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September 9, 2004

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

RE: Proposed Regulation 807 KAR 5:120

Adm. 2004-00343

Dear Ms. O'Donnell:

Based on comments made at the Hearing on the above-proposed regulation last Tuesday, East Kentucky Power Cooperative felt it might be helpful to the Commission to have the information provided in our written comments and at the Hearing in a somewhat different format.

As a result, I am attaching to this letter an expanded "Attachment A" to our comments revised to include a project schedule as it would appear under EKPC's proposed revisions to the Regulations.

We are also enclosing a red line version of the Regulation which incorporate the changes suggested in our Comments.

We again thank the commission for it's consideration of our Comments on this Regulation and look forward to working with you in the future on this and all other issues.

Sincerely,

Sherman Goodpaster III
Senior Corporate Counsel

SG/ti

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ENVIRONMENTAL AND PUBLIC PROTECTION CABINET

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Kentucky Public Service Commission

PUBLIC SERVICE
COMMISSION

(New Administrative Regulation)

807 KAR 5:120. Applications for certificate of public convenience and necessity for certain electric transmission lines.

RELATES TO: KRS 278.020(2), (8)

STATUTORY AUTHORITY: KRS 278.040(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 278.040(3) authorizes the commission to promulgate reasonable administrative regulations to implement the provisions of KRS Chapter 278. ~~KRS 278.020(2) provides that interested parties shall be notified and that a certificate of public convenience and necessity must be obtained prior to construction of an electric transmission line of 138 kilovolts or more and of more than 5,280 feet in length.~~ This administrative regulation establishes procedures and minimum filing requirements for an application to construct an electric transmission line of 138 kilovolts or more and of more than 5,280 feet in length.

Section 1. Notice of Intent to File Application. (1) At least thirty (30) days prior to filing an application to construct an electric transmission line of 138 kilovolts or more and of more than 5,280 feet in length, an applicant shall file with the commission a notice of intent to file application.

(2) A notice of intent to file application shall include:

(a) The name, address and telephone number of the person who intends to file the application;

(b) A brief description of the proposed construction that will be the subject of the application along with a map of suitable scale to show the route proposed and any alternative route that was considered; corridor, one-half mile or more in width, within which the proposed line is to be constructed. The map detail shall include the affected property boundaries as indicated on the applicable Property Valuation Administrators maps, modified as required; and

(c) The name of the county or counties in which the construction will be proposed.

Section 2. Application. To apply for a certificate of public convenience and necessity to construct an electric transmission line of 138 kilovolts or more and 5,280 feet or more, a utility shall file with the commission the following:

(1) All documents and information required by:

(a) 807 KAR 5:001, Section 8, except that the applicant shall file the original and six (6) copies of the application; and

(b) 807 KAR 5:001, Section 9(2)(a) through (c) and (e) through (g);

(2) Three (3) maps of ~~no less than one (1) inch equals 400 feet scale~~ suitable scale for the project proposed. The map detail shall include all information shown on the map required by Section 1(2) (b) above along with the names of the owners of the affected properties as indicated by applicable Property Valuation Administrators records ~~the affected property boundaries as indicated on the property valuation administrator's maps, modified as required, and the location of all proposed structures, facilities, proposed rights of way and proposed easements.~~

(3) A verified statement that each property owner identified on the maps required by subsection (2) above has been: ~~over whose property the transmission line is proposed to cross has been:~~

(a) Notified of the proposed construction by ~~certified mail, return receipt requested;~~

(b) Given the commission docket number under which the application will be processed and a map showing the proposed location;

(c) Given the address and telephone number of the executive director of the commission;

(d) Informed of his or her rights to request a local public hearing and to move to intervene in the case;

(e) Given a description, including the proposed scope, of the project.

(4) A copy of each notice provided to a property owner, pursuant to the preceding paragraph;

(5) A statement that a notice of the intent to construct the proposed transmission line has been published in a newspaper of general circulation in the county or counties in which the construction is proposed, which notice included:

(a) A map showing the proposed corridor route;

(b) A statement of the right to request a local public hearing; and

(c) A statement of the right to move to intervene.

(6) A copy of the newspaper notice described in the preceding paragraph;

(7) A statement describing or summarizing discussions occurring during any public meeting with persons who own property over which the line is proposed to be constructed;

~~(8) A copy of each written assessment of the environmental, historical, and archeological impact of the proposed construction, if any, required by a governmental administrative agency with jurisdiction;~~

~~(89) A statement as to whether the project involves sufficient capital outlay to materially affect the existing financial condition of the utility involved.~~

Section 3. Local Public Hearing. (1) A resident of a county in which a transmission line of 138 kilovolts or more and of more than 5,280 feet in length is proposed to be built may request that a local public hearing be held by sending a written request complying with subsections (2) and (3) of this section to the Executive Director, Public Service Commission, 211 Sower Boulevard, P.O. Box 615, Frankfort, Kentucky 40602.

(2) A request for a local public hearing shall contain:

(a) The docket number of the case to which the request refers;

(b) The name, address, and telephone number of the person sending the request; and

(c) A statement as to whether the person making the request wishes to participate in an evidentiary hearing or to make unsworn public comment.

(3) If a person requesting a local public hearing wishes to participate in an evidentiary hearing, the written request shall include a request, pursuant to 807 KAR 5:001, Section 3(8), to intervene in the commission proceedings on the application.

MARK DAVID GOSS, Chairman

MARK YORK, Deputy Secretary

as authorized by LAJUANA S. WILCHER, Secretary

APPROVED BY AGENCY: July 13, 2004

FILED WITH LRC: July 13, 2004 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on August 31, 2004, at 10 a.m., Eastern Daylight Time, at the Public Service Commission's office, 211 Sower Boulevard, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing at least five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by August 24, 2004, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until August 31, 2004. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to: Jason Bentley, General Counsel, Public Service Commission, P.O. Box 615, Frankfort, Kentucky 40602, phone (502) 564-3940, fax (502) 564-7279.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: A.W. Turner, Jr.

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation establishes a procedure for applications for a certificate of convenience and necessity for construction of a transmission line under KRS 278.020. It also provides for public notice of such an application and a procedure for members of the affected public to participate in the certificate proceedings.

(b) The necessity of this administrative regulation: This proposed regulation will assist the Public Service Commission in enforcing the statutes, and is necessary to the Public Service Commission's authority to regulate utilities and enforce KRS Chapter 278.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 278.020 authorizes the commission to grant certificates of convenience and necessity for construction of certain utility plant. The amendments of Chapter 75 (SB 246) of the latest legislative session extend this authority to certain significant transmission lines. This regulation establishes procedures for utilities to apply for such a certificate and provides for public participation in that process.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation establishes the procedure for a public electric utility to apply for a certificate of convenience and necessity to construct a transmission line that, under the amendments to KRS 278.020, requires such a certificate. In addition, the regulation explains how the affected public may participate in the certificate case. Adoption of the regulation will therefore assist the commission in administering this new set of certificate cases.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: N/A

(b) The necessity of the amendment to this administrative regulation: N/A

(c) How the amendment conforms to the content of the authorizing statutes: N/A

(d) How the amendment will assist in the effective administration of the statutes: N/A

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This regulation will affect 21 rural electric utilities their customers, 5 investor-owned electric utilities their customers, and any persons owning property over which a utility proposes to locate such a transmission line.

(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: The impact of implementing this administrative regulation is not extensive. It will establish necessary procedures for processing applications for transmission line certificates.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: Implementation of the proposed amendment will not involve additional costs.

(b) On a continuing basis: No additional costs are expected.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: No additional funding is required.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding is necessary.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No

(9) TIERING: Is tiering applied? Yes, tiering is used in this proposed regulation. The regulation only requires an application for those facilities that are larger and have higher transmission capacities. Larger facilities create a greater potential for disrupting the environment and the use and enjoyment of property upon or near where the lines are proposed to be placed. In addition, larger facilities tend to generate more public involvement in the process

