

ANTHONY G. MARTIN  
Attorney at Law  
P. O. Box 1812  
Lexington, KY 40588  
(859) 268-1451 (Phone or Fax)  
E-Mail agmlaw@aol.com

February 6, 2007

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

RECEIVED  
FEB 07 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 Response of Cumberland Valley Electric, Inc. to Kentucky Utilities Company's Request for Surrebuttal Testimony in the above-styled case. I have this day caused to be served a copy of the Response 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]

J. Gregory Cornett  
Stoll Keenon Ogden PLLC  
1700 PNC Plaza  
500 West Jefferson St.  
Louisville, KY 40202

Beth O'Donnell, Executive Director  
KY Public Service Commission  
211 Sower Blvd  
P. O. Box 615  
Frankfort, KY 40602-0615

Forrest E. Cook  
Attorney at Law  
178 Main St - Ste 5  
PO Box 910  
Whitesburg, KY 41858-0910

Ted Hampton, Manager  
Cumberland Valley Electric, Inc.  
P.O. Box 440  
Gray, KY 40734

S. Ross Kegan  
Richard Matda  
Black Mountain Resources  
158 Central Avenue  
P.O. Box 527  
Benham, KY 40807

F. Howard Bush III  
Manager, Tariffs/Special Contracts  
E.ON U.S. LLC  
220 West Main Street  
Louisville, KY 40202

Allyson K. Sturgeon  
Attorney  
E.ON U.S. LLC  
220 West Main Street  
Louisville, KY 40202

W. Patrick Hauser  
W. Patrick Hauser, PSC  
200 Knox St.  
P.O. Box 1900  
Barbourville, KY 40906

Ronald L. Willhite  
7375 Wolf Spring Trace  
Louisville, KY 40241

Mark D. Abner  
Cumberland Valley Electric, Inc.  
P.O. Box 440  
Gray, KY 40734

**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>	)	

**RESPONSE OF CUMBERLAND VALLEY ELECTRIC, INC., TO KENTUCKY UTILITIES COMPANY'S REQUEST FOR SUR-REBUTTAL TESTIMONY**

Comes now Cumberland Valley Electric, Inc. ("CVE"), by counsel, and for its Response to the request of Kentucky Utilities Company ("KU") to file sur-rebuttal testimony if the Commission adopts a briefing schedule in lieu of a hearing, states as follows.

On February 1, 2007, KU filed a Reply in Further Support of its Motion to Reschedule Hearing. The Reply offers additional argument in support of KU's desire to postpone a hearing in this matter until at least March 20, 2007.<sup>1</sup> KU then suggests that if the Commission adopts a briefing schedule in lieu of an evidentiary hearing, that the parties first be permitted to file sur-rebuttal testimony prior to the first briefing date. As support for this suggestion, KU

---

<sup>1</sup> KU makes no suggestion of any acceptable date for a hearing that will not result in delay until at least March 20, 2007 as a means of resolving its originally stated conflicts.

states only that it believes that CVE has taken positions and made statements in its rebuttal testimony that KU alleges must be "corrected or clarified in order for the record to be complete and accurate." KU Reply at pg. 2.

KU has already filed two rounds of testimony in this proceeding. Its direct testimony that was filed on October 6, 2006, included substantial rebuttal testimony as to CVE's direct testimony filed with CVE's complaint on April 7, 2007.<sup>2</sup> Although CVE filed no additional direct testimony on October 6, 2006, KU then filed additional rebuttal testimony on January 3, 2007. This second round of rebuttal testimony was additional testimony that KU's witness stated was "to clarify the issues in this case, in light of the discovery that has occurred, and to discuss those issues in light of all the evidence now of record."<sup>3</sup> KU now seeks a third bite at the apple, to respond to unspecified positions and statements with which it apparently disagrees in CVE's rebuttal testimony.

CVE objects to a third round of rebuttal testimony for KU. KU has not demonstrated any need for a third round of rebuttal testimony. Should the Commission decide to establish a briefing schedule for submission of this case, neither KU nor any other party should be given a third opportunity to submit testimony.

---

<sup>2</sup> For example, see at a minimum Bush Direct Testimony at pp. 8-9, 10-15, and 19-20, and Bellar Direct Testimony at pp. 3-4.

<sup>3</sup> Bush Rebuttal Testimony at pg. 1.

CVE has no objection to the March 2, 2007, date for initial briefs to be due as suggested by KU, although CVE requests that the reply brief deadline be set no later than March 16, 2007.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Anthony G. Martin".

Anthony G Martin  
Attorney at Law  
P.O. Box 1812  
Lexington, KY 40588  
859-268-1451  
[agmlaw@aol.com](mailto:agmlaw@aol.com)

W. Patrick Hauser  
W. Patrick Hauser, PSC  
200 Knox Street  
P.O. Box 1900  
Barbourville, KY 40906  
606-546-3811  
[phauser@barbourville.com](mailto:phauser@barbourville.com)

**ATTORNEYS FOR COMPLAINANT  
CUMBERLAND VALLEY ELECTRIC, INC.**