

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

KENNETH STOUT	)	
	)	
COMPLAINANT	)	
	)	CASE NO.
V.	)	2022-00195
	)	
LOUISVILLE GAS AND ELECTRIC COMPANY	)	
	)	
DEFENDANT	)	

ORDER

On June 23, 2022, Kenneth Stout tendered a complaint against Louisville Gas and Electric Company (LG&E) on behalf of himself and 3144 Associates, LLC (3144 Associates).<sup>1</sup> In the complaint, Mr. Stout and 3144 Associates alleged that LG&E refused to provide new natural gas service connections to residents and businesses in Mt. Washington, Kentucky. The relief requested is that the Commission require LG&E to connect new gas customers in Mt. Washington and Bullitt County.

According to the complaint, LG&E refused requests to provide new natural gas service connections in Mt. Washington for the past two years because a proposed pipeline to Shepherdsville must first be constructed in order to have the capacity to serve new natural gas service connections in Mt. Washington. In the complaint, Mr. Stout and

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<sup>1</sup> According to the most recent annual report available from the Kentucky Secretary of State business entity database, Kenneth Stout is the registered agent and managing member of 3144 Associates LLC. David Stout is the other member of the LLC. <https://web.sos.ky.gov/corpscans/07/0867907-06-99999-20220616-ARP-8932322-PU.pdf>

3144 Associates accused LG&E of using “blackmail” to require local public officials to support the proposed pipeline (Bullitt County Gas Pipeline), which is currently the subject of pending state court litigation.<sup>2</sup>

Along with the formal complaint, Mr. Stout and 3144 Associates included a copy of an informal complaint filed with the Commission. In the informal complaint, Mr. Stout and 3144 Associates accused LG&E of “lying” to the court and to customers about the need for an extension to Shepherdsville via the Bullitt County Gas Pipeline before providing service to Mt. Washington.<sup>3</sup> The informal complaint included an acknowledgement from LG&E that it has deferred providing new natural gas service to Mt. Washington since 2019 due to insufficient capacity.<sup>4</sup> LG&E stated that the pipeline serving Mt. Washington is at full capacity now and that the proposed Bullitt County Gas Pipeline will supplement the current pipeline with needed capacity.<sup>5</sup> LG&E also noted that Mr. Stout had ten-year contracts for pro-rata gas main extensions that have expired.<sup>6</sup> LG&E stated that the contracts do not guarantee the availability of gas service during or after the ten-year refund period.<sup>7</sup>

In the June 23, 2022 complaint, Mr. Stout and 3144 Associates questioned how the proposed Bullitt County Gas Pipeline is related to the inability to serve new natural

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<sup>2</sup> Complaint, unnumbered page 2. The Commission notes that there are multiple lawsuits in several state court venues regarding the Bullitt County Gas Pipeline.

<sup>3</sup> Complaint, unnumbered page 4.

<sup>4</sup> Complaint, unnumbered page 5.

<sup>5</sup> Complaint, unnumbered page 5.

<sup>6</sup> Complaint, unnumbered page 5.

<sup>7</sup> Complaint, unnumbered page 5.

gas customers in Mt. Washington. Mr. Stout and 3144 Associates argued that the volume of gas available to serve Mt. Washington now will be the same volume of gas available after the Bullitt County Gas Pipeline is constructed.<sup>8</sup>

#### LEGAL STANDARD

Commission regulation 807 KAR 5:001, Section 20, governs the filing of a formal complaint. In accordance with 807 KAR 5:001, Section 20(1)(c), a complaint must state “[f]ully, clearly, and with reasonable certainty, the act or omission” that the complaint alleges the utility failed to comply with and facts, with details, of the alleged failure. In accordance with 807 KAR 5:001, Section 20(4)(a), the Commission examines a complaint to determine whether the complaint establishes a *prima facie* case and conforms to the administrative regulation. A complaint establishes a *prima facie* case when, on its face, it states sufficient allegations that, if uncontradicted by other evidence, would entitle the complainant to the requested relief. If a complaint fails to establish a *prima facie* case or conform to the administrative regulation, 807 KAR 5:001, Section 20(4)(a)(1) provides that the complainant be notified and provided an opportunity to amend the complaint within a specified time. Additionally, 807 KAR 5:001, Section 20(4)(a)(2) provides that if the complaint is not amended within the time that the Commission grants, then the complaint shall be dismissed.

In accordance with 807 KAR 5:001, Section 4(4), a person cannot file a paper with the Commission on behalf of another person unless the filer is an attorney licensed to practice law in Kentucky.

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<sup>8</sup> Complaint, unnumbered pages 2 and 3.

KRS 278.390 provides that Commission Orders remain in force until the “expiration of the time, if any, named by the [C]ommission in the order, or until revoked or modified by the [C]ommission, unless the order is suspended, or vacated in whole or in part, by order or decree of a court of competent jurisdiction.”

### DISCUSSION AND FINDINGS

As a threshold matter, Mr. Stout tendered the complaint on behalf of 3144 Associates, an LLC to which he is a member. Additionally, Mr. Stout requested relief on behalf of residents of Mt. Washington based upon LG&E’s failure to provide new natural gas service connections. In the complaint, Mr. Stout seeks to represent before the Commission the interests of 3144 Associates and the interests of residents of Mt. Washington. On information and belief, Mr. Stout is not an attorney licensed to practice law in Kentucky.

No person may engage in the practice of law in Kentucky without first obtaining a license to practice.

The practice of law is any service rendered involving legal knowledge or legal advice, whether of representation, counsel or advocacy in or out of court, rendered in respect to the rights, duties, obligations, liabilities, or business relations of one requiring the services.<sup>9</sup>

The unauthorized practice of law includes, as Kentucky’s highest court held in *Kentucky State Bar Association v. Henry Vogt Machine Co.*<sup>10</sup> the representation of a business before a state administrative agency.

[A]ny attorney who is not licensed to practice in the State of Kentucky and who seeks to represent a client or employer

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<sup>9</sup> Kentucky Supreme Court Rule 3.020.

<sup>10</sup> *Kentucky State Bar Association v. Henry Vogt Machine Co.*, 416 S.W.2d 727 (Ky. 1967).

before this Commission, must engage a member of the Kentucky Bar Association. It logically follows that if an unlicensed attorney may not represent a client before this Commission, neither may a layman.<sup>11</sup>

Commission regulations incorporate these sentiments. Commission regulation 807 KAR 5:001, Section 4(4), states in part: “A person shall not file a paper on behalf of another person, or otherwise represent another person, unless the person is an attorney licensed to practice law in Kentucky or an attorney who has complied with SCR 3.030(2).”

Based on the above, the Commission finds that Mr. Stout’s complaint fails to comply with Kentucky law and cannot be accepted for filing because he tendered the complaint on behalf of other persons, namely 3144 Associates and other residents of Mt. Washington. We further find that 3144 Associates shall be granted ten days from the date of this Order to have an attorney licensed to practice law in Kentucky file a signed complaint in this case and to limit the relief to persons and entities represented by that attorney. 3144 Associates’ failure to have an attorney file a timely complaint in this case will result in dismissal without prejudice of the complaint.

The Commission will also address the substance of the complaint. Based upon the complaint and being otherwise sufficiently advised, the Commission finds that the complaint does not establish a prima facie case because Mr. Stout and 3144 Associates argue that LG&E should provide new natural gas service connections, but failed to identify any acts or omissions by LG&E that violate any statute, regulation, or tariff enforced by the Commission or Order entered by the Commission. This is because, in accordance with a previous Order, the Commission determined that the Bullitt County Pipeline is

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<sup>11</sup> Administrative Case No. 249, *Practice before the Commission by Attorneys Non-Licensed in the Commonwealth of Kentucky* (Ky. PSC June 15, 1981) at 2.

needed to serve growth in Bullitt County, Kentucky, which includes Mt. Washington. In Case No. 2016-00371, LG&E argued that the proposed Bullitt County Gas Pipeline was intended, among other things, to improve reliability and allow LG&E to serve growth in Bullitt County by providing additional gas supply to existing gas infrastructure in those areas.<sup>12</sup> In that proceeding, the Commission found that the pipeline was necessary for LG&E to accommodate current and expected system requirements and for safe and reliable natural gas service based upon the record developed during discovery.<sup>13</sup> That Order remains in force and has not been modified, revoked, suspended, or vacated. Additionally, Mr. Stout and 3144 Associates opined that the Bullitt County Gas Pipeline is not needed to provide new natural gas service connections in Mt. Washington, but offered only conclusory statements without evidentiary support for those statements.

For the above reasons, the Commission finds that Mr. Stout and 3144 Associates' complaint should be rejected for failing to establish *prima facie* case. The Commission further finds that, in accordance with 807 KAR 5:001, Section 20(4)(a)(1), Mr. Stout and 3144 Associates should be afforded the opportunity to amend the complaint to state a *prima facie* case. If Mr. Stout and 3144 Associates fail to submit an amended complaint within ten days of this Order, the complaint shall be dismissed by separate Order.

IT IS THEREFORE ORDERED that:

1. Kenneth Stout and 3144 Associates' complaint is rejected for filing.

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<sup>12</sup> Case No. 2016-00371, *Electronic Application of Louisville Gas and Electric Company for an Adjustment of Its Electric and Gas Rates and for Certificates of Public Convenience and Necessity* (Ky. PSC June 22, 2017), Order at 31.

<sup>13</sup> Case No. 2016-00371, *Louisville Gas and Electric Company* (Ky. PSC June 22, 2017), Order at 31.

2. Within ten days of the date of entry of this Order, 3144 Associates shall have an attorney licensed to practice law in Kentucky file a signed, amended complaint that states a *prima facie* case.

3. If 3144 Associates fails to have an attorney file a signed amended complaint that states a *prima facie* case, the Commission shall dismiss the complaint by separate Order.

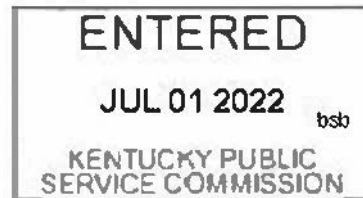
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PUBLIC SERVICE COMMISSION

  
\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Vice Chairman

\_\_\_\_\_  
Commissioner



ATTEST:

  
\_\_\_\_\_  
Executive Director



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