

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

In the Matter of:

Electronic Application Of Kentucky Power	)	
Company For A Certificate Of Public Convenience	)	
And Necessity To Construct A 138 kV	)	
Transmission Line And Associated Facilities	)	Case No. 2021-00346
Floyd And Knott Counties, Kentucky	)	
(Garrett Area Improvements 138 kV Transmission	)	
Project)	)	

**Motion for Leave To File An Amended Notice of Intent And, To The Extent Required,  
For Deviation From The Requirements Of 807 KAR 5:120, And For Other Relief**

Kentucky Power Company moves the Public Service Commission of Kentucky for an

Order:

(a) granting leave pursuant to 807 KAR 5:001. Section 4(5) to file an amended notice of intent to reflect the retirement of transmission assets in Breathitt County, Kentucky, and to revise the description of the work to be performed at the Hays Branch Substation in Floyd County, Kentucky;

(b) granting leave pursuant to 807 KAR 5:120, Section 4, to the extent required, to deviate from the 30-day notice period of 807 KAR 5:120, Section 1 so as to permit Kentucky Power to file its application in this matter on or after October 25, 2021;

(c) deeming its amended notice of intent as having been filed on October 8, 2021 if the requested deviation is not granted; and

(d) amending the caption of this case to include Breathitt County, Kentucky.

Kentucky Power states in support of its motion:

A. Motion To Amend Notice of Intent.

1. Kentucky Power filed its notice of intent in this case on September 1, 2021. The notice of intent indicated that the project would be constructed in Floyd and Knott Counties, Kentucky.

2. The Company subsequently updated and clarified in two respects the proposed description of the work to be performed that was included in the September 1, 2021 notice of intent. First, Kentucky Power proposes to identify separately the proposed retirement of the Spring Fork 46 kV Transmission Substation and the associated 46 kV transmission line in connection with the construction of the proposed 138 kV transmission line. Kentucky Power also determined subsequent to the filing of its September 1, 2021 notice of intent that the Spring Fork 46 kV Transmission Substation, and the associated 46 kV transmission line to be retired, are located in Breathitt County, Kentucky near the Breathitt County-Knott County line.

3. The September 1, 2021 notice of intent also indicated that a Phase-over-phase switch would be installed outside the Hays Branch 138 kV Substation in Floyd County, Kentucky. That work will not be performed at the Hays Branch 138 kV Substation.

4. The amended notice of intent is separately tendered.

5. Good cause exists for granting leave to file the amended notice of intent. The description of the work contained in the amended notice of intent provides a more detailed description of the work the Company proposes to perform. In addition, the amendment informs

residents of Breathitt County, Kentucky that removal work will be performed in that county. The requested amendment will not prejudice any landowner or other interested party.

B. Motion For A Deviation To The Extent Required.

6. The proposed 138 kV transmission line that is the subject of the Company's application for a certificate of public convenience and necessity is located in Knott and Floyd Counties only. None of the proposed 138 kV transmission line will be constructed in Breathitt County, Kentucky.<sup>1</sup>

7. 807 KAR 5:120(2)(c) requires that the notice of intent set forth "the county or counties in which the construction will be proposed." The September 1, 2021 notice of intent listed only Floyd and Knott Counties, Kentucky.

8. 807 KAR 5:120 Section 2(c) appears inapplicable to the retirement work in Breathitt County, and hence the requirement that Breathitt County be named in the notice of intent. No transmission line or station construction is being proposed in Breathitt County. Instead, Kentucky Power is proposing to retire the existing 46 kV substation and transmission line in Breathitt County. Further, the voltage of the Breathitt County transmission line and substation to be retired (46 kV) is less than the 138 kV threshold for the applicability of 807 KAR 5:120.

9. 807 KAR 5:120, Section 1 requires that a notice of intent be filed at least 30 days prior to filing an application to construct an electric transmission line. Kentucky Power's

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<sup>1</sup> Kentucky Power will construct in Breathitt County, Kentucky ordinary extensions of distribution lines in connection with the retirement of the Spring Fork 46 kV Transmission Substation and the associated 46 kV transmission line.

September 1, 2021 notice of intent indicated that the Company intended to file its application on or after October 2, 2021. The application has not yet been filed.

10. 807 KAR 5:001, Section 4(5) provides that an amendment of a “paper” shall not relate back to the date of the original paper.

11. Kentucky Power proposes to file its application in this matter on after October 25, 2021. October 25, 2021 is more than thirty days after the filing of the original notice of intent; that date is less than 30 days after the filing of this motion and the amended notice of intent.

12. To the extent the Commission determines that 807 KAR 5:120(2)(c) is applicable to the proposed removal work in Breathitt County, good cause exists to grant the requested deviation. Kentucky Power published the notice required by 807 KAR 5:120(5) in the newspapers of general circulation for Floyd County (September 23, 2021) and Knott County (September 22, 2021) where the proposed transmission line would be constructed. Residents of the two counties where the line will be constructed thus have had at least 30 days notice of the Company’s intent to file its application.

13. Kentucky Power will republish in the newspapers of general circulation for Floyd and Knott Counties, and publish in the newspaper of general circulation for Breathitt County, the notice required by 807 KAR 5:120(5) on or before the date it files its application. The notice to be published (or republished) will be updated to reflect the amended notice of intent. The Company also would mail, on or before the date its application is filed, to the landowners in Floyd and Knott Counties over whose property the proposed right-of-way will cross, the notice

required by 807 KAR 5:120(3). The proposed right-of-way will not cross any land in Breathitt County.

14. The requested deviation will not affect the rights of any landowner or other interested party. Also, the requested deviation also will not affect the rates or service of any customer of the Company. The requested deviation will permit the Company to proceed with its filing in an orderly fashion.

C. Miscellaneous Relief

15. The Company further requests that the caption of this case be amended to add Breathitt County. Doing so will better inform the public regarding the geographic scope of the proposed work.

16. Kentucky Power also requests that the amended notice of intent be deemed filed as of the date of this filing in the event the requested deviation is not granted. Doing so will not prejudice any landowner or other interested party, and will limit any delay in the prosecution of this proceeding.

Wherefore, Kentucky Power Company respectfully requests the Commission enter an Order:

1. granting leave pursuant to 807 KAR 5:001. Section 4(5) to file an amended notice of intent to reflect the retirement of transmission assets in Breathitt County, Kentucky, and to revise the description of the work to be performed at the Hays Branch Substation in Floyd County, Kentucky;

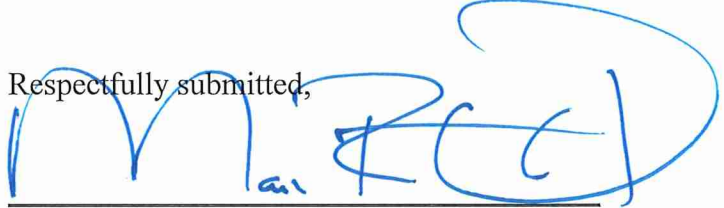
2 granting leave pursuant to 807 KAR 5:120, Section 4, to the extent required, to deviate from the 30-day notice period of 807 KAR 5:120, Section 1 so as to permit Kentucky Power to file its application in this matter on or after October 25, 2021;

3. deeming its amended notice of intent as having been filed on October 8, 2021 if the requested deviation is not granted;

4. amending the caption of this case to include Breathitt County, Kentucky; and

5. granting any further relief to which the Company may be entitled.

Respectfully submitted,



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