

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION  
CASE NO. 2005-00154

RECEIVED

JUL 18 2005

PUBLIC SERVICE  
COMMISSION

IN THE MATTER OF:

KENTUCKY UTILITIES, COMPANY

APPLICANT

and

CONCERNED CITIZENS AGAINST THE TRANSMISSION LINE

INTERVENOR

**CONCERNED CITIZENS AGAINST POWER LINE EXTENSION  
MOTION TO DISMISS**

Come the Intervenors, Concerned Citizens Against The Power Line Extension ("Citizens"), by and through counsel, and move the Public Service Commission to dismiss this application without prejudice, for the following reasons: Kentucky Utilities Company and Louisville Gas and Electric Company (collectively "KU") failed to notify all Affected Property Owners.

**I. KENTUCKY UTILITIES COMPANY AND LOUISVILLE GAS AND ELECTRIC  
COMPANY (COLLECTIVELY "KU") FAILED TO NOTIFY  
ALL AFFECTED PROPERTY OWNERS.**

The above joint application by Louisville Gas and Electric Company ("LG&E") and Kentucky Utilities Company ("KU") was filed on or about May 11, 2005 pursuant to KRS 278.020(2), (a 2004 amendment to statutes applicable to proceedings before the Public Service Commission related to electric transmission lines over one hundred thirty-eight (138) kilovolts and over one mile in length).

By this application LG&E/KU seek to construct a 138 kilovolt transmission line of approximately 12.4 miles through Franklin, Anderson and Woodford Counties, Kentucky, (hereafter referred to as The Tyrone to West Frankfort Line).

Kentucky Administrative Regulation 807 KAR 5:120 relates to KRS 278.020(2), and (8), and requires the applicant to provide a verified statement of notice to each property owner over whose property the transmission line right-of-way is proposed to cross, which notice shall include: (a) notice of the proposed construction; (b) the commission docket number for the application and a proposed map of the right-of-way; (c) address and telephone number of the executive director of the commission; (d) a description of that property owner's right to request a public hearing; and (e) a description of the project.

The Citizens are aware of at least one person who was entitled to receive notice of the proposed line that did not. This individual is identified on Exhibit 3 of the KU application: Mr. John Spencer of 1153 South Benson Road, Frankfort, Kentucky 40601:

Based upon the above failure to give notice as required, the Public Service Commission should dismiss the application without prejudice, in order to permit the Applicants to cure this procedural defect with a subsequent application and proper notice.

## II. THE APPLICATION FOR TRANSMISSION LINES IS PREMATURE.

The LG&E/KU application describes the Statement of Necessity, at paragraph 5, as transmission lines that will be utilized to transmit electric power from a "proposed 750 MW nominal net (732 MW summer rating) supercritical pulverized coal fired base load generating unit to be located at the Trimble County Generating Station ("TC2")."

The proposed new generation at TC2 has not yet been given a Certificate of Public Convenience and Necessity. In fact, the hearing on that application, PSC Case No. 2004-00507 was held last month, on June 28, 2005. This application was strongly contested by the Office of the Attorney General of the Commonwealth of Kentucky. The Attorney General argued that the Applicants had failed to meet their burden of proof

concerning the need for TC2 at this time.

KU has acknowledged some lack of immediacy in their claimed need for TC2, where, in 2005, they revised their 2002 integrated medium and long-term energy forecasts, by about 3 percent, which allowed the Applicants to defer the TC2 generation schedule from 2007 to 2010. (See Liberty Consulting Group Final Report ("Liberty") to PSC, page 11-12.)

KU relies on a MISO (Midwest Independent System Operator) study as supporting the need for this project. However, KU, MISO and Liberty agree that the Tyrone to West Frankfort Line is not immediately needed.

Neither the Applicants, MISO, nor Liberty conducted an evaluation of "upcoming voltage problems" in Franklin, Anderson or Woodford Counties from the perspective of whether other utilities, such as the Frankfort Plant Board or Bluegrass Rural Electric would be constructing facilities to address the "upcoming voltage problems." Likewise, there may be other ancillary service options that may address the upcoming voltage problems that deserve to be investigated fully before the Public Service Commission takes action that would approve this transmission line.

KU, and by necessity, Liberty have only focused on the supply aspect of determining public convenience and necessity. Where the horizon for the projected need for TC2 has been extended by the Applicants to 2010, and where the claimed need for Tyrone to West Frankfort line is described as 5 years after TC2 began commercial operation, the Public Service Commission should consider evidence of changing demand, both within Kentucky and across the United States of America to find that there are too many uncertainties to make a prudent decision by September 8, 2005. The Commission's

decision should consider the increasing emphasis nationwide on improved energy efficiency.

KRS 278.020(8) sets the standard for PSC determination of whether to issue a certificate that public convenience and necessity require the construction of an electrical transmission line that decision "shall be deemed to be a determination by the commission that, as of the date of issuance, the construction of the line is a prudent investment." At present, the PSC lacks the necessary proof that the Tyrone to West Frankfort line, at a cost of \$7.9 million dollars, is a prudent investment, when compared to other viable options.

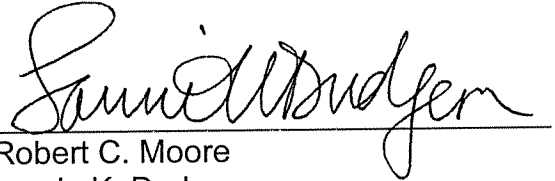
The Kentucky General Assembly anticipated that separating transmission line hearings from power generation hearings before the PSC could potentially delay bringing needed electrical power on line. However, while the General Assembly has not enacted a statutory deadline date for a decision on a certificate for power generation, it has enacted a very severe statutory deadline for decisions regarding transmission lines. See KRS 278.020(8). This legislative mandate should be interpreted as legislative intent that transmission line decisions should be made after the power generation decision has been made. The decision on the lines should be made very rapidly so as to not delay delivery of power once the new generation facility has been constructed.

**WHEREFORE**, the Citizens move the Public Service Commission to dismiss the above application without prejudice for failure of notice and for prematurity, and to order KU refile this application any time after final determination of need for TC2 has been made, provided that KU shall include an investigation of reasonable and feasible alternatives to address the "upcoming voltage problems" which shall include an

evaluation of then pending actions of other utilities and other technologies.

The Citizens also respectfully request that the Commission schedule the hearing of this Motion to Dismiss on either Wednesday, July 20, 2005, or Thursday, July 21, 2005, at any convenient time.

Respectfully submitted,



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### **CERTIFICATE OF SERVICE AND FILING**

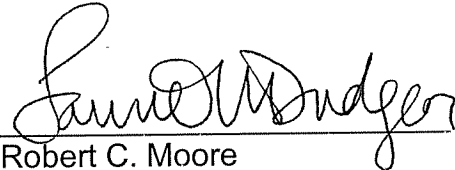
Undersigned counsel certifies that an original and ten photocopies of this Motion to Intervene were served and filed by hand delivery upon Elizabeth O'Donnell, Executive Director, Kentucky Public Service Commission, 211 Sower Boulevard, Frankfort, Kentucky 40601; furthermore, it was served by mailing a true and correct copy of the same, first class postage prepaid to the following counsel for Kentucky Utilities Company, by first class mail, postage prepaid, as follows:

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All on this the 18<sup>th</sup> day of July, 2005.

  
Robert C. Moore  
Laurie K. Dudgeon