

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

KIMBERLY NICOLE MEYER	)	
	)	
COMPLAINANT	)	
	)	
V.	)	CASE NO. 2010-00070
	)	
LOUISVILLE GAS AND ELECTRIC COMPANY	)	
	)	
DEFENDANT	)	

O R D E R

On February 12, 2010, Complainant, Kimberly Nicole Meyer, brought this action against Louisville Gas and Electric Company ("LG&E"), claiming that LG&E improperly discontinued electric service to her residence on January 18, 2010; that LG&E is not allowing her enough time to pay her monthly bill; and that LG&E improperly charged late fees to her account.

LG&E filed its Answer to the Complaint on March 8, 2010 and moved the Commission to dismiss the complaint with prejudice for failure to state a claim upon which the Commission may grant relief and for failure to set forth a prima facie case that LG&E violated its tariff or any applicable statute or regulation under the Commission's jurisdiction. In its Answer, LG&E noted that, on January 28, 2010, it added Ms. Meyer to its Fixed and Limited Income Extension ("FLEX") program, which allows a qualifying customer to choose his or her monthly bill due date.

The Commission finds that the burden of proof to go forward with a formal complaint pursuant to 807 KAR 5:001, Section 14, lies with the Complainant. The evidence presented by the parties demonstrates that a termination notice (“brown bill”) pre-dating the January 18, 2010 termination of Complainant’s electric service exists. Complainant claims that she did not receive the termination notice prior to her electric service being disconnected. However, the Commission notes that there is no statutory or regulatory requirement that a utility utilize certified or registered mail when issuing a termination notice for non-payment. 807 KAR 5:006, Section 13(5), requires that “[w]hen advance termination notice is required, the termination notice shall be mailed or otherwise delivered to the last known address of the customer.”

Complainant has not produced any evidence demonstrating that LG&E did not mail a brown bill to her address prior to the January 18, 2010 termination of service. Whereas, in response to the Complaint, LG&E has produced a copy of a brown bill, addressed to Complainant at her current address, which states a past-due amount of \$128.69 and a “Final Pay Date” of January 14, 2010.<sup>1</sup> LG&E states that it mailed the brown bill to Complainant on December 31, 2009, after her payment for her December 2009 bill was not received by the December 28, 2009 due date.<sup>2</sup>

Absent any evidence to the contrary, the Commission must rely upon LG&E’s statement that it sent Complainant’s utility bills and related mailings to her current address via the United States Postal Service prior to the date it terminated her service on January 18, 2010. Therefore, the Commission finds that LG&E properly notified

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<sup>1</sup> LG&E Answer, Appendix A.

<sup>2</sup> LG&E Reply to Complainant’s Response to LG&E’s Motion to Dismiss at 2.

Complainant of the pending termination of her electric service by mailing a brown bill with a final due date of January 14, 2010 to Complainant's address on December 31, 2009. As such, the Commission finds that LG&E's termination of Complainant's electric service on January 18, 2010 was not improper.

807 KAR 5:006, Section 14(f), provides that a utility may not terminate service to a customer until 27 days have passed since the last unpaid bill was issued. LG&E claims that Complainant's December 2009 bill was mailed on December 16, 2009.<sup>3</sup> Complainant states in her June 10, 2010 sur-reply that she believes that the bill may not have been mailed until as late as December 21, 2009. However, regardless of whether LG&E or Complainant is correct regarding the mailing date of the December 2009 bill, a minimum of 28 days passed between the time Complainant's December 2009 bill was mailed and the termination of her service on January 18, 2010. As such, LG&E's termination of Complainant's service did not violate the requirements of 807 KAR 5:006, Section 14(f).

As LG&E's January 18, 2010 termination of Complainant's service was not improper, the Commission finds that LG&E's decision to charge Complainant a deposit, pursuant to its tariff, was not improper. LG&E stated in its Reply to Complainant's Response to LG&E's Motion to Dismiss the Complaint that it will refund the deposit if Ms. Meyer satisfies the requirements of its tariff by maintaining a satisfactory payment and credit record for 12 months.<sup>4</sup> LG&E also states that it has refunded late payment fees to Complainant's account which were assessed for consumption that was billed

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<sup>3</sup> Id. at 1-2.

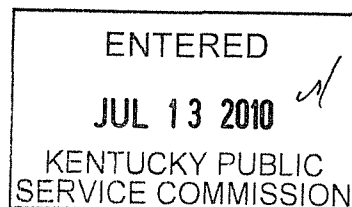
<sup>4</sup> Id. at 3.

after the January 18, 2010 disconnection of service and that it has not imposed any additional late payment penalties during the pendency of this case.<sup>5</sup>

The Commission finds that, although LG&E did not violate any provisions of its tariff or any applicable regulations in its termination of Complainant's electric service, LG&E's enrollment of Complainant in its FLEX program on January 28, 2010 and its refund of late fees to Complainant's account have reasonably satisfied the issues raised in the February 12, 2010 Complaint. The Commission also finds that, pursuant to KRS 278.260(2), a hearing is not necessary in this matter.

Based upon the foregoing, IT IS HEREBY ORDERED that the Complaint filed by Complainant, Kimberly Nicole Meyer, on February 12, 2010 against Defendant, LG&E, is hereby dismissed with prejudice.

By the Commission



ATTEST:

  
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Executive Director

<sup>5</sup> Id.

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