COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

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In the Matter of

POWER DEVELOPMENT SYSTEMS, INC. COMPLAINANT	)	
VS.	)	CASE NO. 9456
KENTUCKY UTILITIES COMPANY DEFENDANT	)	

O R D E R

On October 24, 1985, Power Development Systems, Inc. ("Power Systems") filed a complaint with the Public Service Commission ("Commission") against Kentucky Utilities Company ("KU"). Power Systems alleges that KU is violating Federal Energy Regulatory Commission Rule No. 69, Sections 292.304 and 292.305, in not providing Weisenberger Mill the option of selling either all of its power to KU or selling power on an "as available" basis to KU. Furthermore Power Systems alleges that KU's time of day metering requirement is unreasonable and would make the project economically unfeasible.

On November 12, 1985, the Commission ordered KU to satisfy or answer Power Systems' complaint. On November 25, 1985, KU responded. First, KU contended that Power Systems lacks the standing to file and maintain a complaint. Second, KU denied the allegation that the owner would be required "to 'sell' all of the output from the project to KU" and that the "use of a time-of-day

meter for a facility under 100 KW is unreasonable."[1] Third, KU contended that its,

> . . .proposed method of pricing its service to this customer, set out in the Contract proposed by KU to the customer, is the method, of establishing such sound and lawful price, which will be the most economical to the customer, the Company, and all other customers.[2]

On December 23, 1985, the Commission staff, KU and Power Systems held an "informal conference" in an effort to clarify whether "Mr. Weisenberger must sell all of his power to KU or whether he can use the power he produces for his own use."[3] The parties were unable to reach an agreement on the clarification of this issue.

Under KRS 278.260, any person directly interested in the rates or service of any utility may file a complaint with the Commission. Thus, the statute does not require that complaints be made only by customers. Power Systems' interest in furthering the Weisenberger Mill project is sufficiently direct to permit its complaint under KRS 278.260. However, even if its interest were not so direct, the Commission could investigate this matter on its own motion. Therefore, the Commission will proceed to the merits of the complaint.

The Commission is of the opinion and finds that Power Sytems and KU are at an impasse in their contract negotiations

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1 KU's Answer to Complaint, page 2.

2 Ibid., page 6.

3 Power Development Systems' Request for Clarification.

for interconnection. The Commission is concerned that the proposed contract may not meet requirements under 807 KAR 5:054, Section 7(1)(a), Section 7(3), Section 6(5) and Section 6(6)(a)(b). Accordingly, the Commission will require KU to prefile testimony addressing these concerns by the close of business on March 20, 1986. Furthermore, the Commission will schedule a public hearing in this matter on March 26, 1986, at 9:00 a.m., Eastern Standard Time, in the Commission's offices, Frankfort, Kentucky.

IT IS THEREFORE ORDERED that KU shall file testimony on or before March 20, 1986.

IT IS FURTHER ORDERED that a hearing be and it hereby is scheduled on March 26, 1986, at 9:00 a.m., Eastern Standard Time, in the Commission's offices at Frankfort, Kentucky, for the purposes of cross-examining witnesses in this matter.

Done at Frankfort, Kentucky, this 27th day of February, 1986.

PUBLIC SERVICE COMMISSION

For the Commission

ATTEST:

Secretary