

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF LOUISVILLE GAS AND	)	
ELECTRIC COMPANY FOR AN ADJUSTMENT	)	
OF ITS ELECTRIC AND GAS RATES, A	)	CASE NO.
CERTIFICATE OF PUBLIC CONVENIENCE	)	2012 -00222
AND NECESSITY, APPROVAL OF	)	
OWNERSHIP OF GAS SERVICE LINES AND	)	
RISERS, AND A GAS LINE SURCHARGE	)	

ORDER

On August 9, 2012, Jeff Auxier ("Petitioner") filed a petition for full intervention in this case. Petitioner states that he has a special interest in this proceeding by virtue of the energy efficiency improvements that he made to his residence, which had been constructed in 1922 with inadequate insulation within its walls, attic space and basement. Petitioner's property also had numerous single pane windows, doors that would not seal properly, and an antiquated furnace, thermostat and incandescent lighting. Petitioner states that he undertook multiple efficiency improvements with the expectation that he would save money on future energy costs, especially as those costs rose.

After investing in insulation, new doors and windows and other energy-efficient improvements, Petitioner is concerned with Louisville Gas and Electric Company's ("LG&E") proposal to lower the energy charge and increase the basic service charge. Petitioner states that LG&E's proposed rate design directly and negatively affects his fiscal interest and the intangible goals he sought to promote. Petitioner states that since

his residence is heated with gas, the same fiscal and intangible concerns also apply to his gas service.

Petitioner describes his experience as stated above and also states that by his regular and ongoing attendance at webinars, conferences and workshops he has an increased level of knowledge and expertise in the area of energy and energy efficiency, as compared to the average retail customer of LG&E, and has “to a certain extent immersed himself in the subject matter.” In addition, Petitioner states that he was invited to participate in the Kentucky Smart Grid conferences, which were sponsored in part by the Commission and was a lead participant in promulgating net metering legislation as well as participating in other relevant activities.

On August 16, 2012, Petitioner filed a correction to his petition for full intervention, stating that his earlier assertion that “LG&E now proposes to lower the per kilowatt-hour cost of electricity and raise the monthly flat rate” was incorrect. “In actuality, LG&E proposes to raise the residential monthly basic service charge by 53% and the per kWh price by only 3.74%.” Petitioner states that his concerns remain the same, as “[T]he proposed rate change disproportionately raises revenue through the increase in the flat fee.”

On August 17, 2012, LG&E filed an objection to Petitioner’s petition to intervene, arguing that Petitioner’s alleged special interest in LG&E’s proposal to increase the basic service charge “negatively impacts petitioner’s fiscal interest,” would be shared with all residential customers taking service under the Residential Service tariff. LG&E further states that Petitioner’s status is as a customer, and that the Attorney General, who has been granted intervention in this case, has significant expertise and years of

experience in representing ratepayers' interests, like that of the Petitioner, in rate proceedings such as this one.

LG&E also objects to the relevance of Petitioner's claim that an increase in the basic service charge "negatively impacts" the "intangible goals" Petitioner has sought to promote, which include "promoting health, strengthening the security of our society and preserving limited energy resources for future generations." LG&E contests that these issues do not constitute special interests in this proceeding, as they are beyond the scope of the Commission's jurisdiction. LG&E argues that Petitioner's experiences and issues will not help the Commission's decision in this matter because these issues are beyond the scope of the Commission's jurisdiction and Petitioner's intervening in this case would unduly complicate and disrupt the proceedings.

On August 22, 2012, Petitioner filed a reply to LG&E's objections to his motion for full intervention and reiterated his special interest in this proceeding, his background, training and ability to discern and appreciate some of the issues implicated by energy pricing. Petitioner states that his intervention will lead to issues and facts relevant not only to the Petitioner but to "tens of thousands of other similarly-situated households." Finally, the Petitioner claims "LG&E may confuse complication of issues with discussion of issues it would rather obfuscate."

#### Discussion

The only person with a statutory right to intervene is the AG, pursuant to KRS 367.150(8)(b). That statute authorizes the AG to participate "on behalf of consumer interests." On June 21, 2012, the AG petitioned for full intervenor status in this case, noting in his motion that KRS 367.150(8) "grants him the right and obligation to appear

before regulatory bodies of the Commonwealth of Kentucky to represent consumers' interests."<sup>1</sup> The AG's petition was granted by the Commission's Order dated July 6, 2012. Intervention by all others is permissive and is within the sound discretion of the Commission.<sup>2</sup>

In exercising our discretion to determine permissive intervention, there are both statutory and regulatory limitations on the Commission. The statutory limitation, KRS 278.040(2), requires that "the person seeking intervention must have an interest in the 'rates' or 'service' of a utility, since those are the only two subjects under the jurisdiction of the PSC."<sup>3</sup> The regulatory limitation is set forth in 807 KAR 5:001, Section 3(8). That regulation requires a person seeking intervention to file a request in writing which "shall specify his interest in the proceeding."<sup>4</sup> That regulation further provides that:

If the commission determines that a person has a special interest in the proceeding, which is not otherwise adequately represented, or that full intervention by party is likely to present issues or to develop facts that assist the commission in fully considering the matter without unduly complicating or disrupting the proceedings, such person shall be granted full intervention.<sup>5</sup>

It is under these statutory and regulatory criteria that the Commission reviews a motion for permissive intervention.

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<sup>1</sup> AG's Motion to Intervene at 1.

<sup>2</sup> *Inter-County Rural Electric Cooperative Corporation v. Public Service Commission of Kentucky*, 407 S.W.2d 127, 130 (Ky. 1966).

<sup>3</sup> *EnviroPower, LLC v. Public Service Comm'n*, No. 2005-CA-001792-MR, 2007 WL 289328 (Ky. App. Feb. 2, 2007).

<sup>4</sup> 807 KAR 5:001, Section 3(8)(b).

<sup>5</sup> *Id.*

Based on a review of the pleadings at issue and being otherwise sufficiently advised, the Commission finds that Petitioner does not have a special interest in the proceeding which is not otherwise adequately represented.

Petitioner's claim of a special interest is that he undertook multiple energy efficiency improvements to his residence with the expectation that he would save money on future energy costs, especially as those costs rose. There are 347,834 residential electric customers located in nine counties,<sup>6</sup> and 292,779 residential gas customers located in 16 counties<sup>7</sup> who, like Petitioner, are customers of LG&E, with many having similar concerns as Petitioner. The AG is statutorily required to represent these customers and has been granted full intervention in this case.

The Commission further finds that Petitioner has failed to establish that he is likely to present issues or to develop facts that will assist the Commission in resolving this matter without unduly complicating or disrupting the proceedings. While Petitioner may have some level of knowledge and experience in the area of renewable energy and energy efficiency, they are not sufficient to prove that he is knowledgeable about issues of utility ratemaking and rate structures to assist the Commission in fully considering this matter. Because the requisites of KRS 278.040(2) and 807 KAR 5:001, Section 3(8), have not been satisfied, the Commission will deny Petitioner's request for intervention.

Petitioner will have ample opportunity to participate in this proceeding even though he has not been granted intervenor status. Petitioner can review all documents

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<sup>6</sup> Annual Report of Louisville Gas and Electric Company to the Kentucky Public Service Commission for the Year Ended December 31, 2011 (Electric Operations) at 0.

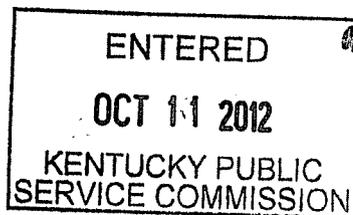
<sup>7</sup> Annual Report of Louisville Gas and Electric Company to the Kentucky Public Service Commission for the Year Ended December 31, 2011 (Gas Operations) at 0.

filed in this electronic case and monitor the proceedings via the Commission's website at the following web address: [http://psc.ky.gov/efs/EFS\\_Search.aspx?case=2012-00222](http://psc.ky.gov/efs/EFS_Search.aspx?case=2012-00222). Petitioner may also file comments as frequently as he chooses, and his comments will be entered into the record of this case. All members of the public also may be afforded an opportunity to address the Commission in person, either immediately prior to any evidentiary hearing in this matter or in any meetings the Commission schedules for the express purpose of receiving public comments.

IT IS THEREFORE ORDERED that Petitioner's request to intervene is denied.

By the Commission

Commissioner Breathitt is abstaining from this proceeding.



ATTEST:

Executive Director

A handwritten signature in black ink, written over a horizontal line. The signature is stylized and appears to be the name of the Executive Director.

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