

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PETITION OF CTA ACOUSTICS, INC.)
TO RETAIN KENTUCKY UTILITIES) CASE NO. 2003-00226
COMPANY AS POWER SUPPLIER AND)
FOR EXPEDITED TREATMENT)

O R D E R

On December 31, 2003, Cumberland Valley Electric, Inc. ("Cumberland Valley") filed a motion requesting the Commission to authorize the parties to conduct additional discovery. The motion states that the parties filed testimony and conducted a discovery some months ago, but, due to the postponement of the hearing, have not had any additional opportunities to supplement the record with more up-to-date information. In particular, Cumberland Valley states that it seeks information relating to the actual operating characteristics of CTA Acoustics, Inc. ("CTA Acoustics"), as well as Kentucky Utilities Company's ("KU") activities and abilities with respect to facilities needed to provide service within the Southeast Kentucky Regional Business Park ("Business Park") and on issues raised in KU's rebuttal testimony. Further, the motion states that the ability to obtain this information through additional discovery will increase administrative efficiency by reducing the time needed to elicit such information during the evidentiary hearing. Specifically, Cumberland Valley requests that all parties have the right to file additional data requests by January 9, 2004, with copies served on all

other parties by hand delivery or facsimile, and responses thereto to be filed and similarly served by January 16, 2004.

On January 5, 2004, KU filed an objection to Cumberland Valley's motion. KU states that it does not object to updating its previous responses to discovery requests, but claims that Cumberland Valley had ample opportunity to seek additional discovery months ago, but chose not to do so. However, KU states that if the Commission is inclined to permit additional discovery, the right should be afforded to all parties.

Based on the motion and being otherwise sufficiently advised, the Commission finds good cause to grant the motion. Since CTA Acoustics has been in operation now for less than 6 months, supplemental information regarding its operating characteristics and electrical requirements are certainly relevant. In addition, the Commission recognizes that its original procedural schedule did not provide the parties with an opportunity to conduct discovery on the rebuttal testimony and allowing such discovery to now be conducted may result in a more efficient evidentiary hearing.

Further, the Commission finds that a review of the record in this case reveals the filing of two letters from lenders to Kentucky electric cooperatives, one by Horace R. Harrod of CoBank on October 17, 2003, and the other by Rich Larochelle of the National Rural Utilities Cooperative Finance Corporation ("CFC") on November 13, 2003. Both letters assert that if the Commission modifies the certified territories to permit the entire Business Park to be permanently served by KU, the result will be increased financial risk for Cumberland Valley, as well as other electric cooperatives in Kentucky, due to the uncertainty created by the erosion of their certified territories. This

increased financial risk, they state, will result in higher financing costs, which will translate into higher rates for customers of Kentucky's electric cooperatives.

The Commission is quite surprised by the issue raised by these lenders. Although each lender has made numerous loans to Kentucky electric cooperatives in the past, neither has ever raised this issue before, even though over the years the Commission has entered numerous Orders approving voluntary and involuntary modifications of the certified territories of electric cooperatives. The Commission believes that these letters raise what could potentially be a significant issue which has not been addressed to date by any party. To provide the parties and the Commission an opportunity to examine this issue, it is essential that representatives of CoBank and CFC present themselves at the January 22, 2004 evidentiary hearing to explain in detail: (1) how each electric cooperative borrower's certified territory, change in certified territory, or lack of certified territory is evaluated to determine the borrower's financial risk; (2) how each borrower's financial risk is evaluated to determine the specific interest rate on a new loan; (3) any requirements for borrowers to report potential or actual changes in their respective certified territories; and (4) the amount by which interest rates charged to Kentucky electric cooperative borrowers have incrementally increased since 1985 as a result of the Kentucky Court of Appeals' decision in Owen County Rural Electric Cooperative Corp. v. Public Service Commission, Ky.App., 689 S.W.2d 599 (1985). The parties to this case should similarly have an opportunity to address this issue, and they may do so by either filing prepared supplemental testimony no later than January 16, 2004 or conducting cross-examination of the representatives of CoBank and CFC at the evidentiary hearing.

IT IS THEREFORE ORDERED that:

1. Cumberland Valley's motion to conduct additional discovery is granted, and any party may file additional data requests no later than January 9, 2004, with service of copies by hand delivery or facsimile, and all responses shall be filed and similarly served no later than January 16, 2004.

2. Any party may file, by January 16, 2004, prepared supplemental testimony addressing the issue raised in the letters from CoBank and CFC that modifying the certified territories to permit the entire Business Park to be served by KU will increase the financial risk and result in higher financing costs for Cumberland Valley and Kentucky's other electric cooperatives.

3. Representatives of CoBank and CFC shall appear at the January 22, 2004 evidentiary hearing to present testimony on the issue covered in their respective correspondence, as well as the issues discussed in the findings above, and to stand for cross-examination on all such issues.

4. Copies of this Order shall be served on CoBank and CFC.

Done at Frankfort, Kentucky, this 8th day of January, 2004.

By the Commission

ATTEST:


Executive Director

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