

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 before the Commission upon seven separate petitions for intervention. These petitions were filed on April 18, 2022,<sup>1</sup> April 20, 2022,<sup>2</sup> and April 25, 2022.<sup>3</sup> The petitions are identical to the 13 separate petitions filed in this proceeding between April 7, 2022, and April 13, 2022, which the Commission denied by Order dated April 25, 2022. The petitions appear to be on a form letter, and despite being entitled “Petition for Intervention,” the petitions did not state any grounds for intervention, but expressed opposition to the project, which is the subject of this proceeding, and requested that the Commission “intervene in this case to stop the planned construction of this extra high voltage power line near our property.”<sup>4</sup> In particular, the petitions stated that Kentucky Utilities Company (KU) is not acting in the best interests of the community by

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<sup>1</sup> Tanya Sue Hall, Charlotte Sherrard, Alfred and Lienna Priddy, Jim Perry, and Ronnie and Ingrid Lanford filed petitions on April 18, 2022.

<sup>2</sup> Kongthong Wattanakone filed a petition on April 20, 2022.

<sup>3</sup> Shelly Clyde filed a petition on April 25, 2022.

<sup>4</sup> Tanya Sue Hall Petition for Intervention (filed Apr. 18, 2022), final sentence. The petitions filed on April 20, 2022 and April 25, 2022 are identical to this petition in all respects except for the signatures and addresses.

placing the transmission line in the proposed location and that there are alternate routes available that will result in fewer public health and safety risks, have a less negative impact on residential home values, and have a less negative impact to the aesthetics of the Glendale area. The petitions stated that KU was given the right to serve the new Ford Motor Company (Ford) plant in spite of the fact that a rural electric cooperative serves the majority of the surrounding area.<sup>5</sup> The petitions alleged that rural electric ratepayers will subsidize KU in relation to this project, and that KU is being irresponsible by choosing a line route that negatively impacts the health, safety and property values of rural Glendale residents.<sup>6</sup>

On April 15, 2022, KU filed a response to two form letter petitions filed on April 13, 2022. KU stated that the petitions were not timely filed as required by Commission regulation 807 KAR 5:001, Section 4(11)(a), and that the petitions did not contain support for finding that there was good cause for the untimely filing.<sup>7</sup> Additionally, KU stated that the petitions failed to state how intervention is likely to present issues or develop facts that will assist the Commission in deciding the matter without unduly complicating or disrupting the proceedings.<sup>8</sup> KU asked that these petitions be denied.<sup>9</sup> KU asserted a standing opposition to any form petitions such as these that may be filed in this proceeding in the future.<sup>10</sup>

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<sup>5</sup> Tanya Sue Hall Petition for Intervention.

<sup>6</sup> Tanya Sue Hall Petition for Intervention.

<sup>7</sup> KU's Response to the Pile and Chesser Petitions to Intervene (filed Apr. 15, 2022) at 1–2.

<sup>8</sup> KU's Response to the Pile and Chesser Petitions to Intervene at 2–4.

<sup>9</sup> KU's Response to the Pile and Chesser Petitions to Intervene at 4.

<sup>10</sup> KU's Response to the Pile and Chesser Petitions to Intervene at 4.

## 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.<sup>11</sup>

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.”<sup>12</sup>

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 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

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<sup>11</sup> *Inter-County Rural Electric Cooperative Corporation v. Public Service Commission of Kentucky*, 407 S.W.2d 127, 130 (Ky. 1966).

<sup>12</sup> *EnviroPower, LLC v. Public Service Commission of Kentucky*, No. 2005-CA-001792-MR, 2007 WL 289328 at 3 (Ky. App. Feb. 2, 2007).

Based on a review of the pleadings at issue and being otherwise sufficient advised, the Commission finds that Petitioners failed to demonstrate that they have a special interest in the proceeding over which the Commission has jurisdiction that is not otherwise adequately represented or that Petitioners are likely to present issues or develop facts that will assist the Commission in considering this matter without unduly complicating the proceedings, for the reasons discussed below. In addition, the Commission finds that the petitions were untimely. For the reasons discussed below, the Commission finds that the petitions are denied.

The Commission established a procedural schedule to facilitate the orderly processing of this matter within the time allotted by statute, and the deadline to file a motion requesting intervention was April 8, 2022.<sup>13</sup> Because the petitions were filed after the established procedural deadline, they are not timely filed, and on that basis, as well as the reasons stated below, the petitions are denied.

The petitions are identical in every respect except for the signatures and the addresses. The petitions did not identify any special interest in the proceeding, but rather recite general objections to the location of the proposed facilities, allege that residential property values will decrease, and that rural electric ratepayers will subsidize KU in relation to this project.

The petitions did not indicate in any way that the Petitioners will develop facts and present issues to assist the Commission in deciding the matter. The petitions stated that the location of the proposed facilities will have negative impacts on the health, safety, and aesthetics of the local area, but they failed to explain specifically what negative impacts

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<sup>13</sup> See Order (Ky. PSC Apr. 6, 2022), Appendix.

are alleged. The petitions stated that the proposed project will have a negative impact on residential home values in the area but provided no evidence to support this allegation. The petitions did not provide any documentation of specific potential negative impacts on the proposed locations of the facilities or of the surrounding area. Because the petitions did not identify any specific negative impacts that the proposed project will have on the proposed location, the Commission is not convinced the Petitioners will develop facts or present issues to assist in the final decision in this matter.

Each of the Petitioners will have an opportunity to participate in this proceeding even though they are not granted intervenor status. The Petitioners can review all public documents filed in this case and monitor the proceedings via the Commission's website: <https://psc.ky.gov/Case/ViewCaseFilings/2022-00066>. In addition, the Petitioners may file comments as frequently as they choose, and those comments will be entered into the record of this case.

IT IS THEREFORE ORDERED that the form petitions to intervene as identified in this Order are denied.

PUBLIC SERVICE COMMISSION

  
Chairman

\_\_\_\_\_  
Vice Chairman

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Commissioner



ATTEST:

  
Executive Director

Grover K. Berry  
339 Mockingbird Valley Road  
Louisville, KENTUCKY 40207

\*John and Loretta Hagan  
1470 High Point Blvd.  
Orlando, FLORIDA 32825

\*Honorable Allyson K Sturgeon  
Managing Senior Counsel - Regulatory &  
LG&E and KU Energy LLC  
220 West Main Street  
Louisville, KENTUCKY 40202

\*Larry & Kay Hagan  
1055 W. Glendale-Hodgenville Road  
Glendale, KENTUCKY 42740

\*David S Samford  
Goss Samford, PLLC  
2365 Harrodsburg Road, Suite B325  
Lexington, KENTUCKY 40504

\*Robert Conroy  
Vice President, State Regulation and Rates  
LG&E and KU Energy LLC  
220 West Main Street  
Louisville, KENTUCKY 40202

\*Honorable Kendrick R Riggs  
Attorney at Law  
Stoll Keenon Ogden, PLLC  
2000 PNC Plaza  
500 W Jefferson Street  
Louisville, KENTUCKY 40202-2828

\*Kentucky Utilities Company  
220 W. Main Street  
P. O. Box 32010  
Louisville, KY 40232-2010

\*Katie M Glass  
Stites & Harbison  
421 West Main Street  
P. O. Box 634  
Frankfort, KENTUCKY 40602-0634

\*Stephen L. Dobson  
125 Stirling Lane  
Versailles, KENTUCKY 40383

\*Michael Hornung  
Manager, Pricing/Tariffs  
Louisville Gas and Electric Company  
220 W. Main Street  
P. O. Box 32010  
Louisville, KY 40202

\*T. Morgan Ward, Jr.  
Stites & Harbison, PLLC  
1800 Providian Center  
400 West Market Street  
Louisville, KENTUCKY 40202