

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 AND NECESSITY)	CASE NO. 2022-00402
AND SITE COMPATIBILITY)	
CERTIFICATES AND APPROVAL OF A)	
DEMAND SIDE MANAGEMENT PLAN AND)	
APPROVAL OF FOSSIL FUEL-FIRED)	
GENERATING UNIT RETIREMENTS)	

JOINT MOTION FOR APPROVAL TO DEVIATE FROM RULE

Louisville Gas and Electric Company (“LG&E”) and Kentucky Utilities Company (“KU”) (collectively “Companies”) move the Kentucky Public Service Commission (“Commission”) to grant the Companies approval pursuant to 807 KAR 5:001, Section 22 to deviate from the hearing notice requirements in the above-captioned proceeding because the Companies have substantially complied with the Commission’s hearing notice regulation. In support of this motion, the Companies state as follows:

1. On January 6, 2023, the Commission issued an Order scheduling the formal hearing in this proceeding to occur on August 22, 2023 – August 25, 2023 and directing the Companies to publish notice of the hearing in accordance with 807 KAR 5:001, Section 9(2).

2. In accordance with the Commission’s Order, the Companies delivered to the Kentucky Press Service, Inc. (“Kentucky Press”), an organization that acts on behalf of newspapers of general circulation throughout the Commonwealth of Kentucky in which customers affected reside, the notice to be published for this hearing in accordance with 807 KAR 5:001,

Section 9(2). Kentucky Press directed each newspaper in writing to publish the hearing notice in accordance with the Commission’s regulation.

3. The Companies request a deviation because one newspaper, despite clear instructions from the Kentucky Press, failed to publish the notice during the period of August 1, 2023 – August 15, 2023. Specifically, the *Williamstown Grant County News*, a newspaper of general circulation in Grant County, Kentucky, failed to publish the hearing notice during the requested period but did publish the notice on August 17, 2023.¹

4. Although the *Williamstown Grant County News* failed to publish the notice during the requested period, it did publish the notice prior to the hearing. Also, the two newspapers with the largest circulation in Kentucky, the *Lexington Herald-Leader* and *The Courier-Journal*, published the notice correctly.

5. The purpose of the Commission’s notice regulation is to ensure that the public has sufficient notice of the hearing. Despite the deviation noted above, notice was published in each county, including in the two newspapers of largest circulation in Kentucky. The Companies’ substantial compliance with the Commission’s regulations has met the purpose of the notice requirement. As stated by the Kentucky Supreme Court:

Substantial compliance in regard to publication requirements has been authorized The purpose of the statute is to allow the public an ample opportunity to become sufficiently informed on the public question involved.²

6. The Commission has authority to permit the Companies to deviate from the publication requirements pursuant to 807 KAR 5:001, Section 22.

¹ See Affidavit of Hearing Notice Publication (August 18, 2023).

² *Conrad v. Lexington-Fayette Urban County Government*, 659 S.W.2d 190, 195 (Ky. 1983) (citing *Queenan v. City of Louisville*, 233 S.W.2d 1010 (Ky. 1950)). See also *Lyon v. County of Warren*, 325 S.W.2d 302 (Ky. 1959) (publishing notice of bond referendum outside statutory time limits, accompanied by media attention and other means, held sufficient notice to public).

7. Because the Companies are in substantial compliance with the publication requirements of 807 KAR 5:001, Section 9(2), good cause exists for the Commission to permit the Companies to deviate from the requirement of the regulation and to accept the publication of the hearing notice as sufficient.

WHEREFORE, Louisville Gas and Electric Company and Kentucky Utilities Company respectfully request that the Commission grant them approval pursuant to 807 KAR 5:001, Section 22 to deviate from the notice requirements of 807 KAR 5:001, Section 9(2) and to accept the publication of hearing notice as sufficient.

Dated: August 18, 2023

Respectfully submitted,



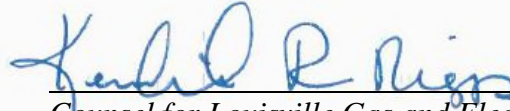
Kendrick R. Riggs
Stoll Keenon Ogden PLLC
500 West Jefferson Street, Suite 2000
Louisville, Kentucky 40202-2828
Telephone: (502) 333-6000
Fax: (502) 627-8722
kendrick.riggs@skofirm.com

Allyson K. Sturgeon
Vice President and Deputy General Counsel
Sara V. Judd
Senior Counsel
PPL Services Corporation
220 West Main Street
Louisville, Kentucky 40202
Telephone: (502) 627-2088
Fax: (502) 627-3367
ASturgeon@pplweb.com
SVJudd@pplweb.com

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

CERTIFICATE OF COMPLIANCE

In accordance with the Commission's Order of July 22, 2021 in Case No. 2020-00085 (Electronic Emergency Docket Related to the Novel Coronavirus COVID-19), this is to certify that the electronic filing has been transmitted to the Commission on August 18, 2023; and that there are currently no parties in this proceeding that the Commission has excused from participation by electronic means.

A handwritten signature in blue ink, appearing to read "Gerald R. Nigg", is written over a horizontal line.

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