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August 22, 2014

Via Hand Delivery

Mr. Jeffrey Derouen
Executive Director
Kentucky Public Service Commission
P.O. Box 615
211 Sower Boulevard
Frankfort, KY 40602

RECEIVED

AUG 22 2014

**PUBLIC SERVICE
COMMISSION**

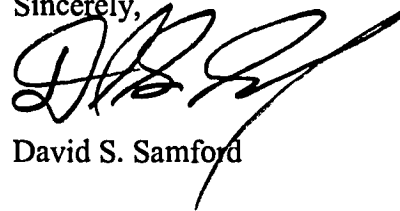
Re: In the Matter of: An Examination by the Public Service Commission of the Environmental Surcharge Mechanism of East Kentucky Power Cooperative, Inc. for the Six-Month Billing Period Ending December 31, 2013 and the Pass Through Mechanism for its Sixteen Member Distribution Cooperatives PSC Case No. 2014-00051

Dear Mr. Derouen:

Enclosed please find for filing with the Commission in the above-referenced case an original and ^{five}~~ten~~ (5) copies of East Kentucky Power Cooperative, Inc.'s Response to Commission's Data Requests. Please return a file-stamped copy to me.

Do not hesitate to contact me if you have any questions.

Sincerely,



David S. Samford

Enclosures

M:\Clients\4000 - East Kentucky Power\2002 - Environmental Surcharge\
Correspondence\Ltr. to Jeff Derouen (2014-00051) - 140822

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

AUG 22 2014

**PUBLIC SERVICE
COMMISSION**

IN THE MATTER OF:

**AN EXAMINATION BY THE PUBLIC SERVICE)
COMMISSION OF THE ENVIRONMENTAL)
SURCHARGE MECHANISM OF EAST KENTUCKY)
POWER COOPERATIVE, INC. FOR THE)
SIX-MONTH BILLING PERIOD ENDING)
DECEMBER 31, 2013, AND THE PASS THROUGH)
MECHANISM FOR ITS SIXTEEN MEMBER)
DISTRIBUTION COOPERATIVES)**

PSC CASE NO. 2014-00051

MOTION FOR CONFIDENTIAL TREATMENT

Comes now East Kentucky Power Cooperative, Inc. ("EKPC"), by and through counsel, pursuant to KRS 61.878, 807 KAR 5:001, Section 13 and other applicable law, and for its Motion requesting that the Kentucky Public Service Commission ("Commission") afford confidential treatment to data request number 5b of the Commission's data requests issued on August 7, 2014, in the above-captioned proceeding, respectfully states as follows:

1. This case was initiated by the Commission in order to complete its six-month review of EKPC's environmental surcharge as billed from July 1, 2013, to December 31, 2013, to its Member distribution companies. This proceeding was also initiated by the Commission to review the pass-through mechanism as billed from August 1, 2013, to January 31, 2014, to retail member customers.

2. On August 7, 2014, the Commission issued data requests to EKPC, which included request 5b related to the invoices EKPC sent to its Members during the six-month

review period. Contemporaneous with the filing of this Motion, EKPC is tendering information responsive to this request.

3. The response to this request provides confidential customer information that is commercially sensitive and proprietary regarding EKPC's largest industrial customers. The response includes names of industrial customers, the substations that serve these customers and the billing information for these customers.

4. The above-described information (the "Confidential Information") that is included in EKPC's response to the foregoing data request is proprietary and commercially sensitive information that is retained by EKPC and each relevant Member on a "need-to-know" basis and that is not publicly available. If disclosed, the Confidential Information could give competitors an unfair advantage by knowing the largest customers' demand and billing information. Also, if disclosed, the Confidential Information would possibly have an effect on economic development in the service territories since this information describes the usage of the largest industrial customers on EKPC's system. Other states' economic development officials, who are charged with attracting investment and new jobs to their jurisdictions (despite generally higher electricity costs), would be eager to know specific details of large industrial customers' energy requirements. This information would be readily discernable from the Member invoices if the names of the specific substations are not afforded confidential treatment. Moreover, even though not all substations on the EKPC system are directly correlated with a large industrial customer, the redaction of only those substation names which are associated with a large customer would provide sufficient information for competitors and other states' economic development officials to decipher the specific large industrial customers whose names would be redacted.

5. The Kentucky Open Records Act exempts the Confidential Information from public disclosure. *See* KRS 61.878(1)(c). As set forth above, disclosure of the Confidential Information would permit an unfair advantage to third parties and potentially cause EKPC to lose load – which would be detrimental to interests of its Members and, ultimately, their retail customers. Moreover, the Kentucky Supreme Court has stated, “information concerning the inner workings of a corporation is ‘generally accepted as confidential or proprietary.’” *Hoy v. Kentucky Industrial Revitalization Authority*, 907 S.W.2d 766, 768 (Ky. 1995). The information derived from the response to the foregoing request would clearly relate to EKPC’s largest industrial customers, their demand and billing information. Because the Confidential Information is critical to EKPC’s effective execution of business decisions and strategy, it satisfies both the statutory and common law standards for affording confidential treatment.

6. EKPC does not object to limited disclosure of the Confidential Information described herein, pursuant to an acceptable confidentiality and nondisclosure agreement, to any intervenors with a legitimate interest in reviewing the same for the sole purpose of participating in this case.

7. In accordance with the provisions of 807 KAR 5:001, Section 13(2), EKPC is filing one un-redacted copy of its response to Request No. 5b separately under seal. The public version of EKPC’s filing notes that these responses have been submitted to the Commission under seal in redacted form.

8. In accordance with the provisions of 807 KAR 5:001, Section 13(3), EKPC respectfully requests that the Confidential Information be withheld from public disclosure for a period of ten years. This will assure that the Confidential Information – if disclosed after that

time – will no longer be commercially sensitive so as to likely impair the interests of EKPC if publicly disclosed.

WHEREFORE, on the basis of the foregoing, EKPC respectfully requests the Commission to enter an Order granting this Motion and to so afford such protection from public disclosure to the un-redacted copy of the referenced response, which is filed herewith under seal, for a period of ten years from the date of entry of such an Order.

This 22nd day of August 2014.

Respectfully submitted,



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Counsel for East Kentucky Power Cooperative, Inc.

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing was deposited in the custody and care of the U.S. Mail, postage prepaid, on this the 22nd day of August 2014, addressed to the following:

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McKee, KY 40447



Counsel for East Kentucky Power Cooperative, Inc.

**COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION**

In the Matter of:

AN EXAMINATION BY THE PUBLIC SERVICE)	
COMMISSION OF THE ENVIRONMENTAL)	
SURCHARGE MECHANISM OF EAST)	
KENTUCKY POWER COOPERATIVE, INC.)	CASE NO.
FOR THE TWO-YEAR BILLING PERIOD)	2014-00051
ENDING DECEMBER 31, 2013 AND THE PASS)	
THROUGH MECHANISM FOR ITS SIXTEEN)	
MEMBER DISTRIBUTION COOPERATIVES)	

**RESPONSES TO COMMISSION STAFF'S THIRD REQUEST FOR
INFORMATION TO EAST KENTUCKY POWER COOPERATIVE, INC.
DATED AUGUST 7, 2014**

EAST KENTUCKY POWER COOPERATIVE, INC.

PSC CASE NO.

PUBLIC SERVICE COMMISSION REQUEST DATED 08/07/14

East Kentucky Power Cooperative, Inc. ("EKPC") hereby submits responses to the information requests contained in the Third Request for Information to the Order of the Public Service Commission ("PSC") in this case dated August 7, 2014. Each response with its associated supportive reference materials is individually tabbed.

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In re the Matter of:

AN EXAMINATION BY THE PUBLIC SERVICE
COMMISSION OF THE ENVIRONMENTAL)
SURCHARGE MECHANISM OF EAST)
KENTUCKY POWER COOPERATIVE, INC.)
FOR THE TWO-YEAR BILLING PERIOD)
ENDING DECEMBER 31, 2013 AND THE PASS)
THROUGH MECHANISM FOR ITS SIXTEEN)
MEMBER DISTRIBUTION COOPERATIVES)

CASE NO.
2014-00051

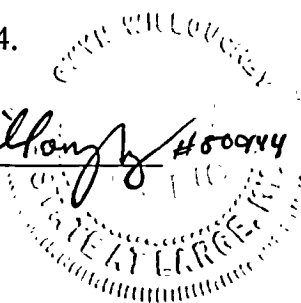
CERTIFICATE

STATE OF KENTUCKY)
)
COUNTY OF CLARK)

Isaac S. Scott, being duly sworn, states that he has supervised the preparation of the responses of East Kentucky Power Cooperative, Inc. to the Public Service Commission Staff's Third Request for Information in the above-referenced case dated August 7, 2014, and that the matters and things set forth therein are true and accurate to the best of his knowledge, information and belief, formed after reasonable inquiry.

Isaac S. Scott

Subscribed and sworn before me on this 22nd day of August, 2014.

Ray M. Wilhany #60914
Notary Public


EAST KENTUCKY POWER COOPERATIVE, INC.
PSC CASE NO. 2014-00051
ENVIRONMENTAL SURCHARGE MECHANISM
RESPONSE TO INFORMATION REQUEST

COMMISSION STAFF'S THIRD REQUEST FOR INFORMATION DATED 08/07/14
REQUEST 1

RESPONSIBLE PARTY: Isaac S. Scott

Request 1. This question is addressed to EKPC. Refer to the Supplemental Testimony of Isaac S. Scott ("Scott Supplemental Testimony"), page 3, lines 12 through 20.

a. Does EKPC agree that the over/under recovery discussed here in the Supplemental Testimony can be classified as a volume difference, meaning that the retail revenues utilized in developing the monthly pass-through mechanism factor are not the same level of monthly retail revenues the pass-through mechanism factor is applied to? If not, explain.

b. Does EKPC agree that this volume difference will occur whenever there is a difference between the level of revenues used in calculating the factor and the level of revenues the monthly factor is applied to? If not, explain.

Response 1a. EKPC believes that the over/under recovery discussed in the Scott Supplemental Testimony, where it is noted that the retail revenues utilized in developing the monthly pass-through mechanism factor are not the same level of monthly retail revenues the pass-through mechanism factor is applied to, is more accurately described as a timing difference rather than a volume difference. EKPC is aware that at least one utility previously identified this situation as a timing difference.¹ EKPC believes a difference in the level of revenues as of

¹ Please see pages 3 and 6 of the Commission's October 17, 2003 Order in Case No. 2003-00068, *An Examination by the Public Service Commission of the Environmental Surcharge Mechanism of Kentucky Utilities Company for the Six-Month Billing Periods Ending January 31, 2001, July 31, 2001, January 31, 2002, and January 31, 2003 and for the Two-Year Billing Periods Ending July 31, 2000 and July 31, 2002.*

varying points in time does not constitute a volume difference. EKPC views volume differences as describing changes such as the amounts of kWh sales between periods.

Response 1b. As stated in the response above, EKPC does not consider the difference as a volume difference. However, EKPC does agree that the timing difference will occur whenever there is a difference between the level of revenues used in calculating the factor and the level of revenues the monthly factor is applied to.

EAST KENTUCKY POWER COOPERATIVE, INC.
PSC CASE NO. 2014-00051
ENVIRONMENTAL SURCHARGE MECHANISM
RESPONSE TO INFORMATION REQUEST

COMMISSION STAFF'S THIRD REQUEST FOR INFORMATION DATED 08/07/14
REQUEST 2

RESPONSIBLE PARTY: Isaac S. Scott

Request 2. This question is addressed to EKPC. Refer to the Scott Supplemental Testimony, page 6, lines 14 through 18. Provide a complete and full explanation why it is more appropriate to remove any amortization in effect during the review period in order to determine over/under recoveries than to include the effects of any amortization amounts in effect during the review period by adding the amortization amounts to column 1, EKPC Invoice Recorded Member's Books (See Exhibit ISSC-1). This approach would compare the total EKPC Invoice Month Recorded Member's Books, along with the amortization of any over- or under-recovery amount, with the revenues recovered from the customers that also includes any amortization amounts.

Response 2. EKPC believes its proposal to adjust the amortization of previous over/under recoveries from the retail revenues recorded on the Member Cooperatives' books, as shown in Exhibit ISS-1 to the Scott Supplemental Testimony, is appropriate. It should be remembered that the previous over/under recoveries being amortized originally resulted from the application of the Member Cooperatives' pass-through factor to the retail customers' monthly bills. The application of those pass-through factors results in over/under recovery each month. The net over- or under-recoveries are determined for the period during the surcharge review cases. The cumulative amount of the over/under recoveries resulting during a surcharge review period is used to determine the amortization that will be incorporated into future pass-through

factors. Consequently, the amortization of previous over/under recoveries is reflected in the retail revenues recorded on the Member Cooperatives' books.

EKPC would agree with the suggestion that the amortization of previous Member Cooperative over/under recoveries could be added to the environmental surcharge billed from EKPC to the Member Cooperatives when determining the current over/under recovery for a surcharge review period. This would essentially produce the same results mathematically as the proposal in Exhibit ISS-1. However, the approach has the effect of recognizing the amortization of previous over/under recoveries twice when determining the current review period over/under recovery. The amortization of previous over/under recoveries is already incorporated into the retail revenues reported for the Member Cooperatives. Combining the amortization of previous over/under recoveries with the environmental surcharge billed from EKPC to the Member Cooperatives would in effect be including that amortization a second time. EKPC does not mean to imply this approach results in a double-counting of the amortization. EKPC believes it would be preferable to remove the amortization from the reported Member Cooperative retail revenues when determining the current over/under recoveries for the Member Cooperatives.

EKPC notes the suggestion, as stated, implies that the amortization of previous over/under recoveries would be combined with the environmental surcharge billed from EKPC to the Member Cooperatives and shown as a single amount in column 1. EKPC does not believe it is appropriate to net these amounts. The environmental surcharge billed and each amortization of a previous over/under recovery occurring during the surcharge review period should be shown in separate columns when determining the current over/under recovery. This would clearly establish that the applicable amortization amounts have been adjusted in the calculations.

EAST KENTUCKY POWER COOPERATIVE, INC.
PSC CASE NO. 2014-00051
ENVIRONMENTAL SURCHARGE MECHANISM
RESPONSE TO INFORMATION REQUEST

COMMISSION STAFF'S THIRD REQUEST FOR INFORMATION DATED 08/07/14
REQUEST 3

RESPONSIBLE PARTY: Isaac S. Scott

Request 3. This question is addressed to EKPC. Refer to the Scott Supplemental Testimony, page 7, lines 3 through 4, along with KRS 278.225, Time limitation on billing — Liability for unbilled service. KRS 278.225 states, "All service supplied by a utility shall be billed within two (2) years of the service. No customer shall be liable for unbilled service after two (2) years from the date of the service, unless the customer obtained the service through fraud, theft, or deception." Provide a full and complete explanation of how comparing the member cooperatives' monthly billed environmental revenues and the EKPC monthly environmental power bill for the period July 2005 through December 2013 is consistent with KRS 278.225.

Response 3. EKPC would note the first sentence of KRS 278.183(1) which states, "Notwithstanding any other provision of this chapter, effective January 1, 1993, a utility shall be entitled to the current recovery of its costs of complying with the Federal Clean Air Act as amended and those federal, state, or local environmental requirements which apply to coal combustion wastes and by-products from facilities utilized for production of energy from coal in accordance with the utility's compliance plan as designated in subsection (2) of this section." (emphasis added.) It is EKPC's understanding that the "Notwithstanding clause" has the practical effect of meaning KRS 278.225 does not apply to the environmental surcharge and its associated billings.

Furthermore, the comparison of the Member Cooperatives' monthly billed environmental revenues and the EKPC monthly environmental power bill for the period July 2005 through December 2013 is consistent with KRS 278.225 to the extent that all service was properly billed within the 2-year time period. EKPC each month timely billed its Member Cooperatives for the environmental surcharge and the Member Cooperatives in turn each month timely billed their members for the surcharge pass-through. The amortization of over- or under-recoveries determined during six-month and two-year environmental surcharge reviews were initially reflected on retail customers' bills within the 2-year time period. However, it is the continued impact those previous amortizations have upon the determination of the over- or under-recovery experienced in the current review period that is the concern raised by the Member Cooperatives in this review case.

**EAST KENTUCKY POWER COOPERATIVE, INC.
PSC CASE NO. 2014-00051
ENVIRONMENTAL SURCHARGE MECHANISM
RESPONSE TO INFORMATION REQUEST**

**COMMISSION STAFF'S THIRD REQUEST FOR INFORMATION DATED 08/07/14
REQUEST 4**

RESPONSIBLE PARTY: Isaac S. Scott

Request 4. This question is addressed to EKPC. Considering that Case No. 2013-00324 was EKPC's most recent Environmental Surcharge two-year review, covering the 24-month period ending June 30, 2013, and that the final Order in that case was dated March 21, 2014, explain why the proposal for reviewing the expenses between July 2005 and June 30, 2013, is not considered retroactive ratemaking.

Response 4. EKPC believes that the request to review the amortization of over/under recoveries experienced by the Member Cooperatives since the inception of the environmental surcharge and the pass-through mechanism does not constitute a "proposal for reviewing the expenses" recovered via the pass-through mechanism. The expenses being recovered by the Member Cooperatives through the pass-through mechanism are the environmental surcharges billed by EKPC to the Member Cooperatives. No Member Cooperative has questioned the environmental surcharge billed by EKPC since the inception of the surcharge and pass-through mechanism.

EKPC is aware that in all ten of the previous environmental surcharge and pass-through mechanism reviews the Commission has stated:

The Commission has reviewed and finds reasonable each of the Member Cooperatives' calculations of their respective over-recoveries and under-recoveries for the review periods covered in this proceeding. The Commission finds reasonable the Member Cooperatives' proposals to amortize their respective

accumulated over- or under-recovery amounts in each of the first six billing months following the final Order in this proceeding.²

In requesting that the Commission review the amortization of over/under recoveries since the inception of the surcharge and pass-through mechanism, EKPC and its Member Cooperatives are not questioning the Commission's findings in previous surcharge review cases. However, EKPC and its Member Cooperatives do believe that the handling of the amortization of over/under recoveries through the pass-through mechanism has failed to achieve the intended result – the collection from retail customers of the appropriate environmental costs, no more or no less. A review from the inception of the surcharge and pass-through mechanism is necessary in order to provide a complete understanding of the issue.

EKPC and its Member Cooperatives believe that seeking correction of the over/under recovery amortization issue on a prospective basis does not constitute retroactive ratemaking. EKPC and its Member Cooperatives are not proposing that they be allowed to recover any more or any less expense than has already been approved by the Commission or that is currently being reviewed in this proceeding. However, having identified a problem with the handling of the amortization of over/under recoveries, it is not retroactive ratemaking to review the operation of the pass-through mechanism and correcting it on a prospective basis.

² Please see page 5 of the Commission's March 21, 2014 Order in Case No. 2013-00324, *An Examination by the Public Service Commission of the Environmental Surcharge Mechanism of East Kentucky Power Cooperative, Inc. for the Two-Year Billing Period Ending June 30, 2013 and the Pass Through Mechanism for Its Sixteen Member Distribution Cooperatives.*

EAST KENTUCKY POWER COOPERATIVE, INC.
PSC CASE NO. 2014-00051
ENVIRONMENTAL SURCHARGE MECHANISM
RESPONSE TO INFORMATION REQUEST

COMMISSION STAFF'S THIRD REQUEST FOR INFORMATION DATED 08/07/14
REQUEST 5

RESPONSIBLE PARTY: Isaac S. Scott

Request 5.

This question is addressed to EKPC.

- a. Describe EKPC's billing cycle to its member cooperatives
- b. Provide copies of EKPC's invoices to its member cooperatives for all months in the current six-month review period.
- c. Describe the method that EKPC employs to provide the member cooperatives with their monthly billing, i.e., electronic, facsimile, mail, etc.
- d. Describe how and when EKPC communicates the monthly pass-through factor to the member cooperatives.

Responses 5a.

EKPC has a single billing cycle which is on a calendar month basis.

Responses 5b.

EKPC is providing copies of its invoices to the Member Cooperatives for the months of June 2013 through February 2014. Please see the attached CD, which is subject to a motion for confidential treatment.

Please note that as a result of changes in EKPC's direct load control program, participating Member Cooperatives now receive a bill credit for direct load control. This credit also results in an adjustment to the level of environmental surcharge billed by EKPC to the Member Cooperatives. Currently, Fleming-Mason Energy Cooperative is the only

Member Cooperative not participating in the direct load control program and that is due to the installation of its Advanced Metering Infrastructure. There is also an adjustment to the monthly invoice and environmental surcharge to Salt River Electric Cooperative Corporation for the generator credit related to the Lock 7 Hydro Project.

Responses 5c. The monthly invoices are sent to the Member Cooperatives via electronic mail.

Responses 5d. The monthly pass-through factors are communicated to the Member Cooperatives twice each month. On the day before the submission of its monthly environmental surcharge report, EKPC sends each Member Cooperative the calculation of that cooperative's monthly pass-through factor so the Member Cooperative can review the calculations and alert EKPC to any corrections that are necessary. EKPC files its monthly environmental surcharge report, including the pass-through factor calculations, on or about the 20th of the month. On the first or second business day after the submission of EKPC's monthly environmental surcharge report, EKPC sends a copy of the monthly filing to each Member Cooperative. While this copy does not include the detailed calculations of the monthly pass-through factor, the cover letter to the filing does list all the pass-through factors.