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PUBLIC SERVICE
COMMISSION

Mark David Goss

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July 1, 2011

VIA HAND-DELIVERY

Mr. Jeff Derouen
Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, KY 40601

RE: *Bulldog's Enterprises, Inc., et al. v. Duke Energy Kentucky, Inc.*
PSC Case No. 2010-00404

Dear Mr. Derouen,

Enclosed, please find an original and ten copies of the Respondent's Initial Requests for Production of Documents and Interrogatories to Complainant to be filed in the record of the above-captioned matter.

Sincerely,



Mark D. Goss

Enclosures

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COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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PUBLIC SERVICE
COMMISSION

BULLDOG'S ENTERPRISES, INC. d/b/a)
BULLDOG'S ROAD HOUSE)
COMPLAINANT)
VS.)
DUKE ENERGY KENTUCKY, INC.)
RESPONDENT)

Case No. 2010-00404

RESPONDENT'S INITIAL REQUESTS FOR PRODUCTION OF
DOCUMENTS AND INTERROGATORIES TO COMPLAINANT

Comes now the Respondent, Duke Energy Kentucky, Inc., by counsel, pursuant to the Commission's June 17, 2011 order, and does hereby propound the following first set of data requests upon the Complainant, Bulldog's Enterprises, Inc. d/b/a Bulldog's Road House, as set forth below:

INSTRUCTIONS

1. All interrogatories and requests for production of documents shall be appropriately bound, tabbed, and indexed.
2. Responses shall include the name of the individual(s) responsible for responding to the questions related to the information provided.
3. Bulldog shall make timely amendment to any prior response if it obtains information which indicates that the response was incorrect when made or, though correct when made, becomes incorrect in any material respect.
4. For any request to which Bulldog fails or refuses to furnish all or part of the requested information, it shall provide a written explanation of the specific grounds for its failure to completely and precisely respond.

5. For purposes of these data requests, the following words shall have a particular meaning:

a. "Bulldog" shall mean Bulldog's Enterprises, Inc. d/b/a Bulldog's Road House, the complainant in this matter.

b. "Document" or "Documents" shall mean any material, means or method for recording or storing words, data, thoughts, or images, and shall specifically include, but not be limited to, paper, notes, pictures, photographs, voicemails, recordings, plans, ledgers, contracts, letters, memoranda, diaries, work papers, film, audio tape, video tape, dvds, compact disks, computer hard drives, computer disks, disks and diskettes, computer servers, computer networks, email and electronic storage devices and records of any kind.

c. "Duke Energy" shall mean Duke Energy Kentucky, Inc., the respondent in this matter.

d. "Electrical Device" shall mean any appliance, machine, equipment, systems (i.e. HVAC, cooling, security, etc.), tool, gadget or other object, including, but not limited to all attachments, accessories, rechargeable batteries or power blocks, which utilizes or stores electricity at any voltage.

e. "Premises" shall mean any and all structures, facilities, appurtenances or acreage at which Duke Energy provided electricity to Bulldog for which Bulldog disputes the charges for such electricity in its complaint.

f. Whenever the terms "you" or "your" are used, it shall be with reference to "Bulldog" as defined above.

6. Whenever an interrogatory or request for production refers to an entity which is not an individual (e.g., corporations, limited liability companies, etc.), it shall mean the entity in question, as well as the entities' officers, members, directors, managers, employees, attorneys, agents, representatives, and any and all other entities acting on behalf of the entity or over which the entity has actual or legal control or responsibility.

7. If you object to all or any part of any interrogatory or request for production, you should so state in response to the interrogatory or request, the nature of your objection (e.g., "attorney-client privilege," "work product," etc.), and briefly describe the basis of the objection (e.g., "seeks communications providing legal advice to client"). If the objection is to a document, you should specifically identify the document(s) you are objecting to producing by identifying the preparer(s) of the document and the recipient(s) of the document, and by providing a brief description of the document (e.g., "letter from John Doe to Jane Roe providing advice regarding contract issues").

8. The words "and" and "or" shall be construed conjunctively or disjunctively as necessary to make the request inclusive rather than exclusive.

9. The words "arising from" and "relating to" mean associated with, referring to, reflecting, pertaining to, evidencing, or any way relevant within the meaning of CR 26.02(1).

10. The use of the words "include(s)" and "including" shall be construed to mean "without limitation."

11. Plural shall include the singular and singular shall include the plural.

12. If you claim that any of the documents requested in any of these Requests for Production are in the custody, possession, or control of someone other than Bulldog, identify the person or entity having such document in his/her/its possession, custody or control.

13. If any document relevant to these requests for production has been destroyed, identify the document and the date of the destruction; describe in detail the circumstances of the document's destruction; and identify the person(s) who authorized the destruction.

INTERROGATORIES

1. Please refer to paragraph seven of your complaint wherein you make the following statement: "Upon information and belief, thousands of Respondent's commercial customers are subject to such meter malfunctions annually." Please identify each and every fact known by you that supports this statement and identify with particularity the source(s) of your knowledge of each such fact.

RESPONSE:

2. Please refer to paragraph ten of your complaint wherein you make the following statement: "Complainant closed this location for retail customers on June 1, 2010."

a) Explain what is meant by "retail customers."

RESPONSE:

b) Explain what is meant by “closed.”

RESPONSE:

c) Explain whether the Premises remained open for any type of service to other customers, persons or entities on or after June 1, 2010.

RESPONSE:

3. Please refer to paragraph eleven of your complaint wherein you make the following statement: “Despite the location being closed, and virtually no utilities being used, Respondent billed Complainant over \$3,600.00 for June and over \$3,800.00 for July.”

a) Please explain what is meant by the phrase “virtually no utilities being used.”

RESPONSE:

b) Please identify the specific utilities being used at the Premises during the months of June and July 2010.

RESPONSE:

4. Please refer to paragraph thirteen of your complaint wherein you make the following statement: "Upon information and belief, Respondent treats all similarly situated commercial accounts in the same manner." Please identify each and every fact known by you that supports this statement and identify with particularity the source(s) of your knowledge of each such fact.

RESPONSE:

5. Please refer to paragraph fifteen of your complaint wherein you make the following statement: "Respondent has tens of thousands of commercial customers utilizing its meters, of which thousands malfunction annually." Please identify each and every fact known by you that supports this statement and identify with particularity the source(s) of your knowledge of each such fact.

RESPONSE:

6. Please refer to paragraph seventeen of your complaint wherein you make the following statement: "Respondent's commercial accounts that close are subsequently overbilled for utilities they did not use." Please identify each and every fact known by you that supports this statement and identify with particularity the source(s) of your knowledge of each such fact.

RESPONSE:

7. Please explain why Bulldog has standing to file this complaint when “Willie’s of Independence” is the name of the customer who has subscribed to service from Duke Energy at the Premises.

RESPONSE:

8. Please explain the legal, financial and commercial relationship(s) between Bulldog and Willie’s of Independence.

RESPONSE:

9. Please identify the specific tariff(s), regulation(s) and/or tariff(s) that you believe Duke Energy has violated. For each such violation, please identify each and every fact that you rely upon to support your belief and identify with particularity the source(s) of your knowledge of each such fact.

RESPONSE:

10. Please refer to page two of your response to Duke Energy’s motion to dismiss wherein you make the following statement: “Numerous customers of Defendant have contacted Complainant to tell their stories regarding improper billing practices

regularly carried out by Defendant.” Please identify all such customers by name, address and telephone number.

RESPONSE:

11. Please state why you have not paid the undisputed portions of your electric and gas bills as required by 807 KAR 5:007, Sections 10-11.

RESPONSE:

12. Please identify each and every Electrical Device that was installed at, attached to or located in the Premises during the months of June and July of 2010.

RESPONSE:

13. Please identify by name, title, address and phone number the person(s) who actually disconnected each of the Electrical Devices identified in response to interrogatory ____ and the date of each disconnection.

RESPONSE:

14. For each Electrical Device you identified in response to interrogatory thirteen as being disconnected, please state whether it was subsequently reconnected to an electrical outlet.

RESPONSE:

15. Please state whether Bulldog was the employer of any individuals who worked at the Premises during the period of January 2010 through October 2010.

RESPONSE:

a) If Bulldog was the employer of individuals who worked at the Premises during the period of January 2010 through October 2010, please identify by name, title, address and phone number the individuals so employed.

RESPONSE:

b) If anyone worked at the Premises during the period of January 2010 through October 2010 and was an employee of a person or entity other than Bulldog, please identify the name, address and phone number of such other person or entity.

RESPONSE:

15. Please state whether any activities (which for purposes of this interrogatory shall include, but not be limited to: hosting private parties, receptions, celebrations or dining; bartending; catering; warehousing or storage; cleaning; maintaining; or watching television, movies or live entertainment) were conducted at the Premises on or after June 1, 2010. If any such activities occurred at the Premises on or after June 1, 2010, please identify the nature and date(s) of each such activity.

RESPONSE:

REQUESTS FOR PRODUCTION

1. Please produce a copy of any and all documents received by Bulldog from Duke Energy in 2010.

RESPONSE:

2. For each customer identified by you in Exhibit F to your response in opposition to Duke Energy's motion to dismiss or in your response to interrogatory number ___ above, please produce a copy of all documents received by you from each customer.

RESPONSE:

3. Please produce an audio recording or transcript of any discussions you have had about the facts of this case during a radio broadcast in which you were a participant.

RESPONSE:

4. Please produce a copy of any video recordings or posts of any discussion you have had about the facts of this case in the context of a blog, internet post, or social media outlet (i.e. UTube, Twitter, Facebook, etc.).

RESPONSE:

5. Please produce a copy of all payroll records arising from or relating to work performed by any individuals identified in response to interrogatory ____. To the extent that any confidential information may be set forth in said records, the Complainant should consider seeking a designation of the confidential information pursuant to 807 KAR 5:001, Section 7.

RESPONSE:

6. Please produce a copy of all bills of sale, bills of lading, invoices, receipts or other documents arising from or relating to deliveries of food, beverages, goods or supplies to the Premises on or after June 1, 2010.

RESPONSE:

7. Please produce a copy of any and all utility bills arising from or relating to use of utility services at the Premises for June and July 2010. Without limitation, please include any bills for cable or satellite television service, water service, telephone service, wastewater/sewage service and trash removal service.

RESPONSE:

8. Please produce a copy of any and all bills of sale, bills of lading, invoices, receipts or other documents arising from or relating to the disposition of Electrical Devices located at the Premises as of June 1, 2010. If any Electrical Devices located at the Premises as of June 1, 2010 were sold, transferred, gifted or in any other manner removed from the Premises, and no documentation exists arising from or relating to said sale, transfer, gift or removal, please state the date and nature of each transaction.

RESPONSE:

Respectfully submitted,



Mark David Goss
FROST BROWN TODD, LLC
250 W. Main Street, Suite 2800
Lexington, KY 40507-1749
(859) 231-0000
(859) 231-0011 (facsimile)

Counsel for Duke Energy Kentucky, Inc.

CERTIFICATE OF SERVICE

This will certify that a true and correct copy of the foregoing was served by depositing same in the custody and care of the U.S. Mail, postage prepaid, on this 1st day of July, 2011, addressed to the following:

Eric C. Deters
James Y. Moore
Eric Deters & Associates
5247 Madison Pike
Independence, KY 41051

Brian P. Gillan
917 Main Street, Suite 400
Cincinnati, OH 45202



Counsel for Duke Energy Kentucky, Inc.