

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

| | | |
|--------------------------------|---|-----------------|
| HENDERSON-UNION RURAL ELECTRIC |) | |
| COOPERATIVE CORPORATION |) | |
| |) | |
| COMPLAINANT |) | |
| |) | |
| VS. |) | CASE NO. 92-213 |
| |) | |
| KENTUCKY UTILITIES COMPANY |) | |
| |) | |
| DEFENDANT |) | |

O R D E R

On December 10, 1992, Henderson-Union Rural Electric Cooperative Corporation ("Henderson-Union") filed a motion requesting authority to take depositions of two individuals and introduce such depositions as evidence at the hearing scheduled in this case which involves a dispute over service territory between the parties. Henderson-Union proposes to depose the President of Henderson Community College, the customer located in the disputed territory, and the land surveyor who prepared certain maps that have already been filed in the record. Henderson-Union also seeks to modify the procedural schedule to extend the date for taking depositions from December 9, 1992 to January 7, 1993.

Kentucky Utilities Company ("KU") filed a response stating that it had no objection to using the customer's deposition for evidentiary purposes or to extending the time to take such deposition. However, KU declined to waive its right to object to

the use of the deposition of Henderson-Union's land surveyor as evidence at the hearing.

Based on the motion and the response, and being otherwise sufficiently advised, the Commission hereby finds that, except for good cause shown, depositions should be used for discovery purposes only. The time and expense incurred by parties and Commission staff in attending out of town depositions would far outweigh the inconvenience of requiring out of town witnesses to attend a Commission hearing. Absent such appearance, the Commission is unable to fully evaluate the credibility of the testimony or to question the witness.

The record discloses that the testimony of the President of Henderson Community College will be limited in scope and the use of his deposition as evidence will minimize the inconvenience to a nonparty. The testimony of Henderson-Union's land surveyor, on the other hand, may well be critical to the establishment of the location of the property in dispute and, thus, should be presented live at the hearing.

IT IS THEREFORE ORDERED that:

1. Henderson-Union's motion to introduce as evidence the deposition of the President of Henderson Community College be and it hereby is granted.

2. Henderson-Union's motion to introduce as evidence the deposition of its land surveyor be and it hereby is denied.

3. Henderson-Union's motion to modify the procedural schedule by extending the date for taking depositions from December 9, 1992 to January 7, 1993 be and it hereby is granted.

Done at Frankfort, Kentucky, this 22nd day of December, 1992.

PUBLIC SERVICE COMMISSION


For the Commission

ATTEST:


Executive Director