

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ROBERT LEE ASKEW, JR.)	
)	
COMPLAINANT)	
)	CASE NO.
V.)	2023-00327
)	
LOUISVILLE GAS AND ELECTRIC COMPANY)	
)	
DEFENDANT)	

ORDER

On September 25, 2023, Robert Lee Askew, Jr., tendered a formal complaint with the Commission against Louisville Gas and Electric Company (LG&E), alleging that LG&E refused to provide electric service to him unless he opened two separate accounts. For the reasons discussed below, the Commission finds that a *prima facie* case has not been established and that Mr. Askew should be given 20 days to amend the complaint to establish a *prima facie* case or the case should be dismissed.

LEGAL STANDARD

Pursuant to KRS 278.260, the Commission has jurisdiction over complaints regarding rates or service. Commission regulation 807 KAR 5:001, Section 20(1)(c) requires each complaint to state fully, clearly and with reasonable certainty, the act or omission, of which failure to comply is alleged. Furthermore, 807 KAR 5:001, Section 20(4)(a), requires the Commission to examine the complaint to ascertain if the complaint establishes a *prima facie* case that the utility has violated a statute, regulation, tariff, or

order for which the Commission may grant relief.¹ 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, it may be dismissed. However, 807 KAR 5:001, Section 20(4)(a)(1) allows a complainant to amend a complaint within a specified time.

BACKGROUND

Mr. Askew's complaint alleged that LG&E refused to provide electrical service to his home until he opened two accounts because LG&E had categorized Mr. Askew's home as a multi-dwelling building (two or more separate apartments) instead of a single-family residential unit. Conversely, Mr. Askew maintained that his home is a single-family residential unit and disagreed with LG&E's assessment that his home is a multi-dwelling building requiring multiple LG&E accounts. Mr. Askew's requested relief was fair billing from LG&E and the restoration of power to his home.

In support of his complaint, Mr. Askew provided proof of an electrical inspection conducted at his home in August of 2018, photos of utility meters, a copy of section 210.25(B) from the National Electric Code (NEC), and a February 2020 Notice of Violation of Louisville Metro Land Development Code (zoning violation) issued to a previous owner of the property.

Mr. Askew submitted four additional filings, comprised of a purported page from a code enforcement inspection report;² an argument regarding master metering, including

¹ 807 KAR 5:001, Section 20(4)(a).

² Complaint (filed Sept. 29, 2023).

an LG&E account summary showing two inactive accounts for the property address;³ a statement regarding his inability to receive energy assistance for both accounts;⁴ and a statement regarding his inability to receive gas assistance for both accounts and termination of his payment arrangement.⁵ Furthermore, Mr. Askew alleged LG&E was in violation of the following regulations and statutes:

Mr. Askew cited 807 KAR 5:046, Section 2,⁶ which states:

Individual Meters Required. An individual electric meter to record the retail sales of electricity shall be installed for each newly constructed dwelling unit in a nontransient multidwelling unit residential building, a mobile home park, or a commercial building for which the building permit application is made after May 31, 1981.

Mr. Askew also cited KRS 278.170(1),⁷ which states:

No utility shall, as to rates or service, give any unreasonable preference or advantage to any person or subject any person to any unreasonable prejudice or disadvantage, or establish or maintain any unreasonable difference between localities or between classes of service for doing a like and contemporaneous service under the same or substantially the same conditions.

Lastly, Mr. Askew cited KRS 517.020⁸ regarding deceptive business practices.

³ Supplemental Information (filed Oct. 4, 2023).

⁴ Second Supplemental Response (filed Oct. 9, 2023).

⁵ Addition to Second Supplemental Response (filed Oct. 12, 2023).

⁶ Supplemental Information at 1, paragraph 1.

⁷ Supplemental Information at 2, paragraph 5.

⁸ Supplemental Information at 2, paragraph 8.

Mr. Askew argued that the electrical inspection, presumably performed in accordance with NEC, means that the alleged presence of a branch circuit prohibits the property from being deemed a multi-dwelling building. NEC Section 210.25(B) states:

Common Area Branch Circuits. Branch circuits installed for lighting, central alarm, signal, communications, or other purposes for public or common areas of a two-family dwelling, a multifamily dwelling, or a multi-occupancy building shall not be supplied from equipment that supplies an individual dwelling unit or tenant space.

Mr. Askew further asserted that the zoning violation, which alleged that the prior owner was using the property as a boarding house in violation of zoning ordinance, was evidence that the house should be classified as a single-family dwelling. His supplemental filing asserted that because LG&E is requiring multiple accounts even though he only has one electric meter and one gas meter is a violation of the master metering prohibition in 807 KAR 5:046, Section 2.

DISCUSSIONS AND FINDINGS

Mr. Askew's complaint and supplemental filings are unclear as to what is meant by him being required to open "two (2) separate accounts" before LG&E will restore power to his home. Two separate accounts could refer to separate individual electric and gas accounts, two separate accounts for electric only, or two separate accounts for gas only, or two separate accounts for both electric and gas. The reference to two accounts is further confused when Mr. Askew described that LG&E shut off a gas bill and then transferred a gas bill to an electricity account culminating in a new pay arrangement thereafter.

Mr. Askew has also not provided any correspondence from LG&E describing what LG&E has asked Mr. Askew to do or describing the circumstances contained within the

complaint, including requiring him to have two accounts without requiring installation additional meters. Additionally, Mr. Askew provided no LG&E bills showing prior service under one account.

Regarding application of KRS 517.020, the Commission has no jurisdiction to enforce any provisions of Chapter 517 and any relief pursuant to this Chapter is denied.

Having reviewed Mr. Askew's complaint and the evidence submitted, the Commission finds that Mr. Askew has not fully, clearly and with reasonable certainty stated the act or omission that LG&E is alleged to have committed as required by 807 KAR 5:001, Section 20(1)(c), nor established a *prima facie* case that the utility has violated a statute, regulation, tariff, or order for which the Commission may grant relief. In accordance with 807 KAR 5:001, Section 20(4)(a)(1), the Commission finds that Mr. Askew should be afforded the opportunity to amend his complaint. The Commission further finds that Mr. Askew should file an amended complaint within 20 days of the date of service of this Order. Mr. Askew may file his complaint by U.S. mail or by email to PSCED@ky.gov.

IT IS THEREFORE ORDERED that:

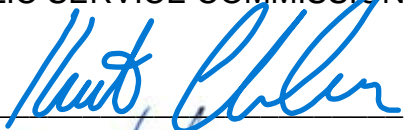
1. Mr. Askew shall have 20 days from the date of service of this Order to file an amended complaint with the Commission that conforms to the requirements of 807 KAR 5:001, Section 20(1), and that states a *prima facie* case.

2. Mr. Askew may file his amended complaint with the Commission by U.S. mail to P.O. Box 615, Frankfort, Kentucky 40602-0615 or by email to PSCED@ky.gov. Mr. Askew shall include the case number, 2023-00327, in all filings with the Commission.

A copy of this Order shall be served upon Mr. Askew by U.S. mail to 1212 S. 15th St.,
Louisville, Kentucky 40210.

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PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

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rCS
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


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