

The sole legal basis urged by the Riddicks for making American Electric Power is the argument that “AEP is responsible for the actions of its corporate children.”¹ Kentucky law is to the contrary. *See, Hazard Coal Corporation v. Kentucky West Virginia Gas Company, L.L.C.*, 331 F.3d 733, 739 (6th Cir. 2002) (“Under Kentucky law, separate corporate interests, including subsidiaries and affiliates ... are separate legal entities and must be recognized and treated as such unless there is some reason to pierce the corporate veil...”); (“*Square D Company v. Kentucky Board of Tax Appeals*, 415 S.W.2d 594, 601 (Ky. 1967) (“Even though subsidiaries are engaged in a similar or related business, the corporate separation must be recognized unless it is a mere sham or the subsidiaries’ operations lose their independent identity by reason of exception integrated business relationships.”) The Riddicks have alleged no facts that would support piercing the corporate veil, or otherwise suggesting the corporate separation is a mere sham.

American Electric Power Company must be dismissed as a defendant.

The Riddicks’ Complaint Fails To State A Claim

A. The Riddicks Fail To Allege That Kentucky Power Acted Unlawfully.

The Riddicks have yet to identify any statutes, regulations or Commission orders violated by Kentucky Power. Instead, they simply state that they “can not argue the specifics of arcane regulations.”² But even *pro se* Complainants are required to identify facts, which if proven, would constitute a violation of the Commission’s regulations, governing statutes or orders. It is simply not enough for the Riddicks to argue, as they in effect do, that they object to

¹ Response, *In the Matter of: Mr. and Mrs. James Riddick v. American Electric Power Company*, P.S.C. Case No. 2009-000020 at 1 (Filed April 6, 2009).

² *Id.*

the requirement that they – and not the remainder of Kentucky Power’s ratepayers – are obligated to bear a portion of the cost of 1.7 mile extension that will serve only their property.

The Complainants do not dispute, nor could they, that Kentucky Power acted in accordance with the applicable Commission regulations. More specifically, they leave unchallenged the following facts:

(a) The proposed extension is 8,940 feet.³

(b) 807 KAR 5:041, Section 11(2)(a) authorizes Kentucky Power Company to “require the total cost of the excessive footage over 1,000 feet to be deposited with the utility by the applicant or applicants, based on the average estimate cost per foot of the extension.”⁴

(c) The company’s applicable tariff, approved by the Commission, likewise authorizes Kentucky Power to require the deposit of the cost of all but 1,000 feet an extension in excess of 1,000 feet (calculated on the basis of the average cost of the extension.)⁵

(d) That Kentucky Power agreed to assume the average cost per foot of 3,000 feet of the extension rather than 1,000 feet it was required to bear under the Commission’s regulation.⁶

(e) Kentucky Power calculated \$6.55 per foot as the average cost per foot of the extension, and \$38,907.00 as the cost to the Complainants of the extension based on that average cost per foot.⁷

The undisputed facts establish that Kentucky Power acted in accordance with the Commission’s regulation. The Riddicks may object to Commission’s regulations, but such objections do not state a claim against the Company.⁸

³ Kentucky Power Company Answer, *In the Matter of: Mr. and Mrs. James Riddick v. American Electric Power Company*, P.S.C. Case No. 2009-000020 at ¶ 8 (Filed February 9, 2009) (“Answer”).

⁴ Answer at ¶ 22.

⁵ Answer at ¶ 24.

⁶ Answer at ¶ 21.

In fact, the Riddicks continue to object to paying anything for the nearly 9,000 foot extension required to serve their property. In their Complaint, the Riddicks demanded “[i]mmediate restoration of previously existing power to the Rich Creek area *at no cost to any and all affected property owners.*” (emphasis supplied). Their April 3, 2009 Response to Kentucky Power repeated that demand: “we respectfully renew our request that AEP be required to restore power to its original point *at no cost to the people of Rich Creek.*”⁹ Such relief is directly contrary to the Commission’s regulations (and the Company’s tariffs) and fails to state a claim for which relief may be granted.

B. The Riddicks Fail To Allege Facts Support A Claim That Kentucky Power Acted Unreasonably.

Even if the Riddicks’ complaint could be read as agreeing to pay for the extension in accordance with the Commission’s regulations, and thus only raising the question of whether the calculation of the cost complied with the regulation, it still fails to state a claim. Simply labeling the calculated cost “both arbitrary and excessive,”¹⁰ without more, does not meet the Riddicks obligations even under the most liberal rules of pleading.¹¹ There must be some fact alleged – however general – to provide Kentucky Power with notice of the basis for their claim.¹² Here, the Riddicks fail to allege what the cost should have been (other than \$0.00), or the basis for their contention that the cost calculated by Kentucky Power is excessive, much less any facts supporting such positions.

⁷ Answer at ¶ 21.

⁸ *Hagan v. Farris*, 807 S.W.2d 488, 490 (Ky. 1991) (“An agency must be bound by the regulations it promulgates.”)

⁹ Response, *In the Matter of: Mr. and Mrs. James Riddick v. American Electric Power Company*, P.S.C. Case No. 2009-000020 at 1 (Filed April 6, 2009) (emphasis supplied). In the same response, the Riddicks state they “expected nothing for free.” *Id.* Whatever their former position, it appears they have abandoned it in this proceeding.

¹⁰ *Id.*

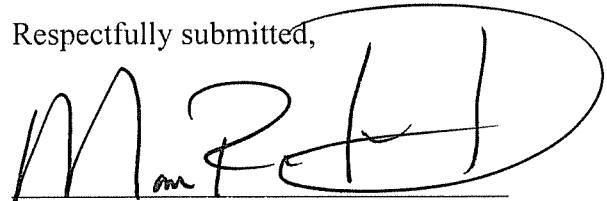
¹¹ See, *Grand Aerie Fraternal Lodge of Eagles v. Carneyhan*, 169 S.W.3d 840, 844 (Ky. 2005) (complaint must “set out ‘facts or conclusions ... sufficiently to identify the basis of the claim.’”).

C. Conclusion.

Kentucky Power Company has acted reasonably and has attempted to work with the Complainants. Indeed, the Company agreed to assume the cost of an additional 2,000 feet of the extension. The Complainants may object to the fact that Kentucky law requires they bear a portion of the cost of their extension, or that the Commission's regulation requires that the estimated cost be deposited with the company prior to the commencement of construction.¹³ Both requirements are fairer than requiring Kentucky Power's other ratepayers to underwrite the total costs of the Riddicks' plans.

Wherefore, Kentucky Power Company respectfully requests that Mr. and Mrs. James Riddick's complaint be dismissed with prejudice.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'M. R. Overstreet', is written over a horizontal line. The signature is enclosed within a hand-drawn oval.

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COUNSEL FOR KENTUCKY POWER
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¹² *Dillingham v. Commonwealth*, 995 S.W.2d 377, 381-382 (Ky. 1999).

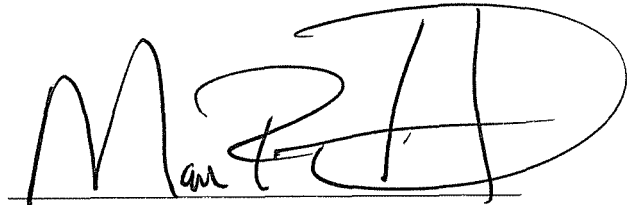
¹³ "We were expected to pay almost \$40,000 **before** any work was initiated." Response, *In the Matter of: Mr. and Mrs. James Riddick v. American Electric Power Company*, P.S.C. Case No. 2009-000020 at 1 (Filed April 6, 2009) (emphasis in original). *Cf.*, 807 KAR 5: 041, Section 11(2)(a) (requiring deposit of customer's share of the estimated cost of the extension.)

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served by United States First Class Mail, postage prepaid, on this 24th day of April, 2009 upon:

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

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

A handwritten signature in black ink, appearing to read 'Mark R. Overstreet', written over a horizontal line. The signature is stylized and cursive.

Mark R. Overstreet