

**From:** [Bruner, Brandon S \(PSC\)](#) on behalf of [PSC Executive Director](#)  
**To:** [REDACTED]  
**Subject:** Case\_2020-00350  
**Date:** Friday, April 30, 2021 10:25:00 AM

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Thank you for your comments on the application of Louisville Gas and Electric Company. Your comments in the above-referenced matter have been received and will be placed into the case file for the Commission's consideration. Please cite the case number in this matter, 2020-00350, in any further correspondence. The documents in this case are available at [View Case Filings for: 2020-00350 \(ky.gov\)](#).

Thank you for your interest in this matter.

Best Regards,

Brandon Bruner  
Administrative Branch Manager  
Filings Branch  
General Administration

Kentucky Public Service Commission  
211 Sower Blvd.  
Frankfort, KY 40601

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**From:** PSC Public Information Officer <[PSC.Info@ky.gov](mailto:PSC.Info@ky.gov)>  
**Sent:** Wednesday, April 28, 2021 10:52 AM  
**To:** PSC Executive Director <[PSCED@ky.gov](mailto:PSCED@ky.gov)>  
**Subject:** FW: Case\_2020-00350

**From:** Frank Hack [REDACTED]  
**Sent:** Saturday, April 24, 2021 2:37 PM  
**To:** PSC Public Information Officer <[PSC.Info@ky.gov](mailto:PSC.Info@ky.gov)>  
**Subject:** Case\_2020-00350

To whom it may concern-

I am a senior citizen on a fixed income. I just read that you all were going to raise prices on us for our "must have" gas and electricity. I don't know how this is going to increase our monthly bill but I wanted to remind you that our social security benefits went up 1.3% So I am hoping you take that in consideration when you raise your rates.

Frank Hack

**From:** Bruner, Brandon S (PSC) on behalf of PSC Executive Director  
**To:** [REDACTED]  
**Subject:** Friends of Cedar Grove's Public Comments & Federal Safety Issues—KY Public Service Commission Hearing on LG & E Jim Beam Bullitt County Natural Gas Pipeline KY PSC LG & E Rate Case 2020-00350  
**Date:** Tuesday, April 27, 2021 8:58:00 AM  
**Attachments:** [John Cox Court Document.pdf](#)  
[Friends of Cedar Grove Public Comments on KY PSC Certificate of Public Need Convenience April 25 2021.pdf](#)

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Thank you for your comments on the application of Louisville Gas and Electric Company. Your comments in the above-referenced matter have been received and will be placed into the case file for the Commission's consideration. Please cite the case number in this matter, 2020-00350, in any further correspondence. The documents in this case are available at [View Case Filings for: 2020-00350 \(ky.gov\)](#).

Thank you for your interest in this matter.

Best Regards,

Brandon Bruner  
Administrative Branch Manager  
Filings Branch  
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Frankfort, KY 40601

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**From:** PSC Public Information Officer <PSC.Info@ky.gov>  
**Sent:** Monday, April 26, 2021 8:59 AM  
**To:** PSC Executive Director <PSCED@ky.gov>  
**Subject:** FW: Friends of Cedar Grove's Public Comments & Federal Safety Issues—KY Public Service Commission Hearing on LG & E Jim Beam Bullitt County Natural Gas Pipeline KY PSC LG & E Rate Case 2020-00350

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**From:** Cedar Grove [REDACTED]  
**Sent:** Sunday, April 25, 2021 3:59 PM  
**To:** PSC Public Information Officer <[PSC.Info@ky.gov](mailto:PSC.Info@ky.gov)>; [REDACTED]

[REDACTED]

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[REDACTED] Pamela Boudreau  
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[REDACTED] Steve Hocking [REDACTED];

Robert Fletcher [REDACTED] >; Thomas Lovullo [REDACTED];

Landowner Help [REDACTED]

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[REDACTED] Duff, Melissa K (EEC)

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[REDACTED] Goode, Greg J (EEC) [REDACTED] >; Snider, Robin (EEC)

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(Heritage Council) [REDACTED] Ryall, Jennifer (Heritage Council) [REDACTED]

KHC-sitedata [REDACTED]; KYOAG Open Records

[REDACTED]; Cameron, Daniel (KYOAG) [REDACTED]

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[REDACTED] Staley, Crystal D (Gov Office)

[REDACTED] Minix, Coulter C (Gov Office) [REDACTED];



[Redacted text block containing approximately 28 lines of text, mostly obscured by black bars. Visible fragments include: "; Whitney Warrior", "; M Green", "Aaron Yarmuth", "Laura Snyder", and "; Todd Semonite".]

**Subject:** Friends of Cedar Grove's Public Comments & Federal Safety Issues—KY Public Service Commission Hearing on LG & E Jim Beam Bullitt County Natural Gas Pipeline KY PSC LG & E Rate Case 2020-00350

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Service Desk [ServiceCorrespondence@ky.gov](mailto:ServiceCorrespondence@ky.gov) for any assistance.

The Friends of Cedar Grove are submitting these comments as our official public comments on the LG & E Jim Beam Bullitt County Natural Gas Pipeline as considered by the KY Public Service Commission under KY PSC LG & E Rate Case Number 2020-00350.

These comments also apply to the previously identified LG & E Jim Beam Bullitt County Natural Gas Pipeline KY PSC LG & E Cases 2016-00370 and 2016-00371.

This public comment submission primarily addresses our public comments and the numerous Federal safety issues and threats to public safety that will occur if the LG & E Jim Beam Bullitt County Natural Gas Pipeline is constructed through Cedar Grove, Solitude, and Clermont.

See the attached documents.

As detailed in the Friends of Cedar Grove public comment document (attached), while LG & E and Jim Beam evaluated 0 routes through the EnSiteUSA (2016, 2015) studies to build a \$24-\$25 million pipeline strictly for Jim Beam, when Jim Beam refused to pay the price, LG & E, Jim Beam, local officials and others colluded to have the LG & E ratepayers pay for the pipeline (see attached court document by Attorney John Cox) and they reframed the project purpose toward future development. They also acted in an arbitrary and capricious manner and selected a route through Cedar Grove and Solitude to Clermont that had not been studied and which was selected for other secret purposes such as creating an underground natural gas structure, injection wells, fracking, natural gas removal, or some other purpose as evidenced by drilling at least 12 bore holes, at least 3 of which were drilled to 340' in violation of permit applications.

The LG & E Jim Beam Bullitt County Natural Gas Pipeline through Cedar Grove and Solitude involves numerous natural and technological hazards that will threaten pipeline integrity and public safety. Also, LG & E intends to connect the LG & E Jim Beam Bullitt County Natural Gas Pipeline to the Calvary Natural Gas Pipeline, a 77-year old pipeline that cannot comply with Federal regulations, and then conduct changes to flows and reverse flows across old pipeline systems that will threaten pipeline integrity and public safety. Of note, the LG & E Jim Beam Bullitt County Natural Gas Pipeline is planned to traverse under 5-6 miles of East Kentucky Power Cooperative's high voltage powerlines and along a substation that risks cathodic discharge and explosions. These actions are counter to U.S. DOT Pipeline Hazardous Materials Safety Administration direction and common utility safety practices such as those studied in Federal Energy Regulatory Commission Environmental Impact Statements.

The LG & E Jim Beam Bullitt County Natural Gas Pipeline route through Cedar Grove and Solitude will likely involve numerous significant environmental impacts that must be avoided. The Cedar Grove and Solitude areas host Federally-listed species and Federally-designated critical habitat under the Endangered Species Act, and newly identified species; waters requiring avoidance for compliance with the Clean Water Act and other laws for the numerous 303(d) listed impaired streams and streams classified as Outstanding State Waters and Outstanding Resource Waters; and perpetually-protected deed restricted sites such as Bernheim Forest's Big Level Complex.

It is clear that the KY Public Service Commission needs to cancel all approvals of the LG & E Jim Beam Bullitt County Natural Gas Pipeline and select an alternative route from among the 10 routes studied by EnSiteUSA (2016, 2015) or other alternate routes.

The Friends of Cedar Grove thank the KY Public Service Commission for reviewing and

revisiting the Commission's prior decisions and taking this opportunity to make corrections to ensure compliance with law, ensure pipeline integrity of the planned LG & E Jim Beam Bullitt County Natural Gas Pipeline, and ensure public safety.

We hope that the KY Public Service Commission will thoroughly review and consider our issues and concerns and adopt and implement the administrative remedies that we request.

## Friends of Cedar Grove

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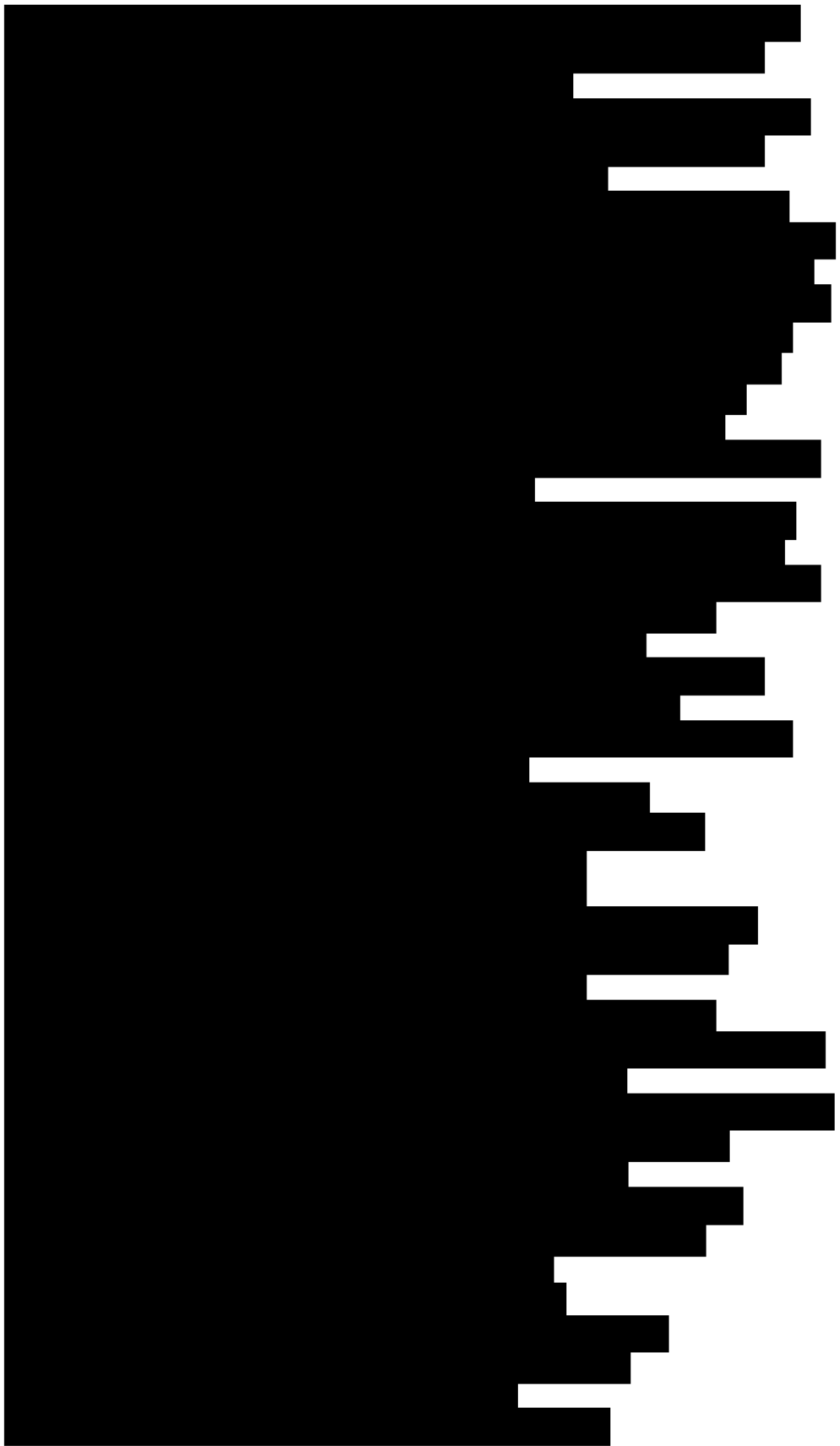
**TO:**

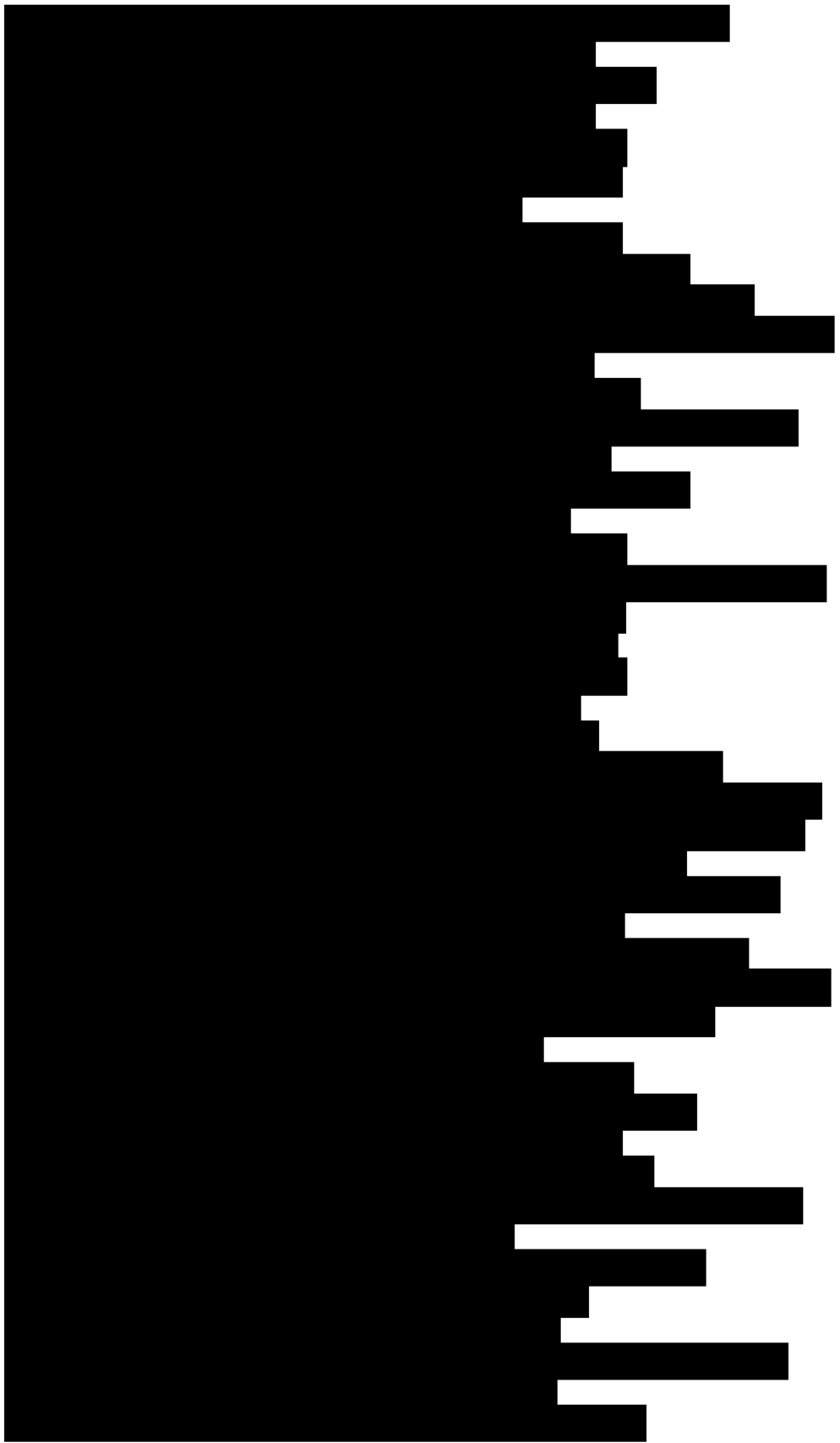
pse.info@ky.gov: [Redacted]

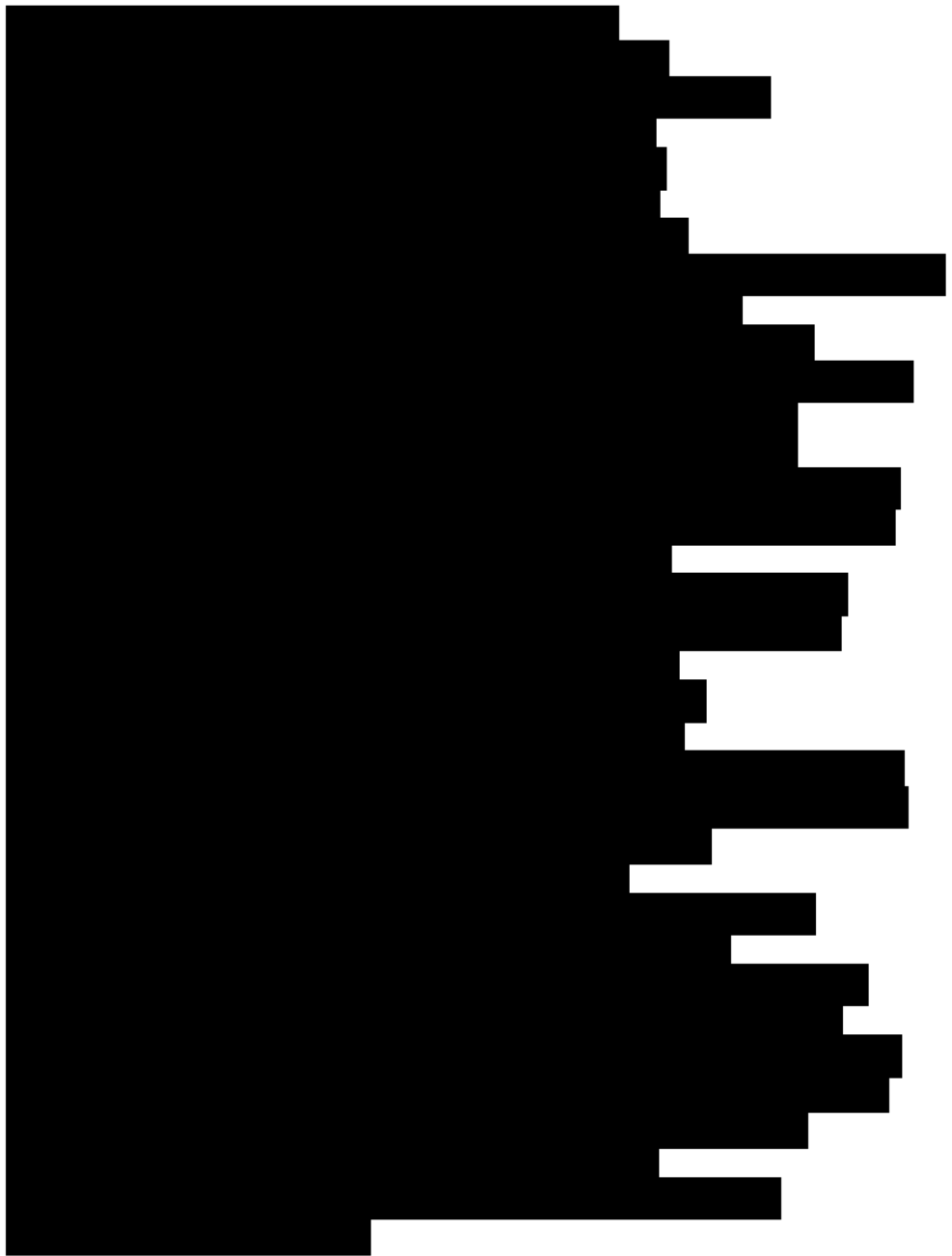
**CC:**

[Redacted]









**FROM: The Friends of Cedar Grove**

**DATE: April 25, 2021**

**SUBJECT: Friends of Cedar Grove's Public Comments & Federal Safety Issues—KY Public Service Commission Hearing on LG & E Jim Beam Bullitt County Natural Gas Pipeline KY PSC LG & E Rate Case 2020-00350**

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The Friends of Cedar Grove are submitting these comments as our official public comments on the LG & E Jim Beam Bullitt County Natural Gas Pipeline as considered by the KY Public Service Commission under KY PSC LG &E Case Number 2020-00350.

These comments also apply to the previous LG & E Jim Beam Bullitt County Natural Gas Pipeline KY PSC LG & E Case Numbers 2016-00370 and 2016-00371.

The Friends of Cedar Grove has commented to the KY Public Service Commission and specifically requested public hearings on the LG & E Jim Beam Bullitt County Natural Gas Pipeline since 2017. We incorporate by reference the numerous prior specific comments submitted by the Friends of Cedar Grove to the KY Public Service Commission since 2017 and will note some of these in this document.

The Friends of Cedar Grove is an unincorporated group of several hundred affiliated individuals and groups that include the public, local residents, and landowners who have issues and concerns regarding the manner in which the LG & E Jim Beam Bullitt County Natural Gas Pipeline has been planned and coordinated in secret since the very beginning and across agency processes that have failed to comply with legal requirements for public disclosure and public notice and comment opportunities, including failing to conduct requested hearings, and of particular importance, the inappropriately planned route through areas that will threaten pipeline integrity, public safety, and the environment.

This public comment submission primarily addresses the numerous Federal safety issues and threats to public safety that will occur if the LG & E Jim Beam Bullitt County Natural Gas Pipeline is constructed through Cedar Grove, Solitude, and Clermont.

As detailed in this document, while LG & E and Jim Beam studied 10 routes in the EnSiteUSA (2016, 2015) studies to build a \$24-\$25 million pipeline strictly for Jim Beam, when Jim Beam refused to pay the price, LG & E, Jim Beam, local officials and others colluded to have the LG & E ratepayers pay for the pipeline (see attached court document by Attorney John Cox) and they reframed the project purpose toward future development. They also acted in an arbitrary and capricious manner and selected a route through Cedar Grove and Solitude to Clermont that had not been studied and was also likely selected for other secret purposes such as creating an underground natural gas structure, injection wells, fracking, natural gas removal, or some other

purpose as evidenced by drilling at least 12 bore holes, at least 3 of which were drilled to 340' in violation of permit applications.

The LG & E Jim Beam Bullitt County Natural Gas Pipeline through Cedar Grove and Solitude involves numerous natural hazards that will threaten pipeline integrity and public safety. Also, LG & E intends to connect the LG & E Jim Beam Bullitt County Natural Gas Pipeline to the Calvary Natural Gas Pipeline, a 77-year old pipeline that cannot comply with Federal regulations, and then conduct changes to flows and reverse flows across old pipeline systems that will threaten pipeline integrity and public safety. Of particular note, the LG & E Jim Beam Bullitt County Natural Gas Pipeline is planned to traverse under 5-6 miles of East Kentucky Power Cooperative's high voltage powerlines and along a substation that risks cathodic discharge and explosions. These actions are counter to U.S. DOT Pipeline Hazardous Materials Safety Administration direction and common utility safety practices such as those studied in Federal Energy Regulatory Commission Environmental Impact Statements.

The LG & E Jim Beam Bullitt County Natural Gas Pipeline route through Cedar Grove and Solitude will likely involve numerous significant environmental impacts that must be avoided. The Cedar Grove and Solitude areas host Federally-listed species and Federally-designated critical habitat under the Endangered Species Act, and newly identified species; waters requiring avoidance for compliance with the Clean Water Act and other laws for the numerous 303(d) listed impaired streams and streams classified as Outstanding State Waters and Outstanding Resource Waters; and perpetually-protected deed restricted sites such as Bernheim Forest's Big Level Complex.

It is clear that the KY Public Service Commission needs to cancel all approvals of the LG & E Jim Beam Bullitt County Natural Gas Pipeline and select an alternative route from among the 10 routes studied by EnSiteUSA (2016, 2015) or alternate routes.

An Executive Summary follows that introduces and overviews these issues and concerns. The body of the document provides details on these issues and documentation, resources, photos, and maps.

The Friends of Cedar Grove thank the KY Public Service Commission for reviewing and revisiting the Commission's prior decisions and taking this opportunity to make corrections to ensure compliance with law, ensure pipeline integrity of the planned LG & E Jim Beam Bullitt County Natural Gas Pipeline, and ensure public safety.

We hope that the KY Public Service Commission will thoroughly review and consider our issues and concerns and the administrative remedies that we request.

## **Executive Summary**

It is clear that the KY Public Service Commission must not allow the LG & E Jim Beam Bullitt County Natural Gas Pipeline to be built through Cedar Grove and Solitude.

While LG & E and agencies tout a single pipeline, the easements state multiple pipelines which have been interpreted by lawyers and others as likely eventually being up to five pipelines.

The LG & E Jim Beam Bullitt County Natural Gas Pipeline will cut through the heart of Cedar Grove and near subdivisions and with several pipelines may endanger over 500 residents if the pipeline(s) exploded. Or, while less populated, our residents located along the pipeline route in

the Big Level Complex of hills and urban wildland interface with houses interspersed in woodlands would lack escape routes and adequate wildland firefighting response capabilities in the event of a pipeline explosion and wildfire.

If a pipeline explosion occurred at what LG & E staff called "malfunction junction" near Miller Lane and Cedar Grove, the number of people impacted may also be even greater through second-order effects. Damages to the electrical substation and infrastructure and the water tower could impact other area residents who are dependent upon electricity for oxygen, heat, or electricity, and lack of water. Also, impacts to the Mid-Valley Crude Oil Pipeline, part of the nation's critical infrastructure, could result in fire or substantial environmental damage if the pipeline was damaged or destroyed, and second-order effects to crude oil supply and transportation as the pipeline traverses 14 states.

The residents of Cedar Grove and Solitude will face numerous threats to public safety created by the LG & E Jim Beam Bullitt County Natural Gas Pipeline.

Numerous studies and common utility industry practices would require that the LG & E Jim Beam Bullitt County Natural Gas Pipeline be widely separated, maybe up to a mile or so, from the East Kentucky Power Cooperative high voltage powerlines to prevent cathodic discharge of energy that could cause pipeline explosion, and that the pipeline should not be constructed under 5-6 miles of the high voltage powerline and other infrastructure.

Placing the LG & E Jim Beam Bullitt County Natural Gas Pipeline across the Big Level Complex of knobs and surrounding hills and knobs will threaten pipeline integrity with landslides as the entire complex is landslide prone and has a history of landslides with some known to be up to 1-2 acres in size and in the route of the pipeline. The Big Level Complex and nearby knobs are also underlain by New Albany Shale that releases acid drainage that may threaten pipeline integrity and water quality and ground water.

Much of the pipeline route traverses through karst topography and sinkhole areas that can threaten pipeline integrity. Some sinkholes near the route are large enough to contain a modest size house.

Placing the pipeline through the Cox's Creek floodplains will likely threaten pipeline integrity as the area often has substantial riverine-type flooding, scouring, and movement that could impact pipeline integrity.

As the LG & E Jim Beam Bullitt County Natural Gas Pipeline connects to the 77-year old Calvary Natural Gas Pipeline, our residents may be threatened as that pipeline cannot pass Federal safety inspections and does not comply with Federal regulations including requirements for cathodic protection of the pipeline along its length to prevent cathodic discharge and explosion. LG & E's practice of engaging in reverse flows across pipeline systems including older systems and their plan to do so with the 77-year old Calvary Natural Gas Pipeline may endanger our residents as the U.S. DOT Pipeline Hazardous Materials Safety Administration has warned that these actions and changes in pressure can result in pipeline explosion.

It is clear that the KY Public Service Commission needs to require that LG & E bring the Calvary Natural Gas Pipeline into compliance with federal safety regulations and require that the pipeline successfully passes safety inspections and have cathodic protection installed along the entire 53-mile length of the 77-year old pipeline PRIOR to approving any new pipeline

connections to that pipeline or to changes in its operating pressures or use of reverse flow as has been planned.

Our residents have fears and concerns about LG & E's secret and illegal drilling of geotechnical boreholes throughout the Cedar Grove and Solitude areas. LG & E engaged in illegal drilling that violated the conditions of their permit applications with the KY Division of Water and U.S. Army Corps of Engineers that prevented any such action prior to project approval.

LG & E drilled at least 12 geotechnical bore holes in Cedar Grove, at least 3 of which were drilled to a depth of 340'. Some of these bore holes blew natural gas for a week. LG & E and workers evacuated the area as these releases occurred and did not warn residents of the threat of explosion or release of methane or other gases that may be harmful to human health.

Residents have fears that LG & E may be planning to create an underground natural gas storage structure, engage in fracking, create injection wells for disposal of pollution, engage in carbon storage, or simply steal landowner's natural gas, or some other secret purpose that has not been disclosed.

As LG & E drilled the 12 or more illegal geotechnical boreholes down to 340' they may have damaged or contaminated our aquifers and ground water which many of our rural residents depend upon through private springs and wells as their only source of drinking water. Our residents have concerns that the planned use of horizontal directional drilling may also have such impacts. Of paramount importance, our residents have concerns about the carcinogens and pollutants contained in the drilling mud that may have or will contaminate our aquifers, springs, and wells which many of our residents depend upon for drinking water.

It is clear that the KY Public Service Commission needs to cancel all prior approvals and permits as they were invalid and illegal in origin.

The KY Public Service Commission originally provided an invalid and illegal approval of the LG & E Jim Beam Natural Gas Pipeline hidden within the rate increase for consumers in Louisville as a 12-mile long "Ordinary Extension of An Existing Gas System". As the KY Public Service Commission record demonstrates this was a "new pipeline" that was to trunk to the 77-year old Calvary Natural Gas Pipeline that cannot pass safety inspections nor comply with Federal regulations including requirements for cathodic protection to prevent cathodic discharge-caused explosions.

When challenged with inquiries, the KY Public Service Commission retroactively issued an invalid and illegal Certificate of Public Convenience and Necessity for the LG & E Jim Beam Natural Gas Pipeline which had not been applied for and which violated legally required public notice and comment opportunities including public hearings.

It is clear that the KY Public Service Commission needs to require that LG & E select a new route for the LG & E Jim Beam Natural Gas Pipeline from among the 10 routes studied by EnSiteUSA (2016, 2015) or other alternative route such as from Magnolia, Louisville or such.

The LG & E Jim Beam Natural Gas Pipeline was designed solely for Jim Beam and not a public need, and then after Jim Beam refused to pay the \$25 million cost, was arbitrarily and capriciously changed to a route through Cedar Grove and Solitude by LG & E, local government officials, Bullitt County Economic Development Authority and developers to have KY rate payers pay for the pipeline. (See attached court document by Attorney John Cox.) These groups colluded over time to reframe the project purpose toward pipeline-dependent industrial and

commercial development of the I-65 Corridor floodplains that will likely result in warehouses and other industrial and commercial development from Shepherdsville to Lebanon Junction and Boston areas and development-created runoff and flooding contributions that will likely threaten vulnerable downstream communities to include Beech Grove, Boston, Colesburg, Lebanon Junction, Shepherdsville, and West Point, among others, and Fort Knox and its training areas.

It is clear that the KY Public Service Commission needs to require that LG & E select a new and different route for the LG & E Jim Beam Natural Gas Pipeline that avoids Cedar Grove and Solitude due to the numerous extensive extraordinary circumstances present in this area.

The extraordinary circumstances include numerous threats and risks to public health and safety from the LG & E Jim Beam Natural Gas Pipeline in the Cedar Grove and Solitude areas.

Threats and risks to public safety from the LG & E Jim Beam Natural Gas Pipeline include scientific uncertainty, unknown effects, and risks to public health and safety created by co-locating the pipeline along and under 5-6 miles of the East Kentucky Power Cooperative high voltage transmission lines and facilities that could result in cathodic discharge and explosion; connecting to and changing flows and pressures in the existing Calvary Natural Gas Pipeline that cannot pass safety inspections, does not comply with Federal regulations, and which lacks cathodic protection and may explode; threats to populated areas near "malfunction junction" at risk from an explosion; threats to numerous residents in urban wildland interface areas that would be at risk from explosion and wildfire from lack of an egress route and adequate wildland firefighting response capability; threats to pipeline integrity across most of the route via significant numerous natural hazards from landslides, karst topography and sinkholes, and flooding; New Albany Shale deposits that can release acid drainage and toxins and degrade infrastructure; drilling impacts to aquifers, groundwater, springs and wells that many residents depend upon for potable drinking water and that may have been or may be damaged or contaminated with carcinogens and pollutants from drilling mud.

It is clear that the KY Public Service Commission needs to require that LG & E select a new and different route for the LG & E Jim Beam Natural Gas Pipeline that avoids Cedar Grove and Solitude areas due to the numerous extensive extraordinary circumstances present in the area that include numerous environmental threats.

The Cedar Grove and Solitude areas includes substantial and significant Endangered Species Act issues as it hosts Federally-listed designated critical habitat and Federally-listed species including the Kentucky Glade Cress and the Indiana and Northern Long-eared Bats, and newly discovered species. This area contains wetlands, floodplains, prime agricultural lands, aquifer recharge zones, and sensitive fish and wildlife habitat. The area also contains extensive sensitive habitats that host species of conservation concern including the Apple Valley Glades State Nature Preserve, Pine Creek Barrens Natural Area, and Bernheim Forest's Big Level Complex natural area (which was acquired with \$1.4 million in Federal funds from the U.S. Fish and Wildlife Service's Imperiled Bat Conservation Fund). The area also hosts numerous historic and cultural resources and values and contains historic graves and features associated with the presence of Native Americans and burial sites.

It is clear that the Cedar Grove area must be avoided to comply with the Clean Water Act and other laws to avoid negative impacts to the numerous 303(d) listed impaired streams and water quality and the Outstanding State Waters and Outstanding Resource Waters. These classified waters are also subject to special restrictions due to containing Federally-listed species and



habitat and areas that streams flow through or are bounded by exceptional aesthetic or ecological values or unique geological, natural or historical areas recognized by state or Federal designation and undisturbed watersheds; and floodplains. The area must also be avoided due to perpetually-protected deed restricted mitigation sites such as Bernheim Forest's Big Level Complex.

As the Friends of Cedar Grove has argued since we first became aware of the LG & E Jim Beam Bullitt County Natural Gas Pipeline the project requires detailed environmental analysis via an Environmental Assessment or Environmental Impact Statement, full project disclosure of all activities and effects, and legally compliant public notice and comment processes including public comment periods and public hearings in Cedar Grove and Clermont.

As the Friends of Cedar Grove has requested since 2017, the KY Public Service Commission needs to implement administrative remedies as we have requested numerous times to correct the arbitrary and capricious planning process with the planned LG & E Jim Beam Bullitt County Natural Gas Pipeline.

The KY Public Service Commission needs to cancel the invalid and illegal Certificate of Public Convenience and Necessity and any other approvals for the LG & E Jim Beam Bullitt County Natural Gas Pipeline; require that the existing 77-year old 53-mile long Calvary Natural Gas Pipeline comply with and successfully pass pipeline inspection requirements at 49 CFR § 192.939 for the entirety of the pipeline prior to any review of application for certificates and permits on the existing line or any new connections to that line; require that the entire existing Calvary Natural Gas Pipeline comply with 49 CFR Part 192 Appendix D Requirements for Cathodic Protection prior to review of application for certificates and permits on the existing line or any new connections to that line; require that LG & E select a different route than that planned through Cedar Grove and Solitude for the LG & E Bullitt County Natural Gas Pipeline from among the 10 or more routes studied by EnSiteUSA (2016, 2015) or other alternative routes; require that the new route undergo a new application processes for the Certificate of Public Convenience and Necessity; require a minimum separation distances (e.g., 1 mile) between the new LG & E pipeline route and energetic sources such as high voltage powerlines and substations and linear pipelines, etc.; provide full public disclosure of the pipeline route alternatives, all pipeline activities and connected actions, and all pipeline details; require detailed environmental analysis of all project activities and connected actions; and conduct formal public notice and comment including public comment periods and public hearings in Cedar Grove and Clermont that are fully legally compliant.

This document provides details on these issues and provides documentation, resources, photographs and maps.

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**Impacts of Explosion from the LG & E Jim Beam Bullitt County Natural Gas Pipeline**

Not one agency nor LG & E has ever disclosed the potential impacts from the explosion of one or more pipelines constructed now or later as part of the LG & E Jim Beam Bullitt County Natural Gas Pipeline. While LG & E talking points describe a single pipeline, the reality is that the easements state multiple pipelines and there have been various comments made that the route would likely eventually have 3-5 pipelines which attorneys have interpreted as ultimately likely being 5 pipelines.

The public and area residents have not been informed regarding potential impacts for even the explosion of a single pipeline.

The Friends of Cedar Grove has been told that a single pipeline would have a blast radius of about 500 yards (1,500 ft.) from the failure point of explosion. This value seems consistent with

data and tables available on the Internet. We have also been told that for multiple pipelines, the effect is not necessarily strictly linearly additive.

While there are a lot of unknowns and likely many variables and calculations that would need to be performed, we can model explosion events based upon the available information.

It may be reasonable for us to use the following assumptions in estimating and considering blast effects: 1 pipeline = 1,500 ft. blast radius, 2 pipelines = 3,000 ft. blast radius, 3 pipelines = 4,500 ft. blast radius, and 4 pipelines = 6,000 ft. blast radius. Given these assumptions, we can model what the potential effects of these pipeline explosions may be.

For the purposes of modelling such an event, we use a site located approximately 1 mile east of the bridge on HWY 480 between the Dollar General Store and the country store. The selected explosion simulation point is located in the vicinity of Cedar Grove Road, Miller Lane, and White Run Road. The area has been called "malfunction junction" by LG & E staff and agents. This area is shown in Figure 1.



**Figure 1. "Malfunction Junction" and explosion simulation point.** The explosion simulation point is located near Cedar Grove Road, Miller Lane, and White Run Road, what LG & E staff called "Malfunction Junction". Note: Aerial photo adapted from NRCS Web Soil Survey.

As shown in Figure 1, the simulation point is approximately 1,200 feet southeast of the water tower, approximately 520 feet southeast of an electrical substation, and approximately 730 feet

northeast of the intersection of Cedar Grove and White Run Road. (The Mid-Valley Crude Oil Pipeline path is shown in the upper left corner of the Figure 1, approximately 1,300 feet from the simulation point. The Mid-Valley Pipeline is part of the nation's critical infrastructure.) All distances were measured using NRCS Web Soil Survey (see <https://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx>.) All photo overlays are displayed as approximations.

If you parked on White Run Road looking northeast toward the barn and its right edge, you would observe powerlines near the tree line that intersect the cow trails. The selected explosion simulation point is located at GPS coordinates 37.97044°, -85.60474°. This simulation point is located approximately in the path of LG & E Jim Beam Bullitt County Natural Gas Pipeline route which will run southwest and cross HWY 480 between Millers Lane and White Run Road.

What would be the impacts of a pipeline explosion at the "malfunction junction" simulation point?

U.S. EPA EJSCREEN was used to select buffers around the explosion simulation point to estimate the impacts to area residents based on our model assumptions of blast radius distance for a given number of pipelines. (See <https://ejscreen.epa.gov/mapper/>.)

U.S. EPA EJSCREEN was used to generate reports for the number of people and houses that would likely be affected based on U.S. Census Bureau American Community Survey Data 2013-2017 for the selected buffer areas. A summary of model results is displayed in Table 1.

**Table 1: Estimates of People and Housing Units Impacted by Simulated Pipeline Explosion**

	<b>1,500 ft. Blast Radius</b>	<b>3,000 ft. Blast Radius</b>	<b>4,500 ft. Blast Radius</b>	<b>6,000 ft. Blast Radius</b>
Area Impacted	0.03 sq. mi.	0.03 sq. mi.	1.24 sq. mi.	2.21 sq. mi.
Population	7	7	302	505
Children Age 0-4	0	0	20	27
Adults Age 65+	2	2	47	80
Housing Units	13	13	130	228

From the simulation point, approximately 7 people and 13 housing units may likely be at risk from an explosion for 1 pipeline with a 1,500 ft. blast radius or 2 pipelines with a 3,000 ft. blast radius. For an explosion involving 3 pipelines, approximately 302 people and 130 housing units may likely be at risk in the 4,500 ft. blast radius. For an explosion involving 4 pipelines, approximately 505 people and 228 housing units may be at risk in the 6,000 ft. blast radius.

While any humans and structures impacted would be significant from an explosion involving a single pipeline, as indicated in Table 1, if more than 2 pipelines were constructed in this area, the impacts to humans and structures would jump dramatically.

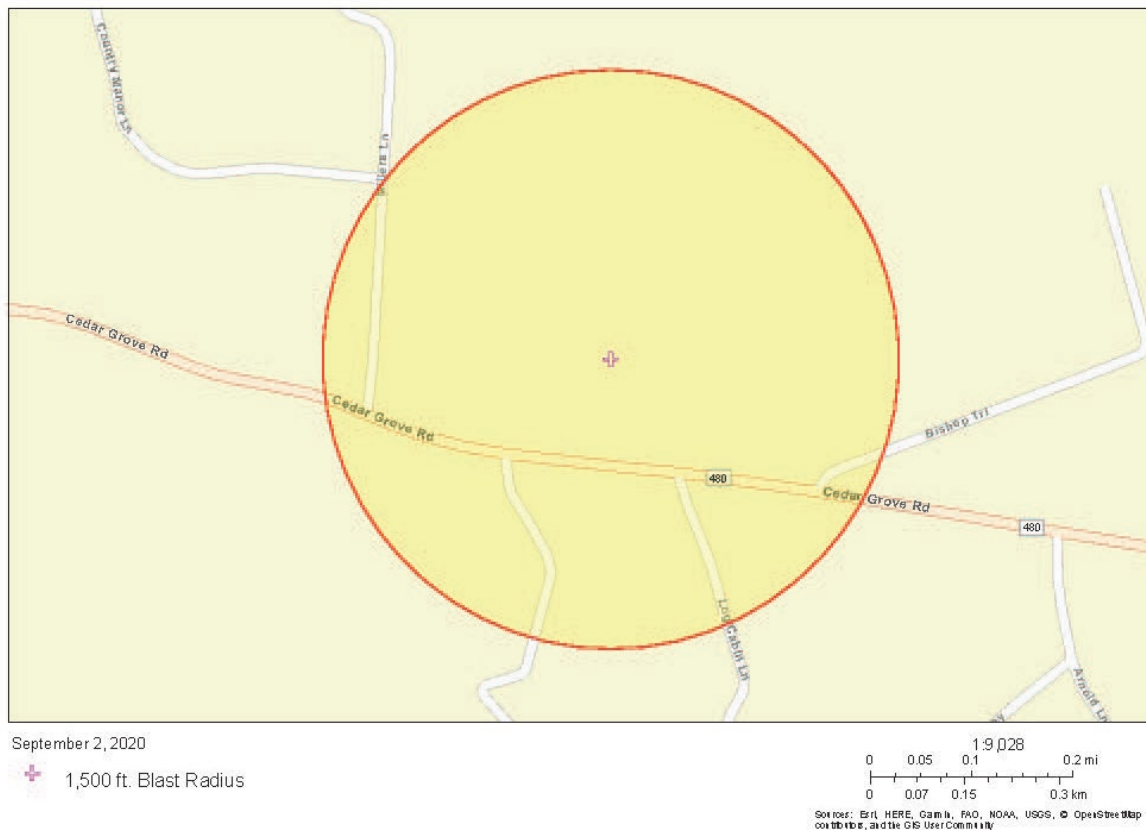
As shown in Table 1, if LG & E constructs 3-4 pipelines along the LG & E Jim Beam Bullitt County Natural Gas Pipeline route as indicated in easements that state multiple pipelines, an explosion of multiple pipelines would significantly impact the Cedar Grove community.

The presence of any natural gas pipeline presents risks in the event of an explosion.

The blast radius of an explosion would likely depend upon many variables, but as indicated in this model, as the number of pipelines increase, such as from 1 to 4 pipelines, the number of people and housing units that may be impacted would also likely increase. Our rough model indicates that over 500 structures and over 200 housing units may be impacted from an explosion involving 4 pipelines.

The U.S. EPA EJSCREEN estimates would vary if this simulation point was moved elsewhere along the pipeline route and could potentially model impacts with more people potentially impacted.

The blast zone for a 1,500 ft. blast radius is depicted in Figure 2. Depiction of a 1,500 ft. Blast Radius from the Simulation Point. Figures 2 and 3 were generated in U.S. EPA EJSCREEN.



**Figure 2. Explosion simulation point with a 1,500 ft. blast radius in Cedar Grove.**

As the number of pipelines increase, the blast radius increases in size, and the number of structures and people that may be impacted would also likely increase.

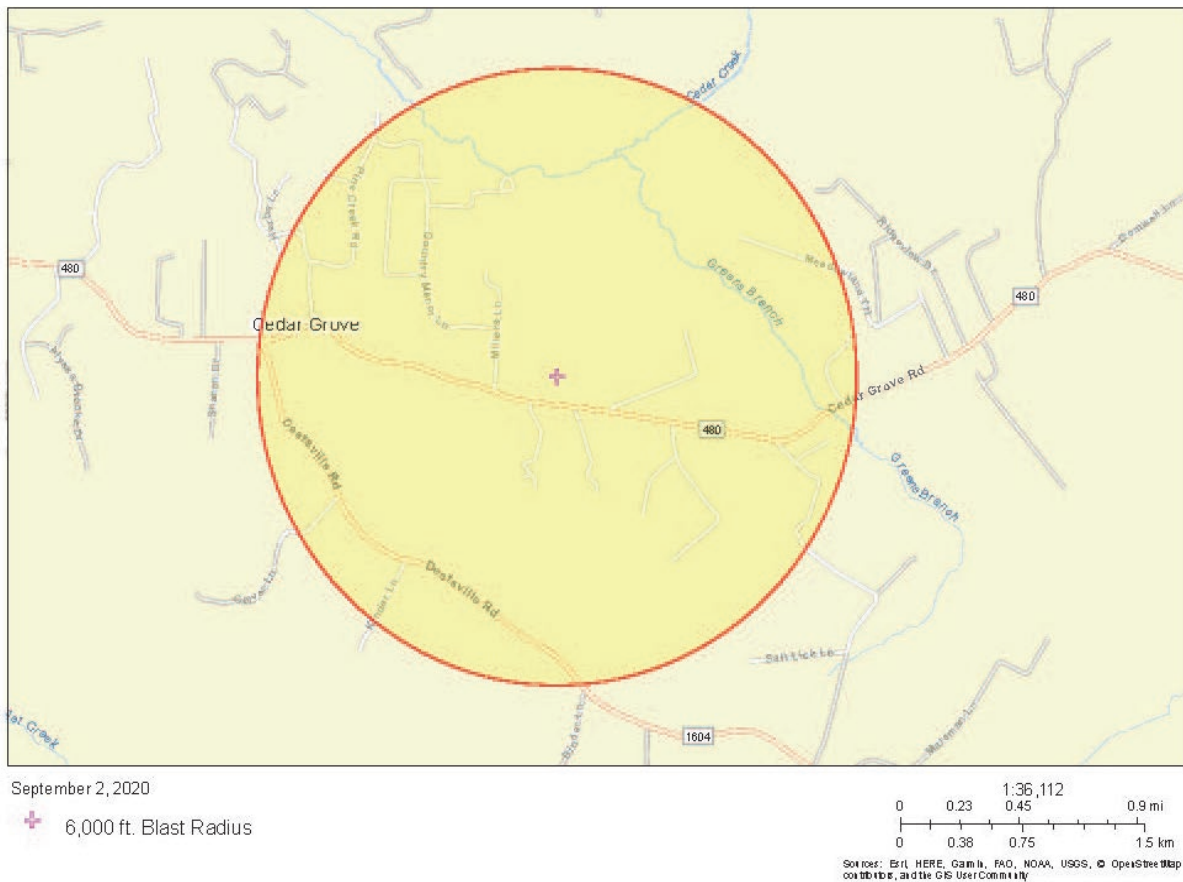
LG & E's label "malfunction junction" could have a lot of meanings.

An explosion in this area could not only impact people and housing units but could also impact utility infrastructure.

If an explosion occurred near the electrical substation, powerlines, and or the water tower, what would be the impacts, particularly to the elderly such as those dependent upon oxygen, and or other vulnerable populations?

An explosion of 4 pipelines with a 6,000 ft. blast radius may impact approximately a 2.21 square mile area in the heart of Cedar Grove as shown in Figure 3. Graphic of a 6,000 ft. Blast Radius from the Simulation Point.

Given an explosion of 4 pipelines at the simulation point, approximately 27 children under 5 years of age and 80 adults over 65 years of age may likely be directly impacted in the blast zone. Children under 5 years of age and adults over 65 years of age are of special concern in U.S. EPA environmental justice analyses as they are the most vulnerable of populations during disaster events.



**Figure 3. Explosion simulation point with a 6,000 ft. blast radius in Cedar Grove.**

Children and the elderly, as well as other residents, could also be impacted outside of the blast zone if the utility infrastructure was damaged. How many children and elderly adults would be at risk outside of the blast zone due to loss of electrical power and water, particularly with the loss occurring during periods of high heat and loss of air conditioning and water, or during extreme cold and the loss of heat similar to the recent winter catastrophe in Texas? How many people would be impacted that are dependent upon electrical equipment such as for producing oxygen?

What would be the impact of an explosion impacting the Mid-Valley Crude Oil Pipeline, which is part of the nation's critical infrastructure and flows through 14 states?

While an explosion at the simulation point may or may not damage that pipeline, the LG & E Jim Beam Bullitt County Natural Gas Pipeline will cross the Mid-Valley Crude Oil Pipeline in the vicinity of Deatsville Road and Colyer Lane. An explosion at the intersection of these two pipelines would not only generate blast impacts but could contribute to prolonged fire and or generate substantial environmental damage to the area through release of crude oil.

What would be the impacts to the nation's crude oil supply and transportation?

As we have addressed in our comments and questions to the KY Public Service Commission many times since the original invalid and illegal approval of the LG & E Jim Beam Bullitt County Natural Gas Pipeline:

- What would be the worst-case blast scenarios in Cedar Grove and Solitude?
- What would be the maximum blast radius of a worst-case explosion(s) and maximum number of residences and residents within the blast radius in Cedar Grove and Solitude?
- What would be the worst-case scenario impacts of a catastrophic pipeline explosion to area residents and values-at-risk in Cedar Grove? How would impacts be mitigated?
- What are the various risks to public health and safety from pipeline explosions? How would these risks be mitigated?
- What would be the second-order impacts if the electrical substation and or powerlines were destroyed?
- What would be the second-order impacts if the water tower was damaged or destroyed?
- What would happen if the explosion occurred along the Mid-Valley Crude Oil Pipeline?
- What would be the second-order impacts if the Mid-Valley Crude Oil Pipeline was damaged or destroyed?
- What would be the impacts of an explosion and wildfire that occurred in the Big Level Complex and wildland urban interface areas with houses interspersed in heavily wooded areas with dense vegetation, steep slopes, areas of high vegetation fuel loadings, and often a single winding lengthy narrow road as the only means of emergency egress?

Many of our residents live in the Big Level Complex and surrounding hills and woodlands and other areas in urban wildland interface housing developments.

Many of our urban wildland interface residences and housing developments are interspersed with dense vegetation, steep slopes, areas of high vegetation fuel loadings, and often a single winding lengthy narrow road as the only means of emergency egress. Such areas exist in Cedar Grove, Clermont, Deatsville Road, Solitude, and along HWY 245. Urban wildland interface area housing developments include those located along Licksillet, Rams Run, Ironwood Trail, Cave Hollow, and Happy Valley Roads, and several other areas.

For an example, see Figure 4.



**Figure 4. An urban wildland interface area on Rams Run Road.** Houses in woodland areas would be threatened in the event of pipeline explosion and wildfire. These areas often have dense vegetation near houses, high vegetative fuel loadings, steep slopes, and a single road for emergency egress.

In many ways, these urban wildland interface areas of houses interspersed in densely wooded areas are similar to those that were consumed during the 2016 Smoky Mountains Wildfire that resulted in 14 fatalities and injured 90 people.

What would be the capability of local wildland firefighting resources, first responders, EMS, and area hospitals to respond should there be a pipeline explosion and wildfire in the Big Level Complex of hills or other similar urban wildland interface areas with houses interspersed in dense woodlands?

### **Cathodic Discharge Threat of Explosion**

LG & E plans to use East KY Power Cooperative's high voltage powerline for a "considerable distance". Available maps suggest that the co-location of the pipeline with the powerline will be approximately 5-6 miles in length. The pipeline will also be located within about 600' of an electrical substation and along an estimate 1,700' of the Mid-Valley Crude Oil Pipeline, a part of the nation's critical infrastructure.

Co-locating the pipeline near high voltage powerlines and other energetic sources such as nearby substations create risks of cathodic discharge that can cause explosions.



LG & E is aware of these risks as demonstrated by e-mail communications between LG & E principal engineer Steve Beatty and Ryan Buchs of EN Engineering:

From: Ryan Buchs [mailto:rbuchs@enengineering.com]

Sent: Friday, March 02, 2018 9:49 AM

To: Beatty, Stephen <Stephen.Beatty@lge-ku.com>

Cc: Phil Eggen <peggen@enengineering.com>; Marisse Williams <mwilliams@enengineering.com>; Erika Wenzler <ewenzler@enengineering.com>; Simmons, Damien <Damien.Simmons@lge-ku.com>; Kuriger, Jeff <Jeff.Kuriger@lge-ku.com>; Ryan, Joe <Joe.Ryan@lge-ku.com>; trogers@e3co.land

Subject: RE: LGE Bullitt Co. - IOLA Route

EXTERNAL email. STOP and THINK before responding, clicking on links, or opening attachments.

Steve,

In regards to the AC risk to the pipeline if we install between the powerline substations - it is not the most ideal place to install the line. As it is drawn, we are 75-80 feet away from the east substation. This puts the line at a very high risk for fault/steady-state coupling with the substations. This is not good. Any current being injected into the ground will most likely "jump" onto the pipe and leave the line somewhere along its length. Where current leaves, metal is lost. There is also the possibility that if both substations are owned by the same power company, they may have buried cables/conductors connecting the two grounding grids, effectively making them one single larger grid. If that is the case, then we're proposing installing directly through/under that those cables. I'm not sure if survey has been performed already to see if any exist, so this may be a moot point.

I don't think this qualifies as a High-Consequence Area (HCA) but the proposed rule-making for CFR 192 (still pending release) would have additional classifications (Medium-Consequence Area) and more stringent requirements for both HCAs and MCAs. This route potentially makes compliance a bit sticky regarding alleviating risk.

We can install mitigation to help reduce the AC risks, but there's only so much we could do. We would install a mitigation cable on each side of the pipeline along the length and install decouplers for connection sized a bit higher than normal. I don't know how much that would impact any AC currents without modeling and requesting data from the power companies. If there are buried conductors, again, we can only do so much, asking them to encase their cables within heavy PVC conduits and concrete for their length - I don't know how willing the power company would be if they were there first.

Installing the pipeline by HDD in this location would be a worst-case scenario. We may not be able to install any of the parallel mitigation due to the depth, so the line would be exposed to an AC corrosion and safety risk. If the HDD would be deeper than 20 feet, we also remove our ability to accurately perform surface assessments (ECDA, CIS, ACVG, DCVG) and would probably be difficult to excavate given the location (to perform direct assessments and remediation work).

I highly suggest that a different path around both substations, either to the east or west, be chosen. This would greatly reduce any AC corrosion/safety risk to the line and make any potential maintenance activities and required assessments easier. It also reduces any potential code compliance issues which may or may not arise. We can do what we can to reduce the corrosion/safety risk as the ROW is currently laid out, but there are limitations to what can be done.

If you would like, feel free to give me a call and we can discuss further.

Ryan Buchs

Technical Lead  
Corrosion Engineering Services, Central Region  
EN Engineering  
180 N Lasalle St, Ste 1400  
Chicago, IL 60601

[REDACTED] (Office)

[REDACTED] (Mobile)

[REDACTED] (Fax)

**Studies indicate that threats exist from cathodic discharge and energetic events when pipelines are parallel or cross and commonly require 1.0 mile or so of separation to ensure safety and infrastructure integrity.**

Studies of co-location of pipelines near powerlines and other energetic sources are routinely conducted by utilities to evaluate cathodic discharge and minimum required separation distances to ensure public safety. (As examples, see <http://www.ingaa.org/File.aspx?id=24732>, [http://www.cpuc.ca.gov/environment/info/panoramaenv/sycamore\\_penasquitos/Plans/SycPen\\_Overhead\\_AC\\_Touch\\_Study.pdf](http://www.cpuc.ca.gov/environment/info/panoramaenv/sycamore_penasquitos/Plans/SycPen_Overhead_AC_Touch_Study.pdf), and <https://www.energy.gov/nepa/downloads/eis-0372-final-environmental-impact-statement>.)

High voltage powerlines and electromagnetic interference "may present a significant challenge for achieving adequate mitigation on pipelines crossing or collocated with the high voltage lines" (The INGAA Foundation, Inc., 2015, Oct., p. 10, see: <http://www.ingaa.org/File.aspx?id=24732>). The INGAA Foundation, Inc. (2015, Oct.) publication entitled "Criteria for Pipelines Co-Existing with Existing Power lines" and computer modeling by Det Norske Veritas, Inc., provides details, modeling, and a literature review that would be instructive.

Specifically, the KY Public Service Commission needs to analyze the minimum safe separation distance between the LG & E Jim Beam Bullitt County Natural Gas Pipeline and East Kentucky Power Cooperative's high voltage transmission lines and similar sources which may very well require at least 0.5 to 1.0 miles of separation to ensure safety and infrastructure integrity.

As an example, and consistent with INGAA Foundation separation distances, the U.S. Department of Energy's "Final Environmental Impact Statement for the Bangor Hydro-Electric Company Northeast Reliability Interconnect" (DOE/EIS-0372) established a 2,500' separation between the natural gas pipeline and powerline (see EIS pdf link at:

<https://www.energy.gov/nepa/downloads/eis-0372-final-environmental-impact-statement>). As noted in the draft environmental impact statement for the project on pages 2-33 through 2-34

electromagnetic coupling and resistive could be a concern when the powerline was located near (within 1.0 mile), parallel to, or would cross the natural gas pipeline (see: <https://www.energy.gov/sites/prod/files/EIS-0372-DEIS-2005.pdf>).

Scientific uncertainty is apparent in available literature and exemplified by the U.S. DOT Pipeline and Hazardous Materials Safety Administration's (PHMSA) response to industry questions on safe distances between power lines and pipelines (see PHMSA Interpretation Response #PI-98-0102 at: <https://www.phmsa.dot.gov/regulations/title49/interp/PI-98-0102>).

Scientific uncertainty requires an analysis such as that conducted by ARK in 2017 for the San Diego Gas & Electric Sycamore-Peñasquitos' 230 Kilovolt Transmission Line Project Segments entitled "AC Interference Analysis and Mitigation System Design" which had the stated intent to ensure that "AC touch potentials must remain at acceptable levels for personnel and public safety" (p. 1). See:

[http://www.cpuc.ca.gov/environment/info/panoramaenv/sycamore\\_penasquitos/Plans/SycPen\\_Overhead\\_AC\\_Touch\\_Study.pdf](http://www.cpuc.ca.gov/environment/info/panoramaenv/sycamore_penasquitos/Plans/SycPen_Overhead_AC_Touch_Study.pdf).)

Analysis of cathodic protection and mitigation has been standard practice for natural gas pipeline projects such as for Mountaineer XPress and Gulf XPress Projects, Atlantic Coast Pipeline and Supply Header Project, Mountain Valley Project and Equitrans Expansion Project, and PennEast Pipeline Project (see Final Environmental Impact Statements at: <https://www.ferc.gov/industries/gas/enviro/eis/2017.asp>).

See 49 CFR Part 192 Appendix D for requirements for cathodic protection.

**The KY Public Service needs to establish the minimum required separation distances (e.g., 1 mile) between the LG & E & Jim Beam Bullitt County Natural Gas Pipeline and East Kentucky Power Cooperative high voltage transmission lines and substations.** A minimum separation distance is needed to prevent electrical interference and ensure public safety and infrastructure integrity. Analysis and determinations of minimum separation distances must be made prior to review and consideration of any certificates and permits.

Why did LG & E exclude cathodic protection from studies of probable costs "due to previous experience on projects when LG&E reviewed this internally"? (See EnSiteUSA 6520- Mt. Washington Lateral, Feasibility Study, Request for Proposal- Opinion of Probable Cost, September 2, 2016, p. 5 of 9 at

[https://psc.ky.gov/pscscf/Post%20Case%20Referenced%20Correspondence/2016%20cases/2016-00371/20190510\\_PSC%20Response%20to%20Open%20Records%20Request%20and%20LGE%20Response%20to%20PSC%20Third%20Request%20for%20Information%20-%20Item%2024.pdf](https://psc.ky.gov/pscscf/Post%20Case%20Referenced%20Correspondence/2016%20cases/2016-00371/20190510_PSC%20Response%20to%20Open%20Records%20Request%20and%20LGE%20Response%20to%20PSC%20Third%20Request%20for%20Information%20-%20Item%2024.pdf).)

The following questions reflect the Letter of Transmittal (2019, May 10) from Gwen Pinson, Executive Director, KY Public Service Commission, to Thomas FitzGerald Re: Open Records Request, received April 13, 2019, requesting to inspect confidential files in Case No. 2016-00371, Electronic Application of Louisville Gas and Electric Company for an Adjustment of its Electric and Gas Rates and Certificates of Public Convenience and Necessity. See: [http://psc.ky.gov/pscscf/Post%20Case%20Referenced%20Correspondence/2016%20cases/2016-00371/20190510\\_PSC%20Response%20to%20Open%20Records%20Request%20and%20LGE](http://psc.ky.gov/pscscf/Post%20Case%20Referenced%20Correspondence/2016%20cases/2016-00371/20190510_PSC%20Response%20to%20Open%20Records%20Request%20and%20LGE)

[%20Response%20to%20PSC%20Third%20Request%20for%20Information%20-%20Item%2024.pdf](#)

Why was cathodic protection not calculated in the opinion of probable cost by EnSiteUSA (2016, p. 5)? Is that because the entire 77-year old 53-mile long Calvary Natural Gas Pipeline does not comply with 49 CFR Part 192 Appendix D Requirements for Cathodic Protection? Does LG & E intend to not provide cathodic protection LG & E Jim Beam Bullitt County Natural Gas Pipeline?

Why did EnSiteUSA (2016, p. 5) make the statement that "Cathodic Protection was not included in this OPC due to previous experience on projects when LG&E reviewed this internally"? Does this translation mean that LG & E's history of failing to comply with Federal regulations for cathodic protection for their pipelines is a standard practice that they plan to continue with the LG & E Jim Beam Natural Gas Pipeline?

Why does the LG & E Jim Beam Bullitt County Natural Gas Pipeline route traverse under an existing electrical right-of-way (ROW) the length of the route (EnSiteUSA, 2016, p.2) when various Federal environmental analyses point to a minimum separation of 0.5-1.0 miles separation for safety (e.g., <https://www.energy.gov/nepa/downloads/eis-0372-final-environmental-impact-statement>)?

Given that the LG & E Jim Beam Bullitt County Natural Gas Pipeline should not be co-located within 0.5-1.0 miles of sources of electrical interference such as the East Kentucky Power Cooperative high voltage transmission line, how will the KY Public Service Commission process change to focus on route alternatives along highway right-of-way corridors for Routes A, B, D, E, and, G and any additional routes that the Kentucky Public Service Commission and LG & E have failed to disclose? See EnSiteUSA, Inc., 2015, July 29, Section 3 - System Design, p. 2.

Why do the EnSiteUSA (2016, p.5) analysis describe 30' Right of Ways when the documents they are giving to landowners indicate that they are seeking easements that are now 50' wide?

Where the LG & E Jim Beam Bullitt County Natural Gas Pipeline is located adjacent to overhead electric lines, where and how would blowdown valves be located between main line valves and away from electrical conductors so that blowdown discharge can be blown into atmosphere without hazard as specified at 49 CFR Title 49 Part 192, §192.179. (See [https://www.ecfr.gov/cgi-bin/text-idx?SID=59b84e0fcf0ce6302db034c947e9688f&mc=true&node=pt49.3.192&rgn=div5#se49.3.192\\_1179](https://www.ecfr.gov/cgi-bin/text-idx?SID=59b84e0fcf0ce6302db034c947e9688f&mc=true&node=pt49.3.192&rgn=div5#se49.3.192_1179))

Are 32\_mainline valves still planned? See EnSiteUSA, Inc., 2015, July 29, Section 3 - System Design, p. 9.

As stated at C.F.R. § 192.463 (b) (2) "The entire buried or submerged pipeline must be cathodically protected at a cathodic potential that meets the requirements of appendix D of this part for amphoteric metals." (See [https://www.eC.F.R..gov/cgi-bin/text-idx?SID=d87a284350fb97ffb0ac91c26a265c99&mc=true&node=pt49.3.192&rgn=div5#se49.3.192\\_1463](https://www.eC.F.R..gov/cgi-bin/text-idx?SID=d87a284350fb97ffb0ac91c26a265c99&mc=true&node=pt49.3.192&rgn=div5#se49.3.192_1463) .) See 49 C.F.R. Part 192 Appendix D Criteria for Cathodic Protection and Determination of Measurements at [https://www.eC.F.R..gov/cgi-bin/text-idx?SID=d87a284350fb97ffb0ac91c26a265c99&mc=true&node=pt49.3.192&rgn=div5#ap49.3.192.0000\\_0nbspnbspnbspd](https://www.eC.F.R..gov/cgi-bin/text-idx?SID=d87a284350fb97ffb0ac91c26a265c99&mc=true&node=pt49.3.192&rgn=div5#ap49.3.192.0000_0nbspnbspnbspd).

And, as required at 49 C.F.R. § 192.467 (f) "Where a pipeline is located in close proximity to electrical transmission tower footings, ground cables or counterpoise, or in other areas where fault currents or unusual risk of lightning may be anticipated, it must be provided with protection against damage due to fault currents or lightning, and protective measures must also be taken at insulating devices." (See [https://www.eC.F.R..gov/cgi-bin/text-idx?SID=4c6313ef3dab2b555dfd99ec618c0df6&mc=true&node=se49.3.192\\_1467&rgn=div8.](https://www.eC.F.R..gov/cgi-bin/text-idx?SID=4c6313ef3dab2b555dfd99ec618c0df6&mc=true&node=se49.3.192_1467&rgn=div8.))

Also, as required at 49 C.F.R. § 192.467 "(a) Each buried or submerged pipeline must be electrically isolated from other underground metallic structures, unless the pipeline and the other structures are electrically interconnected and cathodically protected as a single unit. (See [https://www.eC.F.R..gov/cgi-bin/text-idx?SID=4c6313ef3dab2b555dfd99ec618c0df6&mc=true&node=se49.3.192\\_1467&rgn=div8.](https://www.eC.F.R..gov/cgi-bin/text-idx?SID=4c6313ef3dab2b555dfd99ec618c0df6&mc=true&node=se49.3.192_1467&rgn=div8.))

What would be the worst-case impacts of a cathodic discharge-caused explosion and wildfire along the LG & E Jim Beam Bullitt County Natural Gas Pipeline route?

What are the threats of pipeline explosion due to lack of cathodic protection for the 77-year old Calvary Natura Gas Pipeline?

What are the threats of pipeline explosion due to lack of cathodic protection for the LG & E Jim Beam Bullitt County Natural Gas Pipeline?

Why does LG & E intend not to provide Federally-required cathodic protection for the LG & E Jim Beam Bullitt County Natural Gas Pipeline?

What should be the minimum separation distance between the LG & E Jim Beam Bullitt County Natural Gas Pipeline, powerline, and other energetic sources such as the electrical substation?

What should be the minimum separation distance between the LG & E Jim Beam Bullitt County Natural Gas Pipeline and Mid-Valley Crude Oil Pipeline?

Why is the KY Public Service Commission and LG & E not studying the cathodic discharge issue and determining minimum separation distances to ensure public safety?

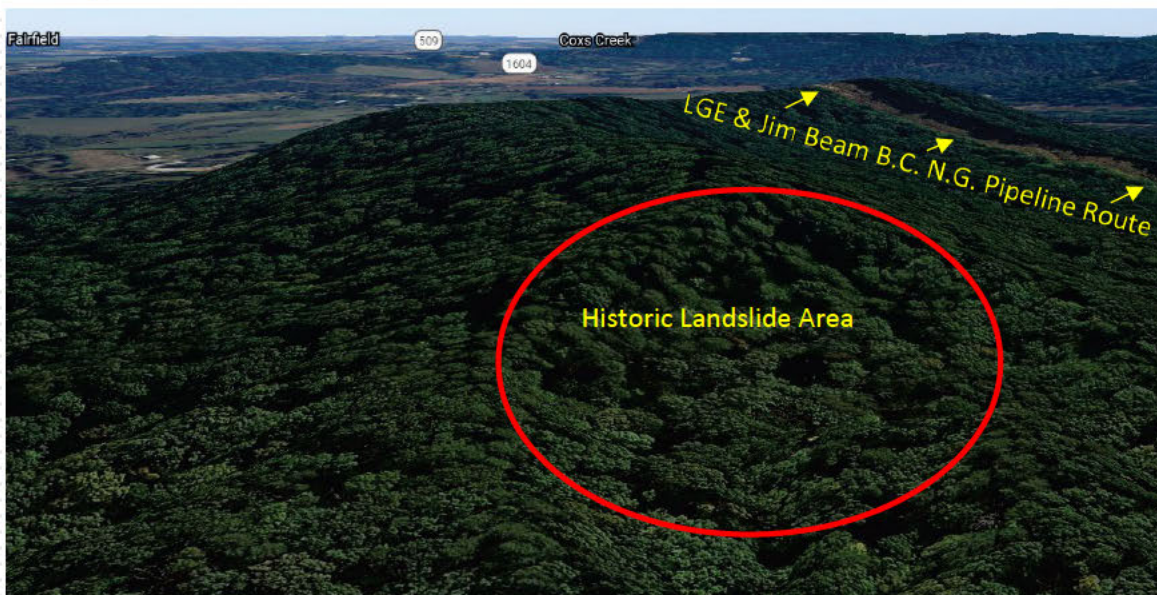
## **Landslide Threat to Pipeline Integrity**

The LG & E Jim Beam Bullitt County Natural Gas Pipeline project area is located within a region of inventoried landslide locations (e.g., Andrews and Haneburg's, 2017, slide 15, KY Geological Map Information Service Landslide Map at <http://www.kymitigation.org/wp-content/uploads/2012/02/1-Transformative-Integration-at-the-Kentucky-Geological-Survey-Providing-Better-Support-for-Natural-Hazard-Mitigation-and-Resiliency-Drew-Andrews.pdf.>)

The LG & E Jim Beam Bullitt County Natural Gas Pipeline will cross numerous steep slopes across Bernheim Forest's Big Level Complex that are prone to soil movement and landslides. The Big Level Complex area has a history of landslides, slumps and slides along the 5-6 mile long East Kentucky Power Cooperative high voltage powerline where the LG & E Jim Beam Bullitt County Natural Gas Pipeline will be placed.

A sizeable historic slide occurred near Colyer Lane on the lone hill located just south of Cedar Grove Baptist Church as depicted in Figure 5. The hill is bounded by KY 480 Cedar Grove Road, KY 1604 Deatsville Road, and Colyer Lane. Several of our senior residents regularly visited the sizeable landslide near Colyer Lane during their youth, 60-70 years ago. Hubert Cox

and Bernadine Stevenson are some of our seniors that visited the landslide. According to Bernadine Stevenson, the slide was visible at several locations from KY 480 Cedar Grove Road, particularly near the S Curve and where the firehouse is now located.



**Figure 5. Historic land slide 1-2 acres in size near pipeline route and Colyer Lane.** The historic slide was very visible along KY 480 Cedar Grove Road. Note the corridor in the upper right that the LG & E Jim Beam Natural Gas Pipeline will traverse. Photo adapted from Google Earth from a viewpoint direction of the KY 480 Cedar Grove Road S curve.

Hubert Cox recalls the landslide area as being about 350' across and about 150' long at the top part of the hill. Recollections of others may suggest a larger landslide area. Our senior residents that were here at the time recall the landslide as taking up much of the hill and visible from many areas along Cedar Grove Road and particularly at the S Curve area near the existing fire station.

Hubert Cox shared stories with the Friends of Cedar Grove of his youthful adventures with Dan Frankie, Norman Hawkins, and Bobbie Rouse as they often tried to ride horses up the landslide and the horses were unable to climb the landslide or traverse the site. Hubert Cox also described how as teenagers he and others would use burlap feed sacks like sleds and ride them down the landslide as if it were a ski run.

The historic landslide near Colyer Lane and a large slump near Kinder Lane occurred in the absence of human activity and demonstrate how prone the soils are to soil movement and landslides throughout the Bernheim Forest Big Level Complex area.

The LG & E Jim Beam Bullitt County Natural Gas Pipeline will traverse approximately 5-6 miles of steep slopes through the landslide-prone areas, and LG & E states that 38.71 acres of forested habitat removal will occur across the entire pipeline route.

The LG & E Jim Beam Bullitt County Natural Gas Pipeline will traverse Bernheim Forest's Big Level Complex under or adjacent to 5-6 miles of East Kentucky Power Cooperative high voltage powerline that crosses steep 20%-40% slopes and poor soils that are prone to soil movement and landslides.

Placing the pipeline through steep slopes that are prone to soil movement and landslides is a problem and presents potential risks to public health and safety.

Soil movement and or landslides on or near the East Kentucky Power Cooperative high voltage powerline may threaten the powerline, but more importantly, may threaten the structural integrity of the LG & E Jim Beam Bullitt County Natural Gas Pipeline and could result in pipeline failure and catastrophic explosion.

Landslides and slips have occurred along the East Kentucky Power Cooperative high voltage powerline corridor across the Big Level Complex as admitted by East Kentucky Power Cooperative which is seeking to keep LG & E from co-locating the pipeline in or near the powerline corridor as documented in their e-mail communications:

- We [East Kentucky Power Cooperative] have had trouble with slides and slips at several locations along this transmission line and because of that we have concerns about any disturbance or construction near our poles or anchors. (Garry Harvey e-mail to Stephen Beatty, January 15, 2015.)
- As far as the pipeline location — for the reasons I mentioned in my January 15th email, both Maintenance and Engineering are not comfortable with the proposed pipeline construction or final location between our existing anchors. Our preference would be that you locate the pipeline outside of the existing anchors maintaining a minimum 10' disturbance limit to the closest EKPC anchor. We are also concerned about accessing the work area by taking equipment between the existing poles — especially if grading would be necessary. Again, the concern is with the overall stability of the area and possible contact between the equipment and our structure. Pick-up trucks and equipment that wouldn't require any grading or surface disturbance (and could maintain clearance between the poles) would be acceptable. Sorry that I don't have any more favorable answers for you but with the soil stability (slip) issues we have had in that area there is just a lot of concern with any possible disturbance close to our facilities. Let me know if you have any questions. (Garry Harvey e-mail to Stephen Beatty, January 21, 2020.)

LG & E's recent 247-page "supplement" to the KY Division of Water application depicts numerous steep areas of instability along the East Kentucky Power Cooperative high voltage powerline and pipeline route which presents concerns for soil movement and landslides.

Several sites and soils were identified in the LG & E "supplement" and "classified as high soil slippage potential" such that ". . . a mass of soil will slip when vegetation is removed, soil water is at or near saturation, and other normal practices are applied . . . ."

LG & E identified numerous potential landslide sites that warrant special engineering techniques and subsurface drainage measures. As examples, see KY Division of Water WQC Supplement 10.7.2020, Attachment 9, Stormwater Pollution Prevention Plan 1.4, p. 4; 1.9, p. 10; Attachment 9, Appendix B Tables for numerous areas with High Soil Slippage ratings; Attachment 9, Appendix B, Revision Graphic and Table maps on pp. 21, 24, 25, 26, 28, 29, 30, and 31 of 33.

Disturbance of the ground and construction in these areas may likely trigger soil movement and landslides, reactivate existing native landslides, result in erosion, and or create or increase instability in steep and rugged terrain that could result in the failure of pipeline integrity and catastrophic explosion.

Earthquakes in this area may also threaten these slopes and the pipeline that are prone to soil movement and landslides. (See Andrews and Haneburg, 2017, slide 10, <http://www.kymitigation.org/wp-content/uploads/2012/02/1-Transformative-Integration-at-the-Kentucky-Geological-Survey-Providing-Better-Support-for-Natural-Hazard-Mitigation-and-Resiliency-Drew-Andrews.pdf>.)

The KY Public Service Commission should assess whether the planned pipeline route for the LG & E Jim Beam Bullitt County Natural Gas Pipeline can support pipeline integrity and safety.

The KY Public Service Commission should require monitoring of the LG & E Jim Beam Bullitt County Natural Gas Pipeline for soil and slope movement and landslide potential (e.g., periodic visits and reconnaissance, geodetic monitoring via survey benchmarks, slope inclinometers tracking of ground movement at depth, standpipe piezometers to track changes in groundwater conditions, etc. (As an example, see the INGAA Foundation, Inc., report, p. 38 at <https://www.ingaa.org/File.aspx?id=28629>.)

Requiring appropriate soil and slope monitoring in areas of known and potential landslide areas is of critical importance to identify changes that could impact pipeline integrity and cause catastrophic pipeline failure and explosion in urban-wildland interface areas across the Big Level Complex.

The U.S. DOT Pipeline Hazardous Materials Safety Administration has addressed the threats and safety direction related to landslides and earth movement in its notice entitled "Pipeline Safety: Potential for Damage to Pipeline Facilities Caused by Earth Movement and Other Geological Hazards", 84 Fed. Reg. 18919 (May 2, 2019) at <https://www.phmsa.dot.gov/sites/phmsa.dot.gov/files/2020-04/2019-08984.pdf>. The Pipeline Hazardous Materials Safety Administration specifically notes the threats to pipeline integrity and safety and prior pipeline failures from root causes of landslide, flooding and soil erosion, earth movement (particularly in variable, steep, and rugged terrain and with varied geological subsurface conditions) on page 18920.

In that notice, the Pipeline Hazardous Materials Safety Administration specified that natural gas pipelines must be designed in accordance with 49 CFR § 192.103 and must consider load that may be imposed by geological forces and at Once operational, § 192.317(a) "[t]he operator must take . . . protect each transmission line or main from washouts, floods, unstable soil, landslides, or other hazards that may cause the pipeline to move or to sustain abnormal loads". In addition, § 192.705 requires a patrol program to observe surface conditions and monitor geological changes which may safe operation of the pipeline, and at § 192.613(a) continuing surveillance. The bulletin also notes requirements for visits and reconnaissance, geodetic monitoring via survey benchmarks, slope inclinometers tracking of ground movement at depth, standpipe piezometers to track changes in groundwater conditions, etc.

## **Sinkhole & Karst Threats to Pipeline Integrity**

LG & E and agencies have failed to conduct karst and sinkhole investigations along the LG & E Jim Beam Bullitt County Natural Gas Pipeline route, and all agencies involved in the permit and approval processes have ignored the presence of karst and sinkholes or their potential impact to pipeline integrity.

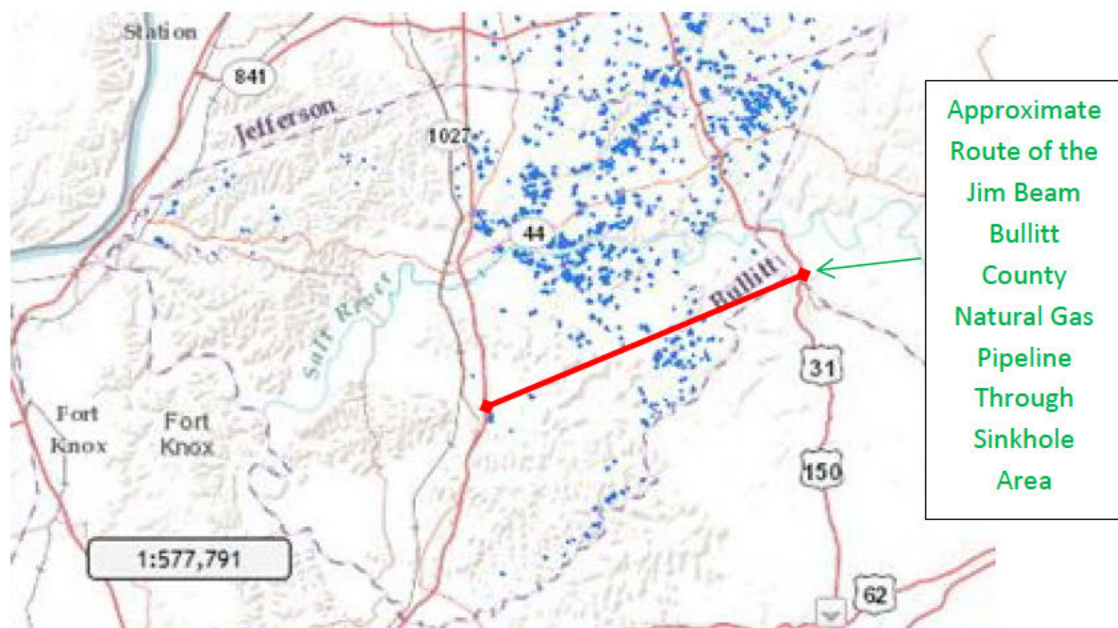


LG & E's recent 247-page "supplement" for the KY Division of Water application and other documents depict numerous sinkholes that are located on and near the LG & E Jim Beam Bullitt County Natural Gas Pipeline route. LG & E even states that the "contractor shall expect numerous sinkholes, as [the] project is located in an area where karst features are common."

The LG & E Jim Beam Bullitt County Natural Gas Pipeline route through Cedar Grove and Solitude is underlain by karst-prone topography and numerous sinkholes; the locations of some are known as shown in Figure 6, but the locations of most sinkholes are unknown. Some sinkholes near the pipeline route are large enough to place a house in.

For more information on area sinkholes, see Andrews and Haneburg, slide 20, at <http://www.kymitigation.org/wp-content/uploads/2012/02/1-Transformative-Integration-at-the-Kentucky-Geological-Survey-Providing-Better-Support-for-Natural-Hazard-Mitigation-and-Resiliency-Drew-Andrews.pdf>; Geologic Map of Kentucky at <https://kgs.uky.edu/kgsweb/download/gwatlas/gwcounty/bullitt/BULLITTK.pdf>; and Kiesler, Woosley, & Davis & U.S. Geological Survey at <https://pubs.usgs.gov/of/1987/0727/report.pdf>.

Placing the LG & E Jim Beam Bullitt County Natural Gas Pipeline through a karst-prone route with innumerable sinkholes is a problem and may present risks to public health and safety.



**Figure 6. LiDAR-derived known sinkholes in the Cedar Grove and Solitude Area.** Known sinkholes identified by LiDAR appear as blue dots and are located on and near the pipeline route and may impact pipeline integrity. Adapted from Andrews and Haneburg (2017) KY Geological Map Information Service LiDAR-derived Sinkhole Coverage map, slide 20, at <http://www.kymitigation.org/wp-content/uploads/2012/02/1-Transformative-Integration-at-the-Kentucky-Geological-Survey-Providing-Better-Support-for-Natural-Hazard-Mitigation-and-Resiliency-Drew-Andrews.pdf>.

This karst prone area and sinkholes are dynamic and involve soil and water movement that could impact pipeline integrity and result in pipeline failure and catastrophic explosion. (As examples, see Clingerman, Betcher, & Hansen at <https://assets.nrdc.org/sites/default/files/downstream->

[strategies-threats-to-groundwater-from-the-mountain-valley-pipeline-atlantic-coast-pipeline-in-virginia\\_2018-05-25.pdf](#); Glass, Hatcher, Betcher, & Hansen at [https://wvivers.org/wp-content/uploads/2016/12/water-supply-monitoring\\_8-23-16.pdf](https://wvivers.org/wp-content/uploads/2016/12/water-supply-monitoring_8-23-16.pdf); and Kastning, p. 25, at <http://wp.vaserraclub.org/KastningReport.pdf>.)

Innumerable sinkholes are likely present and unknown along the LG & E Jim Beam Bullitt County Natural Gas Pipeline Route.

LG & E and the KY Division of Water have failed to conduct sinkhole studies of the pipeline route!

According to Kastning (2016, e.g., pp. 7, 14-15) ground penetrating radar, dye tracing and other detailed analysis is required for areas of proposed construction to develop a detailed inventory of all sinkholes, caves, recharge areas, and springs, and design a route to avoid such features.

What actions will be taken to assess the presence of sinkholes along or near the LG & E Jim Beam Bullitt County Natural Gas Pipeline route that may threaten pipeline integrity?

What actions and rerouting of the LG & E Jim Beam Bullitt County Natural Gas Pipeline will be required to ensure pipeline integrity?

The February 13, 2014 failure and explosion of the Columbia Gulf Transmission Company in Knifley, Kentucky (approximately 70 miles away from the sinkhole and karst areas of Cedar Grove and Solitude) was caused by failure of pipeline integrity from ground movement from sinkholes and karst movement is particularly applicable to threats and conditions created by the sinkhole and karst terrain through Cedar Grove and Solitude. The "Failure Investigation Report—Columbia Gulf Transmission Company, Line 200 failure in Adair County, Kentucky, by Donald Murphy and Chris Taylor, 2015, April 10 at [https://www.phmsa.dot.gov/sites/phmsa.dot.gov/files/docs/Columbia\\_Gulf\\_Transmission\\_Company\\_Knifley\\_KY\\_2014\\_02\\_13\\_FINAL.pdf](https://www.phmsa.dot.gov/sites/phmsa.dot.gov/files/docs/Columbia_Gulf_Transmission_Company_Knifley_KY_2014_02_13_FINAL.pdf) provide details on the root cause failure from sinkhole and karst movement and the explosion impacts

Pipeline integrity failed with the Columbia Gulf Transmission Company pipeline as a result of sinkhole and karst movement that generated an explosion with a crater that was approximately 105 feet long, 44 feet wide, and 25 feet deep, flung pipe segments and remnants up to approximately 400' away damaged, destroyed, and burned, houses, structures, and automobiles and resulted in \$1.8 million in damages.

After the explosion, aerial surveys were conducted by helicopter that identified numerous potential ground movement sites along the 25.2 miles of the pipeline that appeared as a "depression" or a "possible depression" with many existing as sinkholes and or associated with karst activity, and subjected to further geotechnical assessment and remediation.

The resulting order required that in-line inspection tools be used throughout the entire route to assess potential pipeline integrity problems that may exist from additional ground movement. (Could the Calvary Natural Gas Pipeline's repeated failures to successfully allow passage of in-line inspection tools be related to earth movement from sinkholes and karst?)

It is clear that the KY Public Service Commission needs to require that the LG & E Jim Beam Bullitt County Natural Gas Pipeline select one of the routes studied by EnSiteUSA (2016, 2015) or other route, or that full and comprehensive studies and investigations be conducted of sinkhole and karst terrain along the pipeline route in Cedar Grove and Solitude to comply with the U.S.

DOT Pipeline Hazardous Materials Safety Administration notice entitled "Pipeline Safety: Potential for Damage to Pipeline Facilities Caused by Earth Movement and Other Geological Hazards", 84 Fed. Reg. 18919 (May 2, 2019) at <https://www.phmsa.dot.gov/sites/phmsa.dot.gov/files/2020-04/2019-08984.pdf> and ensure protections from landslide, flooding and soil erosion.

## Acid Drainage Threats

LG & E Jim Beam Bullitt County Pipeline construction activities in or near the hills around Bernheim Forest's Big Level Complex, Cedar Grove, and Clermont, may disturb and expose New Albany Shale as shown in Figure 7.



**Figure 7. New Albany Shale from MacDonald Knob Outcrop near Shepherdsville.** Adapted from James St. John photo of roadcut alongside road just west of I-65 between Shepherdsville and Louisville at 38° 00' 44.51" N, 85° 41' 59.51" W, as posted in Wikimedia Commons ([https://commons.wikimedia.org/wiki/File:New Albany Shale \(Upper Devonian; MacDonald Knob Outcrop, Bullitt County, Kentucky, USA\) 9 \(30962935147\).jpg](https://commons.wikimedia.org/wiki/File:New_Albania_Shale_(Upper_Devonian;_MacDonald_Knob_Outcrop,_Bullitt_County,_Kentucky,_USA)_9_(30962935147).jpg)).

New Albany Shale is the typically darkish to black color shale that underlays the area. New Albany Shale may appear as exposed rock outcrops, cut embankments, exist in fill areas, or otherwise be exposed during construction, and often has little or no vegetation, and the vegetation that is present often appears burnt or dried out.

According to Bart Asher, P.E., P.L.S., New Albany Shale acid drainage contains large concentrations of pyrite that is highly acidic. (See KY 44 to KY 480 Connector Study, Appendix

C Geotechnical Overview, 2014, April 14, at <https://transportation.ky.gov/Planning/Planning%20Studies%20and%20Reports/Appendix%20C%20-%20Geotechnical%20Overview%20KY%2044%20to%20KY%20480%20Connector.pdf>.)

When New Albany Shale is exposed to air and water it becomes acidic and produces acid drainage. The acid drainage runoff reduces pH levels in water and negatively effects water quality and aquatic wildlife.

According to FMSM Engineers, New Albany Shale acid drainage is often toxic.

Lisa Sumi reports that black shales such as New Albany Shale are often enriched with toxic trace metals including arsenic, cobalt, chromium, molybdenum, nickel, vanadium and zinc in stream sediments. See Sumi, L., Focus on the Marcellus Shale, 2008, May, p. 16, <https://www.earthworks.org/cms/assets/uploads/archive/files/publications/OGAPMarcellusShaleReport-6-12-08.pdf>.) Sumi reports that if the toxic metals are mobilized, the metals could move through the soil and contaminate surface or groundwater with the toxic metals.

Bart Asher, P.E., P.L.S., states that construction activities in New Albany Shale requires mitigation to treat acid drainage by encapsulating the shale or treating acid drainage runoff water. He also states that additional measures are required to protect buried structures (e.g., pipeline).

FMSM Engineers report that exposed acidic strata (a layer of sedimentary rock) and acidic materials needs to be capped and encapsulated with four feet of clay-like, non-acidic material. FMSM Engineers also indicate that limestone lined ditches and detention basins need to be built to neutralize acid drainage.

Consistent with Bart Asher, P.E., P.L.S., assertions that additional measures are required to protect buried structures (e.g., pipeline), Mr. William Kidd of Clermont's Peaceful Valley told the Friends of Cedar Grove that he and neighbors have had problems with pipes and pipe fittings, including copper and brass, that degrade from acid drainage in the soil and water.

The KY Transportation Cabinet studies for the KY 44 to KY 480 Connector and 65-71 Regional Connector concluded that New Albany Shale near the Big Level Complex and surrounding areas presents a substantial environmental constraint for transportation and infrastructure projects.

For details of the threat of acid drainage, see: FMSM Engineers, Report of Geotechnical overview, Corridor Study for the Heartland Parkway, Adair, Green, Taylor, Marion, Washington, and Nelson Counties KY, 2004, August 6, pp. 3, 5, 11, 14, at

<https://transportation.ky.gov/Planning/Planning%20Studies%20and%20Reports/Heartland%20Parkway%20-%20Appendix%20E%20Part%201.pdf>; KY 44 to KY 480 Connector Study, Appendix C Geotechnical Overview, 2014, April 14, p. 1 at

<https://transportation.ky.gov/Planning/Planning%20Studies%20and%20Reports/Appendix%20C%20-%20Geotechnical%20Overview%20KY%2044%20to%20KY%20480%20Connector.pdf>;

HDR 65-71 Regional Corridor Study, Appendix D Environmental Overview and Screening, 2019, May 2, pp. ii, vi, 2, Figure 1, Figure 7, at

<https://transportation.ky.gov/Planning/Planning%20Studies%20and%20Reports/65-71%20Appendix%20D%20-%20Environmental%20Overview%20and%20Screening.pdf>; HDR

Appendix A 65-71 Regional Connector Existing Conditions, 2019, April 3, pp. 65, 69 at

<https://transportation.ky.gov/Planning/Planning%20Studies%20and%20Reports/65-71%20Appendix%20A%20-%20Existing%20Conditions%20Report.pdf>; and HDR Final Report

65-71 Regional Corridor Study, 2020, September, p. 14, at <https://transportation.ky.gov/Planning/Planning%20Studies%20and%20Reports/65-71%20Regional%20Connector%20Final%20Report.pdf>; Sumi, L., Focus on the Marcellus Shale, 2008, May, p. 16, <https://www.earthworks.org/cms/assets/uploads/archive/files/publications/OGAPMarcellusShaleReport-6-12-08.pdf>.

As noted in the "Pipeline Corrosion Final Report Submitted to U.S. Department of Transportation Pipeline and Hazardous Materials Safety Administration Office of Pipeline Safety Integrity Management Program" by Michael Baker Jr., Inc. and Contributing Author Raymond R. Fessler, Ph.D. of BIZTEK Consulting, Inc. (see <https://www.phmsa.dot.gov/sites/phmsa.dot.gov/files/docs/technical-resources/pipeline/hazardous-liquid-integrity-management/62451/finalreportpipelinecorrosion.pdf> and <https://www.phmsa.dot.gov/sites/phmsa.dot.gov/files/docs/technical-resources/pipeline/gas-transmission-integrity-management/65341/finalreportpipelinecorrosion.pdf>) pipelines experience a modest but significant number of failures due to corrosion and the chemical properties of the environment surrounding a buried pipeline are not adequately understood.

As noted in the U.S. DOT Pipeline Hazardous Materials Safety Administration report on pipeline corrosion, variations in the oxygen content, moisture content, and chemical composition of the soil along the pipe length and from top to bottom of the pipe can act as concentration cells that promote corrosion. Of note, disbanded coatings from the pipe surface can allow ground water to contact the steel and can allow acidic solution corrosion of the pipeline that can impact pipeline integrity.

It is clear that the KY Public Service Commission needs to require that the LG & E Jim Beam Bullitt County Natural Gas Pipeline select one of the routes studied by EnSiteUSA (2016, 2015) or other route, or that detailed environmental analysis be conducted on the threats of New Albany Shale acid drainage to aquifers, groundwater, and water sources including wells and springs, and the threat of acid drainage to pipeline corrosion, pipeline integrity and safety.

## **Flooding Threats to Pipeline Integrity**

The LG & E Jim Beam Natural Gas Pipeline will traverse a couple of miles of floodplains near Solitude in the vicinity of Cox's Creek and HWY 480. As shown in Figure 8 the creek and floodplains transform into riverlike conditions during high precipitation events. Area residents estimate that flooding has often reached depths up to 20'-30' deep. Area residents report that Cox's Creek often has riverine-type flooding that scours, has had migration, and substantial soil loss around bridges and roads and resulted in damaged infrastructure.

Figure 8 displays recent flooding along Cox's Creek and the planned LG & E Jim Beam Bullitt County Natural Gas Pipeline route.



**Figure 8. Photo of Cox's Creek flooding.** Cox's Creek is often subject to riverine-type flooding including scouring, migration, substantial soil loss and damage to infrastructure. Photo by Kim Rummage.

The U.S. DOT Pipeline Hazardous Materials Safety Administration's 2019 Advisory Bulletin, entitled "Pipeline Safety: Potential for Damage to Pipeline Facilities Caused by Flooding, River Scour, and River Channel Migration" (<https://www.govinfo.gov/content/pkg/FR-2019-04-11/pdf/2019-07132.pdf>) addresses safety threats and issues that may likely be created if the LG & E Jim Beam Bullitt County Natural Gas Pipeline is constructed in Solitude across the Cox's Creek floodplains.

As noted in the U.S. DOT Pipeline Hazardous Materials Safety Administration's 2019 Advisory Bulletin, severe flooding, river scour, and river channel migration are unusual operating conditions that can adversely affect pipeline safety. River scour and channel migration may damage a pipeline through additional stresses imposed on the pipe by undermining underlying support soils, causing soil subsidence, exposing the pipeline to lateral water forces that cause excessive bending loads that lead to pipeline failure, and impacts from waterborne debris or harmonic vibrations from water rapidly passing over pipelines causing pipeline failure. The advisory also notes that the safety of valves, regulators, relief sets, and pressure sensors, can be damaged when covered by water, river currents, floating debris, and craft.

It is clear that the KY Public Service Commission needs to require that the LG & E Jim Beam Bullitt County Natural Gas Pipeline select one of the routes studied by EnSiteUSA (2016, 2015) or other route, or that full and comprehensive studies and investigations be conducted of the

threats of flooding to pipeline integrity and safety and actions taken to comply with the U.S. DOT Pipeline Hazardous Materials Safety Administration's 2019 advisory bulletins entitled "Pipeline Safety: Potential for Damage to Pipeline Facilities Caused by Flooding, River Scour, and River Channel Migration" (84 Fed. Reg. 14715, April 11, 2019 at <https://www.govinfo.gov/content/pkg/FR-2019-04-11/pdf/2019-07132.pdf>) and "Pipeline Safety: Potential for Damage to Pipeline Facilities Caused by Earth Movement and Other Geological Hazards" (84 Fed. Reg. 18919, May 2, 2019, at <https://www.phmsa.dot.gov/sites/phmsa.dot.gov/files/2020-04/2019-08984.pdf>) to ensure protections from flooding and soil erosion, scour, and earth movement and stream migration threats.

The KY Public Service Commission and agencies need to demonstrate that the following questions have been addressed with evidence in the administrative record:

- What experts in river flow (e.g., hydrologist) have LG & E, the KY Division of Water, and U.S. Army Corps of Engineers used to evaluate Cox's Creek's potential for riverine-type scour or channel migration at each stream crossing site for the LG & E Jim Beam Bullitt County Natural Gas Pipeline?
- What experts in river flow (e.g., hydrologist) have LG & E, the KY Division of Water, and U.S. Army Corps of Engineers used to evaluate each pipeline crossing of Cox's Creek to determine the LG & E Jim Beam Bullitt County Natural Gas Pipeline's installation method and determine if that method and pipeline condition will be or is sufficient to withstand risks posed by anticipated riverine-type flood conditions, scour, or channel migration?
- Will the use of horizontal directional drilling place the LG & E Jim Beam Bullitt County Natural Gas Pipeline below the elevation of maximum scour and outside the limits of lateral channel migration possible within Cox's Creek? What documentation exists of this analysis.
- What is the maximum flow or flooding conditions where pipeline integrity is at risk in the event of flooding (e.g., where scour can occur) within the Cox's Creek LG & E Jim Beam Bullitt County Natural Gas Pipeline route?
- What contingency plans exist to shut down and isolate the LG & E Jim Beam Bullitt County Natural Gas Pipeline when those conditions occur?
- What plans exist for conducting overflight and patrols of LG & E Jim Beam Bullitt County Natural Gas Pipeline Cox's Creek crossing during flooding and after waters subside?

## **The 77-Year Old LG & E Calvary Natural Gas Pipeline Does Not Comply with Federal Regulations & Threatens Our Residents**

The LG & E Jim Beam Bullitt County Natural Gas Pipeline is planned to trunk to the 77-year old, 53-mile long, LG & E Calvary Natural Gas Pipeline that traverses near Cedar Grove in the segment between Bardstown and Mt. Washington. This area is known as Solitude and is generally located in the vicinity of Bardstown Road (US 31E), HWY 480, and Rummage Road.

LG & E would have the public believe that it is safe to use the 77-year old degrading pipeline as the trunk to create up to 5 new 12' natural gas pipelines for the LG & E Jim Beam Bullitt County Natural Gas Pipeline as is indicated in easements stating multiple pipelines.

It is very likely that the exposed conditions of the Calvary Natural Gas Pipeline near Cox's Creek likely represent the conditions of the pipeline along the entire 53-mile long route—with some exceptions in what is known as "High Consequence Areas" that have been ungraded.

Areas such as immediately near Bardstown and Mt. Washington and other high population areas are identified as and treated as High Consequence Areas. Pipeline segments in these High Consequence Areas have been replaced with new pipeline, inspected, and certified as passing safety inspections and in compliance with Federal safety regulations.

What about the rest of the pipeline route that extends 53 miles?

How many poor rural landowners and farmers are not considered "High Consequence" but are at risk of a pipeline explosion!

Available information indicates that the entirety of the Calvary Natural Gas Pipeline was constructed in 1944 (see: <https://www.leagle.com/decision/19641301383sw2d91811236>) which suggests that nearly 90% of the pipeline is over 77 years old.

The existing Calvary Natural Gas Pipeline was constructed prior to Federal safety and environmental requirements!

LG & Es has failed to comply with pipeline inspection requirements at 49 CFR § 192.939. The entirety of the 77-year old 53-mile long Calvary Natural Gas Pipeline needs to be inspected by in-line inspection tools and demonstrate structural integrity prior to any certificate or permit application and review or consideration for the existing Calvary Natural Gas Pipeline, LG & E Jim Beam Natural Gas Pipeline, or any other changes to flows or new connections.

The 53-mile long Calvary Pipeline was required to undergo pipeline inspection by December 31, 2017 to comply with 49 CFR § 192.939 and the 5.9 miles of High Consequence Areas. (For more information, see the documents at: <https://psc.ky.gov/PSCSCF/2017%20cases/2017-00482/>).

The pipeline failed numerous tests conducted in 2017 and the pipeline has failed to comply with inspection requirements.

On December 27, 2017 LG & E requested an extension of time to complete the inspection by August 31, 2018. LG & E reported that they conducted several test runs through the Calvary Natural Gas Pipeline during 2017 with geometry tools and metal loss tools, but the runs were determined unsuccessful.

LG & E argued that an extension of time was appropriate as the inspection tool was unavailable and to maintain product. LG & E noted that the in-line inspection tool provides more comprehensive and quantitative data regarding the integrity of the pipeline than the other assessment options. Further, they stated that they would not exceed current pipeline pressures until inspected by an in-line inspection tool.

A KY Public Service Commission Intra-Agency Memorandum dated April 23, 2018 noted that if the KY Public Service Commission was to grant an extension but the May 2018 metal loss run



fails and an assessment was not completed by August 31, 2018, LG & E would be in violation of the Order. The memorandum indicates that no waiver was approved.

The KY Public Service Commission questioned whether an alternative assessment method could be used that might produce successful results for compliance with inspection requirements when the in-line inspection tool provides more comprehensive data on pipeline integrity.

Why would the KY Public Service Commission question whether an alternative assessment method could be used simply to pass an inspection requirement versus ensuring pipeline integrity and public safety?

On May 22, 2018 LG & E contacted the KY Public Service Commission indicating that the use of the metal loss tool sensors was damaged in a May 2, 2018 run, and that LG & E was unable to obtain all needed information. LG & E stated that they would seek to complete an additional run and update the KY Public Service Commission when results are available.

A waiver of pipeline inspection is and was inappropriate for the Calvary Natural Gas Pipeline due to their planned construction of the LG & Jim Beam Bullitt County Natural Gas Pipeline along a 12-mile route and planned increased product throughput and or reverse flow via the Calvary Natural Gas Pipeline (a transmission line) which has unknown and questionable pipeline integrity and may threaten public safety and our residents in Solitude.

In-line inspection should be completed on the entire Calvary Natural Gas Pipeline and pipeline integrity demonstrated prior to any review and approval on the 77-year old Calvary Natural Gas Pipeline or new connections such as for the LG & Jim Beam Bullitt County Natural Gas Pipeline, other new connections, or changes in flows or use of reverse flows.

The fact that the tools become stuck in the 77-year old Calvary Natural Gas Pipeline, joints sheared, fittings had to be replaced and the line demonstrates challenges in passing in-line inspection tools is problematic under 49 CFR.

The U.S. DOT Pipeline Hazardous Materials Safety Administration issued such findings in 2004 against LG & E (see: <https://www.phmsa.dot.gov/sites/phmsa.dot.gov/files/docs/standards-rulemaking/pipeline/special-permits-state-waivers/13701/2007-06-10odonnell-x.pdf>). The case centered on 49 CFR Part 192.150 "Passage of Internal Inspection Devices" and requirements that the replacement of any pipeline component be designed to accommodate the passage of instrumented internal inspection devices.

Since problems exist with the existing line, the entire Calvary Natural Gas Pipeline warrants inspection and documented integrity before new approvals of any type.

The KY Public Service Commission should require documentation of pipeline integrity and compliance with 49 CFR on the entire existing Calvary Natural Gas Pipeline prior to considering or issuing approval of a new line that would connect to the existing line, or any other changes.

The KY Public Service Commission should require that the entirety of the 77-year old 53-mile long Calvary Natural Gas Pipeline pass pipeline inspection requirements at 49 CFR § 192.939 prior to reviewing and considering the new 12-mile long LG & E Jim Beam Bullitt County Natural Gas Pipeline construction that will connect to it.

The Calvary Natural Gas Pipeline must comply with 49 CFR § 192.939 prior to review of the application for certificates and permits including the Certificate of Public Convenience and Necessity for the LG & E Jim Beam Bullitt County Natural Gas Pipeliem.

The existing Calvary Natural Gas Pipeline must comply with 49 CFR Part 192 Appendix D Requirements for Cathodic Protection prior to review of application for certificates and permits on the existing line or any new proposed line that connects to it.

The KY Public Service Commission needs to require that the entirety of the 77-year old 53-mile long Calvary Natural Gas Pipeline has appropriate cathodic protection provided and tested that complies with 49 CFR Part 192 Appendix D Requirements for Cathodic Protection prior to authorization of any new pipeline connections, extensions, or changes.

The 77-year old LG & E Calvary Natural Gas Pipeline is exposed within the floodway of Cox's Creek and likely other streams along the 53-mile route. The 77-year old LG & E Calvary Natural Gas Pipeline pipe is degraded and subject to damage during flooding debris and mechanized impacts. See Figure 9.



**Figure 9. Photo of 77-year old LG & E Calvary Natural Gas Pipeline exposed across Cox's Creek channel.** The Calvary Natural Gas Pipeline is often impacted by logs, debris and rocks during flooding and by off-highway vehicles during low flow. Photo by Kim Rummage.

The Rummage family has observed large logs floating in the floodplain and in the floodway and passing across the 77-year old LG & E Calvary Natural Gas Pipeline during high water events. They have also observed off-highway vehicles traveling the creek during low flows and traversing across the LG & E Calvary Natural Gas Pipeline.

The 77-year old LG & E Calvary Natural Gas Pipeline is exposed within the Cox's Creek channel and observation and photographic evidence suggests that the 77-year old pipeline is degraded as shown in Figure 10 and threatens our residents in that area of Solitude. As shown in

Figure 10, the 77-year old LG & E Calvary Natural Gas Pipeline exhibits incisions and what appears to be cracks. The incision marks may have likely been caused by flooding debris or by off-highway vehicles that scarred the pipe as crossing occurred.



**Figure 10. Photo of 77-year old LG & E Calvary Natural Gas Pipeline's exposed and degraded condition is likely representative of the condition of the entire 53-mile long pipeline.** The horizontal incisions indicated by the red arrows may have been made by flood debris or off-highway vehicles. The pipeline degradation indicated by the yellow arrows shows cracks and irregular surfaces. Photo by Kim Rummage.

According to Terry Rummage, there was talk about 10 years ago that LG & E planned to encase the LG & E Calvary Natural Gas Pipeline that is exposed across Cox's Creek in concrete, but nothing ever happened.

Residents in the vicinity of Solitude, and likely other areas along the 53-mile long route, are already at risk from the 77-year old LG & E Calvary Natural Gas Pipeline.

How will connecting the LG & E Jim Beam Bullitt County Natural Gas Pipeline and up to 5 new 12' natural gas pipelines increase the risk of pipeline explosion and threat to the rural landowners and farmers in the Solitude area?

The KY Public Service Commission should not review or consider applications related to the Calvary Natural Gas Pipeline or the LG & E Jim Beam Bullitt County Natural Gas Pipeline and connection until the entirety of the existing Calvary Natural Gas Pipeline is inspected by in-line inspection tools and demonstrates structural integrity and compliance with cathodic protection requirements at 49 CFR.

LG & E has failed to comply with pipeline inspection requirements at 49 CFR § 192.939.

The KY Public Service Commission should require that the entirety of the 77-year old 53-mile long Calvary Natural Gas Pipeline be inspected by in-line inspection tools and demonstrate structural integrity prior to any certificate or permit application and review or consideration for a new connection to the line such as the LG & E Jim Beam Bullitt County Natural Gas Pipeline.

## Reverse Flow Will Threaten Pipeline Integrity & Our Residents

Bullitt County residents who live near an LG & E natural gas pipeline should be very concerned regarding LG & E's plans to conduct reverse flows across natural gas pipelines. LG & E asserts that reverse flows are needed instead of depending on existing one-way feeds. Existing natural gas pipelines may be placed at greater risk of failure as LG & E conducts reverse flows and increased throughput pressures.

LG & E has claimed that the LG & E Jim Beam Bullitt County Natural Gas Pipeline is needed to provide reliability to the system as a second gas source and capacity to serve expected growth and support two-way feed.

The KY Public Service Commission Meeting Notes November 23, 2016, RE: Case No. 2016-00371 (See <https://lge-ku.com/sites/default/files/documents/LGE-Bellar-Testimony-2016-Rate-Case.pdf>) project information was based on erroneous information and falsely claimed on page 4 lines 1-10 that the pipeline would mitigate exposure of approximately 9,500 customers to a loss of gas supply from the one-way feed and serve growth in Mt. Washington, Shepherdsville, Clermont, Lebanon Junction and Boston areas by providing gas supply.

A pipeline terminus in Clermont with a population of less than a thousand people begs the question as to why a \$27.6 million pipeline (now \$77 million) would be built for a small number of people in Clermont.

According to U.S. Census Bureau 2011-2015 American Community Survey 5-Year Estimates, population data for Clermont was not available (too small a population), and the reported populations of 135 for Boston and 745 for Lebanon Junction; less than 1,000 people in this area did not equate to service for 9,500 people.

It seems clear that the LG & E plans to conduct reverse flows from the LG & E Jim Beam Bullitt County Natural Gas Pipeline through the 77-year old Calvary Natural Gas Pipeline as part of the two-way feed plan.

In KY Public Service Commission Case No. 2016-00317, the testimony of Allen Neal on behalf of Louisville/Jefferson County Metro Government established that he was a renowned expert on natural gas systems. Mr. Neale's testimony established that LG & E documentation of gas distribution systems and flows is inadequate, unclear, and that LG & Engages in reverse flows.

As Mr. Neale stated in his testimony:

The Commission should 83 i. require the Company to provide a copy of its network analysis for its 84 entire service territory at a sufficient level of detail to show the requested 85 direction of flow, operating pressure and null points on all major 86 distribution/transmission segments, mains and laterals, and identify the 87 citygate interconnections with interstate gas transmission systems and 88 storage facilities; 89 ii. allow Louisville Metro the opportunity to review this network analysis, 90 with technical assistance from LG&E if necessary, to interpret the 91 information contained therein; and 92 iii. provide additional time to ask discovery questions about LG&E's gas 93 distribution system, including but not limited to the network analysis 94 requested above, in order to ensure intervenors may gain a full 3 Testimony of Allen R. Neale KY PSC Case No. 2016-00317 95 understanding of how gas supply flows through the Company's Louisville 96 Metro ROW

204 Q. Did the information you reviewed for this testimony include the Company's 205 Network Analysis or information on direction of gas flow? 206 A. No it did not. Even though one of the Confidential documents I reviewed presented a 207 map showing some detail indicating the location and diameter of pipeline segments 208 within the entire state, the pipelines all had the same color, so it was difficult to 209 distinguish which one belonged to a interstate pipeline and which one to a utility. 210 Further, it appeared to be missing direction of gas flow and operating pressure, and 211 certainly provided no indication of the location of any null points. 212

235 Q. Please provide your preliminary conclusion based on your review of these two 236 documents? 237 A. Based on my review of these two documents, it appears that the counties of Jefferson, 238 Bullitt, Nelson and Shelby are served by gas supply received at three citygate 239 interconnections with Texas Gas shown on the public document, Exhibit LEB-1, as being 240 located in Jefferson County.

The U.S. DOT Pipeline Hazardous Materials Safety Administration has warned against flow reversals and product changes in existing and older pipelines, low-frequency pipe, and pipe of unknown seam types, among other factors (e.g., see <https://www.govinfo.gov/content/pkg/FR-2014-09-18/pdf/2014-22201.pdf>). The Administration issued a bulletin and agency guidance that addresses restrictions on flow reversals and product changes. The Administration also recommends actions to ensure integrity and safety through pressure testing the entire pipeline prior to flow reversals, performing in-line inspection and hydrostatic pressure tests, and review of valves and leaks, among others to ensure pipeline integrity and safety.

As examples of the U.S. DOT Pipeline Hazardous Materials Safety Administration Advisory Bulletin and their agency guidance, see [https://www.pipelinelaw.com/wp-content/uploads/sites/24/2014/09/Advisory\\_re\\_Flow\\_Reversals.pdf](https://www.pipelinelaw.com/wp-content/uploads/sites/24/2014/09/Advisory_re_Flow_Reversals.pdf) and [https://www.pipelinelaw.com/wp-content/uploads/sites/24/2014/09/Guidance\\_for\\_Pipeline\\_Flow\\_Reversals\\_Product\\_Changes\\_and\\_Conversion\\_to\\_Service.pdf](https://www.pipelinelaw.com/wp-content/uploads/sites/24/2014/09/Guidance_for_Pipeline_Flow_Reversals_Product_Changes_and_Conversion_to_Service.pdf).

When has LG & E effectively communicated to Bullitt Countians their plans to conduct reverse flows and the potential risks of such actions?

What evidence has LG & E provided to Bullitt Countians regarding their compliance with U.S. DOT Pipeline Hazardous Materials Safety Administration bulletins, guidance, and recommendations?

What evidence has LG & E provided to Bullitt Countians that old existing pipelines demonstrate pipeline safety, integrity, and capability to withstand reverse flows and increased throughput pressures?

Bullitt Countians deserve to have all existing and old natural gas pipelines demonstrate safety compliance now!

Reverse flows and increased throughput pressures should not be conducted in the existing older lines which is counter to U.S. DOT Pipeline Hazardous Materials Safety Administration Advisory Bulletin and their agency guidance.

If the intent was truly to provide reliability to the system as a second gas source and capacity to serve expected growth as noted in KY Public Service Commission Response to Commission Staffs Third Request for Information, Question No. 24, Responding Witness: Lonnie E. Bellar

(2017, February 7) Louisville Gas and Electric Company Case No. 2016-00371 at p. 1, and a true second feed for the entire system were considered as noted at p. 2, then the pipeline would start near Elizabethtown from LG & E's Magnolia gas transmission pipelines and tie-in to the Mt. Washington system near Lebanon Junction to provide a gas supply from a different gas transmission pipeline system as noted at p. 2.

Why do documents state that LG & E's Magnolia gas transmission pipelines and tie-in to the Mt. Washington system near Lebanon Junction would not benefit the HWY 480 area as much as the proposed route without replacing additional pipeline between Lebanon Junction and HWY 480 as noted in KY Public Service Commission Response to Commission Staffs Third Request for Information, Question No. 24, Responding Witness: Lonnie E. Bellar (2017, February 7) Louisville Gas and Electric Company Case No. 2016-00371 at p. 2?

Does that indicate hidden plans for new transmission lines along the I-65 Corridor or along the 77-year old Calvary Natural Gas Pipeline?

Is the purpose of the pipeline to supply gas to Hardin and Nelson Counties via Mt. Washington High-Pressure Distribution System as suggested by EnSiteUSA. (2015, July 29) at p. 1?

It is clear that LG & E's use of reverse flow through the 77-year old Calvary Natural Gas Pipeline and other older systems is counter to the U.S. DOT Pipeline Hazardous Materials Safety Administration's direction and would place our residents at risk from catastrophic explosion.

## **Regulator Station Threats**

LG & E's 247-page "supplement" document to the KY Division of Water permit application uses narrative of regulator stations as plural, or more than one. As with other LG & E Jim Beam Bullitt County Natural Gas Pipeline project components and activities, information on the safety or environmental issues presented by regulator stations is not provided in the LG & E "supplement", nor is it readily available on the internet.

In a review of the LG & E "supplement" maps, the Friends of Cedar Grove found that a regulator station will be installed for the LG & E Jim Beam Bullitt County Natural Gas Pipeline near the intersection of Miller Lane and KY 480 Cedar Grove Road (e.g., WQC Supplement 10.7.2020, Attachment 9, Stormwater Pollution Prevention Plan 1.3, p. 1; 1.5, p. 5; Appendix C graphic LGE-BC-60-E2 page 71 of 107.)

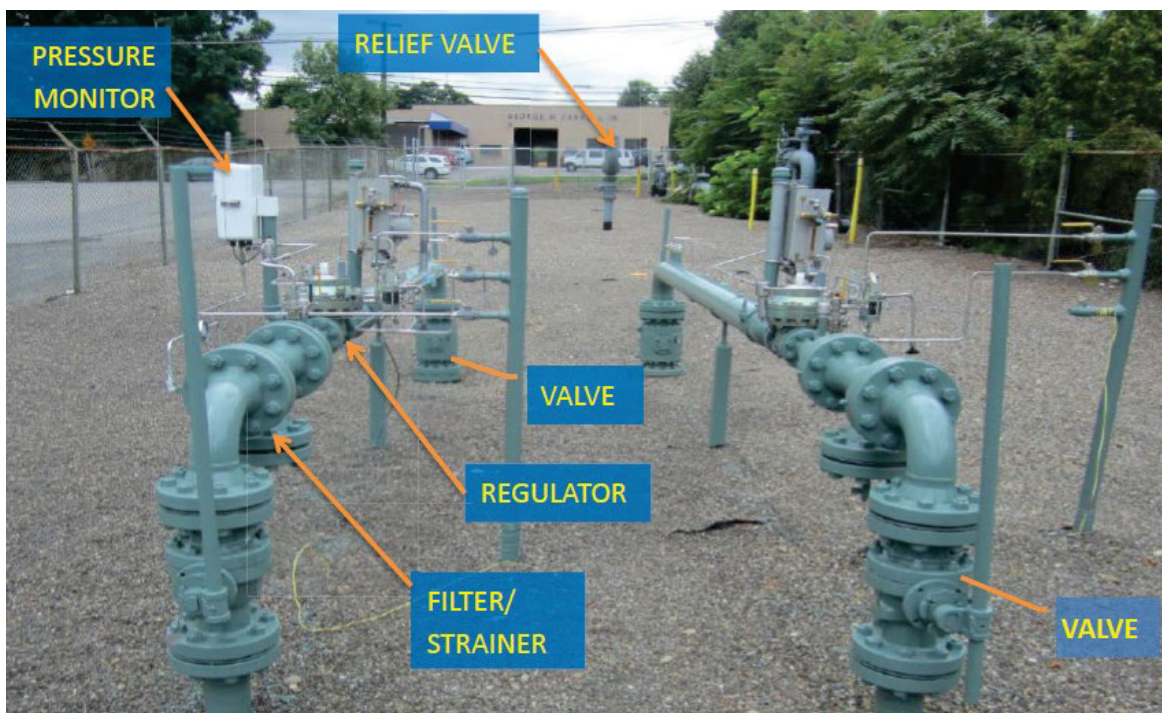
Note that the location of this regulator station is at what LG & E staff and agents called "malfunction junction" and is near a subdivision and numerous residences.

The LG & E "supplement" repeatedly refers to regular stations in the plural form indicating two or more stations on the pipeline route, but the locations of the other regulator stations are not apparent on the maps.

Does that mean that these are planned and have not been or will not be disclosed to the public? Or does that mean that they are not now needed? Or, does that point to LG & E's plans to construct multiple pipelines (which lawyers as interpreted as being up to five pipelines) as stated in the easements and that LG & E will construct additional regulator stations as the new pipelines are constructed?

Regulator stations are placed along a pipeline to reduce the pressure of the gas to the appropriate operating pressure for each system, or to reduce the pressure prior to moving into smaller lines and distribution systems. (See Kansas Municipal Energy Agency <https://kmea.com/resources/natural-gas-101/>.) The primary function of a pressure regulator is to maintain constant, reduced pressure at the outlet such that the flow of gas through the regulator station matches the demand on the downstream system. (See <https://www.aga.org/contentassets/1e4dac45c7e94177a033844a6a90a109/leading-practices-to-prevent-over-pressurization-final.pdf>.) Information on regulator stations is not readily available to the public nor are safety or environmental issues readily apparent.

Figure 11 Example Regulator Station displays what a regulator station typically looks like and provides labels for the various station components.



**Figure 11. Example regulator station.** Regulator stations can generate noise, over-pressure release of methane, and can fail. Photo adapted from Central Hudson Mason Consulting P.I. at [https://kingston-ny.gov/filestorage/8399/17321/17323/18339/Power\\_Point\\_for\\_PH\\_091817.PDF](https://kingston-ny.gov/filestorage/8399/17321/17323/18339/Power_Point_for_PH_091817.PDF).

While not as loud as a compressor station, sources indicate that regulator stations can produce noise including high frequency noise. (As examples, see Hazardex [http://www.hazardexonthenet.net/article/114505/Combating-noise-in-gas-pipeline-transmission.aspx?fbclid=IwAR3jqmH\\_QT7cQambLte9kqliTdioBR1KzQMSbpbk2B7GF9HgW\\_Kf6GJBv8AYU](http://www.hazardexonthenet.net/article/114505/Combating-noise-in-gas-pipeline-transmission.aspx?fbclid=IwAR3jqmH_QT7cQambLte9kqliTdioBR1KzQMSbpbk2B7GF9HgW_Kf6GJBv8AYU); American Gas Association <https://www.aga.org/contentassets/1e4dac45c7e94177a033844a6a90a109/leading-practices-to-prevent-over-pressurization-final.pdf>; and INGAA <https://www.ingaa.org/File.aspx?id=30083>.)

Methane can be released from natural gas transmission, venting during over-overpressure, and fugitive leaks. (As examples, see INGAA <https://www.ingaa.org/File.aspx?id=34990&v=56603504>; U.S. Department of Energy

[https://www.energy.gov/sites/prod/files/2015/06/f22/Appendix%20B-%20Natural%20Gas\\_1.pdfm](https://www.energy.gov/sites/prod/files/2015/06/f22/Appendix%20B-%20Natural%20Gas_1.pdfm); and U.S. EPA [https://www.epa.gov/sites/production/files/2016-08/documents/10\\_metering.pdf](https://www.epa.gov/sites/production/files/2016-08/documents/10_metering.pdf).)

Regulator station failures do occur and result in too much ("failed-open" condition) or too little gas pressure downstream. If the regulator fails and allows too much gas to flow (a "failed-open" condition for the regulator), downstream pressure will increase. A relief valve protects by discharging the excess gas into the atmosphere. As long as a regulator operates correctly and downstream pressure is normal, a relief valve remains closed. (See Railroad Commission of Texas <https://www.rrc.state.tx.us/media/8549/chap2-regulatorreliefdevices-natgas.pdf> pp. II-12, III-8; American Gas Association <https://www.aga.org/contentassets/1e4dac45c7e94177a033844a6a90a109/leading-practices-to-prevent-over-pressurization-final.pdf>.)

Available information indicates that regulator stations and regulators can fail as shown in Figure 12 due to mechanical disconnects caused by physical damage of the site such as from vandalism, storm damage, or vehicle accident that causes a failed open condition. Failure can also occur due to internal pipeline contamination from excess moisture and freezing, rusting of internal components, excessive sulfur caking on components, hydrates of oils and other liquids, and debris from dirt, rocks, trash, etc. (See Kansas Corporation Commission [https://kcc.ks.gov/images/PDFs/pipeline/2012-seminar/pressure\\_regulator\\_station\\_maintenance\\_derossett\\_company.pdf](https://kcc.ks.gov/images/PDFs/pipeline/2012-seminar/pressure_regulator_station_maintenance_derossett_company.pdf).)



**Figure 12. Photo of explosion and over-pressure event site at a regulator station.** Photo from Kansas Corporation Commission at [https://kcc.ks.gov/images/PDFs/pipeline/2012-seminar/pressure\\_regulator\\_station\\_maintenance\\_derossett\\_company.pdf](https://kcc.ks.gov/images/PDFs/pipeline/2012-seminar/pressure_regulator_station_maintenance_derossett_company.pdf).



Questions that our residents near the LG & E regulator station have include:

- How safe are the regulator stations?
- What happens if the regulator stations fail?
- What would be the worst-case scenario and explosion impacts if the regulator station at "malfunction junction" in the heart of Cedar Grove and near a subdivision exploded?
- Will the regulator stations release methane during over-pressure events?
- If methane will be released during over-pressure events, what is the maximum amount that could be released during such an event, and what will be the human health effects to area residents?
- How much noise will the regulator stations generate, and will we hear it at our house?

The pipeline explosions in three Massachusetts towns that resulted in fires and explosions that damaged 131 structures has been determined by the National Transportation Safety Board to have been a result of construction that caused a drop in gas pressure and the pressure regulators responded by injecting more gas into the downstream system.

The U.S. DOT Pipeline and Hazardous Materials Safety Administration recently published an advisory bulletin on actions to prevent or avoid such issues. (See <https://www.Federalregister.gov/documents/2020/09/29/2020-21508/pipeline-safety-overpressure-protection-on-low-pressure-natural-gas-distribution-systems>.)

The U.S. Senate recently passed a bill to reauthorize the Pipeline Safety Act S. 2299 that would require each regulator to (1) minimize the risk of a common mode of failure causing pressure to exceed MAOP [Maximum Allowable Operating Pressure]; (2) monitor gas pressure, particularly near critical pressure-control equipment; and (3) ensure appropriate secondary or backup pressure-relieving or overpressure-protection safety technology (i.e., a relief valve, automatic shut-off valve, or other appropriate pressure-limiting device). At regulator stations with a primary and monitor regulator, the operator must eliminate the common mode of failure or provide backup protection capable of either shutting gas flow or relieving gas to the atmosphere. (See <https://www.congress.gov/116/bills/s2299/BILLS-116s2299es.pdf>.)

How will the KY Public Service Commission ensure that LG & E complies with all U.S. DOT Pipeline and Hazardous Materials Safety Administration regulations and best practices to ensure the safety of our residents?

The KY Public Service Commission needs to analyze the potential threats to public health and safety that may exist from the presence of regulator stations near our residents.

## **Horizontal Directional Drilling Threats**

Regulatory agencies and the KY Division of Water have failed to require specification and consider and analyze the specific carcinogens and other pollutant compounds and toxins and quantities of each that will be used and released in horizontal directional drilling and drilling mud, hydrostatic testing, and other project activities (such as LG & E's secret drilling of 12 or more geotechnical bore holes to depths up to 340') that may enter aquifers and surface waters including our numerous 303(d) listed impaired streams and which may degrade water quality and

endanger the public, particularly for area residents that depend on springs and wells for drinking water and the environmental and human health effects that have not been analyzed or disclosed.

Our questions for LG & E and regulatory agencies include:

- What specific carcinogens, pollutants, and toxins will be used?
- What will be the health and environmental impacts of these discharges of carcinogens, pollutants, and toxins?
- What mitigation and protection requirements will be specified to protect water resources and human health?
  - As examples, see WQC Supplement 10.7.2020, Attachment 9, Stormwater Pollution Prevention Plan 2.3, p. 16; see also Bullitt County 12" Transmission Pipeline Construction Project RFP NO. 801265 Exhibit A – Scope of Work document LGE0001396, p. 6 of 24, sections 2.1.1.32.2 through 2.1.1.32.6.AII; and p. 7 of 24, sections 2.1.1.33 through 2.1.1.33.6.
  - As an example, what groundwater protection plan exists for the use of carcinogen and hazardous or toxic lubricants for the horizontal direction drilling and geotechnical boreholes and hydrostatic testing releases as required at 401 KAR 5:037.
  - As an example, "black powder" can accumulate in natural gas pipelines, and may contain toxic metals including lead, mercury, and arsenic (see submittal 20160512-5183 to FERC Docket CP16-10 by Sierra Club of Virginia, especially the section entitled "Soil and Groundwater Contamination" on pages 10 and 11 via document pagination). Such particles, if present in a pipeline experiencing rupture, would likely be released . . . . (p. 27). (See also <http://wp.vasierraclub.org/KastningReport.pdf>.)

Regulatory agencies and the KY Division of Water have failed to require specification and consider and analyze the quantities and contents of water that will be "dewatered" from horizontal directional drilling, hydrostatic testing, trenching and other actions and discharged into the 303(d) listed impaired streams and surface or ground water, or spread out on site to be "stabilized".

As the Friends of Cedar Grove has noted in our comments to the KY Division of Water, KY Energy and Environment Cabinet, KY Public Service Commission, and the U.S. Army Corps of Engineers:

- The KY Division of Water failed to disclose impacts of dewatering to the environment and human health.
- The KY Division of Water failed to specify additional permits or requirements for these activities.
- The KY Division of Water failed to specify mitigation and protection requirements to protect water sources and humans.
- As examples, see WQC Supplement 10.7.2020, Attachment 9, Stormwater Pollution Prevention Plan 2.3, p. 16; 2.8, p. 21; Bullitt County 12" Transmission Pipeline Construction Project RFP NO. 801265 Exhibit A – Scope of Work document

LGE0001396, p. 5 of 24, section 2.1.1.31; p. 6 of 24, sections 2.1.1.32.2 through 2.1.1.32.6.AII; and p. 7 of 24, sections 2.1.1.33 through 2.1.1.33.6.

Regulatory agencies and the KY Division of Water have failed to consider or analyze the relationship between surface water and groundwater and the impacts that drilling bore holes, horizontal directional drilling and pipeline construction will have on aquifer recharge zones, aquifers, groundwater, karst, and sinkholes, drinking water sources, and the quality and quantity of drinking water.

- Innumerable residents in the project area depend on wells and springs for potable water, many of which appear in the Kentucky Groundwater Data Repository (Kentucky Geological Survey, 2020, at <https://kgs.uky.edu/kgsmap/KGSWater/viewer.asp?startLeft=4865857.86&startBottom=3816319.38&startRight=5014643.56&startTop=3931946.67&QueryZoom=Yes.>)
- LG & E depicts several known springs on or along the pipeline route as shown in WQC Supplement 10.7.2020, Attachment 5 Figure 7, pages 9, 12, and 14 of 30.
- Pipeline activities will threaten groundwater and may reduce groundwater quality and quantity (e.g., flow rates of wells), change direction of groundwater flow, and result in the loss of groundwater sources. (As examples, see Clingerman, Betcher, & Hansen, 2018, at [https://assets.nrdc.org/sites/default/files/downstream-strategies-threats-to-groundwater-from-the-mountain-valley-pipeline-atlantic-coast-pipeline-in-virginia\\_2018-05-25.pdf](https://assets.nrdc.org/sites/default/files/downstream-strategies-threats-to-groundwater-from-the-mountain-valley-pipeline-atlantic-coast-pipeline-in-virginia_2018-05-25.pdf); Kastning, 2016, at <http://wp.vasierraclub.org/KastningReport.pdf>.)
- Studies indicate that surface water and groundwater are tied together in this part of Bullitt County. (As examples, see U.S. Geological Survey, Kiesler, Woosley, & Davis, n.d., p. 4, at <https://pubs.usgs.gov/of/1987/0727/report.pdf>, and U. of KY Geologic Map of Kentucky, n.d., at <https://kgs.uky.edu/kgsweb/download/gwatlas/gwcounty/bullitt/BULLITTK.pdf>.)
- In karst-prone areas and sinkhole areas, the groundwater and surface water systems and waterflows are inseparable and must be considered together.
  - (As examples, see Chesnaux, R., 2012, pp. 746-749, at [https://www.researchgate.net/publication/267843941\\_Uncontrolled\\_Drilling\\_Expanding\\_a\\_Global\\_Threat\\_to\\_Groundwater\\_Sustainability](https://www.researchgate.net/publication/267843941_Uncontrolled_Drilling_Expanding_a_Global_Threat_to_Groundwater_Sustainability); Glass, Hatcher, Betcher, & Hansen, 2016, at [https://wvivers.org/wpcontent/uploads/2016/12/water-supply-monitoring\\_8-23-16.pdf](https://wvivers.org/wpcontent/uploads/2016/12/water-supply-monitoring_8-23-16.pdf); Kastning, 2016, at <http://wp.vasierraclub.org/KastningReport.pdf>; National Ground Water Association *ANSI/NGWA-01-14 Water Well Construction Standard* and/or the *Guidelines for the Construction of Loop Wells for Vertical Closed Loop Ground Source Heat Pump System*, pp. 2-3, at [https://www.ngwa.org/docs/default-source/default-document-library/advocacy/position-papers/abandonment-and-decommissioning-of-open-earth-borings.pdf?sfvrsn=93f2b99b\\_2](https://www.ngwa.org/docs/default-source/default-document-library/advocacy/position-papers/abandonment-and-decommissioning-of-open-earth-borings.pdf?sfvrsn=93f2b99b_2); U.S. Geological Survey, Kiesler, Woosley, & Davis, n.d., p. 4, at <https://pubs.usgs.gov/of/1987/0727/report.pdf>.)

Regulatory agencies and the KY Division of Water have failed to consider and analyze that the drilling of bore holes, surface spills, blasting and trenching, sinkhole filling, sinkhole development, drilling, soil excavation, soil compaction, altering topography, exposing geology

and hydrostatic testing will likely damage and contaminate groundwater and drinking water sources including springs and wells.

- As examples, see Clingerman, Betcher, & Hansen, 2018, at [https://assets.nrdc.org/sites/default/files/downstream-strategies-threats-to-groundwater-from-the-mountain-valley-pipeline-atlantic-coast-pipeline-in-virginia\\_2018-05-25.pdf](https://assets.nrdc.org/sites/default/files/downstream-strategies-threats-to-groundwater-from-the-mountain-valley-pipeline-atlantic-coast-pipeline-in-virginia_2018-05-25.pdf); Glass, Hatcher, Betcher, & Hansen, 2016, at [https://wvivers.org/wpcontent/uploads/2016/12/water-supply-monitoring\\_8-23-16.pdf](https://wvivers.org/wpcontent/uploads/2016/12/water-supply-monitoring_8-23-16.pdf); Kastning, 2016, at <http://wp.vasierraclub.org/KastningReport.pdf>.

Regulatory agencies and the KY Division of Water have failed to consider or analyze the contaminants introduced into groundwater in karst and sinkhole areas from pipeline rupture and non-volatile natural gas constituents that include high-molecular-weight organic compounds that either originate in the geologic reservoirs or form via hydrocarbon synthesis under the high-pressure conditions that occur within the pipeline and solid particles known as "black powder" that may contain toxic metals including lead, mercury, and arsenic.

- As examples, see Clingerman, Betcher, & Hansen, 2018, at [https://assets.nrdc.org/sites/default/files/downstream-strategies-threats-to-groundwater-from-the-mountain-valley-pipeline-atlantic-coast-pipeline-in-virginia\\_2018-05-25.pdf](https://assets.nrdc.org/sites/default/files/downstream-strategies-threats-to-groundwater-from-the-mountain-valley-pipeline-atlantic-coast-pipeline-in-virginia_2018-05-25.pdf); Kastning, 2016, at <http://wp.vasierraclub.org/KastningReport.pdf>.

Regulatory agencies and the KY Division of Water have failed to consider and analyze the threats from horizontal directional drilling that has had a history of puncturing and damaging aquifers and loss of carcinogenic drilling fluid and compounds into groundwater and wells.

- As examples, Calkins, L. B., 2020, at <https://www.bloomberg.com/news/articles/2020-04-27/kinder-morgan-pipeline-faces-pause-over-contaminated-aquifer>; Eubank, B., & de Leon, 2020 at <https://www.kvue.com/article/news/local/perman-highway-pipeline-drilling-fluid-contaminates-blanco-county-neighborhoods-drinking-water-resident-believes/269-b4224661-b5ab-452f-ae68-e75acf6c2ec4>; Phillips, 2017, at <https://stateimpact.npr.org/pennsylvania/2017/07/14/sunoco-halts-drilling-in-chester-county-where-pipeline-construction-damaged-drinking-water-wells/>; Price, A., 2020, at <https://www.statesman.com/news/20200408/records-pipeline-company-spilled-36000-gallons-of-drilling-fluid-in-hill-country>, <https://www.bloomberg.com/news/articles/2020-04-27/kinder-morgan-pipeline-faces-pause-over-contaminated-aquifer/>.)
- As examples, boring typically involves oil or synthetic based materials (Encyclopedia Britannica, Inc., 2020) (<https://www.britannica.com/technology/drilling-mud>) and has been shown to increase lead levels and add numerous pollutants and chemical additives regarded as carcinogenic to humans such as metals, arsenic, acrylamide and silica (e.g., Root, 2020, at <https://www.houstonchronicle.com/news/investigations/article/A-pipeline-poisons-the-wells-in-Hill-Country-15371071.php#:~:text=A%20pipeline%20poisons%20the%20wells%20in%20Hill%20Country,gallons%20of%20drilling%20fluid%20in%20the%20Trinity%20aquifer>).

Regulatory agencies and the KY Division of Water have failed to consider or analyze the impacts of accidental discharges of drilling mud into streams adding further degradation.

- As an example, Strunsky, 2020, at <https://www.nj.com/burlington/2020/06/work-halted-on-natural-gas-pipeline-after-drilling-sludge-damages-nj-couples-house.html>.

The use of boring and drilling mud may release numerous pollutants and chemical additives in drilling gel regarded as carcinogenic to humans such as metals, arsenic, acrylamide and silica. For more information, see the following examples:

<https://www.houstonchronicle.com/news/investigations/article/A-pipeline-poisons-the-wells-in-Hill-Country-15371071.php#:~:text=A%20pipeline%20poisons%20the%20wells%20in%20Hill%20Country,gallons%20of%20drilling%20fluid%20in%20the%20Trinity%20aquifer>

<https://www.britannica.com/technology/drilling-mud>

<https://www.nj.com/burlington/2020/06/work-halted-on-natural-gas-pipeline-after-drilling-sludge-damages-nj-couples-house.html>

### **Secret End Purpose of Bore Hole Drilling & Threats—Underground Natural Gas Storage, Fracking, Injection Wells, Carbon Storage, Natural Gas Removal, or Other**

LG & E engaged in ground-disturbing activity within the pipeline corridor without disclosure and permits for some secret end purpose. LG & E drilled at least 12 "geotechnical bore holes" and dug test pits along the proposed 12-mile LG & E Jim Beam Bullitt County Natural Gas Pipeline. At least three of the sites were known to have been drilled to 320'-340' deep. Two of the sites are known to have struck natural gas and resulted in blowout fires and such fright in the drillers that they fled in vehicles without warning area residents. See Figure 13.



**Figure 13. Photo of LG & E contractors drilling bore holes for some secret purpose; several were drilled to depths of 340'.** LG & E conducted drilling in violation of permit applications and may have damaged aquifers and ground water sources used for drinking water.

LG & E drilled these sites without disclosure, without permits, and without appropriate well casings and procedures.

It is likely that these activities and their purpose have not been disclosed in permit applications and that these activities and their ultimate purpose have not been analyzed as connected actions.

It is clear that LG & E was in violation of permit applications with the KY Division of Water and the U.S. Army Corps of Engineers by conducting ground-disturbing activities when the plain language of the permits state that the applicant was not to take any action until permit processes and approvals were final.

LG & E violated permit application restrictions by drilling which may have damaged local aquifers and groundwater that many rural residents, including our poor residents, depend upon for their potable water from wells and springs.

Not only has LG & E conducted secret drilling for secret purposes, but our residents learned that LG & E used multiple contractors so that no single contractor knew how many bore holes were drilled, to what depths, and what the purposes or outcomes were.

Regulatory agencies and the KY Division of Water have failed to consider and analyze the impacts of, failed to act on, and have sought to suppress information on, LG & E's drilling of 12 or more boreholes at least 3 of which were drilled to 340' or more, for some secret purpose (e.g., underground natural gas storage) in violation of permit applications with the KY Division of Water and U.S. Army Corps of Engineers that required approvals prior to conducting activities.

Of particular note:

- Drilling of boreholes was conducted in violation of permit applications (e.g. "Application to Permit to Construct Across or Along a Stream and/or Water Quality Certification" document, DOW 7116 Revised 11-2016, 401, and 404).
- The KY Division of Water failed to assess penalties for LG & E's bore hole drilling and use of inappropriate well casings as state staff stated would happen during site visits. (Personal communications, April and May 2019, conversation.)
- The bore hole drilling likely violated Section 402 of the Clean Water Act, and requirements for a Nationwide Permit 6 (or U.S. Army Corps of Engineers determination as not required) for survey activities involving bore holes and core sampling and discharge of drilling mud and cuttings.
- The KY Energy and Environment Cabinet and KY Division of Water has sought to suppress information and deny or obfuscate the issue or existence of the geotechnical survey bore holes that were drilled.
- The KY OAH 2020-06-29 Exhibits contain Figure 7 Delineation aerial photographs with GIS overlays that include the legend label and a symbol for Cox Creek Drill Points, and at two of these graphics are displayed on p. 5 of 7, and p. 6 of 7 in the pipeline path. These drill sites are not likely associated with horizontal drilling under Cox Creek or Rocky Run as they appear far away from streams or roads that LG & E may now claim as horizontal bore sites.
- LG & E's documents clearly state that they planned to bore at least eight geotechnical sampling and analysis sites near Cox's Creek and other sites, not to exceed a depth of 60'

(vs. the bored 340' depth for several wells) as noted in the EnsiteUSA (2016) Opinion of Probable Cost, Mt. Washington Lateral Feasibility Study, LG & E and identified as Attachment Response to KY Public Service Commission PSC-3, Question 24 page 10 of 10 (see

[https://psc.ky.gov/pscscf/Post%20Case%20Referenced%20Correspondence/2016%20cases/2016-00371/20190510\\_PSC%20Response%20to%20Open%20Records%20Request%20and%20LGE%20Response%20to%20PSC%20Third%20Request%20for%20Information%20-%20Item%2024.pdf](https://psc.ky.gov/pscscf/Post%20Case%20Referenced%20Correspondence/2016%20cases/2016-00371/20190510_PSC%20Response%20to%20Open%20Records%20Request%20and%20LGE%20Response%20to%20PSC%20Third%20Request%20for%20Information%20-%20Item%2024.pdf).) Why was drilling conducted to deeper depths, at least three of which were drilled to 340'?

- The Bullitt County 12" Transmission Pipeline Construction Project RFP NO. 801265 Exhibit A – Scope of Work document LGE0001396, p. 6 of 24, section 2.1.1.32.11 states that "Contractor shall be advised that the lower elevation of the Cox Creek HDD [Horizontal Directional Drilling] exit/entry point lies within the flood plain and has flooded in recent past.
- The Bullitt County 12" Transmission Pipeline Construction Project RFP NO. 801265 Exhibit A – Scope of Work document LGE0001396, p. 6 of 24, section 2.1.1.32.12 states that the "Contractor shall be advised that a native methane gas pocket was encountered during two soil borings near the Cox Creek HDD."
- The bore drilling opened surface water to groundwater transmission routes, contamination, etc., and may have damaged aquifers and water sources.
- The KY Division of Water failed to enforce permit application restrictions on project action prior to approval via LG & E's actions in bore hole drilling during the application process. (See WQC Supplement 10.7.2020, Attachment 5 Figure 7 pages 5 and 6 of 30.)
- The KY Division of Water failed to analyze or consider the impacts that the bore hole drilling and horizontal drilling had and or will have on aquifers, surface and ground water, and wells and springs. (See WQC Supplement 10.7.2020, Attachment 5 Figure 7 pages 5 and 6 of 30; Attachment 9, Appendix B, Revision Graphic and Table p. 21 of 33.)

The following questions reflect the Letter of Transmittal (2019, May 10) from Gwen Pinson, Executive Director, KY Public Service Commission, to Thomas FitzGerald Re: Open Records Request, received April 13, 2019, requesting to inspect confidential files in Case No. 2016-00371, Electronic Application of Louisville Gas and Electric Company for an Adjustment of its Electric and Gas Rates and Certificates of Public Convenience and Necessity. See: [http://psc.ky.gov/pscscf/Post%20Case%20Referenced%20Correspondence/2016%20cases/2016-00371/20190510\\_PSC%20Response%20to%20Open%20Records%20Request%20and%20LGE%20Response%20to%20PSC%20Third%20Request%20for%20Information%20-%20Item%2024.pdf](http://psc.ky.gov/pscscf/Post%20Case%20Referenced%20Correspondence/2016%20cases/2016-00371/20190510_PSC%20Response%20to%20Open%20Records%20Request%20and%20LGE%20Response%20to%20PSC%20Third%20Request%20for%20Information%20-%20Item%2024.pdf)

Why does geotechnical sampling only involve Cox's Creek, other crossing, and an L/R Facility? See EnSiteUSA, Inc., 2016, August 17, Opinion of Probable Cost, p. 9.

What is an L/R Facility? See EnSiteUSA, Inc., 2016, August 17, Opinion of Probable Cost, p. 9.

Where are the specific locations of the planned geotechnical sampling? See EnSiteUSA, Inc., 2016, August 17, Opinion of Probable Cost, p. 9.

Why were eight borings specified? Why did they range from 20'-60' deep? See EnSiteUSA, Inc., 2016, August 17, Opinion of Probable Cost, p. 9.

Why has LG & E drilled at least 12 geotechnical sample bore holes and at least three down to a known depth of 340'?

What is the secret end purpose of such deep boreholes?

We will note that beginning in 2017, pursuant to KRS 278.020(1) Certificate of convenience and necessity. . . . Hearing (1), we made numerous requests that KY Public Service Commission notify LG & E informing them that they shall not begin construction of any plant, equipment, property, or facility for services enumerated in KRS 278.010, until a public hearing was conducted, the case reviewed its entirety, environmental analysis was conducted, and our issues were considered prior to making a determination on the Certificate of Public Convenience and Necessity for the new pipeline.

What actions and penalties shall the KY Public Service Commission impose on LG & E for violating various permit and approval applications that prevented such action during review processes?

Counter to landowners being told that LG & E wanted to know what is underground for a pipeline that will likely be 3'-5' underground, it is clear that LG & E has something else planned for these bore hole drill sites along the pipeline that has not been disclosed or they would not be drilling wells 340' deep or deeper.

The KY Public Service Commission must determine what that secret purposes is for, require full public disclosure, and require that LG & E engage in new application processes on the LG & E Jim Beam Bullitt County Natural Gas Pipeline including all connection actions including the secret end purpose of the bore hole drilling.

Landowners have concerns that LG & E plans to cheat them out of their rights to natural gas under their land, or worse, conduct fracking damaging the environment and their drinking water sources.

Some documents suggest that LG & plans to create underground storage reservoirs near the LG & E Mill Creek Station to store CO<sub>2</sub>. As an example, the report entitled "Evaluation of Geologic CO<sub>2</sub> Storage Potential at LG&E and Kentucky Utilities Power Plant Locations, Central and Western Kentucky", 47713 Final Report, by Harris, D.C. & Hickman, J.B. (2013) (see [https://kgs.uky.edu/kgsweb/olops/pub/kgs/CNR1\\_12.pdf](https://kgs.uky.edu/kgsweb/olops/pub/kgs/CNR1_12.pdf)) examines the potential to store CO<sub>2</sub> near the Mill Creek Station.

The report describes abandoned shallow wells, historic gas fields, and various geologic formations in this area that could be used, the Doe Run and Muldraugh underground natural gas storage fields in New Albany Shale around 250' deep, and that several of these areas can support deep CO<sub>2</sub> injection. It is noted that Bullitt County is within the 15-mile radius of desired injection site area.

Relatedly, the University of Kentucky UKNow website hosts a story entitled "UK's CAER Part of Kentucky's First Megawatt-scale Carbon Capture Pilot System" (Hautala, K., 2014, July 21) describing the partnership with LG & E and KU for carbon capture at a Harrodsburg facility that



results in compressed CO<sub>2</sub> that can be stored. (See <https://uknow.uky.edu/research/centers-and-institutes/center-applied-energy-research-caer/uks-caer-part-kentucky%E2%80%99s-first>.)

It is clear that LG & E and the University of Kentucky has been pursuing research on potential CO<sub>2</sub> storage in this area for some time. What is not mentioned is how such pursuits may damage aquifers, water sources and water quality and other potential impacts to public safety.

LG & E' interest in deep well injection and CO<sub>2</sub> storage would be consistent with the Kentucky Utilities Kentucky Utilities Company Clean Air Act Settlement of February 3, 2009 (<https://www.epa.gov/enforcement/kentucky-utilities-company-clean-air-act-settlement>.) The settlement awarded \$1.8 million to a \$7 million carbon capture and sequestration pilot project led by the University of Kentucky and the Kentucky Geological Survey to establish the effectiveness of storing compressed carbon dioxide gas, a by-product of coal combustion such as at the Mill Creek Station, in deep injection wells in Kentucky, and to promote widespread carbon storage injection wells in Kentucky.

Other LG & E documents suggest that the company plans to create a 12-13 acre natural gas storage field in or around the project area to support the Mill Creek Station and area needs similar to that of the Muldraugh Natural Gas Storage Field.

The Friends of Cedar Grove find it ironic and interesting that LG & E is currently advertising to hire a Gas Storage Specialist I, II or III ID 6719BR in Louisville. See [Gas Storage Specialist I, II or III Job in Louisville, KY at LG&E and KU Energy \(ziprecruiter.com\)](#). Of particular note, the employment recruitment notice seeks expertise in "gas storage construction & maintenance activities associated with gas storage wells including drilling, down-hole inspections, well repairs, re-lining, fracking, acidizing, and plugging". The Friends of Cedar Grove wonder if this position is being created to work on the secret end purpose of the bore hole drilling in Cedar Grove and Solitude to create an underground natural gas storage field, natural gas field, fracking of similar.

The Friends of Cedar Grove suspect that LG & E plans to pursue development of an underground natural gas storage field to support the pipeline-dependent industrial and commercial development of the I-65 Corridor floodplains and to support reverse flows of gas to other communities and are seeking to evade disclosure of these connected actions.

Disclosure of a planned underground natural gas storage field would likely invoke Federal regulatory involvement by the Federal Energy Regulatory Commission and U.S. DOT Pipeline Hazardous Materials Safety Administration, application of federal laws and regulations including detailed environmental analysis and review that would require analysis of all project activities and connected actions, and public disclosure and public notice and comment that may generate substantial public controversy.

The KY Public Service Commission needs to investigate the secret connected action of bore hole drilling, determine the ultimate secret project that LG & E has planned, and require that any planned future projects and or connected project such as an underground natural gas storage fields and structures, CO<sub>2</sub> storage, fracking, deep well injection, natural gas fields, etc., be disclosed and reviewed along with any review of the planned LG & E Jim Beam Natural Gas Pipelines.

## **The KY Public Service Commission Should Require LG & E to Select from the 10 Routes Studied or Other Alternate Routes**

It is clear that the LG & E Jim Beam Bullitt County Natural Gas Pipeline is planned across an inappropriate route due to numerous public safety issues.

The KY Public Service Commission was aware that LG & E had studied and evaluated at least 10 or more alternative routes in the EnSiteUSA study (2016, 2015), but yet allowed LG & E, and was complicit in, advancing a route that had not been studied in an arbitrary and capricious manner.

The selection and approval of the LG & E Jim Beam Bullitt County Natural Gas Pipeline constituted arbitrary and capricious actions by governmental entities and LG & E.

LG & E's contractor, EnSiteUSA, studied at least 10 routes, which did not include the planned route.

How is it that LG & E selected a route that was not among those studied?

Why did the KY Public Service Commission approve the route through Cedar Grove and Solitude when the Commission was clearly aware that the route had not been studied?

The pipeline route was originally proposed along the Bluegrass Pipeline as disclosed in a document by EnSiteUSA (2016, 2015). (See Letter of Transmittal, 2019, May 10, from Gwen Pinson, Executive Director, KY Public Service Commission, to Thomas FitzGerald Re: Open Records Request, received April 13, 2019, requesting to inspect confidential files in Case No. 2016-00371, Electronic Application of Louisville Gas and Electric Company for an Adjustment of its Electric and Gas Rates and Certificates of Public Convenience and Necessity at [http://psc.ky.gov/pscscf/Post%20Case%20Referenced%20Correspondence/2016%20cases/2016-00371/20190510\\_PSC%20Response%20to%20Open%20Records%20Request%20and%20LGE%20Response%20to%20PSC%20Third%20Request%20for%20Information%20-%20Item%2024.pdf](http://psc.ky.gov/pscscf/Post%20Case%20Referenced%20Correspondence/2016%20cases/2016-00371/20190510_PSC%20Response%20to%20Open%20Records%20Request%20and%20LGE%20Response%20to%20PSC%20Third%20Request%20for%20Information%20-%20Item%2024.pdf))

The EnSiteUSA (2016, 2015) documents advanced use of routes along the Bluegrass Parkway and from Elizabethtown and Lebanon Junction.

EnSiteUSA also recommended a 13-mile long pipeline starting near Cox's Creek in Nelson County and traversing northwest to Jim Beam. EnSiteUSA noted that this route was slightly better than a 15.5 mile route from Bardstown and Jim Beam.

EnSiteUSA specifically recommended that LG & E avoid Bernheim Forest due to environmental and regulatory issues. EnSiteUSA (2015, July 29, p. 1) stated that pipeline routes involving Bernheim Arboretum and Research Forest Route was not considered viable due to prohibitive costs and regulatory review.

Areas in Cedar Grove and Clermont have many if not more environmental and regulatory issues as the main Bernheim Arboretum and Research Forest park area. Why would LG & E, government agencies and the KY Public Service Commission allow this unstudied route to be proposed as the planned route for the LG & E Jim Beam Bullitt County Natural Gas Pipeline?

Instead of the planned endpoint at Jim Beam, the end point was moved northward near I-65 across from the rest area. Why? Was this deemed more appropriate by those involved in

collusion as they later reframed the project toward the pipeline-dependent commercial and industrial development of the I-65 Corridor floodplains?

Public disclosure in response to an Open Records Request with the KY Public Service Commission showed that the chosen route was due to input from Bullitt County economic and development officials and a large customer based on their planned increased gas usage.

It is problematic that the Bullitt County Economic Development Authority selected a route that was not planned or studied and was arbitrary and capricious.

A sworn deposition by Lonnie E. Bellar, Senior Vice President - Operations for Louisville Gas and Electric Company and Kentucky Utilities Company stated: "The selected proposed route was not included as part of this route study. . . . The information requested is confidential and proprietary and is being provided under seal pursuant to a petition for confidential protection." (See Response to Question 24, p. 1 of 3, Bellar at <https://psc.ky.gov/pscscf/2016-00371/derek.rahn%40lge-ku.com/02202017094029/2 - 2016 PSC DR3 LGE - FINAL.pdf>.)

The following questions reflect issues in the Letter of Transmittal (2019, May 10) from Gwen Pinson, Executive Director, KY Public Service Commission, to Thomas FitzGerald Re: Open Records Request, received April 13, 2019, requesting to inspect confidential files in Case No. 2016-00371, Electronic Application of Louisville Gas and Electric Company for an Adjustment of its Electric and Gas Rates and Certificates of Public Convenience and Necessity. See: [http://psc.ky.gov/pscscf/Post%20Case%20Referenced%20Correspondence/2016%20cases/2016-00371/20190510\\_PSC%20Response%20to%20Open%20Records%20Request%20and%20LGE%20Response%20to%20PSC%20Third%20Request%20for%20Information%20-%20Item%2024.pdf](http://psc.ky.gov/pscscf/Post%20Case%20Referenced%20Correspondence/2016%20cases/2016-00371/20190510_PSC%20Response%20to%20Open%20Records%20Request%20and%20LGE%20Response%20to%20PSC%20Third%20Request%20for%20Information%20-%20Item%2024.pdf)

How is it that the selected proposed route was not included as part of the studied ten routes as stated in the Response to Commission Staffs Third Request for Information, Question No. 24, Responding Witness: Lonnie E. Bellar (2017, February 7). Louisville Gas and Electric Company Case No. 2016-00371, on p. 1.

How and why would "Route N" be selected when the studies only analyzed routes A-J? See Attachment to Response to PSC-3 Question No. 24, p. 1 of 1.

What information is still being treated as confidential and proprietary as noted in the Response to Commission Staffs Third Request for Information, Question No. 24, Responding Witness: Lonnie E. Bellar (2017, February 7). Louisville Gas and Electric Company Case No. 2016-00371, on p. 1?

What was the additional information from local officials and other sources that resulted in the selection of a route not studied? See Response to Commission Staffs Third Request for Information, Question No. 24, Responding Witness: Lonnie E. Bellar (2017, February 7). Louisville Gas and Electric Company Case No. 2016-00371, on p. 1.

How many additional routes were considered? What details exist on these additional routes? As an example, a Route S appears on the maps.

Why is it that Route F, the recommended route, and Route D which was also a preferred route were not selected, and instead, Route N which was not studied (or such study documents have not been disclosed) was selected? (See EnSiteUSA, 2015, July 29, p.3; EnSiteUSA, Inc., Section

3 - System Design, p. 21, p. 22; EnSiteUSA, Inc. Section 8 - Route Selection Conclusions and Recommendations, p. 1, p. 2).

The KY Public Service Commission response documents prove that the selected route was not studied as part of the 10 studied Routes A-J.

Why does the A-24 response on the route selection study for a natural gas pipeline to supply gas to LG & E's Mt. Washington high-pressure distribution system refer to a final report from the study issued in July of 2015? Does it actually refer to the EnSiteUSA Study which was not issued until 2016? Why the discrepancy? See Response to Commission Staffs Third Request for Information, Question No. 24, Responding Witness: Lonnie E. Bellar (2017, February 7). Louisville Gas and Electric Company Case No. 2016-00371, p. 1.

Why and how was the study revised? See the revised edition of EnSiteUSA (2015, July 29) route selection study submitted to LG & E for potential routes for natural gas supply to Mt. Washington High-Pressure Distribution System.

If the pipeline was proposed as an extension to mitigate the exposure of approximately 9,500 customers to a loss of gas supply from the current one-way feed, why do documents indicate that the selected route was chosen due to input from Bullitt County economic and development officials in regards to projected residential/commercial development and locations, and information from a large customer about projections for increased gas usage? See Response to Commission Staffs Third Request for Information, Question No. 24, Responding Witness: Lonnie E. Bellar (2017, February 7). Louisville Gas and Electric Company Case No. 2016-00371, p. 1)

If the pipeline was proposed as an extension to mitigate the exposure of approximately 9,500 customers to a loss of gas supply from the current one-way feed, why do documents indicate in several places that the reason is to benefit the HWY 480 corridor where the majority of commercial and light industrial growth is and is expected to occur (without replacing additional pipe between Boston and HWY 480). As an example, see Response to Commission Staffs Third Request for Information, Question No. 24, Responding Witness: Lonnie E. Bellar (2017, February 7). Louisville Gas and Electric Company Case No. 2016-00371, p. 2.

The response documents prove that the selected route through Cedar Grove and Solitude was chosen due to input from Bullitt County economic and development officials for projected residential/commercial development and locations information from a large customer about projections for increased gas usage, and to benefit the HWY 480 corridor where the majority of commercial and light industrial growth is and is expected to occur.

If the intent was truly to provide reliability to the system as a second gas source and capacity to serve expected growth as noted in Response to Commission Staffs Third Request for Information, Question No. 24, Responding Witness: Lonnie E. Bellar (2017, February 7). Louisville Gas and Electric Company Case No. 2016-00371 at p. 1, and a true second feed for the entire system were considered as noted at p. 2, then the pipeline would start near Elizabethtown from LG & E's Magnolia gas transmission pipelines and tie-in to the Mt. Washington system near Lebanon Junction to provide a gas supply from a different gas transmission pipeline system as noted at p. 2.

Why do documents state that LG&E's Magnolia gas transmission pipelines and tie-in to the Mt. Washington system near Lebanon Junction would not benefit the HWY 480 area as much as the

proposed route without replacing additional pipeline between Lebanon Junction and HWY 480 as noted in Response to Commission Staffs Third Request for Information, Question No. 24, Responding Witness: Lonnie E. Bellar (2017, February 7). Louisville Gas and Electric Company Case No. 2016-00371 at p. 2?

Does this indicate that LG & E plans to create additional transmission pipelines along I-65 and/or along the Calvary Natural Gas Pipeline?

Is the purpose of the pipeline to supply gas to Hardin and Nelson Counties via Mt. Washington High-Pressure Distribution System as suggested by EnSiteUSA. (2015, July 29) at p. 1?

Why is that EnSiteUSA (2015, July 29, p. 1) stated that routes involving Bernheim Arboretum and Research Forest Route was not considered viable due to prohibitive costs and regulatory review, but the selected route will pass through Bernheim's Big Level and the Cedar Grove and Solitude areas that involve extensive environmental constraints and issues?

If the primary purpose is to serve Shepherdsville and Mount Washington, it would seem that the LG & E Jim Beam Bullitt County Natural Gas Pipeline should traverse west toward Shepherdsville such as along HWY 44. Any future natural gas needs along the I-65 corridor, Clermont, and Lebanon Junction could then be served via a pipeline within a corridor that traverses from Shepherdsville to Lebanon Junction.

The Friends of Cedar Grove located a map of LG & E pipelines that lacks details for reference but does show a western pipeline parallel to the Calvary Natural Gas Pipeline, presumably along areas in western or central Bullitt and Jefferson Counties that could serve as a route alternative.

Maps also indicate that there is a pipeline that traverses east to west across the county. A pipeline could be constructed southward from that pipeline as an alternative route with fewer human and environmental impacts than the LG & E Jim Beam Bullitt County Natural Gas Pipeline.

How has the KY Public Service Commission considered these or other alternative routes?

Contrary to LG & E's application to the KY Public Service Commission, if more gas is needed, three alternative natural gas routes and lines exist in the Lebanon Junction area and there are existing natural gas lines along I-65 in the Elizabethtown area, Magnolia Transmission Line, Ft. Knox, Louisville and several other routes. (As an example, see [http://psc.ky.gov/pscscf/Post%20Case%20Referenced%20Correspondence/2016%20cases/2016-00371/20190510\\_PSC%20Response%20to%20Open%20Records%20Request%20and%20LGE%20Response%20to%20PSC%20Third%20Request%20for%20Information%20-%20Item%2024.pdf](http://psc.ky.gov/pscscf/Post%20Case%20Referenced%20Correspondence/2016%20cases/2016-00371/20190510_PSC%20Response%20to%20Open%20Records%20Request%20and%20LGE%20Response%20to%20PSC%20Third%20Request%20for%20Information%20-%20Item%2024.pdf) and [https://psc.ky.gov/pscecf/2016-00371/derek.rahm%40lge-ku.com/02202017094029/2 - 2016\\_PSC\\_DR3\\_LGE - FINAL.pdf](https://psc.ky.gov/pscecf/2016-00371/derek.rahm%40lge-ku.com/02202017094029/2 - 2016_PSC_DR3_LGE - FINAL.pdf).)

If the pipeline must go south on the eastern side of the county, it should traverse south along HWY 150 and then west along HWY 245, or down HWY 150 and along the Bluegrass Parkway or similar route as recommended by EnSiteUSA (2016m 2015) in their study of 10 routes.

For more information, see

[http://psc.ky.gov/pscscf/Post%20Case%20Referenced%20Correspondence/2016%20cases/2016-00371/20190510\\_PSC%20Response%20to%20Open%20Records%20Request%20and%20LGE%20Response%20to%20PSC%20Third%20Request%20for%20Information%20-%20Item%2024.pdf](http://psc.ky.gov/pscscf/Post%20Case%20Referenced%20Correspondence/2016%20cases/2016-00371/20190510_PSC%20Response%20to%20Open%20Records%20Request%20and%20LGE%20Response%20to%20PSC%20Third%20Request%20for%20Information%20-%20Item%2024.pdf)

Also see

[http://psc.ky.gov/pscscf/Post%20Case%20Referenced%20Correspondence/2016%20cases/2016-00371/20190510\\_PSC%20Response%20to%20Open%20Records%20Request%20and%20LGE%20Response%20to%20PSC%20Third%20Request%20for%20Information%20-%20Item%202024.pdf](http://psc.ky.gov/pscscf/Post%20Case%20Referenced%20Correspondence/2016%20cases/2016-00371/20190510_PSC%20Response%20to%20Open%20Records%20Request%20and%20LGE%20Response%20to%20PSC%20Third%20Request%20for%20Information%20-%20Item%202024.pdf)

**If a natural gas pipeline route is needed, it should be located along one of the routes that was originally studied by EnSiteUSA (2016, 2015), not a route that was never proposed or studied. Selecting and approving the route through Cedar Grove and Solitude for the LG & E Jim Beam Bullitt County Natural Gas Pipeline was arbitrary and capricious.**

It is clear to the Friends of Cedar Grove that the Cedar Grove and Solitude areas must be avoided to ensure pipeline integrity and protect public health and safety and that the KY Public Service Commission must require LG & E to propose a different route from among the 10 routes studied by EnSiteUSA (2016, 2015) or other alternative routes. .

The KY Public Service Commission must act to prevent placement of the LG & E Jim Beam Bullitt County Natural Gas Pipeline through the Cedar Grove and Solitude areas to prevent explosions from cathodic discharge from locating the LG & E Jim Beam Bullitt County Natural Gas Pipeline under the East Kentucky Power Cooperative high voltage powerlines; placing the pipeline in landslide-prone areas with a history of sizeable landslides that will threaten pipeline integrity and may result in explosions; constructing the pipeline in New Albany Shale deposits that can release acid drainage and toxins that threaten drinking water safety and may degrade pipeline infrastructure; constructing the pipeline through karst, innumerable sinkholes, and floodplains that may result in failure of pipeline integrity and result in explosion; and conducting horizontal directional drilling and geotechnical bore drilling that may damage aquifers, groundwater, springs and wells that many residents depend upon for potable drinking water, and may release carcinogenic and toxic and hazardous substances into drinking water sources.

The KY Public Service Commission must act to prevent placement of the LG & E Jim Beam Bullitt County Natural Gas Pipeline through the Cedar Grove and Solitude to comply with the Clean Water Act and KY Water Quality Regulations that require avoidance due to the impacts to human safety and the environment from increased pollutant contributions to the numerous 303(d) listed impaired streams and water quality in the project area; impacts to State Exceptional Water and Outstanding State Waters and Outstanding Resource Waters containing Federally-listed species and habitat and areas that streams flow through or are bounded by exceptional aesthetic or ecological values or unique geological, natural or historical areas recognized by state or Federal designation and undisturbed watersheds; and perpetually-protected deed restricted mitigation sites such as Bernheim Forest's Big Level Complex.

As consistent with Sierra Club v. FERC, No. 16-1329 (D.C. Cir. Aug. 22, 2017), the U.S. Army Corps of Engineers will need to consider and analyze alternatives as consistent with that case. Agencies with regulatory authority have failed to consider and analyze alternative routes and alternatives, the Council on Environmental Quality direction, and National Environmental Policy Act.

## **The KY Public Service Commission Suppressed Project Information from the Public & Landowners**

It is problematic that LG & E and the KY Public Service Commission sought to suppress disclosure on the LG & E Jim Beam Bullitt County Natural Gas Pipeline since its inception and throughout the process (e.g., see KY Public Service Commission Order January 25, 2019, Case No. 2016-00371, at [https://psc.ky.gov/pscscf/2016%20Cases/2016-00371/20190125\\_PSC\\_ORDER.pdf](https://psc.ky.gov/pscscf/2016%20Cases/2016-00371/20190125_PSC_ORDER.pdf)).

Few details were disclosed to the public and sparse information was posted in KY Public Service Commission Meeting Notes regarding case number 2016-00370 and 2016-00371 throughout the planning process.

LG & E and the KY Public Service Commission intentionally suppressed information from landowners and the public (including pipeline studies, maps, and routes) with the stated purpose that: "Disclosure of this information may increase the value of the land through which the pipeline crosses or landholders may resist construction and force LG & E to spend more to construct the pipeline." (See KY Public Service Commission Order January 25, 2019, Case No. 2016-00371, at [https://psc.ky.gov/pscscf/2016%20Cases/2016-00371/20190125\\_PSC\\_ORDER.pdf](https://psc.ky.gov/pscscf/2016%20Cases/2016-00371/20190125_PSC_ORDER.pdf)).

The suppression of information prevented interested and affected publics from participation in meaningful public involvement.

The response to Thomas Fitzgerald's Open Records Request proves that little to no information was available to the public during agency review processes and was treated as confidential.

The response documents and actions by the KY Public Service Commission are replete with processes and actions that are arbitrary and capricious, and the subsequent processes, actions, and decisions will be invalid.

The following questions reflect issues in the Letter of Transmittal (2019, May 10) from Gwen Pinson, Executive Director, KY Public Service Commission, to Thomas FitzGerald Re: Open Records Request, received April 13, 2019, requesting to inspect confidential files in Case No. 2016-00371, Electronic Application of Louisville Gas and Electric Company for an Adjustment of its Electric and Gas Rates and Certificates of Public Convenience and Necessity. See: [http://psc.ky.gov/pscscf/Post%20Case%20Referenced%20Correspondence/2016%20cases/2016-00371/20190510\\_PSC%20Response%20to%20Open%20Records%20Request%20and%20LGE%20Response%20to%20PSC%20Third%20Request%20for%20Information%20-%20Item%2024.pdf](http://psc.ky.gov/pscscf/Post%20Case%20Referenced%20Correspondence/2016%20cases/2016-00371/20190510_PSC%20Response%20to%20Open%20Records%20Request%20and%20LGE%20Response%20to%20PSC%20Third%20Request%20for%20Information%20-%20Item%2024.pdf)

Why weren't all KY Public Service Commission project documents including studies, data, public comments, public records requests, responses, etc., posted on the website throughout the duration of the process instead of only late in the process, near the end of a public comment period by the KY Division of Water, and only in response to multiple public records requests by Mr. Thomas Fitzgerald?

Why were the files for Case No. 2016-00371 granted confidential treatment by the KY Public Service Commission?

Why are the files no longer needed to be treated as confidential?

What other files exist that have been redacted or granted confidential status?

Public disclosure on the LG & E Jim Beam Bullitt County Natural Gas Pipeline has been virtually non-existent. The project has been planned and pursued in secret.

## **The Public Was Denied Appropriate Notice & Comment Opportunities**

As described in the previous section, LG & E and the KY Public Service Commission suppressed information and denied the public meaningful public involvement.

Public hearings and public involvement were and are required for the Certificate of Public Convenience and Necessity and the pipeline pursuant to KRS 278.020(1) and numerous requests that were made by the Friends of Cedar Grove to the KY Public Service Commission from the very beginning in 2017 and throughout on the original invalid and illegal approval of the pipeline as an "extension". We specifically requested that the KY Public Service Commission conduct formal public comment periods and public hearings and made multiple additional requests for public hearings in Cedar Grove and Clermont.

See our letters dated March 12 and 21, 2018, entitled "Louisville Gas and Electric Calvary Natural Gas Pipeline Case number 2016-00370 and 2016-00371—Request for Review on the Certificate of Public Convenience and Necessity and the Pipeline" and attachments as examples. In that document we noted: Specific requests for hearings and public involvement on the Certificate of Public Convenience and Necessity and the Pipeline pursuant to KRS 278.020(1).

When television station WDRB conducted an investigative expose on problems with the planning and public involvement for the LG & E Jim Beam Bullitt County Natural Gas Pipeline, the Friends of Cedar Grove were aghast that the KY Public Service Commission claimed that they conducted public involvement and that there were no comments. (See WDRB.COM Sunday Edition: "Proposed LG&E pipeline cuts through Bernheim land, raises neighbors' concerns", 2019, April 7 at [https://www.wdrb.com/in-depth/sunday-edition-proposed-lg-e-pipeline-cuts-through-bernheim-land-raises-neighbors-concern/article\\_9257b08a-57ed-11e9-97e7-8bc3dfa4dfef.html](https://www.wdrb.com/in-depth/sunday-edition-proposed-lg-e-pipeline-cuts-through-bernheim-land-raises-neighbors-concern/article_9257b08a-57ed-11e9-97e7-8bc3dfa4dfef.html).)

It was impossible for the interested or affected publics to be aware of or comment on a proposed pipeline when information was kept from the public and the hearing and comment period was conducted in secret.

The Friends of Cedar Grove would ask of the KY Public Service Commission:

- When and how did the KY Public Service Commission notify interested and affected publics of the proposed pipeline?
- When and how did the KY Public Service Commission notify the public that they could submit comments?
- When and how did the KY Public Service Commission notify the public of when and where local public hearings were conducted in Cedar Grove or Clermont?

The KY Public Service Commission purposely did not seek to make such information available to the public, and thus there was no public input.



When and how were interested and affected publics made aware by the KY Public Service Commission that a public meeting would be held in April 2017?

When and how were interested and affected publics made aware by the KY Public Service Commission that a 2-day hearing was to follow the public meeting?

What specific media sources and mailings did the KY Public Service use to disclose details on the pipeline route, pipeline construction activities, and the environmental and social effects?

According to WDRB, J.E.B. Piney made a point that during the KY Public Service Commission hearing that the KY Public Service specifically asked audience members if they wanted to speak. Mr. Piney noted that the area residents did not comment, request a hearing, nor seek to intervene for a hearing.

How would interested and affected publics be able to speak at a KY Public Service meeting that they were unaware of?

How would interested and affected publics be able to comment on a proposed pipeline for which details have not been disclosed?

How would interested and affected publics be able to participate in a KY Public Service Commission meeting held in Frankfort, which is about 1-1.5 hours from the project area?

How would interested and affected publics be able to participate in a KY Public Service Commission meeting held in Frankfort and conducted during the work week when they are working?

We will point out to the KY Public Service Commission and Mr. Piney that the Friends of Cedar Grove made numerous specific requests for public notice, official public comment opportunities, and official public hearings to be held at Cedar Grove School and Bernheim Middle School with the KY Public Service Commission and other agencies over several years beginning in 2017 that were ignored by the KY Public Service Commission.

## **Environmental Justice Issues**

Landowners in Cedar Grove, Solitude, and Clermont will suffer all of the disparate burdens of eminent domain taking of our land including threats to our health and safety, destruction and devaluation of our property, financial loss, and other burdens without gaining any benefits of the pipeline.

Many of our landowners are low-income and elderly and generate environmental justice concerns that all regulatory agencies have ignored, and which must be considered by the U.S. Army Corps of Engineers via Executive Order 12898.

What are the Environmental Justice (E.O. 12898) impacts of the pipeline to elderly, disabled, and poor rural landowners and farmers, many of whom have been subject to multiple eminent domain takings, and many of whom have had land taken for multiple utility lines, and the fact that these landowners will experience disparate burden with no benefits to them, and local residents that will be impacted by construction activities, etc., with no benefit to the community?

What has been the financial impacts of land taken from landowners including the opportunity cost of the developed land value that would be foregone due to the pipeline and how the

landowners will be provided or lose the fair market value of land equivalent to developed land value similar to the subdivisions and residential areas common in the area? What will be the financial impacts of reduced property land values for neighboring residents (e.g., within 2 miles of the pipeline)?

We have noted these issues in our letters to the KY Public Service Commission that the Cedar Grove and Solitude areas along the LG & E Jim Beam Bullitt County Natural Gas Pipeline, a transmission line, would not benefit our residents (or any resident) and that our residents should not be subject to the burden.

As we noted in our letters, the case of *City of Bardstown v. Louisville Gas and Electric Co.*, 383 S.W.2d 918 (Ky. Ct. App. 1964), is instructive, as this line is not an extension, and the new construction of 10-12 miles of line would be for transportation of natural gas to other locations.

## **LG & E Engaged in Intimidation & Violated Landowners Constitutional Rights**

Landowners were threatened with lawsuit if they did not sign a form giving LG & E permission to survey their property. LG & E threatened to bankrupt them and take their entire property. LG & E used intimidation against landowners showing up on land with 10-12 people of which 3-4 were armed, including the presence of off-duty police in police vehicles.

What KRS Statute authorized LG & E to enter private property with armed escorts?

The Allens, Browns, Parkers' and other landowners were likely subjected to constitutional right violations related to 18 U.S.C. 241 and 242 and others.

## **The KY Public Service Commission's Issued an Invalid Approval of the LG & E Jim Beam Bullitt County Natural Gas Pipeline as an "Extension"**

The Friends of Cedar Grove submitted numerous documents to the KY Public Service Commission and agencies with regulatory authority regarding the invalidity of the KY Public Service's Commission's invalid and illegal approval of the LG & E Jim Beam Bullitt County Natural Gas Pipeline as an "Ordinary Extension of An Existing Gas System" at the time we learned of the approval beginning in 2017 and since that time.

The project was originally proposed and approved in KY Public Service Commission Meeting Notes under case numbers 2016-00370 and 2016-00371 as an extension to the existing Calvary Natural Gas Pipeline. (See <https://lge-ku.com/sites/default/files/documents/LGE-Bellar-Testimony-2016-Rate-Case.pdf>).

The Friends of Cedar Grove specifically noted that the KY Public Service Commission and LG & E were errant in claiming or approving construction of the new 12-mile long LG & E Jim Beam Bullitt County Natural Gas Pipeline as an ordinary extension of its existing gas system in the usual course of business as they argued that a Certificate of Public Convenience and Necessity was not required under KRS 278.020(1). (See "KRS 278.020 Certificate of Convenience and Necessity Required for Construction Provision of Utility Service or of Utility. . ." at:

<https://apps.legislature.ky.gov/law/statutes/statute.aspx?id=47317><https://apps.legislature.ky.gov/law/statutes/statute.aspx?id=47317>).

As the Friends of Cedar Grove noted in our comments, we could not find expressed or implied statutory authority in KRS 278.020 that authorizes the KY Public Service Commission to grant exceptions of the Certificate of Public Convenience and Necessity for the new 12-mile long LG & E Jim Beam Bullitt County Natural Gas Pipeline.

KRS 278.020 specifies exceptions for waterline extensions that do not exceed \$500,000 and electric transmission line that do not exceed 138 kilovolts or 5,280 feet in length.

The KY Public Service Commission's reliance on their prior invalid and illegal approval of a similar length new pipeline for Duke Energy as an extension as a precedent for their authority to approve the LG & E Jim Beam Bullitt County Natural Gas Pipeline appears counter to the KY Public Service Commission authorities that the Friends of Cedar Grove were able to locate in Kentucky statutes and regulations.

The KY Public Service Commission Meeting Notes November 23, 2016, RE: Case No. 2016-00371 (See <https://lge-ku.com/sites/default/files/documents/LGE-Bellar-Testimony-2016-Rate-Case.pdf>) clearly stated on page 3, lines 22-23, that this is a new natural gas pipeline, 10-12 miles in length.

This new construction and authorization of the LG & E Jim Beam Bullitt County Natural Gas Pipeline as an extension appears to violate 807 KAR 5:001, Section 15(2) Rules of Procedure.

As the Friends of Cedar Grove highlighted problems with the existing Calvary Natural Gas Pipeline and approvals of the new pipeline, LG & E then claimed that the proposed 12-mile long LG & E Jim Beam Bullitt County Natural Gas Pipeline "extension" was actually a new pipeline and different from the cases that were approved by the KY Public Service Commission.

LG & E attorney Monica Braun asserted that contrary to LG & E's KY Public Service Commission filings and documents, and KY Public Service Commission records of the planned pipeline identified as Case No. 2016-00371 that landowners referred to was actually Case No. 2017-00482. In an e-mail to John Cox, Monica Braun stated:

LG & E would like to bring your attention to one of the misstatements in your client's email copied below. It appears that your client has confused the pipeline at issue in Case No. 2017-00482 with the pipeline LG & E plans to construct in Bullitt County. Please note these are different pipelines; the pipeline at issue in Case No. 2017-00482 is already constructed. (Personal communication, 2018, Aug. 30, e-mail from Monica Braun to John Cox.)

If the planned 12-mile long LG & E Jim Beam Bullitt County Natural Gas Pipeline was new and different from that originally proposed and approved in KY Public Service Commission Meeting Notes under case numbers 2016-00370 and 2016-00371 as an "extension" to the existing Calvary Natural Gas Pipeline, the KY Public Service Commission process, review and approvals was invalid and illegal for this new pipeline, and LG & E must reinitiate the application process with KY Public Service Commission by submitting new applications, reviews, hearings, etc.

Public hearings and public involvement are required for the Certificate of Public Convenience and Necessity and the LG & E Jim Beam Bullitt County Natural Gas Pipeline pursuant to KRS 278.020(1) and numerous requests that were made by the Friends of Cedar Grove.

## The KY Public Service Commission's Approved an Invalid & Illegal Certificate of Public Convenience & Necessity

Many of the failings of the KY Public Service Commission and LG & E regarding the Certificate of Public Convenience and Necessity were apparent in the "Electronic Application of Louisville Gas and Electric Company for an Adjustment of its Electric and Gas Rates and for Certificates of Public Convenience and Necessity Order, Case No. 2016-00371", 2017, June 22, pp. 31-34, see: [https://psc.ky.gov/pscscf/2016%20Cases/2016-00168/20160602\\_PSC\\_ORDER.pdf](https://psc.ky.gov/pscscf/2016%20Cases/2016-00168/20160602_PSC_ORDER.pdf)

Thomas Fitzgerald, Director, KY Resources Council, noted many of the KY Public Service Commission's failings in handling the Certificate of Public Convenience and Necessity in his e-mails and Open Records Requests to the Commission. (See [https://psc.ky.gov/pscscf/Post%20Case%20Referenced%20Correspondence/2016%20cases/2016-00371/20190415\\_Thomas%20FitzGerald%20Open%20Records%20Request.pdf](https://psc.ky.gov/pscscf/Post%20Case%20Referenced%20Correspondence/2016%20cases/2016-00371/20190415_Thomas%20FitzGerald%20Open%20Records%20Request.pdf))

In Mr. Fitzgerald's April 8, 2019 e-mail to Gwen Pinson, Executive Director, KY Public Service Commission, with the subject of LG&E Bullitt County Pipeline, Mr. Fitzgerald documented the KY Public Service Commission failings in its handling of the Certificate of Public Convenience and Necessity as he stated:

The granting of the CPCN [Certificate of Public Convenience and Necessity] by the Commission [KY Public Service Commission] in the June 22, 2017 Order in Case No. 2016-00371 was problematic for several reasons. First, LG&E failed to include the request for a CPCN in its Application, in apparent violation of 807 KAR 5:001 Section 1 . . . and the public notice of the LG&E filing included no reference to the proposed pipeline.

The granting of the CPCN without a requirement that the utility file an application for same deprived those interested and potentially affected parties from being heard on the proposed project necessity in a meaningful manner and meaningful time, through intervention or public comment.

. . . The lack of meaningful and timely public notice . . . prevented those interested and potentially affected from being able to challenge the necessity, and the absence of wasteful duplication, that are the criteria for the issuance of a CPCN.

The PSC Order of June 22, 2017 confirmed that there was no application for a CPCN for the Bullitt County pipeline. That Order additionally rejected LG&Es suggestion that the extension was in the usual course of business and didn't need a CPCN under KRS 278.020; concluding that a CPCN was required. Rather than requiring that LG&E file a request for a CPCN, the Commission *sua sponte* made the findings and without notice or opportunity for affected individuals to be heard, issued the CPCN for the Bullitt pipeline project.

. . . The lack of ability to participate in the 2016-00371 case a manner that would protect their interests has been aggravated by the Commission's belated approval on January 25, 2019 of a February 20, 2017 request that the study, map, and proposed route of the Bullitt County pipeline be kept confidential. That decision deprives the public of access to information essential to protecting their rights as landowners in any discussion or negotiations with LG&E, and also their ability to defend against any eminent domain proceeding.

Given the invalid and illegal Certificate of Public Convenience and Necessity and other legal violations by the KY Public Service Commission, the KY Public Service Commission's planning

and review processes and decisions for the LG & E Jim Beam Bullitt County Natural Gas Pipeline were arbitrary and capricious.

Given that the existing Calvary Natural Gas Pipeline does not comply with Federal regulations for pipeline integrity and safety, and cathodic protection, the planning processes and decision that authorized the LG & E Jim Beam Bullitt County Natural Gas Pipeline as an "extension" or a new pipeline were arbitrary and capricious.

### **The LG & E Jim Beam Bullitt County Natural Gas Pipeline Was Designed for Jim Beam, Not a Public Need**

As reported by Ryan Van Velzer of WFPL News, as established during the Bullitt County Circuit Court's Right-to-Take Hearings, testimony from LG & E and Jim Beam staff and internal utility records established that the LG & E Jim Beam Bullitt County Natural Gas Pipeline was conceived and pursued for the benefit of a single customer—Beam Suntory, the makers of Jim Beam Bourbon receiving nearly all of the additional gas—at ratepayers expense. (See Van Velzer, R., 2021, March 12, *LG&E records show Bernheim pipeline would primarily benefit Jim Beam* at <https://wfpl.org/lge-records-show-bernheim-pipeline-would-primarily-benefit-jim-beam/>.)



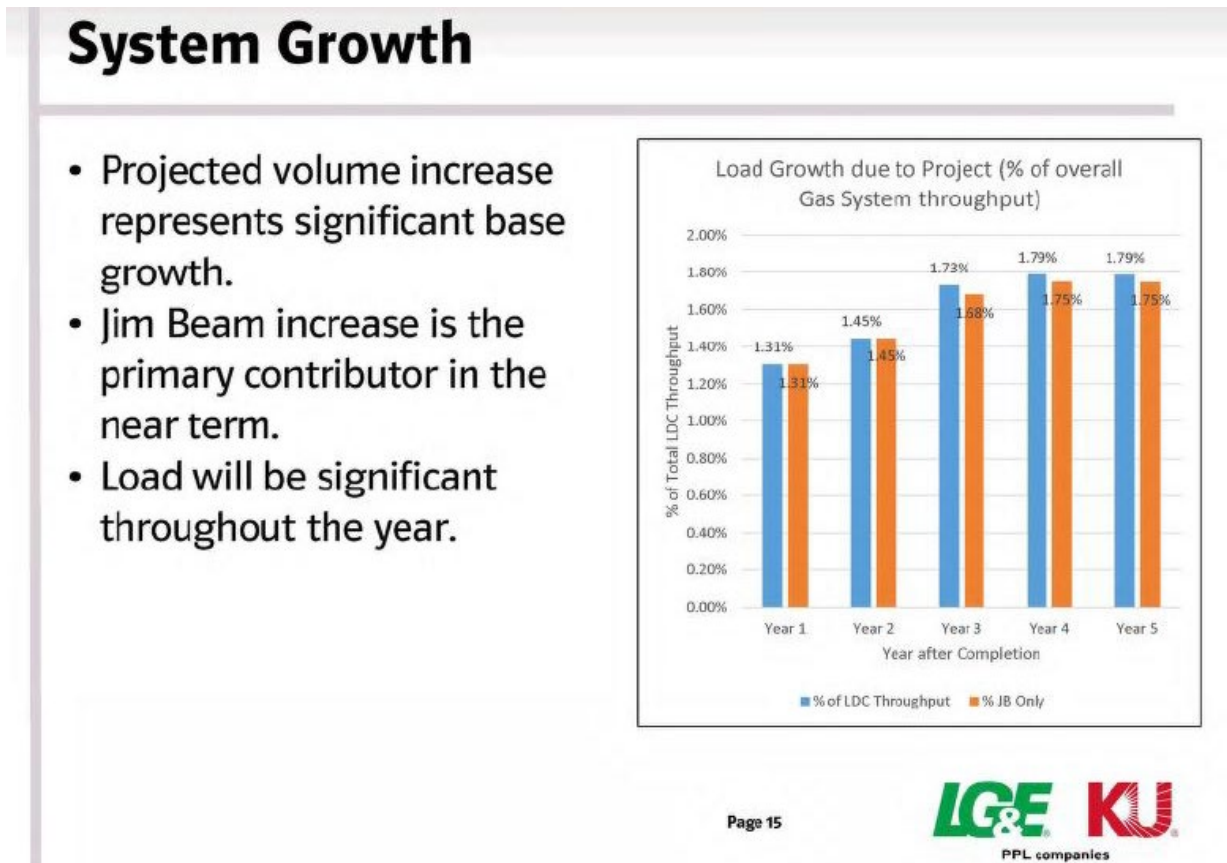
**Figure 14. Jim Beam Suntory Warehouse.** The black warehouse is like numerous new warehouses under construction. Court documents show that the LG & E Jim Beam Bullitt County Natural Gas Pipeline was originally planned solely to benefit Jim Beam's increased production, and when Jim Beam refused to pay the \$20-\$25 million project cost, LG & E and others developed a plan for rate payers to finance the project.

Beam Suntory approached LG&E for increased natural gas when the company began working on an expansion in 2015. According to Van Velzer, "LG&E Chief Operating Officer Lonnie Bellar testified Thursday that internal company projections from that time showed Jim Beam would receive 100% of the additional gas provided by the pipeline for the first two years."

In reporting on the court evidence, Van Velzer states:

The forecast showed Beam Suntory would receive nearly all of the additional gas load for at least five years. Other records from the same set of internal documents demonstrated the pipeline would have increased Beam Suntory's usage to such an extent that over five years, it would become LG&E's second-largest customer behind Ford.

Van Velzer also provides a graphic of projected volume usage that shows that nearly all natural gas was to be used by Jim Beam for the first five years as shown in Figure 15.



Attorney John Cox

**Figure 15. Jim Beam will use almost all of the pipeline's natural gas capacity during years 1-5.** The graph displays 100% of gas is to be used by Jim Beam during years 1 and 2, and approximately 95%-98% of usage in years 3-5. In short, virtually all of the natural gas pipeline capacity will be used by Jim Beam at rate payers' expense as Jim Beam purchases gas at cheaper prices from external markets.

According to Van Velzer, "Tom Rieth, LG&E's director of gas operations, testified Thursday it was around that time the utility learned about additional need for natural gas in the area because of potential growth. Between the need to increase reliability and build out capacity, LG&E decided to move forward with the pipeline project."

LG&E also appeared to share preliminary routes for the pipeline with representatives of Beam Suntory, according to emails shared during testimony. That's even though the path of the pipeline

was not shared with the public until 2019; LG&E asked utility regulators to shield the proposed route from public scrutiny because it would create a "competitive disadvantage," according to a filing with utility regulators.

Van Velzer quoted attorney John Cox as stating: "Collusion is what we have here your honor. This pipeline was Jim Beam's idea from jump. Jim Beam came to LG&E and said we need a pipeline, we need more gas". . . .

According to Van Velzer, attorney John Cox who represents landowners who don't want the pipeline to cross through their property, stated his "clients should not have to turn over their land when the true purpose of the pipeline is to serve a single customer, Beam Suntory."

The following Proposed Findings of Fact and Conclusions of Law narrative are adapted from Attorney John Cox's (representing Iola Capital) March 18 submission to the Bullitt County Circuit Court. (See attached document.)

Cox documented the evidentiary case that the LG & E Jim Beam Bullitt County Natural Gas Pipeline was proposed and planned solely for Jim Beam Suntory and not for the public. Jim Beam did not want to pay the estimated cost of \$20-25 million for pipeline construction. LG & E, Jim Beam and officials hatched a plan to have KY rate payers pay for the pipeline. As LG & E admitted, Jim Beam would be the sole user for two years, then use about 98% of the capacity for the next three years but would be purchasing and using gas from a third-party out of state source. LG & E's statements to the KY Public Service Commission were fraudulent; and the Certificate of Public Convenience and Necessity has expired.

According to Cox, courts are authorized to interfere with the proposed plans to take property pursuant to eminent domain where there is positive proof of fraud, collusion, or a clear abuse of discretion. Courts can also interfere with the proposed taking where a condemnor's true intent was for private rather than public use, such that the "primary purpose" in seeking condemnation was not for public use. A condemning authority is not permitted to take property under the mere pretext of a public purpose when its actual purpose was to bestow a private benefit.

Cox argued that LG & E failed to meet the threshold standard for a proper taking of private property for public use. LG & E colluded with Jim Beam to proceed with the proposed pipeline under the pretext of public need when, in fact the primary purpose of the pipeline was to the benefit of Jim Beam, a private entity. Defendants sought at trial to expose and refute the direct testimony of Lonnie Bellar, the Chief Operating Officer of LG & E. Defendants credibly established the following factual basis for its allegations of abuse of discretion, collusion, and pretextual taking:

- In LG & E's maps and internal discussions, the proposed pipeline was consistently referred to as the "Jim Beam Pipeline" and Exhibits 98 shows that the proposed pipeline feeds into the Jim Beam Line Regulation facility and then into the Jim Beam HP distribution system.
- Although the supply of natural gas to the area was through an existing system that had worked well and unchanged for over fifty years, the direct impetus for the project was Jim Beam's request for the pipeline.
- LG & E believed that one hundred percent (100%) of the gas going through the proposed pipeline in the first two years would be used by Jim Beam.

- LG & E believed that well over ninety-five percent (95%) of the estimated additional gas usage in the first five years was also for Jim Beam.
- Jim Beam was and is the only user of the pipeline system in Bullitt County with “FT status,” allowing it to privately contract with natural gas suppliers other than LG&E.
- Jim Beam is not currently using nor projected to use any proposed pipeline for gas purchased from LG & E as a public utility.
- Jim Beam's use of the proposed pipeline would simply be as a means to transport natural gas from other privately contracted third party natural gas vendors to Jim Beam though a pipeline to be paid for by the rate-payers of Kentucky.
- Tom Rieth conceded on cross-examination that proposed maps showing possible routes for the Pipeline had been sent to Jim Beam by LG&E. The Court finds persuasive the testimony of Kevin Evans, then Operations Manager at Jim Beam, for the distilleries to be served by the proposed pipeline, regarding Jim Beam's understanding of the sequence of events involving the proposed pipeline. Through a timeline prepared by Mr. Evans, as authenticated by his testimony, the Defendants have met any burden of LG & E shared maps with Jim Beam in late 2015 as indicated in emails, although LG & E failed to produce such route maps in discovery. In trial, LG & E indicated it was unable to locate the email attachments referenced.
- It was established that in 2015 (i.e., prior to the 2016 Rate Case testimony of Mr. Lonnie Bellar regarding the reliability of the Calvary line and the need for a new pipeline to address reliability issues without mentioning Jim Beam), Jim Beam was deeply involved in the pipeline project.
- The timeline entitled “Beam Pipeline Discussion General Timeline – June 26, 2019,” as well as Mr. Evans’ testimony establishes that Jim Beam:
  - Recognized a gap in its natural gas supply while working on distillery expansion concepts and options.
  - Hired Schneider Electric as a 3rd party utility consultant.
  - Held meetings with LG & E on options to supply more natural gas to its facilities.
  - Was asked by LG&E to pay for a new pipeline with an estimated cost of \$20-25 MM.
  - Rejected that request; and asked Schneider Electric to come up with other options.
  - Documents states that in 2015, "In further meetings between Schneider Electric and LG & E it was determined that future growth in the Bullitt County Area would require more gas than just our need and it made sense for LG & E to install a pipeline at their expense to support the need in Bullitt County."
  - The timeline chronicled a meeting including LG & E and Jim Beam in 2016 involving a "brief, conceptual discussion regarding the pathway LG & E might consider for the pipeline ...". The 2016 entry also notes a June 16, 2016 "Cross functional meeting with Schneider Electric, LG & E and Beam to review and discuss gas supply options. 2 points of interest from Evans notes - line extension



is planned without Beam funding, 2) LG&E does not have exact route at this time.”

- Court notes conceded that where the timeline states that in 2016, "Schneider Electric continued to develop strategy and work with Beam and LG & E on potential solutions," that reference to "strategy" included Jim Beam not paying for the pipeline, and the cost of the pipeline being covered by the customers paying for gas service only, with no additional contribution by Jim Beam.
- LG&E colluded with Jim Beam to conceal from the public the primary purpose of the proposed pipeline and coordinated with Jim Beam to shift the cost of the pipeline onto the rate-payers of Kentucky under the pretext that the pipeline was necessary to address reliability concerns in the existing pipeline.
- While the proposed pipeline might indeed address reliability concerns or even growth needs, the primary purpose of the proposed pipeline was to meet the needs of a private purpose (i.e. for Jim Beam to privately purchase and then use this gas line for transport), and that LG & E worked closely with Jim Beam and its agent, Schneider Electric, to find alternative rationales for justifying the pipeline as a public expense.
- Testimony from LG & E regarding its current assessment of turn-downs for electrical service does not retroactively change the fact that when the right to take was asserted, the primary purpose was to benefit Jim Beam and accordingly, these turn-downs do not negate the finding of collusion and pretextual taking.

LG&E acquired a Certificate of Public Convenience and Necessity (CPCN) for the proposed pipeline via a ruling issued by the KY Public Services Commission in the 2016 Rate Case. KRS 278.020(1) provides that any corporation providing a utility service to the public shall initially obtain a certificate of necessity from the KY Public Services Commission before commencing construction upon any plant, equipment, property, or facility. "To be entitled to such a certificate of necessity, the applicant must demonstrate a need for the proposed facility and the absence of wasteful duplication. [...] A "need" may be demonstrated by "showing of a substantial inadequacy of existing service" and "wasteful duplication" may be demonstrated by showing "an excess of capacity over need," "excessive investment in relation to productivity," or "unnecessary multiplicity of physical properties.

Defendants argued at trial that LG & E' acquisition of the CPCN for the proposed pipeline was shrouded in fraud, deceit, and bad faith, and that these actions by LG & E's conduct warranted a factual finding that LG & E had thereby abused its discretion with respect to the public need for the Defendants' property.

The Defendants took specific issue with the direct testimony of Lonnie Bellar that LG & E's application for the CPCN for the pipeline project had been approved by the KY Public Services Commission. To the contrary, Defendants argued that LG & E had not in fact applied for the CPCN as required by statute and regulation but had instead initially denied the need for a CPCN.

Only after having been required by the KY Public Services Commission to provide additional information regarding the project that had been mentioned in testimony by Mr. Bellar before the PSC in that Rate Case, LG & E requested in a post-trial brief that the PSC essentially deem the application made and grant the CPCN.

The PSC assented and issued the CPCN.

LG & E did not submit an application for a CPCN for the proposed pipeline and did not provide notice to the public that it would seek a CPCN for the pipeline at issue in this condemnation action.

LG & E's assertions of a need for the pipeline based on concerns about reliability did not reflect the true intent or primary purpose of the pipeline. In failing to acknowledge before the KY Public Services Commission the extent of the role played by Jim Beam, including LG&E's own estimates that the overwhelming majority of natural gas to be delivered via the proposed pipeline in its first five years of operation would be to deliver natural gas contracted through a third party to Jim Beam, LG & E abused its discretion with respect to the asserted public need for the Defendants' property. This is particularly the case here given the overwhelming majority of the usage of the proposed pipeline was and is for Jim Beam, and for privately contracted for gas, not gas obtained from LG & E, as the public utility. The primary purpose of the taking was for a private purpose to benefit Jim Beam.

By statute, LG&E was required to make a good faith attempt to acquire the Defendants' property by agreement or contract: Any corporation or partnership organized for the purpose of [...] constructing, maintaining, or operating oil or gas wells or pipelines for transporting or delivering oil or gas, in public service may, if it is unable to contract or agree with the owner after a good faith effort to do so, condemn the lands and material or the use and occupation of the lands that are necessary for constructing, maintaining, drilling, utilizing, and operating pipelines.

LG & E argued that it had made offers to the Defendants and that they had refused to make a counter-offer.

LG & E engaged in actions that cannot be considered "good faith" attempts to negotiate or acquire the rights sought in this action by contract or agreement attempting to take the property.

Defendants' did respond to the offer from LG & E.

Within weeks after telling the KY Public Services Commission that it would be offering farm taps to landowners, LG&E changed course internally and failed to advise the KY Public Services Commission of the change.

Written agreements signed by various LG & E personnel and contractors acknowledged that Defendants were placed under extreme duress by LG & E.

LG & E engaged in a public relations campaign to sway public opinion against property owners, who opposed the proposed pipeline and that this campaign included the implication that these "hold-outs" were to blame for potential interruptions of gas service, which had not been an issue for more than 50 years.

Improper pressure exerted upon a landowner to drop opposition to a taking is improper whether it occurs before, during, or after the condemnation proceedings have begun.

The Kentucky Supreme Court adopted the "reasonable assurance" test to determine whether the right of condemnation may be granted when all necessary permits have not yet been obtained in Northern Kentucky Port Authority, Inc. v. Cornett, 625 S.W.2d 104 (Ky. 1981), stating: The test must be whether there is a reasonable assurance that the intended use will come to pass. If there is reasonable probability that the public utility will comply with all applicable standards, will

meet all requirements for the issuance of necessary permits, and will not otherwise fail or be unable to prosecute its undertaking to completion, there is a right of condemnation.

Lonnie Bellar testified that with the exception of the CPCN, none of the necessary permits for the proposed pipeline project have been obtained.

The proposed pipeline's crossing of the Isaac W. Bernheim Foundation land is far from settled and likely will require appellate review before any right to take can be finally determined.

Furthermore, the CPCN for the pipeline project obtained on June 22, 2017 and that the project has not yet begun. KRS 278.020(1)(a) provides in relevant part that “[n]o person, partnership, public or private corporation, or combination thereof shall commence providing utility service to or for the public or begin the construction of any plant, equipment, property, or facility for furnishing to the public any of the services enumerated in KRS 278.010, [...] until that person has obtained from the Public Service Commission a certificate that public convenience and necessity require the service or construction.”

The evidence was unrefuted at trial that the project at issue has not yet begun and it has been over a year since the CPCN was issued.

Because there was no evidence that during the first year thereafter there was any delay due to any order of any court or the failure to obtain any necessary grant or consent, the CPCN for the pipeline project is void by operation of the statute.

There are not reasonable assurances that the intended use will come to pass as required by Cornett and its progeny, and therefore, the Petition is untenable. The petition must be denied as it does not appear that there are reasonable assurances that the intended use will come to pass.

As the Friends of Cedar Grove noted in our comments to the KY Public Service Commission over the last few years, the Commission was misled regarding the purposes of the LG & E Jim Beam Bullitt County Natural Gas Pipeline.

If the route was to service eastern Bullitt County, why is all of the natural gas pipeline capacity directed toward Clermont and the Interstate 65 corridor when the area is nearer to the center and western side of the county and alternate pipeline connections?

A pipeline terminus in Clermont with a population of less than a thousand people begs the question as to why a \$27.6 million pipeline, now projected at \$77 million, would be built for a small number of people in Clermont.

The Friends of Cedar Grove pursued records of meetings between LG & E and Bullitt County Government Officials through Kentucky's Open Meetings Records statutes. Information was sent to Vanessa Allen indicating that there were no official meetings, no quorum present, nor records available, but they did provide a few documents that suggest project purposes counter to those stated in the KY Public Service Meeting Notes as noted in our previous submissions with an attachment entitled "BC Gov. Response to Open Meetings Records Request".

The response from Bullitt County Government included an "LG & E Bullitt County Gas Project Information" sheet. The response from Bullitt County Government included aerial photos with overlays that depicted hashed areas over large land parcels near the Interstate 65. Although not stated, these areas clearly indicate land intended for some type of future development.

Importantly, KY Public Service Meeting Notes make no mention of existing infrastructure on HWY 480 or intent to provide services to the Cedar Grove or Solitude areas. The LG & E Bullitt County Gas Project Information sheet statements indicated that initially 130 landowners would be affected. The statement implies that more would be affected in the future. The KY Public Service Meeting Notes point only to a single 10-12 mile pipeline.

What future pipeline expansion is planned by LG & E, Jim Beam, and or Bullitt County?

## **The LG & E Jim Beam Bullitt County Natural Gas Pipeline Evolved into Pipeline-Dependent Development of the I-65 Corridor Floodplains**

The LG & E Jim Beam Bullitt County Natural Gas Pipeline was originally planned solely for Jim Beam. However, Jim Beam refused to pay the estimated cost of \$20-25 million. (See <https://wfpl.org/lge-records-show-bernheim-pipeline-would-primarily-benefit-jim-beam/>.) Later, LG & E, local government officials, and others selected a different route of the 10 routes studied by EnSiteUSA (2016, 2015) and tied the pipeline to pipeline-dependent industrial and commercial development of the I-65 Corridor.

Areas of natural gas demand were identified as including industrial development areas for the Brooks Exit Area, Cedar Grove Area, area between HWY 480 and HWY 245, HWY 61/Chapeze Lane area and over 200 acres zoned for heavy industrial, a few hundred acres in Lebanon Junction, a large existing customer, and new interstate exit. (See Response to Question 25, p. 3 of 7, Bellar/Malloy/Arbough and Response to Question 25, and Attachment to Response to PSC-3 Question No. 25, p. 3 of 5, Bellar at <https://psc.ky.gov/pscecf/2016-00371/derek.rahm%40lge-ku.com/02202017094029/2 - 2016 PSC DR3 LGE - FINAL.pdf>.)

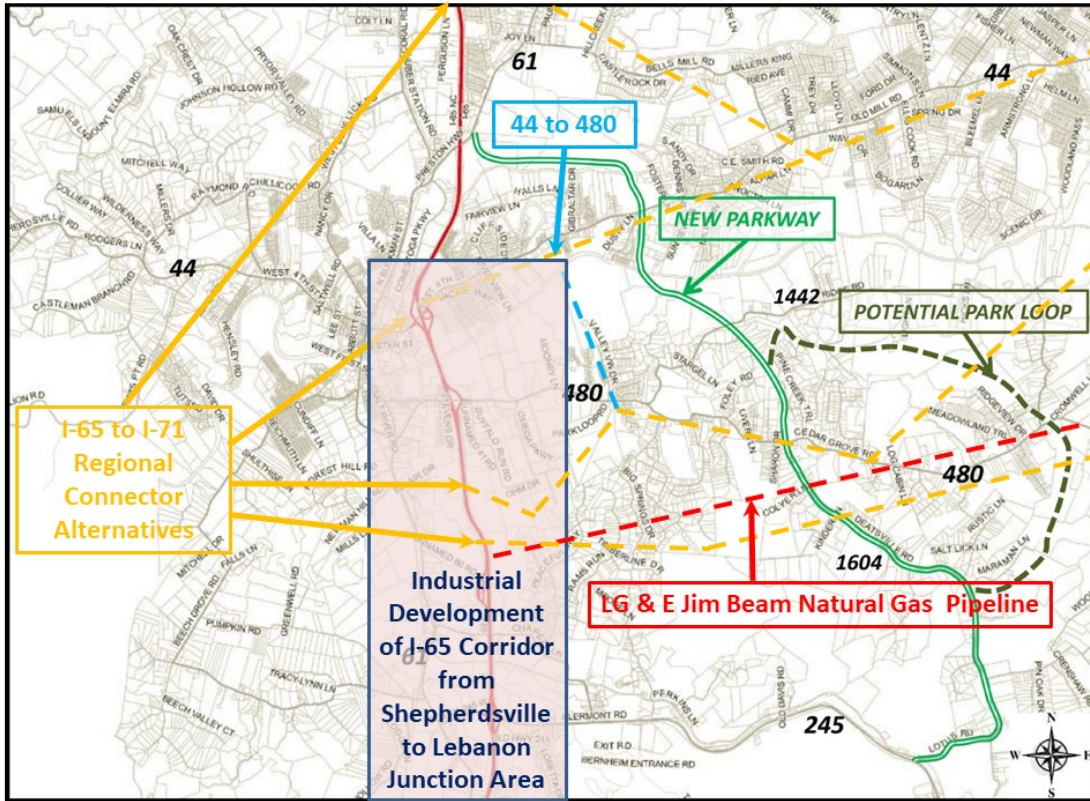
LG & E depositions even state ". . . industrial/commercial growth will occur along Interstate 65 in the Hwy 480 and Hwy 245 areas and also in the Hwy 61 and 245 locations west of Interstate 65" (See Response to Question No. 25, Page 6 of 7, Bellar/Malloy/Arbough at <https://psc.ky.gov/pscecf/2016-00371/derek.rahm%40lge-ku.com/02202017094029/2 - 2016 PSC DR3 LGE - FINAL.pdf>.)

Robert P. Flaherty, Assistant Bullitt County Attorney, sent an e-mail and pdf attachments to Vanessa Allen on September 18, 2017. The attachment included an LG & E paper entitled "Bullitt County Gas Pipeline Information" which clearly identifies the pipeline as a new transmission pipeline and would benefit commercial development.

Vanessa Allen also received an e-mail from Eric Farris on February 28, 2018 in which Mr. Farris stated: "I have learned more about the pending LG & E gas line and its intended beneficiaries and those include not only BEAM but also several of my clients in the Cedar Grove Road Industrial Park area."

On or about May 15, 2019, Jessica Sullivan, Chairman of the Bullitt County Economic Development Authority, made a presentation at the Fox Chase City Council meeting and distributed documents that stated that the pipeline was needed for major new industrial users, that 1.2 millions square feet of logistics and manufacturing space is constructed in the county per year, that LG & E could not provide gas for new industrial buildings, and new commercial growth and tax revenues would not occur without the natural gas line. Similar sessions purportedly occurred in Mount Washington about the same time.

It is clear that while the LG & E Jim Beam Bullitt County Natural Gas Pipeline was originally solely intended for Jim Beam, the project later evolved to support pipeline-dependent industrial and commercial development of the I-65 Corridor floodplains and valleys from Shepherdsville to Lebanon Junction and the Boston areas. See Figure 16.



**Figure 16. Planned LG & E Jim Beam Bullitt County Natural Gas Pipeline & pipeline-dependent industrial and commercial development within the I-65 Corridor floodplains.** The LG & E Jim Beam Bullitt County Natural Gas Pipeline and pipeline-dependent industrial and commercial development of the I-65 Corridor floodplains and valleys will likely impact the Salt River and Rolling Fork River Basins. Map: Adapted from the Bullitt County Comprehensive Plan <https://bcplannin6.wixsite.com/bullitt-county-pandz/comprehensive-plan>.

Bullitt County government officials and developers are pursuing pipeline-dependent industrial and commercial development of the I-65 Corridor floodplains from Shepherdsville to the Lebanon Junction and Boston areas. Other development activities that may impact the I-65-Corridor floodplains and flooding include the construction of four-lane and larger highways in the Salt River Basin.

Current and future LG & E Jim Beam Bullitt County Natural Gas Pipeline pipeline-dependent industrial and commercial development activities within the I-65 Corridor floodplains that have been announced by LG & E, the Bullitt County government and others include:

- Bourbon Trail Logistics Center at HWY 245, HWY 61, & Beech Grove Road.
- New warehouses at the Cedar Grove Business Park on HWY 480 and site expansion.

- Bullitt County Economic Development Authority's intent to pursue 7-14 million square feet of new warehouse space.

The LG & E Jim Beam Bullitt County Natural Gas Pipeline involves connected actions of pipeline-dependent industrial and commercial development within the I-65 Corridor floodplains and valleys and Rolling Fork and Salt River Basins. Pipeline-dependent industrial and commercial development within the I-65 Corridor floodplains would likely generate development-created runoff and flooding contributions that would negatively impact vulnerable flood-prone downstream communities including areas such as Beech Grove, Boston, Colesburg, Lebanon Junction, Pitts Point, and West Point, among others, and Fort Knox training areas, ranges, and activities.

*The Pioneer News* has quoted Bob Fouts, Interim Director of Bullitt County Economic Development Authority as stating that Amazon will need 14 million square feet of warehouse space in the coming years, and he projects that at least 7 million square feet will be needed in this area. (See Thomas J. Barr, "County building cupboard may be more bare than one might think", *The Pioneer News*, p. A-1, Monday, March 22, 2021.) Fouts claimed that the Bourbon Trail Logistics Center and two additional buildings need natural gas.

Development of floodplains for the Bourbon Trail Logistics Center illustrates how pipeline-dependent industrial and commercial development of the I-65 Corridor floodplains will generate development-created runoff and flooding contributions that will impact vulnerable downstream communities and Fort Knox.

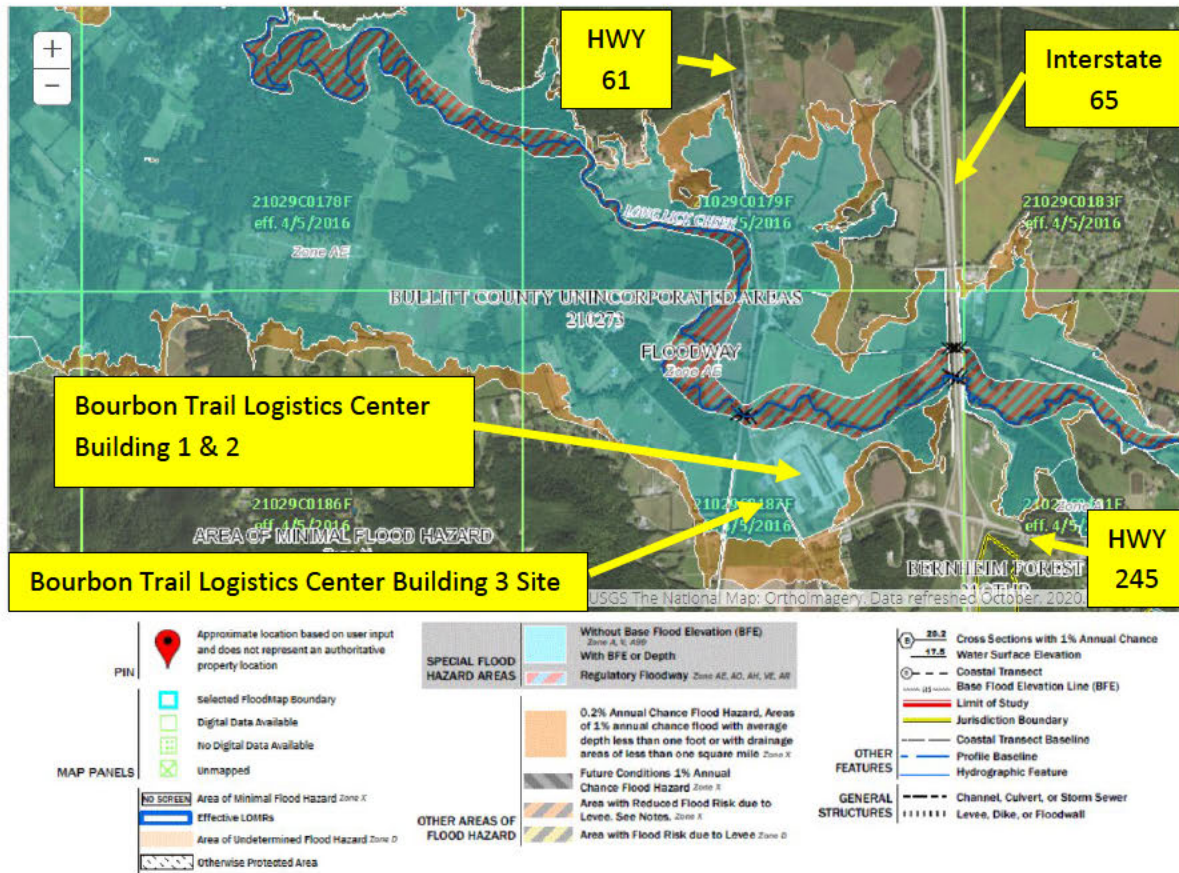
Pipeline-dependent industrial and commercial development similar to the Bourbon Trail Logistics Center is occurring or planned to occur throughout the I-65 Corridor floodplains. During such development, the floodplains and lowlands are substantially elevated with fill and then hard surfaced with pavement and structures. Such development within the I-65 Corridor floodplains may likely result in significant development-created runoff and flooding contributions to vulnerable flood prone downstream residents and threaten public safety.

Figure 17 provides a photo of the 1,088,240 square foot Bourbon Trail Logistics Center 1 built in a floodplain (See [BTLC\\_Core5\\_06.24.19.pdf \(c5ip.com\)](#).)



**Figure 17. Bourbon Trail Logistics Center Building 1.** The Bourbon Trail Logistics Center will have multiple warehouses that exceed 1 million square feet. As an indication of scale, note the water tower that is barely visible above the building that is located on the hill at I-65 and HWY 245.

The Bourbon Trail Logistics Center complex is located in Special Flood Hazard Areas as shown in Figure 18.



**Figure 18. The Bourbon Trail Logistics Center is located in FEMA-designated Special Flood Hazard Areas.** The Bourbon Trail Logistics Center Buildings are located in Special Flood Hazard Areas near the intersections of HWY 61, HWY 245, and Beech Grove Road. Adapted from FEMA National Flood Hazard Layer at <https://msc.fema.gov/portal/search?AddressQuery=clermont%2C%20ky#searchresultsanchor>

According to the *2018 Kentucky Hazard Mitigation Plan*, **Bullitt County is listed among counties that have had the largest percent increase in impervious surface, and that while such development stimulates economic activity, that activity results in increased impervious groundcover and is related to flooding.** Bullitt County is noted as a county with a high projection of displaced people due to flooding and exhibits the largest ratio of people needing shelter. It is estimated that 9,200 people can be displaced, and over 8,000 people will need shelter. (See Flooding at <https://kyem.ky.gov/recovery/Pages/2018-Kentucky-Hazard-Mitigation-Plan-.aspx>).

Pipeline-dependent industrial and commercial development in the I-65 Corridor floodplains and valleys may generate significant development-created runoff and flooding contributions that could threaten an additional 2,300 people in vulnerable flood-prone areas in Nelson and Hardin Counties in the communities of Boston (266), Colesburg (200), and West Point (797), among others, beyond the 9,200 in base estimates. (For more information, see [https://factfinder.census.gov/faces/nav/jsf/pages/community\\_facts.xhtml?src=bkmlk](https://factfinder.census.gov/faces/nav/jsf/pages/community_facts.xhtml?src=bkmlk)).

The development-created runoff and flooding contributions from pipeline-dependent industrial and commercial development of the I-65 Corridor floodplains may be significantly multiplied

with climate change and extreme precipitation events. Kentucky is projected to experience an increase in the frequency and intensity of heavy rainfall events and floods in the future due to climate change. (See NOAA information at <http://www.kyclimate.org/doc/NCEI%20Kentucky%20State%20Climate%20Summary.pdf> and EPA information at <https://19january2017snapshot.epa.gov/sites/production/files/2016-09/documents/climate-change-ky.pdf>).

The Friends of Cedar Grove have additional resources related to pipeline-dependent industrial and commercial development of the I-65 Corridor floodplains, flooding, and threats to public safety that we can make available upon request.

## **The KY Public Service Commission Failed to Respond to the Friends of Cedar Grove's Requests for Public Hearings & More**

The KY Public Service Commission has ignored the numerous comment submissions and contacts from the Friends of Cedar Grove and our affiliated parties. Beginning in 2017, we made numerous requests for hearings and phone calls that were ignored. At one point, KY Public Service Commission staff commented to our folks that they ignored us since we were a group and not represented by an attorney.

The KY Public Service Commission also ignored our Open Records Requests.

Our records of contact with the KY Public Service Commission includes telephone conversations with people affiliated with us such as calls with Vanessa Allen, Kim Brown and COL Richard Parker, as well as our numerous letters to KY Public Service Commission (e.g., September 22, 2017, March 14, 2019).

Some example titles of Friends of Cedar Grove comments that the KY Public Service Commission should have in correspondence records include: "Louisville Gas and Electric Calvary Natural Gas Pipeline Case number 2016-00370 and 2016-00371—Request for Review on the Certificate of Public Convenience and Necessity and the Pipeline" (2017, November 5); "Louisville Gas and Electric Calvary Natural Gas Pipeline Case number 2016-00370 and 2016-00371—Request for Review on the Certificate of Public Convenience and Necessity and the Pipeline" (2018, March 12, 21); "Request for KY State Government Oversight of the Kentucky Public Service Commission by the Governor and Attorney General – and Request Under Kentucky Open Records Act" (2018, May); "New LG & E Calvary Natural Gas Pipeline—Need for Public Disclosure, Detailed Environmental Analysis and Notice and Comment" (2019, April 11); "New LG & E Calvary Natural Gas Pipeline—Need for Public Disclosure, Detailed Environmental Analysis and Notice And Comment" (2019, May 15); "Demand for Public Hearing Via KRS 151.182 (2) on KY Division of Water Stream Construction Permit 28801P and New LG & E Calvary Natural Gas Pipeline" (2019, June 9).

## **The KY Public Service Commission Shall Be the Legally Relevant Cause of the Effects of Their Approval**

Consistent with the decision and direction in *Sierra Club v. FERC*, No. 16-1329 (D.C. Cir. Aug. 22, 2017), it is the position of the Friends of Cedar Grove that the KY Public Service Commission, KY Division of Water and U.S. Army Corps of Engineers will be the legally



relevant cause of the direct and indirect effects of the permits they approve that allow the pipeline. As noted in that case, the U.S. Army Corps of Engineers was determined to be legally responsible to conduct a hard look at the project, alternatives, issues and opposing viewpoints, and to prepare a detailed statement disclosing environmental impacts [via an Environmental Assessment or Environmental Impact Statement], including downstream effects and connected actions.

## **Detailed Environmental Analysis is Needed for This Project**

As the Friends of Cedar Grove has argued since we first became aware of the LG & E Jim Beam Bullitt County Natural Gas Pipeline, this project is inappropriate for analysis under a U.S. Army Corps of Engineers 404 Categorical Exclusion via Nationwide Permit 12. The LG & E Jim Beam Bullitt County Natural Gas Pipeline project is not minor and involves numerous extraordinary circumstances. An individual 404 permit review process is needed with an Environmental Impact Statement or Environmental Assessment.

It is clear that LG & E needs to select a different route as LG & E and EnSiteUSA (2016, 2015) studied at least 10 alternative routes, and other alternative routes are available, to avoid the Cedar Grove area to appropriately implement the Clean Water Act and Federal and state laws and regulations protecting water quality.

A Categorical Exclusion Nationwide Permit 12 is inappropriate as the project is not minor as a 12-mile long \$77 million project; is expansive in scope when considering connected actions and the significant cumulative effects of the project and other actions across space and time; the extensive extraordinary circumstances present in the area that include Federally-designated critical habitat; impacts to Federally-listed species such as the Kentucky Glade Cress; cultural resources; risks to public health and safety created by the existing Calvary Natural Gas Pipeline that does not comply with Federal regulations; and the scientific uncertainty, unknown effects, and risks to public health and safety created by co-locating the pipeline along 5-6 miles of the East Kentucky Power Cooperative high voltage transmission lines and facilities that could result in cathodic discharge and explosion. The project may also impact or damage the Mid-Valley Crude Oil Pipeline, a component of the nation's critical infrastructure involving 14 states.

It is clear that the Cedar Grove area must be avoided to avoid negative impacts to numerous 303(d) listed impaired streams and water quality; perpetually-protected deed restricted mitigation sites such as Bernheim Forest's Big Level Complex; Outstanding State Waters and Outstanding Resource Water containing Federally-listed species and habitat and areas that streams flow through or are bounded by exceptional aesthetic or ecological values or unique geological, natural or historical areas recognized by state or Federal designation and undisturbed watersheds; floodplains; karst and innumerable sinkholes; landslide-prone areas with a history of sizeable landslides; New Albany Shale deposits that can release acid drainage and toxins and degrade infrastructure; and impacts to aquifers, groundwater, springs and wells that many residents depend upon for potable drinking water.

The project area includes substantial Endangered Species Act issues as it hosts Federally-listed species and designated critical habitat. The area hosts Federally-listed species including the Kentucky Glade Cress and the Indiana and Northern Long-eared Bats, among other species. The project also passes through Federally-designated critical habitat.

The area contains jurisdictional waters of the United States; wetlands, flood plains, prime agricultural lands, aquifer recharge zones, and sensitive fish and wildlife habitat. The area contains extensive sensitive habitats with species of conservation concern, as well as natural areas including the Apple Valley Glades State Nature Preserve, Pine Creek Barrens Natural Area, and Bernheim Forest's Big Level natural area which was acquired with \$1.4 million in Federal funds from the U.S. Fish and Wildlife Service's Imperiled Bat Conservation Fund. The area also hosts numerous historic and cultural resources and values and contains historic graves and features associated with the presence of Native Americans and burial sites.

Extraordinary circumstances exist with the risks to public health and safety from pipeline failure and explosions. Significant risks exist to the public with the existing 77-year old Calvary Natural Gas Pipeline from which the new pipeline will originate. The Calvary Natural Gas Pipeline has failed repeated inspections and has not demonstrated pipeline integrity and safety as required by Federal regulations. In addition, the Calvary Natural Gas Pipeline does not comply with cathodic protection requirements specified in Federal regulations.

The Friends of Cedar Grove have noted voluminous specific environmental issue and concerns and environmental and human impacts and effects in our comments across agencies that demand detailed environmental analysis in an Environmental Assessment or Environmental Impact Statement. We can make those documents available upon request.

## **Administrative Remedies Requested of the KY Public Service Commission**

The KY Public Service Commission needs to implement numerous specific administrative remedies to correct the arbitrary and capricious planning process and myriad of problems with the planned LG & E Jim Beam Bullitt County Natural Gas Pipeline and the existing Calvary Natural Gas Pipeline.

Due to the numerous risks to public health and safety and the potential for significant impacts to the natural and human environment and presence of numerous extraordinary circumstances, the KY Public Service Commission needs to implement following minimum remedies:

- **Cancel the invalid and illegal Certificate of Public Convenience and Necessity and any other approvals for the LG & E Jim Beam Bullitt County Natural Gas Pipeline. The KY Public Service Commission needs to revoke all permits approvals and certificates associated with cases 2020-00350, 2016-00370 and 2016-00371.**
- **Require that the existing 77-year old 53-mile long Calvary Natural Gas Pipeline comply with pipeline inspection requirements at 49 CFR § 192.939 for the entirety of the pipeline prior to any review of application for certificates and permits on the existing line or any new connections to that line.**
- **Require that the existing Calvary Natural Gas Pipeline comply with 49 CFR Part 192 Appendix D Requirements for Cathodic Protection prior to review of application for certificates and permits on the existing line or any new connections to that line.**
- **Require that all 49 CFR requirements are met for the existing Calvary Natural Gas Pipeline prior to any additional reviews for the Certificate of Public Convenience**

and Necessity, and any other certificate-contingent reviews or permits for any new LG & E pipelines.

- **Require that LG & E select a different route than that planned through Cedar Grove and Solitude for the LG & E Bullitt County Natural Gas Pipeline from among the 10 or more routes studied by EnSiteUSA (2016, 2015) or other alternative routes that prevents the safety and environmental threats and impacts that will occur with the Cedar Grove and Solitude route.**
- **Require that the new route undergo a new application processes for the Certificate of Public Convenience and Necessity, and any other certificate-contingent permits and approvals such as those issued by the KY Division of Water and U.S. Army Corps of Engineers, from the very first step.**
- **Require a minimum separation distances (e.g., 1 mile) between the new LG & E pipeline route and energetic sources such as the East Kentucky Power Cooperative high voltage transmission lines and substations to prevent electrical interference and explosion and ensure safety and infrastructure integrity via cathodic protection. See 49 CFR Part 192 Appendix D.**
- **Provide full public disclosure of the pipeline route alternatives, all pipeline activities, and all connected actions.**
- **Disclose full details of the proposed new pipeline route, pipeline, including pipeline specifications, maps of routes, and land ownerships.**
- **Disclose all relevant laws and findings of environmental permits and approvals involved.**
- **Disclose and analyze the risk of terrorist attack on the LG & E Jim Beam Bullitt County Natural Gas Pipeline and mitigation strategies and their impacts, or if terrorism is not a threat in this case, forever forbid LG & E from ever making such a claim in the future in seeking to preventing public disclosure of project documents and information.**
  - **LG & E asserted concerns about terrorism in several documents and communications to justify not disclosing information on the pipeline to landowners and the public. If true, the threat of terrorism and mitigation measures needs to be analyzed. The Bureau of Land Management's Environmental Impact Statement analysis of the risks of terrorism and mitigation strategies for the Burning Man Permit exemplifies how this analysis may be conducted. (See [https://www.washingtonpost.com/politics/Federal-agency-frets-about-terrorism-threats-at-burning-man/2019/04/03/a6b64e60-563f-11e9-aa83-504f086bf5d6\\_story.html?noredirect=on&utm\\_term=.5049732cb0e0](https://www.washingtonpost.com/politics/Federal-agency-frets-about-terrorism-threats-at-burning-man/2019/04/03/a6b64e60-563f-11e9-aa83-504f086bf5d6_story.html?noredirect=on&utm_term=.5049732cb0e0)).**
- **Require that a detailed environmental analysis of all project activities and connected actions and the pipeline's potential for significant impacts to the natural and human environment be conducted by the U.S. Army Corps of Engineers that fully identifies and considers the presence of numerous extraordinary circumstances (see 33 CFR 325 Appendix B 6 b) and formal public notice and comment including public comment periods and public hearings be conducted that will comply with the National Environmental Policy Act, Administrative Procedures Act, and other**

Federal laws and regulations (e.g., 33 CFR §220.4 (a), and 33 CFR 325 §325.3), and KRS 278.020(1).

- **Conduct public involvement and public notice and comment opportunities including formal public comment periods and public hearings in Cedar Grove and Clermont.**
  - **Begin the comment period only after the plans and environmental documents are publicly available on the web and in hard-copy by request well in advance of the comment period.**
  - **Publish announcements and information about the pipeline and public comment period in the *Pioneer News* and *Courier Journal* neighborhood sections and via other forms of local communications in Shepherdsville at least 3-weeks prior to the public comment period, again 1 week prior to the public comment period, and again 3 days prior to the public comment period.**
  - **Mail written notices to all landowners affected by the pipeline and area residents (at least those located with 2 miles of the pipeline) at least 3-weeks prior to initiation of the public comment period.**
  - **Publish a Legal Notice of 30-Day Comment Period that specifies all actions and connected actions and the communities of Cedar Grove, Solitude, and Clermont in the *Pioneer News* that is fully compliant with 40 CFR Part 124 and which initiates the public comment period.**
  - **Accept public comments via e-mail, fax, U.S. Mail, hand-delivered comments, and oral comments.**
- **Following all public disclosures, issuance of the environmental analysis, and completion of the 30-Day or 45-Day public comment period, the KY Public Service Commission and other regulatory agencies should conduct local public hearings at Cedar Grove School and Bernheim Middle School. Hold the public hearings at least 1-2 weeks apart.**
  - **Hold a public hearing at Cedar Grove School on a Saturday, mid-day from approximately 10 AM – 5 PM.**
  - **Hold a public hearing at Bernheim Middle School on a different Saturday, mid-day from approximately 10 AM – 5 PM.**
  - **Publish announcement and information about the public hearings in the *Pioneer News* and *Courier Journal* neighborhood sections and via other forms of local communications at least 3 weeks prior to the public hearings, 1 week prior to the public hearings, and 3 days prior to the public hearing.**
  - **Publish a Legal Notice of Public Hearing that specifies all actions and connected actions and the communities of Cedar Grove, Solitude, and Clermont in the *Pioneer News* that is fully compliant with 40 CFR Part 124 at least 1 week before the public hearings.**

- **Mail notices of the public hearings to all landowners that will be crossed by the pipeline and all residents located within 2 miles of the pipeline route at least 3 weeks prior to the public hearings.**

Respectfully,

## **The Friends of Cedar Grove**

Please note that a few of our stalwart core group has allowed their names to be inserted in letters from the beginning, but approximately 250 neighbors signed petitions in 24 hours in early 2019 seeking formal public hearings in Cedar Grove and Clermont (that was never acted on by the U.S. Army Corps of Engineers or KY Division of Water) and administrative hearings on the KY Division of Water's 2019 violations, and innumerable residents and stakeholders are aligned with us on these issues.

Signed,

Shirley Akers

C.M. Allen

Beth Cavote

Hubert Cox

Opal Day

Pat and Christine Doctor

Art and Rosie Fowler

Jo Ann Gayle

Kelly Grassi

Curtis and Donna Hall

Linda (Cox) Haynes and Family

Keith and Sherry Hurt

Jill Johnson and Family

Steve and Ramona Laswell

Chris Maisel

Daphanie McCubbins

Mike and Joann Newman

Tony and Shawna Newton

Roger Peck

Linda Schriber

Mick and Debbie Survance

Jamie and Jennifer Talley

Laurie VanKampen

Paul Whitworth, Ph.D.

Debbie (Cox) Ziegler and Family

## And the Friends of Cedar Grove

Friends of Cedar Grove contact for more information:

Donna Hall

Friends of Cedar Grove

Phone: [REDACTED]

E-mail: [REDACTED]

E-mail: [REDACTED]

Mailing Address:

Donna Hall

C/O 1126 Deatsville Road

Shepherdsville, KY 40165

In addition to the e-mail distribution list noted at the top of this document, we are also copying additional interested and or affected stakeholders that have engaged in this process including:

[REDACTED]

[REDACTED]





***Filed Electronically***  
COMMONWEALTH OF KENTUCKY  
BULLITT CIRCUIT COURT  
DIVISION ONE  
CIVIL ACTION NO. 19-CI-750  
CIVIL ACTION NO. 19-CI-751  
CIVIL ACTION NO. 19-CI-752  
CIVIL ACTION NO. 19-CI-753  
CIVIL ACTION NO. 19-CI-754  
CIVIL ACTION NO. 19-CI-755  
CIVIL ACTION NO. 19-CI-757  
CIVIL ACTION NO. 19-CI-758

LOUISVILLE GAS AND ELECTRIC COMPANY

PLAINTIFF

VS.

**PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW**

IOLA CAPITAL, LLC, et al.

DEFENDANTS

\*\*\* \*\*

Defendants, Iola Capital, LLC, Mark Carter, Monica Carter, and Pam Quarterly (collectively the “**Iola Defendants**”), by counsel, and pursuant to this Court’s instructions to the Parties at the close of trial on Friday, March 12, 2021, hereby submit their proposed findings of fact and conclusions of law as follows:

**Issue No. 1.**

***Petitioner’s ability to condemn the Iola Property in light of allegations of fraud, bad faith, abuse of discretion, collusion, and pretextual taking.***

- 1) The Parties do not dispute that entities such as Petitioner LG&E may have authority to condemn property through the sovereign power of eminent domain subject to constitutional requirements of public use and just compensation. *God’s Center Foundation v. Lexington Fayette Urban Co. Govt.*, 125 S.W. 3d 295, 299 (Ky. App. 2002). See also *Baston v. Cty. of Kenton ex rel. Kenton Cty.*

*Airport Bd.*, 319 S.W.3d 401, 406 (Ky. 2010); *Paducah Independent School District v. Putnam & Sons, LLC*, 520 S.W.3d 367, 376 (Ky. 2017).

- 2) This does not, however, mean that Petitioner's potential ability to condemn private property is absolute or unbounded.
- 3) Courts will interfere with a decision to condemn where there has been such a clear and gross abuse of discretion as to violate Section 2 of the Constitution of Kentucky, which section is a guaranty against the exercise of arbitrary power. *Commonwealth Dep't of Highways v. Vandertoll*, 388 S.W.2d 358, 360 (Ky. 1964); see also *Diebold v. Louisville Gas and Electric Company*, 2019-CA-000393-MR, 2020 WL 113936 (Ky. App. Jan. 10, 2020). Courts are authorized to interfere with the proposed plans to take property pursuant to eminent domain where there is positive proof of fraud, collusion, or a clear abuse of discretion. *Pike County Board of Education v. Ford*, 279 S.W.2d 245, 248 (Ky. 1955).
- 4) In addition, courts are authorized to interfere with the proposed taking where a condemnor's true intent was for private rather than public use, such that the "primary purpose" in seeking condemnation was not for public use. *God's Center Foundation, Inc. v. Lexington Fayette Urban County Government*, 125 S.W.3d 295, 302 (Ky. App. 2002); see also *City of Bowling Green v. Cooksey*, 858 S.W.2d 190, 192 (Ky. App. 1992) ("The evidence further revealed that there was not a safety or noise problem associated with the land, and that obtaining the land for the claimed purpose of providing a clear zone or noise buffer zone **was not truly the motive** for acquisition of the property.").

- 5) Kentucky law thus echoes the U.S. Supreme Court's teaching that a condemning authority is not permitted to take property under the mere pretext of a public purpose, when its actual purpose was to bestow a private benefit. *Kelo v. City of New London, Conn.*, 545 U.S. 469, 477-78, (2005).
- 6) The Iola Defendants assert that LG&E abused its discretion to a degree amounting to a violation of the Iola Defendants' due process rights and that LG&E has failed to meet the threshold standard for a proper taking of private property for public use.
- 7) After careful consideration of the evidence, documents, and testimony elicited at trial, and weighing the condemnor's asserted right to take against the requirement that it exercise its discretion to take without fraud, bad faith, collusion or pretext, the Court agrees and determines that LG&E has failed to meet the minimum threshold as discussed below.

**A. Collusion with Jim Beam**

- 8) The Iola Defendants argued at trial that LG&E colluded with Jim Beam to proceed with the proposed pipeline under the pretext of public need when, in fact the *primary purpose* of the pipeline was to the benefit of Jim Beam, a private entity. Specifically, the Iola Defendants sought at trial to expose and refute the direct testimony of Lonnie Bellar, the Chief Operating Officer of LG&E, to the effect that LG&E did not treat Jim Beam any differently than it treated any other LG&E customer regarding the proposed pipeline.
- 9) The Iola Defendants credibly established the following factual basis for its allegations of abuse of discretion, collusion, and pretextual taking:

- That in LG&E's maps and internal discussions, the proposed pipeline was consistently referred to as the "Jim Beam Pipeline" Defendants' Exhibit (hereinafter "**DEX**") 98 shows that the proposed pipeline feeds into the Jim Beam Line Regulation facility and then into the Jim Beam HP distribution system.<sup>1</sup>
  - That although the supply of natural gas to the area was through an existing system that had worked well and unchanged for over fifty years, the direct impetus for the project was Jim Beam's request for the pipeline. (**DEX 92** and **DEX 25**).
  - That LG&E's estimates for projected natural gas usage establish that in the relevant time frame, LG&E believed that one hundred percent (100%) of the gas going through the proposed pipeline in the first two years would be used by Jim Beam and that well over ninety-five percent (95%) of the estimated additional gas usage in the first five years was also for Jim Beam. (**DEX 25**).
  - That Jim Beam was and is the only user of the pipeline system in Bullitt County with "FT status," allowing it to privately contract with natural gas suppliers other than LG&E. As such, Jim Beam is not currently using nor projected to use any proposed pipeline for gas purchased from LG&E as a public utility.
  - That Jim Beam's use of the proposed pipeline would simply be as a means to transport natural gas from other privately contracted third-party natural gas vendors to Jim Beam though a pipeline to be paid for by the rate-payers of Kentucky.
  - That Tom Rieth conceded on cross-examination that proposed maps showing possible routes for the Pipeline had been sent to Jim Beam by LG&E.
- 10) The Court finds persuasive the testimony of Kevin Evans, the then Operations Manager at Jim Beam, for the distilleries to be served by the proposed pipeline, regarding Jim Beam's understanding of the sequence of events involving the proposed pipeline. Through a timeline prepared by Mr. Evans, as authenticated by his testimony (**DEX 92**), the Iola Defendants have met any burden of

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<sup>1</sup> LG&E shared maps with Jim Beam in late 2015 as indicated in emails (**DEX 12**), although LG&E failed to produce such route maps in discovery. In trial, LG&E indicated it was unable to locate the email attachments referenced.

establishing that in 2015 (i.e., prior to the 2016 Rate Case testimony of Mr. Lonnie Bellar regarding the reliability of the Calvary line and the need for a new pipeline to address reliability issues without mentioning Jim Beam), Jim Beam was deeply involved in the pipeline project. The timeline entitled “Beam Pipeline Discussion General Timeline – June 26, 2019,” (and introduced as **DEX 92**) as well as Mr. Evans’ testimony establishes that Jim Beam:

- recognized a gap in its natural gas supply while working on distillery expansion concepts and options;
  - hired Schneider Electric as a 3rd party utility consultant;
  - held meetings with LG&E on options to supply more natural gas to its facilities;
  - was asked by LG&E to pay for a new pipeline with an estimated cost of \$20-25 MM;
  - rejected that request; and
  - asked Schneider Electric to come up with other options.
- 11) Of particular significance, DEX 92 states that in 2015, “In further meetings between Schneider Electric and LG&E it was determined that future growth in the Bullitt County Area would require more gas than just our need and it made sense for LG&E to install a pipeline at their expense to support the need in Bullitt County.”
- 12) The timeline also further chronicled a meeting including LG&E and Jim Beam in 2016 involving a “brief, conceptual discussion regarding the pathway LG&E might consider for the pipeline ...”. The 2016 entry also notes a June 16, 2016 “Cross functional meeting with Schneider Electric, LG&E and Beam to review and discuss gas supply options. 2 points of interest from Evans notes – 1) Gas

line extension is planned without Beam funding, 2) LG&E does not have exact route at this time.”

- 13) The Court notes that Mr. Evans conceded that where the timeline states that in 2016, “Schneider Electric continued to develop strategy and work with Beam and LG&E on potential solutions,” that reference to “strategy” included Jim Beam not paying for the pipeline, and the cost of the pipeline being covered by the customers paying for gas service only, with no additional contribution by Jim Beam.
- 14) Accordingly, from the evidence, testimony, and documents discussed above, the Court finds that LG&E colluded with Jim Beam to conceal from the public the primary purpose of the proposed pipeline and coordinated with Jim Beam to shift the cost of the pipeline onto the rate-payers of Kentucky under the pretext that the pipeline was necessary to address reliability concerns in the existing pipeline. While the Court is cognizant that the proposed pipeline might indeed address reliability concerns or even growth needs, the Court is persuaded and accordingly determines that the primary purpose of the proposed pipeline was to meet the needs of a private purpose, (i.e. for Jim Beam to privately purchase and then use this gas line for transport), and that LG&E worked closely with Jim Beam and its agent, Schneider Electric, to find alternative rationales for justifying the pipeline as a public expense.
- 15) Testimony from LG&E regarding its current assessment of turn-downs for electrical service does not retroactively change the fact that when the right to take was asserted, which is what this Court is reviewing, the primary purpose was to

benefit Jim Beam and accordingly, the Court finds that these turn-downs do not negate the finding of collusion and pretextual taking.

**B. Representations to the Public Services Commission**

- 16) Prior to initiating this condemnation action, LG&E acquired a Certificate of Public Convenience and Necessity (“CPCN”) for the proposed pipeline via a ruling issued by the Public Services Commission (“PSC”) in the 2016 Rate Case.
- 17) KRS 278.020(1) provides that any corporation providing a utility service to the public shall initially obtain a certificate of necessity from the PSC before commencing construction upon any plant, equipment, property or facility. “To be entitled to such a certificate of necessity, the applicant must demonstrate a need for the proposed facility and the absence of wasteful duplication. [...] A “need” may be demonstrated by “showing of a substantial inadequacy of existing service” and “wasteful duplication” may be demonstrated by showing “an excess of capacity over need,” “excessive investment in relation to productivity,” or “unnecessary multiplicity of physical properties.” *Citizens for Alternative Water Sols. v. Kentucky Public Service Com’n*, 358 S.W.3d 488, 490 (Ky. App. 2011), citing *Ky. Utilities Co. v. Pub. Serv. Comm’n*, 252 S.W.2d 885 (Ky. 1952).
- 18) The Iola Defendants argued at trial that LG&E’s acquisition of the CPCN for the proposed pipeline was shrouded in fraud, deceit, and bad faith, and that these actions by LG&E’s conduct warranted a factual finding by this Court that LG&E had thereby abused its discretion with respect to the public need for the Iola Defendants’ property.



- 19) The Iola Defendants took specific issue with the direct testimony of Lonnie Bellar that LG&E's application for the CPCN for the pipeline project had been approved by the PSC.
- 20) To the contrary, the Iola Defendants argued that LG&E had not in fact submitted an application for the CPCN as required by statute and regulation but had instead initially denied the need for a CPCN and then, only after having been required by the PSC to provide additional information regarding the project that had been mentioned in testimony by Mr. Bellar before the PSC in that Rate Case, LG&E requested in a post-trial brief that the PSC essentially deem the application made and grant the CPCN. The PSC assented and issued the CPCN.
- 21) After considering the testimony and evidence presented by the parties, the Court agrees with the Iola Defendants' characterization of the process by which LG&E acquired the CPCN such that the Court finds that LG&E did not submit an application for a CPCN for the proposed pipeline and did not provide notice to the public that it would seek a CPCN for the pipeline at issue in this condemnation action.
- 22) Furthermore, the Court also makes factual determinations with respect to the grounds upon which LG&E sought the CPCN. The Court finds, based on the evidence, testimony, and documents presented at trial that LG&E's assertions of a need for the pipeline based on concerns about reliability did not reflect the true intent or primary purpose of the pipeline.
- 23) In failing to acknowledge before the PSC the extent of the role played by Jim Beam, including LG&E's own estimates that the overwhelming majority of natural gas to be delivered via the proposed pipeline in its first five years of

operation would be to deliver natural gas contracted through a third party to Jim Beam, LG&E abused its discretion with respect to the asserted public need for the Iola Defendants' property. This is particularly the case here given the overwhelming majority of the usage of the proposed pipeline was and is for Jim Beam, and for privately contracted for gas, not gas obtained from LG&E, as the public utility.

- 24) Accordingly, based on the evidence, testimony, and documents discussed above, the Court determines that the primary purpose of the taking was for a private purpose to benefit Jim Beam, and therefore the Petition is denied.

**Issue No. 2.**

***Whether LG&E negotiated in good faith when attempting to acquire the Property by less drastic means.***

- 25) By statute, LG&E was required to make a good faith attempt to acquire the Defendants' property by agreement or contract:

Any corporation or partnership organized for the purpose of [...] constructing, maintaining, or operating oil or gas wells or pipelines for transporting or delivering oil or gas, including oil and gas products, in public service **may, if it is unable to contract or agree with the owner after a good faith effort to do so, condemn the lands** and material or the use and occupation of the lands that are necessary for constructing, maintaining, drilling, utilizing, and operating pipelines, underground oil or gas storage fields, and wells giving access thereto and all necessary machinery, equipment, pumping stations, appliances, and fixtures, including tanks and telephone lines, and other communication facilities, for use in connection therewith, and the necessary rights of ingress and egress to construct, examine, alter, repair, maintain, operate, or remove such pipelines or underground gas storage fields, to drill new wells and utilize existing wells in connection therewith, and remove pipe, casing, equipment, and other facilities relating to such underground storage fields and access wells. **The proceedings for condemnation shall be as provided in the Eminent Domain Act of Kentucky.**

KRS 278.502 (emphases added).

- 26) The requirement that LG&E make a good faith attempt to acquire Defendants' property through less drastic means than condemnation is firmly set in the case law and "a failure to engage in a proper negotiation may serve as the basis for the dismissal of a condemnation action." *Louisville and Jefferson County Metropolitan Sewer Dist. v. Becker*, 2001-CA-001457-MR, 2003 WL 1253699, at \*4 (Ky. App. Feb. 7, 2003) (emphasis added) citing *Eaton Asphalt Paving Co. v. CSX Transp.*, Ky. App., 8 S.W.3d 878 (1999), disc. rev. denied, quoting *Howard Realty Co. v. Paducah and I.R. Co.*, 182 Ky. 494, 206 S.W. 774 (1918). "Kentucky courts have also imposed a duty on the condemnor to negotiate in good faith the acquisition of the property prior to seeking condemnation." *God's Center Foundation*, 125 S.W.3d at 300 citing *Eaton Asphalt Paving Co. v. CSX Transportation, Inc.*, Ky. App., 8 S.W.3d 878, 883 (1999)(quoting *Usher & Gardner, Inc. v. Mayfield Independent Board of Education*, Ky., 461 S.W.2d 560 (1970)). See also *Coke v. Commonwealth, Department of Finance*, Ky., 502 S.W.2d 57 (1973).
- 27) Petitioner argued that it had made offers to the Iola Defendants and asserted that Mrs. Brown, Iola's Manager, had refused to make a counter-offer. The Iola Defendants argued that contrary to the requirements of the statute and case law, LG&E has engaged in actions that cannot be considered "good faith" attempts to negotiate or acquire the rights sought in this action by contract or agreement attempting to take the property. Specifically with respect to the question of whether the Iola Defendants refused to negotiate by failing to make a counter offer, the Iola Defendants directed the Court's attention to the full contents of the email exchanges between counsel, wherein Iola Defendants' counsel did indeed

respond to the offer from LG&E by insisting that as a preliminary matter, LG&E agree to pay up front for damage to the Iola property caused by LG&E's initial inspections on to the property to assess the suitability of the site, including damage to crops and fencing and allowing livestock to escape.

- 28) LG&E did not offer any testimonial evidence to refute this, nor did it ever compensate Iola for such damages.
- 29) As to the question of whether LG&E negotiated in good faith, the Court first considers what constitutes negotiations as contemplated by the statute. As a threshold matter, the Court finds, based on her testimony, that Mrs. Brown, as manager of Iola, is a sophisticated landowner who had dealt with utility companies seeking easements over this property in the past, and had come to several agreements with utility companies for said easements without the need for condemnation. Further, the Court finds that Mrs. Brown credibly testified that she had numerous conversations with LG&E personnel and agents prior to and independent of the formal offers made by LG&E's counsel regarding the specific path of the proposed pipeline over the property, whether the Iola Defendants would be given a "farm tap", and whether the entirety of the property was required. Accordingly, the Court finds persuasive Mrs. Brown's testimony that the entirety of her interactions with LG&E personnel and those acting on LG&E's behalf as agents were in fact negotiations for the property rights at issue in this condemnation action as contemplated by the statute.
- 30) This then leaves the issue of whether LG&E's actions in these negotiations were of a nature so as to warrant a finding that LG&E acted in good faith when negotiating for the property rights at issue. The Court finds that they were not.

- 31) While the Court is troubled by the fact that within weeks after telling the PSC that it would be offering farm taps to landowners (and did so with Iola), LG&E changed course internally and failed to advise the PSC of the change, this is not the only issue of concern regarding its negotiations.
- 32) The Court finds dispositive two written agreements signed by various LG&E personnel and contractors acknowledging that Mrs. Brown was placed under extreme duress by LG&E. Indeed, the second of these signed, written acknowledgements of extreme duress, contains strikeouts for certain terms but notably, not the portion where LG&E acknowledged that it had placed Mrs. Brown under extreme duress. Petitioner sought to refute the substance of the written acknowledgements of extreme duress through the testimony of Stephen Beatty, the lead engineer on the project. Mr. Beatty testified to the effect that he believed he had a good relationship with Mrs. Brown and that he worked hard to arrange mutually convenient times for the on site visits by LG&E personnel and contractors, that often involved dozens of people and multiple vehicles. While he may indeed have done so, Mrs. Brown's asserted polite demeanor at later on-site visits, often involving dozens of people and vehicles, does not in any way dispel the actual duress that may have been inflicted upon her and her family. Mrs. Brown's alleged grace under pressure does not suggest that there never was any pressure in the past or that the pressure was not present.
- 33) In addition, the Court finds that LG&E engaged in a public relations campaign to sway public opinion against property owners, such as the Iola Defendants, who opposed the proposed pipeline and that this campaign included the implication that these "hold-outs" were to blame for potential interruptions of gas service,

which had not been an issue for more than 50 years. Nor is the Court persuaded that there is some arbitrary time frame in which the good faith of the negotiations is to be evaluated. Improper pressure exerted upon a landowner to drop opposition to a taking is improper whether it occurs before, during, or after the condemnation proceedings have begun. These tactics preclude a finding by the Court that LG&E acted in good faith in its negotiations for the property rights.

**Issue No. 3.**

***Whether there is a reasonable likelihood that the intended use will come to pass.***

- 34) The Kentucky Supreme Court adopted the “reasonable assurance” test to determine whether the right of condemnation may be granted when all necessary permits have not yet been obtained in *Northern Kentucky Port Authority, Inc. v. Cornett*, 625 S.W.2d 104 (Ky. 1981), stating:

The test must be whether there is a reasonable assurance that the intended use will come to pass. If there is reasonable probability that the public utility will comply with all applicable standards, will meet all requirements for the issuance of necessary permits, and will not otherwise fail or be unable to prosecute its undertaking to completion, there is a right of condemnation.

*Id.* See also *Jent v. Kentucky Utilities Co.*, 332 S.W.3d 102, 106 (Ky. App. 2010).

- 35) Lonnie Bellar testified that with the exception of the CPCN, none of the necessary permits for the proposed pipeline project have been obtained. The Court is also aware of the fact that this proposed pipeline project as it relates to the Isaac W. Bernheim Foundation is far from settled and likely will require appellate review before any right to take can be finally determined in this Court or elsewhere.
- 36) Furthermore, the testimony and evidence elicited at trial established that the CPCN for the pipeline project for which the Iola Defendants’ properties are

sought was obtained on June 22, 2017 (**DEX 42**) and that the project has not yet begun. KRS 278.020(1)(a) provides in relevant part that “[n]o person, partnership, public or private corporation, or combination thereof shall commence providing utility service to or for the public or begin the construction of any plant, equipment, property, or facility for furnishing to the public any of the services enumerated in KRS 278.010, [...] until that person has obtained from the Public Service Commission a certificate that public convenience and necessity require the service or construction.”

37) KRS 278.020 (1)(e) further provides:

Unless exercised within one (1) year from the grant thereof, exclusive of any delay due to the order of any court or failure to obtain any necessary grant or consent, the authority conferred by the issuance of the certificate of convenience and necessity shall be void, but the beginning of any new construction or facility in good faith within the time prescribed by the commission and the prosecution thereof with reasonable diligence shall constitute an exercise of authority under the certificate.

38) The evidence was unrefuted at trial that the project at issue has not yet begun and it has been over a year since the CPCN was issued. Because there was no evidence that during the first year thereafter there was any delay due to any order of any court or the failure to obtain any necessary grant or consent, the CPCN for the pipeline project is void by operation of the statute.

39) Accordingly, the Court determines that there are not reasonable assurances that the intended use will come to pass as required by *Cornett* and its progeny, and therefore, the Petition is untenable.

40) As a result, even if the Court were to find that LG&E was entitled to the right to take and had negotiated in good faith, the Court still denies the petition on the

basis that it does not appear that there are reasonable assurances that the intended use will come to pass.

Respectfully submitted,

/s/ John D. Cox

John D. Cox

Petersen S. Thomas

LYNCH, COX, GILMAN & GOODMAN, PSC

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***Counsel for Defendants, Iola Capital,  
LLC, Mark E. and Monica Lynne Carter,  
and Pamela Quarterly***



**CERTIFICATE OF SERVICE**

It is hereby certified that the foregoing was filed electronically this 18th day of March 2021, using the KYeCourts' eFiling System, which will send a copy of same to the persons listed below.

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***Counsel for Emerald Energy  
& Exploration Land Company***

/s/ John D. Cox  
John D. Cox

**From:** Bruner, Brandon S (PSC) on behalf of [PSC Executive Director](#)  
**To:** [REDACTED]  
**Subject:** FW: KY PSC Utility Inquiry  
**Date:** Tuesday, April 27, 2021 8:50:00 AM

---

Thank you for your comments on the application of Louisville Gas and Electric Company. Your comments in the above-referenced matter have been received and will be placed into the case file for the Commission's consideration. Please cite the case number in this matter, 2020-00350, in any further correspondence. The documents in this case are available at [View Case Filings for: 2020-00350 \(ky.gov\)](#).

Thank you for your interest in this matter.

Best Regards,

Brandon Bruner  
Administrative Branch Manager  
Filings Branch  
General Administration

Kentucky Public Service Commission  
211 Sower Blvd.  
Frankfort, KY 40601

---

**From:** PSC Consumer Web Inquiry <[PSC.Consumer.Inquiry@ky.gov](mailto:PSC.Consumer.Inquiry@ky.gov)>  
**Sent:** Wednesday, April 21, 2021 9:10 AM  
**To:** PSC Public Information Officer <[PSC.Info@ky.gov](mailto:PSC.Info@ky.gov)>  
**Subject:** FW: KY PSC Utility Inquiry

**From:** KY Public Service Commission <[pscfilings@ky.gov](mailto:pscfilings@ky.gov)>  
**Sent:** Wednesday, April 21, 2021 8:54 AM  
**To:** PSC Consumer Web Inquiry <[PSC.Consumer.Inquiry@ky.gov](mailto:PSC.Consumer.Inquiry@ky.gov)>  
**Subject:** KY PSC Utility Inquiry

Below is the result of your feedback form. It was submitted by [REDACTED] on Wednesday, April 21, 2021 at 8:54 AM

-----  
Name: Lyn & Bill Fane  
Address: 18015 Ellerslie Dr  
City: Louisville  
State: Ky  
Zip Code: 40245  
Phone number where you can be reached: [REDACTED]  
Home phone:  
Utility Name: LG&E

State the nature of your concern: Case 2020-00350 LG&E raises their rates whenever they want to so everyone can get a big fat raise. We are retired and don't get pay increases. This is absolutely not right and there are a lot of people still out of work from this pandemic. I think it is wrong to ask for an increase. They ask for more money and settle for less because they want

us to think it is a good deal. This is wrong.  
Have you contacted the utility about the problem: No

---

**From:** [Bruner, Brandon S \(PSC\)](#) on behalf of [PSC Executive Director](#)  
**To:** [REDACTED]  
**Subject:** RE: Case 2020-00350  
**Date:** Tuesday, April 27, 2021 8:50:00 AM

---

Thank you for your comments on the application of Louisville Gas and Electric Company. Your comments in the above-referenced matter have been received and will be placed into the case file for the Commission's consideration. Please cite the case number in this matter, 2020-00350, in any further correspondence. The documents in this case are available at [View Case Filings for: 2020-00350 \(ky.gov\)](#).

Thank you for your interest in this matter.

Best Regards,

Brandon Bruner  
Administrative Branch Manager  
Filings Branch  
General Administration

Kentucky Public Service Commission  
211 Sower Blvd.  
Frankfort, KY 40601

---

**From:** Ellie Lengyel [REDACTED]  
**Sent:** Wednesday, April 21, 2021 10:40 AM  
**To:** PSC Public Information Officer <[PSC.Info@ky.gov](mailto:PSC.Info@ky.gov)>  
**Subject:** Case 2020-00350

Your proposal to raise the cost of your services will greatly impact my family as I'm sure many others. As a family of 3, we do our best to conserve energy and operate our home minimally. Please consider the impact this proposal will have on Kentuckians and your true rationale for implementing the cost increase. Greed isn't a good look on you LG&E.

**From:** [Bruner, Brandon S \(PSC\)](#) on behalf of [PSC Executive Director](#)  
**To:** [REDACTED]  
**Subject:** RE: Case 2020-00350  
**Date:** Tuesday, April 27, 2021 8:51:00 AM

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Thank you for your comments on the application of Louisville Gas and Electric Company. Your comments in the above-referenced matter have been received and will be placed into the case file for the Commission's consideration. Please cite the case number in this matter, 2020-00350, in any further correspondence. The documents in this case are available at [View Case Filings for: 2020-00350 \(ky.gov\)](#).

Thank you for your interest in this matter.

Best Regards,

Brandon Bruner  
Administrative Branch Manager  
Filings Branch  
General Administration

Kentucky Public Service Commission  
211 Sower Blvd.  
Frankfort, KY 40601

**From:** [REDACTED]  
**Sent:** Thursday, April 22, 2021 9:28 AM  
**To:** PSC Public Information Officer <[PSC.Info@ky.gov](mailto:PSC.Info@ky.gov)>  
**Subject:** Case 2020-00350

Dear Members of the Public Service Commission:

I write to express concern about LG&E's current rate increase request. I am aware that as of this date, some negotiations have reduced somewhat the amount of that increase.

However, as the pastor of a smaller congregation in Metro Louisville, I am concerned about the impact of even the re-negotiated proposal on our church's finances. We are a congregation with a preponderance of older persons on more or less fixed incomes. As you might imagine, this impacts our ability to raise income to meet ever-rising expenses.

While we can whittle away at our expense budget in many areas, those areas of so-called fixed expenses, e.g. water, gas and electric, insurance, etc. give us little to no leeway. When they increase significantly, that increase impacts our ability to do other aspects of our ministry. In the area of utility expenses, unlike insurance, we are stuck with only one provider. Thus we are unable to shop around for better prices.

That expense line is truly at your mercy.

Therefore, I urge you to take into consideration the circumstances of churches like ours, as well as numerous, small non-profit groups who find themselves in the position of having to re-allocate often finite resources away from our mission to subsidize the profits of LG&E.

Thank you for your consideration,

James F. Holladay, Jr  
Pastor - Lyndon Baptist Church  
8025 New La Grange Road  
Louisville, KY 40222

**From:** [Bruner, Brandon S \(PSC\)](#) on behalf of [PSC Executive Director](#)  
**To:** [REDACTED]  
**Subject:** RE: Case Number 2020-00350 public comment of Association of Community Ministries  
**Date:** Tuesday, April 27, 2021 8:49:00 AM  
**Attachments:** [Case No. 2020-00350 Comment of Association of Community Ministries.pdf](#)

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Thank you for your comments on the application of Louisville Gas and Electric Company. Your comments in the above-referenced matter have been received and will be placed into the case file for the Commission's consideration. Please cite the case number in this matter, 2020-00350, in any further correspondence. The documents in this case are available at [View Case Filings for: 2020-00350 \(ky.gov\)](#).

Thank you for your interest in this matter.

Best Regards,

Brandon Bruner  
Administrative Branch Manager  
Filings Branch  
General Administration

Kentucky Public Service Commission  
211 Sower Blvd.  
Frankfort, KY 40601

---

**From:** Kilkelly, Lisa [REDACTED]  
**Sent:** Friday, April 23, 2021 12:41 PM  
**To:** PSC Public Information Officer <[PSC.Info@ky.gov](mailto:PSC.Info@ky.gov)>  
**Subject:** Case Number 2020-00350 public comment of Association of Community Ministries

**\*\*CAUTION\*\* PDF attachments may contain links to malicious sites. Please contact the COT Service Desk [ServiceCorrespondence@ky.gov](mailto:ServiceCorrespondence@ky.gov) for any assistance.**

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Dear Public Information Officer,

Attached for the Commission's consideration in Case Number 2020-00350 is the public comment of the Association of Community Ministries, whose principal office is located at 10617 Taylorsville Road, Louisville, Kentucky 40299.

Thank you,  
**Lisa Kilkelly**  
Staff Attorney  
Legal Aid Society  
416 W. Muhammad Ali Blvd., Suite 300  
Louisville, KY 40202  
Telephone [REDACTED]

Fax (502) 614-3716

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This message has been sent from a law firm and may contain information that is confidential or privileged. If you are not the intended recipient, please advise the sender immediately by reply e-mail and delete this message and any attachments without retaining a copy. Please advise immediately if you or your employer do not want us to use Internet e-mail for future messages of this kind.





## The Association of Community Ministries



April 23, 2021

Via email to [psc.info@ky.gov](mailto:psc.info@ky.gov)

Kentucky Public Service Commission  
P.O. Box 615  
Frankfort KY 40602-0615

RE: Case Number 2020-00350

Dear Chairman Schmitt, Vice-Chairman Chandler and Commissioner Mathews:

The Association of Community Ministries submits the following comments regarding the Application of LG&E for rate increases and full deployment of Advanced Metering Infrastructure, Case Number 2020-00350. The Association of Community Ministries (“ACM”) is a Kentucky nonprofit charitable corporation comprised of fifteen independent community ministries that provide utility assistance year-round to low income LG&E customers in Louisville. ACM’s principal office is located at 10617 Taylorsville Road, Louisville, Kentucky 40299.

LG&E has proposed the use of Advanced Metering Infrastructure (AMI) to remotely disconnect and reconnect customers. If the Commission approves AMI, disconnections and reconnections will occur more rapidly. (See Direct Testimony of Robert Conroy at page 42.)

The Stipulation and Recommendation entered into by the parties to this case at Article V, Section 5.2(F) provides that the “Utilities will maintain current data use and customer service disconnection policies, and will address possible changes to such policies, if any, in their first base rate case proceedings following AMI implementation or other proceedings to address the AMI revenue requirement following the implementation of the AMI project.”

ACM has long been concerned about the impact of remote disconnections on low income customers and on the ability of assistance agencies to help customers avoid such disconnections. If the Commission approves the deployment of AMI, LG&E and the parties should not wait until post-implementation proceedings to discuss necessary changes to customer service disconnection policies necessitated by the switch to remote disconnections. Rather, ACM believes that it will be incumbent upon LG&E and interested stakeholders to begin discussions around remote disconnections well before implementation in order to proactively address any issues and problems that an entirely new method of disconnections may cause.

The details of how LG&E decides to implement remote disconnections will clearly affect low income customers faced with disconnection and the agencies serving them. For example,

ACM described the impact of LG&E's decisions on the timing of disconnections in LG&E's previous case on Advanced Metering, Case No. 2018-00005 *Electronic Joint Application of Louisville Gas and Electric Company and Kentucky Utilities Company for Certificates of Public Convenience and Necessity for Full Deployment of Advanced Metering Systems*:

Timing will have a profound impact on energy insecure customers: the shorter the window between eligibility and automatic shut-off, the less time left to secure third party assistance, complete the often time-consuming process for obtaining a medical certificate, or otherwise marshal resources to maintain service. And the more concentrated shut-off times are in a given geography, the greater the strain on the capacity of assistance agencies, such as ACM's members, to meet the demand for client appointments and prevent those shut-offs.

If capacity is overwhelmed, some customers will lose service unnecessarily, with what would have been disconnection prevention cases becoming instead reconnection cases.

Case No. 2018-00005, Post Hearing Brief of ACM filed August 10, 2018 at 5, footnotes omitted.

ACM raised numerous other questions in the prior proceeding which will affect customers and agencies including:

Timing of disconnections is not the only crucial unknown at this juncture. The Companies have not yet made a decision about the method or timing of customer notifications of disconnection. Also still-to-be-determined is whether households enrolled in the Medical Alert Program because a member uses a physician-prescribed ventilator, respirator or ventricular device will receive an in-person visit before power is shut-off. And as per the Companies' responses to ACM's data requests, a number of other key questions remain unanswerable until the "design phases" of the AMS project have been completed. These include how disconnect orders will be executed; how payment and/or third-party pledge information will be transferred to the AMS system; how instructions to cancel a disconnection order will be transferred to the AMS system; how customer service representatives wishing to stop a disconnection will be able to so communicate to the AMS system; and the temporary procedures the Companies will use during the transition to automatic disconnections to make sure that systems are working properly and in accordance with their disconnection/reconnection policies.

Case No. 2018-00005, Post Hearing Brief of ACM filed August 10, 2018 at 7-8, footnotes omitted.

Another issue of concern is LG&E's policy for residential disconnects during extreme weather and whether remote disconnections will be able to be programmed in such a way as to avoid large numbers of disconnections during extreme weather. Clearly the time to discuss all of these kinds of issues and determine whether additional customer protections are warranted is while the system is being developed and can be modified as opposed to during the time-constrained

period of a post-implementation rate case or other proceeding. From ACM's review of the record in this case, it does not appear that any of these kinds of details have been provided and are still to be determined. If the Commission approves AMI, there will be a window of time for parties to come together to discuss details, consider options and work toward a remote disconnection system that achieves LG&E's goals while providing appropriate customer protections.

There are many ways in which this could be done. For example, Section 5.6 of the Stipulation and Recommendation provides for a Stakeholder process to consider Peak-Time Rebates and On-Bill Financing using the DSM Advisory Committee. A similar model could be used for stakeholder discussions about remote disconnections such as the Utilities' Customer Commitment Advisory group. Another option might be to convene a group similar to the AMS Collaborative which resulted from Case No. 2016-00371 and provided a forum for discussion on a variety of aspects of the previous AMS proposal. ACM and several of the parties to the current rate cases participated in the AMS Collaborative. See Case No. 2018-00005, Testimony of David Huff for more information about the Collaborative.

The language of the Stipulation should not be interpreted to prevent the addition of enhancements to the current customer service disconnection policies until after implementation. Consistent with Commission requirements, LG&E should be allowed to add enhanced protections before implementing remote disconnections. LG&E, ACM and other parties already began discussing potential protections during the AMS Collaborative and LG&E was considering two notification options in its subsequent AMS case in addition to current notifications. See Case No. 2018-00005 Response to ACM's First Request for Information Number 40. ACM recommended that LG&E's process for giving notice of disconnections for nonpayment be enhanced beyond what LG&E was considering to require at least one automated voicemail message, optional additional notice for customers who wish to receive notice by email, text, or voicemail, and the option to add notice to an authorized third party such as a relative or caregiver. (See Case No. 2018-00005, Post Hearing Brief of ACM filed August 10, 2018 at 10). With the pace of technology, it is possible that there may be additional means of enhanced notification in addition to what has already been discussed. If the Commission approves AMI, it will be important for LG&E and interested stakeholders to resume discussing these issues promptly so that any enhanced customer protections may be in place when remote disconnections begin.

Thank you for your consideration of these comments.

Sincerely,

Marlon Cummings

Marlon Cummings  
Treasurer, Association of Community Ministries

**From:** Bruner, Brandon S (PSC) on behalf of [PSC Executive Director](#)  
**To:** [REDACTED]  
**Subject:** RE: case#2020-00350  
**Date:** Tuesday, April 27, 2021 8:51:00 AM

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Thank you for your comments on the application of Louisville Gas and Electric Company. Your comments in the above-referenced matter have been received and will be placed into the case file for the Commission's consideration. Please cite the case number in this matter, 2020-00350, in any further correspondence. The documents in this case are available at [View Case Filings for: 2020-00350 \(ky.gov\)](#).

Thank you for your interest in this matter.

Best Regards,

Brandon Bruner  
Administrative Branch Manager  
Filings Branch  
General Administration

Kentucky Public Service Commission  
211 Sower Blvd.  
Frankfort, KY 40601

**From:** Byron Humke [REDACTED]  
**Sent:** Thursday, April 22, 2021 12:07 PM  
**To:** PSC Public Information Officer <PSC.Info@ky.gov>  
**Subject:** case#2020-00350

I understand you are asking for less than you originally did and that's good but still excessive in today's world. Also and the main point of my writing - please leave the "net- metering" alone so there will be some real incentive to go solar!!

Byron Humke  
811 Foxgate Rd  
Louisville, KY  
[REDACTED]

**From:** [Bruner, Brandon S \(PSC\)](#) on behalf of [PSC Executive Director](#)  
**To:** [REDACTED]  
**Subject:** RE: Comment on 2020-00350  
**Date:** Tuesday, April 27, 2021 8:51:00 AM

---

Thank you for your comments on the application of Louisville Gas and Electric Company. Your comments in the above-referenced matter have been received and will be placed into the case file for the Commission's consideration. Please cite the case number in this matter, 2020-00350, in any further correspondence. The documents in this case are available at [View Case Filings for: 2020-00350 \(ky.gov\)](#).

Thank you for your interest in this matter.

Best Regards,

Brandon Bruner  
Administrative Branch Manager  
Filings Branch  
General Administration

Kentucky Public Service Commission  
211 Sower Blvd.  
Frankfort, KY 40601

---

**From:** Michael Hines [REDACTED]  
**Sent:** Thursday, April 22, 2021 8:55 AM  
**To:** PSC Public Information Officer <[PSC.Info@ky.gov](mailto:PSC.Info@ky.gov)>  
**Subject:** Comment on 2020-00350

Regarding proposal for case 2020-00350, who exactly is leading the financial analysis for this proposed rate increase? It would seem that they are not in touch with the United States Cost of Living annual Adjustment.

I find it interesting that the submission of proposed various rates increases from the Nov 25th notice actually indicates a much higher rates of increase for Electric and Gas services, such as the base service charge being 15.5% (electric) and the Gas basic service fee increases 20%!

I am not sure how LG&E "modeled down" to averages of 11.3% and 8.3 % for electric and gas (respectively) but the Residential Electric rates proposed when evaluated on a line item detail for a consumer don't go as low as the suggested 11.3%, but instead attain as an low as value of 15.5% for electric.

Does the PSC really think that the LG&E parent company PPL Corporation, who reported \$1.8B in net income for Q4 close in their FY19 filing, really need the add-on profits? What is disclosed in those "competitor in the market Confidential documents? I imagine it includes LG&E P&L documents that they don't want disclosed to the public - because we would be appalled?

I am writing to say that rate increases of this size should not be granted, especially as we attempt to recover from a pandemic, and that the attempt to shift more payments to fixed charges harms lower income people and discourages energy conservation.

If a price increase in electric and gas services really is required, think about a longer term management team! Trying to get a big increase, all at once, hurts all consumers. Remember my earlier note about COLA? Spread smaller increases out longer...imagine a senior citizen on a fixed income, let's say Social Security, where are they going to get the extra \$25/month this will hit most lower income households with?

Just say NO to large rate increase proposals!

Thanks

Michael Hines

320 Primrose Drive

Louisville, KY 40207

**From:** Bruner, Brandon S (PSC) on behalf of [PSC Executive Director](#)  
**To:** [REDACTED]  
**Subject:** RE: From Mark Booker Re LGE Rate Increase, Case# 2020-00350  
**Date:** Tuesday, April 27, 2021 8:50:00 AM

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Thank you for your comments on the application of Louisville Gas and Electric Company. Your comments in the above-referenced matter have been received and will be placed into the case file for the Commission's consideration. Please cite the case number in this matter, 2020-00350, in any further correspondence. The documents in this case are available at [View Case Filings for: 2020-00350 \(ky.gov\)](#).

Thank you for your interest in this matter.

Best Regards,

Brandon Bruner  
Administrative Branch Manager  
Filings Branch  
General Administration

Kentucky Public Service Commission  
211 Sower Blvd.  
Frankfort, KY 40601

**From:** [REDACTED]  
**Sent:** Wednesday, April 21, 2021 1:30 PM  
**To:** PSC Public Information Officer <PSC.Info@ky.gov>  
**Subject:** From Mark Booker Re LGE Rate Increase, Case# 2020-00350

I saw in the media where the PSC and LGE-KU settled their rate increase case yesterday and there were amendments made to the original proposal. Can you send me the link so I can see what the final agreed-to rate increases are going to be? An itemized listing is what I'm looking for, like what was provided in LGE's original proposal for rate increases.

Thanks.  
Mark, cell [REDACTED]

**From:** [Bruner, Brandon S \(PSC\)](#) on behalf of [PSC Executive Director](#)  
**To:** [REDACTED]  
**Subject:** RE: How you all gonna go up on the electric bill when we are bury getting by what happened to our senior that on a fixed income and rent going up to parents working two or three job to try to keep up with the inflation I got three job because I have bills  
**Date:** Tuesday, April 27, 2021 8:49:00 AM

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Thank you for your comments on the application of Louisville Gas and Electric Company. Your comments in the above-referenced matter have been received and will be placed into the case file for the Commission's consideration. Please cite the case number in this matter, 2020-00350, in any further correspondence. The documents in this case are available at [View Case Filings for: 2020-00350 \(ky.gov\)](#).

Thank you for your interest in this matter.

Best Regards,

Brandon Bruner  
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**From:** Cathy Hart [REDACTED]  
**Sent:** Thursday, April 22, 2021 2:13 PM  
**To:** PSC Public Information Officer <[PSC.Info@ky.gov](mailto:PSC.Info@ky.gov)>  
**Subject:** How you all gonna go up on the electric bill when we are bury getting by what happened to our senior that on a fixed income and rent going up to parents working two or three job to try to keep up with the inflation I got three job because I have bills



**From:** Bruner, Brandon S (PSC) on behalf of [PSC Executive Director](#)  
**To:** [REDACTED]  
**Subject:** RE: LGE rate increase  
**Date:** Tuesday, April 27, 2021 8:50:00 AM

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Thank you for your comments on the application of Louisville Gas and Electric Company. Your comments in the above-referenced matter have been received and will be placed into the case file for the Commission's consideration. Please cite the case number in this matter, 2020-00350, in any further correspondence. The documents in this case are available at [View Case Filings for: 2020-00350 \(ky.gov\)](#).

Thank you for your interest in this matter.

Best Regards,

Brandon Bruner  
Administrative Branch Manager  
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-----Original Message-----

From: Scott Herman [REDACTED]  
Sent: Wednesday, April 21, 2021 4:37 PM  
To: PSC Public Information Officer <[PSC.Info@ky.gov](mailto:PSC.Info@ky.gov)>  
Subject: LGE rate increase

I just want to let you know I am opposed to the increase. In these times where people are out of work and may lose their homes are places they go home. Why only to upgrade your systems to automate that would cause lost of more jobs. After you update your systems with this rate increase are you planning to drop rates after complete. I am sure that will never happen. Plus you have all users over the barrel. Not like I can switch to another vendor for a better price. Thanks for me wanting to turn off everything thing electrical are gas so I can afford to feed my family. But oh I need that electric are gas to cook the food I can't afford.

Hope you sleep well at night knowing there are people unable to cool are heat their homes and food.

God bless your sole.

Sent from my iPhone

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