

Direct Testimony of Louisville Metro Councilman Rick Blackwell

1 Q: PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

2 A: My name is Rick Blackwell and my address is 601 W. Jefferson Street Louisville,  
3 Kentucky 40202.

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5 Q: WHAT IS YOUR OCCUPATION AND BY WHOM ARE YOU EMPLOYED?

6 A: I am the Louisville City Councilman for the 12<sup>th</sup> District and have been so for 13 years.

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8 Q: PLEASE STATE YOUR EDUCATIONAL BACKGROUND AND RELEVANT  
9 EXPERIENCE.

10 A: I received a bachelor's degree in Sociology from Bellarmine University, a master's degree  
11 in Religious Studies from Spalding University and I am currently a candidate for a doctoral  
12 degree in educational leadership. My relevant experience stems from my experience on the  
13 Metro Council trying to establish fair and reasonable fees for services.

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15 Q: ON WHOSE BEHALF ARE YOU TESTIFYING IN THIS PROCEEDING?

16 A: I am testifying on behalf of the Louisville/Jefferson County Metro Government  
17 ("Louisville Metro"). Louisville Metro is located in the largest and most densely populated  
18 city within the LG&E service territory.

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20 Q: WHAT IS YOUR FAMILIARITY WITH LOUISVILLE METRO'S NATURAL GAS  
21 FRANCHISE FEE?

22 A: I know that for many years the former City of Louisville assessed a fee for LG&E's use of  
23 its rights-of-ways and that fee was simply absorbed as a price of doing business. Two years  
24 ago the Metro Council tried to establish a more just compensation as compared to  
25 surrounding cities. LG&E pushed back on our fee and started to charge the fee only to  
26 those in the Urban Service District and the unincorporated areas of Metro. This was seen as  
27 unfair by most of the Metro Council and we started to look for a fairer way to assess the  
28 cost for renting Metro's rights-of-way as well as a more just approach for LG&E to meet  
29 its obligation.

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Q: CAN YOU DESCRIBE THE CURRENT GAS FRANCHISE FEE?

A: Yes. The fee is essentially six percent (6%) of forty-three cents (\$0.43) per thousand cubic feet (mcf) of gas. The fee is not to be collected from ratepayers until such time as this litigation and any appeals stemming from the litigation have concluded. If the litigation results in a finding that the gas franchise fee should be collected from as a line item on customer bills, then the fee automatically reverts to zero per the gas franchise fee agreement.

Q: WHAT IS THE BASIC THEORY BEHIND THIS GAS FRANCHISE FEE?

A: The basic theory of a franchise fee is to ensure that a utility pays the city for the benefit the utility realizes by use of the city's rights of way. Essentially, it is the rent a utility owes to a city for the opportunity to use the city's infrastructure to provide service and earn a profit. This gas franchise fee was crafted to ensure that all customers benefitting from the Louisville rights of way can be accounted for in collecting the fee. By charging a fee based on usage of gas, the proper amount of the fee can be allocated to each individual LG&E gas customer, regardless of their location in the LG&E service territory.

Q: WHY IS THIS THE BEST WAY TO CALCULATE AND COLLECT THE NATURAL GAS FRANCHISE FEE?

A: This method ensures a fair and equitable system of calculating the franchise fee. Essentially, the Council tried to craft a fee where if it were to be collected from the customers, which we do not believe is fair, just, reasonable, or lawful, the fee would be proportional to usage of the Louisville rights of way.

Q: WHY IS IT UNFAIR, UNJUST, AND UNREASONABLE NOT TO COLLECT THE FEE FROM ALL CUSTOMERS UTILIZING THE LOUISVILLE RIGHTS OF WAY?

A: This is related to the basic theory of a franchise fee, that the utility should pay rent for the use of the City's rights of way. In the case of Louisville, the City's rights of way are utilized by customers throughout Jefferson County as well as those customers located in the surrounding counties. If LG&E is earning a profit on customers either inside or outside of

1 Jefferson County as a result of the Louisville Metro's rights of way, then the "rent" or  
2 franchise fee should apply to all of those customers usage.

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4 Q: WHY IS THIS ESPECIALLY TRUE WITH RESPECT TO CUSTOMERS LOCATED  
5 WITHIN JEFFERSON COUNTY?

6 A: Currently, LG&E collects the franchise fee only from those customers who are not located  
7 in one of Louisville's satellite cities, meaning those cities within the Louisville/Jefferson  
8 County Metro Government borders. The argument supplied above applies to all LG&E gas  
9 customers residing within Jefferson County, but other arguments apply as well. Those  
10 customers located in the satellite cities receive all the same benefits from the franchise fee  
11 as those customers located outside the satellite cities, except only one of those groups is  
12 actually paying for the benefits received. That is patently unfair. Additionally, every  
13 resident of Jefferson County has a representative on the City Council, including those  
14 residing within a satellite city, so the satellite cities were represented in the crafting and  
15 passing of the current gas franchise fee.

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17 Q: CAN YOU SUMMARIZE YOUR TESTIMONY?

18 A: Yes. In summary, LG&E should pay for the right to earn a staggering amount of profit  
19 from its gas customers that LG&E could not earn without the benefit of Louisville's rights  
20 of way. That payment to the city should be based on the volume of gas passing through the  
21 Louisville rights of way and eventually being utilized by LG&E's customers, regardless of  
22 the customers location. This would ensure that LG&E is paying to the city the fair value  
23 LG&E receives from utilizing Louisville's rights of way.

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26 Q: DOES THIS CONCLUDE YOUR TESTIMONY?

27 A: It does.

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