

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF KENTUCKY)	
POWER COMPANY FOR A CERTIFICATE OF)	
PUBLIC CONVENIENCE AND NECESSITY TO)	CASE NO.
CONSTRUCT A 138 KV TRANSMISSION LINE)	2018-00209
AND ASSOCIATED FACILITIES IN PIKE AND)	
FLOYD COUNTIES, KENTUCKY)	

ORDER

On August 10, 2018, Kentucky Power Company (Kentucky Power) filed an application, pursuant to KRS 278.020(2) and 807 KAR 5:120, requesting a Certificate of Public Convenience and Necessity (CPCN) authorizing it to: (1) construct approximately five miles of new double-circuit 138-kiloVolt (kV) transmission line in Floyd and Pike counties, Kentucky; (2) construct portions of the new 138-kV substation adjacent to the Kentucky Enterprise Industrial Park; (3) retire the existing Fords Branch 46-kV Substation (Fords Branch Substation); and (4) upgrade certain facilities and equipment at Kentucky Power's existing Cedar Creek 138/69/46-kV Substation in Pike County, Kentucky (collectively, the "Enterprise Park Project" or the "Project"). Gary D. Bishop filed a motion to intervene, which was denied by an order dated October 18, 2018. No other persons sought intervention. Kentucky Power responded to two requests for information from Commission Staff on October 2, 2018, and October 30, 2018.

The Commission observes that the Enterprise Park Project has enjoyed broad community support due to the positive economic benefits expected from the businesses

the Project is expected to serve.¹ Moreover, the only person who requested intervention in this matter did not raise a concern regarding necessity of the Project—Mr. Bishop raised concerns about the location of the transmission line with respect to property in which he asserted an interest.² Thus, given that the issues before the Commission relate to whether there is a need for the project and whether it will result in wasteful duplication, the Commission finds that a public hearing is not necessary for the public interest or for the protection of substantial rights, and therefore, this matter is before the Commission on the evidentiary record. Having reviewed the record and being otherwise sufficiently advised, the Commission finds that Kentucky Power’s request for a CPCN should be granted subject to the conditions discussed herein below.

BACKGROUND

The Enterprise Park Project consists of four parts—the construction of a 138-kV substation adjacent to the Kentucky Enterprise Industrial Park in Pike County (Kewanee Substation); the construction of five miles of new double-circuit 138-kV transmission lines from an existing transmission line in Floyd County to the Kewanee 138-kV Substation adjacent to the industrial park (Kewanee Transmission Line Extension); upgrades to Kentucky Power’s existing Cedar Creek 138/69/46-kV Substation in Pike County (Cedar Creek Upgrades), Kentucky; and the retirement of Kentucky Power’s existing Fords Branch Substation. The total projected cost to Kentucky Power for the Project is \$33.6 million.³ Kentucky Power states that the Project is required to adequately provide electric

¹ See Application, Exhibit 15 (containing a number of letters from local businesses and local public officials in support of the Project).

² Motion to Intervene (filed Sept. 17, 2018).

³ Application at Paragraph 21.

service to Enerblu, Inc. and other industrial customers located or to be located in the Kentucky Enterprise Industrial Park, to correct thermal and voltage violations and other reliability issues in the Pikeville area, and to address aging infrastructure issues at the Fords Branch Substation.

The Kewanee Substation and the Kewanee Transmission Line Extension make up the bulk of the proposed Enterprise Park Project. Specifically, construction of the Kewanee Substation and the Kewanee Transmission Line Extension respectively account for \$12.5 million and \$19.9 million of the total projected project cost to Kentucky Power. Upgrades to the Cedar Creek Substation and the retirement of the Ford's Branch Substation account for \$500,000 and \$700,000 of the total costs, respectively.⁴ The Project will result in an increase in annual operating costs of \$12,500 and additional ad valorem tax of \$359,200.⁵

Kentucky Power proposes to construct the Kewanee Substation adjacent to the Kentucky Enterprise Industrial Park.⁶ The Kewanee Substation will consist of two 30-megaVolt Amp (MVA) 138/34.5-kV transformers, two 30-MVA 138/12-kV transformers, and one 16-foot by 36-foot base drop-in control module with a 12-foot expansion module, along with associated distribution structures and required ancillary equipment such as

⁴ *Id.*

⁵ Kentucky Power's Response to Commission Staff's First Request for Information (Response to Staff's First Request), Item 6.

⁶ See Application, Exhibit 17 at 62-64 (discussing Kentucky Power's considerations for the siting of the Kewanee Substation); see also Application, Exhibit 15 (containing a letter from the City Manager for the City of Pikeville stating that "[d]uring development of the route, Kentucky Power Company worked extensively with the City of Pikeville to minimize impacts to the City's Kentucky Enterprise Industrial Park and its current and proposed tenants.").

relays, current transformers, potential transformers, and telecommunications equipment.⁷ The substation will also contain two 138-kV transmission line positions in a ring bus layout utilizing six 138-kV circuit breakers (3000A 40 kA) to sectionalize the transformer and transmission line component,⁸ but those six circuit breakers will be constructed, financed and owned by AEP Kentucky Transmission Company, Inc. (Kentucky Transco) to reduce Kentucky Power's debt burden and improve its credit metrics.⁹

Kentucky Power proposed a route for the Kewanee Transmission Line Extension based on a multi-stage siting process in which it considered technical requirements, potential costs, and the interest of stakeholders. The proposed route will originate in Floyd County at a tap point of the existing Beaver Creek-Cedar Creek 138-kV circuit of the Sprigg-Beaver Creek 138-kV Transmission Line. The transmission line will parallel the existing Big Sandy-Broadford 765-kV Transmission Line right-of-way in a southeasterly direction for about 1.3 miles. The route of the transmission line will then

⁷ Lasslo Testimony at 13-14.

⁸ Application at Paragraph 7.

⁹ Kentucky Transco is an affiliate of the Kentucky Power that owns certain transmission facilities in Kentucky. The Commission has previously determined that Kentucky Transco is not a utility subject to the jurisdiction of the Commission. *In the Matter of Application of AEP Kentucky Transmission Company, Inc. For A Certificate Of Public Convenience And Necessity Pursuant to KRS 278.020 to Provide Wholesale Transmission Service In The Commonwealth*, Case No. 2011-00042, Order at 8 (Ky. P.S.C. June 10, 2013). Kentucky Power claims Kentucky Transco was formed to mitigate the adverse effects of transmission investment demands on Company's credit metrics by assuming legal and economic liability for transmission projects or portions thereof. Kentucky Power's Response to Commission Staff's First Request for Information (Response to Staff's First Request), Item 7. Kentucky Power noted that its credit outlook was recently downgraded to negative such that Kentucky Power is seeking to improve its credit metrics, particularly its ratio of cash flow from operations to the Company's debt. *Id.* It indicated that by allowing Kentucky Transco to finance and own the circuits, which have a cost of approximately \$3.5 million, that it can complete the Project without incurring additional debt or negatively affecting its cash flow to debt ratio, which would make a credit downgrade less likely. See Wohnhas Testimony at 20 (indicating the project will be financed through normal operating cash flow and other internally generated funds).

turn easterly, proceed in a relatively straight line for approximately 3.7 miles, and then terminate at the Kewanee Substation.¹⁰

Kentucky Power proposes using a 100-foot right-of-way (50 feet on each side of the center line) for the bulk of the line but requests authority to obtain a right-of-way up to 250 feet (125 feet on each side of the center line) in circumstances where the steep terrain presents a risk that trees at further distances, particularly on the uphill side of the line, may fall and impact the line.¹¹ Kentucky Power also requests authority to move the center line and right-of-way within the filing corridor shown on a map attached as an exhibit to its application (at its largest point the corridor is 500 feet on either side of the proposed right-of-way) in the event that issues arise during construction that require the center line to be moved (e.g. if the terrain presents an unexpected engineering challenge that can be avoided by moving a hundred feet to the right or left).¹² Under this requested authority, neither the transmission facilities nor the right-of-way would extend outside the proposed filing corridor.¹³

Kentucky Power retained POWER Engineers, Inc. (POWER Engineers) to determine the route for the Kewanee Transmission Line Extension. POWER Engineers' representatives indicated that the goals in determining the route of the line were to:

- (1) reasonably minimize adverse impacts on residential areas and the natural and cultural environment;
- (2) minimize special design requirements and unreasonable costs; and
- (3) permit

¹⁰ Application at Paragraph 27.

¹¹ Lasslo Testimony at 7.

¹² Wohnhas Testimony at 13-15.

¹³ *Id.*

the line to be constructed and operated in a timely, safe and reliable manner.¹⁴

However, POWER Engineers' representative opined that use of the Kentucky Transmission Line Siting Methodology was not feasible or probative in this case due to the homogenous landscape in the area between the tap point and the terminus of the line near the Kentucky Enterprise Industrial Park.¹⁵ Thus, to achieve the goals set out above, POWER Engineers and Kentucky Power identified a number of factors related to the technical requirements, potential costs, and stakeholder interests to be considered in determining the route of the line and weighed those factors in a multiple-stage process in which a number of potential routes were identified and then narrowed after receiving additional feedback, until the proposed route was ultimately chosen.¹⁶

During the initial stage of the siting process, POWER Engineers sought to identify large area constraints and opportunities between the two endpoints and developed numerous potential routes based on that broad information.¹⁷ It then divided each potential route into segments where the routes intersected, such that every combination of those route segments could be considered. Each potential route segment was then assessed with input from various stakeholders. Through that analysis, POWER Engineers identified two alternative routes from which it ultimately chose the proposed route based on the factors it identified after receiving additional input from stakeholders.¹⁸

¹⁴ See Application, Exhibit 17 at 17.

¹⁵ Larson Testimony at 7-8.

¹⁶ Application, Exhibit 17 at 16-32.

¹⁷ Application, Exhibit 17 at 18.

¹⁸ *Id.*

In describing why it determined that the proposed route best met Kentucky Power's goals, POWER Engineers indicated that the following factors weighed in favor of the proposed route over the alternative route:

1. The proposed route requires the construction of a least two fewer transmission towers;
2. The proposed route requires the construction of fewer access roads necessary for construction and maintenance;
3. The proposed route parallels existing lines and rights-of-way for 1.3 miles whereas the alternative route did not parallel existing structures;
4. The proposed route crosses fewer parcels of land;
5. The proposed route is less densely developed;
6. Fewer residences are within 250 feet and 500 feet of the center line of the proposed route;
7. The proposed route would have less of an impact on mining operations; and
8. The proposed route would result in less habitat fragmentation and fewer visual impacts.

Conversely, POWER Engineers determined that the alternative route is 0.2 miles shorter (a total of 4.8 miles in length as opposed to 5 miles in length) and requires clearing fewer trees (56.6 acres versus 59.8 acres), both of which weighed in favor of the alternative route. POWER Engineers indicated that the remaining criteria it considered were essentially equal between the two routes. Thus, Kentucky Power chose the proposed route for the Kewanee Transmission Line Extension.¹⁹

Kentucky Power stated that the Enterprise Park Project, particularly the Kewanee Substation and the Kewanee Transmission Line Extension, will provide an additional transmission source to the area and also provide additional capacity.²⁰ Kentucky Power asserted that the additional capacity is required to meet the anticipated needs of the

¹⁹ *Id.* at 30-58.

²⁰ Lasslo Testimony at 19.

Kentucky Enterprise Industrial Park, including the needs of Enerblu, Inc. and Silverliner, LLC, and growing demand in the Pikeville area.²¹ Kentucky Power also stated that the Project will strengthen the capacity of its 34.5-kV and 12-kV distribution systems in the area and increase reliability to current customers.²² Finally, Kentucky Power stated that the Kewanee Substation would assume load currently being served through the existing Fords Branch Substation, which would help remedy thermal and voltage violations identified on the existing Pikeville Area 46-kV network, and would address the aging infrastructure issues at the existing Fords Branch Substation by allowing Kentucky Power to take that substation out of service.²³

Kentucky Power noted that the Kentucky Enterprise Industrial Park is an industrial park of more than 300 acres, located on a former surface mine site adjacent to the U.S. 23 industrial corridor in Pike County.²⁴ Among other business, the industrial park is the future of site of Enerblu's Energy Innovation manufacturing campus, which Kentucky Power indicated will be a one-million-square-foot campus facility designed to manufacture lithium-titanate batteries.²⁵ The Enerblu manufacturing campus, which has been

²¹ *Id.* at 18-19; *see also* Application at Paragraph 44 (“The Project is required to provide 12 kV and 34.5 kV distribution service to the Kentucky Enterprise Industrial Park, including 12 kV service to Enerblu, Inc.'s 154-acre Energy Innovation manufacturing campus to be located in the park.”).

²² Lasslo Testimony at 18-19.

²³ *Id.*; *see also* Lasslo Testimony at 16 (discussing the aging infrastructure issues with the Ford's Branch Substation, including damage and wear to the transformer, which was put in place in 1992, inoperable switches and outdated breakers).

²⁴ Application at Paragraph 6.

²⁵ *See* Application at Paragraph 44 *citing* *EnerBlu Relocating And Investing Over \$400 Million In Kentucky, The Historic Energy Capital Of The U.S.*, PR NEWswire (December 15, 2017, 10:50 EST), <https://www.prnewswire.com/news-releases/enerblu-relocating-and-investing-over-400-million-in-kentucky-the-historic-energy-capital-of-us-300572083.html> (last visited August 8, 2018).

supported in part by grants and tax incentives from the Commonwealth of Kentucky, is expected to have up to 875 employees.²⁶ Kentucky Power stated that “[a]bsent the construction of the Project, the proposed Enerblu, Inc. facility will lack the required electrical service to permit it to operate, thereby jeopardizing the planned investment, the expected jobs, as well as the consequent economic activity.”²⁷

Kentucky Power’s representatives explained that Enerblu’s representatives informed Kentucky Power that the expected peak load at the Enerblu manufacturing campus would be 40 MW; that Enerblu anticipates conducting operations at the Enerblu manufacturing campus 24 hours a day, 7 days a week; and that Enerblu expects monthly usage of 19,000,000 kWh.²⁸ Further, Silverliner, LLC, which will also be located in the industrial park, is expected to have a peak load of 350 to 400 kW.²⁹ However, Kentucky Power stated that the Kentucky Enterprise Industrial Park is currently served by the South Pikeville-Island Creek 12-kV circuit, which is supplied by a 25-MVA 69/12-kV transformer at the South Pikeville 69-kV Substation.³⁰ The South Pikeville-Island Creek 12-kV circuit

²⁶ Application at Paragraph 44; *see also Eastern Kentucky gets millions for factory, water project. What those projects mean*, Lexington Herald Leader (August 31, 2018, 03:18 PM EST), <https://www.kentucky.com/news/state/article217638795.html> (last visited November 30, 2018) (reporting the Enerblu received a \$6 million grant from the Kentucky Energy and Environment Cabinet and \$30 million in tax incentives from Kentucky’s Economic Development Finance Authority).

²⁷ Application at Paragraph 45.

²⁸ Kentucky Power’s Response to Commission Staff’s Second Request for Information (Response to Staff’s Second Request), Item 2 (in which Kentucky Power provided email correspondence from Enerblu indicating their anticipated energy requirements); *see also* Lasslo Testimony at 20 (“Enerblu anticipates peak load of 40 MW.”).

²⁹ Response to Staff’s First Request, Item 2.

³⁰ Lasslo Testimony at 22.

currently has only 4 MW of capacity, which is insufficient to meet Enerblu's projected peak load of 40 MW.³¹

Kentucky Power's representative testified that the South Pikeville 69-kV Substation cannot be expanded to provide additional capacity to the industrial park. Kentucky Power indicated that it is further constrained in serving Enerblu through the South Pikeville 69-kV Substation, because that substation supplies the existing South Pikeville—Hospital 12-kV Circuit that lies to the north of the park as well as the South Pikeville—Pikeville 12-kV Circuit, which Kentucky Power stated face increasing demands.³² Kentucky Power's representative testified that therefore the company could not provide adequate, reasonable, and efficient distribution service to Enerblu and the Kentucky Enterprise Industrial Park without the Kewanee Substation and related transmission facilities.³³

Kentucky Power stated that the 46-kV network in the Pikeville area is experiencing thermal and voltage violations, because the load currently being served by the 46-kV network exceeds the network's capacity under certain system conditions. It stated that the Project will correct those issues by removing a portion of the load that is currently served through the Fords Branch Substation from the 46-kV network and transferring it to the Kewanee Substation.³⁴ Kentucky Power also stated that the additional capacity

³¹ *Id.*

³² *Id.* at 22.

³³ Lasslo Testimony at 24; *see also* Response to Staff's Second Request, Item 6 (explaining that the upgraded relay panel at the Cedar Creek Substation is necessary to operate the new Kewanee Substation).

³⁴ Lasslo Testimony at 21.

provided by the Project will strengthen the capacity of Kentucky Power's 34.5-kV and 12-kV distribution systems in the area and that the double-circuit configuration will provide additional reliability.³⁵

DISCUSSION

The Commission's standard of review regarding a CPCN is well settled. Under KRS 278.020(1), no utility may construct or acquire any facility to be used in providing utility service to the public until it has obtained a CPCN from this Commission. To obtain a CPCN, the utility must demonstrate a need for such facilities and an absence of wasteful duplication.³⁶

"Need" requires:

[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 or operated.

[T]he 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.³⁷

"Wasteful duplication" is defined as "an excess of capacity over need" and "an excessive investment in relation to productivity or efficiency, and an unnecessary multiplicity of physical properties."³⁸ To demonstrate that a proposed facility does not

³⁵ Lasslo Testimony at 19.

³⁶ *Kentucky Utilities Co. v. Pub. Serv. Comm'n*, 252 S.W.2d 885 (Ky. 1952).

³⁷ *Id.* at 890.

³⁸ *Id.*

result in wasteful duplication, we have held that the applicant must demonstrate that a thorough review of all reasonable alternatives has been performed.³⁹ Selection of a proposal that ultimately costs more than an alternative does not necessarily result in wasteful duplication.⁴⁰ All relevant factors must be balanced.⁴¹ The statutory touchstone for ratemaking in Kentucky is the requirement that rates set by the Commission must be fair, just, and reasonable.⁴²

Here, Kentucky Power presented evidence that additional capacity will be necessary to serve the manufacturing facility Enerblu expects to construct in the Kentucky Enterprise Industrial Park. The circuit that currently serves the Kentucky Enterprise Industrial Park has only 4 MW of capacity, whereas Enerblu indicated that their expected peak load demand will be 40 MW. Moreover, assuming Enerblu begins construction of its manufacturing campus in December 2018 or January 2019, Kentucky Power stated that Enerblu's demand would exceed the 4 MW of available capacity on the circuit currently serving the industrial park when Enerblu begins equipment testing in or about December 2019. Thus, if Enerblu's manufacturing campus is constructed in the Kentucky Enterprise Park Project, then Kentucky Power will need additional capacity to serve Enerblu.

³⁹ Case No. 2005-00142, *Joint Application of Louisville Gas and Electric Company and Kentucky Utilities Company for the Construction of Transmission Facilities in Jefferson, Bullitt, Meade, and Hardin Counties, Kentucky* (Ky. PSC Sept. 8, 2005).

⁴⁰ See *Kentucky Utilities Co. v. Pub. Serv. Comm'n*, 390 S.W.2d 168, 175 (Ky. 1965). See also Case No. 2005-00089, *The Application of East Kentucky Power Cooperative, Inc. for a Certificate of Public Convenience and Necessity to Construct a 138 kV Electric Transmission Line in Rowan County, Kentucky* (Ky. PSC Aug. 19, 2005).

⁴¹ Case No. 2005-00089, *East Kentucky Power Cooperative, Inc.* (Ky. PSC Aug. 19, 2005), Final Order at 6.

⁴² KRS 278.190(3).

The Enterprise Park Project will provide Kentucky Power with the capacity necessary to serve Enerblu in a manner that does not result in wasteful duplication. First, the evidence indicates that Kentucky Power is not able to upgrade existing facilities to provide the necessary service to Enerblu. Further, the proposed location and design of the Kewanee Substation in the vicinity of the Kentucky Enterprise Industrial Park appears appropriate to serve Enerblu. Moreover, given the location of the Kewanee Substation and the length of the transmission line, there are limited paths that the transmission line could take from the tap point to the substation. The evidence indicates that Kentucky Power worked with its engineering and siting experts and the community to achieve its goals of minimizing impacts to the community, minimizing special design requirements and costs, and permitting timely, safe, and reliable construction and operation of the line. Further, although the alternative line route appears to be the shortest possible path from the tap point to the substation, it was only 0.2 miles shorter than the proposed route, and the proposed route has obvious advantages over the alternative route, including the fact it tracks a current line and right-of-way for 1.3 miles, it crosses fewer parcels (and therefore will require fewer easements and rights-of-way), it requires the construction of two fewer support structures, it requires the construction of fewer access and service roads, and it runs in close proximity to fewer homes. Consequently, should Enerblu construct its manufacturing facility as planned, the Enterprise Park Project will not result in wasteful duplication as proposed.

However, Kentucky Power failed to present sufficient evidence to establish that the Enterprise Park Project is necessary and that the project would not result in wasteful duplication absent the need to serve the Enerblu manufacturing campus. First, Kentucky

Power claimed that the Project will serve as a distribution delivery point to industrial and commercial customers at the Kentucky Enterprise Industrial Park. However, the only tenant or announced tenant of the industrial park identified by Kentucky Power, other than Enerblu, is expected to have a peak load of 350 kW to 400 kW, which is well within the capacity of the circuit that currently serves the industrial park. Thus, additional capacity is not currently necessary to serve the Kentucky Enterprise Industrial Park absent Enerblu's expected manufacturing campus.

Further, while Kentucky Power raises several other issues that it claims will be addressed by the Project, it failed to establish that the Project will not result in wasteful duplication in addressing those issues, absent the additional capacity necessitated by the Enerblu manufacturing campus, because Kentucky Power's evidence as to the location and design of the proposed project and its review of reasonable alternatives were premised on the existence of and the need to serve the Enerblu manufacturing campus. For instance, the location of Kewanee Substation was determined and assessed based on the expected location of the Enerblu manufacturing campus;⁴³ the route of the proposed transmission line and alternatives were, in turn, determined and assessed based on the location of the Kewanee substation;⁴⁴ the scope of the project was determined and assessed, in large part, based on Enerblu's expected need for 40 MW of capacity;⁴⁵ and the timeline for the project was dictated by the need to serve Enerblu's

⁴³ See Application, Exhibit 17 at 62 ("The objective in choosing the substation site was to find a suitable location within or adjacent to the Kentucky Enterprise Industrial Park . . . as part of the customer-driven project.").

⁴⁴ *Id.* at 18.

⁴⁵ See Lasslo Testimony at 22 (indicating that two 30 MVA transformers and four dedicated 12 kV circuits are required to serve Enerblu).

manufacturing campus.⁴⁶ Moreover, in assessing its ability to upgrade existing systems to meet the needs to be addressed by the Project, Kentucky Power often did so by stating that those systems could not be upgraded to meet Enerblu's needs.⁴⁷ The Project was even initiated to provide service to Enerblu.⁴⁸ Thus, in the absence of the need to serve Enerblu, the analysis of reasonable alternatives and the necessary scope of the project would clearly be affected (i.e. the location of the substation; the route of the line, if needed; the number of transformers, etc.),⁴⁹ and therefore, Kentucky Power failed to establish that the Enterprise Park Project would not result in wasteful duplication in the event there is no need to serve the Enerblu manufacturing campus.

Enerblu has not begun construction of its manufacturing campus at the Kentucky Enterprise Park Project.⁵⁰ Moreover, Kentucky Power indicated that the construction

⁴⁶ Wohnhas Testimony at 15 (“[T]he timeframe for designing and constructing the Project is compressed because of the need to meet Enerblü’s proposed schedule.”); *see also* Lasslo testimony at 18 (describing how Kentucky Power “worked extensively with Enerblu, Inc. to develop a plan to meet Enerblu’s ambitious construction schedule”).

⁴⁷ *See, e.g.* Lasslo Testimony at 22 (discussing how there is insufficient space at the South Pikeville Substation to install “the two 30MVA transformers and the four dedicated 12 kV circuits required to serve Enerblü” and insufficient capacity in the 69 kV transmission network currently serving that substation to serve the projected Enerblu load”).

⁴⁸ Application, Exhibit 17 at 16 (“The Project was initiated in the fall of 2017 to support the upcoming industrial development planned in the Enterprise Park.”).

⁴⁹ In fact, while claiming that only “minor elements” of the Project were changed to accommodate Enerblu’s needs, Kentucky Power acknowledged that the Project, as proposed, was designed, at least in part, to meet Enerblu’s expected needs. Response to Staff’s Second Request, Item 3. However, given that two of the four transformers at the proposed substation will be used to serve Enerblu and the location of substation and, in turn, the transmission line were determined largely based on a need to serve Enerblu, it is clear that more than minor elements of the Project were designed to serve Enerblu.

⁵⁰ Response to Staff’s Second Request, Item 4 (stating that “[Enerblu] expects to start construction of its Enterprise Industrial Park manufacturing campus in either December 2018 or January 2019”).

schedule of the Enerblu manufacturing campus has been extended.⁵¹ Further, Kentucky Power initially contemplated a timeframe in which it began construction on the Project in January 2019, after Enerblu began construction sometime in 2018. Therefore, since the Enterprise Park Project is based on the need to serve Enerblu's manufacturing campus, the Commission finds that the CPCN granted herein should be conditioned upon Kentucky Power's receipt of reasonable assurance in writing from Enerblu that sufficient financing has been secured to complete construction of the planned facility.⁵²

The Commission acknowledges concerns raised by Mr. Bishop in his motion to intervene, which the Commission accepted as a public comment, regarding the location of the transmission line in relation to property held by the Sendelbach Family Trust (Sendelbach Property). However, as noted above, the Commission's statutory role in reviewing a request for a CPCN is to evaluate whether the proposed facility is needed and whether it will result in wasteful duplication based on its jurisdiction over the rates and services of public utilities.⁵³ Moreover, based upon Kentucky Power's responses to Commission Staff's request for information, the transmission line will only impact a small portion of the Sendelbach Property in the far corner opposite the homestead referred to by Mr. Bishop. Kentucky Power also attempted to accommodate the Sendelbach

⁵¹ See Wohnhas Testimony at 11 (indicating in August 2018 that construction would begin "by the end of 2018"); Response to Staff's Second Request, Item 4 (indicating in October 2018 that construction will begin in December 2018 or January 2019); Response to Staff's Second Request, Item 5 (indicating that the in service date for the electrical project was pushed back from September 2019 to December 2019 "[d]ue to recent updates to Enerblu, Inc.'s construction schedule").

⁵² See, e.g., Case No. 2018-00072, *Electronic Application of Kentucky Power Company for a Certificate of Public Necessity to Construct a 138 KV Transmission Line in Boyd County, Kentucky* (Ky. PSC Oct. 5, 2018) (in which the Commission imposed a similar condition on another Kentucky Power transmission line project).

⁵³ See KRS 278.020 (indicating when a CPCN should be granted); see also KRS 278.040 (indicating that the Commission has jurisdiction over utility rates and services).

Property by moving the line further south, but engineering constraints prevented it from being completely moved off the Sendelbach Property.⁵⁴ Further, the alternate route identified by POWER Engineers came within 250 feet and 500 feet of more homes than the proposed route.⁵⁵ Thus, while the Commission understands the concerns raised by Mr. Bishop, they do not justify a finding that the Kewanee Transmission Line Extension is unnecessary or will result in wasteful duplication.

With respect to Kentucky Power's request for authority to move the center line within the filing corridor, the Commission understands the need, in limited circumstances, to give a utility flexibility to address last minute or unanticipated issues regarding the construction of a transmission line. Moreover, Kentucky Power indicated that any property owner within the filing corridor was provided notice of this application, and therefore, the prospect that the centerline might be moved within the filing corridor. Thus, Kentucky Power may move the approved centerline and right-of-way, or expand the right-of-way, as proposed in its application as long as (1) the property owner onto whose property the line is moved was notified of this proceeding in accordance with 807 KAR 5:120, Section 2(3); and (2) Kentucky Power has or obtains an easement or right-of-way that permits it to move the centerline in that manner. Any changes that would place the right-of-way outside the proposed filing corridor or involve landowners not identified in Exhibit 12 to the application will require Kentucky Power to come back to the Commission

⁵⁴ See Response to Staff's Second Request, Item 7 (in which Kentucky Power indicated the location of a tower and the line on the Sendelbach Property and discussed its efforts to address concerns related to the Sendelbach property). Kentucky Power indicated that it initially believed the center line of the transmission line would not cross the Sendelbach property based on records obtained from the PVA, but upon conducting further surveys of the property, it determined that the PVA maps were inaccurate and that the center line would cross a small portion of the Sendelbach property as discussed in Response to Staff's Second Request, Item 7.

⁵⁵ Application, Exhibit 17 at 45-47.

to request an amendment of the CPCN granted herein. Likewise, if another agency requires an alteration of the line that does not meet all conditions set forth in this section, that action would also necessitate an amendment of the CPCN granted herein.

IT IS THEREFORE ORDERED that:

1. Kentucky Power is conditionally granted a CPCN to construct and operate the Enterprise Park Project as set forth in its application subject to reasonable assurance in writing from Enerblu that sufficient financing has been secured to complete construction of the its planned facility.

2. The conditional CPCN granted in this Order shall become unconditional upon Kentucky Power's filing in the post-case correspondence file a copy of the written statement from Enerblu providing reasonable assurance that sufficient financing has been secured to complete construction of its planned facility.

3. Kentucky Power shall immediately notify the Commission upon knowledge of any material changes to the Enterprise Park Project, including, but not limited to, increase in cost, any significant delays in the construction of the transmission line, or any changes in the route of the transmission line.

4. In the event of a change in the transmission line route that places the right-of-way or transmission line outside the filing corridor or involves landowners not identified in Exhibit 12 of Kentucky Power's application, Kentucky Power shall apply for an amendment of the CPCN granted herein.

5. Kentucky Power shall file "as-built" drawings or maps of the transmission line portion of the project within 60 days of completion of the construction authorized by this Order.

6. Any documents filed pursuant to ordering paragraphs 3 or 5 of this Order shall reference the case number of this matter and shall be retained in the utility's general correspondence files.

7. This case is hereby closed and removed from the Commission's docket.

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By the Commission

ENTERED
DEC 06 2018
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:



Executive Director

Case No. 2018-00209

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