

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

GERRY AND SHEILA LITCHFIELD)	
)	
COMPLAINANTS)	
)	
v.)	CASE NO. 2005-00070
)	
LOUISVILLE GAS AND ELECTRIC COMPANY)	
)	
DEFENDANT)	

O R D E R

On February 4, 2005, the Commission received a formal complaint filed by Gerry and Sheila Litchfield against Louisville Gas and Electric Company ("LG&E"). The Litchfields state that they recently requested LG&E to provide service to their new residence at 1201 Bentwood Way, Louisville, Kentucky, but LG&E refused until payment was made for an earlier indebtedness of approximately \$2,100 for service rendered to a commercial building at 116 East Main Street, Louisville, Kentucky. The Litchfields claim that they are not responsible for the bill incurred at 116 East Main Street because they never requested service in their name at that address, and they want LG&E to provide documentation of their request for service at 116 East Main Street.

The Litchfields further state that, after being informed by LG&E that they could not get service at their new residence on Bentwood Way until they paid in full the outstanding indebtedness from 116 East Main Street, they had their daughter, Lauren Diaz, contact LG&E regarding utility service in her name at the Bentwood Way

residence. The Litchfields claim that LG&E still refused to provide service until the indebtedness from 116 East Main Street was paid in full. The complaint then states a belief that there is a restriction on the transfer of an unpaid commercial bill to a residential account, and requests reimbursement from LG&E in the amount of the \$2,100 paid.

The Commission is empowered by KRS 278.260 to hear “complaints as to rates or service of any utility.” That statute further authorizes the Commission to “dismiss any complaint without a hearing if, in its opinion, a hearing is not necessary in the public interest or for the protection of substantial rights.” Based on a review of the claims set forth by the Litchfields and the Commission’s records, the Commission finds that a hearing is not necessary in the public interest or for the protection of substantial rights, and that the complaint should be dismissed.

Gerry and Sheila Litchfield previously filed on March 4, 1997 a formal complaint against LG&E challenging the transfer of this same unpaid bill from 116 East Main Street to the Litchfields’ then-current residence, 3306 Eastside Drive, Louisville, Kentucky. That complaint was docketed as Case No. 1997-00113.¹ The Commission then conducted an investigation and received documentation from LG&E regarding the Litchfields’ request that service at 116 East Main Street be put into their name in 1991 following termination of service for non-payment by their tenant at that address. On July 2, 1997, the Commission entered an Order which contains the following findings of fact:

The billing records filed by LG&E conclusively show that on August 12, 1991 Gerry Litchfield requested service in his name for rental property at 116 East Main Street, Louisville,

¹ Case No. 1997-00113, Gerry and Sheila Litchfield, Complainants, vs. Louisville Gas and Electric Company, Defendant.

Kentucky. Due to the existence of an unpaid balance for utility service previously rendered at that address to a prior tenant, LG&E requested Mr. Litchfield to provide proof of ownership of the property. He appeared at LG&E's office that same day with proof of ownership and service was transferred to the name of Gerry Litchfield on August 31, 1991. Service remained in that name until February 19, 1992 when it was transferred to Eton Services, the new owner of the property at 116 East Main Street.

The Commission's Order then states, "Mr. Litchfield became LG&E's customer and financially responsible for all metered gas and electricity until service was transferred to Eton Services on February 19, 1992." At the time, the unpaid bill for service rendered to the Litchfields at 116 East Main Street was approximately \$2,000.

The Commission then dismissed the Litchfields' challenge to LG&E's transfer of the indebtedness from a commercial account to a residential account based on the finding that they were in fact legally responsible for the unpaid bill at 116 East Main Street. However, the Commission noted that despite their responsibility for the indebtedness, LG&E could not terminate service at any point of delivery except where the indebtedness was incurred, which was 116 East Main Street. No request for rehearing or judicial appeal was filed from that July 2, 1997 Order, and the findings contained therein are binding on the Litchfields and LG&E. Consequently, the Litchfields cannot now, almost 8 years later, challenge or relitigate the findings in that Order that they are responsible for the service rendered at 116 East Main Street.

The Commission also finds that LG&E acted properly and in accordance with its filed tariff in refusing to accept the name of the Litchfields' daughter for service to be rendered to the Litchfields' new residence at 1201 Bentwood Way. LG&E's tariff, in the section providing for discontinuance of service, specifies as follows:

Service will not be supplied or continued to any premises if at the time of application for service the applicant is merely acting as an agent of a person or former customer who is indebted to the Company for service previously supplied at the same or other premises until payment of such indebtedness shall have been made.²

Here, the Litchfields' complaint acknowledges that, even though their daughter currently has service at another location, she requested service at 1201 Bentwood Way because the Litchfields were unable to obtain service at that location due to their indebtedness from 116 East Main Street. Under these circumstances, it is clear that the Litchfields' daughter was acting as their agent in attempting to obtain utility service at the Litchfields' new residence at 1201 Bentwood Way.

Finally, the Litchfields question whether LG&E has the authority to transfer an unpaid balance from a commercial account to a residential account. LG&E's current tariff, which was first accepted and approved by the Commission on January 30, 2002, provides that unpaid bills may be transferred between residential and commercial accounts when the commercial account has residential characteristics. However, since this tariff did not become effective until January 30, 2002, it has no application to LG&E's 1996 transfer of the Litchfields' unpaid bill at 116 East Main Street to their residential account. The transfer of that unpaid bill was proper in 1996, and the Litchfields' challenge to that transfer was dismissed by the Commission's July 2, 1997 Order in Case No. 1997-00113.

² LG&E Tariff, Original Sheet No. 90, PSC of Ky. Electric No. 6, and Original Sheet No. 89, PSC of Ky. Gas No. 6.

IT IS THEREFORE ORDERED that the Litchfields' request for reimbursement from LG&E of approximately \$2,100 is denied, and the Litchfields' complaint is dismissed.

Done at Frankfort, Kentucky, this 16th day of March, 2005.

By the Commission

ATTEST:

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke at the end, positioned above the title 'Executive Director'.

Executive Director