

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF KENTUCKY POWER)	
COMPANY FOR: (1) AN ORDER DECLARING)	CASE NO.
AND CLARIFYING THE APPLICATION OF THE)	2014 -00479
INSPECTION REQUIREMENTS OF 807 KAR)	
5:006, SECTION 26(4), TO CERTAIN OF THE)	
COMPANY'S TRANSMISSION FACILITIES; OR)	
(2) IN THE ALTERNATIVE, AND TO THE)	
EXTENT REQUIRED, A DEVIATION IN PART)	
FROM THE INSPECTION REQUIREMENTS OF)	
807 KAR 5:006, SECTION 26(4), WITH)	
RESPECT TO THE COMPANY'S)	
TRANSMISSION FACILITIES; AND (3) ALL)	
OTHER REQUIRED APPROVALS AND RELIEF)	

ORDER

On December 31, 2014, Kentucky Power Company ("Kentucky Power") filed an application, pursuant to 807 KAR 5:001, Section 19, and 807 KAR 5:006, Section 28, through which it requests a declaratory order with respect to the application of the inspection requirements of 807 KAR 5:006, Section 26(4), to certain of its electric facilities. Through the same application, pursuant to 807 KAR 5:006, Section 28, Kentucky Power seeks, in the alternative and to the extent required, a deviation in part from the inspection requirements of 807 KAR 5:006, Section 26(4). Kentucky Power also seeks all other approval and relief required.

Kentucky Power responded to two rounds of requests for information issued by Commission Staff. No party sought intervention into this case. The matter now stands submitted to the Commission for a decision.

BACKGROUND

Kentucky Power is an electric utility that generates transmits, distributes, and sells electricity to approximately 172,000 consumers in all or portions of 20 counties in eastern Kentucky.¹ Kentucky Power's system includes approximately 166 miles of 46-kilovolt ("kV") electric lines and approximately two miles of 34.5-kV electric lines.² Kentucky Power states that its 46-kV facilities "are principally supported by wooden structures,"³ and 1.69 miles of its approximate two miles of 34.5-kV facilities are supported by wooden structures, with the remainder of the latter facilities supported by steel structures.⁴

Kentucky Power states that a "rough rule of thumb is that 69 kV is the demarcation point between distribution and transmission lines."⁵ Per Kentucky Power, "[m]ost lines used for distribution purposes operate at less than 69 kV, while most transmission lines operate at 69 kV or greater voltages."⁶ Although the 46-kV and 34.5-kV facilities operate at voltages less than 69 kV, Kentucky Power believes that each of these facilities should be classified as transmission facilities.⁷ Per Kentucky Power, the

¹ Application at 2.

² *Id.* at 4; and Kentucky Power's Response to Commission Staff's First Request for Information ("Response to Staff's First Request"), Item 1.

³ Application at 4.

⁴ Kentucky Power's Response to Commission Staff's Second Request for Information ("Response to Staff's Second Request"), Item 1.

⁵ Application at 5.

⁶ *Id.*

⁷ Kentucky Power's Response to Staff's First Request, Items 1 and 3.

factors that it believes are relevant in classifying these facilities as transmission facilities include, among other things, that:

Under the FERC [Federal Energy Regulatory Commission] guidelines, the use made of a line is the defining characteristic of how a line is classified. The subject 34.5 kV lines and 46 kV lines function as and hence are designated as transmission lines. These transmission lines are configured as part of the Kentucky networked transmission grid to augment, integrate or tie together the sources of power supply and to transport that power to switching and conversion stations in order to supply power to the Company's distribution system.⁸

807 KAR 5:006, Section 26, is the Commission's administrative regulation that addresses the inspection of systems and requires the adoption of inspection procedures to assure safe and adequate operation of utility facilities. Specifically, 807 KAR 5:006, Section 26(4), requires systematic inspections of electric utility systems and, in pertinent part, prescribes that inspections are to be "made as often as necessary but not less frequently than established in this subsection for various classes of facilities and types of inspection." The operating voltage of a facility is used to establish the type of inspection to be conducted and the maximum interval allowed between required electric utility inspections⁹ whereby electric lines and facilities operating at 69 kV or greater are required to be inspected at intervals less frequent than electric lines and facilities operating at less than 69 kV.¹⁰

⁸ *Id.*, Item 1.

⁹ 807 KAR 5:006, Sections 26(4)(b)2., 26(4)(b)4., 26(4)(c), and 26(4)(e).

¹⁰ *Id.*

Kentucky Power states that it has been inspecting its 46-kV and 34.5-kV facilities on the same schedule as its facilities operating at 69 kV or greater.¹¹ The basis for this approach is Kentucky Power's belief the 46-kV and 34.5-kV facilities are operated as transmission lines similar to its electric lines operating at 69 kV or greater and should be subject to the same inspection requirements.¹² Therefore, Kentucky Power seeks a declaration that its 46-kV and 34.5-kV facilities are subject to the inspection schedule requirements applicable to electric lines operating at 69 kV or greater.¹³

Kentucky Power raises an additional area of contention in the regulations as they pertain to the use of aerial inspections. 807 KAR 5:006, Section 26(4)(g), permits, but does not require, an electric utility to conduct aerial inspections as a means of compliance with certain inspection requirements. Kentucky Power states that it conducts aerial inspections at six-month intervals pursuant to 807 KAR 5:006, Section 26(4)(b)4., of all of what it classifies as electric transmission lines, including its 34.5-kV and 46-kV facilities.¹⁴ Kentucky Power states that 807 KAR 5:006, Section 26(4)(g), appears to conflict with the provisions of 807 KAR 5:006, Section 26(4)(b)4., regarding the permissible frequency of aerial inspections of these facilities.¹⁵ Kentucky Power also requests an Order declaring that, with respect to the inspection of its electric transmission lines at 69 kV or greater and its 34.5-kV and 46-kV facilities, it may make certain inspections required under 807 KAR 5:006, Section 26, aurally so long as it

¹¹ Kentucky Power's Response to Staff's First Request, Items 2 and 4.

¹² Application at 7 and 10.

¹³ *Id.*

¹⁴ *Id.* at 9.

¹⁵ *Id.* at 7 and 8.

complies with inspection requirements from the ground prescribed by 807 KAR 5:006, Section 26(4)(c).¹⁶

Kentucky Power requests, in the event that the Commission does not grant the declarations requested, and to the extent required, that the Commission grant Kentucky Power two deviations.¹⁷ In the alternative to its first requested declaration, Kentucky Power requests a deviation that will permit it to subject its 34.5-kV and 46-kV facilities to the same inspection requirements that apply to its electric lines operating at 69 kV or greater.¹⁸ Likewise, in the alternative for its second requested declaration, Kentucky Power requests a deviation that would permit it to utilize aerial inspections as a means of compliance with certain requirements of 807 KAR 5:006, Section 26.¹⁹

DISCUSSION

807 KAR 5:006, Section 26(1), requires that “[a] utility shall adopt inspection procedures to assure safe and adequate operation of the utility’s facilities and compliance with KRS Chapter 278 and 807 KAR Chapter 5 and shall file these procedures with the commission for review.” 807 KAR 5:006, Section 26(4), further requires, for electric utilities, the following:

Electric Utility Inspection. An electric utility shall make systematic inspections of its system in the manner established in this subsection to insure that the commission’s safety requirements are being met. These inspections shall be made as often as necessary but not less frequently than established in this subsection for various classes of facilities and types of inspection.

¹⁶ *Id.* at 11.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

Thus, our administrative regulations require a utility to adopt inspection procedures to assure safe and adequate operation of its facilities and make these inspections as often as necessary. As a means to assure that safety requirements are being met, our administrative regulations establish the frequency of inspections for various classes of facilities.

807 KAR 5:006, Section 26(4)(b), states:

At intervals not to exceed six (6) months, the utility shall inspect:

1. Unmanned production facilities, including peaking units not on standby status, and all monitoring devices, for evidence of abnormality;
2. Transmission switching stations if the primary voltage is sixty-nine (69) KV or greater, for damage to or deterioration of components including structures, fences, gauges, and monitoring devices;
3. Underground network transformers and network protectors in vaults located in buildings or under sidewalks, for leaks, condition of case, connections, temperature, and overloading; and
4. Electric lines operating at sixty-nine (69) KV or greater, including insulators, conductors, and supporting facilities, for damage, deterioration and vegetation management consistent with the utility's vegetation management practices.

807 KAR 5:006, Section 26(4)(c), states:

In addition to the requirements established in paragraph (b) of this subsection, all electric lines operating at sixty-nine (69) KV or greater, including insulators, conductors, and supporting facilities shall be inspected **from the ground** for damage, deterioration, and vegetation management consistent with the utility's vegetation management practices at intervals not to exceed:

1. Six (6) years for each electric line supported by a wood pole or other wood support structure; or
2. Twelve (12) years for each electric line supported by a pole or other support structure constructed of steel or other non-wood material.

(Emphasis added).

807 KAR 5:006, Section 26(4)(e), states:

At intervals not to exceed two (2) years, the utility shall inspect all electric facilities operating at voltages of less than sixty-nine (69) KV, to the point of service including insulators, conductors, meters, and supporting facilities **from the ground** for damage, deterioration, and vegetation management consistent with the utility's vegetation management practices.

(Emphasis added).

807 KAR 5:006, Section 26(4)(g), states:

Aerial inspections shall not be used as the basis for compliance with paragraphs (b)1., through 3., support facilities provisions in (b)4., (d)1., and (f) of this subsection.

In support of its position that its 34.5-kV and 46-kV facilities should be governed by the provisions of our administrative regulations that apply to facilities operating at 69 kV or greater, Kentucky Power offers four arguments: (1) 807 KAR 5:006, Section 26(4)(e), does not apply to transmission lines; (2) transmission lines are typically not located in populated areas and oftentimes are located in rugged or much less accessible terrain than distributions lines, making ground inspections more difficult and expensive; (3) Kentucky Power is not aware of any characteristic of its 34.5-kV and 46-kV facilities that necessitates more frequent inspections from the ground than is prudent or otherwise required for transmission lines operating at 69 kV or greater; and (4) the addition of language in the administrative regulation in 2013 that requires inspection to

the point of service supports the premise that the Commission intended to limit the application of 807 KAR 5:006, Section 26(4)(e), to distribution lines only.²⁰

Kentucky Power states that its 34.5-kV and 46-kV facilities constitute “Sub-69 kV Transmission Lines.”²¹ Further, on this point, Kentucky Power states that it is not aware of any characteristic of its 34.5-kV and 46-kV facilities that necessitates more frequent inspections from the ground than is otherwise required for transmission lines operating at 69 kV or greater. In reviewing the provisions of 807 KAR 5:006, Section 26(4), the Commission finds that the language therein is clear and unambiguous. There is nothing in 807 KAR 5:006, Section 26, that recognizes a class of facilities as “Sub-69 kV Transmission Lines.” That regulation consistently classifies electric facilities as: (1) those operating at 69 kV or greater; and (2) those operating at voltages less than 69 kV. No Commission regulation establishes a class of sub-69-kV transmission lines, and no regulation establishes the types and frequencies of inspections that would be applicable to such a classification. Accordingly, we find that the types of inspections required by 807 KAR 5:006, Section 26(4)(e), are applicable to Kentucky Power’s 34.5-kV and 46-kV facilities as the regulation is currently written.

Kentucky Power states that transmission lines are oftentimes located in terrain that is more rugged or otherwise less accessible than terrain used for distribution lines; however, Kentucky Power does not specifically describe the terrain conditions for its 34.5-kV or 46-kV facilities. We again note that an electric utility’s duty under 807 KAR 5:006, Section 26(4), is to conduct inspections as often as necessary, but not less

²⁰ *Id.* at 4–7.

²¹ *Id.* at 4.

frequently as specified therein. We find that our regulations do not recognize factors such as the location of facilities in rugged or otherwise less-accessible terrain as factors that reduce an electric utility's duty to conduct these inspections.

There may be some portions of Kentucky Power's 34.5-kV or 46-kV facilities that require inspections more frequently than the remaining portions of those facilities, or conditions may warrant more frequent inspections. Thus, inspections of some portions of the facilities at an interval that does not exceed two years may be appropriate and otherwise in compliance with 807 KAR 5:006, Section 26(4)(e), whereas inspections of other portions may need to be done more frequently in order to assure safe and adequate operation of those facilities. We find that the requirements of 807 KAR 5:006, Section 26(4)(e), are rationally related to the regulation's stated purpose of ensuring that the Commission's safety requirements are being met, and we find that the requirements are applicable to Kentucky Power's 34.5-kV and 46-kV facilities.

Kentucky Power asserts that the addition of language in the administrative regulation in 2013 that requires inspection to the point of service supports the premise that the Commission intended, through its 2013 revisions, to limit the application of 807 KAR 5:006, Section 26(4)(e), to distribution lines only. Kentucky Power's suggested interpretation is unconvincing for two reasons. As noted previously, 807 KAR 5:006, Section 26(4), sets forth two classes of electric facilities: those operating at 69 kV or greater and those operating at less than 69 kV. 807 KAR 5:006, Section 26(4), does not recognize or distinguish electric lines as transmission or distribution as urged by Kentucky Power.

Secondly, assuming that the 2013 revisions could be read to limit 807 KAR 5:006, Section 26(4)(e), to distribution lines, the remaining language in the revisions does not reassign the 34.5-kV and 46-kV facilities to be subject to regulation under 807 KAR 5:006, Sections 26(4)(b) and 26(4)(c). The facilities would, under such a reading, fall outside of either inspection schedule, and the interpretation promotes an absurd result.²²

We find that at the time of the 2013 revisions, electric utilities were already required to inspect their facilities to the point of service. We further find that the 2013 revisions clarified an electric utility's duty to inspect per 807 KAR 5:006, Section 26(4)(e), rather than to limit or reduce any obligations. Lastly, we find that Kentucky Power's 34.5-kV and 46-kV facilities are subject to the requirements set forth in 807 KAR 5:006, Section 26(4)(e). The Commission will, therefore, deny Kentucky Power's request for a declaration that 807 KAR 5:006, Section 26(4)(e), does not apply to these facilities at issue herein.

Kentucky Power has requested that in the event its request for a declaration regarding its 34.5-kV and 46-kV facilities is denied, its alternative relief for a deviation from the requirements imposed by 807 KAR 5:006, Section 26(4)(e), should be granted.²³ Kentucky Power requests authorization to subject its 34.5-kV and 46-kV facilities to the ground-inspection requirements of 807 KAR 5:006, Section 26(4)(c), which apply to electric lines operating at 69 kV or greater.

²² See *George v. Alcoholic Beverage Control Bd*, 421 S.W.2d 569, 571 (Ky. 1967) (Statute must not be interpreted so as to bring about an absurd or unreasonable result.)

²³ Application at 11.

In an effort to gather sufficient information that would support Kentucky Power's request for a deviation from the inspection requirements of 807 KAR 5:006, Section 26(4)(e), for certain facilities operating at voltages less than 69 kV, Commission Staff requested information from Kentucky Power explaining differences, if any, in inspection activities and construction standards that would justify the same treatment as that required of facilities operating at 69 kV or greater.

Although Kentucky Power asserts that the current overall construction standards applied to 34.5-kV and 46-kV facilities are the same as those for facilities operating at 69 kV or greater (i. e., Heavy Loading – Zone 1),²⁴ Kentucky Power referenced several line-clearance guidelines for various electric line voltages which indicate that the design clearance for electric lines less than 69 kV are not consistently treated as stringently as those operating at 69 kV or greater for both minimum clearance from the ground and surrounding vegetation.²⁵ Kentucky Power further indicated that only "new construction" of 34.5-kV and 46-kV facilities were built to "69 kV transmission construction standards."²⁶ However, Kentucky Power failed to demonstrate that its 34.5-kV and 46-kV facilities have been consistently built to the same or similar construction standards as those for facilities that operate at 69 kV or greater or to otherwise adequately justify the need for a deviation from the inspection requirements established by 807 KAR 5:006, Section 26(4)(e).²⁷

²⁴ Kentucky Power's Response to Staff's Second Request, Item 11.

²⁵ *Id.* at Item 4.

²⁶ Kentucky Power's Response to Staff's First Request, Items 5 and 6.

²⁷ *Id.*; and Kentucky Power's Response to Staff's Second Request, Items 6 and 7.

Additionally, in response to Commission Staff's requests for information, Kentucky Power asserted that its vegetation-management practices are applied similarly to 34.5-kV, 46-kV, and 69-kV transmission lines. Kentucky Power explained that it uses an annual "performance based" vegetation management plan for electric transmission facilities that are less than 200 kV that substantially differs from a "cycled based" approach employed for transmission facilities at 200 kV or greater.²⁸ Accordingly, Kentucky Power's vegetation-management practices clearly distinguish electric facilities based on voltage levels, along with other reliability factors, to establish inspection cycles, the extent of vegetation remediation efforts employed and the minimum clearances to be maintained between conductors and vegetation.

For vegetation-management purposes, Kentucky Power further explains that biannual inspections occur for all "transmission" facilities from the air and are supplemented with ground inspections as circumstances and conditions warrant.²⁹ Rather than support the contention that facilities with similar functionality should be subject to the same inspection requirements, Kentucky Power has provided evidence that supports the use of voltage levels as a primary basis for both inspection and construction practices. Finally, we take note of the inspection requirements for transmission switching stations of 69 kV or greater (at least every six months)³⁰ and distribution substations of 15 kV to 69 kV (at least annually).³¹ Such station facilities are the effective origination and termination points for the electric lines that are the subject

²⁸ Kentucky Power's Response to Staff's First Request, Items 7 and 8.

²⁹ *Id.*, Attachment 1.

³⁰ 807 KAR 5:006, Section 26(4)(b)2.

³¹ *Id.*, Section 26(4)(d)2.

of this case, and it is instructive that these facilities are similarly differentiated based on primary voltage levels.

Kentucky Power's contention that a deviation from inspection requirements for 34.5-kV and 46-kV electric facilities is necessary because inspection of "transmission lines" from the ground is more difficult and expensive than that for "distribution lines" is not supported by any substantive evidence and is, therefore, unpersuasive. Additionally, Kentucky Power's assertion that there is no characteristic of its 34.5-kV and 46-kV electric lines that would otherwise warrant inspection practices that differ from its 69-kV-or-greater electric lines is refutable based solely on the information presented by Kentucky Power. Such information clearly reflects that electric facilities are routinely classified by voltage levels where higher-voltage facilities require increasingly greater safeguards for clearances from both the ground and surrounding vegetation as well as more stringent construction requirements that are often applied to higher voltages, particularly where system reliability is considered a major concern.

We, therefore, find that Kentucky Power has not shown good cause to permit a deviation from 807 KAR 5:006, Section 26(4)(e), for its 34.5 and 46-kV facilities.

807 KAR 5:006, Section 26(4), permits certain inspections to be conducted aerially, while requiring other inspections to be conducted from the ground. Kentucky Power asserts that, with regard to aerial inspections, there is an apparent conflict among 807 KAR 5:006, Sections 26(4)(b)4., 26(4)(c), and 26(4)(g). Kentucky Power seeks a declaration that as long as it complies with the ground-inspection requirements

of 807 KAR 5:006, Section 26(4)(c), it is permissible to aerially inspect electric lines at six-month intervals as a means of compliance with 807 KAR 5:006, Section 26(4)(b).³²

We again note that 807 KAR 5:006, Section 26(4), does not recognize or create the transmission-line versus distribution-line distinction urged by Kentucky Power. For the reasons already stated in this Order, the pertinent portions of 807 KAR 5:006, Section 26(4)(b), concern Kentucky Power's electric lines operating at 69 kV or greater and do not apply to the 34.5-kV and 46-kV facilities.

807 KAR 5:006, Section 26(4)(c), requires, for all electric lines operating at 69 kV or greater, inspection from the ground of the line, including insulators, conductors, and supporting facilities.³³ For a 69-kV-or-greater electric line supported by a wood pole or other wood support structure, the ground inspection must take place at intervals not to exceed six years.³⁴ For a 69-kV-or-greater electric line supported by a pole or other support structure constructed of steel or other non-wood material, the ground inspection must take place at intervals not to exceed 12 years.³⁵ These requirements were added when the Commission revised 807 KAR 5:006 in 2013.

Kentucky Power notes that, pursuant to 807 KAR 5:006, Section 26(4)(b)4., the company is required to inspect, at intervals not to exceed six months, "[e]lectric lines operating at sixty-nine (69) KV or greater, including insulators, conductors, and supporting facilities, for damage, deterioration and vegetation management consistent

³² Application at 11.

³³ 807 KAR 5:006, Section 26(4)(c).

³⁴ *Id.*, Section 26(4)(c)(1).

³⁵ *Id.*, Section 26(4)(c)(2).

with the utility's vegetation management practices."³⁶ However, pursuant to 807 KAR 5:006, Section 26(4)(g), "[a]erial inspections shall not be used as the basis for compliance with paragraphs (b)1., through 3., support facilities provisions in (b)4., (d)1., and (f) of this [807 KAR 5:006, Section 26(4)] subsection."³⁷

Kentucky Power states that, when read together, 807 KAR 5:006, Section 26(4)(b)4., which requires inspections of "supporting facilities" at intervals not to exceed six months, and 807 KAR 5:006, Section 26(4)(g), which, in pertinent part, prohibits aerial inspections for the basis of compliance with 807 KAR 5:006, Section 26(4)(b)4., "seemingly require the semi-annual inspection from the ground, the only alternative to aerial inspections, of the supporting facilities of electric lines operating at 69 kV or greater."³⁸ Observing that 807 KAR 5:006, Section 26(4)(c), requires ground inspections at intervals not to exceed six or 12 years, depending upon the material in the support structure, Kentucky Power notes that 807 KAR 5:006, Section 26(4), imposes differing intervals for inspections of lines operating at 69 kV or greater.³⁹

Kentucky Power posits that 807 KAR 5:006, Section 26(4)(g), as applied to 807 KAR 5:006, Section 26(4)(c), would require additional ground inspections in a manner rendering the ground-inspection requirements of 807 KAR 5:006, Sections 26(4)(c)1. and 26(4)(c)2., meaningless.⁴⁰ Kentucky Power requests the Commission issue an Order declaring that, to the extent Kentucky Power complies with the ground inspection

³⁶ Application, paragraph 14; and 807 KAR 5:006, Section 26(4)(b)4.

³⁷ 807 KAR 5:006, Section 26(4)(g).

³⁸ Application, paragraph 14 at 7.

³⁹ *Id.*, paragraphs 14–16 at 7 and 8.

⁴⁰ *Id.*, paragraph 16 at 7 and 8.

requirements of 807 KAR 5:006, Section 26(4)(c), with respect to its electric lines operating at 69 kV or greater, the inspections required at intervals not to exceed six months pursuant to 807 KAR 5:006, Section 26(4)(b)(4), may be performed aurally.⁴¹

Based on a review of Kentucky Power's arguments, we find that there is a conflict between the provisions of 807 KAR 5:006, Sections 26(4)(b)4., 26(4)(c), and 26(4)(g). 807 KAR 5:006, Section 26(4)(b)4., requires electric lines operating at 69 kV or greater to be inspected at intervals not to exceed six months. 807 KAR 5:006, Section 26(4)(c)1., requires a ground inspection of each 69-kV-or-greater electric line supported by a wood pole or other wood support structure at an interval not to exceed six years. 807 KAR 5:006, Section 26(4)(c)2., requires a ground inspection of each 69-kV-or-greater electric line supported by a pole or other support structure constructed of steel or other non-wood material at an interval not to exceed 12 years. 807 KAR 5:006, Section 26(4)(g), states, in part, that aerial inspections shall not be used as the basis for compliance with 807 KAR 5:006, Section 26(4)(b)4. Thus, while the language of 807 KAR 5:006, Section 26(4)(c), allows a ground inspection of 69-kV electric lines at an interval of greater than six months, the language of 807 KAR 5:006, Section 26(4)(g), prohibits aerial inspections of these same facilities with respect to requirements of 807 KAR 5:006, Section 26(4)(b)4. Therefore, there are conflicting ground-inspection intervals.

We find that when there is a conflict between two statutes, the general rule of statutory construction mandates that the specific provision takes precedence over the

⁴¹ *Id.*, paragraph 17 at 8.

general provision.⁴² This rule of construction should be applied to the conflict in our administrative regulation, and we find that specific instructions of 807 KAR 5:006, Sections 26(4)(c)1. and 26(4)(c)2., recognize that an electric utility that is otherwise in compliance with the requirement to make inspections as often as necessary is not required to inspect supporting facilities from the ground at intervals not to exceed six months.

We find that the intent of the 807 KAR 5:006, Section 26(4)(g), with respect to aerial inspections of electric lines operating at 69 kV or greater, is to prevent a utility from utilizing an aerial inspection as the sole basis for compliance with our administrative regulations.⁴³ If it had been our intent to require ground inspections of supporting facilities at intervals not to exceed six months, then we would not have added 807 KAR 5:006, Section 26(c), as part of the 2013 revisions to 807 KAR 5:006. Rather, our intent for the prohibition in 807 KAR 5:006, Section 26(4)(g), with regard to support facilities, is to prevent an electric utility from utilizing aerial inspections of all or portions of its support facilities of electric lines operating at 69 kV or greater when a ground inspection is necessary, whether pursuant to 807 KAR 5:006, Sections 26(4)(c)1. or 26(4)(c)2., or pursuant to the “as often as necessary” requirement in 807 KAR 5:006, Section 26(4).

⁴² See *Commonwealth v. Crum*, 250 S.W.3d 347, 351 (Ky. App. 2008)(quoting *Commonwealth v. Phon*, 17 S.W.3d 106, 107, 108 (Ky. 2000).

⁴³ Prior to the 2013 revisions to 807 KAR 5:006, our administrative regulations, at then-numbered Section 26(f), stated: “Aerial inspections shall not be used as the sole basis for evidence of compliance with commission administrative regulations.”

807 KAR 5:006, Section 26, should be construed, if possible, so that no part of our administrative regulation is meaningless.⁴⁴ We find that an interpretation of 807 KAR 5:006, Section 26(4)(g), requires ground inspections of supporting facilities of electric lines operating at 69 kV or greater at intervals of not less than six months renders meaningless the ground-inspection intervals specifically identified in 807 KAR 5:006, Section 4(c). We find that the inconsistency should be resolved through a declaration that the specific requirements of 807 KAR 5:006, Section 26(4)(c), prevail and that aerial inspections may be used as a means of compliance with the six-month inspection requirements imposed by 807 KAR 5:006, Section 26(4)(b)4. In making this declaration, we emphasize that it in no way reduces or limits Kentucky Powers duty to adopt inspection procedures that assure safe and adequate operation of its facilities and to otherwise make inspections as often as necessary. We note that our construction of 807 KAR 5:006, Sections 26(b)4., 26(4)(c), and 26(4)(g), renders moot Kentucky Power's corresponding request for a deviation made in the alternative on this portion of its request for relief.

IT IS THEREFORE ORDERED that:

1. Kentucky Power's request for a declaration that the biannual ground-inspection requirements of 807 KAR 5:006, Section 26(4)(e), are inapplicable to its 34.5-kV and 46-kV electric line facilities and that these facilities are instead subject to the ground-inspection requirements of 807 KAR 5:006, Section 26(4)(c), is denied.

2. Kentucky Power's request for a declaration that, to the extent that it complies with the ground-inspection requirements of 807 KAR 5:006, Section 26(4)(c),

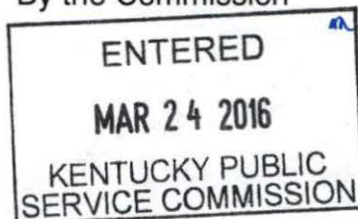
⁴⁴ See *Hardin County Fiscal Court v. Hardin County Board of Health*, 899 S.W.2d 859, 861, 862 (Ky. App. 1995).

with respect to its electric lines operating at or above 69 kV, it may make the inspections required by 807 KAR 5:006, Section 26(4)(b)4., aurally is granted.

3. Kentucky Power's request for a deviation from the inspection requirements of 807 KAR 5:006, Section 26(4)(e), for its 34.5-kV and 46-kV electric line facilities is denied.

4. Kentucky Power's request for a deviation from the prohibition in 807 KAR 5:006, Section 26(4)(g), as it applies to inspection requirements under 807 KAR 5:006, Section 26(4)(b)4., is denied as moot.

By the Commission



ATTEST:


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