

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

JOHN ARTHUR YARBROUGH)	
)	
COMPLAINANT)	
)	
v.)	CASE NO. 2004-00189
)	
KENTUCKY UTILITIES COMPANY)	
)	
DEFENDANT)	

O R D E R

Kentucky Utilities Company ("KU") is hereby notified that it has been named as Defendant in a formal complaint filed on April 29, 2004, a copy of which is attached hereto as Appendix A.

Pursuant to 807 KAR 5:001, Section 12, KU should satisfy the matters complained of or file a written answer to the complaint within 10 days from the date of this Order.

On the face of the complaint, John Arthur Yarbrough alleges unreasonable service and also claims KU's actions led to certain damage to his property. However, KRS Chapter 278 does not delegate to the Commission any authority to adjudicate claims arising out of a utility's negligence. KRS 278.260 grants the Commission only "original jurisdiction over complaints as to rates or service of any utility." See also KRS 278.420(2). No claim is made as to tortious conduct. Authority to

adjudicate such claims cannot be reasonably inferred consistent with the Kentucky Constitution. See Kentucky Constitution § 14; Carr v. Cincinnati Bell, Inc., Ky. App., 651 S.W.2d 126 (1983). Accordingly, the Commission is without the authority to adjudicate the Complainant's claim for damages resulting from the Defendant's alleged negligence, but maintains jurisdiction over Complainant's other claim.

In its answer, KU should answer the following questions and provide the following data:

1. Provide a copy of the repair ticket for Complainant's residence from the outage incident in 2000 cited by Complainant.
2. Provide copies of any other repair tickets for Complainant's residence since 1999.
3. What type of splice was used to repair the neutral wire at Complainant's residence in 2000?
4. What is the length and size of the service wire on Complainant's property?
5. What type of attachment point is being used at Complainant's residence?
6. Was the correct splice installed in the neutral and, if so, was it installed correctly?

IT IS THEREFORE ORDERED that:

1. Within 10 days of the date of this Order, KU shall satisfy the matters complained of or file a written answer to the complaint. Any written answer shall contain a response to the questions and requests presented in this Order.
2. Any documents filed with the Commission during the course of this proceeding shall also be served on all parties of record.

Done at Frankfort, Kentucky, this 25th day of June, 2004.

By the Commission

ATTEST:

A handwritten signature in black ink, consisting of several overlapping loops and a horizontal line at the bottom.

Executive Director

Case No. 2004-00189

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2004-00189 DATED JUNE 25, 2004

(See document named "200400198_06252004apx.pdf" for Appendix.)