

**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 )

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**WADE FAMILY FARM MANAGEMENT, LLC’S  
BRIEF**

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Comes now, Wade Family Farm Management, LLC (“Wade Family Farm”), by counsel, pursuant to the Commission’s June 2, 2022 Order, and hereby tenders its Brief setting forth its position on the facts and law of the Application filed by Kentucky Utilities Company (“KU”) seeking issuance of a Certificate of Public Convenience and Necessity (“CPCN”) by the Kentucky Public Service Commission (“Commission”) for the construction of certain electric transmission and substation facilities within Hardin County, Kentucky,<sup>1</sup> respectfully stating as follows:

**I. INTRODUCTION**

The Kentucky General Assembly enacted KRS 278.020(1) as a means to guarantee that public utilities do not invest in facilities that are unnecessary or wasteful. Although the addition of a large manufacturing complex would, on its face, appear to justify the construction of massive, high-voltage electric transmission lines to serve this load, the facts of this case illustrate a different

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<sup>1</sup> Wade Family Farm notes initially that its Brief is limited to KU’s request for a CPCN for two (2) 345 kV electric transmission lines. Wade Family Farm does not take issue with KU’s request to construct the Glendale South Substation, the Glendale Industrial Substation or the two (2) 138 kV electric transmission lines connecting the two proposed substations to one another.

picture. There is no doubt that KU needs a single 345 kV electric transmission line to serve the new load associated with the Ford Motor Company's project at the Glendale Megawatt (the "Ford Project"). However, that single line is more than adequate to provide safe, reliable and adequate service to the Ford Project.

Put simply, KU has not met its burden of proof to demonstrate that two 345 kV electric transmission lines are needed. The record demonstrates that two 345 kV electric transmission lines would be the textbook example of wasteful duplication and an unnecessary multiplicity of properties in contravention of the legal authority emanating from KRS 278.020(1). The question then becomes which of the two proposed lines in this case should be awarded a CPCN? The answer is plainly evident. The proposed "Eastern" transmission line is objectively superior in every way to the proposed "Western" transmission line. Accordingly, KU should only be granted a CPCN for the Eastern 345 kV transmission line.

Alternatively, in the event that the Commission deems KU is entitled to a CPCN for both 345 kV transmission lines despite the absence of supporting evidence in the record, then the Western line should only be allowed to be constructed on what is labeled as "Route D." This route was quite obviously superior to the preferred Route A under KU's modified siting modeling. It was only after KU manipulated the expert judgment phase in a manner that is wholly inconsistent with the Kentucky Siting Model that Route A became the preferred route. To preserve the integrity of the Kentucky Siting Model in cases such as this – where the utility has changed the model but provided no justifications for its modifications – the Commission should find that KU has failed to satisfy its burden of proof that its expert judgment process has yielded a reasonable outcome.

This case demonstrates the importance of the rule of law. Expediency is a poor substitute for thorough analysis and careful application of the record to the law of the case, especially in this

case where KU cannot explain or justify the criteria it applied. KU has not met its burden of proof in this instance and it should only be granted a CPCN for a single 345 kV electric transmission line.

## II. STATEMENT OF FACTS

### A. Parties

Wade Family Farm is a Kentucky limited liability company that was formed in 2007. It is a landowner whose property will be crossed by KU's proposed Western 345 kV transmission line, 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."<sup>2</sup> Moreover, the Wade Family Farm is identified as an affected landowner in Exhibit 20 of KU's Application.

KU is a company that provides electric generation, transmission and distribution services in approximately seventy-seven (77) Kentucky counties. It is a "utility" as defined in KRS 278.010(3)(b) and a "retail electric supplier" as defined in KRS 278.010(4). In this case, it proposes to construct two (2) 345 kV electric transmission lines, two (2) 138 kV electric transmission lines and two associated substations.<sup>3</sup>

Other parties who have been granted leave to intervene in this case individually include: (1) Grover K. Berry ("Mr. Berry"); (2) Frank D. Brown and Martha V. Brown (the "Browns"); and (3) Stephen Dobson, Raymond Dobson, Deanna Dobson, Betty Dobson, John Hagan, Loretta Hagen, Larry Hagen and Kay Hagen (the "Hagen Property Heirs").<sup>4</sup>

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<sup>2</sup> Wade Family Farm Motion to Intervene, Exh. A.

<sup>3</sup> See KU Application, p. 2 (Mar. 31, 2022). Per KRS 278.020(2), the four transmission lines do not qualify as ordinary extensions of KU's existing system in the usual course of business.

<sup>4</sup> See generally Orders entered in Case No. 2022-00066 (Ky. P.S.C. Mar. 25, 2022).

## B. Proposed 345 kV Transmission Facilities

KU proposes to construct two (2) 345 kV electric transmission facilities. The proposed “Western” transmission line is 4.9 miles in length and was originally estimated to cost \$19.5 million.<sup>5</sup> The route for the proposed Western line follows what is designated as Route A in the Siting Study attached to KU’s Application.<sup>6</sup> This route was selected from among four alternatives initially considered by KU prior to narrowing the options to Route A and a second path designated as Route D.<sup>7</sup> A representative comparison of the four alternative Western transmission line routes is set forth as follows:

Team Spatial Report Data <sup>8</sup>	Western Route			
	Route A	Route B	Route C	Route D
Residences within Right-of-Way	<b>0</b>	0	0	<b>0</b>
Residences w/in 300’ of centerline	<b>7</b>	13	22	<b>14</b>
Industrial Buildings w/in 300’ of centerline	<b>4</b>	10	10	<b>4</b>
Agricultural Buildings w/in 300’ of centerline	<b>4</b>	4	2	<b>2</b>
Line Length	<b>4.9 miles</b>	4.7 miles	4.4 miles	<b>4.1 miles</b>
Cost to Construct	<b>\$19.5 million</b>	\$20.1 million	\$17.8 million	<b>\$17.7 million</b>
Tree Clearing Acres	<b>20.9</b>	16.9	19.8	<b>20.4</b>
Water Crossings	<b>16</b>	11	10	<b>8</b>
ROW w/in Stream Buffer (Acres)	<b>4.8</b>	4.3	2.1	<b>2.2</b>
Wetlands (Acres)	<b>3.1</b>	2.8	3.6	<b>2.4</b>
% Parallel Existing Transmission	<b>40%</b>	80%	62%	<b>51%</b>
% Parallel Roads	<b>20%</b>	75%	57%	<b>46%</b>

<sup>5</sup> See KU Application, Exh. 2, Figure 45. KU subsequently refined the proposed cost for the Western transmission line to \$17.748 million. See KU Response to Staff’s Fourth Request for Information, Item 7 (May 20, 2022). As KU refined its costs estimates, the cost for each proposal decreased in a proportionate manner. See Cross-examination of Elizabeth McFarland (“McFarland Cross-Examination”), Hearing Video Record (“HVR”), 1:57:57 (June 1, 2022); KU Response to Staff’s Post-Hearing Data Request, Item 8 (June 10, 2022).

<sup>6</sup> See KU Application, Exh. 2, Figure 40.

<sup>7</sup> See *id.*

<sup>8</sup> See *id.*, Figure 45.

The proposed “Eastern” transmission line is 3.7 miles in length and was originally estimated to cost \$14.8 million.<sup>9</sup> The route for the proposed Eastern line follows what was designated as Route B in KU’s Siting Study and was selected out of three initial alternatives identified by KU.<sup>10</sup> A representative comparison of the proposed Western and Eastern 345 kV electric transmission lines is set forth as follows:

<b>Team Spatial Report Data<sup>11</sup></b>	<b>Western Route</b>	<b>Eastern Route</b>
	<b>Route A</b>	<b>Route B</b>
Residences within Right-of-Way	<b>0</b>	<b>0</b>
Residences w/in 300’ of centerline	<b>7</b>	<b>4</b>
Industrial Buildings w/in 300’ of centerline	<b>4</b>	<b>0</b>
Agricultural Buildings w/in 300’ of centerline	<b>4</b>	<b>1</b>
Line Length	<b>4.9 miles</b>	<b>3.7 miles</b>
Cost to Construct	<b>\$19.5 million</b>	<b>\$14.8 million</b>
Tree Clearing Acres	<b>20.9</b>	<b>12.4</b>
Water Crossings	<b>16</b>	<b>9</b>
ROW w/in Stream Buffer (Acres)	<b>4.8</b>	<b>1.8</b>
Wetlands (Acres)	<b>3.1</b>	<b>3.8</b>
% Parallel Existing Transmission	<b>40%</b>	<b>31%</b>
% Parallel Roads	<b>20%</b>	<b>0%</b>

### C. Procedural History

KU filed a Notice of Intent to file an Application for a CPCN to construct the two 345 kV electric transmission lines in Hardin County, Kentucky on March 31, 2022. The stated purpose of the proposed construction is to “provide electrical service to the Glendale Megasite, upon which

<sup>9</sup> See *id.*, Figure 59. KU subsequently refined the proposed cost for the Eastern transmission line to \$13.357 million. See KU Response to Staff’s Fourth Request for Information, Item 7.

<sup>10</sup> See *id.*, Figure 55.

<sup>11</sup> See KU Application, Exh. 2, Figures 45, 59.

the Ford Motor Company has proposed to construct two battery manufacturing plants and expected growth in the area.”<sup>12</sup> KU subsequently filed its Application on March 31, 2022, which was accepted for filing later that same day.

The Commission issued a procedural order on April 6, 2022, which was amended by subsequent Order on April 14, 2022. On April 25, 2022, the Commission granted four motions to intervene filed by Wade Family Farms and others. Discovery involved four sets of information requests from the Commission Staff, two sets of information requests from Wade Family Farm and the Brown Family and one response to information requests from other intervenors. Intervenor testimony was filed by Wade Family Farm and the Brown Family on May 12, 2022. Commission Staff tendered data requests to the Brown Family and Wade Family Farm, which were answered on May 19 and May 23, 2022, respectively. KU tendered rebuttal testimony on May 27, 2022.

A public comment hearing was held in Elizabethtown, Kentucky on May 23, 2022 and an evidentiary hearing was held on June 1, 2022 at the Commission’s office in Frankfort, Kentucky. Responses to post-hearing data requests were filed on June 10, 2022. To date, the Commission has not availed itself of the extra thirty (30) days authorized by KRS 278.020(9) for reviewing CPCN requests involving electric transmission lines, nor has it hired an independent expert as authorized by the same statute.

### **III. STANDARD OF REVIEW**

The Commission’s jurisdiction extends to the “rates” and “service” of public utilities.<sup>13</sup> An Application for a CPCN necessarily involves mixed questions of law and fact. With regard to the

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<sup>12</sup> KU Notice of Intent, p. 1 (Mar. 1, 2022).

<sup>13</sup> See KRS 278.040. See also *Public Service Comm'n v. Blue Grass Natural Gas Co.*, 197 S.W.2d 765, 768 (Ky. 1946) citing *Smith v. Southern Bell Telephone and Telegraph Co.*, 104 S.W.2d 961; *Benzinger, etc., v. Union Light, Heat, & Power Co.*, 170 S.W.2d 38 (Ky. 1943); *Peoples Gas Co. of Kentucky v. City of Barbourville*, 165 S.W.2d 567 (Ky. 1942).

law of this particular case, it is critical to understand both to whom the burden of proof falls and the substantive law under which that burden of proof must be applied.

### **A. Burden of Proof**

As the applicant, KU bears the burden of proof to demonstrate that it is entitled to the relief which it seeks.<sup>14</sup> Although intervenors in an administrative proceeding may offer evidence in support of, or opposition to, the evidence presented by the applicant, the burden of proof does not change. Indeed, even in the context of a utility offering “uncontradicted evidence” and when “no evidence to the contrary was introduced ...,” the courts have held that the utility may still fail to carry its burden of proof. In *Energy Regulatory Comm’n v. Kentucky Power Co.*, 605 S.W.2d 46 (Ky. App. 1980), the Court held:

Standing alone, unimpeached, unexplained and un rebutted evidence may or may not be so persuasive that it would be clearly unreasonable for the board to be convinced by it. There are some questions and circumstances in which no evidence is required to support a negative finding.<sup>15</sup>

To gain the relief requested from the Commission, KU must satisfy its burden of proof on each and every element of its case, even if no contrary evidence is provided. This point of law is especially important in this case as much of KU’s case relies upon “evidence” that is facially unpersuasive or even non-existent.

### **B. Request for a CPCN**

Before undertaking any construction that is not in the ordinary course of business, a utility must be granted a CPCN from the Commission under the authority of KRS 278.020(1). The statute is silent, however, with regard to the criteria which the Commission should apply to

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<sup>14</sup> See *Energy Regulatory Comm’n v. Kentucky Power Co.*, 605 S.W.2d 46, 49 (Ky. App. 1980) citing *Lee v. International Harvester Co.*, 373 S.W.2d 418 (Ky. 1963).

<sup>15</sup> *Id.*, at 50.

any such request from a utility. Accordingly, case law construing KRS 278.020(1) provides the appropriate standard for evaluating KU's request for a CPCN for the Western and Eastern 345 kV electric transmission lines. The leading authority on CPCNs is *Kentucky Utilities Co. v. Public Service Comm'n*, 252 S.W.2d 885 (Ky. 1952), which articulates a two-part test for demonstrating entitlement to a CPCN: (1) need; and (2) absence of wasteful duplication. *Kentucky Utilities Co.* provides significant guidance as to what further considerations should be taken into account when evaluating a request for a CPCN under these two criteria.

As to "need", Kentucky's highest Court wrote:

We think it is obvious that the establishment of convenience and necessity for a new service system or a new service facility requires first a showing of a substantial inadequacy of existing service, involving a consumer market sufficiently large to make it economically feasible for the new system or facility to be constructed and operated. Second, the inadequacy must be due either to a substantial deficiency of service facilities, beyond what could be supplied by normal improvements in the ordinary course of business; or to indifference, poor management or disregard of the rights of consumers, persisting over such a period of time as to establish an inability or unwillingness to render adequate service.<sup>16</sup>

With regard to what constitutes "wasteful duplication", the Court opined:

[W]e think that duplication also embraces the meaning of an excessive investment in relation to productivity or efficiency, and an unnecessary multiplicity of physical properties, such as right of ways, poles and wires. An inadequacy of service might be such as to require construction of an additional service facility to supplement an inadequate existing facility, yet the public interest would be better served by substituting one large facility, adequate to serve all the consumers, in place of the inadequate existing facility, rather than constructing a new small facility to supplement the existing small facility. A supplementary small facility might be constructed that would not create duplication from the standpoint of an excess of capacity, but would result in

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<sup>16</sup> *Kentucky Utilities Co.*, at 890.



duplication from the standpoint of an excessive investment in relation to efficiency and a multiplicity of physical properties.<sup>17</sup>

In evaluating the “wasteful duplication” element of the CPCN analysis, the Court further instructed, “[w]e are of the opinion that the Public Service Commission should have considered the question of duplication from the standpoints of excessive investment in relation to efficiency, and an unnecessary multiplicity of physical properties.”<sup>18</sup> While the avoidance of “wasteful duplication” is a primary consideration for evaluating a request for a CPCN, *Kentucky Utilities Co.* makes clear that the Commission must not focus exclusively upon the cost of a proposal alone. As recently as last year, the Commission affirmed this point:

To demonstrate that a proposed facility does not result in wasteful duplication, we have held that the applicant must demonstrate that a thorough review of all alternatives has been performed. Selection of a proposal that ultimately costs more than an alternative does not necessarily result in wasteful duplication. All relevant factors must be balanced.<sup>19</sup>

In cases involving CPCNs for electric transmission lines, the Commission is authorized to “consider the interstate benefits expected to be achieved by the proposed construction or modification of electric transmission facilities in the Commonwealth.” In this case, however, no such benefits are alleged. Per KRS 278.020(1)(b), the Commission may “issue or refuse to issue [a CPCN], or issue it in part and refuse it in part.” For the reasons set forth herein, the Commission should only award a portion of the requested CPCN to KU. The record demonstrates that KU has failed to demonstrate a need for two 345 kV electric transmission lines. Similarly, it has failed to demonstrate that a second such line would not result in wasteful duplication as measured by

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<sup>17</sup> *Id.*

<sup>18</sup> *Id.*, at 891.

<sup>19</sup> *In the Matter of the Electronic Application of Big Rivers Electric Corporation for a Certificate of Public Convenience and Necessity Authorizing Construction of a New Headquarters Facility and an Order Authorizing Big Rivers to Sell its Existing Headquarters*, Order, Case No. 2021-00314, p. 7 (Ky. P.S.C. Dec. 7, 2021).

excessive investment in relation to efficiency and an unnecessary multiplicity of physical facilities.

#### **IV. ARGUMENT**

##### **A. The Commission Should Reject KU's Application For A Second 345 kV Electric Transmission Line Because KU Failed To Satisfy Its Burden Of Proof To Demonstrate That Two 345 kV Electric Transmission Lines Are Actually Necessary.**

KU's request for a CPCN to construct two 345 kV electric transmission lines should be rejected in part. KU concedes that it will be able to serve the Ford Project through a single 345 kV electric transmission line with significant unused capacity remaining. The only reasons to build the second proposed 345 kV transmission line is to somehow enhance reliability – which KU admits is already good – and to serve hoped-for future load growth. The record demonstrates, however, that both of these justifications for constructing the second 345 kV transmission line are illusory and wholly unsupported by the evidence of record. For the reasons set forth below, the Commission should reject KU's Application in part by only issuing a CPCN for a single 345 kV electric transmission line.

##### **1. KU concedes a single 345 kV transmission line is sufficient to serve the Ford Project.**

KU's Application includes a request to construct two (2) 345 kV high-voltage electric transmission lines, however, it has not shown that both lines are in fact needed. KU concedes that the existing transmission system in Hardin County is sufficient to serve all existing loads' needs in a safe and reliable manner.<sup>20</sup> It further admits that, if the Ford Project was not being constructed in the Glendale Megasite, KU would not be proposing any changes to existing transmission facilities in Hardin County.<sup>21</sup> Even with the addition of the Ford Project's new load at the Glendale

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<sup>20</sup> See McFarland Cross-Examination, HVR 9:39:00 (June 1, 2022).

<sup>21</sup> See *id.*, HVR 9:38:50.

Megasite, the evidence in the record demonstrates that a single 345 kV electric transmission line is more than sufficient to serve known load associated with the Ford Project reliability with plenty of unused capacity remaining to serve any future load growth that may materialize.<sup>22</sup>

Moreover, KU affirmed at the hearing that it understands Ford may install its own solar facility at the Glendale Megasite at some point in the future and that any such solar facility will be “behind the meter,” meaning that it will serve to reduce Ford’s demand for power from KU.<sup>23</sup> Thus, the existing extra capacity on a single 345 kV electric transmission line serving the Ford Project will increase as Ford serves a portion of its own electricity requirements through its own indigenous generation resource. The record is also devoid of any discussion of alternatives that KU considered, such as smaller voltage lines taking up smaller rights-of-way. This further demonstrates that KU has not demonstrated the need for a second 345 kV electric transmission line to flow into the Glendale South Substation.

**2. KU’s arguments that reliability and future load growth justify a second 345 kV transmission line are unsupported – and heavily contradicted – by the record.**

Conceding that a single 345 kV electric transmission line is all that is necessary to serve the Ford Project, KU asserts only two arguments to demonstrate the “need” for a second high voltage transmission line. First, KU argues that the second line is necessary to assure reliability for the Ford Project and surrounding load.<sup>24</sup> Second, KU argues that the second transmission line

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<sup>22</sup> See KU Response to Staff’s Post-Hearing Information Request, Item 5(f) (June 10, 2022). KU states that the power factor for the Ford Project is unknown. However, even under the most aggressive scenario where the power factor remains very high, the proposed construction has sufficient capacity to power loads of between 60 megawatts (“MW”) and 80 MWs, which is the equivalent of a good-sized metropolis.

<sup>23</sup> See McFarland Cross-Examination, HVR 14:16:40.

<sup>24</sup> See *id.*, HVR 9:38:41.

is necessary to assure future load growth is adequately served.<sup>25</sup> Both of these arguments are fatally flawed and unsupported by the evidence in the record.

**a. KU has not demonstrated that a second 345 kV transmission line is necessary to enhance reliability, particularly with an existing 98.9% average system reliability factor.**

With regard to KU's argument that two lines are necessary to serve the Glendale South substation, it argues that "good utility practice" or "prudence" requires such redundancy.<sup>26</sup> However, "good utility practice" is an undefined concept. KU has provided no industry standards, national codes, written policies, learned treatises or any such other authority that defines "good utility practice" in this context.<sup>27</sup> The burden of proof is upon KU to demonstrate that a looped circuit is required to satisfy "good utility practice" in this case. It chose not to do so in this instance and its argument that two 345 kV transmission lines are necessary on this basis is unsupported and, therefore, unsustainable.

Apart from the failure to provide any evidence as to what actually constitutes "good utility practice," KU's own system reliability numbers undercut the notion that a second 345 kV transmission line is necessary to ensure reliable service to the Glendale Megasite. KU operates approximately 28,000 miles of electric transmission and distribution lines across the Commonwealth of Kentucky.<sup>28</sup> Of these, approximately 5,400 are transmission lines, which includes over 300 miles of 345 kV transmission lines.<sup>29</sup> Per outage information supplied by KU,<sup>30</sup>

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<sup>25</sup> *See id.*

<sup>26</sup> *See* KU Response to Wade Family Farm's Supplemental Information Request, Item 1 (Apr. 21, 2022); KU Response to Staff's Second Information Request, Item 1(a) (Apr. 21, 2022); KU Response to Staff's Fourth Information Request, Item 3 (May 20, 2022).

<sup>27</sup> After the hearing, KU produced papers on the narrow subject of three-terminal transmission lines. Those materials are irrelevant to its proposal here, however.

<sup>28</sup> *See In the Matter of the 2021 Integrated Resource Plan of Kentucky Utilities Company*, Case No. 2021-00393, Vol. 1, pp. 5-6 (Oct 19, 2021); McFarland Cross-Examination, HVR 9:54:22.

<sup>29</sup> *See id.*, HVR 9:54:25 – 9:55:37.

<sup>30</sup> *See* KU Response to Wade Family Farm's Supplemental Information Request, Item 3.

its 345 kV transmission system has achieved a three-year average in-service rate of 98.9%.<sup>31</sup> Performance for individual line segments may be higher,<sup>32</sup> which appears to be the case with the Brown North to West Lexington 345 kV transmission line implicated in this case.<sup>33</sup> KU's witness agreed that this is "good."<sup>34</sup> KU has provided no evidence that the Ford Project requires a reliability rate that is greater than any other customer on the KU system. Ford is certainly not paying for such enhanced reliability – KU's ratepayers will foot the bill. Nor has KU provided any information that suggests that the Ford Project is jeopardized by a reliability rate of 98.9%. No policy exists at KU that says a 345 kV-fed substation must be looped, according to KU's witness.<sup>35</sup> A nearly \$20 million investment in a highly impactful electric transmission line that will yield, at best, enhanced reliability measured in the tenths of a percent or hundredth of a percent range is the textbook definition of wasteful duplication.

**b. KU offers zero credible evidence of future load growth that justifies a second 345 kV electric transmission line.**

With regard to KU's argument that future load growth will justify construction of both the Western and Eastern transmission lines, the record is again utterly devoid of substance to substantiate the claim. Indeed, the record demonstrates that KU has substantially overstated the likely future load growth by relying exclusively upon a flyer from the Kentucky Cabinet for Economic Development ("KCED") which itself includes disclaimers indicating that it should not be relied upon for any purpose. Wade Family Farm asked KU to provide all documents within its

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<sup>31</sup> See McFarland Cross-Examination, HVR 9:56:20 – 9:57:25.

<sup>32</sup> See *id.*, HVR 9:57:25.

<sup>33</sup> See KU Response to Staff's Second Information Request, Item 2(b) (Noting a single outage of seven minutes due to accumulated bird droppings.); see also KU Response to Wade Family Farm's Supplemental Information Request, Item 3.

<sup>34</sup> See McFarland Cross-Examination, HVR 9:57:40.

<sup>35</sup> See *id.*, HVR 14:09:53.

possession, custody or control that support its assertion of expected need for future development in the Glendale area, including other customers supporting Ford. KU brushed off the request by simply referring to a response given to a Staff information request.<sup>36</sup> As part of that response, KU provided a single document – a KCED flyer.<sup>37</sup> The narrative attached to KU’s response to the Commission was very soft and equivocal, asserting only that Glendale “could be” a location for future growth and that it was “highly likely” other customers may locate there.<sup>38</sup>

In cross-examination, KU’s witness conceded that the utility’s reliance upon the KCED flyer was not appropriately caveated. While at first she could not substantiate the basis for her claim in testimony that the creation of one hundred jobs would lead to the creation of “approximately 200” indirect and induced jobs,<sup>39</sup> Ms. McFarland subsequently admitted that the KCED flyer indicated that the manufacturing sector would yield fewer indirect and induced jobs than she projected.<sup>40</sup> Ms. McFarland also admitted that KCED’s flyer indicated not all of the indirect and induced jobs would even be located in Kentucky.<sup>41</sup> Many of the induced and indirect jobs associated with the Ford Project may be located well-beyond the local community or even outside of Kentucky altogether.<sup>42</sup> Ms. McFarland, a former automotive engineer for Ford,<sup>43</sup> also agreed that the nature of the Ford Project is different from that of the Toyota manufacturing facility

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<sup>36</sup> See KU Response to Wade Family Farm’s Initial Information Request, Item 4 (Apr. 21, 2022) citing KU Response to Staff’s Second Information Request, Item 3 (Apr. 21, 2022).

<sup>37</sup> See KU Response to Staff’s Second Information Request, Item 3, Attachment.

<sup>38</sup> See *id.* KU offered no expert testimony regarding potential economic development. See McFarland Cross-Examination, HVR 9:42:50.

<sup>39</sup> See KU Response to Staff’s Second Information Request, Item 3

<sup>40</sup> See McFarland Cross-Examination, HVR 9:44:25 – 9:47:05.

<sup>41</sup> See *id.*, 9:47:40 – 9:48:00.

<sup>42</sup> See *id.*

<sup>43</sup> See McFarland Direct, Appendix A.

in Georgetown, Kentucky.<sup>44</sup> While Toyota manufactures completed motor vehicles, the Ford Project will only produce electric vehicle batteries – a component of a vehicle.<sup>45</sup> Because it only makes a single component of a motor vehicle, commonsense dictates that the Ford Project will not create the same number of suppliers and associated economic growth of a manufacturing facility that takes vehicle components and produces completed motor vehicles, however, KU’s witness professed a lack of understanding of this subject.<sup>46</sup>

When pressed, Ms. McFarland also admitted that the KCED flyer included important caveats that disclaimed its own usefulness in this type of proceeding. For instance, the KCED flyer states that the document is “not warranted and for information purposes only....”<sup>47</sup> It further includes the disclaimer that the projections set forth therein “should not be relied upon as fact.”<sup>48</sup> KU’s witness was aware of these disclaimers at the time that she presented the KCED flyer to the Commission to substantiate the claim that future load growth necessitates the construction of a second 345 kV transmission line,<sup>49</sup> but did not point them out. At the hearing, KU was unaware of any other document that would support its claim that future load growth will materialize and require the construction of a second 345 kV electric transmission line.<sup>50</sup> There is nothing in the administrative record that supports KU’s assertion that future load growth will materialize to the extent that a second 345 kV electric transmission line is needed for the foreseeable future.

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<sup>44</sup> See McFarland Cross-Examination, HVR 9:50:02.

<sup>45</sup> See *id.*, HVR 9:50:20.

<sup>46</sup> See *id.*, HVR 9:51:10 – 9:54:00.

<sup>47</sup> See KU Response to Staff’s Second Information Request, Item 3, Attachment, p. 2; McFarland Cross-Examination, HVR 9:48:50 – 9:49:33.

<sup>48</sup> See KU Response to Staff’s Second Information Request, Item 3, Attachment, p. 2; McFarland Cross-Examination, HVR 9:49:33 – 9:49:51.

<sup>49</sup> See *id.*, HVR 9:49:52 – 9:50:00.

<sup>50</sup> See *id.*, HVR 9:48:00 – 9:48:50.

The lack of information in the record regarding actual future load growth and real enhanced reliability demonstrates why this Application is a textbook example of a proposal to construct utility infrastructure that is not needed and would result in wasteful duplication in terms of the excessive investment related to efficiency and an unnecessary multiplicity of physical properties. KU has not met its burden of proof for both lines. Accordingly, KU's Application for a second 345 kV electric transmission line should be rejected based upon the utter lack of a demonstrated need for the proposed facility.

**B. As Between The Proposed Western And Eastern Transmission Lines, KU Should Be Granted A CPCN For Only The Eastern Transmission Line.**

As demonstrated above, KU has not satisfied its burden of proof to be granted CPCNs for two 345 kV electric transmission lines. Likewise, the manner in which the Kentucky Siting Model was modified for use in this case is not fully explained by KU.<sup>51</sup> As between the proposed Western and Eastern transmission lines, the record clearly supports a finding that the Eastern line is superior in every material respect. Thus, because KU has only demonstrated a need for a single 345 kV electric transmission line to reliably serve the Ford project, it should only be awarded a CPCN for the proposed Eastern transmission line.

**1. KU modified the Kentucky Siting Model in a way that lacks transparency and is therefore difficult to assess.**

“Transparency is a big part of this whole process,” according to Ms. McFarland, KU's Vice President of Transmission.<sup>52</sup> However, the record demonstrates that KU's process for developing and scoring potential routes for the 345 kV transmission lines is anything but transparent. The

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<sup>51</sup> Wade Family Farm will separately address infirmities with KU's application of the expert judgment process later in this Brief.

<sup>52</sup> See McFarland Cross-Examination, HVR 11:14:58.



Team Spatial Siting Study contains a prodigious amount of verbiage, but precious little substantive discussion as to the decisions that were made to effectuate the analysis.

The Kentucky Electric Transmission Siting Model (“Kentucky Siting Model”) was originally developed through a stakeholder-driven process led by East Kentucky Power Cooperative, Inc. and E.On, the former owner of KU.<sup>53</sup> The Kentucky Siting Model itself is derived from the Electric Power Research Institute (“EPRI”)-Georgia Siting Model.<sup>54</sup> The Kentucky Siting Model, like the EPRI/Georgia forerunner, evaluates proposed transmission line siting routes based upon three “environments” or “perspectives” (built, natural and engineering).<sup>55</sup> Each perspective is itself comprised of multiple layers and each layer is further comprised of discreet features.<sup>56</sup> Values between 1 (best) and 9 (worst) are assigned to each feature within a layer and the sum of all the layer musts equal 100.<sup>57</sup> In the Kentucky Siting Model, all of the values for each feature and each layer are fully delineated based upon input from all the stakeholders who participated in the development of the analytical tool.<sup>58</sup>

KU did not use the Kentucky Siting Model.<sup>59</sup> Ms. McFarland stated in rebuttal testimony that KU “modified” the Kentucky Siting Model by adding a layer to the engineering perspective and reapportioning the relative values of the various layers across all three perspectives to account for layers that were not present in KU’s Study Area.<sup>60</sup> KU’s modified model also changed some

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<sup>53</sup> See *id.*, HVR 10:07:07.

<sup>54</sup> See *id.*, HVR 10:08:10.

<sup>55</sup> See *id.*, HVR 10:03:32.

<sup>56</sup> See *id.*, HVR 10:04:25.

<sup>57</sup> See *id.*, HVR 10:05:05.

<sup>58</sup> See Wade Family Farm Hearing Ex. 2, p. 2-3.

<sup>59</sup> See McFarland Cross-Examination, HVR 10:07:40.

<sup>60</sup> See Rebuttal Testimony of Elizabeth McFarland (“McFarland Rebuttal”), p. 7 (May 27, 2022); McFarland Cross-Examination, HVR 10:19:50. KU’s modified siting study is set forth in the Team Spatial Report attached as Exhibit 2 to KU’s Application.

of the values assigned to various features within several of the layers.<sup>61</sup> While Ms. McFarland claimed in her rebuttal testimony that KU's modified siting model was identical to the siting model used in Case No. 2019-00417,<sup>62</sup> she later admitted that she had never actually reviewed the siting model that was used in that case.<sup>63</sup> On cross-examination, Ms. McFarland admitted that KU's modified siting model in this case is different from the one used in Case No. 2019-00417 and that both of those models are different from the actual Kentucky Siting Model.<sup>64</sup>

The result is as obvious as the Acropolis in Athens – KU asks the Commission to rely upon the supposedly objective outcome of a siting model while at the same time it subjectively changed the inputs and weights assigned to the various components of that siting model.<sup>65</sup> Given that outcomes are highly influenced by inputs, the fact that KU would describe its model as being identical to a prior siting model, when it is not, is very concerning. Moreover, it is stunningly incomprehensible that KU could never identify or provide any documentation regarding: (1) any individual who was responsible for changing the criteria and values for the modified siting model; (2) who approved the changes; (3) when the changes were made; or (4) why the changes were made.<sup>66</sup> KU stated in discovery and at the hearing that it has zero documentation of any of the

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<sup>61</sup> See McFarland Cross-Examination, HVR 10:08:47 – 10:13:25.

<sup>62</sup> See McFarland Rebuttal, p. 4 (“This is the same methodology Team Spatial used in Case No. 2019-00417 in which the Commission approved a Big Rivers Electric Corporation transmission line in reliance on the Team Spatial study in that case.”).

<sup>63</sup> See McFarland Cross-Examination, HVR 10:02:25.

<sup>64</sup> See *id.*, HVR 10:08:47 – 10:13:25; 10:15:40 – 10:16:45; 10:18:50 – 10:19:50. In addition to there being differences in the layers used, several layers have different values assigned to them across the three models.

<sup>65</sup> The accuracy of the inputs into KU's modified siting study are themselves somewhat questionable. For instance, KU has conducted no field studies as to archeological and historical sites along its proposed routes and relies upon data sources for its desk reviews that are not always ascertainable. See Direct Testimony of Marty Marchaterre, pp. 4-11 (May 12, 2022). KU has not conducted a cultural or historical field study of the Wade Family Farm. See KU Response to Wade Family Farm's Initial Information Request, Item 19; McFarland Cross-Examination, HVR 11:35:10.

<sup>66</sup> See McFarland Cross-Examination, HVR 10:14:20 – 10:18:48. In a response to a post-hearing data request, KU produced one email from a Team Spatial employee that recommends differing siting criteria for the Western and Eastern transmission lines. See KU Response to Wade Family Farm's Post-Hearing Data Request, Item 3.

decisions that produced a siting model that departed from the Kentucky Siting Model KU had itself played a large role in developing.<sup>67</sup>

The very purpose of developing the Kentucky Siting Model is to create a tool that will offer objective and repeatable outcomes. Yet, in constantly modifying the Kentucky Siting Model without providing even a cursory explanation for such changes, KU deprives the Kentucky Siting Model of its analytical value.<sup>68</sup> In sanctioning the repeated use of unsupported “one-off” siting models, the Commission will eviscerate the very purpose of developing the Kentucky Siting Model in the first place. This would be very unfortunate and undo the good work that was put forward by dozens of interested stakeholders in developing the Kentucky Siting Model. Yet, this is exactly the outcome that KU seeks.

**2. KU’s proposed Eastern transmission line scores better than the proposed Western transmission line in every significant category.**

It is KU’s position that the siting study presented as part of its Application is “comprehensive” and “robust.”<sup>69</sup> Apart from the discrepancies from the Kentucky Siting Model noted above, it at least appears that KU’s siting model was applied consistently in developing the proposed Eastern and Western transmission line proposals. What is immediately apparent, however, is that – as between the two proposed lines – the Eastern route is far superior to the proposed Western route. In response to Commission Staff’s information requests, Wade Family Farm pointed out:

As between the proposed western transmission line and the proposed eastern transmission line, the eastern transmission line is: (1) considerably shorter (3.7 miles v. 4.9 miles); (2) significantly less costly (\$14.8 million v. \$19.5 million); (3) impacts no

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<sup>67</sup> See *id.*, HVR 10:18:05.

<sup>68</sup> Wade Family Farm is not advocating that the Kentucky Siting Model may *never* be modified, but rather that such modifications must be identified, explained and supported. That has not happened here.

<sup>69</sup> See *id.*, HVR 10:20:30.

residential (0 v. 7) or industrial buildings (0 v. 4) within 300' of the proposed centerline; (4) impacts fewer agricultural buildings (1 v. 4) within 300' of the proposed center line; (5) requires much less clearing of forested acreage (12.4 acres v. 20.9 acres); (6) involves approximately half as many water crossings (9 v. 16); and (7) includes less than half as many right-of-way acres within stream buffers (1.8 acres v. 4.8 acres).<sup>70</sup>

Ms. McFarland affirmed that she reviewed this response prior to preparing her rebuttal testimony.<sup>71</sup> The comparison was not addressed in her rebuttal testimony and, presumably, is not disputed by KU. In addition to the foregoing measures, it is also apparent that relatively little of the proposed Eastern transmission line would be within a floodplain whereas a significant portion of the proposed Western transmission line will be within a floodplain.<sup>72</sup> Accordingly, it is clear that the Eastern transmission line is superior to the Western transmission line and that a CPCN should only be awarded for the Eastern route.

### **C. If KU Is Awarded A CPCN For Both 345 kV Electric Transmission Lines, The Western Line Should Follow Route D And Not Route A.**

Although KU claims that its siting study “recommends the most reasonable least impactful transmission line routes in the built, natural and environmental and engineering environments,”<sup>73</sup> that bold claim is clearly false within the context of the Western transmission line. Mindful that “built,” “environmental” and “engineering” are the environment categories of the original Kentucky Siting Model, they are evaluated prior to applying the expert judgment phase of the siting analysis. In this case, KU’s assertion of choosing the least impactful route is blatantly false.

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<sup>70</sup> See Wade Family Farm Response to Staff’s Initial Information Request, Item 1 (May 23, 2022).

<sup>71</sup> See McFarland Cross-Examination, HVR 11:55:00.

<sup>72</sup> See KU Application, Exh. 2, Figure 14. Per the Team Spatial Report, it is much preferable to locate a transmission line outside of a floodplain. See *id.*, p. 20.

<sup>73</sup> See McFarland Rebuttal, p. 2. When pressed, however, McFarland conceded that KU had no mitigation plans to account for likely erosion along East Rhudes Creek due to the deforesting of acreage immediately adjacent to the creek. See McFarland Cross-Examination, HVR 11:36:15.

Figure 51 of the Team Spatial Report clearly indicates that Route D scores better (lower score) than Route A in each of the three environments.<sup>74</sup> On a simple average basis, Route D’s score is half the numerical value of Route A’s score.<sup>75</sup> KU’s witness contradicted her rebuttal testimony and conceded that KU’s own modified siting model confirmed that Route D was preferable to Route A at that point in the analysis.<sup>76</sup>

**1. KU’s manipulated expert judgment model flips the outcome of the siting process with no explanation or justification for doing so.**

The application of the expert judgment phase of the analysis flipped the outcome from the siting model. Here again, KU’s expert was unable to explain how the weights assigned to the expert judgment criteria were determined, who proposed them, who approved them or when they were developed and approved.<sup>77</sup> She was similarly unable to explain why KU used rankings for five of the six expert judgment criteria but “relative” ranks for the cost criteria.<sup>78</sup> The Team Spatial Report sheds no light on these critical questions by addressing the process in a single sentence,<sup>79</sup> and KU has again been unable to produce any documents to explain its criteria.<sup>80</sup> Again, what is as obvious as the Pyramids in Giza is that KU again changed the weights and rankings for its expert judgment analysis in a wholly untransparent way. And these changes are expressly contrary to the

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<sup>74</sup> See KU Application, Exh. 2, Figure 51; McFarland Cross-Examination, HVR 10:21:50. Ms. McFarland confirmed that a lower score indicates a better route. See *id.*, HVR 10:21:45.

<sup>75</sup> See *id.*, HVR 10:23:05 – 10:24:14.

<sup>76</sup> See *id.*, HVR 10:47:50 – 10:48:10.

<sup>77</sup> See *id.*, HVR 10:48:50 – 10:53:39; 10:59:40 – 11:01:16.

<sup>78</sup> See *id.*, HVR 11:05:52 – 11:09:15.

<sup>79</sup> See KU Application, Exh. 2, p. 60 (“The team determined the high-level siting criteria and assigned weights to represent the relative importance.”).

<sup>80</sup> See KU Response to Wade Family Farm’s Initial Information Request, Item 12(c); McFarland Cross-Examination, HVR 10:51:18 – 10:53:39; KU Response to Wade Family Farm’s Post-Hearing Data Request, Item 4.

assertion in rebuttal testimony where it was claimed that KU acted entirely consistently with the siting process used in Case No. 2019-00417.<sup>81</sup> They are not.

To understand the significance of KU's departures from the Kentucky Siting Model, it is important to understand that the Kentucky Siting Model uses a simple ranking system among route finalists.<sup>82</sup> In each given criteria, the routes are ranked first, second, third, etc. and each route's ranking is then multiplied by the weighting assigned to each criteria.<sup>83</sup> As with the initial analysis under the Kentucky Siting Model, the lowest score indicates the preferred route.<sup>84</sup>

At the hearing, KU's witness was at first unable to articulate any basis for the weighting used in the expert judgment phase. However, she later adopted the methodology suggested by Chairman Chandler during his subsequent examination regarding the use of "relative" weighting for the "cost" category based upon its quantitative nature.<sup>85</sup> Such a dramatic change of position does not square with the Kentucky Siting Model.<sup>86</sup> It is also non-simpatico with KU's own responses to data requests where it affirms that the qualitative criteria used in the expert judgment (i.e. everything but "cost") are nevertheless based upon the hard data gathered in the siting model portion of the analysis.<sup>87</sup> All of the criteria used in the expert judgment phase of the analysis tie back to the initial qualitative data gathered by Team Spatial. Therefore, the qualitative/quantitative

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<sup>81</sup> See McFarland Rebuttal, p. 4 ("This is the same methodology Team Spatial used in Case No. 2019-00417 in which the Commission approved a Big Rivers Electric Corporation transmission line in reliance on the Team Spatial study in that case.").

<sup>82</sup> See Wade Family Farm Hearing Exhibit 2, p. F-22.

<sup>83</sup> See *id.*

<sup>84</sup> See *id.*

<sup>85</sup> See McFarland Cross-Examination, HVR 2:08:10; see also KU Response to Commission Staff Post-Hearing Data Request, Item 4.

<sup>86</sup> See Wade Family Farm Hearing Exhibit 2, p. F-22.

<sup>87</sup> See KU Response to Commission Staff's Post-Hearing Data Request, Item 9 ("All the data collected by Team Spatial, specifically the data shown on pages 53-58 (West Route) and pages 65-74 (East Route) of the Team Spatial Siting Study, was used to guide the Expert Judgment Model and evaluation.").

distinction is one without a difference – particularly where KU cannot produce a single document to substantiate its position.

What is telling from KU’s expert judgment analysis is that if it had consistently used rankings for both Route A and Route D for the Western transmission line, the outcome would have been different. By using a relative cost score for the cost category, KU effectively reduced the emphasis given to the fact that Route A is more expensive to construct than Route D.<sup>88</sup> By lowering the cost benefit in the overall scoring methodology, Route A became preferable. Indeed, KU’s witness confirmed that this single change to the methodology put Route A ahead of Route D.<sup>89</sup> The concept of “relative rankings” is foreign to the Kentucky Siting Model and fundamentally alters its usefulness of an analytical model. KU’s *ex post facto* explanation for its expert judgment process rings hollow. It is *not* transparent, nor is it consistent with the actual Kentucky Siting Model which uses a strict ranking methodology.

## **2. KU’s preference for Route A is based upon negative consequences to two residential structures on Route D.**

The record strongly suggests that this manipulation of the expert judgment phase was not accidental, but was intended to avoid a perceived poison pill associated with Route D. In testimony to the Commission, Ms. McFarland claimed that constructing the Western transmission line along Route D would require the purchase and demolition of two residential structures due to their proximity to the electric transmission line.<sup>90</sup> Her testimony further claimed that proximity to residential properties would enhance the schedule delay risk for the project.<sup>91</sup> However, on cross-examination, Ms. McFarland could point to no actual Company policy that substantiated her

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<sup>88</sup> See McFarland Cross-Examination, HVR 11:09:58; 11:14:20.

<sup>89</sup> See *id.*, HVR 11:16:50; 11:18:25.

<sup>90</sup> See McFarland Rebuttal, p. 5; McFarland Cross-Examination, HVR 11:12:10.

<sup>91</sup> See *id.*; 11:11:58

claims,<sup>92</sup> nor could she articulate a basis to support her claims that the nature of the use of a property somehow made it more or less susceptible to construction/schedule delay risk.<sup>93</sup> In fact, Kentucky law makes no distinction between the nature of property usage when it comes to securing a right to take under the Eminent Domain Act.<sup>94</sup> Moreover, KU's concern that construction delay risk should somehow drive the route selection process is undercut by the very fact that KU only allocated 5% of the total criteria to this category in the expert judgment phase,<sup>95</sup> which is significantly below what was assigned to the same criteria in Case No. 2019-00471.<sup>96</sup>

What is most incredible about KU's concern with the prohibitive proximity of two residences to the alternative Route D is that its witness had no personal knowledge of the residences in question,<sup>97</sup> and could not identify them.<sup>98</sup> Though insisting that they were within the right-of-way for Route D,<sup>99</sup> she could not explain why the Team Spatial Report indicated there were no residential structures (or any occupied structures) within Route D's right-of-way.<sup>100</sup> Later in the hearing, Ms. McFarland suggested that the residences may not actually be in the right-of-way, but that line clearance issues may necessitate the homes' purchase.<sup>101</sup> She was unable, however, to identify specifically how a line clearance issue might develop outside of KU's right-

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<sup>92</sup> See *id.*, HVR 11:19:20.

<sup>93</sup> See *id.*, HVR 11:20:45.

<sup>94</sup> See KRS 416.140; KRS 516.540 *et seq.*

<sup>95</sup> See KU Application, Exh. 2, Figure 52. In the expert judgment analysis presented in Case No. 2019-00417, which KU erroneously says it followed, schedule delay risk was given significantly greater weight by Big Rivers Electric Corporation. Had KU actually used the same expert judgment model that was used in Case No. 2019-00417, Route D would have clearly emerged as the favorite route in this case.

<sup>96</sup> See McFarland Cross-Examination, HVR 11:04:20; 11:24:20.

<sup>97</sup> See *id.*, HVR 11:26:20.

<sup>98</sup> See *id.*, HVR 11:28:05.

<sup>99</sup> See *id.*, HVR 11:29:09.

<sup>100</sup> See KU Application, Exh. 2, Figure 45; *Cf.* McFarland Cross-Examination, HVR 11:29:26.

<sup>101</sup> See McFarland Cross-Examination, HVR 11:32:28.



of-way or site the authority to support her speculation.<sup>102</sup> Ms. McFarland’s testimony also appears to contradict KU’s response to a data request wherein KU stated that the 200 foot right-of-way for a 345 kV transmission line “is necessary for the safe and reliable operation of the 345 kV line. This is based on clearances set out by the National Electric Safety Code and evaluated for the movement of the conductors through the conductor envelope under various load and weather conditions.”<sup>103</sup> Clearly, the record does not support the notion that Route D is somehow barred due to its proximity to residential structures.

**3. KU’s claim that Wade Family Farm simply seeks to avoid having the Western transmission line cross their property is simply untrue.**

In rebuttal testimony, KU claimed that the Wade Family Farm’s testimony “appears to be based on one fact – Route D would not cross the Wade property.”<sup>104</sup> However, that sworn statement is patently false.<sup>105</sup> The Wade Family Farm is a large tract of land with Gaither Station Road running through it.<sup>106</sup> The proposed Route A crosses both portions of the Wade Family Farm by making the jump across Gaither Station Road on their farm property.<sup>107</sup> In fact, under either Route A or Route D, a significant portion of the proposed Western 345 kV transmission line would parallel the existing L&N Railroad line, KU’s exiting 69 kV transmission line and Gaither Station Road,<sup>108</sup> and cross the Wade Family Farm’s property.<sup>109</sup> This portion of the proposed route will

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<sup>102</sup> *See id.*, HVR 11:32:48.

<sup>103</sup> *See* KU Response to Brown Family’s Initial Request for Information, Item 4 (Apr. 21, 2022).

<sup>104</sup> *See* McFarland Rebuttal, p. 5.

<sup>105</sup> *See* McFarland Cross-Examination, HVR 9:34:50 – 9:35:43.

<sup>106</sup> *See* KU Response to Staff’s Third Request for Information, Item 3, pp. 26-28. The Wade Family Farm is identified on PVA maps as Parcel #89-00-00-005.01.

<sup>107</sup> *See id.*

<sup>108</sup> *See id.*

<sup>109</sup> *See* McFarland Cross-Examination, HVR 9:30:20 – 9:34:50.

heavily impact that portion of the Wade Family Farm's land on the eastern side of Gaither Station Road.

Thus, contrary to KU's assertion, Wade Family Farm is not seeking to avoid having the proposed transmission line cross its property, but rather – if the line is justified by the evidence, which it is not – to have the Western transmission line cross more of its farm on the eastern side of Gaither Station Road and less on the western side of the road. This would be accomplished by shifting the proposed southeastern turn of the line farther to the north, which would put more of the proposed transmission line on the eastern portion of the Wade Family Farm.<sup>110</sup> Indeed, Figures 38 and 39 of the Team Spatial Report presented by KU showed a viable transmission corridor along Route A that would have crossed the undeveloped southern end of the City of Elizabethtown's parcel of property that runs adjacent to Gaither Station Road on the road's western side.<sup>111</sup> Use of such an alternative route – a modified Route A – would generally minimize the impact to private lands and would specifically protect: (1) the Wade Family Farm's creek bank from erosion due to deforestation; (2) any historical or cultural resources which remain unsurveyed within the property; and (3) the Wade Family Farm's ability to fully utilize the western portion of their farm by installing a second pivot irrigation system.<sup>112</sup> KU's witness had no specific knowledge of any concern the Wade Family Farm has raised concerning the use of their farm on the east side of Gaither Station Road to host the Western transmission line,<sup>113</sup> if it is justified.

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<sup>110</sup> See *id.*, HVR 9:38:00.

<sup>111</sup> See KU Application, Exh. 2, Figures 38 and 39.

<sup>112</sup> KU concedes that even if the proposed Western transmission line was relocated 500' further to the east while crossing the Wade Family Farm's field on the west side of Gaither Station Road, it would still prevent the installation of a second pivot irrigation system. See Testimony of Thomas C. Wade, Exh. TCW-2; McFarland Cross-Examination, HVR 11:37:50.

<sup>113</sup> See McFarland Cross-Examination, HVR 9:35:50 – 9:37:30.

## V. CONCLUSION

The development of the Ford Project is unquestionably a major economic boon to the Hardin County community, however, KU has not satisfied its burden of proof to demonstrate that two 345 kV electric transmission lines are necessary to satisfy the known load growth in this area or to meaningfully enhance reliability. In fact, the evidence overwhelmingly indicates that a single 345 kV transmission line is itself more than sufficient to serve the Ford Project safely and reliability with plenty of additional capacity for any future load growth that actually materializes. Only one 345 kV electric transmission line is necessary and, as between the proposed Eastern and Western transmission lines, the Eastern line scores higher in every significant metric.

To do otherwise would be to overlook the obvious lack of a need for a second 345 kV transmission line and would violate KRS 278.020(1) by resulting in wasteful duplication measured in terms of both excessive investment in relation to efficiency and a multiplicity of unnecessary physical facilities marring the Hardin County landscape. Moreover, KU has not even alleged an interstate benefit arising from its proposed construction. Thus, in addition to CPCNs for the Glendale South Substation, the Glendale Industrial Substation and the two 138 kV transmission lines, KU should be granted a CPCN to construct a single 345 kV transmission line along its proposed Eastern route.

In the event the Commission looks past all the enumerated problems associated with KU's analysis of the proposed Western route and determines that a second 345 kV transmission line is merited, the Commission should require that line to be built along the proposed alternative Route D or in the identified corridor that crosses the southern, undeveloped portion of the City of Elizabethtown's property further north along Gaither Station Road. Either of these alternatives will continue to have an impact upon the Wade Family Farm as the Western 345 kV transmission

line will traverse that portion of the farm on the east side of Gaither Station Road. However, this impact will be less severe and do less unnecessary harm to the Wade Family Farm.

The Wade Family Farm appreciates the Commission's thoughtful and careful review of KU's Application. Although the Ford Project is important to the community and the Commonwealth, expedience is no basis to disregard the requirements of the law and the stiff burden of proof placed upon KU which assures that development is supported by fact and law and not public pressure.

This 15<sup>th</sup> day of June 2022.

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 15<sup>th</sup> day of June 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.



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*Counsel for Wade Family Farm Management, LLC*