

COMMONWEALTH OF KENTUCKY
BEFORE THE STATE BOARD ON ELECTRIC
GENERATION AND TRANSMISSION SITING

In the Matter of:

The Application of the Illinois)	
Municipal Electric Agency and the)	
Indiana Municipal Power Agency)	Case No. 2005-00152
For a Merchant Electric Generating)	
Plant Certificate to Construct)	

Brief of the Joint Applicants Illinois Municipal Electric Agency
and the Indiana Municipal Power Agency

This proceeding was initiated on April 8, 2005 upon the filing of a notice of intent by the Joint Applicants, the Illinois Municipal Electric Agency (IMEA) and the Indiana Municipal Power Agency (IMPA). The Joint Applicants are participating with Louisville Gas and Electric Company ("LG&E") and Kentucky Utilities Company ("KU") in the development and construction of a 750 MW electric generating facility ("Trimble County Unit 2" or "TC 2") on the site of the existing Trimble County Generating Unit 1 ("Trimble County Unit 1" or "TC 1"). A companion case "Joint Application of Louisville Gas and Electric Company and Kentucky Utilities Company for a Certificate of Convenience and Necessity and a Site Compatibility Certificate for the Expansion of the Trimble County Generating Station, "Case No. 2004-0507, " was filed on December 17, 2004. That case

involves the request for a certificate of convenience and necessity to construct Trimble County Unit 2.

Because the Joint Applicants will collectively own and will sell their portion of the generating capacity to their respective wholesale customers in Indiana and Illinois, an application pursuant to KRS 278.704 is required. That application was filed on May 11, 2005. After the Joint Applicants filed supplemental information required by the Board, the application was determined to be administratively filed on May 31, 2005.

The Board on April 21, 2005, filed into the record of the case the report of its consultant, BBC Research and Consulting, which favorably evaluated the Site Assessment Report. Louisville Gas and Electric Company and Kentucky Utilities Company (collectively, the "Companies") moved to intervene on May 27 and were granted full intervention on June 9. On June 15, the Board issued a procedural schedule and subsequently on June 30, scheduled an evidentiary hearing for August 24, 2005. There were a number of requests by the public for a public hearing, which was held in Bedford, Kentucky on July 6.

On July 19, 2005 the Board issued an order determining that additional notice should be provided to certain residents that live near the 2100 acres surrounding the proposed Trimble County Unit 2 site owned by LG&E. That notice was given by the Joint Applicants on July 21. The Board then issued an order finding that the application was administratively complete. On August 2, 2005, the Board granted intervention to the International Brotherhood of

Electrical Workers, Local 2100 (IBEW), and the Greater Louisville Building and Construction Trades Council (Trades Council).

On August 29 the IBEW filed a motion to supplement the record with various documents from Case 2004-00507. The Joint Applicants made a similar motion regarding other documents in that case. Both motions were granted from the bench at the evidentiary hearing held on September 19.

At the September 19 hearing, the Joint Applicants presented three witnesses – L. Gayle Mayo, Executive Vice President and Chief Operating Officer for IMPA, Robert Childers, Director of Finance and Business for IMEA and Paul Coomes, PhD. The IBEW presented Larry Roberts, state Director for the Kentucky State Building and Construction Trades Council and the Companies presented John Voyles, Vice President of Regulated Service.

I. Description of IMEA and IMPA and their ownership interests.

IMEA is a municipal power agency established pursuant to Illinois statute. IMEA is a body politic and corporate, municipal corporation and unit of local government of the State of Illinois. IMEA's primary function is to provide wholesale power to its members, all of which own and operate their own municipal electric distribution systems. IMEA currently consists of 40 members, 29 of which have executed long-term power supply agreements to purchase their full-requirements power supply from IMEA. In addition to power supply, IMEA provides among other services, engineering, lobbying, load retention and economic development services to its members. It is governed by a Board of Directors, with one director representing each member.

IMPA is a joint action agency formed pursuant to Indiana statute by municipally owned electric utilities in Indiana. IMPA is a body corporate and politic and a political subdivision of the State of Indiana. It currently has 40 members. IMPA members purchase their power supply solely through IMPA. It is governed by a Board of Commissioners, with one commissioner representing each member community.

IMEA and IMPA collectively own an undivided 25% interest in the existing Trimble County Generating Station, also referred to as Unit 1. Pursuant to their respective Trimble County Unit 1 Participation Agreements with LG&E, they have exercised their respective rights to participate in the development and ownership of the new project, referred to as Trimble County Unit 2. IMEA and IMPA will use their portion of this project to provide wholesale power to their respective members pursuant to long-term contracts. None of the power owned by IMEA or IMPA from the Trimble County units will be sold at retail to Kentucky customers.

IMEA and IMPA have entered into a Participation Agreement with LG&E and KU to participate as tenants-in-common in the ownership of the proposed Trimble County Generating Station, referred to as Trimble Co. Unit 2. Application Exhibit A. IMEA will own an undivided 12.12% interest and IMPA will own an undivided 12.88% interest in Trimble County Unit 2. Pursuant to their exercise of rights of first refusal set forth in their respective Participation Agreements governing Trimble County Unit 1, IMEA and IMPA have the same ownership interests in the proposed Trimble County Unit 2 generating facility as they have in the existing Trimble County Unit 1 facility. The terms of the Participation Agreement for Trimble County

Unit 2 are comparable to those of the Participation Agreements for Trimble County Unit 1.

As a result of their respective ownership interests, IMEA and IMPA will share in the development, construction and operations costs of the proposed facility and will have a right to a proportionate share of the generating capacity, all according to the terms of the Participation Agreement.

Because IMEA and IMPA will sell their share of the Trimble County Unit 2 output to their respective wholesale customers in Illinois and Indiana, their 25% ownership interest in the facility qualifies as a "merchant plant" under KRS 278.700 et seq. As such, IMEA and IMPA need Kentucky Siting Board approval for the construction of the facility. Obviously, because LG&E and KU are the majority owners and are required to obtain a certificate of convenience and necessity from the Public Service Commission for the construction of the facility, that Commission's decision in Case 2004-00507, "Joint Application of Louisville Gas and Electric Company and Kentucky Utilities Company for a Certificate of Convenience and Necessity and a Site Compatibility Certificate for the Expansion of the Trimble County Generating Station", will have a significant impact on the outcome of this proceeding.

The power from TC2 is essential to the fulfillment of IMEA's and IMPA's energy forecasts. IMEA's and IMPA's capacity and energy requirements have increased considerably over the past 15 years and are projected to continue to increase each year for the foreseeable future. In order to economically serve such

increases, additional sources of long-term base load capacity and energy will be required. The Joint Applicants and their consultants have continuously investigated numerous alternatives available within the region to supply the base load energy requirements of their respective membership for the next thirty years or more. Based on these detailed investigations, they have concluded that an ownership interest in Trimble County Unit 2 is the most cost-effective means of meeting a portion of their long-term base load capacity and energy requirements. Without this additional resource, Joint Applicants will not have sufficient base load capacity or energy to serve the total obligations of its current full requirements members with the most economical resources.

II. Description of facility

Trimble County Unit 2 will include a 750 MW boiler and associated steam turbine generator. The building structures that will house the required equipment packages are indicated on Figures 2-1 and 2-2 of the Site Assessment Report, Exhibit B. TC2 is currently designed to include selective catalytic reduction (SCR), bag house, wet limestone scrubber, and a wet electrostatic precipitator (ESP) for air quality control.

No proposed improvements are planned to extend above the existing structures. The existing hyperbolic cooling tower was originally designed for two 500 MW coal units and there are no plans to build a second hyperbolic cooling tower.

TC2 is proposed as a super-critical pulverized coal unit, and will be designed

with substantial fuel flexibility to allow for better management of coal costs for today's needs and beyond. In addition, the super-critical pulverized coal technology has a higher thermal efficiency as compared to other thermal power cycles, such as sub-critical pulverized coal and circulating fluidized bed units, reducing fuel costs by decreasing the amount of coal burned in relation to the amount of electricity produced.

There are also environmental benefits from that efficiency, because as less coal is combusted to produce the energy, fewer pollutants are emitted as a by-product of that combustion. TC2 will also employ state of the art air pollution control equipment to ensure environmental compliance. TC2 will employ the most modern air pollution control equipment available, resulting in reduced SO₂ and NO_x emissions. TC2 will also be designed to meet mercury emission limits which are more stringent than most federal requirements. As a result, TC2 will have only minimal impact on air quality levels.

II. Site Location

The site is on the existing Trimble County Unit 1 property near Bedford, Kentucky. The Trimble County Unit 2 site is situated on the Ohio River, approximately 5.6 miles west of the Town of Bedford, Kentucky, on U.S. Highway 1843. A vicinity map is attached as Exhibit C to the Application. A facility layout and building location is attached as Exhibit D of the Application. In general, Trimble County is composed predominantly of rural areas. The areas surrounding the plant include scattered residences, agricultural land, and wooded areas. A very small

residential community referred to as Wises Landing is located south of the Trimble County Station on the south side of Highway 754.

The proposed site is bordered to the west by the Ohio River, to the north by agricultural land, and to the east by a steep, wooded hillside. The surrounding areas are predominantly undeveloped and are rural in nature.

TC2 will utilize the existing stack for Unit 1, as it was originally designed to support two units. The existing stack is in compliance with the setback requirements described in KRS 278.704. Specifically, the existing stack is located more than 1,000 feet from the nearest property boundary and more than 2,000 feet from the nearest residential boundary. There are no local setback requirements that apply to the site. See Exhibit H of the Application.

The nearest property owners are listed in Exhibit E of the Application and shown on a map of the adjacent property, which is included with Exhibit E. As noted above, the nearest residential community is Wises Landing, which is approximately 3,000 feet from the proposed site. The nearest schools are located in Bedford, approximately 5 miles from the proposed facility. There are no hospitals or nursing homes within the set back requirements of the proposed facility. There are no public or private parks within the set back requirements of the proposed facility.

There are no local ordinances or regulations related to noise control. There is no planning and zoning regulation in Trimble County which would apply to the proposed facility. A letter from the Trimble County Judge/Executive is attached as

Exhibit H to the Application.

IV. Impact of the facility on scenic surroundings, property values, the pattern and type of development of adjacent property and surrounding roads

The Site Assessment Report discusses this issue and provides basic information about the impact on these factors. The BBC Research and Consulting Report confirms that these factors are not significantly impacted and that the proposed project is compatible with the surrounding area and will not have a significant impact on property values.

The BBC Report states on Section B, page 2: "Given the existing plant, TC2 is compatible with its scenic surroundings." That Report goes on to say on that same page: "More importantly, the BBC team is confident that the addition of TC2 to the existing Trimble County Station will not have any measurable effect on local property values."

The BBC Report did indicate that there were some concerns about traffic and road conditions near the plant. See Section B, page 3:

Immediate access to the Trimble County Station is provided via three access roads from State Highway 1838 which, in turn, is accessed locally primarily through State Highways 754 (from Bedford, KY) and 625 (from Milton, KY). U.S. Highways 421 and 42 are the main arteries or rural primary routes that provide access to Trimble County. Local interviews indicated that construction related traffic was a significant concern. The concerns focus on State Highways 754 and 625; State Highway 1838, immediately in front of the power plant site is not an issue. State Highway 754 is viewed as too narrow and winding. State Highway 625 has similar issues and a bridge that is sub-standard because the road base is collapsing around the culverts. Local officials also voiced concern regarding the transportation schedules associated with the ammonia trucks accessing the plant.

However, it recommended mitigation practices that would address these concerns:

Hire locally qualified construction workers, especially those familiar with local roads, to the extent possible.

Direct construction traffic to least impacting routes and times of the day.

Communicate with local officials regarding ammonia truck deliveries.

Seek to improve compliance of hauling contractors with local traffic laws.

Monitor traffic issues during construction and take action as needed.

Both the Joint Applicants and LG&E have acknowledged these mitigation suggestions and have pledged cooperation to limit any impact on local residents.

Hearing Tr. pp. 19, 24, and 76)

V. Anticipated Noise levels

The BBC Report found that the potential noise issues are not an impediment to the construction of the proposed project.

The noise studies performed for LG&E as part of this SAR utilized appropriate methodology and applied that methodology correctly. The results of the noise survey appear to be credible and were confirmed during supplemental information gathering and field investigations. The noise modeling conducted for purposes of the SAR did not address construction or various intermittent activities such as steam blows.

The most important noise related issue associated with TC2 relates to steam blows. As many as two planned, plus a number of unplanned steamblows, occur each year with TC1. These are an inevitable aspect of steam generating plants and LG&E works to keep such steamblows to a minimum. Even so, there are likely to be more steamblows after TC2 goes into operation.

Noise levels during TC2 construction are unlikely to create a significant incremental effect over current noise levels at the plant site. If construction related traffic is focused on U.S. Highway 42 and State Highway 754, traffic related noise is likely to be manageable, although there is uncertainty given the substantial traffic volume increases that will occur during that four-year period. (BBC Report, Section B, page 3)

VI. Analysis of the proposed facility's economic impact on the affected region of the state

The Joint Applicants retained Paul Coomes, PhD. to review the economic impact of the proposed installation of TC2. He concluded that the inclusion of the Joint Applicants in the project would produce significant economic benefits.

By arranging for participation by the Indiana and Illinois municipalities, the plant can be sized to a larger customer base, and take advantage of the economies of scale that come with a larger plant. Both LG&E Energy customers and the Indiana and Illinois municipally-owned electricity customers will benefit, from the reliable electricity stream and from lower costs than alternative energy sources.

Overall costs are lower per kilowatt with a 750 megawatt plant relative to a 500 or 250 megawatt plant. (Coomes Report, p.1, Application Exhibit L)

Dr. Coomes provided some relevant estimates on the reduction in cost per kilowatt as the peak load rises for both the subcritical and supercritical units:

The supercritical 750 MW plant has the lowest average cost per kilowatt.

Ready access to coal fields, inexpensive water transportation, and proximity to large industrial customers make the Ohio River valley the lowest or second-lowest (after the Pacific northwest) cost place in the United States to generate electricity. With large scale generation capacity, associated low unit costs of production, and advances in transmission technology, it is economically feasible for plants in Kentucky to export power to customers in surrounding states.

In this sense, the proposed Trimble plant can have positive economic and fiscal impacts in Kentucky. The portion of the electricity that is exported to customers in surrounding states supports some of the construction and operations costs, which in turn support jobs and payrolls, and ultimately some new tax revenues for Kentucky state and local governments. (Coomes Report, pages 1-2)

Dr. Coomes also determined that the new plant would generate significant new taxes for local and state governments:

The new plant will generate an array of taxes for state and local governments. Construction work will generate sales taxes on some of the goods purchased, and construction workers will pay state income and sales taxes. Once operational, the plant will generate property taxes for the state of Kentucky and Trimble County governments, including the county public school system. And the new workers associated with the plant will spend much of their income in the regional economy, generating state income, state sales, and local occupational taxes. It is estimated that \$312,055 in property taxes will be generated for Trimble County Government, \$560,604 generated for Trimble County Schools, \$1,090,215 generated for State Government on manufacturing machinery and \$492,719 for other tangible property. Additional taxes are also likely, though much harder to quantify. For example, proprietors and corporations around the region will be liable for state individual and corporate income taxes, and for some 'net profits' taxes in cities and counties where these are levied, e.g., Jefferson County, Kentucky. Gasoline taxes, coal severance taxes, insurance premiums taxes, building permit fees, motor vehicle sales taxes, and many other government revenue categories will see some growth due to the plant. These categories are much harder to measure, but fortunately are not as important dollar-wise as the main taxes I do measure in this report...

LG&E Energy estimates that Kentucky sales taxes from construction activity will amount to \$2.65 million, of which one-fourth can be treated as new, or export-based. Many of the components purchased during the construction phase are exempt from state sales payrolls, the Kentucky sales tax on construction materials, and the buildup of property taxes as the plant and transmission lines are constructed. Note that there are very significant new Kentucky tax revenues during the operations phase, due primarily to the \$614,000 in additional annual property taxes paid by the Indiana and Illinois participants. This amounts to \$18.4 million in new Kentucky property tax receipts over the thirty-year horizon considered here. Another \$4.6 million in state and local taxes are estimated to accrue to governments in Indiana over the horizon, primarily for Indiana state income and sales taxes from workers in the region. (Coomes Report, pages 7-8)

Clearly, the presence of the Joint Applicants as participants in this project enhances the economic benefits to the region.

VII. The facility is being built on the site of an existing generating facility capable of generating ten megawatts or more of power.

The proposed TC2 is to be built on the property where the existing TC1

Facility is operating.

VIII. The proposed facility will meet all local planning and zoning requirements that existed on the date the application was filed.

There are no planning and zoning requirements or set back requirements in Trimble County. See Exhibit H of the Application.

IX. An analysis of the proposed facility's projected effect on the electricity transmission system in Kentucky

The studies related to the effect on the existing transmission facilities are attached as Exhibit J of the Application. A Generation Interconnection Evaluation is attached as Exhibit K. The terms of interconnection of the existing facilities of Louisville Gas and Electric Company and Kentucky Utilities Company are included in the Participation Agreement, attached as Exhibit A. The Midwest Independent System Operator, Inc. ("MISO") has performed several studies regarding the adequacy of existing transmission facilities. MISO performed a Generation Interconnection Evaluation and Facilities Study (MISO Project G218) to determine any facility upgrades or expansions necessary to interconnect Trimble County 2 to the existing transmission system. Several upgrades and expansions were identified. LG&E and KU have applied to the Public Service Commission for approval to construct these facilities. Pursuant to the Participation Agreement, the cost of the required interconnection facilities will be borne by the joint owners of Trimble County 2 in proportion to their ownership interests.

MISO also performed separate System Impact Studies and, if appropriate, Facility Studies for LG&E, IMPA and IMEA, respectively, to determine any facility

upgrades or expansions required to deliver each joint owner's output from Trimble County Unit 2 to that joint owner's loads. Those studies are identified by their MISO OASIS Request Number: 75052130 for LG&E, 75293633 for IMPA and 75230122 for IMEA. The studies for LG&E identified required facility upgrades and expansions on the LG&E transmission system. The studies for IMPA identified one required facility upgrade in Indiana. The study for IMEA did not identify any required facility upgrades or expansions. Beyond those discussed above, there are no other facilities required to be constructed or upgraded in Kentucky as a result of IMPA and IMEA's ownership interests in Trimble County Unit 2. All of these studies have been filed as Exhibits J and K to the Application.

X. Except where the facility is subject to a statewide setback established by a planning and zoning commission as provided in KRS 278.704(3) and except for a facility proposed to be located on site of a former coal processing plant and the facility will use on-site waste coal as a fuel source, whether the exhaust stack of the proposed merchant electric generating facility is at least one thousand (1,000) feet from the property boundary of any adjoining property owner and two thousand (2,000) feet from any residential neighborhood, school, hospital, or nursing home facility. If a planning and zoning commission has established setback requirements that differ from those under KRS 278.704(2), the applicant shall provide evidence of compliance. If the facility is proposed to be located on site of a former coal processing plant and the facility will use on-site waste coal as a fuel source, the applicant shall provide evidence of compliance with the setback requirements provided in KRS 278.704(5)

This section is not applicable to the Application.

XI. The efficacy of any proposed measures to mitigate adverse impacts that are identified pursuant to paragraph (a), (b), (e), or (f) of this subsection from the construction or operation of the proposed facility

The BBC Report recommended several mitigation actions that it concluded would resolve any potential problems with the proposed construction. There was no challenge to the findings of that Report and no offer of any

additional mitigation requirements by any party. The recommendations of the BBC Report are as follows:

Description of the proposed facility/site development plan. The following mitigation measures are recommended for this aspect of the statutory requirements:

1. As indicated in the SAR [the Companies' Site Assessment Report], the applicant should conduct a security assessment after construction plans are finalized. The applicant should also coordinate closely and share information with the Trimble County Sheriffs office before and during construction.
2. As indicated in the SAR and other documents prepared by the applicant, the applicant should use the existing stack for exhaust from TC2 as well as from the existing coal-fired unit, TCI, rather than constructing a new stack.

Compatibility with scenic surroundings. The following mitigation measures are recommended to address this potential issue:

3. Colors and lighting selected for the new power plant components should be consistent with the existing features of the Trimble County Station.

Potential changes in property values for adjacent property owners. The following mitigation measures are recommended for this aspect of the statutory requirements:

4. No mitigation is suggested for this element of the statutory requirements.

Expected noise from construction and operation. The following mitigation measures are recommended to address this potential issue:

5. LG&E should monitor construction-related traffic flows through Trimble County and encourage the use of routes that minimize noise and disruption for local residents - probably focusing traffic on Highway 754 and seeking to minimize additional traffic on Highway 625.

For planned outages and steamblooms, LG&E should install silencers to dampen the resulting noise. LG&E might also consider developing a telephone warning system to notify the nearest residents to the north and east (approximately 13 homes) and residents of Wises Landing (approximately 37 homes). Newspaper advertisements should also be continued.

Impacts on transportation. The following mitigation measures are recommended for this aspect of the statutory requirements:

7. The applicant should seek to direct traffic onto the least impacting routes and schedule construction shifts and deliveries to minimize additional traffic during school bus transit periods and commuting peaks.
8. LG&E should enhance communication with local officials regarding the timing and routes for ammonia truck deliveries.
9. The applicant should encourage hauling contractors to improve their compliance with local traffic laws.
10. Throughout the construction period, LG&E should closely monitor traffic issues and concerns that arise during construction and work with local officials to take action as needed.
11. LG&E should encourage its contractors to consider hiring locally qualified construction workers, where possible. At least some of these individuals will be familiar with local roads, reducing potential safety issues.

Overall Recommendations Concerning Siting Issues Related to the Proposed TC2 Project

After reviewing and evaluating the applicant's SAR, visiting the site and gathering additional information and conducting further analyses where necessary, the BBC team recommends the following concerning the siting aspects of the proposed TC2 project:

A. While we have noted a few deficiencies in the SAR, we believe these deficiencies have been largely addressed in this report. We do not believe that additional data is likely to change the findings and conclusions or specific mitigation recommendations contained herein.

B. Presuming the project is developed as specified in the applicant's SAR and the supplemental information provided by the applicant, and presuming that the mitigation recommendations provided herein are implemented by the applicant, we do not believe there will be significant unmitigated impacts from the development and operation of the TC2 project within the topic areas specified for the site assessment.

The Joint Applicants agreed to accept these recommendations. The witness for IMPA, Ms. Mayo, and the witness for IMEA, Mr. Childers, testified that their respective agencies acknowledge and agree to be bound by the

recommendations. (See Hearing Tr pp. 19, 24)

Mr. Voyles, the witness for LG&E also testified that his company has no problem with the recommendations and will make every effort to comply with them. (See Hearing Tr. pp. 70)

XII. Whether the applicant has a good environmental compliance history.

A description of the one very minor administrative violation by IMPA is described in Exhibit M of the Application. There are no pending administrative or judicial actions against either IMPA or IMEA. Given the scope and size of IMEA's and IMPA's operations, the lack of any material violations is proof of their awareness of their responsibility and commitment to the environment and regulatory requirements.

XIII. When considering an application for a construction certificate for a merchant electric generating facility, the board may consider the policy of the General Assembly to encourage the use of coal as a principal fuel for electricity generation as set forth in KRS 152.210, provided that any facility, regardless of fuel choice, shall comply fully with KRS 224.10-280, 278.212, 278.216, and 278.700 to 278.716

The fuel to be used at TC2 is coal. As Mr. Voyles stated in his prefled testimony, page 4, in Case No. 2004-00507, incorporated by reference into this proceeding:

The design fuel selection was focused around utilization of Kentucky coals and other regional bituminous high sulfur coals. However, the plant had to be able to burn a wide range of fuels, including western sub-bituminous coal...

Because the proposed facility is designed to use coal as its primary fuel, the

project meets this requirement of the statute.

XIV. A site assessment report as specified in KRS 278.708.

A Site Assessment Report was attached as Exhibit B to the Application. The BBC Report found that it met the statutory criteria and that no additional information or supplemental investigation was necessary:

BBC has noted a number of deficiencies in the SAR within this review document. However, we believe that these deficiencies have been largely addressed through supplemental research and investigation, including additional information provided by the applicant. We believe that further studies would not modify the findings and conclusions, and therefore recommend that the applicant not be required to revise its initial SAR.

XV. No person shall commence to construct a merchant electric generating facility until that person has applied for and obtained a construction certificate for the facility from the board. The construction certificate shall be valid for a period of two (2) years after the issuance date of the last permit required to be obtained from the Natural Resources and Environmental Protection Cabinet after which the certificate shall be void. The certificate shall be conditioned upon the applicant obtaining necessary air, water, and waste permits. If an applicant has not obtained all necessary permits and has not commenced to construct prior to the expiration date of the certificate, the applicant shall be required to obtain a valid certificate from the board.

Louisville Gas and Electric Company and Kentucky Utilities Company have applied for a certificate to construct the facility referred to as Trimble County 2. That matter is pending in Public Service Commission Case No. 2004-00507. The Companies are also responsible for obtaining all necessary permits from Kentucky regulatory agencies as stated in the Participation Agreement. IMEA and IMPA have obtained the permits listed in Exhibit N.

XVI. Labor Issues

The Intervenors, IBEW and Trades Council, raised the question of imposing a Project Labor Agreement (PLA) on the Joint Applicants to require the TC2 contractor to use local union crafts for the construction of the facility. The Joint Applicants are not in a position to require such a condition. The Participation Agreement, section 5.5, gives LG&E and KU the decision-making authority over the construction of the facility. While the Joint Applicants have no objection to such a decision by LG&E and KU, they cannot impose it or enforce such a condition or restriction on the Companies. The Joint Applicants agree with LG&E and KU that every effort should be made to use local labor, including qualified workers from Trimble County. However, the focus should be on qualified workers, quality workmanship and timely, cost-effective completion of the project, as Mr. Voyles testified. (Hearing Tr. pp 82-84)

XVII. Property owner s' concerns

The Joint Applicants are concerned with the issues that several nearby property owners have raised - specifically, concerns about air and noise pollution. As the record indisputably demonstrates, however, the technology being used for TC2 is very effective in minimizing these environmental aspects of the plant's operations. The planned environmental technologies, along with technology upgrades on TC1, will result in TC2 having only a minimal impact on air quality levels. In addition, the super-critical pulverized coal technology has a higher thermal efficiency as compared to other thermal power units. There are environmental benefits from that efficiency, because as less coal is combusted to

produce the energy, fewer pollutants are emitted as a by-product of that combustion. TC2 will also employ state-of the-art air pollution control equipment to ensure environmental compliance. (See Voyles Direct Testimony, Case 2005-00152, pages 2-3).

The TC2 Prevention of Significant Deterioration Construction Permit Application and Title V Operating Permit Application are based on a net increase of less than 40 tons per year in emissions of NO_x and SO₂ at the Trimble Station. (Voyles Direct Testimony, Case 2004-00507 at page 2; Dodson Direct Testimony, Case 2004-00507 at page 3).

TC2 will also be designed and constructed to meet mercury emission limits which are more stringent than those required by the most recent federal legislation. The result of these planned technologies, when coupled with environmental technology upgrades on TC1, is that TC2 will have only a minimal impact on air quality levels. (Voyles Direct Testimony, Case 2005-00152, page 3). Mr. Voyles also discusses other air quality mitigation factors on pages 7-8 of his testimony in this case. In particular he explains the Companies' efforts to minimize the "blue plume" occasionally seen coming from TC1.

Another concern of the local residents is noise, particularly from steam blows. The Companies have designed the vents to minimize the noise. (Hearing Tr. pp. 74 -75) and are utilizing other noise suppression technologies to control the number of releases and the noise associated with those events. (LG&E Post Hearing Exhibit)

Finally, there were comments about the condition of the area around the plant site. Mr. Voyles testifies that the Companies are currently removing some now-unoccupied houses and attempting to improve the appearance of some of the vacant land near Ogden Road and Wentworth Road. (Voyles Direct Testimony, Case 2005-00152, page 7).

The Joint Applicants support the Companies' actions to mitigate these issues and encourage them to continue to monitor the progress of their public relations improvement efforts.

XVIII. This project meets the criteria for a merchant generating plant pursuant to KRS 278.710

KRS 278.710 provides for the issuance of an order approving the construction of a merchant generating facility if the board by majority vote determines the following criteria have been satisfied:

- a) Impact of the facility on scenic surroundings, property values, the pattern and type of development of adjacent property, and surrounding roads;
- (b) Anticipated noise levels expected as a result of construction and operation of the proposed facility;
- (c) The economic impact of the facility upon the affected region and the state;
- (d) Whether the facility is proposed for a site upon which existing generating facilities, capable of generating ten megawatts (10MW) or more of electricity, are currently located;
- (e) Whether the proposed facility will meet all local planning and zoning requirements that existed on the date the application was filed;
- (f) Whether the additional load imposed upon the electricity transmission system by use of the merchant electric generating facility will adversely affect the reliability of service for retail customers of electric utilities regulated by the Public Service Commission;
- (g) Except where the facility is subject to a statewide setback established by a planning and zoning commission as provided in

KRS 278.704(3) and except for a facility proposed to be located on site of a former coal processing plant and the facility will use on-site waste coal as a fuel source, whether the exhaust stack of the proposed merchant electric generating facility is at least one thousand (1,000) feet from the property boundary of any adjoining property owner and two thousand (2,000) feet from any residential neighborhood, school, hospital, or nursing home facility. If a planning and zoning commission has established setback requirements that differ from those under KRS 278.704(2), the applicant shall provide evidence of compliance. If the facility is proposed to be located on site of a former coal processing plant and the facility will use on-site waste coal as a fuel source, the applicant shall provide evidence of compliance with the setback requirements provided in KRS 278.704(5);

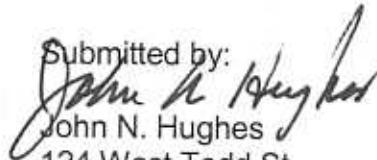
(h) The efficacy of any proposed measures to mitigate adverse impacts that are identified pursuant to paragraph (a), (b), (e), or (f) of this subsection from the construction or operation of the proposed facility; and

(i) Whether the applicant has a good environmental compliance history.

(2) When considering an application for a construction certificate for a merchant electric generating facility, the board may consider the policy of the General Assembly to encourage the use of coal as a principal fuel for electricity generation as set forth in KRS 152.210, provided that any facility, regardless of fuel choice shall comply fully with KRS 224.10-280, 278.212, 278.216, and 278.700 to 278.716.

The Joint Applicants have satisfied all of these criteria. For these reasons, the Joint Application for approval of the construction of a merchant generating facility should be approved.

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Certificate of Service:

I certify that a copy of this Brief was served on the following parties by first class mail the 7th day of October, 2005 and electronically as required by Board regulations.

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