

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 June 3, 2005, the Commission received a letter, which will be treated as a motion, requesting full intervention on behalf of Joey Roberts and Hugh Hendrick, two members of Warren Rural Electric Cooperative Corporation ("Warren RECC"). In their motion they state that, since Warren RECC currently does not operate under the jurisdiction of the Commission, there has been no opportunity for public involvement or review of its decision to terminate its power supply contract with the Tennessee Valley Authority ("TVA") and enter into a new power supply contract with East Kentucky Power Cooperative, Inc. ("East Kentucky Power"). They further state that the Commission should fully review all rate analyses and projections relied upon by Warren RECC to support its decision to purchase power from East Kentucky Power. They claim that absent such a review, the Commission cannot determine whether the public convenience and necessity require East Kentucky Power to construct a new electric generating facility and transmission line to serve Warren RECC.

On June 8, 2005, East Kentucky Power filed a response in opposition to the motion for intervention. East Kentucky Power states that the interests of Mr. Roberts and Mr. Hendrick are the same as the general interest of all ratepayers of Warren RECC, and are not sufficient to justify intervention in a proceeding for authority to construct facilities. East Kentucky Power also objects on the basis that the rate effects to Warren RECC and its ratepayers are not relevant in this proceeding, which is limited to the issue of whether East Kentucky Power has a need for new generating facilities to serve Warren RECC and whether the proposed facilities will result in wasteful duplication. The need, asserts East Kentucky Power, is evidenced by the binding power supply contract entered into with Warren RECC. Finally, East Kentucky Power claims that allowing intervention at this time in the proceeding would unduly disrupt and complicate the case.

Based on the motion and being otherwise sufficiently advised, the Commission finds that Warren RECC currently purchases its electric power supply from TVA and, as a consequence, Warren RECC's rates are subject to the exclusive jurisdiction of the TVA, not this Commission. Thus, until such time as Warren RECC ceases to be subject to TVA's jurisdiction, we have no authority to determine the reasonableness of decisions by Warren RECC regarding its future source of electric power.

The issues before the Commission in this case are whether East Kentucky Power has a need for additional generating capacity, whether it properly solicited and evaluated power supply bids, and whether its proposed construction of a new generating facility at the Spurlock Station will result in duplication of facilities. Warren RECC has entered into a Special Membership Agreement with East Kentucky Power,

as well as a Wholesale Power Contract with East Kentucky Power. Under the terms of those agreements, Warren RECC has agreed to purchase all of its electric power requirements from East Kentucky Power, and East Kentucky Power has agreed to sell to Warren RECC all of its electric power requirements. Since East Kentucky Power is the only party to those contracts that is subject to the Commission's jurisdiction, the issues in this case must of necessity be limited to whether it is necessary and reasonable for East Kentucky Power to supply power, not whether it is reasonable for Warren RECC to purchase that power.

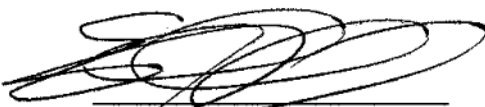
The Commission is not unsympathetic to the concerns raised in the motion regarding Warren RECC's decision to become a member of, and purchase its full requirements from, East Kentucky Power. However, in the absence of any jurisdiction over Warren RECC, the Commission cannot in this case consider the issues raised in the motion and, therefore, must deny the request for intervention. Members of the public will be afforded an opportunity to present public comment at the commencement of the April 13, 2005 hearing. In the event that the movants desire to present public comment at the hearing, they will be afforded an opportunity to do so. In addition, they may file written comments with the Commission.

IT IS THEREFORE ORDERED that Joey Roberts's and Hugh Hendrick's motion for full intervention is denied.

Done at Frankfort, Kentucky, this 10th day of June, 2005.

By the Commission

ATTEST:

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke at the end, positioned above a solid horizontal line.

Executive Director