

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 TO ) CASE NO. 2005-00207  
CONSTRUCT A 161 KV TRANSMISSION LINE )  
IN BARREN, WARREN, BUTLER, AND )  
OHIO COUNTIES, KENTUCKY )

O R D E R

On July 1, 2005, East Kentucky Power Cooperative, Inc. (“Applicant”) filed an application for approval of the construction of a transmission line in Barren, Warren, Butler, and Ohio counties, Kentucky. On August 15, 2005, Intervenor Joey Roberts served data requests on the Applicant. Applicant filed its responses on August 26, 2005. On August 31, 2005, Mr. Roberts e-mailed and telefaxed a motion to compel an answer to Request No. 10. The Applicant filed its response on the same day.

Mr. Roberts requested “an electronic data file containing the names and mailing addresses of all individuals identified as owners of property to be ‘crossed by the proposed right of way’ according to the certification made in Exhibit 16 of the Application and any other property owners upon whose property construction will be required by the project as currently planned by EKPC. Please provide the electronic data file on standard 3.5” floppy disks or data compact discs formatted for compatibility with Microsoft Windows operating systems and suitable for direct use within or import into

Microsoft Word or Excel.” The Applicant responded that the information had already been provided as Application Exhibit 16 and declined to provide it in a different format.

In his motion to compel, Mr. Roberts argued that the list in that exhibit “is not completely up-to-date and may no longer reflect the certification made in Exhibit 16 of the Applications as listing any and all of the property to be ‘crossed by the proposed right of way’ as currently planned. The request is for an updated listing that includes any and all ‘property owners upon whose property construction will be required by the project as currently planned by EKPC.” He then repeated his request for the format of the list.

In its response, the Applicant stated that Exhibit 16 is the current and correct list. Thus no updated information is available. The Applicant declined to provide the information in a different format.

Based on these filings and the current record, the Commission finds that the motion to compel should be denied. In its response, Applicant states that the information in Exhibit 16 “remains correct.” If Mr. Roberts or any other party believes that statement is incorrect, he may explore that issue on cross-examination at the hearing. This type of factual dispute, however, is not subject to resolution through a motion to compel. Further, the application in this case was filed on data compact disks, and any reformatting should be the responsibility of the individual parties. The Commission finds that the Applicant has fully answered Mr. Roberts’s Data Request No. 10.

IT IS THEREFORE ORDERED that the motion to compel is denied.

Done at Frankfort, Kentucky, this 2nd day of September, 2005.

By the Commission

ATTEST:

for the   
Executive Director

Case No. 2005-00207