

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

Electronic Application Of Kentucky Utilities)	
Company For A Certificate Of Public Convenience)	
And Necessity For The Construction Of)	Case No. 2022-00066
Transmission Facilities In Hardin County, Kentucky)	

Frank D. Brown and Martha V. Brown’s Motion for Leave to Intervene

Frank D. Brown and Martha V. Brown (“the Browns”), by counsel, move the Public Service Commission of Kentucky (“Commission”) pursuant to 807 KAR 5:001, Section 4(11) and KRS 278.020(9) for leave to intervene in this case filed by Kentucky Utilities Company (“KU”) on March 31, 2022.

The Browns are the record title owners of more than 130 acres in Hardin County with parcel numbers 190-30-00-013 and 190-30-00-020, which are adjacent to each other, directly east of downtown Glendale, and lie on either side of Kentucky Highway 222 Glendale Hodgenville Road W. The Browns’ property directly abuts the Glendale Megasite to the north. The 345 kV substation proposed to be sited on the north side of the Glendale Megasite would be located directly south of the Browns’ property, but not on it. The proposed Glendale West 345 kV transmission line proceeds north out of the proposed substation and crosses through both of the Browns’ parcels.¹ The proposed Glendale East 345 kV transmission line proceeds northeast out of the proposed 345 kV substation and generally follows the southern boundary of one of the Browns’ parcels, but does not cross it, before turning more north.²

¹ See Application, Exhibit 2, page 62 of 87.

² See Application, Exhibit 2, page 78 of 87.

The Browns received two notices from KU dated March 11, 2022 informing them that “KU plans to construct a 345 kV electric transmission line on [their] property,” and that “a property owner also has the right to request intervention in the case.”³ The Browns also are identified as affected landowners in Exhibit 20 of KU’s Application.

KRS 278.020(9) provides that “[i]n a proceeding on an application filed pursuant to this section, any interested person, including a person over whose property the proposed transmission line will cross, may request intervention.” The only person who has a statutory right to intervene in a Commission case is the Attorney General of the Commonwealth of Kentucky, pursuant to KRS 367.150(8)(b).⁴ Intervention by all others is permissive and is within the sole discretion of the Commission.⁵

The statutory standard for permissive intervention, KRS 278.040(2), requires that “the person seeking intervention must have an interest in the ‘rates’ or ‘service’ of a utility, since those are the only two subjects under the jurisdiction of the PSC.”⁶ The regulatory standard for permissive intervention, set forth in 807 KAR 5:001, Section 4, is twofold.⁷ Commission regulation 807 KAR 5:001, Section 4(11) requires a person to set forth in the motion to intervene either (1) a special interest in the proceeding that is not otherwise adequately represented in the case, or (2) that intervention is likely to present issues or develop facts that will assist the

³ See **Exhibit 1** attached hereto.

⁴ Order, 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 In Breathitt, Floyd And Knott Counties, Kentucky (Garrett Area Improvements 138 Kv Transmission Project)*, Case No. 2021-00346 at 3 (Ky. P.S.C. Dec. 7, 2021) (“Kentucky Power Garrett Order”).

⁵ *Id.*

⁶ *Id.* citing *EnviroPower, LLC v. Public Service Commission of Kentucky*, No. 2005-CA-001792-MR, 2007 WL 289328 at 3 (Ky. App. Feb. 2, 2007).

⁷ *Id.*

Commission in fully considering the matter without unduly complicating or disrupting the proceedings.⁸

The Browns will be impacted if KU's application for a certificate of public convenience and necessity ("CPCN") is granted, as the Browns' property is "in the direct path of the proposed line."⁹ Moreover, because the Browns own property over which the proposed line will cross, they have a special interest that is not otherwise adequately represented in this proceeding.¹⁰ There is no other party to this proceeding representing the interests of the Browns, as their property is unique and will be substantially affected by, at least, the proposed Glendale West 345 kV transmission line crossing through their property, which lies directly north of, and is adjacent to, the Glendale Megasite.¹¹ Given that the interests of individual landowners would likely conflict with one another in terms of what route is most appropriate for the proposed transmission lines, no other party or landowner could represent the Browns' unique interests. The Browns' interest also is separate and distinct from the general interest of all consumers that the Attorney General will or may be able to represent in this proceeding if he chooses to intervene as a matter of right.

The Browns also have "an interest in the service provided by Kentucky Power, because the definition of 'service' found in KRS 278.010(13) 'includes any practice or requirement in any way relating to the service of any utility. . . .' [KU] is a utility and is required to obtain a CPCN before constructing the proposed transmission line. Therefore, the CPCN review process is related to [KU]'s service."¹²

⁸ *Id.* at 3-4.

⁹ *See* Kentucky Power Garrett Order at 4.

¹⁰ *See id.* at 5.

¹¹ *See id.* at 4.

¹² *See id.* at 5.

As such, the Commission need not “analyze the likelihood of [the Browns] presenting issues or developing facts to assist the Commission in fully considering the matter without unduly complicating the matter, because the regulatory standard found in 807 KAR 5:001, Section 4(11) requires a party seeking intervention to satisfy only one prong of a two-prong test...” Because the Browns have met the “special interest not otherwise represented” prong of the test, the Commission should grant them leave to intervene on these grounds alone.

Notwithstanding, the Browns’ intervention also is likely to present issues or develop facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings. The Browns anticipate being able to examine and potentially challenge the need for the requested service, whether it will result in wasteful duplication, the adequacy of KU’s route selection and decision to not co-locate the proposed transmission facilities within or adjacent to existing transmission rights-of-way, and the preference for avoiding existing structures at the expense of natural resources and other related issues.

Conclusion

For the reasons stated herein, the Browns respectfully request the Commission grant them leave to intervene in this matter, and grant the Browns all other relief to which they may be entitled.

Respectfully submitted,



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EXHIBIT 1



a PPL company

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March 11, 2022

RE: Notice of Proposed Construction of Electric Transmission Line

Frank D. Brown & Martha V. Brown

In February 2022, you received a notice regarding upcoming work by Kentucky Utilities Company ("KU") to construct new utility transmission lines. This letter serves as your official notice that KU plans to construct a 345 kV electric transmission line on your property, parcel ID 190-30-00-020. The route of the planned line is shown on the map enclosed with this letter.

KU plans to file an application with the Kentucky Public Service Commission ("Commission") on or after March 31, 2022, seeking a certificate of public convenience and necessity authorizing construction of the proposed transmission line. Under Kentucky law, after KU has filed its application with the Commission, a property owner has the right to request that the Commission hold a local public hearing regarding the planned line. A property owner also has the right to request intervention in the case. To seek intervention in the Commission's proceeding on KU's application for a certificate of public convenience and necessity for the proposed transmission line, or to request local public hearing in that case, contact the Executive Director, Public Service Commission, 211 Sower Boulevard, P.O. Box 615, Frankfort, Kentucky 40602, telephone number (502) 564-3940. The docket number under which this application will be processed is Case No. 2022-00066.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Michael E. Hornung', is written over a light-colored background.

Michael E. Hornung



a PPL company

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March 11, 2022

RE: Notice of Proposed Construction of Electric Transmission Line

Frank D. Brown & Martha V. Brown

In February 2022, you received a notice regarding upcoming work by Kentucky Utilities Company ("KU") to construct new utility transmission lines. This letter serves as your official notice that KU plans to construct a 345 kV electric transmission line on your property, parcel ID 207-00-00-010. The route of the planned line is shown on the map enclosed with this letter.

KU plans to file an application with the Kentucky Public Service Commission ("Commission") on or after March 31, 2022, seeking a certificate of public convenience and necessity authorizing construction of the proposed transmission line. Under Kentucky law, after KU has filed its application with the Commission, a property owner has the right to request that the Commission hold a local public hearing regarding the planned line. A property owner also has the right to request intervention in the case. To seek intervention in the Commission's proceeding on KU's application for a certificate of public convenience and necessity for the proposed transmission line, or to request local public hearing in that case, contact the Executive Director, Public Service Commission, 211 Sower Boulevard, P.O. Box 615, Frankfort, Kentucky 40602, telephone number (502) 564-3940. The docket number under which this application will be processed is Case No. 2022-00066.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Michael E. Hornung', written over a light blue horizontal line.

Michael E. Hornung