

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

A REVIEW OF THE ADEQUACY OF	)	
KENTUCKY'S GENERATION CAPACITY	)	ADMINISTRATIVE
AND TRANSMISSION SYSTEM	)	CASE NO. 387

O R D E R

On April 19, 2004, Kentucky Power Company d/b/a American Electric Power Company ("Kentucky Power") filed a request for clarification or, in the alternative, rehearing, of the Commission's March 29, 2004 Interim Order. Kentucky Power's request concerns the discussion in the Interim Order of certain contracts under which it purchases power from the American Electric Power ("AEP") affiliate-owned Rockport Generating Station ("Rockport Agreements") in Rockport, Indiana.

In its Interim Order, the Commission noted that multi-year extensions of the Rockport Agreements, currently set to expire on December 31, 2004, had been approved in Case No. 2002-00039,<sup>1</sup> in conjunction with our approval of AEP's corporate restructuring plan. The Commission indicated that the approved extension would

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<sup>1</sup> Case No. 2002-00039, Joint Application of Kentucky Power Company d/b/a American Electric Power, American Electric Power Company, Inc. and Central and South West Corporation for (1) Approval of the Changes to the System Sales Clause Tariff; (2) Entry of Certain Findings Pursuant to 15 U.S.C. 97Z; (3) Entry of Certain Findings Pursuant to 17 C.F.R. 200.53; (4) the Entry of an Order Declaring that the Transfer of the Stock of Kentucky Power Company from American Electric Power Company, Inc. to Its Wholly Owned Subsidiary, Central and South West Corporation May be Consummated Without Approval by the Commission; or, Alternatively, Approving the Transfer Pursuant to KRS 278.020(4) and KRS 278.020(5) for Related Relief.

maintain Kentucky Power's generating capacity at its existing level for the next several years. However, the Interim Order also noted that, in February 2003, Kentucky Power had informed the Commission that it would not extend the Rockport Agreements due to AEP's decision to forego its corporate restructuring plan. The Interim Order contained a finding that an extension of the Rockport Agreements was in the best interest of Kentucky Power and its ratepayers. The Commission further found that, absent evidence that the Rockport Agreements were detrimental to ratepayers, Kentucky Power should take the necessary steps to secure their extension. As Kentucky Power correctly points out, the Interim Order contained no ordering paragraph relating to extending the Rockport Agreements, only findings of fact.

In its December 20, 2001 Order in this case and, to a lesser extent, in the final Order in Case No. 2002-00039, the Commission expressed its concern that Kentucky Power's possible reliance on a volatile wholesale market was not in the best interests of Kentucky consumers. In the December 20, 2001 Order, referring to the actions of the Ohio affiliates of Kentucky Power and The Union Light, Heat and Power Company, the Commission clearly explained its concern that Kentucky ratepayers were at risk of paying higher electric rates as a result of the Federal Energy Regulatory Commission's ("FERC") Order 888, which authorized market-based wholesale power rates, and also as a result of electric industry restructuring that had occurred in Ohio. The Commission stated that it considered the issue of appropriate generation planning to be of utmost importance because of a concern that wholesale market prices for power could far exceed cost-based prices. Finally, the Commission stated that it had intervened at FERC to support AEP's then pending corporate restructuring case and to assert that the

Rockport Agreements should be extended beyond 2004, and that negotiations on the contract extensions were ongoing.

The contract negotiations resulted in extensions of the Rockport Agreements. The Commission then approved the contract extensions, along with the AEP corporate restructuring. In February 2003, AEP stated that it would not proceed with its corporate restructuring and, as a consequence, it would not extend the Rockport Agreements. The Interim Order, which is the subject of Kentucky Power's request for clarification, presented the Commission with its first opportunity, following AEP's notice that the Rockport Agreements would not be extended, to formally reiterate its concerns.

The Commission recognizes that it has no jurisdiction over the owners of the Rockport Generating Station, the operation of the AEP-East power pool agreement or, for that matter, over the Rockport Agreements. The Commission's statement in the Interim Order was not intended, and should not be construed, as requiring Kentucky Power to unilaterally extend the Rockport Agreements. However, based on the reasons noted above, as stated in the March 29, 2004 Interim Order, the Commission believes that Kentucky Power should continue to seek an extension of the Rockport Agreements.

IT IS THEREFORE ORDERED that the March 29, 2004 Interim Order is clarified as set forth in the findings above.

Done at Frankfort, Kentucky, this 10<sup>th</sup> day of May, 2004.

By the Commission

ATTEST:

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke at the bottom.

Executive Director