Goss Samford

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JUL 17 2019

PUBLIC SERVICE COMMISSION

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

July 17, 2019

VIA HAND DELIVERY

Ms. Gwen Pinson
Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, KY 40601

RE: *In the Matter of the Application of East Kentucky Power Cooperative, Inc. for an Order Approving the Establishment of Regulatory Assets for Present and Future Maintenance Expenses*, Case No. 2019-00146

Dear Ms. Pinson:

Enclosed, please find an original and six copies of the East Kentucky Power Cooperative, Inc.'s ("EKPC") responses to Nucor Steel Gallatin's First Data Request for Information dated June 26, 2019, Staff's Initial Request for Information and Attorney General's Data Requests both dated June 27, 2019. In addition, EKPC is filing an original and six copies of a Motion for Confidential Treatment. Please return a file-stamped copy of this filing to my office.

Please let me know if you have any questions.

Sincerely,

David S. Samford

Enc.

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JUL 17 2019

PUBLIC SERVICE
COMMISSION

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

IN THE MATTER OF:

THE APPLICATION OF EAST KENTUCKY POWER COOPERATIVE, INC. FOR AN ORDER APPROVINGTHE ESTABLISHMENT OF REGULATORY ASSETS FOR PRESENT AND FUTURE MAINTENANCE EXPENSES	)))))	CASE NO. 2019-00146

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 certain documents filed in response to four requests for information in the above-captioned proceeding, respectfully states as follows:

1. EKPC filed its Application seeking authority to establish regulatory assets for certain minor property and maintenance expenses on May 13, 2019. Nucor and the Attorney General were subsequently granted leave to intervene. The first set of information requests were tendered by the Commission, Nucor and the Attorney General to EKPC on June 26th and 27th.

2. Request No. 5(b) from the Commission's request for information states as follows:

> 5(b) Provide the forecasted costs in connection with major maintenance projects and the inspections and repair or replacement of minor components for the next five years.

3. In its response to Request No. 5(b), EKPC is providing a forecast of major maintenance and minor item replacement costs from 2019 through 2029.

4. Request No. 1 from Nucor's request for information states as follows:

> 1. For calendar years 2020, 2021 and 2022 please provide EKPC's forecasted TIER, income statement and balance sheet if this Application is approved.

5. In its response to Nucor's Request No. 1, EKPC is providing a table of financial forecast data, which includes information that is responsive to the request for information.

6. Request No. 2 from Nucor's request for information states as follows:

> 2. Please provide the same information requested in Question 1 assuming that the Application is not approved.

7. In its response to Nucor's Request No. 2, EKPC is providing a table of financial forecast data, which includes information that is responsive to the request for information.

8. Request No. 7 from Nucor's request for information states as follows:

> 7. Please provide all documents presented to the EKPC Board of Directors on the subject matter of this Application.

9. In its response to Nucor's Request No. 7, EKPC is providing a summary of management's recommendation given to EKPC's Board and a copy of the resolution adopted by EKPC's Board authorizing the filing of the application.

10. The information and documents tendered by EKPC in response to Commission Request No. 5(b) and Nucor Requests No. 1, 2 and 7 are being tendered in redacted form in the public version of EKPC's filing and in an unredacted form filed under seal herewith. Collectively, this information and these documents are hereinafter referred to as the "Confidential Information."

11. The Confidential Information contains extensive information that describes EKPC's financial forecast, internal deliberations and strategy for maintaining its generation fleet. This information is commercially sensitive and proprietary. More specifically, the Confidential Information includes: forecasted expenditures for major maintenance and minor property

replacements on EKPC's generation fleet, forecasted financial data relating to EKPC's most critical financial metrics and documents reflecting internal policy and financial deliberations, recommendations and decisions.

12. The Confidential Information is retained by EKPC on a "need-to-know" basis and is not publicly available. If disclosed, the Confidential Information would give potential vendors and competitors tremendous competitive advantages by disclosing the timing and magnitude of EKPC's planned major maintenance and minor property replacements. These market advantages would arise from knowing when EKPC is most likely to be entering the market for labor and services related to the planned maintenance and replacements as well as the market for equipment necessary to effectuate such work. Moreover, energy market participants would benefit from knowing when EKPC's units are likely to be offline due to maintenance outages and could translate such information into higher costs for purchased power by EKPC and, by extension, detrimentally higher rates for EKPC's Members. The Confidential Information also offers competitors an unnecessary window into EKPC's expected future financial performance and the inner workings of its management team. Thus, disclosure of the Confidential Information would be highly prejudicial to EKPC, EKPC's Owner-Member Cooperatives and those owner-embers' End-Use Retail Members.

13. The Kentucky Open Records Act exempts the Confidential Information from public disclosure. *See* KRS 61.878(1)(c). 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. Indeed, the Commission has already recognized the confidential nature of the information included in the responses and has afforded confidential treatment to forecasted maintenance expense,[1] forecasted financial data,[2] and Board materials[3] in prior proceedings.

14. EKPC does not object to limited disclosure of the Confidential Information, pursuant to an acceptable confidentiality and nondisclosure agreement, to the Attorney General and Nucor for the sole purpose of participating in this case. In fact, EKPC has already entered into confidentiality agreements with the AG and Nucor concerning the information in question.

15. 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. The filing of the Confidential Information is noted in the public version of EKPC's response to Commission Request No. 5(b) and Nucor Request Nos. 1, 2 and 7, which include redacted copies of such information. Due to

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[1] *See In the Matter of the Application of Louisville Gas & Electric Company for an Adjustment of its Electric and Gas Rates*, Order, Case No. 2014-00372 (Ky. P.S.C. Jan. 14, 2016); *In the Matter of the Application of East Kentucky Power Cooperative, Inc. for Approval of the Acquisition of Existing Combustion Turbine Facilities from Bluegrass Generating Company, LLC at the Bluegrass Generating Station in LaGrange, Oldham County, Kentucky and for Approval of the Assumption of Certain Evidences of Indebtedness*, Order, Case No. 2015-00267 (Ky. P.S.C. Nov. 24, 2015);

[2] *See In the Matter of the Application of East Kentucky Power Cooperative, Inc. for Deviation from Obligation Resulting from Case No. 2012-00169*, Order, Case No. 2015-00358 (Ky. P.S.C. July 18, 2016); *In the Matter of the Application of Kentucky Power Company for (1) A Certificate of Public Convenience and Necessity Authorizing the Transfer to the Company of an Undivided Fifty Percent Interest in the Mitchell Generating Station and Associated Assets; (2) Approval of the Assumption by Kentucky Power Company of Certain Liabilities in Connection with the Transfer of the Mitchell Generating Station; (3) Declaratory Rulings;(4) Deferral of Costs Incurred in Connection with the Company's Efforts to Meet Federal Clean Air Act and Related Requirements; and (5) All Other Required Approval and Relief*, Order, Case No. 2012-00578 (Ky. P.S.C. Oct. 18, 2013).

[3] *See In the Matter of the Application of Grayson Rural Electric Cooperative Corporation for an Adjustment of Rates*, Order, Case No. 2018-00272 (Ky. P.S.C. Mar. 13, 2019); *In the Matter of the Application of Kentucky Utilities Company for Certificates of Public Convenience and Necessity and Approval of its 2011 Compliance Plan for Recovery by Environmental Surcharge*, Letter from Jeff Derouen, Case No. 2011-00161 (Ky. P.S.C. Oct. 10, 2011).

the pervasive nature of the confidential and proprietary information included in in the Confidential Information, confidential treatment is sought for the entirety of the Confidential Information.

16. In accordance with the provisions of 807 KAR 5:001, Section 13(3), EKPC respectfully requests that the Confidential Information be withheld from public disclosure for a period of ten years. This will assure that the Confidential Information – if disclosed after that time – will be less likely to include information that continues to be commercially sensitive so as to impair the interests of EKPC if publicly disclosed. However, EKPC reserves the right to seek an extension of the grant of confidential treatment if it is necessary to do so at that time.

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 unredacted copies of Confidential Information, which is filed herewith under seal, for a period of ten years from the date of entry of such an Order.

Done this 17th day of July, 2019.

Respectfully submitted,

David S. Samford
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Lexington, KY 40504
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allyson@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 was sent via U.S. Mail, postage pre-paid, and via email to the following individuals on this the 17th day of July, 2019:

Mr. Kent Chandler
Mr. Larry Cook
Mr. Justin McNeil
Assistant Attorneys General
700 Capital Ave., Suite 20
Frankfort, KY 40601-8204

Mr. Mike Kurtz
Ms. Jody Kyler Cohn
Boehm, Kurtz & Lowry
36 East Seventh Street
Cincinnati, OH 45202

Counsel for East Kentucky Power Cooperative, Inc.

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JUL 17 2019

PUBLIC SERVICE
COMMISSION

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

IN THE MATTER OF:

THE APPLICATION OF EAST KENTUCKY	)	
POWER COOPERATIVE, INC. FOR AN	)	
ORDER APPROVING THE ESTABLISHMENT	)	**CASE NO. 2019-00146**
OF REGULATORY ASSETS FOR PRESENT	)	
AND FUTURE MAINTENANCE EXPENSES	)	

RESPONSES TO COMMISSION STAFF'S INITIAL REQUEST FOR INFORMATION TO EAST KENTUCKY POWER COOPERATIVE, INC.

DATED JUNE 26, 2019

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF EAST KENTUCKY POWER COOPERATIVE, INC. FOR AN ORDER APPROVING THE ESTABLISHMENT OF REGULATORY ASSETS FOR PRESENT AND FUTURE MAINTENANCE EXPENSES	)))))	**CASE NO. 2019-00146**

CERTIFICATE

STATE OF KENTUCKY)
)
COUNTY OF CLARK)

Michelle K. Carpenter, being duly sworn, states that she has supervised the preparation of the responses of East Kentucky Power Cooperative, Inc. to the Public Service Commission Staff's Initial Request for Information in the above-referenced case dated June 26, 2019, and that the matters and things set forth therein are true and accurate to the best of her knowledge, information and belief, formed after reasonable inquiry.

Michelle K. Carpenter

Subscribed and sworn before me on this 17th day of July, 2019.

Gwyn M. Willoughby #590567
Notary Public

GWYN M. WILLOUGHBY
Notary Public
Kentucky – State at Large
My Commission Expires Nov 30, 2021

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF EAST KENTUCKY POWER COOPERATIVE, INC. FOR AN ORDER APPROVING THE ESTABLISHMENT OF REGULATORY ASSETS FOR PRESENT AND FUTURE MAINTENANCE EXPENSES	)))))	**CASE NO. 2019-00146**

CERTIFICATE

STATE OF KENTUCKY)
)
COUNTY OF CLARK)

Mike McNalley, being duly sworn, states that he has supervised the preparation of the responses of East Kentucky Power Cooperative, Inc. to the Public Service Commission Staff's Initial Request for Information in the above-referenced case dated June 26, 2019, and that the matters and things set forth therein are true and accurate to the best of his knowledge, information and belief, formed after reasonable inquiry.

Subscribed and sworn before me on this 17th day of July, 2019.

Gwyn M. Willoughby #590567
Notary Public

GWYN M. WILLOUGHBY
Notary Public
Kentucky – State at Large
My Commission Expires Nov 30, 2021

EAST KENTUCKY POWER COOPERATIVE, INC.
PSC CASE NO. 2019-00146
RESPONSE TO INFORMATION REQUEST

COMMISSION STAFF'S INITIAL REQUEST FOR INFORMATION DATED 06/26/19
REQUEST 1
RESPONSIBLE PARTY: **Michelle K. Carpenter**

Request 1. Refer to the application on pages 1 and 5. Provide the entire text of ASC 980-340-25-1 and the definition of "probable" that EKPC is using in this context.

Response 1. Please refer to Exhibit 1 provided on page two of this response for the full narrative of ASC 980-340-25-1. As indicated in Exhibit 1, ASC 450 defines "probable". Specifically, the ASC-450-20-20 Glossary defines probable as "the future event or events are likely to occur".

Exhibit 1

980-340-25 Recognition

General Note: The Recognition Section provides guidance on the required criteria, timing, and location (within the financial statements) for recording a particular item in the financial statements. Disclosure is not recognition.

General
> Effects of Regulation
>> Recognition of Regulatory Assets

25-1 Rate actions of a regulator can provide reasonable assurance of the existence of an asset. An entity shall **capitalize** all or part of an **incurred cost** that would otherwise be charged to expense if both of the following criteria are met:

1. a. It is probable (as defined in Topic 450) that future revenue in an amount at least equal to the capitalized cost will result from inclusion of that cost in **allowable costs** for rate-making purposes.
2. b. Based on available evidence, the future revenue will be provided to permit recovery of the previously incurred cost rather than to provide for expected levels of similar future costs. If the revenue will be provided through an automatic rate-adjustment clause, this criterion requires that the regulator's intent clearly be to permit recovery of the previously incurred cost.

A cost that does not meet these asset recognition criteria at the date the cost is incurred shall be recognized as a regulatory asset when it does meet those criteria at a later date.

EAST KENTUCKY POWER COOPERATIVE, INC.
PSC CASE NO. 2019-00146
RESPONSE TO INFORMATION REQUEST

COMMISSION STAFF'S INITIAL REQUEST FOR INFORMATION DATED 06/26/19
REQUEST 2
RESPONSIBLE PARTY: Mike McNalley

<u>Request 2.</u> Refer to the application on pages 5 and 6, paragraph 11. For the regulatory assets listed, explain whether EKPC recovers these regulatory assets in rates, and if so, explain how they are recovered.

<u>Response 2.</u> The items discussed in the cited paragraph and their recovery are: (1) power purchase expenses resulting from forced outages, which were recovered as ordered in Case No. 2008-00436 and Case No. 2008-00409,[1] (2) stranded costs associated with the cancellation of the coal-fired Smith Station Unit #1, which is being amortized (expensed) as ordered in Case No. 2015-00358[2] and may be included in a future base rate case to the extent not already fully expensed and recovered, (3) accretion and depreciation associated with asbestos and ash asset retirement obligations ("ARO") in existence at December 31, 2013, for which recovery will be requested and amortization started in future cases, as the associated facilities are closed/retired with Dale Ash,

[1] *See In the Matter of General Adjustment of Electric Rates of East Kentucky Power Cooperative, Inc.*, Order, Case No. 2008-00409, p. 5 and 7 (Ky. P.S.C., Mar. 31, 2009).

[2] *See In the Matter of Application of East Kentucky Power Cooperative, Inc. for Deviation from Obligation Resulting from Case No. 2012-00169*, Order, Case No. 2015-00358, p. 9-12 (Ky. P.S.C., Jan. 10, 2017).

Spurlock Landfill and Spurlock Ash Pond closure costs approved for recovery through the environmental surcharge, (4) the early retirement of Dale Station, where the regulatory asset amortization was substituted for the tangible asset depreciation and is being recovered in base rates as a result of that substitution, and (5) Smith Station landfill ARO accretion and depreciation expenses, for which recovery will be requested and amortization started in future case(s) as the landfill(s) complete operation.

EAST KENTUCKY POWER COOPERATIVE, INC.
PSC CASE NO. 2019-00146
RESPONSE TO INFORMATION REQUEST

COMMISSION STAFF'S INITIAL REQUEST FOR INFORMATION DATED 06/26/19
REQUEST 3
RESPONSIBLE PARTY: Mike McNalley

Request 3. Refer to the application on page 6, paragraph 13. Confirm that the Commission has historically not allowed a utility to establish a regulatory asset after a cost has been recorded as an expense and the utility has closed its books for the relevant fiscal year.

Response 3. EKPC has reviewed 40 Commission Orders since 2000 involving the creation and recovery of regulatory assets for electric utilities and generally agrees that a utility has not been allowed to establish a regulatory asset after a cost has been recorded as an expense and the utility had closed its books for the relevant fiscal year.

In the majority of those proceedings, the applicant utility submitted its request for regulatory asset treatment before the close of the particular fiscal year, thus seeking Commission authorization for a regulatory asset before the cost had been recorded as an expense in the fiscal year. EKPC notes that the Commission did authorize a modification in the timing of applications for regulatory assets involving Major Event storms. In Case No. 2016-00180,[3] the

[3] *See In the Matter of Application of Kentucky Power Company for an Order Approving Accounting Practices to Establish Regulatory Assets and Liabilities Related to the Extraordinary Expenses Incurred by Kentucky Power Company in Connection with the Two 2015 Major Storm Events*, Rehearing Order, Case No. 2016-00180, p. 5 (Ky. P.S.C., Dec 12, 2016).

Commission allowed jurisdictional utilities to record expenses for Major Event storms occurring in the fourth quarter of the fiscal year as a deferred asset for accounting purposes only, subject to the utility providing the Commission with notice of such within five days of the establishment of the deferred asset, and also subject to the utility filing an application within 90 days of the occurrence of the Major Event storm seeking Commission approval for such authority.

However, through its review, EKPC has identified what appear to be exceptions to this approach. In Case No. 2003-00433[4] and Case No. 2003-00434,[5] the Commission authorized Louisville Gas and Electric Company and Kentucky Utilities Company to reverse entries for its minimum pension liability determined in 2002 and record a regulatory asset to effect the reversal. In Case No. 2014-00432,[6] the Commission's March 6, 2015 Order resulted in $2,149,889 of the total 2014 ARO-related depreciation and accretion amounts remaining on EKPC's financial statement as an expense, resulting in an equal reduction in the 2014 margins. Upon rehearing, the Commission approved EKPC's request to record a credit to expense and debit to the regulatory asset account for $2,149,889 in its 2015 financial statements to bring the regulatory asset balance up to the amount requested in the original application.

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[4] *See In the Matter of An Adjustment of the Gas and Electric Rates, Terms, and Conditions of Louisville Gas and Electric Company*, Order, Case No. 2003-00433, p. 18-22 (Ky. P.S.C., Jun 30, 2004).

[5] *See In the Matter of An Adjustment of the Electric Rates, Terms, and Conditions of Kentucky Utilities Company*, Order, Case No. 2003-00434, p. 16-20 (Ky. P.S.C., Jun 30, 2004).

[6] *See In the Matter of An Application of East Kentucky Power Cooperative, Inc. for an Order Approving the Establishment of Regulatory Assets for the Depreciation and Accretion Expenses Associated with Asset Retirement Obligations*, Order, Case No. 2014-00432, (Ky. P.S.C., Mar. 6, 2015) and Rehearing Order, p. 12-13 (Ky. P.S.C., Jul. 21, 2015).

EKPC would also note that of the 40 applications involving the creation and recovery of regulatory assets for electric utilities filed with the Commission since 2000, 18 of those applications have been filed since 2014. While many of these applications were related to weather events, EKPC sees this statistic as support for its belief that requests for regulatory assets will become more frequent in the future.

EAST KENTUCKY POWER COOPERATIVE, INC.
PSC CASE NO. 2019-00146
RESPONSE TO INFORMATION REQUEST

COMMISSION STAFF'S INITIAL REQUEST FOR INFORMATION DATED 06/26/19
REQUEST 4
RESPONSIBLE PARTY: Mike McNalley

Request 4. Refer to the application on page 7, paragraph 14. In the event that regulatory asset treatment is granted for the replacement components, explain whether EKPC would remove the net book value of replaced components of retirement units from the net plant in service.

Response 4. The items discussed in the cited paragraph are "minor", meaning they are not separately identified in EKPC's plant records and instead are a part of an identified item (a "retirement unit"). As a result, EKPC cannot remove minor items from net plant in service. When minor items are replaced independently of the associated retirement unit, they must be charged to maintenance expense as prescribed by Section 1767.16 (j) (3) (iii) of the Uniform System of Accounts. Therefore, if regulatory asset treatment is granted, the minor items would be removed from maintenance expense.

EAST KENTUCKY POWER COOPERATIVE, INC.
PSC CASE NO. 2019-00146
RESPONSE TO INFORMATION REQUEST

COMMISSION STAFF'S INITIAL REQUEST FOR INFORMATION DATED 06/26/19
REQUEST 5
RESPONSIBLE PARTY: Michelle K. Carpenter

Request 5. Refer to the application on pages 7 and 8, paragraph 15.

Request 5a. For each of the past ten calendar years, provide the annual costs incurred by EKPC associated with the replacement of high-cost, non-routine minor items of property and major maintenance costs.

Response 5a. EKPC's historical maintenance expense will not adequately depict an expected increase in EKPC's maintenance expense due to new generation added during this timeframe that is only now approaching an age that may require the replacement of non-routine minor items of property or major maintenance. Spurlock Units 3 & 4 were added in 2005 and 2009, respectively, two LMS 100 units were added at Smith Station in 2010, and Bluegrass Station was purchased in 2015. Further, EKPC's historical accounting records were not maintained to separately identify those costs within maintenance expense that represented high-cost, non-routine minor items of property and major maintenance costs.

Provided in the table below are major maintenance expenses identified by EKPC's Production team and minor item replacements identified in 2018. Future records will be maintained to separately identify each project meeting the criteria for regulatory asset treatment in each category.

10 Year Summary of Major Maintenance and Minor Item Replacements

Year	Major Maintenance	Minor Item Replacement	
2009	$ 3,414,518		*
2010	-		*
2011	-		*
2012	2,516,306		*
2013	4,993,150		*
2014	-		*
2015	6,124,799		*
2016	1,794,427		*
2017	7,548,277		*
2018	5,267,436	1,409,754	*
	$ 31,658,913		*

* historical accounting records did not segregate maintenance expense into the categories/criteria defined in the application

Request 5b. Provide the forecasted costs in connection with major maintenance projects and the inspections and repair or replacement of minor components for the next five years.

Response 5b. EKPC's Production team expects major overhauls of coal units to occur every 8-10 years, while CT unit major overhauls are expected to occur every 12-20 years. While

EKPC has forecasted costs for these overhauls, it is difficult to determine how these costs will be segregated between capital replacements, minor items of property replacements, and major maintenance expense until the actual work is completed. Further, EKPC is unable to forecast what unanticipated equipment failures may occur over the next five years. Please note that EKPC has provided additional years for the Commission's review, as major overhauls on CT units are expected to begin in 2025.

[redacted]

EAST KENTUCKY POWER COOPERATIVE, INC.
PSC CASE NO. 2019-00146
RESPONSE TO INFORMATION REQUEST

COMMISSION STAFF'S INITIAL REQUEST FOR INFORMATION DATED 06/26/19
REQUEST 6
RESPONSIBLE PARTY: Mike McNalley

Request 6. Refer to the application on pages 7 and 8, paragraphs 15 and 16. Identify and describe the basis for EKPC's statement that these expenses are not currently included in base rates.

Response 6. The expenses discussed have been incurred since EKPC's last base rate proceeding, Case No. 2010-00167, which utilized a forecasted test year ending December 31, 2011. Thus, none of the expenses identified above are included in EKPC's prior cost-of-service or base rates. Additionally, according to EKPC's Production maintenance records, there was no major maintenance that occurred in 2010 or 2011, which further supports EKPC's assertion that major maintenance was not factored into the forecasted test year.

EAST KENTUCKY POWER COOPERATIVE, INC.
PSC CASE NO. 2019-00146
RESPONSE TO INFORMATION REQUEST

COMMISSION STAFF'S INITIAL REQUEST FOR INFORMATION DATED 06/26/19
REQUEST 7
RESPONSIBLE PARTY: Mike McNalley

Request 7. Refer to the application on page 8, paragraph 16. Explain how beginning amortization of the proposed regulatory assets immediately upon completion would "match them with future related revenues."

Response 7. Immediate amortization will cause EKPC to forego recovery of any amount amortized prior to the test year and rate order. This could result in a small mismatch because some amortization expense would occur without revenue recovery from a subsequent rate case. However EKPC believes this approach is more conservative in that it relieves the regulatory asset balance during the period benefitted by the associated expenditures, and, to the extent EKPC's revenues are sufficient (or nearly sufficient) to absorb these amortization costs, enables lower rates than an immediate rate increase of the same dollar amount. EKPC notes further that this mismatch would be much less than the mismatch in the absence of regulatory asset treatment because in that event the total expenditure would be expensed in the year incurred and the recovery, if any, would occur later.

EAST KENTUCKY POWER COOPERATIVE, INC.
PSC CASE NO. 2019-00146
RESPONSE TO INFORMATION REQUEST

COMMISSION STAFF'S INITIAL REQUEST FOR INFORMATION DATED 06/26/19
REQUEST 8
RESPONSIBLE PARTY: Mike McNalley

Request 8. Refer to the application on page 8, paragraph 17. Confirm that amortizing the regulatory assets before they are included in allowable expenses for rate recovery would in effect deny recovery of those expenses. If this cannot be confirmed, fully explain.

Response 8. EKPC confirms that to the extent any regulatory asset has been amortized prior to being included in allowable expenses for rate recovery, such amortization would not be recovered in a future rate case. EKPC suggests that when its revenues are sufficient, or nearly sufficient, to "absorb" the amortization expenses, EKPC's owner-members benefit by not incurring the associated rate increase, and EKPC is able to defer rate case costs.

EAST KENTUCKY POWER COOPERATIVE, INC.
PSC CASE NO. 2019-00146
RESPONSE TO INFORMATION REQUEST

COMMISSION STAFF'S INITIAL REQUEST FOR INFORMATION DATED 06/26/19
REQUEST 9
RESPONSIBLE PARTY: Mike McNalley

Request 9. Refer to the application on pages 8 and 9, paragraph 18.

Request 9a. Explain how the thresholds listed were determined, including any consideration of materiality to EKPC's financial statements.

Response 9a. The thresholds were determined by reviewing recent and anticipated project sizes in each category and balancing the number of projects with the total dollars impacted. A low threshold results in a potentially unwieldy number of projects to separately track and report for EKPC and the Commission; a high threshold results in so few projects that the purpose of the application is frustrated.

Request 9b. Provide the time frame or other factors that would determine that equipment failure was unanticipated.

Response 9b. Equipment failure is best identified by engineering assessment and anticipated life at the time of installation. For example, changes in the composition of coal, the use of scrubbers and their associated chemicals, and other operational changes could result in faster erosion of some materials, accelerating failure of a component that was originally designed and intended to function for the life of the unit. While ongoing plant maintenance likely would observe the accelerated failure developing, it would not have been anticipated at the time the retirement unit (and the associated minor component) was placed into service and its depreciable life established. As a result, these assessments must be case-by-case.

Request 9c. Explain whether major maintenance costs would be amortized over the anticipated recurrence cycles (i.e., if the activity is expected to recur every five years, the amortization period would be five years).

Response 9c. That would be EKPC's intent.

Request 9d. Explain how EKPC proposes to determine the period of expected benefit to EKPC.

Response 9d. With the exception of recurring maintenance, as discussed in part c above, EKPC would use the engineers' estimated functional life of the component as the amortization period, not to exceed the existing depreciable life of the retirement unit it is associated with. EKPC will use a shorter amortization period than the engineering estimate when the financial impacts are small and/or there is risk of a subsequent replacement of the same item.

EAST KENTUCKY POWER COOPERATIVE, INC.
PSC CASE NO. 2019-00146
RESPONSE TO INFORMATION REQUEST

COMMISSION STAFF'S INITIAL REQUEST FOR INFORMATION DATED 06/26/19
REQUEST 10
RESPONSIBLE PARTY: Mike McNalley and Michelle K. Carpenter

Request 10. Refer to the application on page 9 and Exhibit 1.

Request 10a. Confirm that the projects listed in Exhibit 1 are the only projects that EKPC anticipates as qualifying for regulatory asset treatment in 2019. If not, provide a complete listing.

Response 10a. EKPC confirms that the projects listed in Exhibit 1 are the only projects that EKPC anticipates will qualify in 2019. However by the nature of the application EKPC notes that unanticipated items may emerge yet this year and will notify the Commission accordingly.

Request 10b. If possible, provide a similar listing for projects in 2020.

Response 10b. EKPC's 2020 plans are under development and review, so the listing provided must be considered preliminary. A final 2020 plan won't be available until December, 2019. However, please refer to Response 5b, above, for preliminary data for 2020.

Request 10c. Confirm that each project listed in Exhibit 1 would have a separate amortization schedule.

Response 10c. EKPC confirms that each project listed in Exhibit 1, and all subsequent projects that are accounted for under this proposal, if approved, would have separate amortization schedules and those details would be maintained individually.

Request 10d. Under traditional regulatory asset treatment, amortization would not begin until included for recovery in base rates or other regulatory mechanisms. If the Commission were to approve EKPC's proposal as filed, explain and show how EKPC would include the unamortized balance for recovery for a project completed in the year prior to a test year. For example, would a new amortization schedule be needed to recover the remaining original project cost based upon item(s) remaining life?

Response 10d. EKPC acknowledges that as proposed, the amortization which had been expensed prior to a test year is "gone" for rate making purposes and will not be recovered in future rates. EKPC believes that to the extent it is able to do this, it is beneficial to EKPC's owner-members because impact on rates are minimized. The alternative to this approach is to not begin amortization, which could result in accumulating large regulatory asset balances. These could be amortized over much shorter periods, thwarting the intention of spreading the cost of the project and minimizing the rate impact, because the amortization period should be limited by either the recurrence cycle or the functional life of the minor component (see responses to Request 9).

Request 10e. Provide EKPC's current maintenance and replacement budget relative to what is currently being recovered through rates.

Response 10e. A summary of major maintenance and minor property replacements expected to meet the criteria for regulatory asset treatment in 2019 was provided in Exhibit 1 of the Application. EKPC is unable to determine an amount that may be currently recovered in base rates given EKPC's last base rate case resulted in a settlement. However, as indicated in Response 6, no major maintenance occurred in 2010 or 2011, which affirms EKPC's assertion that no major maintenance was included in the forecasted test year of its last rate case

Request 10f. Provide a chart in a format similar to Exhibit 1 listing all the maintenance and replacement projects completed in 2018.

Response 10f. Please refer to the 10-year summary provided in response 5a.

Request 10g. Explain whether EKPC proposes to provide written notice for each project individually or to group each year's expenditures into a single regulatory asset.

Response 10g. EKPC's application states, "EKPC would propose to give the Commission written notice when it establishes a regulatory asset...". This could be done as each regulatory asset is established throughout a year, or as one filing in conjunction with EKPC's annual report filing for the year. This notice each year will include all of the year's expenditures, listing the individual projects and their amortization period and amounts (details are listed in the Application). Because of the likely different amortization periods, these would be recorded as individual regulatory assets and amortized accordingly.

EAST KENTUCKY POWER COOPERATIVE, INC.
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RESPONSE TO INFORMATION REQUEST

COMMISSION STAFF'S INITIAL REQUEST FOR INFORMATION DATED 06/26/19
REQUEST 11
RESPONSIBLE PARTY: Mike McNalley and Michelle K. Carpenter

Request 11. Refer to the application on page 10, paragraph 20.

Request 11a. If the Commission were to approve EKPC's application as filed, explain how EKPC would unwind the deferral if the Commission were to subsequently deny the recovery of the regulatory asset at the time of a rate case.

Response 11a. If a regulatory asset is denied for recovery, its balance would be immediately expensed.

Request 11b. If the Commission were to determine that the establishment of a regulatory asset was in bad faith or without reasonable justification, confirm that in EKPC's later base rate cases that both the unamortized amount and any amortization expense would be excluded from the test year for ratemaking purposes.

Response 11b. EKPC has no intention of acting in bad faith nor establishing any regulatory assets without sufficient justification. However, if the Commission so determined, the regulatory asset balance would immediately be expensed. The regulatory asset accounting impacts (amortization, if any, and expensing of the balance) would not themselves be included in the test year. However, if the expenditure occurred in a test-year period, the actual project expenses would be included in the base rate request and, assuming the Commission agreed that it was properly and prudently incurred, EKPC would expect to recover that expense in the filed base rate case.

Request 11c. If the Commission were to deny recovery of a regulatory asset after it is recorded by EKPC, explain the effect on EKPC's financial statements, including any potential restatement of prior year filings.

Response 11c. A recovery denial would result in an immediate expensing of the regulatory asset balance. Further, a recovery denial could result in doubt about recoverability of other regulatory asset balances, resulting in immediate expensing of those balances as well, which would have a significant negative impact to the year's financial results. Thus it is desirable to have as much certainty about future recoverability as can be reasonably provided.

Request 11d. State whether EKPC would be amenable to a requirement to file, with its proposed annual report, the anticipated projects for the upcoming year.

Response 11d. EKPC would be amenable to such a requirement, recognizing that some items cannot be anticipated, including equipment failures.

Request 11e. State EKPC's preferred process for Commission Staff to request additional clarification or information on projects included in EKPC's annual report on the regulatory assets.

Response 11e. EKPC is amenable to any process that would satisfy Commission Staff, including a telephone call, an informal conference, written question and answer, or other process as needed.

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COMMISSION STAFF'S INITIAL REQUEST FOR INFORMATION DATED 06/26/19
REQUEST 12
RESPONSIBLE PARTY: Mike McNalley

Request 12. Provide any communications between EKPC and the Rural Utilities Service regarding EKPC's proposal in this case.

Response 12. EKPC has not communicated with RUS on this application. However, RUS has a process outlined in 7 CFR 1767, Accounting Requirements for RUS Electric Borrowers (1767.13, Departures from the Prescribed RUS Uniform System of Accounts), for borrowers to request written approval for expense deferrals, indicating that RUS is amenable to this approach.

EAST KENTUCKY POWER COOPERATIVE, INC.
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COMMISSION STAFF'S INITIAL REQUEST FOR INFORMATION DATED 06/26/19
REQUEST 13
RESPONSIBLE PARTY: Mike McNalley

Request 13. Confirm that any relevant maintenance expenditures are below any applicable threshold of "major modification" for the United States Environmental Protection Agency's New Source Review permitting requirements and would not require Prevention of Significant Deterioration permits.

Response 13. EKPC confirms that the maintenance expenditures listed in Exhibit 1 to the Application are below any applicable threshold of "major modification" for the United States Environmental Protection Agency's New Source Review permitting requirements and will not require Prevention of Significant Deterioration permits. Any future projects that would be subject to New Source Review or Prevention of Significant Deterioration would be properly permitted in accordance with the Clean Air Act.