

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

LOUISVILLE GAS AND ELECTRIC COMPANY)	
_____)	CASE NO.
)	2012-00168
ALLEGED FAILURE TO COMPLY WITH)	
ADMINISTRATIVE REGULATIONS)	

O R D E R

Louisville Gas and Electric Company ("LG&E") is a Kentucky corporation engaged in the distribution of electricity and natural gas to the public for compensation for light, heat, power, and other uses and is a utility pursuant to KRS 278.010 and subject to Commission jurisdiction pursuant to KRS 278.040(2).

On May 19, 2011, Brenda Joyce Clayton ("Clayton") filed a formal complaint against LG&E.¹ In her complaint, Clayton alleged that she had been improperly charged \$601.19 for gas service and that, while contesting the charges through an informal complaint with the Commission, LG&E disconnected her service.² In its Order of April 24, 2012, the Commission found that Clayton did owe LG&E the \$601.19 and her complaint was, therefore, dismissed; however, the Commission also found that "a separate show cause proceeding should be initiated to determine if the actions and inactions of LG&E in this matter, including, but not limited to, the shut-off of the

¹ Unless otherwise stated, references to pleadings (including responses to discovery requests) are to pleadings submitted in Case No. 2011-00211, *Brenda Joyce Clayton v. Louisville Gas and Electric* (Ky. PSC, filed May 19, 2011).

² Amended Complaint at 2 (Ky. PSC, filed Aug. 4, 2011).

Complainant's electricity while the Complainant's informal complaint was pending before the Commission, violates [sic] the orders, regulations and procedures of the Commission."³ The Commission ordered that "a separate action shall be established for LG&E to show cause, if any, why it should not be subject to the penalties prescribed by KRS 278.990(1) for its alleged conduct in this matter."⁴

Pursuant to KRS 278.030(2), every utility shall furnish adequate, efficient and reasonable service, and may establish reasonable rules governing the conduct of its business and the conditions under which it shall be required to render service. KRS 278.040(3) authorizes the Commission to adopt reasonable regulations to implement the provisions of KRS Chapter 278 and investigate the methods and practices of utilities. KRS 278.260 permits the Commission, upon its own motion, to investigate any act or practice of a utility that affects or is related to the service of a utility. KRS 278.280(1) further permits the Commission, after conducting such investigation and finding that a practice is unjust or unreasonable, to determine the service or methods to be observed and to fix same by Order. KRS 278.280(2) directs the Commission to prescribe rules and regulations to govern the performance of utility service.⁵

LG&E's admitted actions in Case No. 2011-00211 are of concern and include the following:

³ Final Order at 11-12 (Ky. PSC Apr. 24, 2012).

⁴ *Id.* at 12.

⁵ Pursuant to this provision, the Commission promulgated 807 KAR 5:006, Section 11, which defines the status of customer accounts during billing disputes. The Commission also promulgated 807 KAR 5:006, Section 13(1)(d), which requires that a utility train its employees and provide certification of same.

1. Clayton's gas service was disconnected while an informal complaint was pending before the Commission.

LG&E admits that Clayton's electric service was "mistakenly disconnected" on April 29, 2011, while Clayton had an informal complaint pending before the Commission.⁶ KRS 278.280(2) directs the Commission to prescribe rules and regulations to govern the performance of utility service. Pursuant to this provision, the Commission promulgated 807 KAR 5:006, Section 11, which defines the status of customer accounts during billing disputes:

With respect to any billing dispute to which Section 10 of this administrative regulation does not apply, customer accounts shall be considered to be current while the dispute is pending as long as a customer continues to make undisputed payments and stays current on subsequent bills.

In explaining Clayton's account shut-off, LG&E stated that "[T]he lock that had been placed on Ms. Clayton's account pending her informal complaint was allowed to lapse on April 15, 2011. Ms. Clayton's account was past due in the amount of \$567.68 and a brown bill was automatically generated from CCS, resulting in the termination of her electric service on April 29, 2011"⁷

LG&E further stated that:

The date for a lock to expire is set at the discretion of the customer relations specialist handling the complaint. The expiration date is then monitored by the specialist, who determines if the lock should be further extended or removed pending the status of the specific complaint The specialist failed to monitor when the lapse was set to expire, so it lapsed automatically without her having reviewed the account. Because Ms. Clayton was past due on her current bill when the lock expired, a disconnect order was automatically generated. When the specialist realized the

⁶ LG&E's Answer at 7.

⁷ LG&E's Response to Commission Staff's First Request for Information, Item 10.

lock had lapsed and a disconnect order completed, she immediately ordered the reconnect and placed a new lock on the account.⁸

2. Clayton's gas service was reconnected by mistake while there was a pending arrearage of \$601.19 and a hold on the account.

Although LG&E told Clayton in October 2009 that she would be required to pay her gas account balance of \$601.19 prior to having her gas service reconnected, LG&E "mistakenly reconnected" her gas service in March 2010. LG&E admits that its customer service representative failed to note that Clayton still owed \$601.19 for prior gas usage which she was required to pay prior to having her gas service reconnected.⁹ This error was not discovered until April 2011 at which time the \$601.19 gas arrearage was put on Clayton's account and Clayton's electric service was disconnected while she had an informal complaint pending before the Commission.

3. Clayton was charged a monthly gas customer charge when she was not receiving gas service.

LG&E admits that for ten months between June 2009 and March 2010, Clayton was charged \$84.36 in customer charges for gas service, even though Clayton's gas service was disconnected at that time. LG&E did not discover or correct this error until March 2011.¹⁰

4. LG&E provided inaccurate information to Clayton regarding the amount she would need to pay in order for her gas service to be reconnected.

LG&E admits that on October 15, 2009, when Clayton was requesting that her gas service be reconnected, its customer service representative only checked Clayton's

⁸ LG&E's Response to Commission Staff's Second Request for Information, Item 2.

⁹ LG&E's Answer at 7; LG&E's Response to Commission Staff's First Request for Information, Item 5(b).

¹⁰ LG&E's Answer at 5.

electric account balance, and advised Clayton that she owed "\$32.06 and that this was the entirety of her bill." After Clayton paid \$33.66 on October 26, 2009, LG&E then informed her that she still owed \$601.19 for prior gas service and that this amount would also need to be paid prior to her gas service being reconnected.¹¹ LG&E confirms that the customer service representative who advised Clayton of her account balance on October 15, 2009, did have access to all of her account information through LG&E's Customer Care System ("CCS"), including the amount she owed for prior gas usage. LG&E's explanation for this error was that the customer service representative "overlooked" the information that was available.¹²

5. LG&E charged Clayton a gas service deposit on her electric service-only invoice.

LG&E billed Clayton a gas service deposit of \$160.00 on an invoice for electric service only, after her gas account had been split from her electric account. On September 28, 2009, after Clayton questioned the "other charges" on her bill, LG&E determined that Clayton was not required to pay the \$160.00 gas service deposit since her gas account had been split from her electric account. This amount was subsequently removed.¹³

6. After disconnecting Clayton's gas and electric service for non-payment, LG&E neglected to contact her as promised with a split quote for her electric service and her gas service, in order for her to have her electric service reconnected for the summer months.

Clayton's electric service was disconnected on June 3, 2009 and, on June 11, 2009, she contacted LG&E about getting that service restored. She was told that

¹¹ *Id.* at 7.

¹² LG&E's Response to Commission Staff's First Request for Information, Item 8.

¹³ LG&E's Answer at 3.

someone would contact her with a split quote, so that she would be able to separate her gas account from her electric account. LG&E admits that it failed to contact Clayton as it had agreed to do. Because Clayton did not receive the split quote until June 22, 2009, she was unable to have her electric service restored until that time.

According to LG&E, the contact center representative who spoke to Clayton indicated in her notation of their conversation on June 6 [sic], 2009 that she had submitted a request for a split quote. Under the CCS (which had been implemented only two months prior), this type of request is ordinarily submitted by web form and delivered to a shared inbox. It appears the representative failed to submit the form in this case.¹⁴

In summary, the errors committed by LG&E were each a result of faulty action or inaccurate or late information given to Clayton by LG&E's employees. Specifically, LG&E disconnected Clayton's electric service in error; reconnected Clayton's gas service in error; charged Clayton a monthly customer charge for ten months of gas service she did not receive; gave Clayton faulty information about how to have her gas service reconnected; charged Clayton a deposit for gas service she was not receiving; and informed Clayton that she would be contacted regarding splitting her gas account from her electric account, but was not. LG&E admits that, factually, all of the above occurred and assigned these errors to its customer service representatives who were involved in each situation. These errors, which involved a single customer, were

¹⁴ LG&E's Response to Commission Staff's First Request for Information, Item 1(a) and Item 1(b). Although LG&E states June 6, 2009 was the date Clayton requested a split quote, Clayton's Complaint states that this phone call occurred on June 11, 2009 and, in its Answer at Item 3(a), LG&E also states that the date of the request was June 11, 2009.

frequent and suggest either an absence of concern on LG&E's part, a lack of meaningful training for its customer care representatives, or both.

807 KAR 5:006, Section 13(1)(d) requires that a utility provide meaningful training for its employees:

The chief operating officer of each electric and gas utility providing service to residential customers shall be required to certify each year the training of utility personnel assigned to counsel persons presenting themselves for utility service under the provisions of this section. Training is hereby defined as an annual review of commission administrative regulations and policies regarding winter hardship and disconnects administrative regulations . . . and the utility's policies regarding collection, arrears repayment plans, budget billing procedures, and weather/health disconnect policies. Certification is defined as written notice to the commission by no later than October 31 of each year identifying the personnel trained, the date the training occurred, and that the training met the requirements of this section.

LG&E's admitted errors, as stated above, suggest that any training that was provided by LG&E appears to have been inadequate, as reflected by LG&E's employees' difficulty in correctly responding to Clayton's inquiries and in taking appropriate action as required by the circumstances at hand.

Based upon its review of the evidence and being sufficiently advised, the Commission finds that prima facie evidence exists that LG&E has failed to comply with 807 KAR 5:006, Section 13(1)(d) and has failed to provide consistent, accurate information to Clayton on multiple occasions

We further find that a formal investigation into these incidents should be conducted and that this investigation should also examine the adequacy and

reasonableness of LG&E's practices related to its customer service and its personnel training.

The Commission, on its own motion, HEREBY ORDERS that:

1. LG&E shall submit to the Commission, within 20 days of the date of this Order, a written response to the allegations contained herein.

2. LG&E shall appear on Wednesday, July 11, 2012 at 10:00 a.m., Eastern Daylight Time, in Hearing Room 1 of the Commission's offices at 211 Sower Boulevard in Frankfort, Kentucky, for the purpose of presenting evidence concerning the alleged violation of 807 KAR 5:006, Section 11, as well as its customer service policies and practices, and to show cause why it should not be subject to the penalties prescribed in KRS 278.990(1) for these alleged violations.

3. At the scheduled hearing in this matter, LG&E shall also present evidence that its personnel have been trained pursuant to 807 KAR 5:006, Section 13(1)(d).

4. The July 11, 2012 hearing shall be recorded by videotape only.

5. Any requests for an informal conference with Commission Staff shall be set forth in writing and filed with the Commission within 20 days of the date of this Order.

6. a. The information requested in the Appendix to this Order is due within 20 days of the date of this Order. Responses to requests for information shall be appropriately bound, tabbed and indexed and shall include the name of the witness responsible for responding to the questions related to the information provided, with copies to all parties of record and eight copies to the Commission.

b. Each response shall be answered under oath or, for representatives of a public or private corporation or a partnership or association or a governmental agency, be accompanied by a signed certification of the preparer or person supervising the preparation of the response on behalf of the entity that the response is true and accurate to the best of that person's knowledge, information, and belief formed after a reasonable inquiry.

c. Any party shall make timely amendment to any prior response if it obtains information which indicates that the response was incorrect when made or, though correct when made, is now incorrect in any material respect.

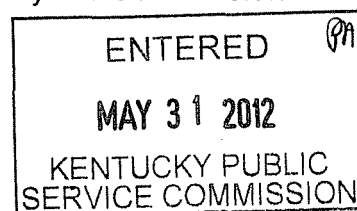
d. For any request to which a party fails or refuses to furnish all or part of the requested information, that party shall provide a written explanation of the specific grounds for its failure to completely and precisely respond.

7. Any party filing testimony shall file an original and eight copies.

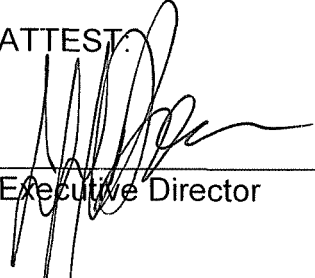
8. At any public hearing in this matter, neither opening statements nor summarization of direct testimony shall be permitted.

9. Nothing contained herein shall prevent the Commission from entering further Orders in this matter.

By the Commission



ATTEST:



Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2012-00168 DATED MAY 31 2012

COMMISSION'S INITIAL REQUEST FOR INFORMATION
TO LOUISVILLE GAS AND ELECTRIC COMPANY

1. For each employee or contractor who dealt with Brenda Clayton ("Clayton") from April 1, 2009 to the present, provide the following:
 - a. Name, job title and job description at the time of each contact with Clayton during the above time frame; and,
 - b. Current address and telephone number.
2. Provide all video or audio tapes/transcripts of any conversations between an employee or contractor and Clayton during the above time frame.
3. Provide all documentation, including internal notes, that show any actions taken by LG&E in response to employee or contractor conversations with Clayton during the above time frame.
4. Provide all records showing any actions taken by LG&E with employees and contractors who were involved in any of the incidents identified in this Order, including but not limited to, counseling, discipline, or training.

Lonnie E Bellar
VP - State Regulation an
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