

**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>   | ) |                            |

**POST-HEARING BRIEF OF**  
**KENTUCKY UTILITIES COMPANY AND**  
**LOUISVILLE GAS AND ELECTRIC COMPANY**  
**REGARDING PILOT RATES FOR SPORTS-FIELD LIGHTING AND SCHOOLS**

**Filed: June 2, 2017**

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## **I. Introduction**

Kentucky Utilities Company and Louisville Gas and Electric Company (collectively “Companies”) believe that neither the school-related pilot rates (Rates SPS and STOD) nor the outdoor sports-field lighting pilot rate (Rate OSL) violates KRS 278.035. But if the Commission disagrees concerning Rates SPS and STOD, the Companies do not object to modifying the Stipulation and Recommendation filed with the Commission on April 19, 2017 (“First Stipulation”), to allow schools not covered by KRS 160.325 to participate in the pilot rates, assuming such modification would not otherwise alter the pilots, and further assuming Commission approval of all other rates, terms, and conditions already contained in the First Stipulation.

## **II. Applicable Statutes**

KRS 278.035 prohibits entitling any entity receiving more than 50% of its operating funds from state or local government sources to preferential utility rates: “Any entity receiving public funds from the Commonwealth of Kentucky, or any political subdivision thereof, for the purpose of offsetting at least fifty percent (50%) of its operational expenses shall not be entitled to preferential retail rates for services provided by utilities subject to the provisions of KRS Chapter 278.” Notably, the statute does not prohibit such an entity from ever taking service under rates freely applied for by a utility and approved by the Commission where such rates might be considered more favorable than other rates available to the entity; rather, such an entity is not entitled to preferential utility rates, and cannot demand them if not offered and approved.

KRS 278.170(1), however, does prohibit unreasonable rate classifications: “No utility shall, as to rates or service, give any unreasonable preference or advantage to any person or subject any person to any unreasonable prejudice or disadvantage, or establish or maintain any unreasonable difference between localities or between classes of service for doing a like and

contemporaneous service under the same or substantially the same conditions.” KRS 278.030(3) provides some guidance concerning the considerations that make different rate classifications reasonable: “Every utility may employ in the conduct of its business suitable and reasonable classifications of its service, patrons and rates. The classifications may, in any proper case, take into account the nature of the use, the quality used, the quantity used, the time when used, the purpose for which used, and any other reasonable consideration.”

### **III. Pilot Rate OSL Meets the Applicable Statutory Requirements**

The proposed pilot rate concerning sports-field lighting (Rate OSL) meets all of these statutory standards. Section 4.7 of the First Stipulation states in relevant part:

**4.7. Sports Field Lighting Pilot Tariff Provisions.** The Parties agree that the Utilities will add to their electric tariffs a voluntary sports field lighting rate schedule, Pilot Rate OSL – Outdoor Sports Lighting Service, on a limited-participation pilot basis (limited to 20 pilot participants per Utility). The pilot rate uses a time-of-day rate structure. The purpose of the pilot is to determine if sports fields have sufficiently different service characteristics to support permanent sports field tariff offerings.

This provision of the First Stipulation, as well as the associated proposed tariff provision for each of the Companies, does not restrict the pilot rate to public schools, public parks, or any other public entities; rather, the pilot rate for each of the Companies is available to the first 20 customers, public or private, meeting the rate’s availability criteria, i.e., “secondary and primary service used by a customer for lighting specifically designed for outdoor fields which are normally used for organized competitive sports.” As described in the Stipulation Testimony of W. Steven Seelye, Rate OSL is not preferential or unreasonable in any sense, but instead includes a time-differentiated demand charge that will recover distribution and transmission costs irrespective of when use occurs, but also is designed on the assumption that sports fields

will create their highest demands off-peak, when generating capacity tends to be plentiful.<sup>1</sup> Participation in the pilot is limited, but that is on the rational, reasonable ground that it is a pilot rate with the purpose of determining whether sports fields do indeed have service characteristics sufficiently different from those of other customers to support creating a regular tariff offering available without numerical participation limits. Because the pilot is neither preferential to government-funded entities nor unreasonable in rates, terms, or conditions, it fully complies with KRS 278.030(3), 278.035, and 278.170(1).

In addition, if the Companies determined there were sufficient cost-of-service-based justifications to make Rate OSL a regular tariff offering in a subsequent base-rate case, they would offer the rate without regard to whether the customer was publicly or privately funded, ensuring full compliance with KRS 278.035.

#### **IV. Pilot Rates SPS and STOD Meet the Applicable Statutory Requirements**

The Companies similarly believe the proposed pilot rates concerning schools (Rates SPS and STOD) meet the requirements of 278.030(3), 278.035, and 278.170(1). Section 4.11 of the First Stipulation states in relevant part:

**4.11. Optional Pilot Rates for Schools Subject to KRS 160.325.** The Parties agree that the Utilities will add to their electric tariffs optional pilot tariff provisions for schools subject to KRS 160.325. The pilot rates will not be limited in the number of schools that may participate, but will be limited by the projected revenue impact to the Utilities. Each utility's pilot rate provisions will be available to new participants until the total projected revenue impact (reduction) for each Utility is \$750,000 annually compared to the projected annual revenues for the participating schools under the rates under which the schools would otherwise be served. KSBA [Kentucky School Boards Association] will be responsible for proposing schools for participation in the pilot rates and the order in which such schools are proposed; the Utilities will calculate and provide to KSBA the projected revenue impact of each proposed school's taking service under pilot rates.

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<sup>1</sup> Seelye Stipulation Testimony at 16-17.

This pilot program complies with KRS 278.035 because it does not entitle any government-funded entity to a rate prior to being selected by KSBA to participate in the pilot.

With regard to KRS 278.170(1) and 278.030(3), the purpose of Rates SPS and STOD is to determine whether schools in fact have different service characteristics than seemingly similar non-school customers; in other words, the purpose of the pilot rates is to gather data to determine whether it would be unreasonably discriminatory to implement such rates as standard tariff offerings. The Commission has previously approved the use of pilot rates to study customer behaviors and service characteristics while these statutory provisions have been in effect.<sup>2</sup> Indeed, less than two years ago the Commission approved for Kentucky Power Company a pilot rate for schools subject to KRS 160.325 that in all material respects is similar to the pilot rates proposed in the First Stipulation in these proceedings.<sup>3</sup> That pilot rate remains in effect.<sup>4</sup> Therefore, Rates SPS and STOD, offered on a pilot basis, comply with KRS 278.170(1) and 278.030(3).

But making Rates SPS and STOD standard tariff offerings would give eligible schools an entitlement to take service under the rates, which would necessitate ensuring against a preference for publicly-funded entities. Therefore, the Companies believe that if the data gathered from the pilot offerings supported making Rates SPS and STOD standard tariff offerings, those rates would have to be available to all schools taking service at the appropriate levels to ensure compliance with KRS 278.035.

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<sup>2</sup> See, e.g., Case Nos. 2009-00548 and 2009-00549, Orders (July 30, 2010) (approving, among other rate-case items, limited-participation three-year pilot rate for low-emission vehicles, Rate LEV).

<sup>3</sup> Case No. 2014-00396, Order (June 22, 2015).

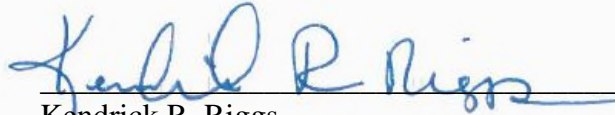
<sup>4</sup> Kentucky Power Company, P.S.C. KY. No. 10, 1<sup>st</sup> Revised Sheet Nos. 9-9 – 9-12, Pilot Tariff K-12 School.

## **V. Conclusion**

None of the proposed pilot rates runs afoul of KRS 278.035, 278.170(1), or 278.030(3) because none provides a publicly funded entity an entitlement to service under that rate, and because limited-participation pilot rates are reasonable means of gathering data to determine whether rates should be made generally available service offerings. Certainly the Commission has repeatedly approved pilot offerings. But each pilot rate that becomes a standard tariff offering will need to be available to all qualifying customers regardless of customers' funding sources. Also, the Companies do not object to modifying the First Stipulation to allow schools not covered by KRS 160.325 to participate in the pilot rates, assuming such modification would not otherwise alter the pilots, and further assuming Commission approval of all other rates, terms, and conditions already contained in the First Stipulation.

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Respectfully submitted,



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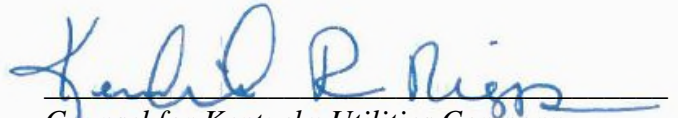
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**CERTIFICATE OF COMPLIANCE**

This is to certify that Kentucky Utilities Company's and Louisville Gas and Electric Company's June 2, 2017 electronic filing of their Post-Hearing Brief 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 June 2, 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, in paper medium, of the Post-Hearing Brief are being mailed by U.S. First Class Mail, postage prepaid, to the Commission on June 2, 2017.



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