

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

HENDERSON-UNION RURAL ELECTRIC COOPERATIVE CORPORATION)	
)	
COMPLAINANT)	
VS.)	CASE NO. 93-211
KENTUCKY UTILITIES COMPANY)	
)	
DEFENDANT)	

O R D E R

On June 17, 1993, Henderson-Union Rural Electric Cooperative Corporation ("Henderson-Union") filed a complaint against Kentucky Utilities Company ("KU") seeking Commission authorization to provide electric service to Gary E. Peyton ("Peyton"), operating as Union County Coal Company ("Union County"), at a proposed mining site in Union County, Kentucky. Peyton intervened and participated in a hearing held at the Commission's offices on October 26, 1993.

Peyton currently operates a coal washing facility at the site in controversy which is powered by diesel generation. In 1991, he requested Henderson-Union to extend service approximately 3,000 feet from an existing 12.5 KV distribution line to the coal washer. Peyton paid Henderson-Union for the cost of the extension but never requested it to be constructed. The payment was ultimately refunded and the washer has continued to operate on diesel generation.

Union Coal is in the process of developing an underground mine located adjacent to the coal washer. The mine consists of two adjacent blocks of coal. The first block (approximately two million tons) is located entirely within Henderson-Union's territory; the second block is within both territories. The mine opening will be located within Henderson-Union's territory and, since Union Coal intends to start by mining all the reserves in the first block, all the mining equipment will initially be in Henderson-Union's territory.

Henderson-Union maintains that it has the exclusive right to serve this load because the first block of coal, which will take at least three years to mine, is within its certified territory and, thus, the new electric consuming facility will be within its territory. To serve the proposed load of two continuous miners and the wash plant, Henderson-Union's wholesale power supplier, Big Rivers Electric Corporation ("Big Rivers"), will have to construct approximately 5.5 miles of 69 KV transmission line at a cost in excess of \$500,000.

To mitigate this construction cost, Peyton purchased a used substation, poles, and electric wire; acquired 2.5 miles of rights-of-way; and constructed his own transmission line to tap into an existing KU 69 KV transmission line.

KU argues that, under the Commission's decision in the Pyro Mining case,¹ the controlling factor is the location of the coal reserves. Applying that factor here leads to a new electric consuming facility located in two adjacent certified territories and requires the application of the criteria set forth in KRS 278.017(3). Those criteria include the proximity to existing distribution lines, the supplier first furnishing retail service, the age of existing facilities in the area, the adequacy and dependability of existing distribution lines, and the elimination and prevention of duplication of lines and facilities. Under these criteria, KU argues that it should be authorized to serve the mine because no additional lines or facilities (other than metering equipment) will need to be constructed.

Based on the evidence of record and being sufficiently advised, the Commission finds that the location of the coal reserves should be the pivotal factor in this case since this delineates the location of the new electric consuming facility. Union Coal's coal reserves are located in two adjacent certified territories. Consequently, the mine site is a new electric consuming facility located in two adjacent certified territories and requires the application of the criteria in KRS 278.017(3):

- a. The proximity of existing distribution lines to such certified territory.

¹ Case No. 89-349, In Re: Kentucky Utilities v. Henderson-Union Rural Electric Cooperative Corporation, Order dated May 23, 1990.

- b. Which supplier was first furnishing retail electric service, and the age of existing facilities in the area.
- c. The adequacy and dependability of existing distribution lines to provide dependable, high quality retail electric service at reasonable costs.
- d. The elimination and prevention of duplication of electric lines and facilities supplying such territory.

Under these criteria, KU should be authorized to serve the Union Coal mining site. Both utilities have had facilities in the area for at least 50 years. The large power requirements of this new electric consuming facility will necessitate electricity at the 69 KV level. While utility facilities operating at the 69 KV level are typically classified as transmission rather than distribution, such 69 KV facilities will be performing the function of distributing electricity in this instance. Thus, the adequacy and dependability of distribution lines must be determined in the context of 69 KV facilities.

The Union Coal mine site is approximately 2.5 miles from KU's 69 KV facilities and approximately 5.5 miles from those of Big Rivers. Henderson-Union is neither benefitted nor prejudiced if the statutory criteria are considered in light of Peyton's privately constructed 69 KV line. With Peyton's line, service from Henderson-Union would require an additional 69 KV line exceeding two miles and costing approximately \$267,000. In contrast, only minimal facilities costing approximately \$6,000 will be required for service from KU. Under either scenario, the needless

duplication of electric facilities and the unnecessary encumbering of the landscape of the Commonwealth will be avoided by permitting KU to provide retail electric service to the Union Coal mine site.

IT IS THEREFORE ORDERED that:

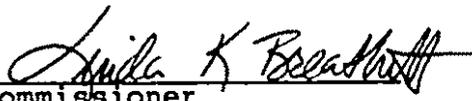
1. Henderson-Union's complaint is dismissed.
2. KU be and it hereby is authorized to serve the Union Coal mining site in Union County, Kentucky.

Done at Frankfort, Kentucky, this 3rd day of March, 1994.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director