



Ernie Fletcher
Governor

Mark David Goss
Chairman

LaJuana S. Wilcher, Secretary
Environmental and Public
Protection Cabinet

Commonwealth of Kentucky
Public Service Commission
211 Sower Blvd.
P.O. Box 615
Frankfort, Kentucky 40602-0615
Telephone: (502) 564-3940
Fax: (502) 564-3460
psc.ky.gov

Teresa J. Hill
Vice Chairman

Christopher L. Lilly
Commissioner
Department of Public Protection

Gregory Coker
Commissioner

January 26, 2006

John Finnigan, Jr., Esq.
Cincinnati Gas and Electric Company
Post Office Box 960
Cincinnati, Ohio 45201-0960

Re: Request for Commission Staff Opinion

Dear Mr. Finnigan:

Commission Staff acknowledges receipt of your letter of November 18, 2005, in which you request a Commission Staff opinion on whether Cincinnati Gas and Electric Company's ("CG&E") proposed replacement and upgrading of certain electric facilities requires the issuance of a certificate of public convenience and necessity.

In your letter, you present the following facts:

CG&E owns and operates certain bulk transmission facilities of 69,000 volt (69 kV) in southwestern Ohio and northern Kentucky. These bulk transmission facilities are configured and operated as a network system, and are used to provide electric transmission service for customers of CG&E and Union Light, Heat and Power Company ("ULH&P").

CG&E proposes to upgrade an existing circuit to maintain the reliability of its bulk transmission network. As part of this upgrade, CG&E will construct an additional 138,000 volt (138 kV) electric transmission line. The first section of the project route is 4.5 miles long and runs from the Kenton Substation located on Madison Pike in Fort Wright, Kentucky to the existing Miami Fort-West End 138 kV transmission line located about 50 feet east of the intersection of Buttermilk Pike and Western Reserve Road in Crescent Springs, Kentucky. The new line will follow ULH&P's existing Kenton Substation and Crescent Substation 12.5 kV circuits. CG&E proposes to replace the poles for the existing 12.5 kV lines with new taller poles for 95 percent of the line's length and co-locate these existing lines on new, taller poles. The new 138kV circuit line will be located on the same poles above the 12.5 kV lines. For the remaining 5

percent of the new 138 kV electric transmission line, CG&E proposes to replace the poles that support an existing 138 kV transmission line with poles capable of supporting the existing and proposed 138 kV transmission lines. The proposed 138 kV electric transmission line will be co-located with the existing 138 kV electric transmission line. The proposed 138 kV electric transmission line will run within the existing easements and along the same centerline as the existing electric line. Existing easements along the project route may need to be widened to National Electrical Safety Code standards for the newly constructed line.

Your letter presents the following issue: Does the proposed construction require a certificate of public convenience and necessity?

KRS 278.020(1) provides in pertinent part:

No person, partnership, public or private corporation, or combination thereof shall commence providing utility service to or for the public or begin the construction of any plant, equipment, property, or facility for furnishing to the public any of the services enumerated in KRS 278.010, except retail electric suppliers for service connections to electric-consuming facilities located within its certified territory and ordinary extensions of existing systems in the usual course of business, until that person has obtained from the Public Service Commission a certificate that public convenience and necessity require the service or construction.

KRS 278.020(2) provides:

For the purposes of this section, construction of any electric transmission line of one hundred thirty-eight (138) kilovolts or more and of more than five thousand two hundred eighty (5,280) feet in length shall not be considered an ordinary extension of an existing system in the usual course of business and shall require a certificate of public convenience and necessity. However, ordinary extensions of existing systems in the usual course of business not requiring such a certificate shall include . . . [t]he replacement or upgrading of any existing electric transmission line;

Based upon its review of these statutes, Commission Staff is of the opinion that the proposed construction is a not a replacement or upgrading of an existing transmission line and will require a certificate of public convenience and necessity. Approximately 95 percent of the line to be "upgraded" is a 12kV electric line.¹ KRS

¹ Commission Staff agrees that the remaining 5 percent of the proposed line, which will be constructed along the path of an existing 138 kV line and will be co-located on poles supporting that existing line may be considered an upgrade of an existing electric transmission line.

John Finnigan, Jr., Esq.

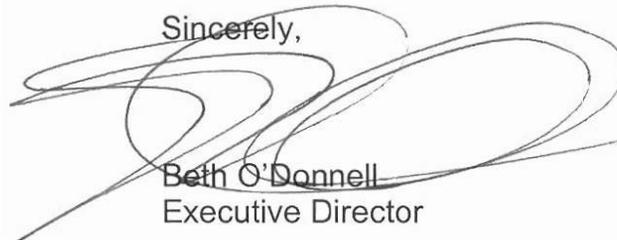
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278.020 does not define "electric transmission line." Electric transmission lines normally carry electricity at voltages much higher than 12kV. Commission Staff generally considers electric lines with a voltage of 12kV to be distribution lines. Your letter fails to state any circumstances that would suggest the 12kV electric line in question is an electric transmission line. As CG&E's proposal involves the construction of 22,572 feet of new electric transmission line that is not an upgrade of an existing transmission line, the exemption set forth in KRS 278.020(2)(a) is not applicable.

This letter represents Commission Staff's interpretation of the law as applied to the facts presented. This opinion is advisory in nature and not binding on the Commission should the issues be formally presented for Commission resolution. Questions concerning this opinion should be directed to Gerald Wuetcher, Assistant General Counsel, at (502) 564-3940, Extension 259.

Sincerely,

A handwritten signature in black ink, appearing to read "Beth O'Donnell", is written over a light gray rectangular background. The signature is fluid and cursive, with several loops and a long horizontal stroke extending to the right.

Beth O'Donnell
Executive Director