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VIA OVERNIGHT DELIVERY

September 23, 2015

Mr. Jeff Derouen
Executive Director
Kentucky Public Service Commission
211 Sower Boulevard, P.O. Box 615
Frankfort, Kentucky 40602-0615

RECEIVED

SEP 24 2015

PUBLIC SERVICE
COMMISSION

Re: **Case No. 2015-00187**
In the Matter of the Application of Duke Energy Kentucky, Inc., for an Order Approving the Establishment of a Regulatory Asset for the Liabilities Associated with Ash Pond Asset Retirement Obligations

Dear Mr. Derouen:

Enclosed please find an original and twelve copies of the *Responses of Duke Energy Kentucky, Inc. to Commission Staff's Third Set of Requests for Information*, for filing in the above referenced matter.

Please date-stamp the two copies of the letter and filing and return to me in the enclosed envelope.

Sincerely,

Rocco D'Ascenzo
Associate General Counsel
rocco.d'ascenzo@duke-energy.com


cc: Hon. Jennifer Hans

590007

VERIFICATION

STATE OF OHIO)
) SS:
COUNTY OF HAMILTON)

The undersigned, William Don Wathen Jr, Director of Rates & Regulatory Strategy OH/KY, being duly sworn, deposes and says that he has personal knowledge of the matters set forth in the foregoing data requests, and that the answers contained therein are true and correct to the best of his knowledge, information and belief.



William Don Wathen Jr, Affiant

Subscribed and sworn to before me by William Don Wathen Jr, on this 18th day of September, 2015.



NOTARY PUBLIC

ADELE M. FRISCH
Notary Public, State of Ohio
My Commission Expires 01-05-2019

My Commission Expires: 1/5/2019

VERIFICATION

STATE OF NORTH CAROLINA)
)
COUNTY OF MECKLENBURG) SS:

The undersigned, Cynthia S. Lee, being duly sworn, deposes and says that she is the Director of Asset Accounting, being duly sworn, deposes and says that she has personal knowledge of the matters set forth in the foregoing data requests, and that the answers contained therein are true and correct to the best of her knowledge, information and belief.



Cynthia S. Lee, Affiant

Subscribed and sworn to me by Cynthia S. Lee on this 17 day of September, 2015. .



NOTARY PUBLIC

My Commission expires: Oct 24, 2019



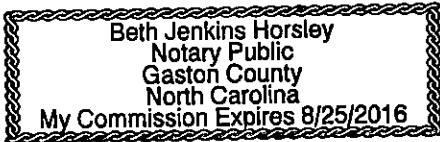
VERIFICATION

STATE OF NORTH CAROLINA)
)
) SS:
COUNTY OF MECKLENBURG)

The undersigned, Donald H. Steele, III, Senior Project Director, being duly sworn, deposes and says that he has personal knowledge of the matters set forth in the foregoing data requests, and that the answers contained therein are true and correct to the best of his knowledge, information and belief.


Donald H. Steele, III, Affiant

Subscribed and sworn to me by Donald H. Steele, III on this 21 day of September, 2015.



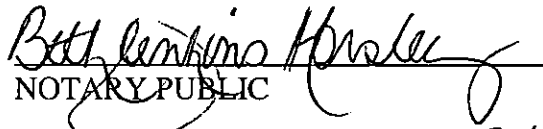

NOTARY PUBLIC
My Commission expires: 08.25.2016

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REQUEST:

Refer to the response to Commission Staff's Second Request for Information ("Staff's Second Request"), Item 6.b., and the response to Commission Staff's First Request for Information ("Staff's First Request"), Item 4.a.

- a. Clarify that the response to Item 6.b. reflects that Duke Kentucky believes that the issue of recovery of any carrying costs will remain to be determined in a future rate proceeding.
- b. Provide any authorities support for Duke Kentucky's belief, as reflected in the last sentence of the response to Item 6.b., that the matter of whether rate recovery ought to be allowed for carrying costs included in a regulatory asset should be linked to the prudence of the costs in the underlying regulatory asset.
- c. Explain whether the first two sentences of the response to Item 4.a. of Staff's First Request are intended to convey that the requirement in KRS 278.220 that the system of accounts approved by the Commission must conform "as nearly as practicable" to the system of accounts of the Federal Energy Regulatory Commission ("FERC") places on the Commission an obligation to adhere to FERC precedent.

RESPONSE:

- a. Approval to accrue carrying costs is being sought in this application. The response to Staff-DR-02-006(b) was intended to establish that, to the extent the Commission approves the Company's request to accrue carrying costs on any approved deferral, the magnitude of the carrying costs to be recovered will be affected by any adjustment the Commission may approve to the underlying deferral (i.e., regulatory asset). Consequently, the recovery of carrying costs is inexorably tied to the extent to which the Commission approves recovery of the underlying deferral, which will be determined at the time of the next rate case.
- b. Commission precedent makes clear that whether expenditures capitalized through the use of a regulatory asset may be recovered through rates is a matter best determined in a general rate proceeding. *See, e.g., In the Matter of the Application of Louisville Gas and Electric Company for an Order Approving the Establishment of a Regulatory Asset*, Final Order at p. 7, Case No. 2008-00456 (Ky. P.S.C., Dec. 22, 2008) (noting, *inter alia*, that a future rate case can provide "opportunity for a more in-depth review of" the costs included in a regulatory asset, and declining to make suggested adjustments to the costs included in the subject regulatory asset). As part of its examination and analysis in a future rate proceeding, the Commission will ensure that all of the Company's costs were prudently incurred and that the rates implemented to recover those costs are "fair, just and reasonable," as required by KRS 278.030(1). Of course, "the Commission has discretion in working out the balance of interest necessarily involved and that it is not the method, but the result, which must be reasonable." *See Kentucky Indus. Utility Customers, Inc. v. Kentucky Utilities*

Company, 983 S.W,2d 494, 498 (citing *Federal Power Comm'n v. Hope Natural Gas*, 320 U.S. 591, 64 (1944)).

Although the issue is not presently before the Commission as the Company has not yet filed a base rate proceeding, the Company believes that all of the costs that comprise the regulatory assets proposed in this proceeding should be adjudged recoverable in such a future rate proceeding. The ARO-related liabilities arising from the East Bend ash pond, as well as the measures the Company must take to determine ash pond compliance under the CCR Final Rule, are reasonable, prudent, and necessary costs of providing service to the Company's customers. Likewise, the carrying costs at issue—which would not exist absent the foregoing expenditures—are simply a component of the necessary and reasonable expenses incurred by the Company as a result of a statutory or administrative directive. For this reason, the carrying costs are appropriate for inclusion within the requested regulatory assets, as well as appropriate for recovery in a future rate proceeding. Stated another way, if the Commission should determine in a future rate proceeding that the underlying regulatory asset costs were prudently incurred and are thus appropriate for recovery through rates, then the associated carrying costs related to the underlying expenditures should also be deemed prudently incurred and recoverable.

- c. The Company did not intend to suggest that KRS 278.220 requires the Commission to strictly adhere to FERC precedent on the issue under examination. However, the Commission has generally accepted the FERC uniform system of accounts (or the substantially similar RUS system of accounts)

for use by electric utilities subject to its jurisdiction, and a plain reading of the pertinent statutory provision reveals that Kentucky lawmakers intended for the state's utilities to model their accounting processes after those adopted at the national level. Moreover, in light of the level of conformity mandated by KRS 278.220 with respect to the relevant systems of account, the Company believes that the FERC's interpretation and application of its accounting standards should be afforded appropriate consideration. Although some variation between the accounting methods and principals prescribed by the FERC and those prescribed by this Commission is both expected and permitted (hence the "as nearly as practicable" language), the benefits realized by consistency among regulatory authorities in this arena are self-evident. Finally, and as previously asserted by the Company in the referenced data request response, the FERC's interpretation is reasonable; inclusion of carrying costs as part of the regulatory assets allows the Company to account for, record, and defer for possible recovery in a future rate proceeding the true expense of complying with a statutory or administrative directive, in harmony with Commission precedent.

PERSON RESPONSIBLE: Legal (part b)
William Don Wathen Jr.,

STAFF-DR-03-002

REQUEST:

Refer to Staff's Second Request, the attachment to Item 7, and the response to Staff's First Request, Item 4.d. The attachment shows the computation of rates for Allowance for Funds Used During Construction for the month of June 2015 based on Duke Kentucky's capitalization ratios of long-term debt and common equity. The second sentence in the response to Staff's First Request reads, "The CCR Compliance Regulatory Asset will represent only cash expended to satisfy the ARO liability related to closing the ash basin at East Bend and the carrying costs recorded."

- a. Identify the sources of, and the means by which Duke Kentucky expects to generate, the cash it expects to expend to satisfy the ARO liability.
- b. Explain whether Duke Kentucky intends to issue long-term debt or common equity in order to generate the cash needed to satisfy the ARO liability.
- c. Confirm that the specific amount of carrying costs for which Duke Kentucky requests regulatory asset treatment is not included in its application.

RESPONSE:

- a. The source of Duke Energy Kentucky's funds to expend to satisfy the coal ash ARO liability will be cash generated by total company operations and financing activities, with financing objectives meant to achieve the targeted capital structure.

- b. Duke Energy Kentucky plans to grow its capital structure (debt and equity) through the issuance of long-term debt and the reinvestment of earnings (equity). Thus, as noted above, the source of Duke Energy Kentucky's funds to expend to satisfy the coal ash ARO liability will be cash generated by total company operations (reinvestment of earnings/equity) and debt financing activities.
- c. No, the specific amount of carrying costs Duke Energy Kentucky requests is not in the application; however Duke Energy Kentucky does request the ability to record a carrying charge equal to the weighted average cost of capital on applicable coal ash expenditures until such time as these amounts are collected in rates.

PERSON RESPONSIBLE: Cynthia S. Lee

REQUEST:

Refer to the response to Staff's Second Request, Item. 8, which inquired about the schedule for the August deliverables. The response indicates that Duke Kentucky's plans have been delayed and that "deliverables are currently expected in the fourth quarter of 2015."

- a. Clarify the specific deliverables to which the response refers and, if applicable, whether delivery of the final "Class 4" estimates, which have been scheduled for October 2015, has been pushed out beyond year-end of 2015.
- b. When they become available, provide the deliverables that are currently expected in the fourth quarter of 2015.

RESPONSE:

- a. The specific deliverables this refers to is the overall report from the third party described in response to Item 5 of the first set of discovery. This report was delayed by the contracting and procurement process, thus pushing back the date the third party contractor will deliver their report. Currently, Duke doesn't anticipate this deliverable to be pushed beyond year-end 2015. The report is not limited to Kentucky, but will include the third party's opinions on the approach to closure at each ash impoundment location throughout Duke Energy Corporation's six state footprint, and identify challenges and opportunities for consideration for

each location, which may improve the approach from either a project effectiveness and/or efficiency perspective. This report and each site specific challenge and opportunity will need to be reviewed and evaluated by Duke Energy management to determine if each risk and recommendation is appropriate in light of all information known before, during and after the third party evaluation was performed. Risk mitigation and other recommendations deemed appropriate for the situation at a specific location would be incorporated into that site's closure plans when drafted. Duke Energy anticipates that management's review of the 3rd party input can be completed and the information with respect to KY provided within 45 days of the receipt of the comprehensive report.

- b. Duke Energy Kentucky is willing to provide status updates to the Commission and the sections of the final report as it applies to Duke Energy Kentucky's assets within 45 days of receipt so that Company management has an opportunity to review and analyze the report. However, Duke Energy Kentucky respectfully requests approval of our accounting request this year so to avoid the significant impact to Company financial statements related to the ARO accounting.

PERSON RESPONSIBLE: Donald H. Steele III
Cynthia S. Lee

REQUEST:

Refer to the response to Staff's Second Request, Item 9.d. Assuming that delays in completing the project studies might affect the Commission's processing of this case, provide the latest possible date in 2016 that receipt of a final order would permit Duke Kentucky to make the accounting entries necessary for its 2015 year-end financial statements.

RESPONSE:

The latest possible date to record entries for our 2015 financial accounting year-end close is Thursday, January 7, 2016. To allow for journal entry process time, Duke Energy Kentucky would need the Order no later than Wednesday, January 6, 2016.

PERSON RESPONSIBLE: Cynthia S. Lee

REQUEST:

In a manner similar to that used in the response to Staff's First Request, Item 5, provide the current schedules for the two third-party reviews referenced in the response to Staff's Second Request, Item 9.

RESPONSE:

Revised Project Schedule and Deliverables

For the third-party independent analysis of the conceptual approach to closure and estimates for that conceptual approach, the project is underway, although its beginning was delayed by contract/procurement processes. The current plan is:

- July: Kick-off meeting, verification of the project scope and schedule (complete)
- August: Progress meeting, including draft deliverable of technical rationale for Closure Strategy for each of the 22 sites and WBS Templates for the three general closure strategy options (complete)
- September: Progress meeting to review draft estimates and risk registers and collaborate on key decisions to support the final risk elements and mitigation measures that will be incorporated in the final AACE Class 4 estimates; includes delivery of draft risk registers, estimates, and a template of the basis of estimate reports for the sites (on schedule)

- October: Delivery of draft Class 4 estimates with Basis of Estimates and Risk Registers for Duke Energy review, corrections or additions (on schedule)
- November: Delivery of final report with Deterministic and Probabilistic estimates
- December – management finish review of report (please note, this review could go into the first quarter of 2016).

Please note, there is only one contracted company doing a third party review.

PERSON RESPONSIBLE: Donald H. Steele III,