

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN EXAMINATION OF THE APPLICATION)	
OF THE FUEL ADJUSTMENT CLAUSE OF)	
KENTUCKY UTILITIES COMPANY FROM)	CASE NO. 2015-00234
NOVEMBER 1, 2014 THROUGH)	
APRIL 30, 2015)	

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 22, to deviate from the Notice of Public Hearing requirement¹ 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. Pursuant to KRS 424.300, newspaper publication of rate change hearings must be in accordance with the Commission’s regulations and orders.

2. The Commission’s Order of August 14, 2015 and its regulations prescribe that newspaper publication of such hearings must occur in a newspaper of general circulation in the areas to be affected “one time not less than seven nor more than twenty-one days prior to the hearing.” 807 KAR 5:001, Section 9(2)(b)2.

3. The purpose of the Commission’s notice requirements is to ensure that members of the public have sufficient notice and a meaningful opportunity to participate, individually or through representative agencies, in this proceeding. As stated by the Kentucky Supreme Court:

¹ 807 KAR 5:001, Section 9(2)(b).

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

Publication of Notice

4. On August 14, 2015, the Commission ordered KU to submit to an examination on the application of its fuel adjustment clause (“FAC”) from November 1, 2014 through April 30, 2015. The hearing will be held on October 7, 2015.

5. In accordance with the Commission’s notice regulations, KU contacted the Kentucky Press Association on August 27, 2015 to arrange for a Notice of Public Hearing to be published in 92 newspapers in KU’s service areas during the time period from September 17, 2015 to September 30, 2015.

6. KU’s efforts notwithstanding, the *Bardwell Carlisle County News*, a small weekly newspaper that publishes on Thursdays with a circulation of 1,024 in Carlisle County failed to publish the notice as requested, but it did timely run in the *Bardwell Carlisle Weekly*, which also serves Carlisle County and has a circulation of 940. The notice also did not run as requested in the *Hickman Courier*, a small weekly newspaper that publishes on Thursdays with a circulation of 835 in Fulton County, but it did timely run in the *Fulton Leader*, which also serves Fulton County and has a circulation of 1,079.

7. In view of the timely published notice KU has provided throughout the vast majority of the newspapers in its service territory – including the two newspapers of largest circulation in the Commonwealth, the *Lexington Herald-Leader* and the *Louisville Courier-*

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

Journal, and the efforts made by KU to ensure that timely notice was received, KU respectfully requests a deviation from the Commission’s Notice of Public Hearing requirements with respect to the limited instances of non-conformity cited above.

8. As noted at the beginning of this Petition, the Kentucky Supreme Court has stated, “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.”³ KU respectfully submits that it has substantially complied with the Commission’s notice regulations, therefore achieving their purpose, namely ensuring that the public has sufficient notice of the proceeding and a meaningful opportunity to participate, individually or through representative agencies. KU therefore respectfully requests the Commission to grant a deviation from its Notice of Public Hearing regulation, deeming KU’s substantial compliance to be sufficient compliance with the regulation in this proceeding.

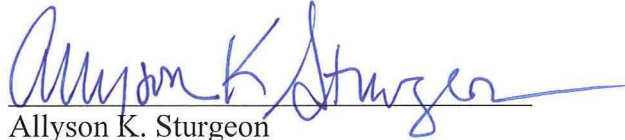
9. KU’s request for deviation from the Commission’s notice of public hearing regulation is similar to requests made to, and granted by, the Commission in *In the Matter of: Application of Kentucky Utilities Company for an Adjustment of Electric Base Rates*, Case No. 2008-00251, *In the Matter of: An Examination of the Application of the Fuel Adjustment Clause of Kentucky Utilities Company from November 1, 2006 through October 31, 2008*, Case No. 2008-00520, and *In the Matter of: An Examination of the Application of the Fuel Adjustment Clause of Kentucky Utilities Company from November 1, 2014 through April 30, 2015*, Case No. 2012-00320.

³ *Conrad v. Lexington-Fayette Urban County Government*, 659 S.W.2d 190, 195 (1983) (citing *Queenan v. City of Louisville*, 233 S.W.2d 1010 (1950)). See also *Lyon v. County of Warren*, 325 S.W.2d 302 (1959) (publishing notice of bond referendum outside statutory time limits, accompanied by media attention and other means, held sufficient notice to public).

WHEREFORE, Kentucky Utilities Company respectfully requests that, pursuant to 807 KAR 5:001, Section 22, the Commission grant a deviation from its Notice of Public Hearing requirements, deeming KU's substantial compliance to be sufficient compliance with the regulation in this proceeding.

Dated: October 2, 2015

Respectfully submitted,



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CERTIFICATE OF SERVICE

This is to certify that Kentucky Utilities Company's October 2, 2015 electronic filing is a true and accurate copy of the documents being filed in paper medium; that the electronic filing was transmitted to the Commission on October 2, 2015; that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding; and that a copy of the filing in paper medium is being hand-delivered to the Commission within two business days of this filing.



Counsel for Kentucky Utilities Company