

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE ROGERS GROUP, INC.	)	
	)	
COMPLAINANT	)	
	)	
v.	)	CASE NO.
	)	2002-00394
LOUISVILLE GAS AND ELECTRIC COMPANY	)	
	)	
DEFENDANT	)	

ORDER TO SATISFY OR ANSWER

Louisville Gas and Electric Company ( LG&E ) is hereby notified that it has been named as defendant in a formal complaint filed on October 30, 2002, a copy of which is attached hereto.

Pursuant to Administrative Regulation 807 KAR 5:001, Section 12, LG&E is HEREBY ORDERED to satisfy the matters complained of or file a written answer to the complaint within 10 days from the date of service of this Order.

Should documents of any kind be filed with the Commission in the course of this proceeding, the documents shall also be served on all parties of record.

Done at Frankfort, Kentucky, this 6<sup>th</sup> day of November, 2002.

By the Commission

ATTEST:

  
Executive Director



WOODWARD  
HOBSON &  
FULTON LLP

RECEIVED

OCT 30 2002

PUBLIC SERVICE  
COMMISSION

Case 2002-00394

October 29, 2002

Kentucky Public Service Commission  
211 Sower Boulevard  
Frankfort, Kentucky 40602-0615

RE: The Rogers Group, Inc. v. Louisville Gas and Electric, Inc.

Dear Ladies or Gentlemen:

Enclosed is a copy of the Complaint we are tendering for filing before the Kentucky Public Service Commission.

I would very much appreciate it if you would fax me the front page of the Complaint, after it has been clocked and filed, for our record. Our fax number is (502) 581-8111.

Enclosed is a copy of the Complaint which we would also appreciate your clocking and returning to us in the enclosed self-addressed stamped envelope.

Thank you for your assistance.

Very truly yours,

WOODWARD, HOBSON & FULTON, L.L.P.

Harry K. Herten  
502-581-8021

HKH/chs

WILLIAM D. GRUBBS  
LIONEL A. HAWSE  
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GLEN S. BAGBY  
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PATRICK W. MICHAEL  
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COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

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OCT 30 2002

PUBLIC SERVICE  
COMMISSION

The Rogers Group, Inc. )  
Complainant )  
 ) No. 2002-00394  
vs. )  
 )  
Louisville Gas and Electric, Inc. )  
Defendant )

**COMPLAINT OF THE ROGERS GROUP, INC.**

Now comes the Rogers Group, Inc. ("Rogers Group" or "Complainant"), pursuant to Section 278.260 of the Kentucky Revised Statutes ("KRS"), and brings this complaint against Louisville Gas and Electric, Inc. ("LG&E"). The complaint of the Rogers Group respectfully shows the following:

KRS section 278.260 permits persons and corporations to submit complaints to address the unreasonable or unlawful rates, regulations, practices and inadequate service charged or provided by a public utility. KRS section 278.270 provides the Kentucky Public Service Commission ("Commission") with the power to remedy unreasonable or unlawful rates, regulations, practices and inadequate service provided by a public utility. LG&E is a public utility as defined by KRS 278.040 and therefore, is subject to regulation by this Commission.

The Rogers Group currently owns and operates a facility in Louisville, located at 12613 Avoca Road, ("Facility"). The Facility takes firm electric service from LG&E

under the LP rate schedule subject to an interruptible rider that applies to a portion of the Facility's total electric demand. During the July 2002 billing month, LG&E asked the Facility to curtail its interruptible usage on several occasions. The Facility responded to LG&E's requests. However, LG&E submitted an invoice to the Facility for the July billing month that is based on a claim that the Facility did not satisfy its obligations under the interruptible service rider. LG&E has also apparently terminated the availability of the interruptible rider thereby increasing the electric cost for the Facility in months subsequent to the July 2002 billing month. The penalty amount included by LG&E in the July billing month invoice is several times larger than the typical monthly bill for the Facility.

The Facility disputes LG&E's imposition of a penalty, LG&E's penalty calculation (assuming any penalty is appropriate) and LG&E's removal unilaterally of the interruptible rider. Complainant believes that the dispute is capable of being resolved informally but the parties have, to this point, been unable to resolve the dispute.

LG&E has notified the Facility of its intent to terminate service as a result of the nonpayment of the penalty charges. LG&E's termination notice indicates that service may be terminated on October 31, 2002. However, any termination of service by LG&E in the present context would violate the Kentucky Administrative Rules ("KAR") regarding disconnection of service for nonpayment of a disputed amount. Rule 807 KAR 5:006, § 11 states: "With respect to any billing dispute to which Section 10<sup>1</sup> of this administrative regulation does not apply, customer accounts shall be considered to be current while the dispute is pending as long as a customer continues to make

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<sup>1</sup> Section 10 addresses bills rendered to correct for metering errors demonstrated through periodic testing.

undisputed payments and stays current on subsequent bills." Furthermore, Rule 807 KAR 5:006 §15(4) provides: "Customers who are current in their payment plans under subsection 1(C) of this section shall not be disconnected." Customers are considered current "while a dispute is pending . . . as long as a customer continues to make payments for the disputed period in accordance with historic usage, or if that data is not available, the average usage of similar customer loads, and stays current on subsequent bills." *Id.* at §10(6). Accordingly, the Administrative Rules state that a utility may not disconnect service while a billing dispute is pending provided the customer continues to pay the undisputed amount.

Based on the foregoing, LG&E appears to be acting in violation of law. More specifically, LG&E is engaged in unlawful or unreasonable actions as follows:

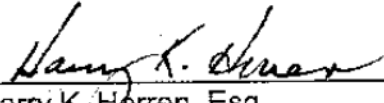
- The penalty amount included by LG&E in the Facility's July billing month invoice is not authorized by the applicable tariff;
- Assuming the applicable tariff permits LG&E to impose a penalty in the circumstances presented by this case, the penalty amount included by LG&E in the July billing month is unreasonable and excessive;
- The applicable tariff does not permit LG&E to withdraw unilaterally the availability of the interruptible rider considering the facts and circumstances presented by this case;
- Assuming that applicable tariff permits LG&E to withdraw the availability of the interruptible rider in certain circumstances,

withdrawal in this case is unreasonable and results in excessive electric costs for the Facility; and,

- The termination of service as a result of the nonpayment of the penalty charges described herein is unjust, unreasonable and unlawful while a dispute is pending.

Based on the foregoing, Complainant urges the Commission to find that LG&E is providing unreasonable, unlawful and inadequate service. In addition, Complainant urges the Commission to advise LG&E that it may not terminate electric service to the Facility pending the resolution of the dispute. Finally, Complainant urges the Commission to direct LG&E to restore applicability of the interruptible rider for purposes of determining the Facility's electric bills until such time as the Facility may elect to discontinue interruptible service.

Respectfully submitted,



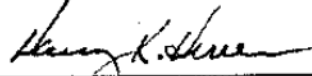
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**Attorneys for the Rogers Group, Inc.**

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Complaint of the Rogers Group, Inc. was served upon John McCall, Executive Vice President, General Counsel and Executive Secretary, Louisville Gas & Electric, Inc., 220 West Main Street, PO Box 32010, Louisville, KY 40232 this 29<sup>th</sup> day of October 2002, via hand-delivery.



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Harry K. Herren