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PUBLIC SERVICE COMMISSION 10.5

## COMMONWEALTH OF KENTUCKY BEFORE THE PUBLIC SERVICE COMMISSION

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) No. 2009-00426

DR. JOHN PATTERSON, FR. JOHN RAUSCH, and WENDELL BERRY,

v.

EAST KENTUCKY POWER COOPERATIVE, INC.

Plaintiffs

Defendant

## <u>COMPLAINANTS' UNOPPOSED MOTION FOR ONE-DAY EXTENSION OF</u> <u>TIME, NUNC PRO TUNC</u>

On February 9, 2010, the Public Service Commission ("Commission") issued an order treating Defendant East Kentucky Power Cooperative, Inc.'s (EKPC) Answer as a motion to dismiss. The Commission further ordered the Complainants to file a response within 20 days of the date of the order. February 9, 2010 Order at second page. Thus, Complainant's Response was due on March 1, 2010.

On March 1, 2010, Complainants served a copy of their Response on EKPC's counsel via e-mail. Complainants also sent the Response to the Commission via next day delivery. However, undersigned inadvertently failed to have the response faxed to the Commission on March 1, 2010. The Commission received the response on March 2, 2010. Complainants did not gain an advantage by the delay in filling the Response and EKPC was not prejudiced.

Therefore, Complainants respectfully request a one day extension, *nunc pro tunc*, to file Complainants' response. Complainants further request that EKPC's reply not be

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due until 10 days after March 2 to compensate EKPC for the one day delay caused by Complainants.

EKPC counsel stated in an e-mail that EKPC does not oppose this motion so long as it contains the request for EKPC's reply be due 10 days after March 2, 2010, which it does.

Respectfully submitted,

Robert Ukeiley

Law Office of Robert Ukeiley 435R Chestnut Street, Suite 1 Berea, KY 40403 Tel: (859) 986-5402 Fax: (866) 618-1017 Email: <u>rukeiley@igc.org</u> Counsel for Dr. John Patterson, Fr. John Rausch, and Wendell Berry ì

Dated: March 4, 2010

## **CERTIFICATE OF SERVICE**

I certify that I e-mailed a copy of the above on the following on March 4, 2010.

Mark David Goss Frost Brown Todd LLC 250 W. Main Street, Suite 2800 Lexington, Kentucky 40507 Counsel for East Kentucky Power Cooperative, Inc mgoss@fbtlaw.com

Robert Ukeiley

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