

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN INVESTIGATION OF EAST KENTUCKY)	
POWER COOPERATIVE, INC.'S NEED)	
FOR THE GILBERT UNIT AND THE)	CASE NO. 2003-00030
KENTUCKY PIONEER ENERGY, LLC)	
PURCHASE POWER AGREEMENT)	
THE APPLICATION OF EAST KENTUCKY)	
POWER COOPERATIVE, INC. FOR)	CASE NO. 2000-00079
APPROVAL TO PURCHASE POWER)	
AGREEMENT)	

O R D E R

On February 5, 2004, the Commission conducted an evidentiary hearing as part of its investigation of whether East Kentucky Power Cooperative, Inc. ("East Kentucky") still has a need for a 20-year contract to purchase 540 MW of power (less 100 MW sold off-system) from the Kentucky Pioneer Energy project ("Pioneer Energy") and whether Pioneer Energy is commercially feasible. That purchase power contract, dated January 14, 1999, was previously approved by the Commission on July 11, 2000 in Case No. 2000-00079, based on a finding that the power was needed to meet East Kentucky's base load needs. However, East Kentucky subsequently requested and received Commission approval to construct an alternative source of supply, the 268 MW Gilbert Generating Unit, because Pioneer Energy had not achieved financing and could not be relied upon to meet East Kentucky's needs.

Thus, the finding of need supporting the Commission's approval of the Pioneer Energy contract is no longer valid and the Commission recognized this in its June 13, 2003 Order. However, East Kentucky asserts that, if Pioneer Energy is constructed, it could displace combustion turbines planned in the 2006-2009 time frame. East Kentucky also asserts that Pioneer Energy must obtain financing to render the terms of the purchase power contract enforceable and that any contract amendment would be subject to Commission approval. Pioneer Energy maintains that the purchase power contract is still valid, but needs some minor modifications to reflect the project delays.

In addition to the issue of the validity of the purchase power contract, other major issues were raised during the hearing, including: (1) whether the Clark County Local Planning Commission will grant the necessary rezoning for Pioneer Energy; (2) whether East Kentucky's current reassessment of its need for additional base load generation will advance that need from 2011 to 2009; (3) the need to revise the Pioneer Energy purchase power contract to reflect the delay in achieving financing, to include definitive dates for financing and commercial operation, and to adequately protect East Kentucky against any financial losses; and (4) the need for Pioneer Energy to obtain a water withdrawal permit from the Commonwealth of Kentucky and a timeline to obtain one.

In recognition that the pricing under the Pioneer Energy contract is very favorable compared to other base load generating options, the Commission ruled at the conclusion of the hearing that this case should be held in abeyance until June 1, 2004. This delay will provide a window of opportunity for East Kentucky to reassess the timing of its need for new base load generation and renegotiate its purchase power contract, while Pioneer Energy obtains the requisite zoning approval and water withdrawal

permit. In the event that East Kentucky and Pioneer Energy are successful in reaching closure on these issues, a further hearing will be scheduled to afford all parties an opportunity to review the results.

IT IS THEREFORE ORDERED that this case shall be held in abeyance until June 1, 2004, and that on that date East Kentucky and Pioneer Energy shall jointly or separately file a report on the resolution of the issues discussed in the findings above.

Done at Frankfort, Kentucky, this 13th day of February, 2004.

By the Commission

ATTEST:


Executive Director

Case No. 2003-00030
Case No. 2000-00079