

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF LOUISVILLE	)	
GAS AND ELECTRIC COMPANY FOR AN	)	
ADJUSTMENT OF ITS ELECTRIC AND GAS	)	
RATES, A CERTIFICATE OF PUBLIC	)	CASE NO.
CONVENIENCE AND NECESSITY TO DEPLOY	)	2020-00350
ADVANCED METERING INFRASTRUCTURE,	)	
APPROVAL OF CERTAIN REGULATORY AND	)	
ACCOUNTING TREATMENTS, AND	)	
ESTABLISHMENT OF A ONE-YEAR SURCREDIT	)	

ORDER

The matter is before the Commission upon the motion of 17 owners of McDonald’s Inc. franchise restaurants (Movants)<sup>1</sup> requesting an enlargement of time, pursuant to Kentucky Rules of Civil Procedure (CR) Rule 6.02, to submit a request for intervention in this matter. In support of its request, Movants state that Louisville Gas and Electric Company (LG&E) filed the instant application on November 25, 2020. Movants point out that the Commission’s December 9, 2020 Order establishes a procedural deadline of December 23, 2020, to file a request for intervention in this case. Movants aver that some of the owners received notice of the rate application filing in December 2020 by way of billing inserts. However, Movants contend that due to “the holidays and Covid-19 pandemic, it has taken some time for these restaurant owners to organize and obtain an

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<sup>1</sup> Motion of McDonald’s Restaurant Owners for an Enlargement of Time Within Which to File a Motion to Intervene Pursuant to CR 6.02 (filed Feb. 9, 2021) at 1–2. All 17 of the McDonald’s franchise restaurants are located in Louisville, Kentucky

appointment with [their] attorney.”<sup>2</sup> Movants assert that their inability to file a timely request for intervention should be characterized as excusable neglect under CR 6.02 and, therefore, requests an extension of time, up to and including February 9, 2021, in which to file an intervention request.<sup>3</sup> Movants also assert that allowing an extension of time to file an intervention request would not be prejudicial to LG&E. Lastly, Movants maintain that they have a special interest that is not represented by any other party and that they will present issues and develop facts that will assist the Commission in determining this case without unduly disrupting the proceedings.<sup>4</sup>

LG&E filed a response objecting to Movant’s request for additional time to file a request for intervention. LG&E argues that Movants have not provided sufficient justification to satisfy either an “excusable neglect” standard under CR 6.02, which rules LG&E asserts are not binding on the Commission but only advisory in nature, or a “good cause” standard pursuant to the Commission’s December 9, 2020 Order. LG&E points out that the two motions were not filed in completed form until 49 days after the intervention deadline had elapsed and after all discovery had been issued to LG&E. LG&E points out that it engaged in several methods to provide customer notice of the rate application, including (1) publishing an abbreviated customer notice in the Louisville Courier-Journal for three consecutive weeks beginning November 18, 2020; (2) posting

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<sup>2</sup> *Id.* at 2.

<sup>3</sup> Motion to Intervene of McDonald’s Franchise Owners (filed Feb. 9, 2021).

<sup>4</sup> Movants filed a corrected Motion for Enlargement of Time on February 10, 2021, indicating that page 4 was inadvertently omitted from the initial filing and including that page with the corrected filing. Page 4 included averments stating that LG&E rate design is unique in that there is a usage and demand component, which, according to Movants, is antiquated and inconsistent with electric rate structures in more progressive states.

the full customer notice at its office and on its website beginning November 18, 2020; (3) posting the application on its website beginning November 25, 2020; (4) issuing press releases beginning November 13, 2020; and (5) providing billing inserts informing of the rate case beginning November 30, 2020. LG&E contends that Movants were provided with ample notice of the instant matter and Movants' reliance upon the year-end holidays and COVID-19 pandemic are not sufficient reasons in justifying a 49-day delay in requesting intervention. Regarding the merits of the intervention request, LG&E argues that the request does not demonstrate a special interest in the proceeding because the stated interest is common to all customers, whether restaurants or not, and is adequately represented by other parties. LG&E further argues that the request fails to show that Movants will identify any issues or develop facts that will assist the Commission in the resolution of this matter without unduly complicating and disrupting the proceeding. LG&E further notes that the request does not allege any experience or expertise with ratemaking, nor does it identify any specific issue or component of the case that Movants will address, or the facts they intend to develop. Accordingly, LG&E contends that the requests should be denied.

Having reviewed the pleadings and being otherwise sufficiently advised, the Commission finds that Movants have failed to established good cause to permit additional time to file the request for intervention. As acknowledged by Movants, the deadline for requesting intervention in this matter was December 23, 2020, as established by the December 9, 2020 scheduling Order. The December 9, 2020 Order also established other deadlines such as two rounds of discovery upon LG&E for the orderly processing of this matter. The Commission finds that a delay of 49 days after the intervention

deadline coupled with the fact that discovery upon LG&E is now complete and the need to process this matter within tight time constraints is significant and cannot be justified by general averments to the holidays and COVID-19 pandemic. Therefore, the Commission will deny Movants' request for an enlargement of time in which to submit a request for intervention.

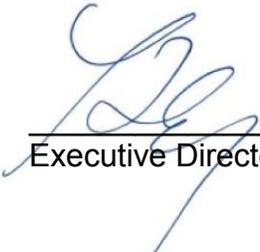
Movants will have an opportunity to participate in this proceeding even though they are not granted intervenor status. Movants can review all public documents filed in this case and monitor the proceedings via the Commission's website at the following web address: [http://psc.ky.gov/PSC\\_WebNet/ViewCaseFilings.aspx?case=2020-00350](http://psc.ky.gov/PSC_WebNet/ViewCaseFilings.aspx?case=2020-00350). In addition, Movants may file comments as frequently as they choose, and those comments will be entered into the record of this case.

IT IS THEREFORE ORDERED that Movants' request for an enlargement of time in which to file an intervention request is denied.

By the Commission

ENTERED  
MAR 05 2021  
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KENTUCKY PUBLIC  
SERVICE COMMISSION

ATTEST:

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

Case No. 2020-00350

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