

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.

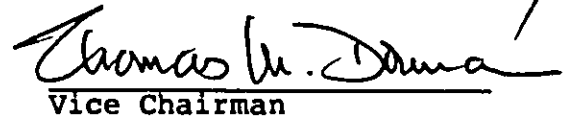
IT IS THEREFORE ORDERED:

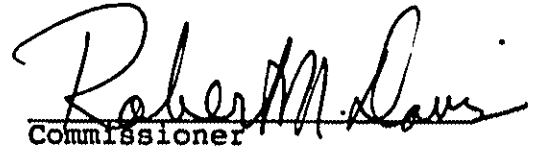
1. EKPC be and it hereby is granted a Certificate of Public Convenience and Necessity to proceed with the construction of Alt 1 as set forth in its application.
2. EKPC's motion to reject the Elliotts' reply brief be and it hereby is denied.
3. The Elliotts' September 18, 1992 motion for discovery be 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