

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF)	
LOUISVILLE GAS AND ELECTRIC)	
COMPANY FOR RENEWAL AND)	CASE NO. 2019-00437
PROPOSED MODIFICATION OF ITS)	
PERFORMANCE-BASED)	
RATEMAKING MECHANISM)	

PETITION FOR APPROVAL TO DEVIATE FROM ORDER

Louisville Gas and Electric Company (“LG&E”) petitions the Kentucky Public Service Commission (“Commission”) to grant LG&E approval pursuant to 807 KAR 5:001, Section 22 to deviate from Ordering Paragraph Number 3 of the Commission’s Order dated June 12, 2020 in this proceeding because LG&E has substantially complied with the Commission’s hearing-notice requirements. In support of this petition, LG&E states as follows:

1. By Order dated Friday, June 12, 2020, the Commission granted LG&E’s and the Office of the Attorney General’s (“OAG”) Joint Motion to reschedule the previously scheduled June 17, 2020 hearing in this matter. The Commission set the new hearing date for Monday, June 22, 2020, at 9:00 a.m. Eastern Daylight Time. In Ordering Paragraph 3, the Commission ordered LG&E to provide public notice of the June 22, 2020 hearing in compliance with 807 KAR 5:001, Section 9(2)(b). That regulation requires that if notice is provided via newspaper publication, such publication must happen “not less than seven (7) nor more than twenty-one (21) days prior to the hearing in a newspaper of general circulation in the areas that will be affected.”

2. On the same day the Commission rescheduled the hearing (June 12, 2020), LG&E delivered to the Kentucky Press Service, Inc., (“Kentucky Press”) an agency that acts on behalf of newspapers of general circulation throughout the Commonwealth of Kentucky in which affected

customers reside, the notice of the hearing for publication in newspapers in LG&E's service area in accordance with 807 KAR 5:001 Section 9(2)(b). See the attached request and related notice to be published which are being provided to the Commission in accordance with Ordering Paragraph 3 of the Commission's June 12, 2020 Order.

3. Despite LG&E's and Kentucky Press' best efforts, given the timing of the Commission's June 12, 2020 Order and the various publication request submission deadlines imposed by the various newspapers, the notice of the hearing did not begin to run in newspapers until after Monday, June 15, 2020, which is not within the seven-day deadline in the regulation. However, it is LG&E's understanding and belief that the notice has or will run in all required newspapers during the week beginning on Sunday, June 14, 2020.

4. Through Kentucky Press, LG&E has caused notice to be published in 18 newspapers in the Commonwealth, including the *Louisville Courier-Journal*. The notice appeared in the *Louisville Courier-Journal* on Wednesday, June 17, 2020.

5. The purpose of the Commission's notice regulation is to ensure that the public has sufficient notice of the hearing and to respond accordingly. Notice has been or is planned to be published in the affected areas prior to the hearing even though it has not occurred within the seven-day deadline. LG&E requests a deviation from the seven-day deadline because it has substantially complied with the requirement to publish given the timing circumstances presented to it. As stated by the Kentucky Supreme Court:

Substantial compliance in regard to publication requirements has been authorized. The purpose of the statute is to allow the public an ample opportunity to become sufficiently informed on the public question involved.¹

¹ *Conrad v. Lexington-Fayette Urban County Government*, 659 S.W.2d 190, 195 (Ky. 1983) (citing *Queenan v. City of Louisville*, 233 S.W.2d 1010 (Ky. 1950)). See also *Lyon v. County of Warren*, 325 S.W.2d 302 (Ky. 1959)

6. The Commission has authority to permit LG&E to deviate from the publication requirements pursuant to 807 KAR 5:001, Section 22. Because LG&E is in substantial compliance with the applicable notice-publication requirements, good cause exists for the Commission to permit LG&E to deviate from the requirement of its Order and regulations and to accept the publication of notice of the hearing as sufficient.

WHEREFORE, LG&E respectfully requests that the Commission grant approval pursuant to 807 KAR 5:001, Section 22 to deviate from the applicable notice-publication requirements in the Commission's Order dated June 12, 2020 and 807 KAR 5:001, Section 9(2)(b) and to accept the publication of notice of the hearing scheduled in the above-captioned proceeding as sufficient.

(publishing notice of bond referendum outside statutory time limits, accompanied by media attention and other means, held sufficient notice to public).

Dated: June 18, 2020

Respectfully submitted,



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Counsel for LG&E

CERTIFICATE OF COMPLIANCE

In accordance with 807 KAR 5:001 Section 8, I certify that the electronic filing of this Petition is a true and accurate copy of the same document being filed in paper medium; that the electronic filing has been transmitted to the Commission on June 18, 2020; that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding; and that within 30 days following the end of the state of emergency announced in Case No. 2020-00085, a paper copy of this filing will be delivered to the Commission.



Counsel for LG&E

Sharp, Stephen

From: Schooler, Judy
Sent: Friday, June 12, 2020 4:31 PM
To: Fackler, Andrea
Cc: Sharp, Stephen
Subject: FW: Newspaper Notice (PBR Renewal Hearing Notice (LG&E - Gas ONLY) - Case No. 2019-00437
Attachments: LGE Gas.pdf

From: [REDACTED]
Sent: Friday, June 12, 2020 4:15 PM
To: Schooler, Judy [REDACTED]
Subject: Re: Newspaper Notice (PBR Renewal Hearing Notice (LG&E - Gas ONLY) - Case No. 2019-00437

EXTERNAL email. STOP and THINK before responding, clicking on links, or opening attachments.

Thank you Judy.
Ad is scheduled to run next week.
Attached is the ad proof.

On Jun 12, 2020, at 4:07 PM, Schooler, Judy wrote:

Rachel,

Attached is the revised PBR Renewal Hearing Notice for publication.

- LG&E (Gas ONLY)
- Publish one (1) Time - (June 14 – 18)
- Send draft for final approval before publishing

Thank you,

Judy Schooler

[REDACTED]

[REDACTED]



lge-ku.com

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<LGE - Notice of Public Hearing.docx>

**NOTICE OF PUBLIC
HEARING**

The Public Service Commission of Kentucky issued an order on June 12, 2020, scheduling a hearing to be held on June 22, 2020, at 9:00 a.m., Eastern Daylight Time, in the Richard Raff Hearing Room of the Commission's offices located at 211 Sower Boulevard in Frankfort, Kentucky, for the purpose of cross-examining witnesses in Case No. 2019-00437, which is Electronic Application of Louisville Gas and Electric Company for Renewal and Proposed Modification of its Performance-Based Ratemaking Mechanism.

This hearing will be streamed live and may be viewed on the PSC website, psc.ky.gov. Public comments may be made at the beginning of the hearing. Those wishing to make oral public comments may do so by following the instructions listed on the PSC website, psc.ky.gov.

Louisville Gas and Electric
Company
220 West Main Street
Louisville, Kentucky 40202