

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

WILLIAM H. MARTIN NORTHERN)	
KENTUCKY COMMUNITY CENTER)	
)	
COMPLAINANT)	
)	
v.)	CASE NO. 2002-00063
)	
THE UNION LIGHT, HEAT AND)	
POWER COMPANY)	
)	
DEFENDANT)	

O R D E R

On February 27, 2002, the William H. Martin Northern Kentucky Community Center (Martin Center) filed a formal complaint against The Union Light, Heat and Power Company (ULH&P), alleging that ULH&P is acting unreasonably in its attempts to collect past-due amounts owed by Martin Center. Specifically, Martin Center alleges that ULH&P is not offering a reasonable partial-payment plan. Martin Center alleges that all payment plans it entered into with ULH&P are unreasonable because it entered into them under duress and without being informed of its rights as a customer.

On May 6, 2002, the Commission issued an Order finding that the Commission is aware of no provision of law entitling Martin Center to a partial-payment plan.¹ The Commission, however, allowed Martin Center an opportunity to challenge the Commission's finding and stated Martin Center may, if it desires, file a written brief

¹ Case No. 2002-00063, Order dated May 6, 2002, at 5.

stating any provision of law which it believes entitles it to a partial-payment plan or to any particular terms of such a plan.² In the May 6, 2002 Order, the Commission also directed Martin Center to address the issue why it, and not DTL, LLC should be the proper party to bring the complaint.

On May 22, 2002, the Commission received a document labeled Discussion, which contained the heading and case number for the case at bar. The Discussion contains no signature and no signature line so the Commission does not know who filed the document. However, the Discussion clearly advocates Martin Center's position.

The author of the Discussion accuses ULH&P of colluding with the Greater Cincinnati United Way (United Way) to disconnect Martin Center's gas and electric service. Allegedly ULH&P is doing this so that the United Way would be exonerated in their position of not funding the Martin Center, adding further support to their claims.³

The author of the Discussion claims that this alleged collusion between ULH&P and the United Way is a violation of the Racketeering Influenced and Corrupt Organizations Act (RICO). Accordingly, the author of the Discussion asks that the Commission institute a Law that prohibit [sic] public utility companies from conspiring with large corporations for corporate advantage.⁴

ULH&P filed its response to the Discussion on May 29, 2002. ULH&P denies any and all allegations of collusion, conspiracy, racketeering, or other unlawful

² Id. at 6.

³ Discussion at 2.

⁴ Id.

activities.⁵ ULH&P also requests a Final Order in this case dismissing Martin Center's complaint. ULH&P argues that Martin Center's Discussion fails to state any provision of law under which Martin Center is entitled to a partial-payment plan; that Martin Center failed to allege that ULH&P violated any law or regulation within the Commission's jurisdiction; and that the Discussion is procedurally defective in that it does not contain an attorney's signature, as required by Administrative Regulation 807 KAR 5:001, Section 3(4).

DISCUSSION

18 USCA §§ 1961-1968 embodies the federal government's RICO Act. 18 USCA § 1965 provides for the proper venue and process in any action brought under RICO. In a civil action, any person may bring a complaint alleging RICO violations in any district court of the United States. Moreover, the United State Attorney General conducts any criminal investigation of alleged RICO violations. In short, this Commission lacks jurisdiction to investigate claims of RICO violations.

Martin Center requests that the Commission pass a law that prohibits public utility companies from conspiring with large corporations for corporate advantage.⁶ Once again, the Commission is without the requisite authority to honor such a request.

The Discussion fails to address the issues identified in the May 5, 2002 Order. The May 5, 2002 Order stated that Martin Center could file a brief addressing the specific provision of law under which it believes it is entitled to a partial-payment plan. The Discussion cites no such law; instead, it asks the Commission to pass a new law.

⁵ Response of ULH&P to the Discussion Document of Northern Kentucky Community Center at 2.

⁶ Discussion at 3.

Martin Center's failure to set forth any legal argument in support of its right to a partial-payment plan within the time allotted by the May 5, 2002 Order results in the Commission upholding its original findings as stated in the May 5, 2002 Order. Thus, the Discussion fails both procedurally and substantively.

IT IS THEREFORE ORDERED that:

1. The Commission's May 5, 2002 Order is confirmed in all respects.
2. The complaint is dismissed with prejudice and this case is removed from the Commission's docket.

Done at Frankfort, Kentucky, this 25th day of June, 2002.

By the Commission

ATTEST:


Executive Director