

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF EAST)	
KENTUCKY POWER COOPERATIVE, INC. FOR)	
1) A CERTIFICATE OF PUBLIC CONVENIENCE)	CASE NO.
AND NECESSITY TO CONSTRUCT A NEW)	2024-00310
GENERATION RESOURCE; 2) A SITE)	
COMPATIBILITY CERTIFICATE; AND 3) OTHER)	
GENERAL RELIEF)	

ORDER

This matter arises from the September 20, 2024, East Kentucky Power Cooperative, Inc. (EKPC) application requesting issuance of a Certificate of Public Convenience and Necessity (CPCN) to construct a new electric generation station in Casey County, Kentucky (the Liberty RICE Facility), a Site Compatibility Certificate for the Liberty RICE Facility, and other general relief. This Order follows the timely motion of Nucor Steel Gallatin (Nucor), filed October 8, 2024, for full permissive intervention.¹

As a basis for its motion, Nucor stated that it has a special interest because it is a large industrial customer of East Kentucky Power Cooperative, Inc. (EKPC) which takes service on a different rate schedule than residential customers.² Nucor is the largest end-use electric customer located in the Owen Electric Cooperative (Owen Electric) service territory.³

¹ Nucor's Motion for Intervention (Intervention Motion) (filed Oct. 8, 2024).

² Nucor's Intervention Motion at 2.

³ Nucor's Intervention Motion at 2.

Nucor also asserted that it would present issues and develop facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings.⁴ Specifically, Nucor stated it is in a unique position as the construction of new generation resources will directly affect the demand and energy charges paid by Nucor.⁵ Nucor is the largest single user on the EKPC system and is one of the largest users of electricity in the United States.⁶ Nucor stated that it will be a helpful and active participant should its intervention request be granted.⁷

LEGAL STANDARD

The only person who has a statutory right to intervene in a Commission case is the Attorney General of the Commonwealth of Kentucky, by and through the Office of Rate Intervention (Attorney General), pursuant to KRS 367.150(8)(b). Intervention by all others is permissive and is within the sole discretion of the Commission.⁸

The regulatory standard for permissive intervention, set forth in 807 KAR 5:001, Section 4, is twofold. Commission regulation 807 KAR 5:001, Section 4(11), requires a person to set forth in the motion to intervene either (1) a special interest in the proceeding that is not otherwise adequately represented in the case, or (2) that intervention is likely

⁴ Nucor's Intervention Motion at 2.

⁵ Nucor's Intervention Motion at 2.

⁶ Nucor's Intervention Motion at 2.

⁷ Nucor's Intervention Motion at 2.

⁸ *Inter-County Rural Electric Cooperative Corporation v. Public Service Commission of Kentucky*, 407 S.W.2d 127, 130 (Ky. 1966). See also SB 349 (2024 Session) created the Energy Planning and Inventory Commission (EPIC). Included in that creation was the right for the executive committee or the executive director if authorized by the committee shall have standing to intervene in any case or other proceeding before the Public Service Commission.

to present issues or develop facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings.

DISCUSSION AND FINDINGS

Based on a review of the pleadings at issue and being otherwise sufficient advised, the Commission finds that Nucor has demonstrated that it has a special interest in the proceeding over which the Commission has jurisdiction that is not otherwise adequately represented or that Nucor is likely to present issues or develop facts that will assist the Commission in considering this matter without unduly complication the proceedings, for the reasons discussed below.

Nucor satisfies the special interest prong set forth in 807 KAR 5:001, Section 4(11) in that it is the largest end-use electric customer located in the Owen Electric service territory and takes service on a different rate schedule than residential customers. The construction of new resources will, in all likelihood, significantly and directly affect the demand and energy charges paid by Nucor.

Additionally, it appears that Nucor's intervention will assist the Commission in further presenting issues and developing facts in this matter, as well as tariff analysis and evaluation, without unduly complicating the proceedings.

Based on the above, the Commission finds that Nucor should be granted full rights of a party in this proceeding. The Commission directs Nucor to the Commission's July 22, 2021 Order in Case No. 2020-00085⁹ regarding filings with the Commission.

⁹ Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus COVID-19* (Ky. PSC July 22, 2021), Order (in which the Commission ordered that for case filings made on and after March 16, 2020, filers are NOT required to file the original physical copies of the filings required by 807 KAR 5:001, Section 8).


IT IS HEREBY ORDERED that:

1. Nucor's motion to intervene is granted.
2. Nucor is 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 8, related to the service and electronic filing of documents.
4. Nucor shall adhere to the procedural schedule set forth in the Commission's October 9, 2024 Order and as amended by subsequent Orders.
5. Pursuant to 807 KAR 5:001, Section 8(9), within seven days of service of this Order, Nucor shall file a written statement with the Commission that:
 - a. Certifies that it, or its agent, possesses the facilities to receive electronic transmissions; and
 - b. Sets forth the electronic mail address to which all electronic notices and messages related to this proceeding shall be served.

PUBLIC SERVICE COMMISSION



Chairman



Commissioner



Commissioner

ENTERED
OCT 25 2024
rCS
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:



Executive Director

*L. Allyson Honaker
Honaker Law Office, PLLC
1795 Alysheba Way
Suite 1203
Lexington, KENTUCKY 40509

*East Kentucky Power Cooperative, Inc.
4775 Lexington Road
P. O. Box 707
Winchester, KY 40392-0707

*Brittany H. Koenig
Honaker Law Office, PLLC
1795 Alysheba Way
Suite 1203
Lexington, KENTUCKY 40509

*Greg Cecil
East Kentucky Power Cooperative, Inc.
4775 Lexington Road
P. O. Box 707
Winchester, KY 40392-0707

*Heather Temple
Honaker Law Office, PLLC
1795 Alysheba Way
Suite 1203
Lexington, KENTUCKY 40509

*Jacob Watson
East Kentucky Power Cooperative, Inc.
4775 Lexington Road
P. O. Box 707
Winchester, KY 40392-0707

*Jody Kyler Cohn
Boehm, Kurtz & Lowry
36 East Seventh Street
Suite 1510
Cincinnati, OHIO 45202

*Honorable Michael L Kurtz
Attorney at Law
Boehm, Kurtz & Lowry
36 East Seventh Street
Suite 1510
Cincinnati, OHIO 45202