



Elizabeth O'Donnell
Executive Director
Public Service Commission of Kentucky
211 Sower Boulevard
Frankfort, Kentucky 40602

June 30, 2006

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JUN 30 2006

PUBLIC SERVICE
COMMISSION

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Re: *In the Matters of:*

John Yuen v. Louisville Gas and Electric Company,
Case No. 2004-450;

Norman Dennison v. Louisville Gas and Electric
Company, Case No. 2005-00099;

Curtis E. White v. Louisville Gas and Electric
Company, Case No. 2004-00497;

Ada Mae Clem v. Kentucky Utilities Company, Case
No. 2004-00499;

J. and R. Wade v. Kentucky Utilities Company, Case
No. 2005-00118;

R. and G. Walton v. Kentucky Utilities Company, Case
No. 2005-00136;

Robert H. Noe and Dan L. Barnett d/b/a B & D
Rentals, Case No. 2005-00423;

Donald Marshall v. Louisville Gas and Electric
Company, Case No. 2005-00137; and

Maria L. Wilson v. Louisville Gas and Electric
Company, Case No. 2005-00182



Dear Ms. O'Donnell:

Enclosed please find the original and ten copies of the Post-Hearing Brief of Louisville Gas and Electric Company and Kentucky Utilities Company in the above-referenced dockets.

Should you have any questions concerning the enclosed, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink that reads "Allyson K. Sturgeon". The signature is written in a cursive, flowing style.

Allyson K. Sturgeon

cc: Parties of Record

NORMAN L. DENNISON)
COMPLAINANT)
v.) CASE NO. 2005-00099
LOUISVILLE GAS & ELECTRIC COMPANY)
DEFENDANT)

DONALD MARSHALL)
COMPLAINANT)
v.) CASE NO. 2005-00137
LOUISVILLE GAS AND ELECTRIC COMPANY)
DEFENDANT)

MARIA L. WILSON)
COMPLAINANT)
v.) CASE NO. 2005-00182
LOUISVILLE GAS AND ELECTRIC COMPANY)
DEFENDANT)

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**POST-HEARING BRIEF OF
LOUISVILLE GAS AND ELECTRIC COMPANY
AND KENTUCKY UTILITY COMPANY**

On November 24, 2003, Louisville Gas and Electric Company (“LG&E”) and Kentucky Utilities Company (“KU”) filed Notices of Intent to file rate case applications. The Companies then filed their Applications and supporting testimony and exhibits on December 29, 2003 in Case Nos. 2003-00433 and 2003-00434, respectively. In addition to requesting Commission approval of changes in existing rates and charges, the Companies also asked the Commission for approval of revisions to some of the Companies’ terms and conditions for furnishing electric and gas service, including the addition of language providing that “[u]pon the absence of an active account, the property owner assumes responsibility for any consumption and the Company’s property and service.”

In the testimony of Sidney L. "Butch" Cockerill, filed on December 29, 2003, in the rate case proceedings, Mr. Cockerill noted that the Companies were "proposing new language to protect against theft of service in the absence of an active account at a given location." LG&E also provided additional information about this change in response to the First Data Request of MHNA and POWER dated February 3, 2004, Question No. 14. In that response, LG&E stated that the proposed "language is intended to clarify that a property owner in the absence of an active account holder will be liable for the consumption of service on the property and ensure that other ratepayers do not bear the burden of unauthorized consumption." No party to the cases objected to the proposed language, and the tariff changes were approved pursuant to the Commission's Orders of June 30, 2004.

At the time of filing these proposed tariff changes, the Companies sought to address an increasing problem with meter tampering, particularly in those instances in which no customer would take responsibility. In such cases, all of the Companies' customers end up paying for uncollected meter tampering costs and unauthorized consumption through increased rates. In addition to concerns about the associated costs of meter tampering, the Companies were cognizant of the serious risks of injury, shock and fire hazard to the person who performs the tampering, as well as to innocent family members, friends, neighbors, and utility employees. Thus, the purpose of the July 1, 2004 changes to these portions of the Companies' tariffs was to discourage meter tampering which may have dangerous and potentially lethal consequences and to protect the Companies' other customers from assuming a cost of service burden for which they receive no benefit.

Since July 1, 2004, the Companies' tariffs provide that a property owner assumes responsibility for any energy consumption and for the Companies' property and service in the

absence of an active account. Pursuant to the Filed Rate Doctrine (codified at KRS 278.160), utilities are required to strictly adhere to their tariffs on file with the Commission, and may not, through agreement or conduct, depart from them. As such, utilities have no discretion but to follow their tariffs.

After the effective date of the new tariff provisions, a number of complaints were filed with the Commission. Some Complainants mistakenly believed that, because of the tampering charges imposed, LG&E or KU were accusing them of criminal behavior.¹ In fact, there was no determination by LG&E or KU that any of these Complainants had themselves illegally tampered with the meters in questions. However, because there was no active account in each of these cases, the Complainants were assessed charges, as owners of the properties in question, in order to cover the costs associated with meter tampering and unauthorized consumption, as required under the Companies' tariffs.

As time passed, however, the Companies began to recognize that these tariff provisions may be unreasonable to apply in all circumstances (i.e., when the Companies learn that a tenant was in residence at the time of the tampering). Following an informal conference at the Commission, LG&E and KU began meeting with representatives of the Attorney General's Office to consider changes to the tariffs. The purpose of these discussions was to try to develop revised tariff language that both provides better notice to the affected property owners of such activity at their property and provides the Companies with the ability to charge the most likely party responsible for having performed the meter tampering based upon whether the specific facts and circumstances of a given occurrence, while at the same time continuing to avoid the

¹ "When I wrote this [her complaint], it was my understanding that KU believed that I had broken into the meter and stolen the electricity, and I didn't understand that, because it didn't make sense." Testimony of Jill M. Wade, Case No. 2005-00118, Transcript of Evidence, p. 8 (May 30, 2006). See also, Complaint of John Yuen filed on November 16, 2004, Case No. 2004-00450 ("According to LG&E's story, because someone is using he [sic] service in that property that I am guilty of the crime...").

dangerous and potentially lethal situations caused by such actions and to lessen the cost of service burden on all of the Companies' customers.

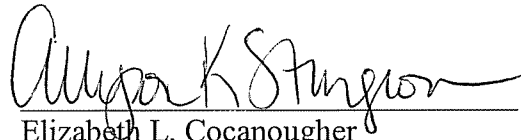
Through this process, the Companies and representatives of the Attorney General were able to develop proposed tariff revisions, which four of the above-referenced Complainants expressly accepted by entering into Stipulation Agreements in their respective cases. If the Commission agrees with and approves the proposed revisions, the Companies hope to use these provisions to encourage property owners to partner with them in order to deter tampering and aid in identifying the responsible parties, just as the Companies sometimes provide assistance to property owners who are located in their service territories. For example, LG&E recently received an e-mail from a customer thanking LG&E for its screening of tenants at the time of application for service. As noted by the customer, "I am a landlord and I often have tenants who lie to me, have more tenants in the apartment than what the lease shows, and don't pay their bills. I recently had a tenant trying to get her power turned on and she added someone to the lease without notifying me. LG&E would not turn it on without a notarized lease. This helped me keep up with what is going on at that complex, and inevitably helped me manage the place better. I am sure you guys don't get a lot of compliments, but I am appreciative of this." In addition, should the Commission approve the revised language, the Companies' customers will not be without recourse in the future. Pursuant to KRS 278.260, customers will continue to have the Commission's complaint procedures available to them should they believe that the tariff provisions are not being reasonably administered.

Based on the Companies' experience to date and discussions with customers, the Attorney General's Office, and Commission staff, the Companies believe that the proposed revisions (attached hereto as Exhibit A) will provide better notice to property owners of a

tampering occurrence and the consequences of such action, without unnecessarily increasing the cost of service to all customers. In addition, the proposed revisions will provide the Companies with the ability to determine whether or not to charge the property owner when there is not an active account based upon whether the specific facts and circumstances of a given occurrence indicate that someone else likely performed the meter tampering. Thus, the Companies respectfully request that the Commission issue findings consistent with the statements in this brief, and approve the tariff revisions as proposed.

WHEREFORE, Louisville Gas and Electric Company and Kentucky Utilities Company respectfully ask the Commission to approve the tendered Stipulation Agreements, approve the proposed revisions to the Companies tariffs as set forth in Exhibit A, and dismiss the pending Complaints.

Respectfully submitted,



Elizabeth L. Cocanougher
Senior Corporate Attorney
E.ON U.S. LLC
220 West Main Street
Louisville, Kentucky 40202
(502) 627-4850

Allyson K. Sturgeon
Attorney for E.ON U.S. LLC
220 West Main Street
Louisville, Kentucky 40202
502/627-2088

Counsel for Louisville Gas and Electric Company
and Kentucky Utilities Company

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Motion was served on the following on the 30th day of June, 2006, U.S. mail, postage prepaid:

Kathryn A. Walton
201 West Vine Street
Lexington, Kentucky 40507

Dennis Howard
Larry Cooke
Assistant Attorney General
Office of the Attorney General
Utility & Rate Intervention Division
1024 Capital Center Drive
Suite 200
Frankfort, Kentucky 40601-8204

Donald Marshall
200 South Dan Dunn Road
Hodgenville, Kentucky 42748

Curtis White
2412 West Jefferson Street
Louisville, Kentucky 40212

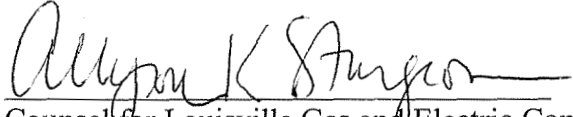
Ada M. Clem
163 E. London Avenue
Lexington, Kentucky 40505

Jill and Robert Wade
1404 Horseshoe Bend Road
Sonora, Kentucky 40272

Maria L. Wilson
1240 Cleo Avenue
Louisville, Kentucky 40232

John Yuen
310 East Jacob Street
Louisville, Kentucky 40203

Robert R. Baker
Rankin & Baker
P.O. Box 225
Stanford, Kentucky 40484



Counsel for Louisville Gas and Electric Company
and Kentucky Utilities Company

EXHIBIT

A

TERMS AND CONDITIONS

Customer Responsibilities

All piping, appliances, and other gas equipment and apparatus, except the meter and regulator, located on and within the customer's premises beyond point of connection with the Company's Service Commission at the property line shall be furnished and installed by and at the expense of the customer, and shall be maintained by the customer in good and safe condition. The Company assumes no responsibility whatsoever for the condition of the customer's piping, apparatus or appliances, nor for the maintenance or renewal of any portion thereof.

OWNER'S CONSENT TO OCCUPY

The Customer shall grant easements and rights-of-way on and across Customer's property at no cost to the Company.

ACCESS TO PREMISES AND EQUIPMENT

The Company shall have the right of access to the customer's premises at all reasonable times for the purpose of installing, meter reading, inspecting, repairing, or removing its equipment used in connection with its supply of gas service or for the purpose of turning on and shutting off the gas supply when necessary and for all other proper purposes. The customer shall not construct or permit the construction of any structure or device which will restrict the access of the Company to its equipment for any of the above purposes.

PROTECTION OF COMPANY'S PROPERTY

Customers will be held responsible for tampering, interfering, breaking of seals of meters, or other Company equipment installed on the Customer's premises, and will be held liable for same according to law. The Customer hereby agrees that no one except the employees of the Company shall be allowed to make any internal or external adjustments of any meter or any other piece of apparatus which shall be the property of the Company.

Upon the absence of an active account should tampering, interfering, or breaking of seals on meters or other Company equipment occur, the Company shall notify the property owner of such. The property owner shall have seven (7) business days from the date of notification to take corrective action acceptable to the Company in its sole discretion and, if applicable, have the responsible party apply for service with the Company and/or reimburse the Company for all costs associated with the incident. This action shall relieve the landlord from financial responsibility resulting from such tampering. If notification is made via a letter sent by regular mail, notification shall be deemed to have been made three (3) days after the date such letter is mailed. Should the property owner fail to take these corrective measures within seven (7) business days after notification, the property owner will assume financial responsibility for such tampering.

EXCLUSIVE SERVICE ON INSTALLATION CONNECTED

Gas service shall not be used for purposes other than as set forth in customer's application or contract.

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~~Deleted: Upon the absence of an active account, the property owner assumes the responsibility for any consumption and the Company's property and service ¶~~

~~Deleted: LIABILITY¶
The Customer assumes all responsibility for the gas service upon the Customer's premises at and from the point of delivery of gas and for the pipes and equipment used in connection therewith, and will protect and save the Company harmless from all claims for injury or damage to persons or property occurring on the Customer's premises or at and from the point of delivery of gas, occasioned by such gas or said pipes and equipment, except where said injury or damage will be shown to have been occasioned solely by the negligence of the Company~~

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On and
After¶
July 1, 2004~~

~~Deleted: Michael S Beer, Vice President¶
Louisville, Kentucky¶
Issued By Authority of an Order of the K P S C in Case No 2003-00433 dated June 30, 2004~~

Date of Issue: ~~Canceling Original~~
~~Sheet No. 82.1~~
~~Issued July 20, 2004~~

Issued By

Date Effective: ~~¶~~

John R. McCall, Executive Vice President,
General Counsel, and Corporate Secretary
Louisville, Kentucky,

TERMS AND CONDITIONS
Customer Responsibilities

LIABILITY

The Customer assumes all responsibility for the gas service upon the Customer's premises at and from the point of delivery of gas and for the pipes and equipment used in connection therewith, and will protect and save the Company harmless from all claims for injury or damage to persons or property occurring on the Customer's premises or at and from the point of delivery of gas, occasioned by such gas or said pipes and equipment, except where said injury or damage will be shown to have been occasioned solely by the negligence of the Company.

NOTICE TO COMPANY OF CHANGES IN CUSTOMER'S LOAD

The service pipes, meters, and appurtenances supplied by the Company for the rendition of gas service to its customers have a definite capacity. In the event that the customer contemplates any material increase in his connected load, whether in a single increment or over an extended period, he shall immediately give the Company written notice of this fact so as to enable it to enlarge the capacity of such equipment. In case of failure to give such notice the customer may be held liable for any damage done to meters, regulators, or other equipment of the Company caused by such material increase in the customer's connected load.

PERMITS

The customer shall obtain or cause to be obtained all permits, easements, or certificates, except street permits, necessary to give the Company or its agents access to the customer's premises and equipment and to enable its service to be connected therewith. In case the customer is not the owner of the premises or of intervening property between the premises and the Company's distribution mains, the customer shall obtain from the proper owner or owners the necessary consent to the installation and maintenance in said premises and across such intervening property of the customer's piping and facilities required for the supply of gas service to the customer. Provided, however, to the extent permits, easements, or certificates are necessary for the installation and maintenance of Company-owned facilities, the Company shall obtain the aforementioned consent.

The Company shall make or cause to be made application for any necessary street permits, and shall not be required to supply service under the customer's application until a reasonable time after such permits are granted.

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July 1, 2004
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President
Louisville, Kentucky
Issued By Authority of an Order of the
K P S C in Case No. 2003-00433 dated
June 30, 2004

Date of Issue: _____ **Issued By** _____ **Date Effective:** _____
Canceling Original
Sheet No. 82.2
Issued July 20, 2004

John R. McCall, Executive Vice President,
General Counsel, and Corporate Secretary
Louisville, Kentucky,

TERMS AND CONDITIONS

Customer Responsibilities

Where the Customer's power factor is less than 90 percent, the Company reserves the right to require the Customer to furnish, at his own expense, suitable corrective equipment to maintain a power factor of 90 percent or higher.

EXCLUSIVE SERVICE ON INSTALLATION CONNECTED

Electric service shall not be used for purposes other than as set forth in customer's application or contract.

Except in cases where the Customer has contract with the company for reserve or auxiliary service, no other electric light or power service will be used by the Customer on the same installation in conjunction with the Company's service, either by means of a throw-over switch or any other connection.

LIABILITY

The Customer assumes all responsibility for the electric service upon the Customer's premises at and from the point of delivery of electricity and for the wires and equipment used in connection therewith, and will protect and save the Company harmless from all claims for injury or damage to persons or property occurring on the Customer's premises or at and from the point of delivery of electricity, occasioned by such electricity or said wires and equipment, except where said injury or damage will be shown to have been occasioned solely by the negligence of the Company.

NOTICE TO COMPANY OF CHANGES IN CUSTOMER'S LOAD

The service connections, transformers, meters, and appurtenances supplied by Company for the rendition of electric service to its customers have a definite capacity which may not be exceeded without damage. In the event that the customer contemplates any material increase in his connected load, whether in a single increment or over an extended period, he shall immediately give the Company written notice of this fact so as to enable it to enlarge the capacity of such equipment. In case of failure to give such notice the customer may be held liable for any damage done to meters, transformers, or other equipment of the Company caused by such material increase in the customer's connected load.

PERMITS

The customer shall obtain or cause to be obtained all permits, easements, or certificates, except street permits, necessary to give the Company or its agents access to the customer's premises and equipment and to enable its service to be connected therewith. In case the customer is not the owner of the premises or of intervening property between the premises and the Company's distribution lines the customer shall obtain from the proper owner or owners the necessary consent to the installation and maintenance in said premises and in or about such intervening property of all such wiring or other customer-owned electrical equipment as may be necessary or convenient for the supply of electric service to customer. Provided, however, to the extent permits, easements, or certificates are necessary for the installation and maintenance of Company-owned facilities, the Company shall obtain the aforementioned consent.

Deleted: The construction of electric facilities to provide service to a number of customers in a manner consistent with good engineering practice and the least public inconvenience sometimes requires that certain wires, guys, poles, or other appurtenances on a customer's premises be used to supply service to neighboring customers. Accordingly, each customer taking Company's electric service shall grant to Company such rights on or across his or her premises as may be necessary to furnish service to neighboring premises, such rights to be exercised by the Company in a reasonable manner and with due regard for the convenience of the customer ¶

¶ The Company shall make or cause to be made application for any necessary street permits, and shall not be required to supply service under the customer's application until a reasonable time after such permits are granted.

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Date Effective:

**John R. McCall, Executive Vice President,
General Counsel, and Corporate Secretary
Louisville, Kentucky**

TERMS AND CONDITIONS

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John R. McCall, Executive Vice President,
General Counsel, and Corporate Secretary
Louisville, Kentucky

TERMS AND CONDITIONS
Customer Responsibilities

installed and maintained in conformity with applicable statutes, laws or ordinances and with the rules and regulations of the constituted authorities having jurisdiction. The customer shall not install wiring or connect and use any motor or other electricity-using device which in the opinion of the Company is detrimental to its electric system or to the service of other customers of the Company. The Company assumes no responsibility whatsoever for the condition of the customer's electrical wiring, apparatus, or appliances, nor for the maintenance or removal of any portion thereof.

OWNER'S CONSENT TO OCCUPY

The Customer shall grant easements and rights-of-way on and across Customer's property at no cost to the Company

ACCESS TO PREMISES AND EQUIPMENT

The Company shall have the right of access to the customer's premises at all reasonable times for the purpose of installing, meter reading, inspecting, repairing, or removing its equipment used in connection with its supply of electric service or for the purpose of turning on and shutting off the supply of electricity when necessary and for all other proper purposes. The customer shall not construct or permit the construction of any structure or device which will restrict the access of the Company to its equipment for any of the above purposes.

PROTECTION OF COMPANY'S PROPERTY

Customers will be held responsible for tampering, interfering, breaking of seals of meters, or other Company equipment installed on the Customer's premises, and will be held liable for same according to law. The Customer hereby agrees that no one except the employees of the Company shall be allowed to make any internal or external adjustments of any meter or any other piece of apparatus which shall be the property of the Company.

Upon the absence of an active account should tampering, interfering, or breaking of seals on meters or other Company equipment occur, the Company shall notify the property owner of such. The property owner shall have seven (7) business days from the date of notification to take corrective action acceptable to the Company in its sole discretion and, if applicable, have the responsible party apply for service with the Company and/or reimburse the Company for all costs associated with the incident. This action shall relieve the landlord from financial responsibility resulting from such tampering. If notification is made via a letter sent by regular mail, notification shall be deemed to have been made three (3) days after the date such letter is mailed. Should the property owner fail to take these corrective measures within seven (7) business days after notification, the property owner will assume financial responsibility for such tampering.

POWER FACTOR

The Company installs facilities to supply power to the Customer at or near unity power factor.

The Company expects Customer to use apparatus which shall result in a power factor near unity. However, the Company will permit the use of apparatus which shall result, during normal operation, in a power factor not lower than 90 percent either lagging or leading.

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Where the Customer's power factor is less than 90 percent, the Company reserves the right to require the Customer to furnish, at his own expense, suitable corrective equipment to maintain a power factor of 90 percent or higher. ¶

¶
EXCLUSIVE SERVICE ON INSTALLATION CONNECTED¶
Electric service shall not be used for purposes other than as set forth in customer's application or contract. ¶

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On and After ¶
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Lexington, Kentucky,

TERMS AND CONDITIONS
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Except in cases where the Customer has a contract with the Company for reserve or auxiliary service, no other electric light or power service will be used by the Customer on the same installation in conjunction with the Company's service, either by means of a throw-over switch or any other connection.

LIABILITY

The Customer assumes all responsibility for the electric service upon the Customer's premises at and from the point of delivery of electricity and for the wires and equipment used in connection therewith, and will protect and save the Company harmless from all claims for injury or damage to persons or property occurring on the Customer's premises or at and from the point of delivery of electricity, occasioned by such electricity or said wires and equipment, except where said injury or damage will be shown to have been occasioned solely by the negligence of the Company

NOTICE TO COMPANY OF CHANGES IN CUSTOMER'S LOAD

The service connections, transformers, meters, and appurtenances supplied by Company for the rendition of electric service to its customers have a definite capacity which may not be exceeded without damage. In the event that the customer contemplates any material increase in his connected load, whether in a single increment or over an extended period, he shall immediately give the Company written notice of this fact so as to enable it to enlarge the capacity of such equipment. In case of failure to give such notice the customer may be held liable for any damage done to meters, transformers, or other equipment of the Company caused by such material increase in the customer's connected load.

PERMITS

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¶ The construction of electric facilities to provide service to a number of customers in a manner consistent with good engineering practice and the least public inconvenience sometimes requires that certain wires, guys, poles, or other appurtenances on a customer's premises be used to supply service to neighboring customers. Accordingly, each customer taking Company's electric service shall grant to Company such rights on or across his or her premises as may be necessary to furnish service to neighboring premises, such rights to be exercised by the Company in a reasonable manner and with due regard for the convenience of the customer. ¶
¶ The Company shall make or cause to be made application for any necessary street permits, and shall not be required to supply service under the customer's application until a reasonable time after such permits are granted. ¶

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<u>Issued July 20, 2004</u>	<u>John R. McCall, Executive Vice President,</u>	
	<u>General Counsel, and Corporate Secretary</u>	
	<u>Lexington, Kentucky</u>	

TERMS AND CONDITIONS

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