

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

DR. JOHN PATTERSON, FR. JOHN RAUSCH,)	
WENDELL BERRY, SIERRA CLUB, KENTUCKY)	
ENVIRONMENTAL FOUNDATION AND)	
KENTUCKIANS FOR THE COMMONWEALTH)	
)	
COMPLAINANTS)	
)	
V.)	CASE NO.
)	2009-00426
)	
EAST KENTUCKY POWER COOPERATIVE,)	
INC.)	
)	
DEFENDANT)	

ORDER

On January 4, 2010, Defendant, East Kentucky Power Cooperative, Inc. ("EKPC"), filed an Answer to the Complaint in which it asserted the affirmative defenses of lack of standing, collateral estoppel and *res judicata*, and requested that the Complaint be dismissed. It also provided specific and detailed arguments in support of its general denials to the allegations in the Complaint concerning the need for Smith Unit 1 and its alleged wasteful duplication of existing facilities. In light of the specific arguments raised as well as EKPC's relief requested, the Commission will consider EKPC's Answer as a motion to dismiss and will allow Complainants 20 days from the date of this Order in which to file their response to the specific arguments raised by EKPC in its Answer. The Commission will further allow EKPC an opportunity to file a reply within ten days of the filing of Complainants' response.

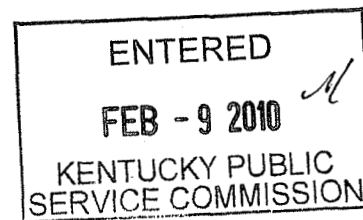
IT IS THEREFORE ORDERED that:

1. The arguments raised by EKPC in its Answer shall be treated as a motion to dismiss.

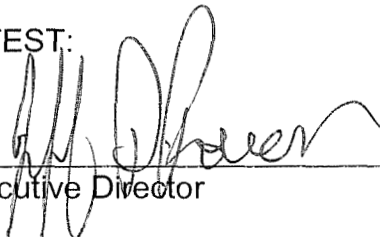
2. Complainants shall have 20 days from the entry of this Order in which to file with the Commission a response to the affirmative defenses and arguments asserted in EKPC's Answer.

3. EKPC shall file any reply to the Response no later than ten days thereafter.

For the Commission



ATTEST:



Executive Director

Anthony Campbell
President/CEO
East Kentucky Power Cooperative, Inc.
4775 Lexington Road
P. O. Box 707
Winchester, KY 40392-0707

Michael R Campbell
Campbell & Rogers
154 Flemingsburg Road
Morehead, KY 40351

Robert Ukeiley
435R Chestnut Street, Suite 1
Berea, KY 40403