

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

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PUBLIC SERVICE  
COMMISSION

In the matter of:

APPLICATION OF BLUEGRASS ENERGY	)	
COOPERATIVE CORPORATION FOR AN	)	CASE NO.
ADJUSTMENT OF ITS SECURITY DEPOSIT	)	2010-00185
TARIFFS AND CABLE TELEVISION	)	
ATTACHMENT RATES	)	

**BLUE GRASS ENERGY COOPERATIVE CORPORATION’S BRIEF  
IN RESPONSE TO THE KENTUCKY PUBLIC SERVICE COMMISSION’S INTER-  
AGENCY MEMORANDUM OF OCTOBER 28, 2010**

Comes now BLUE GRASS ENERGY COOPERATIVE CORPORATION (hereinafter referred to as “BGE”), by counsel, and respectfully submits its Brief in support of the Lexington Herald-Leader qualifying under KRS 424.120 for publication of notice in its twenty-three (23) county service area, and in support of BGE’s contention that it substantially complied with the Commission regulations for notice of filing this case.

**I. THE LEXINGTON HERALD-LEADER IS A QUALIFIED NEWSPAPER PURSUANT TO KRS 424.120**

**1. The Lexington Herald-Leader (hereinafter “Herald-Leader) is published in the “publication area” pursuant to KRS 424.120(1)(a).**

KRS 424.120(1)(a)<sup>1</sup> states that, in order for a newspaper to be “qualified” under the statute, it must be published in the “publication area.” KRS 420.110 defines “publication area” as “the city, county, district, or *other local area* for which an advertisement is required by law to

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<sup>1</sup> Please note that KRS 424.120(1)(a) is qualified by KRS 424.120(2). However, neither (a) or (b) of this subsection (2) is applicable to the case at hand where KRS 424.120(2) contemplates a publication area in which no qualified newspaper exists. In the case at hand, the publication area is the twenty-three (23) county service area of BGE in which BGE contends the Herald-Leader is the qualified newspaper.

be made.” (emphasis added) In the present case, the area in which the advertisement is required to be made is the twenty-three (23) county service area of BGE<sup>2</sup>.

KRS 424.120(a) also states that a newspaper shall be deemed to be published in the publication area if (1) “it maintains its principal office in the area for the purpose of gathering news and soliciting advertisements and other general business of newspaper publications,” and (2) “has a periodicals class mailing permit issued for that office.” The principal office of the Herald Leader is located at 100 Midland Avenue, Lexington, Fayette County, Kentucky, 40508. Blue Grass Energy services areas within Fayette County and the surrounding counties including but not limited to Bourbon, Jessamine, Madison, Scott and Woodford Counties. The principal office of the Herald-Leader, therefore, is not only in the publication area, but central to it.

Relative to the requirement at KRS 424.120(1)(a) that a qualified newspaper have a periodicals class mailing permit issued for its principal office, please see **EXHIBIT “A,”** attached hereto and incorporated herein as if fully set forth. This documentation was provided by Brian Bosemer, Reporting and Compliance Manager, Lexington Herald-Leader.

**2. The Herald Leader is a qualified newspaper for each of the twenty-three counties within BGE’s service area.**

KRS 420.120(3) states, in pertinent part, that when a publication area extends into multiple counties, “the part of the district in each county shall be considered to be a separate publication area for the purposes of this section, and an advertisement for each separate publication area shall be published in a newspaper qualified under this section to publish advertisements for the area.”

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<sup>2</sup> The BGE service area includes parts of the following counties: Anderson, Bourbon, Bracken, Estill, Fayette, Franklin, Garrard, Grant, Harrison, Henry, Jackson, Jessamine, Madison, Mercer, Nelson, Nicholas, Pendleton, Robertson, Scott, Shelby, Spencer, Washington, Woodford

BGE asserts that the Herald-Leader is a qualified newspaper under KRS 424.120 in which to publish its required notices for each of the twenty-three (23) counties in the BGE service area, and the BGE service district within a particular county is likewise encompassed within the publication area for which the Herald-Leader is a qualified publication under the statute.

**3. BGE complied with the requirements of KRS 424.120 in its notice of filing this case and substantially complied with the Public Service Commission regulations.**

BGE asserts that its placement of notice of filing in the Herald-Leader complied with the requirements of KRS 424.120, where the Herald-Leader is a qualified newspaper under KRS 424.120.

BGE further contends that it substantially complied with 807 KAR 5:001 §10 (3) and (4) in its notice of filing. The purpose of these regulations is to ensure that affected members of the public – those in the publication area – have sufficient notice and a meaningful opportunity to participate in the proceeding. As stated by the Kentucky Supreme Court in Conrad v. Lexington-Fayette County Urban County Government, 659 S.W.2d 190, 195 (1983) (citing Queenan v. City of Louisville, 223 S.W.2d 1010 (1950)):

Substantial compliance in regard to publication requirements has been authorized. The purpose of the statutes is to allow the public ample opportunity to become sufficiently informed on the public question involved.

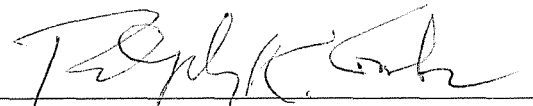
**III. CONCLUSION**

For the reasons set forth above, BGE asserts that its placement of notice of filing of this case in the Lexington Herald Leader complied with the requirements of KRS 424.120, wherein the Herald-Leader meets the requirements of a “qualified newspaper.”

BGE also contends that future required notice, including notice of hearing in this case, when published in the Herald-leader, will meet the standard of notice in a qualified newspaper, that no other notice is required, and BGE respectfully requests that the Commission so find.

BGE further contends that it substantially complied with the requirements of 807 KAR 5:001 §10 (3) and (4), and respectfully requests that the Commission so find.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Ralph K. Combs", written over a horizontal line.

RALPH K. COMBS

Attorney At Law

100 United Drive, Suite 4B

Versailles, Kentucky 40383

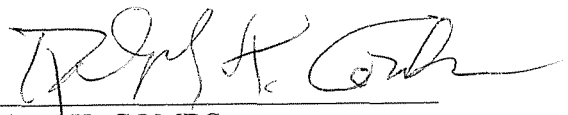
(859) 873-5427

**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the foregoing was served upon the following by U.S. Mail, postage prepaid, on this, the 5<sup>th</sup> day of November, 2010.

Gardner F. Gillespie  
Dominic F. Perella  
Hogan Lovells US LLP  
555 Thirteenth Street, N.W.  
Washington, D.C. 20004

Laurence J. Zielke  
Janice M. Theriot  
Zielke Law Firm PLLC  
1250 Meidinger Tower  
462 S. 4<sup>th</sup> Street  
Louisville, Kentucky 40202

  
\_\_\_\_\_  
RALPH K. COMBS

**EXHIBIT "A"**

**LEXINGTON HERALD LEADER**  
(ISSN 0745-4260)

**CIRCULATION CUSTOMER SERVICE:**

Call toll-free 1-800-999-8881  
6:30am to 5pm M-F; 6:30 to 11 Sat.; 7:30 to  
noon Sun; 6:30-10 Holidays (except Sun)  
Replacements of missed or damaged  
newspapers are re-delivered on Sundays  
from 7 am to 9:30 am.

**ADVERTISING CUSTOMER SERVICE:**

859-231-3150 in Lexington,  
or call toll-free 1-800-274-7355

By placing an advertisement in the  
Lexington Herald-Leader you agree  
that the advertisement as it appears  
will become property of the Lexington  
Herald-Leader and you assign all  
ownership interest in the advertisement  
as it appears in the Lexington Herald-  
Leader under the Copyright Act. You  
can still place a similar advertisement,  
different in form from the advertisement  
as it appears in the Lexington Herald-  
Leader, in any other media. The Lexington  
Herald-Leader reserves the right to  
revise or reject any advertisement.

All Home Delivery Customers will receive  
newspapers Nov. 25-27, Dec. 23-25 and the  
following Tuesdays: January 12, February 9,  
March 9, April 13, May 11, June 8, July 13, August  
10, September 14, October 12, November 9 and  
December 14. All subscribers will automatically  
receive the Nov. 25 Thanksgiving Day paper at a  
cost of \$1.55, reflecting its larger size and value.  
Included in the subscription to the Breathitt  
County Voice is delivery of the Sunday Lexington  
Herald-Leader at the cost of \$25 per month.  
Carriers are independent contractors,  
not employees of the Herald-Leader.  
The Herald-Leader is not responsible for  
advance payments made to carriers.

We encourage direct payments to our  
office: Mail to: LHL-PBM Payment,  
P.O. Box 603500, Cincinnati, OH

**CARRIER DELIVERY**  
**HOME DELIVERY PRICES**

Daily and Sunday \$20.95/month  
Friday through Monday: \$15.99/month.  
Sunday Only \$8.67

**SINGLE COPY PRICES**

\$1.00 daily and \$2.00 Sunday  
Thursday, November 25 - \$2.00 in all areas.

**E-EDITION RATES**

Daily \$9.99  
Friday through Monday \$7.75  
Sunday Only \$6.00

**SUBSCRIPTION RATES BY MAIL**

**DAILY, INCLUDING SUNDAY**

	4 wks.	13 wks.	26 wks.	52 wks.
Kentucky	\$31.99	\$96.04	\$192.07	\$384.14
Elsewhere	\$34.99	\$105.04	\$210.08	\$420.16

**MONDAY THROUGH SATURDAY**

	4 wks.	13 wks.	26 wks.	52 wks.
Kentucky	\$21.99	\$66.03	\$132.07	\$264.14
Elsewhere	\$24.99	\$75.04	\$150.07	\$300.14

**SUNDAY ONLY**

	4 wks.	13 wks.	26 wks.	52 wks.
Kentucky	\$14.99	\$45.02	\$90.04	\$180.08
Elsewhere	\$17.99	\$54.02	\$108.03	\$216.06

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must be accompanied by payment. Visa, MasterCard,  
Discover and American Express are accepted. Mail  
orders are not accepted from areas served by delivery  
agents. For mail service outside the United States, rates  
are available on request.

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