

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

SEP 06 2005
PUBLIC SERVICE
COMMISSION

IN THE MATTER OF:

**APPLICATION OF EAST KENTUCKY)
POWER COOPERATIVE FOR A)
CERTIFICATE OF PUBLIC CONVENIENCE) DOCKET NO.
AND NECESSITY FOR CONSTRUCTION) 2005-00207
OF TRANSMISSION FACILITIES IN)
BARREN, WARREN, BUTLER, AND)
OHIO COUNTIES, KENTUCKY)**

TESTIMONY OF EMILY PERKINS SHARP

Filed: September 6, 2005

1 **Q. What is your name and address?**

2 A. My name is Emily Perkins Sharp. My address is 906 Water Willow Court, Birmingham,
3 AL 35244.

4 **Q. What is your interest in this case?**

5 A. EKPC proposed to route its transmission line through my family's land. My family owns
6 property that lies between Russellville Road (US 68) and Blue Level Road (US 432) in Warren
7 County, Kentucky. The majority of our land is contained in two connecting farms, known as
8 Keystone Farm and Hemlock Heights, both of which we have owned for over 30 years.

9 **Q. What are your concerns about East Kentucky Power Cooperative's proposed**
10 **transmission line?**

11 A. Despite that fact that we received a letter stating only one farm, Hemlock Heights, would
12 be affected and that the other farm, Keystone Farm with its 160-plus year old house, would not,
13 we are now faced with the lines cutting a 150-foot wide path through both farms. It seems as
14 though an alleged "clerical error" caused the letter to be sent which originally spared our 1840's
15 homesite, but the photo map of the line route clearly showed it cutting across Keystone Farm.

16 **Q. Did EKPC tell you why it changed its mind?**

17 A. They said it was a clerical error that we received that letter and both properties would be
18 involved. We have met several times with representatives of EKPC and tried to work out a route
19 that would have the least impact on our property. Unfortunately, we are still not able to agree on
20 what that route would be. They would all have a devastating impact.

21 **Q. What impact will the proposed line have on your farms?**

22 A. We have two properties that will be cut in two by the lines. Based on the initial route, I
23 calculated that a corridor 6000 feet long and 150 feet wide will be taken from us. The latest

24 route could be far more than that. Prime timber that provides a home to wild turkeys, deer, and
25 other wildlife will be destroyed, fields that feed our cattle will be contaminated with the
26 herbicides used to control the growth of vegetation under these lines. The runoff of water
27 through these chemicals will pollute streams and rivers - your water supply. Our cattle are
28 primarily grass and hay fed from the fields EKPC is targeting. We rely on our fields to supply
29 grass in the good weather, and we cut hay from them for cattle and horses food in the winter.
30 The herbicides that EKPC would have the power to use to keep down brush could have serious
31 impact on grazing heifers with calves, both during gestational and nursing periods. In addition,
32 I'm assuming that EKPC maintenance trucks would have access to our farm and be a danger to
33 cattle, calves and horses alike. This farm is tucked away from the main roads and has always
34 been a private retreat. This would destroy the privacy and security we have known there all
35 these years. We have an historic home and log barn that have been there since Warren County's
36 earliest days. The historic Keystone Quarry, which provided the limestone used in many of
37 Bowling Green's public buildings as well as, I'm told, the US Treasury in Washington, is also in
38 the path of these lines. There is a cave which, from past findings of Indian artifacts in the area,
39 could have archaeological interest. My family has tried to be good stewards of this land for more
40 than 30 years. We have tried to protect the natural beauty and preserve it for our children and
41 grandchildren. I cannot imagine how we can ever feel comfortable driving through the gate of
42 our farm toward the house with thousands of feet of high voltage lines in view as we wind our
43 way along the driveway beneath them.

44 **Q. What alternatives do you believe have not been adequately studied?**

45 A When we received letters advising us of the open house this spring, we did not know
46 how much our properties would be involved. We have cooperated with utility companies in the

47 past. At the top of our hill, there is a City water tank with an easement for a road accessing it.
48 This tank provides water for the surrounding area. The lines will go across these as well. When
49 you look at the aerial photo, it seems as though EKPC has gone out of its way to dissect almost
50 all of our land right down the middle. At present, the proposed route is not direct from the
51 substation, but rather, it jogs the opposite direction, enters our land on US68, crosses a heavily
52 wooded hill that contains the historic Keystone Quarry and then goes completely across the
53 middle of some of our best fields, skirts, and possibly requires the removal of, an 1800's log barn
54 and exits the far side of our property, leaving a trail of destruction and irreversible harm in its
55 path. In a March 2005 article, the Daily News stated EKPC had told the Warren Co. Fiscal
56 Court they intended to "mostly follow existing paths." We now know our properties'
57 involvement will be huge, and the impact far greater than EKPC pledged. The promise to
58 "mostly follow existing paths" has proved to be empty as hundreds of people are now faced with
59 losing their property to these new transmission lines. Now about 700 property owners are
60 involved in what appears to be mostly new transmission line paths. The 100- foot wide easement
61 stated in the Open House packet has been changed to a 150-foot wide easement. Other routes
62 must be considered before this project is approved. The use of existing lines, underground lines,
63 and easements along public right of ways, would reduce the impact of this project tremendously.
64 In Connecticut, the legislature has passed a law that presumes high-power transmission line will
65 go underground unless it is proved they cannot. In Virginia this summer, Dominion Power Co.'s
66 estimates that underground lines cost significantly more than aboveground lines were shown to
67 be incorrect. Studies have shown that using underground lines is a viable option used across the
68 country. The placement of more high voltage transmission lines across prime farmland and
69 forests should not be the only option.

70 No attempt has been made to take these new lines along existing routes. The
71 environmental and historic impact study is not complete and there are no plans to file it until next
72 spring, yet the route is being planned. Following existing paths with existing lines, public rights
73 of way, and utilizing underground lines wherever feasible would lessen the impact of this project
74 tremendously.

75 **Q. How do you believe the Commission should rule in this case?**

76 A. The Commission should deny EKPC's application.

77 **Q. Does this conclude your testimony?**

78 A. Yes.

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing was duly served by mailing, first class postage prepaid to the following:

Hon. A. W. Turner
Public Service Commission
211 Sower Boulevard
P.O. Box 615
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Elizabeth O'Donnell
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Public Service Commission
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Roger R. Cowden
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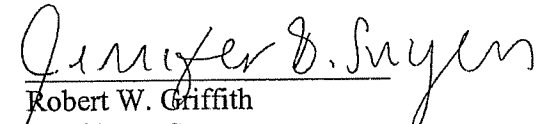
James M. Miller
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VP, Contract Administration and Regulatory Affairs
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Henderson, Kentucky 42420-0024

Hugh Hendrick
4140 Scottsville Road
Smiths Grove, KY 42171

Joey Roberts
4234 Scottsville Road
Smiths Grove, KY 42171

This the 6th day of September, 2005.


Robert W. Griffith
Jennifer B. Swyers
Stites & Harbison, PLLC
400 W. Market Street
Suite 1800
Louisville, KY 40202

*Counsel for Intervenors
Carroll and Doris Tichenor
and John Colliver*

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

RECEIVED

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COMMISSION

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OF TRANSMISSION FACILITIES IN)
BARREN, WARREN, BUTLER, AND)
OHIO COUNTIES, KENTUCKY)**

TESTIMONY OF JOHN H. COLLIVER

Filed: September 6, 2005

1 **Q. What is your name and address?**

2 A. My name is John H. Colliver. My address 633 Salem Church Road, Cave City, Kentucky
3 42127.

4 **Q. What is your interest in this case?**

5 A. I own a farm that will be affected by the Barren-Oakland-Magna segment of EKPC's
6 proposed transmission line.

7 **Q. What are the unique characteristics of your property?**

8 A. My farm, and the affected farms of my neighbors in Barren County, are situated within
9 the Green River Watershed. As you know, the Green River is the most biologically
10 diverse and rich branch of the Ohio River system. The greatest aquatic diversity occurs
11 in a 100-mile section of unhindered river that flows from the Green River Reservoir dam
12 through Mammoth Cave National Park in south central Kentucky. This section of the
13 Green River Watershed includes over 917,000 acres in the counties of Adair, Barren,
14 Edmonson, Green, Hart, Metcalfe, Russell, and Taylor.

15 The Green River Conservation Reserve Enhancement Program (CREP) has been
16 hailed a success by the Nature Conservancy due to farmers such as myself adhering
17 to practices that conserve the soil. The goals and objectives of the Green River CREP
18 are:

- 19 • To reduce by 10% the amount of sediment, nutrients, and pesticides from agricultural
20 sources entering the tributaries and main stem of the Green River and Mammoth Cave
21 System through the installation of best management practices designed for that purpose,
22 and other conservation practices designed to improve water quality.

- 23 • To enhance habitats and populations of wildlife, including those listed as state and federal
24 special concern, rare, threatened and endangered.
- 25 • To sustain and restore the composition, structure, and function of riparian habitat
26 corridors associated with the Green River and tributary watersheds.
- 27 • To reconnect habitat types in order to restore the full range of ecosystem function.
- 28 • To establish buffers around sinkholes, targeting 1000 high priority sinkholes.
- 29 • To sustain and restore non-riparian wetlands.
- 30 • To protect and restore subterranean ecosystems.
- 31 • To collect, store, and analyze data to enhance planning for sustaining the health of the
32 watershed.
- 33 • To develop an outreach program targeting all active agricultural producers in the area.
- 34 • To utilize native species, including warm season grasses, to the greatest extent possible.

35 Because our section of the Green River has been identified as such a special
36 place, state and federal agencies provide financial support to farmowners in the form of a
37 land “set aside” program, offering enhanced annual rental, cost share, and incentive
38 payments. In addition to the payments referenced above, we may elect to enter our land
39 into a supplemental permanent conservation easement to receive additional
40 incentive payments. Practices most commonly utilized in the Green River CREP region
41 include riparian buffers, native grass planting, hardwood tree planting, and filter strips.

42 The proposed transmission line runs directly through this special part of the Green
43 River Watershed. The line will undermine my conservation efforts and the efforts of
44 my neighbors and state and federal agencies. The line will threaten the continuity of the
45 watershed. Not only do I and my neighbors care about our own farms. We are equally

46 concerned with the effects of the proposed project on our watershed. EKPC has not
47 studied the impact, it has created no plan for mitigation, and it has given no thought to
48 avoiding this area or our farms. Instead, EKPC has tried to “take advantage” of the very
49 areas that the Green River CREP seeks to protect.

50 **Q. What do you mean when you say that EKPC has tried to “take advantage”?**

51 A. In their routing study, EKPC stated that the selected route “takes advantage of”
52 agricultural areas. I, and my neighbors, challenge this reasoning. We regard prime farm
53 land as a finite resource that we need to conserve so that future generations can continue
54 to grow crops to feed our people. The proposed line will severely limit future use of the
55 land and will be a major impediment for farm equipment. EKPC’s cluttering of the land
56 with lines and poles is unnecessary.

57 **Q. Will the proposed line affect your farm and Barren County in other ways?**

58 A. Yes. The proposed line crosses some of the best farm land in Barren County. Barren
59 County is home to one of Kentucky’s largest per-county populations of livestock.
60 Documented adverse effects on dairy cattle from the positioning on dairy farms of
61 transmission lines require EKPC to fully account for its decision to site the proposed line
62 through Barren County farmland. Stray voltage resulting from the proposed transmission
63 line may adversely affect dairy and livestock production. To be clear, I will quote from
64 “Environmental Impacts of Transmission Lines,” Public Service Commission of
65 Wisconsin, July 2004, p. 10, a study commissioned by the Wisconsin Public Service
66 Commission: “For the past 20 years, stray voltage has been vigorously studied.
67 Electrical systems are grounded to the earth to ensure safety and reliability as required by
68 the National Electric Safety Code. Because of this, some current flows through the earth

69 at each point where the electrical system is grounded and a small voltage develops. This
70 voltage is called neutral-to-earth voltage (NEV). When NEV is measured between two
71 objects that may be simultaneously contacted by an animal, it is considered stray voltage.
72 Low levels of AC voltage on the grounded conductors of a farm wiring system are a
73 normal and unavoidable consequence of operating electrical farm equipment. Stray
74 voltage often is not noticeable to humans, but may be felt by an animal. For example, a
75 dairy cow may feel a small electric shock when it makes contact with an energized water
76 trough. . . . Dairy cow behaviors that may indicate the presence of stray voltage include
77 nervousness at milking time, increased defecation or urination during milking, hesitation
78 in approaching waterers or feeders, or eagerness to leave the barn. A stray voltage
79 problem may be reflected in increased milking time, in uneven milking, and sometimes
80 with decreased milk production.”

81 The Public Service Commission of Wisconsin requires applicants to document the
82 potential for such effects, and, where necessary, protect against them by re-routing a
83 proposed line or participating in mitigation practices after a line is constructed. Before
84 any application is certified, the Wisconsin Commission evaluates these effects. Indeed, it
85 warns utilities against the siting of transmission lines on dairy farms. I’m sure we can all
86 agree that the effects documented by the Wisconsin Commission are not limited to the
87 state of Wisconsin. The Kentucky Commission should follow Wisconsin’s lead.

88 Finally, farms throughout Butler, Barren, Warren, and Ohio Counties whose
89 operations utilize Global Positioning Systems may suffer from the Radio Interference
90 caused by the high voltage lines. Interference by transmission lines with these

91 positioning systems is well-documented, and results can be very damaging. EKPC has
92 failed to account for these impacts and the resulting costs to landowners.

93 **Q. Has EKPC accounted in any way for these impacts?**

94 A. No. EKPC has completely ignored these impacts. Nothing in the record indicates
95 that EKPC even considered the possibility of these impacts.

96 **Q. How should the Commission decide in this case?**

97 A. Based on these concerns, I respectfully request that the Public Service Commission
98 decline to approve this project until EKPC gives adequate consideration to all of the
99 impacts of its proposed project. The Commission should order EKPC to utilize existing
100 rights-of-way to the maximum extent possible, avoid prime farm land, and comply with
101 Federal law.

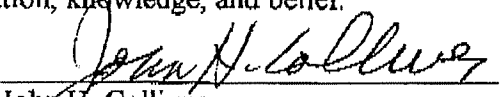
102 **Q. Does this conclude your testimony?**

103 A. Yes.

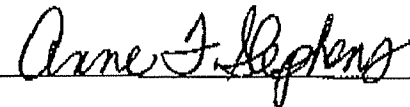
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105 **VERIFICATION**
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107
108 COUNTY OF Jefferson)
109) ss:
110 STATE OF KENTUCKY)
111

112 The undersigned, John H. Colliver, being duly sworn, deposes and says he has personal
113 knowledge of the matters set forth in the foregoing testimony, and that the answers contained
114 therein are true and correct to the best of his information, knowledge, and belief.

115
116 
117 John H. Colliver
118

119 Subscribed and sworn to before me, a Notary Public in and before said County and State,
120 This 2nd day of September 2005.

121
122 
123

124 NOTARY PUBLIC

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126 My commission expires: August 11, 2009

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CERTIFICATE OF SERVICE

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132 I hereby certify that a true copy of the foregoing was duly served by mailing, first class
133 postage prepaid to the following.

134

135 Hon. A. W. Turner

136 Public Service Commission

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138 P.O. Box 615

139 Frankfort, Kentucky 40602

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142 Elizabeth O'Donnell

143 Executive Director

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182 This the 6th day of September, 2005.

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Carroll and Doris Tichenor
and John Colliver*

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OHIO COUNTIES, KENTUCKY)**

SEP 06 2005
PUBLIC SERVICE COMMISSION

TESTIMONY OF DORIS TICHENOR

Filed: September 6, 2005

1 **Q. What is your name and address?**

2 A. My name is Doris Tichenor. My husband, Carroll, and I live at 1086 Annis Ferry Road,
3 Morgantown, Kentucky 42261. Carroll has reviewed this testimony and we submit this
4 testimony together.

5 **Q. What is your interest in this case?**

6 A. My husband, Carroll, and I own Annis Ferry Farm in the Big Bend community of
7 Butler County. This farm has been owned by my family for 100 years and was
8 recognized as a Heritage Farm by the Kentucky Heritage Council in 1992. Our farm
9 is directly in the path of the Wilson-Aberdeen segment of the proposed power line and
10 would be severely impacted. We have felt so strongly about protecting our land that when
11 our first grandson was born 17 years ago, we revised our estate plan so that our farm with
12 its historic sites could not be sold and would be passed on to our grandchildren.

13 **Q. What are the unique characteristic of your land?**

14 A. Four sites on our farm are listed on the National Register of Historic Places. One of these
15 is Carson's Landing, a two-acre historic site on Green River which was the location of a
16 ferry, steamboat landing, livestock scales, a warehouse and store, two post offices at
17 different times and a fully restored 1854 house. The National Register nomination for this
18 site noted that it is "one of the few sites in Butler County that represents the commerce
19 and transportation along the Green River and is a material reminder of the importance of
20 the Green River as an artery for transportation, commerce, and communication for
21 Logansport, Butler County, and Kentucky." The nomination stated, "Because the
22 location, setting, materials, and workmanship have been maintained, Carson's Landing
23 still evokes a sense of past time and place . . . The nominated property has contributed to

24 the development of a larger rural historic landscape and reflects the tradition of the river
25 and culture.” Registration Form, Carson's Landing, Annis Ferry Farm/BT-1, National
26 Register of Historic Places.

27 The other three National Register sites encompass Annis Mound and Village and
28 Sand Mound archaeological sites, which have been the subject of investigation by
29 archaeologists over the past 65 years, most recently by Pennsylvania State University
30 faculty and students in 2003 and 2004. Nearly a dozen scientific papers and a doctoral
31 dissertation have resulted from these investigations. During the field work, evidence was
32 found suggesting the presence of three additional unexcavated locations for which site
33 forms have been filed and recorded. The significance of Annis Mound and Village is
34 widely recognized. Archaeologists around the country are familiar with these important
35 sites. Letters have been written by Dr. Patty Jo Watson, Edward Mallinckrodt
36 Distinguished University Professor Emerita, Washington University, St. Louis, and Dr.
37 George M. Crothers, Ph.D., Director, William S. Webb Museum of Anthropology and
38 Office of State Archaeology, requesting to be consulting parties in the Section 106
39 process regarding potential effects this project may have on these important
40 archaeological resources.

41 **Q. Does the proposed transmission line affect these sites?**

42 A. Part of the Carson’s Landing site is within the selected corridor and all of it is within
43 1500 feet of the probable right of way. All of the archaeological sites are within the
44 presently selected power line corridor.

45 **Q. Were historic sites considered by EKPC in their siting study?**

46 A. No. The siting study commissioned by EKPC does not acknowledge the existence of any
47 National Register structures or districts anywhere within the proposed 30-mile Wilson-
48 Aberdeen corridor. However, EKPC must select a route that avoids any adverse impact
49 to these sites or, at the very least, minimizes the impact. EKPC acknowledges that it has
50 this obligation. In a press interview published on August 28 (Bowling Green Daily
51 News) an EKPC representative is quoted as saying: "Since we receive federal loans
52 through the Rural Utility Service, this requires us to comply with the National
53 Environmental Protection Act . . . That means we have to, on a project of this scope,
54 conduct an environmental assessment. We have identified these sites. We are aware of
55 them. As part of this process, we'll study the sites and present a report of our finding."
56 Yet, EKPC is seeking immediate approval of the project, before any of the required
57 assessments and processes have been completed. In effect, EKPC is asking this
58 Commission to certify an unlawful project.

59 **Q. In what other ways will the proposed transmission line affect your property?**

60 A. Carroll and I have invested a tremendous amount of our time, money and energy in our
61 farm over the past thirty years. We have tried as hard as we could to leave the farm in
62 better condition than it was when we took it over. We have invested more than a quarter
63 of a million dollars in new and restored buildings, land improvement, reforestation and
64 reintroduction of native grasses.

65 We have been personally responsible for crops and maintenance of this farm since
66 1975. All of our cropland is in the Green River flood plain and is subject to flooding
67 about every five to seven years. The last two floods were in 1995 and 2002. The field
68 where the proposed power line will cross the river on our farm is at the upper end of an

69 acute bend in the river. Since the beginning of cultivation a forested buffer strip has been
70 maintained on our riverbanks to prevent floodwaters from sweeping away the topsoil
71 from our fields. If the trees are removed from a 100 foot right of way at this location,
72 leaving the riverbank unprotected, repeated flooding will sweep across this 42-acre field,
73 washing topsoil down the river and eventually leaving the field worthless for farming or
74 any other use. The economic loss resulting from permanent removal of this field from
75 cultivation will be substantial.

76 **Q. Did EKPC attempt to protect against floodplain erosion?**

77 A. No. The siting study commissioned by EKPC does not even mention the possibility of
78 floodplain erosion. In fact, the study states that the preferred corridor "...takes
79 advantage of the open agricultural areas along the Green River..." We don't think farm
80 land is something to be taken advantage of. On the contrary, we believe farm land is a
81 resource that needs to be conserved so future generations can continue to grow crops to
82 feed people and livestock.

83 **Q. How else will the proposed transmission line affect your property?**

84 In 2001 we completed a new home on the farm at a cost of about \$260,000. A landscape
85 architect from Nashville was commissioned in 1982 to design landscaping for the entire
86 farm and an architect from Florida was commissioned and flown to the farm in 1995 to
87 plan and site the new house to best relate to the viewscape. The proposed power line will
88 destroy the viewscape of the entire farm. If this line is built on the proposed route we
89 will be looking at a 161-kV high tension power line on 90-foot poles, crossing our entire
90 farm within 1500 feet of our home. This house was not even recognized in the EKPC
91 siting study because they used Landsat imagery dating from 1992. The long term

92 economic cost of having this intrusive power line strung all the way across our farm is
93 impossible to estimate or to compensate.

94 Also, we have been told that the mature hickory trees near the river on our farm
95 provide ideal habitat for the endangered Indiana brown bat. We tried to engage the
96 services of a biologist to do mist netting on the farm to check for this and other bat
97 species, but because of the short time frame we were unable to make the necessary
98 arrangements.

99 **Q. Did EKPC consider any alternatives to its proposed route?**

100 A. Yes.

101 **Q. Can you identify any alternative that would avoid the costs that you describe?**

102 A. Yes. In fact, the degradation of economic, environmental and scenic resources is
103 completely unnecessary. The EKPC siting study identified several alternate routes for the
104 Wilson-Aberdeen line. One of these alternates parallels existing transmission lines,
105 requires the taking of fewer miles of new rights-of-way, eliminates two Green River
106 crossings, affects far less farm land, and completely avoids the National Register sites I
107 have described. The primary reason this siting study recommended the presently selected
108 route over this alternate was that the preferred route takes advantage of agricultural areas.
109 No consideration was given to the permanent degradation of irreplaceable historic and
110 archaeological sites which commemorate our heritage.

111 The Commission's Staff Consultant, ICF Resources, L.L.C., concluded that
112 EKPC did not adequately consider route options utilizing existing rights-of-way or other
113 easements that would minimize the environmental impact of the proposed project. The
114 Consultant stated that "[s]uch an analysis would provide valuable insights as to the costs

115 and benefits of avoiding the need for new rights-of-way if compared to the current
116 proposed plan.” We urge the Public Service Commission to insist that EKPC re-evaluate
117 its siting study and propose a transmission line route that utilizes, to the fullest extent
118 possible, existing rights-of-way.

119 **Q. Have you had adequate time to prepare your case?**

120 A. No. We have had only a few weeks to prepare whereas EKPC has had more than two
121 years to prepare their case with unlimited attorneys and no regard for expense. We
122 landowners have not received due process, let alone adequate time to obtain expert
123 assistance on such short notice. The utility has been planning this line since they prepared
124 a proposal for submission to WRECC to change from TVA as their power supplier. It is
125 unreasonable to expect ordinary landowners to have comparable resources at their
126 disposal; furthermore, this hearing concerns transmission lines for power grid expansion
127 where proof of necessity has not been established.

128 **Q. How should the Commission decide in this case?**

129 A. Based on these concerns, I respectfully request that the Public Service Commission
130 decline to approve this project at least until more careful consideration has been given to
131 avoiding prime farm land, complying with Federal laws, and using existing rights-of-
132 way.

133 **Q. Does this conclude your testimony?**

134 A. Yes.

135

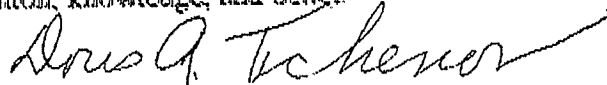
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137


VERIFICATION

COUNTY OF Butler)
) ss
STATE OF KENTUCKY)

The undersigned, Doris Tichenor, being duly sworn, deposes and says she has personal knowledge of the matters set forth in the foregoing testimony, and that the answers contained therein are true and correct to the best of her information, knowledge, and belief.


Doris Tichenor

Subscribed and sworn to before me, a Notary Public in and before said County and State,
This 20th day of September 2005.


NOTARY PUBLIC

My commission expires: 11-12-08

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing was duly served by mailing, first class postage prepaid to the following:


Hon. A. W. Turner
Public Service Commission
211 Sower Boulevard
P O Box 615
Frankfort, Kentucky 40602
~~As directed by law~~

Elizabeth O'Donnell
Executive Director
Commonwealth of Kentucky
Public Service Commission
211 Sower Boulevard
P O Box 615
Frankfort, KY 40602-0615

Roger R. Cowden
Sherman Goodpaster

184 East Kentucky Power Cooperative
185 4775 Lexington Road
186 PO Box 707
187 Winchester, KY 40392-0707
188
189 Attorney General Greg Stumbo
190 Office of the Attorney General
191 State Capitol, Suite 118
192 Frankfort, Kentucky 40601
193
194 James M. Miller
195 Tyson Kamuf
196 Sullivan, Mountjoy, Stainback & Miller, PSC
197 100 St. Ann Street, P.O. Box 727
198 Owensboro, Kentucky 42302-0727
199
200 David A. Spainhoward
201 VP, Contract Administration and Regulatory Affairs
202 201 Third Street, P.O. Box 24
203 Henderson, Kentucky 42420-0024
204
205 Hugh Hendrick
206 4140 Scottsville Road
207 Smiths Grove, KY 42171
208
209 Joey Roberts
210 4234 Scottsville Road
211 Smiths Grove, KY 42171

212
213 This the 6th day of September, 2005.

214
215
216 
217 Robert W. Griffith
218 Jennifer B. Swyers
219 Stites & Harbison, PLLC
220 400 W. Market Street
221 Suite 1800
222 Louisville, KY 40202

223 *Counsel for Intervenors*
224 *Carroll and Doris Tichenor*
225 *and John Colliver*
226

227
228

RECEIVED

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

SEP 06 2005

PUBLIC SERVICE COMMISSION
COMMONWEALTH OF KENTUCKY

IN THE MATTER OF:

APPLICATION OF EAST KENTUCKY)
POWER COOPERATIVE FOR A)
CERTIFICATE OF PUBLIC CONVENIENCE)
AND NECESSITY FOR CONSTRUCTION)
OF TRANSMISSION FACILITIES IN)
BARREN, WARREN, BUTLER, AND)
OHIO COUNTIES, KENTUCKY)

**DOCKET NO.
2005-00207**

TESTIMONY OF LESLIE E. BARRAS

Filed: September 6, 2005

1 **Q. Please state your name and address.**

2 A. My name is Leslie E. Barras. My address is River Fields, Inc., 643 West Main Street,
3 Suite 200, Louisville, KY 40202-2921.

4 **Q. What is your professional background?**

5 A. I am the Associate Director of River Fields, Inc. I also am the Conservation Chair of the
6 Greater Louisville Group of the Sierra Club. Formerly, I was a Principal Project
7 Manager with Radian International, where I directed projects relating to permitting,
8 regulatory analysis and compliance, auditing, training, and site investigations. In my
9 capacity at River Fields, as a volunteer with the Sierra Club, and in my former position at
10 Radian, my 22 years of experience includes projects subject to the National Historic
11 Preservation Act.

12 **Q. Have you testified before this Commission before?**

13 A. Yes, I provided direct testimony before this Commission in Case Number 2005-00142.

14 **Q. What is your interest in this case?**

15 A. I am making this statement to inform the Public Service Commission that the route that it
16 has been asked to certify could be changed dramatically upon EKPC's satisfaction of
17 Section 106 of the National Historic Preservation Act ("Section 106"). In contradiction
18 of those laws, EKPC has chosen the route for their proposed transmission line without
19 first inviting the comments and participation of Consulting Parties (see definition below).
20 In fact, EKPC has chosen the route of its proposed transmission line without first
21 identifying historic properties that would be affected by this undertaking. Upon doing so,
22 it is very likely that these federal laws will require EKPC to substantially alter the route
23 of its proposed transmission line. Because the selected route is as much at issue in this

24 case as the electrical need for this transmission line, it is necessary for this Commission
25 to have complete confidence that the route it certifies is the route that will be
26 constructed. EKPC has indicated that it will determine the impacts of its proposal on
27 historic sites after securing the Certificate of Public Convenience and Necessity. The
28 Commission must withhold its Certification until EKPC can provide sufficient
29 guarantees that the route proposed is the route that will be constructed. This guarantee
30 can only come after EKPC has satisfied Section 106.

31 **Q. What does Section 106 require?**

32 A. Because EKPC is receiving federal assistance for this project from the Rural Utilities
33 Service of the United States Department of Agriculture, EKPC, vis-à-vis the Rural
34 Utilities Service, must satisfy the requirements of Section 106. The Section 106
35 regulations, 36 C.F.R. Part 800 define “undertaking” as “a project, activity, or program
36 funded in whole or in part under the direct or indirect jurisdiction of a Federal agency,
37 including those carried out by or on behalf of a Federal agency; those carried out with
38 Federal financial assistance; those requiring a Federal permit, license or approval; and
39 those subject to State or local regulation administered pursuant to a delegation or
40 approval by a Federal agency.” 36 C.F.R. § 800.16(y). The proposed transmission line is
41 an “undertaking.”

42 Section 106 requires EKPC to examine the adverse effects of the proposed
43 “undertaking” on sites on or eligible for the National Register of Historic Places, and
44 afford the federal Advisory Council on Historic Preservation a reasonable opportunity to
45 comment with regard to the undertaking before the Public Service Commission may
46 approve their application. 16 U.S.C. § 470f.

47 **Q. What must EKPC do to satisfy Section 106?**

48 A. The regulations require EKPC to determine the area of potential effect (APE), *id.* §
49 800.4(a)(1); identify, through consultation, the National Register-listed or eligible historic
50 properties within the APE, *id.* § 800.4(b); determine whether the undertaking will
51 adversely affect any identified historic properties, *id.* § 800.5; and resolve those adverse
52 effects through avoidance or mitigation as documented in a Memorandum of Agreement,
53 *id.* § 800.6(b).

54 **Q. Do you believe that there are National Register-listed or eligible historic properties**
55 **that will be affected by the proposed project?**

56 A. Yes. “An adverse effect is found when an undertaking may alter, directly or indirectly,
57 any of the characteristics of a historic property that qualify the property for inclusion in
58 the National Register in a manner that would diminish the integrity of the property’s
59 location, design, setting, materials, workmanship, feeling, or association.” *Id.* §
60 800.5(a)(1). At the very least, the proposed project will adversely affect the historic sites
61 on the Tichenor property and the Perkins property.

62 **Q. What should EKPC do?**

63 Broadly speaking, EKPC first must begin the Section 106 process by identifying the area
64 of potential effect. In this process, EKPC must involve consulting parties in its findings
65 and determinations. 36 C.F.R. § 800.2(a)4. The Advisory Council rules implementing
66 Section 106 require that Consulting Parties be identified and given an opportunity to
67 participate in consultation with the private applicant, other Consulting Parties, the State
68 Historic Preservation Officer, the Advisory Council, and the public during each step of
69 the Section 106 process, *id.* § 800.3(f). “Consulting Parties” include “individuals and

70 organizations with a demonstrated interest in the undertaking [who] may participate [in
71 the Section 106 process] due to the nature of their legal or economic relation to the
72 undertaking or affected properties, or their concern with the undertaking's effects on
73 historic properties.” *Id.* § 800.2.

74 Second, EKPC must, “except where appropriate to protect confidentiality
75 concerns of affected parties, provide the public with information about an undertaking
76 and its effects on historic properties and seek public comment and input.” 36 C.F.R. §
77 800.2(d)(2). State Historic Preservation Officers, “other consulting parties, and
78 organizations and individuals who may be concerned with the possible effects of an
79 agency action on historic properties should be prepared to consult with agencies early in
80 the NEPA process, when the purpose of and need for the proposed action as well as the
81 widest possible range of alternatives are under consideration.” 36 C.F.R. § 800.8(a)(2).

82 Third, EKPC “should ensure that preparation of . . . an Environmental Impact
83 Statement . . . includes appropriate scoping, identification of historic properties,
84 assessment of effects upon them, and consultation leading to resolution of any adverse
85 effects.” 36 C.F.R. §800.8(a)(3), keeping in mind that EKPC must “ensure that a
86 determination, finding, or agreement under the procedures in this subpart is supported by
87 sufficient documentation to enable any reviewing parties to understand its basis.” 36
88 C.F.R. § 800.11(a). Sufficient documentation includes, but may not be limited to:

- 89 • A map of the APE with supporting data on how the proposed APE was derived
90 (e.g., direct impact corridor, viewshed analyses, footprint for construction)
- 91 • aesthetic and visual quality documentation, including viewshed maps;
- 92 • federal prime and unique farmlands analysis;

- 93 • report on the elements of community character;
- 94 report on listed or eligible properties identified within the APE, including
- 95 boundaries of properties, such as historic farms.
- 96 • report on any other utilities that may have to be relocated during construction;
- 97 • An alternatives analysis providing documentation of why corridors have been
- 98 eliminated from consideration;
- 99 • information regarding indirect and cumulative effects on historic properties and
- 100 resources; and
- 101 • information that would allow the Consulting Parties to respond to the scope and
- 102 adequacy of the archaeological resources evaluation.

103 All of this information is necessary to provide meaningful comment on the APE,

104 identification of historic properties within the APE, potential effects upon those

105 properties, and proposed measures to resolve (mitigate or avoid) any adverse effects.

106 **Q. Has EKPC fulfilled any of these obligations?**

107 A. No. Based on the law outlined above, EKPC should have engaged the Consulting Parties

108 prior to and in furtherance of their evaluation of alternatives to the proposed transmission

109 line, including alternative corridors.

110 **Q. How should the Commission rule?**

111 A. In light of EKPC's failure to execute its responsibilities under Section 106, the Public

112 Service Commission should suspend its consideration of EKPC's application until EKPC

113 initiates and completes the Section 106 process.

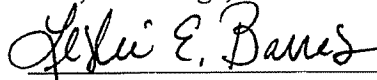
114 **Q. Does this conclude your testimony?**

115 A. Yes.

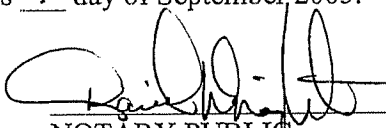
116 **VERIFICATION**

117
118 COUNTY OF Jefferson)
119) ss:
120 STATE OF KENTUCKY)
121)

122
123 The undersigned, Leslie E. Barras, being duly sworn, deposes and says she has personal
124 knowledge of the matters set forth in the foregoing testimony, and that the answers contained
125 therein are true and correct to the best of her information, knowledge, and belief.

126 
127 _____
128 Leslie E. Barras
129

130 Subscribed and sworn to before me, a Notary Public in and before said County and State,
131 This 4th day of September 2005.

132 
133 _____
134 NOTARY PUBLIC
135

136
137 My commission expires: 12-19-06
138
139

140 **CERTIFICATE OF SERVICE**

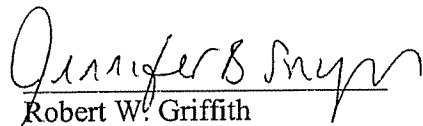
141
142 I hereby certify that a true copy of the foregoing was duly served by mailing, first class
143 postage prepaid to the following:

- 144
145 Hon. A. W. Turner
146 Public Service Commission
147 211 Sower Boulevard
148 P.O. Box 615
149 Frankfort, Kentucky 40602
150 Aw.turner@ky.gov
151
152 Elizabeth O'Donnell
153 Executive Director
154 Commonwealth of Kentucky
155 Public Service Commission
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192 This the 6th day of September, 2005.

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206


Robert W. Griffith
Jennifer B. Swyers
Stites & Harbison, PLLC
400 W. Market Street
Suite 1800
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*Counsel for Intervenors
Carroll and Doris Tichenor
and John Colliver*

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

RECEIVED

SEP 06 2005

PUBLIC SERVICE
COMMISSION

IN THE MATTER OF:

**APPLICATION OF EAST KENTUCKY)
POWER COOPERATIVE FOR A)
CERTIFICATE OF PUBLIC CONVENIENCE) DOCKET NO.
AND NECESSITY FOR CONSTRUCTION) 2005-00207
OF TRANSMISSION FACILITIES IN)
BARREN, WARREN, BUTLER, AND)
OHIO COUNTIES, KENTUCKY)**

TESTIMONY OF GEORGE R. MILNER, PH. D.

Filed: September 6, 2005

1 **Q. What is your name and address?**

2 A. My name is George R. Milner, and my permanent residence is 448 Orlando Ave., State
3 College, PA, 16803. I am employed as Professor of Anthropology and Interim
4 Department Head at The Pennsylvania State University, University Park, PA, 16802. I
5 am not representing Penn State in this testimony.

6 **Q. What is your professional background?**

7 A. I have over 30 years of experience participating, usually directing, archaeological surveys
8 (to locate sites) and excavations (to investigate sites in detail), starting as a student in
9 1971. All told, I have spent 62 months conducting fieldwork, a conservative estimate.
10 My geographical area of specialization is the Midwestern United States, and I have
11 conducted fieldwork in Illinois, Kentucky, Wisconsin, and Missouri (in order from most
12 to least). I have also participated in excavations or studied collections in Micronesia
13 (Saipan, part of the Commonwealth of the Northern Mariana Islands), Egypt, and
14 Denmark. I have two topical areas of specialization: eastern North American
15 archaeology and human osteology. With regard to the former, I have spent much of my
16 career investigating late prehistoric societies referred to as Mississippian (AD 1000-
17 1600).

18 My degrees have all been in anthropology, culminating in a Ph.D. in 1982 from
19 Northwestern University, Evanston, IL. Subsequent to my graduation, I have been
20 employed by the University of Illinois on a Cultural Resource Management (highway)
21 project; the Smithsonian Institution in Washington, DC, as a postdoctoral fellow; the
22 University of Kentucky Museum of Anthropology as Director; and Penn State as a
23 member of its faculty (now Professor).

24 **Q. What is your interest in this case?**

25 A. I have spent part of three summers – 2002, 2003, and 2004 – excavating a major
26 Mississippian site on the property of Doris and Carroll Tichenor. I first met the
27 Tichenors in 2001 when one of my graduate students, Scott Hammerstedt, was looking
28 for an archaeological site for his doctoral research. I was aware of the site because it had
29 been partially excavated in 1939-1940 as part of the state-wide Works Progress
30 Administration (WPA) archaeological project directed by William S. Webb (deceased) of
31 the University of Kentucky. I first learned of the site while organizing New Deal era
32 collections at the University of Kentucky Museum of Anthropology when I was its
33 Director in 1984-1986 (now the WS Webb Museum of Anthropology).

34 At the time of our first meeting in 2001, I was not personally aware of the present
35 condition of the site, although it was a National Register property. Upon examining the
36 site firsthand, it was apparent that it had great scientific potential.

37 My first meeting with the Tichenors was followed by a short season of work in
38 2002, and two longer Penn State field schools in 2003 and 2004. Taken together, I have
39 spent about 12 weeks on the property. The most notable outcome so far from work at the
40 site has been a doctoral dissertation by Scott Hammerstedt, who was awarded his Ph.D.
41 in August 2005.

42 Based on my experience in study the sites on the Tichenor property, I have
43 increasingly appreciate the unique scientific value of the historic and archaeological sites.
44 I am making this statement to inform the Commission that the proposed project threatens
45 that value.

46 **Q. Please describe the archaeological resources in the general area of the proposed**
47 **project.**

48 A. The Green River area of Kentucky is widely recognized among archaeologists as being
49 unusually rich in archaeological sites, especially those dating to prehistoric times. In fact,
50 it was one of several parts of the state that were identified as especially important by the
51 earliest systematically conducted research in the state undertaken by William S. Webb,
52 among others. Much of this work was supported by New Deal agencies, most notably the
53 WPA. The major Mississippian period site on the Tichenor property was one of the sites
54 partly excavated by the WPA.

55 The Green River is best known for its Archaic period (8000-1000 BC) sites,
56 especially shell and earth middens (great heaps of debris) dating to the most recent half of
57 that time interval (4500-1000 BC). These sites are distributed across several counties,
58 including Butler. A number of the middens have been excavated, starting early in the
59 20th century and continuing through the Great Depression (WPA projects) to the present.
60 Recent projects include, among others, Patty Jo Watson (Washington University) and
61 William Marquardt's (Florida Museum of Natural History) Shell Mound Archaeological
62 Project, and my own work with Richard W. Jefferies (University of Kentucky).

63 **Q. Are the archaeological sites on the Tichenor property unique to the general area?**

64 Yes. The much later Mississippian period site on the Tichenor property is
65 unusual insofar as it is the only major late prehistoric settlement known to have existed
66 along the part of the Green River that is widely known for its Archaic sites. In fact, it has
67 special significance because it is at the edge of the Mississippian occupation of Kentucky
68 (the northeastern edge of Mississippian occupation extends in a roughly northwest to

69 southeast direction, excluding the Bluegrass and most of the rest of the eastern part of the
70 state). The site is, therefore, both unusual for the Green River area and of particular
71 scientific significance because it is one of a relatively few examples of a partly excavated
72 Mississippian settlement on a cultural “frontier.”

73 **Q. What are the unique qualities of Mississippian sites?**

74 Mississippian sites include those associated with the most organizationally
75 complex societies that existed in prehistoric times within the borders of the United States.
76 These societies are commonly called chiefdoms, a diverse group of societies that share
77 key characteristics including an organization along kinship lines and inherited but weak
78 leadership that lacks coercive power. For over 20 years, the eastern United States
79 (specifically, the southern Midwest and Southeast) has seen some of the most active
80 research worldwide in the study of prehistoric chiefdoms.

81 **Q. What is your evaluation of the historic and archaeological sites on the Tichenor property?**

82 There are two National Register sites on the Tichenor property: a historic house
83 where a ferry was once located (Carson’s Landing), and a Mississippian period village
84 including two earthen mounds. My area of expertise is in prehistoric archaeology and I
85 have personal familiarity with the Mississippian site, so my remarks will be largely
86 confined to the village and mounds. The village and two mounds are referred to as Annis
87 Mound and Village (hereafter Annis), and have the following designations in the Office
88 of State Archaeology site file: 15BT2, 15BT20, and 15BT21 (the number 15 designates
89 Kentucky, BT is Butler County, and the last number indicates the entry in the state site
90 file).

91

92 The Annis site, which dated to between AD 1260-1400, consists of two mounds
93 and a village. One of the mounds (15BT21) was located outside the village, which in
94 prehistoric times was surrounded by a wooden palisade (wall of vertical posts). The main
95 village (15BT20) consisted of wooden houses surrounded by three sequential palisades,
96 as well as a flat-topped rectangular mound (15BT2).

97 The mound (15BT21) located outside the palisade was excavated by the WPA
98 (the full extent of the WPA excavation is unknown because some original notes have
99 been lost over the past 60 years). It contained little in the way of materials, although
100 there were several human burials. The dating of this particular mound is uncertain,
101 although it probably was earlier than the Mississippian occupation of the remaining part
102 of the site.

103 The flat-topped rectangular mound was completely excavated by the WPA. Prior
104 to this work, Clarence Moore excavated a large pit in the mound, as described in his
105 report published in 1916. The WPA excavators found that the mound consisted of
106 several sequential construction episodes, and wooden structures had once stood on each
107 level.

108 The WPA archaeologists also excavated part of the village, uncovering the
109 remnants of palisades, buildings, storage pits, and hearths, among other features. The
110 recent Penn State work also focused on village deposits. This work was designed to
111 locate the old WPA grid by finding recognizable features (2002), to clarify the village
112 layout, and to obtain materials important to current research questions that were not
113 collected earlier (for example, food remains and samples for radiocarbon dating). As part
114 of his doctoral research, Scott Hammerstedt reconstructed what the WPA found in the

115 mounds and village based on old field notes, maps, photographs, and collections. He also
116 incorporated the results of the recent Penn State work in his dissertation.

117 The village – the part of Annis within the outermost of three sequential palisades
118 – is estimated as encompassing 11,000 m². This estimate is based on a conservative
119 projection of the outermost palisade through a part of the Tichenor property (a low field)
120 where neither the WPA nor Penn State crews worked. As much as 2 m have eroded from
121 this part of the river bank since 1940, based on the locations of the steep river bank as
122 mapped by the WPA and Penn State projects. It is unclear how much of the river edge
123 had eroded before 1940, although perhaps as much as 2,000 m² has disappeared into the
124 river since the Mississippian occupation. So the original size of the village may have
125 been as large as 1.3 ha (13,000 m²), or even bigger if a wider palisade arc through the
126 lower field is used.

127 The important issue is how much is presently left of the village: approximately
128 one-half (49%) of the area within the outermost palisade has not been excavated (5386
129 m² excavated of an estimated 11,000 m² area). That figure combines the WPA (5231 m²)
130 and Penn State (251 m²) work; there were 96 m² of overlap stemming from our
131 excavation to reconcile the two grids. The Penn State work resulted in 41 artifacts per
132 square meter (pottery plus stone tools and debris), ten times the yield of the WPA work
133 because methods have improved over the years. The combined excavations uncovered
134 17 areas where buildings were located. Structures were often rebuilt on or near their
135 original locations; at least 31 separate buildings were identified in these 17 places.
136 Equivalent artifact and structure densities can be expected in the unexcavated part of the
137 village.

138 There are other potentially significant archaeological sites on the Tichenor
139 property. Three were found when Penn State's field school systematically walked across
140 plowed fields in the summers of 2003 and 2004. The field school only examined part of
141 the Tichenor property for additional sites; we examined only areas that were plowed
142 where prehistoric artifacts (stone tools and chipping debris, as well as pottery) would be
143 visible if present. That is, vegetated areas covered by grass and trees were not examined.
144 The three recently identified sites have been designated by the Office of State
145 Archaeology as 15BT119, 15BT120, and 15BT121. One of these sites, 15BT120, is
146 presumably related to the occupation of the main village (the National Register site)
147 because it dates to the same time period, to judge from the pottery found there. Cultural
148 materials were scattered over an area measuring 300 m². This site, presumably a
149 farmstead, has considerable scientific potential because it is one of only a few such sites
150 identified to date in the Green River area. A second site, 15BT121, consists of a scatter
151 of stone tools and debris distributed across 6,400 m² on a low rise. It is thought to date to
152 the Late Archaic period (3000-1000 BC). A third site, 15BT119, refers to stone debris
153 thinly scattered over 12,000 m² along the edge of a field adjacent to the wooded edge of
154 the Green River. There is, at least, a Late Archaic occupation of this area, to judge from
155 a projectile point that was found. While the density of debris is low, it is important
156 because it indicates there could be site materials closer to the river, an area that has not
157 been investigated because it is heavily vegetated.

158 In addition, isolated items were occasionally discovered in other parts of the
159 Tichenor fields, although because they were so widely scattered and not diagnostic of
160 time period they did not warrant designation as separate sites (based on what we now

161 know). These areas should be reexamined under different field conditions to determine if
162 more materials are present.

163 **Q. In what ways does the proposed project threaten these sites?**

164 A. It is my understanding that the proposed corridor encompasses both the prehistoric and
165 historic National Register sites on the Tichenor farm. Furthermore, the corridor also
166 includes three sites recently identified in plowed fields on the Tichenor property in the
167 vicinity of the two National Register sites. Based on the locations of the partly excavated
168 Annis site (15BT2, 20) along with a newly discovered scatter of debris (15BT119), it is
169 likely there will be as yet unidentified archaeological sites located within the wooded
170 area that borders the Green River.

171 The transmission line is likely to have both direct and indirect effects on the
172 prehistoric and historic resources on the Tichenor farm. By direct impact, I am referring
173 to the damage to known sites that would occur when installing and maintaining the
174 transmission line. It also refers to the negative effect of construction and maintenance
175 activities – to the extent they damage the river bank – that will likely increase erosion and
176 bank recession. This increased erosion will occur precisely where the potential for as yet
177 unidentified archaeological sites is greatest. By indirect impact, I refer to the greater
178 visibility of hitherto well-protected National Register sites, one marked by an earthen
179 mound and the other a standing structure, to the public after the transmission line is
180 constructed. A cleared right of way, from the bank into the field, provides a ready path
181 for unauthorized and unwanted access to the property, putting the sites, especially those
182 on the National Register, at greater risk. The looting of archaeological sites is,
183 unfortunately, all too common in the United States, including Kentucky, and it represents

184 one of the greatest threats to cultural resources that are of significance to the public at
185 large.

186 **Q. How should the Public Service Commission decide in this case?**

187 A. I request that the Public Service Commission deny the transmission line application. The
188 proposed corridor through the Tichenor farm encompasses several prehistoric and historic
189 sites of considerable significance, so much so that two are already listed on the National
190 Register.

191 **Q. Does this conclude your testimony?**

192 A. Yes.


193 **VERIFICATION**

194
195
196 COUNTY OF CENTRE)
197) ss:
198 STATE OF PENNSYLVANIA)
199

200 The undersigned, George R. Milner, being duly sworn, deposes and says he has personal
201 knowledge of the matters set forth in the foregoing testimony, and that the answers contained
202 therein are true and correct to the best of his information, knowledge, and belief.

203
204 
205 George R. Milner
206

207 Subscribed and sworn to before me, a Notary Public in and before said County and State.
208 This 3rd day of September 2005.

209
210
211 
212 NOTARY PUBLIC

213
214 My commission expires: 2-3-08
215
216

COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Nancy L. Minnier, Notary Public
Monroa Twp., Snyder County
My Commission Expires Feb. 3, 2008
Member, Pennsylvania Association of Notaries

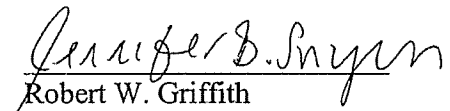
217 **CERTIFICATE OF SERVICE**

218
219 I hereby certify that a true copy of the foregoing was duly served by mailing, first class
220 postage prepaid to the following:

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