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BEFORE THE ARKANSAS PUBLIC SERVICE COMMISSION

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FILED

IN THE MATTER OF THE APPLICATION)
OF SOUTHWESTERN ELECTRIC POWER)
COMPANY FOR A CERTIFICATE OF)
ENVIRONMENTAL COMPATIBILITY AND)
PUBLIC NEED FOR THE CONSTRUCTION)
OWNERSHIP, OPERATION AND)
MAINTENANCE OF THE PROPOSED 345 KV)
TRANSMISSION LINE BETWEEN THE SHIPE)
ROAD STATION AND THE PROPOSED KINGS)
RIVER STATION AND ASSOCIATED)
FACILITIES TO BE LOCATED IN BENTON,)
CARROLL AND/OR MADISON AND)
WASHINGTON COUNTIES, ARKANSAS)

DOCKET NO: 13-041-U

PETITION TO INTERVENE

COMES NOW the Municipality of Gateway, an Arkansas incorporated town, by and through its attorney, Joanne McCracken of MEISTER & MCCrackEN LAW FIRM, PLLC, and for its petition to intervene pursuant to Ark. Code Ann. § 23-18-517 and the Arkansas Public Service Commission's Rules of Practice and Procedure Rule 3.04 states:

1. The Town of Gateway is a properly incorporated town located in northeastern Benton County, Arkansas with a population of approximately 493 persons.
2. On or about March 26, 2013, Southwestern Electric Power Company ("SWEPCO") filed its Notice of Filing of Application for Certificate of Environmental Compatibility and Public Need for construction and placement of a 345 kV transmission line under docket number 13-041-U.
3. SWEPCO's application shows that it prefers the transmission line be constructed along a particular path, which it has named Route 33, though it has also listed four alternatives.

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4. If placed on Route 33, the transmission line will cut through the town of Gateway and will bisect our town park whereas none of the proposed alternative routes will meaningfully affect Gateway's residents.
5. On or about March 27, 2013, SWEPCO caused to be served on the Town of Gateway a letter with notice of the filing of the application.
6. No officials from SWEPCO met with the Gateway Town Council or with any other town officials prior to the delivery of the Notice to the town to discuss or to determine the consequences of this proposed construction of a 345kV transmission line through the town limits of Gateway.
7. The Town of Gateway, being the only petitioning party with property or citizens in the municipality, cannot be adequately represented by any other party because its interests and potential damages impact all the citizens, residents and businesses of Gateway.
8. It is the duty of the Town of Gateway to protect the interests of its citizens, residents and businesses, including but not limited to objecting to activities that diminish property values, objecting to activities that inhibit business expansion and safeguarding the health and welfare of the citizens and residents of the town.
9. Ark. Code Ann. § 23-18-517(a) allows "each municipality ... entitled to service of a copy of the application under [Ark. Code Ann.] § 23-18-513(a) if it has filed with the Arkansas Public Service Commission a notice of intervention as a party within thirty (30) days after service."
10. Rule 3.04(a) of the Arkansas Public Service Commission's Rules of Practice and Procedure allows intervention by "[a]ny person having an interest which may be directly affected by the Commission's action and which interest is not adequately represented by

other parties.” For the reasons stated herein, Intervenor satisfies these criteria and should be allowed to intervene as an official party in these proceedings.

11. Gateway objects to construction of a high tension high voltage transmission line along Route 33 for the following reasons:

- (a) the presence of 345kV power lines within the Town limits will discourage businesses from locating on the Highway 62 corridor, thereby causing economic harm to Gateway by loss of real property tax revenue;
- (b) in the path of Route 33 is a public park, paid for by the Land and Water Conservation Fund, implicating Federal regulations with which SWEPCO has not made any showing of compliance;
- (c) it will be aesthetically displeasing to both citizens and tourists, which will discourage tourism by ruining our small town appeal;
- (d) it will directly diminish property values within Gateway, resulting in a reduction of property tax revenue to the Town of Gateway;
- (e) it will present unnecessary safety hazards; and
- (f) it will present unnecessary health hazards.

12. A close proximity of high voltage power lines to the commercial district of Gateway will effectively prohibit the location of any businesses along the existing Highway 62.

13. The loss of businesses within the Gateway Town limits will cause economic harm by the reduction of business license revenues. In addition, there will be a substantial loss of property tax revenue.

14. In addition, the proposed location of the 345 kV transmission lines would prevent new housing development in proximity to the Highway 62 corridor; thereby diminishing real property tax revenues for Gateway.
15. The Town of Gateway built and maintains a lovely park which provides a rest stop for tourists and is the source of much recreation activity in the town.
16. Local residents use the park for daily walking exercise on the well-maintained walking path, an annual Auto Show and Swap Meet draws people from many surrounding states and the park picnic sites are used for family events and corporate gatherings.
17. In addition to the picnics and sports activities, the park provides a landing site for the life-flight helicopter which would be jeopardized by the presence of 345 kV transmission lines traversing the Gateway Town Park.
18. The park lies on property “acquired or developed by State and local governments with section 809(b) assistance” pursuant to an outdoor recreation grants program regulated by 36 C.F.R. Ch. I.
19. That park falls within the meaning of 36 C.F.R. § 1.2(a), and is therefore covered by the Federal regulations in 36 C.F.R. Ch. I.
20. Pursuant to 36 C.F.R. § 64.18, the legal title to the park property has a restriction that “precludes its conversion to other than public recreation/conservation use without the consent of the Secretary of the Interior,” whose permission cannot be granted if the conversion would preclude reactivation of rail transportation.
21. Constructing a power line through this public park is prohibited, absent a valid permit, contract, or other written agreement with the United States. 36 C.F.R. § 5.7.

22. SWEPCO has failed to show an application in compliance with 36 C.F.R. § 14.78, which indicates that it cannot have a permit to build power lines on this park, protected by the United States by virtue of its funding by the land and water conservation fund.
23. Our small town charm and our ability to offer a hospitable resting and recreational facilities to tourists and residents will be diminished by applicant's placement of 345 kV transmission lines through the Gateway Town Park.
24. Further, the close presence of these 345 kV transmission lines will substantially diminish the market value of residential and commercial property within the Town of Gateway, thereby causing additional economic harm by loss of real estate tax revenue.
25. The environmental impact statement undervalues the safety dangers resulting from placing a transmission line near a major highway and across the Gateway Town Park.
26. Academic studies have concluded there is an excess risk of leukemia in children exposed to high voltage power lines. *See e.g.* Vincenti, M., et al. (2010) "Risk of hematological malignancies associated with magnetic fields exposure from power lines: a case-control study in two municipalities of northern Italy." *Environmental Health*, 9(16).
doi: 10.1186/1476-069X-9-16. url: <http://www.ehjournal.net/content/9/1/16>.
27. The environmental impact statement indicates that the construction along Route 33 will involve transmission lines crossing Highway 62 five more times than Route 62. *See* Appendix B.
28. By placing the transmission lines so near the highway, SWEPCO is inviting more car accidents which may result in power outages across Arkansas.
29. Gateway residents and property will be placed in further unnecessary danger by several easily imaginable accidents.

30. For example, should a car accident tip over a supporting pylon, the pole itself could fall onto a resident or property; or the accident could dislodge a live wire, which could kill or injure a resident; or a child could climb the pole and fall off, causing injury.
31. The use of pesticides and herbicides, necessary for constructing and continually maintaining the support pylons, will seep into and pollute ground water and could potentially seep into Beaver Lake, the primary source of potable water for Northwest Arkansas.
32. All of these potential health and safety hazards could be easily avoided by moving construction of the proposed high tension high voltage power lines outside of Gateway Town limits.
33. The Town of Gateway does not seek to challenge the "need" for SWEPCO to construct the requested facilities at this time. However, the Town of Gateway as a Petitioner wishes to preserve the right to make all necessary arguments, present evidence and witnesses and reserve any and all rights necessary to protect the interests of all Gateway citizens, residents and businesses affected by the proposed Route 33 as the Town of Gateway has not had time to identify or evaluate all of the issues associated with the 345 kV transmission line and the routes proposed at this time.
34. Please include on the service list in these proceedings, as all communications concerning this matter should be addressed to:

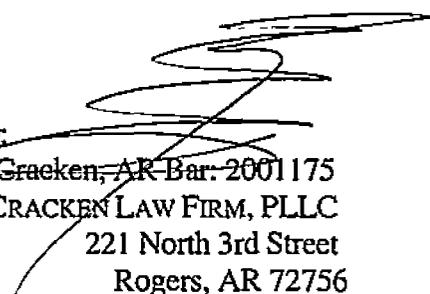
Joanne McCracken
MEISTER & MCCRACKEN LAW FIRM, PLLC
221 North 3rd Street
Rogers, AR 72756
Phone 479.633.8499
Fax 479.633.8183
Email: joanne@jmjmlaw.com

WHEREFORE, the Town of Gateway respectfully requests that this Petition be granted, that it be provided full rights to participate as an official party to these proceedings, and that if SWEPCO's application for the certificate of environmental compatibility and public need be granted, that one of the application's alternative routes be selected for the construction of the applicant's 345 kV transmission line; or, if Route 33 is selected, that SWEPCO fund the construction of a new public park of equal or greater value, unsullied by its high tension high voltage power lines.

Dated as of April 30, 2013.

Respectfully Submitted,
Town of Gateway

By:


Joanne McGracken, AR Bar: 2001175
MEISTER & MCCRACKEN LAW FIRM, PLLC
221 North 3rd Street
Rogers, AR 72756
Phone: 479.633.8499
Fax: 479.633.8183
Email: joanne@jmjmlaw.com

**CERTIFICATE OF SERVICE/MAILING
DOCKET SERVICE REPORT**

I, Joanne M. McCracken, Esq., Attorney for the Town of Gateway, hereby certify that a true and correct copy of the Petition to Intervene in Docket 13-041-U was sent by regular U.S. mail, postage pre-paid, to the following individuals this 30th day of April, 2013, to wit:

Party for APSC General Staff
Dawn Guthrie
Counsel
APSC General Staff – Legal
1000 Center
P.O. Box 400
Little Rock, AR. 72201

Administrative Law Judge for APSC
Presiding Officer
Connie Griffin
Administrative Law Judge
APSC Commissioners’ Staff
1000 Center Street
P.O. Box 400
Little Rock, AR. 72201

Pending Party: Charles E. Crawford
Revocable Trust
Bryce Crawford
The Williams Law Group
4201 W. New Hope Road, Suite 202
Rogers, AR. 72758

Pending Party: Dupps Squared, Inc.
K.C. Tucker - Counsel
221 N. College Avenue
Fayetteville, AR. 72701

Pending Party: Dupps, Cynthia & Kirk
K.C. Tucker – Counsel
221 N. College Avenue
Fayetteville, AR. 72701

Pending Party: Goodnow, Fritz
Timothy C. Hutchinson, Esq.
P.O. Box 1788
Fayetteville, AR. 72702-1788

Pending Party: Julia R. Neighbors
Revocable Trust
N.M. Norton, Esq.
3333 Pinnacle Hills Parkway, Suite 510
Rogers, AR. 72758

Pending Party: Oppenheim, Tom
Timothy C. Hutchinson, Esq.
P.O. Box 1788
Fayetteville, AR. 72701-1788

Pending Party: Reinsvold, Thomas
& Barbara
Leon R. Kassab, Esq.
431 South Virginia Avenue
Joplin, MO. 64801

Pending Party: Save the Ozarks
Richard H. Mays, Esq.
115 South Third Street
Heber Springs, AR. 72543

Pending Party: Sims, Glen
Glen Sims
709 CR 206
Eureka Springs, AR. 72632

Pending Party: Sims, Glen
Lawrence Chisenhall, Jr., Esq.
Chisenhall, Nestrud and Julian, P.A.
400 West Capital Ave., Suite 2840
Little Rock, AR. 72201

Pending Party: Southwest Power Pool, Inc.
Erin E. Cullum, Esq.
201 Worthen Drive
Little Rock, AR. 72223

Pending Party for Southwest Power
Pool, Inc.
Tessie Kentner, Esq.
201 Worthen Drive
Little Rock, AR. 72223

Initiating Party: Southwestern Electric Power Company
Elizabeth D. Stephens
Regulatory Consultant
P.O. Box 21106
Shreveport, LA. 71156-1106

Attorney of Record for Southwestern Electric Power Company
David Matthews, Esq.
Matthews, Campbell, Rhoads, McClure, Thompson & Fryauf
119 South Second Street
Rogers, AR. 72756



Joanne M. McCracken, Esq.
Attorney for the City of Gateway
221 N. 3rd Street
Rogers, AR. 72756
(479) 633-8499
(479) 633-8183 – Fax Line
Ark. Bar No. 2001175
MO. Bar No. 51041