

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN INVESTIGATION INTO EAST KENTUCKY)
POWER COOPERATIVE, INC.'S CONTINUED) CASE NO.
NEED FOR CERTIFICATED GENERATION) 2006-00564

O R D E R

On January 5, 2007, the Commission established this proceeding “to gain an assurance that [East Kentucky Power Cooperative, Inc.’s (‘EKPC’)] certificated generation for the Spurlock No. 4 unit and the Smith Circulating Fluidized Bed (‘CFB’) unit and attendant Combustion Turbines (‘CTs’) are still needed. . .in light of [Warren Rural Electric Cooperative Corporation’s] decision” to terminate a power supply agreement with EKPC.¹

In our Order of January 5, 2007, we further directed EKPC to provide certain information regarding its generation requirements, established a procedural schedule for this proceeding, and directed that the Attorney General and Gallatin Steel Company be made parties to this proceeding. EKPC has responded to the Commission’s discovery request. Although afforded an opportunity to request a hearing in this proceeding, no party has submitted such request within the time specified in the Order.

Having reviewed EKPC’s response to the Commission’s Order of January 5, 2007, we are presently unable to find with sufficient certainty that the public

¹ Order of January 5, 2007 at 2.

convenience and necessity currently requires the facilities for which we granted a Certificate of Public Convenience and Necessity (“CPCN”) in Case No. 2005-00053.² The Commission finds that additional discovery and a formal hearing are required in this matter to ensure a complete record. Accordingly, we find that the procedural schedule set forth in the Order of January 5, 2007 should be set aside and a new procedural schedule substituted.

On an unrelated matter, the Commission places all parties on notice that Cherne Contracting Corporation, a firm that EKPC retained to provide equipment and material and the balance of plant installation on the Spurlock No. 4 project, employs Commissioner Clay’s brother-in-law. While the Commission perceives no actual conflict of interest in Commissioner Clay’s participation in this proceeding, the Commission will consider any motions for recusal if filed on or before February 21, 2007.

IT IS HEREBY ORDERED that:

1. The hearing scheduled for February 13, 2007 is cancelled.
2. The procedural schedule set forth in Appendix A of the Commission’s Order of January 5, 2007, is set aside and the procedural schedule set forth in Appendix A of this Order is substituted.

² Case No. 2005-00053, Application of East Kentucky Power Cooperative, Inc. For a Certificate of Public Convenience and Necessity, and a Site Compatibility Certificate, For the Construction of a 278 MW (Nominal) Circulating Fluidized Bed Coal Fired Unit and Five 90 MW (Nominal) Combustion Turbines in Clark County, Kentucky (Ky. PSC Aug. 29, 2006).

3. A hearing shall be held in this matter on March 6, 2007, in Hearing Room 1 of the Commission's offices at 211 Sower Boulevard, Frankfort, Kentucky. This hearing shall begin upon the conclusion of the hearing in Case No. 2006-00472.³

4. At the scheduled hearing, the parties shall address the issues set forth in Appendix B to this Order.

5. EKPC shall, no later than February 23, 2007, file with the Commission the original and 8 copies of the information listed in Appendix C. Each copy of the requested information shall be placed in a bound volume with each item tabbed. When a number of sheets are required for an item, each sheet should be appropriately indexed, for example, Item 1(a), Sheet 2 of 6. EKPC shall include with each response the name of the witness who will be responsible for responding to questions relating to the information provided. When the requested information has been previously provided in this proceeding in the requested format, reference may be made to the specific location of that information in responding to this request.

6. Any party wishing to move for the recusal of Commissioner Clay shall file its motion no later than February 21, 2007.

Done at Frankfort, Kentucky, this 13th day of February, 2007.

By the Commission

ATTEST:


Executive Director

³ Case No. 2006-00472, General Adjustment of Electric Rates of East Kentucky Power Cooperative, Inc.

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2006-00564 DATED February 13, 2007

Motions for recusal shall be filed no later than 2/21/07

EKPC's response to Commission Staff's
third set of data requests shall be filed no later than 2/23/07

EKPC's prefiled testimony shall be filed no later than 2/23/07

Public hearing is to be held in Hearing Room 1
of the Commission's offices at 211 Sower
Boulevard, Frankfort, Kentucky, upon conclusion
of the hearing in PSC Case No. 2006-00472 3/6/07

APPENDIX B

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2006-00564 DATED February 13, 2007

1. In light of Warren Rural Electric Cooperative Corporation's ("WRECC") decision to terminate its power supply agreement with EKPC, is the construction of a 278 MW circulating fluidized bed coal-fired unit ("Smith CFB Unit") by 2009 reasonable and necessary to meet EKPC's base load capacity requirements?
2. Will, given EKPC's present expected demand requirements, EKPC's present plan to construct and place into operation the Smith CFB Unit by 2009 result in the wasteful duplication of facilities or excessive investment?
3. Should the proposed construction of the Smith CFB Unit be delayed?
4. Should, in light of WRECC's decision to terminate its power supply agreement with EKPC and EKPC's decision to delay construction of three 90 MW combustion turbines ("Smith CTs 10-12"), Commission authorization for the construction of these units be rescinded?
5. Does the public convenience and necessity require the immediate construction of two 90 MW combustion turbines at the J. K. Smith Power Station ("Smith CTs 8-9") if construction of the Smith CFB Unit is delayed or cancelled?
6. Is the immediate construction of two 90 MW combustion turbines at the J. K. Smith Power Station ("Smith CTs 8-9") reasonable if construction of the Smith CFB Unit is delayed or cancelled?
7. Does EKPC have a reasonable plan for selling excess power that is not needed to serve native load in the event that construction of any of the facilities for which the Commission issued a CPCN produces excess power?

8. Should any portion of the cost of EKPC's Spurlock No. 4 Unit, Smith CFB Unit, or Smith CTs 8-9 be excluded from recovery in EKPC's general rates if the construction of such unit(s) produces excessive power generation capacity unnecessary to serve native load?

APPENDIX C

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2006-00564 DATED February 13, 2007

1. Refer to the response to Commission Staff's Supplemental Data Request, Item 4.

a. For each of the following winter periods, provide the currently anticipated capacity deficit or surplus situation excluding and including the Smith CTs 8 and 9:

(1) 2007-2008.

(2) 2008-2009.

(3) 2009-2010.

b. State when the current capacity deficit or surplus situation for the referenced winter periods was determined.

c. Given the status of the contracts to procure the Smith CTs 8 and 9, state whether those CTs will be available by the 2008-2009 winter peak season? Explain.

2. Provide an analysis of the extent to which EKPC has relied on its fleet of CTs to meet its native load requirements since January 2003. The analysis should show the extent to which the CT fleet has been used for purposes other than peaking. State all assumptions and show all calculations used to develop this analysis.

3. Refer to the response to Commission Staff's Supplemental Data Request, Item 5. EKPC was requested to provide with its explanation a copy of all data underlying its position, including an analysis of the potential costs or penalties involved

in canceling the Smith contracts. EKPC did not provide the underlying data or an analysis of the potential costs or penalties associated with canceling the Smith contracts. Provide the originally requested information. If such information does not exist, explain in detail why the information is unavailable and how any recommendation regarding the continued construction of the Smith CFB Unit can be developed in the absence of such information.

4. Refer to the response to Commission Staff's Supplemental Data Request, Item 6.

a. State when EKPC assembled and prepared the detailed economic analysis submitted with this response.

b. Explain in detail why the Smith CTs 10-12 were included as of January 2010 in this analysis, given EKPC's statement that these CTs were being delayed to the 2012-2014 time period.

c. For each scenario, provide the following information for the Smith CFB Unit as it was incorporated into the 2010 base case scenario, the 2012 delay scenario, the 2015 delay scenario, and the 2018 delay scenario:

(1) The total investment in the Smith CFB Unit.

(2) The annual amounts for production fuel expense, production operation and maintenance expense, depreciation expense, property taxes, and interest expense.

(3) A detailed explanation of how the amounts for the investment in the Smith CFB Unit and the annual expenses were escalated in the three

delay scenarios. If no escalation was incorporated in the analysis, explain in detail why an escalation was excluded.

(4) The annual market purchases of power for the years 2007 through 2018. Provide the MWh and total dollars.

d. Explain why an annual Times Interest Earned Ratio ("TIER") of 1.10 was included in the analysis

e. Explain why a TIER of 1.10 was established as an apparent required level of earnings in the analysis.

f. Refer to pages 5-12 of the response.

(1) EKPC has filed an application seeking an increase in base rates of \$43,364,219. The analysis, however, shows for 2007 a base rate increase of \$32,181,000. Explain this apparent discrepancy.

(2) Describe how EKPC determined the level of off-system sales shown for 2007 through 2009.

(3) In light of its actual experience in 2005 and the revised budget in 2006, explain in detail why the forecast of off-system sales for the entire analysis is reasonable.

(4) On pages 5 and 6 of 12, the 2010 base case scenario, explain why the fuel adjustment revenues decrease significantly from previous levels from 2010 through 2014.

(5) The analysis shows for the 2010 base case scenario a base rate increase of \$63,173,000 in 2010. The 2012 delay scenario shows a base rate increase of \$40,076,000 in 2012. The 2015 delay scenario shows a base rate increase

of \$31,599,000 in 2015. The 2018 delay scenario shows a base rate increase of \$39,594,000 in 2018. Explain how the year that the Smith CFB Unit goes on line impacts the base rate increase modeled for that year.

5. Prepare a revised detailed economic analysis, from a ratepayer's perspective, showing the effect of an in-service date for the Smith CFB Unit in 2010, 2012, 2015, and 2018. All assumptions used in the originally submitted analysis shall be utilized, with the following exceptions:

a. The Smith CTs 8 and 9 are to be in commercial operation by January 2009, while the Smith CTs 10-12 are to be in commercial operation by January 2012, 2013, and 2014.

b. TIER shall not be fixed in the analysis but, instead, shall reflect the expected results of operations.

c. Base rate increases shall match the forecasted rate increases as shown in EKPC's current 20-year financial forecast.

d. The revenues from off-system sales shall match the levels included in EKPC's current 20-year financial forecast.

e. Fuel adjustment revenues and revenues from the environmental surcharge shall reflect the levels included in EKPC's current 20-year financial forecast.

6. Refer to the response to Commission Staff's Supplemental Data Request, Item 9. EKPC states that it plans to do a more comprehensive examination of plant retirements in the future, but that it is difficult to factor in the impact of future environmental regulations.

a. The Clean Air Interstate Rule (“CAIR”) was finalized by the Environmental Protection Agency in March 2005. The CAIR establishes limits for the emission of sulfur dioxide and nitrogen oxide in 2010 and 2015. Explain in detail why EKPC could not conduct a comprehensive examination of plant retirements in the future that reflected the currently known limits contained in the CAIR.

b. In the response, EKPC states: “More analysis will be done as environmental legislation is formulated and has greater clarity.” Does EKPC believe the requirements of the CAIR are not sufficiently clear as to what the emission limitations will be through at least 2015? Explain the response in detail.

7. a. State whether EKPC has estimated on a cents-per-kilowatt-hour basis, the cost of power generated by its proposed Smith CFB unit.

b. If EKPC has calculated such an estimate, provide the estimate and all calculations and workpapers used in arriving at the estimate.

c. State whether EKPC believes it can successfully market any excess power generated by its proposed Smith CFB Unit at a price equal to or exceeding the cost. Provide all calculations and workpapers needed to support EKPC’s belief.

d. If EKPC has not estimated the cost, explain how construction of the unit can be justified without knowing the cost of power generated.

8 State whether EKPC has investigated selling any excess power generated by the proposed Smith CFB Unit outside its system on a contract basis.

9. State whether EKPC has considered the sale of a portion of the capacity of the proposed Smith CFB Unit going to another entity. If EKPC is not interested in such sale, explain why not.