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March 22, 2010

RECEIVED

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PUBLIC SERVICE  
COMMISSION

**VIA HAND DELIVERY**

Jeff DeRouen  
Executive Director  
Kentucky Public Service Commission  
211 Sower Boulevard  
Frankfort, KY 40601

**RE: Application of Kentucky Utilities Company for an Adjustment of Base Rates**  
**Case No. 2009-00548**

**Application of Louisville Gas and Electric Company for an Adjustment of**  
**Electric and Gas Base Rates**  
**Case No. 2009-00549**

Dear Mr. DeRouen:

Enclosed please find and accept for filing two originals and ten copies of Joint Response of Kentucky Utilities Company and Louisville Gas and Electric Company to the Motion of TW Telecom of Kentucky, LLC for Full Intervention in the above-referenced matters. Please confirm your receipt of this filing by placing the stamp of your Office with the date received on the enclosed additional copies and return them to me in the enclosed self-addressed stamped envelope.

Should you have any questions please contact me at your convenience.

Yours very truly,

Kendrick R. Riggs

KRR:ec  
Enclosures  
cc: Parties of Record

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**COMMONWEALTH OF KENTUCKY**  
**BEFORE THE PUBLIC SERVICE COMMISSION**

**In the Matter of:**

<b>APPLICATION OF KENTUCKY</b>	)	
<b>UTILITIES COMPANY FOR AN</b>	)	<b>CASE NO. 2009-00548</b>
<b>ADJUSTMENT OF BASE RATES</b>	)	

**In the Matter of:**

<b>APPLICATION OF LOUISVILLE GAS</b>	)	
<b>AND ELECTRIC COMPANY FOR AN</b>	)	<b>CASE NO. 2009-00549</b>
<b>ADJUSTMENT OF ITS ELECTRIC</b>	)	
<b>AND GAS BASE RATES</b>	)	

**JOINT RESPONSE OF KENTUCKY UTILITIES COMPANY  
AND LOUISVILLE GAS AND ELECTRIC COMPANY  
TO THE MOTION OF TW TELECOM OF KENTUCKY, LLC  
FOR FULL INTERVENTION**

Kentucky Utilities Company (“KU”) and Louisville Gas and Electric Company (“LG&E”) (collectively, “Companies”) respectfully request the Commission to deny the motions of TW Telecom of Kentucky, LLC (“TWTC”) for full intervention in these proceedings. TWTC states that it is a competitive local exchange carrier (“CLEC”) and long distance carrier that attaches its facilities to the poles of the Companies. It further states that it “is affected by that part of the rate-adjustment application that seeks to increase Applicant’s pole attachment rates and to maintain any distinction in pole-attachment rates disfavoring those classified as telecommunications carriers.”<sup>1</sup>

The applicable regulation, 807 KAR 5:001 § 3(8)(b), permits full intervention if the movant has a special interest in the proceeding not otherwise adequately represented or if the movant is likely to present issues or develop facts that assist the Commission in fully considering the matter without unduly complicating or disrupting the proceeding. TWTC satisfies neither

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<sup>1</sup> TWTC Motion at 1.

prong of the full intervention regulation; and its motions are untimely. Thus, the motions for full intervention should be denied.

TWTC has not alleged that it is a customer of either KU or LG&E. It has simply stated that it is a CLEC and long distance carrier that attaches its facilities to the poles of the Companies. The Companies are not proposing any adjustments in these proceedings that increase the rates for, or otherwise affect, the attachment of TWTC's facilities to their poles. While the Companies are proposing changes in the rates for the attachment of cable television system facilities to their poles, those adjustments do not affect TWTC. In the Terms and Conditions of Pole Attachments in both proposed tariffs, the following language appears: "Upon Written Agreement, Company is willing to permit, to the extent it may lawfully do so, the attachment of cables, wires and appliances to its poles by a **cable television system operator**, hereinafter 'Customer,' where . . ." <sup>2</sup> (Emphasis added) Thus, these proposed tariffs are applicable only to cable television system operators, not CLECs or long distance carriers.

The Commission has consistently refused to permit full intervention by movants that did not have a special interest in the proceeding not otherwise adequately represented. For example, in *In the Matter of: The Proposed Tariff of South Central Bell Telephone Company for Proposed Area Calling Service Expansion*, Case No. 93-114, the Commission denied the motion of MCI for full intervention because all of the issues affecting MCI had been addressed in a prior proceeding and, thus, MCI had no special interest in the subject proceeding.<sup>3</sup> In *In the Matter of: Adjustment of Rates of Columbia Gas of Kentucky, Inc.*, Case No. 2007-00008, the Commission denied the motion of Constellation New Energy-Gas Division, LLC for full intervention because it was not a customer of Columbia and did not participate in Columbia's Customer Choice

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<sup>2</sup> KU Proposed Tariff, PSC No. 15, Original Sheet No. 40, Application, Tab No. 7. LG&E Proposed Tariff, PSC Electric No. 8, Original Sheet No. 40, Application, Tab No. 7.

<sup>3</sup> Case No. 93-114, Order dated June 11, 1993.

program.<sup>4</sup> As such, it had no special interest in the proceeding. In both cases, as here, there were issues in which the movants had some curiosity and in both cases the Commission found that the movants' curiosity did not satisfy the special interest requirement sufficient to warrant full intervention.

Given the total lack of interest of TWTC in this proceeding, it follows it cannot present issues or develop facts that assist the Commission in fully considering the matter without unduly complicating or disrupting the proceeding. Any facts or issues that it might raise regarding TWTC's pole attachment rates are totally irrelevant to these cases. Likewise, any issues TWTC might raise regarding any distinction in pole attachment rates disfavoring those classified as telecommunications carriers are totally irrelevant to these cases. As the Commission is aware, those rates are set in joint use agreements that are negotiated between the telecommunications providers and the electric utilities and the Commission does not involve itself in those matters absent a dispute.<sup>5</sup> The appropriate forum for the resolution of such disputes is a complaint proceeding, not a base rate case. The injection of these kinds of issues would undoubtedly complicate and disrupt these proceedings.

For the foregoing reasons, the Companies respectfully submit that the Commission should deny the untimely motions of TW Telecom of Kentucky, LLC for full intervention.

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<sup>4</sup> Case No. 2007-00008, Order dated May 3, 2007.

<sup>5</sup> *In the Matter of: Ballard Rural Telephone Cooperative Corporation, Inc. v. Jackson Purchase Energy Corporation*, Case No. 2004-00036, Orders dated March 23, 2005, and August 2, 2007.

Dated: March 22, 2010

Respectfully submitted,



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**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the foregoing Joint Response was served via U.S. mail, first-class, postage prepaid, this 22nd day of March 2010 upon the following persons:

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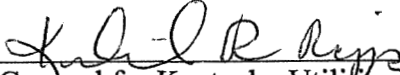
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