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July 18, 2005

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PUBLIC SERVICE
COMMISSION

HAND DELIVERY

Elizabeth O'Donnell
Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, Kentucky 40601

RE: 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
Case No. 2005-00142

Dear Ms. O'Donnell:

Enclosed please find and accept for filing the original and ten copies of Louisville Gas and Electric Company's and Kentucky Utilities Company's Response to Dennis and Cathy Cunningham's Motion for Extension of Time in the above-referenced matter. Please confirm your receipt of this filing by placing the stamp of your Office with the date received on the enclosed additional copies and return them to me in the enclosed self-addressed stamped envelope.

Should you have any questions or need any additional information, please contact me at your convenience.

Very truly yours,


J. Gregory Cornett

JGC/ec

Enclosures

cc: Parties of Record

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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JUL 18 2005

PUBLIC SERVICE
COMMISSION

In the Matter of:

JOINT APPLICATION OF LOUISVILLE)	
GAS AND ELECTRIC COMPANY AND)	
KENTUCKY UTILITIES COMPANY FOR)	
A CERTIFICATE OF PUBLIC CONVENIENCE)	CASE NO.
AND NECESSITY FOR THE CONSTRUCTION)	2005-00142
OF TRANSMISSION FACILITIES IN)	
JEFFERSON, BULLITT, MEADE AND)	
HARDIN COUNTIES, KENTUCKY)	

**RESPONSE OF LOUISVILLE GAS AND ELECTRIC
COMPANY AND KENTUCKY UTILITIES COMPANY
TO DENNIS AND CATHY CUNNINGHAM'S
MOTION FOR EXTENSION OF TIME**

Louisville Gas and Electric Company and Kentucky Utilities Company (the "Companies") respectfully submit this response to the Motion for Extension of Time filed by counsel for Dennis and Cathy Cunningham and served herein by e-mail on July 15, 2005. The Motion should be denied.¹

In the Motion, the Cunninghams' counsel requests an extension through an unstated date in July to file "Discovery Testimony" in this proceeding. In the cover e-mail which accompanied the service of the Motion, the Cunninghams' counsel stated that he wanted an additional seven days to file this testimony. As grounds for the Motion, the Cunninghams' counsel states that he "has had two previously scheduled briefs due consecutively with the Court of Appeals this week." It is unclear which week is "this week." In a telephone conversation with counsel for the Cunninghams, the Companies' counsel was advised that the additional time would be used by the Cunninghams' counsel to attempt to find an additional expert witness and

¹ The Cunninghams have previously filed two other motions for extensions of time to provide their discovery responses, and the Companies did not oppose those motions.

to possibly draft testimony to be filed by the Cunninghams. The Cunninghams filed an early motion for intervention in this case and have previously filed the direct testimony of Geoffrey M. Young. Dennis and Cathy Cunningham both made oral comments to the Commission at the public hearing in this matter on July 12, 2005, in Elizabethtown.

If the Motion is granted, the Companies will be prejudiced by the short time period remaining between the filing of the testimony and the date of the hearing. The proposed extension would permit only three days, two of which are on the weekend, to examine the testimony and attempt to prepare for cross-examination. That is insufficient, especially in light of the fact that the Companies have no right to conduct discovery on the testimony offered on behalf of the Cunninghams.

The Cunninghams' counsel claims, as grounds for the extension, that he must submit briefs to the Court of Appeals in unrelated actions. All counsel in this proceeding have other responsibilities and the obligation to manage their obligations so that they do not cause prejudice to other participants in this proceeding. Moreover, the Cunninghams' counsel stated in a letter dated July 15, 2005, to Staff Counsel, A.W. Turner, that Bob Griffith will be entering his appearance as co-counsel for the Cunninghams. Given that the Cunninghams have two co-counsel and had ample notice of the timeframes in this proceeding² (and presumably in the unrelated actions), the scheduling problems of one of them constitutes even less of a justifiable excuse for a failure to meet a deadline in the procedural schedule.

It has long been Commission policy that intervenors must comply with the Commission's procedural schedules in the cases in which the intervenors wish to participate. Indeed, 807 KAR 5:001, Section 3(8)(b) permits intervention only when it will not unduly disrupt the proceeding.


² The procedural schedule in this case has been in existence and known to all parties since May 23, 2005.

It certainly is neither equitable nor just to permit an intervenor to hijack a procedural schedule in pursuit of dilatory tactics.³ That is precisely what the Cunninghams attempt to do here.

The Cunninghams have not offered a valid reason for an extension of time to file direct testimony, and if granted, their request would be significantly prejudicial to the Companies in that each day of delay will directly reduce the amount of time available for the Companies' preparation for the upcoming hearing. For those reasons, the Cunningham's Motion should be denied.

Dated: July 18, 2005

Respectfully submitted,



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³ The Cunninghams' dilatory tactics are further demonstrated by their attempt to postpone the hearing in this proceeding, as set forth in their July 15, 2005 request for an oral argument on their Motion to Dismiss, and by the fact that the present motion was not filed until the date on which testimony was due.

CERTIFICATE OF SERVICE

This is to certify that the foregoing Response has been served by mailing a copy of same, postage prepaid, to the following persons on this 18th day of July 2005:

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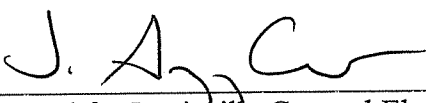
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