

**COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION**

In the Matter of:

APPLICATION OF LOUISVILLE GAS AND)	
ELECTRIC COMPANY AND KENTUCKY)	
UTILITIES COMPANY REGARDING ENTRANCE)	CASE NO.
INTO REFINED COAL AGREEMENTS, FOR PROPOSED)	2015-00264
ACCOUNTING AND FUEL ADJUSTMENT CLAUSE)	
TREATMENT, AND FOR DECLARATORY RULING)	


**RESPONSE OF
LOUISVILLE GAS AND ELECTRIC COMPANY
AND KENTUCKY UTILITIES COMPANY
TO INFORMATION REQUESTED IN
COMMISSION'S ORDER
DATED SEPTEMBER 15, 2015**

FILED: SEPTEMBER 25, 2015

VERIFICATION

COMMONWEALTH OF KENTUCKY)
) SS:
COUNTY OF JEFFERSON)

The undersigned, **Robert M. Conroy**, being duly sworn, deposes and says that he is Director - Rates for LG&E and KU Services Company, and that he has personal knowledge of the matters set forth in the responses for which he is identified as the witness, and the answers contained therein are true and correct to the best of his information, knowledge and belief.



Robert M. Conroy

Subscribed and sworn to before me, a Notary Public in and before said County and State, this 25th day of September 2015.

 (SEAL)

Notary Public

My Commission Expires:

JUDY SCHOOLER
Notary Public, State at Large, KY
~~My commission expires July 11, 2018~~
Notary ID # 512743

VERIFICATION

COMMONWEALTH OF KENTUCKY)
) SS:
COUNTY OF JEFFERSON)

The undersigned, **Christopher M. Garrett**, being duly sworn, deposes and says that he is Director – Accounting and Regulatory Reporting for LG&E and KU Services Company, and that he has personal knowledge of the matters set forth in the responses for which he is identified as the witness, and the answers contained therein are true and correct to the best of his information, knowledge and belief.


Christopher M. Garrett

Subscribed and sworn to before me, a Notary Public in and before said County and State, this 15th day of September 2015.

 (SEAL)
Notary Public

My Commission Expires:

JUDY SCHOOLER
Notary Public, State at Large, KY
~~My commission expires July 11, 2018~~
Notary ID # 512743

VERIFICATION

COMMONWEALTH OF KENTUCKY)
) SS:
COUNTY OF JEFFERSON)

The undersigned, **Delbert Billiter**, being duly sworn, deposes and says that he is Manager – Fuels Risk Management for LG&E and KU Services Company, and that he has personal knowledge of the matters set forth in the responses for which he is identified as the witness, and the answers contained therein are true and correct to the best of his information, knowledge and belief.



Delbert Billiter

Subscribed and sworn to before me, a Notary Public in and before said County and State, this 25th day of September 2015.



Notary Public (SEAL)


My Commission Expires:

JUDY SCHOOLER
Notary Public, State at Large, KY
~~My commission expires July 11, 2018~~
Notary ID # 512743

VERIFICATION

COMMONWEALTH OF KENTUCKY)
) SS:
COUNTY OF JEFFERSON)

The undersigned, **Gary H. Revlett**, being duly sworn, deposes and says that he is Director – Environmental Affairs for LG&E and KU Services Company, and that he has personal knowledge of the matters set forth in the responses for which he is identified as the witness, and the answers contained therein are true and correct to the best of his information, knowledge and belief.



Gary H. Revlett

Subscribed and sworn to before me, a Notary Public in and before said County and State, this 25th day of September 2015.



Notary Public (SEAL)

My Commission Expires:

JUDY SCHOOLER
Notary Public, State at Large, KY
~~My commission expires July 11, 2018~~
Notary ID # 512743

**LOUISVILLE GAS AND ELECTRIC COMPANY
KENTUCKY UTILITIES COMPANY**

**Response to Information Requested
Commission's Order Dated September 15, 2015**

Case No. 2015-00264

Question No. 1

Witness: Delbert Billiter

- Q-1. Refer to the Application, page 6, paragraph 12. Explain whether the Companies will incur any increases in coal handling expense as a result of “managing and transporting coal to and from the Refined Coal Production Facility at the Generating Station” above what would otherwise be incurred if the Refined Coal Production Facilities were not installed at their generating stations.
- A-1. For feedstock coal the Companies sell to the Producer (CCS or Tax Equity Investor), the Companies do not anticipate any increase in coal handling expenses associated with managing and transporting this coal to and from the Refined Coal Production Facility.

**LOUISVILLE GAS AND ELECTRIC COMPANY
KENTUCKY UTILITIES COMPANY**

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Question No. 2

Witness: Christopher M. Garrett / Delbert Billiter / Robert M. Conroy

- Q-2. Page 7, paragraph 15 of the Application outlines accounting treatment for which the Companies seek approval that differs from the treatment prescribed in the Uniform System of Accounts ("USoA") for payments for coal yard services and site licensing and for coal severance taxes.
- a. Given that the Companies' proposed accounting treatment departs from that prescribed in the USoA, and recognizing the accounting instructions in 807 KAR 5:056, explain whether consideration was given to structuring the proposed transaction so that payments to the Companies were identified as cash discounts to the price at which they purchased the refined coal.
 - b. Explain whether the Companies believe that the need for approval of accounting treatment which departs from that in the USoA would be eliminated if the proposed transaction were structured as described in part a. of this request.
 - c. During the September 3, 2015 informal conference, when asked about, alternatively, recording the benefits of the proposed transaction as a regulatory liability, representatives of the Companies cited potential problems if the same accounting treatment were not approved in all three jurisdictions in which KU operates. Provide a detailed description of these potential problems.
- A-2.
- a. The Companies discussed with CCS the necessary structure for the transaction in order to qualify for the Refined Coal Tax Credit, and the appropriate pricing of feedstock coal and refined coal, and the value to CCS of the site license and coal yard services. CCS advised that it is the practice in the refined coal industry to sell refined coal to the generator at the same or higher price as the feedstock coal purchase price as the refined coal will inherently have a value equal or greater than the value of the feedstock coal. This structure and pricing is consistent with how CCS has structured each of their existing transactions with Tax Equity Investors and reflects the inherent value of the discrete economic elements within the overall transaction structure. Based upon this and

the Companies' accounting analysis, the Companies concluded that it would not be appropriate to simply net out the proceeds from the transaction to reduce the refined coal purchase price. Nevertheless, the Companies believe it is appropriate to reflect the payments in the cost of fuel collected through the FAC mechanism for two reasons. First, there is a direct causal relationship between the proceeds from the transaction and the cost of fuel paid by customers; the proceeds are fuel-related. Secondly, because customers pay the fuel expense, they should receive the benefit of the proceeds from the transaction. See *In the Matter of: An Examination of the Application of the Fuel Adjustment Clause of Kentucky Utilities Company from May 1, 2013 through October 31, 2013*, Case No. 2013-00446, Order (June 2, 2014); *In the Matter of: An Examination of the Application of the Fuel Adjustment Clause of Louisville Gas and Electric Company from May 1, 2013 through October 31, 2013*, Case No. 2013-00447, Order (June 2, 2014); *In the Matter of: An Examination of the Application of the Fuel Adjustment Clause of Kentucky Utilities Company from November 1, 2012 through October 31, 2014*, Case No. 2014-00452, Order (Aug. 11, 2015); *In the Matter of: An Examination of the Application of the Fuel Adjustment Clause of Louisville Gas and Electric Company from November 1, 2012 through October 31, 2014*, Case No. 2014-00453, Order (Aug. 11, 2015) (six-month and two-year reviews approving the charges and collections for the periods under review which included the proceeds from a settlement with a fuel vendor as part of the calculations) See also *An Examination by the Public Service Commission of the Application of the Fuel Adjustment Clause of Kentucky Utilities Company From November 1, 1990 to October 31, 1992*, KPSC 92-493 (Jan. 2, 1997) (requiring KU to reduce its fuel cost to reflect the net revenues earned from the rental and sale of 126 coal-transporting railcars because the depreciation expense of the cars and the cost of the buyout agreement that had freed the cars for rental purposes had previously been flowed through the FAC). The requested accounting treatment in the application allows the Companies to do this.

The unique and extraordinary circumstances in *Application of Kentucky Utilities Company to Amortize, by Means of Temporary Decrease in Rates, Net Fuel Cost Savings Recovered in Coal Contract Litigation*, Case No. 93-113, Order (Dec. 8, 1993) are not present in this situation. There, unlike here, the only connection with funds at issue and the fuel adjustment clause was the fact that KU deposited into a court-ordered escrow account the funds KU collected from KU's customers through its FAC charges for the cost of fuel in dispute with its vendor. Here, the Companies will recover the cost of fuel through FAC charges to be assessed in the future where the cost of the fuel is directly related to the proceeds from the transaction.

Furthermore, the Companies' proposed distribution through the FAC is the most practical and efficient method of distribution of the proceeds, eliminates administrative cost and delay, and ensures that customers receive all of the benefit of the settlement allocable to the utilities.

- b. As discussed above, because the Companies do not believe the proposal to treat the payments from CCS as cash discounts is consistent with the structure of the transaction,

the Companies have requested the accounting treatment set out in their application in order to share the benefits with customers in the most efficient manner.

- c. The primary issue associated with recording the benefits of the proposed transaction differently for the various regulatory jurisdictions relates to complexities regarding the recording of both fuel expense and fuel inventory. KU currently does not maintain separate fuel inventory and fuel expense accounts for each respective jurisdiction. Rather, KU maintains fuel inventory and fuel expense on a total company basis and allocates fuel expense to the respective jurisdictions for fuel recovery purposes. Therefore, the coal yard services and site license fees paid to KU by CCS would need to be recorded in total to fuel inventory. KU cannot split the fees by jurisdiction and record them to both inventory and non-inventory accounts given the current fuel recovery allocation process. For example, if one jurisdiction required that the fees be recorded to inventory and the other jurisdictions required that the fees be recorded to an income statement account, the fees recorded to inventory would be subsequently allocated and assigned to the three jurisdictions under the current methodology. Additionally, maintaining a separate set of books for one or more jurisdictions would create a significant amount of additional administrative and system costs. New accounts would have to be set up and reconciled each month and the journal entry requirements would be much more complex.

**LOUISVILLE GAS AND ELECTRIC COMPANY
KENTUCKY UTILITIES COMPANY**

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Question No. 3

Witness: Robert M. Conroy

- Q-3. Refer to the Application, page 7, paragraph 15, wherein the Companies discuss their proposed accounting treatment for the site-licensing fees, coal yard services fees, and possible coal severance tax. As an alternative to their proposed treatment, explain whether the Companies would be amenable to establishing a Refined Coal Clause tariff in which the three aforementioned items would be netted each month and divided by the kWh sales to calculate a factor, with said factor being netted with the Fuel Adjustment Clause ("FAC") and the Off-System Adjustment Clause factors each month so long as a Refined Coal Production Facility is in operation.
- A-3. The Companies believe that the proposed accounting treatment provides the most efficient way to pass the benefits of the transaction to the customers (i.e. through the existing Fuel Adjustment Clause mechanism). Creating a new factor would add complexity to the billing process, including incremental costs associated with development, testing and implementation of a new factor. Also, a new factor would create the same jurisdictional challenges discussed in the response to Question 2(c) above.

**LOUISVILLE GAS AND ELECTRIC COMPANY
KENTUCKY UTILITIES COMPANY**

**Response to Information Requested
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Case No. 2015-00264

Question No. 4

Witness: Gary H. Revlett

- Q-4. Refer to the Application, Exhibit 5, paragraph 4.1. List all permits and permit modifications the Companies must obtain prior to the production of refined coal.
- A-4. Only a minor revision to each stations' Title V permit is required for this project. A permit application classified as a minor revision to the existing Title V permit applications were submitted on August 17, 2015 to the Kentucky Division for Air Quality (KyDAQ) for the Refined Coal facility to be added at the Ghent Station and the Trimble County Station and to the Louisville Metropolitan Air Pollution Control District (LMAPCD) for the Mill Creek Station. The KyDAQ approved both the Ghent and Trimble County applications by letter dated August 20, 2015 and the LMAPCD approved the Mill Creek application by email on August 28, 2015.

**LOUISVILLE GAS AND ELECTRIC COMPANY
KENTUCKY UTILITIES COMPANY**

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Question No. 5

Witness: Christopher M. Garrett / Delbert Billiter / Robert M. Conroy

Q-5. Refer to the Application, Exhibit 5, paragraph 8.4.

- a. In the event the Companies purchased refined coal that the Producer produced from third-party coal, state whether the Companies would commit to informing the Commission in their monthly FAC Form B filings of such purchases, including price, quantity and quality of the purchased coal.
- b. Confirm that it is possible under the Operation Agreement for Clean Coal Solutions, LLC ("CCS") to sell refined coal that originated from the Companies' feedstock to a party other than the Companies. If this is confirmed, explain how the purchase and sale of this coal would be accounted for and the effect, if any, it would have on the FAC.

A-5.

- a. Yes, the Companies would list the purchases of any Refined Coal from the Producer that originated from third party coal on FAC Form B. The quantity, quality and price of any third party Refined Coal would be provided.
- b. While possible under the Operation Agreement, the Companies do not anticipate any Refined Coal produced from the Companies' feedstock coal being sold to third parties. It is the Companies' intention to repurchase all Refined Coal produced from the Companies' feedstock coal, and therefore, none would be available for sale to third parties. However, in the event the Refined Coal produced from the Companies' feedstock coal were sold to third parties, it would be accounted for in the following manner. Fuel inventory would be credited for the proceeds received from the sale of the unrefined coal which in turn would adjust the Company's book inventory cost which is recorded on a weighted average cost basis. The FAC would be impacted only to the extent of the change in the book inventory cost used to record the monthly fuel expense.

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Question No. 6

Witness: Delbert Billiter

- Q-6. Refer to the Application, page 5, paragraph 11. State whether, to the Companies' knowledge and belief, any other Refined Coal Production Facilities installed by CCS have ceased to operate due to the failure to secure a Tax Equity Investor.
- A-6. CCS has advised the Companies that to date, no CCS affiliated Refined Coal Production Facility has ceased to operate due to the failure to secure a Tax Equity Investor. CCS has to date been successful in reaching agreements with Tax Equity Investors for production of refined coal at a number of generating stations where their Refined Coal Production Facilities have been installed, with the initial CCS Tax Equity Investor agreements being completed in 2010 and most recent agreements completed earlier in 2015. However, the process for identifying and negotiating agreements with Tax Equity Investors is complex and can take an extended period of time. CCS is in discussions with a number of potential Tax Equity Investors, but there is no assurance of when, if ever, such agreements may be completed for any of the generating stations. CCS advises that while they have in some instances produced refined coal at generating stations for their own benefit pending finalization of agreements with Tax Equity Investors, they have also at some generating stations delayed the commencement of production of refined coal until a Tax Equity Investor has been identified for such generating station.