

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

BALLARD RURAL TELEPHONE)	
COOPERATIVE CORPORATION, INC.)	
)	
COMPLAINANT)	
)	
v.)	CASE NO.
)	2004-00036
)	
JACKSON PURCHASE ENERGY CORPORATION)	
)	
DEFENDANT)	

O R D E R

The Commission previously approved Ballard Rural Telephone Cooperative Corporation, Inc.'s ("Ballard Telephone") motion for hearing, but stated that the hearing would be scheduled at a later date. Subsequent to that approval, the Commission granted Jackson Purchase Energy Corporation's ("Jackson Purchase") motion for a settlement conference. The settlement conference was conducted and was attended by both parties and Commission Staff. The parties were unable to reach a settlement. Thereafter, Jackson Purchase moved the Commission to expand the procedural schedule in this case and Jackson Energy Cooperative Corporation ("Jackson Energy") moved the Commission for full intervention. By this Order we are scheduling a hearing, denying Jackson Purchase's motion to expand the procedural schedule, and denying Jackson Energy's motion for intervention.

Jackson Energy states in support of its motion to intervene that, as a rural electric cooperative, it has numerous agreements similar to the agreement at issue

between Jackson Purchase and Ballard Telephone and that Ballard Telephone's complaint may have a direct and material effect upon the legal rights, duties, privileges, immunities, or other legal interests of Jackson Energy. It argues that if the Commission grants Ballard Telephone's motion on the basis of Section 2 of the Kentucky Constitution as requested, Jackson Energy will be bound by the ruling. Jackson Energy further states that it is likely to present issues or develop facts that will assist the Commission without unduly complicating or disrupting the proceeding.

After consideration of the motion and the supporting arguments, the Commission finds that, contrary to Jackson Energy's contentions, the decision in this case will not be binding on anyone other than Jackson Purchase and Ballard Telephone. The Commission previously ruled:

All joint users of pole attachments may continue to negotiate the rates and terms under which they will make poles available to others. In the event the parties cannot reach an agreement, the matter shall be submitted to the Commission for resolution.

(Ky. P.S.C Mar. 23, 2005).

In light of this previous ruling, the Commission finds that Jackson Energy has failed to provide sufficient information to show that it is likely to assist the Commission without unduly complicating the proceeding or that it has a special interest in the proceeding that is not otherwise represented. Therefore, we find that Jackson Energy's motion to intervene should be denied.

Jackson Purchase has moved to expand the procedural schedule to allow it the opportunity to retain an expert to testify as to the appropriate method for calculating the fees to be charged for Ballard Telephone's attachments to Jackson Purchase's utility

poles. It contends that a wide range of issues, beyond those that served as the basis of the complaint, developed at the settlement conference. Jackson Purchase further contends that these newly developed issues might have state-wide impact. It argues that expanding the procedural schedule is necessary to ensure that the parties are able to present all pertinent information and address all applicable issues in this matter.

Ballard Telephone filed a response to Jackson Purchase's motion stating that the issues presented in this case have been evident from the time of filing the complaint and that no new issues were developed at the settlement conference to warrant expanding the procedural schedule. It further states that the procedure established for this case has been concluded and that the Commission should deny Jackson Purchase's motion and set this matter for hearing.

The Commission, having reviewed Jackson Purchase's motion and Ballard Telephone's response thereto, finds that the issues presented in the complaint are the issues that will be resolved by the Commission and that no evidence of additional issues has been presented. The Commission further finds that the procedural schedule established for this proceeding provided the parties with ample opportunity to present all necessary testimony and information pertinent to the case. Therefore, we find that Jackson Purchase's motion to expand the procedural schedule should be denied and that the matter should be set for hearing.

IT IS THEREFORE ORDERED that:

1. Jackson Energy's motion to intervene is denied.
2. Jackson Purchase's motion to expand the procedural schedule is denied.

3. A hearing shall be held in this matter on March 15, 2006, at 9:00 a.m., Eastern Standard Time, in Hearing Room 1 of the Commission's offices at 211 Sower Boulevard, Frankfort, Kentucky for the purpose of cross-examination of the witnesses of Ballard Telephone and Jackson Purchase.

Done at Frankfort, Kentucky, this 8th day of February, 2006.

By the Commission

ATTEST:



Executive Director