

**COMMONWEALTH OF KENTUCKY**  
**BEFORE THE PUBLIC SERVICE COMMISSION**

**In the Matter of:**

**THE 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**

**AMENDED APPLICATION**

Louisville Gas and Electric Company (“LG&E”), pursuant to KRS 278.020(1), KRS 278.183, and 807 KAR 5:001, Sections 8 and 9, hereby petitions the Kentucky Public Service Commission (“Commission”) by application to issue an order declaring that LG&E may recover through its Environmental Cost Recovery mechanism (“ECR”) the cost to construct a new wet flue gas desulfurization system (“WFGD”) to serve Unit 3 at the Mill Creek Generating Station without modifying LG&E’s 2011 Environmental Compliance Plan (“2011 Plan”). A copy of LG&E’s 2011 Environmental Compliance Plan is attached as Amended Application Exhibit 1. LG&E argues no 2011 Plan modification is necessary because the 2011 Plan only specifies a flue gas desulfurization system as the control facility (column 3 on Amended Application Exhibit 1) that is the means of removing SO<sub>2</sub> from Unit 3’s flue gas.

In the alternative, LG&E respectfully asks the Commission to issue an order modifying Project 26 of LG&E’s 2011 Plan to allow LG&E to recover through its ECR the cost to construct a new WFGD to serve Mill Creek Unit 3 instead of upgrading the existing WFGD at Mill Creek Unit 4 for Unit 3’s use. The proposed new WFGD should result in a lower net-present-value revenue requirement than LG&E’s original proposal to remove the existing WFGD for Mill Creek Unit 3 and to tie Unit 3 into the upgraded existing Mill Creek Unit 4 WFGD.

If the Commission determines that a 2011 Plan modification is necessary, LG&E further respectfully asks the Commission to issue an order stating that no public notice is required because LG&E is not requesting a change to a tariff or rate. If the Commission determines public notice is necessary, LG&E respectfully asks the Commission to deem LG&E's notice to all of the parties to the 2011 Plan concerning LG&E's October 25, 2012 Application in this proceeding to be substantial compliance with any applicable public notice requirement.<sup>1</sup>

Because time is of the essence, LG&E respectfully asks the Commission to issue a Final Order in this proceeding by January 18, 2013.

In support of this Amended Application, LG&E states as follows:

1. LG&E hereby incorporates by reference the entirety of its October 25, 2012 Application in this proceeding.

2. On June 1, 2011, LG&E filed with the Commission an application seeking approval of its 2011 Environmental Compliance Plan and the granting of Certificates of Public Convenience and Necessity ("CPCNs") necessary for the plan.<sup>2</sup> The plan contained Project 26, which consisted of several environmental compliance items for the Mill Creek Generating Station, including flue-gas desulfurization for Unit 3. LG&E's application and supporting testimony explained that, based on preliminary engineering, LG&E intended to achieve the

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<sup>1</sup> 807 KAR 5:001 Section 10 Applications for General Adjustment in Existing Rates does not apply to this application because the application does not request a general adjustment in existing rates. 807 KAR 5:011 Section 8 does not apply to this application because the application does a change in the filed-rate (i.e., the environmental surcharge tariffs). The Commission has reserved the authority to grant deviations from both regulations for good cause shown. 807 KAR 5:001 Section 14; 807 KAR 5:011 Section 14. In the event the Commission determines that either or both regulations are applicable, LG&E requests the Commission grant deviations from both regulations or, in the alternative, determine LG&E's notice to the parties in the previous case is sufficient to notice for purposes of these regulations.

<sup>2</sup> *In the Matter of: The Application of Louisville Gas and Electric Company for Certificates of Public Convenience and Necessity and Approval of Its 2011 Compliance Plan for Recovery by Environmental Surcharge*, Case No. 2011-00162, Application (June 1, 2011).

necessary flue-gas desulfurization for Unit 3 by removing the existing WFGD for Mill Creek Unit 3 and to tie Unit 3 into the upgraded existing Mill Creek Unit 4 WFGD.<sup>3</sup>

3. The Commission issued its Final Order in LG&E's 2011 Plan case on December 15, 2011. The Commission granted LG&E's requested CPCN for Mill Creek Unit 3.<sup>4</sup> The order further stated, "LG&E's 2011 Environmental Compliance Plan, consisting of Project 26 and Project 27, is approved."<sup>5</sup>

4. As described at length in LG&E's Application in this proceeding, LG&E conducted more refined engineering during and after the 2011 Plan proceeding, and LG&E received bids to perform the work necessary for Unit 3. LG&E determined that building a new WFGD for Unit 3 would result in a lower overall net-present-value revenue requirement than would be upgrading Unit 4's existing WFGD for Unit 3's use.

5. Before filing its Application in this proceeding, LG&E contacted all parties to Case No. 2011-00162, LG&E's 2011 Environmental Compliance Plan case, to notify them of LG&E's intent. LG&E met with all the Case No. 2011-00162 parties and the Commission Staff at the Commission's offices on October 10, 2012 to explain LG&E's plan.

6. On October 25, 2012, LG&E filed with the Commission an application pursuant to KRS 278.020(1), KRS 278.183, and 807 KAR 5:001 Sections 8 and 9 asking the Commission to modify the CPCN the Commission had granted to LG&E in Case No. 2011-00162 authorizing LG&E to remove the existing WFGD for Mill Creek Unit 3 and to tie Unit 3 into the upgraded existing Mill Creek Unit 4 WFGD. By letter dated November 2, 2012, the Commission informed LG&E that its Application was not deficient.

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<sup>3</sup> See, e.g., *id.* at 3.

<sup>4</sup> *In the Matter of: The Application of Louisville Gas and Electric Company for Certificates of Public Convenience and Necessity and Approval of Its 2011 Compliance Plan for Recovery by Environmental Surcharge*, Case No. 2011-00162, Order (Dec. 15, 2011).

<sup>5</sup> *Id.* at 21.

7. On November 1, 2012, the Commission Staff issued a letter to LG&E seeking clarification of its Application. The letter asked if LG&E intended to recover the costs of the new WFGD through LG&E's ECR, which the letter stated would require an additional application to seek a modification of LG&E's 2011 Environmental Compliance Plan, or whether LG&E intended to forego such cost recovery through the environmental surcharge.

8. Pursuant to KRS 278.183, LG&E is "entitled to the current recovery of its costs of complying with the Federal Clean Air Act as amended and those federal, state, or local environmental requirements which apply to coal combustion wastes and byproducts from facilities utilized for production of energy from coal in accordance with the utility's compliance plan." It is LG&E's desire and intent to recover through its ECR the cost of the proposed new Mill Creek Unit 3 WFGD as part of the 2011 Plan.

**Because LG&E's 2011 Environmental Compliance Plan States the Control Facility and Not the Precise Means of Achieving Compliance, LG&E Does Not Need a 2011 Plan Modification to Recover through Its ECR the Cost of the Proposed Mill Creek Unit 3 WFGD**

9. LG&E's 2011 Environmental Compliance Plan (see Amended Application Exhibit 1) consists of two pages, one page to address projected capital costs, the other to address projected operating and maintenance expenses.<sup>6</sup> LG&E's 2011 Plan application explicitly refers to this two-page document as its "2011 Environmental Compliance Plan," and the document itself is so titled.

10. LG&E's 2011 Environmental Compliance Plan lists two projects, Projects 26 and 27, the former of which addresses compliance needs for the Mill Creek Generating Station. The

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<sup>6</sup> *In the Matter of: The Application of Louisville Gas and Electric Company for Certificates of Public Convenience and Necessity and Approval of Its 2011 Compliance Plan for Recovery by Environmental Surcharge*, Case No. 2011-00162, Application Exhibit 1 (June 1, 2011); *In the Matter of: The Application of Louisville Gas and Electric Company for Certificates of Public Convenience and Necessity and Approval of Its 2011 Compliance Plan for Recovery by Environmental Surcharge*, Case No. 2011-00162, Testimony of John N. Voyles at Exhibit JNV-1 (June 1, 2011).

2011 Plan document states the pollutant to be controlled, e.g., SO<sub>2</sub>, the control facility to be implemented, e.g., “flue-gas desulfurization,” the environmental rules addressed, and capital costs for each unit. The 2011 Plan document does not include the precise means by which LG&E anticipates it will achieve the necessary SO<sub>2</sub> removal for Mill Creek Unit 3. Mr. Voyles testimony specifically explains the details of the 2011 Plan exhibits.<sup>7</sup>

11. LG&E’s application and testimony in that proceeding did provide detail on LG&E’s planned means of complying with the applicable environmental regulations, including LG&E’s assumption based on preliminary engineering that removing the existing WFGD for Mill Creek Unit 3 and to tie Unit 3 into the upgraded existing Mill Creek Unit 4 WFGD would be the most economical means of achieving the relevant compliance.<sup>8</sup> But such detail was necessary to meet the requirements of obtaining a CPCN; LG&E did not intend thereby to restrict its 2011 Plan only to that means of compliance, particularly to the exclusion of more economical means revealed by competitive bidding and more refined engineering.

12. LG&E therefore asks the Commission to issue an Order declaring that it is not necessary to amend LG&E’s 2011 Environmental Compliance Plan to permit LG&E to have ECR recovery of its costs for building the proposed new Mill Creek Unit 3 WFGD instead of upgrading the existing WFGD at Mill Creek Unit 4 for Unit 3’s use.

13. In the alternative, LG&E respectfully asks the Commission to issue an Order amending LG&E’s 2011 Plan—solely with respect to Project 26’s flue-gas desulfurization for Mill Creek Unit 3—to permit LG&E to include for ECR recovery its costs for building the

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<sup>7</sup> *In the Matter of: The Application of Louisville Gas and Electric Company for Certificates of Public Convenience and Necessity and Approval of Its 2011 Compliance Plan for Recovery by Environmental Surcharge*, Case No. 2011-00162, Testimony of John N. Voyles, Jr., at 3-5 (June 1, 2011).

<sup>8</sup> *See, e.g., In the Matter of: The Application of Louisville Gas and Electric Company for Certificates of Public Convenience and Necessity and Approval of Its 2011 Compliance Plan for Recovery by Environmental Surcharge*, Case No. 2011-00162, Application at 2-8 (June 1, 2011).

proposed new Mill Creek Unit 3 WFGD instead of upgrading the existing WFGD at Mill Creek Unit 4 for Unit 3's use. For all the reasons stated in LG&E's October 25, 2012 Application in this proceeding, which is incorporated herein by reference, building a new WFGD for Unit 3 will be more economical for LG&E's customers than would be upgrading Unit 4's existing WFGD for Unit 3's use.

14. If the Commission determines that a 2011 Environmental Compliance Plan modification is necessary, LG&E further respectfully asks the Commission to issue an order stating that no public notice is required because LG&E is not requesting a change to a tariff or rate; rather, LG&E seeks to amend its already-approved Project 26 of LG&E's 2011 Environmental Compliance Plan with greater detail in the method of compliance (i.e., the construction of a new WFGD to serve Unit 3 at the Mill Creek Generating Station) . No statute or regulation applicable to the Commission requires public notice of such a change in detail.

15. If the Commission determines public notice is necessary, LG&E respectfully asks the Commission to deem LG&E's notice to all of the parties to the 2011 Plan concerning LG&E's October 25, 2012 Application in this proceeding to be substantial compliance with any public notice requirement. LG&E's 2011 Plan proceeding did indeed involve rate and tariff changes, and involved the approval of significant new compliance projects; without question, public notice was required, and a number of interested parties representing all customer groups and other interests intervened. As noted in Paragraph 5 above, LG&E conscientiously reached out to all the 2011 Plan intervenors to brief them about LG&E's proposal in this proceeding. All parties but one indicated they did not object to the proposal; the remaining intervenor, Sierra Club, has not responded, but is well aware of LG&E's proposal and participated in the conference held at the Commission's offices among LG&E, the 2011 Plan case intervenors, and

Commission Staff. LG&E asks the Commission to deem such thorough notice to the parties to the 2011 Plan proceeding to be substantial compliance with any and all applicable public notice requirements.

16. LG&E respectfully asks the Commission to expedite its consideration of LG&E's Application and Amended Application, and to issue a Final Order in this proceeding by January 18, 2013, as LG&E requested in its Application. As noted in the Application, building a new WFGD for Unit 3 will provide savings for customers only if timely approval is obtained; too great a delay will make LG&E's current CPCN authority most economical.

17. LG&E supports its Amended Application with the verified Supplemental Testimony of John N. Voyles, Jr., Vice President – Transmission and Generation Services.

**WHEREFORE**, Louisville Gas and Electric Company respectfully asks the Commission to enter an order by January 18, 2013:

1. Declaring that LG&E may recover through its ECR the cost to construct a new WFGD to serve Mill Creek Unit 3 instead of the cost of upgrading the existing WFGD at Mill Creek Unit 4 for Unit 3's use without modifying LG&E's 2011 Environmental Compliance Plan or, in the alternative,
2. Modifying Project 26 of LG&E's 2011 Environmental Compliance Plan to allow LG&E to recover through its ECR the cost to construct a new WFGD to serve Mill Creek Unit 3 instead of the cost of upgrading the existing WFGD at Mill Creek Unit 4 for Unit 3's use and
  - (a) Stating that no public notice is required because LG&E is not requesting a change to a tariff or rate or, if the Commission determines public notice is necessary,

- (b) Deeming LG&E's notice of this proceeding to all of the parties that intervened in its 2011 Plan proceeding to be substantial compliance with any public notice requirement.

Dated: November 9, 2012

Respectfully submitted,



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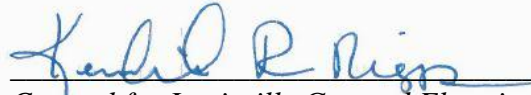
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*Counsel for Louisville Gas and Electric Company*



**CERTIFICATE OF COMPLIANCE**

In accordance with Ordering Paragraph No. 10 of the Commission's October 25, 2012 Order, this is to certify that Louisville Gas and Electric Company's November 9, 2012 electronic filing is a true and accurate copy of the documents being filed in paper medium; that the electronic filing has been transmitted to the Commission on November 9, 2012; that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding; and that an original and one copy of the filing will be hand-delivered to the Commission on November 9, 2012. There are currently no other parties to this proceeding.

A handwritten signature in blue ink, reading "Gerald R. Niess", is written over a horizontal line.

*Counsel for Louisville Gas and Electric Company*

**LOUISVILLE GAS AND ELECTRIC COMPANY**  
2011 ENVIRONMENTAL COMPLIANCE PLAN

Project	Air Pollutant or Waste/By-Product To Be Controlled	Control Facility	Generating Station	Environmental Regulation*	Environmental Permit*	Actual or Scheduled Completion	Actual (A) or Estimated (E) Projected Capital Cost (\$Million)
26	SO <sub>2</sub> , SO <sub>3</sub> , NO <sub>x</sub> , Hg and Particulate	Flue Gas Desulfurization, Baghouse with Powdered Activated Carbon Injection, SCR Turn-Down (Unit 3 & 4), and SCR upgrade (Unit 4), Sulfuric Acid Mist Mitigation	Mill Creek Unit 1	Clean Air Act (1990), NAAQS, HAPS and CATR	Title V Permit	2015	\$331.41 (E)
			Mill Creek Unit 2			2015	\$328.02 (E)
			Mill Creek Unit 3			2015	\$223.06 (E)
			Mill Creek Unit 4			2012-2014	\$385.73 (E)
27	NO <sub>x</sub> , Hg and Particulate	Baghouse with Powdered Activated Carbon Injection	Trimble County Unit 1	Clean Air Act (1990), HAPS and CATR	Title V Permit	2012	\$123.75 (E)

\$1,391.97

\* Sponsored by Witness Revlett

**LOUISVILLE GAS AND ELECTRIC COMPANY  
2011 ENVIRONMENTAL COMPLIANCE PLAN**

Project	Air Pollutant or Waste/By-Product To Be Controlled	Control Facility	Generating Station	Estimated Annual Operations and Maintenance Costs (Through 2020)								
				2012	2013	2014	2015	2016	2017	2018	2019	2020
26	SO <sub>2</sub> , SO <sub>3</sub> , NO <sub>x</sub> , Hg and Particulate	Flue Gas Desulfurization, Baghouse with Powdered Activated Carbon Injection, SCR Turn-down (Unit 3 & 4), and SCR upgrade (Unit 4), Sulfuric Acid Mist Mitigation	Mill Creek Unit 1	\$ -	\$ -	\$ -	\$ 5,044,845	\$ 8,806,961	\$ 9,022,738	\$ 9,242,832	\$ 9,467,327	\$ 9,696,312
			Mill Creek Unit 2	\$ -	\$ -	\$ -	\$ 6,454,427	\$ 9,695,385	\$ 9,920,850	\$ 10,150,825	\$ 10,385,398	\$ 10,624,664
			Mill Creek Unit 3	\$ -	\$ 1,693,407	\$ 3,447,748	\$ 4,857,328	\$ 13,019,344	\$ 13,333,943	\$ 13,654,833	\$ 13,982,142	\$ 14,315,996
			Mill Creek Unit 4	\$ -	\$ -	\$ 3,631,737	\$ 15,519,305	\$ 15,881,381	\$ 16,250,699	\$ 16,627,402	\$ 17,011,640	\$ 17,403,563
27	NO <sub>x</sub> , Hg and Particulate	Baghouse with Powdered Activated Carbon Injection	Trimble County Unit 1	\$ -	\$ -	\$ -	\$ 3,732,365	\$ 7,614,024	\$ 7,766,305	\$ 7,921,631	\$ 8,080,064	\$ 8,241,665

**COMMONWEALTH OF KENTUCKY**  
**BEFORE THE PUBLIC SERVICE COMMISSION**

**In the Matter of:**

<b>THE APPLICATION OF LOUISVILLE GAS</b>	)	
<b>AND ELECTRIC COMPANY TO MODIFY ITS</b>	)	
<b>CERTIFICATE OF PUBLIC CONVENIENCE</b>	)	<b>CASE NO. 2012-00469</b>
<b>AND NECESSITY AS TO THE MILL CREEK</b>	)	
<b>UNIT 3 FLUE-GAS DESULFURIZATION UNIT</b>	)	

**SUPPLEMENTAL TESTIMONY OF**  
**JOHN N. VOYLES, JR.**  
**VICE PRESIDENT, TRANSMISSION AND GENERATION SERVICES**  
**LOUISVILLE GAS AND ELECTRIC COMPANY**

**Filed: November 9, 2012**

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

2 A. My name is John N. Voyles, Jr. I am the Vice President of Transmission and  
3 Generation Services for Kentucky Utilities Company (“KU”) and Louisville Gas and  
4 Electric Company (“LG&E”), and I am an employee of LG&E and KU Services  
5 Company, which provides services to LG&E and KU (collectively “the Companies”).  
6 My business address is 220 West Main Street, Louisville, Kentucky 40202.

7 **Q. What is the purpose of your testimony?**

8 A. The purpose of my testimony is to supplement my pre-filed testimony of October 25,  
9 2012, to explain the need for an expedited approval from the Commission of a  
10 modification to LG&E’s 2011 Environmental Compliance Plan—solely for the  
11 portion of LG&E Project 26 concerning flue-gas-desulfurization for Mill Creek Unit  
12 3—if the Commission determines such a modification is necessary for LG&E to  
13 recover through its Environmental Cost Recovery mechanism (“ECR”) the cost to  
14 construct a new wet flue-gas-desulfurization system (“WFGD”) to serve Mill Creek  
15 Unit 3 instead of upgrading the existing WFGD at Mill Creek Unit 4 for Unit 3’s use.  
16 I explain below that LG&E will need to spend over \$31 million for Mill Creek Unit 3  
17 in 2013, including additional engineering for the proposed new WFGD, and that  
18 LG&E will need to make significant WFGD-related commitments to contractors and  
19 suppliers in 2013 to have equipment delivery and adequate resources available to  
20 meet the construction schedule required for compliance deadlines written in the  
21 Mercury and Air Toxics (“MATS”) regulations (including a one year extension).  
22 Having timely recovery through LG&E’s ECR of the amounts LG&E will soon spend  
23 and to which it will commit to spend for the WFGD this year and in the next few  
24 years will help ensure LG&E will be able to complete the entire Mill Creek Unit 3

1 Air Compliance Project within the one year extension period ending in the late spring  
2 of 2016, which will ultimately save customers money.

3 **Q. Why is it important for LG&E to have timely assurance of ECR recovery of the**  
4 **proposed new Mill Creek Unit 3 WFGD costs?**

5 A. As the Commission is aware, LG&E and KU are facing significant environmental  
6 compliance costs to keep their still-economical coal-fired generating fleet compliant  
7 with applicable environmental regulations as the least-cost option. The increasing  
8 capital and operating-expense demands on the Companies make it imperative for  
9 LG&E to have ECR recovery of all its environmental compliance project  
10 components.

11 **Q. What are LG&E's planned 2013 expenditures for Project 26, of which the**  
12 **proposed new WFGD will be a component?**

13 A. LG&E plans to spend over \$295 million for Project 26 in 2013, over \$31 million of  
14 which will be for Mill Creek Unit 3. But perhaps more important than the  
15 expenditures in 2013 will be the significant financial commitments LG&E will have  
16 to make early in 2013 in order to be ready to build the new WFGD for Unit 3 and  
17 place into operation in the spring of 2016. LG&E anticipates entering into an  
18 engineer-procure-construct ("EPC") contract for the new WFGD in late January,  
19 2013, which will involve a commitment of more than \$136 million for the WFGD  
20 scope over the project execution period. Again, having an assurance of timely cost  
21 recovery through LG&E's ECR will be important to LG&E's ability to enter into  
22 such a contract.

23 **Q. What is LG&E asking the Commission to do?**

1 A. Because of the importance of having the assurance of ECR recovery to LG&E's  
2 ability to spend over \$31 million next year just for Mill Creek Unit 3, and to commit  
3 to \$136 million in financial obligations to build the proposed new WFGD for Unit 3,  
4 LG&E asks the Commission to issue a Final Order in this proceeding by January 18,  
5 2013. Delay in a Final Order places the ability of LG&E meeting the compliance  
6 date of spring 2016 (with a one-year extension) in jeopardy.

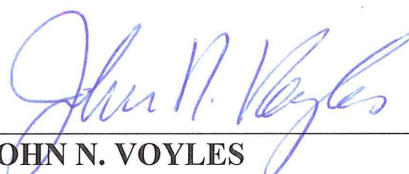
7 **Q. Does this conclude your testimony?**

8 A. Yes, it does.

VERIFICATION

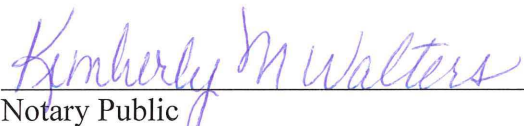
COMMONWEALTH OF KENTUCKY )  
 ) SS:  
COUNTY OF JEFFERSON )

The undersigned, **John N. Voyles**, being duly sworn, deposes and says he is the Vice President, Generation and Transmission Services for Louisville Gas and Electric Company, and that he has personal knowledge of the matters set forth in the foregoing testimony, and the answers contained therein are true and correct to the best of his information, knowledge and belief.

  
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JOHN N. VOYLES

Subscribed and sworn to before me, a Notary Public in and before said County and State, this 9th day of November 2012.

(SEAL)

  
\_\_\_\_\_  
Notary Public

My Commission Expires:

9/11/2016