

COMMONWEALTH OF KENTUCKY
BEFORE THE KY PUBLIC SERVICE COMMISSION
CASE NO. 2009-00485

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COMMISSION

In The Matter Of:

KENTUCKY POWER COMPANY,

PETITIONER,

VS.

ANSWER OF RESPONDENT
GRAYSON RURAL ELECTRIC COOPERATIVE CORPORATION

GRAYSON RURAL ELECTRIC
COOPERATIVE CORPORATION,

RESPONDENT.

Comes now Grayson Rural Electric Cooperative Corporation (GRECC) and for its answer to the petition herein, states as follows:

1. The petition fails to state a justiciable controversy within the purview of the Kentucky Public Service Commission for the reason that the allegations concern provision of electric service within an already established geographical territory as determined by KRS 278.016 to 278.018, and as such the Commission is without jurisdiction to hear the matter brought forth in the petition. Accordingly, numerical paragraph 1 of the petition is denied.
2. The Respondent admits numerical paragraphs 2 and 3.
3. The Respondent denies, for want of appropriate information and knowledge, the allegations set forth in numerical paragraphs 4, 5, 6, 7, and 8.
4. With respect to numerical paragraph 9, the Respondent states that the allegation seems to be asserting that prior to the time that GRECC began serving the area that GRECC did not serve the area. Such a statement is without meaning and therefore the Respondent must admit that there was a period of time prior to 1972 when GRECC did not serve the area and admits that there was a time subsequent to 1972 when GRECC did serve the area.

5. The Respondent admits paragraphs 11 and 12 of the petition.
6. The Respondent is without information sufficient to form a belief as to the truth of the allegation contained in numerical paragraphs 13 and 14 and therefore must deny same.
7. The answering Respondent admits numerical paragraphs 15 and 16.
8. The answering Respondent states that the boundary line between the certified territories of Kentucky Power and GRECC were drawn in accordance with provisions of KRS 278.016 to 278.018, to which there was no appropriate objection filed or lodged by either party herein and, as such, those certified territories define conclusively the area within which both Petitioner and Respondent may provide electric service.
9. The answering Respondent must deny numerical paragraphs 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, and 31.
10. The Respondent respectfully submits that the proposed consumer, Mountain Materials, has sought from this Respondent the provision of retail electric service to its real estate located within the certified territory of the Respondent, which this Respondent is ready, willing, and able to supply, and has advised Mountain Materials that it will supply said retail electric service in accordance with the rules of GRECC and the tariffs on file with the Kentucky Public Service Commission.
11. The Kentucky Public Service Commission has, years ago, acted in accordance with the provisions of KRS 278.016 to 278.018, determining conclusively that the disputed area is within the certified territory of GRECC and that decision is incapable of being altered by any existing law.

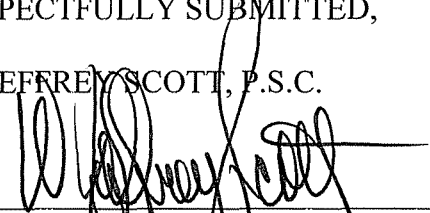
12. The petition of Kentucky Power is barred by the doctrine of waiver.

WHEREFORE, the Respondent respectfully submits that the petition should be dismissed, that the Petitioner should take nothing thereunder, and that the certified territory map in existence since 1972 should be reaffirmed by the Kentucky Public Service Commission or, alternatively, the petition summarily dismissed as the Commission would be without jurisdiction to re-determine a matter that it has conclusively determined in accordance with applicable Kentucky law.

RESPECTFULLY SUBMITTED,

W. JEFFREY SCOTT, P.S.C.

BY: _____


HON. W. JEFFREY SCOTT
ATTORNEY FOR GRAYSON RECC
P.O. BOX 608
GRAYSON, KY 41143
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This is to certify that the foregoing Answer has been served on the parties herein by mailing a true and correct copy of same to:

Hon. Mark R. Overstreet
Stites & Harbison PLLC
421 W. Main St.
P.O. Box 634
Frankfort, KY 40602-0634

This 23rd day of December, 2009.

