

Wirebury Connections Inc. INTERROGATORY #38

Interrogatory

In its evidence, KQ notes that distribution competition is allowed within certain cities and along territorial boundaries.

Reference: KQ p. 17

- a) Please list the areas that allow distribution competition, describe the type and scope of the allowed competition and explain the historic, political, and economic justification for such an approach in each jurisdiction.
- b) Is KQ aware that the service area boundaries of Ontario's electrical utilities were generally set based on municipal boundaries and do not necessarily match the location of the existing distribution plant, which in some cases overlaps with the plant of adjacent distributors? What is the economic basis for concluding that a natural monopoly exists for the unwired portions of the existing service areas, which in many cases bear no resemblance to actual location of the fixed assets?

Response

(a) Today there are only a handful of communities in the United States where electricity end users have a choice in their distribution service providers. Due to legislative changes, new regulations, and system consolidation, the number of communities with competing utilities has dwindled over time. In 1966 there were as many as 50 towns where customers had some choice in their electricity supplier. By 1981, however, the number of communities with competing utilities had dropped by almost half. Among these are Duncan, Oklahoma and three towns in Texas: Floydada, Lubbock, and Sonora. Duncan has an established municipal utility, and an investor-owned utility also serves customers. Likewise, Floydada and Lubbock each have established a municipal utility that serves customers alongside an investor-owned utility. Multiple electricity providers have historically serviced the community of Sonora.

Under certain circumstances, customers in Cleveland or Columbus, Ohio may also elect to take service from their city's municipal electric department instead of the local investor-owned utility. The customer's option to take service from the municipal provider is, however, at the discretion of the municipal utility and is largely a function of the proximity of the customer to the city's existing distribution plant and the city's strategic plans for expansion.

1 In many communities where there used to be competition between utilities, exclusive
2 service areas have now been defined and approved by state regulators. In Dowiagiac,
3 Michigan, for instance, the municipal utility currently serves all customers within a
4 defined service area that more or less covers the entire town. The municipal utility
5 may also serve customers in neighboring communities outside of this defined service
6 area, provided that the current provider—likely an investor-owned utility—
7 “releases” the customer. Likewise in other communities where there was once utility
8 competition, such as Electra, Texas, the electric distribution service provider for each
9 customer is now either the municipal utility or the investor-owned utility, depending
10 on the provider that was serving the location as of a given date. There is effectively
11 no choice among electric service providers given the site’s service history.

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13 In Missouri, where in 1966 there were at least seven communities in which utilities
14 competed directly, state legislators enacted laws to eliminate the potential for
15 duplicate distribution facilities serving customers. The revised statutes related
16 primarily to the service areas of rural electric cooperatives and municipal utilities,
17 encouraging the voluntary establishment of territorial agreements to establish
18 exclusive service areas. In the event that no agreement could be reached, the state’s
19 utility regulators could be petitioned to designate the boundaries of the electric
20 service areas. Similarly, Alabama mandated the establishment of exclusive service
21 areas to eliminate and to prevent the duplication of electric distribution facilities. And
22 in Michigan, Public Act 141 that restructured the state’s electric industry specified
23 three conditions in which another utility could provide electric distribution service to
24 a customer of a municipal utility. The customer could switch delivery service
25 providers if: (1) the customer began taking service from the municipal utility after
26 June 5, 2001, but is located outside the political boundaries of the municipality that
27 operates the utility or another utility that has a franchise to serve inside the municipal
28 boundaries; (2) the governing body of the municipal utility determines not to
29 implement a customer choice program by January 1, 2008, and the customer is
30 located outside of the boundaries of the municipality that operates the utility or
31 another utility that has a franchise to serve inside the municipal boundaries; or, (3) the
32 governing body of the municipality gives its written consent to the customer to switch
33 delivery providers.

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35 As illustrated in the cases above, political and regulatory changes have eliminated
36 competition for power delivery services in most of the communities that once
37 experimented with direct utility competition. These changes were intended to
38 eliminate uncertainty and to prevent the duplication of electric distribution facilities
39 for the reasons outlined in the responses to Networks' Exhibits J8-10-1 and J8-10-2.

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41 (b) See Networks’ Exhibits J8-10-9 and J8-12-32. Networks does not agree that the
42 “service area boundaries of Ontario’s electrical utilities were generally set based on

1 municipal boundaries.” Only 45 of 95 LDCs serve a full single municipality, and thus
2 less than 50 percent would not qualify as “generally”. Networks also does not agree
3 that “service area boundaries of Ontario’s electrical utilities ... do not necessarily
4 match the location of the existing distribution plant”. As Networks has noted in each
5 of its responses to the amendment applications in this hearing, it has assets on
6 virtually all roads in the amendment areas. Networks is of the view that in the areas of
7 Ontario that have settlement, which would include the entire agricultural belt of
8 southern Ontario, have electrical supply. Networks also does not agree that there are
9 “some cases of overlap with the plant of the adjacent distributor”. If there are such
10 instances, they have not been approved by the Board and, in Networks’ view, have no
11 foundation in the previous or current statutory framework governing distribution
12 service territory.

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14 Please Note: Questions on Exhibit J8-12-38 (b) should be directed to Networks'
15 witnesses.