

Goss ■ Samford PLLC



Attorneys at Law

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PUBLIC SERVICE
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 ATTORNEY GENERAL'S SECOND REQUEST FOR
INFORMATION TO EAST KENTUCKY POWER COOPERATIVE, INC.**

DATED NOVEMBER 7, 2014

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

**ATTORNEY GENERAL'S SECOND REQUEST FOR INFORMATION DATED 11/07/14
REQUEST 1**

RESPONSIBLE PARTY: Matt Clark

Request 1. Refer to EKPC response to AG 1-1(a).

Request 1a. Provide any agreements with the listed organizations that received coal ash for use as fill that would indemnify EKPC from any environmental liability that may later be attached to the coal ash.

Response 1a. The table below indicates the results of a records search related to this request. The agreements noted are attached hereto.

Dale Ash Beneficial Reuse Projects

Clark Energy Office	No Agreement
Clark Co Board of Education - Football Field at GRC	No Agreement
Clark Co Board of Education - Softball Field at Clark Middle	Agreement - dated 5-20-91
Clark Co Board of Education - Soccer Field at Strode Station -and Softball Field at GRC	No Agreement
Clark Christian Church Parking Lot - Correct to Calvary Christian Church	Agreement - dated 2-16-01
Yeiser Industrial Park	Agreement - dated 9-8-99
Lion's Club - Parking Lot in Yeiser Industrial Park	Agreement - dated 8-2-00
Dept of Highways - Winchester Bypass	No Agreement

Request 1b. If no agreements were executed that would indemnify EKPC from environmental liability associated with the use of coal ash as fill material, explain why.

Response 1b. Coal ash is classified as a special waste and is reused in many applications including, but not limited to, structural fill. Since 1982, the reuse of coal ash in structural fills has been (and is currently) a permit by rule as provided in 401 KAR 45:060 Section 1(7).

**COAL COMBUSTION BY-PRODUCTS
STRUCTURAL FILL AGREEMENT**

THIS AGREEMENT, dated Sept. 8, 1999, by and between GAYLE B. YEISER TRUST, with its principal offices at 18 Churchill Drive, Winchester, Kentucky 40391, hereinafter referred to as "Yeiser"; and EAST KENTUCKY POWER COOPERATIVE, INC., a Kentucky corporation with its principal offices at 4758 Lexington Road, P. O. Box 707, Winchester, Kentucky 40392-0707, hereinafter referred to as "EKPC".

WITNESSETH

Whereas, Yeiser desires to make more usable land space at its Yeiser Industrial Park by the use of coal combustion by-products for fill purposes; and

Whereas, EKPC needs a disposal area for such coal combustion by-products, in the form of flyash and bottom ash, which must be removed from its Dale Station Ash Ponds;

Whereas, EKPC has agreed to provide such ash materials for this purpose and to provide transportation and an excavation contractor, in return for Yeiser's agreement to make its site available for the disposal of this material; and

NOW, THEREFORE, in consideration of the mutual promises contained hereinbelow, the parties hereto agree as follows:

1. EKPC will, pursuant to a mutually agreed schedule, provide sufficient ash material from its Dale Station ash ponds to fill areas at the Yeiser Industrial Park. This material will be provided by EKPC at no cost to Yeiser, on an AS IS basis, and EKPC hereby DISCLAIMS ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED regarding said ash material.

2. EKPC will employ an independent contractor to excavate, load, and transport the ash material and to perform site preparation, drainage improvements, excavation, earth storage, placement, and cover activities at the site. The removal of the ash material at Dale Station and its transportation shall be subject to the control and direction of EKPC. Unless otherwise agreed by the parties, EKPC will direct the activities of the contractor at the Yeiser Industrial Park in accordance with the specifications, which have been reviewed and accepted by Yeiser. Yeiser shall have the right to observe and inspect all such work performed at both sites and Yeiser shall make a final inspection of such work prior to EKPC's final payment to the contractor.

3. With the exception of negligent acts or omissions of EKPC or its employees during the performance of the work at the Yeiser Industrial Park, Yeiser hereby agrees to indemnify, defend and hold EKPC harmless from any and all claims, suits, causes of action, damages, complaints, fines, or liability of any sort which are in any way related to the activities at these sites contemplated under this agreement or the structural fill.

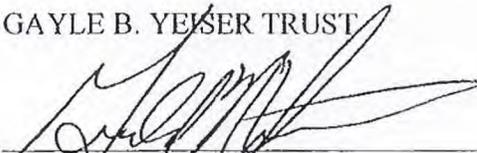
4. At the conclusion of excavation work at the Yeiser Industrial Park, EKPC agrees to assign to Yeiser any and all rights existing as a result of or arising from the contractor relating to such activities conducted at the sites. A copy of said **"CERTIFICATE OF COMPLETION AND RELEASE"** is attached hereto and made a part hereof as Exhibit I.

5. At the conclusion of said work, Yeiser hereby agrees to fully release EKPC from any and all liability or obligation in regard to the activities of EKPC or the independent contractor pursuant to this agreement, subject to any contrary requirements of continuing EKPC responsibility under the Federal Resource Conservation and Recovery Act "RCRA" as defined by Public Law 94-580.

WITNESSETH, the signatures of duly authorized representatives of the above named parties acting pursuant to valid resolutions of their governing boards, on the date first above written, in duplicate originals.

GAYLE B. YEISER TRUST

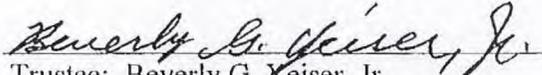
ATTEST:


Trustee: Gerald B. Yeiser

Keli McCallister

Date: Sept. 8, 1999

ATTEST:

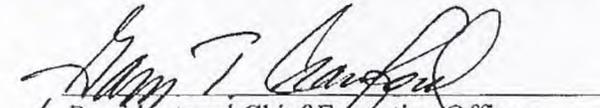

Trustee: Beverly G. Yeiser, Jr.



Date: 9/9/99

EAST KENTUCKY POWER COOPERATIVE, INC.

ATTEST:


for President and Chief Executive Officer

Claudia A. Embu

Date: September 7, 1999

Exhibit I

CERTIFICATE OF COMPLETION AND RELEASE

THIS CERTIFICATE, made this 29th day of July, year of 2008, by GAYLE B. YEISER TRUST ("Yeiser"), with its principal offices at 18 Churchill Drive, Winchester, Kentucky 40391, and EAST KENTUCKY POWER COOPERATIVE, INC., ("EKPC"), a Kentucky corporation, with its principal offices at 4775 Lexington Road, Winchester, Kentucky 40391.

WITNESSETH

Whereas, Yeiser and EKPC are parties to an agreement dated Sept 8, 1999, (the "Coal Combustion By-Products Structural Fill Agreement") whereunder EKPC agreed to provide structural fill services at the Yeiser Industrial Park using ash from its Dale Power Station; and

Whereas, Such structural fill activities have been completed in a satisfactory manner, based on Yeiser's inspection of the work; and

Whereas, the parties wish to certify such completion of the structural fill activities and to invoke the assignment of rights and release provisions of Coal Combustion By-Products Structural Fill Agreement;

NOW, THEREFORE, In consideration of the mutual provisions contained herein, the parties hereby certify and agree as follows:

1. Yeiser hereby certifies that it has inspected the structural fill activities provided by EKPC at the site and finds those activities to have been satisfactorily performed and in compliance with the terms of Coal Combustion By-Products Structural Fill Agreement.

2. Pursuant to Section 4 of the Coal Combustion By-Products Structural Fill Agreement, EKPC hereby assigns to Yeiser any and all rights of EKPC existing as a result of or arising from the contract between EKPC and the independent contractor

relating to said structural fill activities. Such contract is attached to, and designated as Exhibit I under, the Coal Combustion By-Products Structural Fill Agreement.

3. Pursuant to Section 5 of the Coal Combustion By-Products Structural Fill Agreement, Yeiser hereby agrees to fully release EKPC from any and all liability or obligation in regard to the activities of EKPC or the independent contractor pursuant to the Coal Combustion By-Products Structural Fill Agreement.

IN WITNESS WHEREOF, the parties have executed this Certificate through the signatures of their duly authorized representatives, on the date first above written, in duplicate originals.

GAYLE B. YEISER TRUST

ATTEST:

Trustee: Gerald N. Yeiser

Date: _____

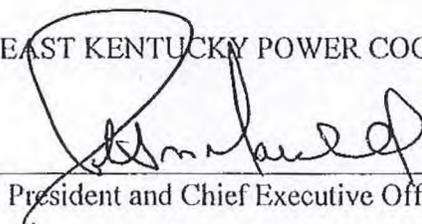
ATTEST:

Trustee: Beverly G. Yeiser, Jr.

Date: _____

EAST KENTUCKY POWER COOPERATIVE, INC.

ATTEST:



President and Chief Executive Officer

Date: 2/29/08

Della E. Dawson,
For and on behalf
of the Corporate Secretary

AGREEMENT

THIS AGREEMENT, dated 2-16-01, 2001, by and between the Calvary Christian Church, with its offices at 14 Redwing Drive, Winchester, Kentucky 40391, hereinafter referred to as "Calvary Christian"; and EAST KENTUCKY POWER COOPERATIVE, INC., a Kentucky corporation with its principal offices at 4775 Lexington Road, P. O. Box 707, Winchester, Kentucky 40392-0707, hereinafter referred to as "EKPC".

WITNESSETH

Whereas, Calvary Christian desires to make more usable land space at Calvary Christian Church by the use of inert material for fill purposes; and

Whereas, EKPC needs a disposal area for such inert material, in the form of flyash and bottom ash, which must be removed from its Dale Station ash ponds;

Whereas, EKPC has agreed to provide such ash materials for this purpose and to provide transportation and an excavation contractor, in return for Calvary Christian's agreement to make its site available for the disposal of this material; and

NOW, THEREFORE, in consideration of the mutual promises contained hereinbelow, the parties hereto agree as follows:

1. EKPC will, pursuant to a mutually agreed schedule, provide sufficient inert ash material from its Dale Station ash ponds to fill the area at Calvary Christian. This material will be provided by EKPC at no cost to Calvary Christian, on an AS IS basis, and EKPC hereby DISCLAIMS ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED regarding said ash material. EKPC takes no responsibility for wear and tear damage to any type of access road or parking lot due to the trucking of ash to the fill area.

2. EKPC will employ an independent contractor to excavate, load, and transport the ash material and to perform excavation, earth storage, placement, and cover activities at these sites. The removal of the ash material at Dale Station and its transportation shall be subject to the control and direction of EKPC. EKPC shall furnish enough ash to bring the site to grade as shown on the attached Grading, Drainage and Erosion Control drawing by John L. Carman & Associates, Inc. which is estimated to be 4,000 cubic yards. Unless otherwise agreed by the parties, EKPC will direct the activities of the contractor at the Calvary Christian in accordance with EKPC's standard practice for placing ash. Calvary Christian shall have the right to observe and inspect all such work performed at both sites and Calvary Christian shall make a final inspection of such work prior to EKPC's final payment to the contractor.
3. Calvary Christian shall construct the retention basin prior to EKPC placing any ash. EKPC shall use the retention basin for erosion control. Calvary Christian shall have the necessary soil onsite to cover the ash. No aggregate surfacing is included. No utility relocation or construction is included by EKPC. Calvary Christian shall provide an adequate means for trucks to access the site and all necessary regulatory approvals.
4. With the exception of negligent acts or omissions of EKPC or its employees during the performance of the work at the Calvary Christian, Calvary Christian hereby agrees to indemnify, defend and hold EKPC harmless from any and all claims, suits, causes of action, damages, complaints, fines, or liability of any sort which are in any way related to the activities at these sites contemplated under this agreement or the resulting fill.
5. At the conclusion of excavation work at Calvary Christian, EKPC agrees to assign to Calvary Christian any and all rights existing as a result of or arising

from the contractor relating to such activities conducted at the sites. A copy of said contract is attached hereto and made a part hereof as Exhibit I.

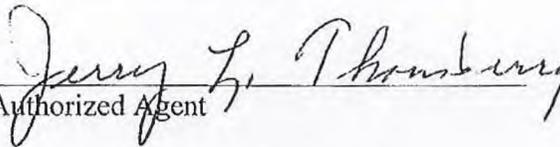
6. At the conclusion of said work, Calvary Christian hereby agrees to fully release EKPC from any and all liability or obligation in regard to the activities of EKPC or the independent contractor pursuant to this agreement.

WITNESSETH, the signatures of duly authorized representatives of the above named parties acting pursuant to valid resolutions of their governing boards, on the date first above written, in duplicate originals.

CALVARY CHRISTIAN CHURCH

ATTEST:




Authorized Agent

Date: 2-16-01

EAST KENTUCKY POWER COOPERATIVE, INC.

ATTEST:

President and Chief Executive Officer

Date: _____

AGREEMENT

THIS AGREEMENT, dated May 20, 1991, by and between the CLARK COUNTY BOARD OF EDUCATION, with its principal offices as 1600 West Lexington Avenue, Winchester, Kentucky 40391, hereinafter referred to as "Clark"; and EAST KENTUCKY POWER COOPERATIVE, INC., a Kentucky corporation with its principal offices at 4758 Lexington Road, P. O. Box 707, Winchester, Kentucky 40392-0707, hereinafter referred to as "EKPC".

W I T N E S S E T H

Whereas, Clark desires to make more usable land space at its Clark Middle School by the use of inert material for fill purposes; and

Whereas, EKPC needs a disposal area for such inert material, in the form of flyash, which must be removed from its Dale Station No. 1 Ash Pond;

Whereas, EKPC has agreed to provide such ash materials for this purpose and to provide transportation and an excavation contractor, in return for Clark's agreement to make its site available for the disposal of this material; and

NOW, THEREFORE, in consideration of the mutual promises contained hereinbelow, the parties hereto agree as follows:

1. EKPC will, pursuant to a mutually-agreed schedule, provide sufficient inert ash material from its Dale Station No. 1 ash pond to fill an area of approximately 2.5 acres at the Clark Middle School site in accordance with the attached specifications, which are hereby incorporated as Exhibit I to this agreement. This material will be provided by EKPC at no cost to Clark, on an AS IS basis, and EKPC hereby DISCLAIMS ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED regarding said ash material.

2. EKPC will employ an independent contractor to excavate, load, and transport the ash material and to perform excavation, earth storage, placement, and cover activities at the Clark Middle School site. The removal of the ash material at Dale Station and its transportation shall be subject to the control and direction of EKPC. Unless otherwise agreed by the parties, EKPC will direct the activities of the contractor at the Clark Middle School site in accordance with the above-mentioned specifications, which have been reviewed and accepted by Clark. Clark shall have the right to observe and inspect all such work performed at the Clark Middle School site and Clark shall make a final inspection of such work prior to EKPC's final payment to the contractor.

3. With the exception of negligent acts or omissions of EKPC or its employees during the performance of the work at the Clark Middle School site, Clark hereby agrees to indemnify, defend, and hold EKPC harmless from any and all claims, suits, causes of action, damages, complaints, fines, or liability of any sort which are in any way related to the activities at the Clark Middle School site contemplated under this agreement or the resulting landfill at said site.

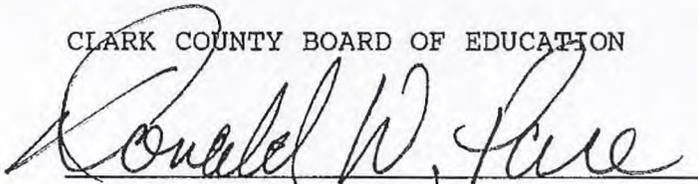
4. At the conclusion of excavation work at the Clark Middle School site, EKPC agrees to assign to Clark any and all rights existing as a result of or arising from the contract between EKPC and the above-mentioned independent contractor relating to such activities conducted at the Clark Middle School site. Said purchase order is attached hereto and made a part hereof as Exhibit II.

5. At the conclusion of said work, Clark hereby agrees to fully release EKPC from any and all liability or obligation in regard to the activities of EKPC or the independent contractor pursuant to this agreement.

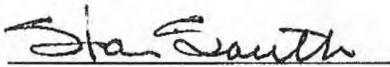
WITNESSETH, the signatures of duly authorized representatives of the abovenamed parties acting pursuant to valid resolutions of their governing boards, on the date first above written, in duplicate originals.

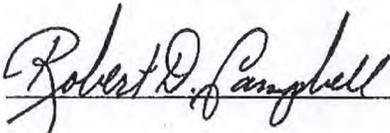
CLARK COUNTY BOARD OF EDUCATION

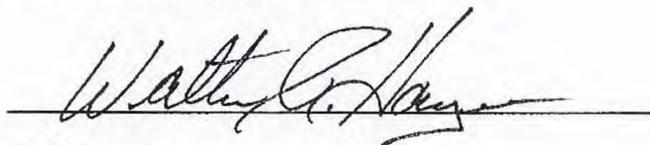
ATTEST:



Superintendent



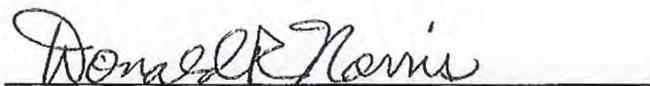




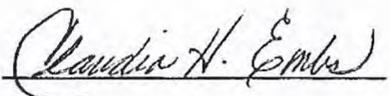
Chairman

EAST KENTUCKY POWER COOPERATIVE, INC.

ATTEST:



President and General Manager



CERTIFICATE OF COMPLETION AND RELEASE

THIS CERTIFICATE, made this 5th day of November, 1991, by the CLARK COUNTY BOARD OF EDUCATION, ("Clark"), with its principal offices at 1600 West Lexington Avenue, Winchester, Kentucky 40391, and EAST KENTUCKY POWER COOPERATIVE, INC., ("EKPC"), a Kentucky corporation, with its principal offices at 4758 Lexington Road, Winchester, Kentucky 40391.

W I T N E S S E T H

Whereas, Clark and EKPC are parties to an agreement dated May 20, 1991 (the "Landfill Agreement") whereunder EKPC agreed to provide landfill services at the Clark Middle School using flyash from its Dale Power Station; and

Whereas, Such landfill activities have been completed in a satisfactory manner, based on Clark's inspection of the work; and

Whereas, The parties wish to certify such completion of the landfill activities and to invoke the assignment of rights and release provisions of the Landfill Agreement;

NOW, THEREFORE, In consideration of the mutual provisions contained herein, the parties hereby certify and agree as follows:

1. Clark hereby certifies that it has inspected the landfill activities provided by EKPC at the Clark Middle School and finds those activities to have been satisfactorily performed and in compliance with the terms of the Landfill Agreement.

002521

2. Pursuant to Section 4 of the Landfill Agreement, EKPC hereby assigns to Clark any and all rights of EKPC existing as a result of or arising from the contract between EKPC and the independent contractor relating to said landfill activities. Such contract is attached to, and designated as Exhibit II under, the Landfill Agreement.

3. Pursuant to Section 5 of the Landfill Agreement, Clark hereby agrees to fully release EKPC from any and all liability or obligation in regard to the activities of EKPC or the independent contractor pursuant to the Landfill Agreement.

IN WITNESS WHEREOF, the parties have executed this Certificate through the signatures of their duly authorized representatives, on the date first above written, in duplicate originals.

Attest

CLARK COUNTY BOARD OF EDUCATION

Robert D. Campbell

Ronald W. Pace
Superintendent

Attest

EAST KENTUCKY POWER
COOPERATIVE, INC.

Richard E. Custer

Donald R. Morris
President and General Manager

(clark-cert)

002522

AGREEMENT

THIS AGREEMENT, dated Aug. 2, 2000, by and between the WINCHESTER LIONS CLUB, INCORPORATED, with its principal offices at ~~417~~ P.O. Box 405 ~~Boone Avenue~~, Winchester, Kentucky 40391, hereinafter referred to as "The Lions Club"; and EAST KENTUCKY POWER COOPERATIVE, INC., a Kentucky corporation with its principal offices at 4775 Lexington Road, P. O. Box 707, Winchester, Kentucky 40392-0707, hereinafter referred to as "EKPC".

WITNESSETH

Whereas, The Lions Club desires to make more usable land space for the Lions Club building located on Shoppers' Drive by the use of inert material for fill purposes; and

Whereas, EKPC needs a disposal area for such inert material, in the form of flyash and bottom ash, which must be removed from its Dale Station Ash Ponds;

Whereas, EKPC has agreed to provide such ash materials for this purpose and to provide transportation and an excavation contractor, in return for The Lions Club's agreement to make its site available for the disposal of this material; and

NOW, THEREFORE, in consideration of the mutual promises contained hereinbelow, the parties hereto agree as follows:

1. EKPC will, pursuant to a mutually agreed schedule, provide sufficient inert ash material from its Dale Station ash ponds to fill an area for the proposed Lions Club building located on Shoppers Drive. This material will be provided by EKPC at no cost to The Lions Club, on an AS IS basis, and EKPC hereby DISCLAIMS ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED regarding said ash material.

2. EKPC will employ an independent contractor to excavate, load, and transport the ash material and to perform excavation, earth storage, placement, and cover activities

at these sites. The removal of the ash material at Dale Station and its transportation shall be subject to the control and direction of EKPC. Unless otherwise agreed by the parties, EKPC will direct the activities of the contractor for the building project on Shoppers Drive in accordance with the attached drawing, which has been reviewed and accepted by The Lions Club. The Lions Club shall have the right to observe and inspect all such work performed.

3. With the exception of negligent acts or omissions of EKPC or its employees during the performance of the work at the building on Shoppers Drive, The Lions Club hereby agrees to indemnify, defend and hold EKPC harmless from any and all claims, suits, causes of action, damages, complaints, fines, or liability of any sort which are in any way related to the activities at these sites contemplated under this agreement or the resulting landfill.

4. At the conclusion of work at the building on Shoppers Drive, EKPC agrees to assign to The Lions Club any and all rights existing as a result of or arising from the contractor relating to such activities conducted at the sites. A copy of said contract is attached hereto and made a part hereof as Exhibit I.

5. At the conclusion of said work, The Lions Club hereby agrees to fully release EKPC from any and all liability or obligation in regard to the activities of EKPC or the independent contractor pursuant to this agreement.

WITNESSETH, the signatures of duly authorized representatives of the above named parties acting pursuant to valid resolutions of their governing boards, on the date first above written, in duplicate originals.

WINCHESTER LIONS CLUB, INCORPORATED

ATTEST:

Raymond Boster
President

Robert C. Pickett

Date: 8-2-00

EAST KENTUCKY POWER COOPERATIVE, INC.

ATTEST:

Ray M. Palk
President and Chief Executive Officer

Claudia H. Embler

Date: August 11, 2000



Exhibit I

CERTIFICATE OF COMPLETION AND RELEASE

THIS CERTIFICATE, made this _____ day of _____, 2000,
by WINCHESTER LIONS CLUB, INCORPORATED ("The Lions Club"), with its
principal offices at 417 Boone Avenue, Winchester, Kentucky 40391, and EAST
KENTUCKY POWER COOPERATIVE, INC., ("EKPC"), a Kentucky corporation, with
its principal offices at 4775 Lexington Road, Winchester, Kentucky 40391.

WITNESSETH

Whereas, The Lions Club and EKPC are parties to an agreement dated
_____, (the "Landfill Agreement") whereunder EKPC agreed to provide
landfill services at the building on Shoppers Drive using flyash from its Dale Power
Station; and

Whereas, Such landfill activities have been completed in a satisfactory manner,
based on The Lions Club's inspection of the work; and

Whereas, the parties wish to certify such completion of the landfill activities and
to invoke the assignment of rights and release provisions of the Landfill Agreement;

NOW, THEREFORE, In consideration of the mutual provisions contained herein,
the parties hereby certify and agree as follows:

1. The Lions Club hereby certifies that it has inspected the landfill activities
provided by EKPC and finds those activities to have been satisfactorily performed and in
compliance with the terms of the Landfill Agreement.

2. Pursuant to Section 4 of the Landfill Agreement, EKPC hereby assigns to The
Lions Club any and all rights of EKPC existing as a result of or arising from the contract
between EKPC and the independent contractor relating to said landfill activities. Such
contract is attached to, and designated as Exhibit I under, the Landfill Agreement.

3. Pursuant to Section 5 of the Landfill Agreement, The Lions Club hereby agrees to fully release EKPC from any and all liability or obligation in regard to the activities of EKPC or the independent contractor pursuant to the Landfill Agreement.

IN WITNESS WHEREOF, the parties have executed this Certificate through the signatures of their duly authorized representatives, on the date first above written, in duplicate originals.

WINCHESTER LIONS CLUB, INCORPORATED

ATTEST:

President

Date: _____

EAST KENTUCKY POWER COOPERATIVE, INC.

ATTEST:

President and Chief Executive Officer

Date: _____

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

ATTORNEY GENERAL'S SECOND REQUEST FOR INFORMATION DATED 11/07/14
REQUEST 2

RESPONSIBLE PARTY: Matt Clark

Request 2. Refer to EKPC response to PSC 1-2(c).

Request 2a. Has EKPC decided not to pursue any beneficial reuse projects for coal ash, or not to pursue projects that would use the ash as structural fill?

Response 2a. EKPC has reviewed many beneficial reuse projects over its years of operation. Not all potential beneficial reuse projects or proposals are workable or desirable. Generally, unsuccessful projects are eliminated from consideration by factors such as relative costs, constructability, volume, or schedule. The willingness or ability of interested entities to follow through with projects also frequently results in those projects not moving forward. Due to uncertainty about laws and regulations regarding coal ash related to the federally proposed Coal Combustion Residuals (CCR) rule, EKPC will currently not engage in any new beneficial reuse projects. The final CCR rule is expected in December and will influence the criteria EKPC uses to define appropriate beneficial reuse activities in the future. EKPC anticipates that it will consider beneficial reuse projects that are allowed under the CCR rule.

Request 2b. Was the proposed CCR rule the only reason EKPC determined that using coal ash for structural fill is no longer prudent? If no, what were the other determining factors?

Response 2b. Yes. As proposed in 2010, the CCR rule would not allow use of coal ash in a structural fill application. Upon issuance of the final CCR rule, expected in December 2014, EKPC will re-examine the prudence of coal ash reuse for structural fill or other beneficial reuses, so long as the reuse ultimately benefits its Members.

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

**ATTORNEY GENERAL'S SECOND REQUEST FOR INFORMATION DATED 11/07/14
REQUEST 3**

RESPONSIBLE PARTY: Matt Clark

Request 3. Refer to EKPC response to PSC 1-6. Provide the potential savings in fuel, vehicle maintenance, and labor per roundtrip from Dale Station to Spurlock Station vs. Dale Station to the private landfill.

Response 3a. Hauling services for this Project will be performed by a contractor that will provide the vehicles, maintenance, labor, and fuel. Accordingly, those components of the hauling cost are included. In the alternative analysis, the hauling costs alone are estimated to be: \$8,041,118 for Dale to Smith, \$9,508,475 for Dale to a Private Landfill, and \$22,864,765 for Dale to Spurlock. The incremental cost/mile is consistent across the alternatives; they vary in direct proportion to the total distance.

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

ATTORNEY GENERAL'S SECOND REQUEST FOR INFORMATION DATED 11/07/14
REQUEST 4

RESPONSIBLE PARTY: Matt Clark

Request 4. Refer to EKPC response to PSC 1-10.

Request 4. What is the age of the coal-fired EGUs at Cooper Station and what is the anticipated operating life of the facility?

Response 4a. Cooper Station has two units. Unit No. 1 began operations in 1965 and Unit No. 2 began operations in 1969. Continued operation of both units at Cooper Station is currently planned for a remaining life of 20-30 years, subject to changes in market and environmental regulatory conditions.

Request 4b. What is the age of the coal-fired EGUs at Spurlock Station and what is the anticipated operating life of the facility?

Response 4b. Spurlock Station has four units. Unit No. 1 began operations in 1977, Unit No. 2 began operations in 1981, Unit No. 3 began operations in 2005, and Unit No. 4 began

operations in 2009. Continued operation of all units at Spurlock Station is currently planned for a remaining life of 20-30 years, subject to changes in market and environmental regulatory conditions.

EAST KENTUCKY POWER COOPERATIVE, INC.
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ATTORNEY GENERAL'S SECOND REQUEST FOR INFORMATION DATED 11/07/14
REQUEST 5

RESPONSIBLE PARTY: Matt Clark

Request 5. Refer to EKPC response to PSC 1-11(b). Reading this response, it sounds as if the coal ash is a critical aspect of the foundation and support for the transmission line supports. Please elaborate on the structure currently supporting the transmission line supports and why this material must be excavated.

Response 5. In order to achieve clean closure of the Dale site, ash will be removed from the areas where it is now temporarily impounded. The transmission poles are directly embedded in ash fill that serves as a dam for the impoundment of ash. The ash is structurally acceptable to support the transmission structures, because it has been naturally consolidated and covered to protect it from water inflow and erosion. However, as described in the filing, the ash dams as constructed, or even if modified, will not meet design requirements for a special waste landfill in order to dispose of the ash on site. Consequently, ash in the existing dams will be completely removed and disposed of in the Smith Special Waste Landfill. Excavation on the site will be managed so that the ash currently supporting the transmission structures will be left and protected until they can be moved to a permanent location on site where ash has already been

excavated and the area has been restored to a structurally acceptable condition with clay fill material. The ash that previously supported the transmission structures will then be removed. It is not acceptable to leave pillars of ash around the transmission poles to serve as their permanent support. The properties of ash in this configuration would not provide adequate support for the lines or erosion protection from river flooding, and compliance for the disposal of coal ash at Dale could not be met.

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ATTORNEY GENERAL'S SECOND REQUEST FOR INFORMATION DATED 11/07/14
REQUEST 6

RESPONSIBLE PARTY: Matt Clark

Request 6. Refer to EKPC response to PSC 1-20(d).

Request 6a. Explain what "anchor trench" is and why it is required to install GCL.

Response 6a. An "anchor trench" is a trench excavated at the edge of the landfill cell (typically 2' deep x 2' wide) in which the geosynthetic liner material is secured and then the trench is backfilled. For the purpose of the GCL, the "anchor trench" prevents the leading edge from being lifted by the wind, provides an interface point for tie in of future expansion cells and provides a boundary for the waste.

Request 6b. Is there any evidence to support the assumption that the proper clay is on site?

Response 6b. Yes. A soils inventory is included in the Kentucky Division of Waste Management Permit Application provided as EKPC response to PSC 1-3(c). The soils inventory

shows the amount of clay projected to be available and permeability testing on samples was undertaken to assure it can meet the standard for liner construction.

Request 6c. Is there any evidence to support the assumption that the clay on-site will need to be screened?

Response 6c. No. Extensive exploration must be performed to determine whether the material will be screened or not. Even after the exploration, it is possible to discover seams of different material that may require screening.

Request 6d. What is the Smith landfill construction cost estimate using low permeable compacted clay liner?

Response 6d. That cost was not developed in EKPC's preliminary estimate. EKPC believes there is enough clay material on site; however, the cost for low permeable clay liner cannot be determined without further investigation and could be either more or less than the estimated cost for GCL. A construction cost estimate was developed using the more predictable method. If the project proceeds, detailed design and project development will incorporate an evaluation and selection of the most cost effective liner design, between low permeable clay liner and GCL.

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**ATTORNEY GENERAL'S SECOND REQUEST FOR INFORMATION DATED 11/07/14
REQUEST 7**

RESPONSIBLE PARTY: Isaac S. Scott

Request 7. Provide current PSC precedent, if any exists, which provides for cost recovery via environmental surcharge for relocating a coal ash impoundment.

Response 7. EKPC believes the Commission's decision in Case No. 2004-00421¹ is responsive to this request. One of the environmental compliance projects Louisville Gas and Electric Company ("LG&E") included in this case was the vertical and horizontal expansion of the existing Mill Creek landfill and the transfer of approximately 1 million tons of ash from the Mill Creek ash pond to the expanded Mill Creek landfill. The Commission approved the project as part of the 2005 environmental compliance plan and authorized the recovery of the associated costs through LG&E's environmental surcharge mechanism.

¹ See *In the Matter of the Application of Louisville Gas and Electric Company for Approval of Its 2004 Compliance Plan for Recovery by Environmental Surcharge*, Order, Case No. 2004-00421 (Ky. P.S.C., June 20, 2005).

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**ATTORNEY GENERAL'S SECOND REQUEST FOR INFORMATION DATED 11/07/14
REQUEST 8**

RESPONSIBLE PARTY: Isaac S. Scott

Request 8. Provide current PSC precedent, if any exists, which provides for cost recovery via environmental surcharge for constructing a new coal ash impoundment.

Response 8. EKPC believes there are three previous Commission decisions that are responsive to this request. The first case is the previously cited Case No. 2004-00421. In addition to the proposed expansion of the Mill Creek landfill, LG&E also included a project providing for the vertical expansion of the existing Cane Run landfill. As noted in the response to Request 7, the Commission approved these projects as part of the 2005 environmental compliance plan and authorized the recovery of the associated costs through LG&E's environmental surcharge mechanism.

The second case is Case No. 2009-00197.² In its application, the Kentucky Utilities Company (“KU”) proposed environmental compliance projects that included new landfills at the Ghent and Trimble Generating Stations. While the parties in this case did submit a unanimous settlement agreement that recommended approval of the projects and cost recovery through KU’s environmental surcharge mechanism, the Commission’s Order specifically approved all the projects proposed in the 2009 environmental compliance plan and authorized the recovery of the associated costs through KU’s environmental surcharge mechanism.

The third case is Case No. 2010-00083.³ Among the projects EKPC proposed in this application was the construction of a sediment pond and a landfill expansion that would tie in to the existing landfill at the Spurlock Generating Station. The Commission approved the project as part of the environmental compliance plan amendment and authorized the recovery of the associated costs through EKPC’s environmental surcharge mechanism.

² See *In the Matter of Application of Kentucky Utilities Company for Certificates of Public Convenience and Necessity and Approval of Its 2009 Compliance Plan for Recovery by Environmental Surcharge*, Order, Case No. 2009-00197 (Ky. P.S.C., Dec. 23, 2009).

³ See *In the Matter of Application of East Kentucky Power Cooperative, Inc. for Approval of an Amendment to Its Environmental Compliance Plan and Environmental Surcharge*, Order, Case No. 2010-00083 (Ky. P.S.C. Sept. 24, 2010).

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**ATTORNEY GENERAL'S SECOND REQUEST FOR INFORMATION DATED 11/07/14
REQUEST 9**

RESPONSIBLE PARTY: Isaac S. Scott

Request 9. Provide current PSC precedent, if any exists, which provides for cost recovery via environmental surcharge for closure of a coal ash impoundment as a landfill.

Response 9. EKPC acknowledges that its proposal to amend its environmental compliance plan to include the closure of the ash ponds at the Dale Station and transfer the ash to the Smith Special Waste Landfill cell and include the associated costs of the proposed project for recovery through its environmental surcharge mechanism is a case of first impression for the Commission. However, EKPC firmly believes the proposed project is eligible for inclusion as part of its environmental compliance plan and the costs eligible for recovery through its environmental surcharge mechanism. Please see the response to the Commission Staff's Second Request for Information dated November 7, 2014, Request 7.