



S T O L L · K E E N O N · O G D E N  
P L L C

2000 PNC PLAZA  
500 WEST JEFFERSON STREET  
LOUISVILLE, KY 40202-2828  
MAIN: (502) 333-6000  
FAX: (502) 333-6099  
www.skofirm.com

**KENDRICK R. RIGGS**  
DIRECT DIAL: (502) 560-4222  
DIRECT FAX: (502) 627-8722  
kendrick.riggs@skofirm.com

August 2, 2011

RECEIVED

AUG 02 2011

PUBLIC SERVICE  
COMMISSION

**VIA HAND DELIVERY**

Jeff DeRouen  
Executive Director  
Kentucky Public Service Commission  
211 Sower Boulevard  
Frankfort, KY 40601

**RE: Application of Kentucky Utilities Company for Certificates of Public Convenience and Necessity and Approval of its 2011 Compliance Plan for Recovery by Environmental Surcharge**  
**Case No. 2011-00161**

Dear Mr. DeRouen:

Enclosed please find and accept for filing the original and fifteen copies of Kentucky Utilities Company's Objections to Rick Clewett, Raymond Barry, Sierra Club and Natural Resources Defense Council's First Set of Interrogatories and Requests for Production of Documents in the above-referenced matter.

Please confirm your receipt of this filing by placing the stamp of your Office with the date received on the enclosed additional copies and return them to me via our office courier.

Should you have any questions please contact me at your convenience.

Yours very truly,

Kendrick R. Riggs

KRR:ec  
Enclosures  
cc: Parties of Record

400001.139563/748865.1

**COMMONWEALTH OF KENTUCKY**  
**BEFORE THE PUBLIC SERVICE COMMISSION**

**In the Matter of:**

<b>APPLICATION OF KENTUCKY UTILITIES</b>	)	
<b>COMPANY FOR CERTIFICATES OF</b>	)	
<b>PUBLIC CONVENIENCE AND NECESSITY</b>	)	<b>CASE NO. 2011-00161</b>
<b>AND APPROVAL OF ITS 2011</b>	)	
<b>COMPLIANCE PLAN FOR RECOVERY BY</b>	)	
<b>ENVIRONMENTAL SURCHARGE</b>	)	

**KENTUCKY UTILITIES COMPANY’S OBJECTIONS  
TO RICK CLEWETT, RAYMOND BARRY, SIERRA CLUB AND  
THE NATURAL RESOURCES DEFENSE COUNCIL’S  
FIRST SET OF INTERROGATORIES  
AND REQUESTS FOR PRODUCTION OF DOCUMENTS**

Kentucky Utilities Company (“KU”), by counsel, hereby objects to the instructions and definitions set forth in Rick Clewett, Raymond Barry, Sierra Club and Natural Resources Defense Council’s First Set of Interrogatories and Requests for Production of Documents.

Accompanying the interrogatories and requests for production of documents are definitions and instructions that are overly broad, unduly burdensome and cumulatively seek to impose undue obligations upon KU. While the Commission has not addressed this specific issue, federal authorities recognize that instructions in discovery requests may be objected to if overly burdensome.<sup>1</sup>

First, Rick Clewett, Raymond Barry, Sierra Club and Natural Resources Defense Council (collectively, “Environmental Group”) seek to impose in the definitions section description of “any” so broadly as to encompass “all or each and every example.”<sup>2</sup> This definition not only seeks to require KU to perform an unduly exhaustive search for responsive documents, but

---

<sup>1</sup> 7 James Wm. Moore et. Al., *Moore’s Federal Practice* § 33.31 (2009).

<sup>2</sup> Environmental Groups Discovery, p. 2.

would also include documents subject to the attorney-client privilege, work-product protection, and other recognized privileges. KU objects to this definition and will provide responsive, non-privileged documents that are within its possession, custody or control.

The definitions section describes “document” so broadly as to require KU to search mediums not recognized in Commission proceedings or in KU’s usual course of business, such as telegrams and diaries that bear no relevance to the present proceeding.<sup>3</sup> Similarly, the definition of “communication” would require KU to search for and provide telegraphs, teletypes, and cables.<sup>4</sup> KU objects to the extent that the definitions require KU to search for oral and written communications that are not kept in its usual course of business.

The definitions section also seeks to impose an obligation on KU to identify responsive documents that are *not* within its custody or control.<sup>5</sup> Such request is unduly burdensome, time consuming and exceeds the scope of the Federal Rules of Civil Procedure.<sup>6</sup> As reiterated, KU will produce relevant documents reasonably responsive to the request and within its possession, custody or control that are kept in the usual course of business.

The objections identified above are not exclusive, but instead are provided as examples of why KU has objected generally to the overly broad and unduly burdensome nature of the definitions and instructions portion of Environmental Group’s discovery. KU will respond to Environmental Group’s interrogatories and requests for production of documents in accordance with generally accepted Commission procedure subject to the forgoing objections.

---

<sup>3</sup> *Id.*

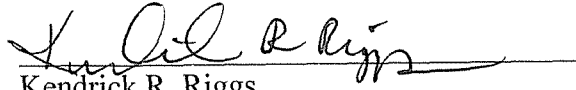
<sup>4</sup> *Id.*

<sup>5</sup> *Id.* at 2-3.

<sup>6</sup> *See* FRCP 34(a)(1).

Dated: August 2, 2011

Respectfully submitted,



Kendrick R. Riggs  
Monica H. Braun  
W. Duncan Crosby III  
Stoll Keenon Ogden PLLC  
2000 PNC Plaza  
500 West Jefferson Street  
Louisville, Kentucky 40202-2828  
Telephone: (502) 333-6000

Allyson K. Sturgeon  
Senior Corporate Attorney  
LG&E and KU Services Company  
220 West Main Street  
Louisville, Kentucky 40202  
Telephone: (502) 627-2088

*Counsel for Kentucky Utilities Company*

**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the foregoing Objection was served via U.S. mail, first-class, postage prepaid, this 2nd day of August 2011 upon the following persons:

Dennis G. Howard II  
Lawrence W. Cook  
Assistant Attorneys General  
Office of the Kentucky Attorney General  
Office of Rate Intervention  
1024 Capital Center Drive, Suite 200  
Frankfort, KY 40601-8204

Iris G. Skidmore  
Bates and Skidmore  
415 West Main Street, Suite 2  
Frankfort, KY 40601

Michael L. Kurtz  
David F. Boehm  
Boehm, Kurtz & Lowry  
36 East Seventh Street, Suite 1510  
Cincinnati, OH 45202

Edward George Zuger III  
Zuger Law Office PLLC  
P.O. Box 728  
Corbin, KY 40702

David C. Brown  
Stites & Harbison PLLC  
400 West Market Street, Suite 1800  
Louisville, KY 40202-3352

Kristin Henry  
Staff Attorney  
Sierra Club  
85 Second Street  
San Francisco, CA 94105

David J. Barberie, Attorney Senior  
Leslye M. Bowman, Director of Litigation  
Government Center (LFUCG)  
Department of Law  
200 East Main Street, Suite 1134  
Lexington, KY 40507

Shannon Fisk  
Senior Attorney  
Natural Resources Defense Council  
2 N. Riverside Plaza, Suite 2250  
Chicago, IL 60660

  
\_\_\_\_\_  
*Counsel for Kentucky Utilities Company*