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July 24, 2009

RECEIVED

JUL 24 2009

**PUBLIC SERVICE
COMMISSION**

Jeffrey DeRouen
Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
P.O. Box 615
Frankfort, KY 40601

RE: Case No. 2009-00198

Dear Mr. DeRouen:

Enclosed please find an original and ten copies of Louisville Gas and Electric Company's Response to the Petition to Intervene of Tammy Stewart. Please place your file stamp upon the extra copy and return to me via our runner.

Sincerely,

W. Duncan Crosby III

WDC: jms
Enclosures

400001.132871/588517.1

COMMONWEALTH OF KENTUCKY

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BEFORE THE PUBLIC SERVICE COMMISSION

JUL 24 2009

In the Matter of:

PUBLIC SERVICE
COMMISSION

THE APPLICATION OF LOUISVILLE GAS AND)
ELECTRIC COMPANY FOR A CERTIFICATE)
OF PUBLIC CONVENIENCE AND NECESSITY)
AND APPROVAL OF ITS 2009 COMPLIANCE) CASE NO. 2009-00198
PLAN FOR RECOVERY BY ENVIRONMENTAL)
SURCHARGE)

**RESPONSE OF LOUISVILLE GAS AND ELECTRIC COMPANY
TO THE PETITION TO INTERVENE OF TAMMY STEWART**

Louisville Gas and Electric Company (“LG&E”) respectfully requests that the Commission deny the Petition to Intervene of Tammy Stewart, filed in this proceeding on July 16, 2009.

807 KAR 5:001, Section 3(8), governs intervention in Commission proceedings and provides in pertinent part:

If the Commission determines that a person has a special interest in the proceeding which is not otherwise adequately represented or that full intervention by party is likely to present issues or to develop facts that assist the commission in fully considering the matter without unduly complicating or disrupting the proceedings, such person shall be granted full intervention.

Thus, the regulation requires a person seeking to intervene to establish either (1) “a special interest” in the proceeding that is not already adequately represented, or (2) that his or her intervention is likely to develop facts and issues which will assist the Commission without unduly complicating or disrupting the proceeding.

The Commission routinely denies the intervention petitions of individual customers who cannot (or do not attempt to) demonstrate that they fulfill at least one of the requirements of 807 KAR 5:001, Section 3(8). For example, the Commission recently denied Rep. Jim Stewart’s

Motion to Intervene in Case No. 2009-00174 on the ground that he had neither a special interest in the proceeding nor was he likely to assist the Commission to render a decision.¹ Likewise, the Commission denied the intervention petition of Robert L. Madison in Case No. 2007-00337. The Commission held that Mr. Madison had neither a special interest in the proceeding nor the requisite training or expertise to assist the Commission in developing facts or issues, and established that “hold[ing] a particular position on issues pending in ... [a] case does not create the requisite ‘special interest’ to justify full intervention under 807 KAR 5:001, Section 3(8)(b).”²

In this case, Ms. Stewart’s Petition does not assert a special interest in this proceeding, nor does it claim that Ms. Stewart possesses any sort of training or expertise that would assist the Commission in rendering a decision; rather, her Petition states a general concern about rates, which the Commission established clearly in the quote above is not a special interest of the kind needed to be granted full intervention. Therefore, because Ms. Stewart has presented no evidence of a special interest in this proceeding, nor has she shown an ability to present issues or develop facts that will assist the Commission in rendering a decision in this proceeding, the Commission should dismiss Ms. Stewart’s Petition.

Therefore, though it is Ms. Stewart’s right to file written comments and to offer oral comments at the public comment portion of the hearing of this matter, the Commission should deny her Petition because she has neither stated a special interest in this proceeding, nor has she demonstrated that she will be able to present issues or develop facts that will assist the Commission to render a decision in this proceeding.


¹ *In the Matter of: Application of Kentucky Utilities Company for an Order Approving the Establishment of a Regulatory Asset*, Case No. 2009-00174, Order (June 26, 2009).

² *In the Matter of: Joint Application of Louisville Gas and Electric Company, Association of Community Ministries, Inc., People Organized and Working for Energy Reform, and Kentucky Association for Community Action, Inc. for the Establishment of a Home Energy Assistance Program*, Case No. 2007-00337, Order at 6 (Sept. 14, 2007).

WHEREFORE, Louisville Gas and Electric Company respectfully requests that the Commission deny the Petition to Intervene of Tammy Stewart.

Dated: July 24, 2009

Respectfully submitted,



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Counsel for Louisville Gas and Electric Company

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was served on the following persons on the 24th day of July, 2009, by United States mail, postage prepaid:

Dennis G. Howard II
Assistant Attorney General
Office of the Attorney General
Office of Rate Intervention
1024 Capital Center Drive, Suite 200
Frankfort, KY 40601-8204

Michael L. Kurtz
Boehm, Kurtz & Lowry
36 East Seventh Street, Suite 1510
Cincinnati, OH 45202

A handwritten signature in black ink, appearing to read "M. L. Kurtz", written over a horizontal line.

Counsel for Louisville Gas and Electric Company