

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

The Electronic Application Of Kentucky Power)	
Company For Approval Of Affiliate Agreements)	Case No. 2021-00421
Related To The Mitchell Generating Station)	

Kentucky Power Company’s Notice of Intent to File a Proposed Amendment to the Mitchell Plant Ownership Agreement and Motion for Leave to Amend Application

A. Notice of Intent

In conformity with the Public Service Commission of Kentucky’s (“Commission”) March 3, 2022 Order herein, Kentucky Power Company (“Kentucky Power” or “Company”) hereby notifies the Commission of the Company’s intent to file a proposed amendment to the Mitchell Plant Ownership Agreement.

B. Motion for Leave to Amend Application

Kentucky Power further moves the Commission pursuant to 807 KAR 5:001, Section 4(5), for leave to amend its Application filed herein on November 19, 2021, to seek approval of the modified proposed Ownership Agreement submitted as Exhibit STH-S1. The modified agreement includes the unit interest swap alternative to the Fair Market Value backstop structure in the proposed Mitchell Plant Ownership Agreement (“Unit Interest Swap”).

The intervenors filed testimony and other pleadings raising objections to the Fair Market Value Buyout approach in Section 9.6 of the current version of the proposed Mitchell Plant Ownership Agreement. On February 9, 2022, Kentucky Power filed the Rebuttal Testimony of Stephan T. Haynes proposing the Unit Interest Swap alternative. The Unit Interest Swap alternative was the subject of extensive testimony and cross-examination at the March 1, 2022 hearing in this matter. After the conclusion of that hearing, the Commission issued its order

providing the Company an opportunity to seek approval of the proposed modified Mitchell Plant Ownership Agreement to provide for the Unit Interest Swap alternative.

The Company now moves the Commission for leave to amend its Application. It files herewith its Amended Application¹, an amended proposed Mitchell Plant Ownership Agreement, which revises section 9.6 to provide for the Unit Interest Swap alternative, and the Supplemental Testimonies of Stephan T. Haynes and Timothy C. Kerns in support of the same. Good cause exists to allow the amendment so that Kentucky Power may ensure both it and Wheeling Power Company have fair and reasonable options available regarding future operations of the Mitchell Plant if they are to obtain approval of the agreements by their respective commissions.

C. Proposed Informal Conference Dates, Intervenor Response Deadline, and Hearing Date

In accordance with the Commission's March 3, 2022 Order, Kentucky Power states that it is available on Friday, March 18, 2022 or Monday, March 21, 2022 for an informal conference to discuss the Amended Application and the modified Ownership Agreement submitted as Exhibit STH-S1, to consider the possibility of settlement, or to discuss other matters that may aid in the handling and disposition of the case. To ensure the availability of the Company's witnesses supporting the proposed amendment, the Company respectfully requests that the informal conference be held remotely by videoconference or telephonic conference. The Company's counsel and witnesses are equipped with the technology necessary to enable such remote participation.

Kentucky Power proposes that intervenors file their responses to the Company's proposed amendment to the Mitchell Plant Ownership Agreement no later than March 23, 2022.

¹ The Company is filing a clean and redlined version of the Amended Application.

Should the Commission deem it necessary, Kentucky Power is available for a formal hearing on the proposed amendment to its Application on March 30, 2022.

D. Request to Establish New Briefing Schedule

Under the terms of the Commission's March 3, 2022 Order, the filing by Kentucky Power of the modified Mitchell Plant Ownership Agreement relieves Kentucky Power and the parties of their obligations with respect to the briefing schedule contained therein. The Company respectfully requests that the Commission enter an order establishing a new briefing schedule at the conclusion of any further hearing in this matter. If no further hearing is conducted, the Company requests that the Commission enter an Order establishing an appropriate briefing schedule in conformity with the provisions of the March 3, 2022 briefing schedule.

WHEREFORE, Kentucky Power Company respectfully requests the Commission to enter an Order:

1. Granting Kentucky Power leave to amend its Application and accept for filing its Amended Application, the amended proposed Mitchell Plant Ownership Agreement, and the Supplemental Testimonies of Stephan T. Haynes and Timothy C. Kerns in support of the same, filed simultaneously herewith;
2. Convening an informal conference in this matter on Friday, March 18, 2022 or Monday, March 21, 2022;
3. Requiring that any intervenor response to the Company's proposed amendment to the Mitchell Plant Ownership Agreement be filed on or before March 23, 2022;
4. If the Commission deems it necessary, setting this matter for a formal hearing on March 30, 2022;

5. Setting a new briefing schedule at the conclusion of any further hearing in this matter, or if no further hearing is conducted, establishing an appropriate briefing schedule in conformity with the provisions of the March 3, 2022 briefing schedule; and

6. Granting Kentucky Power all further relief to which it may be entitled.

Respectfully submitted,



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