

COMMONWEALTH OF KENTUCKY  
FRANKLIN CIRCUIT COURT  
DIVISION \_\_  
CASE NO. \_\_\_\_\_

METROPOLITAN HOUSING COALITION

PETITIONER

v.

**APPEAL AND PETITION FOR REVIEW**

PUBLIC SERVICE COMMISSION OF KENTUCKY

DEFENDANT

Serve:

Gwen Pinson, Director  
Kentucky Public Service Commission  
211 Sower Boulevard  
Frankfort, Kentucky 40601

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Comes the Petitioner Metropolitan Housing Coalition (hereinafter “MHC”), by counsel and for its Appeal and Petition for Review of the April 30, 2019 Order of the Public Service Commission (hereinafter ‘Commission’) in Case No 2018-00295, states as follows:

1. On September 28, 2018, Louisville Gas and Electric Company (hereinafter “LG&E”) filed an application with the Commission seeking an adjustment of its electric rates. The case was assigned Case No. 2018-00295 and is captioned *Electronic Application of Louisville Gas and Electric Company For An Adjustment Of Its Electric Rates*. Kentucky Utilities also filed an application for a rate adjustment in Case No. 2018-00294. These companies are under common ownership and control and the rate cases are heard together at the Commission.

2. Three days later, on October 1, 2018 MHC filed a motion to the Commission for leave for full intervention in the LG&E case, which motion was denied by the Commission on November 13, 2018.

3. In Franklin Circuit Court Civil Action No. 18-CI-1117, consolidated with Cases 18-CI-1115 and 18-CI-1229, this Court on November 21, 2018, granted a temporary injunction enjoining the Commission from preventing MHC's participation in the underlying rate case.

4. Pursuant to the temporary injunction, MHC filed testimony in the rate case, and met all procedural deadlines.

5. The Commission filed a Petition for Relief in the Nature of a Writ of Prohibition in the Court of Appeals, Case No. 2018-CA-001859-OA, in the three consolidated cases on December 17, 2018. CAC, MHC, ACM, and the Sierra Club filed a response to the Petition on January 7, 2019.

6. Supplemental Briefs were also filed in the Franklin Circuit Court consolidated cases.

7. The administrative hearing on the rate cases began on March 5, 2019 and continued into March 6, 2019. MHC was present with its witness on both days.

8. On March 5, 2019, the Franklin Circuit Court granted a permanent injunction in the consolidated cases making permanent the temporary relief and remanded the cases back to the Commission.

9. On March 6, 2019, the Court of Appeals issued a Writ of Prohibition against Circuit Judge Phillip Shepherd, stating that the Franklin Circuit Court lacked subject matter jurisdiction to issue the temporary and permanent injunctions.

10. On March 6, 2019, the Commission stopped the rate case proceeding and dismissed MHC, the other low-income advocates, and the Sierra Club from the case. This occurred immediately before cross examination could be undertaken by counsel for MHC as to the reasonableness of the proposed increase in customer charge and in structural changes to the

manner in which the charge was proposed to be reflected in company tariffs and on customer bills.

11. MHC, along with the Association of Community Ministries (“ACM”), the Sierra Club, and the Community Action Council for Lexington-Fayette, Bourbon, Harrison and Nicholas Counties (“CAC”), filed a Motion to Reconsider the grant of the Writ of Prohibition at the Court of Appeals on March 6, 2019.

12. The Court of Appeals denied the Motion for Reconsideration of the Writ of Prohibition on April 1, 2019.

13. On April 3, 2019, the Commission filed an appeal in the Court of Appeals of the Franklin Circuit Court Opinion and Order granting the permanent injunction. That appeal is docketed as Case No. 2019-CA-000542 and on unopposed motion of the Commission, is being held in abeyance.

13. On April 5, 2019, CAC, MHC, ACM, and the Sierra Club appealed the grant of the Writ of Prohibition in Case No. 2018-CA-001859-OA to the Kentucky Supreme Court. That appeal is docketed as Case No. 2019-SC-000195. Appellants CAC, MHC, ACM, and the Sierra Club filed briefs on May 6, 2019.

14. KRS 278.410(1) provides a right of review of an order of the Commission, providing that “[a]ny party to a Commission proceeding or any utility affected by an order of the Commission may, within thirty (30) days after service of the order ... bring an action against the Commission in the Franklin Circuit Court to vacate or set aside the order or determination on the ground that it is unlawful or unreasonable.”

15. Section 2 of the Kentucky Constitution provides that “Absolute and arbitrary power over the lives, liberty and property of freemen exists nowhere in a republic, not even in the

largest majority.” Section 2 of the Kentucky Constitution has been construed to provide an inherent right to judicial review on the question of arbitrariness of governmental action.

16. Section 14 of the Kentucky Constitution provides that “All courts shall be open, and every person for an injury done him in his lands, goods, person or reputation, shall have remedy by due course of law, and right and justice administered without sale, denial or delay.”

### COUNT I

17. Numerical Paragraphs 1-16 are incorporated herein by reference as if fully set forth below.

18. This Court has jurisdiction pursuant to KRS 278.410(1) to entertain this Appeal and Petition for Review by MHC regarding whether the Commission committed clear error and acted unlawfully and unreasonably in rendering the final Order in Case No. 2018-00295.

19. The Commission’s final order from the rate case is unreasonable, arbitrary and capricious, and otherwise inconsistent with the law for the reasons that the Commission issued the final Order disposing of the LG&E rate case after wrongfully denying MHC’s petition for intervention, and after being enjoined to allow MHC’s participation in the rate case, caused MHC’s participation in the rate case to end before it had the ability to cross-examine witnesses regarding the reasonableness of the amount and structure of the proposed customer charge.

20. The Commission’s April 30, 2019 final order in Case No. 2018-00295 should be set aside as unreasonable because of the wrongful denial of MHC’s motion for intervention, and wrongful dismissal of MHC from the rate proceeding.

21. Pursuant to KRS 278.410(1), a petition seeking review of an Order of the Public Service Commission must be filed within thirty (30) days of the rendition of that Order. This appeal is filed to protect the ability of MHC to challenge the reasonableness of the April 30,

2019 Order if the Kentucky Supreme Court and/or Kentucky Court of Appeals determine that the Commission wrongfully denied intervention to MHC.

## COUNT II

22. Numerical Paragraphs 1-21 are incorporated herein by reference as if fully set forth below.

23. The Kentucky Constitution Section 2 provides an inherent right of access to the Courts of Justice for review of arbitrary governmental action.

24. After numerous years involving a number of Commission cases, including cases involving adjustments in rates, certificates of public convenience and necessity, and demand-side management programs where the Commission acknowledged the value of the involvement of MHC as a party, the current Commission arbitrarily determined that such participation is of no value and that any interest or information that MHC might provide will be adequately provided for by the Attorney General.

25. The decision of the Commission to deny intervention was quintessentially arbitrary and unreasonable, departing from long-standing Commission precedent finding that MHC's involvement in the cases would assist the Commission's review and determination concerning the requested adjustment of rates.

26. MHC has a right to judicial review of the Commission's decision to deny it intervention. The Commission has objected to this Court's review of the order denying intervention, appealing this Court's Opinion and Order, and obtaining a Writ of Prohibition. The Commission has variously argued before this Court that judicial review of a Commission decision denying intervention is **never** available, that judicial review of a Commission decision denying intervention **is** available but only after conclusion of the underlying Commission case,

and that while a movant denied intervention is a “party” for purposes of seeking rehearing pursuant to KRS 278.400, that a movant denied intervention is not a “party” for purposes of judicial review pursuant to KRS 278.410(1).

27. The Commission’s decisions on intervention, and in the final Order approving increases in customer charges without having made predicate factual findings, violate MHC’s rights to due process under the law, specifically the right to freedom from arbitrary government action. To the extent that this Court or the Kentucky Supreme Court concurs with the Court of Appeals panel in Case No. 2018-CA-001859-OA (the Writ of Prohibition case) that judicial review of an Order denying intervention is **never** available to the movant pursuant to KRS 278.410(1), Sections 2 and 14 of the Kentucky Constitution provide the jurisdictional bases for judicial review of a final Order of the Commission in a rate case.

### COUNT III

28. Numerical Paragraphs 1-27 are incorporated herein by reference as if fully set forth below.

29. The Commission’s April 30 Order is unreasonable and unlawful since the Commission did not support its decision regarding the customer charge with predicate findings of fact adequate and sufficient to support the decision, particularly in light of conflicting testimony regarding the reasonableness of the current and proposed customer charge.

### **CONCLUSION AND PRAYER FOR RELIEF**

WHEREFORE, for the reasons stated above, Plaintiff MHC respectfully requests that this honorable Court:

1. Accept subject matter jurisdiction over this Appeal and Petition for Review;

2. Determine and Order that the Commission's Order dated April 30, 2019 is unreasonable and unlawful since it was issued after MHC was wrongfully denied intervenor status and then summarily dismissed as a party in the middle of the rate hearing and thus denied the opportunity to cross-examine company and other witnesses;

3. Determine and Order that the Commission's Order dated April 30, 2019 is unreasonable and unlawful for lack of adequate and sufficient predicate findings of fact to support the decision to approve an increase in the customer charge;

4. Remand the case back to the Commission with instructions to schedule a new hearing at which Petitioner would have the opportunity to cross-examine all company and other party witnesses who gave testimony regarding the reasonableness of the structure and amount of the proposed customer charge; and

5. Grant Petitioner all other relief to which Petitioner may appear entitled.

Respectfully submitted,



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Certificate

I hereby certify that a true and correct copy of the foregoing was served electronically on May 29, 2019 on all parties to Case No. 2018-00295, in accordance with KRS 278.410(1), which provides in relevant part that "Notice of the institution of such action shall be given to all parties of record before the Commission," by uploading a complete and accurate copy of the forgoing into the Commission docket for Case No. 2018-00295, and by email.

A handwritten signature in black ink, appearing to read 'Tom FitzGerald', with a horizontal line underneath it.

Tom FitzGerald



COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF LOUISVILLE GAS	)	CASE NO.
AND ELECTRIC COMPANY FOR AN ADJUSTMENT	)	2018-00295
OF ITS ELECTRIC AND GAS RATES	)	

ORDER

Louisville Gas and Electric Company (LG&E) is a combination electric and gas utility that generates, transmits, distributes, and sells electricity to approximately 411,000 total electric retail customers in Jefferson County, Kentucky, and in portions of eight other Kentucky counties.<sup>1</sup> LG&E also purchases, stores, and transports natural gas and distributes and sells natural gas at retail to 326,000 customers in Jefferson County and portions of 16 surrounding counties.<sup>2</sup> Its most recent general rate increase was granted in Case No. 2016-00371.<sup>3</sup>

BACKGROUND

On August 27, 2018, LG&E filed a notice of its intent to file an application for approval of increases in its electric and gas rates, based on a forecasted test period

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<sup>1</sup> Application at paragraph 2. *See also* Direct Testimony of Paul W. Thompson (Thompson Testimony) at 2.

<sup>2</sup> Direct Testimony of Paul W. Thompson (Thompson Testimony) at 2.

<sup>3</sup> Case No. 2016-00371, *Electronic Application of Louisville Gas and Electric Company for an Adjustment of its Electric and Rates and for Certificates of Public Convenience and Necessity* (Ky. PSC June 22, 2017).

ending April 30, 2020.<sup>4</sup> On September 28, 2018, LG&E filed its application seeking an increase in electric revenues of \$35 million, or 3.0 percent per year for the forecasted test period, compared to the operating revenues for the forecasted test period under existing electric rates.<sup>5</sup> LG&E also sought to increase its gas rates by \$25 million, or 7.5 percent per year for the forecasted test period, compared to the operating revenues for the forecasted test period under existing gas rates.<sup>6</sup> LG&E's application also included new rates and revisions, deletions, and additions to its electric and gas tariffs, all to be effective November 1, 2018.<sup>7</sup> The monthly residential electric bill increase due to the proposed electric base rates and the expiration of the Tax Cuts and Jobs Act Surcredit would be 7.5 percent, or approximately \$7.53, for an average customer using 917 kilowatt-hours (KWh) of electricity.<sup>8</sup> The monthly residential gas bill increase due to the proposed gas base rates and the expiration of the Tax Cuts and Jobs Act Surcredit would be 12.2 percent, or approximately \$7.14, for an average customer using 54 Ccf (hundred cubic feet) of gas.<sup>9</sup>

In an Order issued on October 11, 2018, the Commission found that an investigation would be necessary to determine the reasonableness of LG&E's proposed rates and suspended the proposed rates for a period of six months, pursuant to KRS

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<sup>4</sup> Application at paragraph 13. Also on August 27, 2018, LG&E's sister company, Kentucky Utilities Company (KU), filed a separate application seeking an increase in its electric rates. KU's application is docketed as Case No. 2018-00294.

<sup>5</sup> *Id.* at paragraph 6.

<sup>6</sup> *Id.* at paragraph 8.

<sup>7</sup> Customer Notice of Rate Adjustment.

<sup>8</sup> Application at paragraph 7.

<sup>9</sup> *Id.* at paragraph 9.

278.190(2), from November 1, 2018, up to and including April 30, 2019. The October 11, 2018 Order also established a procedural schedule for processing this case. The schedule provided, among other things, a deadline for requesting intervention, discovery on LG&E's application, intervenor testimony, discovery on intervenor testimony, and rebuttal testimony by LG&E.

The following parties requested and were granted intervention: the Attorney General of the Commonwealth of Kentucky, by and through the Office of Rate Intervention (Attorney General); Charter Communications Operating, LLC (Charter); Kentucky Industrial Utility Customers, Inc. (KIUC); Kroger Company and Walmart, Inc. (Kroger/Walmart);<sup>10</sup> Kentucky School Boards Association (KSBA); Louisville/Jefferson County Metro Government (Louisville Metro); and United States Department of Defense and all other Federal Executive Agencies (DOD/FEA). The Commission denied the intervention requests of Association of Community Ministries (ACM), Metropolitan Housing Coalition (MHC), and Amy Water, Joe Dutkiewicz, and Sierra Club (collectively "Sierra Club"). ACM, MHC, and Sierra Club subsequently filed an action for review with the Franklin Circuit Court challenging the Commission's denial of their respective intervention requests. The Franklin Circuit Court issued an opinion and order on November 21, 2018, granting ACM's, MHC's, and Sierra Club's motions for temporary injunctions and enjoining the Commission from preventing their intervention. ACM, MHC, and Sierra Club thus were allowed to intervene in this matter and participated in discovery and submitted pre-filed testimony. On March 6, 2019, the Kentucky Court of Appeals issued an opinion and order granting the Commission's petition for a writ of prohibition

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<sup>10</sup> Although Kroger and Walmart filed separate motions to intervene, the Commission pursuant to an Order issued on November 9, 2018, granted Kroger and Walmart intervention on a joint basis.

and holding that the Franklin Circuit Court did not have subject matter jurisdiction to entertain an interlocutory appeal of the Commission's decision denying ACM's, MHC's, and Sierra Club's motion to intervene.<sup>11</sup> Based on the Court of Appeals holding, the Commission, during the formal hearing on March 6, 2019, found that ACM, MHC, and Sierra Club are not entitled to intervention and dismissed them as parties to this matter. Because the Sierra Club's only witness, Jeremy Fisher, Ph.D., had already testified at the formal hearing, the Commission ruled from the bench that Dr. Fisher's testimony would not be stricken from the record but would remain in the record as a proffer. Because the witnesses for ACM and MHC had not yet testified at the hearing, the Commission indicated from the bench that the testimonies of the witnesses for ACM and MHC could be sponsored by the Attorney General; the Attorney General agreed to do so.

On February 27, 2019, KU and LG&E filed a joint motion requesting leave to file a Stipulation and Recommendation entered into by KU, LG&E, and Charter addressing and resolving issues related to KU's and LG&E's proposed revisions to the companies' Pole and Structure Attachment Rate Schedule (PSA Stipulation). On February 26 and 27, 2019, informal conferences were held to allow the parties to this matter and the KU rate matter<sup>12</sup> an opportunity to discuss the issues other than those relating to the Rate PSA revisions and the possible resolution of those other issues in the two non-consolidated proceedings. The parties at the informal conferences, except for Sierra Club, were able to come to an agreement resolving nearly all of the non-Rate PSA related issues in this

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<sup>11</sup> *P.S.C. of Ky. v. Phillip J. Shepherd et al.*, Ky. Ct. App. 2018-CA-001859-OA (Ky. App. Mar. 6, 2019).

<sup>12</sup> Charter did not participate in the February 26 and 27, 2019 informal conferences having already reached an agreement with LG&E regarding the proposed changes to Rate PSA.

proceeding as well as the KU proceeding (Rate Case Stipulation). On March 1, 2019, KU and LG&E filed a joint motion requesting leave to file testimonies supporting the PSA Stipulation and the Rate Case Stipulation. On March 6, 2019, LG&E filed an addendum to the Rate Case Stipulation (Addendum), which sets forth certain provisions that had been omitted from the Rate Case Stipulation. Those provisions involved KU and LG&E's efforts at the Federal Energy Regulatory Commission (FERC) to remove the merger mitigation de-pancaking (MMD) component of its Transmission Rate Schedule No. 402 and a KSBA-related rate design adjustment to the Power Service Rate Schedule (Rate PS).

The Commission held information sessions and public meetings for the purpose of taking public comments on February 21, 2019, in Louisville, Kentucky, at Jefferson Community and Technical College, and on February 26, 2019, in Lexington, Kentucky, at Bluegrass Community and Technical College.

A formal hearing was conducted on March 5 and 6, 2019, for the purposes of cross-examination of witnesses and for the consideration of the two stipulations. LG&E filed responses to post-hearing data requests on March 20, 2019. The Attorney General filed responses to post-hearing data requests on March 18 and 20, 2019. Post-hearing briefs were filed by LG&E, the Attorney General, KIUC, Kroger, Louisville Metro, and Walmart. The matter now stands submitted to the Commission for a decision.

#### PSA STIPULATION

As noted above, LG&E proposed certain changes to its Rate PSA. LG&E currently offers the use of spaces on its poles for cable television attachments and telecommunications wireline and wireless facilities' attachments. LG&E proposed to

expand Rate PSA to include “Governmental Units” and “Educational Institutions,” which are not currently covered under Rate PSA. LG&E also proposed to modify the terms and conditions of service for attaching eligible facilities to its poles.

The PSA Stipulation includes the revisions proposed in the application, with modifications as explained herein. In instances in which LG&E is unable to perform make-ready work within 60 days of receipt of an attachment customer’s payment of the make-ready costs, and the attachment customer chooses to perform such work at its own expense using an approved contractor, LG&E originally proposed to require the presence of an internal inspector designated by LG&E and to require the attachment customer to bear the cost of such inspector. Charter argued that requiring an inspector to be present during such work is needless and redundant, as the work already has been approved by LG&E. Charter also argued that the presence of such inspector could cause unnecessary delays and that LG&E should bear the cost of such inspector if the inspector is required. The PSA Stipulation removed the requirement that the attachment customer be responsible for the cost of the inspector in such instances.

LG&E originally proposed to revise from actual cost to actual cost plus a 50 percent penalty of actual costs the charge to an attachment customer in cases in which attachments are improperly installed and not corrected within 30 days of receipt of notice. Charter argued that the 50 percent penalty is unreasonable. The PSA Stipulation revised the penalty to 10 percent of actual costs.

LG&E originally proposed that attachment customers reimburse LG&E for their pro rata share of any audit of attachments within 30 days of being invoiced for such expenses. LG&E began a system-wide audit of third-party attachments in October 2018. LG&E

planned to bear the full cost of the current audit until it has a mechanism in place to pass the costs on to its attachment customers. Charter argued that such audits benefit LG&E because they allow it to gather revenue collection information and conduct required maintenance and safety inspections of its infrastructure. Therefore, Charter argued that LG&E should bear its fair share of any audit costs. While the PSA Stipulation did not revise the audit costs that attachment customers would be responsible for, it did provide that attachment customers would not be responsible for the cost of any system-wide audit that was commenced prior to May 1, 2019.

LG&E originally proposed to implement a \$25 penalty for each unauthorized attachment. Charter argued that the penalty is excessive and unreasonable. Charter also believed that there are many problems with identifying unauthorized attachments, which could lead to massive penalties for attachment customers. While the PSA Stipulation did not revise the penalty amount, it did provide that attachment customers would not be charged the \$25 penalty on the basis of the findings of any system-wide audit that was commenced prior to May 1, 2019.

In response to Commission Staff's Post-Hearing Request for Information (Staff's Post-Hearing Request), Item 3, LG&E indicated that it inadvertently included language indicating that a form for the "Contract for Attachment to Company Structures" was included at the end of the Rate PSA tariff and filed a revised tariff page removing such language.

#### RATE CASE STIPULATION

The Rate Case Stipulation reflects the agreement of all the parties to the instant matter and the KU matter, with the exception of Charter, addressing nearly all of the

issues not related to the proposed changes to Rate PSA. The major provisions of the Rate Case Stipulation and the amendment as they relate to LG&E's revenues and rates are as follows:

- LG&E's electric operations revenue will increase by \$3.92 million, which reflects a reduction of \$30.97 million from LG&E's filed position.
- LG&E's gas operations revenue will increase by \$19.33 million, which reflects a reduction of \$5.60 million from LG&E's filed position.
- The stipulated level of base-rate revenue increase is the result of discrete adjustments to LG&E's original requested increase as provided in the Rate Case Stipulation, the provisions of which are summarized below.
- The agreed-to revenue allocation for LG&E electric operations is set forth in Exhibit 4 to the Rate Case Stipulation.
- The agreed-to revenue allocation for LG&E gas operations is set forth in Exhibit 5 to the Rate Case Stipulation.
- For customers with their own generation, for 60 minutes immediately following an LG&E system fault, but not an LG&E energy spike or a fault on the customer's system, LG&E will not use any demand data for a Rate RTS customer to set billing demand.

The Rate Case Stipulation results in an increase of \$0.42, or 0.41 percent, in the monthly bill of an average LG&E electric residential customer. A summary of the adjustments to LG&E's electric operations revenue requirement is as follows:

- Return on Equity. The parties to the Rate Case Stipulation agree to a Return on Equity (ROE) of 9.725 percent, applied to capitalization. The result is a revenue requirement reduction of \$12.71 million.
- Ash Pond Service Lives. Adjusting depreciation rates for ash ponds to reflect a service life equal to the generating units they serve results in a revenue requirement reduction of \$0.56 million.



- Other Depreciation Changes. Adjustments to LG&E's proposed distribution depreciation rates, as well as the impact on LG&E's capitalization and amortization of excess accumulated deferred income taxes, results in a revenue requirement reduction of \$4.28 million. The stipulated depreciation rates are attached as Exhibit 2 to the Rate Case Stipulation.
- Refined Coal Credits. Inclusion of LG&E's contract proceeds from the refined coal project at the Trimble County Generating Station results in a revenue requirement decrease of \$7.77 million.
- Normalize Generator Outage Expense. The generator outage expenses included in the forecasted test-year are reduced to the five-year historical average. The parties to the Rate Case Stipulation recommend Commission approval of LG&E's continued use of deferral accounting for generator outage expenses above or below the test-year amount. This adjustment results in a revenue requirement decrease of \$1.78 million.
- Forecasted May 2019 First Mortgage Bond Issuance. The parties to the Rate Case Stipulation agree that the assumed interest rate for the forecasted May 2019 First Mortgage Bond issuance should be reduced to 4.25 percent from LG&E's originally proposed rate of 4.90 percent. Additionally, correction to the short-term debt balance of LG&E's capitalization to reflect the forecasted issuance is necessary. The impact of these adjustments is a revenue requirement reduction of \$1.71 million and \$0.91 million, respectively.

- Retail Transmission Service Rate Schedule (Rate RTS) Test-Year Revenues. Reflecting assumed increases in revenues from Rate RTS customers in the test period, based on updated actual data for RTS customers through November 2018, reduces LG&E's revenue requirement by \$0.60 million.
- Storm Damage Regulatory Asset Amortization Period. The parties to the Rate Case Stipulation agree to extend the amortization period of the July 2018 Storm Damage Regulatory Asset to 10 years from the originally proposed five years. The result is a revenue requirement reduction of \$0.23 million.
- Late Payment Charge Waiver. The parties to the Rate Case Stipulation agree to remove any assumed late payment charge waiver from the test-year miscellaneous revenue and request the Commission to approve the use of regulatory asset accounting for the amount of waivers actually granted. This adjustment reduces LG&E's revenue requirement by \$0.23 million.
- Credit Card Rebate. The parties to the Rate Case Stipulation agree to reflect credit card rebates in the revenue requirement, for a reduction of \$0.18 million.
- Stipulation Summary. The table below reflects the impact of each adjustment included in the Rate Case Stipulation:

	LG&E - Electric	
Increase Requested	\$	34.89 million
9.725% Return on Equity		(12.71) million
Include Refined Coal Project Proceeds		(7.77) million
Other Depreciation Adjustments		(4.28) million
Normalize Generation Outage Expense		(1.78) million
Update Interest Rate of Forecasted May 2019 LTD Issuance		(1.71) million
Corrections to Short-Term Debt for May 2019 Issuance		(0.91) million
Increase Test-Year Rate RTS Revenues		(0.60) million
Ash Pond Service Lives		(0.56) million
Increase Amortization Period for Storm Regulatory Asset		(0.23) million
Remove Late Payment Charge Waiver		(0.23) million
Credit Card Rebates		(0.18) million
Total Adjustments to Requested Increase		(30.97) million
Overall Stipulated Increase	\$	<u>3.92 million</u>

The Rate Case Stipulation results in an increase of \$3.38, or 6.30 percent, in the monthly bill of an average LG&E gas residential customer. A summary of the adjustments to LG&E's gas operations revenue requirement is as follows:

- Return on Equity. The parties to the Rate Case Stipulation agree to a Return on Equity (ROE) of 9.725 percent, applied to capitalization. The result is a revenue requirement reduction of \$3.87 million.
- Remove Uniform Diameter Transmission Line Projects. The parties to the Rate Case Stipulation agree to remove \$9.6 million of capital projects related to LG&E's proposed uniform transmission line projects, which results in a revenue requirements reduction of \$0.93 million. The parties further agree to not oppose the particular forum through which LG&E seeks recovery of these costs in the future.

- Forecasted May 2019 First Mortgage Bond Issuance. The parties to the Rate Case Stipulation agree that the assumed interest rate for the forecasted May 2019 First Mortgage Bond issuance should be reduced to 4.25 percent from LG&E's originally proposed rate of 4.90 percent. Additionally, correction to the short-term debt balance of LG&E's capitalization to reflect the forecasted issuance is necessary. The impact of these adjustments is a revenue requirement reduction of \$0.52 million and \$0.17 million, respectively.
- Late Payment Charge Waiver. The parties to the Rate Case Stipulation agree to remove any assumed late payment charge waiver from the test-year miscellaneous revenue and ask the Commission to approve the use of regulatory asset accounting for the amount of waivers actually granted. This adjustment reduces LG&E's revenue requirement by \$0.10 million.
- Credit Card Rebate. The parties to the Rate Case Stipulation agree to reflect credit card rebates in the revenue requirement, for a reduction of \$0.003 million.
- Stipulation Summary. The table below reflects the impact of each adjustment included in the Rate Case Stipulation:

	<u>LG&amp;E - Gas</u>
Increase Requested	\$ 24.92 million
9.725% Return on Equity	(3.87) million
Remove Uniform Diameter Transmission Line Projects	(0.93) million
Update Interest Rate of Forecasted May 2019 LTD Issuance	(0.52) million
Corrections to Short-Term Debt for May 2019 Issuance	(0.17) million
Remove Late Payment Charge Waiver	(0.10) million
Credit Card Rebates	<u>(0.003) million</u>
Total Adjustments to Requested Increase	<u>(5.59) million</u>
Overall Stipulated Increase	<u>\$ 19.33 million</u>

As part of the Addendum, the parties to the Rate Case Stipulation agree and request that the Commission approve LG&E's use of deferral accounting in the event that the FERC reduces or eliminates LG&E's MMD obligations and that LG&E establish a regulatory liability for any reduction in costs, to be addressed in its future rate proceedings.<sup>13</sup>

The Rate Case Stipulation also carves out certain issues that would be fully litigated, as the parties could not reach an agreement on them. Those issues are:

- LG&E's 401(k) contributions for employees who are also participants in the company's defined benefit plans;
- The amount of, and the daily versus monthly format of, residential electric and gas Basic Service Charges;
- LG&E's proposal to split energy charges into infrastructure and variable components for tariff purposes only; and
- Issues raised by Sierra Club's witness, Jeremy Fisher, Ph.D.

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<sup>13</sup> Addendum at 2. We note that FERC conditionally granted LG&E's request to remove the MMD component, subject to a transmission mechanism for certain municipal entities. We further note that certain parties to the FERC proceeding have requested a rehearing of that decision.

The Rate Case Stipulation also provides that LG&E will commit to working with ACM to optimize the use of Home Energy Assistance funding, including shareholder contributions, to maximize the numbers of customers assisted and the impact of that assistance.

### ANALYSIS AND FINDINGS

The Commission's statutory obligation when reviewing a rate application is to determine whether the proposed rates are "fair, just, and reasonable."<sup>14</sup> While numerous intervenors with significant experience in rate proceedings and collectively representing a diverse range of customer interests have participated in this case, the Commission cannot defer to the parties as to what constitutes fair, just, and reasonable rates. The Commission must review the record, including the two stipulations, and apply our expertise and knowledge to make an independent decision as to the level of rates, including terms and conditions of service as well as rate design, that should be approved.

To satisfy its statutory obligation in this case, the Commission has performed our traditional ratemaking analysis, which consists of reviewing the reasonableness of each revenue and expense adjustment proposed or justified by the record, along with a determination of a fair ROE.

#### PSA Stipulation

Based on our review of the record, we find that the proposed Rate PSA with modifications agreed to in the PSA Stipulation is reasonable and that the PSA Stipulation, with the modification referenced in LG&E's response to Staff's Post-Hearing Request for Information, Item 3, should be approved in its entirety.

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<sup>14</sup> KRS 278.030(1).

## Rate Case Stipulation and Addendum

Based upon our review of the Rate Case Stipulation and Addendum, the attachments thereto, and the case record, including intervenor testimony, the Commission finds that, with the minor modification to the Line Extension Refunds as discussed below, the Rate Case Stipulation and Addendum are reasonable and in the public interest. The Commission finds that the Rate Case Stipulation and the Addendum were the product of arm's-length negotiations among knowledgeable, capable parties and should be approved as modified. Such approval is based solely on the reasonableness of the Rate Case Stipulation and the Addendum and does not constitute a precedent on any individual issue.

## Litigated Issues

A. **401(k) Contributions.** LG&E maintains three options for retirement benefits for its employees. The first option is a Defined Benefit Pension Plan for employees hired before December 31, 2005 (Pre-2006 DB Plan), which LG&E funds based on a mathematical formula and actuarial calculations.<sup>15</sup> The second option is a defined contribution Retirement Income Account (401(k) Plan) for those employees hired or rehired on or after January 1, 2006; LG&E contributes 3 percent to 7 percent of eligible employee compensation to the 401(k) Plan, depending on years of service.<sup>16</sup> The third option is a 70 percent match of voluntary employee contributions, up to 6 percent of the employee's compensation, to the employee's 401(k) account (Matching Plan).<sup>17</sup> All

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<sup>15</sup> Direct Testimony of Gregory J. Meiman (Meiman Testimony), at 16–17.

<sup>16</sup> Meiman Testimony at 16.

<sup>17</sup> *Id.*

employees who were hired before December 31, 2005, are eligible to participate in both the Pre-2006 DB Plan and the Matching Plan.<sup>18</sup> All employees hired or rehired on or after January 1, 2006, are eligible to participate in the 401(k) Plan and the Matching Plan.<sup>19</sup>

In LG&E's last base rate case, the Commission found that, for ratemaking purposes, it is not reasonable to include LG&E's contributions to both the Pre-2006 DB Plan and the Matching Plan and disallowed the Matching Plan contributions for employees other than those classified as hourly or bargaining unit.<sup>20</sup> The Commission chose not to address Matching Plan contributions for hourly and bargaining unit employees, as it is not within the Commission's authority to negotiate or modify bargaining agreements.<sup>21</sup> The Commission did not make a distinction between represented and non-represented hourly groups in the last rate case, but instead provided an opportunity for LG&E to address these excessive costs for both employee classes prior to its next base rate case, and expressly stated that rate recovery of these contributions would be evaluated for appropriateness as part of its next base rate case.<sup>22</sup> The Commission found that employees participating in the Pre-2006 DB Plan enjoy generous retirement plan benefits, making the Matching Plan amounts excessive for ratemaking purposes.<sup>23</sup>

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<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> Case No. 2016-00370, Final Order at 14–15

<sup>21</sup> *Id.* at 13–15.

<sup>22</sup> *Id.* at 14.

<sup>23</sup> *Id.* at 14–15.



LG&E asks that the Commission reconsider the decision reached in Case No. 2016-00371 and allow recovery of all retirement expense.<sup>24</sup> LG&E argues that its costs of providing retirement benefits to all its employees should be a recoverable expense because it has taken steps to manage its overall retirement costs for many years and its total retirement benefits are reasonable as a whole.<sup>25</sup> In response to the Order in 2016-00371, LG&E “engaged independent experts to perform benchmarking studies of [its] compensation and benefits offerings and negotiated, where necessary, new contract language with the unions to provide flexibility to make future benefit changes to remain consistent with market.”<sup>26</sup> LG&E also argues that the Commission’s subsequent decision in Case No. 2017-00321<sup>27</sup> to allow recovery of Duke Energy Kentucky, Inc.’s (Duke Kentucky) full retirement expenses makes reliance on the 2016-00371 Order “misplaced.”<sup>28</sup>

KIUC, the Attorney General, and Louisville Metro were the only intervenors filing post-hearing briefs addressing retirement benefits. All three recommend that the Commission disallow LG&E’s Matching Plan contributions for employees who also participate in the Pre-2006 DB Plan. KIUC relies strictly on Commission precedent to

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<sup>24</sup> Rebuttal Testimony of Gregory J. Meiman (Meiman Rebuttal) at 2.

<sup>25</sup> Meiman Testimony at 21–22.

<sup>26</sup> LG&E’s Post-Hearing Brief at 6.

<sup>27</sup> Case No. 2017-00321, *Electronic Application of Duke Energy Kentucky, Inc. for: 1) An Adjustment of the Electric Rates; 2) Approval of an Environmental Compliance Plan and Surcharge Mechanism; 3) Approval of New Tariffs; 4) Approval of Accounting Practices to Establish Regulatory Assets and Liabilities, and 5) All Other Required Approvals and Relief* (Ky. PSC Apr. 13, 2018).

<sup>28</sup> Meiman Rebuttal at 2.

recommend the disallowance.<sup>29</sup> The Attorney General argues that LG&E failed its burden of proof to reverse the Commission's previous decision and recommends that the same disallowance be made in the current proceeding.<sup>30</sup> The Attorney General contends that LG&E's self-fulfilling promise to employees and reliance on flawed market comparisons do not justify LG&E's unreasonable and excessive matching contributions.<sup>31</sup> The Attorney General, however, does not take a position on whether the disallowance should include hourly employees, but rather provides the methodology and citations of the adjustment for either case.<sup>32</sup> Louisville Metro recommends that LG&E's Matching Plan contributions for employees who are also participants in the Pre-2006 DB Plan be disallowed. Louisville Metro argues that the Commission in LG&E's last rate case found that these expenses were excessive for ratemaking purposes because certain LG&E employees (exempt, manager, non-exempt, and officer and director personnel) enjoyed other generous retirement benefits. Louisville Metro contends that LG&E has not provided any evidence for the Commission to deviate from its ruling in the last rate case.<sup>33</sup>

The Commission finds that, for ratemaking purposes, it is not reasonable to include LG&E's contributions to both the Pre-2006 DB Plan and the Matching Plan. The Commission is not persuaded by LG&E's arguments and evidence presented by LG&E in support of its position. We find, as we did in Case No. 2016-00371, LG&E's last rate case, that LG&E employees participating in the Pre-2006 DB Plan enjoy generous

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<sup>29</sup> Direct Testimony of Lane Kollen at 45–46 and KIUC's Post-Hearing Brief at 12.

<sup>30</sup> Attorney General's Post-Hearing Brief at 16.

<sup>31</sup> *Id.* at 15.

<sup>32</sup> *Id.* at 16–17.

<sup>33</sup> Louisville Metro's Post-Hearing Brief at Section IV.

retirement plan benefits, making the Matching Plan amounts excessive for ratemaking purposes. We also find that LG&E's reliance on Case No. 2017-00321, the recent Duke Kentucky electric rate case, to be misplaced. We note Duke Kentucky closed its defined benefit plan and moved existing employees to a "less rich," cash balance formula and made up some of the difference with 401(k) matching contributions.<sup>34</sup> In the instant matter, LG&E has provided no evidence of its Pre-2006 DB Plan formula being stepped down or the plan being "less rich" than it was before LG&E closed it to any employees hired after December 31, 2005. The Commission further finds that the adjustment should include hourly employees, both represented and non-represented. We note that LG&E was placed on notice in Case No. 2016-00371 that rate recovery of these contributions would be evaluated for appropriateness as part of our examination of LG&E's next rate application. We find that LG&E has failed to present any evidence to justify that the Matching Plan contributions are not excessive. Therefore, the Commission denies for recovery Matching Plan contributions for electric operations of \$1.816 million and gas operations of \$0.688 million, for a revenue requirement reduction of \$1.823 million and \$0.691 million respectively. Accordingly, the stipulated revenue requirement increase is decreased from \$3.92 million to \$2.10 million for electric operations and from \$19.33 million to \$18.64 million for gas operations.

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<sup>34</sup> Case No. 2017-00321, Rebuttal Testimony of Thomas Silinski at 10 ("...for existing employees, freezing final average pay benefit formulas for all non-union employees and transitioning employees from a final average pay formula to a more 'Defined Contribution like' cash balance pension formula. To offset the impact of those pension changes, we utilized some of the pension savings to enhance the 401(k) matching formula for those employees to stay competitive with the market.").

B. **Residential Electric and Gas Basic Service Charges.** In the development of the proposed electric rates, LG&E relied on its filed cost of service study (COSS) as a guide for both revenue allocation and unit charges. For its COSS, LG&E applied the loss of load probability (LOLP) methodology. A utility's LOLP is the probability that a utility system's total demand will exceed its generation capacity. LG&E chose to employ this methodology because LOLP is a key measure used in planning its generation resources and such a methodology was used in its 2016 rate case.<sup>35</sup> The Attorney General's witness, Glenn Watkins, asked that the Commission reject the LOLP COSS, stating that it does not reflect cost causation, does not follow the National Association of Regulatory Utility Commissioners (NARUC) manual, cannot be verified, and produces unreasonable anomalous results.<sup>36</sup> The DOD/FEA and KIUC also expressed concern about the LOLP methodology and each proposed a COSS. Although the Rate Case Stipulation contains the revenue allocation based on LG&E's LOLP COSS, the Commission recognizes the concern of the intervening parties regarding that methodology. The Commission does not explicitly reject the LOLP methodology, but recognizes that the LOLP methodology has not been adopted in other regulatory jurisdictions,<sup>37</sup> that the probabilities are estimates based upon a proprietary software package,<sup>38</sup> and, although such a COSS study was filed with LG&E's last rate case, that the LOLP methodology is still rather new.

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<sup>35</sup> Application, Direct Testimony of William Steven Seelye (Seelye Testimony) at 2.

<sup>36</sup> Direct Testimony of Glenn A. Watkins on Behalf of the Kentucky Office of the Attorney General (Watkins Testimony) at 2.

<sup>37</sup> KU's response to KIUC First Request for Information, Item 15.

<sup>38</sup> Watkins Testimony at 14.

Therefore, the Commission finds that in LG&E's next electric base rate case that an alternative COSS should be filed along with the LOLP COSS.

For the Basic Service Charges, LG&E is proposing to move from a monthly to a daily customer charge for all rate classes. In its application, LG&E states that the proposed daily charges permit more accurate cost recovery and avoid the need to prorate service for customers whose service changes during a billing period. In addition, LG&E notes that a daily rate creates greater flexibility for possible future rates for emerging technologies.<sup>39</sup>

Mr. Watkins does not support a daily charge stating that it has no reasonable merit and disguises proposed high fixed customer charges with the illusion of a low daily rate. Mr. Watkins states that there is no evidence a daily charge will make it easier for a customer to understand billing for a partial month and notes that LG&E can address program rates based on the specifics of particular programs in the future.<sup>40</sup> Furthermore, the Attorney General believes the proposal is meritless, unnecessary, and will only confuse customers.<sup>41</sup>

Louisville Metro recommends that LG&E's request to change to a daily customer charge be denied.<sup>42</sup> Louisville Metro states that the conversion to a daily charge would cause confusion because customers have no control over the number of days in a billing period and would therefore be unable to know what the amount for the Basic Service

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<sup>39</sup> Seelye Testimony at 2.

<sup>40</sup> Watkins Testimony at 29.

<sup>41</sup> Attorney General's Post-Hearing Brief at 11.

<sup>42</sup> Louisville Metro's Post-Hearing Brief at Section II.

Charge would be.<sup>43</sup> Louisville Metro further argues that a change to a daily customer charge could result in larger billing swings from month to month and that LG&E has presented no evidence to support its proposition that a daily charge would be easier for customers to understand when entering or leaving in the course of a billing cycle.<sup>44</sup>

LG&E's Post-Hearing Brief reiterated that the proposed daily charge more accurately communicates to the customer the costs incurred over each billing period, which vary in the number of days billed.<sup>45</sup> LG&E also notes that each bill will state the number of days in the billing cycle, illustrate the calculation of the customer charge, and display the total monthly customer charge.<sup>46</sup> LG&E further points out that the Commission has approved a daily basic service charge for Meade County Rural Electric Cooperative Corporation.

The Rate Case Stipulation also did not stipulate the amount of the Residential Basic Service Charge (BSC). LG&E's present and proposed monthly Residential BSC are as follows:

	<u>Present</u>	<u>Proposed</u>	<u>Change</u>	<u>% Change</u>	<u>COSS</u>	<u>Proposed Daily Rate</u>
Electric	\$12.25	\$16.13	\$3.88	31.7%	\$20.34	\$0.53
Gas	\$16.35	\$19.78	\$3.43	21.0%	\$24.94	\$0.65

LG&E states that the proposed Residential BSC moves closer towards the COSS customer-related costs. LG&E further notes that increasing the Residential BSC by a

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<sup>43</sup> *Id.*

<sup>44</sup> *Id.*

<sup>45</sup> Joint Post-Hearing Brief of KU and LG&E at 25.

<sup>46</sup> *Id.*

larger percentage than the energy charge will reduce spikes in bills that occur during high-usage months and assist in the elimination of inter- and intra-class subsidies.

The Attorney General does not support any increase in the Residential BSC. In his testimony for the Attorney General, Mr. Watkins disagrees with LG&E's assertions that a higher customer charge will stabilize bills stating that, although mathematically correct, a higher customer charge does not support proper economic rate design as it removes the ability for customers to control their total electric bill and thus leads to uneconomic decisions relating to the consumption of electricity.<sup>47</sup> He further disagrees that a higher customer charge reduces intra-class subsidies, arguing such rationale fails to consider the aspects of cost causation and ratemaking principles and practices.<sup>48</sup> He avers that higher customer charges are contrary to effective conservation efforts and suggests that the higher proposed customer charge is due to LG&E's desire for revenue stability.<sup>49</sup> Mr. Watkins provided his own analysis illustrating a monthly customer charge of \$4.20 for LG&E's electric operations and \$12.14 for LG&E's gas operations, but in the interest of rate continuity, recommended maintaining the current levels.<sup>50</sup> The Attorney General also supports maintaining the current level of the Residential BSC; he argues that customers wish to have control over their usage and their bills and that maintaining the current Residential BSC allows LG&E the opportunity to balance the promotion of efficient use of energy and direct monthly customer costs.<sup>51</sup>

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<sup>47</sup> Watkins Testimony at 23.

<sup>48</sup> *Id.* at 30.

<sup>49</sup> *Id.* at 29.

<sup>50</sup> *Id.* at 37.

Louisville Metro also recommends that the Residential BSC remain at its current level of \$12.25 per month. Louisville Metro contends that LG&E's calculation of its cost-based residential customer charge included certain inappropriate expenses such as a portion of distribution plant investment costs associated with poles, overhead lines, underground conductors, conduit, and transformers.<sup>52</sup> Louisville Metro states that keeping the current customer charge would also promote conservation and will send a price signal to customers for using excess electricity.

LG&E notes that the proposed Residential BSC is cost-of-service supported, comports with gradualism, and still supports conservation incentives, and thus meets Commission criteria.<sup>53</sup> LG&E specifically notes that the increase is under the 50 percent guideline used in past Commission orders. The company further avers that the position of the Attorney General contrasts with the Commission's policy towards cost-based ratemaking and recent Commission orders where utilities collect most, if not all, of customer-related costs through customer charges rather than volumetric rates.<sup>54</sup>

The Commission finds the daily basic service charge to be reasonable. The Commission requests that LG&E continue in the transparency of the basic service charge on each customer bill and include all calculations. The Commission denies the proposed electric residential daily customer charge of \$0.53. LG&E's electric COSS demonstrates a lower customer charge than that of KU; in order to create parity between the two

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<sup>51</sup> Attorney General's Post-Hearing Brief at 9.

<sup>52</sup> Louisville Metro's Post-Hearing Brief at Section I.

<sup>53</sup> Joint Post-Hearing Brief of KU and LG&E at 18.

<sup>54</sup> *Id.* at 20.



companies, the Commission will award each company the same percent of the full COSS. Because KU's service territory is not as concentrated as that of LG&E, the Commission finds that using KU's COSS as the basis of the parity to be reasonable.<sup>55</sup> KU's proposed customer charge is 67.52 percent of the COSS; hence, LG&E's electric customer charge will be 67.52 percent of the COSS estimate of \$20.34, or \$13.73 per month. This translates to a daily rate of \$0.45.<sup>56</sup> The Commission finds that the electric and gas residential daily customer charges of \$0.45 and \$0.65, respectively, to be reasonable, as they are within the COSS estimates and approach cost-based ratemaking.

C. **Energy Charge Tariff Information.** LG&E is proposing to revise its electric tariffs and split the energy charge into a fixed Infrastructure Energy Charge and a Variable Energy Charge for the residential rate schedules and for those rate schedules that do not have demand charges. LG&E states that splitting the energy charge in the tariff would allow customers to see the proportion of fixed costs that are recovered through the energy charge and thus is solely educational and informational.<sup>57</sup> LG&E states that the Company wants customers, stakeholders, and employees to be aware that there are energy, or variable, cost and fixed cost components and to understand that not all costs are reduced when a customer uses less energy.<sup>58</sup>

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<sup>55</sup> Seeley Testimony, Exhibit WSS-2. KU's customer cost = \$23.89 and LG&E Electric Customer Cost is \$20.34.

<sup>56</sup> Due to rounding, the daily rate calculates to be \$13.70 per month ( $\$0.45 \times 365.25/12$ ). The difference in revenue is reflected in the energy charge.

<sup>57</sup> Seeley Testimony at 15.

<sup>58</sup> *Id.* at 16.

Mr. Watkins, the Attorney General's witness, states that residential customers could not care less about the cost structure for ratemaking purposes but are interested in the total charges. He contends that the presentation of a bifurcated energy charge could lead to customer confusion, as the customer may not understand the distinction between fixed and variable costs or may disagree with the analysis of what is and is not a fixed cost.<sup>59</sup> The Attorney General does not support the proposed split of the energy charges and states that the Commission should deny the change solely due to possible confusion. The Attorney General further contends that very few customers review LG&E's tariffs and that the split charge would not prompt them to do so. The Attorney General further argues that this proposed breakout of costs will only benefit the utility and provides no perceived benefit to the customer.<sup>60</sup>

Louisville Metro also recommends that LG&E should not be permitted to bifurcate its energy charge into variable and infrastructure charges. Louisville Metro notes that it is not clear how LG&E intends to utilize this bifurcation of rates in the future, but states that it is unnecessarily complicated and confusing.<sup>61</sup> Louisville Metro asserts that the separately itemized components would add another layer of complexity to LG&E's bills.

The Commission believes that splitting the energy charge on the tariffs, for informational purposes only, is reasonable. However, on those tariffs in which the energy charge splits are listed, an informative description defining the variable and the fixed components should also be included.

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<sup>59</sup> Watkins Testimony at 30.

<sup>60</sup> Attorney General's Post-Hearing Brief at 13.

<sup>61</sup> Louisville Metro's Post-Hearing Brief at Section III.

D. **Ohio Valley Electric Corporation (OVEC) Issue Raised by Sierra Club.**

Sierra Club witness, Dr. Fisher, presented testimony addressing LG&E's proposal to continue its power purchases from OVEC and LG&E's proposal to adopt a higher purchased power cost from OVEC due to OVEC's debt repayment obligations.<sup>62</sup> Dr. Fisher's testimony also scrutinizes whether it is economic for LG&E to continue purchasing energy from OVEC under the Inter-Company Power Agreement (ICPA) in light of certain emerging risks to OVEC, including the recent withdrawal of FirstEnergy Solutions from OVEC and the impact of that withdrawal on LG&E and significant prospective environmental compliance obligations.<sup>63</sup> Dr. Fisher contends that the value of OVEC has steadily declined and now poses a substantial liability to LG&E's customers since 2011 when it received Commission authorization to enter into the ICPA.<sup>64</sup>

Dr. Fisher recommends that the Commission expressly reaffirm LG&E's obligation to obtain Commission approval of any future OVEC-related changes that it may wish to implement and that may impact LG&E's ratepayers.<sup>65</sup> Dr. Fisher also recommends the Commission timely initiate a formal investigation as to whether LG&E's OVEC payments and other obligations under the ICPA are fair, just, and reasonable now and in the foreseeable future.<sup>66</sup> Dr. Fisher suggests that such an investigation should examine whether key determinations in the Commission's 2011 approval remain valid, including

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<sup>62</sup> Direct Testimony of Jeremy I. Fisher, Ph.D. on Behalf of Sierra Club (Fisher Testimony) at 3.

<sup>63</sup> *Id.*

<sup>64</sup> *Id.* at 3–4.

<sup>65</sup> *Id.* at 6.

<sup>66</sup> *Id.* at 6–7.

whether LG&E does not and will not act as guarantor of OVEC's debts; whether OVEC's two coal-fired units are expected to be operational at or near their historic operating levels through 2026; whether the OVEC units are expected to be in compliance with existing and pending environmental requirements; and whether the OVEC units do provide relatively low-cost generation.<sup>67</sup>

LG&E contends that Dr. Fisher's recommendations and assertions are not relevant to this proceeding. With respect to the recommendation asking the Commission to reaffirm LG&E's obligation to obtain Commission approval of any future OVEC-related changes that may impact its ratepayers, LG&E argues that this recommendation is asking the Commission to exceed its statutory authority because the issuance of OVEC debt does not fall within KRS 278.300 given that OVEC is not a Kentucky utility.<sup>68</sup> LG&E states that it will continue to obtain any necessary regulatory approvals for the issuance or assumption of securities and any amendments to the ICPA.<sup>69</sup>

With respect to the recommendation requesting the Commission to initiate a new proceeding to review the ICPA, LG&E contends that this recommendation is also not relevant to the instant proceeding.<sup>70</sup> LG&E notes that the type of information that Sierra Club recommends evaluating as part of the new proceeding is the same type of information that has already been provided by KU and LG&E in their joint IRP (integrated

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<sup>67</sup> *Id.* at 7.

<sup>68</sup> Rebuttal Testimony of Daniel K. Arbough at 15.

<sup>69</sup> *Id.* at 16.

<sup>70</sup> Rebuttal Testimony of David S. Sinclair (Sinclair Rebuttal) at 4–5.

resource plan) in Case No. 2018-00348<sup>71</sup> and that the OVEC issues raised by Sierra Club could be addressed as part of that case.<sup>72</sup>

Both KIUC and the Attorney General contend that the OVEC issues raised by Sierra Club are more properly suited to an IRP proceeding.

The Commission finds that the OVEC issues raised by Sierra Club are not relevant to the instant proceeding given that Sierra Club has not proposed any revenue adjustment relating to the ICPA. The Commission also finds that KU and LG&E's pending IRP matter, Case No. 2018-00348, would be the appropriate forum to address the OVEC issues proffered by Sierra Club.

#### Miscellaneous Tariff Issues

**Gas Meter Pulse Service Rates.** The gas tariff filed as part of the Rate Case Stipulation (Stipulation Gas Tariff) included revisions to the Gas Meter Pulse Service Rates, which were not originally proposed to have changed in this case. In response to Staff's Post-Hearing Request, Item 11, LG&E indicated that the Gas Meter Pulse Service Rates should not have changed as a part of the Stipulation. LG&E provided a revised tariff page reflecting the Gas Meter Pulse Service Rates in LG&E's current tariff on file with the Commission. The Commission finds that the Stipulation Gas Tariff should be revised to reflect the Gas Meter Pulse Service Rates contained in LG&E's current tariff on file with the Commission.

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<sup>71</sup> Case No. 2018-00348, *Electronic 2018 Joint Integrated Resource Plan of Louisville Gas and Electric Company and Kentucky Utilities Company* (Filed October 19, 2018).

<sup>72</sup> Sinclair Rebuttal at 5.

**Daily Demand Charges.** The Stipulation Gas Tariff included revisions to the daily demand charge listed under LG&E's Firm Transportation Service (Transportation Only) (Rate FT) and its Local Gas Delivery Service (Rate LGDS). The daily demand charges were not originally proposed to have changed in this case. The Commission did approve revisions to the daily demand charge effective November 1, 2018, in Case No. 2018-00302.<sup>73</sup> In response to Staff's Post-Hearing Request, item 10(a), LG&E indicated that the amount listed for the daily demand charge in the Stipulation Gas Tariff was an inadvertent carryover from LG&E's originally proposed tariff in this case. LG&E provided revised tariff pages reflecting the daily demand charges in LG&E's current tariff on file with the Commission. The Commission finds that the Stipulation Gas Tariff should be revised to reflect the Rate FT and Rate LGDS daily demand charges contained in LG&E's current tariff on file with the Commission.

**Daily Storage Charges.** The Stipulation Gas Tariff included revisions to the daily storage charge listed under Rate FT and Rate LGDS. Revisions were initially proposed to the daily storage charge; however, the Stipulation Gas Tariff reflected the daily storage charge in LG&E's current tariff on file with the Commission. In response to Staff's Post-Hearing Request, Item 10(b), LG&E indicated that the amount listed for the daily storage charge in the Stipulation Gas Tariff was an inadvertent carryover from LG&E's current tariff on file with the Commission. LG&E provided revised tariff pages reflecting the daily storage charges in LG&E's originally proposed tariff in this case. The Commission finds

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<sup>73</sup> Case No. 2018-00302 *Electronic Purchased Gas Adjustment Filing of Louisville Gas and Electric Company* (Ky. PSC Oct. 15, 2018).

that the Stipulation Gas Tariff should be revised to reflect the Rate FT and Rate LGDS daily storage charges contained in LG&E's originally proposed tariff in this case.

**Economic Development Rider (Rider EDR).** LG&E stated that the Brownfield Development portion of Rider EDR was being revised to require a load factor of at least 50 percent.<sup>74</sup> However, neither the originally proposed electric tariff nor the electric tariff filed as part of the Rate Case Stipulation (Stipulation Electric Tariff) included this provision. When asked about it at the hearing, LG&E indicated that the provision requiring a load factor of at least 50 percent was inadvertently left out of the originally proposed tariff and the Stipulation Electric Tariff.<sup>75</sup> The Commission finds that the provision requiring a load factor of at least 50 percent is reasonable and that it should be allowed to be added to the Brownfield Development portion of Rider EDR.

**Line Extension Refunds.** LG&E proposed to revise the refund provisions of its Other Line Extensions and Overhead Line Extensions for Subdivisions sections of its Line Extension Plan. Currently, refunds are provided for a period of up to ten years to the customer or customers who made the deposit for excess footage in each year that an additional customer connects to the original extension or a lateral or extension to the original extension. Under the proposal, contracts would be reviewed after ten years and refunds would be provided at that time. LG&E claims that providing annual refunds is time-consuming and labor-intensive.<sup>76</sup> In its response to Staff's Post Hearing Request for Information, Item 9, LG&E indicated that it has 27 open line extension agreements

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<sup>74</sup> Application, Direct Testimony of Robert M. Conroy at 33.

<sup>75</sup> May 6, 2019 Hearing at 10:53:14.

<sup>76</sup> LG&E's response to Commission Staff's Third Request for Information, Item 1(e).

and that it takes approximately three to five days to review each extension to determine if a refund is necessary. If a refund is necessary, LG&E indicated an additional five days is needed to calculate and process the refund. In 2018, LG&E indicated that it issued three refunds at an average of \$3,100 per refund.

Sections 11(2)(b) and 11(3) of 807 KAR 5:041 require that refunds be issued each year when an additional customer is connected to the extension. Section 11(4) of 807 KAR 5:041 does, however, allow for extensions to be provided under different arrangements if such arrangements have been approved by the Commission.

The Commission has concerns that under the proposal a customer would have to wait multiple years for refunds to which they are entitled. While the Commission understands that reviewing these agreements and processing any refunds can be time-consuming, the Commission does not believe it has been shown that there is a significant enough burden on LG&E to justify extending the time for customers to receive their refunds. Therefore, the proposed revisions to the Other Line Extensions and Overhead Line Extensions for Subdivisions sections of the Line Extension Plan regarding calculation and provision of refunds should be denied.

**Solar Share Program.** On April 10, 2019, LG&E made a filing in this case to correct language in the Solar Energy Credit section of its Solar Share Program. LG&E claims the language to be corrected as originally proposed could have eliminated energy credits for small amounts of pro rata energy production from the Solar Share Facilities. LG&E states that the revision from “(truncated to a whole kWh value)” to “(in kWh)” would ensure that customers receive accurate solar energy credits. The Commission finds that



the proposed revision to correct language in the Solar Energy Credit section of LG&E's Solar Share Program is reasonable and should be approved.

#### Other Issues

**RTO Analysis and Legal Merger Analysis.** The Commission finds that KU should continue to separately evaluate and assess the benefits and costs associated with membership in a Regional Transmission Organization and the benefits and costs arising from a potential merger of KU and LG&E. We note that LG&E's 2018 RTO Membership Analysis was attached as Exhibit LEB-2 to the Direct Testimony of Lonnie E. Bellar. We further note that LG&E, along with KU, submitted a Potential Legal Merger of Utilities Internal Study on August 8, 2018, as a compliance filing in Case No. 2017-00415.<sup>77</sup> The Commission finds that LG&E should update these studies annually and file such updates with the Commission as part of its annual report. The RTO study should include detailed qualitative and quantitative analysis regarding benefits and costs associated with LG&E joining an RTO along with the company's efforts to reduce any excess reserve margin.

IT IS HEREBY ORDERED that:

1. The rates and charges proposed by LG&E are denied.
2. LG&E's motions for leave to file the PSA Stipulation and the testimonies in support of the PSA Stipulation and the Rate Case Stipulation are granted.
3. The PSA and Rate Case Stipulations, along with the Addendum, attached hereto as Appendix A, (without exhibits) are approved with the modification discussed herein.

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<sup>77</sup> Case No. 2017-00415, *Joint Application of PPL Corporation, PPL Subsidiary Holdings, LLC, PPL Energy Holdings, LLC, LG&E and KU Energy LLC, Louisville Gas and Electric Company and Kentucky Utilities Company for Approval of an Indirect Change of Control of Louisville Gas and Electric Company and Kentucky Utilities Company* (Ky. PSC Apr. 4, 2018).

4. The rates and charges in Appendix B, attached hereto, are fair, just, and reasonable for LG&E to charge for service rendered on and after May 1, 2019.

5. Within 20 days of the date of this Order, LG&E shall file with the Commission, using the Commission's electronic Tariff Filing System, its revised tariffs as set forth in this Order reflecting that they were approved pursuant to this Order.

6. IF LG&E submits a LOLP COSS as part of its next electric base rate application, LG&E shall also provide an alternative COSS along with the LOLP COSS.

7. As part of its annual report, KU shall file updates to its RTO membership study and potential legal merger study.

8. LG&E shall, within 14 days of the date of the creation of the regulatory liability associated with LG&E's request at FERC to remove the MMD component in transmission Rate Schedule No. 402, provide to the Commission, the accounting entries made on its books to effectuate the creation of the regulatory liability.

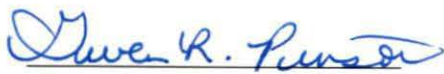
9. Any document filed pursuant to ordering paragraph 8 of this Order shall reference the number of this case and shall be retained in the post-case correspondence file.

10. This case is closed and removed from the Commission's docket.

By the Commission

ENTERED  
APR 30 2019  
KENTUCKY PUBLIC  
SERVICE COMMISSION

ATTEST:



Executive Director

Case No. 2018-00295

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2018-00295 DATED **APR 30 2019**

FIFTY-TWO PAGES TO FOLLOW

**ADDENDUM TO STIPULATION AND RECOMMENDATION**

This Addendum to Stipulation and Recommendation (“Addendum”) is entered into this 6th day of March 2019 by and between Kentucky Utilities Company (“KU”) and Louisville Gas and Electric Company (“LG&E”) (collectively, “the Utilities”); Association of Community Ministries, Inc. (“ACM”); Attorney General of the Commonwealth of Kentucky, by and through the Office of Rate Intervention (“AG”); Community Action Council for Lexington-Fayette, Bourbon, Harrison and Nicholas Counties, Inc. (“CAC”); United States Department of Defense and All Other Federal Executive Agencies (“DoD”); Kentucky Industrial Utility Customers, Inc. (“KIUC”); The Kroger Company (“Kroger”); Kentucky School Boards Association (“KSBA”); Lexington-Fayette Urban County Government (“LFUCG”); Louisville/Jefferson County Metro Government (“Louisville Metro”); Metropolitan Housing Coalition (“MHC”); and Walmart Inc. (“Walmart”). (Collectively, the Utilities, ACM, AG, CAC, DoD, KIUC, Kroger, KSBA, LFUCG, Louisville Metro, MHC, and Walmart are the “Parties.”)

**WITNESSETH:**

**WHEREAS**, on March 1, 2019, the Parties entered into a Stipulation and Recommendation that was filed with the Kentucky Public Service Commission (“Commission”) on March 1, 2019;

**WHEREAS**, the Parties discovered that the Stipulation and Recommendation omitted certain terms agreed upon the Parties during the negotiation of the Stipulation and Recommendation; and

**WHEREAS**, at the commencement of the March 5, 2019 hearing, the Commission requested that the Parties file an addendum setting forth the omitted terms;

**WHEREAS**, this Addendum is filed as a supplement to the Stipulation and Recommendation and incorporates as if fully set forth herein the terms and conditions of same; and

**NOW, THEREFORE**, for and in consideration of the promises and conditions set forth herein, the Parties hereby stipulate and agree as follows:

**ADDENDUM ARTICLE I. MERGER MITIGATION DEPANCAKING**

1. The Utilities have filed a Joint Application at the Federal Energy Regulatory Commission (“FERC”) seeking to remove the merger mitigation de-pancaking (“MMD”) component of transmission Rate Schedule No. 402.<sup>1</sup> The Parties ask and recommend the Commission approve the Utilities’ use of deferral accounting treatment so that if FERC reduces or eliminates the Utilities’ MMD obligations, the Utilities will establish a regulatory liability for the reduction in costs to be addressed in the Utilities’ future base-rate proceedings.

**ADDENDUM ARTICLE II.  
KSBA-RELATED RATE DESIGN ADJUSTMENT TO RATE PS**

2. The rate design shown in Stipulation Exhibits 3 (KU) and 4 (LG&E) and reflected in the tariffs shown in Stipulation Exhibits 6 (KU) and 7 (LG&E) for Power Service (Rate PS) will recover more of the revenue increase through energy charges than demand charges as compared to the Utilities’ filed allocation and rate design. This rebalancing of the energy and demand charges did not result in a cost shift to other rate schedules.

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<sup>1</sup> *Joint Application Under FPA Section 203 and Section 205 of Louisville Gas and Electric Company and Kentucky Utilities Company*, FERC Docket Nos. EC98-2-00 and ER1 8-2162-000.

IN WITNESS WHEREOF, the Parties have hereunto affixed their signatures.

Kentucky Utilities Company and  
Louisville Gas and Electric Company

HAVE SEEN AND AGREED:


By:   
Kendrick R. Riggs

-and-

By:   
Allyson K. Sturgeon

Association of Community Ministries, Inc.


HAVE SEEN AND AGREED:

By:   
Lisa Kilkelly  
Eileen Ordoover



Attorney General for the Commonwealth of  
Kentucky, by and through the Office of Rate  
Intervention


HAVE SEEN AND AGREED:

By:   
\_\_\_\_\_

Kent A. Chandler  
Lawrence W. Cook  
Rebecca W. Goodman

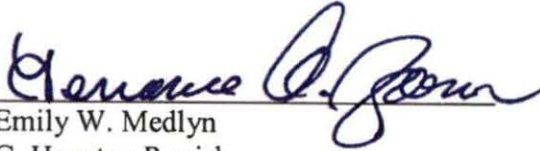
Community Action Council for  
Lexington-Fayette, Bourbon, Harrison  
and Nicholas Counties, Inc.

HAVE SEEN AND AGREED:

By:   
Iris G. Skidmore


United States Department of Defense and All Other  
Federal Executive Agencies

HAVE SEEN AND AGREED:

By:   
Emily W. Medlyn  
G. Houston Parrish  
Terrance A. Spann

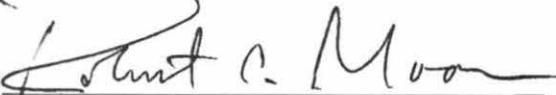
Kentucky Industrial Utility Customers, Inc.

HAVE SEEN AND AGREED:

By:   
Michael L. Kurtz  
Kurt J. Boehm  
Jody Kyler Cohn

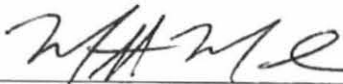
The Kroger Company

HAVE SEEN AND AGREED:

By:   
Robert C. Moore

Kentucky School Boards Association

HAVE SEEN AND AGREED:

By:   
Matthew R. Malone  
William H. May, III

Lexington-Fayette Urban County Government

HAVE SEEN AND AGREED:

By: James W. Gardner

James W. Gardner  
M. Todd Osterloh

*subject to approval  
by LFUGG*

David J. Barberie  
Andrea C. Brown  
Janet M. Graham

Louisville/Jefferson County Metro Government

HAVE SEEN AND AGREED:

By: 

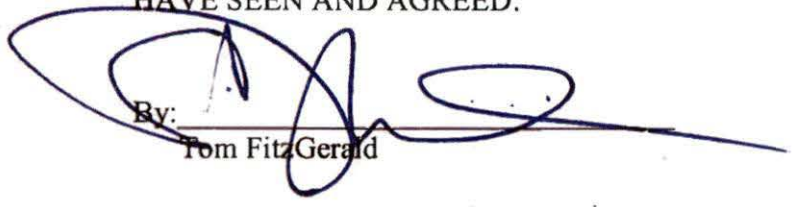
James W. Gardner  
M. Todd Osterloh  
Mike O'Connell

*subject to  
Louisville Metro  
approval*



Metropolitan Housing Coalition

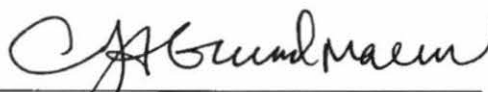
HAVE SEEN AND AGREED:

A large, stylized handwritten signature in blue ink, consisting of several loops and a long horizontal stroke extending to the right.

By: \_\_\_\_\_  
Tom FitzGerald

Walmart Inc.

HAVE SEEN AND AGREED:

By:   
Don C. A. Parker  
Mark E. Heath  
Carrie H. Grundmann  
Barry N. Naum

## STIPULATION AND RECOMMENDATION

This Stipulation and Recommendation (“Stipulation”) is entered into this 1st day of March 2019 by and between Kentucky Utilities Company (“KU”) and Louisville Gas and Electric Company (“LG&E”) (collectively, “the Utilities”); Association of Community Ministries, Inc. (“ACM”); Attorney General of the Commonwealth of Kentucky, by and through the Office of Rate Intervention (“AG”); Community Action Council for Lexington-Fayette, Bourbon, Harrison and Nicholas Counties, Inc. (“CAC”); United States Department of Defense and All Other Federal Executive Agencies (“DoD”); Kentucky Industrial Utility Customers, Inc. (“KIUC”); The Kroger Company (“Kroger”); Kentucky School Boards Association (“KSBA”); Lexington-Fayette Urban County Government (“LFUCG”); Louisville/Jefferson County Metro Government (“Louisville Metro”); Metropolitan Housing Coalition (“MHC”); and Walmart Inc. (“Walmart”). (Collectively, the Utilities, ACM, AG, CAC, DoD, KIUC, Kroger, KSBA, LFUCG, Louisville Metro, MHC, and Walmart are the “Parties.”)

### W I T N E S S E T H:

**WHEREAS**, on September 28, 2018, KU filed with the Kentucky Public Service Commission (“Commission”) its Application for Authority to Adjust Electric Rates, *In the Matter of: Electronic Application of Kentucky Utilities Company for an Adjustment of Its Electric Rates* (the “Application”), and the Commission has established Case No. 2018-00294 to review KU’s Application, in which KU requested a revenue increase of \$112.46 million;

**WHEREAS**, on September 28, 2018, LG&E filed with the Commission its Application for Authority to Adjust Electric and Gas Rates, *In the Matter of: Electronic Application of Louisville Gas and Electric Company for an Adjustment of Its Electric and Gas Rates* (the “Application”), and the Commission has established Case No. 2018-00295 to review LG&E’s Application, in which LG&E requested a revenue increase for its electric operations of \$34.89

million and a revenue increase of \$24.93 million for its gas operations (Case Nos. 2018-00294 and 2018-00295 are hereafter collectively referenced as the “Rate Proceedings”);

**WHEREAS**, the AG, CAC, DoD, KIUC, Kroger, KSBA, LFUCG, and Walmart have participated as full intervenors in Case No. 2018-00294;

**WHEREAS**, ACM, the AG, DoD, KIUC, Kroger, KSBA, Louisville Metro, MHC, and Walmart have participated as full intervenors in Case No. 2018-00295;

**WHEREAS**, a prehearing informal conference for the purpose of discussing settlement and the text of this Stipulation, attended by representatives of the Parties, representatives for Sierra Club, Alice Howell, Carl Vogel, Amy Waters and Joe Dutkiewicz (collectively, “Sierra Club”), and the Commission Staff, took place on February 26 and 27, 2019, at the offices of the Commission and during which a number of procedural and substantive issues were discussed, including potential settlement of all issues pending before the Commission in the Rate Proceedings;

**WHEREAS**, the Parties hereto unanimously desire to settle all the issues pending before the Commission in the Rate Proceedings except as explicitly noted in Section 4.2 herein;

**WHEREAS**, Sierra Club participated in the negotiations leading to this Stipulation and has seen the Stipulation but is not a signatory to it and desires to raise at hearing those issues raised by its witness Jeremy Fisher;

**WHEREAS**, it is understood by all Parties hereto that this Stipulation is subject to the approval of the Commission, insofar as it constitutes an agreement by the Parties for settlement, and, absent express agreement stated herein, does not represent agreement on any specific claim, methodology, or theory supporting the appropriateness of any proposed or recommended adjustments to the Utilities’ rates, terms, or conditions;

**WHEREAS**, the Parties have spent many hours over several days to reach the stipulations and agreements which form the basis of this Stipulation;

**WHEREAS**, all of the Parties, who represent diverse interests and divergent viewpoints, agree that, though certain issues have been reserved for litigation at hearing as set out in Section 4.2, this Stipulation, viewed in its entirety, is a fair, just, and reasonable resolution of their issues resolved in this Stipulation; and

**WHEREAS**, the Parties believe sufficient and adequate data and information in the record of these proceedings support this Stipulation, and further believe the Commission should approve it;

**NOW, THEREFORE**, for and in consideration of the promises and conditions set forth herein, the Parties hereby stipulate and agree as follows:

**ARTICLE I. ELECTRIC REVENUE REQUIREMENTS**

**1.1. Stipulated Items Used to Adjust Utilities' Electric Revenue Requirements.**

The Parties stipulate the following adjustments to the annual electric revenue used to determine the base rate increase. For purposes of determining fair, just and reasonable electric rates for LG&E and KU in the Rate Proceedings the parties stipulate the adjustments below. The overall base rate electric revenue requirement increases resulting from the stipulated adjustments are:

LG&E Electric Operations: \$3,919,000.

KU Operations: \$58,347,000.

The Parties stipulate that any increase in annual revenues for LG&E electric operations and for KU operations should be effective for service rendered on and after May 1, 2019.

**1.2. Items Reflected in Stipulated Electric Revenue Requirement Increases.** The Parties agree that the stipulated electric revenue requirement increases described in Section 1.1

were calculated by beginning with the Utilities' electric revenue requirement increases as presented and supported by the Utilities in their applications in these proceedings (\$112.46 million for KU; \$34.89 million for LG&E electric) and adjusting them as described in Section 1.2. The Parties ask and recommend the Commission accept these adjustments as reasonable without modification, except for those adjustments, if any, resulting from items included in section 4.2:

(A) **Return on Equity.** The Parties stipulate a return on equity of 9.725% for the Utilities' electric operations, and the stipulated revenue requirement increases provided above for the Utilities' electric operations reflect that return on equity as applied to the Utilities' capitalizations and capital structures underlying their originally proposed electric revenue requirement increases. Use of a 9.725% return on equity reduces the Utilities' proposed electric revenue requirement increases as set forth in their applications by \$20.14 million for KU and \$12.71 million for LG&E.

(B) **Reflect Correct Depreciation Rate for Brown 1 and 2 Ash Ponds.** The amount provided in Section 1.1 for KU reflects corrected depreciation expense for the Brown 1 and 2 ash ponds, which reduces KU's proposed electric revenue requirement increase as set forth in its Application by \$2.78 million.

(C) **Adjust Ash Pond Depreciation to Match Generating Units' Service Lives.** The amounts provided in Section 1.1 reflect depreciation expense reductions resulting from adjusting ash pond service lives to match the generating units they serve, which reduce the Utilities' proposed electric revenue requirement increases set forth in their applications by \$7.79 million for KU and \$0.56 million for LG&E.

(D) **Other Depreciation Expense Changes.** The final adjustment associated with depreciation in the amounts provided in Section 1.1 includes certain adjustments to distribution depreciation rates, as well as the associated impact of all depreciation adjustments on the Utilities' capitalization and the amortization of excess accumulated deferred income taxes, which reduce the Utilities' proposed electric revenue requirement increases as set forth in their applications by \$8.75 million for KU and \$4.28 million for LG&E. The support for these adjustments is included in Stipulation Exhibit 1. A complete set of agreed depreciation rates for the Utilities reflecting the adjustments in Sections 1.2 (B)-(D) is attached as Stipulation Exhibit 2.

(E) **Revenues Resulting from the Refined Coal Projects at the Trimble County and Mill Creek Generating Stations.** The amount provided in section 1.1 for KU reflects a \$1.66 million revenue-requirement reduction related to KU's contract proceeds resulting from the Utilities' refined coal project at the Trimble County Generating Station. The amount provided in Section 1.1 for LG&E reflects a \$7.77 million revenue-requirement reduction related to LG&E's contract proceeds resulting from the Utilities' refined coal project at the Trimble County and Mill Creek Generating Stations.

(F) **Five-Year Historical Average for Generator Outage Expenses; Related Use of Regulatory Accounting.** The Parties stipulate to the use of a five-year historical average of generator outage expenses in the Utilities' stipulated amounts provided in Section 1.1, which reduces the Utilities' proposed electric revenue requirement increases as set forth in their applications by \$6.73 million for KU and \$1.78 million for LG&E. Relatedly, the Parties stipulate and recommend Commission approval of the Utilities' continuing use of regulatory asset and liability accounting related to generator outage expenses that are greater or less than the

updated amount to be included in base rates. This regulatory accounting will ensure the Utilities may collect, or will have to return to customers, through future base rates any amounts that are above or below the base rate baseline average embedded in the electric revenue requirement increases in these proceedings.

**(G) Update Interest Rate from 4.90% to 4.25% for Forecasted May 2019 First Mortgage Bond (“FMB”) Issuance.** The amounts provided in Section 1.1 reflect a reduction in the assumed interest rate from 4.90% to 4.25% for the Utilities’ forecasted May 2019 FMB issuance, which reduces the Utilities’ proposed electric revenue requirement increases as set forth in their applications by \$1.33 million for KU and \$1.71 million for LG&E.

**(H) Assume Increased Revenues from Rate RTS Customers in Test Period.** The amounts provided in Section 1.1 for the Utilities reflect assumed increases in revenues from Rate RTS customers in the test period based on updated actual data for RTS customers through November 2018, which reduces the Utilities’ proposed electric revenue requirement increases as set forth in their applications by \$1.48 million for KU and \$0.60 million for LG&E.

**(I) Reflect Reductions in Short-Term Debt Balances Resulting from Forecasted FMB Issuance in May 2019.** The amounts provided in Section 1.1 for the Utilities reflect the correction of the Utilities’ inadvertent omission of offsetting reductions to short-term debt balances when calculating total capitalization related to the forecasted FMB issuance in May 2019. This reduces the Utilities’ proposed electric revenue requirement increases as set forth in their applications by \$0.96 million for KU and \$0.91 million for LG&E.

**(J) Adjust KU Test Year Revenues for Assumed Additional Customer Load.** The amount provided in Section 1.1 for KU reflects assumed additional revenues for a



particular customer, which reduces KU's proposed electric revenue requirement increase as set forth in their applications by \$0.90 million.

(K) **Extend Amortization of July 2018 Storm Damage Regulatory Assets to Ten Years.** The amounts provided in Section 1.1 reflect extending the amortization of the Utilities' July 2018 storm damage regulatory assets from five years to ten years, which reduces the Utilities' proposed electric revenue requirement increases by \$0.47 million as set forth in their applications for KU and \$0.23 million for LG&E.

(L) **Reduce Revenue Requirement by Assumed Amount of Late Payment Charge Waiver.** The amounts provided in Section 1.1 reflect reductions for the assumed amounts of late payment charges to be waived under the Utilities' proposed late payment charge waiver, which reduces the Utilities' proposed electric revenue requirement increases as set forth in their applications by \$0.34 million for KU and \$0.23 million for LG&E. The basis for this adjustment is an assumption that the Companies will collect those late payment charges and would need to account for such payment as miscellaneous revenues. Relatedly, the Parties agree to, and ask the Commission to approve, the Utilities' use of regulatory asset accounting for the amounts of late payment charge waivers actually granted.

(M) **ECR Beneficial Reuse Revenues in Base Rates.** The amounts provided in Section 1.1 reflect leaving the baseline of ECR beneficial reuse revenues currently in base rates, which reduces KU's proposed electric revenue requirement increase by \$0.44 million as set forth in its Application for KU but does not affect the proposed electric revenue requirement increase for LG&E. The ECR beneficial reuse baseline adjustment will still be made in KU monthly ECR filings.

(N) **Adjusting Revenues to Reflect Credit Card Rebates.** The amounts provided in Section 1.1 reflect credit card rebates to the Utilities, which reduces the Utilities' proposed electric revenue requirement increases as set forth in their applications by \$0.21 million for KU and \$0.18 million for LG&E.

(O) **Defer and Amortize Expense to Repair Brown 1 Stack.** The amount provided in section 1.1 for KU reflects a deferral and three-year amortization of the cost to repair the Brown 1 stack after the unit is retired, which reduces KU's proposed electric revenue requirement increase as set forth in its Application by \$0.10 million. Relatedly, the Parties agree to, and ask the Commission to approve, KU's use of regulatory asset accounting for the Brown 1 repair expense and a three-year amortization of that asset.

(P) **Adjust Plant Held for Future Use Related to Lonesome Pine Substation.** The amount provided in Section 1.1 for KU reflects removal of the Lonesome Pine substation from plant held for future use, which reduces KU's proposed electric revenue requirement increase as set forth in its Application by \$0.02 million.

**1.3. Summary Calculation of Electric Revenue Requirement Increases.** The table below shows the calculation of the stipulated electric revenue requirement increases as adjusted from the revenue requirement increases requested in the Utilities' Applications:

<b>Item</b>	<b>KU (\$M)</b>	<b>LG&amp;E Electric (\$M)</b>
Proposed electric revenue requirement increases	112.46	34.89
9.725% return on equity	(20.14)	(12.71)
Reflect correct depreciation rate for Brown 1 and 2 ash ponds	(2.78)	-
Adjust ash pond depreciation to match generating units' service lives	(7.79)	(0.56)
Other depreciation expense changes	(8.75)	(4.28)

Item	KU (\$M)	LG&E Electric (\$M)
Refined coal credits for Trimble County and Mill Creek	(1.66)	(7.77)
Generator outage expense adjustment	(6.73)	(1.78)
Update interest rate from 4.90% to 4.25% for forecasted May 2019 FMB Issuance	(1.33)	(1.71)
Assume increased revenues from Rate RTS customers in test period	(1.48)	(0.60)
Reflect reductions in short-term debt balances resulting from forecasted FMB issuance in May 2019	(0.96)	(0.91)
Adjust KU test year revenues for assumed additional customer load	(0.90)	-
Extend amortization of July 2018 storm damage regulatory assets to ten years	(0.47)	(0.23)
Reduce revenue requirement by assumed amount of Late Payment Charge waiver	(0.34)	(0.23)
ECR beneficial reuse revenues in base rates	(0.44)	-
Adjusting revenues to reflect credit card rebates	(0.21)	(0.18)
Defer and amortize expense to repair Brown I stack	(0.10)	-
Adjust plant held for future use related to Lonesome Pine substation	(0.02)	-
Electric revenue requirement increases after stipulated adjustments	58.35	3.92

## **ARTICLE II. GAS REVENUE REQUIREMENT**

**2.1. Stipulated Items Used to Adjust LG&E's Gas Revenue Requirement.** The Parties stipulate the following adjustments to the annual gas revenue requirement used to determine the base rate increase. For purposes of determining fair, just and reasonable gas rates the Parties stipulate the adjustments below. Effective for service rendered on and after May 1,

2019, the stipulated adjustments in Section 2.3 result in an increase in annual base rate revenues for LG&E gas operations of \$19,330,000.

**2.2. Items Reflected in Stipulated Gas Revenue Requirement Increase.** The Parties agree that the stipulated gas revenue requirement increase described in Section 2.1 was calculated by beginning with LG&E's gas revenue requirement increase as presented and supported by LG&E in its Application (\$24.93 million) and adjusting the proposed gas revenue requirement increase as set forth in the Application as described in this Section 2.2. The Parties ask and recommend that the Commission accept these adjustments as reasonable without modification, except for those adjustments, if any, resulting from items included in Section 4.2:

(A) **Return on Equity.** The Parties stipulate to a return on equity of 9.725% for LG&E's gas operations, and the stipulated revenue requirement increase for LG&E's gas operations reflects that return on equity as applied to LG&E's gas capitalization and capital structure underlying its originally proposed gas revenue requirement increase. Use of a 9.725% return on equity reduces LG&E's proposed gas revenue requirement increase as set forth in its Application by \$3.87 million.

(B) **Remove Uniform Diameter Transmission Line Projects.** The amount provided in section 2.1 for LG&E reflects removal of \$9.6 million of capital related to LG&E's proposed uniform diameter gas transmission line projects, which reduces LG&E's proposed gas revenue requirement increase as set forth in its Application by \$0.93 million. The Parties further agree that the appropriate forum for LG&E to seek cost recovery for these projects is either through a separate application for cost recovery under LG&E's Gas Line Tracker or in the context of a future base rate case, and the Parties agree not to oppose LG&E's seeking such cost recovery in either context on the grounds that cost recovery should be pursued via a different

type of application or proceeding. Nothing in this subsection precludes any Party from opposing or supporting the substance of LG&E's proposal for cost recovery for uniform diameter gas transmission line projects in any future proceeding on any basis except that enumerated above regarding the forum of the recovery.

(C) **Update Interest Rate from 4.90% to 4.25% for Forecasted May 2019 FMB Issuance.** The amount provided in Section 2.1 for LG&E's increase reflects a reduction in the assumed interest rate from 4.90% to 4.25% for LG&E's forecasted May 2019 FMB issuance, which reduces LG&E's proposed gas revenue requirement increase as set forth in its Application by \$0.52 million.

(D) **Reflect Reductions in Short-Term Debt Balances Resulting from FMB Issuance in May 2019.** The amount provided in Section 2.1 for LG&E reflects the correction of LG&E's inadvertent omission of offsetting reductions to short-term debt balances when calculating total capitalization related to the forecasted FMB issuance in May 2019. This reduces LG&E's proposed gas revenue requirement increase as set forth in its Application by \$0.17 million.

(E) **Reduce Revenue Requirement by Assumed Amount of Late Payment Charge Waiver.** The amount provided in Section 2.1 reflects a reduction for the assumed amount of late payment charges to be waived under LG&E's proposed late payment charge waiver, which reduces LG&E's proposed gas revenue requirement increase as set forth in its Application by \$0.10 million. The basis for this adjustment is an assumption that LG&E will collect late payment charges and would need to account for such payment as miscellaneous revenues. Relatedly, the Parties agree to, and ask the Commission to approve, LG&E's use of regulatory asset accounting for the amounts of late payment charge waivers actually granted.

(F) **Adjusting Revenues to Reflect Credit Card Rebates.** The amount provided in section 2.1 reflects credit card rebates to LG&E, which reduces LG&E's proposed gas revenue requirement increase as set forth in its Application by \$0.003 million.

**2.3. Summary Calculation of Gas Revenue Requirement Increase.** The table below shows the calculation of the stipulated gas revenue requirement increase as adjusted from the revenue requirement increase requested in LG&E's Application:

<b>Item</b>	<b>LG&amp;E Gas (\$M)</b>
Proposed gas revenue requirement increase	24.93
9.725% return on equity	(3.87)
Remove uniform diameter transmission line projects	(0.93)
Update interest rate from 4.90% to 4.25% for forecasted May 2019 FMB Issuance	(0.52)
Reflect reductions in short-term debt balances resulting from forecasted FMB issuance in May 2019	(0.17)
Reduce revenue requirement by assumed amount of Late Payment Charge waiver	(0.10)
Adjusting revenues to reflect credit card rebates	(0.003)
Gas revenue requirement increase after stipulated adjustments	19.33

### **ARTICLE III. REVENUE ALLOCATION AND RATE DESIGN**

**3.1. Revenue Allocation.** The Parties hereto agree that the allocations of the increases in annual revenues for KU and LG&E electric operations, and that the allocation of the increase in annual revenue for LG&E gas operations, as set forth on the allocation schedules designated Stipulation Exhibit 3 (KU), Stipulation Exhibit 4 (LG&E electric), and Stipulation Exhibit 5 (LG&E gas) attached hereto, are fair, just, and reasonable..

**3.2. Tariff Sheets.** The Parties hereto recommend to the Commission that, effective May 1, 2019, the Utilities shall implement the electric and gas rates set forth on the tariff sheets in Stipulation Exhibit 6 (KU), Stipulation Exhibit 7 (LG&E electric), and Stipulation Exhibit 8 (LG&E gas) attached hereto, excepting only the issues to be addressed at hearing set out in Section 4.2 below.

**3.3. Rate RTS 60-Minute Exemption from Setting Billing Demand Following Utility System Fault.** For customers with their own generation, for 60 minutes immediately following a Utility-system fault, but not a Utility energy spike or a fault on a customer's system, the Utilities will not use any demand data for a Rate RTS customer to set billing demand. This 60-minute exemption from setting billing demand permits customers who have significant onsite generation (i.e., 1 MW or more) that comes offline due to a Utility-system fault to reset and bring back online their own generation before the Utilities will measure demand to be used for billing purposes. The proposed tariff revisions are included in the proposed tariff sheets attached hereto as Stipulation Exhibits 6 (KU) and 7 (LG&E electric).

#### **ARTICLE IV. TREATMENT OF CERTAIN SPECIFIC ISSUES**

**4.1. Commitment to Work with Low-Income Advocates to Optimize Use of HEA Funds and Shareholder Contributions.** The Utilities agree to work constructively, including meeting as needed, with ACM and CAC to address administrative and other matters to seek to optimize the use of HEA and shareholder funds to maximize the numbers of customers assisted and the impact of that assistance.

**4.2. Issues Explicitly Not Addressed by this Stipulation and to Be Addressed at Hearing.** The Parties agree that the following issues are explicitly not addressed by this Stipulation and may be addressed by any or all Parties at hearing as each of the Parties sees fit:

(A) The Utilities' 401(k) contributions for employees who are also participants in the Utilities' defined benefit plans;

(B) The amount of, and the daily versus monthly format of, residential electric and gas Basic Service Charges; and

(C) The Utilities' proposal to split energy charges into infrastructure and variable components for tariff purposes only.

**4.3. Sierra Club's Right to Address at Hearing the Issues Raised by Its Witness Jeremy Fisher.** The Parties agree that Sierra Club may address at hearing the issues raised by its witness, Jeremy Fisher.

**4.4. All Other Relief Requested by Utilities to Be Approved as Filed.** The Parties recommend to the Commission that, except as modified in this Stipulation and the exhibits attached hereto, the rates, terms, and conditions contained in the Utilities' filings in these Rate Proceedings should be approved as filed.

#### **ARTICLE V. MISCELLANEOUS PROVISIONS**

**5.1.** Except as specifically stated otherwise in this Stipulation, entering into this Stipulation shall not be deemed in any respect to constitute an admission by any of the Parties that any computation, formula, allegation, assertion or contention made by any other party in these Rate Proceedings is true or valid.

**5.2.** The Parties hereto agree that the foregoing Stipulation represents a fair, just, and reasonable resolution of the issues addressed herein and request that the Commission approve the Stipulation.

**5.3.** Following the execution of this Stipulation, the Parties shall cause the Stipulation to be filed with the Commission on or about March 1, 2019, together with a request to the



Commission for consideration and approval of this Stipulation for rates to become effective for service rendered on and after May 1, 2019.

**5.4.** This Stipulation is subject to the acceptance of, and approval by, the Commission. The Parties agree to act in good faith and to use their best efforts to recommend to the Commission that this Stipulation be accepted and approved. The Parties commit to notify immediately any other Party of any perceived violation of this provision so the Party may have an opportunity to cure any perceived violation, and all Parties commit to work in good faith to address and remedy promptly any such perceived violation. In all events, counsel for all Parties will represent to the Commission that the Stipulation is a fair, just, and reasonable means of resolving all issues in these proceedings that are the subject of this Stipulation, and will clearly and definitively ask the Commission to accept and approve the Stipulation as such.

**5.5.** If the Commission issues an order adopting this Stipulation in its entirety and without additional conditions, each of the Parties agrees that it shall file neither an application for rehearing with the Commission, nor an appeal to the Franklin Circuit Court with respect to such order.

**5.6.** If the Commission does not accept and approve this Stipulation in its entirety, then any adversely affected Party may withdraw from the Stipulation within the statutory periods provided for rehearing and appeal of the Commission's order by: (1) giving notice of withdrawal to all other Parties; and (2) timely filing for rehearing or appeal. If any Party timely seeks rehearing of or appeals the Commission's order, all Parties will continue to have the right to withdraw until the conclusion of all rehearings and appeals. Upon the latter of: (1) the expiration of the statutory periods provided for rehearing and appeal of the Commission's order; and (2) the

conclusion of all rehearings and appeals, all Parties that have not withdrawn will continue to be bound by the terms of the Stipulation as modified by the Commission's order.

**5.7.** If the Stipulation is voided or vacated for any reason after the Commission has approved the Stipulation, none of the Parties will be bound by the Stipulation.

**5.8.** The Stipulation shall in no way be deemed to divest the Commission of jurisdiction under Chapter 278 of the Kentucky Revised Statutes.

**5.9.** The Stipulation shall inure to the benefit of and be binding upon the Parties hereto and their successors and assigns.

**5.10.** The Stipulation constitutes the complete agreement and understanding among the Parties, and any and all oral statements, representations or agreements made prior hereto or contained contemporaneously herewith shall be null and void and shall be deemed to have been merged into the Stipulation.

**5.11.** The Parties hereto agree that, for the purpose of the Stipulation only, the terms are based upon the independent analysis of the Parties to reflect a fair, just, and reasonable resolution of the issues herein and are the product of compromise and negotiation.

**5.12.** The Parties hereto agree that neither the Stipulation nor any of the terms shall be admissible in any court or commission except insofar as such court or commission is addressing litigation arising out of the implementation of the terms herein, the approval of this Stipulation or a Party's compliance with this Stipulation. This Stipulation shall not have any precedential value in this or any other jurisdiction.

**5.13.** The signatories hereto warrant that they have appropriately informed, advised, and consulted their respective Parties in regard to the contents and significance of this Stipulation

and based upon the foregoing are authorized to execute this Stipulation on behalf of their respective Parties.

**5.14.** The Parties hereto agree that this Stipulation is a product of negotiation among all Parties hereto, and no provision of this Stipulation shall be strictly construed in favor of or against any Party. Notwithstanding anything contained in the Stipulation, the Parties recognize and agree that the effects, if any, of any future events upon the operating income of the Utilities are unknown and this Stipulation shall be implemented as written.

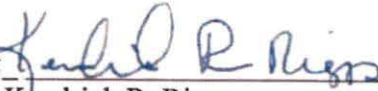
**5.15.** The Parties hereto agree that this Stipulation may be executed in multiple counterparts.

[ Signature Pages Follow ]

**IN WITNESS WHEREOF**, the Parties have hereunto affixed their signatures.

Kentucky Utilities Company and  
Louisville Gas and Electric Company

HAVE SEEN AND AGREED:

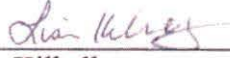
By:   
Kendrick R. Riggs

-and-

By:   
Allyson K. Sturgeon

Association of Community Ministries, Inc.

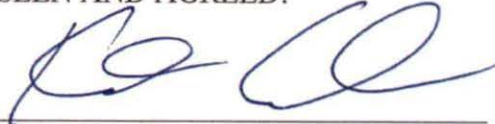
HAVE SEEN AND AGREED:

By:   
Lisa Kil Kelly  
Eileen Ordovery

Attorney General for the Commonwealth of  
Kentucky, by and through the Office of Rate  
Intervention

HAVE SEEN AND AGREED:


By: \_\_\_\_\_

A handwritten signature in blue ink, consisting of several loops and a long horizontal stroke at the end, positioned above a horizontal line.

Kent A. Chandler  
Lawrence W. Cook  
Rebecca W. Goodman

Community Action Council for  
Lexington-Fayette, Bourbon, Harrison  
and Nicholas Counties, Inc.

HAVE SEEN AND AGREED:

By:   
Iris G. Skidmore

United States Department of Defense and All Other  
Federal Executive Agencies

HAVE SEEN AND AGREED:

By: Terrance A. Spann  
Emily W. Medlyn  
G. Houston Parrish  
Terrance A. Spann



Kentucky Industrial Utility Customers, Inc.

HAVE SEEN AND AGREED:

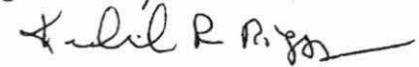
By: Michael L. Kurtz

Michael L. Kurtz

Kurt J. Boehm

Jody Kyler Cohn

(with permission)



The Kroger Company

HAVE SEEN AND AGREED:

By: Robert C. Moore  
Robert C. Moore

Kentucky School Boards Association

HAVE SEEN AND AGREED:

By: Matthew R. Malone  
Matthew R. Malone (with permission)  
William H. May, III  
Ludil R. Riggins

Lexington-Fayette Urban County Government

HAVE SEEN AND AGREED:

By: James W. Gardner  
James W. Gardner  
M. Todd Osterloh

*Subject to approval by the Urban County  
Government*

Louisville/Jefferson County Metro Government

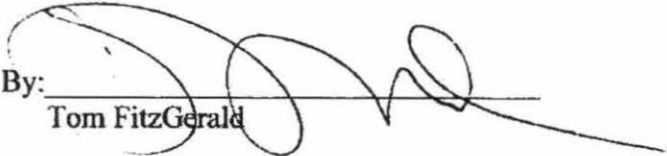
HAVE SEEN AND AGREED:

By: James W. Gardner  
James W. Gardner  
M. Todd Osterloh

*Subject to approval by the Louisville/Jefferson  
County Metro Government*

Metropolitan Housing Coalition

HAVE SEEN AND AGREED:

By:   
Tom FitzGerald

Walmart Inc.

HAVE SEEN AND AGREED:

By: Carrie H. Grundmann  
Don C.A. Parker (with permission)  
Mark E. Heath  
Carrie H.. Grundmann *Keith R. Ryan*  
Barry N. Naum

## STIPULATION AND RECOMMENDATION

This Stipulation and Recommendation (“Stipulation”) is entered into this twenty-seventh day of February 2019 by and between Kentucky Utilities Company (“KU”) and Louisville Gas and Electric Company (“LG&E”) (collectively, “the Utilities”) and Charter Communications Operating, LLC (“Charter”). (Collectively, the Utilities and Charter are the “Parties,” and each individually is a “Party.”)

### WITNESSETH:

**WHEREAS**, on September 28, 2018, KU filed with the Kentucky Public Service Commission (“Commission”) its Application for Authority to Adjust Electric Rates, *In the Matter of: Electronic Application of Kentucky Utilities Company for an Adjustment of Its Electric Rates*, and the Commission has established Case No. 2018-00294 to review KU’s base rate application;

**WHEREAS**, on September 28, 2018, LG&E filed with the Commission its Application for Authority to Adjust Electric and Gas Rates, *In the Matter of: Electronic Application of Louisville Gas and Electric Company for an Adjustment of Its Electric and Gas Rates*, and the Commission has established Case No. 2018-00295 to review LG&E’s base rate application, (Case Nos. 2018-00294 and 2018-00295 are hereafter collectively referenced as the “Rate Proceedings”);

**WHEREAS**, full intervention status in Case No. 2018-00294 has been granted to the Attorney General of the Commonwealth of Kentucky, by and through the Office of Rate Intervention (“AG”), Community Action Council for Lexington-Fayette, Bourbon, Harrison and Nicholas Counties, Inc. (“CAC”), United States Department of Defense and All Other Federal Executive Agencies (“DoD”), Kentucky Industrial Utility Customers, Inc. (“KIUC”), The Kroger Company (“Kroger”), Kentucky School Boards Association (“KSBA”), Lexington-Fayette



Urban County Government (“LFUCG”), Sierra Club, Alice Howell, and Carl Vogel, and Walmart, Inc.;

**WHEREAS**, full intervention status in Case No. 2018-00295 has been granted to Association of Community Ministries, Inc., AG, DoD, KIUC, Kroger, KSBA, Louisville/Jefferson County Metro Government, Metropolitan Housing Coalition, Sierra Club, Amy Waters, and Joe Dutkiewicz, and Wal-Mart;

**WHEREAS**, as part of its application, each of the Utilities proposed revisions to the terms and conditions set forth in its Pole and Structure Attachment Charges Schedule (“Rate PSA”) under which certain entities may attach their facilities to the Utilities’ poles and structures;

**WHEREAS**, Charter, an entity that attaches its facilities to the Utilities’ poles and structures pursuant to Rate PSA, was the only intervening party in the Rate Proceedings to file testimony with the Commission addressing the proposed revisions to the Utilities’ Rate PSA

**WHEREAS**, at Charter’s request, a video conference call was conducted on February 25, 2019 to discuss the issues related to the Utilities’ proposed revisions to Rate PSA;

**WHEREAS**, all parties to the Rate Proceedings were notified in advance of the video conference call and offered the opportunity to fully participate;

**WHEREAS**, representatives of the Utilities, Charter, the AG, Louisville/Jefferson County Metro Government, and Commission Staff participated in this video conference call during which the proposed revisions to Rate PSA were discussed;

**WHEREAS**, it is understood by the Parties that this Stipulation is subject to the approval of the Commission, insofar as it constitutes an agreement by the Parties for settlement, and, absent express agreement stated herein, does not represent agreement on any specific claim,

methodology, or theory supporting the appropriateness of any proposed or recommended adjustments to the Utilities' rates, terms, or conditions;

**WHEREAS**, the Parties have expended considerable time to reach the stipulations and agreements which form the basis of this Stipulation;

**WHEREAS**, the Parties agree that this Stipulation, viewed in its entirety, is a fair, just, and reasonable resolution of all the issues addressed herein; and

**WHEREAS**, the Parties believe sufficient and adequate evidence in the record of these proceedings support this Stipulation, and further believe the Commission should approve it;

**NOW, THEREFORE**, for and in consideration of the promises and conditions set forth herein, the Parties hereby stipulate and agree as follows:

**ARTICLE I. RATE PSA MODIFICATIONS**

**1.1. Terms and Conditions of Rate PSA.** The Parties stipulate and agree that revisions to the originally proposed version of the PSA Rate Schedule are necessary to ensure a fair and correct billing of Attachment Customers and to afford sufficient flexibility to permit Attachment Customers to operate effectively in the unregulated, market-based telecommunications industry without compromising worker or public safety. The revised PSA Rate Schedules, which are shown in Exhibits 1 and 2 to this Stipulation, with the proposed additions and deletions clearly marked, appropriately balance an Attachment Customer's need for flexibility with the public's interest in reliable and safe electric service. The Parties stipulate that, as revised, the terms and conditions set forth in the proposed PSA Rate Schedule are fair, just, and reasonable, will promote public safety, enhance the reliability of electric service, and ensure fair and uniform treatment of Attachment Customers as well as promote the deployment and adoption of advanced communications services.

## **ARTICLE II. MISCELLANEOUS PROVISIONS**

**2.1.** Except as specifically stated otherwise in this Stipulation, entering this Stipulation shall not be deemed in any respect to constitute an admission by any of the Parties that any computation, formula, allegation, assertion or contention made by any other party in these Rate Proceedings is true or valid.

**2.2.** The Parties agree that the foregoing stipulations and agreements represent a fair, just, and reasonable resolution of the issues addressed herein and request the Commission to approve the Stipulation.

**2.3.** Following the execution of this Stipulation, the Parties shall cause it to be filed with the Commission on or about March 1, 2019, together with a request to the Commission for consideration and approval of this Stipulation for rates, terms and conditions to become effective for service rendered on and after May 1, 2019.

**2.4.** This Stipulation is subject to the acceptance of, and approval by, the Commission. The Parties agree to act in good faith and to use their best efforts to recommend to the Commission that this Stipulation be accepted and approved. The Parties commit to notify immediately any other Party of any perceived violation of this provision so the Party may have an opportunity to cure any perceived violation, and all Parties commit to work in good faith to address and remedy promptly any such perceived violation. In all events counsel for all Parties will represent to the Commission that the Stipulation produces a fair, just, and reasonable means of resolving all issues in these proceedings involving proposed revisions to Rate PSA, and will clearly and definitively ask the Commission to accept and approve the Stipulation as such.

**2.5.** If the Commission issues an order adopting this Stipulation in its entirety and without additional conditions, each of the Parties agrees that it shall file neither an application for

rehearing with the Commission, nor an appeal to the Franklin Circuit Court with respect to the portions of such order that concern this Stipulation. The Parties commit to notify immediately any other Party of any perceived violation of this provision so the Party may have an opportunity to cure any perceived violation. All Parties agree that no monetary damages will be sought or obtained from a Party if the Party is not in breach, but rather a non-Party purporting to act for the Party has sought rehearing or appeal of a Commission order adopting this Stipulation in its entirety and without additional conditions.

**2.6.** If the Commission does not accept and approve this Stipulation in its entirety and without additional conditions, then any adversely affected Party may withdraw from the Stipulation within the statutory periods provided for rehearing and appeal of the Commission's order by (1) giving notice of withdrawal to all other Parties and (2) timely filing for rehearing or appeal. If any Party timely seeks rehearing of or appeals the Commission's order, all Parties will continue to have the right to withdraw until the conclusion of all rehearings and appeals. Upon the latter of (1) the expiration of the statutory periods provided for rehearing and appeal of the Commission's order and (2) the conclusion of all rehearings and appeals, all Parties that have not withdrawn will continue to be bound by the terms of this Stipulation as modified by the Commission's order.

**2.7.** If this Stipulation is voided or vacated for any reason after the Commission has approved this Stipulation, none of the Parties will be bound by this Stipulation.

**2.8.** This Stipulation shall in no way be deemed to divest the Commission of jurisdiction under Chapter 278 of the Kentucky Revised Statutes.

**2.9.** This Stipulation shall inure to the benefit of and be binding upon the Parties hereto and their successors and assigns.

2.10. This Stipulation, including its Exhibits, constitutes the complete agreement and understanding among the Parties, and any and all oral statements, representations or agreements made prior hereto or contained contemporaneously herewith shall be null and void and shall be deemed to have been merged into this Stipulation.

2.11. The Parties agree that, for the purpose of this Stipulation only, the terms are based upon the independent analysis of the Parties to reflect a fair, just, and reasonable resolution of the issues herein and are the product of compromise and negotiation.

2.12. The Parties agree that neither this Stipulation nor any of the terms shall be admissible in any court or commission except insofar as such court or commission is addressing litigation arising out of the implementation of the terms herein or the approval of this Stipulation. This Stipulation shall not have any precedential value in this or any other jurisdiction.

2.13. The signatories hereto warrant that they have appropriately informed, advised, and consulted their respective Parties in regard to the contents and significance of this Stipulation and based upon the foregoing are authorized to execute this Stipulation on behalf of their respective Parties.

2.14. The Parties agree that this Stipulation is a product of negotiation among all Parties hereto, and no provision of this Stipulation shall be strictly construed in favor of or against any party.

2.15. The Parties agree that this Stipulation may be executed in multiple counterparts.

**(This space intentionally left blank.)**

## **APPENDIX A: LIST OF STIPULATION EXHIBITS**

Stipulation Exhibit 1: KU PSA Rate Schedule Tariff Sheets (Redlined Version)

Stipulation Exhibit 2: LG&E PSA Rate Schedule Tariff Sheets (Redlined Version)

IN WITNESS WHEREOF, the Parties have hereunto affixed their signatures.

Kentucky Utilities Company and  
Louisville Gas and Electric Company

HAVE SEEN AND AGREED:

By:   
Kendrick R. Riggs

Charter Communications Operating LLC

HAVE SEEN AND AGREED:

By:



Paul Werner

Hanna Wigger



APPENDIX B

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2018-00295 DATED **APR 30 2019**

The following rates and charges are prescribed for the customers in the area served by Louisville Gas and Electric Company. All other rates and charges not specifically mentioned herein shall remain the same as those in effect under the authority of this Commission prior to the effective date of this Order.

SCHEDULE RS  
RESIDENTIAL SERVICE

Basic Service Charge per Day	\$ 0.45
Energy Charge per kWh	
Infrastructure	\$ 0.06047
Variable	<u>\$ 0.03206</u>
Total	\$ 0.09253

SCHEDULE RTOD-ENERGY  
RESIDENTIAL TIME-OF-DAY ENERGY SERVICE

Basic Service Charge per Day	\$ 0.45
Energy Charge per kWh	
Off-Peak Hours – Infrastructure	\$ 0.03849
Off-Peak Hours – Variable	<u>\$ 0.03206</u>
Total	\$ 0.07055
On-Peak Hours – Infrastructure	\$ 0.17277
On-Peak Hours – Variable	<u>\$ 0.03206</u>
Total	\$ 0.20483

SCHEDULE RTOD-DEMAND  
RESIDENTIAL TIME-OF-DAY DEMAND SERVICE

Basic Service Charge per Day	\$ 0.45
Energy charge per kWh	
Infrastructure	\$ 0.02070
Variable	<u>\$ 0.03206</u>
Total	\$ 0.05276
Demand Charge per kW	
Base Hours	\$ 3.48
Peak Hours	\$ 7.62

SCHEDULE VFD  
VOLUNTEER FIRE DEPARTMENT

Basic Service Charge per Day	\$ 0.45
Energy Charge per kWh	
Infrastructure	\$ 0.06047
Variable	<u>\$ 0.03206</u>
Total	\$ 0.09253

SCHEDULE GS  
GENERAL SERVICE RATE

Basic Service Charge per Day	
Single Phase	\$ 1.04
Three Phase	\$ 1.66
Energy charge per kWh	
Infrastructure	\$ 0.07238
Variable	<u>\$ 0.03283</u>
Total	\$ 0.10521

SCHEDULE PS  
POWER SERVICE

<u>Secondary Service:</u>	
Basic Service Charge per Day	\$ 2.96
Demand Charge per kW:	
Summer Rate	\$ 23.94
Winter Rate	\$ 21.07
Energy Charge per kWh	\$ 0.03441
<u>Primary Service:</u>	
Basic Service Charge per Day	\$ 7.89
Demand Charge per kW:	
Summer Rate	\$ 21.01
Winter Rate	\$ 18.28
Energy Charge per kWh	\$ 0.03359

SCHEDULE TODS  
TIME-OF-DAY SECONDARY SERVICE

Basic Service Charge per Day	\$ 6.58
Maximum Load Charge per kVA:	
Base Demand Period	\$ 3.61
Intermediate Demand Period	\$ 7.01
Peak Demand Period	\$ 9.27
Energy Charge per kWh	\$ 0.02813

SCHEDULE TODP  
TIME-OF-DAY PRIMARY SERVICE

Basic Service Charge per Day	\$ 10.84
Maximum Load Charge per kVA:	
Base Demand Period	\$ 3.46
Intermediate Demand Period	\$ 6.52
Peak Demand Period	\$ 8.69
Energy Charge per kWh	\$ 0.02744

SCHEDULE RTS  
RETAIL TRANSMISSION SERVICE

Basic Service Charge per Day	\$ 49.28
Maximum Load Charge per kVA:	
Base Demand Period	\$ 1.92
Intermediate Demand Period	\$ 6.47
Peak Demand Period	\$ 8.63
Energy Charge per kWh	\$ 0.02705

SCHEDULE FLS  
FLUCTUATING LOAD SERVICE

Primary:

Basic Service Charge per Day	\$ 10.84
Maximum Load Charge per kVA:	
Base Demand Period	\$ 3.24
Intermediate Demand Period	\$ 6.14
Peak Demand Period	\$ 8.26
Energy Charge per kWh	\$ 0.02744

Transmission:

Basic Service Charge per Day	\$ 49.28
Maximum Load Charge per kVA:	
Base Demand Period	\$ 1.80
Intermediate Demand Period	\$ 6.09
Peak Demand Period	\$ 8.20
Energy Charge per kWh	\$ 0.02705

SPECIAL CONTRACT

Energy Charge per kWh	\$ 0.03168
Demand Charge per kWh	\$ 16.82

SCHEDULE LS  
LIGHTING SERVICE

Rate per Light per Month: (Lumens Approximate)

Overhead:

	<u>Fixture Only</u>
Light Emitting Diode	
5,000 – 8,200 Lumens – Cobra Head	\$ 9.37
13,000 – 16,500 Lumens – Cobra Head	\$ 11.36
22,000 – 29,000 Lumens – Cobra Head	\$ 13.30
4,500 – 6,000 Lumens – Open Bottom	\$ 8.52
2,500 – 4,000 Lumens – Cobra Head	\$ 8.13
4,500 – 6,000 Lumens – Directional (Flood)	\$ 10.86
14,000 – 17,500 Lumens – Directional (Flood)	\$ 12.65
22,000 – 28,000 Lumens – Directional (Flood)	\$ 14.98
35,000 – 50,000 Lumens – Directional (Flood)	\$ 21.42

Underground:

	<u>Fixture Only</u>
Light Emitting Diode	
2,500 – 4,000 Lumens – Cobra Head	\$ 3.82
5,500 – 8,200 Lumens – Cobra Head	\$ 5.05
13,000 – 16,500 Lumens – Cobra Head	\$ 7.04
22,000 – 29,000 Lumens – Cobra Head	\$ 10.16
4,000 – 7,000 Lumens Colonial, 4-Sided	\$ 7.04
4,000 – 7,000 Lumens – Acorn	\$ 6.54
4,000 – 7,000 Lumens – Contemporary	\$ 6.55
8,000 – 11,000 Lumens – Contemporary	\$ 7.65
13,500 – 16,500 Lumens – Contemporary	\$ 9.34
21,000 – 28,000 Lumens – Contemporary	\$ 13.55
45,000 – 50,000 Lumens – Contemporary	\$ 20.49
4,500 – 6,000 Lumens – Directional (Flood)	\$ 7.61
14,000 – 17,500 Lumens – Directional (Flood)	\$ 9.40
22,000 – 28,000 Lumens – Directional (Flood)	\$ 11.73
35,000 – 50,000 Lumens – Directional (Flood)	\$ 18.17

High-Pressure Sodium charge per month

5,800 Lumens – London	\$ 38.06
9,500 Lumens – London	\$ 38.10
5,800 Lumens – Victorian	\$ 35.75
9,500 Lumens – Victorian	\$ 37.90

Pole Charges per month	
Cobra	\$ 30.04
Contemporary (Short)	\$ 14.49
Contemporary (Tall)	\$ 21.26
Post Top – Decorative Smooth	\$ 14.29
Post Top – Historic Fluted	\$ 19.88
Conversion Fee per month for 60 months	\$ 7.37

SCHEDULE RLS  
RESTRICTED LIGHTING SERVICE

Overhead:

	<u>Fixture Only</u>	<u>Fixture and Pole</u>
<u>High-Pressure Sodium:</u>		
16,000 Lumens - Cobra Head	\$ 14.47	
28,500 Lumens - Cobra Head	\$ 16.89	
50,000 Lumens - Cobra Head	\$ 19.26	
9,500 Lumens - Open Bottom	\$ 12.82	
16,000 Lumens – Directional	\$ 15.43	
50,000 Lumens – Directional	\$ 20.09	
<u>Metal Halide:</u>		
12,000 Lumens - Directional	\$ 14.53	\$ 17.22
32,000 Lumens - Directional	\$ 20.70	\$ 23.00
32,000 Lumens – Directional – Metal Pole		\$ 30.49
107,800 Lumens - Directional	\$ 43.34	\$ 46.55
<u>Mercury Vapor:</u>		
8,000 Lumens – Cobra/Open Bottom	\$ 10.91	
13,000 Lumens - Cobra Head	\$ 12.40	
25,000 Lumens - Cobra Head	\$ 15.16	
60,000 Lumens - Cobra Head	\$ 30.66	
25,000 Lumens – Directional	\$ 17.24	
60,000 Lumens – Directional	\$ 31.88	
4,000 Lumens - Open Bottom	\$ 9.45	
<u>Wood Pole:</u>		
Installed Before 3/1/2010	\$ 11.35	
Installed Before 7/1/2014	\$ 2.16	

Underground:

	<u>Fixture Only</u>	<u>Decorative Pole</u>
<u>High-Pressure Sodium:</u>		
16,000 Lumens – Cobra/Contemporary		\$ 27.71
28,500 Lumens – Cobra/Contemporary		\$ 30.44
50,000 Lumens – Cobra/Contemporary		\$ 34.73
5,800 Lumens – Coach/Acorn		\$ 16.73
9,500 Lumens – Coach/Acorn		\$ 19.96
16,000 Lumens – Coach/Acorn		\$ 24.41
120,000 Lumens – Contemporary	\$ 47.58	\$ 78.79
9,500 Lumens – Acorn/Bronze		\$ 26.95
16,000 Lumens – Acorn/Bronze		\$ 28.15
5,800 Lumens – Victorian	\$ 22.74	\$ 35.06
9,500 Lumens – Victorian	\$ 23.25	\$ 37.24
5,800 Lumens – London	\$ 22.35	\$ 36.04
9,500 Lumens – London	\$ 23.76	\$ 36.99
5,800 Lumens – Colonial 4-Sided		\$ 22.23
9,500 Lumens – Colonial 4-Sided		\$ 23.00
16,000 Lumens – Colonial 4-Sided		\$ 22.94
5,800 Lumens – Acorn		\$ 22.63
9,500 Lumens – Acorn		\$ 25.13
16,000 Lumens – Acorn		\$ 24.94
4,000 Lumens – Dark Sky		\$ 26.63
9,500 Lumens – Dark Sky		\$ 26.90
16,000 Lumens – Cobra Head		\$ 29.24
28,500 Lumens – Cobra Head		\$ 31.60
50,000 Lumens – Cobra Head		\$ 37.49
16,000 Lumens – Contemporary	\$ 18.11	\$ 32.95
28,500 Lumens – Contemporary	\$ 20.11	\$ 35.58
50,000 Lumens – Contemporary	\$ 24.21	\$ 41.30
<u>Mercury Vapor</u>		
8,000 Lumens – Cobra Head		\$ 18.96
13,000 Lumens – Cobra Head		\$ 21.39

25,000 Lumens – Cobra Head		\$ 24.86
4,000 Lumens – Coach		\$ 13.89
8,000 Lumens – Coach		\$ 15.70
Metal Halide		
12,000 Lumens – Contemporary	\$ 16.15	\$ 26.69
107,800 Lumens - Contemporary	\$ 46.33	\$ 57.45
32,000 Lumens – Contemporary	\$ 22.49	\$ 33.64
Incandescent		
1,500 Lumens – Continental Jr.		\$ 9.98
6,000 Lumens – Continental Jr.		\$ 14.24
Victorian/London Bases		
Old Town		\$ 3.63
Chesapeake		\$ 3.84
Victorian/London (Westchester/Norfolk)		\$ 3.72
Poles		
10' Smooth Pole		\$ 10.85
10' Fluted Pole		\$ 12.95

SCHEDULE TE  
TRAFFIC ENERGY SERVICE

Basic Service Charge per Day	\$ 0.13
Energy Charge per kWh	\$ 0.08409

RC  
REDUNDANT CAPACITY

Charge per kW/kVA per month	
Secondary Distribution	\$ 1.84
Primary Distribution	\$ 1.41

EVSE  
ELECTRIC VEHICLE SUPPLY EQUIPMENT

Monthly Charging Unit Fee:	
Single Charger	\$133.36
Dual Charger	\$195.48

EVSE-R  
ELECTRIC VEHICLE SUPPLY EQUIPMENT

Monthly Charging Unit Fee:

Single Charger	\$122.80
Dual Charger	\$174.37

EVC  
ELECTRIC VEHICLE CHARGING SERVICE

Charge per Hour for First Two Hours	\$ 0.75
Charge per Hour After First Two Hours	\$ 1.00

SSP  
SOLAR SHARE PROGRAM RIDER

Monthly Solar Capacity Charge per quarter kW subscribed	\$ 5.55
One – Time Solar Capacity Charge per quarter kW subscribed	\$ 799.00

Solar Energy Credit

Each billing period during which the Subscriber has paid in full for subscribed capacity under either option above, Company will compare a subscribing customer’s pro rata AC energy produced by the Solar Share Facilities (in kWh) to the subscribing the customer’s energy consumption (in kWh) every 15 minutes. If consumption exceeded production, Company will bill Customer for the net energy consumed in accordance with Customer’s standard rate schedule. If production equaled or exceeded consumption in any relevant period, Company will bill Customer for zero energy consumption for that period and provide a bill credit for each kWh of net production, if any, at the then-applicable non-time-differentiated rate for Company’s Standard Rate Rider SQF.

OSL  
OUTDOOR SPORTS LIGHTING SERVICE

Secondary Service:

Basic Service Charge per Day	\$ 2.96
Maximum Load Charge per kW	
Peak Demand Period	\$ 20.50
Base Demand Period	\$ 4.89
Energy Charge per kWh	\$ 0.03441

Primary Service:

Basic Service Charge per Day	\$ 7.89
Maximum Load Charge per kW	
Peak Demand Period	\$ 18.45
Base Demand Period	\$ 3.46
Energy Charge per kWh	\$ 0.03359



Other Charges

Returned Payment Charge	\$ 3.00
Meter Pulse Charge	\$ 24.00
Excess Facilities – W/ no CIAC	1.22 percent
Excess Facilities – W/ CIAC	0.52 percent
TS - Temporary-to-Permanent	15.00 percent
TS – Seasonal	100.00 percent

GAS SERVICE RATES

RATE RGS  
RESIDENTIAL GAS SERVICE

Basic Service Charge per Day	\$ 0.65
Distribution Charge per Ccf	\$ 0.36782

RATE VFD  
VOLUNTEER FIRE DEPARTMENT SERVICE

Basic Service Charge per Day	\$ 0.65
Distribution Charge per Ccf	\$ 0.36782

RATE CGS  
FIRM COMMERCIAL GAS SERVICE

Basic Service Charge per Day	
Meters < 5000 cf/hr	\$ 1.97
Meters >= 5000 cf/hr	\$ 9.37
Distribution Charge per Ccf	
On Peak	\$ 0.30670
Off Peak	\$ 0.25670

Rider TS-2 Gas Transportation Service

Administrative Charge per Month	\$ 550.00
Basic Service Charge per Day	
Meters < 5000 cf/hr	\$ 1.97
Meters >= 5000 cf/hr	\$ 9.37
Distribution Charge per Mcf	\$ 3.0670

RATE IGS  
FIRM INDUSTRIAL GAS SERVICE

Basic Service Charge per Day	
Meters < 5000 cf/hr	\$ 5.42

Meters >= 5000 cf/hr	\$ 24.64
Distribution Charge per Ccf	
On Peak	\$ 0.21929
Off Peak	\$ 0.16929

Rider TS-2 Gas Transportation Service

Administrative Charge per Month	\$ 550.00
Basic Service Charge per Day	
Meters < 5000 cf/hr	\$ 5.42
Meters >= 5000 cf/hr	\$ 24.64
Distribution Charge per Mcf	\$ 2.1919

RATE FT  
FIRM TRANSPORTATION SERVICE

Administrative Charge	\$ 550.00
Monthly Basic Service Charge	\$ 750.00
Distribution Charge per Mcf	\$ 0.0380
Demand Charge per Mcf	\$ 4.89
Daily Utilization Charges	
Daily Demand per Mcf	\$ 0.1648
Daily Storage Charge	\$ 0.3797
Total Charge per Mcf	\$ 0.5445

RATE SGSS-C  
SUBSTITUTE GAS SALES SERVICE - COMMERCIAL

Customer Charge per Month	\$ 285.00
Distribution Charge per Mcf	\$ 0.3603
Demand Charge per Mcf	\$ 6.56

RATE LGDS  
LOCAL GAS DELIVERY SERVICE

Administrative Charge per Month	\$ 550.00
Basic Service Charge per Month	\$ 750.00
Demand Charge per Mcf	\$ 4.89
Distribution Charge per Mcf	
Net Nominated Volumes at the Delivery Point	\$ 0.0380
Daily Utilization Charges	
Daily Demand per Mcf	\$ 0.1648
Daily Storage Charge	\$ 0.3797
Total Charge per Mcf	\$ 0.5445

Other Charges

Returned Payment Charge	\$ 3.00
Excess Facilities – W/ no CIAC	1.15 percent
Excess Facilities – W/ CIAC	0.45 percent

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