

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 APPROVAL OF A DEMAND SIDE)	
MANAGEMENT PLAN AND APPROVAL OF)	
FOSSIL FUEL-FIRED GENERATING UNIT)	
RETIREMENTS)	

RESPONSE OF
KENTUCKY UTILITIES COMPANY
AND
LOUISVILLE GAS AND ELECTRIC COMPANY
TO
THE MERCER COUNTY FISCAL COURT'S
SECOND SET OF SUPPLEMENTAL REQUESTS FOR INFORMATION
DATED MAY 31, 2023

FILED: JUNE 9, 2023

**KENTUCKY UTILITIES COMPANY
AND
LOUISVILLE GAS AND ELECTRIC COMPANY**

**Response to Mercer County Fiscal Court's
Second Set of Supplemental Requests for Information
Dated May 31, 2023**

Case No. 2022-00402

Question No. 1

Responding Witness: Robert M. Conroy

- Q-1. Please describe what specific sections of Kentucky Revised Statutes Chapter 278 the Companies must comply with respect to its self-build solar facility in Mercer County. Please explain in detail how the Companies plan to comply with these sections of the statute.
- A-1. KRS Chapter 278 is extremely broad and has numerous sections that apply to the Companies in general. As set forth in the Companies' December 15, 2022 Joint Application, they seek a CPCN in this matter pursuant to KRS 278.020(1) authorizing the construction of the Mercer County Solar Facility and they plan to seek a Site Compatibility Certificate pursuant to KRS 278.216 approving the site for that construction.

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Case No. 2022-00402

Question No. 2

Responding Witness: Robert M. Conroy

- Q-2. Do the Companies have to comply specifically with Kentucky Revised Statutes Chapter 278.020, (1), (a) with respect to its proposed solar facility in Mercer County? If yes, please describe how the Companies plan to comply with this section of the statutes with respect to the proposed solar facility in Mercer County. If no, please explain why compliance is not necessary.
- A-2. Yes, the Companies must comply with KRS 278.020(1)(a). They are complying with that section by the filing of this case in which they are seeking a CPCN authorizing the construction of the Mercer County Solar Facility.

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Case No. 2022-00402

Question No. 3

Responding Witness: Robert M. Conroy

Q-3. Do the Companies have to comply specifically with Kentucky Revised Statutes Chapter 278.020, (5), shown below, with respect to its proposed solar facility in Mercer County?

No utility shall apply for or obtain any franchise, license, or permit from any city or other governmental agency until it has obtained from the commission, in the manner provided in subsection (1) of this section, a certificate of convenience and necessity showing that there is a demand and need for the service sought to be rendered.

If yes, please describe how the Companies plan to comply with this section of the statutes with respect to its proposed solar facility in Mercer County. If no, please explain in detail why compliance is not necessary.

A-3. The Companies are unaware of any franchise or license they need to obtain with respect to the Mercer County Solar Facility. As Mr. Imber explains in his direct testimony, there may be some required permits which the Companies will seek after a CPCN authorizing the construction of the Mercer County Solar Facility is granted. Thus, to the extent KRS 278.020(5) applies to the Mercer County Solar Facility, the Companies are complying with it by the filing of this case in which they are seeking a CPCN authorizing the construction of the Mercer County Solar Facility under KRS 278.020(1).

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Case No. 2022-00402

Question No. 4

Responding Witness: Robert M. Conroy / Counsel

Q-4. Kentucky Revised Statutes Chapter 278.020, (1), (c), states the following:

The commission, when considering an application for a certificate to construct a base load electric generating facility, may consider the policy of the General Assembly to foster and encourage use of Kentucky coal by electric utilities serving the Commonwealth. (Emphasis added.)

Must the Kentucky Public Service Commission consider new legislation from the General Assembly in considering the Companies' application for a certificate to construct its proposed solar facility in Mercer County? Please explain your answer in detail, with an emphasis on recently enacted House Bill 4 and Senate Bill 4 to become effective on or about June 29, 2023

A-4. The Companies' proposed Mercer County Solar Facility will not be a "base load electric generating facility" under any definition of the term "base load" of which the Companies are aware. Therefore, the quoted text from KRS 278.020(1)(c) does not apply to the requested CPCN for the Mercer County Solar Facility.

That aside, the Commission must consider all applicable *law*, not mere legislation, when determining how to proceed in any matter. In this case, applicable law includes what had been Kentucky's 2023 Senate Bill 4, which is now 2023 Ky. Acts 118 and became effective in March 2023, not June 29, 2023¹ which is why the Companies filed their Joint Application in Case No. 2023-00122 which has been consolidated into this case. Kentucky's 2023 House Bill 4, now 2023 Ky. Acts 140, pertains to merchant electric generating facilities and is not relevant to this proceeding.

¹ Available at <https://apps.legislature.ky.gov/law/acts/23RS/documents/0118.pdf>.

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Question No. 5

Responding Witness: Lonnie E. Bellar / Philip A. Imber

Q-5. Please provide the following information in regard to the Companies' proposed solar facility site in Mercer County:

- a. All storm water analyses of the proposed site where the Mercer County solar facility will be located.
- b. Will an onsite storm water detention basin be required for the site? If yes, what standard will the construction of the retention basin be based upon? For example, would the basin construction be based upon a 100-year 24-hour storm?
- c. Have the Companies considered the results of all storm water analyses in subsection a. above and ensured that post solar development storm water runoff is equal to or less than the predevelopment run off rates currently experienced at the site for the City of Harrodsburg's existing storm water runoff facilities.
- d. If no detention basin is required, please describe the Companies' plan to address storm water runoff at the site.

A-5.

- a. A formal stormwater analyses is not required at this point in the project. As the project progresses, an analysis will be performed per local, state, and federal requirements to determine the prudent best management practices and storm water pollution prevention.
- b. No.
- c. The Companies have not completed a storm water analysis but anticipate storm water runoff to be marginally similar to the predevelopment runoff rates. See the response to MCFC 2-14 parts (b) and (c) for further discussion.

- d. See the response to MCFC 2-14.