

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

DONALD MARSHALL)	
)	
COMPLAINANT)	
)	
V.)	CASE NO. 2005-00137
)	
LOUISVILLE GAS AND ELECTRIC COMPANY)	
)	
DEFENDANT)	

O R D E R

On March 25, 2005, Donald Marshall ("Complainant") filed with the Commission a formal complaint against Louisville Gas and Electric Company ("LG&E"). The complaint alleged that LG&E was improperly holding Complainant liable for meter tampering and diversion of service that occurred at 10714 Jefferson Hill Road, Louisville, Kentucky, a rental property owned by Complainant. Complainant requested that the Commission order LG&E to remove from his account the disputed charges and assess the charges to John Heightchew.¹

In its answer, LG&E argues that because there was no active account at 10714 Jefferson Hill Road at the time the alleged meter tampering and diversion of service occurred, it properly billed Complainant for the meter tampering and theft of service pursuant to Original Sheet 82.1 of its tariff. Original Sheet 82.1 states in pertinent part

¹ The record indicates that he was the tenant occupying the property at the time the alleged meter tampering and diversion of service occurred.

that, “[u]pon the absence of an active account, the property owner assumes responsibility for any consumption and the Company’s property and service.”

The parties have now entered into a Joint Stipulation and Settlement Agreement² and have submitted the agreement to the Commission for approval.

BACKGROUND

Service at 10714 Jefferson Hill Road was disconnected on January 11, 2005 at the request of the tenant. Diversion of electric service was discovered on February 17, 2005. LG&E read the meter and terminated the service. LG&E based its charges on the meter reading from January 11, 2005 to February 17, 2005. LG&E had no record for John Heightchew at the address. Pursuant to Original Sheet No. 82.1 of its tariff, LG&E assessed Complainant charges for diversion of service and meter tampering. This complaint followed.

At the suggestion of Commission Staff, the parties, with the approval of the Attorney General,³ have submitted a Joint Stipulation and Settlement Agreement for Commission approval. The agreement provides, in pertinent part, that:

1. The parties agree that the application of LG&E’s tariff provision, Original Sheet 82.1, may cause an unjust and unreasonable result.
2. LG&E agrees to cease collection of the charges.
3. LG&E agrees to request approval of certain changes to the “Protection of Company’s Property” sections of the Terms and Conditions contained in its tariff at Original Sheet 82.1.

² Attached hereto as Appendix A.

³ The Attorney General was granted intervention pursuant to KRS 367.150(8).

4. Complainant requests that that Commission dismiss his complaint against LG&E.

5. The Attorney General agrees to recommend that the case be dismissed by the Commission as settled, and that the revised tariff be approved.

DISCUSSION

On its face the Joint Stipulation and Agreement appears reasonable. It is generally preferable when parties reach a resolution without expending the Commission's administrative resources by resorting to litigation. Because the parties have reached a settlement, the Commission finds that the Joint Stipulation and Agreement should be accepted and approved. However, nothing in the Commission's actions in this case shall be construed as an approval or rejection of LG&E's proposed tariff revisions, which will be addressed by the Commission in other proceedings.

IT IS THEREFORE ORDERED that:

1. The Joint Stipulation and Agreement is accepted and approved.
2. This complaint is dismissed with prejudice and is removed from the Commission's docket.

Done at Frankfort, Kentucky, this 28th day of September, 2006.

By the Commission

ATTEST:


Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2005-00137 DATED September 28, 2006.

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

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PUBLIC SERVICE
COMMISSION

In the Matter of:

DONALD MARSHALL

COMPLAINANT

v.

LOUISVILLE GAS AND ELECTRIC COMPANY

DEFENDANT

CASE NO. 2005-00137

JOINT STIPULATION AND AGREEMENT

WHEREAS, Louisville Gas and Electric Company ("LG&E") is a public utility subject to jurisdiction of the Kentucky Public Service Commission ("Commission") pursuant to KRS Chapter 278;

WHEREAS, on March 25, 2005, Mr. Marshall filed a formal complaint with the Commission alleging that he should not be responsible for the charges associated with the meter tampering which occurred on his property;

WHEREAS, on April 8, 2005, the Commission entered an Order initiating Case No. 2005-00137, styled *In the Matter of: Donald Marshall v. Louisville Gas and Electric Company*, and ordering LG&E to satisfy the matters complained of or file a written answer to the Complaint;

WHEREAS, on April 18, 2004, LG&E by counsel, filed its Answer to Mr. Marshall's Complaint;

WHEREAS, Commonwealth of Kentucky, ex. rel Gregory Stumbo, Attorney General, by and through the Office of Rate Intervention ("AG") filed a motion for full intervention into this proceeding on September 23, 2005, and such motion was granted by the Commission on September 28, 2005;

WHEREAS, on October 25, 2005, LG&E, the AG, and others, in conjunction with the Commission Staff, participated in an informal conference at the offices of the Commission in which all issues were discussed; and,

WHEREAS, LG&E, the AG, and Mr. Marshall (the "Parties") wish to facilitate the disposition of this proceeding through the submission of a Joint Stipulation and Agreement; and,

NOW THEREFORE, pursuant to 807 KAR 5:001, Section 4(6), the Parties hereby stipulate and agree as follows:

(1) The Parties agree that the application of LG&E's tariff, which became effective on July 1, 2004 and requires LG&E to hold the property owner responsible for any consumption and the Company's property and service in the absence of an active account, may cause an unjust or unreasonable result in certain circumstances. In an effort to resolve this Complaint, and subject to the Commission's approval, LG&E agrees to discontinue pursuit of collection of all the charges associated with meter tampering from Mr. Marshall during the time period at issue, and to request approval of certain changes to the "Protection of Company's Property" sections of the Terms and Conditions contained in its tariff at Original Sheet No. 82.1. A copy of the revised tariff is attached hereto as Exhibit A. In exchange, Mr. Marshall agrees to ask the

Commission to dismiss his Complaint against LG&E. The AG agrees to recommend that this case be dismissed by the Commission as settled, and that the revised tariff be approved.

(2) This Joint Stipulation and Agreement is subject to the acceptance of and approval by the Commission. Following the execution of this Joint Stipulation and Agreement, the Parties shall file it with the Commission and shall act in good faith and use their best efforts to recommend to the Commission that this Joint Stipulation and Agreement be accepted and approved.

(3) If the Commission does not accept and approve this Joint Stipulation and Agreement in its entirety, then: (a) this Joint Stipulation and Agreement shall be null, void and withdrawn by the Parties hereto from further consideration by the Commission and none of the Parties shall be bound by any of the provisions herein; and (b) this proceeding shall go forward and neither the terms of this Joint Stipulation and Agreement nor any matters raised during the settlement negotiations shall be binding on any of the Parties to this Joint Stipulation and Agreement or be construed against any of the signatories.

(4) This Joint Stipulation and Agreement reflects a compromise resolution of a contested matter. Nothing contained herein shall be construed as an admission of a violation of any federal or state statute or regulation, or of any provision of LG&E's tariffs; nor shall the Commission's acceptance of this Joint Stipulation and Agreement be construed as a finding of a violation of any statute or regulation, or of any provision of LG&E's tariffs.

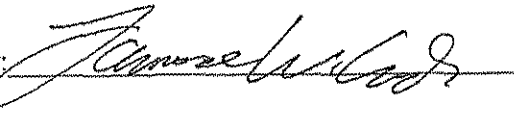
IN WITNESS WHEREOF, the parties hereto have hereunto affixed their signatures this

20 day of December, 2005.

Louisville Gas and Electric Company

By: 

Commonwealth of Kentucky, ex rel. Gregory
Stumbo, Attorney General, by and through the
Office of Rate Intervention

By: 

Donald Marshall

By: 