

**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 SUR-REPLY IN OBJECTION TO**  
**HESS, INC.’S MOTION TO INTERVENE**

Louisville Gas and Electric Company (“LG&E”) respectfully submits this Sur-reply to further object to Hess, Inc.’s (“Hess”) Motion to Intervene. This Sur-Reply is necessary to: (1) correct Hess’ mischaracterization of Case No. 2010-00146 and to (2) further demonstrate that Hess only seeks to intervene in this proceeding to compete with LG&E.

**I. Hess Misstates the Purpose of this Proceeding by Mischaracterizing Case No. 2010-00146.**

Hess’ Reply repeatedly argues that because it was involved in Case No. 2010-00146, *In the Matter of: Investigation of Natural Gas Retail Competition Programs*, it has the right to intervene in this proceeding.<sup>1</sup> This is incorrect for several reasons. First, the Commission’s final order in Case No. 2010-00146 did not state that every party in that proceeding would consequentially be permitted to intervene in every LDC’s next general rate case. Neither the final order in Case No. 2010-00146 nor any order in this proceeding contains such a broad statement. While LG&E’s gas transportation thresholds are being reviewed in this case, only

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<sup>1</sup> Hess Reply, p. 1-6.

those parties that satisfy the Commission's standards for intervention, which Hess does not, under 807 KAR 5:001 § 3(8) can be permitted to intervene.

Second, Hess repeatedly conjectures that because Stand Energy Corporation ("Stand") was a party to Case No. 2010-00146 and was permitted to intervene in this case, Hess therefore has a similar right to intervene.<sup>2</sup> This too is incorrect. While Stand was a party to Case No. 2010-00146 that actively participated and filed testimony, Hess was only peripherally involved as one of twelve members of the Retail Energy Suppliers Association ("RESA").<sup>3</sup> In fact, when RESA sought to intervene, its motion contained a disclaimer that the "comments expressed in this filing represent the position of RESA as an organization but may not represent the views of any particular member of RESA."<sup>4</sup> The fact that Hess is a member of an organization that participated in Case No. 2010-00146 does not mean that it has a special interest in the next rate case of every LDC, such as LG&E, nor does it mean it can assist the Commission in those cases.

In short, simply because the Commission is considering LG&E's gas transportation thresholds in this case does not mean that every entity that was affiliated with a party in Case No. 2010-00146 is automatically allowed to intervene. Instead, only those persons that have a special interest that is not adequately represented or can assist the Commission in considering this matter are permitted to intervene.<sup>5</sup> LG&E's response to Hess' Motion to Intervene demonstrated that Hess can satisfy neither standard and therefore the Motion should be denied.

## **II. Hess Only Seeks Intervention to Compete with LG&E.**

Hess' Reply further sharpens its focus regarding its purpose in seeking intervention, which is to compete with LG&E. While Hess currently does not transport gas for any LG&E

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<sup>2</sup> *Id.* at p. 4-6.

<sup>3</sup> *See* Case No. 2010-00146, Motion of Retail Energy Suppliers Association for Full Intervention, May 28, 2010.

<sup>4</sup> *Id.*

<sup>5</sup> 807 KAR 5:001 § 3(8).

customer, it seeks to do so. The Reply states: “Hess has invested significant financial resources...*in an effort to market* natural gas supply services within LG&E’s service territory”<sup>6</sup>; “[t]he current (and proposed) balancing frequencies...create insurmountable obstacles for Hess to even *enter the market*”<sup>7</sup>; “Hess...has invested significant financial resources *to market natural gas supply resources* within LG&E’s service territory”<sup>8</sup>; and “the supply *products Hess can offer* to large industrial and commercial customers within LG&E’s service territory.”<sup>9</sup> Permitting a non-customer to intervene solely to advocate for its own commercial and competitive interests will disrupt this proceeding and detract from the purpose of the case, which is to establish just and reasonable rates for LG&E’s *customers*, not potential competitors.

### III. Conclusion

The fact that Hess is affiliated with an entity that participated in Case No. 2010-00146 does not lower or otherwise affect the regulatory standard for intervention. Hess seeks to intervene only to further its own commercial interests, and as such, has neither a special interest in this proceeding nor has demonstrated it can assist the Commission in fully considering this matter. For these reasons, Louisville Gas and Electric Company respectfully requests the Commission deny Hess, Inc.’s Motion to Intervene.

Dated: October 1, 2012

Respectfully submitted,



Kendrick R. Riggs  
W. Duncan Crosby III  
Barry L. Dunn  
Stoll Keenon Ogden PLLC  
2000 PNC Plaza  
500 West Jefferson Street

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<sup>6</sup> Hess Reply, p. 2 (emphasis added).

<sup>7</sup> *Id.* (emphasis added).

<sup>8</sup> *Id.* at 3 (emphasis added).

<sup>9</sup> *Id.* (emphasis added).

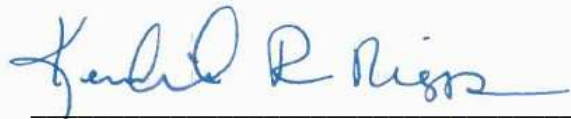
Louisville, Kentucky 40202-2828  
Telephone: (502) 333-6000

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 October 1, 2012 electronic filing of the foregoing Sur-Reply 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 October 1, 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 Sur-Reply were placed in the U.S. Mail, postage prepaid, on October 1, 2012 to be delivered to the Commission. A paper copy of the Sur-Reply has also been sent via U.S. mail to Hess, Inc.'s counsel on October 1, 2012.



*Counsel for Louisville Gas and Electric Company*