

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

BULLDOG'S ENTERPRISES, INC. D/B/A	)	
BULLDOG'S ROADHOUSE	)	
	)	
COMPLAINANT	)	CASE NO.
	)	2010-00404
V.	)	
	)	
DUKE ENERGY KENTUCKY, INC.	)	
	)	
DEFENDANT	)	

O R D E R

On December 27, 2011, Defendant, Duke Energy Kentucky, Inc. ("Duke Kentucky"), filed a motion to amend the procedural schedule. Initially, Duke Kentucky requested that the complaint be dismissed, contending that Complainant, Bulldog's Enterprises, Inc. d/b/a Bulldog's Roadhouse ("Bulldog"), had failed to meet its burden of proof to sustain the allegations in its complaint. In the alternative, Duke Kentucky requested that the current procedural schedule be amended "so that the documentary record is established and a hearing may be requested or waived by Duke Energy [Kentucky] on an informed basis." Duke Kentucky points out that, pursuant to the Commission's November 17, 2011 Order, the current procedural schedule provides a November 30, 2011 deadline for propounding supplemental data requests; a December 14, 2011 deadline for responding to supplemental data requests; and a December 28, 2011 deadline for any of the parties wishing to request a formal evidentiary hearing in this matter. Duke Kentucky further points out that supplemental data requests were

propounded to Bulldog by both Duke Kentucky and Commission Staff on November 30, 2011.<sup>1</sup> To date, however, Bulldog has neither filed its responses to Duke Kentucky's supplemental data requests nor filed its responses to Commission Staff's supplemental data requests. Because of Bulldog's failure to respond to both sets of supplemental data requests, Duke Kentucky asserts that it cannot know with certainty whether a hearing is necessary until it has had a reasonable opportunity to review Bulldog's responses to the outstanding supplement data requests. Accordingly, Duke Kentucky requests that the procedural schedule be amended so that it may have reasonable time in which to review Bulldog's responses to the supplemental data requests before Duke Kentucky is required to request or waive a hearing.

Having reviewed the motion and being otherwise sufficiently advised, the Commission finds that Duke Kentucky has established good cause to grant its request to amend the current procedural schedule. The Commission notes that this is not the first time in this matter that Bulldog has failed to comply with the established procedural schedule by failing to provide timely responses to a discovery request. The Commission further notes that Bulldog's failure to comply with the discovery response deadlines in the past has necessitated that the procedural schedule be revised twice already. For the ultimate time, the Commission places Bulldog on notice that its failure to abide by this Order, or any Commission Order, will constitute grounds for dismissal of the instant complaint with prejudice.

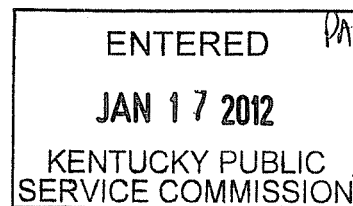
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<sup>1</sup> Commission Staff also tendered supplemental data requests to Duke Kentucky on November 30, 2011. Duke Kentucky timely filed its responses to Commission Staff's supplemental data requests on December 12, 2011.

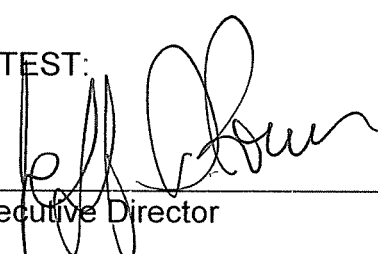
IT IS THEREFORE ORDERED that:

1. Duke Kentucky's request to dismiss the complaint is denied.
2. Duke Kentucky's motion to amend the procedural schedule is granted.
3. Bulldog shall file its responses to Commission Staff's and Duke Kentucky's supplemental data requests within ten days of the date of this Order.
4. All parties shall file a request for hearing, if any, supported by a detailed statement of factual issues to be raised therein, no later than February 3, 2012.
5. The procedural schedule appended to the Commission's November 17, 2011 Order is modified to the limited extent set forth in Ordering Paragraphs 3 and 4.
6. All other provisions of the November 17, 2011 Order remain in full force and effect.

By the Commission



ATTEST:

  
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Executive Director

Case No. 2010-00404

Rocco D'Ascenzo  
Senior Counsel  
Duke Energy Kentucky, Inc.  
139 East 4th Street, R. 25 At II  
P. O. Box 960  
Cincinnati, OH 45201

Eric C Deters  
Eric Deters & Associates  
5247 Madison Pike  
Independence, KENTUCKY 41051

Mark David Goss  
Frost, Brown, Todd, LLC  
250 West Main Street  
Suite 2800  
Lexington, KENTUCKY 40507

David S Samford  
Frost, Brown, Todd, LLC  
250 West Main Street  
Suite 2800  
Lexington, KENTUCKY 40507