

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

**AN EXAMINATION OF THE APPLICATION)
OF THE FUEL ADJUSTMENT CLAUSE OF) CASE NO. 2016-00003
KENTUCKY UTILITIES COMPANY FROM)
MAY 1, 2015 THROUGH OCTOBER 31, 2015)**

**AN EXAMINATION OF THE APPLICATION)
OF THE FUEL ADJUSTMENT CLAUSE OF) CASE NO. 2016-00004
LOUISVILLE GAS AND ELECTRIC)
COMPANY FROM MAY 1, 2015 THROUGH)
OCTOBER 31, 2015)**

**POST HEARING BRIEF OF
KENTUCKY UTILITIES COMPANY AND
LOUISVILLE GAS AND ELECTRIC COMPANY**

INTRODUCTION

These proceedings involve a review of the operation of the fuel adjustment clauses (“FACs”) of Kentucky Utilities Company (“KU”) and Louisville Gas and Electric Company (“LG&E”) (collectively “the Companies”). During the proceedings, Kentucky Public Service Commission (“Commission”) Staff has raised questions about the Commission’s existing methodology for ascertaining the eligibility of economy power purchases for recovery under the Commission’s FAC regulation, 807 KAR 5:056. The Commission Staff’s questions suggest consideration of a significant and unreasonable change from the Commission’s long-standing interpretation of its FAC regulation. This long-standing interpretation, the product of litigation before the Commission and Kentucky courts, has been affirmed by the Commission on several occasions over the last twelve years. The Companies have operated their electric generation facilities in good faith and consistent with that interpretation. Further, absent the use of the

procedures set forth in KRS Chapter 13A to modify 807 KAR 5:056, any revisions would be contrary to law and should not be adopted.

OVERVIEW OF PROCEEDINGS

On February 5, 2016, the Commission initiated these proceedings to review the operation of the Companies' FACs for the period from May 1, 2015 to October 31, 2015. Title 807 KAR 5:056, Section 1(11) requires that the Commission review a utility's past fuel adjustments at six month intervals and order the utility to charge off and amortize, by means of a temporary decrease of rates, any adjustments the Commission finds unjustified due to improper calculation or application of the FAC.

The Companies, in response to either Commission order or Commission Staff request, submitted information regarding the operation of their FACs, their fuel procurement activities, and the operation of their generation facilities. On April 7, 2016, the Commission conducted an evidentiary hearing at which witnesses for the Companies testified on the same subjects.¹

During discovery and then at hearing during its cross-examination of the Companies' witnesses, Commission Staff extensively examined the methods that the Companies use to determine if an energy purchase is purchased on an economic basis and thus recoverable through the FAC. More specifically, Commission Staff questioned how the Companies determined its highest cost generation unit,² posed several alternative methods for calculating the cost of such unit, and requested that the Companies calculate the effect of these alternative methods on its

¹ Testifying on behalf of the Companies were the following LG&E and KU Services Company employees: Mike Dotson, Manager – LG&E and KU Fuels; Derek Rahn, Manager - Revenue Requirement; Eileen L. Saunders, Director, Generation Services; Charles R. Schram, Director - Energy Planning, Analysis and Forecast; and Bob Brunner, Director - Power Supply.

² See Commission Staff's Third Request for Information to Kentucky Utilities Company, Item 4 (filed Mar. 18, 2016 in Case No. 2016-00003); Commission Staff's Third Request for Information to Louisville Gas and Electric Company, Item 4 (filed Mar. 18, 2016 in Case No. 2016-00004).

determination of the highest cost generation unit and the recovery of its energy purchases.³ Commission Staff further questioned the continued use of some generation units, given their age and limited generation capacity.⁴

ARGUMENT

1. The Commission’s Established Interpretation of 807 KAR 5:056 Regarding Economy Purchases and Economic Dispatch Continues To Be Reasonable

Title 807 KAR 5:056 requires an FAC to “provide for periodic adjustment per KWH [kilowatt hour] of sales equal to the difference between the fuel costs per KWH sale in the base period and in the current period.”⁵ This adjustment is made by multiplying an adjustment factor, which is expressed in terms of cents per KWH, by a customer’s usage to determine the monthly FAC factor. The adjustment factor is determined by subtracting the quotient of monthly “fuel costs” divided by monthly sales from the quotient of base period “fuel costs” divided by base period sales.⁶ The charge, which may be positive or negative, appears as a separate line item on the customer’s bill.

Title 807 KAR 5:056, Section 1(1) defines “fuel costs.” Only costs meeting the definition of “fuel costs” are eligible for immediate recovery through a utility’s FAC. Pursuant to Section 1(1)(c), the net energy cost of an electric utility’s energy purchases, exclusive of capacity or demand charges, is included within this definition of “fuel costs” when “such energy is purchased on an economic dispatch basis.”

³ VR 04/07/2016 10:26:39 – 10:28:30. For the Companies’ response, see Response of Kentucky Utilities Company to Information Requested In Commission’s Post Hearing Data Request, Items 3 – 5 (filed Apr. 21, 2016 in Case No. 2016-00003); Response of Louisville Gas and Electric Company to Information Requested In Commission’s Post Hearing Data Request, Items 3 – 5 (filed Apr. 21, 2016 in Case No. 2016-00004).

⁴ VR 04/07/2016 10:30:10; 10:34:05.

⁵ 807 KAR 5:056, Section 1(1).

⁶ *Id.*

In the twenty years following the FAC regulation's promulgation, the Commission consistently approved the recovery of economy purchase power through the Companies' FACs, but did not address or define economic dispatch or economy purchases as the terms are used in the FAC Regulation. Then, in Case No. 96-523,⁷ Kentucky Industrial Utility Customers and the Attorney General challenged, among other things, KU's recovery through its FAC of the total energy charges associated with energy purchases from Owensboro Municipal Utilities ("OMU"). KU contended these purchases were economically dispatched purchases because KU's production costs for the twelve month planning period used to plan its generation activities were higher than the cost of OMU power. Seeking disallowance of non-fossil fuel costs included in the total energy charge, the intervenors argued that the purchases should not be considered as economically dispatched since they occurred under a long-term contract and because KU could not demonstrate on an hourly basis that the total energy charge of the purchased energy was lower than KU's total energy cost of production.⁸

While the Commission found errors in KU's calculation of its FAC charge on other grounds,⁹ it found insufficient evidence to conclude that KU's treatment of energy purchases was not economically dispatched and it permitted recovery of the energy charges through KU's FAC. It noted, however, the absence of a clear definition of "economic dispatch," observing that its

⁷ Case No. 96-523, *An Examination by the Public Service Commission of the Application of Fuel Adjustment Clause of Kentucky Utilities Company from November 1, 1994 to October 31, 1996* (Ky. PSC initiated Nov. 14, 1996). Case No. 96-523 involved a two-year review of the operation of KU's FAC, which 807 KAR 5:056, Section 1(12) requires. In this proceeding, the Commission incorporated the record of earlier six month review proceedings. The issues surrounding the recovery of the cost of KU energy purchases from Owensboro Municipal Utilities were first raised in one of these earlier reviews. See Case No. 94-461-A, *An Examination by the Public Service Commission of the Application of Fuel Adjustment Clause of Kentucky Utilities Company from November 1, 1994 to April 30, 1995* (Ky. PSC initiated June 27, 1995). On July 15, 1999, the Commission consolidated these earlier proceedings with Case No. 96-523. For purposes of simplicity, reference is made to Case No. 96-523 only.

⁸ Case No. 96-523, Order of July 15, 1999 at 23-25.

⁹ The Commission found that, when calculating the cost of fuel recovered from intersystem sales, KU had not included the cost of fuel associated with line losses incurred to make those intersystem sales and ordered KU to reduce its fuel costs by \$4,235,044 to reflect unreported recovered fuel costs. *Id.* at 27-28.

search of Commission orders had failed to reveal any prior Commission order in which the term was discussed or defined. The Commission remarked that “[e]xisting precedent provides no guide to defining ‘economic dispatch.’”¹⁰ The Commission found “that a strong need exists for a clear definition of economic dispatch” and indicated that it would establish a proceeding to address the issue with a view to establishing such definition.”¹¹

While the Commission did not initiate such a proceeding, it continued to examine the issue of economic dispatch in other FAC review proceedings involving KU and LG&E.¹² And, KU and KIUC brought actions for review of the Commission’s Order in Case No. 96-523 and of Commission orders in subsequent KU FAC review proceedings in the Franklin Circuit Court. These actions were eventually consolidated with similar actions that sought judicial review of Commission Orders issued in proceedings involving the review of the operation of LG&E’s FAC.¹³

After almost two years of extensive litigation, representatives of the Companies, the intervening parties, and Commission Staff reached a unanimous agreement to resolve all outstanding judicial and administrative proceedings¹⁴ and submitted it to the Commission. Article 2.0 of this Agreement, a copy of which is attached as Exhibit A to this Brief, set forth a

¹⁰ *Id.* at 25.

¹¹ *Id.* at 26.

¹² *See, e.g.*, Commission Staff’s Interrogatories and Requests for Production of Documents to Kentucky Utilities Company (filed May 30, 2001 in Case No. 2000-497, *An Examination by the Public Service Commission of the Application of Fuel Adjustment Clause of Kentucky Utilities Company from November 1, 1998 to October 31, 2000* (Ky. PSC initiated Dec. 12, 2000)).

¹³ In separate proceedings, the Commission found that, when calculating the cost of fuel recovered from intersystem sales, LG&E had also failed to include the cost of fuel associated with line losses incurred to make those intersystem sales. It had ordered reductions in LG&E’s fuel costs to reflect unreported recovered fuel costs. *See* Case No. 96-524, *An Examination by the Public Service Commission of the Application of Fuel Adjustment Clause of Louisville Gas and Electric Company from November 1, 1994 to October 31, 1996* (Ky. PSC Feb. 9, 1999).

¹⁴ For a detailed summary of the litigation regarding the operation of the Companies’ FACs, see Exhibit A at Apps. A and B. In sum, the litigation involved Commission decisions in 12 administrative proceedings that resulted in four actions for review in Franklin Circuit Court. The judgments on the actions for review resulted in four appeals to the Kentucky Court of Appeals. The Agreement also resolved four administrative proceedings that were still pending before the Commission.

recommended interpretation of 807 KAR 5:056, Section 1(3)(c) that specifically defined economy power purchases and applied to all fuel costs that the Companies incurred on and after November 1, 2001. This interpretation provided:

The purchase power price of all “economy power purchases” shall be permitted to be recovered through LG&E's and KU's respective FACs.

“Economy power purchases” will mean purchases made to serve native load, which displace the utility's higher cost of generation and have an energy cost that is less than the utility's avoided variable cost of generation.

“Non-economy power purchases” will mean purchase made to serve native load at a purchase power price greater than the avoided variable cost of the utility's highest cost generating unit available to be dispatched during an expense month to serve native load. If the purchase price includes separate demand and energy charges, the energy cost referred to above will be equal to the total of the energy charges included in the purchase price. If the purchase price consists of a total charge per unit of energy, with no separate demand and energy charges, the energy cost referred to above will be equal to the total charge, per unit, for the purchased power.¹⁵

Finding that the agreement represented “a reasonable resolution to several vexing and contentious issues that have consumed significant amounts of the parties’ and the Commission’s time and resources for the last six years,”¹⁶ the Commission on May 17, 2002 approved the agreement. The Commission took special note of the Agreement’s provision regarding the recovery of purchased power costs and found that the recommended interpretation of 807 KAR 5:056 “is consistent with the literal language of the administrative regulation and . . . should greatly enhance and expedite future reviews of all jurisdictional electric utilities’ FACs by providing a consistent framework for the treatment of purchased power costs.”¹⁷

¹⁵ Exhibit A at 2-3.

¹⁶ Case No. 96-524, Order of May 17, 2002 at 7.

¹⁷ *Id.*

Just prior to its approval of the Agreement and adoption of the recommended interpretation, the Commission set forth a virtually identical interpretation of recoverable economy power purchases in its reviews of other electric utilities' FAC. In orders involving its review of the operation of the FACs of East Kentucky Power Cooperative and Kentucky Power Company, the Commission declared that economy energy purchases recoverable through a FAC are those "that an electric utility makes to serve native load, that displace its higher cost of generation, and that have an energy cost less than the avoided variable generation cost of the utility's highest cost generating unit available to serve native load during that FAC expense month."¹⁸ Noting its intent to apply this interpretation to all electric utilities and all electric energy purchases, the Commission further stated:

[T]his interpretation is consistent with the letter and the spirit of Administrative Regulation 807 KAR 5:056. **It should ensure a uniform treatment of fuel costs by all electric utilities subject to our jurisdiction**, provide a greater degree of certainty as to the fuel expenses eligible for recovery through a FAC, and encourage reasonable and economically efficient energy procurement practices, while continuing to protect the interests of utility ratepayers.¹⁹

The Commission has not revised or modified this definition of recoverable economy power purchases and it continues to remain in effect.

2. The Companies' Determinations of their Highest Cost Units Are Consistent with the Commission's Longstanding Interpretation of 807 KAR 5:056 and Reasonable.

¹⁸ Case No. 2000-00495-B, *An Examination By The Public Service Commission of the Application of the Fuel Adjustment Clause of American Electric Power Company from May 1, 2001 to October 31, 2001* (Ky. PSC May 2, 2002) at 4; Case No. 2000-00496-B, *An Examination By The Public Service Commission of the Application of the Fuel Adjustment Clause of East Kentucky Power Cooperative, Inc. from May 1, 2001 to October 31, 2001* (Ky. PSC May 2, 2002) at 4.

¹⁹ Case No. 2000-00495-B, Order of May 2, 2002 at 5 (emphasis added); Case No. 2000-00496-B, Order of May 2, 2002 at 5 (emphasis added).

Under the Commission’s longstanding interpretation of its FAC regulation, the Companies must determine the avoided variable generation cost of their highest cost generating unit available to be dispatched to serve their native load customers. Since the Commission’s acceptance of the 2002 Agreement, the Companies have followed the same procedure to implement that interpretation. Each month each Company reviews the forecasted generating cost for each unit available for dispatch based on the product of its heat rate at maximum load and its forecasted delivered fuel cost. The unit with the maximum forecasted generating cost is the highest cost unit.²⁰ The cost of this unit is the standard for determining whether an energy purchase qualifies as an economy energy purchase for FAC purposes.

Through its questions, Commission Staff raised three alternative methods to calculate the highest cost unit: (1) Using actual generation costs during an expense month rather than forecasted generation costs; (2) Using an average of the unit’s generation costs at minimum generation and at maximum generation; and (3) Using an average of the highest and lowest cost of natural gas during the expense month if the generation unit is gas-fired.²¹

These alternative methods of calculating the highest cost generating unit are neither reasonable nor consistent with the Commission’s interpretation. First, use of actual costs is impractical. The Companies must employ forecasts to make real time purchasing and dispatch decisions. They do not have the luxury of hindsight necessary to calculate actual costs of generation. Moreover, if a high cost unit is not operated, no “actual costs” exist to make the necessary calculations. For example, the Haefling Units did not operate for four of the six months during the review period. This inactivity does not alter the fact they were available and would

²⁰ See, e.g., KU’s Response to Commission Staff’s Third Request for Information, Item 4 (filed Mar. 28, 2016 in Case No. 2016-00003).

²¹ VR 04/07/2016 10:26:39 – 10:28:30.

have been the highest cost generation units if operated. Finally, the use of actual costs ignores that the Commission has permitted the use of forecasted costs since 2002 when it adopted its interpretation of recoverable economic energy purchases.

As it relates to the Companies' generation fleets, using an average of the unit's generation costs at minimum generation and at maximum generation is neither realistic nor beneficial to utility customers. The Companies target the operation of the higher cost natural gas turbines such as Zorn Unit 1 and Haefling Units at maximum output level, which coincides with their most efficient heat rate. These units are not dispatched as load-following units and are normally operated at a set capability. Operating these units at less than full load lowers these units' efficiency and will result in higher generation costs.

The averaging of natural gas costs will have no effect on KU's calculations and LG&E's calculations. For the Haefling unit, KU receives firm natural gas service from Columbia Gas of Kentucky. It therefore purchases natural gas at a tariffed rate. For the Zorn unit, LG&E's electric operations obtain its natural gas from LG&E's gas operations. These costs are unlikely to vary significantly during the FAC expense month.

As shown in Exhibit B, which lists the monthly highest cost units available to be dispatched since 2006, Zorn Unit 1 and the Haefling Units have generally been the highest cost units for LG&E and KU respectively. This occurrence is not unusual nor does it represent any effort on the Companies' part to inflate the cost of the highest cost unit or otherwise distort the process. The unit with the maximum forecasted generating cost generally tends to be an older, less efficient combustion turbine unit.

Zorn Unit 1 and the Haefling Units serve an important function in the Companies' generation fleet. They enable the Companies to maintain an adequate reserve margin and remain

valuable assets especially at peak usage periods. Because of their higher cost of operation, they are dispatched appropriately, generally at peak usage periods and much less frequently than lower cost units or primary combustion turbines.

Zorn Unit 1 also serves an important auxiliary mission. Under the terms of a 1968 Agreement with Louisville Water Company (“LWC”), LG&E constructed the Zorn Unit 1 adjacent to LWC’s pumping facilities and agreed that Zorn Unit 1 would serve as a backup source of power to those facilities in the event of a major power outage.²² This contractual obligation remains in effect. LG&E continues to receive an annual payment from LWC for this arrangement.

The Companies periodically perform high-level condition and performance assessments on its units, including Zorn Unit 1 and the Haefling Units. The most recent assessment concluded that these units could operate reliably for the foreseeable future provided that the units continued to be appropriately operated and maintained.²³ The Companies, therefore, have no current plans to retire these units. These plans are subject to revisions if an event requiring significant investment in a unit, such as change in existing environment laws or a catastrophic failure at the generating plant, occurred.

In summary, the Companies have applied the same methodology to calculate the highest cost generating unit available to be dispatched since 2002 when the Commission adopted its interpretation of economic energy purchases. While this methodology has generally resulted in the same units as the highest cost units, these results are consistent with the nature of Companies’ generation fleet and its customer load and do not represent any inherent problem in the

²² By a letter dated December 16, 1968, LG&E filed this agreement with the Louisville Water Company with the Commission; and by letter dated December 30, 1968, the Commission acknowledged receipt of the agreement and observed it was filed by the Commission.

²³ 2014 *Joint Integrated Resource Plan of Louisville Gas and Electric Company and Kentucky Utilities Company* at 5-47 (filed Apr. 21, 2014 in Case No. 2014-00131, 2014 *Joint Integrated Resource Plan of Louisville Gas And Electric Company and Kentucky Utilities Company* (Ky. PSC filed Apr. 21, 2014).

methodology or the Companies' dispatch practices. The alternative methodologies raised by Commission Staff through requested calculations are highly unlikely to result in greater accuracy or to promote greater economic efficiency.

3. The Commission May Not Revise the Existing Methodology for Calculating the Highest Cost Generating Unit Without Amending 807 KAR 5:056.

In its reviews of the operation of the Companies' FAC since 2002, the Commission has consistently found that the Companies have complied with the provisions of 807 KAR 5:056 and has voiced no objection to the Companies' methodology for calculating their highest cost generating unit available to be dispatched. The Commission is bound by its consistent and longstanding interpretation that the Companies' methodology is consistent with 807 KAR 5:056 and may not unilaterally modify or revoke that interpretation.²⁴

The doctrine of contemporaneous construction binds the Commission to its longstanding interpretations of its regulations. In *GTE and Subsidiaries v. Revenue Cabinet*, 889 S.W.2d 788, 792 (1994) the Kentucky Supreme Court defined the doctrine of contemporaneous construction as follows:

The doctrine of contemporaneous construction means that where an administrative agency has the responsibility of interpreting a statute that is in some manner ambiguous, the agency is restricted to any long-standing construction of the provisions of the statute it has made previously. "Practical construction of an ambiguous law by administrative officers continued without interruption for a very long period is entitled to controlling weight."

It also noted that, unless a prior interpretation was erroneous and the statute is unambiguous, an administrative agency could not change its interpretation without following the administrative

²⁴ See, e.g., *Hagan v. Farris*, 807 S.W.2d 488 (Ky. 1991).

procedures outlined in KRS Chapter 13A governing the formal promulgation of administrative guidance (the Kentucky Administrative Procedure Act). *Id.*

Similarly in *Revenue Cabinet v. Humana, Inc.*, 998 S.W.2d 494 (Ky.App.1999), the Kentucky Court of Appeals found that the doctrine of contemporaneous construction prevented the Kentucky Revenue Cabinet from reversing an interpretation of a statute that it had maintained for 18 years. The Court further found the Cabinet's actions contrary to the provisions of KRS Chapter 13A because an agency cannot modify, expand or limit statutes, existing administrative regulations, and constitutional rights. The Court further dismissed the Cabinet's argument that it was "now correctly interpreting the statute, and its prior interpretation was the unlawful modification." *Id.* at 496. To the contrary, the Court found that "[i]f the prior interpretation actually had been found to be incorrect, Revenue is nevertheless bound by the requirements of KRS 13A. We cannot agree that its actions, even if in the nature of rectification, were not subject to the requirements of KRS Chapter 13A." *Id.*

In the current proceeding, Commission Staff appears to be considering modifications to the Companies' methodology for calculating the highest cost generating unit available to be dispatched. Presumably it does so because it questions whether the current methodology continues to be consistent with 807 KAR 5:056 and is erroneous. As the regulation has not changed or been modified since the Companies began the use of their methodology, acceptance of Commission Staff's proposal, requires the Commission to abandon its longstanding interpretation of 807 KAR 5:056. The holdings of *GTE* and *Humana* clearly indicate that cannot be done by Commission order but must be done in compliance with the procedures set forth in KRS Chapter 13A.

CONCLUSION

For the foregoing reasons, the Commission should continue to follow its well-established interpretation of 807 KAR 5:056 regarding economy purchases and economic dispatch and determine the Companies' uses of their highest cost units available to be dispatched for calculating purchase power exclusions for FAC purposes are both consistent with the Commission's longstanding interpretation of 807 KAR 5:056 and reasonable.

Dated: May 5, 2016

Respectfully submitted,



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CERTIFICATE OF SERVICE

This is to certify that Kentucky Utilities Company's and Louisville Gas and Electric Company's May 5, 2016 electronic filing of the 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 May 5, 2016; that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding; and that an original and one copy, in paper medium, of the Brief are being mailed by first class U.S. mail, postage prepaid, to the Commission on May 5, 2016.



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

SETTLEMENT AGREEMENT

This Settlement Agreement is entered into this 21st day of December, 2001, by and between Louisville Gas and Electric Company ("LG&E"); Kentucky Utilities Company ("KU"); Commonwealth of Kentucky, ex. rel., A.B. Chandler, III, Attorney General, by and through the Utility and Rate Intervention Division ("AG"); and the Kentucky Industrial Utility Customers Inc. ("KIUC"), and the interests of its participating members as represented by and through the KIUC in the proceedings involving LG&E and KU that are the subject of this Settlement Agreement.

WITNESSETH:

WHEREAS, the signatories to this Settlement Agreement desire to settle pending litigation before the Court of Appeals and the Franklin Circuit Court ("Pending Litigation" as defined in Appendix A) and proceedings currently before the Commission relating to the interpretation and application of the Uniform Fuel Adjustment Clause pursuant to 807 KAR 5:056 ("Commission Proceedings" as defined in Appendix B); and

WHEREAS, negotiations to settle the Pending Litigation and the Commission Proceedings have occurred with representatives of the AG, KIUC, LG&E, KU, and the Commission Staff on June 2, 2000, July 12, 2000, November 21, 2001, and November 30, 2001 at the offices of the Commission and the signatories reached an unanimous settlement of all issues in the Pending Litigation and Commission Proceedings.

NOW, THEREFORE, for and in consideration of the premises and conditions set forth herein, the signatories hereby agree as follow:

ARTICLE 1.0 Negotiated Settlement Amount: Credit to Fuel Expense

LG&E and KU will distribute through their fuel adjustment clause tariffs a total of \$1,675,000 to Kentucky retail customers as a fair and reasonable compromise to the Pending Litigation and the Commission Proceedings. The amount of \$1,675,000 shall be distributed in the form of temporary credits to LG&E's and KU's fuel expense to be recovered through LG&E's and KU's fuel adjustment clauses in equal amounts in the first two full monthly billing periods to occur after the issuance of a final order by the Commission approving this settlement. The \$1,675,000 shall be allocated between LG&E and KU in accordance with the ratio established by the Commission in Case No. 97-300 for the operation of LG&E's and KU's merger surcredit (\$720,250 by LG&E and \$954,750 by KU).

ARTICLE 2.0 Prospective Interpretation of 807 KAR 5:056 § 1(3)

The signatories agree the following interpretation of 807 KAR 5:056 §1(3)(c) is reasonable and produces reasonable results and recommend the Commission apply this interpretation of the Uniform Fuel Adjustment Clause Regulation, for all fuel cost incurred by LG&E and KU on and after November 1, 2001:

LG&E and KU shall be permitted to recover through their fuel adjustment clause the purchase power price of all economy power purchases.

"Economy Power Purchases" shall mean purchases that are made for the purpose of serving native load, displace the utility's higher cost generation and have an energy cost that is less than the utility's total avoided variable cost of generation.

“Non-Economy Power Purchases” shall mean purchases that are made for the purpose of serving native load at a purchase power price greater than the avoided variable cost of the utility’s highest cost generating unit available to be dispatched in an expense month to serve native load.

If the purchase power price includes demand and energy charges, the energy cost as referred to above, is equal to the total energy charge for the power.

If the purchase power price consists of a total charge per unit of energy, with no separate demand charge, the energy cost, as referred to above, is equal to the total charge, per unit, for the purchase power.

For all Non-Economy Power purchases made to serve native load, LG&E and KU shall be permitted to recover through their fuel adjustment clauses the lower of the actual energy cost of the purchase power or the fuel cost of the utility’s highest cost generating unit that is available to be dispatched to serve native load during the reporting expense month.

The costs for Non-Economy Power Purchases not recovered through the fuel adjustment clause are non Fuel Adjustment Clause expenses that may be included in the calculation of LG&E’s and KU’s Earnings Sharing Mechanisms or any successor rate making mechanism and are, if reasonably incurred, otherwise eligible for recovery through base rates.

ARTICLE 3.0 Approval of Settlement Agreement

SECTION 3.1 Actions Involving Pending Litigation on Execution
of This Settlement Agreement

Following the execution of this Settlement Agreement, the signatories shall file it with the Commission and LG&E, KU, AG and the KIUC shall request the

Commonwealth of Kentucky Court of Appeals to remand Appeals No. 2000-CA-001390-MR, 2000-CA-002583-MR, 2000-CA-002776-MR, and 2000-CA-002778-MR to the Commission for consideration of this Settlement Agreement. Exhibit I sets forth the motion that shall be tendered to the Commonwealth of Kentucky Court of Appeals. The Commission Staff shall recommend to the Commission that it support such motion by filing a response advising the Kentucky Court of Appeals that the Commission has no objection to the motion.

Additionally, following the execution of this Settlement Agreement, KU, AG and the KIUC shall request the Franklin Circuit Court to remand Kentucky Industrial Utility Customers, Inc. v. Public Service Commission of Kentucky, Kentucky Utilities Company, and Commonwealth of Kentucky, ex rel., A. B. Chandler, III, Attorney General, By and Through the Utility and Rate Intervention Division, Civil Action No. 00-CI-00121 (Consolidated with) Civil Action No. 00-CI-00162, to the Commission for consideration of and decision on this Settlement Agreement. Exhibit II sets forth the motion and the order that shall be tendered to the Franklin Circuit Court. The Commission Staff shall recommend to the Commission that it support such motion by filing a response advising the Franklin Circuit Court that the Commission has no objection to the motion.

SECTION 3.2 Actions Involving Commission Proceedings on
Execution of This Settlement Agreement

The signatories agree to recommend to the Commission that it issue orders forthwith in LG&E's pending fuel adjustment clause cases (PSC Case Nos. 2000-498 and 2000-498-A) and KU's pending fuel adjustment clause cases (Case Nos. 200-497 and 2000-497-A) approving the charges and credits assessed during those periods.

SECTION 3.3 Recommendation for Approval by Commission

The signatories to this Settlement Agreement shall act in good faith and use their best efforts to recommend to the Commission that this Settlement Agreement be accepted and approved and shall act in good faith and use their best efforts to cause Appeal Nos. 2000-CA-001390MR, 2000-CA-002583MR, 2000-CA-002776MR, and 2000-CA-002778MR in the Commonwealth of Kentucky Court of Appeals, and Civil Action Nos. 00-CI-00121 (Consolidated with) Civil Action No. 00-CI-00162 to be remanded as soon as reasonably possible to the Commission for the purposes of reviewing and approving the Settlement.

SECTION 3.4 Approval of Settlement Agreement in Entirety

If the Commission issues a final order in which it accepts and approves this Settlement Agreement in its entirety, then: (a) following the entry of such an order LG&E, KU, AG, KIUC and the Commission shall tender to the Commonwealth of Kentucky Court of Appeals a joint motion in the form of Exhibit III dismissing these appeals with prejudice; (b) following the entry of such order LG&E, KU, AG, KIUC and the Commission shall tender to the Franklin Circuit Court a joint motion and order in the form of Exhibit IV dismissing these actions for review with prejudice; (c) the signatories hereby waive their rights under KRS 278.400 to file an application for rehearing and their rights under KRS 278.410 to file a complaint in the Franklin Circuit Court regarding such order of the Commission; and (d) subject to Section 4.5, any and all claims or demands, asserted or unasserted, arising out of or in connection with the specific calculation of the Fuel Adjustment Clause referenced in the aforementioned proceedings or the interpretation of 807 KAR 5:056 Section 1(3)(c) as set forth in Article 2.0 of this

Settlement Agreement shall be deemed compromised and settled under this Settlement Agreement and released and discharged by this Settlement Agreement.

SECTION 3.5 No Approval of Settlement Agreement in its
Entirety

If the Commission does not accept and approve this Settlement Agreement in its entirety, then: (a) this Settlement Agreement shall be void and withdrawn by the signatories hereto from further consideration by the Commission and none of the signatories shall be bound by any of the provisions herein; and (b) the litigation involving the review of the orders of the Commission shall go forward, and neither the terms of this Settlement Agreement nor any matters raised during the settlement negotiations shall be binding on any of the signatories to this Settlement Agreement or be construed against any of the signatories.

SECTION 3.6 Status Quo

Should this Settlement Agreement be voided or vacated for any reason after any implementation of the terms of the Settlement Agreement has been made, then the parties shall be returned to the *status quo* existing at the time immediately prior to the execution of this agreement.

ARTICLE 4.0 Additional Provisions

SECTION 4.1

This Settlement Agreement shall not be interpreted, construed, constructed nor deemed to divest the Commission of jurisdiction under Chapter 278 of the Kentucky Revised Statutes.

SECTION 4.2

This Settlement Agreement shall inure to the benefit of and be binding upon the parties hereto, their heirs, successors and assigns.

SECTION 4.3

This Settlement Agreement constitutes the complete agreement and understanding between the parties hereto, and any and all oral statements, representations or agreements made prior hereto or contained contemporaneously herewith shall be null and void and shall be deemed to have been merged into this Settlement Agreement.

SECTION 4.4

For the purpose of this Settlement Agreement only, the adjustments to the Fuel Adjustment Clause rates are based upon the independent analysis of the signatories to reflect a just and reasonable resolution of the issues herein and are the product of compromise and negotiation. Notwithstanding anything contained in the Settlement Agreement, the signatories recognize and agree that the effects, if any, of any future events upon the cost of service of LG&E or KU are unknown, and this Settlement Agreement shall be implemented as written.

SECTION 4.5

Making this agreement shall not be deemed in any respect to constitute an admission by any signatory hereto that any computation, formula, allegation, assertion or contention made by any other party in these proceedings is true or valid.

SECTION 4.6

The signatories hereto warrant that they are authorized to execute this Settlement Agreement on behalf of the parties hereto.

SECTION 4.7

This Agreement is subject to the acceptance of and approval by the Public Service Commission.

SECTION 4.8

This Settlement Agreement is a product of all the parties, and no provision of this Settlement Agreement shall be strictly construed in favor of or against any party.

SECTION 4.9

This Settlement Agreement may be executed in several counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

SECTION 4.10


Nothing in this Settlement Agreement is intended to be, nor shall it be construed as a general regulatory change.

IN WITNESS WHEREOF, the parties hereto have hereunto affixed their signatures.

Louisville Gas and Electric Company
and
Kentucky Utilities Company

By: Joseph A. Bickett
Kendrick R. Riggs, Counsel
Joseph A. Bickett, Counsel

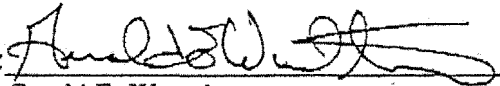
Commonwealth of Kentucky, ex. rel. A.B.
Chandler, III, Attorney General, by and through the
Utility and Rate Intervention Division

By: 
Elizabeth E. Blackford, Esq., Counsel

Kentucky Industrial Utility Customers, Inc.

By: Michael L. Kurtz
Michael L. Kurtz, Esq., Counsel

Kentucky Public Service Commission

By: 

Gerald E. Wuetcher
Counsel for the Staff of the Public Service
Commission of Kentucky

APPENDIX A

Pending Litigation

A complete and accurate summary of the pending litigation before the Court of Appeals and the Franklin Circuit Court that is the subject matter of this Settlement Agreement is set forth below:

Pursuant to the administration of 807 KAR 5:056 §1(12) the Commission established Case No. 96-524, *In The Matter of: An Examination by the Public Service Commission of the Application of the Fuel Adjustment Clause of Louisville Gas and Electric Company From November 1, 1994 to October 31, 1996* to review and evaluate the operation and compliance of the Uniform Fuel Adjustment Clause of LG&E for the 2 year period ending October 31, 1996.

The Commission issued an Order dated February 9, 1999 in Case No. 96-524 ordering upon filing its first monthly fuel adjustment filed after the entry of this Order, LG&E shall in calculating its monthly fuel cost, reduce actual monthly fuel cost by \$1,881,460 to reflect unreported fossil fuel costs recovered through intersystem sales during the review period.

On March 11, 1999 the Commission issued an Order denying LG&E's request for a new hearing, KIUC's request for a new hearing, and affirming the Commission's Order dated February 9, 1999.

On April 1, 1999 LG&E filed an action for review of the Commission's Orders entered in PSC Case No. 96-524 with the Franklin Circuit Court, Division I, styled Louisville Gas and Electric Company v. Public Service Commission of Kentucky, Commonwealth of Kentucky, ex rel., A. B. Chandler, III, Attorney General, and

Kentucky Industrial Utility Customers, Inc., Civil Action No. 99-CI-00382, requesting the Circuit Court to vacate the Commission's Orders of February 9, 1999 and March 11, 1999 and remand this proceeding to the Commission with instructions to adjust LG&E's fuel adjustment clause to allow LG&E to recover the \$1,881,460 distributed to customers pursuant to the Orders of February 9, 1999 and March 11, 1999.

On March 23, 1999 KIUC filed an action for review of the Commission's Orders entered in PSC Case No. 96-524 with the Franklin Circuit Court, Division II, styled Kentucky Industrial Utility Customer, Inc. v. Public Service Commission of Kentucky; Louisville Gas and Electric Company; and Attorney General of the Commonwealth of Kentucky, by and Through His Utility and Rate Intervention Division, Civil Action No. 99-CI-00310, requesting the Circuit Court to vacate that portion of the Order which denied interest on overcharges and to remand to the Commission that portion regarding interest.

The Circuit Court by Order dated March 27, 1999 consolidated Louisville Gas and Electric Company v. Public Service Commission of Kentucky, Civil Action No. 99-CI-00382 and Kentucky Industrial Utility Customer, Inc. v. Public Service Commission of Kentucky; Louisville Gas and Electric Company; and Attorney General of the Commonwealth of Kentucky, by and Through His Utility and Rate Intervention Division, Civil Action No. 99-CI-00310, to be styled as Kentucky Industrial Utility Customer, Inc. et al. v. Public Service Commission of Kentucky et al., Civil Action No. 99-CI-00310.

On May 15, 2000 the Circuit Court issued an Order in Kentucky Industrial Utility Customer, Inc. et al. v. Public Service Commission of Kentucky et al., Civil Action No. 99-CI-00310 holding the findings of the Commission regarding the interpretation of the

Uniform Fuel Adjustment Clause to be reasonable and remanded the issue of interest to the Commission for a determination of whether interest should be awarded in the Commission's discretion.

On June 2, 2000 LG&E filed with the Kentucky Court of Appeals ("Court of Appeals") an appeal, styled Louisville Gas & Electric Company v. Public Service Commission of Kentucky, et al., Appeal No. 2000-CA-1390-MR, from the entire Opinion and Order, of Kentucky industrial Utility Customers, Inc., et al. v. Public Service Commission of Kentucky, et al., Civil Action No. 99-CI-00310 entered by the Franklin Circuit Court, Division II on May 15, 2000.

On May 7, 2001 the Court of Appeals ordered the consolidation of Appeals No. 2000-CA-001390-MR, with Appeals Nos. 2000-CA-002776-MR, 2000-CA-002778-MR and 2000-CA-002583-MR described below, to the extent that the four appeals will proceed together and will be assigned together to the same panel for consideration of their merits.

The parties jointly filed several motions to move the Court of Appeals to toll and hold in abeyance the briefing schedule of the four appeals to allow settlement negotiations to continue.

Pursuant to the administration of 807 KAR 5:056 the Commission initiated the proceedings: *In the Matter of: An Examination by the Public Service Commission of the Application of the Fuel Adjustment Clause of Kentucky Utilities Company from November 1, 1994 to April 30, 1995*, Case No. 94-461-A; *In the Matter of: An Examination by the Public Service Commission of the Application of the Fuel Adjustment Clause of Kentucky Utilities Company from May 1, 1995 to October 31, 1995*, Case No.

94-461-B; *In the Matter of: An Examination by the Public Service Commission of the Application of the Fuel Adjustment Clause of Kentucky Utilities Company from November 1, 1995 to April 30, 1996*, Case No. 94-461-C; and *In the Matter of: An Examination by the Public Service Commission of the Application of the Fuel Adjustment Clause of Kentucky Utilities Company from November 1, 1994 to October 31, 1996*, Case No. 96-523.

On July 15, 1999 the Commission entered a final Order in the above consolidated hearing ordering KU, upon filing its first monthly fuel adjustment after entry of this Order, to reduce actual monthly fuel cost by \$4,235,044 to reflect unreported fossil fuel costs recovered through intersystem sales during the review period and its overstatement of fuel costs associated with total system losses.

Pursuant to the administration of 807 KAR 5:056 §1(11) the Commission established Case No. 96-523-A *In the Matter of: An Examination by the Public Service Commission of the Application of the Fuel Adjustment Clause of Kentucky Utilities Company from November 1, 1996 to April 30, 1997*, to review and evaluate the operation and compliance of the UFAC of KU for the 6 month period ending April 30, 1997.

Pursuant to the administration of 807 KAR 5:056 §1(11) the Commission established Case No. 96-523-B *In the Matter of: An Examination by the Public Service Commission of the Application of the Fuel Adjustment Clause of Kentucky Utilities Company from May 1, 1997 to October 31, 1997*, to review and evaluate the operation and compliance of the Uniform Fuel Adjustment Clause of KU for the 6 month period ending October 31, 1997.

Pursuant to the administration of 807 KAR 5:056 §1(11) the Commission established Case No. 96-523-C *In the Matter of: An Examination by the Public Service Commission of the Application of the Fuel Adjustment Clause of Kentucky Utilities Company from November 1, 1997 to April 30, 1998*, to review and evaluate the operation and compliance of the Uniform Fuel Adjustment Clause of KU for the 6 month period ending April 30, 1998.

Pursuant to the administration of 807 KAR 5:056 §1(12) the Commission established Case No. 98-564 *In the Matter of: An Examination by the Public Service Commission of the Application of the Fuel Adjustment Clause of Kentucky Utilities Company from November 1, 1996 to October 31, 1998*, to review and evaluate the operation and compliance of the Uniform Fuel Adjustment Clause of KU for the 2 year period ending October 31, 1998.

On July 21, 1999 the Commission entered a final Order in Case No. 96-523-A *In the Matter of: An Examination by the Public Service Commission of the Application of the Fuel Adjustment Clause of Kentucky Utilities Company from November 1, 1996 to April 30, 1997* ordering KU, upon filing its first monthly fuel adjustment after entry of this Order, to reduce actual monthly fuel cost by \$1,027,346 to reflect unreported fossil fuel costs recovered through intersystem sales during the review period and the over recovery of fuel costs resulting from its miscalculations of sales.

On July 21, 1999 the Commission entered a final Order in Case No. 96-523-B *In the Matter of: An Examination by the Public Service Commission of the Application of the Fuel Adjustment Clause of Kentucky Utilities Company from May 1, 1997 to October 31, 1997* ordering KU, upon filing its first monthly fuel adjustment after entry of this

Order, to reduce actual monthly fuel cost by \$1,184,898 to reflect unreported fossil fuel costs recovered through intersystem sales during the review period and the over recovery of fuel costs resulting from its miscalculations of sales.

On July 21, 1999 the Commission entered a final Order in Case No. 96-523-C *In the Matter of: An Examination by the Public Service Commission of the Application of the Fuel Adjustment Clause of Kentucky Utilities Company from November 1, 1997 to April 30, 1998* ordering KU, upon filing its first monthly fuel adjustment after entry of this Order, to reduce actual monthly fuel cost by \$971,325 to reflect unreported fossil fuel costs recovered through intersystem sales during the review period and the over recovery of fuel costs resulting from its miscalculations of sales.

On July 21, 1999 the Commission entered a final Order in Case No. 98-564 *In the Matter of: An Examination by the Public Service Commission of the Application of the Fuel Adjustment Clause of Kentucky Utilities Company from November 1, 1996 to October 31, 1998* ordering KU, upon filing its first monthly fuel adjustment after entry of this Order, to reduce actual monthly fuel cost by \$2,660,967 to reflect the over recovery of fuel cost resulting from its miscalculation of sales and unreported fossil fuel costs recovered through intersystem sales during the six month period ending October 31, 1998.

On August 9, 1999 KU petitioned the Commission for a re-hearing to revoke its Orders of July 15, 1999 and July 21, 1999 on the grounds that the Orders were unlawful, unreasonable, and arbitrary and capricious.

On August 30, 1999 the Commission issued Orders that (1) consolidated all of the cases involving Orders issued on July 15, 1999 and July 21, 1999; (2) granted in part and denied in part KU's petition for a rehearing; (3) modified the Orders of July 15, 1999 and

July 21, 1999 to direct a reduction in the amount of refunded fuel charges from a total of \$10,079,660 to \$6,720,987; and (4) allow the refunded amount of \$6,720,987 to be refunded to customers over a 12 month period.

On September 15, 1999 pursuant to KRS 278.410, KIUC filed with the Franklin Circuit Court, Division II an action, styled Kentucky Industrial Utility Customers, Inc., v. Public Service Commission of Kentucky et al., Civil Action No. 99-CI-010177, to vacate and set aside only certain portions of:

- the July 15, 1999 Order in Case Nos. 94-461-A, 94-461-B, 94-461-C and 96-523;
- the July 21, 1999 Orders in Case Nos. 96-523-A, 96-523-B, 96-523-C and 98-564;
- the August 30, 1999 Order

in which the Commission erroneously failed to include interest on the overcharges and erroneously concluded the line loss factor.

On September 22, 1999 pursuant to KRS 278.410, KU filed with the Franklin Circuit Court, Division I, an action, styled Kentucky Utilities Company v. Public Service Commission of Kentucky et al., Civil Action No. 99-CI-01104, requesting the Circuit Court to:

- 1) vacate the Commission's Order of July 15, 1999 in Case Nos. 94-461-A, 94-461-B, 94-461-C, and 98-564;
- 2) vacate the Commission's Orders of July 21, 1999 in Case Nos. 96-523-A, 96-523-B, 96-523-C, and 98-564;

- 3) vacate those portions of the Commission's Order of August 30, 1999 denying KU's August 9, 1999 petition for a rehearing; and
- 4) remand these cases to the Commission with instructions to adjust KU's fuel adjustment clause to allow KU to recover all amounts distributed to customers pursuant to the Commissioner's orders in these proceedings

On February 28, 2000 the Circuit Court granted a motion by the Commission and ordered Kentucky Utilities Company v. Public Service Commission of Kentucky et al., Civil Action No. 99-CI-01104 to be transferred and consolidated with Kentucky Industrial Utility Customers, Inc., v. Public Service Commission of Kentucky et al., Civil Action No. 99-CI-010177, and to be styled as Kentucky Industrial Utility Customer, Inc. et al. v. Public Service Commission of Kentucky et al., Frankfort Circuit Court, Division II, Civil Action No. 99-CI-01077.

On October 30, 2000 the Circuit Court issued an Opinion and an Order upholding and affirming the Commission's Orders dated July 15, 1999, July 21, 1999 and August 30, 1999 regarding all issues except interest, which the Circuit Court remanded to the Commission for a determination within its discretion.

On November 2, 2000 KU filed with the Kentucky Court of Appeals an appeal, styled Kentucky Utilities Company v. Kentucky Industrial Utility Customer, Inc., et al. Appeals No. 2000-CA-002583MR, from the entire Opinion and Order, of Kentucky Industrial Utility Customer, Inc. et al. v. Public Service Commission of Kentucky et al., Civil Action No. 99-CI-01077, entered by the Franklin Circuit Court, Division II on October 31, 1999.

On November 30, 2000 KIUC filed with the Kentucky Court of Appeals an appeal, styled Kentucky Industrial Utilities Customers, Inc. v. Kentucky Utility Company, et al. Appeals No. 2000-CA-002776MR, from the entire Opinion and Order, of Kentucky Industrial Utility Customer, Inc. et al. v. Public Service Commission of Kentucky et al., Civil Action No. 99-CI-01077 entered by the Franklin Circuit Court, Division II on October 31, 1999.

On November 30, 2000 the AG filed with the Kentucky Court of Appeals an appeal, styled Commonwealth of Kentucky, ex rel A.B. Chandler III, Attorney General v. Kentucky Utilities Company, et al., Appeals No. 2000-CA-002778-MR, from the entire Opinion and Order of Kentucky Industrial Utility Customer, Inc. et al. v. Public Service Commission of Kentucky et al., Civil Action No. 99-CI-01077 entered by the Franklin Circuit Court, Division II on October 31, 1999.

On May 7, 2001 the Court of Appeals ordered the consolidation of Appeals No. 2000-CA-002583-MR, 2000-CA-002776-MR, 2000-CA-002778-MR and 2000-CS-001390-MR to the extent that the four appeals will proceed together and will be assigned together to the same panel for consideration of their merits.

The parties jointly filed several motions to move the Court of Appeals to toll and hold in abeyance the briefing schedule of the four appeals to allow settlement negotiations to continue.

Pursuant to the administration of 807 KAR 5:056 §1(11) the Commission established Case No. 98-564-A *In the Matter of: An Examination by the Public Service Commission of the Application of the Fuel Adjustment Clause of Kentucky Utilities Company from November 1, 1998 to April 30, 1999*, to review and evaluate the operation

and compliance of the Uniform Fuel Adjustment Clause of KU for the 6 month period ending April 30, 1999.

Pursuant to the administration of 807 KAR 5:056 §1(11) the Commission established Case No. 98-564-B *In the Matter of: An Examination by the Public Service Commission of the Application of the Fuel Adjustment Clause of Kentucky Utilities Company from May 1, 1999 to October 31, 1999*, to review and evaluate the operation and compliance of the Uniform Fuel Adjustment Clause of KU for the 6 month period ending October 31, 1997.

On September 27, 1999 the Commission consolidated Case No. 98-564-A *In the Matter of: An Examination by the Public Service Commission of the Application of the Fuel Adjustment Clause of Kentucky Utilities Company from November 1, 1998 to April 30, 1999* and Case No. 98-564-B *In the Matter of: An Examination by the Public Service Commission of the Application of the Fuel Adjustment Clause of Kentucky Utilities Company from May 1, 1999 to October 31, 1999* upon a motion by KU.

On January 12, 2000 the Commission entered a final Order in the consolidated proceedings of: Case No. 98-564-A *In the Matter of: An Examination by the Public Service Commission of the Application of the Fuel Adjustment Clause of Kentucky Utilities Company from November 1, 1998 to April 30, 1999* and Case No. 98-564-B *In the Matter of: An Examination by the Public Service Commission of the Application of the Fuel Adjustment Clause of Kentucky Utilities Company from May 1, 1999 to October 31, 1999* ordering KU upon filing its first monthly fuel adjustment after entry of this Order to reduce actual monthly fuel cost by \$475,342 to reflect unreported fossil fuel

costs recovered through intersystem sales during the review period and the over recovery of fuel costs resulting from its miscalculations of sales.

On January 27, 2000 pursuant to KRS 278.410, KIUC filed with the Franklin Circuit Court, Division II, an action, styled Kentucky Industrial Utility Customers, Inc. v. Public Service Commission of Kentucky et al., Civil Action No. 00-CI-00121, requesting the Circuit Court to vacate and set aside only certain portions of the Commission's Orders of January 12, 2000 in Case Nos. 98-564-A and 98-564-B which erroneously failed to assign interest on the Fuel Adjustment Clause overcharges, erroneously concluded the line lose factor, and remand those portions of the proceeding to the Commission.

On February 3, 2000 pursuant to KRS 278.410, KU filed with the Franklin Circuit Court, Division I, an action, styled Kentucky Utilities Company v. Public Service Commission of Kentucky et al., Civil Action No. 00-CI-00162, requesting the Circuit Court to vacate the Commission's Orders of January 12, 2000 in Case Nos. 98-564-A and 98-564-B and remand this proceeding to the Commission with instructions to adjust KU's fuel adjustment clause to allow KU to recover all amounts distributed to customers pursuant to the Commissioner's orders in these proceedings.

On June 15, 2000 the Circuit Court ordered Kentucky Utilities Company v. Public Service Commission of Kentucky et al., Civil Action No. 00-CI-00162, transferred to Division II of the Frankfort Circuit Court and consolidated into Kentucky Industrial Utility Customers, Inc., v. Public Service Commission of Kentucky et al., Civil Action No. 00-CI-00121 and this matter is still pending before the Franklin Circuit Court.

Appendix B

Commission Proceedings

A complete and accurate summary of the Commission Proceedings that is the subject matter of this Settlement Agreement is set forth below:

Pursuant to the administration of 807 KAR 5:056 §§1(11) and (12) the Commission established Case No. 2000-498, *An Examination by the Public Service Commission of the Application of the Fuel Adjustment Clause of Louisville Gas and Electric Company From November 1, 1998 to October 31, 2000* to review and evaluate the operation and compliance of the Uniform Fuel Adjustment Clause of LG&E; and

On August 27, 2001 the Commission Staff held a conference for the purpose of reviewing and discussing the energy purchase and sale transaction records that were submitted in Case No. 2000-498 and this matter is still pending before the Commission; and

Pursuant to the administration of 807 KAR 5:056 §1(11) the Commission established Case No. 2000-498-A *In the Matter of: An Examination by the Public Service Commission of the Application of the Fuel Adjustment Clause of Louisville Gas and Electric Company from November 1, 2000 to April 30, 2001*, to review and evaluate the operation and compliance of the Uniform Fuel Adjustment Clause of LG&E for the 6 month period ending April 30, 2001; and

Pursuant to the administration of 807 KAR 5:056 §§1(11) and (12) the Commission established Case No. 2000-497 *An Examination by the Public Service*

Commission of the Application of the Fuel Adjustment Clause of Kentucky Utilities Company From November 1, 1998 to October 31, 2000 to review and evaluate the operation and compliance of the Uniform Fuel Adjustment Clause of KU and this matter is still pending before the Commission; and

Pursuant to the administration of 807 KAR 5:056 §1(11) the Commission established Case No. 2000-497-A *In the Matter of: An Examination by the Public Service Commission of the Application of the Fuel Adjustment Clause of Kentucky Utilities Company from November 1, 2000 to April 30, 2001*, to review and evaluate the operation and compliance of the Uniform Fuel Adjustment Clause of KU for the 6 month period ending April 30, 2001.

EXHIBIT I
COMMONWEALTH OF KENTUCKY

COURT OF APPEALS

* * * * *

NO. 2000-CA-001390-MR

LOUISVILLE GAS & ELECTRIC COMPANY APPELLANT

APPEAL FROM FRANKLIN CIRCUIT COURT
v. CONSOLIDATED CIVIL ACTION NOS. 99-CI-00310 AND 99-CI-00382

KENTUCKY INDUSTRIAL UTILITY CUSTOMERS, APPELLEES
INC., ET AL.

* * * * *

NO. 2000-CA-002583-MR

KENTUCKY UTILITIES COMPANY APPELLANT

APPEAL FROM FRANKLIN CIRCUIT COURT
v. CONSOLIDATED CIVIL ACTION NOS. 99-CI-01077 AND 99-CI-01104

KENTUCKY INDUSTRIAL UTILITY CUSTOMERS, APPELLEES
INC., ET AL.

* * * * *

NO. 2000-CA-002776-MR

KENTUCKY INDUSTRIAL UTILITY CUSTOMERS, APPELLANT
INC.

APPEAL FROM FRANKLIN CIRCUIT COURT
v. CONSOLIDATED CIVIL ACTION NOS. 99-CI-01077 AND 99-CI-01104

KENTUCKY UTILITIES COMPANY, ET AL. APPELLEES

* * * * *

NO. 2000-CA-002778-MR

THE OFFICE OF THE ATTORNEY GENERAL,
COMMONWEALTH OF KENTUCKY

APPELLANT

APPEAL FROM FRANKLIN CIRCUIT COURT

v. CONSOLIDATED CIVIL ACTION NOS. 99-CI-01077 AND 99-CI-01104

KENTUCKY UTILITIES CO., ET AL.

APPELLEES

* * * * *

MOTION TO REMAND

* * * * *

Louisville Gas and Electric Company, Kentucky Utilities Company, Commonwealth of Kentucky, ex. rel., A.B. Chandler, III, Attorney General, by and through the Utility and Rate Intervention Division and the Kentucky Industrial Utility Customers Inc., move the Court of Appeals to issue an order remanding the above-captioned appeals to the Public Service Commission of Kentucky for consideration and disposition of a proposed unanimous settlement agreement. The movants all agree to and support this motion.

As grounds for this motion the movants state that the parties to the above-captioned proceedings have reached an unanimous settlement agreement beneficial to all respective parties. Absent an order by this Court to remand the appeals to the Public Service Commission, the movants are required pursuant to the Court's December 14, 2001 Order to notify the Clerk of the Court by December 21, 2001, so that the appeals may be returned to the active docket and the time for filing briefs set.

WHEREFORE, Louisville Gas and Electric Company, Kentucky Utilities Company, the Office of the Attorney General for the Commonwealth of Kentucky,

Kentucky Industrial Utility Customers, Inc., and the Staff of the Kentucky Public Service Commission have reached a proposed unanimous settlement agreement. Therefore, the movants respectfully move this Court for an order remanding these appeals to the Commission for consideration and disposition of a proposed unanimous settlement agreement.

Respectfully submitted,

Kendrick R. Riggs
Joseph A. Bickett
OGDEN NEWELL & WELCH PLLC
1700 PNC Plaza
500 West Jefferson Street
Louisville, KY 40202
Telephone: (502) 582-1601

Ken Mudd
Senior Counselor Specialist
Louisville Gas and Electric Company
and Kentucky Utilities Company
220 W. Main Street
Louisville, Kentucky 40202

Counsel for
Louisville Gas and Electric Company
and Kentucky Utilities Company

Commonwealth of Kentucky, ex. rel. A.B.
Chandler, III, Attorney General, by and
through the Utility and Rate Intervention
Division

By: _____
Elizabeth E. Blackford, Esq.

Kentucky Industrial Utility Customers, Inc.

By: _____
Michael L. Kurtz, Esq.

EXHIBIT II
DIVISION II
CIVIL ACTION NO. 00-CI-00121
(Consolidated with)
CIVIL ACTION NO. 00-CI-00162

Kentucky Industrial Utility Customers, Inc.,

Plaintiff

v.

Public Service Commission of Kentucky,
Kentucky Utilities Company, and
Commonwealth of Kentucky, ex rel., A. B. Chandler, III
Attorney General, By and Through the Utility and Rate
Intervention Division

Defendants

MOTION TO REMAND

The Kentucky Utilities Company, the Commonwealth of Kentucky, ex. rel., A.B. Chandler, III, Attorney General, by and through the Utility and Rate Intervention Division, and the Kentucky Industrial Utility Customers Inc. ("KIUC") respectfully move the Franklin Circuit Court to issue an order remanding the above-captioned proceedings to the Public Service Commission for consideration and disposition of a proposed unanimous settlement agreement.

As grounds for the motion the movants state that the parties to the above-captioned proceedings have reached a unanimous settlement agreement beneficial to all respective parties and the movants all agree to and support this motion.

WHEREFORE, Kentucky Utilities Company, the Office of the Attorney General for the Commonwealth of Kentucky, the Kentucky Industrial Utility Customers, Inc., and the Staff of the Kentucky Public Service Commission have reached a unanimous settlement agreement and respectfully request this Court to enter an order remanding these actions to the Commission for consideration and disposition of a proposed

unanimous settlement agreement. A tendered order is attached.

Respectfully submitted,

Kendrick R. Riggs
Joseph A. Bickett
OGDEN NEWELL & WELCH PLLC
1700 PNC Plaza
500 West Jefferson Street
Louisville, KY 40202
Telephone: (502) 582-1601

Ken Mudd
Senior Counselor Specialist
Louisville Gas and Electric Company
and Kentucky Utilities Company
220 W. Main Street
Louisville, Kentucky 40202

Counsel for
Louisville Gas and Electric Company
and Kentucky Utilities Company

Commonwealth of Kentucky, ex. rel. A.B.
Chandler, III, Attorney General, by and
through the Utility and Rate Intervention
Division

By: _____
Elizabeth E. Blackford, Esq.

Kentucky Industrial Utility Customers, Inc.

By: _____
Michael L. Kurtz, Esq.

EXHIBIT II
COMMONWEALTH OF KENTUCKY
FRANKLIN CIRCUIT COURT,
DIVISION II
CIVIL ACTION NO. 00-CI-00121
(Consolidated with)
CIVIL ACTION NO. 00-CI-00162

Kentucky Industrial Utility Customers, Inc.,

Plaintiff

v.

Public Service Commission of Kentucky,
Kentucky Utilities Company, and
Commonwealth of Kentucky, ex rel., A. B. Chandler, III
Attorney General, By and Through the Utility and Rate
Intervention Division

Defendants

ORDER OF REMAND

This matter having come before the Court on the motion of the Kentucky Utilities Company, the Office of the Attorney General for the Commonwealth of Kentucky, Kentucky Industrial Utility Customers, Inc., and the Kentucky Public Service Commission having advised that it has no objection to said motion, IT IS HEREBY ORDERED that these actions be and hereby are remanded to the Public Service Commission for the purpose of permitting the Public Service Commission to consider and act on a Settlement Agreement the parties have filed with and requested approval by the Commission.

IT IS SO ORDERED THIS _____ DAY OF _____, 2002.

HON. William L. Graham, Judge
Franklin Circuit Court, Division II

cc: Parties of record

EXHIBIT III
COMMONWEALTH OF KENTUCKY

COURT OF APPEALS

* * * * *

NO. 2000-CA-001390-MR

LOUISVILLE GAS & ELECTRIC COMPANY APPELLANT

APPEAL FROM FRANKLIN CIRCUIT COURT

v. CONSOLIDATED CIVIL ACTION NOS. 99-CI-00310 AND 99-CI-00382

KENTUCKY INDUSTRIAL UTILITY CUSTOMERS, APPELLEES
INC., ET AL.

* * * * *

NO. 2000-CA-002583-MR

KENTUCKY UTILITIES COMPANY APPELLANT

APPEAL FROM FRANKLIN CIRCUIT COURT

v. CONSOLIDATED CIVIL ACTION NOS. 99-CI-01077 AND 99-CI-01104

KENTUCKY INDUSTRIAL UTILITY CUSTOMERS, APPELLEES
INC., ET AL.

* * * * *

NO. 2000-CA-002776-MR

KENTUCKY INDUSTRIAL UTILITY CUSTOMERS, APPELLANT
INC.

APPEAL FROM FRANKLIN CIRCUIT COURT

v. CONSOLIDATED CIVIL ACTION NOS. 99-CI-01077 AND 99-CI-01104

KENTUCKY UTILITIES COMPANY, ET AL. APPELLEES

* * * * *

NO. 2000-CA-002778-MR

THE OFFICE OF THE ATTORNEY GENERAL,
COMMONWEALTH OF KENTUCKY

APPELLANT

APPEAL FROM FRANKLIN CIRCUIT COURT

v. CONSOLIDATED CIVIL ACTION NOS. 99-CI-01077 AND 99-CI-01104

KENTUCKY UTILITIES CO., ET AL.

APPELLEES

* * * * *

JOINT MOTION TO DISMISS

* * * * *

Louisville Gas and Electric Company, Kentucky Utilities Company, Commonwealth of Kentucky, ex. rel., A.B. Chandler, III, Attorney General, by and through the Utility and Rate Intervention Division, the Kentucky Industrial Utility Customers Inc. and the Public Service Commission for the Commonwealth of Kentucky ("Commission") move the Court of Appeals to issue an order dismissing the above-captioned appeals with prejudice.

As grounds for this motion the movants state that the Court previously entered an Order of Remand in the above-captioned appeals on _____, 200_ which provided that these actions were remanded to the Commission for the purpose of allowing the Commission to consider and act upon a proposed unanimous settlement agreement among the parties. The Commission has approved the proposed unanimous settlement agreement in its order dated _____, 2002.

WHEREFORE, Louisville Gas and Electric Company, Kentucky Utilities Company, the Office of the Attorney General for the Commonwealth of Kentucky, Kentucky Industrial Utility Customers, Inc., and the Kentucky Public Service

Commission request this Court to enter an order dismissing these appeals with prejudice and removing these proceedings from the Court's docket.

Respectfully submitted,

Kendrick R. Riggs
Joseph A. Bickett
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1700 PNC Plaza
500 West Jefferson Street
Louisville, KY 40202
Telephone: (502) 582-1601

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Louisville, Kentucky 40202

Counsel for
Louisville Gas and Electric Company
and Kentucky Utilities Company

Commonwealth of Kentucky, ex. rel. A.B.
Chandler, III, Attorney General, by and
through the Utility and Rate Intervention
Division

By: _____
Elizabeth E. Blackford, Esq.

Kentucky Industrial Utility Customers, Inc.

By: _____
Michael L. Kurtz, Esq.

Public Service Commission of Kentucky

By: _____
Gerald E. Wuetcher
Counsel for the Public Service
Commission of Kentucky

EXHIBIT IV

COMMONWEALTH OF KENTUCKY
FRANKLIN CIRCUIT COURT,
DIVISION II
CIVIL ACTION NO. 00-CI-00121
(Consolidated with)
CIVIL ACTION NO. 00-CI-00162

Kentucky Industrial Utility Customers, Inc.,

Plaintiff

v.

Public Service Commission of Kentucky,
Kentucky Utilities Company, and
Commonwealth of Kentucky, ex rel., A. B. Chandler, III
Attorney General, By and Through the Utility and Rate
Intervention Division

Defendants

JOINT MOTION TO DISMISS WITH PREJUDICE

Louisville Gas and Electric Company, Kentucky Utilities Company, Commonwealth of Kentucky, ex. rel., A.B. Chandler, III, Attorney General, by and through the Utility and Rate Intervention Division, the Kentucky Industrial Utility Customers Inc., and the Public Service Commission for the Commonwealth of Kentucky ("Commission") move the Court to issue an order dismissing the above-captioned actions with prejudice.

As grounds for the motion the movants state that the Court previously entered an Order of Remand in the above-captioned actions on _____, 200_ which provided that these actions were remanded to the Commission for the purpose of allowing the Commission to consider and act upon a proposed unanimous settlement agreement among the parties. The parties have been advised that the Commission has approved the proposed unanimous settlement agreement in its order dated _____, 2002.

WHEREFORE, Louisville Gas and Electric Company, Kentucky Utilities Company, the Office of the Attorney General for the Commonwealth of Kentucky, Kentucky Industrial Utility Customers, Inc., and the Kentucky Public Service Commission respectfully request this Court to enter an order dismissing these appeals with prejudice and removing these proceedings from the Court's docket. A tendered order is attached.

Respectfully submitted,

Kendrick R. Riggs
Joseph A. Bickett
OGDEN NEWELL & WELCH PLLC
1700 PNC Plaza
500 West Jefferson Street
Louisville, KY 40202
Telephone: (502) 582-1601

Ken Mudd
Senior Counselor Specialist
Louisville Gas and Electric Company
and Kentucky Utilities Company
220 W. Main Street
Louisville, Kentucky 40202

Counsel for
Louisville Gas and Electric Company
and Kentucky Utilities Company

Commonwealth of Kentucky, ex. rel. A.B.
Chandler, III, Attorney General, by and
through the Utility and Rate Intervention
Division

By: _____
Elizabeth E. Blackford, Esq.

Kentucky Industrial Utility Customers, Inc.

By: _____
Michael L. Kurtz, Esq.

Kentucky Public Service Commission

By: _____
Gerald E. Wuetcher
Counsel for the Public Service
Commission of Kentucky

EXHIBIT IV
COMMONWEALTH OF KENTUCKY
FRANKLIN CIRCUIT COURT,
DIVISION II
CIVIL ACTION NO. 00-CI-00121
(Consolidated with)
CIVIL ACTION NO. 00-CI-00162

Kentucky Industrial Utility Customers, Inc.,

Plaintiff

v.

Public Service Commission of Kentucky,
Kentucky Utilities Company, and
Commonwealth of Kentucky, ex rel., A. B. Chandler, III
Attorney General, By and Through the Utility and Rate
Intervention Division

Defendants

ORDER OF DISMISSAL

The Court previously entered an Order of Remand in this action on _____, 200_ which provided that these actions were remanded to the Public Service Commission of Kentucky ("Commission") for the purpose of allowing the Commission to consider and act upon a proposed unanimous settlement agreement among the parties. The parties have been advised that the Commission has approved the settlement agreement in its order dated _____, 2002. Therefore, the Court now ORDERS that these actions be and hereby are DISMISSED WITH PREJUDICE and these actions are removed from the Court's docket.

IT IS SO ORDERED THIS _____ DAY OF _____, 2002.

HON. William L. Graham, Judge
Franklin Circuit Court, Division II

cc: Parties of record

APPENDIX B

AN APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 1994-00461-A, ET AL. DATED May 17, 2002.

CHRONOLOGY OF FUEL ADJUSTMENT CLAUSE LITIGATION

| Date | Event |
|------------|---|
| 06/27/1995 | Commission initiates Case No. 1994-00461-A. |
| 08/17/1995 | Hearing held in Case 1994-00461-A. Testifying before the Commission were: Charles Caudill, KU's Director of System Operations; Robert M. Hewett, KU's Vice President of Regulation and Economic Planning; James Ellington, KU's Ghent Generating Station Plant Superintendent; Gerhard Haimberger, KU's Director of Fuels Management; Wayne T. Lucas, KU's Vice President of Power Supply; and Michael Robinson, KU's Controller. |
| 12/20/1995 | Commission initiates Case No. 1994-00461-B. |
| 02/22/1996 | Hearing held in Case 1994-00461-B. Testifying before the Commission were: Charles Caudill, KU's Director of System Operations; Robert M. Hewett, KU's Vice President of Regulation and Economic Planning; James Ellington, KU's Ghent Generating Station Plant Superintendent; Gerhard Haimberger, KU's Director of Fuels Management; and Mike Robinson, KU's Controller. |
| 06/13/1996 | Commission initiates Case No. 1994-00461-C. |
| 08/26/1996 | Hearing held in Case 1994-00461-C. Testifying before the Commission were: Charles Caudill, KU's Director of System Operations; Robert M. Hewett, KU's Vice President of Regulation and Economic Planning; James Ellington, KU's Ghent Generating Station Plant Superintendent; Gerhard Haimberger, KU's Director of Fuels Management; and Mike Robinson, KU's Controller. |
| 11/14/1996 | Commission initiates Case No. 1996-00524. |
| 11/14/1996 | Commission initiates Case No. 1996-00523. |
| 04/07/1997 | Case No. 1994-00461-A stands submitted for decision. |
| 04/15/1997 | Hearing held in Case 1996-00523. Testifying before the Commission were: Robert M. Hewett, KU's Vice President of Regulation and Economic Planning; Gary Hawley, KU's Vice President of Bulk Power Engineering; James Ellington, KU's Ghent Generating Station Plant Superintendent; Gerhard Haimberger, KU's Director of Fuels Management; Mike Robinson, KU's Controller; Alan S. Taylor, Senior Consultant, Hagler Bailly Consulting, Inc.; David Brown Kinloch, and Paul Normand of Management Applications Consulting, Inc. |

CHRONOLOGY OF FUEL ADJUSTMENT CLAUSE LITIGATION

| Date | Event |
|------------|---|
| 06/27/1995 | Commission initiates Case No. 1994-00461-A. |
| 08/17/1995 | Hearing held in Case 1994-00461-A. Testifying before the Commission were: Charles Caudill, KU's Director of System Operations; Robert M. Hewett, KU's Vice President of Regulation and Economic Planning; James Ellington, KU's Ghent Generating Station Plant Superintendent; Gerhard Haimberger, KU's Director of Fuels Management; Wayne T. Lucas, KU's Vice President of Power Supply; and Michael Robinson, KU's Controller. |
| 12/20/1995 | Commission initiates Case No. 1994-00461-B. |
| 02/22/1996 | Hearing held in Case 1994-00461-B. Testifying before the Commission were: Charles Caudill, KU's Director of System Operations; Robert M. Hewett, KU's Vice President of Regulation and Economic Planning; James Ellington, KU's Ghent Generating Station Plant Superintendent; Gerhard Haimberger, KU's Director of Fuels Management; and Mike Robinson, KU's Controller. |
| 06/13/1996 | Commission initiates Case No. 1994-00461-C. |
| 08/26/1996 | Hearing held in Case 1994-00461-C. Testifying before the Commission were: Charles Caudill, KU's Director of System Operations; Robert M. Hewett, KU's Vice President of Regulation and Economic Planning; James Ellington, KU's Ghent Generating Station Plant Superintendent; Gerhard Haimberger, KU's Director of Fuels Management; and Mike Robinson, KU's Controller. |
| 11/14/1996 | Commission initiates Case No. 1996-00524. |
| 11/14/1996 | Commission initiates Case No. 1996-00523. |
| 04/07/1997 | Case No. 1994-00461-A stands submitted for decision. |
| 04/15/1997 | Hearing held in Case 1996-00523. Testifying before the Commission were: Robert M. Hewett, KU's Vice President of Regulation and Economic Planning; Gary Hawley, KU's Vice President of Bulk Power Engineering; James Ellington, KU's Ghent Generating Station Plant Superintendent; Gerhard Haimberger, KU's Director of Fuels Management; Mike Robinson, KU's Controller; Alan S. Taylor, Senior Consultant, Hagler Bailly Consulting, Inc.; David Brown Kinloch, and Paul Normand of Management Applications Consulting, Inc. |

04/16/1997 Hearing held in Case No. 1996-00524. Testifying before the Commission were: Randall Walker, LG&E's Manager of Rates and Regulatory Affairs; Robert E. Lyon, LG&E's Director of Resource and Electric System Planning; Gregory K. Winter, LG&E's Director of Corporate Accounting; William G. Gilbert, LG&E's Fuels Administration Manager; Rick T. Melloan, LG&E's Director of Central Engineering and Construction Management; Alan S. Taylor, Senior Consultant, Hagler Bailly Consulting, Inc.; and, David Brown Kinloch.

05/28/1997 Case No. 1996-00524 stands submitted for decision.

06/16/1997 Case No. 1996-00523 stands submitted for decision.

07/14/1997 Commission initiates Case No. 1996-00523-A.

10/16/1997 Hearing held in Case 1996-00523-A. Testifying before the Commission were: Charles Caudill, KU's Director of System Operations; James Ellington, KU's Ghent Generating Station Plant Superintendent; Gerhard Haimberger, KU's Director of Fuels Management; Michael Robinson, KU's Controller; and Ronald Willhite, KU's Vice President of Regulation and Economic Planning.

12/11/1997 Commission initiates Case No. 1996-00523-B.

02/19/1998 Hearing held in Case 1996-00523-B. Testifying before the Commission were: James Ellington, KU's Ghent Generating Station Plant Superintendent; Gerhard Haimberger, KU's Director of Fuels Management; Michael Robinson, KU's Controller; and Ronald Willhite, KU's Vice President of Regulation and Economic Planning.

06/17/1998 Commission initiates Case No. 1996-00523-C.

08/27/1998 Hearing held in Case 1996-00523-C. Testifying before the Commission were: James Ellington, KU's Ghent Generating Station Plant Superintendent; Gerhard Haimberger, KU's Director of Fuels Management; Michael Robinson, KU's Controller; and Ronald Willhite, KU's Vice President of Regulation and Economic Planning.

12/01/1998 Commission initiates Case No. 1998-00564.

02/09/1999 Final Order in Case No. 1996-00524 issued. LG&E ordered to refund \$1,881,460.

- 02/10/1999 Hearing held in Case No. 1998-00564. Testifying before the Commission were: James Ellington, KU's Ghent Generating Station Plant Superintendent; Gerhard Haimberger, KU's Director of Fuels Management; Michael J. Spurlock, KU's Director of Utility Accounting and Reporting; and Ronald L. Willhite, KU's Vice President of Regulatory Affairs.
- 02/19/1999 LG&E petitions for rehearing in Case No. 1996-00524.
- 03/11/1999 Commission denies LG&E's petition for rehearing in Case No. 1996-00524.
- 03/23/1999 KIUC brings an action for review of Commission's Order in Case No. 1996-00524. Kentucky Industrial Utility Customer, Inc. v. Pub. Serv. Com'n, No. 99-CI-00310 (Franklin Cir. Ct.).
- 04/01/1999 LG&E brings an action for review of Commission's Order in Case No. 1996-00524. Louisville Gas & Electric Co. v. Pub. Serv. Com'n, No. 99-CI-00382 (Franklin Cir. Ct.).
- 06/23/1999 Commission initiates Case No. 1998-00564-A.
- 07/20/1999 Final Order entered in Cases No. 1994-00461-A, No. 1994-00461-B, No. 1994-00461-C, and No.1996-00523. KU ordered to refund \$4,235,044.
- 07/21/1999 Final Order entered in Case No. 1996-00523-A. KU ordered to refund \$1,027,346.
- 07/21/1999 Final Order entered in Case No. 1996-00523-B. KU ordered to refund \$1,184,898.
- 07/21/1999 Final Order entered in Case No. 1996-00523-C. KU ordered to refund \$971,325.
- 07/21/1999 Final Order entered in Case No. 1998-00564. KU ordered to refund \$2,660,967.
- 08/09/1999 KU files Petition for Rehearing of Order of 7/20/1999 in Cases No. 1994-00461-A, No. 1994-00461-B, No. 1994-00461-C, No.1996-00523, No. 1996-00523-A, No. 1996-00523-B, No. 1996-00523-C, and Case No. 1998-00564.
- 08/30/1999 Commission grants KU's Petition for Rehearing in part and denies in part in Cases No. 1994-00461-A, No. 1994-00461-B, No. 1994-00461-C, No.1996-00523, No. 1996-00523-A, No. 1996-00523-B, No. 1996-00523-C, and No. 1998-00564. KU ordered to refund \$6,720,987 over a 12-month period.

- 09/15/1999 KIUC brings an action for review of Commission's Order of 08/30/1999 in Case No. 1994-00461-A. Kentucky Industrial Utility Customer, Inc. v. Pub. Serv. Com'n, No. 99-CI-01077 (Franklin Cir. Ct.).
- 09/22/1999 KU brings an action for review of Commission's Order in Case No. 1994-00461-A. Kentucky Utilities Co. v. Pub. Serv. Com'n, No. 99-CI-01104 (Franklin Cir. Ct.).
- 09/27/1999 Commission initiates Case No. 1998-00564-B.
- 10/01/1999 Hearing held in Cases No. 1998-00564-A and No. 1998-00564-B. Testifying before the Commission were: Daniel Becher, KU's Director of Electric System Operations; Lonnie Bellar, KU's Manager of Generation Systems Planning; William A. Bosta, KU's Director of Regulatory Management; Gerhard Haimberger, KU's Director of Fuels Management; and Rick Melloan, KU's Director of Generation Services.
- 01/12/2000 Final Order entered in Cases No. 1998-00564-A and No. 1998-00564-B. KU ordered to refund \$1,648,027 over a 4-month period.
- 01/27/2000 KIUC brings an action for review of Commission's Order in Cases No. 1998-00564-A and No. 1998-00564-B. Kentucky Industrial Utility Customer, Inc. v. Pub. Serv. Com'n, No. 2000-CI-00121 (Franklin Cir. Ct.).
- 02/04/2000 KU brings an action for review of Commission's Order in Cases No. 1998-00564-A and No. 1998-00564-B. Kentucky Utilities Co. v. Pub. Serv. Com'n, No. 2000-CI-00162 (Franklin Cir. Ct.).
- 05/15/2000 Franklin Circuit Court issues judgment on actions for review of Commission's Order in Case No. 1996-00524. Kentucky Industrial Utility Customer, Inc. v. Pub. Serv. Com'n, No. 99-CI-00310 (Franklin Cir. Ct.).
- 06/12/2000 LG&E files Notice of Appeal of Franklin Circuit Court's Opinion and Order in Kentucky Industrial Utility Customer, Inc. v. Pub. Serv. Com'n, No. 99-CI-00310 (Franklin Cir. Ct.).
- 10/30/2000 Franklin Circuit Court issues judgment on actions for review of Commission's Orders related to KU's FAC: Kentucky Industrial Utility Customer, Inc. v. Pub. Serv. Com'n, No. 99-CI-01077 (Franklin Cir. Ct.).
- 11/02/2000 KU files its Notice of Appeal of Franklin Circuit Court's Opinion and Order of 10/30/2000 in Kentucky Industrial Utility Customer, Inc. v. Pub. Serv. Com'n, No. 99-CI-01077 (Franklin Cir. Ct.). Kentucky Utilities Co. v. Kentucky Industrial Utilities Customers, Inc., No. 2000-CA-002583-MR (Ky. Ct. App.).

- 11/30/2000 AG files his Notice of Appeal of Franklin Circuit Court's Opinion and Order of 10/31/2000 in Kentucky Industrial Utility Customer, Inc. v. Pub. Serv. Com'n, No. 99-CI-01077 (Franklin Cir. Ct.). Office of Attorney General v. Kentucky Utilities Co., No. 2000-CA-002778-MR (Ky. Ct. App.).
- 11/30/2000 KIUC files its Notice of Appeal of Franklin Circuit Court's Opinion and Order of 10/31/2000 in Kentucky Industrial Utility Customer, Inc. v. Pub. Serv. Com'n, No. 99-CI-01077 (Franklin Cir. Ct.). Kentucky Industrial Utility Customer, Inc. v. Kentucky Utilities Co., No. 2000-CA-002776-MR (Ky. Ct. App.).
- 12/12/2000 Commission initiates Case No. 2000-00497.
- 12/12/2000 Commission initiates Case No. 2000-00498.
- 02/09/2001 Hearing held in Cases No. 2000-00497 and No. 2000-00498. Testifying before the Commission were: Gerhard Haimberger, LG&E/KU Director of Fuels; Lonnie E. Bellar, LG&E/KU Director of Generation Services; and William Bosta, LG&E/KU Director of Regulatory Management.
- 06/11/2001 Commission initiates Case No. 2000-00497-A.
- 06/11/2001 Commission initiates Case No. 2000-00498-A.
- 09/04/2001 Hearing held in Cases No. 2000-00497-A and No. 2000-00498-A. Testifying before the Commission were: Robin Brenda Hayes, Manager for Energy Marketing Accounting, LG&E Service Company; Mike Dotson, LGE/KU Manager of Fuels; Lonnie E. Bellar, LG&E/KU Director of Generation Services; and Ronald L. Willhite, Director of Rates and Regulatory Affairs, LG&E Services Company.
- 12/21/2001 Signatories execute Settlement Agreement and file with the Commission Joint Motion to Approve Settlement Agreement.
- 01/02/2002 Franklin Circuit Court remands Kentucky Industrial Utility Customers, Inc. v. Pub. Serv. Com'n, No. 2000-CI-00121 (Franklin Cir. Ct.) and Kentucky Utilities Co. v. Pub. Serv. Com'n, No. 2000-CI-00162 (Franklin Cir. Ct.) to the Commission.
- 04/01/2002 Kentucky Court of Appeals remands all pending appeals to Commission for 60 days for Commission to consider settlement agreement. Louisville Gas and Electric Co. v. KIUC, No. 2000-CA-001390-MR (Ky. Ct. App.).

APPENDIX C

AN APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 1994-00461-A, ET AL. DATED May 17, 2002.

Company: Kentucky Utilities Company
 FAILED PURCHASE TRANSACTION SCHEDULE
 Month Ended: February 2002

| Company | Buy-Throughs (\$) | | Native Load (\$) | | Forced Outages (\$) | | OSS Purchases (\$) | | Adj. From Prior Month (\$) | | Total Energy Charges (\$) | | Other Charges (\$) | | Total Charges (\$) | |
|--|--------------------|-------------|------------------|------------------------|---------------------|-----------------|--------------------|----------------|----------------------------|---------------------|---------------------------|-----------------|---------------------|------------------------|------------------------|-------------------------|
| | KWH | \$/MWH | KWH | \$/MWH | KWH | \$/MWH | KWH | \$/MWH | KWH | \$/MWH | Total Energy | Demand (\$) | Other | Total | | |
| CHASCO ELECTRIC COOP., INC. | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| ERIAN ELECTRIC POWER SERVICE | 80,000 | - | - | - | - | - | - | 5,768.36 | 80,000 | 72.10 | 5,768.36 | - | - | - | 5,768.36 | |
| EGHENY ENERGY, INC. | 11,000 | - | - | - | - | - | - | 274.01 | 11,000 | 24.91 | 274.01 | - | - | - | 274.01 | |
| EREN ENERGY, INC. | 17,000 | - | - | - | - | - | - | 445.78 | 17,000 | 26.22 | 445.78 | - | - | - | 445.78 | |
| JILA ENERGY MARKETING CORP. | 42,000 | - | - | - | - | - | - | 1,092.47 | 42,000 | 26.01 | 1,092.47 | - | - | - | 1,092.47 | |
| ENERGY COMPANY | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | |
| RIVERS ELECTRIC CORP. | 2,000 | - | - | - | - | - | - | 190.23 | 2,000 | 95.12 | 190.23 | - | - | - | 190.23 | |
| OGILL-ALLIANT, LLC | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | |
| ERGY SERVICES, INC. | 55,000 | - | - | - | - | - | - | 2,439.97 | 55,000 | 44.36 | 2,439.97 | - | - | - | 2,439.97 | |
| S MARKETING, SERVICES & TRADING | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | |
| STELLATION POWER SOURCE, INC. | 5,000 | - | - | - | - | - | - | 128.57 | 5,000 | 25.71 | 128.57 | - | - | - | 128.57 | |
| RAL POWER L.L.C. | - | - | - | - | - | - | - | - | - | - | - | 3.46 | - | - | 3.46 | |
| TROT EDISON | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | |
| YTON POWER AND LIGHT COMPANY | 1,000 | - | - | - | - | - | - | 17.49 | 1,000 | 17.49 | 17.49 | - | - | - | 17.49 | |
| E ENERGY TRADING, INC. | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | |
| KE ENERGY TRADING AND MARKETI | - | - | - | - | - | - | - | 6.58 | - | - | 6.58 | - | - | - | 6.58 | |
| EGY POWER MARKETING, INC. | 69,000 | - | - | - | - | - | - | 932.49 | 45,000 | 20.72 | 1,233.17 | - | - | - | 1,233.17 | |
| ST KENTUCKY POWER COOPERATIV | 2,000 | - | - | - | - | - | - | 236.57 | 2,000 | 118.29 | 236.57 | - | - | - | 236.57 | |
| ECTRIC ENERGY INC | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | |
| PASO MERCHANT ENERGY, L.P. | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | |
| TERGY-KOCH TRADING, LP | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | |
| ELON GENERATION COMPANY, LLC | 15,000 | - | - | - | - | - | - | 388.13 | 15,000 | 25.88 | 388.13 | - | - | - | 388.13 | |
| NOIS MUNICIPAL ELECTRIC AGENCY | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | |
| HANA MUNICIPAL POWER AGENCY | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | |
| E ENERGY MARKETING INC. | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | |
| IAHT AMERICAS ENERGY MARKETI | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | |
| RGAN STANLEY CAPITAL GROUP, IN | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | |
| WEST INDEPENDENT TRANSMISSIO | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | |
| RTHERN STATES POWER | 3,000 | - | - | - | - | - | - | 41.14 | 3,000 | 13.71 | 41.14 | - | - | - | 41.14 | |
| IO VALLEY ELECTRIC CORPORATION | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | |
| ENSBORO MUNICIPAL UTILITIES | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | |
| ELECTRIC UTILITIES CORP. | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | |
| JANT ENERGY SERVICES INC. | 5,000 | - | - | - | - | - | - | 118.49 | 5,000 | 23.70 | 118.49 | - | - | - | 118.49 | |
| JTHERN COMPANY SERVICES, INC | 10,000 | - | - | - | - | - | - | 259.40 | 10,000 | 25.94 | 259.40 | - | - | - | 259.40 | |
| JRA ENERGY TRADING CORP. | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | |
| JTHEASTERN POWER ADMINISTRAT | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | |
| JTHERN INDIANA GAS & ELECTRIC C | 13,000 | - | - | - | - | - | - | 367.20 | 13,000 | 28.25 | 367.20 | - | - | - | 367.20 | |
| J ENERGY AUTHORITY | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | |
| JHESSEE VALLEY AUTHORITY | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | |
| J ENERGY TRADING COMPANY | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | |
| JGINA ELECTRIC AND POWER COMP | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | |
| JLIANS ENERGY MARKETING & TRAD | 246,000 | - | - | - | - | - | - | 2,851.00 | 241,000 | 11.00 | 2,723.51 | - | - | - | 2,723.51 | |
| JASH VALLEY POWER ASSOCIATION | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | |
| JUEI | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | |
| JUEI | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | |
| JUEI | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | |
| JUEI | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | |
| JUEI | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | |
| JVILLE GAS & ELECTRIC | 432,887,000 | - | - | 4,840,926.38 | 432,887,000 | 10.72 | - | - | - | - | 4,840,926.38 | - | - | - | 4,840,926.38 | |
| JENSBORO MUNICIPAL UTILITIES | 170,185,800 | - | - | 2,407,885.43 | 170,185,800 | 14.15 | - | - | - | - | 2,407,885.43 | 1,370,635.88 | - | - | 3,797,008.13 | |
| JIO VALLEY ELECTRIC CORPORATION | 27,791,000 | - | - | 359,337.83 | 27,791,000 | 12.93 | - | - | - | - | 359,337.83 | 358,396.81 | - | - | 715,734.54 | |
| JCTRIC ENERGY INC | 125,123,000 | - | - | 1,231,032.83 | 125,123,000 | 9.84 | - | - | - | - | 1,231,032.83 | 2,350,819.34 | - | - | 3,634,493.64 | |
| TOTAL | 756,542,800 | \$ - | \$ - | \$ 8,639,282.37 | 756,542,800 | \$ 11.43 | \$ 2,951.68 | 265,000 | \$ 11.14 | \$ 12,779.39 | 311,000 | \$ 41.09 | \$ 71,031.65 | \$ 8,726,045.09 | \$ 4,077,852.13 | \$ 12,803,897.22 |
| LESS: PURCHASED FOR INTERRUPTIBLE BUY-THROUGH | 0 | \$ - | \$ - | \$ - | 0 | \$ - | \$ - | 0 | \$ - | \$ - | 0 | \$ - | \$ - | \$ - | \$ - | \$ - |
| TOTAL | 756,542,800 | \$ - | \$ - | \$ 8,639,282.37 | 756,542,800 | \$ 11.43 | \$ 2,951.68 | 265,000 | \$ 11.14 | \$ 12,779.39 | 311,000 | \$ 41.09 | \$ 71,031.65 | \$ 8,726,045.09 | \$ 4,077,852.13 | \$ 12,803,897.22 |

| Month | Year | LGE | KU |
|-------|------|-----|-----|
| Jan | 2006 | - | - |
| Feb | 2006 | ZN | TY2 |
| Mar | 2006 | - | - |
| Apr | 2006 | ZN | TY2 |
| May | 2006 | ZN | TY2 |
| Jun | 2006 | ZN | HF |
| Jul | 2006 | ZN | TY2 |
| Aug | 2006 | ZN | HF |
| Sep | 2006 | ZN | HF |
| Oct | 2006 | ZN | HF |
| Nov | 2006 | ZN | HF |
| Dec | 2006 | ZN | HF |

| Month | Year | LGE | KU |
|-------|------|------|-----|
| Jan | 2009 | ZN | HF |
| Feb | 2009 | PR12 | BR5 |
| Mar | 2009 | PR12 | HF |
| Apr | 2009 | PR12 | HF |
| May | 2009 | PR12 | HF |
| Jun | 2009 | ZN | HF |
| Jul | 2009 | ZN | TY2 |
| Aug | 2009 | ZN | HF |
| Sep | 2009 | ZN | HF |
| Oct | 2009 | ZN | HF |
| Nov | 2009 | ZN | HF |
| Dec | 2009 | ZN | HF |

| | | | |
|-----|------|----|----|
| Jan | 2007 | ZN | HF |
| Feb | 2007 | ZN | HF |
| Mar | 2007 | ZN | HF |
| Apr | 2007 | ZN | HF |
| May | 2007 | ZN | HF |
| Jun | 2007 | ZN | HF |
| Jul | 2007 | ZN | HF |
| Aug | 2007 | ZN | HF |
| Sep | 2007 | ZN | HF |
| Oct | 2007 | ZN | HF |
| Nov | 2007 | ZN | HF |
| Dec | 2007 | ZN | HF |

| | | | |
|-----|------|----|----|
| Jan | 2010 | ZN | HF |
| Feb | 2010 | ZN | HF |
| Mar | 2010 | ZN | HF |
| Apr | 2010 | ZN | HF |
| May | 2010 | ZN | HF |
| Jun | 2010 | ZN | HF |
| Jul | 2010 | ZN | HF |
| Aug | 2010 | ZN | HF |
| Sep | 2010 | ZN | HF |
| Oct | 2010 | ZN | HF |
| Nov | 2010 | ZN | HF |
| Dec | 2010 | ZN | HF |

| | | | |
|-----|------|----|----|
| Jan | 2008 | ZN | HF |
| Feb | 2008 | ZN | HF |
| Mar | 2008 | ZN | HF |
| Apr | 2008 | ZN | HF |
| May | 2008 | ZN | HF |
| Jun | 2008 | ZN | HF |
| Jul | 2008 | ZN | HF |
| Aug | 2008 | ZN | HF |
| Sep | 2008 | ZN | HF |
| Oct | 2008 | ZN | HF |
| Nov | 2008 | ZN | HF |
| Dec | 2008 | ZN | HF |

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|-----|------|------|----|
| Jan | 2011 | ZN | HF |
| Feb | 2011 | ZN | HF |
| Mar | 2011 | ZN | HF |
| Apr | 2011 | ZN | HF |
| May | 2011 | ZN | HF |
| Jun | 2011 | ZN | HF |
| Jul | 2011 | ZN | HF |
| Aug | 2011 | ZN | HF |
| Sep | 2011 | PR11 | HF |
| Oct | 2011 | PR11 | HF |
| Nov | 2011 | ZN | HF |
| Dec | 2011 | ZN | HF |

| Month | Year | LGE | KU |
|-------|------|-----|----|
| Jan | 2012 | ZN | HF |
| Feb | 2012 | ZN | HF |
| Mar | 2012 | ZN | HF |
| Apr | 2012 | ZN | HF |
| May | 2012 | ZN | HF |
| Jun | 2012 | ZN | HF |
| Jul | 2012 | ZN | HF |
| Aug | 2012 | ZN | HF |
| Sep | 2012 | ZN | HF |
| Oct | 2012 | ZN | HF |
| Nov | 2012 | ZN | HF |
| Dec | 2012 | ZN | HF |

| Month | Year | LGE | KU |
|-------|------|-----|----|
| Jan | 2015 | ZN | HF |
| Feb | 2015 | ZN | HF |
| Mar | 2015 | ZN | HF |
| Apr | 2015 | ZN | HF |
| May | 2015 | ZN | HF |
| Jun | 2015 | ZN | HF |
| Jul | 2015 | ZN | HF |
| Aug | 2015 | ZN | HF |
| Sep | 2015 | ZN | HF |
| Oct | 2015 | ZN | HF |
| Nov | 2015 | ZN | HF |
| Dec | 2015 | ZN | HF |

| | | | |
|-----|------|----|----|
| Jan | 2013 | ZN | HF |
| Feb | 2013 | ZN | HF |
| Mar | 2013 | ZN | HF |
| Apr | 2013 | ZN | HF |
| May | 2013 | ZN | HF |
| Jun | 2013 | ZN | HF |
| Jul | 2013 | ZN | HF |
| Aug | 2013 | ZN | HF |
| Sep | 2013 | ZN | HF |
| Oct | 2013 | ZN | HF |
| Nov | 2013 | ZN | HF |
| Dec | 2013 | ZN | HF |

| | | | |
|-----|------|------|----|
| Jan | 2016 | ZN | HF |
| Feb | 2016 | ZN | HF |
| Mar | 2016 | PR12 | HF |

| | | | |
|-----|------|------|----|
| Jan | 2014 | ZN | HF |
| Feb | 2014 | ZN | HF |
| Mar | 2014 | PR12 | HF |
| Apr | 2014 | ZN | HF |
| May | 2014 | ZN | HF |
| Jun | 2014 | ZN | HF |
| Jul | 2014 | ZN | HF |
| Aug | 2014 | ZN | HF |
| Sep | 2014 | ZN | HF |
| Oct | 2014 | ZN | HF |
| Nov | 2014 | ZN | HF |
| Dec | 2014 | ZN | HF |

LEGEND

- BR5: Brown Unit 5
- HF: Haefling Units
- PR11: Paddy's Run Unit 11
- PR12: Paddy's Run Unit 12
- TY2: Tyrone Unit 2
- ZN: Zorn Unit