



a PPL company

Mr. Jeff DeRouen  
Executive Director  
Kentucky Public Service Commission  
211 Sower Boulevard  
Frankfort, Kentucky 40602-0615

January 31, 2013

**RE: *GLEN AND PATRICIA A. DAMRON V. LOUISVILLE GAS AND ELECTRIC COMPANY - Case No. 2013-00008***

Dear Mr. DeRouen:

Enclosed please find an original and ten (10) copies of the Louisville Gas and Electric Company's Motion to Dismiss With Prejudice the Complaint of Glen and Patricia A. Damron for filing in the above-referenced docket.

A copy is being mailed to the Complainant.

Please contact me if you have any questions concerning this filing.

Sincerely,

A handwritten signature in black ink that reads 'Rick E. Lovekamp'. The signature is written in a cursive, flowing style.

Rick E. Lovekamp

RECEIVED

JAN 31 2013

PUBLIC SERVICE  
COMMISSION

**Louisville Gas and  
Electric Company**  
State Regulation and Rates  
220 West Main Street  
PO Box 32010  
Louisville, Kentucky 40232  
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**COMMONWEALTH OF KENTUCKY**  
**BEFORE THE PUBLIC SERVICE COMMISSION**

**In the Matter of:**

<b>GLEN AND PATRICIA A. DAMRON</b>	)	
	)	
<b>COMPLAINANT</b>	)	
	)	
<b>v.</b>	)	<b>CASE NO. 2013-00008</b>
	)	
<b>LOUISVILLE GAS AND ELECTRIC</b>	)	
<b>COMPANY</b>	)	
	)	
	)	
<b>DEFENDANT</b>	)	

\* \* \* \* \*

**MOTION TO DISMISS WITH PREJUDICE**

Louisville Gas and Electric Company (“LG&E”) hereby moves this Commission to dismiss the Complaint filed herein by Glen and Patricia A. Damron (“Complainants”), for the reasons set forth below.

The Complainants seek compensation from LG&E in the amount of \$3,548.79 through December 31, 2012 based upon their belief that the electric meter to their home was defective. To support this claim, Complainants argue that “electric charges varied considerably from month to month without large variations in the weather.” *See Additional Statement to Complaint filed on January 2, 2013.* However, the Commission has expressly recognized that “[c]ustomer charges are based upon the filed tariff

provisions of the utility and the metered usage of the customer.” *See In the Matter of: Norman D. Vernon v. Louisville Gas and Electric Company*, Case No. 2010-00130, Order of December 21, 2011, p. 6. The Complainants’ meter was tested for accuracy following its removal by LG&E on February 1, 2012, and again on April 19, 2012, by MetAdigm on behalf of the Kentucky Public Service Commission. On both occasions, the meter tested within the limits as required by 807 KAR 5006, Section 17. Since there is nothing that indicates that Complainants’ meter was improperly operating, they were charged LG&E’s tariffed rate according to the usage recorded. There is no evidence that LG&E has not charged the Complainants according to its tariff on file with the Commission and therefore the Complaint should be dismissed.

The Complainants also seek compensation in the amount of \$700 for damage to a stone column at the entrance to their driveway. KRS 278.040(2) and 278.260(1) establish the jurisdiction of the Commission. Specifically, the Commission has “exclusive jurisdiction over the regulation of rates and service of utilities . . . and upon a complaint in writing made against any utility by any person that . . . the service of the utility or any service in connection therewith is unreasonable, unsafe, insufficient or unjustly discriminatory, or that any service is inadequate or cannot be obtained, the commission shall proceed . . . to make such investigation as it deems necessary or convenient.” However, the Commission lacks the statutory authority to award damages to individual utility customers.

Kentucky courts have long held that the Commission does not possess the legal authority to award monetary damages. *See Carr v. Cincinnati Bell, Inc.*, 651 S.W.2d 126, 128 (Ky. App. 1983). (“Nowhere in Chapter 278 do we find a delegation of power to the

PSC to adjudicate contract claims for unliquidated damages. Nor would it be reasonable to infer that the Commission is so empowered or equipped to handle such claims consistent with constitutional requirement.”) As the relief sought by Complainants for property damage is comprised solely of monetary damages, and as the award of such damages is outside of the Commission’s jurisdiction, the complaint fails to state a *prima facie* case and, therefore, should be dismissed. Notwithstanding the lack of Commission jurisdiction over this matter, LG&E respectfully notes that a check in the amount of \$700 was mailed to the Complainants on January 25, 2013.

### **CONCLUSION**

Mr. and Mrs. Damron’s Complaint contains no basis for finding that LG&E acted in violation of any tariff, statute or regulation. For those reasons, Mr. and Mrs. Damron’s Complaint should be dismissed with prejudice and this matter should be closed on the Commission’s docket.

**WHEREFORE**, for the reasons set forth above, Louisville Gas and Electric Company respectfully requests:

- (1) that the Complaint herein be dismissed with prejudice and without further action taken by the Commission; and
- (2) that this matter be closed on the Commission's docket.

Dated: January 31, 2013

Respectfully submitted,



Allyson K. Sturgeon  
Senior Corporate Attorney  
LG&E and KU Services Company  
220 West Main Street  
Louisville, Kentucky 40202  
Counsel for Louisville Gas and Electric Company

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing was served on the following on the 31<sup>st</sup> day of January, 2013, U.S. mail, postage prepaid:

Glen and Patricia A. Damron  
3605 Ten Broeck Way  
Louisville, Kentucky 40299



Counsel for Louisville Gas and Electric Company