

ALABAMA POWER COMPANY

X

IN THE PROBATE COURT OF

APPLICANT

X

VS

X

BALDWIN COUNTY, ALABAMA

TOM C. LAW, ET AL

X

DEFENDANTS

X

9784

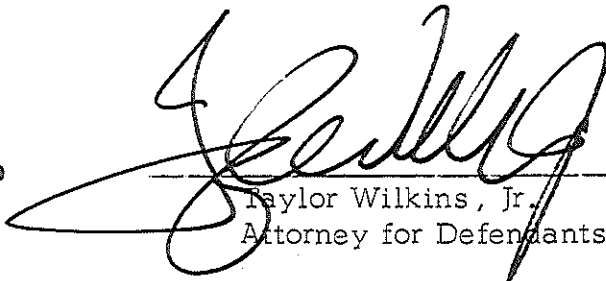
NOTICE OF APPEAL

Comes Alice M. Johnson, a widow, Individually and as Executrix of the Estate of Emery Johnson, deceased, Mildred Nix and husband, Ellis Nix, Lois Bankester and husband, Hancel Bankester, Helen Forssell and husband, James Forsell, Carl Emery Johnson and wife, Sharon Johnson, Defendants in the above entitled cause, and prays for and takes an appeal to the Circuit Court of Baldwin County, Alabama, from the order of condemnation entered in said cause on the 19th day of January, 1971, insofar as said order of condemnation relates to the lands described in Par. 15 and Par. 16.

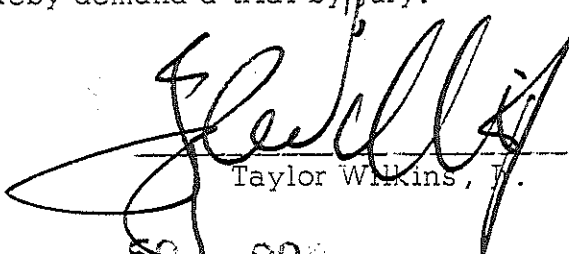
Alice M. Johnson, a widow, Individually and as Executrix of the Estate of Emery Johnson, deceased, Mildred Nix and husband, Ellis Nix, Lois Bankester and husband, Hancel Bankester, Helen Forssell and husband, James Forsell, Carl Emery Johnson and wife, Sharon Johnson, Defendants, do herewith file in the Court of Probate of Baldwin County, Alabama, the Court rendering such order of condemnation, this its written notice of said appeal.

This the 16 day of February, 1971.

STATE OF ALABAMA, PROBATE COURT
Filed Feb. 16, 1971
Recorded Minute Book 57, page 223
Harry O'Dell
Judge of Probate


Taylor Wilkins, Jr.
Attorney for Defendants

Defendants do hereby demand a trial by jury.


Taylor Wilkins, Jr.

ALABAMA POWER COMPANY, a
corporation,

Applicant

v.

TOM C. LAW, et al.,

Defendants

IN THE CIRCUIT COURT OF BALDWIN

COUNTY, ALABAMA, AT LAW

CASE NO.

MOTION TO DISMISS APPEAL

Comes Alabama Power Company, applicant in the above condemnation proceeding, and moves the Court to dismiss the appeal filed herein from the order of the Probate Court of Baldwin County, Alabama, entered in this cause, to-wit: the 21st day of January, 1971, relating to the lands and owners set forth in Par. 2 of Article Fourth of the application for condemnation in this cause, and as grounds for such motion shows unto the Court that no copy of the notice of appeal from said Probate Court order has been served on either the applicant, Alabama Power Company, or its attorneys, as required by law.


J. B. Blackburn
Attorney for Applicant,
Alabama Power Company

BALCH, BINGHAM, BAKER, HAWTHORNE & WILLIAMS


Attorneys for Applicant,
Alabama Power Company

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing pleading has been served upon each of the parties not in default for failure to appear and affected thereby in this proceeding by serving upon the attorney representing each party, and upon each party where not represented by attorney, by hand or by mailing the same to each by First Class, United States mail, postage prepaid, and addressed to them at their last known address or if no address is known, by leaving it with the Clerk of this Court on this the 5th day of April, 1971.

FILED

APR 5 1971

EUNICE B. BLACKMON
CIRCUIT CLERK

2 VOL

50 PAGE 302


Of Counsel for Applicant

ALABAMA POWER COMPANY,

Applicant,

v.

ALICE M. JOHNSON, a widow,
individually and as Executrix
of the Estate of Emery Johnson,
deceased, MILDRED NIX and
husband, ELLIS NIX, LOIS
BANKESTER and husband,
HANCEL BANKESTER, HELEN
FORSSELL and husband, JAMES
FORSSELL, CARL EMERY JOHNSON
and wife, SHARON JOHNSON,

Defendants.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

CASE NO. 9784

CONSENT JUDGMENT

On this day came into open court the applicant, Alabama Power Company, a corporation, by and through Mr. J. B. Blackburn and Messrs. Balch, Bingham, Baker, Hawthorne & Williams, its attorneys, and also came the defendants, Alice M. Johnson, a widow, individually and as Executrix of the Estate of Emery Johnson, deceased, Mildred Nix, Ellis Nix, Lois Bankester, Hancel Bankester, Helen Forssell, James Forssell, Carl Emery Johnson and Sharon Johnson, by and through Mr. Taylor D. Wilkins, Jr., their attorney;

And all said parties, appearing in open court, stated to the Court, that the defendants with the consent of the applicant had withdrawn their request and demand for a trial by jury and that said parties had entered into an agreement providing for the entering of a judgment of condemnation by the Court herein for the applicant, Alabama Power Company, granting to it all the relief, rights, interests, easements and privileges set out and described and prayed for in its application for condemnation, as amended, filed in the Probate Court of Baldwin County, Alabama, on to wit, October 28, 1970, and further providing for the payment to defendants of the sum of \$8,500.00 for the rights, ways and rights of way described in Par. 2 of Article Fourth of said application for condemnation, as amended, being the lands involved in this case on appeal.

IT IS, THEREFORE, premises considered, ORDERED, ADJUDGED and DECREED by this Court that said demand for jury trial be and the same is

withdrawn, and that the said agreement between the parties be and it is in all respects confirmed and approved by the Court.

And now comes the applicant, Alabama Power Company, and shows unto the Court that it has heretofore deposited with the Judge of Probate of Baldwin County, Alabama, the sum of \$7,040.00 in money pursuant to the decree of the Probate Court of Baldwin County, Alabama, rendered on, to wit, the 21st day of January, 1971, as damages and compensation for the condemnation of the lands and rights and easements described in Par. 2 of Article Fourth of said application for condemnation, as amended, and has upon the taking of an appeal to this Court, filed a bond in the amount of \$14,080.00 by which Alabama Power Company, as principal, and Trinity Universal Insurance Company, as surety, bound themselves unto defendants in the amount of such sum, being twice the amount of the award returned by the commissioners appointed in said proceeding in the Probate Court of Baldwin County, Alabama; and all the parties hereto show further unto the Court that they have entered into an agreement whereby such sum of \$7,040.00 so deposited in the Probate Court of Baldwin County, Alabama, together with the further sum of \$1,460.00 to be paid into court by applicant, be paid said defendants for the condemnation of the lands, rights, interests, and easements described in said Article Fourth of said application for condemnation, as amended, and more particularly in Par. 2 thereof;

NOW, THEREFORE, IT IS, premises considered, ORDERED, ADJUDGED and DECREED by this Court that the defendants have had the damages and compensation to which they are entitled assessed at \$8,500.00 and that the Clerk of this Court pay over to the defendants, Alice M. Johnson, a widow, individually and as Executrix of the Estate of Emery Johnson, deceased, Mildred Nix, Ellis Nix, Lois Bankester, Hancel Bankester, Helen Forssell, James Forssell, Carl Emery Johnson and Sharon Johnson the sum of \$8,500.00, which sum consists of the \$7,040.00 heretofore deposited by applicant, Alabama Power Company, with the Judge of Probate of Baldwin County, Alabama, and transferred by him to this Court when this case was appealed to this Court and further consists of the \$1,460.00 to be paid into court by the applicant.

And it further appearing to this Court that the applicant, Alabama Power Company, is entitled to have vested in it the lands, rights, interests and easements herein condemned for the uses and purposes described in said application for condemnation, as amended, filed in the Probate Court of Baldwin County, Alabama, on to wit, October 28, 1970, and that such application, as amended, should be granted.

IT IS, THEREFORE, premises considered, ORDERED, ADJUDGED and DECREED by this Court that the said application, as amended, of Alabama Power Company for the condemnation of the lands, and the rights, interests and easements therein, of the said Alice M. Johnson, a widow, individually and as Executrix of the Estate of Emery Johnson, deceased, Mildred Nix, Ellis Nix, Lois Bankester, Hancel Bankester, Helen Forssell, James Forssell, Carl Emery Johnson and Sharon Johnson described in Par. 2 of Article Fourth of such application for condemnation be and the same is hereby granted.

AND IT IS FURTHER ORDERED, ADJUDGED and DECREED by this Court that the lands, and the rights, interests and easements therein, of the said named defendants described in Par. 2 of Article Fourth of said application for condemnation, as amended, and the other rights, interests and easements sought to be condemned as described in such application relating to said lands described in Par. 2 of Article Fourth thereof be and are hereby condemned, granted and awarded to the applicant, Alabama Power Company, with the rights and for the uses and purposes as set forth in said application; and that to the extent sought by applicant in said application for condemnation, as amended, the right, title and interest of the said Alice M. Johnson, a widow, individually and as Executrix of the Estate of Emery Johnson, deceased, Mildred Nix, Ellis Nix, Lois Bankester, Hancel Bankester, Helen Forssell, James Forssell, Carl Emery Johnson and Sharon Johnson in the lands, interests, and easements described in Par. 2 of Article Fourth, together with all rights, interests and authority concerning the same as prayed for in said application, be and the same are hereby divested out of the said defendants and vested in the applicant, Alabama Power Company.

AND IT IS, premises considered, FURTHER ORDERED, ADJUDGED and DECREED by this Court that the applicant, Alabama Power Company, be

and it is hereby granted the right to construct, operate and maintain on, across and over the 60-foot strip of land described in Par.2 of Article Fourth of said amended application, such towers, poles, and wire lines and all appliances necessary, convenient and useful in connection therewith for the purposes described in said application, as amended, 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, including the right to clear and remove from said 60-foot right of way all timber and other growth thereon and to remove outside of said ways and rights of way all timber that may injure or endanger said towers, poles and wire lines, and other appliances necessary or useful in connection therewith by falling or otherwise.

AND IT IS, premises considered, FURTHER ORDERED, ADJUDGED AND DECREED that applicant, Alabama Power Company, be and it is hereby granted all the relief, rights, interests, title and privileges set out, described and prayed for in said application for condemnation, as amended, insofar as said application relates to the said Alice M. Johnson, a widow, individually and as Executrix of the Estate of Emery Johnson, deceased, Mildred Nix, Ellis Nix, Lois Bankester, Hancel Bankester, Helen Forssell, James Forssell, Carl Emery Johnson and Sharon Johnson and the lands described in Par. 2 of Article Fourth of said application;

AND IT IS FURTHER ORDERED, ADJUDGED AND DECREED by this Court that the applicant, Alabama Power Company, and the said Trinity Universal Insurance Company are hereby released from any liability arising from the said bond filed by applicant, whereby applicant, as principal, and Trinity Universal Insurance Company, as surety, have been bound in double the amount of the

probate court award and that the Clerk of this Court shall invalidate said bond;

AND IT IS, premises considered, FURTHER ORDERED, ADJUDGED AND DECREED by this Court that applicant be and it is hereby taxed with the costs incurred in this cause, for which let execution issue.

DONE IN OPEN COURT, this 12th day of July, 1971.

Julius J. Mansueti

Judge of the Circuit Court of Baldwin
County, Alabama