

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF KENTUCKY)	
POWER COMPANY FOR CERTIFICATION OF)	
PUBLIC CONVENIENCE AND NECESSITY TO)	CASE NO.
CONSTRUCT A 161 KV TRANSMISSION LINE)	2017-00328
IN PERRY AND LESLIE COUNTIES, KENTUCKY)	
AND ASSOCIATED FACILITIES)	

ORDER

On November 17, 2017, Kentucky Power Company (“Kentucky Power”) filed an application seeking a Certificate of Public Convenience and Necessity (“CPCN”) to (1) rebuild its existing 6.5 mile Hazard-Wooton 161 kV Transmission Line in Perry and Leslie counties and (2) to perform an upgrade, replacement, and installation of facilities and equipment at Kentucky Power’s existing Hazard and Wooton substations.¹ The total estimated cost of the project is \$44 million.² The Attorney General of the Commonwealth of Kentucky by and through the Office of Rate Intervention (“Attorney General”) is the only intervenor in this matter. Pursuant to the procedural schedule, two rounds of discovery were conducted. On February 21, 2018, the Attorney General and Kentucky Power waived their right to a hearing and requested that the matter be submitted for a decision based on the evidentiary record after the parties filed simultaneous briefs. The parties submitted simultaneous briefs on March 5, 2018. The matter now stands submitted for a decision.

¹ Application at 1 (November 17, 2017).

² Application at 2.

BACKGROUND

Kentucky Power's request for a CPCN consists of two projects. The first project is the proposed 6.6 mile rebuild of an existing 6.5 mile Hazard-Wooton 161 kV transmission line, with an estimated cost of \$20 million.³ The proposed rebuild includes combining portions of the existing Hazard-Jackson 69 kV line and the existing Hazard-Wooton 161 kV line onto approximately seven double-circuit structures mainly using the existing Hazard-Jackson and Hazard-Wooton rights-of-way, as well as a small portion of newly acquired right-of-way. An existing 34.5 kV distribution line will be underbuilt on the double-circuit portion of the proposed rebuild. There will also be a reconfiguration of an approximately 1,900-foot section of the existing Hazard-Jackson 69 kV line.⁴ Finally, Kentucky Power proposes to replace the existing 161/138 kV single-phase transformer with a new three-phase 161/138 kV transformer at the Hazard substation.

This project has been designated a Baseline project by PJM and Kentucky Power. Baseline projects are defined by PJM as "projects primarily required to eliminate base-case reliability criteria violations found in the PJM Regional Transmission Expansion Plan."⁵

The second project has been designated Supplemental by PJM and consists of five improvements to the Wooton substation and 46 improvements to the Hazard

³ Kentucky Power Company Responses to Attorney General's First Set of Data Requests, Response to Request 5 (January 29, 2018).

⁴ Application at 2-3.

⁵ PJM Manual 14C: Generation and Transmission Interconnection Facility Construction, Section Baseline & Supplemental Upgrade Projects, <http://www.pjm.com/-/media/committees-groups/committees/pc/20160811-item-04e-m14c-update-energization-schedule-clean.ashx>.

substation, with an estimated cost \$24 million.⁶ Supplemental is defined by PJM as “projects originated by the Transmission owner that are not driven by an applicable PJM criterion.”⁷ Kentucky Power states that of the proposed improvements to the substations, only the replacement of the existing 161/138 kV single-phase transformer with a new three-phase 161/138 kV transformer at the Hazard substation is directly related to or required by the transmission line rebuild while the other proposed improvements are not.⁸

DISCUSSION

KRS 278.020(2) states that construction of any electric transmission line of 138 kV or more and of more than 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 CPCN.

To establish the requirement of public convenience and necessity, an applicant must demonstrate the need for the proposed facilities and that the proposed construction will not result in the wasteful duplication of facilities.⁹

“Need” requires:

[A] showing of a substantial inadequacy of existing service, involving a consumer market sufficiently large to make it

⁶ Kentucky Power Company Responses to Attorney General's First Set of Data Requests, Response to Request 5 (January 29, 2018).

⁷ PJM Manual 14C: Generation and Transmission Interconnection Facility Construction, Section Baseline & Supplemental Upgrade Projects, <http://www.pjm.com/-/media/committees-groups/committees/pc/20160811-item-04e-m14c-update-energization-schedule-clean.ashx>.

⁸ Application, Direct Testimony of Michael G. Lasslo, at 9.

⁹ *Kentucky Utilities Company v. Public Service Commission*, 252 S.W.2d 885 (Ky. 1952).

economically feasible for the new system or facility to be constructed and operated.

[T]he inadequacy must be due either to a substantial deficiency of service facilities, beyond what could be supplied by normal improvements in the ordinary course of business; or to indifference, poor management or disregard of the rights of consumers, persisting over such a period of time as to establish an inability or unwillingness to render adequate service.¹⁰

“Wasteful duplication” is defined as “an excess of capacity over need” and “an excessive investment in relation to productivity or efficiency, and an unnecessary multiplicity of physical properties.”¹¹ To demonstrate that the proposed construction does not result in wasteful duplication, we have held that the applicant must demonstrate that a thorough review of all reasonable alternatives has been performed.¹² Selection of a proposal that ultimately costs more than an alternative does not necessarily result in wasteful duplication.¹³ All relevant factors must be balanced.¹⁴ The statutory touchstone for ratemaking in Kentucky is the requirement that the rates set by the Commission must be fair, just and reasonable.¹⁵

¹⁰ *Id.* at 890.

¹¹ *Id.*

¹² Case No. 2005-00142, *Joint Application of Louisville Gas and Electric Company and Kentucky Utilities Company for a Certificate of Public Convenience and Necessity for the Construction of Transmission facilities in Jefferson, Bullitt, Meade, and Hardin Counties, Kentucky* (Ky. PSC Dec. 8, 2005).

¹³ See *Kentucky Utilities Co. v. Pub. Serv. Comm’n*, 390 S.W.2d 168, 175 (Ky. 1965). See also Case No. 2005-0089, *Application of East Kentucky Power Cooperative, Inc. for a Certificate of Public Convenience and Necessity for the Construction of a 138 kV Electric Transmission Line in Rowan County, Kentucky* (Ky. PSC Aug. 19, 2005), final Order.

¹⁴ Case No. 2005-00089, *East Kentucky Power Cooperative, Inc.*, final Order at 6.

¹⁵ KRS 278.030(1).

The Commission finds that Kentucky Power has established sufficient evidence to demonstrate that the Baseline portions of the Application, namely the proposed rebuild of the existing 6.5 mile Hazard-Wooton 161 kV Transmission Line in Perry and Leslie counties and the replacement of the single-phase transformer with the three-phase transformer at the Hazard substation, are necessary, that the construction is reasonable and that it will not result in any wasteful duplication of services.

The Baseline portion of the project will replace an existing transmission line that was built in the 1940s and is at the end of its useful life.¹⁶ Fifty-two “category A” open conditions have been identified in connection with the existing line. “Category A” open conditions are physical defects identified during scheduled inspections that can negatively affect the structural or electrical integrity of the transmission line.¹⁷

However, the Commission does not agree that Kentucky Power established the need for the \$24 million Supplemental portion of the project described in the application. In its brief of March 5, 2018, Kentucky Power addresses in some detail the necessity of the transmission line rebuild and the replacement of the Hazard substation transformer. However, as to the necessity of the remainder of the project, the Supplemental portion, the Company only states that doing the Supplemental substation upgrades simultaneously will permit “Kentucky Power to deploy engineering and construction resources in a more efficient manner....”¹⁸ This may speak to efficiency but not to necessity.

¹⁶ Application, Direct Testimony of Ranie K. Wohnhas, at 5.

¹⁷ *Id.* at Direct Testimony of Michael G. Lasslo, 6.

¹⁸ *Id.*

Also, the Attorney General argues that the Federal Energy Regulatory Commission (“FERC”) recently issued an order addressing Supplemental projects and the PJM Subregional RTEP process used by transmission owners to obtain PJM approval for such projects.¹⁹ In this order, FERC found that the way in which the PJM transmission owners are carrying out the PJM Operating Agreement conflicts with the requirements and principals of transparency of FERC Order no. 890.²⁰

FERC’s specific concerns were short time frames between meetings, vague or incomplete information provided by transmission owners, instances where transmission owners were guided towards obvious solutions in the same meeting where issues were first discussed and a practice of taking substantial steps to start projects and in some cases even finish them before the initial presentation of the projects to stakeholders.²¹

The FERC order required PJM transmission owners to make a compliance filing within 30 days showing revisions to Attachment M-3 of the PJM OATT.²² It required, among other things, the creation of three distinct meetings with a set period of time between each one, the Order also set out a requirement that Subregional RTEP Committees review the criteria, assumptions, and models the transmission owners use to decide on Supplemental projects, that transmission owners provide this information

¹⁹ Order Accepting in Part Proposed Tariff Revisions and Requiring Tariff Revisions Pursuant to Section 206, 131 F.E.R.C., Section 61,129 (2018).

²⁰ *Id.* at 4.

²¹ *Id.* at 34-39.

²² *Id.* at 50-58.

to PJM in advance of this meeting and that transmission owners take notice of comments received after the meeting and provide feedback if appropriate.²³

The Commission finds that the evaluation of the present Supplemental project has taken place under the previous review process that the FERC order has found to be flawed. The Company is silent on the issue of the FERC Order in its brief, merely stating that the project received a full stakeholder review but not directly addressing the new requirements imposed by the February 15, 2018 Order.

IT IS HEREBY ORDERED that:

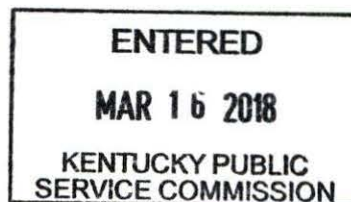
1. Kentucky Power's request for a CPCN is granted in part and denied in part.
2. Kentucky Power is granted a CPCN to rebuild its existing 6.5 mile Hazard-Wooton 161 kV Transmission Line in Perry and Leslie counties and to perform the related replacement of the of the existing 161/138 kV single-phase transformer located at the Hazard substation with a new three-phase 161/138 kV transformer as set forth as a Baseline Project in the Application.
3. Kentucky Power's request for a CPCN for improvements to the Wooton substation and Hazard substation set forth as a Supplement Project in the Application is denied.
4. Kentucky Power shall file a survey of the final location of the relocation of the electric transmission line if there are any proposed modifications before construction begins.

²³ *Id.* at 59-70.

5. Kentucky Power shall file “as built” drawings or maps within 60 days of the completion of the construction of the electric transmission line authorized by this Order.

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By the Commission



ATTEST:


Executive Director

Case No. 2017-00328

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