

BROWN & HILL PLLC

ATTORNEYS AT LAW

May 27, 2010

Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, KY 40602
Attn: Helen Helton; Rick Bertelson

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COMMISSIONVIA EMAIL AND U.S. MAIL

In the matter of: **Case No. 2010-00188**
Jackson Energy Cooperative v. London Country Club

Dear Ms. Helton and Mr. Bertelson:

Please be advised that I represent London County Club ("LCC") as it relates to a billing dispute with Jackson Energy Cooperative ("Jackson Energy"). Late afternoon, May 25, 2010, my client called and asked why I had not informed him that the dispute between LLC and Jackson Energy had been filed and adjudicated by the Kentucky Public Service Commission. I had no idea what he was talking about. He then emailed me a copy of a PSC Order, entered on May 18, 2010 (see attached Order). There is no certificate of service so I do not know who mailed the Order to LCC.

Needless to say, I was very surprised to see an Order with my client listed as a defendant with a case number and referencing a complaint I had never seen. A quick review of the first part of the Order, which states that "the Commission is without authority to accept Jackson Energy's complaint against London Country Club" made me think the case had been dismissed due to lack of jurisdiction which is why neither LCC, nor me as its attorney, were ever notified of the case, either by the PSC, or by Clayton Oswald, attorney for Jackson Energy.

However, instead of stopping with its proclaimed lack of jurisdiction, which would have been proper, the Order went on to cite "facts" from the Complaint (which again, LCC has never been served nor even provided a courtesy copy), and then, the Order continues and issues opinions as to the underlying dispute between Jackson Energy and LCC, totally ignoring its own finding that the PSC does not have jurisdiction and ignoring the fact that the "defendant" was never given due process nor an opportunity to respond to the facts alleged in the Complaint by Jackson Energy. In a sentence which could prove to be potentially and extremely damaging to LCC's on-

going business, the Order actually encourages and/or authorizes the utility to terminate a customer's service and file a court action against the customer. The impropriety of the Order and its prejudicial effect on my client, LCC, should be redressed immediately by the Commission.

An outline of the improprieties contained in this Order and related to the Complaint filed by Jackson Energy are set forth below, but may not be limited to the matters listed:

- LCC to this date has never received a copy of the Complaint, either from Clayton Oswald, attorney of record for Jackson Energy, or from the Kentucky Public Service Commission.
 - This is in spite of both Jackson Energy and Clayton Oswald having received and responded to correspondence from the undersigned directly related to the billing dispute
 - This is in spite of the PSC issuing an ORDER which renders opinions on the Complaint filed by Jackson Energy.
- LCC was never notified or served with the Complaint, thus it obviously could not respond to the allegations in the Complaint, and was denied due process. This would have been inconsequential had the PSC limited its Order to dismissing the Complaint due to lack of jurisdiction; instead, the Commission does not dismiss the Complaint, and advises the Utility in a public Order on remedies, and issues opinions as to the underlying dispute alleged in the Complaint.
- LCC is not a party to the case, thus, LCC is without standing to request a "rehearing" under KRS 278.400. Likewise, the fact that there was no hearing (despite fact finding and opinions being issued in the Order) makes KRS 278.400 inapplicable as a remedy.
- As LCC is not a party to the case, LCC would appear to have no standing under KRS 278.410 to ask the circuit court to set aside the portions of the order on the grounds that certain portions of the Order are "unlawful or unreasonable."
- The Order as issued is prejudicial to LCC, as it:
 - Gives an opinion on the underlying dispute between Jackson Energy and LCC on a matter which is a "fact" dispute, and despite the fact that the Order correctly finds the Commission does NOT have jurisdiction.

- The Order states “facts” which are incorrect (such as the London Country Club has made no payments on the underbilled amount).
- States that Jackson Energy has the “authority” to terminate the customer’s service for nonpayment pursuant to 807 KAR 5:006, Section 14(1)(f). Reference to that particular cite ignores the factual dispute between Jackson Energy and LCC and makes the presumption (again incorrectly) that the allegations in Jackson Energy’s complaint are undisputed and to be taken as true.
- The Order as issued can be used by Jackson Energy as justification for shutting off service to LCC, thus possibly irreparably harming an on-going business, or to prejudice a decision by a circuit court on this issue as it gives “opinions” from the recognized regulator and assumed expert on utility law, the Kentucky Public Service Commission.
- The Order correctly states that the PSC has no jurisdiction over a complaint by a utility against a customer. KRS 278.260(1) does allow the PSC to hear complaints initiated by a customer against a utility. Should LCC have sought its statutory remedy by seeking redress from the PSC, the Order as issued evidences a prejudice against LCC in that a determination on the issue has already been made by the PSC; thus the Order has prevented LCC from seeking relief via the PSC.

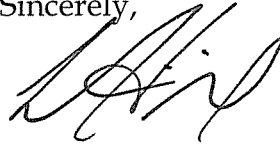
Based the foregoing, LCC respectfully requests that the PSC immediately and on its own volition, vacate and amend any and all portions of the May 18, 2010 Order, beyond its finding that the PSC is without jurisdiction to hear the matter pursuant to KRS 278.260(1), and that the Order finally dismiss the Complaint. I request an immediate response in writing from the PSC as to how it will remedy this situation.

By this letter and the requests herein, the London Country Club does not submit to jurisdiction of the PSC, nor does it waive in any way its available defenses or statutory and/or administrative rights as a Kentucky utility customer, or any other rights or defenses as it relates to the billing dispute between it and Jackson Energy.

KY PSC
May 27, 2010
Page Four

Should you have questions or comments, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'T. Hill', written in a cursive style.

Teresa J. Hill,
Counsel for London Country Club ("LCC")

Attachment: Order, dated May 18, 2010, Case No. 2010-00188

c: Anthony Combs, LCC