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VIA OVERNIGHT MAIL

August 25, 2004

Ms. Elizabeth O'Donnell
Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
P.O. Box 615
Frankfort, Kentucky 40602-0615

CINERGY.

CASE 2004-00343

RECEIVED

AUG 26 2004

**PUBLIC SERVICE
COMMISSION**

Re: Joint Comments of Louisville Gas & Electric Company, Kentucky Utilities Company, Kentucky Power Company, and The Union Light, Heat and Power Company

Dear Ms. O'Donnell:

Enclosed please find an original and 14 copies of the Joint Comments of Louisville Gas & Electric Company, Kentucky Utilities Company, Kentucky Power Company, and The Union Light, Heat and Power Company.

Please return four Filed-Stamped copies in the enclosed overnight envelope.

If you have any questions, please feel free to contact me at (513) 287-3601

Sincerely,



John J. Finnigan, Jr

JJF/sew
Enclosures

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

AUG 26 2004

PUBLIC SERVICE
COMMISSION

In the Matter of the Commission's)
Adoption of Proposed New)
Regulation 807 KAR 5:120.)

Case No. 2004-00343

JOINT COMMENTS OF
LOUISVILLE GAS & ELECTRIC COMPANY,
KENTUCKY UTILITIES COMPANY,
KENTUCKY POWER COMPANY, AND
THE UNION LIGHT, HEAT AND POWER COMPANY

Louisville Gas & Electric Company, Kentucky Utilities Company, Kentucky Power Company and The Union Light, Heat and Power Company ("Joint Commentors") submit the following comments relating to the Commission's proposed new administrative regulation 807 KAR 5:120.

Section 1. Notice of Intent to File Application.

Section 1(2)(b) would require applicants to include, in the notice of intent, information on any alternative routes that were considered. The Joint Commentors propose that the language "and any alternative route that was considered" should be deleted from this section, and added as new sub-section under Section 2, Application. The new sub-section would be numbered Section 2(3), and would read: "(3) *Separate maps of suitable scale shall show any alternative routes that were considered.*"

Joint Commentors respectfully suggest that the information on alternative routes more properly belongs in the application rather than the notice of intent. The notice of intent should simply alert the Commission to the fact that an applicant will be filing an application for a certificate of public convenience and necessity after 30 days has expired,

and this will enable the Commission to schedule its resources in order to process the case. It would be less burdensome for applicants to submit information on alternative routes as part of the application itself, rather than the notice of intent. Including this information in the application itself would provide the Commission and interested stakeholders sufficient information in a timely enough manner to enable them to evaluate the merits of the application. In addition, information about alternative routes is not required in the notice of intent filed under 807 KAR 5:110 Section 2, for merchant transmission lines.

Section 2. Application.

Section 2(2) as proposed states: “Three (3) maps no less than one (1) inch equals 400 foot scale for the project proposed.” Joint Commentors suggest that this should be changed to: “Three (3) maps *of suitable scale, but no less than one (1) inch equals 2,000 feet scale* for the project proposed.” The Joint Commentors believe that 1”=400’ scale maps would be more detailed than necessary and too burdensome for transmission line projects that are of a significant length. This proposed change would give the Commission the flexibility to require 1”=400’ scale maps for a given project if the Commission believes that such a scale is appropriate for that particular project. Finally, this proposed change would be consistent with KRS 278.714(2)(b), applicable to merchant transmission lines, which requires maps but does not specify that the maps be of a particular scale.

In Section 2(2), Joint Commentors also propose to replace the words “structures and facilities” in the second sentence with the words “*buildings*.” Joint Commentors propose this change because “structures and facilities” could be interpreted to include all poles and towers, and usually applicants will not know the precise location of every pole

and tower until after the application is submitted. The location decisions require surveys and detailed engineering that is typically not complete until later in the design stage. Joint Commentors propose to add a new last sentence to this section as follows: *“Sketches of proposed typical transmission line support structures shall also be provided.”* This would provide the Commission and interested parties with sufficient information to evaluate the type and size of supporting structures to be used for the project.

A new Section 2(3) should be added, for the reasons discussed earlier, to read: *“(3) Separate maps of suitable scale shall show any alternative routes that were considered.”* This would also cause the remainder of the sections to be re-numbered.

Joint Commentors also suggest that Section 2(4) of the proposed regulation be modified to read: *“A verified statement that each property owner over whose property according to county Property Valuation Administrator records...”* This would clarify that applicants can rely on the accuracy of existing PVA records, instead of requiring applicants to do a title search to determine the accuracy of the PVA records. This is significant because the PVA records are sometimes incomplete or inaccurate. For example, the property owner reflected in PVA records might have died such that his/her heirs are the current owners. The applicant should not be held to a higher standard of locating the correct owner other than using current PVA records.

Joint Commentors suggest that Section 2(4)(a) of the proposed regulation be changed to read: *“(a) Sent notice of the proposed construction by certified mail, return receipt requested addressed to such property owner at the owner’s address as indicated by county Property Valuation Administrator Records.”* Joint Commentors also suggest

that Sections 2(4)(b), 2(4)(c) and 2(4)(e) be changed by replacing the word “given” in each section with “sent, in the manner described above in Section 2(4)(a).” Additionally, Joint Commentors also suggest that Section 2(4)(d) be changed by replacing the word “informed” with “sent, in the manner described above in Section 2(4)(a), a description.” These changes would clarify that the applicant’s obligation simply is to mail the notice, which the applicant could prove by retaining a copy of the postal receipt showing the mailing. These changes would also clarify that the applicant is not required to demonstrate that each affected property owner actually received the certified mail notice. In some cases, a certified mail notice may be returned by the post office as “unclaimed” or “undeliverable.” The Joint Commentors’ proposed change would clarify that, in such cases, no extra steps are required to locate the property owner and provide actual notice.

Section 2(5) should be changed to read: “(5) A *sample* copy of each notice provided to property owners, pursuant to the preceding paragraph, *and a list of the names and addresses of the property owners to whom the notice has been sent.*” Joint Commentors submit that this change would provide the same information the Commission is seeking, but would provide it in a more manageable fashion than simply attaching numerous postal receipts, which the Commission or other parties would need to manually search to find out whether a particular property owner was sent the required notice.

Joint Commentors propose that the Commission delete Section (2)(10) in its entirety. This section is superfluous because 807 KAR 5:001 Section 9(e) already requires the applicant to provide “the manner in detail in which it is proposed to finance

the new construction or extension.” This existing requirement already enables the Commission to determine whether the utility’s financial condition would be materially impacted by the project.

Section 3. Local Public Hearing.

Joint Commentors recommend that a new sentence be added to the end of Section 3(1) as follows: *“This hearing shall be requested no later than 30 days after the filing of an application for a Certificate of Public Convenience and Necessity.”* The Joint Commentors suggest that such a deadline is appropriate to allow the Commission and the applicant enough time to prepare for a hearing, and to ensure that a public hearing isn’t requested at the very end of the 90-day (or, in cases of good cause, 120-day) timetable for the Commission to process these applications. This type of requirement is contained in 807 KAR 5:110 Section 8(2), applicable to merchant transmission lines.

Joint Commentors suggest that a new sub-section d be added to Section 3(2), as follows: *“(d) A statement as to the reasons for which the request for a local public hearing is requested.”* This would provide all interested parties advance notice of the issues to be raised at the public hearing, and would enable all parties to better prepare for the hearing, and for the hearing to be conducted in a more meaningful and productive manner.

WHEREFORE, the Joint Commentors respectfully request that the Commission modify the proposed regulation in accordance with the foregoing comments.

Respectfully submitted,

LOUISVILLE GAS & ELECTRIC COMPANY
AND KENTUCKY UTILITIES COMPANY

By: Jim Dimas / by JDF
Jim Dimas
Its Attorney

KENTUCKY POWER COMPANY

By: Kevin F. Duffy / by JDF
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THE UNION LIGHT, HEAT AND
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