

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE CONSIDERATION AND DETERMINATION	)	
OF THE APPROPRIATENESS OF IMPLEMENTING	)	
A RATEMAKING STANDARD PERTAINING TO	)	ADMINISTRATIVE
THE PURCHASE OF LONG-TERM WHOLESale	)	CASE NO. 350
POWER BY ELECTRIC UTILITIES AS	)	
REQUIRED IN SECTION 712 OF THE	)	
ENERGY POLICY ACT OF 1992	)	

O R D E R

The Energy Policy Act of 1992 ("EPACT") amends Section 111 of the Public Utility Regulatory Policies Act of 1978 ("PURPA") in several respects. One of the amendments, set forth in Section 712 of EPACT, a copy attached hereto as Appendix A, provides that a state commission, to the extent it allows jurisdictional electric utilities to consider purchasing long-term wholesale power supplies as a means of meeting electric demand, must consider formally the implementation of an electric ratemaking standard pertaining to such purchases. Since the Commission does allow electric utilities to consider such purchases, Section 712 of EPACT further requires us to evaluate:

- (i) the potential for changes in the costs of capital for purchasing utilities, and any resulting changes in retail rates, that may result from purchases of long-term wholesale power supplies in lieu of constructing new generation facilities;
- (ii) whether the use by exempt wholesale generators of capital structures which employ proportionally greater amounts

of debt than the capital structures of such utilities threatens reliability or provides an unfair advantage for exempt wholesale generators over such utilities.

(iii) whether to implement procedures for the advance approval of the purchase of a particular long-term wholesale power supply; and

(iv) whether to require as a condition for the approval of the purchase of power that there be reasonable assurances of fuel supply adequacy.

The Commission is required to conduct these evaluations and determine by October 24, 1993 whether it is appropriate to implement a ratemaking standard.

IT IS THEREFORE ORDERED that:

1. An administrative proceeding to consider and determine the appropriateness of implementing a ratemaking standard pertaining to long-term wholesale power purchases by electric utilities be and it hereby is initiated.

2. Big Rivers Electric Corporation, East Kentucky Power Cooperative, Louisville Gas and Electric Company, Kentucky Power Company, Kentucky Utilities Company, and The Union Light, Heat and Power Company are hereby made parties to this proceeding.

3. The above-named parties to this proceeding shall file written comments, individually or jointly, on or before July 9, 1993 on the wholesale power purchase issues identified above.

4. Any other entity that desires to participate in this proceeding shall file on or before June 18, 1993 a motion to intervene pursuant to 807 KAR 5:001, Section 3(8). Any written

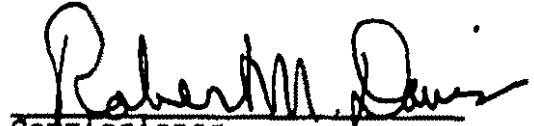
comments by intervenors on the wholesale power purchase issues identified above shall be filed on or before July 9, 1993.

Done at Frankfort, Kentucky, this 21st day of May, 1993.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN  
ADMINISTRATIVE CASE NO. 350 DATED May 21, 1993

**SEC. 112. STATE CONSIDERATION OF THE EFFECTS OF POWER PURCHASES ON UTILITY COST OF CAPITAL; CONSIDERATION OF THE EFFECTS OF LEVERAGED CAPITAL STRUCTURES ON THE RELIABILITY OF WHOLESALE POWER SELLERS; AND CONSIDERATION OF ADEQUATE FUEL SUPPLIES.**

Section 111 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 and following) is amended by inserting the following new paragraph after paragraph (9):

**"(10) CONSIDERATION OF THE EFFECTS OF WHOLESALE POWER PURCHASES ON UTILITY COST OF CAPITAL; EFFECTS OF LEVERAGED CAPITAL STRUCTURES ON THE RELIABILITY OF WHOLESALE POWER SELLERS; AND ASSURANCE OF ADEQUATE FUEL SUPPLIES. — (A) To the extent that a State regulatory authority requires or allows electric utilities for which it has ratemaking authority to consider the purchase of long-term wholesale power supplies as a means of meeting electric demand, such authority shall perform a general evaluation of:**

**"(i) the potential for increases or decreases in the costs of capital for such utilities, and any resulting increases or decreases in the retail rates paid by electric consumers, that may result from purchases of long-term wholesale power supplies in lieu of the construction of new generation facilities by such utilities;**

**"(ii) whether the use by exempt wholesale generators (as defined in section 32 of the Public Utility Holding Company Act of 1935) of capital structures which employ proportionally greater amounts of debt than the capital structures of such utilities threatens reliability or provides an unfair advantage for exempt wholesale generators over such utilities;**

**"(iii) whether to implement procedures for the advance approval or disapproval of the purchase of a particular long-term wholesale power supply; and**

**"(iv) whether to require as a condition for the approval of the purchase of power that there be reasonable assurances of fuel supply adequacy.**

**"(B) For purposes of implementing the provisions of this paragraph, any reference contained in this section to the date of enactment of the Public Utility Regulatory Policies Act of 1978 shall be deemed to be a reference to the date of enactment of this paragraph.**

**"(C) Notwithstanding any other provision of Federal law, nothing in this paragraph shall prevent a State regulatory authority from taking such action, including action with respect to the allowable capital structure of exempt wholesale generators, as such State regulatory authority may determine to be in the public interest as a result of performing evaluations under the standards of subparagraph (A).**

**"(D) Notwithstanding section 124 and paragraphs (1) and (2) of section 112(a), each State regulatory authority shall consider and make a determination concerning the standards of subparagraph (A) in accordance with the requirements of subsections (a) and (b) of this section, without regard to any proceedings commenced prior to the enactment of this paragraph.**

**"(E) Notwithstanding subsections (b) and (c) of section 112, each State regulatory authority shall consider and make a determination concerning whether it is appropriate to implement the standards set out in subparagraph (A) not later than one year after the date of enactment of this paragraph."**