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April 2, 2008

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PUBLIC SERVICE
COMMISSION

Kentucky Public Service Commission
211 Sower Blvd.
P. O. Box 615
Frankfort, KY 40602-0615

Gentlemen:

Enclosed is a press release from Washington concerning East Kentucky Power Cooperative, which produces electricity for rural electric cooperatives in approximately 89 counties, and their September 2007 agreed settlement with the Environmental Protection Agency. I am not able to attend the meeting where they will be requesting a rate increase, but I would like to advise you as to what has happened concerning my interest and the interest of the other owner-members of the cooperatives which purchase electricity from East Kentucky Power.

I would first like to call your attention to the September 21, 2007 press release from Washington announcing the proposal for the agreed order. In this agreed order, Mr. Bob Marshall, president and chief executive officer for East Kentucky Power, stated that the penalties to be paid over the next six years would not require a rate increase. It is amazing that circumstances can change so quickly that a company representative would make such a statement in September 2007, and within six or seven months decide that a substantial rate increase is needed in order to make the necessary upgrades that were overlooked in the past and fought by the cooperative for at least a year before they finally accepted the agreed order.

I would also like to call your attention to my letter to the editor dated January 8, 2008, which at this time has still not been published in the magazine issued each month by the cooperative. I have followed up and asked why this was not published, and have received no answer. Apparently in soliciting letters to the editor, they will only publish those that are complimentary of the actions of the cooperative, and just completely disregard any letter that mentions mistakes that have been made by the East Kentucky Power employees and/or the board of directors. In the private sector, someone is usually held responsible for such a large and costly mistake, but it seems that East Kentucky Power is simply going to pass along the cost to the owner-members and it looks like that will be the end of it. I am sure that probably no revisions have been made in pay for the employees of East Kentucky Power in order to come up with some of these funds, and that bonuses were paid as usual just as if they had done a really good job as far as saving money for the owner-members. I am also sure that the board of directors continued to get their usual pay, even though they were negligent in their oversight, and the owner-members are the ones who end up paying for all of this with the rate increase that has been requested.

Again, I call attention to the fact that Mr. Marshall said no rate increase would be necessary over the next six years while these penalties were being paid. The amount of funds to be spent by this organization is large enough that it should perhaps involve the state accounting office, since this is a semi-private rather than a private institution.

I look forward to hearing from you when you receive this letter, and I would appreciate it very much if this letter, my letter of January 8, and the September 2007 press release could be read at the Public Service Commission hearing on this rate increase.

Thank you.

Sincerely,

Albert Moffett

AMM/ait

cc: Shelby Rural Electric
East Kentucky Power

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January 8, 2008

To the Editor:

This letter is in response to an agreed settlement reached in September 2007 between the United States Environmental Protection Agency, the Commonwealth of Kentucky, and the East Kentucky Power Cooperative.

I have asked that the details of this settlement be included in the East Kentucky Power Cooperative's newsletter/magazine which is sent to customers, and I was assured that it would be covered there in its entirety. I have waited two months, and there has been no article forthcoming. I feel the rank and file owner-customers of the various rural electric cooperatives whose electricity is purchased from East Kentucky Power will never be aware of this settlement unless someone calls attention to it.

The settlement basically says that East Kentucky Power had been violating the law for the last 4 or 5 years as far as emissions are concerned, particularly at the Dale No. 1 and No. 2 operating units on the Kentucky river. This agreement calls for East Kentucky Power to pay an $11.4 million penalty, with additional monitoring and purchase of allowances that could push the final cost of the settlement to over $34 million dollars. In addition to these potential expenditures, I would suspect that East Kentucky Power spent millions of dollars on Washington and Kentucky attorneys fighting this fine, although we have no way of knowing this amount.

In the release from Washington on September 21, 2007 stating that an agreement had been reached, Tom Fitzgerald, the director of the Kentucky Resources Council, basically said that the members of the cooperative should be asking why East Kentucky Power had not complied with federal laws in the first place, adding that "the cost of the penalties may have been greater than the costs of compliance".

This tells me that the person or persons in charge at East Kentucky Power were very negligent in overseeing the operation of the power stations for which they were responsible. If this had been a company with stockholders, the first to go would have been the president and possibly some members of the board of directors who would have been held responsible for the lack of oversight that resulted in this costly settlement. In a stockholder owned company, the stockholders would have ended up paying for the negligence of the chief executive officer, whereas in a cooperative, the consumer-owners end up paying the penalty for such negligence.

I have been told that the people who were in charge at the time that these violations occurred have been dismissed. I hope they did not get a big monetary settlement in order to secure their resignations, but I fear that might be the case. I think the owner-customers of East Kentucky Power should take a look at the Board of Directors of the cooperative, approximately 40% of whom are retired persons. I feel that the Board of Directors should be knowledgeable about current business conditions and the like, and so often that is not the case with retirees.

I believe the by-laws of the East Kentucky Power Cooperative should be examined, and perhaps the qualifications for serving as a director should be strengthened so that oversight is better in the future.

Thank you.

Sincerely,

Albert Moffett

Albert Moffett

AMM/ait

9-21-07

WASHINGTON — An Eastern Kentucky utility agreed yesterday to pay an $11.4 million penalty — the largest acid rain fine ever imposed by the U.S. Environmental Protection Agency.

The EPA had estimated the Dale Generating Station in Clark County, Ky., emitted more than 15,000 tons of sulfur dioxide and 4,000 tons of nitrogen oxide without a permit between 2000 and 2005.

Those chemicals are the primary ingredients in acid rain, which damages vegetation, pollutes water, contributes to smog and haze, and causes various respiratory diseases in humans.

The plant is operated by East Kentucky Power Cooperative, the state's second-largest provider of electricity, serving 500,000 homes and businesses in 89 counties

Under its settlement with the EPA, the utility also must monitor and reduce emissions at the Dale plant and apply for an acid rain permit. The potential additional cost of those steps is in the range of $10 million to $12 million.

The settlement is subject to a 30-day public comment period and then must be approved by the U.S. District Court for the Eastern District of Kentucky in Lexington.

"It's the largest penalty ever obtained in connection with an acid rain matter. We regard it as very significant," Adam Kushner, director of the EPA's Air Enforcement Division, said in an interview.

The pollution violations were discovered during an EPA inspection, according to agency spokeswoman Roxanne Smith.

Granta Nakayama, EPA assistant administrator, said in a statement: "This settlement shows that when you violate the law, EPA will be there to make you pay."

The Commonwealth of Kentucky joined the EPA in its original complaint against the cooperative and joined in the settlement.

"We're pleased there's going to be a reduction in emissions at the facilities there," said Mark York, spokesman for Kentucky's Environmental and Public Protection Cabinet.

Under the settlement, reached after more than a year of negotiations, the utility stated that it has been and remains in compliance with the Clean Air Act.

But, "It is critical for East Kentucky Power Cooperative to put this costly, time-consuming litigation behind us so we can focus on the future and on serving our members," Bob Marshall, president and chief executive officer of the utility, said in a statement.

The penalties are to be paid over the next six years and will not require a rate increase, he said.

Tom FitzGerald, director of the Kentucky Resources Council, praised the settlement.

"Any time you are reducing the pollution, that is a positive thing," he said. "What you are talking about is the public's air."

But he added that the cooperative's members should be examining why the utility wasn't complying with federal laws in the first place, adding that "the costs of the penalties may have been greater than the costs of compliance."

The cooperative said in its statement that additional penalties could be imposed, depending on its financial condition. Those would be paid between 2009 and 2013, but the utility did not say what that amount might be.

Under the settlement , the cooperative also must install equipment to reduce nitrogen oxide emissions from the Dale No. 1 and No. 2 operating units — at a cost of nearly $2 million. That step is expected to reduce nitrogen oxide emissions by about 400 tons per year.

The utility also is being required to monitor sulfur dioxide and nitrogen oxide emissions and to apply for an acid rain permit.

Under the permit system, coal-fired plants may emit sulfur dioxide and nitrogen oxides under what are called "allowances." If a plant emits less than its allowances, it can sell the unused portion to other utilities or save them for future use , according to the EPA. If a plant emits more than its allowances, it must buy additional allowances from other utilities.

East Kentucky Power is being required under the settlement to buy allowances equal to the nearly 20,000 tons of pollutants emitted between 2000 and 2005.

Each allowance covers one ton of emissions. The current price of allowances ranges from $400 to $500 per ton, so the Kentucky utility may have to pay between $7.6 million and $9.5 million for the allowances.