

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

DIMITRI VAUGHN TAYLOR	)	
	)	
COMPLAINANT	)	
	)	
v.	)	CASE NO. 99-513
	)	
CLARK ENERGY COOPERATIVE, INC.	)	
	)	
DEFENDANT	)	

O R D E R

On December 21, 1999, Dimitri Vaughn Taylor (“Complainant”) filed a formal complaint against Clark Energy Cooperative, Inc. (“Clark Energy”) alleging that Clark Energy improperly refused him electrical service. Complainant alleges that, prior to purchasing a plot of land on the Kentucky River, he contacted Clark Energy to inquire about extending electrical service along a set of lines and poles leading to Complainant’s property that were out of use at the time. Complainant alleges that Clark Energy assured him that it would extend service to the property because it had the service right-of-way. Complainant also alleges that Clark Energy told him to obtain a building permit. Based upon this alleged representation, Complainant purchased the property and applied for the necessary building permit. Complainant alleges, however, that prior to approval of the building permit, Clark Energy took down the poles and wires leading to his property and informed him that he must build a road to his property in order to receive electrical service.

Complainant requests that he receive electrical service from Clark Energy. On January 21, 2000, the Commission issued an Order directing Clark Energy to satisfy or answer the complaint. On January 31, 2000, Clark Energy filed its answer, claiming that it is not required to extend electrical service to Complainant because no reasonable access is available to Complainant's property. To support this assertion, Clark Energy relies upon 807 KAR 5:006, Section 14(c).<sup>1</sup> Clark Energy argues that unless Complainant builds a road to his property upon which Clark Energy's trucks, equipment, and lines may travel, it is not obligated to extend electrical service to Complainant.<sup>2</sup>

In regard to the existing lines and poles on Complainant's property, Clark Energy claims that the line was abandoned long ago and that no part of the line is intact or can be used to extend service to Complainant's property.

Clark Energy also claims that it never gave Complainant an "ironclad" assurance that it would extend electrical service to his property. Furthermore, even if Complainant relied upon this alleged representation, that fact would not influence the final outcome of

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<sup>1</sup> For refusal of access. When a customer refuses or neglects to provide reasonable access to the premises for installation, operation, meter reading, maintenance or removal of utility property, the utility may terminate or refuse service. Such action shall be taken only when corrective action negotiated between the utility and customer has failed to resolve the situation and after the customer has been given at least ten (10) days' written notice of termination pursuant to Section 13(5) of this administrative regulation.

<sup>2</sup> The cooperative may refuse or terminate service to an applicant or member, after proper notice for failure to comply with the cooperative tariffed rules and regulations; Commission regulations; outstanding indebtedness; noncompliance with state, local or other codes; refusal to permit access; or failure to pay bills.

Clark Energy Cooperative Tariff, Sheet No. 25.

this case. The issue presented here is whether Clark Energy's refusal of service complies with the applicable tariff provisions, regulations, and statutes, not whether Complainant relied upon Clark Energy's representation in purchasing the property.

On February 25, 2000, the Commission entered a procedural order scheduling a hearing and relative dates for discovery. On March 6, 2000, counsel for Complainant requested that the hearing be rescheduled. The Commission granted the motion. On April 21, 2000, counsel for Complainant requested another extension of time and continuance of the hearing. The Commission granted this motion as well. On May 31, 2000, Complainant requested continuance of the hearing and additional time to file verified testimony. As of the date of this Order, no verified testimony has been filed with the Commission. Excepting the complaint, answer, and motions for extensions of time, only the answer to interrogatories propounded to Clark Energy has been filed as of the date of this Order.

IT IS THEREFORE ORDERED that:

1. Within 30 days of the date of this Order, Complainant shall file with the Commission a statement as to why this matter should not be dismissed for failure to prosecute, accompanied by a memorandum or brief which, in light of Clark Energy's response, states why Complainant believes he may prevail at any hearing on the merits of this case.

2. If the documents referenced in ordering paragraph 1 are not received within 30 days of the date of this Order, this case will be dismissed without further Order.

Done at Frankfort, Kentucky, this 28<sup>th</sup> day of March, 2001.

By the Commission

ATTEST:

Deputy W. H. Fowler  
Executive Director