



Ernie Fletcher
Governor

Mark David Goss
Chairman

LaJuana S. Wilcher, Secretary
Environmental and Public
Protection Cabinet

Commonwealth of Kentucky
Public Service Commission
211 Sower Blvd.
P.O. Box 615
Frankfort, Kentucky 40602-0615
Telephone: (502) 564-3940
Fax: (502) 564-3460
psc.ky.gov

Teresa J. Hill
Vice Chairman

Christopher L. Lilly
Commissioner
Department of Public Protection

Gregory Coker
Commissioner

Hopkins County Coal LLC
2668 State Route 120 E
Providence, KY 42450

March 10, 2006

CERTIFICATE OF SERVICE

RE: Case No. 2006-00075
Kenergy Corp.

I, Beth O'Donnell, Executive Director of the Public Service Commission, hereby certify that the enclosed attested copy of the Commission's Order in the above case was served upon the addressee by U.S. Mail on March 10, 2006.

A handwritten signature in black ink, appearing to read "Beth O'Donnell", written over a horizontal line.

Executive Director

BOD/jc
Enclosure

Michael S. Beer
VP - Rates & Regulatory
Kentucky Utilities Company
c/o Louisville Gas & Electric Co.
P. O. Box 32010
Louisville, KY 40232-2010

Hopkins County Coal LLC
2668 State Route 120 E
Providence, KY 42450

Honorable Frank N. King, Jr.
Attorney at Law
Dorsey, King, Gray,
Norment & Hopgood
318 Second Street
Henderson, KY 42420

from the substation to the construction site, which Kenergy and KU claim is owned by KU.

Hopkins County Coal proposes to purchase the pole line,¹ energize it with power from the substation, and provide temporary power to the construction site for approximately 50 percent of the power requirements. This proposal is outlined in the application in an attached Letter of Agreement. Kenergy will provide the remaining temporary power requirements and will be the sole power provider at this site for the fan and accessories after the construction is complete. Kenergy anticipates that the construction will be completed by the end of August 2006, at which time the temporary power arrangement will cease.

From the undisputed pleadings, the Commission finds that the proposed temporary power arrangement will assist Kenergy in eliminating the disturbance on its system. In addition, it will enable Kenergy to continue to provide adequate and dependable electric service to its other customers in the immediate area.

KU's response and Salmon Farms' objection raise two issues the Commission need not decide. First, KU argues that the proposed letter agreement between Kenergy and Hopkins County Coal "does not conflict with Kentucky's Certified Territory Act," and therefore "the Commission should not exercise jurisdiction in this matter."² The Commission finds that resolution of this jurisdictional issue is not necessary to a decision in this case. KU and Kenergy are in agreement on how to resolve the application, which is to approve the letter of agreement attached to the application. The

¹ Salmon Farms alleges in its objection that KU has abandoned the easement for this line, so KU cannot convey the use of it to Kenergy.

² March 2, 2006 letter response from KU at 1.

Commission may approve this agreement, which is uncontested between Kenergy, KU, and Hopkins County Coal, without having to decide the jurisdictional issue.

Second, Salmon Farms has objected to the application because “there is no longer a valid transmission line easement which would allow for the assignment of any right by . . . KU . . . to Kenergy . . . to . . . use . . . the former abandoned transmission line.”³ The Commission has no jurisdiction over factual disputes regarding property law, and the Commission may approve the application and Letter of Agreement without deciding this issue. If the ultimate resolution of this factual issue is that KU still has a valid easement, the Order in this case approving the proposed arrangement among Kenergy, KU, and Hopkins County Coal will allow that agreement to go forward; and if the decision is that KU no longer has such an easement, this Order will be of no effect. Therefore, the Commission cannot and should not decide this issue.

The Commission therefore finds that the application should be approved, subject to any order from a court of competent jurisdiction with regard to Salmon Farms’ property issue. Our Order assumes the Commission has jurisdiction over the territorial issue, but parties may raise that issue in a subsequent case when there is a valid dispute between utilities.

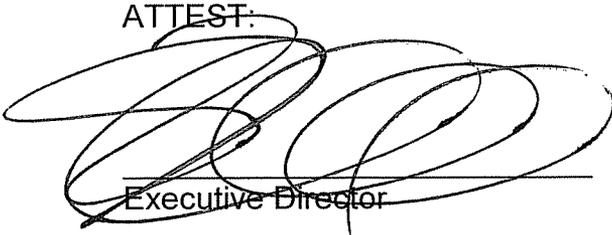
Having reviewed the application and being otherwise sufficiently advised, the Commission HEREBY ORDERS that the Letter of Agreement attached to the application in this case and the temporary service arrangement outlined in that letter are approved.

³ March 7, 2006 letter response from Salmon Farms at 1.

Done at Frankfort, Kentucky, this 10th day of March, 2006.

By the Commission

ATTEST:



Executive Director