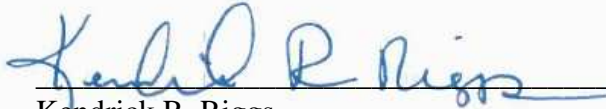
⁷ See, e.g., Case No. 2005-00494, *An Examination of the Application of the Fuel Adjustment Clause of American Electric Power Company From May 1, 2005 to October 31, 2005* (Ky. PSC Mar. 23, 2006); Case No. 2006-00209, *Application of Farndale Development Corporation for a Certificate of Convenience and Necessity, Authority to Make Repairs and Surcharge For Same* (Ky. PSC Nov. 2, 2006); Case No. 2006-00262, *An Examination of the Application of the Fuel Adjustment Clause of American Electric Power Company From November 1, 2005 to April 30, 2006* (Ky. PSC Sept. 26, 2006); Case No. 2007-00276, *An Examination of the Application of the Fuel Adjustment Clause of American Electric Power Company From November 1, 2006 to April 30, 2007* (Ky. PSC Nov. 7, 2007); Case No. 2007-00524, *An Examination of the Application of the Fuel Adjustment Clause of Kentucky Utilities Company From May 1, 2007 to October 31, 2007* (Ky. PSC Apr. 29, 2008); Case No. 2009-00197, *Application of Kentucky Utilities Company for A Certificate of Public Convenience and Necessity and Approval of Its 2009 Compliance Plan For Recovery by Environmental Surcharge* (Ky. PSC Nov. 16, 2009); Case No. 2009-00197, *Application of Louisville Gas and Electric Company for A Certificate of Public Convenience and Necessity and Approval of Its 2009 Compliance Plan For Recovery by Environmental Surcharge* (Ky. PSC Nov. 16, 2009); Case No. 2010-00490, *An Examination of the Application of the Fuel Adjustment Clause of Kentucky Power Company From November 1, 2008 to October 31, 2010* (Ky. PSC Apr. 6, 2011); Case No. 2011-00037, *Application of Owen Electric Cooperative Corporation For An Order Authorizing A Change in Rate Design for Its Residential and Small Commercial rate Classes, and The Proffering of Several Optional Rate Designs for the Residential Rate Classes* (Ky. PSC Feb. 29, 2012); Case No. 2012-00550, *An Examination of the Application of the Fuel Adjustment Clause of Kentucky Power Company From November 1, 2010 to October 31, 2012* (Ky. PSC May 3, 2013).

additional public comment hearing in this proceeding on a day convenient to the Commission, KU will make every reasonable effort to cause notice of such a hearing to be timely published in the same newspapers, via the Kentucky Press Association, in accordance with 807 KAR 5:001, Section 9(2).

WHEREFORE, KU respectfully requests that the Commission (1) authorize KU to deviate from 807 KAR 5:001, Section 9(2), and find that, with implementation of the additional measures listed above and KU's efforts to publish notice of the scheduled hearings, that KU has provided adequate and sufficient notice of the April 21, 2015 hearing.

Dated: April 15, 2015

Respectfully submitted,



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Counsel for Kentucky Utilities Company

CERTIFICATE OF COMPLIANCE

This is to certify that Kentucky Utilities Company's April 15, 2015 electronic filing of the Motion 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 April 15, 2015; that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding; and that an original in paper medium of the Motion is being mailed, by first class United States mail, postage prepaid, to the Commission on April 15, 2015.



Kenneth R. Nigro

Counsel for Kentucky Utilities Company

Lovekamp, Rick

From: Lovekamp, Rick
Sent: Monday, April 13, 2015 4:50 PM
To: 'rmccarty@kypress.com'
Subject: RE: Notice of Hearing - LG&E and KU
Attachments: KU Notice of Public Hearing.doc; LG&E Notice of Public Hearing.docx

Rachel,

Attached are the final drafts of the notices that we need to get published as soon as possible in all papers that LG&E and KU normally publish notices.

Please contact me with any questions.

Thanks again for your assistance.

Regards,
Rick

From: Lovekamp, Rick
Sent: Monday, April 13, 2015 4:17 PM
To: 'rmccarty@kypress.com'
Subject: Notice of Hearing - LG&E and KU

Rachel,

Attached are hearing notices from a prior rate case to serve as a **sample** size. I will begin to make the appropriate changes and send them to you as soon as possible.

Thanks for your assistance.

Regards,
Rick E. Lovekamp
Manager Regulatory Affairs
502.627.3780 (Office)
502.403.8840 (Cell)

NOTICE OF PUBLIC HEARING

The Public Service Commission of Kentucky issued an order on January 30, 2015, scheduling a hearing to begin on April 21, 2015, at 10:00 a.m., Eastern Daylight Time, in Hearing Room 1 of the Commission's offices located at 211 Sower Boulevard in Frankfort, Kentucky, for the purpose of cross-examining witnesses of Kentucky Utilities Company ("KU") and Intervenors in Case No. 2014-00371, which is the Application of KU for an Adjustment of Its Electric Rates. The hearing can be viewed at the Commission website (<http://psc.ky.gov>).

**KENTUCKY UTILITIES COMPANY
220 West Main Street
Louisville, Kentucky**