

S T O L L · K E E N O N · O G D E N
P L L C

300 WEST VINE STREET
SUITE 2100
LEXINGTON, KY 40507-1801
MAIN: (859) 231-3000
FAX: (859) 253-1093
www.skofirm.com

ROBERT M. WATT, III
DIRECT DIAL: (859) 231-3043
DIRECT FAX: (859) 246-3643
robert.watt@skofirm.com

June 18, 2010

RECEIVED

HAND DELIVERED

JUN 18 2010

Hon. Jeff Derouen
Executive Director
Public Service Commission
211 Sower Boulevard
P.O. Box 615
Frankfort, KY 40601

PUBLIC SERVICE
COMMISSION

RECEIVED

JUN 18 2010

PUBLIC SERVICE
COMMISSION

Re: Kentucky Utilities Company
Case No. 2009-00548

Dear Mr. Derouen:

We enclose for filing an original and ten (10) copies of the Response of Kentucky Utilities Company to the Application for Rehearing of the Petition for Full Intervention of Geoffrey Young in the above-captioned case. We would appreciate your placing this document with the other papers in the case and bringing it to the attention of the Commission.

Sincerely,

Robert M. Watt, III

rmw:
Enclosure
cc: Parties of Record (w/ encl.)

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

JUN 18 2010

PUBLIC SERVICE
COMMISSION

In the Matter of:

**APPLICATION OF KENTUCKY)
UTILITIES COMPANY FOR AN)
ADJUSTMENT OF BASE RATES)**

CASE NO. 2009-00548

**RESPONSE OF KENTUCKY UTILITIES COMPANY TO
APPLICATION FOR REHEARING OF THE PETITION
TO INTERVENE OF GEOFFREY M. YOUNG**

Kentucky Utilities Company (“KU”) respectfully submits this Response to the Application for Rehearing of the Petition to Intervene of Geoffrey M. Young. The Application for Rehearing is nothing more than a repetition of arguments that Mr. Young has made on numerous occasions in his quest to intervene in proceedings before this Commission. Rather than repeat the response it made to Mr. Young’s Petition for Full Intervention, KU notes that Mr. Young’s Application for Rehearing offers nothing that would justify rehearing pursuant to KRS 278.400. He offers no new arguments, no new evidence and no new authorities. The Application for Rehearing should, therefore, be denied.

The essence of the situation with Mr. Young is demonstrated by his arguments on pages 4 and 5 of his Application for Rehearing in which he argues that the Commission has denied his Petition for Full Intervention by trotting “out an argument we have seen at least a dozen times before.”¹ The purpose of a motion for rehearing is to offer the Commission the opportunity to consider an issue, evidence or authorities it overlooked or misconstrued or that was unavailable. Here, Mr. Young is not proposing to offer new arguments, evidence or authorities. He is

¹ Application for Rehearing at 4-5.

advancing the same arguments for intervention that he has offered for years in cases involving KU, Louisville Gas and Electric Company, East Kentucky Power Cooperative, Inc., Duke Energy Kentucky, Inc. and perhaps others. Those arguments have been rejected each and every time. Mr. Young has offered nothing that could give the Commission any reason to grant rehearing and reopen consideration of his request for full intervention in this case.

The Commission gave a succinct summary of the reason that it denied Mr. Young's Petition for Full Intervention in this case as follows:

In summary, the Commission finds that Mr. Young's interest as a ratepayer in KU's rate structure is not a special interest and that interest is adequately represented by the AG. Mr. Young's interest in the quality of air and the level of pollution emitted by KU's coal-fired plants is beyond the scope of the Commission's jurisdiction. To allow Mr. Young to intervene and to raise issues that are beyond the scope of the Commission's jurisdiction would unduly complicate and disrupt this proceeding.²

As indicated above, Mr. Young's Application offers no new arguments, evidence or legal authority indicating that the foregoing conclusion is unsound, but rather continues to dispute the conclusion through the use of pejoratives, such as the following argument on page 1 of the Application for Rehearing: "This statement is not only unsupported and factually incorrect but is also illogical and absurd on its face." In other words, Mr. Young claims he is entitled to rehearing on his Petition for Full Intervention because he still disagrees with the Commission. The General Assembly did not include KRS 278.400 in our statutory scheme as a vehicle to continue making arguments that have failed.

This Commission has offered Mr. Young a course of action by which he can bring his issues before the Commission without unduly complicating and disrupting this proceeding. Mr. Young made a presentation at KU's public meeting on May 6, 2010, in Lexington. He was not

² June 2, 2010, Order at 4.

unduly limited in the scope or duration of his presentation, yet he offered none of the substantive information he suggests he would offer if he were granted full intervenor status in this case. In the June 2, 2010, Order herein, the Commission noted that he may submit comments that will be entered in the record of this case,³ yet he has not done so. He could easily have submitted his proposed rate structure discussion in written comments and the Commission undoubtedly would consider it. He was encouraged to attend and make public comment at the public hearing in this case on June 8, 2010,⁴ which he did. His public comment, however, was simply a rehash of his Petition for Full Intervention and contained none of the information he implies he will present if his Petition for Full Intervention is granted.⁵ Having failed to offer the information he says he would like the Commission to consider, Mr. Young should not be granted rehearing for the purpose of simply repeating those same arguments he has made in his efforts to gain full intervention in the past.

For the foregoing reasons, it is respectfully submitted that Mr. Young's Application for Rehearing should be denied.

Dated: June 18, 2010

Respectfully submitted,



Kendrick R. Riggs
Robert M. Watt III
W. Duncan Crosby III
Monica H. Braun
Stoll Keenon Ogden PLLC
2000 PNC Plaza
500 West Jefferson Street
Louisville, Kentucky 40202-2828
Telephone: (502) 333-6000

³ June 2, 2010, Order at 4.

⁴ *Id.* at 4-5.

⁵ VR No. 1: 6/8/10; 10:30:50-10:37:53.

and

Allyson K. Sturgeon
Senior Corporate Attorney
E.ON U.S. LLC
220 West Main Street
Louisville, Kentucky 40202
Telephone: (502) 627-2088

Counsel for Kentucky Utilities Company

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was served on the following persons on the 18th day of June, 2010, by United States mail, postage prepaid:

Dennis G. Howard II
Lawrence W. Cook
Paul D. Adams
Office of Rate Intervention
1024 Capital Center Drive, Suite 200
Frankfort, KY 40601-8204

David C. Brown
Stites & Harbison PLLC
400 West Market Street, Suite 1800
Louisville, KY 40202-3352

Michael L. Kurtz
David F. Boehm
Boehm, Kurtz & Lowry
36 East Seventh Street, Suite 1510
Cincinnati, OH 45202

Kimberly S. McCann
William H. Jones, Jr.
VanAntwerp, Monge, Jones,
Edwards & McCann, LLP
1544 Winchester Avenue, 5th Floor
Ashland, KY 41101

Iris G Skidmore
Bates & Skidmore
415 W. Main Street, Suite 2
Frankfort, KY 40601

Gardner F. Gillespie
Dominic F. Perella
Hogan & Hartson LLP
555 Thirteenth Street, N.W.
Washington, DC 20004

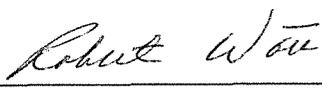
Carroll M. Redford III
Miller, Griffin & Marks, PSC
271 W. Short St., Ste. 600
Lexington, KY 40507

Holly Rachel Smith
Hitt Business Center
3803 Rectortown Rd.
Marshall, VA 20115

James T. Selecky
BAI Consulting
16690 Swingley Ridge Road, Suite 140
Chesterfield, MO 63017

Matthew R. Malone
William H. May, II
Hurt, Crosbie & May PLLC
The Equus Building
127 West Main Street
Lexington, KY 40507

Mr. Geoffrey M. Young
454 Kimberly Place
Lexington, KY 40503



Counsel for Kentucky Utilities Company