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RECEIVED  
JAN 09 2004  
PUBLIC SERVICE  
COMMISSION

January 8, 2004

Thomas Dorman  
Executive Director  
Public Service Commission  
211 Sower Blvd.  
PO Box 615  
Frankfort, KY 40602-0615

2004-00030

RE: Petition and Complaint of Cumberland Valley Electric, Inc.

Dear Mr. Dorman:

Enclosed are the original and ten copies of the Petition and Complaint of Cumberland Valley Electric Concerning Service By Kentucky Utilities, Inc. In Contravention Of KRS278.016-018 and KRS278.020. Please note that this is an original action. I have this day mailed a copy of the Petition and Complaint by first class mail to all persons on the service list for Case No. 2003-00226. Please call if you have any questions. Thank you.

Sincerely,



Anthony G. Martin  
Counsel for Cumberland Valley Electric

Cc: Parties of Record, Case No. 2003-00226

**COMMONWEALTH OF KENTUCKY**  
**BEFORE THE PUBLIC SERVICE COMMISSION**

**RECEIVED**

**JAN 09 2004**

**PUBLIC SERVICE  
COMMISSION**

**In the Matter of:**

**PETITION AND COMPLAINT OF )**  
**CUMBERLAND VALLEY ELECTRIC )**  
**CONCERNING SERVICE BY KENTUCKY ) CASE NO. 2004-00030**  
**UTILITIES, INC. IN CONTRAVENTION )**  
**OF KRS278.016-018 and KRS278.020 )**

Comes now Cumberland Valley Electric, Inc. (CVE), by counsel, and for its  
Petition and Complaint states as follows.

1. CVE is an electric cooperative corporation formed pursuant to KRS279 and subject to regulation by this Commission pursuant to the terms of KRS278.
2. Kentucky Utilities, Inc. (KU) is an investor owned public utility providing retail electric utility service and subject to regulation by this Commission pursuant to KRS278.
3. Both CVE and KU have certified territories for providing electric service to retail customers that were established pursuant to the terms of KRS278.016-018, and those certified territories are set out on territorial maps on file with the Commission.
4. Under KRS278.018(1), in the event that a new electric consuming facility locates in two or more adjacent certified territories, it is the responsibility

of the Commission to determine which utility shall serve that new facility based on criteria contained in KRS278.017(3).

5. In October, 2002, KU offered to provide retail electric service to a speculative building located on Lot No. 5 of a three and one-half year old business park owned by the Southeast Kentucky Industrial Development Authority (the Authority) as an agency and instrumentality of the five counties that had established the Authority, if the Authority would sign an application for service.<sup>1</sup>
6. KU failed to determine and inform the Authority that Lot No. 5 was divided by the certified territorial boundary between CVE and KU, and that the speculative building itself was divided by the certified territory boundary.
7. KU failed to inform CVE at any time that it intended to serve a new facility in the adjacent territories of CVE and KU, and never sought agreement from CVE pursuant to KRS278.018(6).
8. KU never sought approval from the Commission to provide service to the speculative building in direct violation of KRS278.018(1).
9. Despite its failure to inform the Commission, CVE or the Authority of its intention to serve a new facility located in adjacent certified territories, KU ran a 7500 foot, three phase line extension at a cost of \$80,000, to provide service to the speculative building on Lot 5.

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<sup>1</sup> The record and facts with respect to service to the speculative building has been established as part of the record in Case No. 2003-00226; the record in that case is hereby incorporated by reference.

10. At least part of the service drop for the speculative building, and the meter for service at the speculative building, are located entirely in CVE's certified territory.
11. CVE is presenting testimony from its experts, Mr. Ronald Willhite and Mr. Joseph Perry, that demonstrates that CVE should be awarded service to the speculative building based on application of KRS 278.017(3) as required by KRS 278.018(1). Their proffered testimony is attached hereto as Appendices 1 and 2, respectively.
12. CVE could have provided service to the speculative building at a total cost of approximately \$8000, and without encumbering the landscape and creating disorderly development of retail electric service by a 7500 foot extension of service that would unnecessarily cross certified territory boundaries.
13. As KU extended its line to serve the speculative building without prior agreement with CVE and without prior approval from the Commission, only those facilities in existence prior to the construction of the 7500 foot three-phase line and extension of service to the speculative building are properly considered when applying the four factors of KRS278.017(3) to this dispute.
14. In addition to unlawfully extending service at great cost and unnecessary encumbrance of the landscape, KU in Case No. 2003-00226 has used its unlawful extension of service to the speculative building to justify its

alleged superior ability to provide interim service to the new CTA Acoustics, Inc. (CTA) facility on Lot No. 1-A of the Business Park.

15. CVE is presenting testimony from its expert, Mr. Joseph Perry of Patterson and Dewar Engineers, that demonstrates that this service extension is more expensive for KU than for CVE. See Appendix 2.
16. Had KU exercised its responsibility to seek an agreement from CVE for service to this facility, and in the absence of such agreement to seek approval from the Commission for this extension of service, CVE would clearly have been awarded service to the speculative building under the criteria contained in KRS278.017(3) in that under the criteria contained in KRS278.017(3), service by CTA would have been from a much closer proximity; neither company had previously provided service to Lot 5; CVE could provide service at a total cost of \$8000 instead of \$80,000; and CVE could have provided a much shorter extension to the speculative building that would not cross territorial boundaries.
17. KU has admitted in testimony in Case No, 2003-00226 that it erred in late 2002 and early 2003 in believing that Lot 5 in the Business Park and the Spec Building thereon were exclusively in its certified territory.
18. In addition to not obtaining Commission approval to provide service to the speculative building as required by KRS278.018(1), KU also violated KRS278.020 and 807KAR5:001, Section 9(3) by failing to seek a certificate of convenience to construct a line extension into the certified territory of

another utility, as the line was not an extension in the ordinary course of business, and it crossed into the service territory of another utility.

19. KU's continued reliance on its unlawful extension of service to the speculative building to unlawfully serve that building, and its continuing refusal to seek Commission approval as required constitutes a continuing violation of KRS278.018 and KRS278.020.
20. KU has claimed in Case No. 2003-00226 that CVE has served several residences in KU's service territory without Commission approval. CVE has investigated this claim, and agrees that over time in a cooperative spirit, former KU management and CVE management have reached agreement that some residential customers could be served in a least cost manner by the other service provider. Attached hereto as Appendix 3 is a letter from Mr. C.B. Ely, the former district manager of KU, that recites his knowledge of all such cooperative agreements in the KU/CVE area, including the three residences cited by KU in Case No. 2003-00226.
21. CVE acknowledges that, while these arrangements were by agreement, neither KU nor CVE filed such agreements with the Commission for formal approval, and requests that the Commission accept these agreements and formally approve these cooperative arrangements. CVE is in the process of preparing map amendments that it will forward to KU for signature to formally approve these agreed upon revisions.

22. KU's service to the speculative building is not in any way comparable to the cooperative agreements described above. KU did not inform the customer, the other utility or the Commission that it intended to extend service to this facility, and CVE has never in any manner agreed to this extension.

WHEREFORE, CVE requests:

1. that the Commission require KU to show cause why its service to the speculative building should not be immediately terminated, and CVE granted the right to serve the speculative building pursuant to the four criteria of KRS278.017(3).
2. that KU be required to show cause why its extension to serve the speculative building is not in violation of KRS278.020 and 807KAR5:001, Section 9(3).
3. that the record in Case No. 2003-00226 be incorporated by reference into this proceeding.
4. that the Commission formally approve those cooperative agreements that have been made between KU and CVE for service to selected customers pursuant to KRS278.018(6), and that KU and CVE be ordered to prepare appropriate territorial map amendments to reflect these changes.
5. that the Commission award service to the speculative building to CVE, and order KU to remove its facilities from CVE's service territory.

6. that the Commission eliminate any consideration of KU's unlawful extension to serve the speculative building from its consideration of any other request for awarding service to KU.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Anthony G. Martin". The signature is fluid and cursive, with the first name being the most prominent.

Anthony G. Martin  
Counsel for Cumberland Valley Electric, Inc.



**COMMONWEALTH OF KENTUCKY**  
**BEFORE THE PUBLIC SERVICE COMMISSION**

**In the Matter of:**

**PETITION AND COMPLAINT OF )**  
**CUMBERLAND VALLEY ELECTRIC )**  
**CONCERNING SERVICE BY KENTUCKY )**  
**UTILITIES, INC. IN CONTRAVENTION ) CASE NO. 2004-00030**  
**OF KRS278.016-018 and KRS278.020 )**

**AFFADAVIT**

My name is Ted Hampton, and I am the Manager of Cumberland Valley Electric, Inc. I have reviewed the foregoing Petition and Complaint, and swear or affirm certify that the allegations in that pleading are true and correct to the best of my knowledge, information and belief.

  
\_\_\_\_\_





## APPENDIX 1

### TESTIMONY OF RONALD L. WILLHITE

**COMMONWEALTH OF KENTUCKY**  
**BEFORE THE PUBLIC SERVICE COMMISSION**

**In the Matter of:**

**PETITION AND COMPLAINT OF )**  
**CUMBERLAND VALLEY ELECTRIC )**  
**CONCERNING SERVICE BY KENTUCKY ) CASE NO. 2004- 00030**  
**UTILITIES COMPANY IN CONTRAVENTION)**  
**OF KRS278.016-018 AND KRS278.020 )**

**DIRECT TESTIMONY**  
**OF**  
**RONALD L. WILLHITE**

**FILED: January 8, 2004**

1 **INTRODUCTION**

2 **Q. Please state your name and business address.**

3 A. My name is Ronald L. Willhite, 7375 Wolf Spring Trace, Louisville, KY 40241.

4 **Q. What is your position?**

5 A. I am a Consultant engaged by Cumberland Valley Electric (“CVE”) to assist on  
6 this matter. I retired from my position as Director of Rates and Regulatory  
7 Affairs in December 2001 from LG&E Energy Services. Prior to the formation of  
8 the service organization following the PowerGen acquisition of LG&E Energy  
9 Corp. I had been employed by Kentucky Utilities Company (“KU”).

10 **A. What has been your past involvement with territorial matters?**

11 Q. I was involved with numerous electric service territorial boundary matters during  
12 my thirty-three year career with KU. My involvement and responsibility with  
13 regard to such matters increased over time as my position responsibilities  
14 increased. I routinely assisted, advised and eventually became the final company  
15 authority for such matters.

16 **Q. What is the purpose of your testimony?**

17 A. My testimony explains why pursuant to KRS 278.016-.018, The Territorial Act  
18 (“Act”), that Cumberland Valley Electric (“CVE”) rather than Kentucky Utilities  
19 Company (“KU”) is entitled to serve a Spec Building built in late 2002 and  
20 located in the Southeast Kentucky Business Park (“Park”) that was established in  
21 March 1999 in Corbin, Kentucky.

22

23

1  
2  
3  
**THE TERRITORIAL ACT**

4 **Q. Please describe the Territorial Act (“Act”) KRS 278.016-018.**

5 A. The Act became law on June 16, 1972 and established exclusive electric service  
6 territory for utilities subject to the jurisdiction of the Public Service Commission.  
7 The Commission was given explicit direction by the General Assembly to set  
8 forth boundary lines on maps along with specific criteria, KRS 278.017(3), for  
9 guidance in resolving retail electric supplier protests of the Commission maps as  
10 initially established. Thereafter, the Commission was limited to 1) resolving  
11 disputes when a new electric consuming facility (“ECF”) locates in two or more  
12 adjacent certified territories based on the criteria of KRS 278.017(3) , 2) resolving  
13 any disputes arising from a new ECF locating in an area not included on  
14 Commission maps, 3) authorizing another retail electric provider to furnish retail  
15 electric service to an ECF of another retail electric provider who fails to comply  
16 with an Order to correct inadequate service and 4) receiving and approving  
17 agreements by retail electric suppliers allocating territories.

18 **Q. What occurs when an ECF locates in adjacent service territories?**

19 A. In the case where a new ECF or customer locates in the adjacent territory of two  
20 or more providers, the providers typically resolve the matter considering the  
21 criteria of KRS 278.017(3). If agreement cannot be reached, then one of the  
22 providers or the customer can bring the matter to the Commission for an Order  
23 pursuant to KRS 278.018(1). However, because KU extended facilities into the  
24 certified territory of CVE, it was incumbent on KU to seek agreement from CVE,

1 or if unable, seek Commission approval to serve the Spec Building. In prior cases,  
2 KU has constructed an ordinary extension within their territory or sought  
3 temporary agreement from the other affected provider to enter their territory  
4 pending the outcome of a formal Commission proceeding.

## 6 THE SPEC BUILDING

7  
8 **Q. Please describe the Spec Building and its location relative to the service**  
9 **territories and facilities of CVE and KU at the time the Park was developed.**

10 A. The Spec Building is a building shell completed by the Southeast Kentucky  
11 Industrial Development Authority (“Industrial Authority”) in late 2002. The  
12 building is located in the east-side of the Park in Lot 5 adjacent to the Corbin By-  
13 pass and Park entrance road. Lot 5 and the Spec Building are in the adjacent  
14 territories of CVE and KU. The Spec Building requires three-phase service. The  
15 Spec Building is only 1100 air-line feet from the nearest CVE three-phase  
16 distribution line that runs parallel to Perkins Road just east of the Business Park.  
17 On the other hand the Spec Building is approximately 7000 air-feet from KU’s  
18 nearest three-phase distribution line just west of the Business Park.

19 **Q. When was the Spec Building planned and developed?**

20 A. According to Industrial Authority Board Minutes planning began in early 2000  
21 and on April 4, 2002 a pre-construction meeting was held prior to starting  
22 construction.



1 **Q. Who is currently providing service to the Spec Building and when did that**  
2 **service initiate?**

3 A. KU began providing service to the spec building in January 2003 when it  
4 completed its hook-up by constructing facilities into CVE territory. As a result,  
5 KU was in the untenable position of having extended their facilities into CVE's  
6 territory in violation of KRS 278.020. In addition, KU departed from their  
7 Commission approved Line Extension Plan and provided the extension under  
8 more favorable terms even though the potential revenue was not of a magnitude  
9 and permanency to warrant the terms and render economically feasible the  
10 \$80,000 capital expenditure.

11 **Q. What facilities did KU construct to provide service to the Spec Building?**

12 A. In October 2002 KU constructed a three-phase 12 kv across the north perimeter of  
13 the Business Park to serve the spec building. KU describes the line to be a 7500  
14 foot extension that is fed from KU's U. S. Steel Substation. The feed from U. S.  
15 Steel runs south to Woodbine along the western edge of the Business Park.

16 **Q. What is KU's position with regard to the construction of the 12 kv line and**  
17 **service to the Spec Building?**

18 A. KU has stated in Case No. 2003-00226 that the 12 kv line was constructed in  
19 October 2002 to serve facilities located in KU's certified territory and that the line  
20 was eventually used to hook-up service to the Spec Building in January 2003. KU  
21 states in testimony filed in PSC Case No. 2003-00226 that, at the time service was  
22 connected to the Spec Building in January 2003, it believed that the entire  
23 building was in KU's certified territory. KU now admits that the Spec Building is

1 in adjacent territories of CVE and KU and is now depending on CVE to bring  
2 action before the Commission to resolve this matter.

3  
4 **CVE IS ENTITLED TO SERVE THE SPEC BUILDING**

5  
6 **Q. Who is entitled under KRS 278.018(1) and KRS 278.017(3) to serve the spec  
7 building?**

8 A. CVE. The spec building is a new ECF located in the adjacent territories of CVE  
9 and KU. Thus, a determination under KRS 278.018(1) is required by the  
10 Commission unless CVE and KU can resolve the matter. In such a situation the  
11 criteria of KRS 278.017(3) is applied. I visited the Business Park along with  
12 CVE's Manager, Ted Hampton, and CVE's engineering advisor, Joe Perry of  
13 Patterson and Dewar Engineers, Inc. to see first-hand the location of facilities.  
14 Based on the location of the territory in question, the Spec Building and Lot 5 of  
15 the Park., and the location of the electric facilities of CVE and KU at the time of  
16 development of the Park, CVE is clearly entitled to serve the Spec Building under  
17 the Act.

18 **Q. Why should the Commission in applying KRS278.017(3) consider the  
19 location of the utility facilities at the time the Park was developed?**

20 A. In order to avoid manipulation by either the customer or the affected utilities, only  
21 the location of the land and the utilities' distribution facilities at the time of  
22 development should be considered. This is in fact KU's long-standing policy for  
23 matters of this type as articulated by KU's Vice President for regulatory matters

1 from 1982 to 1997, Robert Hewett, in PSC Case Nos. 94-326 and 98-215. As  
2 outlined in KU's testimony in Case No. 2003-00226, KU is taking the incredible  
3 position that the 7500 foot three-phase line built in October 2002 to serve the  
4 Spec Building was built to solely serve load in the Park. As a result, KU opines  
5 the 12 line was an existing facility when service to the Spec Building was  
6 connected in January 2003. This position is contrary to Industrial Authority Board  
7 Minutes and KU's testimony and data responses in Case No. 2003-00226 where  
8 KU clearly states the purpose of the line is to serve the Spec Building.

9 **Q. Please describe how you reached your conclusion as to the rightful service**  
10 **provider to the Spec Building.**

11 A. I used the relevant information addressed in Mr. Perry's Direct Testimony to  
12 apply the criteria of KRS 278.017(3) as follows:

13 ***KRS 278.017(3) condition (a) is the proximity of existing distribution***  
14 ***lines.*** CVE has the closer facilities. The spec building required three-phase  
15 service. CVE has a three-phase distribution line approximately 1100 air-  
16 feet from the spec building. KU's nearest three-phase line is  
17 approximately 7000 air-feet away. Willhite Exhibit 1 shows the location  
18 of the CVE and KU facilities.

19 ***KRS 278.017(3) condition (b) is which supplier was first furnishing***  
20 ***retail service, and the age of existing facilities in the area.*** Neither CVE  
21 nor KU appear to have ever provided service in Lot 5 where the spec  
22 building is located. CVE was providing electric service in 1948 in the area  
23 to the Laws house. KU was first providing service in 1962 to the Wells

1 home. CVE's existing three-phase facilities parallel to the Business Park  
2 and along Perkins Road were constructed in 1975 at Liberty Church, in  
3 1987 across from TECO and in 1991 between Liberty Church and TECO.  
4 KU's single-phase was constructed in 1950. Willhite Exhibit 1 shows the  
5 location of the Laws' and Wells' homes as well as the location and age of  
6 existing distribution facilities.

7 ***KRS 278.017(3) condition (c) is the adequacy and dependability of***  
8 ***existing distribution lines to provide dependable, high quality retail***  
9 ***service at reasonable costs.*** CVE's existing facilities are adequate to  
10 provide three-phase service to serve the spec building and those existing  
11 facilities have not experienced an outage in over four years. As Mr. Perry  
12 explains, CVE had to only construct a 1600 foot extension at a cost of  
13 \$8,000. On the other hand, KU had to construct a 7500 foot extension and  
14 service drop at a cost of \$80,000 to serve the spec building.

15 ***KRS 278.017(3) condition (d) is the elimination and prevention of***  
16 ***duplication of electric lines and facilities supplying such territory.*** There  
17 was no basis other than speculation for KU to have constructed the 12 kv  
18 line across the Business Park at that time. The KU line duplicates what is  
19 required for CVE to serve the spec building and results in excessive  
20 investment in relation to efficiency and disorderly development of retail  
21 electric service.

1

2

## CONCLUSIONS AND RECOMMENDATION

3

4 **Q. Please summarize your conclusions.**

5 The Spec Building is located in the adjacent territories of CVE and KU. Applying  
6 the four conditions set forth in the Act, CVE is clearly the rightful electric  
7 provider to the spec building.

8 The situation presented in this proceeding is what the General Assembly was  
9 striving to eliminate. With the construction of the KU 12 kv line to serve the Spec  
10 Building, disorderly development of retail service occurs and now there are  
11 duplicate and wasteful facilities that now encumber the landscape and have  
12 wasted materials and natural resources.

13 **Q. What is your recommendation to the Commission?**

14 *A.* The Commission should affirm CVE's rights under the Act to serve the Spec  
15 Building and direct KU to remove its service to the Spec Building and all  
16 facilities from CVE's territory constructed to serve the Spec Building.

17 **Q. Does this conclude your testimony?**

18 *A.* Yes.

**VERIFICATION**

COMMONWEALTH OF KENTUCKY

COUNTY OF JEFFERSON

BEFORE ME, the undersigned authority, duly commissioned and qualified in and for the Commonwealth and County aforesaid, personally came and appeared Ronald L. Willhite, who, being by me first duly sworn deposed and said that:

He is appearing as a witness on the behalf of Cumberland Valley Electric, Inc., before the Kentucky Public Service Commission in a Petition and Complaint filed by Cumberland Valley Electric, and if present before the Commission and duly sworn, his testimony would be set forth in the annexed testimony.

*Ronald L. Willhite*

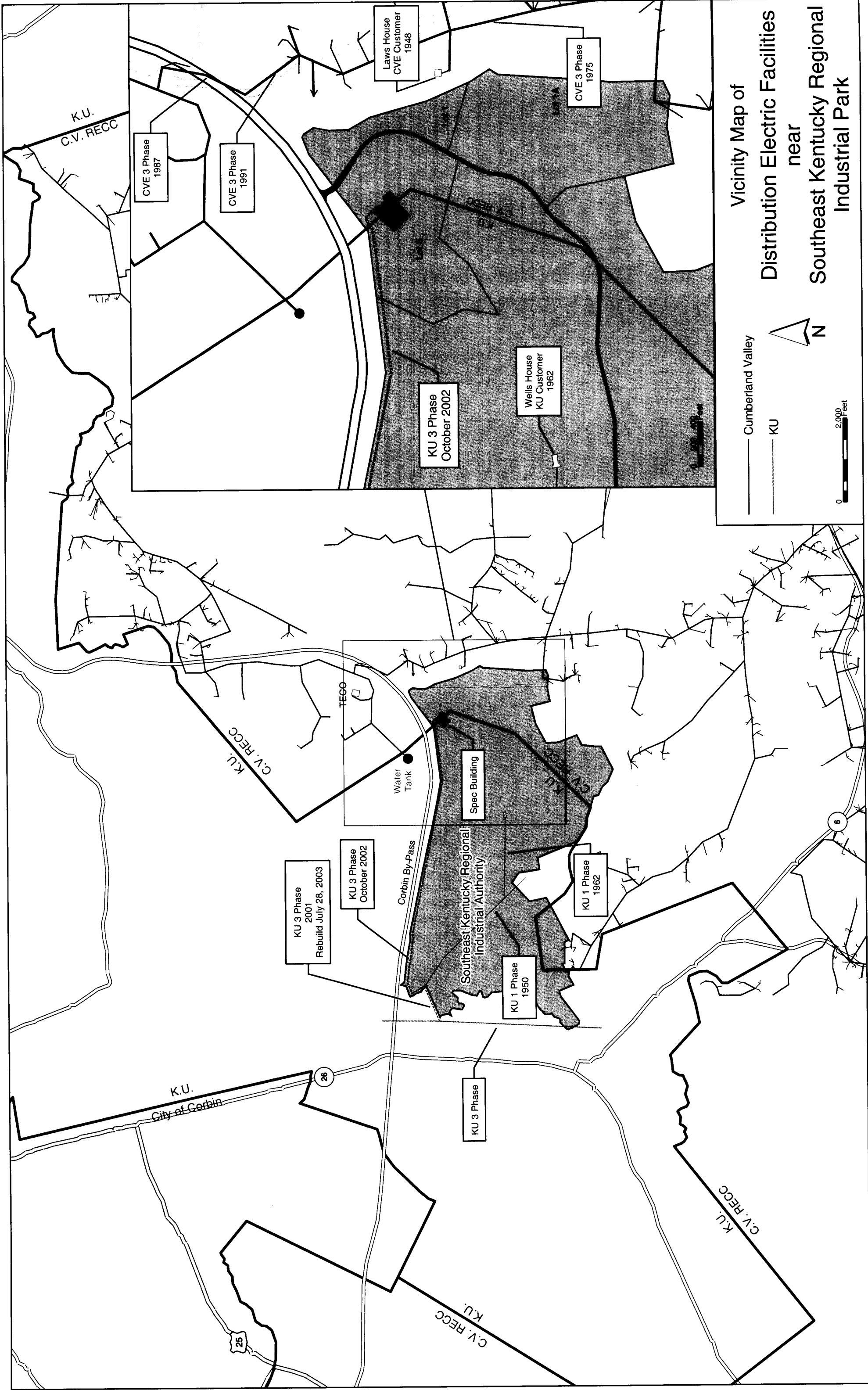
\_\_\_\_\_  
Ronald L. Willhite

SWORN TO AND SUBSCRIBED BEFORE ME this

*7<sup>th</sup>* day of *January*, 2004

*Rebecca D. Murphy*  
NOTARY PUBLIC, STATE OF ~~KY~~ KY.

*My Commission expires 3-23-04*



Vicinity Map of  
**Distribution Electric Facilities**  
 near  
**Southeast Kentucky Regional  
 Industrial Park**

Cumberland Valley  
 K.U.





## APPENDIX 2

### TESTIMONY OF JOSEPH E. PERRY, III

**COMMONWEALTH OF KENTUCKY**  
**BEFORE THE PUBLIC SERVICE COMMISSION**

**In the Matter of:**

**PETITION AND COMPLAINT OF )**  
**CUMBERLAND VALLEY ELECTRIC )**  
**CONCERNING SERVICE BY KENTUCKY ) CASE NO. 2004-**  
**UTILITIES COMPANY IN CONTRAVENTION)**  
**OF KRS278.016-018 AND KRS278.020 )**

**DIRECT TESTIMONY**

**OF**

**JOSEPH E. PERRY, III**

**FILED: January ??, 2004**

1 **Q. Please state your name and business address.**

2 A. My name is Joseph E. Perry, III of Patterson & Dewar Engineers, Inc. of 2685  
3 Milscott Drive, Decatur, Georgia 30033 (Metro-Atlanta).

4 **Q Please state your educational background and experience.**

5  
6 A I graduated with a B.S. in Electrical Engineering from Old Dominion University  
7 in June 1967. In 1979-80 I attended Georgia Institute of Technology Graduate  
8 School taking a variety of classes dealing with electric system operations and  
9 protection. I have worked with Patterson & Dewar Engineers for over 30 years  
10 providing electrical engineering consulting to a number of clients. I have been  
11 Chief Electrical Engineer at Patterson & Dewar since 1986. Over the last twenty  
12 years I have presented a number of papers relating to the operation of electric  
13 distribution systems. I am a registered Professional Engineer in seven states. See  
14 the attached Curriculum Vitae for additional details.

15 **Q Please provide a brief description of your duties at Patterson & Dewar.**

16 A My prime job is to serve as a client engineer to approximately 12 electric  
17 distribution cooperatives in the southeast. In this role I assist my clients in long-  
18 range planning, short-range planning, economic justification of capital expenses,  
19 consumer service evaluations, substation design, equipment specifications, load  
20 forecasting, construction contract development and bidding, and mapping needs.  
21 My secondary role is to act as Chief Electrical Engineer of Patterson & Dewar  
22 guiding the Electrical Department in engineering methods, project design criteria  
23 and specifications.

24

1 **Q. What is the purpose of your testimony?**

2 A. My testimony presents information relative to the adequacy, dependability and  
3 cost for Cumberland Valley Electric (“CVE”) and Kentucky Utilities Company  
4 (“KU”) to serve the Spec Building located in the Southeast Kentucky Business  
5 Park (“Park”) in Corbin Kentucky and as described by Mr. Willhite in his  
6 testimony in this proceeding.

7 **Q Please describe the facilities of CVE and KU in the vicinity of the Park and**  
8 **the Spec Building.**

9 A. It is readily apparent that prior to October 2002, the facilities of CVE were  
10 significantly closer to the Spec Building than the facilities of KU. CVE had  
11 three-phase facilities just east of the Park approximately 1600 circuit feet from the  
12 Spec Building in the Tri-County Industrial Park. KU’s nearest three-phase  
13 facilities were over 7500 feet away on the west-side of the Park.

14 **Q. What cost would be incurred by CVE and KU to extend service to the Spec**  
15 **Building?**

16 A. CVE would be required to construct a 1600 foot extension from the Tri-County  
17 Industrial Park at an estimated cost of \$8,000. KU, on the other hand, had to  
18 construct a 7500 foot three-phase distribution line across almost the entire north  
19 perimeter of the Park at a cost of \$80,000, ten times the cost for CVE to serve the  
20 Spec Building.

21 **Q. What are your observations of the dependability of KU and CVE as service**  
22 **providers to the Spec Building?**

1 A. CVE can provide more dependable service than KU. While CVE's existing  
2 distribution feeder is approximately 6.9 miles long, each significant lateral tap is  
3 fused, thus limiting exposure on the feeder itself. The line is very accessible and  
4 in excellent condition. There have been no feeder outages to the Tri-County  
5 Industrial Park just east of the Spec Building in over four years. On the other  
6 hand, KU's distribution feeder from the US Steel substation to the CTA site is  
7 approximately 3.5 miles long with all the lateral taps as well as the main feeder to  
8 the north and south are protected only by the substation breaker. This results in  
9 a similar circuit length exposure to CVE. In addition, KU's feeder is not easily  
10 accessible and is currently in poor condition. As a result of these conditions, it is  
11 my opinion that CVE can provide more dependable service to the Spec. Building  
12 than KU.

13 **Q. What is your recommendation to the Commission?**

14 A. The Commission should grant service to the Spec Building to CVE since the  
15 building is partially in CVE's assigned service area and was substantially closer to  
16 CVE's distribution lines than KU's.

17 **Q. Does this conclude your testimony?**

18 A. Yes

# CURRICULUM VITAE

January 2004

## JOSEPH E. PERRY, III, P.E.

EDUCATION: Bachelor of Science in Electrical Engineering from Old Dominion University, Norfolk, Virginia; 1967

Protective Relaying For Electric Utilities, Electrical Engineering Graduate School, Georgia Institute of Technology, Atlanta, Georgia; 1979-80.

POSITIONS: 1986 to present: Vice President & Chief Electrical Engineer, Patterson & Dewar Engineers, Inc., Decatur, Georgia.

1973 - 1986: Senior Electrical Engineer, Patterson & Dewar Engineers, Inc., Decatur, Georgia.

1972 - 1973: System Engineer, Boeing Atlanta Test Center, Kennedy Space Center, Florida.

1968 - 1972: Electrical Engineer, U.S. Air Force System's Command, Cape Kennedy, Florida.

June 1967 - December 1967: Electrical Engineer, NASA Langley Research Center, Hampton, Virginia.

MEMBERSHIPS: Pi Kappa Phi National Fraternity  
Power Engineering Society of Institute of Electrical & Electronic Engineers (IEEE), Senior Member (Chairman, Atlanta Chapter 1981-82).  
Brookwood Presbyterian Church (PCA & Elder), Snellville, GA

REGISTRATIONS: Professional Engineer in Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, and Tennessee.

PAPERS: "Large Power Load Rate and Contract Development" - Presented at the National Rural Electric Cooperative Association's Engineering Conference, November, 1983, Nashville, TN; also presented at the Kentucky Association of Electric Cooperative's Engineers' Meeting, October 1980, Owensboro, KY.

"Distribution Line Staking Basics Often Ignored" - Presented at the Georgia Electric Membership Corporation's Engineers' Meeting, November 1990, Gainesville, GA.

"Electric Line Conductor Tensions, Guying & Anchoring" - Presented at the Electric Power Associations of Mississippi's Intermediate Staking Technician's School, March 1993, Jackson, MS.

"Substation Justification for Electric Distribution Cooperatives" - Presented at the Kentucky Association of Electric Cooperative's (KAEC) Spring E&O Meeting, April 1996, Lake Barclay, KY.

"Eliminating Unnecessary & Nuisance Substation Feeder Operations (& Outages)" - Presented at the KAEC Spring E&O Meeting, March 1999, Lake Cumberland, KY.

ATTACHMENT

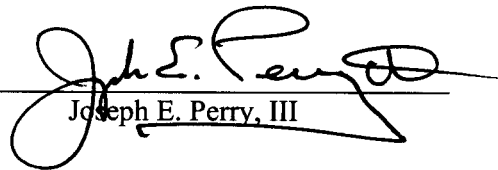
**VERIFICATION**

STATE OF GEORGIA

COUNTY OF DEKALB

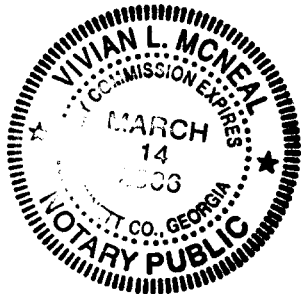
BEFORE ME, the undersigned authority, duly commissioned and qualified in and for the State and County aforesaid, personally came and appeared, Joseph E. Perry, III, who, being by me first duly sworn deposed and said that:

He is appearing as a witness on the behalf of Cumberland Valley Electric, Inc., before the Kentucky Public Service Commission in a Petition and Complaint filed by Cumberland Valley Electric, and if present before the Commission and duly sworn, his testimony would be set forth in the annexed testimony.

  
\_\_\_\_\_  
Joseph E. Perry, III

SWORN TO AND SUBSCRIBED BEFORE ME this  
5th day of January, 2004

  
\_\_\_\_\_  
NOTARY PUBLIC







## APPENDIX 3

October 27, 2003

RE: Cross Boundary Agreements Between CVE and KU

I was the local manager in Corbin from 1980 to 1999. From time to time customers of K.U or CVE would want the other utility to provide their service. Sometimes it would be more convenient or cost effective for KU or CVE to let the other utility serve the customer. Examples are as follows:

1. Clarence Mahan and his family located on 25E in the CVE territory. It was more convenient for KU to serve the Mahan families. There are 3 accounts presently being served by KU today.
2. J.T. Ohler located in Cardinal Heights is in CVE territory and served by KU.
3. CVE permitted KU to serve a large coal mine in Laurel County even though it was located in CVE territory. It was more economical for KU to serve this load. The mine operated from the mid 1970's to the mid 1980's.

KU also permitted CVE to serve account in the KU territory. Some examples being as follows:

1. Two account in Briar Wood Trace-323 Briar Wood Trace and 311 Briar Wood Trace.
2. 761 Oak ridge Road

I am sure there are other account near Corbin that KU and CVE exchanged over the years. KU and CVE had a good working relationship when I was local manager for KU.

C.B. Ely

