

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

**REBUTTAL TESTIMONY OF
LONNIE E. BELLAR
SENIOR VICE PRESIDENT, OPERATIONS
LOUISVILLE GAS AND ELECTRIC COMPANY**

Filed: June 16, 2017

1 **Q. Please state your name, position and business address.**

2 A. My name is Lonnie E. Bellar. I am the Senior Vice President of Operations for
3 Louisville Gas and Electric Company (“LG&E” or “Company”) and an employee of
4 LG&E and KU Services Company, which provides services to LG&E. My business
5 address is 220 West Main Street, Louisville, Kentucky 40202.

6 **Q. Did you previously submit direct testimony in this proceeding?**

7 A. Yes, I did.

8 **Q. What are the purposes of your rebuttal testimony?**

9 A. The purposes of my testimony are to rebut the testimonies of Allen R. Neale and
10 Councilman Rick Blackwell submitted on behalf of Louisville/Jefferson County
11 Metro Government (“Louisville Metro”). Particularly, I will respond to Mr. Neale’s
12 conclusions about LG&E’s gas distribution system and Councilman Blackwell’s
13 statements concerning the franchise fee.

14 **Q. Are you sponsoring any exhibits to your testimony?**

15 A. Yes. I am sponsoring the following exhibit to my rebuttal testimony:

16 **Rebuttal Exhibit LEB-1** Percentage of Gas Receipts at City Gate Stations.

17 **LG&E’s GAS DISTRIBUTION SYSTEM**

18 **Q. Do you agree with Mr. Neale’s preliminary conclusions that certain counties rely**
19 **on Louisville Metro to receive gas?**

20 A. No. First, Louisville Metro’s argument that the Commission should consider how
21 natural gas moves through the LG&E system in determining if those residing outside
22 of Louisville Metro are subject to a franchise fee is irrelevant because Louisville
23 Metro simply does not have franchising authority over any area outside of the

1 Louisville Metro Franchise Area (“Franchise Area”). Moreover, the Commission has
2 never decided how franchise fees are to be collected based on how a commodity
3 moves through a utility’s system. This is simply not relevant.

4 In his testimony, Mr. Neale – among his many preliminarily conclusions –
5 states that “without the ability to take receipts from . . . three citygate stations off of
6 Texas Gas in Jefferson County, . . . Bullitt, Nelson, and Shelby, as well as Jefferson
7 County, would not receive gas service. Furthermore, I conclude that without access
8 to the LG&E facilities located in the Louisville Metro ROW, gas may not be able to
9 arrive in the adjacent counties of Oldham, Spencer, Marion and Anderson.”¹ I
10 disagree with these conclusions primarily because Louisville Metro is dependent
11 upon the rights-of-way of municipal and county governments located outside of
12 Louisville Metro to receive the gas volumes it needs.

13 **Q. Please explain how Louisville Metro is dependent upon portions of LG&E’s gas**
14 **system located outside of Jefferson County to receive gas?**

15 A. Certainly. Mr. Neale asserts that other counties rely upon Louisville Metro rights-of-
16 way to receive gas service, but the converse is actually true; Louisville Metro is
17 dependent upon areas outside of Louisville Metro to receive the gas volumes it needs.
18 As I explained in my direct testimony, in 2016, approximately forty-five percent of
19 LG&E’s gas supply was received by LG&E *within* the Franchise Area, and
20 approximately fifty-five percent of LG&E’s gas supply was received by LG&E
21 *outside* the Louisville Metro Franchise Area.² Approximately seventy-two percent of
22 LG&E’s total gas deliveries (both sales and transport volumes) were made to

¹ Neale Direct Testimony at 9, lines 250-54; *see also* Neale Direct Testimony at 8, lines 237-39.

² Rebuttal Exhibit LEB-1 contains an explanation of the percentage of gas received at each city gate station.

1 customers located within the Louisville Metro Franchise Area in 2016. Therefore,
2 deliveries to customers located *within* the Franchise Area are very dependent on gas
3 supplies received by LG&E from *outside* the Franchise Area. LG&E's supplemental
4 responses to Louisville Metro's First Request for Information³ also rebut Mr. Allen's
5 contentions by showing that under design day conditions, significantly more gas
6 flows into Jefferson County than out of Jefferson County. Additionally, LG&E gas
7 customers within the Franchise Area benefit from LG&E's underground gas storage
8 system, which is all located outside of Jefferson County. Thus, contrary to Mr.
9 Neale's contentions, customers located within the Franchise Area utilize LG&E's gas
10 distribution system, gas transmission system, underground gas storage reservoirs, gas
11 compressor stations, and other utility infrastructure located outside the Franchise
12 Area to obtain the volumes of gas needed for their gas service.

13 Notwithstanding any conclusions (preliminary or otherwise) that Mr. Neale
14 has reached or may reach, LG&E has operated and continues to operate its gas system
15 such that gas delivered *inside* Louisville Metro is heavily dependent upon gas
16 originating *outside* Louisville Metro. This can lead to only one conclusion – that
17 customers *within* the Franchise Area are heavily dependent upon the rights-of-way
18 outside Louisville Metro. While Mr. Neale may develop any number of hypothetical
19 scenarios and analyses that he may assert show otherwise, the fact of the matter is that
20 this is how LG&E operates its system. Notwithstanding the relevance argument, this
21 simple fact corresponds with the collection of the franchise fee from customers within
22 the Franchise Area being supported by LG&E and which most importantly is

³ See LG&E's Supplemental Response to Louisville Metro's Request for Information Dated Mar. 24, 2017, Question No. 1 (Ky. PSC May 26, 2017).

1 consistent with the franchise tariff approved by the Kentucky Public Service
2 Commission and discussed in Mr. Conroy's testimony.

3 **Q. Please explain how LG&E's supplemental responses to Louisville Metro's First**
4 **Request for Information further show Louisville Metro's dependence on**
5 **portions of LG&E's system outside of Jefferson County.**

6 A. Certainly. On May 26, 2017, LG&E filed supplemental responses to Question Nos. 1
7 and 12 of Louisville Metro's First Request for Information. The maps LG&E
8 developed and filed as a supplemental response show all of LG&E's high pressure
9 transmission pipelines in Jefferson County and all distribution pipelines (excluding
10 service lines) of any pressure crossing the Jefferson County line. The maps also
11 include the design day direction of flow and flow volumes and further show
12 Louisville Metro's dependence on areas of LG&E's system outside of Jefferson
13 County to receive the gas volumes it needs. The map titled "Jefferson County Detail"
14 shows that under design day conditions, 14,416 mcf per hour of gas enters Jefferson
15 County and only 1,691 mcf per hour of gas exits Jefferson County. Thus, the map
16 shows that under design day conditions, the model predicts that almost ten times as
17 much gas flows into Jefferson County as flows out of Jefferson County. This directly
18 refutes Louisville Metro's contention that all LG&E customers are dependent on the
19 Louisville Metro rights-of-way to receive gas. Instead, the map shows that Jefferson
20 County LG&E customers are largely dependent on areas of the LG&E system located
21 outside of Jefferson County to receive gas.

22 **Q. Do you wish to address any other aspect of Mr. Neale's Direct Testimony?**

1 A. Yes. In his direct testimony, Mr. Neale makes several incorrect statements about
2 LG&E's gas system. Mr. Neale states four times that Louisville Metro's rights-of-
3 way allow LG&E to serve customers in Anderson County.⁴ LG&E does not serve
4 Anderson County. Mr. Neale also states: "Gas supply received via the LG&E
5 citygate interconnections with Tennessee Gas Pipeline System (TGP) is likely to
6 serve the counties of Marion, Washington, Mercer, Green and Larue."⁵ LG&E does
7 not serve Mercer County. Additionally, Mr. Neale incorrectly states the LG&E's
8 citygate interconnection with Tennessee Gas Pipeline Company is located in Metcalfe
9 County.⁶ The Monroe city gate station is located in Hart County, not Metcalfe
10 County.

11 Mr. Neale also states that documents received from LG&E "appeared to be
12 missing direction of gas flow and operating pressure, and certainly provided no
13 indication of the location of null points."⁷ At the time of filing Mr. Neale's direct
14 testimony, Louisville Metro had not requested information about gas flow, operating
15 pressure, or null points. Thus, documents provided by LG&E were not "missing" any
16 information.⁸

⁴ Neale Direct Testimony at 3, line 74 ("[Gas supply] possibly utilize[s] this same ROW in order to serve customers located in Oldham, Marion, and Anderson."); Neale Direct Testimony at 5, line 141 ("[W]ithout the use of the ROW in Louisville Metro gas would . . . possibly not [be] available for use in customers living in Oldham, Marion and Anderson Counties."); Neale Direct Testimony at 9, line 254 ("I conclude that without access to the LG&E facilities located in the Louisville Metro ROW, gas may not be able to arrive in the adjacent counties of Oldham, Spencer, Marion and Anderson."); Neale Direct Testimony at 10, line 292 ("I conclude that . . . [g]as supply received via three LG&E citygate interconnections with Texas Gas utilize and relay [sic] upon the Metro Louisville ROW in order to serve customers located in . . . possibly the counties of Oldham, Spencer, Marion and Anderson.").

⁵ Neale Direct Testimony at 3, lines 75-77.

⁶ Neale Direct Testimony at 9, line 267.

⁷ Neale Direct Testimony at 7, lines 210-11.

⁸ In an effort to provide the information Louisville Metro sought but did not specifically request in its First Request for Information and to resolve Louisville Metro's motion to compel filed April 20, 2017, LG&E

1 FRANCHISE FEES

2 **Q. Do you agree with Councilman Blackwell’s assertion that municipality residents**
3 **receive “all the same benefits from the franchise fee as those customers located**
4 **outside the satellite cities”?**⁹

5 A. No. First, it is irrelevant to the issue before the Commission to consider benefits
6 received from franchise fee funds by customers residing outside of Louisville Metro
7 because Louisville Metro simply does not have franchising authority over any area
8 outside of the Franchise Area. Moreover, the Commission has never decided how
9 franchise fees are to be collected based on how the municipality chooses to spend its
10 discretionary funds. This is simply not relevant.

11 As I explained in my direct testimony, Louisville Metro has franchising
12 authority over the old city of Louisville and unincorporated areas of Jefferson
13 County, but does not have franchising authority of the rights-of-way located in the
14 home rule municipalities located in or outside Jefferson County or unincorporated
15 municipal areas outside Jefferson County. No level of benefits received by those
16 outside of the Franchise Area gives Louisville Metro the basis to require LG&E to
17 collect franchise fees from customers within those municipalities.

18 Second, Councilman Blackwell has not provided any specific support for this
19 assertion in his testimony. It is not clear that residents of the 83 municipalities within
20 Jefferson County (other than Louisville Metro) receive all of the same benefits as
21 those customers located within the Franchise Area. It is my understanding, based on

created a map and filed supplemental responses to Question Nos. 1 and 12 of Louisville Metro’s First Request for Information on May 26, 2017.

⁹ Blackwell Direct Testimony at 3, lines 10-11.

1 my operating experience of LG&E’s gas distribution system with municipalities in
2 Jefferson County, that these municipalities, all of which are cities of the home rule
3 class, have independent authority to tax and provide services for their residents.
4 These 83 municipalities in Jefferson County have the authority to provide police
5 protection, fire protection, emergency medical services, garbage collection, streets,
6 sewers, drainage, or other services to their residents. Each also has the authority to
7 raise revenue through taxes to fund these services. As the Affidavit of Doug
8 Hamilton explains, some of the municipalities in Jefferson County do provide their
9 own police, fire, and EMS services.¹⁰ Thus, because some residents of these 83
10 municipalities in Jefferson County receive services from their municipality instead of
11 Louisville Metro, it is not clear that municipality residents receive all of the same
12 benefits from the franchise fee as customers located within the Franchise Area.

13 **Q. Even if residents of the other 83 municipalities in Jefferson County receive some**
14 **benefits from Louisville Metro, are these benefits necessarily funded by the**
15 **franchise fee?**

16 A. It is not clear that any benefits Louisville Metro provides to residents of the other 83
17 municipalities are funded by the franchise fee. Louisville Metro states that franchise
18 fee funds are “added to the Louisville general fund, from which many of the benefits
19 provided by the City are funded.”¹¹ Franchise fee funds constitute a very small
20 portion of the Louisville Metro general fund. For the 2017 fiscal year, Louisville

¹⁰ *In the Matter of: Louisville/Jefferson County Metro Government v. Louisville Gas and Electric Company*, Case No. 2016-00347, Amended Complaint (Ky. PSC Nov. 9, 2016).

¹¹ Louisville Metro Responses to Data Requests of Louisville Gas and Electric Company, Question No. 1-3.

1 Metro’s approved budget includes \$583 million in the general fund.¹² Even if the
2 maximum franchise fee is collected, it would still only represent approximately *one*
3 *percent* of Louisville Metro’s general fund.¹³

4 Municipality residents also contribute significantly to the Louisville Metro
5 general fund through multiple county-wide exactions. For instance, residents of the
6 other 83 municipalities pay property taxes, occupational license taxes if they work in
7 Louisville Metro, and may pay additional taxes and fees to Louisville Metro.
8 Louisville Metro admits that the source of funds is not traced for specific
9 expenditures from the general fund.¹⁴ Thus, any benefits Louisville Metro provides
10 to residents of the other 83 municipalities may be funded by those residents’
11 significant contributions to the general fund through county-wide exactions, not
12 franchise fee revenue.

13 **Q. Do you agree with Councilman Blackwell’s characterization of the franchise fee**
14 **as “rent”?**¹⁵

15 A. No. Councilman Blackwell asserts the franchise fee is “the rent a utility owes to a
16 city for the opportunity to use the city’s infrastructure to provide services and earn a
17 profit.”¹⁶ The 2016 Franchise Agreement is a written agreement documenting the
18 terms of occupancy of the Louisville Metro rights-of-way, not a lease. Further, the

¹² FY17 Approved Budget, LouisvilleKY.gov, *available at* <https://louisvilleky.gov/government/fy17-budget>.

¹³ As I explained in my direct testimony, the terms of the 2016 Franchise Agreement cap the total annual franchise fee at three percent of gross receipts within the Franchise Area. Based on LG&E’s 2016 gross receipts, the maximum fee would result in an annual franchise fee of nearly \$6 million.

¹⁴ Louisville Metro Responses to Commission Staff Data Request, Question No. 4(c) (“Franchise fee revenue is not segregated from other revenues. Franchise fee revenue is added to the general fund.”).

¹⁵ Blackwell Direct Testimony at 2, lines 28-29 (“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.”); *see also* Blackwell Direct Testimony at 1, line 28.

¹⁶ Blackwell Direct Testimony at 2, lines 12-13.

1 2016 Franchise Agreement itself does not refer to the franchise fee as “rent.” Rather,
2 the fee is described in the agreement as a “Franchise Fee.” In fact, the word “rent”
3 does not appear even once in the agreement. Thus, by the agreement’s own terms, the
4 franchise fee is not rent. The word “rent” is used to advance Louisville Metro’s
5 larger rhetorical argument that the cost of the franchise fee should be recovered in
6 base rates.

7 **Q. Does this conclude your testimony?**

8 A. Yes, it does.

9

VERIFICATION

COMMONWEALTH OF KENTUCKY)
) **SS:**
COUNTY OF JEFFERSON)

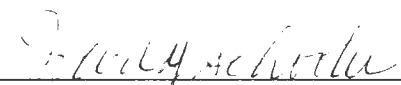
The undersigned, **Lonnie E. Bellar**, being duly sworn, deposes and says he is the Senior Vice President of Operations for Louisville Gas and Electric Company and an employee of LG&E and KU Services Company, and that he has personal knowledge of the matters set forth in the foregoing rebuttal testimony, and the answers contained therein are true and correct to the best of his information, knowledge and belief.



LONNIE E. BELLAR

Subscribed and sworn to before me, a Notary Public in and before said County and State, this 16th day of June 2017.

(SEAL)



Notary Public

My Commission Expires:
JUDY SCHOOLER
Notary Public, State at Large, KY
My commission expires July 11, 2018
Notary ID # 512743

PERCENTAGE OF GAS RECEIPTS AT CITY GATE STATION
LOUISVILLE GAS AND ELECTRIC COMPANY
2016

<u>STATION NAME</u>	<u>COUNTY</u>	<u>CITY</u>	<u>2016</u>
MONROE	HART		8.90%
CALVARY	MARION		10.88%
DOE RUN	MEADE		13.40%
CRESTWOOD	OLDHAM		1.16%
ELDER PARK	OLDHAM		7.45%
LAGRANGE	OLDHAM		1.10%
BEDFORD	TRIMBLE		0.25%
ENGLISH STATION RD	JEFFERSON	MIDDLETOWN	12.16%
	SUBTOTAL		55.30%
ELLINGSWORTH LN	JEFFERSON	METRO LOUISVILLE	1.10%
BARDSTOWN RD	JEFFERSON	METRO LOUISVILLE	5.03%
PENILE RD	JEFFERSON	METRO LOUISVILLE	22.54%
PRESTON STREET RD	JEFFERSON	METRO LOUISVILLE	16.03%
	SUBTOTAL		44.70%
	TOTAL		<hr/> 100.00%

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In the Matter of:

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

CASE NO. 2016-00317

REBUTTAL TESTIMONY OF
ROBERT M. CONROY
VICE PRESIDENT, STATE REGULATION AND RATES
LOUISVILLE GAS AND ELECTRIC COMPANY

Filed: June 16, 2017

1 **Q. Please state your name, position, and business address.**

2 A. My name is Robert M. Conroy. I am the Vice President of State Regulation and
3 Rates for Louisville Gas and Electric Company (“LG&E” or “Company”) and an
4 employee of LG&E and KU Services Company, which provides services to LG&E.
5 My business address is 220 West Main Street, Louisville, Kentucky 40202.

6 **Q. Did you previously submit direct testimony in this proceeding?**

7 A. Yes, I did.

8 **Q. What is the purpose of your rebuttal testimony?**

9 A. The purpose of my rebuttal testimony is to respond to a portion of the testimony of
10 Councilman Rick Blackwell, submitted on behalf of Louisville/Jefferson County
11 Metro Government (“Louisville Metro”) regarding LG&E’s method of collecting the
12 franchise fee. Councilman Blackwell asserts that the Louisville Metro Council
13 believes that the collection of the franchise fee from all customers “regardless of the
14 location in the LG&E service territory” is appropriate.¹ Councilman Blackwell
15 further argues that the Louisville Metro Council does not believe that the collection of
16 the franchise fee from customers solely within the Franchise Area is “fair, just,
17 reasonable, or lawful.”² I disagree with these assertions.

18 **Q. Please explain why LG&E’s collection of the franchise fee is fair, just, and**
19 **reasonable.**

20 A. Certainly. As I explained in my direct testimony, the collection of the franchise fee
21 from customers solely within the Franchise Area is in compliance with LG&E’s
22 tariff, which has been repeatedly approved by the Kentucky Public Service

¹ Blackwell Direct Testimony at 2, line 17.

² Blackwell Direct Testimony at 2, line 23.

1 Commission (“Commission”) as fair, just, and reasonable.³ The Commission’s
2 general policy, which has been in place for years, is that franchise fees imposed by a
3 municipality are to be recovered as a separate line item assessed only to the customers
4 residing in the municipality imposing the fee.⁴ In reaching this policy, the
5 Commission explained that it is unfair to require customers residing outside the fee-
6 imposing municipality to pay the franchise fee.⁵ Further, the Commission reasoned
7 that the franchise fee should be charged as a line item because the utility simply acts
8 as a conduit and passes the funds collected through the fee on to the municipality and
9 customers are entitled to know the amount of charges collected for government
10 operating expenses.⁶ LG&E’s tariff and collection of Louisville Metro’s current
11 franchise tariff comports with the Commission’s policy.

12 Collecting franchise fees as a line item on customer bills is also the collection
13 method followed by a significant majority of states. Councilman Blackwell has
14 offered no support for his conclusory argument that LG&E’s collection of the
15 franchise fee from customers solely within the Franchise Area is not fair, just, and
16 reasonable, or lawful.

17 **Q. Please explain why the collection of the franchise fee from only the residents of**
18 **Louisville Metro is permissible.**

³ See, e.g., *In the Matter of: Tariff of Louisville Gas and Electric Company to Implement a Franchise Fee Rider*, Case No. 2003-00267, Order (Ky. PSC Oct. 16, 2003) (finding LG&E’s Franchise Fee Rider “provides for the proper recovery of said fees and expenses, is reasonable, and should be approved”); see also *In the Matter of: Application of Louisville Gas and Electric Company for an Adjustment of Its Electric and Gas Rates*, Case No. 2014-00372, Order at 12 (Ky. PSC June 30, 2016) (LG&E’s most recent rate case, wherein the Commission found LG&E’s rates, terms, and conditions are fair, just, and reasonable).

⁴ See, e.g., *In the Matter of: The Local Taxes and/or Fees Tariff Filing of Columbia Gas of Kentucky, Inc.*, Case No. 7906, Order at 2 (Ky. PSC Oct. 10, 1980).

⁵ *Id.*

⁶ *Id.*

1 A. Certainly. The collection of the franchise fee is permissible because it is in
2 accordance with LG&E's tariff. LG&E's tariff includes the Franchise Rider, which
3 provides that franchise fees imposed by a municipality "shall be applied exclusively
4 to the bills of customers receiving service within the territorial limits of the authority
5 imposing the fee or tax."⁷ As I explained above, LG&E's tariff, including the
6 Franchise Rider, has been repeatedly approved by the Commission. Thus, collecting
7 the franchise fee from customers solely within the Franchise Area is in accordance
8 with LG&E's filed and approved gas tariff and is permissible.

9 **Q. Do you have any comment on Mr. Blackwell's assertion that "LG&E should pay
10 for the right to earn a staggering amount of profit from its gas customers that
11 LG&E could not earn without the benefit of Louisville's rights of way"?**⁸

12 A. Yes. The Franchise Agreement demonstrates LG&E's agreement to pay a franchise
13 fee to Louisville Metro in exchange for the franchise permitting LG&E's gas
14 distribution facilities to occupy Louisville Metro's right of way. LG&E's return on
15 its investment to serve customers is regulated by this Commission and such regulation
16 in no way creates a "staggering amount of profit."

17 **Q. Does this conclude your testimony?**

18 A. Yes, it does.

19

⁷ LG&E Rates, Terms and Conditions for Furnishing Natural Gas Service, P.S.C. Gas No. 10, Original Sheet No. 90.

⁸ Blackwell Direct Testimony at 3, lines 18-20.

VERIFICATION

COMMONWEALTH OF KENTUCKY)
) **SS:**
COUNTY OF JEFFERSON)

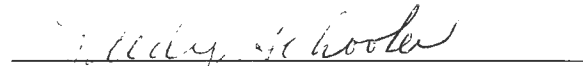
The undersigned, **Robert M. Conroy**, being duly sworn, deposes and says he is the Vice President of State Regulation and Rates for Louisville Gas and Electric Company and an employee of LG&E and KU Services Company, and that he has personal knowledge of the matters set forth in the foregoing rebuttal testimony, and the answers contained therein are true and correct to the best of his information, knowledge and belief.



ROBERT M. CONROY

Subscribed and sworn to before me, a Notary Public in and before said County and State, this 16th day of June 2017.

(SEAL)



Notary Public

My Commission Expires:
JUDY SCHOOLER
Notary Public, State at Large, KY
~~My commission expires July 11, 2018~~
Notary ID # 512743