

December 14, 2004

Ms. Elizabeth O'Donnell
Executive Director
Kentucky Public Service Commission
P.O. Box 615
211 Sower Boulevard
Frankfort, KY 40602-0615

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DEC 16 2004

PUBLIC SERVICE
COMMISSION

RE: Docket No. 2004-00320

Dear Ms. O'Donnell:

I am writing to lodge a complaint against the process currently being followed by the East Kentucky Power Cooperative (EKPC) relative to the project contained in Docket No. 2004-00320. I am of the opinion that EKPC is in violation of clear and specific environmental rules promulgated by the Rural Utilities Service (RUS). Any agency utilizing Federal monies in the development of a new project are required to adhere to the regulations of the agency from which the funds are requested. I will demonstrate in the following paragraphs that EKPC has circumvented the process and regulatory requirements applicable to the project being proposed under Docket No. 2004-00320.

First, the National Environmental Policy Act (NEPA) requires that RUS, or agencies using RUS monies, consider the environmental effects of each of its proposals on the human and natural environment. In 1978 the Council on Environmental Quality (CEQ) developed regulations to implement the procedural provisions of NEPA. These procedures required each federal agency to develop and adopt regulations to insure that the intent and spirit of NEPA was consistently applied across all government units. In this instance the specific regulations are found in 7 CFR Part 1794.

For all project proposals that require construction, RUS requires its applicants to prepare Environmental Reports (ER's) concurrently with the Preliminary Engineering Reports. This is intended to insure compliance with CEQ requirements that all agencies "integrate the NEPA process with other planning at the earliest possible time to insure that planning decisions reflect environmental values". RUS has issued a number of bulletins that clearly outline the process that should be followed to accomplish this goal. The construction proposed under Docket 2004-00320 is rightfully classified as a Categorical Exclusion (CE), as defined by 7 CFR Part 1794 Section 1794.22(a). Therefore, the applicable documentation is contained in the RUS Bulletin 1794A-600. This document clearly and completely defines the process to be followed in the development of a Categorically Excluded project.

I believe the preceding paragraphs provide an adequate background on the requisite federal environmental laws, regulations, and guidelines that apply to this proposed project, and which must be satisfied prior to its implementation. Following is a brief

enumeration of my specific concerns relative to the process by which this project has been placed on the docket of the KY Public Service Commission.

- The project has gone forth with no opportunity for the affected property owners, or other concerned members of the public, to review and provide input to the development of the Categorical Exclusion. This is in direct violation of the spirit, as well as the letter of NEPA law, which is clearly spelled out in 7 CFR Part 1794.
- According to representatives of EKPC, they expect the application for approval of this project to be submitted to the KY PSC by December 17, 2004. At the same time, they have not yet completed the ER, nor submitted it to RUS for review. This is, again, in direct violation of 7 CFR Part 1794, and RUS Bulletin 1794A-600, which states "Any concerns that are raised by an agency **or the public** should be addressed as completely as possible". In fact, EKPC has refused to allow me to review the ER, and since their decision has already been made, denied me the opportunity to provide any meaningful input. While the KY PSC is not directly involved with this federally mandated process, it would be premature for you to consider approval of any project whose ultimate construction is controlled by yet uncompleted federally required environmental studies.
- By refusing to allow me to review the ER, EKPC has also denied me the opportunity to assess the need for this project. RUS environmental regulations require that an agency clearly define and present the need for a proposed project. To my knowledge, no such need has been identified.
- RUS environmental regulations also require an agency to develop and study alternatives for the construction of a new power line such as is proposed here. At an informational meeting held on October 14, 2004, representatives presented a ½ mile corridor which encompassed my entire farm. No one at that meeting was able to show me any alternatives to that corridor, a violation of the intent of federal law to develop and present viable alternatives for a proposed project using federal monies. I must emphasize here that RUS Bulletin 1794A-600 states that the ER should include at least the following alternatives: (a) **no action**; (b) **alternative corridors**; (c) other methods to provide services; (d) alternative construction methods and materials; (e) alternative designs; and (f) combinations of the above alternatives. I have seen no evidence nor received any indication from EKPC representatives that these alternatives have been considered.
- RUS Bulletin 1794A-600 states that for projects of this type (i.e., construction of a transmission line on new location), the agency should utilize a "corridor approach". The Bulletin does not state nor imply that a single corridor should be studied, but rather states that "Once the environmental and engineering constraints have been identified within each corridor, the corridors are rated and a preferred corridor is selected." Clearly, the intent of RUS is that multiple

corridors should be studied and evaluated prior to the selection of the preferred alternative. EKPC did not do this.

- Further, the RUS Bulletin states that once the preferred corridor is selected, then the actual centerline of the proposed transmission line can be located. This entire procedure has been bypassed by EKPC. They have selected a single corridor for study, and located the centerline of the proposed transmission line, without any consideration of alternatives. The location of that centerline is now being presented to the KY PSC for approval.
- At the October informational meeting, I discovered that the EKPC engineers were using old aerial photography to develop the proposed corridor. My new home was not on the photography, although it had been identified through a search of county records. The point here is that there could very well be another corridor through which the cumulative adverse effect of constructing this power line could be minimized. Instead, the engineers merely drew a straight line and then attempted to adjust it to avoid residential areas. As a registered professional engineer, I consider this to be less than a professional approach to solving an engineering problem, and certainly gives more weight to purely economical considerations than they warrant. EKPC is not in the business of giving away electricity, so whatever the costs (within reason) associated with this project will be recouped, with interest, over the expected life of this proposed line.
- On December 13, 2004, I was informed by an EKPC representative that the centerline location of the proposed power line has been selected. This apparently has been accomplished without completion and review of the ER. Certainly it has been done without addressing the concerns of the public, as required by RUS.
- Executive Order 11988, Floodplain Management, requires federal agencies to avoid actions, to the extent practicable, which will result in the location of facilities in floodplains. The proposed centerline location of this power line makes a significant encroachment on the floodplain of Brashear's Creek, yet I have not seen any documentation relative to any potential effects or associated mitigation on this natural resource.
- 7 CFR 1794.32 requires public notice must be given for applicant proposals which involve activities that are located in and may affect floodplains or wetlands. The location of this proposed transmission line crosses a floodplain on Brashear's Creek. The same regulations require that a legal notice and paid advertisement be published as soon as the agency (EKPC) has determined that a portion of the proposed project is located in a floodplain. This is especially critical in Spencer County because of the tremendous growth currently ongoing. Many problems have been documented with construction activities negatively affecting sensitive eco-systems in local floodplains. Problems with silt accumulation in local streams are becoming a serious problem all across the

county, yet EKPC has not provided any form of public notice relative to their intent to cross this floodplain.

- The Brashear's Creek floodplain is a rich ecosystem for numerous species of plants and wildlife. No studies on the effects of the proposed power line on this natural resource have been made available to the public. Thus the public has not had the opportunity to review and comment on the proposed project prior to its approval. This is contrary to the statement by RUS that the applicant insure public notice has a reasonable likelihood of attracting the attention of individuals or organizations that may be interested in or affected by the project.
- At the October 14, 2004 informational meeting, the proposed transmission line was described as being located on a 100 ft. **clear cut** right-of-way. My property and all adjoining property contains healthy, mature, deciduous trees. The location of the proposed line crosses Brashear's Creek in this vicinity. No efforts have been made to address the effects on the water quality in Brashear's Creek resulting from the erosion that will certainly come from the clear cutting operation.
- My farm and the included two residences are located on a narrow dead-end road. I did not choose that location and condition by accident. I have planned and worked on this piece of property now for several years in preparation for my upcoming retirement. I have not planned on walking out my front door and being confronted by a towering steel or wood pole supporting multiple electrical wires. RUS Bulletin 1794A-600 requires that aesthetics be considered on all projects. There has been no consideration of the visual effects of this project on any of the properties through which this proposed transmission line will pass.
- In addition to the two residences located on my farm, I am in the process of developing a meat goat operation. There has been much publicity in recent years that exposure to power-frequency electric and magnetic fields (EMF) may cause a variety of health effects to both humans and livestock. The effects of the EMF on my family, me, and my livestock have not been addressed.
- There have been no studies, as required by RUS Bulletin 1794A-600, which address potential effects of noise levels generated by construction of the proposed transmission line. High noise levels caused by heavy equipment used in the construction of such facilities have documented negative effects on adjacent livestock and residents.
- The potential adverse effects of the operation of this proposed transmission line on radio, television, and communications at my two residences, or any other residences through the proposed corridor, have not been addressed.
- I have metal fencing around my property and numerous temporary electric fencing sectioning off different grazing areas within the property. There has not

been any attempt to quantify the potential of induced voltages in these metal objects, or of potential interference with the effectiveness of the electric fence.

In summary, I believe I have documented numerous instances where EKPC has circumvented completion of federally mandated procedures prior to bringing a federally funded project before the KY PSC. Specifically EKPC has avoided the evaluation of multiple alternatives to this proposed project, they have not documented a need for this proposed project, and they have not complied with multiple clear environmental regulations concerning the development of this project. In so doing, they have denied me, a member of the general public as well as an affected property owner, the right given me by federal law to have any meaningful input into the development of this project. I recognize that this process is outside the purview of the PSC. However, as a responsible public agency, the PSC should not consider any proposed project that has clearly not met the well defined federal regulations that I have laid out above. I hope that you agree that EKPC has not been responsive to the intent of federal environmental law, and therefore not approve their request to implement this project.

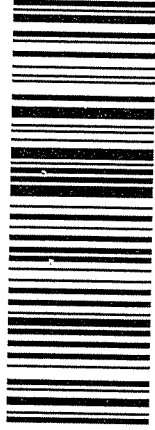
Sincerely,

A handwritten signature in black ink, appearing to read "Roswell A. Harris". The signature is written in a cursive style with a large, prominent initial "R".

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

cc: Mr. Glendon Deal
Mr. Kenneth Slone

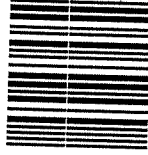
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