

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

JOINT APPLICATION OF LOUISVILLE GAS)
AND ELECTRIC COMPANY AND KENTUCKY)
UTILITIES COMPANY FOR A CERTIFICATE)
OF PUBLIC CONVENIENCE AND NECESSITY)
FOR THE CONSTRUCTION OF A COMBINED)
CYCLE COMBUSTION TURBINE AT THE)
GREEN RIVER GENERATING STATION AND A)
SOLAR PHOTOVOLTAIC FACILITY AT THE)
E.W. BROWN GENERATING STATION)

CASE NO. 2014-00002

**LOUISVILLE GAS AND ELECTRIC COMPANY’S AND
KENTUCKY UTILITIES COMPANY’S RESPONSE
TO BLUEGRASS GENERATION COMPANY’S MOTION
FOR REHEARING AND RECONSIDERATION**

Louisville Gas and Electric Company (“LG&E”) and Kentucky Utilities Company (“KU”) (collectively, the “Companies”) respectfully request that the Commission deny Bluegrass Generation Company’s (“Bluegrass”) April 7, 2014 Motion for Rehearing and Reconsideration. Despite Bluegrass’s attempt to distance itself from the fact that it is an unsuccessful bidder and the controlling precedent¹ that flows from that absolute fact, the Commission’s decision to deny intervention was correct and in accordance with the rationale for not allowing unsuccessful bidders to intervene in subsequent cases seeking certificates of public convenience and necessity.

The essence of Bluegrass’s Motion for Rehearing is that, since the Commission permitted Sierra Club and Wallace McMullen to intervene, it should also allow Bluegrass to intervene. Bluegrass tries to equate itself with Sierra Club by arguing that Bluegrass has the same type of

¹ *EnviroPower, LLC v. Public Service Commission of Kentucky*, 2007 Ky. App. Unpub. LEXIS 121 (Ky. App. February 2, 2007) and *In the Matter of: Application of Kentucky Power Company for (1) a Certificate of Public Convenience and Necessity Authorizing the Transfer to the Company of an Undivided Fifty Percent Interest in the Mitchell Generating Station and Associated Assets; (2) Approval of the Assumption by Kentucky Power of Certain Liabilities in Connection with the Transfer of the Mitchell Generating Station; (3) Declaratory Rulings; (4) Deferral of Costs Incurred in Connection with the Company’s Efforts to Meet Federal Clean Air Act and Related Requirements; and (5) All Other Required Approvals and Relief*, Case No. 2013-00578, Order of July 5, 2013.

expertise Sierra Club claims to have in generation resource planning. Thus, the argument goes, to the extent that such claimed expertise was a basis for permitting Sierra Club to intervene, Bluegrass must be allowed to intervene as well. But Bluegrass already argued and the Commission already considered Bluegrass's experience with generation resource planning.² The Motion for Rehearing presents no new information. More importantly, Bluegrass fails to acknowledge the critical difference between it and Sierra Club – Sierra Club is *not* an unsuccessful bidder. Therefore, Sierra Club's motive in intervention cannot be that it wants its bid reconsidered for its own commercial interest in a way that would undermine the Companies' Request for Proposals ("RFP") process. The Commission was exactly right when it determined that Bluegrass's motive is a reconsideration of its bid. Stated another way, Bluegrass would not have moved to intervene in this case had it not been a bidder in the Companies' RFP process. That fact alone proves its motive here. Thus, the Commission was correct when it found that Bluegrass's "ultimate interest in this matter is that of an unsuccessful bidder."³

Under the Bluegrass logic that it should be permitted to intervene because it has generation resource experience, every bidder would be allowed to intervene because, presumably, every bidder has some level of generation expertise. Obviously, the Commission should not allow that result and has refused to allow it for the rationale in the Commission's March 18, 2014 Order: "Allowing Bluegrass to intervene would undermine the integrity of the competitive nature of the RFP process . . . and would frustrate the finality of the RFP process."⁴

Bluegrass's argument that it is a customer has no significance at this point because the Companies acknowledged and the Commission considered that fact when Bluegrass's Motion to

² See the Commission's March 18, 2014 Order (page 2) denying Bluegrass intervention after acknowledging Bluegrass's "experience with electric generation facilities and Joint Applicants' operations . . ."

³ March 18, 2014 Order, p. 5.

⁴ Id., p. 6.

Intervene was denied.⁵ Likewise, the fact that a Bluegrass bid was part of a least cost business decision several years ago is also unimportant at this point because the Commission has already considered that fact.⁶ Finally, Bluegrass devotes a portion of its Motion for Reconsideration to the accusation that, in denying Bluegrass's Motion for Intervention, the Commission has "understate[d] its obligation to the ratepayers of Kentucky and the proceeding that should be held before approving a 30 plus year investment of \$700,000,000 on the backs of LG&E and KU customers."⁷ Bluegrass's Motion for Reconsideration goes further when it insinuates that the Companies' decision in the RFP process was made to benefit PPL, the Companies' parent company. Of course, such unfounded rhetoric has no bearing on whether Bluegrass meets the standards for intervention.

The purpose of a motion for rehearing and KRS 278.400 is to offer the Commission the opportunity to consider an issue, evidence or authorities it overlooked or misconstrued or that was unavailable. Here, the only new issue Bluegrass presents is the novel argument that the Commission's approval of Sierra Club's intervention means that Bluegrass should be permitted to intervene. However, as set forth above, the critical difference is the fact that Bluegrass is an unsuccessful bidder and Sierra Club is not. Nothing else in Bluegrass's Motion for Rehearing is new, relevant at this time, or should change the Commission's decision in any way.

Finally, as the Commission noted in its March 18, 2014 Order, Bluegrass is permitted to file public comments in the record of this case. Thus, to the extent that Bluegrass has information it believes will assist the Commission, Bluegrass may file it.

WHEREFORE, the Companies respectfully request that the Commission deny Bluegrass's Motion for Rehearing.

⁵ March 18, 2014 Order, p. 3.

⁶ Id., p. 2.

⁷ Bluegrass's Motion for Reconsideration, p. 6.

Dated: April 14, 2014

Respectfully submitted,



Kendrick R. Riggs
Robert M. Watt, III
Lindsey W. Ingram III
Stoll Keenon Ogden, PLLC
300 West Vine Street, Suite 2100
Lexington, Kentucky 40507
(859) 231-3000
kendrick.riggs@skofirm.com
robert.watt@skofirm.com
l.ingram@skofirm.com

Allyson K. Sturgeon
Senior Corporate Attorney
LG&E and KU Services Company
220 West Main Street
Louisville, Kentucky 40202
(502) 627-2088
allyson.sturgeon@lge-ku.com

*Counsel for Louisville Gas and Electric
Company and Kentucky Utilities Company*

CERTIFICATE OF SERVICE

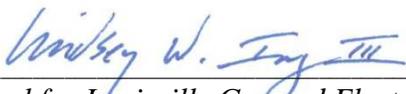
This is to certify that Louisville Gas and Electric Company and Kentucky Utilities Company's April 14, 2014 electronic copy of this Response is a true and accurate copy of the documents being filed in paper medium, that the electronic filing was transmitted to the Commission on April 14, 2014; that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding; that a copy of the filing in paper medium is being hand-delivered to the Commission within two business days of this filing; and that on April 14, 2014, electronic mail notification of the electronic filing will be provided to the following:

Dennis G. Howard, II
Assistant Attorney General
Office of the Attorney General
Office of Rate Intervention
1024 Capital Center Drive, Suite 200
Frankfort, KY 40601-8204

Michael L. Kurtz
Boehm, Kurtz & Lowry
36 East Seventh Street, Suite 1510
Cincinnati, OH 45202

Joe F. Childers
Joe F. Childers & Associates
300 Lexington Building
201 West Short Street
Lexington, KY 40507

John N. Hughes
124 West Todd Street
Frankfort, KY 40601



*Counsel for Louisville Gas and Electric
Company and Kentucky Utilities Company*