

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

**In the Matter of:**

<b>APPLICATION OF KENTUCKY UTILITIES</b>	)	
<b>COMPANY FOR AN ADJUSTMENT OF ITS</b>	)	
<b>ELECTRIC RATES AND FOR</b>	)	<b>CASE NO. 2016-00370</b>
<b>CERTIFICATES OF PUBLIC CONVENIENCE</b>	)	
<b>AND NECESSITY</b>	)	

**In the Matter of:**

<b>APPLICATION OF LOUISVILLE GAS AND</b>	)	
<b>ELECTRIC COMPANY FOR AN</b>	)	
<b>ADJUSTMENT OF ITS ELECTRIC AND GAS</b>	)	<b>CASE NO. 2016-00371</b>
<b>RATES AND FOR CERTIFICATES OF</b>	)	
<b>PUBLIC CONVENIENCE AND NECESSITY</b>	)	

**RESPONSE OF KENTUCKY UTILITIES COMPANY AND LOUISVILLE GAS AND  
ELECTRIC COMPANY TO JOINT MOTION**

Kentucky Utilities Company (“KU”) and Louisville Gas and Electric Company (“LG&E”) (collectively, the “Companies”) hereby respond to the Joint Motion of Attorney General of the Commonwealth of Kentucky, by and through his Office of Rate Intervention (“AG”), Wal-Mart Stores East, LP and Sam’s East, Inc. (“Wal-Mart”), Lexington-Fayette Urban County Government (“LFUCG”), Kentucky League Of Cities (“KLC”), and Louisville / Jefferson County Metro Government (“Louisville Metro”) (collectively “Joint Movants”) to Dismiss without Prejudice; Alternative Motions to Strike or Revise Procedural Schedules, filed on March 31, 2017, in the above-captioned proceedings. The Companies respectfully ask the Commission to deny the Joint Movants’ motions in their entirety with the exception of allowing any party to file supplemental testimony concerning cost of service or revenue allocation, as well as all supporting workpapers, by April 14, 2017.

The Companies acknowledge that Stephen J. Baron, testifying for the Kentucky Industrial Utility Customers, Inc. (“KIUC”),<sup>1</sup> correctly identified in the Companies’ evidence one load-data error—the incorrect ordering of forecast data on one column of one tab of one spreadsheet—and one methodological disagreement concerning how to adjust historical load data to fit projected load data.<sup>2</sup> Consequently, on March 28, 2017, as required by the Commission, the Companies filed corrected data and revised cost-of-service studies as well as supporting workpapers.<sup>3</sup> The Companies respectfully submit that the corrected data and revised cost-of-service studies demonstrate there is no ground to dismiss these proceedings, strike the Companies’ corrected and revised evidence, provide additional discovery, or move the scheduled hearing date.

The Companies moved quickly yet deliberately to address the issues raised by Mr. Baron, and did so in two steps: (1) the ordering problem Mr. Baron identified was corrected by properly aligning the days in the Historical Period (July 2015 – June 2016) and the Forecasted Test Period (July 2017 – June 2018) based on the daily energy total rank; and (2) a small change was made to hold the monthly Fluctuating Load Service (Rate FLS) load factors for KU constant from the Historical Period to the Forecasted Test Period to address Mr. Baron’s methodological concern.<sup>4</sup>

The revised studies showed the Companies’ spreadsheet error did not materially change the previous cost-of-service studies, and therefore did not change the Companies’ revenue allocation recommendations.<sup>5</sup> Indeed, in KU’s revised base-intermediate-peak (“BIP”) cost-of-service study, the corrected data caused no rate class’s rate of return (“ROR”) to change by more than 0.80%, and did not cause a single rate class’s ROR to switch from being above or below

---

<sup>1</sup> Direct Testimony of Stephen J. Baron, pp. 11-23 (Mar. 3 2017).

<sup>2</sup> KU Supplemental Response to Commission Staff Question No. 2-97; LG&E Supplemental Response to Commission Staff Question No. 2-109.

<sup>3</sup> Case No. 2016-00370, Order at 2 (Dec. 13, 2016); Case No. 2016-00371, Order at 2 (Dec. 13, 2016).

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

average to the opposite; similarly, KU's revised loss-of-load-probability ("LOLP") study resulted in only two rate classes with ROR differences greater than 1.0%, and no rate class's ROR switched from being above to below average or vice versa.<sup>6</sup> For LG&E, the results are largely the same: The revised BIP study resulted in only one rate class's ROR changing by more than 1.0%, and did not cause a single rate class's ROR to switch from being above or below average to the opposite.<sup>7</sup> LG&E's revised LOLP study resulted in only three rate classes with ROR differences greater than 1.0%, and only one rate class's ROR switched from being slightly below average to above average; the rest of the rate classes' RORs did not change from above to below average or vice versa.<sup>8</sup> Because these cost-of-service results did not change materially, there was no reason for the Companies to change their revenue allocation recommendations. Therefore, it is incorrect for the Joint Movants to assert there is currently no "fair, just, and reasonable basis for allocating any potential increase" in the records of these proceedings.<sup>9</sup>

The Companies' revised cost-of-service studies changed the various rate classes' RORs, but not to the extent of rendering the previous studies materially inaccurate or to change the Companies' proposed revenue allocations or rates. The Companies do not doubt that the KIUC's and other parties' supplemental testimony concerning cost of service filed by April 14 will produce different RORs, and different revenue allocation proposals than those the Companies have presented. Indeed, as demonstrated by the Companies' BIP and LOLP cost-of-service studies, as well as the AG's Probability of Dispatch study, different cost-of-service methodologies produce different RORs for the same rate classes even when they begin with the exact same set of load, cost, and dispatch data. That does not make one cost-of-service study

---

<sup>6</sup> *Id.*

<sup>6</sup> KU Supplemental Response to Commission Staff Question No. 1-53.

<sup>7</sup> LG&E Supplemental Response to Commission Staff Question No. 1-53.

<sup>8</sup> LG&E Supplemental Response to Commission Staff Question No. 1-53.

<sup>8</sup> KU Supplemental Response to Commission Staff Question No. 1-53.

<sup>9</sup> Motion at 4.

correct and another incorrect; rather, the different results reflect the various methodologies' different approaches to allocating costs of service among rate classes. Likewise, there can be a range of reasonable views about the appropriate revenue allocation among rate classes even when there is no disagreement about which cost-of-service methodology to use. For example, Jeffrey Pollock, testifying for Louisville Metro, recommended the Commission use LG&E's LOLP cost-of-service approach, but recommended a different revenue allocation for electric service than did LG&E.<sup>10</sup> That is the usual course of these matters, and reflects the parties' differing views on gradualism and other ratemaking considerations. But it is not a reason to dismiss these proceedings or strike the Companies' corrected data or revised cost-of-service studies. Indeed, striking the Companies' corrected data and revised cost-of-service studies would serve only to weaken, not to strengthen, the record of evidence upon which the Commission will decide these cases, and is ample reason to deny the Joint Movants' alternative motion to strike.

The Companies deny the Joint Movants' suggestion that the Companies have not been candid with the Commission. The Companies were unaware of the potential spreadsheet error until March 3 when they received Mr. Baron's testimony. Upon reading his testimony, the Companies immediately began work to determine if Mr. Baron had correctly identified an error. After determining an incorrect ordering of one column of data had indeed occurred in a spreadsheet, the Companies began working to correct the error. As soon as the Companies were satisfied there were no additional errors, they promptly filed the revised studies rather than hold the studies and file them as part of the Companies' rebuttal testimony. The timing of the filing relative to the Commission's hearing on settlement procedures was purely coincidental and provided no advantage to the Companies.

---

<sup>10</sup> Pollock LG&E Direct at 43-55.

With regard to the claimed prejudice to other parties resulting from the Companies' filing of corrected data and associated revised cost-of-service studies,<sup>11</sup> it is noteworthy that the party that identified the error—KIUC—has not joined the Joint Movants' motion; rather, KIUC has moved for leave to file supplemental testimony concerning cost of service by April 14, not to dismiss these applications.<sup>12</sup> The Companies promptly filed a response stating not only that they did not oppose KIUC's request, but further, "The Companies have no objection to permitting any other party to these proceedings filing supplemental testimony responsive to the Companies' revised cost of service studies on or before April 14, 2017."<sup>13</sup>

In addition, the Companies' counsel advised the AG's counsel on March 30—the day before the Joint Movants filed their motion—of the Companies' willingness to accept any party's supplemental testimony concerning cost of service by April 14, and further expressed the Companies' willingness to address expeditiously any concerns about responses to data requests any party believed needed updating to address the corrected data or revised cost-of-service studies.<sup>14</sup>

Notably, the AG's cost of service witness, Mr. Watkins, prepared and submitted a cost-of-service study as part of his testimony on the same day Mr. Baron opined that he could not prepare a cost-of-service study due to the error described above. At that time, Mr. Watkins was comfortable with his cost-of-service study conclusions. Then, two weeks later, when Commission Staff asked Mr. Watkins whether the mistakes alleged by Mr. Baron rendered Mr. Watkins's cost-of-service study "unusable," he stated that it is "uncertain" whether any

---

<sup>11</sup> Motion at 1.

<sup>12</sup> Petition of Kentucky Industrial Utility Customers, Inc. to Amend Procedural Schedule (Mar. 30, 2017)

<sup>13</sup> Case Nos. 2016-00370 and 2016-00371, Companies' Joint Response to KIUC (Mar. 30, 2017).

<sup>14</sup> See Exhibit 1 to this Response.

deficiencies noted by Mr. Baron have a material impact on his conclusions.<sup>15</sup> Thus, while the AG deems the error so grave as to warrant dismissal of the cases, the AG's witness refuses to quantify the error as one so serious that it affects his testimony. The Companies agree that supplemental testimony should be allowed to address the error, and a minor modification to the procedural schedule to permit filing such testimony, to which the Companies have already agreed, accomplishes that. But a dismissal of the cases (or even an extension of the procedural schedule) is unwarranted given the immaterial nature of the error.

The proposal to take additional discovery causes unnecessary delay, as the Joint Movants, like the KIUC, do not need additional discovery to file additional cost-of-service-related testimony, as their proposed revisions to the procedural schedule require parties to file supplemental testimony *before* additional discovery would occur. In addition, the Companies purposefully provided all workpapers and underlying data when filing their corrected data and revised cost-of-service studies. No party will be deprived of its due-process rights if the Commission affords parties the opportunity to file supplemental testimony by April 14, particularly if the Commission requires all parties filing such testimony to include with their filing all supporting workpapers. For that reason, the Companies do not believe additional discovery after April 14 is necessary, and therefore oppose that part of the Joint Movants' motion. To the extent the parties have different positions on the revenue allocation issue, their differences can be fully explored at the hearing through cross examination. Notwithstanding the Companies' opposition to Joint Movants' request for another round of discovery after filing their supplemental testimony, should the Commission determine to grant the request, then the Commission should do so using Joint Movants' proposed dates and limit the scope of the

---

<sup>15</sup> Response of the AG to Commission Staff's DR No. 2 (Mar. 31, 2017).

discovery to the supplemental testimony on the revenue allocation issue but without affecting the May 2, 2017 hearing date.

Although amending the current procedural schedule in these proceedings to permit any party to file cost-of-service and revenue allocation testimony by April 14 is reasonable, dismissing these applications would not be. Indeed, the Commission has denied at least one similar motion to dismiss a rate proceeding in the past. For example, in a 1991 rate application concerning the Union Light, Heat, and Power Company (“ULH&P”), the AG moved to dismiss the utility’s rate application because ULH&P’s purchased-power costs, which were then the subject of a Federal Energy Regulatory Commission (“FERC”) proceeding, were not known with certainty.<sup>16</sup> The AG asserted that ULH&P’s Kentucky rate application necessarily contained inaccuracies because FERC has found the related federal purchased-power application to be deficient, requiring the Kentucky application to be dismissed because “the missing information is too crucial ....”<sup>17</sup> But the Commission denied the AG’s motion to dismiss, noting in pertinent part, “At most the AG's motion raises an evidentiary issue of whether ULH&P will be able to meet its burden of proof under KRS 278.190(3). Neither the AG nor Co-Epic [another intervenor in that proceeding] cite any requirement or precedent to declare a rate application to be deficient, and thus subject to dismissal, merely because a proposed increase in an operating cost cannot be determined with certainty one month after the application was filed.”<sup>18</sup> In other words, the Commission refused to dismiss ULH&P’s rate application at least in part because the particular evidentiary issue about which the AG complained could likely be resolved within the statutory timeframe for deciding rate cases.

---

<sup>16</sup> *In the Matter of: Application of the Union Light, Heat, and Power Company to Adjust Electric Rates*, Case No. 91-370, Order at 1-2 (Dec. 11, 1991).

<sup>17</sup> *Id.*

<sup>18</sup> *Id.* at 3.

The same is true of these proceedings. There is ample time within the existing procedural schedule, and particularly the existing hearing schedule, to permit the parties to this proceeding to file any supplemental testimony they deem necessary by April 14, and then for the Commission to determine after hearing, and likely after post-hearing briefs and possible post-hearing data requests and responses, which evidence is most credible and whether the Companies have met their burden to support the proposed allocation of revenue resulting from the change in base rates. Therefore, the Companies respectfully recommend that the Commission neither dismiss these proceedings, nor move the existing hearing, currently set to begin on May 2.<sup>19</sup>

The Companies respectfully request the Commission deny the Joint Movants' motion to dismiss, their motion to strike, and their motion to amend the existing procedural schedule except insofar as it would permit any party to file supplemental testimony concerning cost of service or revenue allocation, as well as all supporting workpapers, by April 14.

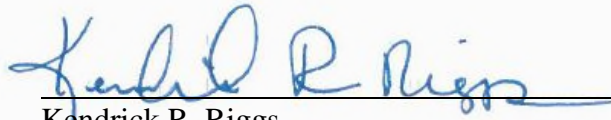
---

<sup>19</sup> Notably, the Sierra Club, which is one of the Joint Movants, has not "agree[d] to start the hearing on May 15, 2017." Motion at 5 fn. 9.



Dated: April 3, 2017

Respectfully submitted,




Kendrick R. Riggs  
Stoll Keenon Ogden PLLC  
2000 PNC Plaza  
500 West Jefferson Street  
Louisville, Kentucky 40202-2828  
Telephone: (502) 333-6000  
Fax: (502) 627-8722  
kendrick.riggs@skofirm.com

Allyson K. Sturgeon  
Senior Corporate Attorney  
LG&E and KU Services Company  
220 West Main Street  
Louisville, Kentucky 40202  
Telephone: (502) 627-2088  
Fax: (502) 627-3367  
allyson.sturgeon@lge-ku.com

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

**CERTIFICATE OF COMPLIANCE**

This is to certify that Kentucky Utilities Company and Louisville Gas and Electric Company's April 3, 2017 electronic filing of their Response of Kentucky Utilities Company and Louisville Gas and Electric Company to Joint 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 3, 2017; that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding; and that an original and six copies of the Response, in paper medium, will be hand-delivered to the Commission on April 4, 2017.



---

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

**From:** Riggs, Kendrick R.  
**Sent:** Thursday, March 30, 2017 3:53 PM  
**To:** 'Chandler, Kent A (KYOAG)'; Cook, Larry (KYOAG)  
**Cc:** Goodman, Rebecca (KYOAG)  
**Subject:** RE: 2016 Rate Cases

Kent and Larry,

Following our call this afternoon, I am writing to confirm the Companies are willing to allow the AG or any of the parties to file supplemental testimony responsive to the Companies' revised cost of service studies on or before April 14, 2017.

As I indicated on the call, we are willing to work on an expedited basis to address any other concerns about the data responses upon request by email or phone call.

Finally, as I mentioned, the attachments to the referenced data requests do not change as a result of the supplemental data responses and associated data the Companies previously filed early this week in the rate cases. Because the combined company hourly loads did not change in total, there was no change to the Companies joint dispatch modeling. The supplemental responses and data therein does not change the files provided in response to KU AG 1-275 and 1-277; LG&E AG 1-292 and 1-294.

Should you have further questions or wish to discuss this further, please contact me at your first convenience.

Regards,



**Kendrick R. Riggs**  
Attorney at Law  
502-560-4222 Direct  
502-262-0172 Mobile  
2000 PNC Plaza  
500 W. Jefferson Street  
Louisville, KY 40202-2828  
<http://www.skofirm.com/attorney/kendrick-r-riggs/>

---

**From:** Chandler, Kent A (KYOAG) [<mailto:Kent.Chandler@ky.gov>]  
**Sent:** Thursday, March 30, 2017 1:43 PM  
**To:** Riggs, Kendrick R.; Cook, Larry (KYOAG)  
**Cc:** Goodman, Rebecca (KYOAG)  
**Subject:** RE: 2016 Rate Cases

Kendrick,

Thank you for the quick reply regarding the data request responses.

We are available to speak at 3.

Thanks,

Kent

---

**From:** Riggs, Kendrick R. [<mailto:kendrick.riggs@skofirm.com>]  
**Sent:** Thursday, March 30, 2017 1:30 PM  
**To:** Cook, Larry (KYOAG); Chandler, Kent A (KYOAG)  
**Cc:** Goodman, Rebecca (KYOAG)  
**Subject:** RE: 2016 Rate Cases

Larry and Kent,

Thank you for your inquiry.

Because there is no change to the hourly load forecast resulting from the recent load forecast revisions, there would be no change to KU or LG&E responses to the Attorney General's data requests referenced in your email below.

If you have other inquiries about any other data responses, please contact me at your first convenience, and I will try to respond to your inquiry as quickly as possible.

I have conveyed your other inquiry with LG&E and KU and am prepared to discuss it with you this afternoon. Does 3:00 pm suit?

Regards,



**Kendrick R. Riggs**  
Attorney at Law  
502-560-4222 Direct  
502-262-0172 Mobile  
2000 PNC Plaza  
500 W. Jefferson Street  
Louisville, KY 40202-2828  
<http://www.skofirm.com/attorney/kendrick-r-riggs/>

---

**From:** Cook, Larry (KYOAG) [<mailto:Larry.Cook@ky.gov>]  
**Sent:** Thursday, March 30, 2017 11:55 AM  
**To:** Riggs, Kendrick R.; Chandler, Kent A (KYOAG)  
**Cc:** Goodman, Rebecca (KYOAG)  
**Subject:** RE: 2016 Rate Cases

Kendrick,

Here are the DRs:

KU:  
OAG 1-275 and 1-277

LG&E:  
OAG 1-292 and 1-294

We believe that Mr. Seelye, in order to calculate his revised LOLPs and modified BIP also had to revise his hourly generation output (supply) by generating unit. Therefore, we need to inquire as to these revisions and obtain revised hourly generation outputs by generating unit. Thank you.

Yours,  
Larry & Kent

---

**From:** Riggs, Kendrick R. [<mailto:kendrick.riggs@skofirm.com>]  
**Sent:** Thursday, March 30, 2017 11:46 AM  
**To:** Cook, Larry (KYOAG) <[Larry.Cook@ky.gov](mailto:Larry.Cook@ky.gov)>; Chandler, Kent A (KYOAG) <[Kent.Chandler@ky.gov](mailto:Kent.Chandler@ky.gov)>  
**Subject:** 2016 Rate Cases

Please send the me data request numbers you referenced in our phone call this morning.

Regards,

Kendrick Riggs