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Caroline Pitt Clark
Commissioner

April 14, 2008

CERTIFICATE OF SERVICE

RE: Case No. 2008-00086
Blue Grass Energy Cooperative Corp.

I, Stephanie Stumbo, Executive Director of the Public Service Commission, hereby certify that the enclosed attested copy of the Commission's Order in the above case was served upon the addressee by U.S. Mail on April 14, 2008.

Executive Director

SS/tw
Enclosure



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COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF BLUE GRASS ENERGY)
COOPERATIVE CORPORATION FOR AN) CASE NO. 2008-00086
ORDER INTERPRETING KRS 278.225)

O R D E R

Blue Grass Energy Cooperative Corporation ("Blue Grass Energy") filed the instant application requesting an order interpreting KRS 278.225. That statute provides in full as follows:

All service supplied by a utility shall be billed within two (2) years of the service. No customer shall be liable for unbilled service after two (2) years from the date of the service, unless the customer obtained the service through fraud, theft, or deception.

Blue Grass Energy asserts that Phyllis Davis, a residential customer, owned and maintained a house and security light on premises served by Blue Grass Energy. In October 2003, Blue Grass Energy terminated electric service to Ms. Davis's house pursuant to her request. In June 2004, electric service was reconnected to Ms. Davis's house at her request. At all relevant times, Ms. Davis retained electric service for her security light.

In January 2008, Blue Grass Energy discovered that, as a result of a computer error, Ms. Davis had been billed since June 2004 only for service to her security light, and not for service to her house. Blue Grass Energy immediately contacted Ms. Davis by letter, informing her of the situation and requesting that she make payments toward

the differential between the amount she was billed and the amount she should have been billed, a difference of \$1,840.40. The differential amount represented nearly 2 years of unbilled serviced, from February 2006 to December 2007. Blue Grass Energy maintains that Ms. Davis is current in her payment for services billed, except for the differential accrued as a result of the computer error. Blue Grass Energy has not yet billed her for the amount in question.

Although Blue Grass Energy properly recognizes that KRS 278.225 permits a utility to bill for services rendered within 2 years of the service,¹ Blue Grass Energy nonetheless relies upon an unjust enrichment theory to seek recovery of the differential amount from Ms. Davis. Blue Grass Energy contends that Ms. Davis should have known of the discrepancy in her bill after service was reconnected to her house. Blue Grass Energy further contends that Ms. Davis was under a duty to notify it of the "obvious" billing error and that Ms. Davis breached such a duty by failing to so notify the utility. Blue Grass Energy thus concludes that it is entitled to recover the amount of the differential from Ms. Davis.

Ms. Davis, through her attorney, filed a response acknowledging that she received electric service for a security light in October 2003 and that service to her house was reconnected in October 2004. Ms. Davis, however, denies any liability for the unbilled electric service.

¹ Indeed, KRS 278.225 requires a utility to bill for all services rendered within 2 years of the service. See KRS 278.225 ("All service supplied by a utility **shall** be billed within two (2) years of the service.") (emphasis added); See also KRS 278.160(2). As Blue Grass Energy correctly points out, KRS 278.225 imposes only a time limitation of 2 years from the date service is rendered in which a utility is authorized to back-bill a customer.

Having reviewed the application and the response thereto, the Commission finds that Blue Grass Energy's application is, in essence, a complaint alleging that Ms. Davis breached a purported duty to notify Blue Grass Energy of insufficient billing. Blue Grass Energy is seeking to recover for unbilled electrical services. We cannot decide that issue at this time. Until a bill is rendered and disputed by the customer, a billing dispute is not ripe for decision by the Commission.

IT IS THEREFORE ORDERED that the application of Blue Grass Energy is dismissed without prejudice.

Done at Frankfort, Kentucky, this 14th day of April, 2008.

By the Commission

ATTEST:


Executive Director