

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF KENTUCKY UTILITIES)	
COMPANY FOR A CERTIFICATE OF)	
PUBLIC CONVENIENCE AND NECESSITY)	CASE NO.
FOR THE CONSTRUCTION OF)	2022-00066
TRANSMISSION FACILITIES IN HARDIN)	
COUNTY, KENTUCKY)	

**KENTUCKY UTILITIES COMPANY’S RESPONSE TO
THE PILE AND CHESSER PETITIONS TO INTERVENE**

Kentucky Utilities Company (“KU”) opposes the April 13, 2022 Petitions to Intervene¹ filed by Aaron and Emily Pile and Martin and Rebecca Chesser (collectively, the “Pile and Chesser Petitions”) because: (1) they fail to meet the Commission’s intervention regulation at 807 KAR 5:001, Section 4(11) including the fact that they are untimely as they fail to comply with the Commission’s April 8, 2022 deadline for intervention; and (2) the Piles and the Chessers are not affected landowners as the proposed transmission lines do not cross their property.

The Pile and Chesser Petitions are not timely. 807 KAR 5:001, Section 4(11)(a) requires a “timely” motion. The Commission’s April 6, 2022 Order in this matter states that April 8, 2022 is “the last day for intervention requests to be accepted.”² Thus, the Commission has imposed a deadline for when a request for intervention is considered

¹ Although captioned “Petition to Intervene,” the filings actually fail to request approval for the Piles or Chessers to Intervene. Instead, they ask “the Kentucky PSC to intervene in this case to stop the planned construction of this extra high voltage power line near our property.” If the filing is viewed from this perspective, the “Petition to Intervene” can be treated simply as public comment by the Commission.

² Order of April 6, 2022, Appendix.

timely for good reason.³ The Pile and Chesser Petitions fail to meet that deadline. They are untimely. Because the petitions are clearly late and offer no support showing the untimely filing was for good cause,⁴ they fail to satisfy the Commission's requirements for permissive intervention.⁵ Granting these untimely petitions will leave the Commission no principled basis to deny similar petitions in the future.

The Pile and Chesser Petitions fail to meet the Commission's intervention regulation in another respect. 807 KAR 5:001, Section 4(11)(a) states that a motion to intervene shall state "how intervention 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 Pile and Chesser Petitions fail to comply with this requirement as well.

Intervention is allowed where the party seeking intervention: (1) has a special interest in the case not otherwise represented; or (2) his or her intervention is likely to present issues or develop facts that will assist the Commission in fully evaluating the matter without unduly complicating or disrupting the proceedings.⁶ In cases involving applications for the approval of a certificate of public convenience and necessity for a transmission line, KRS 278.020(9) indicates that "interested persons" include "person[s] over whose property the proposed transmission line will cross."

³ KRS 278.020(9) directs the Commission to issue its decision no later than 120 days after the application is filed. Time is of the regulatory essence in this case.

⁴ Paragraph 3 of the Commission's April 6, 2022 Scheduling Order requires untimely petitions to intervene to show good cause for that untimeliness.

⁵ The Commission has routinely denied untimely petitions to intervene: *In the Matter of: Electronic Application of Duke Energy Company for an Adjustment of Electric Rates*, Case No. 2017-00321, October 24, 2017 Order, p. 2 (denying a petition for being four days late); *In the Matter of: Electronic Application of Kentucky Utilities Company for an Adjustment of its Electric Rates*, Case No. 2020-00349, January 26, 2021 Order, p. 3 (denying petitions to intervene partially due to being 15 and 19 days late).

⁶ 807 KAR 5:001, Section 4(11)(b).

The Piles and Chessers are not affected landowners. Exhibit 20 to KU’s March 31, 2022 Application identified all affected property owners as required by 807 KAR 5:120, Section 2(3) which are property owners “over whose property the transmission line right-of-way is proposed to cross” according to the Hardin County’s Property Valuation Administrator records.

Based on the address⁷ the Piles provided and the address⁸ the Chessers provided, they may have some general connection to property in the vicinity of the proposed transmission lines. But owning property near a proposed transmission line is not a basis for intervention. Indeed, the Commission recently denied intervention to just such a property owner. In Case No. 2021-00346, the Commission stated, “[t]he proposed route of the transmission line does not cross Mr. Allen’s property. Therefore, he is not an interested person pursuant to KRS 278.020(9).”⁹ The Commission also observed:

Mr. Allen could intervene in these proceedings pursuant to 807 KAR 5:001, Section 4(11)(a) if he could demonstrate some special interest or if he presented evidence that he would present issues or develop facts that would assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings. The interests Mr. Allen proffered in his motion do not rise to the level of a special interest. Mr. Allen’s interest is rooted in the fact that the proposed transmission line is near his property. The proposed line does not cross his property; it is simply in the vicinity. Mr. Allen’s interest in this proceeding is the same as any other landowner in the area; it is not a special interest. Mr. Allen’s motion also does not document that he would present relevant issues or develop facts to assist the Commission in fully considering the matter before it.¹⁰

⁷ The Pile address is 579 Glenwood Drive, Glendale, KY 42740.

⁸ The Chesser address is 603 Glenwood Drive, Glendale, KY 42740.

⁹ Case No. 2021-00346, Order of December 7, 2021, p. 3 (emphasis added).

¹⁰ Id.

The Pile and Chesser Petitions (like the other unaffected property owners requesting intervention in this case) are very similar to the petition Mr. Allen filed in Case No. 2021-00346. Just like Mr. Allen in that case, these unaffected property owners in this case do not have a “special interest” warranting intervention. And they have provided nothing that indicates they will present relevant issues or develop facts to assist the Commission in fully considering this matter.

Finally, the Pile and Chesser Petitions are the latest identical “forms” that numerous unaffected landowners are submitting to the Commission. They are the exact same forms submitted by: Thomas and Betty Schnieder; Leslee Ferguson; Ernest and Beverly Kerr; William and Kimberly Goodman; Larry Hagan; Edward and Rose Mary Gravel; Sheri and Dale Adams; Sandra Clark; Shirley Curry; Heather Richards; and Raymond and Elizabeth Clark. It is possible that this flow of non-complaint forms will continue as this case progresses and now that the intervention deadline of April 8 has passed, they will all be untimely. Therefore, KU hereby asserts a standing opposition to any future intervention requests and seeks the Commission’s approval that KU need not file future responses in opposition to those filings to assert that opposition.

Dated: April 15, 2022

Respectfully submitted,



By: _____

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Counsel for Kentucky Utilities Company

CERTIFICATE OF COMPLIANCE

In accordance with the Commission’s Order of July 22, 2021 in Case No. 2020-00085 (Electronic Emergency Docket Related to the Novel Coronavirus COVID-19), this is to certify that the electronic filing has been transmitted to the Commission on April 15, 2022; that there are currently no parties in this proceeding that the Commission has excused from participation by electronic means; and that a paper copy of this filing has been mailed to the following on April 15, 2022:

Pile
579 Glenwood Drive
Glendale, KY 42740

Chesser
603 Glenwood Drive
Glendale, KY 42740

A handwritten signature in blue ink, appearing to read "Harold R. Nigg", is written over a light gray rectangular background.

Counsel for Kentucky Utilities Company