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PUBLIC SERVICE  
COMMISSION

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION SOUTH KENTUCKY )  
RURAL ELECTRIC COOPERATIVE )  
CORPORATION FOR APPROVAL TO ) CASE NO. 2007-00374  
PURCHASE THE FIXED ASSETS OF )  
THE MONTICELLO ELECTRIC )  
PLANT BOARD, MONTICELLO, KY )

SOUTH KENTUCKY RURAL ELECTRIC COOPERATIVE  
COOPERATION'S OBJECTION TO ATTORNEY GENERAL'S  
MOTIONS TO INTERVENE, TO AMEND PROCEDURAL  
SCHEDULE AND SOUTH KENTUCKY'S  
MOTION FOR PROTECTIVE ORDER

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Comes South Kentucky Rural Electric Cooperative Corporation ("South Kentucky") and objects to the motions of the Kentucky Attorney General ("Attorney General") to (1) intervene in this action served on November 2, 2007 and (2) to amend the procedural schedule served on November 6, 2007. Further, South Kentucky requests a protective order relieving it from responding to the Attorney General's initial information requests served on November 5, 2007.

INTERVENTION

A

TIMELINESS OF MOTION

South Kentucky objects to the Attorney General's intervention as violative of 807 KAR 5:001 Section 3(8) which provides that "(i)n any formal proceeding , any person who wishes to become a party to a proceeding before the commission may by timely motion request that he be granted leave to amend." (emphasis added). As the commission has been aware since the filing

of this matter on August 20, 2007, time is of the essence. The contract between South Kentucky and the Monticello Electric Plant Board requires closing within 30 days of approval of the sale by the registered voters of the city of Monticello. That approval was attained at the regular election held November 6, 2007 and, thus, South Kentucky is required to close the entire transaction by December 6, 2007. Among other tasks, South Kentucky must finalize financing, determine the marketability of title to all assets, both real and personal, arrange for transition of power purchases from the Tennessee Valley Authority in its own name, obtain subordination or other accommodation from South Kentucky's principal lender, the Rural Utilities Service of the United States Department of Agriculture, integrate a number of Monticello Electric Plant Board employees into South Kentucky, assure the retirement status of a number of Monticello Electric Plant Board employees with the Kentucky Retirement System, establish an accounting system to reflect South Kentucky as the electric provider to the former customers of the Monticello Electric Plant Board, provide the infrastructure necessary to provide repair service and maintenance of the former Monticello Electric Plant Board system and move into the Monticello Electric Plant Board office to assure a smooth transition into Monticello so electric service to the citizens of Monticello will not be interrupted or compromised. All by December 6, 2007.

Cognizant of the time limitations, the commission has graciously expedited resolution of this proceeding. Its first procedural schedule, issued September 13, 2007, provided for responses to its initial requests for information by September 21, 2007, comments by September 28, 2007, and final decision by October 19, 2007. The procedural schedule was extended after the commission served additional requests for information which were answered immediately by South Kentucky and the commission held an Informal Conference on short notice to further

367.150(8)(b) permits intervention as a real party in interest in rate cases. But no such right exists for other proceedings. Instead, KRS 367.150(8)(a) controls this proceeding. That provision permits the Attorney General to appear before a regulatory body on behalf of consumers, but does not mandate intervention as a matter of right. Instead, there must be a specific, valid reason authorizing the Attorney General's intervention. No such reason exists in this proceeding and intervention should be denied.

In Com. Ex Rel. Stephens v. North American Van Lines, 600 S.W.2d 459, 461 (Ky. App.-1979), the Attorney General's right to proceed without a specified statutory right is expressed as follows:

Therefore, the plain wording of the Act (Consumer Protection Act) authorizes the Attorney General to proceed on behalf of the Commonwealth in his law enforcement authority when (1) he has reason to believe that any person is using, has used or is about to use any method, act or practice declared to be unlawful and (2) that said proceeding would be in the public interest.

In his motion to amend the procedural schedule served November 6, 2007, the Attorney General states that "(d)uring the week of October 29 through November 2, the Attorney General was presented materials which possibly indicated that the sale ... may not comply with applicable law." Thus, it is clear that the Attorney General does not have reason to believe a violation has occurred, only that materials were delivered to him by a third party which, if true, possibly indicated a problem. Of course, the presenter of those materials was the Municipal Electric Power Association of Kentucky (MEPAK), a lobbyist which has no connection with the City of Monticello other than opposing the desires of its member, the Monticello Electric Plant Board, and furthering its own political agenda. Hardly consumer protection. MEPAK took its shot and

expedite its consideration of the issues involved. Commission staff appears to be able to make a recommendation to the commission within the limited time restraints. That will change if the Attorney General is allowed to intervene at this late date. Indeed, Assistant Attorney General Dennis Howard II was quoted in the November 7, 2007 edition of the Monticello that it would take 2 months or so for the Attorney General's Office to investigate. A copy of the story is attached hereto. By then, the 30 day period will have long expired and the purchase may not occur due to a breach of the agreement between South Kentucky and the Monticello Electric Plant Board requiring the closing transaction to occur by December 6, 2007. The Attorney General's motion to intervene was filed pursuant to Kentucky's Consumer Protection Act. How will intervention protect the consumer citizens of Monticello who voted 2-1 in favor of the sale to South Kentucky, if the intervention alone could cause such a breach of the agreement between South Kentucky and the Monticello Electric Plant Board that the sale does not occur at all? The will and desire of the very consumers the Attorney General's Office seeks to protect will be ignored if intervention is allowed and will frustrate the right of those consumers and citizens to vote for an agreement to sell the assets of the Monticello Electric Plant Board, a right guaranteed to them by KRS 96.860 and the Kentucky Constitution.

Intervention at this late date by the Attorney General will severely and irreparably prejudice South Kentucky, the Monticello Electric Plant Board and the citizens of Monticello. Intervention simply is not timely and the commission is asked to deny the motion.

THERE IS NO STATUTORY RIGHT OF INTERVENTION

The motion to intervene is brought by the Attorney General's Office of Rate Intervention. However, this is not a rate case and therefore no statutory right of intervention exists. KRS

tried to undermine the election with a last minute public campaign. It decidedly failed. Now, it continues to further its political agenda by asking that the Attorney General take up its cause. Despite providing obviously misleading information and maintaining that the will of the citizens guaranteed by KRS 96.860 and the Kentucky Constitution is improper, what reason is there for the Attorney General, the Public Service Commission, South Kentucky or the Monticello Electric Plant Board to even address this lobbyist and its political agenda?

The Attorney General must have a “reason to believe” a violation of law has occurred to gain intervention. It does not automatically have the right to intervene in this proceeding as it does in rate cases. By his own admission, the Attorney General does not have any reason to so believe, only a possibility that the materials unilaterally provided by this lobbyist may bring forth something. As shown above, actual belief that a method, act or practice is unlawful is required and where such belief is not present, intervention should be denied.

#### REQUEST FOR INFORMATION AND TO AMEND SCHEDULE

South Kentucky maintains intervention should be denied as not being timely and because the Attorney General has not indicated he believes an unlawful method, act or practice is involved. Therefore, the request for information and motion to amend the procedural schedule are moot.

Additionally, even if the commission allows intervention, the schedule should not, in fact, cannot be amended. The transaction must close by December 6, 2007 and there simply is not sufficient time to conduct any further discovery. A decision is requested to be made by then and cannot be made with the short time allowed. The commission is therefore requested to deny the motion to amend the schedule. This is not unfair to the Attorney General. This case has been

filed since August 20, 2007 and the Attorney General had every opportunity to seek intervention in a timely manner as his office, to the undersigned's information, reviews all filings with the Public Service Commission when made.

CONCLUSION

For the foregoing reasons, the commission is requested to deny intervention to the Attorney General and to find the motion to amend the schedule and the information requests moot.



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ATTORNEY FOR SOUTH KENTUCKY RURAL  
ELECTRIC COOPERATIVE CORPORATION

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing was this 8<sup>th</sup> day of November, 2007 deposited in the regular United States mail, all postage prepaid and addressed for delivery to the following:

1. Mr. Quang Nguyen, Public Service Commission, 211 Sower Blvd., P.O. Box 615, Frankfort, KY 40602-0615.
2. Mr. Dennis Howard, Office of the Attorney General, 700 Capitol Avenue, Suite 118, Frankfort, KY 40601.

Original to: Ms. Beth O'Donnell, Executive Director, Public Service Commission, 211  
Sower Blvd., P.O. Box 615, Frankfort, KY 40602-0615.

A handwritten signature in black ink, appearing to read "David R. Sanders". The signature is written in a cursive style with a large initial "D".

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ATTORNEY FOR SOUTH KENTUCKY RURAL  
ELECTRIC COOPERATIVE CORPORATION

# Wayne County

# The Outlook

Hometown  
Newspaper  
Since 1904

Vol. 103 No. 25

Wednesday, November 7, 2007

Monticello

## Attorney General files motion to intervene with sale of local plant board

By MELODIE PHELPS  
News Editor

The Kentucky Attorney General's Office has filed a motion to intervene in regard to the sale of the Monticello Electric Plant Board to South Kentucky RECC.

The motion was filed with the Public Service Commission on Friday, November 2.

Local media received a press release on Friday afternoon from the Municipal Electric Power Association of Kentucky regarding the action by the Attorney General's Office, but the statement left unanswered questions about this week's referendum vote.

The Municipal Electric Power Association of Kentucky represents 59 municipal utilities across the state, and the organization began a recent local advertising campaign, asking that voters cast ballots against the sale of the Electric Plant Board to

South Kentucky RECC.

When contacted by **The Outlook** on Friday afternoon, Dennis Howard, with the Attorney General's Office, stated that this motion has no impact on this week's referendum vote regarding the proposed sale.

By filing for an intervention, Howard explained that the Attorney General's Office will be appearing before the Public Service Commission and asking questions on behalf of customers of South Kentucky RECC.

Howard stated that at this time his office has reached no conclusion regarding the proposed sale, but could render an opinion after the hearing.

The sale of the electric utility has already been approved by the Monticello Electric Plant Board and the City of Monticello. But the issue had to go to the voters of the City of Monticello for a final decision.

Howard explained that the

Public Service Commission hearing regarding the sale would not be held until several months after the local referendum.

## Dennis sentenced to life in prison

By MELODIE PHELPS  
News Editor

The man charged in connection with the November 2005 shooting deaths of his mother and brother has been sentenced to life in prison on both counts of murder.

Robert Dennis appeared before Circuit Judge Vernon Miniard, Jr. for formal sentencing on Monday, November 5.

In September, Dennis had entered guilty pleas on two counts of murder, one count of convicted felon in possession of a handgun and one count of convicted felon in possession of a firearm.

Under the plea agreement, Commonwealth Attorney Matthew Leveridge recommended a sentence of life for both counts of murder, five years for the firearm charge and 10 years for the handgun charge. The sentences will run concurrently.

Charges of possession of



## Pageant winners

Several local pageants were held right are: Elizabeth Hood, Miss Katie Himes, Miss Teen Monticello

## Veteran planned

The annual Veterans Day Parade will be held on Monday, November 12 beginning at 10 a.m. The procession will begin at the Hickey and Son Funeral Home and will end at the Doughboy.

The Veterans Day ceremony will be held at the Doughboy. There will be special singing, and both local

## This Week

### Election results to be in next week's newspaper

Local voters were going to the polls as this edition of **The Outlook** was being printed. Polls opened Tuesday morning at 6 a.m., as voters made decisions in the gubernatorial race, as well as a couple of local races.

**The Outlook** will provide complete election results in next week's edition.

### Veterans book is available