

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

JOE A. BROWDER, JR.)	
)	
COMPLAINANT)	
)	CASE NO.
V.)	2021-00204
)	
LOUISVILLE GAS AND ELECTRIC COMPANY)	
)	
DEFENDANT)	

ORDER

On May 7, 2021, Joe A. Browder filed a formal complaint against Louisville Gas and Electric Company (LG&E). Mr. Browder began receiving service from LG&E in July 2012 and has been a customer for nine years.¹ Mr. Browder alleged that LG&E deliberately ignored his request to have his service disconnected in February 2021, and as a result, continued to bill Mr. Browder for estimated usage beyond his requested date of service disconnection.² Mr. Browder requested that LG&E be ordered to void any bills sent to Mr. Browder following his requested turn-off date and to provide a statement to Mr. Browder that his account is closed and reflects a balance of zero.³ On September 1, 2021, an informal conference was held via telephone. The matter now stands for a decision based upon the evidentiary record.

¹ Formal Complaint of Joe A. Browder, Jr. (filed May 7, 2021) (Complaint); see also Joe A. Browder, Jr.'s Response to LG&E's Answer (filed July 19, 2021) (Response to LG&E's Answer) at 1–2.

² Complaint at unnumbered page 4.

³ *Id.*

LEGAL STANDARD

Commission regulation 807 KAR 5:006, Section 13(1)(a), requires a customer to provide three working days' notice to a utility to terminate or transfer service. Commission regulation 807 KAR 5:006, Section 13(1)(b), further provides a customer shall not be responsible for charges beyond the three-day notice period if the customer provides access to the meter. Further, LG&E Tariff Original Sheet 97 states that customers who have been receiving electric service shall notify LG&E when discontinuance of service is desired, and shall pay for all electric service furnished until such notice has been given and final meter readings made.

COMPLAINT

On February 9, 2021, Mr. Browder contacted LG&E requesting the service to his premises be turned off on February 12, 2021.⁴ Mr. Browder subsequently contacted LG&E on February 12, 2021, and requested that the disconnection be postponed until February 16, 2021.⁵ On February 17, 2021, LG&E field services technicians went to the site to obtain the final meter reading and complete Mr. Browder's request.⁶ LG&E technicians were unable to complete the final meter read due to an iced-over stairway leading to the meter.⁷ The LG&E technicians returned to the site six times in February and March 2021, but were unable to access the meter due to it being behind a locked door for which LG&E technicians did not have a key.⁸ LG&E learned the property was

⁴ LG&E's Answer to Complaint (filed July 12, 2021) (LG&E's Answer) at unnumbered page 2.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

under new management, obtained a new key, and completed the turn-off and final meter read for Mr. Browder's account on April 29, 2021.⁹

Because LG&E did not have access to the meter until April 29, 2021, Mr. Browder's turn-off request expired and the intermediate bills that Mr. Browder received from LG&E were based on estimated usage. LG&E argued that because Mr. Browder did not provide access to the meter, that he was responsible for all charges up to the final shut-off date.¹⁰ Mr. Browder's account balance on April 29, 2021, was \$250.20, and the bill reflected a credit for overestimation of gas usage.¹¹

Mr. Browder continued to assert that LG&E deliberately failed to turn off his utility service.¹² With respect to LG&E's first attempt on February 17, Mr. Browder stated that the iced-over stairs was an "act of nature." Furthermore, on the subsequent attempts, Mr. Browder stated he contacted the property management company to arrange access to the meters for LG&E's technicians.¹³ Mr. Browder stated that the property manager told him that on two or more of those occasions, LG&E's technicians did not show up.¹⁴ In his response to LG&E, Mr. Browder stated that he should be refunded all monies for his final payment of \$246.84 in excess of usage up to February 19, 2021, assignment of his

⁹ *Id.* at unnumbered pages 2–3.

¹⁰ *Id.* at unnumbered page 3.

¹¹ *Id.*

¹² Response to LG&E's Answer at 1.

¹³ *Id.* at 2.

¹⁴ *Id.*

account to a zero balance and in good standing, and all other stipulations deemed appropriate by the Commission.¹⁵

On September 1, 2021, an informal telephonic conference (IC) was held to address the matters. During the IC, LG&E made an offer to credit Mr. Browder's account \$250.20 and reflect an account balance of zero.¹⁶ Mr. Browder rejected the offer, asserting that the offered amount did not cover the full amount he was overbilled.¹⁷

Following the IC, LG&E provided a response to Commission Staff's request for LG&E to supply a written explanation of the estimated and actual billing, and actual meter reads on Mr. Browder's account between December 2020 and May 2021. LG&E acknowledged that several mistakes were made in the attempts to terminate Mr. Browder's service, specifically noting internal processes regarding missing keys were not confirmed to have been followed.¹⁸ Furthermore, it was discovered that LG&E had obtained an actual meter read for the site on February 10, 2021, when property management was on site.¹⁹ Due to the timing of the turn-off request by Mr. Browder and a "hold" being placed on his account, the meter reading was never transferred to LG&E's billing system.²⁰ Mr. Browder filed a response to LG&E on November 29 and requested

¹⁵ *Id.* at 3.

¹⁶ IC Memorandum of September 1, 2021 (filed Sept. 2, 2021).

¹⁷ *Id.*

¹⁸ LG&E's Response to Staff Request (filed Sept. 15, 2021) at 3–4.

¹⁹ *Id.* at 4.

²⁰ *Id.*

\$200.00 in compensatory damages for out-of-pocket litigation expenses and mental anguish associated with his complaint.²¹

BILLING

Over the disputed billing period, Mr. Browder received six bills.²² Actual meter reads were obtained on November 9, 2020, February 10, 2021, and April 29, 2021.²³ However, as discussed above, the February 10, 2021 meter read was not discovered until after the IC. Beginning with the November 9, 2021, reading, Mr. Browder's account reflected a beginning read of 46,441 kWh and an account balance of zero.²⁴ Estimated reads and bills were issued following the expiration of Mr. Browder's turn-off request up to April 29, 2021, where LG&E obtained a final meter read of 51,103 kWh.²⁵ The remaining balance due on his account as of the final bill was \$250.20.²⁶

In the same response, LG&E provided the alternative billing reflecting the February 10, 2021, actual read, with usage only, up to February 19, 2021, as Mr. Browder requested.²⁷ Mr. Browder's account reflected a reading of 50,871 kWh on February 10, 2021, and an account balance of \$321.01 after a \$267.32 payment.²⁸ LG&E estimated an additional nine days for turn-off on February 19, 2021. Mr. Browder made an additional

²¹ Joe A. Browder, Jr.'s Reply to LG&E's Response to Staff Request (filed Nov. 29, 2021) at 2.

²² LG&E's Response to Staff Request (filed Sept. 15, 2021) at 4.

²³ *Id.* at 2–4.

²⁴ *Id.* at 2.

²⁵ *Id.* at 3.

²⁶ *Id.*

²⁷ LG&E's Response to Staff Request (filed Sept. 15, 2021) at 5; see also Joe A. Browder, Jr.'s Response to IC Memorandum at 1.

²⁸ LG&E's Response to Staff Request (filed Sept. 15, 2021) at 5–6.

payment of \$246.84, leaving his account balance at \$101.29.²⁹ The two billing scenarios are summarized in the following table.

Estimated

<u>Bill Due Date</u>	<u>Beg. Read</u>	<u>Read Date</u>	<u>Status</u>	<u>Ending Read</u>	<u>Read Date</u>	<u>Status</u>	<u>Total kWh</u>	<u>Elec Charge</u>	<u>Gas Charge</u>	<u>Total</u>	<u>Payments/Credits</u>	<u>Account Balance</u>	
Balance Forward													
1/7/2021	46441	11/9/2020	Verified	46771	12/10/2020	Estimate	330	\$ 47.10	\$ 67.91	\$115.01	-	115.01	
2/5/2021	46771	12/10/2020	Estimate	47418	1/12/2021	Estimate	647	\$ 80.05	\$ 72.26	\$152.31	-	267.32	
4/14/2021	47418	1/12/2021	Estimate	48660	3/11/2021	Estimate	1242	\$ 148.98	\$ 97.86	\$246.84	\$ 267.32	246.84	
5/6/2021	48660	3/11/2021	Estimate	49270	4/12/2021	Estimate	610	\$ 72.15	\$ 34.14	\$106.29	\$ 246.84	106.29	
5/28/2021	49270	4/12/2021	Estimate	51103	4/29/2021	Actual	1833	\$ 179.74	\$ (8.22)	\$171.52	-	277.81	
6/16/2021	No Change for Electric Consumption								\$ (27.61)	\$ (27.61)	\$ (27.61)	\$ (27.61)	250.20

Actual

<u>Bill Due Date</u>	<u>Beg. Read</u>	<u>Read Date</u>	<u>Status</u>	<u>Ending Read</u>	<u>Read Date</u>	<u>Status</u>	<u>Total kWh</u>	<u>Elec Charge</u>	<u>Gas Charge</u>	<u>Total</u>	<u>Payments</u>	<u>Account Balance</u>
Balance Forward												
1/7/2021	46441	11/9/2020	Verified	46771	12/10/2020	Estimate	330	\$ 47.10	\$ 67.91	\$115.01	\$ -	\$ 115.01
2/5/2021	46771	12/10/2020	Estimate	47418	1/12/2021	Estimate	647	\$ 80.05	\$ 21.25	\$101.30	\$ -	\$ 216.31
3/11/2021	47418	1/12/2021	Estimate	50871	2/10/2021	Actual	3,453	\$ 351.00	\$ 21.02	\$372.02	\$ 267.32	\$ 321.01
Final	50871	2/10/2021	Actual	50986	2/19/2021	Estimate	115	\$ 15.71	\$ 11.41	\$ 27.12	\$ 246.84	\$ 101.29

DISCUSSION AND FINDINGS

The Commission finds that Mr. Browder failed to comply with his statutory duty to provide meter access following the turn-off request to LG&E. Beginning in December 2020, each bill sent to Mr. Browder contained language indicating that the bill was estimated because LG&E was having issues accessing the meter.³⁰ Under Commission precedent, a utility customer has the obligation to review monthly electric bills and to

²⁹ *Id.*

³⁰ LG&E's Answer (filed July 12, 2021) at unnumbered page 4; see *a/so* LG&E's Response to Staff Request (filed Sept. 15, 2021), Exhibit A.

question the utility about any charges that are unclear or unusual.³¹ The bills provided the necessary information for Mr. Browder contact LG&E to resolve the access issue.³²

Due to the inability of LG&E to confirm that internal processes were followed for the missing key, the Commission finds that Mr. Browder should be granted relief from bills estimated through April 29, 2021. LG&E offered to credit Mr. Browder's account \$250.20, so that his account can reflect a zero balance as he originally requested.³³ The Commission finds this a reasonable offer, given that the billing reflecting the actual meter read on February 10, 2021, shows that Mr. Browder would owe LG&E an additional \$101.29 for usage up to February 19, 2021. The Commission notes that the offer by LG&E is in the benefit of Mr. Browder. Therefore, the Commission finds that full or partial refunding of Mr. Browder's prior \$246.84 payment is unwarranted.

In regards to the compensatory damages requested by Mr. Browder, the Commission does not have statutory authority to award damages, as this falls outside the regulation of rates and services.³⁴

IT IS THEREFORE ORDERED that:

1. LG&E shall credit Mr. Browder's account \$250.20, so that his account will reflect a zero balance and will be in good standing.

³¹ Case No. 2009-00346, *Mike Williams vs Kentucky Utilities Company* (Ky. PSC Feb. 2, 2010) at 3.

³² LG&E's Answer (filed July 12, 2021) at unnumbered page 4; see also LG&E's Response to Staff Request (filed Sept. 15, 2021), Exhibit A.

³³ LG&E's Response to Staff Request (filed Sept. 15, 2021) at 6.

³⁴ See *Boone County Sand and Gravel Company v. Owen County Rural Electric Cooperative Corporation*, 779 S.W.2d 224 (Ky. App. 1989).

2. Additional relief requested by Mr. Browder, refunding of his prior \$246.84 payment and additional compensatory damages, is denied.

3. This case is closed and removed from the Commission's docket.

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By the Commission

Commissioner Marianne Butler did not participate in the deliberations or decision concerning this case.



ATTEST:


Executive Director

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