COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF LOUISVILLE GAS AND ELECTRIC	)	CASE NO.
COMPANY FOR AN ADJUSTMENT OF ITS	)	2016-00371
ELECTRIC AND GAS RATES	)	

PREFILED DIRECT TESTIMONY OF CATHY HINKO ON BEHALF OF METROPOLITAN HOUSING COALITION

Tom FitzGerald
Kentucky Resources Council, Inc.
P.O. Box 1070
Frankfort, KY 40602
(502) 875-2428
FitzKRC@aol.com

Counsel for Intervenor
Metropolitan Housing Coalition

CERTIFICATE OF SERVICE

This is to certify that an electronic version of the Prefiled Direct Testimony of Cathy Hinko on behalf of the Metropolitan Housing Coalition 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 March 3, 2017 in accordance with the procedural Order entered by the Commission in this matter; that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding; and that the original and six (6) copies in paper medium of the Prefiled Direct Testimony of Cathy Hinko and accompanying Exhibits will be filed within two days of March 3, 2017.

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Tom FitzGerald

Q. Please state your name, business address, and affiliation.

A. Cathy Hinko, P.O. Box 4533, Louisville, KY 40204. I am the Executive Director of the Metropolitan Housing Coalition (MHC).

Q. On whose behalf are you testifying today?

A. My testimony is filed on behalf of MHC.

Q. What is the Metropolitan Housing Coalition?

A. MHC is a nonprofit, nonpartisan membership organization incorporated under the laws of the Commonwealth of Kentucky in 1989 and comprised of over 300 organizational and individual members. MHC members include representatives of low-income households, private and non-profit housing developers, service providers, financial institutions, faith-based and neighborhood groups, as well as other advocacy groups, advocating in a united voice for fair, safe, and affordable housing in the Metro Louisville area. For over two decades, MHC has utilized the public and private resources of the Metro Louisville community to provide equitable, accessible housing choices for all persons through advocacy, public education, and through support for affordable housing providers.

Q. Please briefly describe your qualifications.

A. Since obtaining my law degree in 1979, my career has focused on affordable and fair housing. I left the practice of law to manage the Section 8 Housing Certificate and then Voucher Programs for the city of Louisville and Jefferson County, subsequently becoming Executive Director of the Housing Authority of Jefferson County. During that time, I became involved with issues of affordable utilities for low-income people and was on the board of the Affordable Energy Corporation (AEC) as they secured grants to test a modified Percentage of Income Plan.

I remain on AEC's board through the present day and AEC's operation of the All Seasons Assurance Program funded through a meter charge approved by the Public Service Commission.

In 2005, I became director of MHC, an education and advocacy organization on issues of fair and affordable housing which also operates a lending pool for use by non-profit developers creating or rehabilitating affordable housing. In 2008, MHC published a paper that focused on utility costs as part of affordable housing. In 2013, MHC published *How to Lower Utility Costs: A Guide to Louisville Programs for Energy Efficient Improvements and Resources to Help Pay a Utility Bill*. This guide to resources also included a comparison of utility costs in Louisville of the years 1998, 2008, and 2013. I worked with LG&E staff to update that resource. I have been the lead MHC staff member in advocating for the recommendations of that report. My work includes analyzing the policies of state and local agencies providing service or financial support for utility costs and serving on committees convened by LG&E on both community input and on energy efficiency.

MHC operates a lending pool of about $900,000 that is for use by non-profit developers in creating and rehabilitating units that are affordable to low-income households, with an emphasis on those below 60% of median income.

All reports in which MHC was a co-author are on the MHC website: www.metropolitanhousing.org.

Q. What is the purpose of your testimony today?

A. I am testifying on behalf of MHC in the case on the proposed change to shift costs into the meter charge and lowering usage charges, in whether a smart meter cost is worth a rate increase affecting both fair and affordable housing and whether the impact of lowering the electric usage charge would affect non-profit affordable housing providers. MHC has an interest in affordable cost of utilities. Of equal importance to MHC is that the funds collected from low-income neighborhoods and/or neighborhoods with concentrations of people in protected categories (as defined for fair housing) are returned to those neighborhoods.

Q. How important a concern are energy costs for low-income households?

A. MHC serves on the board of the All Seasons Assurance Plan which is a year-round program which calculates utility assistance so that a household pays about 10 percent of their income every month for utilities by having the program pay more in high energy usage months and less in low energy usage months. The consumers are sent a survey which they are asked to send back, but it is not a requirement. There is an open-ended question of how the program affects them and rather than me tell you, their comments are attached to this testimony as Exhibits 1-4. Many talk about improved access to health care or better food or improving their home or being able to budget. Clearly affordable utility cost has a major impact on people's lives.

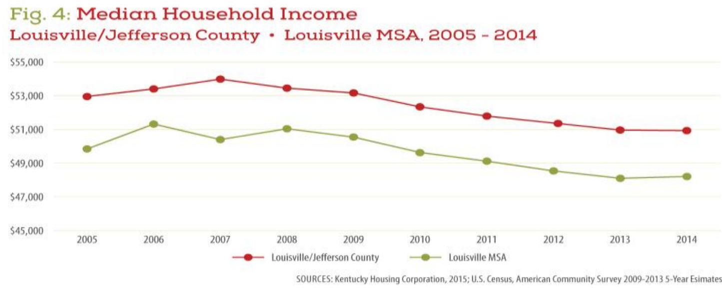
The attachment from LG&E to Response to AMC-1 Question No. 14 clearly shows by zip code (and can be compared with the maps below) that households in low-income areas and areas with high concentrations of people in protected classes under the Fair Housing Act are the main users of Winter Hardship Reconnections, reflecting the burden of the cost of utilities on those households and in those areas. This proof is reiterated in Attachment to Response to LG&E ACM-1 Question No. 10(b) showing where disconnects occur by zip code, and in Attachment to Response ACM-1 Question No. 32, showing customers who have had a bill paid by a third party assistance provider by zip code. A zip code map is attached as Exhibit 5.

Q. What disparate impact by race, gender, disability, national origin will be caused by increasing the meter charge instead and lowering usage charge or charging these populations for the Gas Line Tracker Fee?

MHC asserts that since forty-two (42) percent of Kentucky's blacks/African Americans live in Louisville, any difference in programs in Louisville must be viewed through a lens of racial impact compared to the rest of the state. Any change that affects Louisville is, perforce, required to be viewed as how it impacts black/African Americans. MHC will show that due to higher poverty levels in several protected classes under the U. S. Fair Housing Act, combined with segregation both by poverty, by being in these protected classes and by living in high density areas, these classes pay for work in areas that do not proportionately include people in these classes and have a disparate and deleterious impact on these classes. MHC will show that an increase in inelastic meter charges impacts these individuals in protected classes more than those who are not in these classes. MHC will show that the Gas Line Tracker Fee disparately and deleteriously affects these classes.

A 1998 national study showed that the average household spends only about 2 percent of their income on electricity, while low-income households spend about 8 percent of their total income on electricity and very low-income households (those living at less than half of the federal poverty level) spend 23 percent. See Oppenheim, J.(1998). *Access to Utility Service*, National Consumer Law Center, 1998 Supplement, pp.30-31.

However, between 2005 and 2014, median household income, adjusted for inflation, went down as you can see in the chart below from the *2015 State of Metropolitan Housing Report*, Metropolitan Housing Coalition. (Sources: Kentucky Housing Corporation, 2015; U.S. Census, American Community Survey 2009-2013 5-Year Estimates)



In 2015, the U.S. census reported 17 percent of Louisville/Jefferson County residents were living below the poverty level, an increase from 2014.

Poverty rates for blacks/African Americans and for Hispanics continue to be more than double the rate for whites. The poverty rate for whites is 12 percent, substantially less than for both blacks/African Americans (31 percent and for Hispanics/Latinos 28 percent), and 24 percent of families with children have earnings below the federal poverty level and 67 of these poverty level families are single women with children (American Community Survey 2010-2014 five year estimates as reported in the *2016 State of Metropolitan Housing Report*, Metropolitan Housing Coalition).

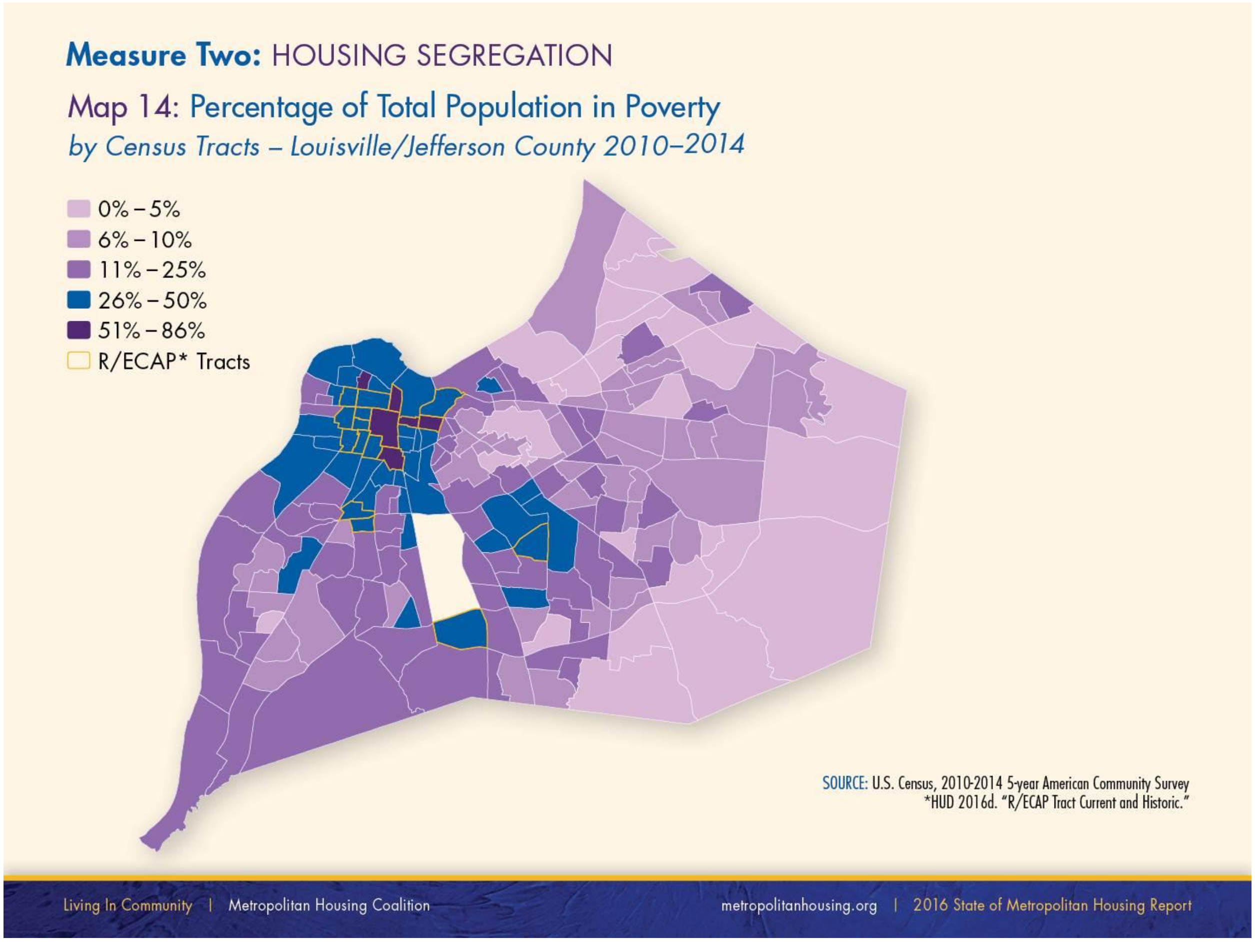
Census tracts with the highest levels of poverty, (those where one half to nearly 90 percent of the population lives in poverty), are all in West Louisville. Children, 18 and under, had higher poverty rates: 27% in Louisville Metro/Jefferson County (American Community Survey, 2010-

2014 five year estimates as reported in *2016 State of Metropolitan Housing Report,* Metropolitan Housing Coalition). This becomes important as we look at who will pay the highest costs under the Gas Line Tracker Fee and in determining the impact on the populations when an inelastic meter fee increase is imposed. Louisville also has, as defined by the United States Department of Housing and Urban Development, census tracts that are identified as racially/ethnically concentrated areas of poverty or R/ECAPSs .

When one looks at wages, as opposed to median income from all sources, 43 percent of workers, full and part-time, in the Louisville Metro Statistical Area did not earn a wage that would allow them to rent a two-bedroom unit with utilities in the lower 40 percent of cost. (U.S. Labor Statistics as reported in the *2016 State of Metropolitan Housing Report*, Metropolitan Housing Coalition). As one considers the impact on fair housing protected classes note that the median wage is on average 20 percent lower for women (American Community Survey, 2012 as reported in *2013 State of Metropolitan Housing Report*, Metropolitan Housing Coalition).

Persons with disabilities are also over-represented in these areas as well and experience poverty especially if they are over 65 and disabled which makes the chance of increasing income very difficult.

The following maps are from the *2016 State of Metropolitan Housing Report*, Metropolitan Housing Coalition with the exception of the Age of Homes and the map of Female Headed Household with children which is from *Searching for Safe, Fair, and Affordable Housing: Learning From Experiences: An Analysis of Housing Challenges in Louisville Metro*, Louisville Metro Human Relations Commission.


Measure Two: HOUSING SEGREGATION
Map 14: Percentage of Total Population in Poverty
by Census Tracts – Louisville/Jefferson County 2010–2014
0% – 5%
6% – 10%
11% – 25%
26% – 50%
51% – 86%
R/ECAP* Tracts
SOURCE: U.S. Census, 2010-2014 5-year American Community Survey
*HUD 2016d. "R/ECAP Tract Current and Historic."
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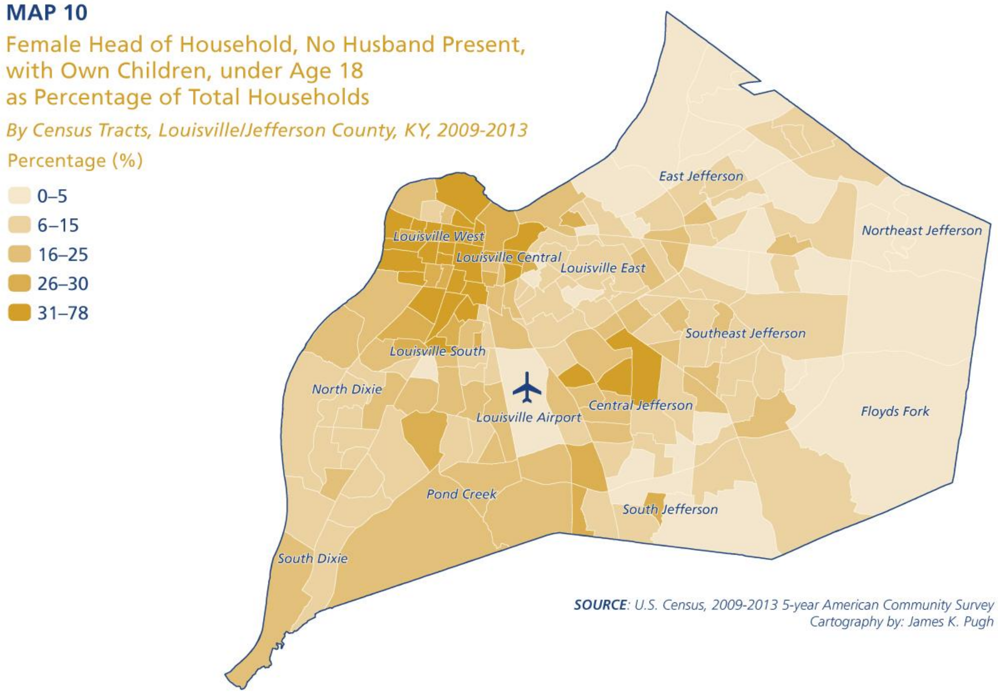
MAP 10
Female Head of Household, No Husband Present, with Own Children, under Age 18 as Percentage of Total Households
By Census Tracts, Louisville/Jefferson County, KY, 2009-2013
Percentage (%)
0–5
6–15
16–25
26–30
31–78
East Jefferson
Northeast Jefferson
Louisville West
Louisville Central
Louisville East
Southeast Jefferson
Louisville South
North Dixie
Louisville Airport
Central Jefferson
Floyds Fork
Pond Creek
South Jefferson
South Dixie
SOURCE: U.S. Census, 2009-2013 5-year American Community Survey
Cartography by: James K. Pugh

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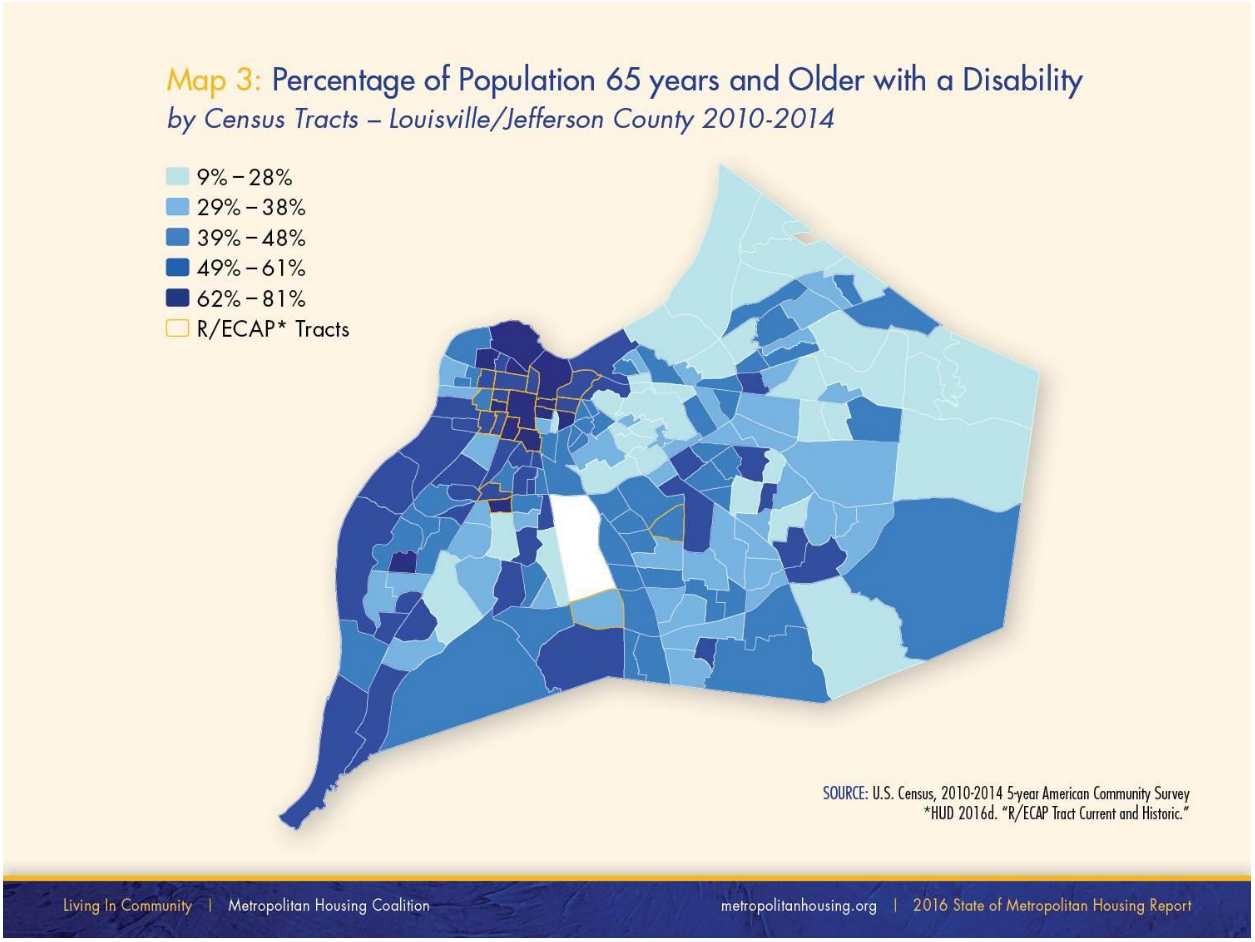
Map 3: Percentage of Population 65 years and Older with a Disability
by Census Tracts – Louisville/Jefferson County 2010-2014
9% – 28%
29% – 38%
39% – 48%
49% – 61%
62% – 81%
R/ECAP* Tracts
SOURCE: U.S. Census, 2010-2014 5-year American Community Survey
*HUD 2016d. "R/ECAP Tract Current and Historic."
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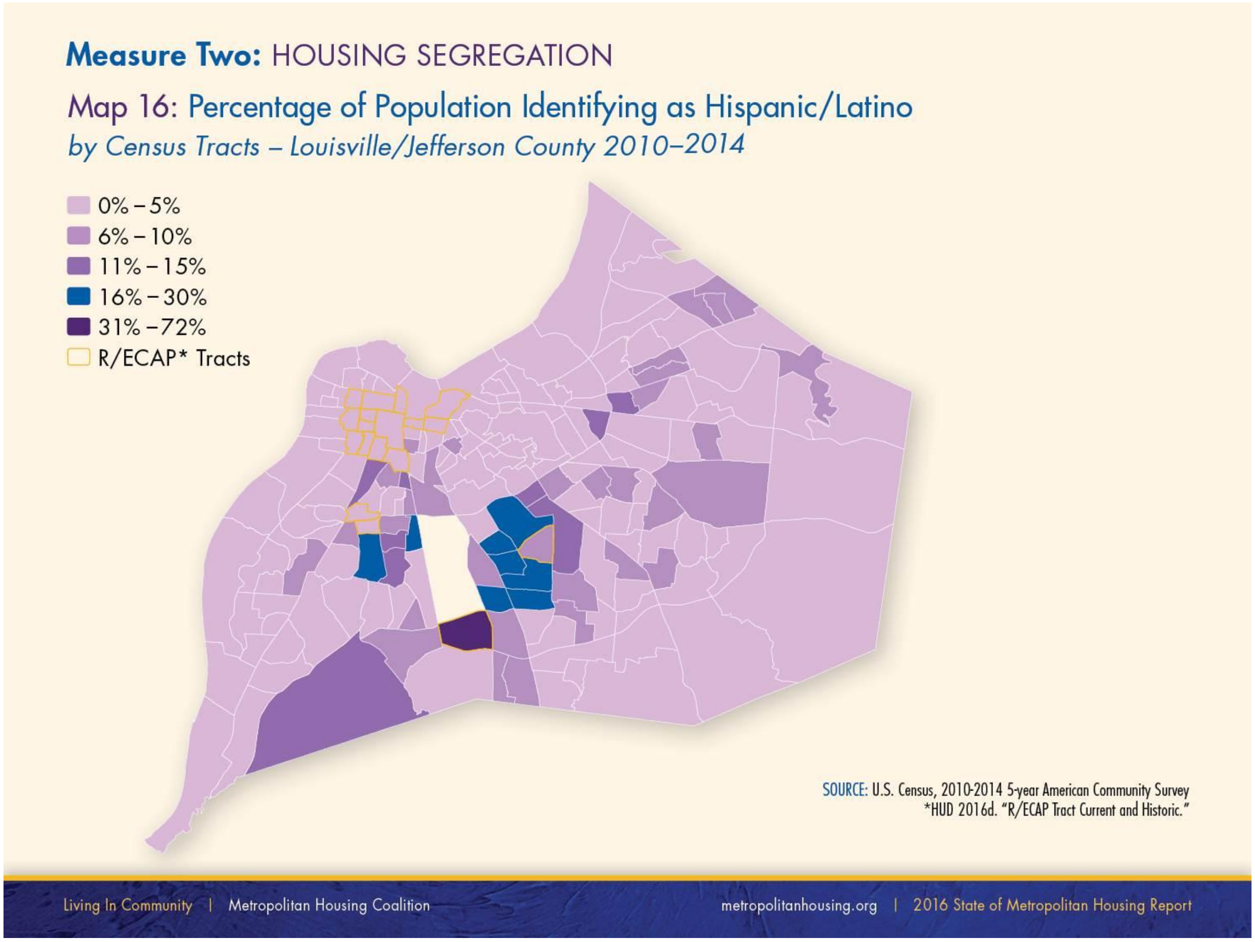
Measure Two: HOUSING SEGREGATION
Map 16: Percentage of Population Identifying as Hispanic/Latino
by Census Tracts – Louisville/Jefferson County 2010–2014
0% – 5%
6% – 10%
11% – 15%
16% – 30%
31% – 72%
R/ECAP* Tracts
SOURCE: U.S. Census, 2010-2014 5-year American Community Survey
*HUD 2016d. "R/ECAP Tract Current and Historic."
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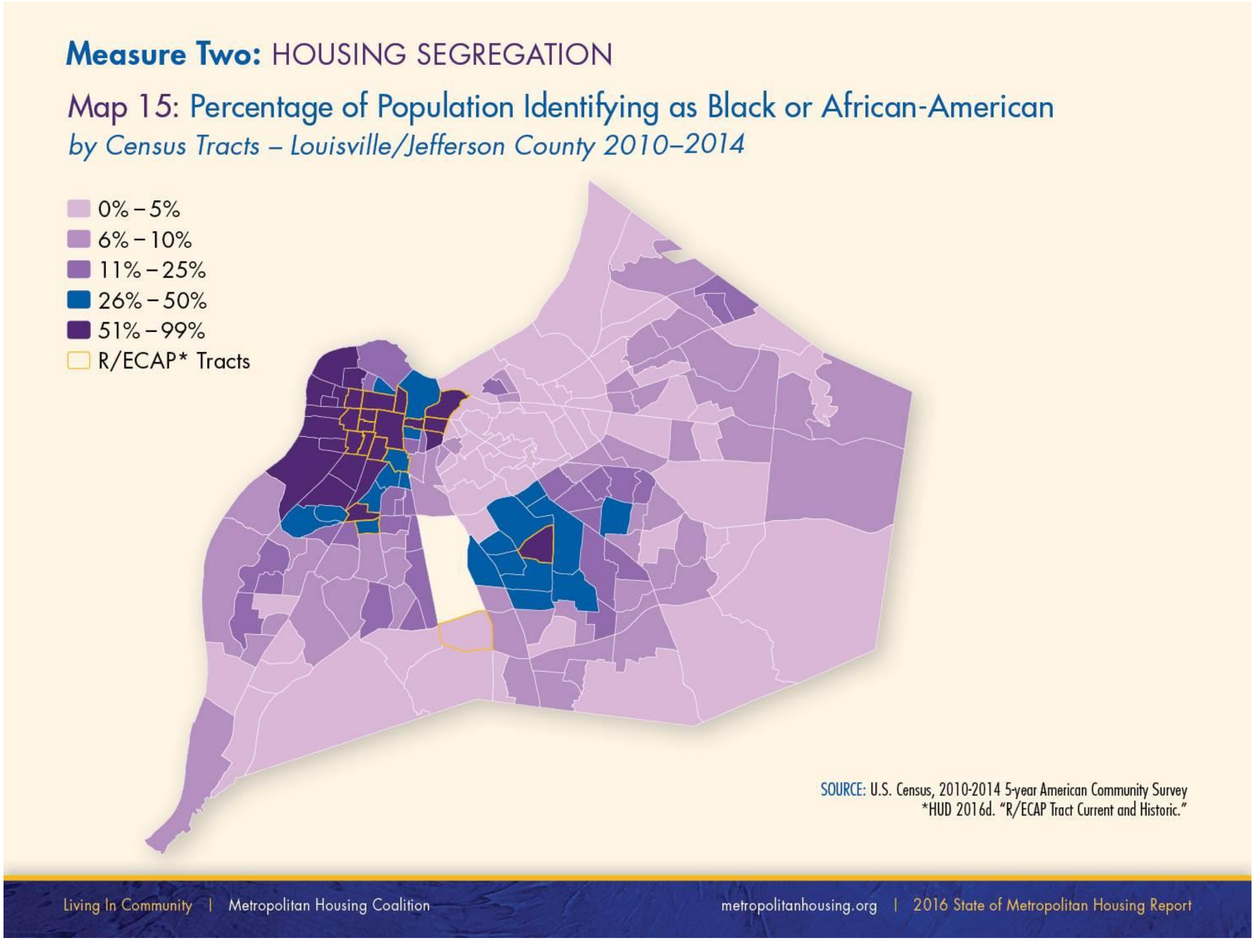
Measure Two: HOUSING SEGREGATION
Map 15: Percentage of Population Identifying as Black or African-American
by Census Tracts – Louisville/Jefferson County 2010–2014
0% – 5%
6% – 10%
11% – 25%
26% – 50%
51% – 99%
R/ECAP* Tracts
SOURCE: U.S. Census, 2010-2014 5-year American Community Survey
*HUD 2016d. "R/ECAP Tract Current and Historic."
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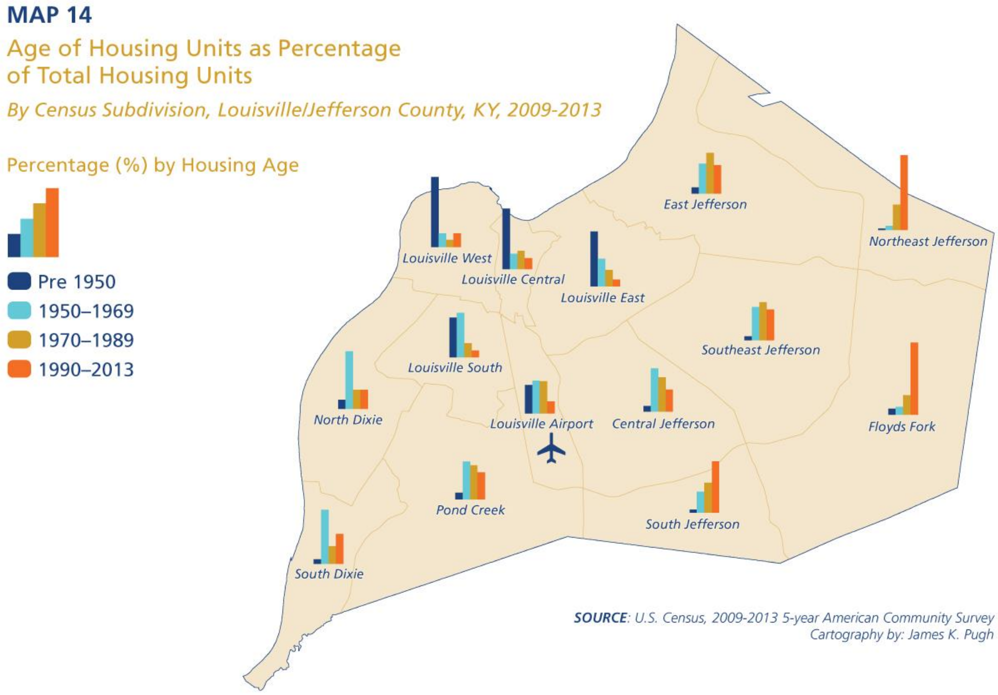

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Rental Housing Units by Year Structure Built, 2012

	Jefferson County, KY	Louisville MSA excluding Jefferson County, KY
Renter occupied housing units	114,438	48,189
Built 2010 or later	0.2%	0.4%
Built 2000 to 2009	10%	14%
Built 1980 to 1999	20%	32%
Built 1960 to 1979	32%	28%
Built 1940 to 1959	20%	15%
Built 1939 or earlier	18%	11%

SOURCE: U.S. Census Bureau, 2010-2012 American Community Survey

2

3

As can be seen in the maps, the location of older homes coincides closely with the location of poverty in Louisville. Also clear is that 70% of rental units were built before 1980.

As the maps show, there is severe segregation and as the lines around the census tracts show, the density of the neighborhoods that are disproportionately populated with households in protected classes is much higher than white neighborhoods. So collection of a meter charge that is a flat fee or the Gas Line Tracker Fee is much higher in these neighborhoods, yet LG&E has taken no steps to understand if they are charging people in protected classes to do work in areas that are populated with people who are white and affluent.

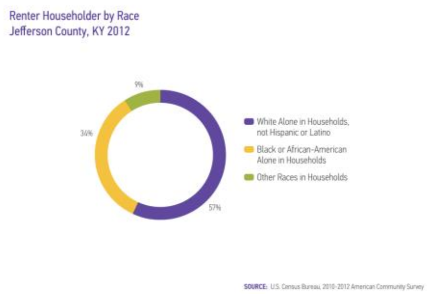
However, not knowing does not mean that this discrimination is not taking place. Since all the maps and charts are available to LG&E, it appears that some of the ignorance is deliberate. However, the responsibility to apply a racially neutral policy should be mandatory.

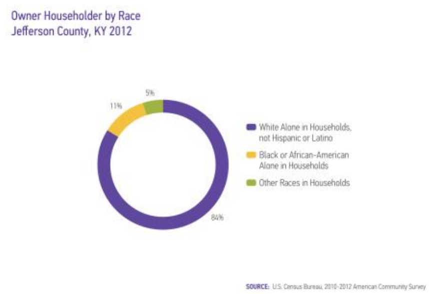
Q. **How does the collection of Gas Line Tracker Fees further disparately affect those in Fair Housing protected classes?**

People in protected classes under the Fair Housing Act disproportionately live in low-income areas. Renters now occupy 33% of all occupied units in Louisville Metro/Jefferson County (*2016 State of Metropolitan Housing Report*, Metropolitan Housing Coalition).

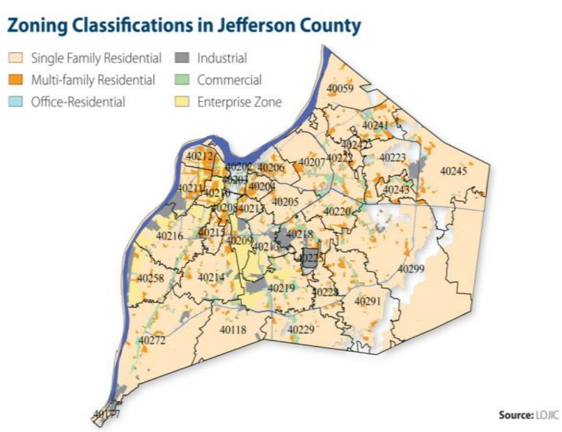
Prior to the institution of the Gas Line Tracker Fee, the cost of repairing lines was with the landlord. For the first time, renters became responsible even though a replacement of the line is considered an improvement to the property. By charging everyone, renters in multi-family units or owners in areas with small lot sizes (both forms of housing disproportionately affecting people in protected classes) pay for a service that on its face, seems to collect more from these populations. Yet the cost of repair in large lots of 9,000 square feet; of 6,000 square feet; and the roads that connect these homes at distance from each other, must cost more. So we are making people in protected classes pay for services in white affluent areas.

As LG&E has no knowledge of the cost impact, my assertion is as knowledgeable as theirs. At the very least, LG&E should be compelled to acknowledge the disparate impact of the costs.





As you can see from the charts above, (*2013 State of Metropolitan Housing Report*, Metropolitan Housing Coalition) African Americans, who make up 20% of households in Jefferson County, represent 34% of renters and only 11% of owners.



The zoning map which is from the Louisville Metro Department of Planning and Design, (2013). Neighborhoods that have large numbers of multi-family housing tend to be low-income and are not only racially concentrated, but are also concentrated as to people in other protected classes. Since these neighborhoods have smaller lot sizes, they also are concentrations of residential users, each paying for utilities. The earlier maps show that low-income neighborhoods are also where older housing exists with less energy efficient rehabilitation of homes. So there are a lot of people paying and with high volume usage.

Perhaps an example will illustrate, although this is taken from the 2000 census, so the numbers are not updated. From the chart below we see that zip code 40242 had a median household income of $52,406 and was 95% white as compared to zip code 40211, which had a median household income of $21,906 and was 95% African American. A volumetric increase would take more than twice the percentage of a family's income in the 40211 zip code, so that the amount of money spent in 40211 should be twice what is spent in 40242. Certainly, a discussion of proportionality is imperative. The following is from *The State of Fair Housing in Louisville:Impediments and Improvements*, Metropolitan Housing Coalition, (2010).

Income, African-American Population, and Residential Land Use: Louisville Metro's West End Neighborhood by Zip-Codes

Zip-code	Median Household Income	Percentage of African-American Residents	Percentage of Land Zoned Multi-Family	Percentage of Land Zoned Single-Family
40203	$13,458	63%	25%	3%
40208	$24,041	26%	17%	14%
40210	$20,722	91%	24%	28%
40211	$21,906	95%	20%	31%
40212	$23,240	55%	34%	42%

Income, African-American Population, and Residential Land Use: Louisville Metro's East End Neighborhood by Zip-Codes

Zip-code	Median Household Income	Percentage of African-American Residents	Percentage of Land Zoned Multi-Family	Percentage of Land Zoned Single-Family
40207	$54,050	2%	7%	77%
40222	$52,259	5%	8%	75%
40242	$52,406	5%	10%	87%
40245	$80,634	4%	4%	81%
40059	$98,316	4%	3%	89%

Q. Is smart metering worth the cost to low-income persons without home computer access?

From the usage by zip code of those using Outage Texting, in Attachment to Response to ACM-1 Question No. 32, the low number of users who participated in the zip codes corresponding to low income areas especially those with high concentrations of people in protected classes show that these consumers are not benefiting from the new programs. Looking at the response to those who, by zip code availed themselves of the My Meter Dashboard or used any of the appliance purchase programs we can see that these areas are not using these programs. The digital divide in Louisville is very real, see http://wfpl.org/louisville-working-to-bridge-digital-divide/ from February 16, 2016 which explores this problem and cites Ted Smith who at the time was the city chief of innovation as confirming "…there are huge disparities in functional, cost-effective access to the Internet. Home access is sparse in economically struggling areas…"

Q. Are there other issues of concern in equity regarding the Gas Line Tracker Fee?

A. Yes. Last year the PSC approved the gas line tracker fee. This fee takes away the responsibility of maintaining the pipe on privately owned real estate from the land owner and puts the financial onus on renters, who never had this financial responsibility.

As of January 1, 2013, there is an additional fee for every gas meter. This is a fixed fee, not based on any other factor than having a gas meter. I believe the institution of this fee and the basis for it- transferring to those with meters (rather than property owners) the responsibility of private property improvements without regard to actual cost of doing the work- is in violation of several statutes.

This fee covers the cost of the gas line service running from the street to the house if it had to be dug up. This is an improvement to private property, and prior to the institution of this fee, it was the landowner's responsibility. Now, for people who rent, it is no longer the land owner's financial responsibility; that responsibility has been transferred to renters. Since this is considered an improvement to the land- which would be part of valuing the land- it is grossly unfair to transfer this financial responsibility. The Uniform Residential Landlord Tenant Act adopted by the Kentucky legislature contains the provision, at K.R.S 383.595 that (1) A landlord shall: ….(d) {m}aintain in good and safe working order and condition all electrical, plumbing, sanitary, heating, ventilating, air-conditioning, and other facilities and appliances, including elevators, supplied or required to be supplied by him…" While the landlord shall, at K.R.S 383.595 " (a) comply with the requirements of applicable building and housing codes materially affecting health and safety" , the transfer of the financial responsibility to the tenant unless in a written and signed lease, is not contemplated. The URLTA must be adopted as whole and was adopted by Louisville and is to be found at J.C.O 385.500 et.seq. I do not believe that the PSC has the power to rewrite the Kentucky Revised Statutes. Nor do I believe the PSC has the power to rewrite the lease of virtually every renter without their knowledge or permission. Even public housing residents who have individual utilities now have the responsibility of paying for what the Louisville Metro Housing Authority is responsible for under federal law. As an example, I rent an apartment in a house that has three apartments. Each apartment is responsible for the gas line tracker fee each month, meaning there are three payments for only one house]. Next door is a single family home, and they pay one fee. So we three renters are subsidizing improvements to unknown owner-occupied single family properties. And only renters in the city have had their rights changed as this does not apply to areas outside the LG&E-KU area.

A great example is District 4 where there are 12,138 housing units, of which 34% are subsidized rental housing and there is an additional percentage of non-subsidized rental housing. (*2013 State of Metropolitan Housing Report* , Metropolitan Housing Coalition).

Q. **How can this concern be addressed?**

A. MHC believes that the PSC should understand the cost of each component of work contemplated by the Gas Line Tracker fee: gas lines on private property, main gas lines, meter work. The PSC should then understand the cost per foot of gas lines and see areas of great density are paying for areas with low density. The PSC should reconsider the legality and wisdom of making renters responsible for any part of the improvements to private property and put the onus back on the land owner.

Q. **How do the current and proposed changes to electricity rates and ability to use energy credit on another property affect use of solar energy?**

MHC has a loan pool for non-profit housing developers (including rehabilitation work as well as new construction) and MHC has several non-profit developer members as this community is critical to providing affordable housing for those at or below 80% of median income and more particularly, below 60% of median income.

At least one non-profit housing developer was not able to install as many panels for solar energy because there is no ability to transfer any credit from one development to another and the energy produced would have exceeded usage. Although this would be a good source of energy, it became unaffordable to use solar energy to its full potential. Currently this developer has the partial solar energy panels, but saving due to per KwH lower cost would negatively impact to the amount of time to recover cost of installation and maintenance.

Q. How does a switch to an inelastic meter charge increase and a decrease in usage charge impact behavior for savings?

LG&E has used quite a large amount of Demand Side Management money based on the premise that people will change behavior to save money. Yet now they undercut that premise by lowering the per KwH and the CCF. That surely would undercut the incentive since so much of the bill would be in an inelastic meter charge.

Q. Does that conclude your testimony?

A. Yes.