

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

MR. BILL'S GROCERY	)	
	)	
COMPLAINANT	)	
	)	CASE NO.
V.	)	2014-00194
	)	
JACKSON ENERGY COOPERATIVE	)	
CORPORATION	)	
	)	
DEFENDANT	)	

ORDER

On May 29, 2014, Mr. Bill's Grocery ("Complainant"), by counsel, filed a formal complaint alleging that Jackson Energy Cooperative Corporation ("Jackson Energy") overcharged it for utility service to its place of business at U.S. Highway 421 in McKee, Kentucky. On June 24, 2014, Jackson Energy filed its answer denying the Complainant's claims. On August 1, 2014, Commission Staff served its first requests for information to both Complainant and Jackson Energy. Responses to the requests for information were due no later than August 15, 2014.

Pursuant to KRS 278.380, the Commission delivered its Order containing the requests for information to Complainant and Jackson Energy by electronic transmission. Delivery to Complainant was through electronic transmission to the electronic mail address provided by its counsel in the Complaint.

Jackson Energy filed its responses to Commission Staff's requests for information on August 11, 2014. Pursuant to Commission Staff's request 2(a), Jackson

Energy was required to “[p]rovide, in Excel format, with all cells and formulas intact, the monthly calculations supporting the \$4,779.94 under-billing for electricity.” For its response to this request, Jackson Energy provided a copy of a spreadsheet. Jackson Energy stated that “[i]f the Commission so desires, an electronic copy of this spreadsheet may be obtained via email upon request to Jackson Energy’s legal counsel.”<sup>1</sup>

Complainant failed to file its responses on or before August 15, 2014. On August 20, 2014, the Public Service Commission’s Filings Division sent a notice by letter to counsel for Complainant that the Commission had not received the response of Complainant that was due on August 15, 2014. The letter instructed Complainant to submit the response and a motion for enlargement of time for the filing within ten days of receipt of the letter. Delivery of the August 20, 2014 letter was through electronic transmission to the electronic mail address provided by its counsel in the Complaint. Complainant failed to file a response or motion on or before August 30, 2014.

On September 15, 2014, Jackson Energy filed a motion to dismiss. Stating that Complainant had disregarded the Commission’s August 1, 2014 Order and had failed to take any steps to prosecute this matter since filing the Complaint, Jackson Energy moved the Commission to dismiss the Complaint with prejudice.

On September 17, 2014, Complainant filed a response to Jackson Energy’s motion to dismiss and, separately, filed its response to the Commission Staff’s first request for information. In response to Jackson Energy’s motion to dismiss, counsel for Complainant stated that he did not receive any electronic information pertaining to the

---

<sup>1</sup> Response of Jackson Energy Cooperative Corporation to Commission Staff’s First Request for Information, Item 2(a).

case. Counsel further stated that he had made telephone inquiries to the Commission regarding the existence of Orders or other documents that had been issued or filed in the proceeding. Counsel for Complainant stated that on September 12, 2014, he obtained information concerning the Commission's website and immediately downloaded the Commission Staff's first request for information to Complainant. Counsel for Complainant stated that the failure to timely file the response to Staff's first request for information is attributable to "an unknown IP problem" and that the problem has been corrected and will not occur again.<sup>2</sup> Complainant requests that the Commission deny Jackson Energy's motion to dismiss and accept the late responses of Complainant to Commission Staff's first request for information.

#### DISCUSSION

KRS 278.380 states:

The commission shall deliver a certified copy of any order issued by it to each party to the proceeding in which the order was made, and to an officer or agent of the utility affected thereby. Notwithstanding any statute to the contrary, the commission may deliver its orders by means of electronic transmission rather than by mail. The commission, however, shall deliver its orders by mail to any party that requests and demonstrates good cause for that means of delivery. When service of a commission order is by electronic transmission, mailing shall be deemed to have occurred on the date the transmission of the order is completed. For purposes of this section, electronic transmission of a commission order includes the sending of an electronic mail message that contains an electronic version of the commission order or a hyperlink that enables the recipient to access, view, and download an electronic copy of the commission order from the commission's Web site.

---

<sup>2</sup> Complainant's Response to Jackson Energy's Motion to Dismiss at 2.

The Commission finds that it is authorized to deliver its Orders by means of electronic transmission. The Commission finds that the record for Case No. 2014-00194 does not contain a request and demonstration of good cause by Complainant for delivery of orders by mail. The Commission further finds that counsel for Complainant indicates that the failure to file is attributable to an error that he has corrected, and he does not demonstrate any error by the Commission. Therefore, deliveries of the Commission's August 1, 2014 Order and August 20, 2014 letter to the electronic mail address provided to the Commission by counsel for Complainant were fully effective.

The Commission is authorized to dismiss a complaint with prejudice due to a failure by a complainant to prosecute the matter or comply with an Order of the Commission.<sup>3</sup> In Case No. 2010-00404, the Commission determined that a complainant's failure to prosecute its case for a period of over 18 months and failure to comply with numerous Orders of the Commission, including the failure to timely file responses to requests for information, warranted a dismissal with prejudice.<sup>4</sup> In this proceeding, the response by Complainant that was due no later than August 15, 2014, was filed on September 17, 2014, 33 days after it was due. Counsel for Complainant indicates that he has corrected the problem that led to the late filing, and counsel further indicates that the error will not occur in the future. The Commission finds that Complainant demonstrates good cause to accept its response for filing. The Commission denies Jackson Energy's motion to dismiss.

---

<sup>3</sup> See Case No. 2010-00404, *Bulldog's Enterprises, Inc. D/B/A Bulldog's Roadhouse v. Duke Energy Kentucky, Inc.* (Ky. PSC Mar. 20, 2012) at 2.

<sup>4</sup> *Id.*

The Commission's August 1, 2014 Order required Jackson Energy to file its response to the information requested by Commission Staff no later than 14 days from the date of the Order. The Commission finds that Jackson Energy failed to "[p]rovide, in Excel format, with all cells and formulas intact, the monthly calculations supporting the \$4,779.94 under-billing for electricity" with its response filed on August 11, 2014. The Commission finds that Jackson Energy should file with the Commission and serve upon Complainant an electronic copy of the Excel spreadsheet.

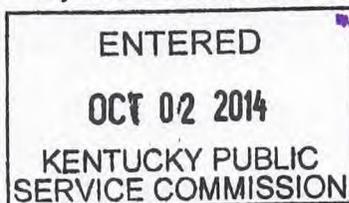
IT IS THEREFORE ORDERED that:

1. Jackson Energy's motion to dismiss is denied.
2. Complainant's request that the Commission accept its late-filed response to the Commission's August 1, 2014 Order is Granted.
3. Within seven days from the date of this Order, Jackson Energy shall file an electronic copy of the Excel spreadsheet, with all cells and formulas intact, as requested by Commission Staff in item 2(a) of Appendix C of the Commission's August 1, 2014 Order. Jackson Energy shall serve Complainant with an electronic copy of the Excel spreadsheet.
4. Nothing contained herein shall prevent the Commission from entering further Orders in this matter.

ATTEST:

  
\_\_\_\_\_  
Executive Director

By the Commission



Hon. Bill Meader  
P.O. Box 1038  
Booneville, KENTUCKY 41314

Clayton O Oswald  
Taylor, Keller & Oswald, PLLC  
1306 West Fifth Street, Suite 100  
Post Office Box 3440  
London, KENTUCKY 40743-3440

Carol Wright  
President & CEO  
Jackson Energy Cooperative Corporation  
115 Jackson Energy Lane  
McKee, KY 40447