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PUBLIC SERVICE
COMMISSION

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

MICHAEL R. WILSON

COMPLAINANT

V.

LOUISVILLE GAS AND ELECTRIC COMPANY

DEFENDANT

CASE NO.
2025-00127

COMPLAINANT’S RESPONSE TO MOTION TO DISMISS
BY LOUISVILLE GAS AND ELECTRIC COMPANY

The Complainant, Michael R. Wilson, hereby files the following Response to the December 19, 2025 Motion to Dismiss filed by Louisville Gas and Electric Company (“LG&E”).

In its Motion to Dismiss, LG&E claims that the June 30, 2021 Order in Case No. 2020-00350 and the filing in Case No. 2023-00379 are controlling on the present challenge to the reasonableness of their “AMI opt-out fees” (“opt-out fees”) under the judicial doctrine of *res judicata*. LG&E is incorrect.

Res judicata, as applied by the courts, is intended to prevent re-litigation of the *same case* by the *same parties* and requires a full adjudication on the merits. *Yeoman v. Commonwealth Health Policy Bd.*, 983 S.W.2d 459, 465 (Ky. 1998). Neither case cited by LG&E involves the same complaint as the present case—let alone addresses whether embedded manual meter-reading costs were removed from base rates or whether the opt-out fees duplicate recovery. Therefore,

because neither case constitutes a final adjudication on the merits presented in this complaint, *res judicata* is inapplicable as a matter of law and LG&E's motion should be denied.

In fact, the record before the Public Service Commission ("the Commission") is devoid of any discussion of how the opt-out fees were developed by LG&E but clearly do *not* represent the cost of manual meter readings as LG&E suggests. Instead, by LG&E's own acknowledgement, the Commission contemplates opt-out fees being used as a form of penalty for "particularly dangerous or repeated instances of tampering with an AMI meter." *LG&E's Motion to Dismiss*, p. 2 n. 3, (citing *Angela Christine Douglas v. Kentucky Utilities*, Case No. 2023-00379, *Order* at p. 2 (Ky. PSC Dec. 20, 2023)); (emphasis added.)

This case involves no such dangerous conduct or tampering with AMI meters; and—as applied by LG&E at least—would seem to represent an obvious abuse of the intended purpose of opt-out fees recognized by the Commission. As such, they should be construed as an admission by LG&E that the opt-out fees it has charged to its customers who have merely retained their legacy meters are arbitrary and unreasonable.

On the other hand, the Commission's June 30, 2021 Order required LG&E to "record a regulatory liability until their first base rate proceedings following AMI implementation or other proceedings to address the AMI revenue requirement following AMI implementation to the extent their actual meter reading and field service expenses are less than the forecast test period level embedded into base rates during these current proceedings." Further, the Commission found that

“LG&E failed to evaluate a scenario in which the AMI deployment is delayed or a scenario in which reactive replacements would be reduced in order to minimize the impact of the undepreciated amounts associated with the existing meters that would be retired early.”¹ By applying its opt-out fees to those customers who have retained their functional, undepreciated legacy meters, LG&E is not only failing to minimize the impact of undepreciated legacy meters such as the Complainant’s meter but is in fact charging its customer as if they are a new cost to LG&E in apparent violation of the Commission’s order.

Finally, LG&E also claims this complaint seeks preferential treatment; but in fact, the Complainant has explicitly requested that the opt-out fees be declared unreasonable by the Commission and uncollectible against *all* affected LG&E customers. *See* Case No. 2025-00127 *Michael R. Wilson Request for Commission Order* (Ky. PSC Dec. 1, 2025) (“[a]ccordingly, the Commission should enter an order finding LG&E’s ‘AMI Monthly Opt-out Debit’ fees to be duplicative of its meter reading costs already factored into its currently-approved residential rates and to order LG&E to discontinue their collection, and to refund these fees to its affected customers.”) Therefore, LG&E’s argument otherwise is simply without merit.

For these reasons, the Commission is respectfully requested to find LG&E’s opt-out fees unreasonable and uncollectible and to refund those fees that have been collected from its

¹ *In the Matter of Electronic Application of Louisville Gas and Electric Company for an Adjustment of its Electric and Gas Rates, A Certificate of Public Convenience and Necessity to Deploy Advanced Metering Infrastructure Approval of Certain Regulatory and Accounting Treatments, and Establishment of a One-Year Surcredit*, Case No. 2020-00350, Order at Appendix B pp. 11, 16 (Ky. PSC June 30, 2021).

customers; or in the alternative, require LG&E to provide documentation showing how embedded manual meter-reading costs were removed or credited from base rates, or otherwise prove that the opt-out fee does not result in duplicate recovery.

Dated December 31, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE

It is hereby certified by the undersigned that a true copy of the foregoing was served by electronic mail this 31st day of December, 2025 upon the following counsel of record:

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/s/ Michael R. Wilson
Michael R. Wilson