

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

JOINT APPLICATION OF LOUISVILLE GAS	)	
AND ELECTRIC COMPANY AND KENTUCKY	)	CASE NO.
UTILITIES COMPANY FOR A DECLARATORY	)	2016-00033
ORDER CONCERNING INTERPRETATION OF	)	
COMMISSION REGULATION 807 KAR 5:006	)	

ORDER

On January 15, 2016, Louisville Gas and Electric Company (“LG&E”) and Kentucky Utilities Company (“KU”) (collectively “LG&E/KU”) filed with the Commission a joint application (“Application”), pursuant to 807 KAR 5:001, Section 19, for a declaratory order that their current inspection practice complies with all inspection requirements for electric lines operating at 69 kilovolts (“kV”) or greater (including insulators, conductors and supporting facilities) as prescribed by 807 KAR 5:006, Section 26. No party sought intervention into this case. The matter now stands submitted to the Commission for a decision.

BACKGROUND

LG&E is an electric and gas utility that, as part of its operations, generates and purchases electricity, and distributes and sells electricity at retail in all or portions of nine Kentucky counties.<sup>1</sup> KU is an electric utility that, as part of its operations, generates and purchases electricity, and distributes and sells electricity at retail in all or portions of 77 Kentucky counties.<sup>2</sup> As part of their jurisdictional electric operations, LG&E has

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<sup>1</sup> Joint Application at 2 and 3.

<sup>2</sup> *Id.*, at 2.

approximately 675 miles of electric lines that operate at 69 kV or greater voltages,<sup>3</sup> and KU has approximately 4,079 miles of electric lines that operate at 69 kV or greater voltages.<sup>4</sup>

807 KAR 5:006, Section 26, is the Commission's administrative regulation that addresses the inspection of systems and requires the adoption of inspection procedures to assure safe and adequate operation of utility facilities. Specifically, 807 KAR 5:006, Section 26(4), requires systematic inspections of electric utility systems and, in pertinent part, prescribes that inspections are to be "made as often as necessary but not less frequently than established in this subsection for various classes of facilities and types of inspection." With regard to electric lines, 807 KAR 5:006, Section 26(4), includes, among other things, the following requirements.

807 KAR 5:006, Section 26(4)(b), states:

At intervals not to exceed six (6) months, the utility shall inspect:

1. Unmanned production facilities, including peaking units not on standby status, and all monitoring devices, for evidence of abnormality;
2. Transmission switching stations if the primary voltage is sixty-nine (69) KV or greater, for damage to or deterioration of components including structures, fences, gauges, and monitoring devices;
3. Underground network transformers and network protectors in vaults located in buildings or under sidewalks, for leaks, condition of case, connections, temperature, and overloading; and
4. Electric lines operating at sixty-nine (69) KV or greater, including insulators, conductors, and supporting facilities, for damage,

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<sup>3</sup> *Annual Report of Louisville Gas and Electric Company (for Electric Operations) to the Public Service Commission for Year Ended December 31, 2014* at 142 to 145.

<sup>4</sup> *Annual Report of Kentucky Utilities to the Public Service Commission for Year Ended December 31, 2014* at 144 and 145.

deterioration and vegetation management consistent with the utility's vegetation management practices.

807 KAR 5:006, Section 26(4)(c), states:

In addition to the requirements established in paragraph (b) of this subsection, all electric lines operating at sixty-nine (69) KV or greater, including insulators, conductors, and supporting facilities shall be inspected from the ground for damage, deterioration, and vegetation management consistent with the utility's vegetation management practices at intervals not to exceed:

1. Six (6) years for each electric line supported by a wood pole or other wood support structure; or
2. Twelve (12) years for each electric line supported by a pole or other support structure constructed of steel or other nonwood material.

807 KAR 5:006, Section 26(4)(g), states:

Aerial inspections shall not be used as the basis for compliance with paragraphs (b)1. through 3., support facilities provisions in (b)4., (d)1., and (f) of this subsection.

With respect to their electric lines that operate at 69 kV or greater, LG&E/KU state:

Pursuant to their interpretation of the Regulation, the Companies currently conduct aerial inspections every six months, and ground inspections every six years (if the support structures for lines are made of wood), or every twelve years (if the support structures for the lines are made of non-wood materials).<sup>5</sup>

LG&E/KU state that they seek a declaratory order from the Commission because they have identified an apparent conflict between certain portions of 807 KAR 5:006, Section 26, concerning "how often ground inspections must occur on these lines."<sup>6</sup> Per

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<sup>5</sup> Joint Application at 1.

<sup>6</sup> *Id.*

LG&E/KU, 807 KAR 5:006, Section 26(4)(b), generally requires inspections of electric lines operating at 69 kV or greater, including insulators, conductors, and supporting facilities, every six months.<sup>7</sup> Further, 807 KAR 5:006, Section 26(4)(c), “requires ground inspections of those same electric lines . . . once every six years (for lines supported by wood structure) or once every twelve years (for lines supported by non-wood materials).”<sup>8</sup>

LG&E/KU state that 807 KAR 5:006, Section 26(4)(g), conflicts with 807 KAR 5:006, Section 26(4)(c), because the former provision prohibits the use of aerial inspections as the basis for compliance with the six-month inspection requirement of 807 KAR 5:006, Section 26(4)(b)4.<sup>9</sup> LG&E/KU observe that the prohibition on aerial inspections as a means for compliance with 807 KAR 5:006, Section 26(4)(b)4., “suggest that ground inspections must occur every six months instead of the six or twelve years required in” 807 KAR 5:006, Section 26(4)(c).<sup>10</sup>

LG&E/KU state that they interpret the requirements of 807 KAR 5:006 Section 26, “to mean that ground inspections are required only every six or twelve years as specifically stated” in 807 KAR 5:006, Section 26(4)(c).<sup>11</sup> Per LG&E/KU:

In summary, consistent with their stated interpretation of the Regulation, the Companies currently conduct (1) ground inspections of all lines every six years (if the support structures for the lines are made of wood), or every twelve years (if the support structures for the lines are made of non-

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<sup>7</sup> *Id.*, at 5.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*, at 4 and 5.

<sup>10</sup> *Id.*, at 5.

<sup>11</sup> *Id.*

wood materials); (2) aerial inspections of those same lines in all areas where possible every six months; and (3) additional ground inspections of the remaining lines (those which cannot be inspected by air for some reason) every six months.<sup>12</sup>

LG&E/KU request a Commission Order declaring that, based upon their interpretation, LG&E/KU's current inspection practice complies with all inspection requirements for electric lines operating at 69 kV or greater as set forth in 807 KAR 5:006, Section 26.<sup>13</sup>

### DISCUSSION

In Case No. 2014-00479, Kentucky Power Company ("Kentucky Power") applied for, among other things, a similar declaration concerning whether it could make certain inspections required under 807 KAR 5:006, Section 26, aurally as long as it complied with the ground inspection requirements prescribed by 807 KAR 5:006, Section 26(4)(c).<sup>14</sup> We find that our interpretation of the pertinent portions of 807 KAR 5:006, Section 26, set forth in our March 24, 2016 Order in Case No. 2014-00479 is equally applicable to the request made by LG&E/KU in the instant case.

807 KAR 5:006, Section 26(1), requires that "[a] utility shall adopt inspection procedures to assure safe and adequate operation of the utility's facilities and compliance with KRS Chapter 278 and 807 KAR Chapter 5 and shall file these

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<sup>12</sup> *Id.*, at 6.

<sup>13</sup> *Id.*, at 7.

<sup>14</sup> Case No. 2014-00479, *The Application of Kentucky Power Company for: (1) An Order Declaring and Clarifying the Application of the Inspection Requirements of 807 KAR 5:006, Section 26(4), to Certain of the Company's Transmission Facilities; or (2) In the Alternative, and to the Extent Required, a Deviation in Part from the Inspection Requirements of 807 KAR 5:006, Section 26(4), with Respect to the Company's Transmission Facilities; and (3) All Other Required Approvals and Relief* (Ky. PSC Mar. 24, 2016) at 4 and 5.

procedures with the commission for review.” 807 KAR 5:006, Section 26(4), further requires, for electric utilities, the following.

Electric Utility Inspection: An electric utility shall make systematic inspections of its system in the manner established in this subsection to insure that the commission’s safety requirements are being met. These inspections shall be made as **often as necessary but not less frequently than established in this subsection for various classes of facilities and types of inspection.**

(emphasis added)

Thus, our administrative regulations require a utility to adopt inspection procedures to assure safe and adequate operation of its facilities and make these inspections as often as necessary. 807 KAR 5:006, Section 26, permits certain inspections to be conducted aurally, while requiring other inspections to be conducted from the ground.

807 KAR 5:006, Section 26(4)(c), requires, for all electric lines operating at 69 kV or greater, inspection from the ground of the line, including insulators, conductors, and supporting facilities.<sup>15</sup> Pursuant to 807 KAR 5:006, Section 26(4)(c)1., for a 69-kV-or-greater electric line supported by a wood pole or other wood support structure, the ground inspection must take place at intervals not to exceed six years. Pursuant to 807 KAR 5:006, Section 26(4)(c)2., for a 69-kV-or-greater electric line supported by a pole or other support structure constructed of steel or other non-wood material, the ground inspection must take place at intervals not to exceed 12 years. The requirements set forth in 807 KAR 5:006, Section 26(4)(c)1. and 2., were added when the Commission revised 807 KAR 5:006 in 2013.

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<sup>15</sup> 807 KAR 5:006, Section 26(4)(c).

Pursuant to 807 KAR 5:006, Section 26(4)(g), however, “[a]erial inspections shall not be used as the basis for compliance with paragraphs (b)1. through 3., support facilities provisions in (b)4., (d)1., and (f) of this [807 KAR 5:006, Section 26(4)] subsection.”<sup>16</sup> Thus, when read together with 807 KAR 5:006, Section 26(4)(b), 807 KAR 5:006, Section 26(4)(g), would seemingly require all inspections required by 807 KAR 5:006, Section 26(4)(b)4., be conducted from the ground because aerial inspections may not be used as the basis for compliance for inspecting support facilities.

Thus, while the language of 807 KAR 5:006, Section 26(4)(c), allows a ground inspection of 69-kV electric lines at an interval of greater than six months, the language of 807 KAR 5:006, Section 26(4)(g), prohibits aerial inspections of these same facilities with respect to requirements of 807 KAR 5:006, Section 26(4)(b)4. Therefore, the Commission recognizes that there are conflicting ground-inspection intervals in our administrative regulation.

We find that when there is a conflict between two statutes, the general rule of statutory construction mandates that the specific provision takes precedence over the general provision.<sup>17</sup> This rule of construction should be applied to resolve the conflict in our administrative regulation, and we find that specific instructions of 807 KAR 5:006, Section 26(4)(c)1., and Section 26(4)(c)2., recognize that an electric utility that is otherwise in compliance with the requirement to make inspections as often as

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<sup>16</sup> 807 KAR 5:006, Section 26(4)(g).

<sup>17</sup> See *Commonwealth v. Crum*, 250 S.W.3d 347, 351 (Ky. App. 2008)(quoting *Commonwealth v. Phon*, 17 S.W.3d 106, 107, 108 (Ky. 2000)).

necessary is not required to inspect supporting facilities from the ground at intervals not to exceed six months.

We find that the intent of the 807 KAR 5:006, Section 26(4)(g), with respect to aerial inspections of electric lines operating at 69 kV or greater, is to prevent a utility from utilizing an aerial inspection as the sole basis for compliance with our administrative regulations.<sup>18</sup> If it had been our intent to require ground inspections of supporting facilities at intervals not to exceed six months, then we would not have added 807 KAR 5:006, Section 26(c), as part of the 2013 revisions to 807 KAR 5:006. Rather, our intent for the prohibition in 807 KAR 5:006, Section 26(4)(g), with regard to support facilities, is to prevent an electric utility from utilizing aerial inspections of all or portions of its support facilities of electric lines operating at 69 kV or greater when a ground inspection is necessary, whether pursuant to 807 KAR 5:006, Section 26(4)(c)1. or Section 26(4)(c)2., or pursuant to the “as often as necessary” requirement in 807 KAR 5:006, Section 26(4).

807 KAR 5:006, Section 26, should be construed, if possible, so that no part of our administrative regulation is meaningless.<sup>19</sup> We find that an interpretation of 807 KAR 5:006, Section 26(4)(g), that requires ground inspections of supporting facilities of electric lines operating at 69 kV or greater at intervals of not less than six months renders meaningless the ground-inspection intervals specifically identified in 807 KAR 5:006, Section 4(c). We find that the inconsistency should be resolved through a

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<sup>18</sup> Prior to the 2013 revisions to 807 KAR 5:006, our administrative regulations, at then-numbered Section 26(f), stated: “Aerial inspections shall not be used as the sole basis for evidence of compliance with commission administrative regulations.”

<sup>19</sup> See *Hardin County Fiscal Court v. Hardin County Board of Health*, 899 S.W.2d 859, 861, 862 (Ky. App. 1995).



declaration that the specific requirements of 807 KAR 5:006, Section 26(4)(c), prevail and that aerial inspections may be used as a means of compliance with the six-month inspection requirements imposed by 807 KAR 5:006, Section 26(4)(b)4.

In making this declaration, we emphasize that it in no way reduces or limits the duty of LG&E or KU to adopt inspection procedures that assure safe and adequate operation of its facilities and to otherwise make inspections as often as necessary. Hence, we find that as long as LG&E/KU comply with the ground-inspection requirements of 807 KAR 5:006, Section 26(4)(c), with respect to electric lines operating at or above 69 kV, they may make the inspections required by 807 KAR 5:006, Section 26(4)(b)4., aerially.

IT IS THEREFORE ORDERED that:

1. LG&E/KU's request for a declaration concerning the interpretation of 807 KAR 5:006, Section 26, is granted.
2. To the extent that LG&E/KU comply with the ground-inspection requirements of 807 KAR 5:006, Section 26(4)(c), with respect to their electric lines operating at or above 69 kV, they may make the inspections required by 807 KAR 5:006, Section 26(4)(b)4., aerially.



ATTEST:

  
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