

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF KENTUCKY UTILITIES COMPANY )  
TO AMORTIZE, BY MEANS OF TEMPORARY ) CASE NO.  
DECREASE IN RATES, NET FUEL COST SAVINGS ) 93-113  
RECOVERED IN COAL CONTRACT LITIGATION )

O R D E R

IT IS HEREBY ORDERED that:

1. All parties wishing to submit written memorandum on the Attorney General's motion to require Kentucky Utilities Company's return of certain deposited funds to the segregated account shall submit such memorandum no later than October 8, 1993.

2. All parties wishing to submit written briefs on the merits of this case shall submit such briefs no later than October 15, 1993. All briefs shall address the issues set forth in the Appendix to this Order.

Done at Frankfort, Kentucky, this 1st day of October, 1993.

PUBLIC SERVICE COMMISSION

  
For the Commission

ATTEST:

  
Executive Director

## APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 93-113 DATED October 1, 1993

### ISSUES LIST

1. What legal authority (statutory, regulatory, case law) requires Kentucky Utilities Company ("KU") to distribute the deposited funds to its ratepayers (prior or current)?

2. What legal theories, if any, entitle former KU customers to a portion of the deposited funds?

3. What legal theories, if any, entitle only current KU customers to receive the deposited funds?

4. If former customers have a claim to the deposited funds, are there any time considerations to their assertion of that right? What statute of limitations is applicable? When does the statute of limitations begin to run?

5. Does the Commission have the authority to award a portion of the deposited fund to former customers? What is the source of that authority?

6. Does an award of any portion of the deposited funds to former KU customers constitute retroactive rate-making? Is such award consistent with the "filed rate doctrine" as embodied in KRS 278.160(2)?

7. What is the significance of Commission Regulation 807 KAR 5:056 to the distribution of the deposited funds?

8. Does Commission Regulation 807 KAR 5:056 permit the recovery of any of the following expenses from the deposited funds?

(a) litigation expenses

(b) notice expenses

(c) expenses for administering the distribution

9. May the Commission grant a deviation or waiver from Commission Regulation 807 KAR 5:056? If yes, what is the source of this authority?

10. Does Commission Regulation 807 KAR 5:056 require a distribution of the deposited funds on a prospective basis only?

11. May the Commission require any deposited funds which former customers fail to claim distributed to WinterCare? What is the basis of such authority?

12. Does any award of litigation expenses to KU constitute retroactive rate-making?