

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF LOUISVILLE	)	
GAS AND ELECTRIC COMPANY FOR A	)	CASE NO.
CERTIFICATE OF PUBLIC CONVENIENCE	)	2017-00195
AND NECESSITY FOR THE CONSTRUCTION	)	
OF AN ELECTRIC TRANSMISSION LINE	)	

ORDER

On June 16, 2017, Louisville Gas and Electric Company (“LG&E”) filed an application for a Certificate of Public Convenience and Necessity (“CPCN”) for the relocation and construction of an approximately 6,000-foot, 138-kilovolt (“kV”) electric transmission line located on Waste Management of Kentucky, LLC’s (“Waste Management”) property in Jefferson County, Kentucky. LG&E filed the application at the request of Waste Management. The stated purpose of the line relocation and construction is to allow a landfill expansion that would permit Waste Management to operate and accept waste deliveries at the Outer Loop Landfill for several additional years.<sup>1</sup> The cost of constructing and relocating the electric transmission line is approximately \$9,025,000.<sup>2</sup> The cost of operation is expected to be *de minimus*.<sup>3</sup> The proposed project will be funded by Waste Management.

In a footnote in the application, LG&E stated that it would be moving a gas transmission line as part of this project. LG&E asserts that no CPCN is necessary for

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<sup>1</sup> Application at 2.

<sup>2</sup> LG&E’s Response to Staff’s First Request for Information (“Staff’s First Request”), Item 5.

<sup>3</sup> *Id.*, Item 6.

this portion of the project because it is an ordinary extension in the usual course of business and therefore does not require a CPCN or a declaratory ruling that the project is an ordinary extension in the usual course of business.<sup>4</sup> As a basis for LG&E's assertion, it states that the relocation of the existing gas line will serve a current customer, does not involve sufficient capital outlay to materially affect LG&E's existing financial condition, and will not result in increased charges to customers.<sup>5</sup> LG&E states that it is relocating the gas line at the request of Waste Management and that Waste Management is funding the total cost of \$3,865,000, with the exception of \$520,000, which LG&E will incur to increase the diameter of the gas pipe being relocated.<sup>6</sup>

LG&E requested a decision from the Commission by September 15, 2017, in its application.<sup>7</sup> On July 11, 2017, the Commission entered an Order setting out a procedural schedule. Waste Management filed a motion to intervene on July 14, 2017, which the Commission granted on August 8, 2017. Staff filed the First Request for Information on July 17, 2017, and LG&E filed its response on July 25, 2017. On August 11, 2017, LG&E filed a statement requesting that the matter be submitted for a decision based on the existing record. The matter now stands submitted to the Commission for a decision on the evidentiary record.

### BACKGROUND

LG&E, a utility engaged in the transmission and distribution of electricity and gas and incorporated in Kentucky, is seeking a CPCN to construct a 138-kV transmission

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<sup>4</sup> *Id.*, Item 2.a.

<sup>5</sup> *Id.* at Item 2.a.–b.

<sup>6</sup> Application at 2 and Response to Staff's First Request for Information, Item 5.a.

<sup>7</sup> Application at 6.

line, approximately 6,000 feet in length, on Waste Management's property. The project would relocate an existing electric transmission line that runs through Waste Management's recycling and disposal facility on the Outer Loop Landfill. Waste Management requested that the line be relocated in order for Waste Management to operate and accept waste deliveries at the Outer Loop Landfill for several additional years. LG&E asserted that without the line relocation, Waste Management would have to prematurely close the Outer Loop Landfill, and that Waste Management would fund the entire cost of relocating the electric transmission line. LG&E also plans to move a gas pipeline at the request of Waste Management, but did not request a CPCN, asserting that the gas pipeline relocation is an ordinary extension in the usual course of business, and thus is exempt from the requirement to request a CPCN for the project.

LG&E states that it has explored several alternatives to relocating the electric line. First, LG&E could have refused to relocate the line because it is located within private easements. However, because Waste Management is agreeing to assume the cost of the entire project, there would be no net cost to LG&E and relocation of the electric line would allow LG&E to continue to serve the needs of Waste Management without negatively affecting other customers. It would also benefit the community by extending the life of the Outer Loop Landfill and preventing increased waste removal costs that would result from the premature closure of the landfill.

Second, LG&E considered but rejected an alternate route because the alternate route would have required construction of a longer transmission line, resulting in more energy transmission losses and greater maintenance costs. In addition, part of the alternate route was designated as wetlands, which could have resulted in permitting

problems and increased environmental risks. Therefore, LG&E determined that the proposed route was the preferred route for the relocated transmission line.

### DISCUSSION

KRS 278.020(2) states that construction of any electric transmission line of 138 kV or more and of more than 5,280 feet in length shall not be considered an ordinary extension of an existing system in the usual course of business and shall require a CPCN.

To establish the requirement of public convenience and necessity, an applicant must demonstrate the need for the proposed facilities and that the proposed construction will not result in the wasteful duplication of facilities.<sup>8</sup>

“Need” requires:

[A] showing of a substantial inadequacy of existing service, involving a consumer market sufficiently large to make it economically feasible for the new system or facility to be constructed and operated.

[T]he inadequacy must be due either to a substantial deficiency of service facilities, beyond what could be supplied by normal improvements in the ordinary course of business; or to indifference, poor management or disregard of the rights of consumers, persisting over such a period of time as to establish an inability or unwillingness to render adequate service.<sup>9</sup>

“Wasteful duplication” is defined as “an excess of capacity over need” and “an excessive investment in relation to productivity or efficiency, and an unnecessary

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<sup>8</sup> *Kentucky Utilities Company v. Public Service Commission*, 252 S.W.2d 885 (Ky. 1952).

<sup>9</sup> *Id.* at 890.

multiplicity of physical properties.”<sup>10</sup> To demonstrate that the proposed construction does not result in wasteful duplication, we have held that the applicant must demonstrate that a thorough review of all reasonable alternatives has been performed.<sup>11</sup> Selection of a proposal that ultimately costs more than an alternative does not necessarily result in wasteful duplication.<sup>12</sup> All relevant factors must be balanced.<sup>13</sup> The statutory touchstone for ratemaking in Kentucky is the requirement that the rates set by the Commission must be fair, just and reasonable.<sup>14</sup>

The Commission finds that LG&E has established sufficient evidence to demonstrate that the proposed construction and relocation of the electric transmission line is needed and avoids wasteful duplication. By moving the transmission line, LG&E can continue to provide service to Waste Management without a negative impact on other customers. Additionally, relocating the transmission line prevents premature closure of the Outer Loop Landfill, with the resulting increase in waste removal costs for the community.

There is no duplication of services in the proposed project. LG&E is moving an electric transmission line from one location on the property of Waste Management to another. There is also no net cost to LG&E in the relocation of the transmission line, as

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<sup>10</sup> *Id.*

<sup>11</sup> Case No. 2005-00142, *Joint Application of Louisville Gas and Electric Company and Kentucky Utilities Company for a Certificate of Public Convenience and Necessity for the Construction of Transmission facilities in Jefferson, Bullitt, Meade, and Hardin Counties, Kentucky* (Ky. PSC Dec. 8, 2005).

<sup>12</sup> See *Kentucky Utilities Co. v. Pub. Serv. Comm’n*, 390 S.W.2d 168, 175 (Ky. 1965). See also Case No. 2005-0089, *Application of East Kentucky Power Cooperative, Inc. for a Certificate of Public Convenience and Necessity for the Construction of a 138 kV Electric Transmission Line in Rowan County, Kentucky* (Ky. PSC Aug. 19, 2005), final Order.

<sup>13</sup> Case No. 2005-00089, *East Kentucky Power Cooperative, Inc.*, final Order at 6.

<sup>14</sup> KRS 278.030(1).

the project is being done at the request of Waste Management and is being funded by Waste Management. Finally, it appears that LG&E has reviewed all reasonable alternatives in arriving at the proposed route for relocation of the transmission line.

In regard to the relocation of the gas pipeline, the Commission is concerned that LG&E provided the Commission notice of the relocation of the gas transmission line in a footnote in the application in which LG&E concludes that no CPCN was necessary because the relocation was an ordinary extension in the usual course of business.<sup>15</sup> LG&E did not provide any basis to support its conclusion or request a declaratory ruling. In the future, the Commission expects that LG&E will, at a minimum, set forth in sufficient detail the basis to support a determination that a project is an ordinary extension in the usual course of business and does not require a CPCN rather than making an unsupported conclusion. Here, through data requests, the Commission was able to obtain sufficient information to find that the relocation of the gas pipeline is properly classified as an ordinary extension of an existing system in the usual course of business, and, pursuant to KRS 278.020(1), a CPCN is not required for its relocation and construction. Because the proposed project will relocate an existing facility, it will not be a wasteful duplication of plant, equipment, property, or facilities. Waste Management will fund all but \$500,000 of the relocation and construction costs. Therefore, the total capital investment in this project will not materially affect the financial condition of LG&E or result in increased charges to customers.

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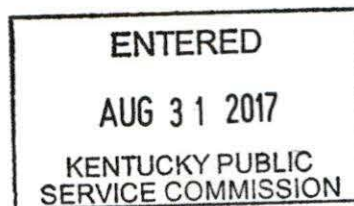
<sup>15</sup> Application at 2, Footnote 1.



IT IS HEREBY ORDERED that:

1. LG&E is granted a CPCN to relocate, construct, and operate approximately 6,000 feet of 138-kV electric transmission line on the property of Waste Management as set forth in its application.
2. The proposed relocation and construction of the gas pipeline on the property of Waste Management as set forth in the application is properly classified as an ordinary extension of an existing system in the usual course of business and no CPCN is required.
3. LG&E shall file a survey of the final location of the relocation of the electric transmission line if there are any proposed modifications before construction begins.
4. LG&E shall file "as built" drawings or maps within 60 days of the completion of the construction of the electric transmission line authorized by this Order.
5. Future applications filed by LG&E containing references to construction projects being exempt from the CPCN requirements under KRS 278.020(1) shall include sufficient details to demonstrate the exemption.

By the Commission



ATTEST:

  
Acting Executive Director

\*Honorable Allyson K Sturgeon  
Senior Corporate Attorney  
LG&E and KU Energy LLC  
220 West Main Street  
Louisville, KENTUCKY 40202

\*Monica Braun  
STOLL KEENON OGDEN PLLC  
300 West Vine Street  
Suite 2100  
Lexington, KENTUCKY 40507-1801

\*Rick E Lovekamp  
Manager - Regulatory Affairs  
LG&E and KU Energy LLC  
220 West Main Street  
Louisville, KENTUCKY 40202

\*Louisville Gas and Electric Company  
220 W. Main Street  
P. O. Box 32010  
Louisville, KY 40232-2010

\*Edward T Depp  
Dinsmore & Shohl, LLP  
101 South Fifth Street  
Suite 2500  
Louisville, KENTUCKY 40202