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PUBLIC SERVICE  
COMMISSION

Geoffrey M. Young  
454 Kimberly Place  
Lexington, KY 40503  
phone: 859-278-4966  
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November 5, 2008

PUBLIC SERVICE COMMISSION

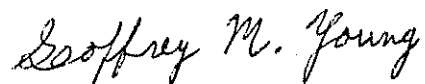
Stephanie Stumbo, Executive Director  
Kentucky Public Service Commission  
211 Sower Boulevard, PO Box 615  
Frankfort, Kentucky 40602-0615

Re: Case Nos. 2008-00349  
and 2008-00350

Dear Ms. Stumbo:

Please find attached for filing with the Commission an original and ten copies of  
1) a Petition to Intervene in Case No. 2008-00349; and  
2) an Application for Rehearing re the Petition for Intervention of Geoffrey M. Young in  
Case No. 2008-00350.

Sincerely,



Geoffrey M. Young

Enclosures

cc: Parties listed on the Certificate of Service

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PUBLIC SERVICE  
COMMISSION

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE JOINT APPLICATION PURSUANT TO 1994 )  
HOUSE BILL NO. 501 FOR THE APPROVAL OF )  
KENTUCKY POWER COLLABORATIVE DEMAND- )  
SIDE MANAGEMENT PROGRAMS, AND FOR )  
AUTHORITY TO IMPLEMENT A TARIFF TO )  
RECOVER COSTS, NET LOST REVENUES AND )  
RECEIVE INCENTIVES ASSOCIATED WITH THE )  
IMPLEMENTATION OF THE KENTUCKY POWER )  
COLLABORATIVE DEMAND-SIDE )  
MANAGEMENT PROGRAMS )

CASE NO.  
2008-00350

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

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On October 13, 2008, the Commission issued an Order denying my 9/24/08 petition for full intervention in the above-styled proceeding. Pursuant to KRS 278.400, I respectfully request that the Commission grant a hearing to reconsider and reverse its determination of 10/13/08. I believe the following arguments address all of the points the Commission made in its denial Order:

- 1. I have a legitimate, personal, special interest in Kentucky Power's rates and services that are under consideration in this proceeding.**

The Commission cited two court cases that limit its jurisdiction "to the regulation

of rates and service” of jurisdictional energy utility companies. (Order at 2) Because Kentucky Power’s DSM programs and the tariffs whereby it recovers DSM costs relate directly to its rates and service, it is clear that the subject matter of this proceeding falls squarely within the Commission’s jurisdiction. That being said, it seems to me, as a non-attorney, that if I can show that my personal, special interests are legitimate and reasonably likely to be affected by the outcome of this proceeding, then I would thereby meet the requirement that arises under KRS 272.040(2). Another way to say it is that if a petitioner meets one or both prongs of 807 KAR 5:001, Section 3(8), the regulation that governs intervention determinations, then he or she would automatically also meet the requirement that arises under KRS 272.040(2), if we assume the Commission was acting within its authority when it initiated the proceeding in question.

In my 9/24/08 petition, I clearly described the direct connection between the subject matter of this proceeding and my personal, special interests as an environmentalist, a person dedicated to improving the energy efficiency of Kentucky’s economy, and a person who breathes the air of Kentucky:

I have a personal interest in the quality of the air I breathe. It is hard to imagine an interest more deeply personal than my own internal airways and blood vessels and those of my wife. The quality of air we breathe is likely to affect the amount of money my wife and I will be forced to spend in future years to treat health problems that we may suffer because of the coal-fired power plants operated by American Electric Power d/b/a Kentucky Power Company (“Kentucky Power”) and other pollution-producing power plants that Kentucky Power may need to build or utilize in the future. As an environmentalist, I have an interest in reducing pollution that can harm people and the natural environment. (Young, Petition, 9/24/08 at 1-2)

The Commission did not challenge any aspect of this argument. The clear implication is that the Commission must simply be rejecting the idea that the interests I

cited are “actual” or “legal” interests. (Order at 3) Such a finding, however, is arbitrary and unsupported. It is well-settled in Kentucky law that an administrative decision may be challenged and vacated if it “is wholly unsupported by the evidence.” [Foster v. Goodpaster, 161 S.W.2d 626, 627 (Ky. 1942), adopting the rule established by the US Supreme Court in Silberschein v. United States, 45 S.Ct. 69, 71 (1924)]

The Commission noted, “Mr. Young has never previously been granted intervention in a Commission proceeding, although he has previously testified on behalf of others.” (Id. at 3) This point seems somewhat ironic because the PSC has had virtually everything to do with that outcome. It is reminiscent of the boy who kills his parents and then says to the judge, “Have mercy on me, Your Honor, because I’m only a poor orphan boy!”

The Commission stated, “Mr. Young’s interest in Kentucky Power’s demand-side management (“DSM”) proceeding does not arise from his status as a Kentucky Power ratepayer, since he is not one.” (Id.) That statement is correct. The next sentence, however, is a complete non-sequitur: “Consequently, Mr. Young has no actual legal interest in the rates or service of Kentucky Power.” (Id.) It is a non-sequitur because it is not based on the governing regulation, 807 KAR 5:001, Section 3(8), which the Commission had restated near the top of the same page. (Id.)

I claimed a special interest in the proceeding and described what it is and how it arose. Once a petitioner does that, it is then up to the Commission to determine whether or not the cited special interest is closely enough related to the subject matter of the proceeding to justify a determination that the petitioner has met the first prong of 807 KAR 5:001, Section 3(8). The Commission did not attempt to make such an assessment,

however, in its Order. Instead, once it determined that I am not a customer of Kentucky Power, the Commission halted its assessment and declared the matter closed. (*Id.*) By ignoring the argument I had made showing the connection between my special interests and the subject matter of the proceeding, the Commission acted in an arbitrary manner and failed to follow its regulation.

**2. The Commission’s argument that it “has no jurisdiction over the quality of the air” I breathe is a fallacious straw-man argument.**

The Commission stated that it “understands and appreciates Mr. Young’s interest as an environmentalist in seeking to reduce pollution, but the Commission has no jurisdiction over the quality of air he breathes, the ‘significant health problem’ associated with mercury pollution from coal-fired power plants, or ‘the carbon dioxide released [which] contributes to global warming.’” (*Id.* at 4) It concluded that “the issues he seeks to raise relating to the quality of the air and the level of pollution emitted by Kentucky Power’s coal-fired power plants are beyond the scope of the Commission’s jurisdiction.” (*Id.*)

I have informed the Commission on numerous previous occasions, however, that I have never asked it to do the job of any other agency of state government such as the Division for Air Quality, and I have no intention of doing so now or in the future. The fact remains, however, that the decisions the Commission will make about Kentucky Power’s DSM programs and the rates and tariffs associated with them at the conclusion of this proceeding are very likely to have effects on Kentucky’s environment, its level of energy efficiency, and the quality of air I will have to breathe. (Young, Petition at 1-3) No matter how many times the Commission may insist that it does not have statutory authority to

regulate Kentucky's air quality – which is technically true – the fact remains that certain of its decisions will have impacts on Kentucky's environment anyway. For the Commission to overlook or ignore that fact, in proceeding after proceeding, is reminiscent of the psychological phenomenon known as denial.

**3. The Commission's argument that I seek to raise air quality issues in this proceeding is another fallacious straw-man argument.**

The Commission found that I seek “to raise issues relating to the quality of the air and the level of pollution emitted by Kentucky Power's coal-fired plants.” (Order at 4) I *have never stated that I either seek or plan to do so in the context of this proceeding.* Rather, I stated explicitly that I plan to “submit information requests and written comments that are directly relevant to the process of assisting the Commission in assessing the reasonableness of Kentucky Power's DSM programs.” (Young, Petition at 4) The Commission's argument is therefore another fallacious straw-man argument. Its conclusion – that “To allow Mr. Young to intervene and raise issues that are beyond the scope of the Commission's jurisdiction would unduly complicate and disrupt this proceeding” – is wholly unsupported by the evidence and therefore arbitrary.

**4. The Commission did not appear to take any account of my experience and qualifications related to the issues that are central to this case.**

The Commission noted that I had listed some qualifications but did not appear to make any assessment of whether they might be relevant to the issues that are likely to arise in this proceeding.

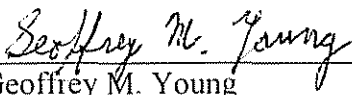
**Conclusion**

The Commission did not raise any other points in its denial Order of 10/13/08. I

therefore continue to believe that my petition of 9/24/08 met the requirements of both prongs of 807 KAR 5:001, Section 3(8)(b), the regulation that determines whether full intervention should be granted.

**WHEREFORE**, I respectfully request that the Commission grant a hearing to reconsider and reverse its determination of 10/13/08 to deny my petition for full intervention in this proceeding. I also request that the Commission modify the procedural schedule to allow me to serve an information request upon Kentucky Power, recognizing that the subsequent dates listed in the procedural schedule would also need to be shifted accordingly.

Respectfully submitted,

  
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Geoffrey M. Young  
454 Kimberly Place  
Lexington, KY 40503  
Phone: 859-278-4966  
E-mail: energetic@windstream.net

11/5/08  
Date

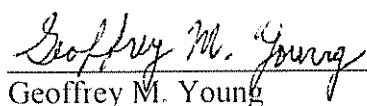
**CERTIFICATE OF SERVICE**

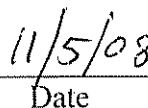
I hereby certify that an original and ten copies of the foregoing Petition to Intervene were delivered to the office of Stephanie Stumbo, Executive Director of the Kentucky Public Service Commission, 211 Sower Boulevard, PO Box 615, Frankfort, Kentucky 40602-0615, and that copies were mailed to the following parties of record on this 5th day of November, 2008.

Timothy C. Mosher  
American Electric Power  
101A Enterprise Drive  
P.O. Box 5190  
Frankfort, KY 40602

Dennis G. Howard II  
Office of the Attorney General  
Utility & Rate Intervention Division  
1024 Capital Center Drive, Suite 200  
Frankfort, KY 40601-8204

Signed,

  
Geoffrey M. Young

  
Date