

Case Number 2007-00149

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JUN - 5 2007

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COMMISSION

The following materials being presented are the parts of the Commission's

Order requested in a letter posted May 18, 2007. The original complaint was mailed April 9, 2007.

The "Answer of Kentucky Utilities Company" Number 3 Part C. I still reply that I (and possibly others), being an effected landowner, was not properly notified of this project and my rights of due process were circumvented.

The law in discussion is 807KAR5:120 Section 2 and 3. In Kentucky Utilities Motion to Dismss, Proceduarl and Factual Background it was stated, "Specifically, the Companies first consulted electronic PVA maps compiled by the state and then, finding the state records out of date, the Companies consulted PVA maps maintained in each county in which the line was planned to be located in order to identify the specific parcels of land over which the proposed line would cross." Why would KU think that Hardin County maps would be more accurate then the state maps. Upon my recent visit to the Hardin County PVA office it was stated quite clearly and repeatedly by PVA staff that these maps were drawn decades ago and are for local taxation purposes and should never be used to determine property boundary lines.

In 807KAR5:120 Section 2 Number 2: “. . . valuation administration’s maps, modified as required.” is the point of contention. If the materials used are inaccurate, the resulting right of way maps will also be inaccurate. Sections 3 and 4, pertaining to landowner notification, were completely omitted and I received no notification. The public notice mentioned in Section 5 was published in the local newspaper, but due to the scale of the maps it would be impossible to make a decision about easement of right of way based on newspaper maps or vaguely worded announcements. If the property boundary line was close, the error should be on the side of inclusiveness not exclusiveness of personal rights. I could have been notified easily just like all of the other landowners at this time.

“. . . modified as required . . . “ 807KAR5:120 Section 2 Part 2 provides management of errors in the mapping. The corner of land in question has two fence lines running more or less east-west and a north-south line that stops at the east-west line forming an upside down “T” (see KU map #82). The east-west line is barbed wire using wood and metal posts. The fence is down in spots but still highly visible. The land on the south has been cleared and logged so it is possible to see the fence. The north-south line is difficult to see because of a fallen fence, but I had previously marked it with pink plastic ribbons to prevent loggers from mistakenly harvesting trees on my

land. The corner post is an iron pipe in the ground with 16 inches above ground. This pipe is also marked with several pink plastic ribbons. With the ribbon corner post, barbed fence with steel and wood posts and pink plastic marking ribbons, the corner is highly visible.

As I spoke with the surveyor's team plotting the parcel after my complaint to KU, I found that with GPS they could measure to 1000th of an inch. But when the initial survey was made by KU they missed our corner by almost 100 feet. They were using faulty materials, the PVA maps, and missed the obvious marking of the corner.

With a project this large KU's mishandling of the data and materials has led to a violation of my due process rights. Their description in the introduction of Kentucky Utilities Companies' Motion to Dismiss describes the easement as "minimally crossed". With this nonchalant approach to personal property rights there is not a landowner in Kentucky that will be safe. The person that uses "minimally crossed" in their description of this situation is obviously not the landowner. Those that have been minimally robbed, minimally raped, or minimally deprived of due process have a different meaning of "minimally" than does Kentucky Utilities Companies.

Response to:

FIRST AFFIRMATIVE DEFENSE

The Commission could deny the entire project or KU could move the line in a westerly direction, less than 100 feet, to miss the boundary.

SECOND AFFIRMATIVE DEFENSE

KU has violated a Commission regulation. The violation is 807KAR5:120 Section 2. “each property crossed . . . modified as required.”

THIRD AFFIRMATIVE DEFENSE

KU has not complied with the law in all regards and the complaint should not be dismissed but carried to a legal binding resolution suitable to the landowner.

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 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. 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. 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 but no more than six (6) months 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. 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.

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

- (a) The name, address and telephone number of the utility that intends to file the application;
- (b) A description of the proposed construction that will be the subject of the application; 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 more than 5,280 feet, 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 suitable scale, but no less than one (1) inch equals 1,000 feet for the project proposed. The map detail shall show the location of the proposed transmission line centerline and right of way, and boundaries of each property crossed by the transmission line right of way as indicated on the property valuation administrator's maps, modified as required. 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;

(3) A verified statement that, according to county property valuation administrator records, each property owner over whose property the transmission line right-of-way is proposed to cross has been sent by first-class mail, addressed to the property owner at the owner's address as indicated by the county property valuation administrator records, or hand delivered:

- (a) Notice of the proposed construction;
- (b) The commission docket number under which the application will be processed and a map showing the proposed route of the line;
- (c) The address and telephone number of the executive director of the commission;
- (d) A description of his or her rights to request a local public hearing and to request to intervene in the case; and
- (e) A description of the project;

(4) 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.

(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 route;
- (b) A statement of the right to request a local public hearing; and
- (c) A statement that interested persons have the right to request to intervene;
- (6) A copy of the newspaper notice described in subsection 5 of this section; and
- (7) 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) Any interested person under KRS 278.020(8) 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. This hearing shall be requested no later than thirty (30) days after filing of an application for a certificate of public convenience and necessity.

(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 requesting the hearing; and
- (c) A statement as to whether the person requesting the hearing 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 as well, that person shall also apply to intervene in the commission proceeding on the application pursuant to 807 KAR 5:001, Section 3(8).

(4) At least five (5) days before the date established by the commission for a local public hearing, the applicant shall submit to the commission proof that it has given the general public notice of the hearing in a newspaper of general circulation in the county or counties in which the construction is proposed.

Section 4. Deviation from Rules. The provisions of 807 KAR 5:001, Section 14 apply to applications filed under this administrative regulation, except that the commission shall not permit a deviation from the requirements of this administrative regulation unless the commission finds that failure to permit the deviation will adversely affect utility rates or service. (31 Ky.R. 515; Am. 1256; eff. 1-14-2005.)

The Big Picture

This high voltage line should not be completed because:

- existing easements in our area are adequate for new customer expansion.
- the profits and benefits go to the e on energy powerhouse in Germany not to Kentucky residents, while the pollution and problems remain in Kentucky.
- global warming is real and a major contributor is coal fired power plants.
- certain health risks are associated with high power lines: leukemia, brain cancer, Lou Gehrig's disease and miscarriage.
- burning coal releases mercury – a poison that hinders proper neurological development in children.

This would be a good time to stand up and do what is right for Kentucky and future generations. Deny this proposed power line.