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OCT 15 2004

**PUBLIC SERVICE
COMMISSION**

MEMORANDUM

TO: A.W. Turner
 Public Service Commission

Case No. 2004-00343

FROM: Emily Caudill *ec*
 Regulations Compiler

RE: Administrative Regulation Amended After Comments - 807 KAR 5: 120

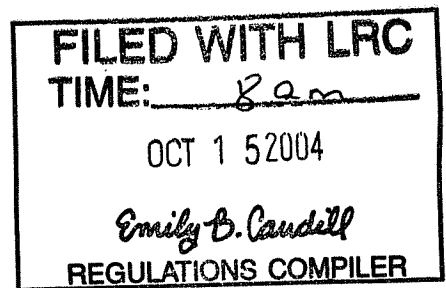
DATE: October 15, 2004

A copy of the amended after hearing administrative regulation, listed above, and the statement of consideration, are enclosed for your files.

This administrative regulation will be reviewed by the Administrative Regulation Review Subcommittee at its **November 2004** meeting. Please notify the proper person(s) of this meeting.

If you have any questions, please contact this office at 564-8100.

Enclosure



1 ENVIRONMENTAL AND PUBLIC PROTECTION CABINET

2 The Kentucky Public Service Commission

3 (Amended After Comments)

4 807 KAR 5:120. Applications for Certificate of Public Convenience and Necessity for
5 Certain Electric Transmission Lines

6 RELATES TO: ~~[KRS 278.020(2);]~~ **[KRS 278.020(2),(8)]**

7 STATUTORY AUTHORITY: KRS 278.040(3).

8 NECESSITY, FUNCTION, and CONFORMITY: KRS 278.040(3) authorizes the
9 Commission to promulgate reasonable administrative regulations to implement the
10 provisions of KRS Chapter 278. KRS 278.020(2) provides that ~~[interested parties shall
11 be notified and that]~~ a certificate of public convenience and necessity must be obtained
12 prior to construction of an electric transmission line of one hundred thirty-eight (138)
13 kilovolts or more and of more than 5,280 feet in length. **[KRS 278.020(8) includes “a
14 person over whose property the proposed transmission line will cross” among
15 those persons who are an “interested party” who may move to intervene in the
16 proceeding.** This administrative regulation establishes procedures and minimum filing
17 requirements for an application to construct an electric transmission line of one hundred
18 thirty-eight (138) kilovolts or more and of more than 5,280 feet in length.

19 Section 1. Notice of Intent to File Application.

20 (1) At least thirty (30) days **[but no more than six (6) months]** prior to filing
21 an application to construct an electric transmission line of one hundred thirty-eight (138)

1 kilovolts or more and of more than 5,280 feet in length, an applicant shall file with the
2 Commission a Notice of Intent to File Application.

3 **[If an applicant fails to file an application within six (6) months of the filing**
4 **of such a Notice, the Notice shall automatically expire without further notice to**
5 **the applicant.]**

6 (2) A Notice of Intent to File Application shall include:

7 (a) The name, address and telephone number of the ~~[person who]~~**[utility**
8 **that]** intends to file the application;

9 (b) A ~~[brief]~~description of the proposed construction that will be the subject of
10 the application~~[along with a map of suitable scale to show the route proposed and any~~
11 ~~alternative route that was considered]~~; and

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

14 Section 2. Application.

15 (1) To apply for a certificate of public convenience and necessity to construct
16 an electric transmission line of 138 kilovolts or more and **[more than]**5,280 feet ~~[or~~
17 ~~more]~~, a utility shall file with the Commission the following:

18 (a) All documents and information required by:

19 1. 807 KAR 5:001, Section 8, except that the applicant shall file the original
20 and six (6) copies of the application; and

21 2. 807 KAR 5:001, Section 9(2)(a) through (c) and (e) through (g);

1 (b) Three (3) maps of suitable scale, but no less than one (1) inch
2 equals 1,000 feet for the project proposed. The map detail shall include the
3 affected property boundaries as indicated on the Property Valuation
4 Administrator's maps, modified as required, and the location of all proposed
5 structures, facilities, rights of way and easements. Sketches of proposed typical
6 transmission line support structures shall also be provided. A separate map of
7 the same scale shall show any alternative routes that were considered.][Three (3)
8 maps of no less than 1" = 400' scale for the project proposed. The map detail shall
9 include the affected property boundaries as indicated on the Property Valuation
10 Administrator's maps, modified as required, and the location of all proposed structures,
11 facilities, proposed rights of way and proposed easements.]

12 (c) A verified statement that, according to county Property Valuation
13 Administrator records, each property owner over whose property the
14 transmission line is proposed to cross and each property owner whose property
15 adjoins those properties has been sent by first-class mail, addressed to the
16 property owner at the owner's address as indicated by county Property Valuation
17 Administrator records, or hand-delivered:

18 1. Notice of the proposed construction;

19 2. The Commission docket number under which the application will be
20 processed and a map showing the proposed route of the line;

1 **3. The address and telephone number of the Executive Director of the**
2 **Commission;**

3 **4. A description of his or her rights to request a local public hearing**
4 **and to request to intervene in the case;**

5 **5. A description of the project.**~~[A verified statement that each property~~
6 ~~owner over whose property the transmission line is proposed to cross has been:~~

7 ~~1. Notified of the proposed construction by certified mail, return receipt~~
8 ~~requested;~~

9 ~~2. Given the Commission docket number under which the application will be~~
10 ~~processed and a map showing the proposed location;~~

11 ~~3. Given the address and telephone number of the Executive Director of the~~
12 ~~Commission;~~

13 ~~4. Informed of his or her rights to request a local public hearing and to move~~
14 ~~to intervene in the case;~~

15 ~~5. Given a description, including the proposed scope, of the project.]~~

16 (d) **[A sample copy of each notice provided to a property owner,**
17 **pursuant to the preceding paragraph, and a list of the names and addresses of**
18 **the property owners to whom the notice has been sent]**~~[A copy of each notice~~
19 ~~provided to a property owner, pursuant to the preceding paragraph];~~

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

- 4 1. A map showing the proposed route;
- 5 2. A statement of the right to request a local public hearing; and
- 6 3. **[A statement that interested persons have the right to request to**
7 **intervene]**~~[A statement of the right to move to intervene].~~

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

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

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

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

17 Section 3. Local Public Hearing.

18 (1) ~~[A resident of a county in which a transmission line of one hundred thirty-~~
19 ~~eight (138) kilovolts or more and of more than 5,280 feet in length is proposed to be~~
20 ~~built]~~**[Any interested person under KRS 278.020(8)]** may request that a local public
21 hearing be held by sending a written request complying with subsections (2) and (3) of

1 this section to the Executive Director, Public Service Commission, 211 Sower
2 Boulevard, Post Office Box 615, Frankfort, Ky. 40602. This hearing shall be
3 requested no later than thirty (30) days after the filing of an application for a
4 certificate of public convenience and necessity.

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

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

7 (b) The name, address, and telephone number of the person ~~[sending the~~
8 ~~request]~~[requesting the hearing]; and

9 (c) A statement as to whether the person ~~[making the request]~~[requesting
10 the hearing] wishes to participate in an evidentiary hearing or to make unsworn public
11 comment.

12 (3) [If a person requesting a local public hearing wishes to
13 participate in the evidentiary hearing as well, that person must also apply to
14 intervene in the Commission proceedings on the application pursuant to 807 KAR
15 5:001, Section 3(8).]~~[If a person requesting a local public hearing wishes to participate~~
16 ~~in an evidentiary hearing, the written request shall include a request, pursuant to 807~~
17 ~~KAR 5:001, Section 3(8), to intervene in the Commission proceedings on the~~
18 ~~application.]~~

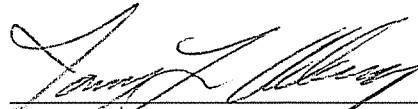
19 [Section 4. Deviation from Rules. The provisions of Section 14 of 807 KAR
20 5:001 apply to applications filed under this regulation.]

21

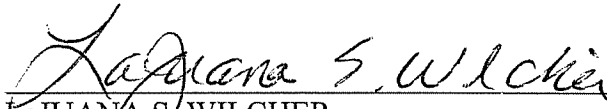
Dated this 14th day of October, 2004.



MARK DAVID GOSS
Chairman
Public Service Commission



JAMES L. ADAMS
Commissioner
Department of Public Protection



LAJUANA S. WILCHER
Secretary
Environmental and Public Protection Cabinet

REGULATORY IMPACT ANALYSIS

Administrative Regulation #: 807 KAR 5:120

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 (Senate Bill 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? (Explain why tiering was or was not used.) 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.

**STATEMENT OF CONSIDERATION RELATING TO 807 KAR 5:120
Amended After Comments**

(1) A public hearing on 807 KAR 5:120 was held at 10:00 a.m. on August 31, 2004, in the Public Service Commission's Hearing Room 1, 211 Sower Boulevard, Frankfort, Kentucky 40602.

(2) The following people attended this public hearing or submitted written comments:

John J. Finnigan, Jr.	On behalf of Louisville Gas and Electric Company; Kentucky Utilities Company; Kentucky Power Company; and The Union Light, Heat and Power Company
Tom FitzGerald	On behalf of the Kentucky Resources Council, Inc.
Sherman Goodpaster, III	On behalf of East Kentucky Power Cooperative, Inc.
Scott Hagan	
Harry Lee Meyer	On behalf of Louis K. Kemenz and St. Joseph Catholic Orphan Society
James A. Miller	On behalf of Big Rivers Electric Corporation

(3) The following people from the Public Service Commission (PSC) attended this public hearing or responded to the written comments:

Chairman Mark David Goss
Vice-Chairman Ellen C. Williams
Commissioner W. Gregory Coker
A. W. Turner, Jr., Counsel
Aaron Greenwell, Director, Division of Financial Analysis
Susan Hutcherson, Manager, Administrative Docket Branch
John Rogness, Manager, Management Audits Branch
Ruth Rowles, Geoprocessing Specialist
Elie R. Russell, Engineering Division, Electric Branch
David White, Engineering Division, Electric Branch

Summary of Comments and Responses

- (1) Subject Matter: Overall support for landowner input.
- (a) Comment: Scott Hagan, on behalf of himself, and Harry Lee Meyer, on behalf of Louis K. Kemenz and the St. Joseph Catholic Orphan Society, both expressed general support for the concept of allowing landowners to have a voice in the certificate process for a transmission line.

- (b) Response: The PSC's proposed regulation as well as the amended proposed regulation attached to this Statement of Consideration allow affected landowners to intervene in a certificate proceeding and raise their particular concerns with the PSC.
- (2) Subject Matter: Codify new regulation in existing 807 KAR 5:001.
 - (a) Comment: James M. Miller for Big Rivers Electric Cooperative (Big Rivers) suggested that the proposed regulation be made a part of the current regulation that governs certificates for generating plants.
 - (b) Response: The organization of the current regulation does not lend itself to additions without significant renumbering of often-cited provisions.
- (3) Subject Matter: Eliminate requirement for Notice of Intent to file.
 - (a) Comment: Big Rivers recommended the elimination of the requirement to file a Notice of Intent to file an application. At the public hearing, Big Rivers orally withdrew that objection.
 - (b) Response: The PSC explained that the Notice of Intent is necessary given the statutory deadline for an order on an application. Big Rivers understood why this type of certificate application differs from others, such as one for a generating plant, and agreed to withdraw its objection. The PSC, however, has added a provision in the amended proposed regulation to have the notice expire automatically after six months if no follow-up application has been filed by then.
- (4) Subject Matter: Change requirement for map of routes in Notice of Intent.
 - (a) Comment: Big Rivers recommended that the requirement of "a map of suitable scale to show the route proposed and any alternative route that was considered" be eliminated because it duplicates a requirement of the application. Sherman Goodpaster, III, representing East Kentucky Power Cooperative, Inc. (EKPC), objected to the provision because of the delay EKPC believes such a filing will cause. Specifically, however, EKPC also recommended that the filing include a half mile corridor rather than a specific route. In a related comment, John J. Finnigan, representing the Commonwealth's investor-owned utilities (IOUs), recommended that no maps of alternative routes be required in the Notice of Intent.
 - (b) Response: The PSC agrees that the requirements of the Notice of Intent were too prescriptive. When the utility gives a Notice of Intent to file, it may not have decided on a definite route, and the PSC does not want to extend the process to require the utility to make that decision before giving the Notice of Intent. Disclosure of alternative routes may also be postponed until the application is filed, so the amended proposed regulation moves that requirement to the application section. The purpose of the Notice of Intent is simply to give the PSC and interested parties some advance notice that an application is forthcoming, so a description alone will satisfy that requirement.

- (5) Subject Matter: Prescribe scale of map of routes in Notice of Intent.
- (a) Comment: Tom FitzGerald on behalf of the Kentucky Resources Council, Inc. (Council), recommended that the maps included with the Notice of Intent to file should be of a required scale rather than simply saying the scale should be “suitable.”
- (b) Response: Pursuant to (4), the PSC believes the requirement for maps in the Notice of Intent should be eliminated.
- (6) Subject Matter: Scale of maps in application.
- (a) Comment: The IOUs, Big Rivers, and EKPC all argued that the map scale of one inch equals 400 feet is too small for longer projects and recommended a scale of one inch equals 2000 feet instead.
- (b) Response: The PSC agrees that the 400 foot scale could be too small for very long lines, but the 2000 foot scale could be far too big for shorter projects. The PSC is proposing a one inch equals 1000 feet scale in the amended regulation, although Staff or intervening parties may request maps of different scales during discovery if they are needed.
- (7) Subject Matter: Requirement that application show route and structures.
- (a) Comment: EKPC reiterated its request that the applicant need not show the exact proposed route of the line but simply a half mile corridor in which it will be located. In a related comment, the IOUs proposed that the location of “structures and facilities” be replaced with the word “buildings” to ensure that the location of poles and towers was not required.
- (b) Response: The PSC believes affected landowners will want and need to know the exact proposed location of the line as well as the location of poles and towers to be able to know if they should intervene in the case. The amendment giving them the right to request intervention specifically refers to “a person over whose property the proposed transmission line will cross.” KRS 278.020(8). Moreover, the PSC is proposing that sketches of typical support structures be provided so the landowner will understand the size and material of the poles or towers.
- (8) Subject Matter: Notice to individual landowners.
- (a) Comment: Big Rivers and EKPC both objected to the requirement that individual landowners be notified of the proposed line. Big Rivers argued that landowners whose land may be crossed have no more right than anyone else in the certificate proceedings. Furthermore, Big Rivers maintained that the only issues in the case are whether there is a need and demand for the service and whether its construction would be a wasteful duplication of facilities.
- (b) Response: The PSC believes the legislative intent demonstrates that the views of Big Rivers and EKPC are far too limited. This issue in Kentucky has previously been

guided by judicial decision. The key cases are *Satterwhite v. Public Service Commission*, 474 S.W.2d 387 (Ky. 1972), and *Duerson v. East Kentucky Power Cooperative, Inc.*, 843 S.W.2d 340 (Ky. Ct. App. 1992). *Satterwhite* decided two issues: (1) that individual landowners whose land was to be crossed by the transmission line are not interested persons and thus are not entitled to intervene because (2) the only issues were whether there is a need and demand for the service and whether its construction would be a wasteful duplication of facilities. In *Duerson*, the court ruled that **all** transmission lines are extensions in the ordinary course of business and thus, under the exception of KRS 278.010, do not require a certificate.

In requiring utilities to file a certificate case for transmission lines of a certain size and length, Chapter 75 (Senate Bill 246) directly overruled *Duerson*. The provision specifying that individually-affected landowners are interested persons who may intervene likewise directly overruled the contrary result in *Satterwhite*. Moreover, that latter provision expanded the issues the PSC may consider when such a landowner intervenes. If the only issues the landowner could raise were the ones delineated in Big Rivers' comments and in *Satterwhite*, allowing individual landowner intervention would make no sense. In fact, the legislative debate confirms a contrary intent. For example, in his comments in this rulemaking proceeding, Scott Hagan specifically talked about his testimony in committee on Senate Bill 246, and he pointed out, "Every legislator who spoke that day in committee indicated that the passage of this bill was intended for me and every property owner like me who deserves a hearing and an opportunity for an independent body (the Public Service Commission) to review the need for such a dramatic investment and **the wisdom of its placement in the community.**" (emphasis added.) PSC Staff was present and heard similar testimony and legislators' comments indicating an intent to overrule the limited issue requirement in *Satterwhite*.

The PSC believes the proposed regulation allowing individual landowners to intervene and raise their property-specific issues in a transmission certificate case is in furtherance of the legislative intent of the new statutory provisions.

- (9) Subject Matter. Reliance on PVA records for purposes of notice to landowners.
- (a) Comment: The IOUs requested that they be allowed to rely on records in the Property Valuation Administrator's (PVA) office in sending individual notices to affected landowners. They claimed having to do a title search to check behind PVA records would be time-consuming and burdensome.
 - (b) Response: The PSC believes a utility building a transmission line will have to do a title search of land records before finalizing the route. Nevertheless, if such a title search has the potential to unduly slow down the process, the PSC believes reliance on PVA records is acceptable. Notice to all interested persons will be enhanced, however, if not only landowners whose property will be crossed, but adjoining

landowners, are individually notified. This requirement should also address the issue of how to notify landowners whose land may be impacted by any adjustments in the location of the line. To ease the burden of requiring that this additional set of people be notified, the PSC is proposing to remove the requirement of service of the notices by certified mail and replace it with first class mail.

- (10) Subject Matter. Filing of all individual notices.
 - (a) Comment: The IOUs requested that, rather than having to file a copy of every notice sent to individual landowners, the utility file a sample of the notice and a list of names and addresses of everyone to whom a notice was sent.
 - (b) Response: The PSC adopts this suggestion in the amended proposed regulation.

- (11) Subject Matter. Requirement to file statement summarizing discussions with landowners.
 - (a) Comment: Big Rivers requested elimination of the requirement for the utility to file a summary of all discussions with affected landowners occurring at public meetings.
 - (b) Response: The PSC believes this requirement is no longer necessary because landowners unsatisfied with the results of public meetings are likely to intervene in the certificate case and express their concerns in pleadings or at a hearing.

- (12) Subject Matter. Filing of environmental, historical, and archaeological impact statement.
 - (a) Comment: The Council requested that applicants be required to file detailed statements discussing environmental, historical, and archaeological impacts that the line will have in the area.
 - (b) Response: The only mention in Chapter 75 of property impacts is the provision giving individual landowners the right to move for intervention. The statutory amendments therefore do not provide support for requiring the filings the Council suggests.

- (13) Subject Matter. Filing of any written environmental, historical, or archaeological assessments required by other governmental agencies.
 - (a) Comment: Big Rivers and EKPC objected to the requirement that an applicant file a copy of each written assessment of the environmental, historical, and archeological impact of the proposed construction, if any, required by any other governmental administrative agency.
 - (b) Response: The PSC agrees that the legislative language and history do not adequately support this requirement.

- (14) Subject Matter. Require that filing address impact on human and natural environment.
 - (a) Comment: The Council requested that an application also include consideration of the impact of the proposed line on the human and natural environment as well as alternative locations to address these issues. The Council further requested that,

before issuing a certificate, the PSC would have to make a finding “that the applicant has demonstrated that due consideration, consistent with the project purpose and cost, has been given to location, configuration and proposed maintenance of lines and corridors so as to minimize adverse property, scenic, and environmental impacts, and that all reasonable alternatives have been considered, including co-location of the line along existing utility rights-of-way.”

- (b) Response: For the reasons stated in item (12) above, the PSC does not believe the legislation supports this change.
- (15) Subject Matter. Statement of effect on financial condition of utility.
- (a) Comment: The IOUs requested that an applicant not have to state whether the transmission line project involves capital outlays sufficient to have a material effect on the financial condition of the utility. The reason for this request was that Section 9(2)(e) of 807 KAR 5:001 already requires the utility to explain “[t]he manner in detail in which it is proposed to finance the new construction or extension.”
 - (b) Response: The PSC believes these two provisions ask two different questions. The utility can state how it will finance the new line under the existing regulation without explaining whether the project will materially affect its existing financial condition. The PSC therefore believes both provisions are necessary.
- (16) Subject Matter. Designation of who may request intervention.
- (a) Comment: Big Rivers suggested that the language on interventions be broadened from residents of the county in which the line will be built to any interested party.
 - (b) Response: The PSC agrees that the regulation was too restrictive. The proposed amended regulation cross-references the new provision of the statute.
- (17) Subject Matter. Timing of request for local public hearing.
- (a) Comment: The IOUs recommended that a request for a local public hearing should be filed no later than 30 days after the application was filed.
 - (b) Response: The PSC agrees this change is very important, given the statutory deadline for issuing a final order.
- (18) Subject Matter. Reasons for request for local public hearing.
- (a) Comment: The IOUs proposed that a person requesting a local public hearing be required to state the reasons for the request.
 - (b) Response. The PSC disagrees with this change. The statutory language does not support this additional requirement, and in other cases in which citizens may request local public hearings, the PSC’s regulations do not impose such a requirement.
- (19) Subject Matter. Allow PSC to grant deviation from requirements.

- (a) Comment: Big Rivers and EKPC proposed inclusion of a provision allowing the PSC to grant applicants a deviation from the requirements of the regulation in special cases for good cause shown.
- (b) Response: To make this regulation consistent with other certificate cases, the amended regulation includes a cross-reference to Section 14 of 807 KAR 5:001.

**Summary of Statement of Consideration and
Action Taken by Public Service Commission**

The PSC has considered all comments filed in this rulemaking proceeding and has recommended myriad changes. In summary, the PSC has (1) made the Notice of Intent to file an application less detailed while retaining the key aspect that it give adequate notice of an upcoming application; (2) changed the requirements of the application in numerous ways, including (a) making the map scale less detailed, (b) allowing the applicant to rely on PVA maps for property ownership, (c) requiring personal service by first class mail on landowners directly in the proposed route of the line as well as adjoining landowners, and (d) allowing the applicant to file a sample notice together with a list of persons served; (3) rejected a request that the PSC may not take local property rights into consideration in ruling on the application; and (4) rejected a request that the PSC consider environmental, historical, and archeological issues with regard to the proposed route and any alternative routes. The amendments to the originally proposed regulation are:

1. **Page 1**
Line 6
RELATES TO:
Insert after the colon KRS 278.020(2),(8)
Delete “KRS 278.020(2); KRS 278.020(8)”
2. **Page 1**
Lines 10-11
NECESSITY, FUNCTION, and CONFORMITY:
Delete “interested parties shall be notified and that”
3. **Page 1**
Line 13
NECESSITY, FUNCTION, and CONFORMITY:
Insert after the period KRS 278.020(8) includes “a person over whose property the proposed transmission line will cross” among those persons who are an “interested party” who may move to intervene in the proceeding.
4. **Page 1**
Line 18
Section 1(1)
Insert after “days” but no more than six (6) months

5. **Page 1**
Line 21
Section 1(1)
Insert after the period If an applicant fails to file an application within six (6) months of the filing of such a Notice, the Notice shall automatically expire without further notice to the applicant.
6. **Page 2**
Line 2
Section 1(2)(a)
Insert after “of the” utility that
Delete “person who”
7. **Page 2**
Line 4
Section 1(2)(b)
Delete “brief”
8. **Page 2**
Lines 5-6
Section 1(2)(b)
Delete “along with a map of suitable scale to show the route proposed and any alternative route that was considered”
9. **Page 2**
Line 11
Section 2(1)
Insert after “and” more than.
Delete “or more”
10. **Page 2**
Lines 17-20
Section 2(1)(b)
Insert after (b) Three (3) maps of suitable scale, but no less than one (1) inch equals 1,000 feet for the project proposed. The map detail shall include the affected property boundaries as indicated on the Property Valuation Administrator’s maps, modified as required, and the location of all proposed structures, facilities, rights of way and easements. Sketches of proposed typical transmission line support structures shall also be provided. A separate map of the same scale shall show any alternative routes that were considered.
Delete “Three (3) maps of no less than one (1) inch equals 400 feet scale for the project proposed. The map detail shall include 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.”
11. **Page 2**
Lines 21-22, through page 3, lines 1-9

Section 2(1)(c)

Insert after (c) A verified statement that, according to county Property Valuation Administrator records, each property owner over whose property the transmission line is proposed to cross and each property owner whose property adjoins those properties has been sent by first-class mail, addressed to the property owner at the owner's address as indicated by county Property Valuation Administrator records, or hand-delivered: 1. Notice of the proposed construction; 2. The Commission docket number under which the application will be processed and a map showing the proposed route of the line; 3. The address and telephone number of the Executive Director of the Commission; 4. A description of his or her rights to request a local public hearing and to request to intervene in the case; 5. A description of the project.

Delete "A verified statement that each property owner over whose property the transmission line is proposed to cross has been: 1. Notified of the proposed construction by certified mail, return receipt requested; 2. Given the Commission docket number under which the application will be processed and a map showing the proposed location; 3. Given the address and telephone number of the Executive Director of the Commission; 4. Informed of his or her rights to request a local public hearing and to move to intervene in the case; 5. Given a description, including the proposed scope, of the project."

12. **Page 3**

Lines 10-11

Section 2(1)(d)

Insert after (d) A sample copy of each notice provided to a property owner, pursuant to the preceding paragraph, and a list of the names and addresses of the property owners to whom the notice has been sent.

Delete "A copy of each notice provided to a property owner, pursuant to the preceding paragraph"

13. **Page 3**

Line 17

Section 2(1)(e)3

Insert after 3. A statement that interested persons have the right to request to intervene.

Delete "A statement of the right to move to intervene"

14. **Page 3**

Lines 19-21

Section 2(1)(g)

Delete "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;"

15. **Page 4**

Lines 1-3

Section 2(1)(h)

- Delete "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;"
16. **Page 4**
Lines 7-9
Section 3(1)
Insert after (1) Any interested person under KRS 278.020(8).
Delete "A resident of a county in which a transmission line of one hundred thirty-eight (138) kilovolts or more and of more than 5,280 feet in length is proposed to be built"
17. **Page 4**
Line 11
Section 3(1)
Insert after the period This hearing shall be requested no later than thirty (30) days after the filing of an application for a certificate of public convenience and necessity.
18. **Page 4**
Lines 14-15
Section 3(2)(b)
Insert after person requesting the hearing.
Delete "sending the request"
19. **Page 4**
Line 16
Section 3(2)(c)
Insert after person requesting the hearing.
Delete "making the request"
20. **Page 4**
Lines 18-20
Section 3(3)
Insert after (3) If a person requesting a local public hearing wishes to participate in the evidentiary hearing as well, that person must also apply to intervene in the Commission proceedings on the application pursuant to 807 KAR 5:001, Section 3(8).
Delete "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."
21. **Page 4**
Following line 20, following Section 3(3):
Insert at the bottom of the page a new Section Section 4. Deviation from Rules. The provisions of Section 14 of 807 KAR 5:001 apply to applications filed under this regulation.