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PUBLIC SERVICE
COMMISSION

COMMONWEALTH OF KENTUCKY

BEFORE THE KENTUCKY PUBLIC SERVICE COMMISSION

CASE NO. 2008-00086

IN THE MATTER OF:

THE APPLICATION OF BLUE GRASS ENERGY COOPERATIVE CORPORATION FOR
AN ORDER INTERPRETING KRS 278.225.

Comes now Blue Grass Energy Cooperative Corporation, with headquarters at 1201 Lexington Road, Nicholasville, Kentucky 40356, and whose Articles of Consolidation are on file with the Commission in Case No. 2001-246, hereinafter called "Blue Grass", and submits the following recitation of the facts and circumstances as the basis for requesting this Order:

- a.) KRS 278.040 confers exclusive jurisdiction in the Commission in this case.
- b.) Phyllis Davis is a member of Blue Grass, and for several years prior to October 2003 she maintained a house and security light at premises owned by her, and served by Blue Grass. In October 2003, at Ms. Davis' request, service to the house was disconnected, but retained for the security light. In June 2004, at Ms. Davis' request, service was reconnected to the house, and retained for the light.
- c.) It was discovered by Blue Grass Energy personnel in January of 2008 that due to computer error, Ms. Davis had continued to be billed only for the security light since June 2004, and had not been billed at all for electrical service to the house.

- d.) A letter was mailed to Ms. Davis in January 2008 explaining the situation to her, and requesting that she commence to make payments on the differential between what she was billed and what she should have been billed, which amounted to \$1,840.40. The letter to Ms. Davis expressed that the Cooperative would be glad to work out an arrangement with her to pay this amount over time, and further explained that the differential was only for two years service, from February 2006 to December 2007.
- e.) Ms. Davis, through her attorney, Charles W. Kuster, Jr., of 130 South Main Street, Cynthiana, Kentucky 41031, has denied any liability for the differential. Ms. Davis is current in her payment to Blue Grass for services billed, except for the differential accrued through computer error. She has also expressed her intention, through her attorney, to continue to make payments from this point in time of billings reflecting both the house and security light usage.

ARGUMENT

1. The clear and unequivocal meaning of KRS 278.225 is that Blue Grass is limited to two (2) years after the provision of service to its members, to bill for that service. There is certainly nothing in that statute that prohibits Blue Grass from billing its service for those two (2) years following the extension of service. It is true that, as applied to this situation, Blue Grass is prohibited from billing Ms. Davis for service beyond two (2) years, and Blue Grass has made no attempt to do that.

2. While true that Ms. Davis was not involved in the mistake that was made which resulted in the differential between the amount that should have been paid and the amount that was paid, she nevertheless benefited from the additional service provided to the house from 2004 until February 2006, a period outside the two (2) year window and for which she cannot and will not be billed by Blue Grass.

3. While Ms. Davis is not at fault for the computer error, she is nevertheless not an innocent party. Common sense would dictate that when Ms. Davis had service reconnected to her house in June 2004, in addition to the security light, that her bill for service would increase several times over. When it did not, Ms. Davis failed to notify Blue Grass and instead continued to pay approximately the same amount each month which she had been paying from October 2003 to June 2004 on the security light. Please see attached Affidavit. Ms. Davis was under a responsibility, as a member of Blue Grass, to report to management the obvious error, in her favor, and she breached that duty by failing to so notify management. To allow Ms. Davis to escape liability for the differential would amount to unjust enrichment to her to the detriment of all other members of Blue Grass.

4. Blue Grass is entitled to an Order of the commission requiring Ms. Davis to pay to Blue Grass the amount of the differential, in the amount of \$1,840.40. Blue Grass will of course, as has already been expressed to Ms. Davis, work with her on a fair and equitable payment arrangement over time, for the differential.

Respectfully submitted by the Applicant on the 6th day of March, 2008, by its authorized representative.

BLUE GRASS ENERGY
COOPERATIVE CORPORATION

By: J. Donald Smothers
J. Donald Smothers

Title: Vice President of Finance & CFO

By: 

Ralph K. Combs
Attorney
100 United Drive, Suite 4B
Versailles, Kentucky 40383

Copy to:

Charles W. Kuster, Jr.
130 South Main Street
Cynthiana, KY 41031

COMMONWEALTH OF KENTUCKY

BEFORE THE KENTUCKY PUBLIC SERVICE COMMISSION
CASE NO. _____

AFFIDAVIT

IN THE MATTER OF:

THE APPLICATION OF BLUE GRASS ENERGY COOPERATIVE CORPORATION FOR
AN ORDER INTERPRETING KRS 278.225.

Comes now J. Donald Smothers, who holds the position of Vice President of Financial Services & CFO, at Blue Grass Energy Cooperative Corporation, and states as follows with regard to Account No. 1304412101 for services at 997 Gainesway Lane, in Harrison County, Kentucky, in the name of Phyllis Davis:

- 1) That service to a house on the premises was added to the service for a security light, which addition of the house took place on or about the 1st day of June 2004. In January 2008, it was discovered that, because of computer error, the service to the house had not been added to the billing.
- 2) The differential between what was billed and what should have been billed from February 2006 to December 2007 was \$1,840.40.

WITNESS my hand this 6th day of March, 2008.



J. Donald Smothers

COMMONWEALTH OF KENTUCKY
COUNTY OF JESSAMINE

Subscribed, sworn to and acknowledged before me by Dr. Donald J. Matthews,
this the 6th day of March, 2008.

Robert K. Gahr

NOTARY PUBLIC, STATE AT LARGE, KY
MY COMMISSION EXPIRES: May 9, 2009