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July 18, 2005

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JUL 18 2005

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 to Dismiss and Request for Hearing 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

RECEIVED

BEFORE THE PUBLIC SERVICE COMMISSION

JUL 18 2005

In the Matter of:

PUBLIC SERVICE
COMMISSION

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
MOTION TO DISMISS AND REQUEST FOR HEARING**

Joint Applicants, Louisville Gas and Electric Company and Kentucky Utilities Company, (the "Companies") respectfully submit this response to the Dennis and Cathy Cunningham Motion to Dismiss filed on July 13, 2005, herein. Notice to landowners was given properly in accordance with the applicable administrative regulations and the Companies have demonstrated a need for the proposed transmission facilities on the schedule set forth in the Joint Application. Therefore, the Motion to Dismiss should be denied.

In their Motion to Dismiss, the Cunninghams identify four persons who allegedly "reported to" the Cunninghams' counsel that they did not receive notice of this proceeding from the Companies. The Cunninghams then argue that this alleged failure of receipt of notices by those persons requires the dismissal of this proceeding. That argument is without merit.

First, as a procedural matter, the Cunninghams do not have standing to move to dismiss this proceeding on the grounds that other persons allegedly did not receive proper notice.

Second, 807 KAR 5:120, Section 2(3) is applicable to this situation and requires the utility to file the following information: "A verified statement that, according to county property

valuation administrator records, each property owner over whose property the transmission right-of-way is proposed to cross has been sent by first-class mail, addressed to the property owner's address as indicated by the county property valuation administrator . . . [certain information about the proceeding]." All four of those persons identified in the Motion to Dismiss are listed on Exhibit 3 to the verified Joint Application herein as persons to whom the notice to landowners was sent. In addition, the addresses, as shown by the county property valuation administrators' records, are set forth in the same exhibit.

The Cunninghams do not allege that the Companies did not send the notices or that the addresses set forth in Exhibit 3 are not those shown by the county property valuation administrators' records for the four persons.¹ Instead, all the Cunninghams have offered is the alleged "report" to their counsel that they did not receive the notices. Thus, the Cunninghams have not demonstrated any failure to comply with the clear provisions of 807 KAR 5:120, Section 2(3). Moreover, it is uncontested that the four persons at issue have actual knowledge of this proceeding, which of course is the very purpose of the notice provision in the regulation.

The Cunninghams also argue that the Joint Application should be dismissed because it is premature. First, they claim that the Commission has not issued a certificate of public convenience and necessity for the new generating unit described in Case No. 2004-00507 and that the Attorney General has contested the application in that case. There is no reason that this proceeding should be delayed until after the issuance of an order in Case No. 2004-00507. The transmission project which is the subject of this proceeding, together with other pending proceedings involving transmission projects and the new generating unit ("TC2") which is the

¹ The Companies' verified, after receipt of the Motion to Dismiss, that the addresses to which the notices were sent are the addresses for the property owners shown in the county property valuation administrators' records at the time notice was sent. Upon review, the Companies also determined that Judy Padgett, listed in the Cunninghams' Motion, is the spouse of Charles Padgett, to whom notice was sent at his mailing address of record.

subject of Case No. 2004-00507, is part of the Companies' plan to remain in a position to provide reliable, low-cost power to their native customers. In order to be able to have the facilities in place when they are forecast to be needed, and given the length of time needed for regulatory approval, right-of-way acquisition and construction, it was necessary for the Companies to file the Joint Application in this proceeding on the timetable which has been followed. The Companies gave great consideration to the timing of this proceeding and the subject project, and the coordination of this proceeding with Case No. 2004-00507 was the subject of an informal conference with Commission Staff and other interested parties on January 13, 2005, and all in attendance agreed with the general timeline to be followed. Therefore, there is nothing premature about the Companies' Joint Application in this proceeding.

The Cunninghams next argue that the application is premature because Liberty Consulting Group ("Liberty"), in its Final Report to the Commission in this proceeding, concluded that the subject transmission facilities are not needed until five to eight years after TC2 begins commercial operation. This argument is a mischaracterization of Liberty's conclusion. In fact, the quoted portions of the report are fragments taken out of context. Liberty actually concluded as follows at pages III-5 to III-6 of its Final Report:

Liberty agrees that the Mill Creek to Hardin County 345 kV line is needed to provide for future load growth and voltage support in the Elizabethtown area, where no local base load generation is present or planned. In addition, under MISO Option #4, the line is needed for system loads related to the connection of TC2 to the transmission system. Therefore, considering the deferred in-service date of TC2, MISO Option #4, which includes the construction of the Mill Creek to Hardin County 345 kV line, remains more economical than MISO Option #3. On a present value basis, considering long-term project costs, MISO Option #4 is approximately \$20 million less expensive than MISO Option #3.

Liberty found that no additional upgrades, other than those already identified by LG&E/KU, could replace the need for the new facilities.

Liberty found that the economic analysis performed by LG&E/KU was comprehensive, adequate, and reasonable and that the relative economic relationship of the alternatives remains intact even with the delay of the TC2 in service date to 2010.

Thus, not only did Liberty conclude that the subject transmission facilities will be needed for the system loads in connection with TC2, but also that they will address future load growth and voltage support in the Elizabethtown area. Moreover, Liberty specifically rejected the delay in the construction of the subject transmission facilities until after commercial operation of TC2 as follows: “Thus, if KU/LG&E were to choose to add this line later, approximately 10 years after TC2 was in operation, the net present value cost of MISO Option #3 of completing construction of the Mill Creek to Hardin County 345 kV line would be approximately \$20 million more than MISO Option #4.”² Accordingly, contrary to the Cunninghams’ argument, Liberty has agreed with the Companies’ proposal to construct the subject transmission facilities as described in the Joint Application.

The Cunninghams’ suggestion that the Companies should hope that other utilities or merchant power providers might construct facilities that will address the needs of the Companies’ native load customers is unrealistic. The Companies cannot, and do not, simply hope that other utilities or merchant power providers will take care of their customers’ needs.

On Friday, July 15, 2005, the Cunninghams’ counsel sent a letter to Staff Counsel, A. W. Turner, requesting a hearing (presumably meaning an oral argument) on their Motion to Dismiss. He proposed having such oral argument either on July 20, 2005, or on July 26, 2005, with a postponement of the hearing in this proceeding scheduled for that date until the week of August 15, 2005.

² Liberty Consulting Group Final Report at III-4.

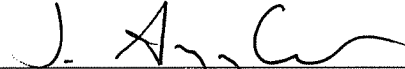
There is no reason for an oral argument on this motion. The record contains all the information the Commission needs to decide the Motion to Dismiss. As demonstrated above, the Companies complied with the landowner notice provision of the Commission's regulations and all the attorney argument in the world will not change that fact. The Cunninghams' "premature filing" argument is nothing more than an attempt to delay this proceeding and should be rejected. Again, attorneys' oral arguments will not change the facts or the contents of Liberty's report, which the Cunninghams have mischaracterized to support their premature filing argument.

Given that the statutory time limit for issuing a decision in this matter requires an order by September 8, 2005, the postponement of the hearing until the week of August 15 would work a severe hardship on the other parties to this proceeding as well as the Commission Staff. Moreover, the week of August 15 is currently scheduled for the hearing in the gas rate case of The Union Light, Heat and Power Company, Case No. 2005-00042.

For all of the foregoing reasons, the Companies respectfully submit that the Cunningham's Motion to Dismiss and request for hearing on same should be denied.

Dated: July 18, 2005

Respectfully submitted,



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CERTIFICATE OF SERVICE

This is to certify that the foregoing pleading 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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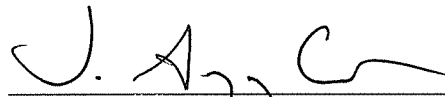
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