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PUBLIC SERVICE COMMISSION

Before the Public Service Commission

To: Kentucky Public Service Commission
P.O. Box 615, 211 Sower Boulevard, Frankfort, Kentucky 40602-0615

Re: Complaint Relating to LG&E/KU Advertising on Net Metering Legislation

March 26, 2018

Complainants:

Andy McDonald

Andy McDonald
7134 Owenton Rd., Frankfort, KY 40601
KU Customer, net metering

Jack Morris

Jack Morris
827 White Oak Rd., Stamping Ground, KY 40379
KU Customer, net metering

Carl H Vogel N Alice Howell

Carl Vogel and Alice Howell
918 Aurora Avenue
Lexington, KY 40502
KU Customer, not participating in net metering

Andrea Wilson Mueller dba. Inside Out Design
100 Old Georgetown Rd., Frankfort, KY 40601
KU Customer, net metering

Nancy Givens

Nancy Givens
3015 Brownsboro Rd. #11, Louisville, KY 40206
LG&E Customer, net metering

Wallace McMullen

Wallace McMullen
4324 Dover Rd., Louisville, KY 40216
LG&E Customer, net metering

Roger Ohlman

Roger Ohlman
829 Perennial Dr., Louisville, KY 40217
LG&E Customer, net metering

Defendants:
Kentucky Utilities Company
One Quality Street, Lexington KY 40507

Louisville Gas & Electric Company
220 West Main St., Louisville, KY 40202
To: Public Service Commission

We, the undersigned Complainants, respectfully request that the Public Service Commission open an investigation into the advertising activities of Louisville Gas & Electric and Kentucky Utilities ("LG&E/KU") regarding House Bill 227, a bill relating to net metering that is pending before the Kentucky Senate.

Facts of the complaint

In the February 17, 2018 edition of the State-Journal (Frankfort newspaper), LG&E/KU ran an advertisement encouraging readers to support Kentucky House Bill 227. They also have posted related information on their website at the following two addresses:

https://lge-ku.com/newsroom/articles/2018/02/27/myth-busting-falsehoods-private-solar-net-metering-reform

https://lge-ku.com/newsroom/articles/2018/01/23/why-private-solar-reform-needed-kentucky

We, the Complainants, are customers of LG&E/KU and some of us are also taking service under the net metering Tariffs of LG&E/KU. We request that the Commission investigate whether the advertisements and website from LG&E/KU misrepresent the facts, contain false or misleading statements, or make unsubstantiated claims.

Our concerns arise from these statements and representations by LG&E/KU:

1. The advertisement claims to be "protecting" customers when in fact, HB 227 would deprive customers of the opportunity to benefit from using net metering to reduce their utility costs (by greatly reducing the financial viability of using solar electricity).

2. The advertisement claims that HB 227 would "protect all Kentuckians," yet an analysis of data supplied by LG&E/KU to the Energy Information Administration suggests that any rate consequences of net metering are negligible. An analysis by Tom FitzGerald of the Kentucky Resources Council (February 2018), explores the potential economic impact of net metering on non-participating residential ratepayers from the crediting of excess electricity supplied to the grid at retail rates.[1] The analysis looks at the cost to each Kentucky utility for crediting net metering customers at the retail rate rather than the avoided-cost rate (this difference assumed to be about 7 cents/kWh, and corresponds to the changes LG&E/KU seek in HB 227) for excess power supplied to the grid. The analysis shows that, for 2016, the economic impact for any non-participating residential customer of LG&E/KU was 1 to 2 cents per year, or essentially negligible. This analysis is based on LG&E/KU's assumptions and does NOT factor in any of the benefits that net metering provides to the utility and other ratepayers.

It would seem to be grossly misleading to portray a potential economic impact of 1 to 2 cents per year as a harm from which ratepayers require protection.

[1] "The Economic Impact On Kentucky Residential Customers of Energy "Sold" to Utilities from Net Metering Solar Customers in 2016," February 28, 2018, Tom FitzGerald, Kentucky Resources Council.

3. The advertising appears misleading when it claims that HB 227 would "grow solar" when it is clear that this bill would strongly discourage the installation of distributed solar systems; and when many in-state solar companies believe and have testified that the bill threatens their existence and would result in job losses. HB 227 includes nothing that would lead to the increased use of solar energy.

4. The advertising makes what we believe to be an unsubstantiated claim that net metering customers are being subsidized by other ratepayers. This claim is disputed by the analysis cited in section 2 above, which shows that the potential economic impact is negligible. The utilities have provided no evidence to support their claims and, to our knowledge, LG&E/KU have never requested a rate increase to recover the costs supposedly imposed by net metering. A Department of Energy study in 2017 that specifically addressed the question of rate impacts of net metering on non-participating customers indicated that any impact was and would remain negligible for the foreseeable future.[2]

5. The advertisement appears to be materially misleading in claiming that, "*Ky. Utilities are required to credit private solar net metering customers at 3 times the value of any other power*." The net metering statute requires utilities to credit excess generation to the grid at the same retail rate paid by that customer – not three times anything. The actual value of the power supplied by the net metering customer varies with the time of day and season, and is often supplied during times of peak demand in the summer, when the utility's cost of generation is highest. Meanwhile, the same customer often redeems their credits at night, when the utility's cost of generation is low.

Consider that KU has an optional time-of-use rate which charges customers 27 cents/kWh for power consumed from 1pm – 5pm April to October. This is the time when solar production is at its highest. It is incorrect to claim that crediting net metering at the retail rate (about 10 cents/kWh) is 3 times the value of any other power, when they are allowed to sell power *produced at the same time* at 27 cents/kWh.

6. LG&E/KU claim that "all Kentuckians help pick up the tab for the difference." To our knowledge LG&E/KU have never requested a rate increase from the PSC due to the impacts of net metering. There has been no study of the costs and benefits of net metering to ratepayers or all Kentuckians. Meanwhile there have been numerous studies conducted around the United States, by many entities including state Public Utility Commissions, utilities, and non-utility organizations, which have analyzed this issue. Most studies have found a net benefit to all residents from net metering.[3] Identified benefits include improved grid resiliency; avoided energy costs, capital and capacity investment, costs of environmental compliance, and

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[2] Barbose, Galen. "Putting the Potential Rate Impacts of Distributed Solar Into Context." LBNL, US Department of Energy, January 2017, p. 29.

[3] See "Shining Rewards: The Value of Rooftop Solar Power for Consumers and Society," 2016, Frontier Group & Environment America. See also "Rooftop Solar: Net Metering is a Net Benefit," Mark Muro and Devashree Saha, May 23, 2016, Brookings Institution.

greenhouse gas emissions; economic development and jobs creation; reduced financial risks; and others. In the absence of any actual analysis of the facts, the utilities' claims appear to be baseless and misleading.

7. LG&E/KU claim that HB 227 will "allow future private solar net metered customers to receive fair market value for excess grid energy." Section 5 explains why this claim is arguably simply false. How can LG&E/KU claim that offering about 3 cents/kWh for solar generation on a hot summer afternoon is "fair market value" when they are selling power to other customers at 27 cents/kWh at that same time?

8. The effort by LG&E/KU to create dissention among participating and non-participating customers by alleging that net metering customers are taking advantage of other customers appears to be wholly without factual basis. As we explained in section 1, LG&E/KU has provided no evidence or analysis to justify their claims about net metering being a subsidy. These claims are undercut by FitzGerald's analysis cited above, as well as the numerous Value of Solar studies that have been performed in other states. The utilities leave out the fact that the capital investment for distributed energy generation has been borne by the net metering customers, who deserve to be able to recapture that investment over time. The utilities also fail to acknowledge that the fed-in electricity benefits the utility and other customers by allowing the utility to defer investment in peak capacity, which is the most expensive energy to produce.

Discussion

As net metering customers, it is uncomfortable to be singled out as people who are taking advantage of our neighbors, especially since the allegations are false. These actions by LG&E/KU sow the seeds for conflict among their customers.

LG&E/KU has chosen to target net metering customers with claims that they are taking advantage of other customers. Why have they unfairly singled out net metering customers, when other groups of customers arguably benefit to a greater or lesser extent within the customer class? For example, it may cost more to serve customers who live in rural areas than dense urban areas; maintenance costs are higher for customers who have many trees around their power lines; customers who use more power at peak times incur more costs than those who use a minimal amount at peak times. Customers who invest in energy efficient windows and appliances may use less electricity, and thus contribute less to recovery of fixed costs that are imbedded in volumetric rates, yet they are not accused of "taking advantage" of customers with higher usage. The PSC has accepted that electric rates do not perfectly assign costs equally to those who produce the cost – some degree of cross-subsidization within a customer class is inherent to the current ratemaking system. It is discriminatory, inflammatory, and highly unfair to publicly criticize one group of customers, with no evidence of harm, in a system that has cost shifting inherently built into it.

This advertisement from LG&E/KU is not simply misleading – it is intended to provoke customers and legislators to take political action. A corporation should not have the right to use what appear to be false and misleading statements to achieve their political and financial goals.

The advertisement is also deceptive because it claims that their intent is to "protect all Kentuckians" when the result of HB 227 would be to harm many Kentuckians, in specific ways.

HB 227 (as originally drafted when the advertisement was published) would have effectively doubled the payback time for solar electric systems by reducing the value of all fed-in electricity to the utility's "avoided cost," thus greatly diminishing the financial viability of most installations. This would have several deleterious effects. It would reduce the return on investment for investors in this technology. It would place solar electricity out of reach for most Kentuckians, removing an important technology from the list of options available for reducing and controlling one's energy bills. At a time when the cost of solar has fallen dramatically, many more people are becoming interested in installing solar on their property. If HB 227 passes, their financial incentive for doing so would be greatly reduced.

Lower-income customers would be harmed by making solar electricity inaccessible. In recent years the cost of solar has fallen so dramatically that it is now a viable option for lower-income homeowners. People's Self-Help Housing Inc. in Vanceburg, KY is one example of an affordable housing agency that has now installed solar panels on 20 low-income homes, because they make the cost of home ownership more affordable. If HB 227 passes, solar will no longer be economical for such families; thus they will be deprived of an opportunity which is currently available to reduce their energy bills to make long-term home ownership more viable.

Solar energy businesses and their employees would be harmed by the likely collapse of the market for distributed solar energy. HB 227 would curtail a high potential growth industry and the opportunity to create new good-paying jobs in Kentucky.

The state's economy would be harmed long-term by the damage done to the solar industry and its future growth. The distributed solar market is showing exponential growth in other states that have supportive policies. While Kentucky's solar industry is very small today, the experience in nearby states indicates that substantial rapid growth is possible. This would be greatly hindered by the passage of HB 227.

Kentucky's economy is also vulnerable to being "left behind" as other states and countries around the world move to a low carbon future. Multinational corporations, too, are adopting aggressive renewable energy and greenhouse gas reduction goals and this bill would reduce Kentucky's ability to compete in attracting these companies to this state.

LG&E/KU's claim that they are acting to "protect Kentuckians" is questionable when the evidence suggests their real intention is to suppress competition, undermine their customer's ability to reduce energy use and utility costs, and exert market control over solar energy. They are using marketing language to appear as if they are acting in their customer's best interest, when in fact they are pursuing their own corporate interests. Consider that LG&E/KU are now offering the Solar Shares option to their customers. This program directly competes with solar companies that offer net metering systems to customers. By making customer-sited solar less financially viable, HB 227 makes the Solar Shares program, which as it is designed is more expensive than customer-sited solar, more attractive to customers.

Finally, we request a determination as to whether the expenditures of LG&E/KU for advertising and for their contract lobbyists in support of HB 227, constitute "political advertising" that is not recoverable from ratepayers pursuant to 807 KAR 5:016. We believe it is inappropriate for the utility to use ratepayer's funds to attempt to influence the public and lawmakers in support of HB 227.

Relief Sought

Complainants respectfully request that the Commission investigate whether the activities of LG&E/KU constitute misleading and improper political advertising, and if the Commission so finds, that the Commission direct LG&E/KU to:

1. Cease production of any more advertisements, documents, or media in any format, including websites and social media, in relation to HB 227 or net metering that contain any misleading or false statements regarding the effect of enactment of net metering legislation, and that their current web pages on HB 227 be revised to remove claims concerning net metering and solar energy such as:

"HB 227 protects Kentuckians."

"Current law requires utilities to credit net metering customers at 3 times the value of any other power."

"HB 227 would allow future net metered customers to receive fair market value for excess energy."

"HB 227 would grow solar energy in Kentucky."

"Non-solar customers subsidize net metering customers."

"All Kentuckians (or other ratepayers) must pick up the tab for the extra costs utilities have to pay to net metering customers."

2. Direct LG&E/KU to run advertisements in all newspapers in which they have previously run ads regarding HB 227, apologizing for any misrepresentations and correcting any false statements that the Commission determines to have been made. The Commission and complainants should be permitted to review these advertisements before they are published to ensure their accuracy and basis in fact.

3. LG&E/KU should be required to send a letter to all legislators at the conclusion of the Commission investigation, informing them of this complaint and the Commission findings. The Commission and complainants should have the right to review these letters before they are sent to ensure their accuracy and basis in fact.

4. Determine the sources of and amounts of funds expended by LG&E/KU, including direct expenditures on advertising, mailings, staff time, lobbyists, and other costs associated with the campaign to enact HB 227, and determine that such expenditures cannot be recovered from nor subsidized by ratepayers.

Exhibit 1 – Advertisement from LG&E/KU in State-Journal, February 17, 2018.

Exhibit 2 – "The Economic Impact On Kentucky Residential Customers of Energy 'Sold' to Utilities from Net Metering Solar Customers in 2016," by Tom FitzGerald, Kentucky Resources Council, February 28, 2018. Please see accompanying document.

A "YES" ON HOUSE BILL 227 PROTECTS ALL KENTUCKIANS.

Did you know that under current law, Ky. utilities are required to credit private solar net metering customers at 3 times the value of any other power, and that ALL Kentuckians help pick up the tab for the difference?

House Bill 227 reforms Kentucky's outdated private solar net metering policy and will:

- Grandfather existing customers for 25 years;
- Allow future private solar net metered customers to receive fair market value for excess energy; and,
- Grow solar energy in Kentucky while not asking non-solar customers to subsidize private solar installations.

Tell your elected officials to vote "Yes!" on House Bill 227.
Visit **lge-ku.com/solar-reform** to learn more.

The Economic Impact On Kentucky Residential Customers Of Energy "Sold" To Utilities From Net Metering Solar Customers in 2016[1]

This paper explores the economic impact of net metering on non-participating residential ratepayers from excess electricity "sold" to the grid at retail rates. The analysis uses two data sets from the U.S. Energy Information Administration. They are *2016 Utility Bundled Retail Sales – Residential*[2], which provided the number of residential customers per utility in 2016, and *EIA_Net Metering_ Data All Utilities_2016*[3], which provides the amount, in MWh, of electricity "sold" to regulated utilities by net metering solar customers.

This analysis looks at the cost to each utility for crediting net metering customers at the retail rate rather than the avoided cost rate (this difference assumed to be roughly 7 cents per kwh) for excess power supplied to the grid. The electric utilities contend that they should be allowed to credit solar customers at the avoided cost rate and that paying above this rate results in additional costs which must be paid by all other ratepayers.

The analysis shows that, for 2016, the economic impact for any non-participating customer ranged from a high of 4 cents per month, or 48 cents a year, to a low of 0.1 cents per month, or 1.3 cents per year, with an average economic impact on non-participating customers of 0.3 cents per month, or 4 cents per year.

The total amount of "additional costs" paid by all utilities in Kentucky due to net metering in 2016 was $45,228 or $5,653 per utility with net metering customers. Data for all regulated utilities who reported net metering information to the US EIA is provided in the accompanying table.

This analysis assumes that excess generation from net metering customers is in fact only worth the avoided cost rate, which is subject to debate. For example, at times of peak demand in the summer when solar production is also at its peak, solar generation offsets the need for utilities to use their most costly peaking generation resources.

This analysis also does not account for any other benefits that net metering provides to the utility and other ratepayers. These benefits, which have been quantified by studies performed in other states, would offset the costs identified in this analysis. Therefore, these figures reflect the upper limit of potential costs that net metering might impose on other customers.

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[1] Prepared by Tom FitzGerald, Kentucky Resources Council, February 28, 2018.

[2] US Energy Information Administration, 2016 Utility Bundled Retail Sales - Residential.

[3] US Energy Information Administration, Electric power sales, revenue, and energy efficiency Form EIA-861 detailed data files. (https://www.eia.gov/electricity/data/eia861/)

The Economic Impact On Residential Customers Of Energy "Sold" To Utility From Photovoltaic Customers in 2016

Assuming the utility credited for excess PV generation equal at the retail rate rather than the avoided cost (roughly 7 cents per kWh).

Utility Name (note that municipal utilities are not governed by the net metering law and thus are not included here)	**RESIDENTIAL Energy Sold Back MWH in 2016**	**RESIDENTIAL Energy Sold Back KWH in 2016**	**Value Of Credits Given in 2016 @ $0.07/kWh**	**# of Residential Customers**	**Annual Cost per Customer**	**Monthly Cost per Customer**
Clark Energy Coop Inc - (KY)	21.700	21,700	$ 1,519	24,477	$ 0.062	$ 0.0052
Cumberland Valley Electric, Inc.	0.000	-	$ -			$ -
Fleming-Mason Energy Coop Inc	0.000	-	$ -			$ -
Grayson Rural Electric Coop Corp	12.179	12,179	$ 853	14,166	$ 0.060	$ 0.0050
Inter County Energy Coop Corp	0.000	-	$ -			$ -
Jackson Energy Coop Corp - (KY)	0.000	-	$ -			$ -
Jackson Purchase Energy Corporatio	0.000	-	$ -			$ -
Kenergy Corp	0.000	-	$ -			$ -
Kentucky Utilities Co	121.335	121,335	$ 8,493	426,225	$ 0.020	$ 0.0017
Louisville Gas & Electric Co	66.992	66,992	$ 4,689	356,424	$ 0.013	$ 0.0011
Meade County Rural E C C	0.000	-	$ -			$ -
Nolin Rural Electric Coop Corp	253.000	253,000	$ 17,710	32,952	$ 0.537	$ 0.0448
Owen Electric Coop Inc	0.000	-	$ -			$ -
Salt River Electric Coop Corp	88.000	88,000	$ 6,160	46,901	$ 0.131	$ 0.0109
Shelby Energy Co-op, Inc	0.000	-	$ -			$ -
South Kentucky Rural E C C	58.046	58,046	$ 4,063	61,106	$ 0.066	$ 0.0055
Taylor County Rural E C C	0.000	-	$ -			$ -
Duke Energy Kentucky	0.000	-	$ -			$ -
Kentucky Power Co	24.866	24,866	$ 1,741	137,013	$ 0.013	$ 0.0011
TOTAL CREDIT AND AVERAGE COST	**646.118**	**646,118**	**$ 45,228**	**1,099,264**	**$ 0.04**	**$ 0.003**