

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	)	
FOR CERTIFICATES OF PUBLIC	)	CASE NO.
CONVENIENCE AND NECESSITY AND SITE	)	2022-00402
COMPATIBILITY CERTIFICATES AND	)	
APPROVAL OF A DEMAND SIDE MANAGEMENT	)	
PLAN AND APPROVAL OF FOSSIL FUEL-FIRED	)	
GENERATING UNIT RETIREMENTS	)	

ORDER

A hearing in the above-styled matter was held August 22–29, 2023. At the conclusion of the witness testimony, a procedural schedule was established that provided for post-hearing requests for information and briefing.

From the bench on August 22, 2023, the Commission ruled upon three motions made by the parties. First, the Commission granted Kentucky Utilities Company and Louisville Gas and Electric Company’s (LG&E/KU) joint motion to deviate from 807 KAR 5:001, Section 9(2)(b)(2), which states that notice of a formal hearing published in a newspaper of general circulation shall be published not less than 7 days or more than 21 days prior to the hearing. In the motion, which was filed on August 18, 2023, LG&E/KU explained they delivered to Kentucky Press Service Inc. (Kentucky Press Service) a copy of the hearing notice and instructions to publish the notice in 89 newspapers in LG&E/KU’s service area between August 1 and August 15, 2023. Pursuant to an affidavit from Kentucky Press Service, the notice was published in 88 of 89 newspapers within the

regulatory period. However, one newspaper, *Williamstown Grant County News*, published the notice on August 17, 2023, which is five days before the hearing, and thus outside of the regulatory period. LG&E/KU asserted that they substantially complied with the notice regulation because the notice was published in each county in LG&E/KU's service area and in two newspapers with the largest circulation in Kentucky prior to the first day of the hearing, and thus ratepayers were provided with sufficient notice of the hearing. From the bench, the Commission concluded that, under the facts presented, LG&E/KU established good cause and that their motion should be granted consistent with 807 KAR 5:001, Section 22, which authorizes the Commission to permit deviations from the rules set forth in 807 KAR 5:001 for good cause shown. This is because notice was timely provided to ratepayers in LG&E/KU's service area at least seven days prior to the hearing through two newspapers with general circulation, the *Lexington Herald-Leader* and the *Courier Journal*, and, except for Grant County, through 86 local newspapers published in LG&E/KU's service area. Further, Grant County ratepayers received notice prior to the hearing through the *Williamstown Grant County News*, albeit two days outside of the regulatory period.

Second, the Commission granted LG&E/KU's verbal motion for leave to file the stipulation entered into by LG&E/KU and Mercer County Fiscal Court, which addressed the sale of property in Mercer County that is owned by KU to Mercer County Fiscal Court and the city of Harrodsburg. The stipulation is subject to Commission's approval, which will be determined in the final Order issued in this case.

Third, the Commission granted Mercer County Fiscal Court's verbal motion to excuse its witness, Mercer County Judge Executive Sarah Steele, who filed written

testimony regarding the property subsequently addressed in the stipulation. With no party or Commission Staff objecting, the Commission concluded that, with the stipulation under consideration, there was good cause to excuse Judge Steele.

From the bench during the hearing, the Commission agreed to take administrative notice of EPA's Memorandum to the Steam Electric Rulemaking Record, EPA-HQ-OW-2009-0819, captioned, Generating Unit-Level Costs and Loadings Estimates by Regulatory Option for the Proposed 2023 Effluent Limitations Guidelines, which was pre-marked at the hearing as Exhibit SC-7. Sierra Club filed the document into the case record on August 28, 2023. At the hearing, LG&E/KU did not object to Sierra Club's request to take administrative notice of the document.

IT IS THEREFORE ORDERED that:

1. LG&E/KU's motion to deviate from 807 KAR 5:001, Section 9(2)(b)(2), is granted.
2. LG&E/KU's motion for leave to file the stipulation is granted.
3. Mercer County Fiscal Court's motion to excuse Judge Steele is granted.
4. The Commission takes administrative notice of August 28, 2023 filing by Sierra Club of EPA's Memorandum to the Steam Electric Rulemaking Record, EPA-HQ-OW-2009-0819.
5. Post-hearing requests for information, if any, shall be filed on or before September 1, 2023.
6. Responses to post-hearing requests for information shall be filed on or before September 15, 2023.
7. The evidentiary record of this case is closed as of September 15, 2023.

8. All parties that choose to do so may file a memorandum brief in support of their respective post-hearing positions on or before September 22, 2023.

9. All parties that choose to do so may file a reply brief, responding to issues raised in other parties' respective briefs, on or before October 4, 2023.

10. This case shall stand submitted for a decision by the Commission effective 12:01 a.m. Eastern Daylight Time on October 5, 2023.

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PUBLIC SERVICE COMMISSION

  
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Chairman

  
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Vice Chairman

  
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Commissioner

ENTERED  
AUG 30 2023 rcs  
KENTUCKY PUBLIC  
SERVICE COMMISSION

ATTEST:

  
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