

**COMMONWEALTH OF KENTUCKY**  
**BEFORE THE PUBLIC SERVICE COMMISSION**

**RECEIVED**

JUN 28 2005

PUBLIC SERVICE  
COMMISSION

**In the Matter of:**

**JOINT APPLICATION OF LOUISVILLE GAS )**  
**AND ELECTRIC COMPANY AND KENTUCKY )**  
**UTILITIES COMPANY FOR A CERTIFICATE )**  
**OF PUBLIC CONVENIENCE AND NECESSITY, )**  
**AND A SITE COMPATIBILITY CERTIFICATE, )** **CASE NO: 2004-00507**  
**FOR THE EXPANSION OF THE TRIMBLE )**  
**COUNTY GENERATING STATION )**

**MOTION FOR DEVIATION BY KENTUCKY UTILITIES COMPANY**

Kentucky Utilities Company (“KU”) hereby petitions the Kentucky Public Service Commission (“Commission”) to grant KU approval, pursuant to 807 KAR 5:011, Section 14, to deviate from the notice requirements of 807 KAR 5:011, Section 8(5) in the above-captioned proceeding. In support of this petition, KU states as follows:

1. On June 7, 2005, KU delivered to the Kentucky Press Association a notice of the public hearing in this matter for publication in the newspapers of general circulation publishing in KU’s service areas, with publication to be made one time no less than seven (7) days prior to the hearing in this matter, as required by 807 KAR 5:011, Section 8(5).

2. One of those eighty-nine papers, the *Warsaw Gallatin Co. News*, a weekly publication which publishes only on Wednesdays, failed through inadvertence to publish the notice as directed on June 15, 2005, but corrected that failure by publishing the following Wednesday, June 22, 2005. That one publication, however, was technically not in compliance with 807 KAR 5:011, Section 8(5) because it came one day less than the seven (7) day minimum notice requirement.

3. KU has not received any complaint concerning the manner in which notice of the hearing was published in the *Warsaw Gallatin Co. News*.

4. The purpose of the Commission's regulation is to ensure that the public has sufficient notice of the public hearing and a meaningful opportunity to participate, individually or through representative agencies, in the hearing. Despite the minor deviation noted above, notice was timely published in other newspapers which circulate in the Gallatin County area, including the *Louisville Courier-Journal* and the *Lexington Herald-Leader*, the Commission issued a press-release regarding the hearing on June 21, 2005, and the project at issue has received media coverage over the last several months. KU submits that it has made substantial compliance with the Commission's regulation, which compliance has met the purpose of the notice requirement. As stated by the Kentucky Supreme Court in Conrad v. Lexington-Fayette Urban County Government, 659 S.W.2d 190, 195 (1983):

Substantial compliance in regard to publication requirements has been authorized [citing Queenan v. City of Louisville, 233 S.W.2d 1010 (1950)]. The purpose of the statute is to allow the public an ample opportunity to become sufficiently informed on the public question involved.

See also Lyon v. County of Warren, 325 S.W.2d 302 (1959) (recognizing that published notice of bond referendum outside statutory time limits, and accompanied by media attention, etc., was sufficient notice to public.)

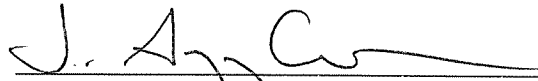
5. The Commission has authority to permit KU to deviate from the publication requirements pursuant to 807 KAR 5:011, Section 14.

6. Because KU is in substantial compliance with the publication requirements of 807 KAR 5:011, Section 8(5), good cause exists for the Commission to permit KU to deviate from the requirement of the regulation and to accept the publication of notice of this hearing and to proceed without delay.

**WHEREFORE**, Kentucky Utilities Company respectfully requests that the Commission grant it approval, pursuant to 807 KAR 5:011, Section 14, to deviate from the notice requirements of 807 KAR 5:011, Section 8(5), and that it accept the publication of notice of hearing as sufficient.

Dated: June 28, 2005

Respectfully submitted,



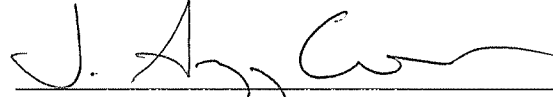
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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing was hand-delivered to all counsel of record in attendance at the hearing of this matter this 28th day of June, 2005.



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Counsel for Louisville Gas and  
Electric Company and Kentucky Utilities  
Company