

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

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MAR 28 2005

PUBLIC SERVICE  
COMMISSION

In the matter of:

ROY GAINES WALTON  
GERALD WALTON  
COMPLAINANTS

V.

KENTUCKY UTILITIES COMPANY  
DEFENDANT

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)  
) NO. 2005-00136  
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**COMPLAINT**

Come the Complainants, Roy Gaines Walton and Gerald Walton, by counsel and for their Complaint against the Defendant respectfully state as follows:

**REQUIRED PARTY INFORMATION**

1) The mailing address of Complainant, Roy Gaines Walton, is 616 Galaxie Drive, Lexington, Kentucky 40502. The mailing address of Complainant Gerald Walton is 2202 Bahama Road, Lexington, Kentucky.

2) The mailing address of Defendant, Kentucky Utilities Company, is P.O. Box 14242, Lexington, Kentucky 40512.

**ALLEGATIONS COMMON TO ALL CASES OF ACTION**

3) Jurisdiction lies with this Commission pursuant to KRS 278 and 807 KAR 5:001.

4) The Defendant, Kentucky Utilities Company, is a regulated public utility in Kentucky and as such is required to supply electric service in accordance with the rules and regulations of the Kentucky Public Service Commission.

5) The Complainants, Roy Gaines Walton and Gerald Walton, are customers of Kentucky Utilities and as such are guaranteed certain rights in accordance with the rules and regulations of the Kentucky Public Service Commission.

### COUNT 1

6) The Complainants reaffirm and reiterate the allegations contained in numerical paragraphs 1 through 5 above, the same as if set forth verbatim.

7) The Complainants have been paying customers of Kentucky Utilities Company for over 30 years.

8) The Complainants own residential rental property in Lexington, Kentucky, Fayette County.

9) The Complainant, Roy Walton, owns rental property located at 832 Ward Drive, Lexington, Kentucky.

10) On or about December 14, 2004, Complainant, Roy Walton, contacted Kentucky Utilities and requested that the electric service at 832 Ward Drive, Lexington, Kentucky, be terminated because he had rented the property and the new occupant would be obtaining electric service in her name.

11) The Complainant, Roy Walton, received a "final bill" in the amount of forty-three dollars and eight cents (\$43.08) from Kentucky Utilities for Utility Charges and taxes and fees as of December 16, 2004. A copy of the bill is attached and marked as Exhibit A.

12) The Complainant, Roy Walton, paid Kentucky Utilities forty-three dollars and eight cents (\$43.08) on December 30, 2004 by check number 6632, in satisfaction of the referenced "final bill".

13) On or about January 28, 2005, the Complainant, Roy Walton, requested that the electric service at 832 Ward Drive be put back in his name since the former occupant had moved out as the result of eviction proceedings.

14) The Complainant, Roy Walton, was told that there was no electric service being provided to 832 Ward Drive. The Complainant, Roy Walton, being present in the residence at the time of the call assured the Kentucky Utilities representative that the electric service was on at 832 Ward Drive.

15) A Kentucky Utility employee came to 832 Ward Drive and discovered that electric service was on at 832 Ward Drive as a result of the former occupant's criminal activity. The former occupant committed the crime of Theft of Services, KRS 514.060, by stealing a meter from 836 Ward Drive (not Mr. Walton's property) and hooking it up to the meter at 832 Ward Drive in order to steal electric service.

16) The Complainant, Roy Walton, received another "final bill" in the amount of three hundred fifty-one dollars and thirty cents (\$351.30) from Kentucky Utilities for Utility Charges, taxes and fees, and "other charges" as of February 2, 2005. A of the bill is attached and marked as Exhibit B.

17) The Complainant, Roy Walton, contacted the Customer Service Center to inquire about the bill. The Complainant was told that he is responsible for paying for the electric that his former tenant stole from Kentucky Utilities and referred to Kentucky Utilities' tariffed rules.

18) The Complainant disputes the Kentucky Utilities Tariff located at Original Sheet No. 82.1 that states “[U]pon the absence of an active account, the property owner assumes responsibility for any consumption and the Company’s property and service.” A copy of the rule is attached and marked as Exhibit C.

19) Kentucky Utilities as the supplier of regulated services to members of this community is not authorized under law or equity to withhold electric service to a residence or an individual until the individual makes restitution for a crime he did not commit. The referenced tariffed rule is arbitrary and unconscionable.

### **COUNT TWO**

20) The Complainants reaffirm and reiterate the allegations contained in numerical paragraphs 1 through 19 above, the same as if set forth verbatim.

21) The Defendant has caused loss of income to the Complainant, Roy Walton, by refusing to restore electric service to 832 Ward Drive.

22) The Complainant, Roy Walton, is unable to prepare the property for occupancy without the use of electric service.

23) The Complainant, Roy Walton, repeatedly requested that electric service be restored at 832 Ward Drive and his requests were repeatedly denied.

24) The Complainant, Roy Walton, has historically and continually made payments to Kentucky Utilities for all other points of service and is current in payment.

25) On or about March 24, 2005, Mr. Gerald Walton requested that service be turned on at 832 Ward Drive. Kentucky Utilities denied him electric service. He explained that he was taking the property over and needed service to prepare it for occupancy. Kentucky Utilities continued to deny him electric service.

26) Kentucky Utilities unlawfully denied electric service to Gerald Walton, a Kentucky Utilities customer that has historically and continually made payments to Kentucky Utilities and remains current in payment.

27) Roy Gaines Walton and Gerald Walton have suffered illegal retaliation by Kentucky Utilities as a result of pursuing their lawful consumer right to dispute a bill or policy determination. .

### COUNT 3

28) The Complainants reaffirm and reiterate the allegations contained in numerical paragraphs 1 through 27 above, the same as if set forth verbatim.

29) Kentucky Utilities is in violation of 807 KAR 5:006 Sec. 11, requiring customer accounts to be considered current during any billing dispute so long as the customer continues to make undisputed payments and stays current on subsequent bills.

30) Officials at Kentucky Utilities have referred to this matter as being “in litigation” yet they have consistently refused to provide electric service in violation of the Public Service Commissions administrative rules and in violation of principles of law and equity.

WHEREFORE, the Complainants respectfully request that this Commission provide the following relief:

1) That the tariffed rule located on original sheet no. 82.1 that states “[u]pon the absence of an active account, the property owner assumes responsibility for any consumption and the Company’s property and service” be stricken as against public policy and principles of law and equity.

2) That the Complainant, Roy Walton, not be held responsible for making restitution to the Defendant, Kentucky Utilities Company, for the criminal theft of electric service by another.

3) That the Defendant be prohibited from utilizing the afore-mentioned tariffed rule to require payment for services from the Complainants or from any other individual or entity when they were not the recipients of such services.


4) For the Complainants costs herein expended in pursuit of this action, including reasonable attorney fees; and

5) For all other relief, both legal and equitable, to which the Complainants may appear herein entitled.

Respectfully submitted,

KATHRYN A. WALTON, PLLC  
201 West Vine Street  
Lexington, Kentucky 40507  
859.381.0667  
859.381.0653 (fax)

BY:

  
KATHRYN A. WALTON  
ATTORNEY FOR COMPLAINANTS



Customer Service: (859) 255-0394  
 Mon-Fri 7AM-7PM  
 www.lgeenergy.com

DATE DUE	AMOUNT DUE
12/30/04	\$43.08

This is a Final bill

Conserve paper! With e-bill, we'll send you an e-mail each month letting you know your bill is available for viewing and, if you choose, online payment. Sign up today by visiting our website at [www.lgeenergy.com](http://www.lgeenergy.com).

ACCOUNT INFORMATION	
Account Number:	
Account Name:	Roy Walton
Service Address:	832 Ward Dr Lexington, Ky

Averages for Billing Period	This Year	Last Year
Average Temperature	43 <sup>o</sup>	0 <sup>o</sup>
Number of Days Billed	14	0
Electric/kwh per Day	55.7	0.0

BILLING SUMMARY	
Previous Balance	0.00
Payments as of 12/16	0.00
Balance as of 12/16	0.00
Electric Charges	40.64
Taxes and Fees	2.44
Utility Charges as of 12/16	43.08
<b>Total Amount Due</b>	<b>43.08</b>

**ELECTRIC CHARGES**

Rate Type: RS-ALL ELEC RES		Meter Reading Information	
Customer Charge	2.33	Meter #	
Energy Charge	34.39	Actual Reading on 12/14	39050
<b>Other Charges For Above Rates</b>		Previous Reading on 11/30	38269
Fuel Adjustment (\$0.00307 x 781 kwh)	2.40	<b>Current kwh Usage</b>	<b>781</b>
Residential DSM (\$0.00072 x 781 kwh)	0.56	Meter Multiplier	1
Environmental Surcharge (2.850% x \$39.68)	1.13	<b>Metered kwh Usage</b>	<b>781</b>
Merger Surcredit (2.576% CR x \$40.81)	-1.05		
ESM Electric Adj (2.330% x \$39.76)	0.93		
Value Delivery Surcredit (0.380% CR x \$40.69)	-0.15		
Home Energy Assistance Fund Charge	0.10		
<b>Total Electric Charges</b>	<b>\$40.64</b>		

*Handwritten note:*  
 JR - \$43.08  
 12/30/04  
 #6632

**TAXES AND FEES**

Rate Increase For School Tax (3.00% x \$40.54)	1.22
Franchise Fee-Lexington (3.00% x \$40.54)	1.22
<b>Total Taxes and Fees</b>	<b>\$2.44</b>

Please see reverse side for additional charges.

Please bring entire bill when paying in person.





Customer Service: (859) 255-0394  
 Mon-Fri 7AM-7PM  
 www.lgeenergy.com

DATE DUE	AMOUNT DUE
02/14/05	\$351.30

This is a Final bill

Visit our safe and secure website at [www.lgeenergy.com](http://www.lgeenergy.com).  
 You can view and pay your bill, sign up for e-bill or ABC and view your previous usage.

ACCOUNT INFORMATION	
Account Number:	
Account Name:	Roy Walton
Service Address:	832 Ward Dr Lexington, Ky

BILLING SUMMARY	
Previous Balance	0.00
Payments as of 02/02	0.00
Balance as of 02/02	0.00
Electric Charges	168.22
Taxes and Fees	10.08
Utility Charges as of 02/02	178.30
Other Charges	173.00
<b>Total Amount Due</b>	<b>351.30</b>

Averages for Billing Period	This Year	Last Year
Average Temperature	25°	0°
Number of Days Billed	1	0
Electric/kwh per Day	3514.0	0.0

**ELECTRIC CHARGES**

Rate Type: RS-ALL ELEC RES		Meter Reading Information	
Customer Charge	0.17	Meter #	
Energy Charge	154.76	Actual Reading on 01/29	42564
<b>Other Charges For Above Rates</b>		Previous Reading on 01/28	39050
Fuel Adjustment (\$0.00211 x 3514 kwh)	7.41	<b>Current kwh Usage</b>	<b>3514</b>
Residential DSM (\$0.00058 x 3514 kwh)	2.04	Meter Multiplier	1
Environmental Surcharge (3.050% x \$164.38)	5.01	<b>Metered kwh Usage</b>	<b>3514</b>
Merger Surcredit (2.576% CR x \$169.39)	-4.36		
ESM Electric Adj (2.330% x \$165.03)	3.85		
Value Delivery Surcredit (0.450% CR x \$168.88)	-0.76		
Home Energy Assistance Fund Charge	0.10		
<b>Total Electric Charges</b>	<b>\$168.22</b>		

**OTHER CHARGES**

Diversion Charges	
Diversion	173.00
<b>Total Other Charges</b>	<b>\$173.00</b>

Please see reverse side for additional charges.

Please bring entire bill when paying in person.

Customer Service (859) 255-0394

PLEASE RETURN THIS PORTION WITH YOUR PAYMENT

Previous Balance	Payment Due	Total Amount Due	Winter Care	Account
\$0.00	02/14/05	\$351.30	\$	\$

Check here if plan(s) requested on back of stub.

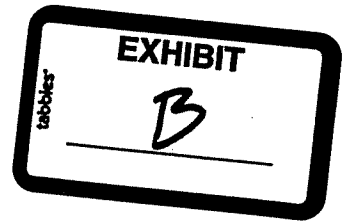
OFFICE USE ONLY: E  
 C14, R6694, G311



PO BOX 14242  
 LEXINGTON, KY 40512-4242

#BWNHRWC

ROY WALTON  
 616 GALAXY DR  
 LEXINGTON, KY 40502



Service Address: 832 Ward Dr

0200004237780263000000035130000000351300000000000015

PRINTED ON RECYCLED PAPER





# Kentucky Utilities Company

Original Sheet No. 82.1  
P.S.C. No. 13

## TERMS AND CONDITIONS Customer Responsibilities

Installed and maintained in conformity with applicable statutes, laws or ordinances and with the rules and regulations of the constituted authorities having jurisdiction. The customer shall not install wiring or connect and use any motor or other electricity-using device which in the opinion of the Company is detrimental to its electric system or to the service of other customers of the Company. The Company assumes no responsibility whatsoever for the condition of the customer's electrical wiring, apparatus, or appliances, nor for the maintenance or removal of any portion thereof.

### OWNER'S CONSENT TO OCCUPY

The Customer shall grant easements and rights-of-way on and across Customer's property at no cost to the Company.

### ACCESS TO PREMISES AND EQUIPMENT

The Company shall have the right of access to the customer's premises at all reasonable times for the purpose of installing, meter reading, inspecting, repairing, or removing its equipment used in connection with its supply of electric service or for the purpose of turning on and shutting off the supply of electricity when necessary and for all other proper purposes. The customer shall not construct or permit the construction of any structure or device which will restrict the access of the Company to its equipment for any of the above purposes.

### PROTECTION OF COMPANY'S PROPERTY

Customers will be held responsible for tampering, interfering with, breaking of seals of meters, or other equipment of the Company installed on the Customer's premises, and will be held liable for same according to law. The Customer hereby agrees that no one except the employees of the Company shall be allowed to make any internal or external adjustments of any meter or any other piece of apparatus which shall be the property of the Company. Upon the absence of an active account, the property owner assumes responsibility for any consumption and the Company's property and service.

### POWER FACTOR

The Company installs facilities to supply power to the Customer at or near unity power factor.

The Company expects Customer to use apparatus which shall result in a power factor near unity. However, the Company will permit the use of apparatus which shall result, during normal operation, in a power factor not lower than 90 percent either lagging or leading.

Where the Customer's power factor is less than 90 percent, the Company reserves the right to require the Customer to furnish, at his own expense, suitable corrective equipment to maintain a power factor of 90 percent or higher.

### EXCLUSIVE SERVICE ON INSTALLATION CONNECTED


Electric service shall not be used for purposes other than as set forth in customer application or contract.

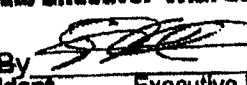
PUBLIC SERVICE COMMISSION  
OF KENTUCKY  
PURSUANT TO 807 KAR 5:011  
SECTION 9 (1)  
07/01/2004

Date of Issue: July 20, 2004

Issued By

Date Effective: With Service Rendered

  
Michael S. Bear, Vice President  
Lexington, Kentucky

  
Executive Director  
and After  
1, 2004

Issued By Authority of an Order of the KPSC in Case No. 2003-00434 dated June 30, 2004