

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

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PUBLIC SERVICE  
COMMISSION

In the Matter of:

THE APPLICATION OF EAST KENTUCKY )  
POWER COOPERATIVE, INC. FOR )  
A CERTIFICATE OF PUBLIC ) CASE NO. 2005-00458  
CONVENIENCE AND NECESSITY TO )  
CONSTRUCT A 138 KV TRANSMISSION LINE )  
IN ROWAN COUNTY, KENTUCKY )

**DIRECT TESTIMONY OF INTERVENOR  
DOUG DOERRFELD**

1 **Please state your name, address, and your occupation.**

2 My name is Doug Doerrfeld, and I am a resident and a property  
3 owner in Elliot County, Kentucky. My address is 662 L. Cooper  
4 Road, P.O. Box 177, Elliotville, Kentucky 40317. My occupation  
5 is woodworker and carpenter.

6 **From whom do you purchase electricity?**

7 From Grayson Rural Electric Cooperative.

8 **Please summarize your concerns about the proposed  
9 East Kentucky Power Cooperative 138 kV Transmission Line?**

10 As an individual who lives in Elliot and works and recreates in both  
11 Elliot and Rowan Counties, I have both economic and aesthetic interests  
12 in protecting the quality of life in my community. I use and enjoy the  
13 resources of the Daniel Boone National Forest in Rowan County, in-  
14 cluding areas that are in proximity to the corridor that has been proposed for  
15 the new transmission line.

1 I am concerned that the refiled application has yet not given adequate  
2 consideration to the full range of options available to the preferred option  
3 identified by EKPC, despite the Commission's Orders.

4 **To which part of the Commission's prior Orders are you referring?**

5 The Commission, in its November 9, 2005 Order in related Case No. 2005-00089  
6 concluded that the best way for East Kentucky Power Cooperative (EKPC) of  
7 meet its stated goals of keeping "electric rates low, and reliability high" would be  
8 "for East Kentucky to conduct a comprehensive survey of all reasonable  
9 alternatives, including the use of existing high voltage transmission rights-  
10 of way, and come back before the Commission with a complete application  
11 that meets the requirements of the 2004 transmission line certificate law.

12 The Commission further advised in the August 19, 2005 Order that the  
13 "Commission will not prohibit a new application for this same route, if further  
14 study of alternatives shows all of them to be infeasible. The Commission does  
15 caution East Kentucky Power and all other electric utilities, however, that future  
16 applications should comprehensively consider the use of existing corridors in  
17 planning future transmission."

18 **Do you feel that the refiled application for the same corridor has satisfied the**  
19 **Commission's directive?**

20 No. The further study that EKPC presents in the refiled application demonstrates  
21 that there are feasible alternatives to their preferred route. I would hope that the  
22 Commission would reaffirm its first decision and determine that EKPC's  
23 preferred route is a wasteful duplication of facilities and that a corridor paralleling

1 the I-64 corridor and the Kentucky Utilities Right-of-Way (ROW) is feasible,  
2 and would deny the request for the Certificate of Public Convenience and  
3 Necessity (CPCN).

4 **Have you reviewed the refiled application and answers provided by EKPC to**  
5 **the data requests made by staff and yourself?**

6 Yes.

7 **What is the basis for your concern that alternatives were not fully explored?**

8 Part of the concern is the lack of documentation provided by EKPC. According  
9 to the MSB Study and EKPC's response to Data Requests, EKPC could not  
10 supply documentation of their alternatives study because the company had  
11 discarded or destroyed the documentation after the United States Forest Service  
12 (USFS) issued a Finding of No Significant Impact. EKPC itself acknowledges in  
13 Answer to the PSC Request #3 that "maps and drawings in the possession of  
14 EKPC that were provided to the USFS no longer exist" though there is no  
15 indication that EKPC has asked the Forest Service for copies of the  
16 documentation submitted to that agency, which would certainly be available to  
17 EKPC under the Freedom of Information Act. I find it remarkable  
18 that, knowing that a CPCN would be required and that the choice of routing  
19 would have to be justified, that the company would have discarded evidence of  
20 consideration of other routes. I would assume that the Forest Service would yet  
21 have a copy of any such documentation supplied to it by EKPC, yet it does not  
22 appear that EKPC has attempted to reconstruct the documentation to support the  
23 assertion that those other alternatives were considered in adequate detail.

1       **Do you have other concerns?**

2       Yes. From reviewing the EKPC filings, it appears that much weight is being  
3       placed on the assumption that the Forest Service took a “hard look” at all alter-  
4       natives, yet the documentation supplied it by EKPC has disappeared. It  
5       appears that from the onset, EKPC had chosen a “straight-line” corridor and set  
6       out to advance that choice rather than to consider and document the impacts of all  
7       alternatives equally prior to selecting one. Before engaging the Forest Service, it  
8       appears that EKPC had chosen the preferred route after a narrow consideration of  
9       only one other alternative, and that detailed investigation was made only of the  
10      preferred route. EKPC’s application notes at point 12 that “Exhibit VIII is a scale  
11      map showing three alternative routes developed by the applicant in 2002...and  
12      suggested to the 12      USFS for their consideration[...]” It states further that  
13      “routes are shown in broken red lines while the proposed centerline is solid red.”  
14      As early as 2002 EKPC had a preferred route. Maps B1, 3, 4 and 6 submitted by  
15      Mark Brewer show only two routes, as does the 2002 bat survey map. These maps  
16      (B1, 3, 4 and 6) have written in the text “proposed 138 kV line” with the other  
17      route not so marked. Mark Brewer’s testimony indicates that 3 original routes  
18      were studied, which appears to conflict with the testimony of Mary Jane Warner  
19      and Robert Rusch / Stanley Consultants Justification report indicating that only  
20      two routes were originally studied.

21      According to the Warner testimony, after the Justification Report the EKPC  
22      personnel went into the field to perform reconnaissance and development of  
23      “potential paths for the study corridor” rather than corridors. EKPC then

1 contacted the USFS “where possible corridors were jointly developed with USFS  
2 personnel and EKPC staff.” No records are provided of those meetings.

3 Thereafter, on July 17, 2002, EKPC submitted a permit application to cross the  
4 DBNF.

5 EKPC relies on the FS assessment, yet it is the company that bears responsibility  
6 for demonstrating to this Commission that all reasonable alternatives were fully  
7 and evenly investigated. The record falls far short of that.

8 **Do you have other concerns regarding the adequacy of consideration of**  
9 **other alternatives?**

10 Yes. I am particularly concerned that the documentation of the option of routing  
11 just outside of the I-64 right of way and of not requiring access from I-64, for  
12 either the north or the south side of the highway corridor, which would have a  
13 significantly lower impact on scenic and historic values than the proposed  
14 corridor, has apparently disappeared, and with the summary manner with which  
15 EKPC dismisses the options. EKPC indicated in the response to PSC Request 40  
16 that it did consider the possibility of routing just outside the I-64 right-of-way and  
17 not requiring access from I-64 “in the initial 2002 routing process and again with  
18 the 2003 USFS during the USFS route selection process” but that “[t]he  
19 documentation for the 2002 analysis no longer exists.”

20 Concerning the proposed alternative route that would parallel I-64 in part with  
21 access from KY 377, EKPC responded to Intervenor’s Request 6 by rejecting that  
22 alternative due to the necessity of construction and maintenance access roads  
23 crossing Triplett Creek. EKPC fails to note, however, that best management

1 practices of modest cost exist to allow stream crossings for access and  
2 maintenance which do not result in bank erosion, silting or other impacts.  
3 Similarly, EKPC tacitly acknowledges that a route roughly paralleling I-64 on the  
4 southern right-of-way is a possibility, and that “[a]ccess to this route could be  
5 attained via USFS maintenance roads” but summarily rejects it based on the  
6 assertion that this route “would require the construction of significantly more  
7 access roads than the preferred route.” The basis for this assertion, and any  
8 definition of what is “significant” is not provided. In answer to Intervenor’s Data  
9 Request 8 EKPC indicated that it had not determined the number of miles of  
10 access roads needed for the Post-Hearing parallel route, but concludes  
11 nevertheless that it will be “significantly more.”

12 I am likewise concerned that EKPC did not invest the same energy into the  
13 feasibility of parallel alternatives as it did towards the straight-line approach.  
14 According to EKPC’s Response to Intervenor’s Data Request 4, EKPC did not  
15 contact KU, for purposes of sharing or paralleling existing transmission lines,  
16 though it admits in the same response that “EKPC was aware that paralleling  
17 KU’s line was possible so long as there was no interference with the operation of  
18 their line.” It rejected sharing right of way due to span lengths, but apparently did  
19 not consider altering span lengths for either the existing KU or proposed EKPC  
20 parallel line in order to eliminate any interference. Nor, apparently, did it  
21 evaluate in detail paralleling the KU line, since while it acknowledged that  
22 “paralleling KU’s line was [reasonable],” yet considered “how far off the edge of  
23 KU right of way the EKPC facility would be required to be” as having no impact

1 on the evaluation of alternatives, even though impacts of such a corridor  
2 immediately paralleling an existing one might have significantly less visual and  
3 forest fragmentation impact; criteria evaluated in other alternatives.

4 Regarding the adverse impacts of the various routing alternatives, it does not  
5 appear that the same degree of consideration was given to other corridors as to  
6 the preferred EKPC option. In Answer to PSC Data Request 7, EKPC describes  
7 its participation in assisting USFS in completing the Environmental Assessment.  
8 EKPC conducted a bat mist net survey and archaeological survey for the  
9 proposed corridor and one other, yet it does not appear that surveys of such  
10 resources were conducted for other corridors.

11 Even as to the surveys conducted, the use of mist nets for capture of Indiana bats  
12 is known to be less than effective, and at the time that this approach was used the  
13 USFS researchers in the Morehead District were using a sound frequency  
14 profiling method known as Anabat II. It is unexplained why the USFS did not  
15 conduct its own survey or why a less effective technology was used.

16 Another concern that I have is that EKPC does not appear to have the  
17 used or offered to the USFS for use the EPRI Line Routing Methodology once it  
18 became available.

19 **EKPC has asserted repeatedly that it is urgent that the proposed line**  
20 **be approved in order to avoid costly non-economic dispatch or cascading**  
21 **blackouts. Does the potential delay from having to evaluate other**  
22 **alternatives concern you?**

23 Certainly it is a concern, however, as early as 2000 EKPC became aware of the

1 need to upgrade the transmission system, and knew also that since federal funds  
2 would be used through the Rural Utility Service and that the lines might cross the  
3 DBNF, environmental compliance under the National Environmental Policy Act  
4 would be required from one or both agencies. Had the company contracted for  
5 development of a comprehensive Environmental Assessment at that time, it would  
6 likely not have found itself in this situation. I don't think it fair to blame the  
7 public or the Commission, who received the initial case in April, 2005 for system  
8 constraints that had been known of since the year 2000.

9 **Do you agree with EKPC's response to Intervenor's Request 10 that whether**  
10 **the USFS mandated the location of the proposed EKPC routing of the**  
11 **transmission line or not is a "matter of semantics?"**

12 Certainly not. It is correct that the Forest Service has the sole jurisdiction to  
13 determine and evaluate and approve the location of transmission projects, but in  
14 so doing, it accepted the statement by EKPC of the purpose and need for the  
15 project. When EKPC approached the Forest Service, it was not to request that the  
16 Forest Service find the least-impact approach to routing the line – it was with a  
17 defined straight-line corridor in mind and on map – the “least-cost” alternative if  
18 you consider only out-of-pocket utility costs and ignore public monetary and non-  
19 monetary costs. To suggest that the USFS defined the corridor for EKPC on a  
20 clean slate is to ignore the record, which indicates not that EKPC came to the  
21 USFS asking the federal government to route a least-impact corridor, but instead  
22 with a map of a very definite straight-line corridor in mind. The USFS never  
23 questioned the need or purpose, and all of the limited alternative routings



1 considered were alternatives to the *preferred* EKPC alternative. Had EKPC  
2 approached the USFS with the statutory goals of a CPCN in mind – to wit, the  
3 least-cost alternative that does not result in a wasteful duplication of lines it is  
4 quite possible a different corridor would have emerged.

5 **Do you have other concerns regarding the refiled application?**

6 Yes. It troubles me that EKPC has entered into thirteen (13) option agreements  
7 during the period of September 20, 2004 through May 16, 2005 for the proposed  
8 EKPC transmission route when it had not even filed for approval for the  
9 construction of the transmission line from the Commission until April 21, 2005,  
10 and when the Forest Service decision on the Environmental Assessment was not  
11 completed until February 4, 2005. Unless the applicant likewise took steps to  
12 option the other alternative routes, it would appear that the company had begun  
13 implementation in advance of completion of the analysis of alternatives by the  
14 USFS and by this Commission.

15 **Would you briefly restate for the Commission your concerns regarding the**  
16 **proposed EKPC route with regard to the Sheltopee Trace and how the**  
17 **USFS addressed the potential impacts.**

18 Certainly. As one reads the Environmental Assessment developed by  
19 the Forest Service, one notes that much is made, in rejecting other alternatives,  
20 of the need to avoid visibility of the line from I-64 and US 60. This concern was  
21 a basis for rejecting Alternatives D and H from detailed study because a two-mile  
22 length of line in Alternative D would be visible through a half mile of forest  
23 and some of Alternative H would be visible behind AEP's transmission lines.

1     What makes is so peculiar is that the Forest Service discounted and minim-  
2     ized the dramatic impact that the line would have on the Sheltopee Trace  
3     National Recreation Trail. Over four miles of transmission line would pass  
4     directly over, would run parallel to, or would be highly visible from this national  
5     trail as it traverses the second largest intact block of national forest land in the  
6     northern part of the Daniel Boone National Forest.

7     **What is the Sheltopee Trace National Recreation Trail?**

8     According to the Forest Service’s website, “the Sheltopee Trace National  
9     Recreation Trail is “a 269-mile multiple-use national recreation trail that  
10    traverses the length of the Daniel Boone National Forest. The trail is named  
11    in honor of Daniel Boone. Sheltopee (meaning Big Turtle) was the name  
12    given Boone when he was adopted into the Shawnee tribe as the son of the  
13    great war chief Blackfish. Boone made several explorations through the  
14    area that is now the Daniel Boone National Forest, in search of a route from  
15    Virginia to Kentucky. Today many of the creeks, streams and landmarks  
16    bear the names given to them by “Sheltopee.”

17    The Forest Service explanation includes a description of the Trace:  
18    “Portions of the Sheltopee Trace meanders along high, narrow ridges and  
19    cliffs, and into deep gorges along small, clear streams and whitewater rivers.  
20    The Trace also travels on roads or rights-of-way through private land. These  
21    diverse landforms give rise to a great variety of trees, wildflowers, birds, and  
22    animals, including threatened and endangered species such as the Virginia  
23    big-eared bat, freshwater mussels, running buffalo-clover and white-haired

1 goldenrod. As a visitor to the Sheltowee Trace National Recreation Trail,”  
2 the Forest Service invites, “feel free to explore and discover the natural attractions  
3 along the trail. Because of the mixed land ownership, the trail travels along  
4 roads as well as woods. It touches significant historic trails like the Wilderness  
5 Road and Warrior’s Path, often following them for a short distance.”

6 **Has the Sheltowee Trace been designated as a National Recreation Trail?**

7 It is my understanding, based on the Forest Service website and the Land  
8 and Resources Management Plan adopted by the Daniel Boone National  
9 Forest, that the trail has been adopted into that system.

10 **Do you know what law creates the National Recreation Trail System?**

11 My understanding is that it is the National Trails System Act.

12 **Are you familiar with the purpose of that Act?**

13 Yes. According to the Act, the purpose is “to provide for the ever-increasing  
14 outdoor recreation needs of an expanding population and in order to promote  
15 the preservation of, public access to, travel within, and enjoyment and apprec-  
16 iation of the open-air, outdoor areas and historic resources of the Nation.”

17 **How did the Forest Service address the issue of protecting Sheltowee Trace?**

18 Even though Executive Order 13195, signed by President Clinton on January  
19 18, 2001 and published in the Federal Register at 66 FR 7391-7393 directs that all  
20 federal agencies “protect, connect, promote, and assist trails” to the extent  
21 permitted by law and where practicable, and protect the trail corridors associated  
22 with the national scenic trails “to the degrees necessary to ensure that the values  
23 for which each trail was established remain intact,” the Forest Service proposed to

1 issue a special use permit with only a passing consideration of the jarring impact  
2 of a 138 kV transmission line on the scenic values of the trail. Incredibly, even as  
3 the Forest Service discounted alternatives that would affect private lands because  
4 of the negative consequences on private landowners, the Forest Service suggested  
5 that “people can be expected to walk the roads leading to the [transmission line]  
6 structures when the project is complete, finding small wetlands on the ridges and  
7 grassy openings around some of the transmission line structures.” With all due  
8 respect, the idea that the public will be attracted to or should be invited to  
9 traverse the roads and right-of-way of a industrial transmission line corridor is  
10 neither accurate or realistic. High voltage transmission lines are not compatible  
11 with a scenic recreation trail, particularly one intended to evoke in the visitor  
12 the experience of Sheltopee as he traversed this land.

13 **What impacts would the line construction have on the Forest?**

14 According to the Forest Service Environmental Assessment (EA), the 6.9 mile  
15 line would cross some 4.8 miles of national forest land and 2 miles of private  
16 and a 100 foot-wide right-of-way would be cleared, with an additional 6.7 new  
17 miles of roads constructed on forest service land to access the right-of-way.  
18 Herbicides would be applied to cut stumps and again after 1-2 years and every 3-4  
19 years thereafter, according to the EA.

20 **Where in the Environmental Assessment is the consideration of the effects**  
21 **of the various alternatives on the Sheltopee Trace National Recreation Trail?**

22 In the 153-page document, the only discussion of the impact on the Sheltopee  
23 Trace is found in two paragraphs at pp. 65-66 where the EA observes that the

1 “new transmission line would be visible from the Sheltopee Trace Trail, a  
2 National Recreation trail in the affected area.”

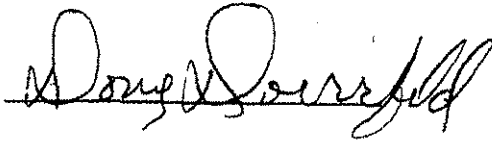
3 It is on page 66 that the EA suggests that the transmission line right-of-way and  
4 access roads will attract visitors: “People can be expected to walk the roads  
5 leading to the structures when the project is complete, finding small wetlands on  
6 the ridges and grassy openings around some of the transmission line structures.  
7 The grassy openings and small wetlands are desirable sites for many to visit for  
8 their beauty and opportunities to see wildlife.” It is curious that so little  
9 consideration is given to visibility and public safety issues concerning those  
10 encountering the structures on Forest Service land while traversing a scenic  
11 recreational trail when those issues are so paramount in rejecting private land  
12 and existing utility-corridor alternatives.

13 **Are you asking that the Commission second-guess the Forest Service**  
14 **decision to approve the proposed transmission line route?**

15 No. Given the short shrift that the Forest Service gave to the need to assure  
16 protection of the Sheltopee Trace, and the lack of any consideration of an  
17 alternative that would co-locate lines in existing rights-of-way to the extent  
18 possible, I am asking that the Commission direct that EKPC commission a more  
19 thorough and independent assessment of the I-64 and KU parallel alternatives that  
20 would minimize overall impacts on private and public lands and the Sheltopee  
21 Trace.

1 Does this conclude your testimony?

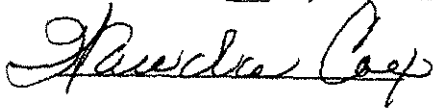
2 Yes, it does.



AFFIDAVIT

Doug Doerrfeld

Subscribed and sworn to before me, a notary public in the Commonwealth of Kentucky, by Doug Doerrfeld, this 3 day of February, 2006.



Notary Public

My commission expires 2/12/2006

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Direct Testimony of Intervenor Doug Doerrfeld was served by first-class mail upon the following individuals, and on EKPC's Counsel and Commission Staff electronically, this 3rd day of February, 2006:

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A handwritten signature in black ink, appearing to read 'Tom FitzGerald', written over a horizontal line.

Tom FitzGerald