



complaint,<sup>3</sup> and the relief sought by the complainant.<sup>4</sup> Upon receiving a complaint, the Commission must first examine the complaint to determine whether it establishes a prima facie case.<sup>5</sup> “A complaint establishes a prima facie case when, on its face, it states sufficient allegations that, if uncontroverted by other evidence, would entitle the complainant to the relief requested.”<sup>6</sup> If a complaint does not establish a prima facie case, the Commission must give the complainant an opportunity to amend the complaint, but the Commission must dismiss the complaint if the complainant fails to do so.<sup>7</sup>

Here, the allegations of unstable power and voltage fluctuations in the complaint do raise issues regarding the adequacy of service provided by LG&E that would fall within the Commission’s jurisdiction.<sup>8</sup> However, the Complaint indicates that those issues occurred in 2018, that adjustments were made by LG&E after it received complaints regarding the issues, and that “the power quality to the facility has been within acceptable standards and no further issues have occurred to the HVAC systems” since LG&E made those adjustments.<sup>9</sup> Thus, there is no allegation of an ongoing issue with respect to the adequacy of the electric service provided by LG&E that the Commission must resolve at this time.

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<sup>3</sup> *Id.* at Section 20(1)(c).

<sup>4</sup> *Id.* at Section 20(1)(d).

<sup>5</sup> *Id.* at Section 20(4).

<sup>6</sup> *Diane L. Deaton v. Duke Energy Kentucky, Inc.*, Case No. 2017-00174, 1 (Ky. PSC May 22, 2017).

<sup>7</sup> 807 KAR 5:001, Section 20(4).

<sup>8</sup> See, e.g., 807 KAR 5:041, Section 6 (setting limits on permissible voltage fluctuations).

<sup>9</sup> Complaint, Summary of Events attachment, at 1.

Rather, as noted above, the Complaint requests that the Commission “hold [LG&E] liable for the equipment failures, repairs and service calls” allegedly caused by LG&E. Although the complaint does not demand a specific dollar amount, the Commission construes the demand for relief as a request for monetary damages for costs associated with the alleged damage Christ Church’s equipment. The Commission does not generally have the authority to address claims for unliquidated damages against utilities.<sup>10</sup> Thus, the Commission finds that the Complaint does not state a prima facie case pursuant to 807 KAR 5:001, Section 20(4).

More importantly, Mr. Kendall appears to work for the company that was servicing Christ Church’s HVAC equipment and does not appear to be licensed to practice law in Kentucky.<sup>11</sup> Commission regulations, consistent with rules established by the Kentucky Supreme Court, prohibit non-attorneys from representing corporations in formal complaints before the Commission.<sup>12</sup> Christ Church is registered with the Kentucky Secretary of State as a nonprofit Kentucky corporation. Thus, Mr. Kendall may not bring a formal complaint on behalf of Christ Church or otherwise represent Christ Church in this matter.

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<sup>10</sup> See *Carr v. Cincinnati Bell, Inc.*, 651 S.W.2d 126 (Ky. App. 1983) (indicating that KRS Chapter 278 does not provide the Commission exclusion jurisdiction to handle a claim for tortious breach of a contract for telephone service).

<sup>11</sup> Mr. Kendall is not listed as a licensed attorney on the website of the Kentucky Bar Association.

<sup>12</sup> See 807 KAR 5:001, Section 4(4) (“A person shall not file a paper [in a case] on behalf of another person, or otherwise represent another person, unless the person is an attorney licensed to practice law in Kentucky or an attorney who has complied with SCR 3.030(2).”); see also Kentucky Supreme Court Rule 3.020 (which prohibits a non-attorney from practicing law on behalf of a corporation or partnership except in small claims court); *Bobbett v. Russellville Mobile Home Park*, No. 2007-CA-000684, 2008 WL 4182001 (Ky. App. 2008) (in which the court found that the owner of a limited liability corporation (LLC) could not represent the LLC in a forcible detainer action, because the LLC was a separate legal person and the action was not in small claims court).

IT IS THEREFORE ORDERED that:

1. The Complaint in this matter is rejected for failing to state a prima facie case pursuant to 807 KAR 5:001, Section 20, and for failing to comply with the requirements of 807 KAR 5:001, Section 4(4).

2. The request for relief in the Complaint that LG&E be held liable for the equipment failures, repairs, and service calls is hereby denied.

3. Christ Church shall have 20 days from the date of entry of this Order to file an amended complaint, by and through counsel, with the Commission that conforms to the requirements of 807 KAR 5:001, Section 4 and 20, and that states a prima facie case.

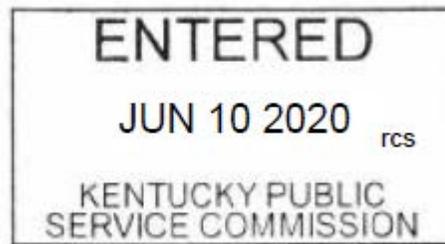
4. Any future filings made by a party in this matter, including any filings made pursuant to paragraph number 3 of this Order, shall be made in accordance to the requirements set forth in the Commission's March 16, 2020 and March 24, 2020 Orders in Case No. 2020-00085,<sup>13</sup> unless the Commission orders otherwise.

5. If Christ Church fails to file a timely amended complaint pursuant to paragraph 3 of this Order, the Commission will dismiss this matter without prejudice in separate order.

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<sup>13</sup> Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus COVID-19* (Ky. PSC Mar. 16, 2020), Order at 5–6. Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus COVID-19* (Ky. PSC Mar. 24, 2020), Order at 1–3.

By the Commission



ATTEST:

A handwritten signature in blue ink, consisting of stylized initials and a surname, written over a horizontal line.

Executive Director

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