



EAST KENTUCKY POWER COOPERATIVE

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JAN 20 2005

January 20, 2005

HAND DELIVERED PUBLIC SERVICE
COMMISSION

Ms. Elizabeth O'Donnell
Executive Director
Public Service Commission
211 Sower Boulevard
Frankfort, KY 40602

Re: PSC Case No. 2004-00423

Dear Ms. O'Donnell:

Please find enclosed for filing with the Commission in the above-referenced case an original and ten (10) copies of the Objections of East Kentucky Power Cooperative, Inc., to the Petition to Intervene of EnviroPower, L.L.C.

Very truly yours,

A handwritten signature in cursive script that reads "Charles A. Lile".

Charles A. Lile
Senior Corporate Counsel

Enclosures

Cc: Elizabeth E. Blackford, Esq.
Michael L. Kurtz, Esq.
Stephen M. Soble, Esq.
Frederic J. Cowan, Esq.

COMMONWEALTH OF KENTUCKY

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BEFORE THE PUBLIC SERVICE COMMISSION

JAN 20 2005

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) CASE NO. 2004-
 COMPATIBILITY CERTIFICATE, FOR THE) 00423
 CONSTRUCTION OF A 278 MW (NOMINAL))
 CIRCULATING FLUIDIZED BED COAL FIRED)
 UNIT IN MASON COUNTY, KENTUCKY)

OBJECTIONS OF EAST KENTUCKY POWER COOPERATIVE, INC., TO THE PETITION TO INTERVENE OF ENVIROPOWER, L.L.C.

East Kentucky Power Cooperative, Inc., ("EKPC") hereby submits to the Kentucky Public Service Commission (the "Commission") its objections to the Petition to Intervene of EnviroPower, L.L.C. ("EnviroPower") and urges the Commission to deny said Petition, or to limit any participation of EnviroPower as an intervenor in the case to avoid delays in the procedural schedule and undue disruption and complication of the proceedings in this case. The grounds for EKPC's objections are as follows:

1. EnviroPower's Petition to Intervene is not timely. -

807 KAR 5:001 Section 3 (8) allows intervention in formal proceedings before the Commission only by timely motion. The EnviroPower Petition was filed with the Commission on January 14, 2004, some eleven weeks after the Application in this case was filed. The dates for data requests to EKPC, as provided in the procedural schedule in this case dated November 30, 2004, have passed, as has the date for the submission of

prepared testimony by intervenors. EKPC has requested, and the Commission staff is conducting, an expedited review of the Application in this case due to the urgency of the commercial operation schedule of the proposed Spurlock Unit No. 4, and any delay in the procedural schedule will serve to undermine this effort. EKPC urges the Commission to deny the Petition of EnviroPower due to the potential for disruption of the schedule in this case or, if intervention is granted, to condition EnviroPower's intervention on an agreement to accept the existing procedural schedule, without change.

2. Intervention by EnviroPower will unduly disrupt and complicate this case and threatens EKPC confidential information. -

EnviroPower's Petition introduces information that will unduly disrupt and complicate the proceedings in this case, and will not present issues or develop facts which would assist the Commission in fully considering the matter. EnviroPower's affidavit from Randall Alan Bird contains erroneous, disparaging and unsupported allegations regarding EKPC's Request for Proposals ("RFP") process in 2004, in which EnviroPower was a bidder. EnviroPower's intervention in this case is motivated by self-interest as a rejected bidder, as opposed to any desire to assist the Commission in properly evaluating this case. Therefore, EnviroPower's interest in this case would not meet the standard in 807 KAR 5:001 Section 3 (8) for full intervention.

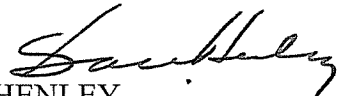
EKPC has provided information in this case concerning the 2004 RFP, and is willing to provide any additional information that the Commission deems necessary to establish the fairness of that process. However, the participation of a rejected bidder in any such evaluation of the RFP, or in the case as a full intervenor, would involve the potential for access to EKPC confidential information. Such access to EKPC confidential

information by EnviroPower would constitute a serious commercial disadvantage to EKPC, and would provide EnviroPower an unreasonable advantage over other bidders in future EKPC RFPs.

EKPC urges the Commission to deny EnviroPower's request for intervention to prevent such undue disruption and complication of this case or, if intervention is granted, to limit EnviroPower's intervention to minimize such potential disruption and to protect EKPC confidential information.

WHEREFORE, EKPC respectfully objects to the Petition to Intervene of EnviroPower and urges the Commission to deny such intervention or to limit any intervention rights granted to EnviroPower, consistent with the comments contained hereinabove, to protect the integrity of the proceedings in this case and the rights of EKPC.

Respectfully submitted,


DALE W. HENLEY


CHARLES A. LILE

ATTORNEYS FOR EAST
KENTUCKY
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CERTIFICATE OF SERVICE

This is to certify that an original and ten copies of the foregoing Objections of East Kentucky Power Cooperative, Inc., to the Petition to Intervene of EnviroPower, L.L.C., in the above-referenced case, were delivered to Elizabeth O'Donnell, Executive Director, Kentucky Public Service Commission, 211 Sower Boulevard, Frankfort, Kentucky 40601, and copies were mailed to Stephen M. Soble, O'Connor & Hannan, Suite 500, 1666 K Street, Washington, D.C. 20008-2803, and to Parties of Record, on January 20, 2005.



CHARLES A. LILE