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September 7, 2006

VIA HAND DELIVERY

RECEIVED

SEP 07 2006

PUBLIC SERVICE
COMMISSION

Elizabeth O'Donnell
Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, KY 40601

**Re: In the Matter of Cumberland Valley Electric, Inc. v. Kentucky Utilities
Company
Case No. 2006-00148
Our File No.: 400001/122720**

Dear Ms. O'Donnell:

Enclosed please find and accept for filing the original and ten (10) copies of Kentucky Utilities Company's Response to Complainant's Motion for Ruling in the above-referenced matter. Please confirm your receipt of this filing by placing the stamp of your Office with the date received on the two additional copies provided and return them to me in the enclosed self-addressed stamped envelope.

Should you have any questions or need any additional information, please contact me at your convenience.

Very truly yours,

J. Gregory Cornett

JGC/cja
Enclosures
cc: Parties of Record

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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In the Matter of:

SEP 07 2006

CUMBERLAND VALLEY ELECTRIC, INC.)

PUBLIC SERVICE
COMMISSION

COMPLAINANT)

v.)

CASE NO. 2006-00148

KENTUCKY UTILITIES COMPANY)

DEFENDANT)

RESPONSE OF KENTUCKY UTILITIES COMPANY
TO COMPLAINANT'S MOTION FOR RULING

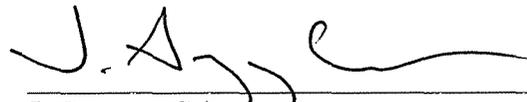
Cumberland Valley Electric, Inc. ("CVE") has moved the Commission for "an expeditious ruling" on certain issues now pending before it in this matter, including primarily the Motion to Dismiss filed by Kentucky Utilities Company ("KU").¹ While KU does not object to the Commission ruling on issues which have been briefed, it does take exception to one statement made by CVE in its most recent motion. Specifically, on page 1 of that motion, CVE states that "KU has been providing service to [Stillhouse Mine No. 2] through a customer owned distribution line since at least the early summer of 2005. No Commission approval has ever been given for KU to provide such service." That statement is incomplete in that it fails to recognize the length of time for which the distribution line at issue has existed, and is incorrect in implying that KU should have obtained Commission approval before serving the customer at issue.

As set forth fully in KU's Motion to Dismiss and in its Reply Brief in Further Support of that motion, KU is delivering power at the same substation used to provide service to BMR and

predecessor mining companies for over 70 years, which substation is located exclusively in KU's certified territory. From that point, Black Mountain Resources, Inc. ("BMR") delivers power to multiple mining operations via a private distribution line.² While that line has been owned by BMR since the early 1980s, it has been in existence and used by predecessor mining companies for decades.³

KU is doing nothing more than delivering power to BMR at a point wholly within KU's certified territory, as it has done at the same point of delivery for decades. That delivery of power in this instance is fully consistent with the Certified Territories Act, and no Commission approval was or is needed for KU to continue that service. For all of the reasons set forth in previous pleadings filed with this Commission, this action should be dismissed.

Respectfully submitted,



J. Gregory Cornett
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¹ CVE also requests a procedural schedule be established. Should this matter be dismissed, as KU has requested, no such schedule would be needed.

² Agreed Statement of Facts (attached as Willhite Testimony Exhibit 1), p. 3; Item 1 Vicinity Map (attached to Agreed Statement of Facts); Willhite Testimony, p. 7, lines 7-9.

³ The use of customer-owned distribution lines is commonplace in the coal-mining industry in Kentucky. *See, e.g. In the Matter of: The Complaint of Jellico Electric System v. Cumberland Valley Rural Electric Coop. Corp.*, Case No 6637 (Order of February 22, 1977); *In the Matter of: Henderson-Union Rural Electric Coop. Corp.*, Case No. 93-211 (PSC Order of March 3, 1994); *In the Matter of: Matrix Energy, LLC for Determination of Retail Electric Supplier*, Case No. 2003-00228 (PSC Order of May 3, 2004).

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served by first-class mail, postage pre-paid, upon the following, this 7th day of September 2006:

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