## COMMONWEALTH OF KENTUCKY BEFORE THE PUBLIC SERVICE COMMISSION

PUBLIC SERVICE COMMISSION

In the Matter o	Π:
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STEVE RICKETTS	)	
COMPLAINANT	)	CASE NO.
V.	)	2021-00182
LOUISVILLE GAS & ELECTRIC COMPANY	)	
DEFENDANT	)	

## COMPLAINANT'S RESPONSE TO MOTION TO DISMISS

Comes now the Complainant, Steve Ricketts, by and through Counsel and pursuant to 807 KAR 5:001, Section 2, submits this *Response* to Defendant Louisville Gas & Electric Company's *Motion to Dismiss*. While Complainant does not agree with many of Defendant's characterizations and arguments,<sup>1</sup> at this stage, Complainant has no objection to dismissal, without prejudice, of his *Formal Complaint*.

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<sup>&</sup>lt;sup>1</sup> For example, Defendant discusses Matt Partymiller [incorrectly identified by Defendant as "Marty" Partymiller], even though Mr. Partymiller is not a Complainant. Mr. Ricketts, as a customer of Defendant, has a recognized right per 807 KAR 5:001 Section 20 to tender a Formal Complaint, and Mr. Ricketts' rights in the instant proceeding are not derived from or otherwise by reference to Mr. Partymiller. While Defendant appears to, at minimum, chide Complainant as a person possessing "considerable knowledgeable of [sic] and experience with solar generation facilities and the laws governing them" (*Motion* at 3), Defendant, presumably possessing comparable knowledge and experience with solar generation facility and the laws governing them, exercised an aptly-described "cavalier" attitude with regard to its notices and Application in KY PSC Case No. 2020-00350 regarding the circumstances and effective date for securing legacy rights treatment for net metering service. Otherwise stated: Defendant appears to criticize Complainant for relying upon statements Defendant published and thereafter included in the record in Case No. 2020-00350 in support of its Application. See also Case No. 2020-00350, Application, Vol. 2 of 4, testimony of Robert M. Conroy, page 23 [PDF 405 of 447] ("Rider NMS-1 will serve eligible electric generating facilities as defined in KRS 278.465(2) for which customers have submitted an application for net metering service before the effective date of rates established in these proceedings.").

Complainant tendered his *Formal Complaint* on April 23, 2021. The Commission, thereafter, issued orders addressing Kentucky Power Company's net metering service proposal in Case No. 2020-00174 as well as a June 30, 2021 Order addressing Defendant's net metering service proposal in Case No. 2020-00350. The facts are that (1) there was no administrative agency precedent at the time the *Formal Complaint* was tendered (over two (2) months prior to the relevant Order identified by Defendant) and (2) Complainant was entitled to pursue protection of his rights through tendering the *Formal Complaint*, particularly since Defendant took antagonistic positions on the effect of an application for net metering service upon the effective date of legacy rights.

Complainant, upon review of the pertinent orders of the Commission entered after his filing of the underlying request for relief, states that the subsequent precedent renders his *Formal Complaint* in part moot and in part unripe. Accordingly, and in lieu of a request for the matter to be held in abeyance, Complainant agrees with a result sought by Defendant, namely dismissal. Complainant however requests that the dismissal be without prejudice.

WHEREFORE, Complainant responds that he has no objection to a dismissal of the instant case without prejudice.

Respectfully submitted,

/s/ David E. Spenard
Randal A. Strobo
Clay A. Barkley
David E. Spenard
STROBO BARKLEY PLLC
730 West Main Street, Suite 202
Louisville, Kentucky 40202

Phone: 502-290-9751 Facsimile: 502-378-5395

Email: rstrobo@strobobarkley.com

Email: cbarkley@strobobarkley.com Email: dspenard@strobobarkley.com

Counsel for KYSEIA

## NOTICE AND CERTIFICATION FOR FILING

In its July 2, 2021 Order, the Commission directed the parties to the March 16, 2020 and March 24, 2020 Orders in Case No. 2020-000851 regarding the filing of physical documents with the Commission. In the March 16, 2020 Order, the Commission stated that if a nonelectronic case is not converted to an electronic case, the Commission will grant a deviation from the filing requirements 807 KAR 5:001, Section 7(1), insofar that a filer may file one original document with no copies, or send an electronic mail message with an electronic copy of the document to the Commission and to parties to the matter. Undersigned counsel files this paper through electronic mail message to PSCED@ky.gov, with the case number in the subject line of the message. Pursuant to the Commission's March 16, 2020, and March 24, 2020, Orders in Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus Covid-19*, the pleading, in paper medium, will be filed at the Commission's offices within 30 days of the lifting of the state of emergency.

<u>/s/ David E. Spenard</u> David E. Spenard

## **CERTIFICATE OF SERVICE**

In accordance with 807 KAR 5:001, Section 8, I certify that a true and accurate copy of this document was served by electronic mail this 15<sup>th</sup> day of July 2021 upon Kendrick Riggs at Kendrick.riggs@skofirm.com and Allyson Sturgeon at Allyson.sturgeon@lge-ku.com.

<u>/s/ David. E. Spenard</u> David E. Spenard