

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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| ELECTRONIC INVESTIGATION OF KENTUCKY) | CASE NO. |
| POWER COMPANY'S NEED FOR THE) | 2019-00369 |
| ENTERPRISE PARK PROJECT) | |

ORDER

On December 6, 2018, the Commission entered an Order in Case No. 2018-00209¹ conditionally granting Kentucky Power Company (Kentucky Power) a Certificate of Public Convenience and Necessity (CPCN) to construct and operate a transmission line and substation facilities, collectively known as the Enterprise Park Project, at an estimated cost of \$33.6 million. The Enterprise Park Project consists of (1) five miles of new double-circuit 138-kilovolt (kV) transmission line in Floyd and Pike counties, Kentucky; (2) a 138-kV substation adjacent to the Kentucky Enterprise Industrial Park in Pikeville, Kentucky (Enterprise Park); (3) upgrades to Kentucky Power's existing Cedar Creek Substation in Pike County, Kentucky; and (4) retirement of the existing Fords Branch Substation in Pike County, Kentucky.

The basis for granting the conditional CPCN was Kentucky Power's need to provide adequate electric service to Enerblu, Inc. (Enerblu), a new industrial customer to be located in the Enterprise Park. Enerblu was proposing to manufacture lithium-titanate batteries and anticipated a peak electric load of 40 megawatts. Based on the evidence of record in Case No. 2018-00209, the Commission's Order in that case found as follows:

¹ Case No. 2018-00209, *Electronic Application of Kentucky Power Company For a Certificate of Public Convenience And Necessity To Construct A 138 KV Transmission Line And Associated Facilities In Pike And Floyd Counties, Kentucky* (Ky. PSC Dec. 6, 2018).

Therefore, since the Enterprise Park Project is based on the need to serve Enerblu's manufacturing campus, the Commission finds that the CPCN granted herein should be conditioned upon Kentucky Power's receipt of reasonable assurance from Enerblu that sufficient financing has been secured to complete construction of the planned facility.²

Subsequent to the issuance of that Order in Case No. 2018-00209, Kentucky Power filed on January 31, 2019, a post-case referenced correspondence detailing the status of its acquisition of property needed to construct the Enterprise Park Project. That correspondence stated that "Kentucky Power suspended property acquisition activities following Enerblu, Inc.'s January 17, 2019 announcement of a delay in construction."³ One month later, Enerblu suspended its plan to locate in the Enterprise Park; and in June of this year, Enerblu filed for Chapter 7 bankruptcy.⁴

Based on the conditional nature of the CPCN granted to Kentucky Power in Case No. 2018-00209 and the significant change in circumstances consisting of the subsequent bankruptcy filing of Enerblu, it appears that Kentucky Power no longer has a need for the Enterprise Park Project. Thus, the Commission finds that an investigation should be opened to determine whether there is now a need for the Enterprise Park Project and, if not, whether there is any reason why the conditional CPCN for that project should not be canceled. To facilitate this investigation, Kentucky Power should file, within 30 days of the date of this Order, prepared testimony setting forth in detail the reasons why it now has a need for the Enterprise Park Project sufficient to justify retaining the conditional CPCN granted in Case No. 2018-00209 and the reasons, if any exist, why the conditional

² *Id.* at 16.

³ Kentucky Power Notice of Filing of Property Acquisition Update at 1.

⁴ "Kentucky Investors sue Enerblu executives as company files for bankruptcy," *Lexington-Herald Leader*, September 3, 2019.

CPCN should not be canceled. Subsequent to Kentucky Power's filing of testimony, the Commission will establish a procedural schedule.

IT IS THEREFORE ORDERED that:

1. This investigation is opened to determine whether Kentucky Power now has a need for the Enterprise Park Project or whether the conditional CPCN previously granted for that project should be canceled.

2. Within 30 days of the date of this Order, Kentucky Power shall file testimony setting forth in detail the reasons why it now has a need for the Enterprise Park Project sufficient to justify retaining the conditional CPCN granted in Case No. 2018-00209 and the reasons, if any exist, why the conditional CPCN should not be canceled.

3. Any motion to intervene shall be filed by October 21, 2019.

4. Any party filing a paper with the Commission shall file an electronic copy in accordance with the electronic filing procedures set forth in 807 KAR 5:001, Section 8, and shall also file the original in paper medium. The original in paper medium shall be appropriately bound, tabbed, and indexed. Electronic documents shall be in portable document format (PDF), shall be searchable, and shall be appropriately bookmarked.

5. Any party filing a paper containing personal information shall, in accordance with 807 KAR 5:001, Section 4(10), encrypt or redact the paper so that the personal information cannot be read.

6. As set forth in 807 KAR 5:001, Section 4(11)(a), a person requesting permissive intervention in a Commission proceeding is required to demonstrate either (1) a special interest in the proceeding which is not adequately represented in the case, or (2) that the person requesting permissive intervention is likely to present issues or develop facts that will assist the Commission in fully considering the matter without unduly

complicating or disrupting the proceedings. Further, KRS 278.040(2) requires that a person seeking intervention must have an interest in the rates or service of a utility, as those are the only matters that are subject to the Commission's jurisdiction. Therefore, any person requesting to intervene in a Commission proceeding must state with specificity the person's special interest that is not otherwise adequately represented, or the issues and facts that the person will present that will assist the Commission in fully considering the matter. A mere recitation of the quantity of utility service consumed by the movant or a general statement regarding a potential impact of possible modification of rates will not be deemed sufficient to establish a special interest. In addition, any motion to intervene filed after October 21, 2019, shall also show good cause for being untimely. If the untimely motion is granted, the movant shall accept and abide by the existing procedural schedule.

7. Nothing contained herein shall prevent the Commission from entering further Orders in this matter.

By the Commission

ENTERED
OCT 09 2019
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


Executive Director

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