

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF DUKE ENERGY)	
KENTUCKY, INC. FOR A CERTIFICATE OF)	
PUBLIC CONVENIENCE AND NECESSITY TO)	CASE NO.
CONSTRUCT A 138-KV TRANSMISSION LINE)	2023-00239
AND ASSOCIATED FACILITIES IN BOONE)	
COUNTY (HEBRON TO OAKBROOK)	
TRANSMISSION LINE PROJECT))	

ORDER

This matter arises upon the motion of George L. Casteel, filed August 10, 2023, for full intervention. As a basis for its motion, Mr. Casteel stated that he owns property at 5826 Limaburg Road., Burlington, Kentucky, which is partially within the right-of-way for the construction proposed by Duke Energy Kentucky, Inc.'s (Duke Kentucky) in its Certificate of Public Convenience and Necessity (CPCN) application.¹ As proposed, the transmission line will not cross Mr. Casteel's property.² Mr. Casteel stated that he was interested in knowing where the electrical poles and guidewires would be located and their effect on his property.³ Duke Kentucky did not file a response to Mr. Casteel's request.

¹ Application (filed Sept. 13, 2023).

² Application, Exhibit 12 at 20. Mr. Casteel's property is labeled 69 on the map, which shows the proposed transmission line route (in yellow) on the opposite side of Limaburg Road (Highway 3168) and the right-of-way (in green) intersecting with the far western edge of Mr. Casteel's property.

³ Casteel Request for Intervention, (filed Aug. 10, 2023).

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, pursuant to KRS 367.150(8)(b). Intervention by all others is permissive and is within the sole discretion of the Commission.⁴

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 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 sufficient advised, the Commission finds that Mr. Casteel has demonstrated that he has a special interest in the proceeding over which the Commission has jurisdiction that is not otherwise adequately represented. Mr. Casteel filed a timely request for intervention. Mr. Casteel has a special interest as an owner of property within the right-of-way of the proposed

⁴ *Inter-County Rural Electric Cooperative Corporation v. Public Service Commission of Kentucky*, 407 S.W.2d 127, 130 (Ky. 1966).

construction. Although the transmission line does not cross Mr. Castel's property, he nonetheless has a special interest in this proceeding by virtue of the fact that his property is in the right-of-way of the proposed transmission line. It is reasonable to expect property within the right-of-way of an electric transmission line to be impacted by the construction of the line if the CPCN is granted. As the owner of property within the right- of-way of the proposed line, Mr. Casteel has a special interest in these proceedings.

Based on the above, the Commission finds that Mr. Casteel should be granted full rights of a party in this proceeding. The Commission directs Mr. Casteel to the Commission's July 22, 2021 Order in Case No. 2020-00085⁵ regarding filings with the Commission.

IT IS HEREBY ORDERED that:

1. Mr. Casteel's motion to intervene is granted.
2. Mr. Casteel is entitled to the full rights of a party and shall be served with the Commission's Orders and with filed testimony, exhibits, pleadings, correspondence, and all other documents submitted by parties after the date of this Order.
3. Mr. Casteel shall comply with all provisions of the Commission's regulations, 807 KAR 5:001, Section 7, related to the service and filing of documents.
4. Mr. Casteel shall adhere to the procedural schedule set forth in the Commission's October 2, 2023 Order and as amended by subsequent Orders.
5. Pursuant to 807 KAR 5:001, Section 8(9), within seven days of service of this Order, Mr. Casteel shall file a written statement with the Commission that:

⁵ Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus COVID-19* (Ky. PSC July 22, 2021), Order (in which the Commission ordered that for case filings made on and after March 16, 2020, filers are NOT required to file the original physical copies of the filings required by 807 KAR 5:001, Section 8).

a. Certifies that he possesses the facilities to receive electronic transmissions; and

b. Sets forth the electronic mail address to which all electronic notices and messages related to this proceeding shall be served.

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PUBLIC SERVICE COMMISSION

Kent Baker

Chairman

*by KAC
w/permission*

Angie Harbourn

Vice Chairman

Mary Pat Roquemore

Commissioner

ENTERED
OCT 16 2023
rca
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:

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Executive Director

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