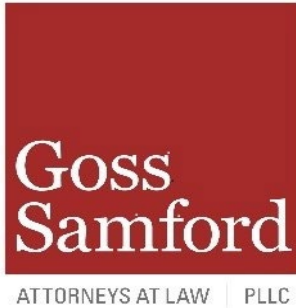


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JUL 12 2022

PUBLIC SERVICE
COMMISSION



Mark David Goss
mdgoss@gosssamfordlaw.com
(859) 368-7740

July 12, 2022

**VIA ELECTRONIC MAIL TO COMMISSION
VIA U.S. MAIL TO COMPLAINTANTS**

Linda Bridwell, P.E.
Executive Director
Kentucky Public Service Commission
211 Sower Blvd.
Frankfort, KY 40601

RE: *In the Matter of: Nancy and David Kilby, Complainants v. South Kentucky Rural Electric Cooperative Corporation, Defendant--Case No. 2022-00082*

Dear Ms. Bridwell:

Attached, please find enclosed for filing an Entry of Appearance of Counsel and Answer on behalf of South Kentucky Rural Electric Cooperative Corporation in the above-styled case.

This will certify that, pursuant to the Commission's June 10, 2022 Order in this case, the filing was transmitted to the Commission by email at PSCED@ky.gov on July 12, 2022; service was accomplished on the Complainants by United States First Class mail, postage prepaid, at 3950 E. Highway 70, Eubank, Kentucky 42567; by virtue of the Commission's July 22, 2021 Order in Case No. 2020-00085, a copy of the filing in paper medium shall not be required.

Please contact me should you have any questions regarding this filing.

Sincerely,

Mark David Goss

Enc.

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

NANCY AND DAVID KILBY)	
)	
COMPLAINANTS)	
)	
V.)	CASE NO.
)	2022-00082
SOUTH KENTUCKY RURAL ELECTRIC)	
COOPERATIVE CORPORATION)	
(SOUTH KENTUCKY))	
)	
DEFENDANT)	

NOTICE OF ENTRY OF APPEARANCE
ON BEHALF OF SOUTH KENTUCKY
RURAL ELECTRIC COOPERATIVE CORPORATION

Comes now, Mark David Goss, of the law firm Goss Samford, PLLC, and hereby gives notice of his entry of appearance on behalf of Defendant, South Kentucky Rural Electric Cooperative Corporation (South Kentucky) in the captioned matter. Mr. Goss requests that he be added to the electronic service list in this matter and does therefore provide the following electronic mail address:

mdgoss@gosssamfordlaw.com

Mr. Goss waives any right of service of Commission orders by United States mail and possesses the facilities necessary to receive electronic transmissions.

Dated: July 12, 2022

Respectfully submitted,

Mark David Goss

Mark David Goss
Goss Samford, PLLC
2365 Harrodsburg Rd., Suite B-325
Lexington, Kentucky 40504
(859) 368-7740
mdgoss@gosssamfordlaw.com

*Counsel for South Kentucky Rural Electric
Cooperative Corporation*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on July 12, 2022, a true and correct copy of the foregoing Notice of Entry of Appearance was served upon the Commission by sending an electronic mail message with an electronic copy of the document attached to PSCED@ky.gov, and upon the Complainants, David Kilby and Nancy Kilby, by U.S. First Class Mail, postage prepaid, to the address contained in the Complaint, 3950 E. Highway 70, Eubank, Kentucky 42567.

Mark David Goss

Mark David Goss
*Counsel for South Kentucky Rural
Electric Cooperative Corporation*

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

NANCY AND DAVID KILBY)	
)	
COMPLAINANTS)	
)	
V.)	CASE NO.
)	2022-00082
SOUTH KENTUCKY RURAL ELECTRIC)	
COOPERATIVE CORPORATION)	
(SOUTH KENTUCKY))	
)	
DEFENDANT)	

ANSWER OF SOUTH KENTUCKY
RURAL ELECTRIC COOPERATIVE CORPORATION

In accordance with the Kentucky Public Service Commission’s (“Commission”) Orders of June 10, 2022, and July 5, 2022 in the above-captioned proceeding, South Kentucky Rural Electric Cooperative Corporation (“South Kentucky” or “Cooperative”) does hereby submit this Answer to the Complaint of Nancy Kilby and David Kilby (“Complainants”) filed March 11, 2022. In support of its Answer, and in response to the specific averments contained in the Complaint, South Kentucky states as follows:

1. South Kentucky admits the allegations contained in paragraphs (a) and (b) of the Complaint, upon information and belief.

2. South Kentucky denies the allegations contained in paragraph (c) of the Complaint, upon information and belief, stating as follows:

a. The disputed \$295.50 bill pertains to service provided by South Kentucky to a rental house owned by Complainants located at 3810 E. Highway 70, Eubank, Kentucky,

between December 5, 2020, and January 4, 2021. In the Complaint the Complainants' stated that "the house was vacant, water turned off, no electrical appliances in the house. The only thing using any electric was a pump for the cattle water tank, and we had less than 12 head drinking". This assertion is inconsistent with subsequent tests and other analyses performed by South Kentucky which included:

i. A field visit by South Kentucky personnel to the Complainants' rental home on April 27, 2021, to perform an inspection of the meter base and electrical panel box. These inspections and related tests found a 30-amp single pole breaker having 10.2 to 10.4 amps running continuously at 120 volts. However, an attempt to determine what portion of the home was consuming this power was inconclusive. Upon further inspection the main residential service panel had no cover attached and looked to be in deteriorating condition. South Kentucky personnel advised the Complainants to contact a certified electrician to determine the source of the power draw and to replace the service panel.

ii. A second field visit by South Kentucky personnel occurred on June 17, 2021, where the dwelling's daily and hourly usage records generated by the Cooperative's data management system from November 23, 2020, to January 8, 2021, was discussed with Complainants. These records showed that there was another source of power consumption in the home besides the source referenced above since there was a direct correlation between ambient temperature and usage. The records, measured during colder months of late November, December and early January, demonstrated that as the temperature decreased power usage increased, and as the temperature increased power usage decreased.

iii. A third field visit by South Kentucky personnel occurred on June 22, 2021, when the existing meter (Meter # 214081) was removed and replaced with another meter.

The original meter was then tested and determined to be 99.86% accurate.¹ The Complainants were not charged for this meter test.² It was also confirmed that the original source consuming the 10.2 to 10.4 amps on the 30-amp single pole breaker was still present and that the source of this constant consumption was the Complainants' water pump.

iv. Following these three field visits, the results of the above-described tests and analyses, and the recommendation for Complainants to contact an electrician to assist with locating whatever other sources of power consumption there might be in the dwelling, South Kentucky determined that the Complainants' power usage within the service location at 3810 E. Highway 70, Eubank, Kentucky, resulting in the bill which Complainants have disputed, was not in error. South Kentucky personnel advised the Complainants of this fact including that the \$295.50 past due power bill would have to be paid³, with an offer for Complainants to do so over a period of six months.

3. To the extent the Complaint asserts other matters which this Answer does not otherwise address, South Kentucky does not possess sufficient knowledge or other information to admit, and therefore denies same.

FIRST AFFIRMATIVE DEFENSE

The Complaint, either as a whole or in parts, fails to set forth any claim upon which relief can be granted by the Commission, and therefore should be dismissed.

¹ This finding is less than the two percent (2%) average error threshold allowable as set forth in South Kentucky's Tariff Section 3.10 (c).

² See South Kentucky's Tariff Section 3.10 (a).

³ See South Kentucky's Tariff Section 3.10 (c).

SECOND AFFIRMATIVE DEFENSE

The Complainants have failed to properly plead and establish a *prima facie* case that South Kentucky has violated its tariff or any statute or Commission regulation, and for this reason the Complaint should be dismissed.

THIRD AFFIRMATIVE DEFENSE

The filed rate doctrine requires that utility companies strictly adhere to their published rate schedules, which are on file with, and approved by, the Commission. The filed rate doctrine is codified in Kentucky by the provisions of KRS 278.160(2), which states:

No utility shall charge, demand, collect, or receive from any person a greater or less compensation for any service rendered or to be rendered than that prescribed in its filed schedules, and no person shall receive any service from any utility for a compensation greater or less than that prescribed in such schedules.

To allow the relief requested by Complainants under the facts and circumstances of this case to the detriment of South Kentucky's other consumers would be a violation of the filed rate doctrine, and for this reason the Complaint should be dismissed.

WHEREFORE, for all the reasons set forth herein, South Kentucky Rural Electric Cooperative Corporation respectfully requests:

- (1) that the Complaint be dismissed without further action being taken by the Commission;
- (2) that this matter be closed on the Commission's docket; and,
- (3) that South Kentucky be afforded any and all other due and proper relief to which it may be entitled.

Dated: July 12, 2022

Respectfully submitted,

Mark David Goss

Mark David Goss
Goss Samford, PLLC
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Lexington, Kentucky 40504
(859) 368-7740
mdgoss@gosssamfordlaw.com

*Counsel for South Kentucky Rural Electric
Cooperative Corporation*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on July 12, 2022, a true and correct copy of the foregoing Answer was served upon the Commission by sending an electronic mail message with an electronic copy of the document attached to PSCED@ky.gov, and upon the Complainants, David Kilby and Nancy Kilby, by U.S. First Class Mail, postage prepaid, to the address contained in the Complaint, 3950 E. Highway 70, Eubank, Kentucky 42567.

Mark David Goss

Mark David Goss
*Counsel for South Kentucky Rural
Electric Cooperative Corporation*