

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

**In the Matter of:**

<b>ELECTRONIC REVIEW OF THE PILOT</b>	)	
<b>PROGRAM FOR ECONOMIC</b>	)	<b>CASE NO. 2022-00403</b>
<b>DEVELOPMENT EXTENSIONS OF</b>	)	
<b>SERVICE OF GAS LOCAL DISTRIBUTION</b>	)	
<b>COMPANIES</b>	)	

**COMMENTS OF**  
**LOUISVILLE GAS AND ELECTRIC COMPANY**

Louisville Gas and Electric Company (“LG&E”) appreciates the opportunity to submit comments in this proceeding regarding the Commission’s Economic Development Extension (“EDX”) pilot program. LG&E believes that the primary purpose of the EDX program—adding speed and certainty to gas line extensions to support economic development—is fundamentally sound. With modifications to allow broader application of the EDX program while continuing to provide reasonable protections for existing customers, the program has the potential to become a more useful catalyst for economic development.

**I. The Fundamental Premise of the EDX Pilot Program Remains Sound: Adding Speed and Certainty to Executability and Cost Recovery for Gas Line Extensions Is Beneficial for Economic Development.**

The primary benefits of the gas EDX pilot program the Commission established in 2020 are speed and certainty, both of which remain vitally important in economic development today. The current gas EDX pilot program provides crucial speed and certainty in three important respects. First, it provides certainty that a more involved and potentially prolonged proceeding to obtain a certificate of public convenience and necessity will not be necessary; as the Commission’s Order first setting forth the terms of the EDX pilot program stated, “The Commission, on its own motion, establishes this administrative case to review the procedure for approval of economic

development extensions (EDX), *which are extensions of service in the ordinary course of business to potential economic development projects ....*<sup>1</sup> Thus, one important benefit of an EDX Order is the determination that obtaining a CPCN is unnecessary because the proposed project is an extension of service in the ordinary course of business.

A second important benefit of the existing EDX pilot program is the certainty of a speedy order. Unlike a standard request for a declaratory order, which has no time limitation, the Commission committed to rule on an EDX application within 75 days of filing (with an option to extend for 45 days).<sup>2</sup> This provides an important degree of certainty concerning the speed with which an applicant could expect a determination on an EDX application.

A third benefit is the degree of certainty EDX provides concerning cost recovery, both for the capital investment via base rate recovery (once a project is providing service to at least one customer) and for the associated property taxes via regulatory deferral accounting and eventual base rate recovery.<sup>3</sup> This significantly alleviates a concern the Commission identified in the Order, namely that “the Commission may disallow all or a portion of the cost of the facilities in the LDC’s [Local Distribution Company’s] rate base for the purposes of calculating rates.”<sup>4</sup>

LG&E applauds the Commission for taking the initiative to formulate and implement the gas EDX pilot program in 2020. It was and is an important step forward toward providing elements of speed and certainty that enhance economic development efforts where gas LDCs are concerned. LG&E believes the Commission should retain the existing EDX pilot program as a means of addressing “shovel ready” projects, which the Commission’s previous EDX Orders explicitly

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<sup>1</sup> *Electronic Investigation of a Pilot Program for Economic Development Extensions of Service of Gas Local Distribution Companies*, Case No. 2020-00001, Order at 1 (Ky. PSC Jan. 24, 2020) (emphasis added).

<sup>2</sup> *Id.* at 4.

<sup>3</sup> *Id.* at 2-3.

<sup>4</sup> *Id.* at 2.

address. But as proposed in greater detail below, the Commission should also expand the applicability of the pilot program to encompass other kinds of economic development projects in ways that continue to provide reasonable protections for existing customers while also allowing greater economic development potential, which is a benefit for all Kentuckians.

**II. The Primary Limitation Hindering Greater Use of the EDX Pilot Program Is the “Shovel Ready” Requirement, and Expanding the Program to Include Non-Shovel-Ready Sites or Areas Would Enhance the Usefulness of EDX.**

Under the current EDX pilot program, an LDC’s application must include “supporting documentation from the Cabinet for Economic Development certifying that the economic development site is ‘shovel ready’ but for the lack of natural gas service.”<sup>5</sup> This limitation, though understandable as a means of ensuring that an EDX project not be a pipeline to nowhere, severely limits the number of sites eligible for the EDX pilot program. Moreover, LG&E’s experience is that most “shovel ready” sites either already have gas service or are sufficiently close to existing gas service that the nearby LDC could quickly extend existing facilities to serve a prospective customer with little risk. Thus, constraining EDX pilot program applicability to sites that are “‘shovel ready’ but for the lack of natural gas service” greatly limits the practical usefulness of the EDX pilot program and likely explains in large part why there has been only one EDX application since the Commission created the pilot program.<sup>6</sup>

In addition, it appears that the current governor’s administration is seeking to move away from the “shovel ready” concept and is embracing a broader economic development approach that involves “de-risking” Kentucky’s communities and increasing certainty for economic development prospects. For example, the current secretary of the Cabinet for Economic

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<sup>5</sup> *Id.* at 4.

<sup>6</sup> See *Electronic Review of the Pilot Program for Economic Development Extensions of Service of Gas Local Distribution Companies*, Case No. 2022-00403, Order at 1-2 (Ky. PSC Dec. 13, 2022).

Development, Secretary Jeff Noel, recently stated in an interview, “I hate the term ‘shovel-ready sites’ because what you’ve already done does not describe in full what companies are looking for.”<sup>7</sup> In the same interview, Secretary Noel noted that companies are seeking to de-risk themselves and their supply chains, which is one reason they might be seeking to move operations from overseas to the United States.<sup>8</sup> Secretary Noel further stated, “For both local industry and the outsiders who are looking around, what’s more important now than ever is certainty and knowledge; data that shows that whatever it is you’re offering is really there and can be delivered upon.”<sup>9</sup> In other words, economic development prospects are interested in de-risked sites and communities in which to locate and expand.

Kentucky is taking significant steps to advance these de-risking initiatives and increase the availability of economic development opportunities and sites across the Commonwealth. For example, the Kentucky Product Development Initiative, a collaboration between the Kentucky Cabinet for Economic Development and Kentucky Association for Economic Development, includes \$100 million in funding to upgrade industrial sites throughout Kentucky.<sup>10</sup> This initiative and its funding, in addition to other efforts the administration is undertaking, are causing communities to more proactively evaluate new business districts or industrial sites. But if gas service is not in a community or a portion of a community, there is a limiting effect on which new sites and areas can be considered.

Thus, part of Kentucky communities’ ability to deliver on these economic development opportunities is having safe and reliable gas service not just to “shovel ready” industrial and

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<sup>7</sup> The Lane Report, “Lane One on One: Project Pipeline Is Full and Kentucky is Ready,” (Jan. 3, 2023), available at <https://www.lanereport.com/161705/2023/01/perspective-learning-to-openly-love-kentucky/>.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> See <https://ced.ky.gov/kpdi>.

business park sites, but also to sites that are promising but currently less developed, as well as the communities themselves and the surrounding areas to ensure improved livability for the workforce and support businesses necessary to support increased business and industrial growth. Therefore, expanding the EDX pilot program beyond “shovel ready” sites could help de-risk communities’ growing economic development efforts.

LG&E recognizes and appreciates that the “shovel ready” designation was a reasonable means of narrowing the scope of potential EDX projects at the beginning of the pilot program. But given the lack of participation in the program due to its limited scope, as well as the current administration’s focus on and significant effort toward expanding economic development sites and opportunities, LG&E proposes that the Commission expand the sites eligible for the EDX pilot program to include sites or areas to which state or local government has committed some form of support for economic development or in which development is occurring organically and would benefit from expanded availability of gas service. It would remain the applicant’s burden to demonstrate that the proposed EDX project has merit and would plausibly advance economic development, but broadening the scope of projects for which LDCs could apply by expanding the scope of sites and areas such projects could serve would improve the usefulness and likely use of the EDX pilot program.

### **III. Modifying the Single EDX Project Constraint Would Further Improve the EDX Pilot Program’s Usefulness without Adding Undue Cost Risk to Customers or Utilities.**

In tandem with LG&E’s proposal to expand the kinds of sites and areas EDX projects could serve, and consistent with the current state administration’s focus on and funding of greatly expanded economic development sites and opportunities across Kentucky, LG&E proposes that the Commission modify the EDX pilot program’s one-EDX-project-at-a-time approach to allow

LDCs to pursue multiple EDX projects simultaneously.<sup>11</sup> Certainly the Commission may implement reasonable restrictions to ensure that each LDC does not overextend itself with EDX projects and expenditures—and potentially burden existing customers with excessive costs related to serving potential future customers. But restricting all LDCs to one approved EDX project each overlooks differences in LDCs’ financial conditions, capitalization, and customer bases, as well as the particulars of each EDX project, some of which might be relatively costly and involved, and others of which might be relatively simple and low-cost. In short, the current one-size-fits-all approach to restricting the number of EDX projects again limits the usefulness of the pilot program and constrains LDCs’ ability to contribute to Kentucky’s growing (and increasingly successful) economic development initiatives.

Relatedly, LG&E proposes that the Commission create a second approach to EDX project approval that better fits an expanded array of sites and areas that could be considered for EDX projects. Rather than limit EDX review to projects that are essentially fully developed and ready to execute (the current EDX approval approach, which the Commission should retain), LG&E proposes that the Commission implement a second EDX approval approach for projects that are less detailed because they are more prospective (e.g., to a potential industrial site a city or county is interested in promoting for development but that currently lacks any infrastructure). For such projects, LG&E proposes a two-step approval approach:

- The first application and approval would address three issues: (1) a preliminary determination that the proposed project would be EDX-eligible as an extension of service in the ordinary course of business; (2) review of the proposed route of the proposed extension and related property rights acquisitions; and (3) approval of the

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<sup>11</sup> See Case No. 2020-00001, Order at 2 (Ky. PSC Jan. 24, 2020).

proposed financing and accounting treatment for the eventual project costs. This review and approval would not ensure ultimate project approval or cost recovery, but rather would allow an LDC to work with the state and local governments to develop actionable project routing and acquire necessary property rights to allow quick action to obtain final approval and construct a project when one or more prospective customers become known.

- The second application and approval would occur when one or more prospective customers are known and the LDC is therefore able to provide cost and construction details of the project with greater specificity (e.g., pipe sizing, regulator or interconnection facility requirements, and construction timeline). Because of the determinations made in the preliminary approval process, the purpose of this approval would be to ensure the project costs are reasonable and implement any final adjustments to financing and accounting to ensure appropriate cost recovery. LG&E recommends against prescribing financing and accounting requirements for all such projects, but rather allowing LDCs to propose project-specific accounting treatments that best suit each EDX project's financing and other relevant characteristics.

Finally, LG&E recommends that an LDC acquiring property rights for an EDX project following an initial EDX approval as proposed above be able to carry those rights on its books as Gas Plant Held for Future Use and to recover the property taxes on such property acquisitions in accordance with the Commission's existing EDX pilot program orders. LG&E believes this approach gives LDCs a reasonable incentive to pursue economic development projects that could be beneficial for Kentucky while also providing reasonable protections for existing customers, all

while providing the Commission adequate oversight of such projects and their cost incurrence and recovery.

#### **IV. Conclusion**

LG&E continues to believe that the EDX pilot program is an important means of increasing the speed and certainty of EDX projects' development, execution, and cost recovery. Retaining the existing EDX pilot program while also expanding its scope and offering a second approval approach as LG&E proposes herein will both protect existing customers and make the EDX pilot program an even more useful tool for the Commission and LDCs as they seek to aid in Kentucky's increasing and increasingly successful economic development efforts.



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Respectfully submitted,



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**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 January 20, 2023, and that there are currently no parties in this proceeding that the Commission has excused from participation by electronic means.



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