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PUBLIC SERVICE
COMMISSION

COMMONWEALTH OF KENTUCKY

BEFORE THE KENTUCKY PUBLIC SERVICE COMMISSION (PSC)

MOTION FOR HEARING

In the Matter of:

MOTION FOR HEARING ON THE APPLICATION)	
OF LOUISVILLE GAS & ELECTRIC COMPANY)	CASE NO. 2011-00162
FOR APPROVAL OF ITS 2011 COMPLIANCE PLAN)	October 29, 2011
FOR RECOVERY BY ENVIRONMENTAL)	Page 1 of 9
SURCHARGE (Rate Hikes))	

ON MOTION

(Outline of Issues on Page 3)

COMES Petitioner and longtime ratepayer, Daniel Cobble (Mr. Cobble), to Motion the Kentucky **Public Service Commission (PSC)** for a hearing for the opportunity to explain why Kentucky Utilities and Louisville Gas & Electric Company's (LG&E or **the Company**) June 1, 2011 application for the latest rate hikes is unreasonable, improper and inequitable for Kentuckiana ratepayers. Thus, the Application **should be denied**. LG&E is a recently acquired subsidiary of PPL Corporation (PPL), headquartered in Allentown, Pennsylvania.

This motion is timely filed, as the issues herein materially question the commercial validity of KRS.278.183. KRS.278.183 governs the rate hikes of LG&E's application. This motion is also timely filed, since LG&E's application asks for rate hikes to take place in the Jan. 2012 billing cycle. However, Mr. Cobble contends that the scheduled capital improvements for complying with the Clean Air Act **need not** and **should not** be delayed by a postponed decision of PSC disapproving or approving the rate hikes. For LG&E appears to have ample capital outlays for proceeding with the project without needing immediate surcharges from ratepayers.

Mr. Cobble's similar arguments regarding this matter were presented to PSC in a copy of his Aug. 28, 2008 letter of challenge to Vic Staffieri,

Chairman of LG&E / E. ON at that time. Mr. Stafieri remains Chairman of LG&E, though under new ownership. Said letter was in regards to LG&E's July 29, 2008 Application for rate hikes, that were later approved by PSC in 2010. Mr. Cobble challenged the legal premise of those ensuing rate hikes on the same basis as this instant motion. PSC or LG&E **did not** respond to those 8-28-2008 arguments, as they still apply, today. Most specifically, in the instant motion Mr. Cobble **re-asserts Argument 2 from the 8-28-2008 letter as Argument 1**, below. And Mr. Cobble re-asserts Argument 1 from the same letter as Argument 3, below.

Additionally, at a hearing, Mr. Cobble will request a discovery period for acquiring and assessing LG&E's accounting data in plain language, for giving further technical support of why the application should be denied. In the meantime, this motion presents the inequities of KRS.278.183 and a necessary inquiry into LG&E's financial condition. **Most specifically:**

- A) What is the complete capital outlay of LG&E and its parent company, PPL Corporation?
- B) What portion of LG&E's capital is acquired from ratepayers?
- C) How much profit did E. ON make with the sale of LG&E? In other words, how much value did ratepayers directly add to the price of LG&E prior to its sale to PPL?

Article III, Sec. 2 of the U.S. Constitution and the KY Constitution allows the identified inequities, herein, to be brought before the Court.

Whereby, if PSC does not allow Mr. Cobble to address these matters by public hearing, then Mr. Cobble has no choice but to inform the public, thereof, and possibly file suit against PSC and LG&E. With the routine rate hikes allowed by KRS.278.183, and that **these hikes will continue in the foreseeable future**, it is now time to examine more closely the public's

transference of property (as rate hikes) that helps to comprise LG&E's financial condition for its continuing increases in value. These augmented valuations have prompted the routine sale of LG&E resulting in unstable, continuous rate hikes in the foreseeable future.

Hence, Mr. Cobble's arguments are outlined as follows:

1. Proposed Rate Hikes Violate Equitable Capitalization Practices

- a. KRS.278.183 is inequitable / exploitive and regressive; ratepayers should not contribute directly to LG&E's value / capital gains for the benefit and pleasure of its stockholders.
- b. How much of LG&E capital is raised by ratepayers?
- c. Rate hikes should be based on loans to LG&E (as debt overhead) after available reasonable capital is utilized.
- d. LG&E should use its available capital for capital improvements.
- e. LG&E's capital outlays appear to be sufficient for capital improvements without rate hikes (at \$3.9 billion).
- f. LG&E is becoming dependent on ratepayer-paid capital gains.

2. Any Rate Hikes Related to Capital Improvements Should Not be Permanent

- a. Rate hikes should only extend to time-period that improvements are paid for.
- b. PSC will be asked to assess the surcharges / rate hikes for capital gains for the most previous rate hikes, in reference to their permanency for the finite capital improvements made.

3. Rate Payers Should Not Pay for Double-priced Natural Gas in a Monopolistic Environment

- a. Double-priced natural gas is at-first priced upward due to hedge-fund trading as wholesale, and then increased again for retail pricing to rate payers.

4. Request independent study on utility cooperative.

ARGUMENTS

1. Proposed Rate Hikes Violate Equitable Capitalization Practices

(1a) It is not reasonable or justified for ratepayers to directly share the cost of upgrading LG&E's coal-fired power plants for the Clean Air Act. But any such ratepayer assistance should be only through the normal and equitable practices of utilizing capital (and capital gains) for these capital improvements. LG&E should not depend on ratepayers for its capital gains, because the proposed capital improvements would immediately increase Company value for its stockholders. Thus, as a matter of equity, such augmented value should not rest on the transactional property of ratepayers as rate hikes / surcharges. Such surcharges are inequitable, and serve effectively as a regressive tax, because ratepayers do not receive a commercial benefit from the rate hikes, but while shareholders and upper management receive transactional benefits in increased Company value. Hence, KRS.278.183 is exploitive to ratepayers, because rate hikes are requested for every major capital improvement. Yet to the contrary, any increase in value should derive from the normal course of business of which stockholder equity shares the costs of LG&E's improving value.

Due to such increase in company value for having complied with the Clean Air Act, LG&E should provide it's own capital for improvements, since, after all, its available capital gains comes from revenues that ratepayers have already paid. Thus, it is not equitable for rate hikes to be given directly to the Company's capital gains, to booster the capitalization for improvements; ratepayers are not stockholders. Yet ratepayers would be contributing directly to LG&E's **capital improvements; its customers**

would be providing LG&E's capital gains being directly attributable to the Company's increased value. Again, this is unfair, inequitable, and exploitive by its very nature. -- As that is why KRS.278.183, which allows for LG&E to recoup its capital costs directly from ratepayers for capital improvements, is untenable, not proper. Whereby, for practical purposes, KRS.278.183 is commercially unlawful and, to protect the public, **should be re-examined by the PSC and Kentucky legislature.**

(1b & 1c) Normally, when a company seeks improvements (for expansion or architectural), it first utilizes its available capital (including the capital gains from sales already paid by its customers) to pay the costs of such improvements. If more capital is needed, it then borrows the remaining capital, or the company may issue a stock offering to raise capital. The company may raise prices if its normal level of debt-overhead is adversely affected by the cost of improvements; however pricing pressures are kept in check by the prices of the company's competitors. But this is not a circumstance for LG&E. LG&E enjoys the unique position in its monopolistic environment in Kentucky **of having no competitors**. Ergo, this **market pleasure** makes it tempting for management to raise prices on ratepayers to directly fund its capital requirements for any improvements. This has been done systematically by LG&E pursuant to KRS.278.183.

(1d) So, is LG&E raising most or all of its capital for improvements through rate hikes? Its March 31, 2011 *Financial Statement* appears to affirm, "Yes." That *Statement* shows capital of \$3.96 billion (as *paid-in*, on page 3), but while the remaining 54-page statement does not reveal any other capital outlays. Yet while the capital costs of the improvements meeting the Clean Air Act totals \$728 million. So, again, what is LG&E's total capital outlay? How much of its revenue stream is diverted to the capital

holdings of PPL Corporation, LG&E's parent company, or visa-versa? PPL's total holdings are approx. \$40.5 billion (at end of June 2011). So, again, ratepayers should not be required to provide **direct capital gains** for LG&E, and most especially where the Company is already afflushed with cash collected from its ratepayers.

LG&E should be required to raise rates only when its capital is adversely affected by the requirement of borrowing for expansion or architectural improvements. Here, debt overhead may be the cheapest approach to capital improvements for ratepayers.

(1e & f) In the foreseeable future, ratepayers can expect rate hikes for each time a capital improvement is made, on-top the capital gains already collected from ratepayers by the Company. The Company has grown too accustomed to ratepayer rate hikes for capital gains that is an unending cycle of rate increases that historically leads to the sale of the Company. Mr. Cobble contends that this has created an **unstable market condition** for ratepayers to further demonstrate that KRS.278.183 is untenable. Since ratepayers are directly and steadily increasing the Company's value with each rate hike, history has thus shown that LG&E is subject to be sold to the next higher bidder for inordinate, disproportionate profits that are not consistent with the acquired value under **normal** and **traditional circumstances of capitalization** (as explained above). Upon PPL selling LG&E, ratepayers would then incur a next round of rate hikes.

To avoid this persistent process of exploitation of Kentuckiana ratepayers, Mr. Cobble requests the PSC to not grant the rate hikes as they are currently formulated. To protect ratepayers, LG&E should be required to use traditionally equitable capitalization practices for its business model.

2. Any Rate Hikes Related to Capital Improvements Should Not be Permanent

(2a) Even when LG&E's capital improvements are paid-for, the increased rates are still in-force as permanent. These increased rates are infinite, and set to pay for the improvements many times over into the future. This too, is inequitable, woefully exploitive, and improper. Why should the rate hikes continue once the structural and /or achitectural improvements are paid-for? Such capitalization means that ratepayers can look forward to continuing hikes for every time the company feels that it needs to do an improvement, which as shown, raises Company value. IT IS AN ENDLESS CYCLE. – So again, what are LG&G's current capital outlays? How soon will the latest improvements be paid for?

Hence, it is reasonable / equitable that permanent rate hikes should only reflect permanent increases in costs, such as increases in wholesale prices and operating costs. But they should be finite for capital improvement, because the cost of any capital improvement is finite.

Whereby, this motion calls into question the permanency of surcharges for capital improvements (but not for increased operating and inflationary costs). KRS.278.183(3) instructs PSC to "disallow any surcharge amounts found not just and reasonable and reconcile past surcharges with actual costs recoverable. . ."

Plainly stated, rate hikes should be terminated when the debt on the capital improvement is paid-up, or when such capital improvements are otherwise paid-for. Of course, due to LG&E's monopolistic environment in Kentucky, ratepayers should have the right to negotiate at what level of additional debt overhead that's required in relations to LG&E capital outlays, as well as any increase in Company value.

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