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October 5, 2007

HAND DELIVERED

Ms. Elizabeth O'Donnell
Executive Director
Public Service Commission
211 Sower Boulevard
Frankfort, KY 40602

Re: PSC Case No. 2006-00472

Dear Ms. O'Donnell:

Please find enclosed for filing with the Commission in the above-referenced case, an original and ten copies of the Post-Hearing Brief of East Kentucky Power Cooperative, Inc. ("EKPC") on the Recommendations From the Cumberland Chapter of the Sierra Club.

Please note that EKPC, the Office of the Attorney General, and Kentucky Industrial Utility Customers, Inc. are also filing a Joint Post-Hearing Brief on General Revenue Requirements and Rate Design in this case.

Very truly yours,



Charles A. Lile
Senior Corporate Counsel

Enclosures

Cc: Parties of Record

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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OCT 05 2007

PUBLIC SERVICE
COMMISSION

In the Matter of:

GENERAL ADJUSTMENT OF ELECTRIC RATES)
OF EAST KENTUCKY POWER)
COOPERATIVE, INC.)

CASE NO.
2006-00472

POST-HEARING BRIEF OF
EAST KENTUCKY POWER COOPERATIVE, INC. ON
THE RECOMMENDATIONS FROM THE
CUMBERLAND CHAPTER OF THE SIERRA CLUB



DAVID A. SMART

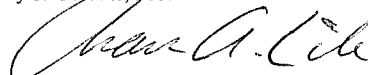


CHARLES A. LILE

P. O. BOX 707
WINCHESTER, KY 40392-0707
(859) 744-4812
ATTORNEYS FOR EAST
KENTUCKY POWER
COOPERATIVE, INC.

CERTIFICATE OF SERVICE

This is to certify that an original and ten (10) copies of the foregoing Post-Hearing Brief of East Kentucky Power Cooperative, Inc. on the Recommendations From the Cumberland Chapter of the Sierra Club were delivered to Ms. Elizabeth O'Donnell, Executive Director, Public Service Commission, 211 Sower Boulevard, Frankfort, Kentucky 40601, and copies were sent by first class mail to Dennis Howard II, Esq., and Lawrence W. Cook, Esq., Office of Attorney General, 1024 Capital Center Drive, Frankfort, Kentucky 40601; to Oscar H. Gerald, Jr., Esq., Gerald, Moloney & Jones, Old Northern Bank Bldg., 259 West Short Street, Lexington, KY 40507 and Stephen A. Sanders, Esq., Appalachian Citizens Law Center, Inc., 207 W. Court Street, Suite 202, Prestonsburg, Kentucky 41653-7725; and to Michael L. Kurtz, Esq., Boehm, Kurtz & Lowry, 36 East 7th Street, Suite 1510, Cincinnati, Ohio 45202, this 5th day of October, 2007.



CHARLES A. LILE

INDEX

	Page No.
QUESTIONS PRESENTED.....	3
STATEMENT OF FACTS.....	4
STANDARD OF REVIEW.....	6
ARGUMENT	
THE COMMISSION SHOULD REJECT THE SIERRA CLUB’S RECOMMENDATION REGARDING THE IMPOSITION OF A STATISTICAL RECOUPLING RATE DESIGN FOR EKPC....	7
ARGUMENT	
THE COMMISSION SHOULD REJECT THE SIERRA CLUB’S RECOMMENDED CHANGES TO EKPC’S SMALL POWER PRODUCTION AND COGENERATION PURCHASE RATES AS CONTRARY TO THE COMMISSION’S REGULATIONS AND UNJUSTIFIED.....	12
CONCLUSION.....	15

QUESTIONS PRESENTED:

1. SHOULD THE PUBLIC SERVICE COMMISSION ACCEPT THE RECOMMENDATION OF THE SIERRA CLUB TO IMPOSE A STATISTICAL RECOUPLING MECHANISM UPON EAST KENTUCKY POWER COOPERATIVE'S RATES AS A WAY TO ENCOURAGE THE IMPLEMENTATION OF ENERGY EFFICIENCY PROGRAMS?

2. SHOULD THE PUBLIC SERVICE COMMISSION ACCEPT THE RECOMMENDATION OF THE SIERRA CLUB REGARDING CHANGES IN EAST KENTUCKY POWER COOPERATIVE'S TARIFF FOR PURCHASE OF ELECTRIC POWER AND ENERGY FROM QUALIFIED SMALL POWER PRODUCTION AND COGENERATION FACILITIES?

STATEMENT OF FACTS

East Kentucky Power Cooperative, Inc. (“EKPC”) filed its Application with the Kentucky Public Service Commission (the “Commission”) for a general rate increase on January 29, 2007. After the resolution of certain filing deficiencies, the Application was considered by the Commission as filed on February 6, 2007.¹ EKPC’s Member Systems made individual filings, pursuant to KRS §278.455, to pass through any EKPC wholesale rate increase to their retail service rates.² EKPC responded to the first set of data requests from the Commission Staff on February 5, 2007. EKPC’s Application requested interim rate relief, due to urgent financial circumstances, and the Commission issued a procedural schedule setting a hearing on such interim relief for March 6, 2007.³ The Attorney General’s Office of Utility Rate Intervention (the “AG”) and Kentucky Industrial Utility Customers, Inc. (“KIUC”) were granted intervention in the case on February 19, 2007, and the Cumberland Chapter of the Sierra Club was granted intervention in the course of the interim rate hearing convened on March 6, 2007, as confirmed by an order of the Commission entered on March 21, 2007. EKPC responded to second set of Commission Staff data requests, and the first sets of data requests from the AG and KIUC, on February 27, 2007.

The March 6, 2007 interim rate hearing did not proceed, due to EKPC’s failure to publish public notice, and was rescheduled for March 22.⁴ However, on March 6, EKPC reached an agreement with the AG and KIUC to recommend a \$19 million interim rate increase, subject to certain agreed procedures, and advised the Commission Staff of this agreement. The Sierra Club

¹ Commission order dated February 13, 2007.

² See, EKPC member system filings in PSC Cases 2006-00473 through 2006-00489, dated January 29, 2007.

³ Commission order dated February 13, 2007.

⁴ Commission order dated March 9, 2007.

did not join in the interim increase agreement. By an order dated March 16, 2007, the Commission advised all parties to the case that, regardless of any agreement, evidence of material impairment to EKPC's credit or operations would be required to support any interim increase, and the parties would be required to present such evidence at the hearing. The hearing was held on March 22, and EKPC responded to Commission Staff hearing data requests, and filed its Interim Rate Relief Hearing Brief, on March 27, 2007. The AG and the Sierra Club also filed briefs on that date.

The Commission granted EKPC an interim annualized rate increase of \$19 million, effective April 1, 2007, based on findings that material impairment to EKPC's credit and operations would result without the interim increase, and on a determination that the amount of the increase agreed among EKPC, the AG, and KIUC was reasonable.⁵

EKPC continued to engage in settlement discussions with the case Intervenor, in anticipation of the general increase hearing, which was scheduled for September 5, 2007.⁶ EKPC responded to the Commission Staff's third set of data requests, and data requests from the AG, KIUC and the Sierra Club, on May 15, 2007. EKPC filed responses to the Commission Staff's fourth set of data requests, and data requests from KIUC and the Sierra Club on June 13, 2007. Due to the potential for a unanimous settlement agreement in the case, EKPC filed motions, with the consent of all Intervenor, on June 25, and July 2, 2007, to postpone the date for the filing of Intervenor Testimony. While the Commission granted these orders, and agreed to delay the Intervenor Testimony filing date to July 11,⁷ no unanimous settlement was eventually reached among the parties. The Sierra Club filed testimony of Geoffrey M. Young on June 29, 2007, and

⁵ Commission order dated April 1, 2007.

KIUC filed testimony of Lane Kollen and Kevin C. Higgins on July 6, 2007. KIUC and the Sierra Club responded to EKPC data requests on August 8, 2007. EKPC filed rebuttal testimony of David G. Eames, Daniel M. Walker, Frank J. Oliva, Ann F. Wood, Dr. Laurence D. Kirsch, and William A. Bosta, on August 20, 2007.

While no unanimous settlement was achieved in this case, EKPC did enter into a Joint Stipulation and Recommendation (the “Stipulation”) with the AG and KIUC, which was filed with the Commission on August 31, 2007. This Stipulation recommended an additional general rate increase of \$19.5 million, over the \$19 million interim increase, for a total annualized permanent wholesale rate increase of \$38.5 million, effective for service rendered beginning no earlier than November 1, 2007, and no later than January 1, 2008. The Stipulation also included a recommended change in rate design which had been negotiated by EKPC, the AG and KIUC. At an informal conference, held on August 31, the Commission Staff informed all parties that the general increase hearing would proceed, and would examine all issues in the case, due to the lack of a unanimous settlement of the case.⁸ The hearing proceeded on September 5, 2007, with the cross examination of witnesses of EKPC and the Sierra Club. EKPC responded to hearing data requests on September 14, 2007.

STANDARD OF REVIEW

Actions by an administrative agency, such as the Commission, must not be arbitrary, meaning that the parties must be accorded procedural due process, any action must be consistent with the authority of the agency, and it must be supported by substantial evidence.⁹

⁶ Commission order dated April 18, 2007.

⁷ Commission orders dated June 29, 2007, and July 6, 2007.

⁸ Informal Conference Memorandum dated August 31, 2007.

⁹ American Beauty Homes Corp. v. Louisville and Jefferson County Planning and Zoning Commission, 379 S.W.2d 450, (Ky. 1964).

QUESTION PRESENTED:

1. SHOULD THE PUBLIC SERVICE COMMISSION ACCEPT THE RECOMMENDATION OF THE SIERRA CLUB TO IMPOSE A STATISTICAL RECOUPLING MECHANISM UPON EAST KENTUCKY POWER COOPERATIVE'S RATES AS A WAY TO ENCOURAGE THE IMPLEMENTATION OF ENERGY EFFICIENCY PROGRAMS?

ARGUMENT

THE COMMISSION SHOULD REJECT THE SIERRA CLUB'S RECOMMENDATION REGARDING THE IMPOSITION OF A STATISTICAL RECOUPLING RATE DESIGN FOR EKPC

The Sierra Club has recommended that the Commission revise EKPC's rate design to implement a "decoupling" mechanism for the recovery of fixed costs, which, the Sierra Club contends, would remove disincentives for EKPC to implement more energy efficiency programs.¹⁰ EKPC does not support this recommendation, given that the concept of a decoupled rate design has not been approved by the EKPC Board of Directors for implementation in this case, and the concept has not been formally considered or approved by EKPC's Member Systems. Without adoption by EKPC's Member Systems, a decoupled rate design would distort EKPC's revenue recovery, with no potential for any impact on energy efficiency at the retail level.

The Sierra Club did not select EKPC for its first attempt to implement rate decoupling in Kentucky based on any study or other determination that decoupling was appropriate for the EKPC System, or that it would achieve any of the Sierra Club's energy efficiency goals, but merely because EKPC's is the first rate case in Kentucky in which the Sierra Club has been allowed to intervene and pursue its decoupling objectives.¹¹ The Sierra Club presented no

¹⁰ See, Sierra Club Prepared Testimony of Geoffrey M. Young, dated June 29, 2007.

¹¹ Transcript of Evidence, September 5, 2007 hearing, p. 98-99, 104.

evidence to support its contentions that its proposed decoupling methodology, designated as “Statistical Recoupling,” would be free of the errors and distortions that have plagued prior attempts to utilize decoupling, and Mr. Young admitted that there was no guarantee against such problems.¹² In fact, although Statistical Recoupling was created in an attempt to avoid problems identified with decoupling¹³, such as weather, economic and “system gaming” distortions, Mr. Young conceded that he is not aware of any use of Statistical Recoupling in any other states.¹⁴ Statistical Recoupling has no track record, and the Sierra Club has done no modeling or other evaluation to determine how it would function for the EKPC System.¹⁵

The fundamental argument stated by the Sierra Club for rate decoupling is that allowing an electric utility to recover its fixed costs through some mechanism other than the sale of energy removes a major disincentive to the implementation of energy efficiency measures by the utility.¹⁶ This argument presumes an inherent conflict between the profit interests of shareholders of the utility, and the interests of ratepayers in low rates.¹⁷ However, this conflict does not exist in cooperatives, such as EKPC and its Member Systems, which are owned by their ratepayers and have no shareholders. Statistical Recoupling was not designed for cooperative organizations, and Mr. Young is not aware of any studies which have evaluated its appropriateness for cooperatives.¹⁸ The Sierra Club presented no evidence of the demand for energy efficiency programs within the EKPC System, or that the EKPC Member Systems were failing to respond to any desire for such programs from industrial customers.¹⁹ All of the Sierra Club arguments for decoupling on the EKPC System are based on broad assumptions about a rate design concept

¹² Id., at p. 104

¹³ Young Cross-examination, TE 9/5/07, at p. 101.

¹⁴ Id., at p. 99.

¹⁵ Sierra Club Response to Staff Data Request No. 9, dated July 25, 2007.

¹⁶ Young Prepared Testimony, at p. 6-8.

¹⁷ TE 9/5/07, at p. 105-106.

¹⁸ Id., at p. 109.

with a very mixed history, and a new decoupling approach with no track record of success, without any actual study or evaluation of potential impacts on the EKPC System itself.

Mr. Young could not cite any studies of the use of decoupled rate designs by electric cooperatives in the United States.²⁰ This is not surprising, since the interests of not-for profit electric cooperatives are aligned with its owner-consumers, and there is an inherent incentive to pursue cost effective energy efficiency programs which avoid the construction of expensive new generating capacity.²¹ EKPC and its Member Systems have numerous programs in place which more effectively utilize existing generating facilities and help to keep rates low. While Mr. Young advocates the phase out of EKPC's Electric Thermal Storage program,²² the Commission has historically expressed approval of such programs, and Mr. Young offered no evaluations to support the elimination of such a popular and effective peak-shifting program.²³ Likewise, Mr. Young's criticisms of EKPC's Touchstone Energy Home and Touchstone Energy Manufactured Home Demand Side Management ("DSM") programs²⁴ were unsupported by any specific studies or evaluations of the programs themselves, which have been reviewed and approved by the Commission,²⁵ and one of which was developed in a proceeding in which Mr. Young participated.²⁶

EKPC routinely solicits proposals for Demand Side Management ("DSM") alternatives when considering any new generating capacity additions²⁷, and the evaluations of such proposals are subject to the review of the Commission in the course of Certificate of Public Convenience

¹⁹ Id., at p. 109, 132.

²⁰ Id., at p. 109.

²¹ Bosta Rebuttal Testimony, dated August 20, 2007, p. 7.

²² Young Prepared Testimony, at p. 25.

²³ Bosta Rebuttal, at p. 7-8.

²⁴ Sierra Club Response to PSC Data Request No. 3, dated August 8, 2007.

²⁵ Order, PSC Case No. 2003-00481, dated January 14, 2004; Order, PSC Case No. 2002-00313, dated November 8, 2002.

²⁶ Bosta Rebuttal, at p. 8.

and Necessity cases. Mr. Young's contention that EKPC's power supply plan could not be the lowest cost plan, since it includes the construction of generating units,²⁸ is totally unsupported by evidence that sufficient, more economical DSM alternatives were available to EKPC.²⁹ Mr. Young imagines scenarios where DSM programs could displace the need for new generating capacity for EKPC,³⁰ using unrealistic and unsupported assumptions,³¹ but cites no examples of such programs that were offered to EKPC in response to its Requests for Proposals ("RFP") processes over the years. While viable DSM alternatives for baseload and peaking generation have not been found through EKPC's RFPs, EKPC will continue to solicit and evaluate DSM proposals, and would pursue any such demand side proposals which are evaluated as the best power supply alternatives. Contrary to Mr. Young's assertion that "The more electricity EKPC sells, the more money it makes,"³² EKPC's marginal costs during peak periods exceed its tariff rates, meaning that it does not "make more money" by selling more energy on peak.³³ As a cooperative, EKPC is not in business to "make money", but, instead, has every motivation to use all reasonable and economic measures to reduce the cost of electricity to its members by shifting load off peak, or by utilizing any economical and effective DSM programs that could substitute for new generating capacity. The imposition of decoupled rate designs would not create any significant incentives for EKPC and its Member Systems to implement energy efficiency programs that do not already exist.

²⁷ *Id.*, at p. 9.

²⁸ Young Testimony, at p. 15-16.

²⁹ Bosta Rebuttal, at p. 8-10.

³⁰ Sierra Club Response to PSC Request No. 3 (b), dated August 8, 2007.

³¹ For example, in his response to PSC Request No. 3 (b), Mr. Young's assumed 10 kW residential coincident peak load, multiplied by the 461,000 residential consumers in the EKPC system, would produce an assumed residential peak load of 4610 MW, while EKPC's all time, total peak load is only 2805 MW. Mr. Young's assumptions about DSM participation rates and average demand reduction required to replace planned generating capacity are similarly unrealistic.

³² Young Testimony, at p. 8.

³³ Bosta Rebuttal, at p. 6-7.

The Sierra Club actually wants the Commission to impose decoupled rate designs on all electric utilities in Kentucky.³⁴ Given the lack of support for the decoupling concept from EKPC and its Member Systems, the weak arguments for imposing decoupling on cooperative rate designs, and the financial challenges currently faced by EKPC, this is not a proper time to force an unproven, experimental change in rate design on EKPC. Even if EKPC and its Member Systems did support the decoupled rate design, the pass-through procedures under KRS §278.455 do not provide for the design of individual decoupled rates by EKPC's Member Systems, which would be required to implement the methodology at the retail level. Any consideration of a mandate for decoupled rate designs for all electric utilities in Kentucky should be made in the context of an administrative proceeding, which allows input from all stakeholders concerning the impacts of such a requirement. It is inappropriate for the Sierra Club to recommend that the Commission set a precedent for such a mandate in the context of this case, and the recommendations that the Commission impose a decoupled rate design on EKPC, or change any of its existing DSM programs, should be properly rejected.

QUESTION PRESENTED:

2. SHOULD THE PUBLIC SERVICE COMMISSION ACCEPT THE RECOMMENDATION OF THE SIERRA CLUB REGARDING CHANGES IN EAST KENTUCKY POWER COOPERATIVE'S TARIFF FOR PURCHASE OF ELECTRIC POWER AND ENERGY FROM QUALIFIED SMALL POWER PRODUCTION AND COGENERATION FACILITIES?

ARGUMENT

THE COMMISSION SHOULD REJECT THE SIERRA CLUB'S RECOMMENDED CHANGES TO EKPC'S SMALL POWER PRODUCTION AND COGENERATION PURCHASE RATES AS CONTRARY TO THE COMMISSION'S REGULATIONS AND UNJUSTIFIED

³⁴ TE 9/5/07, at p. 98.

The Sierra Club has made several recommendations for changes in the way that the Commission regulates purchase rates for power and energy generated by Qualified Small Power Producers and Cogeneration Facilities (“Qualified Facilities”). The Commission’s regulations on Small Power Production and Cogeneration, 807 KAR 5:054, define what power production facilities are considered Qualifying Facilities, provide for mandatory non-discriminatory purchase rates based on the utility’s avoided costs, set requirements for sales of back-up and maintenance power, assign responsibilities for interconnection costs, and provide other related rules and definitions relating to Qualified Facilities. Most of the Sierra Club’s recommendations in regard to EKPC’s Qualified Facilities purchase tariffs effectively represent proposals to change the Commission’s regulations.

The Sierra Club seeks to substantially increase incentives for Qualified Facilities in Kentucky through its proposals to shift costs and risks to the purchasing utilities.³⁵ One such recommendation in this case is the elimination of the requirement that Qualifying Facilities carry liability insurance.³⁶ Absent any other requirement that operators of Qualifying Facilities demonstrate some minimum level of financial responsibility to respond to potential claims regarding damage, injuries or deaths that might result from the operation of such facilities, the elimination of the liability insurance requirement, which is a part of EKPC’s Commission-approved Qualified Facility purchase contract,³⁷ would expose EKPC and its member owners to additional risk relating to such facilities.

Another Sierra Club attempt to shift costs is the recommendation that EKPC be required to pay all or a portion of the interconnection costs for Qualified Facilities.³⁸ Such a requirement

³⁵ Young PT, at p. 32-33.

³⁶ *Id.*, at p. 31.

³⁷ Order PSC Case No. 8566, dated June 28, 1984.

³⁸ Young PT, at p. 31.

is contrary to the Commission's regulations regarding a utility's obligations to interconnect with Qualifying Facilities, which provides that "Owners of qualifying facilities shall be required to pay for any additional interconnection costs to the extent that those costs are in excess of costs that the electric utility would have incurred if the qualifying facility's output had not been purchased."³⁹ Mr. Young seems to argue that the "costs that the electric utility would have incurred if the qualifying facility's output had not been purchased" should be interpreted to mean purchase power costs that the utility is presumed to have avoided by purchasing from the QF.⁴⁰ EKPC contends that this part of the Commission's regulations deals strictly with "additional interconnection costs", and that the subject reference is clearly intended only to limit the QF owner's obligations to such costs that are in excess of normal connection costs for customers not providing power for purchase by the utility.⁴¹

Similarly, the Sierra Club's recommendation that EKPC create a range of rates for purchases from Qualifying Facilities, based on some ranking of the environmental impacts of the facility, is in conflict with the requirement in the Commission's regulations that purchase rates from Qualified Facilities are to be based on the utility's avoided costs, and shall be "just and reasonable to the electric customer of the utility, in the public interest, and non-discriminatory."⁴² Those avoided cost rates can be affected only by factors listed in 807 KAR 5:054 Section 7 (5), which do not include any consideration of the fuel source of a Small Power Producer or Cogenerator meeting the criteria of a Qualifying Facility.⁴³ The Sierra Club's suggestion that EKPC pay Qualifying Facilities rates equaling its wholesale rate to its Member Systems⁴⁴ also conflicts with the avoided cost concept of the Commission's regulations. Similarly, its suggestion

³⁹ 807 KAR 5:054, Section 6 (6) (a).

⁴⁰ TE 9/5/07, at p. 121.

⁴¹ See, discussion in Commission order in PSC Case No. 8566, dated June 28, 1984, at p. 36.

⁴² 807 KAR 5:054, Section 7 (2) and (4).

that EKPC pay a capacity payment to a Qualifying Facility providing power only on an “as available” basis⁴⁵, is inconsistent with the Commission’s regulations,⁴⁶ in that such power is, by definition, not dispatchable, and not dependable enough to allow EKPC to avoid any new generating capacity⁴⁷, since it is not offered based on a legally enforceable obligation.

Mr. Young’s criticisms of specific aspects of EKPC’s current purchase rates from Qualified Facilities also reflect his lack of a detailed understanding of the EKPC System. Mr. Young questions the fact that EKPC’s current rates for such purchases are lower in the summer than in the winter.⁴⁸ However, as Mr. Bosta explains in his Rebuttal Testimony, this results from the fact that EKPC is a winter-peaking utility which relies on natural gas fired combustion turbines to serve peak loads, and natural gas prices are normally higher in the winter.⁴⁹ Similarly, his comments on the year-to-year variations in EKPC’s off-peak purchase rates from 2007-2009 fail to acknowledge that EKPC’s avoided costs fluctuate with changes in its capacity expansion plan, rather than following a steadily increasing path.⁵⁰

Mr. Young’s hypothetical calculations showing a higher capacity payment for purchases of non-dispatchable capacity than dispatchable capacity,⁵¹ are also a distortion of EKPC’s Qualified Facility purchase rates. As Mr. Bosta clarified in his Rebuttal Testimony, Mr. Young’s example assumes an extremely high load factor, which is very unlikely for a non-dispatched facility.⁵² Mr. Bosta also addressed Mr. Young’s expressed concerns about the level of EKPC’s capacity rate, by explaining that those rates were derived based on a capacity expansion plan which relied upon the

⁴³ 807 KAR 5:054, Section 4.

⁴⁴ Young PT, at p. 33.

⁴⁵ *Id.*, at p. 32.

⁴⁶ 807 KAR 5:054 Section 7 (2) (a); (4) (a).

⁴⁷ Bosta Rebuttal Testimony, at p. 12.

⁴⁸ Young PT, at p. 29.

⁴⁹ Bosta, Rebuttal Testimony, at p. 11.

⁵⁰ *Id.*, at p. 11-12.

⁵¹ Young PT, at p. 29.

addition of combustion turbines to meet peak loads, and the deferral of an already-planned combustion turbine results in relatively small avoided capacity costs.⁵³

EKPC acknowledges that its purchase rates from Qualified Facilities should be updated, and Mr. Bosta has committed to the preparation and submission of new rates by the end of 2007, for review by the Commission in a separate proceeding.⁵⁴ However, EKPC rejects the Sierra Club's proposals for changes in EKPC's Qualified Facilities purchase tariff which improperly shift risks and costs to EKPC's member ratepayers, which are contrary to the Commission's regulations, and which abandon the concept of avoided cost based rates.

CONCLUSION

EKPC contends that the Sierra Club's demands regarding the imposition of a decoupled rate design on EKPC and its Member Systems, and for changes to EKPC's DSM programs and its QF purchase tariff, are inappropriate, unreasonable and unsupported by any significant evaluation of the potential impacts of such changes. This case is not the proper forum for the consideration of the Sierra Club's objective of forcing such decoupled rate structures and QF regulation changes on all electric generating utilities in Kentucky. The focus of this case is EKPC's urgent need for additional revenues to improve its financial integrity, and it was not initiated as a basis for experimentation with new and unproven approaches to rate design. The record in this case does not support the implementation of the Sierra Club's recommendations, which would threaten EKPC's efforts to resolve its current financial difficulties, and they should be rejected by the Commission.

⁵² Bosta Rebuttal Testimony, at p. 12.

⁵³ *Id.*, at p. 11.

⁵⁴ *Id.*, at p. 12.