

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

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In the Matter of

THE APPLICATION OF HICKMAN-FULTON	)	
COUNTIES RURAL ELECTRIC COOPERATIVE	)	
CORPORATION FOR AN ORDER AUTHORIZING	)	
SAID CORPORATION TO BORROW ONE HUNDRED	)	
EIGHTY-NINE THOUSAND DOLLARS (\$189,000.00)	)	
FROM THE NATIONAL RURAL UTILITIES COOPERA-	)	CASE NO.
TIVE FINANCE CORPORATION FOR THE PURPOSE	)	8858
OF CONSTRUCTION, IMPROVEMENT AND OPERATION	)	
OF ELECTRIC DISTRIBUTION AND SERVICE	)	
FACILITIES IN HICKMAN, FULTON, GRAVES AND	)	
CARLISLE COUNTIES, KENTUCKY	)	

O R D E R

On September 27, 1979, the United States District Court for the Western District of Kentucky ruled that the Commission has no authority to regulate the rates of electric utilities in Kentucky that buy their power from the Tennessee Valley Authority ("TVA"), Tennessee Valley Authority, et al. v. Energy Regulatory Commission of Ky., Civil Action No. 79-0009-P, W.D. Ky., September 27, 1979, unpublished opinion. In January 1983, the Commission received correspondence from TVA stating that in its opinion the principle enunciated in the 1979 federal court decision would apply to service as well as rates. The Commission agreed with this interpretation and has returned all tariffs to the TVA-supplied cooperatives.

On November 12, 1982, the Franklin Circuit Court issued its opinion in West Kentucky RECC v. Energy Regulatory Commission, Civil Action No. 80-CI-1747, to the effect that the Rural Electrification Administration ("REA") falls within the classification of the "federal

government or any agency thereof" and, accordingly, borrowings from REA are exempt from Commission scrutiny under the provisions of KRS 278.300(10).

The Commission, having considered the decisions of the United States District Court, the Franklin Circuit Court and being advised, is of the opinion and finds that, absent jurisdiction over rates, service and borrowings from REA, any attempt to exercise jurisdiction over other borrowings by TVA-supplied rural electric cooperatives including the National Rural Utilities Cooperative Finance Corporation, the lender herein, would be ineffectual.

IT IS THEREFORE ORDERED That this case be and it hereby is dismissed.

Done at Frankfort, Kentucky, this 27th day of June, 1983.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

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Secretary