

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF KENTUCKY)	
UTILITIES COMPANY FOR AN)	CASE NO. 2012-00221
ADJUSTMENT OF ITS ELECTRIC)	
RATES)	

PETITION FOR APPROVAL TO DEVIATE FROM RULE

Kentucky Utilities Company (“KU”) petitions the Kentucky Public Service Commission (“Commission”) to grant KU approval, pursuant to 807 KAR 5:001, Section 14 and 807 KAR 5:011, Section 14, to deviate from the notice requirements in the above-captioned proceeding because KU has substantially complied with the Commission’s notice regulations. In support of this petition, KU states as follows:

1. On June 1, 2012, KU filed its Notice of Intent to file a rate application for a general adjustment in its electric rates, including changes to its electric tariffs. KU subsequently filed its application on June 29, 2012.

2. On June 8, 2012, KU delivered to the Kentucky Press Service, Inc., an organization that provides legal-notice placement services for third parties with its members, a notice of the filing of its application for publication in newspapers in KU’s service area, once a week for three consecutive weeks, with the first publication to be made prior to the filing of KU’s application, as required by 807 KAR 5:011, Section 8(2)(c). *See* Certificate of Completed Notice. The Kentucky Press Service, Inc. (“Kentucky Press”) directed each newspaper in writing to publish the notice once a week for three consecutive weeks, with the first publication to be made prior to the filing of KU’s application.

3. One newspaper, the *Hickman Courier*, despite clear instructions from the Kentucky Press, failed to publish the notice correctly for three consecutive weeks. KU contacted the Kentucky Press to ascertain why the newspaper failed to print the notice properly. The *Hickman Courier* was supposed to publish KU's notice on June 28, July 12, and July 19. (The *Hickman Courier* is published only on Thursdays, and did not publish an issue on Thursday, July 5 due to the Independence Day holiday.) Instead, the newspaper published the first notice correctly on June 28 (before KU filed its application), but failed to publish the second and third notices as directed. The second notice was published on July 12, but the *Hickman Courier* incorrectly published the first page of the notice twice rather than publishing both pages one and two.¹ A second, corrected notice including both pages one and two was published on July 19. Finally, the third notice was published correctly on July 26.

4. In addition to causing notice of the filing of its application in this case to be published in newspapers of general circulation in its service areas, KU has posted the notice for public inspection at its office and place of business, as well as on its website. See Certificate of Completed Notice. Moreover, KU included a general statement explaining the application in this case with the bills for all Kentucky retail customers during the course of their regular monthly billing cycle beginning on June 29, 2012. Finally, the two newspapers with the largest circulation in the state, the *Lexington Herald-Leader* and *Louisville Courier-Journal*, not only published the notice correctly but also published articles regarding KU's and Louisville Gas and Electric Company's applications. The applications have received additional coverage in and by other media.

5. The purpose of the Commission's notice regulation is to ensure that the public has sufficient notice of KU's application and to respond accordingly. Despite the deviation noted

¹ KU was not charged for this publication.

above, notice was published in each county three times, and that notice was further supplemented by posting at KU's offices and on its website, in addition to including an explanation in retail customers' bills. KU's substantial compliance with the Commission's regulation has met the purpose of the notice requirement. As stated by the Kentucky Supreme Court

Substantial compliance in regard to publication requirements has been authorized. The purpose of the statute is to allow the public an ample opportunity to become sufficiently informed on the public question involved.²

6. The Commission has authority to permit KU to deviate from the publication requirements pursuant to 807 KAR 5:001, Section 14 and 807 KAR 5:011, Section 14.

7. Because KU is in substantial compliance with the publication requirements of 807 KAR 5:001, Section 10(4)(c)(3) and 807 KAR 5:011, Section 8(2)(c), good cause exists for the Commission to permit KU to deviate from the requirement of the regulations and to accept the publication of notice of KU's application as sufficient.

WHEREFORE, Kentucky Utilities Company respectfully requests that the Commission grant it approval pursuant to 807 KAR 5:001, Section 14 and 807 KAR 5:011, Section 14 to deviate from the notice requirements of 807 KAR 5:001, Section 10(4)(c)(3) and 807 KAR 5:011, Section 8(2)(c) and to accept the publication of notice of its application as sufficient.

² *Conrad v. Lexington-Fayette Urban County Government*, 659 S.W.2d 190, 195 (Ky. 1983) (citing *Queenan v. City of Louisville*, 233 S.W.2d 1010 (Ky. 1950)). See also *Lyon v. County of Warren*, 325 S.W.2d 302 (Ky. 1959) (publishing notice of bond referendum outside statutory time limits, accompanied by media attention and other means, held sufficient notice to public).

Dated: August 6, 2012

Respectfully submitted,



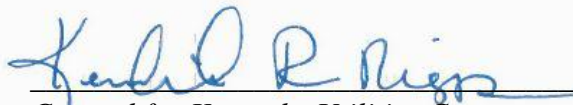
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CERTIFICATE OF COMPLIANCE

In accordance with Ordering Paragraph No. 10 of the Commission's June 22, 2012 Order, this is to certify that Kentucky Utilities Company's August 6, 2012 electronic filing of the Petition for Approval to Deviate from Rule is a true and accurate copy of the same document being filed in paper medium; that the electronic filing has been transmitted to the Commission on August 6, 2012; that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding; and that an original and two copies in paper medium of the Petition are being hand delivered to the Commission on August 6, 2012.



Counsel for Kentucky Utilities Company