

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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

ORDER

This matter arises upon the requests for intervention filed by John and Loretta Hagan and Larry and Kay Hagan on April 8, 2022 (jointly, Hagans). As a basis for their requests, the Hagans asserted that they have a property interest in 1055 Glendale-Hodgenville Road West, Glendale, Kentucky. The parcel of property is directly affected by the Kentucky Utilities Company (KU) proposed transmissions lines.

According to the Hagans' requests, they have a special interest as property owners. Both requests stated that the property is zoned for commercial development and that the easement would greatly impact property value. John and Loretta Hagan stated that this is the third time their property has been impacted negatively as a result of the Glendale megasite, and they are opposed to any additional easements. Larry and Kay Hagan stated that there are other available locations for KU to utilize. KU filed a response to numerous requests for intervention in this matter on April 12, 2022.¹ In KU's Response,

¹ KU's Response to Petitions to Intervene from Unaffected Landowners (filed Apr. 12, 2022) (KU's Response).

KU objected to requests made by landowners whose land would not be directly affected by the proposed transmission lines.²

LEGAL STANDARD

The only person who has a statutory right to intervene in a Commission case is the Attorney General of the Commonwealth of Kentucky, by and through the Office of Rate Intervention (Attorney General), pursuant to KRS 367.150(8)(b). Intervention by all others is permissive and is within the sole discretion of the Commission.³

The statutory standard for permissive intervention, KRS 278.040(2), requires that “the person seeking intervention must have an interest in the ‘rates’ or ‘service’ of a utility, since those are the only two subjects under the jurisdiction of the PSC.”⁴

The regulatory standard for permissive intervention, set forth in 807 KAR 5:001, Section 4, is twofold. Commission regulation 807 KAR 5:001, Section 4(11), requires a person to set forth in the motion to intervene either (1) a special interest in the proceeding that is not otherwise adequately represented in the case, or (2) that 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.

In cases involving an application for a Certificate of Public Convenience and Necessity (CPCN) to construct an electric transmission line, the Commission also

² KU’s Response at 1.

³ *Inter-County Rural Electric Cooperative Corporation v. Public Service Commission of Kentucky*, 407 S.W.2d 127, 130 (Ky. 1966).

⁴ *EnviroPower, LLC v. Public Service Commission of Kentucky*, No. 2005-CA-001792-MR, 2007 WL 289328 at 3 (Ky. App. Feb. 2, 2007).

considers KRS 278.020(9), which includes a person over whose property a proposed transmission line will cross as an “interested person” who may request intervention.

DISCUSSION AND FINDINGS

Based on a review of the pleadings at issue and being otherwise sufficiently advised, the Commission finds that the Hagans demonstrated that they have a special interest, as property owners, in the proceeding over which the Commission has jurisdiction that is not otherwise adequately represented or that they are likely to present issues or develop facts that will assist the Commission in considering this matter without unduly complication the proceedings, for the reasons discussed below.

The Hagans filed timely requests for intervention. The proposed transmission line will cross property owned by the Hagans and they are interested persons as defined in KRS 278.020(9). It is reasonable to expect property in the direct path of the proposed line to be impacted by the construction of the line if the CPCN is granted.

Although other landowners may be granted intervention, the size of this project means that not all landowners are situated equally. Based on the maps provided by KU,⁵ these proposed transmission lines, as well as the proposed alternative routes, will impact both farmland and suburban residential areas. Suburban homeowners and owners of farm property have different interests because their land usage differs. According to the Hagans’ requests, this parcel is zoned for commercial use, and all parties with a property interest in this parcel have a separate and unique interest from other intervenors.

⁵ KU’s Responses to Commission Staff’s First Request for Information (filed Apr. 8, 2022), Item 1, Attachment at 1–36.

In footnote 2 of KU's Response, KU implied that landowner(s) directly affected by the proposed transmission lines do have a special interest, and KU does not object to their participation.⁶ Specifically, KU stated, "It appears that multiple people have an interest in the property at 1055 Glendale Hodgenville Road West as indicated by the multiple petitions to intervene stating that address (John & Loretta Hagan, Dobson Ownership Group, and Larry & Kay Hagan). KU does not oppose the interventions by those for whom KU has knowledge of that interest."⁷

Based on the above, the Commission finds that John and Loretta Hagan and Larry and Kay Hagan are granted full rights of a party in this proceeding. The Commission directs John and Loretta Hagan and Larry and Kay Hagan to the Commission's July 22, 2021 Order in Case No. 2020-00085⁸ regarding filings with the Commission. In order to encourage convenience and reduce duplicity, the Commission encourages each individual to make a joint filing, when possible. Each individual must represent that they are filing jointly and sign the filings in their individual capacity.

IT IS HEREBY ORDERED that:

1. The requests for intervention made by John and Loretta Hagan and Larry and Kay Hagan are granted.
2. John and Loretta Hagan and Larry and Kay Hagan are entitled to the full rights of a party and shall be served with the Commission's Orders and with filed

⁶ KU's Response at 1, footnote 2.

⁷ KU's Response at 1, footnote 2.

⁸ Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus COVID-19* (Ky. PSC July 22, 2021), Order (in which the Commission ordered that for case filings made on and after March 16, 2020, filers are NOT required to file the original physical copies of the filings required by 807 KAR 5:001, Section 8).

testimony, exhibits, pleadings, correspondence, and all other documents submitted by parties, individually, after the date of this Order.

3. John and Loretta Hagan and Larry and Kay Hagan, as individuals, are permitted to file separately or jointly, each party as a signatory, any documents in accordance with the Commission's regulations in order to encourage efficiency and reduce duplicity.

4. John and Loretta Hagan and Larry and Kay Hagan shall comply with all provisions of the Commission's regulations, 807 KAR 5:001, Section 8, related to the service and electronic filing of documents.

5. John and Loretta Hagan and Larry and Kay Hagan shall adhere to the procedural schedule set forth in the Commission's April 6, 2022 Order and as amended by subsequent Orders.

6. Pursuant to 807 KAR 5:001, Section 8(9), within seven days of entry of this Order, John and Loretta Hagan and Larry and Kay Hagan shall file a written statement with the Commission that:

a. Certifies that he or she, or his or her agent, possesses the facilities to receive electronic transmissions; and

b. Sets forth the electronic mail address to which all electronic notices and messages related to this proceeding shall be served.

PUBLIC SERVICE COMMISSION



Chairman

Vice Chairman

Commissioner



ATTEST:


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