

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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COMMISSION

In the Matter of:

ADJUSTMENT OF RATES)
OF CUMBERLAND VALLEY) CASE NO. 2005-00187
ELECTRIC, INC.)

ATTORNEY GENERAL'S REPLY TO PETITIONER'S OBJECTION TO ATTORNEY
GENERAL'S REQUEST FOR SUBPOENAS; AND ATTORNEY GENERAL'S NOTICE
OF FUTURE MOTION FOR A COMPLETE FINANCIAL, OPERATIONAL AND
MANAGEMENT AUDIT OR REVIEW

Comes now the Attorney General of the Commonwealth of Kentucky, by and through his Office of Rate Intervention, and files this reply to petitioner's objection to the Attorney General's motion requesting the issuance of subpoenas for the hearing in this matter scheduled for 11 April 2006. In addition, the Attorney General serves notice that he will move for a complete financial, operational and management audit or review either by future motion, at the hearing or in his brief. As grounds for his reply the Attorney General states as follows.

First, the mere taking of a deposition is for *discovery* purposes and does not necessarily contemplate that the witness will not be called at any subsequent proceeding. Indeed, a review of CR 32 clearly indicates that deposed witnesses are often called at the hearing. Also see CR 32.01 which provides the protocol for the use of a deposition in the *absence* of a witness. Petitioner has not stated that the witnesses will not be available, rather he claims that the testimony from the deposition, in his opinion, does not appear to solicit information from the test year. Petitioner speculates

as to what the Attorney General may or may not ask of Mr. Joe Carroll and Mr. Robert Tolliver at the hearing. The Attorney General contemplates asking questions related to the development of his case in the same manner which he has previously done in other proceedings before this Commission. Accordingly, the Attorney General is entitled to have the subpoenas issued.

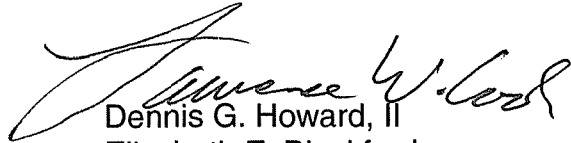
In regard to Ms. Drucilla Foley and Ms. Teresa Williams, the same arguments apply. Furthermore, because both the former continues to work there at least part time and the latter is a current employee in the main office, the Attorney General should be afforded the opportunity to build his case by having the necessary witnesses present.

Moreover, the Attorney General never represented at the depositions that the testimony of any deponent would be used in lieu of actual live testimony before the Commission. See *Richman v. First Sec. Nat. Bank and Trust Co.*, 652 S.W. 671, (Ky. App. 1983) which held that unless the deposition is actually used, or offered into evidence, it is not properly a part of record.

Last, given allegations of imprudent spending and the current record which contains evidence of same, the Attorney General serves notice that he will move for a complete financial, operational and management audit or review either at by future motion, at the hearing or in his brief.

Respectfully submitted,

GREGORY D. STUMBO
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Certificate of Service and Filing

Counsel certifies that an original and ten photocopies of this document were served and filed by hand delivery to Beth O'Donnell, Executive Director, Public Service Commission, 211 Sower Boulevard, Frankfort, Kentucky 40601; furthermore, it was served by emailing and mailing a true and correct copy of the same, first class postage prepaid, to Ted Hampton, Cumberland Valley Electric, Inc., P.O. Box 440, Gray, Kentucky 40734, and Honorable Patrick Hauser, P.O. Box 1900, Barbourville, Kentucky, 40906, all on this 3rd day of April, 2005.



Assistant Attorney General