

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

IN THE MATTER OF:

THE ELECTRONIC APPLICATION OF KENTUCKY)
UTILITIES COMPNAY FOR A CERTIFICATE OF)
PUBLIC CONVENIENCE AND NECESSITY FOR) Case No. 2022-00066
THE CONSTRUCITON OF TRANSMISSION)
FACILITIES IN HARDIN COUNTY, KENTUCKY)

WADE FAMILY FARM MANAGEMENT, LLC’S
MOTION FOR LEAVE TO INTERVENE

Comes now, Wade Family Farm Management, LLC (“Wade Family Farm”), by counsel, pursuant to 807 KAR 5:001, Section 4(11), and other applicable law, and does hereby request the Kentucky Public Service Commission (“Commission”) to grant leave to intervene in this docket, respectfully stating as follows:

1. Wade Family Farm is a Kentucky Limited Liability Company that was formed in 2007 and is in good standing. Its principal business address is 229 Wade Lane, Elizabethtown, Kentucky, 42701.

2. On or about March 1, 2022, Kentucky Utilities Company (“KU”) filed a Notice of Intent to File an Application for a Certificate of Public Convenience and Necessity to construct two 345 kilovolt (“kV”) electric transmission lines and two 138kV electric transmission lines in Hardin County, Kentucky. According to the Notice of Intent, the construction is necessary “to provide electrical service to the Glendale Megasite, upon which the Ford Motor Company has proposed to construct two battery manufacturing plants and expected growth in the area.”

3. On March 31, 2022, KU filed its application with the Commission. The application was accepted for filing by the Commission later that same day.

4. The Wade Family Farm is a landowner whose property will be crossed by the route for at least one of the proposed transmission lines, as confirmed by a March 11, 2022 notice received from KU, informing it that “KU plans to construct a 345 kV electric transmission line on your property, parcel ID 189-00-00-005.01. The route of the planned line is shown on the map enclosed with this letter.”¹ Moreover, the Wade Family Farm is identified as an affected landowner in Exhibit 20 of KU’s application.

5. Only the Attorney General enjoys a statutory right of intervention in proceedings before the Commission. The right of all other parties to intervene in a case is a matter within the Commission’s discretion.² The manner in which this discretion is to be exercised is set forth in 807 KAR 5:001, Section 4(11)(b), which states in relevant part:

The commission shall grant a person leave to intervene if the commission finds that he or she has made a timely motion for intervention and that he or she has a special interest in the case that is not otherwise adequately represented or that his or her intervention is likely to present issues or to develop facts that assist the commission in fully considering the matter without unduly complicating or disrupting the proceedings.

6. In addition, KRS 278.020(9) recognizes the Wade Family Farm as an interested party in such proceedings by stating: “In 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....” Indeed, the Commission has consistently recognized

¹ See Letter from Michael E. Hornung (March 11, 2022), attached and incorporated herein as Exhibit A.

² See *Inter-County Rural Electric Cooperative Corporation v. Public Service Commission of Kentucky*, 407 S.W.2d 127, 130 (Ky. 1966).

the special interest held by landowners whose land is to be impacted by a proposed high-voltage electric transmission line and permitted such landowners to intervene in CPCN cases.³

7. Wade Family Farm satisfies the Commission’s regulatory criteria for being granted intervention. First, this motion is being filed in a timely manner and before any deadline for seeking intervention has passed or even been established. Second, Wade Family Farm has a special interest in this proceeding that is not otherwise adequately represented and its intervention is likely to present issues and develop facts that assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings. Last, at least one of the proposed electric transmission lines – proposed Western Route A – will cross the Wade Family Farm’s property.

8. Wade Family Farm’s interest 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.

9. Furthermore, in Case No. 2021-00346,⁴ the Commission granted intervention to a property owner whose land the proposed transmission line would cross. In its December 7, 2021 Order in that case the Commission stated: “It is reasonable to expect property in the direct

³ See, e.g., *In the Matter of the Electronic Application of Kentucky Power Company for a Certificate of Public Convenience and Necessity to Construct a 138KV Transmission Line and Associated Facilities in Breathitt, Floyd and Knott Counties, Kentucky (Garrett Area Improvements 138 KV Transmission Project)*, Order, Case No. 2021-00346 (Ky. P.S.C Dec. 7, 2021); *In the Matter of the Electronic Application of Louisville Gas & Electric. Company for a Certificate of Public Convenience and Necessity for the Construction of an Electric Transmission Line*, Order, Case No. 2017-00195 (Ky. P.S.C. Aug. 8, 2017); *In the Matter of the Application of Louisville Gas and Electric Company and Kentucky Utilities Company for a Certificate of Public Convenience and Necessity for the Construction of Transmission Facilities in Jefferson, Bullitt, Meade and Hardin Counties, Kentucky*, Order, Case No. 2005-00467 (Ky. P.S.C. Jan. 6, 2006).

⁴ *In the Matter of the Electronic Application of Kentucky Power Company for a Certificate of Public Convenience and Necessity to Construct a 138KV Transmission Line and Associated Facilities in Breathitt, Floyd and Knott Counties, Kentucky (Garrett Area Improvements 138 KV Transmission Project)*, Order, Case No. 2021-00346 (Ky. P.S.C. Dec. 7, 2021).

path of the proposed line to be impacted by the construction of the line if the CPCN is granted.”⁵

The Commission went on to say:

There is no other party to this proceeding representing the interests of landowners in the proposed path of the transmission line. Kentucky Power states that that it is required to obtain all permits and comply with environmental regulations in order to construct the transmission line if the CPCN is granted. However, Kentucky Power’s obligation to operate within the limits of applicable law is not a substitute for adequate representation.⁶

10. Wade Family Farm has a special interest in this proceeding regarding the service provided by Kentucky Utilities, as service is defined in KRS 278.010(13). The Commission recognized this in Case No. 2021-00346 by stating, “the [electric transmission line] CPCN review process is related to [a utility’s] service.”⁷

11. The Commission has recognized that only one aspect of the two-part test set forth in 807 KAR 5:001 Section 4(11) must be satisfied in order to be granted permissive intervention.⁸ Since the Wade Family Farm has demonstrated a special interest in the proceeding, it is not necessary to demonstrate how the Wade Family Farm would present issues or develop facts to assist the Commission in fully considering the matter without unduly complicating the matter. However, the Wade Family Farm’s participation would satisfy both elements of the two-part test as well. For example, Wade Family Farm anticipates 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, the preference for avoiding

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

existing structures at the expense of natural resources and other related issues. Moreover, the very nature and scope of the study area is likely to be an issue.

12. Through counsel, Wade Family Farm is well-suited to thoughtfully and efficiently present and understand the details presented in this case to assist the Commission in developing a full record. Given the alternative routes included in KU's application and the fact that the interest of individual landowners will likely conflict with one another in terms of what route is most appropriate, no other party or landowner can represent the Wade Family Farm's unique interests.

WHEREFORE, on the basis of the foregoing, Wade Family Farm respectfully requests the Commission to grant it leave to intervene in this proceeding and award it any and all relief to which it or its members may be entitled.

Respectfully submitted,



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CERTIFICATE OF SERVICE

This will certify that the foregoing document was filed via the Commission's electronic filing system this 4th day of April 2022; there are currently no parties that the Commission has excused from participation by electronic means in this proceeding and pursuant to prior Commission orders, no paper copies of this filing will be made. .

A handwritten signature in blue ink, appearing to read 'D.A. [unclear]', is written over a horizontal line.

Counsel for Wade Family Farm Management, LLC .



a PPL company

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March 11, 2022

RE: Notice of Proposed Construction of Electric Transmission Line

Wade Family Farm Management LLC

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 189-00-00-005.01. 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 blue ink, appearing to read 'Michael E. Hornung', written over a light blue horizontal line.

Michael E. Hornung

