

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF JACKSON PURCHASE ENERGY )	
CORPORATION FOR ADJUSTMENT IN EXISTING )	CASE NO.
CABLE TELEVISION ATTACHMENT RATES )	2004-00319

O R D E R

On December 6, 2004, the Commission entered an Order finding that Ballard Rural Telephone Cooperative Corporation, Inc. ("Ballard Telephone") and Kentucky Cable Telecommunication Association ("KCTA") were likely to assist the Commission in rendering a decision in this proceeding and granting each of them full intervention. On December 10, 2004, Jackson Purchase Energy Corporation ("Jackson Purchase") moved the Commission to reconsider its decision.

Jackson Purchase asserts that it received notice that its application had been accepted for filing on November 22, 2004 and that it filed a response to KCTA's motion to intervene on December 1, 2004 and an objection to Ballard Telephone's motion to intervene on December 7, 2004. It states that the Commission's decision on intervention did not address its response or objection. It asserts that due process and basic fairness require that it be allowed an opportunity to respond to the motions and that the Commission consider such response in rendering its decision. We agree and grant rehearing to address Jackson Purchase's response and objection.

KCTA is a non-profit organization consisting of more than one hundred cable systems serving cable television customers throughout Kentucky. It moved the

Commission to intervene in this proceeding on behalf of three of its members, Comcast Cablevision of Paducah, Inc., Mediacom Communications Corporation and Charter Communications. It states that these members have attachments on Jackson Purchase's utility poles and will be directly affected by Jackson Purchase's petition. Jackson Purchase objects to KCTA's intervention. It states that in a previous case before this Commission, KCTA brought an action on behalf of these three members and then refused to provide requested information that was available to the members stating that the members were "not parties to the litigation and . . . beyond its scope." Jackson Purchase contends that KCTA cannot "fulfill the true function of a party if it is permitted to intervene and then serve as a shield for its three (3) constituent members. . . ." It argues that KCTA does not meet the regulatory requirements for intervention, but states that if the Commission grants the intervention, it should require KCTA's three constituent members to be parties for all purposes, including data requests.

On December 17, 2004, KCTA filed a response opposing Jackson Purchase's motion to reconsider. It asserts that Jackson Purchase's request to place conditions on KCTA's intervention contradicts the Commission's handling of KCTA's participation in pole attachment cases over the last 20 years. It asserts that if Jackson Purchase propounds data requests to KCTA and finds KCTA's responses inappropriate, it can move the Commission for resolution.

Ballard Telephone is a rural incumbent local exchange carrier that provides local exchange services to residents of its approved service territory. It asserts that "as a customer of Jackson Purchase receiving pole attachment services," it "will be detrimentally affected" if Jackson Purchase prevails in its request to increase pole

attachment rates. It states that because of its history of pole attachments with Jackson Purchase and its current complaint case before the Commission, it is likely to present issues and develop facts that will assist the Commission in rendering its decision.

Jackson Purchase objects to Ballard Telephone's request stating that Ballard Telephone has mischaracterized itself as a customer of Jackson Purchase. It states that Ballard Telephone does not receive service under Jackson Purchase's Cable Television Attachment Tariff ("CATV Tariff").

Jackson Purchase states that in 1954 it entered into a contract with Ballard Telephone which set forth the terms and rates under which each company would make their respective poles available to the other for attachments. Jackson Purchase states that Ballard Telephone has filed a complaint with the Commission concerning its pole attachment rates and asserts that if intervention is granted, Ballard Telephone will attempt to raise issues in the proceeding that are beyond the scope and that will unduly complicate the proceedings. It asserts that, as a result, the Commission should find that Ballard Telephone does not meet the regulatory requirements for intervention, that its interest is too remote and that its request to intervene should be denied.

807 KAR 5:001, Section 3(8), governs intervention in Commission proceedings and specifies that a person shall be granted full intervention in any proceeding in which he has a special interest if that interest is not otherwise adequately protected or that person is likely to present issues or develop facts that will assist the Commission in fully considering the matter.

Having considered the motions for intervention and Jackson Purchase's objections thereto, the Commission finds that KCTA and Ballard Telephone meet the

requirements of 807 KAR 5:001, Section 3(8), and that its decision of December 6, 2004 should be affirmed.

KCTA has, on numerous occasions, represented its members before this Commission in rate adjustment proceedings.<sup>1</sup> Based on this experience and KCTA's familiarity with the Commission's established methodology for calculating rates for CATV attachments, the Commission finds that KCTA is likely to present issues and/or develop facts that will assist the Commission in rendering its decision. The Commission further finds that Jackson Purchase's request that the Commission require KCTA's constituent members to be parties for all purposes should be denied. In the event KCTA refuses to respond to an information request from Jackson Purchase, Jackson Purchase may bring the matter before the Commission for resolution.

Like KCTA, Ballard Telephone is familiar with pole attachments and with the methodology established by the Commission to calculate rates for CATV attachments.<sup>2</sup> Based on this, the Commission finds that Ballard Telephone is also likely to present issues and develop facts that will assist the Commission. To address Jackson Purchase's concerns that Ballard Telephone will attempt to raise issues that are not before the Commission in this proceeding, the Commission finds that the parties should be on notice that this case is to determine the reasonableness of Jackson Purchase's proposed rate adjustment for its cable television attachments only.

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<sup>1</sup>See Case No. 2000-00359, Application of Cumberland Valley Electric Inc. to Adjust its Rates; Case No. 2000-00414, Application of Blue Grass Energy Cooperative Corporation to Adjust its CATV Attachment Rates and Other Miscellaneous Charges; Case No. 2000-00529, Application of Clark Energy Cooperative, Inc. for Authority to Increase CATV Attachment Rates.

<sup>2</sup>Ballard Telephone offers Television Cable Service Attachments pursuant to Section X of its Tariff.

IT IS THEREFORE ORDERED that Jackson Purchase's motion for rehearing is granted to the extent it is addressed herein and the Commission's decision of December 6, 2004 is affirmed.

Done at Frankfort, Kentucky, this 23<sup>rd</sup> day of December, 2004.

By the Commission

Commissioner W. Gregory Coker did not participate in the deliberations or decision concerning this case.

ATTEST:



Executive Director