

TAYLOR, KELLER, DUNAWAY & TOOMS, PLLC

ATTORNEYS AT LAW
1306 WEST FIFTH STREET
POST OFFICE BOX 905
LONDON, KY 40743-0905

2009-00391

OF COUNSEL:
BOYD F. TAYLOR

J. WARREN KELLER
R. WILLIAM TOOMS
BRIDGET L. DUNAWAY

CLAYTON O. OSWALD
MICHAEL BENDER

RECEIVED

SEP 21 2009

PUBLIC SERVICE
COMMISSION

PHONE: 606-878-8844
FACSIMILE: 606-878-5547
WRITER'S E-MAIL: coswald@tkdlaw.com

ROY E. TOOMS
(1917-1986)

September 11, 2009

RECEIVED
SEP 15 2009
Consumer Protection
Office of Insurance

RECEIVED
FRANKFORD
SEP 14 9:28 AM
2009

Kentucky Public Service Commission
Attn: Consumer Services
PO Box 615
Frankfort KY 40602

RE: JECC v Booneville Cable Vision; Fields Cable Vision; and James Fields

Dear Sir/Madam:

Please find enclosed herewith a complaint that I would ask you to file of record in the above-referenced case.

Thank you in advance for your assistance and should you have any questions or concerns, please do not hesitate to contact my office.

With kindest regards.

Sincerely,



Clayton O. Oswald

COO/rlc
enc: Complaint
cc: Carol Wright

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COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

IN THE MATTER OF:

JACKSON ENERGY COOPERATIVE
CORPORATION

RECEIVED

SEP 21 2009

COMPLAINANT

PUBLIC SERVICE
COMMISSION

-vs-

COMPLAINT

BOONEVILLE CABLE VISION;
FIELDS CABLE VISION;
AND JAMES FIELDS

DEFENDANTS

** ** * ** *

The Complainant, Jackson Energy Cooperative, by counsel, hereby submits this complaint to the Kentucky Public Service Commission to enforce certain provisions of a cable tariff that require the Defendants, Fields Cable Vision and James Fields to submit adequate proof of insurance; and for an order directing the Defendants, Booneville Cable Vision and James Fields, to remove their cable attachments from the poles of Jackson Energy Cooperative.

I

1. The Complainant is a non-profit electric cooperative corporation, with its principal office located at 115 Jackson Energy Lane, McKee, Commonwealth of Kentucky.

2. The Defendant, Fields Cable Vision, and its owner/operator, Defendant James Fields, operate a business which serves customers within Jackson Energy's territory with cable television service.

3. The Defendant, Booneville Cable Vision, and its owner/operator, Defendant James Fields, operate a business which serves customers within a different part of Jackson Energy's territory with cable television service.

II

4. Jackson Energy Cooperative has filed with the Kentucky Public Service Commission a tariff for rates and conditions under which cable television providers will be allowed to attach to its poles.

5. The Defendants are, and have for some time, attached to the poles owned by Jackson Energy Cooperative.

6. As part of the above-referenced tariff, cable providers who attach to poles owned by Jackson Energy Cooperative are required to provide a certificate of liability insurance, which lists Jackson Energy Cooperative as an additional insured, and further that in the event such insurance is cancelled that Jackson Energy Cooperative will receive thirty (30) days' notice of such cancellation.

7. Despite several written requests, which are attached to this Complaint, the Defendants have failed to provide the certificate of insurance.

8. The Defendants failure to provide this certificate of insurance is in violation of the terms and conditions of the cable tariff, and it further exposes Jackson Energy Cooperative to the possibility of financial liability for negligence of the Defendants.

Wherefore, the Complainant, Jackson Energy Cooperative Corporation, moves as follows:

1. That the Public Service Commission order that the Defendants provide a certificate of insurance in compliance with the applicable with ten (10) day of the date of the Commission's order;

2. That the Public Service Commission make the Defendants, Fields Cable Vision and James Fields, parties to this proceeding and require their prompt responses to this complaint; and

3. For all other relief to which the Complainant may be entitled.

III

1. The Defendants Booneville Cable Vision and its owner/operator James Fields have operated a cable television business that serves customers in the territory of Jackson Energy Cooperative, with numerous pole attachments to poles owned by Jackson Energy.

2. Recently, Defendant Fields has notified Jackson Energy Cooperative that Booneville Cable Vision is ceasing to do business.

3. Despite requests by Jackson Energy Cooperative, Booneville Cable Vision and James Fields have refused to pay for remaining attachments as set out in the tariff (per the attached invoice), refused to remove the attachments from the poles of Jackson Energy Cooperative, and has refused to provide liability insurance for the attachments remaining on the poles of Jackson Energy Cooperative.

4. The actions of Booneville Cable Vision and James Fields violate the terms and provisions of the tariff, and further constitute trespass and conversion, all of which exposes Jackson Energy Cooperative to potential liability due to unattended pole attachments.

Wherefore, the Complainant, Jackson Energy Cooperative, moves as follows:

1. That the Public Service Commission order that James Fields and Booneville Cable Vision remove their attachments from poles owned by Jackson Energy Cooperative;

2. That the Public Service Commission order that James Fields and Booneville Cable Vision provide liability insurance, naming Jackson Energy as an additional insured, until removed, and that a certificate of such insurance be provided to Jackson Energy.

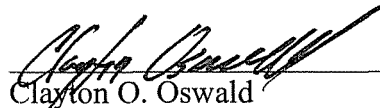
3. That the Public Service Commission order James Fields and Booneville Cable Vision pay for all attachments as currently due.

4. That the Public Service Commission make the Defendants, Booneville Cable Vision and James Fields, parties to this proceeding and require their prompt responses to this complaint; and

3. For all other relief to which the Complainant may be entitled.

This 10 day of September 2009.

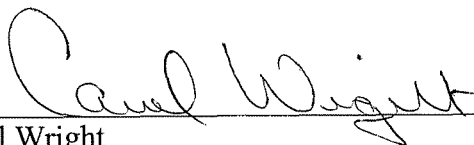
Respectfully submitted by,



Clayton O. Oswald
Taylor, Keller, Dunaway & Tooms, PLLC
PO Box 905
1306 W. 5th Street
London, Kentucky 40743-0905
Telephone: (606) 878-8844
Facsimile: (606) 878-5547
e-mail: coswald@tkdlaw.com
Attorney for Complainant

VERIFICATION

I, Carol Wright, state that I have read the foregoing complaint and that the allegations contained therein are true and correct to the best of my knowledge and belief.




Carol Wright

COMMONWEALTH OF KENTUCKY

COUNTY OF JACKSON

Subscribed and sworn to before me by Carol Wright on September 9, 2009.



Notary Public
My Comm. Expires: 7-30-2012


CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this complaint was mailed to:

Public Service Commission
PO Box 615
Frankfort, KY 40602-0615

Mr. James Fields
Booneville Cable Vision
PO Box 237
Combs, KY 41729

This the 10 day of ~~August~~^{Sept.} 2009.



Attorney for Complainant



JACKSON ENERGY

115 Jackson Energy Lane
 McKee, KY 40447
 (606) 364-1000

A Touchstone EnergySM
 Cooperative

INVOICE

Account	1905
Invoice Number	21075545
Order Number	21075542
Billing Date	09/03/2009
Due Date	09/18/2009

Remit To:
 JACKSON ENERGY COOPERATIVE
 115 JACKSON ENERGY LANE
 MC KEE, KY 40447

BOONEVILLE CABLEVISION
 P.O. BOX 237
 COMBS, KY 41729

Total Due: \$ 84.04

RETURN TOP PORTION WITH PAYMENT

BOONEVILLE CABLEVISION Account 1905 Cable TV Pole Attachment Billing-Aug 2009-Owsley County	Invoice: 21075545 Terms: NET 15 Due Date: 09/18/2009 Purchase Order: PR Page: 1
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PRODUCT	DESCRIPTION	QUANTITY	UOM	UNIT PRICE	AMOUNT	TAX
7301	Two Party Pole Attachments	10.000	EA	0.4600	4.60	
7301	Three Party Pole Attachments	199.000	EA	0.3992	79.44	

MESSAGES

Note: This is the invoice for August 2009 and does not include any amounts from prior months. If not paid within 15 days 5% will be added to the next bill.

Total Amount: \$ 84.04
Amount Paid: \$ 0.00
Total Due: \$ 84.04

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PHONE: 606-878-8844

FACSIMILE: 606-878-5547

WRITER'S E-MAIL: coswald@tkdlaw.com

ROY E. TOOMS

(1917-1986)

April 17, 2009

Mr. James Fields
Booneville Cable Vision
Post Office Box 237
Combs, Kentucky 41729

RE: Pole Attachment Contract with Jackson Energy

Dear Mr. Fields:

As you may recall, we spoke by telephone a couple of weeks ago regarding the contract for pole attachments between Jackson Energy and Booneville Cable Vision. You had several concerns at that time that I would like to address in this letter, since I have discussed this matter in detail with Jackson Energy. First, you noted that you did not want to be locked into a long-term contract that would require payments for several years in the future if you were to cease doing business in the Owsley County area or sell to a different entity. The contract does not require such a commitment. It only requires payment for the attachments on the Cooperative's poles. If at any time you wish to remove the attachments, you will no longer be charged for them.

You also noted that you were purchasing this business from a previous owner under the terms of a land contract, and that you were concerned about being held responsible for any attachments that pre-existed your control of the company. I understand that concern, but I believe that is really more of a matter between you and the previous owner. Also, please note that the contract would only impute liability to you if there were cable attachments that were improperly positioned or installed. Attachments of other companies would not affect your liability. Even in the absence of a written contract, I believe this would legally be the state of affairs.

On the same day that we talked, I received a call from your insurance agent, stating that proof of insurance would be faxed that same day. However, I still have not received that document, so could you please have it faxed to me at the number above as soon as possible.

I enclose herewith another copy of the contract. This is the standard contract used by Jackson Energy with cable attachers. The form has been approved by the Kentucky Public Service Commission, and therefore, I am not permitted to approve changes to it. All cable operators who attached to Jackson Energy's poles have signed this contract except Booneville Cable Vision. Please sign the enclosed contract and have proof of insurance faxed to me by May 1, 2009.

Thank you for your assistance and please call if you have any questions or concerns.

Sincerely,



Clayton O. Oswald

cc: Carol Wright

COO/rlc

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PHONE: 606-878-8844

FACSIMILE: 606-878-5547

WRITER'S E-MAIL: coswald@tkdlaw.com

ROY E. TOOMS

(1917-1986)

August 21, 2009

Mr. James Fields
Booneville Cable Vision
Post Office Box 237
Combs, Kentucky 41729

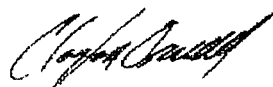
RE: Pole Attachment Contract with Jackson Energy

Dear Mr. Fields:

I have been instructed by Jackson Energy to file a complaint with the Public Service Commission on September 15, 2009 if the cooperative has not received certificates of insurance for Booneville Cable Vision and Fields Cable Vision. As you know these documents are required as part of your agreement with Jackson Energy. To avoid the filing of this complaint please forward those certificates immediately to Carol Wright at Jackson Energy, 115 Jackson Energy Lane, McKee, Kentucky 40447.

Please call if you have any questions or concerns.

Sincerely,



Clayton O. Oswald

cc: Carol Wright

COO/r/c



115 Jackson Energy Lane
McKee, Kentucky 40447
Telephone (606) 364-1000 • Fax (606) 364-1007

June 18, 2008

James Fields
Fields Cablevision
PO Box 237
Combs, KY 41729

Dear Mr. Fields:

This letter is in reference to your Certificate of Insurance, as per the enclosed portion of the Cable Television Attachment Tariff. Please provide Jackson Energy Cooperative with a copy of your current Certificate of Insurance. Please note that Jackson Energy Cooperative will need to be listed as Certificate Holder as well as Additional Insured.

If you have any questions feel free to contact me at 606-364-9213.

Respectfully,

A handwritten signature in cursive script that reads "Carol Wright".

Carol Wright
Vice President
Engineering and Operations

CW/cr



115 Jackson Energy Lane
McKee, Kentucky 40447
Telephone (606) 364-1000 • Fax (606) 364-1007

June 18, 2008

James Fields
Booneville Cable Vision
PO Box 237
Combs KY 41729

Dear Mr. Fields:

This letter is in reference to your Certificate of Insurance, as per the enclosed portion of the Cable Television Attachment Tariff. Please provide Jackson Energy Cooperative with a copy of your current Certificate of Insurance. Please note that Jackson Energy Cooperative will need to be listed as Certificate Holder as well as Additional Insured.

Also, enclosed you will find a current agreement for appropriate approval between Jackson Energy Cooperative Corporation and Booneville Cable Vision.

If you have any questions feel free to contact me at 606-364-9213.

Respectfully,

A handwritten signature in cursive script that reads "Carol Wright".

Carol Wright
Vice President
Engineering and Operations

CW/cr

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FACSIMILE: 606-878-5547

WRITER'S E-MAIL: coswald@tkdlaw.com

ROY E. TOOMS

(1917-1986)

July 2, 2009

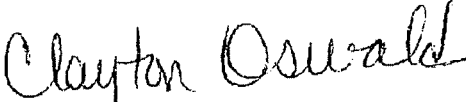
Mr. James Fields
Booneville Cable Vision
Post Office Box 237
Combs, Kentucky 41729

RE: Pole Attachment Contract with Jackson Energy

Dear Mr. Fields:

On behalf of Jackson Energy, I have written several letters to you regarding the necessity of having Booneville Cable Vision sign the pole attachment contract with Jackson Energy, which I previously forwarded to you, and the need for proof of insurance. Every other cable company that attaches to poles owned by Jackson Energy has executed this contract except Booneville Cable Vision. It is imperative that the contract be signed. If Jackson Energy has not received the signed contract and proof of insurance by August 3, 2009, the Cooperative will begin removing the attachments from its poles, and an invoice for its expenses in so doing will be mailed to you with prompt payment expected. There will be no further notices after this letter.

Sincerely,


Clayton O. Oswald

Cc: Carol Wright