

COMMONWEALTH OF KENTUCKY
BEFORE THE KENTUCKY STATE BOARD ON
ELECTRIC GENERATION AND TRANSMISSION SITING

In the Matter of:

THE APPLICATION OF KENTUCKY)	
PIONEER ENERGY, LLC FOR A)	
CONSTRUCTION CERTIFICATE)	CASE NO. 2002-00312
PURSUANT TO KRS 278.704(1) TO)	
CONSTRUCT A MERCHANT)	
ELECTRIC GENERATING FACILITY)	

O R D E R

On December 19, 2002,¹ Kentucky Pioneer Energy, LLC (“Kentucky Pioneer”) filed, pursuant to KRS 278.706(1), an application with the Kentucky State Board on Electric Generation and Transmission Siting (“Board”) for approval to construct a 540 megawatt electric power generation facility in Clark County, Kentucky.

On April 16, 2003, the Board denied Kentucky Pioneer’s application, citing Kentucky Pioneer’s failure to demonstrate that the proposed facility would meet all local planning and zoning requirements that existed on the date the application was filed. However, the Board denied the application without prejudice and stated that it would reconsider the application if Kentucky Pioneer complied with existing zoning regulations within 6 months of the date of the Order.

¹ Kentucky Pioneer originally filed its application on November 26, 2002. However, the Board did not deem the application administratively complete until December 19, 2002. See the Board’s letter dated December 19, 2002.

On May 7, 2003, Kentucky Pioneer requested a hearing to present evidence of its compliance with local zoning ordinances. On May 15, 2003, Kentucky Pioneer filed a motion requesting the Board to declare that its Order of April 16, 2003 was not a final ruling for purposes of bringing an action pursuant to KRS 278.712. Having carefully reviewed this motion, the Board deems it prudent to clarify its Order of April 16, 2003.

The Board's enabling statute requires it to act upon an application filed pursuant to KRS 278.706(1) within 120 days of an administratively complete application. The Board did so when it denied Kentucky Pioneer's application in its Order of April 16, 2003. In the same Order, the Board also stated that, should Kentucky Pioneer comply with existing zoning regulations within 6 months of the date of the Order, the Board would reconsider its application. Thus, to the extent that the Board has granted Kentucky Pioneer an additional 6 months to comply with existing zoning ordinances, the Board finds that its April 16, 2003 Order should not be considered a final one for purposes of appeal.

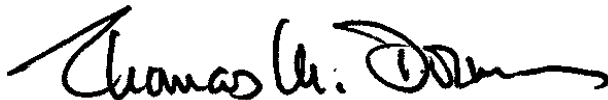
After carefully reviewing its Order of April 16, 2003, the Board finds that Kentucky Pioneer has 6 months from the date of that Order to comply with existing zoning regulations. In response to Kentucky Pioneer's request that the Board act on its letter of May 7, 2003, the Board will issue a procedural schedule to enable Kentucky Pioneer to demonstrate compliance with local planning and zoning regulations.

IT IS SO ORDERED.

Done at Frankfort, Kentucky, this 15th day of May, 2003.

By the Board

ATTEST:

A handwritten signature in black ink, appearing to read "Thomas W. Dyer", written over a horizontal line.

Executive Director
Public Service Commission
on behalf of The Kentucky State Board on
Electric Generation and Transmission Siting

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