

# **Consent Decree**

## **I. Introduction**

1. This Consent Decree is entered into by the Enforcement Bureau of the Federal Communications Commission ("Bureau") and Kenergy Corporation ("Kenergy").

## **II. Background**

2. Kenergy is an electric distribution cooperative with headquarters in Henderson, Kentucky. It serves 50,000 customers in all or portions of 14 western Kentucky counties. It is the third largest cooperative in Kentucky in terms of customer accounts.

3. Kenergy was established in July 1999 through the consolidation of Henderson Union Electric Cooperative Corp. and Green River Electric Corporation, both of which held licenses in the Private Operational-Fixed Microwave and Industrial/Business Services. The consolidation resulted in the substantial transfer of control of a total of 56 stations and, thus, required prior Commission consent, pursuant to Section 310(d) of the Communications Act of 1934, as amended, 47 U.S.C. § 310(d). Kenergy, however, did not file applications for Commission consent to the assignment of licenses for these stations until November 2000. The applications have since been granted.

## **III. Definitions**

4. For the purposes of this Consent Decree, the following definitions shall apply:
- (a) "Commission" means the Federal Communications Commission.
  - (b) "Bureau" means the Commission's Enforcement Bureau.
  - (c) "Kenergy" means Kenergy Corporation.
  - (d) "Order" means the order of the Enforcement Bureau adopting this Consent Decree.
  - (e) "Final Order" means the Order that is no longer subject to administrative or judicial reconsideration, review, appeal, or stay.
  - (f) "Act" means the Communications Act of 1934, as amended, Title 47 of the United States Code.

## **IV. Agreement**

5. Kenergy agrees that the Bureau has jurisdiction over the matters contained in this Consent Decree and the authority to enter into and adopt this Consent Decree.

6. The Bureau and Kenergy agree that this Consent Decree does not constitute an adjudication on the merits or any finding on the facts or law regarding any violations of the Act or the Commission's rules committed by Kenergy.

7. Kenergy agrees that it shall make a voluntary contribution to the United States Treasury in the amount of \$7,500 within 10 calendar days after the Bureau releases the Order adopting this Consent Decree.

8. Kenergy agrees to implement, within 10 calendar days after the Bureau releases the Order adopting this Consent Decree, a comprehensive internal program, a summary of which is attached hereto, to ensure Kenergy's future compliance with the Act, the Commission's rules, and the Commission's policies.

9. In express reliance upon the representations contained herein, the Bureau agrees to terminate its investigation into the matters discussed in paragraph 3, above.

10. The Bureau agrees not to institute any new proceeding, formal or informal, of any kind against Kenergy for apparent violations of Section 310(d) of the Act arising from the matters discussed in paragraph 3, above.

11. In the event that Kenergy is found by the Commission or its delegated authority to have engaged in a violation of Section 310(d) of the Act subsequent to the release of the Order adopting this Consent Decree, Kenergy agrees that the conduct described in paragraph 3, above, may be considered by the Commission or its delegated authority in determining an appropriate sanction.

12. Kenergy waives any and all rights it may have to seek administrative or judicial reconsideration, review, appeal or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Order adopting this Consent Decree, provided the Order is limited to adopting the Consent Decree without change, addition, or modification.

13. Kenergy and the Bureau agree that the effectiveness of this Consent Decree is expressly contingent upon issuance of the Order, provided the Order adopts the Consent Decree without change, addition, or modification.

14. Kenergy and the Bureau agree that in the event that this Consent Decree is rendered invalid by any court of competent jurisdiction, it shall become null and void and may not be used in any manner in any legal proceeding.

15. Kenergy and the Bureau agree that if Kenergy, the Commission, or the United States on behalf of the Commission, brings a judicial action to enforce the terms of the Order adopting this Consent Decree, neither Kenergy nor the Commission shall contest the validity of the Consent Decree or Order, and Kenergy and the Commission shall waive any statutory right to a trial *de novo* with respect to any matter upon which the Order is based (provided in each case that the Order is limited to adopting the Consent Decree without change, addition, or modification), and shall consent to a judgment incorporating the terms of this Consent Decree.

16. Kenergy agrees to waive any claims it may otherwise have under the Equal Access to Justice Act, Title 5 U.S.C. § 504 and 47 C.F.R. § 1.1501 *et seq.*, relating to the matters discussed in paragraphs 3 and 4, above.

17. Kenergy agrees that any violation of the Order adopting this Consent Decree shall constitute a separate violation and subject Kenergy to appropriate administrative sanctions.

18. Kenergy and the Bureau agree to be bound by the terms and conditions stated herein.

19. Kenergy and the Bureau agree that this Consent Decree may be signed in counterparts.

**ENFORCEMENT BUREAU  
FEDERAL COMMUNICATIONS COMMISSION**

By: \_\_\_\_\_  
David H. Solomon  
Chief

\_\_\_\_\_  
Date

**KENERGY CORPORATION**

By: \_\_\_\_\_  
Dean Stanley  
President and Chief Executive Officer

\_\_\_\_\_  
Date

**Summary of Section 310(d) Compliance Program  
of  
Kenergy Corporation**

To assure compliance with federal and state law, the Communications Act and Federal Communications Commission (“FCC”) regulations, the Kenergy Telecommunications Compliance and Education Program (the “Program”) will be established. The Program will be administered within the Engineering Department with the Manager of Technical Services supervising the operation of the Program.

Program operations will be described in a compliance manual addressing four areas: database, education, review and monitoring, and designation of Contact persons.

Database: Technical Services will assemble and maintain information about the company’s telecommunications licenses and other telecommunications information in a database accessible by engineers and managers throughout the company. The existence, location and maintenance of the database will be publicized within the company. The database will include a “tickler system” to prompt timely filing of renewal applications and will be kept current by the Manager of Technical Services.

Education: The Manager of Technical Services, with assistance from the Electronic Technicians, will conduct an education program for company vice presidents, managers and other parties responsible for establishment, purchase, sale and use of the company’s telecommunications assets. The education program will emphasize the need to make timely application for FCC consent to changes in ownership or control of telecommunications licenses. The Program will be supplemented by membership in trade organizations such as the United Telecom Council (“UTC”), and other means of keeping informed of FCC policy and regulatory compliance requirements.

Review and Monitoring: The company will review the Program annually to ensure that it is maintained in a proper manner and continues to address the objectives set forth herein.