COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In The Matter Of:

The Application Of Kentucky Power Company To Withdraw Its Tariff RTP Pending Submission By The Company And Approval By The Commission Of A New Real-Time Pricing Tariff.	)))))	Case No. 2012-00226

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RESPONSE OF KENTUCKY POWER COMPANY TO KENTUCKY INDUSTRIAL UTILITY CUSTOMERS, INC.'S MOTION FOR CLARIFICATION

For its Response to Kentucky Industrial Utility Customers, Inc.'s ("KIUC") Motion for Clarification of the Commission's June 21, 2012 Order Kentucky Power Company states:

KIUC suggests that in providing "[t]hat portion of Kentucky Power's application requesting the Commission prohibit any customers from taking service under Tariff RTP after July 1, 2012 is taken under advisement and will be ruled on at a later date"[1] the Commission's June 21, 2012 Order is "somewhat ambiguous."[2] KIUC then continues by suggesting that the Order should be construed to "reflect that the Commission is taking under advisement whether new customers could take service under existing Tariff RTP *after* July 1, 2012."[3]

KIUC's Motion should be denied. There is nothing unclear about the Commission's June 21, 2012 Order. It unambiguously indicates that the Commission is taking under advisement Kentucky Power's request that "the Commission prohibit ***any customers*** from taking service

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[1] Order, *In The Matter Of: The Application Of Kentucky Power Company To Withdraw Its Tariff RTP Pending Submission By The Company And Approval By The Commission Of A New Real-Time Pricing Tariff*, Case No. 2012-00226 at 3 (Ky. P.S.C. June 21, 2012) ("Commission Order").

[2] Motion For Clarification Of Kentucky Industrial Customers, Inc., *In The Matter Of: The Application Of Kentucky Power Company To Withdraw Its Tariff RTP Pending Submission By The Company And Approval By The Commission Of A New Real-Time Pricing Tariff*, Case No. 2012-00226 at 1 (Served June 21, 2012) ("KIUC Motion").

[3] *Id.* at 2 (emphasis in original).

under Tariff RTP after July 1, 2012...."[4] The term "new customer," as KIUC attempts to substitute for "any customer," is nowhere to be found in the Order. Moreover, KIUC "clarification" would have the Commission take under advisement a request never made by the Company. As the Commission's Order accurately reflects, Kentucky Power's Application requests that the Commission:

> Suspend[] Tariff RTP, or otherwise prohibit[] any customers from taking service under Tariff RTP, in the event the Commission is unable to act on the Company's Application by June 27, 2012, or otherwise elects not to permit Tariff RTP to be withdrawn prior to the effective date of the Company's to be filed real-time pricing tariff.[5]

Kentucky Power requested, and the Commission has yet to decide, that the tariff be suspended for all customers during the pendency of this proceeding. Finally, Tariff RTP already prohibits the addition of new customers after July 1, 2012.[6] In short, KIUC's requested clarification is contrary to the Commission's Order, Kentucky Power's request, and Tariff RTP

KIUC also uses its requested clarification as an opportunity to argue against Kentucky Power's request. It first suggests that by suspending the tariff during the pendency of this proceeding the Commission will be "pre-deciding this case."[7] KIUC errs. First, granting Kentucky Power's request is in no way tantamount to permitting Kentucky Power to withdraw the tariff. The two questions are separate, and suspending the tariff does not obligate the Commission later to authorize its withdrawal. Second, the requested relief is interlocutory, and as with any such order or grant of relief, the Commission would be free to deny or grant the

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[4] Commission Order at 3 (emphasis supplied)..

[5] Application, *In The Matter Of: The Application Of Kentucky Power Company To Withdraw Its Tariff RTP Pending Submission By The Company And Approval By The Commission Of A New Real-Time Pricing Tariff*, Case No. 2012-00226 at 6 (Filed June 21, 2012).

[6] Tariff RTP at Sheet 30-3 ("No additional customers will be placed under this tariff after July 1, 2012.")

[7] KIUC Motion at 1-2.

ultimate relief – withdrawal of the tariff – sought by Kentucky Power. Indeed, the requested suspension does no more than maintain the status quo.

Nor would suspending the tariff render the case moot as KIUC argues.[8] If the Commission ultimately denies Kentucky Power's application to withdraw the tariff after suspending the tariff during the pendency of this proceeding the Industrial Customers would be free to take service under the tariff at that time.

Wherefore, Kentucky Power Company respectfully requests that the Commission deny Kentucky Industrial Utility Customers, Inc.'s motion for clarification and suspend Tariff RTP after July 1, 2012 during the pendency of this proceeding.

Respectfully submitted,

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[8] KIUC Motion at 2.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing, was served by First Class Mail and e-mail transmission upon the following parties of record, this 22nd day of June, 2012.

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