

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC JOINT APPLICATION OF)
KENTUCKY UTILITIES COMPANY AND)
LOUISVILLE GAS AND ELECTRIC COMPANY)
FOR CERTIFICATES OF PUBLIC CONVENIENCE) CASE NO. 2022-00402
AND NECESSITY AND SITE COMPATIBILITY)
CERTIFICATES AND APPROVAL OF A)
DEMAND SIDE MANAGEMENT PLAN)
)

**MOTION OF JOINT INTERVENORS METROPOLITAN HOUSING COALITION,
KENTUCKIANS FOR THE COMMONWEALTH, KENTUCKY SOLAR ENERGY SOCIETY
AND MOUNTAIN ASSOCIATION TO AMEND PROCEDURAL SCHEDULE**

Come now Metropolitan Housing Coalition (MHC), Kentuckians for the Commonwealth (KFTC), Kentucky Solar Energy Society (KYSES) and Mountain Association (MA) (collectively "Joint Intervenors"), and by and through counsel, move to amend the procedural schedule in this proceeding. In light of Louisville Gas & Electric Company and the Kentucky Utilities Company's (jointly, "LG&E/KU" or "the Companies") recently filed application in Case No. 2023-00122 and pending motion in that case for consolidation with this proceeding, Joint Intervenors respectfully request that the procedural schedule in this proceeding be amended to avoid prejudicing the rights of the parties or the public interest. In support of their motion to amend the procedural schedule, Joint Intervenors state as follows:

1. On May 10, 2023, Louisville Gas & Electric Company and the Kentucky Utilities Company (jointly, "LG&E/KU" or "the Companies") filed Case

No. 2023-00122, a Joint Application for Fossil Fuel-Fired Electric Generating Unit Retirements (“May 10th Retirement Application”).¹ Pursuant to requirements of recently enacted Kentucky legislation commonly known as Senate Bill 4,² LG&E/KU have requested an order within 180 days of May 10, 2023, authorizing the retirement of seven fossil fuel-fired units: E.W. Brown Unit 3, Ghent Unit 2, Haefling Units 1 and 2, Mill Creek Units 1 and 2, and Paddy’s Run Unit 12.³ In support of their application, the Companies filed direct testimony from two witnesses; a new technical analysis, titled “2023 Fossil Fuel-Fired Electric Generating Unit Retirement Assessment”; and supporting workpapers.

2. On the same day, LG&E/KU also filed in Case No. 2023-00122 a Joint Motion to Consolidate, Incorporate by Reference, and Grant Intervention (“the Motion”).⁴ The Companies’ Motion represents that “[t]he entirety of the subject matter of the May 10, 2023 Joint Application in this case (Case No. 2023-00122) is a subset of the subject matter of currently pending CPCN-DSM case (Case No. 2022-00402).”⁵ For that reason, in Case No. 2023-00122, the Companies have requested consolidation with and into this proceeding (Case

¹ Joint Application of Kentucky Utilities Company and Louisville Gas and Electric Company for Fossil Fuel-Fired Electric Generating Unit Retirements, Case No. 2023-00122 (May 10, 2023) (“Retirement Application”), https://psc.ky.gov/pscecf/2023-00122/rick.lovekamp%40lge-ku.com/05102023013339/02-LGE_KU_Joint_Application_2023-00122.pdf.

² 2023 Ky. Acts 118 § 2(1) (“The commission shall enter an order approving, approving with conditions, or denying the application within one hundred eighty (180) days of receiving an administratively complete application.”).

³ Retirement Application at 1.

⁴ Motion of Kentucky Utilities Company and Louisville Gas and Electric Company to Consolidate, Incorporate by Reference, and Grant Intervention, Case No. 2023-00122 (May 10, 2023) (“Companies’ Motion”), https://psc.ky.gov/pscecf/2023-00122/rick.lovekamp%40lge-ku.com/05102023013339/07-LGE_KU_Joint_Motion_to_Consolidate_2023-00122.pdf.

⁵ Companies’ Motion at ¶1.

No. 2022-00402), incorporating by reference the records of evidence in Case Nos. 2023-00122 and 2020-00061 into this proceeding, and granting intervention in Case No. 2023-00122 to all intervenors in this proceeding.⁶

3. Case No. 2020-00061 concerned LG&E/KU's application for approval of an amended environmental compliance plan and revised environmental surcharge. The Companies' application in that proceeding was supported by several hundred pages of direct testimony and exhibits,⁷ which Commission Staff propounded multiple rounds of discovery concerning. No other parties intervened in that proceeding.

4. The Companies' Motion suggests amendments to the procedural schedule in this proceeding, Case No. 2022-00402, that could be made to avoid prejudicing the rights of the parties while also enabling the efficient resolution of the consolidated proceedings in tandem by November 6, 2023.⁸

The table below reflects the Companies' suggested schedule changes:

	PROPOSED⁹
Additional Intervenor Discovery	May 26, 2023
Responses from LG&E/KU to Additional Discovery	June 9, 2023
Intervenor Direct Testimony	June 30, 2023
Discovery on Intervenor Testimony	July 7, 2023
Responses to Discovery	July 28, 2023
LG&E/KU Rebuttal Testimony	Aug. 9, 2023 (unchanged)

⁶ Companies' Motion at ¶1.

⁷ See Case No. 2020-00061, *Electronic Application of Louisville Gas and Electric Company for Approval of an Amended Environmental Compliance Plan and a Revised Environmental Surcharge*, LG&E Testimony and Exhibits (March 31, 2020), https://psc.ky.gov/pscecf/2020-00061/andrea.fackler%40lge-ku.com/03312020011456/6_-_LGE_Testimony_and_Exhibits_2020_ECR_Plan.pdf (offering direct testimony of Robert M. Conroy, Gary H. Revlett, R. Scott Straight, Stuart A. Wilson, and Andrea M. Fackler).

⁸ Companies' Motion at ¶2.

⁹ Companies' Motion at ¶2.

5. As of the date of this filing, the Companies have not filed any motions in this proceeding requesting consolidation or seeking amendments to the current procedural schedule for this case.

6. The current procedural schedule in this proceeding, Case No. 2022-00402, requires filing of Intervenors' Direct Testimony by May 25, 2023—only nine business days hence, and just twelve business days since filing of the Companies' application and exhibits in Case No. 2023-00122.

7. 807 KAR 5:001, Sec. 4(14)(a) provides that “proceedings involving a similar question of law or fact” may be consolidated “if rights of the parties or the public interest will not be prejudiced.”¹⁰ Based on the Companies' representations concerning the subject matter of Case Nos. 2022-00402 and 2023-00122, Joint Intervenors do not oppose the Companies' motion for consolidation. Should the Commission grant consolidation, Joint Intervenors support incorporation by reference of all the case records requested by the Companies, as well as automatic grants of intervention in the consolidated case by parties already granted intervenor status in this proceeding in the interest of administrative efficiency.¹¹

8. Joint Intervenors note that expeditious action by the Commission to revise the current procedural schedule in this proceeding is needed in order

¹⁰ 807 KAR 5:001, Sec. 4(14)(a).

¹¹ Joint Intervenors further request clarification that orders admitting counsel pro hac vice for this proceeding would, in the event of consolidation, be adequate to apply to all consolidated cases.

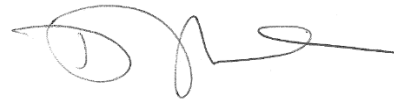
to avoid prejudice to the rights of the parties; irrespective of how the Commission acts on the Companies' Motion for Consolidation. Because the application just filed in Case No. 2023-00122 "is a subset of the subject matter of" and provides additional information related to matters in this proceeding, parties in this case need to be afforded an opportunity to fully explore any new information therein, including an opportunity to propound discovery requests on the Companies, and to incorporate that information into Intervenors' direct testimony in this proceeding, which is currently due May 25, 2023. Joint Intervenors request that the current procedural schedule, including the imminent direct testimony deadline of May 25, 2023, be amended to afford the parties a reasonable period to review the 2023-00122 filing, pursue discovery, and offer testimony addressing the May 10th Retirement Application as part of intervenor direct testimony in this proceeding (whether consolidated or not).

9. Joint Intervenors believe that the scheduling adjustments suggested by the Companies' Motion in Case No. 2023-00122 would reasonably address the fairness concerns raised by the Companies' May 10th Retirement Application. While as noted above, Joint Intervenors do not oppose consolidation as outlined in the Companies' motion in Case No. 2023-00122, irrespective of action taken with respect to consolidation, Joint Intervenors request that the procedural schedule be amended, as suggested in the Case No. 2023-00122 filing and outlined above at paragraph 4.

WHEREFORE, for the reasons stated above, Joint Intervenors respectfully

request that the Commission amend the current procedural schedule in this case in the manner described herein and suggested by the Companies' Motion in Case No. 2023-00122.

Respectfully submitted,



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CERTIFICATE OF SERVICE

This is to certify that this electronic filing of the Motion of Joint Intervenors Metropolitan Housing Coalition, Kentuckians for the Commonwealth, Kentucky Solar Energy Society, and Mountain Association to Amend the Procedural Schedule has been transmitted to the Commission on May 12, 2023, and that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding.



Tom FitzGerald