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June 19, 2008

Stephanie L. Stumbo
Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
P.O. Box 615
Frankfort, KY 40601

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JUN 19 2008

PUBLIC SERVICE
COMMISSION

RE: Case No. 2008-00148

Dear Ms. Stumbo:

Enclosed are an original and ten copies each of the Response of LG&E and KU to the Motions of Geoffrey M. Young, Dennis Cunningham, Cathy Cunningham, CDH Preserve LLC and Elizabeth R. Bennett for Full Intervention and the Response of LG&E and KU to the Motion of Bluegrass Generation Company, LLC for Full Intervention in the above mentioned case.

Please place your file stamp on the extra copy of each pleading and return to me via our runner.

Sincerely,

W. Duncan Crosby III

WDC: jms
Enclosures

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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JUN 19 2008

PUBLIC SERVICE
COMMISSION

In the Matter of:

**THE 2008 JOINT)
INTEGRATED RESOURCE)
PLAN OF LOUISVILLE GAS)
AND ELECTRIC COMPANY)
AND KENTUCKY UTILITIES)
COMPANY)**

CASE NO. 2008-00148

**RESPONSE OF LOUISVILLE GAS AND ELECTRIC
COMPANY AND KENTUCKY UTILITIES COMPANY TO
THE MOTION OF BLUEGRASS GENERATION COMPANY,
LLC FOR FULL INTERVENTION**

Louisville Gas and Electric Company (“LG&E”) and Kentucky Utilities Company (“KU”) (collectively “LG&E/KU” or the “Companies”) respectfully submit this response to the Motion of Bluegrass Generation Company, LLC (“Bluegrass”) for full intervention in this proceeding. Bluegrass does not have a special interest in this proceeding which is not otherwise represented and it is not likely to present issues or to develop facts that will assist the Commission in fully considering the issues in this proceeding without unduly complicating or disrupting the proceedings. Thus, the Motion should be denied.

Bluegrass states that it operates a natural gas-fired peaking generating facility which is interconnected with the transmission system of LG&E. It states that it is a subsidiary of Dynegy Inc. (“Dynegy”) which, through its subsidiaries, produces and sells energy, capacity and ancillary services in key U.S. markets. Of course, LG&E/KU also produces and sells energy, capacity and ancillary services in Kentucky. Thus, Bluegrass is a competitor of LG&E/KU. As Bluegrass states, “As an operator of generation facilities within the LG&E control area, the

matters being decided by the Commission in this case may have an impact on Bluegrass.”

Motion at 1. Of course, the impact is a competitive impact.

Bluegrass’ Motion is governed by the provisions of 807 KAR 5:001, Section 3(8)(b), which states:

If the commission determines that a person has a special interest in the proceeding which is not otherwise adequately represented or that full intervention by party is likely to present issues or to develop facts that assist the commission in fully considering the matter without unduly complicating or disrupting the proceedings, such person shall be granted full intervention.

Bluegrass does not satisfy the regulatory requirements for full intervention in this proceeding.

Bluegrass’ Motion is not dissimilar to the efforts of EnviroPower, LLC to intervene in East Kentucky Power Cooperative, Inc. (“East Kentucky”) cases before the Commission. The Commission denied those efforts consistently. EnviroPower was an unsuccessful bidder for the sale of power to East Kentucky. The Commission, thus, characterized EnviroPower as a competitor of East Kentucky. *In the Matter of: An Investigation of the Financial Condition of East Kentucky Power Cooperative, Inc.*, Case No. 2006-00455, Order dated January 30, 2007, at 4 (“EnviroPower is merely a disappointed bidder and, hence, a competitor of EKPC.”) See, also, *In the Matter of: The Application of East Kentucky Power Cooperative, Inc. for a Certificate of Public Convenience, and a Site Compatibility Certificate, for the Construction of 278 MW (Nominal) Circulating Fluidized Bed Coal-fired Unit in Mason County, Kentucky*, Case No. 2004-00423, Orders dated February 3, 2005, and April 18, 2005; *In the Matter of: Application of East Kentucky Power Cooperative, Inc. for a Certificate of Public Convenience and Necessity, and Site Compatibility Certificate, for the Construction of a 278 MW (Nominal) Circulating Fluidized Bed Coal Fired Unit and Five 90 MW (Nominal) combustion Turbines in Clark*

County, Kentucky, Case No. 2005-00053, Order dated April 18, 2005. In the order in Case No. 2005-00053, the Commission stated:

The Commission further finds that EnviroPower is not a customer of East Kentucky Power, but is an unsuccessful bidder in a competitive power solicitation. As an unsuccessful bidder, EnviroPower has a pecuniary interest to challenge any bid evaluation process that results in the rejection of its bid. Consequently, EnviroPower's interest in this case does not coincide with that of either East Kentucky Power or its ratepayers. Rather, it is a self-serving financial interest that does not fall within the Commission's purview under Chapter 278. Therefore, EnviroPower does not have a special interest in this proceeding sufficient to justify granting it full intervention and, further, granting full intervention is not likely to present issues or to develop facts that will assist the Commission in fully considering the issues in this case.

Id. at 2. In *In the Matter of Adjustment of Rates of Columbia Gas of Kentucky, Inc.*, Case No. 2007-00008, Order dated May 3, 2007, the Commission denied the motion of Constellation New Energy-Gas Division, LLC ("CNEG") for full intervention. In so doing, the Commission observed that CNEG is a third-party transporter of natural gas that serves a number of commercial and industrial customers in the Columbia service area and is not a customer of Columbia.

The Bluegrass situation *vis a vis* the Companies is very similar to the situation of EnviroPower and East Kentucky and CNEG and Columbia. Its interest in this integrated resource planning proceeding is most likely the advancement of its own pecuniary interest in providing generating capacity to the Companies' customers. Such interest is not a special interest sufficient to justify full intervention.

To the extent that Bluegrass seeks to advance its interest in utilizing the Companies' transmission facilities, such interest also does not support a request for full intervention. In *In the Matter of: Investigation Into the Membership of Louisville Gas and Electric Company and*

Kentucky Utilities Company in the Midwest Independent System Operator, Inc., Case No. 2003-00266, Thoroughbred Generating Company, LLC (“Thoroughbred”) made a motion for full intervention, which was denied by the Commission. *Id.*, Order dated October 2, 2003. There, Thoroughbred claimed to have a special interest arising from its interconnections to Kentucky’s electric transmission grid, its need for the grid to move power to other states and its risk of paying multiple transmission rates. The Commission found that such interest involves issues under the jurisdiction of the Federal Energy Regulatory Commission and not this Commission. *Id.* at 2.

In addition to the lack of a special interest in this proceeding, Bluegrass does not identify any issues or facts that it might present to the Commission that will assist it in considering the Companies’ integrated resource plan. 807 KAR 5:001, Section 3(8)(b) requires that a person must have a special interest or must be likely to present facts or issues that assist the Commission in fully considering the matter. Bluegrass satisfies neither requirement.

As a final matter, it does not appear that Bluegrass’ counsel are admitted to practice in Kentucky. The Rules of the Supreme Court provide as follows:

A person admitted to practice in another state, but not in this state, shall be permitted to practice a case in this state only if the attorney subjects himself or herself to the jurisdiction and rules of the court governing professional conduct, pays a per case fee of \$100.00 to the Kentucky Bar Association and engages a member of the association as co-counsel, whose presence shall be necessary at all trials and at other times when required by the court. No motion for permission to practice in any state court in this jurisdiction shall be granted without submission to the admitting court of a certification from the Kentucky Bar Association of receipt of this fee.

SCR 3.030(2). This rule has been consistently applied to administrative agencies in Kentucky, including this Commission. If Bluegrass’ counsel are not admitted to practice in Kentucky, they must comply with SCR 3.030(2) before they may participate in this proceeding.

For all of the foregoing reasons, it is respectfully submitted that the Motion for full intervention of Bluegrass Generation Company, LLC should be denied.

Dated: June 19, 2008

Respectfully submitted,



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Counsel for Louisville Gas and Electric
Company and Kentucky Utilities Company

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Response was sent to the following parties of record by U.S. mail, postage prepaid, on this 19th day of June, 2008.

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