

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC JOINT APPLICATION OF)	
KENTUCKY UTILITIES COMPANY AND)	
LOUISVILLE GAS AND ELECTRIC COMPANY)	CASE NO.
FOR CERTIFICATES OF PUBLIC CONVENIENCE)	2022-00402
AND NECESSITY AND SITE COMPATIBILITY)	
CERTIFICATES AND APPROVAL OF A DEMAND)	
SIDE MANAGEMENT PLAN)	

ORDER

This matter arises upon Kentucky Utilities Company (KU) and Louisville Gas and Electric Company's (LG&E) (jointly, LG&E/KU) joint application requesting, among other things, Commission approval of Certificates of Public Convenience and Necessity (CPCNs) for five new generation or storage facilities; approval of a demand-side management (DSM) plan and tariff rates; site compatibility certificates; and a declaratory order regarding four solar purchases power agreements (PPAs).

LG&E/KU tendered the joint application on December 15, 2022, along with a motion to deviate from certain filing requirements. By Order entered December 22, 2022, the Commission denied the motion and rejected the application for filing due to filing deficiencies regarding non-confidential exhibits to witness direct testimony (Exhibits). On December 22, 2022, LG&E/KU uploaded all Exhibits that were 50 megabytes (MB) or less through the Commission's electronic filing system. On December 27, 2022, LG&E/KU filed a joint motion to deviate from certain filing requirements regarding the Exhibits. In the motion, LG&E/KU explained that certain Exhibits could not be filed

through the Commission's electronic filing system because they are larger than 50 MB and that the electronic filing system rejected those documents as too large. LG&E/KU requested to deviate from 807 KAR 5:001, Section 8, as modified by the Commission's Order in Case No. 2022-00311,¹ and file all the Exhibits with the Commission on a thumb drive, which was provided to the Commission on December 27, 2022.

Based upon the motion and a review of the case record, and being otherwise sufficiently advised, the Commission finds that LG&E/KU established good cause to deviate from the electronic filing requirements, and therefore the motion should be granted. The Commission may grant a deviation from filing requirements under 807 KAR 5:001, Section 22, upon a showing of good cause. While 807 KAR 5:001, Section 8, and Case No. 2022-00311 require parties to electronically upload all filings to the Commission's electronic filing system, as LG&E/KU explained, they separated out the large file into smaller filings and uploaded all documents that were 50 MB or less but were unable to file certain Exhibits that were larger than 50 MB due to the limitations for external filers in the electronic filing system. The Commission concludes that the thumb drive enables LG&E/KU to comply with the requirement to provide all case filings to the Commission and that the Commission maintain physical control of case filings.

The Commission further finds that the December 22, 2022 Order should be amended to the limited extent that the Commission grants the deviation from electronic filing requirements only for LG&E/KU to provide access to the Exhibits to other parties to this case through the third party site. Amending the December 22, 2022 Order but limiting

¹ Case No. 2022-00311, *Electronic Review of Electronic Filing Procedures in 807 KAR 5:001, Section 8(2), (4), and (6)* (Ky. PSC Oct. 6, 2022).

the deviation to other parties' access to the documents, enables the parties to access Exhibits that are otherwise available on thumb drives filed with the Commission that are not publicly available to the parties in the same file structure.

The Commission notes that the application could not be accepted for filing until the filing deficiencies were cured and the filing deficiencies could not be cured without the Commission granting the December 27, 2022 motion to deviate from electronic filing requirements regarding the Exhibits. Thus, with this Order granting the motion, the Commission also deems the application filed as of the date of entry of this Order.

In the application, LG&E/KU requested a declaratory Order that four solar PPAs do not require prior Commission approval under KRS 278.020 or KRS 278.300. Relevant here, KRS 278.300(2) provides that the Commission must adjudicate an application for authority to issue an evidence of indebtedness within 60 days of the date that the application was filed. KRS 278.300(2) also provides that the Commission can continue its review of the application for longer than 60 days upon a showing of good cause. Although LG&E/KU request an Order that KRS 278.300 does not apply to the PPAs, the Commission must address the legal effect of the statutory deadline if the Commission determines that the four solar PPAs do require prior Commission approval under KRS 278.300.

Based upon a review of the application, the Commission finds that an investigation is necessary, and that, due to the complexity of issues presented, the investigation cannot be completed by March 7, 2023, which is 60 days from the date the application is deemed filed. For that reason, the Commission finds that good cause exists to continue the

application beyond the 60-day period specified in KRS 278.300(2) so that the Commission can conduct a thorough review of the proposed transaction.

Additionally, in the application, LG&E/KU requested that the Commission enter an Order by October 1, 2023. However, statutory dates in KRS 278.180 and KRS 278.190 apply to the new DSM rates proposed by LG&E/KU in its tariff. LG&E/KU filed proposed DSM tariffs with a proposed effective date of January 14, 2023, but requested that the Commission, in a final Order, find that the DSM tariffs be effective January 1, 2024. KRS 278.180(1) prohibits changes to any rate by a utility, such as DSM rates, except upon 30 days' notice to the Commission. Because the application was accepted for filing as of the date of entry of this Order, January 6, 2022, the earliest date that LG&E/KU's proposed DSM rates can be effective is February 5, 2023. Because an investigation is necessary to determine the reasonableness of the proposed DSM rates, the investigation cannot be completed by February 5, 2023. KRS 278.190(2) permits the Commission to suspend the effective date of the proposed rates for five months. KRS 278.190(3) requires the Commission to enter an Order not later than ten months after the filing of the proposed DSM rates. Pursuant to KRS 278.190(2), the Commission suspends the proposed DSM rates up to and including July 4, 2023. Pursuant to KRS 278.190(3), the Commission must issue an Order regarding the proposed DSM rates on or before November 6, 2023. Given the complexity of issues presented in totality in this application, the Commission concludes that it will not be able to render a decision by October 1, 2023, and will enter a decision on all issues presented on or before November 6, 2023.

The Commission further finds that a procedural schedule should be established for the orderly processing of this case. The procedural schedule is attached as an Appendix to this Order.

Additionally, any hearing scheduled in this matter shall be held on the designated day or days of August 22–25, 2023, and continued until called from the bench by the presiding officer. Pursuant to 807 KAR 5:001, Section 2, if the hearing is not concluded on the designated day, the hearing may be continued upon verbal announcement by the presiding officer. A verbal announcement made by the presiding officer shall be proper notice of the continued hearing. Hearings are held in the Richard Raff Hearing Room at the offices of the Public Service Commission at 211 Sower Boulevard, Frankfort, Kentucky. Witnesses who sponsor schedules, testimony, or responses to data requests are expected to participate in person at a hearing.

IT IS THEREFORE ORDERED that:

1. LG&E/KU's application is deemed filed as of the date of entry of this Order, January 6, 2022.
2. The December 22, 2022 Order is amended to the limited extent that the Commission grants the deviation from electronic filing requirements only for LG&E/KU to provide access to the Exhibits to other parties to this case through the third-party site.
3. To the extent the proposed PPAs require Commission approval under KRS 278.300, the Commission's review of the proposed PPAs is continued beyond the 60-day period specified in KRS 278.300(2).
4. LG&E/KU's proposed DSM rates are suspended for five months, up to and including July 5, 2023.

5. The procedural schedule set forth in the Appendix to this Order shall be followed.

6. Any party filing a paper with the Commission shall file an electronic copy in accordance with the electronic filing procedures set forth in 807 KAR 5:001, Section 8. Electronic documents shall be in portable document format (PDF), shall be searchable, and shall be appropriately bookmarked. The Commission directs the parties to the Commission's July 22, 2021 Order in Case No. 2020-00085² regarding filings with the Commission.

7. As set forth in 807 KAR 5:001, Section 4(11)(a), a person requesting permissive intervention in a Commission proceeding is required to demonstrate either (1) a special interest in the proceeding that is not adequately represented in the case, or (2) that the person requesting permissive intervention is likely to present issues or develop facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings. Therefore, any person requesting to intervene in a Commission proceeding must state with specificity the person's special interest that is not otherwise adequately represented, or the issues and facts that the person will present that will assist the Commission in fully considering the matter. A mere recitation of the quantity of utility service consumed by the movant or a general statement regarding a potential impact of possible modification of rates will not be deemed sufficient to establish a special interest. In addition, any motion to intervene filed after the date

² Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus COVID-19* (Ky. PSC July 22, 2021), Order (in which the Commission ordered that for case filings made on and after March 16, 2020, filers are NOT required to file the original physical copies of the filings required by 807 KAR 5:001, Section 8).

established in the procedural schedule shall also show good cause for being untimely. If the untimely motion is granted, the movant shall accept and abide by the existing procedural schedule.

8. A hearing in this matter shall be held on August 22, 2023–August 25, 2023, at 9 a.m. Eastern Daylight Time, and continuing until called from the bench by the presiding officer, in the Richard Raff Hearing Room at the offices of the Public Service Commission at 211 Sower Boulevard, Frankfort, Kentucky.

9. LG&E/KU shall give notice of any scheduled hearing in accordance with the provisions set forth in 807 KAR 5:001, Section 9(2). In addition, the notice of hearing shall include the following statement: “This hearing will be streamed live and may be viewed on the PSC website, psc.ky.gov”; and “Public comments may be made at the beginning of the hearing. Those wishing to make oral public comments may do so by following the instructions listing on the PSC website, psc.ky.gov.” At the time publication is requested, LG&E/KU shall forward a duplicate of the notice and request to the Commission.

10. Pursuant to 807 KAR 5:001, Section 2, if the hearing is not concluded on the designated day, the hearing shall be continued upon verbal announcement by the presiding officer. A verbal announcement made by the presiding officer shall be proper notice of the continued hearing.

11. Witnesses who sponsor schedules, testimony, or responses to data requests shall participate in person at any hearing scheduled in this matter.

12. At any public hearing in this matter, neither opening statements nor summarization of direct testimonies shall be permitted.

13. Pursuant to KRS 278.360 and 807 KAR 5:001, Section 9(9), a digital video recording shall be made of the hearing.

14. The Commission does not look favorably upon motions for continuance. Accordingly, motions for extensions of time with respect to the schedule herein shall be made in writing and will be granted only upon a showing of good cause.

15. The Commission does not look favorably upon motions to excuse witnesses from testifying at Commission hearings. Accordingly, motions to excuse a witness from testifying at a Commission hearing or from testifying in person at a Commission hearing shall be made in writing and will be granted only upon a showing of good cause.

16. Nothing contained herein shall prevent the Commission from entering further Orders in this matter.

PUBLIC SERVICE COMMISSION

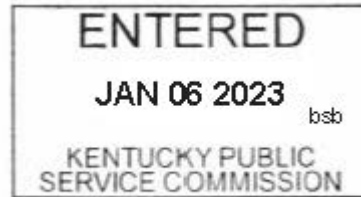


Chairman

Vice Chairman



Commissioner



ATTEST:



Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2022-00402 DATED JAN 06 2023

Last day for intervention requests to be accepted.....	01/20/2023
All initial requests for information to LG&E/KU shall be filed no later than	02/17/2023
LG&E/KU shall file responses to initial requests for information no later than.....	03/10/2023
All supplemental requests for information to LG&E/KU shall be filed no later than	04/14/2023
LG&E/KU shall file responses to supplemental requests for information no later than	05/04/2023
Intervenor testimony, if any, in verified prepared form shall be filed no later than.....	05/25/2023
All requests for information to Intervenors shall be filed no later than	06/28/2023
Intervenors shall file responses to requests for information no later than.....	07/19/2023
LG&E/KU shall file, in verified form, its rebuttal testimony no later than	08/09/2023
Public Hearing to be held in the Richard Raff Hearing Room at the offices of the Public Service Commission at 211 Sower Boulevard, Frankfort, Kentucky, for the purpose of cross-examination of witnesses of LG&E/KU and Intervenors.....	08/22/2023—08/25/2023 and continued as necessary

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