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January 29, 2007

Ms. Beth O'Donnell  
Executive Director  
Public Service Commission  
PO Box 615  
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Frankfort, KY 40602-0615

RECEIVED

JAN 30 2007

PUBLIC SERVICE  
COMMISSION

Re: Cumberland Valley Electric, Inc. v. Kentucky Utilities, Inc.  
Case No. 2006-00148

Dear Ms. O'Donnell:

Attached are the original and eight copies of the Reply of Cumberland Valley Electric, Inc. to Kentucky Utilities Company's Motion to Reschedule Hearing in the above-styled case. I have this day caused to be served a copy of the Reply by first class mail on the parties named on the attached service list.

Please call if you have any questions concerning this filing. Thank you.

Sincerely,



Anthony G. Martin

Attorney for Cumberland Valley Electric, Inc.

Cc: Attached Service List [w/enclosure]

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**COMMONWEALTH OF KENTUCKY**

**BEFORE THE PUBLIC SERVICE COMMISSION**

**In the Matter of:**

<b>CUMBERLAND VALLEY ELECTRIC, INC.</b>	)	
	)	
<b>COMPLAINANT</b>	)	
	)	
<b>vs.</b>	)	<b>CASE NO. 2006-00148</b>
	)	
<b>KENTUCKY UTILITIES COMPANY</b>	)	
	)	
<b>DEFENDANT</b>	)	

**REPLY OF CUMBERLAND VALLEY ELECTRIC, INC., TO  
KENTUCKY UTILITIES COMPANY'S MOTION TO RESCHEDULE HEARING**

Comes now Cumberland Valley Electric, Inc. ("CVE"), by counsel, and for its Reply to the Motion of Kentucky Utilities Company ("KU") to Reschedule Hearing states as follows.

KU has requested that the Commission reschedule the hearing recently scheduled for February 27, 2007, in this matter until, at the earliest, March 20, 2007<sup>1</sup>. CVE does not object to amending the procedural schedule to accommodate the conflicts reported by KU, but requests that the Commission do so according to the recommendations below, and not delay the final decision in this matter by amending the procedural schedule.

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<sup>1</sup> KU's Motion does not state any conflict for the week of March 12, 2007, but seeks an additional delay until at least March 20 for preparation time.

This case is a territorial dispute concerning service to Stillhouse Mine No. 2. KU has been providing electric service for use in the mine for well over a year. CVE filed the formal complaint that initiated this proceeding on April 7, 2006, and in an effort to expedite the proceeding, included with its complaint its direct testimony and an agreed statement of facts. However, this case is now in its tenth month and appears to be unlikely to be decided for several more months, particularly if KU's Motion is granted. Also, KU has suggested rescheduling the hearing for the week of March 20, 2007, and scheduling during that week may create conflicts for CVE<sup>2</sup>.

The status quo in this case is such that delay, however justified, redounds to KU's benefit and to CVE's detriment. KU continues to provide electric service for use at the mine, and the Commission has determined that it does not have the authority to make CVE whole for lost revenues from service to this customer, even if it determines that CVE is the appropriate electric supplier under the Territorial Act. Even with the hearing as currently scheduled, it will likely be at least a year from the date of the filing of the complaint until a decision is reached, and the postponement proposed by KU will result in further delay.

CVE therefore requests that the Commission reschedule the hearing in this matter to take place prior to February 19, 2007. CVE witnesses have conflicts on February 6 and February 15, 2007, but CVE stands ready to proceed with the

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<sup>2</sup> One of CVE's witnesses is also unavailable the week of March 5, 2007, but KU has already requested that no proceeding be scheduled that week.

hearing on any other date prior to February 19. This scheduling will not interfere with KU's stated conflicts.

In the alternative, CVE respectfully renews its Motion of January 23, 2007, to submit this matter by briefs on the existing record. This approach would resolve KU's stated conflicts without advancing the hearing date or delaying any activity in the case for another month. After reviewing the briefs, the Commission could then determine if any further proceedings or responses from the parties are in fact necessary prior to rendering a final decision.

Respectfully submitted,



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