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Mark David Goss  
Chairman

Teresa J. Hill  
Vice Chairman

Gregory Coker  
Commissioner

October 10, 2005

## PARTIES OF RECORD

Re: Case Nos. 2005-00142 and 2005-00154  
Louisville Gas and Electric Company and Kentucky Utilities Company

Attached is a copy of the memorandum which is being filed in the record of the above referenced case. If you would like to make comments regarding the contents of the informal conference memorandum, please do so within five days of receipt of this letter. If you have any questions, please contact A. W. Turner, Jr. at (502)564-3940, Extension 256.

Sincerely,

A handwritten signature in black ink, appearing to read "Beth O'Donnell", written over the word "Sincerely,".

Beth O'Donnell  
Executive Director

## INTRA-AGENCY MEMORANDUM

### KENTUCKY PUBLIC SERVICE COMMISSION

**TO:** Case File Nos. 2005-00142 and 2005-00154

**FROM:** A. W. Turner, Jr., Staff Attorney 

**DATE:** October 5, 2005

**RE:** Informal Conference of October 4, 2005

By Commission Staff notice dated September 29, 2005, these cases were set for an informal conference on October 4, 2005. The conference was held as scheduled at the Commission's offices in Frankfort, Kentucky. Persons attending the conference are listed on the attached "Sign-In Sheets."

Louisville Gas and Electric Company and Kentucky Utilities Company ("LG&E/KU") requested the conference, and any guidance the Staff could provide, by letter dated September 21, 2005. That letter raised several issues, and at the conference LG&E/KU distributed a PowerPoint handout, which is attached, addressing those issues.

On slide 3, the first numbered issue was amended by changing the word "environmental" to "property." In response to that change, Robert Griffith requested that a seventh issue be added to address the relationship between this type of application and the National Environmental Policy Act.

In response to slides 4 and 5, Staff suggested that the applicant/utility try to satisfy five steps in the following order. First, the utility should establish the need. Once that is met, the utility should identify all lines that could work electrically, making sure to include corridors that utilize existing facilities, such as substations, lines, and rights-of-way. Third, the utility should identify the "least cost" alternative. Fourth, the utility should consider the rate impact, both overall and per customer, of alternative lines that are not the "least cost." Then the utility should turn to an analysis of the types of considerations listed on slide 5. Identifying routes, in step 2, before screening for "factors for consideration" in step 5, will help ensure a comprehensive survey of all possible alternative routes. Staff emphasized that the utility needs to document its work on each step.

In response to slide 6, Staff said the burden on the utility is to do a comprehensive survey of all alternative routes and then make a reasonable choice. Staff agreed that the utility does not have to show that it has picked the "best" route. Staff also opined that the Commission has used the phrase "duplication of facilities" to include what slide 6 calls "co-location." The "co-location" could be on the applicant's

own facilities; another electric utility's facilities; or other non-electric facilities, including natural gas, telephone, railroad, water, sewer, major highway, and others. Given the guidance Staff provided on the burden of the utility with regard to slide 6, Staff suggested the burden discussed on slide 7 is inapplicable.

Slide 8 prompted a great deal of discussion, and Staff could offer little concrete guidance at this time. What is a minor change on a 300-acre farm could be monumental on a half-acre lot. In the first case, the same landowner may well be involved; in the second, the change would likely impact others. Staff also noted that, during the rulemaking proceeding, the Commission rejected a proposal to identify a corridor rather than a center line in an application under the new statute.

Staff pointed out that the need to make minor adjustments after the issuance of a certificate would not be necessary if those changes were made before the utility files the application or, at the latest, before the hearing-in-chief in the case. This practice of working out adjustments in the location ahead of time is not unusual in PUC proceedings in this country. That point led into a discussion on slide 9. Staff believes responding to public comments is important in meeting the legislative intent of the new statute. While general complaints may be answered somewhat indirectly (such as by mail), property-specific complaints need to be addressed personally and individually. Satisfying these complaints early in the process can eliminate them as issues in the case. Again Staff stressed the need to document the utility's efforts to address customer complaints.

Slide 10 is a proposed procedural schedule for use in these types of cases. Staff pointed out that 30 days from hearing to Order is not practical given the time needed for transcripts and proposed Orders. Representatives of intervenors also pointed out they may not be retained until relatively late in the process. Despite any differences, everyone generally agreed that a schedule that gives all parties enough time to prepare their cases would be helpful.

Staff noted that, for discovery, all parties should respond to data requests, regardless of who propounds them, as though Staff had asked them. If the responding party objects to a question, it should nevertheless answer the question subject to the objection. For any objection that does not include an answer, it should be made promptly and well before the answer is due. Correspondingly, any motion to compel should be filed promptly after an objection is filed.

These minutes are being filed so that other parties, including parties in other cases, may review them for guidance. Staff will schedule other informal conferences if the parties request further guidance.

cc with attachments: Parties of Record

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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

APPLICATION OF KENTUCKY UTILITIES )  
COMPANY FOR A CERTIFICATE OF PUBLIC )  
CONVENIENCE AND NECESSITY FOR THE ) CASE NO. 2005-00154  
CONSTRUCTION OF TRANSMISSION )  
FACILITIES IN FRANKLIN, WOODFORD AND )  
ANDERSON COUNTIES, KENTUCKY )

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**October 4, 2005 Informal Conference**

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Please sign in:

**NAME**

**REPRESENTING**

Robert W. Griffith

Cunninghams

ROBERT MOORE

CONCERNED CITIZENS (00154)

Betsy Bennett

Cunninghams

Jennifer Swyers

Cunninghams

Douglas Schetzel

LG&E

Bob Cocanougher

LG&E

MARIK JOHNSON

LG&E

JOHN WOLFRAM

LG&E/KU : Regulatory

Robert Watt

LG&E/KU

Greg Cornett

LG&E/KU Counsel

Kent Blake

LG&E/KU

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FACILITIES IN FRANKLIN, WOODFORD AND )  
ANDERSON COUNTIES, KENTUCKY )

=====

**October 4, 2005 Informal Conference**

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Please sign in:

**NAME**

**REPRESENTING**

<u>DOROTHY O'BRIEN</u>	<u>LG&amp;E / KU</u>
<u>Larry H. Smith</u>	<u>Citizens Group</u>
<u>Michael D. Green</u>	<u>Citizens Group</u>
<u>James (Buddy) Smith</u>	<u>    "        "</u>
<u>Annette Coffey</u>	<u>    "        "</u>
<u>Elic Russell</u>	<u>PSC</u>
<u>JEFF Johnson</u>	<u>PSC</u>
<u>Fereydoon Gorjian</u>	<u>PSC</u>
<u>JOHN SHUPP</u>	<u>PSC</u>
<u>ISAAC SCOTT</u>	<u>PSC</u>
<u>John A. Cozness III</u>	<u>PSC</u>

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FACILITIES IN FRANKLIN, WOODFORD AND )  
ANDERSON COUNTIES, KENTUCKY )

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**October 4, 2005 Informal Conference**  
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Please sign in:

**NAME**

**REPRESENTING**

Ruth Rowles

PSC

Jorge Valladares

PSC

Charles Bright

PSC

Andrew Melnykovich

PSC

A W Turner Jr

PSC

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**CCN Process  
Transmission Facilities  
Informal Conference**

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**Kentucky Public Service Commission  
October 4, 2005  
LG&E & KU**

## Background

- ◆ **Trimble County Unit 2 (“TC2”) project timing (subject of Case Nos. 2004-00507 and 2005-00152)**
  - Scheduled TC2 in-service 2010 Q2; transmission in-service required 2009 Q4
  - Commission finding of need for lines in Case Nos. 2005-00142 and 2005-00154
- ◆ **Statutory timing for Transmission CCNs**
- ◆ **Consideration of next steps required to meet acknowledged need**



## ISSUES

1. Key factors to be considered -- use of existing corridors, ~~environmental~~<sup>property</sup> impact, cost
2. Flexibility of choice required when several routes might be considered reasonable
3. Permission to make minor adjustments in final facility locations after issuance of CCN
4. Burden of proof required of intervenors regarding merits of alternative routes
5. Process for receiving and responding to public comment
6. Consideration of model procedural schedule

7. Also relationship between NEPA & this certificate proceeding

## How to Clarify the Criteria to be Considered?

- ◆ **Need to establish criteria and acceptable methodology for route selection for future cases**
  - Establish reasonable expectations
  - Avoid strict requirements in order to avoid unacceptable results
- ◆ **Balance use of existing corridors with cost and property impact**
- ◆ **Consideration of impact on rates**
- ***Base Case Study and Sensitivity Analysis of Key Variables/Factors is appropriate***



# Typical Factors for Consideration

Factors	5x Built	5x Nat	5x Eng	Simple Avg
<b>Built Environment</b>	<b>72%</b>	<b>14%</b>	<b>14%</b>	<b>33%</b>
Residences within ROW	44.3%	44.3%	44.3%	44.3%
Proximity to Residences	13.1%	13.1%	13.1%	13.1%
Proposed Developments	5.4%	5.4%	5.4%	5.4%
Proximity to Commercial Buildings	3.6%	3.6%	3.6%	3.6%
Proximity to Industrial Buildings	1.8%	1.8%	1.8%	1.8%
Proximity to School, Day Care, Church, Cemetery, Parks	16.3%	16.3%	16.3%	16.3%
National Register of Historic Places structures & districts	15.5%	15.5%	15.5%	15.5%
<b>Natural Environment</b>	<b>14%</b>	<b>72%</b>	<b>14%</b>	<b>33%</b>
Natural Forests	9.3%	9.3%	9.3%	9.3%
Stream/River Crossings	38.0%	38.0%	38.0%	38.0%
Wetland Areas	40.3%	40.3%	40.3%	40.3%
Floodplain Areas	12.4%	12.4%	12.4%	12.4%
<b>Engineering</b>	<b>14%</b>	<b>14%</b>	<b>72%</b>	<b>33%</b>
Miles of Rebuild with Existing Transmission	65.6%	65.6%	65.6%	65.6%
Miles of Co-location with Existing Elec/Gas	19.2%	19.2%	19.2%	19.2%
Miles of Co-location with Roads	7.8%	7.8%	7.8%	7.8%
Total Project Costs	7.4%	7.4%	7.4%	7.4%
<b>TOTAL</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

## How to Proceed When Several Routes Might be Considered Reasonable?

- ◆ **As long as route proposed is thoroughly evaluated and is found to be a reasonable route, route should be approved**
- ◆ **Provide guidance on “duplication of facilities”**
  - Traditional definition is appropriate: Duplication exists if proposed facility performs the same function as existing facilities
- ◆ **Provide guidance on “co-location”**
  - Electric/Gas, T/D, vs. other ROW
  - Rebuild vs. Parallel

## **What Burden of Proof is Required for Parties Proposing Alternative Routes?**

- ◆ **Same standard should be applied to alternatives as is applied to Applicant's proposed route**
- ◆ **Detailed evidence and study required**
- ◆ **If Applicant's route is reasonable, it should be approved, even if intervenors' routes are also reasonable**

## **What Ability Exists to Make Minor Adjustments to Final Facility Locations?**

- ◆ **Final determination of centerline of route to level of absolute precision should not be required in application**
- ◆ **Post-CCN adjustments should be permitted *within* the corridor of notified property owners**
  - Allows for geological, historical, environmental and landowner considerations
  - Furthers administrative efficiency
  - Advances goal of addressing individual property owners' concerns regarding precise placement



## What Process to Follow in Receiving and Responding to Public Comment?

- ◆ **Communication vs. negotiation of easements**
- ◆ **Negotiation for easements prior to CCN filing is not practical**
- ◆ **Good faith effort to be responsive to public comment is appropriate**
  - Examples from Big Rivers proceeding:
    - Concern over Herbicide
    - Concern over Aesthetics

## Proposed Procedural Schedule <sup>1</sup>

Day (30)	Notice of Intent to File
Day 0	Application Filed
Day 30	Requests for Public Hearing
Day 30	Deadline for Motions for Intervention <sup>2</sup>
Day 40	Intervenor Data Requests to Applicants
Day 50	Applicants Responses to Data Requests
Day 64	Intervenors Testimony (Including any Alternate Route proposals)
Day 74	Data Requests to Intervenors
Day 84	Intervenors Responses to Data Requests
Day 90	Evidentiary Hearing <sup>3</sup>
Day 120	Latest Date by which Commission issues Order

<sup>1</sup> Consideration of Consultant Review and Public Hearing not included.

<sup>2</sup> Balance of schedule accelerates if no parties are granted intervention.

<sup>3</sup> Evidentiary Hearing date should not be set until after Day 30 when interventions and/or need for Public Hearing becomes known.