

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 May 12, 2005, East Kentucky Power Cooperative, Inc. ("East Kentucky Power") filed a letter with the Commission requesting that the hearing scheduled on June 13, 2005 be advanced to an earlier date if possible. The letter states that the hearing in this case was originally scheduled on February 18, 2005, but due to circumstances beyond the Commission's control, the hearing has already been postponed twice. East Kentucky Power cites its contractual obligation to have a sufficient power supply by April 1, 2008 to meet the needs of Warren Rural Electric Cooperative Corporation, and states that these delays have challenged its ability to meet that schedule and will certainly result in increased costs.

Based on the letter and being otherwise sufficiently advised, the Commission finds that the February 18, 2005 hearing was postponed in response to certain allegations that the procedures utilized by East Kentucky Power for receiving and evaluating power supply bids were not transparent and may have been less than objective to achieve a preordained outcome. The Commission cancelled the hearing to

afford additional time to conduct a thorough investigation of East Kentucky Power's bidding procedures and evaluation process. Based on the additional evidence subsequently entered into the record, the Commission determined to reschedule the hearing to allow cross-examination of all the evidence. The hearing was subsequently rescheduled to April 20, 2005, but was cancelled when the Franklin Circuit Court issued a temporary restraining order on April 19, 2005 preventing the Commission from holding the scheduled hearing. The restraining order was entered upon the request of EnviroPower, LLC ("EnviroPower"), an unsuccessful bidder in East Kentucky Power's power solicitation, who had sought and been denied intervention in this case.

The Franklin Circuit Court subsequently dissolved its restraining order and refused to grant a temporary injunction to prohibit the Commission from proceeding with its hearing. However, EnviroPower's challenge to the denial of its intervention is still pending in the Franklin Circuit Court and EnviroPower has also filed a motion for interlocutory relief with the Kentucky Court of Appeals. Although East Kentucky Power now requests to advance the hearing to avoid increasing costs associated with its power supply alternative, the record contains no quantification of the increased costs that will be incurred if the hearing is not advanced. Considering all of these circumstances, the Commission finds that the request to advance the hearing should be denied.

IT IS THEREFORE ORDERED that East Kentucky Power's request to advance the hearing scheduled on June 13, 2005 is denied.

Done at Frankfort, Kentucky, this 18<sup>th</sup> day of May, 2005.

By the Commission

ATTEST:

A handwritten signature in black ink, consisting of several overlapping loops and flourishes, positioned above a horizontal line.

Executive Director

Case No. 2004-00423