

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF BIG RIVERS)	
ELECTRIC CORPORATION FOR A)	
CERTIFICATE OF PUBLIC CONVENIENCE AND)	CASE NO.
NECESSITY TO CONSTRUCT AND ACQUIRE A)	2019-00417
345 KV TRANSMISSION LINE IN MEADE)	
COUNTY, KENTUCKY)	

ORDER

On January 17, 2020, Big Rivers Electric Corporation (BREC) filed an application requesting a Certificate of Public Convenience and Necessity (CPCN) to construct a 2.7-mile, 345-kV transmission line in Meade County, Kentucky. The application also requests a finding that no CPCN is required for the construction of a switching station associated with the proposed transmission line. Alternatively, if the Commission determines that a CPCN is needed for the switching station, the application requests that a CPCN be authorized for the construction of the switching station.

BREC states that the new 345-kV transmission line and switching station is part of an overall transmission upgrade in Meade County that is needed to support expected load growth in its service territory due to a new steel mill and other growth that is likely to result from the new steel mill. BREC further states that the proposed transmission facilities will enhance reliability for existing retail customers. In addition to the projects proposed in this case, BREC received approvals in Case No. 2019-00270¹ to construct

¹ Case No. 2019-00270, *Application of Big Rivers Electric Corporation for a Certificate of Public Convenience and Necessity to Construct a 161 kV Transmission Line and a 345 kV Transmission Line in Meade County, Kentucky* (Ky. PSC Jan. 23, 2020).

two new transmission lines, a 161-kV line terminal at the existing Meade County Substation, and two new greenfield substations. In particular, Case No. 2019-00270 involved the construction of the Otter Creek Substation; the Brandenburg Steel Mill (BSM) Substation; an 8.8 mile, 161-kV circuit that will connect the Meade County Substation to the Otter Creek Substation; and an 8.6 mile, 345-kV circuit that will be added from the Otter Creek Substation to the BSM Substation. In the instant matter, BREC proposes to connect the new 345-kV transmission line from the new 345-kV Redmon Road Switching Station to the Otter Creek Substation. These two projects would complete the transmission upgrades that will be needed to serve the new Nucor Corporation (Nucor) steel plate mill in Brandenburg, Kentucky. The estimated capital cost of the 345-kV transmission line is approximately \$4.8 million and the estimated capital cost of the switching station is approximately \$10.4 million. BREC indicates that the proposed construction is expected to be financed through the Rural Utilities Service. BREC further indicates that the proposed construction will not cause changes in its wholesale electric service rates or the retail electric rates of its distribution cooperative members, but that customers who pay for transmission services on BREC's transmission system will pay increased transmission charges resulting from these transmission facility investments.

By Order dated January 28, 2020, the Commission extended the statutory deadline for this matter from 90 days to 120 days, pursuant to KRS 278.020(9), and established a procedural schedule for the processing of this matter. The procedural schedule provided for a deadline to request intervention, a deadline to request a local public hearing pursuant to KRS 278.020(9) and 807 KAR 5:120, Section 3, and deadlines for two rounds of discovery upon BREC's application. BREC filed responses to two rounds of discovery

requests propounded by Commission Staff. There are no intervenors, no requests for a local public hearing, and this matter is now submitted for a decision based upon the existing record.

PROPOSED TRANSMISSION PROJECTS

BREC states that the proposed transmission projects are needed to enable it to provide safe and reliable electric service in the Meade County area.² In particular, BREC informs that Nucor is planning to construct a new \$1.35 billion steel plate manufacturing mill in Meade County. According to BREC, the Nucor steel mill will create more than 2,000 construction jobs and more than 400 full-time jobs. BREC indicates that the new Nucor steel mill will likely drive additional load growth and that the proposed transmission facilities will provide BREC the ability to enhance reliability to its existing retail members.

BREC states that the proposed transmission line will be constructed on new right-of-way and will typically be constructed using monopole steel structures for tangent structures as well as three-pole steel for angled structures and large angled dead-end structures.

Applicability of KRS 278.020

BREC contends that the Redmon Road Switching Station is an ordinary extension of its existing transmission system in the usual course of business for which no CPCN is required under KRS 278.020(1)(a)(2). BREC relies on 807 KAR 5:001, Section 15(3), for the proposition that the switching station is an extension in the ordinary course of business

² BREC notes that it is the wholesale supplier for Meade County Rural Electric Cooperative Corporation (Meade County RECC) and that BREC is obligated to provide Meade County RECC with adequate voltage levels and acceptable facility loadings under all normal and single contingency conditions. Meade County RECC's service territory encompasses the area in which the proposed transmission projects will be located.

and do not require a CPCN. BREC contends that the investment required is insufficient to cause a material financial impact to BREC and will not result in increased electric service rates to retail customers on BREC's system.

The Commission finds that the proposed switching station at issue in this case cannot be deemed an extension in the ordinary course of business and that this project requires a CPCN. The Commission further finds that the Redmon Road Switching Station project is part and parcel of a multifaceted plan to provide electric service to the new Nucor steel mill. The Commission notes that there are five other transmission-related projects needed for BREC to provide electric service to the Nucor steel mill in addition to the two projects at issue in this matter. Because we determined the five other transmission-related projects in Case No. 2019-00270 required a CPCN, it would be consistent to find that construction of the proposed switching station in this matter cannot be considered an ordinary extension in the usual course of business and that the switching station project will require a CPCN.

CPCN

To establish that the public convenience and necessity require the construction of a new facility, an applicant must demonstrate the need for the proposed facilities and that the proposed construction will not result in the wasteful duplication of facilities.³

"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.

³ *Kentucky Utilities Company v. Public Service Commission*, 252 S.W.2d 885 (Ky. 1952).

[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.⁴

“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.”⁵ 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 reasonable alternatives has been performed.⁶ Selection of a proposal that ultimately costs more than an alternative does not necessarily result in wasteful duplication.⁷ All relevant factors must be balanced.⁸ The statutory touchstone for ratemaking in Kentucky is the requirement that rates set by the Commission must be fair, just, and reasonable.⁹

Having reviewed the record and being otherwise sufficiently advised, the Commission finds that BREC has established sufficient evidence to demonstrate that the

⁴ *Id.* at 890.

⁵ *Id.*

⁶ Case No. 2005-00142, *Joint Application of Louisville Gas and Electric Company and Kentucky Utilities Company for a Certificate of Public Convenience and Necessity for the Construction of Transmission Facilities in Jefferson, Bullitt, Meade, and Hardin Counties, Kentucky* (Ky. PSC Sept. 8, 2005).

⁷ See *Kentucky Utilities Co. v. Pub. Serv. Comm’n*, 390 S.W.2d 168, 175 (Ky. 1965). See also Case No. 2005-00089, *Application of East Kentucky Power Cooperative, Inc. for a Certificate of Public Convenience and Necessity for the Construction of a 138 kV Electric Transmission Line in Rowan County, Kentucky* (Ky. PSC Aug. 19, 2005), final Order.

⁸ Case No. 2005-00089, *East Kentucky Power Cooperative, Inc.* (Ky. PSC Aug. 19, 2005), final Order at 6.

⁹ KRS 278.190(3).

proposed transmission projects are needed to provide service to anticipated load growth in the local area, particularly the new Nucor steel mill. The Commission further finds that construction of the proposed 345-kV transmission line and the Redmon Road Switching Station are reasonable and will not result in the wasteful duplication of facilities. The evidence also supports BREC's selection of the preferred route for the 345-kV transmission line. BREC's preferred route was selected based upon a route analysis performed by Team Spatial in conjunction BREC personnel. The preferred route for the proposed 345-kV transmission line begins at the Redmon Road Switching Station, which is to be located 0.9 miles south of the intersection of U.S. Highway 60 (Owensboro Highway) and Joe Prather Highway. The transmission line will exit the Redmon Road Switching Station to the west and make an immediate 90 degree turn toward the north then to the west beyond Osborne Road, eventually paralleling close to Brandenburg Road, and ultimately connecting to the Otter Creek Substation. The total length of the preferred route is 2.7 miles.

The alternate route evaluated by BREC had the 345-kV transmission line exiting the Redmon Road Switching Station to the west and running in a northwest direction over Osborne Road and then running parallel with Bradenburg Road northwards until connecting into the Otter Creek Substation. The total length of the alternate route is 2.48 miles.

BREC ultimately selected the preferred route because the route did not cross a property near the proposed Redmon Road Switching Station, would not impact a proposed apartment complex project, and had a lower risk of schedule delay due to less tree and seasonal clearing restrictions because of sensitive bat habitat located in a cave

closer to the alternate route's path. The preferred route passes approximately 1,800 feet from the cave; whereas, the alternate route passes less than 150 feet from the cave. BREC states that it prefers to avoid environmentally sensitive areas when routing transmission lines. Accordingly, BREC did not select the alternate route because it was more wooded and closer to the Richie Cave, which posed a greater risk of delays due to tree clearing and the presence of bats at the cave. The Commission finds that BREC's determination of the preferred route for the proposed 345-kV transmission line is reasonable and should be approved.

IT IS THEREFORE ORDERED that:

1. BREC is granted a CPCN to construct and operate the proposed transmission facilities as set forth in its application.
2. BREC shall file a survey of the final location of the transmission facilities after any modifications are finalized as authorized herein and before construction begins.
3. BREC shall file "as-built" drawings or maps within 60 days of the completion of the construction authorized by this Order.
4. BREC's request for authority to move the switching station from the location shown on the maps filed with the application is granted on the condition that the switching station is not moved onto different property owners.
5. BREC's request for authority to move the proposed transmission line up to 500 feet in either direction of the centerline shown on the route maps filed with the application is granted on the condition that the transmission line remains inside the approved route corridor.

6. BREC shall immediately notify the Commission upon knowledge of any material changes to the scope of the transmission projects, 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 or the location of the substations.

7. Any documents filed pursuant to ordering paragraphs 2, 3, and 6 of this Order shall reference the case number of this matter and shall be retained in the post-case correspondence file of this matter.

8. The Commission directs BREC to the Commission's March 16, 2020 and March 24, 2020 Orders in Case No. 2020-00085¹⁰ regarding filings with the Commission. The Commission expects the original documents to be filed with the Commission within 30 days of the lifting of the current state of emergency.

9. The matter is closed and shall be removed from the Commission's docket.

¹⁰ Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus COVID-19* (Ky. PSC Mar. 16, 2020), Order at 5–6. Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus COVID-19* (Ky. PSC Mar. 24, 2020), Order at 1–3.

By the Commission



ATTEST:



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