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ELECTRIC GENERATION AND
TRANSMISSION SITING

COMMONWEALTH OF KENTUCKY

BEFORE THE KENTUCKY STATE BOARD ON
ELECTRIC GENERATION AND TRANSMISSION SITING

In the Matter of:

APPLICATION OF ECOPOWER GENERATION-)
HAZARD, LLC FOR A CERTIFICATE TO)
CONSTRUCT AND OPERATE A MERCHANT) CASE NO.
ELECTRIC GENERATING FACILITY AND A 69) 2009-00530
KV TRANSMISSION LINE IN PERRY)
COUNTY, KENTUCKY)

**APPLICANT'S MOTION TO DISPENSE WITH FORMAL EVIDENTIARY HEARING
AND AMEND PROCEDURAL SCHEDULE**

Comes the Applicant, ecoPower Generation-Hazard, LLC ("ecoPower"), and moves the Kentucky State Board on Electric Generation and Transmission Siting (the "Board") to dispense with the formal evidentiary hearing scheduled in regard to ecoPower's Application for a Certificate to Construct a Merchant Electric Generating Facility and Transmission Line in Perry County, Kentucky (the "Application"); and to amend the Procedural Schedule herein as to the Application decision date.

In support of its Motion, ecoPower states that on February 18, 2010, ecoPower filed its Application before the Board. On February 26, 2010, a Notice of Procedural Schedule was issued by the Board ("Procedural Schedule"). Pursuant to the Procedural Schedule, the filing deadline for all motions to intervene and requests for hearing in regard to the Application was

March 22, 2010. The Procedural Schedule sets a hearing for May 5, 2010.¹ The Procedural Schedule further notes that the, "...Public hearing may be cancelled if no request for a hearing is received by March 22, 2010." The Procedural Schedule also provides that the Board's decision is due on June 18, 2010.

No individual, person or entity has filed a motion to intervene nor requested a formal evidentiary hearing in regard to the Application. In addition, the Board itself has not filed a motion requesting a formal evidentiary hearing. Since no party to this matter nor the Board has requested a formal evidentiary hearing, it is not necessary nor required by statute or regulation that a formal evidentiary hearing be held in regard to the Application. (*See* 807 KAR 5:110 §6(1)). Under such circumstances, a formal evidentiary hearing would serve no purpose and result only in unnecessary costs, expenses and expenditures of time. As a result, ecoPower requests that the May 5, 2010 formal evidentiary hearing as set forth in the Procedural Schedule be cancelled.

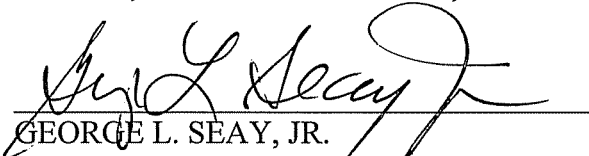
Further, there being no requests for a formal evidentiary hearing and thus no necessity for the filing of briefs, nor any other just cause for delay, ecoPower requests that the decision date in this matter be rescheduled from June 18, 2010 to May 18, 2010. Advancing the decision date would help assure ecoPower of an expeditious decision in regard to the Application. The Procedural Schedule entered by the Board on February 26, 2010 should be amended accordingly.

¹ The Procedural Schedule provides, in part, that a "Public hearing" will be held at 10:00 a.m. on May 5, 2010. This reference to a "public hearing" in actuality refers to the conduct of a formal evidentiary hearing as noted by the fact that the Procedural Schedule provides that the May 5, 2010 hearing is scheduled "for the purpose of cross-examination of witnesses." As a result, ecoPower will refer to the May 5, 2010 hearing as a formal evidentiary hearing rather than a public hearing for purposes of this Motion.

WHEREFORE, ecoPower Generation-Hazard, LLC, respectfully requests that the formal evidentiary hearing scheduled for May 5, 2010 be dispensed with and cancelled; and that the Procedural Schedule herein be amended to reflect an Board decision date in regard to the Application of May 18, 2010.

Respectfully submitted,

WYATT, TARRANT & COMBS, LLP

A handwritten signature in black ink, appearing to read "George L. Seay, Jr.", is written over a horizontal line.

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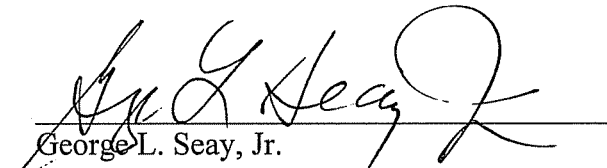
*Counsel for ecoPower Generation-Hazard,
LLC*

CERTIFICATE OF SERVICE

This is to certify that the original and six true and correct copies of the foregoing have been served upon the following, via regular U.S. mail, postage prepaid, on this the ^{9th} ~~6th~~ day of April, 2010:

Hon. Rick Bertelson
Public Service Commission
211 Sower Blvd
P.O. Box 615
Frankfort, KY 40602-0615

Mr. Jeff Derouen
Executive Director
Public Service Commission
P.O. Box 615
Frankfort, KY 40602


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Counsel for Applicant, ecoPower Generation-Hazard, LLC

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