

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF AEP KENTUCKY)	
TRANSMISSION COMPANY, INC. FOR A)	
CERTIFICATE OF PUBLIC CONVENIENCE)	CASE NO.
AND NECESSITY PURSUANT TO KRS 278.020)	2011-00042
TO PROVIDE WHOLESALE TRANSMISSION)	
SERVICE IN THE COMMONWEALTH)	

O R D E R

Pending before the Commission is an application filed by AEP Kentucky Transmission Company, Inc. ("KY Transco"), pursuant to KRS 278.020(1), for the issuance of a Certificate of Public Convenience and Necessity ("CPCN") authorizing it to provide utility service to or for the public. KY Transco was organized in 2009 under the laws of Kentucky and is an indirect, wholly-owned subsidiary of American Electric Power Company, Inc. ("AEP"). KY Transco is an affiliate of Kentucky Power, which is also a wholly-owned subsidiary of AEP. Kentucky Power has, for many years, been engaged in the generation, transmission, and distribution of electricity to or for the public in Kentucky and it is a utility regulated by the Commission.

KY Transco is requesting authority to provide wholesale transmission service within the area of Eastern Kentucky where Kentucky Power now provides retail electric service to or for the public. However, KY Transco is not proposing at this time to acquire any of Kentucky Power's existing transmission facilities. Rather, KY Transco will, in the future, be responsible for constructing some, but not all, of the transmission facilities that would otherwise have been constructed by Kentucky Power. The criteria

to be used for determining whether a new transmission facility will be constructed by KY Transco or by Kentucky Power is set forth in a document titled "Project Selection Guideline." Until such time as KY Transco actually completes construction of some new transmission facility, it will not be able to provide any service to or for the public.

Based on an extensive review of the record in this case and being otherwise sufficiently advised, the Commission finds that additional information is needed to enable us to determine whether or not the KY Transco application is in the public interest and consistent with the provisions of KRS Chapter 278. KY Transco maintains that granting it a CPCN to be a utility, for the purpose of constructing the new transmission facilities that otherwise would be built by Kentucky Power, will not create an adverse impact on the credit quality or risk levels of Kentucky Power.¹ The Commission believes that a critical prerequisite for its issuance of the requested CPCN is being able to make a finding of no adverse impact on Kentucky Power's credit quality or risk levels.

However, KY Transco's evidence on this issue consists substantially of a report prepared by a consultant who was not presented as a witness and was not subject to cross-examination. Compounding this issue is the fact that KY Transco's consultant expressly recognized that her research showed there to be a minority view held by some investors that the transaction proposed in this case could actually result in a slight increase in risk to the AEP operating companies, one of which is Kentucky Power.² Consequently, the Commission finds that another hearing should be held to allow KY

¹ Post-Hearing Brief of KY Transco at 7.

² Julie M. Cannell, AEP Transco: The Investor's Perspective, 2010.

Transco an opportunity to present its consultant for the purpose of cross-examination. In addition, the Commission finds that KY Transco should file responses to the questions set forth in the Appendix to this Order related to the content of the consultant's report.

Further, although the record shows that AEP has formed seven wholly-owned transmission-only subsidiaries to operate in other states, the record before us does not show the extent to which the laws of those other states are similar to the laws of Kentucky. More specifically, the focus here is on two issues: (1) whether the laws of the other states require the newly-formed transmission-only subsidiaries to meet a statutory definition of "utility" that requires service to be provided "to or for the public," as a Kentucky regulated utility must do under KRS 278.010(3)(a); and (2) whether the jurisdictional authority of the regulatory agencies in those other states is statutorily limited to the "regulation of rates and service of utilities," as is this Commission's authority under KRS 278.040(2).

A third issue is the extent to which this Commission will have jurisdiction over KY Transco if it is issued a CPCN to provide utility service. Its post-hearing brief definitively states that its rates for transmission service are regulated exclusively by the Federal Energy Regulatory Commission ("FERC") and no rates will be in tariffs filed here. It is less clear whether the Kentucky Commission will have any jurisdiction over the service to be provided by KY Transco and, if we do, whether our jurisdiction is exclusive or concurrent with the FERC. KY Transco's post-hearing brief states that "KY Transco's service will be subject (if this application is granted) to the Commission's jurisdiction,"³

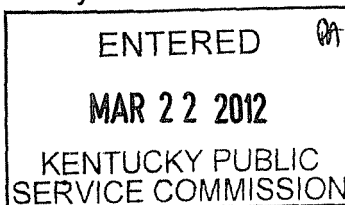
³ Post-Hearing Brief of KY Transco at 10.

and supports that statement by a footnote which cites to the October 19, 2011 Transcript of Record at 104-105. However, a review of those two pages indicates that while the witness initially stated that this Commission would have jurisdiction over service aspects of wholesale transmission, he subsequently seemed to clarify that his answer was in reference to intrastate service, and that he did not know whether this Commission would have jurisdiction over service of wholesale transmission in interstate commerce. Thus, KY Transco should file responses to the questions set forth in the Appendix related to these issues.

IT IS THEREFORE ORDERED that:

1. KY Transco shall file within 20 days of the date of this Order responses to the request for information attached hereto as an Appendix. The responses shall be filed in accordance with the provisions set out in the Commission's March 7, 2011 Order.
2. A hearing shall be scheduled at a later date.

By the Commission



ATTEST:


Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2011-00042 DATED MAR 22 2012

Question Nos. 1-12 relate to the report prepared by AEP Consultant Julie M. Cannell.

1. How many investors did Ms. Cannell interview for her report?
2. Explain in detail the criteria utilized by Ms. Cannell to select the investors that were interviewed for her report.
3. Did Ms. Cannell conduct an interview of each investor in person? If no, explain how each interview was conducted.
4. Was each investor asked the exact same question? If no, explain why different questions were asked of different investors.
5. Provide the approximate date that the first investor interview was conducted and the approximate date that the last investor interview was conducted.
6. How many credit rating agencies did Ms. Cannell interview for her report?
7. Explain in detail the criteria utilized by Ms. Cannell to select the credit rating agencies that were interviewed for her report.
8. Did Ms. Cannell conduct an interview of an employee of each credit rating agency in person? If no, explain how each interview was conducted.
9. Was each credit rating agency asked the exact same questions? If no, explain why different questions were asked of different credit rating agencies.
10. Provide the approximate date that the first credit rating agency interview was conducted and the approximate date that the last credit rating agency interview was conducted.
11. Are the conclusions set forth in Ms. Cannell's report based exclusively on the responses provided to her during her interviews of investors and credit rating agencies? If no, explain what other information and data were used by Ms. Cannell to reach the conclusions in her report?
12. Provide the date that Ms. Cannell was first contacted by AEP for purposes of discussing her interest in writing a report on investors' opinions of the AEP Transmission Company and the date on which she was hired by AEP to write her report.

Questions 13-14 relate to the Direct Testimony of Lisa M. Barton, page 4, lines 6-7, where Ms. Barton states that AEP transmission-only subsidiaries plan to do business in ten states including Kentucky.

13. For each state other than Kentucky where an AEP transmission-only subsidiary plans to do business, indicate whether the AEP transmission-only subsidiary will be regulated as an electric utility within that state.

14. For each state other than Kentucky where an AEP transmission-only subsidiary will be regulated as an electric utility, provide the following information.

- a. A copy of the applicable state statute that defines an electric utility.
- b. A copy of any written order, opinion, or letter of the state regulatory agency declaring the AEP transmission-only subsidiary to be an electric utility.
- c. A copy of the applicable state statute that defines the jurisdiction of the state regulatory agency.
- d. An explanation of the scope and extend of each state regulatory agency's jurisdiction over the rates and service of the AEP transmission-only subsidiary.

15. Will KY Transco be engaged exclusively in the transmission of electric energy in interstate commerce? If no, explain in detail the scope and extent of its business operations that will be other than the transmission of electric energy in interstate commerce.

16. Explain whether or not the service that is to be provided by Ky Transco will fall within the definition of "service" set forth in KRS 278.010(13).

17. If the service to be provided by KY Transco will be within the definition of "service" set forth in KRS 278.010(13), explain the basis for whether or not the service provided by KY Transco will be subject to this Commission's jurisdiction under each of the following statutes:

- a. KRS 278.040(2), relating to the regulation of service;
- b. KRS 278.225, relating to liability for unbilled service;
- c. KRS 278.260, relating to complaints as to service; and
- d. KRS 278.280, relating to Commission orders establishing just, reasonable, safe, proper, adequate, or sufficient service to be furnished by any utility subject to its jurisdiction.

18. For each statute listed in Item No. 17, if this Commission does have jurisdiction over the service provided by KY Transco, explain whether the jurisdiction is exclusive or concurrent with the FERC under each statute.

19. If the service to be provided by KY Transco will be within the definition of "service" set forth in KRS 278.010(13), explain the basis for whether or not the service provided by KY Transco will be subject to this Commission's jurisdiction under each of the following regulations:

- a. 807 KAR 5:006, Sections 3 and 4, relating to reports and service information;
- b. 807 KAR 5:006, Section 5, relating to special rules or requirements;
- c. 807 KAR 5:006, Section 6, relating to billings, meter readings and information;
- d. 807 KAR 5:006, Sections 7 and 8, relating to deposits and special charges;
- e. 807 KAR 5:006, Sections 9 and 10, relating to customer complaints and bill adjustments for fast or slow meters;
- f. 807 KAR 5:006, Section 12, relating to customer requests for termination of service;
- g. 807 KAR 5:006, Section 14, relating to refusal or termination of service;
- h. 807 KAR 5:006, Sections 16, 17, and 18, relating to meters;
- i. 807 KAR 5:006, Sections 20 and 21, relating to poles;
- j. 807 KAR 5:006, Sections 22 and 23, relating to maps and records;
- k. 807 KAR 5:006, Sections 24 and 25, relating to a safety program and inspection of systems;
- l. 807 KAR 5:006, Section 26, relating to reporting accidents;
- m. 807 KAR 5:011, relating to tariffs;
- n. 807 KAR 5:041, Sections 2 and 3, relating to general requirements and standards for construction and maintenance;

o. 807 KAR 5:041, Sections 5, 6, and 7, relating to continuity of service, voltage and frequency, and voltage records;

p. 807 KAR 5:041, Section 9, relating to measuring customer service;
and

q. 807 KAR 5:041, Sections 13, 15, and 17, relating to meter test equipment testing meters, and accuracy.

20. For each regulation listed in Item No. 19, if this Commission does have jurisdiction over the service provided by KY Transco, explain whether the jurisdiction is exclusive or concurrent with the FERC under each regulation.

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