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August 27, 2012

RECEIVED

AUG 27 2012

PUBLIC SERVICE
COMMISSION

VIA HAND DELIVERY

Jeff DeRouen
Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, KY 40601

RE: The Application of Louisville Gas and Electric Company for Approval of License Agreement With Charah, Inc. Concerning Mill Creek Generating Station
Case No. 2012-00 _____

Dear Mr. DeRouen:

Enclosed please find and accept for filing the original and ten copies of Louisville Gas and Electric Company's Verified Application in the above-referenced matter. Please confirm receipt of this filing by placing the stamp of your Office with the date received on the enclosed additional copies and return them to me via our officer courier.

Thank you.

Sincerely,

W. Duncan Crosby III

WDC:ec

Enclosures

cc: Dennis G. Howard II
Lawrence W. Cook
Michael L. Kurtz

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RECEIVED

AUG 27 2012

PUBLIC SERVICE
COMMISSION

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF LOUISVILLE GAS)
AND ELECTRIC COMPANY FOR)
APPROVAL OF LICENSE AGREEMENT) CASE NO. 2012-00 _____
WITH CHARAH, INC. CONCERNING)
MILL CREEK GENERATING STATION)

VERIFIED APPLICATION

Louisville Gas and Electric Company (“LG&E”) hereby respectfully petitions the Kentucky Public Service Commission (“Commission”) by verified application pursuant to KRS 278.040, the Commission’s Order dated June 11, 2002 in Case No. 2002-00029,¹ 807 KAR 5:001 § 8, and any and all other applicable statutes and regulations to issue an order approving a license agreement contained in the proposed Coal Combustion Residual Marketing and Management Contract between LG&E and Charah, Inc. (“Contract”). (The relevant portions of the proposed Contract are attached hereto as Exhibit A.) The Contract provides that LG&E will grant Charah a license to access and use beneficial reuse facilities Charah will build at LG&E’s Mill Creek Generating Station (“Mill Creek”) for an initial term and any extensions of the Contract. LG&E will convey to Charah no interest in the land on which the beneficial reuse facilities will reside, and all the facilities Charah will build at Mill Creek will become LG&E’s upon the termination of the Contract (excepting certain equipment in the facilities, which Charah will remove or convey to LG&E upon mutually agreeable terms). The proposed license agreement will be in the public interest because the purpose of the agreement and of the Contract

¹ *Application of Louisville Gas and Electric Company and Kentucky Utilities Company for a Certificate of Public Convenience and Necessity for the Acquisition of Two Combustion Turbines. See id.* at 6 (“Because of the finite nature and value of these [existing generation] sites, we find that LG&E and KU should seek Commission approval prior to entering into the sale or lease of any land located on an existing generation site.”).

as a whole is to reduce LG&E's cost of disposing of coal combustion residuals, and there will be no adverse impact on LG&E's operations at Mill Creek.

As with many beneficial reuse proposals, time is of the essence concerning this proposal. LG&E therefore respectfully asks the Commission to issue the requested order by October 5, 2012.

In support of this Application, LG&E states as follows:

1. Addresses: Applicant LG&E's full name and post office address is: Louisville Gas and Electric Company, 220 West Main Street, Post Office Box 32010, Louisville, Kentucky 40202.

2. Articles of Incorporation: A certified copy of LG&E's Articles of Incorporation is on file with the Commission in Case No. 2010-00204, *In the Matter of: The Joint Application of PPL Corporation, E.ON AG, E.ON U.S. Investments Corp., E.ON U.S. LLC, Louisville Gas and Electric Company and Kentucky Utilities Company for Approval of an Acquisition of Ownership and Control of Utilities* and is incorporated by reference herein pursuant to 807 KAR 5:001, Section 8(3).

3. LG&E is a public utility, as defined in KRS 278.010(3)(a), engaged in the electric and gas business. LG&E generates and purchases electricity, and distributes and sells electricity at retail in Jefferson County and portions of Bullitt, Hardin, Henry, Meade, Oldham, Shelby, Spencer, and Trimble Counties. LG&E also purchases, stores, and transports natural gas and distributes and sells natural gas at retail in Jefferson County and portions of Barren, Bullitt, Green, Hardin, Hart, Henry, Larue, Marion, Meade, Metcalfe, Nelson, Oldham, Shelby, Spencer, Trimble, and Washington Counties.

4. Mill Creek is a four-unit, 1,472 MW (summer capacity) coal-fired generating station that sits on approximately 570 acres in southwestern Jefferson County along the Ohio River. Mill Creek's fourth (and final) unit went into commercial operation in 1982, and the facility has remained in its current configuration for the past 28 years, although some reorganization of certain site components is underway to accommodate required environmental compliance facilities.

5. Charah is a vendor that provides coal combustion residual handling, environmental control byproduct handling, and landfill services to LG&E at Mill Creek. LG&E's current contracts with Charah include providing Charah specification-grade fly ash for beneficial reuse when such is available. LG&E's current contracts with Charah for such services at Mill Creek will expire on March 31, 2016.

6. Charah recently proposed to extend its current Mill Creek contracts and to increase its beneficial reuse activity at Mill Creek in two ways. First, Charah proposes to use a portion of the gypsum produced by Mill Creek's environmental controls as feedstock for an innovative process to convert gypsum into a potentially marketable agricultural product. If a sufficient market for the product develops within five years, Charah will compensate LG&E, and thereby LG&E's customers, for each ton of the product Charah sells beginning in the sixth year. LG&E will pass any associated costs and benefits to customers through LG&E's environmental surcharge mechanism under Project 25, LG&E's beneficial reuse project.²

7. Second, Charah proposes to construct facilities at Mill Creek to enhance its ability to sell fly ash produced by Mill Creek's coal-fired generating units. Charah currently sells a

² The Commission approved LG&E's use of Project 25 for any future beneficial reuse projects in Case No. 2009-00198. See *In the Matter of: Application of Louisville Gas and Electric Company for a Certificate of Public Convenience and Necessity and Approval of Its 2009 Compliance Plan for Recovery by Environmental Surcharge*, Case No. 2009-00198, Order at 5, 7 (Dec. 23, 2009).

quantity of fly ash from the generating station, and there are two fly ash storage silos already on site. Charah proposes to construct a storage dome capable of storing 8,000 tons of specification-grade fly ash, as well as a transfer silo with a 200-ton capacity.

8. These proposals require Charah to construct and own facilities on Mill Creek property. The attached diagrams and aerial photographs illustrate where the Charah facilities will be located and what they will entail (collectively, Exhibit B).

9. LG&E is seeking the Commission's approval for the license agreement contained in the Contract because Charah's proposed facilities will be located on part of a generating station's property. In its June 11, 2002 Order in Case No. 2002-00029, the Commission stated, "Because of the finite nature and value of these [existing generation] sites, we find that LG&E and KU should seek Commission approval prior to entering into the sale or lease of any land located on an existing generation site."³ Although the Charah proposal does not involve a lease or sale of land, it does involve land use for a term of years at Mill Creek.

10. The Commission should approve the proposed license agreement contained in the Contract. LG&E does not anticipate any disruption of station operations arising from the Charah facilities; indeed, the removal of thousands of tons of gypsum and fly ash from Mill Creek will improve long-term station operations by extending the useful life of limited landfill space. LG&E will neither sell nor lease the land under the proposed facilities, but rather will enter into a license agreement permitting Charah to access and use its facilities for the duration of the beneficial reuse contract. Upon termination of the beneficial reuse contract, Charah will remove its equipment (or convey the equipment to LG&E upon mutually agreeable terms) and transfer ownership of the remaining facilities to LG&E. Therefore, LG&E's customers should benefit

³ *Id.*

from the proposed license agreement due to increased beneficial reuse of coal combustion residuals and environmental control byproducts, which should reduce overall operating costs at Mill Creek. The general public will also benefit from having less landfill space consumed due to beneficial reuse. The general public will also benefit from the 14-20 new high-paying jobs Charah has informed LG&E the new facilities will create.

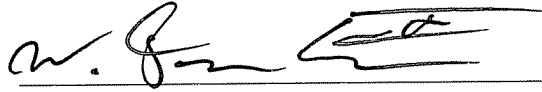
11. LG&E is not seeking Commission approval under KRS 278.218 for the license agreement or the Contract because no part of the Contract involves the transfer of, or the transfer of control of, a utility asset. Even if the proposed license agreement could be construed as a temporary transfer of control of the real property underlying the proposed facilities, it would be a transfer of the control of utility property with a book value well under \$1 million. The book value (and original cost) of the total acreage upon which the proposed facilities will reside, approximately 4.5 acres, is just \$6,340 (approximately \$1,409 per acre), and LG&E is proposing only to license the use of the facilities on the land, not to sell or lease the land.

12. To allow Charah to construct its facilities in time to market the beneficially reused materials, LG&E respectfully requests an order from the Commission by October 5, 2012.

WHEREFORE, Louisville Gas and Electric Company respectfully asks the Commission to issue an Order by October 5, 2012, approving the license agreement contained in the proposed Coal Combustion Residual Marketing and Management Contract between LG&E and Charah, Inc., because the license, which is necessary for Charah's proposed beneficial reuse efforts, should reduce long-run disposal costs for LG&E's customers and will benefit the general public by reducing the overall need for landfill space for the Mill Creek Generating Station and by creating 14-20 new high-paying jobs.

Dated: August 27, 2012

Respectfully submitted,



Kendrick R. Riggs
W. Duncan Crosby III
Stoll Keenon Ogden PLLC
2000 PNC Plaza
500 West Jefferson Street
Louisville, Kentucky 40202
Telephone: (502) 333-6000

Allyson K. Sturgeon
Senior Corporate Attorney
LG&E and KU Energy LLC
220 West Main Street
Louisville, Kentucky 40202
Telephone: (502) 627-2088

Counsel for Louisville Gas and Electric Company

VERIFICATION

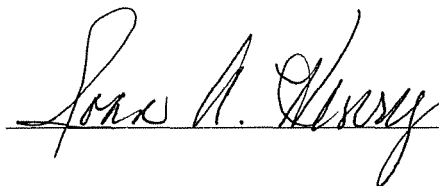
COMMONWEALTH OF KENTUCKY)
) SS:
COUNTY OF JEFFERSON)

The undersigned, **Lonnie E. Bellar**, being duly sworn, deposes and says he is Vice President, State Regulation and Rates for Louisville Gas and Electric Company and an employee of LG&E and KU Services Company, and that he has personal knowledge of the matters set forth in the foregoing Verified Application, and that the content thereof is true and correct to the best of his information, knowledge, and belief.



LONNIE E. BELLAR

Subscribed and sworn to before me, a Notary Public in and before said County and State,
this 27th day of August 2012.



(SEAL)

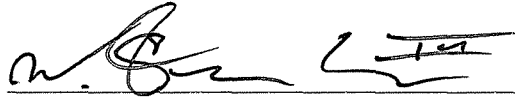
My Commission Expires:
July 31, 2015

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Verified Application was served on the following persons on the 27th day of August 2012 by U.S. mail, postage prepaid:

Dennis G. Howard II
Lawrence W. Cook
Office of the Kentucky Attorney General
Office of Rate Intervention
1024 Capital Center Drive, Suite 200
Frankfort, KY 40601-8204

Michael L. Kurtz
Boehm, Kurtz & Lowry
36 East Seventh Street, Suite 1510
Cincinnati, OH 45202



Counsel for Louisville Gas and Electric Company

3.1.1. Subject to any and all required governmental approvals, including without limitation any approval required under the order of the Kentucky Public Service Commission in Case No. 2002-00029, LG&E consents to Charah designing, building and erecting a “fly ash dome” at the location at Mill Creek as shown on Exhibit B, as an improvement that would benefit LG&E and Charah in the collection, isolation and sale of Specification Fly Ash (the “Fly Ash Dome”). Charah will provide funding to design, permit and install the Fly Ash Dome.

3.1.2. Upon termination or expiration of this Contract, LG&E will obtain free, clear and unencumbered title to the Fly Ash Dome. At all times during the Term, LG&E shall provide a license and full access, on a “24/7/365” basis, to the site of the Fly Ash Dome to permit its erection and thereafter to allow Charah, its employees, subcontractors, agents and/or representatives, access to maintain and service the Fly Ash Dome and/or to conduct its processing operations therein.

...

3.1.6. The Fly Ash Dome will include a transfer system to collect Specification Fly Ash from the existing transfer lines or from the existing silo area. The Fly Ash Dome will also include storage capacity for approximately 8,000 tons of Specification Fly Ash, a loadout silo for truck loading, a railcar loading system and all related Fly Ash transfer equipment.

3.1.7. Subject to any and all required governmental approvals, including without limitation any approval required under the order of the Kentucky Public Service Commission in Case No. 2002-00029, Charah will design, permit, construct and operate the SUL4R-PLUS™ Manufacturing Plant (with its location at Mill Creek as shown on Exhibit B). Charah will provide LG&E a single point of contact for daily coordination of matters related to the marketing of SUL4R-PLUS™ and Charah will be responsible for responding to customers inquiring as to the availability and quality of SUL4R-PLUS™.

3.1.8. Charah may place temporary offices or trailers at LG&E facilities subject to LG&E’s approval for personnel to perform the Work. Phone and/or internet service may be installed at Charah’s cost under LG&E guidance with no charge for such permission.

3.1.9. Subject to any and all required governmental approvals, including without limitation any approval required under the order of the Kentucky Public Service Commission in Case No. 2002-00029, LG&E provides Charah with a license to access the site of the Sul4R-Plus™ Manufacturing Plant to permit its erection and thereafter to allow Charah, its employees, subcontractors, agents and/or representatives, access to maintain and service the facility and/or to conduct its manufacturing operations thereon in order to produce and ship Sul4R-Plus™ as described in this Contract.

...

3.1.12. At all times during the Term, title to the Sul4R-Plus™ Manufacturing Plant shall belong to Charah. Charah shall pay and provide for its own property and casualty insurance thereon in limits it deems appropriate. Upon the termination of the Contract and within six months

thereafter, Charah, at its sole cost, shall dismantle and haul away the equipment and components comprising the Sul4R-Plus™ Manufacturing Plant excepting its concrete foundation/slab, the buildings and the removal of any utility lines serving the Manufacturing Plant.

...

3.1.15. Charah shall be allowed to utilize the existing barge loading system to load Sul4R-Plus™ and/or Fly Ash provided that Charah's use of the barge loading system does not interfere with LG&E's loading operation. Charah shall also be allowed to construct a future conveyor from the manufacturing plant to a discharge point onto the existing barge loading system conveyor. The design and location of Charah's future conveyor must be submitted to LG&E and approved by LG&E prior to construction. LG&E's approval of such design and location shall not be unreasonably withheld.

LG&E MILL CREEK STATION – PROPOSED SUL4-PLUS PLANT & FLY ASH DOME 7/22/12



DATE: 07/22/12
SCALE: 1" = 100'

PROPOSED
SUL4-PLUS
PLANT

FUTURE FLY-ASH
DOME

**LG&E - MILL CREEK
PROPOSED SUL4-PLUS
PLANT & FLY ASH DOME
LOCATION MAP
7-22-12**

1. This map shows the location of the proposed Sul4-Plus Plant and Fly Ash Dome at the Mill Creek site.

2. The map includes the proposed plant and dome locations, as well as the existing infrastructure.

3. The map also shows the proposed access roads and parking areas for the plant and dome.

4. The map is intended to provide a general overview of the project location and is not intended to be used for engineering or construction purposes.



Symbol	Description
[Symbol]	Proposed Sul4-Plus Plant
[Symbol]	Future Fly-Ash Dome
[Symbol]	Existing Infrastructure
[Symbol]	Proposed Access Roads
[Symbol]	Proposed Parking Areas

