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PUBLIC SERVICE
COMMISSION

Ms. Gwen R. Pinson
Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, Kentucky 40602

**Louisville Gas and
Electric Company**
State Regulation and Rates
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January 9, 2019

Re: Steven and Rebecca LeClair v. Louisville Gas and Electric Company
Case No. 2018-00373

Dear Ms. Pinson:

Pursuant to ordering paragraph (2) of the Commission's Order dated January 2, 2019, in the above-referenced case, enclosed please find an original copy of the Answer of Louisville Gas and Electric Company to the Complaint of Steven and Rebecca LeClair.

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

Sincerely,

Michael E. Hornung

Enclosures

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PUBLIC SERVICE
COMMISSION

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

STEVEN AND REBECCA LECLAIR)	
)	
COMPLAINANTS)	
)	
v.)	CASE NO.
)	2018-00373
LOUISVILLE GAS AND ELECTRIC COMPANY)	
)	
DEFENDANT)	

* * * * *

ANSWER OF
LOUISVILLE GAS AND ELECTRIC COMPANY

In accordance with the Kentucky Public Service Commission’s (“Commission”) Order of January 2, 2019 in the above-captioned proceeding, Louisville Gas and Electric Company (“LG&E” or the “Company”) respectfully submits this Answer to the Complaint of Steven and Rebecca LeClair (“Complainants”) filed on November 9, 2018. In support of its Answer, and in response to the specific averments contained in said Complaint, LG&E states as follows:

1. LG&E admits the allegations contained in paragraph (a) which states that Steven LeClair and Rebecca LeClair are the complainants.
2. With regard to the allegations contained in paragraph (c) of the Complaint which state that "Louisville Gas & Electric charged us for services at our residence at 6003

Kavanaugh Ln. when there was no Electric Service in the residence that was confirmed by LG&E High bill Investigator," LG&E states that the meter reading for the LeClair's bill due in February, 2018, was based upon an estimated reading of only 72 kWh based on usage in the prior year. During this time, however, the Louisville area experienced extremely cold temperatures. As a result, bills for all customers during this time period were drastically higher than previous years. When an actual meter reading was obtained on February 12, 2018, for the bill due in March, 2018, the usage read 8,797 kWh, resulting in a very high bill. Following an inquiry from the Complainant, LG&E removed the meter on February 28, 2018, tested it, and found it to be registering usage accurately. LG&E expressly denies that its high bill investigator confirmed there was no electric service in the residence.

3. With regard to the averments in the Wherefore clause of the Complainants' Complaint which asks for the "Bill to be cancelled. We have evidence there was no wires ever Installed in Residence. Also meter was damaged & No Security Tag on meter. Also state Electrical & Electrician can state there was no wiring in residence," LG&E denies that the bill should be cancelled. There was consumption of electricity in every month Complainants had an account at this address from May 3, 2017 through July 30, 2018. In addition, a meter test was conducted per Complainants' request on March 22, 2018; see Exhibit A attached. This test concluded that the electric meter was registering usage with an accuracy of 100.16%, within the acceptable meter accuracy range of one percent. *See* 807 KAR 5:041, Section 15(2). A copy of the meter test results is attached. Although the meter was damaged, the meter was still operational and capable of being tested. LG&E

does not have enough knowledge to admit the remaining averments, and therefore denies same.

4. LG&E denies all allegations contained in the Complaint which are not expressly admitted in the foregoing paragraphs of this Answer.

FIRST AFFIRMATIVE DEFENSE

The Complaint, or parts of it, fails to set forth any claim upon which relief can be granted by this Commission and, therefore should be dismissed.

SECOND AFFIRMATIVE DEFENSE

The Complainant has failed to set forth a *prima facie* case that LG&E has violated its tariff or any statute or Commission regulation, and the Complaint should be dismissed for that reason.

THIRD AFFIRMATIVE DEFENSE

The filed rate doctrine requires that utility companies charge only the rates filed with and approved by the Kentucky Public Service Commission (PSC) for service.¹ Kentucky's state and federal courts have recognized and applied the principle,² and the PSC has labeled the doctrine "the bedrock of utility rate regulation."³ Kentucky's treatment of the filed rate doctrine mirrors that of the United States Supreme Court which declared that the filed rate is "for all purposes, the legal rate....The rights as defined by the tariff cannot be varied or enlarged by either contract or tort of the carrier."⁴

¹ *In the Matter of: North Marshall Water District*, Case No. 95-107, Order at 2 (Ky. PSC Oct. 13, 1995).

² *Commonwealth v. Anthem Ins. Cos., Inc.*, 8 S.W.3d 48, 52 (Ky. App. 1999); *Big Rivers Elec. Corp. v. Thorpe*, 921 F. Supp. 460, 464 (W.D. Ky. 1996).

³ *In the Matter of: North Marshall*, Case No. 95-107, at 3.

⁴ *Anthem*, 8 S.W.3d at 51, quoting *Keogh v. Chicago & Northwestern Ry.*, 260 U.S. 156, 163 (1922). See also *AT&T v. Central Office Telephone*, 524 U.S. 214 (1998).

Kentucky codifies the filed rate doctrine at KRS 278.160(2). That provision reads:

No utility shall charge, demand, collect, or receive from any person a greater or less compensation for any service rendered or to be rendered than that prescribed in its filed schedules, and no person shall receive any service from any utility for a compensation greater or less than that prescribed in such schedules.⁵

Strict adherence to published tariffs is required, and the PSC prohibits any departure therefrom, “either by agreement or conduct.”⁶

Utility companies have no discretion to waive or otherwise refuse to charge a tariffed fee that a customer incurs.⁷ Deviation from the tariffed rates is viewed as discrimination and is strictly proscribed by statute,⁸ case law,⁹ and PSC decisions.¹⁰

The PSC has repeatedly noted the “strong public policy to ensure rate uniformity.”¹¹ The PSC has also recognized that some may view adherence to the filed rate doctrine as “dogmatic,” but that fidelity to the doctrine is necessary and in the public interest; therefore, the filed rate doctrine is “a hard and fast rule which must be applied in all cases.”¹²

WHEREFORE, for all of the reasons set forth above, Louisville Gas and Electric Company respectfully requests:

⁵ KRS 278.160(2).

⁶ *In the Matter of: North Marshall*, Case No. 95-107, at 2; *Cf. Boone County Sand and Gravel Co. v. Owen County Rural Elec. Cooperative Corp.*, 779 S.W.2d 224 (Ky. App. 1989).

⁷ *See In the Matter of: An Investigation into the Business Practices of Western Pulaski County Water District, Alleged Failure to Comply with Administrative Regulation 807 KAR 5:006, and Alleged Violations of KRS 278.160 and KRS 278.170*, Case No. 2002-00013, Order at 6 (Ky. PSC Aug. 9, 2002).

⁸ KRS 278.160; KRS 278.170; *Boone County Sand and Gravel*, 779 S.W.2d at 226.

⁹ *See, e.g., Sallee Horse Vans, Inc. v. Pessin*, 763 S.W.2d 149, 150 (Ky. App. 1988).

¹⁰ *See, e.g., Joyland Kennel, Inc. v. Boone County Water Dist.*, Case No. 96-218, Order at 2 (Ky. PSC May 23, 1996).

¹¹ *See In the Matter of: Leslie County Tel. Co.*, Case No. 95-517, Order at 4 (Ky. P.S.C. June 21, 1996).

¹² *In the Matter of: Leslie County Tel. Co.* at 8.

(1) that the Complaint herein be dismissed without further action taken by the Commission;

(2) that this matter be closed on the Commission's docket; and

(3) that LG&E be afforded any and all other relief to which it may be entitled.

Dated: January 9, 2019

Respectfully submitted,



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Transactions
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Counsel for Louisville Gas and Electric
Company

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Answer was served on the following on the 9 day of January, 2019, U.S. mail, postage prepaid:

Steven and Rebecca LeClair
11710 Frank Avenue
Louisville, KY 40243-1323



Counsel for Louisville Gas and Electric
Company

Exhibit A

Display Results: Characteristic Overview

Inspection Method Control chart Histogram Run values (run chart) Results history

Material **F2S240V30AC200** "1Ø, 3 WIRE, S/C, MECHA..
 Insp. Lot **80002108046**
 Activity **0010** P1nt **1000**

General Summarized **Unit to be inspected** Indicators

Insp. unit **466931**

Force Further details...

S..	Short text for the i...	Specifications	Result	Insp.descriptn
2	As Found KWH	0.0 .. 100000.0	92349.0	
2	As Found Full Load A	98.00 .. 102.00	100.10	
2	As Found Light Load	98.00 .. 102.00	100.40	
1	AS Found Power Fac	98.00 .. 102.00		
2	As Found Average fo	98.00 .. 102.00	100.16	
1	As Found KW Accura	98.00 .. 102.00		
1	As Left KWH	0.0 .. 100000.0		
1	As Left Full Load Acc	98.00 .. 102.00		
1	As Left light Load Ac	98.00 .. 102.00		
1	As Left Power Factor	98.00 .. 102.00		
2	As Left Average for	98.00 .. 102.00	0.00	
1	As Left KW Accuracy	98.00 .. 102.00		
2	Standard Number	Standard Number	01 Enter	.. 3659
2	Tester/Technician ID	Test ID/Technician ID	01 Enter	.. N091021
2	Test Type	Test Type	F AS Found	
2	Test Location	Test Location	S Shop	
1	No Test Code	No Test Code		
2	Test Reason For Elec	Test Reason For Elec	0 Other	
2	Repair Code	Repair Code	A Ok Code	
1	Retirement Code	Retirement Code		
2	Comments	Comments	01 Enter	.. TEST FOR BI/GLASS BROKE AT COVER RING/ME
2	Creeping	Creeping	N No Test	
2	Test date	Test Date	01 Enter	.. 03/22/2018
1	Pulse input for As Fo	Pulse input in As Left		
1	Pulse input for As Left	Pulse input in As Left		
1	As Found Reading 1	0.00 .. 100000.00		