

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN ADJUSTMENT OF THE)	
ELECTRIC RATES, TERMS AND)	CASE NO. 2003-00434
CONDITIONS OF KENTUCKY)	
UTILITIES COMPANY)	

**PETITION FOR APPROVAL
TO DEVIATE FROM RULE**

Kentucky Utilities Company (“KU”) petitions the Kentucky Public Service Commission (“Commission”) to grant KU approval pursuant to 807 KAR 5:011, Section 14, to deviate from the notice requirements of 807 KAR 5:011, Section 8(2) in the above-captioned proceedings. In support of this petition, KU states as follows:

1. On December 29, 2003, KU filed an application with the Commission for approval of an adjustment of its existing rates, terms and conditions for electric service. On December 11, 2003, KU delivered to the Kentucky Press Association a notice of the filing of its application for publication in ninety-two newspapers in KU’s service areas, once a week for three consecutive weeks, with the first publication to be made prior to the filing of KU’s application, as required by 807 KAR 5:011, Section 8(2)(c). *See* Certificate of Notice.
2. Certain of the newspapers that were to publish notice of the filing of KU’s application are weekly publications that did not publish an edition every week during this past

3. The nine newspapers that due to the holidays did not publish notice of the filing of KU's application once a week for three consecutive calendar weeks are: *Brownsville Edmonson News, Central City Times Argus, Cumberland Tri-City News, Lancaster City Record, Munfordville Hart County News Herald, Providence Journal Enterprise, Stanford Interior Journal, Three Forks Tradition, and Warsaw Gallatin County News*. These newspapers, however, published the notice in three consecutive weekly editions in those weeks that the newspaper was published. See Notarized Proof of Publication.

4. The two newspapers that due to the holidays did not publish the notice of the filing of KU's application prior to the filing are: *Clinton Hickman County Gazette* and *Somerset Commonwealth Journal*. These newspapers, however, published the notice once a week for three consecutive weeks. See Notarized Proof of Publication.

5. Additionally, two newspapers, *Columbia Adair Progress* and *Columbia News*, combined during the holidays. As a result, *Columbia News* did not publish notice of the filing of KU's application once a week for three consecutive weeks, nor did it publish the notice prior to the filing of KU's application. *Columbia Adair Progress*, however, distributed its December 24 and December 31 editions, which contained notice of the filing of KU's application, in *Columbia News'* area of circulation as well as its own. Thus the notice was published once a week for three consecutive weeks, with the first publication made prior to the filing of KU's application, in the geographic area served by *Columbia News*. See Notarized Proof of Publication.

6. In all instances in which a newspaper did not publish notice of the filing of KU's

7. In addition to causing notice of the filing of its application in this case to be published in newspapers of general circulation in its service areas, KU has posted the notice for public inspection at its offices and places of business in the territory affected by the application. *See* Certificate of Notice.

8. KU has not received any complaint concerning the manner in which notice of the filing of its application was published.

9. The purpose of the Commission's regulation is to ensure that the public has sufficient notice of KU's application and a meaningful opportunity to participate, individually or through representative agencies, in this proceeding. Despite the minor deviations noted above, notice was published in each county three times, and that notice was further supplemented by posting at KU's offices, and by extensive media coverage. KU's substantial compliance with the Commission's regulation has met the purpose of the notice requirement. As stated by the Kentucky Supreme Court in Conrad v. Lexington-Fayette Urban County Government, 659 S.W.2d 190, 195 (1983):

Substantial compliance in regard to publication requirements has been authorized [citing Queenan v. City of Louisville, 233 S.W.2d 1010 (1950)]. The purpose of the statute is to allow the public an ample opportunity to become sufficiently informed on the public question involved.


See also Lyon v. County of Warren, 325 S.W.2d 302 (1959) (Published notice of bond referendum outside statutory time limits, and accompanied by media attention, etc., held sufficient notice to public.)

the requirement of the regulation and to accept the publication of notice of KU's application as sufficient.

WHEREFORE, Kentucky Utilities Company respectfully requests that the Commission grant it approval pursuant to 807 KAR 5:011, Section 14 to deviate from the notice requirements of 807 KAR 5:011, Section 8(2) and to accept the publication of notice of its application as sufficient.

Dated: February 12, 2004

Respectfully submitted,



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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Petition for Approval to Deviate from Rule was served on the following persons on the 12th day of February 2004, United States mail, postage prepaid:

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