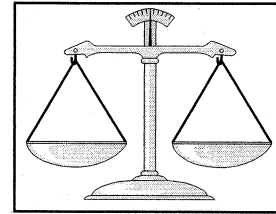


FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

KIT WILLIAMS, CITY ATTORNEY
DAVID WHITAKER, ASST. CITY ATTORNEY



LEGAL DEPARTMENT

DEPARTMENTAL CORRESPONDENCE

TO: **Dan Coody, Mayor**
City Council

FROM: **Kit Williams, City Attorney**

A handwritten signature in black ink, appearing to read 'Kit Williams', written over a horizontal line.

DATE: **August 14, 2006**

RE: **Petition To Intervene in SWEPCO's request for a
Declaratory Judgment**

I am happy to report that at 3:06 P.M. today, the Arkansas Public Service Commission filed its Order of Dismissal which dismissed SWEPCO's Petition for a Declaratory Judgment that it should not be required to undergo a public hearing to obtain a Certificate of Public Convenience and Necessity for its 161 kV line and towers improvement.

Both the City of Fayetteville and the Fayetteville Historic District had filed Petitions to Intervene in this case. Although the PSC staff had initially recommended approval of SWEPCO's petition, SWEPCO voluntarily moved to dismiss its own petition after the City and Historic District sought to intervene. Attached is SWEPCO's Motion To Dismiss and the PSC's Order Of Dismissal.

I would like to thank SWEPCO for agreeing to dismiss their petition. This is only the first step in this process to try to avoid the negative impact of these taller electric poles and larger transmission line impairing the views on Dickson Street. Now all interested parties: The City, SWEPCO, the nearby property owners, Fayetteville Historic District Commission, etc. need to sit down around the table to work out a solution and a fair distribution of any increased costs of such solution.

Aug 14 12 18 PM '06

BEFORE THE ARKANSAS PUBLIC SERVICE COMMISSION

FILED

IN THE MATTER OF THE PETITION OF)
SOUTHWESTERN ELECTRIC POWER)
COMPANY FOR A DECLARATORY)
JUDGMENT THAT NO CERTIFICATE OF)
PUBLIC CONVENIENCE AND NECESSITY)
IS REQUIRED TO REBUILD AND CONVERT)
THE VOLTAGE OF CERTAIN)
TRANSMISSION FACILITIES IN)
WASHINGTON COUNTY ARKANSAS)

DOCKET NO. 06 - 091 - U

MOTION TO DISMISS

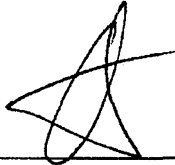
Comes now Southwestern Electric Power Company (SWEPCO), and for its Motion to Dismiss its previously filed Petition for Declaratory Judgment, respectfully states:

1. SWEPCO wishes to dismiss its Petition for Declaratory Judgment. It is apparent from the Motions to Intervene filed in this docket, that a number of SWEPCO's customers desire the opportunity to present testimony and for a public hearing to be held concerning the appropriate routing for SWEPCO's needed 161 kV transmission line upgrade. Furthermore, as SWEPCO previously indicated in its Petition for Declaratory Judgment, it already planned to file a certificate of public convenience and necessity (CCN) application for the substation upgrade associated with the transmission line upgrade. Therefore, SWEPCO, in order to afford its customers the opportunity to participate in a public hearing for both the transmission line and the substation, hereby withdraws its Petition for Declaratory Judgment that no CCN is required for the transmission line and SWEPCO will file an application for a CCN for both the transmission line and substation with the Commission at a later date.

WHEREFORE, SWEPCO prays that its Petition for Declaratory Judgment be dismissed without prejudice and reserving its rights to file a similar motion on similar projects in the future.

Respectfully submitted,

SOUTHWESTERN ELECTRIC POWER COMPANY



BY _____

David R. Matthews, Its Attorney
Arkansas Bar #76072
MATTHEWS, CAMPBELL, RHOADS,
McCLURE, THOMPSON & FRYAUF, P.A.
119 South Second Street
Rogers, Arkansas 72756-4525
(479)636-0875

CERTIFICATE OF SERVICE

I, David R. Matthews, attorney for Southwestern Electric Power Company herein, state that I have on this 14 day of August, 2006, mailed a true and correct copy of the above and foregoing instrument to the attorney for Valerie Boyce, Public Service Commission General Staff, 1000 Center Street, Little Rock, AR 72201 and Kit Williams, Fayetteville City Attorney, 113 W. Mountain, Suite 302, Fayetteville, AR 72701-6083, in the United States mail, postage prepaid.



David R. Matthews

AUG 14 3 06 PM '06

ARKANSAS PUBLIC SERVICE COMMISSION **FILED**

IN THE MATTER OF THE PETITION OF)
SOUTHWESTERN ELECTRIC POWER COMPANY)
FOR A DECLARATORY JUDGMENT THAT NO)
CERTIFICATE OF PUBLIC CONVENIENCE AND)
NECESSITY IS REQUIRED TO REBUILD AND)
CONVERT THE VOLTAGE CAPACITY OF CERTAIN)
FACILITIES IN WASHINGTON COUNTY,)
ARKANSAS)

DOCKET NO. 06-091-U
ORDER NO. 2

ORDER OF DISMISSAL

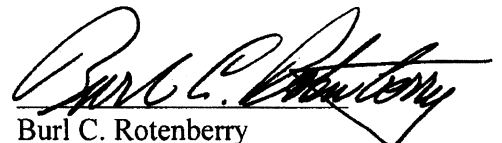
Southwestern Electric Power Company (SWEPCO), the petitioner in this matter, has filed a motion to dismiss its previously filed Petition for Declaratory Judgment asking for a ruling that a certificate of public convenience and necessity (CCN) is not necessary for its proposed upgrade of an existing 69 kilovolt (kV) transmission line to 161 kV capacity since no new right-of-way would be required and this upgrade is of a previously certificated existing facility.

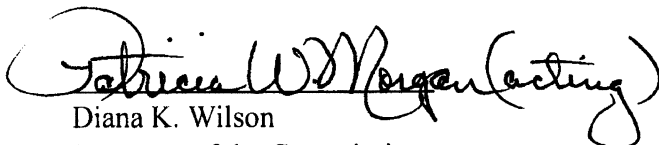
SWEPCO states in its motion for dismissal that inasmuch as a number of its customers are desirous of an opportunity to present testimony or comments concerning the appropriate routing of SWEPCO's proposed transmission line upgrade in the City of Fayetteville, and inasmuch as SWEPCO has previously indicated in its Petition for Declaratory Judgment its plans to file an application for a certificate of public convenience and necessity (CCN) for the substation upgrade associated with the transmission line upgrade, that dismissing this petition and filing a CCN application to include both transmission facilities will better afford SWEPCO's customers an opportunity for participation in a public hearing at a later date.

It is accordingly ORDERED that SWEPCO's Petition for Declaratory Judgment filed on July 6, 2006, establishing this docket, be, and is hereby, dismissed without prejudice.

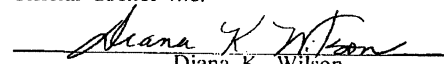
BY ORDER OF THE ADMINISTRATIVE LAW JUDGE PURSUANT TO DELEGATION.

This 14th day of August, 2006.


Burl C. Rotenberry
Administrative Law Judge


Diana K. Wilson
Secretary of the Commission

I hereby certify that the following order issued by the Arkansas Public Service Commission has been served on all parties of record this date by U.S. mail with postage prepaid, using the address of each party as indicated in the official docket file.


Diana K. Wilson
Secretary of the Commission
Date 8-14-2006