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COMMISSION

November 21, 2014

VIA HAND DELIVERY

Mr. Jeff Derouen
Executive Director
Kentucky Public Service Commission
P.O. Box 615
211 Sower Boulevard
Frankfort, KY 40602

Re: PSC Case No. 2014-00252

Dear Mr. Derouen:

Please find enclosed for filing with the Commission in the above-referenced case an original and ten copies of the responses of East Kentucky Power Cooperative, Inc. ("EKPC"), to the Staff's Second Request for Information dated November 7, 2014. Also included are an original and ten copies of EKPC's responses to the Second Request for Information from the Attorney General dated November 7, 2014.

Very truly yours,

David S. Samford

Enclosures

Cc: Parties of Record

**COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION**

In the Matter of:

IN THE MATTER OF:

**AN APPLICATION OF EAST KENTUCKY)
POWER COOPERATIVE, INC. FOR A)
CERTIFICATE OF PUBLIC CONVENIENCE)
AND NECESSITY FOR CONSTRUCTION OF AN)
ASH LANDFILL AT J. K. SMITH STATION TO)
RECEIVE IMPOUNDED ASH FROM WILLIAM)
C. DALE STATION, AND FOR APPROVAL OF A)
COMPLIANCE PLAN AMENDMENT FOR)
ENVIRONMENTAL SURCHARGE RECOVERY)**

**CASE NO.
2014-00252**

**RESPONSES TO COMMISSION STAFF'S SECOND REQUEST FOR
INFORMATION TO EAST KENTUCKY POWER COOPERATIVE, INC.**

DATED NOVEMBER 7, 2014

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

IN THE MATTER OF:

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AN APPLICATION OF EAST KENTUCKY
POWER COOPERATIVE, INC. FOR A)
CERTIFICATE OF PUBLIC CONVENIENCE)
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CASE NO.
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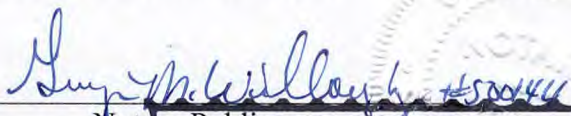
CERTIFICATE

STATE OF KENTUCKY)
)
COUNTY OF CLARK)

Matt Clark, being duly sworn, states that he has supervised the preparation of the responses of East Kentucky Power Cooperative, Inc. to the Public Service Commission Staff's Second Request for Information in the above-referenced case dated November 7, 2014, and that the matters and things set forth therein are true and accurate to the best of his knowledge, information and belief, formed after reasonable inquiry.



Subscribed and sworn before me on this 21st day of November 2014.



Notary Public **GWYN M. WILLOUGHBY**
Notary Public
State at Large
Kentucky
My Commission Expires Nov 30, 2017

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

IN THE MATTER OF:

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**AN APPLICATION OF EAST KENTUCKY)
POWER COOPERATIVE, INC. FOR A)
CERTIFICATE OF PUBLIC CONVENIENCE)
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ASH LANDFILL AT J. K. SMITH STATION TO)
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ENVIRONMENTAL SURCHARGE RECOVERY)**

**CASE NO.
2014-00252**

CERTIFICATE

**STATE OF KENTUCKY)
)
COUNTY OF CLARK)**

Isaac S. Scott, being duly sworn, states that he has supervised the preparation of the responses of East Kentucky Power Cooperative, Inc. to the Public Service Commission Staff's Second Request for Information in the above-referenced case dated November 7, 2014, and that the matters and things set forth therein are true and accurate to the best of his knowledge, information and belief, formed after reasonable inquiry.



Subscribed and sworn before me on this 21st day of November 2014.




EAST KENTUCKY POWER COOPERATIVE, INC.
PSC CASE NO. 2014-00252
RESPONSE TO INFORMATION REQUEST

COMMISSION STAFF'S SECOND REQUEST FOR INFORMATION DATED 11/07/14
REQUEST 1

RESPONSIBLE PARTY: **Matt Clark**

Request 1. Refer to EKPC's response to the Attorney General's First Request for Information, Item No. 11a. Refer also to EKPC's responses to Commission Staff's Initial Request for Information, Item No. 29(b). On the basis of the information in these responses, there will be 560,000 cubic yards of coal combustion residuals at a weight of approximately 567,000 tons that could be privately landfilled for \$16 per ton, for a total cost of \$9,072,000. Reconcile this calculation against the \$10,916,528 amount provided in EKPC's response to Commission Staff's Initial Request for Information, Item No. 9, page 3 of 3, reflecting the cost associated with trucking coal combustion residual to a private landfill.

Response 1. The quote provided by Rumpke is for a \$16 per ton disposal fee. This fee is subject to an additional \$3.59 per ton for State & Local taxes/fees. To arrive at the estimated cost of \$10,916,528 listed for Private Landfill Fees for delivery of ash by truck to a private landfill, 557,250 tons of ash was multiplied by a cost of \$19.59 per ton. The ash quantity value (557,250 cubic yards) came from page 3-1 of the BMCD Report, and as noted on page 4 of EKPC's Application, 1 cubic yard of ash was assumed to weigh 1 ton. The volume listed as

560,000 cubic yards is a rounded number used in the Application and other related documents as an approximation.

EAST KENTUCKY POWER COOPERATIVE, INC.

PSC CASE NO. 2014-00252

RESPONSE TO INFORMATION REQUEST

**COMMISSION STAFF'S SECOND REQUEST FOR INFORMATION DATED 11/07/14
REQUEST 2**

RESPONSIBLE PARTY: Matt Clark

Request 2. Refer to EKPC's response to Commission Staff's Initial Request for Information, Item No. 25. Provide a summary of the feedback, comments and concerns expressed as a result of the public engagements that took place in 2012, 2013, and 2014. Include copies of all notes, letters, e-mails and any other documentation received or generated as a result of the public engagements.

Response 2. In response to a Public Notice published in The Winchester Sun on October 25, 2012 as part of the Environmental Assessment process regarding the transport of Dale ash to J.K. Smith for ongoing operations of Dale, public comments from the Kentucky Environmental Foundation and Mr. Nick Bakay (private citizen) were compiled by Rural Utilities Service (RUS) and subsequently addressed in a response by EKPC. Concerns outlined in these communications related to: transportation issues; the potential for air pollution or environmental contamination; siting preferences; potential economic impacts to local businesses; communications with stakeholders and contingency plans. The Finding of No Significant Impact (FONSI) issued by RUS for the Smith Special Waste Landfill details the public comments

outlined above and is attached hereto as #2 - Attachment – Doc 1 on a CD. The U.S. Army Corps of Engineers (USACE) Louisville District issued a 30-day public notice on August 10, 2012 which closed on September 10, 2012. The Kentucky Environmental and Public Protection Cabinet sent a coordinated State response letter dated September 4, 2012. The coordinated response letter included comments from State Agencies, as follows:

"The Kentucky Division for Air Quality noted that the project must comply with 401 KAR 63:010 (requirements for handlings fugitive air emissions) and 401 KAR 63:005 (regulations for open burning) and suggested that EKPC utilize alternatively fueled equipment, implement emission controls applicable to their equipment and reduce equipment idling time to stay in compliance with the NAAQS. The Division also suggested an investigation into compliance with applicable local government regulations.

The Kentucky Division of Water (KDOW) indicated that an individual 401 Water Quality Certification (WQC) would be required for the proposed project. The KDOW also stated that the facility requires a Kentucky Pollutant Discharge Elimination System (KPDES) permit. The KDOW also stated that there were no Wild Rivers of know Exceptional Water or Outstanding State Resource Waters within the project area. They noted based on two prior samplings, Upper Howards Creek failed to score high enough to be considered an Exceptional Water. Further they indicated that Bull Run was not expected to meet the standards required for listing as an Exceptional Water either.

The KDOW stated that activities not covered by the Kentucky Division of Mine Permits may require the applicant to have a Groundwater Protection Plan.

Finally, KDOW granted a Section 401 Water Quality Certification (WQC) (#2012-049-7) for the proposed project in a letter dated September 28, 2012."

The Kentucky Waterways Alliance (KWA) submitted comments in a letter dated September 8, 2012 regarding several concerns similar to those raised by the Kentucky Environmental Foundation and Mr. Bakay. EKPC responded to all agency comments and to the

KWA comments in a letter dated October 8, 2012. The USACE decision document incorporates the public comments noted above and is attached hereto as #2 – Attachment – Doc 2 on a CD.

The Kentucky Division of Waste Management (KDWM) also issued responses to public comments collected during the public comment period concerning the issuance of the Special Waste Landfill Permit. These comments generally related to the physical characteristics of the proposed landfill and adjoining area, the nature of the coal ash, transportation issues, permitting issues and procedural matters. KDWM also responded to a number of requests made by EKPC regarding the draft permit including: permit corrections; ground well number designations; groundwater monitoring parameters; timeframes; and details of analysis. The KDWM responses were filed on a CD with EKPC's Application as Attachment #3, Volume 1 of the Smith Landfill Document, page 8 and only comments are attached again hereto as #2 – Attachment – Doc 3.

Also attached hereto are: (1) the submittals made by Kentucky Water Alliance, the associated acknowledgement by USACE, and the "Coordinated Response" submitted by Kentucky Energy and Environment Cabinet, respectively; (2) an EKPC news release, dated April 11, 2014, regarding the deactivation of Dale Station; (3) other miscellaneous documents reflecting contacts with the public and local officials and local media coverage of the project and the deactivation of Dale Station; and (4) an internal announcement that was emailed to EKPC employees and Member Cooperatives on September 9, 2014 announcing plans to

remove coal ash from Dale Station and providing basic information about the project. These documents are attached hereto on the CD as #2 – Attachments – Doc 4 through Doc 8.

EAST KENTUCKY POWER COOPERATIVE, INC.

PSC CASE NO. 2014-00252

RESPONSE TO INFORMATION REQUEST

**COMMISSION STAFF'S SECOND REQUEST FOR INFORMATION DATED 11/07/14
REQUEST 3**

RESPONSIBLE PARTY: Matt Clark and Isaac S. Scott

Request 3. Refer to EKPC's response to Commission Staff's Initial Request for Information, Item No. 30(a). Explain the listed expenditure for Temporary Closure Cap Maintenance for \$40,000 occurring in 2020.

Response 3. EKPC would note that the \$40,000 expense shown in the chart provided in the response to Request 30(a) is identified as Pond Maintenance, not Temporary Closure Cap Maintenance.

To the extent that the Commission is asking about pond maintenance, two sediment ponds will be installed as part of the Smith Special Waste Landfill. These sediment ponds collect all storm water from the site and provide retention time that allows any sediments to settle out. The sediment ponds are required to meet EKPC's KPDES permit and are required as part of the KDWM permit application. The sediment ponds must be periodically cleaned out to remain effective in achieving their intended purpose. Typically, a pond will be cleaned out every other year at an active landfill. Because this particular landfill is in temporary closure, EKPC believes that the need to clean out the sediment pond will occur less frequently. EKPC

anticipates this first clean out will not be needed until 2020 and that approximately 8,000 cubic yards of material could be removed during a pond clean out.

To the extent that the Commission is asking about the Temporary Closure Cap maintenance expense, the landfill cell will have a temporary cap installed until the final closure of the cell. This temporary cap is made up of 6 inches of topsoil covering the entire landfill area with vegetation being established and maintained in an appropriate manner. This will help prevent any dust and erosion issues. The maintenance expense therefore involves grading by a bulldozer and the seeding of a half-acre.

EAST KENTUCKY POWER COOPERATIVE, INC.
PSC CASE NO. 2014-00252
RESPONSE TO INFORMATION REQUEST

COMMISSION STAFF'S SECOND REQUEST FOR INFORMATION DATED 11/07/14
REQUEST 4

RESPONSIBLE PARTY: **Isaac S. Scott**

Request 4. Refer to EKPC's response to Commission Staff's Initial Requests for Information, Item No. 30(c).

Request 4a. Provide the derivation of the amount recorded as the Asset Retirement Obligation ("ARO") for the Dale Station ash ponds.

Response 4a. The \$22,750,201.46 recorded in December 2013 represented the present value of the preliminary estimated cost of the Dale ash removal of \$24 million. The \$24 million (in 2013 dollars) was increased for inflation at 2.5% per year until June 2019, which was consistent with the general and capital cost rate used in the most recent financial forecast approved by the Board of Directors. This amount was discounted based upon the remaining depreciable life (June 2019) and an interest rate of 3.45% based upon risk-free rates of interest or lending rates as of December 2013, adjusted for EKPC's credit rating.

Request 4b. Assuming that the Commission approves EKPC's request to establish a regulatory asset for the ARO recorded for the Dale Station ash ponds, would the ARO as recorded remain in the current accounts? If not, provide the accounts in which the ARO would be reflected.

Response 4b. The regulatory asset that will be requested will only be for the accretion and depreciation expenses associated with the ARO. The balances of the ARO asset and liability will remain intact in the current accounts.

EAST KENTUCKY POWER COOPERATIVE, INC.

PSC CASE NO. 2014-00252

RESPONSE TO INFORMATION REQUEST

**COMMISSION STAFF'S SECOND REQUEST FOR INFORMATION DATED 11/07/14
REQUEST 5**

RESPONSIBLE PARTY: Isaac S. Scott

Request 5. Refer to EKPC's response to Commission Staff's Initial Request for Information, Item No. 30(f), page 28 of 35. Explain why the property tax component of the fixed charge rate was based on Mason County and city of Maysville property tax rates rather than the rates of Clark County, where the Smith Station landfill will be located.

Response 5. As noted in the response to the Commission Staff's Initial Request for Information, Item No. 30(f), page 28 of 35, the property tax component was based on the property tax rate currently charged in Mason County for the Spurlock landfill. The Spurlock landfill is environmental compliance Project No. 12. The response also stated that the combined property tax rates for Mason County and the City of Maysville were used as a representative rate for estimate purposes, as these rates were currently used for monthly surcharge calculations.

EKPC would certainly agree that if the Commission approves the inclusion of the Project in its environmental compliance plan and authorizes cost recovery through the environmental surcharge, EKPC will use the actual property tax rate for Clark

County in subsequent surcharge calculations for the Smith Special Waste Landfill. The current real estate rate for Clark County is .813% per \$100 value.

EAST KENTUCKY POWER COOPERATIVE, INC.
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RESPONSE TO INFORMATION REQUEST

COMMISSION STAFF'S SECOND REQUEST FOR INFORMATION DATED 11/07/14
REQUEST 6

RESPONSIBLE PARTY: **Isaac S. Scott**

Request 6. Provide the following journal entries, including account numbers, account descriptions and representative amounts of the transactions.

Request 6a. The monthly entry to record amortization once the ash pond transfer portion of the project is complete.

Response 6a. Assuming that the final actual amount of the ash pond transfer costs is \$22,962,000 and amortization is over 10 years, the journal entry for the monthly amortization expense would be:

Debit Account No. 4073xx – Regulatory Debit \$191,350
Credit Account No. 1823xx – Other Regulatory Assets \$191,350

As discussed in the Scott Direct Testimony, Exhibit 11 of the Application, pages 9 and 10, the ash pond transfer costs will be recorded on retirement work orders and accumulated in a specific subaccount of Account No. 108.8 – Retirement Work in Progress. EKPC has proposed that it be permitted to treat these accumulated retirement costs as a capital expenditure for environmental

surcharge purposes. Based on its review of the Rural Utilities Service's Uniform System of Accounts ("RUS USoA"), if the Commission agrees that these accumulated retirement costs should be treated as a capital expenditure, EKPC believes the accumulated retirement costs should be recorded in a specific subaccount of Account No. 182.3 – Other Regulatory Assets. To amortize the accumulated retirement costs, again based on its review of the RUS USoA, EKPC believes it should debit a specific subaccount of Account No. 407.3 – Regulatory Debits and credit the specific subaccount of Account No. 182.3 concurrent with the recovery of the monthly amortization expense through the environmental surcharge mechanism. By utilizing specific subaccount designations, EKPC will be able to track and accurately report the monthly amortization expense and the cumulative amortization balance.

Request 6b. The entries to record the retirement of the Dale Station ash ponds.

Response 6b. The dollar amounts for the these transactions were taken from EKPC's response to the Commission Staff's Initial Request for Information, Request 30d(2). EKPC would like to note that the \$64,984 investment in land for the ash ponds at the Dale Station, recorded in Account No. 310000 – Steam Production Plant – Land and Land Rights, will not be removed from EKPC's books as a result of the retirement.

The entries to record the retirement of the Dale Station ash ponds are:

Debit Account No. 108120

Accumulated Provision for Depreciation of Steam Production Plant \$7,860

Credit Account No. 311000

Steam Production Plant – Structures and Improvements \$7,860

Debit Account No. 108120

Accumulated Provision for Depreciation of Steam Production Plant \$333,362

Credit Account No. 312000

Steam Production Plant – Boiler Plant Equipment \$333,362

EAST KENTUCKY POWER COOPERATIVE, INC.
PSC CASE NO. 2014-00252
RESPONSE TO INFORMATION REQUEST

COMMISSION STAFF'S SECOND REQUEST FOR INFORMATION DATED 11/07/14
REQUEST 7

RESPONSIBLE PARTY: **Isaac S. Scott**

Request 7. Refer to page 6 of the Direct Testimony of Isaac S. Scott, at lines 7-8, regarding EKPC's belief that the proposed project, including the construction of a special waste landfill at the Smith Station and the closure of the Dale Station ash ponds, "meets the requirements of KRS 278.183 and qualifies for environmental surcharge recovery." Explain in detail the reasons for EKPC's beliefs that the proposed project comports with the requirements of KRS 278.183, which was intended to promote the continued use of Kentucky coal,' given that the proposed project stems from the decision to decommission the Dale Station, a base-load coal-fired generating station.

Response 7. While the un-codified preamble to Senate Bill 341 does state that the policy of the Kentucky General Assembly is to foster and encourage the continued use of Kentucky coal by electric utilities serving the Commonwealth, EKPC would respectfully note that the "continued use of Kentucky coal" is not expressed in KRS 278.183(1). The Commission must be guided by the plain and ordinary meaning of KRS 278.183(1), unless the statute is found

to be vague or ambiguous and, only then, may the Commission look to extrinsic sources to ascertain the legislative intent. KRS 278,183(1) is not ambiguous or vague and states as follows:

Notwithstanding any other provision of this chapter, effective January 1, 1993, a utility shall be entitled to the current recovery of its costs of complying with the Federal Clean Air Act as amended and those federal, state, or local environmental requirements which apply to coal combustion wastes and by-products from facilities utilized for production of energy from coal in accordance with the utility's compliance plan as designated in subsection (2) of this section. These costs shall include a reasonable return on construction and other capital expenditures and reasonable operating expenses for any plant, equipment, property, facility, or other action to be used to comply with applicable environmental requirements set forth in this section. Operating expenses include all costs of operating and maintaining environmental facilities, income taxes, property taxes, other applicable taxes, and depreciation expenses as these expenses relate to compliance with environmental requirement set forth in this section.

Under the statute, a utility shall be entitled to the current recovery of its costs of compliance with federal, state, or local environmental requirements which apply to coal combustion wastes and by-products from facilities utilized for production of energy from coal. The relevant statute further states that recoverable costs “shall include a reasonable return on construction and other capital expenditures and reasonable operating expenses for any plant, equipment, property, facility, *or other action* to be used to comply with applicable environmental requirements.” KRS 278.183(1) (emphasis added). The focus is on the utility's compliance with applicable environmental requirements and the recovery of the costs associated with those compliance actions.

In this case, the environmental requirements with which EKPC seeks to comply clearly concern coal combustion wastes from Dale Station (*i.e.*, a “facilit[y] utilized for

production of energy from coal”), and there is no provision within KRS 278.183(1) that requires or renders relevant Dale Station’s continued operation. The proposed Project is the result of EKPC’s compliance with various environmental requirements, with compliance resulting in the decision to decommission the Dale Station. As a result of decommissioning the Dale Station, compliance with applicable state environmental requirements (that are summarized in the Application and in the Testimony of Mr. Jerry Purvis) requires that the coal ash in Dale Station’s impoundments be permanently disposed of in a Special Waste Landfill. The proposed Smith Special Waste Landfill represents the most reasonable, cost-effective avenue for compliance with these environmental requirements “which apply to coal combustion wastes and by-products from facilities utilized for production of energy from coal.” Consequently, EKPC believes the proposed project comports fully with the requirements of KRS 278.183.

While the preamble to Senate Bill 341 does reflect the Kentucky General Assembly’s policy to foster and encourage the continued use of Kentucky coal, such policy is furthered when a utility is permitted to recover the costs of complying with environmental requirements related to the permanent disposal of coal ash. While EKPC recognizes that the compliance costs for which it seeks recovery may be avoided if Dale Station were never decommissioned, the reality is simply that Dale Station, like all generation facilities, cannot operate indefinitely. If Kentucky utilities are permitted to recover the costs that will inevitably be incurred related to the permanent disposal of coal ash, coal-fired generation is encouraged (or at least not discouraged) as a result.