

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF)	
LOUISVILLE GAS AND ELECTRIC)	
COMPANY FOR A DECLARATORY ORDER)	CASE NO. 2016-00317
REGARDING THE PROPER METHOD OF)	
MUNICIPAL FRANCHISE FEE RECOVERY)	

**SUR-REPLY TO LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT’S
REPLY TO LOUISVILLE GAS AND ELECTRIC COMPANY’S RESPONSE TO
MOTION FOR ORAL ARGUMENT AND WITHDRAWAL OF PENDING CLAIM**

Louisville Gas and Electric Company (“LG&E” or “Company”), by counsel, as a Sur-reply to the Reply of Louisville/Jefferson County Metro Government (“Louisville Metro”) filed on June 27, 2017 (“Reply”), states as follows:

In response to LG&E’s request that the Commission must consider Claim 2 in considering Claims 1 and 3, Louisville Metro now repeatedly asserts that it “has never alleged that all customers should pay for the franchise fee in base rates.”¹ Louisville Metro’s Claim 2 states: “If the Commission allows LG&E to Pass the Cost of a Franchise Fee Directly to Customers, then All LG&E Gas Customers Receiving the Benefit of the Louisville Rights-of-Way Should Pay the Franchise Fee.”² Louisville Metro further argues that otherwise, “one group of ratepayers [] subsidize service” to other ratepayers.³

Louisville Metro’s statement that it has never alleged that the franchise fee should be collected in base rates sharply contrasts with Louisville Metro’s other statements in this record. Louisville Metro’s Claim 1 alleges “It is Improper to Allow LG&E to Directly Pass the Cost of a

¹ Reply at 3.

² Case No. 2016-00347, Amended Complaint at 9 (Ky. PSC Nov. 9, 2016).

³ *Id.* at 10.

Franchise Fee Onto LG&E Gas Customers as a Utility Bill Line Item.”⁴ In support of this claim, Louisville Metro alleges in part, “[t]herefore, the Commission is the proper venue for challenging the fair, just and reasonableness of a tariff mandating the inclusion of a franchise fee on customer bills” and “LG&E should not be passing the franchise fee directly on to customers.”⁵ The only constitutionally viable alternative to collecting the fee as a line item is collecting the fee in base rates.⁶ In several instances in the record, Louisville Metro claims that *all* LG&E gas customers benefit from the Louisville Metro rights-of-way,⁷ and should be subject to the franchise fee.⁸ Absent the disposition of this issue, nothing bars Louisville Metro from raising the claim again in the future. The Commission should resolve all the issues raised by Louisville Metro’s complaint in this case once and for all. Judicial economy is not served by piecemeal resolution of Louisville Metro’s claims.

⁴ Case No. 2016-00347, Amended Complaint at 7 (Ky. PSC Nov. 9, 2016).

⁵ Case No. 2016-00347, Amended Complaint at 9 (Ky. PSC Nov. 9, 2016).

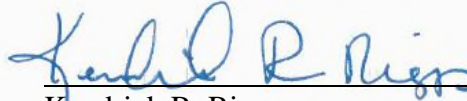
⁶ As a matter of law, a utility is entitled to recover the reasonable and prudent costs of providing service. *See, e.g., Consol. Edison Co. v. Public Serv. Comm’n*, 447 U.S. 530 (1980) (“The rates authorized by the Public Service Commission may reflect only the costs of providing necessary services to customers plus a reasonable rate of return to the utility’s shareholders.”); *La. Public Serv. Comm’n v. Fed. Commc’n Comm’n*, 476 U.S. 355 (1986); *In the Matter of: Notice of Adjustment of Rates of Green River Electric Corporation*, Case No. 7706 (Ky. PSC July 25, 1980) (“The general rate making philosophy for utilities dictates that rates be established to recover the overall cost of service with an allowance for a reasonable rate of return.”). *See also Missouri ex rel. Southwestern Bell Tel. Co. v. PSC of Mo.*, 262 U.S. 276 (1923); KRS 278.030 (authorizing every utility to receive “fair, just and reasonable rates”).

⁷ *See* Rebuttal Testimony of Allen R. Neale at 12-13 (“[A]ll customers benefit from the interconnected operation of the LG&E transmission and distribution system, which includes the design and operation of the Company’s transmission and distribution system within the Louisville Metro ROW.”); Case No. 2016-00347, Amended Complaint at 5-6 (“Many, if not all, of the LG&E customers outside of Louisville Metro rely on Louisville Metro’s rights-of-way to ensure delivery of natural gas.”); Case No. 2016-00347, Complaint at 4 (Ky. PSC Sept. 19, 2016) (“Based on information and belief, most, if not all, of LG&E’s gas passes through the Louisville rights-of-way . . . Thus, all LG&E gas customers benefit from the use of Louisville rights-of-way.”).

⁸ *See, e.g.,* Case No. 2016-00347, Amended Complaint at 10 (Ky. PSC Nov. 9, 2016) (“[A]ll LG&E gas customers benefitting from the Louisville Metro rights-of-way should contribute to the franchise fee.”).

Dated: July 5, 2017

Respectfully submitted,



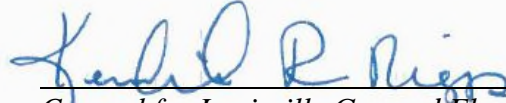
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CERTIFICATE OF SERVICE

This is to certify that Louisville Gas and Electric Company's July 5, 2017 electronic filing of its Sur-Reply 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 July 5, 2017; and that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding.

A handwritten signature in blue ink, appearing to read "Harold R. Rieps", is written over a horizontal line.

Counsel for Louisville Gas and Electric Company