

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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

LOUISVILLE GAS AND ELECTRIC COMPANY’S OBJECTION TO THOMAS
GERSTLE’S MOTION TO INTERVENE

Louisville Gas and Electric Company (“LG&E”) respectfully requests that the Commission deny the Motion of Thomas Gerstle for intervention. Mr. Gerstle’s motion should be denied for three reasons: (1) the motion does not state a special interest in the proceeding that is not already represented by the Attorney General; (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. Gerstle’s intervention could unduly complicate and disrupt the proceeding. As Mr. Gerstle 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 Thomas Gerstle in this proceeding.

I. The Commission Should Deny Mr. Gerstle’s Motion to Intervene Because Mr. Gerstle Does Not Have a Special 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.”¹ Under the regulation, permissive intervention will only be granted if the person “has a special

¹ *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.

interest in the proceeding which is not otherwise adequately represented” or that granting full 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.”² Mr. Gerstle’s Motion does not articulate whether he seeks to intervene because he claims a special interest in this proceeding or whether he seeks to present issues or to develop facts. Instead, Mr. Gerstle simply states his disagreement with LG&E’s proposed program regarding the replacement and ownership of gas service risers and service lines.³ Ostensibly, Mr. Gerstle believes that his status as a residential gas customer of LG&E that could be affected by the proposed program confers a special interest in this proceeding.

The Commission, however, has consistently held that a person’s status as a customer is not a special interest meriting full intervention.⁴ 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 years of experience in representing ratepayers’ interests in rate proceedings, including every prior LG&E rate case.⁵ Mr. Gerstle’s

² 807 KAR 5:001 § 3(8)(b).

³ Gerstle Motion, p. 1.

⁴ *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).”).

⁵ *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).

interest as a residential gas customer is identical to that of every other residential gas customer, as the program will not affect Mr. Gerstle differently than other customers. The fact that Mr. Gerstle allegedly recently replaced his service line does not provide him with an interest greater than or different from any other LG&E residential gas customer. Instead, the Attorney General will represent Mr. Gerstle's interests. Because Mr. Gerstle's interest as a customer is already adequately represented by the Attorney General, his motion should be denied.

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

Mr. Gerstle'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.⁶ While Mr. Gerstle's motion expresses disagreement with the program LG&E has proposed with regard to gas risers, the motion does not identify any expertise in the principles of ratemaking or gas safety. Because Mr. Gerstle 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. Gerstle's Motion to Intervene Because Mr. Gerstle's Intervention Could Unduly Complicate and Disrupt the Proceeding.

Even if Mr. Gerstle 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. Gerstle's motion does not demonstrate any expertise in ratemaking, his intervention could unduly complicate and disrupt the proceeding. The proper means for Mr. Gerstle to participate in this proceeding is through filing public comments and communicating

⁶ 807 KAR 5:001 § 3(8)(b).

with the Attorney General, who will represent his interest as a ratepayer. Mr. Gerstle has demonstrated his ability to participate in this manner by already filing public comments in this proceeding. Moreover, Mr. Gerstle 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. Gerstle is given an opportunity to present his comments without unduly complicating the pending action. LG&E respectfully requests that the Commission deny Mr. Gerstle's motion to intervene as his involvement could unduly complicate and disrupt this proceeding.

IV. Conclusion

As Mr. Gerstle has failed to present any ground upon which the Commission can grant permissive intervention, the Commission should deny his motion to intervene. Mr. Gerstle's only interest in this proceeding is as a customer, an interest that will be represented by the Attorney General. 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. Gerstle's intervention could unduly complicate and disrupt the proceeding. Therefore, LG&E respectfully requests that the Commission deny Thomas Gerstle's motion to intervene in this proceeding.

Dated: August 3, 2012

Respectfully submitted,



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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 August 3, 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 August 3, 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 Objection were placed in the U.S. Mail, postage prepaid, on August 3, 2012 to be delivered to the Commission. A paper copy of the Objection has also been sent via U.S. mail to Thomas Gerstle at the address listed on his Motion on August 3, 2012.



Counsel for Louisville Gas and Electric Company