

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

**In the Matter of:**

<b>TIMOTHY AND PATRICIA BROWN</b>	)	
	)	
<b>COMPLAINANTS</b>	)	
	)	
<b>v.</b>	)	<b>CASE NO.</b>
	)	<b>2023-00161</b>
<b>KENTUCKY UTILITIES COMPANY</b>	)	
	)	
	)	
<b>DEFENDANT</b>	)	

**VERIFIED NOTICE OF SATISFACTION AND MOTION TO DISMISS**

In accordance with the Kentucky Public Service Commission's ("Commission") Order of August 7, 2023 in the above-captioned proceeding, Kentucky Utilities Company ("KU" or the "Company") respectfully submits this Verified Notice of Satisfaction and Motion to Dismiss the Complaint of Timothy and Patricia Brown ("Complainants") filed on May 15, 2023.

**Notice of Satisfaction of Alleged Service Inadequacies**

The Complaint involves an incident that occurred on KU's Warsaw-Owen County transmission line during the historic windstorm that impacted Kentucky on March 3, 2023.<sup>1</sup> This transmission line is located in a rural area in northern Kentucky and includes distribution

---

<sup>1</sup> The historic March 2023 Windstorm brought an intense low pressure system producing severe weather and historic gradient winds to the Lower Ohio Valley area. The strongest winds lasted several hours with peak wind gusts of 60 to 80 mile per hour occurring during the afternoon and evening hours, producing widespread wind damage and power outages. The March 2023 Windstorm was the subject of PSC Case No. 2023-00093, in which KU and its sister utility, Louisville Gas and Electric Company, obtained regulatory asset approval for costs associated with damage from this storm.

underbuild in sections of the line. KU runs three 69 kilovolt (“kV”) phases on the facilities with a static line/shield wire above the conductors. Ohio Valley Electric Cooperative (OVEC) owns and operates a single 345 kV transmission line that runs above KU’s static line.

Mr. Brown contacted KU’s Distribution Operations team shortly after the March 3 incident. KU’s team immediately began investigating to determine what may have caused the incident. Distribution personnel walked the line in question to thoroughly inspect it from the ground; and KU also performed an aerial inspection of this line via drone. The aerial inspection revealed markings on the static line suggesting that the OVEC line made contact with KU’s static,<sup>2</sup> resulting in the incident that is the subject of the Browns’ Complaint. This conclusion was confirmed by OVEC’s records, which showed a fault indication on their reclosing equipment during the March 3 windstorm.

Upon identifying the root cause of the incident, KU’s Transmission team began working with OVEC on an engineering solution/redesign to prevent similar occurrences in the future. KU completed preliminary work on May 18 to isolate the neutral from the static line between two of the transmission structures to prevent energy from the flashover at the 345 kV crossing from traveling to customers’ residences. And in late June/early July, KU Transmission personnel spent approximately 10 days performing additional work. Specifically, they replaced two transmission structures, lowered the 69kV lines between them, and removed the shield wire on the Warsaw–Owen County 69 kV line at the OVEC crossing near Sparta, Kentucky. This created adequate clearance between KU’s 69 kV lines and OVEC’s 345 kV line, resolving the potential for conflicts in that area like the one that occurred during the March storm.

---

<sup>2</sup> This area was on a part of the Warsaw-Owen County line where KU did not have any distribution underbuild and therefore this area would not have been part of the ground inspection.

KU's Distribution personnel remained in regular communication with Mr. Brown during their investigation into this issue. When the Browns' attorney contacted the Company, those communications shifted to KU's legal counsel providing regular updates to the Browns' attorney, advising him of the status of the investigation and notifying him when the work was completed both in May and in July.<sup>3</sup> KU's counsel spoke with the Brown's counsel on August 14, 2023 and the parties have arranged a conference call to address questions from the Browns about the engineering work later this week.

The Browns' Complaint mentions three prior incidents similar to the March 2023 incident. KU has searched its records and located information regarding a prior incident occurring during a storm in April of 2020, at which time KU performed a thorough ground inspection of the line and ultimately performed the work referenced in the Complaint to create additional clearance between KU's 69 kV lines and KU's distribution underbuild. KU located orders indicating the Browns reported damage to their meter base in March of 2016 and May of 2018 as a result of damage during storms. KU has not, however, been able to locate any records of investigations or work performed on the Warsaw-Owen County Line at those times. Importantly, KU has not located records of any similar incidents that occurred after the 2020 work and before the March 2023 event. Therefore, KU reasonably believed that the 2020 engineering work had remedied any problems with conflicts on the Warsaw-Owen County line. Utilizing the drone technology in the recent investigation helped KU to identify the root cause of the March 3, 2023 event; and KU is confident that this recent engineering work has remedied that issue.

Safety is of paramount importance to KU. Its actions following the incident reflect the Company's concerns. Upon receiving notice of this incident, KU diligently investigated the

---

<sup>3</sup> KU has attached the referenced email correspondence between KU's counsel and the Browns' counsel as Exhibit 1.

incident and then acted promptly to remedy the underlying cause of the incident to ensure the delivery of adequate, safe and reliable electric service to its customers in the affected area. KU respectfully submits that its actions have resolved the service-related concerns set forth in the Complaint and constitute satisfaction of the Complaint.

### **Motion to Dismiss**

Complainants request the following relief: (1) monetary damages for lost property and expenses arising out of the March 3, 2023 incident; and (2) authorization for Owen Electric Cooperative to provide retail electric service to the Complainants' property. The facts and the law fail to support any of the requested relief. As noted in the Commission's Order of August 7, 2023, the Commission "lacks the statutory authority to award monetary damages to individual utility customers." Order at 3 (citing *Carr v. Cincinnati Bell*, 651 S.W.2d 126 (Ky. App. 1983)). *See also* Order, *Tyre Hinshaw v. Kentucky Utilities Company*, Case No. 2007-00096 (Ky. PSC Mar. 27, 2007).

As to Complainants' request for Owen Electric Cooperative to serve their property, Kentucky is not a retail choice state and the Browns currently reside within KU's certified territory, which prohibits any other provider from serving their premises. KRS 278.018(1) provides that a retail electric supplier has the exclusive right to furnish electric service to all electric-consuming customers located within its certified territory. However, as noted in the Commission's August 7, 2023 Order, the statute further provides that the Commission may authorize another retail electric service supplier to furnish electric service in a supplier's certified territory upon finding that the current "retail electric supplier is not rendering or does not propose to render adequate service." Prior to taking such action, the Commission should permit the current provider time to cure any deficiencies. Specifically, KRS 278.018(3) provides that the Commission:



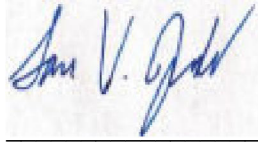
may enter an order specifying in what particulars such retail electric supplier has failed to render or propose to render adequate service and order that such failure be corrected within a reasonable time, such time to be fixed in such order. If the retail electric supplier so ordered to correct such failure fails to comply with such order, the commission may authorize another retail electric supplier to furnish retail electric service to such facility.

Here, KU has proactively identified the cause of the alleged inadequate service and has remedied it. There is no evidence that KU engaged in any unsafe, unreasonable or inadequate practice. Moreover, KU moved rapidly to investigate and eliminate the cause of the incident and to take steps to prevent any recurrence. Based upon KU's prompt response, the Complainants are currently receiving safe, reliable and adequate electric service. Therefore, there is nothing in the record to support a finding that would authorize Owen Electric Cooperative to serve the Complainants' property. And, absent a finding that KU is not providing adequate service, the Commission lacks authority to grant the Browns' request to change service providers. *See also* Order, *Russell Murphy, Jr. v. Inter-County Energy Cooperative Corporation*, Case No. 2016-00106 (Ky. PSC Mar. 2, 2015) ("...the Commission is without statutory authority to change an electric consuming customer' retail electric supplier unless: (1) the change is agreed to by the two affected retail electric suppliers pursuant to KRS 278.018(6); or (2) a finding is made pursuant to KRS 278.018(3) that a retail electric supplier is not providing adequate service, and that supplier subsequently fails to correct the service inadequacy.").

In summary, KU has satisfied the service-related issues raised in the Complaint and the Commission lacks jurisdiction regarding the damage-related issues in the Complaint. Thus, for all the reasons set forth above, Kentucky Utilities Company respectfully requests that the Commission dismiss the Browns' Complaint in its entirety.

Dated: August 15, 2023

Respectfully submitted,



---

Allyson K. Sturgeon  
VP & Dep GC - Regulatory  
Sara V. Judd  
Senior Counsel  
LG&E and KU Services Company  
220 West Main Street  
Louisville, Kentucky 40202  
(502) 627-2088  
(502) 627-4850  
asturgeon@pplweb.com  
svjudd@pplweb.com

Counsel for Kentucky Utilities Company

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing Verified Notice of Satisfaction and Motion to Dismiss was served on the following on the 15<sup>h</sup> day of August, 2023, U.S. mail, postage prepaid:

Timothy and Patricia Brown  
243 Vera Cruz Lane  
Sparta, KY 41086

John G. Wright, Attorney at Law  
P.O. Box 966  
Warsaw, KY 41095  
Counsel for Timothy and Patricia Brown



---

Sara V. Judd

**From:** [Weihe, Eric \[PPL\]](#)  
**To:** [jgw966@gmail.com](mailto:jgw966@gmail.com)  
**Subject:** RE: Mr. Brown Issue  
**Attachments:** [image001.png](#)  
[Image.jpeg](#)  
[Image.jpeg](#)

---

Good afternoon, John. I hope you had a nice weekend.

I have received confirmation from our engineering team that we have now completed our work replacing Structure Nos. 46 and 47 and removing the shield wire on the Warsaw-Owen County 69 kV line at the OVEC crossing near Sparta, KY. Photos of the completed work are attached. As explained below, our engineering team has advised that this additional work plus the work previously completed on May 18 will resolve the issues Mr. Brown experienced. Please let me know if you have any questions regarding the completed work.

Additionally, you had previously advised that Mr. Brown was seeking reimbursement for property damage. We have not yet received any claim amount or documentation to support said claim for evaluation. Please advise if you still intend to seek damages and, if so, when we can expect to receive a claim amount and supporting documentation.

Last, you have filed a Complaint with the PSC regarding Mr. Brown's issues. I do not personally handle PSC claims on behalf of KU. My colleague, Sara Judd, does handle those claims and she will soon be reaching out to you to discuss further.

Again, if you have any questions or want to discuss further, please do not hesitate to contact me.

Thank you.

Eric

**Eric M. Weihe** | [Senior Counsel - Litigation](#)

Office of General Counsel | phone: (502) 627-3537 | [EMWeihe@pplweb.com](mailto:EMWeihe@pplweb.com)



PPL  
220 West Main Street  
11<sup>th</sup> Floor  
Louisville, Kentucky 40202

---

## Business Use

**From:** Weihe, Eric  
**Sent:** Wednesday, June 28, 2023 8:29 AM  
**To:** [jgw966@gmail.com](mailto:jgw966@gmail.com)  
**Subject:** RE: Mr. Brown Issue

Good morning, John. I hope you are well.

I wanted to provide you with an update regarding work performed to address issues with Mr. Brown's power.

In addition to the work that has already been completed (described below), crews will be onsite next week at the OVEC and LG&E Warsaw transmission line crossings to lower the LG&E Warsaw transmission line to create additional distance between it and OVEC's line. The work is expected to take 10 days to complete. Our engineering team has advised that this additional work plus the work already completed will resolve the issues Mr. Brown has experienced. I will let you know once the additional work is complete. However, if you have any questions in the interim, please do not hesitate to contact me.

Thank you.

Eric

**Eric M. Weihe** | [Senior Counsel - Litigation](#)

Office of General Counsel | phone: (502) 627-3537 | [EMWeihe@pplweb.com](mailto:EMWeihe@pplweb.com)



PPL  
220 West Main Street  
11<sup>th</sup> Floor  
Louisville, Kentucky 40202

## Business Use

---

**From:** Weihe, Eric

**Sent:** Thursday, May 25, 2023 3:47 PM

**To:** [jgw966@gmail.com](mailto:jgw966@gmail.com)

**Subject:** RE: Mr. Brown Issue

John,

The work that has been done last week is as follows: We have completed the work (5/18) to provide the air gap in the static wire between structures 45 & 46. Our transmission crews installed 2-161 kV dead end polymer insulators and removed a section of the static wire to isolate the static from the neutral. Photos of the air gap are attached.

I look forward to speaking with you again soon.

Thanks.

Eric

**Eric M. Weihe** | [Senior Counsel - Litigation](#)

Office of General Counsel | phone: (502) 627-3537 | [EMWeihe@pplweb.com](mailto:EMWeihe@pplweb.com)



PPL  
220 West Main Street  
11<sup>th</sup> Floor  
Louisville, Kentucky 40202

## Business Use

---

**From:** Weihe, Eric

**Sent:** Thursday, May 25, 2023 3:46 PM

**To:** [jgw966@gmail.com](mailto:jgw966@gmail.com)

**Subject:** Mr. Brown Issue

Nice speaking with you. Here is my contact information.

Thanks.

Eric

**Eric M. Weihe** | [Senior Counsel - Litigation](#)

Office of General Counsel | phone: (502) 627-3537 | [EMWeihe@pplweb.com](mailto:EMWeihe@pplweb.com)



PPL  
220 West Main Street  
11<sup>th</sup> Floor  
Louisville, Kentucky 40202

## Business Use









**From:** [Judd, Sara \[PPL\]](#)  
**To:** [jgw966@gmail.com](mailto:jgw966@gmail.com)  
**Subject:** Brown/KU PSC Complaint  
**Attachments:** [image001.png](#)

---

John,

I am following up on a voicemail I left at your office earlier. I believe my colleague, Eric Weihe, informed you that I would be contacting you regarding the PSC complaint that your client, Timothy Brown, filed against Kentucky Utilities. I understand that Eric has informed you that engineering work has been completed to resolve the issues your client had experienced. So, I would like to discuss the status of the PSC complaint with you.

Please give me a call at your convenience. My contact information is below.

Thanks,

**Sara V. Judd** | [Senior Counsel](#)

Office of General Counsel | phone: (502) 627-4850 | [svjudd@pplweb.com](mailto:svjudd@pplweb.com)



PPL Services Company  
220 West Main Street  
Louisville, Kentucky 40202

Business Use


VERIFICATION

COMMONWEALTH OF KENTUCKY )  
 )  
COUNTY OF JEFFERSON )

The undersigned, **Kyle W. Burns**, being duly sworn, deposes and says that he is Director – Transmission Engineering and Construction for Kentucky Utilities Company, and that he has personal knowledge of the factual matters set forth in the foregoing Notice of Satisfaction and Motion to Dismiss, as they relate to the investigation and engineering work performed by Kentucky Utilities’ transmission team, and the information contained therein is true and correct to the best of his information, knowledge and belief.

  
\_\_\_\_\_  
Kyle W. Burns

Subscribed and sworn to before me, a Notary Public in and before said County and State, this 14<sup>th</sup> day of August 2023.

  
\_\_\_\_\_  
Notary Public

Notary Public ID No. KYNP12904

My Commission Expires:

September 2, 2024

VERIFICATION

COMMONWEALTH OF KENTUCKY )  
 )  
COUNTY OF JEFFERSON )

The undersigned, **Adam Smith**, being duly sworn, deposes and says that he is Director – Distribution Operations for Kentucky Utilities Company, and that he has personal knowledge of the factual matters set forth in the foregoing Notice of Satisfaction and Motion to Dismiss, as they relate to the investigation and engineering work performed by Kentucky Utilities’ distribution team, and the information contained therein is true and correct to the best of his information, knowledge and belief

Adam Smith  
**Adam Smith**

Subscribed and sworn to before me, a Notary Public in and before said County and State, this 15<sup>th</sup> day of August 2023.

Caroline J. Davison  
Notary Public

Notary Public ID No. KYNP63286

My Commission Expires:

January 22, 2027

