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June 11, 2010

KENTUCKY PUBLIC SERVICE COMMISSION

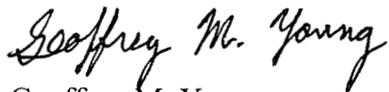
Mr. Jeff Derouen, Executive Director
Kentucky Public Service Commission
P.O. Box 615, 211 Sower Boulevard
Frankfort, Kentucky 40602-0615

Re: Case No. 2009-00548
Application of Kentucky Utilities Company for an Adjustment of Rates

Dear Mr. Derouen:

Please find enclosed for filing with the Commission an original and ten copies of my application for a rehearing of the Commission's Order of June 2, 2010 denying my full intervention as an individual environmentalist 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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PUBLIC SERVICE
COMMISSION

In the Matter of:

**APPLICATION OF KENTUCKY
UTILITIES COMPANY FOR AN
ADJUSTMENT OF BASE RATES**

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**CASE NO.
2009-00548**

**APPLICATION FOR REHEARING
OF PETITION TO INTERVENE
OF GEOFFREY M. YOUNG**

Pursuant to KRS 278.400, I, Geoffrey M. Young, respectfully request that the Commission reverse its decision of June 2, 2010 and grant me full intervenor status in the above-captioned proceeding. I believe the following analysis will show that the Commission did not properly follow 807 KAR 5:001 Section 3(8) in developing and issuing its Denial Order, and therefore the Order was arbitrary and unreasonable.

On page 3 of its Order, the Commission stated, "Although Mr. Young is a ratepayer of KU, he has not shown that, as a ratepayer, his interest in KU's rate structure for purposes of improving energy efficiency is different from the interests of KU's other 500,000 ratepayers." This statement is not only unsupported and factually incorrect but is also illogical and absurd on its face. The other individuals who requested full intervenor status in this case stated explicitly in their petitions that their interest was in keeping residential rates and customer charges as low as possible. None of them stated that their primary interest was to encourage energy efficiency in all customer classes by seeking to resolve certain problems that arise from KU's rate structure. If someone were to poll all of

KU's customers and ask them what their interests are in this case, the overwhelming majority of them would state that their primary interest is to keep KU's rates as low as possible for the customer class to which they belong. Not more than a handful of customers would state that their primary interest is to protect the environment and reduce the amount of coal that KU will need to burn in future years by providing adequate financial incentives via KU's rate structure to induce KU to promote major energy savings in all of its customer classes. Any customer who stated that would almost surely be an environmentalist. A handful of customers out of 500,000 is a tiny percentage. The sentence quoted above is based on a premise that no reasonable person would find valid.

It is possible that by including the phrase "as a ratepayer" in the sentence quoted above, the Commission is trying to make a distinction between my interest in this proceeding and my interest in this proceeding as a ratepayer. Although the Commission's wording here is opaque and baffling, it is possible that the Commission is trying to say that while my interest in this case is different from the interests of KU's other 500,000 customers, my interest *as a ratepayer* is not. The relevant portion of the sentence from 807 KAR 5:001 Section 3(8), however, reads as follows: "If the commission determines that a person has a special interest in the proceeding which is not otherwise adequately represented...such person shall be granted full intervention." It is important to note that the regulation talks about the petitioner's interest in the proceeding and not in the petitioner's interest in the proceeding as a ratepayer (whatever that phrase might mean). If the Commission is trying to make this distinction and to use it as a justification for denying full intervention, it is in effect adding a new, restrictive provision to the plain language of the regulation that governs whether a petitioner shall be granted full intervention. The

Commission appears to be trying to make its regulation more exclusive by adding the more or less meaningless phrase “as a ratepayer” to its language.

The Commission could have made precisely the same sweeping comment about each and every other petitioner for full intervention in this proceeding except the utility company and the Attorney General (AG). For example, if the Commission had wanted to deny the Kroger Company’s petition for full intervention, it could have stated in a Denial Order that “the Kroger Company has not shown that, as a ratepayer, its interest in KU’s rates and services is different from the interests of KU’s other 500,000 ratepayers.” Such a statement would actually have been at least as applicable to the other petitions as it was to mine because my petition described in greater detail the particular ways in which my interest in this proceeding differs from that of a typical customer. If the Commission had applied the logic of the quoted sentence in a consistent manner, it could easily have denied each and every petition for full intervention, resulting in a rate case in which the only parties were the utility, the AG, and the Commission itself. Instead, however, the Commission applied its logic selectively against a few individual customers whose common interest in the proceeding is low residential rates and against the sole petitioner whose interest is entirely different: protecting the environment by enhancing energy efficiency and addressing a critical problem in KU’s rate structure.

The text of the Commission’s Denial Order continued as follows: “Thus, Mr. Young’s interest as a ratepayer is not a special interest. His interest as a ratepayer is already adequately represented by the AG. The AG consistently intervenes on behalf of ratepayers in proceedings of this type.” However, the AG does not intervene on behalf of Kentucky’s environmentalists because to do so would exceed his statutory mandate, which

is consumer protection. The Commission's language appears to be tying itself into knots in a futile effort to deny this elementary and obvious fact.

Further, "Indeed, the AG has been granted intervention in this proceeding, and the AG is sufficiently knowledgeable about issues of rate-making and rate structure." I would agree that the AG and his staff are very knowledgeable about all aspects of ratemaking, including rate structure, but that fact is completely irrelevant to this petition. Again, the governing regulation reads as follows: "If the commission determines that a person has a special interest in the proceeding which is not otherwise adequately represented...such person shall be granted full intervention." Let us consider what the regulation does not say. It does not say that the petitioner must be knowledgeable about matters that no other party is knowledgeable about. Once again, the Commission appears to be trying to add a new, restrictive provision to the plain language of the governing regulation. If all petitioners for full intervention had been required to be knowledgeable about aspects of the case that the AG is not knowledgeable about, the result would have been a rate case in which the only parties were the utility, the AG, and the Commission itself.

In a footnote, the Commission cited proceedings in which the AG's testimony included analyses of certain aspects of rate structure and demand-side management. That too is irrelevant to this petition. The statutory mandate of the AG's Office of Utility and Rate Intervention is consumer protection, which is simply a different interest from environmental protection and energy efficiency. The two interests are not identical; on the contrary, they are distinct and different. Even though the AG is a full intervenor, the interests of environmentalists are not yet represented by any party to this proceeding.

On page 4, the Commission trotted out an argument we have seen at least a dozen

times before. “The Commission understands and appreciates Mr. Young’s interest as an environmentalist in seeking to reduce pollution, but the Commission has no jurisdiction over the quality of air he breathes...the Commission’s jurisdiction is limited to the ‘rates’ and ‘service’ of utilities.” As I have replied at least a dozen times before, the Commission self-evidently has jurisdiction over the tariffs that affect the utility company’s operations, which in turn affect the environment. I am not asking the Commission to regulate Kentucky’s air quality, and I have never done so in the past. I am asking the Commission to regulate KU’s rates and service, including its tariff sheets and rate structure, in such a way as to lead to improvements in energy efficiency in all customer classes and thereby reduce the amount of coal the utility will need to burn in future years. General rate cases include decisions about the rate structure that are likely to affect how energy-efficient KU’s customers will be in the long run. This has never been a complicated concept to understand. Any reasonable person would readily understand it. The links in the chain of logic are not numerous, tenuous, or subtle. After recalling how many times I have pointed out the obvious logical fallacy in this particular argument, I must admit I was surprised to see the Commission use it yet again, in its original form, in June, 2010.

All of the foregoing arguments relate to the first prong of 807 KAR 5:001 Section 3(8). The regulation’s second prong reads as follows: “If the commission determines... that full intervention by party is likely to present issues or to develop facts that assist the commission in fully considering the matter without unduly complicating or disrupting the proceedings, such person shall be granted full intervention.” The Commission devoted only one sentence to the question of whether my petition met the second prong: “To allow

Mr. Young to intervene and to raise issues that are beyond the scope of the Commission's jurisdiction would unduly complicate and disrupt this proceeding."

There are two major problems with this argument. A) The first is that there is no reason whatever for the Commission to believe that if granted full intervention in this proceeding I would raise any issues that are beyond the scope of the Commission's jurisdiction; in fact, there is ample reason to believe I would not do so. B) The second is that even if I were to raise an issue that the Commission might consider to be slightly beyond the scope of its jurisdiction, I might simultaneously present a number of other issues or develop other facts that would assist the commission in fully considering the matters to be determined in this proceeding. In other words, on balance my contributions to this proceeding might be far more helpful than disruptive, and on balance my full intervention would be found not to be unduly disruptive at all. The Commission has not provided any evidence showing that my full intervention in this proceeding would likely be more disruptive than helpful.

A) On page 4 of its Denial Order the Commission assumed that if granted full intervenor status, I would raise issues such as the quality of the air in Kentucky or the amount of pollution emitted by KU's power plants. The Commission cited no evidence to support that assumption and in fact no such evidence exists. As I have stated on numerous past occasions, I have no intention of asking the Commission to regulate Kentucky's air quality because there is already another state agency that does that, and the US EPA does so as well. In all of the PSC proceedings in which I have participated in the past, I have never presented any issues or developed any facts that would have required the

Commission to regulate the quality of Kentucky's air or the amount of pollution emitted by the power plants of any utility.

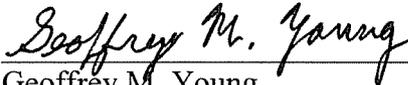
B) The Commission appears to be assuming that if I were to raise an issue that the Commission feels is beyond its jurisdiction, the proceeding would necessarily be unduly complicated or disrupted. There is no logical reason why that would necessarily be the case. In every proceeding as inherently complex as a rate case, the utility company and various parties bring up a wide variety of issues. The Commission deals with these issues and complexities as a matter of course. When a party brings up an issue that the Commission considers irrelevant, it usually ignores it. Occasionally the Commission will include a finding in one of its orders to the effect that a certain issue brought up by a party was not pertinent. In the unlikely event that I were to raise an irrelevant issue, the Commission could easily dismiss or ignore it without any complication or disruption of the proceeding at all, much less undue complication or disruption.

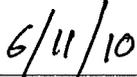
What this argument used by the Commission actually does is to eliminate one of the two prongs of 807 KAR 5:001 Section 3(8). The fact that the Commission devoted only one sentence of its Order to assessing whether my petition met this prong indicates that the Commission assumes that if a party fails to meet the first prong – having a special interest that is not otherwise adequately represented – the party will necessarily also fail to meet the second prong. The Commission appears to feel no need to make an independent assessment of whether a petitioner actually meets the requirements of the second prong. In my opinion, to eliminate one of the two pathways by which a petitioner can qualify for full intervention constitutes an abuse of the Commission's discretion.

In summary, every argument the Commission used to justify its denial of my petition for full intervention was either: (1) counterfactual on its face; (2) an attempt to make the governing regulation more restrictive than it is by adding a phrase to it; (3) an instance of the discriminatory application of its regulation against environmentalists but not against any other special interest group; (4) an assumption that I would raise certain disruptive issues despite my history of fruitful participation in some 16 previous PSC proceedings and despite my statements that I would not raise those issues; or (5) an attempt to eliminate one of the two regulatory pathways by which a petitioner can show he should be granted full intervenor status. All of these arguments are unreasonable, and the Commission's use of them constitutes an arbitrary abuse of its authority.

WHEREFORE, I respectfully request that the Commission reassess its position, issue a countervailing Order, and grant me full intervenor status in the above-referenced proceeding.

Respectfully submitted,


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Phone: 859-278-4966
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Date

CERTIFICATE OF SERVICE

I hereby certify that an original and ten copies of the foregoing Application for Rehearing were mailed to the office of Jeff DeRouen, Executive Director of the Kentucky Public Service Commission, 211 Sower Boulevard, Frankfort, KY 40601, and that true and

correct copies were mailed to the following parties of record on this 11th day of June, 2010.

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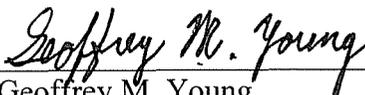
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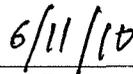
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Signed,


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Date