

Office of the Attorney General

Attorney General Conway Appeals Approval of Kentucky Power's Acquisition of West Virginia Coal Plant to Replace Kentucky's Big Sandy Facility

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Attorney General Conway announced today that he has appealed the October 7, 2013 decision of the Kentucky Public Service Commission allowing Kentucky Power Company to purchase a 50 percent interest in a West Virginia coal plant instead of retrofitting the Big Sandy facility in Louisa, Kentucky. The appeal to the Franklin Circuit Court seeks to vacate and set aside the Commission's findings on multiple legal grounds.

"The recent ruling by the Kentucky Public Service Commission approving this transaction will place more than a half a billion dollars into Kentucky Power's rate base and will ultimately raise consumers' electric rates by more than 20 percent," General Conway said. "It will also transfer energy production to a neighboring state and leave Kentucky consumers paying the bill. That's just not right."

On October 7, 2013, the Kentucky Public Service Commission approved Kentucky Power's proposal to purchase from its unregulated affiliate, Ohio Power Co., a 50 percent interest in the Mitchell Generating Station, located in Moundsville, West Virginia, at an estimated cost of \$536 million and accepted the terms of a partial settlement and stipulation to which the Attorney General did not join.

In its findings, the PSC accepted Kentucky Power's assertion that the Mitchell Plant acquisition was less costly than retrofitting Kentucky Power's Big Sandy coal-fired unit with environmental controls. The Commission declined to follow its administrative counterpart – the Virginia State Corporation Commission – that declined to approve a related transaction by Appalachian Power Company

because the company failed to demonstrate reasonable market alternatives to support its claim that a 50 percent interest in Mitchell was the least-cost option for consumers.

In his appeal to the Franklin Circuit Court today, General Conway asserts that the findings of the Commission were unreasonable and unlawful because they relied on evidence presented by Kentucky Power and its corporate parent company that could not be independently verified.

"The analysis used by Kentucky Power and accepted without independent verification by the Commission is simply an apples to oranges comparison and is not a reliable basis for the Commission's decision," says General Conway. "The Commission should seek additional, independent information, if it is going to raise electric rates for consumers and eliminate Kentucky jobs."

In addition, General Conway asserts that the Commission failed to consider the economic feasibility of Kentucky Power's plan and neglected the public policy interests of Kentucky, as expressed by the General Assembly. In the complaint filed with the Franklin Circuit Court, General Conway points out that the General Assembly and Kentucky courts have held that the use of Kentucky coal and the continuation of jobs and other economic benefits constitute a legitimate government interest.

The Attorney General's Office of Rate Intervention serves as a watchdog for consumers in matters relating to utility rates. Under Kentucky law (KRS 367.150(8)), the office is responsible for representing the interests of Kentucky consumers before state and federal rate making agencies, concentrating on utility cases (electric, water, telecommunications, and natural gas) before the Kentucky Public Service Commission.