

**COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION**

In the Matter of:

Electronic Application Of Kentucky Power)	
Company For (1) A General Adjustment Of Its)	
Rates For Electric Service; (2) An Order)	
Approving Its 2017 Environmental Compliance)	
Plan; (3) An Order Approving Its Tariffs And)	
Riders; (4) An Order Approving Accounting)	Case No. 2017-00179
Practices To Establish A Regulatory Asset Or)	
Liability Related To The Big Sandy 1 Operation)	
Rider; And (5) An Order Granting All Other)	
Required Approvals And Relief)	

**KENTUCKY POWER COMPANY’S RESPONSE IN OPPOSITION TO
RIVERSIDE GENERATING COMPANY, L.L.C.’S MOTION FOR INTERVENTION**

Kentucky Power Company (“Kentucky Power” or the “Company”) opposes Riverside Generating Company, L.L.C.’s (“Riverside”) Motion for Leave to Intervene (“Motion”) filed on July 14, 2017. Intervention is appropriate only when the party seeking intervention has an interest in the rates or services of a utility and (1) has a special interest in the proceeding not otherwise represented by other parties to the case or (2) is likely to present issues or develop facts that will assist the Commission in fully evaluating the matter without unduly complicating or disrupting the proceedings.¹

Riverside does not have a special interest in this case and its participation would unduly complicate and disrupt the proceedings. None of the changes proposed to the Company’s Non-Utility Generator Tariff (“Tariff N.U.G.”) affect the on-going discussions between the Company and Riverside with regard to the applicability of the remote self-supply provision of Tariff

¹ Order, *In the Matter of: Application of Kentucky Power Company for Approval of Its 2011 Environmental Compliance Plan, for Approval of Its Amended Cost Recovery Surcharge Tariff, and for the Grant of a Certificate of Public Convenience and Necessity for the Construction and Acquisition of Related Facilities*, Case No. 2011-00401, at 2, (Ky. P.S.C, January 26, 2012).

N.U.G. to Riverside's facility. Additionally, Riverside's role as a direct competitor of Kentucky Power in the PJM wholesale market would impact the ability of the Company to provide confidential information in response to data requests, even under the protections afforded by 807 KAR 5:001, Section 13. Riverside's Motion must be denied.

A. **Riverside's On-Going Discussions with Kentucky Power Are Unrelated to the Changes Proposed by the Company in this Proceeding.**

Kentucky Power proposes limited changes to Tariff N.U.G. in this case. The first, as Riverside accurately points out, relates to removing antiquated language relating to potential future transmission charges.² The second, which appears to form the basis for Riverside's alleged special interest in this case, relates to the requirements a non-utility generator must meet to qualify for remote self-supply and, therefore, take service under the PJM Open Access Transmission Tariff ("PJM OATT"). A non-utility generator can qualify for remote self-supply and take service under the PJM OATT instead of the Company's applicable retail service tariff if it provides start up and station power for one of its generation facilities from another generation facility that is (1) commonly owned and (2) not located on the same site.

In this case, the Company is proposing to clarify what it meant by "common ownership" as follows:

SPECIAL TERMS AND CONDITIONS.

...

Customers desiring to provide Startup and Station Power from ~~commonly owned~~ *other* generation facilities, *owned by the same individual business entity* that are not located on the site of the customer's generator (remote self-supply), shall take service under the terms and conditions contained within the applicable Open Access Transmission Tariff as filed with and accepted by the Federal Energy Regulatory Commission.³

² Motion at 4.

³ Application, Section II, Exhibit E, at 150.

The Company is proposing no other changes to the requirements for remote self-supply, including, most importantly for Riverside's motion, what constitutes being "located on the site of the customer's generator (remote self-supply)".

Beginning in the spring of 2017, Riverside and Kentucky Power have been in discussions regarding the eligibility of the Riverside facility for remote self-supply. These discussions have focused on whether Riverside's facility in Lawrence County is one facility or two adjacent facilities. There is no dispute among Kentucky Power and Riverside regarding the common ownership of the two adjacent portions of the Riverside facility. Because the Company is not proposing to change any of the language relating to the "located on the same site" eligibility requirement in this case, the dispute between Kentucky Power and Riverside over the interpretation of that requirement does not give rise to a special interest in this case. The dispute is simply a dispute over the interpretation of existing tariff language for which no change is proposed. This dispute is unrelated to the issues presented in the Company's rate case and, accordingly, Riverside does not have a special interest in this case unrepresented by another party. Moreover, adding this unrelated issue is likely to unduly complicate and disrupt the rate case proceeding.

To the extent Riverside argues it has a special interest in this case because it takes service under Tariff I.G.S., its interest is adequately represented by an existing party to this proceeding, Kentucky Industrial Utility Customers, Inc. ("KIUC"). KIUC regularly intervenes in Commission proceedings and has a demonstrated ability to represent the interest of Tariff I.G.S. customers.

B. Riverside's Role as a Competitor Would Unnecessarily Complicate Handling of Confidential Information in this Case.

As a merchant generator participating in the PJM wholesale market, Riverside is a direct competitor of Kentucky Power. As participants in the PJM market, both Kentucky Power and Riverside bid their generating assets into the day-ahead energy and ancillary services market. These bids are based on the operating costs and characteristics of the generation assets. Information about the operating costs and characteristics of a competitor's generating assets would allow a market participant to alter its bidding strategy to undercut the bid of the competitor.

During the course of this case, it is likely that Kentucky Power will be required to provide highly confidential information regarding the operating costs and characteristics of its generating assets in response to data requests. The Kentucky Open Records Act excludes from public disclosure

records confidentially disclosed to an agency or required to be disclosed to it, generally recognized as confidential or proprietary, which if openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records.⁴

Accordingly, Kentucky Power will seek confidential treatment under 807 KAR 5:001, Section 13 of information relating to operating costs and characteristics on the basis that the disclosure of this information would give its competitors an unfair advantage in the PJM market to the detriment of the Company and its customers. Kentucky Power will provide this highly confidential information under seal, and it will only be available to parties in the case who sign non-disclosure agreements to protect against disclosure of the highly confidential information to the Company's competitors. Riverside is one of these competitors.

⁴ KRS 61.878(1)(c)(1).

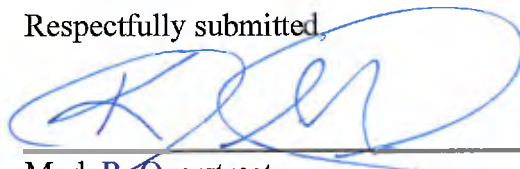
Kentucky Power cannot provide this sort of confidential information to Riverside under any circumstances without suffering the exact competitive harm that KRS 61.878(1)(c)(1) seeks to prevent. Even if Riverside had a special interest in this proceeding, which it does not, granting intervention would unnecessarily complicate and disrupt the proceeding due to the nature of the confidential information that is likely to become a part of the record. Riverside's Motion should be denied.

C. Conclusion.

Riverside has not satisfied the standards for intervention. Riverside's dispute with Kentucky Power regarding the "located on the same site" requirement for remote self-supply eligibility is simply a dispute over the application of tariff language for which no change is proposed. Kentucky Power is willing to work with Riverside to resolve this dispute, but this rate case proceeding is not the proper forum. Riverside does not have a special interest in this proceeding that is not otherwise adequately represented. Moreover, even if Riverside did have a special interest in this proceeding, its role as a direct competitor of Kentucky Power would unduly complicate and disrupt the handling of confidential information in the case.

Riverside's Motion should be denied.

Respectfully submitted,



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