

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN ADJUSTMENT OF THE ELECTRIC RATES,) CASE NO.
TERMS, AND CONDITIONS OF LOUISVILLE) 2003-00433
GAS AND ELECTRIC COMPANY)

O R D E R

On January 5, 2004, Robert L. Madison, a residential electric customer of Louisville Gas and Electric Company ("LG&E"), filed a motion for full intervention. The motion states that Mr. Madison has been granted full intervention in a number of prior LG&E cases, that he has a special interest because he represents the concerns of an electric residential customer whereas the Attorney General's ("AG") office represents all classes of customers, and that in previous cases he has taken positions that differed from those of other intervenors. Further, the motion states that Mr. Madison is likely to present issues or develop facts that will assist the Commission without complicating or disrupting the proceedings.

LG&E filed a response objecting to Mr. Madison's request for intervention. LG&E asserts that the interest which Mr. Madison has in this case is neither special nor unique, and is indistinguishable from any other residential consumer of electricity. Noting that the AG has been granted intervention and that his statutory charge includes representing the interest of all consumers in utility rate proceedings, LG&E maintains that the AG will fairly and adequately represent Mr. Madison's interests as a residential consumer. LG&E further states that Mr. Madison is not likely to present issues or develop facts that will assist the Commission in fully considering this case without

unduly complicating or disrupting the proceedings because he does not possess the educational and professional background or training to testify on technical issues. LG&E cites a prior Commission case in which Mr. Madison had been granted full intervention and submitted expert testimony which the Commission subsequently determined should be treated as public comment, based on a finding that Mr. Madison “does not possess the experience or qualifications necessary to present testimony as an expert in the areas of rate-making or rate design.”¹ LG&E further notes that a subsequent request for intervention by Mr. Madison was denied in Case No. 2003-00266.²

Mr. Madison filed a response to LG&E’s objection, stating that LG&E would object to the intervention of any person who might advocate a position contrary to that of LG&E. He asserts that intervention should not be limited to organizations and that he has been the only residential customer to previously request and be granted intervention in LG&E proceedings. He restates his claim that his participation in previous cases demonstrates his ability to present issues that assist the Commission and that LG&E’s objection to allowing a residential consumer to participate is self serving.

Based on the motion and being otherwise sufficiently advised, the Commission finds that Mr. Madison’s interest as a residential consumer is no different than the

¹ Case No. 2002-00147, The Application of Louisville Gas and Electric Company for an Amended Environmental Compliance Plan, and a Revised Surcharge to Cover the Costs, Order dated February 11, 2003.

² Case No. 2003-00266, Investigation Into the Membership of Louisville Gas and Electric Company and Kentucky Utilities Company in the Midwest Independent Transmission System Operator, Inc.

interests of any other residential consumer. The AG has already been granted intervention and he is charged by statute to represent the interests of consumers. The fact that Mr. Madison has previously taken positions that differ from those of the AG does not mean that the AG is not fairly and adequately representing the interests of all consumers. While the Commission has no intent to create a precedent that would absolutely bar intervention by individual residential consumers in rate cases, we recognize that in prior cases Mr. Madison has propounded extensive data requests and then filed detailed testimony on technical issues as if he was an expert witness when, in fact, he lacks the educational and professional training to do so. The filing of what purports to be expert testimony by one who is not an expert tends to complicate and disrupt the proceedings, rather than presenting issues or developing facts that will assist the Commission. Under these circumstances, Mr. Madison should not be authorized to participate as an intervenor. However, the views and opinions of Mr. Madison and all other customers of LG&E are important to the Commission and ample opportunity will be provided for the receipt of public comment from ratepayers. Such public comment will be considered by the Commission in its deliberations in this case.

IT IS THEREFORE ORDERED that the motion of Robert L. Madison requesting full intervention is denied.

Done at Frankfort, Kentucky, this 21st day of January, 2004.

By the Commission

ATTEST:


Executive Director

Case No. 2003-00433