

ALABAMA POWER COMPANY,

Applicant,

v.

DR. MAX SCHNEIDER and ANN  
B. SCHNEIDER,

Defendants.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

CASE NO.

9782

JUDGMENT

On the 12th day of July, 1971, came into open court the applicant, Alabama Power Company, a corporation, by and through its attorneys, Mr. J. B. Blackburn and Messrs. Balch, Bingham, Baker, Hawthorne, & Williams and also comes the defendants, Dr. Max Schneider and Ann B. Schneider, by and through their attorneys, Messrs. Bailey and Taylor and Mr. Kenneth Cooper, on an appeal by the aforementioned applicant, Alabama Power Company, from the final order of condemnation entered in the Probate Court of Baldwin County, Alabama, on, to wit, January 21, 1971, relating to the lands as described in Par. 15 and 16 of Article Fourth of the application for an order of condemnation, as amended, filed in this cause by Alabama Power Company.

Thereupon said Alabama Power Company, by and through its said attorneys, and said Dr. Max Schneider and Ann B. Schneider, by and through their said attorney, stipulated and agreed in open court as follows: That Alabama Power Company is a corporation organized under the laws of Alabama with its principal place of business in Birmingham, Alabama; that said Alabama Power Company is a public utility with the right by its charter to manufacture, supply and sell to the public electric energy; that the rights and lands described in Par. 15 and 16 of Article Fourth of the application for condemnation heretofore filed in the Probate Court of Baldwin County, on, to wit, October 28, 1970, belong to the said Dr. Max Schneider and Ann B. Schneider and that such lands and rights necessarily are needed by the said Alabama Power Company for the purpose of constructing, operating and maintaining an electric transmission line and the right to acquire the rights to cut such encumbrances along and adjacent to the

line described in Par. 15 and 16 of Article Fourth and further the right and authority to place such guy wires in Parcel 16 only as are required. Said rights and land are acquired for the purposes of the supply and sale to the public of electric energy; and that the said Alabama Power Company has the right to condemn and acquire such lands for such purposes in this proceeding and that the only issue to be tried by this court is the just compensation and damages to which the said Dr. Max Schneider and Ann B. Schneider are entitled to receive as a result of such condemnation.

Thereupon, the court proceeded to hear the allegations of the application for condemnation, as amended, such amended application being incorporated herein and made a part hereof as if it was set out in full, and after hearing the allegations of such amended application, and all legal evidence offered by the parties concerning the same, the court concluded and is of the opinion that the applicant has the right and power to condemn the rights, ways and rights of way described in said amended application for the uses and purposes stated in such amended application insofar as same applies to the lands described in Par. 15 and 16 of Article Fourth thereof and is entitled to the relief prayed for therein;

THEREFORE, IT WAS AND IS NOW, premises considered, ORDERED, ADJUDGED and DECREED by this Court that such amended application of said Alabama Power Company for the rights, ways and rights of way described in Par. 15 and 16 of Article Fourth of said application, as amended, be and the same is hereby granted.

Thereupon the Court proceeded to have assessed by the jury the damages and compensation to which the said defendants are entitled for the condemnation of the rights, ways and rights of way which applicant proposes to take and condemn for the uses and purposes set out in its said amended application.

Thereupon, on the 12th day of July, 1971, came a jury of good and lawful citizens, to wit, C. M. Rogers, Sr. , foreman, and eleven others, who having been duly sworn and impaneled on the 12th day of July, 1971, according to law, upon their oath did say:

"We the Jury find for the Landowners and assess their damages at \$8,500.00.

C. M. Rogers, Sr.  
Foreman"

And it appearing to the Court that the damages and compensation so ascertained and assessed by the said jury for the said defendants as the owners of, or the owners of an interest in, the lands described in Par. 15 and 16 of Article Fourth of said application, as amended, together with all the cost of this cause, have been paid into court by the applicant, Alabama Power Company;

Now THEREFORE, premises considered, IT IS ORDERED, ADJUDGED and DECREED that Dr. Max Schneider and Ann B. Schneider are entitled to, and have had, their damages and compensation assessed at the sum of Eight Thousand Five Hundred and No/100 Dollars (\$8,500.00) for the rights, ways and rights of way as described in Par. 15 and 16 of Article Fourth of said application, as amended;

AND IT IS FURTHER ORDERED, ADJUDGED and DECREED by this Court that the rights, ways and rights of way which the applicant proposes to take and condemn as described in particular in Par. 15 and 16 of Article Fourth of said application, are condemned, granted and awarded to said applicant, Alabama Power Company, with the rights and for the uses and purposes set forth in said amended application, and that all rights, ways and rights of way prayed for in said application, as amended, which are now condemned, granted and awarded to the applicant, Alabama Power Company, in and by this decree be and the same are hereby granted to Alabama Power Company;

AND IT IS FURTHER ORDERED, ADJUDGED and DECREED by the Court that the applicant, Alabama Power Company, be and it is hereby granted the right to cut such timber and other growth along and adjacent to the south boundary line of the south half of southeast quarter ( $S \frac{1}{2}$  of  $SE \frac{1}{4}$ ) of Section 21, Township 6 south, Range 2 east, Baldwin County, Alabama, as may injure or endanger by falling or otherwise the towers, poles, wire lines and other appliances that are to be hereafter constructed

or placed on the following described right of way: To reach the point of beginning of said right of way, commence at the northeast corner of Section 27, Township 6 south, Range 2 east; thence run south along the east boundary line of said Section 27 a distance of 10.0 feet to a point; thence turn an angle to the right of 96 degrees 42 minutes and run north 82 degrees 43 minutes west a distance of 313.3 feet to a point; thence turn an angle to the left of 07 degrees 00 minutes and run north 89 degrees 43 minutes west a distance of 4918.4 feet to a point; thence turn an angle to the right of 00 degrees 50 minutes and run north 88 degrees 53 minutes west a distance of 34 feet to a point, such point being the point of beginning of the right of way herein described; therefrom, the strip of right of way lies 5 feet on each side of a center line and the continuations thereof which begins at such point of beginning and runs north 88 degrees 53 minutes west a distance of 412.2 feet to a point; thence turn an angle to the left of 01 degree 00 minutes and run north 89 degrees 53 minutes west a distance of 2227 feet to a point, such point being the point of ending of said right of way; and the right to cut such timber and other growth along and adjacent to the north boundary line of the north half of northwest quarter ( $N\frac{1}{2}$  of  $NW\frac{1}{4}$ ) of Section 28, Township 6 south, Range 2 east, Baldwin County, Alabama, as may injure or endanger by falling or otherwise the towers, poles, wire lines and other appliances that are to be hereafter constructed or placed on the following described right of way: To reach the point of beginning of said right of way, commence at the northeast corner of Section 27, Township 6 south, Range 2 east; thence run south along the east boundary line of said Section 27 a distance of 10.0 feet to a point; thence turn an angle to the right of 96 degrees 42 minutes and run north 82 degrees 43 minutes west a distance of 313.3 feet to a point; thence turn an angle to the left of 07 degrees 00 minutes and run north 89 degrees 43 minutes west a distance of 4918.4 feet to a point; thence turn an angle to the right of 00 degrees 50 minutes and run north 88 degrees 53 minutes west a distance of 446.2 feet; thence turn an angle to the left of 01 degree 00 minutes and run north 89 degrees 53 minutes west a distance of 2872.6

feet to a point; thence turn an angle to the left of 16 degrees 32 minutes and run south 73 degrees 35 minutes west a distance of 125 feet to a point, such point being the point of beginning of the right of way herein described; therefrom, the strip of right of way lies 5 feet on each side of a center line and the continuations thereof which begins at such point of beginning and runs south 73 degrees 35 minutes west a distance of 118.5 feet to a point, such point being Called Point A for reference hereinafter; thence turn an angle to the right of 16 degrees 39 minutes and run north 89 degrees 46 minutes west a distance of 1319.1 feet to a point, such point being called Point B for reference herein-after; thence turn an angle to the right of 11 degrees 09 minutes and run north 78 degrees 37 minutes west a distance of 186 feet to a point, such point being the point of ending of said right of way, and the right and authority to place such guy wires and anchors for a distance not to exceed 30 feet outside of and in a southerly direction from such ways and rights of way at Point A indicated above; also the right and authority to place such guy wires and anchors for a distance not to exceed 75 feet outside of and in a southerly direction from such ways and rights of way at Point B indicated above as may be necessary in the erection, construction or maintenance of said towers, poles, wire lines, and appliances of applicant; together with all the rights conferred by law and all the rights that are necessary, useful or convenient to the full enjoyment of said rights, ways and rights of way for such uses and purposes.

AND IT IS FURTHER, premises considered, ORDERED, ADJUDGED and DECREED by this Court that applicant be and it is hereby granted all the relief, rights, interests, easements and privileges set out, described and prayed for in said amended application with reference to the said described lands of the said defendants, Dr. Max Schneider and Ann B. Schneider.

IT IS FURTHER ORDERED, ADJUDGED and DECREED by this Court that the applicant, Alabama Power Company, and Trinity Universal Insurance Company are hereby released from any liability arising from the bond filed by applicant whereby applicant as principal and Trinity Universal

Insurance Company as surety have been held bound in double the amount of the probate court award and that the Clerk of the Court will invalidate said bonds;

IT IS FURTHER ORDERED, ADJUDGED and DECREED by this Court that applicant, Alabama Power Company, pay all costs accrued to date by reason of said appeal from the award entered for the rights described in Par. 15 and 16 of Article Fourth of said amended application for condemnation.

And it appearing to the Court that applicant, Alabama Power Company, has heretofore paid into the Probate Court of Baldwin County the sum of Three Thousand Eight Hundred and Fifty and No/100 Dollars (\$3,850.00) as the damages and compensation ascertained by said probate court to which the said Dr. Max Schneider and Ann B. Schneider were entitled to receive for the condemnation of the lands described in said Par. 15 and 16 of Article Fourth of said application for condemnation and that said sum has heretofore been forwarded to the Clerk of this Court by said probate court; and it further appearing that the said Alabama Power Company should and is hereby directed to pay into this Court the sum of Four Thousand Six Hundred Fifty and No/100 Dollars (\$4,650.00), together with all costs.

IT IS FURTHER ORDERED, ADJUDGED and DECREED by the Court that the Clerk of this Court pay over to the said Dr. Max Schneider and Ann B. Schneider the sum of Eight Thousand Five Hundred and No/100 Dollars (\$8,500.00) being paid in full satisfaction of the judgment hereby rendered.

Done in open court this 4th day of August , 1971.

Jeffair A. Maslowski  
Judge of the Circuit Court of  
Baldwin County, Alabama

**FILED**

AUG 4 1971

EUNICE B. BLACKMON CIRCUIT  
CLERK