

COMMONWEALTH OF KENTUCKY

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BEFORE THE PUBLIC SERVICE COMMISSION

MAR 30 2009

PUBLIC SERVICE
COMMISSION

In the Matter of:

MR. AND MRS. JAMES RIDDICK)

COMPLAINTS)

v.)

Case No. 2009-00020

AMERICAN ELECTRIC POWER,)

KENTUCKY POWER COMPANY)

GRAYSON RURAL ELECTRIC)

DEFENDANTS)

Motion to Dismiss Complaint

Kentucky Power Company moves the Public Service Commission of Kentucky to dismiss the Complaint filed by Mr. and Mrs. James Riddick. In support of its motion Kentucky Power states:

Background

This is an action by Mr. and Mrs. Riddick requesting an Order from the Commission requiring Kentucky Power to extend an existing distribution line in Lawrence County, Kentucky 8,940 feet to serve their newly constructed home. On February 9, 2009, Kentucky Power filed its answer to the Riddicks' complaint, In its answer, Kentucky Power requested that the Commission dismiss the Riddicks' complaint for failure to state a claim upon which relief may be granted.

On February 23, 2009 the Commission issued an Order directing the Riddicks to respond within twenty days to Kentucky Power's Motion to Dismiss their complaint. Although the response was due March 16, 2009, Kentucky Power has not received the response as of the

filing of this motion. Likewise, the Commission's webpage does not show the response having been filed as of the date of this motion.

Argument

The Riddicks seek relief not available to them under Kentucky law. In particular, they are demanding that Kentucky Power install nearly 1.7 miles of distribution line to their newly constructed home at no cost to them. The Riddicks' complaint fails to identify any statute, regulation or tariff that requires Kentucky Power to do so. To the contrary, as set out in Kentucky Power's answer,¹ 807 KAR 5:041, Section 11(2)(a) and 807 KAR 5:041, Section 11(3), as well as pages 2-4 to 2-6 of Kentucky Power's tariff, require that the Riddicks bear the cost of any extension beyond the initial 1,000 feet.² The Riddicks do not claim that Kentucky Power is requiring them to do more than the regulations and tariffs permit, or that there is any other basis for granting them the relief they seek.

In fact, the Riddicks have conceded as much by failing to file a response to Kentucky Power's motion to dismiss as ordered by the Commission. As such, there is no basis for the Commission to grant the Riddicks any relief. *See, Cincinnati Bell Telephone Co. v. Public Service Commission*, 223 S.W.3d 829, 837 (Ky. App. 2007) (The filed rate doctrine "in essence stands for the proposition that when the legislature has established a comprehensive ratemaking scheme, the filed rate defines the legal relationship between the regulated utility and its customer with respect to the rate that the customer is obligated to pay and that the utility is authorized to collect....")

¹ Answer of Kentucky Power Company, *Mr. and Mrs. James Riddick v. Kentucky Power Company*, Case No. 2009-00020 at ¶¶ 22-24 (Filed February 9, 2009) ("Answer.")

² In fact, in keeping with its practice, Kentucky Power agreed to assume the cost of an additional 2,000 feet of extension because the shorter route was not available because of the refusal of an adjoining landowner to grant the required right-of-way.

Wherefore, Kentucky Power respectfully requests that the Riddicks' complaint be dismissed with prejudice.

Respectfully submitted,



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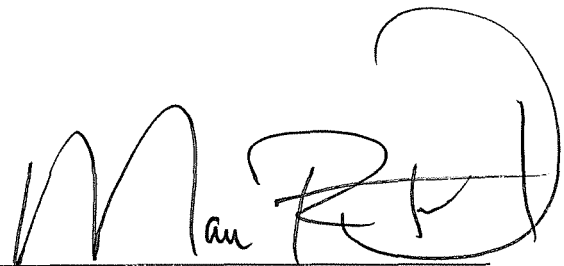
COUNSEL FOR KENTUCKY POWER
COMPANY

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served by United States First Class Mail, postage prepaid, on this 30th day of March, 2009 upon:

Mr. and Mrs. James Riddick
1230 Rockhouse Trace Road
Louisa, Kentucky 41230

Wilson & Bailey
101 West Madison Street # 2
Louisa, Kentucky 41230



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