

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF LOUISVILLE GAS AND	)	
ELECTRIC COMPANY FOR APPROVAL OF	)	CASE NO.
LICENSE AGREEMENT WITH CHARAH, INC.	)	2012-00385
CONCERNING MILL CREEK GENERATING	)	
STATION	)	

ORDER

On August 28, 2012, Louisville Gas and Electric Company (“LG&E”) filed an application requesting approval of a license agreement contained in the proposed Coal Combustion Residual Marketing and Management Contract (“Contract”) between LG&E and Charah, Inc. (“Charah”). Attached to LG&E’s application as Exhibit A were excerpts of the proposed Contract. On October 23, 2012, LG&E filed a redacted copy of a “substantially completed” Contract, a petition for confidential protection for certain provisions contained therein, and requested expedited treatment of this matter.<sup>1</sup> Pursuant to the Contract, LG&E is proposing to grant Charah a license to design, permit, construct and operate a processing plant at LG&E’s Mill Creek Generating Station (“Mill Creek”). Charah will utilize Specification Gypsum generated at Mill Creek<sup>2</sup>

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<sup>1</sup> This substantially completed Contract was labeled “Louisville Gas and Electric Company and Charah, Inc. Specification Gypsum Pelletization Contract,” with LG&E providing Charah a license to access the site for construction and for Charah to maintain and service the facility and conduct its manufacturing operations thereon.

<sup>2</sup> Contract at 5. LG&E produces the Specification Gypsum from scrubber limestone sludge wastes generated at LG&E’s existing power plants. The wastes have no use or value in their original form. LG&E subsequently processes the impure gypsum into Specification Gypsum through the secondary dewatering, cleaning and washing of the impure gypsum at solid waste disposal facilities owned and operated by LG&E.

for beneficial reuse in the manufacture of "Pelletized Product" for sale and distribution.<sup>3</sup> The Contract is for an initial term of 13 years and is subject to consecutive five-year renewal terms.<sup>4</sup> LG&E will not convey any interest in the land at Mill Creek to Charah, and the beneficial reuse facilities Charah proposes to build will become LG&E's upon termination of the Contract (excepting certain equipment in the facilities, which Charah will remove or convey to LG&E upon mutually agreeable terms).

LG&E is seeking the Commission's approval for this license agreement, as Charah's proposed facilities will be located on 4.5 acres of Mill Creek's generating station's 570-acre property. In Case No. 2002-00029,<sup>5</sup> the Commission stated, "Because of the finite nature and value of these [existing generation] sites, we find that LG&E and KU should seek Commission approval prior to entering into the sale or lease of any land located on an existing generation site." Although LG&E only proposes to grant Charah a license for the use of the land, the proposed agreement has all the indicia of a lease, i.e., the use and possession of property for a term of years at Mill Creek.

LG&E describes Mill Creek as a four-unit, 1,472 MW (summer capacity) coal-fired generating station that sits on approximately 570 acres in southwestern Jefferson County along the Ohio River. Mill Creek's fourth (and final) unit went into commercial operation in 1982, and the facility has remained in its current configuration for the past

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<sup>3</sup> Contract at 1.

<sup>4</sup> *Id.* at 12.

<sup>5</sup> Case No. 2002-00029, *Application of Louisville Gas and Electric Company and Kentucky Utilities Company for a Certificate of Public Convenience and Necessity for the Acquisition of Two Combustion Turbines* (Ky. PSC June 11, 2002).

28 years, although some reorganization of certain site components is under way to accommodate required environmental compliance facilities.

Charah is a vendor that provides coal combustion residual handling, environmental control byproduct handling, and landfill services to LG&E at Mill Creek. Charah recently proposed to extend its current Mill Creek contracts, which will expire on March 31, 2016, and to increase its beneficial reuse activity at this site. This activity will include using a portion of the gypsum produced by Mill Creek's environmental controls as feedstock for an innovative process to convert gypsum into a potentially marketable agricultural product. Charah also proposes to construct facilities at Mill Creek to enhance its ability to sell fly ash produced at the site and to construct a storage dome capable of storing 8,000 tons of specification-grade fly ash, as well as a transfer silo with a 200-ton capacity.

In seeking Commission approval for the license agreement, LG&E does not anticipate any disruption of station operations arising from the proposed Charah facilities, but rather anticipates that the removal of thousands of tons of gypsum and fly ash from Mill Creek will extend the useful life of limited landfill space, will increase the beneficial reuse of coal combustion residuals, and will reduce the overall operating costs at Mill Creek.

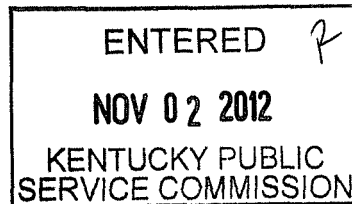
Based on the evidence of record and being otherwise sufficiently advised, the Commission finds that the proposed license agreement with Charah is reasonable, for a proper purpose, and should be approved. The transaction will promote a valuable public purpose in facilitating the increase in the beneficial reuse activity, while having no adverse impact on LG&E's operations at Mill Creek.

IT IS THEREFORE ORDERED that:


1. LG&E's proposed license agreement with Charah involving Mill Creek property is approved.
2. After the proposed contract is signed by both parties, an executed copy should be filed with the Commission, along with an explanation of any revisions to the currently filed version.

By the Commission

Commissioner Breathitt abstains from this proceeding.



ATTEST:

  
Executive Director

Case No. 2012-00385

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