

COMMONWEALTH OF KENTUCKY

BEFORE THE KENTUCKY STATE BOARD ON
ELECTRIC GENERATION AND TRANSMISSION SITING

In the Matter of:

APPLICATION OF ECOPOWER GENERATION-)
HAZARD, LLC FOR A CERTIFICATE TO CONSTRUCT) CASE NO.
AND OPERATE A MERCHANT ELECTRIC) 2009-00530
GENERATING FACILITY AND A 69 KV)
TRANSMISSION LINE IN PERRY COUNTY,)
KENTUCKY)

ORDER

On February 26, 2010, the Kentucky State Board on Electric Generation and Transmission Siting (“Siting Board”) issued a procedural schedule in the above-styled case. The February 26, 2010 procedural schedule provided for a formal administrative hearing to begin at 10:00 a.m. on May 4, 2010 at the Frankfort, Kentucky offices of the Kentucky Public Service Commission (“Commission”).

On April 8, 2010, ecoPower Generation-Hazard, LLC (“ecoPower”) filed a motion requesting that the May 5, 2010 evidentiary hearing be cancelled. In its motion, ecoPower argues that no party to the case has requested a hearing and that the Siting Board itself has not requested a hearing. EcoPower argues that “[u]nder such circumstances, a formal evidentiary hearing would serve no purpose and result only in unnecessary costs, expenses and expenditures of time.”

The Siting Board finds that an evidentiary hearing in this matter is still necessary, as the Siting Board issued an Order on April 22, 2010 denying ecoPower’s motion for a deviation from the 1,000-foot setback requirements under KRS 278.704(2). Without a

deviation from the setback requirements, the Siting Board cannot issue a final Order approving ecoPower's application as filed.

In the April 22, 2010 Order, the Siting Board found that ecoPower could submit a revised motion for deviation or a revised application with the exhaust stack sited in a different location 1,000 feet or more from the neighboring properties. EcoPower has not had time to file a response to the April 22, 2010 Order or a revised motion. However, due to the pending statutory deadline of either May 19, 2010 (if no hearing is held) or June 18, 2010 (if a hearing is held), the Siting Board must issue this Order moving the formal evidentiary hearing to a date that will allow sufficient time for ecoPower to file a response to the April 22, 2010 Order denying its motion for deviation.

Therefore, the Siting Board finds it necessary to reschedule the formal evidentiary hearing to May 19, 2010 at 1:00 p.m. at the Commission's offices in Frankfort, Kentucky. A formal evidentiary hearing will provide the Siting Board the opportunity to explore the facts surrounding ecoPower's need for a deviation from the 1,000-foot setback requirement if the Siting Board has not been afforded the opportunity to make that determination prior to that date.

IT IS THEREFORE ORDERED that:

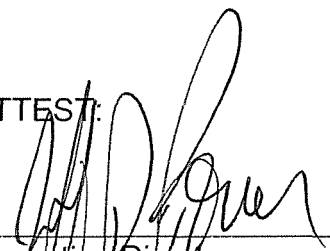
1. EcoPower's motion to dispense with the formal evidentiary hearing is denied.

2. The procedural schedule in this matter is revised according to the schedule shown in Appendix A attached hereto.

By the Kentucky State Board on Electric
Generation and Transmission Siting

ENTERED *M*
APR 28 2010
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:



Executive Director
Public Service Commission
on behalf of The Kentucky State Board on
Electric Generation and Transmission Siting

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY STATE BOARD ON
ELECTRIC GENERATION AND TRANSMISSION SITING IN CASE NO.
2009-00530 DATED **APR 28 2010**

FIRST AMENDED PROCEDURAL SCHEDULE

Application filed	02/18/10
Any motion to intervene shall be filed with the Board no later than	03/22/10
Any request for a public hearing shall be filed no later than.....	03/22/10
Intervenors and Staff may file data requests no later than.....	03/29/10
Responses to data requests are due no later than	04/05/10
(Responses shall include the name of the person who prepared each response and who will be available to testify at the hearing on that response.)	
ecoPower shall file direct testimony, if any, no later than	05/07/10
ecoPower shall file proof of publication of notice of the May 19, 2010 hearing no later than	05/10/10
ecoPower shall file a list of witnesses for hearing, together with a brief summary of their testimony, no later than	05/12/10
Public hearing at 1:00 p.m., Eastern Daylight Time, at the offices of the Public Service Commission, 211 Sower Boulevard, Frankfort, Kentucky, for the purpose of cross-examination of witnesses	05/19/10
Briefs, if any, shall be filed no later than	06/04/10
Decision due.....	06/18/10