

**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 PETITION FOR  
RECONSIDERATION AND OBJECTION TO HESS CORPORATION’S MOTION FOR  
RECONSIDERATION**

Pursuant to KRS 278.400, Louisville Gas and Electric Company (“LG&E”) hereby submits its Petition (“Petition”) for Reconsideration and objection to Hess Corporation’s (“Hess”) Motion for Reconsideration (“Motion”) of the Commission’s Order limiting Hess’ intervention to LG&E’s gas transportation thresholds. LG&E’s Petition should be granted and Hess’ Motion should be denied for three principal reasons. First, Hess inappropriately uses its Motion to place its arguments regarding balancing frequencies and balancing tolerance demands into the record. Second, Hess makes no attempt to explain how it satisfies the statutory and regulatory standards for intervention. Finally, by filing testimony on excluded topics and claiming that it may file “supplemental testimony,” Hess demonstrates it will disrupt this proceeding by disregarding the procedural schedule the Commission has established.

**I. Hess’ Motion Restates Its Arguments on the Topics Expressly Excluded by the Commission’s Order.**

On October 2, 2012, the Commission issued an Order that stated “Hess is granted limited intervention solely to participate on the issue of LG&E’s gas transportation thresholds and is

*specifically denied intervention regarding the issues of balancing frequencies and balancing tolerance demands.*”<sup>1</sup> Despite this clear Order, on October 3, 2012, Hess filed the testimony of John Mehling that discussed both balancing frequencies and balancing tolerance demands.<sup>2</sup> After LG&E filed a Motion to Strike the portions of Hess’ testimony pertaining to the excluded issues, Hess filed this Motion asking the Commission to reconsider its Order. The Motion, instead of attempting to explain why Hess satisfies the statutory and regulatory standards for intervention, instead restates Hess’ position on the very arguments the Commission excluded.

Hess’ Motion copies large segments of text from Mr. Mehling’s testimony containing Hess’ opinion on LG&E’s balancing frequencies and balancing tolerance demands.<sup>3</sup> The Motion also contains further comment on Hess’ position on these issues.<sup>4</sup> In short, Hess bases its Motion on the very evidence the Commission excluded. The Motion inappropriately places into the record, for the *second* time, Hess’ position on balancing frequencies and balancing tolerance demands. Utilizing this Motion to restate Hess’ opinion on excluded issues does not provide the Commission with any basis to reconsider its Order limiting Hess’ intervention to gas transportation thresholds, and further demonstrates that Hess’ only purpose in this proceeding is to advocate for its own perceived commercial interests. For this reason, LG&E respectfully requests that Hess’ Motion should be denied and that the Commission should reconsider its Order permitting Hess to intervene as to LG&E’s transportation thresholds.

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<sup>1</sup> Case No. 12-00222, Order of October 2, 2012 at p. 6 (emphasis added).

<sup>2</sup> See Direct Testimony of John Mehling on behalf of Hess Corporation filed October 3, 2012.

<sup>3</sup> See Hess’ Motion for Reconsideration, p. 3-4.

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

## **II. The Motion Fails to Explain how Hess Satisfies the Statutory and Regulatory Standards for Intervention.**

As stated by the Commission in its Order limiting Hess' intervention to gas transportation thresholds, other than the Attorney General, no other person has a statutory right to intervene.<sup>5</sup> Instead, all other persons, including Hess, must satisfy both the statutory and regulatory standards for intervention.<sup>6</sup> The statutory standard, KRS 278.040(2), requires that the movant have an interest in the rates or service of the utility.<sup>7</sup> The regulatory standard, 807 KAR 5:001, Section 3(8), requires that the movant demonstrate a special interest in the proceeding that is not otherwise adequately represented or that intervention is likely to present issues or develop facts that assist the Commission in fully considering the matter without unduly complicating or disrupting the proceeding.<sup>8</sup> LG&E explained thoroughly in its Objection and Sur-Reply to Hess' Motion to Intervene that Hess, a competitor that does not transport gas for any LG&E customers, cannot satisfy either the statutory or regulatory standards for intervention.

In its Motion, Hess makes no effort to explain how it satisfies the prerequisites for intervention, instead choosing to continue mischaracterizing Case No. 2010-00146, *An Investigation of Natural Gas Retail Competition Programs*. With each pleading, Hess more greatly overstates the effect of Case No. 2010-00146 on this proceeding. Hess now argues that the Commission should consider all issues related to LG&E's gas transportation tariffs in this proceeding.<sup>9</sup> What Hess does not – and cannot explain – is why Hess should be permitted to fully intervene in this proceeding, or why it should be permitted to intervene with regard to balancing frequencies and balancing tolerance demands. Hess implies that because it is

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<sup>5</sup> Case No. 12-00222, Order of October 2, 2012, p. 4.

<sup>6</sup> *Id.* at 5.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *See* Hess' Motion for Reconsideration, p. 3.

affiliated with a party to Case No. 2010-00146, it should consequentially be permitted to intervene on all the issues it believes the Commission should consider. This is incorrect, as the Commission has never suggested, in this proceeding or otherwise, that a movant's affiliation with a party in Case No. 2010-00146 eliminates or otherwise affects the statutory or regulatory standards for intervention in the LDC's following rate cases. Because Hess' Motion fails to allege how it satisfies the statutory and regulatory standards for intervention, LG&E respectfully submits Hess' Motion must be denied. Moreover, because Hess has again demonstrated that it does not satisfy the prerequisites for full or limited intervention, LG&E requests the Commission reconsider its Order permitting Hess to intervene on the issue of transportation thresholds.

**III. Hess Has Demonstrated It Will Disrupt This Proceeding by Stating It “Reserves” the Right to File Supplemental Testimony and by Filing Testimony on Excluded Issues.**

Even if Hess could demonstrate, which it cannot, that it satisfies the prerequisites for intervention, its intervention violates the regulatory standard that the movant not unduly disrupt or complicate the proceeding.<sup>10</sup> When Hess initially sought to intervene, it stated that it “agrees to take the administrative record as it currently stands and Hess will comply with the existing procedural schedule...”<sup>11</sup> Despite making this assurance, Mr. Mehling's testimony concluded by stating that “Hess reserves the right to file Supplemental Testimony.”<sup>12</sup> Hess' unilateral claim that it will put further evidence in the record in contravention of the procedural schedule it agreed to be bound by is certainly disruptive to this proceeding.

Additionally, Hess has further demonstrated it will disrupt this action by filing testimony on balancing frequencies and balancing tolerance demands after the Commission specifically

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<sup>10</sup> 807 KAR 5:001, Section 3(8).

<sup>11</sup> Hess Motion to Intervene, p. 5.

<sup>12</sup> See Direct Testimony of John Mehling on behalf of Hess Corporation filed October 3, 2012 at p. 13.

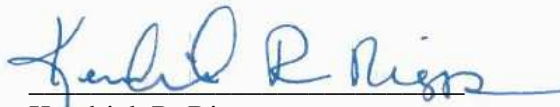
denied Hess' intervention with regard to these issues. Hess' actions evince a disregard for the procedural schedule in this case, as well as an unwillingness to abide by the Commission's orders. To the extent that the Commission previously found that Hess is likely to present issues or develop facts that assist the Commission with regard to transportation thresholds, Hess' conduct since issuance of the Order demonstrates that Hess has contravened the prohibition against unduly disrupting this proceeding. For these reasons, LG&E respectfully submits that not only should Hess' Motion should be denied, but Hess should also not be permitted to intervene on the issue of gas transportation thresholds.

#### **IV. Conclusion**

LG&E objects to Hess being granted limited or full intervenor status, including being permitted to intervene on the issues of transportation thresholds, balancing frequencies or balancing tolerance demands. Hess' Motion provides no basis for the Commission to reconsider its Order limiting Hess' intervention to the issue of transportation thresholds because the Motion simply reiterates Hess' position on the topics for which the Commission specifically denied intervention and fails to explain how Hess satisfies either the statutory or regulatory standards for intervention. Moreover, Hess has demonstrated that it will be unduly disruptive to this proceeding. Because Hess cannot satisfy the standards for intervention and has been disruptive to this proceeding, LG&E respectfully requests that Hess' Motion for Reconsideration be denied and that the Commission reconsider its October 2, 2012 Order by finding that Hess not be permitted to intervene on any issue in this proceeding.

Dated: October 8, 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 October 8, 2012 electronic filing of the foregoing Petition and 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 October 8, 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 Petition and Objection were placed in the U.S. Mail, postage prepaid, on October 8, 2012 to be delivered to the Commission.



*Counsel for Louisville Gas and Electric Company*