COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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| ELECTRONIC ANNUAL REPORT ON THE EARNINGS MECHANISM AND APPLICATION OF EAST KENTUCKY POWER COOPERATIVE, INC. FOR APPROVAL OF A MODIFICATION TO THE EARNINGS MECHANISM ESTABLISHED IN CASE NO. 2021-00103 | ) ) ) ) ) ) | CASE NO. 2023-00142 |

<u>O R D E R</u>

On April 28, 2023, East Kentucky Power Cooperative, Inc. (EKPC) filed a request to amend a provision of the Stipulation and Settlement Agreement (Settlement) from Case No. 2021-00103 regarding an earnings sharing mechanism (Earnings Mechanism) that passes through earnings EKPC realizes above a TIER of 1.40.[1] EKPC, the Attorney General of the Commonwealth of Kentucky, by and through the Office of Rate Intervention (Attorney General), Nucor Steel Gallatin (Nucor), and AppHarvest Morehead Farm, LLC (AppHarvest Morehead) are the parties to the Settlement. EKPC stated that it had discussed the amendment with all parties to the Settlement and the proposed amendment to the Earnings Mechanism is signed by EKPC, Nucor, and AppHarvest Morehead, but not by the Attorney General. No requests to intervene were filed in this proceeding. This is the first Earnings Mechanism filing.

This matter stands submitted for a decision on the written record.

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[1] Case No. 2021-00103, *Electronic Application of East Kentucky Power Cooperative, Inc. for a General Adjustment of Rates, Approval of Depreciation Study, Amortization of Certain Regulatory Assets, and Other General Relief* (Ky. PSC Sept. 30, 2021).

## BACKGROUND

Paragraph 6 of the Settlement stated that EKPC would return any excess margins to its Owner-Members for contemporaneous pass-through to ratepayers in the form of a bill credit in the event that EKPC achieves in excess of a 1.40 TIER in any calendar year.[2] EKPC discovered, during the preparation of the annual report, that it had achieved a TIER of 1.42 for 2022. This has a total credit amount to be returned to the Owner-Members of $1,392,834 which would result in the average residential customers receiving a one-time credit of approximately $2.07.[3]

EKPC proposed to place the $1,392,834 that would be returned to the Owner-Members for the 2022 calendar year into an interest-bearing escrow account and combine the 2022 amount with the 2023 amount over the 1.40 TIER, if any, with the 2022 and 2023 amounts returned to EKPC's Owner-Members in 2024. EKPC stated that if the margins are below 1.40 TIER for 2023 that EKPC would not net the 2022 and 2023 amounts and that EKPC would not hold the 2022 amount again for another year.[4] Additionally, EKPC proposed that it would return any interest earned from the 2022 amount to the Owner-Members as well.

As a basis for the request, EKPC stated that its Owner-Members raised concerns that the small credit amount will generate more questions and confusion and that the credit likely will generate questions from members, which creates a burden on staff and

[2] Case No. 2021-00103, Sept. 30, 2021, Order at paragraph 6.

[3] Application, paragraph 9.

[4] Direct Testimony of Michael McNalley (McNalley Direct Testimony) at 4.

a potential frustration for members.[5] EKPC also states that there is an administrative burden on the Owner-Members to distribute the allocation including updating accounting practices, administering billing system changes, and developing notifications to retail members explaining the credit.[6]

## DISCUSSION

Having reviewed the record, the Commission recognizes EKPC's concern that the relatively small amount credited to individual residential customer accounts could generate confusion from its Owner-Members' own members, with a resulting administrative burden with costs that likely outweigh the benefit. For this reason, the Commission finds that EKPC's proposal to place the $1,392,834 into an interest-bearing escrow account and combine the 2022 amount with the 2023 amount over the 1.40 TIER, if any, and return the total amount, including accrued interest, to EKPC's Owner-Members in 2024 is reasonable and should be approved. Additionally, the Commission finds that if EKPC's margins are below 1.40 TIER for 2023 that EKPC should not net the 2022 and 2023 amounts, and that EKPC shall return the 2022 amount and accrued interest to customers in 2024 per the terms of the Settlement.

IT IS THEREFORE ORDERED that:

1. EKPC's request to amend the Earnings Mechanism provision of the Settlement to place the 2022 margins in excess of a 1.40 TIER of $1,392,834 into an interest-bearing escrow account is granted.

[5] McNalley Direct Testimony at 3.

[6] McNalley Direct Testimony at 3.

2. EKPC shall credit customers in 2024 for the 2022 Earnings Mechanism amount of $1,392,834 plus accrued interest, and the Earnings Mechanism amount for 2023, if any, as set forth in this Order.

3. This case is closed and removed from the Commission's docket.

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PUBLIC SERVICE COMMISSION

Chairman

Vice Chairman

Commissioner

ENTERED

JUN 21 2023 bsb

KENTUCKY PUBLIC SERVICE COMMISSION

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