

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

JEFFREY JON GREENBERG)	
)	
COMPLAINANT)	
)	
V.)	CASE NO.
)	2023-00149
)	
LOUISVILLE GAS AND ELECTRIC COMPANY)	
)	
DEFENDANT)	

ORDER

This matter arises from a complaint filed by Jeffrey Greenberg in which he alleges that Louisville Gas and Electric Company (LG&E) cut off his household’s electric service without prior notice and without subsequent notice. On August 31, 2023, the Commission entered an Order requesting additional information from LG&E, though the Commission did not find that Mr. Greenberg established a prima facie case. Mr. Greenberg supplemented his complaint in response to a separate Order issued the same day, and LG&E provided the information requested and narrative response describing the events.

BACKGROUND

Complainant Jeffrey Greenberg stated that in the fall of 2022, he and his wife, Kimberly, had an entire house back up natural gas generator professionally installed by Corrigan Electric at their residence, 7000 Hadley Ct. Louisville, KY 40241.¹ Mr.

¹ Jeffrey Greenberg Response to Commission Order of August 31, 2023 (filed Sept. 7, 2023) at unnumbered page 1.

Greenberg acknowledged that the electric meter was mistakenly installed upside down by Corrigan Electric during this process.² Neither Corrigan Electric nor the Greenbergs notified LG&E about the work done or that the seal on the meter was now broken and needed to be resealed.³

According to Mr. Greenberg, on Wednesday, February 15, 2023, Mr. Greenberg was standing in his back yard at his residence, which is fully fenced, when an LG&E meter reader approached from the driveway (outside the fence line) and asked if he could come inside the fence to access the meter.⁴ Mr. Greenberg mentioned to him that normally the reader could see the meter from the front yard, by looking over the fence. The meter reader, according to Mr. Greenberg, replied that the meter was upside down, and he was having a difficult time reading it.⁵ According to Mr. Greenberg, he let the meter reader into the back yard and they went over to the meter and the meter reader spent about 10 to 15 minutes looking at it, taking photographs, and accessing his IPAD.⁶ He then left.

According to Mr. Greenberg, on Friday, February 17, 2023, at approximately 4:40 p.m., Kimberly Greenberg was at home and looked outside and saw two LG&E workers in the front yard.⁷ Five minutes later the power went out, and the home generator came on. Mr. Greenberg was out of the country on a work trip. Kimberly Greenberg began calling LG&E on Saturday, February 18, to report the outage. Kimberly Greenberg could

² Jeffrey Greenberg Response to Commission Order at unnumbered page 1.

³ LG&E's Response to Commission Order of August 31, 2023 (filed Sept. 15, 2023) at page 3 of 4.

⁴ Jeffrey Greenberg Response to Commission Order at unnumbered page 1.

⁵ Jeffrey Greenberg Response to Commission Order at unnumbered page 1.

⁶ Jeffrey Greenberg Response to Commission Order at unnumbered page 1.

⁷ Jeffrey Greenberg Response to Commission Order at unnumbered page 1.

not get through to speak to an LG&E agent until Sunday.⁸ Kimberly Greenberg asked the phone agent why the workers did not tell them that they were going to disconnect the power.⁹ The phone agent apparently told Mrs. Greenberg that the utility workers are supposed to hang a door tag informing of the power cutoff.¹⁰ Mrs. Greenberg said that no such tag was left, and no other notice was made.¹¹ The phone agent allegedly told Kim Greenberg that the workers sometimes do not leave notice if they are trying to avoid “an issue”.¹²

Mr. Greenberg stated that an LG&E worker showed up at the Greenberg house on Sunday at approximately 11 a.m. and the worker told Kim Greenberg that power was disconnected due to suspected theft due to the upside down meter.¹³

The Greenberg’s power was restored after approximately 40 hours without service.¹⁴

LEGAL STANDARD

Commission regulation 807 KAR 5:001, Section 20, governs the filing of a formal complaint. In accordance with 807 KAR 5:001, Section 20(1)(c), a complaint must state “[f]ully, clearly, and with reasonable certainty, the act or omission” that the complaint alleges the utility failed to comply with and facts, with details, of the alleged failure. In

⁸ Jeffrey Greenberg Response to Commission Order at unnumbered page 1.

⁹ Jeffrey Greenberg Response to Commission Order at unnumbered page 1.

¹⁰ Jeffrey Greenberg Response to Commission Order at unnumbered page 1.

¹¹ Jeffrey Greenberg Response to Commission Order at unnumbered page 1.

¹² Jeffrey Greenberg Response to Commission Order at unnumbered page 1.

¹³ Jeffrey Greenberg Response to Commission Order at unnumbered page 1.

¹⁴ Jeffrey Greenberg Response to Commission Order at unnumbered page 1.

accordance with 807 KAR 5:001, Section 20(4)(a), the Commission examines a complaint to determine whether the complaint establishes a prima facie case and conforms to the administrative regulation. A complaint establishes a prima facie case when, on its face, it states sufficient allegations that, if uncontradicted by other evidence, would entitle the complainant to the requested relief. Based on the responses from both Mr. Greenberg and LG&E, Mr. Greenberg has now established a prima facie case.

Commission regulation 807 KAR 5:006, Section 15(1)(g): provides that a utility may terminate service without advance notice if utility has evidence that a customer obtained unauthorized service by illegal use or theft. Within 24 hours after termination, the utility shall send written notice with reason for termination of service and customer's right to challenge termination of service by filing a formal complaint with the PSC.

LG&E's tariff provision, P.S.C. Electric No. 13, Original Sheet No. 105.1, Number 9. for fraudulent or illegal use of service states that, "when LG&E discovers evidence that by fraudulent or illegal means a Customer has obtained unauthorized service or has diverted the service for unauthorized use or has obtained service without same being properly measured, the service to Customer may be discontinued without notice. Within twenty-four (24) hours after such termination, Company shall send written notification to Customer of the reasons for such discontinuance of service and of Customer's right to challenge the termination by filing a formal complaint with the Kentucky Public Service Commission."

Pursuant to KRS 278.250 and KRS 278.260, the Commission is authorized to investigate and examine the condition of any utility subject to its jurisdiction, including any practice or act relating to the utility service. Pursuant to KRS 278.280, if the Commission

finds that any practice or act is unjust, unreasonable, unsafe, improper, inadequate, or insufficient, then the Commission has the authority to determine the just, reasonable, safe, proper, adequate, or sufficient practice or method to be observed. KRS 278.990 authorizes the Commission to assess civil penalties not to exceed \$2,500 for each offense against a utility and against any officer, agent, or employee of a utility who willfully violates any provisions of KRS Chapter 278, Commission regulations, or Orders.

While a willful violation has been defined as an act that is committed intentionally, not accidentally nor involuntarily,¹⁵ it has also been stated that a willful violation does not necessarily and solely entail an intention to do wrong and inflict injury but may include conduct which reflects an indifference to its natural consequences.¹⁶ For civil and administrative proceedings, a willful violation has been explained as one which is intentional, knowing, voluntary, deliberate or obstinate, although it may be neither malevolent nor with the purpose to violate the law.¹⁷ In this case, a willful violation of Commission statute and LG&E's tariff occurred when the LG&E employees decided not to leave a door tag informing the Greenbergs of the disconnection of service, and LG&E did not otherwise inform the Greenbergs in writing within 24 hours of the disconnection.¹⁸

¹⁵ See Case No. 92-016, *M.A.V.I.S.S., Inc. and Mr. Darby Alleged Failure to Comply with Commission Regulations* (Ky. PSC July 1, 1992).

¹⁶ See Case No. 93-044, *Jackson Purchase Electric Cooperative Corporation, Inc. Alleged Failure to Comply with Commission Regulations* (Ky. PSC), citing *Huddleston v. Hughes*, 843 S.W.2d 901, 905 (Ky. App. 1992).

¹⁷ See Case No. 99-001 *Bluegrass Gas Sales, Inc. , Alleged Violation of KRS 278.300* (Ky. PSC July 8, 1999) at 5, citing *Woods v. Corsey*, 200 P.2d 208 (Cal. App. 1948).

¹⁸ LG&E's Response to Commission Order at page 2 of 4.

DISCUSSION AND FINDINGS

Based on the responses filed by LG&E and by Mr. Greenberg, Mr. Greenberg has established a prima facie case. The Commission finds that LG&E intentionally, knowingly, and voluntarily failed to issue customer notice subsequent to disconnecting the Greenbergs' electricity; and therefore, are subject to penalties pursuant to KRS 278.990 for violation of 807 KAR 5:006, Section 15(1)(g): a Utility may terminate service without advance notice if the utility has evidence that a customer obtained unauthorized service by illegal use or theft. Within 24 hours after termination, the utility shall send written notice with reason for termination of service and customer's right to challenge termination of service by filing a formal complaint with the PSC.

Although there was evidence of suspected theft by the Greenbergs, the upside-down meter noticed by the LG&E meter reader, LG&E has admitted that it did not provide the Greenbergs with proper subsequent notice by neglecting to hang a door tag at the Greenberg's residence after LG&E disconnected service.¹⁹ LG&E shall have 20 days to respond to this Show Cause Order.

IT IS THEREFORE ORDERED that

1. LG&E shall file a response within 20 days of the date of this Order to show cause why it should not be subject to civil penalties pursuant to KRS 278.990(1).
2. A copy of this Order shall be served on the Complainant, Jeffrey Greenberg, by U.S. certified mail, return receipt requested at 7000 Hadley Ct. Louisville, KY 40241.

¹⁹ LG&E's Response to Commission Order at page 3 of 4.


PUBLIC SERVICE COMMISSION



Chairman



Vice Chairman



Commissioner



ATTEST:



Executive Director

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