

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF EAST KENTUCKY)
POWER COOPERATIVE, INC. FOR)
APPROVAL OF A POWER PURCHASE) CASE NO. 2000-079
AGREEMENT WITH KENTUCKY)
PIONEER ENERGY, L.L.C.)

O R D E R

The Commission, on its own motion, HEREBY ORDERS that:

1. An informal conference shall be held on May 19, 2000, at 1:30 p.m., Eastern Daylight Time, in Conference Room 1 of the Commission's offices at 211 Sower Boulevard, Frankfort, Kentucky.

2. East Kentucky Power Cooperative, Inc. ("East Kentucky") shall file no later than May 16, 2000 an original and eight copies with the Commission with a copy to all parties of record of the information requested in Appendix A attached hereto. East Kentucky's responses shall be filed in the form and manner described in the Commission's April 28, 2000 Order.

Done at Frankfort, Kentucky, this 5th day of May, 2000.

ATTEST:

By the Commission

W. H. Fowler
Deputy Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2000-079 DATED MAY 5, 2000

1. Refer to the Purchase Power Agreement, Section 6.12(d). Provide a description of the “mutually agreed upon energy price index.”

a. Will the index represent an average wholesale price for the purchase of energy over the entire winter peak or summer peak, or will the index represent an average wholesale price for the purchase of energy on the particular days that East Kentucky actually purchases energy?

b. Assume that energy is not available under the contract to East Kentucky on the five coldest days of the winter peak and the five hottest days of the summer peak, forcing East Kentucky to purchase an equivalent amount of energy on those peak days at prevailing market prices. Will Section 6.12 or any other provision of the Purchase Power Agreement fully compensate East Kentucky for the difference between the actual market price of energy purchased and the contract price of energy?

2. Refer to the Purchase Power Agreement, Section 14.1(c). Is the reference therein to “this Section 15.1” correct, or should the reference be to Section 14.1? Provide a detailed explanation of the response.

3. Refer to the Purchase Power Agreement, Section 14.1(c)(VII). Is there a definition or other criteria to determine what constitutes a “material provision” of the contract or “material harm” to East Kentucky? Provide a detailed explanation of the response.

4. Has Kentucky Pioneer Energy, L.L.C. (“Pioneer Energy”) already filed an application with the Federal Energy Regulatory Commission (“FERC”) for authority to operate as an Exempt Wholesale Generator? If yes, provide a copy of the application and any decision issued by the FERC. If no, when will the application be filed?

5. Will the Purchase Power Agreement be filed with the FERC? If yes, explain in detail the extent to which East Kentucky or Pioneer Energy can invoke FERC’s jurisdiction to resolve a dispute under the Purchase Power Agreement.

6. In the event that the FERC retains some supervisory jurisdiction over the Purchase Power Agreement, explain in detail why there is no acknowledgement of FERC’s jurisdiction in the Purchase Power Agreement. Also explain why Sections 18.3, Arbitration, and 18.12, Choice of Laws, seem to indicate that neither East Kentucky nor Pioneer Energy has the right to invoke FERC’s jurisdiction over any aspect of the Purchase Power Agreement.

7. If at some time in the future, the Contract Energy Price under the Purchase Power Agreement exceeds the market price of power, is there any provision that would prevent Pioneer Energy from delivering energy to East Kentucky that was purchased in the market rather than generated by the Pioneer Energy facilities?