

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF LOUISVILLE GAS AND )  
ELECTRIC COMPANY AND KENTUCKY )  
UTILITIES COMPANY FOR A CERTIFICATE OF ) CASE NO.  
PUBLIC CONVENIENCE AND NECESSITY FOR ) 2002-00381  
THE ACQUISITION OF FOUR COMBUSTION )  
TURBINES AND A SITE COMPATIBILITY )  
CERTIFICATE FOR THE FACILITY )

O R D E R

Louisville Gas and Electric Company ( LG&E ) and Kentucky Utilities Company ( KU ) (collectively Applicants ) filed a joint application on October 18, 2002 requesting a Certificate of Public Convenience and Necessity and a Site Compatibility Certificate for the acquisition of four 152 Megawatt ( MW ) combustion turbines ( CTs ) from their unregulated affiliate, LG&E Capital Corporation ( LG&E Capital ). LG&E Capital purchased the turbines from General Electric ( GE ) in 2000 as part of a 10 CT package.

The Applicants estimate the total installed cost of the four CTs to be \$227,392,000. They state that the CTs are needed to reliably serve their customer loads, and that acquiring these CTs is the most reasonable, least-cost option available to meet those loads. Based on each utility s existing capacity and load, the application proposes that LG&E own 37 percent of the four CTs and KU own the remaining 63 percent. Applicants issued a Request For Proposal ( RFP ) for purchased power on July 26,2002. The responses to that RFP indicated that acquiring the four CTs

proposed would be the least-cost alternative for meeting LG&E s and KU s load requirements.

The Applicants planning reserve margin is based on a range of 13 to 15 percent. Based on their 2002 load forecasts, without additional capacity, the Applicants combined forecast reserve margin for 2004 will be 11.6 percent. With the acquisition of the four CTs, the forecasted reserve margin for 2004 will increase to 20.4 percent. For 2005 and 2006, the reserve margin is forecasted to be 17.7 and 14.8 percent, respectfully. In order to maintain a reserve margin close to 15 percent, Applicants would need two CTs for 2004, one CT for 2005, and another for 2006. The Applicants have considered this alternative and compared it to the acquisition of the four CTs in 2004. The analysis shows acquiring the four CTs for in-service in 2004 is the least-cost option due to the savings in construction and turbine price.

The Applicants filed a site assessment report pursuant to KRS 278.216 and 278.708. The report shows no adverse impact to the surrounding site. The CTs will be constructed at an existing generating site in Trimble County, Kentucky which has a coal fired unit and two CTs.

The Applicants state that if approval is granted the CTs will be transferred at cost, in accordance with the regulations of the Securities and Exchange Commission ( SEC ). Applicants indicate that this treatment is necessary due to the fact that their parent company, LG&E Energy, is part of the Powergen registered holding company system, an indirect subsidiary of E.ON AG.

The Attorney General ( AG ) and Kentucky Industrial Utility Customers, Inc. ( KIUC ) requested and were granted intervention in this proceeding. No testimony or objection to the acquisition of the four CTs was filed by either the AG or KIUC.

On February 10, 2003, The ERORA Group, L.L.C. ( ERORA ) filed a motion for intervention.<sup>1</sup> On February 10, 2003, the Applicants jointly filed an objection to the motion for intervention on the grounds that the issues presented by ERORA were too remote from the issues in, and the scope of, this proceeding. On February 20, 2003, the Commission denied ERORA s motion for intervention finding that the matters raised by ERORA were not matters for consideration in this proceeding. On February 24, 2003, ERORA filed a letter stating that it was acting as the exclusive broker to sell two CTs for a price of \$32,000,000 per CT and was authorized to offer the CTs to LG&E and KU. ERORA believes the CTs are identical in all material respects to the CTs that LG&E Capital has offered to sell LG&E and KU.

On February 27, 2003, the Commission found that the allegations made by ERORA in its letter of February 24, 2003 could affect the decision in this proceeding and ordered the Applicants to respond to certain information requests. LG&E and KU timely responded and stated that the ERORA proposal was grossly incomplete and unacceptable on its face.<sup>2</sup> The Applicants also claimed they could not accurately evaluate the alleged equivalency of the ERORA proposal without first obtaining specific

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<sup>1</sup> On January 31, 2003, ERORA filed a letter with the Commission offering to sell 8 MW of capacity from a qualified facility. On February 5, 2003, LG&E and KU filed a response to the ERORA letter stating that the amount of the capacity being offered is too small to be considered as a resource alternative.

<sup>2</sup> Response to the Commission s February 27, 2003 Order, Item 1.

information regarding 15 parameters.<sup>3</sup> The Applicants also noted that they have no basis to believe that the quoted \$32,000,000 per CT price is a true and accurate price for comparable units.<sup>4</sup>

On February 28, 2003, the Commission scheduled a hearing in this matter for March 5, 2003, for the sole purpose of investigating the offer made by ERORA and requested that ERORA attend the hearing, present testimony and respond to cross-examination. The hearing was duly held and evidence was received concerning the offer. It was established at the hearing that additional costs would have to be incurred to make the CTs offered by ERORA equivalent to the CTs offered by LG&E Capital.<sup>5</sup> It was also established that neither ERORA nor Mirant Corporation, the owner of the CTs offered by ERORA, would guarantee the CTs. Any warranties and guarantees for the ERORA CTs would have to be negotiated separately with GE at additional cost. No assurances were given by ERORA that GE would extend any warranties or guarantees to these turbines.<sup>6</sup> Accordingly, we conclude that the purchase of the ERORA CTs could not better serve the public than would the transaction proposed in the application.

The Applicants state that if approval is granted the CTs will be transferred at cost, in accordance with the regulations of the Securities and Exchange Commission ( SEC ). Applicants indicate that this treatment is necessary due to the fact that their

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<sup>3</sup> Id., Item 2.

<sup>4</sup> Id., Item 7.

<sup>5</sup> Transcript of Evidence ( T.E. ), March 5, 2003, at 38.

<sup>6</sup> T.E., March 5, 2003, at 70.

parent company, LG&E Energy, is part of the Powergen registered holding company system, an indirect subsidiary of E.ON AG.

This case has been closely scrutinized by this Commission to ensure that the transaction proposed by the Applicants is reasonable. The Commission acknowledges that the energy market is changing and recommends that LG&E and KU closely examine this market in any future transactions. We suggest that all RFPs issued by LG&E and KU in the future should closely reflect their needs and should address all power alternatives available. The Applicants should also be advised that, as in this case, all cases involving an affiliate transaction will be thoroughly examined.

Based on the evidence of record, the Commission finds that the acquisition of the four CTs proposed is reasonable and should be approved.<sup>7</sup> The Commission also finds that the Applicants have met the requirements for a Site Compatibility Certificate and that one should be granted. The Applicants should file their final determination of the cost of the transferred CTs within 30 days after the date of the transfer. The determination should be in accordance with the requirements of the SEC and LG&E Energy's Corporate Guidelines. All accounting entries made to the books of LG&E and KU relating to the transfer of the CTs and the allocation of the cost of the CTs between LG&E and KU should also be filed with the Commission within 30 days of the transfer.

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<sup>7</sup> In support of the request herein, the Applicants suggest that the Commission should approve the acquisition of the four CTs proposed because the Kentucky Division for Air Quality may, in the future, mandate a more restrictive NOx emission rate which would increase the cost of combustion turbines for the Applicants in the future. The Commission finds that the potential imposition of stricter NOx emissions in the future and any resultant increase in cost therefrom are not appropriate matters for consideration in this proceeding. Accordingly, they have not been considered.

IT IS THEREFORE ORDERED that:

1. LG&E is granted a Certificate of Public Convenience and Necessity for the acquisition of 37 percent of four 152 MW CTs at LG&E s Trimble County Generating Station and KU is granted a Certificate of Public Convenience and Necessity for the acquisition of the remaining 63 percent.
2. The Applicants request for a Certificate of Site Compatibility is granted.
3. Within 30 days of the date of the transfer of the CTs, the Applicants shall file their final determination of the cost of the CTs.
4. Within 30 days of the date of the transfer of the CTs, the Applicants shall file all accounting entries made to their books to record the transfer and the allocation of cost of the CTs.

Done at Frankfort, Kentucky, this 18<sup>th</sup> day of March, 2003.

By the Commission

ATTEST:

  
Executive Director