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a PPL company

Ms. Linda Bridwell
Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, Kentucky 40601-8294

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PUBLIC SERVICE
COMMISSION

December 5, 2023

**Re: Jeffrey Jon Greenberg vs. Louisville Gas and Electric Company
CN 2023-00149**

Dear Ms. Bridwell:

Pursuant to the Commission's Order dated November 15, 2023, in the above-referenced case, Louisville Gas and Electric Company (LG&E) is providing its response and motion to dismiss.

Please contact me if you have any questions concerning these documents.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Michael E. Hornung', is written over a light blue horizontal line.

Michael E. Hornung

**COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION**

In the Matter of:

JEFFREY JON GREENBERG)	
)	
COMPLAINANT)	CASE NO. 2023-00149
v.)	
)	
LOUISVILLE GAS AND ELECTRIC CO.)	
)	
DEFENDANT)	

**RESPONSE OF LOUISVILLE GAS AND ELECTRIC COMPANY
TO THE COMMISSION’S ORDER OF NOVEMBER 15, 2023 AND MOTION TO
DISMISS**

On November 15, 2023, the Kentucky Public Service Commission (“Commission”) issued an Order determining that the Complainant had established a prima facie case and directing Louisville Gas and Electric Company (“LG&E” or the “Company”) to file a written response showing cause as to why it should not be subject to civil penalties pursuant to KRS 278.990(1) as a result of LG&E failing to provide notice within 24 hours after disconnecting Complainant’s electric service for illegal use due to tampering with the meter, which was turned upside down and therefore running backwards.

As a preliminary matter, the Complaint should be dismissed because Complainant seeks relief to which he is not entitled. Specifically, Complainant’s prayer for relief requests that LG&E “be punished as the law permits and the Kentucky Public Service Commission sees fit.” See Complaint, p. 2. The Commission has consistently held that “[a]ny remedy arising from a determination that [a utility] willfully violated KRS Chapter 278 ... and thus should be subject to

the assessment of a civil penalty is determined in an investigation/show cause proceeding and not in a complaint case.”¹ Therefore, Mr. Greenberg should be dismissed from this action.

With respect to the Response to the Show Cause portion of the Commission’s Order, LG&E denies that it committed any willful violation of 807 KAR 5:006, Section 15(1)(g). LG&E has not submitted any sworn testimony or verified response in this proceeding to factually support the finding that LG&E affirmatively, intentionally or recklessly “decided not to” provide the required notice. See Order p. 5. LG&E has acknowledged an oversight in failing to provide after-the-fact notice to the Complainant after the disconnection at issue; but LG&E maintains that violation was not a willful one. As explained in the letter LG&E provided on September 15, 2023, the unusual circumstances here (namely, the upside down meter,² the Complainant and his contractor’s failure to provide LG&E notice that they were removing LG&E’s meter to perform work behind the meter, and the Complainant’s failure to provide LG&E access to the meter as required by tariff and regulation) led to a transition on the work order from the Company’s Field Services personnel to its Electric Distribution Operations (EDO) team and, regrettably, the notice was not delivered.

LG&E’s Field Services team typically works the service orders for residential electric disconnections. That team is armed with various hangtags to ensure compliance with the notification requirements found in 807 KAR 5:006, Section 15, and that team is well-trained on when to leave those hangers. In situations where LG&E is disconnecting for illegal use/theft, the Company’s preferred method of compliance with the regulatory notice requirement is to leave a

¹ See *Carroll County Water District No. 1 v. Gallatin County Water District*, Case No. 2022-00351, Order of July 19, 2023, pp. 11-12. See also, *Harold Barker, Ann Barker, and Brooks Barker v. East Kentucky Power Cooperative, Inc.*, Case No. 2013-00291, Order of July 6, 2015, p. 20.

² As LG&E noted in its September 15 letter, when electric meters are installed upside down, they frequently result in the reading decreasing, rather than increasing, as energy is consumed.

hangtag at the premise at the time of disconnection. There are, however, times when those technicians are moving quickly in tampering/theft situations; and due to safety concerns, they do not approach the door to leave a hanger. In those situations, LG&E sends a letter to the customer within 24 hours of the disconnection, thus still ensuring compliance with the notification requirements in Section 15(1)(g). Field Services technicians are trained to communicate the need to send the letter to the appropriate personnel in that organization.

A very small percentage of “tampering” disconnection orders that are unrelated to non-payment are worked by LG&E’s Electric Distribution Operations (“EDO”) team, who are also equipped with hangtags to satisfy the notice requirements. Because Complainant’s meter was behind a locked gate, in this particular situation, EDO had to perform the disconnection to this underground service at the pedestal. A letter should have been sent to the Complainant because the technician did not leave a hangtag. It was an oversight, likely created because this technician was not used to disconnecting for tampering situations like this one.

When LG&E learned of the failure to provide either the door hanger or the letter in this situation, both Field Services and EDO performed a tailgate for all technicians refreshing their training on compliance with the notice requirements and highlighting this unusual situation as a teaching moment for them to ensure they comply with the notice requirements when there is a transition from Field Services to EDO. Both teams have since had additional tailgates on this issue and restocked employees with door hangers to emphasize their importance. The tailgates have included training requiring technicians to memorialize when hangtags have been left (taking pictures where possible and creating a contact in the account). They have also included training requiring the technicians to notify the appropriate personnel when a hangtag cannot be left so that

the letter can be sent to the customer.³ Management is also continuing to review the notification processes to determine whether additional measures can be taken to ensure that the letter is triggered in those atypical situations when the door hanger is not left at the premises.

In short, LG&E has procedures in place to ensure compliance with 807 KAR Section 15. Those procedures are manual and therefore subject to the possibility of human error, such as what occurred here. But LG&E has taken steps to further improve its procedures in an effort to reduce the risk of such error. While LG&E denies any willful violation, LG&E does acknowledge the mistake in this situation and therefore offers to pay the maximum fine of \$2,500 as set forth in KRS 278.990(1) in exchange for dismissal of the Show Cause Order.

NOW THEREFORE, LG&E requests that this case be dismissed upon payment of the \$2,500 penalty.

Dated: December 5, 2023

Respectfully submitted,



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*Counsel for Defendant,
Louisville Gas & Electric Company*

³ The Field Service tailgates took place on 5/15/23, 5/22/23, 6/5/23, 9/11/23, 11/20/23, and 11/27/23; and the EDO tailgates took place on 5/30/23, 5/31/23, 11/21/23, 11/22/23, 11/28/23 and 11/29/23.

CERTIFICATE OF SERVICE

In accordance with the Commission's Order of July 22, 2021 in Case No. 2020-00085 (Electronic Emergency Docket Related to the Novel Coronavirus COVID-19), this is to certify that the electronic filing has been transmitted to the Commission on December 5, 2023; and that a copy of this filing has been sent via U.S. Mail to Jon Jeffrey Greenberg at 7000 Hadley Court, Louisville, Kentucky 40241.

A handwritten signature in blue ink, appearing to read "Sam V. Gold".

*Counsel for Defendant,
Louisville Gas & Electric Company*