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April 21, 2008

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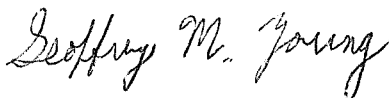
Stephanie Stumbo, Executive Director
Kentucky Public Service Commission
P.O. Box 615, 211 Sower Boulevard
Frankfort, Kentucky 40602-0615

Re: Case No. 2008-00128

Dear Ms. Stumbo:

Please find attached for filing with the Commission an original and ten copies of a response to EKPC's objections to my petition for intervention in the above-referenced proceeding.

Sincerely,



Geoffrey M. Young

Enclosures

cc: EKPC

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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PUBLIC SERVICE
COMMISSION

In the Matter of:

THE REVISION OF COGENERATION AND)
SMALL POWER PURCHASE RATES OF) CASE NO.
EAST KENTUCKY POWER COOPERATIVE, INC.) 2008-00128

RESPONSE TO EKPC'S OBJECTIONS
TO THE PETITION TO INTERVENE
OF GEOFFREY M. YOUNG

On March 31, 2008, East Kentucky Power Cooperative, Inc. (EKPC) filed with the Commission proposed revisions to its Tariff for Qualified Cogeneration and Small Power Production Facilities. On April 4, 2008, the Commission acknowledged receipt of EKPC's filing and initiated Case No. 2008-00128 to consider the proposed revisions and the documentation therefor. On April 10, 2008, I submitted a petition for full intervention, and on April 15, EKPC submitted its response and objections to my petition. All of these objections are without merit and should be denied.

1. EKPC lists four grounds for its objections. The first ground is nothing more than an assertion that my petition "fails to state facts which would justify the granting of such discretionary intervention in this case." This assertion is in error, as will be shown below.

2. EKPC's second ground begins by asserting, "Mr. Young cites no relevant special interest in this case in his Petition." [EKPC Objections, page 1] This blanket, conclusory assertion is contradicted by the first sentence in Ground No. 2 of my petition, which reads, "My interests in this proceeding are to make sure an environmentalist perspective is represented and to help eliminate impediments to the enhancement of energy end-use

efficiency in all sectors of Kentucky’s economy.” It is hard to imagine a more clear citation of interests that are not otherwise represented in the proceeding. In reading the remainder of EKPC’s second ground, it becomes clear that EKPC believes that the special interests I clearly and explicitly cited are just not relevant to this case. Elementary logic, however, shows EKPC’s assumption to be invalid. The tariff under consideration will affect the number of qualifying facilities (QFs) that will be proposed for development in EKPC’s service territory. The number and capacity of such facilities will in turn affect both the natural environment in Kentucky and the efficiency with which fuel is converted into useful energy services. Both of my stated interests in this proceeding – the environment and energy efficiency – will be directly affected by the Commission’s final Order that establishes the tariff, including its terms and conditions.

In the last sentence of EKPC’s second ground, it asserts that my stated interests “are beyond the Commission’s jurisdiction and the scope of this proceeding.” [EKPC Objections, page 2] There is an ongoing proceeding, however – Administrative Case No. 2007-00477 – that shows that EKPC’s assertion is unfounded and/or counterfactual. [An Investigation of the Energy and Regulatory Issues in Section 50 of Kentucky’s 2007 Energy Act]. The relevant section of this act begins as follows:

Section 1. The Public Service Commission shall examine existing statutes relating to its authority over public utilities, and shall, on or before July 1, 2008, make recommendations to the Legislative Research Commission regarding the following issues:

- (1) Eliminating impediments to the consideration and adoption by utilities of cost-effective demand-management strategies for addressing future demand prior to Commission consideration of any proposal for increasing generating capacity;
- (2) Encouraging diversification of utility energy portfolios through the use of renewables, and distributed generation;

(3) Incorporating full-cost accounting that considers and requires comparison of life-cycle energy, economic, public health, and environmental costs of various strategies for meeting future energy demand; and

(4) Modifying rate structures and cost recovery to better align the financial interests of the utility with the goals of achieving energy efficiency and lowest life-cycle energy costs to all classes of ratepayers.

In passing this act and signing it into law, the General Assembly and the Governor clearly expressed the idea that the following issues are at least on the table for consideration by the Commission:

- the environmental costs of various strategies for meeting future energy demand;
- a range of ways the Commission might act to help achieve enhanced energy efficiency and minimize life-cycle energy costs to all classes of ratepayers;
- encouraging the diversification of utility energy portfolios through the use of renewable energy technologies and distributed generation.

All of these issues are directly related to the tariff that the Commission will eventually order into effect at the conclusion of this proceeding. While EKPC may not believe that any of these issues are relevant to the work of the Commission, the General Assembly and the Governor clearly disagree.

3. In its third ground for objecting to my full intervention, EKPC states flatly that “The Commission has already ruled on the recommendations regarding EKPC’s cogeneration and small power tariff made by Mr. Young in EKPC’s rate case, all of which were rejected in the Commission’s order dated December 5, 2007.” This statement is a misrepresentation of the meaning of the Commission’s Order in Case No. 2006-00472. In that Order, the Commission revisited its Order of 6/18/08, in which it ruled that the QF tariff was subject to review in the rate case, and concluded that “a rate case is not the

appropriate forum to challenge an existing QF tariff.” [page 41, lines 1-2] The issue of an appropriate forum was a major reason why the Commission denied the Sierra Club’s proposed changes to the QF tariff in the context of the rate case. [Order, 12/5/07, pages 40-41, 50] Instead of considering and ruling on the QF tariff as part of the rate case, the Commission ordered EKPC to “file an application to update the avoided costs reflected in its QF tariffs no later than March 31, 2008, as described in this Order.” [Ibid.]

Contrary to EKPC’s assertion, the Commission did not rule on all of the Sierra Club’s proposals re the QF tariff in Case No. 2006-00472. On page 39 of its 12/5/07 Order, for example, the Commission stated that it “*is not persuaded* that the proposals recommended by the Sierra Club are consistent and in compliance with the provisions of 807 KAR 5:054, as currently enacted.” [emphasis added] This is a far cry from a statement to the effect that these proposals are clearly inconsistent with the regulation. Further, the Commission stated that “*It appears* that several of the Sierra Club’s proposed solutions to problems with the QF tariffs will not result in rates for sale that are just and reasonable, in the public interest, and nondiscriminatory. [Ibid., page 39, emphasis added] This is a far cry from a statement to the effect that the proposals clearly would result in rates that are not just and reasonable. The Commission noted that “The Sierra Club’s concept of avoided cost *appears to be* broader than the definition of avoided costs contained in 807 KAR 5:054, Section 1(1).” [Ibid., pp 39-40, emphasis added] This is a far cry from a statement to the effect that the Sierra Club’s concept of avoided cost is clearly inconsistent with the regulation. In all three of these comments in its Order of 12/5/07, the Commission used measured, judicious language that did not rule against the Sierra Club’s proposals in a definitive manner. Such language was quite appropriate, given the fact that the Commission had determined that the QF tariff should be considered and approved in a

separate proceeding and not in the forum of the rate case. The Commission was apparently leaving the door open for the types of issues raised by the Sierra Club to be considered in the subsequent forum, which is the present proceeding. For EKPC to state that these issues have all been fully addressed and decided in Case No. 2006-00472 is a serious misrepresentation of the Commission's stated position. This glaring misrepresentation, in and of itself, should constitute grounds for the Commission to deny EKPC's objections and grant my intervention petition.

One statement in the Commission's 12/5/07 Order was erroneous, and that misunderstanding could be clarified if I were to be granted full intervention in this proceeding. "The Commission notes that the sample QF tariffs provided by the Sierra Club appear to contain only terms and conditions, and do not include the applicable rates." In fact, the tariff proposed by the Sierra Club specified that the rates for QF power be set equal to \$.01 per kWh if the generating source was highly polluting, and that it be set equal to the retail rate if the generating source was environmentally sound, following the methodology specified in Kentucky's net metering statute, KRS 278.465 to 278.458. [Case No. 2006-00472, Sierra Club's Responses to the First Information Request of the Commission Staff, August 8, 2007, Request 15d, page 12 of 13.]

In its third ground for objection, EKPC stated, "Mr. Young clearly plans to revisit these [Sierra Club recommendations], and potentially other, extreme arguments in an attempt to reinterpret and expand the scope of the cogeneration and small power purchase regulations." These accusations are groundless. The pages from my petition that EKPC cited, pages 3-4, do not support its accusations. Nowhere in my petition of 4/10/08 did I state that I am planning to present the same proposals in this proceeding that the Sierra Club presented in the rate case. Furthermore, nowhere did I state that I have any intention

of challenging or expanding the scope of the cited regulation in the context of this proceeding. It is perfectly legitimate for an intervenor to suggest different ways for the Commission to interpret an existing regulation, and I might – not will, but might – have some suggestions of this kind to present at the appropriate time during the course of this proceeding. As is the case with all such suggestions, the Commission has the final say in how it will interpret the existing pertinent regulations, and it will always have the authority to adopt, reject or modify any suggested interpretations a party might make. I will not be proposing amendments or modifications to 807 KAR 5:054 in this proceeding because this would not be the appropriate forum in which to do so.

EKPC claims to know what my “plans” are for this proceeding, but their objections indicate that they have misread my petition. At present, my only firm intention is to submit information requests about EKPC’s proposed tariff and its related documentation on or before the date the Commission establishes in its procedural schedule. There is no way for me to know with certainty at this point whether I will be submitting comments about EKPC’s tariff or a proposed alternative tariff for the Commission to consider.

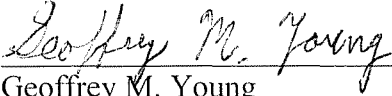
4. EKPC’s fourth ground, that I am neither an attorney nor represented by an attorney, is irrelevant. EKPC’s allegation that my “self-representation as an intervenor would be another strong indication of the potential for undue complication and disruption of these proceedings” is completely unfounded. The regulation EKPC cites, 807 KAR 5:001, Section 3(8), contains absolutely no bias in favor of representation by an attorney or against representation by an attorney. Similarly, it contains no bias either in favor of or opposed to intervention by an individual versus intervention by an organization.

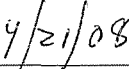
Every one of EKPC’s grounds for objecting to my petition for intervention is unfounded and invalid. EKPC has been unable to show that my petition fails to meet

either of the two prongs of 807 KAR 5:001, Section 3(8). By its groundless objections, EKPC is actually saying, in effect, that environmentalists and people concerned about energy efficiency could not possibly have anything to say (or ask) that could help the Commission come to the best possible decision in this proceeding. EKPC's objections are, in effect, a call to censor out viewpoints that may differ from its own.

WHEREFORE, I respectfully request that the Commission reject EKPC's objections dated 4/15/08 and grant my petition for intervention dated 4/10/08.

Respectfully submitted,


Geoffrey M. Young
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Lexington, KY 40503
Phone: 859-278-4966
E-mail: energetic@windstream.net

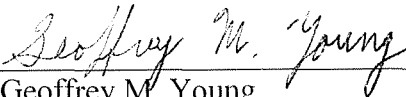

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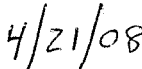
CERTIFICATE OF SERVICE

I hereby certify that an original and ten copies of the foregoing response to EKPC's objections were delivered to the office of Stephanie Stumbo, Executive Director of the Kentucky Public Service Commission, 211 Sower Boulevard, Frankfort, KY 40601, and that a copy was mailed to the following party of record on this 21st day of April, 2008.

Hon. Charles A. Lile
Senior Corporate Counsel
East Kentucky Power Cooperative, Inc.
4775 Lexington Road
P.O. Box 707
Winchester, KY 40392-0707

Signed,


Geoffrey M. Young


Date