

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF KENTUCKY UTILITIES)	
COMPANY FOR AN ADJUSTMENT OF ITS)	
ELECTRIC RATES AND FOR)	CASE NO. 2016-00370
CERTIFICATES OF PUBLIC)	
CONVENIENCE AND NECESSITY)	

PETITION FOR APPROVAL TO DEVIATE FROM RULES

Kentucky Utilities Company (“KU”) petitions the Kentucky Public Service Commission (“Commission”) to grant KU approval, pursuant to 807 KAR 5:001, Section 22 and 807 KAR 5:011, Section 15, 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 October 21, 2016, 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 November 23, 2016.

2. On November 2, 2016, KU delivered to the Kentucky Press Service, Inc. (“Kentucky Press”), 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 5:001, Section 17(2)(b)(3) and 807 KAR 5:011, Section 8(2)(b)(3). *See* Certificate of Completed Notice. 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 *Bracken County News*, despite clear instructions from the Kentucky Press, failed to publish the notice correctly for three consecutive weeks. Instead, the newspaper published the first and second notices correctly, but failed to publish the third notice as directed. The third notice was published on December 8, 2016.

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 November 23, 2016. Finally, the two newspapers with the largest circulation in the state, the *Lexington Herald-Leader* and *The 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 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.¹

6. The Commission has authority to permit KU to deviate from the publication requirements pursuant to 807 KAR 5:001, Section 22 and 807 KAR 5:011, Section 15.

7. Because KU is in substantial compliance with the publication requirements of 807 KAR 5:001, Section 17(2) and 807 KAR 5:011, Sections 8(2) and 9, 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 22 and 807 KAR 5:011, Section 15 to deviate from the notice requirements of 807 KAR 5:001, Section 17(2) and 807 KAR 5:011, Sections 8(2) and 9 and to accept the publication of notice of its application as sufficient.

¹ *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: January 9, 2017

Respectfully submitted,



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CERTIFICATE OF COMPLIANCE

In accordance with 807 KAR 5:001, Section 8, this is to certify that Kentucky Utilities Company's January 9, 2017 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 January 9, 2017; that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding; and that an original and six copies in paper medium of the Petition are being hand delivered to the Commission within two business days from the date of the electronic filing.


Counsel for Kentucky Utilities Company