

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

SANDRA HUFF WILHITE	)	
	)	
COMPLAINANT	)	
	)	
v.	)	CASE NO. 2000-369
	)	
LOUISVILLE GAS AND ELECTRIC	)	
COMPANY	)	
	)	
DEFENDANT	)	

O R D E R

On July 19, 2000, Sandra Huff Wilhite ("Complainant") filed a formal complaint against Louisville Gas and Electric Company ("LG&E") alleging that LG&E had wrongfully terminated her service because she refused to pay balances owed to LG&E by her estranged husband and her son. Complainant requests that the aforementioned balances be removed from her account and that she be allowed to receive service. Complainant further requested that damages be awarded to compensate her for food spoiled due to LG&E discontinuing service to her residence.

LG&E filed its answer on August 18, 2000, claiming that Complainant is responsible for her estranged husband's unpaid balance because she was the spouse of Mr. Wilhite, resided at 3229 Northwestern Parkway and 637 South 39<sup>th</sup> Street with Mr. Wilhite while LG&E provided services, and therefore received the benefits of LG&E services to those addresses. LG&E originally claimed that, since Complainant also

lived with her son at 630 East Breckenridge Street, Apt. 2FFT, she is therefore responsible for her son's unpaid balances because she received the benefit of LG&E's services at her son's address.

In response to a data request from the Commission, LG&E admits that it has no proof that Complainant resided at her son's apartment or that she received the benefits of LG&E's service while a guest or a resident at her son's apartment. Accordingly, LG&E reduced its claim against Ms. Wilhite by removing \$94.95 charged for the period she allegedly resided with her son.

It is clear that LG&E is entitled to collect for any unpaid balances Complainant accrued while she had service in her name. It is unclear, however, how Complainant is responsible for the unpaid balances that were incurred when service was in her estranged husband's name. LG&E argues that Complainant is responsible for the charges incurred under her husband's name because "as a spouse of Mr. Wilhite, Ms. Wilhite is jointly responsible with her husband for bills rendered for service...." (LG&E's Answer, page 3.) However, LG&E cites no authority in support of this proposition.

In Administrative Case No. 276,<sup>1</sup> the Commission sought comment from utilities and other parties about the joint liability of husband and wife for payment of utility bills. The Commission concluded that it would not adopt any hard and fast rules relating to joint liability for husband and wife. Instead, the Commission will decide each such dispute on a case-by-case basis. Additionally, in Case No. 95-362,<sup>2</sup> the Commission

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<sup>1</sup> Administrative Case No. 276, Joint Liability of Husband and Wife for Payment of Utility Bills. Final Order dated September 24, 1984.

<sup>2</sup> Case No. 95-362, Norma Jean Kumer v. Louisville Gas and Electric Company.

found that the mother who rented a house to her son was not liable for bills incurred by her son. In that case LG&E, the defendant, argued that the mother was liable for the bills because she had the “benefit of service”<sup>3</sup> from LG&E to her son. The Commission found for the Complainant, stating: “[w]hile “benefit of service” criteria has never been accepted by the Commission as a policy suitable for all utilities to follow in collecting past due accounts, it is considered on a case to case basis where applicable.”<sup>4</sup>

LG&E asserts that Complainant is responsible for her husband's past due account because she was his wife and because she allegedly lived at the residences. LG&E does not allege that Complainant signed a contract with LG&E to receive service at 3229 Northwest Parkway, 637 South 39<sup>th</sup> Street, and 630 East Breckenridge Street, Apt 2FFT. LG&E advances no further argument or reason to support its assertion of liability. Pursuant to Administrative Case No. 276, the Commission has adopted no rules automatically providing for liability of a spouse when the other spouse fails to pay a utility bill.

LG&E also has adopted no rules in its tariff addressing the liability of a person who lives in the same residence as the ratepayer whose account has fallen delinquent. LG&E's tariff does contain provisions for the discontinuance or refusal of service for delinquent accounts,<sup>5</sup> but these sections do not contain any language which ascribes any sort of liability to the spouse or cohabitant of the person in whose name the utility bill is registered.

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<sup>3</sup> Case No. 95-362, final Order at 4.

<sup>4</sup> Case No. 95-362, final Order at 4.

<sup>5</sup> LG&E Tariff, Tariff Sheet No. 48, Rules 22 (D and G).

In Case No. 10233,<sup>6</sup> the Commission found that Grayson Rural Electric Cooperative Corporation (“Grayson RECC”) correctly refused to provide electric service to the wife of the bill-payer whose account was delinquent. The central issue presented in the case was that Walter Callihan’s wife, Goldie Callihan, had applied to receive service from Grayson RECC, which Grayson RECC refused to provide because her husband’s account was several thousand dollars in arrears. In finding for Grayson RECC, the Commission noted that Grayson RECC’s tariff contained a provision<sup>7</sup> that allowed it to refuse service to a person residing with a delinquent bill-payer on the theory that the person applying for service should be treated as an agent of the delinquent bill-payer.<sup>8</sup> In light of the aforementioned tariff provision, the Commission found that “[a]ccordingly, any debt owed by Walter Callihan to Grayson RECC may be imputed to Goldie Callihan and serve as a proper basis for refusing service to her.”<sup>9</sup> Grayson RECC was able, therefore, by virtue of its tariff and as a matter of law, to hold Mr. Callihan’s wife liable for the debts that he had incurred.

LG&E’s tariff does not contain a similar provision regarding the liability of a person who lives, or has lived, with a delinquent bill-payer. LG&E does not allege that

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<sup>6</sup> Case No. 10233, Walter Callihan and Goldie Callihan, His Wife vs. Grayson Rural Electric Cooperative Corporation. Decided May 1, 1989.

<sup>7</sup> The relevant tariff provision states: “[i]f an application is received by a person residing with a delinquent member at the premises where power was supplied to the delinquent member, the application will be denied on the grounds that the applicant is applying as the agent of the delinquent member.” Grayson RECC Tariff, Tariff Sheet No. 18, Rule 5.

<sup>8</sup> Case No. 10233, final Order, Page 2, Footnote 2.

<sup>9</sup> *Id.*

Complainant was a signatory to Mr. Wilhite's service agreement with LG&E, nor does LG&E allege that Complainant signed a contract or otherwise agreed to assume the liability for her estranged husband's accounts. Absent a specific tariff provision or an agreement between Complainant and LG&E, the Commission is reluctant to assign the liability of Mr. Wilhite's unpaid accounts to Complainant. Accordingly, the Commission finds as follows:

1. As there is no dispute of any material fact, there is no compelling public interest to conduct an evidentiary hearing.

2. LG&E has failed to provide any support for its assertion that Complainant is responsible for the delinquent accounts of her son, Michael Wilhite, or of her husband, Willie Wilhite.

3. It is not within the Commission's jurisdiction to award damages for the food Complainant alleges was spoiled due to LG&E discontinuing service to her residence.

IT IS THEREFORE ORDERED that:

1. LG&E may not attempt to collect from Complainant for the unpaid balances owed by her son and estranged husband.

2. Within 30 days of the issuance of this Order, LG&E must refund any monies paid by Complainant in excess of the amount she owes for service received by her from LG&E. This includes any late fees, disconnect charges, and reconnect charges incurred by Complainant as a result of LG&E's attempt to bill her for her estranged husband's and son's accounts.

3. At the time LG&E refunds the above-mentioned charges and monies, it shall supply to the Commission a copy of the bills showing the refund, accompanied by an attachment explaining the nature of the various charges.

Done at Frankfort, Kentucky, this 8<sup>th</sup> day of February, 2001.

By the Commission

ATTEST:

  
Executive Director