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To: Jeff R. DeRouen – Executive Director	Fax Number: 1-502-564-7279
	Date: July 12, 2010

From: Janice M. Theriot	Pages including cover page: 6
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Subject: Case No.: 2010-00185

Message:

Reply in Support of Motion to Dismiss

The original of this transmission will be mailed to you.

OPERATORS INITIALS: JLS

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**KENTUCKY PUBLIC SERVICE
COMMISSION**

July 12, 2010

VIA FACSIMILE AND OVERNIGHT MAIL

502-564-7279

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

RE: Case No: 2010-00185

Dear Mr. DeRouen:

Enclosed please find for filing ten copies of the Reply to the Motion to Dismiss filed by the Kentucky Cable Telecommunications Association ("KCTA") in the above referenced case. As instructed a copy was faxed on July 12, 2010 for filing with the additional copies sent overnight mail for delivery on July 13, 2010.

Thank you in advance for your assistance in this matter.

Sincerely,

Janice M. Theriot

Enc.

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PUBLIC SERVICE
COMMISSION

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

In the Matter of:

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

REPLY IN SUPPORT OF MOTION TO DISMISS

The Kentucky Cable Telecommunications Association (“KCTA”) respectfully submits this reply brief in support of its motion to dismiss the above-captioned rate application.

1. Blue Grass’ Response in Opposition to the Motion to Dismiss (dated July 6, 2010) (“Opposition”) never addresses the fatal flaw in Blue Grass’ application – namely, that it asks the Commission to engage in unlawful single-issue ratemaking. The Opposition never confronts the Commission decisions, cited by KCTA in its motion to dismiss, that declare “single-issue ratemaking” to be “prohibited by law.” *In re Louisville Gas & Elec. Co.*, No. 2006-00510, 2007 WL 2994305 (Oct. 12, 2007); *In re Big Rivers Electric Corp.*, No. 94-453, 1997 WL 152646 (Feb. 21, 1997). Indeed, the Opposition never even uses the phrase “single-issue ratemaking.”

The reason Blue Grass ignores the argument advanced in KCTA’s motion to dismiss is that there is no plausible response. After all, Blue Grass clearly seeks single-issue ratemaking in this docket: Blue Grass tells the Commission that it has experienced “increases in operating costs, investment in plant assets, and the rate of return,” and it seeks to recoup those “increases” by raising its cable television attachment rates. *See Application* ¶ 5(b); *id.* at Ex. F-1 (Smothers Answer #5); *id.* at Ex. F (Zumstein Answer #6) (filed June 1, 2010). But that attempt to recoup particular costs by raising a particular rate – without demonstrating *all* of the utility’s costs and revenues and allowing the Commission to determine the utility’s overall revenue requirement –

is the very definition of single-issue ratemaking. As the Commission has explained, single-issue ratemaking means “establish[ing] rates based on a *single expense* or revenue source.” *In re Big Rivers Electric Corp.*, 1997 WL 152646 (emphasis added). The prohibition is important because if single-issue ratemaking were allowed, a utility could point to increased costs in one area (or a few areas) of its operations – as Blue Grass does here – and quickly raise rates without proving that those increased costs had not been offset by *decreased* costs elsewhere. As the Commission put it: “[T]he 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)).

In its application, Blue Grass fails to provide the sort of thorough financial information the Commission would need to “determine the revenue requirement based on the aggregate costs and demand of the utility.” (Indeed, it provides little more than a balance sheet and basic statement of operations. *See Application Ex. G*). Blue Grass likewise fails to quantify the supposed “increases in operating costs [and] investment in plant assets” that it says necessitate an increase in cable rates.^{1/} And even if Blue Grass had quantified those costs, it has not explained why it would be appropriate (i) to raise its rates based on a few increased costs without full analysis of its financial picture or (ii) to put all of the rate increase on its cable customers. Blue Grass cannot offer any such explanation, because it would not be appropriate or lawful to do either of these things. The single-issue ratemaking rule forbids them both.

^{1/} Blue Grass’ explanation of why it needs to raise its cable attachment rates is completely conclusory. It says three times that the increase is “needed, and justified” due to “increases in operating costs, investment in plant assets, and the rate of return,” without ever explaining these increased costs or tying them to its proposed cable-rate increases. *See Application* ¶ 5(b); *id.* at Ex. F-1 (Smothers Answer #5); *id.* at Ex. F (Zumstein Answer #6). Of course, even if it had explained its costs, that would not change the fact that it is asking for single-issue ratemaking.

2. Instead of grappling with the single-issue ratemaking rule, Blue Grass observes that in 2005 the Commission authorized it to apply for a cable rate increase without fulfilling all the requirements of 807 KAR 5:001. Opp. at 1-2. But the single-issue ratemaking rule was not raised in that case or addressed by the Commission in the 2005 order, and the Commission denied Blue Grass' request for waiver of many requirements of 807 KAR 5:001. Furthermore, as Blue Grass concedes, it voluntarily dismissed the 2005 case soon after, without ever obtaining a rate increase. Opp. at 2 n.2. The Commission's silence on an issue that was not raised, in a case where the Commission did require the filing of additional information and where the rate increase request was abandoned midstream, hardly constitutes a Commission decision to jettison the well-established single-issue-ratemaking rule. The fact remains that the rule has been raised in *this* case, and Blue Grass' Application clearly violates it.

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

Respectfully submitted,

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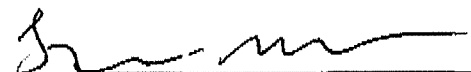
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CERTIFICATE OF SERVICE

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 12th day of July, 2010:

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