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February 1, 2007

Anthony P. Overbey
President & CEO
Fleming-Mason Energy Cooperative
P.O. Box 328
Flemingsburg, KY. 41041

RE: Case No. 2006-00479
Pass-Through Application

Dear Mr. Overbey:

The Commission has received Fleming-Mason Energy Cooperative's application for pass-through rates in relation to the application for a wholesale rate adjustment by East Kentucky Power Company in Case No. 2006-00472. Kentucky law requires that those representing the interests of corporations before the Commission must be attorneys licensed to practice in the Commonwealth of Kentucky. The Commission has previously ordered that:

[A]ny attorney who is not licensed to practice in the State of Kentucky and who seeks to present a client or employer before this Commission, must engage a member of the Kentucky Bar Association.

Administrative Case No. 249, Practice Before the Commission by Attorneys Non-Licensed in the Commonwealth of Kentucky (Ky. P.S.C. June 15, 1981) at 2.

Although you are Fleming-Mason Energy Cooperative's representative, the Commission has not found any information indicating that you are an attorney licensed to practice law in Kentucky. Kentucky's Supreme Court has stated that no person may engage in the practice of law without first obtaining a license. SCR 2.100. The practice of law is defined as follows:

[A]ny service rendered involving legal knowledge or legal advice, whether of representation, *counsel or advocacy in or out of court*, rendered in respect to the rights, duties, obligations, liabilities, or business relations of one requiring the services.

SCR 3.020. In Kentucky State Bar Association v. Henry Vogt Machine Co., 416 S.W. 2d 727 (Ky., 1967), the Supreme Court held that the representation of a corporation before a state agency qualifies as participating in the practice of law.

All documents filed with the Commission on behalf of a corporation must be signed by its attorney and must provide the address for that attorney. Please refer to 807 KAR 5:001 (12) and (15) for additional information on this requirement.

Before the Commission can allow Fleming-Mason Energy Cooperative to proceed with its application, the corporation must provide documentation demonstrating that it is being represented by a licensed member of the Kentucky Bar Association.

As it stands today Fleming-Mason Energy Cooperative's application fails to comply with Kentucky law and must be amended before it can be accepted for filing. Please mail this response to Michael F. Burford, Director of Filings Division, Public Service Commission, 211 Sower Blvd., Post Office Box 615, Frankfort, Kentucky 40602.

Sincerely,

Michael F. Burford
Director
Division of Filings

Enclosure
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