

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF LOUISVILLE GAS)	
AND ELECTRIC COMPANY AND KENTUCKY)	
UTILITIES COMPANY TO TRANSFER)	CASE NO. 2005-00471
FUNCTIONAL CONTROL OF THEIR)	
TRANSMISSION FACILITIES)	

O R D E R

On December 1, 2005, the Midwest Independent Transmission System Operator, Inc. ("MISO") moved for full intervention in this case. On June 19, 2006, MISO renewed that motion in response to an amended application filed by Louisville Gas and Electric Company and Kentucky Utilities Company (jointly "Applicants"). On June 21, 2006, Applicants filed a response to the renewed motion, opposing the intervention. On June 26, 2006, MISO replied to that filing.

In this case Applicants seek permission to transfer certain transmission functions to the Tennessee Valley Authority ("TVA") and the Southwest Power Pool, Inc. ("SPP"). The Commission finds that MISO should not be allowed to intervene. All of the issues MISO seeks to raise here have either already been considered in Case No. 2003-00266¹ ("Withdrawal Case") or are beyond the jurisdictional reach of this Commission. The original and renewed motions to intervene will therefore be denied.

¹ Case No. 2003-00266, Investigation Into the Membership of Louisville Gas and Electric Company and Kentucky Utilities Company in the Midwest Independent Transmission System Operator, Inc. MISO is a party in that case.

In the Order in the Withdrawal Case, this Commission fully considered the benefits and costs of Applicants' withdrawal from MISO membership and further took into account the Applicants' alternative to delegate certain services under a proposed Transmission Owner Reliability Coordination option. Based on the full record in the Withdrawal Case, the Commission authorized the Applicants to exit MISO. MISO's request to determine whether "the arrangements with TVA and SPP [are] . . . superior and without detrimental effect relative to continued membership in [MISO]"² is therefore simply an effort to relitigate those same questions in this docket. Because the Commission has already authorized the Applicants to withdraw from MISO, the issues here are limited to whether the Applicants should be allowed to transfer functional control of their transmission facilities to third parties, namely TVA and SPP, and not whether those facilities should be reacquired from MISO. Thus, MISO cannot show an interest in the issue of whether we should authorize the transfers to third parties. Hence, MISO's request that the Commission consider whether the "transfer of control of utility assets . . . 'is for a proper purpose and is consistent with the public interest'"³ is duplicative of issues already decided in the Withdrawal Case.

MISO also argues that it has an interest in the question of whether the Applicants are transferring functional control of any jurisdictional assets. This issue is one that other parties, primarily the Attorney General, can fully represent all interests. Moreover, MISO's primary concern appears to be whether the proposed delegation meets the

² Renewed motion at 3.

³ *Id.*

independence standard set by the Federal Energy Regulatory Commission (“FERC”), which is an issue beyond this Commission’s jurisdiction.

MISO argues that it is interested in a “safe and reliable transition”⁴ of services to TVA and SPP, but that issue likewise is one that MISO must raise at FERC. The same is true of any investigation into market-based rate authority and the extent of the Applicants’ participation in the Day 2 energy markets. The Commission takes notice of FERC Docket No. ER06-1046, in which FERC is already considering whether to continue Applicants’ market-based rate.

Finally, MISO claims that it has an interest in contesting the accounting and rate-making provisions of the stipulation filed in this case on June 2, 2006. The Applicants, however, moved to withdraw those provisions of the stipulation, a motion the Commission has approved today by separate Order, making that basis for seeking intervention moot.

In summary, MISO has failed to show that it has any “special interest in the proceeding which is not otherwise adequately represented or that [it] is likely to present issues or to develop facts that assist the commission in fully considering” this case.⁵ The request to intervene is therefore without basis.

IT IS THEREFORE ORDERED that MISO’s motion and renewed motion to intervene are denied.

⁴ Renewed motion at 4.

⁵ 807 KAR 5:001, Section 3(8).

Done at Frankfort, Kentucky, this 6th day of July, 2006.

By the Commission

ATTEST:



Executive Director