

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF EAST KENTUCKY POWER)	
COOPERATIVE, INC. FOR A CERTIFICATE OF)	
PUBLIC CONVENIENCE AND NECESSITY, AND A)	CASE NO.
SITE COMPATIBILITY CERTIFICATE, FOR THE)	2004-00423
CONSTRUCTION OF A 278 MW (NOMINAL))	
CIRCULATING FLUIDIZED BED COAL FIRED UNIT)	
IN MASON COUNTY, KENTUCKY)	

O R D E R

On January 14, 2005, EnviroPower, LLC (“EnviroPower”) filed a motion requesting full intervention in this case. EnviroPower states that it is the sole owner of Kentucky Mountain Power, LLC, a Kentucky limited liability company that holds a number of permits that authorize it to construct a coal-fired generating plant in Knott County, Kentucky. EnviroPower alleges that it submitted a bid to sell power to East Kentucky Power Cooperative, Inc. (“East Kentucky Power”), but its bid was not selected. The successful bid was one submitted by East Kentucky Power to self-construct the generation for which it is now requesting a Certificate of Public Convenience and Necessity.

The motion to intervene is supported by an affidavit from Randall Alan Bird, Vice President of EnviroPower. The Bird affidavit alleges that the procedures utilized by East Kentucky Power for receiving and then evaluating power supply bids were not transparent and may have been less than objective to achieve a preordained outcome.

East Kentucky Power filed an objection to EnviroPower's motion on the grounds that it is untimely, an attempt to present information that will unduly disrupt and complicate the case, and an effort to obtain confidential information not otherwise available to a bidder. East Kentucky Power states that the Bird affidavit contains "erroneous, disparaging and unsupported allegations" and that it is motivated by "self-interest as a rejected bidder." On January 31, 2005, EnviroPower filed a lengthy response addressing each of the issues raised by East Kentucky Power's objection.

Based on the motion and being otherwise sufficiently advised, the Commission finds that the allegations set forth in the Bird affidavit raise serious questions about East Kentucky Power's bidding procedures and whether it selected the most reasonable power supply option. By separate Order issued today, the Commission is commencing an investigation of this issue. We anticipate that additional information and comments will be solicited from and provided by EnviroPower during the course of that investigation. However, while we find that EnviroPower should be afforded an opportunity to monitor this investigation and submit further information and comment, we are unable to find at this time that EnviroPower has a special interest sufficient to justify granting intervention.

EnviroPower is not a customer of East Kentucky Power, but is an unsuccessful bidder in a competitive power solicitation. To the extent that EnviroPower seeks assurance that its bid was properly evaluated, its interests coincide with those of East Kentucky Power's ratepayers. However, EnviroPower clearly has a pecuniary interest to challenge any bid evaluation process that results in the rejection of its bid and that interest does not coincide with the interests of ratepayers. Under these circumstances,

the Commission finds that EnviroPower's request for full intervention should be denied, but its name should be included on the service list to facilitate its ability to submit information and comments as the investigation of East Kentucky Power's bid evaluation proceeds.

IT IS THEREFORE ORDERED that the motion of EnviroPower for full intervention is denied, but its name shall be included on the service list for the limited purpose discussed in the findings above.

Done at Frankfort, Kentucky, this 3rd day of February, 2005.

By the Commission

ATTEST:



Executive Director