

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

In the Matter of:

ELECTRONIC APPLICATION OF LOUISVILLE GAS )  
AND ELECTRIC COMPANY FOR A DECLARATORY )  
ORDER REGARDING THE PROPER METHOD OF )  
MUNICIPAL FRANCHISE FEE RECOVERY )

Case No.  
2016-00317

**LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT  
REQUEST FOR A PROCEDURAL SCHEDULE**

Comes now The Louisville/Jefferson County Metro Government (“Louisville Metro”), and hereby gives notice of the filing of the following Request for a Procedural Schedule.

Currently, the Commission has pending before it two (2) cases to which Louisville Metro is a party: Case No. 2016-00317 and Case No. 2016-00347. The central basis for both actions is the Franchise Agreement executed between Louisville Metro and Louisville Gas & Electric (“LG&E”). For the reasons stated in the Louisville Metro Complaint, Response to the LG&E Application for Declaratory Order, Louisville Metro Motion to Dismiss Case No. 2016-00317 or in the Alternative Incorporate, and the Louisville Metro Reply to LG&E Response to Motion to Dismiss, Louisville Metro believes the Commission’s proper and best course of action is to dismiss Case No. 2016-00317 and require LG&E to answer the complaint filed in Case No. 2016-00347. However, should the Commission deny the Louisville Metro Motion to Dismiss and determine that both cases will continue, Louisville Metro requests that the Commission issue a procedural schedule in Case No. 2016-00317 providing for discovery and oral argument. As support for this request, Louisville Metro states as follows:

1. The LG&E Verified Reply to the Louisville Metro Response asks the Commission to take Case No. 2016-00317 under submission and issue a Declaratory Order.<sup>1</sup> This request is premature, especially in light of the pending complaint in Case No. 2016-00347. While Louisville Metro is requesting that the Commission issue a procedural order, it does not seek such an order within a specified time frame. Louisville Metro files this motion not in an attempt to rush the Commission to decision, but simply to preserve the opportunity for discovery and oral arguments on the issue in Case No. 2016-00317.
2. The Complaint filed in Case No. 2016-00347 cannot simply be incorporated into Case No. 2016-00317 as LG&E requests.<sup>2</sup> 807 KAR 5:001, Section 20(4)(a)(1) requires “If the Commission finds that the complaint does not establish a prima facie case or does not conform to this administrative regulation, the commission shall notify the complainant and provide the complainant an opportunity to amend the complaint within a specified time.” Thus, should the Commission fail to find Louisville Metro has established a prima facie case, Case No. 2016-00347 will continue to proceed until Louisville Metro has had another opportunity to establish a prima facie case, regardless of the decision on Louisville Metro’s Motion to Dismiss Case No. 2016-00317.
3. The regulations pertaining to an Application for a Declaratory Order permit the Commission to ensure a complete record is developed by “holding oral arguments on the application and requiring the production of additional documents and materials.”<sup>3</sup>

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<sup>1</sup> At 5. (“The Commission should take this matter under submission and issue a declaratory order...”)

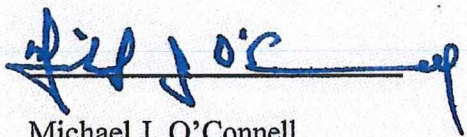
<sup>2</sup> LG&E Response to Louisville Metro Motion to Dismiss or in the Alternative Incorporate, at 7, Case No. 2016-00317. (“LG&E further requests that if the Commission consolidates this proceeding with Louisville Metro's complaint filed in Case No. 2016-00347, that the complaint be consolidated into this action for the purpose of facilitating the timely and efficient disposition of the issues in controversy.”)

<sup>3</sup> 807 KAR 5:001, Section 19(8).

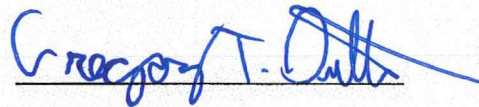
4. While the issue before the Commission in Case No. 2016-00317 is primarily legal in nature, Louisville Metro believes LG&E has in its possession additional facts and evidence that would more fully develop the record in support of Louisville Metro's position. As such, at least one opportunity to file Requests for Information from LG&E is likely to assist the Commission in its analysis of the pending claim.
5. As discussed above, the claim brought by LG&E is largely legal in nature. Due to the apparent dispute regarding the legal foundation of placing franchise fees as a line item on customer bills, Louisville Metro believes the Commission would benefit from oral arguments on this issue.

WHEREFORE, Louisville Metro respectfully seeks a Procedural Order from the Commission granting the opportunity for Louisville Metro to seek additional evidence from LG&E via discovery, and scheduling a date to hold oral arguments on the issues in Case No. 2016-00317.

Respectfully submitted,



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