

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 JEFF AUXIER’S
PETITION TO INTERVENE**

Louisville Gas and Electric Company (“LG&E”) respectfully requests that the Commission deny the Petition of Jeff Auxier for intervention. Mr. Auxier’s Petition should be denied for three reasons: (1) the Petition does not state a special interest in the proceeding that is not already represented by the Attorney General; (2) the Petition fails to identify any issues or development of facts that will assist the Commission in the resolution of this matter; and (3) Mr. Auxier’s intervention could unduly complicate and disrupt the proceeding. As Mr. Auxier 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 Petition to Intervene of Jeff Auxier in this proceeding.

I. The Commission Should Deny Mr. Auxier’s Petition to Intervene Because Mr. Auxier 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 Although Mr. Auxier claims three interests in this proceeding, none of the interests are a special interest warranting intervention.

Mr. Auxier’s first alleged special interest is that LG&E’s proposal to increase the basic service charge “negatively impacts petitioner’s fiscal interest.”³ The rate adjustments LG&E has proposed, if approved, will affect all residential customers taking service under the Residential Service tariff in the same manner. As such, the interest Mr. Auxier has articulated is based on his status as a customer. 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

² 807 KAR 5:001 § 3(8)(b).

³ Auxier Petition, p. 2. Mr. Auxier’s Petition to Intervene incorrectly stated that LG&E was proposing to lower the per kilowatt-hour cost of electricity while proposing to increasing the basic service charge. Mr. Auxier corrected his error in his August 16, 2012 filing with the Commission.

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*

Because Mr. Auxier's interest as a customer is already adequately represented by the Attorney General, his Petition should be denied.

Mr. Auxier's second claimed interest in this proceeding is that LG&E's proposal to increase the basic service charge "negatively impacts" the "intangible goals" Mr. Auxier has sought to promote, which include "promoting health, strengthening the security of our society and preserving limited energy resources for future generations."⁶ The intangible goals Mr. Auxier has identified do not constitute a special interest in this proceeding pursuant to 807 KAR 5:001, Section 3(8) because these issues are beyond the scope of the Commission's jurisdiction. Both the Kentucky Court of Appeals and the Commission have held that a person seeking intervention must have "an interest in the 'rates' or 'service' of a utility, since those are the only two subjects under the jurisdiction of the PSC."⁷ More specifically, the Commission has stated, in denying a motion to intervene, that "[n]otably absent from the Commission' jurisdiction are environmental concerns, which are the responsibility of other agencies within Kentucky state government..."⁸ Because the issues Mr. Auxier have identified – which are related to conservation and health – are beyond the scope of the Commission's jurisdiction, his Petition should be denied. Moreover, even if certain of the intangible goals could be construed to be relevant to the rates or service of LG&E, the interest Mr. Auxier has identified is very remote.

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).

⁶ Auxier Petition, p. 2.

⁷ *EnviroPower, LLC v. Public Service Commission of Kentucky*, 2007 WL 289328 at *4 (Ky. App. 2007) (not to be published); *In the Matter of: The 2008 Joint Integrated Resource Plan of Louisville Gas and Electric Company and Kentucky Utilities Company* (Case No. 2008-148) Order, July 18, 2008.

⁸ *In the Matter of: The 2008 Joint Integrated Resource Plan of Louisville Gas and Electric Company and Kentucky Utilities Company* (Case No. 2008-148) Order, July 18, 2008 at 5-6.

The Court of Appeals and the Commission has denied intervention to petitioners when their stated interest is “too remote.”⁹

The third issue Mr. Auxier identified is that, several years ago, an LG&E contractor allegedly turned off his gas service until Mr. Auxier installed a new service line.¹⁰ Mr. Auxier likely included this information in the Petition to oppose the program and tracker LG&E has proposed with regard to the ownership of customer service lines. This does not constitute a special interest, however, because the Commission has held that simply because a customer “holds a particular position on issues pending in this case does not create the requisite ‘special interest’ to justify full intervention under 807 KAR 5:001, Section 3(8)(b).”¹¹ Because none of the three interests Mr. Auxier has identified are special interests justifying intervention, his Petition should be denied.

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

Mr. Auxier’s Petition 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.¹² Although Mr. Auxier lists his experience regarding energy efficiency and home remodeling,¹³ neither of these issues will help inform the Commission’s decision in this matter. First, this is not a demand-side management (“DSM”) or energy efficiency proceeding. LG&E is not proposing any new DSM or energy efficiency programs as

⁹ See *Inter-County Rural Electric Cooperative Corporation v. Public Service Commission*, 407 S.W.2d 127 (Ky. 1966); *In the Matter of: Petition of CTA Acoustics, Inc. to Retain Kentucky Utilities Company as Power Supplier and for Expedited Treatment* (Case No. 2003-00326) Order, July 18, 2003.

¹⁰ Auxier Petition, p. 2-3.

¹¹ *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, September 14, 2007.

¹² 807 KAR 5:001 § 3(8)(b).

¹³ Auxier Petition, p. 4.

part of this case, nor is it seeking to eliminate or modify any existing programs. As such, these issues are beyond the scope of this proceeding, which is principally concerned with whether LG&E's proposed rates are "fair, just and reasonable."¹⁴ The Commission has denied requests for intervention when the petitioner proposes to address issues beyond the scope of the proceeding in which intervention is sought.¹⁵

As to the second issue, Mr. Auxier's experience in remodeling homes with energy inefficiencies is also beyond the scope of this proceeding, as LG&E is not proposing any modifications to its DSM programs that pertain to the weatherization issues Mr. Auxier has identified. Because the issues Mr. Auxier seeks to develop are beyond the scope of this proceeding, his Petition fails to demonstrate that he will present issues or develop facts that would assist the Commission in the resolution of this matter.

III. Mr. Auxier's Intervention Could Unduly Complicate and Disrupt this Proceeding

Even if Mr. Auxier 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. Auxier seeks to address issues that are either beyond the scope of the Commission's jurisdiction or beyond the scope of this proceeding, his intervention could complicate and disrupt this case. The Commission has held that allowing an intervenor to raise issues that are beyond the scope of the Commission's jurisdiction would unduly complicate and disrupt the proceeding.¹⁶

¹⁴ KRS 278.030(1).

¹⁵ See, e.g., *In the Matter of: The Joint Petition of Kentucky-American Water Company, Thames Water Aqua Holdings GmbH, RWE Aktiengesellschaft, Thames Water Aqua US Holdings, Inc., Apollo Acquisition Company and American Water Works Company, Inc. for Approval of a Change of Control of Kentucky-American Water Company* (Case No. 2002-00317) Order, October 3, 2002.

¹⁶ *In the Matter of: Application of Louisville Gas and Electric Company to File Depreciation Study*, Case No. 2007-00564 and *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) Order, October 10, 2008; *In the Matter of: The Joint Application Pursuant to 1994 House Bill No. 501 for the Approval of Kentucky Power Company Collaborative Demand-Side*

The proper means for Mr. Auxier to participate in this proceeding is through filing public comments and communicating with the Attorney General, who will represent his interest as a ratepayer. Moreover, Mr. Auxier 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. Auxier is given an opportunity to present his comments without unduly complicating the pending action. LG&E respectfully requests that the Commission deny Mr. Auxier's motion to intervene as his involvement could unduly complicate and disrupt this proceeding.

IV. Conclusion

As Mr. Auxier has failed to present any ground upon which the Commission can grant permissive intervention, the Commission should deny his Petition. Mr. Auxier's only interest in this proceeding is as a customer, an interest that will be represented by the Attorney General. Also, the Petition does not evince any intent to develop facts or issues that will assist the Commission in the resolution of this matter. Finally, Mr. Auxier's intervention could unduly complicate and disrupt the proceeding. Therefore, LG&E respectfully requests that the Commission deny Jeff Auxier's Petition to Intervene in this proceeding.

Dated: August 17, 2012

Respectfully submitted,



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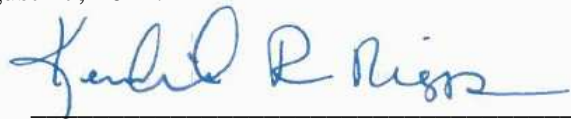
Management Programs and Authority to Implement a Tariff to Recover Costs, Net Lost Revenues and Receive Incentives Associated with the Implementation of the Kentucky Power Company Collaborative Demand- Side Management Programs (Case No. 2008-00350) Order, October 13, 2008.

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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 17, 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 17, 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 17, 2012 to be delivered to the Commission. A paper copy of the Objection has also been sent via U.S. mail to Jeff Auxier at the address listed on his Petition on August 17, 2012.



Counsel for Louisville Gas and Electric Company