

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)	

O R D E R

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. The Business Park is located within adjacent territories certified to Cumberland Valley Electric, Inc. ("Cumberland Valley") and Kentucky Utilities Company ("KU"). CTA Acoustics requests that the entire Business Park be considered a new electric-consuming facility that is located in two adjacent certified territories and that, based on the criteria set forth in KRS 278.017(3), KU be authorized to serve the entire Business Park.

Both Cumberland Valley and KU filed responses to the petition, an informal conference was held at the Commission's offices, and additional pleadings were filed by all parties. Based on the unique circumstances presented in this case, the Commission issued an Interim Order on July 21, 2003 granting KU the temporary right, not to exceed 6 months, to provide electric service to CTA Acoustics. The Interim Order also established a procedural schedule that provided for discovery, the filing of prepared

testimony, and an evidentiary hearing. The evidentiary hearing commenced on January 21, 2004, and during the second day of the hearing the parties announced that they had reached a settlement on all issues. The major terms of that settlement were reduced to writing and read into the record on January 22, 2004. The parties further agreed to submit a formal settlement agreement and a supporting motion, both of which were filed on February 3, 2004.

The Settlement Agreement, attached hereto and incorporated herein by reference, provides that the certified territorial boundary will be modified within the Business Park so that Cumberland Valley's territory includes all of Lot Nos. 1, 2, 3, 4, 5, 6, 7, and 9, and KU's territory includes all of Lot Nos. 1-A, 8, 10, 11, 12, and 13.¹ This boundary change will allow KU to provide electric service to CTA Acoustics, which is located on Lot No. 1-A, and allow Cumberland Valley to serve the existing speculative building, which is located on Lot No. 5. In addition, there will be a boundary change for approximately 75 acres bordered generally by Watch Road and Lynn Camp Church Road to include that land within the certified territory of Cumberland Valley, except that KU will retain within its territory any existing customers on that land.² The two utilities also acknowledge that each is serving a limited number of customers in the other's territory, and they have agreed to work together to revise the certified territorial boundary maps to reflect these customers as well as the other changes agreed to as part of the Settlement Agreement.

¹ A map depicting the lots within the Business Park is attached as an exhibit to the testimony of Richard Harp, filed on behalf of CTA Acoustics on August 5, 2003.

² A map showing the location of the 75 acres is attached to the Settlement Agreement.

Cumberland Valley and KU have also agreed that neither utility, after investigation, will intentionally provide electric service to a customer located entirely within the exclusive service territory of the other utility without the prior permission of both utilities or approval by the Commission. In an effort to minimize disputes between retail electric suppliers, the Commission takes this opportunity to remind all retail electric suppliers that they are prohibited from serving customers located in the certified territory of another retail electric supplier, except as otherwise provided in KRS 278.016 - 278.018.

In determining whether the terms of the Settlement Agreement are in the public interest and are reasonable, the Commission has taken into consideration the comprehensive nature of the Agreement and the provision of KRS 278.018(6), which authorizes retail electric suppliers to allocate territories and consumers between themselves, subject to Commission approval. Based on the evidence of record and being otherwise sufficiently advised, the Commission finds that the Settlement Agreement is in accordance with the law and does not violate any regulatory principle. The Settlement Agreement is a product of arm's-length negotiations among capable, knowledgeable parties, is in the public interest, and results in a reasonable resolution of all issues in this case. The boundary changes agreed to by the parties herein will promote the purposes of KRS 278.016 and will result in adequate and reasonable electric service being provided to the affected areas and consumers.

The Commission further finds that the Settlement Agreement is based upon the specific facts of this case and has no precedential value. Any future requests for an industrial park to be considered a new electric-consuming facility under KRS 278.018(1)

will be decided by applying the facts presented to the provisions of the Territorial Boundary Act (KRS 278.016 - 278.018) and the previous rulings of the Commission in such cases.

IT IS THEREFORE ORDERED that:

1. The Settlement Agreement is adopted and approved in its entirety as a complete resolution of all issues in this case.
2. The July 21, 2003 Interim Order is withdrawn and shall have no precedential value in any future proceeding.
3. Within 60 days from the date of this Order, Cumberland Valley and KU shall file revised territorial boundary maps reflecting the changes approved herein.
4. The pending petition of CTA Acoustics is dismissed as settled and this case is closed.

Done at Frankfort, Kentucky, this 19th day of February, 2004.

By the Commission

ATTEST:


Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2003-00226 DATED February 19, 2004

(See document named "200300226_02192004apx.pdf" for Appendix.)