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December 26, 2008

PUBLIC SERVICE COMMISSION

Stephanie Stumbo, Executive Director  
Kentucky Public Service Commission  
P.O. Box 615, 211 Sower Boulevard  
Frankfort, Kentucky 40602-0615

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DEC 29 2008

PUBLIC SERVICE  
COMMISSION

Re: Cases No. 2008-00251 and 2007-00565

Application of Kentucky Utilities Company for an Adjustment of Electric Base Rates;  
Application of Kentucky Utilities Company to File Depreciation Study

Dear Ms. Stumbo:

Please find attached for filing with the Commission an original and ten copies of my answer to the 12/22/08 "Response of Kentucky Utilities Company ("KU") to the Application for Rehearing re the Petition for Full Intervention of Geoffrey M. Young" in the above-referenced proceedings.

Sincerely,



Geoffrey M. Young

Enclosures

cc: Parties listed on the Certificate of Service

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

DEC 29 2008

PUBLIC SERVICE  
COMMISSION

In the Matter of:

APPLICATION OF KENTUCKY UTILITIES )  
COMPANY FOR AN ADJUSTMENT ) CASE NO.  
OF ITS ELECTRIC BASE RATES ) 2008-00251

APPLICATION OF KENTUCKY UTILITIES )  
COMPANY TO FILE DEPRECIATION ) CASE NO.  
STUDY ) 2007-00565

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ANSWER TO KU'S RESPONSE RE  
APPLICATION FOR REHEARING  
OF GEOFFREY M. YOUNG

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This document is my answer to the 12/22/08 "Response of Kentucky Utilities Company ("KU") to the Application for Rehearing re the Petition for Full Intervention of Geoffrey M. Young" in these proceedings. I should note that I am not an attorney and have never held myself out as one. Although KU's response uses different language to restate some of its old arguments and even develops a new argument or two, each one is fallacious or unsupported and should not serve as a basis for any Commission decision.

**I. KU Appears to Be Incapable of Recognizing that a Party Can Have More Than One Special Interest At a Time.**

On page 2 of its Response, KU accurately reprinted two sentences from my

Application for Rehearing, as follows:

[I]n my petition of 8/12/08 I stated clearly that I have a special interest in KU's rate structure. I also clearly described the connection between the utility's rate structure, as reflected in its tariffs, and my interest in a clean environment. (Young, 12/12/08 Application for Rehearing at 2)

For good reason, KU has never even attempted to argue that the connection I cited between these two special interests does not exist. In view of that fact, these two quoted sentences, by themselves, invalidate KU's Argument I in its entirety. Instead of recognizing the fact that I have special interests in both KU's rate structure and a clean environment, KU simply asserted that my "interest is primarily environmental" and that my stated interest in KU's rate structure can be ignored or treated as if it does not exist. (KU Response at 1-3) KU provided no evidence for this conclusion, because in order to know that my interest is primarily environmental, KU would need to be able to read my mind. It cannot do so. For the record, my primary special interest in this proceeding is, in fact, the structure of KU's tariffs. KU is focusing, laser-like, on my special interest in the environment because if it gave equal or greater weight to my stated special interest in the structure of its tariffs, its argument (and that of the Commission) would evaporate.

The idea that all environmental considerations are "beyond the jurisdiction of the Commission" (KU Response at 2-3) is a well-worn fallacy that I have refuted on many previous occasions, including in this proceeding. (Young, 12/12/08 Application for Rehearing at 7-8) My refutation can be summarized by the following two sentences:

In granting the Commission exclusive authority to regulate the rates and service of utilities, the legislature did not thereby forbid the Commission, either explicitly or implicitly, from considering certain factors that are relevant to the accomplishment of its statutory mandate. If the proper regulation of the rates and service of jurisdictional energy utilities requires the Commission to consider the ways in which the utility's rate structure will

affect the economic incentives for improving energy efficiency in its service territory, there is no provision of existing Kentucky law that would prohibit it from doing so. (Id.)

Neither the Commission nor KU has ever attempted to challenge the validity of any part of this logical argument.

The same argument also refutes KU's next point, which was that the KU rate case has nothing to do with DSM. (KU Response at 3) This is an example of the rhetorical technique known as "playing dumb." It is undeniable that certain key staff people who work in KU's and LG&E's Regulatory Affairs Department understand the connection between a utility's rate structure and the economic incentives it faces that either encourage or discourage it from assisting its customers in reducing their energy consumption. It is possible that KU's senior managers understand the connection as well.

KU was an active participant when the Commission first considered this issue in 1992-1994 via Administrative Case No. 341, *An Investigation Into the Feasibility of Implementing Demand-Side Management Cost Recovery and Incentive Mechanisms*, and on several occasions since then. It should be noted that DSM cost recovery and incentive mechanisms are implemented through a utility's tariffs. (*See also* Case No. 1993-00150, *Joint Application for the Approval of Demand-Side Management Programs, a DSM Cost Recovery Mechanism, and a Continuing Collaborative Process on DSM for Louisville Gas and Electric Company*; and Case No. 1998-00474, *Application of Kentucky Utilities Company for Approval of an Alternative Method of Regulation of Its Rates and Service*, in particular the testimony that was submitted by the Kentucky Division of Energy, "KDOE") KU's point about KRS 278.285 and DSM/EE programs that might be proposed by parties other than the utility (KU Response at 3) is irrelevant to the topic of the economic incentives

that are created by KU's rate structure. I believe KU is fully aware of that fact as well.

**II. KU/LG&E's History with Robert Madison Is Irrelevant to this Proceeding.**

KU brought up certain cases in which Robert Madison was denied full intervention but neglected to mention the fact that he had been granted full intervention in at least eight Commission proceedings prior to 2004. (Case No. 2003-00433, Madison, 1/3/04 Letter Requesting Full Intervention) I have not spent much time studying the history of Robert Madison's involvement in the eight (or more) LG&E cases in which he was granted full intervention, but my general recollection from my years working at KDOE was that he did not contribute much of relevance or value. I thought at the time that perhaps he had some kind of libertarian agenda that he tried not to reveal, or that perhaps he was motivated by resentment over the idea that low-income customers might receive a subsidy from LG&E that other customers (such as he) would be compelled to help pay for. Nevertheless, despite his inability to articulate any special interest or perspective he was offering to bring to these cases, the Commission kept granting him full intervenor status until he showed by a long series of actions that his involvement was both unhelpful and disruptive. As the Commission has recently been making a habit of noting, however, it has never given me an opportunity to intervene as an individual. (e.g., Case No. 2008-00409, Denial Order of 12/16/08 at 3) The actual evidence related to this point shows that, based on my 13 years of experience working at KDOE and subsequent actions as a member of the Sierra Club team in Case No. 2006-00472, I would be likely to present pertinent issues, data requests, and testimony in a non-disruptive manner. For KU to equate my petition to intervene with those submitted by Robert Madison is unfounded and also, frankly, insulting.

KU stated that I have not done anything more than state that I have particular

positions on certain issues. (KU Response at 4) The two sentences I cited at the top of page 2 above, however, show that KU's statement is false. I cited a special interest that was not otherwise represented, related to KU's rate structure, and KU has not challenged that argument (except by trying to pretend I never made it).

KU again brought up the well-worn argument about the AG representing all customer interests. (Id. at 5) I have refuted this argument on several previous occasions, including in this proceeding. (Young, 12/12/08 Application for Rehearing at 6-7) KU's "logic" is that only consumer interests are actual, legal, cognizable, Commission-jurisdictional, special interests, and all such interests are comprehensively represented by the AG. If the Commission were to implement this "logic" on a consistent basis, the only parties that would participate fully in PSC cases would be the utility, the AG, and the Commission.

The Commission could easily deny KIUC intervention in any and all cases, for example, by insisting that their stated interest in the utility's rates is actually just a cover for their true, primary interest in economic development, which is not "Commission-jurisdictional." And KIUC's consumer interests are already comprehensively represented by the AG. There are thus not just one, but two airtight rationales the Commission could use to deny KIUC's intervention in virtually all PSC cases.

### **III. KU's Argument II is Based on Nothing More than Misrepresentation.**

The first sentence of KU's Argument II is false on its face. When viewed together with my 8/12/08 Petition for Full Intervention, my Application for Rehearing stated numerous facts that should indicate that I would be likely to contribute testimony, data requests, information, and perspectives that would help the Commission fully consider the

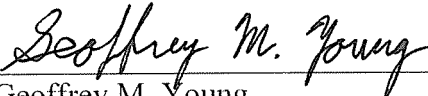
issues before it in the KU rate case.

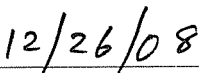
KU stated that I “misconstrued” a provision of federal law by implying that 16 USC Section 2621(d)(8) has the force of law over the actions of the Commission. (KU Response at 6) I implied nothing of the kind. In referring to this federal statute, I was focusing on Congress’ intent; I specifically did not state that the Commission is required by law to adopt certain policies related to utilities’ rate structures. (Young, 12/12/08 Application for Rehearing at 8) I have been aware of the relationship between 16 USC Section 2621(a) and Section 2621(d)(8) for many years. (See Administrative Case No. 341, Final Order dated July 14, 1994) If I had thought that the Commission was violating Federal law by keeping certain traditional rate structures in effect, I would not have hesitated to say so explicitly. KU’s conclusion that my involvement would lead to undue complication and disruption of the KU rate case is therefore unsupported and erroneous.

Because each of the arguments in KU’s 12/22/08 Response has been shown to be unsupported and invalid, its Conclusion at 1 and 6 is also unsupported and invalid.

**WHEREFORE**, I respectfully request that the Commission grant a rehearing of its 12/5/08 Denial Order in the KU rate case.

Respectfully submitted,

  
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Date

**CERTIFICATE OF SERVICE**

I hereby certify that an original and ten copies of the foregoing Application for Rehearing were mailed to the office of Stephanie Stumbo, Executive Director of the Kentucky Public Service Commission, P.O. Box 615, 211 Sower Boulevard, Frankfort, Kentucky, 40602-0615, and that copies were mailed to the following parties of record on this 26th day of December, 2008.

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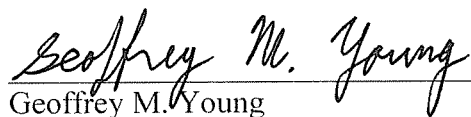
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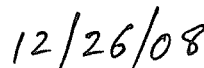
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