

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF EAST KENTUCKY POWER	)	
COOPERATIVE, INC. FOR APPROVAL OF AN	)	CASE NO.
AMENDMENT TO ITS ENVIRONMENTAL COMPLIANCE	)	2010-00083
PLAN AND ENVIRONMENTAL SURCHARGE	)	

O R D E R

On March 29, 2010, East Kentucky Power Cooperative, Inc. ("EKPC"), pursuant to KRS 278.183, filed an application to amend its Environmental Compliance Plan ("EC Plan") and its Environmental Surcharge ("ES") approved in Case No. 2004-00321<sup>1</sup> and subsequently amended in Case No. 2008-00115.<sup>2</sup> EKPC proposes to amend its EC Plan by adding three new projects and amending three existing projects; revise its ES forms and continue to use the Times Interest Earned Ratio ("TIER") authorized in Case No. 2008-00115. Two of the new projects and the three amended projects will be enhancements or upgrades to its existing environmental facilities.

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<sup>1</sup> Case No. 2004-00321, Application of East Kentucky Power Cooperative, Inc. for Approval of an Environmental Compliance Plan and Authority to Implement an Environmental Surcharge (Ky. PSC Mar. 17, 2005).

<sup>2</sup> Case No. 2008-00115, Application of East Kentucky Power Cooperative, Inc. for Approval of an Amendment to Its Environmental Compliance Plan and Environmental Surcharge (Ky. PSC Sep. 29, 2008).

One new project,<sup>3</sup> the addition of an Air Quality Control System ("AQCS") at EKPC's John Sherman Generating Station Cooper Unit 2, was developed by EKPC in conjunction with a federal Consent Decree which EKPC entered into in September 2007 to resolve a lawsuit filed by the U.S. Environmental Protection Agency ("EPA"). The projects not specifically required by the consent decree are being requested because of other regulatory requirements or because the project includes pollution control equipment or devices.<sup>4</sup> The projects are:<sup>5</sup>

- 1) Addition of a Scrubber Isolation Valve and inclusion of switchyard improvements at Spurlock Unit 2 (Project 7 Amended)
- 2) Addition of a Scrubber Isolation Valve and inclusion of switchyard improvements at Spurlock Unit 1 (Project 8 Amended)
- 3) Addition of two new ash silos at Spurlock Unit 4 (Project 9 Amended)
- 4) AQCS at Cooper Unit 2 (Project 11 New)
- 5) Spurlock Landfill Area C Expansion and Sediment Pond construction (Project 12 New)
- 6) Duct Work Replacement on Spurlock 2 (Project 13 New)

The upgrades will help EKPC meet federal and state environmental requirements applicable to coal combustion wastes and by-products from coal-fired generating units.

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<sup>3</sup> The Certificate for Public Convenience and Necessity ("CPCN") for the Cooper Unit 2 AQCS (Project 11) was authorized by the Commission in Case No. 2008-00472, Application of East Kentucky Power Cooperative, Inc. for a Certificate of Public Convenience and Necessity for the Construction of an Air Quality Control System at Cooper Power Station (Ky. PSC May 1, 2009).

<sup>4</sup> EKPC's Application at paragraph 5.

<sup>5</sup> The absence of Project 10 from this application is intentional. It was approved in a prior proceeding and is not being amended.

### PROCEDURAL BACKGROUND

The Commission issued a procedural schedule on April 20, 2010 that provided for two rounds of discovery, the filing of intervenor testimony and discovery on the intervenor testimony. The procedural schedule also anticipated, but did not schedule, a public hearing. EKPC filed prepared direct testimony and responded to requests for information. There were no intervenors in the case. A public hearing was held on August 13, 2010 to hear public comment and for the purpose of cross-examining EKPC's witnesses.

### COMPLIANCE PLAN AMENDMENT

EKPC is requesting approval of its EC Plan amendment and the recovery of the associated compliance costs through the ES charge effective for service rendered on and after October 1, 2010. The ES Plan amendment proposed by EKPC will have an estimated total capital cost of \$363.9 million. A description of the projects and the costs associated therewith are as follows:

1. Projects 7 and 8 add isolation valves to five recycle pumps to enable pump maintenance to be performed safely. The estimated completion dates for these projects are fall of 2010 and spring of 2011. The switchyard improvements were approved in Case No. 2008-00115, but EKPC inadvertently excluded them from recovery via the surcharge at that time. EKPC is seeking to add these items which are required to provide electrical power to operate the scrubber equipment. The switchyard

upgrades have been completed and are in service. The costs for these projects are estimated at \$9.0 million and \$10.3 million,<sup>6</sup> respectively.

2. Project 9 adds two new ash silos to increase the reliability of the Gilbert Unit and Spurlock Unit No. 4. A CPCN is not necessary as these are additions to the already existing environmental controls installed at those units. Capital costs are estimated at \$12 million and the projects are expected to be completed in the summer of 2010.

3. Project 11 is the AQCS system for Cooper Unit No. 2. The capital costs for this project, which includes a flue gas desulfurization system ("FGD" or "scrubber"), a selective catalytic reduction system ("SCR"), and a pulse jet fabric filter, are estimated at \$324 million. This project is anticipated to be completed by June 2012 and was selected among the alternatives available to EKPC under the Consent Decree with EPA.

4. Project 12, with an estimated capital cost of \$6.5 million, is the construction of a sediment pond and a landfill expansion that will tie in to the existing land fill at the Spurlock Generating Station. The estimated project completion date is the fall of 2010.

5. Project 13, with a capital cost of \$2.1 million, replaces a section of duct work which is original equipment that has corroded and has accelerated the termination

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<sup>6</sup> The amount for Project 8 was revised upward to incorporate an additional \$8.5 million. In its June 7, 2010 response to Commission Staff's Second Data Request, Item 4, EKPC indicated that it had initially sought recovery of \$1.3 million, subsequently revised on August 13, 2010 by Ann Wood, video transcript at 10:07:08 a.m. to \$1.7 million. Since its initial application, the final project costs have become known and it is seeking to include the full \$9.8 million of Spurlock 1 switchyard improvements.

of its useful life. This replacement project was scheduled for completion in the spring of 2010.

#### ES MONTHLY COMPUTATION AND FORMS

For completed projects, the monthly surcharge computation will include expenses for depreciation, insurance, taxes, operation and maintenance expenses and a return on the projects' capital costs. Until completed, EKPC is seeking a return on the monthly Construction Work in Progress ("CWIP") balance of the projects. EKPC is proposing to continue to apply the 1.35 TIER approved in Case No. 2008-00115 to the average debt cost used to finance its environmental projects. Changes required in the monthly surcharge filing forms consist of adding descriptions of the amended and new projects to Form 2.1-Plant, CWIP, Depreciation, Taxes and Insurance Expenses; Form 2.2-Inventories of Spare Parts, Limestone, and Lime and Form 2.5-Operating and Maintenance Expenses to track and report the costs of the projects.

#### ANALYSIS AND DISCUSSION

EKPC's application indicates that the Cooper Unit 2 AQCS (Project 11) is the result of a Consent Decree between EKPC and the EPA. The FGD and SCR systems are designed to achieve compliance with the specific requirements set forth in the Consent Decree for control of sulfur dioxide and nitrous oxide. In order to meet Best Available Retrofit Technology for the State Implementation Plan authorized by the Kentucky Division of Air Quality, EKPC has included a pulse jet fabric filter to control particulate matter. The Commission notes the potential for changes by EPA that could impact additional environmental compliance requirements in the future. In addressing

this issue, EKPC testified<sup>7</sup> that it believes it has designed the proposed system for potential changes that might be forthcoming.

EKPC's application reflects that Project 12, construction of a sediment pond and landfill expansion, as proposed is necessary in order to dispose of future coal combustion by-products and scrubber waste produced at EKPC's Spurlock Generating Station. The Commission notes the potential for changes by the EPA in classifying coal combustions by-products as hazardous materials requiring additional environmental compliance requirements. EKPC testified<sup>8</sup> that it believes the proposed sediment pond, which is designed to catch storm water run-off, would not be affected by any forthcoming changes by the EPA. The possible outcome for landfills could be to change those designs in the future.

EKPC's application reflects that Projects 7, 8, 9, 11, 12 and 13 as proposed are needed for safety and reliability of the affected environmental equipment and are necessary enhancements or upgrades to existing equipment or facilities. Based on a thorough review of the record, the Commission finds that EKPC's EC Plan is reasonable and cost-effective and should be approved.

The proposed revisions of the ES forms are consistent with the proposed components of EKPC's EC Plan and are reasonable. Additionally, the use of an overall rate of return based on a 1.35 TIER is likewise reasonable and consistent with prior

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<sup>7</sup> Hearing August 13, 2010, Witnesses Craig Johnson video transcript at 10:21:30 to 10:21:45 a.m. and Mary Jane Warner, video transcript at 10:24:56 to 10:25:12 a.m.

<sup>8</sup> Hearing August 13, 2010, Witness Craig Johnson video transcript at 10:15:26 to 10:16:12 a.m.

Commission decisions. The recovery of the associated compliance costs for the projects as specified in the application is consistent with prior Commission decisions.

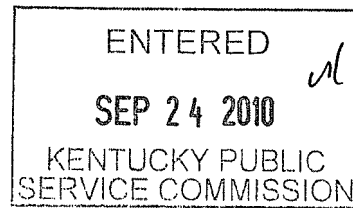
Based on our review of the record, the Commission finds EKPC's proposed revisions to its ES forms to be reasonable. The Commission also finds that use of an overall return based on the 1.35 TIER previously authorized for environmental surcharge purposes in Case No. 2008-00115 and the recovery of the associated costs is reasonable and should be approved.

#### SUMMARY

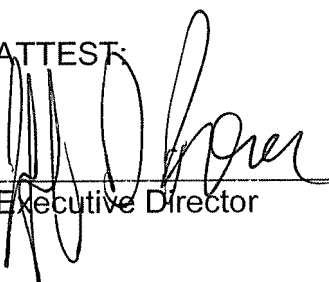
Based on the evidence of record and being otherwise sufficiently advised, the Commission HEREBY ORDERS that:

1. EKPC's EC Plan consisting of Amended Projects 7, 8 and 9 and New Projects 11, 12 and 13 is approved.
2. The amendment to EKPC's EC Plan to include recovery of the associated compliance costs through the environmental surcharge, effective for service rendered on and after October 1, 2010 is approved.
3. The use of an overall rate of return which continues to reflect the 1.35 TIER previously authorized for environmental surcharge purposes is approved.
4. The proposed revisions and additions to EKPC's monthly ES forms are approved as requested.

By the Commission



ATTEST:



Executive Director



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