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COMMISSION

May 21, 2008

HAND DELIVERED

Ms. Stephanie L. Stumbo  
Executive Director  
Public Service Commission  
Post Office Box 615  
211 Sower Boulevard  
Frankfort, KY 40602

Re: PSC Case No. 2008-00128

Dear Ms. Stumbo:

Please find enclosed for filing with the Commission in the above-referenced case an original and ten copies of the Response and Objections of East Kentucky Power Cooperative, Inc., to the Application for Rehearing of the Petition to Intervene of Geoffrey M. Young.

Very truly yours,



Charles A. Lile  
Corporate Counsel

Enclosures

Cc: Service List  
Geoffrey M. Young

**COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION**

**In the Matter of:**

<b>THE REVISION OF COGENERATION AND</b>	)	
<b>SMALL POWER PURCHASE RATES OF</b>	)	<b>CASE NO.</b>
<b>EAST KENTUCKY POWER COOPERATIVE, INC.</b>	)	<b>2008-00128</b>

**RESPONSE AND OBJECTIONS OF EAST KENTUCKY  
POWER COOPERATIVE, INC., TO APPLICATION FOR REHEARING  
OF PETITION TO INTERVENE OF GEOFFREY M. YOUNG**

East Kentucky Power Cooperative, Inc. (“EKPC”), hereby responds and objects to the Application for Rehearing of the Petition to Intervene, filed by Geoffrey M. Young in this case on May 15, 2008 (the “Application”). The grounds for EKPC’s objections are as follows:

1. EKPC restates and reaffirms all of the objections to Mr. Young’s intervention in this case which were set out in EKPC’s Objections to the Petition to Intervene of Geoffrey M. Young, filed in this case on April 15, 2008.

2. Mr. Young submitted his Application pursuant to KRS §278.400. That statute provides the procedure for the rehearing of a determination made by the Public Service Commission (the “Commission”), and allows a successful applicant, on such rehearing, to “offer additional evidence that could not with reasonable diligence have been offered in the former hearing.” Mr. Young’s Application neither contains nor references any additional evidence relevant to the Commission’s ruling on his Petition to Intervene (the “Petition”) which has not been, or could not with reasonable diligence have been, already presented to the Commission.

3. The first potential basis for granting a request for intervention is a finding by the Commission that the petitioner has a “special interest in the proceeding which is not otherwise represented.”<sup>1</sup> Mr. Young’s Petition, and his Response to EKPC’s Objections to that Petition, clearly identified Mr. Young’s only stated interest in this case- his desire to “make sure an environmental perspective is represented and to help eliminate impediments to the enhancement of energy end-use efficiency in all sectors of Kentucky’s economy.”<sup>2</sup> In his Application, Mr. Young attempts to characterize this personal concern as a representation of the potential interests of owners of Qualifying Facilities (“QFs”), but concedes that he has no contractual relationships with any such owners of QF facilities in the EKPC system service area.<sup>3</sup> The business profit expectations of potential developers of future QF facilities are not relevant to this case, which involves the updating of EKPC’s avoided costs. While Mr. Young argues in his Application about the relevance of the fact that he is not a customer of any EKPC member system, he admits that fact, as well.<sup>4</sup> The Commission has already ruled that Mr. Young’s stated environmental and energy efficiency concerns are beyond the scope of this proceeding,<sup>5</sup> and his Application provides no new evidence which would establish grounds for the Commission to rehear its denial of the Petition on the question of a special interest in the case.

4. The second potential basis for intervention under 807 KAR 5:001 Section 3(8) is a finding by the Commission that the petitioner’s participation in the case “is likely to present issues or to develop facts that assist the commission in fully considering the

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<sup>1</sup> 807 KAR 5:001 Section 3 (8).

<sup>2</sup> Young Petition to Intervene, April 10, 2008, p. 2.

<sup>3</sup> Young Application, p. 10.

<sup>4</sup> *Id.*, p. 11.

<sup>5</sup> Commission Order, dated August 28, 2008, p.3.

matter without unduly complicating or disrupting the proceedings.” Not only does Mr. Young’s Application provide no new evidence that his participation would help the Commission fully consider this case, it shows even more clearly that Mr. Young desires to endlessly re-argue matters upon which the Commission has already ruled. While Mr. Young, in his Response to EKPC’s Objections to the Petition to Intervene, adamantly objected to EKPC’s statement that he intended in this case to revisit and expand upon his recommendations on behalf of the Sierra Club in PSC Case No. 2006-00472 for changes in the interpretation of the Cogeneration and Small Power Facility regulations (807 KAR 5:054)<sup>6</sup>, his continuing arguments in the Application that the Commission did not adjudicate the Sierra Club recommendations<sup>7</sup>, that Section 50 of the 2007 Energy Act requires the Commission to consider new environmental concerns when deciding cases<sup>8</sup>, and his repeated attempts to parse the language of the Commission’s December 5, 2007 order in that case as an invitation to propose new, extreme interpretations of those regulations<sup>9</sup>, leave no doubt that Mr. Young’s plans for intervention include reopening those recommendations, which would be beyond the scope of this case, and would unduly complicate, prolong and disrupt the proceedings. All of these arguments were made by Mr. Young in regard to his original Petition, all of them have been considered and rejected by the Commission, and none of Mr. Young’s contentions represent any new evidence indicating that the Commission’s denial of Mr. Young’s request for intervention in this case was erroneous or arbitrary.

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<sup>6</sup> Young Response to EKPC Objections, April 21, 2008, p. 5-6.

<sup>7</sup> Young Application, p. 7-8.

<sup>8</sup> Id., p. 5-7.

<sup>9</sup> Id., p. 8-9.

WHEREFORE, EKPC formally objects to the Application of Mr. Young for a Rehearing of the Petition to Intervene, and urges the Commission to deny said Application, for the reasons stated hereinabove.

Respectfully submitted,



DAVID A. SMART



CHARLES A. LILE  
ATTORNEYS FOR EAST KENTUCKY  
POWER COOPERATIVE, INC.  
P. O. BOX 707  
WINCHESTER, KY 40392-0707  
(859) 744-4812

**CERTIFICATE OF SERVICE**

This is to certify that an original and ten (10) copies of the foregoing Response and Objections of East Kentucky Power Cooperative, Inc., to the Application for Rehearing of the Petition To Intervene of Geoffrey M. Young in the above-referenced case, were delivered to Stephanie L. Stumbo, Executive Director, Kentucky Public Service Commission, 211 Sower Boulevard, Post Office Box 615, Frankfort, Kentucky 40601, and copies were sent by first class mail to the parties on the service list in this case, and to Geoffrey M. Young, 454 Kimberly Place, Lexington, Kentucky 40503, on this 21<sup>th</sup> day of May, 2008.



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CHARLES A. LILE