

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF RICHWOOD INDUSTRIAL)	
DEVELOPMENT CORPORATION FOR ELECTRIC)	CASE NO.
SERVICE FROM THE UNION LIGHT, HEAT)	9203
AND POWER COMPANY)	

O R D E R

On October 19, 1984, Richwood Industrial Development Corporation ("Richwood") filed an application with the Commission requesting an Order authorizing Union Light, Heat and Power Company ("ULH&P") to extend its facilities to serve a new 245 acre industrial park being developed by Richwood in Boone County, Kentucky. The industrial park (which is being developed in conjunction with the Commonwealth of Kentucky) is located on the boundary of the certified territories of ULH&P and Owen County RECC ("Owen County"). As such, Richwood contends that the entire industrial park should be considered a "new electric consuming facility" which has located in two adjacent certified territories, and, pursuant to KRS 278.018(1), this Commission must determine which of the two utilities (ULH&P or Owen County) should serve the new area.

The facts of this case are identical to a case decided by this Commission in 1982.¹ In that case, the Commission was called upon to decide which electric utility (ULH&P or Owen County) should serve a new industrial park developed by Consolidated Foods Corporation. The key issue was whether the entire industrial park should be considered the "new electric consuming facility," or just each building within the park that uses electricity. The Commission held that the entire tract should be considered the "electric consuming facility" and, accordingly, authorized ULH&P to serve the park. The Franklin Circuit Court affirmed the Commission's holding, but that decision is now before the Kentucky Court of Appeals.²

Since the critical issue in Richwood's application is once again whether the entire industrial park (or just each entity within it) shall be considered a "new electric consuming facility," it would be fruitless to proceed with resolving this case until the Court of Appeals rules as to whether the Commission's interpretation of KRS 278.018(1) is right or wrong. The Court of Appeals heard oral arguments on March 14, 1984, and a decision should be forthcoming by the end of this year. For

¹ Case No. 8541, "Petition by Commonwealth of Kentucky, The Campbell County Fiscal Court for Determination that Respondent Union Light, Heat and Power Company May Service Industrial Park," August 25, 1982.

² Owen County Rural Electric Cooperative Corporation v. Public Service Commission, et al., Court of Appeals of Kentucky, No. 83-CA-1480-MR.

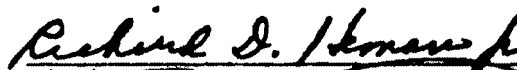
these reasons, the Commission is of the opinion that Richwood's present case should be held in abeyance until such time as the Kentucky Court of Appeals issues its final ruling on the 1982 case.

IT IS THEREFORE ORDERED that the Union Light, Heat and Power Company and the Owen County Rural Electric Cooperative Corporation are hereby made parties to this proceeding.

IT IS FURTHER ORDERED that this case be and it hereby is held in abeyance until a final ruling of the Kentucky Court of Appeals in Owen County RECC v. Public Service Commission, et al., Court of Appeals No. 83-CA-1480-MR.

Done at Frankfort, Kentucky, this 7th day of November, 1984.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:

Secretary