

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PETITION BY COMMONWEALTH OF KENTUCKY,)	
THE CAMPBELL COUNTY FISCAL COURT FOR)	
DETERMINATION THAT RESPONDENT UNION)	CASE NO. 8541
LIGHT, HEAT AND POWER COMPANY MAY)	
SERVICE INDUSTRIAL PARK)	

O R D E R

Introduction

On June 3, 1982, the Campbell County Fiscal Court ("Campbell County") filed a petition with the Commission in which it asked the Commission to authorize Union Light, Heat and Power Company ("ULH&P") to supply retail electric service to an industrial park, or in the alternative, to authorize Campbell County to supply the service to the park. Campbell County named ULH&P; Consolidated Foods Corporation ("Consolidated"), a tenant in the industrial park; and Owen County Rural Electric Cooperative Corporation ("Owen County") as respondents.

ULH&P and Consolidated filed responses in support of Campbell County's petition. Owen County's response asserted that since Consolidated will be occupying a portion of the industrial park which lies within its certified territory, Owen County has the exclusive right to serve those facilities.

The Consumer Protection Division of the Department of Law intervened and participated in the hearing which was held on July 19, 1982, at the Commission's offices in Frankfort, Kentucky. During this hearing the Commission granted Campbell County's motion to amend its petition by deleting its request that electric service be supplied to the industrial park by Campbell County.

The Commission allowed all parties to submit simultaneous briefs by mail no later than August 2, 1982. Campbell County submitted its brief along with a motion to amend its petition to include a constitutional challenge to KRS 278.016 to 278.020, the same statutes relied upon by Campbell County as its basis for requesting relief. This motion was untimely, and it is hereby overruled pursuant to 807 KAR 5:001 Section 3(5).

Industrial Park

Campbell County, Consolidated and the Commonwealth of Kentucky entered into agreements for the development of a 77-acre industrial park situated on U.S. 27 in southern Campbell County, Kentucky. The industrial park has been subdivided into four parcels. Consolidated will lease all of parcel four and part of parcel two for a total of 47 acres. Campbell County intends to lease the remaining 30 acres to other industrial tenants. Access to each of the four parcels will be by a service road commencing on U.S. 27.

Efficient Provision of Electric Energy

In 1972 the Kentucky Legislature declared that it was in the public interest:

. . .in order. . .to avoid wasteful duplication of distribution facilities, to avoid unnecessary encumbering of the landscape. . .to prevent the waste of materials and natural resources. . .the state be divided into geographical areas, establishing the areas within which each retail electric supplier is to provide the retail electric service as provided in KRS 278.016 to 278.020. . . .

KRS 278.016. Pursuant to KRS 278.017, the Commission established the boundaries of the certified territory of each retail electric supplier.

ULH&P's certified territorial boundary encompasses parcels one and two and a majority of parcel three of the industrial park. Owen County's certified territorial boundary encompasses the remaining portion of parcel 3 and all of parcel 4. It is clear that the industrial park is a new electric consuming facility located within two adjacent certified territories.

KRS 278.018(1) provides that when a new facility such as the industrial park is located in two adjacent certified areas, the Commission, in determining which electric supplier shall serve the new facility, shall apply the criteria set forth in KRS 278.017(3). These criteria are:

- (a) The proximity of existing distribution lines to such certified territory.
- (b) Which supplier was first furnishing retail electric service, and the age of existing facilities in the area.

(c) The adequacy and dependability of existing distribution lines to provide dependable, high quality retail electric service at reasonable costs.

(d) The elimination and prevention of duplication of electric lines and facilities supplying such territory. In its determination of such protest, the commission hearing shall be de novo; and neither supplier shall bear the burden of proof.

KRS 278.017(3). This situation presents the Commission with the difficult task of applying the legislative declarations contained in KRS 278.016 to 278.020 in order to determine which electric supplier shall serve the industrial park.

In applying criterion (a), the record shows that ULH&P has an existing three phase 13.2 KV primary service line on U.S. 27 running parallel to the western boundary of the industrial park. This three phase line abuts the service road which will provide access to each parcel of the industrial park. Owen County has a single phase 7.2 KV distribution line which runs just beyond the eastern border of the industrial park and intersects the northeast corner of parcel four. This single phase line is fed from a three phase distribution line 2.25 miles south of the industrial park.

Criterion (b) requires a determination of the supplier first furnishing electric service and the age of the facilities. The 77-acre industrial park was part of an 87-acre tract of land owned by Dorsey Trapp. ULH&P has been supplying electric service to the Trapp family farm for many years. Owen County has never provided retail electric service to this tract of land even

though its single phase distribution line has been in existence since the 1940's.

Analyzing the adequacy and dependability of existing distribution lines, criterion (c), must be done in light of the industrial park's need for three phase electric service. Owen County's existing single phase 7.2 KV distribution line would have to be rewired for 2.25 miles to provide three phase service. This rewiring would take two months and require changing poles and anchors and adding guy wires and cross bars for a total estimated cost of \$70,000. Owen County's distribution line is supplied from the Grants Lick substation approximately five miles from the industrial park. ULH&P's existing three phase 13.2 KV distribution line can supply the electrical needs of the industrial park without any additional construction or cost. Since ULH&P's line runs along U.S. 27, a major highway through Campbell County, this greatly facilitates ULH&P's ability to repair outages. In contrast, Owen County's line follows a five mile route through hilly wooded terrain.

The final criterion for the Commission to consider is the elimination and prevention of duplication of electric lines and facilities. ULH&P's existing three phase distribution line lies at the entrance to the industrial park. It would have to be extended approximately 1000 feet along the service road into the park at a cost of \$14,000. Owen County would have to spend

\$70,000 to construct 2.25 miles of a three phase line to reach the park's eastern boundary and then extend this line into the park.

Summary of Findings

Based upon the evidence of record and being advised, the Commission is of the opinion and hereby finds that:

1. An industrial park requiring three phase electric service is being developed in Campbell County, Kentucky.
2. The industrial park lies within the certified territories of ULH&P and Owen County.
3. ULH&P's existing distribution lines lie closer to the industrial park than those of Owen County.
4. ULH&P has furnished retail electric service for many years to the predecessors in title to the tract of land being developed into the industrial park.
5. Owen County's distribution facilities have been in existence since the 1940's but it has never furnished retail electric service to the tract of land being developed into the industrial park.
6. ULH&P has an existing three phase distribution line at the entrance to the industrial park and this line is sufficient to provide dependable electric service.
7. Owen County does not have an adequate distribution line to provide electric service but has proposed to spend \$70,000 to construct the needed three phase line.

8. Owen County's proposal to construct a new three phase distribution line would violate KRS 278.016 by resulting in wasteful duplication of distribution facilities, unnecessary encumbering of the landscape and waste of materials and natural resources.

IT IS THEREFORE ORDERED that ULH&P shall serve the entire industrial park.

IT IS FURTHER ORDERED that within 30 days of the date of this Order Owen County and ULH&P shall file with the Commission revised territorial boundary maps reflecting the changes made in this Order.

Done at Frankfort, Kentucky, this 25th day of August, 1982.

PUBLIC SERVICE COMMISSION

Marlin M. Voh
Chairman

Katharine Randall
Vice Chairman

Lent Canizer
Commissioner

ATTEST:

Secretary