

W. JEFFREY SCOTT, PSC

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November 3, 2011

Mr. Jeff Derouen, Executive Director
Public Service Commission of Kentucky
211 Sower Boulevard
P.O. Box 615
Frankfort, KY 40602

RECEIVED

NOV 03 2011

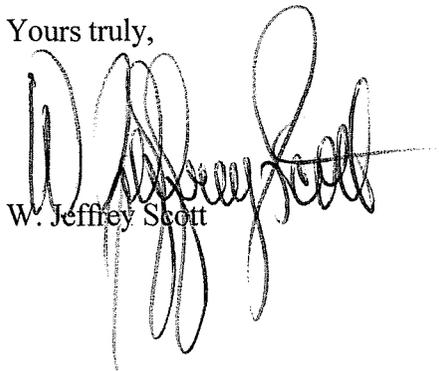
PUBLIC SERVICE
COMMISSION

RE: Case No. 2011-00351

Dear Mr. Derouen:

Enclosed please find one (1) original and ten (10) copies of Grayson Rural Electric Cooperative Corporation's response to the Commission Staff's Request for Information to Grayson Rural Electric Cooperative Corporation which was served upon Grayson RECC on October 27, 2011, regarding the above referenced case.

Yours truly,



W. Jeffrey Scott

WJS/smm
Enclosure

ORIGINAL

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

In the Matter of:

RECEIVED

Case No. 2011-00351

WALTER CALLIHAN,

**PUBLIC SERVICE
COMMISSION**

COMPLAINANT,

v.

**GRAYSON RURAL ELECTRIC COOPERATIVE
CORPORATION**

DEFENDANT,

**RESPONSE TO COMMISSION STAFF'S REQUEST FOR
INFORMATION TO GRAYSON RURAL ELECTRIC
COOPERATIVE CORPORATION**

Data Request of October 27, 2011

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Request whether Grayson RECC has initiated legal proceedings	Section 4 Page 1
Request whether legal proceedings would be barred by Statute	Section 5 Pages 1-2 Exhibit A
Request if Statute of Limitations bars legal proceedings	Section 6

The undersigned, Don M. Combs, as Manager of Finance and Accounting of Grayson Rural Electric Cooperative Corporation, being first duly sworn, states that the responses herein supplied in Case No. 2011-00351 to Commission Staff's Request for Information to Grayson Rural Electric Cooperative Corporation dated October 27, 2011, are true to the best of my knowledge and belief formed after reasonable inquiry.

Dated: November 3, 2011

Grayson Rural Electric

BY: _____


DON M. COMBS,
Manager of Finance and Accounting

STATE OF KENTUCKY

COUNTY OF CARTER

Acknowledged, subscribed and sworn to before me by **DON M. COMBS** this the

3rd day of November, 2011.



NOTARY PUBLIC, KENTUCKY STATE AT LARGE

My commission expires: 9/10/15 ID# 450293



WITNESS: Don M. Combs

Case No. 2011-00351

Commission Staff's Request for Information to
Grayson Rural Electric Cooperative Corporation

October 27, 2011

1. State whether Grayson RECC has provided electric service to Walter Callihan at any time since February 12, 2007. If yes, state the period in which Grayson RECC provided such service, the reasons why Grayson RECC resumed service, and the reasons for Grayson RECC subsequently terminating service.

Response: No.

Item 2

Page 1 of 1

WITNESS: Don M. Combs

Case No. 2011-00351

Commission Staff's Request for Information to
Grayson Rural Electric Cooperative Corporation
October 27, 2011

2. State the amounts of any payments that Mr. Callihan has made to Grayson RECC since February 12, 2007.

Response: None.

WITNESS: Don M. Combs

Case No. 2011-00351

Commission Staff's Request for Information to
Grayson Rural Electric Cooperative Corporation

October 27, 2011

3. Describe Grayson RECC's efforts since February 12, 2007 to collect outstanding debts owed by Mr. Callihan for electric service.

Response: Advising Mr. Callihan on more than one occasion of his need to pay, most recently having been set forth in correspondence from counsel to Walter Callihan dated July 12, 2011. A copy of which is attached herewith as Exhibit A.

Also attached herewith as Exhibit B and Exhibit C are copies of an August 3, 2009, letter that Grayson RECC sent Mr. Callihan along with an attached Membership Application. (In addition correspondence containing offers of payment plans to Mr. Callihan were made repeatedly in the year 2003 over a several month period prior to his actual termination of service for non-payment.)

Further attached herewith as Exhibits D, E and F, are spreadsheets that evidence Mr. Callihan's delinquency in payments which resulted in termination of service.

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EXHIBIT A

WITNESS: Don M. Combs

Case No. 2011-00351

Commission Staff's Request for Information to
Grayson Rural Electric Cooperative Corporation

October 27, 2011

JULY 12, 2011 LETTER TO WALTER CALLIHAN FROM GRAYSON RECC

W. JEFFREY SCOTT, PSC

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Brandon Michael Music
Will Jared Matthews

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July 12, 2011

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JUL 21 2011

PUBLIC SERVICE
COMMISSION

Mr. Walter Callihan
P.O. Box 17
Argillite, KY 41121

Re: Grayson Rural Electric Cooperative Corporation

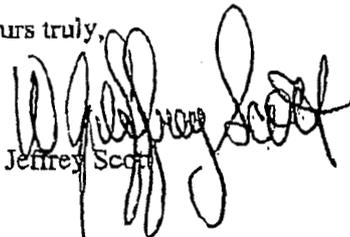
Dear Mr. Callihan:

I have a copy of your letter that you caused to be mailed to the Cooperative purportedly executed by you and purportedly dated July 7, 2011. The letter is styled, "Request for Electric Service".

The Grayson Rural Electric Cooperative Corporation would be happy to extend electric service to your requested location, "3 ½ miles South of Greenbo Lake", assuming same is located within the territorial limits of Grayson Rural Electric Cooperative Corporation and assuming you have made an appropriate application with the Co-Op in accordance with the Co-Op's by-laws and PSC approved regulations. In addition you would need to pay the outstanding indebtedness owed to the Cooperative about which you have been informed on several prior occasions.

Upon compliance with all of the foregoing and other applicable rules and regulations of the Public Service Commission then the Cooperative will be able to act upon the matters set forth in your July 7, 2011, letter.

Yours truly,


W. Jeffrey Scott

WJS/smm

Item 3

EXHIBIT B

WITNESS: Don M. Combs

Case No. 2011-00351

Commission Staff's Request for Information to
Grayson Rural Electric Cooperative Corporation

October 27, 2011

AUGUST 3, 2009 LETTER TO WALTER CALLIHAN FROM GRAYSON RECC

Grayson Rural Electric Cooperative Corporation

109 Bagby Park • Grayson, KY 40114-1792
Telephone 606-474-5136 • 1-800-562-3532 • Fax 606-474-5802

August 3, 2009

Mr. Walter Callihan
P. O. Box 17
Argillite, KY 41121

Dear Mr. Callihan:

I am in receipt of your formal request for electric service. In order to process your request, you must complete an application for membership (enclosed) and I will need the following information:

1. Your social security number
2. Your telephone number
3. A signed application
4. A copy of your photo ID
5. A \$15.00 membership fee
6. A security deposit in the amount of \$120.00
7. A reconnect fee of \$30.00
8. You may make arrangements to pay your outstanding indebtedness by paying \$200.00 and setting the balance up on a payment schedule for no longer than six months.

Upon receipt of the information and fees listed above, your account will be reconnected within three work days. Should you have questions or need further information, please do not hesitate to call.

Sincerely,

GRAYSON RURAL ELECTRIC
COOPERATIVE CORPORATION



Carol Hall Fraley
President & CEO

Cc: W. Jeffrey Scott, Legal Counsel
Jeff Derouen, Executive Director, PSC

Item 3

EXHIBIT C

WITNESS: Don M. Combs

Case No. 2011-00351

Commission Staff's Request for Information to
Grayson Rural Electric Cooperative Corporation

October 27, 2011

**MEMBERSHIP APPLICATION FROM GRAYSON RECC TO MR. CALLIHAN
ATTACHED WITH THEIR AUGUST 3, 2009 LETTER**

Certificate of Membership and Application for Electric Service # _____

The undersigned (hereinafter called the Applicant) hereby applies for membership in Grayson Rural Electric Cooperative Corporation (hereinafter called the Cooperative) and the Applicant and the Cooperative agree as follows:

1. The Applicant hereby pays the sum of _____ for membership subscribed for by the Applicant. The Applicant hereby authorizes the Cooperative to use these funds in full or in part for purpose of project development and organization.
2. The Applicant hereby pays the sum of _____ as a security deposit, said sum being two-twelfths (2/12) of the estimated annual bill. This deposit shall accrue interest at the rate of _____ percent per annum and shall be applied to the final bill upon termination of service and the balance (if any) refunded to the Applicant.
3. The Applicant hereby pays the sum of \$_____ for a non-refundable connect/reconnect fee.
4. When the Cooperative makes electric energy available to the Applicant, Applicant agrees to purchase from the Cooperative, and pay monthly to the Cooperative, for all electric energy used on premises described below now owned or occupied by the Applicant, in accordance with the rate schedule, rules and regulations established by the Cooperative.
5. The Applicant's wiring must pass inspection by a certified electrical inspector pursuant to KRS 198B, the Kentucky Building Code 815 KAR 7:010, 815 KAR 7:020.
6. The Applicant agrees to comply with and be bound by the provisions of the bylaws, and rules and regulations of the Cooperative as may be adopted from time-to-time.
7. The cost of a subscription to Kentucky Living Magazine is to be paid for as a part of the cost of electric service.
8. The acceptance of this application by the Cooperative shall constitute an agreement between the Applicant and the Cooperative and the contract for electric service shall continue in force one year from the date of service is made available by the Cooperative to the Applicant, and hereafter until cancelled either by written notice given by either party to the other thirty (30) days in advance or under the provisions of the bylaws, and rules and regulations of the Cooperative as may be adopted from time-to-time.

Social Security No. _____ X _____

Telephone No. _____ X _____

Cell or Other No. _____ Signature of Applicant(s)

Name of closest living relative not living in your home _____

Spouse's Name _____ Social Security No. _____

Route or Street, Post Office, State _____

The above applicant for membership accepted this _____ day of _____, _____.

Grayson Rural Electric Cooperative Corporation By _____, Employee

Land Description

Owner _____ Tenant _____

County _____ Directions _____

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EXHIBIT D

WITNESS: Don M. Combs

Case No. 2011-00351

Commission Staff's Request for Information to
Grayson Rural Electric Cooperative Corporation

October 27, 2011

SPREAD SHEET LABELED "HOUSE"
RE: WALTER CALLIHAN

House

3624702

Date of Service Reading	Date Billed	Amount Paid	Penalty charged	Balance Forward
		4255		0
11/1/01 - 12/1/01 33666 - 33220	1/02	5093	5093	0
12/1/01 - 1/1/02 33230 - 33883	2/02	5430	5430	0
1/1/02 - 2/1/02 33883 - 34598	3/02	5450	5450	0
2/1/02 - 3/1/02 34598 - 35311	4/02	3860	3860	0
3/1/02 - 4/1/02 35311 - 35783	5/02	4174	4174	417
4/1/02 - 5/13/02 35783 - 36297	6/02	3500 (38.83)	current bill 0	308
5/13/02 - 6/20/02 36297 - 36610	7/02	6529 (37.21)	current bill 0	272
6/20/02 - 7/20/02 36610 - 36920	8/02	10755 (39.54)	current bill 38.08	395
7/20/02 - 8/20/02 36920 - 37440	9/02	2119 (17.98)	current bill 22.19	na

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EXHIBIT E

WITNESS: Don M. Combs

Case No. 2011-00351

Commission Staff's Request for Information to
Grayson Rural Electric Cooperative Corporation

October 27, 2011

**SPREAD SHEET LABELED "SMALL COMMERCIAL"
RE: WALTER CALLIHAN**

Re: Walter Callinan

Small Commercial
3624101

Date of Service Reading	Date Billed	Juste Billing	Amount Paid	Property Used	Balance Forward
11/1/01 - 12/1/01 72975 - 73940	1/02	84103	84103		-0-
12/1/01 - 1/1/02 73940 - 75271	2/02	108164	108164		-0-
1/1/02 - 2/1/02 75271 - 78164	3/02	20019	20019		-0-
2/1/02 - 3/1/02 78164 - 80959	4/02	20172	20172		-0-
3/1/02 - 4/1/02 80959 - 82617	5/02	12212	122169		-27
4/1/02 - 5/13/02 82617 - 85254	6/02	191172	191172	11808	1308
5/13/02 - 6/26/02 85254 - 88623	7/02	(240.23) current bill 25831	-0-	2264	28091
6/26/02 - 7/20/02 88623 - 92340	8/02	(240.1) current bill 54118	-0-	2154	56572
7/20/02 - 8/20/02 92340 - 96200	9/02	(271.90) current bill 83712	28091	2565	58230
8/20/02 - 9/20/02 0 - 0	10/02	(8.40) current bill 59070	26151	79	32698

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EXHIBIT F

WITNESS: Don M. Combs

Case No. 2011-00351

Commission Staff's Request for Information to
Grayson Rural Electric Cooperative Corporation

October 27, 2011

SPREAD SHEET LABELED "PUMP"
RE: WALTER CALLIHAN

Pump 3024102

Date of Service Rendered	Date Billed	Total Billed	Amount Paid	Partially Cleared	Balance Forward
11/1/01 - 12/1/01 6600 - 6700	1/02	1411	1411		+0-
12/1/01 - 1/01/02 6700 - 6702	2/02	812	812		-0-
1/1/02 - 2/1/02 6702 - 6711	3/02	2346	2346		-0-
2/1/02 - 3/1/02 6741 - 7964	4/02	7473	7473		-0-
3/1/02 - 4/1/02 7964 - 8530	5/02	4471	4471		-0-
4/1/02 - 5/13/02 8530 - 9096	6/02	4516	4516	1151	451
5/13/02 - 6/20/02 9096 - 9096	7/02	(7193) Current bill 1249	-0-	79	1323
6/20/02 - 7/20/02 9096 - 8820	8/02	(7161) Current bill 361	-0-		361
7/20/02 - 8/21/02 8820 - 8820	9/02	(7198) Current bill 1165	1323		-1/63
8/21/02 - 9/20/02 8820 - 8820	10/02	(7198) Current bill 625	230		463

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WITNESS: Don M. Combs

Case No. 2011-00351

Commission Staff's Request for Information to
Grayson Rural Electric Cooperative Corporation
October 27, 2011

4. State whether Grayson RECC has initiated any legal proceedings to collecton the amounts that Mr. Callihan owed Grayson RECC as of February 12, 2007.

Response: No.

WITNESS: Don M. Combs

Case No. 2011-00351

Commission Staff's Request for Information to
Grayson Rural Electric Cooperative Corporation

October 27, 2011

5. State whether legal proceedings to collect the outstanding debt that Mr. Callihan owes to Grayson RECC for electric service would be barred by the statute of limitations. Explain.

Response: The applicable statute of limitations is fifteen (15) years per KRS 413.090. The obligation of Mr. Callihan to Grayson RECC is founded upon a written contract, i.e. the Application for Membership and for Electric Service signed by Mr. Callihan in 1991, a copy of which is attached hereto as Exhibit A. Furthermore, even if a shorter period is applied, which would be incorrect, legal proceedings would not be barred. A debt owed from one to another is not barred simply because of the passage of time. A defense of limitation of actions may be asserted as an affirmative defense by the party against whom the debt is sought if the particular limitation of actions is applicable. Civil Rule 8 directs that an affirmative defense must be pled in an answer or else it is waived. Accordingly, any answer that would be filed by a party against whom a debt is sought, without asserting an affirmative defense could result in a judgment being entered even though that affirmative defense, if pled, would have possibly barred recovery. Therefore, the existence of a particular statute of limitations is, by its very

WITNESS: Don M. Combs

Case No. 2011-00351

Commission Staff's Request for Information to
Grayson Rural Electric Cooperative Corporation

October 27, 2011

nature, and by the nature of CR8, not an automatic bar to recovery. No Court, nor any other person, can assume that a Defendant will raise an affirmative defense.

For purposes of illustration Grayson offers the following:

A man on first, ground ball to the second baseman, fielded cleanly and thrown to the shortstop for the force out, the shortstop when receiving the ball and removing it from his glove to make the relay to first, bobbles the ball, drops it after making the out at second base, picks it up, and throws to first but the runner crosses the first base bag ahead of the throw from the shortstop. While the shortstop bobbled the throw from the second baseman, dropped the ball, and therefore did not cleanly make the play, there is no error assigned to the shortstop. The reason for this is that you cannot assume a double play. Similarly, one cannot assume an act by a Defendant against whom a collection case is brought.

Item 5

EXHIBIT A

WITNESS: Don M. Combs

Case No. 2011-00351

Commission Staff's Request for Information to
Grayson Rural Electric Cooperative Corporation

October 27, 2011

**APPLICATION FOR MEMBERSHIP AND FOR ELECTRIC SERVICE
SIGNED BY MR. WALTER CALLIHAN
October 2, 1991**

Application for Membership and for Electric Service

No 36247

The undersigned (hereinafter called the Applicant) hereby applies for membership in Grayson Rural Electric Cooperative Corporation (hereinafter called the Cooperative) and the Applicant and the Cooperative agree as follows:

1. The Applicant hereby pays the sum of 15.00 for membership subscribed for by the Applicant, a Certificate, for which will be issued to the Applicant upon the acceptance of the application by the Cooperative. The Applicant hereby authorizes the Cooperative to use these funds in full or in part for purpose of project development and organization.
2. The Applicant hereby pays the sum of 120.00 as a security deposit, said sum being two-twelfths (2/12) of his estimated annual bill. This deposit shall accrue interest at the rate of 6 percent per annum and shall be applied to the final bill upon termination of service and the balance (if any) refunded to the Applicant.
3. When the Cooperative makes electric energy available to the Applicant, Applicant agrees to purchase from the Cooperative, and pay monthly to the Cooperative, for all electric energy used on premises described below now owned or occupied by the Applicant, in accordance with the rate schedule, rules and regulations established by the Cooperative.
4. The Applicant's point of delivery is approximately 50 to 100 feet from the existing distribution line of the Cooperative. The Applicant's wiring must pass inspection by a certified electrical inspector pursuant to KRS 198B, the Kentucky Building Code 815 KAR 7:010, 815 KAR 7:020.
5. The Applicant agrees to comply with and be bound by the provisions of the bylaws, and rules and regulations of the Cooperative as may be adopted from time-to-time.
6. The cost of a subscription to Kentucky Living Magazine is to be paid for as a part of the cost of electric service.
7. The acceptance of this application by the Cooperative shall constitute an agreement between the Applicant and the Cooperative and the contract for electric service shall continue in force one year from the date service is made available by the Cooperative to the Applicant, and hereafter until cancelled either by written notice given by either party to the other thirty (30) days in advance or under the provisions of the bylaws, and rules and regulations of the Cooperative as may be adopted from time-to-time.

Dated 2nd day of October 19 91

Social Security No. _____

Telephone No. 473-5867

Spouse's Name _____

Social Security No. _____

Employment: _____

Walter Callihan

Signature of Applicant

Walter Callihan

PO Box 17 Argillite, KY 41121-0017

Route or Street, Post Office, State

Greenup

County.

The above applicant for membership accepted this 2nd day of October, 19 91

Grayson Rural Electric Cooperative Corporation

BY Jeanie Miller, Employee
JEANIE MILLER

Land Description

_____ Acres, located _____ side of Rt 1 road,

approximately _____ miles N-E-S-W from _____

County Greenup

Owner (Print) same and (Tenant) _____

Item 6

Page 1 of 1

WITNESS: Don M. Combs

Case No. 2011-00351

Commission Staff's Request for Information to
Grayson Rural Electric Cooperative Corporation
October 27, 2011

6. Explain why, if the statute of limitations bars any legal action by Grayson RECC to collect any outstanding debts for electric service that Mr. Callihan owed, Grayson RECC should be permitted to continue to refuse service on the basis of such debts.

Response: See the answer to No. 5. Also, 1989 decision of Public Service Commission in Callihan vs. GRECC, 105 P.U.R. 4th 218 (Ky. P.S.C. 1989).

