

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF)	
LOUISVILLE GAS AND ELECTRIC COMPANY)	
FOR A SITE COMPATIBILITY CERTIFICATE)	
FOR THE CONSTRUCTION OF A BATTERY)	CASE NO. 2024-00082
ENERGY STORAGE SYSTEM FACILITY AT)	
E.W. BROWN GENERATING STATION IN)	
MERCER COUNTY, KENTUCKY)	

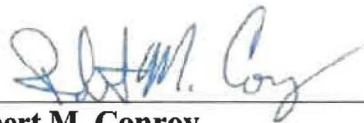
RESPONSE OF
LOUISVILLE GAS AND ELECTRIC COMPANY
TO
THE COMMISSION STAFF'S THIRD REQUEST FOR INFORMATION
DATED JULY 17, 2024

FILED: July 26, 2024

VERIFICATION

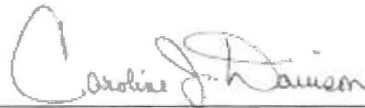
COMMONWEALTH OF KENTUCKY)
)
COUNTY OF JEFFERSON)

The undersigned, **Robert M. Conroy**, being duly sworn, deposes and says that he is Vice President, State Regulation and Rates, for Louisville Gas and Electric Company and an employee of LG&E and KU Services Company, 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 25th day of July 2024.

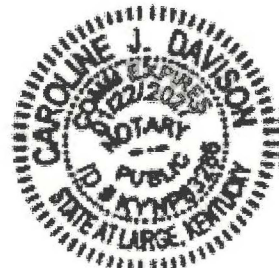


Notary Public

Notary Public, ID No. KYNP63286

My Commission Expires:

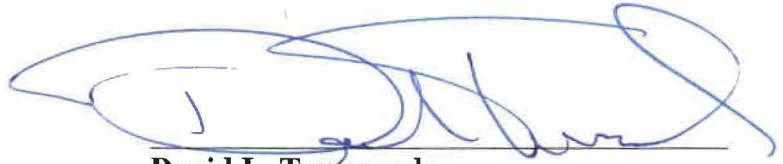
January 22, 2027




VERIFICATION

COMMONWEALTH OF KENTUCKY)
)
COUNTY OF JEFFERSON)

The undersigned, **David L. Tummonds**, being duly sworn, deposes and says that he is Senior Director Project Engineering for 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.


David L. Tummonds

Subscribed and sworn to before me, a Notary Public in and before said County and State, this 25th day of July 2024.


Notary Public
Notary Public, ID No. KYNP4577

My Commission Expires:

April 1, 2028



LOUISVILLE GAS AND ELECTRIC COMPANY

**Response to Commission Staff's Third Request for Information
Dated July 17, 2024**

Case No. 2024-00082

Question No. 1

Responding Witness: David L. Tummonds

Q-1. Provide the planned setbacks for the battery energy storage facility. Include a table with the following:

- (a) the distance from the nearest road to the facility;
- (b) the distance from the nearest residence to the facility;
- (c) the distance from the nearest non-participating or non-LG&E-owned structure to the facility;
- (d) the distance from the facility to the nearest adjoining property boundary;
- (e) the distance from the nearest transmission structure including but not limited to lines or substation.

A-1. The Company has positioned the battery energy storage facility at the E.W. Brown Generating Station to be located at the northern end of the property illustrated on Figure 1.1 of the Site Assessment Report and Cumulative Environmental Assessment (Application Exhibit 1 Part 1). As noted in the Company's response to Question No. 3, there are no setbacks required for this battery energy storage facility.

- (a) 794 feet measured to Webb Rd
- (b) 1,030 feet to a residence located at 1851 Curdsville Rd
- (c) 680 feet to a structure located at 5537 High Bridge Rd
- (d) 249 feet to the property line of the 1767 Curdsville Rd
- (e) 107 feet to the Brown North – West Lexington 345 kV transmission line

LOUISVILLE GAS AND ELECTRIC COMPANY

**Response to Commission Staff's Third Request for Information
Dated July 17, 2024**

Case No. 2024-00082

Question No. 2

Responding Witness: David L. Tummonds

- Q-2. State whether there are any proposed structures or facilities related to the battery energy storage facility at E.W. Brown Generating Station that are 2,000 feet or closer to the following and, if so, provide the distance:
- (a) Residential neighborhood as defined in 278.700(6);
 - (b) School;
 - (c) Hospital; and
 - (d) Nursing Facility.
- A-2. See the response to Question No. 3. There are no setbacks required for this battery energy storage facility.
- (a) There are no residential neighborhoods as defined in 278.700(6) located within 2,000 feet of the battery energy storage facility at E.W. Brown Generating Station.
 - (b) There are no schools located within 2,000 feet of the battery energy storage facility at E.W. Brown Generating Station.
 - (c) There are no hospitals located within 2,000 feet of the battery energy storage facility at E.W. Brown Generating Station.
 - (d) There are no nursing facilities located within 2,000 feet of the battery energy storage facility at E.W. Brown Generating Station.

LOUISVILLE GAS AND ELECTRIC COMPANY

**Response to Commission Staff's Third Request for Information
Dated July 17, 2024**

Case No. 2024-00082

Question No. 3

Responding Witness: Robert M. Conroy / Counsel

- Q-3. Refer to LG&E's response to Commission Staff's First Request for Information, Item 4, and KRS 278.704(2). Explain all bases for LG&E's contention that the setback requirements contained in KRS 278.704 do not apply to battery projects. In this response include an explanation of the applicability of the first sentence of KRS 278.704(2) starting with "no construction certification shall be issued" to this case.
- A-3. The first sentence of KRS 278.704(2) applies to merchant electric generators who are seeking a construction certificate. LG&E is not a merchant generator and is not required to obtain a construction certificate. The only reason that portions of KRS 278.704 and KRS 278.708 come into play is because they are referenced in KRS 278.216 which requires utilities to obtain a site compatibility certificate from the Commission before constructing an electric generating facility capable of generating in aggregate more than ten megawatts (10MW). Specifically, KRS 278.216(2) provides that an application for a site compatibility certificate must include a site assessment report as prescribed in KRS 278.708(3) and (4), except that a utility which proposes to construct a facility on a site that already contains facilities capable of generating ten megawatts (10MW) or more of electricity shall not be required to comply with setback requirements established pursuant to KRS 278.704(3). The only setback requirements contained in KRS 278.704(2) that are applicable to utilities seeking site compatibility certificates are contained in the second sentence in KRS 278.704(2), which provides: "[f]or purposes of applications for site compatibility certificates pursuant to KRS 278.216, only the exhaust stack of the proposed facility to be actually used for coal or gas-fired generation or, beginning with applications for site compatibility certificates filed on or after January 1, 2015, the proposed structure or facility to be actually used for solar or wind generation shall be required to be at least one thousand (1,000) feet from the property boundary of any adjoining property owner and two thousand (2,000) feet from any residential neighborhood, school, hospital, or nursing home facility." The express language in the statute only applies to exhaust stacks for coal or gas-fired generation and to structures or facilities to be used for solar or wind generation. There is no setback requirement applicable to battery projects for public utilities.

LOUISVILLE GAS AND ELECTRIC COMPANY

Response to Commission Staff's Third Request for Information

Dated July 17, 2024

Case No. 2024-00082

Question No. 4

Responding Witness: Robert M. Conroy

Q-4. Refer to LG&E's notice requesting that this matter be taken under submission and decided based upon the written record. State whether LG&E continues to request that this matter be taken under submission and decided based upon the written record.

A-4. On March 28, 2024, LG&E filed an Application and supporting documentation in this matter. By Order dated April 9, 2024, the Commission issued a procedural schedule setting an intervention deadline and two rounds of discovery. No person or party sought to intervene and LG&E responded timely to both rounds of discovery. Since no parties requested intervention, LG&E shortly thereafter, on July 9, 2024, 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, LG&E assumed a decision would be made based on the written record. However, on July 17, 2024, Commission Staff issued its Third Request for Information to which LG&E respond herein.

LG&E appreciates the opportunity afforded by this question to change its July 9, 2024 position. The Third Request for Information seeks additional information about distances to the proposed facility and poses legal questions regarding setback requirements (see Question No. 3). LG&E has provided the requested information and has addressed the legal issues raised in Question No. 3.

LG&E believes the Commission now has before it all the information it needs to 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 Brown Battery Energy Storage System in Case No. 2022-00422, which included numerous requests for information, extensive direct and rebuttal testimony, and a hearing that lasted six days. LG&E also notes that there are no intervenors in this case and not a single public comment has been filed in opposition to the proposed facility. Finally, as a practical matter and by its very nature, the Brown Generating Site already has a battery energy storage system located on the property, along with coal, natural gas, solar, wind, and hydro generation. Therefore, LG&E does not change its 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, LG&E would appear at a hearing should the Commission determine one would be helpful or, alternatively, at an informal conference to address those questions or concerns.