

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

KENERGY CORP.)	
)	
COMPLAINANT)	
)	
v.)	CASE NO. 2002-00008
)	
KENTUCKY UTILITIES COMPANY)	
)	
DEFENDANT)	

O R D E R

Kenergy Corp. (Kenergy) has filed a complaint against Kentucky Utilities Company (KU). KU has answered the complaint and has denied Kenergy's allegations KU is providing retail electric service in another retail electric supplier's certified service territory. Finding that a procedural schedule should be established for this proceeding, the Commission, on its own motion, HEREBY ORDERS that:

1. A formal hearing in this matter shall be held on June 19, 2002 at 9:00 a.m., Eastern Daylight Time, in Hearing Room 1 of the Commission's offices at 211 Sower Boulevard, Frankfort, Kentucky, and continuing until completed.
2. Each party may, on or before April 25, 2002, serve upon any other party an initial request for production of documents and written interrogatories to be answered by the party served within 10 days of service.
3. Each party may, on or before May 16, 2002, serve upon any other party a supplemental request for production of documents and written interrogatories to be answered by the party served within 10 days of service.

4. Each party may, on or before May 16, 2002, serve upon any other party a written request for admission, for purposes of this proceeding only, of the truth of any matter relevant to this proceeding set forth in the request that relates to statements or opinions of fact or of the application of law to fact. The matter is admitted unless, within 10 days after service of the request, the party to whom the request is directed serves upon the party requesting the admission a written answer or objection. The form of the request for admission and the answer or objection thereto shall otherwise be governed by Kentucky Civil Rule 36.

5. Each party may, on or before May 28, 2002, take the testimony of any person by deposition upon oral examination pursuant to notice or by agreement.

6. On or before June 7, 2002, each party shall file with the Commission in verified form the direct testimony of each witness that it expects to call at the formal hearing.

7. On or before June 14, 2002, each party shall file with the Commission in verified form the testimony of each rebuttal witness that it expects to call at the formal hearing.

8. Direct examination of witnesses shall be limited to the authentication and adoption of that written testimony. No summarization of written testimony by the witness shall be permitted.

9. Witnesses who have filed written direct and rebuttal testimony shall present that testimony at the same sitting. Opposing parties may cross-examine such witnesses on both direct and rebuttal testimonies.

10. No opening statements shall be made at the hearing in this matter.

11. Any party may, within 15 days of the filing of the hearing transcript with the Commission, submit a written brief.

12. Copies of all documents served upon any party shall be served on all other parties and filed with the Commission.

13. Motions for extensions of time with respect to the schedule herein shall be made in writing and will be granted only upon a showing of good cause.

14. To be timely filed with the Commission, a document must be received by the Secretary of the Commission within the specified time for filing except that any document shall be deemed timely filed if it has been transmitted by United States express mail, or by other recognized mail carriers, with the date the transmitting agency received said document from the sender noted by the transmitting agency on the outside of the container used for transmitting, within the time allowed for filing.

15. Service of any document or pleading shall be made in accordance with Administrative Regulation 807 KAR 5:001, Section 3(7), and Kentucky Civil Rule 5.02.

16. As the Complainant bears the burden of proof in this matter, its failure to appear at the formal hearing and to present proof in support of its complaint may result in the dismissal of its complaint with prejudice.

17. The failure of Defendant to appear at the formal hearing may result in the entry of an Order granting the Complainant's requested relief.

Done at Frankfort, Kentucky, this 15th day of April, 2002.

By the Commission

ATTEST:

Deputy W. H. Fowler
Executive Director