

the **Commission's authority to enforce its orders**). They appear to advance the position that the December 20th Order permits them to change the legal status of Kentucky-American prior to the disposition of the petitions for rehearing. The Joint Applicants err in relying on KRS 278.390. First, KRS 278.390 is an enforcement tool of the Commission. It is not a private "right" of any utility. Second, the Joint Applicants' interpretation of this statute produces an absurd result – the impairment of the Commission's regulatory powers.

Until January 8th, there was no basis for the Commission or any of the parties to seek the revocation, modification, suspension, or vacation of the December 20th Order. Upon the Joint Applicants' acceptance, the Attorney General filed an application for rehearing (as did the other parties). The Joint Applicants either knew or should have known that the Attorney General's petition, which is pending, seeks a change in the result of the Commission's December 20th Order. In sum, they knew or should have known that the December 20th Order is clearly and lawfully contested and that a change in the December 20th Order is lawfully possible prior to the close of this proceeding.

The Commission did not require or encourage a closing on January 10th. It has not sought a closing at any time prior to the termination of the Commission's jurisdiction over this case. Thus, there is no room for the Joint Applicants to argue that KRS 278.390 required them to take any action prior to the disposition of the petitions for rehearing. The closing on January 10th was not in response to a specific Commission mandate. The focus, therefore, shifts to the issue of whether KRS 278.390 permits them to unilaterally take such an unreasonable action. The statute does not.