

THE STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

D-E3231

Public Service Company of New Hampshire
vs.
Bernice D. Kelley

Petition for a Right of Way for the Construction
and Maintenance of Transmission Lines Across Lands in New
Hampton, and Assessment of Damages Occasioned Thereby.

D-E-3232

Public Service Company of New Hampshire
vs.
Lulu T. Sanborn, Aimee Truelsen, and Doris Ryan

Petition for a Right of Way for the Construction and
Maintenance of Transmission Lines Across Lands in Frank-
lin, and Assessment of Damages Occasioned Thereby.

Hearing before the Public Utilities Commission of New
Hampshire, held in the Draper Room of the Public Library at
Franklin, N. H., on Wednesday, February 25, 1953, at 11:00 a.m.

BEFORE:

Commissioner Harold K. Davison, presiding.

Commissioner Rae S. Laraba.

APPEARANCES:

Irving H. Soden, Esq., 3 Capitol St., Concord, N.H.,
appearing for Public Service Company.

George Falardeau, Esq., Tilton, N. H., appearing
for Bernice D. Kelley.

Laurence J. Riis, Chief Engineer,
N. H. Public Utilities Commission.

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CHAIRMAN DAVISON: We will open the hearing on D-E3231, Public Service Company of New Hampshire versus Bernice D. Kelley, petition for a right of way for the construction and maintenance of transmission lines across lands in New Hampton, and assessment of damages occasioned thereby. This petition was filed January 19, 1953, and on January 23d an order of notice was issued, providing for hearing to be held in the Draper Room of the City Hall(?), at Franklin, on February 25, 1953, at 11:00 a.m., together with service upon the parties involved in the proceeding. Notice of hearing was sent to:

Irving H. Soden, Attorney, Concord (for service);

John N. Nassikas, Deputy Attorney-General;

Avery R. Schiller, President, Public Service Company of New Hampshire, Manchester, N. H.

The affidavit of posting was filed with the Commission on February 3, 1953.

At this time we will note the appearances for the record in this case.

MR. SODEN: Irving H. Soden, of Concord, for Public Service Company of New Hampshire.

MR. FALARDEAU: George Falardeau, Attorney for Bernice D. Kelley.

CHAIRMAN DAVISON: Are there any other appearances?

MR. SODEN: Excuse me. Is this just the Kelley case, or can we hear it on a joint record?

CHAIRMAN DAVISON: We will open the other one and hear

them both, jointly; then you can show necessity once, if that is the desire.

MR. SODEN: I will do whatever the Commission wishes. But it was my hope, in view of developments this morning, to dispose of the question of damages in the Kelley case promptly, and then put in the whole thing on the other case, and the evidence on necessity would apply equally to the Kelley case; but there wouldn't be any occasion for Mrs. Kelley's attorney to remain for that if he didn't want to, because he has agreed to it.

CHAIRMAN DAVISON: We will also open the hearing in D-E3232, Public Service Company of New Hampshire versus Lulu T. Sanborn, Aimee Truelsen, and Doris Ryan, petition for a right of way for the construction and maintenance of transmission lines across lands in Franklin, and assessment of damages occasioned thereby. This petition was filed January 19, 1953, and on January 23d an order of notice was issued, providing for hearing to be held in the Draper Room in the City Hall (?), at Franklin, on February 25, 1953, at 11:00 a.m., together with service upon parties involved in the proceedings. Notice of hearing was sent to:

Irving H. Soden, Attorney, Concord, N. H., and

John N. Nassikas, Deputy Attorney-General.

Affidavit of posting was filed with the Commission on February 3, 1953.

We will note the appearances in this case.

MR. SODEN: Irving H. Soden, of Concord, for Public Service Company of New Hampshire.

CHAIRMAN DAVISON: Is there any appearance in this case for Lulu T. Sanborn, Aimee Truelsen, and Doris Ryan?

If not, we will proceed, on a joint record for both of these cases.

MR. SODEN: If it please the Commission, these petitions for condemnation are brought by Public Service Company of New Hampshire against Bernice D. Kelley in one case, and in the other case against Lulu T. Sanborn, Aimee Truelsen, and Doris Ryan, as heirs under the law, of Minnie Truelsen, to condemn rights of way in connection with the construction of a transmission line.

The Company proposes to build a 110 kv. line from the Webster substation in Franklin to the Lincoln substation in North Woodstock. At the present time there is a 66 kv. line covering this route, and the proposed line is going to be westerly of and parallel to the present line and between those two points. The Company is acquiring the rights of way between the points, 125 ft. in width all along. This proposed line will cross about four acres of land in the Town of New Hampton, owned by Bernice D. Kelley; and it will cross approximately an acre and a half of land in Franklin, owned by the heirs of Minnie Truelsen.

The Company has never been able to agree with the Truelsen heirs as to the value of their property. Stipulation

has been reached this morning with Brother Falardeau, representing Mrs. Kelley, whereby he agrees to the necessity of the line in question, and has agreed to accept our original offer with respect to damages.

Our witnesses here today will be Mr. Steenstra and Mr. Sinville, both of Public Service Company, and Mr. Koenig, a timber expert. For the purpose of putting something on the record which will dispose of the Kelley case, which has in effect been settled by counsel, I'd like to call Mr. Sinville first, for just a few questions relating to that case.

DONALD E. SINVILLE, Sworn

BY MR. SODEN:

Q Will you state your name, please?

A Donald E. Sinville.

Q And where do you live?

A Manchester, New Hampshire.

Q And by whom are you employed?

A Public Service Company of New Hampshire.

Q And what is your job?

A Right of Way Agent.

Q How long have you been employed as a Right of Way Agent for the Company?

A Over four years.

Q And in that time, have you bought rights of way all over the State of New Hampshire?

A All except the northern part.

Q Can you give us some general idea as to how many miles of right of way you have bought?

A Over ninety.

Q And from about how many owners have you bought rights of way?

A About seven hundred.

Q Now, is the Company in the process of buying rights of way for the construction of a transmission line between Franklin and North Woodstock?

A It is.

Q And have you had occasion to buy rights of way in connection with that line?

A I have.

Q And do you cross some property in New Hampton owned by Bernice D. Kelley?

A We do.

Q And have you had negotiations with Mrs. Kelley?

A I have.

Q And approximately how many feet across Mrs. Kelley's land will the proposed new line go?

A 1350 feet.

Q And approximately how many acres are involved?

A Not quite four acres.

Q And you have negotiated with Mrs. Kelley on more than one occasion?

A I have.

Q And have you made her an offer for her property?

A I have.

Q And what was that offer?

A Originally we used the chaining on the old line, so we thought we were going to cross a little over five acres; but the chaining on the new line is much less because the property lines converge. I offered her, for five and a third acres at \$20.00, \$107.00; and then on the timber I offered her, for 8,000 ft. of lumber at \$15.00, that is \$120.00; 20 cords of wood at \$2.00, that was \$40.00; making a total of \$267.00.

Q And Mrs. Kelley never accepted the offer personally?

A That is true.

MR. SODEN: If the Commission please, I think it is now appropriate to state for the record that Brother Falardeau, representing Mrs. Kelley, has this day stated that he has authority from his client to accept the original offer of \$267.00 and is agreeable that the Commission should find that those are the damages involved in this taking.

CHAIRMAN DAVISON: I think we ought to have a statement from Mr. Falardeau on the record, though.

MR. SODEN: Yes.

MR. FALARDEAU: As attorney for Mrs. Kelley, I am authorized to accept \$267.00 as damages to her for this condemnation of her right of way, which includes timber and cordwood as well as the land itself.

CHAIRMAN DAVISON: What arrangement is being made about timber and the product after it is cut?

MR. SODEN: We like to have the owners have it.

CHAIRMAN DAVISON: Is that a part of the agreement?

MR. FALARDEAU: Well, she expected to have it; it was expected that the timber would be theirs after the cutting.

CHAIRMAN DAVISON: Is there anything further on this case?

MR. SODEN: Unless Brother Falardeau wants to also state for the record that he raises no question on the issue of necessity.

MR. FALARDEAU: I so state, that there is no question raised on the issue of necessity for this right of way.

CHAIRMAN DAVISON: Does anyone else have any questions to ask of Mr. Sinville?

You have no questions, Mr. Falardeau?

MR. FALARDEAU: No.

MR. SODEN: I would like to recall Mr. Sinville when we come to the other case.

CHAIRMAN DAVISON: All right.

(Witness excused.)

MR. SODEN: Mr. Steenstra.

WALTER H. STEENSTRA, Sworn.

BY MR. SODEN:

Q Will you state your name, please?

A Walter H. Steenstra.

Q And where do you live?

A Gilmanton, New Hampshire.

Q And are you employed?

A Yes; by the Public Service Company.

Q And what is your job?

A I am a construction engineer.

Q And what are your duties?

A My specific duties at present are the layout and construction of transmission lines and substations.

Q And are you a college graduate?

A I am.

Q And where did you graduate and what degrees do you have?

A I hold a B.S. in C.E., with a major in hydraulics--
1936, University of Texas.

Q And has your career since graduation been in the field of electrical engineering?

A It has, for the past ten years.

Q Is the Public Service Company of New Hampshire in the process of building a 110 kv. line between the so-called Webster substation in Franklin and the substation in North Woodstock?

A We are.

Q I show you a portion of a U.S.G.S. map on which a line has been drawn between points indicated as Webster, and another point indicated as Ayer's Island. Is that the line in question, or part of it?

A That is the southern part of the line in question, yes.

MR. SODEN: I'd like to have that marked for identification.

CHAIRMAN DAVISON: Petitioner's Exhibit No. 1 for identification.

(Petitioner's Exhibit No. 1
marked for identification.)

Q (By Mr. Soden) Having reference to Petitioner's Exhibit 1 for identification, the map shows the Webster substation

A Yes, marked as such.

Q And that is where? In the City of Franklin?

A Yes sir, West Franklin.

Q And where is the northern terminus of what you show on the map as Ayer's Island? Where is that?

A That is in Bristol.

Q And will the line about which we have been talking be continued northerly from there?

A Yes, from there parallel to the existing line to North Woodstock, New Hampshire.

Q And is the construction of this 110 kv. line necessary for the purpose of providing service to the public?

A It is.

Q And will you tell the Commission why, please?

A With considerable increase in generation in the southern part of the Company's system, essentially at Portsmouth, New Hampshire, our steam station, it is necessary to increase line capacity to handle the increased generation. And we have constructed new 115 kv. lines from Portsmouth to Nashua, to

Manchester, and to Garvins Falls, and to Webster substation here in Franklin; and continuing the expansion for the increased line capacity, we are now working north to North Woodstock, where we can connect to our northern section of our Company which now has a 115,000 transmission system.

I think that covers it pretty well.

Q You have a line presently running from Portsmouth to Webster substation?

A We do.

Q And one running from Goffstown(?) to North Woodstock?

A We do.

Q And I take it this is to be the connecting link between them?

A This is the connecting link at the same capacity or transmission voltage of 115,000.

Q Now I show you a plan on which appears the following: Proposed Right of Way Across Land of Minnie Truelsen Estate, Franklin, New Hampshire. I ask you whether or not this was prepared by you or under your supervision?

A It was prepared under my supervision.

MR. SODEN: I'd like to have it marked.

CHAIRMAN DAVISON: Petitioner's Exhibit 2 for identification.

(Petitioner's Exhibit No. 2
marked for identification.)

Q (By Mr. Soden) With reference to petitioner's Exhibit No. 2 for identification, will you tell us in a general way what

the plan shows?

A It shows a portion of the Truelsen Estate. It shows the location of the house, and the location of our present transmission line and the proposed new transmission line as indicated by that shaded portion at the easterly part of the plan.

Q And does the plan show the distance across the Truelsen land which the proposed line will go?

A Yes it does.

Q And what is that distance?

A 545 feet.

Q The line will be 125 feet in width?

A That is correct.

Q What is the approximate acreage for the entire taking?

A I believe it is four and a third acres, approximately. I'm sorry; I'm thinking of the other one; strike it. It is a little over one acre, I guess.

Q You have been to the Truelsen property?

A Yes I have. I haven't computed it.

Q The Lake Shore Road shown on the plan, is that the road on which we all stood the other day at the time of the view?

A That is the road.

Q What is the nature of the Truelsen land at the point where you proposed to cross it?

A It is very rocky and not too heavily timbered, rather inaccessible land.

Q And do you have any idea approximately how far away it is from the Truelsen house?

A Approximately 1200 feet, measured perpendicular, the shortest way.

Q The plan, then, is to scale in so far as the distance between house and land are concerned?

A It is to scale in that respect.

Q You have had some experience in aerial photography?

A Somewhat, yes sir.

Q I will show you an aerial photograph, and ask you if you can identify it.

A It represents a portion of the Truelsen land and shows the Public Service Company's right of way running northward, the lefthand side of the picture.

CHAIRMAN DAVISON: Was this taken by you?

THE WITNESS: Yes sir.

CHAIRMAN DAVISON: Petitioner's Exhibit No. 3 for identification.

(Petitioner's Exhibit No. 3
marked for identification.)

Q (By Mr. Soden) Now with respect to Petitioner's Exhibit No. 3 for identification, I think you said that you took this picture from an airplane?

A I did.

Q And when?

A Approximately ten days ago.

Q Now, in approximately the left half of the picture, is there a clearing there?

A Yes sir.

Q And what is that?

A The cleared strip indicates the presently existing line on the right, and the proposed new line on the left.

Q What appears to be quite clear there is, I take it, what you have cleared on other people's lands?

A That is correct.

Q Now is there some point in the photograph which you can show the Commission as being the Truelsen property which is un-

A I can show it, but it does not show up too clearly in this picture. It is this portion of the land right here, indicating that it is quite a hill, and the line actually hides behind that hill, cuts across here and goes northward there.

Q Indicating the uncleared area between what appears on the plan as cleared areas?

A That is correct.

Q Now I will show you another photograph, and ask you if you can identify that.

A That is essentially the same view, except it is taken probably ten seconds later or after the first view, or Exhibit 3; and it shows the Truelsen land practically in the center of the picture, and of course the black road that goes by the Truelsen house which lies to the left of the picture just out of the picture

MR. SODEN: I'd like to offer that.

CHAIRMAN DAVISON: Petitioner's Exhibit No. 4 for identification.

(Petitioner's Exhibit No. 4
marked for identification.)

Q (By Mr. Soden) I will show you another aerial photograph and ask you if you can identify that.

A This is a picture taken probably eight or ten seconds after the picture which is Exhibit No. 4, and directly over--or that portion of the Truelsen land that the Public Service Company proposes to take. It is that portion of land indicated between the two cut sections or portions of our line, one of which is shown on the lower left of the photograph, and the other at the right center.

MR. SODEN: We'd like to have that marked.

CHAIRMAN DAVISON: Petitioner's 5 for identification.

(Petitioner's Exhibit No. 5
marked for identification.)

Q (By Mr. Soden) Is Petitioner's No. 5 taken a little closer to the ground so as to show the nature of the growth a little better?

A Yes, it is roughly about 500 feet elevation.

MR. SODEN: I think that is all the questions I have of this witness.

CHAIRMAN DAVISON: Any questions?

COMMISSIONER LARABA: Is this new line going to be visible from the Truelsen home?

THE WITNESS: No sir, it won't be visible from the Truelsen home.

MR. RIIS: Is the old line going to be left in or remain there?

THE WITNESS: It will remain until such time in the future as demand would be such that it shall be removed.

MR. RIIS: You are going to use both of them?

THE WITNESS: Yes sir.

CHAIRMAN DAVISON: Any other questions?

This line that you said makes a connection, you meant it merely makes an added connection? Isn't there a connection right up through, now?

THE WITNESS: There is a connection, but it is at a different transmission voltage than the balance of the Company's system. The present connection is a 66,000 volt transmission voltage, whereas our entire system now is set up, our primary transmission is set up on the basis of 115,000 transmission voltage.

CHAIRMAN DAVISON: Any other questions?

If not, thank you, Mr. Steenstra.

(Witness excused.)

MR. SODEN: Mr. Sinville.

DONALD E. SINVILLE (Recalled).

BY MR. SODEN:

Q You are the same Mr. Sinville that has previously testified today?

A That's right.

Q Now with respect to the Truelsen property about which Mr. Steenstra has just testified, have you had occasion to negotiate with the Truelsen?

A I have.

Q And have you negotiated with all three of them, or any particular one?

A I talked with Mrs. Ryan in person, and I had correspondence with Mrs. Sanborn's husband.

Q You have been on the Truelsen land, of course?

A I have.

Q And what is the nature of the property which you propose to cross?

A It is woodland.

Q Have you bought considerable right of way in connection with this particular line?

A I have.

Q And as between Franklin, the starting point, and some point to the north, can you tell the Commission how much you have already bought?

A About thirty miles.

Q Up to the town of what?

A I am working in Campton and Thornton now.

Q Have you bought everything between Franklin and Ashland, with one or two exceptions?

A With the exception of this and Kelley's and the Federal Government. We haven't got the papers back from Washington yet; but that brings us right to the center of Ashland.

Q And approximately how many miles is that between Webster substation and Ashland?

A About twenty.

Q With the exception of these two cases which are here today, and whatever is owned by the Government, you bought everybody else's?

A That's right.

Q And in the course of purchasing rights of way, have you encountered land comparable to the Truelsen land?

A Yes I have.

Q On what basis have you purchased such land from other owners?

A We have been paying \$20 an acre and then paying for the timber and cordwood over and above that, and leaving the timber and cordwood for the owners after we get through cutting it.

Q And at what rate have you paid for the merchantable timber?

A \$15 a thousand, and \$2. a cord on the cordwood.

Q And did you make an offer to the Truelsen heirs for their property?

A I did.

Q And what was that offer?

A One and a half acres at \$20, is \$30; 2,000 ft. of timber at \$15 is \$30, 20 cords of wood at \$2 a cord is \$40; making a total of \$100.00.

Q And is that in line with what you paid others along the line?

A It is.

Q And have there been quite a number of other owners with similar property?

A The property north of the Truelsens' compares with it, all the way up to Ayer's Island.

Q When you made this offer to the Truelsen heirs, had you had an expert go in and make a careful survey of the timber?

A No.

Q You used your own judgment on that?

A That's right. Before we got through negotiating with them, we had an expert.

Q But the Company had always been ready, willing and able to pay the initial offer, the \$100.00?

A Yes sir.

Q And there has never been any counter offer of any kind with the Truelsens, has there?

A No sir. The reason we didn't use a timber man when we first started to negotiate with them was because it was such poor timber land, we didn't think it necessary. When we ran into trouble, we had two timber men look it over, to make sure we weren't paying them for less timber than was on there.

Q In the course of your experience in rights of way, you have acquired some knowledge in growing timber yourself, haven't you?

A A little.

MR. SODEN: I think that is all.

CHAIRMAN DAVISON: Any other questions of Mr. Sinville?

COMMISSIONER LARABA: Yes, I have one.

The property owners abutting the Truelsen property,

you negotiated with these figures, \$20 an acre for the land, \$15 for the merchantable timber, a thousand?

THE WITNESS: I did. The owners to the south of them, there was road frontage involved, when I crossed that piece of land, 309 feet, and we paid him \$100.00.

COMMISSIONER LARABA: And the abutter to the north?

THE WITNESS: The abutter to the north was the City of Franklin, and we bought that from the Mayor and Council; we went across there 1400 feet which is four acres of land, and we paid them \$176.00, that is \$44 per acre. The abutter to the north of that, we went across them 4336 feet, that is 12 acres, and we paid them \$800.00; very good hardwood in one section, most of it comparable with this piece of land, but the northerly part of it was better, a few acres. The owner to the north of that, Frank Prescott, we went across there 1778 feet. That was five acres. We paid him \$250.00. He owned both sides of the Daniel Webster Highway, but we didn't consider that particular spot building lots, so there wasn't any consideration.

COMMISSIONER LARABA: Thank you.

CHAIRMAN DAVISON: In your negotiations with the City of Franklin, who represented the city?

THE WITNESS: The Mayor and Council. Mr. Daniel was present as the City Solicitor.

CHAIRMAN DAVISON: Have you any other questions?

Thank you, Mr. Sinville.

(Witness excused.)

WALTER KOENIG, Sworn.

BY MR. SODEN:

Q Will you state your name, please?

A Walter Koenig, K-o-e-n-i-g.

Q And where do you live?

A Presently I live in Center Harbor, although I believe my legal residence is still in Boscawen where I've resided for the last four years.

Q What is your occupation?

A Forester.

Q Are you self-employed?

A Yes, I am self-employed.

Q Do you do business under any particular name?

A Name of New England Forest Industries, Inc.

Q Where is the principal place of business of that company?

A Concord; 3 North State Street.

Q And what is the nature of the business of the company?

A Consulting forestry.

Q Can you elaborate on it a little, tell us --

A Well, it includes appraisals, examinations, management plans, timber sales, timber cutting operations, handling selling of lumber for land owners, clients, private people.

Q When you spoke of timber sales, you act both as timber agent and sales for others?

A Yes.

Q Do you buy for others or buy it yourself?

A We don't buy timber as such; work only as agents.

Q When you said you operated, what did you mean by that?

A Of course, we have considerable acreage of our own.

When we operate as agent, we place crews upon the job and have the logs trucked and sawed and stacked and sold. We operate for them as their agent.

Q What has been your education in this field?

A I have a B.S. from Rutgers and a Master's from Duke, in forestry.

Q At both schools?

A Both schools.

Q And when did you graduate from Duke?

A In '49.

Q And how were you employed after your graduation?

A I was employed by the New England Forestry Foundation, 3 Joy Street in Boston, first as a resident forester, and the last two years with them as chief forester.

Q And that employment lasted how long?

A Three years, from February 13, '49, to February 13, '52.

Q And at that time you went into business for yourself?

A Yes; March 1, 1952.

Q And what was the nature of the business of your former employer?

A Consulting Forestry.

Q The same as you are doing now?

A Yes, on a different scale.

Q And when so employed, did you have occasion to get up into the forests of New Hampshire?

A Yes, I directed work of eight foresters in the State, and close to 40,000,000 ft. of timber cutting, during that time.

Q At some time were you retained by the Public Service Company of New Hampshire, to estimate the growth on some property in Franklin referred to as the Truelsen property?

A Yes, I visited it on February 19, '53.

Q And will you tell the Commission what your findings were?

A The tract in question contained approximately an acre and a half. Do you want my estimate of values?

Q Yes.

A A value of approximately \$5 an acre; 1,000 ft. of soft wood which is both white pine and hemlock, at \$10 a thousand; 750 ft. hardwood, possibly oak, a little red maple, low quality, not over--I think there might have been one tree went 16 foot, but most of it was 8-foot stuff, forked, valued at \$6.00; it would be, during an operation that would be the value of it, if an operator were operating through and purchased it on that basis, that is the best selling price. And 4-1/2 cords of wood at \$2 a cord, motly soft maple or red maple.

Q When you place a value of \$5 an acre on the land, what does that include?

A It includes the bare land itself, plus any growth which is below merchantable size or any growth which you can value. My estimate of it was that--well, it was mostly rocky

outcrop, and there was half an acre, site #2, just a medium growth, down in kind of a hollow; another acre was a rocky outcrop, site #3, growth approximately two percent on the volume in question.

Q These figures that you have given us, in your opinion are in line with the market value in this vicinity for that type?

A They are.

Q And in your opinion, then, the total value of what is being taken would add up to what?

A \$31.00.

MR. SODEN: I think that is all.

CHAIRMAN DAVISON: Are there any questions of Mr. Koenig

THE WITNESS: The low growth, incidentally, of 2%, indicates the type of soil. I took numerous borings and checked the number of stumps cut. Growth rate was almost negligible; 2% is typical of rocky outcrop area.

CHAIRMAN DAVISON: You would feel that an offer of \$100 was very reasonable?

THE WITNESS: Extremely; in fact, I wish they would come up my way.

CHAIRMAN DAVISON: Are there any other questions?

If not, thank you, Mr. Koenig.

(Witness excused.)

MR. SODEN: Except for the formal offer of all the exhibits, in evidence, that completes our case.

CHAIRMAN DAVISON: Since there is no objection to the exhibits as offered, we will mark them permanently, then, in the case and they will be admitted.

(Petitioner's Exhibits Nos. 1 to 5, inclusive, were received.)

CHAIRMAN DAVISON: Is there anything further to be said by anyone?

If not, the hearing is closed.

(The hearing was closed at 11:45 a.m.)

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