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August 1, 2019

AUG 02 2019

Gwen Pinson, Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, KY 40601

PUBLIC SERVICE
COMMISSION

Dear Ms. Pinson:

Please find enclosed for filing the original and three (3) duplicate originals of a Formal Complaint against Louisville Gas & Electric Company ("LG&E"). A copy is being served on LG&E's registered agent of process.

Thank you for your assistance and please contact me if there are any questions concerning this filing.

Sincerely,

Randy Strobo
Clay Barkley

Counsel for Bernheim

cc: CT Corporation System,
Registered Agent, LG&E

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COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION
CASE NO. 2019-00274

AUG 02 2019
PUBLIC SERVICE
COMMISSION

BERNHEIM ARBORETUM AND
RESEARCH FOREST

COMPLAINANT

V.

LOUISVILLE GAS & ELECTRIC COMPANY

DEFENDANT

FORMAL COMPLAINT

Comes now the Complainant, Bernheim Arboretum and Research Forest ("Bernheim"), by and through counsel, pursuant to 807 KAR 5:001 Section 20, and for its Formal Complaint against Louisville Gas & Electric Company ("LG&E"), states as follows.

1. Bernheim is the owner of a 16,000 acre arboretum, forest and nature preserve in Bullitt and Nelson Counties of Kentucky, with a mission to connect people with nature. The property consists of the 600-acre arboretum, large expanses of scenic woodlands crossed by 40 miles of hiking trails, and extensive natural areas managed for conservation purposes. This year, Bernheim estimates that over 500,000 people will visit its property for recreational, research, and educational purposes. Bernheim is the largest privately-owned preserved forest in the United States, East of the Mississippi River. Bernheim is located at 2075 Clermont Road, Clermont, Kentucky 40110, with a mailing address of P.O. Box 130, 2499 Clermont Road, Clermont, Kentucky 40110.
2. Bernheim has been and will be injured and aggrieved by the actions of LG&E and the Public Service Commission ("Commission") complained of herein.
3. Defendant LG&E is a public utility engaged in the electric and gas business. LG&E generates and purchases electricity, and distributes and sells electricity at retail in

Jefferson County and portions of Bullitt, Hardin, Henry, Meade, Oldham, Shelby, Spencer, and Trimble Counties. LG&E also purchases, stores, and transports natural gas and distributes and sells natural gas at retail in Jefferson County and portions of Barren, Bullitt, Green, Hardin, Hart, Henry, Larue, Marion, Meade, Metcalfe, Nelson, Oldham, Shelby, Spencer, Trimble, and Washington Counties. LG&E is located at 220 West Main Street, Louisville, Kentucky 40202, with a mailing address of P.O. Box 32010, 220 West Main Street, Louisville, Kentucky 40202.

4. On November 23, 2016, LG&E filed its application for authority to adjust electric and gas rates and for certificates of public convenience and necessity (“CPCN”) in Commission Case No. 2016-00371.
5. Buried in testimony provided by Lonnie Bellar, Vice President of Gas Distribution for LG&E, LG&E for the first time, stated, “LG&E will also invest in non-GLT related projects including: installing a natural gas pipeline in Bullitt County and a distribution pipeline in Jefferson County to ensure reliable and adequate gas supplies...” Testimony of Lonnie E. Bellar, filed November 23, 2016, Case No. 2016-00371, at 3-4; **Exhibit 1**.¹
6. LG&E did not request a CPCN for the Bullitt County natural gas pipeline project, stating that it considers it to be an ordinary extension of its existing gas system in the usual course of business, and that a CPCN therefore is not required under KRS 278.020(1) or 807 KAR 5:001 Section 15.
7. In response to this statement, the Commission filed a data request on January 11, 2017 as part of its Second Request for Information to LG&E, as follows:

¹ For efficiency, Complainant has attached only the relevant portions of the Exhibits. The documents are available in their entirety at the Commission’s website:
https://psc.ky.gov/PSC_WebNet/ViewCaseFilings.aspx?Case=2016-00371.

Q-64. Refer to the Testimony of Lonnie E. Bellar (“Bellar Testimony”), pages 3-4.

- a. Provide a map of LG&E's Bullitt County gas service area in sufficient detail to show the proposed natural gas pipeline route along with all LG&E facilities currently in place.
- b. Provide pipe size and specifications for the proposed construction.
- c. State what permits will be needed for the proposed pipeline construction.
- d. State whether the proposed pipeline construction is expected to take place in private easements or existing rights-of-way.
- e. Explain why LG&E does not believe a Certificate of Public Convenience and Necessity is required for the construction of the proposed Bullitt County pipeline.

Commission’s Second Requests for Information to LG&E, Case No.

2016-0037, at 23; **Exhibit 2.**

8. On January 25, 2017, after responding to Question No. 64 (a)-(d), LG&E states:
 - e. The Bullitt County pipeline is an ordinary extension of LG&E’s existing gas system in the usual course of business, and a Certificate of Public Convenience and Necessity (“CPCN”) therefore is not required under KRS 278.020(1) or 807 KAR 5:001 Section 15. As noted in Mr. Bellar’s testimony, the purpose of the pipeline is to bolster the reliability of LG&E’s gas system, and therefore does not wastefully duplicate existing facilities. Also, it will not conflict with the certificate or service of any other utility, and it will not materially affect LG&E’s financial condition.

Response of LG&E to Commission Staff’s Second Request for Information Dated January 11, 2017, Case No. 2016-0037. Exhibit 3.

9. LG&E again claimed it did not require a CPCN in its Post Hearing Memorandum as “an ordinary extension of its existing gas system in the usually course of business,” but, in the alternative, if the LG&E did require a CPCN for the Bullitt County Pipeline Project,

LG&E claims the Commission should award LG&E a CPCN regardless. LG&E Post Hearing Memorandum, filed May 31, 2017, at 37. Exhibit 4.

10. In its June 22, 2017 Order, the Commission held that LG&E did require a CPCN for the construction of the Bullitt County Pipeline Project. However, rather than requiring LG&E to file an application for a CPCN and to open a new case, the Commission held that based on the record developed in that rate case, a CPCN should be approved for the pipeline. 6/22/17 Commission Order, at 31; **Exhibit 5**.
11. LG&E has reported it “currently has 85 percent of the easements, or nine of the proposed pipeline’s 12 miles, necessary for construction [of the Bullitt County Pipeline Project].”²
12. In a letter dated July 15, 2019, while making an offer to Bernheim to acquire temporary and permanent easements on property owned by Bernheim for the Bullitt County Pipeline Project, LG&E threatened to condemn the Bernheim property through its eminent domain authority.
13. KRS § 278.020(1)(b), the statute governing CPCNs at the PSC, states, “**Upon the filing of an application for a certificate**, and after any public hearing which the commission may in its discretion conduct for all interested parties, the commission may issue or refuse to issue the certificate, or issue it in part and refuse it in part, except that the commission shall not refuse or modify an application submitted under KRS 278.023 without consent by the parties to the agreement” (emphasis added).
14. 807 KAR 5:001 Section 14 (1), a regulation outlining the requirements for PSC CPCNs, states, “Each application shall state the full name, mailing address, and electronic mail

² LG&E Press Release, July 2, 2019, <https://lge-ku.com/newsroom/press-releases/2019/07/02/lge-natural-gas-distribution-line-bullitt-county-approaching>; **Exhibit 6**.

address of the applicant, and shall contain fully the facts on which the application is based, with a request for the order, authorization, permission, or certificate desired and a reference to the particular law requiring or providing for the information.”

15. 807 KAR 5:001 Section 15 (2) states:

(2) New construction or extension. Upon application for a certificate that the present or future public convenience or necessity requires, or will require, the construction or extension of any plant, equipment, property, or facility, the applicant, in addition to complying with Section 14 of this administrative regulation, **shall submit with its application:**

(a) The facts relied upon to show that the proposed construction or extension is or will be required by public convenience or necessity;

(b) Copies of franchises or permits, if any, from the proper public authority for the proposed construction or extension, if not previously filed with the commission;

(c) A full description of the proposed location, route, or routes of the proposed construction or extension, including a description of the manner of the construction and the names of all public utilities, corporations, or persons with whom the proposed construction or extension is likely to compete;

(d) One (1) copy in portable document format on electronic storage medium and two (2) copies in paper medium of:

1. Maps to suitable scale showing the location or route of the proposed construction or extension, as well as the location to scale of like facilities owned by others located anywhere within the map area with adequate identification as to the ownership of the other facilities; and
2. Plans and specifications and drawings of the proposed plant, equipment, and facilities;

(e) The manner in detail in which the applicant proposes to finance the proposed construction or extension; and

(f) An estimated annual cost of operation after the proposed facilities are placed into service.

(Emphasis added).

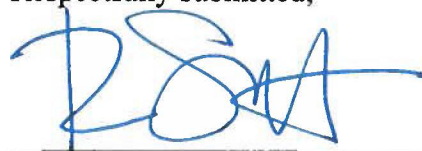
16. At no time did LG&E file an application for a CPCN to construct the Bullitt County Pipeline Project as required by KRS § 278.020(1)(b), 807 KAR 5:001 Section 14 (1), and 807 KAR 5:001 Section 15(2).
17. LG&E has also failed to show the requisite “need” for the Bullitt County Pipeline Project. *See Kentucky Utilities Co. v. Pub. Serv. Comm’n*, 252 S.W.2d 885 (Ky. 1952) (outlining the “need” requirements).
18. A court may vacate or set aside an order or determination by the Commission where the Commission’s decision is determined to be “unlawful or unreasonable.” KRS 278.410(1); *Citizens for Alt. Water Sol. v. Kentucky Pub. Serv. Comm’n*, 358 S.W.3d 488, 489–90 (Ky.App.2011).
19. A decision is considered “unlawful” if it violates a statute or constitutional provision. *National–Southwire Aluminum Co. v. Big Rivers Elec. Corp.*, 785 S.W.2d 503 (Ky.App.1990);
20. “The Commission is a creature of statute and its powers are purely statutory, having only such powers as conferred expressly, by necessity, or by fair implication.” *Kentucky Indus. Util. Customers, Inc. v. Kentucky Pub. Serv. Comm’n*, 504 S.W.3d 695, 705 (Ky. Ct. App. 2016) citing *Croke v. Pub. Serv. Comm’n of Kentucky*, 573 S.W.2d 927 (Ky.App.1978).
21. By granting LG&E a CPCN for the Bullitt County Pipeline Project in the context of a rate case when none had been applied for, rather than a CPCN application, the Commission has acted unlawfully and outside of its statutory authority in violation of KRS § 278.020(1)(b), 807 KAR 5:001 Section 14 (1), and 807 KAR 5:001 Section 15 (2).
22. Bernheim has suffered a denial of due process of law, as guaranteed by the Kentucky Constitution Section 2, through the failure of the Commission to abide by its own

regulations and to require application by LG&E for a CPCN for the Bullitt County pipeline, which would have allowed for public notice and an opportunity to be heard regarding the necessity for and routing of such a pipeline.

WHEREFORE, the Complainant respectfully requests the following relief:

1. An Order from the Commission voiding the CPCN granted to LG&E in Case No. 2016-00371 for the construction of the Bullitt County Pipeline Project;
2. An Order from the Commission confirming that a CPCN can only be granted when applied for pursuant to KRS § 278.020(1)(b), 807 KAR 5:001 Section 14 (1), and 807 KAR 5:001 Section 15 (2); and
3. An Order from the Commission confirming that LG&E is required to file an application pursuant to KRS § 278.020(1)(b), 807 KAR 5:001 Section 14 (1), and 807 KAR 5:001 Section 15 (2) to construct the Bullitt County Pipeline Project.

Respectfully submitted,



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*Counsel for Complainant
Bernheim Arboretum and Research Forest*

EXHIBIT 1

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF LOUISVILLE GAS AND)	
ELECTRIC COMPANY FOR AN)	
ADJUSTMENT OF ITS ELECTRIC AND)	CASE NO. 2016-00371
GAS RATES AND FOR CERTIFICATES OF)	
PUBLIC CONVENIENCE AND NECESSITY)	

TESTIMONY OF
LONNIE E. BELLAR
VICE PRESIDENT, GAS DISTRIBUTION
LOUISVILLE GAS AND ELECTRIC COMPANY

Filed: November 23, 2016

1 **Q. Please state your name, position and business address.**

2 A. My name is Lonnie E. Bellar. I am the Vice President of Gas Distribution for
3 Louisville Gas and Electric Company ("LG&E" or the "Company") and an employee
4 of LG&E and KU Services Company. My business address is 220 West Main Street,
5 Louisville, Kentucky 40202.

6 **Q. Please describe your educational and professional background.**

7 A. A complete statement of my work experience and education is contained in the
8 Appendix attached hereto.

9 **Q. What is your role as Vice President of Gas Distribution?**

10 A. I am responsible for the safe, reliable and strategic operation of LG&E's natural gas
11 transmission and distribution systems and the delivery of natural gas to customers. I
12 oversee natural gas supply planning and purchasing; gas control; gas engineering; and
13 the operation of LG&E's Muldraugh and Magnolia compressor stations and five
14 underground storage fields. I am also responsible for ensuring the Company
15 complies with all regulatory requirements related to the safety and integrity of the
16 natural gas system. Finally, I am involved in a number of other regulatory and
17 planning activities and initiatives related to LG&E's natural gas business.

18 **Q. Have you previously testified before this Commission?**

19 A. Yes. I have testified in numerous proceedings before the Commission. Most recently,
20 I testified in the Companies' 2012 base rate cases, the case in which LG&E applied to
21 amend its Certificate of Public Convenience and Necessity concerning flue-gas

1 desulfurization for Mill Creek Unit 3, and in the administrative case for consideration
2 of smart grid and smart meter technologies.¹

3 **Q. What is the purpose of your testimony in this case?**

4 A. The purpose of my testimony is to: (1) report on the Company's gas system
5 operations; (2) provide an update on the Company's Gas Line Tracker ("GLT")
6 mechanism, and (3) describe the Company's proposal to modify that mechanism to
7 include two gas infrastructure programs discussed below.

8
9 **I. LG&E'S GAS SYSTEM OPERATIONS**

10
11 **Q. Please describe LG&E's gas system.**

12 A. LG&E's gas distribution business serves approximately 320,000 customers. LG&E's
13 annual throughput is expected to be about 44 Bcf. Approximately one-fourth of
14 LG&E's throughput is expected to be transported for commercial and industrial
15 customers; the remainder is expected to be sold to residential, commercial, industrial,
16 and other customers. LG&E is different from the typical local gas distribution
17 company in that it owns and operates considerable on-system underground gas
18 storage consisting of five storage fields and two compressor stations. LG&E's gas
19 distribution business serves customers in Jefferson and 16 surrounding counties as
20 shown on the map attached hereto as Exhibit LEB-1. The gas business facilities we

¹*In the Matter of: Application of Kentucky Utilities Company for an Adjustment of Its Electric Base Rates, Case No. 2012-00221; In the Matter of: Application of Louisville Gas and Electric Company for an Adjustment of Its Electric and Gas Base Rates, a Certificate of Public Convenience and Necessity, Approval of Ownership of Gas Lines and Risers, and a Gas Line Surcharge, Case No. 2012-00222; In the Matter of: Application of Louisville Gas and Electric Company to Modify Its Certificate of Public Convenience and Necessity as to the Mill Creek Unit 3 Flue-Gas Desulfurization Unit, Case No. 2012-00469; In the Matter of: Consideration of the Implementation of Smart Grid and Smart Meter Technologies, Case No. 2012-00428.*

1 operate include approximately 4,337 miles of gas distribution pipe, 387 miles of
2 transmission pipe, and five underground gas storage fields, which are the Muldraugh
3 field in Meade County; the Doe Run field along the Ohio River in Meade County and
4 into Harrison County, Indiana; the Magnolia Upper and Magnolia Deep fields in parts
5 of LaRue, Green, and Hart counties; and the Center field in parts of Metcalfe, Green,
6 and Barren counties. LG&E's projected gas utility plant has a net book value of
7 approximately \$896 million in the forecasted test year.

8 **Q. What capital investments is the Company making to ensure the reliable and safe**
9 **operations into the future?**

10 A. LG&E is making investments in previously approved reliability initiatives, including
11 the leak mitigation program (includes main replacement activity), the gas riser
12 replacement program and customer service line ownership. In addition, LG&E
13 proposes investing in the transmission modernization and steel service line
14 replacement programs discussed below. LG&E will also invest in non-GLT related
15 projects including: installing a natural gas pipeline in Bullitt County and a
16 distribution pipeline in Jefferson County to ensure reliable and adequate gas supplies;
17 upgrades to city-gate stations and gas regulation facilities; upgrade of the Gas Control
18 Supervisory Control and Data Acquisition (SCADA) system; drilling replacement gas
19 storage wells; and compressor station equipment upgrades.

20 **Q. Of the projects in the previous paragraph, please provide more information on**
21 **the largest of these projects.**

22 A. The new natural gas pipeline in Bullitt County will be approximately 10-12 miles
23 long and will improve reliability by supplementing the current one-way feed with

1 additional gas supplies from the new pipeline. This new pipeline will mitigate the
2 exposure of approximately 9,500 customers to a loss of gas supply from the current
3 one-way feed. Additionally, the new pipeline will allow LG&E to serve growth in
4 the Mt. Washington, Shepherdsville, Clermont, Lebanon Junction and Boston areas of
5 Bullitt County by providing additional gas supply from the Calvary gas transmission
6 pipeline to existing gas infrastructure in those areas. The Company plans to
7 commence this project in 2017 with a targeted completion in early 2019. Preliminary
8 cost estimates are approximately \$27.6 million, of which approximately \$15 million
9 will be expended from July 1, 2017 through June 30, 2018.

10 **Q. Would you briefly summarize the investment LG&E will have made in its gas**
11 **facilities from July 1, 2016 to the end of the forecasted test period in this case?**

12 A. Yes. In sum, LG&E anticipates spending \$193 million in gas distribution capital
13 investments from July 1, 2016 through June 30, 2018. Base rate recovery is sought
14 for \$87 million of these investments.

15 **Q. Mr. Thompson has described improvements in productivity and efficiency for**
16 **LG&E and KU in his testimony, but are there any gas-specific initiatives that**
17 **have or will lead to increased productivity and efficiency?**

18 A. Yes. Mr. Thompson describes those efforts in detail and some of the same initiatives
19 on the electric side of our business apply equally to the gas side of our business.
20 Some particularly pertinent gas-specific initiatives designed to improve efficiency
21 and productivity are:

- 22 • Gas Inspection Tracking and Traceability. Under this initiative which will
23 be instituted in early 2017, we will begin to electronically track plastic

EXHIBIT 2

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF LOUISVILLE GAS AND)	
ELECTRIC COMPANY FOR AN ADJUSTMENT OF ITS)	CASE NO.
ELECTRIC AND GAS RATES AND FOR CERTIFICATES)	2016-00371
OF PUBLIC CONVENIENCE AND NECESSITY)	

COMMISSION STAFF'S SECOND REQUEST FOR INFORMATION
TO LOUISVILLE GAS AND ELECTRIC COMPANY

Louisville Gas and Electric Company ("LG&E"), pursuant to 807 KAR 5:001, is to file with the Commission an original and six copies in paper medium and an electronic version of the following information. The information requested herein is due no later than January 25, 2017. Responses to requests for information in paper medium shall be appropriately bound, tabbed and indexed. Each response shall include the name of the witness responsible for responding to the questions related to the information provided.

Each response shall be answered under oath or, for representatives of a public or private corporation or a partnership or association or a governmental agency, be accompanied by a signed certification of the preparer or the person supervising the preparation of the response on behalf of the entity that the response is true and accurate to the best of that person's knowledge, information, and belief formed after a reasonable inquiry.

d. Refer to page 31 of 169. Confirm that the \$166 million ePortal Benefit shown on the graph is revenue loss to LG&E and KU.

e. Refer to page 36 of 169, Section 7.1.6., which states that “non-AMS meters taken out of service can be retired or used as replacements in areas that AMS has not been made available.” Explain whether this statement indicates that some areas will remain in which AMS will not be made available.

f. Refer to page 38 of 169, middle of the page.

(1) Provide the supporting calculations for the amounts that appear in the row “Meters and Network” in the Operating Costs section.

(2) Provide the supporting calculations for the amounts that appear in the row “Total Benefits.”

g. Refer to pages 152–158 of 169. Provide all assumptions, calculations and spreadsheets used to support the savings calculated on these pages.

h. Refer to pages 159–166 of 169, Appendix A-6. Provide an explanation of the evaluation performed in this appendix.

64. Refer to the Testimony of Lonnie E. Bellar (“Bellar Testimony”), pages 3–4.

a. Provide a map of LG&E's Bullitt County gas service area in sufficient detail to show the proposed natural gas pipeline route along with all LG&E facilities currently in place.

b. Provide pipe size and specifications for the proposed construction.

c. State what permits will be needed for the proposed pipeline construction.

d. State whether the proposed pipeline construction is expected to take place in private easements or existing rights-of-way.

e. Explain why LG&E does not believe a Certificate of Public Convenience and Necessity is required for the construction of the proposed Bullitt County pipeline.

65. Refer to the Bellar Testimony, pages 7–10. Referring to the increase in employee headcount of 22 in gas distribution since the test period in LG&E's last rate case, on page 8, lines 2–5, Mr. Bellar indicates that the increased headcount is, in part, caused by LG&E's Transmission and Distribution Integrity Management Plans. Provide the headcount increase resulting specifically due to these plans.

66. Refer to the Bellar Testimony, page 9, lines 3–4, which refer to nearly 40 percent of LG&E's 173 front-line gas operating employees having 35 years, or more, of experience by 2021. With this outlook for retirements, explain whether LG&E envisions needing further increases in its gas distribution headcount over the next five years.

67. Refer to the Bellar Testimony, pages 17–19.

a. Provide the referenced study of LG&E's December 2010 to March 2016 leak data.

b. Provide the annual number of leaks on steel service lines, as well as the annual percentage of steel service lines with leaks.

c. Provide a breakdown of the major components of the program costs that make up the \$101 million projection set out on page 19, lines 1–2.

68. Refer to the Bellar Testimony, pages 19–23.

EXHIBIT 3

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF LOUISVILLE GAS AND)	
ELECTRIC COMPANY FOR AN ADJUSTMENT)	CASE NO.
OF ITS ELECTRIC AND GAS RATES AND FOR)	2016-00371
CERTIFICATES OF PUBLIC CONVENIENCE)	
AND NECESSITY)	

RESPONSE OF
LOUISVILLE GAS AND ELECTRIC COMPANY
TO
COMMISSION STAFF'S SECOND REQUEST FOR INFORMATION
DATED JANUARY 11, 2017

FILED: JANUARY 25, 2017

LOUISVILLE GAS AND ELECTRIC COMPANY

CASE NO. 2016-00371

Response to Commission Staff's Second Request for Information
Dated January 11, 2017

Question No. 64

Responding Witness: Lonnie E. Bellar / Robert M. Conroy

- Q-64. Refer to the Testimony of Lonnie E. Bellar ("Bellar Testimony"), pages 3-4.
- a. Provide a map of LG&E's Bullitt County gas service area in sufficient detail to show the proposed natural gas pipeline route along with all LG&E facilities currently in place.
 - b. Provide pipe size and specifications for the proposed construction.
 - c. State what permits will be needed for the proposed pipeline construction.
 - d. State whether the proposed pipeline construction is expected to take place in private easements or existing rights-of-way.
 - e. Explain why LG&E does not believe a Certificate of Public Convenience and Necessity is required for the construction of the proposed Bullitt County pipeline.
- A-64.
- a. See attached. The information requested is confidential and proprietary and is being provided under seal pursuant to a petition for confidential protection.
 - b. The pipeline is planned to be constructed of 12.750 inch diameter, 0.312 inch wall thickness pipe that meets the American Petroleum Institute specification for line pipe, API 5L. The pipe will meet the strength requirements for grade X52 (52,000 psi) high-frequency welded or seamless pipe. The pipeline will be designed for a Class 3 location per 49 CFR 192.111 and 807 KAR 8:022 Section 3, paragraph (6). The pipe will be coated with 14-22 mils dry film thickness of fusion bonded epoxy. Piping intended to be installed via trenchless technology (boring) will be provided with additional coating protection.
 - c. The following permits will be obtained or investigated with respect to applicability. As the detailed design is still incomplete, additional permits may be identified at a future date.

i. Federal

1. United States Army Corps of Engineers (USACE), Clean Water Act Section 404 (likely to be authorized under Nationwide Permit 12).
2. United States Fish and Wildlife Service, Section 7 Endangered Species Act Consultation (as applicable).
3. Pipeline and Hazardous Materials Safety Administration (PHMSA) notification.

ii. State

1. Kentucky Transportation Cabinet, Encroachment Permit.
2. Kentucky Division of Water, Stream Construction Permit.
3. Kentucky Division of Water, Section 402 Hydrostatic Testing Discharge Authorization.
4. Kentucky Division of Water, Temporary Water Withdrawal Authorization (as necessary).
5. Kentucky Division of Water, Section 401 Water Quality Certification.
6. Kentucky Division of Water, Pollution Discharge Elimination System General Permit for Storm Water Construction Permit.
7. Kentucky Heritage Council, State Historic Preservation Office (SHPO) Section 106 Consultation (as applicable).
8. Kentucky Public Service Commission notification (various).

iii. County/Local

1. Bullitt County, Right of Way permit.
2. Bullitt County, Erosion Prevention and Sediment Control.
3. Shepherdsville, Flood Plain Permit (if applicable to final route).
4. Shepherdsville, Erosion Prevention and Sediment Control (if applicable to final route).

- d. The proposed pipeline is intended to be installed in private easements whenever possible. A portion of the pipeline will be installed in dedicated roadway easements. The start and terminus will connect to existing Louisville Gas and Electric pipelines within existing easements.
- e. The Bullitt County pipeline is an ordinary extension of LG&E's existing gas system in the usual course of business, and a Certificate of Public Convenience and Necessity ("CPCN") therefore is not required under KRS 278.020(1) or 807 KAR 5:001 Section 15. As noted in Mr. Bellar's testimony, the purpose of the pipeline is to bolster the reliability of LG&E's gas system, and therefore does

not wastefully duplicate existing facilities. Also, it will not conflict with the certificate or service of any other utility, and it will not materially affect LG&E's financial condition.

The entire attachment is
Confidential and
provided separately
under seal.

EXHIBIT 4

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF KENTUCKY UTILITIES)	
COMPANY FOR AN ADJUSTMENT OF ITS)	
ELECTRIC RATES AND FOR)	CASE NO. 2016-00370
CERTIFICATES OF PUBLIC CONVENIENCE)	
AND NECESSITY)	

In the Matter of:

APPLICATION OF LOUISVILLE GAS AND)	
ELECTRIC COMPANY FOR AN)	
ADJUSTMENT OF ITS ELECTRIC AND GAS)	CASE NO. 2016-00371
RATES AND FOR CERTIFICATES OF)	
PUBLIC CONVENIENCE AND NECESSITY)	

POST-HEARING BRIEF OF
KENTUCKY UTILITIES COMPANY AND
LOUISVILLE GAS AND ELECTRIC COMPANY

Filed: May 31, 2017

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disregarded as Mr. Baron has asserted.¹²⁰ And the reasonableness of the settled revenue allocation, which Mr. Baron and his employer, KIUC, support, is in turn supported by the various cost-of-service studies filed in these proceedings. The Commission can therefore have great confidence in approving the settled revenue allocations and resulting rates as being supported by the record of these proceedings and as being fair, just, and reasonable in the total context of the Unanimous Settlement of these cases.

E. Pilot Rates for Schools and Sports Field Lighting

At the close of evidence in the hearing on these cases, the Commission directed certain parties, including the Companies, to brief the issue of whether Sections 4.7 and 4.11 of the First Stipulation, dealing with pilot rates for sports field lighting and public schools, respectively, violate KRS 278.035, and whether the Companies would object to expanding the scope of Section 4.11 of the First Stipulation to non-public schools. Per the Commission's request, the Companies have set forth their position on these issues in a separate brief to be filed with the Commission. In short, the Companies do not believe that either provision in the First Stipulation violates KRS Chapter 278. To the extent the Commission disagrees with respect to rates SPS and STOD, the Companies do not object to modifying the First Stipulation to allow schools not covered by KRS 160.325 to participate in the pilot rates, subject to approval without further modification of the proposed revenue-related caps and all other rates, terms, and conditions already contained in the First Stipulation.

V. CONCLUSION

The Unanimous Settlement reached by the Companies and the sixteen intervenors representing diverse interests in these cases is a fair, just, and reasonable resolution of all the issues presented herein. The Unanimous Settlement is structured in way that allows the

¹²⁰ See Case No. 2016-00370, Supplemental Testimony of Stephen Baron, at 3.

Commission to exercise its independent judgment as to each component and to fulfill its statutory duty to ensure a fair, just, and reasonable outcome to these proceedings. The parties to the Unanimous Settlement recommended to the Commission that all aspects of the Companies' case filing not specifically addressed in the stipulations, including the level of benefits provided to the Companies' employees, should be approved as filed. Those benefits are part and parcel of the agreement and the consideration given by the Companies in reaching the settlement. They are also competitive, reasonable, and selected pursuant to the sound business judgment of the Companies' management, which the Commission should not second-guess, and are otherwise fully supported by the record in these cases.

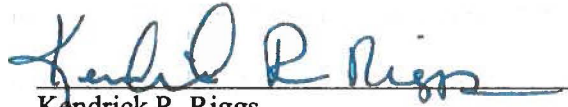
With regard to LG&E's proposed \$27.6 million, 10-12 mile Bullitt County gas pipeline project, LG&E has provided evidence fully supporting the project and believes the project does not require a CPCN because it qualifies as an "ordinary extension of [its] existing [gas distribution] system in the usual course of business." KRS 278.020(1). And in the course of the proceeding, LG&E provided the information necessary to support the award of a CPCN.¹²¹ LG&E requests the Commission determine that no CPCN is required for the Bullitt County gas pipeline project, or, in the alternative, should the Commission determine a CPCN is required, to award LG&E this authority in compliance with KRS 278.020(1) and 807 KAR 5:001, Section 15(2).

For these reasons, Kentucky Utilities Company and Louisville Gas and Electric Company ask the Commission to issue final orders by June 30, 2017, approving the Unanimous Settlement as a fair, just, and reasonable disposition of the issues in these cases without modification or condition.

¹²¹ Case No. 2017-00371, LG&E DR PSC 3-26 and LG&E DR PSC 7-14.

Dated: May 31, 2017

Respectfully submitted,



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*Counsel for Kentucky Utilities Company
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CERTIFICATE OF COMPLIANCE

This is to certify that Kentucky Utilities Company's and Louisville Gas and Electric Company's May 31, 2017 electronic filing of their Post-Hearing Brief is a true and accurate copy of the same document being filed in paper medium; that the electronic filing has been transmitted to the Commission on May 31, 2017; that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding; and that an original and six copies, in paper medium, of the Post-Hearing Brief are being mailed by U.S. First Class Mail, postage prepaid, to the Commission on May 31, 2017.



*Counsel for Kentucky Utilities Company
and Louisville Gas and Electric Company*

EXHIBIT 5

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF LOUISVILLE)	
GAS AND ELECTRIC COMPANY FOR AN)	CASE NO.
ADJUSTMENT OF ITS ELECTRIC AND GAS)	2016-00371
RATES AND FOR CERTIFICATES OF PUBLIC)	
CONVENIENCE AND NECESSITY)	

ORDER

Louisville Gas and Electric Company ("LG&E") is a combination electric and gas utility that generates, transmits, distributes, and sells electricity to consumers in Jefferson County, Kentucky, and in portions of eight other Kentucky counties.¹ LG&E also purchases, stores, and transports natural gas and distributes and sells natural gas at retail in Jefferson County and portions of 16 other Kentucky counties.² Its most recent general rate increase was granted in Case No. 2014-00372.³

BACKGROUND

On October 21, 2016, LG&E filed a notice of its intent to file an application for approval of an increase in its electric and gas rates based on a forecasted test year ending June 30, 2018. On November 23, 2016, LG&E filed its application, which included new rates to be effective January 1, 2017, based on a request to increase electric revenues

¹ Application, ¶ 2.

² *Id.*

³ Case No. 2014-00372, *Application of Louisville Gas and Electric Company for an Adjustment of Its Electric and Gas Rates* (Ky. PSC June 30, 2015).

in transmission capital investments that LG&E and KU project to spend over the five-year period beginning 2017.⁷⁷

In light of the significant investments that LG&E intends to make pursuant to the Transmission Plan, the Commission will require LG&E to file annual reports, over the five-year Transmission Plan period, detailing the progress on the spend out for the reporting period, the criteria utilized by LG&E to prioritize the various transmission projects, the impact on reliability or other benefits to LG&E's customers resulting from such investments, and outlining the expenditures for the following year.

Bullitt County Pipeline CPCN

LG&E included in its application information concerning its plans to construct a new natural gas pipeline in Bullitt County. The new 12-inch pipeline is to be approximately 10–12 miles long and is intended to improve reliability by mitigating the exposure of approximately 9,500 customers to a loss of gas supply from a current one-way feed. Additionally, the new pipeline is intended to allow LG&E to serve growth in Bullitt County by providing additional gas supply to existing gas infrastructure in those areas. LG&E plans to commence this project in 2017, with a targeted completion in early 2019. LG&E states that preliminary cost estimates for the project total approximately \$27.6 million.

LG&E did not request a CPCN for the project, stating that it considers it to be an ordinary extension of its existing gas system in the usual course of business, and that a CPCN therefore is not required under KRS 278.020(1) or 807 KAR 5:001 Section 15. In its post-hearing brief, LG&E reiterated its position that the construction qualifies as an ordinary extension of its system in the usual course of business and requested that the

⁷⁷ *Id.*, 26–27.

Commission determine that no CPCN is required. In the alternative, LG&E pointed out that it had provided all the information necessary to support the award of a CPCN, and requested that the Commission grant it the CPCN authority to carry out the construction of the Bullitt County pipeline.⁷⁸ Due to the size of the project, and the fact that Duke Energy Kentucky, Inc. requested and was granted a CPCN by the Commission for similar construction in Case No. 2016-00168,⁷⁹ the Commission finds that the construction should be the subject of a CPCN finding.

LEGAL STANDARD

KRS 278.020(1) provides, in relevant part, that:

No person, partnership, public or private corporation, or combination thereof shall commence providing utility service to or for the public or begin the construction of any plant, equipment, property, or facility for furnishing to the public any services enumerated in KRS 278.010 . . . and ordinary extensions of existing systems in the usual course of business, until that person has obtained from the Public Service Commission a certificate that public convenience and necessity require the service or construction.

807 KAR 5:001, Section 15(2), provides in part:

New construction or extension. Upon application for a certificate that the present or future public convenience or necessity requires, or will require, the construction or extension of any plant, equipment, property, or facility, the applicant, in addition to complying with Section 14 of this administrative regulation, shall submit with its application:

⁷⁸ LG&E May 31, 2017 Post Hearing Brief at 37.

⁷⁹ Case No. 2016-00168, *Application of Duke Energy Kentucky, Inc. for a Certificate of Public Convenience and Necessity Authorizing the Construction of a Gas Pipeline from Walton, Kentucky to Big Bone, Kentucky* (Ky. PSC Nov. 28, 2016).

(a) The facts relied upon to show that the proposed construction or extension is or will be required by public convenience or necessity.

To obtain a CPCN, the utility must demonstrate a need for such facilities and an absence of wasteful duplication.⁸⁰

"Need" requires:

[a] showing of a substantial inadequacy of existing service involving a consumer market sufficiently large to make it economically feasible for the new system or facility to be constructed and operated.

The inadequacy must be due either to a substantial deficiency of service facilities, beyond what could be supplied by normal improvements in the ordinary course of business; or to indifference, poor management or disregard of the rights of consumers, persisting over such a period of time as to establish an inability or unwillingness to render adequate service.⁸¹

"Wasteful duplication" is defined as "an excess of capacity over need" and "an excessive investment in relation to productivity or efficiency, and an unnecessary multiplicity of physical properties."⁸² To demonstrate that a proposed facility does not result in wasteful duplication, we have held that the applicant must demonstrate that a thorough review of all alternatives has been performed.⁸³ Selection of a proposal that

⁸⁰ Kentucky Utilities Co. v. Pub. Serv. Comm'n, 252 S.W.2d 885 (Ky. 1952).

⁸¹ *Id.* at 890.

⁸² *Id.*

⁸³ 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* (Ky. PSC Sept. 8, 2005).

ultimately costs more than an alternative does not necessarily result in wasteful duplication.⁸⁴

In reviewing the record, the Commission finds that LG&E's construction of the Bullitt County pipeline would not be a wasteful duplication of any existing facilities and is necessary in order for LG&E to accommodate current and expected system requirements for safe and reliable natural gas service. Based upon the record as developed through discovery and being otherwise sufficiently advised, the Commission finds that a CPCN for construction of the pipeline should be approved, and that, no later than 90 days after the completion of the project, LG&E should file with the Commission a statement of the actual costs of the construction. Prior to incurring any long-term financing related to this project, pursuant to KRS 278.300, LG&E is required to seek Commission approval.

LG&E Tariffs

Commission regulation 807 KAR 5:011, Section 4(1), requires each utility to include an accurate index of the city, town, village, or district in which its rates are applicable. The first page of LG&E's electric tariffs reference its service as being available "[i]n the nine counties of the Louisville, Kentucky metropolitan area as depicted on territorial maps as filed with the Public service Commission of Kentucky." The first page of LG&E's gas tariffs reference its service being available "[i]n the seventeen counties of the Louisville, Kentucky metropolitan area as depicted on territorial maps as filed with the Public service Commission of Kentucky." Since those maps are not readily available to

⁸⁴ See *Kentucky Utilities Co. v. Pub. Serv. Comm'n*, 390 S.W.2d, 175 (Ky. 1965). See also Case No. 2005-00089, *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* (Ky. PSC Aug. 19, 2005).

members of the public, LG&E should revise its tariffs to include a list of the communities in which it serves.

IT IS THEREFORE ORDERED that:

1. The rates and charges proposed by LG&E are denied.
2. LG&E's motions for leave to file the First and Second Stipulations are granted.
3. The First and Second Stipulations, attached hereto as Appendix A, (without exhibits) are approved with the modifications discussed herein.
4. The rates and charges in Appendix B, attached hereto, are fair, just, and reasonable for LG&E to charge for service rendered on and after July 1, 2017.
5. LG&E is granted a CPCN to implement the DA project as described in the application.
6. Within 30 days of the date of this Order, KSBA shall file with the Commission the process by which it will notify and select those schools that are eligible to participate in the pilot tariffs approved herein.
7. LG&E shall file reports with the Commission as directed herein which set out details concerning the pilot school tariffs study.
8. Beginning June 1, 2018, and continuing over the five-year Transmission Plan period, LG&E shall file an annual Transmission Plan report as discussed herein.
9. LG&E is granted a CPCN for the construction of the Bullitt County natural gas pipeline as described in the application and further described in response to discovery.

10. LG&E shall provide copies of any permits related to the Bullitt County pipeline within ten days of obtaining each permit or approval.

11. LG&E shall, no later than 90 days after the completion of the Bullitt County pipeline, file with the Commission a statement of the actual costs of the construction.

12. LG&E shall file a copy of the "as-built" drawings and a certified statement from the engineer that the Bullitt County pipeline construction has been satisfactorily completed in accordance with the plans and specifications within 60 days of substantial completion of the construction certified herein.

13. LG&E shall require the Bullitt County pipeline construction to be inspected under the general supervision of a professional engineer licensed to practice in the Commonwealth of Kentucky in civil or mechanical engineering to ensure that the construction work is done in accordance with the drawings and specifications and in conformity with the best practices of the construction trades involved in the project.

14. LG&E shall notify the Commission one week prior to the actual start of the Bullitt County pipeline construction and at the 50 percent completion point.

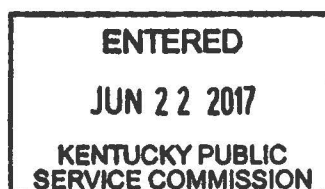
15. LG&E shall not incur any long-term indebtedness associated with the Bullitt County pipeline without applying to the Commission for approval pursuant to KRS 278.300.

16. Within 20 days of the date of this Order, LG&E shall file with the Commission, using the Commission's electronic Tariff Filing System, its revised tariffs, including an index of communities served, as set forth in this Order reflecting that they were approved pursuant to this Order.

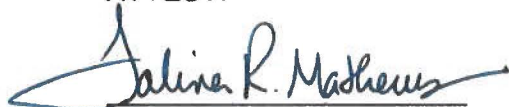
17. Any document filed pursuant to ordering paragraphs 6, 7, 8, 10, 11, 12, and 14 of this Order shall reference the number of this case and shall be retained in the utility's general correspondence file.

18. The Executive Director is delegated authority to grant reasonable extension of time for the filing of any documents required by ordering paragraphs 6, 7, 8, 10, 11, 12, and 14 of this Order upon LG&E's showing of good cause for such extension.

By the Commission



ATTEST:


Executive Director

Case No. 2016-00371

APPENDIX A

**APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2016-00371 DATED JUN 22 2017**

EXHIBIT 6

LG&E and KU provide customers simple tips on how to avoid utility scammers. 

LG&E natural gas distribution line in Bullitt County approaching full capacity

Posted | July 2, 2019

For more information, call the LG&E and KU media hotline at [502-627-4999](tel:502-627-4999).

New and expanded natural gas service requests in Bullitt County limited until new transmission line can be built

(LOUISVILLE, Ky.) – Louisville Gas and Electric Company announced today that the company's existing natural gas distribution line serving a portion of Bullitt County is nearing full capacity and requests for additional or new natural gas service by residential and business customers soon will be unable to be accommodated in the Bullitt County area.

The change will not impact service to the more than 9,500 existing customers in portions of Mt. Washington, Shepherdsville, Clermont and Lebanon Junction, or any requests for service that are already under contract. Currently, the pipeline, which is part of LG&E's natural gas distribution system, can safely continue to serve the utility's existing customers; however, additional gas supply must be added to the system in order to serve any new or expanded requests for natural gas service from industrial, commercial or residential customers in those areas as well as some adjacent areas including Brooks, Hillview and Zoneton.

"Limiting natural gas capacity is an unprecedented step for us, but we simply have run out of room on our system in the Bullitt County corridor," said John P. Malloy, vice president of Gas Distribution. "We realize this poses a hardship for economic development and customers wanting low-cost natural gas service, but we are limited by the capacity of the line."

According to the Bullitt County Economic Development Authority, the county is growing at a tremendous rate – with the population increasing by more than 1,200 residents a year; an average of 1.2 million square feet of manufacturing and logistics space and 400 homes being built each year; and the local workforce expanding by about 1,500 new employees per year. The agency says without the pipeline the county could see a period of no growth and lose the capacity to provide needed jobs and investments to the county and state.

The Kentucky Public Service Commission, in 2017, approved LG&E's plans to build a new natural gas transmission line to inject additional supply to the Bullitt County area to meet growing demand and to enhance reliability for existing customers there by creating an additional path for natural gas traveling through the system to residents and businesses in the area. The proposed line will reduce the chances of these customers experiencing a service interruption should there be damage to the existing line. The transmission line was originally scheduled to be completed in 2019, but the project has encountered delays due to extended negotiations with a limited number of property owners during the surveying phase and easement compensation negotiations with property owners of the easements needed for construction.

"While it's our goal to meet the growing energy demands of the communities we serve and, in doing so, partner to enhance economic development across the state, in this case it's just not possible until we're able to construct this new natural gas transmission line," said LG&E Vice President of Customer Services Beth McFarland. "Until we can do that, we are evaluating requests for natural gas service in the Bullitt County area on a case-by-case basis."

In an effort to move forward with the project and purchase the final 15 percent of easements necessary for its construction, LG&E will be initiating condemnation proceedings that will exercise the utility's right to eminent domain and ultimately enable the utility to acquire the necessary easements to begin the pipeline's construction. Once construction is complete, property owners can drive vehicles over the easement and may continue to use it to do things like grow crops, pasture animals and other activities; so long as the activity does not include construction of buildings or create obstacles that restrict the utility's access to the infrastructure.

Bullitt County natural gas distribution system background

LG&E's natural gas distribution system in Bullitt County has been in place for more than 50 years. Initially built in the early 1960s to serve the Mt. Washington area, the original distribution line has grown with the surrounding community. Throughout the mid and late-60s the line was extended in order to serve growth in the Shepherdsville and Clermont areas, then grew again in the mid-90s as its service expanded to Clermont and Lebanon Junction. In the mid-2000s, LG&E upgraded the natural distribution system to the Bullitt County area, enabling more gas to travel through the line to the increasing number of customers receiving service from it. With anticipated growth information from the Bullitt County Economic Development Authority, growth projections from the Bullitt County Fiscal Court and information from the state data center and other sources, the need for a new natural gas transmission line to help meet demand became apparent in 2016.

LG&E currently has 85 percent of the easements, or nine of the proposed pipeline's 12 miles, necessary for construction. Once the utility acquires the remaining easements, obtains the necessary permits applied for, secures a contractor and begins work, construction is expected to take 6-9 months.

###

Louisville Gas and Electric Company and Kentucky Utilities Company, part of the PPL Corporation (NYSE: PPL) family of companies, are regulated utilities that serve nearly 1.3 million customers and have consistently ranked among the best companies for customer service in the United States. LG&E serves 328,000 natural gas and 414,000 electric customers in Louisville and 16 surrounding counties. KU serves 555,000 customers in 77 Kentucky counties and five counties in Virginia. More information is available at www.lge-ku.com and www.pplweb.com.

Contact us

LG&E residential

502-589-1444 or 800-331-7370

LG&E business

502-627-3313 or 800-331-7370

KU residential

800-981-0600

KU business

859-367-1200 or 800-383-5582

Contact us online



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