

**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 CONVENIENCE AND NECESSITY FOR ) **CASE NO**  
FOR THE CONSTRUCTION OF A 138 kV ELECTRIC ) **2005-00089**  
TRANSMISSION LINE IN ROWAN )  
COUNTY, KENTUCKY )

**APPLICATION FOR REHEARING**  
**AND REQUEST FOR ORAL ARGUMENT**

**INTRODUCTION**

East Kentucky Power Cooperative, Inc. ("EKPC"), pursuant to KRS 278.400, hereby requests that the Public Service Commission ("Commission") grant a re-hearing of the Order entered August 19, 2005 in this case (the "Order"), denying a Certificate of Public Convenience and Necessity ("CPCN") to construct a 6.9 mile 138 kV transmission line connecting the Cranston Substation with the Rowan County Substation in Rowan County, Kentucky. Due to the significance of this matter and the operational needs of EKPC, EKPC respectfully requests that the Commission schedule oral argument to assist it in deciding the issues presented in this Application.

Re-hearing is sought because the Order,

1. imposes unnecessarily higher costs on end-use ratepayers;
2. exposes end-use ratepayers to the *risk* of cascading blackouts; and
3. is inconsistent with the law, past practices of the Commission and with the public policy of the Commonwealth.

## ISSUES AND ARGUMENTS

1. Generation Redispatch Costs Resulting From The Inability To Construct The Cranston-Rowan Project Are Estimated To Cost Kentucky Ratepayers As Much As \$221,160,000 Over The 3-year Period That Might Be Necessary To Re-Permit The Project.

The denial of a construction certificate for the Cranston-Rowan project immediately imposes higher costs on EKPC's end-use member/ratepayers. The Commission acknowledged that the proposed alternative route was more costly by at least ONE MILLION DOLLARS. That amount, however, is only the tip of the iceberg.

Based upon data obtained since the formal hearing in this case on July 18, 2005, **EKPC now estimates that the generation redispatch costs alone caused by the absence of this line during the delay to obtain new approvals will total between \$24,620,000 and \$221,160,000, depending upon the level of north-south power transfers through Kentucky's transmission grid. (See Warner Affidavit).** This is based on the estimated two to three year delay in obtaining approval of a new Environmental Assessment by the United States Forest Service ("USFS") for the new route suggested by the Commission at the hearing.

The primary reason for this huge increase in redispatch costs is transmission constraints caused by overloads on the existing transmission grid in northeastern Kentucky. Because of these constraints, EKPC, on numerous occasions, had to reduce coal-fired baseload generation at its Spurlock Power Station in Mason County and replace that with much higher priced gas-fired combustion turbine generation at its JK Smith Power Station on purchased power. (See Warner Affidavit). As Ms. Warner states, the reason for this re-dispatch is the present inadequacy of the transmission grid in this area of the state. The Cranston-Rowan project is

necessary to alleviate this congestion. The delay in the construction of the Cranston-Rowan line is a direct cause of the imposition of these costs upon the ratepayers of Kentucky.

These estimates realistically bracket the risk created by the variability of the level of north-south transfers, but the actual costs should be between the estimates. These costs will be borne by ratepayers as a result of the Commission's denial of a certificate for this project. It is the Commission's statutory mandate to protect Kentucky ratepayers from excessive costs where such costs are unavoidable. The Commission must recognize, accept and protect this responsibility.

The "Report on the Need for Cranston-Rowan 138 kV Transmission Line Proposed by East Kentucky Power Cooperative, Inc. Case Number 2005-00089" filed in the record by the Commission's consultant MSB Energy Associates, recognizes these costs where it states at page 25 that

As previously mentioned, backing down Spurlock and bringing up JK Smith can alleviate transmission problems. While non-economic dispatch can alleviate transmission problems, there is a cost if the more expensive to operate JK Smith combustion turbines are operated instead of the lower cost coal plants or purchased power. While an operating guide utilizing non-economic dispatch may help maintain service reliability; it is possible that the foregone opportunities to buy cheaper power or dispatch the cheapest power plant would cost as much or more than making transmission system improvements.

However, these cost estimates could not have been determined through reasonable diligence prior to the Commission's decision in this case. These estimates are new data based upon the delay of the project that was just created by the Commission's failure to issue a certificate. Moreover, it could not have been anticipated that the Commission would attempt to so radically alter the criteria upon which a certificate is granted. Relying upon the criteria that had been utilized by the Commission in the past, EKPC's cost analysis showed a cost

difference of about \$1 million in construction costs between the least cost alternative and the alternative of the next higher cost. EKPC's proposal affects fewer property owners, fewer acres of property and has the approval of the United States Forest Service ("USFS") for that portion crossing federal land. While redispatch costs were known to be a possibility at some level, a detailed analysis of the magnitude of these costs was not required to justify the project under the Commission's old rules, and consequently was not performed. The Commission's decision order recognizes this "Catch 22" and at page 6, the Commission states that it "finds no fault with EKPC's transmission least cost planning," and that "EKPC has properly performed its duty in this regard." However, now that the Commission has subsequently attempted to change the rules, these issues no longer appear to be relevant.

Because of the unnecessary imposition of additional costs of this magnitude on Kentucky's ratepayers, the Commission's Order conflicts with Administrative Case No. 2005-00090 styled, *An Assessment of Kentucky's Electric Generation, Transmission and Distribution Needs*. The impetus for the administrative case is Governor Fletcher's Executive Order 2005-121 which recognizes that, ". . . maintaining low electric rates is critical to improving the lives of Kentucky's low-income families, and protecting those with fixed incomes." To that end, the Commission's Order establishing the administrative case said,

"Kentucky enjoys some of the lowest electric rates in the nation. In a recent report entitled "Kentucky's Energy: Opportunities for our Future," the Commonwealth Energy Task Force established by Governor Ernie Fletcher, underscores the significant benefits of Kentucky's low energy rates. Residential consumers, particularly those with low or fixed incomes, depend on low electricity rates in order to afford goods and other services. Kentucky-based businesses and industries rely on low-cost electricity to maintain their regional, national and international economic competitiveness."

EKPC submits that based on the magnitude of the redispatch costs that will be incurred by EKPC's members, the Commission should grant a limited new hearing to further examine this evidence and reconsider its Order.

2. Large Areas Of Northeastern Kentucky Will Be Subject To The Risk Of Cascading Blackouts Until Such Time As The Cranston-Rowan Line Can Be Constructed.

The Order under review exposes end-use ratepayers to the very real risk of cascading blackouts. As such, the Order conflicts with Administrative Case No. 2005-00090, and with the Commission's concern with preventing, where preventable, widespread blackouts. This issue first appeared in Administrative Case No. 387 styled, *A Review of The Adequacy of Kentucky's Generation Capacity and Transmission System*, where the concern was raised that Kentucky must do all it can to avoid the massive blackouts that occurred in California in 2001. The enormous blackouts in the Midwestern and northeastern United States also captured everyone's attention in 2003, and prompted the Commission to initiate their current assessment of the vulnerability of Kentucky's electric transmission system to electric disturbances.

EKPC submitted to the Commission in response to Commission Staff's First Data Request in this case, Item Number 1, and subject to a Petition for Confidential Treatment based on Homeland Security reasons, the most recent East Central Area Reliability Council ("ECAR") Transmission Assessment. However, the Commission apparently either overlooked or underestimated those portions of the ECAR assessment that described the potential for cascading blackouts in northeastern Kentucky if the Cranston-Rowan line is not constructed. Due to the obvious exposure of the transmission grid to terrorist attacks, and the disaster that could ultimately follow, ECAR normally requests that its members keep this type of

vulnerability assessment confidential. However, due to the critical need to have the Cranston-Rowan line completed as soon as possible, ECAR has agreed to a release of certain portions of this assessment, in an effort to convince the Commission to grant a rehearing of its denial of a certificate to construct this line.

On page 2 of the Executive Summary of the EKPC portion of the ECAR Assessment, it states:

The facilities of particular concern are the Avon 345-238 kV transformer, the Avon-Boonesboro North Tap 138 kV line, and LGEE's Goddard-Rodburn 138 kV line. These facilities all have the potential for significant overloading for either single-contingency or double-contingency conditions. Due to this, it is imperative that CT generation in the central Kentucky area be dispatched to avoid excessive loading on these facilities if the critical contingencies were to occur.

In addition to the thermal overloads, significant voltage problems were observed in the stress case for both single-contingency and double-contingency conditions. Many of the single-contingency problems were observed in the Rowan County area. These problems exist due to the delay in the construction of EKPC's Cranston-Rowan County 138 kV line. (*Emphasis added*)

On page 3 of the Executive Summary, the ECAR Assessment states:

The sensitivity case indicates that severe problems could occur if significant north-south transfers are ongoing. The sensitivity case and the P-V analysis both indicate the importance of having sufficient generation dispatched in the central Kentucky area. A combination of reduced generation in central Kentucky, north-south transfers, and transmission outages could result in unacceptable conditions for both the EKPC and LGEE systems.

On page 37 of the ECAR Assessment it states:

Of these four facilities, the results are particularly severe for the Avon-Boonesboro North Tap 138 kV line (34 different contingencies) and the Goddard-Rodburn 138 kV line (6 different contingencies). Since this exceeds the 130% threshold used in this study, a potential cascading analysis was performed. The details of this cascading analysis are included in Appendix D. The result shows that after several levels of facilities tripping due to excessive loadings, the case ultimately diverges. Therefore, the potential for unplanned and uncontrolled cascading and loss of load in central and eastern Kentucky cannot be ruled out. (*Emphasis added*)

The key language is the last sentence of this excerpt. The phrase “unplanned and uncontrolled cascading and loss of load” means a cascading blackout which is exactly what occurred in New York City, the Northeast United States and parts of Canada on August 13, 2003. This is the ultimate failure of a transmission system and without the Cranston-Rowan line, the potential for this to occur clearly exists in northeastern Kentucky. The specific tie-in to the Cranston-Rowan project is contained on page 38 of the ECAR Assessment:

The overloads of the Goddard-Rodburn 138 kV line and the EKPC-LGEE Goddard 138 kV interconnection will be addressed by construction of a 138 kV line from EKPC’s Cranston Substation to the Rowan County Substation. (*Emphasis added*)

The major cause of these cascading blackouts is the overloading of the Goddard-Rodburn line and the Goddard 138 kV interconnection which are exactly the problem the Cranston-rowan project will cure.

On page 39 the ECAR Assessment goes on to state:

Since these overloads exceed 130%, a cascading analysis was conducted. Two transmission outages in conjunction with generating unit outages resulted in loadings in excess of 130% for the Avon-Boonesboro North Tap 138 kV line. A cascading analysis was performed for both of these transmission contingencies in conjunction with the worst generating unit outage. The details of the cascading analyses are listed in Appendices E, F, and G. The results all indicate that the potential for cascading outages and loss of load exists in the central and eastern Kentucky area for these scenarios. (*Emphasis added*)

On page 40:

The single-contingency cascading analysis performed for the Avon-Boonesboro North Tap and Goddard-Rodburn 138 kV lines indicated a potential for cascading and significant load loss. (*Emphasis added*) This concern is evident for several potential double-contingency combinations as well.

On page 41:

In several of these cases, some level of load shedding [blackouts] would most likely be required to increase voltages sufficiently in these areas. [Brackets and emphasis added]

Clearly, the Commission's decision denying a certificate for the Cranston-Rowan line has put northeastern Kentucky at risk of cascading blackout for the two to three years that may be required to re-locate and re-design this line and obtain approval for a new environmental assessment.

These blackouts could affect a 10-county area in northeastern and central Kentucky including Bath, Carter, Elliott, Fleming, Johnson, Lawrence, Menifee, Montgomery, Morgan and Rowan Counties. (See Warner Affidavit). Neither ECAR nor EKPC is asserting that a blackout like this will definitely occur, and the intent is certainly not to unduly alarm the public, but the fact is that this is a very real possibility that exists until such time as the Cranston-Rowan line is completed.

To demonstrate just how real this possibility is, on Tuesday, September 6, 2005, one of the single contingencies that could lead to these blackouts actually occurred. On that date, KU's Goddard-Rodburn 138 kV line was taken out of service for maintenance. This resulted in a peak flow during that outage of approximately 235 MVA on EKPC's Avon-Boonesboro North 138 kV line, which is approximately 106% of the line's summer emergency rating. Subsequent analysis has determined that cascading outages could have potentially occurred as a result of the Goddard-Rodburn outage on that day. The analysis showed that if the Avon-Boonesboro North line had tripped at a loading of 235 MVA, overloads would have occurred on the 69 kV system in the Goddard area of nearly 120%. If that overloaded facility were to trip, subsequent facilities could have tripped due to excessive loading, until a significant



amount of load was dropped in the northeastern part of Kentucky. This is how close the system came to the very cascading that had been identified in the ECAR Assessment. (See Warner Affidavit)

EKPC is raising this issue to be sure that the Commission is aware of the significance of the statements contained in that portion of the record of this case, and request the Commission to order a rehearing to re-examine the critical importance of the timely completion of this project to the reliability of the transmission grid in Kentucky.

3. The Order Issued By The Commission Is Contrary To The Law, Past Practices Of The Commission And To Public Policy.

The Order under review conflicts with well established law, past practices of the Commission and the public policy of this Commonwealth on *least cost planning*, and the concept of *wasteful duplication*.

The issues before the Commission in this certificate-to-construct case are (1) whether there is a *need for improved transmission service*; and (2) whether existing facilities in place are adequate to meet the *need*. All agree that KU v. PSC, Ky., 252 S.W.2d 885 (1952) applies, but the Commission misapplied the case to the present facts.

A. Least Cost Planning And Wasteful Duplication.

As a starting point, we note that KU v. PSC, supra., was concerned with proposed, new construction which would *parallel* existing transmission facilities owned by third parties. In point of fact, the opinion makes clear that its focus is only on the proposed *parallel* lines, and no others,

“The evidence. . .establishes that some of the proposed transmission lines. . . will not *parallel* existing lines. . . and with respect to those lines there will be no duplication in any of the meanings we have ascribed to the term.” At pp. 891, 892.

As to proposed lines which would *parallel* existing facilities, the court posed this question,

“There arises the question of whether the lines of the appealing utilities, in the areas where they would *parallel* East Ky. Lines, could be made adequate to serve the co-ops at an expense much less than the expense of building the separate transmission lines proposed by East Ky. . . . It may be possible that some of the lines of the appealing utilities, which necessarily must be enlarged, expanded or replaced, and which would *parallel* proposed lines of East Ky., could be made adequate to serve all consumers at a cost much lower than a cost of two separate sets of lines. If so, to permit East Ky. to build a separate line would result in duplication from a standpoint of an excessive investment in relation to efficiency.” At p. 892.

The Court’s concern is with cost; and the court wanted assurances that the *least cost approach* would be studied and used, if feasible. In point of fact, the Court’s discussion of *wasteful duplication* was aimed not just at cost, but on the *need* for any second set of facilities. For example, the court wanted to know, (1) if East Kentucky Power could *wheel* power on existing facilities owned by third parties ; or, (2) whether existing facilities of third parties (which were already scheduled for upgrading), could be further upgraded to reasonably accommodate East Kentucky Power’s *need* for improved transmission service. If either scenario were feasible, then ratepayers would benefit.

In so many words, the idea behind *wasteful duplication* is concerned with this question: can existing facilities handle the *need* without upgrade (wheeling); or, can existing facilities scheduled for upgrading, also accommodate the *need* – *for less cost*

*than a second set of facilities.* The concept behind *wasteful duplication* is cost minimization. Fundamental to this concept of wasteful duplication are the incidental benefits of having (1) fewer poles and wires; and (2) preservation of the full economic use of land which otherwise would be lost or diminished through occupation by a second set of facilities. The Order under review would violate this public policy, in an effort to promote environmental concerns that are beyond the Commission's statutory authority.

As set forth in Section 7. of this Petition, the alternative route presented by the Commission and its consultant would have (1) more poles, (2) have a greater impact on the full economic use of land than EKPC's and the USFS proposed route, since it would affect many more private property owners and many more areas of residential, commercial and agricultural property, (3) cost significantly more money and (4) subject ratepayers to the risk of cascading blackouts.

Never before has the concept of wasteful duplication been used to impose higher costs. And never before has the "clutter of poles and wires" been elevated in importance over reliability and costs.

B. The Route And Location Of The Proposed Transmission Line Are Not Issues Within The Authority Of The Commission To Review In Determining Whether This Line Is Required By The Public Convenience And Necessity.

It should be helpful to contrast this with the enactment of KRS 278.700 through KRS 278.716 in 2002. There, the Legislature did intend to create siting and routing authority over certain transmission lines, and throughout that statute the Legislature set forth comprehensive and specific requirements for location and comprehensive and specific factors to be considered in routing and siting.

Consequently, the Commission does not have the authority under law to deny a construction certificate based upon the possible existence of alternate routes or locations for a transmission line.

C. Lack Of Fair-Notice To Jurisdictional Utilities.

EKPC's philosophy on new line construction accords with KU v. PSC, supra, and with the Commission's long-standing practice of encouraging least-cost planning. In fact, the Commission recognized that EKPC approached this project from the standpoint of minimizing cost. At p. 6 of the Order, the Commission wrote, "The Commission finds no fault with East Kentucky Power's transmission least-cost planning, which it performs to minimize utility investment that will ultimately be borne by ratepayers. East Kentucky Power has properly performed its duty in this regard."

The line under review was studied and recommended based on, and in accordance with Commission practice. In fact, the Commission emphasized this point in stating,

"The Commission recognizes the "Catch-22" in which East Kentucky Power may believe it is now caught. East Kentucky Power began planning this line well before the amendments to KRS 278.020 gave the Commission jurisdiction over this type of case. Operating under the guidelines of "least cost," East Kentucky Power may have chosen the proposed route so it could be assured that it could recover the costs of the line. It may have thought that, if the Forest Service approved the line through the Forest, it would be allowed to recover the cost of that line; and if the Forest Service turned down the application to go through the Forest, East Kentucky Power could propose a more expensive line, the cost of which it would be allowed to recover in rates given that I could not build the cheaper line. Then, after having sought approval for the less expensive route, East Kentucky Power now learns that it must propose a different route. " at p.8

It is unfair, arbitrary and capricious for the Commission to now apply a different standard than previously used and relied upon by EKPC. The Commission's new rules, which, for the first time, and without any standards, elevates environmental considerations above cost, is neither authorized by statute nor the Commission's implementing

regulations. As such, the application of new standards, without fair notice, constitutes an *ultra vires* action by the Commission in excess of authority delegated to it by the Legislature, Boone County Water and Sewer Dist. v. Public Service Commission, 949 S.W.2d 588, Ky. (1997); South Central Bell Telephone Co. v. Utility Regulatory Commission, 637 S.W.2d 649, Ky. (1982); City of Olive Hill v. Public Service Commission, 203 S.W.2d 68, Ky., (1947).

D. Excessive Concern For The National Forest Makes The Order Arbitrary.

The Order is obviously and abundantly focused on the National Forest as noted in these quotes excerpted from it,

“This application raises unique issues because the proposed line would run through the Forest.” At p. 4.

. . . The cross-examination focused on the feasibility of alternate routes that would skirt the Forest. At. P. 4.

. . . The Commission recognizes that proposing to construct a transmission line through a national forest presents a unique circumstance.” At p. 6.

“East Kentucky’s proposed transmission route would cut through a part of the Forest that is not now host to any other lines.” At. P. 6.

These unique characteristics (of the Forest) make the Commission especially sensitive to the location of the proposed transmission line. At. P. 6.

When KRS 278.020 was amended in 2004, the criteria for determining wasteful duplication was not modified, and the Commission took the position that *environmental* concerns such as the National Forest were no part of the amended statute nor of the Commission’s implementing regulations. Proof of its position is found in the Commission’s own comments which were provided to the Legislature as part of the Commission’s Regulatory Impact Analysis for 807 KAR 5:120, to wit,

- (12) Subject Matter. Filing of environmental, historical, and archaeological impact statement.
  - (a) Comment: The Council requested that applicants be required to file detailed statement discussing environmental, historical, and archaeological impacts that the line will have in the area.
  - (b) Response: The only mention in Chapter 75 of property impacts is the provision giving individual landowners the right to move for intervention. The statutory amendments therefore do not provide support for requiring the filings the Council suggests.
  
- (13) Subject Matter. Filing of any written environmental, historical, or archaeological assessments required by other governmental agencies.
  - (a) Comment: Big Rivers and EKPC objected to the requirement that an applicant file a copy of each written assessment of the environmental, historical, and archeological impact of the proposed construction, if any, required by any other governmental administrative agency.
  - (b) Response: The PSC agrees that the legislative language and history do not adequately support this requirement.
  
- (14) Subject Matter. Require that filing address impact on human and natural environment.
  - (a) Comment: The Council requested that an application also include consideration of the impact of the proposed line on the human and natural environment as well as alternative locations to address these issues. The Council further requested that, before issuing a certificate, the PSC would have to make a finding “that the applicant has demonstrated that due consideration, consistent with the project purpose and cost, has been given to location, configuration and proposed maintenance of lines and corridors so as to minimize adverse property, scenic, and environmental impacts, and that all reasonable alternatives have been considered, including co-location of the line along existing utility rights-of-way.”
  - (b) Response: For the reasons stated in item (12) above, the PSC does not believe the legislation supports this change.

A complete set of the Commission’s official comments are attached as Exhibit II.

The Commission’s Order is saturated with concern about the National Forest.

However, neither the statute, as amended or its implementing regulations confer jurisdiction upon the Commission to make this concern an integral part of the outcome for

this case. Because the Commission has been overly concerned with protecting the National Forest system lands (even though the Forest Service has approved to the crossing) and because that concern comes through loud and clear in the Order, it is clear that its decision improperly places too much importance on an issue which has no part in the decision-making process. Accordingly, the Commission exceeded the scope of its granted powers which makes the Order arbitrary, Allen v. Kentucky Horse Racing Authority, 136 SW3d 54 Ky. App. , (2004).

E. The Order Is Arbitrary As Not Now Supported By Substantial Evidence.

Another issue which makes the order arbitrary is the lack of substantial evidence in the alternative route selection. After making findings of need for the project, the Commission refuses the project on findings that an alternative route could possibly use some portion of existing rights-of-way owned by third parties. There is no proof in the record that such rights-of-way are available. In point of fact, the Commission knows that EKPC has no permission to do anything more than the project it proposed, and that to do the alternative project requires permissions which are not currently available and which may never be available. The Commission acknowledged in its Order that new environmental reviews would be required for crossings through the National Forest, including a new Environmental Assessment or Environmental Impact Statement. Not only are these reviews untimely for a critically needed project, but their outcome is uncertain. In so many words, the Commission rejected a project which the record shows to have been well studied, less costly and “ready to go” in favor of a project which is more costly, uncertain on many variables and without any assurance that it can work.

On such a record, the Commission's Order is inconsistent with its findings on a need for the project and can only be regarded as arbitrary as not supported by substantial evidence, Allen, supra.

F. The Alternate Route For The Cranston-Rowan Line Proposed By The Commission And The Commission's Consultant At The Formal Hearing Is Contrary To The Law, Commission Practice, And Public Policy As It Will Impact Considerably More Private Property And Private Property Owners Than The EKPC Proposed Route.

The first suggestion of an alternative Cranston-Rowan route paralleling the existing KU line was made by the Commission's Consultant, Jerry Mendl, at the formal hearing. At page 4 of the Commission's decision order, the Commission stated that the MSB Report identified two alternative routes for the project, some of which avoided the forest. This is incorrect. The MSB Report identified two different electrical alternatives, not different route alternatives for the Cranston-Rowan project. Electrically, these are two different projects. One was the rebuild of the Goddard-Hilda-Rowan line from 69 kV to 138 kV, and the other was a Cranston-Rodburn project. Neither of these adequately addressed the problems on the transmission grid. At the hearing Mr. Mendl agreed with EKPC's assessment contained in its Response to Commission Staff's Data Requests 25 and 26 that the Cranston-Rodburn project and the Goddard-Hilda-Rodburn rebuild were not viable from an electrical standpoint, and wouldn't fix the existing problems on the transmission grid. As a result, these projects were rejected for electrical reasons, so there was no need to conduct an evaluation of the routes before the hearing.



However, Mr. Mendl did go on to state at the hearing that if his alternative Cranston-Rodburn project were extended on to the Rowan Substation, it would work electrically. This is obviously true because, electrically, it was the same as the proposed project, just along an alternate route. This was the first time this alternative route was proposed for the Cranston-Rowan project. The Chairman requested EKPC to submit a response to a post-hearing data request evaluating the construction costs of this Mendl/Commission route, which EKPC did. In developing the cost estimate for this response, EKPC could not rely on vague generalities, such as the route shown on the Commission-prepared map presented by staff at the hearing, but had to establish a specific centerline for this route that was viable from an engineering standpoint. After the hearing, comparative information has been developed on this route which illustrates the additional impact on private property owners, and should be considered in evaluating the viability of this route for purposes of a rehearing in this case.

This Mendl/Commission route crosses 62.91 acres of private property as opposed to 24.36 acres of private property on the route proposed by EKPC. There will be 35 private property owners that will have their property acquired on the Mendl/Commission route as opposed to 18 private property owners on the EKPC proposed route. Of these 18 property owners, 16 have already agreed to convey easements to EKPC for the line crossings on their properties. Of the 35 private property owners crossed by the Mendl/Commission route, 34 are new and were not affected by the EKPC proposed route. The Mendl/Commission alternative only decreases the acreage of right-of-way on National forest property from 59.03 acres to 57.09 acres. (See Warner Affidavit). While the Commission may perceive that it is

minimizing the burden on federal land with its proposed route, it is obviously greatly increasing the burden on Kentucky's private property owners. As the Commission is surely aware, each one of these Kentucky private property owners can intervene in any subsequent case utilizing the Mendl/Commission route, and can potentially challenge any certificate granted for such a route.

The Commission's preferred route will cost more, and will have more total impact on the land of the Commonwealth—creating just the wasteful duplication that the Commission is charged with preventing. This cannot be justified in the name of avoiding impacts on federal land that are beyond the jurisdiction of the Commission and are not opposed by the USFS.

G. The Determination And Approval Of The Location And Routing Of Electric Transmission Lines Across U.S. Forest Service-Managed Lands Has Been Delegated By Congress To The U.S. Forest Service, And The Commission Must Accept Such Determination.

The United States Congress has delegated to the Secretary of Agriculture the authority to grant rights-of-way for electric transmission lines across federally-owned lands within the National Forest System. 43 U.S.C. 1761. The Secretary has, in turn, delegated this authority to the Chief of the Forest Service and down through Regional Forester Forest Supervisor and District Ranger. 36 CFR §251.52. et. seq. This federal authority has been duly exercised by the U.S. Forest Service in approving the environmental assessment which determined the approved route for the Cranston-Rowan transmission line. As such, the Congressionally authorized federal agency has determined the location of this line across federally-owned lands. The Commission has not been delegated either by Congress, the Kentucky General Assembly, or otherwise, any authority to overrule or otherwise

modify the determination of the U.S. Forest Service as to the route and location of this line across federal land. It necessarily follows, therefore, that the Commission must accept the route or location of this line as determined and approved by the U.S. Forest Service. See U.S. v. State of Oregon, 295 U.S. 1, 55 S. Ct. 610, 79 L.Ed. 1267 (1935), where the court held that the laws of the United States control disposition of federal lands, and the states are powerless to place any limitation or restriction on that control. *Id.* at 27 & 28.

H. It Seems Apparent That The Commission In Its Order Misunderstood The Scope Of Review Undertaken By The United States Forest Service In Its Review Of “Alternatives” As Part Of The Environmental Assessment Process.

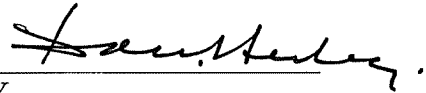
Based on statements made by the Commission at the hearing of this case and in its decision order, it is quite reasonable to assume that the Commission’s may have misunderstood the length and scope of the review process of the United States Forest Service in approving an Environmental Assessment (“EA”). There also seems to be some misunderstanding as to the terminology of the “Alternatives” that were considered by the USFS. This information is directly relevant to the Commission’s rejection of the USFS’s EA, and without it, the Commission cannot have an accurate understanding of what “alternatives” mean in this context or the significance of the term. Unfortunately, due to USFS regulations the position of USFS officials and attorneys, this information can only be provided by way of subpoenaed testimony at a rehearing of this case. The Commission should, therefore, order a rehearing of this case to allow USFS personnel who directly participated in this process to provide the Commission with information directly relevant to its decision that the Commission did not appear to possess prior to its decision.

**REQUEST FOR ORAL ARGUMENT AND CONCLUSION**

Because of the magnitude of the costs that will be imposed upon Kentucky ratepayers during the delay in the construction of this project and the critical importance of this line to the integrity and reliability of the Kentucky transmission grid, EKPC requests that the Commission order that oral arguments be held on the issues presented in this Application for Rehearing. Further, because the Commission has acknowledged that its Order created an unanticipated dilemma and because of the further acknowledgment that EKPC had properly presented and practiced its case, in compliance with existing Commission standards, the Commission should accept and consider any additional evidence offered with the Application. See KRS 278.400.

EKPC's sole motivation in seeking a rehearing is to keep electric rates low, and reliability high.

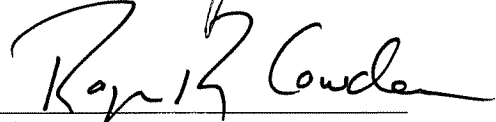
Respectfully submitted,



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859-744-4812

CERTIFICATE OF SERVICE

This is to certify that an original and 10 copies of the foregoing Application for Rehearing and Request for Oral Argument in the above-styled case were hand delivered to the office of the Public Service Commission, 211 Sower Boulevard, Frankfort, Kentucky 40601, and one copy was mailed to each party of record, this 12th day of September, 2005.

  
SHERMAN GOODPASTER III

(H:legal/psc-2005-00089-app for rehearing)

**EXHIBIT I**

**COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION**

In the Matter of:

THE APPLICATION OF EAST KENTUCKY )  
POWER COOPERATIVE, INC. FOR A CERTIFICATE )  
OF PUBLIC CONVENIENCE AND NECESSITY FOR ) **CASE NO**  
FOR THE CONSTRUCTION OF A 138 kV ELECTRIC ) **2005-00089**  
TRANSMISSION LINE IN ROWAN )  
COUNTY, KENTUCKY )

**AFFIDAVIT OF MARY JANE WARNER**

Comes the Affiant, Mary Jane Warner, and states after first being duly sworn as follows:

1. She is presently the Manager of Power Delivery Expansion for East Kentucky Power Cooperative, Inc. (“EKPC”), and in that position has direct responsibility for the planning, routing, location, design and construction of all electric transmission lines of EKPC.

2. Because of recent constraints on the transmission grid in northeastern Kentucky that occurred subsequent to the hearing held herein, and the resulting estimated increases in EKPC’s charges to its members, a load flow analysis was conducted under her direction and supervision to estimate EKPC’s generation redispatch costs resulting from transmission constraints caused by the overloading of the KU Goddard-Rodburn line, which will be eliminated by the Cranston-Rowan line.

3. The primary reason for this increase in generation redispatch cost is the transmission constraints caused by overloading of the existing transmission grid in northeastern Kentucky. EKPC on numerous occasions, has had to reduce coal-fired

baseload generation at Spurlock Power Station and replace it with much higher priced gas-fired combustion turbine generation at J.K. Smith Station or purchased power.

4. These power flow cases were run for both peak load and shoulder peak for summer and winter of the years in question, and determined the amount of generation that would have to be reduced at Spurlock Power Station to prevent overloading of the Goddard-Rodburn line. The studies also determined the megawatts of redispatch for each hour of the years in question. A capacity factor of 91% was used and a cost of \$50/mWh was used for replacement energy cost. Two scenarios were run, one with no north-south power transfers and one with 4,000 MW of north-south transfers. A three-year period was used based on the amount of time it took to obtain approval for the current Environmental Assessment.

5. The results of the study are as follows:

| EKPC Redispatch Costs<br>Without North-South Transfers |                     | EKPC Redispatch Costs<br>With 4,000 MW of<br>North-South Transfers |                      |
|--|---------------------|--|----------------------|
| 2005   | \$ 150,000          |  | \$ 8,160,000         |
| 2006   | \$ 550,000          |  | \$ 44,760,000        |
| 2007   | \$ 120,000          |  | \$ 38,950,000        |
| 2008   | <u>\$23,800,000</u> |  | <u>\$129,290,000</u> |
| Total  | \$24,620,000        |  | \$221,160,000        |

The two numbers bracket the risk and the actual costs should lie somewhere in the middle.

6. The cascading blackouts in northeastern Kentucky referenced in the most recent East Central Area Reliability Council Transmission Assessment would encompass 10 counties, including Bath, Carter, Elliott, Fleming, Johnson, Lawrence, Menifee, Montgomery, Morgan and Rowan.

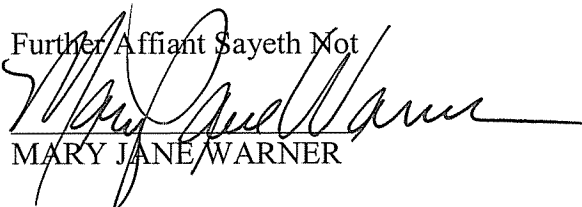
7. The proposed Cranston-Rowan transmission route as approved by the USFS crosses 18 parcels of private property totaling 2.01 miles and 24.36 acres of right-of-way. The alternate Cranston-Rowan route proposed at the hearing by the

Commission's Consultant, Jerry Mendl and proposed by the Commission, crosses 35 parcels of private property, 34 of which are new, totaling 5.19 miles and 62.91 acres of right-of-way. The EKPC proposed route crosses National Forest system lands for 4.87 miles totaling 59.03 acres of right-of-way. The Mendl/Commission route alternative crosses National Forest system lands for 4.71 miles totaling 57.09 acres of right-of-way. Sixteen of the 18 property owners on the EKPC proposed route have agreed to voluntarily convey easements to EKPC.

8. On September 6, 2005, KU's Goddard-Rodburn 138 kV line was taken out of service for maintenance. This resulted in a peak flow during the outage of approximately 235 MVA on EKPC's Avon-Boonesboro North 138 kV line, which is approximately 106% of the line's summer emergency rating.

Subsequent analysis has determined that cascading outages could have potentially occurred as a result of the Goddard-Rodburn outage on that day. The analysis showed that if the Avon-Boonesboro North line had tripped at a loading of 235 MVA, overloads would have occurred on the 69 kV system in the Goddard area of nearly 120%. If that overloaded facility were to trip, subsequent facilities could have tripped due to excessive loading, until a significant amount of load was dropped in the northeastern part of Kentucky. This potential for cascading had been identified in EKPC's Assessment of Expected System Performance for 2005 Summer conditions, performed to satisfy ECAR requirements to assess potential limitations for the transmission system.

Further Affiant Sayeth Not



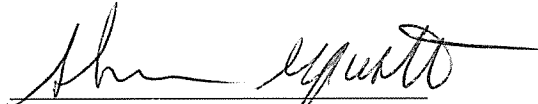
MARY JANE WARNER



STATE OF KENTUCKY )  
 )  
COUNTY OF CLARK )

Subscribed and sworn before me by Mary Jane Warner on this 12th day of  
September, 2005.

My Commission expires: *October 28, 2006*

  
\_\_\_\_\_  
Notary Public

(H:legal/psc- -affidavit of mary jane warner)

**STATEMENT OF CONSIDERATION RELATING TO 807 KAR 5:120  
Amended After Comments**

(1) A public hearing on 807 KAR 5:120 was held at 10:00 a.m. on August 31, 2004, in the Public Service Commission's Hearing Room 1, 211 Sower Boulevard, Frankfort, Kentucky 40602.

(2) The following people attended this public hearing or submitted written comments:

|                         |   |
|-------------------------|---|
| John J. Finnigan, Jr.   | On behalf of Louisville Gas and Electric Company; Kentucky Utilities Company; Kentucky Power Company; and The Union Light, Heat and Power Company |
| Tom FitzGerald          | On behalf of the Kentucky Resources Council, Inc.   |
| Sherman Goodpaster, III | On behalf of East Kentucky Power Cooperative, Inc.  |
| Scott Hagan             |   |
| Harry Lee Meyer         | On behalf of Louis K. Kemenz and St. Joseph Catholic Orphan Society   |
| James A. Miller         | On behalf of Big Rivers Electric Corporation  |

(3) The following people from the Public Service Commission (PSC) attended this public hearing or responded to the written comments:

Chairman Mark David Goss  
 Vice-Chairman Ellen C. Williams  
 Commissioner W. Gregory Coker  
 A. W. Turner, Jr., Counsel  
 Aaron Greenwell, Director, Division of Financial Analysis  
 Susan Hutcherson, Manager, Administrative Docket Branch  
 John Rogness, Manager, Management Audits Branch  
 Ruth Rowles, Geoprocessing Specialist  
 Elie R. Russell, Engineering Division, Electric Branch  
 David White, Engineering Division, Electric Branch

**Summary of Comments and Responses**

- (1) Subject Matter: Overall support for landowner input.
- (a) Comment: Scott Hagan, on behalf of himself, and Harry Lee Meyer, on behalf of Louis K. Kemenz and the St. Joseph Catholic Orphan Society, both expressed general support for the concept of allowing landowners to have a voice in the certificate process for a transmission line.

- (b) Response: The PSC's proposed regulation as well as the amended proposed regulation attached to this Statement of Consideration allow affected landowners to intervene in a certificate proceeding and raise their particular concerns with the PSC.
- (2) Subject Matter: Codify new regulation in existing 807 KAR 5:001.
- (a) Comment: James M. Miller for Big Rivers Electric Cooperative (Big Rivers) suggested that the proposed regulation be made a part of the current regulation that governs certificates for generating plants.
- (b) Response: The organization of the current regulation does not lend itself to additions without significant renumbering of often-cited provisions.
- (3) Subject Matter: Eliminate requirement for Notice of Intent to file.
- (a) Comment: Big Rivers recommended the elimination of the requirement to file a Notice of Intent to file an application. At the public hearing, Big Rivers orally withdrew that objection.
- (b) Response: The PSC explained that the Notice of Intent is necessary given the statutory deadline for an order on an application. Big Rivers understood why this type of certificate application differs from others, such as one for a generating plant, and agreed to withdraw its objection. The PSC, however, has added a provision in the amended proposed regulation to have the notice expire automatically after six months if no follow-up application has been filed by then.
- (4) Subject Matter: Change requirement for map of routes in Notice of Intent.
- (a) Comment: Big Rivers recommended that the requirement of "a map of suitable scale to show the route proposed and any alternative route that was considered" be eliminated because it duplicates a requirement of the application. Sherman Goodpaster, III, representing East Kentucky Power Cooperative, Inc. (EKPC), objected to the provision because of the delay EKPC believes such a filing will cause. Specifically, however, EKPC also recommended that the filing include a half mile corridor rather than a specific route. In a related comment, John J. Finnigan, representing the Commonwealth's investor-owned utilities (IOUs), recommended that no maps of alternative routes be required in the Notice of Intent.
- (b) Response: The PSC agrees that the requirements of the Notice of Intent were too prescriptive. When the utility gives a Notice of Intent to file, it may not have decided on a definite route, and the PSC does not want to extend the process to require the utility to make that decision before giving the Notice of Intent. Disclosure of alternative routes may also be postponed until the application is filed, so the amended proposed regulation moves that requirement to the application section. The purpose of the Notice of Intent is simply to give the PSC and interested parties some advance notice that an application is forthcoming, so a description alone will satisfy that requirement.

- (5) Subject Matter: Prescribe scale of map of routes in Notice of Intent.
- (a) Comment: Tom FitzGerald on behalf of the Kentucky Resources Council, Inc. (Council), recommended that the maps included with the Notice of Intent to file should be of a required scale rather than simply saying the scale should be "suitable."
- (b) Response: Pursuant to (4), the PSC believes the requirement for maps in the Notice of Intent should be eliminated.
- (6) Subject Matter: Scale of maps in application.
- (a) Comment: The IOUs, Big Rivers, and EKPC all argued that the map scale of one inch equals 400 feet is too small for longer projects and recommended a scale of one inch equals 2000 feet instead.
- (b) Response: The PSC agrees that the 400 foot scale could be too small for very long lines, but the 2000 foot scale could be far too big for shorter projects. The PSC is proposing a one inch equals 1000 feet scale in the amended regulation, although Staff or intervening parties may request maps of different scales during discovery if they are needed.
- (7) Subject Matter: Requirement that application show route and structures.
- (a) Comment: EKPC reiterated its request that the applicant need not show the exact proposed route of the line but simply a half mile corridor in which it will be located. In a related comment, the IOUs proposed that the location of "structures and facilities" be replaced with the word "buildings" to ensure that the location of poles and towers was not required.
- (b) Response: The PSC believes affected landowners will want and need to know the exact proposed location of the line as well as the location of poles and towers to be able to know if they should intervene in the case. The amendment giving them the right to request intervention specifically refers to "a person over whose property the proposed transmission line will cross." KRS 278.020(8). Moreover, the PSC is proposing that sketches of typical support structures be provided so the landowner will understand the size and material of the poles or towers.
- (8) Subject Matter: Notice to individual landowners.
- (a) Comment: Big Rivers and EKPC both objected to the requirement that individual landowners be notified of the proposed line. Big Rivers argued that landowners whose land may be crossed have no more right than anyone else in the certificate proceedings. Furthermore, Big Rivers maintained that the only issues in the case are whether there is a need and demand for the service and whether its construction would be a wasteful duplication of facilities.
- (b) Response: The PSC believes the legislative intent demonstrates that the views of Big Rivers and EKPC are far too limited. This issue in Kentucky has previously been

guided by judicial decision. The key cases are *Satterwhite v. Public Service Commission*, 474 S.W.2d 387 (Ky. 1972), and *Duerson v. East Kentucky Power Cooperative, Inc.*, 843 S.W.2d 340 (Ky. Ct. App. 1992). *Satterwhite* decided two issues: (1) that individual landowners whose land was to be crossed by the transmission line are not interested persons and thus are not entitled to intervene because (2) the only issues were whether there is a need and demand for the service and whether its construction would be a wasteful duplication of facilities. In *Duerson*, the court ruled that all transmission lines are extensions in the ordinary course of business and thus, under the exception of KRS 278.010, do not require a certificate.

In requiring utilities to file a certificate case for transmission lines of a certain size and length, Chapter 75 (Senate Bill 246) directly overruled *Duerson*. The provision specifying that individually-affected landowners are interested persons who may intervene likewise directly overruled the contrary result in *Satterwhite*. Moreover, that latter provision expanded the issues the PSC may consider when such a landowner intervenes. If the only issues the landowner could raise were the ones delineated in Big Rivers' comments and in *Satterwhite*, allowing individual landowner intervention would make no sense. In fact, the legislative debate confirms a contrary intent. For example, in his comments in this rulemaking proceeding, Scott Hagan specifically talked about his testimony in committee on Senate Bill 246, and he pointed out, "Every legislator who spoke that day in committee indicated that the passage of this bill was intended for me and every property owner like me who deserves a hearing and an opportunity for an independent body (the Public Service Commission) to review the need for such a dramatic investment and **the wisdom of its placement in the community.**" (emphasis added.) PSC Staff was present and heard similar testimony and legislators' comments indicating an intent to overrule the limited issue requirement in *Satterwhite*.

The PSC believes the proposed regulation allowing individual landowners to intervene and raise their property-specific issues in a transmission certificate case is in furtherance of the legislative intent of the new statutory provisions.

- (9) Subject Matter. Reliance on PVA records for purposes of notice to landowners.
- (a) Comment: The IOUs requested that they be allowed to rely on records in the Property Valuation Administrator's (PVA) office in sending individual notices to affected landowners. They claimed having to do a title search to check behind PVA records would be time-consuming and burdensome.
  - (b) Response: The PSC believes a utility building a transmission line will have to do a title search of land records before finalizing the route. Nevertheless, if such a title search has the potential to unduly slow down the process, the PSC believes reliance on PVA records is acceptable. Notice to all interested persons will be enhanced, however, if not only landowners whose property will be crossed, but adjoining

landowners, are individually notified. This requirement should also address the issue of how to notify landowners whose land may be impacted by any adjustments in the location of the line. To ease the burden of requiring that this additional set of people be notified, the PSC is proposing to remove the requirement of service of the notices by certified mail and replace it with first class mail.

- (10) Subject Matter. Filing of all individual notices.
  - (a) Comment: The IOUs requested that, rather than having to file a copy of every notice sent to individual landowners, the utility file a sample of the notice and a list of names and addresses of everyone to whom a notice was sent.
  - (b) Response: The PSC adopts this suggestion in the amended proposed regulation.
- (11) Subject Matter. Requirement to file statement summarizing discussions with landowners.
  - (a) Comment: Big Rivers requested elimination of the requirement for the utility to file a summary of all discussions with affected landowners occurring at public meetings.
  - (b) Response: The PSC believes this requirement is no longer necessary because landowners unsatisfied with the results of public meetings are likely to intervene in the certificate case and express their concerns in pleadings or at a hearing.
- (12) Subject Matter. Filing of environmental, historical, and archaeological impact statement.
  - (a) Comment: The Council requested that applicants be required to file detailed statements discussing environmental, historical, and archaeological impacts that the line will have in the area.
  - (b) Response: The only mention in Chapter 75 of property impacts is the provision giving individual landowners the right to move for intervention. The statutory amendments therefore do not provide support for requiring the filings the Council suggests.
- (13) Subject Matter. Filing of any written environmental, historical, or archaeological assessments required by other governmental agencies.
  - (a) Comment: Big Rivers and EKPC objected to the requirement that an applicant file a copy of each written assessment of the environmental, historical, and archeological impact of the proposed construction, if any, required by any other governmental administrative agency.
  - (b) Response: The PSC agrees that the legislative language and history do not adequately support this requirement.
- (14) Subject Matter. Require that filing address impact on human and natural environment.
  - (a) Comment: The Council requested that an application also include consideration of the impact of the proposed line on the human and natural environment as well as alternative locations to address these issues. The Council further requested that,

before issuing a certificate, the PSC would have to make a finding "that the applicant has demonstrated that due consideration, consistent with the project purpose and cost, has been given to location, configuration and proposed maintenance of lines and corridors so as to minimize adverse property, scenic, and environmental impacts, and that all reasonable alternatives have been considered, including co-location of the line along existing utility rights-of-way."

- (b) Response: For the reasons stated in item (12) above, the PSC does not believe the legislation supports this change.
- (15) Subject Matter. Statement of effect on financial condition of utility.
- (a) Comment: The IOUs requested that an applicant not have to state whether the transmission line project involves capital outlays sufficient to have a material effect on the financial condition of the utility. The reason for this request was that Section 9(2)(e) of 807 KAR 5:001 already requires the utility to explain "[t]he manner in detail in which it is proposed to finance the new construction or extension."
  - (b) Response: The PSC believes these two provisions ask two different questions. The utility can state how it will finance the new line under the existing regulation without explaining whether the project will materially affect its existing financial condition. The PSC therefore believes both provisions are necessary.
- (16) Subject Matter. Designation of who may request intervention.
- (a) Comment: Big Rivers suggested that the language on interventions be broadened from residents of the county in which the line will be built to any interested party.
  - (b) Response: The PSC agrees that the regulation was too restrictive. The proposed amended regulation cross-references the new provision of the statute.
- (17) Subject Matter. Timing of request for local public hearing.
- (a) Comment: The IOUs recommended that a request for a local public hearing should be filed no later than 30 days after the application was filed.
  - (b) Response: The PSC agrees this change is very important, given the statutory deadline for issuing a final order.
- (18) Subject Matter. Reasons for request for local public hearing.
- (a) Comment: The IOUs proposed that a person requesting a local public hearing be required to state the reasons for the request.
  - (b) Response. The PSC disagrees with this change. The statutory language does not support this additional requirement, and in other cases in which citizens may request local public hearings, the PSC's regulations do not impose such a requirement.
- (19) Subject Matter. Allow PSC to grant deviation from requirements.

- (a) Comment: Big Rivers and EKPC proposed inclusion of a provision allowing the PSC to grant applicants a deviation from the requirements of the regulation in special cases for good cause shown.
- (b) Response: To make this regulation consistent with other certificate cases, the amended regulation includes a cross-reference to Section 14 of 807 KAR 5:001.

### **Summary of Statement of Consideration and Action Taken by Public Service Commission**

The PSC has considered all comments filed in this rulemaking proceeding and has recommended myriad changes. In summary, the PSC has (1) made the Notice of Intent to file an application less detailed while retaining the key aspect that it give adequate notice of an upcoming application; (2) changed the requirements of the application in numerous ways, including (a) making the map scale less detailed, (b) allowing the applicant to rely on PVA maps for property ownership, (c) requiring personal service by first class mail on landowners directly in the proposed route of the line as well as adjoining landowners, and (d) allowing the applicant to file a sample notice together with a list of persons served; (3) rejected a request that the PSC may not take local property rights into consideration in ruling on the application; and (4) rejected a request that the PSC consider environmental, historical, and archeological issues with regard to the proposed route and any alternative routes. The amendments to the originally proposed regulation are:

1. **Page 1**  
**Line 6**  
**RELATES TO:**  
Insert after the colon KRS 278.020(2),(8)  
Delete "KRS 278.020(2); KRS 278.020(8)"
2. **Page 1**  
**Lines 10-11**  
**NECESSITY, FUNCTION, and CONFORMITY:**  
Delete "interested parties shall be notified and that"
3. **Page 1**  
**Line 13**  
**NECESSITY, FUNCTION, and CONFORMITY:**  
Insert after the period 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.
4. **Page 1**  
**Line 18**  
**Section 1(1)**  
Insert after "days" but no more than six (6) months



5. **Page 1**  
**Line 21**  
**Section 1(1)**  
Insert after the period 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.
6. **Page 2**  
**Line 2**  
**Section 1(2)(a)**  
Insert after "of the" utility that  
Delete "person who"
7. **Page 2**  
**Line 4**  
**Section 1(2)(b)**  
Delete "brief"
8. **Page 2**  
**Lines 5-6**  
**Section 1(2)(b)**  
Delete "along with a map of suitable scale to show the route proposed and any alternative route that was considered"
9. **Page 2**  
**Line 11**  
**Section 2(1)**  
Insert after "and" more than.  
Delete "or more"
10. **Page 2**  
**Lines 17-20**  
**Section 2(1)(b)**  
Insert after (b) 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 include the affected property boundaries as indicated on the Property Valuation Administrator's maps, modified as required, and the location of all proposed structures, facilities, rights of way and easements. 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.  
Delete "Three (3) maps of no less than one (1) inch equals 400 feet scale for the project proposed. The map detail shall include the affected property boundaries as indicated on the property valuation administrator's maps, modified as required, and the location of all proposed structures, facilities, proposed rights of way and proposed easements."
11. **Page 2**  
**Lines 21-22, through page 3, lines 1-9**

**Section 2(1)(c)**

Insert after (c) A verified statement that, according to county Property Valuation Administrator records, each property owner over whose property the transmission line is proposed to cross and each property owner whose property adjoins those properties has been sent by first-class mail, addressed to the property owner at the owner's address as indicated by county Property Valuation Administrator records, or hand-delivered: 1. Notice of the proposed construction; 2. The Commission docket number under which the application will be processed and a map showing the proposed route of the line; 3. The address and telephone number of the Executive Director of the Commission; 4. A description of his or her rights to request a local public hearing and to request to intervene in the case; 5. A description of the project.

Delete "A verified statement that each property owner over whose property the transmission line is proposed to cross has been: 1. Notified of the proposed construction by certified mail, return receipt requested; 2. Given the Commission docket number under which the application will be processed and a map showing the proposed location; 3. Given the address and telephone number of the Executive Director of the Commission; 4. Informed of his or her rights to request a local public hearing and to move to intervene in the case; 5. Given a description, including the proposed scope, of the project."

12. **Page 3**

**Lines 10-11**

**Section 2(1)(d)**

Insert after (d) 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.

Delete "A copy of each notice provided to a property owner, pursuant to the preceding paragraph"

13. **Page 3**

**Line 17**

**Section 2(1)(e)3**

Insert after 3. A statement that interested persons have the right to request to intervene.

Delete "A statement of the right to move to intervene"

14. **Page 3**

**Lines 19-21**

**Section 2(1)(g)**

Delete "A statement describing or summarizing discussions occurring during any public meeting with persons who own property over which the line is proposed to be constructed;"

15. **Page 4**

**Lines 1-3**

**Section 2(1)(h)**

- Delete "A copy of each written assessment of the environmental, historical, and archeological impact of the proposed construction, if any, required by a governmental administrative agency with jurisdiction;"
16. **Page 4**  
**Lines 7-9**  
**Section 3(1)**  
Insert after (1) Any interested person under KRS 278.020(8).  
Delete "A resident of a county in which a transmission line of one hundred thirty-eight (138) kilovolts or more and of more than 5,280 feet in length is proposed to be built"
17. **Page 4**  
**Line 11**  
**Section 3(1)**  
Insert after the period This hearing shall be requested no later than thirty (30) days after the filing of an application for a certificate of public convenience and necessity.
18. **Page 4**  
**Lines 14-15**  
**Section 3(2)(b)**  
Insert after person requesting the hearing.  
Delete "sending the request"
19. **Page 4**  
**Line 16**  
**Section 3(2)(c)**  
Insert after person requesting the hearing.  
Delete "making the request"
20. **Page 4**  
**Lines 18-20**  
**Section 3(3)**  
Insert after (3) If a person requesting a local public hearing wishes to participate in the evidentiary hearing as well, that person must also apply to intervene in the Commission proceedings on the application pursuant to 807 KAR 5:001, Section 3(8).  
Delete "If a person requesting a local public hearing wishes to participate in an evidentiary hearing, the written request shall include a request, pursuant to 807 KAR 5:001, Section 3(8), to intervene in the Commission proceedings on the application."
21. **Page 4**  
**Following line 20, following Section 3(3):**  
Insert at the bottom of the page a new Section Section 4. Deviation from Rules. The provisions of Section 14 of 807 KAR 5:001 apply to applications filed under this regulation.