

**COMMONWEALTH OF KENTUCKY**  
**BEFORE THE PUBLIC SERVICE COMMISSION**

**In the Matter of:**

<b>APPLICATION OF LOUISVILLE GAS AND</b>	)	
<b>ELECTRIC COMPANY FOR AN</b>	)	
<b>ADJUSTMENT OF ITS ELECTRIC AND GAS</b>	)	<b>CASE NO. 2012-00222</b>
<b>RATES, A CERTIFICATE OF PUBLIC</b>	)	
<b>CONVENIENCE AND NECESSITY,</b>	)	
<b>APPROVAL OF OWNERSHIP OF GAS</b>	)	
<b>SERVICE LINES AND RISERS, AND A GAS</b>	)	
<b>LINE SURCHARGE</b>	)	

**LOUISVILLE GAS AND ELECTRIC COMPANY’S OBJECTION TO THE MOTION  
TO INTERVENE OF MICHAEL WHIPPLE**

Louisville Gas and Electric Company (“LG&E”) respectfully requests that the Commission deny the Motion of Michael Whipple for intervention. Mr. Whipple’s motion should be denied for three reasons: (1) the motion does not state a special interest in the proceeding; (2) the motion fails to identify any issues or development of facts that will assist the Commission in the resolution of this matter; and (3) Mr. Whipple’s intervention could unduly complicate and disrupt the proceeding. As Mr. Whipple fails to satisfy any of the requirements for intervention under 807 KAR 5:001 § 3(8), LG&E respectfully requests that the Commission deny the motion to intervene of Michael Whipple in this proceeding.

**I. The Commission Should Deny Mr. Whipple’s Motion to Intervene Because Mr. Whipple Does Not Have an Interest in this Proceeding.**

The Commission will grant requests for permissive intervention “only upon a determination that the criteria set forth in 807 KAR 5:001, Section 3(8), have been satisfied.”<sup>1</sup> Under the regulation, permissive intervention will only be granted if the person “has a special interest in the proceeding which is not otherwise adequately represented” or that granting full

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<sup>1</sup> *In the Matter of: The 2008 Joint Integrated Resource Plan of Louisville Gas and Electric Company and Kentucky Utilities Company* (Case No. 2008-00148) Order, July 18, 2008.

intervention “is likely to present issues or to develop facts that assist the commission in fully considering the matter without unduly complicating or disrupting the proceedings.”<sup>2</sup> Mr. Whipple’s motion does not state whether he seeks intervention because he has a special interest in the proceeding which is not otherwise adequately represented, or whether he seeks intervention to present issues or to develop facts that would assist the Commission in fully considering the matter. Mr. Whipple states that he is a customer and lists a Louisville address. LG&E does provide service to that address, but it is to a business account. The motion does not explain whether Mr. Whipple is seeking to intervene on behalf of the business served at that location. Moreover, there are no residential accounts in Mr. Whipple’s name. Thus, while Mr. Whipple signs his motion as “customer,” he has failed to prove he is a customer and/or what customer he seeks to represent. As such, Mr. Whipple has failed to establish any interest in this proceeding, much less a special interest, and LG&E respectfully requests that his motion be denied.

Even if Mr. Whipple had proven he was a customer, the Commission has consistently held that a person’s status as a customer is not a special interest meriting full intervention.<sup>3</sup> Instead, the Attorney General has a statutory right, pursuant to KRS 367.150(8)(b), to represent customers’ interests in proceedings such as this one. The Attorney General’s motion to intervene in this case was granted on July 6, 2012. The Attorney General has significant expertise and

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<sup>2</sup> 807 KAR 5:001 § 3(8)(b).

<sup>3</sup> *In the Matter of Application of Louisville Gas and Electric Company for a Certificate of Public Convenience and Necessity and Approval of Its 2009 Compliance Plan for Recovery by Environmental Surcharge* (Case No. 2009-00198) Order, Aug. 28, 2009 (denying intervention to customer Tammy Stewart on ground she lacked a special interest meriting intervention, as well as expertise that would assist the Commission); *In the Matter of: Application of Kentucky Utilities Company for an Order Approving the Establishment of a Regulatory Asset* (Case No. 2009-00174) Order, June 26, 2009 (denying Rep. Jim Stewart’s Motion to Intervene because he had neither a special interest in the proceeding nor was he likely to assist the Commission to render a decision); *In the Matter of: Joint Application of Louisville Gas and Electric Company, Association of Community Ministries, Inc., People Organized and Working for Energy Reform, and Kentucky Association for Community Action, Inc. for the Establishment of a Home Energy Assistance Program* (Case No. 2007-00337) Order, Sept. 14, 2007 (“[H]old[ing] a particular position on issues pending in ... [a] case does not create the requisite ‘special interest’ to justify full intervention under 807 KAR 5:001, Section 3(8)(b).”).

years of experience in representing ratepayers' interests in rate proceedings, including every prior LG&E rate case.<sup>4</sup> Because, at most, Mr. Whipple's only interest in this proceeding is that of a customer and that interest will be adequately represented, Mr. Whipple does not have a special interest in the proceeding and his motion to intervene should be denied.

**II. The Commission Should Deny Mr. Whipple's Motion to Intervene Because Mr. Whipple Has Not Demonstrated that He Will Present Issues or Develop Facts that Would Assist the Commission.**

Mr. Whipple's motion to intervene fails to demonstrate that he will present issues or develop facts that would assist the Commission in fully considering this matter without unduly complicating or disrupting the proceeding.<sup>5</sup> Mr. Whipple's motion does not identify how he would present issues or develop facts, instead stating that he wishes to intervene "due to the fact that no consideration has been given" to gas prices. Although Mr. Whipple makes reference to gas prices, his motion does not identify any expertise in the principles of ratemaking or energy supply costs. Because Mr. Whipple has failed to identify how he will present issues or develop facts that would assist the Commission in fully considering this matter, his motion should be denied.

**III. The Commission Should Deny Mr. Whipple's Motion to Intervene Because Mr. Whipple's Intervention Could Unduly Complicate and Disrupt the Proceeding.**

Even if Mr. Whipple could demonstrate that he would present issues or develop facts that would assist the Commission in this proceeding, his intervention could unduly complicate and disrupt this proceeding in contravention of 807 KAR 5:001 § 3(8). Because Mr. Whipple's

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<sup>4</sup> See, e.g., *In the Matter of: Application of Louisville Gas and Electric Company for an Adjustment of Its Electric and Gas Base Rates* (Case No. 2009-00549); *In the Matter of: Application of Louisville Gas and Electric Company for an Adjustment of Its Electric and Gas Base Rates* (Case No. 2008-00252); *In the Matter of: An Adjustment of Gas and Electric Rates, Terms and Conditions of Louisville Gas and Electric Company* (Case No. 2003-00433).

<sup>5</sup> 807 KAR 5:001 § 3(8)(b).

motion does not demonstrate any expertise in ratemaking, his intervention could unduly complicate and disrupt the proceeding. Moreover, if Mr. Whipple is trying to represent the business served at the address on his motion, his intervention would be disruptive because the Kentucky Bar Association does not list Mr. Whipple as a licensed attorney. The Commission has held that a *pro se* litigant cannot represent interests other than their own.<sup>6</sup>

The proper means for Mr. Whipple to participate in this proceeding is through filing public comments. Moreover, Mr. Whipple may also provide oral comments at the public hearing in this matter or further written comments in the record in this case. These mechanisms ensure that Mr. Whipple is given an opportunity to present his comments without unduly complicating the pending action. LG&E respectfully requests that the Commission deny Mr. Whipple's motion to intervene as his involvement could unduly complicate and disrupt this proceeding.

#### **IV. Conclusion**

As Mr. Whipple has failed to present any ground upon which the Commission can grant permissive intervention, the Commission should deny his motion to intervene. Mr. Whipple has failed to prove he has any interest in this proceeding. Also, the motion does not evince any intent to develop facts or issues that will assist the Commission in the resolution of this matter. Finally, Mr. Whipple's intervention could unduly complicate and disrupt the proceeding.

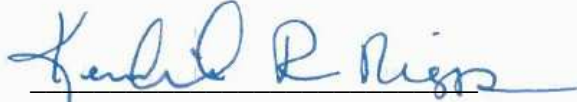
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<sup>6</sup> In the Matter of: Application of Water Service Corporation of Kentucky for an Adjustment of Rates (Case No. 2008-00563) Order, May 5, 2009. *See also* In the Matter of: The Applications of Big Rivers Electric Corporation for: (I) Approval of Wholesale Tariff Additions for Big Rivers Electric Corporation, (II) Approval of Transactions, (III) Approval to Issue Evidences of Indebtedness, and (IV) Approval of Amendments to Contracts; and of E.ON U.S., LLC, Western Kentucky Energy Corp., and LG&E Energy Marketing, Inc. for Approval of Transactions (Case No. 2007-00455) Order, February 27, 2008, which rejected "the IBEW motion for full intervention...until such time as a Kentucky licensed attorney files an entry of appearance on behalf of IBEW."

Therefore, LG&E respectfully requests that the Commission deny Michael Whipple's motion to intervene in this proceeding.

Dated: July 27, 2012

Respectfully submitted,



Kendrick R. Riggs  
W. Duncan Crosby III  
Barry L. Dunn  
Stoll Keenon Ogden PLLC  
2000 PNC Plaza  
500 West Jefferson Street  
Louisville, Kentucky 40202-2828  
Telephone: (502) 333-6000

Allyson K. Sturgeon  
Senior Corporate Attorney  
LG&E and KU Energy LLC  
220 West Main Street  
Louisville, Kentucky 40202  
Telephone: (502) 627-2088

Robert M. Watt III  
Lindsey W. Ingram III  
Monica H. Braun  
Stoll Keenon Ogden PLLC  
300 West Vine Street, Suite 2100  
Lexington, KY 40507-1801  
Counsel for Louisville Gas and Electric Company

**CERTIFICATE OF COMPLIANCE**

In accordance with Ordering Paragraph No. 10 of the Commission's June 22, 2012 Order, this is to certify that Louisville Gas and Electric Company's July 27, 2012 electronic filing of the foregoing Objection is a true and accurate copy of the same document being filed in paper medium; that the electronic filing has been transmitted to the Commission on July 27, 2012; that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding; and that an original and two copies in paper medium of the Petition are being hand delivered to the Commission on July 27, 2012.



*Counsel for Kentucky Utilities Company*