

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF KENTUCKY UTILITIES	)	
COMPANY AND LOUISVILLE GAS AND	)	CASE NO.
ELECTRIC COMPANY TO TRANSFER	)	2009-00427
CONTROL OF CERTAIN TRANSMISSION	)	
FUNCTIONS	)	
	)	

O R D E R

On October 30, 2009, Kentucky Utilities Company (“KU”) and Louisville Gas and Electric Company (“LG&E”) (collectively “Joint Applicants”) filed an application, pursuant to KRS 278.218, seeking approval of a transfer under which they would regain operational control of certain of their transmission facilities. Joint Applicants have also filed a similar application with the Federal Energy Regulatory Commission (“FERC”) and state that they will file the order(s) entered by FERC with the Commission.

The transmission functions of which Joint Applicants are seeking to regain control and which are currently being performed by Southwest Power Pool, Inc. (“SPP”) relate to providing access to the Joint Applicants’ transmission services. Joint Applicants state that the transfer is for a proper purpose and in the public interest because “they can perform the functions SPP currently performs for the Companies . . . without adversely impacting rates and without sacrificing objectivity in transmission scheduling.”<sup>1</sup> For the following reasons, the Commission will approve the application.

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<sup>1</sup> Verified Joint Application, p.1.

## DISCUSSION

Since 2006, SPP has been the Joint Applicants' Independent Transmission Operator ("ITO"). In that capacity, SPP administers the Joint Applicants' Open-Access Transmission Tariff ("OATT") and Open-Access Same-time Information System ("OASIS"); processes transmission service requests pursuant to the OATT; performs system impact studies for all interconnections; performs transmission scheduling; and is responsible for compliance with applicable North American Electric Reliability Council and South-East Reliability Council requirements. Under their agreement with SPP, Joint Applicants currently pay \$3.4 million annually for these services. Joint Applicants have also paid an additional \$2.27 million one-time payment pursuant to a recent settlement with SPP, which resolved a compensation dispute initiated by SPP under the jurisdiction of FERC.

The agreement with SPP expires under its terms on August 31, 2010. In July 2009, SPP verbally informed Joint Applicants of its intent to not renew the contract. Subsequently, on October 26, 2009, SPP provided Joint Applicants a written notice of termination of the agreement.

Joint Applicants issued a Request for Information to ten potential providers of ITO services in an effort to explore alternative ITO service providers, but received only one response; and that respondent ultimately declined to respond to a Request for Proposal.

Joint Applicants propose that the ITO functions presently performed by SPP be transferred to Joint Applicants due to changes in FERC regulation since the ITO was established. In particular, Joint Applicants note that "the FERC ordered enhanced open

access requirements under Order No. 890, which greatly increased transparency in providing open access services to eliminate any lingering potential for discrimination in the administration of open access tariff requirements.”<sup>2</sup> Joint Applicants maintain that they will administer their OATT under the stringent transparency requirements pursuant to Order No. 890, which requirements are sufficient to address any vertical market power concerns FERC may have regarding Joint Applicants’ prior mergers.

Joint Applicants also state that Order No. 890 increased OASIS posting requirements as well as requirements for stakeholder involvement in transmission planning, which results in improved ability for FERC and transmission customers to monitor all tariff administration functions currently performed by SPP. Thus, Joint Applicants maintain that there is no longer a need to engage SPP to perform these functions.

In further support of their request to reacquire the aforementioned transmission functions, Joint Applicants state that they can provide equivalent or better ITO services than they currently receive from SPP without adversely impacting rates. Joint Applicants project that their annual cost to self-provide ITO services will be approximately \$3-4 million, not including start-up costs of approximately \$2 million. Joint Applicants assert that this compares favorably to their current SPP contract cost of \$3.4 million per year, as well as the one-time settlement payment of \$2.27 million.

According to Joint Applicants, their reacquisition of the subject transmission functions would facilitate higher quality and more efficient transmission customer service. It is Joint Applicants’ belief that they have greater economic incentive to

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<sup>2</sup> Verified Joint Application, p. 5.

provide higher quality and more efficient service than a third party. Joint Applicants state that they will also have greater control over cost incurrence than they would have under a third-party contract.

The Commission finds that Joint Applicants' proposal to reacquire the transmission functions currently performed by SPP is reasonable and appropriate. The Commission further finds that transmission operations under this arrangement should not adversely impact rates or sacrifice objectivity in transmission scheduling.

Having reviewed the record and being otherwise sufficiently advised, the Commission finds that the reacquisition of the operations of Joint Applicants' transmission system to the extent described in their application is for a proper purpose and is consistent with the public interest.


IT IS THEREFORE ORDERED that:

1. Joint Applicants' request to reacquire the functional control of their transmission facilities as described in their application and in this Order is approved.
2. Joint Applicants' shall file with the Commission the final order issued by FERC concerning the Joint Applicants' request to reacquire functional control of their ITO functions.
3. Any documents filed in the future pursuant to ordering paragraph 2 herein shall reference this case number and shall be retained in each utility's general correspondence file.

By the Commission

ENTERED  
FEB -2 2010 *M*  
KENTUCKY PUBLIC  
SERVICE COMMISSION

ATTEST:

  
Executive Director

Case No. 2009-00427

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