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June 22, 2004

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HAND DELIVERY

JUN 22 2004

PUBLIC SERVICE  
COMMISSION

Elizabeth O'Donnell  
Executive Director  
Kentucky Public Service Commission  
211 Sower Boulevard  
Frankfort, Kentucky 40601

**RE: *In the Matter of: Louisville Gas and Electric Company / Alleged Failure to Comply with Commission Regulation 807 KAR 5:041, Section 3(1)*  
KPSC Case No. 2004-00096**

Dear Ms. O'Donnell:

Enclosed please find and accept for filing the original and ten copies of the Response of Louisville Gas and Electric Company to the Commission's Order of June 2, 2004 and Motion to Suspend Hearing and Schedule Informal Conference 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.

In addition, please add the following persons to the service list for this case:

John Wolfram  
LG&E Energy LLC  
220 West Main Street  
Post Office Box 32010  
Louisville, Kentucky 40232-2010

James Dimas, Esq.  
LG&E Energy LLC  
220 West Main Street  
Post Office Box 32010  
Louisville, Kentucky 40232-2010

Elizabeth O'Donnell  
June 22, 2004  
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Should you have any questions or need any additional information, please contact me at your convenience.

Very truly yours,

A handwritten signature in black ink, appearing to read 'J. Gregory Cornett', with a long horizontal flourish extending to the right.

J. Gregory Cornett

JGC/ec

Enclosure

cc: Anita Mitchell  
Michael S. Beer  
James Dimas  
John Wolfram

COMMONWEALTH OF KENTUCKY

RECEIVED

BEFORE THE PUBLIC SERVICE COMMISSION

JUN 22 2004

PUBLIC SERVICE COMMISSION

In the Matter of:

LOUISVILLE GAS AND )  
ELECTRIC COMPANY )

CASE NO: 2004-00096

\_\_\_\_\_)  
ALLEGED FAILURE TO COMPLY )  
WITH COMMISSION REGULATION )  
807 KAR 5:041, SECTION 3(1) )

**RESPONSE OF LOUISVILLE GAS AND ELECTRIC COMPANY**  
**TO THE COMMISSION'S ORDER OF JUNE 2, 2004**  
**AND MOTION TO SUSPEND HEARING AND**  
**SCHEDULE INFORMAL CONFERENCE**

On June 2, 2004, the Kentucky Public Service Commission ("Commission") issued an Order directing Louisville Gas and Electric Company ("LG&E") to file a written response to the allegations contained in the Electric Utility Personal Injury Incident Report ("Report") prepared by the Commission Staff and dated December 16, 2003. For its Response to the Commission's Order, LG&E states as follows:

1. LG&E admits that the information contained in the sections of the Report titled "Utility", "Reported By", "Incident Occurred", "Utility Notified", "PSC Notified", "PSC Investigated", "Report Received" and "Incident Location" is accurate.

2. With regard to the information contained in the section of the Report titled "Incident Description", LG&E admits, based on its investigation, that the information is accurate except as follows:

A. The characterization of a header "tunnel" incorrectly implies that the area in issue was primarily or regularly a pedestrian passageway, and LG&E therefore

takes exception to the use and implication of the word “tunnel”. The correct reference should be to the south header pipe, flume or trough of the Unit 4 cooling tower at LG&E’s Mill Creek Station.

B. Although it is not known for certain whether Mr. Morley had been standing on the I-beam crossing the diameter of the riser pipe immediately before his fall, because there was apparently no eyewitness to the fall itself, LG&E states that its investigation revealed footprints in sediment on that beam which suggested that Mr. Morley may have attempted to balance on the beam when he fell.

3. LG&E admits the information contained in the sections of the Report titled “Victim”, “Witness” and “Information From” is accurate, but states, based on its investigation, that Jimmy Koetter did not witness the fall itself.

4. With regard to the section of the Report titled “Notes”, LG&E is without information or knowledge sufficient to admit or deny the statements therein.

5. With regard to the section of the Report titled “Probable Violations”, LG&E denies that it committed the alleged violation of National Electrical Safety Code 1990 Edition referenced in Administrative Regulation 807 KAR 5:041, Section 3. Specifically, LG&E denies the allegation in the Report that it violated Administrative Regulation 807 KAR 5:041, Section 3(1), Section 11 “Floor, Floor Openings, Passageways, Stairs”, Rule 112C “Railings” (hereafter “Rule 112C”). Rule 112C states: “All floor openings without gratings or other adequate cover and raised platforms and walkways in excess of 1 ft (300mm) in height shall be provided with railings. Openings in railings for units such as fixed ladders, cranes, and the like shall be provided with adequate guards such as grates, chains, or sliding pipe sections.” Rule 112C does not apply to the header flume at issue because it is a pipe, not a floor, and because it is

impractical to have railings inside the header flume. In the alternative, should the Commission determine that Rule 112C does apply to the header flume at issue, LG&E did not willfully violate Rule 112C.

6. With regard to the section of the Report titled "Recommendations", LG&E states that it has obtained covers for the riser openings that will be used temporarily when work is performed in the area of the risers. LG&E is willing to work with Commission Staff to consider additional steps for the implementation of the recommendation made therein, or some similar work practice, but affirmatively states that the absence of any such practice, including temporary covers, was not and is not a violation of NESC or OSHA standards or rules.

**NOW, THEREFORE**, LG&E requests that this case be dismissed or, in the alternative, that the hearing date set for July 22, 2004 be suspended and that an informal conference be scheduled with the Commission Staff for the purpose of discussing settlement and expediting resolution of this proceeding. LG&E's willingness to discuss settlement is not, and should not be construed as, an admission of any liability or fault on its part.

Respectfully submitted,



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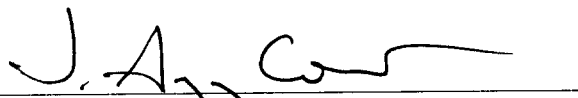
James Dimas  
Corporate Attorney  
LG&E Energy LLC  
220 West Main Street  
Louisville, Kentucky 40202

Counsel for Louisville Gas and  
Electric Company

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Response was served by first class mail, postage prepaid, on the following person this 22<sup>nd</sup> day of June, 2004.

Anita Mitchell  
Staff Counsel  
Public Service Commission  
211 Sower Blvd.  
Frankfort, Kentucky 40601



Counsel for Louisville Gas and  
Electric Company