

**CASE**

**NUMBER:**

99-451

INDEX FOR CASE: 1999-451  
KENTUCKY UTILITIES COMPANY  
Complaints - Service  
& TAYLOR COUNTY R.E.C.C. OF CAMPBELLSVILLE-TAYLOR COUNTY INDUSTRIAL FOUNDATI

IN THE MATTER OF CAMPBELLSVILLE-TAYLOR COUNTY INDUSTRIAL  
FOUNDATION, INC. VS. KENTUCKY UTILITIES COMPANY AND TAYLOR  
COUNTY RURAL ELECTRIC COOPERATIVE CORPORATION

SEQ NBR	ENTRY DATE	REMARKS
0001	11/03/1999	Application.
0002	11/10/1999	Acknowledgement letter.
M0001	11/19/1999	ROBERT SPRAGENS TAYLOR CO RECC-RESPONSE TO COMPLAINT
M0002	11/22/1999	ROBERT SPRAGENS TAYLOR CO RECC-LETTER STATING THAT RESPONSE FILED WAS INCORRECTED SHOULD BE
0003	11/24/1999	Order to Satisfy or Answer; answers from KU & Taylor County RECC due 12/7/99.
M0003	12/08/1999	ROBERT SPRAGENS TAYLOR CO RECC-NOTICE OF COMPLIANCE
M0004	12/08/1999	DOUGLAS BROOKS LG&E-ANSWER TO COMPLAINT
0004	12/29/1999	Order scheduling an IC on 1/11/2000 at 10:00 in CR 1.
0005	02/24/2000	IC memo sent to parties; comments, if any, due 3/3/2000.
M0005	02/29/2000	JOHN MILLER COMPLAINANT-MOTION TO WITHDRAW COMPLAINT & DISMISS PROCEEDING
M0006	03/09/2000	ROBERT SPRAGENS TAYLOR CO RECC-RESPONSE TO MOTION OF CAMPBELLSVILLE ,TAYLOR CO IND FOUNDATI
M0007	03/10/2000	DOUGLAS BROOKS KU-REQUEST FOR COMPLAINT TO WITHDREW
0006	03/29/2000	Final Order granting motion and terminating case without prejudice.



COMMONWEALTH OF KENTUCKY  
PUBLIC SERVICE COMMISSION  
211 SOWER BOULEVARD  
POST OFFICE BOX 615  
FRANKFORT, KY. 40602  
(502) 564-3940

CERTIFICATE OF SERVICE

RE: Case No. 1999-451  
KENTUCKY UTILITIES COMPANY

I, Stephanie Bell, Secretary of the Public Service Commission, hereby certify that the enclosed attested copy of the Commission's Order in the above case was served upon the following by U.S. Mail on March 29, 2000.

See attached parties of record.

*Stephanie J. Bell*  
Secretary of the Commission

SB/hv  
Enclosure

William D. Harris  
Taylor County Rural Electric  
Cooperative Corporation  
West Main Street  
P. O. Box 100  
Campbellsville , KY. 42719

Honorable John C. Miller  
Attorney for Campbellsville-Taylor  
County Industrial Foundation, Inc.  
Miller, Miller & Miller, PLC  
225 East First Street  
Campbellsville , KY. 42718

Honorable Robert Spragens  
Attorney for Taylor County RECC  
Spragens, Smith & Higdon, P.S.C.  
15 Court Square  
P.O. Box 681  
Lebanon, KY. 40033

Honorable Douglas M. Brooks  
Senior Counsel Specialist, Reg.  
Counsel for KU  
220 West Main Street  
P.O. Box 32010  
Louisville, KY. 40232

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

CAMPBELLSVILLE-TAYLOR COUNTY )  
INDUSTRIAL FOUNDATION, INC. )

COMPLAINANT )

v. )

KENTUCKY UTILITIES COMPANY AND )  
TAYLOR COUNTY RURAL ELECTRIC )  
COOPERATIVE CORPORATION )

DEFENDANTS )

CASE NO. 99-451

O R D E R

The Commission, having considered the Complainant's motion to withdraw its complaint and dismiss this proceeding, the responses of Defendants Kentucky Utilities Company and Taylor County Rural Electric Cooperative Corporation in support of the motion, and finding good cause, HEREBY ORDERS that the motion is granted and this case is terminated without prejudice.

Done at Frankfort, Kentucky, this 29th day of March, 2000.

By the Commission

ATTEST:

  
Executive Director



March 7, 2000

**LG&E Energy Corp.**  
220 West Main Street  
P.O. Box 32030  
Louisville, Kentucky 40232  
502-627-3450  
502-627-3367 FAX

**VIA OVERNIGHT DELIVERY**

Mr. Martin J. Huelsmann  
Executive Director  
Public Service Commission of Kentucky  
211 Sower Boulevard  
P. O. Box 615  
Frankfort, Kentucky 40602

RECEIVED  
MAR 10 2000  
PUBLIC SERVICE  
COMMISSION

RE: Campbellsville-Taylor County Industrial Foundation, Inc. v. Kentucky Utilities Company and Taylor County RECC; Case No. 99-451

Dear Mr. Huelsmann:

On March 6, 2000 Kentucky Utilities Company (KU) received from counsel for Campbellsville-Taylor County Industrial Foundation, Inc. (Foundation), the Complainant in the above-referenced proceeding, a copy of its Motion to Withdraw Complaint and Dismiss Proceeding. That pleading describes KU's desire not to participate in any proposed settlement of this case. KU does not want to participate in any settlement that relinquishes its rights pursuant to KRS 278.018. KU further notes that it has not entered into any agreement with Taylor County RECC regarding the allocation of future customers who locate in the Foundation's industrial park in Campbellsville, Kentucky. It has accordingly reserved its right to serve any new customer that it is entitled to serve under current law and Commission precedent that may locate in adjacent territories.

KU supports the Foundation's request that it be allowed to withdraw its Complaint and thereby dismiss this proceeding.

Please contact the undersigned if you have any questions regarding this letter.

Sincerely yours,

Douglas M. Brooks  
Counsel for Kentucky Utilities Company  
Senior Counsel Specialist, Regulatory  
(502) 627-2557

cc: Counsel of Record, Case No. 99-451  
Richard Raff, Esq. (by overnight delivery)

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE COMMONWEALTH OF KENTUCKY

RECEIVED

MAR 9 2000

PUBLIC SERVICE  
COMMISSION

CAMPBELLSVILLE-TAYLOR COUNTY  
INDUSTRIAL FOUNDATION, INC.

COMPLAINANT

vs.

KENTUCKY UTILITIES COMPANY AND  
TAYLOR COUNTY RURAL ELECTRIC  
COOPERATIVE CORPORATION

DEFENDANTS

CASE NO. 99-451

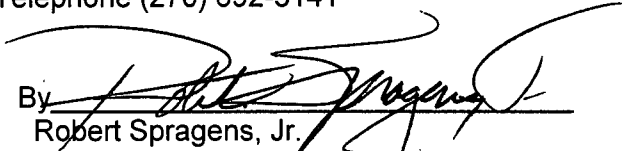
RESPONSE OF TAYLOR COUNTY RURAL ELECTRIC  
COOPERATIVE CORPORATION

\*\*\*\*\*

Defendant, Taylor County Rural Electric Cooperative Corporation, by counsel, by way of Response to the Motion of Campbellsville-Taylor County Industrial Foundation, Inc. to withdraw its Complaint and to dismiss this proceeding, concurs in that Motion, and agrees that this Defendant and the Complainant have resolved to the satisfaction of each the Foundation's basic Complaint, that being the prospective uncertainty of marketing tracts within its industrial park which overlap the existing territorial boundary.

ACCORDINGLY, Taylor County RECC respectfully suggests that the Motion of the Complainant be granted.

SPRAGENS, SMITH & HIGDON, P.S.C.  
Attorneys at Law  
15 Court Square - P. O. Box 681  
Lebanon, Kentucky 40033  
Telephone (270) 692-3141

By   
Robert Spragens, Jr.  
Counsel for Taylor County  
Rural Electric Cooperative  
Corporation

I hereby certify that a true copy of  
the foregoing Response was mailed this  
7<sup>th</sup> day of March, 2000, to:

Hon. John C. Miller  
Miller, Miller & Miller, PLC  
225 East First Street  
Campbellsville, Kentucky 42718  
**Attorney for Campbellsville-Taylor County  
Industrial Foundation, Inc.**

Hon. Douglas M. Brooks  
Louisville Gas & Electric Corporation  
220 West Main Street  
P.O. Box 32010  
Louisville, Kentucky 40202  
**Attorney for Kentucky Utilities Company**

---

Ms. Stephanie Bell  
Secretary Of The Commission  
Public Service Commission  
211 Sower Boulevard  
P.O. Box 615  
Frankfort, Kentucky 40602



**MILLER, MILLER & MILLER, PLC**  
ATTORNEYS AT LAW

225 E. FIRST STREET  
CAMPBELLSVILLE, KENTUCKY 42718  
TELEPHONE (270) 465-6111  
FAX (270) 465-6100

RECEIVED  
FEB 29 2000  
PUBLIC SERVICE  
COMMISSION

JOHN C. MILLER, PSC  
john@millerplc.com

SHELLY S. MILLER, PSC  
shelly@millerplc.com

JAMES C. MILLER, PSC  
james@millerplc.com

February 28, 2000

Public Service Commission  
Attn: Division of Filings  
730 Schenkel Lane  
P.O. Box 615  
Frankfort, KY 40602

Re: Campbellsville-Taylor County Industrial Foundation, Inc. v. Kentucky  
Utilities Company and Taylor County Rural Electric Cooperative  
Corporation, Before the Public Service Commission, Case No. 99-451

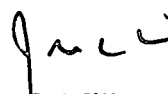
Dear Sir or Madam:

Please find enclosed a Complainant's Motion to Withdraw Complaint and Dismiss Proceeding in the above referenced matter. Please file the original Motion and ten (10) copies and return a filed stamped copy to me in the enclosed self-addressed stamped envelope.

Thank you for your cooperation in this matter. Please contact me with any questions.

Very truly yours,

MILLER, MILLER & MILLER, PLC

  
John C. Miller

JCM/smv  
Enclosures

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

FEB 29 2000

PUBLIC SERVICE  
COMMISSION

CAMPBELLSVILLE-TAYLOR COUNTY )  
INDUSTRIAL FOUNDATION, INC. )  
 )  
COMPLAINANT )  
 )  
vs. )  
 )  
KENTUCKY UTILITIES COMPANY AND )  
TAYLOR COUNTY RURAL ELECTRIC )  
COOPERATIVE CORPORATION )  
 )  
DEFENDANTS )

CASE NO. 99-451

**COMPLAINANT'S MOTION TO WITHDRAW COMPLAINT  
AND DISMISS PROCEEDING**

Complainant, Campbellsville-Taylor County Industrial Foundation, Inc., by counsel, hereby moves the Commission for permission to withdraw the Complaint made herein, thereby dismissing the instant proceeding.

As grounds for and in support of the foregoing Motion, the undersigned counsel advises the Commission that the Complainant and counsel for Taylor County Rural Electric Cooperative Corporation have reached an understanding by means of which they have resolved, in advance of the location within Complainant's Industrial Park of particular tenants, the methodology by which they will deal with lappages, that is, those circumstances in which any property sold or leased to a qualifying entity is configured in such a way that the property lies partly within the certified territories of each of the Defendants named herein. Complainant is satisfied with that resolution, and thus no

longer deems it advisable to seek, as a part of this proceeding, any result which would otherwise prohibit either Defendant from serving properties or tracts lying within their respective certified territories.

Complainant is advised by counsel for Kentucky Utilities Company that KU prefers not to participate in any agreed disposition of this proceeding. That being the case, it is the understanding of Complainant that the Commission need not, and will not, undertake to approve a settlement reached as among less than all of the parties to this proceeding, and Complainant thus does not set forth herein the nature of the accommodation and accord reached as between Plaintiff and Taylor County RECC.

Respectfully Submitted,

MILLER, MILLER & MILLER  
225 East First Street  
Campbellsville, Kentucky 42718


By: John C. Miller  
Hon. John C. Miller  
**Attorney for Complainant**

CERTIFICATE OF SERVICE

I hereby certify that a true copy  
of the foregoing was mailed this  
25 day of February, 2000, to:

Hon. Douglas M. Brooks  
Louisville Gas & Electric Corporation  
220 West Main Street  
P.O. Box 32010  
Louisville, Kentucky 40232  
**Attorney for Kentucky Utilities Corporation**

Hon. Robert Spragens, Jr.  
Spragens, Smith & Higdon  
Attorneys at Law  
15 Court Square - P.O. Box 681  
Lebanon, Kentucky 40033  
**Attorney for Taylor County RECC**

  
\_\_\_\_\_  
JOHN C. MILLER



**Paul E. Patton, Governor**  
**Ronald B. McCloud, Secretary**  
**Public Protection and**  
**Regulation Cabinet**  
  
**Martin J. Huelsmann**  
**Executive Director**  
**Public Service Commission**

COMMONWEALTH OF KENTUCKY  
**PUBLIC SERVICE COMMISSION**  
211 SOWER BOULEVARD  
POST OFFICE BOX 615  
FRANKFORT, KENTUCKY 40602-0615  
[www.psc.state.ky.us](http://www.psc.state.ky.us)  
(502) 564-3940

**B. J. Helton**  
**Chairman**  
  
**Edward J. Holmes**  
**Vice Chairman**  
  
**Gary W. Gillis**  
**Commissioner**

February 24, 2000

Mr. William D. Harris  
Taylor County Rural Electric Cooperative  
Post Office Box 100  
Campbellsville, KY 42719

Mr. John C. Miller  
Miller, Miller & Miller  
225 East First Street  
Campbellsville, KY 42718

Mr. Robert Spragens  
Spragens, Smith & Higdon  
Post Office Box 681  
Lebanon, KY 40033

Mr. Douglas M. Brooks  
Counsel for Kentucky Utilities  
Post Office Box 32010  
Louisville, KY 40232

Re: Campbellsville-Taylor County Industrial Foundation, Inc.  
Case No. 99-451

Gentlemen:

Attached is a copy of the memorandum which is being filed in the record of the above referenced case. If you have any comments you would like to make regarding the contents of the informal conference memorandum, please do so within five days of receipt of this letter. Should you have any questions regarding same, please contact Richard Raff at 502/564-3940, Extension 260.

Sincerely,

A handwritten signature in cursive script, appearing to read "Martin J. Huelsmann".

Martin J. Huelsmann  
Executive Director

Attachment



**INTRA-AGENCY MEMORANDUM**  
**KENTUCKY PUBLIC SERVICE COMMISSION**

**FILED**  
FEB 24 2000  
PUBLIC SERVICE  
COMMISSION

**TO:** Main Case File: 99-451

**FROM:** Richard G. Raff, Staff Attorney *RGR*

**DATE:** February 24, 2000

**RE:** Campbellsville-Taylor County Industrial Foundation  
vs. KU and Taylor County RECC

Pursuant to the Commission's December 29, 1999 Order, an informal conference was held at the Commission's offices on January 11, 2000. A list of the attendees is attached hereto.

The purpose of the conference was to provide an opportunity to discuss the facts and legal theories upon which the complainant seeks to modify the electric territorial boundary for certain property located within the Campbellsville Industrial Park. Kentucky Utilities and Taylor County RECC also discussed the facts and theories supporting their respective responses to the complaint.

The parties agreed that there was no real dispute as to the facts in this case, and that a stipulation of facts with an agreed-upon map of the Industrial Park would be filed with the Commission by February 28, 2000. The parties further agreed that, once the facts were stipulated to, there were two legal issues for the Commission to adjudicate:

1. Does the Industrial Park constitute a new electric-consuming facility under KRS 278.018(1), such that the Commission should apply the criteria set forth in KRS 278.017(3) to resolve this dispute?

2. Does KU have a preexisting, superior right arising under KRS 278.018(4) to serve all the property within the Industrial Park?

The parties further agreed that no hearing would be needed for the Commission to determine the aforementioned legal issues and that the following briefing schedule would be adopted:

April 14, 2000  
May 15, 2000  
May 31, 2000

Filing date for briefs in support of boundary change.  
Filing date for response briefs in opposition.  
Filing date for reply briefs.

Attachment  
cc: Parties of Record

1/11/00

Camphelville-Taylor County Industrial Foundation Case No. 99-451

<u>NAME</u>	<u>REPRESENTING</u>
Richard Ruff	POC-legal
BILL CHANDLER	Crilla-Taylor County SWO FWS
John C. Miller	Crilla-Taylor County Ind Bus
ROBERT HEWETT	K.V. CO.
RON WILLHITE	K.V. Co.
MARTY J. REINERT	K.H. CO.
Douglas Brooks	KM-G
TO Castner	KU
MARVIN GOFF	PSC STAFF
LARRY J. BOWLING	K.V. Co.
ROBT. SPRAGENS, JR.	TAYLOR Co. PECC Atty.
Doug L. Myers	Taylor Co. RECC
Elio Russell	PSC.



COMMONWEALTH OF KENTUCKY  
**PUBLIC SERVICE COMMISSION**

730 SCHENKEL LANE  
POST OFFICE BOX 615  
FRANKFORT, KY. 40602  
(502) 564-3940

December 29, 1999

To: All parties of record

RE: Case No. 1999-451

We enclose one attested copy of the Commission's Order in  
the above case.

Sincerely,

A handwritten signature in cursive script that reads "Stephanie Bell".

Stephanie Bell  
Secretary of the Commission

SB/hv  
Enclosure



William D. Harris  
Taylor County Rural Electric  
Cooperative Corporation  
West Main Street  
P. O. Box 100  
Campbellsville , KY 42719

Honorable John C. Miller  
Attorney for Campbellsville-Taylor  
County Industrial Foundation, Inc.  
Miller, Miller & Miller, PLC  
225 East First Street  
Campbellsville , KY 42718

Honorable Robert Spragens  
Attorney for Taylor County RECC  
Spragens, Smith & Higdon, P.S.C.  
15 Court Square  
P.O. Box 681  
Lebanon, KY 40033

Honorable Douglas M. Brooks  
Senior Counsel Specialist, Reg.  
Counsel for KU  
220 West Main Street  
P.O. Box 32010  
Louisville, KY 40232

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

CAMPBELLSVILLE-TAYLOR COUNTY )  
INDUSTRIAL FOUNDATION, INC. )

COMPLAINANT )

vs. )

CASE NO. 99-451 )

KENTUCKY UTILITIES COMPANY )  
AND )  
TAYLOR COUNTY RURAL ELECTRIC )  
COOPERATIVE CORPORATION )

DEFENDANTS )

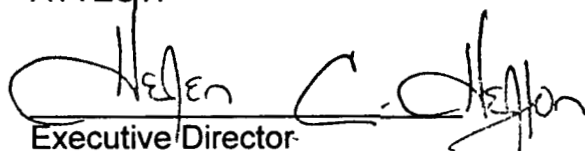
O R D E R

The Commission, on its own motion, HEREBY ORDERS that an informal conference shall be held on January 11, 2000, at 10:00 a.m., Eastern Standard Time, in Conference Room 1 of the Commission's offices at 730 Schenkel Lane, Frankfort, Kentucky, for the purpose of discussing the facts and legal theories upon which the Complainant seeks to modify the electric territorial boundary. Each party shall appear at the conference and bring copies of any maps which support its respective position in this case.

Done at Frankfort, Kentucky, this 29th day of December, 1999.

By the Commission

ATTEST:

  
Executive Director

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED  
DEC 08 1999  
PUBLIC SERVICE  
COMMISSION

CAMPBELLSVILLE-TAYLOR COUNTY )  
INDUSTRIAL FOUNDATION, INC. )  
 )  
COMPLAINANT )  
 )  
vs. )  
 )  
KENTUCKY UTILITIES COMPANY AND )  
TAYLOR COUNTY RURAL ELECTRIC )  
COOPERATIVE CORPORATION )  
 )  
DEFENDANTS )

CASE NO. 99-451

NOTICE OF COMPLIANCE

Defendant, Taylor County Rural Electric Cooperative Corporation, by counsel, hereby gives notice that, on November 18, 1999, it served and forwarded for filing herein a written Response to the Complaint of Campbellsville-Taylor County Industrial Foundation, Inc., and that it relies upon that Response by way of compliance with the Commission's Order entered herein on November 24, 1999.

SPRAGENS, SMITH & HIGDON, P.S.C.  
Attorneys at Law  
15 Court Square - P. O. Box 681  
Lebanon, Kentucky 40033  
Telephone (502) 692-3141

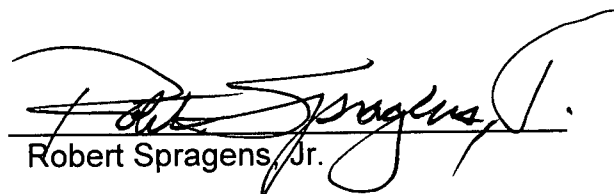
By   
Robert Spragens, Jr.  
Counsel for Taylor County  
Rural Electric Cooperative  
Corporation

I hereby certify that a true copy of  
the foregoing was mailed this  
2<sup>nd</sup> day of December, 1999, to:

Hon. John C. Miller  
Miller, Miller & Miller, PLC  
225 East First Street  
Campbellsville, Kentucky 42718  
**Attorneys for Complainant**

Hon. John R. McCall  
**General Counsel**  
**Kentucky Utilities Company**  
220 West Main Street  
Louisville, Kentucky 40202

Ms. Stephanie Bell  
**Secretary of the Commission**  
Public Service Commission  
P.O. Box 615  
Frankfort, Kentucky 40602

  
Robert Spragens, Jr.



**Law Department**

**Louisville Gas and Electric Company**  
220 West Main Street  
P.O. Box 32010  
Louisville, Kentucky 40232  
502-627-3460  
502-627-3367 FAX

December 7, 1999

Via Courier Service

Ms. Helen Helton  
Executive Director  
Kentucky Public Service Commission  
730 Schenkel Lane  
P.O. Box 615  
Frankfort, KY 40602

RECEIVED  
DEC 08 1999  
PUBLIC SERVICE  
COMMISSION

**Re: Campbellsville-Taylor County Industrial Foundation vs. Kentucky Utilities Company and Taylor County RECC, Case No. 99-451**

Dear Ms. Helton:

You will find enclosed for filing in the above-referenced case an original and ten (10) copies of Kentucky Utility Company's Answer. Copies have been served on the parties of record.

Please add the undersigned as counsel of record for Kentucky Utilities to the official service list in this case, and remove John R. McCall from the same. ✓

Thank you for your courtesies in this matter. Please contact the undersigned if you have any questions.

Sincerely yours,

Douglas M. Brooks  
Senior Counsel Specialist, Regulatory  
(502) 627-2557

Enclosures

cc : Counsel of Record

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED  
DEC 08 1999  
PUBLIC SERVICE  
COMMISSION

In the Matter of:

CAMPBELLSVILLE-TAYLOR COUNTY )  
INDUSTRIAL FOUNDATION, INC. )

COMPLAINANT )

vs. )

CASE NO. 99-451

KENTUCKY UTILITIES COMPANY )

and )

TAYLOR COUNTY RURAL ELECTRIC )  
COOPERATIVE CORPORATION )

DEFENDANTS )

**ANSWER OF KENTUCKY UTILITIES COMPANY**

Kentucky Utilities Company ("KU"), Defendant herein, in compliance with the Commission's Order in this proceeding dated November 24, 1999, hereby provides its Answer to the Complaint filed in this proceeding.

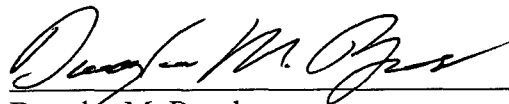
1. KU admits the allegations contained in paragraphs numbered 1 through 4 inclusive, and paragraph numbered 6 of the Complaint.
2. KU admits that the Complainant is the owner of the real property in question, but is without information sufficient to form a belief as to the truth of the remaining allegations contained in the paragraph numbered 5 of the Complaint.
3. KU states that the statements contained in paragraph numbered 7 of the Complaint do not require an answer.
4. For further answer, KU states that Campbellsville-Taylor County Industrial Foundation, Inc., the Complainant herein, has requested through its Complaint that the

Commission determine which electric utility should supply electric service to the approximately 140 acre tract of land in Taylor County that is being developed by the Complainant into an industrial park. This request is reasonable and necessary so that the supplier of electricity can be known with certainty and the risk of disputes regarding the supplier can be minimized. Without a resolution, prospective businesses may locate elsewhere as the presence of such disputes would delay construction of facilities and operations of the businesses.

5. For further answer, KU states that the entire industrial site being developed by the Complainant is located in the adjacent certified territories of the Defendants. KU stands willing, able and ready to provide service to the entire site if so ordered by the Commission. KU presently provides electric service to a building located on that portion of the site that lies within KU's certificated territory.

WHEREFORE, KU respectfully requests that the Commission issue an order establishing a procedural schedule, including an informal conference, a hearing, and the opportunity to request information, and upon the conclusion of the hearing, grant the relief sought by the Complaint, and afford Kentucky Utilities all further relief to which it may be entitled.

Respectfully submitted,



Douglas M. Brooks  
Senior Counsel Specialist, Regulatory  
LG&E Energy Corp.  
220 W. Main St.  
P. O. Box 32010  
Louisville, KY 40232  
(502) 627-2557  
**Counsel for Defendant,  
Kentucky Utilities Company**

CERTIFICATE OF SERVICE

The undersigned certifies that a copy hereof was mailed on the 6th day of December, 1999 to:

William D. Harris  
Taylor County Rural Electric Cooperative Corporation  
West Main Street  
P. O. Box 100  
Campbellsville , KY. 42719

Honorable John C. Miller  
Attorney for Campbellsville-Taylor County Industrial Foundation, Inc.  
Miller, Miller & Miller, PLC  
225 East First Street  
Campbellsville , KY. 42718

Honorable Robert Spragens  
Attorney for Taylor County RECC  
Spragens, Smith & Higdon, P.S.C.  
15 Court Square - Box 681  
Lebanon, KY. 40033



---

Douglas M. Brooks





COMMONWEALTH OF KENTUCKY  
**PUBLIC SERVICE COMMISSION**  
730 SCHENKEL LANE  
POST OFFICE BOX 615  
FRANKFORT, KY. 40602  
(502) 564-3940

November 24, 1999

To: All parties of record

RE: Case No. 1999-451

We enclose one attested copy of the Commission's Order in  
the above case.

Sincerely,

*Stephanie D. Bell*  
Stephanie Bell  
Secretary of the Commission

SB/hv  
Enclosure

John R. McCall  
Kentucky Utilities Company  
220 West Main Street  
Louisville, KY 40202

William D. Harris  
Taylor County Rural Electric  
Cooperative Corporation  
West Main Street  
P. O. Box 100  
Campbellsville , KY 42719

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Attorney for Campbellsville-Taylor  
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225 East First Street  
Campbellsville , KY 42718

Honorable Robert Spragens  
Attorney for Taylor County RECC  
Spragens, Smith & Higdon, P.S.C.  
15 Court Square - Box 681  
Lebanon, KY 40033

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

CAMPBELLSVILLE-TAYLOR COUNTY	)	
INDUSTRIAL FOUNDATION, INC.	)	
	)	
COMPLAINANT	)	
	)	
v.	)	CASE NO. 99-451
	)	
KENTUCKY UTILITIES COMPANY	)	
	)	
and	)	
	)	
TAYLOR COUNTY RURAL	)	
ELECTRIC COOPERATIVE CORPORATION	)	
	)	
DEFENDANTS	)	

ORDER TO SATISFY OR ANSWER

Kentucky Utilities Company ("KU") and Taylor County Rural Electric Cooperative Corporation ("Taylor County") are hereby notified that they have been named as defendants in a formal complaint filed on November 3, 1999, a copy of which is attached hereto.

Pursuant to 807 KAR 5:001, Section 12, KU and Taylor County are HEREBY ORDERED to satisfy the matters complained of or file a written answer to the complaint within 10 days from the date of service of this Order.

Should documents of any kind be filed with the Commission in the course of this proceeding, the documents shall also be served on all parties of record.

Done at Frankfort, Kentucky, this 24th day of November, 1999.

By the Commission

ATTEST:

  
Executive Director

COPY

BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

NOV - 3 1999

PUBLIC SERVICE COMMISSION

CAMPBELLSVILLE-TAYLOR COUNTY )  
INDUSTRIAL FOUNDATION, INC. )

COMPLAINANT )

vs. )

No. 99-451

KENTUCKY UTILITIES COMPANY )  
Serve: John R. McCall )  
220 West Main Street )  
Louisville, KY 40202 )

AND )

TAYLOR COUNTY RURAL ELECTRIC )  
COOPERATIVE CORPORATION )  
Serve: William D. Harris )  
West Main Street )  
P.O. Box 100 )  
Campbellsville, KY 42719 )

DEFENDANTS )

COMPLAINT

\* \* \* \* \*

The Complainant, Campbellsville-Taylor County Industrial Foundation, Inc., by counsel, requests that the Public Service Commission review and allocate territories and consumers pursuant to KRS 278.018 by revising the common certified territorial boundary between the Defendants, Kentucky Utilities Corporation and Taylor County Rural Electric

Cooperative Corporation. In support of this Complaint, Complainant states as follows:

1. The Complainant is the Campbellsville-Taylor County Industrial Foundation, Inc. ("Industrial Foundation"), a Kentucky corporation, with a mailing address of P.O. Box 161, Campbellsville, Kentucky 42719-0161.

2. The Defendant, Kentucky Utilities Company ("KU"), has its principal office located at One Quality Street, Lexington, Kentucky 40507.

3. The Defendant, Taylor County Rural Electric Cooperative Corporation ("Taylor County RECC"), has a mailing address of West Main Street, P.O. Box 100, Campbellsville, Kentucky 42718.

4. Both Defendants are engaged in the business of transmission or distribution of electricity to or for the public, for compensation, to provide light, heat, power or other purposes in Taylor County, Kentucky.

5. The Industrial Foundation owns certain real property in Taylor County, Kentucky consisting of approximately 140 acres bounded by Kentucky Highway 68 and Kentucky Highway 70. Said property being the same property conveyed by deed to Campbellsville-Taylor County Industrial Foundation, Inc. by Wood T. Coppock and his wife, Gladys Coppock, which deed is dated the 24th day of December, 1962, recorded in Deed Book 86, page 136, records of the Taylor County Clerk's office, Kentucky, and also being a portion of the same property conveyed by deed to Campbellsville-Taylor County Industrial Foundation, Inc. by Woodrow Grimes which deed is dated the 31st day of December, 1986, recorded in Deed Book 159, page 634, records of the Taylor County Clerk's office, Kentucky.

6. This property is within the certified territorial service area of the Defendants. A copy of the property evidencing the existing service areas of both Defendants is attached hereto and marked for purpose of identification as Exhibit A.

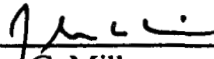
7. Pursuant to KRS 278.018, and in accordance with the provision stated in 278.017(3) in order to avoid waste of material, natural resources, and duplication of facilities, as well as to provide dependable and high quality retail service at a reasonable cost, the Complainant seeks modification of the existing certified territorial boundaries between the Defendants servicing the Industrial Foundation property.

8. The Complainant requests that Kentucky Utilities Company be permitted to service the entire area depicted on the plat identified as Exhibit A.

WHEREFORE, the Complainant respectfully requests that the Public Service Commission of the Commonwealth of Kentucky review the property in question and find that the proposed territorial service boundary changes will promote the purposes of KRS 278.018 and will provide adequate and reasonable service to all areas and consumers affected thereby.

Dated this 1 day of November, 1999.

Respectfully Submitted,

  
\_\_\_\_\_  
John C. Miller  
Miller, Miller & Miller, PLC  
225 E. First Street  
Campbellsville, Kentucky 42718  
(502) 465-6111

ATTORNEYS FOR COMPLAINANT





SPRAGENS, SMITH & HIGDON, P.S.C.

ATTORNEYS AT LAW

15 COURT SQUARE - BOX 681

LEBANON, KENTUCKY 40033

TELEPHONE: (502) 692-3141

FACSIMILE: (502) 692-6693

ELECTRONIC MAIL: ssh@kih.net

ROBERT SPRAGENS, JR.\*  
JOHN S. SMITH  
FREDERICK A. HIGDON  
\*ALSO ADMITTED IN GEORGIA

OF COUNSEL:  
ROBERT M. SPRAGENS

November 19, 1999

RECEIVED  
NOV 22 1999  
PUBLIC SERVICE  
COMMISSION

Hon. John C. Miller  
Miller, Miller & Miller, PLC  
225 East First Street  
Campbellsville, Kentucky 42718

Hon. John R. McCall, General Counsel  
Kentucky Utilities Company  
220 West Main Street  
Louisville, Kentucky 40202

Dear Counsel:

Re: PSC Case No. 99-451;  
Campbellsville-Taylor County  
Industrial Foundation, Inc.  
vs. Taylor County RECC, et al.

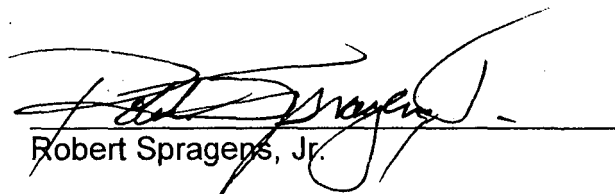
My manager at Taylor County RECC, Barry Myers, called this morning to tell me that, in reviewing my Response in this PSC proceeding, he had discovered what he believed to be a clerical misprision therein.

On page two of the Response, and in discussing the *Owen County case*, I spoke, near the bottom of that page, of the territorial line separating "...the territory of Kentucky Utilities...". Quite obviously, that reference should be to ULHP, as K.U. had nothing to do with that case.

I thus call your attention to something which you have probably already noted, and remain,

Very truly yours,

SPRAGENS, SMITH & HIGDON, P.S.C.

  
Robert Spragens, Jr.

RS, JR:js

✓ cc: Ms. Stephanie Bell  
Secretary of the Public Service Commission

SPRAGENS, SMITH & HIGDON, P.S.C.

ATTORNEYS AT LAW  
15 COURT SQUARE - BOX 681  
LEBANON, KENTUCKY 40033  
TELEPHONE: (502) 692-3141  
FACSIMILE: (502) 692-6693  
ELECTRONIC MAIL: ssh@kih.net

ROBERT SPRAGENS, JR.\*  
JOHN S. SMITH  
FREDERICK A. HIGDON  
\*ALSO ADMITTED IN GEORGIA

OF COUNSEL:  
ROBERT M. SPRAGENS

November 18, 1999

Commonwealth of Kentucky  
Public Service Commission  
730 Schenkel Lane  
P.O. Box 615  
Frankfort, Kentucky 40602  
Attention: Stephanie Bell, Secretary of the Commission

Dear Ms. Bell:

Re: Case No. 99-451;  
Taylor County Rural Electric  
Cooperative Corporation

Enclosed herewith please find ten (10) copies (actually one original with a non-reproducible exhibit, and nine copies with a reduction copy of that exhibit) of Taylor County's response to what is delineated herein as the "Complaint" of Campbellsville-Taylor County Industrial Foundation, Inc.

With kind regards I remain,

Very truly yours,

SPRAGENS, SMITH & HIGDON, P.S.C.

  
Robert Spragens, Jr.

RS, JR:jm  
Enclosures

RECEIVED  
NOV 19 1999  
PUBLIC SERVICE  
COMMISSION

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE COMMONWEALTH OF KENTUCKY

RECEIVED  
NOV 19 1999  
PUBLIC SERVICE  
COMMISSION

CAMPBELLSVILLE-TAYLOR COUNTY )  
INDUSTRIAL FOUNDATION, INC. )

COMPLAINANT )

vs. )

CASE NO. 99-451

KENTUCKY UTILITIES COMPANY AND )  
TAYLOR COUNTY RURAL ELECTRIC )  
COOPERATIVE CORPORATION )

DEFENDANTS )

RESPONSE OF TAYLOR COUNTY RURAL ELECTRIC  
COOPERATIVE CORPORATION

\*\* \*\* \*\* \*\* \*\*

Defendant, Taylor County Rural Electric Cooperative Corporation, by counsel, offers the Commission this Response to the Complaint made herein upon behalf of Campbellsville-Taylor County Industrial Foundation, Inc.:

1. The Complainant, Campbellsville-Taylor County Industrial Foundation, Inc., has filed herein a document which is captioned as a "Complaint", and which appears to follow the form set forth in 807 KAR 5:001, section 15, (1). That document is thus presumptively intended to be a Formal Complaint filed pursuant to section 12 of the referenced administrative regulation. However, it is apparent that this "Complaint" neither alleges nor claims any "violation"; and that Complaint sets forth no "prima facie case" consistent with 807 KAR 5:001, section 12, (4)(a), which circumstance would require that the Complaint proceed no further.

2. It is more likely that the Complainant intended its filing to be in the form of an application permitted under 807 KAR 5:001, section 8, whereby Campbellsville-Taylor

County Industrial Foundation, Inc., apparently acting independent of the Co-Defendant, Kentucky Utilities Company, might seek relocation of an established and certified boundary line depicting the respective service territories of these Defendants. Assuming that to be the case, Complainant perhaps envisions that its application, including the relief sought therein, falls within the purview of *Owen County Rural Electric Cooperative Corporation vs. Public Service Commission of Kentucky*, Ky.App., 689 S.W.2d 599 (1985). However, reliance upon that authority, if any, would be misplaced. *Owen County* determined that, for purposes of KRS 278.018(1), the term "electric-consuming facility" is sufficiently broad in scope to include an entire industrial park, rather than the specific business units which may be situated therein. In *Owen County*, the Court of Appeals dealt with a 77-acre tract which had been purchased and developed as an industrial park subsequent to the adoption in 1972 of Kentucky's Territorial Law (KRS 278.016 et seq.). That 77-acre tract was a part of an 87-acre tract which had, at the time of the enactment of territorial legislation and thereafter, been operated as a family farm; and that farm tract had, upon the establishment of territorial boundaries, been placed within the certified territory of Owen County RECC. When part of the farm property was sold and converted to an industrial park, that facility itself became a "new electric-consuming facility" which straddled the boundary line dividing the territory of Kentucky Utilities from the territory of Owen County RECC. That circumstance then required this Commission's determination, consistent with the last sentence of KRS 278.018(1), as to whether one or both retail suppliers should serve the industrial park. The problem with applying the *Owen County* logic to Campbellsville-Taylor County Industrial Foundation's claim is that, from numerical paragraph 5 of the Complaint, we can discern that some portion of what the

Complainant would now describe as its industrial park was acquired by Campbellsville-Taylor County Industrial Foundation for its purposes in 1962, ten years prior to the establishment of certified territories. Thus, the park can hardly be characterized as a "new electric-consuming facility" and there is thus no justiciable controversy presented. If the broader definition of "electric-consuming facility" approved in *Owen County* permits reference to the undeveloped park, then the facility does not become "new" with the addition of actual industrial tenants.

3. This Defendant would further point out that, in the *Owen County* case, it was apparent that Union Light, Heat, & Power Company had in place, at the time of the application of the Campbell County Fiscal Court, existing three-phase service immediately adjacent to the western boundary of the park. On the other hand, Owen County RECC's nearest three-phase service (the sort of service naturally required in an industrial park), was located some 2 ¼ miles south of the park. The Commission then decided that, in order to eliminate the need for Owen RECC's construction in the area of what would amount to duplicative service facilities, the entire industrial park should be served by Union Light, Heat, & Power. It was that determination of this Commission that was ultimately affirmed upon appeal. The Complaint does not allege the nature of this system which KU has in place at and near the subject industrial park. There is, to the Defendant's knowledge, one spec building located within the industrial park, and within KU's certified territory, and we will thus assume that KU has in place adequate facilities to serve its territory within the park. On the other hand, and in direct contrast to the factual circumstance in *Owen County*, the Complaint does not, and cannot, allege that Taylor County RECC does not already have in place perfectly adequate systems and facilities from which to serve its portion of the industrial park. The

Complaint has attached thereto, as "Exhibit A", a reduction copy of a plat which depicts the industrial park, and the location therein of the territorial boundary line. This Defendant thus attaches to this Answer that same plat of the Campbellsville-Taylor County Industrial Foundation property, except that there is superimposed thereupon the present location of Taylor County's existing facilities. In order to depict with more exactitude the location in the area of the Taylor County system, Taylor County has utilized an actual scale copy of the plat from which Complainant's "Exhibit A" derives, and Taylor County's service lines and poles are depicted thereupon as indicated in the legend. That full-scale plat, (only one of which is readily available to Taylor County), will be referred to as "Exhibit B", and is attached to the original copy of this Answer which is filed with the Commission, and reduced copies thereof are appended to the remaining copies of this filing, as well as the copies thereof served upon other parties to this proceeding.

4. The Commission will thus be able to determine, from reference to "Exhibit B", that Taylor County now has three-phase service located directly across Kentucky Highway 3518 from the subject industrial park, and that such service includes extensions of two separate lines which approach the area immediately adjacent to the industrial park from opposite directions. Thus, if and when the portion of the industrial park in Taylor County's certified territory is developed, Taylor County already stands ready, willing, and able to serve those customers in its territory. In fact, it may well be that Taylor County is best positioned to serve the entirety of this industrial park, but Taylor County certainly does not suggest any modification of the certified territorial boundary, and does not attribute to its Co-Defendant, KU, the effort herein to accomplish that result.

5. The within application, if that is what it is, is nothing more than an effort at enforcing, through the processes of this Commission, owner preference as between retail suppliers. It is that sort of selection process which the Territorial Law was designed to avoid and prohibit. Taylor County has planned the installation and development of its system in reliance upon the establishment of certified territories, and KU has presumably done likewise. The Complainant herein presents no basis upon which the existing territorial boundary should be made subject to modification.

WHEREFORE, Defendant, Taylor County Rural Electric Cooperative Corporation, respectfully suggests that the within Complaint be dismissed.

SPRAGENS, SMITH & HIGDON, P.S.C.  
Attorneys at Law  
15 Court Square - P. O. Box 681  
Lebanon, Kentucky 40033  
Telephone (502) 692-3141

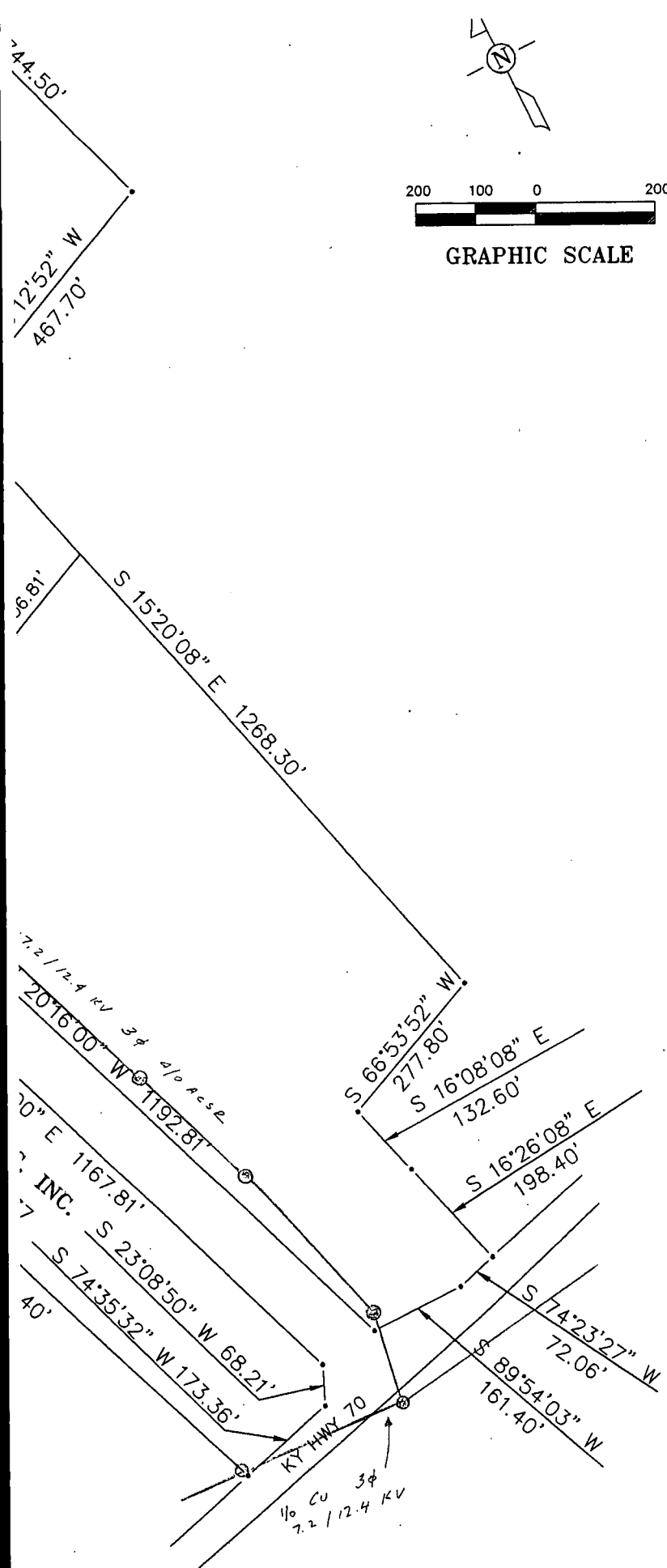
By 

Robert Spragens, Jr.  
**Counsel for Taylor County  
Rural Electric Cooperative  
Corporation**

I hereby certify that a true copy of  
the foregoing was mailed this  
18<sup>TH</sup> day of November, 1999, to:

Hon. John C. Miller  
Miller, Miller & Miller, PLC  
225 East First Street  
Campbellsville, Kentucky 42718  
**Attorneys for Complainant**

Hon. John R. McCall  
**General Counsel**  
**Kentucky Utilities Company**  
220 West Main Street  
Louisville, Kentucky 40202



TAYLOR COUNTY RECC  
LEGEND

⊙ POLE LOCAT DN

— LINE LOCATION

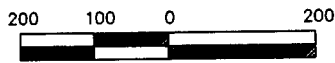
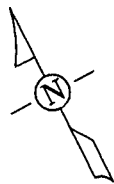
KV, PHASE, & SIZE WIRS NOTED.  
PDR 11/11/99

**PRELIMINARY PLAT  
NOT FOR RECORDING**

PROPERTY SURVEY FOR  
**CAMPBELLSVILLE-TAYLOR COUNTY  
 INDUSTRIAL FOUNDATION, INC.**  
 CAMPBELLSVILLE  
 TAYLOR COUNTY, KENTUCKY  
 SCALE 1 INCH = 200 FEET  
 MILLER LAND SURVEYING, INC.  
 110 E. FIRST STREET  
 CAMPBELLSVILLE, KY. 42718  
 0471P91B

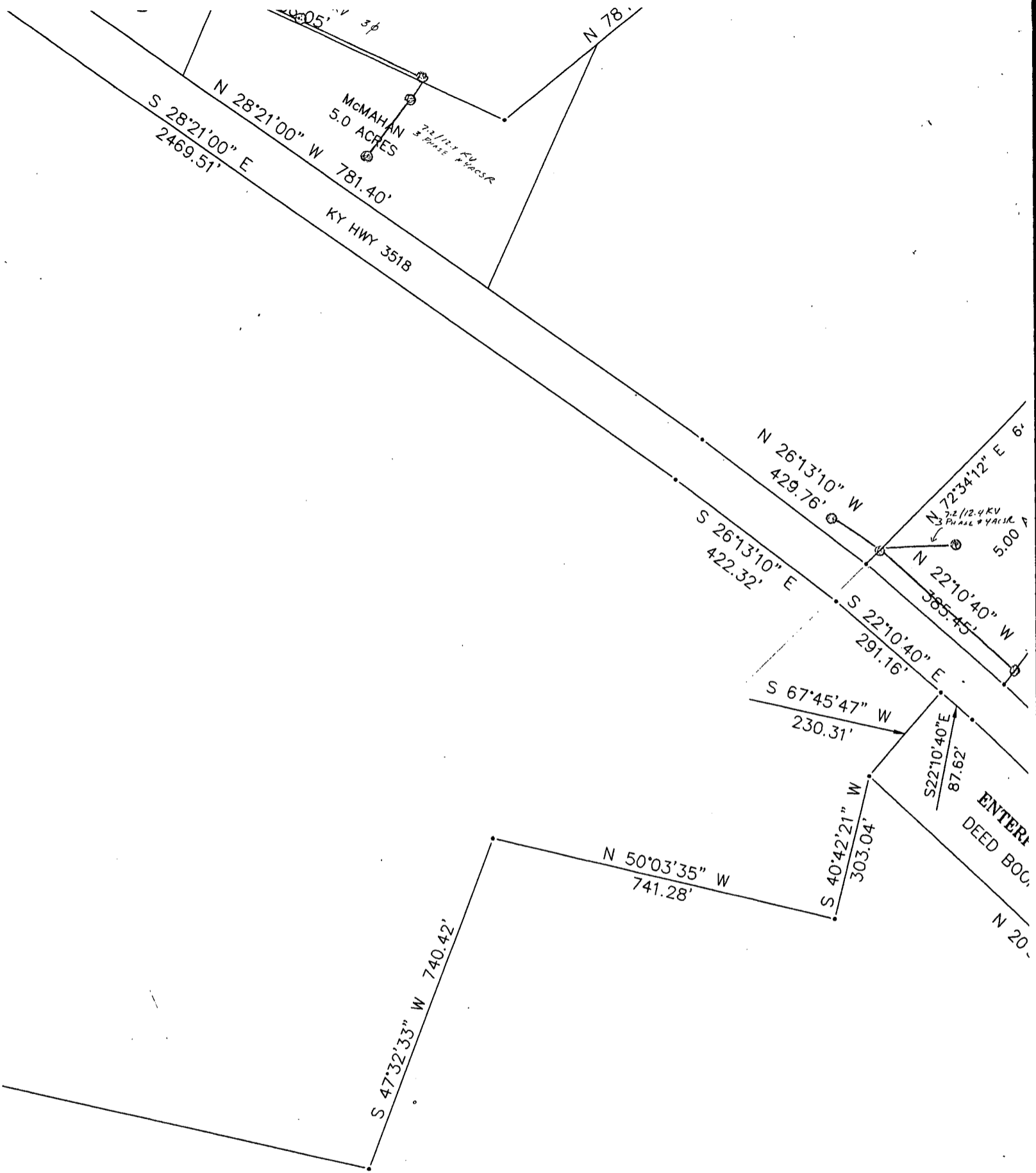


44.50'  
12'52" W  
467.70'

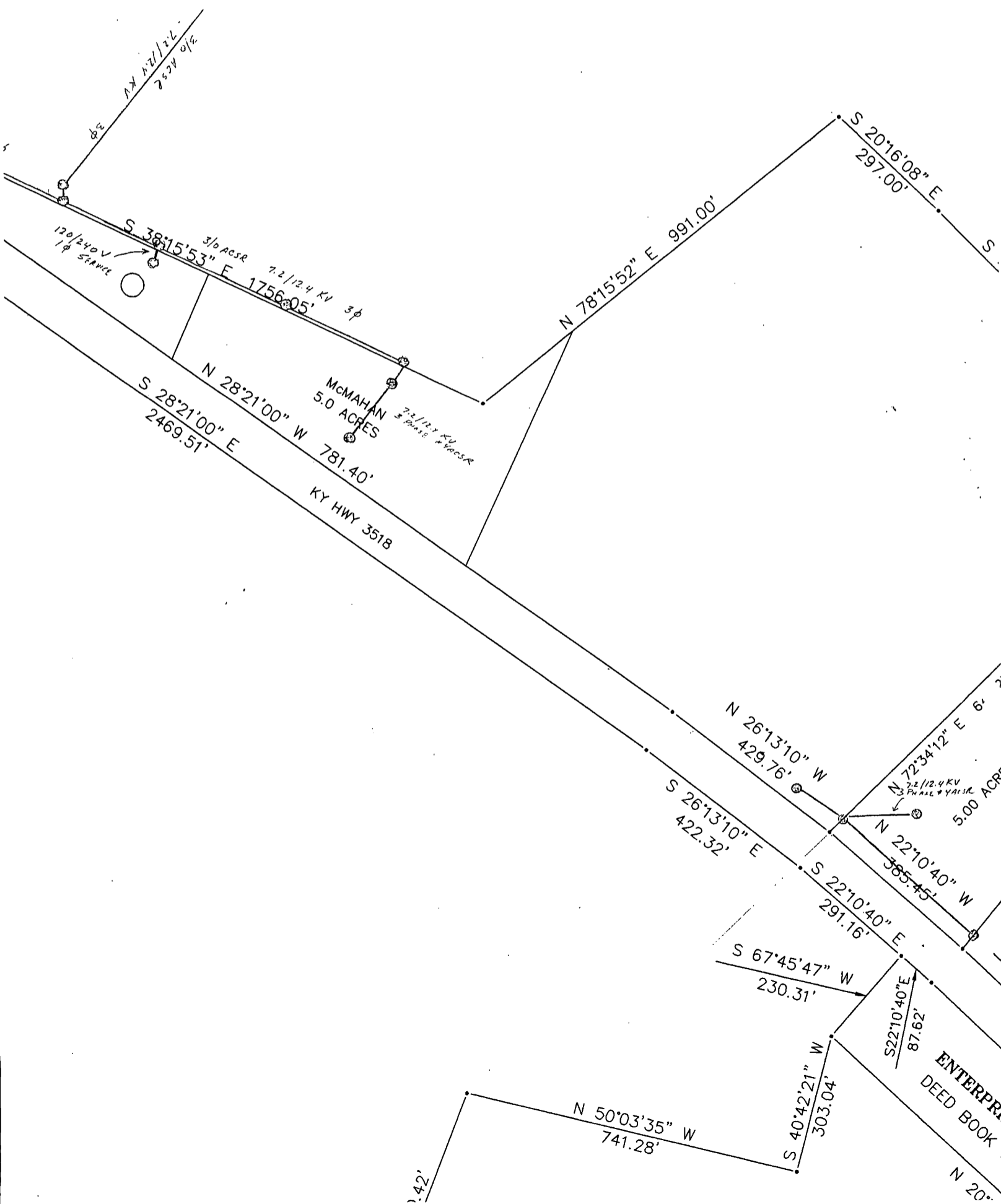


GRAPHIC SCALE

56.81'  
S 15°20'08" E 1268.30'



Exhibit



3/0 ACSE  
72/12.4 KV

120/240V  
1Ø SERVICE

S 38°15'53" E 1756.05'

3/0 ACSE 72/12.4 KV 3Ø

72/12.4 KV  
3 PHASE 4 WIRE  
5.0 ACRES  
McMAHAN

N 28°21'00" W 781.40'

S 28°21'00" E 2469.51'

KY HWY 351B

N 78°15'52" E 991.00'

S 20°16'08" E 297.00'

N 26°13'10" W 429.76'

S 26°13'10" E 422.32'

72/12.4 KV  
3 PHASE 4 WIRE  
5.00 ACRES

N 22°10'40" W 585.45'

S 22°10'40" E 291.16'

S 67°45'47" W 230.31'

S 22°10'40" E 87.62'

ENTERPRISE  
DEED BOOK

N 50°03'35" W 741.28'

S 40°42'21" W 303.04'

N 20°

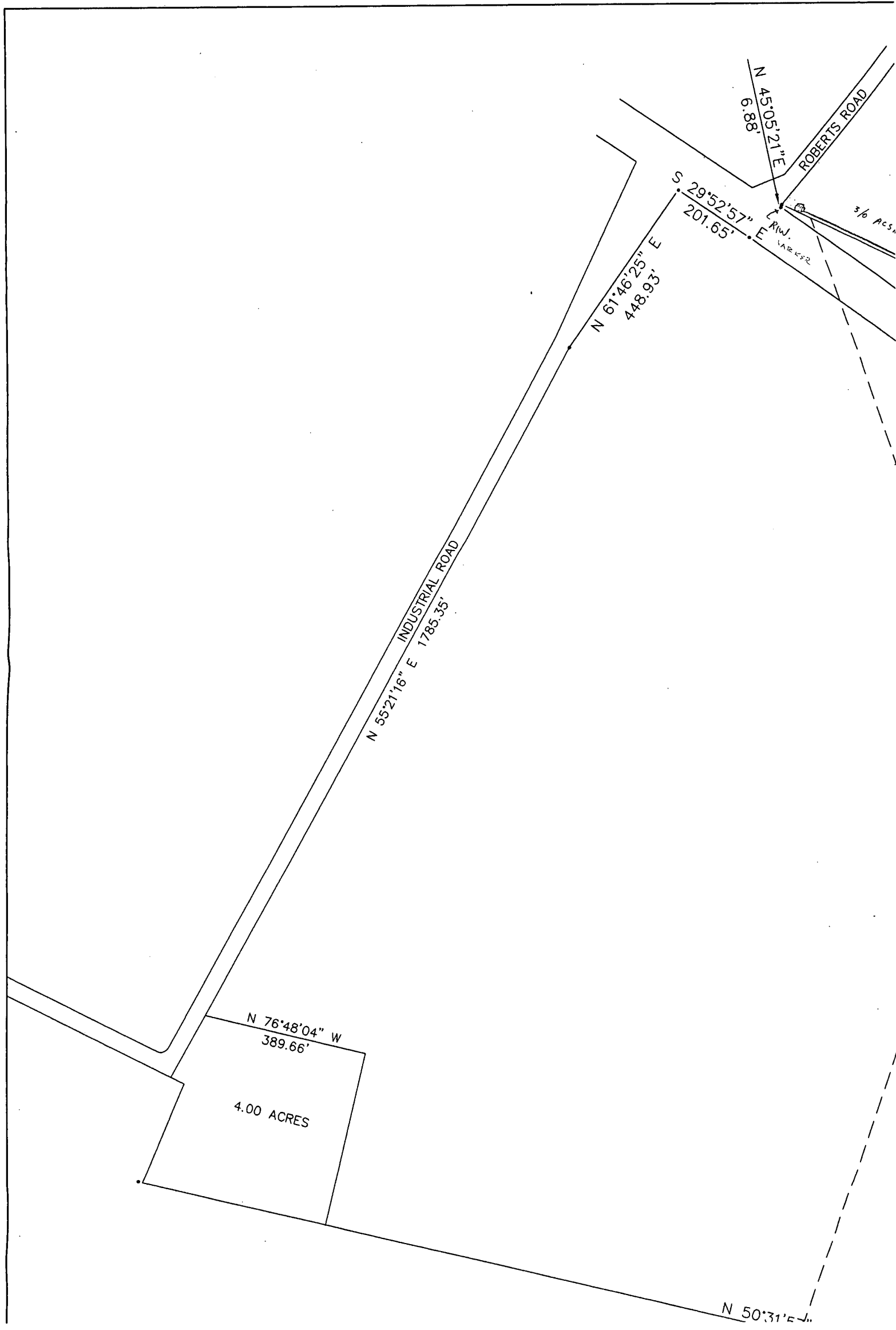
1.42'

INDUSTRIAL ROAD  
N 55°21'16" E 1785.35'

N 76°48'04" W  
389.66'

4.00 ACRES

N 50°31'57" W 2881.38'





COMMONWEALTH OF KENTUCKY  
**PUBLIC SERVICE COMMISSION**  
730 SCHENKEL LANE  
POST OFFICE BOX 615  
FRANKFORT, KENTUCKY 40602  
www.psc.state.ky.us  
(502) 564-3940  
Fax (502) 564-3460  
November 10, 1999

**Ronald B. McCloud, Secretary**  
**Public Protection and**  
**Regulation Cabinet**

**Helen Helton**  
**Executive Director**  
**Public Service Commission**

**Paul E. Patton**  
**Governor**

John R. McCall  
Kentucky Utilities Company  
220 West Main Street  
Louisville, KY 40202

William D. Harris  
Taylor County Rural Electric  
Cooperative Corporation  
West Main Street  
P. O. Box 100  
Campbellsville, KY 42719

Honorable John c. Miller  
Attorney for Campbellsville-Taylor  
County Industrial Foundation, Inc.  
Miller, Miller & Miller, PLC  
225 East First Street  
Campbellsville, KY 42718

RE: Case No. 99-451  
Kentucky Utilities Company & Taylor County R.E.C.C.  
(Complaint - Service) Of Campbellsville-Taylor County Industrial Foundation, Inc.

This letter is to acknowledge receipt of initial application in the above case. The application was date-stamped received November 3, 1999 and has been assigned Case No. 99-451. In all future correspondence or filings in connection with this case, please reference the above case number.

If you need further assistance, please contact my staff at 502/564-3940.

Sincerely,

A handwritten signature in black ink that reads "Stephanie Bell".

Stephanie Bell  
Secretary of the Commission

SB/jc



**MILLER, MILLER & MILLER, PLC**  
ATTORNEYS AT LAW

225 E. FIRST STREET  
CAMPBELLSVILLE, KENTUCKY 42718  
TELEPHONE (270) 465-6111  
FAX (270) 465-6100

NOV - 3 1999  
PUBLIC SERVICE  
COMMISSION

JOHN C. MILLER, PSC  
john@millerplc.com

SHELLY S. MILLER, PSC  
shelly@millerplc.com

JAMES C. MILLER, PSC  
james@millerplc.com

November 1, 1999

Ms. Susan Hutcherson  
Public Service Commission  
Division of Filings  
730 Schenkel Lane, P.O. Box 615  
Frankfort, Kentucky 40602

Re: Campbellsville-Taylor County Industrial Foundation, Inc. v.  
Kentucky Utilities Company and Taylor County Rural Electric  
Cooperative Corporation, Before the Public Service Commission  
CASE 99-451

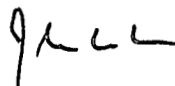
Dear Ms. Hutcherson:

Please find enclosed an original and eleven copies of the Complaint which I would like to file in the above referenced matter. Ten copies of the Complaint are for the Commission pursuant to the Kentucky Administrative Regulations. Please file stamp the remaining copy and return it to this office in the enclosed self-addressed stamped envelope.

Should you need any further information or need any changes, please advise.

Very truly yours,

Miller, Miller & Miller, PLC

  
John C. Miller

JCM/smv  
Enclosures  
cc: Mr. William G. Chandler

*BJ*

**BEFORE THE PUBLIC SERVICE COMMISSION**

CAMPBELLSVILLE-TAYLOR COUNTY )  
INDUSTRIAL FOUNDATION, INC. )

COMPLAINANT )

vs. )

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Serve: John R. McCall )  
220 West Main Street )  
Louisville, KY 40202 )

AND )

TAYLOR COUNTY RURAL ELECTRIC )  
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Serve: William D. Harris )  
West Main Street )  
P.O. Box 100 )  
Campbellsville, KY 42719 )

DEFENDANTS )

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PUBLIC SERVICE COMMISSION

No. 99-451

**COMPLAINT**

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Dated this 1 day of November, 1999.

Respectfully Submitted,

  
\_\_\_\_\_  
John C. Miller  
Miller, Miller & Miller, PLC  
225 E. First Street  
Campbellsville, Kentucky 42718  
(502) 465-6111

ATTORNEYS FOR COMPLAINANT