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COMMONWEALTH OF KENTUCKY
PUBLIC SERVICE COMMISSION
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RECEIVED

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August 1, 1994

GENERAL COUNSEL

W. David Denton, Esq.
Denton and Keuler
555 Jefferson Street
P. O. Box 929
Paducah, Kentucky 42002-0929

Re: Jackson Purchase ECC v. Paducah Power System

Dear Mr. Denton:

The Commission Staff has reviewed your letter regarding the efforts by the city of Paducah to have its electric plant board condemn a significant portion of the electric plant and certified territory belonging to Jackson Purchase Electric Cooperative Corporation.

While we agree with your assessment that the loss of this territory could be financially devastating to Jackson Purchase ECC, it does not appear that the Commission has any jurisdiction over the actions initiated by a municipal utility system. Although you state in your letter that, "[U]nder Kentucky law the reduction of any territory must be approved by the Public Service Commission," we have consistently interpreted KRS 278.016-278.018 to require Commission approval of boundary changes only between jurisdictional utilities. Since a city-owned electric utility is specifically excluded from the definition of a utility as set forth in KRS 278.010(3)(a), its territorial boundaries are not required to be reflected on the maps maintained by the Commission. In addition, judicial precedent holds that these types of boundary disputes are within the exclusive jurisdiction of the courts, not the Commission. See, City of Georgetown v. Public Service Comm'n, Ky., 516 S.W.2d 842 (1974) and City of Corbin v. Kentucky Utilities Company, Ky., 447 S.W.2d 356 (1969).

If you are aware of any statutes or case law which you believe grant the Commission jurisdiction over condemnation actions by city-owned utilities, please advise us at your earliest convenience. If you have any further questions on these issues, please contact Richard Raff of our Legal Staff.

Sincerely yours,

Don Mills
Executive Director

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