

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

BIG RIVERS ELECTRIC CORPORATION'S (1))
NOTICE OF CHANGES IN ITS RATES AND FUEL)
ADJUSTMENT CLAUSE BASE FOR ELECTRICITY)
SOLD TO MEMBER COOPERATIVES, AND (2))
APPLICATION FOR AUTHORITY TO ISSUE)
NOTES OR OTHER EVIDENCES OF INDEBTED-)
NESS, AND (3) APPLICATION FOR APPROVAL)
OF SALE AND LEASE-BACK OF ITS D. B.)
WILSON STATION GENERATING UNIT 1 AND)
ASSOCIATED FACILITIES)

CASE NO.
9006

and

In the Matter of:

THE APPLICATION OF BIG RIVERS ELECTRIC)
CORPORATION FOR AN ORDER AUTHORIZING IT)
TO (a) BORROW \$1,110,740,000.00 FROM)
THE UNITED STATES OF AMERICA THROUGH)
THE RURAL ELECTRIFICATION ADMINISTRA-)
TION OR THE FEDERAL FINANCING BANK OR)
OTHER ELIGIBLE LENDER UNDER 12 U.S.C.)
SEC. 2285(b), AND TO (b) ISSUE)
APPROPRIATE EVIDENCE OF INDEBTEDNESS)
TO SECURE THAT DEBT)

CASE NO.
7990

O R D E R

On June 7, 1984, National Southwire Aluminum Company ("NSA") filed a request for the Commission to issue subpoenas duces tecum requiring Meade County Rural Electric Cooperative Corporation ("Meade County"), Henderson-Union Rural Electric Cooperative Corporation ("Henderson-Union"), and Jackson Purchase Electric

Cooperative Corporation ("Jackson Purchase")(collectively called "Coops") to produce the names and mailing addresses of each of their retail customers. On June 13, 1984, the Coops filed a motion requesting the Commission to reject and/or quash NSA's motion for subpoenas duces tecum. The Coops' motion was based on the following grounds:

1. Coops are neither parties to nor intervenors in Case No. 9006; NSA is not a member of the Coops; and the Coops' membership list is confidential in nature; and
2. NSA has failed to state any grounds to support the issuance of a subpoena.

On June 22, 1984, NSA filed a brief in support of its request for subpoenas. NSA alleges that:

1. The Commission is authorized by KRS 278.320 to issue subpoenas to non-parties;
2. The Coops have failed to specify any grounds to support their claim that their membership lists are confidential; and
3. Since the Coops have provided incomplete and misleading information regarding Big Rivers' D. B. Wilson Generating Plant to their members, granting the subpoena would ensure that the Coops' members are fully informed.

On June 26, 1984, Henderson-Union responded to NSA's brief by alleging that:

1. The Commission's regulation authorizes a subpoena for "books, accounts, papers or records" but not for a list to be compiled at the expense of the entity subpoenaed. 807 KAR 5:001 Section 3(6)(b);
2. NSA has failed to provide a reason to justify a subpoena or show the relevancy of Coops' membership lists to this case;
3. NSA has failed to show that any information provided by the Coops to its members was inaccurate.


On June 27, 1984, Meade County and Jackson Purchase filed a response to NSA's brief. Their response presented arguments similar to Henderson-Union's response.

Based on NSA's request for a subpoena duces tecum and brief in support thereof, the Coops' motion to quash and briefs in support thereof, the evidence of record and being advised, the Commission is of the opinion and hereby finds that NSA has failed to provide a showing of need or relevancy for the Coops' membership lists or that the membership list will lead to the discovery of any relevant evidence.

IT IS THEREFORE ORDERED that NSA's request for subpoenas duces tecum for the Coops' membership lists be and it hereby is denied.

Done at Frankfort, Kentucky, this 5th day of July, 1984.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:

Secretary