

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PETITION OF CTA ACOUSTICS, INC.)
TO RETAIN KENTUCKY UTILITIES) CASE NO. 2003-00226
COMPANY AS POWER SUPPLIER AND)
FOR EXPEDITED TREATMENT)

INTERIM ORDER

On June 10, 2003, CTA Acoustics, Inc. (CTA Acoustics) filed a petition, pursuant to KRS 278.016 - 278.018, requesting the Commission to modify the electric territorial boundary within the Southeast Kentucky Regional Business Park (Business Park) in Knox County, Kentucky. CTA Acoustics states that it is now constructing a manufacturing facility on a parcel within the Business Park and was induced to do so based upon representations that the Business Park was entirely within the territorial boundary of Kentucky Utilities Company (KU). However, CTA Acoustics states it was thereafter advised that Cumberland Valley Electric, Inc. (Cumberland Valley) claims the exclusive right to provide electric service to the CTA Acoustics facility. CTA Acoustics states that time is of the essence because it needs to commence operations by the end of July 2003. The petition requests that the entire Business Park be considered a new electric-consuming facility that will be located in two adjacent certified territories and that, upon application of the criteria set forth in KRS 278.017(3), the right to serve the new facility be granted to KU.

CTA Acoustics also states that approximately 80 percent of the property within the Business Park is within the certified territory of KU, while approximately 20 percent is within the territory of Cumberland Valley. In addition, a speculative industrial building has been built within the Business Park and it is also being served by KU. CTA Acoustics further states that KU has existing three-phase facilities within the Business Park and that an extension of service can be made at nominal cost, whereas Cumberland Valley would be required to build a new substation at a cost of \$800,000 to CTA Acoustics. CTA Acoustics also claims that while no security deposit would be required for service from KU, a \$175,000 deposit would be required by Cumberland Valley. The petition also states that service by Cumberland Valley would cost \$200,000 more per annum than service by KU.

On June 18, 2003, the Commission entered an Order directing KU, Cumberland Valley, and the Business Park to file written responses to the petition and scheduled an informal conference to be held on June 27, 2003. KU asserted in its response that it was ready, willing, and able to provide electric service to the entire Business Park and that declaring the park to be one electric-consuming facility would further the goals set forth in the Certified Territorial Boundary Act. Cumberland Valley asserted in its response that CTA Acoustics lacked standing to request a boundary change for the entire Business Park and that there was no evidence that the Business Park was to be developed, or will function, as a single electric-consuming facility. Further, Cumberland Valley stated that it does not currently believe a new substation will be needed to provide reliable permanent service to CTA Acoustics. Rather, only limited distribution system additions will be needed. The Business Park filed a response in which it

questions the need for redundant electric facilities if two utilities are allowed to serve a single industrial park, agrees with CTA Acoustics that it is in their best interest to be served by KU, and suggests that the parties try to seek a settlement regarding a modification of the territorial boundary.

An informal conference was held as scheduled on June 27, 2003. CTA Acoustics stated that it has approximately 550 employees and that three-phase electric service is needed by July 27, 2003 so it can commence manufacturing operations. Subsequent thereto, KU and Cumberland Valley filed written statements of their respective willingness to provide three-phase service to CTA Acoustics on a temporary basis to afford sufficient time for the Commission to conduct discovery, hold an evidentiary hearing, and adjudicate the merits of the issues raised in the petition. Both utilities indicated that they were willing to provide an extension of service at no cost to CTA Acoustics, and they waived their respective rights to a hearing on the issue of temporary service.

Based on the evidence of record, and being otherwise sufficiently advised, the Commission finds that time is of the essence to ensure that CTA Acoustics has three-phase service by July 27, 2003 to begin operations. Although the preferable procedure would be to conduct extensive discovery, hold an evidentiary hearing, and then adjudicate the issues on their merits, the present time constraints require a modification of that procedure. Consequently, the Commission finds it essential to authorize one utility to provide three-phase service on a temporary basis and then proceed with the discovery and hearing. Since that process should not exceed 6 months, the temporary service authorized herein will be limited to 6 months.

The Commission further finds that there is legal precedent to find that an industrial park is an electric-consuming facility for the purposes of applying the provisions of KRS 278.016 - 278.018. See Owen County Rural Electric Cooperative Corp. v. Public Service Commission, Ky.App., 689 S.W.2d 599 (1985). Based upon a review of the record in this case, which we acknowledge is not fully developed at this time, there appears to be no legal impediment to finding that the industrial park at issue here is one electric-consuming facility. The facts, as developed to date, indicate that the Business Park does lie within two adjacent certified territories, and that at least five of the fourteen lots in the Business Park are bisected by the certified territory, including the speculative office building that is already connected to KU. KU has existing three-phase facilities within the Business Park and would have to construct an extension of approximately 1,900 feet to provide service on a temporary basis to CTA Acoustics. Cumberland Valley, which is currently providing single-phase construction service to CTA Acoustics, would have to construct an upgrade of its line to three-phase for approximately one mile.

The limited record now before us indicates that KU has existing three-phase facilities closer to CTA Acoustics and, thus, an extension of service by KU will result in the prevention of wasteful materials and natural resources. In addition, while Cumberland Valley now asserts that it does not need to construct a new substation to reliably serve CTA Acoustics, there has been insufficient time to fully investigate this issue. Since there appears to be no question that KU can provide reliable three-phase service on a temporary basis, the Commission finds that KU should be required to do so based on the need of CTA Acoustics to have electric service by July 27, 2003 to

commence operations in its new facility. To expedite the investigation of the merits of the issues raised in the petition of CTA Acoustics, the parties should follow the procedural schedule set forth in Appendix A. In addition, the Commission suggests that KU and Cumberland Valley give serious consideration to resolving this case amicably through an allocation of territories pursuant to KRS 278.180(6).

IT IS THEREFORE ORDERED that:

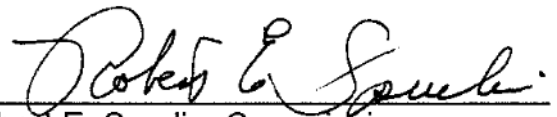
1. KU shall provide to CTA Acoustics at its new facility in the Business Park three-phase electric service on a temporary basis not to exceed 6 months, subject to further Order by the Commission.
2. The procedural schedule in Appendix A, attached hereto, shall be followed.

Done at Frankfort, Kentucky, this 21st day of July, 2003.

By the Commission

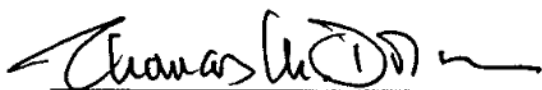
DISSENTING OPINION OF
COMMISSIONER ROBERT E. SPURLIN

KRS 278.018 gives Cumberland Valley the exclusive right to serve its certified territory, and the CTA Acoustics facility is within Cumberland Valley's certified territory. Moreover, the record demonstrates that Cumberland Valley is already providing single-phase service to the CTA Acoustics facility, and could upgrade to three-phase service. I believe it is entitled to do so, and that the majority errs in denying it that right. At the very least, I do not believe this Order should have been issued without our first having held an evidentiary hearing.



Robert E. Spurlin, Commissioner
Kentucky Public Service Commission

ATTEST:



Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2003-00226 DATED July 21, 2003

CTA Acoustics shall file direct testimony in
verified prepared form no later than August 5, 2003

Requests for information to CTA Acoustics
shall be filed no later than August 15, 2003

CTA Acoustics shall file responses to requests
for information no later than August 22, 2003

KU, Cumberland Valley, and the Business Park
shall file direct testimony in verified
prepared form no later than September 5, 2003

Requests for information to KU, Cumberland Valley,
and the Business Park shall be filed no later than September 15, 2003

KU, Cumberland Valley, and the Business Park
shall respond to requests for information no later than September 22, 2003

Rebuttal testimony by any party shall be filed
in verified prepared form no later than October 6, 2003

Public hearing for the purpose of cross-
examination of all witnesses shall be held at
the Commission s offices at 211 Sower
Boulevard, Frankfort, Kentucky To be scheduled