

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN INVESTIGATION OF EAST KENTUCKY)	
POWER COOPERATIVE, INC.'S NEED)	
FOR THE GILBERT UNIT AND THE)	CASE NO. 2003-00030
KENTUCKY PIONEER ENERGY, LLC)	
PURCHASE POWER AGREEMENT)	
THE APPLICATION OF EAST KENTUCKY)	
POWER COOPERATIVE, INC. FOR)	CASE NO. 2000-00079
APPROVAL TO PURCHASE POWER)	
AGREEMENT)	

O R D E R

The Commission has pending before it a motion filed by Charles T. Walters, a landowner and resident of Clark County, Kentucky, requesting full intervention. The motion states that Mr. Walters is a customer of Clark County Rural Electric Cooperative, a member distribution cooperative of East Kentucky Power Cooperative, Inc. (East Kentucky); that he has property, economic, and aesthetic interests in the protection of the quality of life in Clark County; and that he has an interest in reliable, low-cost electric power that may be adversely affected by the outcome of these proceedings. The motion further references Mr. Walters role in filing a legal challenge to a decision by the Natural Resources and Environmental Protection Cabinet (Cabinet) on the need for a permit for the fuel to be used at the generating plant proposed by Kentucky Pioneer Energy, LLC (Kentucky Pioneer), and asserts that a Commission decision to not

cancel the existing purchase power agreement may adversely affect or impede the ability of Walters to vindicate his position in that legal challenge. In addition, the motion states that Mr. Walters does not intend to file additional data requests but will file direct testimony within 5 days of being granted status as an intervenor.

Objections to the motion were filed by both East Kentucky and Kentucky Pioneer on the grounds that being a landowner and ratepayer does not confer on Mr. Walters any special interest which is not already adequately represented by the Attorney General's Office (AG); that these cases were initiated some time ago and granting the intervention at this late date would be disruptive to the existing proceedings; that any issues related to either a challenge to a decision by the Cabinet or a case before the Kentucky State Board on Electric Generation and Transmission Siting (Siting Board) are beyond the scope of the Commission's jurisdiction; and that Mr. Walters does not possess the background or training to be able to present issues or develop facts to assist the Commission in fully considering the issues in these cases.

Mr. Walters filed a reply to the objections, stating that he will comply with the existing procedural Order in responding to any requests for information and that his interests will not be adequately represented by the AG because the AG previously approved or consented to the purchase power contract which Mr. Walters now opposes.

Based on the motion, the objections thereto, and the reply, the Commission finds that Mr. Walters has a special interest which is not otherwise adequately represented by any existing party and, therefore, full intervention should be granted subject to the restrictions set forth herein.

First, the Commission initiated this investigation on January 30, 2003 and a procedural schedule was established on June 13, 2003. Pursuant to that schedule, intervenor testimony was required to be filed no later than August 11, 2003, the date on which Mr. Walters filed his motion to intervene. When the Commission finds an intervention to be untimely, but otherwise appropriate, it is granted subject to the intervenor accepting the procedural schedule as it then exists. No good cause has been shown here to deviate from that requirement. Thus, as Mr. Walters has not filed any testimony by the due date, no testimony will now be accepted from Mr. Walters. He will, however, be entitled to make a statement at any public hearing, and that statement will be included in the record as public comment.

Second, the Commission's jurisdiction is limited to regulating the rates and service of utilities, and the issues pending in these proceedings relate to the issues set forth in the June 13, 2003 Order, i.e., whether it is reasonable and cost-effective for East Kentucky to continue with its contract to purchase the output of the Kentucky Pioneer project rather than adding combustion turbines. While the Commission can certainly take administrative notice of a legal challenge to a decision of the Cabinet, as well as a case pending before the Siting Board, the merits of the issues pending in those other forums are not relevant here. Consequently, Mr. Walters' participation in these cases is specifically limited to the issues set forth in the June 13, 2003 Order and the testimony already on file.

IT IS THEREFORE ORDERED that:

1. Mr. Walters' motion for full intervention is granted subject to the restrictions set forth in the findings above.

2. Mr. Walters shall be entitled to the full rights of a party and shall be served with the Commission's Orders and with filed testimony, exhibits, pleadings, correspondence, and all other documents submitted by parties after the date of this Order.

3. Should Mr. Walters file documents of any kind with the Commission in the course of these proceedings, he shall also serve a copy of said documents on all other parties of record.

Done at Frankfort, Kentucky, this 2nd day of September, 2003.

By the Commission

ATTEST:


Executive Director

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