



LG&E Energy LLC
220 West Main Street (40202)
P.O. Box 32030
Louisville, Kentucky 40232

April 18, 2005

RECEIVED

APR 18 2005

PUBLIC SERVICE
COMMISSION

Ms. Elizabeth O'Donnell
Public Service Commission
211 Sower Boulevard
P. O. Box 615
Frankfort, Kentucky 40601

RE: Roy Gaines Walton and Gerald Walton (Case No. 2005-00136) v. KU

Dear Ms. O'Donnell:

In accordance with the Commission's Order dated April 8, 2005, in the above-captioned proceeding, enclosed please find an original and ten (10) copies of the response of Kentucky Utilities Company.

If you have any questions regarding this filing, please contact me at (502) 627-4110.

Sincerely,

John Wolfram
Manager, Regulatory Affairs

JW:mjr

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ROY GAINES WALTON AND)
GERALD WALTON)
COMPLAINANTS)
)
vs.)
)
KENTUCKY UTILITIES)
COMPANY)
)
DEFENDANT)

CASE NO. 2005-00136

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PUBLIC SERVICE
COMMISSION

ANSWER OF KENTUCKY UTILITIES COMPANY

In accordance with the Kentucky Public Service Commission's ("Commission") Order of April 8, 2005 in the above-captioned proceeding, Kentucky Utilities Company ("KU") respectfully submits this Answer to the Complaint of Roy Gaines Walton ("Roy Walton") and Gerald Walton filed on March 28, 2005. In support of its Answer, and in response to the specific averments contained in said Complaint, KU states as follows:

1. As an initial matter, KU states that the issue here involves the application of Original Sheet No. 82.1 of KU's electric tariff, regarding landlord liability for service at his property in the absence of an active account, which tariff provision was recently addressed at an informal conference with Commission Staff and other interested parties on March 22, 2005.
2. KU admits the allegations contained in paragraphs (1) and (2) of the Complaint.
3. With respect to the allegations contained in paragraph (3) of the Complaint, KU admits that the Commission has jurisdiction to hear complaints over utility rates and service, but affirmatively states that portions of the Complaint here, including but not limited to those

portions relating to any claims for damages, costs or attorney's fees, are beyond the scope of the Commission's jurisdiction.

4. KU admits the allegations contained in paragraph (4) of the Complaint.

5. With respect to the allegations contained in paragraph (5) of the Complaint, KU admits that its ratepayers are entitled to service in accordance with the statutes, rules and regulations governing regulated utilities. KU denies all other allegations contained in paragraph (5) of the Complaint.

6. With respect to the allegations contained in paragraph (6) of the Complaint, KU reaffirms and restates its responses to paragraphs (1) - (5) of the Complaint as if set forth fully herein.

7. With respect to the allegations contained in paragraph (7) of the Complaint, KU admits that Roy Walton and Gerald Walton have been paying customers for a number of years.

8. KU admits, on information and belief, the allegations contained in paragraphs (8) and (9) of the Complaint.

9. With respect to the allegations contained in paragraph (10) of the Complaint, KU admits that, on December 13, 2004, Roy Walton contacted KU by phone and requested that the electric service at 832 Ward Drive be turned off effective December 14, 2004. KU further states that Roy Walton did not request the termination "because he had rented the property and the new occupant would be obtaining electric service in her name." In fact, Roy Walton gave no reason for his request that service be turned off. KU denies all other allegations contained in paragraph (10) of the Complaint.

10. KU admits the allegations contained in paragraphs (11) and (12) of the Complaint. In addition, KU affirmatively states that on December 30, 2004, Roy Walton called

KU to find out in whose name the electric service at 832 Ward Drive had been placed. When the KU customer representative responded that the service had been terminated on December 14, 2004, pursuant to Roy Walton's request, Mr. Walton responded that he would "check back." On information and belief, Roy Walton was aware, as early as December 14, 2004, that electric service at 832 Ward Drive was turned on, even though it was not in his name and he apparently had no tenant in the property at that time. KU also affirmatively states that on January 20, 2005, a KU revenue investigator inspected the meter at 832 Ward Drive, discovered that the meter had been tampered with, and placed a lock on the meter. KU then sent Roy Walton a bill for \$86.50, reflecting the usage from December 14, 2004 to January 20, 2005, pursuant to Original Sheet No. 82.1 of KU's electric tariff, which provides that "[u]pon the absence of an active account, the property owner assumes responsibility for any consumption and the Company's property and service."

11. KU admits the allegations contained in paragraph (13) of the Complaint, but affirmatively states that the phone call by Roy Walton was made on January 27, 2005.

12. KU admits the allegations contained in paragraph (14) of the Complaint, and states that Roy Walton also indicated that he was receiving the benefit of the service at that time, and that Mr. Walton seemed to know or suspect that someone had tampered with the meter at that time.

13. KU denies the allegations contained in paragraph (15) of the Complaint, but states that a KU revenue investigator did return to 832 Ward Drive on January 27, 2005 and discovered that a meter had apparently been removed from 836 Ward Drive and placed in the meter base at 832 Ward Drive to restore service. The investigator also discovered that the meter base at 832 Ward Drive had been damaged and needed to be replaced.

14. KU admits the allegations contained in paragraph (16) of the Complaint.

15. With respect to the allegations contained in paragraph (17) of the Complaint, KU admits that Roy Walton contacted KU to inquire about the bill, and states that Mr. Walton was advised that he was being billed pursuant to Original Sheet No. 82.1 of KU's electric tariff, which provides that "[u]pon the absence of an active account, the property owner assumes responsibility for any consumption and the Company's property and service." KU denies all other allegations contained in paragraph (17) of the Complaint.

16. With respect to the allegations contained in paragraph (18) of the Complaint, KU acknowledges that Roy and Gerald Walton take issue with Original Sheet No. 82.1 of KU's electric tariff, but states that the language of that tariff speaks for itself. KU further states that it has acted in compliance with that tariff with regard to service at issue here.

17. KU denies the allegations contained in paragraph (19) of the Complaint. KU also states that Original Sheet No. 82.1 of KU's electric tariff was approved by the Commission in Case No. 2003-00434 and that it has acted in compliance with that tariff with regard to the service at issue here.

18. With respect to the allegations contained in paragraph (20) of the Complaint, KU reaffirms and restates its responses to paragraphs (1) - (19) of the Complaint as if set forth fully herein.

19. KU denies the allegations contained in paragraph (21) of the Complaint. KU also states that on January 28, 2005 a new tenant asked that service at 832 Ward Drive be turned on and placed in his name, and that in response to that request service was placed in that new tenant's name on February 2, 2005. KU further states that it has also advised Roy Walton that service would be established for other tenants who might reside at 832 Ward Drive in the future,

provided there was a proper request for same and all other applicable requirements for service (such as deposits, where applicable) were met.

20. KU denies the allegations contained in paragraph (22) of the Complaint.

21. With respect to the allegations contained in paragraph (23) of the Complaint, KU admits that it has denied any requests to restore service to 832 Ward Drive in the name of Roy Walton because Mr. Walton has an outstanding account balance for that service address which he has not paid. KU denies all other allegations contained in paragraph (23) of the Complaint.

22. With respect to the allegations contained in paragraph (24) of the Complaint, KU admits that, before the aforementioned issues arose with regard to 832 Ward Drive, Roy Walton was current on his payments to KU. However, KU states that Roy Walton is not presently current on payment of his account for 832 Ward Drive, which account reflects amounts due pursuant to KU's filed tariffs.

23. With respect to the allegations contained in paragraph (25) of the Complaint, KU admits that on or about March 24, 2005 Gerald Walton, who, on information and belief, is the brother of Roy Walton, requested that service for 832 Ward Drive be activated in his name, and that KU denied that request. KU denies all other allegations contained in paragraph (25) of the Complaint, and states that it denied Gerald Walton's request because it appeared to KU, under the circumstances, that Gerald Walton was acting merely as an agent for Roy Walton, in an attempt to circumvent the provisions of KU's tariffs, and that service was therefore not permissible pursuant to Original Sheet No. 90 of KU's electric tariff. Specifically, KU states that Gerald Walton presented KU with a document styled "Lease" which contained handwriting by Roy Walton that he was signing "over landlord rights to Gerald Walton" but which also listed Gerald Walton as "Tenant." Furthermore, upon questioning by KU Gerald Walton indicated that

he would not be living at the premises but was trying to "help out" his brother, Roy Walton. A copy of the "Lease" provided to KU by Gerald Walton is attached as Exhibit 1.

24. KU denies the allegations contained in paragraph (26) of the Complaint, and states that the denial of service for 832 Ward Drive, when requested by Gerald Walton, was consistent with Original Sheet No. 90 of KU's electric tariff.

25. KU denies the allegations contained in paragraph (27) of the Complaint, and states that the denials of service for 832 Ward Drive, when requested by Roy and Gerald Walton, were consistent with KU's filed tariffs as set forth above.

26. With respect to the allegations contained in paragraph (28) of the Complaint, KU reaffirms and restates its responses to paragraphs (1) - (27) of the Complaint as if set forth fully herein.

27. KU denies the allegations contained in paragraph (29) of the Complaint, and states that it is, at most, very questionable whether the provisions of 807 KAR 5:006 Section 11 require service to be activated, where no active account exists, simply because a customer has raised a dispute over the application of KU's filed tariffs. Nonetheless, KU also states that, without waiver of its position in that regard and in an effort to be reasonable, it activated service at 832 Ward Drive, in the name of Roy Walton, on March 30, 2005, after the filing of this Complaint, and that such service remains active as of this time.

28. KU denies the allegations contained in paragraph (30) of the Complaint, and states that any denials of service for 832 Ward Drive, when requested by Roy and Gerald Walton, were consistent with KU's filed tariffs as set forth above.

29. KU denies all allegations in the Complaint which are not expressly admitted in the foregoing paragraphs of this Answer.

FIRST AFFIRMATIVE DEFENSE

The Complaint, or parts of it, fails to set forth any claim upon which relief can be granted by this Commission and, therefore, should be dismissed.

SECOND AFFIRMATIVE DEFENSE

Complainants have failed to set forth a *prima facie* case that KU has violated its tariff or any statute or Commission regulation, and the Complaint should be dismissed for that reason.

THIRD AFFIRMATIVE DEFENSE

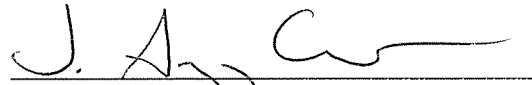
The Complaint, or parts of it, is beyond the jurisdiction of this Commission and, therefore, should be dismissed.

WHEREFORE, for all of the reasons set forth above, Kentucky Utilities Company respectfully requests:

- (1) that the Complaint herein be dismissed without further action being taken by the Commission;
- (2) that this matter be closed on the Commission's docket;
- (3) in the alternative, that the Commission hold this proceeding in abeyance until such time as the Commission approves revisions, if any, to Original Sheet No. 82.1 of KU's electric tariff as discussed in the informal conference of March 22, 2005; and
- (4) that KU be afforded any and all other relief to which it may be entitled.

Dated: April 18, 2005

Respectfully submitted,

A handwritten signature in black ink, appearing to read "J. Gregory Cornett", written over a horizontal line.

J. Gregory Cornett
W. Duncan Crosby III
Ogden Newell & Welch PLLC
1700 PNC Plaza
500 West Jefferson Street
Louisville, Kentucky 40202
Telephone: (502) 582-1601

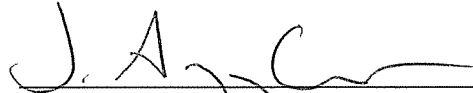
Elizabeth L. Cocanougher
Senior Regulatory Counsel
Louisville Gas and Electric Company
220 West Main Street
Post Office Box 32010
Louisville, Kentucky 40232
Telephone: (502) 627-4850

Counsel for Kentucky Utilities Company

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Answer was served on the following persons on the 18th day of April 2005, U.S. mail, postage prepaid:

Kathryn A. Walton, PLLC
201 West Vine Street
Lexington, Kentucky 40507
Counsel for Complainants



Counsel for Kentucky Utilities Company

755-000-1000
Burdette
LEASE

This lease made and entered into this 22 day of March, by and between 830 Ward R. M. Co, hereinafter referred to as "Landlord", and 830 Ward R. M. Co, hereinafter referred to as "Tenant". (The word "Tenant" shall be considered singular or plural as necessary.)

In consideration of the mutual covenants and agreements set forth herein, which are incorporated by reference, Landlord hereby leases to Tenant and Tenant hereby leases from Landlord a duplex apartment located at 830 Ward R. M. Co, Lexington, Kentucky (the "Premises") for the period beginning March 22 and ending at 5:30 PM (the "Term").

LEASE COVENANTS AND AGREEMENTS

1. Rent. Tenant shall pay to the Landlord as rent for the aforesaid Premises the sum of \$ 422 per month, payable in advance on the first (1st) day of each month of the term of this Lease at the following address:

830 Ward R. M. Co
832

If Tenant occupies the Premises prior to the commencement date set forth above, the Tenant shall be bound by the terms and conditions of this Lease and shall pay a pro rata share of rent for the time occupied prior to the first day of the next month, when a full rental payment shall be due. This pro rata share totals \$ 422 and shall be paid upon the execution of this Lease.

Payment of the agreed monthly rent on the due date is the essence of this Lease and the obligation to pay rent is an independent covenant and cannot be deducted or set off. Any previous toleration of delinquency shall not be considered a waiver.

2. Renewal. At the end of the original term of this Lease, this agreement shall automatically renew upon the same conditions on a month-to-month basis, unless and until either party hereto shall give to the other written notice of the desire to terminate this Lease. Notice must be in writing and must be given at least thirty (30) days before the expiration of the particular term of this Lease (a full calendar month notice).

3. Late Charges. If the rent is not paid in full by the 5th of the month, Tenant shall pay a charge of \$20.00 in addition to the rent. If Tenant's check fails to clear the bank, a service charge of \$20.00 will be assessed, in addition to the late charge. Rent shall be considered received on the date of receipt by the Landlord.

4. Utilities. The Tenant is responsible for payment of all utilities.

5. Pets. NO PETS ARE ALLOWED ON THE PREMISES.

6. Condition of Premises. Tenant has examined the Premises prior to accepting same and prior to the execution of this Lease and tender of the Security Deposit and any rent. Tenant is satisfied with the condition of the Premises and acknowledges same is in good and habitable condition, including, but not limited to, the heating, plumbing, smoke detectors, fixtures and appliances. Tenant's examination and acceptance of the physical condition of the Premises is evidenced by the inspection sheet attached hereto, which sets forth any damage to the Premises which existed at the time of execution of this Lease. Taking possession shall be conclusive evidence of Tenant's receipt of the Premises in good order and repair.

7. Tenant to Maintain. As a part of the consideration for rental, Tenant will keep and maintain the Premises in good, safe and sanitary condition during the term of this agreement. Upon termination of this Lease for any reason, Tenant shall yield and return the Premises back to Landlord in as good condition of cleanliness and repair as at the date of execution of this Lease, reasonable wear and tear excepted.

8. Damages. Tenant shall pay, on demand, for any damage to the Premises with the knowledge of Tenant has caused, permitted or allowed, and upon being billed by Landlord for the cost of repairing same, such changes shall be considered as additional rent and will be paid immediately.

9. Repairs. Landlord agrees to repair, as soon as practicable after notification, any malfunction of equipment or facilities furnished by Landlord. Landlord's failure to perform the agreements contained herein within a reasonable period of time shall not affect Tenant's obligation to promptly pay rent as and when the same shall become due and payable under this Lease nor give Tenant any right to abatement or withholding or escrowing of payments of rent.

10. Insurance. Landlord does not provide nor carry insurance on the Tenant's personal property. The Landlord is not responsible for loss by theft, fire, or flood or other casualty of Tenant's personal property. Tenant acknowledges the Landlord has hereby advised Tenant to obtain insurance coverage on any personal property brought onto the Premises.