

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ADA MAE CLEM	)	
	)	
COMPLAINANT	)	
	)	
V.	)	CASE NO. 2004-00499
	)	
KENTUCKY UTILITIES COMPANY	)	
	)	
DEFENDANT	)	

O R D E R

On November 30, 2004, Ada Mae Clem ("Complainant") filed with the Commission a formal complaint against Kentucky Utilities Company ("KU"). The complaint alleged that KU was improperly holding Complainant liable for meter tampering and diversion of service that occurred at 615 North Upper Street, Lexington, Kentucky and 967 Valley Avenue, Lexington, Kentucky, which were properties owned by Complainant.

In its answer, KU asserts that because there was no active account at either 615 North Upper Street or 967 Valley Avenue at the time the alleged meter tampering and diversion of service occurred, it properly billed Complainant for the meter tampering and theft of service pursuant to Original Sheet 82.1 of its tariff. Original Sheet 82.1 states in pertinent part that, "[u]pon the absence of an active account, the property owner assumes responsibility for any consumption and the Company's property and service." Subsequently, KU filed a motion for leave to file an amended answer. In its amended

answer, KU sought to clarify the debts it was seeking to collect from Complainant. The parties have now entered into a Joint Stipulation and Agreement<sup>1</sup> and have submitted the agreement to the Commission for approval.

#### BACKGROUND

Service at 615 North Upper Street was disconnected on May 18, 2004 at the request of the tenant. KU discovered diversion of service at the address on June 9, 2004 and, because there was no active account at the address at the time, assessed Complainant for the diversion of service. Subsequently, KU filed an amended answer in which it stated that it was not seeking to collect from Complainant the charges for the diversion of service at 615 North Upper Street. KU stated that because Original Sheet No. 82.1 of its tariff did not become effective until July 1, 2004, and the diversion of service occurred prior to the effective date of the tariff, it would credit Complainant's account for the charges and not seek to collect the diversion of service charges.

Service at 967 Valley Avenue was disconnected on June 21, 2004 at the request of the tenant. Diversion of electric service was discovered on July 14, 2004 and again on August 13, 2004. Pursuant to Original Sheet No. 82.1 of its tariff, KU assessed Complainant charges for diversion of service. This complaint followed.

At the suggestion of Commission Staff, the parties, with the approval of the Attorney General, have submitted a Joint Stipulation and Agreement for Commission approval. The agreement provides in pertinent part that:

1. The parties agree that the application of KU's tariff, Original Sheet 82.1, may cause an unjust and unreasonable result.

---

<sup>1</sup> A copy is attached hereto as Appendix A.

2. KU agrees to cease collection of the charges.
3. KU agrees to request approval of certain changes to the "Protection of Company's Property" sections of the Terms and Conditions contained in its tariff at Original Sheet 82.1.
4. Complainant requests that the Commission dismiss her complaint against KU.
5. The Attorney General<sup>2</sup> agrees to recommend that the case be dismissed by the Commission as settled, and that the revised tariff be approved.

#### DISCUSSION

On its face, the Joint Stipulation and Agreement appears reasonable. It is generally preferable when parties reach a resolution without expending the Commission's administrative resources by resorting to litigation. Because the parties have reached a settlement, the Commission finds that the Joint Stipulation and Agreement should be accepted and approved. However, nothing in the Commission's actions in this case shall be construed as an approval or rejection of KU's proposed tariff revisions, which will be addressed by the Commission in other proceedings.

IT IS THEREFORE ORDERED that:

1. KU's motion to file an amended answer is granted.
2. The Joint Stipulation and Agreement is accepted and approved.
3. This complaint is dismissed with prejudice and is removed from the Commission's docket.

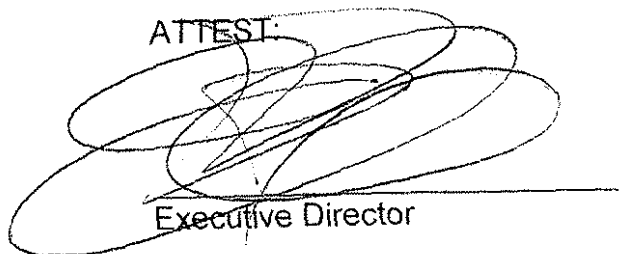
---

<sup>2</sup> The Attorney General was granted intervention pursuant to KRS 367.150(8).

Done at Frankfort, Kentucky, this 28th day of September, 2006.

By the Commission

ATTEST:



Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2004-00499 DATED September 28, 2006.

**COMMONWEALTH OF KENTUCKY**  
**BEFORE THE PUBLIC SERVICE COMMISSION**

**RECEIVED**

**In the Matter of:**

DEC 02 2005

**ADA MAE CLEM** )  
 )  
 **COMPLAINANT** )  
 )  
 v. )  
 )  
 **KENTUCKY UTILITIES COMPANY** )  
 )  
 **DEFENDANT** )

PUBLIC SERVICE  
COMMISSION

**CASE NO. 2004-00499**

**JOINT STIPULATION AND AGREEMENT**

**WHEREAS**, Kentucky Utilities Company ("KU") is a public utility subject to jurisdiction of the Kentucky Public Service Commission ("Commission") pursuant to KRS Chapter 278;

**WHEREAS**, on December 1, 2004, Ms. Clem filed a formal complaint with the Commission alleging that she should not be responsible for the charges associated with the meter tampering which occurred on her property;

**WHEREAS**, on December 15, 2004, the Commission entered an Order initiating Case No. 2004-00499, styled *In the Matter of: Ada Mae Clem v. Kentucky Utilities Company*, and ordering KU to satisfy the matters complained of or file a written answer to the Complaint;

**WHEREAS**, on December 28, 2004, KU by counsel, filed its Answer to Ms. Clem's Complaint;

**WHEREAS**, Commonwealth of Kentucky, ex. rel Gregory Stumbo, Attorney General, by and through the Office of Rate Intervention (“AG”) filed a motion for full intervention into this proceeding on January 14, 2005, and such motion was granted by the Commission on January 20, 2005;

**WHEREAS**, on October 25, 2005, KU, the AG, and others, in conjunction with the Commission Staff, participated in an informal conference at the offices of the Commission in which all issues were discussed; and,

**WHEREAS**, KU, the AG, and Ms. Clem (the “Parties”) wish to facilitate the disposition of this proceeding through the submission of a Joint Stipulation and Agreement; and,

**NOW THEREFORE**, pursuant to 807 KAR 5:001, Section 4(6), the Parties hereby stipulate and agree as follows:

(1) The Parties agree that the application of KU’s tariff, which became effective on July 1, 2004 and requires KU to hold the property owner responsible for any consumption and the Company’s property and service in the absence of an active account, may cause an unjust or unreasonable result in certain circumstances. In an effort to resolve this Complaint, and subject to the Commission’s approval, KU agrees to discontinue pursuit of collection of all the charges associated with meter tampering from Ms. Clem during the time period at issue, and to request approval of certain changes to the “Protection of Company’s Property” sections of the Terms and Conditions contained in its tariff at Original Sheet No. 82.1. A copy of the revised tariff is attached hereto as Exhibit A. In exchange, Ms. Clem agrees to ask the Commission to dismiss her Complaint against KU. The AG agrees to recommend that this case be dismissed by the Commission as settled, and that the revised tariff be approved.

(2) This Joint Stipulation and Agreement is subject to the acceptance of and approval by the Commission. Following the execution of this Joint Stipulation and Agreement, the Parties shall file it with the Commission and shall act in good faith and use their best efforts to recommend to the Commission that this Joint Stipulation and Agreement be accepted and approved.

(3) If the Commission does not accept and approve this Joint Stipulation and Agreement in its entirety, then: (a) this Joint Stipulation and Agreement shall be null, void and withdrawn by the Parties hereto from further consideration by the Commission and none of the Parties shall be bound by any of the provisions herein; and (b) this proceeding shall go forward and neither the terms of this Joint Stipulation and Agreement nor any matters raised during the settlement negotiations shall be binding on any of the Parties to this Joint Stipulation and Agreement or be construed against any of the signatories.

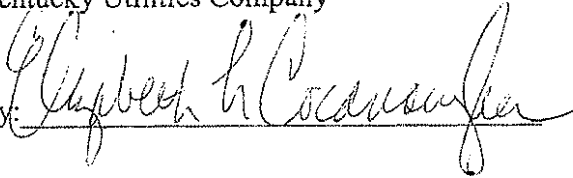
(4) This Joint Stipulation and Agreement reflects a *compromise resolution* of a contested matter. Nothing contained herein shall be construed as an admission of a violation of any federal or state statute or regulation, or of any provision of KU's tariffs; nor shall the Commission's acceptance of this Joint Stipulation and Agreement be construed as a finding of a violation of any statute or regulation, or of any provision of KU's tariffs.



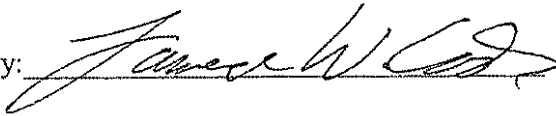
IN WITNESS WHEREOF, the parties hereto have hereunto affixed their signatures this

21 day of December, 2005.

Kentucky Utilities Company

By: 

Commonwealth of Kentucky, ex rel. Gregory  
Stumbo, Attorney General, by and through the  
Office of Rate Intervention

By: 

Ada Mae Clem

By: 