

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC JOINT APPLICATION OF)	
KENTUCKY UTILITIES COMPANY AND)	CASE NO.
LOUISVILLE GAS AND ELECTRIC COMPANY)	2023-00122
FOR APPROVAL OF FOSSIL FUEL-FIRED)	
GENERATING UNIT RETIREMENTS)	

ORDER

This matter arises upon Kentucky Utilities Company (KU) and Louisville Gas and Electric Company's (LG&E) (jointly, LG&E/KU) application for approval of the retirement of several fossil fuel-fired electric generating units, pursuant to Senate Bill 4 (SB4),¹ On May 10, 2022, contemporaneously with the application, LG&E/KU filed a motion requesting that the Commission consolidate this proceeding into Case No. 2022-00402.² LG&E/KU also requested that the Commission amend the procedural schedule established in Case No. 2022-00402, incorporate the case records of this proceeding and Case No. 2020-00061³ into Case No. 2022-00402, and grant intervention in this proceeding to all intervening parties in Case No. 2022-00402.

¹ 2023 Regular Session, Senate Bill 4 (enacted Mar. 29, 2023).

² Case No. 2022-00402, *Electronic Joint Application of Kentucky Utilities Company and Louisville Gas and Electric Company for Certificates of Public Convenience and Necessity and Site Compatibility Certificates and Approval of a Demand Side Management Plan* (filed Jan. 6, 2023).

³ Case No. 2020-00061, *Electronic Application of Louisville Gas and Electric Company for Approval of an Amended Environmental Compliance Plan and a Revised Environmental Surcharge* (filed Mar. 31, 2020). Case No. 2020-00061 addressed, in part, the retirement of and reasons for the retirement of Mill Creek Unit No. 1 in 2025.

As a basis for the motion, LG&E/KU asserted that the entirety of the subject matter of this proceeding is a subset of the subject matter pending in Case No. 2022-00402 and consolidating the two cases would promote consistent findings and administrative efficiency.

LG&E/KU proposed an amended procedural schedule that allowed for one round of discovery limited to retirements propounded to LG&E/KU, intervenor testimony on the subject matter of this proceeding and Case No. 2022-00402, one round of discovery propounded to intervenors, and rebuttal testimony, leading to the hearing that is scheduled for August 22-25, 2023.

Finally, LG&E/KU contended that, because intervenors in Case No. 2022-00402 will likely request to intervene in this matter, intervention should be granted for administrative efficiency.

LEGAL STANDARD

Commission regulation 807 KAR 5:001E, Section 4(14) provides two or more proceedings involving similar question of law or fact can be consolidated if rights of the parties or the public interest will not be prejudiced. The Commission specifies which case is consolidated into the other. Anything filed prior to the consolidation order remains in the respective case files and anything filed after the consolidation order is filed into the consolidated case.

Commission regulation 807 KAR 5:001E, Section 11(5) provides that, upon the Commission's own motion or a party's motion, the record of a case can be made part of the record by reference only and incorporated into the record of another case.

DISCUSSION AND FINDINGS

As an initial matter, the Commission finds that the application tendered in this proceeding is deemed filed as of May 10, 2023. Under the 180-day statutory date established in SB4 for the Commission to render a final decision, a final Order will be issued on or before November 6, 2023, which is the same date that the Commission must issue a decision in Case No. 2022-00402.

Based upon a review of the motion, the case records of Case No. 2023-00122 and Case No. 2022-00402, and being otherwise sufficiently advised, the Commission finds that Case No. 2023-00122 should be consolidated into Case No. 2022-00402 because there is a similar question of law and fact in both cases. In Case No. 2022-00402, LG&E/KU request the Commission approve Certificates of Public Convenience and Necessity (CPCN) for replacement generation for retiring units. The need for replacement generation is predicated upon the Commission's approval of the fossil-fuel generation facility retirements under the recently enacted SB4. Consolidating the two cases will promote administrative efficiency by examining related issues regarding generation retirement and replacement generation.

The Commission further finds that all documents filed in this proceeding should be physically consolidated in the case file of Case No. 2022-00402 for reasons of administrative efficiency. The Commission further finds that, to allow for time for persons to request to intervene in this matter, this proceeding will be closed by separate Order and removed from the Commission's docket.

The Commission agrees that an amended procedural schedule is necessary for the orderly processing of this case. However, the Commission declines to approve the

procedural dates proposed by LG&E/KU. Given the complexity of this proceeding, one round of discovery to LG&E/KU is not sufficient to develop a robust record, especially given that it allows for only one round of discovery on LG&E/KU regarding generation retirement. The amended procedural attached as an Appendix to this Order allows for two rounds of discovery issued to LG&E/KU, intervenor testimony, discovery issued to intervenors, and rebuttal testimony.

The Commission concurs that all parties granted intervention in this matter should be made parties to Case No. 2022-00402. The Commission concludes that, with the consolidation of the two cases, all parties in Case No. 2022-00402 may address issues related to generation retirement, which is the subject of this proceeding.

The Commission agrees that the case record of Case No. 2020-00061 should be incorporated by reference into Case No. 2022-00402 because both cases address, in part, the retirement of one of LG&E/KU's generating units.

Additionally, the hearing scheduled in this matter on August 22 through August 25, 2023, shall be held on the designated day or days and continued until called from the bench by the presiding officer. Pursuant to 807 KAR 5:001E, Section 2, if the hearing is not concluded on the designated day, the hearing may be continued upon verbal announcement by the presiding officer. A verbal announcement made by the presiding officer shall be proper notice of the continued hearing. Hearings are held in the Richard Raff Hearing Room at the offices of the Public Service Commission at 211 Sower Boulevard, Frankfort, Kentucky. Witnesses who sponsor schedules, testimony, or responses to requests for information are expected to participate in person at a hearing.

IT IS THEREFORE ORDERED that:

1. LG&E/KU's application is deemed filed as of May 10, 2023.
2. The record of Case No. 2023-00122 is physically consolidated into Case No. 2022-00402.
3. All documents filed in the future shall contain only the caption of Case No. 2022-00402.
4. The record of Case No. 2020-00061 is incorporated by reference into Case No. 2022-00402.
5. The procedural schedule set forth in the Appendix to this Order shall be followed.
6. All parties granted intervention in this case are deemed to have been granted intervention in Case No. 2022-00402.
7. All parties in Case No. 2022-00402 may address the issues related to generation retirement, as well as the issues raised in Case No. 2022-00402.
8. LG&E/KU shall respond to all requests for information propounded by Commission Staff, whether identified on the procedural schedule or otherwise, as provided in those requests.
9. Any party filing a paper with the Commission shall file an electronic copy in accordance with the electronic filing procedures set forth in 807 KAR 5:001E, Section 8. Electronic documents shall be in portable document format (PDF), shall be searchable, and shall be appropriately bookmarked. The Commission directs the parties to the

Commission's July 22, 2021 Order in Case No. 2020-00085⁴ regarding filings with the Commission.

10. As set forth in 807 KAR 5:001E, Section 4(11)(a), a person requesting permissive intervention in a Commission proceeding is required to demonstrate either (1) a special interest in the proceeding that is not adequately represented in the case, or (2) that the person requesting permissive intervention is likely to present issues or develop facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings. Therefore, any person requesting to intervene in a Commission proceeding must state with specificity the person's special interest that is not otherwise adequately represented, or the issues and facts that the person will present that will assist the Commission in fully considering the matter. A mere recitation of the quantity of utility service consumed by the movant or a general statement regarding a potential impact of possible modification of rates will not be deemed sufficient to establish a special interest.

11. Any motion to intervene filed after the date established in the procedural schedule shall also show good cause for being untimely. If the untimely motion is granted, the movant shall accept and abide by the existing procedural schedule.

12. LG&E/KU shall give notice of any scheduled hearing in accordance with the provisions set forth in 807 KAR 5:001E, Section 9(2). In addition, the notice of hearing shall include the following statement: "This hearing will be streamed live and may be viewed on the PSC website, psc.ky.gov" and "Public comments may be made at the

⁴ Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus COVID-19* (Ky. PSC July 22, 2021), Order (in which the Commission ordered that for case filings made on and after March 16, 2020, filers are NOT required to file the original physical copies of the filings required by 807 KAR 5:001, Section 8).

beginning of the hearing. Those wishing to make oral public comments may do so by following the instructions listing on the PSC website, psc.ky.gov.” At the time publication is requested, LG&E/KU shall forward a duplicate of the notice and request to the Commission.

13. At any public hearing in this matter, neither opening statements nor summarization of direct testimonies shall be permitted.

14. Any hearing scheduled in this matter shall be held on the designated day or days and continued until called from the bench by the presiding officer. Pursuant to 807 KAR 5:001E, Section 2, if the hearing is not concluded on the designated day, the hearing shall be continued upon verbal announcement by the presiding officer. A verbal announcement made by the presiding officer shall be proper notice of the continued hearing.

15. Witnesses who sponsor schedules, testimony, or responses to requests for information shall participate in person at any hearing scheduled in this matter.

16. Pursuant to KRS 278.360 and 807 KAR 5:001E, Section 9(9), a digital video recording shall be made of the hearing.

17. The Commission does not look favorably upon motions for continuance. Accordingly, motions for extensions of time with respect to the schedule herein shall be made in writing and will be granted only upon a showing of good cause.

18. The Commission does not look favorably upon motions to excuse witnesses from testifying at Commission hearings. Accordingly, motions to excuse a witness from testifying at a Commission hearing or from testifying in person at a Commission hearing shall be made in writing and will be granted only upon a showing of good cause.

PUBLIC SERVICE COMMISSION


Chairman

*Signed
by
w/permission* 
Vice Chairman


Commissioner



ATTEST:


Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2023-00122 DATED MAY 16 2023

Last day for intervention requests to be accepted..... 05/17/2023

All initial requests for information to LG&E/KU
shall be filed no later than 05/31/2023

LG&E/KU shall file responses to initial requests for
information no later than..... 06/09/2023

All supplemental requests for information to LG&E/KU
shall be filed no later than 06/27/2023

LG&E/KU shall file responses to supplemental requests
for information no later than 07/07/2023

Intervenor testimony, if any, in verified prepared
form shall be filed no later than 07/14/2023

All requests for information to Intervenors shall
be filed no later than 07/28/2023

Intervenors shall file responses to requests for
information no later than..... 08/04/2023

LG&E/KU shall file, in verified form, its rebuttal
testimony no later than 08/09/2023

Public Hearing to be held in the Richard Raff Hearing Room
at the offices of the Public Service Commission at 211 Sower Boulevard,
Frankfort, Kentucky, for the purpose of cross-examination
of witnesses of LG&E/KU and Intervenors08/22/2023–08/25/2023

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