

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF KENTUCKY	)	
POWER COMPANY FOR APPROVAL OF A	)	
CERTIFICATE OF PUBLIC CONVENIENCE	)	
AND NECESSITY FOR ENVIRONMENTAL	)	CASE NO.
PROJECT CONSTRUCTION AT THE	)	2021-00004
MITCHELL GENERATING STATION, AN	)	
AMENDED ENVIRONMENTAL COMPLIANCE	)	
PLAN, AND REVISED ENVIRONMENTAL	)	
SURCHARGE TARIFF SHEETS	)	

ORDER

On February 8, 2021, Kentucky Power Company (Kentucky Power) filed an application requesting approval of a Certificate of Public Convenience and Necessity (CPCN), amendments to its environmental compliance plan, and environmental surcharge tariffs for proposed projects at the Mitchell Generating Station (Mitchell). Kentucky Power asserted that the proposed projects are required by revisions to the United States Environmental Protection Agency's (EPA) Effluent Limitations Guidelines (ELG) Rule,<sup>1</sup> effective December 14, 2020, and Coal Combustion Residuals (CCR) Rule,<sup>2</sup> effective September 28, 2020, and that such costs are properly recoverable under KRS 278.183. Kentucky Power's proposed 2021 environmental compliance plan include modifications to Mitchell needed to comply with ELG and CCR rules that would allow

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<sup>1</sup> Steam Electric Reconsideration Rule, 85 Fed. Reg. 64,650 (Oct. 13, 2020).

<sup>2</sup> Hazardous and Solid Waste Management System: Disposal of Coal Combustion Residuals From Electric Utilities; A Holistic Approach to Closure Part A: Deadline to Initiate Closure, 85 Fed. Reg. 53,516 (Aug. 28, 2020).

Mitchell to continue operating until 2040, or, in the alternative, modifications to Mitchell to comply with the CCR rule only, which would require Mitchell to be cease operations in 2028 because Mitchell would no longer be in compliance with ELG rules.

The Commission finds that an investigation will be necessary to determine the reasonableness of the request. To provide for orderly consideration of this application, the Commission further finds that a procedural schedule should be established in this case.

IT IS THEREFORE ORDERED that:

1. The procedural schedule set forth in the Appendix to this Order shall be followed.

2. Any party filing a paper with the Commission shall file an original in paper medium and an electronic copy in accordance with the electronic filing procedures set forth in 807 KAR 5:001, Section 8. 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. The Commission directs the parties to the Commission's March 16, 2020 and March 24, 2020 Orders in Case No. 2020-00085<sup>3</sup> regarding filings with the Commission. The Commission expects the original documents to be filed with the Commission within 30 days of the lifting of the current state of emergency.

3. a. Responses to requests for information shall include the name of the witness responsible for responding to the questions related to the information provided.

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<sup>3</sup> Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus COVID-19* (Ky. PSC Mar. 16, 2020), Order at 5–6. Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus COVID-19* (Ky. PSC Mar. 24, 2020), Order at 1–3.

b. Each response shall be answered under oath or, for representatives of a public or private corporation or a partnership or an association or a governmental agency, be accompanied by a signed certification of the preparer or person supervising the preparation of the response on behalf of the entity that the response is true and accurate to the best of that person's knowledge, information, and belief formed after a reasonable inquiry.

c. A party shall make timely amendment to any prior response if it obtains information that indicates the response was incorrect when made or, though correct when made, is now incorrect in any material respect.

d. For any request to which a party fails or refuses to furnish all or part of the requested information, that party shall provide a written explanation of the specific grounds for its failure to completely and precisely respond.

e. Careful attention should be given to copied material to ensure that it is legible. When the requested information has been previously provided in this proceeding in the requested format, reference may be made to the specific location of that information in responding to this request.

f. 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.

4. 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 the date established in the procedural schedule 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.

6. Kentucky Power shall give notice of the hearing in accordance with the provisions set forth in 807 KAR 5:001, Section 9(2). In addition, the notice of hearing shall include the following statement: "This hearing will be streamed live and may be viewed on the PSC website, [psc.ky.gov](http://psc.ky.gov)." At the time publication is requested, Kentucky Power shall forward a duplicate of the notice and request to the Commission.

7. At any public hearing in this matter, neither opening statements nor summarization of direct testimonies shall be permitted.

8. Pursuant to KRS 278.360 and 807 KAR 5:001, Section 9(9), a digital video recording shall be made of the hearing.

9. The Commission does not look favorably upon motions for continuance. Accordingly, motions for extensions of time with respect to the schedule herein shall be made in writing and will be granted only upon a showing of good cause.

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

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By the Commission



ATTEST:

  
Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2021-00004 DATED FEB 12 2021

Last day for intervention requests to be accepted.....	02/26/2021
All initial requests for information to Kentucky Power shall be filed no later than.....	03/12/2021
Kentucky Power shall file responses to initial requests for information no later than.....	03/26/2021
All supplemental requests for information to Kentucky Power shall be filed no later than .....	04/20/2021
Kentucky Power shall file responses to supplemental requests for information no later than .....	05/05/2021
Intervenor testimony, if any, in verified prepared form shall be filed no later than .....	05/12/2021
All requests for information to Intervenors shall be filed no later than.....	05/28/2021
Intervenors shall file responses to requests for information no later than.....	06/11/2021
Kentucky Power shall file, in verified form, its rebuttal testimony no later than .....	06/17/2021
Last day for Kentucky Power to publish notice of hearing .....	To be scheduled
Public Hearing to be held in the Richard Raff Hearing Room) at the offices of the Public Service Commission at 211 Sower Boulevard, Frankfort, Kentucky, for the purpose of cross-examination of witnesses of Kentucky Power and Intervenors .....	To be scheduled
Decision due .....	08/06/2021

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