

**Commonwealth of Kentucky
Before the Public Service Commission**

In the Matter of:

APPLICATION OF LOUISVILLE GAS AND)	
ELECTRIC COMPANY FOR A DECLARATORY)	Case No.
ORDER REGARDING THE PROPER METHOD)	2016-00137
OF MUNICIPAL FRANCHISE FEE RECOVERY)	

**LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT MOTION TO
INTERVENE AND RESPONSE TO LG&E APPLICATION**

Comes now The Louisville/Jefferson County Metro Government (“Louisville”), pursuant to KRS § 278.310, and 807 KAR 5:001, Sections 4(11) and 19(4), and files this Response and request that it be granted intervener status in the above captioned proceeding. Louisville states in support thereof as follows:

Motion to Intervene

1. Louisville Gas & Electric (“LG&E”) has filed with the Public Service Commission (“Commission”) an Application seeking a Declaratory Order regarding certain provisions its gas franchise agreement with Louisville. Specifically, LG&E seeks approval to add the franchise fee as a surcharge to a portion of LG&E gas customers’ bills.
2. Simultaneous with this Motion to Intervene, Louisville has filed a Motion to Dismiss the LG&E Application. Louisville believes the proper course of action for the Commission is dismissal of the LG&E application. However, should the Commission deny the Louisville Motion to Dismiss, Louisville wishes to respond to the application and secure party status in the case at hand.
3. LG&E and Louisville are the only two signatories on the gas franchise agreement.

4. Louisville has a special interest in this case that cannot otherwise be represented by any other party. Louisville is likely to present issues and to develop facts in this case that will assist the Commission in fully considering the matter. Louisville's intervention will not unduly complicate or disrupt the proceeding.
5. Mike O'Connell, in his capacity as the Jefferson County Attorney, has authority to participate in this action on behalf of Louisville.¹
6. The attorneys for Louisville authorized to represent them in this proceeding and to take service of all documents are:

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Response to LG&E Application

LG&E filed an Application on August 30, 2016 seeking a declaratory order from the Commission that LG&E must place a surcharge on a portion of LG&E Gas customers' bills in order to recover the Louisville gas franchise fee. The Application attempted to assign to Louisville legal positions and factual statements that are inaccurate and misleading. As such, Louisville wishes to respond to the following provisions of the Application:

1. To begin, LG&E incorrectly claims the franchise fee is based on LG&E's Rate Schedule FT for gas transportation.² LG&E uses this claim as a basis for an irrelevant argument

¹ KRS 67C.115; KRS 69.210.

² *Application of Louisville Gas & Electric Company for a Declaratory Order Regarding the Proper Method of Municipal Franchise Fee Recovery*, Verified Application at 1, Case No. 2016-00317.

regarding transportation service. Regardless of the LG&E argument and claim, the franchise fee to be assessed is not related to transportation service fees, but is provided for in the Franchise Agreement as “six percent (6%) of forty-three cents (\$0.43) per thousand cubic feet (mcf) of gas.” This equates to 2.58 cents (\$0.0258) per mcf.

2. Next, LG&E makes the confounding assertion that “Louisville Metro[] demands that its residents receive special treatment.”³ In fact, LG&E is the entity providing special treatment to certain gas customers. KRS § 278.170 prevents any utility from providing preferential or advantageous rates or service to a particular group or locality. However, LG&E fully intends to violate this provision by exempting certain LG&E gas customers from payment of the Louisville franchise fee, which is overtly unfair, unjust, and unreasonable.
3. LG&E then makes the baffling assertion that Louisville intends to “encroach upon or otherwise pre-empt the exclusive jurisdiction of this Commission regarding how LG&E recovers or passes through its costs of providing utility service to customers, including franchise fees.”⁴ The reality is that Louisville’s Complaint was filed with the Commission because Louisville views the Commission as the proper venue to seek relief from LG&E’s unfair, unjust, and unreasonable practices in implementing and collecting the Louisville gas franchise fee. This should not come as a surprise to LG&E considering it was anticipated in the Franchise Agreement LG&E executed with Louisville Metro.⁵
In an effort to correct the ultra-vires behavior of LG&E regarding collection of the

³ *Id.* at 11.

⁴ *Id.* at 14.

⁵ Verified Application, Exhibit 1 at 13. “This Franchise Agreement contemplates that Louisville Metro Reserves the right to Challenge the Company’s method of recovery of the Franchise Fee at the Kentucky Public Service Commission.”

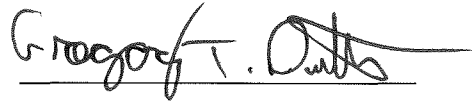
franchise fee, Louisville filed a Complaint that both acknowledges the Commission's jurisdiction and seeks appropriate relief.

WHEREFORE, Louisville moves the Commission to grant it status as an intervenor party in this action pursuant to 807 KAR 5:001, Section 4(11).

Respectfully submitted,



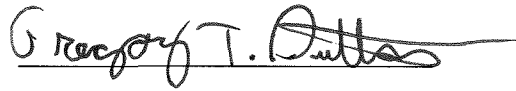
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CERTIFICATE OF SERVICE

This is to certify that a true and accurate copy of this document has been served via electronic mail to the persons listed below.



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