

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF SOUTH KENTUCKY	)	
RURAL ELECTRIC COOPERATIVE	)	CASE NO.
CORPORATION FOR APPROVAL OF	)	2018-00050
MASTER POWER PURCHASE AND	)	
SALE AGREEMENT AND TRANSACTIONS	)	
THEREUNDER	)	

ORDER

This matter arises upon the motion of the Nucor Steel Gallatin (“Nucor”), filed February 22, 2018, for full intervention. Nucor seeks to participate as a party in the investigation of South Kentucky Rural Electric Cooperative Corporation’s (“South Kentucky”) application for approval of a long-term power purchase and sale agreement. Approval of this agreement would allow South Kentucky to purchase 58 MW of firm energy from Morgan Stanley Capital Group, Inc. (“Morgan Stanley Capital”), for 20 years, beginning June 1, 2019, and a financial capacity hedge of 68 MW for 18 years, beginning June 1, 2021. South Kentucky is one of 16 owner-members of East Kentucky Power Cooperative, Inc. (“EKPC”). South Kentucky, along with EKPC’s 15 other owner-members, entered into a Wholesale Power Contract with EKPC, pursuant to which EKPC sells and delivers, and each distribution cooperative, including South Kentucky, purchases and receives, electric power and energy. South Kentucky states in its application that the agreement with Morgan Stanley Capital is consistent with a certain amendment to the Wholesale Power Contract (“Amendment 3”) and July 23, 2015

Memorandum of Understanding and Agreement Regarding Alternate Power Sources (“MOU”) between EKPC and its owner-members.

In its motion, Nucor states that it is the largest end-use customer in the Owen Electric Cooperative (“Owen”) service territory. Like South Kentucky, Owen is one of the 16 distribution cooperatives that own, and purchase power from, EKPC. Nucor states in its motion that, if the Commission approves South Kentucky’s application, EKPC may be required to recover the fixed costs associated with 58 MW of capacity from its remaining distribution cooperatives, including Owen, which may increase costs to Nucor through environmental surcharges or base rates. Nucor additionally states in its motion that it is interested in the proceeding because of its precedential value in interpreting Amendment 3 and the MOU.

South Kentucky filed a response objecting to Nucor’s request for intervention. The response states that Nucor’s concerns that it may pay higher rates in the future are speculative, remote, and unsupported. South Kentucky further notes that Nucor is not a customer of South Kentucky and, thus, South Kentucky argues, Nucor has no interest in South Kentucky’s rates or service. The response also asserts that the Attorney General’s Office, EKPC, and many of EKPC’s other owner-members are expected to request intervention, and these other parties will be able to adequately represent Nucor’s interest in the rates it pays for electric service. Additionally, South Kentucky notes that the rates Nucor pays Owen are governed by a three-party Special Contract approved by and on file with the Commission, and those rates will not change as a result of this proceeding.

In its reply to South Kentucky’s objection, Nucor states that it is unique because it is the largest retail customer in EKPC’s system, purchasing approximately one billion kWh

annually, which represent approximately 7.5% of all retail sales on the EKPC system. Nucor explains that it also provides more than 100 MW of interruptible capacity to EKPC to help meet EKPC's operating and reserve requirements as a member of PJM Interconnection, L.L.C. – more than all of the other interruptible load on the EKPC system combined. This requires Nucor to submit a binding hourly schedule for expected energy consumption, and it is penalized for load forecast errors, which is unique among EKPC ratepayers. Nucor also states that it is unique because Owen directly assigns to Nucor environmental surcharge costs charged by EKPC. Nucor states that the agreement between South Kentucky and Morgan Stanley Capital will have a particular and direct impact on Nucor because it will reduce EKPC's revenues and immediately increase EKPC's environmental surcharge rate and Nucor's directly assigned costs. Nucor further notes that this concern is immediate and not speculative.

Because of its unique situation with respect to its interruptible capacity, Nucor asserts that no other party can adequately represent it in this proceeding. Nucor further states that its investment in Kentucky is directly tied to energy rates. Finally, Nucor notes its extensive experience in EKPC rate matters and asserts that South Kentucky's agreement likely violates Amendment 3, the MOU, and the prohibition against unreasonable rate preferences in KRS 278.170.

Based on a review of the record and being otherwise sufficiently advised, the Commission finds that Nucor's special rate contract with Owen and EKPC creates a unique relationship among not only those parties, but also among Nucor and EKPC's 15 other owner-members with respect to the allocation of costs incurred by EKPC. Consequently, South Kentucky's agreement may have a direct and immediate impact on

EKPC's costs allocated to Nucor, as well as on EKPC's costs allocated to each of its owner-members. For these reasons, we find that Nucor has a direct interest in the rates of Owen, its retail electric supplier; in the rates of EKPC, its wholesale electric supplier; and, in this instance, in South Kentucky's application, due to its potential to directly impact Nucor's rates. Thus, Nucor satisfies the statutory requirement, set forth in KRS 278.040(2), that an intervenor have an interest in either the rates or service of a utility under the jurisdiction of the Commission. The Commission further finds that Nucor has a special interest in this proceeding that is not otherwise adequately represented, and that intervention is likely to present issues and develop facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceeding. Consequently, Nucor should be granted full rights of a party in this proceeding.

IT IS HEREBY ORDERED that:

1. The motion of Nucor to intervene is granted.
2. Nucor shall be entitled to the full rights of a party and shall be served with the Commission's Orders and with filed testimony, exhibits, pleadings, correspondence, and all other documents submitted by parties after the date of this Order.
3. Nucor shall comply with all provisions of the Commission's regulations, 807 KAR 5:001, Section 7, related to the service and filing of documents.
4. Nucor shall adhere to the procedural schedule set forth in the Commission's February 19, 2018 Order and as amended by subsequent Orders.
5. Within seven days of entry of this Order, Nucor shall provide its electronic mail address to which all electronic documents issued by the Commission and other

parties of record may be served upon Nucor in accordance with 807 KAR 5:001, Section 4(8).

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By the Commission

ENTERED  
MAR 01 2018  
KENTUCKY PUBLIC  
SERVICE COMMISSION

ATTEST:

  
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Executive Director

Case No. 2018-00050

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