

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

JOINT APPLICATION OF LOUISVILLE GAS	)	
AND ELECTRIC COMPANY, METRO HUMAN	)	CASE NO.
NEEDS ALLIANCE, INC., PEOPLE ORGANIZED	)	2004-00304
AND WORKING FOR ENERGY REFORM, AND	)	
KENTUCKY ASSOCIATION FOR COMMUNITY	)	
ACTION, INC. FOR THE ESTABLISHMENT OF	)	
A HOME ENERGY ASSISTANCE PROGRAM	)	

O R D E R

On August 25, 2004, the Commission issued an Order denying a motion for full intervention filed by Robert L. Madison, a residential electric customer of Louisville Gas and Electric Company ("LG&E"), and granting him limited intervention in accordance with 807 KAR 5:001, Section 3(8)(a). The request for full intervention was denied based upon the following findings:

Mr. Madison lacks the education and professional training to testify as an expert witness. Consequently, he is not likely to present issues or develop facts that will assist the Commission in fully considering this case without unduly complicating or disrupting the proceedings. Further, Mr. Madison has not alleged any interest in this proceeding that differs from that of any other residential customer of LG&E.

August 25, 2004 Order at 2. Since Mr. Madison did not qualify as an expert witness and he was not likely to present issues or develop facts to assist in the Commission's deliberations, his request for a procedural schedule was also denied. Although Mr. Madison did not request limited intervention, the Commission found such status to be

appropriate, since it would allow him to participate at any hearing in which he appears and to be served with a copy of Commission Orders.

Despite being granted only limited intervention, Mr. Madison subsequently filed a request seeking information from LG&E and the other Joint Applicants. That data request, consisting of 34 questions with 95 additional subparts, was objected to by the Joint Applicants. The Commission subsequently issued a protective Order on September 17, 2004, finding that “a limited intervenor does not have the right to issue data requests or otherwise engage in discovery, attend informal conferences, request a hearing, or file a motion or a brief.” September 17, 2004 Order at 2.

Now pending before the Commission is a request by Mr. Madison for reconsideration of the denial of his motion for full intervention. The request states that, since the procedural schedule in this case does not provide an opportunity for intervenor testimony, and since the Commission has previously found that Mr. Madison is not qualified as an expert witness, the issue of his presenting testimony should not be the basis for denying his request for full intervention. The request further states Mr. Madison’s belief that he has an interest in this case that differs from other ratepayers, and he supports this statement by explaining his positions on certain aspects of the pending joint application and by referencing his participation in previous cases at the Commission. Mr. Madison concludes his request for reconsideration by asserting that he is likely to present issues and develop facts that would assist the Commission in making its decision in this case.

LG&E filed a response which both opposes Mr. Madison’s request for reconsideration and requests the Commission to reconsider its August 25, 2004 Order

granting Mr. Madison limited intervention. LG&E maintains that Mr. Madison's interest in this case is no different than that of any other member of the general public and that since August 25, 2004, the Office of Attorney General, which is charged by statute to represent the interests of consumers in these types of proceedings, has requested and has been granted full intervention in this case. Thus, LG&E asserts that limited intervention should not have been granted to Mr. Madison.

Mr. Madison subsequently filed two more documents: a response in opposition to LG&E's petition for reconsideration; and a motion for a formal hearing and a briefing schedule. In his response, Mr. Madison states that the Attorney General has previously taken the position that his intervention in a case is not, standing alone, a sufficient basis to deny intervention to an individual customer or a customer group. In his motion for a formal hearing, Mr. Madison states that, as a limited intervenor, he has not been served with the Joint Applicants' responses to data requests and, since those responses have not been electronically posted to the Commission's Web site, he is unable to determine the status of many of the details of the proposed Home Energy Assistance Program. He also asserts that it is important to establish guidelines for such a program and that a public hearing should be held to allow members of the public an opportunity to express their opinions.

Based on the requests for reconsideration filed by Mr. Madison and LG&E, and being otherwise sufficiently advised, the Commission finds that the mere fact that Mr. Madison has a particular position on issues pending in this case does not create the requisite "special interest" sufficient to justify full intervention under 807 KAR 5:001, Section 3(8)(b). Mr. Madison's request for reconsideration contains no additional facts

or arguments to demonstrate that his interest in this proceeding differs from that of any other residential customer of LG&E.

The fact that the procedural schedule in this case did not provide for intervenor testimony does not provide a basis to justify granting full intervention to a person who is neither qualified as an expert witness nor is likely to present issues or develop facts that would assist the Commission in deciding this case without unduly complicating or disrupting the proceedings. To the contrary, for a limited intervenor to issue an extensive data request and file motions to establish a procedural schedule, to schedule a hearing, and to provide an opportunity to file post-hearing briefs does unduly complicate and disrupt the proceedings. Furthermore, the Commission notes that in Mr. Madison's response to the request for a protective Order, he stated that a possible outcome of a protective Order would be that he would spend time at the hearing asking the questions that had been included in his data request.

In summary, Mr. Madison has failed to present any persuasive reasons why his request for full intervention should be granted. Further, based on his pleadings, it is clear that Mr. Madison is either unable or unwilling to conform to the restrictions imposed upon a limited intervenor. Considering that the Attorney General has been granted full intervention in this proceeding, the Commission finds it reasonable to grant LG&E's request for reconsideration and to deny Mr. Madison limited intervention. In addition, his motion for a hearing and briefing schedule is also denied.

IT IS THEREFORE ORDERED that:


1. The request of Mr. Madison for reconsideration of his request for full intervention is denied.

2. Mr. Madison's motion for a hearing and briefing schedule is denied.
3. LG&E's request for reconsideration to deny Mr. Madison limited intervention is granted.

Done at Frankfort, Kentucky, this 30<sup>th</sup> day of September, 2004.

By the Commission

ATTEST:

A handwritten signature in black ink, consisting of several overlapping loops and a horizontal line at the bottom.

Executive Director