

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

271 WEST MAIN STREET, LLC)	
)	
COMPLAINANT)	
)	
V.)	CASE NO. 2005-00389
)	
KENTUCKY UTILITIES COMPANY)	
)	
DEFENDANT)	

O R D E R

Complainant, 271 West Main Street, LLC ("West Main"), brought this action against Kentucky Utilities Company ("KU") claiming that KU wrongly increased its rates shortly after Complainant purchased a building known as the Court Yard Square Building, located at 269 West Main Street, Lexington, Kentucky 40507. Complainant states that, prior to the purchase, it performed due diligence to include a review of the cost of utilities for the building. Complainant complains that, after the purchase of the building, the electric rates increased approximately 43 percent.¹ KU responds that the prior owner was subject to a "grandfather clause" which did not extend to the new owner, West Main.

¹ KU acknowledges that the rates increased, but claims they increased only about 30 percent. Answer of Kentucky Utilities Company at para. 3.c.

DISCUSSION

KRS Chapter 278 confers upon the Commission the exclusive jurisdiction over the regulation of rates and services of utilities within the Commonwealth.² In furtherance of its authority, the Commission has the right to adopt reasonable regulations to implement the provisions of KRS Chapter 278.³ West Main has made certain claims including, "As it is well known, most grandfathered conditions (such as zoning nonconforming issues) generally apply to the property and not to the ownership."⁴

CONCLUSION

The Commission finds that West Main's petition presents issues that should be examined before ruling on this matter. Noting that both sides are represented by counsel, the Commission finds that West Main and KU should file with the Commission, within 15 days of the date of this Order, written memoranda addressing the issues raised by the parties herein including, but not necessarily limited to, the issues of whether a "grandfather clause" exists with regard to the rates for electric service in this case and, if such a "grandfather clause" does exist, whether it should apply to the property itself or to the owner of the property. Responses to the memoranda, if any, should be filed no later than 7 days thereafter.

² KRS 278.040(2).

³ KRS 278.040(3).

⁴ Complaint of West Main at 2.

IT IS THEREFORE ORDERED that:

1. Within 15 days of the date of this Order, West Main and KU shall submit written memoranda regarding the issues raised herein.

2. Responses to the memoranda, if any, shall be filed no later than 7 days thereafter.

Done at Frankfort, Kentucky, this 21st day of July, 2006.

By the Commission

ATTEST:



Executive Director