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August 23, 2008

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PUBLIC SERVICE
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Stephanie Stumbo, Executive Director
Kentucky Public Service Commission
P.O. Box 615, 211 Sower Boulevard
Frankfort, Kentucky 40602-0615

Re: Cases No. 2008-00251 and 2008-00252

Application of Kentucky Utilities Company for an Adjustment of its Electric Base Rates;
Application of Louisville Gas and Electric Company for an Adjustment of its Electric and
Gas Base Rates

Dear Ms. Stumbo:

Please find attached for filing with the Commission an original and ten copies of a Reply to the Companies' Response to the Petition to Intervene of Geoffrey M. Young in the above-referenced proceedings.

Sincerely,



Geoffrey M. Young

Enclosures

cc: Parties listed on the Certificate of Service

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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AUG 25 2008
PUBLIC SERVICE
COMMISSION

In the Matter of:

APPLICATION OF KENTUCKY UTILITIES)
COMPANY FOR AN ADJUSTMENT) CASE NO.
OF ITS ELECTRIC BASE RATES) 2008-00251

In the Matter of:

APPLICATION OF LOUISVILLE GAS AND)
ELECTRIC COMPANY FOR AN ADJUSTMENT) CASE NO.
OF ITS ELECTRIC AND GAS BASE RATES) 2008-00252

REPLY TO COMPANIES' RESPONSE
TO THE PETITION TO INTERVENE
OF GEOFFREY M. YOUNG

I, Geoffrey M. Young, respectfully request that the Commission disregard the "Response of Louisville Gas and Electric Company and Kentucky Utilities Company to the Petition to Intervene of Geoffrey M. Young," dated August 19, 2008, and grant my petition for full intervention, dated August 12, 2008, for the reasons set forth below.

1. The Companies' Entire Response is Founded upon a False Statement.

In their 8/19/08 Response to my petition to intervene, immediately following their introduction/summary, LG&E and KU ("the Companies") began their substantive arguments with a statement of fact that is actually a falsehood. The first sentence of their first argument reads, "The Commission should deny Mr. Young's Petitions for Intervention because **all of his stated interests in these proceedings are environmental or health-related**, which are outside the jurisdiction of this Commission." (Companies'

Response, page 2; emphasis added) At the bottom of page 2, the Companies repeated this falsehood when they wrote, “Mr. Young’s Petitions make it plain that his claimed interests in these proceedings have nothing to do with the Companies’ rates or service”. My Petitions to Intervene, however, both contained the following sentence: “As an environmentalist and a person specifically concerned with promoting improved energy efficiency, **I have a special interest in the structures of the tariffs** that will be established at the conclusion of this case, inasmuch as these rate structures will influence both the energy consumption patterns of end-use customers and the willingness of KU and its customers to participate actively in demand-side management (DSM) programs.” (Young, Petition, KU, pages 2-3; Young, Petition, LG&E, pages 2-3; emphasis added) My Petitions thus stated, clearly and explicitly, that in addition to my special interest in the environment and the enhancement of energy efficiency in Kentucky, I have a special interest in structures of the Companies’ tariffs. The Companies’ assertion that all of my stated interests in these proceedings are environmental or health-related is false on its face.

The Companies repeated this false statement on page 4 of their Response when they wrote, “Mr. Young has said he is not an LG&E customer, **and has stated no other Commission-jurisdictional interest in the rates or service of LG&E.**” (Emphasis added)

The Companies repeated this false statement on page 5 of their Response when they wrote, “Second, Mr. Young **presents no reason** why his interests as a consumer are any different than those of the other members of his rate class; it is only as an

environmental advocate that Mr. Young’s interests may diverge from those of his fellow rate class members.” (Emphasis added)

The Companies repeated the same false statement on page 7 of their Response when they wrote, “Fifth and finally, because Mr. Young **states repeatedly in his Petitions that his interests in these proceedings are, at base, purely environmental,** his participation in these proceedings would serve only to disrupt them without adding information relevant to them.” (Emphasis added)

Far from being a minor error that the Commission might justifiably overlook or excuse, this false statement, which appears five times in five slightly different formulations, lies at the core of the Companies’ arguments why the Commission should deny my petition for intervention. Once we recognize that my Petitions stated a special interest in the structures of the tariffs that will be established at the conclusion of this case, the Companies’ entire argument collapses. The citation from the *Enviropower* case, in which the Kentucky Court of Appeals held that a person seeking intervention must have an interest in the rates or service of the utility, actually supports my petitions to intervene, because my petitions specifically stated my interest in KU’s and LG&E’s rate structures. (Companies’ Response, page 2)

The Commission should ask the Companies whether the false statements on pages 2, 4, 5, and 7 of their Response of 8/19/08 were made with the knowledge that they were false – i.e., intentionally – or were five repetitions of an unintentional oversight.

2. The Companies’ References to Other State Agencies Are Irrelevant

I have never asked the Commission to perform the tasks that the Kentucky General Assembly has statutorily assigned to the Division for Air Quality or any other

agency of state government – either in my Petition of 8/12/08 or in any other document I have filed with the Commission during the past 15 years. The Companies’ suggestion that I “address” my “environmental concerns” by working through other agencies is completely beside the point. No agency of state government other than the Public Service Commission has any jurisdiction over the tariffs and rate structures of the jurisdictional energy utilities, which include KU and LG&E. [KRS 278.040(2)]

In its Order denying my petition to intervene in the Companies’ most recent integrated resource planning (IRP) case, the Commission asserted that this statute implies that it may not lawfully consider environmental impacts or concerns, “which are the responsibility of other agencies within Kentucky state government...” (Case No. 2008-00148, Order, 7/18/08, page 5) The logical fallacy in this argument is obvious. In granting the Commission exclusive authority to regulate the rates and services of utilities, the legislature did not thereby forbid the Commission, either explicitly or implicitly, from considering certain factors that are relevant to the accomplishment of its statutory mandate. If the proper regulation of the rates and service of jurisdictional energy utilities requires the Commission to consider the ways in which the utility’s rate structure will affect the incentives for improving energy efficiency in its service territory, there is no provision of existing Kentucky law that would prohibit it from doing so. In fact, existing Federal law could be taken to imply that rates cannot be considered fair, just and reasonable if they establish economic incentives that reward the utility company when customers waste more energy and penalize the utility when customers use energy more efficiently. [16 USC Chapter 46, Subchapter II, Section 2621(d)(8)] Moreover, there are several provisions of Kentucky statutes and regulations that require the Commission to

consider factors that have implications for the environment. (Young, Application for Rehearing in Case No. 2008-00148, 8/05/08, pages 2-3) It is undeniable that the Commission currently has sole jurisdiction over many aspects of energy utility operations, including their rate structures, that have clear and direct implications for the environment. Repeating a contrary assertion cannot make it true, no matter how many times the Companies repeat it.

3. The Companies' Third Argument Contradicts the Governing Regulation.

The first sentence of this argument reads, "Because Mr. Young is, according to his Petition, not an LG&E customer, he cannot intervene in LG&E's rate proceeding." (Companies' Response, page 4) The regulation that determines whether an applicant should be granted full intervention, 807 KAR 5:001, Section 3(8)(b), however, reads as follows:

If the commission determines that a person has a special interest in the proceeding which is not otherwise adequately represented or that full intervention by the party is likely to present issues or to develop facts that will assist the commission in fully considering the matter without unduly complicating or disrupting the proceedings, such person shall be granted full intervention.

This regulation makes it clear that if the Commission determines either that my special interest in the environment, energy efficiency, and the Companies' rate structures is not otherwise adequately represented or that my full intervention is likely to present issues or to develop facts that will assist it in fully considering the matter without unduly complicating or disrupting the proceedings, I should be granted full intervention. Whether I am a customer of LG&E (or KU) is irrelevant.

I stated my interest in LG&E's rate structure most particularly on page 3 of my Petition: "...the utilities are jointly owned and jointly develop and implement their DSM

plans; it would not make sense to establish one rate structure for KU that encourages energy efficiency and a different rate structure for LG&E that penalizes the utility if customers save energy.”

4. The Interests of Environmentalists Are Not Identical to Those of the AG.

There are hundreds of legitimate special interest groups in our society. In general, their interests are not the same as the interest the legislature has assigned to the Attorney General (“AG”) pursuant to KRS 367.150(8). The latter interest can be expressed as consumer protection. (KRS 367.110 to 367.360, the Consumer Protection Act) Environmentalists pretty much share the AG’s interest in consumer protection, but we are also interested in protecting the trees, animals, microorganisms, watersheds, airsheds, and ecosystems of the Commonwealth. The trees that cover most of the Appalachian Mountains are not “consumers” in any meaningful sense of the term. The two interests – consumer protection and environmental protection – overlap to some extent but are simply not the same. The Companies’ argument that environmentalists’ perspectives must be excluded from these proceedings because consumer protection interests are comprehensively represented by the AG is illogical and fundamentally unsound.

There are hundreds of legitimate special interest groups in our society, but few of them focus on issues that are relevant to the rates and services of utility companies. I am a member of a group that tries to reduce racism in the Bluegrass area, for example, and it is hard for me to imagine how that cause could be relevant to any Commission proceeding. If the Commission were to allow environmentalists to participate fully in proceedings where an impact on the environment is likely, there is no danger that the floodgates will thereby be opened to various special interests of other types.

The Companies argue that consumer interests are the only interests that the Commission can lawfully consider, and that the AG automatically represents all consumer interests. (Companies' Response, page 5) Taken together, these two assertions constitute an airtight rationale for excluding any special interest group whatsoever from full intervention. The Companies could easily apply that argument to large industrial or low-income customers, and the Commission could routinely deny full intervention to KIUC or low-income advocacy groups because the interests of their clients as consumers are fully and comprehensively represented by the AG. The argument could be used to ensure that in almost every proceeding, the only parties at the table would be the utility company, the AG, and the Commission itself. Such an outcome would be unreasonable and contrary to the public interest because it would excessively restrict the range of viewpoints and information available to the Commission. By objecting to the intervention of environmentalists and not to the intervention of representatives of industrial customers or low-income customers, the Companies, in effect, are demanding that the Commission discriminate against environmentalists in an arbitrary and unjust manner.

5. Although Participation in Previous Cases Is Not Determinative, It Should Not Be Disregarded.

At the top of page 6 of their Response, the Companies state that my participation in previous proceedings before the Commission "is not support for his Petition." This argument is erroneous. Although I concur that each case and each party's request to intervene must be considered individually, the Commission nevertheless should take an applicant's history of constructive participation in previous proceedings into account as

one factor it considers when making its determination pursuant to 807 KAR 5:001, Section 3(8)(b). The Commission certainly takes note of a party's behavior in previous cases when it wishes to *deny* an applicant's intervention. (For example, in Case No. 2003-00433, Order denying the motion of Robert L. Madison for full intervention, January 21, 2004, page 3.)

6. The Companies Are Misrepresenting the Kind of Information I Plan to Develop.

On page 6 of their Response, the Companies state that I am claiming expertise in "environmental issues" and "energy efficiency matters." It would be much more accurate to say that my area of expertise that is most relevant to the present proceedings is in assessing the ways that a utility's tariffs establish incentives that either encourage or discourage energy efficiency improvements. My primary goal in applying for full intervention in this case is to help move the tariffs of Kentucky's largest energy utility (KU and LG&E taken together) into closer conformity with the intent and provisions of 16 USC Chapter 46, Subchapter II, Section 2621(d)(8), reprinted below:

(8) Investments in conservation and demand management

The rates allowed to be charged by a State regulated electric utility shall be such that the utility's investment in and expenditures for energy conservation, energy efficiency resources, and other demand side management measures are at least as profitable, giving appropriate consideration to income lost from reduced sales due to investments in and expenditures for conservation and efficiency, as its investments in and expenditures for the construction of new generation, transmission, and distribution equipment. Such energy conservation, energy efficiency resources and other demand side management measures shall be appropriately monitored and evaluated.

7. The Companies' Response Works Against Their Own Best Interests.

In developing and filing their Response, the Companies have wasted a fair amount of time and effort, made some statements that are demonstrably false, and taken an extreme and unreasonable position, all in an effort to ensure the exclusion of a party that has the Companies' best interests at heart. This is not rational behavior.

I was an active member of the Sierra Club team that participated as a full intervenor during 2007 in East Kentucky Power Cooperative's most recent general rate case (Case No. 2006-00472). The environmentalists' consistent position in that case included a sincere concern that EKPC should collect enough revenue, on an ongoing basis, to ensure that the utility remains financially sound. The Sierra Club developed detailed testimony and proposed a well-thought-out rate structure that would enable EKPC and its member co-ops to implement cost-effective DSM programs enthusiastically without fear of losing revenue and vital operating income. Of all the intervenors in EKPC's rate case, the Sierra Club was the most concerned to ensure that the utility's revenue requirement be set at an adequate level. I believe that EKPC and its member co-ops would be in better financial shape today if they had worked cooperatively with the Sierra Club to move toward the implementation of our rate structure proposal, or something like it, instead of hiring an expert consultant to try to eliminate it from serious consideration (unsuccessfully, in the event). To the best of my knowledge, Kentucky's environmentalists remain willing to work with EKPC in the future and continue to be interested in developing ways to bring the economic interests of EKPC, its member co-ops, and their customers into better alignment.

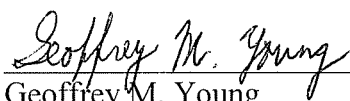
Over the past few years, environmentalists have been saying to Kentucky's jurisdictional utility companies, in effect, that if the utilities help their customers dramatically improve the efficiency with which they use energy, environmentalists will support the establishment of revenue and net income levels sufficient to maintain the utilities' financial health. To the Companies' credit, they have recently expanded their DSM programs significantly, despite the fact that the economic incentives created by their existing rate structures are not particularly well aligned. (Case No. 2007-00319, *In the Matter of: The Joint Application of Louisville Gas and Electric Company and Kentucky Utilities Company Demand-Side Management for the Review, Modification and Continuation of Energy Efficient Programs and DSM Cost Recovery Mechanisms*)

If the Companies had looked closely at the questions asked and the testimony developed by the Sierra Club in the EKPC rate case, they might have concluded that if I am granted full intervention in the present proceedings, I would be likely to develop proposals that would benefit the economic interests of all of the parties, including the Companies' residential, commercial and industrial customers as well as the Companies (and their shareholders) themselves. The Companies should ask themselves if it is wise to instruct their lawyers to reflexively file documents in Commission proceedings that demand the exclusion of environmentalists, who have consistently been concerned about the long-term financial health of Kentucky's energy utility companies. If the Companies reject a cooperative approach to Kentucky's environmentalists, they and the Commission should be aware that there are other ways to improve a state's energy efficiency that do not depend on the participation of regulated utility companies and are not developed with their financial interests in mind.

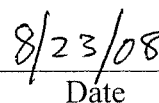
In conclusion, I sincerely hope that the Companies will change their attitude of reflexive opposition to the participation of environmentalists in pertinent cases such as the present proceedings, and I hope the Commission will allow the introduction of questions and testimony in these two cases that could be of substantial, long-term benefit to all of the parties involved.

WHEREFORE, I respectfully request that the Commission disregard the “Response of Louisville Gas and Electric Company and Kentucky Utilities Company to the Petition to Intervene of Geoffrey M. Young,” dated August 19, 2008, and grant my petition for full intervention, dated August 12, 2008.

Respectfully submitted,



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Date

CERTIFICATE OF SERVICE

I hereby certify that an original and ten copies of the foregoing Reply to the Companies' Response to the Petition to Intervene of Geoffrey M. Young were mailed to the office of Stephanie Stumbo, Executive Director of the Kentucky Public Service Commission, 211 Sower Boulevard, Frankfort, KY 40601, and that copies were mailed to the following parties of record on this 23rd day of August, 2008.

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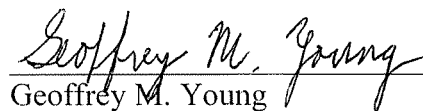
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Signed,



Geoffrey M. Young

8/23/08

Date