

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

CONSTELLATION NEWENERGY-GAS)	
DIVISION, LLC)	
)	
COMPLAINANT)	
)	
V.)	CASE NO. 2005-00184
)	
COLUMBIA GAS OF KENTUCKY, INC.)	
)	
DEFENDANT)	

ORDER

On April 29, 2005, Constellation NewEnergy-Gas Division, LLC (“CNEG”) submitted for filing a formal complaint against Columbia Gas of Kentucky, Inc. (“Columbia”). Frederick D. Ochsenhirt signed the complaint on behalf of CNEG. The records of the Kentucky Bar Association do not list Mr. Ochsenhirt as an attorney licensed to practice in Kentucky.¹ No person may engage in the practice of law in Kentucky without first obtaining a license to practice. SCR 2.120. The Supreme Court of Kentucky has defined the “practice of law” in Supreme Court Rule 3.020, which states in pertinent part as follows:

The practice of law is any service rendered involving legal knowledge or legal advice, whether of representation, counsel or advocacy in or out of court, rendered in respect to the rights, duties, obligations, liabilities, or business relations of one requiring the services.

¹ See Kentucky Bar Association Lawyer Locator at <http://www.kybar.org/default.aspx?tabid=26>.

The Commission requires that those representing the interest of others before us be licensed attorneys. The Commission has previously ordered that:

[A]ny attorney who is not licensed to practice in the State of Kentucky and who seeks to represent a client or employer before this Commission, must engage a member of the Kentucky Bar Association.

Administrative Case No. 249, Practice Before the Commission by Attorneys Non-Licensed in the Commonwealth of Kentucky (Ky. P.S.C. June 15, 1981) at 2.

Commission regulations concerning formal complaints incorporate, at least in part, this position. 807 KAR 5:001, Section 12(2), states in part: "Complaints by corporations or associations, or any other organization having the right to file a complaint, must be signed by its attorney and show his post office address."

Based on the above, the Commission finds that the CNEG complaint fails to comply with Kentucky law and should not be accepted for filing. We further find that CNEG should be permitted to file a complaint that complies with 807 KAR 5:001 within 10 days of the date of this Order. If CNEG fails to submit a timely amended complaint that complies with the administrative regulation, this case should be dismissed.

IT IS THEREFORE ORDERED that:

1. The complaint of CNEG is rejected.
2. Within 10 days of the date of this Order, CNEG may submit a complaint that complies with 807 KAR 5:001. CNEG's failure to submit a complaint that complies with this administrative regulation within 10 days will result in the dismissal of this case.

Done at Frankfort, Kentucky, this 1st day of June, 2005.

By the Commission

ATTEST:



Executive Director