

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

Electronic Application Of Kentucky Power)
Company For A Certificate Of Public Convenience)
And Necessity To Perform Upgrade, Replacement,) Case No. 2019-00154
And Installation Work At Its Existing Substation)
Facilities In Perry And Leslie Counties, Kentucky)

REPLY BRIEF OF
KENTUCKY POWER COMPANY

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Table of Contents

A. INTRODUCTION..... 1

B. **THE ATTORNEY GENERAL LEAVES UNCHALLENGED THE FACT THAT THE PUBLIC CONVENIENCE AND NECESSITY REQUIRES THE CONSTRUCTION OF EACH OF THE 23 PROJECT ELEMENTS THAT ARE THE SUBJECT OF THIS APPLICATION..... 2**

C. **THE ATTORNEY GENERAL MISCONCEIVES THE RECORD REGARDING THE PROJECT. 4**

 1. The Record In This Proceeding Demonstrates The Need For The Supplemental Components Without Regard To The Previously-Approved Baseline Components.....4

 2. The Commission’s Prior Approval Of The Hazard-Jackson 69 kV Reconfiguration Is Unrelated To The Reclassification Of The Nine Former Supplemental Project Components.....7

D. **THE EVIDENTIARY BASIS FOR CONCLUDING THE PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE APPROVAL OF KENTUCKY POWER’S APPLICATION LIES IN THE RECORD OF THIS CASE AND NOT PJM’S M-3 PROCESS FOR REVIEWING SUPPLEMENTAL PROJECTS.....9**

E. CONCLUSION 11

A. INTRODUCTION.

Throughout this proceeding and in its initial Post-Hearing Brief, Kentucky Power Company (“Kentucky Power” or the “Company”) demonstrated that the public convenience and necessity requires the Company to address the important needs at the Hazard and Wooton Substations (collectively, the “Project”) and to implement fully those portions of the Hazard-Wooton project the Public Service Commission of Kentucky (“Commission”) approved in 2018 in Case No. 2017-00328. The Attorney General has not expressly challenged that the public convenience and necessity requires this Project. Nowhere in his brief does the Attorney General offer any basis in fact or law for denying the Company’s application. Indeed, the Attorney General’s brief does not recommend that the Commission deny the Company’s application.

The Attorney General instead limits his brief to three matters: (a) his misunderstanding of the relationship between the previously-approved Baseline components and the 23 Project Components that are the subject of this application (nine of which were designated by PJM Interconnection LLC (“PJM”) as Baseline Components);¹ (b) his mistaken understanding of the relationship between the Hazard-Wooton project approved in 2018 and the 23 Project Components that are the subject of this application;² and (c) his irrelevant (and unfounded) concerns regarding the process for stakeholder review of Supplemental Projects at PJM.³

Ultimately, the Attorney General’s brief makes only one substantive recommendation: that the Commission has a mandate to evaluate and, when required by the public convenience

¹ Attorney General’s Post-Hearing Response Brief To Kentucky Power Company, *In the Matter of: Electronic Application Of Kentucky Power Company For A Certificate Of Public Convenience And Necessity To Perform Upgrade, Replacement, And Installation Work At Its Existing Hazard Substation And Wooton Substation In Perry County And Leslie County, Kentucky*, Case No. 2019-00154 at 4-5 (Ky. P.S.C. Filed March 20, 2020) (“Attorney General’s Brief”).

² *Id.* at 5-6.

³ *Id.* 6-8.

and necessity, to approve applications for certificates of public convenience and necessity.⁴

Kentucky Power agrees. It was pursuant to this mandate that Kentucky Power initiated this proceeding, and it was in the service of this mandate that the parties had an opportunity to submit evidence in the case, and participated in the February 4, 2020 hearing in this matter. The record in this case is robust and compels approval of the proposed project as described in the application.

B. THE ATTORNEY GENERAL LEAVES UNCHALLENGED THE FACT THAT THE PUBLIC CONVENIENCE AND NECESSITY REQUIRES THE CONSTRUCTION OF EACH OF THE 23 PROJECT ELEMENTS THAT ARE THE SUBJECT OF THIS APPLICATION.

The Attorney General does not dispute that Kentucky Power's application should be approved in full. In particular, he leaves unchallenged the uncontroverted record demonstrating that:

- The nine Project Components reclassified as Baseline Components are required to implement the Baseline Components approved in Case No. 2017-00328;⁵
- The planned replacement and upgrade of the aging, deteriorating, and obsolete Supplemental elements at the Hazard Substation is required to provide adequate, efficient, and reasonable service to Kentucky Power's customers;⁶
- Multiple Project Components are required to bring the substations into compliance with current Kentucky Power and PJM standards so as to

⁴ Attorney General's Brief at 8.

⁵ See Post-Hearing Brief of Kentucky Power Company, *In the Matter of: Electronic Application Of Kentucky Power Company For A Certificate Of Public Convenience And Necessity To Perform Upgrade, Replacement, And Installation Work At Its Existing Hazard Substation And Wooton Substation In Perry County And Leslie County, Kentucky*, Case No. 2019-00154 at 8-12 (Ky. P.S.C. Filed March 5, 2020) ("Kentucky Power Brief").

⁶ See *id.* at 12-21.

improve reliability, provide operational flexibility, and address potential safety concerns;⁷

- Kentucky Power appropriately balanced multiple factors in identifying and scheduling the proposed asset replacement and renewal work, and employed a defined process to identify and schedule substation renewal, reconfiguration, and functionality improvement work;⁸
- The Project Components were identified and the work scheduled in an efficient and cost-effective fashion that permits Kentucky Power to provide a safe and reliable transmission and distribution system⁹ and will result in estimated savings of millions of dollars as compared to performing the work as 13 separate projects;¹⁰
- The Project will not result in wasteful duplication.¹¹

More particularly, the Attorney General leaves unchallenged – indeed unmentioned – the uncontroverted evidence of the detailed and specific need for, and benefits provided by, each of the 23 Project Components as demonstrated by Exhibit 2 to the Company’s application and all the supporting evidence in the record. Likewise unremarked upon and unchallenged are the PJM and Kentucky Power design standards addressed by the Project Components identified in Kentucky Power’s response to KPSC 2-3. In short, the Attorney General’s brief concedes in everything but explicit word that the evidentiary record compels the grant of the requested certificate of public convenience necessity.

⁷ See *id.* at 21-30.

⁸ See *id.* at 30-35.

⁹ See *id.* at 35-39.

¹⁰ See *id.* at 41.

¹¹ See *id.* at 39-42.

C. THE ATTORNEY GENERAL MISCONCEIVES THE RECORD REGARDING THE PROJECT.

1. The Record In This Proceeding Demonstrates The Need For The Supplemental Components Without Regard To The Previously-Approved Baseline Components.

The Attorney General argues, without citation to the record, that:

[b]y constructing the proposal so that the Baseline projects were entirely dependent on the Supplemental projects, the Company sought to ensure the approval of the entirety of the application was guaranteed.¹²

The reason for the Attorney General's failure to cite to any document or testimony to support his allegation is clear. His claim is incorrect and is without basis in fact.

The only citations offered by the Attorney General, although none are directly advanced in support of his allegation, are to the Commission's March 16, 2018 Order in Case No. 2017-00328 and the Company's subsequent motion for partial rehearing in that case.¹³ But those citations to the prior proceeding are directly contrary to his position.

Nothing in the Commission's March 16, 2018 Order in Case No. 2017-00328¹⁴ hints that the Commission found that the Company constructed its proposal to make the Baseline

¹² Attorney General's Brief at 4-5.

¹³ *Id.* n. 9-11. The Commission subsequently amended its March 16, 2018 Order to approve the construction of the Hazard-Jackson 69 kV Reconfiguration. Order, *In the Matter of: Electronic Application Of Kentucky Power Company For A Certificate Of Public Convenience And Necessity To Construct A 161 kV Transmission Line In Perry And Leslie Counties, Kentucky And Associated Facilities (Hazard-Wooton Line)*, Case No. 2017-00328 at 8-9 (Ky. P.S.C. November 14, 2018). Subsequently, the Commission dismissed without prejudice the remainder of the Company's application concerning the Supplemental Components. Order, *In the Matter of: Electronic Application Of Kentucky Power Company For A Certificate Of Public Convenience And Necessity To Construct A 161 kV Transmission Line In Perry And Leslie Counties, Kentucky And Associated Facilities (Hazard-Wooton Line)*, Case No. 2017-00328 (Ky. P.S.C. November 20, 2018). The Attorney General's citations to the record of the prior proceeding are, as explained below, not only unhelpful to the Attorney General's argument in this case, they are also irrelevant to this proceeding which rests on its own bottom.

¹⁴ Order, *In the Matter of: Electronic Application Of Kentucky Power Company For A Certificate Of Public Convenience And Necessity To Construct A 161 kV Transmission Line In Perry And Leslie Counties, Kentucky And Associated Facilities (Hazard-Wooton Line)*, Case No. 2017-00328 (Ky. P.S.C. March 16, 2018).

Components that were the subject of the Company's application in that case dependent upon *all* of the Supplemental Components. To the contrary, the Commission approved the Baseline Components and denied Kentucky Power's request for authority to construct *all* of the Supplemental Components.¹⁵ Such action by the Commission is hardly consistent with a belief by the Commission that the Baseline Components it approved were dependent upon the very Supplemental Components the Commission declined to approve in the same order.

The Company's motion for partial rehearing in Case No. 2017-00328, which the Attorney General also cites, likewise is contrary to his argument. Throughout that motion the Company made clear that only nine of the then-Supplemental Components – not all of the then-Supplemental Components – were required to implement the approved Baseline Components.¹⁶ In fact, the Attorney General brief is at war with itself. In the sentence immediately preceding his assertion that the Company designed the Baseline Project Components so that they were “entirely dependent on the Supplemental projects,” the Attorney General wrote: “[t]he Company argued in the prior case that the initial denial of the nine Supplemental projects would be detrimental since those portions were ‘*required*’ to implement the Baseline projects approved by

¹⁵ *Id.* at 4-5.

¹⁶ See e.g. Kentucky Power Company's Motion for Partial Rehearing, *In the Matter of: Electronic Application Of Kentucky Power Company For A Certificate Of Public Convenience And Necessity To Construct A 161 kV Transmission Line In Perry And Leslie Counties, Kentucky And Associated Facilities (Hazard-Wooton Line)*, Case No. 2017-00328 at 1 (Ky. P.S.C. Filed April 5, 2018) (“The Order's limitation of the approval granted to the Baseline projects identified in the Order prevents the Company from constructing *the nine Supplemental projects* required to implement the Baseline projects approved by the Commission”); *id.* at 2 (“the Order prevents the Company from undertaking *the nine Supplemental Projects* required to implement the Commission-approved Baseline Projects”); 6 (“*at least nine of the In Station Work projects* are required to implement the Commission-approved Baseline Projects...” (emphasis supplied)); *id.* at 7 (“Kentucky Power respectfully requests that rehearing be granted and the Commission amend the Order to authorize the construction of *the nine Supplemental Projects* required to implement the approved Baseline Projects”) (emphasis supplied).

the Commission[.]”¹⁷ How nine Supplemental Components became all of the Supplemental Components in the next sentence is left unexplained and inexplicable.

Notwithstanding the Attorney General’s confusion regarding the relationship between the then-Supplemental Components in Case No. 2017-00328 and the Baseline Components approved by the Commission in its March 16, 2018 Order in that case, the record in *this* proceeding is both unambiguous and uncontroverted:

- ◇ Nine of the former Supplemental Components subsequently were reclassified in whole or part as Baseline Components and approved by the PJM board on July 29, 2019;¹⁸
- ◇ The remaining Supplemental Components are required to replace and renew aging, deteriorated, or obsolete elements at the Hazard Substation and the Wooton Substation;¹⁹ to upgrade substation communications²⁰ and protection equipment;²¹ and to bring both substations to current Kentucky Power and PJM minimum design standards,²² including the need to address potential safety concerns at the Hazard Substation.²³

In sum, the record evidence – including without limitation Exhibit 2 to the Company’s Application – demonstrates without contradiction the need, unrelated to the Baseline Components approved in 2018, for each of the Supplemental Components that is the subject of this application.

¹⁷ Attorney General’s Brief at 4 (emphasis supplied by the Attorney General).

¹⁸ KPSC 1-2(a); KPSC 1-2(b).

¹⁹ Application, *In the Matter of: Electronic Application Of Kentucky Power Company For A Certificate Of Public Convenience And Necessity To Perform Upgrade, Replacement, And Installation Work At Its Existing Hazard Substation And Wooton Substation In Perry County And Leslie County, Kentucky*, Case No. 2019-00154 ¶¶ 29-32 (Ky. P.S.C. Filed June 27, 2019); Application Exhibit 2 (Table Identifier (C)).

²⁰ *Id.* at ¶ 33.

²¹ *Id.* at ¶¶ 34-36.

²² *Id.* at ¶¶ 25-28; Application Exhibit 2 (Table Identifier (A) and Table Identifier (B)).

²³ Application at ¶ 28.

2. The Commission's Prior Approval Of The Hazard-Jackson 69 kV Reconfiguration Is Unrelated To The Reclassification Of The Nine Former Supplemental Project Components.

The Hazard-Jackson 69 kV Reconfiguration is an approximately 1,900 foot portion of the existing Hazard-Jackson 69 kV transmission line that will be realigned in connection with the rebuilding of the Hazard-Wooton 161 kV transmission line.²⁴ The reconfiguration is required to tie the existing Hazard-Jackson 69 kV transmission line into the new Hazard-Wooton 161 kV/Hazard-Jackson 69 kV double circuit portion of the rebuild²⁵ approved by the Commission in its March 16, 2018 Order in Case No. 2017-00328.

Other than a single reference to the Hazard-Jackson 69 kV Reconfiguration in the Company's Application in this case as part of a brief background description of the proceedings in Case No. 2017-00328,²⁶ there is no mention of the Hazard-Jackson 69 kV Reconfiguration in the application, the direct testimony of Messrs. Ali, Lasslo, and Wohnhas, the Company's responses to the two rounds of data requests propounded by the Commission and the Attorney General, or at the February 4, 2020 hearing. Nothing in the record suggests, and Kentucky Power has not argued, that the realignment of less than a mile of 69 kV transmission line in any way makes necessary the proposed work at the Hazard or Wooton Substations. Yet, the Attorney General contends that "[a]s a result of the Commission granting the 69 kV Hazard-Jackson line reconfiguration..., KPCo was able to resubmit the remaining Supplemental projects to PJM as Baseline projects."²⁷ The Attorney General errs.

²⁴ Application, *In the Matter of: Electronic Application Of Kentucky Power Company For A Certificate Of Public Convenience And Necessity To Construct A 161 kV Transmission Line In Perry And Leslie Counties, Kentucky And Associated Facilities (Hazard-Wooton Line)*, Case No. 2017-00328 at ¶ 17 (Ky. P.S.C. Filed November 17, 2017).

²⁵ *Id.*; Exhibit 16 (Rebuild Study) at 7-9.

²⁶ Application at ¶ 6.

²⁷ Attorney General's Brief at 5.

The Attorney General cites to Kentucky Power's Post-Hearing Brief at 9 and the Company's response to KPSC 1-2 in support of his argument. Neither of those citations indicates that the Commission's approval of the Hazard-Jackson 69 kV Reconfiguration led to the subsequent reclassification and approval by PJM of the *nine* former Supplemental Components as Baseline Components (as the record indicates), much less the reclassification and approval by PJM of all of the remaining Supplemental Components as the Attorney General contends.

There is no subterfuge regarding the basis for the reclassification of the nine former Supplemental Projects as Baseline Projects and their subsequent approval by the PJM Board on July 29, 2019. As Company Witness Ali made clear:

Specifically, the Company emphasized that the line relaying and termination work associated with the Hazard-Wooton 161 kV line rebuild is required for completion of the baseline work. Clarification was provided that at the Hazard station, the 161/138 kV transformer and 138 kV circuit breaker "M" will need to be relocated to accommodate the scope of the previously presented baseline work. The relocation of circuit breaker "M" is the reason why the replacement of circuit breaker "M" is now baseline.... Information like equipment relocation is not always known when a project is first developed; this information can surface during the detailed engineering phase of the project, Although many of the needs for this project have both Supplemental and Baseline drivers, ***the PJM baseline scope of work was adjusted to reflect that the items described above must be completed to execute the rest of the previously approved Baseline scope work.***²⁸

Thus, this argument by the Attorney General, like his others, is without any factual or record basis.

²⁸ Direct Testimony of Kamran Ali, *In the Matter of: Electronic Application Of Kentucky Power Company For A Certificate Of Public Convenience And Necessity To Perform Upgrade, Replacement, And Installation Work At Its Existing Hazard Substation And Wooton Substation In Perry County And Leslie County, Kentucky*, Case No. 2019-00154 at 14-15 (Filed June 27, 2019) ("Ali Direct") (emphasis supplied).

D. THE EVIDENTIARY BASIS FOR CONCLUDING THE PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE APPROVAL OF KENTUCKY POWER'S APPLICATION LIES IN THE RECORD OF THIS CASE AND NOT PJM'S M-3 PROCESS FOR REVIEWING SUPPLEMENTAL PROJECTS.

In its March 16, 2018 Order in Case No. 2017-00328, the Commission expressed concerns regarding the former PJM process for reviewing Supplemental Projects.²⁹ PJM subsequently amended the M-3 process for stakeholder review of Supplemental Projects.³⁰ The Project for which the Company seeks approval in this case was presented to PJM stakeholders through the new M-3 process.³¹

The Attorney General's contention that Supplemental Projects proposed by Transmission Owners are "virtually unchecked" by PJM³² is incorrect, but more importantly it misses the point. First, PJM's M-3 process provides the opportunity for stakeholders to review Supplemental Projects and to submit their own alternatives.³³ As part of the process, Supplemental Projects are submitted to PJM and reviewed with the TEAC or Sub-Regional RTEP Committee – Western.³⁴ The review process involves the submission by Transmission Owners of detailed system needs and project information, including alternative solutions, and are subject to two rounds of stakeholder review.³⁵

²⁹ Order, *In the Matter of: Electronic Application Of Kentucky Power Company For A Certificate Of Public Convenience And Necessity To Construct A 161 kV Transmission Line In Perry And Leslie Counties, Kentucky And Associated Facilities (Hazard-Wooton Line)*, Case No. 2017-00328 at 5-7 (Ky. P.S.C. March 16, 2018).

³⁰ Ali Direct at 7-8.

³¹ Ali Direct at 14; VR 11:41:20 (Ali) (correcting the year in which the Project was presented); Kentucky Power Brief at 5.

³² Attorney General Brief at 7.

³³ Ali Direct at 10.

³⁴ *Id.*

³⁵ *Id.*

More fundamentally, the FERC-approved M-3³⁶ process was never intended as a substitute for this Commission’s evidentiary-based review of Supplemental Projects. The designation of a Project Component as Baseline or Supplemental reflects the specific planning requirements addressed by the Project.³⁷ It is not – as the Attorney General seemingly contends – “indicative of the level of, or absence of need for the project.”³⁸ Equally important, the fact that projects are now designated Supplemental as part of the M-3 process does not change the fact that they are the same type of replacement, upgrade, and system improvement work Kentucky Power previously presented to the Commission for approval, and which the Commission approved both before³⁹ and after⁴⁰ the Company joined PJM.

The Attorney General urges the Commission to “appropriately scrutinize CPCN applications...”⁴¹ Kentucky Power agrees. Such a review was the purpose of this proceeding and the Commission’s February 4, 2020 hearing in this matter. The robust evidentiary record of this case – including Exhibit 2 to the Company’s application and the Company’s response to KPSC 2-3 – provides a detailed Project Component-by-Project Component basis compelling the conclusion that the public convenience and necessity requires the approval of the Company’s application in its entirety.

³⁶ Ali Direct at 7-8.

³⁷ *Id.* at 6.

³⁸ *Id.*

³⁹ Application at ¶ 17; Kentucky Power Brief at 7.

⁴⁰ See Order, *In the Matter of: The Application Of Kentucky Power Company For A Certificate Of Public Convenience And Necessity To Construct A 138 kV Transmission Line And Associated Facilities In Breathitt, Knott And Perry Counties, Kentucky (Bonnyman-Soft Shell Line)*, 2011-00298 (Ky. P.S.C. January 26, 2012).

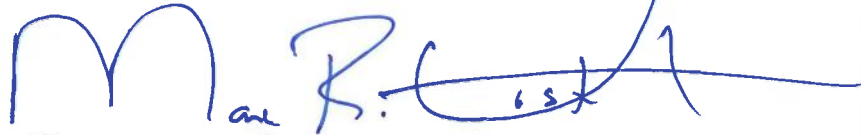
⁴¹ Attorney General’s Brief at 8.

E. CONCLUSION

Accordingly, for these reasons and those set forth in the Post-Hearing Brief of Kentucky Power Company, Kentucky Power Company respectfully requests that the Public Service Commission of Kentucky enter an order:

1. Approving Kentucky Power's application and granting the Company a certificate of public convenience and necessity to perform the proposed construction at the Hazard Substation and the Wooton Substation; and
2. Granting Kentucky Power such further relief as may be appropriate.

Respectfully Submitted,



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