COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the matter of:	:	CASE NO. 2012-00222
THE APPLICATION OF LOUISVILLE GAS & ELECTRIC COMPANY FOR AN ADJUSTMENT OF ELECTRIC AND GAS RATES, A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY, APPROVAL OF GAS SERVICE LINES AND RISORS, AND A GAS LINE SURCHARGE	:	

HESS INC.'S MOTION TO INTERVENE

Comes Hess, Inc. ("Hess") pursuant to 807 KAR 5:001 Section 3(8) and KRS § 278.310, by counsel, and moves that it be granted leave to intervene in this matter and that it be granted full intervention. In support of this Motion, Hess states as follows:

1) Hess is one of the largest competitive natural gas transportation suppliers in the country, specifically offering natural gas supply products and services to large commercial and industrial customers in over eighteen (18) states throughout the Midwest and East Coast. Hess currently serves large commercial and industrial customers[1] within several LDC territories bordering the Commonwealth of Kentucky and is evaluating Kentucky LDC service territories with the intent of expanding its gas transportation operations. Hess has been in the energy business since 1933 and Hess has supplied natural gas supply services to large commercial and industrial customers for approximately 15 years. Hess' commitment to serving Kentucky's transportation customers is evidenced by its recent efforts to become "certified" suppliers behind Columbia Gas of Kentucky, Duke Energy, Atmos Energy and LG&E.

[1] Hess does not currently provide or market natural gas supply services to residential customers. If granted full intervention, Hess' participation in this matter would be solely focused on LG&E's transportation program to large commercial and industrial customers and Hess will not advocate for the development of a residential choice program within LG&E's territory.

Hess, is not a "competitor" to an LDC. LG&E provides natural gas supply as a "pass through expense" to the consumer. Provided LG&E continues to receive their mandated rate of return for delivery charges the question of who provides the supply of natural gas is immaterial to them from a competitive standpoint[2].

2) In, "[a]n Investigation of Natural Gas Retail Competition" Case No. 2010-00146, the Commission concluded that: (1) evidence indicates natural gas retail competition provides more benefits to consumers under expanded transportation service; and (2) existing LDC transportation thresholds bear further examination. *see* PSC Final Order (2010-00146) dated December 28, 2010, p. 23. Likewise, the Commission committed to evaluating each LDC's natural gas tariffs (including LG&E's) in their next general rate case. *Id.* This is LG&E's first general rate case since the Commission's 2010-00146 Order. Consequently, review and discussion of expanding LG&E's current transportation program is appropriate. Consistent with the express dictate of the commission the current case should provide a forum for consideration of the merits of allowing more transportation customers to be able to participate in and realize the benefits of taking competitive supply. As addressed in case no. 2010-00146, by using firm price contracts, such as those offered by Hess, an industrial or commercial customer can achieve price certainty and possibly lower prices.[3] Either of which provide significant value to the customer.

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[2] Gas transportation does not need to interfere with existing utility services. Whether a transportation consumer selects a competitive product from a competitive supplier is ultimately up to the commercial or industrial consumer to decide. If the transportation program is properly structured a level playing field is constructed where costs are appropriately allocated to those receiving the benefit of the assets and services. Also in a properly structured market there should be a Commission certification process that appropriately balance the interest of the industrial or commercial consumer in having a reliable environment in which to shop and the interest of suppliers to compete in a dynamic market.

[3] The EIA data on marketer and LDC prices for commercial customers, contrary to the data on prices for residential customers, reflects that the average marketer price was lower than the average LDC price in the majority of states. *see* PSC Final Order (2010-00146) dated December 28, 2010, p. 20 (referencing Appendix C).

3) The legal requirements for full intervention before the Kentucky Public Service Commission are clearly defined by 807 KAR 5:001, Section 3(8)(b) which provides in pertinent part:

> "…If the commission determines that a person has a special interest in the proceeding which is not otherwise adequately represented or that full intervention by [the] party 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, such person shall be granted full intervention."

The Commission has consistently held that the "special interest" an intervenor must have under 807 KAR 5:001, Section 3(8), is one relating to the *rates* or *service* of a utility. (emphasis added) See *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 dated July 18, 2008 at page 3; See also, the unpublished opinion of *EnviroPower, LLC v. Public Service Commission of Kentucky*, 2007 WL289328 (Ky. App. 2007) at page 3.

As a gas transportation supplier, Hess has important concerns regarding LG&E's current rates; specifically regarding: (1) balancing frequencies; (2) balancing tolerance bands; and (3) volumetric thresholds. Hess has sought to be a certified gas transportation supplier within LG&E's territory and has made a significant financial investment in the LG&E market and there can be no dispute as to the fact that of LG&E's tariff will impact Hess, and in turn can affect the rates Hess can provide to large industrial and commercial customers within LG&E's territory. Accordingly, Hess has a *special interest* in this matter related to LG&E's rates and intervention is proper.

4) In evaluating whether full intervention in a commission proceeding is proper the commission should consider whether Hess, by any reasonable measure 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."[4] For several reasons Hess clearly meets this standard. Hess is an experienced and reliable competitive natural gas supplier and Hess will provide expert testimony on the three issues referenced above (LG&E's balancing frequencies, balancing tolerance bands and volumetric thresholds) through John B. Mehling who has devoted the bulk of his career to gas marketing and who has previously worked as the Director of Gas Operations for Proliance Energy, LLC[5] for ten years, and Sigcorp Energy for three (3) years before Proliance Energy, LLC. Mr. Mehling has abundant experience in tariff review and analysis, rate review and analysis, LDC and pipeline relationship management and volumetric management. He also worked for LG&E Energy Marketing in 1997 and 1998.

The Commission committed to evaluating each LDC's natural gas tariffs (including LG&E) in their next general rate case[6] – which is the current matter. *supra*. Consistent with the holding of the Commission's final order in case no. 2010-00146, Hess' abundant experience uniquely positions it to evaluate LG&E's current gas transportation program, along with the proposed revisions contained in LG&E's application, and to assess the transportation program's market feasibility to aid the Commission in its previous directive. Hess' interest and position in this matter differs from Stand Energy in that Stand's request in this record solely dealt with volumetric thresholds whereas Hess intends to put on expert testimony for the benefit of the Commission on LG&E's balancing frequencies, balancing tolerance bands *and* volumetric thresholds.

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[4] 807 KAR 5:001 §3(8)(b).

[5] Proliance Energy is a Midwest Energy Marketer with over $1.5 billion in revenue serving 1900 wholesale, industrial and commercial end-users behind 35 LDCs in nine states. The company manages more than 800,000 dth per day of pipeline capacity and over 80 bcf of storage assets on more than 10 interstate pipeline systems.

[6] LG&E cites the Commission's previous order in a Duke Energy Kentucky *merger* proceeding wherein Stand Energy was not granted intervention, the holding is inapplicable in this proceeding because it was a merger proceeding and not a general rate case. See p.2, Objection to Motion for Full Intervention by Stand Energy Corporation.

Consistent with the requirement that any intervention not *unduly complicate or disrupt the proceedings*, Hess agrees to take the administrative record as it currently stands and Hess will comply with the existing procedural schedule including filing intervenor testimony before September 25, 2012.

5) In this matter the Commission is in the process of examining the request of LG&E for a general adjustment in electric and gas base rates, significant change in its pricing structure and other matters. Based on the foregoing, Hess has a special interest in this proceeding and Hess' interests are not adequately represented by the other parties to this proceeding. Hess by any reasonable measure will present issues and develop facts that will be helpful to the Commission in fully hearing this matter, and participation by Hess will not unduly delay these proceedings, or unduly complicate or disrupt them.

6) In accordance with the Commission's June 22, 2012 Order, Hess hereby certifies that it and its agents are capable of receiving electronic transmission and waive any right to receive service of Commission Orders by United States Mail. The attorneys for Hess authorized to represent it in this proceeding and to take service of all documents are:

Matthew R. Malone, Esq.
William H. May, III. Esq.
Hurt, Crosbie & May PLLC
127 West Main Street
Lexington, Kentucky 40507
(859) 254-0000 (office)
(859) 254-4763 (facsimile)
mmalone@hcm-law.com
bmay@hcm-law.com

Wherefore, Hess respectfully requests that it be granted full intervenor status in the above captioned proceeding.

Respectfully submitted,

Matthew R. Malone
William H. May, III.
Hurt, Crosbie & May PLLC
127 West Main Street
Lexington, Kentucky 40507
(859) 254-0000 (office)
(859) 254-4763 (facsimile)
mmalone@hcm-law.com
bmay@hcm-law.com

Counsel for the Petitioner,
HESS, INC.

CERTIFICATE OF SERVICE

In accordance with Ordering Paragraph No. 10 of the Commission's June 22, 2012 Order, this is to certify that Hess' September 17, 2012 electronic filing has been transmitted to the Commission on September 17, 2012; that there are currently no parties exempt from participation by electronic means in this proceeding; that an original and one copy of the filing is being mailed to the Commission on September 17, 2012; and that on September 17, 2012 electronic mail notification of the filing will be provided to the following:

Hon. David C. Brown
Stites & Harbison, PLLC
1800 Providian Center
400 West Market Street
Louisville, Kentucky 40202

Hon. Michael L. Kurtz
Boehm, Kurtz & Lowry
36 East Seventh Street
Suite 1510
Cincinnati, OH 45202

Hon. Dennis G. Howard, II
Hon. Lawrence W. Cook
Assistant Attorney General
Office of the Attorney General
Utility and Rate Intervention Division
1024 Capital Center Drive, Suite 200
Frankfort, Kentucky 40601-8204

Hon. Robert M. Watt, III
Stoll Keenon Ogden, PLLC
300 W. Vine Street
Suite 2100
Lexington, KY 40507-1801

Hon. Kendrick Riggs
Stoll Keenon Ogden, PLLC
2000 PNC Plaza
500 W. Jefferson Street
Louisville, KY 40202-2828

Hon. Allyson K. Sturgeon
Senior Corporate Attorney
LG&E Energy Corp.
220 W. Main Street
Louisville, KY 40202

Lonnie E. Bellar
Vice President – State Regulation
Kentucky Utilities Company
220 West Main Street
PO Box 32010
Louisville, Kentucky 40202

Matthew Malone

ATTORNEY FOR HESS, INC.