

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)
SITE COMPATIBILITY CERTIFICATE, FOR THE) CASE NO. 2004-00423
CONSTRUCTION OF A 278 MW (NOMINAL))
CIRCULATING FLUIDIZED BED COAL FIRED UNIT)
IN MASON COUNTY, KENTUCKY)

O R D E R

On March 3, 2005, EnviroPower, LLC ("EnviroPower") filed a petition to protect as confidential certain information contained in the tendered prepared testimony and accompanying exhibits of Frank L. Rotondi, President and CEO of EnviroPower. The Commission subsequently notified EnviroPower by letter dated April 11, 2005 that its petition for confidentiality had been denied because the petition did not explain why the designated information should be kept confidential.

EnviroPower subsequently filed an action for review with the Franklin Circuit Court challenging two decisions by the Commission, one of which was the denial of EnviroPower's request for confidential protection. The Commission responded to this challenge by advising the Court that confidential protection is typically granted for the type of information filed by EnviroPower and that, upon the filing of a proper petition, confidential protection would be granted by the Commission. The Court then concluded that the information designated as confidential by EnviroPower was within the category protected by KRS 61.878(1)(c)1, and a temporary injunction was issued requiring the

Commission to grant confidential protection to the information designated by EnviroPower. See EnviroPower v. Public Service Commission, 05-CI-00553, slip op. (Franklin Cir. Ct., May 6, 2005).

Based on the Order of the Franklin Circuit Court and being otherwise sufficiently advised, the Commission grants confidential protection to the information designated as confidential by EnviroPower in its filing with the Commission on March 3, 2005.

Done at Frankfort, Kentucky, this 11th day of May, 2005.

By the Commission

ATTEST:


Executive Director