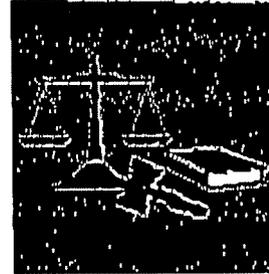




**W. JEFFREY SCOTT, P.S.C.**  
P.O. Box 608 – 311 West Main Street  
Grayson, KY 41143



Phone (606)474-5194  
Fax (606) 474-5196  
E-Mail: [wjscott@alltel.net](mailto:wjscott@alltel.net)

**FACSIMILE COVER PAGE**

To: Kentucky Public Service Commission

FAX: (502) 564-3460

From: Tonya

Date: Jan. 12, 2007

Re: 2006-495 Callihan v. Grayson RECC

Total Number of Pages 5 (including cover page)

**Additional Notes:**

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U.S. Postal Service this date.

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COMMISSION**

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COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION  
CASE NO. 2006-00495

JAN 12 2007  
PUBLIC SERVICE  
COMMISSION

In the Matter of:

WALTER CALLIHAN,

COMPLAINANT,

VS. *RESPONSE OF GRAYSON RURAL ELECTRIC  
COOPERATIVE CORPORATION TO THE JANUARY 5, 2007  
ORDER OF COMMISSION AND DECEMBER 12, 2006  
MOTION OF COMPLAINANT*

GRAYSON RURAL ELECTRIC  
COOPERATIVE CORPORATION,

DEFENDANT.

Comes now the Defendant, Grayson Rural Electric Cooperative Corporation (hereinafter "*Grayson*"), and for its response to the motion of the Complainant, states as follows:

1. Grayson respectfully submits that the Complainant Walter Callihan's assertions that Grayson must initiate an action against Complainant to recover monies owed, is misplaced. Grayson has no obligation at all to pursue collection of a debt as a condition precedent to denial of electric service for nonpayment of previous service provided to the Complainant.
2. As this Commission is well aware, the defense of Statute of Limitations is one which must be pled in an action to recover that debt or else that defense would be barred.
3. The limitation of actions set forth in the applicable statute is not something which on its own bars recovery but is simply a defense. Were Grayson to initiate an action, it would be incumbent upon Complainant to assert an alleged Statute of Limitations as a defense otherwise the action could proceed.

4. The Complainant is further incorrect in his assertions that a four year statute of limitation applies since the statute to which the Complainant makes reference does not define electricity as a "goods". In point of fact, G&K Dairy vs. Princeton Electrical Plant Board, Western District of KY (1991) 781 F. Supp.485 determined that electricity was not a "good".
5. Grayson further relies upon Administrative Regulation 807 KAR 5:006 Section 14(f) as a complete bar to the complaint of the Complainant. That regulation provides that a "utility may terminate service at a point of delivery for nonpayment of charges incurred for utility service at that point of delivery".
6. The indebtedness that the Complainant has to Grayson is a just debt arising out of the Complainant's nonpayment for electric service about which there has been considerable testimony and documentation evidencing same in Kentucky Public Service Commission Case No. 2005-00280.
7. Grayson refers the Commission to the above-referenced 2005-00280 and asks that the responses filed therein by Grayson, particularly the answer of Grayson to the Commission Staff's Interrogatories and Request for Production of Documents and the deposition testimony of President Carol Hall Fraley be adopted as further response by Grayson in the within matter.
8. The Commission initiated an investigation in Case No. 2005-00280 but has rendered no decision as a result of that investigation. In that action, Grayson has gone through considerable time and expense to document once again the obligation that the Complainant has to Grayson.
9. Grayson has never denied Mr. Callihan electric service except for nonpayment of service already provided. Grayson has repeatedly told Mr.

Callihan, and has repeatedly told the Commission, that upon payment of the outstanding indebtedness of a little over \$700.00, execution of the application for service, and compliance with all other rules and regulations of the Cooperative and the Commission, that Mr. Callihan would have electric service provided to him. As the Commission knows, however, Mr. Callihan has refused to abide by those rules and regulations and has refused to pay for electric service previously provided to him.

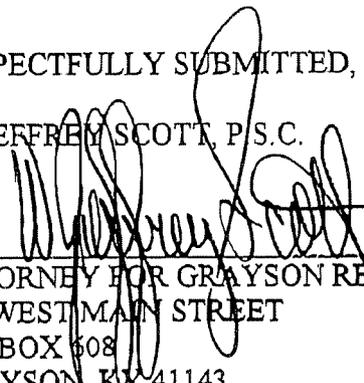
10. No new request has been made by Mr. Callihan tendered with payment for outstanding sums owed. Therefore, the motion should be denied or the Commission should set a hearing or the Commission should rule in Case No. 2005-00280 concluding that Grayson has violated no rules or regulations of the Commission nor any other law denying electric service to the Complainant.

**WHEREFORE**, the Defendant, Grayson Rural Electric Cooperative Corporation respectfully submits that the motion of the Complainant be denied, that the Commission take notice of the proceedings and filings in Case No. 2005-00280, and that this matter be dismissed.

RESPECTFULLY SUBMITTED,

W. JEFFREY SCOTT, P.S.C.

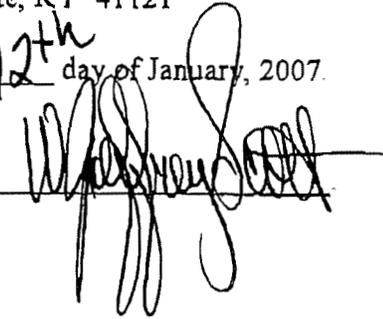
BY: \_\_\_\_\_

  
 ATTORNEY FOR GRAYSON RECC  
 311 WEST MAIN STREET  
 P.O. BOX 508  
 GRAYSON, KY 41143  
 (606) 474-5194

This is to certify that the foregoing has been served upon the parties herein by mailing a true and correct copy of same to:

Mr. Walter Callihan  
P.O. Box 17  
Argillite, KY 41121

This 12<sup>th</sup> day of January, 2007.



A handwritten signature in black ink, appearing to read "W. Jeffrey Scott", is written over a horizontal line. The signature is stylized and cursive.

# HOGAN & HARTSON

Hogan & Hartson LLP  
Columbia Square  
555 Thirteenth Street, NW  
Washington, DC 20004  
+1.202.637.5600 Tel  
+1.202.637.5910 Fax

www.hhlaw.com

## TELECOPY/FACSIMILE

<b>To:</b>	<b>Company:</b>	<b>Fax Number:</b>	<b>Tel Number:</b>
Clerk	Kentucky Public Service Commission	(502) 564-3460	

<b>From:</b> David L. Sieradzki	<b>For internal purposes only:</b>
<b>Date:</b> January 12, 2007	Client number: 69766-0007
<b>Time:</b> 10:50 am	Attorney billing number: 1548
Total number of pages incl. cover page: 3	Confirmation number: (202) 637-6462

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### MESSAGE:

On behalf of SouthEast Telephone, Inc., I am enclosing a document for filing in Case No. 2006-00316. I would very much appreciate your sending me a date-stamped confirmation either by fax or by regular mail. I am sending a hard copy via express mail delivery. If you have any questions, please contact me.

Thank you very much.

--David L. Sieradzki

# HOGAN & HARTSON

Hogan & Hartson LLP  
Columbia Square  
555 Thirteenth Street, NW  
Washington, DC 20004  
+1.202.637.5600 Tel  
+1.202.637.5910 Fax

www.hhlaw.com

January 12, 2007

David L. Sieradzki  
Partner  
+1.202.637.6462  
DLSieradzki@hhlaw.com

Beth O'Donnell  
Executive Director  
Public Service Commission  
211 Sower Blvd., PO Box 615  
Frankfort, KY 40602

Re: *Petition of SouthEast Tel., Inc., for Arbitration of Certain Terms and Conditions of Proposed Agreement with BellSouth Telecommunications, Inc. Concerning Interconnection Under the Telecommunications Act of 1996, Case No. 2006-00316*

Dear Ms. O'Donnell:

SouthEast Telephone, Inc. ("SouthEast") respectfully requests leave to withdraw its pending Motion to Compel Responses to Data Requests, filed on Oct. 17, 2006. That motion had asked the Commission to compel BellSouth to make available its forward-looking cost and demand data to assist in SouthEast's development of pricing proposals in accordance with the federal Act.

Despite BellSouth's unlawful "refusal to furnish cost data that would be relevant to setting rates if the parties were in arbitration," 47 C.F.R. § 51.301(c)(8)(ii), SouthEast prepared its case based on publicly available information. BellSouth has fully exhausted its opportunity to provide a countervailing analysis. Now that both parties have submitted direct and rebuttal testimony and the hearing has concluded, SouthEast believes it would be most productive for the Commission to resolve this proceeding based on the information in the record to date.

SouthEast, as a small carrier competing in small rural markets, has already devoted substantial resources to this proceeding. We have proposed prices that fully comply with all federal rules and the precedents of this Commission. We believe, at this point, that our limited resources would best be devoted to providing competitive services and deploying additional network in our market, given that the record in this proceeding is complete.

Beth O'Donnell  
January 12, 2007  
Page 2

While SouthEast is requesting to withdraw its Motion to Compel for practical reasons, SouthEast does not concede that BellSouth's refusal to provide the requested information was lawful or proper.

Please contact me if you have any questions.

Respectfully submitted,



David L. Sieradzki  
Counsel for SouthEast Telephone, Inc.

cc: Amy E. Dougherty  
Mary K. Keyer  
Andrew D. Shore  
Darrell Maynard