Ernie Fletcher Governor

LaJuana S. Wilcher, Secretary Environmental and Public Protection Cabinet

Christopher L. Lilly Commissioner Department of Public Protection

Mindy G. Barfield Attorney at Law Dinsmore & Shohl, LLP Lexington Financial Center 250 W. Main Street, Suite 1400 Lexington, KY 40507



Commonwealth of Kentucky **Public Service Commission** 211 Sower Blvd. P.O. Box 615 Frankfort, Kentucky 40602-0615 Telephone: (502) 564-3940 Fax: (502) 564-3460 psc.ky.gov

July 27, 2005

Mark David Goss Chairman

> Gregory Coker Commissioner

CERTIFICATE OF SERVICE

RE: Case No. 2004-00458 Kentucky Utilities Company

I, Beth O'Donnell, Executive Director of the Public Service Commission, hereby certify that the enclosed attested copy of the Commission's Order in the above case was served upon the addressee by U.S. Mail on July 27, 2005.

Executive Director

BOD/jc Enclosure



Mindy G. Barfield Attorney at Law Dinsmore & Shohl, LLP Lexington Financial Center 250 W. Main Street, Suite 1400 Lexington, KY 40507

Honorable J. Gregory Cornett Attorney at Law Ogden, Newell & Welch, PLLC 1700 PNC Plaza 500 West Jefferson Street Louisville, KY 40202-2874 Kent W. Blake Director State Regulations and Rates Kentucky Utilities Company 220 W. Main Street P. O. Box 32010 Louisville, KY 40232-2010

Honorable Dennis G. Howard II Assistant Attorney General Office of the Attorney General Utility & Rate Intervention Division 1024 Capital Center Drive Suite 200 Frankfort, KY 40601-8204 Honorable Elizabeth L. Cocanougher Senior Corporate Attorney Kentucky Utilities Company c/o Louisville Gas & Electric Co. P. O. Box 32010 Louisville, KY 40232-2010

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE CONTINENTAL INN
COMPLAINANT
V.
KENTUCKY UTILITIES COMPANY
DEFENDANT

<u>O R D E R</u>

On November 24, 2004, The Continental Inn ("Continental") filed with the Commission a formal complaint against Kentucky Utilities Company ("KU") alleging that KU was acting unreasonably by requiring that a deposit of approximately \$17,000 be paid in one payment. Continental requests that the Commission order KU to allow Continental to pay the deposit in installments over a reasonable period of time.

In its answer filed on December 28, 2004, KU stated that Continental had not timely paid its bills and had received 18 disconnect notices during the preceding 18 months. KU asserts that it properly required Continental to pay a deposit of \$16,731.10 in a lump sum, but offered to accept the deposit in three equal payments of \$5,862.27.

It appears from the record that Continental did not keep a satisfactory payment history with KU. Continental concedes that it was late making several payments. According to KU's billing records, Continental was chronically late on its payments for electric service. On January 4, 2005, KU copied the Commission on a letter that it sent to Continental. In the letter KU informed Continental that service would be disconnected on January 7, 2005 for failure to pay billings timely. As of the date of this Order, the Commission does not know the status of Continental's account with KU.

Continental neither disputes KU's right to request a deposit nor the amount of the deposit. Continental merely asserts that it is unreasonable to require that the deposit be paid in a lump sum instead of installments. KU, however, is under no legal obligation to allow a non-residential customer to pay its deposit in installments. Neither KU's tariff¹ nor 807 KAR 5:007, Section 7, the administrative regulation governing deposits, requires KU to accept installment payments for deposits. Judging from Continental's payment history, KU is within its rights to require a deposit and, furthermore, is within its rights to require that the deposit be made in one payment. The Commission therefore finds that KU's actions are reasonable in this case. KU, however, not having an obligation to do so, has offered to allow the deposit to be paid in three monthly payments of \$5,862.67 each.

The Commission finds that the complaint should be dismissed for failing to state a claim upon which relief may be based. The Commission also finds that KU has made an offer of satisfaction, and that it would be unreasonable to allow KU to withdraw this offer. This dismissal, therefore, is based on the understanding that KU continues to offer Continental the option of paying the deposit in three equal payments.

¹ KU Tariff Original Sheet 87, P.S.C. No. 13.

IT IS THEREFORE ORDERED that:

1. This case is dismissed for failing to state a claim upon which relief may be based.

2. This dismissal is contingent upon KU offering to Continental the opportunity to pay the deposit in three equal payments.

Done at Frankfort, Kentucky, this 27th day of July, 2005.

By the Commission

ATTEST Executive Director

Case No. 2004-00458