

**COMMONWEALTH OF KENTUCKY**  
**BEFORE THE PUBLIC SERVICE COMMISSION**

**In the Matter of:**

**ELECTRONIC APPLICATION OF LOUISVILLE )  
GAS AND ELECTRIC COMPANY FOR A )  
DECLARATORY ORDER REGARDING THE )  
PROPER METHOD OF MUNICIPAL FRANCHISE )  
FEE RECOVERY )**

**CASE NO. 2016-00317**

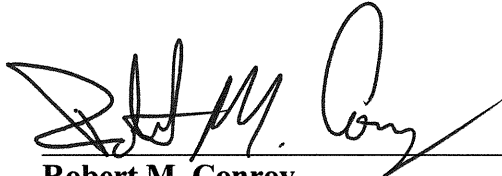
**TESTIMONY OF  
ROBERT M. CONROY  
VICE PRESIDENT, STATE REGULATION AND RATES  
LOUISVILLE GAS AND ELECTRIC COMPANY**

**Filed: March 14, 2017**

VERIFICATION

COMMONWEALTH OF KENTUCKY )  
 ) SS:  
COUNTY OF JEFFERSON )

The undersigned, **Robert M. Conroy**, being duly sworn, deposes and says that he is Vice President, State Regulation and Rates for Louisville Gas and Electric Company and an employee of LG&E and KU Services Company, and that he has personal knowledge of the matters set forth in the foregoing testimony, and that the answers contained therein are true and correct to the best of his information, knowledge and belief.

  
Robert M. Conroy

Subscribed and sworn to before me, a Notary Public in and before said County and State, this 14<sup>th</sup> day of March 2017.

  
Notary Public (SEAL)

My Commission Expires:  
JUDY SCHOOLER  
Notary Public, State at Large, KY  
My commission expires July 11, 2018  
Notary ID # 512743

1 **INTRODUCTION**

2 **Q. Please state your name, position, and business address.**

3 A. My name is Robert M. Conroy. I am the Vice President of State Regulation and  
4 Rates for Louisville Gas and Electric Company (“LG&E” or “Company”) and an  
5 employee of LG&E and KU Services Company, which provides services to LG&E  
6 and Kentucky Utilities Company (“KU”). My business address is 220 West Main  
7 Street, Louisville, Kentucky 40202.

8 **Q. Please describe your educational and professional background.**

9 A. A statement of my professional history and education is attached to this testimony as  
10 Appendix A.

11 **Q. What is your role as the Vice President of State Regulation and Rates?**

12 A. As Vice President of State Regulation and Rates, I am responsible for the  
13 development and implementation of the state regulatory strategy of the Company,  
14 which includes maintaining compliance with applicable statutes and regulations at the  
15 state and local levels and managing the Company’s rates and regulatory function.

16 **Q. Have you previously testified before this Commission?**

17 A. Yes, I have testified before the Commission numerous times, including LG&E’s five  
18 most recent base rate cases.<sup>1</sup>

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<sup>1</sup> *In the Matter of: Application of Louisville Gas and Electric Company for an Adjustment of Its Electric and Gas Base Rates and for Certificates of Public Convenience and Necessity, Case No. 2016-00371; In the Matter of: Application of Louisville Gas and Electric Company for an Adjustment of Its Electric and Gas Rates, Case No. 2014-00372; In the Matter of: Application of Louisville Gas and Electric Company for an Adjustment of Its Electric and Gas Rates, A Certificate of Public Convenience and Necessity, Approval of Ownership of Gas Service Lines and Risers, and a Gas Line Surcharge, Case No. 2012-00222; In the Matter of: Application of Louisville Gas and Electric Company for an Adjustment of its Electric and Gas Base Rates, Case No. 2009-00549; In the Matter of: Application of Louisville Gas and Electric Company for an Adjustment of its Electric and Gas Base Rates, Case No. 2008-00252.*

1 **Q. What is the purpose of your testimony?**

2 A. The purpose of my testimony is to describe LG&E's method of franchise fee  
3 collection and explain why it is fair, just, and reasonable.

4 **FRANCHISE FEE COLLECTION**

5 **Q. How does the current franchise agreement with Louisville Metro prescribe that**  
6 **LG&E collect the franchise fee?**

7 A. LG&E's current franchise agreement with Louisville/Jefferson County Metro  
8 Government ("Louisville Metro") (the "2016 Franchise") provides that LG&E will  
9 collect and remit the Franchise Fee based upon its tariff on file with, and approved  
10 by, the Kentucky Public Service Commission ("Commission").<sup>2</sup> In compliance with  
11 LG&E's tariff, LG&E lists franchise fees as a separate item on customers' bills and  
12 passes the fees directly from the customers within the authority's jurisdiction to the  
13 authority assessing the Franchise Fee. LG&E also collected the Louisville Metro  
14 Franchise Fees as a line item on customer bills under the previous Louisville Metro  
15 franchise agreement from October 1, 2014 to March 31, 2016.

16 **Q. Please describe the language in LG&E's tariff allowing for collection of the**  
17 **Louisville Metro Franchise Fee as a line item.**

18 A. Certainly. LG&E's tariff includes the Franchise Rider, which states:

19 A surcharge shall be calculated and added to the total bill for  
20 gas services for all customers located within local  
21 governmental jurisdictions which currently or in the future  
22 impose municipal franchise fees or other local taxes on the  
23 Company by ordinance, franchise, or otherwise. Such fees or  
24 taxes shall be net of any corresponding fees or taxes which are  
25 currently included in the base charges of each rate schedule.  
26 **The amount calculated shall be applied exclusively to the**

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<sup>2</sup> Section 11(a).

1 **bills of customers receiving service within the territorial**  
2 **limits of the authority imposing the fee or tax. The fee or**  
3 **tax shall be added to the customer's bill as a separate item.**

4 Where more than one such fee or tax is imposed, each of the  
5 fees or taxes applicable to each customer shall be added to the  
6 bills as separately identified items.<sup>3</sup>

7 LG&E's Franchise Rider has been repeatedly approved by the Commission as  
8 fair, just, and reasonable<sup>4</sup> and is in accord with Commission orders dating back more  
9 than 30 years.<sup>5</sup>

10 **Q. Other than LG&E's tariff, please explain generally why collecting franchise fees**  
11 **as a line item on customers' bills is appropriate.**

12 A. Certainly. Franchise fees are fees imposed by municipal governments for the right to  
13 occupy and use the municipal right-of-way to provide utility service. Such fees are a  
14 fundamental cost of providing service to customers. Prudent expenses such as these  
15 should be recovered from customers and with franchise fees imposed by the  
16 municipal authority, collected from those customers within the Franchise Area.  
17 Louisville Metro has made a number of claims about how franchise fees should be

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<sup>3</sup> *Tariff of Louisville Gas and Electric Company*, P.S.C. Gas No. 10, Original Sheet No. 90, Issued July 10, 2015, Effective Feb. 6, 2009 (emphasis added).

<sup>4</sup> *See, e.g., In the Matter of: Tariff of Louisville Gas and Electric Company to Implement a Franchise Fee Rider*, Case No. 2003-00267, Order (Ky. PSC Oct. 16, 2003) (finding LG&E's Franchise Fee Rider "provides for the proper recovery of said fees and expenses, is reasonable, and should be approved"); *see also In the Matter of: Application of Louisville Gas and Electric Company for an Adjustment of Its Electric and Gas Rates*, Case No. 2014-00372, Order at 12 (Ky. PSC June 30, 2016) (LG&E's most recent rate case, wherein the Commission found LG&E's rates, terms, and conditions are fair, just, and reasonable).

<sup>5</sup> *See, e.g., In the Matter of: Tariff of Louisville Gas and Electric Company to Implement a Franchise Fee Rider*, Case No. 2003-00267, Order (Ky. PSC Oct. 16, 2003); *In the Matter of: Taylor County Rural Electric Cooperative Corporation Notice of Tariff Revision*, Case No. 89-054, Order (Ky. PSC April 10, 1989); *In the Matter of: The Local Taxes and/or Fees Tariff Filing of Columbia Gas of Kentucky, Inc.*, Case No. 7906, Order (Ky. PSC Oct. 10, 1980); *In the Matter of: The Franchise Fee Tariff Filing of Continental Telephone Company of Kentucky*, Case No. 7891, Order (Ky. PSC Oct. 10, 1980); *In the Matter of: The Local Taxes and/or Fees Tariff Filing of General Telephone Company of Kentucky*, Case No. 7843, Order (Ky. PSC Oct. 3, 1980); *In the Matter of: General Adjustment of Rates of Kentucky Utilities Company*, Case No. 7804, Order (Ky. PSC Oct. 1, 1980).

1 collected, including the allegation that shareholders should pay franchise fees.<sup>6</sup>  
2 Forcing shareholders to absorb this expense is tantamount to disallowing a cost of  
3 providing service, which is reserved for imprudent or unreasonable costs.  
4 Disallowing franchise fees, which municipalities are allowed to demand from  
5 utilities, would have the effect of penalizing utilities for providing service within a  
6 municipality. Neither Commission precedent nor reason supports this result.

7 **Q. Is LG&E’s collection of franchise fees as a line item consistent with the**  
8 **Commission’s policy on the collection of franchise fees in Kentucky?**

9 A. Yes. The Commission’s longstanding policy, with limited exceptions not applicable  
10 to this case,<sup>7</sup> is that franchise fees imposed by a municipality are to be recovered as a  
11 separate line-item assessed only to the customers who reside in the municipality  
12 imposing the fee.<sup>8</sup>

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<sup>6</sup> Louisville Metro argues that the franchise fee payment “must come from the utility, otherwise there is no measurable cost to the utility.” *In the Matter of: Louisville/Jefferson County Metro Government, Complainant v. Louisville Gas and Electric Company, Defendant*, Case No. 2016-00347, Amended Complaint at 8 (Ky. PSC Nov. 9, 2016).

<sup>7</sup> See, e.g., *In the Matter of: The Filing by Kenergy Corp. for Approval of a Franchise Billing Plan and for Permission to Deviate from the Public Notice Requirements of 807 KAR 5:011*, Case No. 2002-00402, Order at 2-3 (Ky. PSC June 13, 2003) (“In previous cases the Commission has held that franchise fees should be borne by the utility’s customers residing within the municipality that receives the payment. However, we find that a franchise fee of \$5,000 or less will have a *de minimis* effect on Kenergy’s customers.”). The Louisville Metro franchise fee cannot be described as *de minimis*. As explained in Mr. Bellar’s testimony, Louisville Metro has the unilateral discretion to elect a computation method resulting in annual fees of nearly \$6 million.

<sup>8</sup> See, e.g., *In the Matter of: Tariff of Louisville Gas and Electric Company to Implement a Franchise Fee Rider*, Case No. 2003-00267, Order at 1-2 (Ky. PSC Oct. 16, 2003); *In the Matter of: Taylor County Rural Electric Cooperative Corporation Notice of Tariff Revision*, Case No. 89-054, Order at 1-2 (Ky. PSC Apr. 10, 1989); *In the Matter of: An Adjustment by the Union Light, Heat and Power Company to Include in Its Gas and Electric Tariffs, E.R.C. KY. No. 2 and E.R.C. KY. No. 3, Respectively, a Local Franchise Fee Applicable to All Schedules*, Case No. 8154, Order at 14 (Ky. PSC June 24, 1981); *In the Matter of: The Local Taxes and/or Fees Tariff Filing of Columbia Gas of Kentucky, Inc.*, Case No. 7906, Order at 2 (Ky. PSC Oct. 10, 1980); *In the Matter of: The Franchise Fee Tariff Filing of Continental Telephone Company of Kentucky*, Case No. 7891, Order (Ky. PSC Oct. 10, 1980); *In the Matter of: General Adjustment of Rates of Kentucky Utilities Company*, Case No. 7804, Order at 10-12 (Ky. PSC Oct. 1, 1980).

1 **Q. Is the Kentucky Commission’s position that franchise fees be collected as a line**  
2 **item on customers’ bills consistent with the approach in other states?**

3 A. Yes. A significant majority of states assess franchise fees only to customers located  
4 in the municipality imposing the charge. Kentucky’s assessment of franchise fees as  
5 a line item is thus consistent with the collection methods used by a significant  
6 majority of states.

7 **Q. Are there other reasons why franchise fees should be collected as a line item on**  
8 **customers’ bills?**

9 A. Yes. In addition to being the collection method prescribed by LG&E’s tariff and  
10 followed by Kentucky and the majority of states, numerous other reasons favor the  
11 collection of the franchise fee as a line item on customers’ bills. First, this collection  
12 method provides transparency and accountability for imposing costs. If consumers  
13 are able to see on their bills the exact amount they are paying to Louisville Metro,  
14 they can take this decision by Louisville Metro into account in their assessment of  
15 Louisville Metro when they vote. If franchise fees were instead included in base  
16 rates, it would reduce the transparency and accountability of and incentive for  
17 Louisville Metro Council to assess reasonable franchise fees. The Commission has  
18 agreed, stating that separately listing the amount attributable to franchise fees on  
19 customer bills “ensures that affected consumers will be fully aware of the local taxing  
20 authority’s actions and their effects.”<sup>9</sup>

21 Assessing franchise fees as a line item on the bills of customers residing in the  
22 municipality also prevents customers from paying cross subsidies. If the Louisville

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<sup>9</sup> *In the Matter of: Taylor County Rural Electric Cooperative Corporation Notice of Tariff Revision*, Case No. 89-054, Order at 2 (Ky. PSC Apr. 10, 1989).

1 Metro Franchise Fee were included in base rates instead of collected as a line item on  
2 customer bills, customers who reside in other municipalities or counties outside  
3 Louisville Metro would be forced to pay higher rates to cover the cost. Likewise, if  
4 franchise fees from other cities were included in base rates, Louisville Metro  
5 customers would have to pay higher rates to cover franchise payments to other cities.  
6 Such a policy would essentially require customers to pay (in the form of higher base  
7 rates) franchise fees to cities where they do not reside. For these reasons, assessing  
8 franchise fees as a line item best provides transparency and accountability.

9 **CONCLUSION**

10 **Q. What is your conclusion and recommendation?**

11 A. I recommend that the Commission determine that LG&E's current method of  
12 franchise fee collection is proper and consistent with its long-standing position that  
13 franchise fees should be collected as a line item on customers' bills. Such a  
14 determination is appropriate because collecting franchise fees as a line item on  
15 customer bills complies with LG&E's Commission-approved tariff and is in  
16 accordance with the method of franchise fee collection established by the Kentucky  
17 Commission and the majority of other states. LG&E's method of franchise fee  
18 collection is fair, just, and reasonable and the Commission should order as such.

19 **Q. Does this conclude your testimony?**

20 A. Yes, it does.



## APPENDIX A

### **Robert M. Conroy**

Vice President, State Regulation and Rates  
LG&E and KU Services Company  
220 West Main Street  
Louisville, Kentucky 40202  
Telephone: (502) 627-3324

### **Previous Positions**

Director, Rates	Feb 2008 – Feb 2016
Manager, Rates	April 2004 – Feb 2008
Manager, Generation Systems Planning	Feb. 2001 – April 2004
Group Leader, Generation Systems Planning	Feb. 2000 – Feb. 2001
Lead Planning Engineer	Oct. 1999 – Feb. 2000
Consulting System Planning Analyst	April 1996 – Oct. 1999
System Planning Analyst III & IV	Oct. 1992 - April 1996
System Planning Analyst II	Jan. 1991 - Oct. 1992
Electrical Engineer II	Jun. 1990 - Jan. 1991
Electrical Engineer I	Jun. 1987 - Jun. 1990

### **Professional/Trade Memberships**

Registered Professional Engineer in Kentucky, 1995  
Financial Research Institutes Advisory Board  
Edison Electric Institute - Rates and Regulatory Affairs Committee  
Southeastern Energy Exchange - Rates and Regulation Committee

### **Education**

Essentials of Leadership, London Business School, 2004  
Masters of Business Administration  
Indiana University (Southeast campus), December 1998  
Center for Creative Leadership, Foundations in Leadership program, 1998  
Bachelor of Science in Electrical Engineering;  
Rose Hulman Institute of Technology, May 1987