

decision to file an appeal of the Commission's orders in Case No. 2012-00578. The Attorney General does not claim, much less attempt to demonstrate, that convening the requested informal conference will prejudice his ability to take whatever action he deems appropriate with respect to the Commission's October 7, 2013 and November 15, 2013 Orders in Case No. 2012-00578.

The Attorney General likewise fails to provide any legal authority for his apparent belief that the business of the Commission and parties with cases pending before it must be suspended while the Attorney General decides whether to appeal the Commission's decision in the Mitchell Transfer case. To the contrary, and as explained below, the laws of the Commonwealth make clear that even the filing of an appeal – something the Attorney General apparently is only contemplating – has no effect on continued force of the Commission's orders.³

The Attorney General's arguments also ignore the regulations authorizing informal conferences, as well as the *actual* purpose of the conference requested by Kentucky Power. 807 KAR 5:001, Section 9(4) provides that the Commission may convene an informal conference “for the purpose of considering the possibility of settlement, the simplification or clarification of issues, or any matter that may aid in the handling and disposition of the case.” As the Company clearly stated, Kentucky Power seeks an informal conference to answer questions about the Application and, as unfortunately omitted from the Attorney General's Response, to “allow the Company, Staff, any intervenors or other interested parties to address procedural issues and a schedule for the Commission's review of the Application.”⁴

An informal conference will simplify this case and, through a discussion of the procedural issues and schedule, aid in the handling and disposition of the case. It is exactly the type of

³ KRS 278.390.

⁴ Kentucky Power Motion at 1.

conference contemplated by the Commission's regulations. The Attorney General's protests to the contrary must be rejected.

II. There Are No Grounds to Hold This Proceeding in Abeyance.

The Attorney General also requests that the Commission hold this case in abeyance pending the expiration of the period for appealing the Commission's October 7, 2013 Order in Case No. 2012-00578, and, if he ultimately elects to appeal, the expiration of the appellate proceedings in the Franklin Circuit Court. For the reasons set forth below, including the loss of the ability to manage interest rate risk, the Attorney General's motion must be denied.

A. The Attorney General's Motion Ignores the Effect of Filing an Appeal on the Order.

Despite the lapse of ten days between the Commission's Order denying the Attorney General's petition for rehearing in Case No. 2012-00578 and the date of this motion, the Attorney General has yet to file an appeal of the Commission's well-reasoned October 7, 2013 and November 15, 2013 orders in Case No. 2012-00578. Instead, he stands Hamlet-like, refusing even to confirm that he intends to do so. But even if the Attorney General were to appeal the Mitchel Transfer Orders, such an appeal will have no effect on the Commission's Orders in Case No. 2012-00578, much less this case. KRS 278.390 makes clear that "every order entered by the commission shall continue in force until the expiration of 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." The failure of the Attorney General even to cite this more than 70-year old statute, much less attempt to explain why it is not dispositive of his motion, only underscores the meritless nature of his motion.

Abandoning the law, the Attorney General instead contents himself with ascribing a malicious intent to the timing of the Company's filing in this case: "Moreover, with the timing of

this filing, KPCo presumes once again that its transfer of a 50 percent undivided interest in the Mitchell Generating Station is a *fait accomplis* [sic] and seeks the rubber-stamp approval of the Commission regarding financing transactions relating to the transfer.”⁵

Kentucky Power in no way presumes that the Commission will “rubber stamp” its approval of the Application in this case. The Company anticipates that the Commission will fully review the Application, as it does with all applications, and make a decision in this case based on the law and the evidence presented by the Company and the intervenors, including the Attorney General. The Attorney General’s claims to the contrary are simply the latest in his baseless attempts to cast Kentucky Power as an evil-doer before this Commission without any evidence.⁶

B. Holding this Case in Abeyance Would Expose Kentucky Power’s Customers to Unnecessary Financing Risks.

As described in the Application in this case, Kentucky Power seeks approval to refinance the Mitchell related debt to minimize the impact from any volatility in the market. Holding the case in abeyance while a potential appeal of the Commission’s decision in Case No. 2012-00578 is resolved would not further the interest of administrative and judicial economy as the Attorney General alleges.⁷ Instead, delaying this case would expose Kentucky Power’s customers to unnecessary risks in the financing market.

⁵ Attorney General’s Response at 2.

⁶ See e.g., Attorney General’s Reply to Kentucky Power Company Regarding Petition for Rehearing, Case No. 2012-00578, filed November 12, 2013 at 2 (“The Attorney General has consistently stood up to the corporate self-interest and bullying tactics demonstrated by Kentucky Power and its corporate parent.”); Attorney General’s Post-Hearing Brief, Case No. 2012-00578, filed August 12, 2013 at 16 (“The Commission and Ratepayers should not be tricked or bullied into accepting the Mitchell transaction as a *fait accompli*.”), at 17 (“Nearly simultaneously, AEP and its affiliates next filed a series of transactional approval filings, including this case, seeking rubber-stamp approval from the states.”), at 18 (“Neither the Commission nor the public should accept such bullying.”); Attorney General’s Reply to Kentucky Power Company’s Response in Opposition to Hold Case in Abeyance, Case No. 2013-00144, filed June 17, 2013 at 4 (“The filing of the notice of intent maybe [sic] construed as a bullying tactic intended to compel the Attorney General and the Commission with yet another “sequential” Kentucky Power proceeding.”) As is the case with his similar claim in this case, none of these claims found support in the record.

⁷ Attorney General’s Response at 2.

Kentucky Power anticipates that the first and second quarters of 2014 may see increased volatility in the capital markets due to concerns over potential Federal Reserve actions (in the form of tapering of the current quantitative easing program), the transition to a new Federal Reserve Chairperson, the upcoming debt ceiling extension and budget debates, and the possibility of another government shut-down. Because of this uncertainty Kentucky Power, through its Application, seeks the flexibility to react to changes in the market and obtain the best possible price, interest rates and terms – all to the benefit of Kentucky Power’s customers. Should the Attorney General’s motion for abeyance be granted, this flexibility to manage interest rate risk would be lost – all to the detriment of Kentucky Power’s customers. The Attorney General’s motion for abeyance must be denied.

C. The Attorney General’s Due Process Rights are not Implicated by this Proceeding.

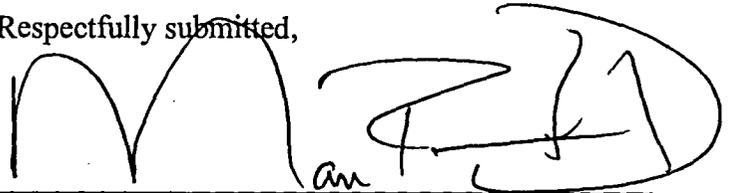
The Attorney General also asserts that his motion for abeyance is “consistent with the guarantee of procedural due process, since KRS § 278.410 permits an appeal of right by any party aggrieved by a decision of the Commission.”⁸ Despite implying that his procedural due process rights will somehow be affected if this case is not held in abeyance, the Attorney General fails to explain exactly how the Commission’s review of Kentucky Power’s Application in this case affects those rights. In reality, the Commission’s review of Kentucky Power’s Application in this case affects none of the Attorney General’s procedural due process rights. The Attorney General will still be able to file an appeal of the Commission’s Order in Case No. 2012-00578 if this case is not held in abeyance. He will also be able to file an appeal of a Commission Order in this case if he feels it’s appropriate. The Attorney General’s motion to hold this case in abeyance must be denied.

⁸ *Id.*

Wherefore, Kentucky Power Company respectfully requests the Commission convene an informal conference in this matter at its earliest convenience and deny the Attorney General's motion to hold this case in abeyance.

This 27th day of November, 2013.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Mark R. Overstreet', written over a horizontal line.

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served by first class mail, postage prepaid, and by e-mail transmission, upon the following persons this 27th day of November, 2013.

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A handwritten signature in black ink, appearing to read 'MRO', is written over a horizontal line. The signature is stylized and somewhat cursive.

Mark R. Overstreet