

predecessor operator, for 10 pieces of vending equipment necessary to the operation of the facility. The lease required monthly payments of \$489.00 for 60 months. In 1988 the monthly payments were increased to \$514.00 with the lease arrangement ending in May 1989, when the equipment was purchased by the SLA. The lease payments totaled \$19,568.00. During the same period of time that complainant was remitting lease payments, Ms. Laurell also paid the SLA the uniform set-aside fee of 10 percent of net proceeds.

On March 28, 1989, complainant filed a request for an evidentiary hearing with the SLA, stating that she had been unjustly required to pay a lease fee for her equipment and asking for full reimbursement. The hearing was held on August 22, 1989, before a Michigan Department of Labor Administrative Law Judge (ALJ). The ALJ issued a proposed decision on October 16, 1989, affirming the SLA's actions. The SLA concurred and in a letter to the complainant dated November 9, 1989, declared that the ALJ's decision was final agency action.

Subsequently, Ms. Laurell filed a request with the Secretary of Education to convene an arbitration panel seeking a review of the final action. The arbitration hearing was held on January 6, 1992. It was agreed between the parties that the following issues would be reviewed: (1) Did the Commission have a legal responsibility to provide Garnette Laurell with the equipment that she was required to lease at the Allen Park Bulk Mail Center? (2) If so, was the Commission legally obligated to reimburse complainant for the cost of that leasing? (3) If so, was the Commission legally obligated to pay interest on the reimbursed funds? and (4) Was the Commission obligated to pay complainant's attorney's fees?

Arbitration Panel Decision

The arbitration panel ruled that the Commission had a legal responsibility to provide equipment to complainant pursuant to the Act, 20 U.S.C. 107b, which states in relevant part that the SLA is required "to provide for each license blind person such vending facility equipment * * * as may be necessary." This requirement is also reflected in the Federal regulations in 34 CFR 395.3(a)(5) and 395.6(a). In addition, the SLA's statute (Michigan, Section 4(2) of Act No. 260 of the Michigan Public Acts of 1978, (MCL 393.351)) states that the Commission "shall * * * (1) Aid individual visually handicapped persons or groups of visually handicapped persons to engage

in gainful occupations by furnishing * * * equipment * * * as necessary to encourage and equip them to reach objectives established with them by the Commission."

However, the panel majority concluded that there is a distinction between providing equipment and providing it without cost. While section 107b of the Act requires SLAs to agree to provide the necessary equipment, it expressly permits ownership interest in the equipment to reside with either the SLA or the blind licensee. The panel concluded that the Act did not contemplate that the blind licensee would acquire that ownership through a gift from the State agency, because the Act expressly anticipates that the State agency will pay the blind licensee fair value in the event that the SLA chooses to exercise its right to acquire the ownership interest. Further, §395.3(a)(5) of the Federal regulations suggests that the obligation to provide equipment can be satisfied by "making suitable vending facility equipment *available* to a vendor" (emphasis added).

The panel reasoned that this also could include providing equipment to a vendor by means of a "lease" arrangement. To support this concept the panel also considered Act No. 260 of the Michigan Public Acts of 1978. R 393.105 of the Michigan Rules states that the Michigan Commission for the Blind shall furnish equipment to the vendor. Specifically, the panel considered language in R 393.101(k)(viii), which gives the definition of operating costs to vendors. The definition states that operating costs may include renting or leasing Commission-approved equipment or location. Therefore, the panel concluded that it is quite unlikely that Michigan intended its requirement to preclude cost to the blind licensee when the Federal authorities did not intend their requirement to preclude cost to the blind licensee.

Regarding the complainant's concern about paying set-aside fees while she was paying lease payments on equipment, the panel determined that section 107b(3) of the Act and 34 CFR 395.9(a) of the Federal regulations indicate that the determination of the reasonableness of a set-aside fee is a function of the Secretary of Education. The Secretary did not make a determination of unreasonableness with respect to the Commission's uniform set-aside fee. Furthermore, the panel concluded that while complainant's set-aside fee was the uniform 10 percent of net proceeds, the dollar amount of her set-aside fee was in fact somewhat

reduced as a result of the deduction of her lease payments in the calculation of her net proceeds.

Accordingly, the panel found that the Commission did not have a legal responsibility to provide the complainant, without cost to her, the equipment that she was required to lease at the Bulk Mail Center in Allen Park, Michigan, during the period of January 1986 to May 1989 and that, therefore, it is not legally obligated to reimburse her for the cost of that leasing.

In addition, the panel found that complainant's requests for interest and attorney's fees were without merit.

One panel member dissented.

The views and opinions expressed by the panel do not necessarily represent the views and opinions of the U.S. Department of Education.

Dated: January 23, 1995.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 95-2066 Filed 1-26-95; 8:45 am]

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DEPARTMENT OF ENERGY

Withdrawal of Notice of Intent to Prepare Environmental Impact Statement for East Fork Poplar Creek Remedial Action Project at the Oak Ridge Reservation, Oak Ridge, TN

AGENCY: Department of Energy.

ACTION: Notice.

SUMMARY: The U.S. Department of Energy today withdraws its Notice of Intent (53 FR 46648, November 18, 1988) to prepare an Environmental Impact Statement for the East Fork Poplar Creek Remedial Action Project. The Department intends to rely upon the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) process, which will incorporate National Environmental Policy Act (NEPA) values, to document its environmental review of actions to be taken in connection with this project.

FOR FURTHER INFORMATION CONTACT: For further information on the East Fork Poplar Creek Remedial Action Project, please contact:

Mr. Robert C. Sleeman, Director,
Environmental Restoration Division,
Oak Ridge Operations Office, U.S.
Department of Energy, P.O. Box 2001,
Oak Ridge, TN 37831, (615) 576-0715

For information on the Department of Energy's NEPA process, please contact:
Ms. Carol Borgstrom, Director, Office of
NEPA Oversight, U.S. Department of

Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 586-4600 or leave a message at (800) 472-2756

SUPPLEMENTARY INFORMATION: The East Fork Poplar Creek Remedial Action Project was initiated under the Resource Conservation and Recovery Act's (RCRA) off-site release provisions. The project was later incorporated into the CERCLA program when the Oak Ridge Reservation was determined to be a National Priorities List site in December 1989.

This project involves an operable unit consisting of 14.2 miles of the lower portion of East Fork Poplar Creek (i.e., the portion of the creek from the point it exits the Y-12 Plant until its confluence with Poplar Creek). The operable unit includes the creek, creek sediments, the soils in the 100-year floodplain surrounding the creek, and the Oak Ridge Sewerline Beltway.

On November 18, 1988, the Department of Energy published in the **Federal Register** a Notice of Intent to prepare an Environmental Impact Statement for the East Fork Poplar Creek Remedial Action Project. At the time of the Notice, it was the Department's policy to integrate the CERCLA and NEPA processes, whenever practicable. Under that policy, the Department intended to prepare an integrated CERCLA/NEPA Remedial Investigation/Feasibility Study-Environmental Impact Statement for the project. As stated in the Secretary of Energy's June 13, 1994, Policy Statement on NEPA, however, it is now the Department's policy to generally rely on the CERCLA process for the review of actions to be taken under CERCLA, and to incorporate NEPA values (e.g., analysis of cumulative, off-site, ecological, and socioeconomic impacts) in the Department's CERCLA documents to the extent practicable.

To date, the public has been extensively involved in the East Fork Poplar Creek Remedial Action Project. Numerous meetings have been held with private property owners and interested citizens. A property owner workshop and a general public workshop were held on the Remedial Investigation report, and a volunteer 30-person Citizens Working Group formed in June 1993, continues to meet monthly and provides input and suggestions into the decision-making process.

Discussions have been held with the Army Corps of Engineers, the Fish and Wildlife Service, the Environmental Protection Agency, the Tennessee Department of Environment and Conservation, the Citizens Working

Group, and other interested parties regarding the Department's intent to rely on the CERCLA process to document its environmental review of actions for this project. In addition, a notice was placed in a local newspaper and letters were sent to approximately 300 stakeholders soliciting input on the proposed withdrawal of the Notice of Intent; no objections were received. Thus, the Department of Energy has decided to rely on the CERCLA process to document its environmental review of actions to be taken under CERCLA for the East Fork Poplar Creek Remedial Action Project, with NEPA values incorporated into the CERCLA process to the extent practicable. Public involvement has been and will continue to be an integral part of the decision-making process for the project.

Copies of documents related to the East Fork Poplar Creek Remedial Action project are on file at, and may be obtained from, the Information Resource Center, 105 Broadway, Oak Ridge, Tennessee 37830.

Issued in Washington, DC, on January 23, 1995.

Thomas P. Grumbly,
Assistant Secretary for Environmental Management.

[FR Doc. 95-2099 Filed 1-26-95; 8:45 am]
BILLING CODE 6450-01-P

Federal Energy Regulatory Commission

[Docket No. ER94-478-000, et al.]

Medina Power Company, et al.; Electric Rate and Corporate Regulation Filings

January 20, 1995.

Take notice that the following filings have been made with the Commission:

1. Medina Power Company

[Docket No. ER94-478-000]

Take notice that on January 9, 1995, Medina Power Company tendered for filing an amendment in the above-referenced docket.

Comment date: February 3, 1995, in accordance with Standard Paragraph E at the end of this notice.

2. Cincinnati Gas & Electric Company

[Docket No. ER94-1223-000]

Take notice that on January 5, 1995, Cincinnati Gas & Electric Company tendered for filing an amendment in the above-referenced docket.

Comment date: February 3, 1995, in accordance with Standard Paragraph E at the end of this notice.

3. JEB Corporation

[Docket No. ER94-1432-002]

Take notice that on January 5, 1995, JEB Corporation (JEB), filed certain information as required by the Commission's September 8, 1994, letter order in Docket No. ER94-1432-000. Copies of JEB's informational filing are on file with the Commission and are available for public inspection.

4. Louisville Gas and Electric Company

[Docket No. ER94-1480-000]

Take notice that on December 23, 1994, Louisville Gas and Electric Company (LG&E), tendered for filing an amendment to Supplement No. 8 to the Interconnection Agreement between LG&E and East Kentucky Power Cooperative, Inc. (EKPC).

The purpose of this filing is to amend Service Schedule E, Section 3—Compensation. Section 3 is revised to reflect updated pricing and to introduce a tiered pricing structure related to individual generating units.

A copy of the filing was served upon the Kentucky Public Service Commission.

Comment date: February 3, 1995, in accordance with Standard Paragraph E at the end of this notice.

5. Citizens Utilities Company

[Docket No. ER94-1561-000]

Take notice that on January 17, 1995, Citizens Utilities Company (Citizens), tendered its filing in response to a deficiency letter issued earlier in this proceeding. Citizens characterizes its filing as an amendment to its earlier filing in this docket.

Comment date: February 3, 1995, in accordance with Standard Paragraph E at the end of this notice.

6. Kentucky Utilities Company

[Docket No. ER94-1698-002]

Take notice that on December 30, 1994, Kentucky Utilities Company tendered for filing its compliance filing in the above-referenced docket.

Comment date: February 3, 1995, in accordance with Standard Paragraph E at the end of this notice.

7. J. Aron & Company

[Docket No. ER95-34-000]

Take notice that on January 11, 1995, J. Aron & Company, tendered for filing an amendment in the above referenced docket.

Comment date: February 3, 1995, in accordance with Standard Paragraph E at the end of this notice.