Direct Testimony of Louisville Metro Councilman Rick Blackwell

Q: PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.
A: My name is Rick Blackwell and my address is 601 W. Jefferson Street Louisville, Kentucky 40202.

Q: WHAT IS YOUR OCCUPATION AND BY WHOM ARE YOU EMPLOYED?
A: I am the Louisville City Councilman for the 12th District and have been so for 13 years.

Q: PLEASE STATE YOUR EDUCATIONAL BACKGROUND AND RELEVANT EXPERIENCE.
A: I received a bachelor’s degree in Sociology from Bellarmine University, a master’s degree in Religious Studies from Spalding University and I am currently a candidate for a doctoral degree in educational leadership. My relevant experience stems from my experience on the Metro Council trying to establish fair and reasonable fees for services.

Q: ON WHOSE BEHALF ARE YOU TESTIFYING IN THIS PROCEEDING?
A: I am testifying on behalf of the Louisville/Jefferson County Metro Government ("Louisville Metro"). Louisville Metro is located in the largest and most densely populated city within the LG&E service territory.

Q: WHAT IS YOUR FAMILIARITY WITH LOUISVILLE METRO’S NATURAL GAS FRANCHISE FEE?
A: I know that for many years the former City of Louisville assessed a fee for LG&E’s use of its rights-of-ways and that fee was simply absorbed as a price of doing business. Two years ago the Metro Council tried to establish a more just compensation as compared to surrounding cities. LG&E pushed back on our fee and started to charge the fee only to those in the Urban Service District and the unincorporated areas of Metro. This was seen as unfair by most of the Metro Council and we started to look for a fairer way to assess the cost for renting Metro’s rights-of-way as well as a more just approach for LG&E to meet its obligation.
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
Jefferson County as a result of the Louisville Metro’s rights of way, then the “rent” or franchise fee should apply to all of those customers usage.

Q: WHY IS THIS ESPECIALLY TRUE WITH RESPECT TO CUSTOMERS LOCATED WITHIN JEFFERSON COUNTY?
A: Currently, LG&E collects the franchise fee only from those customers who are not located in one of Louisville’s satellite cities, meaning those cities within the Louisville/Jefferson County Metro Government borders. The argument supplied above applies to all LG&E gas customers residing within Jefferson County, but other arguments apply as well. Those customers located in the satellite cities receive all the same benefits from the franchise fee as those customers located outside the satellite cities, except only one of those groups is actually paying for the benefits received. That is patently unfair. Additionally, every resident of Jefferson County has a representative on the City Council, including those residing within a satellite city, so the satellite cities were represented in the crafting and passing of the current gas franchise fee.

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

Q: DOES THIS CONCLUDE YOUR TESTIMONY?
A: It does.