

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC 2024 JOINT INTEGRATED)	
RESOURCE PLAN OF LOUISVILLE GAS AND)	CASE NO.
ELECTRIC COMPANY AND KENTUCKY)	2024-00326
UTILITIES COMPANY)	

ORDER

On March 28, 2025, Louisville Gas & Electric Company (LG&E) and Kentucky Utilities Company (KU) (jointly, LG&E/KU), pursuant to 807 KAR 5:001, Section 5(3), filed a joint motion to amend the procedural schedule (LG&E/KU's Joint Motion)¹ moving the Commission to cancel the hearing scheduled in this case for May 13, 2025.² On April 4, 2025, Kentuckians for the Commonwealth, Kentucky Solar Energy Society, Metropolitan Housing Coalition, and Mountain Association (collectively, Joint Intervenors) filed a response to the Joint Motion (Joint Intervenors' Response) objecting to LG&E/KU's Joint Motion.³ On April 8, 2025, LG&E/KU filed a reply to Joint Intervenors' Response (LG&E/KU's Reply).⁴ No other intervenors filed responses to the Joint Motion. LG&E/KU's Joint Motion is now before the Commission for a decision.

¹ Case No. 2024-00326, *Joint Motion of Louisville Gas and Electric Company and Kentucky Utilities Company to Amend Procedural Schedule* (Ky. PSC March 28, 2025) Motion.

² Case No. 2024-00326, *Electronic 2024 Joint Integrated Resource Plan of Louisville Gas and Electric Company and Kentucky Utilities Company* (Ky. PSC Jan. 21, 2025) Order.

³ Case No. 2024-00326, *Joint Intervenor's Response to Joint Motion of Louisville Gas and Electric Company and Kentucky Utilities Company to Amend Procedural Schedule* (Ky. PSC April 4, 2025) Motion.

⁴ Case No. 2024-00326, *Joint Reply of Louisville Gas and Electric Company and Kentucky Utilities Company to Joint Intervenors' Response to Motion to Amend Procedural Schedule* (Ky. PSC April 8, 2025) Motion.

BACKGROUND

LG&E/KU's Joint Motion made two fundamental arguments: (1) that conducting the hearing "would be inconsistent with the Commission's Integrated Resource Plan ("IRP") regulation (807 KAR 5:058) and the Commission's explicit rejection of such hearings in creating the IRP regulation[;]" and, (2) that holding the hearing would be "administratively inefficient" because the Commission had already scheduled a hearing in Case No. 2025-00045,⁵ and LG&E/KU expects to imminently file base rate applications.⁶

More specifically, LG&E/KU argued that the IRP regulation fully prescribes the procedural elements of an IRP proceeding and does not provide for such a hearing.⁷ LG&E/KU stated that Kentucky's highest court has long held that administrative agencies must abide by their own regulations, which they may change only through the appropriate processes under KRS Chapter 13A, and that the IRP regulation neither requires nor permits holding hearings in an IRP proceeding.⁸ LG&E/KU argued that when the Commission established the IRP regulation it "intentionally and explicitly rejected holding

⁵ LG&E/KU's Joint Motion at 1(citing Case No. 2025-00045, *Electronic Joint Application of Kentucky Utilities Company and Louisville Gas and Electric Company for Certificates of Public Convenience and Necessity and Site Compatibility Certificates* (Ky. PSC Mar. 13, 2025), Order at 3).

⁶ LG&E/KU's Joint Motion at 1. Since LG&E/KU filed its Joint Motion, the Companies have individually filed applications to adjust their base rates. See Case No. 2025-00114, *Electronic Application of Louisville Gas and Electric Company for an Adjustment of its Electric and Gas Rates and Approval of Certain Regulatory and Accounting Treatments* (Ky. PSC Apr. 4, 2025), Louisville Gas and Electric Company's Notice of Intent; Case No. 2025-00113, *Electronic Application of Kentucky Utilities Company for an Adjustment of its Electric Rates and Approval of Certain Regulatory and Accounting Treatments*, (Ky. PSC Apr. 4, 2025), Kentucky Utilities Company's Notice of Intent.

⁷ Joint Motion at 2.

⁸ Joint Motion at 2.

any hearings in IRP proceedings.”⁹ LG&E/KU referenced the history of the IRP regulation which it stated shows that initial drafts included requirements for hearings, which was removed prior to the original issuance of the regulation in 1990.¹⁰ Moreover, LG&E/KU pointed to the fact that the Commission’s latest revision of the regulation removed any reference to KRS 278.310, and instead relied only on KRS 278.040(3) and KRS 278.230(3).¹¹ LG&E/KU stated that because the regulation did not explicitly allow for deviations, the Commission was bound entirely by the confines of 807 KAR 5:058.¹²

The Joint Intervenors, in contrast, disagreed with LG&E/KU’s interpretation of the IRP regulation.¹³ Joint Intervenors argued that the Commission enjoys exclusive jurisdiction over the regulation of rates and services by utilities, and with it, ample authority to schedule hearings in both formal and informal proceedings. Joint Intervenors asserted that in some instances holding a hearing is mandatory, but in all others, the Commission may hold formal or informal hearings as it deems appropriate to enforce provisions of KRS Chapter 278 and secure the public’s interest in just and reasonable rates. Joint Intervenors noted that:

KRS 278.040(3) provides, in pertinent part: “The commission may adopt . . . reasonable regulations . . . and investigate the methods and practices of utilities to require them to conform to the laws of this state[.]” KRS 278.310 grants the Commission the power to hold hearings and conduct investigations concerning all matters within its jurisdiction.¹⁴

⁹ Joint Motion at 8.

¹⁰ Joint Motion at 4.

¹¹ Joint Motion at 7.

¹² Joint Motion at 6.

¹³ Joint Intervenor’s Response at 1-4.

¹⁴ Joint intervenor’s Response at 2.

Joint Intervenors argued that LG&E/KU are mistaken in suggesting that the Commission must restate, in every regulation, its broad authority to investigate utilities through hearings, in order for that power and discretion to extend to all matters within the Commission's exclusive jurisdiction.¹⁵ Joint Intervenors argued that the deviation provision in 807 KAR 5:001, Section 22 could be applied to the IRP regulation and noted that a hearing was held in the case cited by LG&E/KU for the prospect that a hearing is not permitted in IRP proceedings.¹⁶ Joint Intervenors argued that a hearing in this matter is soundly within the Commission's plenary authority to regulate monopoly electric utilities; that a hearing will be administratively efficient, and that a hearing is in the public interest.¹⁷

LEGAL STANDARD

KRS 278.040(1) requires the Commission to regulate utilities and enforce the provisions of KRS Chapter 278. KRS 278.040(2) states that the jurisdiction of the Commission extends to all utilities in this state, and that the Commission "shall have exclusive jurisdiction over the regulation of rates and service of utilities." KRS 278.040(3) permits the Commission to "adopt, in keeping with KRS Chapter 13A, reasonable regulations to implement the provisions of KRS Chapter 278 and investigate the methods and practices of utilities."

KRS 278.250 permits the Commission to investigate and examine the condition of any utility subject to its jurisdiction, "with or without a hearing as it deems best."

¹⁵ Joint intervenor's Response at 2.

¹⁶ Joint intervenor's Response at 3-4.

¹⁷ Joint intervenor's Response at 3-9.

KRS 278.260(1) authorizes the Commission, upon its own motion or upon receipt of a written complaint, to investigate a utility's rates and any service in connection therewith, and states that "[n]o order affecting the rates or service complained of shall be entered by the commission without a formal public hearing." KRS 278.310 states that: "[a]ll hearings and investigations before the commission or any commissioner shall be governed by rules adopted by the commission, and in the conduct thereof neither the commission nor the commissioner shall be bound by the technical rules of legal evidence."

807 KAR 5:058 generally requires electric utilities in Kentucky to file integrated resource plans with the Commission every three years and establishes certain procedures applicable to the Commission's review of integrated resource plans. 807 KAR 5:058, Section 2(3) states that "[u]pon receipt of a utility's integrated resource plan, the commission shall establish a review schedule which may include interrogatories, comments, informal conferences, and staff reports." 807 KAR 5:058, Section 11 states:

- (1) Upon receipt of a utility's integrated resource plan, the commission shall develop a procedural schedule which allows for submission of written interrogatories to the utility by staff and intervenors, written comments by staff and intervenors, and responses to interrogatories and comments by the utility.
- (2) The commission may convene conferences to discuss the filed plan and all other matters relative to review of the plan.
- (3) Based upon its review of a utility's plan and all related information, the commission staff shall issue a report summarizing its review and offering suggestions and recommendations to the utility for subsequent filings.
- (4) A utility shall respond to the staff's comments and recommendations in its next integrated resource plan filing.

Commission regulation 807 KAR 5:001 establishes generally applicable rules of procedure for formal and informal proceedings before the Commission, including how applications, motions, and other papers should be served and filed, how motions for intervention and confidentiality should be addressed, and how requests for information should be answered and served. Section 9(1) of 807 KAR 5:001 specifies the circumstances in which the Commission must conduct hearings,¹⁸ and other provisions of 807 KAR 5:001 establish notice and other generally applicable rules governing hearings before the Commission. Additionally, 807 KAR 5:001, Section 22, titled “Deviations from Rules[]” states that “[i]n special cases, for good cause shown, the commission may permit deviations from these rules.”

DISCUSSION AND FINDINGS

Nothing in 807 KAR 5:058 prohibits the Commission from conducting a hearing for the purpose of reviewing a utility’s IRP. While 807 KAR 5:058, Section 2(3) and Section 11 provide a listing of examples, those examples are not exclusive as asserted by LG&E/KU. As noted above, KRS Chapter 278 expressly authorizes the Commission to conduct hearings, in its discretion, to investigate regulated utilities and at times the Commission is required to conduct such hearings. The language of 807 KAR 5:058,

¹⁸ The language states specifically that:

Unless 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, the commission shall conduct a hearing if:

- (a) An order to satisfy or answer a complaint has been made and the person complained of has not satisfied the complaint; or
- (b) A request for hearing has been made.

Section 2(3) and Section 11 and the circumstances under which that regulation was adopted do not indicate an intent to limit that statutory authority.

Rather, the Commission, in amending a draft version of a proposed IRP regulation, eliminated language expressly requiring a hearing as part of the IRP review procedure.¹⁹ However, the elimination of a requirement in a draft document does not abrogate the Commission's authority to conduct hearings in this context. Further, given the Commission's mandate to enforce the requirements of KRS Chapter 278, including the requirement that utility's charge "fair, just and reasonable" rates and furnish "adequate, efficient and reasonable service,"²⁰ it would not be logical to assume that the Commission, by eliminating a hearing requirement in a draft version of a regulation, intended to prohibit a hearing in an IRP case under any circumstances.

While the Commission has not always conducted hearings in IRP cases, it has conducted hearings in IRP cases more recently given the energy landscape in the Commonwealth developing rapidly and becoming more uncertain, as illustrated by LG&E/KU's IRP filing. Given the current energy environment, the Commission has exercised its authority to hold administrative hearings in most recent IRP cases. Indeed, as LG&E/KU concedes in both the Joint Motion and the Joint Reply, the Companies' prior

¹⁹ See *An Inquiry into Kentucky's Present and Future Electric Needs and the Alternatives for Meeting those Needs*, Admin. Case No. 308, Order, Appx. A pgs. 2 and 18-19 (Ky. PSC Apr. 28, 1989) (reflecting a specific requirement that the Commission hold a hearing in every IRP case, which was eliminated in the final regulation).

²⁰ See KRS 278.030(1)(2).

two IRP filings, Case Nos. 2018-00348 & 2021-00393, both included hearings without objection from LG&E/KU.²¹

Like LG&E/KU's last two IRP cases, the Commission finds that a hearing is appropriate and in the public interest. This conclusion is reflective of the current energy environment, the scale of changes proposed by LG&E/KU to be discussed in the IRP and may come before the Commission in the coming years. The Commission also does not find merit in LG&E/KU's argument that alleged administrative inefficiencies justify canceling the hearing, because while some similar topics may be addressed in the IRP and in the other cases referred to by LG&E/KU, the IRP is a unique proceeding and presents a broad review of LG&E/KU's long-term planning distinct from the CPCN or rate cases. Thus, having reviewed the record and being otherwise sufficiently advised, the Commission finds that LG&E/KU's Joint Motion should be denied.

However, while denying LG&E/KU's motion, the Commission notes that the purpose of the scheduled hearing is to obtain additional information and clarity regarding the IRP in an organized manner, and therefore, the Commission finds that the hearing should be limited to that purpose. In that regard, the examination of witnesses at the hearing should be focused on obtaining additional information regarding the data, assumptions, and methodologies used and conclusions reached in LG&E/KU's IRP. The hearing should not be used as an opportunity to conduct discovery regarding other proceedings or to rehash information that is already in the record for the purpose of highlighting such information to make points regarding the IRP or other applications. The

²¹ In Case No. 2018-00348, a hearing was conducted on September 15, 2020, and in Case No. 2021-00393, a hearing was conducted on July 12, 2022, and July 13, 2022.

Commission will entertain oral motions and objections regarding the scope of specific questions at the hearing but expects parties to make every effort to limit questions to serve the purpose of the hearing.

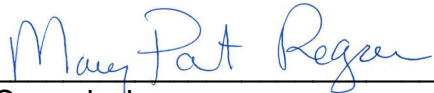
IT IS THEREFORE ORDERED that LG&E/KU's Joint Motion be and is hereby denied.

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PUBLIC SERVICE COMMISSION


Chairman

Vice Chairman


Commissioner

ATTEST:


Executive Director



Case No. 2024-00326

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