

CASE

NUMBER:

99-344

INDEX FOR CASE: 99-344
BLUE GRASS ENERGY COOPERATIVE CORP.
Complaints - Rates
OF BEREHA HEALTHCARE CENTER

IN THE MATTER OF BEREHA HEALTHCARE CENTER VS. BLUE GRASS
ENERGY COOPERATIVE CORPORATION

SEQ NBR	ENTRY DATE	REMARKS
0001	08/10/99	Application.
0002	08/18/99	Acknowledgement letter.
0003	08/27/99	Order to Satisfy or Answer; satisfy matters or file answer by 9/9/99.
M0001	09/07/99	HOWARD DOWNING BLUE GRASS ENERGY-ANSWER TO COMPLAINT
0004	11/05/99	Final Order dismissing complaint of BHC.



COMMONWEALTH OF KENTUCKY
PUBLIC SERVICE COMMISSION
730 SCHENKEL LANE
POST OFFICE BOX 615
FRANKFORT, KY. 40602
(502) 564-3940

CERTIFICATE OF SERVICE

RE: Case No. 99-344
BLUE GRASS ENERGY COOPERATIVE CORP.

I, Stephanie Bell, Secretary of the Public Service Commission, hereby certify that the enclosed attested copy of the Commission's Order in the above case was served upon the following by U.S. Mail on November 5, 1999.

See attached parties of record.

Stephanie Bell

Secretary of the Commission

SB/hv
Enclosure

Daniel W. Brewer
President and CEO
Blue Grass Energy Cooperative Corp.
P. O. Box 990
1201 Lexington Road
Nicholasville, KY. 40340 0990

Berea Healthcare Center
601 Richmond Road N
Berea, KY. 40403

Honorable Michael R. Eaves
Attorney for Blue Grass Energy
Sword, Floyd, & Moody
218 West Main Street
P. O. Box 300
Richmond, KY. 40476 0300

Honorable Howard Downing
Attorney for Blue Grass Energy
109 South First Street
Nicholasville, KY. 40356

lowest applicable rate. BHC claims Blue Grass explained its failure to inform BHC of the lower available rate so that it could obtain a one-year history upon which it could make a recommendation. BHC claims it would have opted for the LP-1 Large Power rate as early as 1997 had it been made aware of its eligibility for that rate. It requests reimbursement for the alleged over-billing that occurred from April 1, 1997 to April 1, 1999.

Blue Grass denies that BHC is entitled to the relief requested, recounting in some detail negotiations with representatives of BHC in which those representatives allegedly hesitated from January 1999 through most of March 1999 to execute the agreement which, pursuant to Blue Grass's tariff, is a prerequisite for obtaining the LP-1 Large Power rate. Blue Grass asserts that BHC was on actual, as well as constructive notice of its rates because BHC received a summary of rates with each monthly billing statement and because the Blue Grass tariff is on file with the Public Service Commission. Blue Grass also points out that the LP-1 Large Power rate is not available unless the customer has signed an agreement ensuring continuity of demand for the contract term and that, if it is required to refund the difference between the LP-1 Large Power rate and the C-1 commercial and industrial rate BHC actually paid, its tariff would be violated.

The parties agree that in March of 1999, BHC submitted a signed agreement for the LP-1 Large Power rate, and was placed on that rate March 30, 1999.

Based on the evidence of record and being otherwise sufficiently advised, the Commission finds that this case should be dismissed as a matter of law. The Commission has not imposed upon utilities an affirmative duty to provide notice of

alternative tariffs beyond that provided by Blue Grass here. The applicable tariff has been publicly available at the offices of the Commission and Blue Grass pursuant to KRS 278.160 and 807 KAR 5:011. Moreover, Blue Grass states, and BHC does not dispute, that Blue Grass furnished BHC a summary of its rates with its monthly billing statements.

Next, requiring Blue Grass to give BHC the benefit of the LP-1 Large Power rate for any period of time prior to the execution of the contract would violate both Blue Grass's tariff and settled Kentucky law. The LP-1 Large Power rate is an optional rate available only to customers who agree to be bound for an extended period of time. Until March of 1999, BHC had executed no such agreement. Accordingly, BHC did not receive the benefit of the demand assurance which constitutes part of the consideration for the LP-1 Large Power rate. Retroactive application of the LP-1 Large Power rate would accord more favorable treatment to BHC than that received by Blue Grass's other customers, in violation of KRS 278.160(2).

Finally, BHC does not allege that it was ever misled by Blue Grass in response to any billing inquiry. See 807 KAR 5:006, Section 4 ("[t]he utility shall, *on request*, give its customers or prospective customers such information as is reasonably possible in order that they may secure safe, efficient and continuous service") (emphasis added). The rule is similar elsewhere. See, e.g., Luntz Corp. v. Ohio Edison Co., C.N. 94-1783-EL-CSS (Ohio P.U.C. 1996)(an electric utility must inform customers of alternative tariffs for which the customer is eligible only upon inquiry by the customer). We decline BHC's invitation to impose upon electric utilities a duty to provide customers with information beyond that required by Kentucky statutes and regulations.

IT IS THEREFORE ORDERED that the complaint of BHC is dismissed.

Done at Frankfort, Kentucky, this 5th day of November, 1999.

By the Commission

ATTEST:


Executive Director

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED
SEP 07 1999

BEREA HEALTHCARE CENTER

COMPLAINT

VS.

BLUE GRASS ENERGY
COOPERATIVE CORPORATION
DEFENDANT

)
)
)
)
) NO. 99-344
)
)
)

PUBLIC SERVICE
COMMISSION

ANSWER

The above named defendant, for answer to the complaint in the proceeding, respectfully states:

(a) That defendant denies that the complainant is due any "credit" or that any "overpayment" exists for the period of April 1, 1997 to April 1, 1999.

(b) That the rate tariff and schedule of rates of defendant have been duly filed and authorized by orders of the Kentucky Public Service Commission as required by Kentucky law.

(c) That the rate tariff and schedule of rates of defendant are public records, open and accessible to complainant for inspection and copying at all times at the offices of the defendant and at the offices of the Kentucky Public Service Commission.

(d) That the complainant received a summary of the rates of the defendant with the monthly billing statements.

(e) That the complainant was billed under the only rate applicable to the business as set forth in the rate schedule (C-1 Commercial and Industrial Lighting and Power) with such billing classification of service having been continuous from July of 1989 to April of 1999.

(f) That the "LP-1 Large Power" Classification of service is a rate available only to consumers (1) who exceed 50 kw demand and (2) who execute an "Agreement for Electric Service" negotiated for an extended commitment purchase of large power needs by the consumer from the defendant.

(g) That the "LP-1 Large Power" classification is an optional rate which can apply to a consumer only if the consumer desires to execute the extended contract for electrical service from the defendant.

(h) That the "C-1 Commercial and Industrial Lighting and Power" is the basic rate applicable to complainant and other consumers of like category until and unless they qualify as a large power user (over 50 kw) and execute the contract for extended service required for the "LP-1 Large Power Rate".

(i) Complainant did not execute the agreement for electric service which is a mandatory requirement for "LP-1 Large Power" rates until March 24, 1999.

(j) After a rate comparison in December of 1998, defendant delivered a proposed agreement for electric service to qualify for "LP-1 Large Power" rate on January 6, 1999. Defendant was advised on March 5, 1999 by Deena Jones that Complainant had decided not to sign an agreement. Defendant decided to send another copy of the written agreement with notice of the availability of the "LP-1 Large Power rate if they should decide to sign an agreement at a later date. On March 17, 1999, defendant contacted owner, Audrey Rund , who was unaware of the written agreement to qualify for the "LP-1 Large Power" rate. She said she was interested and requested a contact with Delbert Ousley. On March 18, 1999, defendant contacted Delbert Ousley and scheduled a meeting on March 19, 1999. On March 19, 1999,

Delbert Ousley stated that he made the decision not to sign the agreement based on contacts with various people trying to sell energy management systems, the impending deregulation, the fact that he didn't want to be tied to a utility and that he had no contracts with other utilities serving his other accounts. He advised that he would seek advise before making a final decision. Defendant notified Delbert Ousley that an executed agreement must be returned no later than March 29, 1999 to receive the "LP-1 Large Power" rate for March. On March 23, 1999, Mr. Ousley's attorney called the defendant to request a meeting to discuss the agreement. On March 24, 1999, Delbert Ousley and Michael Eaves met with defendant (Roger Wilson and Donald Smothers) to discuss the agreement for the "LP-1 Large Power" rate. Delbert Ousley decided not to sign the agreement for "LP-1 Large Power" rate and stated he would discuss with his attorney. On March 29, 1999, Mr. Eaves returned a signed agreement for the "LP-1 Large Power" rate with a date of "3/24/99". On March 30, 1999, complainant was placed on the "LP-1 Large Power" rate.

(k) The "LP-1 Large Power" rate was inapplicable to complainant until it qualified for the rate in accordance with the published tariff and rate schedule for that service. Consumers who are unwilling to execute a written agreement for an extended period do not receive the "LP-1 Large Power" rate. Some consumers do not execute written agreements to receive the "LP-1 Large Power" rate. No consumer can receive the rate until the written agreement for extended service was executed. Complainant received the "LP-1 Large Power" rate upon complianance with the duly published tariff and rates filed and approved by the Kentucky Public Service Commission.

(l) No retroactive application of the "LP-1 Large Power" rate can be granted because it would be discriminatory and unequal application of the tariff and rates. Complainant twice refused the written agreement for the "LP-1 Large Power" rate and finally agreed on March 29, 1999.

(m) Complainant was on actual notice and constructive notice of the published tariffs and rates of defendant. Complainant had monthly summaries of the rates during the period of April, 1997 to April 1999.

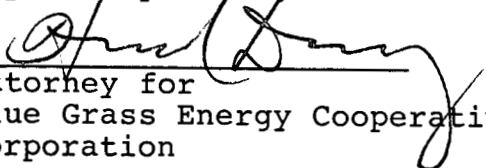
(n) The only rate applicable to complainant (before executing the agreement for "LP-1 Large Power" rate) was the "C-1 Commercial and Industrial Lighting and Power" rate which existed until the complainant executed the agreement necessary for "LP-1 Large Power" rate on March 29, 1999.

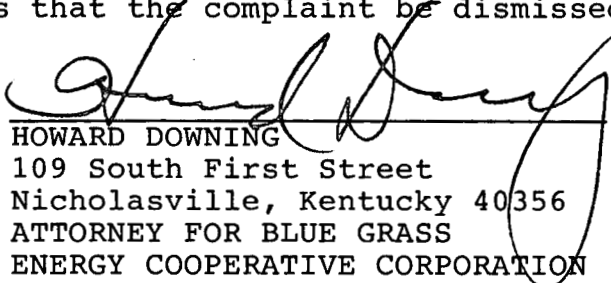
(o) Defendant cannot grant a lower rate to complainant without the necessary extended agreement to assure continuity of demand and a commitment to purchase electricity through the period of the agreement.

(p) If complainant is permitted a refund in violation of the tariff, then the "LP-1 Large Power" rate would be voided. No consumer would ever execute an agreement for extended service contemplated by the "LP-1 Large Power" rate schedule.

WHEREFORE, defendant prays that the complaint be dismissed.

I certify that a true copy was mailed to Hon. Michael R. Eaves, P.O. Box 300, 218 West Main Street, Richmond, KY 40476-0300 this 9th day of September 1999.


Attorney for
Blue Grass Energy Cooperative
Corporation


HOWARD DOWNING
109 South First Street
Nicholasville, Kentucky 40356
ATTORNEY FOR BLUE GRASS
ENERGY COOPERATIVE CORPORATION

CLASSIFICATION OF SERVICE

LP-1 Large Power

APPLICABLE

Entire territory served

AVAILABILITY

Available to all consumers whose kilowatt demand shall exceed 50 kW for lighting and/or heating and/or power.

CONDITIONS

An "Agreement for Electric Service" shall be executed by the consumer for service under this schedule.

CHARACTER OF SERVICE

The electric service furnished under this schedule will be 60 cycles, alternating current and at available nominal voltage.

PUBLIC SERVICE COMMISSION
OF KENTUCKY
EFFECTIVE

JAN 01 1998

DATE OF ISSUE: January 1, 1998

DATE EFFECTIVE: January 1, 1998
PURSUANT TO 807 KAR 5011,
SECTION 9(1)

ISSUED BY:

D.W. Brewer
(Name of Officer)
dep

TITLE:

Stephan O. Bell
President/CEO
BY THE COMMISSION

CLASSIFICATION OF SERVICE

C-1 Commercial and Industrial Lighting & Power

APPLICABLE

Entire territory served

AVAILABILITY

Available for commercial, industrial, and three-phase farm service under 50 kW for all uses including lighting, heating and power, subject to the established rules and regulations.

TYPE OF SERVICE

Single-phase and three-phase, 60 cycles, at available secondary voltages. Motors having a rated capacity in excess of 10 horsepower must be three-phase.

RATE

Demand Charge

First 10 kW of billing demand
Over 10 kW of billing demand

No charge
\$ 6.23

Energy Charge (Under 50 kW)

First 3,000 kWh
All Over 3,000 kWh

.05717
.05237

Customer Charge

\$ 6.95

PUBLIC SERVICE COMMISSION
OF KENTUCKY
EFFECTIVE

MAY 01 1999

DATE OF ISSUE: April 9, 1999

DATE EFFECTIVE: May 1, 1999

ISSUED BY:

D. W. Brewer
(Name of Officer)

TITLE: President/CEO
SECRETARY OF THE COMMISSION

Issued by authority of an Order of the Public Service Commission of Kentucky

in Case No.: 98-568 Dated: March 22, 1999



COMMONWEALTH OF KENTUCKY
PUBLIC SERVICE COMMISSION

730 SCHENKEL LANE
POST OFFICE BOX 615
FRANKFORT, KY. 40602
(502) 564-3940

August 27, 1999

Daniel W. Brewer
President and CEO
Blue Grass Energy Cooperative Corp.
P. O. Box 990
1201 Lexington Road
Nicholasville, KY. 40340 0990

Berea Healthcare Center
601 Richmond Road N
Berea, KY. 40403

Honorable Michael R. Eaves
Attorney at Law
Sword, Floyd, & Moody
218 West Main Street
P. O. Box 300
Richmond, KY. 40476 0300

RE: Case No. 99-344

We enclose one attested copy of the Commission's Order in
the above case.

Sincerely,

A handwritten signature in cursive script that reads "Stephanie Bell".

Stephanie Bell
Secretary of the Commission

SB/hv
Enclosure

Z 509 025 514

US Postal Service
Receipt for Certified Mail

No Insurance Coverage Provided.
Do not use for International Mail (See reverse)

Sent to	Daniel Brewer
Street & Number	PO Box 990
Post Office, State, & ZIP Code	Nicholasville, Ky 40340
Postage	\$.55
Certified Fee	.40
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	
Return Receipt Showing to Whom, Date, & Addressee's Address	1.25
TOTAL Postage & Fees	\$ 3.20
Postmark or Date	

PS Form 3800, April 1995

FC
09
24

Is your RETURN ADDRESS completed on the reverse side?

44

99

344

SENDER:

- Complete items 1 and/or 2 for additional services.
Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

- 1. Addressee's Address
- 2. Restricted Delivery

3. Article Addressed to:

Daniel W Brewer

Cindy McFarland

5. Received By (Print Name)

6. Signature (Addressee or Agent)

4a. Article Number

2 509 025 514

4b. Service Type

- Registered Certified
- Express Mail Insured
- Return Receipt for Merchandise COD

7. Date of Delivery

8. Addressee's Address (Only if requested and fee is paid)

Thank you for using Return Receipt Service.

UNITED STATES POSTAL SERVICE



First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Print your name, address, and ZIP Code in this box •

PUBLIC SERVICE COMMISSION
730 SCHEMEL LANE
P.O. BOX 616
LEXINGTON, KY 40502



COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

BEREA HEALTHCARE CENTER)
)
COMPLAINANT)
)
v.) CASE NO. 99-344
)
BLUE GRASS ENERGY COOPERATIVE)
CORPORATION)
)
DEFENDANT)

ORDER TO SATISFY OR ANSWER

Blue Grass Energy Cooperative Corporation ("Blue Grass") is hereby notified that it has been named as defendant in a formal complaint filed on August 10, 1999, a copy of which is attached hereto.

Pursuant to 807 KAR 5:001, Section 12, Blue Grass is HEREBY ORDERED to satisfy the matters complained of or file a written answer to the complaint within 10 days from the date of service of this Order.

Should documents of any kind be filed with the Commission in the course of this proceeding, the documents shall also be served on all parties of record.

Done at Frankfort, Kentucky, this 27th day of August, 1999.

By the Commission

ATTEST:


Executive Director

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED
MAY 10 1999
PUBLIC SERVICE
COMMISSION

In the matter of:

BEREA HEALTHCARE CENTER

COMPLAINANT

VS.

BLUE GRASS ENERGY COOPERATIVE CORPORATION

RESPONDENT

)
)
)
)
) No. 99-344
)
)
)
)

COMPLAINT

The Complainant, BEREA HEALTHCARE CENTER, by counsel, states as follows:

(a) That the name of the Complainant is Berea Healthcare Center (herein referred to as Berea Healthcare), whose address is 601 Richmond Road N, Berea, KY 40403

(b) That the name of the Respondent is Blue Grass Energy Cooperative Corporation (herein referred to as Blue Grass RECC), whose address is P.O. Box 990, Nicholasville, KY 40340-0990.

(c) That Berea Healthcare Center is a nursing home / long term care facility located in Berea, Kentucky. In approximately April, 1997, the facility underwent an extensive enlargement. At that time, its electrical service went from a 200-amp panel to a 1,600-amp service, in order to accommodate the many additional rooms and demands of the larger facility. Bluegrass RECC, undoubtedly was involved in that renovation since such changes presumably could not have occurred without their knowledge and involvement. At that time, Bluegrass RECC knew or should have known

that a different, lower rate known as the "LP-1 Large Power" rate was available to Berea Healthcare. However, Respondent failed to notify our facility of this fact or take measures to charge Berea Healthcare the lower applicable rate. Until January 1999, Berea Healthcare believed that it was being billed for electrical consumption based upon the lowest rate applicable to its size and usage. Not until January 1999, when Mr. Cornett from Bluegrass RECC contacted Berea Healthcare to advise that substantial savings might be achieved by changing the facility's rate to the "LP-1 Large Power" rate, did Berea Healthcare become aware that another cheaper rate was available and might apply.

Nothing has changed at the facility since its expansion in early 1997. The conditions which exist today, making the change to the "LP-1 Large Power" rate obvious and advantageous, existed then also. By way of explanation, Bluegrass RECC says that it did not mention the availability of the cheaper rate at the time because it wanted to have at least a year of history upon which it would make the recommendation. Unfortunately, while Bluegrass RECC waited to tell Berea Healthcare their options, they also reaped a \$15,000 windfall.

Had Berea Healthcare known of the availability of the lower "LP-1 Large Power" rate classification as early as 1997, the Complainant would have opted to be governed by it. Had Berea Healthcare been properly informed and had known of the lower LP-1 Large Power rate in 1997, we would have saved approximately \$15,000.00 from April 1, 1997 to April 1, 1999. However, Berea Healthcare did not know about the lower

available rate, had no reason to know about it, and was not informed about it by the Respondent who did know or have reason to know of the lower rate's existence and availability.

Earlier this year, when the matter was brought to the attention of the facility, Berea Healthcare signed a new contract with Bluegrass RECC and began receiving the preferred rate. During the interim, however, from April 1, 1997 Bluegrass RECC was overpaid approximately \$15,000.00, when compared to what they would have been paid had the correct rate been applied. Berea Healthcare has requested that Bluegrass RECC give the facility credit for the overpayment, which has been denied. Copies of our correspondence to Bluegrass RECC is attached hereto and made a part hereof.

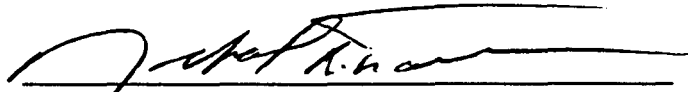
WHEREFORE, Complainant asks that Blue Grass Energy Cooperative be required to credit the account of the Complainant in an amount equal to the overpayment which has occurred by reason of Bluegrass RECC failing to apply the LP-1 Large Power rate from April 1, 1997 through April 1, 1999. As a member of the Coop, Berea Healthcare Center is dealing with an organization in which it owns an interest; one whose purpose is to serve and promote the interest of its members and charge no more than a "reasonable" rate.. This relief is just and equitable as the Coop failed to extend the lower rate or inform Berea Healthcare of its availability.

Formal Complaint

Berea Healthcare Center vs. Blue Grass Energy Cooperative Corporation

Page 4 of 4

Dated at Richmond, Kentucky, this 4th day of August, 1999.



Michael R. Eaves, Attorney for
Berea Healthcare Center

SWORD, FLOYD & MOODY

218 West Main Street
P.O. Box 300
Richmond, KY 40476-0300
Telephone: 606 623-3728

O:\DATA\EAVES\Berea Healthcare Facility\FORMAL COMPLAINT.wpd



COMMONWEALTH OF KENTUCKY
PUBLIC SERVICE COMMISSION

730 SCHENKEL LANE
POST OFFICE BOX 615
FRANKFORT, KY. 40602
(502) 564-3940

August 18, 1999

Daniel W. Brewer
President and CEO
Blue Grass Energy Cooperative Corp.
P. O. Box 990
1201 Lexington Road
Nicholasville, KY. 40340 0990

Berea Healthcare Center
601 Richmond Road N
Berea, KY. 40403

Honorable Michael R. Eaves
Attorney at Law
Sword, Floyd, & Moody
218 West Main Street
P. O. Box 300
Richmond, KY. 40476 0300

RE: Case No. 99-344
BLUE GRASS ENERGY COOPERATIVE CORP.
(Complaints - Rates) OF BEREHA HEALTHCARE CENTER

This letter is to acknowledge receipt of initial application in the above case. The application was date-stamped received August 10, 1999 and has been assigned Case No. 99-344. In all future correspondence or filings in connection with this case, please reference the above case number.

If you need further assistance, please contact my staff at 502/564-3940.

Sincerely,


Stephanie Bell
Secretary of the Commission

SB/jc

**SWORD, FLOYD, MOODY, BOHANNON
EAVES, FERNANDEZ, OLDS & MURPHY**

ATTORNEYS AT LAW
218 WEST MAIN STREET
P.O. BOX 300
RICHMOND, KENTUCKY 40476-0300
TELEPHONE: 606/623-3728
FAX: 606/623-4224

AUG 10 1999
RECEIVED
COMMONWEALTH OF KENTUCKY

MORRIS B. FLOYD
DAVID L. BOHANNON
MICHAEL R. EAVES
DAVID M. FERNANDEZ
STUART K. OLDS
MELINDA A. MURPHY
JAMES M. PATTON
NORA J. SHEPHERD

OF COUNSEL
JOHN D. SWORD
Retired

SALEM W. MOODY
1905-1992

August 9, 1999

Commonwealth of Kentucky
Public Service Commission
730 Schenkel Lane
P.O. Box 615
Frankfort, Kentucky 40602

CASE 99-344

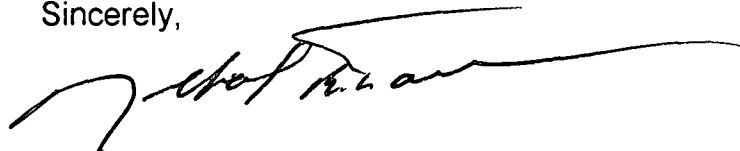
Re: Berea Healthcare Center v. Blue Grass Energy Cooperative Corporation

Gentlemen:

Enclosed please find an original and ten copies of a complaint in the above-referenced matter which we request that you file of record.

Should you require anything further, please advise. Your cooperation is greatly appreciated.

Sincerely,



Michael R. Eaves

MRE/lr
Enclosures

Handwritten initials

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED
AUG 1 0 1999
PUBLIC SERVICE COMMISSION

In the matter of:

BEREA HEALTHCARE CENTER)

COMPLAINANT)

VS.)

BLUE GRASS ENERGY COOPERATIVE CORPORATION)

RESPONDENT)

No. 99-344

COMPLAINT

The Complainant, BEREA HEALTHCARE CENTER, by counsel, states as follows:

(a) That the name of the Complainant is Berea Healthcare Center (herein referred to as Berea Healthcare), whose address is 601 Richmond Road N, Berea, KY 40403

(b) That the name of the Respondent is Blue Grass Energy Cooperative Corporation (herein referred to as Blue Grass RECC), whose address is P.O. Box 990, Nicholasville, KY 40340-0990.

(c) That Berea Healthcare Center is a nursing home / long term care facility located in Berea, Kentucky. In approximately April, 1997, the facility underwent an extensive enlargement. At that time, its electrical service went from a 200-amp panel to a 1,600-amp service, in order to accommodate the many additional rooms and demands of the larger facility. Bluegrass RECC, undoubtedly was involved in that renovation since such changes presumably could not have occurred without their knowledge and involvement. At that time, Bluegrass RECC knew or should have known

Formal Complaint

Berea Healthcare Center v. Blue Grass Energy Cooperative Corporation

Page 2 of 4

that a different, lower rate known as the "LP-1 Large Power" rate was available to Berea Healthcare. However, Respondent failed to notify our facility of this fact or take measures to charge Berea Healthcare the lower applicable rate. Until January 1999, Berea Healthcare believed that it was being billed for electrical consumption based upon the lowest rate applicable to its size and usage. Not until January 1999, when Mr. Cornett from Bluegrass RECC contacted Berea Healthcare to advise that substantial savings might be achieved by changing the facility's rate to the "LP-1 Large Power" rate, did Berea Healthcare become aware that another cheaper rate was available and might apply.

Nothing has changed at the facility since its expansion in early 1997. The conditions which exist today, making the change to the "LP-1 Large Power" rate obvious and advantageous, existed then also. By way of explanation, Bluegrass RECC says that it did not mention the availability of the cheaper rate at the time because it wanted to have at least a year of history upon which it would make the recommendation. Unfortunately, while Bluegrass RECC waited to tell Berea Healthcare their options, they also reaped a \$15,000 windfall.

Had Berea Healthcare known of the availability of the lower "LP-1 Large Power" rate classification as early as 1997, the Complainant would have opted to be governed by it. Had Berea Healthcare been properly informed and had known of the lower LP-1 Large Power rate in 1997, we would have saved approximately \$15,000.00 from April 1, 1997 to April 1, 1999. However, Berea Healthcare did not know about the lower

available rate, had no reason to know about it, and was not informed about it by the Respondent who did know or have reason to know of the lower rate's existence and availability.

Earlier this year, when the matter was brought to the attention of the facility, Berea Healthcare signed a new contract with Bluegrass RECC and began receiving the preferred rate. During the interim, however, from April 1, 1997 Bluegrass RECC was overpaid approximately \$15,000.00, when compared to what they would have been paid had the correct rate been applied. Berea Healthcare has requested that Bluegrass RECC give the facility credit for the overpayment, which has been denied. Copies of our correspondence to Bluegrass RECC is attached hereto and made a part hereof.

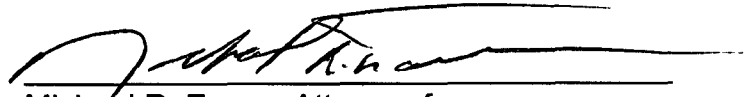
WHEREFORE, Complainant asks that Blue Grass Energy Cooperative be required to credit the account of the Complainant in an amount equal to the overpayment which has occurred by reason of Bluegrass RECC failing to apply the LP-1 Large Power rate from April 1, 1997 through April 1, 1999. As a member of the Coop, Berea Healthcare Center is dealing with an organization in which it owns an interest; one whose purpose is to serve and promote the interest of its members and charge no more than a "reasonable" rate.. This relief is just and equitable as the Coop failed to extend the lower rate or inform Berea Healthcare of its availability.

Formal Complaint

Berea Healthcare Center vs. Blue Grass Energy Cooperative Corporation

Page 4 of 4

Dated at Richmond, Kentucky, this 4th day of August, 1999.



Michael R. Eaves, Attorney for
Berea Healthcare Center

SWORD, FLOYD & MOODY

218 West Main Street
P.O. Box 300
Richmond, KY 40476-0300
Telephone: 606 623-3728