

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

W. A. ROCK	)	
	)	
COMPLAINANT	)	
	)	CASE NO. 99-330
vs.	)	
	)	
KENTUCKY UTILITIES COMPANY	)	
	)	
DEFENDANT	)	

O R D E R

On July 30, 1999, W. A. Rock ("Complainant") filed a Complaint against Kentucky Utilities Company ("KU") alleging that KU discriminated against him by installing electric lines across the rear of his property to provide electricity to a duplex currently under construction. He claims that the lines are 110 feet in length, and that lines 30 feet in length could have been constructed from across the street to provide service to the duplex without crossing his property. He also says that KU's reluctance to construct a line across the street is at odds with its practices in the area, and that its reluctance to construct a permanent line across the street in this instance is the result of an oral agreement with the developer of the duplex. Appended to the Complaint is an attachment containing numbered paragraphs that provide additional information ["Attachment"], together with a diagram of the area demonstrating that the lines at issue cross the rear of the Complainant's property line ["Diagram"]. The Diagram also demonstrates that the lines to Complainant's property cross the rear of other properties in the area.

Pursuant to 807 KAR 5:001, Section 12(4), this Commission is to examine each formal complaint to determine whether it establishes a prima facie case. If no prima facie case is found, the Commission may notify the Complainant to that effect and specify a time frame within which the Complaint may be amended. Based upon the Complaint and attachments thereto, and accepting the allegations therein as true, the Commission finds that Complainant has failed to state a prima facie case against KU and that, unless the Complaint is amended to state a prima facie case within twenty (20) days of the date of this Order, the Complaint should be dismissed.

Utility construction is governed by law meant to ensure that the public convenience and necessity is served. KRS 278.020. The need for service to the property discussed in the Complaint is not questioned. A utility need not receive Commission approval for the construction of ordinary extensions of existing systems in the usual course of business." Id. The construction at issue is, without question, an ordinary extension . . . in the usual course of business." See 807 KAR 5:001, Section 9(3). In addition, Kentucky's highest court has held that "the specific paths the [electric] lines might follow" is "not relevant to the issue of convenience and necessity." Satterwhite v. Public Service Com'n, Ky., 474 S.W.2d 387, 388 (1971). Accordingly, the court in Satterwhite dismissed a petition filed by property owners over whose land KU's transmission lines would cross. Id.

Complainant alleges that KU in constructing the lines has "discriminated" against him and other property owners over whose property the lines would cross. However, he does not show that KU has treated him discriminatorily or unreasonably. The Diagram attached to the Complaint demonstrates that KU constructed lines across the rear of

other properties in order to bring service to Complainant's own property. Furthermore, even if KU has previously constructed lines across streets to provide service, there is nothing inherently unreasonable in its decision to avoid such construction, particularly here, where the transformer currently serving lots numbered 12, 13, 14, and 16 on Complainant's Diagram [Attachment to Complaint at (9)] will also serve lot 15, the property on which the new duplex is built.

As explained above, no prima facie case is stated in the Complaint as filed. However, this case will be retained on the Commission's docket for an additional twenty (20) days from the date of this Order so that the Complainant may file any additional allegations or amendments he believes relevant. The Commission will review any such additional allegations or amendments immediately upon their filing. If no such amendments or allegations are filed, this case shall be dismissed without further Order.

IT IS SO ORDERED.

Done at Frankfort, Kentucky, this 27<sup>th</sup> day of August, 1999.

By the Commission

ATTEST:

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Executive Director