

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF KENTUCKY POWER)	
COMPANY FOR AUTHORITY PURSUANT TO)	
KRS 278.300 TO ISSUE AND SELL)	
PROMISSORY NOTES OF ONE OR MORE)	
SERIES, TO ENTER INTO LOAN)	CASE NO.
AGREEMENTS, AND FOR OTHERS)	2013-00410
AUTHORIZATIONS IN CONNECTION WITH)	
THE REFUNDING OF LIABILITIES ASSUMED)	
BY THE COMPANY IN CONNECTION WITH)	
THE MITCHELL TRANSFER)	

ORDER

On November 18, 2013, concurrent with its financing application in this proceeding, Kentucky Power Company ("Kentucky Power") filed a motion pursuant to 807 KAR 5:001, Section 9(4) requesting that an Informal Conference ("IC") be scheduled to address any issues regarding its application. The financing application seeks approval for the issuance of up to \$265 million in notes to refinance debt that was previously approved to be assumed in connection with Kentucky Power's acquisition of an undivided 50 percent interest in the Mitchell Generating Station ("Mitchell Transfer").¹ On November 25, 2013, pursuant to 807 KAR 5:001, Section 5, the Attorney General for the Commonwealth of Kentucky, by and through his Office of Rate Intervention ("AG"), jointly filed a response objecting to Kentucky Power's motion for an IC and a Motion to

¹ Case No. 2012-00578, Application of Kentucky Power Company for (1) A Certificate of Public Convenience and Necessity Authorization the Transfer to the Company of an Undivided Fifty Percent Interest in the Mitchell Generation Station and Associated Assets; (2) Approval of the Assumption by Kentucky Power Company of Certain Liabilities in Connection with the Transfer of the Mitchell Generating Station; (3) Declaratory Rulings; (4) Deferral of Costs Incurred in Connection with the Company's Efforts to Meet Federal Clean Air Act and Related Requirements; and (5) All Other Required Approvals and Relief (Ky. PSC Nov. 15, 2013).

Hold This Proceeding in Abeyance. On November 27, 2013, Kentucky Power filed a reply to the AG's November 25, 2013, response and motion.

In response to Kentucky Power's motion for an IC, the AG requests that the motion be denied based upon Kentucky Power's purported attempt to expedite the proceedings unnecessarily, and in advance of the statutory deadline for the AG to appeal the Commission's approval of the Mitchell Transfer in Case No. 2012-00578. The AG further states that he objects to the IC, which is requested specifically to allow Kentucky Power to address questions concerning the application, prior to the Commission's issuance of a procedural schedule in this matter. The AG contends that Kentucky Power presumes that the transfer of a 50 percent undivided interest in the Mitchell Generating Station is a *fait accompli*, and that the company is seeking a "rubber-stamp approval" with regard to the financing transactions related to the transfer and proposed herein.

The AG moves the Commission to hold the instant proceeding in abeyance pending the expiration of the statutory deadline to appeal the Commission's Final Order in Case No. 2012-00578, or until the conclusion of any proceedings before Franklin Circuit Court, if that case is appealed. The AG claims that an abeyance of this matter furthers the interest of administrative and judicial economy and efficiency, due to the Franklin Circuit Court's ability to overturn the Commission's Order in Case No. 2012-00578, thereby rendering this financing application moot. The AG contends that abeyance is consistent with the guarantee of procedural due process, since KRS 278.410 permits an appeal by any party aggrieved by a decision of the Commission.

Kentucky Power's November 27, 2013, reply to the AG's response and motion counters that its requested IC is appropriate, and that the AG gave no indication as to why an IC for the purpose of discussing issues in this proceeding must await a possible appeal of the Commission's decision in Case No. 2012-00578. Kentucky Power states that an IC will potentially simplify the processing of the instant case, and that a discussion of procedural issues and schedule will aid in its handling and disposition. Kentucky Power reiterates its requests that an IC be convened at the Commission's earliest convenience.

With regard to the AG's motion that this case be held in abeyance pending expiration of the appeal period or any subsequent appellate proceedings in Franklin Circuit Court, Kentucky Power contends that an appeal of the Commission's Orders in Case No. 2012-00578 will have no effect on those orders during the pendency of such an appeal or on this case, citing to KRS 278.390, which provides that a Commission order remains in full force and effect unless determined otherwise by a reviewing court.² Kentucky Power further states that holding this case in abeyance pending possible appeal of the decision in Case No. 2012-00578 would not further administrative and judicial economy, as the AG contends, but rather exposes Kentucky Power's customers to unnecessary risks in the financing market. Kentucky Power maintains that it continues to seek the flexibility to react to anticipated volatility in the capital markets, and asserts that the opportunity to manage interest-rate risk will be lost if the AG's motion for abeyance is granted. Kentucky Power contends that the Commission's

² KRS 278.390 provides, in relevant part, as follows: "Every order entered by the commission shall continue in force until the expiration of the time, if any, named by the commission in the order, or until revoked or modified by the commission, unless the order is suspended, or vacated in whole or in part, by order or decree of a court of competent jurisdiction."

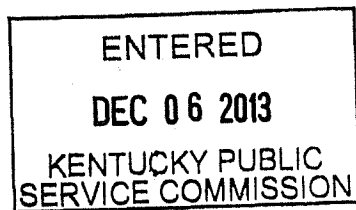
review of the instant application does not affect the AG's procedural due process rights, and that the AG may still file an appeal of the Commission's Order in Case No. 2012-00578 if the instant case is not held in abeyance, and will be able to file an appeal of a Commission order in the case at bar as well, if he finds it appropriate. Kentucky Power requests that the Commission deny the AG's motion to hold this case in abeyance.

Having reviewed the pleadings and being otherwise sufficiently advised, the Commission finds that Kentucky Power has shown good cause to grant its motion for an IC to discuss procedural issues and any other issues that may result in simplifying the processing of the case. The AG has neither presented persuasive reasons as to why the IC should not be scheduled nor presented good cause as to why the instant matter should be held in abeyance. The Commission notes that the AG did file on December 4, 2013, an appeal of our decision in Case No. 2012-00578 and, pursuant to KRS 278.390, that decision will remain in effect until it is "suspended, or vacated in whole or in part, by order or decree of a court of competent jurisdiction." In light of the fact that we have already approved the acquisition of debt in connection with the Mitchell Transfer, and that approval remains in effect, the Commission finds that Kentucky Power's proposal to manage its interest-rate risk in connection with the Mitchell Transfer should not be delayed as requested by the AG. This financing application should be heard and adjudicated in a timely fashion to ensure that an unnecessary delay does not result in higher cost to Kentucky Power's ratepayers. The Commission therefore finds that Kentucky Power's motion that an IC be scheduled should be granted, and the AG's Motion to hold this case in abeyance should be denied.

IT IS THEREFORE ORDERED that:

1. Kentucky Power's motion for an IC is granted.
2. An IC shall be scheduled on December 10, 2013, at 1:00 p.m. Eastern Standard Time, at the Commission's offices at 211 Sower Boulevard, Frankfort, Kentucky for the purposes as stated in Kentucky Power's motion.
3. The AG's motion to hold this case in abeyance is denied.

By the Commission



ATTEST:



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