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Mr. David Meyer
Office of Electricity
OE-20
U.S. Department of Energy
1000 Independence Avenue SW
Washington, DC 20585

**Re: LG&E and KU Energy LLC Comments on the Procedures for Conducting
Electric Transmission Congestion Studies**

Dear Mr. Meyer:

LG&E and KU Energy LLC (“LKE”) appreciates the opportunity to comment in response to the Department of Energy (“DOE”) Notice of Procedures for Conducting Electric Transmission Congestion Studies (“Notice”), published on August 23, 2018 in the *Federal Register*. LKE’s utilities—Louisville Gas and Electric Company (“LG&E”) and Kentucky Utilities Company (“KU”)—are regulated public utilities that provide safe, affordable, and reliable energy to nearly 1.3 million customers in Kentucky and, under the name Old Dominion Power, in Virginia. Both LG&E and KU are vertically integrated, state-regulated utilities that own and operate electric generation, transmission, and distribution facilities.

LKE supports the past and continuing efforts of DOE in preparing the triennial National Electric Transmission Congestion Studies in fulfillment of DOE’s statutory requirements under Section 216 of the Federal Power Act (“FPA”), 16 U.S.C. § 824p. LKE believes that DOE’s analysis provides a unique national perspective on emerging trends and potential transmission constraints.

However, the Notice further discusses that some commentators on DOE’s previous congestion studies have suggested that it might be informative for DOE to publish project-specific transmission congestion studies, and if appropriate, designate National Corridors tailored to the project(s). The Notice states that DOE agrees with the suggestion, even though “the need for such studies or corridors might not mesh well (in terms of both timing and appropriate granularity) with the triennial large-geographic scale congestion studies envisioned in FPA Section 216(a)(1).” The Notice concludes that DOE will continue to produce triennial congestion studies and “would also respond, perhaps separately, to requests for the preparation

of project-specific congestion studies or the designation of related National Corridors.” LKE does not support DOE performing project-specific transmission congestion studies and, as discussed below, has a number of concerns with DOE adopting such an approach.

1. Project-Specific Congestion Studies are Not Consistent with Section 216 of the FPA.

The statutory language in Section 216 of the FPA does not support DOE’s performing a study at a granular enough level so as to be project-specific, nor does it support a study whose scope is narrow enough for a project-specific national transmission corridor designation. Section 216(a) of the FPA directs DOE to triennially perform “*a study* of electric transmission congestion”—clearly indicating a single study—and then based upon that study, DOE may then designate any geographic area experiencing electric transmission constraints or congestion as a national interest electric corridor.

As noted above, in stating in the Notice that project-specific studies or corridors might not “mesh well” with the scale and scope of the studies envisioned in FPA Section 216(a)(1), DOE itself seems to recognize that the FPA did not intend for DOE to perform project-specific congestion studies and to designate project-specific transmission corridors. DOE should not take it upon itself to modify the congestion study or the corridor designations in a way contrary to Congress’ clear intent, and should instead continue to issue congestion studies national in scope. Such an approach would allow DOE to leverage its expertise to continue to provide a national perspective on transmission constraints and congestion, and not improperly duplicate and complicate existing efforts.

2. DOE Should Not Engage in Transmission Planning at the Expense of State and/or FERC Jurisdiction.

Section 216(b) of the FPA grants the Federal Energy Regulatory Commission (“FERC”) its “backstop” authority to issue project-specific permits for siting and construction of transmission facilities in transmission corridors designated by DOE, and only then under narrowly defined conditions. If DOE were to grant itself the authority to designate project-specific transmission corridors, it would improperly encroach upon FERC’s project-specific backstop authority granted to it by statute. Congress’ clear division of roles pertaining to the permitting of projects within national interest electric transmission corridors—DOE’s designation of the transmission corridors and FERC’s subsequent issuance of construction or modification permits for transmission facilities within those corridors after notice and an opportunity for hearing—is plainly indicative of Congress’ view of the appropriate scope for each agency.

Further, FERC’s backstop authority is conditioned upon the absence of state authority to approve the siting of the project or, where despite state authority, the state does not provide approval within the time frame and other conditions specified by statute. These narrowly defined conditions are indicative of Congress’ respect for state authority and state-regulated processes. A project-specific approach to designating corridors would inherently run counter to Congress’ intent to recognize state jurisdiction.

3. Existing Transmission Planning Processes are the Most Appropriate Way to Evaluate Specific Projects.

Robust local, regional, and interregional transmission planning processes already exist, are regulated by FERC, and are the most appropriate process for evaluating specific projects. Existing Order 1000 transmission planning processes ensure that non-incumbent entities seeking to develop transmission projects can do so as well. In supporting project-specific studies or corridor designations, DOE is not only risking duplicating these existing processes, but conflicting with them as well.

In the 2015 National Electric Transmission Congestion Study, DOE properly concluded that “future congestion studies should be coordinated with regional transmission planning efforts, including those mandated by FERC Order 1000” (p. 95). There is no reason for DOE to pursue a different path from that conclusion. Greater coordination with existing regional processes would help bolster analyses and identify potential issues, while avoiding duplicative and potentially conflicting efforts and results.

Thank you for your review and consideration of our comments.

Respectfully submitted,



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