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Commissioner

November 7, 2013

Jeff Derouen
Executive Director
Public Service Commission
P.O. Box 615
Frankfort, KY 40602

Re: Jeff Short v. Kentucky Utilities Company
Case No. 2013-00287

Dear Mr. Derouen:

Enclosed for filing is a chain of electronic mail messages between the parties and Commission Staff in relation to the informal conference held on October 25, 2013 and responses regarding the informal conference memorandum dated October 30, 2013.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jonathan Beyer".

Jonathan Beyer
Staff Attorney

Enclosure

Beyer, Jonathan (PSC)

From: Beyer, Jonathan (PSC)
Sent: Thursday, November 07, 2013 8:35 AM
To: 'geodespring@windstream.net'; Crosby, W. Duncan
Cc: Allyson Sturgeon; Raff, Richard (PSC); Riggs, Kendrick R.
Subject: RE: Informal Hearing Case No. 2013-00287

Dear Mr. Short & Mr. Crosby:

Thank you for your comments regarding the October 30, 2013 informal conference memorandum. Your remarks will be added to the case record.

Jonathan Beyer
Staff Attorney
Kentucky Public Service Commission
(502) 782-2581

-----Original Message-----

From: geodespring@windstream.net [mailto:geodespring@windstream.net]
Sent: Wednesday, November 06, 2013 1:02 PM
To: Beyer, Jonathan (PSC); Crosby, W. Duncan
Cc: Allyson Sturgeon; Raff, Richard (PSC); Riggs, Kendrick R.
Subject: RE: Informal Hearing Case No. 2013-00287

Mr. Beyer,

I concur with the "could" correction offered by KU. Thanks for your help in compiling and amending the memo. I have no further comments on its' content beyond our email discussions below.

Best Regards,
Jeff

---- "Crosby wrote:

> Dear Mr. Beyer:

>

> KU does not object to amending the IC memo to add the text Mr. Short drafted in his message below.

>

> And if KU may still offer a correction, please change the word "would" to "could" in the following sentence to reflect accurately KU's position: "KU stated that it does not believe the provisions are in conflict, but did agree that its application of the two provisions would bar an individual from maximizing their potential financial gain."

>

> Cordially,

>

> Duncan

>

>

> W. Duncan Crosby III

> Stoll Keenon Ogden PLLC

> 502-560-4263 (Direct Dial)

> 502-627-8754 (Direct Fax)

> 2000 PNC Plaza
> 500 West Jefferson Street
> Louisville, Kentucky 40202
> duncan.crosby@skofirm.com
>
> Louisville | Lexington | Frankfort | Owensboro | Morganfield | Evansville | Greater Pittsburgh | skofirm.com
>
>
>
>
>

> -----Original Message-----

> From: geodespring@windstream.net [mailto:geodespring@windstream.net]
> Sent: Wednesday, November 06, 2013 11:46 AM
> To: Beyer, Jonathan (PSC); Crosby, W. Duncan
> Cc: Allyson Sturgeon; Raff, Richard (PSC); Riggs, Kendrick R.
> Subject: RE: Informal Hearing Case No. 2013-00287

> Mr. Beyer,

> I might clarify point 3 in that my intention was not to have Chart 3 attached to the memo as a redundant record but to confirm that my position of record at the IC was that KUs agreement to the "conflict" (or whatever terminology is preferable) which I believe is exposed in Chart 3 would be the foundation of any potential agreement on the factual issues of the case which we were seeking at the IC. For example, my request would be satisfied if the partial sentence in the memo reading ".....Mr. Short queried KU as to whether it agreed that the NMS rider and the LEV rate are in conflict." was extended to include "and reiterated Chart 3 for group review as part of his query."

> I simply want to establish in the record that I have referenced Chart 3 at each opportunity I have had. It was submitted in my original letter of May 14, reiterated in my response letter of Aug. 28, and referenced again at the IC. Although Chart 3 is questionably of factual content since it contains projected data, it is the conflict itself which I believe Chart 3 exposes that I consider factual. I am looking for a better way to express the content and implications of Chart 3.

> Best Regards,

> Jeff

> ----- "Crosby wrote:

>> Dear Mr. Beyer:

>>

>> KU responds to Mr. Short's numbered requests as follows:

>>

>> 1. No objection.

>>

>> 2. KU does not believe an IC memo is the appropriate place for nuanced legal argumentation, and therefore objects to revising the memo as Mr. Short has requested concerning collateral estoppel.

>>

>> 3. Chart 3 is already in the record of this proceeding as an attachment to Mr. Short's complaint. Therefore, it is not necessary to attach it to the IC memo.

>>

>> Cordially,

>>

>> Duncan

>>

>>

>> W. Duncan Crosby III

>> Stoll Keenon Ogden PLLC

>> 502-560-4263 (Direct Dial)
>> 502-627-8754 (Direct Fax)
>> 2000 PNC Plaza
>> 500 West Jefferson Street
>> Louisville, Kentucky 40202
>> duncan.crosby@skofirm.com

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>> Louisville | Lexington | Frankfort | Owensboro | Morganfield | Evansville | Greater Pittsburgh | skofirm.com
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>> -----Original Message-----

>> From: geodespring@windstream.net [mailto:geodespring@windstream.net]
>> Sent: Tuesday, November 05, 2013 11:10 AM
>> To: Beyer, Jonathan (PSC); Crosby, W. Duncan
>> Cc: Allyson Sturgeon; Raff, Richard (PSC); Riggs, Kendrick R.
>> Subject: RE: Informal Hearing Case No. 2013-00287

>>
>> Mr. Beyer,
>> As I read the memorandum summary of the informal conference I feel that there are three points that were discussed that should be included in the record:

>> 1. When the subject was approached, KU advised the group that they currently have a customer that is participating in both Rate LEV and Rider NMS.

>> 2. After the issue was raised, KU agreed that the issue of my complaint regarding their crediting policy was not barred from consideration by collateral estoppel since their crediting policy is not mentioned in the Rate LEV Tariff, Rider NMS or in the KY Net Metering Statutes.

>> 3. Chart 3 of my original letter dated May 14 was reiterated as evidence of the conflict I identify. When I queried the KU group as to whether they agreed that their policy of time binning kWh credits rendered Rider NMS and Rate LEV in conflict, I submitted Chart 3 for their review as part of my question.

>>
>> If this email is not a proper vehicle to use in bringing my comments about the memorandum to light or if there is any issue of agreement that these points were covered at the informal conference as I express them in this email please let me know. Otherwise, please enter these points as part of the case record.

>> Best Regards,
>> Jeff Short

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>> ---- "Beyer wrote:
>>> Dear Mr. Short:

>>>
>>> As Mr. Bills is not a party to this case and due to KU's objection to his attendance, Mr. Bills may not attend the October 25, 2013 informal conference in this matter.

>>>
>>>
>>> Jonathan Beyer
>>> Staff Attorney
>>> Kentucky Public Service Commission
>>> (502) 782-2581

>>>
>>> -----Original Message-----
>>> From: Crosby, W. Duncan [mailto:duncan.crosby@skofirm.com]

>>> Sent: Monday, October 21, 2013 2:01 PM

>>> To: Raff, Richard (PSC)

>>> Cc: geodespring@windstream.net; Beyer, Jonathan (PSC); Raff, Richard (PSC); Allyson Sturgeon; Kendrick Riggs

>>> Subject: Re: Informal Hearing Case No. 2013-00287

>>>

>>> Dear Mr. Raff,

>>>

>>> The Commission has denied Mr. Bills intervention in this proceeding, stating that Mr. Bills is not a KU customer and does not have knowledge or expertise "directly relat[ing] to the issues of statutory construction and tariff interpretation as raised in this matter." Mr. Bills therefore cannot have a direct interest in this proceeding or claim relevant expertise. Moreover, this is a customer complaint matter between Mr. Short and KU to which Mr. Bills is neither a party in interest, nor is he counsel for Mr. Short. KU therefore does not see any reason for him to attend the IC and objects to his attendance.

>>>

>>> Cordially,

>>>

>>> Duncan

>>>

>>> Sent from my iPad

>>>

>>>> On Oct 18, 2013, at 6:52 PM, "Raff, Richard (PSC)" <Richard.Raff@ky.gov> wrote:

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>>>>

>>>> Dear Mr. Crosby,

>>>> My co-counsel, Jonathan Beyer, received the attached email from Mr. Short regarding next Friday's informal conference. As you know, informal conferences are not open to the public, but if all of the parties agree, we have in the past allowed non-parties to attend conferences. Please review and let us know whether you have an objection to Mr. Bills attending.

>>>> Richard.

>>>>

>>>>

>>>>

>>>> From: geodespring@windstream.net [geodespring@windstream.net]

>>>> Sent: Thursday, October 17, 2013 11:12 AM

>>>> To: Beyer, Jonathan (PSC)

>>>> Subject: Informal Hearing Case No. 2013-00287

>>>>

>>>> Mr. Beyer,

>>>> Would it be acceptable if I asked Josh Bills to accompany me at this hearing. I do not have a lawyer and I have no experience in this type of proceeding. Mr. Bills has had an interest in this case since I wrote the first letter back in May and has much broader experience on the issues involved than myself. As you know, he submitted a request to intervene in the case which was denied but the order states that he may "submit comments to the case file to be entered into the record" and also that he may "monitor the proceedings". Would it be acceptable that he monitor this informal proceeding in person? Please let me know your position on this.

>>>> Thanks,

>>>> Jeff

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