

MAY 1 10 25 AM '13

BEFORE THE ARKANSAS PUBLIC SERVICE COMMISSION

CM
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 Garfield, an Arkansas City of the Second Class, 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 City of Garfield is a properly incorporated city of the second class located in northeastern Benton County, Arkansas with a population in excess of 500 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.
4. If placed on Route 33, the transmission line will cut through our city whereas none of the proposed alternative routes will meaningfully affect Garfield’s residents.

4
6

5. On or about March 27, 2013, SWEPCO caused to be served on Mayor Hamilton of Garfield a letter with notice of the filing of the application.
6. No officials from SWEPCO met with the Garfield Planning Commission or with any other city officials prior to the delivery of the Notice to Mayor Hamilton to discuss or to determine the consequences of this proposed construction of a 345kV transmission line through the city limits of Garfield.
7. The City of Garfield, 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 Garfield.
8. It is the duty of the City of Garfield 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, residents, and our elementary school children.
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. Garfield 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 city limits will discourage businesses from locating on the new Highway 62 corridor, thereby causing economic harm to Garfield by loss of sales tax revenue and loss of real property tax revenue;
- (b) it will be aesthetically displeasing to both citizens and tourists, which will discourage tourism by ruining our small town appeal;
- (c) it will directly diminish property values within Garfield, resulting in a reduction of property tax revenue to the City of Garfield;
- (d) it will present unnecessary safety hazards; and
- (e) it will present unnecessary health hazards.

12. The Arkansas Highway Department has notified Garfield's officials and citizens of its plans to relocate the primary Arkansas State Highway 62 route to the north of Garfield in what appears to be close proximity to SWEPCO's proposed Route 33 location. This is pursuant to Arkansas Highway Transportation Department Job 090204 which includes the segment designated as Job 090096 North Garfield-Gateway. A copy of the relevant map setting out this route is attached hereto as Exhibit "A" and incorporated herein by reference.

13. Public hearings have been conducted to present this route to the citizens, the attached map has been submitted to the city and its citizens as the location of the new Highway 62, there have been surveys conducted for Job 090096 and the city officials wish to preserve

the ability of the Garfield citizens and businesses to develop the new commercial corridor.

14. As a result of this notification, Garfield is prepared to create a new commercial district and city center for Garfield along the relocated Highway 62.
15. A close proximity of high voltage power lines to the new commercial district of Garfield will effectively prohibit the location of any businesses along the new highway route.
16. The loss of businesses within the Garfield city limits will cause economic harm by the reduction of sales tax revenue and lost business license revenues. In addition, there will be a substantial loss of property tax revenue.
17. In addition, the proposed location of the 345 kV transmission lines would prevent new housing development in proximity to the new Highway 62 corridor; thereby diminishing real property tax revenues for Garfield.
18. The city of Garfield is a primary hub for both local and out-of-state tourists coming to visit Beaver Lake. These tourists are drawn, in part, by our small town charm, the result of conscious planning on our part, which includes a city park and green space.
19. The small town charm of Garfield entices tourists whose primary destination is Eureka Springs to stop and sample the charm of Garfield including the giant ice cream cones.
20. Our small town charm will be undermined by the erection of the applicant's 345 kV transmission line in the middle of our city and adjacent to our new commercial district.
21. The 345 kV transmission line will be aesthetically displeasing to citizens and tourists alike.
22. The City of Garfield relies on these tourists for financial security, both from the sales made by local merchants and the sales tax revenue returned to the city of Garfield.

23. Tourists will receive diminished pleasure from their recreation, directly and solely resulting from the proposed 345 kV high voltage transmission line bisecting our city.
24. Because of this diminished pleasure, fewer tourists will come for a shorter duration, thus restricting revenue generated from sales and sales taxes. In turn, Garfield's financial security will be jeopardized.
25. Further, the close presence of these 345 kV transmission lines will substantially diminish the market value of residential and commercial property within the City of Garfield, thereby causing additional economic harm by loss of real estate tax revenue.
26. The environmental impact statement mischaracterizes Route 33 as "skirting north of the Town of Garfield," but a cursory inspection of Route 33 will show that it actually bisects the incorporated city limits of Garfield. *See* Environmental Impact Study pg. 4-19. Therefore the environmental impact statement as it pertains to the city of Garfield is flawed because it is based on a misrepresentation of the actual placement of Route 33.
27. The environmental impact statement undervalues the safety dangers resulting from placing a transmission line near a major highway and in close proximity to the Garfield Elementary School attended by young children.
28. 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>.

29. 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 of Applicant's filing.
30. By placing the transmission lines so near the highway, SWEPCO is inviting more car accidents which may result in power outages across Arkansas.
31. Garfield residents and property will be placed in further unnecessary danger by several easily imaginable accidents.
32. 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.
33. 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.
34. 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 city limits.
35. The City of Garfield does not seek to challenge the "need" for SWEPCO to construct the requested facilities at this time. However, the City of Garfield 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 Garfield citizens, residents and businesses affected by the proposed Route 33 as the City of Garfield 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.

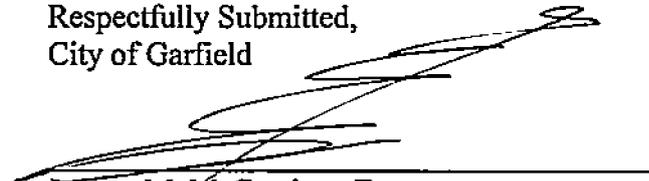
36. Please include on the service list in these proceedings, as all communications concerning this matter should be addressed to:

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 City of Garfield 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.

Dated April 30, 2013.

Respectfully Submitted,
City of Garfield



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

CERTIFICATE OF SERVICE/MAILING

DOCKET SERVICE REPORT

I, Joanne M. McCracken, Esq., Attorney for the City of Garfield, 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

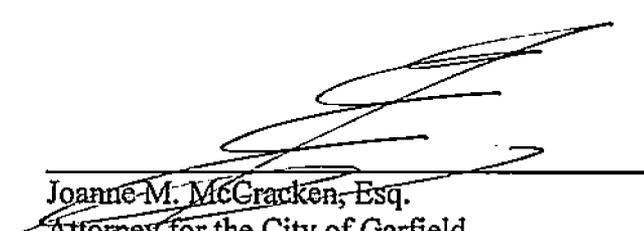
Pending Party: Sims, Glen
Lawrence Chisenhall, Jr., Esq.
Chisenhall, Nestrud and Julian, P.A.
400 West Capital Ave., Suite 2840
Little Rock, AR. 72201

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 Garfield
221 N. 3rd Street
Rogers, AR. 72756
(479) 633-8499
(479) 633-8183 – Fax Line
Ark. Bar No. 2001175
MO. Bar No. 51041

AHTD Job 090204
Avoca-Gateway NEPA Study
Benton County

Job 090204 (West Garfield - Gateway)
 Job 090205 (Avoca - North Garfield)

AHTD - Environmental GIS - 3/3/11
 Geography Dept. 209
 515 East Sherman St., 1111
 Denver, Colorado 80202-1111

Pea Ridge National Military Park

Pea Ridge National Military Park Visitor Center

Pea Ridge National Military Park

Maping location of Garfield Park District

Garfield

Gateway

Lost Bridge Village

EXHIBIT

"A"

tabbles