

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

MICHAEL R. WILSON)	
)	
COMPLAINANT)	
)	
V.)	CASE NO.
)	2025-00127
)	
LOUISVILLE GAS AND ELECTRIC COMPANY)	
)	
DEFENDANT)	

ORDER

On April 21, 2025, Michael Wilson filed a complaint against Louisville Gas and Electric (LG&E) in which he alleged that fees LG&E charges to customers that elect to opt out of receiving a gas or electric advanced metering infrastructure (AMI) meter are unreasonable should be “disapproved.”¹ On December 10, 2025, the Commission entered an Order directing LG&E to satisfy or answer the Complaint.²

On December 19, 2025, LG&E filed an answer and motion to dismiss stating that the Commission had previously approved the opt-out fees as fair, just and reasonable in Case No 2020-00350.³ Wilson filed a response to the motion to dismiss on December 31, 2025.⁴

¹ Complaint (filed Apr. 21, 2026) at 3.

² Order (Ky. PSC Dec. 10, 2025) at 1.

³ Answer and Motion to Dismiss (filed Dec. 19, 2025) at 2.

⁴ Response to Motion to Dismiss (filed Dec. 31, 2025).

Neither party requested a formal hearing in this matter.

LEGAL STANDARDS

The Commission has original jurisdiction over complaints as to rates or service of any utility pursuant to KRS 278.260. KRS 278.260(1) provides, in relevant part, that: “upon a complaint in writing made against any utility by any person that any rate in which the complainant is directly interested is unreasonable or unjustly discriminatory . . . , the commission shall proceed, with or without notice, to make such investigation as it deems necessary or convenient.”⁵

Section 20 of 807 KAR 5:001 sets forth the procedural rules that govern formal complaints. Section 20(1)(c) provides that each formal complaint must state “[f]ully, clearly, and with reasonable certainty, the act or omission, of which complaint is made.”⁶ Upon the filing of a complaint, “the commission shall examine the complaint to ascertain if it establishes a *prima facie* case and conforms to this administrative regulation.”⁷ The Commission has held that 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.⁸

KRS 278.260(1) states that “[n]o order affecting the rates or service complained of shall be entered by the commission without a formal public hearing.”⁹ The Commission,

⁵ KRS 278.260(1).

⁶ 807 KAR 5:006, Section 20(1)(c).

⁷ 807 KAR 5:006, Section 20(4)(a).

⁸ Case No. 2023-00367, *Futrell Holding Co., LLC vs. Barkley Lake Water District* (Ky. PSC Mar. 10, 2025) at 4.

⁹ KRS 278.260(1).

however, may dismiss any complaint without a hearing if, in its opinion, a hearing is not necessary in the public interest or for the protection of substantial rights.”¹⁰

BACKGROUND

In his complaint, Mr. Wilson stated that he is a customer of LG&E and was notified by letter from the utility dated April 1, 2025, that it would begin imposing a fee on customers who opt out of having a “smart meter” installed for gas or electric service and elect to retain the existing manual read meters.¹¹ Mr. Wilson alleged that the cost of the existing, functioning meters has already been paid by ratepayers and that the cost of continued manual meter readings has been factored into existing rates.¹² Mr. Wilson claimed that customers who elect to retain existing meters will in effect be subsidizing the cost to install and maintain the new smart meters and the cost to replace existing meters.¹³ Mr. Wilson claimed that the new opt-fees are unreasonable.¹⁴

In its answer, LG&E denied that the advanced metering infrastructure (AMI) opt-out fees are unreasonable and pointed out that the Commission, in fact, had approved the charges as fair, just and reasonable in Case No 2020-00350.¹⁵ LG&E asserted that the cost of manually reading meters is not factored into its rates because manual meter reading is not required for AMI meters.¹⁶ LG&E argued that “[c]onsistent with the

¹⁰ KRS 278.260(2).

¹¹ Complaint at 3.

¹² Complaint at 3.

¹³ Complaint at 3.

¹⁴ Complaint at 3.

¹⁵ Answer and Motion to Dismiss at 2.

¹⁶ Answer and Motion to Dismiss 3.

principles of cost causation, customers who opt out of AMI are charged a fee to cover the costs LG&E will incur to read their meters manually.”¹⁷ LG&E also claimed that Mr. Wilson is asking the Commission to order LG&E to treat him differently than other customers, which the company stated would violate the filed rate doctrine.¹⁸

LG&E cited in support of its motion to dismiss Case No. 2023-00379,¹⁹ in which complainant asked that Kentucky Utilities Company (KU) be ordered to “cease and desist” from charging opt-out fees.²⁰ LG&E asserted that the Commission found in this case that “AMI opt-out fees are fair, just and reasonable.”²¹

Wilson in his response to the motion to dismiss claimed that he was not bound by the holdings in the rate case or the *Douglas* complaint case because he was not a party to them.²² Wilson also characterized the Commission’s decision in the *Douglas* case as contemplating that opt-out fees would be used as a penalty for a customer’s tampering with a meter, and that no such tampering is involved in this case.²³

DISCUSSION

The Commission first substantively addressed the issue of opt-out fees in Case No. 2012-00428, an administrative proceeding initiated by the Commission to consider

¹⁷ Answer and Motion to Dismiss at 3.

¹⁸ Answer and Motion to Dismiss at 1.

¹⁹ Case No. 2023-00379, *Angela Christine Douglas v. Kentucky Utilities Company* (Ky. PSC Dec. 20, 2023).

²⁰ Answer and Motion to Dismiss at 2.

²¹ Answer and Motion to Dismiss at 3.

²² Response to Motion to Dismiss at 1-2.

²³ Response to Motion to Dismiss at 2.

issues relating to the implementation of smart grid and smart metering technologies.²⁴ The Commission made all jurisdictional electric utilities and the five major natural gas utilities parties to the case.²⁵ The utilities submitted a joint report in which they raised concerns about allowing opt-outs for smart metering and cited potentially significant costs that would result if customers are allowed to opt out of using a smart meter.²⁶ The Commission noted that “[a] utility would incur additional costs to dispatch meter readers to travel to, and read the meter of, each opt-out customer.”²⁷ The Commission stated that it would consider proposed opt-out fees on a utility-by-utility basis, and found that “any opt-out provision should require those customers that opt out to bear the cost related to that decision - through a one-time fee and/or a monthly charge, as appropriate.”²⁸

In Case No. 2020-00350, the Commission approved, albeit without discussion, LG&E’s opt-out fee as fair, just, and reasonable.²⁹ As noted, Wilson in response to LG&E’s motion to dismiss claimed that he was not bound by this holding because he was

²⁴ Case No. 2012-00428, *Consideration of the Implementation of Smart Grid and Smart Meter Technologies* (Ky. PSC Oct. 1, 2021), Order at 1.

²⁵ Case No. 2021-00428, *Consideration of the Implementation of Smart Grid and Smart Meter Technologies* (Ky. PSC Oct. 1, 2021), Order at 9.

²⁶ Case No. 2021-00428, (filed June 30, 2014) Joint Report at 20-21.

²⁷ Case No. 2021-00428, (Ky. PSC April 13, 2016), Order at 15.

²⁸ Case No. 2021-00428, April 13, 2016 Order at 17.

²⁹ Case No. 2020-00350, *Electronic Application of Louisville Gas and Electric Company for an Adjustment of Its Electric and Gas Rates, a Certificate of Public Convenience and Necessity to Deploy Advanced Metering Infrastructure, Approval of Certain Regulatory and Accounting Treatments, and Establishment of a One-Year Surcredit* (Ky. PSC June 30, 2021), Appendix B at 10.

not a party to the case.³⁰ LG&E, however, gave public notice of its application for an adjustment of rates in Case No. 2022-00350.³¹

Many other utilities in both the electric and natural gas sectors also charge approved opt-out fees. For example, in Case No. 2022-00357, the Commission approved Salt River Electric Cooperative Corp.'s proposed Advanced Metering Opt-out tariff subject to a change in rates. The Commission found that "a utility should not use the fees as a penalty, but the utility should recover costs related to the opt-out provision."³²

In the *Douglas* complaint case cited by LG&E in its motion to dismiss, the Commission considered the complainant's claim that KU "had violated [her] consumer rights regarding a smart meter using bait and switch" and asked that KU be ordered to "cease and desist" from charging opt-out fees.³³ On December 20, 2023, the Commission entered an order finding that the complaint failed to state a *prima facie* case.³⁴ The Commission noted that KU's tariff permits the charging of fees if a customer chooses to opt out of using an AMI meter or it determines that a customer has engaged in tampering with an AMI meter.³⁵ The Commission further stated that the complainant had not explained why KU's assessment of these charges was improper under law or tariff.³⁶

³⁰ Response to Motion to Dismiss.

³¹ Case No. 2020-00350, (filed Jan. 12, 2021), *Certificate of Completed Notice*.

³² Case No. 2022-00357, *Electronic Tariff Filing of Salt River Electric Cooperative Corp. to Implement an Advanced Metering System (AMS) Opt-Out Tariff for Residential Customers* (Ky. PSC Mar. 7, 2023) at 5. See also Case No. 2018-00354, *Filing of Owen Electric Cooperative, Inc. to Implement an Advanced Metering System* (Ky. PSC Apr. 12, 2019).

³³ Case No. 2023-00379, (filed Nov. 20, 2023), Complaint at 1-2.

³⁴ Case No. 2023-00379, (Ky. PSC Dec. 20, 2023), Order at 2.

³⁵ Case No. 2023-00379, Dec. 20, 2023 Order at 2.

³⁶ Case No. 2023-00379, Dec. 20, 2023 Order at 2.

The Commission rejects Wilson’s characterization of the decision in the *Douglas* case as contemplating that opt-out fees would be used as a penalty for a customer’s tampering with a meter, and that no such tampering is involved in this case. The Commission specifically noted in the order that KU’s tariff provides that it can assess these fees if a customer chooses to opt out of an AMI meter *or* it determines that a customer has engaged in dangerous or repeated meter tampering.³⁷ The fact that there is no allegation of meter tampering in this case does not make LG&E’s assessment of AMI meter opt-out fees improper or in violation of the tariff.

As noted above, KRS 278.260(2) allows the Commission to “dismiss any complaint without a hearing if, in its opinion, a hearing is not necessary in the public interest or for the protection of substantial rights.” Courts have noted that the Commission’s discretion to dismiss customer complaints that utility rates are unreasonable prevents the Commission from being subject to “whims and imaginative grievances” of every customer at the expense of the broader public interest.”³⁸

In this instance, the Commission recently found that LG&E’s opt-out fees were fair, just, and reasonable. Further, as the Commission explained in Case No. 2023-00379, these charges allow the utility to recover costs, such as in-person meter reading, that would be unnecessary if AMI readings were used. The Commission confirms its previous holdings that it is reasonable for customers who opt-out (or are required to opt-out due to tampering) to pay the incremental cost arising from that opt-out based on cost causation

³⁷ Case No. 2023-00379, Dec. 20, 2023 Order at 2.

³⁸ See, e.g. *Smith v. Southern Bell Tel. & Tel, Co.*, 104 S.W.2d 961, 963-964 (Ky. 1937) (noting the statutory discretion given to the Commission to dismiss complaints by a predecessor to KRS 278.260, which gave the Commission discretion to dismiss any complaint filed by less than ten customers).

principles. Finally, even if Wilson had made allegations of some change in circumstances from the previous approval (such as a change in the cost), which he has not, such allegations would be more efficiently addressed in LG&E's next base rate case in which parties, including those representing the interest of residential customers, are likely to participate, and in which the public has an opportunity to comment. Thus, the Commission finds that this complaint should be dismissed without a hearing pursuant to KRS 278.260, because a hearing "is not necessary in the public interest or for the protection of substantial rights."

IT IS THEREFORE ORDERED that:

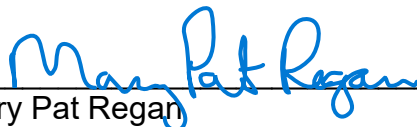
1. The complaint is dismissed without prejudice.
2. This case is closed and removed from the Commission's docket.

Entered on this 7th day of July, 2026.

PUBLIC SERVICE COMMISSION



Angie Hatton
Chair



Mary Pat Regan
Vice Chair



Andrew W. Wood
Commissioner



Barry L. Mayfield
Commissioner

*by ATT
w/ permission*

ATTEST:



Linda C. Bridwell, PE
Executive Director



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