

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN INVESTIGATION INTO THE DIVERSIFICATION)	
OF RURAL ELECTRIC COOPERATIVE CORPORATIONS)	ADMINISTRATIVE
INTO THE SATELLITE-DELIVERED TELEVISION)	CASE NO. 326
PROGRAMMING SERVICES)	

O R D E R

By Order entered December 28, 1988, the Commission initiated this investigation and requested each Rural Electric Cooperative Corporation ("RECC") in the Commonwealth to provide information regarding its diversification into satellite-delivered television programming services. Each RECC has responded and three, Green River Electric Corporation ("Green River"), Salt River RECC, and Grayson RECC, have filed petitions for confidentiality pursuant to 807 KAR 5:001, Section 7. Green River and Salt River RECC seek confidential treatment for those documents, listed in Exhibit A to their respective petitions, which contain marketing information, market surveys, programming and equipment pricing information and other business information not publicly available. Green River and Salt River RECC state that these documents contain valuable commercial information, the disclosure of which would provide an unfair commercial advantage to competitors. Grayson RECC's petition is almost identical and seeks confidential treatment for its response Nos. 3, 4, and Attachment A to its response.

Based on a review of the petitions for confidentiality, and being advised, the Commission is of the opinion and hereby finds that the documents listed in Exhibit A to the petitions of Green River and Salt River RECC, and the response No. 3 of Grayson RECC, contain proprietary, commercial business information, not publicly available, and they should be designated as confidential. However, Grayson RECC's response No. 4, relating to its ownership of Kentucky Telecommunications, Inc. ("KTI"), and Attachment A, its service contract with KTI, should not be accorded confidential treatment. As set forth in a November 15, 1985 directive of the Rural Electrification Administration (Attachment C to Grayson RECC's response),

Borrowers should make full disclosure to their member-consumers concerning the relationships between their electric distribution systems and any other corporations. Such disclosure should include the precise nature and content of any commitments, involvements, contractual relationships, etc. Such information should be included in borrower annual reports, annual CPA reports and borrower board minutes, all of which should be readily available to borrowers' member-consumers.

Accordingly, the full details of Grayson RECC's participation in KTI should be publicly disclosed pursuant to this directive. Every RECC which is participating in KTI has filed similar information with the Commission without seeking confidential treatment.

Regarding Attachment A to Grayson RECC's response, the service contract with KTI, that same contract has already been filed in the public record by Henderson-Union RECC and South Kentucky RECC. Also, pursuant to the above-quoted directive,

this contract should be disclosed to Grayson RECC's member-consumers. Furthermore, there is no evidence to indicate that the public disclosure of this service contract could result in any competitive injury, or that the service contract contains information not customarily disclosed to the public.

The Commission also received a motion to intervene by the Kentucky Cable Television Association, Inc. ("KCTA"). KCTA's motion seeks full intervention on the basis that its members directly compete with satellite-delivered television programming services and it wants to "ensure that these alternate television delivery systems are treated equally in the use of, and charges for, utility poles." (KCTA Motion, page 1.) Green River and Henderson-Union RECC have filed objections to KCTA's intervention on the grounds that satellite-delivered television programming is delivered by satellite dishes, not utility poles. Consequently, they state that the use of, and charges for, utility poles are not relevant issues to this investigation and the requested intervention is impermissible. The Commission finds that while neither the use of, nor charges for, utility poles appears to be a relevant issue, KCTA's status as a competitor affords it a sufficient interest to participate in this administrative proceeding.

Further, there is pending a request by Big Rivers Electric Corporation ("Big Rivers") to be dismissed as a participant in this proceeding. The Commission included all RECCs as parties to this investigation to ensure that each one was afforded its due process right to be heard on this diversification issue. It would

be administratively inefficient, burdensome, and unduly expensive if the Commission had to conduct subsequent investigations for each RECC that decides to engage in satellite-delivered television programming services. Therefore, the outcome of this investigation and any guidelines or reporting requirements implemented must be applicable to all RECCs that so diversify. The Commission will readily excuse any RECC that elects not to participate in this case, but the nonparticipant must acknowledge its obligation to be bound by the outcome of this investigation as if it had participated.

IT IS THEREFORE ORDERED that:

1. Green River's and Salt River RECC's petitions for confidentiality, for the documents listed in Exhibit A to their respective petitions, be and they hereby are granted.

2. Grayson RECC's petition for confidentiality for its response No. 3 be and it hereby is granted, and for its response No. 4 and Attachment A to its response be and it hereby is denied.

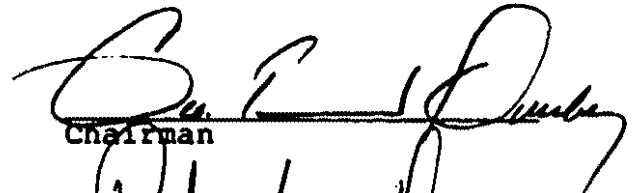
3. KCTA's motion to intervene be and it hereby is granted.

4. Any RECC that does not want to participate in this investigation shall be excused upon the filing with the Commission of a written notice acknowledging its obligation to be bound by the results of this investigation.

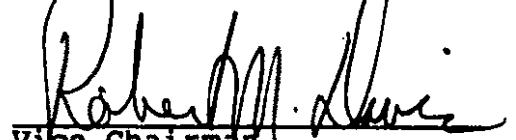
5. All pleadings, motions, responses to data requests, and any other documents filed with the Commission shall be served upon each other party to this investigation.

Done at Frankfort, Kentucky, this 16th day of March, 1989.

PUBLIC SERVICE COMMISSION

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Chairman

A handwritten signature in dark ink, likely belonging to the Vice Chairman.

Vice Chairman

A large, stylized handwritten signature in dark ink, likely belonging to the Commissioner.

Commissioner

ATTEST:

Executive Director