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COMMONWEALTH OF KENTUCKY

SEP 16 2005

BEFORE THE PUBLIC SERVICE COMMISSION

PUBLIC SERVICE  
COMMISSION

In the Matter of:

APPLICATION OF EAST KENTUCKY POWER )  
 COOPERATIVE, INC. FOR A CERTIFICATE OF )  
 PUBLIC CONVENIENCE AND NECESSITY FOR ) CASE NO.  
 THE CONSTRUCTION OF A 161 kV ELECTRIC ) 2005-00207  
 TRANSMISSION PROJECT IN BARREN, )  
 WARREN, BUTLER, AND OHIO COUNTIES, KY )

EKPC'S RESPONSE TO INTERVENOR  
JOEY ROBERTS' MOTION FOR A SUBPOENA

May It Please the Commission:

Insofar as this Motion seeks to compel testimony from Gerald Hayes, President and CEO of Warren Rural Electric Cooperative Corporation ("WRECC"), on the issue of WRECC's decision to change power suppliers from TVA to EKPC, the Commission is advised that it has already determined that this decision is not within the Commission's jurisdiction.

In its Order entered September 13, 2005, in Case No. 2004-00423 styled "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", the Commission stated, on page 3 of that Order,

"Warren RECC, which has historically purchased its power supply from the Tennessee Valley Authority ("TVA"), is not subject to the Commission's regulatory jurisdiction. Thus, the Commission has no authority to review the reasonableness of the decision by

Warren RECC to become a member of East Kentucky Power.”

Accordingly, and for these reasons, EKPC believes that there is no relevancy to any testimony offered by Mr. Hayes on this issue, and requests that the Commission deny the requested relief.

Respectfully submitted,

  
DALE W. HENLEY

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ATTORNEYS FOR EAST KENTUCKY  
POWER COOPERATIVE, INC.

**CERTIFICATE OF SERVICE**

This is to certify that an original and 10 copies of the foregoing EKPC'S RESPONSE TO INTERVENOR JOEY ROBERTS' MOTION FOR A SUBPOENA in the above-styled case were electronically delivered to the office of the Public Service Commission, 211 Sower Boulevard, Frankfort, Kentucky 40601, and one copy was mailed to each party of record, this 16th day of September, 2005.

  
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DALE W. HENLEY

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

O R D E R

On October 28, 2004, East Kentucky Power Cooperative, Inc. ("East Kentucky Power") filed an application for a Certificate of Public Convenience and Necessity ("CPCN") under KRS 278.020(1), and a Site Compatibility Certificate under KRS 278.216, to construct a 278 megawatt ("MW") circulating fluidized bed ("CFB") coal-fired base load generating unit at its Spurlock Generating Station ("Spurlock") in Maysville, Kentucky. The proposed generating unit, referred to as "Spurlock 4," has an estimated capital cost of approximately \$473 million including transmission facilities.

The Attorney General's Office and Gallatin Steel, the largest retail customer of electricity supplied by East Kentucky Power, requested and were granted intervention. EnviroPower, LLC ("EnviroPower"), a developer of a merchant power plant in Knott County, Kentucky, filed two requests to intervene. Those requests to intervene were

power supply from the Tennessee Valley Authority ("TVA"), is not subject to the Commission's regulatory jurisdiction. Thus, the Commission has no authority to review the reasonableness of the decision by Warren RECC to become a member of East Kentucky Power.

Under the terms of the membership agreement, East Kentucky Power is obligated to provide electric service to Warren RECC commencing April 1, 2008, upon the termination of Warren RECC's current supply contract with TVA. Warren RECC will become East Kentucky Power's 17<sup>th</sup> distribution cooperative. To ensure that there are no adverse impacts to East Kentucky Power's existing cooperatives, the agreement with Warren RECC requires it to pay the incremental costs of the generation and transmission needed to serve its load.

#### NEED FOR ADDITIONAL GENERATION

East Kentucky Power had previously filed in April 2003 an Integrated Resource Plan ("IRP") containing 20-year forecasts of electric loads and capacity needs.<sup>4</sup> That IRP projected a need for additional base load generation of approximately 270 MW by 2011 and additional peaking generation of approximately 500 MW in the 2004 through 2009 time period. East Kentucky Power then applied for, and was granted in January 2004, a CPCN to construct two combustion turbines ("CTs") totaling 160 MW of peaking capacity at its Smith Generating Station ("Smith") in Clark County, Kentucky.<sup>5</sup> Known

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<sup>4</sup> Case No. 2003-00051, The 2003 Integrated Resource Plan of East Kentucky Power Cooperative, Inc.

<sup>5</sup> Case No. 2003-00297, Application of East Kentucky Power Cooperative, Inc. for a Certificate of Public Convenience and Necessity, and a Site Compatibility Certificate, for the Construction of Two 80 MW Combustion Turbine Generating Units in Clark County, Kentucky, Order dated January 5, 2004.