

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

Electronic Investigation Of The Service, Rates And)
Facilities Of Kentucky Power Company) Case No. 2021-00370

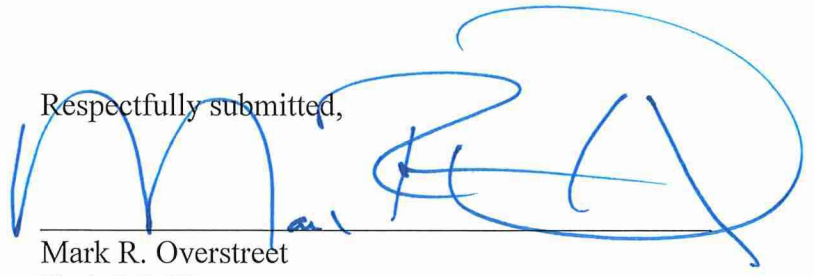
**KENTUCKY POWER COMPANY’S NOTICE OF WITHDRAWAL OF FERC APPLICATION,
SATISFACTION OF COMMISSION’S ORDER, AND REQUEST FOR CANCELLATION OF SHOW
CAUSE HEARING**

Kentucky Power Company (“Kentucky Power” or the “Company”) hereby gives notice of the withdrawal of the filings by American Electric Power Service Corporation on behalf of Kentucky Power and Wheeling Power Company, made pursuant to Section 205 of the Federal Power Act, to the Federal Energy Regulatory Commission (“FERC”) in FERC Docket Nos. ER22-452 and ER22-453 on November 19, 2021 (“FERC Application”). A copy of the Motion of American Electric Power Service Corporation to withdraw the FERC Application filed with FERC on February 7, 2022 is attached to this filing as **EXHIBIT 1**.

The Commission’s February 3, 2022 Order directed that the Company could “satisfy the Commission’s initial direction”¹ in the Commission’s October 28, 2021 Order by “withdrawing its amended agreements filed with FERC.” **EXHIBIT 1** satisfies the Commission’s February 3, 2022 direction in full. The Company requests that the Commission enter an Order declaring that the Company has satisfied the Commission’s October 28, 2022 Order and cancelling the February 25, 2022 hearing.

¹ *In the Matter of: Electronic Investigation Of The Service, Rates, And Facilities Of Kentucky Power Company, Case No. 2021-00370 at 7 (Ky. P.S.C. Feb. 3, 2022)*

Respectfully submitted,



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COUNSEL FOR KENTUCKY POWER
COMPANY

EXHIBIT 1

From: efiling@ferc.gov
To: [David B. Weiss](#); [Stacey Burbure](#); efilingacceptance@ferc.gov
Subject: [EXTERNAL] FERC Acceptance for Filing in ER22-452-001
Date: Monday, February 7, 2022 2:42:42 PM

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-Accession No.: 202202075162
-Docket(s) No.: ER22-452-001
-Filed By: Wheeling Power Company
-Signed By: John Crespo
-Filing Title: Tariff Filing
-Filing Description: Wheeling Power Company submits tariff filing per 35.17(a): Amend Filing: New Mitchell Plant Agreements: Ownership; O&M to be effective N/A under ER22-452 Filing Type : 90
-Type of Filing Code: 90
-Earliest Proposed Effective Date: N/A
-Submission Date/Time: 2/7/2022 2:39:08 PM
-Filed Date: 2/7/2022 2:39:08 PM

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To: [David B Weiss](mailto:David.B.Weiss@ferc.gov); [Stacey Burbure](mailto:Stacey.Burbure@ferc.gov); efilingacceptance@ferc.gov
Subject: [EXTERNAL] FERC Acceptance for Filing in ER22-453-001
Date: Monday, February 7, 2022 2:50:39 PM

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-Accession No.: 202202075167
-Docket(s) No.: ER22-453-001
-Filed By: Kentucky Power Company
-Signed By: John Crespo
-Filing Title: Tariff Filing
-Filing Description: Kentucky Power Company submits tariff filing per 35.17(a): Amend Filing: New Mitchell Plant Agreements: Ownership; O&M to be effective N/A under ER22-453 Filing Type : 90
-Type of Filing Code: 90
-Earliest Proposed Effective Date: N/A
-Submission Date/Time: 2/7/2022 2:47:46 PM
-Filed Date: 2/7/2022 2:47:46 PM

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February 7, 2022

Via e-Tariff

Hon. Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, DC 20426

**Re: Wheeling Power Company, Withdrawal of Filing, Docket No. ER22-452-000
Kentucky Power Company, Withdrawal of Filing, Docket No. ER22-453-000**

Dear Secretary Bose:

Pursuant to Rule 212(a) of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission ("Commission"), 18 C.F.R. § 385.212(a), and Section 35.17(a) of the Commission's regulations, 18 C.F.R. § 35.17(a), American Electric Power Service Corporation, on behalf of Wheeling Power Company and Kentucky Power Company files the attached motion to withdraw the rate filing submitted on November 19, 2021 in the above-referenced dockets. Withdrawal of the filing is appropriate because the two rate schedules have not become effective, and the Commission has not issued any prior order on the rate filings.

Please contact the undersigned if you have any questions

Respectfully submitted,

/William M. Keyser/

William M. Keyser
*Counsel for American Electric Power Service
Corporation*

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Wheeling Power Company)	ER22-452-000
)	
Kentucky Power Company)	ER22-453-000
)	
)	Not consolidated

**MOTION OF AMERICAN ELECTRIC POWER SERVICE CORPORATION
TO WITHDRAW RATE FILING**

Pursuant to Rule 212(a) of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“FERC” or “Commission”), 18 C.F.R. § 385.212(a), and Section 35.17(a) of the Commission’s regulations, 18 C.F.R. § 35.17(a), American Electric Power Service Corporation (“AEPSC”), on behalf of Wheeling Power Company (“Wheeling”) and Kentucky Power Company (“KPCo,” and collectively, “AEP”), hereby moves to withdraw its rate filing submitted on November 19, 2021 in the above-referenced dockets.¹ Withdrawal of the November 19 Filing is appropriate because the two rate schedules submitted in the November 19 Filing have not become effective, and the Commission has not issued any prior order on the rate filing.²

¹ Wheeling Power Company, New Mitchell Plant Agreements: Ownership, Operation, and Maintenance, Docket No. ER22-452-000 (Nov. 19. 2021) (“November 19 Filing”); Kentucky Power Company, Concurrence to New Mitchell Plant Agreements: Ownership, Operation, and Maintenance, Docket No. ER22-453-000 (Nov. 19. 2021).

² 18 C.F.R. § 35.17(a) (2021) (“A public utility may withdraw in its entirety a rate schedule, tariff, or service agreement filing that has not become effective and upon which no Commission or delegated order has been issued by filing a withdrawal motion with the Commission.”).

I. BACKGROUND

On November 19, 2021, AEPSC, on behalf of Wheeling and KPCo, submitted for filing under Section 205 of the Federal Power Act (1) the Mitchell Plant Operations and Maintenance Agreement between KPCo and Wheeling (“Mitchell O&M Agreement”), and (b) the Mitchell Plant Ownership Agreement between KPCo and Wheeling (“Mitchell Ownership Agreement,” and collectively, the “Mitchell Agreements”). The Mitchell Agreements are related to the Mitchell Power Generation Facility, a two-unit coal-fired generating station located in Moundsville, West Virginia (“Mitchell Plant”) and co-owned by Wheeling and KPCo. The Commission assigned Docket No. ER22-452 to the Wheeling filing and ER22-453 to the KPCo filing. As AEPSC explained, recent environmental compliance decisions from the Public Service Commission of West Virginia (“WVPSC”) and the Kentucky Public Service Commission (“KPSC”) have led to a divergence in the long-term strategic plans of Wheeling and KPCo as to continued operations of the Mitchell Plant. Those decisions require Wheeling and KPCo to revise the current operating agreement for the Mitchell Plant and to enter into the Mitchell Ownership Agreement. The new Mitchell O&M Agreement sets out the terms under which Wheeling will operate the Mitchell Plant, and the new Mitchell Ownership Agreement sets out Wheeling’s and KPCo’s respective rights and obligations with respect to the plant. AEPSC informed the Commission that the agreements would need to be approved by the WVPSC and the KPSC and that, depending on rulings by those commissions, AEP might need to propose revisions to the Mitchell Agreements filed with the Commission.³

³ November 19 Filing at 7.

On December 28, 2021, AEP filed a motion to defer the effective date for the Mitchell Agreements until March 18, 2022 and a request for a technical conference.⁴ Related to that request, on January 10, 2022, AEP submitted an amendment to the November 19 Filing in Docket Nos. ER22-452 and ER22-453 through the Commission’s eTariff filing system to change and delay the effective date of the Mitchell Agreements until March 18, 2022.⁵ Several parties submitted comments and protests of the November 19 Filing and January Amendment.⁶ On January 28, 2022, AEPSC submitted a Limited Answer to address jurisdictional arguments raised in the protests and comments.

To date, the Commission has not acted in either docket.

II. AEPSC’S MOTION TO WITHDRAW THE NOVEMBER 19 FILING

As noted in the November 19 Filing, AEPSC submitted the Mitchell Agreements for review and approval by the WVPSC and KPSC.⁷ Both agreements remain pending before the WVPSC and KPSC. To the extent that either the WVPSC or KPSC requires modifications to the Mitchell Agreements, AEP may need to amend the agreements and will need to make the necessary filings with the Commission to approve the amendments. At this time, in light of the

⁴ Unopposed Motion of American Electric Power Service Corporation to Defer Effective Date, Request for Technical Conference, and Request for Shortened Comment Period as Expedited Consideration, Docket Nos. ER22-452 and ER22-453 (Dec. 28, 2021) (“January Amendment”).

⁵ See also Combined Notice of Filings #1 (Jan. 10, 2022) (noting the new proposed effective date for the Mitchell Agreements of March 18, 2022).

⁶ See Public Service Commission of Kentucky’s Request to Reject Filings or Alternative Protest, Docket Nos. ER22-452 and ER22-453 (Dec. 10, 2021); Protest of Kentucky Attorney General and Kentucky Industrial Utility Customers, Inc., Docket No. ER22-453 (filed Dec. 10, 2021); Motion to Dismiss or in the Alternative, Hold in Abeyance by the Public Service Commission of West Virginia, Docket Nos. ER22-452 (Jan. 13, 2022); Request to Reject Filings or Alternatively Protest of Kentucky Attorney General and Kentucky Industrial Utility Customers, Inc., Docket No., ER22-453 (Jan. 25, 2022); Protest of Citizen Action Group and Energy Efficient West Virginia, Docket No. ER22-452 and ER22-453 (Jan. 31, 2022).

⁷ November 19 Filing at 7.

on-going proceedings before the WVPSC and KPSC and in the interest of administrative efficiency, AEPSC moves to withdraw the November 19 Filing. AEPSC intends to re-file the agreements under Section 205 of the FPA with the Commission after the WVPSC and KPSC have completed their review of the Mitchell Agreements.

Under Section 35.17(a) of the Commission's regulations, 18 C.F.R. § 35.17(a), a public utility may withdraw a proposed rate filing that has not yet become effective and upon which no Commission or delegated order has been issued on the rate filing. Here, the Mitchell Agreements have not become effective. Moreover, the Commission has not issued any orders with respect to the Mitchell Agreements. Accordingly, it is appropriate for AEPSC to move to withdraw the November 19 Filing in accordance with 18 C.F.R. § 35.17(a).⁸

⁸ See, e.g., *PJM Interconnection*, 166 FERC ¶ 61,093 at P 6 (2019) (granting a motion to withdraw, which was filed before the rate filing had become effective and before the issuance of any previous Commission order, and stating that because "PJM no longer supports its filing under Section 205, the Commission has no authority to require PJM to continue to make the proposals under Section 205.").

III. CONCLUSION

For the reasons set forth herein, AEPSC respectfully requests that the Commission grant this request to withdraw the November 19 Filing in Docket Nos. ER22-452 and ER22-453 in accordance with 18 C.F.R. § 35.17(a).

Respectfully submitted,

/s/ John C. Crespo

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*Counsel for American Electric
Power Service Corporation*

February 7, 2022

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, D.C. this 7th day of February 2022.

/s/ Jeannette Crooks

Jeannette Crooks

Steptoe & Johnson LLP

1330 Connecticut Avenue, N.W.

Washington, D.C. 20036