



COMMONWEALTH OF KENTUCKY
PUBLIC SERVICE COMMISSION

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March 2, 1983

Senator William L. Quinlan
Chairman
Joint Interim Committee on Energy
Room 21 - Capitol Annex
Frankfort, Kentucky 40601

Dear Senator Quinlan:

On September 25, 1979, the United States District Court for the western district of Kentucky ruled that the Kentucky Public Service Commission had no authority to regulate the rates of electric utilities in Kentucky that buy their power from the Tennessee Valley Authority. The court's ruling was based upon the fact that Congress gave TVA the power to set the retail rate for all customers who purchase electricity from TVA under a wholesale contract. The power of the federal government to set the retail rate for these utilities takes precedence over the power of the state to likewise set the rate. Accordingly, since 1979 the PSC has not exercised any jurisdiction over the retail rates of the following utilities operating in Kentucky: Hickman-Fulton RECC, Pennyrile RECC, Warren RECC, West Kentucky RECC, Tri-County Electric Membership Corporation, and Jellico Electric Company.

In January of this year, the PSC received correspondence from TVA stating that it was TVA's belief that the principle enunciated in the 1979 federal court decision would apply to service as well as rates. TVA thus contends that none of its wholesale customers operating in Kentucky are subject to any of the PSC's regulations governing the provision of electrical service to customers. The PSC has considered this matter and it is our conclusion that TVA is right on this point and that federal rather than state law governs the service as well as the rates of all TVA-supplied utilities. Since construction projects by utilities are also related to the rates and service of the utilities, the PSC believes it cannot legally certificate construction projects for these utilities. Accordingly, the PSC wishes to inform your committee that our agency will no longer regulate the rates, service, or construction of the aforementioned six utilities operating in Kentucky which purchase their electricity from the TVA.

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If you or any member of your committee have questions regarding this matter, please feel free to contact our agency at anytime.

Very truly yours,

A handwritten signature in cursive script that reads "William M. Sawyer". The signature is written in dark ink and is positioned above the typed name and title.

William M. Sawyer
General Counsel