

CN 2004-00320



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Chairman

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Gregory Coker
Commissioner

March 1, 2006

Mr. Roswell A. Harris, PhD, PE
1800 John Henry Road
Taylorsville, KY 40071

Dear Mr. Harris:

I have reviewed your letter and the information you submitted regarding Case No. 2004-00320, East Kentucky Power Cooperative's application to construct a new transmission line which was approved in March 2005. In your letter, you state that you had no opportunity to provide input into the consideration of East Kentucky's request for certification to construct the transmission line. In response to this, the Commission is in receipt of two letters from you that are part of the record of this case. The Commission held a local public hearing in Taylorsville and a second public hearing in Frankfort to allow input from the public. East Kentucky published notice of both public hearings prior to the hearing dates. After careful consideration of the facts presented, the Commission concluded that the project is required to assure the reliability of power service to the East Kentucky system. In addition, the Commission found that, based on the study of alternatives to the proposed line, the proposed line is the most effective solution to resolve reliability concerns.

Secondly, you request that the PSC intervene on your behalf in easement negotiations with East Kentucky. The Commission does not have the authority to intervene in matters of this nature. Disputes involving eminent domain should be pursued through the court system. Due to the nature of your complaint, you may wish to seek legal counsel to represent you in the process.

Thank you for your interest in this case.

Sincerely,
A handwritten signature in black ink, appearing to read "Mark David Goss".

Mark David Goss
Chairman

MDG/ae

December 13, 2005

Mr. Mark Goss
Chairman
Kentucky Public Service Commission
P.O. Box 615
211 Sower Boulevard
Frankfort, KY 40602-0615

RE: Docket No. 2004-00320

Dear Mr. Goss:

I am writing to formally complain about the manner in which I am being treated by the East Kentucky Power Cooperative regarding the purchase of a portion of my property. The referenced docket number refers to EKPC's application to the Public Service Commission for construction of the Little Mount 161kV Transmission Tap Project. I have written two previous letters to Ms. Beth O'Donnell, dated December 14, 2004 and January 13, 2005. In both letters, I laid out specific concerns regarding the process EKPC was being allowed to follow in the development of this project.

In the second letter, I asked that PSC hold a local public hearing in Taylorsville. In her response, dated January 21, 2005, Ms. O'Donnell acknowledged my request, but did not indicate one would be scheduled. That was the last I heard from anyone regarding a specific local public hearing. I did not attend the March 8, 2005 hearing in Frankfort because I was waiting for a decision on my request. It was not until July 2005 that I learned from an EKPC representative that a hearing had indeed been held. So, my first issue is that I was denied the opportunity to provide input into the PSC's consideration of EKPC's request for certification.

Secondly, I have been given no opportunity to provide any meaningful input to the development of this project which is being funded with public money through the Rural Utilities Service. The only time I was able to talk to someone from EKPC about this project was at an "open house", held in Taylorsville in October 2004. At this meeting, every question I asked was answered with a standard "I don't know". In other words, EKPC simply presented what they were going to do, with no regard for exploring alternatives or suggestions from affected property owners.

One of the points I attempted to make at that meeting was that EKPC had not properly considered alternatives to the proposed route. I pointed out on their own aerial photographs that other corridors would accomplish the same objective without impacting single family residences in the area. I even suggested that they consider using existing right-of-way along KY highways 155 and/or 44. Their response was to simply chuckle and say that the motoring public would not like the view of power lines in the highway right-of-way. It is interesting to note that the PSC has recently denied a number of EKPC applications for failure to consider this obvious alternative.

So, I am now in the situation of having a new home that was once completely surrounded by healthy dense forest, sitting with 200 feet of a clear-cut EKPC right-of-way that will have 80+ ft. metal poles supporting electrical transmission lines. I fully understand that EKPC has the power of eminent domain, and once the project was approved by PSC, it would be built. I therefore entered into correspondence with the EKPC right-of-way office, attempting to lay out my concerns relative to the effects of this action on me and my property. However, EKPC has refused to negotiate, taking a literal take-it-or-leave-it approach. The money they have offered is not based on the actual before and after value of my property, but is instead a rule-of-thumb amount not specific to my situation.

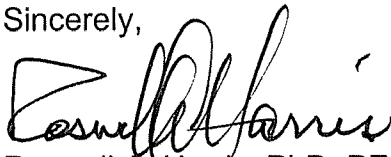
To illustrate my point, I have enclosed a copy of my last letter to EKPC in which I have attempted to lay out concerns specific to my property, and to once again state my willingness to negotiate. I have also enclosed a copy of the response from Mr. Sherman Goodpaster, EKPC Senior Corporate Counsel, in which he clearly shows no regard for my concerns, and simply presents his take-it-or-leave-it approach. Such an offer is not acceptable to me, and in fact, it is my understanding that such action is forbidden in condemnation law.

I have worked in the development of publicly funded projects for over thirty years (the source of RUS money is the taxpayer, thus it is public, as evidenced by the required CE), and understand the process quite well. In that time I have never witnessed any agency utilizing such a heavy handed approach, and employing such cursory efforts at required coordination and studies as EKPC has done in this case.

I am therefore requesting that the PSC intervene on my behalf and require EKPC to enter into legitimate negotiations for my property. Their actions thus far have been nothing but a badge of bad faith. If they refuse to seriously consider my concerns, I request that you take action to revoke the certification for this project and require them to re-consider alternative corridors as they should have done when development of this project was first begun.

Thank you for your time. I look forward to hearing from you soon.

Sincerely,

A handwritten signature in black ink, appearing to read "Roswell A. Harris". The signature is fluid and cursive, with a large initial "R" and "H".

Roswell A. Harris, PhD, PE
1800 John Henry Road
Taylorsville, KY 40071
al.harris@louisville.edu
502-299-7783

November 21, 2005

Mr. Bruce Murrey Jr.
Senior Rights of Way Agent
East Kentucky Power Cooperative, Inc.
P.O. Box 707
Winchester, KY 40392-0707

RE: Little Mount, Kentucky 161 kV Transmission Tap Project

Dear Mr. Murrey:

This is to acknowledge receipt of your letter dated November 17, 2005. I'm afraid I don't understand your implied sense of urgency, since the right of way you referenced has already been clear cut.

However, in spite of that unlawful act on the part of EKPC, I am willing to open a dialogue relative to your purchase of my property. I have chosen to do this in order to demonstrate a spirit of cooperation, which I trust will be reciprocated by you.

Before I get to the economic value of my property, there are several other issues which will have significant impact on me, and which I feel EKPC must address before I am willing to consider the sale of any right of way. These are:

1. EKPC must agree to construct a fence where the clear cut right of way intersects my property to prevent trespassers from entering my property.
2. EKPC must acknowledge the attraction that the clear cut right of way now provides for people to ride their off-road vehicles. Property owners in this area, including myself, already have significant problems from such people. Further, EKPC must take immediate steps to prevent these people from using that right of way for recreational riding, by building appropriate fences where the clear cut right of way crosses public roads (specifically John Henry Road). When (not if, because four-wheelers have already been out there) these people start riding their off road vehicles along this section of right of way, I want a telephone number of a person I can report this to 24 hours a day, seven days a week (not an answering machine). I also want EKPC to develop a course of action they will follow when this violation occurs. I want this action plan in writing along with a commitment from EKPC that positive steps will be taken within 24 hours of notification to identify and stop the offending riders from continuing to violate my privacy.
3. The only high speed internet access I have is through a wireless service that comes from a tower located on Highway 44 east of Taylorsville. Once the proposed power line is constructed, the wireless signal will have to pass directly across that line. Currently the signal strength is consistently strong. I want

written assurance from EKPC that the proposed power line will not cause any interference with my internet connection, since I depend on a high speed connection in conducting work related to my employer. I also want a written commitment from EKPC that if I experience disruptions in the wireless connection, then steps will be taken within 24 hours to correct the problem and restore my high speed service to its current level at EKPC's expense. You may come to my home and test the wireless signal to verify my claim at a mutually agreeable time.

4. I also have satellite television service. The antenna points in a direction that the proposed power line will cross. I currently have consistent strong reception, and have not experienced any loss of service in the two years I have lived in my current home. I want written assurance from EKPC that this proposed power line will not cause any interference with my tv reception. I also want a written commitment from EKPC that if I experience disruptions in my satellite tv reception, then steps will be taken within 24 hours to correct the problem and restore my tv reception to its current condition at EKPC's expense. You may come to my home and test the satellite reception to verify my claim at a mutually agreeable time.
5. I also currently enjoy clear and consistent AM-FM radio reception. I want written assurance from EKPC that this proposed power line will not cause any interference with my radio reception. I also want a written commitment from EKPC that if I experience problems with my radio reception, then steps will be taken within 24 hours to correct the problem and restore my radio reception to its current condition at EKPC's expense. You may come to my home and test the current radio reception to verify my claim at a mutually agreeable time.
6. I have healthy goats and fully functional electric fencing located less than 200 feet from the proposed power line. I want a written commitment from EKPC that if the goats experience any ill effects, or if any problems are experienced with the electric fencing, including the detection of induced voltage, then EKPC will take responsibility and resolve any associated problems within 24 hours of my reporting it. You may come to my farm and test the condition of my goats and the electric fencing to verify my claim at a mutually agreeable time.
7. I am requesting a copy of the "storm water prevention pollution plan" (SWPP) EKPC committed to develop on page 8 of the BER that was approved by RUS on February 22, 2005. I would also remind you that such a plan was required of EKPC in a letter from Ms. Sara Hines of the Kentucky State Nature Preserves Commission, dated November 3, 2004. In that letter, Ms. Hines clearly stated "A written erosion control plan should be developed that includes stringent erosion control methods (i.e., straw bales, silt fences and erosion mats, immediate seeding and mulching of disturbed areas), which are placed in a staggered manner to provide several stages of control." I would assume that such a requirement would mean that you not only develop a plan, but that you would

also be expected to implement it. After two weeks of clear cutting, nothing has been done on the extremely steep slopes that drain into Brashear's Creek and onto my property. Fortunately, we have not had any heavy rain in that time period.

8. You should be aware that I cannot just sell a portion of property that has a lien attached to it. The lien holder will have to approve the sale of that property, the deed and lien will have to be re-written, and the property survey will need to be revised and recorded. I will expect EKPC to bear any cost associated with this process.
9. Finally, I am in the process of determining the economic impact of the clear cutting of a 100 ft. wide strip of dense, healthy, and mature trees, and then constructing a power line with 80+ ft. poles within 200 feet of my home. Until that study has been completed, I am not in a position to evaluate your offer of \$500. Once the study is completed, I will notify you of whether that amount is appropriate.

I hope you will finally take my concerns as seriously as I do.

Sincerely,

Roswell A. Harris, PhD, PE
1800 John Henry Road
Taylorsville, KY 40071
al.harris@louisville.edu

cc. Mr. Bob Griffith



November 29, 2005

Mr. Roswell A. Harris
1800 John Henry Road
Taylorsville, KY 40071

RE: Little Mount Transmission Tap Project

Dear Mr. Harris;

I have received your two letters of November 22, 2005, as well as your letter to Mr. Bruce Murrey dated November 21, 2005. Let me respond to the issues you raised in those letters.

First, with respect to your Kentucky Open Records Act request, let me state that EKPC is not subject to the Kentucky Open Records Act. As a result, we must deny this request.

Next, with respect to your questions concerning the local public hearing held on this project in Taylorsville, Kentucky, let me state that there is no requirement, either statutory or regulatory, that an Applicant for a Certificate of Convenience and Necessity serve notice of any such local public hearing. It is my recollection, however, that the PSC Staff did request that EKPC place a public notice of this local hearing in the newspaper of general circulation in Spencer County. I believe this was done, although, due to the timing of the PSC Staff request, this notice appeared only a day or two before the hearing.

Turning to your allegation that EKPC has trespassed upon your property and cut trees, I have spoken with our inspector on this project, and neither the personnel of EKPC nor personnel from EKPC's contractor have cut any trees on your property.

With respect to your existing and ongoing concerns about all terrain vehicles, EKPC will repair or replace any fences you have on your property that are damaged either by EKPC personnel or the personnel of its contractors. It is not the policy of EKPC to construct fences where none existed previously. If you continue to experience problems with all terrain vehicles, your options include the posting of no trespassing signs and the coordination of efforts with the Spencer County Sheriff's Department to apprehend any perpetrators.

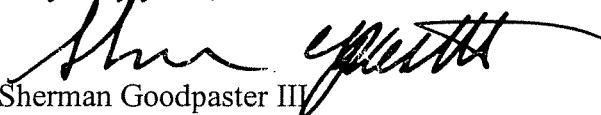
You also express concerns that the transmission line to be constructed may interfere with your internet access, satellite television service, AM-FM radio reception, and electric fencing. EKPC fully believes that the transmission line will not interfere with these services and facilities. However, if there can be produced evidence that any such interference that may occur in the future is caused by the presence of this transmission line, EKPC will take all reasonable steps to reduce or remove such interference.

You next request a copy of EKPC's storm water pollution prevention plan for this project. This is not a public document and it is not EKPC's policy to release these documents to the public.

With respect to any holders of liens on your property, EKPC must obtain the consent of any of these individuals or institutions along with the easement.

Lastly, turning to the consideration to be paid for the acquisition of this easement across your property, I believe Mr. Bruce Murrey has extended you an offer of \$500.00 for the acquisition of this easement encompassing 0.02 acre and containing no structures. It is also my understanding that you have not responded to this offer. This offer is the equivalent of \$25,000.00 per acre for this 0.02 acre on the periphery of your property which is essentially an embankment. I consider this a fair and reasonable offer in light of the small amount of acreage within the easement, the steep topography of the area within the easement, the location of the easement upon your property, and the minor overall impact the acquisition has on the entire tract. While I believe the time period set in Mr. Murrey's letter for you to make any counteroffer you wish to make has either expired, or soon will expire, I will extend this offer for another 13 days from the date of this letter. Due to the urgent nature of this project, if neither Mr. Murrey nor I have received any counteroffer from you within this period, we will assume that you do not wish to negotiate on the acquisition of this easement and will be forced to proceed to condemnation.

Very truly yours,


Sherman Goodpaster III
Senior Corporate Counsel

SG/ti