

**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 CORPORATION’S MOTION FOR RECONSIDERATION

On October 2, 2012, the Commission issued an order on Hess Corporation’s¹ (“Hess”) motion seeking full intervention status in the above-referenced proceeding (“Intervention Order”). In its Intervention Order, the Commission granted Hess limited intervention solely to participate on the issue of Louisville Gas & Electric Company’s (“LG&E”) gas transportation participation thresholds and specifically denied Hess’ intervention on issues of balancing frequencies and balancing tolerance bands.² In response, Hess respectfully submits this Motion for Reconsideration of the Intervention Order, and respectfully requests that the Commission grant Hess’ motion for full intervention (or, in the alternative, limited intervention) to participate on all gas transportation issues, including LG&E’s balancing frequencies and balancing tolerance bands. In support of its Motion, Hess states as follows:

In the Intervention Order, the Commission noted that its order in Case No. 2010-00146 (“2010 Order”) expressly stated that there was a need to review the gas transportation tariffs of

¹ Due to administrative oversight, in its Motion to Intervene, Hess Corporation incorrectly identified itself as “Hess, Inc.” Please note that Hess’ correct corporate name is Hess Corporation.

² Commission’s Order on Hess’ Motion to Intervene (“Intervention Order”), at 6, Docket No. 2012-00222 (dated Oct. 2, 2012).

natural gas local distribution companies in their next base rate proceeding.³ Recognizing that this proceeding was the Commission's first opportunity to review LG&E's gas transportation tariff since the 2010 Order, the Commission found that it is appropriate to review LG&E's gas transportation participation thresholds in this proceeding.⁴ For this reason, the Commission granted Hess limited intervention on the participation threshold issue.⁵

While the 2010 Order noted that "existing transportation thresholds bear further examination,"⁶ the Commission did not explicitly limit the scope of its subsequent review to participation thresholds only. Of particular note, in the 2010 Order, the Commission committed to reviewing the "reasonableness of the existing transportation tariffs of each of the above-named LDCs [including LG&E] and any proposed changes in rate design and product and service availability in their next individual general rate proceeding."⁷ Likewise, House Joint Resolution 141 requested the Commission investigate 15 different elements in Case No. 2010-00146 including but not limited to (i) stranded costs; (ii) the steps necessary to maintain system integrity; and (iii) access to pipeline storage capacity. These elements within Case No. 2010-00146 included discussion and argument regarding the necessity of a well-structured market and the need to have tariff provisions related to delivery non-compliance charges that are reasonable in scope (such as penalties for failing to meet a delivery requirement on a critical day).⁸

LG&E's gas transportation balancing frequencies and tolerance bands are specifically delineated in LG&E's gas transportation tariff. Pursuant to the 2010 Order, the Commission

³ *An Investigation of Natural Gas Retail Competition Programs*, Case No. 2010-00146, at 16 and 23 (KY PSC Dec. 28, 2010) ("2010 Order"); Intervention Order at 5-6.

⁴ Intervention Order at 5-6

⁵ *Id.*

⁶ 2010 Order at 23.

⁷ *Id.* at 16.

⁸ Case No. 2010-00146, Interstate Gas Supply, Inc.'s, Southstar Energy Service's LLC, and Vectren Source's, Post-Hearing Brief, p. 18, dated November 1, 2010.

should review all issues delineated in LG&E's gas transportation tariff in this proceeding, including participation thresholds, balancing frequencies and tolerance bands.

As the Direct Testimony of John Mehling (submitted on behalf of Hess) explains, a gas transportation program's balancing frequencies and tolerance bands are critical components of a gas transportation program and go "hand in hand" with participation thresholds. Balancing frequencies and tolerance bands are just as important in gas transportation rate design to afford customers the ability to realize the benefits of taking supply from competitive suppliers. More specifically, Mr. Mehling provided that:

Hess, as a supplier that almost always aggregates its customers in pooling service, looks for monthly balancing programs with a tolerance band in the +/- 5-10% range before penalties are assessed. Please let me be clear -- Hess is not opposed to a transportation program design that incorporates a penalty structure which is strong enough to incent suppliers to accurately forecast their customers' load and to fulfill delivery obligations. However, the program design should not be so punitive that it effectively prohibits suppliers from economically participating. If such a framework is in place, the program disproportionately punishes transportation customers by exposing them to unnecessary penalties and ultimately, limiting their ability to shop for supply options.⁹

Moreover, by its own admission, LG&E explained how balancing frequencies and tolerance bands are intrinsically tied to participation thresholds. In his testimony, Mr. Murphy admits that the basis for ratcheting down the tolerance bands for Rates FT and PS-FT is "in part designed to accommodate the system flexibility that will be required to serve customers who will now be eligible for transportation service under Rider TS-2 [due to LG&E's proposed reduction of the TS-2 participation threshold]."¹⁰

In the 2010 Order, the Commission was clear that it would evaluate the "reasonableness" of the LG&E's tariff and any proposed changes in "rate design" and "product and service

⁹ Direct Testimony of John Mehling ("Mehling Testimony"), Case No. 2012-00222, at 7 (dated Oct. 3, 2012).

¹⁰ Direct Testimony of Clay Murphy ("Murphy Testimony"), Case No. 2012-00222, at 29 (dated Jun. 29, 2012).

availability” in this proceeding.¹¹ In his testimony, Mr. Mehling, in commenting on LG&E proposed tolerance bands and balancing frequencies, concluded that:

[LG&E’s proposed move to a +/- 2% daily tolerance band (within which no UCDI penalties apply) for PS-FT Pool Managers] is so restrictive; in fact, I am not sure how a Pool Manager could operate its pool economically with such a tight tolerance band. I am not aware of any LDC that has tolerance bands set at this low of a level in the Midwest. In contrast, it is my understanding that the three of the other major Kentucky LDCs have monthly tolerance bands of +/- 5% (Columbia Gas of Kentucky, Duke Kentucky, and Atmos Energy) while Delta Natural Gas relies on a monthly tolerance band of +/- 10%.¹²

Mr. Mehling’s testimony clearly demonstrates that LG&E’s proposed balancing frequencies and tolerance bands are not reasonable especially when compared to other Kentucky LDCs (and other LDCs throughout the Midwest, for that matter). If LG&E proceeds with its proposed balancing frequencies and tolerance bands, customers will be effectively prohibited from participating in the gas transportation program because either (i) suppliers will avoid the significant financial risk of participating in LG&E’s service territory and simply not make offers to customers; or (ii) supplier offer prices will be so high (to hedge the penalty risks) that they will be uneconomic for customers (compared to the LG&E’s default service option). Under either scenario, customers will be precluded from realizing the benefits of taking competitive natural gas supply, including gaining more price certainty, shopping for the lowest natural gas rates, and hedging their natural gas supply costs in a manner that reflects their risk tolerance.¹³ Such a result clearly runs afoul of the 2010 Order. As Mr. Mehling’s testimony explains, LG&E has provided no credible evidence as to why its balancing frequencies and tolerance bands are so restrictive and vary so significantly from the other Kentucky LDCs.¹⁴

¹¹ 2010 Order at 16.

¹² Mehling Testimony at 11.

¹³ *Id.* at 8.

¹⁴ *Id.* at 10-13.

LG&E's proposed program design severely and inappropriately limits LG&E's gas transportation "product" and its "service availability" for LG&E customers. For these reasons, the 2010 Order calls for the Commission to review LG&E's balancing frequencies and tolerance bands in this proceeding. Hess' intervention status should be expanded to allow Hess to participate on the balancing frequency and tolerance band issues to develop a complete record and assist the Commission in fully considering the matter.

Moreover, in its application, LG&E has proposed to lower the threshold to which Utilization Charge for Daily Imbalances ("UCDI") will apply for FT customers (from +/- 10% to +/- 5%) and for PS-FT pools (from +/- 5% to +/- 2%).¹⁵ Thus, it is clear that LG&E has brought its balancing frequencies and tolerance bands squarely into issue in this proceeding by proposing changes for Commission review and adjudication. As a matter of fairness, Hess should be allowed to participate on all issues that impact its interests, especially those that LG&E have brought before the Commission on its own volition. By allowing Hess to participate on these issues, the Commission will be allowing all impacted parties to present evidence in order to develop a complete record and the facts necessary to assist the Commission in fully considering LG&E's proposed changes. If the Commission does not allow Hess to participate on issues of balancing frequency and tolerance bands, then the Commission should concomitantly reject LG&E's proposed balancing frequency and tolerance band changes (namely, LG&E's proposal to lower the threshold to which UCDI will apply for FT customers (from +/- 10% to +/- 5%) and for PS-FT pools (from +/- 5% to +/- 2%)).

Wherefore, Hess respectfully requests that it be granted full intervenor status in the above captioned proceeding or alternatively if the Commission is not inclined to grant full intervention Hess respectfully requests the Commission to grant Hess intervention on the issues

set forth above, specifically, gas transportation thresholds, balancing frequencies, and balancing tolerance bands.

Respectfully submitted,



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CERTIFICATE OF SERVICE

In accordance with Ordering Paragraph No. 10 of the Commission's June 22, 2012 Order, this is to certify that Hess' October 5, 2012 electronic filing has been transmitted to the Commission on October 5, 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 October 5, 2012; and that on October 5, 2012 electronic mail notification of the filing will be provided to the following:

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¹⁵ Murphy Testimony at 29.

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