

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF KENTUCKY)	
UTILITIES COMPANY AND LOUISVILLE GAS)	
AND ELECTRIC COMPANY FOR A SITE)	CASE NO. 2023-00361
COMPATIBILITY CERTIFICATE FOR THE)	
CONSTRUCTION OF A SOLAR FACILITY IN)	
MERCER COUNTY, KENTUCKY)	

RESPONSE OF
KENTUCKY UTILITIES COMPANY
AND
LOUISVILLE GAS AND ELECTRIC COMPANY
TO
THE COMMISSION STAFF’S SECOND REQUEST FOR INFORMATION


DATED APRIL 23, 2024

FILED: MAY 10, 2024

VERIFICATION

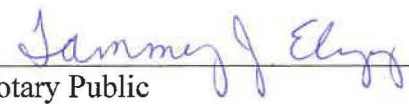
COMMONWEALTH OF KENTUCKY)
)
COUNTY OF JEFFERSON)

The undersigned, **Robert M. Conroy**, being duly sworn, deposes and says that he is Vice President, State Regulation and Rates, for Kentucky Utilities Company and Louisville Gas and Electric Company and an employee of LG&E and KU Services Company, 220 West Main Street, Louisville, KY 40202, and that he has personal knowledge of the matters set forth in the responses for which he is identified as the witness, and the answers contained therein are true and correct to the best of his information, knowledge, and belief.

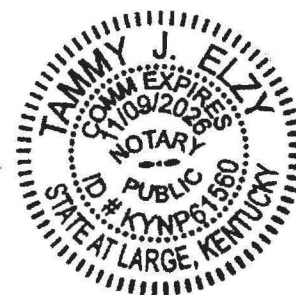


Robert M. Conroy

Subscribed and sworn to before me, a Notary Public in and before said County and State, this 9th day of May 2024.



Notary Public
Notary Public ID No. KYNP61560



My Commission Expires:
November 9, 2026

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

**Response to Commission Staff's Second Request for Information
Dated April 23, 2024**

Case No. 2023-00361

Question No. 1

Responding Witness: Counsel

- Q-1. Refer to the Application, Exhibit 1, Site Assessment Report, Section 2.7.
- a. Describe the review process for Mercer County referred to in Section 2.7 of the Site Assessment Report.
 - b. Identify and provide a copy of Mercer County's planning and zoning requirements that you contend resulted in the setback requirements in KRS 278.704(2) being superseded.
 - c. Identify and provide any of Mercer County's planning and zoning requirements that would be applicable to LG&E/KU's proposed facility if LG&E/KU was not exempt from all planning and zoning requirements pursuant to KRS 100.324 (i.e. requirements that would apply based on the nature of the facility without regard to an exception based on ownership by a utility).
 - d. Explain whether Mercer County's planning and zoning requirements were adopted by a planning and zoning commission, by the fiscal court directly, or by some other entity, and if they were not adopted by a planning and zoning commission, explain why LG&E/KU contends that they would have primacy over the requirements in KRS 278.704(2) given the reference to a planning and zoning commission in the relevant statute.
- A-1. The Companies' consultant, Trinity Consultants ("Trinity"), prepared the Site Assessment Report attached to the Companies Joint Application as Exhibit 1. After discussion with the Companies, Trinity has provided the Companies a revised Section 2.7 (see attachment being provided in a separate file) to replace the original Section 2.7. As originally written, Section 2.7 of the Site Assessment Report mistakenly indicated that Mercer County Planning and Zoning did not have setback requirements. Original Section 2.7 was also based, in part, on the mistaken idea that any local setback requirements would have primacy over the setback requirements contained in KRS 278.704(2). The Companies regret the inaccuracies but the revised Section 2.7 corrects them. In fact, the proposed

Mercer County Solar Facility is *not* a merchant generating facility, because the facility will not sell the electricity it produces into the wholesale market at rates and charges not regulated by the Kentucky Public Service Commission. Additionally, because the Companies' Application is filed pursuant to KRS 278.216, the setback requirements in KRS 278.704(2) for solar generation would typically apply. However, the Commission has broad authority to allow the Companies to deviate from those setback requirements. Thus, the Companies are filing a Motion for Deviation from Setback Requirements contemporaneously with these responses. Finally, although Mercer County does have setback requirements for solar facilities, as set forth below, the Companies are exempt from them pursuant to KRS 100.324.

- a. The review process mentioned in *original* Section 2.7 is the process that the Greater Harrodsburg/Mercer County Planning and Zoning Commission engages in to develop its Comprehensive Plan and zoning ordinances, present those proposals to the Mercer County Fiscal Court and Harrodsburg City Commission, and facilitate adoption by those bodies, as set forth in KRS Chapter 100.
- b. See attachment being provided in a separate file for the Mercer County Zoning Ordinance 2023, Article XV, Section 15.4. Because of this ordinance, the setback requirements in KRS 278.704(2) appear to be superseded for *merchant* generating facilities. However, the proposed Mercer County Solar Facility is *not* a *merchant* generating facility. Additionally, as stated above and in the revised Section 2.7, the Companies are exempt from the Mercer County Zoning Ordinance pursuant to KRS 100.324.
- c. See attachment to part (b) for the Mercer County Zoning Ordinance 2023, Article XV, beginning on page 56 and continuing through page 63. Specifically, the proposed Mercer County Solar Facility would be subject to Section 15.4, which provides for setback variances at Section 15.4(3) if the Companies were not exempt from them as set forth in KRS 100.324. However, that exemption does apply.
- d. The Mercer County Zoning Ordinance 2023 was adopted by the Greater Harrodsburg/Mercer County Planning and Zoning Commission and was approved by the Mercer County Fiscal Court following a process as set forth in KRS Chapter 100. See pages 2 and 3 of the attachment to part (b). For *merchant* electric generating facilities, the adoption of setback requirements for solar facilities in the Zoning Ordinance would appear to supersede the setback requirements contained in KRS 278.704(2). This is because KRS 278.704(3) specifically provides that the decommissioning and setback requirements established by a planning and zoning commission for a *merchant* electric generating facility in an area over which the planning and zoning commission has jurisdiction have primacy over the requirements of

KRS 278.704(2). The proposed Mercer County Solar Facility is *not* a merchant electric generating facility as defined in KRS 278.700(2) because the electricity produced by the facility will not be sold directly into the wholesale market at rates and charges not regulated by the Kentucky Public Service Commission. Therefore, the setback requirements in KRS 278.704(2) do apply to the Companies' facility unless a deviation from them is approved. Please see the Companies Motion for Deviation from Setback Requirements filed contemporaneously herewith.

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Question No. 2

Responding Witness: Counsel

- Q-2. Refer to the Application, Exhibit 1, Site Assessment Report, Section 2.7. Refer also to KRS 278.704(3) and the last sentence of KRS 278.704(2).
- a. Explain all bases for LG&E/KU's contention that the absence of any setback requirement adopted by Mercer County's planning and zoning commission for solar facilities, as distinguished from the adoption of a specific lower set back requirement, eliminated any need by LG&E/KU to comply with the setback requirements in KRS 278.704(2), including why absence of action or the limited action, if any, taken by Mercer County's planning and zoning commission should eliminate the specific standards in KRS 278.704(2). Include in your discussion any relevant standards adopted by the planning and zoning commission that you contend support your position that the setback requirements in KRS 278.704(2) have been superseded. For the purposes of this subpart, assume the setback requirements of the local planning and zoning commission would be applicable to LG&E/KU.
 - b. Assuming setback requirements established by local planning and zoning are not applicable to LG&E/KU pursuant to KRS 100.324, explain why LG&E/KU contends that they would still supersede the setback requirements in KRS 278.704(2) for LG&E/KU.
- A-2.
- a. Please see the response to Question No. 1.
 - b. Please see the response to Question No. 1. The Companies do not contend that the setback requirements in the Zoning Ordinance supersede the setback requirements found in KRS 278.704(2) for the Companies' proposed facility. The setback requirements in the Zoning Ordinance would appear to supersede the setback requirements in KRS 278.704(2) for *merchant* generating facilities. The setback requirements in KRS 278.704(2) do apply to the Companies' facility unless a deviation from them is approved.

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Question No. 3

Responding Witness: David L. Tummonds / Counsel

- Q-3. Refer to the Application, Exhibit 1, Site Assessment Report, Section 2.7.
- a. Assuming they are applicable, identify and explain any changes that would be necessary to LG&E/KU's plans for the proposed facility in order to comply with the setback requirements in KRS 278.704(2) that the proposed structure or facility to be actually used for solar generation shall be (1) at least one thousand (1,000) feet from the property boundary of any adjoining property owner and (2) two thousand (2,000) feet from any residential neighborhood, school, hospital, or nursing home facility.
 - b. Provide a map showing the expected distances of the proposed structures or facilities to be actually used for solar generation from the property boundary of any adjoining property owner based on LG&E/KU's current plans.
- A-3.
- a. Assuming the setback requirements in KRS 278.704(2) apply with no deviation permitted, the name plate rating of the facility will be significantly reduced, rendering the project uneconomic. Increasing the setback distances beyond those proposed by the Companies in response to PSC 1-20 would greatly limit the available area to install solar modules and inverters, which would drastically reduce the amount of solar energy generated from the facility. The attachment provided in a separate file illustrates the potentially-eliminated area, highlighted in red, based on the 1,000 and 2,000 foot setbacks which reduce the nameplate rating by more than 98%.

Enforcement of the 1,000' and 2,000' setbacks without deviation could effectively halt development of solar generation in Kentucky due to the additional costs associated with procuring the incremental land. Consider, for example, a solar generation asset of comparable size to the proposed Mercer County Facility that would require approximately 875 acres of land absent any setback requirements. Compliance with the setback requirements in KRS 278.704(2) would require, at minimum, 65% additional land in the optimal configuration of land acreage in a perfect circle. The land configuration of a

perfect square would require 75% incremental land to comply with the setback requirements, and a more rectangular land mass would require 120% incremental land to comply. Incremental land requirement percentages increase further as property lines become more irregular and the nameplate rating decreases.

The site on which the Companies propose to build the Mercer County Facility is far from the optimal, or even near optimal, configuration layouts considered above; but it is as close to this ideal for solar development in Kentucky as possible, given the acreage, configuration, and number of original owners. Yet even this prime site would require a substantially higher percentage of incremental land relative to the examples discussed above to comply with the setback requirements in KRS 278.704(2). This illustrates the overwhelmingly negative economic impact of compliance with the 1,000' and 2,000' setback distances on these types of projects, effectively rendering solar development in Kentucky a practical impossibility. Therefore, the Companies have filed a Motion to Deviate from the setback requirements set forth in KRS 278.704(2).

- b. The preliminary layout of the solar facility is based on the setbacks shown in the attachment being provided in a separate file. The design parameters contained in the attachment establish the basis for the Preliminary Site Plan provided in attachment to Question No. 9 part (a).

**KENTUCKY UTILITIES COMPANY 1
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Question No. 4

Responding Witness: David L. Tummonds

- Q-4. Refer to the Application, Exhibit 1, Site Assessment Report, Section 3.4.
- a. Provide weight limit ratings for each local roadway to be used by project construction traffic.
 - b. Provide the maximum expected load weights for each type of delivery truck, including cement and water trucks, heavy equipment, gravel for access roads, panels, inverters, and the transformer.
 - c. Explain whether any traffic stoppages will be necessary to accommodate large truck deliveries. If yes, provide the expected locations, frequency, and length of those stoppages.
 - d. Provide the weight and width restrictions of all bridges that exist along roadways proposed to be used during construction and operation of the project.
 - e. Provide a map showing anticipated directional delivery routes.
 - f. Provide any traffic management plans that have been created for project construction.
- A-4.
- a. U.S. Route 127 (US 127) will be the local roadway for construction traffic as the project site has direct access to US 127. US 127 is a Class AAA Highway with a Gross Weight capacity of 80,000 lbs.
 - b. The maximum load traversing US 127 will be the generator step-up transformer with an approximately 215,000 lbs shipping weight. The expected weights for the listed vehicles and equipment are unknown at this time but will likely require approval from the Kentucky Transportation Cabinet due to shipment weight. However, the Companies will ensure the EPC contractor complies with Kentucky Transportation Cabinet requirements as well as posted weight limits for roads, bridges, culverts, etc.

- c. The Companies will work with the EPC contractor to establish transportation logistics, up to and including traffic stoppages, based on equipment shipping arrangements. However, the Companies do not anticipate the need for traffic stoppage based on the proposed equipment.
- d. As indicated in response to part (a), US 127 will be the main access road and has a Gross Weight capacity of 80,000 lb. The Companies will work with the EPC contractor to comply with posted weight and width restrictions on all roadways used during construction.
- e. See attachment being provided as a separate file.
- f. No traffic management plans have been created by the Companies. As indicated in response to part (c), the Companies will work with the EPC contractor to establish transportation logistics during execution of the project.

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Question No. 5

Responding Witness: David L. Tummonds

- Q-5. Refer to the Application, Table D-1. Refer also to LG&E/KU's response to Commission Staff's First Request for Information (Staff's First Request), Items 3, 5, and 6.
- a. State how the "Distance from Site" for each of the properties listed on Table D-1 is measured, e.g. from the closest point on the land containing the improvement identified to the closest part of the property line for the property on which LG&E/KU proposes to construct the proposed facilities, from the residence or other improvement to the closest point at which a component of the proposed facilities will be located, etc.
 - b. Explain why the distances in Table D-1 appear to be further than those provided in the Excel spreadsheets provided in response to Staff's First Request, Item 5 and Item 6. A-5. C.
 - c. Identify the locations of any residential neighborhoods, as defined by KRS 278.700(6), within 2,000 feet of the property on which the proposed facilities will be located, and for each residential neighborhood identified, provide the distance between the closest point of the residential neighborhood and any component of the proposed facility that will be used to generate electricity.
 - d. Provide a list and identify the location of any cemeteries located within the 2,000-foot radius of the project and within the project boundaries. If there are cemeteries located within the project boundary, provide the planned setbacks from the cemetery and explain how access will be provided to those, if any, entitled access the cemetery.
- A-5.
- a. The "Distance from Site" in table D-1 was measured from the closest property line of the proposed Mercer County Solar Facility project site to the property line of parcels identified within a 1.5 mile buffer of the site for purposes of conducting the property valuation analysis.

- b. The purpose of Table D-1 was to evaluate the impact of property valuations and not to measure the distance to the project site or solar field components. The variability in the distances measured in the responses to PSC 1-5 and PSC 1-6 and in Table D-1 may be attributed to a number of factors that includes: different starting and ending points of measurement from each respective property line, PVA property lines are not survey quality, and different software applications utilized.
- c. There is one residential neighborhood, Cottonwood Subdivision, located within 2,000 feet of the KU property line. The residential structure for the closest residential property (2183 Louisville Road) in the Cottonwood Subdivision is located approximately 1,375 feet to the closest component of the solar facility, based upon the preliminary design, use of GIS software and publicly available property imagery.
- d. The Lillard Family Graveyard is located within the project boundary. Unrestricted access will be provided on KU property directly north from Jackson Pike along the western edge of the property parallel to the railroad tracks. The descendants of the cemetery have been notified and have agreed with this proposed access road and parking area. The solar array will be set back approximately 50 feet from the cemetery based upon the preliminary design.

One additional cemetery has been identified outside of the project boundaries but within the 2,000-foot radius of the KU property line.

Name	GPS Location	Approximate Address	Distance to Property Line
<u>Jones Family Cemetery</u>	37.83417, -84.84594	Dunn Ln.	1,117 feet

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Question No. 6

Responding Witness: David L. Tummonds

- Q-6. Refer to LG&E/KU's response to Staff's First Request, Items 5 and 6.
- a. Provide an updated version of the Excel spreadsheet provided in response to Staff's First Request, Item 5 that provides the address for each parcel listed and provides the approximate distance from each residence to the nearest planned solar panel, inverter, and substation based on the most up to date maps and drawings filed in this matter showing the approximate locations of planned equipment.
 - b. Provide an updated version of the Excel spreadsheet provided in response to Staff's First Request, Item 6 that identifies any school, hospital, or nursing home facility, provides the address for each such structure listed and provides the approximate distance from each such structure to the nearest planned solar panel, inverter, and substation based on the most up to date maps and drawings filed in this matter showing the approximate locations of planned equipment..
- A-6.
- a. See attachment being provided as a separate file for the addresses of each parcel. Distance to substation was provided in the original data request and is included in the attachment to this response. Based upon the preliminary design, the distance from each residential structure to the solar panel was determined by adding 50 feet to the measured distance from the property line. Based upon the preliminary design of the solar field, the panels will be set back a minimum of 50 feet from the property line. For all residential structures within 1,000 feet of the property line, the measured distance to the solar field was determined and noted in a separate tab of the spreadsheet. Based upon the preliminary design, there are 27 inverters to be installed on this project and the closest inverter is 126 feet from the property line. The table reflects the minimum potential distance that a residential structure will be to an inverter. For all residential structures within 1,000 feet of the property line, the measured distance to the closest inverter was determined and noted in a separate tab of the spreadsheet.

- b. There are no schools, hospitals, or nursing homes within 2,000 feet of the project boundary line. See attachment being provided as a separate file for the addresses of each parcel. Distance to substation was provided in the original data request and is included in the attachment to this response. Based upon the preliminary design, the distance from each non-residential structure to the solar panel was determined by adding 50 feet to the measured distance from the property line. Based upon the preliminary design of the solar field, the panels will be set back a minimum of 50 feet from the property line. There are 27 inverters to be installed on this project and the closest inverter is 126 feet from the property line. The table reflects the minimum potential distance that a non-residential structure will be to an inverter.

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Question No. 7

Responding Witness: David L. Tummonds

- Q-7. Refer to LG&E/KU's response to Staff's First Request, Item 2. Provide any updates on whether LG&E/KU has issued the request for proposal (RFP) for an engineering, procurement, and construction (EPC) firm.
- A-7. Development of the EPC RFP package is ongoing. The Companies anticipate issuing the RFP during the 2nd or 3rd quarter of 2024.

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Question No. 8

Responding Witness: David L. Tummonds

- Q-8. Refer to LG&E/KU's response to Staff's First Request, Item 4.
- a. Describe the planned style of the security fence.
 - b. Explain whether the perimeter security will be installed according to National Electric Safety Code (NESC) standards. Include in the response whether the fencing will be installed before any electrical work begins.
 - c. Explain whether a separate fence will enclose the substation and related facilities.
 - d. Identify and describe signage that will be utilized around the facility to warn trespassers of prohibited entry.
- A-8.
- a. The Companies plan to install a 7-foot high security fence with swing and cantilever access gates in multiple locations along the secured perimeter for operations and maintenance ("O&M") access.
 - b. The security fencing will be installed per NESC Section 11, Rule 110A prior to energization of electrical components.
 - c. The substation and related facilities will have a separate security fence.
 - d. "No trespassing" signs will be installed along the perimeter of the security fence. The final design, content, and spacing of the "no trespassing" signs will be established during installation of the security fence.

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**Response to Commission Staff's Second Request for Information
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Question No. 9

Responding Witness: David L. Tummonds

- Q-9. Refer to LG&E/KU's response to Staff's First Request, Item 8.
- a. Provide a one-page map detailing the location of vegetative screening that will be utilized for the project.
 - b. Explain the circumstances in which any existing trees or existing vegetation will be removed or cleared, and provide approximately how many acres LG&E/KU expects to be removed or cleared.
 - c. Explain the circumstances in which an opaque fence will be used in lieu of a vegetative buffer, including the basis for using an opaque fence instead of a vegetative buffer.
 - d. Explain whether it would be possible to use a vegetative buffer along the perimeter of the entire facility.
 - e. Explain the differences in operational noise mitigation offered by a vegetative barrier such as the one described in response to Staff's First Request, Item 8 and an opaque fence.
- A-9.
- a. Screening will be in compliance with the Stipulation and Recommendation established with Mercer County. See the attachment to response to PSC 1-8. In addition, see attachment being provided as a separate file, which indicates the Companies' preliminary plan for vegetative screening. Final vegetative screening will be adjusted based on final layout and impacted occupied residences.
 - b. The design of the solar facility will minimize the need to remove existing trees and vegetation while optimizing land use to achieve up to a 120MWac name plate rating. It is anticipated that existing trees and vegetation, interior to the project site, will be removed on a limited basis to address shading and to optimize land utilization of adjacent non-vegetated fields. The Companies

do not anticipate removing trees and vegetation around the perimeter of the site as they provide an existing visual screening.

- c. The Companies do not plan to use opaque fence (e.g., wood fencing) in-lieu of vegetative buffer to address viewshed concerns. However, the Companies will evaluate the use of opaque fencing in the event that vegetative buffer cannot be maintained or is not a viable option.
- d. Yes, it is possible to use vegetative buffer around the entire perimeter of the facility. However, installing vegetative buffer around the entire perimeter of the facility will have minimal impact on the visibility of the facility from public land due to the topography of the site and sight lines. Installation of vegetative buffer around the entire perimeter of the facility will increase the overall cost of the facility as well as ongoing O&M cost to maintain the vegetation.
- e. Vegetative buffer and opaque fence can be used to mitigate noise. The proposed vegetative cover will help attenuate and calm any noise. An opaque fence would reflect and deflect noise and would need to be installed close to the sound source. Both options will provide similar noise mitigation, however vegetative cover provides a more natural barrier.

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Question No. 10

Responding Witness: Philip A. Imber

- Q-10. Refer to LG&E/KU's response to Staff's First Request, Item 9. Provide a copy of the desktop and field habitat surveys.
- A-10. See attachment being provided in a separate file. The Threatened and Endangered Species Habitat Survey Report, dated August 14, 2020, was performed by Ecology and Environment, Inc.

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Question No. 11

Responding Witness: David L. Tummonds

- Q-11. Refer to LG&E/KU's response to Staff's First Request, Item 13.
- a. Explain whether it would be reasonable to limit pile driving activities to Monday through Saturday and specific daylight hours when pile driving is less likely to disturb neighboring property owners, such as 8:00 a.m. to 6:00 p.m., and explain what effect, if any, such limitations would have on the construction timeline.
 - b. Explain whether it would be reasonable to limit other construction activities likely to cause noise, such as the use of heavy equipment, to Monday through Saturday and specific daylight hours when such activities are less likely to disturb neighboring property owners, such as 7:30 a.m. to 7:30 p.m., and explain what effect, if any, such limitations would have on the construction timeline.
 - c. State whether vibration monitoring will be conducted during pile driving.
 - (1) If so, describe how the vibration monitoring will be conducted, including whether vibration limits will be established to avoid damage to nearby structures and whether preconstruction surveys of nearby structures will be conducted to create a record and address damage claims.
 - (2) If not, explain why vibration monitoring will not be conducted during pile driving or is not necessary to avoid damage to nearby structures.
- A-11.
- a. Pile driving activities could be limited to daylight hours Monday through Saturday. The impact of such limitation could be an extension of pile driving activities, the EPC contractor's ability to work extended hours to recover from adverse weather event, or both. At this point, the Companies cannot say for sure how long the construction timeline would be affected or how much additional cost would be incurred by limiting pile driving activities to daylight hours.

- b. Other construction activities likely to cause noise could be limited to daylight hours Monday through Saturday with similar impacts identified in the response to part (a).
- c. The Companies will work with the EPC contractor to determine if vibration monitoring is required based upon the installation means and methods.
 - (1) The use and need for vibration monitors and limits will be based upon the installation means and method established by the EPC contractor. The Companies do not anticipate the need for preconstruction surveys of nearby structures.
 - (2) Based on experience from the Companies' Owners Engineer, the need for vibration monitoring and limits are not required as the driving energy is minimal.

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Question No. 12

Responding Witness: Philip A. Imber

- Q-12. Refer to LG&E/KU's response to Staff's First Request, Item 16. State what steps LG&E/KU has taken to acquire any of the listed permits and whether any permits have been acquired. If this process has not been started, provide a timeline of when LG&E/KU will start the application processes.
- A-12. The project is designed to avoid Waters of the United States ("WOTUS") and 100-year floodplain. Given that, the following is an update for permits:
- Clean Water Act Section 404 Individual Construction and/or Nationwide Permit 12 (Utilities Line Activity) and 51 (Land-based Renewable Energy Generation Facilities from the U.S. Army Corps of Engineers) – permitting is not applicable/necessary.
 - Water Quality Certification – Section 401 of the Clean Water Act from KY Division of Water (KDOW) – permitting is not applicable/necessary.
 - Stream Construction Permit for Construction In Or Along a Stream (i.e., Floodplain Permit from Mercer County Floodplain Manager and KDOW, Floodplain Management Section) – permitting is not applicable/necessary.

The response to PSC 1-16 also included reference to the following permits:

- (1) a Kentucky Pollutant Discharge Elimination System (KPDES) & Stormwater Pollution Prevention Plan ("SWPP") from KDOW - The Companies will identify the general construction KPDES permit (KYR10) as a Contractor requirement in the EPC contract. The Companies will review notice of intent and engage with KDOW as necessary to obtain the general construction KPDES permit. Notice of intent to construct is required seven days before site disturbance and KDOW is required to provide a written response in that period of time. A condition of a general construction KPDES permit is the preparation of a SWPP. The SWPP does not require KDOW submittal and approval.
- (2) a Grading Permit from Mercer County - The Companies will identify the Grading Permit as a Contractor requirement in the EPC contract. Grading

permits generally require site information, description of work, and submittal of plans.

- (3) a Roadway Encroachment Permit from the Kentucky Transportation Cabinet;
- The Companies will identify the roadway encroachment permit as a Contractor requirement in the EPC contract. The roadway encroachment permit application will likely reference the KYR10 permit identified above and require Before You Dig notice a minimum of two and no more than ten business days prior to excavation.
- (4) a Building Information Sheet from Mercer County Property Valuation Administrator (PVA); - The Companies will identify the Building Information Sheet as a Contractor requirement in the EPC contract. The Building Information Sheet is obtained in person at the Mercer County PVA.
- (5) a Building Permit from the Office of the Mercer County Building Inspector. - The Companies will identify the commercial building permit as a Contractor requirement in the EPC contract. This permit application is a one-page document that requires PVA Building Info Sheet, proof of ownership, construction details, a site plan, proof of insurance, and driveway (roadway encroachment) permit.

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Question No. 13

Responding Witness: Philip A. Imber

- Q-13. Describe any steps LG&E/KU has taken or intends to take to ensure that its construction of the proposed facilities will comply with the National Environmental Policy Act (NEPA).
- A-13. NEPA's procedural requirements apply to Federal agencies. NEPA does not apply when an action by a private entity does not require federal review. No NEPA coordination is needed for the project because it is designed to avoid Waters of the United States and other federal nexuses. In the event NEPA is triggered, the Companies will work with the appropriate federal agencies to complete the NEPA consultation process.

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Question No. 14

Responding Witness: David L. Tummonds

- Q-14. Submit a copy of the leases or purchase agreements, including options, amendments, and deeds that LG&E or KU have entered into in connection with the proposed solar facility, including the agreements for each of the parcels of the project. If LG&E or KU have not entered into any such agreements, provide an explanation and steps LG&E/KU would need to take to secure such an agreement.
- A-14. See attachments being provided in separate files. Certain information requested is confidential and proprietary and is being provided under seal pursuant to a petition for confidential protection.

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Question No. 15

Responding Witness: David L. Tummonds

- Q-15. Detail any contracts by which LG&E/KU has paid, has negotiated to pay, or any compensation paid to non-participating landowners, whether cash or otherwise, near the project. Include the terms of the agreements and which properties are involved in terms of distance to the project boundaries.
- A-15. The Companies have not entered into any such contracts.

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Question No. 16

Responding Witness: David L. Tummonds

- Q-16. Submit a site plan which includes the following features: substation location, POI, invertors, solar arrays, access roads, site entrances, employee parking, laydown areas, parcels, fence line, collection line routes, gen-tie route, and other appropriate features.
- A-16. See the attachment to Question No. 9 part (a).

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Question No. 17

Responding Witness: David L. Tummonds

- Q-17. Provide the mileage of the gen-tie route.
- A-17. The interconnection tie point to the 138kV transmission line is contained within the overall project site and is expected to be less than 0.2 miles. The EPC contractor will be responsible for the final design of the gen-tie line.

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Question No. 18

Responding Witness: Philip A. Imber / David L. Tummonds

- Q-18. Identify and explain any mitigation measures proposed because the project is located within a floodplain and why those mitigation measures will address any issues arising from its location in a floodplain. If none are proposed, explain why no such mitigation measures are necessary.
- A-18. A portion of the site is located in a FEMA 100-year floodplain, but installation of equipment will not impact or be impacted by the 100-year floodplain.

During construction, the EPC contractor will utilize appropriate best management practices to control site runoff and attain necessary construction permits such as a Kentucky Pollution Discharge Elimination System ("KPDES") stormwater construction permit.

Prior to commercial operation of the facility, the Companies will attain the appropriate KPDES permits.

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Question No. 19

Responding Witness: Philip A. Imber

- Q-19. Provide a map presenting all karst features within the project boundary.
- A-19. See the attachment to Question No. 9 part (a). The drawing identified several karst features based on readily available topographical and geotechnical data. The conceptual design of the facility has avoided these areas. The EPC contractor will be responsible for identifying known and suspected karst formations and establishing setback requirements.

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Question No. 20

Responding Witness: Philip A. Imber

- Q-20. Provide the results of any field study that has been conducted to locate any historic or cultural resources were found on the project site. If the field study has not been completed, provide when it will be completed.
- A-20. See attachments being provided in separate files. The April 17, 2021 archaeological reconnaissance report, with results of a pedestrian survey, was performed by Cultural Resource Analysts, Inc. The April 26, 2021 cultural historic overview study, with results of a windshield study, was performed by Cultural Resource Analysts, Inc. The August 14, 2020 Desktop Cultural Resources Review was performed by Ecology and Environment, Inc.

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Question No. 21

Responding Witness: David L. Tummonds

Q-21. State the expected operational life of the project.

A-21. The expected operating life of the project is 30 years.

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Question No. 22

Responding Witness: David L. Tummonds

- Q-22. Explain LG&E/KU's plan or expectations for decommissioning the project when the project reaches the end of its useful life.
- A-22. At this time, the Companies do not have a plan for decommissioning the project upon reaching the end of its useful life. It is expected that the site will be repowered, repurposed, or returned to near preconstruction condition upon reaching the end of its useful life. Any demolition and disposal activities will be in compliance with then applicable laws. Absent potential to reuse or repurpose below grade facilities, the Companies would remove them far enough below grade to facilitate future agricultural use.

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Question No. 23

Responding Witness: David L. Tummonds

- Q-23. Explain whether construction activities will occur sequentially, or concurrently across the project site.
- A-23. The EPC contractor will utilize multiple crews and concurrent construction across the project site, i.e., multiple construction aspects (earthwork, underground, foundations, racks, modules, etc.) will be occurring at the same time.

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Question No. 24

Responding Witness: David L. Tummonds

- Q-24. State whether the project have an AC collection system. If yes, explain if the AC collection system will be underground, aboveground, or both. If the AC collection system will be underground and above ground, provide a map that shows which segments are above ground and which segments are above ground.
- A-24. Yes. The preliminary design of the AC collection system is underground from the inverters to the collector substation as shown on attachment to Question No. 9 part (a). The EPC contractor is responsible for the final design of the AC collection system.

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Question No. 25

Responding Witness: David L. Tummonds

- Q-25. Explain whether any existing structures on the project site will be demolished during construction.
- A-25. The existing structures (barns, silos, houses, etc.) not utilized during construction, will be demolished prior to or during construction. Upon completion of the project, all structures not utilized or needed during operations of the facility will be demolished.

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Question No. 26

Responding Witness: David L. Tummonds

- Q-26. Explain who will control access to the site during construction and operations.
- A-26. The EPC contractor will control site access during construction. Upon commercial operation and during operations, the Companies will control site access. The EPC will be subject to the Companies' oversight during construction.

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Question No. 27

Responding Witness: David L. Tummonds

- Q-27. Provide any communication with local emergency services on security and emergency protocols during construction and operations. If contact has not been made, explain when that contact will occur.
- A-27. To date, the Companies have not communicated with local emergency services on security and emergency protocols during construction and operations. The Companies will work with the EPC contractor to ensure local emergency services are fully informed on the project prior to initiating construction activities. In addition, the Companies will ensure that the annual meeting with emergency responders at E.W. Brown appropriately discusses the status and pending progress of this project. This meeting is usually executed in October/November and has previously covered solar installations.

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Question No. 28

Responding Witness: David L. Tummonds

- Q-28. Provide any communication with the neighboring communities regarding the project. State whether any public meetings/open houses have been held and if so, provide the date and location of said meetings.
- A-28. The Companies have not held or participated in public meetings/open houses related to the project. However, the Companies expanded their Neighbor to Neighbor (“N2N”) newsletter to include the community surrounding the facility. The Companies have utilized this approach at its generating assets for over ten years to include construction of the Cane Run 7 facility and other solar fields. The N2N newsletter allows the Companies to periodically update the community on recently concluded, current, and upcoming items of potential interest and concern. The newsletter also provides methods to contact the Companies so that the community can respond to items or raise points of concern. Publication frequency has evolved to the current state of three times per year (Spring, Summer, and Fall), but the contact information is monitored throughout the year. See attachment being provided in a separate file for the most current N2N newsletter.

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Question No. 29

Responding Witness: David L. Tummonds

- Q-29. Provide an updated two-mile radius site plan identifying the Point of Interconnection (POI) and Plant Substation.
- A-29. See attachment being provided in a separate file.

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Question No. 30

Responding Witness: David L. Tummonds

- Q-30. Provide an Electrical One-Line diagram of the Project.
- A-30. See attachments being provided in separate files.

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Question No. 31

Responding Witness: David L. Tummonds

- Q-31. Explain how LG&E/KU plans to interconnect to KU's 138 kV transmission line, including whether there will be more than one origination point.
- A-31. The Companies will install a new substation adjacent to the existing 138kV transmission line. The location of the new substation and tie-point to the existing 138kV line are contained within the project site as shown in attachment to Question No. 9 part (a).

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Question No. 32

Responding Witness: David L. Tummonds

- Q-32. State whether LG&E/KU plans to install any step-down transformers.
- A-32. The preliminary design utilizes the following step-up transformers: twenty-nine (29) 0.645kV to 34.5kV and one 34.5kV to 138kV.

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Question No. 33

Responding Witness: David L. Tummonds

- Q-33. State what steps LG&E/KU plans to take to avoid the EKPC 69 KV line within the project boundaries.
- A-33. Based upon the preliminary design, the solar field will not encroach upon the existing easement for the EKPC 69 KV line which runs in a generally north/south direction from Jackson Pike parallel with the railroad track. If grade changes are necessary for the perimeter road within the easement, the Companies will ensure compliance with the easement and secure any necessary approvals from EKPC. The Companies will work with both EKPC and the railroad on the final design of the collector lines running to the substation to minimize impact to both entities and ensure approval from both before finalizing design.

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Question No. 34

Responding Witness: Robert M. Conroy

- Q-34. Refer to LG&E/KU's notice requesting that this matter be taken under submission and decided based upon the written record. State whether LG&E/KU continues to request that this matter be taken under submission and decided based upon the written record.
- A-34. On November 13, 2023, the Companies filed their Joint Application and supporting documentation in this matter. By Order dated December 5, 2023, the Commission issued a procedural schedule setting an intervention deadline and a single round of discovery. No person or party sought to intervene and the Companies responded timely to the single round of discovery. Shortly thereafter, on January 24, 2024, the Companies filed their timely statement indicating that the matter could be decided based upon the written record. With that filing and based upon the procedural schedule, the Companies assumed a decision would soon be issued. However, on April 23, 2024, Commission Staff issued its Second Request for Information to which the Companies respond herein.

The Companies appreciate the opportunity afforded by this question to change its January 24, 2024 position. The Second Request for Information seeks extensive and detailed information about the proposed facilities and poses legal questions regarding setback issues (see Questions 1, 2, and 3). The Companies have provided all of the requested information to the best of their abilities and have addressed the legal issues raised in Questions 1, 2, and 3, which include the Companies' submission of a revised Section 2.7 of the Site Assessment Report that should eliminate any confusion over setback issues.

With these responses and the contemporaneously-filed Motion to Deviate from Setback Requirements, the Companies continue to believe the Commission has before it all the information it needs to: (1) approve the requested deviation from setback requirements; and (2) issue the requested Site Compatibility Certificate without spending the time and expense associated with a hearing. This is especially true since the Commission already issued a Certificate of Public Convenience and Necessity for the Mercer Solar Facility in Case No. 2022-

00422,¹ which was one of the most hotly contested cases in the Commission's history. The Companies note that there are no intervenors in this case and not a single public comment has been filed in opposition to the proposed facilities. The Companies note further that the Mercer County Fiscal Court has expressly supported the project and "recognizes the importance of renewable energy."² Finally, as a practical matter and by its very nature, a solar facility is likely the least intrusive type of electric generating facility that could be the subject of a Site Compatibility Certificate. This is certainly the case for the Companies' proposed Mercer County Solar Facility, as shown by the lack of impacts in the Site Assessment Report. Therefore, the Companies do not change their position that the case may be decided without a hearing. However, to the extent the Commission has any remaining questions or concerns that would prevent the issuance of the requested Site Compatibility Certificate with the requested setback deviation, the Companies would gladly appear at a hearing or an informal conference to address those questions or concerns.

¹ Case No. 2022-00402, *Electronic Joint Application of Kentucky Utilities Company and Louisville Gas and Electric Company for Certificates of Public Convenience and Necessity and Site Compatibility Certificates and Approval of a Demand Side Management Plan and Approval of Fossil Fuel-fired Generating Unit Retirements*, (Ky. PSC Nov. 6, 2023).

² Case No. 2022-00402, *Stipulation and Recommendation*, p. 3 (filed Aug. 15, 2023).