

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

MICHAEL HUNTER D/B/A)	
M.H. REHAB)	
)	
COMPLAINANT)	
)	
V.)	CASE NO. 2005-00012
)	
KENTUCKY UTILITIES COMPANY)	
)	
DEFENDANT)	

O R D E R

On December 29, 2004, the Commission received a complaint from Michael Hunter ("Complainant") doing business as M.H. Rehab,¹ against Kentucky Utilities Company ("KU"). In his complaint, Complainant claims that KU placed him on the wrong rate and that he was not allowed to choose from available rates. As a result, Complainant claims that he incurred an excessive charge for the electric service he received from KU.

In its answer, KU admits that "M.H. Rehab was not on the most advantageous rate."² However, KU denies that MH Rehab was placed on the wrong rate or that it was not given a choice of rates. KU asserts that Original Sheet No. 82, "Optional Rates," of KU's electric tariff provides that "[i]f two or more rate schedules are available for the

¹ M.H. Rehab is registered as M.H. Rehab, LLC and is in good standing with the Kentucky Secretary of State.

² KU's Answer at 1.

same class of service, it is the customer's responsibility to determine the options available and to designate the schedule under which he desires to receive service."

BACKGROUND

It appears from the record that Complainant began receiving service at his place of business on or before July 2002. At the time service was connected, Complainant was placed on KU's LP-Secondary rate. KU asserts that Complainant was placed on this rate "due to the type of business and anticipated usage."³ Complainant would also have been eligible to receive service under the General Service ("GS") rate. At the time service was connected, however, the LP Secondary Rate was the more favorable of the two rates.

Complainant received service under the LP Secondary rate from July 2002 until June 2004 with no complaints. Complainant's July 2004 bill registered a marked increase from the previously rendered bills. The steep increase was due to the rate increase KU received in Case No. 2004-00434.⁴ In that case, KU changed several terms, rates, and conditions of its tariff. One of the changes added a \$75 monthly customer charge to the LP Secondary rate and also increased the demand charges.

After June 30, 2004, when KU's new rates went into effect, the LP Secondary rate was no longer the more favorable rate for Complainant. For customers with lower load factors, like Complainant, the GS rate was now more favorable. Complainant's service, however, was not changed to the GS rate; he continued to receive service under the LP Secondary rate. KU claims that on June 15, 2004, August 20, 2004, and

³ KU's Response to Commission Staff's First Data Request, Tab 2.

⁴ Case No. 2003-00434, An Adjustment of the Rates, Terms and Conditions of Kentucky Utilities Company, (Ky. PSC Jun. 30, 2004).

December 1, 2004, KU advised its business customers, including Complainant, by letter that they could contact KU's Business Service Center to determine the best rate for their needs.⁵ Complainant requested a change to the GS rate in November 2004. The subsequent billing decreased 81 percent from previous bills. Complainant then filed this complaint alleging that KU did not give him an opportunity to change rates and requesting that KU be required to refund the difference between the amounts paid under the LP Secondary rate and the amounts that would have been paid under the GS rate.

DISCUSSION

Original Sheet No. 82, "Optional Rates," of KU's electric tariff provides that "[i]f two or more rate schedules are available for the same class of service, it is the customer's responsibility to determine the options available and to designate the schedule under which he desires to receive service." The record reflects that, although KU was not under an affirmative duty to inform its customers of the most advantageous rate for the customers, on three occasions KU advised its business customers to contact the KU Business Center to determine if they could save money by switching to a different rate. When Complainant called KU on November 15, 2004 to inquire about the higher bills, KU informed Complainant that he was being billed at a less favorable rate. During this phone conversation, KU also explained why Complainant's bill increased and discussed in detail the differences between the GS and the LP Secondary rate and the reasons for those differences.

⁵ KU's Response to Commission Staff's First Data Request, Tab 4.

Complainant also implies that he did not receive adequate notice of the impending rate increase. This allegation, however, is refuted by the record of Case No. 2003-00434. KU complied with all applicable notice requirements when notifying its customers of the impending rate increase. Notices were included in customers' bills and were published in local newspapers. Although KU took all necessary steps to inform Complainant of the rate increase, it was not under an affirmative duty to inform Complainant that, as a result of the rate increase, he would have to switch to the GS rate to be billed at a more advantageous rate.

Based on the foregoing, the Commission finds that the complaint should be dismissed with prejudice because Complainant fails to state a claim upon which relief may be based.

IT IS THEREFORE ORDERED that this matter is dismissed with prejudice and is removed from the Commission's docket.

Done at Frankfort, Kentucky, this 12th day of October, 2006.

By the Commission

ATTEST:


Executive Director