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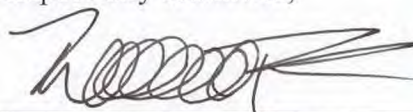
COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION
CASE NO. 2013-00291

HAROLD BARKER;)
ANN BARKER; and)
BROOKS BARKER,)
COMPLAINANTS)
V.)
EAST KENTUCKY POWER)
COOPERATIVE, INC.,)
DEFENDANT)

COMPLAINANTS' COUNTEROFFER
DATED DECEMBER 9, 2014

Come the Complainants, Harold Barker, Ann Barker and Brooks Barker, by counsel, and file the attached Counteroffer to the Defendant, East Kentucky Power Cooperative, Inc., dated December 9, 2014.

Respectfully submitted,



M. ALEX ROWADY, ESQ.
Blair & Rowady, P.S.C.
212 South Maple Street
Winchester, Kentucky 40391
(859) 744-3251
ATTORNEY FOR COMPLAINANTS

CERTIFICATE OF SERVICE

This is to certify that the original and ten true copies of the foregoing was hand-delivered to Kentucky Public Service Commission, P.O. Box 615, Frankfort, Kentucky 40602-0615 and a true copy was sent by email transmission and first-class mail to David S. Samford, Esq., Goss Samford, PLLC, 2365 Harrodsburg Road, Suite B325, Lexington, Kentucky 40504, this 9th day of December, 2014.



M. ALEX ROWADY, ESQ.

BLAIR & ROWADY, P.S.C.

ATTORNEYS AT LAW

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December 9, 2014

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David S. Samford, Esq.
Goss Samford
2365 Harrodsburg Road
Suite B325
Lexington, Kentucky 40504
E-MAIL TRANSMISSION (david@gosssamfordlaw.com) and US MAIL

Re: In the Matter of Harold Barker, Ann Barker and Brooks Barker v.
East Kentucky Power Cooperative, Inc. ("EKPC"); PSC Case No. 2013-00291

Dear David:

Thank you for your letter of August 14, 2014 but the Barkers must respectfully reject your counter offer based on the following:

1. As far back as 1991, EKPC had a policy of prudent avoidance to minimize EMF levels from proposed transmission lines. As referenced in PSC case no. 91-082, EKPC took reasonable measures to reduce EMF levels without creating major engineering problems and also located transmission lines so that no existing structure fell within the line's 100 ft. ROW. The PSC required "EKPC to monitor the design and operation of the proposed transmission facilities to ensure that all prudent avoidance measures have been implemented." See PSC Order dated October 19, 1992. (Attachment no. 1) It would appear that in the Barkers' case prudent avoidance measures were either never considered or not fully implemented.

2. EKPC's Post Hearing Brief dated August 15, 2014 states on page 8 "the Barkers' request to relocate the transmission structures on their neighbor's property were rejected by their neighbor. (See HVR 13:34:50 July 8, 2014)" The Barkers' neighbors, Mr. and Mrs. Fred Farris, reviewed Mary Jane Warner's testimony referenced above as well as EKPC's brief. There appears to be some discrepancy between EKPC and the Farris regarding the former's contact with the adjoining landowners as evidenced by Mr. Farris's letter attached hereto. (Attachment no. 2). His letter seems to be in direct conflict with Ms. Warner's testimony at the July 8, 2014 hearing.

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In light of these conflicting statements regarding EKPC's negotiations with the Farris concerning the movement or adjustment of said transmission line/easement and the apparent disregard of "Prudent Avoidance Measures", the Barkers propose the following settlement options:

OPTION 1.

1. EKPC would agree to move its 345kV/138kV transmission line/easement (which encroaches upon the Barkers' residence) a distance of 309 feet to the east of its present location as recommended by the Barkers' engineer, John Pfeiffer. The relocation would be made at the sole expense of EKPC. EKPC would be responsible for restoring the Barkers' land to its condition prior to the relocation.

2. If EKPC agrees to item 1 above, the Barkers would agree to dismiss the action now pending before the PSC and to the dismissal of the action now pending in Clark Circuit Court, case no. 06-CI-00419, both with prejudice.

3. The Barkers would further agree not to seek further compensation for the taking of the land needed to relocate the transmission lines. They would, however, require the sum of \$30,000.00 for the damages to their land, fencing, and concrete driveway caused by EKPC during the original construction process in 2006.

4. The Barkers have discussed the possible relocation of the lines/easement with their adjoining property owners, Mr. and Mrs. Fred Farris. It is the Barkers' understanding that the Farris are prepared to be of assistance in the resolution of this dispute.

5. The relocation of said lines/easement would need to be completed within six months.

OPTION 2.

1. EKPC would agree to pay the Barkers the sum of \$450,000.00 for the damages caused in the initial construction process and for the diminution in value of their property. The Barkers would retain ownership of all said property with a reasonable encroachment agreement entered into between the parties.

2. On page 4 of EKPC expert witness Dr. Kenneth R. Foster's direct testimony filed June 2, 2014, he states, "At a distance that corresponds roughly to the center of the house, the calculated magnetic field is 3.3 mg". Therefore, based on Dr. Foster's testimony, the Barkers request that EKPC install a continually recording gauss meter in the center of the residence at EKPC's expense. A fine would be levied against EKPC and paid to the Barkers in the amount of \$1,000.00 for each day that the EMF levels exceed 3.3 mg. This would remain in effect for as long as the residence exists.

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3. If EKPC agrees to this offer, the Barkers would agree to dismiss the action now pending before the PSC and Clark Circuit Court case no. 06-CI-00419, both with prejudice.

I look forward to your response.

Very truly yours,



M. Alex Rowady

MAR/abh

Enclosures

cc: Harold, Ann and Brooks Barker (w/enclosures and email transmission only)

cc: Kentucky Public Service Commission (w/enclosures)

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF EAST KENTUCKY POWER)
COOPERATIVE, INC. FOR A CERTIFICATE)
OF PUBLIC CONVENIENCE AND NECESSITY) CASE NO. 91-082
TO CONSTRUCT CERTAIN ELECTRIC)
TRANSMISSION AND DISTRIBUTION)
FACILITIES IN BULLITT, SHELBY AND)
SPENCER COUNTIES IN KENTUCKY)

O R D E R

On April 17, 1991, East Kentucky Power Cooperative, Inc. ("EKPC") filed its application for a Certificate of Public Convenience and Necessity to construct 3 substations, approximately 5.7 miles of 69 KV transmission lines, and approximately 31.9 miles of 161 KV transmission lines. This project is referred to as the "Bullitt County-Shelby County line" or "Alt 1." The application also discusses another alternative referred to as the "West Frankfort-Shelby County line" or "Alt 2." Alt 2 will require 18.73 miles of 138 KV transmission lines, approximately 1.2 miles of 69 KV transmission lines, and 2 substations. Intervention was granted to two property owners, Chester and June Nowicke and Albert M. and Sharon Elliott ("Elliotts") who are in the path of the proposed transmission line Alt 1.

A hearing was convened at the Commission's offices on October 31, 1991. Public comments were received from property owners and county officials who were opposed to the project. The hearing was then adjourned, prior to the presentation of any testimony, to

afford the public additional time to intervene and participate. The hearing was reconvened on December 6, 1991. Additional public comments were received, followed by the testimony and cross-examination of EKPC's witnesses. Neither intervenor offered any testimony.

Many of the public comments expressed concern that the electromagnetic fields ("EMF") to be generated by the proposed transmission line could adversely impact the health of those living in close proximity. A reply brief filed by the Elliotts also addressed the health impacts of EMF. These health concerns were based, in part, on written statements of other individuals who were not present at the hearing.

EKPC subsequently moved to strike the Elliotts' reply brief on two grounds: its content renders it an initial brief not timely filed under the procedural schedule; and its citation to testimony presented in another forum denied EKPC the right of cross-examination. As to the first ground, the Commission finds that EKPC fully addressed the EMF issue in its testimony, initial brief and objections to the Elliotts' reply brief. Thus, EKPC has failed to show any prejudice resulting from the challenged procedure. The second ground similarly lacks merit. EKPC raised no objection to the testimony at the hearing and the Commission is not bound by the technical rules of evidence. KRS 278.310. EKPC's motion will be overruled with the objection going to the weight to be afforded such testimony.

Also pending is a motion filed by the Elliotts on September 18, 1992 requesting the Commission to direct EKPC to file any report or study it prepared on the results of test modeling of EMF levels to be produced by the proposed transmission line. EKPC opposed the motion as untimely, noting that the Elliotts had an adequate opportunity to cross-examine EKPC on this issue at the hearing and to conduct discovery since their intervention was granted on December 5, 1991. EKPC's arguments are well taken and the motion should be denied. EKPC's test modeling of EMF levels was discussed at the December 6, 1991 hearing and the EMF issue was subsequently addressed in briefs filed January 13, 1992 and January 22, 1992. The Elliotts did not challenge EKPC's test modeling at the hearing or in their brief, and their pending motion discloses no reason for the inordinate delay in seeking discovery.

The Commission is acutely aware of the current controversy regarding the health impacts of EMF. Even though the existing scientific and medical research on EMF is at a preliminary stage, the controversy is real. Despite the absence of any definitive studies conclusively linking EMF with adverse health effects, the uncertainty surrounding this issue is reason enough to require prudent measures be taken to minimize EMF levels from new transmission facilities.

EKPC has adopted and implemented a policy of prudent avoidance to minimize EMF levels from the proposed transmission line. Pursuant to the policy, EKPC has taken reasonable measures which will reduce EMF levels without creating major engineering problems

or necessitating the expenditure of substantial resources. These measures included locating the line so that no existing structure falls within the line's 100 foot right-of-way and designing the line so that the physical configuration of the conductors will reduce EMF levels.

Kentucky is in the majority of states that have no maximum levels established for EMF. Of those states that have established such levels, EKPC indicated that Florida and New York have the most restrictive. Applying the restrictive levels of these two states to its proposed transmission line, EKPC determined that the EMF levels at the edge of the right-of-way will be substantially less than the maximum limits. While the prudent avoidance measures already adopted by EKPC will minimize EMF levels, the Commission will require EKPC to monitor the design and operation of the proposed transmission facilities to ensure that all prudent avoidance measures have been implemented.

EKPC has demonstrated that additional transmission facilities are necessary to provide economical and reliable service to the Shelbyville area and the Pleasant Grove-Nelson County substation area. The substantial industrial load growth in the Shelbyville area requires the construction of new transmission facilities to provide increased reliability via two-way service and future support to the substation in the Shelbyville area. Further, EKPC has demonstrated that transmission support is needed in the Pleasant Grove-Nelson County area to alleviate low voltage conditions.

EKPC proposes to construct Alt 1 because it has the lowest present worth revenue requirements. EKPC stated that it could achieve the same reliability and system support in this area by construction of Alt 2, but at a cost of \$2.2 million higher than Alt 1. Alt 1 and Alt 2 have present values of \$11,882,891 and \$14,076,957, respectively. EKPC's cost calculation for Alt 2 is based on a wheeling rate paid to Kentucky Utilities Company ("KU") of 3.5 mills/KWH. EKPC has stated that, although its current interconnection agreement with KU provides for a wheeling rate of 1 mill/KWH this agreement will expire on February 1, 1994, and KU is expected to increase its wheeling rate in any subsequent interconnection agreement to a level approximating its FERC-approved transmission rate, which is currently about 3.5 mills/KWH.

Based on the evidence of record and being otherwise sufficiently advised, the Commission finds that public convenience and necessity require the construction by EKPC of the electric transmission and distribution facilities in Bullitt, Shelby and Spencer counties in Kentucky as described in the application.

IT IS THEREFORE ORDERED:

1. EKPC be and it hereby is granted a Certificate of Public Convenience and Necessity to proceed with the construction of Alt 1 as set forth in its application.

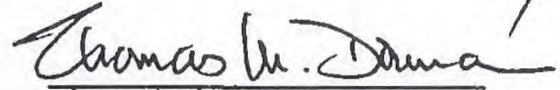
2. EKPC's motion to reject the Elliotts' reply brief be and it hereby is denied.

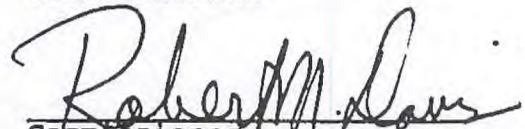
3. The Elliotts' September 18, 1992 motion for discovery be and it hereby is denied.

Done at Frankfort, Kentucky, this 19th day of October, 1992.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director

Fred J. Farris

7180 Mt. Sterling Road

Winchester, KY 40391

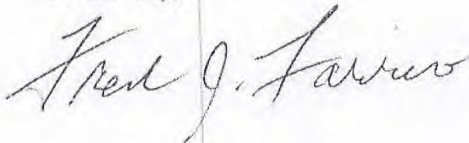
859-749-8789 Cell

September 26, 2014

To Whom It May Concern:

The last time that I had any contact with any East Kentucky Power official was when I signed the easements for the upgrade of the original line on my property. I do not recall ever being asked to move the line after it was once established on my property.

Sincerely,

A handwritten signature in cursive script that reads "Fred J. Farris". The signature is written in dark ink and is positioned below the word "Sincerely,".

Fred J. Farris