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OCT 8 2008

PUBLIC SERVICE
COMMISSION

October 7, 2008

PUBLIC SERVICE COMMISSION

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

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

Application of Kentucky Utilities Company for an Adjustment of its 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 an
Application for Rehearing related to 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**

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**

**APPLICATION FOR REHEARING RE THE
PETITION FOR FULL INTERVENTION
OF GEOFFREY M. YOUNG**

The above-captioned proceedings are an application for a general adjustment of electric rates. My application for full intervention was received by the Commission on August 13, 2008. As of today, Tuesday, October 7, 2008, 55 days will have elapsed without an Order from the Commission either granting or denying my full intervention. As far as I am aware (and subject to check), this is the longest time period in the history of the Commission that any applicant for full intervention has had to wait for an Order.

On September 29, 2008, I mailed a letter of inquiry to the Commission, and it was received and stamped in on September 30. In that letter, I requested that the Commission issue an Order as speedily as possible stating whether I am to be granted full intervenor status in this proceeding. I also requested that the Commission inform me about whether I

will be allowed to submit an information request to KU, in view of the fact that both due dates for such requests have passed (08/27/08 and 09/24/08).

On October 4, 2008, I received a letter from Stephanie Stumbo, the Commission's Executive Director, dated 10/2/08, that included the following two paragraphs:

As to your participation in Commission cases, you are both welcomed and encouraged to provide public comments on any matter that is before the Commission. The Commission will give due consideration to any public comments that assist the Commission in fully considering the matter before it.

Thank you for your continued interest in the issues and policy matters before the Commission.

The letter also contained a lengthy paragraph related to *ex parte* communications and included a copy of a letter I had mailed to the Executive Director on August 29, 2008 (received on September 2). The Executive Director's letter of 10/2/08 did not include the numbers or styles of any Commission proceedings.

Although I am not an attorney, I believe that the following factors, taken together, constitute a "determination" in the meaning of KRS 278.400, and that the Commission's determination was to deny my petition for full intervention:

1) The refusal of the Commission to issue an Order either granting or denying my petition for 55 days and counting;

2) The decision of the Commission to respond to my letter of inquiry dated 9/29/08 with two politely-worded paragraphs (cited above) inviting my public comments, instead of issuing an Order either granting or denying my petition for full intervention; and

3) The decision of the Commission to include a courtesy copy of a letter I wrote to Governor Steve Beshear (dated August 14, 2008) and two of my letters to the Executive

Director (dated August 20 and August 25) in the record of these proceedings, despite my protestations that none of these three letters are relevant to any particular Commission case and despite my repeated requests that they be removed from the records of all Commission cases.

I believe that I am compelled to conclude that these factors, taken together, constitute a “determination” in the meaning of KRS 278.400 because if I do not, I may lose the opportunity to appeal the Commission’s actions in this case to the Franklin Circuit Court as provided by KRS 278.410, should that become necessary at some point in the future. If I were to allow more than 20 days to elapse after October 5, 2008, without filing an application for rehearing, the Commission could then claim that the Executive Director’s letter of 10/2/08 constituted a determination that my intervention petition was denied; that I had failed to meet the time period for action specified in KRS 278.400; and that as a result, any action I might bring in the Franklin Circuit Court regarding this intervention issue would be subject to dismissal for lack of subject matter jurisdiction.

The Commission has entered Ms. Stumbo’s letter dated 10/2/08 into the record of at least five ongoing proceedings: this general rate case, the LG&E general rate case (Numbers 2008-00252 and 2008-00564), the Duke Energy integrated resource planning (IRP) case (No. 2008-00248), the E.ON IRP case, (No. 2008-00148), and the Kentucky Power demand-side management (DSM) case (No. 2008-00350). There may be other proceedings of which I am unaware where the same politely-worded letter has been entered into the record. While the Commission arguably has the authority to enter whatever documents it wishes into any proceedings it wishes, it has recently become clear to me what is going on here. From my perspective, it appears that the Commission is

trying to use my courtesy note to Chairman David Armstrong (received by the Commission on or about August 15, 2008) as one weapon in its attempt to block my full intervention in any and all cases in which I might choose to request it, possibly from now on.

At this time I need to point out that Commission posted the procedural schedule for Case No. 2008-00350 on its web site on 9/22/08 or 9/23/08. The first item on said schedule reads as follows:

“Any party may file a request for intervention no later than 09/24/08”

This means that a party wishing to request full intervention had only one or two days in which to act. As far as I am aware (and subject to check), this is the shortest time period in the history of the Commission that has been provided for parties to apply for intervention in a case. The Attorney General made the deadline with a Motion to Intervene filed on 9/24/08, and I was able to make the deadline as well by driving from Lexington to Frankfort on 9/24/08 and hand-delivering my petition to intervene to the Commission’s file room.

One of the purposes of this Application for Rehearing is to bring the Commission’s inappropriate game-playing in these proceedings to an end.

I have no way of knowing with certainty why the Commission has refused to issue an Order in this rate case and the LG&E rate case for 55 days and counting, but I have been able to come up with a hypothesis. The Commission may be implementing a strategy of delay – a long, drawn-out process of waiting until I do something to bring this issue to a head; denying my 8/13/08 petition to intervene; receiving an application for rehearing; waiting for 20 days as provided in KRS 278.400; denying that application; waiting for me

to bring a complaint in Franklin Circuit Court; dragging its feet to the maximum possible extent in the court case; filing a motion to dismiss my complaint with prejudice; dragging its feet some more if that motion is denied; and so on until both general rate cases are long over. The Commission may then assume or hope that any request I might have made to go back to an early phase of the rate cases and retry them anew from that point forward, this time with the full participation of environmentalists, would be viewed by the courts as unreasonable. If that, or something like it, is in fact the Commission's unstated strategy, it should not assume that it will be successful.

By law, general rate cases are to be decided "as speedily as possible." KRS 278.190(3) provides:

At any hearing involving the rate or charge sought to be increased, the burden of proof to show that the increased rate or charge is just and reasonable shall be upon the utility, and the commission shall give to the hearing and decision of such questions preference over other questions pending before it and decide the same as speedily as possible, and in any event not later than ten (10) months after the filing of such schedules.

Justice delayed is justice denied.

WHEREFORE, I respectfully request that the Commission grant a rehearing of what I believe to be its 10/2/08 determination, in the sense of KRS 278.400, that I have been denied full intervenor status in the above-captioned proceeding. I also respectfully request that the Commission modify the procedural schedule to allow me to submit at least one information request to KU. It might be easier for the Commission to contemplate such a modification in view of its recent Order extending the rate cases' anticipated end date by

approximately 35 days. (Oral statement of David S. Samford, General Counsel, informal conference, October 6, 2008; Order Amending the Procedural Schedule, October 7, 2008).

Respectfully submitted,

Geoffrey M. Young

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10/7/08

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 7th day of October, 2008.

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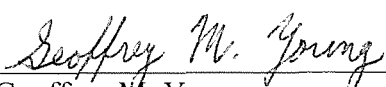
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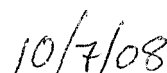
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Signed,



Geoffrey M. Young



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