

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF KENTUCKY UTILITIES	)	
COMPANY FOR A CERTIFICATE OF PUBLIC	)	
CONVENIENCE AND NECESSITY AND	)	CASE NO.
APPROVAL OF ITS 2009 COMPLIANCE PLAN	)	2009-00197
FOR RECOVERY BY ENVIRONMENTAL	)	
SURCHARGE	)	

APPLICATION OF LOUISVILLE GAS AND	)	
ELECTRIC COMPANY FOR A CERTIFICATE	)	
OF PUBLIC CONVENIENCE AND NECESSITY	)	CASE NO.
AND APPROVAL OF ITS 2009 COMPLIANCE	)	2009-00198
PLAN FOR RECOVERY BY ENVIRONMENTAL	)	
SURCHARGE	)	

O R D E R

Pending before the Commission is a Motion filed jointly by CDH Preserve, LLC, Dennis Cunningham, and Cathy Cunningham (collectively, "CDH/Cunninghams") requesting (1) full intervention in the two above-captioned unconsolidated cases; and (2) an extension of time until November 5, 2009 for the filing of direct testimony by intervenors. The Motion states that the Cunninghams purchased 150 acres in Hardin County, Kentucky; they transferred that property to a limited liability company known as CDH; and they want to keep this farmland from being developed. They further state that they are customers of Kentucky Utilities Company ("KU"), they will be impacted if the environmental projects proposed in this case are approved, and they have a special interest in this proceeding that is not otherwise adequately represented which justifies intervention under 807 KAR 5:001, Section 3(8)(b).

The Motion notes that CDH/Cunninghams were previously granted intervention in three prior cases in which Louisville Gas and Electric Company ("LG&E") and KU requested authority to construct transmission facilities that would cross their property and that they challenged the need for those facilities in those cases. They also state that they have taken separate legal action to oppose and challenge KU's efforts to obtain by condemnation a right of way across their property.

The Motion then references a number of the coal-fired power plants owned by LG&E and KU, states that the plants "cause significant air pollution," and notes the existence of a recent study ranking Lexington, Kentucky and the Louisville metropolitan area as first and fifth, respectively, in per capita carbon emissions. Citing a recent decision by the United States Environmental Protection Agency ("EPA") to disapprove an air permit for LG&E's operation of the Trimble County 2 generating unit ("TC2"), the motion claims that EPA's action forms a basis for the Commission to reexamine the scheduled start-up and operation of the TC2 facility. The position of CDH/Cunninghams is that, if the TC2 facility does not receive an air permit, or if it is not needed to serve customers by June 2010, the environmental cost recovery proposed by LG&E and KU in this case can be delayed.

The Motion also asserts that LG&E and KU have not obtained other necessary operating permits, including a Kentucky Pollutant Discharge Elimination System ("KPDES") permit at the Trimble County Generating Station, for facilities whose costs are proposed to be recovered by surcharge in this case. The lack of these permits, according to CDH/Cunninghams, justifies extending the due date for intervenor testimony. CDH/Cunninghams request that the evidentiary record in this case be

expanded to include a recent study issued by the Federal Energy Regulatory Commission ("FERC") assessing demand response, both nationally and by states, which projects that, with full participation in demand response, Kentucky could achieve a total potential peak load reduction of 17.5 percent by 2019.

LG&E/KU filed a Response in opposition to the intervention request by CDH/Cunninghams, citing numerous grounds in support of a denial of the motion. First, the Response states that the Motion is not timely as required by the Commission's intervention regulation and the public notice given at or about the time these cases were filed, and that no explanation for the movants' delay has been offered. Next, the Response states that, since CDH/Cunninghams are not customers of LG&E, they have no interest in LG&E's rates or service and, therefore, their request to intervene in the LG&E proceeding should be denied.

The Response also claims that, although CDH/Cunninghams are customers of KU, they have identified no special interest in any of the issues raised in this proceeding, only a general interest that they share in common with every other ratepayer of KU. The Response also claims that CDH/Cunninghams are not likely to present issues or develop facts that will assist the Commission in fully considering these cases without unduly complicating or disrupting the proceedings because their Motion to intervene: (1) includes no information to indicate that they have any particular knowledge, experience or expertise relating to the need for the environmental facilities or surcharges proposed here; and (2) questions the need and timing for TC2 and the pursuit of those issues constitutes a collateral attack on the Commission's prior approval of construction of TC2.

In response to the claim that the EPA disapproved an air permit for TC2, LG&E/KU state that the air permit was issued; that the permit is still valid; and that, although negotiations are ongoing to address the comments and concerns raised by EPA, LG&E/KU expect to be able to operate TC2 with no changes to the emission control equipment. With respect to the KPDES permit, the Response states that there is an existing permit and a renewal and modification of that permit has been requested. Finally, the Response notes that the Commission has previously denied intervention when, as here, attempts are made to raise environmental issues that are beyond the scope of the Commission's jurisdiction.

Based on the motions and being otherwise sufficiently advised, the Commission finds that the AG is the only person who has a statutory right to intervene in a Commission case. KRS 367.150(8). All other persons may request permissive intervention. In a recent unreported case, EnviroPower, LLC v. Public Service Commission of Kentucky, 2005-CA-001792-MR, 2007 WL 289328 (Ky. App. February 2, 2007), the Court of Appeals ruled that "the PSC retains the power in its discretion to grant or deny a motion for intervention," but that this discretion is not unlimited. The Court then enumerated the limits on the Commission's discretion in ruling on motions for intervention: one arising under statute; the other arising under regulation. The statutory limitation, KRS 278.040(2), requires that "the person seeking intervention must have an interest in the 'rates' or 'service' of a utility, since those are the only two subjects under the jurisdiction of the PSC."<sup>1</sup>

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<sup>1</sup> 2007 WL 289328, at 3.

The regulatory limitation is set forth in 807 KAR 5:001, Section 3(8), which requires a person to demonstrate either (1) a special interest in the proceeding which is not otherwise adequately represented in the case, or (2) that intervention is likely to present issues or develop facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings.

In analyzing the motion to intervene filed by CDH/Cunninghams, we find that they are customers of KU, not LG&E. Since they are not customers of LG&E, they have no interest in the rates or service provided by LG&E and, therefore, they do not satisfy the statutory criteria that must be met to justify being granted intervenor status in an LG&E proceeding.

Having determined that CDH/Cunninghams are customers of KU, we must determine whether they meet the criteria for intervention as set forth in 807 KAR 5:001, Section 3(8). We note at the outset that the issues set forth in KU's application are whether or not it is entitled to receive Certificates of Public Convenience and Necessity ("CPCNs") for the construction of emission control equipment at the E. W. Brown Unit 3 and new landfills at the Ghent and Trimble County Generating Stations; and whether or not amended environmental compliance plans should be approved to allow the recovery by surcharge of the costs of the proposed environmental equipment and landfills. By statute, the factors to be considered in reviewing an application for a CPCN under KRS 278.020(1) are whether there is a need for the proposed facilities and the absence of wasteful duplication, while the factors to be considered in reviewing the compliance plan and surcharge under KRS 278.183(2)(a) are whether the plan and rate surcharge are

reasonable and cost-effective for compliance with the applicable environmental requirements.

The motion to intervene states that the interest of CDH/Cunninghams in the KU proceeding arises from their status as ratepayers of KU and that they will be impacted by the decision in this case. However, the motion does not show how the impact on CDH/Cunninghams will differ from the impact on the rest of KU's 536,000 ratepayers. The Commission finds that the interest of CDH/Cunninghams in the KU proceeding is the same general interest that is held by every one of KU's 536,000 customers. Absent a showing by CDH/Cunninghams that they will be impacted differently than will all other KU customers, they do not have a special interest to justify intervention under 807 KAR 5:001, Section 3(8).

The motion to intervene is grounded exclusively on the claim of a special interest in the KU proceeding by CDH/Cunninghams. However, the Commission finds that, even under the alternative basis for intervention set forth in 807 KAR 5:001, Section 3(8), intervention is not justified. The motion to intervene is devoid of any description of the background, knowledge, experience, or training of CDH/Cunninghams on the issues of: (1) the need for, and absence of wasteful duplication from, emission control equipment and landfills; and (2) cost recovery by surcharge of utility expenses and capital investments. Thus, CDH/Cunninghams have presented no basis to support a finding that they will likely present issues or develop facts that will assist us in fully considering the issues in the KU proceeding without unduly complicating or disrupting the proceedings.

The Commission also notes that the motion to intervene was clearly untimely. KU published and mailed public notices of this proceeding in late June of this year, and those notices invited interventions to be filed within 30 days of the notices. The motion is silent as to a reason for the delay in filing.

The three prior cases in which CDH/Cunninghams were granted intervention are clearly distinguishable.<sup>2</sup> Those cases involved applications by KU for CPCNs to construct transmission facilities that would cross their property. Thus, their interest in those cases was a special interest that was not shared by all of KU's customers. None of the facilities proposed by KU in this proceeding will be located in Hardin County, Kentucky, where the CDH/Cunninghams property is located.

With respect to the issues raised by CDH/Cunninghams relating to the need and timing of TC2, the Commission finds that those issues are beyond the scope of the issues raised by KU's application in this proceeding. In addition, the need and timing of TC2 are issues that were previously adjudicated in Case No. 2004-00507,<sup>3</sup> which resulted in LGE and KU being granted CPCNs to construct TC2. The need and timing

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<sup>2</sup> Case No. 2005-00142, 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. 2005-00467, 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; and Case No. 2005-00472, Application of Louisville Gas and Electric Company and Kentucky Utilities Company for a Certificate of Public Convenience and Necessity for the Construction of Alternative Transmission Facilities in Jefferson, Bullitt, Meade and Hardin Counties, Kentucky.

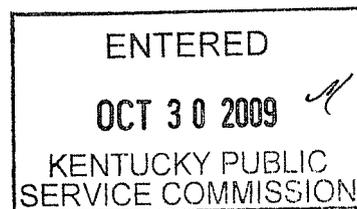
<sup>3</sup> Case No. 2004-00507, Joint Application of Louisville Gas and Electric Company and Kentucky Utilities Company for a Certificate of Public Convenience and Necessity, and a Site Compatibility Certificate, for the Expansion of the Trimble County Generating Station.

for TC2 cannot now be collaterally attacked in this case, irrespective of whether that attack is by presenting a recent FERC study on the potential to reduce peak electric load 10 years from now or by questioning the status of operating permits issued by other agencies.

The Commission's jurisdiction is limited by statute to the regulation of utility rates and service. To the extent that CDH/Cunninghams seek to pursue environmental issues, such as the "significant air pollution" from KU's coal-fired generating plants or the regional level of per capita carbon emissions in Kentucky, those issues are beyond the scope of the Commission's jurisdiction.

IT IS HEREBY ORDERED that the motion of CDH/Cunninghams to intervene is denied on the merits and their motion to extend the filing date for intervenor testimony is denied as moot.

By the Commission



ATTEST:

  
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Executive Director

**RECEIVED**

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

OCT 06 2009

PUBLIC SERVICE  
COMMISSION

**In the Matter of:**

**THE APPLICATION OF KENTUCKY )  
UTILITIES COMPLANY FOR )  
CERTIFICATES OF PUBLIC NECESSITY ) CASE NO. 2009-00197  
AND APPROVAL OF ITS 2009 )  
COMPLIANCE PLAN FOR RECOVERY )  
BY ENVIRONMENTAL SURCHARGE )**

**And**

**THE APPLICATION OF LOUISVILLE GAS )  
AND ELECTRIC COMPANY FOR )  
CERTIFICATE OF PUBLIC ) CASE NO. 2009-00198  
CONVENIENCE AND NECESSITY AND )  
APPROVAL OF ITS 2009 COMPLIANCE )  
PLAN FOR RECOVERY BY )  
ENVIRONMENTAL SURCHARGE )**

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**CDH PRESERVE, LLC, DENNIS CUNNINGHAM,  
AND CATHY CUNNINGHAM,  
MOTION FOR LEAVE TO INTERVENE  
AND FOR LEAVE TO FILE DIRECT TESTIMONY  
BY NOT LATER THAN NOVEMBER 5, 2009**

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Pursuant to KRS 278.310 and 807 KAR 5:001 Section 3(8), CDH PRESERVE, LLC, DENNIS CUNNINGHAM, and CATHY CUNNINGHAM, by and through the undersigned counsel, respectfully MOVE the Commission to be granted Full Intervenor status in the above-captioned proceedings, and to extend the time for the filing of direct testimony by the Intervenor until November 5, 2009, as follows:

1. The matter of intervention in any formal proceeding before the Commission is set forth in 807 KAR 5:001, Section 3(8)(b), which reads as follows:

(8) Intervention and parties. In any formal proceeding, any person who wishes to become a party to a proceeding before the commission may by timely motion request that he be granted leave to intervene. Such motion shall include his name and address and the name and address of any party he represents and in what capacity he is employed by such party.

(b) If a person granted leave to intervene desires to be served with filed testimony, exhibits, pleadings, correspondence and all other documents submitted by parties, and to be certified as a party for the purposes of receiving service of any petition for rehearing or petition for judicial review, he shall submit in writing to the secretary a request for full intervention, which shall specify his interest in the proceeding. If the commission determines that a person has a special interest in the proceeding which is not otherwise adequately represented or that full intervention by party is likely to present issues or to develop facts that assist the commission in fully considering the matter without unduly complicating or disrupting the proceedings, such person shall be granted full intervention.

2. CDH PRESERVE, LLC, DENNIS CUNNINGHAM and CATHY CUNNINGHAM have a special interest in this proceeding not otherwise adequately represented. Dennis Cunningham and Cathy Cunningham are husband and wife and live in Hardin County, Kentucky. They have formed the limited liability company to own the property in Hardin County, in the name of CDH Preserve, LLC., which property is located at 2697 Bethlehem Academy Road, Cecilia, Kentucky.

The Dennis and Cathy Cunningham purchased the first 46 acres in August, 2001, and they purchased an additional 104 acres in December, 2003. It is a beautiful rural landscape and they want to keep the farmland from being developed. They have 1/2 mile of

road frontage on Bethlehem Academy Road, and 1/2 mile of road frontage on St. John's Road which makes up the 104 acres of prime farmland.

3. CDH PRESERVE, LLC, DENNIS CUNNINGHAM and CATHY CUNNINGHAM were granted Full Intervenor status in the related cases of PSC CASE No. 2005-00467 and CASE No. 2005-00472, and they were granted Full Intervenor Status in the earlier PSC CASE No. 2005-00142. These cases all involved the application of Louisville Gas & Electric Company ("LG&E") and Kentucky Utilities Company ("KU") for the construction of transmission facilities in Jefferson, Bullitt, Meade, and Hardin Counties, Kentucky, proposed to cross the property of these Applicants for Intervention, where in each case, these Applicants for Intervention disputed the claim that such facilities were needed. These matters are currently on appeal, pending before the Kentucky Supreme Court.

4. CDH PRESERVE, LLC is also the Defendant in litigation in Hardin County, Kentucky brought by KU seeking to condemn a right of way across their property – and through the nature preserve. This Defendant and other property owners have challenged the claim of right to condemn their property while the Certificate of Public Convenience and Necessity for the transmission facilities is on appeal and on the basis that these facilities are not currently needed. That matter is also on appeal, now pending in the Kentucky Court of Appeals, which has issued a stay of construction to protect the right of meaningful judicial review. See PSC Case No, 2009-00325.

5. CDH PRESERVE, LLC, DENNIS CUNNINGHAM and CATHY CUNNINGHAM are customers and consumers of electrical power of KU and will be impacted by the KRS 278.183 surcharge if it is approved.

6. KU and LG&E operate several power plants in Kentucky that emit various pollutants into the air. See the above reference to TC2. This proposed facility would be located proximate to an existing coal-fired power plant in Trimble County (“TC1”). In addition, KU and LG&E operate other plants that cause significant air pollution including the E.W. Brown Station in Mercer County, which has three old, coal-burning power plants with a combined capacity of 697 megawatts (MW), and the Tyrone Station in Woodford County, which has a 71-MW coal-burning power plant built in 1953. KU/LG&E also operate large, coal-burning power plants in Carroll County, Muhlenberg County, Jefferson County, as well as Trimble County. (*Kentucky's Electric Infrastructure: Present and Future*, PSC, 2005, pp 15-16).

The age of these plants was questioned by the PSC Staff in Question No. 1 of the Staff Second Data Request to KU dated September 11, 2009.

7. Last year, the Brookings Institute released the *Blueprint for American Prosperity*, subtitled *Shrinking the Carbon Footprint of Metropolitan America*, which ranked the per capita carbon emission for the 100 metropolitan areas within the United States of America. Lexington Kentucky had the nation’s highest per capita carbon emissions, with each resident responsible for emitting 3.455 metric tons per year. Following Indianapolis, the Cincinnati/Northern Kentucky area was third in the nation, with 3.281 metric tons per year. Following Toledo, the Louisville/S. Indiana area was fifth in the nation, with 3.233 metric tons per year. See attached to the petition filed by these parties to intervene in the IRP proceeding, PSC Case No. 2008-00148.

8. Within the past year, the United States Environmental Protection Agency has disapproved the air quality permit sought by LG&E for the TC2 facility, most recently

by order of Administrator Lisa Jackson on August 12, 2009, and earlier, on June 5, 2009 by letter of objection from US EPA Region IV to the Director of the Kentucky Division of Air Quality. These disapprovals provide the PSC with a basis to re-examine the scheduled start-up and operation of the TC2 facility. If that facility is not permitted or if it is not needed by June 2010, the imposition of these surcharges are likewise able to be delayed.

9. There is a growing body of evidence that the PSC should examine as part of this application for certificates of public convenience and necessity and the application for an environmental surcharge. See FERC Press June 18, 2009 Release:

#### **New FERC study assesses state-by-state potential for demand response**

The Federal Energy Regulatory Commission (FERC) today released a national assessment of demand response that estimates the potential for demand response, both nationally and for each state, through 2019.

The assessment, *A National Assessment of Demand Response Potential*, finds the potential for peak electricity demand reductions across the country is between 38 gigawatts (GW) and 188 GW, up to 20 percent of national peak demand, depending on how extensively demand response is applied. This can reduce the need to operate hundreds of power plants during peak times.

The study also makes recommendations for overcoming barriers to more use of demand response. By reducing electricity consumption at peak times like hot summer afternoons, when the most expensive generators are called into service, demand response can lower the cost of producing electricity. The assessment will be sent to Capitol Hill Friday to fulfill FERC's first Energy Independent and Security Act of 2007 reporting requirement on demand response. Congress also directed FERC to develop a National Action Plan on Demand Response, which is due to Congress in June 2010.

"This study takes a flexible, real-world approach to gathering information on the potential for demand response," FERC Chairman Jon Wellinghoff said. "It also makes available to the public an easy-to-use spreadsheet model, complete with data inputs and assumptions, so that states, utilities and other interested parties can make updates or modifications based on their own data and policy priorities."

To estimate the potential for demand response under several types of programs, the assessment follows four scenarios in five- and 10-year horizons: Business as Usual,

Expanded Business as Usual, Achievable Participation, and Full Participation. In comparing the Full Participation scenario with the Business as Usual scenario, the report estimates that demand response programs could reduce the projected 2019 peak load by as much as 150 GW. The results under the four scenarios illustrate how the demand response potential increases under various assumptions, such as the number of customers participating and the use of "smart" electric appliances with "dynamic" electric rates that change with system conditions.

The assessment also provides, for the first time, estimates of demand response potential for each of the 50 states and the District of Columbia. It estimates the demand response potential for residential and other types of electric customers in each state and analyzes the effect of using technologies, such as programmable thermostats, to assist consumers achieve the estimated potential.

The study and spreadsheet model are available on the FERC website: [www.ferc.gov](http://www.ferc.gov).

R-09-23

The full study: <http://www.ferc.gov/industries/electric/indus-act/demand-response/dr-potential.asp>

This study projected that at full participation Kentucky could accomplish a 17.5 % total potential peak load reduction from demand response by 2019.

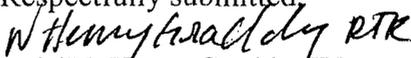
10. In addition to the US EPA disapproval of the air quality permit for the TC2 facility, the applicants are lacking other required permits for the facilities for which they are seeking to recover a KRS 278.183 surcharge. See notice of public hearing on November 5, 2009 for the LG&E application for a new KPDES Permit discharge permit into the Ohio River. This draft permit is for the coal combustion waste from the existing Trimble County Unit No. 1 facility (566 MW) and for the Unit 2, (750 MW) with the note "under construction and scheduled for operation in 2010" The Public Service Commission consideration of the merits of the 2009 environmental compliance plan and the request for cost recovery by a surcharge would benefit from the legal and engineering comments that will be submitted to the Division of Water in opposition to the draft permit. For this reason, these Applicants for intervention request that the date for submittal of directed

testimony set forth in the August 6, 2009 order now set for October 6, 2009, be extended to November 5, 2009. Note that studies requested by the PSC in the PSC Data Request relating to ATC Associates appear to have not been completed and may not be completed until November 15, 2009. See Voyles Response to PSC Staff Question 2. This lack of relevant data provides another basis for granting additional time for Intervenors to file their Direct Testimony

11. CDH PRESERVE, LLC, DENNIS CUNNINGHAM, CATHY and CUNNINGHAM intend to play a constructive role in the Commission's decision-making process and their participation will not prejudice any party.

**WHEREFORE,** CDH PRESERVE, LLC, DENNIS CUNNINGHAM, and CATHY CUNNINGHAM respectfully MOVE to be granted Full Intervenor status in the above-captioned proceeding based upon a finding that they each have a special interest not adequately represented by other parties, and where they are able to help the Commission's decision-making process without prejudice to any party.

Further these parties MOVE the PSC to amend the Appendix to the August 6, 2009 scheduling orders which currently requires Intervenor testimony, if any, in verified prepared form to be filed no later than October 6, 2009, and request that such date be amended to November 5, 2009, with the public hearing to be held 30 days thereafter.

Respectfully submitted,  
  
/s/ W. Henry Graddy, IV  
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**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing Motion was emailed on October 6, 2009, and that the original and twenty copies of the foregoing Motion to Intervene and Motion to Amend Scheduling Order will be delivered to the office of Jeff Derouen, Executive Director of the Kentucky Public Service Commission, 211 Sower Boulevard, Frankfort, KY 40601, on October 6, 2009 and that copies were mailed to the following parties on that date.

Lonnie Bellar, Vice President  
Manager, Regulatory Affairs  
E.ON US Services, Inc.  
220 West Main Street  
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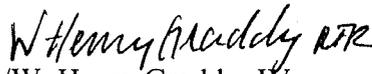
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Honorable Dennis G. Howard II  
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Honorable Michael L. Kurtz  
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This the 6 day of October, 2008

  
/s/ W. Henry Graddy, IV  
W. Henry Graddy, IV

## NOTICE OF KPDES PUBLIC HEARING

KPDES No. KY0041971

Date of Public Hearing: November 5, 2009  
Time of Public Hearing: 6.30 p.m. e.s.t.  
Comments Due By: November 5, 2009

The Director of the Kentucky Division of Water, Department for Environmental Protection, has scheduled a Public Hearing for the purpose of soliciting input and comments from concerned individuals on this draft permit.

**TRIMBLE COUNTY GENERATING STATION** (Louisville Gas & Electric), 487 Corn Creek Road, Bedford, KY. KPDES No. KY0041971, AI No. 4054. This permit action involves the reissuance of a major KPDES permit for a new source coal-fired steam electric generation facility.

This hearing will be held on **November 5, 2009 at the Morgan Community Center, 147 Victory Avenue, Bedford, Kentucky.** So that all comments receive full consideration, they are not responded to at the hearing. However, all comments will be considered by the Division prior to any final action and a response to comments prepared in accordance with 401 KAR 5:075, Section 11 and 12. Persons wishing to comment upon, support or object to this proposed action are invited to submit comments to the Division of Water, Surface Water Permits Branch, 200 Fair Oaks Lane, Frankfort, Kentucky 40601. **All comments must be received by November 5, 2009.** The permittee's name and KPDES number should be included in the first page of the comments.

Additional information or copies of the draft permit may be obtained by contacting Morgan Elliston or Larry Sowder, Division of Water, Surface Water Permits Branch at (502) 564-3410. Three (3) days advance notice may be required for inspection of files.

The meeting facility is accessible to people with disabilities. The cabinet will provide, upon request, reasonable accommodations including auxiliary aids and services necessary to afford individuals with disabilities an equal opportunity to participate in all programs and activities. If an interpreter or other auxiliary aid or service is needed, contact Ann Workman in the Energy and Environment Cabinet, Division of Water, Surface Water Permits Branch before October 18, 2009 (502) 564-3410 between 8:00 a.m. and 4:30 p.m. (e.s.t.).

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