

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

Electronic Application of Kentucky Utilities)	
Company For A Certificate of Public Convenience)	Case No. 2022-00066
And Necessity For The Construction Of)	
Transmission Facilities in Hardin County, Kentucky)	

**STARK HOUSE FARM, LLC’S MOTION FOR LEAVE TO INTERVENE AND
REQUEST FOR PUBLIC HEARING**

Stark House Farm, LLC, 576 White Mills Glendale Road East, Glendale, Kentucky 42740 (“Stark House”), by counsel, moves the Public Service Commission of Kentucky (“Commission”) pursuant to 807 KAR 5:001, Section 4(11) and KRS 278.020(9) for leave to intervene in this case filed by Kentucky Utilities Company (“KU”) on March 31, 2022, and further requests a public hearing.

Stark House is the record title owner of approximately 92 contiguous acres in Hardin County which include parcel numbers 189-00-00-009.09, 189-00-00-009.05, 189-00-00-009.04, 189-00-00-009, 189-00-00-009.03, 189-00-00-009.02, located in Glendale, Kentucky, which lie between New Glendale Road, the adjacent CSX rail line and Gaither Station Road. The proposed 345 kV line across Stark House’s property is proposed to run to a substation proposed to be sited on the north side of the Glendale Megasite. The proposed Glendale West 345 KV Transmission line is proposed to cross and significantly impact five (5) of Stark House’s parcels.

Stark House received six (6) notices, one for each impacted parcel, dated March 11, 2022, informing it that “KU plans to construct a 345 kV electric transmission line on [its] property,” and that “a property owner also has the right to request intervention in the case.” Stark House is identified as an affected landowner in KU’s Application.

KRS 278.020(9) provides that “[i]n a proceeding on an application filed pursuant to this section, any interested person, including a person over whose property the proposed transmission line will cross, may request intervention.” The only person who has a statutory right to intervene in a Commission case is the Attorney General of the Commonwealth of Kentucky, pursuant to KRS 367.150(8)(b). Intervention by all others is permissive and is within the sole discretion of the Commission.

The statutory standard for permissive intervention, codified at 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.” 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.

Stark House is an interested person which will be significantly impacted if KU’s application for a certificate of public convenience and necessity (“CPCN”) is granted, as Stark House’s property is “in the direct path of the proposed line.” Because Stark House owns property over which the proposed line will cross, it has a special interest that is not otherwise adequately represented in this proceeding. KU already possesses a 60 foot easement (30 feet on each side of the existing line) which crosses and impacts Stark House’s property. Stark House’s special interest is further evidenced by the fact that KU does not propose to co-locate the new 345 kV line within or even straddling the existing KU easement. Rather, KU proposes to run the new 345 kV line parallel with and adjacent to the existing easement, thereby, further increasing KU’s footprint upon and

impact across Stark House's property. Thus, there is no other party to this proceeding representing the interests of Stark House, as its property is unique and will be substantially affected by, at least, the proposed Glendale West 345 kV transmission line crossing through and impacting its property.

Given that the interests of individual landowners would likely conflict with one another in terms of what route is most appropriate for the proposed transmission lines, no other party or landowner could represent Stark House's unique interests. For example, it appears that keeping the proposed 345 kV line off of Stark House's property by running it down the opposite side (West) of and parallel to the CSX rail line would result in a straighter, more direct route with less turns and would totally eliminate the need to cross Stark House's property. Stark House's interests are also separate and distinct from the general interest of all consumers that the Attorney General will or may be able to represent in this proceeding if he chooses to intervene as a matter of right. Stark House further has "an interest in the service provided by Kentucky Power, because the definition of 'service' found in KRS 278.010(13) 'includes any practice or requirement in any way relating to the service of any utility. . . .' [KU] is a utility and is required to obtain a CPCN before constructing the proposed transmission line. Therefore, the CPCN review process is related to [KU]'s service."

As such, the Commission need not "analyze the likelihood of [Stark House] presenting issues or developing facts to assist the Commission in fully considering the matter without unduly complicating the matter, because the regulatory standard found in 807 KAR 5:001, Section 4(11) requires a party seeking intervention to satisfy only one prong of a two-prong test..." Because Stark House has met the "special interest not otherwise represented" prong of the test, the Commission should grant it leave to intervene on this ground alone.

Without waiving the foregoing, Stark House's intervention also 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. Stark House anticipates being able to examine and potentially challenge the need for the requested service, whether it will result in wasteful duplication and/or unnecessary restrictions, stray voltage, the adequacy of KU's route selection and/or alternate routes, the adequacy and reasonableness of KU's decision to not co-locate the proposed transmission facilities within or straddling KU's existing transmission rights-of-way, and the preference for avoiding existing structures at the expense of natural resources and other related issues.

Conclusion

For the reasons stated herein, Stark House, by counsel, respectfully requests the Commission to grant it leave to intervene in this matter, grant Stark House a public hearing, and grant Stark House any and all other relief to which it may be entitled.

Respectfully submitted,



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