

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

**THE APPLICATION OF LOUISVILLE GAS AND)
ELECTRIC COMPANY FOR CERTIFICATES)
OF PUBLIC CONVENIENCE AND NECESSITY)
AND APPROVAL OF ITS 2016 COMPLIANCE) CASE NO. 2016-00027
PLAN FOR RECOVERY BY ENVIRONMENTAL)
SURCHARGE)**

PETITION FOR APPROVAL TO DEVIATE FROM RULE

Louisville Gas and Electric Company (“LG&E”) petitions the Kentucky Public Service Commission (“Commission”) to grant LG&E approval pursuant to 807 KAR 5:001 Section 22 and 807 KAR 5:011 Section 15 to deviate from the notice requirements in the above-captioned proceeding because LG&E has substantially complied with the Commission’s notice regulations.

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

1. On January 29, 2016, LG&E filed an application with the Kentucky Public Service Commission (“Commission”) seeking an order granting LG&E Certificates of Public Convenience and Necessity to conduct surface-impoundment-related construction necessary to comply with the U.S. Environmental Protection Agency’s Coal Combustion Residuals Final Rule and construct new process-water systems at the Mill Creek and Trimble County Generating Stations, and approving an amended compliance plan for purposes of recovering the costs associated with these and other new pollution control facilities through its Environmental Surcharge tariff.

2. On January 12, 2016, LG&E delivered to the Kentucky Press Service, Inc., (“Kentucky Press”) an agency that acts on behalf of newspapers of general circulation throughout the Commonwealth of Kentucky in which customers affected reside, a notice of the

filing of its application for publication in newspapers in LG&E's service area, once a week for three consecutive weeks, with the first publication to be made prior to the filing of LG&E's application, as required by 807 KAR 5:011 Section 8(2)(b)(3). *See* LG&E's Certificate of Completed Notice. Kentucky Press selected the newspapers of general circulation in LG&E's service area and directed each newspaper in writing to publish the notice once a week for three consecutive weeks beginning on January 22, 2016.

3. Through Kentucky Press, LG&E caused notice to be published in 18 newspapers in the Commonwealth, including the newspaper with the largest circulation, the *Louisville Courier-Journal*. All but one published in accordance with the Commission's notice-publication requirements. That newspaper, the *New Castle Henry County Local*, published the notice as scheduled on January 27, 2016. It then failed to publish the second consecutive notice on February 3, 2016, but did publish the second and third notice on February 10, 2016, and February 17, 2016.

4. In addition to causing notice of the filing of its application in this case to be published in newspapers of general circulation in all of its service areas, including the newspaper with the largest circulation in the state, *Louisville Courier-Journal*, LG&E has posted the notice for public inspection at its office and place of business, as well as on its website. *See* Certificate of Completed Notice. Moreover, LG&E included a general statement explaining the application in this case with the bills for all Kentucky retail customers during the course of their regular monthly billing cycle beginning with bills issued after January 29, 2016.

5. The purpose of the Commission's notice regulation is to ensure that the public has sufficient notice of LG&E's application and to respond accordingly. Despite the deviation noted above, notice was published in each county three times, and that notice was further supplemented

by posting at LG&E's office and on its website, in addition to including an explanation in retail customers' bills. LG&E's substantial compliance with the Commission's regulation has met the purpose of the notice requirement. As stated by the Kentucky Supreme Court:

Substantial compliance in regard to publication requirements has been authorized. The purpose of the statute is to allow the public an ample opportunity to become sufficiently informed on the public question involved.¹

6. The Commission has authority to permit LG&E to deviate from the publication requirements pursuant to 807 KAR 5:001 Section 22 and 807 KAR 5:011 Section 15. Because LG&E is in substantial compliance with the applicable notice-publication requirements, good cause exists for the Commission to permit LG&E to deviate from the requirement of the regulations and to accept the publication of notice of LG&E's application as sufficient.

WHEREFORE, Louisville Gas and Electric Company respectfully requests that the Commission grant it approval pursuant to 807 KAR 5:001 Section 22 and 807 KAR 5:011, Section 15 to deviate from the applicable notice-publication requirements of 807 KAR 5:001 and 807 KAR 5:011, and to accept the publication of notice of its application as sufficient.

¹ *Conrad v. Lexington-Fayette Urban County Government*, 659 S.W.2d 190, 195 (Ky. 1983) (citing *Queenan v. City of Louisville*, 233 S.W.2d 1010 (Ky. 1950)). See also *Lyon v. County of Warren*, 325 S.W.2d 302 (Ky. 1959) (publishing notice of bond referendum outside statutory time limits, accompanied by media attention and other means, held sufficient notice to public).

Dated: March 10, 2016

Respectfully submitted,



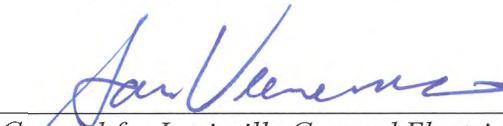
Kendrick R. Riggs
Stoll Keenon Ogden PLLC
2000 PNC Plaza
500 West Jefferson Street
Louisville, Kentucky 40202-2828
Telephone: (502) 333-6000
Fax: (502) 627-8722
kendrick.riggs@skofirm.com

Allyson K. Sturgeon
Senior Corporate Attorney
Sara Veeneman
Corporate Attorney
LG&E and KU Services Company
220 West Main Street
Louisville, Kentucky 40202
Telephone: (502) 627-2088
Fax: (502) 627-3367
allyson.sturgeon@lge-ku.com

Counsel for Louisville Gas and Electric Company

CERTIFICATE OF COMPLIANCE

In accordance with 807 KAR 5:001 Section 8, this is to certify that Louisville Gas and Electric Company's March 10, 2016 electronic filing of the Petition for Approval to Deviate from Rule 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 March 10, 2016; that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding; and that an original paper medium of this Petition will be mailed to the Commission by first class United States mail, postage prepaid, on March 10, 2016.



Counsel for Louisville Gas and Electric Company