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April 6, 2017

VIA HAND DELIVERY

Ms. Talina Mathews, Ph.D.
Executive Director
Kentucky Public Service Commission
P.O. Box 615
211 Sower Boulevard
Frankfort, KY 40602

Re: PSC Case No. 2017-00129

Dear Dr. Mathews:

Please find enclosed for filing with the Commission in the above-referenced matter an original and ten copies of a Reply in Support of Request for Declaratory Order from East Kentucky Power Cooperative, Inc. Please return file-stamped copies of this filing to my office.

Sincerely,



David S. Samford

Enclosures

COMMONWEALTH OF KENTUCKY

BEFORE THE KENTUCKY PUBLIC SERVICE COMMISSION RECEIVED

APR 06 2017

IN THE MATTER OF:

PUBLIC SERVICE
COMMISSION

THE APPLICATION OF EAST KENTUCKY)
POWER COOPERATIVE, INC. FOR A)
DECLARATORY ORDER CONFIRMING THE)
EFFECT OF KENTUCKY LAW AND)
COMMISSION PRECEDENT ON RETAIL)
ELECTRIC CUSTOMERS' PARTICIPATION IN)
WHOLESALE ELECTRIC MARKETS)

Case No. 2017-00129

**EAST KENTUCKY POWER COOPERATIVE, INC.'S
REPLY IN SUPPORT OF REQUEST FOR DECLARATORY ORDER**

Comes now East Kentucky Power Cooperative, Inc. ("EKPC"), by counsel, pursuant to 807 KAR 5:001, Section 19(5) and other applicable law, and respectfully states as follows:

EKPC filed its Verified Application seeking a Declaratory Order from the Commission on March 10, 2017. Kentucky Power Company ("Kentucky Power") filed a motion to intervene and a substantive response on March 29, 2017. Duke Energy Kentucky ("Duke") also filed a motion to intervene and a substantive response on March 31, 2017. Nucor Steel Gallatin ("Nucor") filed a motion to intervene on April 4, 2017, but did not file a substantive response. The responses of both Kentucky Power and Duke are supportive of the Declaratory Order requested by EKPC in its Verified Application. EKPC supports the motion for leave to intervene of Kentucky Power, Duke and Nucor.

On March 30, 2017, PJM Interconnection, LLC ("PJM") tendered a letter wherein it described what measures it was committing to take to resolve the concerns of EKPC and, upon

information and belief, the concerns of Kentucky Power and Duke as well. On April 3, 2017, EKPC filed a comment on PJM's proposal and a motion to withdraw one issue from its Verified Application (on the basis that the issue was now moot in light of PJM's commitments).

Neither the Attorney General's Office nor the unidentified client for Mr. Richard Drom – both of whom were served with a copy of EKPC's Verified Complaint – have filed either a timely motion to intervene or a formal response. Each person of whom EKPC is aware that might have an interest in the outcome of this proceeding has either filed a statement of their position on the issues raised in the Verified Application or has had an adequate opportunity to do so.

On the basis of the foregoing, EKPC believes that each of the issues for which it still seeks a Declaratory Order are uncontested and fully supported by the facts and law set forth in the Verified Application. Accordingly, EKPC has nothing substantive to state in further support of its Verified Application and respectfully requests that the case be submitted on the record for a final decision.

WHEREFORE, on the basis of the foregoing, EKPC respectfully requests the Commission to:

- 1) Expediently consider the Verified Application for a Declaratory Order and issue an Order prior to the May 10, 2017 Base Residual Auction in PJM's Capacity Market;
- 2) Grant the declaratory relief sought by EKPC, to wit:
 - (a) Under Kentucky law and Commission precedent, retail electric customers within EKPC's service territory are barred from participating in PJM's wholesale markets, either directly or indirectly through a third party, unless through a tariff or special contract approved by the Commission;

- (b) Energy efficiency resource providers within EKPC's service territory may only participate in the PJM Capacity Market pursuant to a Commission approved tariff or special contract, specifically to ensure other retail electric customers within EKPC's service territory are not: (i) unfairly or unlawfully disadvantaged and discriminated against; (ii) subjected to inefficient service; and (iii) forced to unfairly, unjustly and unreasonably subsidize the energy efficiency resource provider's participation in the PJM wholesale market;
- (c) PJM's original decision to allow one or more energy efficiency resource providers located within EKPC's service territory to participate in its Capacity Market in a manner inconsistent with Commission precedent is unlawful, unreasonable and a violation of Kentucky law; and
- (d) EKPC's Owner-Members may terminate electric service to any energy efficiency resource provider who violates Kentucky law, a Commission Order or Commission approved tariff, pursuant to 807 KAR 5:006, Section 15; and

3) Affirm Staff Opinion 2017-004 in all respects.

Done this 6th day of April, 2017.

Respectfully submitted,



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Counsel for East Kentucky Power Cooperative, Inc.

SERVICE LIST

Although intervention has not been granted to any party, the undersigned hereby certifies that a true and correct copy of the foregoing has been served, as a courtesy, by depositing same in the custody and care of the U.S. Mails, postage pre-paid, on this 6th day of April, 2017, addressed to the following:

Mr. Rocco D'Ascenzo
Duke Energy Kentucky, Inc.
139 East Fourth Street, 1303 Main
Cincinnati, OH 45202

Mr. Mike Kurtz
BOEHM, KURTZ & LOWRY
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Mr. Mark Overstreet
STITES & HARBISON, PLLC
421 West Main Street
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Frankfort, KY 40602-0634

Ms. Denise Foster
Vice President, State and Member Services
PJM Interconnection, LLC
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