

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF EAST	)	
KENTUCKY POWER COOPERATIVE, INC. FOR A	)	
(1) CERTIFICATE OF PUBLIC CONVENIENCE	)	
AND NECESSITY FOR THE CONSTRUCTION OF	)	CASE NO.
TRANSMISSION FACILITIES IN MADISON	)	2022-00314
COUNTY, KENTUCKY; AND (2) DECLARATORY	)	
ORDER CONFIRMING THAT A CERTIFICATE OF	)	
PUBLIC CONVENIENCE AND NECESSITY IS	)	
NOT REQUIRED FOR CERTAIN FACILITIES	)	

ORDER

On September 8, 2023, East Kentucky Power Cooperative, Inc. (EKPC) filed a Read First Letter along with two exhibits. According to the letter, pursuant to the final Order<sup>1</sup> in this case, EKPC was giving notice of deviations from the route at three places.<sup>2</sup> EKPC did not ask for approval for deviations and stated that it did not believe that the deviations were “material.”<sup>3</sup>

EKPC stated that the deviations were due to constructability issues. The location of these deviations includes a 15-foot shift to the north from the existing I-75 crossing, and a shift of two separate unique points on the north end of transmission line rebuild.<sup>4</sup> According to EKPC, the 15-foot shift to the north of the centerline at I-75 will aide in the

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<sup>1</sup> Order (Ky. PSC Sept. 8, 2023), ordering paragraph 4.

<sup>2</sup> EKPC’s Read First Letter at 1.

<sup>3</sup> EKPC’s Read First Letter at 1.

<sup>4</sup> EKPC’s Exhibit A (filed Sept. 8, 2023).

construction and erection of the new conductor, minimizing the required time to restore the KU Fawkes – Duncannon transmission line, if necessary.<sup>5</sup> The deviations at two other locations will ensure that EKPC will be able to maintain one of the critical circuits from Fawkes – West Berea in operations at all times throughout the construction.<sup>6</sup>

### BACKGROUND

On February 23, 2023, the Commission approved an application for a Certificate of Public Convenience and Necessity (CPCN) for EKPC to construct, own, and operate a new 138 kV– 69 kV double-circuit transmission line as well as the associated projects.<sup>7</sup> In the application, EKPC requested permission to move the centerline 100 feet in either direction.<sup>8</sup> During the proceedings, EKPC changed this request and indicated that no deviation from the current 69 kV right-of-way (ROW) will be needed.<sup>9</sup> EKPC also stated that it would not utilize the ROW of the EKPC 138 kV Fawkes – West Berea line that runs directly adjacent to the current ROW in any way for this project.<sup>10</sup> However, EKPC requested to move the centerline in two different locations and the Commission granted that request.<sup>11</sup>

In the final Order, the Commission specifically stated “[s]ince EKPC has stated it will not be necessary to move the centerline of the transmission line, the Commission

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<sup>5</sup> EKPC’s Read First Letter at 1.

<sup>6</sup> EKPC’s Read First Letter at 1.

<sup>7</sup> Order (Ky. PSC Feb.23, 2023), ordering paragraph 1.

<sup>8</sup> Application at 18.

<sup>9</sup> The Hearing Video Transcript (HVT) of the January 24, 2023 hearing at 11:17:45, HVT at 11:21:20, and EKPC’s Post-Hearing Brief at 3, footnote 1.

<sup>10</sup> EKPC’s Response to Commission Staff’s Post-Hearing Request for Information, Item 6.

<sup>11</sup> Order (Ky. PSC Feb. 23, 2023) at 18–19, ordering paragraph 2.

finds EKPC shall not move the centerline from the current ROW for the 69 kV line.” The Commission also specifically found that “EKPC’s request for authority to move the centerline and the ROW up to 100 feet in any direction of the centerline is denied.”<sup>12</sup>

### DISCUSSION AND FINDINGS

EKPC’s actions, and subsequent notice, are inconsistent with the language of the final Order as well as an ordering paragraph. The Commission’s Order specifically did not allow EKPC to move the centerline of the transmission project as a result of EKPC’s insistence it would not be necessary. Most utilities seeking CPCNs for transmission from the Commission anticipate the need for small variances as a result of the final engineering and construction process and request an appropriate ROW variance. EKPC initially requested a variance but then changed its position during the processing of its application.<sup>13</sup> As a result of the EKPC’s insistence, and subsequent nonobservance of a Commission order, this issue is now before the Commission in the form of a letter, not a pleading.

Instead of seeking leave of the Commission’s initial requirements, EKPC instead chose to inform the Commission what it was going to do. However, per the Commission’s Order, EKPC does not have the discretion to unilaterally move the centerline.

In light of the situation, the Commission, on its own motion, finds that the three noticed deviations are appropriate and should be granted regardless of EKPC not seeking leave to do so. The three deviations are of minimal distance, no more than 20 feet.<sup>14</sup>

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<sup>12</sup> Order (Ky. PSC Feb. 23, 2023), ordering paragraph 10.

<sup>13</sup> The Hearing Video Transcript (HVT) of the January 24, 2023 hearing at 11:17:45, HVT at 11:21:20, and EKPC’s Post-Hearing Brief at 3, footnote 1.

<sup>14</sup> EKPC’s Read First Letter.

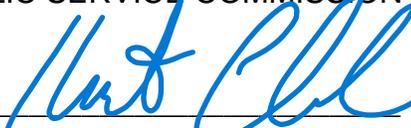
Importantly, no additional property owners were affected, and the property owners who were affected participated in the centerline placement decisions.<sup>15</sup> The deviations are reasonable and appropriate.

IT IS THEREFORE ORDERED that the three deviations noticed by EKPC in its September 8, 2023 Read First Letter are approved.

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<sup>15</sup> EKPC's Read First Letter.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ENTERED  
SEP 22 2023 rcs  
KENTUCKY PUBLIC  
SERVICE COMMISSION

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