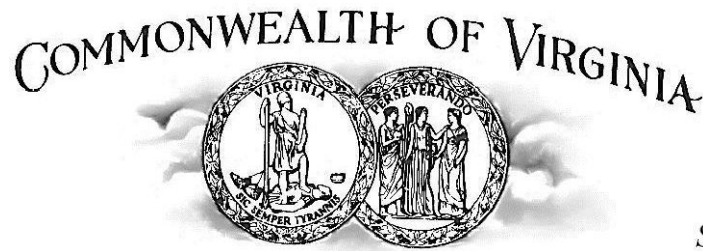


OFFICE OF THE GENERAL COUNSEL

P. O. Box 1197
Richmond, Virginia 23218-1197



STATE CORPORATION COMMISSION

Telephone Number: (804) 371-9671
Facsimile Number: (804) 371-9240
Facsimile Number: (804) 371-9549

State Corporation Commission
Document Control Center
07/17/2026 - 11:06 AM

July 17, 2026

VIA ELECTRONIC FILING

Hon. Bernard Logan, Clerk
State Corporation Commission
c/o Document Control Center
Tyler Building, First Floor
1300 East Main Street
Richmond, Virginia 23219

RE: *Joint Application of Kentucky Utilities Company d/b/a Old Dominion Power Company and Louisville Gas and Electric Company, For transfer of certificate, approval of merger, and declaratory order, Case No. PUR-2026-00052*

Dear Mr. Logan:

Please file in the above-captioned proceeding the enclosed Brief of the Staff of the State Corporation Commission.

Thank you for your assistance.

Sincerely,

/s/ Raymond L. Doggett, Jr.
Raymond L. Doggett, Jr.

RLD:kal
Enclosure

cc: Document Control Center
Service List

STATE CORPORATION COMMISSION

JOINT APPLICATION OF

KENTUCKY UTILITIES COMPANY D/B/A
OLD DOMINION POWER COMPANY AND
LOUISVILLE GAS AND ELECTRIC COMPANY

CASE NO. PUR-2026-00052

For transfer of certificate, approval of merger, and
declaratory order

**LEGAL BRIEF OF THE STAFF
OF THE STATE CORPORATION COMMISSION**

I. INTRODUCTION

On April 29, 2026, Kentucky Utilities Company (“KU”), operating in Virginia under the name Old Dominion Power Company (“KU/ODP”), and Louisville Gas and Electric Company (“LG&E”) (KU and LG&E, collectively, “Applicants” or “Companies”) completed the filing of a joint application (“Application”)¹ with the State Corporation Commission (“Commission”) for approval of the legal merger of KU and LG&E.² Specifically, the Applicants request: (1) approval of the transfer of the certificate to furnish electric service pursuant to Chapter 10.1 of Title 56 of the Code;³ (2) approval of the merger of the Companies pursuant to the Utility Transfers Act (“Transfer”), or a determination that such approval is not required; and (3) a declaration pursuant to 5 VAC 5-20-100 C of the Commission’s Rules of Practice and

¹ The Companies’ initial filing was made on April 17, 2026. A supplemental filing was made on April 29, 2026, which rendered the Application complete for purposes of review under Chapter 5 of the Code of Virginia (“Code”), § 56-88 *et seq.*

² Application at 1.

³ Code § 56-265.1 *et seq.*

Procedure⁴ that KU/ODP's exemption from regulation under Chapter 23 of Title 56,⁵ found in Code § 56-580 G, would continue to apply to the merged Companies.⁶

As to item three of the Applicants' request, the Companies set out in the Application the bases for requesting a declaratory order from the Commission confirming that the statutory exemption in Code § 56-580 G will continue to apply to the surviving utility following the proposed merger.⁷ In an Order for Notice and Comment entered June 1, 2026, the Commission established a briefing schedule on the Companies' request for a declaratory order stating that KU/ODP's exemption under Code § 56-580 G will continue to apply to LG&E post-merger. The Commission directed the Staff of the Commission ("Staff") and any interested respondents to file a legal brief on the Companies' request on or before July 17, 2026. In accordance with Ordering Paragraph (17) of the Commission's Order for Notice and Comment entered in this case, Staff, by counsel, files this legal brief.

II. ISSUE PRESENTED

Whether KU/ODP's exemption from regulation under Chapter 23 of Title 56, found in Code § 56-580 G, would continue to apply to the merged Companies after KU/ODP is merged with and into LG&E with LG&E as the surviving entity.

Code § 56-580 G states as follows:

The applicability of all provisions of this chapter except § 56-594 to any investor-owned incumbent electric utility supplying electric service to retail customers on January 1, 2003, whose service territory assigned to it by the Commission is located entirely within Dickenson, Lee, Russell, Scott, and Wise Counties shall be

⁴ 5 VAC 5-20-10 *et seq.*

⁵ Code § 56-576 *et seq.*

⁶ Application at 1, 8, 13.

⁷ *See id.* at 8-12.

suspended effective July 1, 2003, so long as such utility does not provide retail electric services in any other service territory in any jurisdiction to customers who have the right to receive retail electric energy from another supplier. During any such suspension period, the utility's rates shall be (i) its capped rates established pursuant to § 56-582 for the duration of the capped rate period established thereunder, and (ii) determined thereafter by the Commission on the basis of such utility's prudently incurred costs pursuant to Chapter 10 (§ 56-232 *et seq.*) of this title.

In Staff's review, the language of Code § 56-580 G supports the granting of the Companies' request by the Commission. That is, following the merger as proposed by the Applicants, it appears that LG&E will still fit within the words of the statute in the same manner as KU/ODP does today. For example, the first element of the statutory language is for the exemption to apply to "any investor-owned incumbent electric utility supplying electric service to retail customers on January 1, 2003...." LG&E has been supplying electric retail customers since 1903.⁸

Code § 56-580 G also limits the exemption to the incumbent electric utility "whose service territory assigned to it by the Commission is located entirely within Dickenson, Lee, Russell, Scott, and Wise Counties...." If the Commission grants the Applicants request for approval of the proposed Transfer and grants certificates of public convenience and necessity to LG&E to provide service post-merger, then the service territory assigned to LG&E by the Commission will mirror that presently assigned to KU/ODP, and in accordance with Code § 56-580 G, will be located entirely within Dickenson, Lee, Russell, Scott, and Wise Counties.⁹

⁸ See *id.* at 2 (stating in part that LG&E was incorporated under the laws of Kentucky on July 2, 1913 and currently provides retail electric service to approximately 443,000 customers in Kentucky counties; see also <https://lge-ku.com/about> (stating in part that "in 1913, through the merger of Louisville Gas, Louisville Lighting (founded in 1903) and Kentucky Heating, Louisville Gas and Electric (LG&E) was formed.")).

⁹ See Application at 6 (providing a map of KU/ODP's service territories in Virginia and requesting the transfer of certificates and public convenience and necessity currently held by KU/ODP to provide electric service in portions of Wise, Dickenson, Lee, Russell, and Scott counties).

Code § 56-580 G further states that the exemption applies “so long as such utility does not provide retail electric services in any other service territory in any jurisdiction to customers who have the right to receive retail electric energy from another supplier.” Nothing in the Companies’ Application suggests that LG&E plans to offer retail electric service in the areas of Virginia where customers have the right to receive retail electric energy from another supplier. To the contrary, the Applicants assert that “the utility’s service territory and customer base . . . will remain unchanged following the merger” and that “[t]he merger will not expand the utility’s territory or change its operational footprint in Virginia.”¹⁰ Accordingly, this condition will apply to LG&E post-merger in the same manner as it presently applies to KU/ODP. Should LG&E change its operational approach to providing electric service in Virginia in the future, this provision would seemingly affect the exemption provided under Code § 56-580 G in the same way that it would in the absence of a merger and if KU/ODP began to offer retail electric service to Virginia customers in areas with retail choice.

Reading Code § 56-580 G in this manner is consistent with general provisions of statutory construction. As recently stated by the Supreme Court of Virginia in *West Virginia & Appalachian Laborers’ District Counsel v. State Corp. Comm’n*, 304 Va. 148, 157 (2025), the “primary objective when construing a statute is ‘to ascertain and give effect to legislative intent.’ *Virginia Elec. & Power Co. v. State Corp. Comm’n*, 284 Va. 726, 738 (2012) (citing *Conger v. Barrett*, 280 Va. 627, 630 (2010)).” The Court further stated: “‘When the language of the statute is unambiguous, we are bound by the plain meaning of that language.’ *Id.* (quoting *Conyers v. Martial Arts World of Richmond, Inc.*, 273 Va. 96, 104 (2007)). In interpreting a

¹⁰ Application at 11, 12.

statute, the Court does not single out a particular phrase, but rather places its terms in the context of the entire statute.”¹¹

Furthermore, treating LG&E as exempt post-merger under Code § 56-580 G would also seem to be consistent with the Commission’s prior decision in Case No. PUR-2025-00047, in which the Commission rejected a petition by Appalachian Voices to declare that Code § 56-596.2 B 3 applied to KU/ODP and that the Commission was required to establish new energy efficiency savings targets for KU/ODP.¹² While the issue in that case did not involve a proposed merger or a surviving entity, it did focus on the exemption under Code § 56-580, the waiver of that exemption by Code § 56-596.2 A, and the applicability of Code § 56-596.2 B 3. The Commission agreed with KU/ODP, which argued in part that Code § 56-596.2 B 3 applied only to Appalachian Power Company and Virginia Electric and Power Company as Phase I and Phase II utilities.¹³ The Commission found “that reading the subsections of Code § 56-596.2 in *pari materia* counsels against inserting an otherwise unreferenced utility, which the General Assembly chose to exclude, into a statutory scheme to which it has not heretofore been subjected.”¹⁴ Accordingly, it would seem to be consistent for Commission to declare that the exemption presently applicable to KU/ODP would apply to LG&E following completion of the merger proposed by the Companies in the Application in this proceeding.

¹¹ *West Virginia & Appalachian Laborers’ District Counsel v. State Corp. Comm’n*, 304 Va. at 157.

¹² *Petition of Appalachian Voices v. Kentucky Utilities Company d/b/a Old Dominion Power Company, For a declaratory judgement and an order establishing a proceeding pursuant to § 56-596.2 B 3 of the Code of Virginia*, Case No. PUR-2025-00047, 2025 SCC Ann. Rept. 504, Order on Petition (May 16, 2025).

¹³ *Id.* at 504-505.

¹⁴ *Id.* at 505.

III. CONCLUSION

Based upon the foregoing, Staff supports a declaration by the Commission as requested by the Applicants that KU/ODP's exemption from regulation under Chapter 23 of Title 56, found in Code § 56-580 G, would continue to apply to the merged Companies after KU/ODP is merged with and into LG&E with LG&E as the surviving entity.

Respectfully submitted,

THE STAFF OF THE STATE
CORPORATION COMMISSION

By /s/Raymond L. Doggett, Jr.
Raymond L. Doggett, Jr.

Raymond L. Doggett, Jr., Senior Counsel
C. Austin Skeens, Associate General Counsel
e-mail: Raymond.Doggett@scc.virginia.gov
Austin.Skeens@scc.virginia.gov

Office of General Counsel
State Corporation Commission
P.O. Box 1197
Richmond, Virginia 23218
Telephone: (804) 371-9671

Dated: July 17, 2026

CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of July 2026, a true copy of the foregoing was electronically mailed to: Mary Ellen Wimberly, Esquire, Stoll Keenon Ogden PLLC 300 West Vine Street, Suite 2100 Lexington, Kentucky 40507-1801, maryellen.wimberly@skofirm.com; Allyson K. Sturgeon, Vice President and Deputy General Counsel – Regulatory and Sara V. Judd Senior Counsel, PPL Services Corporation, 2701 Eastpoint Parkway, Louisville, Kentucky 40223, asturgeon@pplweb.com; svjudd@pplweb.com; Office of the Attorney General, Division of Consumer Counsel, 202 North 9th Street, Floor 8, Richmond, Virginia 23219, ConsumerCounsel@oag.state.va.us.

By /s/ Raymond L. Doggett, Jr.
Raymond L. Doggett,