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Vice Chairman

Talina R. Mathews  
Commissioner

December 19, 2017

**PARTIES OF RECORD**

Re: Case No. 2017-00212

Attached is a copy of a memorandum, which is being filed in the record of the above-referenced case. If you have any comments you would like to make regarding the contents of the memorandum, please do so within five days of receipt of this letter.

If you have any questions, please contact Quang Nguyen, Commission Staff Attorney, at 502-782-2586.

Sincerely,

A handwritten signature in blue ink that reads "Gwen R. Pinson".

Gwen R. Pinson  
Executive Director

QN/ph

Attachments

**INTRA-AGENCY MEMORANDUM**

**KENTUCKY PUBLIC SERVICE COMMISSION**

**TO:** Case File

**FROM:** Quang D. Nguyen, Assistant General Counsel 

**DATE:** December 19, 2017

**RE:** Case No. 2017-00212  
Tariff Filing of East Kentucky Power Cooperative, Inc. and Its Member Distribution Cooperatives for Approval of Proposed Changes to Their Qualified Cogeneration and Small Power Production Facilities Tariffs and the Implementation of Separate Tariffs for Power Purchases from Solar Generation Qualifying Facilities

Pursuant to a Commission Staff Notice issued on November 7, 2017, an informal conference was held on November 14, 2017, at the Commission's offices in Frankfort, Kentucky. The purpose of the informal conference was to discuss certain outstanding issues related to the tariff filing of East Kentucky Power Cooperative, Inc. ("EKPC") and its member distribution cooperatives. A list of the attendees is attached hereto.

Commission Staff began the discussions by inquiring EKPC's representatives whether the proposed solar qualifying facilities ("QF") tariff comports with 807 KAR 5:054, Section 7. Commission Staff referenced *Allco Renewable Energy Limited v. Mass. Electric Company*, 208 F.Supp. 3d 390 (D. Mass. 2016), wherein the United States District Court for the District of Massachusetts held that a regulation promulgated by the Massachusetts Department of Public Utilities failed to properly implement regulations promulgated by the Federal Energy Regulatory Commission as mandated by the Public Utility Regulatory Policies Act ("PURPA"). The *Allco* matter involved a Massachusetts regulation which provided that the only standard contract rate available to QFs was the spot market price for wholesale energy and the federal district court ruled that the regulation eliminated a QF's ability to choose a fixed contract pricing option as allowed under PURPA.

EKPC's representatives indicated that the proposed solar QF tariff was designed to be consistent with 807 KAR 5:054, Section 7. EKPC's representatives noted that the inherent characteristics of a solar generator is intermittent and not capable of being dispatched; therefore, such a resource can only be called upon on an "as available" basis. EKPC's representatives stated that the rates proposed in the solar QF tariff reflect the characteristics of a solar resource on an "as available" basis and, thus, comports with 807 KAR 5:054, Section 7. EKPC's representatives further stated that solar or wind generation fall into "as available" pricing, which would be EKPC's avoided cost at the time of delivery. Commission Staff noted that the proposed solar QF tariff

should be revised and expanded to reflect QFs that are intermittent, and not capable of being dispatched, rather than just solar QF resources. Commission Staff also recommended that the QF tariff for those QFs with capacity of less 100 kW be revised to characterize those QFs as either dispatchable or non-dispatchable. Lastly, Commission Staff recommended that the QF tariff for those QFs with capacity of more than 100 kW be revised to include language consistent with 807 KAR 5:054, Section 7(4), indicating that the standard rate schedule should be used only as the basis for negotiating a final purchase rate with QFs after consideration has been given to factors affecting purchase rates listed in 807 KAR 5:054, Section 7(5)(a). EKPC's representatives indicated that the revisions would be incorporated into the proposed tariffs and re-submitted within the next several weeks.

There being no further discussions, the informal conference was adjourned.

Attachment

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

TARIFF FILING OF EAST KENTUCKY POWER )  
COOPERATIVE, INC. AND ITS MEMBER ) CASE NO.  
DISTRIBUTION COOPERATIVES FOR ) 2017-00212  
APPROVAL OF PROPOSED CHANGES TO )  
THEIR QUALIFIED COGENERATION AND )  
SMALL POWER PRODUCTION FACILITIES )  
TARIFF AND THE IMPLEMENTATION OF )  
SEPARATE TARIFFS FOR POWER PURCHASES )  
FROM SOLAR GENERATION QUALIFYING )  
FACILITIES )

**Informal Conference – November 14, 2017**

Please sign in:

NAME

REPRESENTING

Richard Raft

PSC

David Crews

PSC EKPC

David Samford

Goss Samford - EKPC

Julia Tucker

EKPC

Kent Chandler

KY OAG

Daniel Hinton

PSC-FA

Matthew Buer

PSC - FA

Quang Nguyen

PSC

Isaac Scott

EKPC

Ted Hampton

Cumberland Valley

Robert Tolliver

Cumberland Valley

By  
Teleconference  
↓

Informal Conference  
September 7, 2017

Rick Prewitt  
Barbara Elliott  
Jennie Phelps  
Derrick Dean  
Rick Candill  
Jared Routh  
Jeff Greer

Cumberland Valley <sup>By</sup> Teleconference  
Cumberland Valley  
Farmers ROCC  
Jackson Energy  
Jackson Energy  
Shelby Energy  
South Kentucky



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