

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF KENTUCKY)	
POWER COMPANY FOR A CERTIFICATE OF)	CASE NO.
PUBLIC CONVENIENCE AND NECESSITY TO)	2018-00072
CONSTRUCT A 138 KV TRANSMISSION LINE IN)	
BOYD COUNTY, KENTUCKY)	

ORDER

On October 17, 2022, Kentucky Power Company (Kentucky Power) filed its Third Quarter 2022 Status Report along with a motion to surrender the conditional certificate of public convenience and necessity (CPCN) granted in this case and to be relieved of related reporting requirements.¹ The Commission previously granted Kentucky Power a CPCN to construct and operate the EastPark Industrial Center (EastPark) project, which consisted of transmission and related facilities, to serve a new aluminum mill that was planned for the EastPark site in Boyd County, Kentucky. The CPCN was granted conditionally, “subject to reasonable assurance in writing from Braidy Industries (now Unity Aluminum, Inc., (Unity)) that sufficient financing has been secured to complete construction of its planned facility,”² and Kentucky Power was required to make quarterly reports regarding Braidy/Unity’s efforts to secure financing.

Kentucky Power has now reported that Braidy/Unity stated that it does not plan to build the aluminum mill at the EastPark site. Kentucky Power noted that Braidy/Unity has

¹ Kentucky Power Company’s Third Quarter 2022 Status Report and Motion to Surrender Conditional CPCN (Motion to Surrender Conditional CPCN) (filed Oct. 17, 2022).

² Order (Ky. PSC Oct. 5, 2018) at 9, ordering paragraph 1.

stated that its plans for the aluminum mill have increased in size such that the EastPark property is no longer large enough to accommodate those plans.³ Given Braidy/Unity's decision to no longer locate its facilities at the EastPark site, Kentucky Power moved to surrender the conditional CPCN approved by the Commission in this case and to be relieved of the requirement that it submit quarterly status reports on Braidy/Unity's efforts to secure financing.⁴

The Commission notes that the CPCN was conditioned on Braidy/Unity providing assurances that it had obtained financing for the aluminum mill, because the EastPark project at issue was justified by the need to provide service to Braidy/Unity's proposed facilities. Since Braidy/Unity has indicated that it no longer plans to construct its facilities at the EastPark site, there is currently no or insufficient evidence in the record of this case to justify the need for the EastPark project or to establish the absence of wasteful duplication. More importantly, the condition precedent required for Kentucky Power to move forward with construction of the EastPark project will not be satisfied, because Braidy/Unity is no longer actively pursuing the aluminum mill at the EastPark site. There is also no reason to require Kentucky Power to continue to provide status updates regarding Braidy/Unity's financing efforts for a project Braidy/Unity is no longer pursuing. Thus, having reviewed Kentucky Power's motion and being otherwise sufficiently advised,

³ Motion to Surrender Conditional CPCN at 1.

⁴ Kentucky Power does not explain specifically what it means by surrendering the CPCN approved in this matter, and this issue has rarely arisen before the Commission. On one occasion, the Commission interpreted the surrender of a CPCN to mean that the authority to construct facilities granted by the CPCN is revoked. See Case No. 2005-00207, *Application of East Kentucky Power Cooperative, Inc. for a Certificate of Public Convenience and Necessity for the Construction of a 161 KV Electric Transmission Line in Barren, Warren, Butler, and Ohio Counties, Kentucky* (Ky. PSC May 31, 2007). The Commission similarly understands Kentucky Power's motion to be requesting that it be permitted to voluntarily relinquish the conditional construction authority granted by the CPCN in order to be relieved of related reporting requirements.

the Commission finds that it should accept Kentucky Power's surrender of the conditional CPCN granted in this case and should relieve Kentucky Power of the requirement to submit quarterly status reports on Brady/Unity's efforts to secure financing.

IT IS THEREFORE ORDERED that:

1. Kentucky Power's motion to surrender the conditional CPCN and to relieve Kentucky Power of the requirement to submit quarterly status reports on Unity's efforts to secure financing is granted.

2. Kentucky Power shall not pursue any construction pursuant to the CPCN granted in this case.

3. Kentucky Power is relieved of the requirement to submit quarterly status reports on Unity's efforts to secure financing.

4. This case is closed and removed from the Commission's docket.

PUBLIC SERVICE COMMISSION

Hunt Chris

Chairman

Vice Chairman

*by KAC
w/permission*
Ray Lat Reym

Commissioner

ENTERED
FEB 10 2023 bsb
KENTUCKY PUBLIC
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ATTEST:

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