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Mr. Jeff DeRouen
Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, Kentucky 40602-0615

December 28, 2015

**RE: David Shouse, et al. v. Kentucky Utilities Company
Case No. 2015-00417**

Dear Mr. DeRouen:

Enclosed please find an original and ten (10) copies of the Motion to Dismiss For Failure to State a Claim Upon Which Relief Can Be Granted and Answer of Kentucky Utilities Company to the Complaint of David Shouse and Brian Shouse d/b/a Shouse Farms and Bryan Hendrickson d/b/a Hendrickson Grain and Livestock, LLP in the above-referenced docket.

Please contact me if you have any questions concerning this filing.

Sincerely,

Rick E. Lovekamp

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DEC 28 2015

PUBLIC SERVICE
COMMISSION

Kentucky Utilities Company
State Regulation and Rates
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DEC 28 2015

PUBLIC SERVICE
COMMISSION

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

DAVID SHOUSE AND BRIAN SHOUSE
D/B/A SHOUSE FARMS, AND BRYAN
HENDRICKSON D/B/A HENDRICKSON
GRAIN AND LIVESTOCK, LLP

COMPLAINANTS

v.

KENTUCKY UTILITIES COMPANY

DEFENDANT

CASE NO. 2015-00417

**MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM UPON WHICH RELIEF
CAN BE GRANTED AND ANSWER OF KENTUCKY UTILITIES COMPANY**

I. Motion to Dismiss

Kentucky Utilities Company ("KU" or the "Company"), by counsel, respectfully asks the Kentucky Public Service Commission ("Commission") to dismiss with prejudice the Verified Complaint of David Shouse and Brian Shouse d/b/a Shouse Farms, and Bryan Hendrickson d/b/a Hendrickson Grain and Livestock, LLP, ("Complainants") because it fails to state a claim upon which relief can be granted. The Complaint seeks refunds for service KU provided to Complainants, but nowhere does the Complaint allege that KU charged Complainants anything other than KU's Commission-approved rates. In addition, KU complied with all applicable notice requirements concerning the promulgation of the rates under which Complainants have taken service at all relevant times. Therefore, the filed-rate doctrine prohibits KU from providing, and prevents the Commission from ordering KU to provide, any of the requested "refund."¹ In addition, to the extent the Complaint asks the Commission to change the demand

¹ *In the Matter of: North Marshall Water District*, Case No. 95-107, Order at 2 (Ky. PSC Oct. 13, 1995).

rates contained in KU's Power Service rate schedule (Rate PS),² the Commission cannot provide the requested relief, which would amount to prohibited single-issue ratemaking, which the Commission has long and consistently held is impermissible. Moreover, the Commission approved KU's current rates—including Rate PS—less than six months ago in a proceeding in which Complainant David Shouse caused two sets of comments to be filed on precisely the same issues addressed in the Complaint,³ barring any requested rate change under principles of collateral estoppel. KU therefore respectfully asks the Commission to dismiss the Complaint with prejudice as failing to state any claim upon which the Commission can grant relief.

A. The filed-rate doctrine prohibits the Commission from granting Complainants' refund request because the Complaint does not allege that KU violated, and KU did not in fact violate, its tariff in serving or billing Complainants.

The only relief the Complaint explicitly requests is a refund (with interest and attorney's fees) that is precluded by the filed-rate doctrine. In Kentucky, the filed-rate doctrine is embodied in KRS 278.160, which "demands that a utility strictly adhere to its published rate schedules and not, either by agreement or conduct, depart from them."⁴ Therefore, any deviation from a utility's tariff filed with, and approved by, the Commission would violate the filed-rate doctrine,⁵ which the Commission has called the "bedrock of utility regulation."⁶ But nowhere does the Complaint allege that KU charged either Complainant anything other than KU's tariffed rates for the service Complainants received. Indeed, the bills attached to Complainant David Shouse's first public comment in KU's most recent base-rate case (which the Commission attached to its Order requiring KU to answer the instant Complaint) show that KU billed only the rates its

² Kentucky Utilities Company P.S.C. No. 17, Original Sheet Nos. 15-15.1. *See* Exhibit 1.

³ *In the Matter of: Application of Kentucky Utilities Company for an Adjustment of Its Electric Rates*, Case No. 2014-00371, Public Comments of David Shouse (filed May 1, 2015 and June 16, 2015).

⁴ Case No. 95-107, Order at 2.

⁵ *Keogh v. Chicago & Northwestern Ry.*, 260 U.S. 156, 163 (1922); *See also* Case No. 95-107, Order at 3.

⁶ Case No. 95-107, Order at 2.

Commission-approved tariff prescribed at all relevant times. (A copy of KU's then-applicable and current Rate PS tariff sheets is attached as Exhibit 1 hereto.) The Complaint certainly makes clear the Complainants' displeasure with KU's rates, and in particular the demand-rate structure of Rate PS. But a customer's dislike for a utility's rates is not a valid or sufficient ground for the Commission to grant the customer a refund; indeed, granting a refund where there is no evidence a utility has failed to follow its tariff would violate the filed-rate doctrine as set out in KRS 278.160. Therefore, because neither Complainant has alleged or provided any evidence that KU has ever deviated from its tariff in serving or billing either Complainant—and in fact KU has not done so—KRS 278.160 and the filed-rate doctrine prohibit the Commission from providing the Complainants' requested refund.

In addition, because the Commission cannot grant the requested refund, neither can it grant Complainants' request for interest on a refund.⁷

Finally, the Commission cannot grant Complainants' request for attorney's fees because, as the Commission has clearly and repeatedly stated, it has no jurisdiction to award attorney's fees.⁸

B. The long-standing prohibition against single-issue ratemaking and principles of collateral estoppel preclude making any changes to KU's Rate PS in this proceeding.

Although Complainants' request for relief does not explicitly ask the Commission to change KU's Rate PS, Paragraph No. 12 of the Complaint groundlessly alleges that the Rate PS demand charge provides a windfall or unjustly enriches KU, and that it is contrary to law.⁹

Taken in conjunction with the Complainants' request for "any and all other relief" the

⁷ *In the Matter of: An Investigation of Electric Rates of Louisville Gas and Electric Company to Implement a 25 Percent Disallowance of Trimble County Unit No. 1*, Case No. 10320, Order at 7 (Aug. 28, 1995).

⁸ *In the Matter of: Dr. Bart MacFarland v. Kentucky Utilities Company*, Case No. 97-012, Order at 2 (Jan. 21, 1997); See also, *In the Matter of: Jim Devers v. Kentucky Utilities Company*, Case No. 2008-00199, Order at 5 (Dec. 30, 2008) ("Lastly, the Commission is without jurisdiction to award compensatory damages and attorney fees.").

⁹ Complaint at 4.

Commission might grant,¹⁰ it is reasonable to infer that Complainants would welcome the Commission's resetting KU's demand charges to better suit Complainants' desires. But the Commission's long-standing prohibition against single-issue ratemaking and principles of collateral estoppel preclude the Commission from making any changes to KU's Rate PS in this proceeding.

1. Any change to Rate PS resulting from this proceeding would constitute impermissible single-issue ratemaking.

The Commission has long and repeatedly condemned and prohibited single-issue ratemaking, which prohibition precludes the Commission from changing Rate PS in this proceeding.¹¹ More than 20 years ago the Commission explained the rationale for its general prohibition against single-issue ratemaking:

The rule against single-issue ratemaking recognizes that the revenue formula is designed to determine the revenue requirement based on the aggregate costs and demand of the utility. Therefore, it would be improper to consider changes to components of the revenue requirement in isolation. Often times a change in one item of the revenue formula is offset by a corresponding change in another component of the formula.¹²

To address Complainants' opposition to the current structure of KU's Rate PS demand rates outside the context of a general rate proceeding would ignore the impact that changing one rate would have on KU's revenue requirement, as well as its impact on KU's many other Rate PS customers who are not parties to this proceeding and have had no notice of it or opportunity to

¹⁰ *Id.*

¹¹ See, e.g., *In the Matter of: The Application of Kentucky Utilities Company for Approval of New Rate Tariffs Containing a Mechanism for the Pass-Through of MISO-Related Revenues and Costs Not Already Included in Existing Base Rates*, Case No. 2004-00460, Order at 9 (April 15, 2005).

¹² *In the Matter of: Big Rivers Electric Corporation's Proposed Mechanism to Credit Customers Amounts Recovered in Judicial Proceedings Involving Fuel Procurement Contracts*, Case No. 94-453, Order at 7 (February 21, 1997) (quoting *Business & Professional People for the Public Interest v. Illinois Commerce Comm'n*, 585 N.E.2d 1032, 1061 (Ill. 1991)). In the *Business & Professional People* case, which concerned recovery of capital costs incurred in building nuclear plants, the court held that it would be single-issue rate-making to allow the utility to recover deferred charges without also accounting for offsetting decreased operating expenses combined with higher revenues from increased demand. *Id.* at 1062.

participate in it. Moreover, the Commission recently addressed all of KU's rate schedules—including Rate PS—and KU's revenue requirement in Case No. 2014-00371, a proceeding in which Complainant David Shouse twice raised the same issue raised in this Complaint. Therefore, there is simply no justification for violating—and are many good reasons not to violate—the Commission's general prohibition against single-issue ratemaking in this proceeding by ordering changes to KU's Rate PS.

2. Collateral estoppel precludes the Commission from ordering changes to Rate PS in this proceeding.

Collateral estoppel precludes the Commission from ordering changes to Rate PS in this proceeding because the Commission had a full opportunity to consider Complainants' arguments against KU's Rate PS demand rates in KU's most recent base rate case.¹³ In that proceeding, Complainant David Shouse twice submitted the same arguments against Rate PS demand rates that the Complainants have advanced in their Complaint in this proceeding.¹⁴ The doctrine of *res judicata* bars the adjudication of issues that have already been litigated or should have been litigated in a prior case between the same or similar parties.¹⁵ It applies to quasi-judicial acts of an administrative agency acting within its jurisdiction unless a significant change of conditions or circumstances has occurred between the administrative proceedings.¹⁶ *Res judicata* has two

¹³ See, e.g., *In the Matter of: The Joint Petition of Kentucky-American Water Company, Thames Water Aqua Holdings GmbH, RWE Aktiengesellschaft, Thames Water Aqua US Holdings, Inc., Apollo Acquisition Company and American Water Works Company, Inc. for Approval of a Change of Control of Kentucky-American Water Company*, Case No. 2002-00317, Order at 10 (Oct. 16, 2002) (finding that the principles of *res judicata* bar the Commission "from considering issues already litigated and addressed . . . unless conditions or circumstances have changed such that the Commission should reconsider these issues"). The Complainants do not allege any change in circumstances.

¹⁴ Case No. 2014-00371, Comments of David Shouse (filed May 1, 2015 and June 16, 2015).

¹⁵ 47 Am. Jur.2d *Judgments* § 464.

¹⁶ *Bank of Shelbyville v. Peoples Bank of Bagdad*, 551 S.W.2d 234, 236 (Ky.1977); *Williamson v. Public Service Commission*, 174 S.W.2d 526, 529 (Ky.1943); *Cardinal Bus Lines v. Consolidated Coach Corp.*, 72 S.W.2d 7 (Ky. 1934). The Commission has applied this doctrine to dismiss complaints. See, e.g., *Orbin and Margie Brock v. Western Rockcastle Water Association*, Case No. 97-311, Order (Feb. 25, 1998); *Dovie Sears v. Salt River Water District and Kentucky Turnpike Water District*, Case No. 91-277, Order (June 30, 1992). See also Case No. 2002-00317, Order at 10.

subparts: claim preclusion and issue preclusion.¹⁷ Issue preclusion, which is also known as collateral estoppel, bars further litigation when the issues in the two proceedings are the same, the adjudicator in the previous proceeding reached a final decision or judgment on the merits of the case, the issue in the prior action was necessary to the adjudicator's final decision, and the estopped party had a fair opportunity to litigate the issue.¹⁸

All of the elements of collateral estoppel are present in this case, barring the Complainants' arguments and implicit request concerning Rate PS. First, the reasonableness of KU's demand charges under Rate PS was addressed in Case No. 2014-00371. Complainant David Shouse twice raised the issue in comments filed with the Commission in that proceeding;¹⁹ indeed, those comments, presented both *pro se* and by counsel, present identical issues concerning KU's Rate PS demand rates as those Complainants present here. For example, the June 11, 2015 letter Complainant David Shouse's counsel sent to the Commission in Case No. 2014-00371 stated:

It is understood and appreciated the necessity for certain demand charges; however, the seasonal work, i.e., farming, and the utilities associated with farming that are operated on a very limited seasonal basis enable KU to realize a windfall situation with respect to the customer that is, as a practical legal term, unjust enrichment, concerning the electrical charges made against Mr. Shouse.²⁰

Paragraph No. 12 of the Complaint in this proceeding is substantively identical:

Additionally, on opinion and belief, the 50 percent minimum demand rate equates to a sum substantially greater over the course of the year than the utilities that are actually used if paid for directly; therefore, resulting in a windfall for Defendant and/or

¹⁷ *Yeoman v. Commonwealth*, 983 S.W.2d 459, 464 (Ky.1998).

¹⁸ *Id.*

¹⁹ Case No. 2014-00371, Comments of David Shouse (filed May 1, 2015 and June 16, 2015).

²⁰ Case No. 2014-00371, Comments of David Shouse (filed June 16, 2015).

otherwise unjustly enriching the Defendant, and/or contrary to the intent and spirit of the statutes and regulations.²¹

Moreover, the Commission's June 25, 2015 letter to Mr. Shouse's counsel states clearly that the Commission understood Mr. Shouse's concern was about KU's demand rates, and that it would take into account Mr. Shouse's concerns when rendering a final order in that proceeding:

The Commission acknowledges receipt on June 16, 2015 of your letter, a copy of which is attached hereto, addressed to one of our rate analysts, regarding the above referenced case and your client's objection to the amount of demand charges he pays to Kentucky Utilities Company for the seasonal operation of his farming activities. Your letter is being treated as an official protest and will be placed in the case file of this proceeding. The Commission will take your concerns into consideration in its review and decision in this matter.²²

Therefore, the first requirement of collateral estoppel, namely that the issues be identical in both proceedings in question, is clearly met here.

Second, the Commission clearly issued a final order on the merits of KU's most recent base-rate case, Case No. 2014-00371. In its order, the Commission emphasized that it had closely reviewed the schedule of rates in the proffered settlement agreement in that proceeding, declaring that it could not "defer to the decision of the parties as to what constitutes 'fair, just and reasonable' rates," but must review the entire record and apply its "expertise to make an independent decision as to the level of rates (including terms and conditions of service) that should be approved."²³ The Commission noted that it had "performed its traditional ratemaking analysis, which consists of reviewing the reasonableness of each revenue and expense adjustment proposed or justified by the record, along with a determination of a fair return on

²¹ Complaint at 4.

²² Case No. 2014-000371, Correspondence from Commission Staff to David Shouse (June 25, 2015).

²³ Case No. 2014-00371, Order at 7 (June 30, 2015).

equity.”²⁴ Based upon this review, the Commission concluded that the settlement was in the public interest and would produce a revenue requirement and base rates consistent with the Commission’s traditional ratemaking analysis.²⁵ It found that the rates set forth in the agreement were “fair, just and reasonable.”²⁶ In addition, as the quote in the paragraph above from the Commission’s June 25, 2015 letter to Complainant David Shouse’s counsel makes clear, the Commission took into account Mr. Shouse’s concerns about KU’s demand rates when issuing its final order in that case. Thus, the Commission clearly did issue a final order on the merits of Case No. 2014-00371, and it did so accounting for the same concerns the Complaint expresses in this proceeding with regard to KU’s demand rates.

Third, the reasonableness of KU’s Rate PS, including its demand rates, was a necessary component of the Commission’s decision in Case No. 2014-00371. KRS 278.030 permits utilities to assess only “fair, just, and reasonable rates” for their services, and prohibits the Commission from authorizing any rate that is not “fair, just, and reasonable.” Therefore, to approve the rates and charges set forth in the settlement agreement, the Commission necessarily determined the reasonableness of each rate, including Rate PS. It could not otherwise have performed its statutory obligations. Moreover, as shown in the paragraph above, the Commission applied its traditional ratemaking analysis to determine if KU’s proposed rates were fair, just, and reasonable, and it explicitly informed Complainant David Shouse’s counsel that it would consider Mr. Shouse’s concerns about KU’s demand rates. So the third requirement of collateral estoppel, namely that the issue in question have been necessary to the previous adjudication, is met here.

²⁴ *Id.*

²⁵ *See id.*

²⁶ *Id.* at 12.

Finally, concerning the fourth element of collateral estoppel, Complainants had a fair opportunity to litigate the reasonableness of the Company's demand charges under Rate PS. Although Complainants did not intervene in Case No. 2014-00371, Complainant David Shouse submitted two sets of comments—one *pro se* and one by counsel—on the very issue addressed in their Complaint in this proceeding, as noted by the Commission in its Order to Answer.²⁷ Moreover, their interests were represented by the Attorney General in those proceedings. “KRS 367.150(8)(a) makes the Attorney General's Consumer Protection Division the representative of all customers of a particular utility whenever that office chooses to intervene in a rate case before the PSC.”²⁸ The Attorney General intervened and actively participated in the proceeding and was a signatory to the settlement agreement.

Given that one of the Complainants twice raised the issue of the reasonableness of the Company's demand charges under Rate PS in Case No. 2014-00371 and that the Commission approved KU's rates even after taking into account those comments, the doctrine of *res judicata*, and particularly collateral estoppel, bars Complainants from now re-litigating that issue through the complaint process, and further bars the Commission from granting Complainants' implicitly requested relief of ordering changes to KU's Rate PS demand rates in this proceeding.

WHEREFORE, for all of the reasons set forth above, Kentucky Utilities Company respectfully requests that the Commission dismiss the Complaint with prejudice for failure to state a claim upon which relief can be granted and that this matter be closed on the Commission's docket.

²⁷ Case No. 2015-00417, Order to Answer of December 18, 2015 at 1.

²⁸ *The Complaint of the City of Barbourville et. al vs. Delta Natural Gas Company, Inc.*, Case No. 8496, Order at 2 (May 5, 1982). See also *State ex rel. Public Service Comm'n v. Boone Circuit Court*, 138 N.E.2d 4, 7 (Ind. 1956) (“Every rate payer, whether or not he actually intervenes or participates in a rate proceeding, is bound by such proceeding when instituted after notice as provided by law. If there is no intervention or active participation, his interest, nevertheless, is represented by the Public Counselor”).

II. Answer

In accordance with the Commission's Order of December 18, 2015, in the above-captioned proceeding, KU respectfully submits this Answer to the Verified Complaint of the Complainants, David Shouse and Brian Shouse d/b/a Shouse Farms, and Bryan Hendrickson d/b/a Hendrickson Grain and Livestock, LLP, filed on November 19, 2015. In support of its Answer, and in response to the specific averments contained in said Verified Complaint, KU states as follows:

1. With regards to the allegations contained in paragraph (1) of the Complaint, KU states as follows:

a. In response to the first sentence of paragraph (1) of the Complaint, KU is without sufficient knowledge to admit or deny Complainant's residency status and principal place of business.

b. In response to the second sentence of paragraph (1) of the Complaint, KU admits that the customer account and address information provided are correct.

2. With regards to the allegations contained in paragraph (2) of the Complaint, KU states as follows:

a. In response to the first sentence of paragraph (2) of the Complaint, KU is without sufficient knowledge to admit or deny Complainant's residency status and principal place of business.

b. In response to the second sentence of paragraph (2) of the Complaint, KU admits that the customer account number provided has been in the name of Complainant Hendrickson, but KU has not yet issued a bill in the name of Hendrickson Grain and Livestock, LLP.

3. Concerning the allegations of paragraph (3), KU states that its ultimate corporate parent is PPL Corp., and that KU's principal business address is Kentucky Utilities Company, One Quality Street, Lexington, Kentucky 40507.

4. KU admits the allegations contained in paragraph (4) of the Complaint.

5. KU is without sufficient knowledge to admit or deny the allegations contained in paragraphs (5) and (6) of the Complaint.

6. With regard to the allegations in paragraphs (7) and (8) of the Complaint, KU states that it agreed to construct and did construct line extensions to serve Complainants, and Complainants paid for such line extensions, in accordance with KU's Line Extension Plan (Sheet Nos. 106 *et seq.*).²⁹

7. KU is without sufficient knowledge to admit or deny the allegations contained in paragraph (9) of the Complaint.

8. In response to the allegations contained in paragraph (10) of the Complaint, KU admits that it has at all relevant times charged Complainants for service under KU's Commission-approved Standard Rate Power Service (Rate PS), which includes demand charges where "the monthly billing demand is the greater of (a) the maximum measured load in the current billing period but not less than 50 kW for secondary service or 25 kW for primary service, or (b) a minimum of 50% of the highest billing demand in the preceding eleven (11) monthly billing periods, or (c) a minimum of 60% of the contract capacity based on the maximum expected load on the system or on facilities specified by Customer."³⁰ KU denies that the Complainants were charged under Rate PS for any part of any line extension requested or paid for by Complainants.

²⁹ Kentucky Utilities Company P.S.C. No. 17, Original Sheet Nos. 106-106.5. A copy of the relevant tariff pages is attached hereto as Exhibit 2.

³⁰ Kentucky Utilities Company P.S.C. No. 17, Original Sheet Nos. 15-15.1. *See* Exhibit 1.

9. In response to the allegations contained in paragraph (11) of the Complaint, KU denies that charges under Rate PS are calculated to recover any of the cost of the line extensions requested or paid for by Complainants.

10. In response to the allegations contained in paragraph (12) of the Complaint, KU denies that the Rate PS demand charges result in a “windfall” to KU, unjustly enrich KU, or are “contrary to the intent and spirit of the statutes and regulations.” KU’s Commission-approved Rate PS comprises charges designed to recover KU’s costs of providing service to its customers. Indeed, the Commission most recently issued an order approving KU’s Rate PS, including its demand-rate structure, less than six months ago in Case No. 2014-00371.³¹

FIRST AFFIRMATIVE DEFENSE

The Complaint fails to set forth any claim upon which relief can be granted by this Commission and, therefore should be dismissed with prejudice. Complainants fail to set forth a *prima facie* case that KU has violated its tariff or any statute or Commission regulation, and the Complaint should be dismissed for that reason. At all relevant times Complainants have taken service from KU under a Commission-approved rate schedule for which Complainants were eligible. At all relevant times KU has billed Complainants for the correct amounts for service under the Complainants’ applicable rate schedule. Finally, KU complied with all applicable notice requirements concerning the promulgation of the rates under which Complainants have taken service at all relevant times.

KU has strictly adhered to its tariff and breached no duty to Complainants (a copy of relevant current and past pages of KU’s tariff is attached hereto as Exhibit 1). At all relevant times KU has posted a copy of its current tariff on its website, which is available to all customers

³¹ Case No. 2014-000371, Order (June 30, 2015).

at all times, and at its business offices. In addition, to the best of KU's information and belief, at all relevant times KU's current tariff has been available on the Commission's website.

At all relevant times KU's tariff has contained the above-cited Line Extension Plan and Rate PS. These two Commission-approved tariff provisions operate independently; the Complainants paid for their requested line extension in accordance with KU's Commission-approved Line Extension Plan, and the Complainants paid for their electric service in accordance with KU's Commission-approved Rate PS.

KU is legally obligated to refuse Complainants' refund request. KU may not deviate from its tariff filed with and approved by the Commission; doing so would violate the filed-rate doctrine,³² which the Commission has stated is the "bedrock of utility regulation."³³ The filed-rate doctrine is embodied in KRS 278.160, which "demands that a utility strictly adhere to its published rate schedules and not, either by agreement or conduct, depart from them."³⁴

SECOND AFFIRMATIVE DEFENSE

The doctrine of collateral estoppel bars any attack against KU's Rate PS demand rates in this proceeding. First, Complainant David Shouse raised and the Commission addressed in Case No. 2014-00371 the same arguments Complainants raise against KU's Rate PS demand charges in this proceeding. Second, the Commission closely reviewed KU's rates in Case No. 2014-00371 and found that the rates set forth in the agreement were "fair, just and reasonable."³⁵ Third, the reasonableness of KU's Rate PS—including its demand rates—was a necessary component of the Commission's decision in Case No. 2014-00371. KRS 278.030 permits the Company to assess only "fair, just, and reasonable rates" for their services and prohibits the

³² *Keogh v. Chicago & Northwestern Ry.*, 260 U.S. 156, 163 (1922); *See also* Case No. 95-107, Order at 3 (Oct. 13, 1995).

³³ Case No. 95-107, Order at 2.

³⁴ *Id.*

³⁵ Case No. 2014-00371, Order at 12 (June 30, 2015).

Commission from authorizing any rate that is not “fair, just, and reasonable.” To approve the rates and charges set forth in the settlement agreement, the Commission necessarily determined the reasonableness of each rate, including Rate PS. As to the fourth element of collateral estoppel, Complainants had fair opportunity to litigate the reasonableness of KU’s demand charges under Rate PS. Although Complainants did not intervene in Case No. 2014-00371, Complainant David Shouse submitted two sets of comments on the very issue addressed in the Complaint in this proceeding.³⁶ Moreover, Complainants’ interests were represented by the Attorney General in that proceeding; the Attorney General intervened and actively participated in the proceeding, and was a signatory to the settlement agreement that the Commission subsequently carefully reviewed and approved.³⁷ Complainants are therefore collaterally estopped from attacking KU’s Rate PS demand rates or other charges thereunder in this proceeding.

THIRD AFFIRMATIVE DEFENSE

The Commission has long and repeatedly condemned and prohibited single-issue ratemaking, which prohibition precludes the Commission from changing Rate PS in this proceeding.³⁸ More than 20 years ago the Commission explained the rationale for its general prohibition against single-issue ratemaking:

The rule against single-issue ratemaking recognizes that the revenue formula is designed to determine the revenue requirement based on the aggregate costs and demand of the utility. Therefore, it would be improper to consider changes to components of the revenue requirement in isolation. Often times a change in one item

³⁶ Case No. 2015-00417, Order to Answer of December 18, 2015 at 1.

³⁷ Case No. 2014-00371, Order (June 30, 2015).

³⁸ Case No. 2004-00460, Order at 9 (April 15, 2005).

of the revenue formula is offset by a corresponding change in another component of the formula.³⁹

To address Complainants' opposition to the current structure of KU's Rate PS demand rates outside the context of a general rate proceeding would ignore the impact that changing one rate would have on KU's revenue requirement, as well as its impact on KU's many other Rate PS customers who are not parties to this proceeding and have had no notice of it or opportunity to participate in it. Moreover, the Commission recently addressed all of KU's rate schedules—including Rate PS—and KU's revenue requirement in Case No. 2014-00371, a proceeding in which Complainant David Shouse twice raised the same issue raised in this Complaint. Therefore, the Commission's general prohibition against single-issue ratemaking precludes ordering changes to KU's Rate PS in this proceeding.

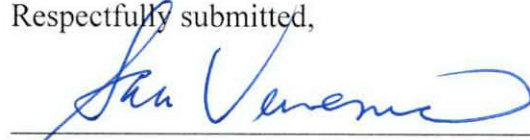
WHEREFORE, Kentucky Utilities Company respectfully asks the Commission to issue an Order:

1. Dismissing the Verified Complaint with prejudice;
2. Granting KU any and all other relief to which it may be entitled; and
3. Closing and removing this matter from the Commission's docket.

³⁹ *In the Matter of: Big Rivers Electric Corporation's Proposed Mechanism to Credit Customers Amounts Recovered in Judicial Proceedings Involving Fuel Procurement Contracts*, Case No. 94-453, Order at 7 (February 21, 1997) (quoting *Business & Professional People for the Public Interest v. Illinois Commerce Comm'n*, 585 N.E.2d 1032, 1061 (Ill. 1991)). In the *Business & Professional People* case, which concerned recovery of capital costs incurred in building nuclear plants, the court held that it would be single-issue rate-making to allow the utility to recover deferred charges without also accounting for offsetting decreased operating expenses combined with higher revenues from increased demand. *Id.* at 1062.

Dated: December 28, 2015

Respectfully submitted,



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*Counsel for Defendant,
Kentucky Utilities Company*

CERTIFICATE OF SERVICE

This is to certify that a copy of the above and foregoing Motion to Dismiss and Answer was served upon the following person by first class, United States Mail, postage prepaid, on the 28th day of December, 2015:

Zack N. Womack
Womack Law Office, LLC
304 First Street
P.O. Box 637
Henderson, KY 42419-0637

A handwritten signature in blue ink, appearing to read "Jay Vanover", is written over a horizontal line.

*Counsel for Defendant,
Kentucky Utilities Company*

KU EXHIBIT 1

Kentucky Utilities Company

P.S.C. No. 17, Original Sheet No. 15

Standard Rate

**PS
POWER SERVICE**

APPLICABLE

In all territory served.

AVAILABILITY OF SERVICE

This rate schedule is available for secondary or primary service.

Service under this schedule will be limited to customers whose 12-month-average monthly minimum secondary loads exceed 50 kW and whose 12-month-average monthly maximum loads do not exceed 250 kW. Secondary or primary customers receiving service under PSC 13, Fourth Revision of Original Sheet No. 20, Large Power Service, or Fourth Revision of Original Sheet No. 30, Mine Power Service, as of February 6, 2009, with loads not meeting these criteria will continue to be served under this rate at their option. If Customer is taking service under this rate schedule and subsequently elects to take service under another rate schedule, Customer may not again take service under this rate schedule unless and until Customer meets the Availability requirements that would apply to a new customer.

RATE

	Secondary	Primary
Basic Service Charge per month:	\$90.00	\$200.00
Plus an Energy Charge per kWh of:	\$ 0.03572	\$ 0.03446
Plus a Demand Charge per kW of:		
Summer Rate:		
(Five Billing Periods of May through September)	\$17.55	\$ 18.01
Winter Rate:		
(All other months)	\$15.45	\$ 15.91

Where the monthly billing demand is the greater of:

- a) the maximum measured load in the current billing period but not less than 50 kW for secondary service or 25 kW for primary service, or
- b) a minimum of 50% of the highest billing demand in the preceding eleven (11) monthly billing periods, or
- c) a minimum of 60% of the contract capacity based on the maximum expected load on the system or on facilities specified by Customer.

DATE OF ISSUE: July 10, 2015

DATE EFFECTIVE: July 1, 2015

ISSUED BY: /s/ Edwin R. Staton, Vice President
State Regulation and Rates
Lexington, Kentucky

Issued by Authority of an Order of the
Public Service Commission in Case No.
2014-00371 dated June 30, 2015

Standard Rate**PS
POWER SERVICE****ADJUSTMENT CLAUSES**

The bill amount computed at the charges specified above shall be increased or decreased in accordance with the following:

Fuel Adjustment Clause	Sheet No. 85
Off-System Sales Adjustment Clause	Sheet No. 88
Demand-Side Management Cost Recovery Mechanism	Sheet No. 86
Environmental Cost Recovery Surcharge	Sheet No. 87
Franchise Fee Rider	Sheet No. 90
School Tax	Sheet No. 91

DETERMINATION OF MAXIMUM LOAD

The load will be measured and will be the average kW demand delivered to the customer during the 15-minute period of maximum use during the month.

Company reserves the right to place a kVA meter and base the billing demand on the measured kVA. The charge will be computed based on the measured kVA times 90 percent of the applicable kW charge.

In lieu of placing a kVA meter, Company may adjust the measured maximum load for billing purposes when the power factor is less than 90 percent in accordance with the following formula: (BASED ON POWER FACTOR MEASURED AT THE TIME OF MAXIMUM LOAD).

$$\text{Adjusted Maximum kW Load for Billing Purposes} = \frac{\text{Maximum kW Load Measured} \times 90\%}{\text{Power Factor (in percent)}}$$

DUE DATE OF BILL

Customer's payment will be due within sixteen (16) business days (no less than twenty-two (22) calendar days) from the date of the bill.

LATE PAYMENT CHARGE

If full payment is not received by the due date of the bill, a 1% late payment charge will be assessed on the current month's charges.

TERM OF CONTRACT

Contracts under this rate shall be for an initial term of one (1) year, remaining in effect from month to month thereafter until terminated by notice of either party to the other.

TERMS AND CONDITIONS

Service will be furnished under Company's Terms and Conditions applicable hereto.

DATE OF ISSUE: July 10, 2015**DATE EFFECTIVE:** July 1, 2015**ISSUED BY:** /s/ Edwin R. Staton, Vice President
State Regulation and Rates
Lexington, Kentucky

Issued by Authority of an Order of the
Public Service Commission in Case No.
2014-00371 dated June 30, 2015

Kentucky Utilities Company

P.S.C. No. 16, Original Sheet No. 15

Standard Rate

PS POWER SERVICE

APPLICABLE

In all territory served.

AVAILABILITY OF SERVICE

This rate schedule is available for secondary or primary service.

Service under this schedule will be limited to customers whose 12-month-average monthly minimum secondary loads exceed 50 kW and whose 12-month-average monthly maximum loads do not exceed 250 kW. Secondary or primary customers receiving service under PSC 13, Fourth Revision of Original Sheet No. 20, Large Power Service, or Fourth Revision of Original Sheet No. 30, Mine Power Service, as of February 6, 2009, with loads not meeting these criteria will continue to be served under this rate at their option. If Customer is taking service under this rate schedule and subsequently elects to take service under another rate schedule, Customer may not again take service under this rate schedule unless and until Customer meets the Availability requirements that would apply to a new customer.

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RATE

	Secondary	Primary	
Basic Service Charge per month:	\$90.00	\$170.00	I
Plus an Energy Charge per kWh of:	\$ 0.03340	\$ 0.03338	I
Plus a Demand Charge per kW of:			
Summer Rate:			
(Five Billing Periods of May through September)	\$14.33	\$ 14.31	I
Winter Rate:			
(All other months)	\$12.23	\$ 12.21	I

Where the monthly billing demand is the greater of:

- the maximum measured load in the current billing period but not less than 50 kW for secondary service or 25 kW for primary service, or
- a minimum of 50% of the highest billing demand in the preceding eleven (11) monthly billing periods, or
- a minimum of 60% of the contract capacity based on the maximum expected load on the system or on facilities specified by Customer.

ADJUSTMENT CLAUSES

The bill amount computed at the charges specified above shall be increased or decreased in accordance with the following:

Fuel Adjustment Clause
Demand-Side Management Cost Recovery Mechanism
Environmental Cost Recovery Surcharge
Franchise Fee Rider
School Tax

Date of Issue: January 7, 2013

Date Effective: January 1, 2013

Issued By: Lonnie E. Bellar, Vice President, State Regulation and Rates, Lexington, Kentucky

Issued by Authority of an Order of the KPSC in Case No. 2012-00221 dated December 20, 2012

Sheet No. 85 KENTUCKY PUB. SERVICE COMMISSION
Sheet No. 87 JENNIFER DEROUEN STATE REG. DIRECTOR
Sheet No. 91 TARIFF BRANCH
<i>Brent Hittley</i>
1/1/2013 PURSUANT TO 807 KAR 5:011 SECTION 9 (1)

Kentucky Utilities Company

P.S.C. No. 16, Original Sheet No. 15.1

Standard Rate

PS
POWER SERVICE

DETERMINATION OF MAXIMUM LOAD

The load will be measured and will be the average kW demand delivered to the customer during the 15-minute period of maximum use during the month.

Company reserves the right to place a kVA meter and base the billing demand on the measured kVA. The charge will be computed based on the measured kVA times 90 percent of the applicable kW charge.

In lieu of placing a kVA meter, Company may adjust the measured maximum load for billing purposes when the power factor is less than 90 percent in accordance with the following formula: (BASED ON POWER FACTOR MEASURED AT THE TIME OF MAXIMUM LOAD).

Adjusted Maximum kW Load for Billing Purposes = $\frac{\text{Maximum kW Load Measured} \times 90\%}{\text{Power Factor (in percent)}}$

DUE DATE OF BILL

Customer's payment will be due within sixteen (16) business days (no less than twenty-two (22) calendar days) from the date of the bill.

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LATE PAYMENT CHARGE

If full payment is not received by the due date of the bill, a 1% late payment charge will be assessed on the current month's charges.

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TERM OF CONTRACT

Contracts under this rate shall be for an initial term of one (1) year, remaining in effect from month to month thereafter until terminated by notice of either party to the other.

TERMS AND CONDITIONS

Service will be furnished under Company's Terms and Conditions applicable hereto.

Date of Issue: January 7, 2013

Date Effective: January 1, 2013

Issued By: Lonnie E. Bellar, Vice President, State Regulation and Rates, Lexington, Kentucky

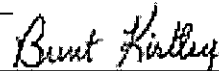


Issued by Authority of an Order of the KPSC in Case No. 2012-00224 dated December 20, 2012

KENTUCKY
PUBLIC SERVICE COMMISSION

JEFF R. DEROUEN
EXECUTIVE DIRECTOR

TARIFF BRANCH



EFFECTIVE
1/1/2013

PURSUANT TO 807 KAR 5:011 SECTION 9 (1)

KU EXHIBIT 2

Kentucky Utilities Company

P.S.C. No. 17, Original Sheet No. 106

TERMS AND CONDITIONS

Line Extension Plan

A. AVAILABILITY

In all territory served by where Company does not have existing facilities to meet Customer's electric service needs.

B. DEFINITIONS

- 1) "Company" shall mean Kentucky Utilities Company.
- 2) "Customer" shall mean the applicant for service. When more than one electric service is requested by an applicant on the same extension, such request shall be considered one customer under this plan when the additional service request(s) is only for incidental or minor convenience loads or when the applicant for service is the developer of a subdivision.
- 3) "Line Extension" shall mean the single phase facilities required to serve Customer by the shortest route most convenient to Company from the nearest existing adequate Company facilities to Customer's delivery point, approved by Company, and excluding transformers, service drop, and meters, if required and normally provided to like customers.
- 4) "Permanent Service" shall mean service contracted for under the terms of the applicable rate schedule but not less than one year and where the intended use is not seasonal, intermittent, or speculative in nature.
- 5) "Commission" shall mean the Public Service Commission of Kentucky.

C. GENERAL

- 1) All extensions of service will be made through the use of overhead facilities except as provided in these rules.
- 2) Customer requesting service which requires an extension(s) shall furnish to Company, at no cost, properly executed easement(s) for right-of-way across Customer's property to be served.
- 3) Customer requesting extension of service into a subdivision, subject to the jurisdiction of a public commission, board, committee, or other agency with authority to zone or otherwise regulate land use in the area and require a plat (or Plan) of the subdivision, Customer shall furnish, at no cost, Company with the plat (or plan) showing street and lot locations with utility easement and required restrictions. Plats (or plans) supplied shall have received final approval of the regulating body and recorded in the office of the appropriate County Court Clerk when required. Should no regulating body exist for the area into which service is to be extended, Customer shall furnish Company the required easement.
- 4) The title to all extensions, rights-of way, permits, and easements shall be and remain with Company.

DATE OF ISSUE: July 10, 2015

DATE EFFECTIVE: July 1, 2015

ISSUED BY: /s/ Edwin R. Staton, Vice President
State Regulation and Rates
Lexington, Kentucky

Issued by Authority of an Order of the
Public Service Commission in Case No.
2014-00371 dated June 30, 2015

Kentucky Utilities Company

P.S.C. No. 17, Original Sheet No. 106.1

TERMS AND CONDITIONS

Line Extension Plan

C. GENERAL (continued)

- 5) Customer must agree in writing to take service when the extension is completed and have Customer's building or other permanent facility wired and ready for connection.
- 6) Nothing herein shall be construed as preventing Company from making electric line extensions under more favorable terms than herein prescribed provided the potential revenue is of such amount and permanency as to warrant such terms and render economically feasible the capital expenditure involved and provided such extensions are made to other customers under similar conditions.
- 7) Company may require a non-refundable deposit in cases where Customer does not have a real need or in cases where the estimated revenue does not justify the investment.
- 8) Company shall not be obligated to extend its lines in cases where such extensions, in the good judgment of Company, would be infeasible, impractical, or contrary to good engineering or operating practice, unless otherwise ordered by Commission.

D. NORMAL LINE EXTENSIONS

- 1) In accordance with 807 KAR 5:041, Section 11(1), Company will provide, at no cost, a line extension of up to 1,000 feet to Customer requesting permanent service where the installed transformer capacity does not exceed 25 kVA.
- 2) Where Customer requires poly-phase service or transformer capacity in excess of 25 kVA and Company provides such facilities, Company may require Customer to pay, in advance, a non-refundable amount for the additional cost to Company in providing facilities above that required in NORMAL LINE EXTENSIONS ¶ 1 above.

E. OTHER LINE EXTENSIONS

- 1) In accordance with 807 KAR 5:041, Section 11(2), Company shall provide to Customer requesting permanent service a line extension in excess of 1,000 feet per customer but Company may require the total cost of the footage in excess of 1,000 feet per customer, based on the average cost per foot of the total extension, be deposited with Company by Customer.
- 2) Each year for ten (10) years Company shall refund to Customer, who made the deposit for excess footage, the cost of 1,000 feet of extension for each additional customer connected during that year directly to the original extension for which the deposit was made.
- 3) Each year for ten (10) years Company shall refund to Customer, who made the deposit for excess footage, the cost of 1,000 feet of extension less the length of the lateral or extension for each additional customer connected during that year by a lateral or extension to the original extension for which the deposit was made.
- 4) The total amount refunded shall not exceed the amount originally deposited nor shall any refund be made after the ten (10) year refund period ends.

DATE OF ISSUE: July 10, 2015

DATE EFFECTIVE: July 1, 2015

ISSUED BY: /s/ Edwin R. Staton, Vice President
State Regulation and Rates
Lexington, Kentucky

Issued by Authority of an Order of the
Public Service Commission in Case No.
2014-00371 dated June 30, 2015

Kentucky Utilities Company

P.S.C. No. 17, Original Sheet No. 106.2

TERMS AND CONDITIONS

Line Extension Plan

E. OTHER LINE EXTENSIONS (continued)

- 5) Where Customer requires poly-phase service or transformer capacity above 25 kVA per customer and Company provides such facilities, Company may require Customer to pay, in advance, a non-refundable amount for the additional cost to Company in providing facilities above that required in OTHER LINE EXTENSIONS ¶ 1 above.

F. OVERHEAD LINE EXTENSIONS TO SUBDIVISIONS

- 1) In accordance with 807 KAR 5:041, Section 11(3), Customer desiring service extended for and through a subdivision may be required by Company to deposit the total cost of the extension.
- 2) Each year for ten (10) years Company shall refund to Customer, the cost of 1,000 feet of extension for each additional customer connected during that year directly to the original extension for which the deposit was made.
- 3) The total amount refunded shall not exceed the amount originally deposited nor shall any refund be made after the ten-year refund period ends.

G. MOBILE HOME LINE EXTENSIONS

- 1) Company will make line extensions for service to mobile homes in accordance with 807 KAR 5:041, Section 12, and Commission's Orders.
- 2) Company shall provide, at no cost, a line extension of up to 300 feet to Customer requesting permanent service for a mobile home.
- 3) Company shall provide to Customer requesting permanent service for a mobile home a line extension in excess of 300 feet and up to 1,000 feet but Company may require the total cost of the footage in excess of 300 feet, based on the average cost per foot of the total extension, be deposited with Company by Customer. Beyond 1,000 feet, the policies set forth in OTHER LINE EXTENSIONS shall apply.
- 4) Each year for four (4) years Company shall refund to Customer equal amounts of the deposit for the extension from 300 feet to 1,000 feet.
- 5) If service is disconnected for sixty (60) days, if the original mobile home is removed and not replaced by another mobile home or a permanent structure in sixty (60) days, the remainder of the deposit is forfeited.
- 6) No refund will be made except to the original customer.

H. UNDERGROUND LINE EXTENSIONS

General

- 1) Company will make underground line extensions for service to new residential customers and subdivisions in accordance with 807 KAR 5:041, Section 21.

DATE OF ISSUE: July 10, 2015

DATE EFFECTIVE: July 1, 2015

ISSUED BY: /s/ Edwin R. Staton, Vice President
State Regulation and Rates
Lexington, Kentucky

Issued by Authority of an Order of the
Public Service Commission in Case No.
2014-00371 dated June 30, 2015

TERMS AND CONDITIONS**Line Extension Plan****H. UNDERGROUND LILNE EXTENSIONS****General (continued)**

- 2) In order that Company may make timely provision for materials, and supplies, Company may require Customer to execute a contract for an underground extension under these Terms and Conditions with Company at least six (6) months prior to the anticipated date service is needed and Company may require Customer to deposit with Company at least 10% of any amounts due under the contract at the time of execution. Customer shall deposit the balance of any amounts due under the contract with Company prior to ordering materials or commencement of actual construction by Company of facilities covered by the contract.
- 3) Customer shall give Company at least 120 days written notice prior to the anticipated date service is needed and Company will undertake to complete installation of its facilities at least thirty (30) days prior to that date. However, nothing herein shall be interpreted to require Company to extend service to portions of subdivisions not under active development.
- 4) At Company's discretion, Customer may perform a work contribution to Company's specifications, including but not limited to conduit, setting pads, or any required trenching and backfilling, and Company shall credit amounts due from Customer for underground service by Company's estimated cost for such work contribution.
- 5) Customer will provide, own, operate and maintain all electric facilities on Customer's side of the point of delivery with the exception of Company's meter.
- 6) In consideration of Customer's underground service, Company shall credit any amounts due under the contract for each service at the rate of \$50.00 or Company's average estimated installed cost for an overhead service whichever is greater.
- 7) Unit charges, where specified herein, are determined from Company's estimate of Company's average unit cost of such construction and the estimated cost differential between underground and overhead distribution systems in representative residential subdivisions.
- 8) Three phase primary required to supply either individual loads or the local distribution system may be overhead unless Customer chooses underground construction and deposits with Company a non-refundable deposit for the cost differential.

Individual Premises

Where Customer requests and Company agrees to supply underground service to an individual premise, Company may require Customer to pay, in advance, a non-refundable amount for the additional cost of the underground extension (including all associated facilities) over the cost of an overhead extension of equivalent capacity.

Medium Density Subdivisions

- 1) A medium density residential subdivision is defined as containing ten or more lots for the construction of new residential buildings each designed for less than five (5)-family occupancy.

DATE OF ISSUE: July 10, 2015

DATE EFFECTIVE: July 1, 2015

ISSUED BY: /s/ Edwin R. Staton, Vice President
State Regulation and Rates
Lexington, Kentucky

TERMS AND CONDITIONS

Line Extension Plan

H. UNDERGROUND LINE EXTENSIONS (continued)

- 2) Customer shall provide any required trenching and backfilling or at Company's discretion be required to deposit with Company a non-refundable amount determined by a unit charge of \$9.54 per aggregate lot front-foot along all streets contiguous to the lots to be served through an underground extension.
- 3) The Customer may be required to advance to the Company the Company's full estimated cost of construction of an underground electric distribution extension. Where Customer is required to provide trenching and backfilling, advance will be the Company's full estimate cost of construction. Where Customer is required to deposit with the Company a non-refundable advance in place of trenching and backfilling, advance will be determined by a unit charge of \$20.30 per aggregate lot front-foot along all streets contiguous to the lots to be served through an underground extension.
- 4) Each year for ten (10) years Company shall refund to Customer an amount determined as follows:
 - a. Where customer is required to provide trenching and backfilling, a refund of \$5,000 for each customer connected during that year.
 - b. Where customer is required to provide a non-refundable advance, 500 times the difference in the unit charge advance amount in 3) and the non-refundable unit charge advance in 2) for each customer connected during that year
- 5) In no case shall the refunds provided for herein exceed the amounts deposited less any non-refundable charges applicable to the project nor shall any refund be made after a ten-year refund period ends.

High Density Subdivisions

- 1) A high density residential subdivision is defined as building complexes consisting of two or more buildings each not more than three stories above grade and each designed for five (5) or more family occupancy.
- 2) Customer shall provide any required trenching and backfilling or at Company's discretion be required to deposit with Company a non-refundable amount for the additional cost of the underground extension (including all associated facilities) over the cost of an overhead extension of equivalent capacity.
- 3) The Customer may be required to advance to the Company the Company's full estimated cost of construction of an underground electric distribution extension.

DATE OF ISSUE: July 10, 2015

DATE EFFECTIVE: December 31, 2013

ISSUED BY: /s/ Edwin R. Staton, Vice President
State Regulation and Rates
Lexington, Kentucky

TERMS AND CONDITIONS

Line Extension Plan

High Density Subdivisions (continued)

- i. Company shall refund to Customer any amounts due when permanent service is provided by Company to twenty (20%) percent of the family units in Customer's project.
- ii. In no case shall the refunds provided for herein exceed the amounts deposited less any non-refundable charges applicable to the project nor shall any refund be made after a ten-year refund period ends.

Other Underground Subdivisions

In cases where a particular residential subdivision does not meet the conditions provided for above, Customer requests and Company agrees to supply underground service, Company may require Customer to pay, in advance, a non-refundable amount for the additional cost of the underground extension (including all associated facilities) over the cost of an overhead extension of equivalent capacity.

I. SPECIAL CASES

- 1) Where Customer requests service that is seasonal, intermittent, speculative in nature, at voltages of 34.5kV or greater, or where the facilities requested by Customer do not meet the Terms and Conditions outlined in previous sections of LINE EXTENSION PLAN and the anticipated revenues do not justify Company's installing facilities required to meet Customer's needs, Company may request that Customer deposit with Company a refundable amount to justify Company's investment.
- 2) Each year for ten (10) years Company shall refund to Customer, an amount calculated by:
 - a. Adding the sum of Customer's annual base rate monthly electric demand billing for that year to the sum of the annual base rate monthly electric billing of the monthly electric demand billing for that year of any customer(s), who connects directly to the facilities provided for in this agreement and requiring no further investment by Company
 - b. times the refundable amount divided by the estimated total ten-year base rate electric demand billing required to justify the investment.
- 3) The total amount refunded shall not exceed the amount originally deposited nor shall any refund be made after the ten-year refund period ends.

DATE OF ISSUE: July 10, 2015

DATE EFFECTIVE: January 1, 2013

ISSUED BY: /s/ Edwin R. Staton, Vice President
State Regulation and Rates
Lexington, Kentucky

TERMS AND CONDITIONS

Line Extension Plan

A. AVAILABILITY

In all territory served by where Company does not have existing facilities to meet Customer's electric service needs.

B. DEFINITIONS

- 1) "Company" shall mean Kentucky Utilities Company.
- 2) "Customer" shall mean the applicant for service. When more than one electric service is requested by an applicant on the same extension, such request shall be considered one customer under this plan when the additional service request(s) is only for incidental or minor convenience loads or when the applicant for service is the developer of a subdivision.
- 3) "Line Extension" shall mean the single phase facilities required to serve Customer by the shortest route most convenient to Company from the nearest existing adequate Company facilities to Customer's delivery point, approved by Company, and excluding transformers, service drop, and meters, if required and normally provided to like customers.
- 4) "Permanent Service" shall mean service contracted for under the terms of the applicable rate schedule but not less than one year and where the intended use is not seasonal, intermittent, or speculative in nature.
- 5) "Commission" shall mean the Public Service Commission of Kentucky.

C. GENERAL

- 1) All extensions of service will be made through the use of overhead facilities except as provided in these rules.
- 2) Customer requesting service which requires an extension(s) shall furnish to Company, at no cost, properly executed easement(s) for right-of-way across Customer's property to be served.
- 3) Customer requesting extension of service into a subdivision, subject to the jurisdiction of a public commission, board, committee, or other agency with authority to zone or otherwise regulate land use in the area and require a plat (or Plan) of the subdivision, Customer shall furnish, at no cost, Company with the plat (or plan) showing street and lot locations with utility easement and required restrictions. Plats (or plans) supplied shall have received final approval of the regulating body and recorded in the office of the appropriate County Court Clerk when required. Should no regulating body exist for the area into which service is to be extended, Customer shall furnish Company the required easement.
- 4) The title to all extensions, rights-of way, permits, and easements shall be and remain with Company.
- 5) Where Company is required or elects to construct an additional extension or lateral to serve Customer or another customer, Company reserves the right to connect to any extension constructed under this plan and Customer shall grant to Company, at no cost, properly executed easement(s) for right-of-way across Customer's property for the additional extension or lateral.
- 6) Customer must agree in writing to take service when the extension is completed and have his building or other permanent facility wired and ready for connection.
- 7) Nothing herein shall be construed as preventing Company from making electric line extensions under more favorable terms than herein prescribed provided the potential revenue is of such amount and permanency as to warrant such terms and render the extension self-sustaining.

Date of Issue: January 7, 2013

Date Effective: August 1, 2010

Issued By: Lonnie E. Bellar, Vice President, State Regulation and Rates, Lexington, Kentucky

Lonnie E. Bellar

Issued by Authority of an Order of the KPSC in Case No. 2009-00548 dated July 30, 2010

KENTUCKY PUBLIC SERVICE COMMISSION
RECORDED EXECUTIVE DIRECTOR
TARIFF BRANCH
<i>Bunt Kirtley</i>
1/1/2013
PURSUANT TO 807 KAR 5:011 SECTION 9 (1)

P.S.C. No. 16, Original Sheet No. 106.1

TERMS AND CONDITIONS

Line Extension Plan

C. GENERAL (continued)

feasible the capital expenditure involved and provided such extensions are made to other customers under similar conditions.

- 8) Company may require a non-refundable deposit in cases where Customer does not have a real need or in cases where the estimated revenue does not justify the investment.
- 9) Company shall not be obligated to extend its lines in cases where such extensions, in the good judgment of Company, would be infeasible, impractical, or contrary to good engineering or operating practice, unless otherwise ordered by Commission.

D. NORMAL LINE EXTENSIONS

- 1) In accordance with 807 KAR 5:041, Section 11(1), Company will provide, at no cost, a line extension of up to 1,000 feet to Customer requesting permanent service where the installed transformer capacity does not exceed 25 kVA.
- 2) Where Customer requires poly-phase service or transformer capacity in excess of 25 kVA and Company provides such facilities, Company may require Customer to pay, in advance, a non-refundable amount for the additional cost to Company in providing facilities above that required in NORMAL LINE EXTENSIONS ¶ 1 above.

E. OTHER LINE EXTENSIONS

- 1) In accordance with 807 KAR 5:041, Section 11(2), Company shall provide to Customer requesting permanent service a line extension in excess of 1,000 feet per customer but Company may require the total cost of the footage in excess of 1,000 feet per customer, based on the average cost per foot of the total extension, be deposited with Company by Customer.
- 2) Each year for ten (10) years Company shall refund to Customer, who made the deposit for excess footage, the cost of 1,000 feet of extension for each additional customer connected during that year directly to the original extension for which the deposit was made.
- 3) Each year for ten (10) years Company shall refund to Customer, who made the deposit for excess footage, the cost of 1,000 feet of extension less the length of the lateral or extension for each additional customer connected during that year by a lateral or extension to the original extension for which the deposit was made.
- 4) No refund shall be made for additional customers connected to an extension or lateral from the original extension for which the deposit was made.
- 5) The total amount refunded shall not exceed the amount originally deposited nor shall any refund be made after the ten (10) year refund period ends.
- 6) Where Customer requires poly-phase service or transformer capacity above 25 kVA per customer and Company provides such facilities, Company may require Customer to pay, in advance, a non-refundable amount for the additional cost to Company in providing facilities above that required in OTHER LINE EXTENSIONS ¶ 1 above.

F. OVERHEAD LINE EXTENSIONS TO SUBDIVISIONS

- 1) In accordance with 807 KAR 5:041, Section 11(3), Customer desiring service extended for and through a subdivision may be required by Company to deposit the total cost of the extension.
- 2) Each year for ten (10) years Company shall refund to Customer, the cost of 1,000 feet of extension for each additional customer connected during that year directly to the original extension for which the deposit was made.
- 3) The total amount refunded shall not exceed the amount originally deposited nor shall any refund be made after the ten-year refund period ends.

Date of Issue: January 7, 2013

Date Effective: January 1, 2013

Issued By: Lonnie E. Bellar, Vice President, State Regulation and Rates, Lexington, Kentucky

Lonnie E. Bellar

Issued by Authority of an Order of the KPSC in Case No. 2012-00221 dated December 20, 2012

KENTUCKY PUBLIC SERVICE COMMISSION
JEFF R. DEROUEN EXECUTIVE DIRECTOR
TARIFF BRANCH
<i>Bunt Kistley</i>
1/1/2013
PURSUANT TO 807 KAR 5:011 SECTION 9 (1)

TERMS AND CONDITIONS

Line Extension Plan

G. MOBILE HOME LINE EXTENSIONS

- 1) Company will make line extensions for service to mobile homes in accordance with 807 KAR 5:041, Section 12, and Commission's Order, dated August 9, 1991, in Case No. 91-213,
- 2) Company shall provide, at no cost, a line extension of up to 300 feet to Customer requesting permanent service for a mobile home.
- 3) Company shall provide to Customer requesting permanent service for a mobile home a line extension in excess of 300 feet and up to 1,000 feet but Company may require the total cost of the footage in excess of 300 feet, based on the average cost per foot of the total extension, be deposited with Company by Customer. Beyond 1,000 feet, the policies set forth in OTHER LINE EXTENSIONS shall apply.
- 4) Each year for four (4) years Company shall refund to Customer equal amounts of the deposit for the extension from 300 feet to 1,000 feet.
- 5) If service is disconnected for sixty (60) days, if the original mobile home is removed and not replaced by another mobile home or a permanent structure in sixty (60) days, the remainder of the deposit is forfeited.
- 6) No refund will be made except to the original customer.

H. UNDERGROUND LINE EXTENSIONS

General

- 1) Company will make underground line extensions for service to new residential customers and subdivisions in accordance with 807 KAR 5:041, Section 21.
- 2) In order that Company may make timely provision for materials, and supplies, Company may require Customer to execute a contract for an underground extension under these Terms and Conditions with Company at least six (6) months prior to the anticipated date service is needed and Company may require Customer to deposit with Company at least 10% of any amounts due under the contract at the time of execution. Customer shall deposit the balance of any amounts due under the contract with Company prior to ordering materials or commencement of actual construction by Company of facilities covered by the contract.
- 3) Customer shall give Company at least 120 days written notice prior to the anticipated date service is needed and Company will undertake to complete installation of its facilities at least thirty (30) days prior to that date. However, nothing herein shall be interpreted to require Company to extend service to portions of subdivisions not under active development.
- 4) At Company's discretion, Customer may perform a work contribution to Company's specifications, including but not limited to conduit, setting pads, or any required trenching and backfilling, and Company shall credit amounts due from Customer for underground service by Company's estimated cost for such work contribution.
- 5) Customer will provide, own, operate and maintain all electric facilities on his side of the point of delivery with the exception of Company's meter.
- 6) In consideration of Customer's underground service, Company shall credit any amounts due under the contract for each service at the rate of \$50.00 or Company's average estimated installed cost for an overhead service whichever is greater.
- 7) Unit charges, where specified herein, are determined from Company's estimate of Company's average unit cost of such construction and the estimated cost difference between underground and overhead distribution systems in representative residential subdivisions.

Date of Issue: January 7, 2013

Date Effective: February 6, 2009

Issued By: Lonnie E. Bellar, Vice President, State Regulation and Rates, Lexington, Kentucky

Lonnie E. Bellar

Issued by Authority of an Order of the KPSC In Case No. 2009-00548 dated July 30, 2010

KENTUCKY PUBLIC SERVICE COMMISSION	
JEFF R. DEROUEN EXECUTIVE DIRECTOR	
TARIFF BRANCH	
<i>Burt Hixley</i>	
1/1/2013	
PURSUANT TO 807 KAR 5:011 SECTION 9 (1)	

P.S.C. No. 16, Original Sheet No. 106.3

TERMS AND CONDITIONS

Line Extension Plan

H. UNDERGROUND EXTENSIONS

General (continued)

- 8) Three phase primary required to supply either individual loads or the local distribution system may be overhead unless Customer chooses underground construction and deposits with Company a non-refundable deposit for the cost differential.

Individual Premises

Where Customer requests and Company agrees to supply underground service to an individual premise, Company may require Customer to pay, in advance, a non-refundable amount for the additional cost of the underground extension (including all associated facilities) over the cost of an overhead extension of equivalent capacity.

Medium Density Subdivisions

- 1) A medium density residential subdivision is defined as containing ten or more lots for the construction of new residential buildings each designed for less than five (5)-family occupancy.
- 2) Customer shall provide any required trenching and backfilling or at Company's discretion be required to deposit with Company a non-refundable amount determined by a unit charge of \$8.54 per aggregate lot front-foot along all streets contiguous to the lots to be served through an underground extension.
- 3) The Customer may be required to advance to the Company the Company's full estimated cost of construction of an underground electric distribution extension. Where Customer is required to provide trenching and backfilling, advance will be the Company's full estimate cost of construction. Where Customer is required to deposit with the Company a non-refundable advance in place of trenching and backfilling, advance will be determined by a unit charge of \$21.21 per aggregate lot front-foot along all streets contiguous to the lots to be served through an underground extension.
- 4) Each year for ten (10) years Company shall refund to Customer an amount determined as follows:
 - a. Where customer is required to provide trenching and backfilling, a refund of \$5,000 for each customer connected during that year.
 - b. Where customer is required to provide a non-refundable advance, 500 times the difference in the unit charge advance amount in 3) and the non-refundable unit charge advance in 2) for each customer connected during that year.
- 5) In no case shall the refunds provided for herein exceed the amounts deposited less any non-refundable charges applicable to the project nor shall any refund be made after a ten-year refund period ends.

Date of Issue: January 7, 2013

Date Effective: December 31, 2012

Issued By: Lonnie E. Bellar, Vice President, State Regulation and Rates, Lexington, Kentucky

Lonnie E. Bellar

KENTUCKY PUBLIC SERVICE COMMISSION
JEFF R. DEROUEN EXECUTIVE DIRECTOR
TARIFF BRANCH
<i>Bunt Kirtley</i>
1/1/2013
PURSUANT TO 807 KAR 5:011 SECTION 9 (1)

P.S.C. No. 16, Original Sheet No. 106.4

TERMS AND CONDITIONS

Line Extension Plan

H. UNDERGROUND EXTENSIONS (continued)

High Density Subdivisions

- 1) A high density residential subdivision is defined as building complexes consisting of two or more buildings each not more than three stories above grade and each designed for five (5) or more family occupancy.
- 2) Customer shall provide any required trenching and backfilling or at Company's discretion be required to deposit with Company a non-refundable amount for the additional cost of the underground extension (including all associated facilities) over the cost of an overhead extension of equivalent capacity.
- 3) The Customer may be required to advance to the Company the Company's full estimated cost of construction of an underground electric distribution extension.
 - i. Company shall refund to Customer any amounts due when permanent service is provided by Company to twenty (20%) percent of the family units in Customer's project.
 - ii. In no case shall the refunds provided for herein exceed the amounts deposited less any non-refundable charges applicable to the project nor shall any refund be made after a ten-year refund period ends.

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Other Underground Subdivisions

In cases where a particular residential subdivision does not meet the conditions provided for above, Customer requests and Company agrees to supply underground service, Company may require Customer to pay, in advance, a non-refundable amount for the additional cost of the underground extension (including all associated facilities) over the cost of an overhead extension of equivalent capacity.

I. SPECIAL CASES

- 1) Where Customer requests service that is seasonal, intermittent, speculative in nature, at voltages of 34.5kV or greater, or where the facilities requested by Customer do not meet the Terms and Conditions outlined in previous sections of LINE EXTENSION PLAN and the anticipated revenues do not justify Company's installing facilities required to meet Customer's needs, Company may request that Customer deposit with Company a refundable amount to justify Company's investment.
- 2) Each year for ten (10) years Company shall refund to Customer, an amount calculated by:
 - a. Adding the sum of Customer's annual base rate monthly electric demand billing for that year to the sum of the annual base rate monthly electric billing of the monthly electric demand billing for that year of any customer(s), who connects directly to the facilities provided for in this agreement and requiring no further investment by Company
 - b. times the refundable amount divided by the estimated total ten-year base rate electric demand billing required to justify the investment.
- 3) The total amount refunded shall not exceed the amount originally deposited nor shall any refund be made after the ten-year refund period ends.

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Date of Issue: January 7, 2013

Date Effective: January 1, 2013

Issued By: Lonnie E. Bellar, Vice President, State Regulation and Rates, Lexington, Kentucky

Lonnie E. Bellar

Issued by Authority of an Order of the KPSC in Case No. 2012-00221 dated December 20, 2012

KENTUCKY PUBLIC SERVICE COMMISSION
JEFF R. DEROUEN EXECUTIVE DIRECTOR
TARIFF BRANCH
<i>Brent Kirtley</i>
1/1/2013 PURSUANT TO 807 KAR 5:011 SECTION 9 (1)