

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

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COMMISSION

In the Matter of:

COLUMBIA GAS OF KENTUCKY, INC.

COMPLAINANT

v.

NATURAL ENERGY UTILITY CORPORATION

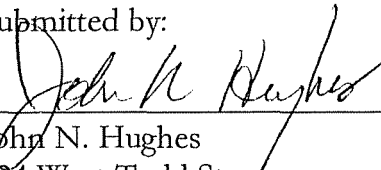
DEFENDANT

CASE NO.  
2009-00340

**NATURAL ENERGY UTILITY  
CORPORATION'S RESPONSES TO  
COMMISSION STAFF**

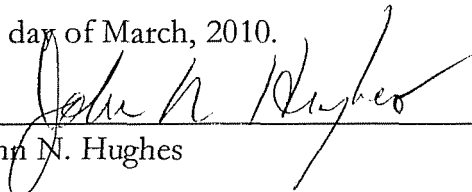
Natural Energy Utility Corporation ("NEUC"), by counsel, provides the following responses to the Commission's first data request.

Submitted by:

  
\_\_\_\_\_  
John N. Hughes  
124 West Todd St.  
Frankfort, KY 40601  
Attorney for NEUC

**CERTIFICATE OF SERVICE**

I certify that a copy of these Responses was served on Steve Seiple and Brooke Leslie, Box 117, Columbus, OH, 43216-0117 and Richard Taylor, 225 Capital Ave., Frankfort, KY 40601 first class mail this 29<sup>th</sup> day of March, 2010.

  
\_\_\_\_\_  
John N. Hughes

1. Refer to Exhibit 1 of NEUC's Answer and Motion to Dismiss filed September 8, 2009 and to page 3 of H. Jay Freeman's testimony ("Freeman Testimony"), which states that the information submitted with the September 8, 2009 response is correct and accurate.

a. State whether the ZTB Enterprises Property identified on the map is the "strip mall" that is referenced in NEUC's Motion to Dismiss.

b. Explain why two customers denoted as #410 and #432 are shown on the map and specifically include in the explanation whether these two customers are current NEUC customers.

c. If these two customers are NEUC customers, explain whether they are the closest NEUC customers to the mall property.

d. The map indicates that three new valves have been installed on the ZTB Enterprises property. State whether these are NEUC valves, whether they were installed to serve the three businesses wishing NEUC service, and when each valve was installed.

e. If the valves are NEUC valves installed to serve the three businesses at issue in this proceeding, reconcile the installation of these valves with NEUC's statement in its Motion to Dismiss at page 3 that "because NEUC and Columbia have a mutual agreement not to actively attempt to take customers from each other, NEUC refused to provide the service . . . ."

Witness: Freeman

Response:

a. Yes

b. These are the two customers closest to the mall property and they are current NEUC customers. They are served off of the line that is located on and passes through the mall property.

c. Yes

d. They are NEUC valves, installed on August 5, 2009 as part of the pipeline replacement. They were installed in anticipation of serving the mall customers, because Columbia had not indicated its refusal to allow the customers to switch service to NEUC at the time of the construction.

e. NEUC did not solicit or actively attempt to serve these customers. They applied to NEUC for service. NEUC was not aware of Columbia's intention to refuse to terminate these customers until after the construction had been completed, so the valves were installed as part of the pipeline project.

2. State whether the mutual agreement between NEUC and Columbia Gas of Kentucky, Inc. ("Columbia") referenced in the Motion to Dismiss is a written agreement. If so, provide a copy of the agreement.

Witness: Freeman

Response: It is not written

3. Refer to page 3 of the Freeman Testimony, in which Mr. Freeman states that NEUC has customers located at each end of the mall property. Explain whether the customers referenced in this statement are actually located on the mall property and provide their exact locations.

a. If the customers are not on the mall property, identify the locations where these two customers are receiving NEUC service.

b. Designate the service location of these two customers on the map provided as Exhibit 1 to NEUC's Motion to Dismiss.

c. If NEUC has no customers located on the mall property, provide the precise distance from the mall property to the nearest NEUC customer.

Witness: Freeman

Response:

a. They are not on the mall property. They are identified as #410 (Jones) and # 432 (Wells) on the map attached as exhibit 1 of NEUC's September 8, 2009 Answer and Motion to Dismiss.

b. #410 and # 432

c. #401 is approximately 2100 feet from the mall property. # 432 is approximately 2000 feet from the mall property.

4. Refer to page 2 of NEUC's Motion to Dismiss, wherein NEUC asserts that the map attached thereto as Exhibit 2 clearly shows that NEUC has customers in the immediate vicinity of the strip mall. The legend on Exhibit 2 denotes distribution pipelines, gas wells and interconnections. Explain what symbol denotes a NEUC customer.

Witness: Freeman

Response: The black dots indicate service points.

5. Refer to page 6 of the Freeman Testimony, in which Mr. Freeman states that NEUC replaced its steel line in the mall area due in part to low readings at CP stations. Explain whether the readings at the CP stations have improved.

Witness: Freeman

Response: The steel pipe in that area was replaced with plastic pipe, which eliminated the CP problem. The issue of low readings is not an issue now at that location

6. Refer to page 3 of Russell DeWayne Ryan's testimony ("Ryan Testimony"), wherein Mr. Ryan confirms that Columbia is providing service to a liquor store at 901 13<sup>th</sup> Street, a restaurant at 915 13<sup>th</sup> Street and a video store at 1200 Bryan Street. Pursuant to the letters attached as Exhibit 3 to NEUC's Motion to Dismiss, all three businesses requesting Columbia to terminate service are located on 13<sup>th</sup> Street and no video store is identified. Besides the liquor store at 901 13<sup>th</sup> Street and the restaurant at 915 13<sup>th</sup> Street, that exhibit identifies Checker's Tanning & Laundromat at 1001 13<sup>th</sup> Street as the third customer requesting NEUC service. Explain whether NEUC has received a request for service from a Columbia customer located at 1200 Bryan Street.

Witness: Freeman

Response: The letter from the mall property owners seeking NEUC service, attached as Exhibit 3 to the September 8, 2009 Answer refers to three locations: 1001 13<sup>th</sup> St; 915 13<sup>th</sup> St; and 901 13<sup>th</sup> St. NEUC is unaware of the business referred to as 1200 Bryan St.

7. Refer to page 4 of the Ryan Testimony, which states that in late July or early August 2009, Mr. Ryan observed the installation of a 2-inch plastic gas main and associated service lines adjacent to Columbia's existing main and service lines already serving these customers. Did NEUC install 2-inch plastic gas main behind the customers in question in July or August 2009? If not, explain the extent of the construction that did occur during this time period.

Witness: Freeman

Response: Yes, in August, 2009, NEUC replaced a portion of the existing steel pipeline for Patrick Watson, who had requested a relocation due to construction on his property on Bryan Street near the intersection of Palmer and McKinley Streets. That portion of the replacement included 2 inch plastic pipe. The remaining portion of the replacement across the mall property included 4 inch plastic pipe. See responses 5 and 6 to Columbia's Data Requests.



8. Refer to page 4 of NEUC's Motion to Dismiss, wherein NEUC asserts that it has not violated any aspect of 807 KAR 5:001(9)(3). That regulation provides in part that "no certificate of public convenience and necessity will be required for extensions that do not . . . conflict with the existing certificates or service of other utilities operating in the area" Explain how the installation of service connections and service by NEUC to the current Columbia customers will not violate the regulation.

Witness: Freeman

Response: NEUC received a request for service from three customers located on the mall property in February, 2009. On that same date the three customers requested termination of Columbia's service. See Exhibit 3 to NEUC's September 8, 2009 Answer. Construction of the unrelated relocation of the pipeline on the Watson property began in August, 2009. At that time, NEUC had not been notified by the customers or Columbia that the transfer of service would not be allowed. While construction on the pipeline replacement was underway, it was prudent and cost effective to install the service valves for those three potential customers. 807 KAR 5:022(17) requires the company to install the service connection. NEUC had no indication from February, 2009 to August, 2009 that Columbia objected to the customer transfer. In anticipation of that transfer, NEUC installed the individual connections based on the requested service. The installation of the connections was not to compete with Columbia by actively soliciting its customers, but to serve customers that had voluntarily applied for NEUC service.