

RECEIVED

FEB 15 2013

PUBLIC SERVICE
COMMISSION

421 West Main Street
Post Office Box 634
Frankfort, KY 40602-0634
[502] 223-3477
[502] 223-4124 Fax
www.stites.com

February 15, 2013

HAND DELIVERED

Jeff R. Derouen
Executive Director
Public Service Commission
211 Sower Boulevard
P.O. Box 615
Frankfort, Kentucky 40602-0615

R. Benjamin Crittenden
(502) 209-1216
(502) 223-4388 FAX
rcrittenden@stites.com

Re: Case No. 2012-00224

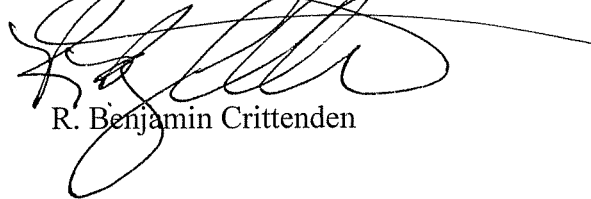
Dear Mr. Derouen:

Please find enclosed and accept for filing the original and ten copies of the rebuttal testimony of Delinda K. Borden and Richard L. Howerton being filed by Kentucky Power Company.

Copies of the testimony are being served on counsel for Grayson along with a copy of this letter.

Very truly yours,

STITES & HARBISON PLLC



R. Benjamin Crittenden

cc: W. Jeffrey Scott

RECEIVED

FEB 15 2013

PUBLIC SERVICE
COMMISSION

COMMONWEALTH OF KENTUCKY
BEFORE THE
PUBLIC SERVICE COMMISSION OF KENTUCKY

IN THE MATTER OF

**PETITION AND COMPLAINT OF KENTUCKY POWER)
COMPANY FOR A DECLARATION OF ITS)
RIGHT PURSUANT TO KRS 278.018(1) TO SERVE)
THOSE PORTIONS OF THE SAND GAP ESTATES) CASE NO. 2012-00224
GREENUP COUNTY, KENTUCKY LYING WITHIN)
ITS CERTIFIED TERRITORY IN LIEU OF)
GRAYSON RURAL ELECTRIC COOPERATIVE)
CORPORATION)**

SUPPLEMENTAL TESTIMONY OF
DELINDA K. BORDEN AND RICHARD L. HOWERTON
ON BEHALF OF KENTUCKY POWER COMPANY

February 15, 2013

COMMONWEALTH OF KENTUCKY
BEFORE THE
PUBLIC SERVICE COMMISSION OF KENTUCKY

IN THE MATTER OF

**PETITION AND COMPLAINT OF KENTUCKY POWER)
COMPANY FOR A DECLARATION OF ITS)
RIGHT PURSUANT TO KRS 278.018(1) TO SERVE)
THOSE PORTIONS OF THE SAND GAP ESTATES) CASE NO. 2012-00224
GREENUP COUNTY, KENTUCKY LYING WITHIN)
ITS CERTIFIED TERRITORY IN LIEU OF)
GRAYSON RURAL ELECTRIC COOPERATIVE)
CORPORATION)**

SUPPLEMENTAL TESTIMONY OF
DELINDA K. BORDEN
ON BEHALF OF KENTUCKY POWER COMPANY

February 15, 2013

**REBUTTAL TESTIMONY OF
DELINDA K. BORDEN, ON BEHALF OF
KENTUCKY POWER COMPANY
BEFORE THE PUBLIC SERVICE COMMISSION OF KENTUCKY**

I. INTRODUCTION

1 **Q: PLEASE STATE YOUR NAME, POSITION AND BUSINESS ADDRESS.**

2 A. My name is Delinda K. Borden. My position is Customer and Distribution Services
3 Manager, Kentucky Power Company (“Kentucky Power,” “KPCo” or “Company”).
4 My business address is 12333 Kevin Avenue, Ashland, Kentucky 41102.

5 **Q. ARE YOU THE SAME DELINDA K. BORDEN THAT FILED DIRECT**
6 **TESTIMONY IN THIS PROCEEDING ON BEHALF OF KENTUCKY POWER**
7 **COMPANY?**

8 A. Yes, I am.

II. PURPOSE OF TESTIMONY

9 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEEDING?**

10 A. The purpose of my testimony is to address statements made by Grayson RECC witness
11 Carol Ann Fraley indicating that Kentucky Power advised a number of third parties that
12 the area at issue in this proceeding is located in the certified territory of Grayson RECC.
13 My testimony also addresses statements made by Grayson RECC witness Ronnie Evans
14 describing the location of Kentucky Power’s facilities in the area at issue.

15 **Q. ARE YOU SPONSORING ANY EXHIBITS?**

16 A. Yes, Exhibits DKB-1 and DKB-2.

17 **Q. BRIEFLY EXPLAIN THE CONTENTS OF YOUR EXHIBITS.**

18 A. The following is a brief explanation of the contents of the exhibits I’m sponsoring:

- 1 • Exhibit DKB-1: Easements Kentucky Power has acquired from property owners
2 located in the area in dispute in this proceeding.
- 3 • Exhibit DKB-2: A map showing the locations of Kentucky Power's easements
4 and previously-used facilities located in the area in dispute in this proceeding.

III. ALLEGED ACKNOWLEDGMENTS

5 **Q. GRAYSON RECC WITNESS FRALEY MAINTAINS THAT WESLEY**
6 **BREEDING ADVISED GRAYSON RECC THAT HE HAD BEEN TOLD BY**
7 **KENTUCKY POWER THAT THE RESIDENCES OF HE AND HIS DAUGHTER,**
8 **TAMELA MARTIN, WERE LOCATED IN GRAYSON RECC'S SERVICE**
9 **TERRITORY. ARE YOU FAMILIAR WITH THESE RESIDENCES?**

10 A. Yes. The residences of Mr. Breeding and Ms. Martin are located at Lots 20 and 21 in the
11 Sand Gap Estates subdivision.

12 **Q. DID KENTUCY POWER ADVISE MR. BREEDING THAT THE RESIDENCES**
13 **WERE LOCATED IN GRAYSON RECC'S SERVICE TERRITORY?**

14 A. No. Based upon my review of Company records and discussions with current and former
15 employees who have knowledge of the development of the Sand Gap Estates subdivision,
16 Kentucky Power did not address this issue with Mr. Breeding.

17 **Q. DOES KENTUCKY POWER CLAIM THAT THE RESIDENCES OF MR.**
18 **BREEDING AND MS. MARTIN ARE LOCATED WITHIN THE COMPANY'S**
19 **SERVICE TERRITORY?**

20 A. No. Kentucky Power acknowledges that these residences are located within Grayson
21 RECC's service territory.

1 Q. GRAYSON RECC WITNESS FRALEY ALSO TESTIFIES THAT MARK
2 TERRY, THE ORIGINAL RESIDENT OF 414 SAND GAP ROAD, WAS TOLD
3 BY KENTUCKY POWER THAT HIS RESIDENCE WAS LOCATED IN
4 GRAYSON RECC'S SERVICE TERRITORY. DID KENTUCY POWER MAKE
5 THIS REPRESENTATION TO MR. TERRY?

6 A. No. Mr. Terry did not apply to Kentucky Power for retail electric service at that location
7 and the Company did not otherwise advise Mr. Terry that his residence was located in
8 Grayson RECC's service territory.

9 Q. GRAYSON RECC WITNESS FRALEY RECOUNTS A CONVERSATION SHE
10 HAD WITH DOUG MOORE, A REPRESENTATIVE OF ADDINGTON LAND
11 COMPANY, IN WHICH MR. MOORE PURPORTEDLY ADVISED HER THAT
12 KENTUCKY POWER TOLD HIM THE AREA IN DISPUTE WAS LOCATED IN
13 GRAYSON RECC'S SERVICE TERRITORY. DID KENTUCKY POWER
14 ADVISE MR. MOORE THAT THE AREA IN DISPUTE WAS LOCATED IN
15 GRAYSON RECC'S TERRITORY?

16 A. No. Based upon my review of Company records and discussions with current and former
17 employees who have knowledge of the area, including field representatives, Kentucky
18 Power did not advise Mr. Moore that the area is located within Grayson RECC's service
19 territory.

20 Q. GRAYSON RECC WITNESS FRALEY GOES ON TO TESTIFY THAT MR.
21 MOORE INFORMED HER THAT KENTUCKY POWER ADVISED AN
22 INDIVIDUAL WHO HAD PURCHASED LAND ON THE WEST SIDE OF THE
23 INDUSTRIAL PARKWAY THAT THE ENTIRE FRONTAGE ON THE WEST

1 **SIDE OF THE ROAD WAS LOCATED IN GRAYSON RECC'S SERVICE**
2 **TERRITORY. DID KENTUCKY POWER MAKE THIS REPRESENTATION?**

3 A. No. Based upon my review of Company records and discussions with current and
4 former employees who have knowledge of the area, including field representatives,
5 Kentucky Power did not advise any landowners in the area at issue that their property
6 was located in Grayson RECC's service territory.

IV. KENTUCKY POWER'S INTEREST IN THE AREA IN DISPUTE

7 **Q. GRAYSON RECC WITNESS EVANS TESTIFIES THAT KENTUCKY POWER'S**
8 **CLOSEST FACILITIES TO THE AREA AT ISSUE ARE LOCATED SOME**
9 **DISTANCE AWAY FROM THE SAND GAP ESTATES SUBDIVISION. IN**
10 **ADDITION TO THE ESTABLISHED BOUNDARY MAP, DOES OTHER**
11 **EVIDENCE SUPPORT KENTUCKY POWER'S INTEREST IN THE AREA AT**
12 **ISSUE IN THIS PROCEEDING?**

13 A. Yes. Kentucky Power obtained easements from a number of landowners for the
14 construction of distribution facilities in the area. Specifically, Kentucky Power obtained
15 easements from K.C. Oliver (1928), Fannie Wiley (1950), Ray Wright (1950) and Roy L.
16 Wright (1950). Exhibit DKB-1 includes copies of these easements. After obtaining these
17 easements, Kentucky Power constructed a distribution line in the area where the Sand
18 Gap Estates subdivision is presently located. This distribution line was completed in
19 1950. Exhibit DKB-2 is a map showing the location of the distribution line and the
20 easements. While the distribution line has been removed, Kentucky Power provided

1 retail electric service to a customer located west of the present Industrial Parkway as
2 early as 1950.

V. CONCLUSION

3 **Q. PLEASE SUMMARIZE YOUR REBUTTAL TESTIMONY.**

4 A. Kentucky Power has not advised anyone in the area at issue in this proceeding that their
5 property is located within Grayson RECC's service territory; nor has Kentucky Power
6 agreed to allow Grayson RECC to provide retail electric service to customers located in
7 Kentucky Power's territory in and around the Sand Gap Estates subdivision.

8 **Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?**

9 A. Yes, it does.

STATE OF KENTUCKY,

COUNTY OF Greenup

TO-WIT:

173

I, J. McClure, a Notary Public (~~or County Clerk~~), in and for the County and State aforesaid, hereby certify that the foregoing right of way easement from K. C. Oliver and Wonie Oliver, to Kentucky and West Virginia Power Company, Incorporated, was this day produced to me in my said County and State, and acknowledged by K. C. Oliver

grantor therein, to be ^{his} ~~their~~ act and deed in due form of law.

My commission expires June 29 1954

Given under my hand and notarial seal this 11th day of September, 1950

J. McClure
Notary Public (~~or County Clerk~~)
Ky. Stat. at Large

CLERKS CERTIFICATE

STATE OF KENTUCKY,

Greenup COUNTY

SCT.

I, J. L. O'Bryan clerk of the County Court, do certify that this right-of-way easement from K. G. Oliver and Wonie Oliver

to Kentucky and West Virginia Power Company, Incorporated, was on the 5th day of Oct 1950, at 9:00 o'clock A M, lodged in my office for record, and the same, together with this and the foregoing certificate have been duly recorded.

Witness my hand, this 5th day of Oct 1950

J. L. O'Bryan CLERK

BY J. L. O'Bryan D. C.

A. E. P. CO.
FRANKS REAL ESTATE OFFICE
Ch. Book By [Signature]
Date 9-28-50

Book 123
Page 172

STATE OF KENTUCKY,

COUNTY OF GREENUP

} TO-WIT:--

I, J. W. See, a Notary Public (~~or County Clerk~~), in and for the County and State aforesaid, hereby certify that the foregoing right of way easement from W. O. Cluett and _____, to Kentucky and West Virginia Power Company, Incorporated, was this day produced to me in my said County and State, and acknowledged by Winnie Cluett and _____ grantor^{her} therein, to be their act and deed in due form of law.

My commission expires 2-26-1951

Given under my hand ~~and notarial seal~~ this 17 day of September, 1950

J. W. See
Notary Public (~~or County Clerk~~)
W. O. Cluett

ASHLAND DISTRICT

W.O. No. _____

M.O. No. _____ Prepared By MB Date 9/16/46 R/W Map No. 89

3883

Line Designation _____ Corres. File No. 90 Sheet 1 of - Sheets

LIST OF PROPERTIES

NO.	NAME	REC. FEE	REMARKS
	<u>WO-451/9072.31.</u>		
1.	WILL SARK.		Y.C. SEE EAS. # 21-R/W 3883 - 90. FOR AGM'T.
✓ 2.	ERNEST LOGAN	\$ 2.25 ok	
✓ 3.	JOHN MORMAN, ET AL.	\$ 2.25 ok	
✓ 4.	BANNER JOHNSON	\$ 2.25 ok	
✓ 5.	W. M. THOMPSON	\$ 2.25 ok	
✓ 6.	JOHNNIE COBERN.	\$ 2.25 ok	

*yc made by roll 4-27-48
Index cards prepared by roll 4-30-48
Index cards printed by roll 5-19-48*

ART PTG. CO., 6-48 2M
RIGHT OF WAY EASEMENT
Form No. 103-R/E.

Mrs. Jessie Wiley Eas. No. 8 R/W Map No. 3883-29 175
(Name)
Hopkins Ky W. O. No. 5019057.31 Temp. Prop. No. 5
(Address)

RECEIVED OF KENTUCKY AND WEST VIRGINIA POWER COMPANY, INCORPORATED, a
Kentucky corporation, the sum of One Dollar (\$1.00) in consideration of which
Jessie Wiley and Ed Wiley, her husband,

hereby grant and convey unto said Kentucky and West Virginia Power Company, incorporated, its
successors and assigns, the right and easement to construct, operate and maintain or remove an elec-
tric power line, with all necessary poles, anchors, wires and fixtures and the right to permit attachments
of others to said poles on and over our lands, with services and extensions therefrom, situate in the Dis-
trict of _____, County of Greene, and State of Kentucky, and
bounded:

On the North by the lands of Candice Hein
On the East by the lands of Kelley Oliver
On the South by the lands of County Road
On the West by the lands of Ted Wright
with the right of ingress and egress to and from and over said premises.

Being an easement over the same property conveyed to grantor herein by Ed Howard
George Newley + wife
by deed dated 3-12-49 and recorded in Greene
8-28-30
County, Deed Book No. 118 Page, 137, Date 3-12-49
82 381 4-3-36

Together with the right to cut or trim any trees which may endanger the safety or interfere with the
construction and use of said electric power line.

TO HAVE AND TO HOLD the same unto said Kentucky and West Virginia Power Company, Incor-
porated, its successors and assigns.

It is agreed that the foregoing is the entire contract between the parties hereto, and that this writ-
ten agreement is complete in all its terms and provisions.

This agreement is dated the 8th day of September, 1950.

WITNESS the following signatures and seals.

WITNESS:
[Signature]

Jessie Wiley (SEAL)

(SEAL)
Ed Wiley (SEAL)

(SEAL)

(SEAL)

(SEAL)

(SEAL)

(SEAL)

(SEAL)

STATE OF KENTUCKY,

COUNTY OF Greenup

TO-WIT:

I, J. W. McClure, a Notary Public (~~for County Clerk~~), in and for the County and State aforesaid, hereby certify that the foregoing right of way easement from Fannie Wiley and Ed Wiley, to Kentucky and West Virginia Power Company, Incorporated, was this day produced to me in my said County and State, and acknowledged by Fannie Wiley and Ed Wiley

grantors therein, to be their act and deed in due form of law.

My commission expires June 29, 1954

Given under my hand and notarial seal this 8 day of September, 1950

J. W. McClure
Notary Public (~~for County Clerk~~)

CLERKS CERTIFICATE

176 STATE OF KENTUCKY,

Greenup COUNTY

SCT.

I, J. L. O'Bryan clerk of the County Court, do certify that this right-of-way easement from Fannie Wiley and Ed Wiley

to Kentucky and West Virginia Power Company, Incorporated, was on the 5th day of Oct 1950, at 9:00 o'clock A M, lodged in my office for record, and the same, together with this and the foregoing certificate have been duly recorded.

Witness my hand, this 5th day of Oct 19 50

J. L. O'Bryan CLERK

BY J. L. O'Bryan D. C.

A. E. P. CO.
RECORDING SERVICE OFFICE
L. I. ...
Date 9-25-50

Book 123
page 175

ART PTO. CO., 6-40 BM
RIGHT OF WAY EASEMENT
Form No. 103-R/E.

Mr. Ray Wright Eas. No. 9 R/W Map No. 3883-89
Hopkins (Name) 4
(Address) W. O. No. 501/9057.31 Temp. Prop. No. 4

RECEIVED OF KENTUCKY AND WEST VIRGINIA POWER COMPANY, INCORPORATED
Kentucky corporation, the sum of One Dollar (\$1.00) in consideration of which Ray
Wright and Mildred Wright, his wife,

hereby grant and convey unto said Kentucky and West Virginia Power Company, Incorporated, its successors and assigns, the right and easement to construct, operate and maintain or remove an electric power line; with all necessary poles, anchors, wires and fixtures and the right to permit attachments of others to said poles on and over our lands, with services and extensions therefrom, situate in the District of _____, County of Greenup, and State of Kentucky, and bounded:

On the North by the lands of Fanny Wiley
On the East by the lands of Kelly Ooster
On the South by the lands of Banner Thuston
On the West by the lands of Wm Thompson
with the right of ingress and egress to and from and over said premises.

Being an easement over the same property conveyed to grantor herein by Elizabeth Conley
McCarty et al, by deed dated 7-19-48, and recorded in Greenup
174 County, Deed Book No. 115 Page, 121, Date 7-21-48

Together with the right to cut or trim any trees which may endanger the safety or interfere with the construction and use of said electric power line.

TO HAVE AND TO HOLD the same unto said Kentucky and West Virginia Power Company, Incorporated, its successors and assigns.

It is agreed that the foregoing is the entire contract between the parties hereto, and that this written agreement is complete in all its terms and provisions.

This agreement is dated the 8 day of September, 1950;
WITNESS the following signatures and seals.

WITNESS:
J. H. McCreine _____ (SEAL)
_____ (SEAL)
_____ (SEAL)
_____ (SEAL)
_____ (SEAL)
_____ (SEAL)
_____ (SEAL)
_____ (SEAL)
_____ (SEAL)
_____ (SEAL)

Ray Wright (SEAL)
Mildred Wright (SEAL)

STATE OF KENTUCKY,

COUNTY OF Greenup

TO-WIT:

I, J. H. McClure, a Notary Public (~~or County Clerk~~), in and for the County and State aforesaid, hereby certify that the foregoing right of way easement from Ray Wright of Mildred Wright, to Kentucky and West Virginia Power Company, Incorporated, was this day produced to me in my said County and State, and acknowledged by Ray Wright of Mildred Wright

_____ grantors therein, to be their act and deed in due form of law.

My commission expires June 29 1954

Given under my hand and notarial seal this 8th day of September, 1950

J. H. McClure
Notary Public (~~or County Clerk~~)

CLERKS CERTIFICATE

STATE OF KENTUCKY,

Greenup

COUNTY

SCT.

I, J. L. O'Bryan clerk of the County Court, do certify that this right-of-way easement from Ray Wright and Mildred Wright

_____ to Kentucky and West Virginia Power Company, Incorporated, was on the 5th day of Oct, 1950, at 9:00 o'clock A M, lodged in my office for record, and the same, together with this and the foregoing certificate have been duly recorded.

Witness my hand, this 5th day of Oct, 1950.

J. L. O'Bryan CLERK

BY J. L. O'Bryan D. C.

A. E. P. CO.
ROANOKE REAL ESTATE OFFICE
Checked By: [Signature]
Date: 9-28-50

Book 123
page 173

451/2072, 31

A. E. P. Co., ROANOKE REAL ESTATE OFFICE

Defective Document Memo

Easement No. 9 Agr'm't No. _____ R/W No. _____

We have noted the following defects in this Document:

John Morman et al

In source of title clause, the deed from Ann Morman is shown as being dated 7-14-43, and as being recorded 7-5-43.

(J. H. McClure)

However, as we have been in possession of this property for some years, we do not deem it advisable to have this corrected at this time.

We do not believe the above errors of sufficient importance to warrant correction at this late date.

By: *JH* Date: 10/11/45

Documents attached to this page refer to the previous document

ASHLAND

RE-106-A

W.O. No. _____

M. O. No. _____ Prepared By J.A. Date 4-7-53 R/W Map No. 3883-89

Line Designation _____ Corres. File No. _____ Sheet _____ of _____ Sheets

LIST OF PROPERTIES

EAS. No.	NAME	REC. FEE	REMARKS
<u>WO. 501/9057.31</u>			<u>Corres. File: 3883-65.</u>
7	- K.C. OLIVER	Y.C.	See Eas. # 5 R/W 3883-65.
8	- FANNIE WILEY	OK.	
9	- RAY WRIGHT	OK	
10	- ROY L. WRIGHT, ET AL	OK.	
<u>WO. 521/9058.31</u>			<u>Corres. File: 3883-90</u>
11	- HARVEY H. OWENS, ET AL.	Y.C.	See Eas. # 39 R/W 3883-90
12	- M.C. TAYLOR	OK.	
13	- SYLVESTER HICKS	OK.	
<p><i>y.c. made by Gibson 7-14-53</i> <i>Indef Cants Made by Gibson 7-15-53</i> <i>Cases checked by Gibson 7-22-53</i></p>			

KY. 1001/5-91

RIGHT-OF-WAY RECORD MAP WORK SHEET
DOCUMENT TRANSMITTAL

KY Power
COMPANY NAME

Ashland
DIVISION

W.O. No. 97-162 Prepared by JDM Date 12/8/97 R/W Map No. 3883-89
Beginning on Distr. System Map No. _____ Line Designation _____
Corres. File No. _____ Sheet 1 of 7

Prop No	Perm Eas No	Name	Agm't Dated	Remarks
	<u>14</u>	<u>Anthony Pennington</u>	<u>11/17/97</u>	

RECEIVED BY: E. Bolen
DATE: 12-08-97

RETURN RECEIPTED COPY TO: _____

ART PTO. CO., 8-48 OH
RIGHT OF WAY EASEMENT
Form No. 103-R/E

Mr. Roy L. Wright Eas. No. 10 R/W Map No. 3883-89
Napier, Ky (Name) W. O. No. 59/9057.31 Temp. Prop. No. 10
(Address)

RECEIVED OF KENTUCKY AND WEST VIRGINIA POWER COMPANY, INCORPORATED

Kentucky corporation, the sum of One Dollar (\$1.00) in consideration of which Roy L. Wright and Geneva Wright, his wife, Ted Wright and Bertha Wright, his wife,

hereby grant—and-convey— unto said-Kentucky and West-Virginia Power Company, Incorporated, its successors and assigns, the right and easement to construct, operate and maintain or remove an electric power line, with all necessary poles, anchors, wires and fixtures and the right to permit attachments of others to said poles on and over our lands, with services and extensions therefrom, situate in the District of _____, County of Greene, and State of Kentucky, and bounded:

On the North by the lands of Jessie Wiley
On the East by the lands of W M Thompson
On the South by the lands of Ted Wright
On the West by the lands of Ted Wright
with the right of ingress and egress to and from and over said premises.

Being an easement over the same property conveyed to grantor herein by Lee Wough by deed dated 4-23-32, and recorded in Greene County, Deed Book No. 79 Page 607, Date 3-30-34

Together with the right to cut or trim any trees which may endanger the safety or interfere with the construction and use of said electric power line.

TO HAVE AND TO HOLD the same unto said Kentucky and West Virginia Power Company, Incorporated, its successors and assigns.

It is agreed that the foregoing is the entire contract between the parties hereto, and that this written agreement is complete in all its terms and provisions.

This agreement is dated the 7 day of September, 1950;
WITNESS the following signatures and seals:

WITNESSES To Her Mark:
J. J. McClure Ashland, Ky.
Carmel Drumm Sr.

Roy L. Wright (SEAL)
Geneva Wright (SEAL)
Ted Wright (SEAL)
Bertha Wright (SEAL)

(SEAL)

(SEAL)

(SEAL)

(SEAL)

(SEAL)

STATE OF KENTUCKY,

COUNTY OF Greenup

TO-WIT:

I, J. L. O'Brien, a Notary Public (~~or County Clerk~~), in and for the County and State
aforesaid, hereby certify that the foregoing right of way easement from Roy L. Wright
et al
to Kentucky and West Virginia Power Company, Incorporated,
was this day produced to me in my said County and State, and acknowledged by Roy L.
Wright and Geneva Wright

grantors' therein, to be their act and deed in due form of law.

My commission expires June 29, 1954

Given under my hand and notarial seal this 5th day of September, 1950.

J. L. O'Brien
Notary Public (~~or County Clerk~~)

CLERKS CERTIFICATE

STATE OF KENTUCKY,

Greenup COUNTY

SCT.

I, J. L. O'Brien clerk of the County Court, do certify that this right-of-way ease-
ment from Roy L. Wright et als.

to Kentucky and West Virginia Power Company, Incorporated, was
on the 5th day of Oct 1950, at 9:00 o'clock A M, lodged in my of-
fice for record, and the same, together with this and the foregoing certificate have been duly recorded.

Witness my hand, this 5th day of Oct 19 50

J. L. O'Brien CLERK
BY J. L. O'Brien D. C.

A. E. P. CO.
ROANOKE REAL ESTATE OFFICE
Clerk
Date 9-26-50

Book 123
page 176

A. E. P. Co., Roanoke Real Estate Office
Defective Document Memo

Prop. No. 10 W. O. No. 3883-89

Grantors Name Roy L. Wright et al

We have noted the following defects in this Document:

Marital Status of Grantors Omitted. Special Clause Not Approved by District Manager

Location of Property-omitted Description - Omitted - Incomplete

Previous Title - omitted - Incomplete Signatures do not correspond with Grantor's Names in Heading and Acknowledgement.

No Witnesses

Address of ^{one} Witness to signature by mark - omitted Acknowledgement improperly filled out.

We do not believe the above errors of sufficient importance to warrant correction at this late date.

By RPB Date 9-25-57

STATE OF KENTUCKY,

COUNTY OF Greenup

TO-WIT:—

177

I, J. H. McClure, a Notary Public (~~or County Clerk~~), in and for the County and State aforesaid, hereby certify that the foregoing right of way easement from Roy L. Wright et al to Kentucky and West Virginia Power Company, Incorporated, was this day produced to me in my said County and State, and acknowledged by Roy L. Wright and Bertha Wright grantors therein, to be their act and deed in due form of law.

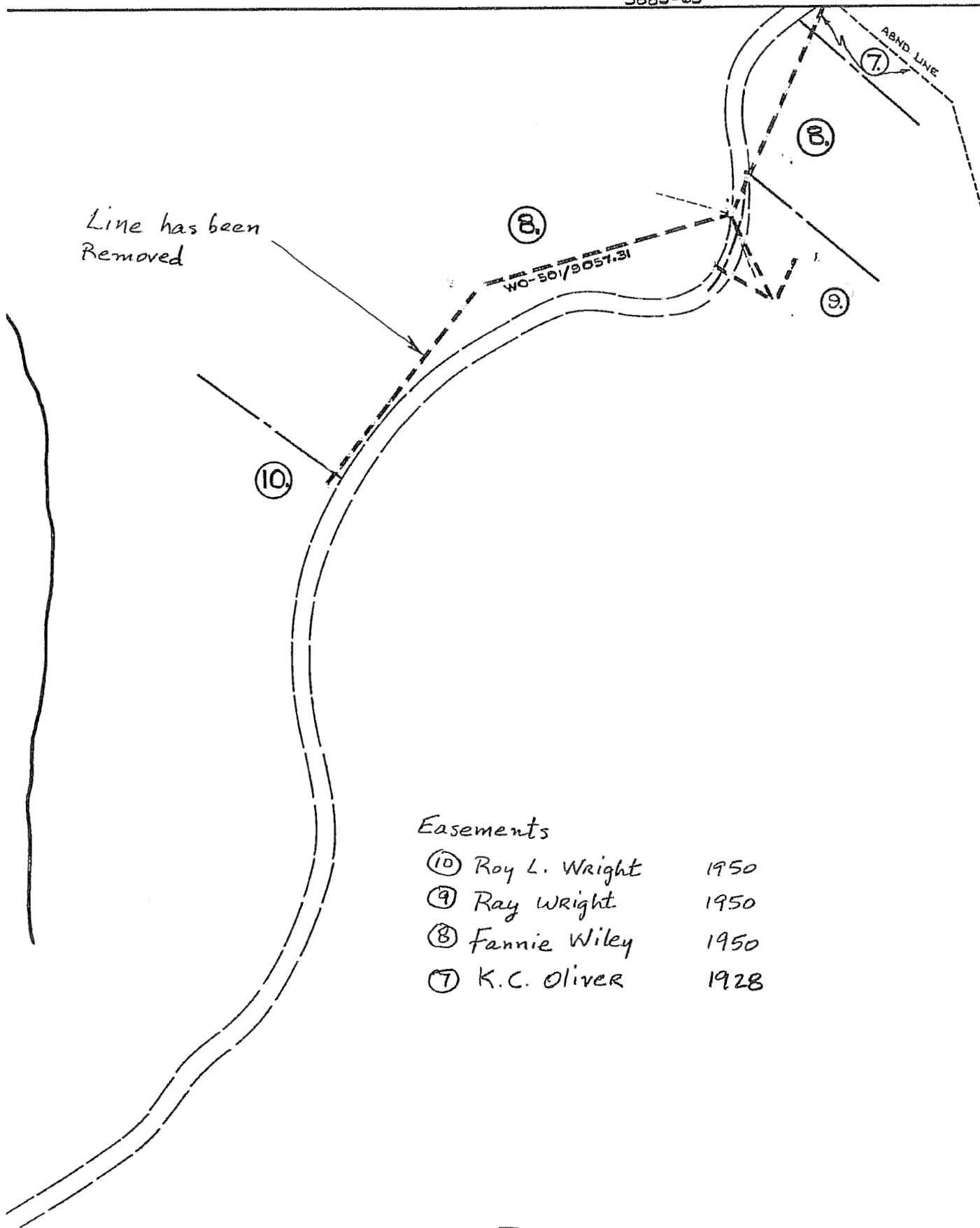
My commission expires June 29, 1954

Given under my hand and notarial seal this 11 day of September, 1950

J. H. McClure
Notary Public (~~or County Clerk~~)
By State at Large

Documents attached to this page refer to the previous document

NORTH
3683-65



Easements

- | | |
|-----------------|------|
| ⑩ Roy L. Wright | 1950 |
| ⑨ Ray Wright | 1950 |
| ⑧ Fannie Wiley | 1950 |
| ⑦ K.C. Oliver | 1928 |

COMMONWEALTH OF KENTUCKY
BEFORE THE
PUBLIC SERVICE COMMISSION OF KENTUCKY

IN THE MATTER OF

**PETITION AND COMPLAINT OF KENTUCKY POWER)
COMPANY FOR A DECLARATION OF ITS)
RIGHT PURSUANT TO KRS 278.018(1) TO SERVE)
THOSE PORTIONS OF THE SAND GAP ESTATES) CASE NO. 2012-00224
GREENUP COUNTY, KENTUCKY LYING WITHIN)
ITS CERTIFIED TERRITORY IN LIEU OF)
GRAYSON RURAL ELECTRIC COOPERATIVE)
CORPORATION)**

SUPPLEMENTAL TESTIMONY OF
RICHARD L. HOWERTON
ON BEHALF OF KENTUCKY POWER COMPANY

February 15, 2013

VERIFICATION

The undersigned, Richard L. Howerton, being duly sworn, deposes and says he is the Owner and Senior Engineer of Howerton Engineering and Surveying PLLC, that he has personal knowledge of the matters set forth in the forgoing testimony and the information contained therein is true and correct to the best of his information, knowledge, and belief.

Richard L. Howerton

Richard L. Howerton

COMMONWEALTH OF KENTUCKY)

) Case No. 2012-00224

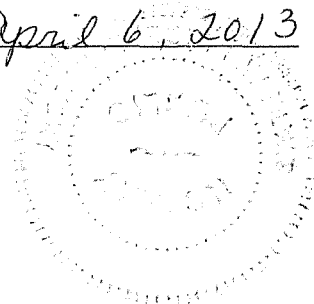
COUNTY OF BOYD)

Subscribed and sworn to before me, a Notary Public in and before said County and State, by Richard Howerton, this the 12 day of February 2013.

Gloria Howerton

Notary Public

My Commission Expires: April 6, 2013



**REBUTTAL TESTIMONY OF
RICHARD L. HOWERTON, ON BEHALF OF
KENTUCKY POWER COMPANY
BEFORE THE PUBLIC SERVICE COMMISSION OF KENTUCKY**

I. INTRODUCTION

1 **Q: PLEASE STATE YOUR NAME, POSITION AND BUSINESS ADDRESS.**

2 A: My name is Richard L. Howerton. My position is Owner/Senior Engineer/Surveyor,
3 Howerton Engineering & Surveying, PLLC. My business address is 404A Main Street,
4 Greenup, Kentucky 41144.

5 **Q. ARE YOU THE SAME RICHARD L. HOWERTON THAT FILED DIRECT**
6 **TESTIMONY IN THIS PROCEEDING ON BEHALF OF KENTUCKY POWER**
7 **COMPANY?**

8 A. Yes, I am.

II. PURPOSE OF TESTIMONY

9 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEEDING?**

10 A. The purpose of my testimony is to address the claims made by Grayson RECC witness
11 Ronnie Evans that changes to the area in and around Sand Gap Estates subdivision in
12 Greenup County, Kentucky made it difficult for Grayson RECC to determine whether the
13 residences located at 414 Sand Gap Road (Lot 47) and 397 Olivia Boulevard (Lot 25)
14 were located in the certified territory of Grayson RECC or Kentucky Power. My
15 testimony will show that boundary maps existing at the time Sand Gap Estates was
16 developed showed that the residences are located in Kentucky Power's certified territory.

17 **Q. ARE YOU SPONSORING ANY EXHIBITS?**

18 A. No, I am not.

III. MAPPING CHALLENGES

1 **Q. GRAYSON RECC WITNESS EVANS SUGGESTS THAT PREVIOUSLY**
2 **EXISTING MONUMENTS WERE REMOVED FROM THE AREA AROUND**
3 **SAND GAP ESTATES AS A RESULT OF STRIP MINING AND THE**
4 **CONSTRUCTION OF A ROAD BETWEEN INTERSTATE 64 AND US 23,**
5 **MAKING IT DIFFICULT TO MATCH THE CURRENT SITE WITH**
6 **TERRITORIAL MAPS ON FILE FOR PURPOSES OF DETERMINING THE**
7 **BOUNDARY BETWEEN THE CERTIFIED TERRITORIES OF GRAYSON**
8 **RECC AND KENTUCKY POWER. DO YOU AGREE?**

9 A. No. Neither the construction of the Industrial Parkway between Interstate 64 and US 23
10 nor any strip mining that occurred in the area should have precluded Grayson RECC from
11 accurately determining the location of the boundary line with Kentucky Power. As I
12 demonstrated in my direct testimony, the location of the service boundary can be
13 established on the ground using the USGS Boundary Map established by the
14 Commission. Any alteration of the land in the area subsequent to the establishment of the
15 Boundary Map, including any alteration of the ridgeline described in Mr. Evans'
16 testimony, would have had no bearing on the ability of Grayson RECC, or any other
17 party, to accurately determine the location of the boundary between the Grayson RECC
18 and Kentucky Power service territories.

19 **Q. GRAYSON RECC WITNESS STATES THAT GRAYSON RECC DID NOT**
20 **HAVE GPS AT THE TIME THE INITIAL RESIDENTS OF 414 SAND GAP**
21 **ROAD (LOT 47) AND 397 OLIVIA BOULEVARD (LOT 25) APPLIED FOR**

1 **SERVICE FROM GRAYSON RECC. WOULD IT HAVE BEEN POSSIBLE FOR**
2 **GRAYSON RECC TO ACCURATELY DETERMINE THE BOUNDARY LINE IN**
3 **THE ABSENCE OF GPS TECHNOLOGY?**

4 A. Yes. It was and remains possible to determine the location of the service boundary
5 without the use of GPS technology by using established USGS benchmarks. Grayson
6 RECC could have developed a survey random line using conventional total station
7 technology between two established USGS benchmarks with known coordinates. After
8 completing a tie between the two benchmarks, Grayson RECC could have staked out the
9 service boundary established from the established Boundary Map. This would have
10 produced an accurate boundary line between the service territories of Grayson RECC and
11 Kentucky Power.

IV. CONCLUSION

12 **Q. PLEASE SUMMARIZE YOUR REBUTTAL TESTIMONY.**

13 A. Grayson RECC could have accurately determined that the residences located at 414 Sand
14 Gap Road (Lot 47) and 397 Olivia Boulevard (Lot 25) were located within the certified
15 territory of Kentucky Power by using established maps.

16 **Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?**

17 A. Yes, it does.