

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

| | | |
|----------------------------|---|---------------------|
| HERREN & ADAMS |) | |
| |) | |
| COMPLAINANT |) | |
| |) | |
| V. |) | CASE NO. 2011-00047 |
| |) | |
| KENTUCKY UTILITIES COMPANY |) | |
| |) | |
| DEFENDANT |) | |

ORDER

On December 10, 2010, Herren & Adams filed a Complaint against Kentucky Utilities ("KU") alleging that its September 2010 bill was nearly triple that of its September 2009 bill while it used 1100 less kW. The Complainant asked that its electric bills for August, September, and October 2010 be reviewed and recalculated and that the amounts it had been overcharged be refunded with interest. Complainant received service under Rate PS for periods with bill due dates of August 30, 2010, September 28, 2010, and October 27, 2010.

On March 7, 2011, Defendant KU filed its Answer. KU stated that it had recently credited Complainant's account in the amount of \$1,599.18 for the difference between the amounts Complainant was charged during August, September, and October 2010 under Rate PS and the amounts Complainant would have been charged for those periods under Rate GS. KU further explained that in its most recent rate case the Commission approved changes to KU's Rate PS, effective August 1, 2010, to include

the addition of a minimum demand charge and limiting the rate to customers with minimum secondary loads of 50 kW and maximum secondary loads of 250 kW. KU's Answer stated that customers who had previously been served on the Rate PS had been grandfathered in previous rate cases and were permitted to stay on the rate, even if their loads did not otherwise meet the stated load criteria. The Complainant's load was less than the monthly minimum for Rate PS. "As a result of their usage, beginning on August 1, 2011, the base demand minimum was applied to Herren & Adams' account each month."¹

The Commission finds that KU has transferred the Complainant from Rate PS to Rate GS and credited Complainant's account in the amount of \$1,599.18. The Commission has limited statutory authority to require interest to be paid on refunds and that authority does not include alleged billing errors. Under KRS 278.190(4), the Commission has discretion to grant interest on refunds when new rates have been put into effect at the expiration of the suspension period and the Commission subsequently approves lower rates. In that instance, if the Commission grants lower rates than those put into effect by the utility, the Commission can order refunds. KRS 278.460 states that utilities shall pay interest on all security deposits.

In Carr v. Cincinnati Bell, Inc., 651 S.W.2d 126 (Ky. App. 1983), the Kentucky Court of Appeals stated:

Nowhere in Chapter 278 do we find a delegation of power to the PSC to adjudicate contract claims for unliquidated damages. Nor would it be reasonable to infer that the Commission is so empowered or equipped to handle such

¹ Answer of Kentucky Utilities Company, filed March 7, 2011, at paragraph 3.a.

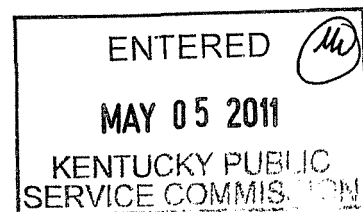
claims consistent with constitutional requirement. Kentucky Constitution §14.³

Therefore, the Commission will issue an Order dismissing this case unless Complainant files a statement with the Commission within 20 days of the date of entry of this Order explaining why the credit to its account in the amount of \$1,599.18 has not resolved its Complaint.

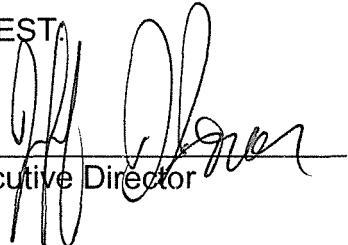
Based upon the foregoing, IT IS HEREBY ORDERED that:

1. Complainant's request for the payment of interest on any refunds paid to it is denied as being beyond the scope of the Commission's authority.
2. Complainant shall have 20 days from the date of entry of this Order to file a statement with the Commission explaining why its complaint has not been satisfied, with citations to the particular provision of KRS Chapter 278, the Commission's regulations, or of KU's tariffs that KU is still alleged to be in violation of, and the relief it seeks from the Commission.

By the Commission



ATTEST



Executive Director

³ Carr v. Cincinnati Bell, Inc., 651 S.W.2d 126, 128 (Ky. App. 1983).

Charles C Adams, Jr.
Herren & Adams
148 N. Broadway
Lexington, KENTUCKY 40507

Lonnie E Bellar
VP - State Regulation
Kentucky Utilities Company
220 W. Main Street
P. O. Box 32010
Louisville, KY 40232-2010