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March 22, 2005

Mr. Charles A. Lile
East Kentucky Power Cooperative, Inc.
Post Office Box 707
Winchester, Kentucky 40392-0707

Dear Mr. Lile:

The Commission Staff has received your request for a Staff opinion regarding the sale of renewable energy credits ("RECs") by East Kentucky Power Cooperative, Inc. ("EKPC"). The letter states that EKPC desires to sell RECs in the wholesale market and that it has received several inquiries about the sale of RECs. You also state that EKPC's landfill gas generating units, which qualify as renewable resources, have more capacity than is needed to meet the demands of the customers purchasing power under its existing Green Power tariff.

The letter emphasizes that the proposed sale of RECs would not be a physical sale of energy from EKPC's generating units, but would involve the sale of a "tag" which confirms that renewable energy has been generated. In addition, the letter states that EKPC acknowledges that its members systems' renewable energy needs under its Green Power tariff must always take precedence over the sale of RECs. Furthermore, you state that EKPC will develop a system to track the generation and sale of RECs on a quarterly basis.

The letter states that EKPC believes the wholesale sale of RECs at a market price is a non-jurisdictional matter, but a Staff opinion is requested to ensure that any relevant regulatory issues are identified. EKPC's landfill gas generation was recently developed and it is the only Kentucky-jurisdictional generation to qualify as renewable resources. Hence, the sale of RECs is an issue of first impression for Commission Staff.

Based on the information in your letter, it is Staff's opinion that EKPC's wholesale sale of RECs at market prices to buyers, other than its distribution cooperatives, does not involve either a rate or service within the jurisdiction of the Commission. This opinion is based on the fact that the proposed sale of RECs is similar to a utility's sale of environmental emission allowances. Neither are sales of physical energy, but are sales of intangible assets tied to energy generation. Although the Commission would not

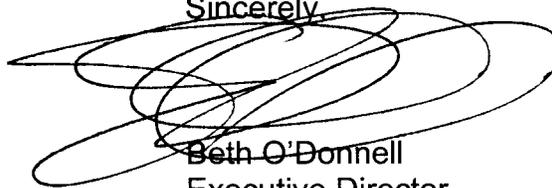
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regulate the rate or service aspect of EKPC's off-system sales of RECs, any revenues from those sales would be reflected as a cost-of-service credit since the physical assets which produce the intangible assets are included in rate base.

Staff has an interest in staying informed of EKPC's activity in the REC market. Accordingly, since EKPC intends to develop a system to track the generation and sale of RECs, it should file quarterly reports in a manner similar to its Green Power tariff quarterly activity reports.

This letter represents the legal opinion of the Commission Staff. The opinion is advisory in nature and is not binding on the Commission should this issue come before it in a formal proceeding. If you have further questions, please contact Gerald Wuetcher at 502-564-3940, Extension 259.

Sincerely,

A handwritten signature in black ink, appearing to be "Beth O'Donnell", written over the word "Sincerely,". The signature is somewhat stylized and overlaps the text below it.

Beth O'Donnell
Executive Director

RGR:v