

Goss ■ Samford PLLC



David S. Samford
david@gosssamfordlaw.com

(859) 368-7740

RECEIVED

SEP 02 2015

PUBLIC SERVICE
COMMISSION

September 2, 2015

Via Hand Delivery

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

Re: *In the Matter of the Application of East Kentucky Power Cooperative, Inc. for an Order Approving the Establishment of a Regulatory Asset for the Undepreciated Balance of the William C. Dale Generating Station, Case No. 2015-00302*

Dear Mr. Derouen:

Enclosed, please find the original and ten copies of EKPC's verified Application in the above-styled case, to be filed with the Commission. Please return a file-stamped copy of the Application to my office.

Should you have any questions or require additional information, please let me know.

Sincerely,

David S. Samford

Enc.

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

SEP 02 2015

PUBLIC SERVICE
COMMISSION

IN THE MATTER OF:

THE APPLICATION OF EAST KENTUCKY POWER)
COOPERATIVE, INC. FOR AN ORDER APPROVING)
THE ESTABLISHMENT OF A REGULATORY ASSET) CASE NO. 2015- 00302
FOR THE UNDEPRECIATED BALANCE OF THE)
WILLIAM C. DALE GENERATING STATION)

APPLICATION

Comes now East Kentucky Power Cooperative, Inc. (“EKPC”), by counsel, pursuant to KRS 278.030(1), KRS 278.040(2), KRS 278.220, 807 KAR 5:001, Section 14, and other applicable law, and does hereby request the Kentucky Public Service Commission (“Commission”) to approve the establishment of a regulatory asset for the undepreciated balance of the William C. Dale Generating Station (“Dale Station”), respectfully stating as follows:

I. Applicant Information and General Filing Requirements

1. EKPC is an electric generation and transmission cooperative that provides electricity to approximately 525,000 retail customers. EKPC is owned by sixteen Members, all of whom are distribution cooperatives. EKPC owns four primary electric generation stations, including: the Dale Station in Ford, Kentucky; the John Sherman Cooper Generating Station (“Cooper Station”) near Burnside, Kentucky; the H. L. Spurlock Generating Station (“Spurlock Station”) near Maysville, Kentucky and the J. K. Smith Generating Station near Trapp, Kentucky. Altogether, EKPC currently has 3,009 megawatts (MWs) of wintertime net electric generating capacity in its fleet.

2. Pursuant to 807 KAR 5:001, Section 14(1), EKPC's mailing address is P.O. Box 707, Winchester, Kentucky 40392-0707 and its email address is psc@ekpc.coop. The facts and law upon which this Application is based are stated in paragraphs 4-19 below.

3. Pursuant to 807 KAR 5:001, Section 14(2), EKPC is a Kentucky corporation that was incorporated on July 9, 1941. EKPC is in good standing to transact business within the Commonwealth of Kentucky.

II. Background

4. EKPC's Dale Station is located adjacent to the Kentucky River at Ford, Clark County, Kentucky, approximately 10 miles southwest of Winchester, Kentucky. Dale is home to four electric baseload generating units comprised of pulverized coal-fired boilers with steam turbine generators. Units 1 and 2, each rated at 25 Megawatts ("MW"), were commissioned in 1954. Units 3 and 4, each rated at 75 MW, were commissioned in 1957 and 1960, respectively. The total rated generating capacity at Dale is 200 MW.

5. The federally-mandated Mercury and Air Toxics Standards ("MATS") became effective on April 16, 2015.¹ Because Dale Station will not be able to economically meet MATS, EKPC's Board of Directors determined that the only prudent course of action available was to cease all generation activities at the facility. EKPC's plan for Units 1 and 2 was to decommission the facilities and possibly partially disassemble the Units in order to recover any marketable parts for sale to prospective purchasers. EKPC's initial plan for Units 3 and 4 was to condition the facilities for indefinite storage. However, at the request of the PJM

¹ On June 29, 2015, the United States Supreme Court determined that the MATS Rule was not properly reviewed and promulgated by the EPA, thereby reversing a decision of the D.C. Circuit Court of Appeals and remanding the case challenging the rule to the lower court. Since the decision was directed at the scope of the EPA's rationale and not the agency's authority to promulgate the rule, it is widely anticipated that the MATS Rule will be re-promulgated by the EPA in the near future. Regardless, many utilities, including EKPC, have already been forced to make investment decisions based upon MATS prior to the Supreme Court's ruling.

Interconnection, LLC (“PJM”), EKPC sought and was granted a one-year extension of the compliance deadline for MATS from the Kentucky Division for Air Quality for Units 3 and 4. After April 15, 2016, EKPC plans to condition Units 3 and 4 for indefinite storage as originally planned.

6. The Dale Station site will remain viable for repowering or other uses by EKPC and the transmission facilities at the location will remain active.

7. The Dale Station is scheduled to be fully depreciated by June 2019. Even with the extension to April 15, 2016 for Units 3 and 4, the Dale Station will be retired earlier than planned. The early ending of operations at the Dale Station would result in an accounting requirement to remove the Dale Station assets from utility plant in service when abandonment becomes probable or likely to occur. This action in turn would result in a loss which would reduce EKPC’s margins and equity for 2015 unless recovery for the abandonment is granted by the Commission.

III. Request to Establish Regulatory Asset

8. Pursuant to KRS 278.220, the Commission has established a system of uniform accounts (“USoA”) for EKPC which was issued by the United States Department of Agriculture, Rural Utilities Service (“RUS”).² The RUS USoA prescribes that RUS borrowers follow the accounting requirements for plant abandonments as set forth in ASC Topic 980-360 (FAS No. 90).³ ASC Topic 980-360-35 states that the entity shall account for the cost of the abandoned plant as follows:

² Codified as 7 CFR Part 1767. The current version of the RUS system of accounts became effective May 27, 2008 and is also published and referenced as RUS Bulletin 1767B-1.

³ Section 1767.41, Accounting Methods and Procedures Required of All RUS Borrowers, Number 133 – Plant Abandonments and Disallowances of Plant Costs.

- a. If full return on investment is likely to be provided by the regulatory jurisdiction, any disallowance of all or part of the cost of the abandoned plant shall be recognized as a loss and the carrying basis of the recorded asset shall be correspondingly reduced. The remainder of the cost of the abandoned plant shall be reported as a separate new asset.
- b. If partial or no return on investment is likely to be provided, any disallowance of all or part of the cost of the abandoned plant that is both probable and reasonably estimable shall be recognized as a loss. The present value of the future revenues expected to be provided to recover the allowable cost of that abandoned plant and return on investment, if any, shall be reported as a separate new asset.
- c. During the period between the date on which a new asset is recognized and the date on which recovery begins, the carrying amount shall be increased by accruing a carrying charge.

9. The RUS USoA clarifies that due to the nonprofit environment in which electric cooperatives operate, full recovery of interest expense on plant related long-term debt equates to full recovery of the rate of return for an investor-owned utility. Therefore, if a cooperative is permitted full recovery of the interest expense incurred on the long-term debt borrowed to finance construction of an abandoned plant, no discounting of the asset is required nor is accrual of the carrying charge permitted.⁴ Accordingly, EKPC believes that accounting for the abandonment of Dale should follow part a., as noted above. The RUS USoA further prescribes that the new asset (remaining cost of the abandoned plant) shall be recorded as a regulatory asset in Account 182.2, Unrecovered Plant and Regulatory Study Costs.

10. While the Dale Station consists of four Units, EKPC has accounted for those Units as one asset. As of June 30, 2015, the total of the Dale Station utility plant in service, excluding land and transmission facilities, was \$94,691,298 with accumulated depreciation of \$91,011,407, resulting in an undepreciated balance or net book value of \$3,679,891. Absent regulatory asset treatment authorization by the Commission, EKPC would expect to recognize a

⁴ *Id.*

loss on the abandonment of plant assets in 2015 and its margins would be reduced by the amount of the loss.

11. The depreciation expense and the operating and maintenance expenses associated with the Dale Station are generally recovered through EKPC's base rates, as the Dale Station was included in the test year of EKPC's last base rate case, Case No. 2010-00167.⁵ The only exceptions are two projects included in EKPC's approved environmental compliance plan and those expenses are recovered through EKPC's environmental surcharge. The two projects are Project 5, Low Nitrogen Oxide Burners at Dale Units 1 and 2, and Project 10, Dale Continuous Monitoring Equipment.⁶ These two projects were part of EKPC's environmental compliance plan at the time of the last base rate case and along with all other projects recovered through the environmental surcharge were excluded from the determination of base rates.

12. Except for the need to retire the Dale Station early, it is scheduled to be fully depreciated by June 2019. Rather than recording a loss from the early retirement in 2015, EKPC believes it would be more appropriate to reclassify the net book value of the Dale Station from utility plant in service to a regulatory asset. Further, EKPC believes it would be reasonable to amortize the Dale Station regulatory asset at the same rate as the current depreciation expense, resulting in the regulatory asset being fully amortized by June 2019. Therefore, EKPC is requesting authorization from the Commission to reclassify the Dale Station net book value balance as of December 31, 2015 as a regulatory asset in the amount of \$3,218,506. The new

⁵ *In the Matter of the Application of East Kentucky Power Cooperative, Inc. for a General Adjustment of Electric Rates*, Order, Case No. 2010-00167, p. 9 (Ky. P.S.C., Jan. 14, 2011).

⁶ Project 10 consists of Continuous Monitoring Equipment for the Dale Station, Cooper Station, and Spurlock Station. Unless otherwise noted, all references to Project 10 in this Application relate only to the Dale Station portion of the total project.

regulatory asset will be amortized over 42 months at the same monthly amount as the current monthly depreciation expense. The monthly depreciation expense for Dale is \$76,898.⁷

13. The majority of the amortization of the new regulatory asset will be recovered through existing base rates. The new regulatory asset associated with Projects 5 and 10 is currently included in the environmental compliance plan and recovered through the environmental surcharge. The costs associated with Projects 5 and 10 were excluded from the last base rate case as cost recovery was being accomplished through the environmental surcharge. The expected net book value of the two projects at December 31, 2015 is \$749,484, which is included in the total net book balance of \$3,218,506 mentioned previously. EKPC is requesting that the net book value balances for Projects 5 and 10 be reclassified as a regulatory asset in the surcharge and earn a return. The recovery of the amortization expense related to the regulatory asset would continue through the environmental surcharge at the same monthly amount as the current monthly depreciation expense. The monthly depreciation expense currently recovered through the environmental surcharge is \$17,845. In addition, to the extent that property taxes or property insurance are incurred for Projects 5 and 10, EKPC requests that recovery of those expenses continue to be permitted through the environmental surcharge.

14. As noted previously in this Application, EKPC plans to partially disassemble Dale Units 1 and 2 in order to recover any marketable parts for sale to prospective purchasers. In the event such a sale is consummated, EKPC would adjust the unamortized balance of the regulatory asset and the amortization expense to reflect the sale and respective disassembly costs. These are the same adjustments that would be required under the RUS' USoA if the plant continued operating until June 2019.

⁷ The difference between the net book values as of June 30, 2015 and December 31, 2015 is \$461,385, which equals six months of monthly depreciation at \$76,898.

15. EKPC has not established the requested regulatory assets on its books. EKPC acknowledges that prior Commission approval is required to establish the requested regulatory assets. EKPC is also requesting that, for accounting purposes, the amortization of the regulatory asset begin after December 31, 2015. RUS approval is also required for plant abandonments.

16. The Commission has previously authorized EKPC and other jurisdictional utilities to establish regulatory assets. The Commission has exercised its discretion to approve regulatory assets where a utility has incurred: (a) an extraordinary, nonrecurring expense which could not have reasonably been anticipated or included in the utility's planning; (b) an expense resulting from a statutory or administrative directive; (c) an expense in relation to an industry sponsored initiative; or (d) an extraordinary or nonrecurring expense that over time will result in a saving that fully offsets the cost.⁸ EKPC believes its request to reclassify the Dale Station utility plant in service as a regulatory asset is consistent with the second listed example, as: (a) the early retirement of the Dale Station is a direct result of compliance with MATS; and (b) recognizing the loss and a corresponding reduction in 2015 margins results from the application of general accepted accounting principles unless regulatory asset accounting treatment is authorized by the Commission.

17. The Commission has previously approved the establishment of regulatory assets for losses resulting from the early retirement of portions of utility plant in service. In Case No. 2008-00376,⁹ the Commission approved Taylor County Rural Electric Cooperative

⁸ See *In the Matter of the Application of East Kentucky Power Cooperative, Inc. for an Order Approving Accounting Practices to Establish a Regulatory Asset Related to Certain Replacement Power Costs Resulting from Generation Forced Outages*, Order, Case No. 2008-00436, p. 4 (Ky. P.S.C., Dec. 23, 2008). Also See *In the Matter of Application of East Kentucky Power Cooperative, Inc. for an Order Approving the Establishment of a Regulatory Asset for the Amount Expended on Its Smith 1 Generating Unit*, Order, Case No. 2010-00449, p. 7 (Ky. P.S.C., Feb. 28, 2011).

⁹ See *In the Matter of Filing of Taylor County Rural Electric Cooperative Corporation Requesting Approval of Deferred Plan for Retiring Meters*, Order, Case No. 2008-00376, (Ky. P.S.C., Dec 9, 2008). In the 2012 base rate

Corporation's request to establish a regulatory asset account to record the net meter write-off and amortize the regulatory asset over a five-year period for accounting purposes. In Case No. 2011-00096,¹⁰ the Commission approved as part of South Kentucky Rural Electric Cooperative Corporation's rate case a request to recognize the loss on the early disposition of its existing mechanical meters as a miscellaneous deferred debit and amortized the loss over 15 years, which corresponded with the estimated depreciable life of its Advanced Metering Infrastructure ("AMI") project. Lastly, in Case No. 2012-00102,¹¹ the Commission approved Shelby Energy Cooperative's request to record the loss resulting from the replacement of existing meters with an AMI system as a regulatory asset and amortized the loss for accounting purposes over a five-year period. EKPC believes the referenced cases demonstrate the Commission's willingness to consider regulatory asset treatment for losses resulting from the early retirement of assets and permit the amortization of those regulatory assets for accounting purposes.

18. EKPC's Board of Directors has reviewed the proposal to seek the establishment of regulatory assets for the Dale Station utility plant in service and authorized management to file this application. Exhibit 1 of this application is a copy of the May 13, 2014 Board Resolution authorizing this request.

19. EKPC is requesting that the Commission authorize EKPC to establish a regulatory asset for the net book value of Dale Station, which is expected to cease operations on

case, the Commission required that the remaining balance of the regulatory asset be amortized over three years; *See In the Matter of Application of Taylor County Rural Electric Cooperative Corporation for an Adjustment of Rates*, Order, Case No. 2012-00023, p. 9-10 (Ky. P.S.C., Mar. 26, 2013).

¹⁰ *See In the Matter of Application of South Kentucky Rural Electric Cooperative Corporation for an Adjustment of Electric Rates*, Order, Case No. 2011-00096, p. 22-25 (Ky. P.S.C., Mar 30, 2012).

¹¹ *See In the Matter of Request of Shelby Energy Cooperative for Approval to Establish a Regulatory Asset in the Amount of \$443,562.75 and Amortize the Amount Over a Period of Five (5) Years*, Order, Case No. 2012-00102 (Ky. P.S.C., Apr. 16, 2012)

April 30, 2016. However, since the fate of Dale Station is reasonably known at the time of this filing, ASC Topic 980-360-35 requires the plant to be abandoned for accounting purposes, when it becomes likely to occur. Consequently, EKPC requests that the Commission approve this request no later than December 31, 2015. Sample accounting entries reflecting the establishment of the regulatory asset at December 31, 2015 and the subsequent amortization of the regulatory asset are shown in Exhibit 2 of this Application.


WHEREFORE, EKPC respectfully requests the Commission to authorize: (a) the establishment of a regulatory asset for the net book value of Dale Station plant in service as of December 31, 2015; and (b) the amortization of the regulatory asset over 42 months, which coincides with the original Dale Station remaining service life of June 30, 2019, for accounting purposes.

Done this 2nd day of September, 2015.

VERIFICATION

This will certify that I, Mike McNalley, the Chief Financial Officer of East Kentucky Power Cooperative, Inc., on behalf of said corporation, after having first been duly sworn, did examine the contents of this Application and that, to the best of my knowledge and belief as formed after reasonable diligence and inquiry, said statements are true and correct as of this 2nd day of September, 2015.

EAST KENTUCKY POWER COOPERATIVE, INC.

BY: 

ITS: EVP & CFO

Commonwealth of Kentucky)
County of Clark)

This will certify that the foregoing Verification was signed, under oath, before me, the NOTARY PUBLIC, on this September 2, 2015.


NOTARY PUBLIC

Commission #: 500144

My Commission Expires: 11/30/17

Respectfully submitted,



Mark David Goss
David S. Samford
GOSS SAMFORD, PLLC
2365 Harrodsburg Road, Suite B-325
Lexington, KY 40504
(859) 368-7740
mdgoss@gosssamfordlaw.com
david@gosssamfordlaw.com

*Counsel for East Kentucky Power
Cooperative, Inc.*

Exhibit 1

EKPC Board of Directors

Resolution dated May 13, 2014

**FROM THE MINUTE BOOK OF PROCEEDINGS
OF THE BOARD OF DIRECTORS OF
EAST KENTUCKY POWER COOPERATIVE, INC.**

At a regular meeting of the Board of Directors of East Kentucky Power Cooperative, Inc. held at the Headquarters Building, 4775 Lexington Road, located in Winchester, Kentucky, on Tuesday, May 13, 2014, at 9:30 a.m., EDT, the following business was transacted:

Approval to Account for Dale as a Regulatory Asset. Amortize Over the Remaining Dale Depreciation Life, and Seek Regulatory Authorizations

After review of the applicable information, a motion to approve to Account for Dale as a Regulatory Asset, Amortize Over the Remaining Dale Depreciation Life, and Seek Regulatory Authorizations, was made by Strategic Issues Committee Chairman Lonnie Vice and passed by the full Board to approve the following:

Whereas, East Kentucky Power Cooperative, Inc., (“EKPC”) presently has four coal fired steam turbine driven generators located at the William C. Dale Power Station, in Ford, Kentucky, and commercial operation began on site in December 1954; and

Whereas, The EKPC Board has approved ceasing coal fired generating operations at Dale Station by April 2015, and;

Whereas, Removing Dale from operations would require special accounting treatment to remove the assets from Plant in Service; and

Whereas, Of the available accounting options, reclassifying Dale from Plant in Service to a Regulatory Asset is the best option for EKPC and its members; and

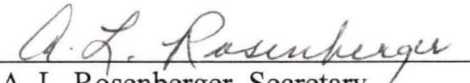
Whereas, Dale was scheduled to be fully depreciated at the end of June, 2019

Resolved, The EKPC Board hereby authorizes the Chief Financial Officer, or his designee, to take all necessary actions by April 2015, as necessary, to account for the end of operations of the Dale Station by recording the remaining asset balance as a Regulatory Asset, and

Resolved, The EKPC Board hereby authorizes the Chief Financial Officer, or his designee, to seek regulatory authorization from the Kentucky Public Service Commission, Rural Utility Services, and all other regulatory authorities as may be necessary to record Dale Station’s remaining asset value as a regulatory asset, amortize that asset over the remaining depreciation life of Dale Station, and recover that amortization expense in rates in substitution for the recovery of Dale Station depreciation.

The foregoing is a true and exact copy of a resolution passed at a meeting called pursuant to proper notice at which a quorum was present and which now appears in the Minute Book of Proceedings of the Board of Directors of the Cooperative, and said resolution has not been rescinded or modified.

Witness my hand and seal this 13th day of May 2014.


A. L. Rosenberger, Secretary

Corporate Seal

Exhibit 2

Sample Accounting Entries

Entries to Establish Regulatory Assets in 2015 for Early Retirement of Dale Station Plant in Service

Account 1081xx	Accum. Deprec. Steam Production Dale	\$94,680,106	
Account 1089xx	Accum. Deprec. Retirement Cost Dale	\$11,192	
Account 311xxx	Structures and Improvements Dale		\$5,700,894
Account 312xxx	Boiler Plant Equipment Dale		\$48,748,690
Account 314xxx	Turbogenerator Units Dale		\$37,485,924
Account 315xxx	Accessory Electric Equipment Dale		\$2,028,537
Account 316xxx	Misc. Power Plant Equipment Dale		\$727,253

To record the early retirement of the Dale Station. The credits to the 300 series accounts will equal the debit balances for these components of utility plant in service. The entry to Account 1081xx will exceed the balance in the account and the difference will constitute the net book value for the Dale Station.

Account 1822xx	Unrecovered Plant & Regulatory Study Costs	\$3,218,506	
Account 1081xx	Accum. Deprec. Steam Production Dale		\$3,218,506

To transfer the net book value of the Dale Station to the regulatory asset account. After this entry, the balance in Account 1081xx for Dale Station will be zero.

Monthly Amortization of the Regulatory Asset after December 31, 2015

Account 407xxx	Amortization of Unrecovered Plant	\$76,898	
Account 1822xx	Unrecovered Plant & Regulatory Study Costs		\$76,898

To record the monthly amortization expense for the Dale Station regulatory asset.

Please note that the above entries do not include the land cost or the investment in Dale transmission facilities.