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May 12, 2006

HAND DELIVERY

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MAY 12 2006

PUBLIC SERVICE
COMMISSION

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

**Re: Joint Applications of Louisville Gas & Electric Company and Kentucky Utilities Company for the Construction of Transmission Facilities in Jefferson, Bullitt, Meade and Hardin Counties, Kentucky
Case Nos. 2005-00467 and 2005-00472
Our File No.: 400001/358725**

Dear Ms. O'Donnell:

Enclosed please find and accept for filing the original and ten (10) copies of Louisville Gas and Electric Company's and Kentucky Utilities Company's Proposed Final Order in the above-referenced cases. Please confirm your receipt of this filing by placing the stamp of your Office with the date received on the three enclosed additional copies and return them to me in the enclosed self-addressed stamped envelope.

Should you have any questions or need any additional information, please contact me at your convenience.

Very truly yours,


J. Gregory Cornett

JGC/cja
Enclosures
cc: Parties of Record

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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MAY 1 2 2006

PUBLIC SERVICE
COMMISSION

In the Matter of:

JOINT APPLICATION OF)
LOUISVILLE GAS AND ELECTRIC)
COMPANY AND KENTUCKY UTILITIES) CASE NO. 2005-00467
COMPANY FOR THE CONSTRUCTION)
OF TRANSMISSION FACILITIES IN JEFFERSON,)
BULLITT, MEADE AND HARDIN COUNTIES,)
KENTUCKY)

and

JOINT APPLICATION OF)
LOUISVILLE GAS AND ELECTRIC)
COMPANY AND KENTUCKY UTILITIES)
COMPANY FOR THE CONSTRUCTION) CASE NO. 2005-00472
OF ALTERNATIVE TRANSMISSION)
FACILITIES IN JEFFERSON, BULLITT, MEADE)
AND HARDIN COUNTIES, KENTUCKY)

PROPOSED FINAL ORDER SUBMITTED BY LOUISVILLE GAS AND ELECTRIC
COMPANY AND KENTUCKY UTILITIES COMPANY

This matter is before the Commission on the Applications of Louisville Gas and Electric Company ("LG&E") and Kentucky Utilities Company ("KU") (collectively, the "Companies") for a Certificate of Public Convenience and Necessity ("CPCN") to construct a 345 kV transmission line from LG&E's Mill Creek Generating Station in Jefferson County to KU's Hardin County Substation in Hardin County (the "Mill Creek to Hardin County Line"). The purpose of the proposed line is to support the integration of Trimble County Unit 2 ("TC2") into the Companies' generation fleet and maintain the reliability of the transmission system. These proceedings are conducted pursuant to KRS 278.020.

PROCEDURAL HISTORY

On November 18, 2005, the Companies filed a notice of intent to submit an Application for a CPCN for the construction of their preferred route for the Mill Creek to Hardin County Line, running through parts of Jefferson, Bullitt, Meade and Hardin Counties ("Route No. 1"). On November 22, 2005, the Companies filed a notice of intent to submit a second Application, this time for the construction of an alternative route for the Mill Creek to Hardin County Line in the same counties ("Route No. 2"). Both Applications were submitted on December 22, 2005 and designated Case Nos. 2005-00467 and 2005-00472, respectively.

On January 6, 2006, this Commission issued an Order consolidating the Companies' two Applications and entering a procedural schedule which set, among other deadlines, dates for motions to intervene, for filing of testimony and for the evidentiary hearing. The January 6, 2006 Order also extended the time in which the Commission is required to process these consolidated cases, from 90 to 120 days, pursuant to KRS 278.020(6).

As part of their Applications, the Companies certified that they had sent notice to each property owner over whose property either of the two routes would cross, and published a notice of the intent to construct the proposed transmission line in the newspapers of general circulation in each of the affected counties, all pursuant to 807 KAR 5:120.¹ On January 25, 2006, the Companies notified the Commission that they had received information indicating that additional affected property owners, not previously notified, had been identified and notified of the proposed line and these proceedings. In response, by Order of January 31, 2006, the

¹ Applications in Case Nos. 2005-00467 and 2005-00472, ¶¶ 12 – 13. Although not required by the regulation, the Companies also notified landowners whose property appeared to be very close to the edge of the right-of-way for the proposed line, in order to make sure that all affected landowners were notified in the event that there were any distortions on maps used to locate the proposed line relative to property boundaries. Transcript of Evidence in Case Nos. 2005-00467 and 2005-00472 ("TE"), Vol. III, p. 33, lines 6 – 12; p. 62, lines 7 – 22.

Commission rescinded the procedural schedule established by its previous Order and set new local and evidentiary hearing dates for March 6, 2006 and March 28, 2006, respectively.

Full or limited intervention was requested by and granted to a number of persons or entities. Specifically, on January 6, 2006, full intervention was granted to: Harold Joseph, Lana Sampson, Betty Coyle, Samuel Coyle, Ewona Coyle, Hansell Pile, Jr., Reverend John Brewer, Doris Addington, Betty Cowherd, W.D. Cowherd, Floyd Dodson, Irene Dodson, Bobby Estes, Mary Estes, Todd Estes, Marion French, Melissa French, George Graas, Willie Graas, Carol Huffer, Curtis Huffer, Mary Jent, Violet Monroe, Diane Owsley, August L. Rosenberger, Ronald Seagraves, Charles Thompson, Geraldine Thompson, James K. Thompson, Sandy Thompson, Kenneth Wimp, Robert White and Robin White. Full intervention was granted to Dennis and Cathy Cunningham on January 26, 2006 and to CDH Preserve, LLC, Lisa Harrison and Jennifer Hardin on March 10, 2006. Limited intervention was granted to Loetta Morris on January 24, 2006 and to George, Adam, Charley, John and Karen House on January 26, 2006.

The Commission retained The Liberty Consulting Group ("Liberty") to assist it in evaluating the Companies' Applications in these proceedings. Liberty filed its Final Report ("Liberty Report") with the Commission on February 27, 2006. The Commission's Staff and certain of the intervenors submitted data requests to LG&E and KU on March 6, 2006, and the Companies provided their responses on March 13, 2006. No motions to compel were filed. The Commission held a local public hearing on March 6, 2006, in Elizabethtown, Kentucky for the purpose of taking public comment on the Companies' Applications.

An evidentiary hearing was held at the Commission's offices in Frankfort on March 28 – 30, 2006. At the beginning of that evidentiary hearing, the Commission denied a motion by the Companies to limit the scope of the hearing, and granted a motion by Intervenors Dennis and

Cathy Cunningham and CDH Preserve, LLC (collectively "the Cunninghams") and Lisa Harrison and Jennifer Hardin (collectively "Hardin")² to incorporate the record from Case No. 2005-00142 into these consolidated proceedings.³ The Companies, Commission Staff, Liberty, and intervenors Samuel Coyle, Mary Jent, the Cunninghams and Hardin all participated in the evidentiary hearing.

BACKGROUND

In these proceedings, the Companies seek a CPCN for the Mill Creek to Hardin County Line.⁴ Facilities similar to this line were the subject of another application for a CPCN in Case No. 2005-00142.⁵ In that previous case, the Commission determined that there is a need for additional 345 kV facilities between the Mill Creek Generating Station and the Hardin County Substation to support the integration of TC2,⁶ but found that there was insufficient information to determine if the proposed line would result in a wasteful duplication of facilities. The Companies were invited to reapply for a CPCN after they had conducted a more thorough review of all reasonable alternatives, including locating the needed facilities partially or fully along existing utility corridors.⁷ The Applications in these consolidated proceedings were filed in response to that invitation.

The Companies have proposed two routes for the Mill Creek to Hardin County Line in these proceedings. The first proposed route, the one preferred by the Companies, follows much

² Ms. Harrison and Ms. Hardin are sisters. Cunningham, CDH Preserve, LLC, Harrison and Hardin Motion to Intervene and Request for Public Hearing, ¶ 8.

³ TE, Vol. I, p. 49, line 13 to p. 52, line 9.

⁴ LG&E will own that portion of the proposed line beginning at the Mill Creek Generating Station and running to the east boundary of the Fort Knox Military Reservation, and KU will own the remainder of the proposed line from the east boundary of the Fort Knox Military Reservation to the Hardin County Substation. Johnson Direct in Case Nos. 2005-00467 and 2005-00472, p. 4.

⁵ *In the Matter of: Joint Application of Louisville Gas and Electric Company and Kentucky Utilities Company For a Certificate of Public Convenience and Necessity For the Construction of Transmission Facilities in Jefferson, Bullitt, Meade and Hardin Counties, Kentucky*, Case No. 2005-00142 (Order of September 8, 2005) ("Case No. 2005-00142").

⁶ A CPCN for TC2 was granted by the Commission in Case No. 2004-00507.

⁷ Final Order in Case No. 2005-00142, p. 11.

the same route as was the subject of Case No. 2005-00142. Specifically, that route, Route No. 1, differs from the route proposed in Case No. 2005-00142 only to the extent that it no longer crosses the pond on the property of Dennis and Cathy Cunningham, consistent with guidance from state and federal fish and wildlife officials.⁸ The Companies also submitted an Application for a CPCN for Route No. 2, an alternative route for the Commission to consider in the event that it finds the Companies' Route No. 1 unacceptable. Route No. 2 is identical to Route No. 1 for much of its length, but it does follow a different path for approximately 10 miles on the southern portion of the line as it approaches the Hardin County Substation.⁹ Route No. 2 achieves a higher percentage of collocation than Route No. 1, but also comes at a higher cost. The Companies' preferred and alternative routes are being evaluated simultaneously in these proceedings.

ANALYSIS

Under Kentucky law, the Companies must obtain a CPCN for the construction of any facility for furnishing electric service to the public which is not an extension within its certified territory in the usual course of business:

No person, partnership, public or private corporation, or any combination thereof shall ... begin the construction of any plant, equipment, property or facility for furnishing to the public any of the services enumerated in KRS 278.010 ... until that person has obtained from the Public Service Commission a certificate that

⁸ Direct Testimony of Mark S. Johnson ("Johnson Direct") in Case No. 2005-00467, p. 3, lines 17 – 22. The United States Department of the Interior, Fish and Wildlife Service "strongly recommend[ed]" that the Companies divert the line as proposed in Route 1 because doing so would "avoid impacting all of the forested wetland areas while still remaining on the same property ownership" and would "exceed the [Service's] buffer requirement by 72 feet, thus negating the need for any mitigative measures" to protect the whooping crane and other shorebirds and waterfowl. See Fish and Wildlife Service letter of October 31, 2005 to the Companies, attached as Exhibit MSJ-5 to the Johnson Direct in Case No. 2005-00467. Contrary to the Cunninghams' argument in their testimony, the October 31, 2005 letter makes clear that Route No. 1 is entirely acceptable to the Fish and Wildlife Service.

⁹ Application in Case No. 2005-00472, ¶ 8.

public convenience and necessity require the service or construction...¹⁰

The Kentucky General Assembly has determined that the construction of any electric transmission facility of 138 kV or more and longer than 5,280 feet in length is not an extension in the usual course of business:

For the purposes of this section, construction of any electric transmission line of one hundred thirty-eight (138) kilovolts or more and of more than five thousand two hundred eighty (5,280) feet in length shall not be considered an ordinary extension of an existing system in the usual course of business and shall require a certificate of public convenience and necessity.¹¹

Kentucky's highest court has construed "public convenience and necessity" to mean: 1) there is a need for the proposed facility or service; and 2) the new facility or service will not create wasteful duplication.¹²

As explained in detail below, the Mill Creek to Hardin County Line is needed in order to support the integration of TC2 into the transmission system. The Companies have engaged in a thorough analysis of reasonable routes, including a wide array of routes using collocation opportunities, and have established that the proposed construction will not constitute wasteful duplication of facilities. For all of those reasons, the requested CPCN for the Companies' preferred route, Route No. 1, is hereby granted. Because we are granting the CPCN for Route No. 1, which is the subject of Case No. 2005-00467, we find that the Application for Route No. 2 in Case No. 2005-00472 is moot, and for that reason we do not address the specific merits of Route No. 2.

¹⁰ KRS 278.020(1).

¹¹ KRS 278.020(2).

¹² *Kentucky Utilities Co. v. Pub. Serv. Comm'n*, 252 S.W.2d 885, 890 (Ky. 1952).

Need

In the context of a CPCN proceeding, a finding of "need" is supported where there has been a showing of "a substantial inadequacy of existing service" due to a deficiency of service facilities beyond what could be supplied by normal improvements in the ordinary course of business."¹³ The "need" is not required to be a current deficiency, but rather may be a deficiency expected a number of years into the future "in view of the long range planning necessary in the public utility field."¹⁴

The Companies assert that the Mill Creek to Hardin County Line is needed to support the integration of TC2, which is scheduled to begin testing in the third quarter of 2009.¹⁵ In Case No. 2004-00507, the Commission determined that TC2 must be in commercial operation by the spring of 2010 in order for the Companies to continue to provide low-cost, reliable service to their native load customers.¹⁶ In Case No. 2005-00142, the Commission found that the Mill Creek to Hardin County 345 kV transmission line is necessary to support the integration of TC2.¹⁷ In their pre-filed testimony, the Companies' witnesses Mr. Wolfram and Mr. Toll testified that there have been no changes in the circumstances surrounding the need for the

¹³ *Kentucky Utilities Co.*, 252 S.W.2d at 890.

¹⁴ *Kentucky Utilities Co. v. Pub. Serv. Comm'n*, 390 S.W.2d 168, 171 (Ky. 1965).

¹⁵ TE, Vol. I, p. 58, lines 15 – 21; Companies' Response to Cunningham and Hardin Data Request No. 10.

¹⁶ *In the Matter of: Joint Application of Louisville Gas and Electric Company and Kentucky Utilities Company for a Certificate of Convenience and Necessity, and a Site Compatibility Certificate, For the Expansion of the Trimble County Generating Station*, Case No. 2004-00507 (Order of November 1, 2005). Counsel for the Cunninghams and Hardin questioned whether a slight decrease in the Companies' Joint Load Forecasts between 2004 and 2005 was significant in terms of the timing for TC2. The Commission notes that both the 2004 and 2005 Forecasts were part of the record in Case No. 2004-00507, and thus formed the basis for the determination that TC2 is needed beginning in 2010. Moreover, Liberty's Report concluded that the differences in the Forecasts were not material. Liberty Report, p. III-3. In addition, the Companies' witness, Mr. Wolfram, testified that the decrease was "not a significant change" and noted that the Companies have recently lost access to "on the order of 200 megawatts" in purchased power from EEI which "further increases the urgency for the companies to install TC2 in June of 2010." TE, Vol. III, p. 98, lines 20 – 25; p. 143, line 12 to p. 144, line 3. The Commission therefore finds no merit in the intervenors' position on this issue.

¹⁷ Final Order in Case No. 2005-00142, p. 6 (finding that "the need for the proposed line has been established and will be required upon commencement of operations at TC2"). That finding and all of the evidence supporting it were incorporated by reference into this proceeding in response to a motion by the Cunninghams and Hardin. TE, Vol. I, p. 49, line 13 to p. 50, line 13.

proposed line since the date of the Commission's finding of need in Case No. 2005-00142.¹⁸ Liberty also concluded that the routes proposed in these consolidated proceedings did not affect the previous analysis of need for the proposed facilities.¹⁹ Nevertheless, the need for the proposed line was questioned by a number of speakers at the local public hearing, and was contested by the Cunninghams and Hardin in the evidentiary hearing.²⁰

Questioning by counsel for the Cunninghams and Hardin implied that a line needed in the future should not be the subject of a present application for a CPCN. However, as previously noted, the law has rejected that argument for over four decades, and we reaffirm here the fact that need may be established by a projected future deficiency, in light of the long range planning necessary in the public utility field.²¹ Indeed, as the Companies' witness Mr. Toll noted, prudent utility managers cannot wait until a need is present to begin analyzing and planning to meet that need, because to do so might put the utilities "years behind" in their ability to serve customers and maintain the stability of the network.²²

The Companies, in conjunction with The Midwest Independent Transmission System Operator, Inc. ("MISO"), conducted transmission planning studies considering the entire transmission system of both KU and LG&E to determine what, if any, system upgrades or additions would be needed once TC2 came on-line.²³ Those studies identified four options to provide for the integration of TC2 into the transmission network and provide for output of power from that new unit, and the Companies chose the third identified option, which includes the

¹⁸ Direct Testimony of John Wolfram ("Wolfram Direct"), Case Nos. 2005-00467 and 2005-00472, p. 4; Direct Testimony of Michael Toll ("Toll Direct"), Case No. 2005-00467, p. 3 and Case No. 2005-00472, p. 4.

¹⁹ Liberty Report, p. III-4.

²⁰ As previously noted, the Commission denied a motion by the Companies to preclude any further re-litigation of need in this proceeding. TE, Vol. I, p. 50, lines 14 – 17.

²¹ *Kentucky Utilities Co.*, 390 S.W.2d at 171.

²² TE, Vol. I, p. 88, lines 9-19.

²³ Toll Direct, Case No. 2005-00467 and 2005-00472, pp. 2-3; Exhibits MSJ-1, 2 and 3 and Companies' Response to PSC Staff Data Requests 10 and 11 in Case No. 2005-00142.

construction of the Mill Creek to Hardin County Line.²⁴ While the fourth identified option would have a lower initial cost than the option chosen by the Companies, the Companies would still have to construct the Mill Creek to Hardin County Line between 2015 and 2018, which would result in a significantly higher total overall cost and the construction of two 345 kV lines, thereby raising significant issues of unnecessary duplication of facilities.²⁵ Liberty conducted a thorough review of the need for the proposed facilities in Case No. 2005-00142, and concluded that the facilities are indeed needed and that the Companies' choice of the third identified option was based on an analysis which was "comprehensive, adequate and reasonable."²⁶ None of the intervenors presented any studies to rebut the studies done by the Companies and MISO.

While the Cunninghams and Hardin both provided testimony that the proposed line is not presently needed, their conclusions were not presented in the form of expert analyses, as these witnesses are neither engineers nor power system planners.²⁷ The Commission also notes that, when referring to the testimony of the Companies on the issue of need in Case No. 2005-00142, the Cunninghams were very selective in their references and failed to acknowledge that the Companies' witness Mr. Johnson consistently testified that the Mill Creek to Hardin County Line is needed to support the integration of TC2, which is scheduled to begin testing in late 2009 and to be placed in operation in 2010.²⁸ The Companies testified again in these proceedings that the

²⁴ *Id.*

²⁵ *Id.*; Transcript of Evidence in Case No. 2005-00142 ("TE in Case No. 142"), pp. 66-67; TE, Vol. I, p. 86, line 9 to p. 87, line 18. Indeed, all of the evidence of record established that construction of the Mill Creek to Hardin County Line is the total least cost option.

²⁶ Liberty Report in Case No. 2005-00142, pp. I-1 to I-3 and III-5 to III-7.

²⁷ TE in Case 142, p. 259, lines 7 – 12; TE, Vol. II, p. 110, lines 21 – 23. Indeed, Ms. Hardin was able to offer no support for her claim that the Mill Creek to Hardin County Line is not needed. Specifically, when asked about the basis for that claim at the hearing, Ms. Hardin referred to the Companies' data response nos. 11 and 12 as conceding that the line was not needed "for approximately 10 to 12 years, or 8 to 10 years." TE, Vol. II, p. 111, lines 13 – 21. The Commission notes that the Companies' data responses do not read as Ms. Hardin contended. As Ms. Hardin conceded on cross-examination, the Companies' data responses actually stated that the line is needed for TC2's in-service date in 2010. TE, Vol. II, lines 22 – 25.

²⁸ TE in Case 142, pp. 75, 110 – 112, 123, 137; Companies' Response to Cunningham and Hardin Data Request No. 10. In fact, in one instance, the Cunninghams' testimony completely misquotes the testimony of Mark Johnson in

Mill Creek to Hardin County Line is still needed in connection with the testing and operation of TC2.²⁹

The testimony of intervenor witness Mr. Young discussed the same technologies addressed in his testimony in Case No. 2005-00142, wherein the Commission found that those technologies are simply not realistic. In fact, in that former testimony Mr. Young acknowledged, under cross-examination, that none of the other technologies he described "necessarily are preferable or should be installed in preference to [the] proposed power line."³⁰ Although Mr. Young stated at the hearing in these consolidated proceedings that the referenced "testimony in Case -00142 is not my testimony in this case and is not my testimony here today," he provided no justification or explanation to support that change in testimony.³¹ The Companies' witness Mr. Toll testified that the Companies had evaluated the technologies offered by Mr. Young, to the extent any of them are presently feasible, as part of their normal planning processes, and that no other steps could be taken to avoid the need to construct the Mill Creek to Hardin County Line.³² Furthermore, Mr. Toll testified that the technologies referenced by Mr. Young are still "not realistic" alternatives to construction of the Mill Creek to Hardin County Line, and would not alleviate the need for that line.³³

Case No. 2005-00142. Specifically, the Cunninghams claimed, at pp. 9 – 10 of their direct testimony, that Mr. Johnson testified as follows under cross-examination in Case No. 2005-00142: Q. Yet, where this line is not needed until 2015-2018 at the earliest based upon the LG&E/KU estimates, which are in dispute, the applicants want to start right of way acquisition as soon as the PSC grants approval. A. As soon as possible; yes. The Commission's review of the hearing transcript reveals that no such question and answer exchange occurred at any time during the hearing in Case No. 2005-00142. Mr. Johnson never testified in agreement to any question stating that the line "is not needed until 2015-2018."

²⁹ Toll Direct in Case No. 2005-00467, pp. 1-2; Toll Direct in Case No. 2005-00472, p. 2; TE, Vol. I, p. 58, lines 15-21; Companies' Response to Cunningham and Hardin Data Request No. 10.

³⁰ TE in Case No. 142, p. 174, lines 2-4.

³¹ TE, Vol. III, p. 164, lines 11-13.

³² TE, Vol. I, p. 57, line 9 to p. 58, line 14; p. 86, lines 1-8. In its Final Report in Case No. 2005-00142, p. III-5, Liberty confirmed that fact, concluding that "the Mill Creek to Hardin County 345 kV line is needed" and that "no additional upgrades, other than those already identified by LG&E/KU, could replace the need for the new facilities."

³³ TE, Vol. I, p. 89, line 21 to p. 90, line 5; p. 72, lines 8-19; p. 85, lines 10-19; p. 58, lines 15-21.

The Commission made a finding of need for the Mill Creek to Hardin County Line in Case No. 2005-00142. The circumstances surrounding the need for those facilities have not changed since that finding, and the concerns and questions raised by members of the public and the intervenors do not credibly rebut the need for this line. Accordingly, based on the evidence of record, the Commission finds that the construction of a new 345 kV line between the Mill Creek Generating Station and the Hardin County Substation is needed to support the testing and operation of TC2 beginning in the third quarter of 2009.

Duplication of Facilities

Having determined that there is a need for the Mill Creek to Hardin County Line, the Commission must now determine whether the construction proposed by the Companies would constitute a wasteful duplication of facilities. "Duplication of facilities" has been defined as "excessive investment in relation to efficiency, and an unnecessary multiplicity of physical properties."³⁴ This Commission has stated, in the context of an application for a CPCN for transmission facilities, that the applicant must establish that "it has conducted a thorough review of all reasonable alternatives and then to show that its choice of the proposed route was reasonable."³⁵ The applicant must also make a showing that, in conducting its review of reasonable alternatives, it comprehensively considered the use of existing utility corridors.³⁶

The Companies' Applications in these proceedings make clear that they conducted a comprehensive study of alternative routes and that the proposed construction will not constitute wasteful duplication of facilities. In structuring their study, the Companies utilized guidance

³⁴ *Kentucky Utilities Co.*, 252 S.W.2d at 891.

³⁵ *In the Matter of: The Application of East Kentucky Power Cooperative, Inc. for a Certificate of Public Convenience and Necessity to Construct a 161 kV Transmission Line in Barren, Warren, Butler, and Ohio Counties, Kentucky*, Case No. 2005-00207 (PSC Order of October 31, 2005).

³⁶ *In the Matter of: The Application of East Kentucky Power Cooperative, Inc. for a Certificate of Public Convenience and Necessity to Construct a 138 kV Transmission Line in Rowan County, Kentucky*, Case No. 2005-00089 (PSC Order of August 19, 2005).

from the Commission's September 8, 2005 Order, its other recent decisions in CPCN cases regarding transmission facilities, and a five-step process suggested by Commission Staff at an October 5, 2005 pretrial conference.³⁷

The Companies began by establishing a need for the proposed facilities.³⁸ As set forth above, the Companies established that need through internal study and through other studies conducted externally by MISO. That need was confirmed by Liberty in its Report in Case No. 2005-00142 and again in these proceedings. The Commission has confirmed its previous finding of need for these facilities by this Order.

The Companies then set out to identify all electrically feasible routes, including routes that utilize collocation.³⁹ The Companies began this step by reviewing the information developed in connection with Case No. 2005-00142.⁴⁰ They then expanded the area of analysis to a much broader level than the area studied in their previous analysis and identified a study area bounded by routes to the east and west, which boundary routes had essentially 100% collocation, and identified additional routes within those boundaries.⁴¹ Ultimately, the Companies identified 1,203 feasible routes.⁴² The Companies then set out to begin gathering data on those routes, which included the use of USGS topographic quadrangle maps, aerial photography, and GIS information from publicly-available resources, as well as discussions with

³⁷ Wolfram Direct in Case Nos. 2005-00467 and 2005-00472, pp. 5 – 6. That five-step process is as follows: “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.” The reference to “Slide 5” is a reference to the evaluation and analysis portion of the Electric Power Research Institute (“EPRI”) Standardized Model of Siting Overhead Transmission Lines. See Intra-Agency Memorandum of October 5, 2005 in Case No. 2005-00142.

³⁸ Johnson Direct in Case Nos. 2005-00467 and 2005-00472, p. 7.

³⁹ *Id.*

⁴⁰ *Id.*, pp. 7 – 8.

⁴¹ *Id.*, pp. 8 – 9.

⁴² TE, Vol. III, p. 148, lines 7 – 14.

landowners and actual physical reviews of the entire study area through either aerial, driving or walking surveys.⁴³

The Companies next compiled and evaluated detailed cost estimates of each of the 1203 routes in their study area.⁴⁴ The cost estimates were based on historical cost figures as well as recently-quoted current material and labor prices.⁴⁵ At the same time, the Companies gathered data on the percent of collocation for each of the 1,203 routes.⁴⁶

The fourth step undertaken by the Companies was to determine the rate impact resulting from the use of routes other than the least-cost route.⁴⁷ In their pre-filed direct testimony, the Companies addressed the rate impact per customer when comparing Route Nos. 1 and 2.⁴⁸ Then, in data responses the Companies estimated the rate impact per customer per \$10 million of additional project cost.⁴⁹ Under either calculation, the Companies concluded that the rate impact for the incremental difference between any of the routes evaluated could be considered *de minimis*, depending upon one's perspective.⁵⁰

Last, the Companies moved to the final step in the Commission Staff's five-step process -- an analysis of the 1,203 routes they had within their study area. To do that, the Companies utilized what is known as the analysis and evaluation portion of the EPRI methodology. Early in

⁴³ Grillon Direct in Case Nos. 2005-00467 and 2005-00472, p. 1; TE, Vol. II, p. 39, line 9 to p. 40, line 15; p. 105, line 17 to p. 106, lines 9; p. 233, lines 10 – 20. The Commission also notes that the extensive field work done by the Companies was documented in the notes, GIS data, videos, photographs and other data produced by the Companies in their Responses to the Data Requests of Intervenors Dennis and Cathy Cunningham; CDH Preserve, LLC; Harrison and Hardin.

⁴⁴ Direct Testimony of Brandon Grillon ("Grillon Direct") in Case Nos. 2005-00467 and 2005-00472, p. 2.

⁴⁵ *Id.* Although the intervenors questioned the Companies' cost estimates on cross-examination, no errors in those estimates were identified. Liberty reviewed the Companies' cost estimates and concluded that they were "better than preliminary planning grade estimates" and "adequate for routing decisions." Liberty Report, p. II-2. The Commission agrees with Liberty's conclusion. While there can always be room for questioning any estimate, the Companies' approach was reasonable and was applied across the board to all 1203 routes for comparison purposes.

⁴⁶ TE, Vol. II,

⁴⁷ Johnson Direct in Case Nos. 2005-00467 and 2005-00472, p. 10.

⁴⁸ Wolfram Direct in Case Nos. 2005-00467 and 2005-00472, p. 8. The Companies also noted, correctly, that any estimates of rate impact at this stage necessarily require a number of assumptions, and that the conclusions drawn must be tempered by the fact that the numbers reached are estimates only.

⁴⁹ Companies' Response to PSC Staff Data Request Nos. 10 and 11.

⁵⁰ TE, Vol. III, p. 111, line 1 to p. 114, line 9.

the evidentiary hearing, there was considerable confusion regarding how the analysis and evaluation tool had been established, with counsel for the Cunninghams and Hardin advancing the position that the tool was flawed because it had been created by members of the public, referred to as “stakeholders,” from Georgia.⁵¹ Ultimately, though, the confusion was alleviated when the witness from Liberty, Mr. Cannata, and the Companies’ consultant, Mr. Doherty, both testified that the analysis and evaluation tool was established by utility professionals – transmission line design engineers, transmission line designers, environmental and regulatory coordinators, land agents, operations and maintenance inspectors, construction inspectors and project managers – from the Georgia Transmission Corporation, and not by individual stakeholders.⁵²

Before the Companies actually applied the EPRI analysis and evaluation tool, however, they determined that 1,203 routes was too large a number for meaningful analysis and comparison, and they decided to reduce the number of routes for further analysis.⁵³ To make that reduction, the Companies eliminated those routes that the Fort Knox Military Reservation found unacceptable, and then eliminated those remaining routes for which the estimated cost of construction was 125% or more than that of the least-cost route.⁵⁴ That process reduced the number of routes for further consideration to 700.⁵⁵

⁵¹ TE, Vol. I, p. 115, line 1 to p. 119, line 22; p. 157, line 13 to p. 164, line 17.

⁵² TE, Vol. II, p. 166, line 22 to p. 167, line 2; p. 314, line 25 to p. 315, line 22.

⁵³ Johnson Direct in Case Nos. 2005-00467 and 2005-00472, p. 11.

⁵⁴ *Id.* The Companies are obligated to place their transmission facilities in locations on the reservation to which Fort Knox agrees.

⁵⁵ *Id.*, pp. 11 – 12. The Companies chose 125% as a threshold based upon the Commission’s directive, in the East Kentucky Power Cooperative, Inc. (“EKPC”) *Rowan* matter, Case No. 2005-0089, that EKPC go back and consider a route that was approximately 20% more expensive than the route proposed in that case. According to Mr. Wolfram, the Companies “knew that 20 percent was a level that the Commission would deem to be worthy of review,” so they “elected 125 percent as a number greater than 120 percent but one that generally adhered to [the Companies’] view of the importance of least-cost planning.” TE, Vol. III, p. 127, lines 14 – 20. In light of the number of routes considered by the Companies, and the amount of information gathered about all routes, the Commission finds that the decision to ultimately screen out routes which cost 25% more than the least-cost route was reasonable.

After reducing the number of routes for further consideration to 700, the Companies applied the EPRI analysis and evaluation tool to score the routes to identify a range of the top-scoring routes. The resulting scores were compiled in a spreadsheet under four columns: (i) emphasis on the built environment; (ii) emphasis on the natural environment, (iii) emphasis on engineering considerations and (iv) simple average of the three criteria.⁵⁶ The Companies also performed a complete sensitivity analysis of the EPRI results by changing the baseline weightings of each of the constituent criteria of the EPRI analysis and evaluation tool.⁵⁷ Each criterion was changed from the base weighting to a weighting of 50% emphasis and 100% emphasis to analyze whether the ranking of the routes would change if greater emphasis were placed on any of these criteria.⁵⁸

After compiling all of this evaluative work, the Companies applied “expert judgment” – using the background, training and experience of the Companies’ transmission department, with a couple hundred years’ worth of collective experience in routing transmission lines – to analyze the results of the scoring and the underlying comprehensive data that had been gathered and to make a decision on a preferred route.⁵⁹ In doing so, the Companies gave consideration to items such as the length of the routes, the number of property owners on the routes, home relocations on the routes, practicability of collocation, congestion in built areas, proximity to airports, the number of angles required in the route, topography, river crossings, wetlands, wooded areas, and cost of construction.⁶⁰ The Companies then made the preliminary determination that both Route No. 1 and Route No. 2 as presented in their Applications here, were reasonable routes.⁶¹ That decision was made because those routes are among the lowest cost routes in the area of inquiry,

⁵⁶ Johnson Direct in Case Nos. 2005-00467 and 2005-00472, p. 10 and Exhibit MSJ-2.

⁵⁷ Johnson Direct in Case Nos. 2005-00467 and 2005-00472, p. 10.

⁵⁸ *Id.*, p. 11.

⁵⁹ *Id.*, p. 13; TE, Vol. II, p. 41, line 22 to p. 42, line 4.

⁶⁰ Johnson Direct in Case Nos. 2005-00467 and 2005-00472, p. 13; TE, Vol. I, p. 138, line 21 to p. 140, line 7.

⁶¹ Johnson Direct in Case Nos. 2005-00467 and 2005-00472, pp. 13 – 14.

provide some of the most direct routes from the Mill Creek Generating Station to the Hardin County Substation, both utilize collocation for more than half their length, and both score well in EPRI analysis and evaluation tool and the sensitivity studies that were run.⁶²

The Companies also conferred with Mr. Doherty, the consultant they had retained to perform an independent analysis of their route selection process, to determine whether he had seen anything in his review of all of the data that would lead him to conclude that either Route No. 1 or Route No. 2 was not a reasonable route.⁶³ Mr. Doherty advised the Companies, based on the data he had reviewed as of that time, that both Route Nos. 1 and 2 were reasonable routes.⁶⁴ Mr. Doherty subsequently rigorously tested the Companies' analysis by using a different methodology than that employed by the Companies, and concluded that the two routes proposed by the Companies are in fact reasonable routes.⁶⁵

On December 22, 2005, the Companies filed their Applications in these proceedings. As we have previously noted, the Companies offered Route No. 1, which is approximately 42.03 miles in length, has a cost of \$57.7 million, and utilizes collocation for approximately 56% of its total length, as their preferred alternative.⁶⁶ However, the Companies also offered Route No. 2, which is approximately 43.9 miles in length, has a cost of \$60.9 million, and utilizes approximately 66% collocation, as a reasonable, albeit alternative, route.⁶⁷ The Companies stated that they filed Applications for Route No. 1 as the preferred route, and Route No.2 as the

⁶² Johnson Direct in Case No. 2005-00467, p. 14; Johnson Direct in Case No. 2005-00472, pp. 13 – 14.

⁶³ TE, Vol. II, p. 295, lines 1 – 14.

⁶⁴ *Id.*

⁶⁵ Direct Testimony of Clayton Doherty in Case Nos. 2005-00467 and 2005-00472, p. 2. In support of that conclusion, Mr. Doherty presented a very detailed report which was attached to his testimony as Exhibit CMD-1.

⁶⁶ Johnson Direct in Case No. 2005-00467, pp. 3 and 14; TE, Vol. I, p. 97, line 24 to p. 98, line 6.

⁶⁷ Johnson Direct in Case No. 2005-00472, pp. 3 and 13; TE, Vol. I, p. 98, lines 7 – 12.

alternative route, because they were uncertain as to the balance the Commission expects to achieve between collocation and cost.⁶⁸

Following those filings, the Commission retained Liberty to conduct a review of the Companies' route analysis and selection process in these proceedings. After reviewing the Companies' filings, conducting three days of extensive interviews with Company representatives and Mr. Doherty, and submitting data requests to the Companies and reviewing the responses thereto, Liberty issued its final report, concluding that:

- LG&E/KU surveyed a large number of potential routes in its route selection process. LG&E/KU's process for the evaluation and selection of alternative routes was reasonable.
- The [Doherty] affirmation that the LG&E/KU routes selected were reasonable is a valid one.
- The [Doherty] analysis was independent and reasonable.
- The technical studies and economic evaluations supporting the construction of the Mill Creek to Hardin County 345 kV transmission line in Case No. 2005-00142 remain valid for the proposed Route #1, and its alternative, Route #2, in the current case.
- LG&E/KU's route candidates are technically feasible, satisfy the need for the transmission line when the TC2 generating unit is brought on line, and are reasonable.
- The collocation percentages developed by LG&E/KU in its route selection process were reasonable.⁶⁹

The intervenors did not offer any expert on transmission line siting, or present any routes of their own to contrast against the routes proposed by the Companies. Instead, they chose to challenge the Companies' route selection process and decision-making through cross-examination. In addition, the Cunninghams and Hardin offered testimony about routes which had been considered and rejected by the Companies, but which the Cunninghams and Hardin

⁶⁸ TE, Vol. III, p. 147, lines 11 – 22.

⁶⁹ Liberty Report, p. I-4.

alleged were superior to both Route No. 1 and Route No. 2 proposed by the Companies.⁷⁰ In light of all of the evidence of record, we find the intervenors' positions to be without merit.

The Cunninghams and Hardin first raised issues about what they termed the "speed" with which the Companies filed their Applications in these proceedings in relation to the Commission's final order in Case No. 2005-00142, arguing that the Companies' evaluation focused on Route No. 1 and was not sufficiently comprehensive.⁷¹ As to the timing itself, it is undisputed that the Companies had to move as expeditiously as possible to seek approval from this Commission in order to be in a position to have the Mill Creek to Hardin County Line in place when it is needed for TC2.⁷² Mr. Johnson testified that the Companies began laying the groundwork for the Applications in these proceedings on September 8, 2005, immediately after receiving the Commission's final order in Case No. 2005-00142.⁷³ There was absolutely no evidence presented that the time between the issuance of that order and December 22, 2005, when the Applications here were filed, was insufficient for the Companies to do the additional work required of them.

Moreover, the evidence clearly reveals that the Companies conducted a very comprehensive analysis of alternative routes, including routes utilizing substantial amounts of existing utility corridors. The Companies developed a study area of approximately 600 square miles, evaluating over 1,200 routes utilizing a range of collocation of less than 50% to nearly 100%.⁷⁴ The Companies also gathered a tremendous amount of data about the study area, and all

⁷⁰ Direct Testimony of Cathy and Dennis Cunningham ("Cunningham Direct"), pp. 8 – 9; Direct Testimony of Lisa Harrison and Jennifer Hardin ("Hardin Direct"), p. 6.

⁷¹ See TE, Vol. I, p. 101, lines 5 – 9; TE, Vol. II, p. 233, lines 2 – 5.

⁷² Johnson Direct in Case No. 2005-00467, pp. 5 – 6; Johnson Direct in Case No. 2005-00472, p. 5; TE, Vol. II, p. 158, line 7 to p. 159, line 12.

⁷³ TE, Vol. II, p. 33, line 11 to p. 34, line 12.

⁷⁴ Johnson Direct in Case Nos. 2005-00467 and 2005-00472, pp. 6 – 9; TE, Vol. II, p. 270, lines 6 – 14; TE, Vol. III, p. 144, lines 13 – 18.

of that data was produced in this proceeding.⁷⁵ The Companies' witnesses were aware of each alternative about which they were questioned on cross-examination, and could point to documentation in evidence addressing it.

While the Cunninghams and Hardin pointed to discussions with Fort Knox and the Fish and Wildlife Service in an attempt to establish that the Companies' study focused on Route No. 1 to the exclusion of others, the Companies' witnesses explained that those discussions and efforts – none of which was irreversible – were undertaken in parallel with other work being done in the study area, and were simply part of their efforts to evaluate all feasible routes, including Route No. 1.⁷⁶ We find that explanation, and the Companies' decision to take those steps in parallel with its other work, to be reasonable.⁷⁷

Likewise, we find no merit to the criticism raised by the Cunninghams and Hardin concerning the Companies' decision not to contact Big Rivers Electric Corporation ("BREC") to discuss removing an existing BREC 69 kV line and replacing it with a double-circuit 345 / 69 kV line jointly owned by BREC and the Companies. The Companies did consider an alternative route that would have involved constructing facilities parallel to the BREC line, and rejected that route for a number of reasons.⁷⁸ A rebuild option, versus a parallel option, would not provide an appreciable opportunity for additional use of existing utility corridors and would cost approximately \$310,000 to 320,000 more per mile, plus the extra cost of any angle structures

⁷⁵ See Exhibits to Applications and Direct Testimony; Companies Data Responses to Data Requests issued by PSC Staff and by the Cunninghams and Hardin.

⁷⁶ TE, Vol. II, p. 232, line 17 to p. 237, line 18; p. 266, line 4 to p. 267, line 11.

⁷⁷ We also disagree with the intervenors' position, raised during cross-examination at the evidentiary hearing, that the Companies should have given preference to locating facilities only on properties owned by LG&E or KU customers. TE, Vol. I, p. 133, line 14 to p. 135, line 19. The Commission is of the opinion that no one class of landowner should necessarily be treated with more, or less, preference than another class of landowner. Transmission lines, by their very nature, are not conducive to construction only in the territory of the owning utility, and Kentucky law expressly allows for the construction of facilities by utilities outside the territory in which they serve. KRS 278.018 (1).

⁷⁸ TE, Vol. II, p. 82, line 4 to p. 83, line 16; p. 214, lines 6 – 7; p. 216, lines 6 – 24; p. 267, line 15 to p. 268, line 11.

required.⁷⁹ There was, therefore, no reason for the Companies to have further investigated a rebuild option involving the BREC 69 kV line.

The Cunninghams and Hardin also questioned the Companies' analysis process, challenging the decision to utilize only one part of the EPRI model as well as the Companies' use of expert judgment. We find the Companies' process to have been reasonable on the facts of this case.

As an initial matter, we note that the Companies followed a process which was recommended to them, without objection by any party, by Commission Staff in an informal conference.⁸⁰ In addition, the analysis and evaluation tool used by the Companies was also used by EKPC in Case No. 2005-00207.⁸¹ There, we approved EKPC's CPCN, stating that the specific portion of the EPRI model used here by the Companies was useful "for conducting a thorough evaluation of [alternative routes] by employing a decision matrix."⁸² The evaluation and analysis tool was developed by utility professionals, not individual stakeholders, and there is no basis in the record to find that the tool was ineffective for use by the Companies in this case.⁸³

The Companies did not, however, use the EPRI macro-corridor identification tool because they believed doing so would be inconsistent with Staff's direction to the Companies to begin their route selection process by identifying all electrically feasible alternatives, and because the Commission raised concern about the use of the macro-corridor tool in Case No.

⁷⁹ TE, Vol. II, p. 267, line 15 to p. 268, line 11.

⁸⁰ Wolfram Direct in Case Nos. 2005-00467 and 2005-00472, pp. 5-6.

⁸¹ TE, Vol. II, p. 167, lines 5 – 12.

⁸² *In the Matter of: The Application of East Kentucky Power Cooperative, Inc. for a Certificate of Public Convenience and Necessity to Construct a 161 kV Transmission Line in Barren, Warren, Butler, and Ohio Counties, Kentucky*, Case No. 2005-00207 (PSC Order of October 31, 2005), p. 9.

⁸³ The Companies' consultant, Mr. Doherty, who has routed about 70 different transmission lines over the last 16 to 17 years, testified that the consideration in the analysis and evaluation tool "should be very similar among utility professionals" across different states. TE, Vol. II, p. 316, lines 1 – 21.

2005-00207.⁸⁴ The macro-corridor portion of EPRI is designed to identify the initial study area within which to route alternatives. We have previously raised concern that the macro-corridor analysis could result in a study area which was unnecessarily limited. Given that, and the fact that the Companies' study area covered approximately 600 square miles and over 1,200 potential routes, we find that the decision not to utilize the macro-corridor tool here was reasonable. Furthermore, the full EPRI model, which includes the macro-corridor portion, has not been calibrated for use in Kentucky at the present time, and the Companies would likely have been unable to meet their transmission needs associated with TC2 if they had waited for the EPRI process to be completed in Kentucky.⁸⁵

Furthermore, the use of expert judgment, as was done by the Companies here, is not only acceptable, but preferable.⁸⁶ The use of expert judgment is central to sound utility practice, and takes appropriate advantage of the years of experience within the utility's transmission department. The Companies' use of expert judgment was also tested by Liberty, and found to be reasonable and consistently applied.⁸⁷

Finally, the Cunninghams and Hardin argued that the Companies reached an improper balance between cost and collocation. These intervenors urged the use of only those routes that

⁸⁴ TE, Vol. III, p. 128, line 15 to p. 129, line 9.

⁸⁵ Johnson Direct in Case No. 2005-00467, pp. 5 – 6; Johnson Direct in Case No. 2005-00472, p. 5; TE, Vol. II, p. 158, line 7 to p. 159, line 12. Once the EPRI model has been appropriately calibrated and tested for use in Kentucky, we certainly would be interested in having our jurisdictional utilities utilize the full model in cases where they believe such use is appropriate.

⁸⁶ Mr. Cannata of Liberty, an individual with specific expertise in the analysis of need and siting issues relating to transmission facilities, cautioned against blind adherence to any evaluation process that does not utilize the background, training and experience of the utility's own experts, noting that such "expert judgment" is very useful in making decisions on siting transmission lines. TE, Vol. II, p. 165, lines 4 – 20. Indeed, expert judgment is itself part of the EPRI model. TE, Vol. II, p. 164, line 24 to p. 165, line 3. As Mr. Cannata testified, "no matter what you do, you'll always come down to expert judgment in the end." TE, Vol. II, p. 132, lines 1 – 2.

⁸⁷ Liberty Report, pp. II-3 to II-6. Mr. Johnson testified about his use of expert judgment at length, and there was also written documentation of that judgment in the record. *See, e.g.*, TE, Vol. I, p. 135, line 24 to p. 154, line 14; Companies Data Responses to Data Requests of the Cunninghams and Hardin, Response No. 1; Exhibit MSJ-1 in Case Nos. 2005-00467 and 2005-00472.

have at least 80% collocation, “regardless of the higher cost.”⁸⁸ As part of that argument, the Cunninghams and Hardin pointed to routes ACQ, ACU, AUL, ADC, ADS, and ADK as being “more closely responsive” to our final order in Case No. 2005-00142.⁸⁹ We also reject those arguments.

Neither our order in Case No. 2005-00142, nor our orders in any other transmission CPCN proceeding, has ever set a minimum level of collocation that must be utilized by a utility in siting a transmission line, and we expressly decline to do so here. Instead, the burden on each utility coming before us seeking a transmission line CPCN is to establish that it has thoroughly analyzed alternative routes for the line, including routes which use existing utility corridors, and to establish that its route selection was reasonable. In conducting that analysis, the utility should consider, and balance, a number of relevant factors before making a final route selection. One of those factors is cost.⁹⁰ The Commission recognizes that total project cost is an important factor in utility resource planning, even when the rate impact of the cost differences may be negligible.⁹¹ Indeed, the Integrated Resource Planning process in Kentucky has long encouraged consideration of least-cost alternatives for meeting projected needs, without explicit consideration of rate impact, and we have no intention of deviating from that practice, which has served this Commission, its jurisdictional utilities, and Kentucky’s ratepayers well for many

⁸⁸ Cunningham Direct, p. 7; Hardin Direct, pp. 5 – 6.

⁸⁹ Cunningham Direct, p. 8; Hardin Direct, p. 6. All of those routes were identified, considered, and rejected by the Companies.

⁹⁰ We have previously recognized that utilities, as well as the Commission, “must balance all relevant factors..., [including] the availability of an alternative route and the magnitude of the increased cost of that alternative route.” *In the Matter of: The Application of East Kentucky Power Cooperative, Inc. for a Certificate of Public Convenience and Necessity to Construct a 138 kV Transmission Line in Rowan County, Kentucky*, Case No. 2005-00089 (PSC Order of August 19, 2005).

⁹¹ Wolfram Direct in Case Nos. 2005-00467 and 2005-00472, p. 8.

years.⁹² Thus, though total project cost should not be the sole factor in transmission route selection, it is an important factor.

The appropriate level of collocation, when balanced against all other relevant factors, including cost, will likely vary in different cases based upon the facts as they exist in each case.⁹³ As we have already explained, the Companies have met their burden of establishing that they conducted a comprehensive evaluation of alternative routes, including those using collocation. The Companies acknowledged that they were uncertain as to how to strike the appropriate balance between cost and collocation as to Routes No. 1 and 2, both of which otherwise have similar characteristics. Because of the wide range of factors involved in analyzing potential transmission routes, the specific facts that are associated with each alternative, and the necessity of considering route selection on a case-by-case basis, we do not believe that mandating a specific ratio between cost and collocation is advisable. We do find, however, that with regard to the routes proposed by the Companies, the balance the Companies achieved in recommending Route No. 1 as the preferred route was reasonable.⁹⁴ While Route No. 2 would utilize approximately 10% more collocation than would Route No. 1, it would also cost \$3.2 million more.⁹⁵ In the context of a line that is over 40 miles long and costs over \$55 million, we are unwilling to say that spending more than \$3 million to achieve a few miles of additional collocation would be a prudent use of ratepayer resources.

⁹² See 807 KAR 5:058, Section 8; *Re: Small Power Producers*, 60 PUR4th 574 (PSC Order of June 28, 1984).

⁹³ Indeed, collocation for the sake of collocation alone is not necessarily a good idea. For example, collocation can have negative impacts on landowners, risk system stability, or come at a cost that is not reasonable. TE, Vol. II, p. 161, line 17 to p. 164, line 14. The types of collocation available may vary from case to case, and should be considered and weighed against other relevant factors on a case by case basis.

⁹⁴ We disagree with the contention of the Cunninghams and Hardin that landowners with existing facilities should be less concerned about the upgrading of the existing line on their property, or the construction of a line parallel to that existing line, than would be a landowner who presently has no line on his or her property. TE, Vol. II, p. 262, lines 17 – 23. Again, this Commission is of the opinion that different classes of landowners should not necessarily be treated differently. We also note that the Companies' experience here in working with landowners revealed that property owners impacted by collocation do not always favor collocation. TE, Vol. II, p. 54, line 9 to p. 55, line 1; TE, Vol. III, p. 66, lines 19 – 23.

⁹⁵ Johnson Direct in Case No. 2005-00472, pp. 3, 13 – 14; TE, Vol. I, p. 98, lines 7 – 12.

For similar reasons, we also find that the Companies appropriately balanced the relevant factors in rejecting routes ACQ, ACU, AUL, ADC, ADS, and ADK.⁹⁶ Although each of those routes achieved more collocation than either of the two routes proposed by the Companies, they also carried additional costs of between \$10.1 million and \$18 million when compared to Route No. 1, and between \$6.8 million and \$14.7 million when compared to Route No. 2.⁹⁷ In addition, all of the routes but one are longer than the proposed and alternative routes, being 8.8 to 14.5 miles longer than the preferred route and 6 to 12.6 miles longer than the alternative route.⁹⁸ The one route that is shorter than the preferred and alternative routes, AUL, requires the relocation of 155 residences and also is within 300 feet of 676 residences.⁹⁹ Three other routes, ACQ, ACU and ADS, require the relocation of 2 residences as compared to no relocations through the use of the preferred and alternative routes.¹⁰⁰ And, all of the routes identified by the Cunninghams and Hardin have more residences within 300 feet of the right-of-way.¹⁰¹ Thus, the Cunninghams and Hardin have not demonstrated that Routes No. 1 or 2 are unreasonable when compared to the routes identified in their testimony.

Based on the Companies' extensive evaluation of alternative routes, as tested and confirmed by both Mr. Doherty and Liberty, and the fact that the Companies' preferred route has a reasonable amount of collocation, will cost \$3.2 million less to construct than Route No. 2 and

⁹⁶ We find no merit in the argument that the Companies improperly focused on cost by ultimately screening out routes which cost more than 25% of the least cost alternative. As previously discussed, the Companies acted reasonably in using that cost threshold. Moreover, we note that neither of the routes proposed by the Companies were actually the absolute lowest cost in terms of dollars, but instead were routes chosen after an appropriate balancing of a number of factors, including cost. TE, Vol., I., p. 136, line 16 to p. 137, line 8. Use of such screening tools is common practice in the utility industry when evaluating a large number of options for any capital project. TE, Vol. III, p. 125, lines 9 – 25.

⁹⁷ Tables 4.1, 4.3 (revised February 17, 2006), 4.4 and 4.5 (revised February 17, 2006) of Mr. Doherty's Report, Exhibit CMD-1.

⁹⁸ *Id.*

⁹⁹ *Id.*

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

had a consistently high EPRI score under a variety of sensitivities,¹⁰² we find that the construction of Route No. 1 will not constitute unnecessary or wasteful duplication of facilities. Because we have also found a need for the Mill Creek to Hardin County Line, the Companies' Joint Application for a CPCN for Route No. 1 is granted.

Movement of the Line

The Companies have also requested that they be permitted to make unsubstantial modifications to the route of the line after the issuance of an order approving the proposed route without the need for further orders from the Commission.¹⁰³ Mr. Wolfram testified that it has been the Companies' experience that in the construction of transmission facilities the need arises to make slight adjustments to transmission line routes because of the existence of constraints that were not known at the time the route was finalized, or to address measures to avoid, minimize or mitigate potential impacts that may be identified as a result of final environmental or cultural review and consultation processes.¹⁰⁴ Mr. Wolfram testified that the Companies would like to make such minor modifications without the need for further approval by the Commission in order to promote administrative efficiency.¹⁰⁵

The Companies acknowledged the Commission's treatment of this issue in Case No. 2005-00207.¹⁰⁶ There, the Commission permitted EKPC to move the centerline of an approved transmission line "500 feet in either direction as long as (1) the move does not shift the line or its right-of-way onto the property of a different landowner and (2) the property owner who is

¹⁰² Johnson Direct in Case No. 2005-00467, p. 14; Johnson Direct in Case No. 2005-00472, pp. 13-14.

¹⁰³ Wolfram Direct in Case Nos. 2005-00467 and 2005-00472, p. 10.

¹⁰⁴ *Id.*

¹⁰⁵ *Id.*

¹⁰⁶ *In the Matter of: The Application of East Kentucky Power Cooperative, Inc. for a Certificate of Public Convenience and Necessity to Construct a 161 kV Transmission Line in Barren, Warren, Butler, and Ohio Counties, Kentucky*, Case No. 2005-00207 (PSC Order of October 31, 2005).

subject to the move agrees in writing to the requested move.”¹⁰⁷ The Commission went on to state that any changes greater than this distance, or ones that involve other landowners will require the utility to come back to the Commission with another application.¹⁰⁸

In these proceedings, the Companies have proposed that they be permitted to make alterations to the route of the line in accordance with the procedure approved in Case No. 2005-00207, except that, rather than coming back to the Commission with a new application in the event a landowner refuses consent, they be permitted to file a motion requesting that these proceedings be reopened for the limited purpose of addressing the landowner’s refusal to consent to the proposed alteration.¹⁰⁹ None of the intervenors in these proceedings have addressed this issue and the Commission, therefore, must conclude that they have no objection to the Companies’ proposal. Liberty concluded that granting the requested relief, if properly and strictly controlled, could enhance the utility-landowner communication process and result in a more harmonious balance of public and infrastructure construction needs.¹¹⁰

Having considered the Companies’ proposal, the Commission concludes that it is reasonable and should be approved. Therefore, the Companies may move the approved centerline up to 500 feet in either direction (i.e., within a 1,000-foot corridor) as long as (1) the move does not shift the line or its right-of-way onto the property of a different landowner and (2) the property owner who is subject to the move agrees in writing to the requested move. Changes greater than this distance, or that involve other landowners, will require the Companies to come back to the Commission with another application. In the event a landowner refuses to consent in writing to a move of the line and the move otherwise meets all the conditions stated in

¹⁰⁷ Wolfram Direct in Case Nos. 2005-00467 and 2005-00472, p. 10.

¹⁰⁸ *Id.*

¹⁰⁹ *Id.* The Companies clarified their position on the procedure for seeking review in their proposed order. Specifically, the Companies explained that they seek leave to file a motion to reopen the record for limited purposes, and are not asking that the record be kept open automatically or generally.

¹¹⁰ Liberty Report, p. III-7.

this section, then the Companies may seek to reopen these proceedings for the sole limited purpose of presenting the proposed alteration, and the landowner's refusal to consent, to the Commission, at which time the Commission will promptly resolve the issue. In making this ruling, it is not the Commission's intent to render this Order interlocutory in nature, and the normal timelines for seeking rehearing or appeal of this order must be adhered to by any party seeking further review of any of the matters presented to the Commission in these proceedings. The Commission will also not entertain any motion to reopen these consolidated proceedings to address any matters that were or could have been presented here.

Companies' Response to Public Comments

In our September 8, 2005 Order in Case No. 2005-00142, the Commission also addressed the Companies' response to public comments on the proposed transmission facilities.¹¹¹ The Commission emphasized there that the Companies must make a good faith effort to address landowner concerns.¹¹² In this case, Liberty reviewed the Companies' communications process and concluded that it was "far improved" from that process utilized in Case No. 2005-00142, and the Commission agrees.¹¹³

The Companies began their communications process by reviewing the comments received by landowners as part of the local public hearing held in Case No. 2005-00142. They then engaged in a detailed pre-filing process of individual landowner contact designed to describe the project to landowners, allow landowners to express any concerns, and permit the Companies to gather information about property-specific features that might not otherwise be

¹¹¹ Final Order in Case No. 2005-00142, p. 11.

¹¹² *Id.*, p. 12.

¹¹³ Liberty Report, p. II-11.

known by or readily available to the Companies.¹¹⁴ This process began with a letter to each affected landowner, making them aware of the proposed line and its possible impact on their property. The Companies then solicited specific feedback from landowners, either in writing or through telephone conversations or personal meetings. All landowner comments received by the Companies were provided to the transmission department for consideration in finalizing the route design before the Applications were filed with the Commission.¹¹⁵ The Companies then provided each landowner with written responses that specifically addressed their concerns to the extent possible.¹¹⁶ In addition, the Companies provided further written follow-up to each person who spoke at the local public hearing in Elizabethtown.¹¹⁷

The intervenors did not address the Companies' communications process in their testimony. However, the Cunninghams and Hardin did try to cast doubt on that process through cross-examination of the Companies' witness, Ms. Slay. First, the Cunninghams and Hardin questioned the timing of the Companies' communications effort, noting that landowners were not contacted until after an initial decision on routes had been made.¹¹⁸ However, Ms. Slay clarified that at the time the communications process began, route selection had not been finalized, and she explained that it was necessary for the Companies to have at least a proposed preliminary route in order to identify the affected landowners to be contacted.¹¹⁹ The Commission agrees, and notes that a broader approach, implied by the Cunninghams and Hardin, where large numbers of landowners within corridors of potential routes are contacted and polled

¹¹⁴ Direct Testimony of Kathleen Slay ("Slay Direct") in Case No. 2005-00467, p. 3; Slay Direct in Case No. 2005-00472, p. 2.

¹¹⁵ Slay Direct in Case Nos. 2005-00467 and 2005-00472, p. 4.

¹¹⁶ *Id.*, p. 7.

¹¹⁷ TE, Vol. III, p. 66, line 24 to p. 67, line 8.

¹¹⁸ For example, counsel for the Cunninghams and Hardin stated, in one of his questions on cross-examination, that perhaps the Companies should have gone "on the ground with some of these routes and talk to people about trying to make one of these routes work." TE, Vol. II, p. 251, lines 10 – 15. *See also* TE, Vol. III, p. 21, line 20 to p. 24, line 25.

¹¹⁹ TE, Vol. III., p. 20, line 20 to p. 24, line 25.

on their preferences for locating the line, would be extremely burdensome, of questionable value, and highly unlikely to lead to any consensus.¹²⁰ The Companies engaged in a detailed communications process after selecting a preliminary proposed and alternative route, but before finalizing that decision through the filing of their Applications.¹²¹ The Companies then continued their communications with landowners after the local public hearing, and followed up with each speaker at that hearing.¹²²

The Cunninghams and Hardin also questioned why no changes to the route were made as a result of the Companies' communications process.¹²³ In response, Ms. Slay noted that most of the inquiries received by the Companies simply sought additional information on the proposed line, which requests received responses from the Companies, and that requests regarding specific features were met with efforts by the Companies to verify that those features were being avoided by the proposed line.¹²⁴ The Commission notes that any transmission project is going to have an impact on a number of different properties in a variety of ways, and we have previously noted that utilities cannot reasonably be expected to satisfy every affected landowner. The reality is that most landowners simply do not want a line crossing their property, no matter what mitigation might be undertaken. And, importantly, despite the innuendo raised by intervenors' counsel during cross-examination, there was absolutely no evidence that a specific, reasonable request to change the route of the proposed line was made by any landowner and improperly addressed by the Companies.

¹²⁰ As the Companies' witness Mr. Grillon noted, the study area examined by the Companies was 600 square miles. It is unrealistic to expect a utility to canvass residents within that area. Indeed, as Mr. Grillon pointed out, doing so would likely lead to having the proposed routes put "up as an auction block as to who wants the money the worst." TE, Vol. II, p. 270, lines 6 – 14.

¹²¹ TE, Vol. II, p. 201, line 2 to p. 202, line 25; p. 205, line 24 to p. 206, line 21; TE, Vol. III., p. 20, line 20 to p. 24, line 25.

¹²² TE, Vol. III, p. 66, line 24 to p. 67, line 8.

¹²³ TE, Vol. III, p. 26, line 17 to p. 27, line 13.

¹²⁴ TE, Vol. III, p. 26, line 17 to p. 27, line 13.

Finally, the Cunninghams and Hardin questioned the Companies' response to requests by landowners seeking access to route-selection information.¹²⁵ The Commission finds no basis for criticizing the Companies' response on this issue. These intervenors were provided with this information when the Companies' Applications and supporting testimony and exhibits were mailed to their counsel at the time the filings were made.¹²⁶ Moreover, every landowner who raised questions about the route selection process was provided an explanation of that process in summary fashion by the Companies.¹²⁷ Those responses by the Companies were adequate, and the Commission understands the Companies' reluctance to engage in a further information exchange which would amount to pre-filing discovery with potential intervenors. The examination and questioning of overall route-selection data and utility decision-making, as opposed to raising property-specific issues or concerns, is best addressed in the context of formal discovery in proceedings before this Commission.

We commend the Companies for their efforts in seeking and addressing landowner concerns in these proceedings. It is clear that the Companies heeded the Commission's directive in Case No. 2005-00142 to improve their communications process.¹²⁸

CONCLUSION

Based on the evidence of record and being otherwise sufficiently advised, the Commission finds that construction of the 345 kV transmission line as proposed in Case No. 2005-00467 is needed and will not result in wasteful duplication of facilities.

¹²⁵ TE, Vol. III, p. 57, lines 7-24. Ms. Slay testified that only two such requests were made – one by the Cunninghams, and one by Robert Griffith, counsel for the Cunninghams. *Id.*, lines 20-24.

¹²⁶ TE, Vol. III, p. 67, lines 13-15.

¹²⁷ TE, Vol. III, p. 67, lines 16-22.

¹²⁸ We do not mean to endorse the Companies' process as the sole method by which landowner comments can be considered and addressed as part of a route selection process. We believe that other processes, such as the use of less direct communication efforts or open-house meetings, could also be similarly successful.

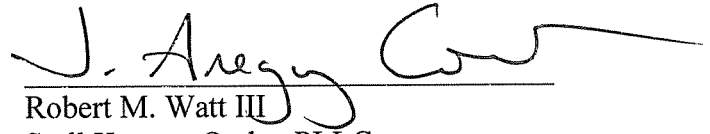
IT IS THEREFORE ORDERED that:

- (1) Louisville Gas and Electric Company and Kentucky Utilities Company (“the Companies”) are granted a CPCN to construct and operate the proposed 345 kV transmission line as set forth in their Joint Application in Case No. 2005-00467.¹²⁹
- (2) The Companies’ Joint Application in Case No. 2005-00472 is dismissed as moot.
- (3) The Companies shall file a survey of the final location of the line after any changes are made as authorized by this Order, before construction on that portion of the line which has changed begins.
- (4) The Companies may move the Commission to reopen the record in this proceeding for the limited purpose of considering and resolving any dispute between the Companies and any landowner regarding the landowner’s refusal to consent to any change in the line proposed by the Companies as authorized by this Order.
- (5) The Companies shall file “as-built” drawings or maps within 60 days of the completion of the construction authorized by this Order.

¹²⁹ Alternatively, the Companies ask that the Commission find that Route No. 2 is reasonable and grant the requested CPCN in Case No. 2005-00472 if the Commission determines that a reasonable balance between cost and collocation supports the expenditure of the additional monies to construct Route No. 2 as opposed to Route No. 1. For all of the reasons set forth above, the Companies have established a need for the line, have conducted a thorough analysis of alternatives, including those using existing corridors, and have established that the proposed construction will not constitute wasteful duplication.

Dated: May 12, 2006

Respectfully submitted,



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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was mailed by first class, prepaid postage to the following this 12th day of May, 2006:

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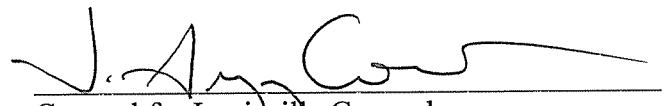
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