

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC JOINT APPLICATION OF)	
KENTUCKY UTILITIES COMPANY AND)	
LOUISVILLE GAS AND ELECTRIC COMPANY)	CASE NO.
FOR CERTIFICATES OF PUBLIC CONVENIENCE)	2022-00402
AND NECESSITY AND SITE COMPATIBILITY)	
CERTIFICATES AND APPROVAL OF A DEMAND)	
SIDE MANAGEMENT PLAN)	

ORDER

On December 15, 2022, Louisville Gas and Electronic Company (LG&E) and Kentucky Utilities Company (KU) (jointly, LG&E/KU) filed a joint motion to deviate from certain filing requirements contemporaneously with tendering LG&E/KU's application in this matter. Specifically, LG&E/KU requested to deviate from filing requirements in 807 KAR 5:001, Section 8, as modified by Case No. 2022-00311,¹ for certain exhibits to be maintained on a third party site and not filed with the Commission.

LEGAL STANDARD

Pursuant to 807 KAR 5:001, Section 4(9), an application is not deemed filed unless it complies with filing requirements established by KRS Chapter 278 or KAR Title 807. The Commission may grant a deviation from filing requirements under 807 KAR 5:001, Section 22, which allows deviation from the filing requirements in 807 KAR 5:001 upon a showing of good cause. Commission regulation 807 KAR 5:001, Section 8 and Case No.

¹ Case No. 2022-00311, *Electronic Review of Electronic Filing Procedures in 807 KAR 5:001, Section 8(2), (4), and (6)* (Ky. PSC Oct. 6, 2022).

2020-00085² require parties to cases such as this proceeding to electronically upload all filings to the Commission's electronic filing system. In Case No. 2022-00311, the Commission authorized deviations from certain electronic file format and size regulations pending the amendment of the relevant regulations. The Commission established standards that accepted for electronic filing zip files for certain file formats greater than 50 MB that cannot be submitted in multiple uploading sessions. Further, in Case No. 2022-00311, the Commission encouraged filers to contact the Commission's Filings Branch Staff for assistance before tendering a motion to deviate from filing format and size requirements.

LG&E/KU'S MOTION TO DEVIATE

LG&E/KU requested to maintain non-confidential exhibits to the direct testimonies of LG&E/KU witnesses Lana Isaacson, Tim A. Jones, and Stuart A. Wilson on the HighQ site, a third party site maintained by LG&E/KU's counsel's law firm. LG&E/KU asserted that the non-confidential material is voluminous and exceeds 50 MB. LG&E/KU further asserted that the files had to remain in an intact folder structure to maintain order and intelligibility. Finally, LG&E/KU asserted that certain files at issue are in formats other than PDF or Excel, and thus not permissible files in the Commission's electronic filing system. LG&E/KU compared hosting non-confidential documents to a process LG&E/KU follow for hosting confidential documents on the third party site during the pendency of proceedings before the Commission.

² Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus Covid-19* (Ky. PSC July 22, 2021).

In their joint motion, LG&E/KU did not state whether they contacted Commission Filings Branch Staff for assistance prior to filing the motion to deviate from the filing requirements.

DISCUSSION AND FINDINGS

Based upon a review of the motion and being otherwise sufficiently advised, the Commission finds that LG&E/KU failed to establish good cause to deviate from filing requirements in 807 KAR 5:001, Section 8, as modified by Case No. 2022-00311, for the reasons set forth below, and therefore LG&E/KU's motion should be denied. Because LG&E/KU failed to establish good cause to deviate from filing requirements, the Commission further finds that LG&E/KU's application should be rejected for filing because it fails to conform to filing requirements set forth in 807 KAR 5:001. From a review of the application, once this filing deficiency is cured the application can be deemed filed.

Commission regulations require the Commission to maintain physical control of case filings. In Case Nos. 2020-00349 and 2020-00350, the Commission denied a similar request by LG&E/KU to maintain non-confidential documents on the third party site because the third party site was outside the physical control of the Commission.³ Further, the Commission does not permit LG&E/KU to maintain confidential material only on a third party site. Commission Filings Branch Staff access the confidential material from the third party site and download the confidential material to a secure Commission server,

³ See Case No. 2020-00349, *Electronic Application of Kentucky Utilities Company for an Adjustment of Its Electric Rates, A Certificate of Public Convenience and Necessity to Deploy Advanced Metering Infrastructure, Approval of Certain Regulatory and Accounting Treatments, and Establishment of a One-Year Surcredit* (Ky. PSC Aug. 19, 2021). See also Case No. 2020-00350, *Electronic Application of Louisville Gas and Electric Company for an Adjustment of Its Electric and Gas Rates, A Certificate of Public Convenience and Necessity to Deploy Advanced Metering Infrastructure, Approval of Certain Regulatory and Accounting Treatments, and Establishment of a One-Year Surcredit* (Ky. PSC Aug. 19, 2021).

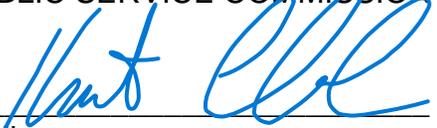
and thus maintain physical control of the document with the full knowledge of LG&E/KU and its counsel. Finally, KRS 278.100 requires the Commission's executive director to maintain all official records of Commission proceedings. Because the Commission cannot grant a deviation from a statutory requirement and LG&E/KU's request would require the Commission to approve maintaining records outside the physical control of the Commission, the Commission cannot grant a deviation that would prevent the executive director from maintaining the records of this case.

As noted in Case No. 2022-00311, LG&E/KU should contact Commission Filings Branch Staff at 502-564-3940 for assistance with electronic filing issues.

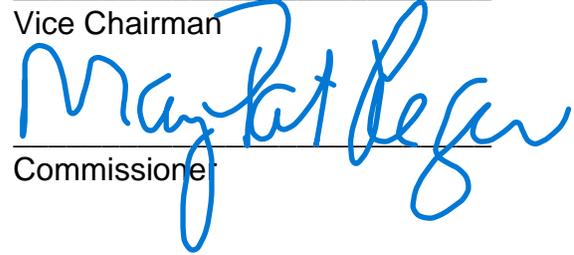
IT IS THEREFORE ORDERED that:

1. LG&E/KU's motion to deviate from filing requirements is denied.
2. LG&E/KU's application is rejected for filing due to filing deficiencies set forth in the body of this Order.

PUBLIC SERVICE COMMISSION


Chairman

Vice Chairman


Commissioner

ENTERED
DEC 22 2022
rcs
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


Executive Director

*Angela M Goad
Assistant Attorney General
Office of the Attorney General Office of Rate
700 Capitol Avenue
Suite 20
Frankfort, KENTUCKY 40601-8204

*Robert Conroy
Vice President, State Regulation and Rates
LG&E and KU Energy LLC
220 West Main Street
Louisville, KENTUCKY 40202

*Honorable Allyson K Sturgeon
Managing Senior Counsel - Regulatory &
LG&E and KU Energy LLC
220 West Main Street
Louisville, KENTUCKY 40202

*Kentucky Utilities Company
220 W. Main Street
P. O. Box 32010
Louisville, KY 40232-2010

*John G Horne, II
Office of the Attorney General Office of Rate
700 Capitol Avenue
Suite 20
Frankfort, KENTUCKY 40601-8204

*Louisville Gas and Electric Company
220 W. Main Street
P. O. Box 32010
Louisville, KY 40232-2010

*Honorable Kendrick R Riggs
Attorney at Law
Stoll Keenon Ogden, PLLC
2000 PNC Plaza
500 W Jefferson Street
Louisville, KENTUCKY 40202-2828

*Sara Judd
Senior Corporate Attorney
LG&E and KU Energy LLC
220 West Main Street
Louisville, KENTUCKY 40202

*Larry Cook
Assistant Attorney General
Office of the Attorney General Office of Rate
700 Capitol Avenue
Suite 20
Frankfort, KENTUCKY 40601-8204

*J. Michael West
Office of the Attorney General Office of Rate
700 Capitol Avenue
Suite 20
Frankfort, KENTUCKY 40601-8204

*Rick LoveKamp
Kentucky Utilities Company
220 W. Main Street
P. O. Box 32010
Louisville, KY 40202