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PUBLIC SERVICE
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COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION
CASE NO. 2012-00503

ORIGINAL

In the Matter of:

PETITION AND COMPLAINT OF GRAYSON)
RURAL ELECTRIC COOPERATIVE)
CORPORATION FOR AN ORDER)
AUTHORIZING PURCHASE OF ELECTRIC)
POWER AT THE RATE OF SIX CENTS PER)
KILOWATT HOUR UP TO 9.4 MEGAWATTS)
OF POWER VS. A RATE IN EXCESS OF SEVEN)
CENTS PER KILOWATT HOUR PURCHASED)
FROM EAST KENTUCKY POWER COOPERATIVE)
UNDER A WHOLESALE POWER CONTRACT AS)
AMENDED BETWEEN GRAYSON RURAL)
ELECTRIC COOPERATIVE CORPORATION AND)
EAST KENTUCKY POWER COOPERATIVE, INC.)

DEPOSITION OF DON MOSIER

On Wednesday, the 8th day of January, 2014, at the approximate hour of 12:36 p.m., at the Hampton Inn, located at 1025 Early Drive, Winchester, Kentucky, before me, Nicol L. Voiles, Court Reporter and Notary Public within and for the Commonwealth of Kentucky, DON MOSIER, Witness, gave his oral deposition in the causes pursuant to Notice of Counsel for the respective parties as herein above set forth. Said deposition was taken for the purpose of discovery and any and all other purposes permitted by the Kentucky Rules of Civil Procedure.

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1 APPEARANCES: **On behalf of Grayson Rural**
2 **Electric:**

3 Hon. W. Jeffrey Scott
4 W. Jeffrey Scott PSC
5 311 West Main Street
6 P.O. Box 608
7 Grayson, Kentucky 41143

8 **On behalf of East Kentucky Power**
9 **Cooperative:**

10 Hon. Mark David Goss
11 Goss Samford PLLC
12 2365 Harrodsburg Road, Suite B-325
13 Lexington, Kentucky 40504

14 **ALSO PRESENT:**

15 Anthony Campbell
16 Carol Ann Fraley
17 Don Combs
18 Bradley Cherry

	I N D E X	Page
17	EXAMINATION OF THE WITNESS	
18	DON MOSIER:	
19	EXAMINATION BY MR. SCOTT.....	3
20		
21	EXHIBITS.....	None
22		
23	REPORTER'S CERTIFICATION.....	23
24	ERRATA SHEET.....	None
	SIGNATURE PAGE.....	Waived

1 DON MOSIER
2 of lawful age, Witness herein, having been first
3 duly cautioned and sworn, as hereinafter
4 certified, was examined and said as follows:

5 EXAMINATION

6 BY MR. SCOTT:

7 Q. Would you state your name for the
8 record, please?

9 A. Don Martin Mosier.

10 Q. And, Mr. Mosier, by whom are you
11 employed?

12 A. East Kentucky Power.

13 Q. And what is your job with East Kentucky
14 Power?

15 A. I'm chief operating officer.

16 Q. And how long have you been chief
17 operating officer?

18 A. Little over three years.

19 Q. And what did you do before that?

20 A. I was vice president of Merchant
21 Generation Operation at Ameren Corporation in St.
22 Louis.

23 Q. I didn't hear the last part.

24 A. Ameren Corporation in St. Louis, vice

1 president.

2 Q. And what did you do there?

3 A. I ran their unregulated trading and
4 marketing and dispatch operations.

5 Q. And where did you go to college?

6 A. University of Virginia.

7 Q. And did you obtain any graduate degree
8 anywhere?

9 A. Civil engineering BS and an MBA at
10 University of North Carolina.

11 Q. North Carolina?

12 A. (Witness nods head up and down.)

13 Q. Now, when did you graduate from UVA?

14 A. '79.

15 Q. Okay. All right. Now, what are the
16 essential functions of your tasks at East Kentucky
17 Power?

18 A. Oversee all of the day-to-day operations
19 like Mr. Campbell discussed earlier, that includes
20 power generation and power delivery and power
21 supply and long-term planning.

22 Q. Okay. I have received -- and you -- by
23 the way, you have been seated in this room
24 throughout the testimony of Mr. Campbell; is that

1 correct?

2 A. I have.

3 Q. Okay. I received from the Public
4 Service Commission a document that was filed down
5 there October 28 that is East Kentucky Power's
6 answers to interrogatories and it has a
7 verification at the end that purportedly is signed
8 by Don Mosier and notarized and also David Crews
9 and Isaac Scott. Did you sign those answers?

10 A. I did.

11 Q. And was it a necessary task when you and
12 the other two fellows signed those answers that
13 there was some information I guess maybe needed to
14 come solely from you and maybe information solely
15 from Mr. Crews? Is that how it came to be that
16 three of you were signatories to that?

17 A. Those who are best in the position to
18 answer the question.

19 Q. Okay.

20 A. Had the most direct knowledge.

21 Q. Okay. Mr. Mosier, I apologize. I have
22 got a 24/7 ringing in my ear and I have trouble --
23 ears. And I have trouble hearing except these
24 crickets that crescendo in my head and I'm not

1 hearing your quick speech real well. If you don't
2 care, could you speak up a little bit when you
3 give an answer?

4 A. I will slow it down.

5 Q. Okay. I have got -- I don't hear that
6 well. As you sat in here -- I'm trying to shorten
7 this as best I can. As you sat in here during
8 Mr. Campbell's deposition, do you know if there
9 were any questions that I asked or any answers
10 that he gave that may have been within your
11 purview as well that you would have answered any
12 differently?

13 A. No. I agree with his answers.

14 Q. Okay. All right. The information
15 regarding -- and I forgot what it was. There was
16 one answer he said Mr. Mosier would know more
17 about it that I was and I'm --

18 A. Policy 304 Strategic Issues Committee.

19 Q. Yeah. Tell me about that.

20 A. Policy 304 deals with distributed
21 generation and part of the Strategic Issues
22 Committee charter is to annually review all of the
23 policies, or the board approved policies. That
24 was one of them that was due for its reviews. In

1 reviewing that document Mr. Crews identified that
2 it was in discrepancy or had discrepancies with
3 existing Amendment 3. So the decision was made to
4 take it to the SI Committee to just void that
5 policy. Because it was all handled in Amendment 3
6 in Policy 305.

7 Q. So what was done Monday on that?

8 A. It was described to the Strategic Issues
9 Committee and they voted to -- to cancel that
10 policy and take it to the Governance Committee for
11 additional review and approval and then to the
12 board ultimately.

13 Q. Okay. So that is something that would
14 happen at subsequent board meetings?

15 A. It will, yes.

16 Q. Maybe even would it be February or would
17 it be even after that?

18 A. It will go to the Governance Committee
19 probably at the February meeting and probably to
20 the board in the March meeting.

21 MR. CAMPBELL: And then -- and then --
22 it's not my deposition. Sorry.

23 MR. SCOTT: I know what you want to do,
24 but your lawyer will probably tell you you can't

1 do it so --

2 THE WITNESS: It may not require a board
3 approval. I'm not 100 percent certain about that.

4 Q. What -- what -- sir, have you been
5 involved in any way with respect to the position
6 to be advanced by East Kentucky with respect to
7 notices or purported notices --

8 A. Uh-huh.

9 Q. -- of exercise of rights under Amendment
10 3 by Grayson Rural Electric?

11 A. As Tony noted earlier that when he
12 receives these notifications, he distributes them
13 to myself and/or David Crews at the same time.

14 Q. And he said I think that one or the
15 other, do you know if you did get those?

16 A. Generally I do. I don't recall 100
17 percent whether I received them first or Mr. Crews
18 received them first.

19 Q. Okay.

20 A. But I always ultimately get my eyes on
21 them.

22 Q. I asked him Mr. Campbell a question
23 about if Grayson purchases 9.3 megawatts of power
24 to put on its system and there is a reduction in

1 revenue to East Kentucky of roughly 4 million
2 dollars, and Amendment 3 being whatever it is that
3 Amendment 3 says, what is wrong with that?
4 Anything wrong with that? And you heard his
5 answer. What do you think is wrong with that?

6 A. I have nothing to add to his comments.
7 I agree.

8 Q. Pardon?

9 A. I agree with what he said. I have
10 nothing to add to his comments. I believe that
11 everything is handled through Amendment 3 and
12 Policy 305.

13 Q. Okay. Do you -- do you agree with the
14 statement by the Public Service Commission in that
15 order that we talked about earlier that there is
16 no requirement in Amendment 3 that East Kentucky
17 give permission for a distribution co-op to
18 receive alternate source power?

19 A. I agree. It's ultimately the board's
20 decision.

21 Q. Why is it a board decision?

22 A. Because it goes through the -- Amendment
23 3 goes to Policy 305 when it's above a 5 percent
24 threshold. It requires board approval.

1 Allocation Committee approval and board approval.

2 Q. When -- well, strike that.

3 I take it that you had nothing to do
4 with the answer to interrogatory number 11 that
5 asks about the method and manner of the
6 distribution of power through the electrical grid.
7 I don't know that that is -- I don't think this is
8 one that you --

9 A. That was answered by Mr. Crews.

10 Q. Pardon?

11 A. That was answered by Mr. Crews, but I
12 don't have anything to add to that.

13 Q. You apparently had involvement in the
14 answers to 14 through 16. And do you have 14 in
15 front of you there?

16 A. I do.

17 Q. The question asked "if there is anything
18 of value that East Kentucky Power through its
19 Board Executive Committee, full board authority or
20 any of its upper level management that has been
21 promised any distribution cooperative in exchange
22 for allowance of concession to any distribution
23 cooperative for any disparity in rates to be
24 charged for wholesale power within the last 18

1 months. If so, please set forth the terms and
2 conditions of said agreement or task at
3 understanding." And the answer says "no value or
4 consideration has been provided or promised to any
5 distribution cooperative owner of EKPC in the
6 proceeding 18 months." Did I read that correctly?

7 A. Correct.

8 Q. Do you know if there has been anything
9 prior to the commencement of that 18-month period?

10 A. Not that I'm aware of.

11 Q. Okay. At any time during your
12 three-year tenure has there been?

13 A. Not that I'm aware of.

14 Q. Okay. And also you participated in the
15 answer to the question about whether there is any
16 expert witness that East Kentucky intends to call
17 at the hearing in this case. And I'm sure that
18 counsel assisted in the preparation of that
19 answer.

20 A. Correct, they did.

21 Q. But do you know of any expert witness
22 that you have talked to in anticipation of
23 testimony in this case?

24 A. No. Other than ACES Power Marketing.

1 Q. Okay. I asked in the request for
2 production of documents whether there is any
3 financial analysis that East Kentucky had done.
4 And I note that Mr. Crews in his answer talked
5 about these numbers, the 3 point whatever million.
6 And then in the response to the request for
7 production of documents there is this ACES
8 analysis, which doesn't in my opinion go to the
9 actual question. The question is has East
10 Kentucky done an analysis of its own financial
11 impact.

12 A. Other than provided by Mr. Isaac Scott
13 and the ACES document that you referenced, no.

14 Q. That is it?

15 A. Not that I'm aware of.

16 Q. So East Kentucky hasn't done an internal
17 analysis to determine -- I guess what I'm getting
18 at is where did Mr. Crews come up with these
19 numbers?

20 A. Like he said they came from Mr. Scott.

21 Q. Where did Mr. Scott come up with the
22 numbers?

23 A. You would have to ask Mr. Scott. He
24 reports to the CFO in the financial department.

1 So I'm not over that area.

2 Q. I guess that is what I asked for in the
3 document request, but I didn't get. The request
4 says "with respect to East Kentucky Power
5 Cooperative only."

6 MR. GOSS: Which number are you --

7 MR. SCOTT: Number 6 the document
8 request.

9 Q. "Please provide copies of any and all
10 documents evidencing any internal audit,
11 investigation, analysis, study or other
12 undertaking evidencing the effect of Grayson Rural
13 Electric Cooperative Corporation upon East
14 Kentucky Power Cooperatives financial status
15 should Grayson Rural Electric Cooperative
16 Corporation purchase 9.3 megawatts of power from a
17 source other than East Kentucky Cooperative." And
18 then the response says see the ACES attachment.

19 But your belief is that Mr. Scott would
20 have done some analysis to have resulted in that
21 which Mr. Crews talked about in his deposition?

22 A. Mr. Scott analyzed the billing
23 determinates that were discussed and then also --
24 he would not have been involved in the ACES

1 documentation.

2 Q. Correct. Did you have any discussions
3 with Carol Fraley or any other representative of
4 Grayson Rural Electric concerning this Amendment 3
5 matter?

6 A. Not privately, but in the numerous
7 meetings, yes.

8 Q. Through the MOU process?

9 A. Through probably the MMN5 process,
10 probably the MOU -- oh, definitely the MOU process
11 and also probably in various board committee
12 meetings.

13 Q. All right. Were you present during a
14 telephone conference call when Miss Fraley was
15 talking to Mr. Campbell and I believe David Smart?
16 I don't know who else might have been in the room
17 on East Kentucky's end. Do you remember that like
18 a year ago or so?

19 A. I don't recall participating in that.

20 Q. Pardon?

21 A. I don't recall participating in that
22 call.

23 Q. All right. Did you have any discussions
24 with Mr. Hawkins regarding Farmers' generators

1 about which Mr. Campbell has already given some
2 testimony? Did you have any discussions?

3 A. Not with Mr. Hawkins, but with
4 Mr. Prather, yes.

5 Q. And what was the substance of the
6 conversations you had with Mr. Prather?

7 A. We have discussed those diesels on a
8 number of occasions over the three years that I
9 have been there.

10 Q. And are those things that with the power
11 that's generated that comes within Amendment 3?

12 A. Yes, we believe they come within
13 Amendment 3 and then Mr. Prather went and cured
14 that by providing the notice later on and getting
15 board approvals to have that as an Amendment 3
16 asset.

17 Q. Are you the person that went to him and
18 said, hey, you need to send notice?

19 A. No. Mr. Crews would have been involved
20 in that conversation. Mr. Crews works for me and
21 he takes direction from me.

22 Q. So he did that at your direction?

23 A. He did that I believe probably at my
24 direction, but he is also in charge of cleaning up

1 some of the older activities.

2 Q. And what prompted you to give him that
3 direction?

4 A. Because we believe it was an unnoticed
5 Amendment 3 item.

6 Q. And that was done --

7 A. It started back -- it started back
8 during the Amendment 5 process where we wanted to
9 identify all existing resources. That, the
10 Farmers' resources, and the Salt River's resources
11 were not a part of any formal -- or at least from
12 my perspective at the time, part of any formal
13 application process for Amendment 3 consideration.

14 Of course subsequently we have seen the
15 documents produced by Mr. Hicks regarding his, but
16 Mr. Prather has always been very open and up front
17 about his conversations regarding the Amendment 3
18 applicability of those units. And they were
19 brought on for Federal Mogul as a matter of fact.

20 Federal Mogul had about a four or five
21 megawatt load and they needed emergency backup
22 supply. And that was before I believe a
23 substation was located adjacent to that facility.
24 Once that substation was relocated adjacent to

1 that facility, they didn't have that same urgency
2 to have that -- Federal Mogul didn't have that
3 same urgency to have that power supply as an
4 emergency backup. Therefore, Mr. Prather's
5 company took over that operation.

6 Q. So do you know why it took until spring
7 of 2013 with respect to Farmers and late summer of
8 2013 with respect to Salt River to get those
9 matters --

10 A. No, sir. Everything gets handled in due
11 course. We had a number of issues that we have
12 been working on for years. That was just one part
13 of our -- one part of our in-basket.

14 Q. Okay. I think Mr. Campbell said,
15 although I'm not certain, but I believe he said
16 that the Farmers' landfill matter in Glasgow that
17 will be owned by East Kentucky has already been
18 approved by the board?

19 A. Correct.

20 Q. So actually there are two -- two
21 landfill operations at Farmers; correct?

22 A. I don't recall the second one.

23 Q. Looks like maybe --

24 A. It may be one of our 16 megawatt

1 landfills.

2 Q. Looks like one is 939 KW and then
3 another one 815 KW methane generator located at
4 municipal landfill in Glasgow.

5 A. This would be the new unit that they are
6 bringing on in concert with the City of Glasgow.

7 Q. When did the board approve that?

8 A. I don't recall the exact date, but it
9 was in '13.

10 Q. Was it actually approved before May 2 or
11 April 30, 2013?

12 A. I don't recall if that was that early or
13 not. Certainly not too far off of that timeline.

14 Q. In other words, my question is was it
15 approved before these letters were actually sent
16 to East Kentucky to the attention of Paul Hawkins
17 by Mr. Prather?

18 A. I would doubt that at that point, no.

19 Q. Could you check to see and make sure on
20 that?

21 A. We can do that.

22 Q. Maybe let us know when that board
23 approval was so we can check it with April 30 or
24 May 2, 2013?

1 A. Yes, we will.

2 MR. SCOTT: Okay. And get me a copy of
3 that maybe, Mr. Goss.

4 MR. GOSS: Okay. You are talking about
5 the 815 KW methane generator and what was the
6 other one?

7 MR. SCOTT: 939 KW generator.

8 MR. GOSS: Okay.

9 Q. Have you seen the April 20, 2005 letter
10 from Dale Henley to Larry Hicks that we talked
11 about earlier?

12 A. Yes, I have.

13 Q. Okay. That is the one that Mr. Campbell
14 said was -- I think he said sloppily handled?

15 A. I would agree with that.

16 Q. Okay. And the sloppily adverb comes
17 from what? To what are you referring to as
18 sloppily -- the fact that I think Mr. Campbell
19 said maybe didn't go to the board or something
20 like that. Is that what you all are referring to
21 or --

22 A. I would say it has a number of several
23 areas that I consider gray and that is his
24 response to your proposed MVA project is well

1 within Salt River's load ratio share. I would
2 have liked for it to have been more specific as to
3 the amount of that supply.

4 Q. More specific as to what?

5 A. As to the exact amount of that supply
6 that Mr. Henley is referring to. But I don't know
7 what is in -- what was in Mr. Henley's head at the
8 time that he wrote this document.

9 Q. Would you agree with me that that is a
10 position of East Kentucky Power by high level
11 executive that the use of the two megawatts is
12 something that does not need any further board
13 approval or Allocation Committee approval and that
14 number being what it is, with respect to what Salt
15 River's 15 percent would be, then okay, fine, go
16 ahead?

17 A. I think Mr. Campbell said it very
18 nicely. That anything that is 5 percent or below
19 is within the fairness principles or the
20 cooperative principles and that they should
21 receive quick processing. So I think he was
22 pretty clear on that.

23 Q. Or no processing based upon what Dale
24 Henley said?

1 A. But you would have to go back in time
2 for that. It certainly would be handled in a more
3 black and white manner today.

4 Q. But East Kentucky certainly knew at
5 least from April of 2005 to June of 2013 that Salt
6 River was utilizing this; correct?

7 A. Correct.

8 Q. I believe that is all, sir.

9 MR. GOSS: Okay. So again for the
10 record what I've -- what you have asked us to
11 produce really are two things both dealing with
12 the Farmers' matter. You want to know when the
13 board of directors of East Kentucky approved the
14 two Farmers' generators. You would also like for
15 us to produce a copy of the actual minutes that
16 took that action. Is that correct?

17 MR. SCOTT: Is that all you wrote down?

18 MS. FRALEY: And did you want something
19 for Isaac about his analysis in-house?

20 MR. SCOTT: Yeah. I don't know that I
21 asked, but it would seem to me, Mr. Goss, that in
22 the response to the document request, I got that
23 ACES analysis, but I was asking you what internal
24 East Kentucky analysis was done and it looks like

1 Mr. Scott may have done one. So I would like to
2 have -- you know, I don't know. He may just have
3 notes or something maybe and that maybe wouldn't
4 be of any benefit to me, but if he, you know,
5 prepared anything that he submitted to whoever his
6 superior is or anything like that.

7 MR. GOSS: I will inquire.

8 MR. SCOTT: That formed the basis for
9 those numbers.

10 MR. GOSS: I will inquire and get back
11 to you on it. I will try and get back to you on
12 these fairly quick. Most of these I think we can
13 get to you pretty quickly.

14 MR. SCOTT: All right.

15 MR. GOSS: I have no questions.

16 (Thereupon, the deposition was concluded
17 at 1:04 o'clock p.m.)

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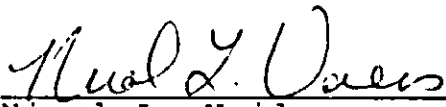
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CERTIFICATION OF THE COURT REPORTER

I, Nicol L. Voiles, Stenotype Reporter and
Notary Public within and for the Commonwealth of
Kentucky, do hereby certify that the foregoing one
hundred and twenty-three (23) pages is a true and
correct transcript of the proceedings had in this
matter, as herein above set forth, and that I have
no interest of any nature whatsoever in the
ultimate disposition of this litigation.



Nicol L. Voiles
Stenotype Reporter