

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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

O R D E R

Pending before the Commission is Cumberland Valley Electric, Inc. s (Cumberland Valley) Request for Ruling on its July 1, 2003 Motion for a Declaration of Rights. The Request for Ruling states that the previously filed Motion for a Declaration of Rights (Motion) was based on undisputed facts that CTA Acoustics, Inc. (CTA Acoustics) was a new electric consuming facility located exclusively within Cumberland Valley s certified territorial boundary and that authorizing electric service to be provided on an interim basis by Kentucky Utilities Company (KU) would be unlawful. The Request for Ruling acknowledges that the Commission s July 21, 2003 Interim Order authorized KU, not Cumberland Valley, to provide interim service to CTA Acoustics, but claims that the Commission has never ruled on the Motion. The Request for Ruling then presents substantial arguments in support of Cumberland Valley s position that it should have been authorized to provide interim service to CTA Acoustics and that the July 21, 2003 Interim Order is unlawful.

KU filed an objection to Cumberland Valley s Request for Ruling. KU states that while the pleading purports to be a request for the Commission to rule on an

outstanding Motion, the pleading is actually a second petition for rehearing of the July 21, 2003 Interim Order wherein the Motion was denied. KU notes that Cumberland Valley's Motion requested authorization from the Commission to provide electric service to CTA Acoustics on an interim basis until completion of this case, and that Motion was denied by the Commission's July 21, 2003 Interim Order. Cumberland Valley subsequently filed on July 22, 2003 a petition for rehearing of the July 21, 2003 Interim Order, and the Commission denied rehearing by Order dated July 23, 2003. KU thus argues that the pending Request for Ruling is an effort to seek a second, untimely, rehearing of the July 21, 2003 Interim Order.

Cumberland Valley filed a reply to KU's objection, arguing that the Request for Ruling is not a second request for rehearing and that the Commission has never ruled on the Motion. KU then filed a surreply to Cumberland Valley's reply, claiming that the Commission clearly denied the substance of the Motion in the July 21, 2003 Interim Order by ruling that the business park, rather than CTA Acoustics, could be considered a new electric consuming facility and authorizing KU, rather than Cumberland Valley, to provide service on an interim basis. KU further states in its surreply that the issue in this case is whether the business park in which CTA Acoustics is located should be deemed a new electric consuming facility and, if so, which of the two adjacent retail electric suppliers should be authorized to serve the entire park.

Based on Cumberland Valley's Request for Ruling, the subsequent pleadings thereto, and being otherwise sufficiently advised, the Commission finds that the issues in this case are: 1) Whether the business park, which is located within the certified territories of two adjacent retail suppliers, should be deemed a new electric consuming

facility; and 2) if so, which of the two adjacent retail electric suppliers should be entitled to serve. The Commission further finds that Cumberland Valley's Motion was, by implication, denied by the findings in the July 21, 2003 Interim Order that the business park could be considered a new electric consuming facility and, under the statutory criteria, that awarding interim service to KU would result in the prevention of wasteful materials and natural resources.

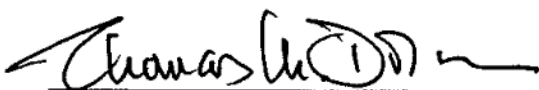
Cumberland Valley's Request for Ruling, as well as its prior Motion, seeks a determination from the Commission that the new electric consuming facility at issue here is CTA Acoustics, not the business park, and that Cumberland Valley has an exclusive right to serve CTA Acoustics. Cumberland Valley's Request for Ruling is a request for the Commission to reconsider the findings in the July 21, 2003 Interim Order that the business park within which CTA Acoustics is located could be considered a new electric consuming facility and that authorizing KU to serve on an interim basis, pending such consideration, will prevent the waste of materials and natural resources since its facilities are in closer proximity. As such, rehearing is not timely under KRS 278.400, which requires rehearings to be filed within 23 days of the order sought to be reheard. In the event that the Commission, after hearing, determines that the industrial park at issue here should not be deemed a new electric consuming facility, the Commission will then consider Cumberland Valley's assertions that it has the exclusive right to serve CTA Acoustics as a new electric consuming facility.

IT IS THEREFORE ORDERED that Cumberland Valley's Request for Ruling is denied.

Done at Frankfort, Kentucky, this 16th day of December, 2003.

By the Commission

ATTEST:

A handwritten signature in black ink, appearing to read "Thomas W. [unclear]", written over a horizontal line.

Executive Director