

**Goss  
Samford**

ATTORNEYS AT LAW | PLLC

**David S. Samford**  
david@gosssamfordlaw.com  
(859) 368-7740

February 16, 2018

*Via Hand-Delivery*

Ms. Gwen Pinson  
Executive Director  
Kentucky Public Service Commission  
211 Sower Boulevard  
Frankfort, KY 40602

Re: PSC Case No. 2017-00376

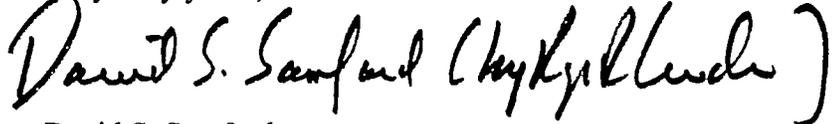
Dear Ms. Pinson:

On behalf of East Kentucky Power Cooperative, Inc. ("EKPC"), please find enclosed for filing in the record of the above-referenced case one (1) redacted original and six (6) redacted copies of EKPC's Response to Commission Staff's Second Request for Information propounded February 2, 2018. Also enclosed in a separate sealed envelope marked confidential is one (1) copy of the Response with certain confidential information highlighted. In addition, please find enclosed one (1) original and six (6) copies of EKPC's Motion for Confidential Treatment.

Also enclosed are an original and six (6) copies of EKPC's responses to the Attorney General's Request for Information dated February 2, 2018.

Please do not hesitate to contact me if you have any questions or concerns.

Very truly yours,



David S. Samford

Enclosures

cc: Parties of Record

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

FEB 16 2018

PUBLIC SERVICE  
COMMISSION

IN THE MATTER OF:

THE APPLICATION OF EAST KENTUCKY )  
POWER COOPERATIVE, INC. FOR APPROVAL )  
TO AMEND ITS ENVIRONMENTAL )  
COMPLIANCE PLAN AND RECOVER COSTS )  
PURSUANT TO ITS ENVIRONMENTAL )  
SURCHARGE, SETTLEMENT OF CERTAIN )  
ASSET RETIREMENT OBLIGATIONS AND )  
ISSUANCE OF A CERTIFICATE OF PUBLIC )  
CONVENIENCE AND NECESSITY AND )  
OTHER RELIEF )

CASE NO. 2017-00376

---

**MOTION FOR CONFIDENTIAL TREATMENT**

---

Comes now East Kentucky Power Cooperative, Inc. ("EKPC"), by and through counsel, pursuant to KRS 61.878, 807 KAR 5:001, Section 13 and other applicable law, and for its Motion requesting that the Kentucky Public Service Commission ("Commission") afford confidential treatment to information contained in an exhibit to Commission Staff's Second Request for Information No. 4 filed in the above-captioned proceeding, respectfully states as follows:

1. In its Application, EKPC requests the Commission to enter an Order: approving EKPC's proposed amendment of its Environmental Compliance Plan ("Compliance Plan"); granting authority to recover the costs associated with said Compliance Plan amendment through its existing environmental surcharge; issuing a Certificate of Public Convenience and Necessity ("CPCN") for the facilities associated with said Compliance Plan amendment; and allowing the settlement of certain Asset Retirement Obligations and regulatory asset.

2. In Response to Commission Staff's Second Request for Information Response No. 4 is a revised Exhibit RH-1. The original version of Exhibit RH-1 was attached to Robin Hayes' testimony which was submitted with the Application in this case. Exhibit RH-1 is a summary of the economic analysis performed on behalf of EKPC. Exhibit RH-1 contains a detailed economic analysis of the present value of the CCR/ELG Project which is the subject of the proposed Compliance Plan amendment as well as a second option closely evaluated by EKPC that involved the conversion of the Spurlock Station Unit 1 and Unit 2 to natural gas.

3. A Motion for Confidential Treatment for Exhibit RH-1 was submitted with the Application on November 20, 2017, and is still pending with the Commission.

4. Exhibit RH-1 is being tendered in redacted form in the public version of EKPC's filing and in an un-redacted form filed under seal herewith. This document is hereinafter referred to as the "Confidential Information."

5. The Confidential Information contains extensive information that describes the contains sensitive economic data for EKPC. This information is commercially sensitive and proprietary.

6. The Confidential Information is retained by EKPC on a "need-to-know" basis and is not publicly available. The disclosure of the Confidential Information would give potential bidders and contractors a tremendous competitive advantage in seeking to secure the work called for in the CCR/ELG Project Scoping Report. These advantages would likely translate into higher project costs for EKPC and, by extension, detrimentally higher rates for EKPC's owner-members. Thus, disclosure of the Confidential Information would be highly prejudicial to EKPC, EKPC's owner-members and those owner-members' retail members.

7. The Kentucky Open Records Act exempts the Confidential Information from public disclosure. See KRS 61.878(1)(c),(m). As set forth above, disclosure of the Confidential Information would permit an unfair advantage to third parties. Moreover, the Kentucky Supreme Court has stated, “information concerning the inner workings of a corporation is ‘generally accepted as confidential or proprietary.’” *Hoy v. Kentucky Industrial Revitalization Authority*, 907 S.W.2d 766, 768 (Ky. 1995). Because the Confidential Information is critical to EKPC’s effective execution of business decisions and strategy, it satisfies both the statutory and common law standards for being afforded confidential treatment.

8. EKPC does not object to limited disclosure of the Confidential Information, pursuant to an acceptable confidentiality and nondisclosure agreement, to the Attorney General or any other intervenors with a legitimate interest in reviewing the same for the sole purpose of participating in this case.

9. In accordance with the provisions of 807 KAR 5:001, Section 13(2), EKPC is filing one copy of the Confidential Information separately under seal. Confidential treatment is sought for the entirety of the economic analysis attached as Exhibit RH-1 in response to Request for Information No. 4.

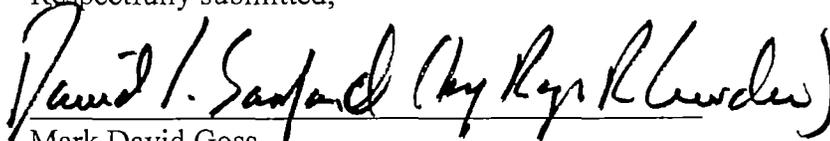
10. In accordance with the provisions of 807 KAR 5:001, Section 13(3), EKPC respectfully requests that the Confidential Information be indefinitely withheld from public disclosure. This will assure that the Confidential Information will be less likely to include information that continues to be commercially sensitive or critical energy infrastructure information so as to impair the interests of EKPC if publicly disclosed.

WHEREFORE, on the basis of the foregoing, EKPC respectfully requests the Commission to enter an Order granting this Motion for Confidential Treatment and to so afford such protection

from public disclosure to the un-redacted copies of Confidential Information, which is filed herewith under seal, for an indefinite period of time.

This \_\_\_\_ day of February, 2018.

Respectfully submitted,



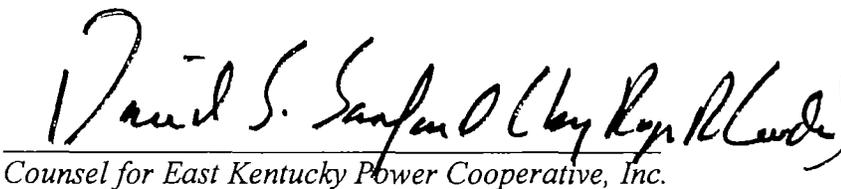
Mark David Goss  
David S. Samford  
GOSS SAMFORD, PLLC  
2365 Harrodsburg Road, Suite B325  
Lexington, KY 40504  
(859) 368-7740  
*mdgoss@gosssamfordlaw.com*  
*david@gosssamfordlaw.com*

*Counsel for East Kentucky Power Cooperative, Inc.*

### CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing document has been served by depositing same into the custody and care of the U.S. Postal Service, postage pre-paid, on this 16<sup>th</sup> day of February 2018, addressed to the following:

Rebecca W. Goodman  
Larry Cook  
Kent Chandler  
Office of the Attorney General  
Office of Rate Intervention  
700 Capitol Ave., Suite 20  
Frankfort, KY 40601-8204



*Counsel for East Kentucky Power Cooperative, Inc.*

**COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION**

**In the Matter of:**

<b>APPLICATION OF EAST KENTUCKY POWER</b>	)	
<b>COOPERATIVE, INC. FOR APPROVAL TO</b>	)	
<b>AMEND ITS ENVIRONMENTAL COMPLIANCE</b>	)	<b>CASE NO.</b>
<b>PLAN AND RECOVER COSTS PURSUANT TO</b>	)	<b>2017-00376</b>
<b>ITS ENVIRONMENTAL SURCHARGE,</b>	)	
<b>SETTLEMENT OF CERTAIN ASSET</b>	)	
<b>RETIREMENT OBLIGATIONS AND ISSUANCE</b>	)	
<b>OF A CERTIFICATE OF PUBLIC</b>	)	
<b>CONVENIENCE AND NECESSITY AND OTHER</b>	)	
<b>RELIEF</b>	)	

**RESPONSES TO ATTORNEY GENERAL'S DATA REQUESTS  
TO EAST KENTUCKY POWER COOPERATIVE, INC.  
DATED FEBRUARY 2, 2018**









**EAST KENTUCKY POWER COOPERATIVE, INC.**  
**PSC CASE NO. 2017-00376**  
**RESPONSE TO INFORMATION REQUEST**

**ATTORNEY GENERAL'S DATA REQUESTS DATED 02/02/18**

**REQUEST 1**

**RESPONSIBLE PARTY:**           **Craig A. Johnson**

**Request 1.**           Reference the response to Commission Staff's initial data request item no. 19, the Burns & McDonnell "EKPC Spurlock Gas Conversion Study," p. 1-1.

**Request 1a.**           In the second paragraph, the study states "EKPC is evaluating . . . and a future addition of two 442 MW natural gas fired 1-on-1 combined-cycle turbine (CCGT) units at their Spurlock facility in Maysville, KY." If this statement is accurate, explain whether this contradicts statements in the application and testimony that the company was considering a combination of a 600 MW CCGT and a 200 MW purchase power agreement as one alternative to the proposed CCR/ELG project.

**Response 1a.**           The objective of the Burns & McDonnell report was to develop a preliminary estimate of expected costs associated with natural gas conversions of Spurlock 1 and Spurlock 2. To size the gas transmission line, EKPC instructed Burns & McDonnell to include enough additional capacity to support two typical one-on-one combined-cycle units, startup fuel for Spurlock 3, startup fuel for Spurlock 4 and an auxiliary boiler sufficiently sized to supply steam

to International Paper. That combined-cycle size was only referenced as a place holder to preserve a possible future expansion at Spurlock Station. EKPC does not believe a contradiction exists in the application or testimony on this topic because Smith Station would likely be the site of choice to build a new gas generation asset. This is due to the existing gas infrastructure available at Smith Station, and is why the 600 MW combined-cycle option was evaluated for the Smith Station site.

**EAST KENTUCKY POWER COOPERATIVE, INC.**

**PSC CASE NO. 2017-00376**

**RESPONSE TO INFORMATION REQUEST**

**ATTORNEY GENERAL'S DATA REQUESTS DATED 02/02/18**

**REQUEST 2**

**RESPONSIBLE PARTY: Craig A. Johnson**

**Request 2.** Reference the response to PSC 1-19, the Burns & McDonnell "EKPC Spurlock Gas Conversion Study," p. 2-1. Did this study give any consideration to a scenario of gas firing for units 1 and 2 only? If so, provide the applicable cost estimates.

**Response 2.** The scenario modeled in the gas conversion alternative was to build a 20-inch gas transmission line to TETCO. EKPC removed the cost of converting units 3 and 4 to be able to co-fire with natural gas, for the purpose of the economic evaluation. The cost modeled for the scenario of gas firing units 1 and 2 only is \$241,628,000. A 20-inch gas transmission line is the correct size required to convert Units 1 and 2 to burn 100% gas.

**EAST KENTUCKY POWER COOPERATIVE, INC.**

**PSC CASE NO. 2017-00376**

**RESPONSE TO INFORMATION REQUEST**

**ATTORNEY GENERAL'S DATA REQUESTS DATED 02/02/18**

**REQUEST 3**

**RESPONSIBLE PARTY: Craig A. Johnson**

**Request 3.** Reference the response to PSC 1-19, the Burns & McDonnell "EKPC Spurlock Gas Conversion Study," p. 3-1. Are the two pipelines identified therein the ones closest to Spurlock Station? If not, identify the pipelines that are the closest.

**Response 3.** For the gas line capacity and size required, the two pipelines identified in the 2016 Burns & McDonnell "EKPC Spurlock Gas Conversion Study," were the ones closest to Spurlock Station that could supply the necessary volume of gas at that time.

**EAST KENTUCKY POWER COOPERATIVE, INC.**

**PSC CASE NO. 2017-00376**

**RESPONSE TO INFORMATION REQUEST**

**ATTORNEY GENERAL'S DATA REQUESTS DATED 02/02/18**

**REQUEST 4**

**RESPONSIBLE PARTY:               Ralph L. Luciani**

**Request 4.**               Reference the Navigant “Spurlock Scenario Analysis” study attached to the Luciani testimony, section 1 “Overview.” Regarding the “Spurlock 795 MW CC” alternative for Spurlock Units 1 and 2, state whether this option was premised upon constructing the 795 MW combined-cycle unit at Spurlock station. If not, where?

**Response 4.**               As noted in Exhibit RL-2, the “Spurlock 795 MW CC” alternative assumed that Spurlock Units 1 and 2 were retired and replaced with a new 795 MW combined-cycle facility with operating parameters based on Navigant’s information and other publicly available parameters, and capacity and heat rate segments derived from operational patterns at a TVA combined-cycle facility. The analysis was not premised on constructing the combined-cycle facility at any specific site in the EKPC region.

EAST KENTUCKY POWER COOPERATIVE, INC.  
PSC CASE NO. 2017-00376  
RESPONSE TO INFORMATION REQUEST

ATTORNEY GENERAL'S DATA REQUESTS DATED 02/02/18  
REQUEST 5

RESPONSIBLE PARTY: Craig A. Johnson

**Request 5.** Explain whether the option of building a CCGT in the 600MW – 800MW range at EKPC's Smith Station (with or without a PPA, as discussed in EKPC's response to PSC 2-2) would be more cost effective than constructing one at Spurlock Station.

**Request 5a.** Did EKPC conduct any net present value analyses of this option? If so, provide details.

**Response 5a.** EKPC has not conducted a detailed siting study for the location for a new combined cycle. It was thought that Smith Station would represent the most economical site for a new gas generating asset due to the following factors; established connection with two major natural gas transmission companies, access to the existing 345 kV substation, a site that could be prepared with minimal civil work, and a resident workforce with knowledge of natural gas-fired generation. A net present value evaluation was not performed.

**EAST KENTUCKY POWER COOPERATIVE, INC.**

**PSC CASE NO. 2017-00376**

**RESPONSE TO INFORMATION REQUEST**

**ATTORNEY GENERAL'S DATA REQUESTS DATED 02/02/18**

**REQUEST 6**

**RESPONSIBLE PARTY: Craig A. Johnson**

**Request 6.** Reference the Company's response to PSC 1-6.

**Request 6a.** Will EKPC need to spend any additional sums to make its existing Spurlock landfill compliant with all applicable state and federal regulations?

**Response 6a.** EKPC is currently disposing of CCR material in the Area C section of the landfill. EKPC will not have any additional expense to become compliant with all applicable state and federal regulations for the constructed cells currently being used for CCR disposal. There are additional phases within the permitted limits of Area C that will eventually require construction of a liner system, leachate system and a cap, when constructed. The additional landfill phases will be compliant with all current state and federal regulations prior to waste placement.

**Request 6b.** Of the 6 million CY remaining capacity in the existing Spurlock landfill, will any additional measures have to be taken to make it compliant with all applicable state and federal regulations?

**Response 6b.** EKPC develops landfill space approximately one year ahead of the anticipated need. This is done to protect critical liner components that cannot be exposed to long periods of sunlight and because some of the future phases will be accessed via routes that cross completed phases. The remaining phases in the permitted boundary of Area C landfill will be constructed in compliance with all current state and federal regulations.

**EAST KENTUCKY POWER COOPERATIVE, INC.**  
**PSC CASE NO. 2017-00376**  
**RESPONSE TO INFORMATION REQUEST**

**ATTORNEY GENERAL'S DATA REQUESTS DATED 02/02/18**

**REQUEST 7**

**RESPONSIBLE PARTY:**           **Jerry B. Purvis**

**Request 7.**           Reference the response to PSC 1-6, wherein EKPC states it plans to construct a new landfill at Spurlock Station contiguous with the existing landfill, and that the company has submitted a Registered Permit-by-Rule application to the Kentucky Division of Waste Management under 401 KAR Ch. 46. Discuss the effect of the January 31, 2018 ruling from the Franklin Circuit Court, Div. 1, in *Leach v. Kentucky Energy and Environmental Cabinet & LG&E*, case no. 17-CI-00474, in which the Court declared 401 KAR 46:120 and 401 KAR 45:050 void and unenforceable.

**Request 7a.**           Does the company believe it needs to amend its application in any manner?

**Response 7a.**           EKPC had an application ready to submit under Chapter 45 before the cited legal case was filed, and plans to file the application with the Cabinet and Division of Waste Management. The Cabinet is believed to be still evaluating the ramifications of the Franklin Circuit Court's decision. EKPC plans to work with the Cabinet on its permit application. In addition, the plans, specifications and design meets the federal CCR standards. The Division has

been properly notified. The requisite professional engineer certifications have been filed and appear on the publicly-available web site. As a prudent utility, EKPC planned for and mitigated this regulatory risk by being in position with an application should an unfavorable decision occur. The Division has time to process this application ahead of 2020.

**Request 7b.** Discuss whether the ruling could affect the company's cost estimates, and if so, how.

**Response 7b.** There are no known cost increases at this time.

**Request 7c.** Will the ruling in any way cause the company to revise its conclusions that the proposed CCR/ELG project at Spurlock station is the least-cost solution?

**Response 7c.** The ruling, while material in the regulatory permitting context, does not affect the plan, schedule, or project from a cost basis. Third parties want the ash pond to close by removal and be placed in a CCR modern day landfill. This is what EKPC's plan details.

EAST KENTUCKY POWER COOPERATIVE, INC.  
PSC CASE NO. 2017-00376  
RESPONSE TO INFORMATION REQUEST

ATTORNEY GENERAL'S DATA REQUESTS DATED 02/02/18

REQUEST 8

RESPONSIBLE PARTY: Craig A. Johnson

**Request 8.** Reference the response to PSC 1-10.

**Request 8a.** What does EKPC do with ash generated at the Cooper station?

**Response 8a.** All of the CCR products (ash) generated at Cooper Station are disposed of in EKPC's onsite landfill.

**Request 8b.** Does Cooper Station have a pond? If so, does EKPC plan to close it? Explain in full.

**Response 8b.** Cooper Station has two ponds. One is used to collect coal pile and plant storm water runoff. The other is a sedimentation pond used to collect landfill storm water runoff. Neither of these ponds is classified as a CCR impoundment. Cooper Station uses a dry ash collection system for bottom ash, fly ash and SO<sub>2</sub> Scrubber waste material. All of the CCR

material is dry when placed in our onsite permitted landfill. There are no ponds at Cooper that must be closed to comply with CCR federal regulations.

**Request 8c.** Does Cooper station have any landfills? If so, are they compliant with all applicable state and federal regulations?

**Response 8c.** Cooper station has a permitted landfill. The landfill is compliant with all current state and federal regulations.

**EAST KENTUCKY POWER COOPERATIVE, INC.**

**PSC CASE NO. 2017-00376**

**RESPONSE TO INFORMATION REQUEST**

**ATTORNEY GENERAL'S DATA REQUESTS DATED 02/02/18**

**REQUEST 9**

**RESPONSIBLE PARTY: Craig A. Johnson**

**Request 9.** Reference the response to PSC 1-8 (c). Confirm that during 2017, Cooper Units 1 and 2 had an annual capacity factor of only 10% and 17%, respectively, representing decreases of 60% and 37%, respectively, since 2015. Is EKPC planning for the retirement and replacement of one or both of the Cooper units?

**Response 9.** EKPC does not have any plans to retire the two Cooper units. They are well maintained, reliable and environmentally compliant.

**Request 9a.** Provide the most recent estimated retirement date for the two Cooper units.

**Response 9a.** N/A

**Request 9b.** Does EKPC believe the two Cooper units will remain competitive and economical given the growing number of new combined-cycle units coming on line within the PJM footprint?

**Response 9b.** The Cooper units are compliant with CCR and ELG. The capacity factor of the Cooper units is not a measure of the value of the Cooper units in the PJM market. The capacity from the Cooper units and the balance of the EKPC fleet offsets the capacity that EKPC must purchase from the PJM capacity market to serve its load. If EKPC were to retire Cooper prematurely, EKPC would no longer receive revenue in the capacity auction from Cooper to offset the expense of having to purchase capacity for EKPC's load. PJM does not differentiate between coal and gas technologies for capacity payments in the capacity auctions. As a capacity resource, Cooper is competitive with combined-cycle technology. When EKPC joined PJM, it expected to benefit from being able to purchase energy cheaper than dispatching Cooper and that has been the case. While the Cooper units do not dispatch as frequently as they did prior to joining PJM, they currently provide a hedge or cap to the prices EKPC's owner-members experience in extreme weather and during market price disruptions. The Cooper units ran consistently during the polar vortex and have been reliably dispatched during January and February of 2018. The Cooper units continue to be a valuable resource in the capacity auctions and provide a valuable hedge or cap to the prices that EKPC owner-members experience.

**Request 9c.** Discuss whether the 2019 addition of Bluegrass Unit 3's 198 MW, and/or a potential retirement of one or both of the Cooper units could affect the economic viability of the options to: (i) gas-fire Spurlock units 1 and/or 2; or (ii) construct a new CCGT at Smith Station, as opposed to the proposed CCR/ELG project at Spurlock station.

**Response 9c.** The Navigant analysis compared the value of retaining the Spurlock Units to the market alternatives. That analysis showed that Spurlock continues to be valuable in the market and it is economic for EKPC to make the proposed modifications. EKPC's generation to load ratio is balanced with the addition of Bluegrass 3 back into its portfolio, so that addition has no effect on the Spurlock proposal. Potential retirement of the Cooper Station units would require EKPC to procure additional generation to maintain its generation-to-load balance. If the question is "Would a larger combined-cycle plant work to replace both the Spurlock 1 and 2 and Cooper 1 and 2 capacity more economically than the proposed plan?", that was not explicitly considered. Having one unit supply over 1,100 MW of generation for EKPC would be roughly one third of EKPC's generation fleet in one unit and that would significantly impact EKPC's risk profile. Additionally, retiring Cooper before the end of its useful life would leave significant costs needing to be recovered through a regulatory asset while receiving no value for those assets.

**Request 9d.** If EKPC at some point in time was to construct a new CCGT, provide the estimated length of time required for completion of such a project, from the date that planning commences until the date such a new plant would become commercially operable.

**Response 9d.** It would take five to seven years to complete such a project. The length of time would vary based on the time required for permit approvals, manufacturing queues, available resources and other considerations.

EAST KENTUCKY POWER COOPERATIVE, INC.  
PSC CASE NO. 2017-00376  
RESPONSE TO INFORMATION REQUEST

ATTORNEY GENERAL'S DATA REQUESTS DATED 02/02/18

REQUEST 10

RESPONSIBLE PARTY: Isaac S. Scott

**Request 10.** Confirm that EKPC will file its next IRP filing in 2018.

**Response 10.** EKPC's next IRP is scheduled to be filed by April 1, 2019. The Commission Staff report on EKPC's 2015 IRP noted that departures from the filing schedule in 807 KAR 5:058 had caused overlaps of IRP filings among the six jurisdictional electric utilities that were required to submit an IRP. To help minimize future overlaps and in conjunction with changes in other utilities' IRP filing schedules, the Commission Staff recommended to the Commission that the filing date for EKPC's next IRP be scheduled for April 1, 2019.<sup>1</sup> On April 25, 2016, EKPC filed a response to the Commission Staff report, stating it had no substantive comments on the Commission Staff's recommendations and agreed it would be appropriate to file the next IRP on April 1, 2019. On May 3, 2016, the Commission issued an Order directing that EKPC's next IRP be filed no later than April 1, 2019 and closed the 2015 IRP review case.

---

<sup>1</sup> See *In the Matter of The 2015 Integrated Resource Plan of East Kentucky Power Cooperative, Inc.*, Order Appendix, Case No. 2015-00134, Staff Report on the 2015 Integrated Resource Plan of East Kentucky Power Cooperative, Inc., p. 5, (Ky. P.S.C., Apr. 13, 2016).