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January 22, 2013

Mr. Jeff Derouen  
Executive Director  
Public Service Commission  
P.O. Box 615  
Frankfort, KY 40602

Re: Louisville Gas & Electric Company  
Case No. 2012-00239

Dear Mr. Derouen:

Attached hereto is the Stipulation of Facts and Settlement Agreement entered into by Louisville Gas & Electric Company and Staff. Please bring this document to the Commission's attention for its review and consideration.

Sincerely,

A handwritten signature in black ink that reads "L. Allyson Honaker".

L. Allyson Honaker  
Staff Attorney III

Enclosure

cc: Lindsey Ingram  
Allyson Sturgeon

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED  
JAN 18 2013  
PUBLIC SERVICE  
COMMISSION

In the Matter of:

LOUISVILLE GAS AND ELECTRIC  
COMPANY

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ALLEGED FAILURE TO COMPLY  
WITH KRS 278.495

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CASE NO. 2012-00239

**STIPULATION OF FACTS AND SETTLEMENT AGREEMENT**

This agreement is formally known as a Stipulation of Facts and Settlement Agreement ("Settlement Agreement"). The parties to this Settlement Agreement are Louisville Gas and Electric Company ("LG&E") and Staff of the Kentucky Public Service Commission ("Commission Staff"). It is the intent and purpose of the parties hereto to express their agreement on a mutually satisfactory resolution of all of the issues in the proceeding.

It is understood by the parties that this Settlement Agreement is not binding upon the Public Service Commission ("Commission"). The Commission must independently approve and adopt this Settlement Agreement before this matter can be deemed concluded and removed from the Commission's docket. The parties have expended considerable efforts to reach a stipulation as to the facts of this matter, as well as in developing a proposal for settlement. LG&E and Commission Staff agree that this Settlement Agreement, viewed in its entirety, constitutes a reasonable resolution of all issues in this proceeding.

In addition, the adoption of this Settlement Agreement will eliminate the need for the Commission, Commission Staff, and LG&E to expend significant resources in litigating this proceeding and will eliminate the possibility of, and any need for, rehearing or appeals of the Commission's final Order.

### **FACTS**

LG&E and the Commission Staff submit this stipulation of facts for the Commission's consideration in rendering a decision in this proceeding. Commission Staff developed and submitted to the Commission a Utility Incident Report ("Report") which reported Commission Staff findings and recommendations as a result of an investigation of a gas explosion involving LG&E facilities occurring on December 6, 2011. The December 6, 2011 incident occurred in Louisville, Kentucky, when a natural gas leak, ignition and explosion occurred near 5206 River Trail Place in Louisville.

According to the Report, on the day of the explosion, LG&E received a complaint of a gas smell outside the home of 5202 River Trail Place. An LG&E Gas Trouble Technician was dispatched to investigate, and upon arrival, discovered high gas readings coming from three storm drains at the intersection of River Trail Place and Queens Castle Drive. Based upon his initial review, the technician believed the gas smell was the result of an underground main leak only. The technician did not "bar test" at any time to check for migrating gas in order to establish his perimeter. He subsequently arranged for an on-call LG&E construction crew to provide site assistance, and contacted Kentucky 811 for emergency underground utility locates. Shortly after the arrival of the construction crew, an explosion occurred in the garage of 5206 River Trail Place. The occupants of the residence were able to escape the house

without injury. The house at 5206 River Trail Place was destroyed by the explosion and subsequent fire.

### **SHOW CAUSE ORDER**

By a Show Cause Order dated June 26, 2012, the Commission initiated this proceeding to determine whether LG&E should be subject to the penalties prescribed in KRS 278.992 for four alleged violations relating to KRS 278.495 and 807 KAR 5:006, Section 24(1), which address natural gas pipeline safety standards and requirements. The Commission has the authority to enforce such standards and requirements arising under 49 USC § 60101 et seq. and federal regulations promulgated thereto. Based on Commission Staff's investigation, it was alleged that LG&E violated the following gas regulations:

1. 49 CFR Part 192.605(a) General. Each operator shall prepare and follow for each pipeline, a manual of written procedures for conducting operations and maintenance activities and for emergency response.
2. 49 CFR Part 192.751. Each operator shall take steps to minimize the danger of accidental ignition of gas in any structure or area where the presence of gas constitutes a hazard of fire or explosion.
3. 49 CFR Part 192.619(a). No person may operate a segment of steel or plastic pipeline at a pressure that exceeds a maximum allowable operating pressure.
4. 49 CFR Part 192.741(c). If there are indications of abnormally high or low pressure, the regulator and the auxiliary equipment must be inspected and the necessary measures employed to correct any unsatisfactory operating conditions.<sup>1</sup>

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<sup>1</sup> June 26, 2012 Order, pp. 3-4.

On July 16, 2012, LG&E filed a response to the Commission's June 26, 2012 Show Cause Order. In its response, LG&E requested an informal conference be held in this matter. Pursuant to that request, an informal conference was scheduled in this matter for August 24, 2012 at the Commission's Frankfort offices. Representatives of LG&E were in attendance, as were Commission Staff.

During the informal conference, representatives of LG&E confirmed that they have taken proactive steps to follow and implement the Commission Staff's recommendations set forth at page 15 of the Report, many of which were started before the Staff's Report was issued. A follow-up IC was scheduled for December 3, 2012 at the Commission's Frankfort offices. Representatives of LG&E were in attendance, as were Commission Staff. Changes to the settlement agreement were discussed. Subsequent conversations and information provided to Commission Staff led to LG&E and Commission Staff reaching the agreement described below.

LG&E has identified each of its distribution systems in which operating pressure exceeded maximum allowable operating pressure (MAOP) at any time during the month of December 2012 and has provided to staff a summary report of this pressure recorder data review.

Based on this information, LG&E began the process of lowering the operating pressure for those systems identified as having exceeded MAOP. As of January 10, 2013 LG&E completed the adjustments on each of the 60 psig distribution systems identified and will begin the same process of lowering the operating pressure on the 50 psig distribution systems. Once that is complete, LG&E will make adjustments to its lower pressure systems.

## SETTLEMENT AGREEMENT

As a result of discussions held during the informal conference, LG&E and the Commission Staff submit the following settlement agreement for the Commission's consideration in rendering its decision in this proceeding:

1. LG&E agrees that the Commission Staff's Utility Incident Report of the incident in question accurately describes and sets forth the material facts and circumstances surrounding the December 6, 2011 incident except as specifically disputed or clarified in LG&E's July 16, 2012 Response in this case.
2. In settlement of this proceeding, LG&E agrees for a civil penalty in the amount of TWO HUNDRED FIFTY THOUSAND DOLLARS (\$250,000) to be assessed. The total maximum fine allowed under the governing statutes is FIVE HUNDRED THOUSAND DOLLARS (\$500,000). LG&E agrees to pay ONE HUNDRED TWENTY-FIVE THOUSAND DOLLARS (\$125,000) of the agreed upon \$250,000 civil penalty within 30 days of the date of entry of the Order approving this Settlement Agreement. The remaining ONE HUNDRED TWENTY-FIVE THOUSAND DOLLARS (\$125,000) is suspended on the condition that LG&E provide all required documentation (as described in paragraphs 4, 5, 7, and 8 below) within the time allotted. LG&E agrees such suspended penalty shall become due and payable if LG&E does not remedy its failure to comply within 30 days after the Commission has issued written notice to LG&E. Once the required information is filed by LG&E, the suspended portion of the penalty shall be eliminated and LG&E will have fulfilled all of its payment obligations under this Settlement Agreement. Any penalty paid as a result of this proceeding will not be recoverable through rates.
3. The scope of this proceeding is limited by the Commission's June 26, 2012 Show Cause Order on whether LG&E should be assessed penalties under KRS 278.992 for alleged violations of natural gas pipeline safety standards and requirements. Neither the payment of the civil penalty, nor any other agreement contained in this Settlement Agreement, shall be construed as an admission by LG&E of any liability arising out of the December 6, 2011 incident. The Commission's acceptance of this Settlement Agreement shall not be construed as a finding of a willful violation of any gas pipeline safety regulation. Finally, neither the Commission nor Commission Staff has made any findings as to whether or not the alleged violations in this matter caused or contributed to the December 6, 2011 explosion.

4. Within 30 days of the date of entry of the Order approving this Settlement Agreement, LG&E shall provide to the Commission the following:
  - Records of all leak investigation and emergency response procedures and situational awareness training conducted during 2012 which place increased emphasis on leak probing, leak pinpointing, and perimeter establishment;
  - Records of all leak investigation procedure audits and tests conducted during 2012 which place increased emphasis on leak probing, leak pinpointing, and perimeter establishment;
  - Records of all leak investigation and emergency response awareness initiatives implemented during 2012 which place increased emphasis on leak probing, leak pinpointing, and perimeter establishment; and
  - Summary documentation of leak investigation and emergency response policy or procedural changes implemented during 2012.
5. LG&E shall continue its corrective action to rectify any systems that exceeded MAOP in December 2012 and ensure that the operating pressure of each of its distribution systems does not exceed MAOP during normal operating conditions. Corrective action(s) shall be performed as expeditiously as possible but these initial measures shall be completed no later than June 30, 2013 and LG&E shall submit a report of its corrective actions on the first business day of each month beginning with February 1, 2013. LG&E shall have procedures in place to continually monitor the systems operating pressures and adequately address/correct any issues or overpressure conditions discovered. Within 30 days of the completion of all corrective actions, LG&E shall file a final report with the Commission including the systems identified as exceeding MAOP, the corrective action taken and the procedures put into place to monitor the MAOP to ensure the system does not exceed MAOP under normal operating conditions in the future.
6. Within twelve months from the date of the order approving this Settlement Agreement, Commission investigators will perform an MAOP audit on LG&E's system. During this audit, LG&E will provide a summary report of all systems that have exceeded MAOP since the final report filed pursuant to paragraph 5 above. This summary report shall include, at a minimum, the following information: Facility Name, Facility Type, Source, MAOP, Operating Pressure, Units, and the highest pressure recorded each week/seven days. LG&E shall also submit any measures employed and corrective actions implemented to correct any exceedance of MAOP.

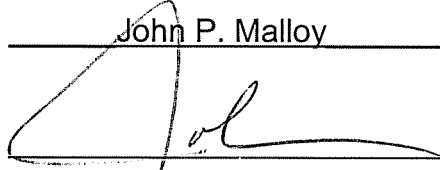
7. Within 30 days of the entry of the Order approving this Settlement Agreement, LG&E shall provide Commission Staff with:
- Highlighted documentation of any emergency operations or leak investigation procedural changes implemented during 2012 which place increased emphasis on leak probing, leak pinpointing, and perimeter establishment, including:
    - Enhancements introduced to require quarterly scheduling and execution of unannounced mock leak emergencies and tabletop exercises;
    - Enhancements introduced to enhance emergency notification procedures, which establish that LG&E gas leak investigators and emergency responders must notify 911 whenever Grade 1 leak levels are detected in sewers or storm drains;
    - Requirements to make available hard or electronic copies of its Gas Emergency Operations Procedures to all gas crews that respond to gas leak investigations or emergencies;
  - Highlighted documentation of any training enhancements or changes implemented during 2012 on leak investigation and emergency response procedures;
  - Documentation of physical changes made at LG&E's Gas Distribution training yard during 2012 to provide its trainers with increased flexibility to modify leak investigation testing and training scenarios;
  - Documentation of LG&E's controlled distribution of hard copy versions of its Gas Emergency Operations Procedures during 2012 to all crews that respond to gas leak investigations or emergencies.
  - Documentation of LG&E's executed plan to provide electronic versions of its operations, maintenance, inspection, and emergency response procedures on field crews' mobile devices and/or rugged laptops prior to December 31, 2012. LG&E shall file a notice with the Commission once the electronic versions are provided.
8. Within 30 days of the entry of the Order approving this Settlement Agreement, LG&E will provide Commission Staff its 2013 schedule for: 1) Quarterly Unannounced Drills on Gas Leak Investigations and Emergency Response; and 2) Planned Safety Audit Blitzes which place emphasis on Gas Leak Investigations and Emergency Response Procedures. Commission Staff will be invited to observe the scheduled drills and audit blitzes, and LG&E will be open to all feedback and enhancement recommendations offered by Commission Staff specific to the way these drills and blitzes are planned, scheduled and executed.



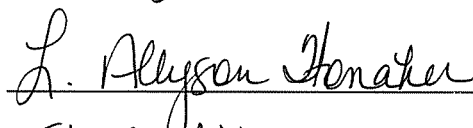
At the drills and blitzes, LG&E will: (1) explain steps taken to ensure employees are not made aware of the date, time or location of drills; (2) describe the procedure used to choose the date, time and location of drills; and (3) provide a list of all personnel who were given advanced knowledge of the drills and blitzes.

9. In the event the Commission does not accept this Settlement Agreement in its entirety, LG&E and Commission Staff reserve their rights to withdraw from it and require that a hearing be held on any and all issues involved and that none of the provisions contained within this Settlement Agreement shall be binding upon the parties, or used as an admission by LG&E of any liability in any legal proceeding, administrative proceeding or lawsuit arising out of the December 6, 2011 incident.
10. This Settlement Agreement is for use in Commission Case No. 2012-00239, and no party to this matter shall be bound by any part of this Settlement Agreement in any other proceeding, except that this Settlement Agreement may be used in any proceedings by the Commission to enforce the terms of this Settlement Agreement or to conduct a further investigation of LG&E's service. LG&E shall not be precluded or estopped from raising, in any other proceeding, any issue, claim or defense therein by reason of the execution of this Settlement Agreement.
11. LG&E and Commission Staff agree that this Settlement Agreement is reasonable, is in the public interest, and should be adopted in its entirety by the Commission. If adopted by the Commission, LG&E agrees to waive its right to a hearing and will not file any petition for rehearing or seek judicial appeal.

**LOUISVILLE GAS AND ELECTRIC COMPANY**

By: (print name) John P. Malloy  
By: (sign name)   
Title: VP Energy Delivery Retail Business  
Date: 18 January 2013

**STAFF OF THE KENTUCKY PUBLIC SERVICE COMMISSION**

By: (print name) L. Allyson Honaker  
By: (sign name)   
Title: Staff Attorney III  
Date: 1/22/13