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May 1, 2008

**VIA HAND DELIVERY**

Stephanie L. Stumbo  
Executive Director  
Kentucky Public Service Commission  
211 Sower Boulevard  
Frankfort, Kentucky 40601

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MAY 1 2008

PUBLIC SERVICE  
COMMISSION

**RE: Russell D. Alred v. Kentucky Utilities Company**  
**Case No. 2008-00142**

Dear Ms. Stumbo:

Enclosed please find and accept for filing the original and ten copies of Kentucky Utilities Company's Answer and Motion for Informal Conference in the above-referenced matter. Please confirm your receipt of this filing by placing the stamp of your Office with the date received on the enclosed additional copies and return them to me in the enclosed self-addressed stamped envelope.

Should you have any questions please contact me at your convenience.

Yours very truly,

Kendrick R. Riggs

KRR:ec

cc: Parties of Record

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

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MAY 1 2008

PUBLIC SERVICE  
COMMISSION

**In the Matter of:**

**RUSSELL D. ALRED**

)

**COMPLAINANT**

)

**vs.**

)

)

**CASE NO. 2008-00142**

)

**KENTUCKY UTILITIES COMPANY**

)

)

**DEFENDANT**

)

)

\* \* \* \* \*

**ANSWER AND MOTION FOR INFORMAL CONFERENCE  
OF KENTUCKY UTILITIES COMPANY**

**ANSWER**

In accordance with the Kentucky Public Service Commission's ("Commission") Order of April 22, 2008 in the above-captioned proceeding, Kentucky Utilities Company ("KU" or the "Company") respectfully submits this Answer to the Complaint of Russell D. Alred filed on April 16, 2008. In support of its Answer, and in response to the specific averments contained in said Complaint, KU states as follows:

1. KU admits the allegations contained in paragraph (a) of the Complaint, on information and belief.
2. With regard to the allegations contained in paragraph (b) of the Complaint, KU states that its primary business address is One Quality Street; Lexington, Kentucky 40507.
3. With regard to the allegations contained in paragraph (c) of the Complaint, KU states as follows:

(a) KU denies the statement that “KU has unlawfully billed and required me & companies I own to pay a “Fuel Adjustment Clause” in violation of existing law.”

(b) KU denies the averment that “KU cannot charge me or any other customer this charge.”

(c) KU admits the statement that “KU should only be allowed to bill customers authorized charges,” and further states that it does so.

(d) To the extent that there are additional averments contained in the wherefore clause following paragraph (c) of the Complaint, KU denies those allegations

4. KU denies all allegations contained 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**

KU’s fuel adjustment surcharge is lawfully imposed pursuant to 807 KAR 5:056 (eff. 4-7-82) Fuel Adjustment Clause, which was promulgated twenty-six years ago by the Commission pursuant to KRS 278.030(1). That regulation expressly provides that electric utilities operating in the Commonwealth may immediately reflect changes, increases or decreases, in fuel costs pursuant to such a surcharge, subject to retrospective six-month and two-year reviews by the Commission. The regulation further provides that the surcharge be calculated pursuant to a specified formula, and that it reflect the actual cost of fuel incurred to produce electricity only. The surcharge does not include any profit to the electric utility. KU’s fuel adjustment surcharge is proper and lawful; has been subject to full and continuous Commission review and oversight;

is calculated pursuant to the formula specified in the regulation; reflects KU's cost of fuel to produce electricity; and does not include any profit to KU.

**Third Affirmative Defense**

KRS 278.160 requires each utility to file its tariff with the Commission, and prohibits any person from receiving utility service “for a compensation greater or less than” the compensation prescribed in the tariff. Pursuant to KRS 278.160, KU has a tariff on file with the Commission, prescribing the compensation to be charged to its customers, including Complainant. KU's fuel adjustment surcharge appears at pages 70 and 70.1 of its Tariff, which provides, at 70, that such surcharge is a “mandatory rider to all electric rate schedules.” Consequently, the law prohibits Complainant from receiving electric service from KU without payment of the surcharge.

**Fourth Affirmative Defense**

Complainant has neither suffered damage nor been injured in any way as a result of his payment of this surcharge, as the surcharge is imposed in return for the cost of fuel necessary to produce the electricity he, as a customer, has requested.

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

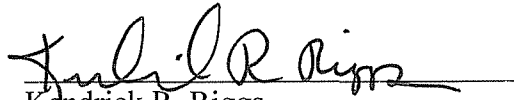
1. An opportunity to conduct discovery, file written testimony and other forms of evidence and a full evidentiary hearing;
2. That following a full evidentiary hearing, the Commission determine that KU has lawfully billed the customer for charges through its fuel adjustment clause;
3. That the Complaint be dismissed with prejudice, and
4. That KU be afforded any and all other relief to which it may be entitled.

**MOTION FOR INFORMAL CONFERENCE**

KU moves the Kentucky Public Service Commission to schedule an informal conference to discuss the issues associated with this Complaint, and to establish, if necessary, a procedural schedule for resolution of the issues. KU requests the Commission Staff hold the informal conference at the offices of the Commission in Frankfort, Kentucky or at some other mutually convenient location during the month of May 2008.

Dated: May 1, 2008

Respectfully submitted,



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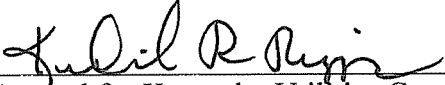
Counsel for Kentucky Utilities Company

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing Answer and Motion for Informal Conference was served on the following on the 1<sup>st</sup> day of May, 2008,

U.S. mail, postage prepaid:

Hon. Russell D. Alred  
P.O. Box 288  
Harlan, Kentucky 40831

  
\_\_\_\_\_  
Counsel for Kentucky Utilities Company