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September 2, 2011

RECEIVED

SEP 06 2011

PUBLIC SERVICE
COMMISSION

VIA FEDEX: 796146038773

Mr. Jeff Derouen
Executive Director
Public Service Commission
211 Sower Boulevard
Frankfort, Kentucky 40602

Re: PSC Case No. 2011-00314

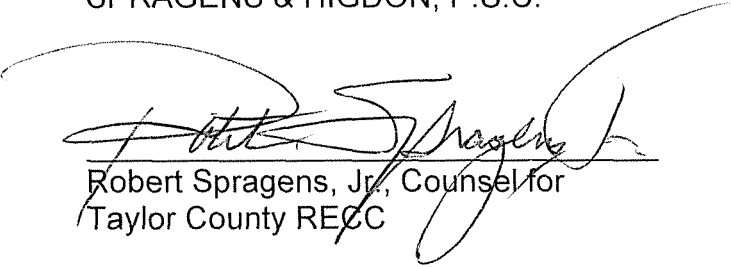
Dear Mr. Derouen:

Please find enclosed for filing with the Commission in the above-referenced case an original and ten copies of the Answer of Taylor County RECC.

With kind regards, I remain,

Very truly yours,

SPRAGENS & HIGDON, P.S.C.


Robert Spragens, Jr., Counsel for
Taylor County RECC

RS,JR:js
Enclosures

cc: Mr. Barry L. Myers, Manager
Taylor County RECC

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

SEP 06 2011

PUBLIC SERVICE
COMMISSION

In the Matter of:

WILLIAM ALLEN ROBERTS)

COMPLAINANT)

vs.)

CASE NO. 2011-00314

TAYLOR COUNTY RURAL ELECTRIC)
COOPERATIVE CORPORATION)

DEFENDANT)

**ANSWER OF DEFENDANT, TAYLOR COUNTY
RURAL ELECTRIC COOPERATIVE CORPORATION**

Defendant, Taylor County Rural Electric Cooperative Corporation ("Taylor County") acting by counsel, makes the following Answer to the formal Complaint filed herein by William Allen Roberts ("Roberts"):

1. Taylor County RECC acknowledges receipt of the Complaint of Roberts, having been duly notified of its filing by the Commission's notice dated August 24, 2011, and received by Taylor County on August 26, 2011.

2. Defendant acknowledges and admits that, by Deed dated June 23, 2010, of record in Deed Book 313, Page 592, in the office of the Adair County Clerk, a copy of same being attached as Defendant's Exhibit "A", William Allen Roberts and Rhonda Roberts acquired, as tenants by the entirety, a tract of real estate located near the Lether Burton Road in Adair County, Kentucky, containing 2.26 acres. Rhonda Roberts, as a co-owner of the property in question, **is a necessary and indispensable party to this proceeding**, and she should be required to join in the formal Complaint of Roberts

in order that a complete, final, and binding resolution of this matter may be achieved. Roberts, who acts *pro se* herein, is not a licensed attorney, and may not act as the representative of a co-owner, even his spouse.

3. Defendant admits that the Roberts property lies within the service area of the Defendant. Defendant further admits that Roberts, having apparently failed, prior to acquisition of this property, to make investigation as to the methodology of achieving electric service for that property, contacted Defendant's representatives for the purpose of making application for service at that property, upon which Roberts had initiated construction of a cabin.

4. The property of William Allen and Rhonda Roberts is depicted upon the aerial map attached hereto as Exhibit "B". Exhibit B likewise depicts the properties of others in the area, and the location of the Lether Burton Road, a public roadway being a part of the Adair County, Kentucky road system, as well as the private roadway, 20 feet in width, which provides access to the Roberts tract. Exhibit B also depicts those points at which Defendant, as a part of its existing system, has located distribution lines and attendant poles.

4. Upon investigation, Defendant determined all of the following:

a. The Defendant has no easement across the property of Curry beyond the point at which Defendant's pole is situated; and Defendant would thus, in order to extend a distribution line from the Curry pole, initially require an easement from Curry, who is unwilling, under any circumstance, to grant such an easement.

b. On the side of Lether Burton Road opposite Curry, Defendant does not have across the property of Ken Burton, and beyond the pole situated upon that property, any additional easement right and thus, if a distribution line were to be extended from the

pole on the Ken Burton property, that would require a further easement from Ken Burton as well as an easement from McKinney, whose property lies between the Ken Burton distribution pole and the Roberts property. McKinney will not now voluntarily grant an easement to Defendant for this purpose.

c. If Defendant could reach the Lether Burton county road through required easement(s), it could, with the permission of Adair County, Kentucky, utilize a part of that 30 foot road right of way to extend service in the direction of the Roberts property. However, the circumstances of such extension are such that that would require underground service within the county road corridor.

d. The aforesaid county road ends before reaching the Roberts property. Roberts' access from the county road to his property is achieved through Roberts' non-exclusive use for access purposes of a 20 foot private roadway, which privilege is likewise either granted or retained by as many as three other parties. Accordingly, Defendant's ability to utilize the area of this private roadway easement for the purpose of line extension would depend upon the grant of easements from all parties who maintain any privileges of ownership and/or use with respect to the private roadway, and such easements are, quite simply, not attainable. Once again, and if the private roadway corridor could be utilized for purposes of extending service to Roberts, that service would necessarily have to be underground. The Roberts Complaint suggests that Roberts is not aware of the legal implications attendant to his access privilege, or the limitations imposed thereupon insofar as extension of service to his property is concerned.

e. The Green-Taylor Water District has previously acquired across the McKinney property an easement for purposes of installing and maintaining a waterline. The

preferred means by which electric service might be extended to the Roberts property would cause that route to cross McKinney at approximately the location of the waterline easement. Defendant could, with McKinney's extension of its easement grant, and through agreement with the Green-Taylor Water District, piggyback extended service within the waterline easement. Once again, however, McKinney will not agree to the extension / expansion of easement privileges previously granted to the water district.

f. Under any circumstance whereby service is extended from Defendant's existing system to the Roberts property, much, if not all, of that extension will necessarily have to be achieved by means of underground service. Taylor County RECC's existing tariff, having been approved by this Commission with an effective date of October 28, 1992, specifically addresses the installation of residential underground service, and requires that the residential consumer bear the cost of the installation of that underground service to the extent that such service exceeds the cost of normal above-ground extensions. The tariff further provides that, when underground service is required, Taylor County RECC will be provided by the applicant necessary easements and rights of way to achieve installation of that underground service "without cost or condemnation by the Cooperative". Roberts' position has consistently been that he wants service extended to his property, **and that he wants that done at no cost to him**. Irrespective of the resolution of the lack of available access to the Roberts property, Taylor County cannot provide Roberts with the necessary underground service at no cost without violating the terms of its tariff, and providing to Roberts economic concessions which have consistently been denied to Taylor County's other member-consumers.

5. Taylor County notes that Roberts, in his Complaint, suggests that he is in favor of “condemning (sic) the neighbors to get electric”. That is not surprising in that it has been Roberts himself, though his antagonistic attitude toward adjoining landowners, who has rendered ineffectual Taylor County RECC’s efforts at acquiring easement(s) necessary for extending service to the Roberts property, although by means of underground extensions. For example, Defendant’s representatives had reached a point in negotiations with the McKinneys that Defendant anticipated that the McKinneys would agree to an arrangement whereby Taylor County would place its extension within the existing waterline easement (underground). During those negotiations with the McKinneys, Roberts took it upon himself to communicate with Mrs. McKinney by telephone, and berate her for her initial refusal to grant additional easement privileges across the McKinney property. That intervention on the part of Roberts has ended any discussion of the McKinneys’ voluntary grant of easement privileges which would benefit Roberts.

6. Taylor County has not, during the entire period of its corporate existence, paid for easement privileges. On one occasion Kentucky’s Transportation Cabinet, as a part of a highway construction project within Taylor County’s service area, has acquired rights of way, including utility spaces, which have been utilized by Taylor County for the relocation of its facilities. However, Taylor County has never expended funds for the acquisition of rights of way, believing it to be in the best interests of its consumer-members to achieve easements / rights of way by voluntary grant through negotiation. Taylor County has never utilized the power of eminent domain for the purpose of acquiring easements / rights of way, either against its own member-consumers or others. Nonetheless, and given the dilemma which Roberts has created for himself by

reason of his display of antagonism toward adjoining property owners in the area of his proposed cabin, Taylor County RECC has evidenced to Roberts its willingness to acquire through condemnation an appropriate easement for the installation of underground service to the Roberts property. Under that scenario, Roberts would be expected to indemnify Taylor County, subject to any appropriate arrangements for periodic reimbursement, for not only the difference between underground and overhead installation, but for the actual costs associated with the prosecution of the condemnation proceeding, including the ultimate award made by a jury to landowner(s) whose property would be affected. Taylor County RECC is naturally concerned that any condemnation award made under these circumstances would be enhanced by reason of Roberts' conduct directed to other Adair County residents.

7. Taylor County is, of course, familiar with 807 KAR 5:041(11) which requires, **in the case of normal extensions**, a distribution utility to construct at its cost facilities by means of which it extends for a distance of not more than 1,000 feet its existing distribution line to the property of a prospective customer. While that administrative regulation speaks to construction costs, it does not address the independent act of acquiring an interest in real estate for purposes of such construction as is involved in a "normal extension".

8. Taylor County thus respectfully suggests that Roberts' effort at imposing upon Taylor County (and thus its other member-consumers), the cost of resolving a problem which Roberts himself created, and his further intention to avoid the payment of costs required by Taylor County's tariff, is entirely inappropriate.


Wherefore, Defendant, Taylor County Rural Electric Cooperative Corporation prays as follows:

1. That the Complaint of Roberts herein be dismissed;
2. That to the extent that this matter is permitted to proceed, the co-owner of the subject property be required to join as a necessary and indispensable party to this proceeding, and be bound by any administrative and/or judicial adjudication made herein;
3. To the extent that this matter proceeds to resolution by Order of the Commission, the Complainant(s) be required, as a condition of extension of service to their property, to indemnify Defendant for and with respect to all extraordinary costs incurred in achieving such service, including all costs attendant with the acquisition through condemnation of easements or rights of way, and the cost differential required with the installation of necessary underground service;
4. To the extent that this matter proceeds to resolution by Order of the Commission, that the Commission conduct an evidentiary hearing sufficient to provide for judicial review; and
5. All proper relief.

Respectfully submitted,

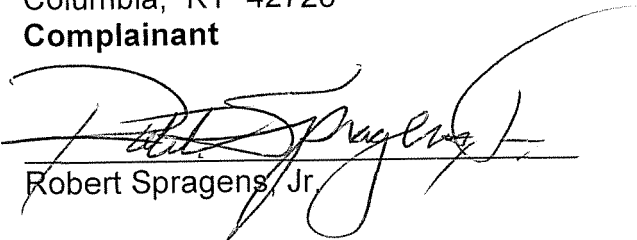
SPRAGENS & HIGDON, P.S.C.
Attorneys at Law
15 Court Square - P. O. Box 681
Lebanon, Kentucky 40033
Telephone (270) 692-3141

By


Robert Spragens, Jr., Counsel for
Taylor County Rural Electric
Cooperative Corporation

I hereby certify that a true copy of the foregoing was mailed this 2nd day of September, 2011, to:

William Allen Roberts
4078 Snake Creek Road
Columbia, KY 42728
Complainant



Robert Spragens, Jr.

313-592

The 2010 tax bill is to be sent c/o
Wendell Burton at the address noted
below.

DEED

THIS DEED OF CONVEYANCE made and entered into this the ^{23rd} day of June, 2010, by and between WENDALL BURTON and FAYE BURTON, husband and wife, of 7192 Liberty Road, Columbia, Kentucky 42728, parties of the first part, and WILLIAM ALLEN ROBERTS and RHONDA ROBERTS, husband and wife, of 4078 Snake Creek Road, Columbia, Kentucky 42728, parties of the second part.

W I T N E S S E T H

FOR AND IN THE CONSIDERATION of the sum of SIX THOUSAND (\$6,000.00) DOLLARS, cash in hand, this day paid, the receipt of which is hereby acknowledged as received, the parties of the first part by these present do hereby BARGAIN, SELL, ALIEN and CONVEY unto the parties of the second part, JOINTLY FOR LIFE WITH THE REMAINDER TO THE SURVIVOR OF THEM, the following described real estate in Adair County, Kentucky.

DESCRIPTION OF A TRACT OF LAND, BY A BOUNDARY WITH NEW DIVISION SURVEY, THE PROPERTY OF WENDALL BURTON DEED BOOK 237 PAGE 281 RECORDED IN THE ADAIR COUNTY CLERK'S OFFICE, LOCATED APPROXIMATELY 1000.00 FEET NORTH OF L. BURTON ROAD VIA A PRIVATE DRIVE AND 2500.00' VIA L. BURTON ROAD TO HIGHWAY #206 AND ON THE EAST SIDE OF THE PRIVATE DRIVE IN ADAIR COUNTY, COMMONWEALTH OF KENTUCKY AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

Beginning near the southeast right-of-way of a private drive at a found rebar pin with cap #3318 and corner to Robert D. McKinney; thence leaving R.D. McKinney and with the right-of-way N 21°57'30" W 65.96' to a point; thence N 26°47'54" W 34.24' to a point; thence N 38°29'10" W 43.62' to a point; thence N 28°29'03" W 42.27' to a point; thence N 04°12'43" W 31.87' to a point; thence N 09°27'43" W 47.65' to a 16" chestnut with new hack /// marks witness by a set 1/2"x18" rebar pin with cap #3318; thence leaving the right-of-way and with a new division line of the parent tract N 79°42'58" E 488.60' to a set 1/2"x18" rebar pin with cap #3318 witness by a 10" hickory with new hack /// marks as pointer to the center of a branch; thence continuing with a new division line N 79°42'58" E 30.50' to the center of a branch and in the line of R.D.

Exhibit

A

592

McKinney; thence with the line of R.D. McKinney and the meanders of a branch reduced to a straight line S 05°51'38" W 160.64' to the forks of the branch (Deed Call); thence leaving the forks and with the line of R.D. McKinney S 66°14'17" W 433.53' to the Point of Beginning containing 2.26 acres.

PLAT TO BE RECORDED IN COUNTY SURVEYORS BOOK 1 PAGE 318 IN THE ADAIR COUNTY CLERKS OFFICE.

This survey is subject to any and all easements, restrictions and rights of way of record at this time. All bearings are based on the Magnetic North which was observed in the field N 25°56'45" W 168.11 feet from the Point of Beginning with reference bearing SE 28° along a random base line on 6/3/2010.

I hereby certify that this survey was done under my direct supervision by the method of Random Traverse with side shots and the unadjusted precision ratio of the traverse was 1/6,928.29'. This survey is a Class 'B' Survey and meets the Minimum Standards required by the State of Kentucky as defined by KRS 322. S/Michael E. McKinney P.L.S. #3318, County Surveyor of Adair.

This being a part of the same lands conveyed to Wendall Burton and Faye Burton, his wife, by deed from Wendall Rodney Burton, et ux., dated February 12th, 1999, and recorded in Deed Book 237, at page 281, in the office of the Adair County Clerk.

In prior conveyances there has been reserved to the parties of the first part, for the use of them and others, the use of a 20' wide private road as indicated on the plat for the subject property. The non-exclusive use of that road is also granted to the parties of the second part.

This conveyance is made subject to: any and all right-of-ways for street or highway purposes; any oil and gas leases; any and all easements that have been granted for any type of utility (including natural gas transmission lines, but not necessarily limited thereto); any other restrictions or conditions which may appear in the recorded chain of title; and zoning laws and governmental laws and regulations affecting the property, if any.

TO HAVE AND TO HOLD same with all appurtenances thereunto belonging unto the parties of the second part, their heirs and assigns forever with Covenants of General Warranty.

By their execution of this deed, the parties of the first part acknowledge that they have been advised as to the necessity of reporting this transaction to the IRS via the appropriate 1099 and that Durham & Zornes, the preparer of the deed, is not to be responsible for the filing or reporting of this transaction with or to the IRS as they are not acting as the closing agent with respect to same.

IN WITNESS WHEREOF, the parties have signed as of the date aforesaid.

Wendall Burton
WENDALL BURTON

Faye Burton
FAYE BURTON

CONSIDERATION CERTIFICATE

We do hereby certify, pursuant to KRS Chapter 382, that the above stated consideration is the true, correct and full consideration paid for the property herein conveyed. We further certify our understanding that falsification of the stated consideration or sale price of the property is a Class D felony, subject to one to five years imprisonment and fines up to Ten Thousand (\$10,000.00) Dollars.

IN WITNESS WHEREOF, the parties have signed as of the date aforesaid.

Wendall Burton
WENDALL BURTON

Faye Burton
FAYE BURTON

William Allen Roberts
WILLIAM ALLEN ROBERTS

Rhonda Roberts
RHONDA ROBERTS

STATE OF KENTUCKY
COUNTY OF ADAIR

The execution of the foregoing DEED was acknowledged before me and the CONSIDERATION CERTIFICATE was subscribed and sworn to before me by WENDALL BURTON and FAYE BURTON, husband and wife, this the 23rd day of June, 2010.

6/15/12
COMMISSION EXPIRATION DATE

[Signature]
NOTARY PUBLIC

STATE OF KENTUCKY
COUNTY OF ADAIR

This CONSIDERATION CERTIFICATE subscribed and sworn to before me by WILLIAM ALLEN ROBERTS and RHONDA ROBERTS, husband and wife, this the 23rd day of June, 2010.

5/16/12
COMMISSION EXPIRATION DATE

[Signature]
NOTARY PUBLIC

I hereby certify that the foregoing instrument was prepared WITHOUT PRIOR TITLE EXAMINATION by James D. Zornes, DURHAM & ZORNES, 130 Public Square, P. O. Box 100, Columbia, Kentucky 42728-0100, Phone: 270/384-4411, FAX: 270/384-5781.

[Signature]
JAMES D. ZORNES, ATTORNEY

F:\documents\deeds\2010\Roberts, Will (w & Rhonda).dot

STATE OF KENTUCKY
COUNTY OF ADAIR

I, Sheila Blair, Clerk of Adair County, do hereby certify that the foregoing instrument was produced to me and lodged for record in my said office on the 23RD day of JUNE, 2010, at 2:36, P.m.; whereupon, I have recorded the same, the foregoing, and this certificate in Deed Book 313, at page 592.

Given under my hand, this the 23RD day of JUNE, 2010.

[Signature]
CLERK, ADAIR COUNTY

RECEIVED
ADAIR CO CLERK
JUN 23 2010
TIME 2:19 P.M.
DEL:6/23/2010
TO: WILLIAM ROBERTS



408251
Filed on:06/23/2010 2:36:11 PM
Book: DEED Number: 313
Pages: 592 - 595
Sheila Blair, Adair County
DC: MELISSA FLETCHER
Deed Tax:\$6.00

Boundary Lines are Approximate

Private Road Begins near Woodline

Joey Curry Prop

Joey Curry Home

Wendell Burton Prop

Robert McKinney Prop

Roberts Prop (Cabin)

L. Burton Road

Overhead Electric Line

Exhibit

B

