

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF KENTUCKY UTILITIES)	
COMPANY CONCERNING THE NEED TO)	
OBTAIN CERTIFICATES OF PUBLIC)	CASE NO.
CONVENIENCE AND NECESSITY FOR THE)	2009-00325
CONSTRUCTION OF TEMPORARY)	
TRANSMISSION FACILITIES IN HARDIN)	
COUNTY, KENTUCKY)	

O R D E R

On September 4, 2009, Kentucky Utilities Company ("KU") filed an application seeking a determination that Certificates of Public Convenience and Necessity ("Certificate") are not required to build two temporary transmission line segments. In the alternative, KU requests that the Commission grant Certificates for the construction of two temporary 345 kV transmission line segments in portions of Hardin County, Kentucky. The approximate lengths of the proposed lines will be 1.78 miles and 1.45 miles. KU states that the temporary line segments are necessary in order to complete the 42-mile transmission line running from Louisville Gas and Electric's ("LG&E") Mill Creek Generating Station in Jefferson County, through Bullitt, Meade, and Hardin Counties, to the KU Hardin County Substation in Elizabethtown ("MC-HC line").

Although KU has obtained the necessary Certificates to construct the MC-HC line,¹ it has been unable to begin the construction of two segments of that transmission line due to litigation delays in obtaining necessary easements. KU maintains that it must build the temporary transmission line segments to work around the parcels whose owners have created the litigation delays in order to energize the entire MC-HC line at the time its Trimble County 2 Generating Unit goes online.

KU contends that the proposed transmission line segments do not require Certificates on the grounds that the proposed transmission lines are temporary in nature and should be considered ordinary extensions in the usual course of business under KRS 278.020(1). KU further contends that it has a well-established course of conduct of building temporary facilities without requiring Certificates. KU states that all of the affected landowners have granted KU options to purchase the temporary easements needed to build the two temporary transmission line segments and that their construction will have no material financial impact on KU or its rates. Lastly, KU relies upon Case No. 1998-00308,² in which the Commission held that GTE could erect a temporary personal communications service facility without the need to obtain a

¹ See, Case No. 2005-00142, Joint Application of Louisville Gas and Electric Company and Kentucky Utilities Company for the Construction of Transmission Facilities in Jefferson, Bullitt, Meade, and Hardin Counties, Kentucky (Ky. PSC, September 8, 2005) and Case No. 2005-00467, Joint Application of Louisville Gas and Electric Company and Kentucky Utilities Company for the Construction of Transmission Facilities in Jefferson, Bullitt, Meade, and Hardin Counties (Ky. PSC, Mar. 26, 2006).

² Application of GTE Wireless of the Midwest Incorporated for Issuance of a Certificate of Public Convenience and Necessity to Construct a Personal Communications Service Facility in the Cincinnati-Dayton Major Trading Area Which Includes Boone, Kenton, Campbell, Gallatin, Grant, Pendleton, Bracken, Mason, Lewis, Greenup, Carter, Boyd, Elliott, Lawrence, Johnson, Martin, Floyd and Pike Counties, Kentucky (Ky. PSC, Dec. 29, 1998).

Certificate, as support for KU's ability to build its proposed temporary transmission lines without the need for Certificates.

Having reviewed KU's request and being otherwise sufficiently advised, the Commission finds that KU is required to obtain a Certificate to construct its proposed temporary transmission lines. KRS 278.020(1) requires a utility to obtain a Certificate prior to the construction of any plant, equipment, property, or facility for furnishing to the public, among other things, retail electric service. The statute also provides an exemption to the Certificate requirement for projects that are "ordinary extensions of existing systems in the usual course of business." KRS 278.020(2) specifically provides that "[c]onstruction of any electric transmission line of one hundred thirty-eight (138) kilovolts or more and of more than five thousand two hundred eighty (5,280) feet in length shall not be considered an ordinary extension of an existing system in the usual course of business and shall require a certificate." KRS 278.020(2) also provides for three exceptions to the requirement of a Certificate for a transmission line: (1) the replacement or upgrading of any existing electric transmission line; (2) the relocation of any existing electric transmission line to accommodate construction or expansion of a roadway or other transportation infrastructure; or (3) an electric transmission line that is constructed solely to serve a single customer and that will pass over no property other than that owned by the customer to be served.

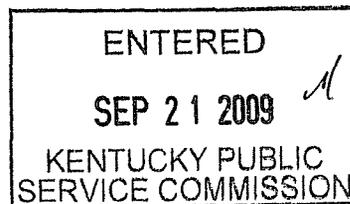
KU's proposed transmission line segments fall within the ambit of KRS 278.020(2) regardless of its temporary nature. Each of the two proposed transmission line segments is greater than 138 kV and in excess of one mile in length. Based upon a review of the application, it is also clear that the proposed transmission lines do not fall

within one of the three enumerated exceptions provided under KRS 278.020(2). Accordingly, the Commission concludes that KU is required to obtain a Certificate for the construction of these transmission line segments.

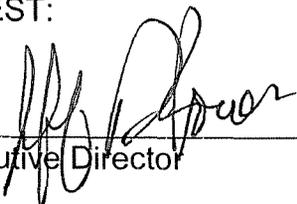
IT IS THEREFORE ORDERED that:

- 1) KU is required to obtain a Certificate for the construction of the proposed temporary transmission line segments described in its application.
- 2) A procedural schedule shall be entered in this case within two weeks of the date of this Order.

By the Commission



ATTEST:



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