

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

In re the Matter of:

JOINT APPLICATION OF LOUISVILLE GAS)	
AND ELECTRIC COMPANY AND KENTUCKY)	
UTILITIES COMPANY FOR A DECLARATORY)	CASE NO. 2016-0033
ORDER CONCERNING INTERPRETATION OF)	
COMMISSION REGULATION 807 KAR 5:006)	

**JOINT APPLICATION OF LOUISVILLE GAS AND ELECTRIC COMPANY AND
KENTUCKY UTILITIES COMPANY FOR A DECLARATORY ORDER**

Louisville Gas and Electric Company (“LG&E”) and Kentucky Utilities Company (“KU”) (collectively, the “Companies”), pursuant to 807 KAR 5:001, Section 19, hereby apply to the Kentucky Public Service Commission (“Commission”) for an order declaring that the Companies' current inspection practice complies with all inspection requirements for electric lines operating at 69 KV or greater (including insulators, conductors and supporting facilities) contained in Section 26 of Title 807 KAR 5:006 (the “Regulation”). Pursuant to their interpretation of the Regulation, the Companies currently conduct aerial inspections every six months,¹ and ground inspections every six years (if the support structures for the lines are made of wood), or every twelve years (if the support structures for the lines are made of non-wood materials).

The Companies seek a declaratory order from the Commission on this issue because they have identified an apparent conflict between certain provisions of the Regulation with respect to how often ground inspections must occur on these lines, as set forth in more detail below.

¹ There are a few areas where it is not possible or practical to conduct aerial inspections. In those areas, the Companies inspect their electric lines operating at 69 KV or greater, including insulators, conductors and supporting facilities, by ground every six months.

In support of their Application, the Companies state as follows:

1. KU's full name and mailing address is: Kentucky Utilities Company, Post Office Box 32010, 220 West Main Street, Louisville, Kentucky 40202. KU may be reached by electronic mail at the electronic mail addresses of its counsel set forth below.

2. LG&E's full name and mailing address is: Louisville Gas and Electric Company, Post Office Box 32010, 220 West Main Street, Louisville, Kentucky 40202. LG&E may be reached by electronic mail at the electronic mail addresses of its counsel set forth below.

3. KU is a utility engaged in the electric business. KU generates and purchases electricity, and distributes and sells electricity at retail in the following counties in Central, Northern, Southeastern and Western Kentucky:

Adair	Edmonson	Jessamine	Ohio
Anderson	Estill	Knox	Oldham
Ballard	Fayette	Larue	Owen
Barren	Fleming	Laurel	Pendleton
Bath	Franklin	Lee	Pulaski
Bell	Fulton	Lincoln	Robertson
Bourbon	Gallatin	Livingston	Rockcastle
Boyle	Garrard	Lyon	Rowan
Bracken	Grant	Madison	Russell
Bullitt	Grayson	Marion	Scott
Caldwell	Green	Mason	Shelby
Campbell	Hardin	McCracken	Spencer
Carlisle	Harlan	McCreary	Taylor
Carroll	Harrison	McLean	Trimble
Casey	Hart	Mercer	Union
Christian	Henderson	Montgomery	Washington
Clark	Henry	Muhlenberg	Webster
Clay	Hickman	Nelson	Whitley
Crittenden	Hopkins	Nicholas	Woodford
Daviess			

4. LG&E is a utility engaged in the electric and gas business. LG&E generates and purchases electricity, and distributes and sells electricity at retail in Jefferson County and portions

of Bullitt, Hardin, Henry, Meade, Oldham, Shelby, Spencer, and Trimble Counties. LG&E also purchases, stores, and transports natural gas and distributes and sells natural gas at retail in Jefferson County and portions of Barren, Bullitt, Green, Hardin, Hart, Henry, Larue, Marion, Meade, Metcalfe, Nelson, Oldham, Shelby, Spencer, Trimble, and Washington Counties.

5. KU was incorporated in Kentucky on August 17, 1912, and in Virginia on November 26, 1991 (and effective as of December 1, 1991). KU attests that it is in good standing in both Kentucky and Virginia.

6. LG&E was incorporated in Kentucky on July 2, 1913. LG&E attests that it is currently in good standing in Kentucky.

7. Copies of all orders, pleadings and other communications related to this proceeding should be directed to:

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8. On January 4, 2013, changes to certain sections of the Commission's Regulations, specifically those contained in 807 KAR 5:006, became effective. Those changes created an apparent inconsistency for which the Companies now seek clarification by way of a declaratory order.

9. Section 26(4) sets forth the overall inspection requirements for electric lines operating at 69 KV or greater. The pertinent language reads:

(b) At intervals not to exceed six (6) months, the utility shall inspect:

4. Electric lines operating at sixty-nine (69) KV or greater, including insulators, conductors, and supporting facilities, for damage, deterioration and vegetation management consistent with the utility's vegetation management practice.

KAR 5:006, Section 26(4)(b)4.

10. Following significant input from the industry, Section 26 was amended to add paragraph (4)(c), which addresses the stated need for ground inspections for these electric lines.

Section 26(4)(c) now reads:

(c) In addition to the requirements established in paragraph (b) of this subsection, all electric lines operating at sixty-nine (69) KV or greater, including insulators, conductors, and supporting facilities shall be inspected **from the ground** for damage, deterioration, and vegetation management practices at intervals not to exceed

1. Six (6) years for each electric line supported by a wood pole or other wood support structure; or
2. Twelve (12) years for each electric line supported by a pole or other support structure constructed of steel or other nonwood material.

(emphasis added).

11. Section 26(4)(g), however, contains a reference that conflicts with the language quoted above in Section 26(4)(c). Section 26(4)(g) reads: "Aerial inspections shall not be used as

the basis for compliance with paragraphs (b)1 through 3, **support facilities provision in (b)4**, (d)1, and (f) of this subsection” (emphasis added). Its purported prohibition on aerial inspections for use as compliance with the six-month inspection requirement found in (4)(b)4 suggests that ground inspections must occur every six months instead of the six or twelve years required in (4)(c). As such, the Companies believe that the reference in subparagraph (4)(g) to “support facilities provisions in (b)4” was unintended.

12. Section 26(4)(b) generally requires inspections of electric lines operating at 69 KV or greater (including insulators, conductors, and supporting facilities) every six months. Section 26(4)(c) unambiguously and specifically requires ground inspections of those same electric lines (including insulators, conductor and supporting facilities) once every six years (for lines supported by a wood structure) or once every twelve years (for lines supported by non-wood materials). To the extent any conflict may be read between the general inspection requirement contained in subparagraph (4)(b)4 and the more specific inspection requirement contained in subparagraph (4)(c), the more specific provision must control. *See, e.g., Light v. City of Louisville*, 248 S.W.3d 559, 563 (Ky. 2008) (“In harmonizing the conflict between two statutes that relate to the same subject, Kentucky follows the rule of statutory construction that the more specific statute controls over the more general statute.”). Thus, the Companies’ interpret the Regulation to mean that ground inspections are required only every six or twelve years as specifically stated in subparagraph 4(c).

13. If aerial inspections are not sufficient to satisfy the six-month inspection requirement contained in subparagraph (4)(b)4, then subparagraph (4)(c) requiring ground inspections every six or twelve years becomes meaningless, as ground inspections would be required every six months under (4)(b)4. That interpretation violates another cardinal rule of

statutory construction: “When presented with a statutory conflict whereby one interpretation would render a portion of a statute meaningless and the other would harmonize and give effect to both provisions, rules of statutory construction require the interpretation that harmonizes the statutes and prevents a part of a statute from becoming meaningless or ineffectual.” *Brooks v. Com.*, 217 S.W.3d 219, 223 (Ky. 2007). Concluding that aerial inspections are required every six months while ground inspections are required every six or twelve years, on the other hand, follows the rule by giving effect to both subparagraphs.

14. Moreover, subparagraph 4(g)’s purported exclusion of “support facilities provisions in (b)4” from aerial inspections simply writes subparagraph (4)(c) out of the regulatory scheme. For all the reasons discussed above, the Companies believe (4)(c) could not have been intended to prohibit aerial inspections from a means of compliance with the six-month requirement found in (4)(b)4.

15. There are certain areas where the Companies cannot practically conduct aerial inspections. In those limited areas, the Companies conduct ground inspections of those electric lines operating at sixty-nine (69) KV or greater, including insulators, conductors, and supporting facilities, every six months.

16. In summary, consistent with their stated interpretation of the Regulation, the Companies currently conduct (1) ground inspections of all lines every six years (if the support structures for the lines are made of wood), or every twelve years (if the support structures for the lines are made of non-wood materials); (2) aerial inspections of those same lines in all areas where possible every six months; and (3) additional ground inspections of the remaining lines (those which cannot be inspected by air for some reason) every six months.

WHEREFORE, the Companies respectfully request that the Commission enter an Order declaring that the Companies' current inspection practice complies with all inspection requirements for electric lines operating at 69 KV or greater (including insulators, conductors and supporting facilities) contained in Section 26 of KAR 5:006.

Respectfully submitted,




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CERTIFICATE OF SERVICE

In accordance with 807 KAR 5:001 Section 8(7), this is to certify that Kentucky Utilities Company and Louisville Gas and Electric Company's January 15, 2016 electronic filing of their Joint Application 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 January 15, 2016; that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding; that an original of the filing is being hand delivered to the Commission within 2 business days of the filing of this Joint Application; and that a copy of the filing is being mailed by first class U.S. mail, postage prepaid, on January 15, 2016, to the following:

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