

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 AND) 2017-00195
NECESSITY FOR THE CONSTRUCTION OF AN)
ELECTRIC TRANSMISSION LINE)

RESPONSE OF
LOUISVILLE GAS AND ELECTRIC COMPANY
TO
COMMISSION STAFF'S FIRST REQUEST FOR INFORMATION
DATED JULY 17, 2017

FILED: July 25, 2017

VERIFICATION

COMMONWEALTH OF KENTUCKY)
) SS:
COUNTY OF JEFFERSON)

The undersigned, **J. Scott Williams**, being duly sworn, deposes and says that he is Director – Corporate Tax and Payroll for Kentucky Utilities Company and Louisville Gas and Electric Company and an employee of LG&E and KU Services Company, that he has personal knowledge of the matters set forth in the responses for which he is identified as the witness, and the answers contained therein are true and correct to the best of his information, knowledge and belief.

J. Scott Williams
J. Scott Williams

Subscribed and sworn to before me, a Notary Public in and before said County and State, this 25th day of July 2017.

Judy Schooler (SEAL)
Notary Public

My Commission Expires:
JUDY SCHOOLER
Notary Public, State at Large, KY
My commission expires July 11, 2018
Notary ID # 512743

LOUISVILLE GAS AND ELECTRIC COMPANY

**Response to Commission Staff's First Request for Information
Dated July 17, 2017**

Case No. 2017-00195

Question No. 1

Witness: Robert M. Conroy

- Q-1. Refer to the Application, page 6, which requests that an Order be issued by September 15, 2017. Explain why LG&E requested a decision by September 15, 2017, and how the proposed project would be affected if LG&E has not received a decision by the requested date.
- A-1. The basis of LG&E's request is the ninety day statutory timeline set forth in KRS 278.020(9). LG&E has no objection to the Commission utilizing the one hundred twenty day review period in the statute.

A decision within the timeline set forth in KRS 278.020(9) will allow Waste Management to meet its overall needs for the landfill expansion project, which includes landfill cell development within the existing easement in 2020. Without the timely development of this additional landfill space, Waste Management would significantly diminish its available area to place waste per the current landfill expansion permits.

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Question No. 2

Witness: Counsel / Robert M. Conroy / John P. Malloy

- Q-2. Refer to the Application, page 2, footnote 1, regarding the relocation of a gas transmission line that is also located on Waste Management's property.
- a. Explain why LG&E did not request a declaratory ruling regarding whether the relocation of the gas transmission line would be exempt under the ordinary course of business exemption set forth in 807 KAR 5:001, Section 15(3).
 - b. Explain in specific detail the basis for LG&E's assertion that a CPCN is not required for the relocation of the gas transmission line.
 - c. Explain why LG&E has requested a CPCN for the relocation of the electric transmission line, but has not requested a CPCN for the gas transmission line.
 - d. Explain in specific detail the basis for LG&E's decision to increase the diameter of the gas pipe located at the Outer Loop Landfill that is being relocated.
- A-2.
- a. LG&E did not request a declaratory ruling because the relocation of the gas transmission line falls squarely within the ordinary course of business exemption set forth in 807 KAR 5:001, Section 15(3) as it involves the relocation of an existing facility to serve current customers and does not involve sufficient capital outlay to materially affect the existing financial condition of the utility involved. For additional information, see the answer to subpart (b).
 - b. 807 KAR 5:001, Section 15(3) provides that a CPCN is unnecessary for extensions in the ordinary course of business, which are defined as those "that do not create wasteful duplication of plant, equipment, property, or facilities, or conflict with the existing certificates or service of other utilities operating in the same area and under the jurisdiction of the commission that are in the general or contiguous area in which the utility renders service, and that *do not involve sufficient capital outlay to materially affect the existing financial condition of the utility involved*, or will not result in

increased charges to its customers.”¹ The Commission has held that a CPCN is unnecessary “for facilities that do not result in the wasteful duplication of utility plant, do not compete with the facilities of existing public utilities, and do not involve a sufficient capital outlay to materially affect the existing financial condition of the utility involved or to require an increase in utility rates.”² In assessing whether a proposed project would materially affect a utility’s financial condition, the Commission has looked to the scale of a proposed project in relation to the utility’s net plant.³

The relocation of the gas line falls within the Commission’s requirements for an ordinary extension. The relocation of the gas line, which serves existing customers, will not result in wasteful duplication of utility plant or compete with the facilities of existing public utilities. Further, as LG&E stated in footnote 1 of its Application, 96% of the construction and relocation costs of total project cost will be funded by Waste Management. LG&E will spend \$500,000 to increase the diameter of the gas pipe. Because the project will only involve a \$500,000 capital outlay, the project represents only 0.01% of LG&E’s net utility plant and 0.06% of LG&E’s net gas plant.⁴ The capital outlay as a percentage of LG&E’s net utility plant and net gas plant rounds to zero and will not materially affect LG&E’s existing financial condition.

- c. LG&E requested a CPCN for the relocation of the electric transmission line because the line is 138 kV and greater than 5,280 feet in length. The CPCN request is not based on the capital outlay associated with the project. KRS 278.020(2) specifically requires that “construction of any electric transmission line of one hundred thirty-eight (138) kilovolts or more and of more than five thousand two hundred eight (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 certificate of public convenience and necessity.” There is no corollary statute with respect to gas pipelines. The statute also provides that a CPCN is not required for an electric transmission line of this voltage and length if the line meets one of three exceptions delineated in the statute. Although the proposed Waste Management electric line meets some elements of all three exceptions, the line does not fully meet any of the exceptions. Thus, LG&E concluded that a CPCN was necessary for the electric line. Importantly, LG&E requested a CPCN for the electric line *only* because KRS 278.020(2) provides that certain electric transmission lines may not be considered an ordinary extension, not because it believed that the line would not

¹ (emphasis added).

² *In the Matter of: The Application of Northern Kentucky Water District (A) For Authority to Issue Parity Revenue Bonds in the Approximate Amount of \$16,545,000; and (B) a Certificate of Convenience and Necessity for the Construction of Water Main Facilities*, Case No. 2000-00481, Order at 4 (Ky. PSC Aug. 30, 2001) (referring to § 15(3) prior to revisions in 807 KAR 5:001 resulted in renumbering).

³ *In the Matter of: Application of Northern Kentucky Water District for Approval of Dixie Highway Water Main Improvements, Issuance of a Certificate of Convenience and Necessity and Approval of Financing*, Case No. 2014-00171, Order at 4 (Ky. PSC Aug. 6, 2014).

⁴ *Report of Louisville Gas and Electric Company to the Kentucky Public Service Commission for the Year Ending December 31, 2016* (Gas Operations) at 29 of 141 (Ref Page: 200). As of December 31, 2016, LG&E had a net utility plant of \$4,713,928,897. Specifically for its gas operations, LG&E had a net gas plant of \$818,428,491.

otherwise meet the definition of an ordinary extension in 807 KAR 5:001, Section 15(3).

- d. The section of pipeline being relocated for Waste Management lies within one of the pipeline segments being replaced as part of the Company's Transmission Pipeline Modernization program. This pipeline segment (including the Waste Management section) connects the Penile City Gate station to the Preston City Gate and is also used to move storage gas to the distribution system. Increasing the diameter from 20-inches to 24-inches reduces pressure drop and allows for more flow in this pipeline segment providing additional system flexibility. The standard diameter is also preferable for running in-line inspection tools.

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Question No. 3

Witness: John P. Malloy

Q-3. Provide a schedule with the total capital cost to construct and relocate the gas transmission line, broken out by cost component.

A-3. See response to Question No. 5(a).

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Question No. 4

Witness: Tom A. Jessee

- Q-4. Refer to the Application, page 4, which states that the relocated line will be "tied in with the main circuit during a period of low demand." State whether the tie-in process will interrupt electric service to customers other than Waste Management, and if so, what type of notice will be given to the affected customers.
- A-4. The tie-in process will not interrupt electric service to any customers (including Waste Management).

LOUISVILLE GAS AND ELECTRIC COMPANY**Response to Commission Staff's First Request for Information
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- Q-5. Refer to the Application, page 5, which states that Waste Management will fund the project costs, with the exception of the taxes LG&E will pay on Waste Management's contributions.
- Provide a schedule with the total cost of the project, broken out by cost component.
 - Provide the monetary amount of taxes that LG&E will have to pay on Waste Management's contributions, and explain how it will affect LG&E's rates.
 - LG&E states that it may offset a portion or all of the tax payments through future tax savings through depreciation during the following 20 years. Provide a detailed explanation of the criteria LG&E will rely upon when deciding whether to offset all or a portion of the tax payments.

A-5.

- Capital Breakdown (\$000s):

	<u>Total</u>	<u>Electric</u>	<u>Gas</u>
Labor	475	396	79
Contract Labor	7,676	5,139	2,538
Materials	2,419	1,593	826
Other	2	1	1
Local Engineering	1,052	641	411
Burdens	574	440	134
Contingency	1,212	816	396
Reimbursements	<u>(12,890)</u>	<u>(9,025)</u>	<u>(3,865)</u>
Net Capital Expenditures	520	0	520

- b. The following table reflects the tax impact of the advances from Waste Management:
\$'000s

	<u>2013</u>	<u>2016-2018</u>	<u>Total</u>
Taxable Income on Advances	250	12,640	12,890
Tax Paid on Advances (38.9%)	(97)	(4,917)	(5,014)
Recovery of taxes paid through future tax depreciation over 20 years			5,014

The tax paid is a tax timing difference, which creates a deferred tax asset that will reverse through future tax depreciation. Deferred tax assets increase the Company's rate base. Tax timing differences have no impact on total tax expense.

- c. The payments Waste Management makes to LG&E to fund the project are considered taxable income by the Internal Revenue Service in the year received. LG&E will add the payments it receives to its tax return as taxable income and will also create a depreciable tax asset in the amount of the payments. The tax asset will produce future tax deductions/savings, offsetting all of the income recorded from the tax payments, as LG&E depreciates the asset over a 20 year MACRS tax life.

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Question No. 6

Witness: Tom A. Jessee

- Q-6. Refer to the Application, page 5, which states that the annual cost of operation is anticipated to be *de minimis*. Provide the estimated annual cost of operation of the proposed transmission line and the annual cost of operation for the current transmission line.
- A-6. LG&E does not track annual operation cost by transmission line segment. The proposed relocation does not significantly increase the amount of facilities the company will operate.

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Question No. 7

Witness: Tom A. Jessee

- Q-7. Refer to the Application, page 3, which states that an alternate route on a portion of land designated as wetlands was rejected, in part, because of the increased environmental risks and permitting challenges resulting from a larger footprint in the wetlands. Also refer to the Application, Exhibit 6, a permit issued by the U.S. Army Corps of Engineers to "expand an existing landfill by filling 66 acres of wetlands and relocating 1600 linear feet of Wet Woods Creek." Reconcile the statement on page 3 of the Application with the permit granted in Exhibit 6.
- A-7. The referenced wetlands are two separate wetlands. The wetlands referenced on page 3 of the Application are closer to the Outer Loop highway and are outside the scope of the wetlands referenced in Exhibit 6.

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Question No. 8

Witness: Robert M. Conroy

- Q-8. Refer to the Application, Exhibit 5. The Kentucky Pollutant Discharge Elimination System ("KPDES") permit expired on May 31, 2017. Provide an updated KPDES permit, or a detailed explanation as to why an updated permit is not available.
- A-8. Waste Management submitted a renewal application for this permit on November 11, 2016, within the regulation's required timeframe. The permit is still pending issuance from the Kentucky Division of Water ("KYDOW") as of this filing. Currently, Waste Management is operating under the permit shield.

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Question No. 9

Witness: Tom A. Jessee

- Q-9. Refer to the Application, Exhibit 7, page 33 of 34. Confirm that LG&E has no liability for wetland mitigation related to its easements on Waste Management's property. If this cannot be confirmed, fully describe the nature and circumstances of LG&E's liability.
- A-9. LG&E has no liability for Waste Management's wetland mitigation related to its easements on Waste Management's property. Nothing in LG&E's easements on Waste Management's property transfer liability for wetland mitigation to LG&E.

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Question No. 10

Witness: Robert M. Conroy

Q-10. Refer to the Application, Exhibit 10. Explain whether future landfill expansions will require subsequent relocation of LG&E's electric distribution line from the proposed route.

A-10. LG&E is not aware of future landfill expansion by Waste Management.