



# Zielke Law Firm PLLC

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June 17, 2010

RECEIVED

VIA OVERNIGHT MAIL

JUN 18 2010

Jeff R. DeRouen  
Executive Director  
Kentucky Public Service Commission  
211 Sower Blvd.  
Frankfort, KY 40602-0615

PUBLIC SERVICE  
COMMISSION

RE: Case No: 2010-00185

Dear Mr. DeRouen:

Enclosed please find for filing ten copies of the following documents pertaining to the above referenced cases:

For Case No: 2009-00548:

1. Entry of Appearances;
2. Motion to Intervene;
3. Motion to Dismiss.

Thank you in advance for your assistance in this matter.

Sincerely,

Janice M. Theriot

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

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JUN 18 2010

PUBLIC SERVICE  
COMMISSION

In the Matter of:

APPLICATION OF BLUE GRASS ENERGY )	CASE NO.
COOPERATIVE CORP. FOR ADJUSTMENT )	2010-00185
OF SECURITY DEPOSIT AND CABLE )	
TELEVISION ATTACHMENT TARIFFS )	

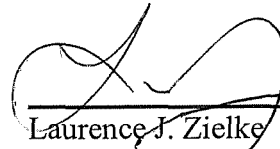
ENTRY OF APPEARANCE

On behalf of The Kentucky Cable Telecommunications Association, ("KCTA"),  
Laurence J. Zielke, hereby enters his appearance in this matter.

Dated: June 17, 2010

Respectfully submitted,

ZIELKE LAW FIRM, PLLC



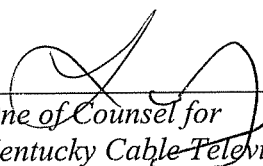
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**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the foregoing was served upon the following, by U.S. Mail, postage prepaid, on this the 17<sup>th</sup> day of June, 2010:

J. Donald Smothers  
Blue Grass Energy  
P.O. Box 990  
1201 Lexington Road  
Nicholasville, KY 40340-0990

Attorney General  
Utility Intervention and Rate Division  
1024 Capital center Drive  
Frankfort, KY 40601

  
\_\_\_\_\_  
*One of Counsel for  
Kentucky Cable Television Association*

COMMONWEALTH OF KENTUCKY

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OF SECURITY DEPOSIT AND CABLE )	
TELEVISION ATTACHMENT TARIFFS )	


**ENTRY OF APPEARANCE**

On behalf of The Kentucky Cable Telecommunications Association, ("KCTA"), Janice M. Theriot, hereby enters her appearance in this matter.

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Respectfully submitted,

ZIELKE LAW FIRM, PLLC



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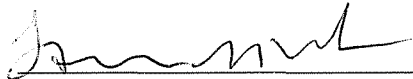
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*One of Counsel for  
Kentucky Cable Television Association*

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

**RECEIVED**

In the Matter of:

ADJUSTMENT OF SECURITY DEPOSIT     )  
AND CABLE TELEVISION ATTACHMENT    )  
TARIFFS FOR BLUE GRASS ENERGY     )  
COOPERATIVE CORPORATION            )

JUN 18 2010  
PUBLIC SERVICE  
COMMISSION  
Case No. 2010-00185

**KENTUCKY CABLE TELECOMMUNICATIONS  
ASSOCIATION'S MOTION TO INTERVENE**

The Kentucky Cable Telecommunications Association ("KCTA") respectfully moves for full intervention in the above-referenced proceeding pursuant to K.R.S. § 278.310 and 807 KAR 5:001, § 3(8).

KCTA is a non-profit organization consisting of 118 cable television systems serving the majority of cable customers throughout Kentucky. Several KCTA members attach their facilities to the utility poles of Blue Grass Energy Cooperative Corp. ("Blue Grass"), and they are directly affected by Blue Grass's proposed increase in pole attachment rates. The Commission has regularly approved KCTA's intervention in ratemaking proceedings and pole attachment cases to protect its members' interest in reasonable rates.

KCTA members who attach their facilities to Blue Grass' poles are as follows:

Insight Communications  
4701 Commerce Crossings Drive  
Louisville, KY 40229

Time Warner Cable  
PO Box 727  
Richmond, KY 40475

KCTA's intervention is in lieu of these members' individual interventions. KCTA's intervention will promote the efficient progress of this proceeding by reducing the burden on other parties and

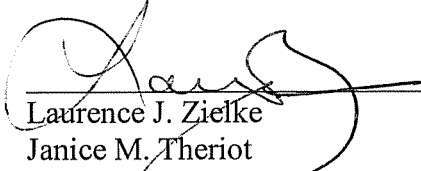
on the Commission. It also will allow the interests of KCTA's members to be represented without the burden of each being required to retain its own counsel and make its own filings.

KCTA seeks full intervenor status pursuant to 807 KAR 5:001 § 3 to allow it to fully participate as a party and to be served with documents related to Blue Grass's application. KCTA pledges to adhere to all Commission rules and procedures applicable to it as a party intervenor. The undersigned attorneys are authorized to represent KCTA in this proceeding and to take service of all documents.

WHEREFORE, KCTA moves for full intervention in the above proceeding.

Respectfully submitted,

Gardner F. Gillespie  
Dominic F. Perella  
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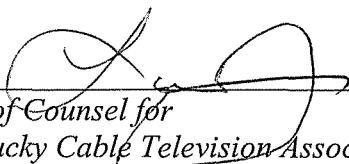
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*One of Counsel for  
Kentucky Cable Television Association*



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BEFORE THE KENTUCKY PUBLIC SERVICE COMMISSION

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In the Matter of:

ADJUSTMENT OF SECURITY DEPOSIT )  
AND CABLE TELEVISION ATTACHMENT )  
TARIFFS FOR BLUE GRASS ENERGY ) Case No. 2010-00185  
COOPERATIVE CORPORATION )

**MOTION TO DISMISS**

The Kentucky Cable Telecommunications Association (“KCTA”) respectfully moves the Public Service Commission (“Commission”) to dismiss the above-captioned rate application on the ground that it seeks “single-issue ratemaking” which is “prohibited by law.” *In re Louisville Gas & Elec. Co.*, No. 2006-00510, 2007 WL 2994305 (Oct. 12, 2007).

**I. BACKGROUND**

On June 1, 2010, Blue Grass Energy Cooperative Corp. (“Blue Grass”) filed an application to increase its security deposit requirement (from \$175 to \$225 per customer) and its cable television pole attachment charges.<sup>1/</sup> Blue Grass requests increases in its pole attachment rates from approximately \$4.70 per pole, on average, to approximately \$5.70 per pole, as well as increases in its related rates for use of its anchors (from \$7.58 to \$10 for two-party anchors and \$5 to \$6.60 for three-party anchors). *See Application* at ¶ 5 & Ex. I (filed June 1, 2010).

But that is the extent of Blue Grass’s application. It does not offer any information about, or seek to change, its rates for any services other than pole attachments. (The title of its application – “adjustment of security deposit and cable television attachment tariffs” –

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<sup>1/</sup> Cable television providers must attach their wires and other facilities to utility poles in order to run cable from house to house and provide service to customers. Utilities are entitled to charge rent for this use of space on their poles. The Commission has long regulated such “pole attachment” charges and has developed formulas for calculating the appropriate rental payments. *See, e.g., In the Matter of the Adoption of a Standard Methodology for Establishing Rates for CATV Pole Attachments*, Admin. Case No. 251 (Sept. 17, 1982).

demonstrates as much). It does not demonstrate its overall revenue requirements, or how they may have changed since its last general rate case just two years ago. And it does not provide the Commission with any of the information required by 807 KAR 5:001 to analyze revenue needs, including “return on net investment rate base, return on capitalization, interest coverage, debt service coverage,” and “[a] reconciliation of the rate base and capital used to determine its revenue requirements.” 807 KAR 5:001 § 10(6)(h)-(i). Instead, Blue Grass seeks a “waiver” from these requirements, as well as many other substantive requirements of KAR 5:001 Section 10. *Application ¶¶ 17-36*. Blue Grass thus seeks to raise certain rates in a vacuum instead of quantifying its overall revenue needs, going through the usual rate-design procedures, and determining the best way to equitably recoup any shortfall.

## II. ARGUMENT

Blue Grass’s application must be dismissed because it asks this Commission to engage in the very “single-issue ratemaking” that the Commission has said is “prohibited by law.” *In re Louisville Gas & Elec. Co.*, No. 2006-00510, 2007 WL 2994305 (Oct. 12, 2007).

The Commission has long adhered to a “rule against single-issue ratemaking,” which it defines as “establish[ing] rates based on a single expense or revenue source.” *In re Big Rivers Electric Corp.*, No. 94-453, 1997 WL 152646 (Feb. 21, 1997). That prohibition makes sense, the Commission has explained, because “the revenue formula is designed to determine the revenue requirement based on the aggregate costs and demand of the utility. Therefore, it would be improper to consider changes to components of the revenue requirement in isolation.” *Id.* (quoting *Business & Prof’l People for the Pub. Interest v. Illinois Commerce Comm’n*, 585 N.E.2d 1032, 1061 (Ill. 1991)).

The prohibition against single-issue ratemaking is reflected in Kentucky's statutes and this Commission's regulations. KRS § 278.192 sets forth procedures for "justifying the reasonableness of a proposed *general increase in rates*" (emphasis added); it says nothing about rate increases that are not "general." Likewise, 807 KAR 5:001 sets forth the requirements for applications seeking "a general adjustment in existing rates." *Id.* 5:001 Section 10(1). Under these provisions, "absent specific statutory authorization, the Commission can only exercise its authority to adopt rate surcharges *in the context of a general rate case.*" *In re Louisville Gas & Elec. Co.*, No. 2004-00459, 2005 WL 1163147, at \*3 (Apr. 15, 2005) (emphasis added). As the Commission explained in that case, the Legislature has created special exceptions to the general-rate-case requirement in a few specific areas, including "wholesale increases in water and sewage costs (KRS 278.012); the Commission's annual assessment and consultant costs (KRS 278.130); and demand-side management costs (KRS 278.285)." *Id.* But if the Legislature has not created such a special exception by statute, none exists. The utility cannot seek a rate increase without filing a general rate case. *Id.*

That is the situation here. The Legislature has never created a special exception to the single-issue ratemaking rule for cable attachment costs. And that means the rate increase Blue Grass seeks can only be sought "in the context of a general rate case." *In re Louisville Gas & Elec. Co.*, 2005 WL 1163147, at \*3. Blue Grass's attempt to bypass that rule and engage in "single-issue ratemaking" must be rejected.

WHEREFORE, KCTA respectfully moves the Commission to dismiss the above-captioned application.

Respectfully submitted,

Gardner F. Gillespie  
Dominic F. Perella

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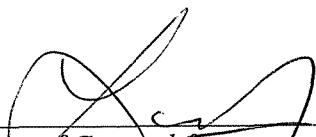
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