



EAST KENTUCKY POWER COOPERATIVE

April 6, 2005

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APR 07 2005

PUBLIC SERVICE
COMMISSION

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

Re: PSC Case No. 2005-00053

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.

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APR 07 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 COMPATIBILITY)
CERTIFICATE, FOR THE CONSTRUCTION OF) CASE NO. 2005-
A 278 MW (NOMINAL) CIRCULATING) 00053
FLUIDIZED BED COAL FIRED UNIT AND FIVE)
90 MW (NOMINAL) COMBUSTION TURBINES)
IN CLARK 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 to avoid unjustified 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 lacks a sufficient special interest to intervene in this case.

807 KAR 5:001 Section 3 (8) requires that a full intervenor in a case before the Commission have a special interest in the case which is not otherwise adequately represented, or be able to demonstrate that the person's intervention is likely to assist the

Commission in fully considering the matter without unduly complicating or disrupting the proceedings. The Commission, in its order dated February 3, 2005 in PSC Case No. 2004-00423, denied intervention to EnviroPower in that case. EnviroPower was allowed to be added to the service list in that case, to monitor the Commission's investigation of its allegations, but the Commission did not grant it partial intervenor status.

EnviroPower's stated interests in that case are essentially identical to those presented in its current Petition, in that EnviroPower asserts that its interests relate to EKPC's Request for Proposals 2004-01 (the "RFP"), which is the same RFP that was conducted for Case No. 2004-00423. EnviroPower is not an EKPC customer, and the Commission correctly determined in Case No. 2004-00423 that its financial interests in challenging the rejection of its RFP proposal do not coincide with those of ratepayers. EnviroPower has made no demonstration of any more substantial special interest in the current case and would not meet the standard in 807 KAR 5:001 Section 3 (8) for full intervention.

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

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. The Commission's denial of intervention to EnviroPower in PSC Case No. 2004-00423 implicitly recognized that EnviroPower's participation in that case would not sufficiently assist the Commission in considering the case without unduly complicating or disrupting the proceedings, and this conclusion is even more compelling in this case. The Commission established its investigation of EKPC's RFP procedures in Case No. 2004-00423 to address EnviroPower's allegations, has requested and received substantial

information from EKPC concerning the handling of the RFP, and has allowed EnviroPower to file any information and comments to support its allegations. EnviroPower has already been given the opportunity to submit any information that it possesses that is in any way relevant to the fairness of EKPC's RFP process in the course of this investigation by the Commission, and should not be granted intervention in this case to again pursue its allegations. Furthermore, the initiation of any new investigation of EKPC's RFP process is unnecessary, since it would amount to a duplication of time and resources and would significantly disrupt and delay the proceedings in this case, placing an unreasonable burden on EKPC and creating the potential for unjustified additional costs for its member systems.

Additionally, the participation of a rejected bidder 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.

WHEREFORE, EKPC respectfully objects to the Petition to Intervene of EnviroPower and urges the Commission to deny such intervention as unjustified, and to protect the integrity of the proceedings in this case and the rights of EKPC.

Respectfully submitted,

DALE W. HENLEY

A handwritten signature in cursive script, appearing to read "Charles A. Lile".

CHARLES A. LILE

ATTORNEYS FOR EAST
KENTUCKY
POWER COOPERATIVE, INC.
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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 mailed 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 April 6, 2005.



CHARLES A. LILE