

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF KENTUCKY)	
POWER COMPANY FOR (1) AUTHORITY)	
PURSUANT TO KRS 278.218 TO SELL UP TO)	
400,000 TONS OF COAL, SCHEDULED FOR)	CASE NO.
DELIVERY TO THE MITCHELL GENERATING)	2017-00446
STATION IN 2018; AND (2) FOR ALL OTHER)	
REQUIRED APPROVALS AND RELIEF)	

ORDER

On November 30, 2017, Kentucky Power Company (“Kentucky Power”) filed an application, pursuant to KRS 278.218, requesting that the Commission issue an Order (1) authorizing Kentucky Power to sell, through an independent broker to unaffiliated third parties, up to 200,000 tons of Northern Appalachian (“NAPP”) coal scheduled to be delivered in 2018 to the Mitchell Generating Station (“Mitchell Station”), and (2) granting all other required relief or approvals. The 200,000 tons represent Kentucky Power’s share of the maximum 400,000 tons to be sold.¹ An informal conference was held with Kentucky Power at the Commission’s offices on January 31, 2018. There are no intervenors in this proceeding.

¹ Kentucky Power owns a 50 percent undivided interest in the Mitchell Station located in Moundsville, West Virginia. The remaining interest is owned by Wheeling Power Company. Kentucky Power operates the station under an operating agreement with Wheeling Power Company. Both Kentucky Power and Wheeling Power Company are wholly-owned subsidiaries of American Electric Power Company.

BACKGROUND

Kentucky Power operates the Mitchell Station and contracts for delivery of both high-sulfur NAPP coal and low-sulfur Central Appalachian (“CAPP”) coal, which are burned at the station.² While Kentucky Power procures CAPP coal through spot contracts, it purchases NAPP coal from Consolidation Coal Company through a long-term contract with a term ending in 2022 (“Consol Contract”). Under the Consol Contract, Kentucky Power is obligated to purchase 666,500 tons in 2018, and 500,000 tons in each year from 2019 through 2022. The NAPP coal is produced from a mine adjoining the Mitchell Station and delivered to the station via a conveyor belt system.³

Kentucky Power states that the target level of NAPP coal for the Mitchell Station is a 15 full-burn-day supply. As of January 29, 2018, the NAPP inventory level at the Mitchell Station was equivalent to a 53 full-burn-day supply.⁴ Kentucky Power expects the NAPP inventory level to remain substantially above its target level in 2018, and potentially into 2019.⁵ According to Kentucky Power, the excess NAPP coal accumulating under the Consol Contract is primarily due to recent market conditions in which natural gas units are setting the clearing price in the wholesale power market.⁶ Kentucky Power further states that the Mitchell Station units are not able to clear those prices and, therefore are not being dispatched as often as in the past.⁷ Kentucky Power asserts that

² Application at 2.

³ *Id.* at 3.

⁴ Informal Conference Memorandum dated February 8, 2018 (“IC Memo”) at 1.

⁵ Application at 3.

⁶ IC Memo at 1.

⁷ *Id.*

in 2006, the year in which the Consol Contract was executed, the Mitchell Station burned approximately 2 million tons of high-sulfur coal annually. The Mitchell Station is currently burning approximately 1.4 million to 1.6 million tons of high-sulfur coal annually.⁸

DISCUSSION

Kentucky Power states that it is approached periodically by independent coal brokers who are seeking to purchase NAPP coal for sale to third parties. The identity of any ultimate purchaser is unknown to Kentucky Power, and would remain so until an agreement is reached through the broker and documentation of the sale is prepared. However, Kentucky Power states that the purchaser will not be an affiliated company because all purchases of coal for American Electric Power Company subsidiaries are made by representatives of American Electric Power Company Service Corporation, Coal Procurement. Thus, even though the identity of any potential purchaser of the NAPP coal would not be known until an agreement is reached, Kentucky Power is certain that an independent broker will not be purchasing NAPP coal for sale to an affiliate of Kentucky Power.⁹

Kentucky Power states that acceptance of an offer by it to sell coal through a broker would result in the instantaneous transfer of ownership of the coal to the third-party at the F.O.B. barge loading point. Kentucky Power also states that upon it taking ownership of the coal upon its delivery, even if only for an instant, the coal could be characterized as a

⁸ *Id.*

⁹ *Id.* at 4.

Kentucky Power asset and therefore subject to the requirements of KRS 278.218, which states in part:

No person shall acquire or transfer ownership of or control, or the right to control, any assets that are owned by a utility as defined under KRS 278.010(3)(a) without prior approval of the commission, if the assets have an original book value of one million dollars (\$1,000,000) or more and:

(a) The assets are to be transferred by the utility for reasons other than obsolescence...

Kentucky Power asserts that the coal is not being sold because of obsolescence and that any single sale of NAPP coal would likely exceed the \$1,000,000 threshold requiring approval under KRS 278.218.¹⁰

In order to prudently manage its NAPP coal supply, Kentucky Power states that it is proposing to offer for sale up to 200,000 tons of coal, scheduled for delivery under the Consol Contract during 2018, through independent brokers or directly to an unaffiliated third party.¹¹ Kentucky Power contends that it would sell its coal (1) only at a price (net of any brokerage charges) that exceeds its 2018 weighted average cost of NAPP coal under the Consol Contract and (2) only if the sale price exceeds the market index price as published in the then most-recent publication of Argus Coal Daily: Weekly Price Bulletin.¹² Kentucky Power states that sales will not be made to a Kentucky Power affiliate

¹⁰ *Id.*

¹¹ *Id.* at 4-5, and IC Memo at 2.

¹² *Id.* at 5.

as the term is defined in KRS 278.010(18).¹³ Kentucky Power also states that, if the 200,000 tons of NAPP coal are not sold in 2018, those tons could be deferred to 2019.¹⁴

Kentucky Power maintains that the timing of solicitations from independent brokers, and the requirement that it be able to fulfill its obligation immediately upon acceptance of its offer, does not allow sufficient time to seek Commission approval under KRS 278.218 prior to responding each time a solicitation is received. As a result, Kentucky Power is requesting prospective authority to offer the Consol Contract NAPP coal for sale as described herein. Kentucky Power is requesting that this authority expire on December 31, 2018.¹⁵ If said authority is granted, Kentucky Power proposes to file a written report of the terms of any sale of the Consol Contract NAPP coal within 15 business days from the execution date of the agreement between Kentucky Power and the applicable counterparty.

Having reviewed the evidence and being otherwise sufficiently advised, the Commission finds that Kentucky Power's request for authority to sell up to 200,000 tons of its Consol Contact NAPP coal as set forth in its Application, and as described herein, is consistent with the public interest, is for a proper purpose, and should be approved. Any such sales will not be made to an affiliate of Kentucky Power and the pricing conditions will benefit Kentucky Power's customers by ultimately reducing the average weighted cost of coal.

¹³ *Id.* KRS 278.010(18) defines "affiliate" as "a person that controls or that is controlled by, or is under common control with, a utility."

¹⁴ *See* IC Memo. A total of 400,000 tons scheduled for delivery to the Mitchell Station can be deferred to 2019. 200,000 tons represents Kentucky Power's share of the total.

¹⁵ *Id.* at 6.

IT IS THEREFORE ORDERED that:

1. Kentucky Power's request for authority, pursuant to KRS 278.218, to sell up to 200,000 tons of its Consol Contact NAPP coal as set forth in its Application and as described herein is granted through December 31, 2018.

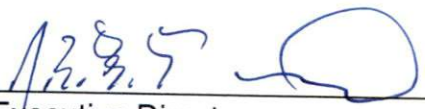
2. Kentucky Power shall file a written report of the terms of any sale of the Consol Contract NAPP coal within 15 business days from the execution date of the agreement between Kentucky Power and the applicable counterparty.

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By the Commission

ENTERED
MAR 08 2018
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:



Executive Director

Scot Arvon Pearson

Case No. 2017-00446

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