

153 FERC ¶ 61,126
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;
Philip D. Moeller, Cheryl A. LaFleur,
Tony Clark, and Colette D. Honorable.

Louisville Gas and Electric Company and
Kentucky Utilities Company

Docket No. ER14-2866-002

ORDER ON COMPLIANCE FILING

(Issued October 30, 2015)

1. On May 12, 2015, as amended on June 18, 2015, Louisville Gas and Electric Company (LG&E) and Kentucky Utilities Company (KU) (collectively, LG&E/KU) submitted proposed revisions to Attachment O of their joint Open Access Transmission Tariff (Tariff) to revise their formula rate protocols in response to the Commission's March 19, 2015 order.¹ In this order, we conditionally accept LG&E/KU's compliance filing, effective January 1, 2015, as requested, subject to a further compliance filing.

I. Background

2. In a July 17, 2014 order, the Commission explained that it had undertaken a review of the transmission formula rates and formula rate protocols of jurisdictional public utilities to identify utilities that currently are not required to make annual informational filings of their formula rate updates with the Commission.² LG&E/KU were two such utilities and the Commission analyzed the formula rate in their Tariff using the standards established in the MISO Investigation Order³ and the MISO

¹ *Louisville Gas and Elec. Co. and Kentucky Utilities Co.*, 150 FERC ¶ 61,202 (2015) (March 2015 Order).

² *Louisville Gas and Elec. Co. and Kentucky Utilities Co.*, 148 FERC ¶ 61,031 (2014) (July 2014 Order).

³ *Midwest Indep. Transmission Sys. Operator, Inc.*, 143 FERC ¶ 61,149 (2013) (MISO Investigation Order), *reh'g denied*, 146 FERC ¶ 61,209 (2014).

Compliance Order⁴ to determine if the LG&E/KU formula rate meets the other requirements established in those orders. The Commission found that LG&E/KU's proposed formula rate protocols did not conform to the requirements of the MISO Investigation Order and the MISO Compliance Order, which specifically identified three areas of concern: (1) scope of participation (i.e., who can participate in the information exchange); (2) the transparency of the information exchange (i.e., what information is exchanged); and (3) the ability of customers to challenge transmission owners' implementation of the formula rate as a result of the information exchange (i.e., how the parties may resolve their potential disputes). The Commission therefore directed LG&E/KU to propose formula rate protocols addressing all three areas of concern.⁵

3. On September 12, 2014, in compliance with the Commission's July 2014 Order, LG&E/KU submitted revised formula rate protocols. On March 19, 2015, the Commission found that LG&E/KU's proposed formula rate protocols generally comply with the Commission's directives in its July 2014 Order directing LG&E/KU to propose formula rate protocols to be included in their Tariff, but directed LG&E/KU to make a number of revisions. Specifically, the Commission directed LG&E/KU to revise its protocols to include a requirement that they endeavor to coordinate with other transmission owners using formula rates to establish revenue requirements for recovery of the costs of transmission projects that utilize the same regional cost sharing mechanism and hold joint meetings to enable all interested parties to understand how those transmission owners are implementing their formula rates for recovering the costs of such projects.⁶ The Commission also directed LG&E/KU to modify their formula rate protocols to explicitly require remote access for participation at annual update meetings.⁷

4. The Commission also found that LG&E/KU should not filter the accounting changes disclosed to interested parties by establishing materiality limits. The Commission found that LG&E/KU's application of materiality reduces the transparency

⁴ *Midcontinent Indep. Sys. Operator, Inc.*, 146 FERC ¶ 61,212 (2014) (MISO Compliance Order). The Commission also separately evaluated the compliance filings of two MISO transmission owners. See *Midcontinent Indep. Sys. Operator, Inc.*, 146 FERC ¶ 61,210 (2014) (evaluating the compliance filing of Southern Indiana Electric & Gas Company); *Midcontinent Indep. Sys. Operator, Inc.*, 146 FERC ¶ 61,211 (2014) (evaluating the compliance filing of Northern Indiana Public Service Company).

⁵ July 2014 Order, 148 FERC ¶ 61,031 at P 8.

⁶ March 2015 Order, 150 FERC ¶ 61,202 at P 33.

⁷ *Id.* P 34.

of financial information used in formula rate billings. Consequently, the Commission directed LG&E/KU to revise their protocols to require disclosure of any accounting changes that affect inputs to the formula rate as part of their annual updates.⁸ The Commission also directed LG&E/KU to make the clarifying revisions to sections II.D.4 and III.A.4, as proposed by American Municipal Power, Inc., which LG&E/KU in their answer agreed to make.⁹

5. The Commission also required LG&E/KU to add language to their formula rate protocols stating that an interested party must submit an informal challenge *on any issue* in order to submit a formal challenge.¹⁰ The Commission also directed LG&E/KU in their compliance filing to revise their formula rate protocols to propose a date for any interested party to submit a formal challenge with the Commission that allows reasonable time for interested parties to review the informational filing.¹¹

6. On May 12, 2015, as amended on June 18, 2015, LG&E/KU filed revisions to the Tariff in order to comply with the Commission's March 2015 Order.

II. Notice of Filing and Responsive Pleadings

7. Notice of LG&E/KU's May 12, 2015 compliance filing was published in the *Federal Register*, 80 Fed. Reg. 28,995 (2015), with interventions and protests due on or before June 2, 2015. None was filed.

8. Notice of LG&E/KU's June 18, 2015 amendment to the compliance filing was published in the *Federal Register*, 80 Fed. Reg. 36,796 (2015), with interventions and protests due on or before July 9, 2015. None was filed.

III. Discussion

A. LG&E/KU's Compliance Filing

9. LG&E/KU propose revisions to section II.F of the formula rate protocols in response to the Commission's directive to include a requirement that they endeavor to coordinate with other transmission owners using formula rates to establish revenue

⁸ *Id.* PP 35-36.

⁹ *Id.* P 37.

¹⁰ *Id.* P 48.

¹¹ *Id.* P 50.

requirements for recovery of the costs of transmission projects that utilize the same regional cost sharing mechanism and hold joint meetings. The proposed language states that LG&E/KU will endeavor to coordinate joint meetings with other Southeast Regional Transmission Planning project sponsors who also have formula rates during the third calendar quarter of the year. In response to the Commission's requirement that LG&E/KU's formula rate protocols include language to provide remote access to their annual update meetings, LG&E/KU propose revisions to sections II.E and II.F of their formula rate protocols requiring that remote access to meetings be available. In response to the Commission's directive that LG&E/KU revise their protocols to require disclosure of any accounting changes that affect inputs to the formula rate as part of their annual updates, LG&E/KU have proposed revisions section II.D.8 of their formula rate protocols removing the materiality standard with respect to accounting changes.

10. LG&E/KU propose to make the clarifying revisions to sections IV.B.1.g and IV.B.2 that were requested by American Municipal Power, Inc. In response to the Commission's directive that LG&E add language which states that an interested party must submit an informal challenge *on any issue* in order to submit a formal challenge, LG&E/KU propose to revise section IV.F of their formula rate protocols to clarify that the informal challenge may be "on any issue." In response to the Commission's directive that LG&E/KU revise their formula rate protocols to propose a date for any interested party to submit a formal challenge with the Commission that allows reasonable time for interested parties to review the informational filing, LG&E/KU propose revisions to section IV.F of their formula rate protocols changing the deadline for formal challenges from March 31 to April 15.

B. Commission Determination

11. Except as discussed below, we find that LG&E/KU's proposed revisions to their formula rate protocols comply with the Commission's directives from the March 2015 Order and we will accept them.

12. We find that LG&E/KU's proposed section II.F does not comply with the Commission directives to address joint meetings on regional transmission projects. LG&E/KU's proposed language in section II.F which states:

In such years where, with another [Southeast Regional Transmission Planning Process] Sponsor(s) which uses transmission formula rates, LG&E/KU are involved in the development of a regional transmission project that has been selected for [regional cost allocation purposes] pursuant to the regional transmission planning process described in Attachment K, LG&E/KU will endeavor to coordinate with such Sponsor(s) to hold a joint meeting to enable all Interested Parties to understand how LG&E/KU and such Sponsor(s) are recovering the costs of such project through their respective transmission formula rates.

LG&E/KU will endeavor to hold such joint meeting(s) in conjunction with the Second [Regional Planning Stakeholders Group] meeting, held during the third calendar quarter of the year. Notice of joint informational meetings, including the time, date, and location, shall be posted on [Open Access Same-Time Information System] and distributed to the email exploder list no less than seven (7) days prior to such meetings, as well as information for providing remote access to such joint meetings.

13. We find that LG&E/KU's proposed language does not comply with the Commission directives because it appears to limit coordination to only other transmission owners that are members of the same planning region, in this case Southeast Regional Transmission Planning project sponsors. We find that this language does not require LG&E/KU: (1) to coordinate with transmission owners outside of the Southeast Regional Transmission Planning region that own inter-regional projects whose costs are allocated using the same cost sharing mechanism; or (2) to hold joint meetings to enable all interested parties to understand how those transmission owners are implementing their formula rates for recovering the costs of such projects. Therefore, we direct LG&E/KU to revise section II.F in order to not limit the coordination in the joint meetings to only the transmission owners that are members of Southeast Regional Transmission Planning. In addition, such coordination for joint meetings should apply not only to projects that are jointly developed with LG&E/KU but to all projects that utilize the same regional cost sharing mechanisms, and for any year in which the formula rate is used to recover the costs of such projects. We direct LG&E/KU to revise section II.F accordingly.

The Commission orders:

(A) LG&E/KU's compliance filing is hereby conditionally accepted, effective January 1, 2015, as requested, as discussed in the body of this order.

(B) LG&E/KU are hereby directed to submit a compliance filing within 60 days of the date of this order, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.