COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF TAYLOR COUNTY RURAL ELECTRIC COOPERATIVE CORPORATION FOR AN ORDER APPROVING ESTABLISHMENT OF A REGULATORY ASSET FOR CERTAIN OVERHEAD LINES MAINTENANCE EXPENSES	)	CASE NO. 2022-00340

ORDER

On October 14, 2022, Taylor County Rural Electric Cooperative Corporation (Taylor RECC) filed an application requesting authority to (1) establish a regulatory asset for expenses incurred for the tagging of its electric poles for GPS mapping purposes (GPS Tagging Project); and (2) amortize the regulatory asset over 5 years. On January 6, 2023, Taylor RECC filed a motion to request an order by January 31, 2023, so that any 2022 deferrals may be timely recorded on its books. Because there are no intervenors in this case and a hearing is not necessary in the public interest, the Commission will adjudicate this case based on the evidence of record.

BACKGROUND

The GPS Tagging Project was part of Taylor RECC's Rural Utilities Service (RUS) construction work plan and was intended to be capitalized.[1] Taylor RECC was subsequently informed by its auditors that the GPS Tagging Project could not be

[1] Application at 4.

capitalized because it occurred after the installation of the poles.[2] The GPS Tagging Project, begun in January 2022, was originally expected to be completed in one year for approximately $1 million.[3] Taylor RECC currently projects that the project will be completed in June 2023 at a cost of $1,007,745.[4] On May 5, 2022, Taylor RECC's board of directors approved a plan to request regulatory asset treatment.[5] On May 10, 2022, Taylor RECC received approval of the regulatory asset from RUS, conditional on the Commission's approval of the same.[6]

Taylor RECC stated that it requested regulatory asset treatment for the GPS Tagging Project because expensing the approximately $647,745 incurred in 2022, and $360,000 expected to be incurred in 2023 "may jeopardize its RUS loan covenants."[7] Taylor RECC stated that the expenses for which it requested regulatory asset treatment most closely match the criteria of extraordinary, nonrecurring expenses that could not have reasonably been anticipated or included in the utility's planning, because, while the GPS Tagging Project was planned, the inability to capitalize the costs was unexpected.[8] Taylor RECC requested to amortize the regulatory asset over five years starting in 2023, reducing the annual expense to approximately $200,000.[9] Taylor

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[2] Application at 4 and Exhibit 1 at 5.

[3] Application at 4 and Exhibit 3.

[4] Application, Exhibit 3.

[5] Application, Exhibit 1 at 3–6.

[6] Application, Exhibit 1 at 1.

[7] Application at 5 and Exhibit 3.

[8] Application at 4.

[9] Application at 5 and Exhibit 1 at 5.

RECC argued that Accounting Standards Codification (ASC) 980 allows recognition of regulatory assets for current expenses "when it is probable that the collection of such amounts through rates or other regulatory mechanisms will occur at a later date."[10]

LEGAL STANDARD

KRS 278.220 sets out that the Commission may establish a uniform system of accounts (USoA) for utilities, and, in Taylor RECC's case, the system of accounts shall conform as nearly as practicable to the system adopted or approved by RUS. The RUS USoA provides for regulatory assets or the capitalization of costs that would otherwise be expensed but for the actions of a rate regulator. ASC 980-340-25-1 provides the criteria for recognition of a regulatory asset.[11] It must be probable that the utility will recover approximately equal revenue through the inclusion of these costs for ratemaking purposes, with the intent to recover the previously incurred cost.

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[10] Application at 5.

[11] ASC 980-340-25-1 provides, in full, as follows:

> Rate actions of a regulator can provide reasonable assurance of the existence of an asset. An entity shall capitalize all or part of an incurred cost that would otherwise be charged to expense if both of the following criteria are met:
>
> > a. It is probable (as defined in Topic 450) that future revenue in an amount at least equal to the capitalized cost will result from inclusion of that cost in allowable costs for rate-making purposes.
> >
> > b. Based on available evidence, the future revenue will be provided to permit recovery of the previously incurred cost rather than to provide for expected levels of similar future costs. If the revenue will be provided through an automatic rate-adjustment clause, this criterion requires that the regulator's intent clearly be to permit recovery of the previously incurred cost.
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> A cost that does not meet these asset recognition criteria at the date the cost is incurred shall be recognized as a regulatory asset when it does meet those criteria at a later date.

Additionally, the Commission has established (1) parameters for expenses that qualify for regulatory asset treatment;[12] (2) a requirement that utilities seek Commission approval before recording regulatory assets;[13] and (3) requirements regarding the timing for applications seeking such approval.[14] The Commission has approved regulatory assets when a utility has incurred (1) an extraordinary, nonrecurring expense that could not have reasonably been anticipated or included in the utility's planning; (2) an expense resulting from a statutory or administrative directive; (3) an expense in relation to an industry sponsored initiative; or (4) an extraordinary or nonrecurring expense that over time will result in a saving that fully offsets the cost.

DISCUSSION AND FINDINGS

In Case No. 2019-00146, the Commission denied East Kentucky Power Cooperative's (EKPC) request to establish regulatory assets for present and future maintenance expenses for its generating units and to amortize those regulatory assets outside of rate recovery.[15] The Commission found that EKPC did not actually request regulatory asset treatment, but normalization of expenses for bookkeeping purposes. In Case No. 2008-00436, the Commission allowed EKPC to establish a regulatory asset for

[12] Case No. 2008-00436, *The Application of East Kentucky Power Cooperative, Inc. for an Order Approving Accounting Practices to Establish a Regulatory Asset Related to Certain Replacement Power Costs Resulting from Generation Forced Outages* (Ky. PSC Dec. 23, 2008), Order at 3–4.

[13] Case No. 2016-00180, *Application of Kentucky Power Company for an Order Approving Accounting Practices to Establish Regulatory Assets and Liabilities Related to the Extraordinary Expenses Incurred by Kentucky Power Company in Connection with the Two 2015 Major Storm Events* (Ky. PSC Nov. 3, 2016), Order at 9.

[14] Case No. 2016-00180, Dec. 12, 2016 Order at 5.

[15] Case No. 2019-00146, *Application of East Kentucky Power Cooperative, Inc. for an Order Approving the Establishment of Regulatory Assets for Present and Future Maintenance Expenses* (Ky PSC Dec. 20, 2019), Order.

unrecovered forced outage expenses. Based on the financial impact to EKPC, if such approval was not granted, the majority found that the impact of EKPC defaulting on its Private Credit Facility Agreement outweighed the other considerations.[16] A dissenting opinion argued that the expenses were not unusual and would not be deferred but for the repercussions of default; the dissent also argued that EKPC's "financial difficulties are fundamental in nature and no use of unacceptable accounting principles or tricks will ultimately solve the problem."[17]

As noted in Case No. 2008-00436:

> A regulatory asset is created when a rate-regulated business is authorized by its regulatory authority to capitalize an expenditure that under traditional accounting rules would be recorded as a current expense. The reclassification of an expense to a capital item allows the regulated business the opportunity to request recovery in future rates of the amount capitalized.[18]

Based on Taylor RECC's request to amortize the proposed regulatory asset without current rate recovery, Taylor RECC does not request regulatory asset treatment for the purpose of future recovery of a current expense, and therefore the proposal does not meet the definition of a regulatory asset provided in ASC 980-340-25-1. Taylor RECC's proposal is equivalent to normalization of expenses for financial reporting purposes, similar to that done for ratemaking purposes in a base rates case, for the sole function of influencing the metrics used in its loan covenants with RUS. Furthermore, Taylor RECC provided no evidence to support its conclusion that its loan covenants will

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[16] Case No. 2008-00436, Dec. 23, 2008 Order at 7.

[17] Case No. 2008-00436, Dec. 23, 2008 Order at 12.

[18] Case No. 2008-00436, Dec. 23, 2008 Order at 3–4.

be jeopardized. Finally, even assuming that the requested accounting treatment was permissible, the expenses for which Taylor RECC requested deferral accounting are not consistent with the categories historically granted regulatory asset treatment, as Taylor RECC provided no evidence that the expenses are extraordinary.

CONCLUSION

Based on the evidence of record and being otherwise sufficiently advised, the Commission finds that Taylor RECC's request to establish a regulatory asset for its GPS Tagging Project expenses and to amortize that regulatory asset should be denied.

IT IS THEREFORE ORDERED that:

1. Taylor RECC's request to establish a regulatory asset for expenses related to its GPS Tagging Project and to amortize the regulatory asset over five years is denied.

2. Taylor RECC's motion for a decision to be issued no later than January 31, 2023, is denied as moot.

3. This case is closed and removed from the Commission's docket.

PUBLIC SERVICE COMMISSION

Chairman

Vice Chairman

Commissioner

ENTERED

JAN 30 2023

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KENTUCKY PUBLIC SERVICE COMMISSION

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