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April 14, 2005

Beth A. O'Donnell, Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, Kentucky 40602

Re: Case No. 2005-00053

Dear Ms. O'Donnell:

Please find enclosed for filing with the Commission in the above-referenced case an original and ten (10) copies of the Response of EnviroPower, LLC to the Objections of East Kentucky Power Cooperative, Inc.

By copy of this letter, all parties listed on the attached Certificate of Service has been served.

Sincerely yours,



Stephen M. Soble
O'Connor & Hannan, LLP

Enclosure

APR 15 2005
PUBLIC SERVICE
COMMISSION

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served by mailing a true and correct copy, by regular U.S. mail (unless otherwise noted) to all parties on this 14th of April, 2005.

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Stephen M. Soble

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF EAST KENTUCKY POWER)	
COOPERATIVE, INC., FOR A CERTIFICATE OF)	
PUBLIC CONVENIENCE AND NECESSITY AND A)	
SITE COMPATIBILITY CERTIFICATE, FOR THE)	
CONSTRUCTION OF A 278 MW (NOMINAL))	CASE NO. 2005-00053
CIRCULATING FLUIDIZED BED COAL FIRED)	
UNIT AND FIVE 90 MW (NOMINAL) COMBUSTION)	
TURBINES IN CLARK COUNTY, KENTUCKY)	

**RESPONSE OF ENVIROPOWER TO THE OBJECTIONS
OF EAST KENTUCKY POWER COOPERATIVE, INC.
TO THE PETITION TO INTERVENE OF ENVIROPOWER, LLC**

EnviroPower, LLC (“EnviroPower”) hereby respectfully submits to the Kentucky Public Service Commission (the “Commission” or “KPSC”) this Response to the Objections of East Kentucky Power Cooperative, Inc. (“EKPC”), to EnviroPower’s Petition to Intervene and hereby requests that the Commission enter an Order granting EnviroPower full intervenor status, without limitation.

1. EnviroPower Incorporates by Reference Various Filings in the Sister KPSC Case No. 2004-00423.

The instant matter is a companion case to the application of EKPC for a Certificate of Public Convenience and Necessity and a Site Compatibility Certificate filed in Case No. 2004-00423, known as Spurlock #4. In the Spurlock #4 case, EnviroPower filed on January 31, 2004, a Response to the Objections of EKPC to EnviroPower’s Petition to Intervene. Subsequently, EKPC and EnviroPower have submitted prepared testimony and direct testimony. The EnviroPower testimony includes the Direct Testimony of Frank Rotondi and affidavits filed on March 31, 2005. Pursuant to an Order of the Commission dated February 3, 2004 in the

Spurlock case (2004-00423) (“Order”), the Commission ordered a full and thorough investigation into the circumstances of the Request for Proposal issued by EKPC, evaluated by EKPC/ EnerVision and the facts and circumstances leading to the award under the RFP to the self-build option at Spurlock #4. It has been admitted by EKPC that the original RFP was split into two (2) separate awards. The first award was made to Spurlock #4. The second award was made to the EKPC self-build option known as the JK Smith project in Clarke County, which is the subject of this case (2005-00053).

EKPC has filed direct and prepared testimony and various objections to the EnviroPower pleadings and evidence. For administrative ease, and in order to present the resubmission of the file in Case No. 2004-00423, EnviroPower incorporates by reference into this Case No. 2005-00053, all pleadings and evidence filed by EnviroPower relating to the Order and investigation. If the Commission prefers that EnviroPower resubmit copies of the testimony, evidence and pleadings, EnviroPower is prepared to do so.

2. The Facts and Evidence of Case No. 2004-00423 Are Relevant To This Case.

In the Spurlock #4 case, several critical points have been established or are the subject of evidentiary contest, which have a direct factual bearing on this case. These points include, but are not limited to the following:

1. A *prima facie* case has been made demonstrating that the RFP issued by EKPC, which was the genesis of both the Spurlock #4 award and the JK Smith award of this case, was null and void *ab initio*.
2. The facts established a *prima facie* case demonstrating self-dealing by EKPC in the evaluation of the Spurlock #4 bid. There is every reason to believe that the facts, upon investigation, the facts in this case will lead to the same conclusion

based on the same evaluation procedures.

3. A *prima facie* case has been established that the EKPC award of the RFP to the self-build option known as Spurlock #4 was not the lowest cost, or the most reasonable option. There is every reason to believe that upon investigation the facts will bear out the same conclusion for the JK Smith self-build option.
4. In the Spurlock #4 case, EnviroPower has amply demonstrated that it has a special interest in the proceeding, which is not adequately represented by another party.
5. EnviroPower's participation in Spurlock #4 has not been disruptive nor has it caused undue delay.

EnviroPower may also have facts and information relevant to the determination of the propriety of the award of the 90 MW (nominal) combustion turbines which are also a part of the instant JK Smith case.

Finally, because of EnviroPower's expertise and knowledge concerning the preparation, evaluation and award of bids for both the EKPC Request for Proposal which resulted in this award, and in power plants in general, there is no party before the Commission that can adequately and fully represent the ratepayers or assist the Commission in carrying out its statutory mandates. This is especially so since it appears that the Office of the Attorney General, with its limited resources, has chosen not to present direct testimony or employ independent experts to evaluate the bid and the circumstances under which it was awarded in the Spurlock #4 proceeding.

3. Conclusion

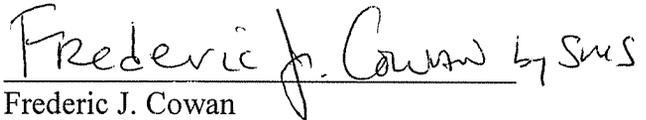
WHEREFORE, EnviroPower submits this Response to EKPC's Objection to EnviroPower's Petition to Intervene and respectfully requests that the Commission (1) grant EnviroPower's Motion to Intervene as a full intervenor without limitation and (2) take judicial

notice of the pleadings and direct testimony and documentary evidence in the Spurlock #4 case.

Respectfully submitted,



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