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May 31, 2005

RECEIVED

JUN 01 2005

PUBLIC SERVICE
COMMISSION

Beth A. O'Donnell, Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, Kentucky 40602

Re: Case No. 2004-00423

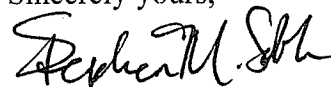
Filed by Fax, Original via Courier

Dear Ms. O'Donnell:

Please find enclosed the original and ten (10) copies of EnviroPower, LLC's Petition for Correction in Commission Order of May 18, 2005 and Demand for Publication.

By copy of this letter, all parties listed on the attached Certificate of Service have been served. Please place these documents on file.

Sincerely yours,



Stephen M. Soble
O'Connor & Hannan, LLP

Enclosure

CC: Mr. Charlie Lile
Mr. Bill Bosta
Mr. Richard Raff
Ms. Elizabeth Blackford
Mr. Michael Kurtz
Mr. Frederic Cowan

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

JUN 0 1 2005

PUBLIC SERVICE
COMMISSION

In the Matter of:

APPLICATION OF EAST KENTUCKY POWER)
COOPERATIVE, INC. FOR A CERTIFICATE)
OF PUBLIC CONVENIENCE AND NECESSITY,)
AND SITE COMPATIBILITY CERTIFICATE) CASE NO. 2004-00423
FOR THE CONSTRUCTION OF A 278 MW)
(NOMINAL) CIRCULATING FLUIDIZED BED)
COAL FIRED UNIT IN MASON COUNTY,)
KENTUCKY)

**PETITION FOR CORRECTION IN COMMISSION ORDER
OF MAY 18, 2005 AND DEMAND FOR PUBLICATION**

On May 18, 2005, the Commission issued an Order concerning the March 30, 2005 Petition of EnviroPower LLC to protect certain confidential information contained in sworn Direct Testimony and accompanying exhibits of Frank L. Rotondi, President and CEO of EnviroPower.

Issue #1: The May 18 Order is in error, with regard to a material issue. EnviroPower, hereby petitions the Commission to correct this material error. The March 30, 2005 filing of EnviroPower was filed with the Commission on March 31, 2005.

1. On May 13, 2005 EnviroPower filed with the Commission, a "Request for Correction in Commission Order of May 11, 2005". In that filing, EnviroPower noted that while the date of the sworn Direct Testimony filed by EnviroPower with the Commission was March 30, 2005, it was logged in as filed by the Commission on March 31, 2005. In the Commission Order of May 18, 2005 the Commission ruled "that the petition (seeking confidential treatment for the March 30, 2005 filing, which included the Direct Testimony filed by EnviroPower) was actually filed on March 31, 2005.

EnviroPower respectfully requests a correction of this error.

2. To prove that the filing was made on March 31, EnviroPower submits the following:

A. On April 7, 2005, the "Table of Contents for Submission by EnviroPower on March 30, 2005," appeared on the Commission's website, dated-stamped as "original" on March 31, 2005, copy attached. (see Attachment "A").

B. On March 30, 2005 at 4:24 PM, counsel for EnviroPower sent via e-mail a courtesy copy of the documents in question, noting that the documents had been filed with the commission via Federal Express Courier, for delivery on March 31, 2005 (see Attachment "B").

3. This matter of correcting the filing date is significant and material, because the Commission, on March 30, 2005 issued an Order setting the Hearing date in this case for April 20, 2005, an action which on the facts submitted necessarily occurred before the Commission had even received the EnviroPower filing. The Commission may not maintain as a matter of fact that the Commission had received or had read the EnviroPower March 30 filing prior to ordering the hearing date in this case. (see Attachment "C").

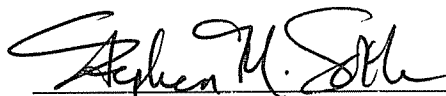
4. Thus, the facts prove that the Commission failed to carry out its own defined mandate to conduct a full and thorough investigation into the allegations of fraud, bid manipulation and self-dealing which go the heart of the issue in this case: namely whether the application for a Certificate of Public Convenience and Necessity by EKPC properly met the legal requirements concerning the cost and reasonableness of the plan of EKPC to build its own power plant. Thus, the actual date of the filing is material and must be accurately stated by the Commission, rather than deemed to have occurred.

Issue #2: In the EnviroPower filing with the Commission dated May 13, EnviroPower asked the Commission to insure that entire Redacted Version of the March 30 submission be posted on the Commission's website. The Commission has not responded to May 13 request. EnviroPower regrets that it must now demand publication of this filing on the Commission website.

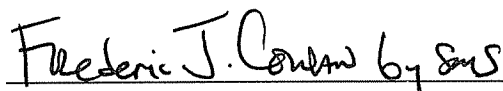
It should be noted that in this same case and in the administrative case 2005-00090, East Kentucky Power Cooperative, Inc. has made filings which have been 4 to 5 times larger in size than the documents submitted by EnviroPower. In addition, the EnviroPower' submission identified eight different documents, which were tabbed and indexed on the Table of Contents which could be scanned and posted individually, or collectively, in accordance with the administrative ease of the Commission staff. EnviroPower notes that its March 30, 2005 submission is included in the official record of the Commission for this case and is included in the Designation of Record in the case EnviroPower v. Public Service Commission, 05-CI-00553, pending in Franklin Circuit Court.

Wherefore, EnviroPower respectfully demands an Order or Instruction of the Commission to post only the Redacted Version of "The Submission by EnviroPower on March 30, 2005", in its entirety on the Commission website.

Respectfully submitted,



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fcowan@lcgandm.com

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served by mailing a true and correct copy, by regular U.S. mail (unless otherwise noted) to all parties on this 31st day of May, 2005.


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Michael L. Kurtz
Boehm, Kurtz & Lowry
36 East 7th Street, Suite 1510
Cincinnati, Ohio 45202



Stephen M. Soble

ATTACHMENT A

original

RECEIVED

MAR 31 2005
PUBLIC SERVICE COMMISSION

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

TABLE OF CONTENTS FOR SUBMISSION
BY ENVIROPOWER ON MARCH 30, 2005

1. Petition for Confidential Treatment of Information
2. Submission of Direct Testimony by EnviroPower, LLC
3. Prepared Testimony of Frank L. Rotondi on Behalf of EnviroPower, LLC
4. The EnviroPower Proposal To Supply Power To East Kentucky Power Cooperative ("EKPC") In Response To RFP No. 2004-01-Base Load Requirement ("EP Proposal")
5. Appendix To The EP Proposal – Draft Letter of Intent
6. Kentucky Division of Air Quality Notice of Deficiency on the PSD/Title V Application for Spurlock No. 4
7. EnviroPower Analysis of EKPC/EnerVision Economics Evaluating the EP Proposal
8. Certificate of Service

ATTACHMENT B

KY Public Service Commission

P.O. Box 615, 211 Sower Boulevard, Frankfort, Kentucky 40602-0615, Phone (502) 564-3940

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Index of Orders Issued during March, 2005

If you do not know the date of the order you would like to view, you can refer to the **Complete Docket Report** and view the Case by Case Number for the dates Commission Decisions were issued.

Orders issued after 4:00 p.m. Eastern Daylight Time may not be posted until the following working day. If you need additional information contact the Commission at (502) 564-3940.

March 31, 2005

- [2004-00362 - Par-Tee LLC D/B/A Perry Park Resort - ARF](#)

March 30, 2005

- [2004-00044 - NuVox Communications, Inc., NewSouth Communications Corp., BellSouth Telecommunications, Inc., KMC Telecom V, Inc., Xspedius Management Company Switched Services, LLC, Xspedius Management Company of Louisville, LLC, Xspedius Management Company of Lexington, LLC - Arbitration](#)
- [2004-00103 - Kentucky-American Water Company - General Rates](#)
- [2004-00320 - East Kentucky Power Cooperative, Inc. - Construct](#)
- [2004-00392 - Wheelwright Utility Commission - Investigation/Service](#)
- [2004-00423 - East Kentucky Power Cooperative, Inc. - Construct](#) ←
- [2004-00427 - BellSouth Telecommunications, Inc. - Interconnection](#)
- [2004-00501 - Kentucky Broadband Act - Interconnection Agreements](#)
- [2004-00516 - McCreary County Water District - Construct](#)
- [2005-00008 - D. Adams and C. Vaughn Vs. Garrard County Water Association, Inc. - Complaint](#)
- [2005-00073 - Sigma Gas Corporation - Transfer/Sale/Purchase/Merger](#)
- [Administrative Case No. 2005-00090 - Assessment of Kentucky's Electric Generation, Transmission, and Distribution Needs](#)
- [2005-00099 - N. Dennison Vs. Louisville Gas and Electric Company - Complaint](#)
- [2005-00111 - Elkhorn Water District - PWA](#)
- [2005-00114 - McKinney Water District - General Rates](#)
- [2005-00118 - J. and R. Wade, Jr. Vs. Kentucky Utilities Company - Complaint](#)

March 29, 2005

- [2002-00040 - Butler County Water System, Inc. - Tariff](#)
- [2002-00041 - Simpson County Water District - Tariff](#)

- 2002-00042 - Warren County Water District - Tariff
- 2004-00425 - P. Young Vs. Louisville Gas and Electric Company - Complaint
- 2004-00427 - BellSouth Telecommunications, Inc. - Interconnection Agreements
- 2004-00442 - Clark Energy Cooperative, Inc. - Tariffs
- 2004-00462 - Columbia Gas of Kentucky, Inc. - Tariffs
- 2004-00479 - Owen Electric Cooperative, Inc. - FAC
- 2005-00073 - Sigma Gas Corporation - Transfer/Sale/Purchase/Merger
- 2005-00085 - People's Gas, Inc. - PGA
- Administrative Case No. 2005-00090 - Assessment of Kentucky's Electric Generation, Transmission, and Distribution Needs
- 2005-00098 - Belfry Gas Company, Inc. - PGA
- 2005-00110 - Elam Utility Company - PGA
- 2005-00113 - The Union Light, Heat and Power Company - PGA
- 2005-00120 - Natural Energy Utility Corporation - PGA
- 2005-00121 - Johnson County Gas Company, Inc. - PGA

March 28, 2005

- 2003-00266 - Louisville Gas and Electric Company and Kentucky Utilities Company - Investigation/Service
- 2004-00193 - ALLTEL Kentucky - Tariffs
- 2004-00427 - BellSouth Telecommunications, Inc. - Interconnection Agreements
- 2005-00087 - Barkley Lake Water District - Construct/Finance/Rates
- 2005-00095 - Dialog Telecommunications, Inc. Vs. BellSouth Telecommunications, Inc. - Complaint
- 2005-00122 - Ton Services, Inc. - Tariffs

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- 2003-00266 - Louisville Gas and Electric Company and Kentucky Utilities Company - Investigation/Service
- 2005-00084 - Bluegrass Gas Sales, Inc. - PGA
- 2005-00091 - Valley Gas, Inc. - PGA
- 2005-00092 - Auxier Road Gas Company, Inc. - PGA
- 2005-00093 - Sigma Gas Corporation - PGA

March 23, 2005

- 2003-00400 - S. Shafizadeh Vs. Cingular Wireless - Complaint
- 2004-00036 - Ballard Rural Telephone Cooperative Corporation Vs. Jackson Purchase Energy Corporation - Complaint
- 2004-00417 - Morgan County Water District - Rates/Non-Recurring Charges
- 2005-00036 - Garden Heights Sewer Division - ARF
- 2005-00096 - The Union Light, Heat and Power Company - Accounting Deferral
- 2005-00104 - Louisville Gas and Electric Company - Demand-Side Management
- 2005-00105 - Kentucky Utilities Company - Demand-Side Management

March 22, 2005

- 2005-00077 - Kentucky Power Company - Demand-Side Management

- 2005-00115 - Big Rivers Electric Corporation - Reduction of Revenue

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- 2004-00430 - East Kentucky Power Cooperative - Declaratory Order
- 2004-00503 - The Union Light, Heat and Power Company - Tariffs
- 2005-00042 - The Union Light, Heat and Power Company - General Rates
- 2005-00068 - Kentucky Power Company - Surcharge/Environmental
- 2005-00068 - Kentucky Power Company - Surcharge/Environmental
- 2005-00083 - Auxier Water Company - Purchased Water Adjustment
- 2005-00118 - Jill and Robert Wade, Jr., vs. Kentucky Utilities Company - Complaints/Rates

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- 2004-00450 - John Yuen vs. Louisville Gas and Electric Company - Complaints/Rates-Service
- 2004-00451 - Robert T. Gallagher vs. Kentucky Utilities Company - Complaints/Rates-Service
- 2004-00497 - Curtis E. White vs. Louisville Gas and Electric Company - Complaints/Rates-Service
- 2004-00499 - Ada Mae Clem vs. Kentucky Utilities Company - Complaints/Rates-Service
- 2005-00010 - Regina Ann Morris vs. Louisville Gas and Electric Company - Complaints/Rates-Service
- 2005-00053 - East Kentucky Power Cooperative, Inc. - Construct

March 17, 2005

- 2004-00321 - East Kentucky Power Cooperative, Inc. - Environmental Surcharge
- 2004-00372 - Big Sandy R.E.C.C., Clark Energy Cooperative, Inc., Cumberland Valley Electric, Inc., East Kentucky Power Cooperative, Inc., Farmers R.E.C.C., Fleming-Mason Energy Cooperative, Grayson R.E.C.C., Inter-County Energy Cooperative Corporation, Jackson Energy Cooperative, Licking Valley R.E.C.C., Nolin R.E.C.C., Owen Electric Cooperative, Inc., Salt River Electric Cooperative Corp., Shelby Energy Cooperative, Inc., South Kentucky R.E.C.C., Taylor County R.E.C.C., Blue Grass Energy Cooperative Corp. - Environmental Surcharge
- 2004-00410 - Vanover, Hall & Bartley, P.S.C. Vs. BellSouth Telecommunications, Inc. - Complaint
- 2004-00507 - Louisville Gas and Electric Company and Kentucky Utilities Company - Construct
- 2005-00011 - T. Seale Vs. Jessamine-South Elkhorn Water District - Complaint
- 2005-00017 - Bluegrass Wireless LLC - Telecommunications Act of 1996
- 2005-00018 - Kentucky RSA #4 Cellular General Partnership - Telecommunications Act of 1996
- 2005-00019 - Kentucky RSA #3 Cellular General Partnership - Telecommunications Act of 1996
- 2005-00020 - Cumberland Cellular Partnership - Telecommunications Act of 1996
- 2005-00040 - Telliss, LLC - Tariffs
- 2005-00046 - Louisville Gas and Electric Company - Financing
- 2005-00063 - Northern Kentucky Water District - Construct

- Administrative 2005-00090 - Assessment of Kentucky's Electric Generation, Transmission, and Distribution Needs

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- 2004-00508 - Verizon Wireless - Construct
- 2005-00008 - D. Adams and C. Vaughn Vs. Garrard County Water Association, Inc. - Complaint
- 2005-00008 - D. Adams and C. Vaughn Vs. Garrard County Water Association, Inc. - Complaint
- 2005-00030 - Terry's Satellite City, LLC - Newsouth Communications Corp.
- 2005-00044 - City of Greensburg - Tariffs
- 2005-00053 - East Kentucky Power Cooperative, Inc. - Construct
- 2005-00059 - Verizon Wireless - Construct
- 2005-00070 - G. and S. Litchfield Vs. Louisville Gas and Electric Company - Complaint
- 2005-00086 - Jessamine-South Elkhorn Water District - Tariffs

March 15, 2005

- 2001-00045 - Southeast Telephone, Inc. - Arbitration
- 2004-00204 - Competitive Carriers of the South, Inc. - Interconnection Agreement
- 2004-00409 - Universal Telecom, Inc. Vs. Kentucky ALLTEL, Inc. - Complaint
- 2004-00452 - L. Mancilla Vs. Kentucky Utilities Company - Complaint
- 2004-00525 - South Anderson Water District - Rates/Non-Recurring Charges
- 2005-00031 - Louisville Gas and Electric Company - Tariffs
- 2005-00036 - Lewis Sanitation Company, Inc - Garden Heights Sewer System - ARF

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- 2003-00266 - Louisville Gas and Electric Company and Kentucky Utilities Company - Investigation/Service
- 2004-00450 - J. Yuen Vs. Louisville Gas and Electric Company - Complaint
- 2004-00451 - R. Gallagher Vs. Kentucky Utilities Company - Complaint
- 2004-00497 - C. White Vs. Louisville Gas and Electric Company - Complaint
- 2004-00499 - A. Clem Vs. Kentucky Utilities Company - Complaint
- 2005-00010 - R. Morris Vs. Louisville Gas and Electric Company - Complaint
- 2005-00027 - The Union Light, Heat and Power Company - Financing

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- 2005-00032 - East Kentucky Utilities, Inc. - General Rates

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- 2003-00266 - Louisville Gas and Electric Company and Kentucky Utilities Company - Investigation/Service
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- 2004-00374 - Blue Grass Energy Cooperative Corporation - Construct
- 2004-00427 - BellSouth Telecommunications, Inc. - Interconnection Agreements
- 2004-00462 - Columbia Gas of Kentucky, Inc. Tariffs
- 2005-00033 - Bath County Water District- Construct
- 2005-00072 - Henderson County Water District - General Rates
- Administrative Case No. 2005-00090 - Assessment of Kentucky's Electric Generation, Transmission and Distribution Needs
- 2005-00099 - N. Dennison Vs. Louisville Gas and Electric Company - Complaint

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- 2002-00377 - American Electric Power Company - Integrated Resource Plan
- 2004-00421 - Louisville Gas and Electric Company - Environmental Surcharge
- 2004-00426 - Kentucky Utilities Company - Environmental Surcharge
- 2005-00008 - D. Adams Vs. Garrard County Water Association, Inc. - Complaint
- 2005-00009 - C. Vaughn Vs. Garrard County Water Association, Inc. - Complaint
- 2005-00029 - Big Rivers Electric Corporation - Contracts
- 2005-00042 - The Union Light, Heat and Power Company - General Rates
- 2005-00045 - Applachian Wireless - Designation as an Eligible Telecommunications Carrier
- 2005-00056 - R. Hamilton Vs. Kentucky Utilities Company - Complaint

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- 2004-00525 - South Anderson Water District - Rates/Non Recurring Charges

March 7, 2005

- 2004-00427 - BellSouth Telecommunications, Inc. - Interconnection Agreements
- 2004-00427 - BellSouth Telecommunications, Inc. - Interconnection Agreements
- 2005-00095 - Dialog Telecommunications, Inc. Vs. BellSouth Telecommunications, Inc. - Complaint

March 4, 2005

- 2004-00288 - Hendron Water District - PWA
- 2004-00446 - Kenergy Corp. - General Rates
- 2004-00507 - Louisville Gas and Electric Company and Kentucky Utilities Company - Construct
- 2004-00509 - The Union Light, Heat and Power Company - Tariffs
- 2004-00516 - McCreary County Water District - Construct
- 2005-00022 - Airview Estates, Inc. and Elizabethtown Utilities, LLC - Transfer/Sale/Purchase/Merger
- 2005-00053 - East Kentucky Power Cooperative, Inc. - Construct

March 3, 2005

- 2004-00379 - Black Mountain Utility District - ARF
- 2005-00031 - Louisville Gas and Electric Company - Tariffs
- 2005-00052 - Northern Kentucky Water District - Construct

- [2005-00063 - Northern Kentucky Water District - Construct](#)
- [2005-00072 - Henderson County Water District - General Rates](#)
- [2005-00086 - Jessamine-South Elkhorn Water District - Tariffs](#)
- [2005-00088 - Kentucky ALLTEL, Inc. and Southeast Telephone, Inc. - Interconnection Agreement](#)

March 2, 2005

- [2003-00252 - The Union Light, Heat and Power Company - Deviation](#)
- [2004-00044 - NuVox Communications, Inc., NewSouth Communications Corp., BellSouth Telecommunications, Inc., KMC Telecom V, Inc., Xspedius Management Company Switched Services, LLC, Xspedius Management Company of Louisville, LLC Xspedius Management Company of Lexington, LLC - Arbitration](#)
- [2004-00444 - Citipower, LLC - Transfer/Sale/Purchase/Merger](#)
- [2004-00496 - Herbert White Gas Company - Deviation](#)
- [2005-00023 - Green Hills Water District - Construct](#)

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- [2004-00427 - BellSouth Telecommunications, Inc. - Complaint](#)
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- [2005-00048 - Big Sandy Rural Electric Cooperative Corporation - Deviation](#)

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ATTACHMENT C

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)
CONSTRUCTION OF A 278 MW (NOMINAL))
CIRCULATING FLUIDIZED BED COAL FIRED UNIT)
IN MASON COUNTY, KENTUCKY)

CASE NO.
2004-00423

O R D E R

The Commission, on its own motion, HEREBY ORDERS that the hearing in this case shall be held on April 20, 2005 at 9:00 a.m., Eastern Daylight Time, in Hearing Room 1 of the Commission's offices at 211 Sower Boulevard, Frankfort, Kentucky.

Done at Frankfort, Kentucky, this 30th day of March, 2005.

By the Commission

ATTEST:



Executive Director