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COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN EXAMINATION OF THE APPLICATION OF	)	
THE FUEL ADJUSTMENT CLAUSE OF EAST	)	CASE NO.
KENTUCKY POWER COOPERATIVE, INC.	)	2014-00226
FROM NOVEMBER 1, 2013 THROUGH APRIL	)	
30, 2014	)	

RESPONSE TO PETITION FOR REHEARING

Comes now Grayson Rural Electric Cooperative Corporation (Grayson), by and through counsel, and for its response to the "Petition for Rehearing" filed by East Kentucky Power Cooperative, Inc., (EKPC) states as follows:

1. Grayson respectfully submits that the Order entered January 30, 2015, in the within action is an appropriate, well-reasoned, and well-founded Order within the confines of 803 KAR 5:056 Section 1(3)(c) and 807 KAR 5:056 Section 1(3)(b).
2. EKPC seeks to mollify the express wording of the regulation in order to allow its foray into the PJM market to be an endeavor that has no risk at all and which places an unreasonable burden on Grayson and the other fifteen owners of EKPC. This burden arises out of the intended application sought by EKPC which would result in a cost of energy that is anything but fair, just, and reasonable.
3. EKPC asserts in its motion certain factual statements that are loose with reality. For example, EKPC asserts that it lacked capacity to serve native load and was forced to rely upon PJM to avoid curtailments in January of 2014. EKPC had made a conscious decision, however improvident it was, to idle its Dale Plant which was done without any reasonable

basis. This decision was decided by EKPC at a later time to be short sided and has been a decision that it has now reversed, leading into the winter of 2015. The assertion that the 8.5 million dollar amount set forth in the Commission's January 30, 2015 Order is some type of "penalization" is also an assertion that is without merit and is based on insufficient facts. The acquisition of acquiring 450 megawatts of energy in PJM last winter was an acquisition made not because of weather conditions solely, but partly due to the short sidedness of EKPC management in failing to utilize its own resources to meet native load.

4. The Order appropriately distinguishes, within the framework of the FAC regulations, "economy energy purchases" with "non-economy energy purchases". The reference in the Order to the PSC Case 2000-496-B and 2004-00430 are consistent with the facts of this case and the FAC regulation. The Commission has not ignored, as asserted by EKPC, the criteria for energy cost recovery. Contrary to the assertion by EKPC, EKPC nor any other generating utility is not entitled to a dollar for dollar pass through of these fuel purchases unless those purchases fit squarely within the framework of the FAC regulation. Clearly the PJM purchases do not.
5. The Commission has not engaged in, as asserted by EKPC, a "fallacious" nor reached any "illogical conclusion". Such language is not productive and does not give any further credence to the argument of EKPC. This type of language is consistent, however, with the language used by EKPC President and CEO, Tony Campbell, when he informed all of the CEO Representatives of the sixteen member systems in his taped statement to each co-op that the Commission's Order was "perverse". It is unfortunate that EKPC uses this type of descriptive language in the governance of its corporation.

6. EKPC acknowledges that Case No. 2000-496-B and 2004-00430 are cases that provide the appropriate interpretive rule for the FAC regulation and that those cases have continuing legal and practical value. However, EKPC tries to distinguish those holdings because of EKPC's use of PJM. The PJM vehicle simply brought about by EKPC abandoning its obligations under the Wholesale Power Contract that it has with Grayson and the other member systems and as such EKPC has acquired energy at a cost that is still being placed on the backs of the member systems. EKPC erroneously asserts that there has been a savings to the members when the fact of the matter remains that EKPC has increased the costs to member systems over the past year and a half after joining PJM.
7. EKPC acknowledges its abandonment of the Wholesale Power Contract on page 5 of its Petition wherein it asserts that it sells 100% of its energy into the PJM energy market in direct violation of the Wholesale Power Contract.
8. Furthermore, EKPC asserts by way of a footnote that potential environmental obligations may impact the FAC regulation. Possibly EKPC should simply seek to have the Fuel Adjustment Clause rescinded and all of their fuel costs fixed by way of a base rate application.
9. The Petition for Rehearing is further misconstruing the prior Commission cases wherein it references that the FAC is a means for an electric utility to recover from its customers current fuel expense through an automatic rate adjustment without the necessity for a full regulatory rate proceeding. This is taken from the 1977 case, Case No. 6877. However, EKPC fails to recognize that this recovery is only when the defined criteria under the regulation is met. The defined criteria in the within case has not been met nor has EKPC shown any reason to deviate from it.

10. There is no uncertainty in the application of the Order nor are there any unintended incentives nor consequences as a result of its application. As was stated in the Brief of Grayson prior to the January 30, 2015, Order, just because EKPC has made a fundamental change is no basis for violating the regulatory scheme nor the statutory mandate upon EKPC to provide fair, just, and reasonable rates. EKPC repeats over and over its entry into PJM as a “transfer of control of certain transmission assets to PJM as part of EKPC’s full integration into that regional transmission organization” as some allowance for not following the regulation. EKPC wants to have no risk at all. No entity can operate without some risk.

11. The vague statement that the application of this Order may result in EKPC to withdraw from PJM participation is nothing more than surmise and conjecture. It may be that withdraw from PJM would be appropriate since the cost to member systems have increased ever since EKPC joined PJM. However, since such withdraw would not be based upon the January 30, 2015, Order.

*WHEREFORE*, Grayson respectfully submits that the Order of January 30, 2015, appropriately finds that purchases are either “economy energy purchases” or “non-economy energy purchases” and that “non-economy purchases” were limited for recovery through the FAC. The Order is further correct in application of the facts of this case wherein it concludes that EKPC’s purchases from PJM that exceed the avoided variable generation cost of its own highest cost unit available are not “economy energy purchases” and that membership in an RTO does not impact the determination of whether the purchase is an “economy energy purchase” as found by the Commission’s prior Order.

As the Commission said in its Order the Fuel Adjustment Clause regulations, contrary to the assertions of EKPC, was never meant to allow 100% recovery of fuel costs incurred on a monthly basis. Wherefore, Grayson respectfully submits that the Petition for Rehearing be denied and that EKPC should comply with the terms of the January 30, 2015, Order forthwith.

RESPECTFULLY SUBMITTED,

W. JEFFREY SCOTT, P.S.C.

BY: 

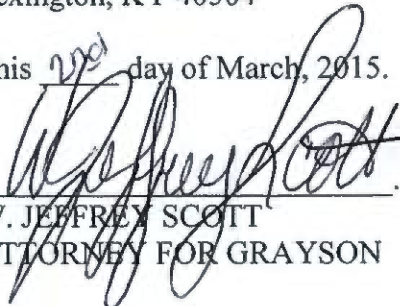
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I hereby certify that the original, plus ten (10) copies, of the Motion of GRECC was filed with the Public Service Commission with a copy served upon all parties of record.

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This 27<sup>th</sup> day of March, 2015.

  
W. JEFFREY SCOTT  
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