

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

**In the Matter of:**

**APPLICATION OF KENTUCKY UTILITIES            )**  
**COMPANY AND LOUISVILLE GAS AND        ) CASE NO. 2018-00304**  
**ELECTRIC COMPANY FOR AN ORDER         )**  
**APPROVING THE ESTABLISHMENT OF         )**  
**REGULATORY LIABILITIES AND             )**  
**REGULATORY ASSETS                         )**

**RESPONSE TO ATTORNEY GENERAL’S**  
**MOTION TO AMEND THE PROCEDURAL SCHEDULE**  
**AND SCHEDULE A HEARING**

Louisville Gas and Electric Company (“LG&E”) and Kentucky Utilities Company (“KU”) (collectively “the Companies”), pursuant to 807 KAR 5:001 Section 5(2), hereby respond to, and ask the Commission to deny, the *Motion to Amend the Procedural Schedule and Schedule a Hearing* (“Motion”) filed with the Kentucky Public Service Commission (“Commission”) on October 24, 2018, by the Attorney General of the Commonwealth of Kentucky (“AG”).

The Motion misunderstands the Companies’ application to for authority to establish a regulatory asset. In contrast, the Motion does not raise any comparable concern about the Companies’ request for authority to use deferral accounting to establish regulatory liabilities.

The Companies’ requested accounting treatment is a matter fully within the Commission’s purview and firmly established by Commission precedent.<sup>1</sup> The Motion misstates the Companies’ application when it argues: “The Companies’ request is not merely for accounting purposes only, but is for the express approval of the actual costs incurred, for

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<sup>1</sup> See Application Par. No. 26, *In the Matter of: Electronic Joint Application of Kentucky Utilities Company and Louisville Gas and Electric Company for an Order Approving the Establishment of Regulatory Liabilities and Assets*, Case No. 2018-00304.

eventual recovery in Case Nos. 2018-00295 and 2018-00294.”<sup>2</sup> In support of the Motion, the AG cites the Companies’ request for a statement by the Commission authorizing the Companies “to accumulate in regulatory assets and defer for future recovery” the storm expenses.<sup>3</sup> The Companies’ application simply requests authority to use deferral accounting for the purpose of making the proposed regulatory asset and liability accounting entries for consideration and recovery of the respective costs and revenues in the pending rate case proceedings.<sup>4</sup> The Companies have made identical requests in past cases in which they sought and received approval to establish regulatory assets for storm damage expenses.<sup>5</sup> Each time, when approving the use of the deferral accounting, the Commission qualified the approval with terms such as “the authorization of a regulatory asset is not an assurance that these costs will be recovered in rates.”<sup>6</sup>

More than 13 years ago, when establishing its policy of requiring prior approval for regulatory assets, the Commission explicitly recognized that its review of deferral accounting requests “will be limited to accounting treatment of the proposed deferral and will not address the likelihood of recovery of the expense in any future rate proceeding.”<sup>7</sup> The Commission has further noted when approving the establishment of a regulatory asset for LG&E’s storm-related expenses that “[a] decision on rate recovery will be made only after fully examining the

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<sup>2</sup> Motion at 4. In a conflicting portion of the Motion, the AG recognizes that the Companies are only requesting approval of the regulatory accounting treatment in this case; the recovery of these costs will be considered in the Companies’ pending base rate cases. Motion at 3 (“In fact, the Companies’ Application notes that if the Commission grants the regulatory accounting treatment for storm-related costs, the Companies will request recovery of those costs in their current pending base rate cases.”).

<sup>3</sup> Application at 10.

<sup>4</sup> Application at 11.

<sup>5</sup> See, e.g., *In the Matter of: Application of Louisville Gas and Electric Company for an Order Approving the Establishment of a Regulatory Asset*, Case No. 2011-00380, Application at 10 (Ky. PSC filed Sept. 20, 2011).

<sup>6</sup> See e.g., *In the Matter of: Application of Louisville Gas and Electric Company for an Order Approving the Establishment of a Regulatory Asset*, Case No. 2011-00380, Order at 4 (Ky. PSC Dec. 27, 2011).

<sup>7</sup> *In the Matter of: Adjustment of the Rates of Kentucky-American Water Company*, Case No. 2004-00103, Order at 37 (Ky. PSC Feb. 28, 2005).

reasonableness of these costs in the context of a future rate case.”<sup>8</sup> The Commission’s December 12, 2016 decision in Case No. 2016-00180 only reconfirms the Commission’s precedent for and policy of requiring prior-approval of deferral accounting to create regulatory assets for recording the cost of storm damages.<sup>9</sup>

Indeed, the Commission’s regulations do not require a hearing be held in this proceeding. 807 KAR 5:001, Section 9 provides that a hearing is not required if “a hearing is not required by statute, is waived by the parties in the case, or is found by the commission to be unnecessary for protection of substantial rights or not in the public interest.” In this case, no statute requires a hearing; and the requested hearing is neither necessary for the protection of substantial rights nor in the public interest. Under established Commission precedent, a hearing in this proceeding is not necessary for the protection of substantial rights because the hearing regarding the reasonableness of the storm expenses and the associated amortization period will be held in the Companies’ pending base rate cases without prejudice to the AG’s rights to contest the reasonableness of the storm expenses or their recovery in rates.<sup>10</sup> To the extent the AG has questions about the Companies’ request for relief and the representations made in this Response, the AG can request further explanation through the supplemental data requests due October 29, 2018. A hearing thus is not required or necessary. And, for the same reasons, an unnecessary hearing in this case is not in the public interest. The AG’s Motion should be denied.

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<sup>8</sup> *In the Matter of: Application of Louisville Gas and Electric Company for an Order Approving the Establishment of a Regulatory Asset*, Case No. 2011-00380, Order at 4 (Ky. PSC Dec. 27, 2011).

<sup>9</sup> *Application of Kentucky Power Company for an Order Approving Accounting Practices to Establish Regulatory Assets and Liabilities Related to the Extraordinary Expenses incurred by Kentucky Power Company in Connection with Two 2015 Major Storm Events*, Case No. 2016-00180, Order (Ky. PSC Dec. 12, 2016) at 4.

<sup>10</sup> *Electronic Application of Kentucky Utilities Company for an Adjustment of Its Electric Rates*, Case No. 2018-00294; and *Electronic Application of Louisville Gas and Electric Company for an Adjustment of Its Electric and Gas Rates*, Case No. 2018-00295.

The Commission's process for reviewing and approving a utility's use of deferral accounting is well-established and is not a new process as the Motion asserts. For many years, the Commission has allowed, subject to prior approval by the Commission, the recording of regulatory assets to account for storm-related expenses.<sup>11</sup> The "exception" alleged in the Motion solely concerns timing and does not substantively change the Commission's prior-approval policy whether deferral accounting should be used.<sup>12</sup>

The Motion also mischaracterizes the Companies' past requests for storm-related regulatory assets. Citing the Companies' references to prior regulatory asset approvals in their application, the Motion contends that "the Companies are requesting deferral accounting for storm-related expenses more often, and increasingly for smaller and smaller amounts."<sup>13</sup> Prior to this proceeding, the last request for a regulatory asset for storm-related expenses by either company was in 2011, approximately seven years ago. While the request in 2011 was for a smaller amount than the Companies' previous request in 2009, the Companies' past requests for storm-related regulatory asset treatment do not exhibit a pattern of requesting deferral accounting more frequently and for "smaller and smaller amounts" as the Motion asserts.

The Commission's September 19, 2018 Scheduling Order in this proceeding was clear when it stated, "The Commission does not look favorably upon motions for continuance. Accordingly, motions for extensions of time with respect to the schedule herein shall be made in writing and will be granted only upon a showing of good cause."<sup>14</sup> Although the Motion asserts it is made "not a[s] continuance or an extension of time,"<sup>15</sup> the untimely Motion will delay this

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<sup>11</sup> See, e.g., *In the Matter of: Adjustment of the Rates of Kentucky-American Water Company*, Case No. 2004-00103, Order at 37 (Ky. PSC Feb. 28, 2005).

<sup>12</sup> Motion at 3-4.

<sup>13</sup> Motion at 3.

<sup>14</sup> Scheduling Order at 3 (Ky. PSC Sept. 19, 2018).

<sup>15</sup> Motion at 2.

proceeding. The Motion was filed six weeks after the Companies filed their application and five weeks after the Commission issued the Scheduling Order in this proceeding.

The Motion requests a hearing “even as early as November 15, 2018,”<sup>16</sup> which is conveniently two days after the AG, and many other intervening parties, will have propounded discovery on the Companies in their pending rate cases, but to the great burden of the Companies who will be preparing responses to hundreds of data requests from the AG and other parties. The untimely Motion does not show good cause to justify an amendment to the procedural schedule.

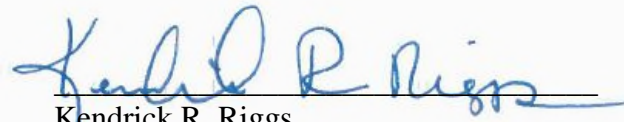
**WHEREFORE,** Louisville Gas and Electric Company and Kentucky Utilities Company respectfully ask the Kentucky Public Service Commission to deny the Attorney General’s *Motion to Amend the Procedural Schedule and Schedule a Hearing.*

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<sup>16</sup> Motion at 5.

Dated: October 26, 2018

Respectfully submitted,

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

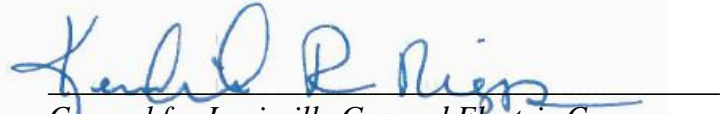
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and Kentucky Utilities Company*

**CERTIFICATE OF COMPLIANCE**

In accordance with 807 KAR 5:001 Section 8(7), this is to certify that Louisville Gas and Electric Company's and Kentucky Utilities Company's October 26, 2018 electronic filing is a true and accurate copy of the documents being filed in paper medium; that the electronic filing was transmitted to the Commission on October 26, 2018; 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 filing will be filed with the Commission within two business days from the date of the electronic filing.



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*Kenneth R. Rieps*  
*Counsel for Louisville Gas and Electric Company*  
*and Kentucky Utilities Company*