

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF KENTUCKY	)	
UTILITIES COMPANY FOR A CERTIFICATE OF	)	CASE NO.
PUBLIC CONVENIENCE AND NECESSITY FOR	)	2022-00066
THE CONSTRUCTION OF TRANSMISSION	)	
FACILITIES IN HARDIN COUNTY, KENTUCKY	)	

ORDER

This matter arises before the Commission upon 13 separate petitions for intervention. These separate petitions were filed on April 7, 2022,<sup>1</sup> April 8, 2022,<sup>2</sup> April 11, 2022,<sup>3</sup> and April 13, 2022.<sup>4</sup> The petitions appear to be on a form letter, and despite being entitled “Petition for Intervention,” the petitions did not state any grounds for intervention, but expressed opposition to the project, which is the subject of this proceeding, and requested that the Commission “intervene in this case to stop the planned construction of this extra high voltage power line near our property.”<sup>5</sup> In particular, the petitions stated

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<sup>1</sup> Thomas and Betty Schnieders filed a petition on April 7, 2022.

<sup>2</sup> Leslee Wayne Ferguson, Ernest and Beverly Kerr, William and Kimberly Goodman, Larry Hagan, and Edward and Rosemary Gravell filed form petitions on April 8, 2022. See *a/so*: Email Intervention Request of Rosemary Gravell (filed Apr. 8, 2022), and Email Intervention Request of Larry Hagan (filed Apr. 8, 2022). In addition to the form petitions discussed in this Order, Rosemary Gravell and Larry Hagan also each timely filed an email request for intervention that more specifically set forth grounds for intervention. This Order denies only the form petitions, the email requests will be addressed in a separate Order.

<sup>3</sup> Sherri and Dale Adams, Sandra Clark, Shirley Curry, Heather Richards, and Raymond and Elizabeth Clark filed form petitions on April 11, 2022.

<sup>4</sup> Aaron and Emily Pile, and Martin and Rebecca Chesser filed form petitions on April 13, 2022.

<sup>5</sup> Thomas and Betty Schnieders Petition for Intervention (filed Apr. 7, 2022) final sentence. The petitions filed on April 8, 11, and 13, 2022 are identical to this petition in all respects except for the signatures and addresses.

that Kentucky Utilities Company (KU) is not acting in the best interests of the community by placing the transmission line in the proposed location and that there are alternate routes available that will result in fewer public health and safety risks, less negative impact on residential home values, and less negative impact to the aesthetics of the Glendale area. The petitions stated that KU was given the right to serve the new Ford Motor Company (Ford) plant in spite of the fact that a rural electric cooperative serves the majority of the surrounding area.<sup>6</sup> The petitions alleged that rural electric ratepayers will subsidize KU in relation to this project, and that KU is being irresponsible by choosing a line route that negatively impacts the health, safety and property values of rural Glendale residents.<sup>7</sup>

On April 12, 2022, KU filed a response entitled “Response to Petitions to Intervene from Unaffected Landowners” (KU’s Response). KU stated that it objected to the five timely filed petitions<sup>8</sup> because the people identified in the petitions are not affected property owners.<sup>9</sup> KU stated that it objected to the petitions filed on April 11, 2022, because the people identified in the petitions are not affected property owners and because the petitions were not timely filed. KU stated that it identified all property owners over whose property the transmission line right-of-way is proposed to cross at Exhibit 20

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<sup>6</sup> Thomas and Betty Schnieders Petition.

<sup>7</sup> Thomas and Betty Schnieders Petition.

<sup>8</sup> KU’s Response (filed Apr. 12, 2022) at 1–2. KU’s Response specifically cites the petitions of Thomas and Betty Schnieders, Leslee Wayne Ferguson, Ernest and Beverly Kerr, William and Kimberly Goodman, and Edward and Rosemary Gravel as timely filed. However, Larry Hagan also timely filed a form letter petition on April 8, 2022, and appears to have an ownership interest in 1055 Glendale-Hodgenville Road West, a parcel over which the proposed transmission lines will cross. *See also:* the Appendix to the Commission’s Order establishing the procedural Schedule (Ky. PSC Apr. 6, 2022), procedural schedule establishing April 8, 2022, as the last day for intervention requests to be accepted.

<sup>9</sup> KU’s Response at 2.

to its application, and none of the people who filed untimely form petitions for intervention owns property over which the transmission line is proposed to cross.<sup>10</sup>

KU acknowledged that multiple people may have an ownership interest in the property at 1055 Glendale-Hodgenville Road West and stated that it did not oppose intervention by those for whom KU has knowledge of such an interest, but that based on KU's research, Edward and Rosemary Gravell have no interest in that property. KU further stated that if the Gravells can provide proof of ownership, KU would withdraw its objection to intervention by the Gravells.<sup>11</sup>

KU stated that based on the addresses provided in the petitions, the individuals who signed the petitions (Petitioners) may have some general connection to property in the vicinity of the proposed transmission lines, but they are not "interested persons" as described in KRS 278.020(9).<sup>12</sup> KU stated that the petitions did not indicate that the Petitioners will present relevant issues or develop facts to assist the Commission in fully considering the matter, nor did the petitions identify any special interest that the Petitioners have in this case. Therefore, KU asked that the petitions be denied.

On April 15, 2022, KU filed a response to the petitions to intervene filed by Aaron and Emily Pile and Martin and Rebecca Chesser on April 13, 2022. KU stated that the petitions were not timely filed as required by Commission regulation 807 KAR 5:001, Section 4(11)(a), and that the petitions did not contain support for finding that there was

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<sup>10</sup> KU's Response at 2–3.

<sup>11</sup> KU's Response at 1, footnote 2. See also: Email Intervention Request of Rosemary Gravell (filed Apr. 8, 2022). In addition to the form petition discussed in this Order, Rosemary Gravell also timely filed an email request for intervention. This Order denies only the form petition.

<sup>12</sup> KU's Response at 3.

good cause for the untimely filing. Additionally, KU stated that the petitions failed to state how intervention is likely to present issues or develop facts that will assist the Commission in deciding the matter without unduly complicating or disrupting the proceedings. KU also noted that based on the addresses given in the petitions, neither the Chessers nor the Piles appear to own property over which the proposed facilities will cross. KU asked that these petitions be denied. Finally, KU asserted a standing opposition to any form petitions such as these that may be filed in this proceeding in the future.

Although the form petitions did not expressly request intervention for the Petitioners, but rather asked that the Commission intervene to stop the planned construction of the project,<sup>13</sup> the Commission will analyze the form petitions as petitions for intervention on behalf of those individual Petitioners.

#### LEGAL STANDARD

The only person who has a statutory right to intervene in a Commission case is the Attorney General of the Commonwealth of Kentucky, by and through the Office of Rate Intervention (Attorney General), pursuant to KRS 367.150(8)(b). Intervention by all others is permissive and is within the sole discretion of the Commission.<sup>14</sup>

The statutory standard for permissive intervention, KRS 278.040(2), requires that “the person seeking intervention must have an interest in the ‘rates’ or ‘service’ of a utility, since those are the only two subjects under the jurisdiction of the PSC.”<sup>15</sup>

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<sup>13</sup> Thomas and Betty Schnieders Petition, final sentence.

<sup>14</sup> *Inter-County Rural Electric Cooperative Corporation v. Public Service Commission of Kentucky*, 407 S.W.2d 127, 130 (Ky. 1966).

<sup>15</sup> *EnviroPower, LLC v. Public Service Commission of Kentucky*, No. 2005-CA-001792-MR, 2007 WL 289328 at 3 (Ky. App. Feb. 2, 2007).

The regulatory standard for permissive intervention, set forth in 807 KAR 5:001, Section 4, is twofold. Commission regulation 807 KAR 5:001, Section 4(11), requires a person to set forth in the motion to intervene either (1) a special interest in the proceeding that is not otherwise adequately represented in the case, or (2) that intervention is likely to present issues or develop facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings.

In cases involving an application for a Certificate of Public Convenience and Necessity (CPCN) to construct an electric transmission line, the Commission also considers KRS 278.020(9), which includes a person over whose property a proposed transmission line will cross as an “interested person” who may request intervention.

#### DISCUSSION AND FINDINGS

Based on a review of the pleadings at issue and being otherwise sufficiently advised, the Commission finds that the form letter petitions discussed in this Order failed to articulate that the Petitioners have a special interest in this proceeding that is not adequately represented. The Commission further finds that the Petitioners did not indicate that they are likely to present issues or to develop facts that will assist the Commission in resolving this matter without unduly complicating the proceeding. For the reasons discussed below, the Commission finds that the petitions are denied.

The petitions are identical in every respect except for the signatures and the addresses. The petitions did not identify any special interest in the proceeding, but rather recite general objections to the location of the proposed facilities and allege that residential property values will decrease, and that rural electric ratepayers will subsidize KU in relation to this project.

The petitions did not indicate in any way that the Petitioners will develop facts and present issues to assist the Commission in deciding the matter. The petitions stated that the location of the proposed facilities will have negative impacts on the health, safety, and aesthetics of the local area, but they failed to explain specifically what negative impacts are alleged. The petitions stated that the proposed project will have a negative impact on residential home values in the area but provided no evidence to support this allegation. The petitions did not provide any documentation of specific potential negative impacts on the proposed locations of the facilities or of the surrounding area. Because the petitions did not identify any specific negative impacts that the proposed project will have on the proposed location, the Commission is not convinced the Petitioners will develop facts or present issues to assist in the final decision in this matter.

Additionally, the petitions filed after April 8, 2022, were not timely filed and are denied on that basis as well as for the reasons stated above.

Each of the Petitioners will have an opportunity to participate in this proceeding even though they are not granted intervenor status. The Petitioners can review all public documents filed in this case and monitor the proceedings via the Commission's website: <https://psc.ky.gov/Case/ViewCaseFilings/2022-00066>. In addition, the Petitioners may file comments as frequently as they choose, and those comments will be entered into the record of this case.

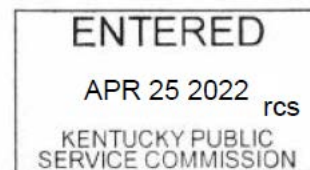
IT IS THEREFORE ORDERED that the form petitions to intervene as identified in this Order are denied.

PUBLIC SERVICE COMMISSION


  
\_\_\_\_\_  
Chairman

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Vice Chairman

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Commissioner



ATTEST:

  
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