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PPL companies

Ms. Gwen R. Pinson
Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, KY 40601

July 20, 2018

**PUBLIC SERVICE
COMMISSION**

LG&E and KU Energy LLC
Corporate Law Department
220 W. Main Street
Louisville, Kentucky 40202

Allyson Sturgeon
Managing Senior Counsel
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**RE: Margaret Beaumont-Carver v. Louisville Gas and Electric
Company, Case No: 2018-00172**

Dear Ms. Pinson:

Enclosed please find an original and ten (10) copies of LG&E's Motion to Dismiss and Answer in the above-referenced docket in response to the Commission's Order of July 10, 2018.

Please confirm your receipt of same by placing the stamp of your Office with the date received on the two additional copies provided and return them to me in the enclosed self-addressed stamped envelope.

Please contact me if you have any questions concerning this filing.

Sincerely,

A handwritten signature in cursive script that reads 'Allyson Sturgeon'.

Allyson Sturgeon

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PUBLIC SERVICE
COMMISSION

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

MARGARET BEAUMONT-CARVER,)
)
COMPLAINANT)
)
v.)
)
LOUISVILLE GAS AND ELECTRIC)
COMPANY,)
)
DEFENDANT)

CASE NO. 2018-00172

**MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM
UPON WHICH RELIEF CAN BE GRANTED
AND ANSWER OF LOUISVILLE GAS AND ELECTRIC COMPANY**

I. Motion to Dismiss

Louisville Gas and Electric Company (“LG&E” or the “Company”), by counsel, respectfully asks the Kentucky Public Service Commission (“Commission”) to dismiss with prejudice the Complaint of Margaret Beaumont-Carver because the requested relief is barred under the doctrine of *res judicata*; therefore, the Complaint fails to state a claim upon which relief can be granted. The doctrine bars the adjudication of issues that have already been litigated or should have been litigated in a prior case between the same or similar parties.¹ It applies to the quasi-judicial acts of an administrative agency acting within its jurisdiction unless a significant change of conditions or circumstances has occurred between the administrative proceedings.²

¹ 47 Am. Jur.2d *Judgments* § 464.

² *Bank of Shelbyville v. Peoples Bank of Bagdad*, 551 S.W.2d 234, 236 (Ky.1977); *Williamson v. Public Service Commission*, 174 S.W.2d 526, 529 (Ky.1943); *Cardinal Bus Lines v. Consolidated Coach Corp.*, 72 S.W.2d 7 (Ky. 1934). The Commission has applied this doctrine to dismiss numerous complaints. *See, e.g.*, Case No. 2015-00417, Order at 13 (June 29, 2016). *See also Orbin and Margie Brock v. Western Rockcastle Water Association*, Case No. 97-311, Order (Feb. 25, 1998); *Dovie Sears v. Salt River Water District and Kentucky Turnpike Water District*, Case No. 91-277, Order (June 30, 1992); Case No. 2002-00317, Order at 10.

In effect, Ms. Beaumont-Carver seeks in this proceeding to re-litigate the complaint Ms. Beaumont-Carver filed against LG&E in Case No. 2017-00241, which the parties mutually resolved via a Notice of Satisfaction, which the Commission approved and relied upon to dismiss the complaint.³ In that complaint, Ms. Beaumont-Carver alleged LG&E had refused to transfer service from the name of her company, Studio 550, LLC, the account of which had a large overdue balance, to her personal name so she could receive an assistance payment from the Affordable Energy Corporation (“AEC”).⁴ The Notice of Satisfaction into which Ms. Beaumont-Carver and LG&E entered stated that they had “resolved all issues related to the above-referenced Complaint to the parties' mutual satisfaction.”⁵ Ms. Beaumont-Carver now seeks to complain about the very matters settled—and approved as such by the Commission less than a year ago—in her new Complaint, which explicitly states, “May 2016 - Service was changed to my Business name and the service was interrupted for charges to my old account.”⁶ The entirety of her current Complaint relates to the genesis of the charges transferred to her Studio 550, LLC account in May 2016. In other words, Ms. Beaumont-Carver seeks to contest the charges transferred to her Studio 550, LLC account, the overdue balance of which was the precise matter at issue in Case No. 2017-00241.

The Commission should refuse to allow a party to a settlement the Commission approved less than a year ago to re-litigate the issue now, needlessly consuming the Commission’s valuable time and resources. In sum, the Commission should dismiss the Complaint for failing to state a claim upon which relief can be granted because the subject matter of the Complaint was already

³ *In the Matter of: Margaret Beaumont-Carver v. Louisville Gas and Electric Company*, Case No. 2017-00241, Order (Aug. 1, 2017).

⁴ *Id.* at 1.

⁵ Case No. 2017-00241, Notice of Satisfaction at 1 (July 12, 2017).

⁶ Complaint at 9.

decided in Case No. 2017-00241, and the claim is therefore barred under the doctrine of *res judicata*.

WHEREFORE, for all of the reasons set forth above, Louisville Gas and Electric Company respectfully requests that the Commission dismiss the Complaint with prejudice for failure to state a claim upon which relief can be granted and that this matter be closed on the Commission's docket.

II. Answer

In accordance with the Commission's Order of July 10, 2018, in the above-captioned proceeding, LG&E respectfully submits this Answer to the Complaint of Ms. Beaumont-Carver filed on April 25, 2018. In support of its Answer, and in response to the specific averments contained in said Complaint, LG&E states as follows:

1. With regard to the first page of the Complaint, LG&E is without sufficient knowledge to admit or deny Ms. Beaumont-Carver's residency status. LG&E admits that it serves 3906 Vermont Avenue, Louisville, Kentucky, and that it maintains an office at 820 West Broadway, Louisville, Kentucky. LG&E addresses below the allegations made in the attachments to which the Complaint refers on page one.

2. With regard to the second page of the Complaint, LG&E admits that Ms. Beaumont-Carver filed a complaint against LG&E in Case No. 2017-00241, which the Commission dismissed after Ms. Beaumont-Carver and LG&E filed a Notice of Satisfaction. LG&E denies all other allegations on page two of the Complaint.

3. With regard to the third page of the Complaint, LG&E denies the accuracy or validity of the alleged amounts owing or calculations contained in the allegations. The partial bill image appearing on page three of the Complaint is accurate, though Ms. Beaumont-Carver appears to have added text to it: "This is the deposit refund for this account." LG&E admits that a new deposit was required from Ms. Beaumont-Carver for the account opened in June 2015.

4. LG&E denies the partial bill images that appear on pages four through nine of the Complaint are accurate, as a portion of those partial bills are initial bills which were subsequently corrected. Further, LG&E denies the accuracy of the text boxes Ms. Beaumont-Carver has added on each page purporting to state the "Amount billed" each month.

5. LG&E denies the remaining allegations of pages nine and ten of the Complaint, except that LG&E admits service was transferred to the name of Ms. Beaumont-Carver's business at her request in May 2016 and that LG&E entered into a payment plan with Ms. Beaumont-Carver on May 20, 2015, regarding repayment of \$716.04.

6. LG&E admits the general accuracy of the Installment Plan image shown on page 11 of the Complaint, though there appear to be extraneous markings on it. LG&E denies the accuracy of the text in the box added by Ms. Beaumont-Carver on page 11 of the Complaint.

7. LG&E admits the accuracy of the Disconnection Notice image shown on page 12 of the Complaint. LG&E admits service was disconnected to the address at issue on May 25, 2016, but denies all other allegations on page 12 of the Complaint.

8. LG&E is without sufficient knowledge to admit or deny the accuracy or content of the image displayed on page 13 of the Complaint. LG&E denies the allegation made in the text box on page 13 of the Complaint.

9. LG&E is without sufficient knowledge to admit or deny the accuracy or content of the image displayed on page 14 of the Complaint. LG&E denies the allegation made in the text box on page 14 of the Complaint.

FIRST AFFIRMATIVE DEFENSE

The doctrine of *res judicata* bars Ms. Beaumont-Carver's claims in this proceeding, which were resolved in their entirety in Case No. 2017-00241. LG&E incorporates by reference the entirety of its Motion to Dismiss as stated above in support of this First Affirmative Defense.

WHEREFORE, Louisville Gas and Electric Company respectfully asks the Commission to issue an Order:

1. Dismissing the Complaint with prejudice;
2. Granting LG&E any and all other relief to which it may be entitled; and

3. Closing and removing this matter from the Commission's docket.

Dated: July 20, 2018

Respectfully submitted,



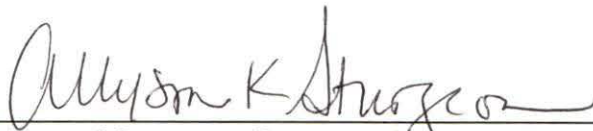
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Counsel for Louisville Gas and Electric Company

CERTIFICATE OF SERVICE

This is to certify that a copy of the above and foregoing Motion to Dismiss and Answer was served upon the following person by first class, United States Mail, postage prepaid, on the 20th day of July 2018:

Margaret Beaumont-Carver
3906 Vermont Avenue
Louisville, KY 40211



Counsel for Louisville Gas and Electric Company