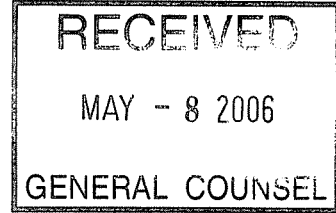


**COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION**



**In the matter of:**

**ROY GAINES WALTON  
GERALD WALTON, Et Al  
COMPLAINANTS**

PUBLIC SERVICE  
COMMISSION

MAY 2 5 2006

RECEIVED

**V.**

**KENTUCKY UTILITIES COMPANY  
DEFENDANT**

)  
)  
)  
)  
) **NO. 2005-00136 and**  
) **NO.s 2004-00450; 2005-**  
) **00099; 2004-00497; 2004-**  
) **00499; 2005-00118; 2005-**  
) **00137; and 2005-00182**  
)  
)  
)

**TESTIMONY OF GERALD WALTON**

**1. Please state your name, address and profession.**

My name is Gerald Walton. I live at 2202 Bahama Road, Lexington, Kentucky 40509. I am also a builder and property owner.

**2. Why did you file a Complaint against Kentucky Utilities with the Public Service Commission (hereinafter "PSC")?**

I filed a complaint against Kentucky Utilities with the Public Service Commission because KU denied service to me and to my brother Roy G. Walton.

**3. Please provide the Commission with the factual background.**

KU refused to put the electric at 832 Ward Drive in Roy Walton's name. He is the property owner at that address. Roy explained to me that apparently a tenant or someone else had obtained service at 832 Ward Drive by illegal means and that KU was holding him responsible because he is the property owner. KU told Roy that he could not have service in his name at 832 Ward Drive until he paid for the electric that someone stole from KU and until he paid for diversion charges. Roy explained to me that he was

not going to pay for the criminal behavior of someone else and that he thought KU was acting unfair and arbitrarily.

Like Roy, I have owned and managed property in Lexington for over thirty (30) years. I have an excellent credit history with KU. I felt that KU was being unreasonable and that it was unfair to hold Roy responsible for someone else's criminal actions. Roy needed electric at 832 Ward Drive in order to prepare the property for a tenant. I attempted to get electric in my name at that address but KU refused to provide service to me. KU said I was acting as an agent of my brother, Roy. I took a lease to the KU office to show that Roy was putting the property in my name to manage. KU still refused to provide me with service at 832 Ward Drive.

**4. What is your interest in pursuing this Complaint with the Kentucky Public Service Commission?**

I have owned and managed rental property in Lexington for over thirty (30) years. My record with KU reflects that I have paid all my bills and have excellent credit. I believe that the tariff at Original Sheet No. 82.1 that says "upon the absence of an active account, the property owner assumes responsibility for any consumption and the Company's property and service" is arbitrary, unfair and in violation of public policy, and principles of law and equity. The tariff punishes and holds property owners responsible for another's criminal activity.

KU is in the business of selling electricity to consumers. KU and its employees specialize in the business of electricity. The provision and maintenance of electricity is KU's job, not the property owner's job. KU has tariffs that require property owners to allow KU easements, rights of way and access to premises for the purpose of installing, meter reading, inspecting, repairing, or removing its equipment. It is unfair and unreasonable to require property owners to pay for illegal consumption and in addition to charge "diversion" fees when illegal activity has occurred. KU has access, easements, rights of way and most importantly the knowledge and expertise to track the use of electricity. It is unfair and against principles of law and equity for KU to arbitrarily force property owners to be responsible not only for consumption in the event of illegal activity when there is no active account but also for added "diversion" charges.

**5. What resolution are you seeking from the Commission?**

I respectfully ask the Commission to review the tariff at Original Sheet No. 82.1 and delete the following language “Upon the absence of an active account, the property owner assumes responsibility for any consumption and the Company’s property and service.”

**6. Have you reviewed the proposed amended language that states “Upon the absence of an active account should tampering, interfering, or breaking of seals on meters or other Company equipment occur, the Company shall notify the property owner of such. The property owner shall have (7) business days from the date of notification to take corrective action acceptable to the Company in its sole discretion and, if applicable, have the responsible party apply for service with the Company and/or reimburse the Company for all costs associated with the incident. This action shall relieve the landlord from financial responsibility resulting from such tampering. If notification is made via a letter sent by regular mail, notification shall be deemed to have been made three (3) days after the date such letter is mailed. Should the property owner fail to take these corrective measures within seven (7) business days after notification, the property owner will assume financial responsibility for such tampering.”? (Emphasis added)**

Yes, I have reviewed that language.

**7. If the Commission adopts that language or similar language would you be satisfied and feel that it is a fair resolution?**

No, I would not. If this language is adopted the consumer/property owner is still at the mercy of the Company and still ultimately responsible for the actions of another. The Company says it will notify the property owner of illegal activity but it does not say how it will notify the property owner or when it will notify the property owner

Next, even if the Company does provide adequate notice to the property owner, the proposed language requires the property owner to make the wrongdoer pay for his or her illegal activity, and, in the alternative, if the property owner is unsuccessful in making the wrongdoer pay, and the company finds the property owner’s “corrective action” unacceptable in its “sole discretion” then the property owner finds himself in the same position that the current tariff puts him in - financially responsible for the criminal activity of another.

I respectfully ask the Commission to find the tariff at Original Sheet No. 82.1 invalid and unreasonable.

**VERIFICATION**

I certify that the foregoing testimony is my testimony and is true and correct to the best of my knowledge and belief.

  
GERALD WALTON

COMMONWEALTH OF KENTUCKY  
COUNTY OF FAYETTE


4th Subscribed, sworn to, and acknowledged before me by Gerald Walton, this the day of May, 2006.

My Commission expires:

~~2/28/08~~

  
NOTARY PUBLIC - KY. STATE  
AT LARGE

Respectfully submitted,

  
KATHRYN A. WALTON  
201 West Vine Street  
Lexington, Kentucky 40507  
859.381.0667 (p)  
859.381.0653 (f)

**ATTORNEY FOR COMPLAINANTS  
ROY G. WALTON AND  
GERALD WALTON**

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing was sent by mail postage prepaid on May 4, 2006 to:

Beth O'Donnell, Executive Director  
Public Service Commission  
211 Sower Boulevard  
Frankfort, Kentucky 40601

Curtis White  
2412 West Jefferson St.  
Louisville, Kentucky 40212

John Wolfram  
Manager, Regulatory Affairs  
Kentucky Utilities Company  
c/o Louisville Gas & Electric Co.  
P.O. Box 32010  
Louisville, Kentucky 40232-2010

Ada M. Clem  
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Lexington, Kentucky 40505

Hon. J. Gregory Cornett  
W. Duncan Crosby III  
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Senior Regulatory Counsel  
Louisville Gas and Electric  
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Norman L. Dennison  
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Louisville, Kentucky 40272

Hon. Elizabeth Cocanougher  
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COUNSEL FOR KU

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Lexington, Kentucky 40509

Roy Walton  
616 Galaxie Drive  
Lexington, Kentucky 40502

Hon. Dennis Howard  
Hon. Larry Cooke  
Assistant Attorney General  
Office of the Attorney General  
Utility & Rate Intervention Division  
1024 Capital Center Drive  
Suite 200  
Frankfort, Kentucky 40601-8204

Maria L. Wilson  
1240 Cleo Avenue  
Louisville, Kentucky 40232

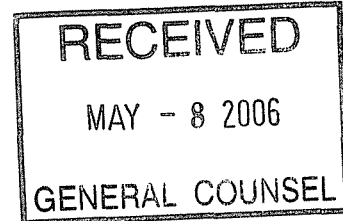
Donald Marshall  
200 South Dan Dunn Road  
Hodgenville, KY 42748

John Yuen  
310 East Jacob St.  
Louisville, Kentucky 40203

  
KATHRYN A. WALTON

**COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION**

**In the matter of:**



**ROY GAINES WALTON** )  
**GERALD WALTON, Et Al** )  
**COMPLAINANTS** )

COMMISSION  
PUBLIC SERVICE

MAY 25 2006

**v.**

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) **NO. 2005-00136 and**  
 ) **NO.s 2004-00450; 2005-**  
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 ) **00137; and 2005-00182**

**KENTUCKY UTILITIES COMPANY** )  
**DEFENDANT** )

**TESTIMONY OF ROY GAINES WALTON**

**1. Please state your name, address and profession.**

My name is Roy Gaines Walton. I live at 616 Galaxie Drive, Lexington, Kentucky 40502. I was a high school teacher and football coach for over 30 years but I am retired now. I am also a builder and property owner.

**2. Why did you file a Complaint against Kentucky Utilities with the Public Service Commission (hereinafter "PSC")?**

I filed a complaint against Kentucky Utilities with the Public Service Commission because KU held me responsible and charged me for the criminal activity of another and because KU refused to turn the electric on at one of my rental properties (832 Ward Drive, Lexington) after the tenant moved out.

**3. Please provide the Commission with the factual background.**

The following is what happened regarding 832 Ward Drive. On or about December 13 or 14, 2004 I requested KU take the electric out of my name at 832 Ward

Drive because I rented the property to Alicia Owens. On December 30, 2004 I called KU to ask whose name the electric at 832 Ward Drive was in. KU wouldn't tell me if the electric was in the tenant's name but did tell me that it was not in my name.

Sometime in January I had to evict Ms. Owens from 832 Ward Drive. After a tenant moves out I always prepare the unit for the next tenant. On January 27, 2005 I was preparing 832 Ward Drive for the next tenant. I called KU to find out whose name the electric was in and ask that it be put in my name. The person I spoke with told me the electric at 832 Ward Drive had been turned off at my request on December 14, 2004 and had not been turned on in anyone's name since that time. I told her it had to be in someone's name because I was at the property and the electric was on. I asked her to put the electric in my name. She told me that the electric was on illegally so she couldn't put it in my name.

She told me about some charges for illegal activity and told me I would have to visit the KU office and pay for the illegal activity before the electric would be turned on in my name. I told her that I had nothing to do with any illegal activity and again asked her to put the electric in my name. She told me I would have to go to the KU office and pay diversion charges and that she couldn't service my phone request to put the electric in my name. She told me KU has to collect the diversion charges "from someone." (Redacted transcript of Roy Walton phone calls on December 30, 2006 and January 27, 2006 to be provided by KU – Complainant Exhibit 1).

I hired and paid an electrician Six Hundred Thirty-Two Dollars and Twenty-Nine Cents (\$632.29) to replace the meter base, make repairs and complete an inspection at 832 Ward Drive. (Copy of invoice dated February 14, 2005 – Complainant Exhibit 2). Another tenant moved in to 832 Ward Drive at the end of January or early February. I assume that KU put the electric in that tenant's name. The tenant moved out sometime in March and I requested KU put the electric in my name. KU refused to turn the electric on in my name unless I paid Three Hundred Fifty One Dollars and Thirty Cents (\$351.30) that KU charged to me for someone else's illegal activity. Even though I had



nothing to do with the illegal activity I did have the meter base replaced, repaired and inspected at a cost to me of Six Hundred Thirty-Two Dollars and Twenty-Nine Cents (\$632.29). I refused to pay additional charges that KU assigned to me for someone else's illegal activity. The charges that are in dispute are two "diversion fees" of Eighty-Six Dollars and Fifty Cents (\$86.50) amounting to a total of One Hundred Seventy-Three Dollars (\$173.00). KU apparently assigned these charges to me after my January 27, 2005 phone call inquiring about service and requesting that it be put in my name. In addition KU charged me One Hundred Seventy-Eight Dollars (\$178.00) for "use". (Timeline attached as Complainant's Exhibit 3),

**4. Have you paid the diversion/use charges?**

No, I have not paid any diversion/use charges. It is my understanding that KU removed the charges from my account.

**5. What is your interest in pursuing this Complaint with the Kentucky Public Service Commission?**

I have owned and managed rental property in Lexington for over thirty (30) years. My record with KU reflects that I have paid all my bills and have excellent credit. I believe that the tariff at Original Sheet No. 82.1 that says "upon the absence of an active account, the property owner assumes responsibility for any consumption and the Company's property and service" is arbitrary, unfair and in violation of public policy, and principles of law and equity. The tariff punishes and holds property owners responsible for another's criminal activity.

KU is in the business of selling electricity to consumers. KU and its employees specialize in the business of electricity. The provision and maintenance of electricity is KU's job, not the property owner's job. KU has tariffs that require property owners to allow KU easements, rights of way and access to premises for the purpose of installing, meter reading, inspecting, repairing, or removing its equipment. It is unfair and unreasonable to require property owners to pay for illegal consumption and in addition to charge "diversion" fees when illegal activity has occurred. KU has access, easements,

rights of way and most importantly the knowledge and expertise to track the use of electricity. It is unfair and against principles of law and equity for KU to arbitrarily force property owners to be responsible not only for consumption in the event of illegal activity when there is no active account but also for added “diversion” charges.

**6. What resolution are you seeking from the Commission?**

I respectfully ask the Commission to review the tariff at Original Sheet No. 82.1 and delete the following language “Upon the absence of an active account, the property owner assumes responsibility for any consumption and the Company’s property and service.”

**7. Have you reviewed the proposed amended language that states “Upon the absence of an active account should tampering, interfering, or breaking of seals on meters or other Company equipment occur, the Company shall notify the property owner of such. The property owner shall have (7) business days from the date of notification to take corrective action acceptable to the Company in its sole discretion and, if applicable, have the responsible party apply for service with the Company and/or reimburse the Company for all costs associated with the incident. This action shall relieve the landlord from financial responsibility resulting from such tampering. If notification is made via a letter sent by regular mail, notification shall be deemed to have been made three (3) days after the date such letter is mailed. Should the property owner fail to take these corrective measures within seven (7) business days after notification, the property owner will assume financial responsibility for such tampering.”? (Emphasis added)**

Yes, I have reviewed that language.

**8. If the Commission adopts that language or similar language would you be satisfied and feel that it is a fair resolution?**

No, I would not. If this language is adopted the consumer/property owner is still at the mercy of the Company and still ultimately responsible for the actions of another. The Company says it will notify the property owner of illegal activity but it does not say how it will notify the property owner or when it will notify the property owner. For example, I called KU on December 30, 2004 to see if the electric was in my tenant’s name. KU refused to tell me that information but did tell me that it wasn’t in my name. KU had the knowledge at that time that electric service was not being provided to 832 Ward Drive, I did not have that information and was denied access to that information. I

didn't know until my January 27, 2005 call that there had been no service at the property since I requested it turned off in my name on December 14, 2004.

I have also learned in reviewing KU's Answers to Interrogatories and Requests for Documents that according to KU's records sometime around January 19, 2005, KU "suspected diversion" and Tim Melton ordered an electrician to go to 832 Ward Drive and "remove locking devices so they could replace meter base." (See KU's Attachment to Question 7, Page 4 or 8). On January 27, 2005 when I requested that the electric be put in my name I was told it was on illegally and that there were diversion charges. How long had the Company known it was on illegally? What if I had not called that day to request service in my name?

Next, even if the Company does provide adequate notice to the property owner, the proposed language requires the property owner to make the wrongdoer pay for his or her illegal activity, and, in the alternative, if the property owner is unsuccessful in making the wrongdoer pay, and the company finds the property owner's "corrective action" unacceptable in its "sole discretion" then the property owner finds himself in the same position that the current tariff puts him in - financially responsible for the criminal activity of another.

I respectfully ask the Commission to find the tariff at Original Sheet No. 82.1 invalid and unreasonable and to relieve me and others similarly situated of all charges resulting from this tariff.

Bobby Howard  
P.O. Box 96C  
Nicholasville, KY  
40340

STATEMENT

DATE 2/14/05

TO Roy Walton  
Job #32 Ward Dr.

DETACH AND RETURN UPPER PORTION WITH YOUR REMITTANCE \$

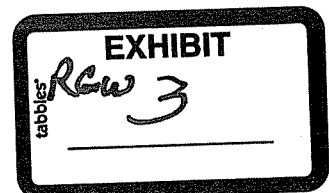
Repair Electric Service materials	\$ 222.29
Labor, Permit, & Inspection	\$ 410.00
<b>TOTAL</b>	<b>\$ 632.29</b>

~~Check # 61752~~  
2/17/05  
\$ 632.29

EXHIBIT  
Row 2  
tabbles

Roy G Walton and Gerald Walton v Kentucky Utilities

Dec. 14, 2004	RGW requested KU take electric service at 832 Ward Drive out of his name.
Dec. 30, 2004	RGW called KU. Was told service was not in RGW's name.
Jan. 20, 2005	KU "suspects diversion"
Jan. 27, 2005	RGW called KU to find out whose name service was in at 832 Ward Drive. Was told that there was no service at that address. RGW explained he was at 832 Ward Drive and service was on. Requested service be put in his name. Request denied because of illegal activity - diversion charges assigned to RGW.
Feb. 14, 2005	RGW hired electrician to replace repair and inspect the meter base at 832 Ward Drive. Cost - \$632.29
Feb. 17, 2005	RGW paid electrician Bobby Howard \$632.29, check no. 6738.
Jan, Feb. 2005	KU turned on electric in name of new tenant at 832 Ward Drive.
March, 2005	Tenant at 832 Ward Drive moved out.
Mar. 23, 2005	RGW requested electric in his name at 832 Ward Drive. KU denied request - told RGW no electric in his name at that address until he paid the diversion charges KU assigned to him for illegal activity of another.
Mar. 23, 2005	RGW went to the downtown KU office to try to resolve the issue. He asked the customer service representative what he is supposed to do for electric. She responded, "I guess you will have to go get a generator."
Mar. 24, 2005	GW requested electric in his name at 832 Ward Drive. KU denied request based on belief that GW acting as agent of RGW.
Mar. 28, 2005	RGW and GW file Complaint against KU with KY PSC
Mar. 30, 2005	Electric turned on in RGW's name per KU.




**VERIFICATION**

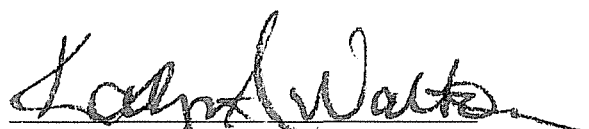
I certify that the foregoing testimony is my testimony and is true and correct to the best of my knowledge and belief.

  
**ROY G. WALTON**

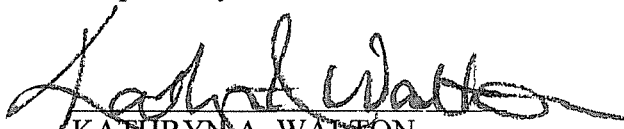
COMMONWEALTH OF KENTUCKY  
COUNTY OF FAYETTE

 Subscribed, sworn to, and acknowledged before me by Roy G. Walton, this the day of May, 2006.

My Commission expires 

  
**NOTARY PUBLIC -KY. STATE  
AT LARGE**

Respectfully submitted,

  
**KATHRYN A. WALTON**  
201 West Vine Street  
Lexington, Kentucky 40507  
859.381.0667 (p)  
859.381.0653 (f)

**ATTORNEY FOR COMPLAINANTS  
ROY G. WALTON AND  
GERALD WALTON**

**CERTIFICATE OF SERVICE**

This is to certify that a copy of the foregoing was sent by mail postage prepaid on May 4, 2006 to:

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Louisville Gas and Electric  
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COUNSEL FOR KU

Gerald Walton  
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Lexington, Kentucky 40509

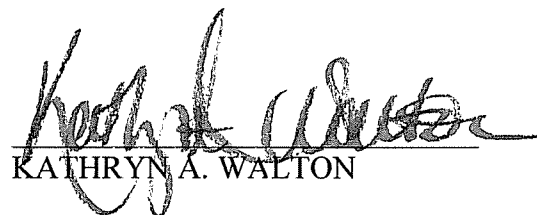
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