

CASE

NUMBER:

99-330

INDEX FOR CASE: 99-330
KENTUCKY UTILITIES COMPANY
Complaints - Service
OF W. A. ROCK

IN THE MATTER OF W. A. ROCK VS KENTUCKY UTILITIES COMPANY

SEQ NBR	ENTRY DATE	REMARKS
0001	07/30/99	Application.
0002	08/06/99	Acknowledgement letter.
0003	08/27/99	Order entered; amended complaint due 9/16 or dismissed without further Order.



COMMONWEALTH OF KENTUCKY
PUBLIC SERVICE COMMISSION

730 SCHENKEL LANE
POST OFFICE BOX 615
FRANKFORT, KY. 40602
(502) 564-3940

August 27, 1999

Ronald L. Willhite
Vice President Regulatory Affairs
Louisville Gas & Electric Co.
P. O. Box 32010
Louisville, KY. 40232

W. A. Rock
248 Martin Road
Horse Cave, KY. 42749

RE: Case No. 99-330

We enclose one attested copy of the Commission's Order in
the above case.

Sincerely,

Stephanie Bell
Stephanie Bell
Secretary of the Commission

SB/hv
Enclosure

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

W. A. ROCK)	
)	
COMPLAINANT)	
)	CASE NO. 99-330
vs.)	
)	
KENTUCKY UTILITIES COMPANY)	
)	
DEFENDANT)	

O R D E R

On July 30, 1999, W. A. Rock ("Complainant") filed a Complaint against Kentucky Utilities Company ("KU") alleging that KU discriminated against him by installing electric lines across the rear of his property to provide electricity to a duplex currently under construction. He claims that the lines are 110 feet in length, and that lines 30 feet in length could have been constructed from across the street to provide service to the duplex without crossing his property. He also says that KU's reluctance to construct a line across the street is at odds with its practices in the area, and that its reluctance to construct a permanent line across the street in this instance is the result of an oral agreement with the developer of the duplex. Appended to the Complaint is an attachment containing numbered paragraphs that provide additional information ["Attachment"], together with a diagram of the area demonstrating that the lines at issue cross the rear of the Complainant's property line ["Diagram"]. The Diagram also demonstrates that the lines to Complainant's property cross the rear of other properties in the area.

Pursuant to 807 KAR 5:001, Section 12(4), this Commission is to examine each formal complaint to determine whether it establishes a prima facie case. If no prima facie case is found, the Commission may notify the Complainant to that effect and specify a time frame within which the Complaint may be amended. Based upon the Complaint and attachments thereto, and accepting the allegations therein as true, the Commission finds that Complainant has failed to state a prima facie case against KU and that, unless the Complaint is amended to state a prima facie case within twenty (20) days of the date of this Order, the Complaint should be dismissed.

Utility construction is governed by law meant to ensure that the public convenience and necessity is served. KRS 278.020. The need for service to the property discussed in the Complaint is not questioned. A utility need not receive Commission approval for the construction of "ordinary extensions of existing systems in the usual course of business." Id. The construction at issue is, without question, an "ordinary extension . . . in the usual course of business." See 807 KAR 5:001, Section 9(3). In addition, Kentucky's highest court has held that "the specific paths the [electric] lines might follow" is "not relevant to the issue of convenience and necessity." Satterwhite v. Public Service Com'n, Ky., 474 S.W.2d 387, 388 (1971). Accordingly, the court in Satterwhite dismissed a petition filed by property owners over whose land KU's transmission lines would cross. Id.

Complainant alleges that KU in constructing the lines has "discriminated" against him and other property owners over whose property the lines would cross. However, he does not show that KU has treated him discriminatorily or unreasonably. The Diagram attached to the Complaint demonstrates that KU constructed lines across the rear of

other properties in order to bring service to Complainant's own property. Furthermore, even if KU has previously constructed lines across streets to provide service, there is nothing inherently unreasonable in its decision to avoid such construction, particularly here, where the transformer currently serving lots numbered 12, 13, 14, and 16 on Complainant's Diagram [Attachment to Complaint at (9)] will also serve lot 15, the property on which the new duplex is built.

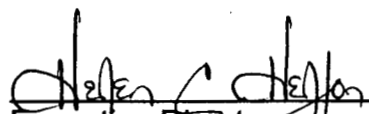
As explained above, no prima facie case is stated in the Complaint as filed. However, this case will be retained on the Commission's docket for an additional twenty (20) days from the date of this Order so that the Complainant may file any additional allegations or amendments he believes relevant. The Commission will review any such additional allegations or amendments immediately upon their filing. If no such amendments or allegations are filed, this case shall be dismissed without further Order.

IT IS SO ORDERED.

Done at Frankfort, Kentucky, this 27th day of August, 1999.

By the Commission

ATTEST:


Executive Director



COMMONWEALTH OF KENTUCKY
PUBLIC SERVICE COMMISSION

730 SCHENKEL LANE
POST OFFICE BOX 615
FRANKFORT, KY. 40602
(502) 564-3940

August 6, 1999

Ronald L. Willhite
Vice President Regulatory Affairs
Louisville Gas & Electric Co.
P. O. Box 32010
Louisville, KY. 40232


W. A. Rock
248 Martin Road
Horse Cave, KY. 42749

RE: Case No. 99-330
KENTUCKY UTILITIES COMPANY
(Complaints - Service) OF W. A. ROCK

This letter is to acknowledge receipt of initial application in the above case. The application was date-stamped received July 30, 1999 and has been assigned Case No. 99-330. In all future correspondence or filings in connection with this case, please reference the above case number.

If you need further assistance, please contact my staff at 502/564-3940.

Sincerely,


Stephanie Bell
Secretary of the Commission

SB/jc

BJ

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the matter of:

_____ W. A. Rock _____)

COMPLAINANT)

VS. _____)

_____ Kentucky Utilities Company _____)

DEFENDANT)

JUL 30 1999
PUBLIC SERVICE
COMMISSION
CASE 99-330

COMPLAINT

The complaint of _____ W. A. Rock _____ respectfully shows:

(a) _____ W. A. Rock _____

248 Martin Road, Horse Cave, Kentucky 42749

(b) Kentucky Utilities Company _____

109 Guthrie Street, Horse Cave, Kentucky 42749

(c) That: Kentucky Utilities Company of Horse Cave, Kentucky, managed by Jerry Carter, has discriminated against me by installing electric wires along my property line and the property line of two other people, a distance of 110 feet, to provide electricity to a duplex being built by a local developer, rather than providing this service from across the street, a distance of 30 feet from his property lines, to appease the local developer.

Formal Complaint

W. A. Rock vs. Kentucky Utilities Company

Wherefore, complainant asks that the electric wires be removed from my property line and that electricity be provided to the duplex from across the street.

Dated at Horse Cave, Kentucky, this 27th day
of July, 1999.

W A Rock

(Your Signature)

(Name and address of attorney, if any)

W. A. Rock vs. Kentucky Utilities Company

Mr. Carter, Kentucky Utilities manager, states that easements do not permit him to run wires over the street. I have checked the utility easement records of the housing subdivision and found no such restrictions. I have checked with the Office of the Mayor of Horse Cave and she indicated no problem with lines over the street, which is owned and maintained by the City of Horse Cave.

Mr. Carter further states that KU has an oral agreement with the local developer, Odell Martin, not to run lines over the street. The truth is that KU has ran lines over the street as recent as three (3) years ago to provide electricity to houses on the other side of the street, which were also built by the same local developer. Even today KU has an electric line over the street (Lynn Street) providing electricity to the duplex in question while under construction.

Mr. Carter and Ed Staten, KU district manager, visited my home one day recently saying, they were going to try and find the person who made the oral agreement on behalf of KU with Mr. Martin, the developer. They returned two or three days later without a name of anyone representing KU who made such an agreement. Is this standard operation procedure of KU for doing business?

Early in my discussion with Mr. Carter, KU manager, he came to me with a proposal from Mr. Martin, the developer. The proposal was as follows:

Mr. Martin would have KU run the lines under the street at a cost of approximately \$500 if I would pay half of the cost. In return I would be spared the encumbrances of the

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electrical wires along my property line. Mr. Carter later told me that Mr. Martin had withdrawn the offer.

Please refer to the enclosed diagram for the following information:

- (1.) Broken lines from point A, B, C, and D show the original electric lines into the area.
- (2.) A circle O indicates the position of the electric poles.
- (3.) Broken lines from points B, F, G, and H show electric lines put in place by KU about three years ago when construction first began on lots 1,2,3,4 and 5. As you can see lines pass over the street.
- (4.) My home is on lot 13.
- (5.) The duplex under construction is on lot 15. This is 110 feet from the transformer on pole at point D.
- (6.) KU has placed a pole at point E and ran wires from point D to point E, over my objections, to service the duplex on lot 15 at a substantial and unnecessary cost.
- (7.) The electric pole at point G is 30 feet away from point I and has a transformer on it.
- (8.) The roadway has a 30-foot right of way.

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(9.) KU has installed a new transformer at point D. The transformer at point D was already providing electric current to four houses on lots 12,13,14, and 16.

W A Rock

