

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE COMPLAINT OF WANDA MCGUIRE )  
AND MILTON MCGUIRE, YORK, KENTUCKY, ) CASE NO. 8560  
AGAINST GRAYSON RURAL ELECTRIC )  
COOPERATIVE CORPORATION )

O R D E R

On June 24, 1982, Milton and Wanda McGuire ("the McGuires") filed a complaint against Grayson Rural Electric Cooperative Corporation ("Grayson") alleging that Grayson had wrongfully terminated electric service to their home.

In its response to the complaint, Grayson admitted terminating the McGuires' electric service upon discovering that the meter base serving the McGuires' home had been tampered with and that electricity was entering their home without being measured. Citing Commission regulation 807 KAR 5:006E, Section 11(2)(c),<sup>1</sup> which allows an electric utility to discontinue service without notice upon evidence that a customer has received service without it being properly measured, Grayson contended the termination was proper.

A hearing on the complaint was held on August 12, 1982. Both parties appeared, presented evidence in their behalf, and cross-examined opposing witnesses.

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<sup>1</sup> This regulation has since been retitled as 807 KAR 5:006, Section 11(2)(b).

On September 15, 1982, the Commission issued a final Order on the McGuires' complaint. After reviewing the evidence of record, the Commission found that the meter base on the McGuires' home had been tampered with so that only 34 percent of the electric power used had been metered. The Commission further found that the McGuires' bill should be adjusted in the amount of \$6,362.48 to reflect the unmetered electricity. The Commission, therefore, ordered Grayson to deny service to the McGuires "until they have made satisfactory arrangements to reimburse Grayson in the amount of \$6,362.48 plus the miscellaneous costs incurred by reason of the fraudulent use of electric service."<sup>2</sup> No appeal was taken from this Order.

By letter dated December 18, 1987, Grayson now requests rescission of that Order.

Grayson's request stems from the final settlement of a lawsuit. On January 16, 1982, the McGuires filed suit against Grayson in Greenup Circuit Court for alleged damages arising out of the disconnection incident.<sup>3</sup> Grayson then counterclaimed for unpaid electric service. On September 29, 1987, Grayson paid the McGuires the sum of \$12,000 for release and discharge of their claim. Two weeks later, an Agreed Order dismissing the claims of

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<sup>2</sup> Case No. 8560, Order dated September 15, 1982, p. 3.

<sup>3</sup> Greenup Circuit Court No. 82-CI-26. The McGuires' complaint sought damages of \$10,000 for the wrongful disconnection of their electric service. They subsequently amended their complaint to allege that Grayson had "intentionally and unlawfully interfered with their legal rights, causing [them] severe emotional distress." At one point during the proceedings, the McGuires sought compensatory and punitive damages of \$3,000,500.

both parties and requiring Grayson to request rescission of the Commission Order was entered in Greenup Circuit Court.

The Commission considers rescission of an Order to be a drastic remedy to be granted only upon a showing of good cause. This is especially true where all parties fully availed themselves of the opportunity to present their case. Grayson has not made such a showing. It has not challenged any finding of fact contained in the Commission Order nor has it cited any of the traditional grounds for rescission of an order, for example, fraud or perjury. The only evidence accompanying Grayson's request was a copy of the Agreed Order. As the Commission was not a party to the proceedings in Greenup Circuit Court, and as the McGuires chose the Commission as the forum to argue their case, the Commission does not believe the Agreed Order is binding upon it or should be allowed to affect its decision. The Commission therefore finds that Grayson's request should be denied.

This decision does not prevent Grayson from restoring electric service to the McGuires. The September 15, 1982, Order did not require Commission approval of the arrangement between the parties. Any arrangement, however, must comply with KRS 278.160(2).<sup>4</sup> The Commission was not asked nor provided with sufficient information to address whether the settlement agreement

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<sup>4</sup> "No utility shall charge, demand, collect or receive from any person a greater or less compensation for any service rendered or to be rendered than that prescribed in its filed schedules, and no person shall receive any service from any utility for a compensation greater or less than that prescribed in such schedules."

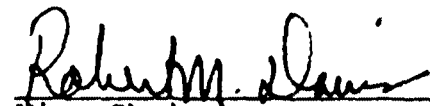
complies with KRS 278.160(2). The Commission, therefore, does not decide this issue.

IT IS THEREFORE ORDERED that Grayson's request for rescission be denied.

Done at Frankfort, Kentucky, this 19th day of February, 1988.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

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Executive Director