

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF KENTUCKY UTILITIES)
COMPANY FOR AN ORDER APPROVING THE) CASE NO.
ESTABLISHMENT OF A REGULATORY ASSET) 2009-00174

O R D E R

On April 30, 2009, Kentucky Utilities Company (“KU”) filed an application seeking authority to establish a regulatory asset for its operation and maintenance costs incurred in connection with restoring electric service to its customers following the 2009 ice storm and subsequent wind storm that impacted much of Kentucky from January 26, 2009 through mid-February 2009. In its application, KU states that, at the peak of the ice storm, approximately 199,000 customers, or roughly 39 percent of its customer base, were without electricity. As a result of the subsequent wind storm, approximately 44,000 KU customers experienced outages. (The storms are collectively referred to herein as the “2009 Winter Storm”.) KU also states that, at the peak of the restoration efforts, it and its sister company, Louisville Gas and Electric Company (“LG&E”), dispatched more than 6,016 employees and contractors. KU further states that the cost it incurred to repair the resulting damage far exceeds the \$2.6 million in storm damage expense currently embedded in its base rates.¹

¹ Case No. 2008-00251, Application of Kentucky Utilities Company for an Adjustment of Electric Base Rates (Ky. PSC Feb. 5, 2009).

Kentucky Industrial Utility Customers, Inc. ("KIUC") was granted intervention in this matter. A procedural schedule was established which provided for two rounds of discovery and for the filing of intervenor testimony or comments. Commission Staff issued two rounds of data requests. KIUC submitted no data requests, testimony or comments. In response to our July 31, 2009 Order, KU and KIUC submitted filings stating that this case could be decided on the existing evidence of record. The case now stands submitted for decision.

KU'S POSITION

In its application, KU projected that, as of April 20, 2009, its 2009 Winter Storm-related operation and maintenance costs would exceed \$61.8 million. Citing the magnitude of these costs, KU requests permission to record its actual 2009 Winter Storm-related costs as a regulatory asset and to defer such costs for future rate recovery. KU contends that the measures it took to restore service, and the related costs, were reasonable and prudent, and should be recoverable as a necessary cost of providing electric service to its customers.

KU relies upon prior Commission decisions granting similar accounting treatment to both KU and LG&E for extraordinary storm damages. Most recently, in Case Nos. 2008-00456 and 2008-00457,² LG&E and KU were authorized to establish regulatory assets related to storm damage from Hurricane Ike. In Case

² Case No. 2008-00456, Application of Louisville Gas and Electric Company for an Order Approving the Establishment of a Regulatory Asset (Ky. PSC Dec. 22, 2008); Case No. 2008-00457, Application of Kentucky Utilities Company for an Order Approving the Establishment of a Regulatory Asset (Ky. PSC Dec. 22, 2008).

No. 2003-00434,³ KU was allowed to defer and amortize a portion of its 2003 ice storm damage expenses. In Case No. 6220,⁴ LG&E was authorized to defer and amortize storm-related costs in the aftermath of the 1974 tornado.

In the instant case, KU claims that such accounting treatment will allow it to make appropriate adjustments on its books of account and remove its extraordinary storm-related costs as expenses on its books for calendar year 2009.

KU requested approval of its request by no later than June 30, 2009 to avoid distortion of its second-quarter 2009 financial statements.⁵ In its application and in responses to Commission Staff data requests, KU states that it will only seek recovery of actual costs incurred and not for any estimates or contingencies.⁶ In response to Commission Staff's initial data request, KU indicated it expects the final actual operations and maintenance costs to be known by September 30, 2009.

DISCUSSION

KU's 2009 Winter Storm-related damage and service restoration costs are clearly extraordinary in nature based on their absolute magnitude and the amount of storm damage expenses built into KU's rates. Reflecting the 2009 Winter Storm costs as expenses on KU's 2009 books would have a significant impact on its 2009 financial

³ Case No. 2003-00434, An Adjustment of the Electric Rates, Terms, and Conditions of Kentucky Utilities Company (Ky. PSC June 30, 2004).

⁴ Case No. 6220, General Adjustments in Electric and Gas Rates of Louisville Gas and Electric Company (Ky. PSC Feb. 28, 1975).

⁵ Due to the need to investigate the reasonableness of KU's request, it was not possible to conclude this case by June 30, 2009.

⁶ As of June 30, 2009, KU's actual costs were approximately \$52.5 million: updated response to Item 1 of Commission Staff's Second Data Request.

results. The number of customers without electric service dictated an extraordinary effort on the part of KU to restore service, an effort which resulted in its incurring an extraordinarily high level of costs. Given the nature and impact of these costs, the Commission will authorize KU to establish a regulatory asset based on its actual storm-related costs for its damages and service restoration costs incurred as a result of the 2009 Winter Storm.

KU has stated its understanding that amortization and rate recovery of any approved regulatory asset will not be considered until the Commission has completed its review of the impacts of Hurricane Ike and the 2009 Winter Storm. This review is examining how KU, LG&E, and other affected utilities responded to Hurricane Ike and the 2009 Winter Storm. The review, which is ongoing at this time, will examine not only the efforts to restore service, but also preparation for major outages, communication with customers and coordination with local governments. As was stated in our Order in Case No. 2008-00457 concerning its Hurricane Ike-related costs, KU's 2009 Winter Storm-related costs should not be considered for rate recovery until such time as the aforementioned review is complete.

SUMMARY

The Commission finds that KU should be allowed to create and record a regulatory asset for its actual costs incurred to restore service during the 2009 Winter Storm, not to exceed its June 30, 2009 projection of \$61.9 million. Further, the Commission agrees with KU's proposal that the regulatory asset should include only actual costs incurred, plus deferrals for estimated costs until those costs are known.⁷

⁷ Paragraph 13 of page 8 of KU's April 30, 2009 Application.

The actual amount of all costs to be recorded as an asset is expected to be known by September 30, 2009. A downward adjustment to the amount of the regulatory asset will be necessary if total actual costs are less than the amount being approved herein. In the event that KU's total actual costs exceed \$61.9 million, the excess should be expensed. The Commission would not be meeting its regulatory responsibilities if, under the circumstances of unusual or extraordinary storm damage costs, it authorized a utility to create an "open-ended" regulatory asset.

IT IS THEREFORE ORDERED that:

1. KU is authorized to establish a regulatory asset in the amount of \$61.9 million, based on its costs for storm damages and service restoration due to the winter storm occurring January 26, 2009 through February 14, 2009.

2. As its total actual 2009 Winter Storm costs become known, KU shall adjust the amount of the asset downward if the total is less than \$61.9 million.

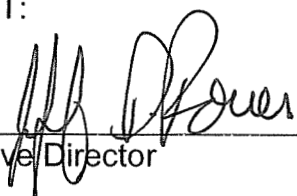
3. KU shall file the accounting entries it makes to establish and record the regulatory asset authorized herein.

4. The issues of amortization and rate recovery of the regulatory asset authorized herein will not be considered until after the Commission completes its review of the disaster preparedness and storm restoration efforts of the utilities under its jurisdiction.

By the Commission

ENTERED
SEP 30 2009 *M*
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:



Executive Director

Honorable Michael L Kurtz
Attorney at Law
Boehm, Kurtz & Lowry
36 East Seventh Street
Suite 1510
Cincinnati, OH 45202

Rick LoveKamp
Kentucky Utilities Company
220 West Main Street
P. O. Box 32010
Louisville, KY 40202

Honorable Kendrick R Riggs
Attorney at Law
Stoll Keenon Ogden, PLLC
2000 PNC Plaza
500 W Jefferson Street
Louisville, KY 40202-2828

Honorable Allyson K Sturgeon
Senior Corporate Attorney
E.ON U.S. LLC
220 West Main Street
Louisville, KY 40202