

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

WALTER CALLIHAN AND GOLDIE CALLIHAN)	
)	
COMPLAINANTS)	
)	
V.)	CASE NO. 2005-00280
)	
GRAYSON RURAL ELECTRIC COOPERATIVE)	
CORPORATION)	
)	
DEFENDANT)	

ORDER

On July 7, 2005, Walter Callihan and Goldie Callihan filed with the Commission a complaint¹ against Grayson Rural Electric Cooperative Corporation ("Grayson RECC") and several officials of that utility and several present and former employees of this Commission. Complainants allege, *inter alia*, that the named defendants² conspired to deprive them of their civil rights, to violate the Sherman Anti-Trust Act³ and the Clayton

¹ A copy of the complaint is appended to this Order.

² The named defendants are: Carol Ann Fraley, Grayson RECC's general manager; Ken Arrington, Donnie Crum, Harold DuPuy, Ralph Hall, Bill Rice, James Simmons, Roger Trent, and Eddie Martin, members of Grayson RECC's Board of Directors; Mark David Goss, Gary Gillis, and Martin J. Huelsman, current or former members of the Kentucky Public Service Commission; and Thomas M. Dorman, Deborah T. Eversole, and John E.B. Pinney, current or former employees of the Kentucky Public Service Commission. The Kentucky Public Service Commission is also named as a defendant.

³ 15 USCA §§ 1 - 6.

Act,⁴ and to deprive them of their electric service. They request compensatory and punitive damages that allegedly arise from the named defendants' conduct.

Administrative Regulation 807 KAR 5:001, Section 12(4), requires the Commission to review each formal complaint upon its filing to determine whether the complaint establishes a *prima facie* case. A complaint establishes a *prima facie* case when, on its face, it states sufficient allegations that, if uncontradicted by other evidence, would entitle the complainant to the requested relief. If a complaint fails to establish a *prima facie* case, it may be dismissed.

Our review of the complaint indicates that Complainants have failed to state any allegations that would provide this Commission with any jurisdiction over any of the named defendants except Grayson RECC. Our jurisdiction extends to all utilities in this state and is limited to "the regulation of rates and services of utilities." KRS 278.040(2). The General Assembly has authorized us to hear "complaints as to rates or service of any utility." KRS 278. 260(1).

KRS 278.010(3) generally defines a "utility" as

any person . . . who owns, controls, operates, or manages any facility used or to be used for or in connection with:

(a) The generation, production, transmission, or distribution of electricity to or for the public, for compensation, for lights, heat, power, or other uses;

(b) The production, manufacture, storage, distribution, sale, or furnishing of natural or manufactured gas, or a mixture of same, to or for the public, for compensation, for light, heat, power, or other uses;

(c) The transporting or conveying of gas, crude oil, or other fluid substance by pipeline to or for the public, for compensation;

⁴ 15 USCA §§ 12 - 15, 15a - 15h, 16 - 18, 18a, 19, 21 - 26, 26a.

(d) The diverting, developing, pumping, impounding, distributing, or furnishing of water to or for the public, for compensation;

(e) The transmission or conveyance over wire, in air, or otherwise, of any message by telephone or telegraph for the public, for compensation; or

(f) The collection, transmission, or treatment of sewage for the public, for compensation, if the facility is a subdivision collection, transmission, or treatment facility plant that is affixed to real property and is located in a county containing a city of the first class or is a sewage collection, transmission, or treatment facility that is affixed to real property, that is located in any other county, and that is not subject to regulation by a metropolitan sewer district or any sanitation district created pursuant to KRS Chapter 220;

Except for Grayson RECC, none of the named defendants meet the statutory definition of a "utility." Complainants do not allege that any of these defendants own or operate or manage utility facilities. Our records do not reveal that any of these persons own or operate utility facilities. Consequently, the complaint fails to state any basis upon which this Commission would have jurisdiction over the named defendants with the exception of Grayson RECC.⁵

⁵ The Commission possesses limited jurisdiction over persons who are not utilities in limited circumstances. KRS 278.990(1) permits the Commission to assess a civil penalty against any person "who willfully violates any of the provisions of this chapter [KRS Chapter 278] or any regulation promulgated pursuant to this chapter, or fails to obey any order of the commission from which all rights of appeal have been exhausted, or who procures, aids, or abets a violation by any utility." KRS 278.992(1) permits the Commission to assess a civil penalty against "[a]ny person who violates any minimum safety standard adopted by the United States Department of Transportation pursuant to the federal pipeline safety laws, 49 U.S.C. secs. 60101 et seq., or any amendments thereto, or any regulation adopted and filed pursuant to KRS Chapter 13A by the Public Service Commission governing the safety of pipeline facilities or the transportation of gas as those terms are defined in the Natural Gas Pipeline Safety Act." The Commission may also hold proceedings for the removal of water district commissioners and directors or trustees of water associations. KRS 74.455. The complaint, however, does not contain any allegations that would support the application of any of these statutes to the matters complained of.

Assuming that all of the named defendants were utilities and subject to the Commission's jurisdiction, Complainants' allegations generally involve conduct that is outside of our jurisdiction. The Commission has the statutory duty to "regulate utilities and enforce the provisions" of KRS Chapter 278. KRS 278.040(1). Moreover, the Commission may "investigate the methods and practices of utilities to require them to conform to the laws of this state and to all reasonable rules, regulations and orders of the [C]ommission not contrary to law." KRS 278.040(3). Complainants allege misconduct involving federal statutes.

Complainants also seek relief that is not within our authority to grant. They request "compensatory and punitive damages" for the alleged misconduct of all named defendants. Kentucky courts have refused to extend the Commission's jurisdiction to include damage claims arising out of the negligent provision of utility service. In Carr v. Cincinnati Bell, Inc., 651 S.W.2d 126 (Ky.App.1983), a customer brought an action in Kenton Circuit Court seeking, among other things, compensatory damages for tortious breach of contract for telephone service. Holding that the Commission had exclusive jurisdiction over the matter, Kenton Circuit Court dismissed the action. The customer appealed to the Kentucky Court of Appeals. Reversing the circuit court's decision on this issue, that Court stated:

[A]ppellant seeks damages for breach of contract. Nowhere in Chapter 278 do we find a delegation of power to the PSC to adjudicate contract claims for unliquidated damages. Nor would it be reasonable to infer that the Commission is so empowered or equipped to handle such claims consistent with constitutional requirement. Kentucky Constitution Sec. 14.

Id. at 128.

Our review of the complaint indicates sufficient allegations to establish a *prima facie* case involving a wrongful discontinuance of electric service and wrongful refusal to provide electric service. Complainants alleged that, although they were current on their payments for electric service, on or about April 11, 2003, Grayson RECC discontinued their electric service for nonpayment. They further allege that, sometime after April 11, 2003, Ruby Cordell attempted to pay Grayson RECC the amount that the Callihans allegedly owed and that Grayson RECC refused to accept this payment and imposed additional conditions for the restoration of electric service other than those set forth in Grayson RECC's published rate schedules. We find that these allegations involve matters that are within the Commission's jurisdiction and are a proper matter for a complaint. We further find that Grayson RECC should either satisfy the matters complained of in these allegations or answer the allegations.

IT IS THEREFORE ORDERED that:

1. Grayson RECC shall satisfy the matters in the complaint that have been found relevant and within the Commission's jurisdiction or answer in writing within 10 days of the date of service of this Order the allegations of the complaint that have been found relevant and within the Commission's jurisdiction.
2. The complaint, as it relates to all other named defendants, is dismissed.⁶

⁶ Generally, if the Commission is of the opinion that the complaint does not establish a *prima facie* case, Administrative Regulation 807 KAR 5:001, Section 12(4), requires the Commission to notify the complainant or his attorney to that effect and provide an opportunity to amend the complaint within a specified time. We find that, given the nature of the noted defects, these defects cannot be cured and that no purpose would be served by permitting the complainants an opportunity to amend their complaint as it relates to all other named defendants.

3. Any party filing documents of any kind with the Commission during the course of this proceeding shall serve a copy of such documents upon all other parties of record at the time of filing with the Commission.

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

By the Commission

ATTEST:


Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2005-00280

85

**BEFORE
THE KENTUCKY PUBLIC SERVICE COMMISSION
P.O. BOX 615
FRANKFORT, KENTUCKY 40602-0615**

RECEIVED

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PUBLIC SERVICE
COMMISSION

Plaintiffs

Walter Callihan
P. O. Box 17
Argillite, Kentucky 41121

and
Goldie Callihan
P. O. Box 17
Argillite, Kentucky 41121

CASE 2005-00280

VS

Defendants

Grayson Rural Electric Cooperative Corporation
109 Bagby Park
Grayson, Kentucky 41143-1292

and
Carol Ann Fraley, General Manager
Grayson Rural Electric Cooperative Corporation
109 Bagby Park
Grayson, Kentucky 41143-1292

and
Carol Ann Fraley, Individually
Grayson Rural Electric Cooperative Corporation
109 Bagby Park
Grayson, Kentucky 41143-1292

and
Ken Arrington, Board Member
c/o Grayson Rural Electric Cooperative Corporation
109 Bagby Park
Grayson, Kentucky 41143-1292

and

(Continued, Page 2)

Ken Arrington, Individually
c/o Grayson Rural Electric Cooperative Corporation
109 Bagby Park
Grayson, Kentucky 41143-1292

and

Donnie Crum, Board Member
c/o Grayson Rural Electric Cooperative Corporation
109 Bagby Park
Grayson, Kentucky 41143-1292

and

Donnie Crum, Individually
c/o Grayson Rural Electric Cooperative Corporation
109 Bagby Park
Grayson, Kentucky 41143-1292

and

Harold DuPuy, Board Member
c/o Grayson Rural Electric Cooperative Corporation
109 Bagby Park
Grayson, Kentucky 41143-1292

and

Harold DuPuy, Individually
c/o Grayson Rural Electric Cooperative Corporation
109 Bagby Park
Grayson, Kentucky 41143-1292

and

Ralph Hall, Board Member
c/o Grayson Rural Electric Cooperative Corporation
109 Bagby Park
Grayson, Kentucky 41143-1292

and

Ralph Hall, Individually
c/o Grayson Rural Electric Cooperative Corporation
109 Bagby Park
Grayson, Kentucky 41143-1292

and

Bill Rice, Board Member
c/o Grayson Rural Electric Cooperative Corporation
109 Bagby Park
Grayson, Kentucky 41143-1292

and

Bill Rice, Individually
c/o Grayson Rural Electric Cooperative Corporation
109 Bagby Park
Grayson, Kentucky 41143-1292

and

James Simmons, Board Member
c/o Grayson Rural Electric Cooperative Corporation
109 Bagby Park
Grayson, Kentucky 41143-1292

and

James Simmons, Individually
c/o Grayson Rural Electric Cooperative Corporation
109 Bagby Park
Grayson, Kentucky 41143-1292

and

Roger Trent, Board Member
c/o Grayson Rural Electric Cooperative Corporation
109 Bagby Park
Grayson, Kentucky 41143-1292

and

Roger Trent, Individually
c/o Grayson Rural Electric Cooperative Corporation
109 Bagby Park
Grayson, Kentucky 41143-1292

and

Eddy Martin, Board Member
c/o Grayson Rural Electric Cooperative Corporation
109 Bagby Park
Grayson, Kentucky 41143-1292

and

Eddy Martin, Individually
c/o Grayson Rural Electric Cooperative Corporation
109 Bagby Park
Grayson, Kentucky 41143-1292

and

Named and Un-named Defendants
c/o Grayson Rural Electric Cooperative Corporation
109 Bagby Park
Grayson, Kentucky 41143-1292

and

The Kentucky Public Service Commission
211 Sower Blvd., P.O. Box 0615
Frankfort, Kentucky 40602-0615

and

Mark David Goss, Commissioner
c/o The Kentucky Public Service Commission
211 Sower Blvd., P.O. Box 0615
Frankfort, Kentucky 40602-0615

and

Mark David Goss, Individually
c/o The Kentucky Public Service Commission
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Frankfort, Kentucky 40602-0615

and

Gary Gillis, Commissioner
c/o The Kentucky Public Service Commission
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Frankfort, Kentucky 40602-0615

and

Gary Gillis, Individually
c/o The Kentucky Public Service Commission
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Frankfort, Kentucky 40602-0615

and

Martin J. Huelsman, Commissioner
c/o The Kentucky Public Service Commission
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Frankfort, Kentucky 40602-0615

and

Martin J. Huelsman, Individually
c/o The Kentucky Public Service Commission
211 Sower Blvd., P.O. Box 0615
Frankfort, Kentucky 40602-0615

and

Thomas M. Dorman, Executive Director
The Kentucky Public Service Commission
211 Sower Blvd., P.O. Box 0615
Frankfort, Kentucky 40602-0615

and

Thomas M. Dorman, Individually
The Kentucky Public Service Commission
211 Sower Blvd., P.O. Box 0615
Frankfort, Kentucky 40602-0615

and

Ms. Deborah T. Eversole
in her official capacity
c/o The Kentucky Public Service Commission
P.O. Box 615
Frankfort, Kentucky 40602-0615

and

Ms. Deborah T. Eversole, individually
c/o The Kentucky Public Service Commission
P.O. Box 615
Frankfort, Kentucky 40602-0615

and

Mr. John E.B. Pinney
in his official capacity
c/o The Kentucky Public Service Commission
P.O. Box 615
Frankfort, Kentucky 40602-0615

and

Mr. E. B. Pinney, individually
c/o The Kentucky Public Service Commission
P.O. Box 615
Frankfort, Kentucky 40602-0615

RECEIVED

JUL - 7 2005

**PUBLIC SERVICE
COMMISSION**

and

Named and Un-named Defendants
c/o The Kentucky Public Service Commission
P.O. Box 615
Frankfort, Kentucky 40602-0615

**BEFORE
THE KENTUCKY PUBLIC SERVICE COMMISSION
P.O. BOX 615
FRANKFORT, KENTUCKY 40602-0615**

This is a Formal Complaint against Grayson Rural Electric Cooperative Corporation and it's Board of Directors and also a Formal Complaint against the Kentucky Public Service Commission and it's agents and assigns, as conspirators with Grayson Rural Electric Cooperative Corporation to orchestrate, plan, initiate and execute against Walter and Goldie Callihan by creating a monopoly to prevent Walter and Goldie Callihan from being a member of Grayson Rural Electric Cooperative Corporation..... so they have no voting power..... and to prevent, to oppress, to impede, insult and embarrass Walter and Goldie Callihan that is a criminal act under the Anti-Trust Acts: The Sherman Act, 15 U.S.C. and The Clayton Act, 15 U.S.C.

COMPLAINT

- 1). Comes now Walter Callihan and Goldie Callihan, (referred to herein and after as Walter

and Goldie), and hereby file their Formal Complaint as set out herein as follows against the defendants associated with Grayson Rural Electric Cooperative Corporation, (referred to herein and after as GRECC), and against The Kentucky Public Service Commission and it's agents named and unnamed defendants, (referred to herein and after as the KPSC), as conspirators between GRECC and the KPSC and their agents.

2). On or about April 11th, 2003 GRECC cut off the plaintiff's electric service alleging they owed \$707.26 in which the plaintiffs deny having owed to GRECC. Moreover, the plaintiffs have in their possession receipts that will show that Walter and Goldie have in fact paid GRECC in full. And those receipts would satisfy any reasonable person or persons that Walter and Goldie do not owe GRECC any delinquent bills.

3). GRECC moved against Walter and Goldie arbitrarily, fallaciously, capriciously with a maliced intent against same to harm Walter and Goldie. GRECC moved without a judgement and damaged Walter's and Goldie's business and shut down their meat packing plant and their electricity to their dwelling and also closed a business that damaged them in their commerce activity and denied them the very necessity of life. There was a lapse of approximately one year whereby GRECC claimed a delinquency in the electric bill. GRECC had open to them

due process of law guaranteed to them by the Constitution of the United States and it's Amendments. GRECC, if they sincerely believed their assertion against Walter and Goldiethat they owed to GRECC \$707.26..... could have gone to the Greenup District Court and brought a small claims lawsuit against Walter and Goldie to obtain a judgement against them and GRECC could have executed said judgement by selling Walter and Goldie's property. However, GRECC knew they had legal problems with their assertion and therefore choose not to litigate against Walter and Goldie. Instead, GRECC elected to execute against Walter and Goldie by shutting off their electrical service arbitrarily.....and this was done after conspiring with Virginia Smith of the KPSC. Carol Ann Fraley, General Manager of GRECC reported to the Ashland Daily Newspaper reporter that Virginia Smith of the KPSC told Fraley to "cut them (Walter and Goldie) off!".

4). There is no remedy in place set by the KPSC whereby GRECC must bring a Formal or a Legal Complaint against an individual when the utility alleges delinquent disputed bills. By so doing, GRECC and the KPSC are denying those individuals including Walter and Goldie due process of law. GRECC executes against them without a judgement or even without a

hearing that would give Walter and Goldie and other individuals a hearing to show their proof and explanation which is denying them due process of law. This violates the rights of Walter and Goldie and every individual under GRECC's and the KPSC's conspiracy.

5). For the sake of argument or discussion, if it was true....and it is not true, that Walter and Goldie owe \$707.26 to GRECC....unknown to Walter and Goldie, a concerned neighbor, Ruby Cordell went to Carol Ann Fraley, General Manager of GRECC and offered to pay out of her own pocket in cash the \$707.26. Carol Ann Fraley refused to accept Ruby Cordell's payment in full stating to Ruby that: "Mr. Callihan knows what it takes to get the electricity turned back on!". Carol Ann Fraley was referring to her offer to Walter that she would only accept her alleged claims against Walter for the \$707.26 and restore the electricity only if Walter would sign a waiver that he would never write any more letters to the editor again, and that Walter would not hold any more meetings to organize members to sell GRECC, and that Walter would not ever file any Formal Complaints against GRECC to the KPSC, and Walter would abide and follow and obey any and all terms that the GRECC Board of Directors would adopt and enact and enforce against Walter and Goldie. That demand was a violation by

Carol Ann Fraley against Walter's and Goldie's 1st Amendment rights of free speech and their exercise thereof set forth under and guaranteed to them by The Constitution of the United States of America. Please find filed herewith as Exhibit 1 a sworn Affidavit by Ruby Cordell and an Affidavit by Walter.

6). Not only did Carol Ann Fraley acting as agent for GRECC demand the alleged disputed bill be paid, she further added other conditions other than the bill that she required to be agreed upon by Walter before the electric power would be restored to Walter and Goldie. The other conditions were not required for any other consumer customers of GRECC and therefore constitutes malicious discrimination and unreasonable demands from Walter and Goldie denying them free exercise of their rights under free speech.

7). Moreover Carol Ann Fraley, at the same time she was making her demands, said in the presence of Mr. Donald Combs Assistant Manager of GRECC:

"You people (Walter and Goldie) are trouble makers and you don't even believe in Jesus. You don't even follow Jesus. I am a Christian!"..... said Carol Ann Fraley.

Carol Ann Fraley not only was interfering with Walter's and Goldie's free speech, she was

also interfering with Walter's and Goldie's religious beliefs and their free exercise thereof.

8). On or about October, 2003 a hearing was held in Federal Court involving GRECC and Walter and Goldie, case # 03-00192. John E.B. Pinney, member of general counsel for the KPSC, appeared voluntarily without being subpoenaed to testify on behalf of GRECC. That was when the KPSC by and through their agent John Pinney officially joined GRECC's conspiracy against Walter and Goldie. An Anti-trust lawsuit was filed on or about June 7th, 2004 by Walter and Goldie in Federal Court, case # 04-90-DLB, against all members and parties of GRECC and against the KPSC and its agents and assigns for creating a monopoly with GRECC. Please see Mr. John Pinney's Response to Walter's and Goldie's Motion for Immediate Relief and a Temporary Restraining Order asking the Federal Court to order GRECC to restore the electrical power to Walter and Goldie while litigation was currently being adjudicated. Mr. J.E.B. Pinney filed an Objection and asked the Federal Court not to order GRECC to restore Walter's and Goldie's electricity. Filed herewith as Exhibit 2 is a copy of Mr. John Pinney's Motion to request the Court **not** to order GRECC to furnish Walter and Goldie electrical service. Then please consider GRECC's By-Laws Article 1 on membership

that state:

Section 1: (d) " Any natural person, firm, association, corporation or body politic or subdivision thereof will become a member of Grayson Rural Electric Cooperative Corporation (hereinafter called the "Cooperative") upon receipt of electric services from the Cooperative, provided that he, she or it has first....Paid the membership fee together with any service security deposit, service connection deposit or fee, facility extension fee or contribution in aid of construction (hereinafter referred to as other deposits or fees) that may be required by the Cooperative, which membership fee and other deposits or fee shall be refunded in the event the application is denied by the Board. Provided, however, that the Board of Directors may, by resolution, deny an application and refuse to end service upon its determination that the applicant is not willing or is not able to satisfy and abide by the Cooperative's terms and conditions of membership or that such application should be denied for other good cause; provided further, however, that any person whose application, for 60 days or longer, has been submitted, but not denied by the Board of Directors and who has not been connected by the Cooperative for electric service may, by filing written requests therefore with the Cooperative at least 30 days prior to the next meeting of the Board of Directors, have his application submitted to and approved or disapproved by the vote of the Directors at such meeting."

Section 7, Service to Non-Members: "The Cooperative shall render service to its members only; provided, however, that service may be rendered with Board approval upon the same terms and conditions as are applicable to members, to governmental agencies and political subdivisions, and to other persons not in excess of the per centum (10%) of the number of its members; and provided further, that should the Cooperative acquire any electric facilities dedicated or devoted to the public use it may, for the purpose of continuing service and avoiding hardship and to an extent which together with all other persons serviced by the Cooperative on a non-member basis shall not exceed forty per centum (40%) of the total number of persons served by the Cooperative, continue to serve the persons served directly from such facilities at the time of such acquisition without requiring that such persons become members; and provided further that such non-members shall have the right to become members upon nondiscriminatory terms." (Amended 1/26/96)

- 9). The KPSC relinquished it's authority by approving GRECC's By-Laws Article 1 on membership relinquishing to GRECC's Board of Directors the right to determine who could

have electricity and who could not have electricity.

10). Furthermore, when GRECC and the KPSC by and through Mr. J.E.B. Pinney joined a conspiracy to create a monopoly undisputedly then the KPSC was in fact at all times a state agency acting under the color of law as a state actor. When the KPSC approved GRECC's membership By-Laws, granting authority to the GRECC's Board of Directors full authority to determine who would be serviced with electricity and who would not be serviced, this made GRECC a state actor by designation of authority from the KPSC. Therefore, GRECC is a state actor by designation from the KPSC. Therefore, GRECC and the KPSC, when they cut off Walter's and Goldie's electricity, they put the GRECC under the color of law acting by authority granted to them by the KPSC who is and was undisputedly a state actor.

11). It is clear that the KPSC by and through John E.B. Pinney joined the conspiracy with GRECC to intentionally, maliciously, capriciously and undemocratically orchestrate, put in place and enforce a monopoly under the Anti-Trust Acts: The Sherman Act, 15 U.S.C. and The Clayton Act, 15 U.S.C.

12). This Action is brought under 42 U.S.C. 1983 and The Sherman Act, 15 U.S.C. and The Clayton Act, 15 U.S.C. that clearly show that Mr. John E.B. Pinney and the KPSC and GRECC and it's agents and assigns joined a conspiracy to create a monopoly that certainly injured and continues to injure and deprive Walter and Goldie of the bare necessity of life and has destroyed

their business.

13). This is now a Complaint under all Federal Statues where the KPSC and GRECC have orchestrated and joined a conspiracy to create a monopoly that has injured not only Walter and Goldie, but also thousands of customers of GRECC that further denied Walter and Goldie all due process of the laws of the land guaranteed to them by the Constitution of the United States of America. GRECC and the KPSC have torn up the Constitution of the United States...spit on itand stomped on it!!

14). Walter and Goldie seek all of the relief that would appear they be entitled to and all monetary damage for direct, compensatory and punitive damages that the Sherman Act and the Clayton Act demand based upon all Federal Statutes cited in this Complaint before the proper legal governing body. Walter and Goldie state they have suffered mental depression, embarrassment among their friends, direct injury to their health under a doctor's care and monetary damage to their business denying them the necessities of life of electrical service that Walter and Goldie solely depended upon. Attached hereto as Exhibit 3 are pictures, related doctor statements, affidavits and letters of damages.

15). Therefore Walter and Goldie demand all relief from the KPSC whereby Walter and Goldie charge the KPSC to rule on said Complaint.

16). This Complaint is being sent to the Attorney General of the United States of America with a cover letter asking that criminal charges be brought under the Sherman and Clayton Acts

against the KPSC and it's agent John E.B. Pinney and the agents and assigns of the GRECC.

This Complaint is being sent also to the Attorney General of Kentucky and to the Governor of Kentucky.

Respectfully submitted this 6th day of July, 2005:

Walter Callihan
Walter Callihan

Walter Callihan

Goldie Callihan
Walter Callihan
Goldie Callihan

Goldie Callihan

EXHIBIT 1

EXHIBIT 1

I would like for the people who have electric through G.R.E. that I called Grayson Rural Electric and spoke to Ms. Carol Ann Fraley concerning Walter and Goldie Callihan having their electric turned off. My reason for calling was my concern for Goldie. I explained that without electric they also were doing without water. I offered to personally pay the money Ms. Fraley says the Callihans owe. Ms. Fraley refused my offer. I then asked her what myself or anyone could do to help this elderly couple to have their electric back on. She answered me by stating that Mr. Callihan knows what he would have to do. I asked her to explain her statement, she stated again Mr. Callihan knows what he has to do. I again told her that my concern was for Goldie, that she was a frail, sweet lady that stayed at home most of the time. Ms. Fraley suggested that I call the county social office and they would remove her from her home. I stated that would not be the right thing to do to Goldie. I did call Greenup to ask if they had a program that could help this elderly couple to have Ms. Fraley and Grayson Rural Electric explain what it is they want Mr. Callihan to do.

Dated 4-25-05

Kirley Cordle
Signature

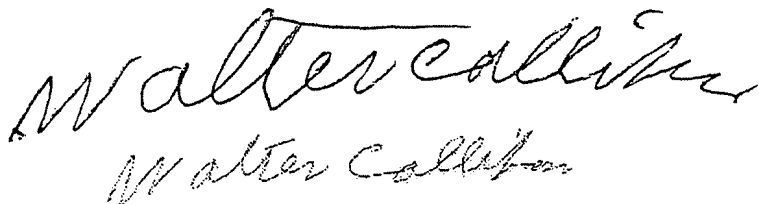
Notary *Kristina D. Hottel*
State of Large Kentucky
Greenup Co.
Exp. 11/03/05

Affidavit

Comes now Walter Callihan and hereby makes a sworn affidavit in the said Complaint as set out herein below:

Callihan states that in reading Ruby Cordle's affidavit, whereby Ruby states that Carol Ann Fraley, General Manager of GRECC, responded to Ruby when Ruby offered to pay the wrongful alleged electric bill against Walter Callihan by saying: "Mr. Callihan knows what it takes to get the electric turned back on." What Fraley was referring to were her terms to Callihan that the alleged bill would have to be paid and that Callihan would also have to waive his rights and agree that he would comply to certain requirements by GRECC, namely that he not ever go before the Kentucky Public Service Commission with a Complaint, that he would never hold another public meeting to organize a membership to sell and liquidate GRECC and that Callihan would never write another Letter to the Editor about GRECC and that Callihan would abide by any Rule and any By-Law that the board of directors of GRECC set for Callihan to follow. And of course Callihan rejected such violations of his civil rights demanded by GRECC.

This Affidavit is made under the penalty of perjury this 6th day of July, 2005. And further the affiant saith not.

The block contains two handwritten signatures of Walter Callihan. The top signature is a large, stylized cursive script. The bottom signature is a smaller, more legible cursive script. Both are written in dark ink.

Walter Callihan

EXHIBIT 2

EXHIBIT 2

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
AT ASHLAND

CIVIL ACTION NO. 04-90-KSF

WALTER CALLIHAN, ET AL.

PLAINTIFFS

VS. RESPONSE OF KENTUCKY PUBLIC SERVICE COMMISSION TO
PLAINTIFFS' MOTION FOR TEMPORARY INJUNCTION AND
RESTRAINING ORDER

GRAYSON RURAL ELECTRIC
COOPERATIVE CORPORATION, ET AL.

DEFENDANTS

Defendants Kentucky Public Service Commission, Mark David Goss, Commissioner; Martin J. Huelsmann, Commissioner; and Named and Un-named Defendants associated with the Kentucky Public Service Commission (collectively "KPSC"),¹ by counsel and pursuant to the Court's Order of June 16, 2004, for their response to Plaintiffs' Motion for Temporary Injunction and Restraining Order, state as follows:

¹ This response is filed on behalf of only those defendants who currently serve at the Kentucky Public Service Commission. Thomas M. Dorman and Gary Gillis (a prior Commissioner who appears to be the person meant by Plaintiffs' designation of "Gary Willis") are no longer with the Commission, and undersigned counsel is not authorized to represent them. The record demonstrates that Plaintiffs have not served their Complaint upon either Mr. Dorman or Mr. Gillis. Nor have Plaintiffs otherwise placed Mr. Dorman or Mr. Gillis on notice of this action.

I. The Motion Should Be Denied and the Complaint Dismissed for Lack of Subject Matter Jurisdiction: Jurisdiction Over Cases of This Nature is Vested in the Kentucky Public Service Commission.

Plaintiffs' motion should be denied and their complaint dismissed for lack of subject matter jurisdiction. KRS 278.040 vests the KPSC with "exclusive jurisdiction over the rates and services of utilities" operating within Kentucky, and the complaint and motion clearly concern the rates and service of a utility operating within Kentucky.

The KPSC also is granted by statute specific jurisdiction over complaints regarding the rates and service of utilities. KRS 278.260(1). KRS 278.260(1) provides the mechanism whereby Plaintiffs may bring a complaint with the KPSC against Grayson Rural Electric Cooperative Corporation ("Grayson") regarding Grayson's rates and services. Should Plaintiffs desire to contest disconnection of their service, they may invoke the KPSC's jurisdiction by filing a formal, written complaint with the KPSC, disputing the alleged unpaid balance for which Plaintiffs' electric service was disconnected. Plaintiff Walter Callihan specifically refused to file a complaint with the KPSC regarding this disconnection. See Letter from Walter Callihan to the Public Service Commission and Cabinet Secretary dated April 21, 2003 (Exhibit A-1 to Complaint) at 1 (stating dissatisfaction with disconnection of his service but declaring "[t]his is not a formal complaint before the Public Service Commission") and at 3 ("I point out that the Commission is not a court of law and the Commission can not [sic] enter a judgment where this consumer has lost his products and years of business. The Commission can not [sic] award damages.... Therefore, a lawsuit will be brought in the proper court....")

Much later, Plaintiff Goldie Callihan did file a complaint with the KPSC [Exhibit B-2 to Complaint] alleging, among other things, that she had sent a representative to the office of Grayson and that Grayson had refused to provide service in her name rather than in her husband's. The KPSC dismissed the complaint as there was no dispute as to the material fact that Mrs. Callihan had not, in fact, complied with the application process specified in Grayson's lawful tariff and followed by other similarly situated applicants for service. See KRS 278.160 (providing that rates, terms and conditions for utility service must be in a utility's filed tariff and must be uniformly enforced); KRS 278.170 (prohibiting discriminatory treatment of similarly situated customers). Accordingly, the complaint was premature [Goldie Callihan v. Grayson Rural Electric Cooperative Corporation, KPSC No. 2003-00485 (March 18, 2004)].

The only forum available for the Callihans to dispute their electricity bill is, by law, the KPSC. In the alternative, if Mrs. Callihan wishes to argue that she should be permitted to obtain service in her name to avoid issues related to the bill allegedly owed by her husband, she must first comply with Grayson's lawfully filed tariff. In either event, jurisdiction is not in this Court.

**II. To the Extent Plaintiffs' Action Is an Attempt to Appeal
The KPSC's Decision In Case No. 2003-00485, It Must
Be Dismissed For Lack of Subject Matter Jurisdiction.**

To the extent Plaintiffs' motion and complaint are an attempt to appeal the KPSC's final decision in KPSC Case No. 2003-00345, jurisdiction over such an appeal is not found in this Court. KRS 278.410 provides that any order of the KPSC may be reviewed in Franklin Circuit Court within 30 days of service of the order. The Order dismissing Mrs. Callihan's allegation that she should be permitted to acquire service

without completing an application was entered on March 18, 2004. Mrs. Callihan did not appeal that order, and it is now final.

III. Plaintiffs Do Not State a Legally Cognizable Claim Under the Sherman and Clayton Acts.

Plaintiffs base their claims largely on federal anti-trust statutes. They claim that Grayson is an unlawful monopoly and that the KPSC has unlawfully assisted Grayson in maintaining its monopoly status. But it is well-settled that neither a state nor an entity it regulates may be sued under the Sherman Anti-Trust Act for the creation of a monopoly if the regulation of the monopoly is a clear state policy and the state actively supervises this monopoly. California Retail Liquor Dealers Association v. Midcal Aluminum, Inc., 445 U.S. 97, 106 (1980). See also Parker v. Brown, 317 U.S. 34 (1943).

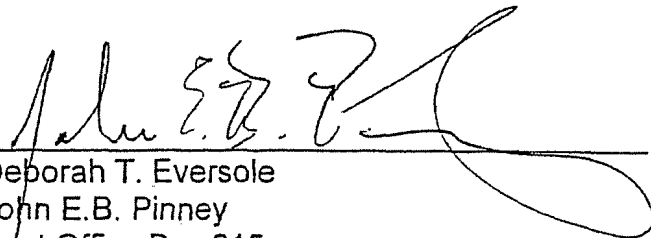
The Kentucky Legislature has clearly expressed its intent that the electric utilities in Kentucky be monopolies. See KRS 278.017 (establishing certified boundaries for electric utilities); KRS 278.018 (explicitly providing that an electric utility is to be the sole electric provider within its certified territory.) The Kentucky Legislature, moreover, has vested the KPSC with many powers to regulate electric utilities on many levels. See, e.g., KRS 278.020 (requiring a utility to receive a certificate of convenience and necessity before it begins construction or is subject to transfer of ownership); KRS 278.030 (requiring all utilities' rates to be fair, just and reasonable); KRS 278.042 (giving the KPSC the authority to enforce the provisions of the National Electrical Safety Code on electric utilities); KRS 278.160 (requiring utilities to file with the KPSC all rates and terms of service). The statutory scheme is intimate, overarching and all-inclusive.

There is no antitrust claim here. Plaintiffs' motion should be denied.

Conclusion

For the foregoing reasons, the KPSC respectfully requests that the motion be denied and Plaintiffs' complaint be dismissed.

Respectfully submitted,

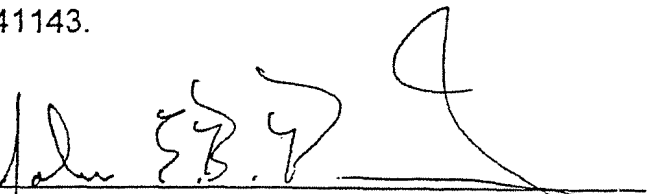


Deborah T. Eversole
John E.B. Pinney
Post Office Box 615
Frankfort, KY 40602-0615
Telephone: 502/564-3940

Counsel for Public Service Commission

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Response was served upon the Plaintiffs herein by mailing a true copy hereof by first class mail, postage prepaid, to: Walter Callihan, Post Office Box 17, Argillite, Kentucky 41121; Goldie Callihan, Post Office Box 17, Argillite, Kentucky 41121, this 29th day of June, 2004; and W. Jeffrey Scott, Post Office Box 608, Grayson, Kentucky 41143.



John E.B. Pinney

United States District Court
Eastern District of Kentucky
1405 Greenup Avenue, Room 336
Ashland, Kentucky 41101

Walter Callihan, et al.

Plaintiff

vs.

Grayson Rural Electric
Cooperative Corporation, et al.

Defendant

Civil Action No. 0:04cv90-HRW

**MOTION FOR A TEMPORARY INJUNCTION AND A RESTRAINING
ORDER AND FOR IMMEDIATE RELIEF FORTHWITH**

Comes now Walter Callihan and Goldie Callihan, herein and after referred to as Walter and Goldie, and file their Motion in the above style action seeking a Temporary Injunction and a Restraining Order and Immediate Relief to enjoin Grayson Rural Electric Cooperative Corporation, herein and after referred to as GRECC, and the Kentucky Public Service Commission, herein and after referred to as the KPSC, from any further withholding of electric service from Walter and Goldie by and through a conspiracy creating a monopoly by GRECC by and through the KPSC for the duration and until such time as this honorable Court can order the franchise now enjoyed by GRECC to be transferred to another electrical power company such as American Electric Power Company.

(Continued, Page 2)

Walter and Goldie are suffering from the heat and are being deprived the necessity of life.

Goldie is 76 years old and has had a complete nervous breakdown and is physically ailing and is in a weakening state of health. She is suffering from heat exhaustion since there are no fans, no running water or hot water, inadequate toilet facilities or a way to bathe. Goldie in fact is being denied the necessity of life that is depriving her of the necessity of life by GRECC and the KPSC by and through their monopoly and their intent to harm Walter and Goldie merely because they are acting out their frustration against them because Walter and Goldie are Jews. Their action^{*} would remind you of Adolf Hitler and his Gestapo agents at the beginning and the duration of World War II and would remind you of Saddam Hussein and his so called democracy and inhumane treatment. The same treatment is going on here in Eastern Kentucky at Argillite, Kentucky against Walter and Goldie.

Walter and Goldie move this honorable Court for an Order stopping abruptly forthwith this oppression against them in the interest of justice and humanity. This is America, but if one visited Walter and Goldie's residence to see the inhumane way they are both living, one would not identify those conditions as being American, but in fact anti-American activity commenced and carried through, by and through GRECC and the KPSC.

Walter and Goldie move this honorable Court for Immediate Relief within three days from receipt of this Motion. Consider this not a threat, but in fact a reality that after the end of the third day, if this honorable Court has not ruled Immediate Relief, then on the fourth day Walter

and Goldie will file an action in the Sixth Circuit Court of Appeals asking for a Writ of Mandamus against the lower Courts. And if the Sixth Circuit Court of Appeals does not rule by granting a Writ of Mandamus on the third day, then on the fourth day Walter and Goldie will file a Writ of Shishawhara before the United States Supreme Court seeking Immediate Relief by and through a Writ of Mandamus against the Sixth Circuit Court of Appeals by one member of the Justices of the United States Supreme Court.

Please consider this not a mean spirited demand, but in fact Walter and Goldie are seeking relief and are in dire need of same. The Constitution of the United States and it's laws and the Bill of Rights guarantees to Walter and Goldie the rights that GRECC and the KPSC have taken away, depriving them of same.

To reiterate, Goldie is in a weakened condition and the heat and humidity could kill her. If relief is not granted to Walter and Goldie irreversible damage will occur and could even bring death. Remember, when you as a Federal Judge took your oath of office you took an oath to uphold the laws and administer justice to all. When you as a Federal Judge review this case and it's Motions, please remind yourself of your oath.

For all the reasons stated above, Walter and Goldie move this honorable Court for a Temporary Injunction and Restraining Order against GRECC and the KPSC by commencing forthwith and selling to Walter and Goldie the power that is essential to them.

This Motion is made under the penalty of perjury.

I hereby certify that a true and foregoing copy has been served to all of the named defendants in their official capacity and in their individual capacity found in the caption of the Complaint set forth therein.

Respectfully submitted this 14th day of June, 2004,

Walter Callihan

Walter Callihan

Goldie Callihan

Goldie Callihan

EXHIBIT 3

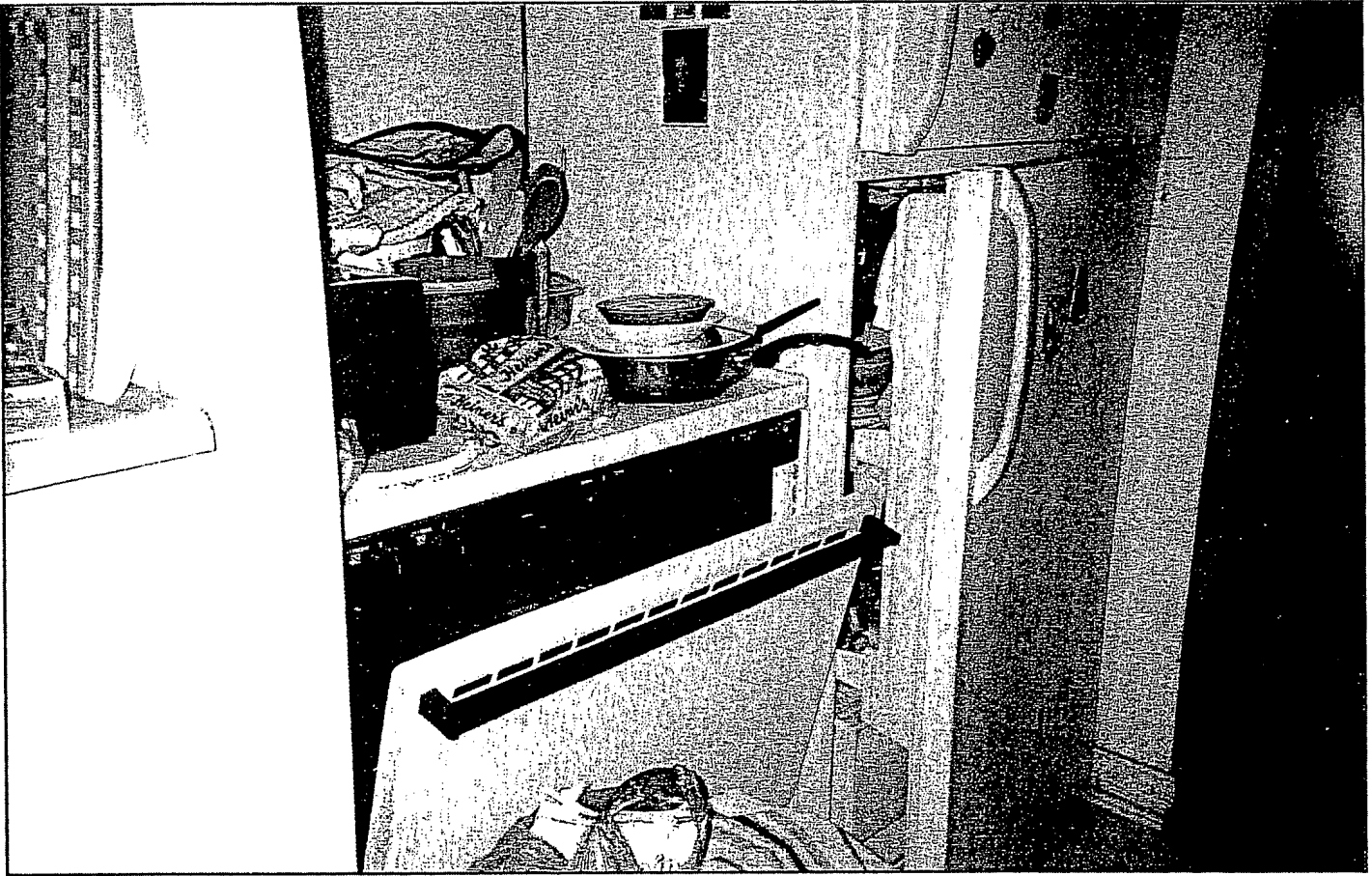
EXHIBIT 3



Goldie Callihan July, 2004: Extreme heat & cold damage already led to nervous breakdown...continues.



Without electricity: no running water, toilet, lights, refrigeration, stove, laundry, air conditioning, heater.
And without electricity: no meat packing business and no water facility for live stock on the farm.



The Callihans have all electric appliances for their necessities of life...damage occurs hourly.



Without water pump they carry buckets of cold water from a rain barrel to bathe, wash clothes in by hand, drink, and carry to the barns and fields for their live stock. Goldie and Walter are 75 years old.



Goldie has heat sores all over and is very fatigued from the stress and extreme conditions.



She carries open flamed lamp in the dark to make her way through the home every night and has no warm foods to eat. The T.V. in background is useless without electricity and Goldie is homebound.

AUGUSTINUS LOBACH, M.D.
DEA #B12951211
License # 26383



OUR LADY OF BELLEFONTE HOSPITAL

JENNIFER HOUSE ATKINS, P.A.C.
Lic # PA454

South Shore Outreach Center

U.S. Route 23 at Taylor Avenue • South Shore, KY 41175
(606) 932-3150

Name William Callahan

Date 6/25/01

Address _____

Alimkey phine 25mg # 10

8 1/2 - 1 hr h.s. prn

Insomnia

Refill NR 1 2 3 4 5

- ☐ 1-24
- ☐ 25-49
- ☐ 50-74
- ☐ 75-100
- ☐ 101-150
- ☐ 151 and over

Each box (one) is \$1.00

Prescription is void if more than (1) prescription is written per blank

AUGUSTINUS LOBACH, M.D.
DEA #B12951211
License # 26383



OUR LADY OF BELLEFONTE HOSPITAL

JENNIFER HOUSE ATKINS, P.A.C.
Lic # PA454

South Shore Outreach Center

U.S. Route 23 at Taylor Avenue • South Shore, KY 41175
(606) 932-3150

Name _____

Date 6/28/01

Address _____

It is medically necessary
for Mr and Mrs Callahan to
have electricity. They need
air conditioning

- ☐ 1-24
- ☐ 25-49
- ☐ 50-74
- ☐ 75-100
- ☐ 101-150
- ☐ 151 and over

Each box (one) is \$1.00

Refill NR 1 2 3 4 5

Prescription is void if more than (1) prescription is written per blank

AFFIDAVIT

After first being duly sworn this affiant deposes by giving her sworn affidavit as follows:

I have personally examined and assessed Goldie Callihan to evaluate her physical and emotional condition. Under the physical conditions that she has been forced to live, her body remains cold most of the time during the cold season and remains overheated during the summer months. There is no operative lighting in the home for her to use for artificial light. Refrigeration is inoperative and her stove is also inoperative. She has no means in which to store food or to cook food. There is no warm water for her to bathe with and to clean any eating utensils or clothes with. Her hands have been rubbed raw trying to scrub clothes clean in cold water. She is hauling water in from rain barrels for all sanitary needs. It is impossible to flush the toilets without running water, so she must carry in water and pour it down the toilet to flush it mechanically.

Due to the persistent cold weather that will only get colder this winter, she is susceptible to serious respiratory pathology. She has already suffered two bouts of pneumonia and on four occasions has suffered with serious bronchitis. When visiting her, she continuously coughs up green phlegm interspersed with blood. It is possible Goldie is in the early stages of developing tuberculosis which would have serious consequences to those she may have contact with.

During the summer season Goldie's body broke out in heat rash, which she could not clean properly resulting in a systemic infection that continues. Due to the continuous heat and harsh and unlivable conditions she became disoriented to time, place and person. She now at times appears

(Continued, Page 2)

confused in her mental orientation. She began and continues to suffer auditory hallucinations telling her to kill herself or others. Goldie's memory is progressively becoming impaired, in my opinion, due to the physically harsh conditions she is living under. Recently, upon occasion, she has been unable to recognize me or remember my last visitations.

In addition to the disorientation, she suffers from severe depression and anxiety and has ceased to be able to take care of all of her own bodily needs. Due to the sensory deprivation of having no artificial lighting, her daily anxiety is accentuated adding to her present confusion. She has had several serious falls due to not being able to ambulate in the dark.

Undisputedly, Goldie Callihan must be afforded the benefits of electricity in her residential facility. It is inhumane for any business or corporation to be able to force any senior citizen in the United States of America to live in complete deprivation.

And further the affiant sayeth not. This affidavit is made freely and without duress and is my true and accurate statement to the best of my professional and personal abilities and is made under the penalty of perjury this 6th day of December, 2004.

Karen Lahr RN, MHS, MNsc

Karen Lahr: RN, MHS, MNsc
Kentucky License No. 1094756

my Statement^{of} what I have observed of
the life of Goldie and Walter Colihon,
It ~~gives~~ me greatly to watch my
dear friend Goldie Colihon. give up
hope of living a normal life for ~~the~~ her
living conditions are no better than an
animal. She has no Electric therefore
she has to ~~carry~~ water to bath, cook, and
clean. She sits at night with a lantern
and cries for it has ~~metabol~~ mentally
destroyed her. She suffers severely
from inhaling kerosene fumes that
keeps her very ill. for that is all
she has to heat with.

I help take care of her and I
~~help~~ heat water to wash her hair
and body. I have witnessed that
the hottest summer months her body
break out in a raw rash all over
her that is so painful she cries.
I took pictures so someone with
a heart could see for there self how
terrible this elderly woman
suffers everyday.

She told me she is just too old
to live like this. that is driving

up on the 1st Oct at hope she has
held onto for almost 19 months and
now going into her 20th cold winter.
How could our country let this
kind of things happen to our
Elderly people.

I hope and pray for her
Relief Very soon!

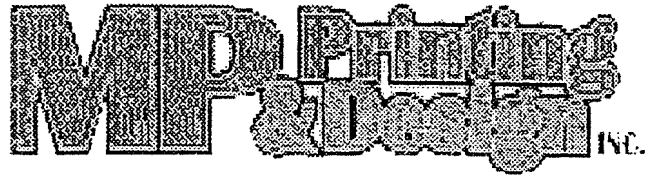
Josephine

Adkins

12-6-04

FAX

From:



Serving Ohio, Kentucky & West Virginia
(740) 456-2045 Fax (614) 456-3050
1-800-219-1994

TO: The Kentucky Public
Service Commission Fax # _____
RE: Still no electrical service for Goldie and Walter Callihan?????!!!

04/29/05

Dear Kentucky Public Service Commission Executives and Administrators,

I am one of many concerned citizens of the tri-state area.... Kentucky, Ohio and West Virginia, bordering the Ohio river who know of the daily hardships of Walter and Goldie Callihan of Argillite, Kentucky. The Callihans are elderly and kind and are favorite people to many here. The Callihans don't know I am writing to you now. But I write you for I am very concerned for their deteriorating health and their extreme discomfort....especially for the upcoming summer months again for another year without electricity or water.

Attached is a letter from a mutual friend of the Callihan's and mine, Ruby Cordle...that also shows deep concern for the health of this couple living without electricity. Walter is devoted to Goldie and the recent accusations as to Walter neglecting or imposing hardship onto Goldie are obvious mis-representations of Walter's deep love and caring for Goldie all of his life....witnessed by so many who know them both...which is a great number of people in our area!!! We are outraged at Grayson Rural Electric Company's cutting off their electricity and keeping it off for so very long....being not amiable to a number of people who have offered to pay for the Callihan's electricity...the company's unwillingness to accept anyone's pay...and forcing extreme third world conditions onto this couple and even demanding penalties and contracts that no one would agree to.

We hope the Commission will intervene quickly on behalf of the Callihans and make sure electricity is supplied to this precious couple!!!!

Donna D. Marshall

**BEFORE
THE KENTUCKY PUBLIC SERVICE COMMISSION
P.O. BOX 615
FRANKFORT, KENTUCKY 40602-0615**

Walter Callihan
P. O. Box 17
Argillite, Kentucky 41121

Plaintiffs

and
Goldie Callihan
P. O. Box 17
Argillite, Kentucky 41121

VS

Grayson Rural Electric Cooperative Corporation
109 Bagby Park
Grayson, Kentucky 41143-1292

Defendants

and
Carol Ann Fraley, General Manager
Grayson Rural Electric Cooperative Corporation
109 Bagby Park
Grayson, Kentucky 41143-1292

and
Carol Ann Fraley, Individually
Grayson Rural Electric Cooperative Corporation
109 Bagby Park
Grayson, Kentucky 41143-1292

and
Ken Arrington, Board Member
c/o Grayson Rural Electric Cooperative Corporation
109 Bagby Park
Grayson, Kentucky 41143-1292

and

(Continued, Page 2)

Ken Arrington, Individually
c/o Grayson Rural Electric Cooperative Corporation
109 Bagby Park
Grayson, Kentucky 41143-1292

and

Donnie Crum, Board Member
c/o Grayson Rural Electric Cooperative Corporation
109 Bagby Park
Grayson, Kentucky 41143-1292

and

Donnie Crum, Individually
c/o Grayson Rural Electric Cooperative Corporation
109 Bagby Park
Grayson, Kentucky 41143-1292

and

Harold DuPuy, Board Member
c/o Grayson Rural Electric Cooperative Corporation
109 Bagby Park
Grayson, Kentucky 41143-1292

and

Harold DuPuy, Individually
c/o Grayson Rural Electric Cooperative Corporation
109 Bagby Park
Grayson, Kentucky 41143-1292

and

Ralph Hall, Board Member
c/o Grayson Rural Electric Cooperative Corporation
109 Bagby Park
Grayson, Kentucky 41143-1292

and

Ralph Hall, Individually
c/o Grayson Rural Electric Cooperative Corporation
109 Bagby Park
Grayson, Kentucky 41143-1292

and

Bill Rice, Board Member
c/o Grayson Rural Electric Cooperative Corporation
109 Bagby Park
Grayson, Kentucky 41143-1292

and

Bill Rice, Individually
c/o Grayson Rural Electric Cooperative Corporation
109 Bagby Park
Grayson, Kentucky 41143-1292

and

James Simmons, Board Member
c/o Grayson Rural Electric Cooperative Corporation
109 Bagby Park
Grayson, Kentucky 41143-1292

and

James Simmons, Individually
c/o Grayson Rural Electric Cooperative Corporation
109 Bagby Park
Grayson, Kentucky 41143-1292

and

Roger Trent, Board Member
c/o Grayson Rural Electric Cooperative Corporation
109 Bagby Park
Grayson, Kentucky 41143-1292

and

Roger Trent, Individually
c/o Grayson Rural Electric Cooperative Corporation
109 Bagby Park
Grayson, Kentucky 41143-1292

and

Eddy Martin, Board Member
c/o Grayson Rural Electric Cooperative Corporation
109 Bagby Park
Grayson, Kentucky 41143-1292

and

Eddy Martin, Individually
c/o Grayson Rural Electric Cooperative Corporation
109 Bagby Park
Grayson, Kentucky 41143-1292

and

Named and Un-named Defendants
c/o Grayson Rural Electric Cooperative Corporation
109 Bagby Park
Grayson, Kentucky 41143-1292

and

The Kentucky Public Service Commission
211 Sower Blvd., P.O. Box 0615
Frankfort, Kentucky 40602-0615

and

Mark David Goss, Commissioner
c/o The Kentucky Public Service Commission
211 Sower Blvd., P.O. Box 0615
Frankfort, Kentucky 40602-0615

and

Mark David Goss, Individually
c/o The Kentucky Public Service Commission
211 Sower Blvd., P.O. Box 0615
Frankfort, Kentucky 40602-0615

and

Gary Gillis, Commissioner
c/o The Kentucky Public Service Commission
211 Sower Blvd., P.O. Box 0615
Frankfort, Kentucky 40602-0615

and

Gary Gillis, Individually
c/o The Kentucky Public Service Commission
211 Sower Blvd., P.O. Box 0615
Frankfort, Kentucky 40602-0615

and

Martin J. Huelsman, Commissioner
c/o The Kentucky Public Service Commission
211 Sower Blvd., P.O. Box 0615
Frankfort, Kentucky 40602-0615

and

Martin J. Huelsman, Individually
c/o The Kentucky Public Service Commission
211 Sower Blvd., P.O. Box 0615
Frankfort, Kentucky 40602-0615

and

Thomas M. Dorman, Executive Director
The Kentucky Public Service Commission
211 Sower Blvd., P.O. Box 0615
Frankfort, Kentucky 40602-0615

and

Thomas M. Dorman, Individually
The Kentucky Public Service Commission
211 Sower Blvd., P.O. Box 0615
Frankfort, Kentucky 40602-0615

and

Ms. Deborah T. Eversole
in her official capacity
c/o The Kentucky Public Service Commission
P.O. Box 615
Frankfort, Kentucky 40602-0615

and

Ms. Deborah T. Eversole, individually
c/o The Kentucky Public Service Commission
P.O. Box 615
Frankfort, Kentucky 40602-0615

and

Mr. John E.B. Pinney
in his official capacity
c/o The Kentucky Public Service Commission
P.O. Box 615
Frankfort, Kentucky 40602-0615

and

Mr. E. B. Pinney, individually
c/o The Kentucky Public Service Commission
P.O. Box 615
Frankfort, Kentucky 40602-0615

and

Named and Un-named Defendants
c/o The Kentucky Public Service Commission
P.O. Box 615
Frankfort, Kentucky 40602-0615

COMPLAINT

- 1). Comes now Walter and Goldie Callihan, *Pro-Se*, and hereby file their complaint as set out herein as follows:
- 2). The plaintiffs state they are residents of Kentucky and reside at Argillite, Kentucky, 41121, and are herein and after referred to as Walter and Goldie.
- 3). The Grayson Rural Electric Cooperative Corporation, (herein and after referred to as GRECC), is an electrical power cooperative corporation registered with the Kentucky Secretary of State to do business and they are a corporation that can sue and be sued.
- 4). The Kentucky Public Service Commission, (herein and after referred to as the KPSC), is a state agency designated by the state Commonwealth of Kentucky with commissioners appointed by the Governor of Kentucky who are designated with the responsibility of geographically setting

boundaries and property lines and granting franchises to power companies who wish to do business in the state of Kentucky. And the KPSC is also designated with the responsibility of setting rates charged to customers and approving by-laws of cooperative corporations. The KPSC can sue and be sued and the KPSC's authority was designated to them by appointments by the Kentucky Governor and enforced by Kentucky statutes more particular KRS 278.018.

5). On or about April 11th, 2003 GRECC cut off the power from Walter Callihan: ie. Walter's business and his residence and his electric pumps and water works and facility. The power was cut off without written notice to Walter and by so doing Walter lost \$15,000 worth of meat and meat product in his meat packing plant. And GRECC has repeatedly refused to take a surety bond in cash from Walter that would assure payment for all future use of electricity. And GRECC has stated that Walter and Goldie can never purchase electricity from them under any circumstances. If in fact GRECC felt that Walter Callihan owed to them the amount of \$707.26 as they allege, it was a duty of GRECC to sue Walter and his business to recover the money they alleged he owed to them, that he denies having owed to GRECC and has receipts to substantiate. However GRECC knew that their alleged bill was bogus and they could not prove their assertion. So GRECC moved arbitrarily against Walter and Goldie to cut off their power and to refuse selling power to them in the future, and this was endorsed by the KPSC. That put Walter and Goldie in the position they couldn't buy power from GRECC, neither could they buy power from another source such as American Electric Power Company. In the GRECC By-Laws the Board of Directors have the exclusive right given to them by the

KPSC to choose who they will service as a customer and who they will not serve as a customer. This created a monopoly substantiated by KRS 278.018 and the Sherman Act and the Clayton Act and the GRECC By-Laws endorsed by the KPSC that give GRECC the exclusive right by and through their Board of Directors to choose who they will furnish electricity to and who they will not service electricity to.

6). The KRS 278.018 states:

“Right to serve certified territory...(1) Except as otherwise provided herein, each retail electric supplier shall have the exclusive right to furnish retail electric service to all electric-consuming facilities located within it's certified territory, ...the commission shall determine which retail electric supplier shall serve said facility.... (4)...no retail electric supplier shall furnish, make available, render or extend retail electric service to any electric-consuming facility to which such service is being lawfully furnished by another retail electric supplier on June 16, 1972, or to which retail electric service is lawfully commenced thereafter in accordance with this section by another retail electric supplier...(6)...the commission shall approve such a contract if it finds that the contract will promote...and will provide adequate and reasonable service to all areas and consumers affected thereby.”

7). The Sherman Antitrust Act, 15 U.S.C. states:

1). “Every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States, or with foreign nations, is declared to be illegal. Every person who shall make any contract or engage in any combination or conspiracy hereby declared to be illegal shall be deemed guilty of a felony, and, on conviction thereof, shall be punished by fine not exceeding \$10,000,000 if a corporation, or, if any other person, \$350,000, or by imprisonment not exceeding three years, or by both said punishments, in the discretion of the court.”

2). “Every person who shall monopolize, or attempt to monopolize, or combine or conspire with any other person or persons, to monopolize any part of the trade or commerce among the several States, or with foreign nations, shall be deemed guilty of a felony, and, on conviction thereof, shall be punished by fine not exceeding \$10,000,000 if a corporation, or, if any other person, \$350,000, or by imprisonment not exceeding three years, or by both said punishments, in the discretion of the court.”

4). "Jurisdiction of courts;....The several district courts of the United States are invested with jurisdiction to prevent and restrain violations of sections 1 to 7 of this title; and it shall be the duty of the several United States attorneys, in their respective districts, under the direction of the Attorney General, to institute proceedings in equity to prevent and restrain such violations. Such proceedings may be by way of petition setting forth the case and praying that such violation shall be enjoined or otherwise prohibited. When the parties complained of shall have been duly notified of such petition the court shall proceed, as soon as may be, to the hearing and determination of the case; and pending such petition and before final decree, the court may at any time make such temporary restraining order or prohibition as shall be deemed just in the premises."

5). "Bringing in additional parties....Whenever it shall appear to the court before which any proceeding under section 4 of this title may be pending, that the ends of justice require that other parties should be brought before the court, the court may cause them to be summoned, whether they reside in the district in which the court is held or not; and subpoenas to that end may be served in any district by the marshal thereof."

8). And under the Clayton Act, 15 U.S.C. it states:

1/12). "(a) *Antitrust laws* as used herein, includes the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies"

2/13). "(e) It shall be unlawful for any person to discriminate in favor of one purchaser against another purchaser or purchasers of a commodity bought....or offering for sale of such commodity so purchased upon terms not accorded to all purchasers on proportionally equal terms."

4/15). "(a)....any person who shall be injured in his business or property by reason of anything forbidden in the antitrust laws may sue therefor in any district court of the United States in the district in which the defendant resides or is found or has an agent, without respect to the amount in controversy, and shall recover threefold the damages by him sustain, and the cost of suit, including a reasonable attorney's fee..."

9). The GRECC By-Laws, Article I on Membership state:

Section 1: (d) " Any natural person, firm, association, corporation or body politic or subdivision thereof will become a member of Grayson Rural Electric Cooperative

Corporation (hereinafter called the "Cooperative") upon receipt of electric services from the Cooperative, provided that he, she or it has first....Paid the membership fee together with any service security deposit, service connection deposit or fee, facility extension fee or contribution in aid of construction (hereinafter referred to as other deposits or fees) that may be required by the Cooperative, which membership fee and other deposits or fee shall be refunded in the event the application is denied by the Board. Provided, however, that the Board of Directors may, by resolution, deny an application and refuse to end service upon its determination that the applicant is not willing or is not able to satisfy and abide by the Cooperative's terms and conditions of membership or that such application should be denied for other good cause; provided further, however, that any person whose application, for 60 days or longer, has been submitted, but not denied by the Board of Directors and who has not been connected by the Cooperative for electric service may, by filing written requests therefore with the Cooperative at least 30 days prior to the next meeting of the Board of Directors, have his application submitted to and approved or disapproved by the vote of the Directors at such meeting.

Section 7, Service to Non-Members: "The Cooperative shall render service to its members only; provided, however, that service may be rendered with Board approval upon the same terms and conditions as are applicable to members, to governmental agencies and political subdivisions, and to other persons not in excess of the per centum (10%) of the number of its members; and provided further, that should the Cooperative acquire any electric facilities dedicated or devoted to the public use it may, for the purpose of continuing service and avoiding hardship and to an extent which together with all other persons serviced by the Cooperative on a non-member basis shall not exceed forty per centum (40%) of the total number of persons served by the Cooperative, continue to serve the persons served directly from such facilities at the time of such acquisition without requiring that such persons become members; and provided further that such non-members shall have the right to become members upon nondiscriminatory terms. (Amended 1/26/96)

10). By GRECC's monopoly endorsed by the KPSC, Walter and Goldie have been damaged greatly. They state that they have been embarrassed among their friends. When their friends come to visit them in their home in the winter, their house is extremely cold with kerosene fumes

unbearable from a kerosene heater. And when their friends come to visit them in the summer, their house is so hot their friends do not stay because of the tremendous heat for there is no air conditioning or fans and no running water due to the lack of electricity. And it is an embarrassment for them among their friends to smell the bathroom that can not be properly flushed and to see their floors that can not be vacuumed. They are embarrassed that their friends see them carry water from a rain barrel into their house to flush the commodes and to bathe in and to drink and to wash clothes by hand in and dishes. Walter states that he has suffered emotional distress and depression and insomnia created by GRECC and the KPSC. And Goldie states that she has suffered a complete nervous breakdown and is very sick and is suffering from insomnia and that she is under the care of the medical profession for depression and heat and cold exhaustion and for the mental stress created by the GRECC and the KPSC monopoly. Walter and Goldie state that they have been deprived for over 2 1/2 years the necessity of life that forces them to live under substandard conditions such as third world countries experience that certainly deprive them of their constitutional rights whereby they have been discriminated against and oppressed by the monopoly that GRECC and the KPSC by and through their conspiracy against Walter and Goldie have created.... as well as hundreds of other people that GRECC has created oppression against that are their electric power customers in their designated area.

11). Walter and Goldie file herewith a copy of a letter to the KPSC dated April 21st, 2003 that is filed herewith as Exhibit A-1 that will be self explanatory upon it's own face. And also attached is a Complaint by Goldie to the KPSC against GRECC and a copy of said Complaint is filed herewith

that will be self explanatory upon its own face as Exhibit B-2. Also filed herewith is a copy of an Order from the KPSC that will be self explanatory upon its own face as Exhibit C-3.

12). By and through GRECC and its officers and assigns and with endorsement by the KPSC and its officers and assigns together and jointly, arbitrarily, abusively the defendants have formed a conspiracy and a monopoly that has damaged Walter and Goldie. And by so doing, Walter and Goldie state they are entitled to recover the \$15,000 for their loss of meat and meat product. And they are certainly entitled to compensation for their embarrassment among their friends and for their deterioration of health. And Walter is 75 years old and Goldie just turned 76 years old. GRECC through a conspiracy with the KPSC and their monopoly has deprived Goldie and Walter of over 2 1/2 years quality of life in their golden years that would be hard for one to put a price tag on said damage and that is a loss in which they are entitled to recover monetary damage for. That amount should be set by the Court.

13). Walter and Goldie state that they seek monetary damage for the wrong doing by and through the monopoly that they are entitled to recover from each above named defendant and defendants in the amount of \$10,000,000 for direct compensatory and punitive damages assorted and assessed by the Court by and through the Court. They further state they are entitled to all other damages that would appear they be entitled to and all other relief that would appear they be entitled to including attorney fees and Court costs. Additionally, Goldie and Walter seek an Order from the Court ordering and enjoining the monopoly to be broken by allowing Walter and Goldie to purchase electricity from the American Electric Power Company who has tentatively agreed to supply to them if the

monopoly is broken which would allow the American Electric Power Company to proceed.

14). This action is brought under KRS 278.018 and under the Sherman Anti-Trust Act and the Clayton Act and under all other Acts found under Federal and State Statues and all relief that would appear Goldie and Walter be entitled to.

Respectfully submitted this 6th day of July, 2005:

Walter Callihan
Walter Callihan

Walter Callihan

Goldie Callihan
Goldie Callihan

Goldie Callihan

I hereby certify that a true and foregoing copy is served by U. S. Mail postage paid to the following:

Mr. Jeffrey Scott, Attorney at Law
Counsel for Grayson Rural Electric Cooperative Corporation
P. O. Box 608
Grayson, Kentucky 41143

Ms. Deborah T. Eversole, Attorney at Law
Mr. John E. B. Pinney, Attorney at Law
Counsel for The Kentucky Public Service Commission
P.O. Box 615
Frankfort, Kentucky 40602-0615

The Attorney General of the
The Commonwealth of Kentucky
1024 The Capitol Center Drive, Suite #200
Frankfort, Kentucky 40601-8204

(Page 14)

The Governor of the
The Commonwealth of Kentucky
700 Capitol Avenue
Frankfort, Kentucky 40601

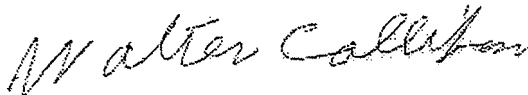
Lorna Lewis, Intake Manager, Programs
United States Department of Agriculture
Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue SW
Washington, DC 20250

United States Attorney General
c/o U.S. Office of Justice Programs
U.S. Offices of Civil Rights
810 7th Street, N.W.
Washington, D.C. 20531

ACLU of Kentucky
315 Guthrie Street
Louisville, Ky 40202-3820

Anti-Defamation League
823 U.N. Plaza
New York, N.Y. 10017

Respectfully submitted, this 6th day of July, 2005:



Walter Callihan



Goldie Callihan

EXHIBIT A-1

COMMONWEALTH OF KENTUCKY
PUBLIC SERVICE COMMISSION
FRANKFORT, KENTUCKY

TO: Jania A. Miller, Secretary
Public Service Commission, Regional Cabinet
Frankfort, Kentucky
FAX: 502-564-3460

April 21st, 2003

This is not a formal complaint before the Public Service Commission. This letter is to put the Public Service Commission on notice as to the unorthodox practices and racketeering that the Grayson Rural Electric Cooperative Corporation is doing to it's members and it's customers. My name is Walter Callihan: P.O. Box 17, Argillite, Kentucky 41121
Telephone: 606-473-5867

In 1981 Grayson Rural Electric cut off my power alleging that I owed them over \$2,000 in back electric bills as far back as 5 1/2 years....even though my electric bills when the service was cut off were paid and current!! Grayson Rural Electric would not restore power to me for over nine years leaving my meat packing plant out of business.

Now in approximately September 2002 Grayson Rural Electric is again alleging that I owe them back bills, this time two months' electric bills from April and May of last year, 2002 and again I have receipts from the power company showing those two months of service were paid! Also I have five cancelled checks that show the most current five month's bills have been paid. Grayson Rural Electric has taken the most recent five month's checks, even though the checks have restrictions to apply to current bills only, and have signed them and cashed them and applied them to previous past bills and then charged me late fees each month ongoing. Utility tariff information states that a 10% late fee can be charged only once, (807 KRF5-006 General Rule, section 8 "Special Charges", please see section H that will be self explanatory). Public Service Commission rules dictate that power can not be discontinued until the utility has given written notice to the consumer. Grayson Rural Electric failed to do that....I was not notified.

Ten days ago, once again, Grayson Rural Electric discontinued my power, this time

destroying approximately \$15,000 worth of meat in my meat packing establishment.

The Public Service Commission under their rules and under State and Federal Statutes dictates that a consumer can not bring a law suit against a utility company until the Public Service Commission's administrative remedies have been entirely exhausted. Likewise, to protect the consumer in the best interest of the public, the same rule does apply to Grayson Rural Electric in remedying payment on past bills since their records initiate the situation and since they elect not to give written notice in terminating service. They too must first bring before the Public Service Commission complaint exhausting all administrative remedy and giving me adequate opportunity to present my evidence and my witnesses on my behalf before shutting off my power.

The Public Service Commission can not allow Grayson Rural Electric to shut down my business by not giving me written notice and by Grayson Rural Electric not filing a formal complaint before the Commission so that this consumer has ample opportunity to a formal hearing, affording me the right to prove the past bills are paid in full before any harm happens to me. The Public Service Commission is the administrative governing body that can hear and rule on disputed bills and has full position to oversee the practices of Grayson Rural Electric.

I point out that the Commission is not a court of law and the Commission can not enter a judgement where this consumer has lost his products and years of business. The Commission can not award damages direct, punitive or compensatory. Therefore, a lawsuit will be brought in the proper court that will seek to recover damages from Grayson Rural Electric and from the Public Service Commission and from all of their commissioners who do not safeguard the public interest in checking and balancing the operations of Grayson Rural Electric to prevent harmful wrongdoing to consumers. This Commission likewise can and must now order Grayson Rural Electric to restore my power service under emergency action to give me the opportunity to file litigation against all parties and to show good faith toward this consumer to stop future harm from loss of business and from the human suffering that is now occurring against me. Please be put on notice that all of my previous bills have been paid.

The Public Service Commission shows no remedy whereby the utility company, more specifically, Grayson Rural Electric has to bring an action for disputed bills and must obtain a

(Page 3)

judgement against an individual or company for alleged non-payment of back bills before taking action . Since there is no remedy in place, the Commission allows Grayson Rural Electric to abuse it's authority and to set any punishments for alleged delinquent billings. That is unconstitutional by all common law!

Respectfully submitted,

Walter Callihan

Walter Callihan

EXHIBIT B-2

The Kentucky Public Service Commission at Frankfort, Kentucky

Goldie Callihan
P.O.Box 17
Argillite, Kentucky 41121

Complainant

vs

Grayson Rural Electric Cooperative Corporation
109 Bagby Park
Grayson, Kentucky 41143-1292

Respondent

Formal Complaint

Comes now Goldie Callihan and files her formal complaint before The Kentucky Public Service Commission at Frankfort Kentucky against Grayson Rural Electric Cooperative Corporation, (referred to here and after as GRECC).

(1) On December 11th, 2003, Goldie Callihan,(referred to here and after as Goldie), sent her representative to GRECC at their General Office at Grayson, Kentucky with a written application for electric service. And a copy of said application is filed herewith said complaint. GRECC called the Grayson Police Department to their office and threatened Goldie's representative with an arrest for criminal trespass.

(Continued, Page 2)

(2) The Policewoman that had been summoned to GRECC stated to Goldie's representative that if he or Goldie ever came back onto the premises of GRECC that they would be arrested for criminal trespass. Then Carol Ann Fraley, General Manager of GRECC stated that Goldie could not receive electrical service from GRECC without first becoming a member and that Goldie would never be accepted as a member and she could never receive service under any circumstances or under any condition from GRECC and if Goldie ever attempted to come to their premises again, that she would be arrested.

(3) The questions before this commission are:

A. By whose order or regulation makes an arbitrary ruling that a person or persons have to be a member of a cooperative or organization before they can receive a public service to obtain electricity?

B. Can Goldie be denied electric service on the basis of gender or age or religion? Goldie Callihan is a minority. First she is a Jew. Secondly she is a woman. Thirdly she is 75 years old. The commission must make a finding of fact and rule on this issue.

C. If The Public Service Commission upholds the assertion by GRECC that a person or parties must be a member of an organization such as GRECC before they can buy electricity, then why does The Public Service Commission not require and enforce that all Kentuckians pay a membership

fee and be a member of an electrical corporation to receive electrical service, ie. American Electric Corporation and others?

(4) Goldie's rights have been deprived her because she is a minority as a Jew, an elderly person and as a woman. She has been discriminated against. In fact she has been denied the necessities of life. In fact The Kentucky Public Service Commission has aided and abetted GRECC by not adequately representing the interest of the people of Kentucky and has failed in it's responsibility to prevent GRECC from violating the rights of the general public of Kentucky.

(5) Goldie moves this commission for an order withdrawing GRECC's franchise to supply certain areas of Greenup County with electrical service and allowing American Electric Corporation to take over and supply and replace GRECC's areas in Greenup County.

(6) By and through The Public Service Commission's actions they have assisted, approved, endorsed the attack and oppression and wrongful rules and by-laws of GRECC whereby the commission approved a bylaw for GRECC allowing them to charge a late fee for late customer payments without setting limits as to what those late charges can be. Currently it is 10% of the bill.

(7) When a party has been cut off from electrical service by GRECC they are charged an

unreasonable fee for cutting off the power. Then the party is forced to pay an unreasonable re-connection fee and then an unreasonable deposit that targets and oppresses and imposes undue hardship and is aimed at a class....the hard core poor of Eastern Kentucky. You can't aim at a class. That is in violation of the Civil Rights Act of 1964 and of all of its amendments. However the GRECC is doing just that, endorsed by The Kentucky Public Service Commission!

(8) In Greenup County there is a Christian Coalition of Churches office located in Greenup, Kentucky known as "Helping Hand" whereby the Christian organization has over 700 names in their files.... whereby they have helped and aided by paying those unreasonable re-connection and deposit fees for the hard core poor. If one would average that figure with three members of each household, (700 names), that would total approximately over 2000 people in Greenup County alone, not counting the other four counties that the GRECC service covers. Some of those poor customers are paying three to four hundred dollars per month for electric bills for 700-800 square foot sized homes. This is unreal and unprecedented in the industry!

(9) It is the obligation and duty of someone or some agency, perhaps the judicial system or The Kentucky Public Service Commission to stop this oppression against the poor people of Greenup County for electrical service and especially against the hard core poor. Someone owes it to the widows and orphans and just average people of Greenup County struggling to

make a living in an extremely hard and depressed area filled with poverty and this not limited only to Greenup County, Kentucky.

(10) Goldie Callihan moves this Kentucky Public Service Commission for an order under extreme circumstances as emergency relief to order GRECC to install her meter and supply her electric service forthwith since she is heating her house with a kerosene heater and the weather is getting colder. Her water supply requires an electric pump to work and her furnace in her house can not supply her heat without electricity. She is without lights, running water, heat that certainly deprives her of the necessities of life at the age of 75. And furthermore, she is sick. This is un-American activity aimed at Goldie as a minority. If in fact someone did this, (what GRECC Electric and The Kentucky Public Service Commission is doing to Goldie) ...if that was happening to a dog or animal, someone would be punished in jail. That action is unworthy, unwarranted and unreal.

Respectively Submitted,



Goldie Callihan

cc: President Bush
REA Administration
"The Daily Independent" Ashland, Ky. Newspaper
"The Courier Journal" Louisville, Ky. Newspaper
"The Lexington Herald Leader" Lexington, Ky. Newspaper
Governor Fletcher
The Human Rights Commission, Washington, D.C.

Grayson Rural Electric

Bagby Park

Grayson, 157.

I hereby request electric service
from Grayson Rural Electric.

and I refuse to be a member
of Grayson Rural ^{Electric} Corp.

I merely want to buy power
from your company. please set
me a meter and start my service
forthwith, my address is
Ardville, 157. P.O. Box 17, 41121-0017.

I live ~~to~~ Clatten Miller north of
Grayson 157. on Route #1. between
Ard Town and Greenb's Lake.

Date, Dec 11, 2003 Respectfully

Submitted

Galdie Calahan

Certificate of Service

I hereby certify that a true and foregoing copy complete with all exhibits has been served by mailing to counsel for GRECC, Jeffrey Scott and to Governor Fletcher and to GRECC at the following addresses:

W. Jeffrey Scott, PSC
Attorney at Law
311 West Main Street
P.O. Box 608
Grayson, Kentucky 41143-0608

Governor Ernie Fletcher
700 Capitol Avenue
Frankfort, Kentucky 40601

Grayson Rural Electric Cooperative Corp.
109 Bagby Park
Grayson, Kentucky 41143-1292

on this day of January 5th, 2004 as follows:



Goldie Callihan

EXHIBIT C-3

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

GOLDIE CALLIHAN)	
)	
COMPLAINANT)	
)	
V.)	CASE NO. 2003-00485
)	
GRAYSON RURAL ELECTRIC)	
COOPERATIVE CORPORATION)	
)	
DEFENDANT)	

O R D E R

On December 18, 2003, Goldie Callihan filed a complaint against Grayson Rural Electric Cooperative Corporation ("Grayson RECC"), requesting that the Commission order Grayson RECC to extend service to Mrs. Callihan without requiring Mrs. Callihan to become a member of Grayson RECC. Mrs. Callihan also made other allegations in her complaint over which the Commission has no jurisdiction and which need not be ruled upon here.

Grayson RECC answers that it cannot extend service to Mrs. Callihan because Mrs. Callihan made no formal application to Grayson RECC for service.

DISCUSSION

It is undisputed that, prior to filing her complaint, Mrs. Callihan made no formal application for service to Grayson RECC, opting to file this complaint with the Commission. Attached to the complaint is a document that is purported to be an

application for service to Grayson RECC from Mrs. Callihan. In other pleadings Mrs. Callihan claims that the application attached to the complaint is sufficient to constitute an application for service to Grayson RECC.

In response to Commission Staff's Data Request, Grayson RECC responded that the application attached to the complaint was not sufficient to enable Grayson RECC to extend service to Mrs. Callihan.¹ In its response, Grayson RECC explains the procedure for completing an application for service.²

Article 1, Section 7, of the By-laws of Grayson RECC provides that service, with Board approval, can be provided to people who are not members.³ A person who desires to receive service without becoming a member of Grayson RECC must first receive Board approval. After receiving Board approval, the applicant must pay all appropriate fees and security deposits and provide pertinent personal information.

The record does not reflect that Mrs. Callihan has complied with Grayson RECC's procedure regarding application of service. Her complaint to the Commission is premature. In order for Mrs. Callihan to be considered to have been refused service, she must first have complied with all of Grayson RECC's requirements regarding application for service. Mrs. Callihan has not been denied service and, therefore, there is no legal basis for her complaint.

IT IS THEREFORE ORDERED that this complaint is dismissed.

¹ Grayson RECC's Response to Data Request No. 4.

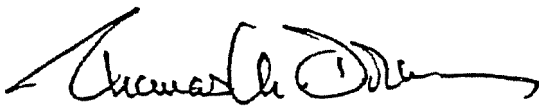
² Grayson RECC's Response to Data Request No. 3.

³ The total number of non-members may not, however, exceed 10 percent of Grayson RECC's total customers.

Done at Frankfort, Kentucky, this 18th day of March, 2004.

By the Commission

ATTEST:

A handwritten signature in black ink, appearing to read "Chenard", is written over a horizontal line.

Executive Director

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DOMESTIC USE ONLY

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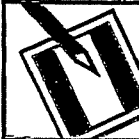
U.S. POSTAL SERVICE
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GRAYSON
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41121
AMOUNT
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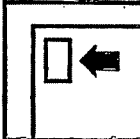
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AT DATE PRIORITY MAIL


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**1. COMPLETE**
Type or print
address and
in customer
or on label

**2. PAYMENT**
Affix postage
indicated in

**3. ATTACH LABEL**
Remove label

Walter and Goldie Callihan
P. O. Box 17
Argillite, Kentucky 41121

Ms. Deborah T. Eversole, Attorney at Law
Mr. John E.B. Pinney, Attorney at Law
Counsel for The Kentucky Public Service Commission