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BEFORE THE PUBLIC SERVICE COMMISSION JUL - 7 2011

PUBLIC SERVICE
COMMISSION

In the Matter of:

THE 2011 JOINT INTEGRATED)	
RESOURCE PLAN OF LOUISVILLE GAS)	DOCKET NO.
AND ELECTRIC COMPANY AND)	2011-00140
KENTUCKY UTILITIES COMPANY)	

REPLY TO KU'S AND LG&E'S JOINT
RESPONSE RE APPLICATION FOR REHEARING
OF GEOFFREY M. YOUNG

This document is my reply to the unsolicited "Joint Response of Louisville Gas and Electric Company and Kentucky Utilities to the Application for Rehearing of Petition to Intervene of Geoffrey M. Young" ("Joint Response"), which was hand-delivered to the Commission on July 1, 2011. For the reasons set forth below, I believe the Commission should disregard KU's and LG&E's Joint Response in its entirety when it considers whether to grant me full intervention. I am not an attorney.

I. KU's and LG&E's First Argument is Counterfactual.

KU's and LG&E's first argument, which runs from the bottom of page 1 through the top of page 4, begins with the following summary statement: "Mr. Young's Petition for Full Intervention and Application for Rehearing States No Interest in this Proceeding that is Within the Commission's Jurisdiction that Is Not Represented by the Attorney General." In my initial petition for full intervention in this IRP case, I stated several interests, including a general interest in KU's rates and services, a special interest as an

environmentalist (i.e., someone who works and/or advocates to help protect the natural environment), a special interest in energy efficiency and demand-side management, and an interest in promoting cost-effective improvements in energy efficiency and the cost-effective use of renewable energy in all sectors of Kentucky's economy. Of this set of interests, it would be fair to say that my general consumer/customer interest in KU's rates and services is adequately represented by the Attorney General ("AG"). My other stated interests are not, even though those specific interests are intimately related to KU's rates, KU's services, and the subject matter of this proceeding.

KU and LG&E made substantially the same argument in its response to the petition of Rick Clewett, Drew Foley, Janet Overman, Gregg Wagner, the Natural Resources Defense Council, and the Sierra Club ("Movants") for full intervention. (6/3/11 Response to Movants' Petition, at 1-4 and 7-11) Movants identified and refuted the fallacies in KU's and LG&E's argument in pages 1 through 6 of their Reply, which was received by the Commission on June 16, 2011. On pages 6-9 of my Application for Rehearing, received by the Commission on June 21, 2011, I also identified and refuted the fallacies in KU's and LG&E's argument. Specifically, I cited KRS 367.150 and eight pertinent court cases from Kentucky and beyond that demonstrated that my special interests in this proceeding are not adequately represented by the AG. In its 7/1/11 Joint Response, KU and LG&E failed to discuss this statute or any of these court cases. They failed even to attempt to show why this statute and these court cases do not apply to this question. Instead, they acted as if Movants and I had never raised these arguments. If KRS 367.150 and the cited court cases do in fact apply to the questions that have arisen in this proceeding, then KU's and LG&E's first argument collapses completely. That situation in fact obtains here. One

cannot refute an argument or the relevance of cited court cases simply by ignoring them or pretending the other parties never made or cited them. KU/LG&E has completely failed to demonstrate that my special interests as an environmentalist; in energy efficiency and demand-side management; in promoting cost-effective improvements in energy efficiency; and in promoting the cost-effective use of renewable energy in all sectors of Kentucky's economy are adequately represented by the AG. Their first argument is therefore counterfactual.

My Application for Rehearing did not “utterly misconstrue the special interest requirement set forth in 807 KAR 5:001 Section 3(8)” (Joint Response at 2); did not contain any “erroneous statements” (*Ibid.*); did not anywhere state that I “must be permitted to intervene” (*Ibid.*); did not “attempt to obfuscate” any issues (*Ibid.*); and did not “demonstrate [my] lack of understanding regarding the Commission’s jurisdiction” (*Ibid.* at 3). I have to wonder whether these reckless, poorly founded accusations made by the team of lawyers representing KU and LG&E constitute instances of the psychological phenomenon known as projection. Because KU and LG&E simply ignored and did not even attempt to refute my argument that my special interests are not adequately represented by the AG, its first argument is counterfactual both in its general summary statement and in its particulars.

II. KU’s and LG&E’s Second Argument is Based on a Premise that Has Already Been Shown to Be Faulty.

KU’s and LG&E’s second argument, which takes up the bulk of page 4, begins with the following summary statement: “Mr. Young’s Petition for Full Intervention and Application for Rehearing Fail to Demonstrate that Mr. Young Could Present Issues or

Develop Facts to Aid the Commission in Fully Considering Matters Relevant and Jurisdictional to these Proceedings.” As I noted in my Application for Rehearing, however, 807 KAR 5:001, Section 3(8) does not require an applicant for full intervention to demonstrate anything. All it requires a petitioner to specify, in writing, is his or her name, address, and interest in the particular proceeding that the Commission has initiated. “It is the Commission’s obligation then to exercise sound discretion and determine whether the applicant meets either one (or both) of the regulation’s two prongs.” (Application for Rehearing, 6/21/11 at 4).

Moreover, I did in fact demonstrate what KU/LG&E erroneously claims I was required to demonstrate. (Petition to Intervene, 5/16/11 at 2-3) I did not attempt to pad my resume in my Application for Rehearing because I had already described my qualifications in my original Petition. Argument II is therefore fallacious in two different respects, either one of which would render it meritless.

III. KU’s and LG&E’s Third Argument is an Attempt to Make a Mountain Out of Two Grains of Sand.

KU/LG&E began its third argument by repeating its oft-repeated assertion that “allowing an intervenor to raise issues that are beyond the scope of the Commission’s jurisdiction would unduly complicate and disrupt the proceeding.” (Joint Response at 5) This assertion is as invalid now as it ever was. I have never stated that I was planning to raise any issues that are beyond the scope of the Commission’s jurisdiction; in fact, I have stated many times that I would not do so. (Petition to Intervene at 1-3; Application for Rehearing at 3, 6, 10-11; and too many documents from other proceedings and court cases to cite individually) KU/LG&E is simply making assumptions and assertions about what I

am going to write in my testimony in this IRP proceeding. It “knows” more about my testimony than I do myself. Because I have not been granted full intervention, at this moment I have no idea what comments I will be making, if any, about the utility’s joint integrated resource plan. KU/LG&E, however, somehow already knows what my comments will be and that they will be impermissible.

KU’s and LG&E’s assertion, cited above, is another way of saying that if a petitioner does not meet the regulation’s first prong, he or she automatically fails to meet the second prong. The Commission has used this invalid argument when it denied my petitions to intervene in other proceedings in the past, but it chose not to do so in its Denial Order of June 10, 2011. Instead, it simply concluded, via a single sentence, that I had not met the second prong and provided no reasoning or support for that conclusion. (Denial Order at 6) The reason the argument is invalid is that it renders the second prong of 807 KAR 5:001 Section 3(8)(b) a virtual nullity by, in effect, converting the word “or” in the regulation into the word “and.” In order to deny any intervention petition, all the Commission would need to do would be to show that the petitioner failed to meet the first prong. That interpretation or policy would run contrary to the rule of statutory and regulatory interpretation that “no part should be construed as ‘meaningless or ineffectual.’” *Fayette Urban County Government v. Johnson*, 280 S.W.3d 31, 34 (Ky. 2009); *Brooks v. Meyers*, 279 S.W.2d 764, 766 (Ky. 1955).

As I pointed out in my Application for Rehearing, that would be the opposite of what the Commission did with respect to KIUC’s petition for full intervention. In its Order of 6/11/11 granting KIUC full intervention in this IRP proceeding, the Commission found that KIUC had met the second prong of 807 KAR 5:001 Section 3(8)(b); the

Commission said not a word about the first prong. (Application for Rehearing at 9-10) It is clear that KIUC did not meet the first prong, nor was it required to. (*Ibid.*) As a non-attorney, I can think of nothing at all to criticize about the Commission's Order of May 11, 2011 granting full intervention to KIUC. KU/LG&E has provided no convincing reason why the Commission should treat my petition in such an antithetical way to KIUC's petition. That is because no valid reason exists.

KU and LG&E raised the issue of my 6/23/11 email to Andrew Melnykovich. A printout is attached as Exhibit A. Jeff Derouen, the Executive Director of the PSC, replied via a letter dated June 24, 2011, and that letter is attached as Exhibit B. I had politely requested that Mr. Melnykovich attach a PSC press release to my Application for Rehearing, and Mr. Derouen replied that that would not be consistent with the Commission's procedures. I immediately sent an email to Mr. Melnykovich and Mr. Derouen (Exhibit C), politely thanking the Commission for clarifying its procedures and withdrawing my request. The two-page press release is attached as Exhibit D to provide additional context for this incident.

The entire exchange was a routine set of communications – request made, request denied, request withdrawn – that probably happens every day at various agencies of Kentucky's State Government. It can accurately be described as a non-event. Yet KU/LG&E has proposed that the Commission use this non-event as a justification for the conclusion that I have failed to meet the second prong of 807 KAR 5:001 Section 3(8)(b). (Joint Response at 5) Not only that, I am confident in predicting that if the Commission were to follow that proposed course of action, KU and LG&E would then dredge up this non-event in every subsequent proceeding in which I request full intervention. In its third

argument, KU/LG&E is proposing nothing less than barring me from full intervention in Commission proceedings for the rest of my life, in part because I made and then withdrew a minor request to Mr. Melnykovych.

IV. KU's and LG&E's Fourth Argument is Irrelevant to the Present Question.

The present question is whether the Commission will reverse its intervention denial order of June 10, 2011 and grant me full intervention in this IRP proceeding. The Commission obviously has the authority to do that if it so chooses. (KRS 278.040 and 278.400) KU's and LG&E's opinions about the extent of the Commission's authority are therefore irrelevant at this time. It might want to save this argument in case some kind of complaint to the Franklin Circuit Court someday arises out of the present proceeding.

V. KU's and LG&E's Third Argument Contained a Lie to Which I Must Respond or Risk Seeing My Interests as an Environmentalist Irreparably Damaged.

I really did not want to bring up any of the following matters, but one sentence in KU's and LG&E's third argument made it necessary: "The Companies likewise noted that in their last IRP proceeding, after being denied intervention, Mr. Young sent multiple letters to Chairman Armstrong, despite being informed by the Commission that such communications were considered *ex parte* communications." (Joint Response at 5)

What actually occurred was this:

1) In 2008 I filed petitions for full intervention in the following eight PSC proceedings: Case No. 2008-00128 (East Kentucky Power Cooperative cogeneration and small power production case), Case No. 2008-00148 (KU's and LG&E's previous joint integrated resource plan), Case No. 2008-00248 (Duke Energy Kentucky's integrated resource plan), Case No. 2008-00251 (KU general rate case), Case No. 2008-00252

(LG&E general rate case), Case No. 2008-00349 (Kentucky Power demand-side management case), Case No. 2008-00350 (another Kentucky Power demand-side management case), and Case No. 2008-00409 (East Kentucky Power Cooperative general rate case).

2) The Commission eventually denied all of my petitions.

3) On August 14, 2008, I wrote a letter to Governor Steve Beshear on the general topic of the Commission's refusal to grant full intervention to environmentalists in cases that had clear implications for the future of Kentucky's environment. There were no case numbers in my letter. I mailed a courtesy copy to Chairman Armstrong with a handwritten note at the top that read, "COPY for Chairman Armstrong". This letter is included as Exhibit E. To this day I do not know whether the Commission staff ever actually gave the courtesy copy to him, nor is it important that I ever find out.

4) On August 20, 2008, Stephanie Stumbo, Executive Director of the Commission at that time, mailed me a letter (Exhibit F) stating that a copy of my letter to the Governor had been filed into the records of Cases No. 2008-00128, 2008-00148, 2008-00251, and 2008-00252.

5) I sent a letter dated August 25 to Ms. Stumbo (Exhibit G).

6) On August 26, Ms. Stumbo sent me a letter (Exhibit H) stating that a copy of my 8/25/08 letter had been filed into the records of the same four cases.

7) On August 29, I sent a letter to Ms. Stumbo (Exhibit I) asking her to clarify whether the Commission believed I had engaged in any impermissible *ex parte* communication and stating that I did not believe I had done so.

8) On October 2, 2008, Ms. Stumbo sent me a letter (Exhibit J) that carefully avoided answering that question.

It is now possible to discern that the above-cited sentence which KU and LG&E included in its third argument contained several falsehoods. I did not address any letters at all to Chairman Armstrong. I sent one courtesy copy of one letter (to the Governor) to Chairman Armstrong. The Commission never stated that it believed my courtesy copy to Chairman Armstrong constituted *ex parte* communication, despite the fact that I clearly asked them to give me their view on that point. KU's and LG&E's above-cited sentence is a complete lie.

It is very clear why KU's and LG&E's lawyers are lying about this minor incident that occurred approximately three years ago. For reasons known only to themselves, they want to bar me, in my capacity as an environmentalist and a person with some expertise in energy efficiency and renewable energy technologies, from full intervention in any and all Commission cases, even when those cases have implications for Kentucky's environment. They have therefore decided that it would suit their purposes to provide a weapon that the Commission might choose to use to demonstrate that if granted full intervention, I "will unduly complicate and disrupt these proceedings in contravention of 807 KAR 5:001 Section 3(8)." (Joint Response at 5) Because the actual incident did not constitute a potent enough weapon for them, they decided to lie about it to make my conduct appear far more reprehensible than it was.

When a citizen applies for full intervention in a number of PSC proceedings over a period of years, with the primary intention of contributing his expertise and ideas to the betterment of Kentucky's energy sector, the playing field is far from level. The utility

company, the AG, and certain other parties generally have no trouble with the intervention process. Other parties, however, who are not among the favored few, must argue vigorously, carefully, and persistently for permission to intervene. I have been painfully aware, during the last four years, that if I were ever to make a single serious misstep, the Commission would likely bar me from full intervention in any and all of its proceedings for the rest of my life. If I were to include a single lie anywhere in any of the documents I file, that would be the end of the road for me. When KU/LG&E is caught telling a serious lie about a private citizen, however, it is not clear whether it suffers any consequences at all.

I hereby demand a written apology from KU and LG&E, in the form of a formal sur-reply to this document, to be included in the case file of this proceeding, for lying about the incident in 2008 involving my courtesy copy to Chairman Armstrong. If I do not receive such an apology within the next week or so, I will be forced to file an ethics complaint with the Kentucky Bar Association against the lawyers representing KU and LG&E in this proceeding. I regret that this long-standing disagreement between me and KU/LG&E has escalated to this point, but if I fail to stand up for my rights at this time, I believe that both my professional reputation and my interests as an environmentalist and a specialist in energy efficiency will be irreparably damaged.

VI. It is Still Possible and Desirable to Lower the Level of Confrontation By Several Degrees, Move Forward with This Proceeding in a Constructive and Mutually Respectful Way, and Put the Unpleasant Past Behind Us.

If KU/LG&E chooses to change its attitude toward environmentalists and proffers the apology described above, I would be more than happy to let bygones be bygones and

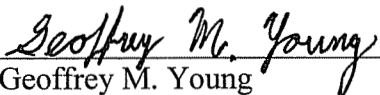
return to my default pattern of constructive involvement in Commission proceedings. I would also be quite willing to attend mediation-type meetings with KU's and LG&E's lawyers to lay a basis for constructive, mutually respectful interactions in the future. I strongly believe such an outcome would be in the long-term best interests of KU, LG&E, the Commission and its staff, and Kentucky's energy sector as a whole.

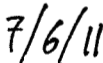
VII. Conclusion

I believe I have shown that my petition meets both prongs of 807 KAR 5:001 Section 3(8)(b).

For all of the foregoing reasons, I respectfully request that the Commission reverse its denial Order of 6/10/11 and grant me full intervenor status in the above-captioned proceeding.

Respectfully submitted,


Geoffrey M. Young
454 Kimberly Place
Lexington, KY 40503
Phone: 859-278-4966
E-mail: energetic@windstream.net


Date

CERTIFICATE OF SERVICE

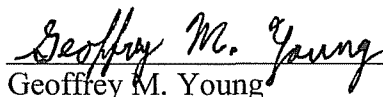
I hereby certify that an original and ten copies of the foregoing Reply were mailed to the office of Jeff Derouen, Executive Director of the Kentucky Public Service Commission, 211 Sower Boulevard, Frankfort, KY 40601, and that copies were mailed to the following parties on this 6th day of July, 2011. All envelopes were mailed with first-class postage prepaid. (I am also providing courtesy copies of the electronic version to certain of the Movants, who have not been granted full intervention as of today's date.)

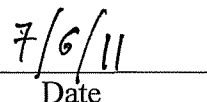
Monica H. Braun (Counsel for KU and LG&E)
Stoll Keenon Ogden PLLC
2000 PNC Plaza
500 West Jefferson Street
Louisville, KY 40202-2828

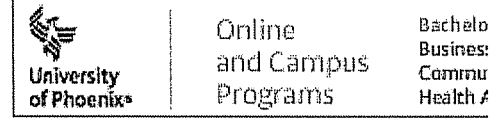
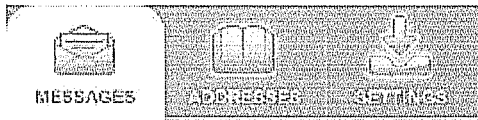
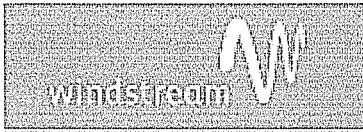
Honorable Dennis G. Howard II and Lawrence W. Cook
Attorney General's Office of Rate Intervention
1024 Capital Center Drive, Suite 200
Frankfort, KY 40601-8204

Honorable Michael L. Kurtz and Kurt J. Boehm
Boehm, Kurtz & Lowry
36 East Seventh Street, Suite 1510
Cincinnati, OH 45202

Signed,


Geoffrey M. Young


Date



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Date: Thursday, June 23, 2011 11:06 AM

From: Geoff Young <energetic@windstream.net>

To: andrew.melnikovych@ky.gov

jeff.derouen@ky.gov, dennis.howard@ky.gov, lawrence.cook@ky.gov, molly mkurtz@BKLawfirm.com, kboehm@BKLawfirm.com, Rick Clewett <rick.cl...>, James Gignac <james.gignac@sierraclub.org>, kristin.henry@sierraclub.org, sfisk@nrdc.or

Subject: Addendum to my filing dated June 21

Size: 1 KB

Dear Mr. Melnikovych,

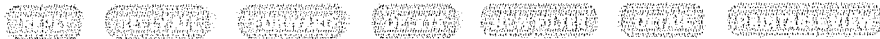
EXHIBIT A - ADDENDUM TO PETITION FOR REHEARING received June 21, 2011

RE: Docket No. 2011-00140

Please include a printout of this email and the PSC's press release (2 page dated June 2, 2011 as Exhibit A attached to my Application for Rehearing. press release is titled, "PSC Describes Legal Basis for Environmental Surcharges; State law authorizes recovery of compliance costs." Its URL is http://psc.ky.gov/agencies/psc/press/062011/0602_r01.PDF

I believe that this press release clearly shows that the Commission has jurisdiction over certain matters that relate to the environment.

Sincerely, Geoffrey M. Young 454 Kimberly Place Lexington, KY 40503 Phone: 859-278-4966



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Exhibit A



Steven L. Beshear
Governor

Leonard K. Peters
Secretary
Energy and Environment Cabinet

Commonwealth of Kentucky
Public Service Commission
211 Sower Blvd.
P.O. Box 615
Frankfort, Kentucky 40602-0615
Telephone: (502) 564-3940
Fax: (502) 564-3460
psc.ky.gov

David L. Armstrong
Chairman

James W. Gardner
Vice Chairman

Charles R. Borders
Commissioner

June 24, 2011

Exhibit B

Mr. Geoffrey M. Young
454 Kimberly Place
Lexington, KY 40503

Re: LG&E/KU 2011 Integrated Resource Plan
Case No. 2011-00140

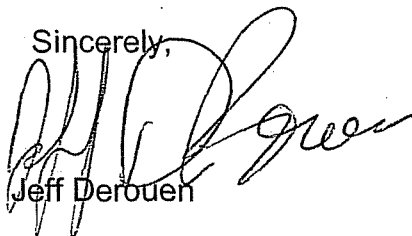
Dear Mr. Young:

On June 23, 2011, you sent an e-mail to Andrew Melnykovich, the Commission's Public Information Officer. Your e-mail, a copy of which is attached hereto, requests Mr. Melnykovich to print out a copy of a recent Commission press release and to include that press release for you as an addendum to your previously filed Petition for Rehearing in the above referenced case file.

The actions that you request Mr. Melnykovich to take on your behalf are improper and violate the Commission's Rules of Procedure as set forth in Commission regulation 807 KAR 5:001. If you wish to amend your Petition for Rehearing, you must file an amended petition, along with a request for leave to file the amendment, pursuant to 807 KAR 5:001, Section 3(5). In addition, if you file an amended petition, it must include a notice showing that it was served on all parties to the case, pursuant to 807 KAR 5:001, Section 4(10).

A person like yourself who wants to file a document in a case file must first prepare the document and then take the necessary steps to ensure that the document is delivered to the Commission's offices for filing. Commission employees are only responsible for filing case related documents after they are delivered to our offices and after a determination is made that the document complies with the applicable procedural requirements.

Sincerely,



Jeff Derouen

Attachment
cc: Parties of Record

DeRouen, Jeff (PSC)

From: Geoff Young [energetic@windstream.net]
Sent: Thursday, June 23, 2011 11:07 AM
To: Melnykovich, Andrew (PSC)
Cc: DeRouen, Jeff (PSC); dennis.howard@ky.gov; lawrence.cook@ky.gov; molly.stephens@skofirm.com; mkurtz@BKLawfirm.com; kboehm@BKLawfirm.com; Rick Clewett; Ray Barry; James Gignac; Geoff Young; kristin.henry@sierraclub.org; sfisk@nrdc.org
Subject: Addendum to my filing dated June 21

Dear Mr. Melnykovich,

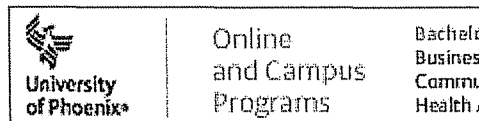
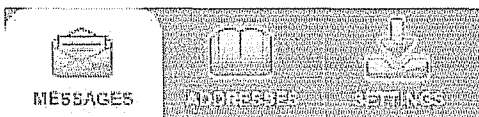
EXHIBIT A - ADDENDUM TO PETITION FOR REHEARING received June 21, 2011

RE: Docket No. 2011-00140

Please include a printout of this email and the PSC's press release (2 pages) dated June 2, 2011 as Exhibit A attached to my Application for Rehearing. The press release is titled, "PSC Describes Legal Basis for Environmental Surcharges; State law authorizes recovery of compliance costs." Its URL is:
http://psc.ky.gov/agencies/psc/press/062011/0602_r01.PDF

I believe that this press release clearly shows that the Commission has jurisdiction over certain matters that relate to the environment.

Sincerely,
Geoffrey M. Young
454 Kimberly Place
Lexington, KY 40503
Phone: 859-278-4966



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Date: Saturday, June 25, 2011 9:29 AM
From: Geoff Young <energetic@windstream.net>
To: Geoff Young <energetic@windstream.net>, andrew.melnikovych@ky.gov
Cc: <rick.clewett@insightbb.com>, jeff.derouen@ky.gov, molly.stephens@sko
Subject: Reply to PSC letter dated June 24 2011
Size: 2 KB

Dear Mr. Derouen and Mr. Melnykovych,

This is in response to your letter that is part of the case file for Case N 2011-00140. Thank you for clarifying your agency's procedures. Please disregard my emailed request to include the press release along with my pet for rehearing. The petition should stand on its own.

Sincerely,
Geoffrey M. Young
454 Kimberly Place
Lexington, KY 40503
Phone: 859-278-4966

----- Geoff Young <energetic@windstream.net> wrote:
> Dear Mr. Melnykovych,
>
> EXHIBIT A - ADDENDUM TO PETITION FOR REHEARING received June 21, 2011
>
> RE: Docket No. 2011-00140
>
> Please include a printout of this email and the PSC's press release (2 p
dated June 2, 2011 as Exhibit A attached to my Application for Rehearing.
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Surcharges; State law authorizes recovery of compliance costs." Its URL is
http://psc.ky.gov/agencies/psc/press/062011/0602_r01.PDF
>
> I believe that this press release clearly shows that the Commission has
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>
> Sincerely,
> Geoffrey M. Young
> 454 Kimberly Place
> Lexington, KY 40503
> Phone: 859-278-4966

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Exhibit C

Exhibit D

Steven L. Beshear
Governor

Leonard K. Peters, Secretary
Energy and Environment
Cabinet



Commonwealth of Kentucky
Public Service Commission
211 Sower Blvd.
P.O. Box 615
Frankfort, Kentucky 40602-0615
Telephone: (502) 564-3940
Fax: (502) 564-3460
psc.ky.gov

David L. Armstrong
Chairman

James W. Gardner
Vice Chairman

Charles R. Borders
Commissioner

NEWS RELEASE

Embargoed for 1 pm release 6-2-2011

Contact:
Andrew Melnykovych
502-564-3940, ext. 208
502-330-5981 (cell)

PSC Describes Legal Basis for Environmental Surcharges

State law authorizes recovery of compliance costs

FRANKFORT, Ky. (June 2, 2011) – The Kentucky Public Service Commission (PSC) today told state lawmakers how it reviews the coal-related environmental compliance costs that electric utilities in Kentucky are entitled to pass on to their customers.

State law “grants a utility the presumption of the timely recovery of environmental compliance costs,” PSC Executive Director Jeff Derouen said in testimony before the Joint Interim Committee on Agriculture and Natural Resources. “In other words, if a utility is required to incur environmental compliance costs, it is entitled to recover those costs through its rates, in the form of the environmental surcharge.”

However, the PSC has the authority to review a utility’s environmental compliance plans and the associated costs and surcharges, he said. The PSC determines whether the utility has made reasonable and cost-effective decisions in how it complies with federal, state or local environmental regulations; whether its compliance costs, including operating expenses, are reasonable; and the rate of return a utility is allowed to earn on capital investments made in connection with environmental compliance, Derouen said.

Derouen stated that the legal basis for recovery of environmental costs is set forth in a statute enacted in 1992 by Kentucky General Assembly. The statute, which established the environmental surcharge mechanism, applies to all environmental compliance costs incurred as the result of burning coal to produce electricity, he said.

“It applies not only to requirements under the federal Clean Air Act and its amendments, but also to any other federal, state or local environmental requirements that apply to emissions or waste products generated by coal combustion,” Derouen said. The law “also requires that the surcharge be listed on an electric bill as a separate line item, so that environmental compliance costs are apparent to customers.”

PSC Describes Legal Basis for Environmental Surcharges – Page 2

The law recognizes that utilities must comply with environmental requirements, Derouen said. The PSC cannot decide whether such requirements are appropriate, but can only review the costs of complying with the requirements, he said.

Derouen also described the process by which the PSC considers environmental compliance plans and associated surcharges, noting that it differs from general rates cases. Environmental compliance cases are on a compressed timeline and also may include requests for approval of new construction projects through certificates of public convenience and necessity, he said.

Derouen concluded his prepared remarks with an overview of the PSC process for consideration of requests for construction certificates.

The PSC appeared before the committee at the invitation of co-chairmen Sen. Brandon Smith and Rep. Jim Gooch. Representatives of Kentucky's electric utilities also testified at the meeting.

The full text of Derouen's remarks and an accompanying PowerPoint presentation are available on the PSC website, psc.ky.gov.

The PSC is an independent agency attached for administrative purposes to the Energy and Environment Cabinet. It regulates more than 1,500 gas, water, sewer, electric and telecommunication utilities operating in Kentucky and has approximately 100 employees.

FOLLOW THE PSC ON TWITTER AT KYPSC

2008-00148
2008-00148
2008-00251
2008-00252

Exhibit E

COPY for

August 14, 2008

Governor Steve Beshear
700 Capital Ave., Suite 100
Frankfort, KY 40601

RECEIVED

AUG 15 2008

PUBLIC SERVICE
COMMISSION

Chairman Armstrong

Dear Governor Beshear:

The Public Service Commission, or at least some members of its legal staff, has apparently instituted an implicit policy of preventing environmentalists from participating in certain cases that involve electric utility companies. I am currently trying to become involved in two cases where the PSC has barred environmentalists from providing pertinent information that could help it make better decisions. I have just applied to participate in two more cases, the rate cases recently initiated by KU and LG&E.

Other legitimate special interests such as large industrial corporations and low-income customers are routinely and promptly granted full intervention. The PSC's recent actions appear to constitute undue discrimination against environmentalists.

PSC staff members have devoted significant amounts of time and effort to trying to keep environmentalists out, even though these cases have implications for energy efficiency and therefore for the environment. This represents a waste of limited resources for all concerned. As a regulatory agency with the word "Public" in its name, the PSC should be happy to receive comments and active involvement from all interested parties, especially if they have valuable information to contribute. The name of your newly-reorganized cabinet is the Energy **and Environment** Cabinet. Why are environmental considerations being excluded from energy regulatory cases?

Please ask the three PSC commissioners to change their staff's de-facto policy and to allow serious groups and individuals with an environmental perspective to participate in pertinent cases on an equal basis with other special interests.

Please let me know what action you decide to take in regard to this matter.

Sincerely,



Geoffrey M. Young
454 Kimberly Place
Lexington, KY 40503
phone: 859-278-4966
email: energetic@windstream.net



Steven L. Beshear
Governor

Leonard K. Peters
Secretary
Energy and Environment Cabinet

Commonwealth of Kentucky
Public Service Commission
211 Sower Blvd.
P.O. Box 616
Frankfort, Kentucky 40602-0615
Telephone: (502) 564-3940
Fax: (502) 564-3460
psc.ky.gov

David L. Armstrong
Chairman

James Gardner
Vice-Chairman

John W. Clay
Commissioner

August 20, 2008

Exhibit F

Mr. Geoffrey M. Young
454 Kimberly Place
Lexington, Kentucky 40503

Dear Mr. Young:

The Kentucky Public Service Commission has received a copy of the enclosed letter addressed to Governor Beshear and copied to Chairman David Armstrong.

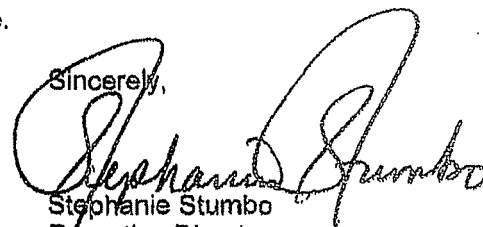
The letter has been filed into the records of Case No. 2008-00128, The Revision of Cogeneration and Small Power Purchase Rates of East Kentucky Power Cooperative, Inc.; Case No. 2008-00148, The 2008 Joint Integrated Resource Plan of Louisville Gas and Electric Company and Kentucky Utilities Company; Case No. 2008-00251, Application of Kentucky Utilities Company for an Adjustment of Electric Base Rates; and Case No. 2008-00252, Application of Louisville Gas and Electric Company, Inc. for an Adjustment of Its Electric and Gas Base Rates.

Please be advised that it is not appropriate to contact the Commission Chairman directly concerning an application or a motion pending before the Commission or a matter that is currently in litigation. Such contact constitutes improper *ex parte* communication with the Commission and is not allowed.

The Commission will review and act upon your pending motions in Case Nos. 2008-00251 and 2008-00252 and your application for rehearing in Case No. 2008-00148 in the due course of business. And the Commission will litigate the appeal of Case No. 2008-00128 before the Franklin Circuit Court according to the Civil Rules and the Court's instruction.

Any further communications regarding cases pending before the Commission should be directed to the Commission Staff attorney assigned to the case.

Sincerely,


Stephanie Stumbo
Executive Director

RB:v

August 14, 2008

COPY for
Chairman Armstrong

Governor Steve Beshear
700 Capital Ave., Suite 100
Frankfort, KY 40601

Dear Governor Beshear:

The Public Service Commission, or at least some members of its legal staff, has apparently instituted an implicit policy of preventing environmentalists from participating in certain cases that involve electric utility companies. I am currently trying to become involved in two cases where the PSC has barred environmentalists from providing pertinent information that could help it make better decisions. I have just applied to participate in two more cases, the rate cases recently initiated by KU and LG&E.

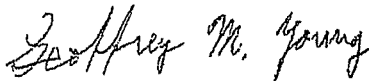
Other legitimate special interests such as large industrial corporations and low-income customers are routinely and promptly granted full intervention. The PSC's recent actions appear to constitute undue discrimination against environmentalists.

PSC staff members have devoted significant amounts of time and effort to trying to keep environmentalists out, even though these cases have implications for energy efficiency and therefore for the environment. This represents a waste of limited resources for all concerned. As a regulatory agency with the word "Public" in its name, the PSC should be happy to receive comments and active involvement from all interested parties, especially if they have valuable information to contribute. The name of your newly-reorganized cabinet is the Energy **and Environment** Cabinet. Why are environmental considerations being excluded from energy regulatory cases?

Please ask the three PSC commissioners to change their staff's de-facto policy and to allow serious groups and individuals with an environmental perspective to participate in pertinent cases on an equal basis with other special interests.

Please let me know what action you decide to take in regard to this matter.

Sincerely,



Geoffrey M. Young
454 Kimberly Place
Lexington, KY 40503
phone: 859-278-4966
email: energetic@windstream.net

Exhibit G

Geoffrey M. Young
454 Kimberly Place
Lexington, KY 40503
phone: 859-278-4966
email: energetic@windstream.net

RECEIVED

AUG 26 2008

PUBLIC SERVICE
COMMISSION

August 25, 2008

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

AUG 26 2008

Dear Ms. Stumbo:

I was quite astonished to read your letter of August 20, 2008. If I had been capable of imagining that my letter of 8/14/08 to Governor Steve Beshear might be interpreted as an attempt to influence the outcome of any specific Commission case, I would either have written it differently or not sent it at all.

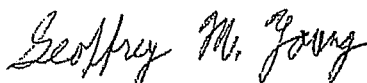
My request to the Governor was solely at the level of broad public policy. My hope was that over time, the Commission would come to take a more positive and welcoming view of the information available from Kentucky's community of environmentalists. Unfortunately, it seems you have jumped to an interpretation that is much more negative.

The passing references to existing cases in the first paragraph of my letter were made in the interest of full disclosure, so the Governor would have a more complete context when reading the remainder of the letter. I have far too much respect for Governor Beshear to imagine that he would ever try to influence the outcome of an ongoing case in any way.

Similarly, I sent a copy of my letter to Chairman Armstrong with the aim of being as courteous as possible, in order to avoid a situation where he might be surprised by a communication from the Governor without knowing what might have given rise to it.

I respectfully request that you remove my 8/14/08 letter to Governor Beshear from the record of any and all cases before the Commission. It was directed at the broad policy level and has no relevance to any particular case.

Sincerely,



Geoffrey M. Young

Exhibit H



Steven L. Beshear
Governor

Leonard K. Peters
Secretary
Energy and Environment Cabinet

Commonwealth of Kentucky
Public Service Commission
211 Sower Blvd.
P.O. Box 615
Frankfort, Kentucky 40602-0615
Telephone: (502) 564-3940
Fax: (502) 564-3460
psc.ky.gov

David L. Armstrong
Chairman

Jamea Gardner
Vice-Chairman

John W. Clay
Commissioner

August 26, 2008

Mr. Geoffrey M. Young
454 Kimberly Place
Lexington, Kentucky 40503

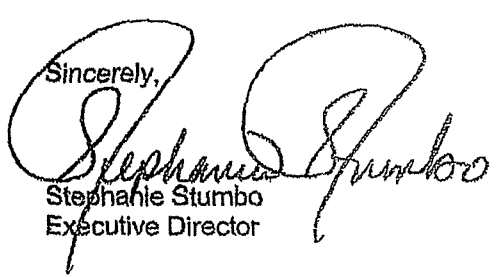
Dear Mr. Young:

On August 26, 2008, the Kentucky Public Service Commission received a copy of the enclosed letter dated August 25, 2008.

This letter has been filed into the records of Case No. 2008-00128, The Revision of Cogeneration and Small Power Purchase Rates of East Kentucky Power Cooperative, Inc.; Case No. 2008-00148, The 2008 Joint Integrated Resource Plan of Louisville Gas and Electric Company and Kentucky Utilities Company; Case No. 2008-00251, Application of Kentucky Utilities Company for an Adjustment of Electric Base Rates; and Case No. 2008-00252, Application of Louisville Gas and Electric Company, Inc. for an Adjustment of Its Electric and Gas Base Rates.

Please be advised that to avoid impermissible ex parte communications, all correspondence relating to the subject matter of a case that is sent to the Commission is filed of record as a matter of course. Accordingly, we will not be able to remove your August 14, 2008 letter to Governor Beshear (with copy to PSC Chairman David Armstrong) from the record of those cases, as requested in your August 25, 2008 letter.

Sincerely,


Stephanie Stumbo
Executive Director

RB:v

Geoffrey M. Young
454 Kimberly Place
Lexington, KY 40503
phone: 859-278-4966
email: energetic@windstream.net

RECEIVED

August 25, 2008

AUG 26 2008

PUBLIC SERVICE
COMMISSION

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

AUG 26 2008

Dear Ms. Stumbo:

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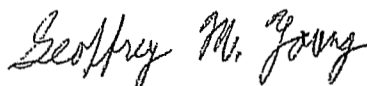
My request to the Governor was solely at the level of broad public policy. My hope was that over time, the Commission would come to take a more positive and welcoming view of the information available from Kentucky's community of environmentalists. Unfortunately, it seems you have jumped to an interpretation that is much more negative.

The passing references to existing cases in the first paragraph of my letter were made in the interest of full disclosure, so the Governor would have a more complete context when reading the remainder of the letter. I have far too much respect for Governor Beshear to imagine that he would ever try to influence the outcome of an ongoing case in any way.

Similarly, I sent a copy of my letter to Chairman Armstrong with the aim of being as courteous as possible, in order to avoid a situation where he might be surprised by a communication from the Governor without knowing what might have given rise to it.

I respectfully request that you remove my 8/14/08 letter to Governor Beshear from the record of any and all cases before the Commission. It was directed at the broad policy level and has no relevance to any particular case.

Sincerely,



Geoffrey M. Young

Exhibit I

Geoffrey M. Young
454 Kimberly Place
Lexington, KY 40503
phone: 859-278-4966
email: energetic@windstream.net

RECEIVED

SEP 02 2008

RECEIVED

SEP - 2 2008

PUBLIC SERVICE
COMMISSION

August 29, 2008

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

Dear Ms. Stumbo:

On August 28, 2008, I received your letter dated 8/26/08. Like your previous letter on this issue dated 8/20/08, it was ambiguous on the question of whether the Commission believes I engaged in impermissible *ex parte* communication with Chairman Armstrong via the copy of my letter dated 8/14/08 to Governor Steve Beshear. As I stated in my letter to you dated 8/25/08, I believe that because my letter to the Governor was directed at the broad policy level, and because I copied Chairman Armstrong solely in order to be courteous and let him know what was going on, my letter had no relevance to any particular Commission case. It is clear to me that I have not engaged in any impermissible *ex parte* communication. I respectfully request an unambiguous statement from your office that either confirms or contradicts that conclusion, please.

I am quite familiar with the proper way to file a public comment so as to enable the Commission to know immediately that it is a public comment and which case or cases it is relevant to. I always include the appropriate case numbers as part of my public comments, and the Commission has always filed them in the records of the appropriate cases in the past. None of my recent letters on public policy (dated 8/14/08, 8/25/08, and this letter dated 8/29/08) included any case numbers, and none of them requested that the Commission file them into the record of any existing case. My letter dated 8/25/08 in fact requested the opposite, and this letter will do the same.

I understand the Commission policy you described in the last paragraph of your letter dated 8/26/08. If, however, these letters do not relate to the subject matter of any particular Commission cases, the policy would not apply. There would be no reason you could not remove my letters dated 8/14/08 and 8/25/08 from the records of all cases before the Commission. It seems to me they are only cluttering up the records of four cases for no legitimate reason.

I have cause to suspect, however, that certain of your staff attorneys may intentionally be trying to maintain a cloud of ambiguity around the issue of *ex parte* communication in order to use it against me in ongoing proceedings. I suspect they may be trying to inject these letters into the record of these cases for reasons that are not legitimate and serve no proper public purpose. The pattern that is emerging from this exchange of letters is beginning to look like either an attempt by a government agency to entrap a citizen, an attempt to retaliate against a whistleblower, an attempt to lay the foundation of a SLAPP suit, or some combination of more than one of these dubious strategies. I do not think any of these methods is an appropriate way for a public agency to deal with a citizen whose only motivation is to provide pertinent information to that agency that might help it make better decisions. I therefore respectfully object to the filing of these letters into the records of any Commission cases and renew my request that they be removed from all of them.

I would also like to propose the idea of mediation between me and one or more of the staff attorneys who are working on this issue. I feel that an unfortunate level of mutual mistrust has gradually arisen that might be reduced or eliminated if we could openly talk over these issues in the presence of a skilled facilitator or ombudsperson. In the best scenario, it might be possible for us to come to an understanding about how we would interact with each other in the future, with a concomitant reduction in the amount of unproductive interpersonal friction that appears to be occurring now. Does the Executive Branch employ anyone who could serve in this type of mediating role? Please advise.

Sincerely,

A handwritten signature in cursive script that reads "Geoffrey M. Young". The signature is written in black ink and is positioned above the typed name.

Geoffrey M. Young

Exhibit J



Steven L. Beshear
Governor

Leonard K. Peters
Secretary
Energy and Environment Cabinet

Commonwealth of Kentucky
Public Service Commission
211 Sower Blvd.
P.O. Box 615
Frankfort, Kentucky 40602-0615
Telephone: (502) 564-3940
Fax: (502) 564-3460
psc.ky.gov

David L. Armstrong
Chairman

James Gardner
Vice-Chairman

John W. Clay
Commissioner

October 2, 2008

Mr. Geoffrey M. Young
454 Kimberly Place
Lexington, Kentucky 40503

Dear Mr. Young:

On September 2, 2008, the Kentucky Public Service Commission received a copy of the enclosed letter dated August 29, 2008.

In response to your question concerning *ex parte* communications, the Commission's policy is that any communication by any person directed to any of the three commissioners is filed into the record of any case to which it refers or is reasonably related. This policy helps ensure that all parties to a case are given fair notice of any comments by other parties or non-parties which might influence the Commission's decision. Giving the other parties to a case notice of such communications (and, thus, the opportunity to respond) helps ensure that due process has been afforded to all parties and that no preferential treatment has been given to anyone. The same policy applies to all such communications regardless of the source.

As to your participation in Commission cases, you are both welcomed and encouraged to provide public comments on any matter that is before the Commission. The Commission will give due consideration to any public comments that assist the Commission in fully considering the matter before it

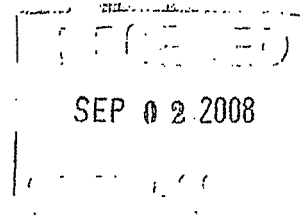
Thank you for your continued interest in the issues and policy matters before the Commission.

Sincerely,

Stephanie Stumbo
Executive Director

RB:v

Geoffrey M. Young
454 Kimberly Place
Lexington, KY 40503
phone: 859-278-4966
email: energetic@windstream.net



August 29, 2008

RECEIVED

SEP - 2 2008

PUBLIC SERVICE
COMMISSION

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

Dear Ms. Stumbo:

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Sincerely,

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Geoffrey M. Young

Honorable Dennis G. Howard II
Assistant Attorney General
Office of the Attorney General
Utility & Rate Intervention Division
1024 Capital Center Drive
Suite 200
Frankfort, KY 40601-8204

Honorable Michael L. Kurtz
Attorney at Law
Boehm, Kurtz & Lowry
36 East Seventh Street
Suite 1510
Cincinnati, OH 45202

Rick E. Lovekamp
Manager - Regulatory Affairs
E.ON U.S. Services, Inc.
220 West Main Street
Louisville, KY 40202