

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

LINDA LOU WOODS)	
)	
COMPLAINANT)	
)	
V.)	CASE NO.
)	2009-00165
)	
KENTUCKY POWER COMPANY)	
)	
DEFENDANT)	

O R D E R

This action was initiated by a formal complaint filed on April 20, 2009 by Linda Lou Woods against Defendant, Kentucky Power Company ("Kentucky Power"). In her complaint, Ms. Woods claims that Kentucky Power improperly disconnected her electric service for nonpayment without proper notice and that she was not liable for amounts accrued on her account after she filed for bankruptcy in November 2008. Ms. Woods asks the Commission to order Kentucky Power to credit her service account in the amount of \$300 for refrigerated food that was spoiled due to her electricity being turned off and \$505.71, which represents a portion of a past-due amount on her account she paid to Kentucky Power on April 9, 2009.

On April 24, 2009, Ms. Woods filed a supplement to her April 20, 2009 complaint which included a copy of an electric bill for her Kentucky Power account dated April 9, 2009. The April 9, 2009 bill also included a notice of disconnection, effective April 28, 2009, because of a past-due amount on her account of \$136.93. In her April 24,

2009 supplement, Ms. Woods expresses confusion regarding certain amounts that she claims Kentucky Power charged her for deposits which she believes she either does not owe or has previously paid.

On May 18, 2009, Kentucky Power filed its Answer to the April 20, 2009 complaint and Motion to Dismiss. In its Answer, Kentucky Power urges the Commission to dismiss the complaint on grounds that Kentucky Power has acted properly in all respects toward Ms. Woods regarding her electricity bill accounts; that Kentucky Power did not terminate Ms. Woods' electric service without notice, as alleged in the complaint; and that, as a matter of law, Ms. Woods is responsible for all electricity charges incurred by her after November 26, 2008—the date her petition for relief under Chapter 7 of the Bankruptcy Code was filed in U.S. Bankruptcy Court for the Eastern District of Kentucky.

In its Answer, Kentucky Power explains that Ms. Woods' account (the "pre-petition account") was canceled on December 10, 2008 in response to a notice that was issued to Kentucky Power following Ms. Woods' bankruptcy filing.¹ Kentucky Power explains that, after applying her \$168 deposit to the amount of \$194.35 then due on her pre-petition account, plus a credit of \$3.59 for interest earned on her deposit, the remaining balance of \$22.76 was discharged by the bankruptcy court and Kentucky Power has made no effort to collect that amount from Ms. Woods or her husband.²

Kentucky Power further explains that, on December 10, 2008, a new account (the "post-petition account") was established in Ms. Woods' name for the same service

¹ Kentucky Power Answer at 2.

² Id. at 5-6.

address as the pre-petition account.³ However, Ms. Woods fell behind on payment of her post-petition account as well. On January 14, 2009, Kentucky Power issued a past-due notice to Ms. Woods along with a notice of termination of service effective January 28, 2009 unless payment of \$239.97 was received prior to that date.⁴ On January 29, 2009, according to Kentucky Power, Ms. Woods entered into a written payment plan with the company to make an initial payment of \$100 and to pay the remainder of her past-due amount over a period from February 2, 2009 to April 28, 2009.⁵ The written agreement, a copy of which Kentucky Power filed as Exhibit 2 to its Answer, required Ms. Woods to also make timely payments on all subsequently billed service charges. Thereafter, according to Kentucky Power, Ms. Woods only made payments of \$100.00 on February 3, 2009 and \$50.00 on February 20, 2009.⁶

On March 13, 2009, Kentucky Power issued notice to Ms. Woods by mail that it would terminate her service after March 27, 2009 if the past-due amount on her account was not paid, along with a \$5.75 late payment charge.⁷ A copy of the notice was appended to Kentucky Power's Answer as Exhibit 3. Ms. Woods then entered into another payment agreement with Kentucky Power but failed to make timely payments on that agreement, resulting in another termination notice being issued by Kentucky

³ Id. at 6.

⁴ Id.

⁵ Id. at 7.

⁶ Id.

⁷ Id. at 8.

Power on April 14, 2009, a copy of which was appended to Kentucky Power's Answer as Exhibit 4.⁸

As to Ms. Woods' claims regarding discharge of her debts in bankruptcy, Kentucky Power cites Chapter 7 of the U.S. Bankruptcy Code. As Kentucky Power points out, pursuant to 11 U.S.C. § 727(b), only those debts arising *prior* to the date the petition for relief is filed are subject to discharge in a Chapter 7 proceeding—not debts for services rendered to the petitioner *after* filing.⁹

With regard to the disputed deposit amounts that Ms. Woods cites in her April 24, 2009 supplemental filing, Kentucky Power cites 807 KAR 5:006, Section 7(3), which provides that a utility may require additional deposits from a customer “[i]f substantial change in usage has occurred” or from a residential customer if that residential customer does not have a satisfactory payment record. Kentucky Power argues that Ms. Woods' payment record was not satisfactory in the months following her bankruptcy filing and that, in light of her poor payment record, its request for additional deposit amounts from Ms. Woods was reasonable and in conformity with 807 KAR 5:006, Section 7(3).¹⁰

On June 4, 2009, the Commission ordered Complainant to file a written response to Kentucky Power's May 18, 2009 Motion to Dismiss, within 20 days of the date of the June 4, 2009 Order, addressing the issues raised therein. The deadline for filing the

⁸ Id. at 9.

⁹ Id. at 10-11.

¹⁰ Id. at 12.

written response expired on June 25, 2009. To date, Complainant has not filed a response.

Having reviewed the record of this matter, the Commission finds that Complainant, Linda Lou Woods, has not met her burden of proof regarding her claims against Defendant, Kentucky Power, as stated in her April 20, 2009 complaint and her supplemental filing on April 24, 2009. The Commission finds that Kentucky Power properly notified Ms. Woods of her April 6, 2009 service termination by its March 3, 2009 mailing attached as Exhibit 3 to Kentucky Power's Answer and Motion to Dismiss.

With regard to Ms. Woods' claims regarding discharge in bankruptcy, the Commission finds that the charges on Ms. Woods' pre-petition account were discharged and that Kentucky Power did not seek to collect any of the remaining past-due amount on that account. However, the Commission finds that Ms. Woods is responsible for all charges to her post-petition account from the date that the post-petition account was established by Kentucky Power on December 10, 2008.

The Commission also finds that Kentucky Power's request for additional deposit amounts from Ms. Woods is in compliance with 807 KAR 5:006, Section 7(3). As Kentucky Power notes in its Motion to Dismiss, during the five months following Ms. Woods' filing for bankruptcy, among other actions, she breached a deferred payment agreement between herself and Kentucky Power, received two disconnection notices, and paid only \$50 toward an arrearage of nearly \$600.¹¹ This is clearly not a "satisfactory" payment history, as contemplated by the regulation. Therefore, in light of

¹¹ Id.

these facts, which were not disputed, Kentucky Power's request for additional deposit amounts from Ms. Woods was appropriate.

The Commission finds that the amounts Ms. Woods has paid to Kentucky Power were properly due for service rendered. Therefore, there is no basis for Kentucky Power to make any refund to her of those amounts. As such, the Commission denies Ms. Woods' request for \$505.76 against Kentucky Power, which represents amounts that Ms. Woods paid toward her post-petition account arrearage and which were not discharged by the Bankruptcy Court. With regard to Ms. Woods' request for \$300 in damages against Kentucky Power for spoiled food following termination of her electric service, the Commission does not have jurisdiction to award Ms. Woods any monetary amount for any damages to her property as a result of the termination of electric service to her residence.

The Commission also finds that, pursuant to KRS 278.260(2), a hearing is not necessary in this matter. Finally, the Commission finds that Kentucky Power's actions were reasonable in its attempts to resolve Ms. Woods' electric service account arrearage.

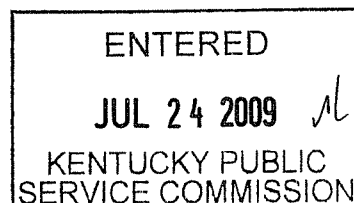
IT IS THEREFORE ORDERED that the complaint filed by Linda Lou Woods on April 20, 2009 against Kentucky Power is hereby dismissed with prejudice.

By the Commission

ATTEST:



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