

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PETITION OF THE KENTUCKY CABLE	)	
TELECOMMUNICATIONS ASSOCIATION FOR	)	
A DECLARATORY ORDER THAT THE	)	CASE NO.
COMMISSION HAS JURISDICTION TO	)	2012-00544
REGULATE THE POLE ATTACHMENT RATES,	)	
TERMS, AND CONDITIONS OF	)	
COOPERATIVES THAT PURCHASE	)	
ELECTRICITY FROM THE TENNESSEE	)	
VALLEY AUTHORITY	)	

ORDER

On February 6, 2014, Hickman-Fulton Counties Rural Electric Cooperative Corporation, Pennyriple Rural Electric Cooperative Corporation, Tri-County Electric Membership Corporation, Warren Rural Electric Cooperative Corporation, and West Kentucky Rural Electric Cooperative Corporation (collectively "TVA Cooperatives") filed with the Commission a motion requesting the entry of a Protective Order that either cancels the depositions scheduled by the Kentucky Cable Telecommunications Association ("KCTA") for February 24, 2014, or alternatively, limits the areas of discovery permitted in the depositions.<sup>1</sup> Additionally, the TVA Cooperatives request that the Commission enter a Protective Order staying all depositions in this matter until the Commission issues decisions on KCTA's November 20, 2013 Motion to Compel and KCTA's January 2, 2014 Motion to Compel.<sup>2</sup>

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<sup>1</sup> The TVA Cooperatives' Motion for a Protective Order, p. 1, filed Feb. 6, 2014 (Motion for a Protective Order").

<sup>2</sup> *Id.* at pp. 1-2.

The TVA Cooperatives note that KCTA issued multiple Requests for Information to the TVA Cooperatives on October 24, 2013, and supplemental Requests for Information on December 2, 2013. On November 20, 2013, and January 2, 2014, KCTA filed Motions to Compel production from the TVA Cooperatives of cost data and documents regarding pole attachment agreements, pole rates, invoices, revenue, and witness identification information. On January 15, 2014, KCTA issued notices of depositions to each of the TVA Cooperatives, a motion for issuance of a subpoena *duces tecum* and a notice of deposition to the Tennessee Valley Public Power Association ("TVPPA"). The TVA Cooperatives filed a motion opposing KCTA's motion for a subpoena and deposition notice to the TVPPA, contending that the discovery sought by KCTA is irrelevant to the proceeding and that the Commission lacks jurisdiction over the TVPPA.

In support of their motion, the TVA Cooperatives reiterate that the Commission's August 6, 2013 Order granting rehearing ("Order on Rehearing") limited the scope of this case to "whether or not TVA has or exercises any jurisdiction, be it through the establishment of a ratemaking formula, review, or simply oversight responsibility in connection with ratemaking, over the pole attachment rates of the TVA cooperatives."<sup>3</sup> The TVA Cooperatives assert that deposition testimony regarding issues such as how the TVA Cooperatives set their rates, the pole attachment rate calculation and regulation, or recoupment of costs, are irrelevant to the jurisdictional question at issue in this case. As to their alternative request, the TVA Cooperatives state that "there is significant overlap between the discovery KCTA sought to compel in its November 20,

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<sup>3</sup> Order on Rehearing, p. 4.

2013 and January 2, 2014 Motions to Compel and the matters and topics KCTA identified in the notices.”<sup>4</sup> The TVA Cooperatives request that the Commission stay the depositions scheduled for February 24, 2014, until the Commission issues rulings on KCTA’s Motions to Compel so that the scope of discovery is clearly delineated in this matter.

KCTA submitted a response on February 10, 2014, opposing the TVA Cooperatives’ Motion for a Protective Order, asserting that the TVA Cooperatives did not object to the depositions until after the time period set forth in the existing procedural schedule had lapsed. KCTA contends that the TVA Cooperatives’ motion is an effort to thwart discovery in this proceeding. It also asserts that the TVA Cooperatives failed to state good cause for why the discovery KCTA seeks in its depositions is annoying, embarrassing, oppressive, or constitutes an undue expense or burden. KCTA avers that the topics on which the depositions would be conducted are specific and relevant to the proceeding.

Having considered the motion and being otherwise sufficiently advised, the Commission finds that, in the interest of administrative efficiency and economy, the Commission will grant the TVA Cooperatives’ alternative request to stay the depositions until the Commission has ruled on the KCTA’s November 20, 2013 and January 2, 2014 Motions to Compel.

IT IS HEREBY ORDERED that:

1. The TVA Cooperatives’ motion requesting that the depositions scheduled on February 24, 2014, be stayed until the Commission rules on KCTA’s Motions to

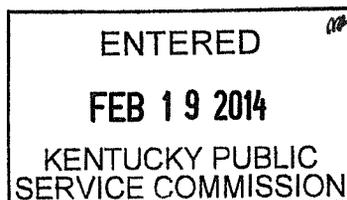
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<sup>4</sup> The TVA Cooperatives’ Motion for a Protective Order, p. 7 (filed Feb. 6, 2014).

Compel, filed on November 20, 2013, and January 2, 2014, is granted.

2. The TVA Cooperatives' motion to cancel or limit the scope of the depositions noticed by KCTA on January 15, 2014, is deferred for consideration in conjunction with a decision of KCTA's pending Motions to Compel.

By the Commission



ATTEST:

  
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