

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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| AN EXAMINATION BY THE PUBLIC SERVICE |) | |
| COMMISSION OF THE ENVIRONMENTAL |) | CASE NO. |
| SURCHARGE MECHANISM OF EAST |) | 2009-00039 |
| KENTUCKY POWER COOPERATIVE , INC. |) | |
| FOR THE SIX-MONTH BILLING PERIODS |) | |
| ENDING DECEMBER 31, 2007; JUNE 30, 2008; |) | |
| AND DECEMBER 31, 2008; AND THE PASS- |) | |
| THROUGH MECHANISM FOR ITS SIXTEEN |) | |
| MEMBER DISTRIBUTION COOPERATIVES |) | |

O R D E R

On February 23, 2009, the Commission entered its first Order in this case.

Included in that Order was a footnote, number 4 at page 3, which stated as follows:

The lawfulness of the retail pass-through methodology of EKPC's environmental surcharge appears to be called into question by the Opinion and Order entered by the Franklin Circuit Court on August 1, 2007 in the case of Commonwealth of Kentucky, ex rel., Gregory D. Stumbo, Attorney General v. Kentucky Public Service Commission and The Union Light, Heat and Power Company, Civil Action 06-CI-269, which is currently pending a Motion for Discretionary Review before the Kentucky Supreme Court, Case No. 2008-SC-00489-D. The impact of the Opinion and Order upon the pass-through methodology may be an issue in this proceeding.

In a letter dated February 24, 2009, the Attorney General points out that the footnote is in error. Upon examination of the relevant court documents, the Commission finds that the validity of KRS 278.183, the environmental surcharge statute, was affirmed by the Court of Appeals November 7, 2008, Order in Case No. 2007-CA-

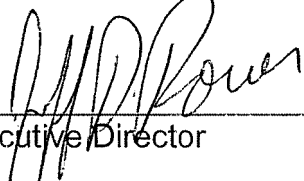
001635MR. Although motions for discretionary review have been filed, no challenge to the Court of Appeals November 7, 2008 order with respect to the validity of KRS 278.183 has been made. Therefore, the Commission agrees with the Attorney General and finds good cause to amend the February 23, 2009, Order to correct the error.

IT IS THEREFORE ORDERED, nunc pro tunc, that the February 23, 2009 Order is amended to delete footnote 4 at page 3 of the Order.

Done at Frankfort, Kentucky, this 6th day of March, 2009.

By the Commission

ATTEST:



Executive Director

Robert Marshall
President/CEO
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