

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

MICHAEL D. SMITH)	
)	
COMPLAINANT)	
)	
v.)	CASE NO. 98-026
)	
INTER-COUNTY RURAL ELECTRIC)	
COOPERATIVE CORPORATION)	
)	
DEFENDANT)	

O R D E R

On January 9, 1998, Michael D. Smith filed a complaint with the Commission alleging that he was dissatisfied with the treatment that he had received from Inter-County Rural Electric Cooperative Corporation ("Inter-County") regarding electric service to a residence at 190 Delbar Lane, Lancaster, Kentucky. The complaint further alleges that adjacent properties receive electric service from Kentucky Utilities Company ("KU") and the relief requested is for the Commission to move the territorial boundary line so the complainant can receive electric service from KU.

Pursuant to Commission Regulation 807 KAR 5:001, Section 12(4)(a), upon receipt of a formal complaint the Commission must determine whether it sets forth sufficient facts to constitute a prima facie case. A prima facie case exists when, taking the facts set forth in the complaint as true, the complainant is entitled to the relief requested. In the Smith complaint, the relief requested is to move the territorial boundary to allow the property to receive electric service from KU.

Pursuant to the electric territory boundary statute, KRS 278.016-278.018, the Commission has the authority to change a boundary in only three limited situations:

1. When a new electric consuming facility locates in two or more adjacent certified territories. KRS 278.018(1).
2. When a retail electric supplier is not providing adequate service, and fails to correct the service deficiencies after being ordered to do so. KRS 278.018(3).
3. When two retail electric suppliers contract with each other for the allocation of territories and consumers. KRS 278.018(6).

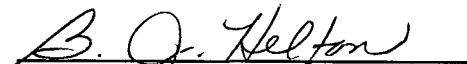
The Smith complaint does not state that any part of his residence is located within KU's certified territory; does not state that Inter-County is not providing or is unable to provide adequate service to his residence; and does not state that Inter-County is willing to voluntarily allow KU to serve his residence. Consequently, taking all of the allegations in the Smith complaint as true, he is not entitled to any change in the territorial boundary and the Commission has no legal authority to grant the boundary change requested.


Based on the failure of the Smith complaint to state a prima facie case, the complaint will be dismissed. In the event that there are additional facts not set forth in the complaint which support the relief requested, a new complaint should be filed.


IT IS THEREFORE ORDERED that the Smith complaint is dismissed for failure to state a prima facie case.

Done at Frankfort, Kentucky, this 4th day of February, 1998.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director