

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

|                                      |   |            |
|--------------------------------------|---|------------|
| APPLICATION OF KENTUCKY POWER        | ) |            |
| COMPANY FOR (1) A CERTIFICATE OF     | ) |            |
| PUBLIC CONVENIENCE AND NECESSITY     | ) |            |
| AUTHORIZING THE TRANSFER TO THE      | ) |            |
| COMPANY OF AN UNDIVIDED FIFTY        | ) |            |
| PERCENT INTEREST IN THE MITCHELL     | ) |            |
| GENERATING STATION AND ASSOCIATED    | ) | CASE NO.   |
| ASSETS; (2) APPROVAL OF THE          | ) | 2012-00578 |
| ASSUMPTION BY KENTUCKY POWER         | ) |            |
| COMPANY OF CERTAIN LIABILITIES IN    | ) |            |
| CONNECTION WITH THE TRANSFER OF THE  | ) |            |
| MITCHELL GENERATING STATION; (3)     | ) |            |
| DECLARATORY RULINGS; (4) DEFERRAL OF | ) |            |
| COSTS INCURRED IN CONNECTION WITH    | ) |            |
| THE COMPANY'S EFFORTS TO MEET        | ) |            |
| FEDERAL CLEAN AIR ACT AND RELATED    | ) |            |
| REQUIREMENTS; AND (5) ALL OTHER      | ) |            |
| REQUIRED APPROVALS AND RELIEF        | ) |            |

ORDER

On November 4, 2013, Petitioner, Lawrence County, filed a petition ostensibly to request a rehearing of the Commission's June 28, 2013 Order denying Petitioner's motion for intervention. The petition, filed by the Lawrence County Attorney, states that Petitioner is seeking to intervene in the instant matter to ensure that Kentucky Power Company's ("Kentucky Power") proposal to acquire the Mitchell Generating Station "represents the best option to satisfy low cost energy service."<sup>1</sup> Petitioner notes that it has many years of knowledge and experience which would impact Kentucky Power's proposal herein. Petitioner points out that Kentucky Power has been an integral part of

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<sup>1</sup> Lawrence County's Petition for Rehearing, p. 1.

its community and has employed hundreds of local citizens over the past 50 years. According to Petitioner, Kentucky Power's proposal would be devastating to the local economy.

Also on November 4, 2013, Kentucky Power filed a response objecting to Petitioner's request for a rehearing. Kentucky Power contends that Petitioner's request for rehearing should be denied as the petition was not timely within the 23-day statutory period as required by KRS 278.400. Kentucky Power also contends that Petitioner fails to raise any new evidence or issues sufficient to justify granting rehearing of the Commission's June 28, 2013 Order. Lastly, Kentucky Power argues that Petitioner's substantive arguments are without merit and provide no grounds for intervention.

Having reviewed the petition for rehearing, the response thereto, and being otherwise sufficiently advised, the Commission finds that Petitioner has failed to timely file its petition for rehearing of the Commission's June 28, 2013 Order. Pursuant to KRS 278.400,<sup>2</sup> Petitioner had 23 days from the date of the issuance of the June 28, 2013 Order to request a rehearing of the Commission's denial of Petitioner's motion to intervene. The petition for rehearing was filed on November 4, 2012, which is well beyond the 23-day statutory period. Thus, the Commission has no jurisdiction under KRS 278.400 to now consider Lawrence County's petition for rehearing.

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<sup>2</sup> KRS 278.400 provides, in relevant part, as follows:

After a determination has been made by the commission in any hearing, any party to the proceedings may, within twenty (20) days after the service of the order, apply for a rehearing with respect to any of the matters determined. Service of a commission order is complete within three (3) days after the date the order is mailed.

The Commission also finds that the arguments raised in the rehearing petition are identical to the arguments that Petitioner provided in its initial request for intervention in this matter. KRS 278.400 expressly limits the new evidence that the Commission can consider on rehearing by providing that, “[u]pon the rehearing any party may offer additional evidence that could not with reasonable diligence have been offered on the former hearing.”<sup>3</sup> Petitioner has raised no new arguments and presented no new issues to justify a grant of rehearing.

Although we are denying this petition for rehearing, the Commission notes that the Lawrence County Attorney was provided an opportunity to present comments concerning the underlying matter and, in fact, did so during the May 14, 2013 public meeting held in Louisa, Kentucky, and at the formal hearings before the Commission on May 28, 2013 and July 10, 2013. Moreover, to the extent possible, the October 7, 2013 Order addressed the economic concerns raised in the public comments as part of the Commission’s consideration of the reasonableness of the non-unanimous stipulation and settlement agreement.

IT IS THEREFORE ORDERED that Petitioner’s petition for rehearing is denied as beyond the scope of the Commission’s jurisdiction under KRS 278.400.

By the Commission

ATTEST:

  
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Executive Director

ENTERED  
NOV 22 2013  
KENTUCKY PUBLIC  
SERVICE COMMISSION

<sup>3</sup> KRS 278.400.

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