



ecoPower Generation

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Public Service
Commission

Honorable Michael J. Schmitt,
Chairman
Kentucky State Board on Electric
Generation and Transmission Siting
P. O. Box 615
Frankfort, KY 40602

DATE: May 30, 2017

SUBJECT: 2017 Annual Report of ecoPower Generation - Hazard, LLC
Case No. 2009-00530

Dear Chairman Schmitt,

This annual report is submitted by ecoPower Generation - Hazard, LLC ("ecoPower") to the Kentucky State Board on Electric Generation and Transmission Siting in compliance with the Final Order in the above referenced case issued May 18, 2010. That Order granted ecoPower a construction certificate for a wood-fired biomass renewable energy electric generating facility ("Project") and 1.54 miles of 69 KV transmission line to connect the Project to the electric transmission grid at the Engle substation of Kentucky Power Company ("KPC"), an operating subsidiary of American Electric Power Company. The Project will be built in Perry County at the Coal Fields Industrial Park approximately ten miles north of Hazard, Kentucky.

I. Overview

Since the previous annual report, ecoPower has experienced significant challenges to the completion of the prerequisite activities necessary to move the project to construction. This year's report is organized as follows:

- Power Purchase Agreement
- Legislation
- Economic Impact
- Engineering, Procurement & Construction ("EPC") contract
- Project Finance
- Air Permit
- Engineering and Construction
- Interconnection Agreement

ADDRESS

1256 Manchester Street
Lexington KY 40504
United States of America

PHONE

ph: 859-685-1106
fx: 859-252-6964

WEB

info@ecopg.com
www.ecopg.com

Power Purchase Agreement

ecoPower and KPC executed a Renewable Energy Purchase Agreement (“REPA”) on March 15, 2013, subject to certain conditions precedent. One of the requirements was that the REPA must be supported by a final non-appealable order(s) of the Kentucky Public Service Commission (“Commission”).

The Commission issued an order approving the REPA on October 10, 2013. On November 1, 2013, the Kentucky Industrial Utilities Consumers, (KIUC), an intervener in the Commission case, appealed the order to the Franklin Circuit Court in accordance with KRS 278.410. On February 18, 2015, the Franklin Circuit Court entered an order affirming the Commission’s October 10, 2013 approval. On March 13, 2015, a Notice of Appeal was filed by KIUC appealing the order to the Kentucky Court of Appeals. The lack of a final non-appealable order denied ecoPower the ability to meet the REPA condition precedent and move the Project to construction and commercial operation. The Kentucky Court of Appeals scheduled an oral argument in the appeal on May 25, 2016.

Amendments to the REPA made necessary by the Commission’s approval order and by the delay related to the appeal were approved by both ecoPower and KPC. A subsequent request to the Commission for approval of the amendments was denied pending resolution of the Court of Appeals oral argument. On July 14, 2016, the Court issued its opinion denying the Commission’s approval and remanded the REPA back to the Commission with instructions to revoke its initial approval and deny cost recovery. Neither the Commission nor Kentucky Power Company elected to take the Court of Appeals decision up to the Kentucky Supreme Court. The Commission subsequently issued an order on August 25, 2016 revoking its Orders of October 10, 2013 and January 17, 2014 as directed by the Court of Appeals. On October 3, 2016, Kentucky Power Company provided formal notice of its termination of the REPA.

Legislation

In February 2013, Senate Bill 46 was unanimously enacted by both chambers of the General Assembly. Upon the governor’s signature, Senate Bill 46 was subsequently codified as KRS 278.271. The statute allows a jurisdictional utility to request Commission approval of a long-term power purchase contract to purchase qualifying biomass energy. It is the utility that decides whether to request approval. There is no mandate or requirement to purchase any power unless the utility so chooses. If approved by the PSC, the approval is valid for the entire initial term of the contract. In the present case, the term is 20 years from the date of initial commercial operation.

Economic Impact

KRS 278.271 stipulates that the PSC may consider the economic impact and other policy directives of the Kentucky General Assembly when approving a long-term biomass power contract. As estimated in the original Siting Board application, the Project will inject over \$18 million annually into the local economy and create over 200 new jobs during the construction

period and more than 500 full time permanent direct, indirect and induced jobs in Hazard and the surrounding area during the 20 year life of the REPA. The Project conforms with the objectives of the Kentucky Incentives for Energy Independence Act (KRS 154.27-020) and the 2007 *Intelligent Energy Choices for Kentucky's Future -Kentucky's 7-Point Strategy for Energy Independence*. The Project has received pre-approval for \$20 million in tax incentives from the Kentucky Economic Development Finance Authority ("KEDFA"). KEDFA has approved an extension to the pre-approval through 2017.

EPC Contract

ecoPower continues to consider interest in the engineering, procurement, construction and start-up of the Project by a number of EPC firms. During the period covered by this Annual Report, there has been interest by a number of firms who view the project very favorably. ecoPower does not anticipate moving the project to construction until the power is committed anew to a qualified buyer.

Project Finance

ecoPower continues to have periodic discussion with potential project partners and is continuing to evaluate the financing market. ecoPower's financial plan has been delayed pending a binding commitment for the sale of the renewable energy. The recently approved 2017 Consolidated Appropriations Act provided significant relief regarding the carbon neutrality of environmental attributes related to biomass energy. Anticipated rulemaking by a number of federal agencies has the potential to remove market uncertainty related to the project and eligibility requirements for tax credits in the future.

Air Permit

The original project air permit was issued on April 23, 2010. An eighteen month extension for starting construction was granted by the Division of Air Quality in October 2011. Prior to the expiration of the extended permit, ecoPower received approval of minor revisions based on the further design development of the boiler and air quality control systems. The minor revisions were approved on April 24, 2013. The revised permit required commencement of construction by April 23, 2013. ecoPower initiated construction of foundations for certain fuel supply facilities prior to April 23, 2013.

An application for renewal of the Title V Operating Permit and approval of construction authority was filed on November 11, 2014. The Kentucky Division of Air Quality issued the proposed renewal permit on April 22, 2015. A Final Air Permit (renewal) for the Project was issued on June 19, 2015, upon expiration of the U.S. EPA comment period. The renewed Title V Operating Permit is valid for an additional five years. The current construction start date required under the renewal permit is April 22, 2018.

Engineering and Construction

ecoPower began a limited construction program to meet air permit requirements and has continued to work with local contractors to clarify the scope of the project work. ecoPower contracted with Balis Campbell, a local Hazard based contractor, for limited foundation work in 2013. Gray Construction Company. of Lexington, Kentucky coordinated the initial site development and foundation design and construction. Work on the fuel handling foundations, particularly the chipper building foundation, involved unique construction activities due to the site being a mine spoil site. The chipper building foundation required excavating the mine spoil by 12-15 feet below the bottom of the foundation and replacing the soil and rock in carefully compacted 12 inch lifts to assure a stable base of support. This work was finally completed on October 24, 2013. No other construction has commenced during this latest reporting period.

Interconnection Agreement

The transmission network to which the Project will be connected is operated by PJM Interconnection, LLC. ecoPower has made application to PJM to connect to the grid through the KPC Engle substation approximately 1.5 miles from the Plant. Feasibility and a System Impact Study have been completed based on the most recent design parameters. PJM tendered a Facilities Study Agreement on October 6, 2014 requiring \$200,000 in additional security. ecoPower, after consideration of the status of the project at that time, decided to withdraw the interconnection request. ecoPower will re-apply at a later date commensurate with newly established project milestones. The preliminary cost estimate for the interconnection as indicated by PJM staff is \$10,651,300. All costs of the interconnection are to be borne by ecoPower.

II. Implementation of Site Development Plan

Full site development has not been initiated pending financial closure and further construction is being held in abeyance at this time. A construction storm water drainage permit ("NOI") was obtained prior to initiating the initial construction and appropriate environmental compliance measures have been taken. Further amendment of the NOI will be initiated prior to additional site activity. An operating water discharge permit will likely be the last permit submitted since it is required 180 days prior to plant operations.

III. Local Hiring and Procurement

Local contractors have been used to support the foundation work that has been completed. (See the reference to Balis Campbell above.) No other hiring has taken place and none is expected until construction is resumed.

IV. Public Comments and Responses

There continues to be local support for the jobs related to the construction and operation of the project. Meetings with officials in each of the surrounding counties were held in 2016 to provide an update on the status of the project.

V. Specific Mitigation Conditions

ecoPower remains committed to fulfilling the obligations set forth in Appendix A to the May 18, 2010 Final Order of the Siting Board granting approval of the construction certificate. ecoPower is aware of the statutory requirement that the construction certificate is "valid for a period of (2) two years after the issuance date of the last permit required to be obtained from the Energy and Environment Cabinet" (KRS 278.704(1)). As noted above, the KPDES operating permit is the last permit requested and is not required to be submitted for approval until approximately 180 days before the operating wastewater discharge occurs. .

VI. Summary

ecoPower again restates its continuing commitment to the project and believes that its vision to bring jobs to Eastern Kentucky and fuel diversity to the generation of renewable power in the region is a long term benefit to the area. While the disappointment brought on by the Court of Appeals revocation of the Commission's Approval Order cannot be ignored, the utilization of abundant and robust forest resources makes strategic sense. With the continuing challenges faced by the loss of mining jobs in Eastern Kentucky, the project compliments the efforts to bolster economic development in the region. ecoPower appreciates the consideration and support of the Kentucky State Board on Electric Generation and Transmission Siting and hopes to make an important future contribution to the economy of Eastern Kentucky.

Sincerely,



Gary T. Crawford
Chief Executive Officer
ecoPower Generation – Hazard, LLC

cc: Dr. Talina Mathews
Richard A. Sturgill