

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF KENTUCKY POWER	)	
COMPANY FOR (1) A CERTIFICATE OF	)	
PUBLIC CONVENIENCE AND NECESSITY	)	
AUTHORIZING THE TRANSFER TO THE	)	
COMPANY OF AN UNDIVIDED FIFTY	)	
PERCENT INTEREST IN THE MITCHELL	)	
GENERATING STATION AND ASSOCIATED	)	CASE NO.
ASSETS; (2) APPROVAL OF THE	)	2012-00578
ASSUMPTION BY KENTUCKY POWER	)	
COMPANY OF CERTAIN LIABILITIES IN	)	
CONNECTION WITH THE TRANSFER OF THE	)	
MITCHELL GENERATING STATION; (3)	)	
DECLARATORY RULINGS; (4) DEFERRAL OF	)	
COSTS INCURRED IN CONNECTION WITH	)	
THE COMPANY'S EFFORTS TO MEET	)	
FEDERAL CLEAN AIR ACT AND RELATED	)	
REQUIREMENTS; AND (5) ALL OTHER	)	
REQUIRED APPROVALS AND RELIEF	)	

ORDER

The matter is before the Commission upon a petition for full intervention filed by John A. Osborne, County Judge Executive, by and through the Lawrence County Fiscal Court, Lawrence County, Kentucky ("Petitioner" or "Lawrence County"). The petition, filed by the Lawrence County Attorney, states that Petitioner is seeking to intervene in the instant matter to ensure that Kentucky Power Company's ("Kentucky Power") proposal to acquire the Mitchell Generating Station "represents the best option to satisfy low cost energy service."<sup>1</sup> Petitioner notes that it has many years of knowledge and experience which would impact Kentucky Power's proposal herein. Petitioner points out

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<sup>1</sup> Lawrence County Kentucky's Motion to Intervene, p. 1.

that Kentucky Power has been an integral part of its community and has employed hundreds of local citizens over the past 50 years. According to Petitioner, Kentucky Power's proposal would be devastating to the local economy as

families are forced to sell their properties and move elsewhere to establish new lives and jobs. This would also disrupt the lives of their children who attend Lawrence County schools, or other schools nearby to the Big Sandy Plant. Additionally, many truck drivers who make their living hauling coal will suddenly come to an abrupt halt.

Lastly, as families are forced to move away from Lawrence County, local businesses would suffer as well, such as restaurants, grocery stores, auto shops, to name a few.<sup>2</sup>

Lastly, Petitioner contends that it is uniquely situated to provide useful information to the Commission and that its interests are not adequately represented by any other party to this proceeding.

On June 17, 2013, Kentucky Power filed a response to Lawrence County's request to intervene. Kentucky Power recognizes the many contributions made to the company by the residents of Lawrence County over the years and that it has the utmost respect for the county, its elected officials, and residents. Nonetheless, Kentucky Power objects to Lawrence County's request to intervene, arguing that the motion was not timely filed. Kentucky Power asserts that the motion was filed five and a half months after its application was filed, after extensive discovery had been completed pursuant to the procedural schedule, and even after the dates for the evidentiary hearing had been scheduled. Kentucky Power also contends that Lawrence County has not identified any relevant special interest in this proceeding that is not already otherwise represented by another party. Moreover, Kentucky Power argues that

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<sup>2</sup> *Id.*

Lawrence County has not established that its intervention would present issues or develop facts that would assist the commission in fully considering the instant matter. If granted, Kentucky Power contends that Lawrence County's intervention would only cause undue complications and disruption of the proceedings, noting that adding a new party to the case, one whose interests are already represented, at this late stage would only serve to complicate the proceeding by untimely injecting issues not relevant to the Commission's consideration in determining the merits of Kentucky Power's application.

Having reviewed the pleadings and being otherwise sufficiently advised, the Commission finds that Lawrence County's request for intervention is not timely filed. Our regulation governing the intervention process, 807 KAR 5:001, Section 4(11), directs that an intervention request must be timely filed. We note that the instant application was filed on December 19, 2013 and that, pursuant to the procedural schedule established for this case, the various deadlines for conducting discovery and the filing of intervenor testimony and rebuttal testimony have passed. We further note that the formal evidentiary hearing for this matter was initially scheduled to commence on May 29, 2013<sup>3</sup> – which was prior to the date upon which Lawrence County submitted its petition to intervene on June 7, 2013. Although we acknowledge and appreciate Lawrence County's efforts to focus on the significant economic impact that could result from Kentucky Power's decision relating to the disposition of its Big Sandy generating plant, we nonetheless find that, at this late stage in the proceedings, Lawrence County's intervention would not likely present issues or develop facts that would assist the

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<sup>3</sup> Pursuant to our Order of May 28, 2013, the May 29, 2013 formal evidentiary hearing was continued until July 10, 2013. The May 29, 2013 hearing commenced solely for the taking of public comments.

Commission in fully considering the mater without unduly complicating or disrupting the proceedings.

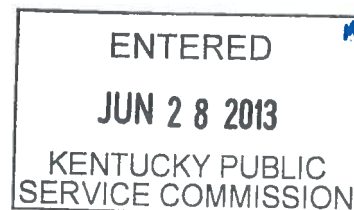
Petitioner will have ample opportunity to participate in this proceeding even though it is not granted intervenor status. Petitioner can review all documents filed in this case and monitor the proceedings via the Commission's website at the following web address:

<http://psc.ky.gov/Home/Library?type=Cases&folder=2012 cases/2012-00578>.

Petitioner may also file comments as frequently as it chooses, and those comments will be entered into the record of this case. Finally, the Commission will provide an opportunity, at the beginning of the evidentiary hearing, which resumes at 10:00 a.m Eastern Daylight Time, on July 10, 2013, at our offices in Frankfort, Kentucky, for the Petitioner and any other interested persons to make statements and present information for the Commission's consideration in this matter.

IT IS THEREFORE ORDERED that Petitioner's request for intervention is denied.

By the Commission



ATTEST:

  
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Executive Director

Case No. 2012-00578

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